CONTESTED PUBLIC LANDS: VALUES, POWER AND PUBLIC PROCESS IN GOVERNMENT ASSET DISPOSAL PROGRAMS – A SUMMARY

by Helen Gilbert

Lecturer in Property Economics
University of Technology, Sydney
Helen.Gilbert@uts.edu.au

Abstract

The impact of neoliberalist ideology on the structure and operation of Australian governments has resulted in public land being increasingly treated as a financial asset to be realised. This paper summarises a study of the current property asset disposal programs of the NSW and Commonwealth Governments in terms of background causes, the disposal process, major problems and impacts on stakeholders. The treatment of publicly owned properties purely as financial assets is questioned.

A major issue emerging from the study is the lack of adequate assessment of the non-financial values of public lands prior to disposal. Such values include heritage significance, and/or other social, environmental, broader economic or potential public values. The lack of such information means there is no basis for deciding which sites should appropriately remain in public ownership, and which can be expediently sold or redeveloped. The analysis of case studies and the exploration of alternative models for the classification and disposal of public land provides lessons for a recommended improved process for public asset disposal.

The research indicates there are often exceptions to the application of the "highest and best use" criterion for significant parcels of public land, including redundant sites, and that governments are obliged to examine longer term considerations in their decision making with respect to such property. This is necessary if substantial erosion of the public estate is to be avoided and more strategic use of important public property and land assets in the future planning of urban areas is to be achieved.

1   INTRODUCTION

Almost 40% of land in Australia is held or managed by the public sector (Bates, 2001, v) under freehold title or as Crown land reserved for a particular public purpose (McClellan and Moloney, 1989, 16). The legacy of the past government enterprises means significant heritage is controlled by government departments or agencies. However the currently prevailing economic paradigm dictates that government agencies value the sale of any surplus assets and the return of short term funds more highly than the longer term public benefits of maintaining significant parcels of the public estate. This risks a significant erosion of built and natural heritage and ignores opportunities for alternative public service uses, recreational use or other future public benefit offered by such sites. While the public sector is as susceptible to redundancy as any other industry, reduced funding has resulted in asset disposal becoming a major component of ongoing government budget strategies. The pressure placed on government agencies by central governments and treasuries underlies much public sector asset realisation.

The Research Study

This paper summarises a research study into the asset disposal activities of the Commonwealth and the NSW governments. The study examined the approach towards, the reasons behind and the impacts of such programs, with case studies and alternative models providing lessons for recommendations for improvements.

The Extent of the Problem

Numerous commentators have echoed the concerns of the National Trust a decade ago of substantial impacts on Australia's heritage from the increased disposal of public assets (McLellan and Moloney, 1989, 15). These include Balderstone (1997), Brooks (1997), Sutherland (2000) Adam, (2001) and more. In particular, Gleeson and Low (2000, 228) note that the privatisation of government agencies has notably reduced the physical public domain in recent decades. They argue that the maintenance of public urban fabric is a condition of economic success rather than something which can be sacrificed in the name of economic growth. By 2001, the Nature Conservation Council warned the sustainability of cities was being impacted by the sale of public lands and argued "that the ecological values of public lands should be assessed and subject to a public process before such lands were rezoned, transferred or sold" (Newton, 2001, 5). Most recently, the Protectors of Public Lands (PPL) was formed to raise awareness of the issue and lobby for changes to policy in this area.

While the revenue target from surplus sales for the entire NSW government was $900 million for the 1989 financial year (McLellan and Moloney (1989, 15) the target for the Commonwealth Department of Defence alone in 1998 was $800 million (Totaro, 1998, 1) indicating the acceleration of the problem.

A major conflict in the perception as to the ownership of public land lies at the heart of the issue with the public viewing such land as owned by the people, with the expectation that governments exercise stewardship of the land on the public's behalf. Conversely, governments view surplus public land (and increasingly operational land) as a real estate asset which can be realised. Some agencies, such as Defence, argue it is their responsibility to ensure surplus sites provide optimum returns to taxpayers (Foreign Affairs, Defence and Trade (FADT) References Committee Proof Hansard, 25 January 2001, 326 cited by Adam, 2001, 48).

The National Trust disagrees and argues:

> "Government property is not simply the exclusive possession of a particular Department or Government. It is part of the public estate, the endowment of the people … and it frequently has strategic planning, community development, recreation, tourist or heritage value" (McLellan and Moloney, 1989, 16).

It follows that the public play an important role in determining the future of public assets – in identifying the values and potential uses of public land. Certainly due to the particular past uses of such sites and as a result of the long periods of tenure by agencies, much public land is significant in terms of environmental and/or cultural heritage. It would also be expected that such values would be known, fully investigated and properly assessed – especially prior to decisions about disposal. However, Adam (2001, 48) notes that this is not the case in many instances citing the *2001 Report of the Senate, Environment, Communications, Information Technology and Arts Reference Committee* which notes significant evidence that heritage assessments of Commonwealth land are incomplete. The 2001 *Foreign Affairs, Defence and Trade (FADT) Inquiry* not only found comprehensive heritage assessments had not been carried out by the Defence Estates Organisation (DEO), but was told by DEO that too much knowledge about heritage values could constrain options for the land (FADT References Committee Proof Hansard, 2 April, 2001, 651; cited by Adam, 2001, 48-49).

Moreover the public and other government agencies are often denied access to sites, or documents to assess the various values of individual sites. This reflects a major problem which is the lack of any consistent publicly accountable process for decision making in asset disposal. In NSW, the public participation provided in the general rezoning process is frequently overridden by state intervention such as introduced or amended state planning policies to allow state backed proposals for redevelopment on public sites. Other problems relate to 'token' participation, which invariably comes late in the process and secrecy and deal making before any planning process or assessment of values occurs. Some issues reflect the operation of environmental impact assessment in Australia, which concerns assessing impacts of existing proposals rather exploring appropriate options for particular sites.

Further problems concern poor management of public assets. Moloney (1992, 12) suggests the government's preferred management strategy for public buildings and land *is* selling off surplus assets adding that demolition and 'do nothing' are also evident management 'strategies'. Neglect exacerbates the issue of disposal as aging assets are viewed as both maintenance burdens and sources of potential revenue. Brooks (1997) warns that disposal becomes attractive to government asset managers faced with the real costs of future maintenance of long neglected facilities since the introduction of accrual accounting systems which require assets to be properly accounted for in budgetary reporting.

Parameters and Research Methodology

In NSW a degree of legislative protection (and participation in decision making) is provided for surplus crown land and public land controlled by local government. However no such protection from sale or redevelopment exists for lands controlled by the majority of state and Commonwealth agencies and departments. Heritage listing (which is far from comprehensive) often provides little protection. Impacts of redundancy of heritage items such as post offices and court houses on country communities are marked (McCarthy, 1998, 51). However, land values, population pressures and urban consolidation policies apparently exacerbate the scale of the problem in major cities, such as Sydney.

Consequently this research is focussed on disposal of surplus land by NSW state and Commonwealth government departments and agencies with case studies drawn from Sydney. It is assumed appropriate for individual government agencies to determine in the first place whether or not an asset under their control is redundant for its original purpose (although communities often dispute this). Further, rather than arguing for the retention of all public land in public hands, it is recognised that it is likely that some sites are appropriate for sale, lease and/or redevelopment.

The research is particularly concerned with the problem of keeping assets and sites which are significant and the pressures behind their disposal; the impacts of asset disposal and an exploration of the values that may be lost; an assessment process by which sites may be categorised either as significant for the public or not significant (therefore able to be disposed of); and the decision making process used to determine the appropriate future use of public assets.

The approach taken in the analysis of this issue is to systematically explore the causes and effects of current public asset disposal programs, based on a survey of literature relating to the issue, and on an analysis of current practices. The lessons from case studies and other models and indicate important principles which form the basis of recommendations outlining a more appropriate public process to deal with this issue of public concern.

Overview of the paper

Initially an analysis of the causes of the problem is presented including the impacts on government asset disposal of neoliberalism, redundancy, urban consolidation policies and other factors. Then the non-financial values often claimed to be discounted or forgotten in asset disposal activities are examined along with problems related to this. Issues considered include the value of cultural and natural heritage, the recreational importance of public land, amenity issues, the opportunity costs of sale, and the economic impacts of asset disposal.

Next is a review of the way government agencies currently deal with public land under their control – with respect to maintenance, heritage and disposal issues. This is followed by two Sydney case studies including the (recently overturned) state proposal to sell part of Rozelle Hospital (also known as Callan Park) and the longstanding Commonwealth proposal to develop the Australian Defence Industries (ADI) site at St Marys in Sydney's west.

After this selected models and options which may add to the solution of the problem are examined. These include the NSW government systems for management and disposal of Crown and council controlled public lands, and a similar system proposed (but not implemented) in Victoria. Other options including the use of trusts, covenants the reservation of sites for other public purposes are canvassed along with the ideas of other interest groups and organisations.

Finally the lessons from the case studies and other models, together with issues in current government asset management, are drawn together and recommendations for an approach that fosters more publicly responsible asset management and disposal by government and its agencies are presented.

2   BACKGROUND AND MAJOR CAUSES OF THE PROBLEM

Overview of Contributing Factors

Governments at all levels in Australia have been undergoing dramatic changes as fiscal pressures, organisational and management rationalisation and technological changes take hold. The most significant factor behind government sale of assets stems from a change in government ideology from an interventionist approach (based on Keynesian economics) to a neoliberal or economic rational approach (based on the neoclassical economic approach of free markets and liberalism). Under neoliberalism, the market and economic goals are valued foremost and other social or environmental issues are sidelined. This focus on economic efficiency permeates throughout fiscal policy and the use of accrual accounting techniques requires accounting for all assets, while central treasuries pressure government agencies to demonstrate income and efficiency in order to qualify for the (often increasing) necessary annual funds.

Aging populations, reduced workforces and burgeoning welfare systems underpin imperatives to embrace neoliberalism. Privatisation and asset sales bring immediate revenue and relieve agencies of the problems of aging infrastructure and ongoing management. Such disposal decisions are often attributed to claims of redundancy.

Redundancy Impacts

Redundancy occurs when continued use of a facility is no longer desirable in terms maintenance costs size, design, image, location, or the business it houses is no longer economic or required, or various other reasons (McConnell, 1997, 48-49). The problem of redundancy in government building stock often follows demographic, technological or administrative change (Balderstone, 1997a; Brooks, 1997).

However McConnell (1997, 47) and Marsden (1997, 87-88) challenge the uncritical acceptance of present day redundancy arguing that redundancy can be a matter of choice and is often preventable. Marsden distinguishes between place redundancy and specific use redundancy, that is, a place may be redundant for its past use, but not for other government or community use. He suggests maintaining the fabric of a historic building may only cost marginally more financially than building a new one. McConnell notes 'progress' is still equated with development and widespread consumerism heightens desirability for new products and new development without questioning their real costs or necessity. McConnell argues a commitment to creative reuse can overcome the so called redundancy problem. She concludes redundancy is a function of a desire for convenience and new development coupled with pressure to reuse the land for a more economically viable purpose (supported by dubious economic costings).

Impacts of Neoliberalism

Many commentators note links between economic rationalism or neoliberalism (a market based approach which promotes the ideological trilogy of competition, deregulation and privatisation) and the rationalisation of government sector holdings through massive property disposals programs (for example Moloney, 1992; Marsden, 1997 and Brooks, 1997). Governments seek to balance job provision (which assists in reducing government debt) with service provision (which increases government spending). Against a background of redundancy, redistribution of government services, fiscal pressures and apparently surplus assets, governments at all levels are viewing the sale of public land – especially when it attracts international currency – as an expedient way of realising needed funds.

The rise of neoliberalism

Gleeson and Low (2000, 80-83) suggest Australian state governments turned to neoliberalism to resolve the fiscal crisis of the 1980s due to their fear of raising taxes as both unemployment and demand for economic management increased while Commonwealth grants were cut. Initially managerialism (also known as the new public management) introduced the notion of private sector management styles, increased the use of the market and promoted closer contact between ministers and their senior public servants and departments in the 1980s to make the public sector more cost conscious and increase its productivity. Bradbury (1997, 129) notes that this was accompanied by asset disposal or land sale programs by the NSW and Victorian governments with the aim of generating income for capital works and debt reduction.

Under managerialism, the focus is on management and efficiency rather than policy (Rockman, 1998, 20). Hughes (2000) suggests that while public administration (or bureaucracy) focuses on process, procedures and propriety; public management focuses on the achievement of results which often means 'revenue' or reduced costs This is accompanied by the retreat of the rights of others (members of the public) to be involved and due process becomes less important. As policy forces consideration of wider interests beyond immediate clienteles, public sector agencies are understandably more committed to management instead of policy (Rockman, 1998, 31-39). More attention is placed on the reporting of service provision than enhancing services (Olson, Humphrey and Guthrie, 2001, 6). Keeping the customer happy is not necessarily in the public interest when better performance relates to financial performance rather than service provision. Maximising producer efficiency is distinctly consumer unfriendly, as producer efficiency aims to enhance its performance to its shareholders, not necessarily its consumers.

The introduction of accrual accounting principles establishes closer relations between revenue, expenses and operational outputs. However, as the public sector does not have shareholders demanding dividends, the use of the income measure in the public sector has been questioned (Olson et al, 2001, 5). Moreover, the greater comparative complexity of government goals over profitability and financial rates of return on capital has been widely noted (for example Falkman, 1998 cited by Olson et al, 2001, 5 and Gleeson and Low).

Critics note the inappropriateness of treating public goods and services such as education, health and the environment, as tradable products. As performance is viewed as technical efficiency (a ratio of inputs to outputs) outcomes such as equity or effectiveness (how well activities translate into goals) are neglected. The safety regulation failures of the Civil Aviation Authority have been used to illustrate some of the limits of the application of market liberal principles for achieving public goods (Painter, 1996, 297).

Gleeson and Low (2000) argue any social democratic aims of early managerialism had been lost by the 1990s as the neoliberal ideology took hold. Most recently, Gleeson and Low refer to the concept of corporate liberalism, which involves commercialisation and corporatisation of many social functions of government and closer relations with business, under strong direction from the political level. It assumes the state must submit to globalisation and must therefore aim for low taxes, financial stability and business subsidies to attract investment. Reforms and restructuring give cabinet and ministers strong power over radically reduced bureaucracies.

Gleeson and Low suggest public support for public sector cuts is assisted by the portrayal of heightened financial crisis (left by previous governments) by 'commissions of audit' which uncover huge public sector debt including the incorporation of previously uncounted liabilities. Corporate liberalism was taken furthest by the Victorian Kennett government with cutbacks to social instrastructure (such as schools and hospitals), privatisation (eg electricty, gas, transport) and huge development projects (Crown Casino, Docklands, sports stadiums, Grocon's proposal for the world's tallest building etc).

Most directly relevant to the issue of the sale of public assets is the huge change in mindset with respect to accountability and organisation of the public sector across various countries (including Australia) with the clear trend towards public sector organisational units seen as separable stand-alone entities.

This movement back to market primacy endorsed by governments across the globe, neglects the long recognised need to intervene so that broader social quality of life goals can be met as readily as economic goals. As noted by Gleeson and Low (2000, 21) "planning emerged in the 19th century to counter the social and environmental problems that free markets inevitably impose on capitalist societies." However they suggest 'place marketing' is replacing planning for human needs as state governments search for new capital investment for their cities under the perception they must compete to attract mobile capital (2000, 92, 99). Meanwhile Dore (2000, 19-21) notes that the trend towards purchaser/provider organisational structures, performance indicator requirements and a reform focus on economic development are all things that tend to ignore place-related issues.

Gleeson and Low argue that planning means adhering to public policy in the face of development pressure (2000, 184, 230). However neoliberalism has resulted in increasing government intervention in the planning process to ensure development particularly on public land. Moreover the decentralised management resulting from neoliberalism means decisions on resource allocation and service delivery are made closer to the point of delivery (Hart, 1998, 285) eliminating chances for integration and strategic planning for surplus assets.

Neoliberalism in NSW and impacts on the built environment

Searle and Cardew (2000) note the legacy of public land has promoted government sought economic development projects in Sydney and attempts to contain government debt over recent decades. They note that in NSW the sale or lease of government land has been used by the Wran-Unsworth Labor government (1976-88), most extensively by the Greiner Liberal-National Government (1988-1995) and subsequently by the Carr Labor government (1995-current). Cost saving strategies focused on intensified urban consolidation, privatised motorways, and importantly, the sale or exchange of government land for major new investments. They agree that the neoliberal ideology adopted by governments promotes market determined development

outcomes but question the liberalist rationale that government spending and regulation have been reduced in such projects.

As in the UK and in Victoria, the application of neoliberalism involved the imposition of centralised state planning powers and the corresponding removal of local planning powers to facilitate new investment. Searle and Cardew (2000, 358-59) point out this contradicts the neoliberal aim of a less intrusive, reduced government role in urban affairs with less need for government expenditure, and suggest the reduction of developer uncertainty was a major factor in explaining this suppression of local participation in the planning process. In the race to promote economic development in the form of mega-projects and event based developments, they note local government is constitutionally unable to counter state government policies(2000, 362). The concentration of powers at state level fosters competition between states for major proposals, and they describe how successive NSW governments have used or bypassed the planning system to overcome community opposition and the democratic process in order to secure major investments.

Surplus state land was often offered as an inducement to attract new economic activity despite Sydney's favourable position in the restructuring global economy which saw global finance and regional companies locating there regardless (Searle and Cardew, 2000, 364). Any legitimation crisis from using general funds was overcome by using (expenditure free) public land.

However most of the projects promoted by government in the 1980s threatened heritage or conservation values and were steeped in controversy (Searle and Cardew, 2000, 364). The Darling Harbour redevelopment required special legislation, the *Darling Harbour Authority Act, 1984*, which introduced a development corporation with full planning powers to allow former state port and rail land to be used for an entertainment, tourism and leisure development. Opposition to the project was partly responsible for the defeat of the Wran government, and the new Greiner government's debt reduction strategy was once again the realisation of surplus government assets. Examples include the 2000 Olympic Games site (where the state took over the planning powers to expedite the development of major sports grounds), and the Sydney Casino near Darling Harbour on the Pyrmont-Ultimo peninsula – the location of a government sponsored major redevelopment project. To overcome council and public objections to the Casino, the government gazetted State Environmental Planning Policy (SEPP) 41 giving approval powers to the Planning Minister and permitting a casino on the historic Pyrmont Power Station site (Searle and Cardew, 2000, 368-9).

Searle and Cardew (2000, 370) also analyse the neoliberal approach of the Carr government, presently in power in NSW, noting its concerns to retain the state's AAA credit rating for fiscal and investment reasons and its inclination to centralise power and override or modify planning legislation to attract urban investment. The battle to lease the heritage listed former Sydney Showgrounds to Fox Studios for a film production and entertainment complex at Moore Park was opposed by the local Council and community among other groups. Concerns included the lack of consultation or documentation regarding the use of the site, the nature of the lease, the traffic impacts of the site and the impact on the publicly owned heritage buildings. However, state's rationale for the deal was its provision of 1,600 jobs, and the attraction of a large scale film industry to NSW. The Federal Government supported the proposal by contributing $32 million, and conducting secret negotiations for the deal (Searle and Cardew, 2000, 371).

The reported $2 million annual rent (or 5% of gross trading revenue) was criticised as too low, and the release of other details including the valuations of the site (27 hectares) was refused due to the threat of Victoria winning the deal with a counter offer. Yet the cost of moving the Royal Easter Show to Homebush Bay was at least $150 million. State Environmental Planning Policy (SEPP) 47 was created in response to the opposition. It rezoned the site, delivered development control to the state and removed local government and citizens from the planning process.

Such examples show how successive governments introduced legislation to avoid responsibilities under the *Environmental Planning and Assessment Act*, or (later) resorted to using instruments under the Act such as SEPPs to secure approval powers and overcome opposition. The legacy of extensive government land holdings, along with the centrality and strength of state government in controlling planning have been important aspects in neoliberalist attempts to induce such development in NSW. However in the rush to capitalise on public land, taxpayers have experienced cost blow outs, and non economic costs that may have outweighed the benefits of development, although as no assessment has been completed and much information is unavailable to the public, the real costs remain unknown.

Neoliberalism and public participation

Despite better education and ability of citizens to be involved in the planning process, neoliberalism reduces the mechanisms for democratic participation in planning and environmental legislation (Gleeson and Low, 2000, 151). Pierre (1998, 141) notes the very idea of market based models means less public involvement in the production of policy or services. Corporate liberalism reverts not only to the idea of a single public interest, but defines public interest only in economic terms. Secrecy is 'justified' by 'commercial in confidence' claims, and the notion that taxpayers have no right to know financial arrangements with the private sector. It places huge faith in the ability and wisdom of politicians due to the systematic elimination of alternatives, informed debate, counteradvice, openness and transparency (Gleeson and Low, 2000, 112).

Neoliberalism and accountability in government

The cabinet – parliament model of Australian governments concentrates power in the hands of the prime minister or premier and cabinet where confidentiality reflects the outward need for consensus. Thomas (1998, 359) notes such secrecy poses a limit on accountability. He suggests accountability includes responsibility, answerability, responsiveness, control, influence, autonomy and transparency and in government terms it should "consist of an obligation to explain and justify how one discharges responsibilities, the origins of which may be political, constitutional, statutory, hierarchical or contractual" (1998, 350).

Accountability requires an insistence on procedures to guide decision making and performance assessment requires the provision of information. Critics of neoliberalism note it ignores requirements for a legal foundation to all government activity (Thomas 1998, 358). Policy alternatives are not canvassed, and informed debate, openness, transparency are effectively eliminated. As private entrepreneurs plan, regulate and deliver services, people's rights to object are reduced (Gleeson and Low, 2000, 112).

Taking stock – outcomes of managerialism and neoliberalism

Outsourcing and contracting mean any sense of service to the public or the concept of 'the public interest' no longer exists – only what appears in the terms of the contract. The time horizon is equal to the term of the contract (Davis, 1997, 61-62 cited by Hughes, 2000, 6) The result is a remnant public service which may or may not still set policy, but relies on others to deliver the goods. When these goods are public goods, problems arise. A public in need of services is not the same as customers in the market for products.

Gleeson and Low (2000) and Caiden (1998, 279) note the lack of systematic assessment into the accomplishments and failures of neoliberalism. Gleeson and Low claim increased welfare expenditure of state governments from 1989 to 1997 is contrary to the neoliberalist model of efficiency, cost cutting and reducing the public sector. They attribute increased spending in most welfare sectors to society being less secure and less safe than previously. They note increases of 39% in welfare and housing, 15% in public order and safety and 68% in recreation and culture (in line with the state's promotion of tourist and leisure developments) (Gleeson and Low, 200, 105).

Rockman (1998, 39) agrees that maximising efficiency is "distinctly consumer unfriendly" as producer efficiency is designed to enhance the performance of the producer to its shareholders not its customers. He recommends a re-emphasis by the public sector on its traditional strengths (policy and process), as while the private sector is good at bringing into balance the costs and supply of goods, it is not good at is delivering services equitably or even adequately.

Impacts of Urban Consolidation Policies

The link between consolidation policies and public asset disposal programs has been noted by Bunker (1988), Adam (2001) and others; with surplus sites often used for higher density infill development. Urban consolidation is the state government's response to continuing demand for new urban development in Sydney given an expected increase of 1 million people over the next 30 years (NSW EPA, 2000). Consolidation is argued to provide better environmental, social and economic outcomes than low density fringe development and Searle (1998) notes its also reduces pressure on infrastructure funds.

Yet the National Trust (1995, 44) claims blanket consolidation policies undermine cultural diversity and calls for 'unpredicted solutions' including mixed use, reuse and conversion to be provided for in planning instruments and policy. Bunker (1988, 80) notes the role of asset replacement in consolidation noting the need for a spatial analysis of all infrastructure including current capacity and expected loading. He suggests infill consolidation should be gradual, locally differentiated and responsive. In particular environmental and space thresholds for higher densities require full appraisal.

In fact, the NSW government's ad hoc rather than strategic application of urban consolidation policies has been widely criticised (by Sperling, 1997; Adam, 2001; and Gleeson and Low, 2000). Adam (2001, 46, 49) argues that the population increase from the disposal and redevelopment of even highly developed public land can impact surrounding areas. For example increased recreational pressure and pets will impact on Botany Bay National Park near the Prince Henry Hospital site. Moreover partial sale and redevelopment proposals which reserve pockets of bushland are questionable due to similar impacts from increased development intensity. Nichol and Blake (2000) demonstrate the importance of undeveloped, previously developed or disused sites which have varying degrees of greenspace value to urban inhabitants (including people, plants and animals). They argue consolidation risks destroying access to redundant sites which contain recreational, amenity and ecological value. They note contradictions between compact cities and green cities, suggesting the Victorian notion of 'lungs of the city' is just as important in today's polluted air, yet is being systematically destroyed by consolidation policies in the name of reduced environmental impacts.

Gleeson and Low suggest that urban consolidation has encouraged the development of environmentally deprived landscapes for working and middle class households, having:

> "been applied crudely and thoughtlessly, as an open invitation to developers
> to make private profits from communal values such as pleasant environments
> with good access to services" (2000, 108).

Searle (1998) sums up the NSW government approach to urban consolidation:

> "The financial and environmental imperatives facing the state government have …
> caused it to pursue urgent consolidation targets with policies which have not had
> enough time and resources to be fitted into local environments to reflect resident
> amenity aspirations."

Meanwhile the impact of urban consolidation on Sydney land values in inner areas further increases the attractiveness of selling redundant public land to cash in on high returns.

The Prevailing Development Paradigm and the Role of Planning

Sperling (1997, 26) argues that the current planning system is an approvals system for land development rather than planning for sustainable communities. Land as a commodity is delivered to the market through planning. Faith in conditions of consent to protect environmental or heritage values ignores the need for a proactive, participatory approach involving the design of local and regional sustainability plans, and the consideration of proposals consistent with these. Adam (2001, 50) points to the ADI proposal to illustrate how current government policies fail to ensure the conservation of high environmental or heritage values against a background of continued urban development. Piecemeal planning has no regard for regional concerns. The strong development imperative means proper planning and negotiated outcomes are forfeited. In the rush for short term funds, the government asset disposal program represents many lost opportunities – whether for heritage protection or model development.

In addition, land based council rates and land tax regimes promote development and rezoning without distinguishing between land with high biodiversity or other value and less significant land (Fallding, 2001, 56, and Adam, 2001, 50). Incentives to rezone public land which previously provided no income for councils or state governments can be overwhelming despite the often significant environmental and heritage values of such sites.

Redundancy and the complex web of factors caused by the prevailing ideology of neoliberalism, from public sector imperatives to realise the financial value of assets, through to the contraction of participation rights and an erosion of the role of urban planning have all combined to bring the issue of sale of public sites to a head. The issue becomes more contentious as communities begin to experience the redevelopment outcomes of previously public held sites. Such impacts are examined in the following section which discusses the significant values often overlooked in decisions to sell public sites.

3   THE NON-FINANCIAL VALUES OF PUBLIC LAND ASSETS

Concern about the systematic yet unchecked asset disposal program of the NSW state government was raised a decade ago by the National Trust:

> "In the rush to unload lands and properties, it appears that inadequate provision has been made to protect heritage and environmental values (McLellan and Moloney,1989, 15).

Claims of the heritage or other significant values of public sites can be central to disputes over their sale. Such values are repeatedly overlooked and often remain uninvestigated in the rush realise financial returns. Selling public land for short term funds therefore potentially involves significant opportunity costs, which are explored below.

The Focus on Financial Value

The role of the current economic paradigm which promotes the realisation of public land for its financial value by government is well noted (for example, Adam, 2001; Gleeson and Low, 2000; Brooks, 1997; Balderstone, 1997a and 1997b; Marsden, 1997; Bradbury, 1997). The National Trust has described the lack of provision for identification, management and protection of heritage values demonstrated by the NSW Government's asset disposal program as 'negligent' (McLellan and Moloney, 1989, 16). Adam (2001, 44) suggests the inadequate assessment of conservation or other values reflects attempts by agencies to avoid delays in realising returns. In addition the public is denied full access to the process amid claims of commercial sensitivity. It is highly questionable whether short term financial arguments should preclude public consultation in decision making over public owned property.

The following overview discusses the non financial values of public owned surplus sites classifying them into the broad categories of environmental, social, economic (as opposed to financial value) and potential value.

The Environmental Values of Public Lands

Ecological Values of Urban Bushland

Urwin and Searle (1991, 5) and Adam (2001, 46-47) note the significant implications for future conservation and sustainability in metropolitan regions tied up in the environmental attributes of the 'commons' such as road and rail reserves and other public sites. Adam argues development pressure and consolidation policies risk losing the small parcels of bushland in suburbs where little bushland remains, raising particular concern for the Eastern Suburbs Banksia Scrub and the Cumberland Plain Woodland vegetation communities which are listed as endangered under both state and Commonwealth legislation (2000, 44). He notes increased population densities create further pressure on passive recreation amenities and generate greater demands for inappropriate use of remnant bushland.

McLoughlin (1997, 166) suggest the particular values of urban bushland include natural and cultural heritage, habitat, aesthetic (landscape, screening, separation of districts), environmental protection (modifying air temperature and wind velocity, ameliorating air and noise pollution, stabilising soils, and absorption and slow release of rain to reduce erosion and flooding), recreational, scientific, and educational values. Accordingly, she argues strongly for the maintenance of remaining bushland in urban areas. Binning (2001, 79-81) agrees urban bushland plays important ecological and conservation roles and stresses most valuable bushland is on public land, yet most of the agencies in charge of the land are not actively managing it.

Urwin and Searle (1991, 10) point out that conservation of natural assets *depends* on the sense of ownership often felt by communities towards public sites. They also suggest:

> "Programs which intend to promote responsible forms of development should adopt a culture which identifies the integrity of sites, prior to use….Naturally occurring fauna and flora should be given a status which has an assumption of preservation rather than destruction."

A study of the ecological values of various categories of green space in the UK city of Leicester demonstrates the importance of integrating unmanaged 'wastelands' into a city's urban ecology portfolio. The findings show formal open space (23%) and agricultural grassland (24%) each have almost half the ecological value of unmanaged land (46%) and lands 'left to nature' (53%). The values for woodland (77%) and wetlands (95%) were even higher, although the areas covered by these are smaller (Elkin et al, 1991, cited by Nichol and Blake, 2000).

Recreational and Open Space Value

The provision of open space in redevelopment proposals often includes land with high heritage or conservation value which should be more restricted in terms of access than general recreational land. Pressures to maximise the area of developable land can result in land with environmental constraints being declared as the necessary open space. However general recreational space and urban parks assume greater importance in the increasingly privatised world of city building where private monuments (retail centres, skyscrapers and sports stadiums) dominate cityscapes (Rybczynski, 1999 – cited by Banerjee, 2001). Around Sydney Harbour, the scientific and recreational value of remnant bushland (as part of the original harbour landscape) is recognised by Godden Mackay (1991, 147, 175). They recommend the retention and further acquisition of existing open space and bushland around the harbour as opportunities arise.

The problem of balancing recreational space with development has been examined internationally. Banerjee (2001) notes the US urban park systems have suffered from insufficient capital and maintenance budgets since the 1970s in many cities, resulting in widespread vandalisation and the refusal of the public to use parks due to safety concerns. He notes the stock of open spaces has not kept up with population growth with shortages occurring in moderate income, older and inner-city communities.   Such suburbs were developed when industry rather than residential amenity prevailed, and are now being subjected to increases in population through urban consolidation. He suggests a revision of existing open space standards, focussing on street design and creative use of developer fees to improve the supply of public spaces and overcome the withering of the public realm exacerbated by market liberalism.

In the UK planning policy allows for undeveloped land with recreational or amenity value to be protected from urban consolidation if there is a local deficiency of open space. That is, urban regeneration policy "should not be pursued at the expense of the quality of the urban environment" (Department of the Environment, 1991 cited by Nichol and Blake, 2000). Conversely the NSW state government is promoting the redevelopment of public sites which contain much green space, often in areas deficient in existing open space.

Nichol and Blake also highlight the importance of appropriate designation of sites. They suggest reserved, derelict or redundant sites where any structures have blended into the natural landscape, should be considered 'beigefield' rather than brownfield sites to better reflect their recreational, psychological or conservation value. They refer to studies which show frequent recreational preferences by children, teenagers and adults, for derelict sites and more natural areas over formal parks (Milward and Mostyn, 1988; Burgess et al, 1988 both cited by Nichol and Blake, 2000). Their recommendation is that such sites be correctly designated according to the values they already or potentially provide, and this process should be combined with systematic urban capacity studies, which will help to show the (changing) demand and need for open space in spatial terms across urban areas.

Implications for Ecologically Sustainable Development (ESD)

Many commentators point out the requirement of making best use of available resources that is implied by the principle of ESD. The energy, work, labour and resources tied up in old buildings should be used and reused wisely. Sullivan (1997, 13) argues recycling and reuse is more responsible than continual demolition and redevelopment. It is questionable whether society can afford to rebuild the city every few decades. Urwin and Searle (1991, 10) suggest nearly all existing structures contain economic value within their buildings and infrastructure. They argue analysis of the costs of not recycling or reusing such property against the benefits of disposal and redevelopment (even for more sustainable structures) would likely indicate incremental modification is preferable.

The London Planning Advisory Committee (EH & LPAC 1995, 33) suggests that apart from aesthetics, conservation of historic buildings maximises use of resources and return on past investments. Reuse of old buildings rather than new development, makes more efficient use and less waste of environmental resources. The proportion of embodied energy in the historic built fabric of urban areas is considerable. This is the energy used in the extraction and processing of raw materials, in transportation and the use of construction machinery and labour. An estimated 5-10% of the total annual energy consumption of the UK goes into the production of building materials (Connaughton, 1990, cited by EH & LPAC, 1995, 33). Therefore, lengthening the life of a building provides greater efficiency in the use of embodied energy and natural resources. Moreover, modern buildings (which have shorter useful lives) have higher levels of embodied energy than historic ones, because building materials typically originate from further away than in the past and construction processes are now more energy intensive. The committee (1995, 33) lists the ways that conservation of the historic environment promotes sustainability principles. It prevents irreversible loss of heritage; protects valuable environmental resources; promotes wise use of natural capital including renewable and non renewable resources by focussing on reuse

and recycling rather than redevelopment and encourages better understanding and awareness of an area's environment through the collection and dissemination of information about the past.

The Social Value of Public Lands

Cultural heritage (European, Indigenous)

The heritage values of public lands stem from the sequence of human occupation and use they show. This ranges from Aboriginal contact, to exploration, pastoral and agricultural settlement, transport, mining, water supply, forestry, defence, and colonial administration (Lennon, 1993, 32). The terms heritage value and cultural significance provide that a place, building or item has an intrinsic value which cannot be expressed solely in financial terms. A consequence of identifying an item, site or landscape as significant is that it should be conserved in accordance with accepted conservation principles such as those outlined under the Burra Charter of Australia ICOMOS (International Council on Monuments and Sites). Heritage significance has been defined by the NSW Department of Planning as including "historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance" (Godden Mackay, 1991, 139). This definition is broadly consistent with that used in the NSW *Heritage Act*, and definitions used by the Australian Heritage Commission, the National Trust and Australia ICOMOS.

In NSW items of state significant heritage enjoy heritage protection (whether sold off or not) by their listing on the State Heritage Register. However, many government buildings are of local historical importance (Balderstone, 1997a, 46). Some may be listed on local registers although many councils have yet to carry out heritage audits. These items face a less certain future as state (or Commonwealth) governments often override the authority of local councils where the will to sell such assets is strong. In addition, placement on a register only occurs after a building or site has been identified and assessed, a process which is by no means universal, comprehensive or complete across public sector agencies. Consequently there are many sites and buildings under public management that are not listed, that potentially should be.

Sense of Place and Identity

When the National Trust launched its 1999 Endangered Places List it called on the federal and state governments to stop selling off public land and included numerous public sites such as the Quarantine Station, Callan Park (Rozelle Hospital) and Sydney Harbour Foreshores on the list. At the launch, a communique from some of Australia's 'Living National Treasures' stated:

> "Australia has a rich, diverse and unique history that must be conserved and celebrated. Places give structure to that history and … are symbols that give us a sense of ourselves. All Australians share in the responsibility and the benefits of protecting our most precious places." (cited by Sutherland, 2000: 6)

Adam (2001, 47) notes that the fact that government agencies have occupied public sites for decades (often over a century), means that such sites are "givens in the landscape" and planning of surrounding development has often been predicated on their continued presence.

Built heritage contributes to the quality of the urban environment and differentiates the character of one area from another (EH & LPAC, 1995, 32). The London Planning Advisory Committee notes firm conservation policies have a positive impact on urban environmental quality whereas the erosion of the historic urban grain impacts negatively. Its study on the urban environmental quality of London concluded that local history and heritage are the most obvious criteria for defining localities with a clear identity and inherent high urban quality.

In the USA Hayden is concerned with how to identify and preserve significant public places in opposition to the global restructuring of capital and production (1995, xii). She suggests public space can nurture a profound and inclusive sense of identity – or what it means to live in an area.

Hayden notes that urban landscapes are storehouses for "social memories" because the natural and cultural features (hills, harbours, streets, buildings and patterns of settlements) frame the lives of residents and often outlast many lifetimes (1995, 8-9). The claims on urban land in particular are numerous and conflicting, and redevelopment, especially on significant public sites, often means the loss of such significant public memories.

Brooks (1997, 19) notes that public buildings which form part of the community identity of an area often contain residual values such as fine park like settings and attractive older buildings, and as a result, the public often demands that such values remain available on site. Sullivan explains the value of heritage for cultural use and community identity as follows:

> "[W]e hold these places in our hearts, with a private, personal, yet universal significance. In a world spinning with change, we need something that connects us to the past, to help us face the future." (1997, 12)

Amenity

Urwin and Searle (1991, 6, 10) note proposals to increase residential densities can threaten amenity and residential values in local areas. However increasing the environmental quality of natural areas within built up areas can make urban consolidation more attractive (therefore acceptable) to residents. This requires capitalising on the natural beauty of sites with such qualities, and the incorporation of strategically sited natural systems to provide for carbon dioxide sinks, and ventilation of the urban form by air and water movement. Accordingly selected public sites should remain public, whereas others with less potential to contribute to the quality of urban areas may be more appropriate for disposal and higher density residential redevelopment.

The Economic Value of Public Lands

The Economic Value of Heritage Buildings

Selling surplus public land for its financial value also ignores the wider economic values that such lands may contain. Marsden (1997, 88) argues that there are significant economic, employment and social benefits arising from conservation works which are more labour intensive than conventional construction. Conservation works help maintain traditional trades and training in heritage conservation skills and demonstrate multiplier effects in local economies. Lennon (1993, 380) agrees that heritage can generate substantial finances noting many private companies realise the heritage dividend in the promotion of corporate image. She suggests government agencies could likewise capitalise on their long histories by promoting their heritage.

A UK study by English Heritage and RICS (Royal Institution of Chartered Surveyors), *The Investment Performance of Listed Buildings* (1993) analysed 300 'listed' office buildings in terms of total returns, capital growth and rental growth. The study found that pre 1945 buildings performed at least comparably with modern buildings, and demonstrated greater resilience during recession. The higher value of listed buildings is suggested to be a function of their smaller size and higher demand. Many listed buildings demonstrated a higher capital value compared with their rent, possibly because owners perceive such classic buildings will always have a strong market following. (EH & LPAC, 1995, 36)

The Economic Value of Existing Buildings

As noted earlier, existing buildings contain economic value regardless of any heritage value. Brooks (1997, 19) suggests the economic rationalist approach which generally finds a new facility is cheaper and therefore more cost effective than the reuse of an old facility, ignores the length of time the existing structure has been in service and the complete amortisation of the original construction cost. As a result, new facilities are planned for an acceptable 20 year life span, while rejecting the value of a building which has already been in service over 100 years.

If whole life accounting or life cycle cost accounting was properly adopted in asset management and decision making, all the environmental costs and benefits of development at the construction stage and during the life of a building, right through to the decommissioning or demolition stage would be taken into account (EH & LPAC, 1995, 33).

Tourism Value

Searle (1996, 60) notes built heritage is widely recognised as important in attracting and retaining businesses, workers and tourists in a global economy. Moloney (1992, 13) suggests full exploration of re-use options can capitalise on the potential for many public buildings to become cultural and tourist resources. Tourism and the increased awareness of history and identity is important for local and regional areas in both rural and urban contexts (Marsden, 1997, 88). Moreover public sites without national or state heritage significance may still have interpretation and tourism potential and therefore significant community benefits (Crocker, 1997, 155). Crocker suggests the criteria for such potential includes good proximity and access to other tourist attractions; innate interest to visitors; high quality site facilities and interpretation; manageable capital and recurrent costs and political and organisational support.

Local Economic Centres

UK Department of the Environment research demonstrates that historic town centres are the most successful in terms of attracting investment. The added diversity and interest of their historic character allows them to weather recessions better than newer centres or those which have lost such character through redevelopment. In addition to the short term jobs created by new development projects, adaptive reuse projects can involve restoration, regeneration, and a myriad of other activities which provide short and long term employment particularly where such sites are recycled for community or alternate public uses (EH & LPAC, 1995, 34).

Cost Benefit Analysis

The economic appraisal of a proposal is usually carried out by a cost benefit analysis (CBA) – a systematic analysis of all the costs and benefits of a project (or various project options) discounted to present value dollar terms for comparison purposes. While there is little evidence of its use in practice in decision making specifically for asset disposal, an analysis by Spiller (1990) indicates the discounting process typically undervalues the future value of retaining public properties. This is discussed further in Section 4 of this paper. Graham (1997, 112) also warns that a simple cost benefit evaluation of the economic benefits that might flow to the community from retention of heritage reflects a naïve view of economics given the operational framework for development that views land and buildings as commodities only. New buildings are developed to produce a financial return on the capital invested in that development, not usually to provide greater economic good. Thus the conservation of land and buildings tends not to rate as an economic issue. He predicts much of the older built fabric of our cities and towns will be demolished until such time as incentives or more effective tax regimes for heritage conservation are in place.

Potential Public Values

The loss of the potential for a site to play an ongoing or even enhanced role in creating a focal public space, enhancing national, regional or local distinctiveness and creating better environmental amenity is an important issue for cities concerned with being globally competitive. These are attributes that are highly prized in global cities and which contribute substantially to their attraction. Such loss of potential value is a concern for the Sydney Harbour Federation Trust (ISHFT, 2000) which criticises the recent and rapid "wholesale erasure" of a variety of past landuses (ports, fisheries, transport, industry and defence) and their replacement with a homogenous landscape of residential development:

> "The potential of the site [is] exhausted in one fell swoop… It is fair to say that much of the opposition stems from the fear of losing "what might be". The power of the sites that is felt most strongly by the public is their "potential" as public places." (ISHFT, 2000, 27-29)

The Trust is charged with the task of finding new landuses for certain former Defence harbour lands that are currently under its management. It notes that elements of the harbour that give it character are disappearing and the strength of underlying form of many redundant public sites provides the basis for "inspiring, useable public spaces." (2000, 27, 29)

Potential value is illustrated well by the recent state government decision to acquire the privately owned Ballast Point Caltex site in Sydney due to its strategic location as one of the inner heads of the harbour (together with Balls Head). After a decade of community and council opposition to proposed redevelopment, Ballast Point will now become a state significant public site and be rehabilitated from a fuel and oil depot into a new harbourside park. While the case demonstrates the importance of potential public values, it is notably easier to realise such values on land that is already in public ownership.

Consideration of potential public value should also be balanced against the fact that public land redeveloped for multi dwelling residential purposes is alienated forever from other uses due to the sheer number of new owners. Despite this residential development is the usual outcome for surplus public land. It is also the certain way to lose existing or potential public value of the site.

Whose Values Are Considered?

> "The landscape is carried off by the winners." (John Bennett, in "Four New Poets" cited by Winikoff,1993: 24).

Issues of spatial inequity

Urwin and Searle (1992, 6) suggest infill development causes conflicts between local and wider interests. Certainly such disputes over public sites are often portrayed as attempts by powerful or articulate groups to capture wider community benefits for their own benefit. Spiller (1990, 196) argues successful recycling of obsolete assets contributes to inner city gentrification. Conversely, Hayden (1995, 8) claims it is the gentrified working neighbourhoods where the power of place is most likely to remain untapped. Banerjee (2001) notes shortages of public open space most often occur in older inner city communities which evolved when industry took priority over residential amenity. Furthermore sites with the highest potential land value, are often the target of disposal programs.

There is spatial inequality in the ability of communities to affect decision making over surplus sites. The unequal distribution of power, wealth, contacts and professional expertise across localities which have differing socio-economic and demographic profiles, means that some areas are more able to fight to retain pockets of public land than others. Searle (1998) notes intensified planning intervention to override community concerns has accompanied the redirection of development for urban consolidation towards older industrial areas of Sydney such as Pyrmont/Ultimo, South Sydney, Rhodes and Homebush Bay. Often this was with the bonus of public sites and weaker communities. He points out the supply of relatively uncontested spaces which the state can target for future residential redevelopment in this way, is shrinking rapidly.

<u>The Power of Government over Local Communities</u>

The most obvious divergence in power over determining future land use and which values have most significance is the chasm between the resources and power of state and Commonwealth government compared to local communities or groups which are fighting for the retention of public ownership of sites. The financial and legislative resources behind these higher levels of government means it is often able prevail in such disputes.

<u>The Importance of Locality in the Face of Global Forces</u>

Communities that are able to conserve and capitalise upon their distinctive character (of built or natural heritage), are most able to distinguish and market themselves to attract workers, residents or tourists. Therefore while 'community' is often perceived as the natural antidote to globalisation, successful local areas are integrated with global processes in a balanced way. Keil (1996, 37) recognises the paradox of modern cities which are in the increasing grip of global forces, but also disintegrating into countless splinters. He suggests that sustainable cities require both global and local environmental politics to operate successfully.

An understanding of the non financial values of public lands illustrates the importance of integrating comprehensive assessment of individual sites with strategic studies of capacity and demand (across local and regional areas). This enables the particular values offered by public lands to be matched to the overall vision for the urban area. There is a need to assess and accurately categorise such sites to more effectively flag their appropriate future use. A strategic approach would result in policies such as urban consolidation being appropriately applied to suitable sites. The opportunities to use surplus public sites creatively for the common good for urban consolidation, green space, or other use – are far greater than with privately owned land. However decisions regarding their future use require full assessment to determine the range, type and degree of significance of any non financial values and whether such values outweigh the financial return of the site.

4   PROBLEMS WITH THE CURRENT ROLE OF GOVERNMENT IN PUBLIC ASSET MANAGEMENT AND DISPOSAL

The pursuit of efficiency by governments in line with neoliberal ideologies has led to widespread asset disposal programs as noted earlier. Current treasury policies and restricted funding encourage public sector agencies to identify and dispose of properties surplus to current needs to recoup funds for their ongoing activities. Disposal currently occurs in any number of ways due to the lack of any consistent procedure. This section will examine the role played by the Commonwealth and NSW state government in this issue by reviewing compliance with basic guidelines and legislative requirements and by examining issues arising from the current disposal activities.

Redundancy and Government Assets

The three stages in the life cycle management of government property are acquisition; estate management and disposal (Bradbury, 1997, 129) although Balderstone (1997b, 123, 124) notes redundancy may be considered during business planning, evaluation, maintenance planning or the decision to dispose. She argues for policy requiring consideration of the heritage significance, legislative status and the value to the community of public properties when they are evaluated against space, location and other requirements. However Adam notes current policies do not permit agencies to make assessments of this kind – in fact agencies which suggest alternative public uses would be placed at considerable financial disadvantage. Marsden (1997, 86) suggests legislation which better protects heritage and reinforces the custodial role of government agencies over public land is needed to guide disposal decisions, in which case monitoring and enforcement would be important.

Asset Management and the Commonwealth

The Commonwealth is one of the country's most important landholders (McCarthy, 1998). However along with redundant assets, the current government is selling many operating assets. This is despite a 2001 Australian National Audit Office report which found that in three recent sale and lease back cases, even on a strict financial basis, taxpayers will be worse off within eight to ten years as rent levels exceed profits from sale (Cumming, 2002). For example, Austrade was based in the Foreign Affairs Canberra headquarters which cost $161 million to construct in 1996 and was later sold for $197 million. Within three years, the new rent had increased by 80%, resulting in Austrade having to find new premises (Cumming, 2002, 26-27). The sale of operational facilities indicates a continuing trend to privatisation and attempts to change policy and implement a more responsible process for disposal of redundant sites (including another 70 properties across the country) are likely to meet with little success.

Management of Commonwealth Property

Some Commonwealth property management services have been provided by the Domestic Property Group but such services are increasingly outsourced to the private sector. Commonwealth property scheduled for disposal may be dealt with by individual agencies, or transferred to the Department of Finance and Administration (which outsources its property management). Other sites, such as the ADI site, are transferred to a shelf company (Adam, 2001, 49). The compliance of the Commonwealth with its own rules is questioned in an Australian Heritage Commission report, *Managing Key Commonwealth Historic Places* (G. Crocket and K. Baker, 1993 cited by Marsden, 1997, 86) which found a high incidence of proposals to change use, declare surplus or dispose of heritage properties. Similar evidence of including the lack of assessment of important values comes from a survey by the Committee of Review for Commonwealth Owned Heritage Properties (CRHOCP, 1996a, 31). Of the 50 Defence properties examined, 12 (24%) were already entered in the Register of the National Estate, although a further 18 (36%) had sufficient evidence of heritage significance to warrant further assessment. In addition, 4 (8%) of those properties listed or those with potential for listing on the Register were subject to disposal actions.

The Heritage Commission

The Australian Heritage Commission was established under the *Australian Heritage Commission Act, 1975*. Section 30 (1 & 2) of the Act forbids any action that adversely affects a place in the Register of the National Estate unless there is 'no feasible and prudent alternative'. The Commission considers proposals prior to such actions but has complained its advice to government agencies is seldom taken or passed on to others who need it (such as state heritage authorities) resulting in past destruction of important heritage. Now its advice is placed on public record, to increase awareness and publicity for difficult decisions (Sullivan, 1997, 14). The Commission suggests Commonwealth agencies be required to survey all their properties, register their heritage places, deal with heritage more openly and develop conservation guidelines as part of corporate procedures (Marsden,1997, 86).

The National Estate

McCarthy (1998) claims the current sale of Commonwealth properties poses "dire threats" to parts of the National Estate. Australia's National Estate is defined as:

> "Those places, being components of the natural or cultural environment which have aesthetic, historic, scientific or social significance or other special value for future generations as well as for the present community" (AHC & DCNR, 1994).

An ad hoc listing process relying on public submissions (often after development decisions) means the Register of the National Estate is not comprehensive despite over 12,000 listings

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currently. Listing imposes restrictions on federal agencies prior to development or disposal actions, but listed items have no definitive protection (Godden Mackay, 1991, 191) as shown by the Callan Park, Prince Henry Hospital and ADI site proposals. Marsden (1997, 191) notes the need for timely assessment and advice – while agencies are "still mulling over their possible options, rather than when the bottom line has been reached".

Proposed legislative changes to Commonwealth Heritage Management

Proposed changes to the *Environment Protection and Biodiversity Conservation Act (EPBC Act), 1999* will establish the Australian Heritage Council as an advisory body to replace the Australian Heritage Commission (HCNSW, 2001). The reforms include the establishment of a new National Heritage List for places of outstanding significance with listing decisions made by the Minister for the Environment. Commonwealth listed places will require management plans and the Minister's approval prior to any impacting activity (consistent with the plan) being undertaken. A list of all Commonwealth heritage properties is also proposed (assuming agencies identify and list heritage properties under their control).

The need for improvement and the 'Schofield Report'

A review of Commonwealth heritage properties known as the 'Schofield Report' *A Presence for the Past* (CRCOHP, 1996) notes the Commonwealth's failure to manage its own heritage properties, particularly in the recent years of public sector reform. The report states:

> "Publicly owned properties are an integral part of the social fabric of many communities and there is an expectation that the Commonwealth, as custodian, will conserve, retain and manage these properties responsibly." (CRCOHP, 1996a, 3)

While 300 Commonwealth properties were already listed on the Register of the National Estate, the review identified 625 which have current or potential heritage significance, (including 1,190 buildings). The report argues that the Commonwealth is unable to guarantee good outcomes in the use and reuse of such assets as there is no common approach by Commonwealth entities towards the conservation of their heritage properties. It concludes that such mismanagement is directly due to conflicting objectives and a lack of explicit government direction to observe heritage conservation objectives. The loss of Commonwealth owned properties by attrition has resulted. Specific problems identified included the lack of:

- consistent legislation or agreed procedures between the Commonwealth and states;
- directives to agencies to conserve heritage property as a core management responsibility;
- comprehensive identification of heritage properties in Commonwealth property portfolios;
- integrated strategic planning and budgeting for maintenance, repairs and replacement;
- economic incentives available to encourage property managers to conserve their heritage property and/or seek adaptive new uses; and
- effective consultation by agencies with stakeholders and communities.

The report notes not all heritage properties can be retained but recognises many nationally significant places where public ownership should continue. It also uncovered the widespread view held by Commonwealth entities that if a property is not listed on the Register of the National Estate, disposal can occur unencumbered (CRCOHP, 1996a, 63). The report notes this is clearly inappropriate given the absence of comprehensive surveys. It recommends overarching consistent policies rather than massive funding and lists 50 recommendations for a comprehensive strategy for responsible stewardship by the Commonwealth of its properties. This includes establishing Heritage Asset Registers for each agency and a comprehensive, publicly accessible single inventory. Moreover explicit policies directing conservation of Commonwealth heritage assets and a partnership between levels of government, public and private sectors and the community is required. In addition resources for more exemplar adaptive reuse and restoration projects and increased community involvement in decision making are recommended.

The report suggested the Commonwealth needed to 'catch up' before becoming a leader in the area of conservation of heritage properties.

Asset Management, Disposal and the NSW State Government

At the state level surplus properties may be transferred to another department (eg National Parks and Wildlife), sold through the Premier's Department or (increasingly) sold by individual agencies on the open market. In NSW, Public Works and Services or Landcom may be involved in any redevelopment. Some significant surplus properties to be retained in public ownership (such as the Kirkbride buildings at Rozelle Hospital) have been managed by the Community Heritage and Retention Unit of the Property Services Group. There are no consistent guidelines or regulated procedures for the sale of NSW government land and property.

Total Asset Management

Governments across Australia have implemented "Total Asset Management" (TAM) strategies for government assets. NSW government agencies must submit asset strategies on office accommodation, capital investment, maintenance and disposal to Treasury as part of annual funding submissions to cabinet (GAMC, 2000a). TAM requires accrual accounting (ie revenue and expenses are accounted for when goods or services are provided, rather than when payment is received). Accordingly assets must be recorded, registered, valued and more openly reported (CRCOHP, 1996b, 50). TAM increases the notion of public sites and buildings as real estate assets which can be realised for funds. As the maintenance (and funding) needs of aging buildings are examined after years of neglect, disposal becomes an attractive option. Under the Asset Disposal Strategic Plan assets identified as surplus are to be "assessed"; the *advantages* to government, agency and the community of divesting the asset are assessed; opportunities for increasing asset value are identified and the disposal plan is set in place (GAMC, 2000a). For heritage assets the guidelines note management should be core business. Community consultation is recommended and heritage assets must remain occupied and protected during any disposal process. Current asset disposal practices likely reflect a combination of slow implementation of the guidelines and conflicting government directives over the relative weight of financial return compared to other values (GAMC, 2000b).

Asset Registers

There is no comprehensive record of government property assets in NSW. The Auditor General estimates there is $750 million of 'missing' government real estate (Wainwright, 2002, 3). In 1988 a government commission found that both central and individual agency property records were inadequate, and the latest audit has found little improvement. Despite warnings in 1997 and 1998 from the Council on the Cost of Government, nothing has been done to centralise property assets. Duplication and poor record keeping remains a problem. The Auditor General notes a comprehensive record of all NSW government property is needed. The sale of public lands against such mismanagement reflects current imperatives for short term funding needs. Balderstone (1997b, 124) claims it requires a professional historian to trace the labyrinth of asset information and suggests any asset registers include a heritage listing flag and other notations such as archaeological importance, significant trees, the community profile of a property etc.

Economic and Financial Appraisal

Government projects are evaluated using financial and/or economic appraisal techniques which discount costs to present value dollars as investment costs tend to be borne up front and benefits and operating costs extend into the future. Economic appraisal considers a proposal's external costs and benefits for various stakeholders whereas financial appraisal assesses the financial effects of a project on the agency proposing it. Projects involving a financing decision require financial appraisal and proposed capital works in excess of $0.5 million require economic appraisal or cost benefit analysis (CBA) (NSW Treasury, 1999, 5).

Treasury guidelines recommend avoiding public announcements of proposals prior to economic appraisal to avoid "constraining the choice of possible options". The size, scope, staging, site location and private sector involvement of a proposal are recommended to be fully assessed before decisions (and announcements) are made (NSW Treasury, 1999, 6).

<u>Protection of State Heritage Items</u>

The NSW Heritage Council was established in 1978 under the *Heritage Act, 1977* and the State Heritage Register was introduced in 1999, as a means of protecting 'state significant' items. A State Heritage Inventory of 30,000 items includes all statutorily listed heritage items (public and private) (HCNSW, 2001, 57). By 2001, seven state agencies had supplied their database information for inclusion to the State Heritage Inventory. Property owners including state agencies must obtain Heritage Council approval for any proposed action likely to affect an item of state heritage significance.

Since 1988, Section 170 of the *Heritage Act* has required state government agencies to prepare a Heritage and Conservation Register listing heritage items they control, own or occupy. The Heritage Council notes there are 80 government instrumentalities who own, manage or occupy heritage assets, and suggests that since the 1999 amendments to the Act, "most … have actively addressed their responsibilities in heritage management" (HCNSW, 2001, 76). Lennon (1998, 39) and Goddard (2002) note continuing compliance problems with the Section 170 requirement including incomplete records and lack of access to registers by the public.

<u>The Environmental Planning and Assessment Act, 1979</u>

The rezoning process under the NSW *Environmental Planning and Assessment Act, 1979*, measures proposals against planning policies and environmental constraints rather than attempting to determine the best use of the land. That the process is pre-empted by the proposal is a constant and well noted problem. Major planning instruments under the Act include State (SEPPs), Regional (REPs) and Local Environmental Plans (LEPs). The centralisation of planning in NSW is demonstrated by the fact that although local councils make LEPs, the Minister for Planning approves all planning instruments. Under proposed changes to the Act, councils will be able to approve new Local Plans *with the concurrence* of the Minister. As noted by Long (2002, 16) local/state tensions over proposals are likely to continue under the amended Act. The state often intervenes to override LEPs and control approval for development on state owned land using SEPPs which do not require exhibition or public comment for gazettal. Some examples include SEPP 38 for the Olympic Games development, SEPP 41 for the Sydney Casino, and SEPP 47 to redevelop the Moore Park showgrounds into Fox Studios.

Other SEPPs are not site specific but planning policies in the real sense. SEPP 8 concerns the sale of redundant state owned public land. It aims to promote the 'orderly and economic use' of land in public ownership which has become redundant for its past purpose or intended purpose, or which is 'otherwise surplus to public needs'. It provides the Minister for Planning a role in approving developments on public land, but does not provide any protection to public land (Cox, 2002b). Effectively the SEPP enables development of state owned land to be considered from a state perspective rather than a local perspective. SEPP 19 requires development consent for proposals on urban bushland on land zoned for public open space purposes in Sydney (and Gosford) but does not apply to bushland on public land zoned for other use. Adam (2001) and McLoughlin (1997) both dismiss SEPP 19 as having little to offer in terms of bushland protection either on or outside the Cumberland Plain. SEPP 56 applies to certain sites on Sydney Harbour foreshores which are categorised as either of 'state' or 'strategic' significance. The Minister is the consent authority for state significant sites and has reclassified sites (eg Callan Park) in order to gain approval power when the planning was 'not proceeding appropriately'.

The National Parks and Wildlife Service Amendment Act, 2001

Recent changes the *National Parks and Wildlife Act, 1974* allow expanded leasing and licensing provisions in national parks. The National Parks Association describes the changes as a win for developers and the National Parks and Wildlife Service, which perceives a need to derive extra revenue from its reserves (Cox, 2002a, 10-11). In particular, new 'adaptive reuse' leases can be issued *contrary* to the reserve purpose and for unlimited periods. The Minister can ignore public comment when allowing a broader range of purposes for 'adaptive reuse' leases and leases for residential accommodation. A proposal to lease the publicly owned Quarantine Station at North Head is one of the first cases affected by these changes.

Issues Arising from Current Government Asset Disposal Processes

This brief overview raises numerous issues in current government asset management and disposal activities.

Required Improvements in Asset Management – an immediate concern is compliance with legislation and the need for comprehensive asset registers. Balderstone (1997b, 124-128) calls for a building portfolio system with interface capability between agency and state heritage registers and including information such as the heritage status, statement of significance, historic trees, site features, replacement value, maintenance and conservation plans of each entry. Inadequate management of property is a further issue and it is evident that management quality falls further if land is earmarked for disposal (Moloney, 1992, 12 and Adam, 2001, 49).

The Need for Identification and Assessment of values

Marsden (1997, 87-88) and Wright (1997, 118) call for assessments of the significance of public lands that define the nature and degree of (heritage) significance using established criteria (such as the Burra Charter) although extension to incorporate local community values would be necessary. The assessment of other (than heritage) values to the public will require the implementation of a consistent public process, to ensure full and timely assessment.

Public Sector Restructuring Means Public Lands are Considered as Financial Assets

Brooks (1997, 19-20) highlights unplanned problems with TAM strategies where past neglect requires costly maintenance programs which are balanced against potentially large financial returns from disposal. The public sector restructuring into autonomous units where "each ship float[s] on its own bottom" (Rockman, 1998, 31) emphasises the need for individual agencies to generate revenue (Olson et al, 2001, 6). Selling assets relieves immediate budgetary shortfalls (as a once only windfall) while eliminating longer term financial drains (Rockman,1998, 29).

Problems in the Use of Economic Appraisal and Cost Benefit Analysis (CBA)

The use of CBA in decision making in government projects ignores distribution (equity) impacts, although the use of social cost benefit analysis would address this. However Spiller (1990, 194) is critical of the application of CBA in the disposal of government assets in particular. He argues the important consideration in evaluating the future use of public assets is the extent of necessary constraints on future uses because the asset is in public ownership. That is sites might be recycled for community uses or disposed of with restrictive planning controls. If sold on the open market short run revenue for government is maximised but at the expense of unacceptable negative externalities on surrounding land uses. Constraints reduce the market value but enhance the city wide value of urban land. Spiller suggests (1990, 195):

"[A]s custodian of the planning system, the government may be under an obligation to go a little further than a conventional developer when assessing the degree to which 'consensus physical planning constraints' should curtail development potential and hence residual land value."

His concerns with CBA are that in practice only measurable factors tend to be counted and there is pressure to heavily discount deferred benefits (including to future generations). He argues for a social time preference (discount) rate, rather than a rate derived from capital markets because:

- disequilibrium means capital markets reflect short term adjustment processes,
- markets reflect individual preferences and ignore externalities but governments must consider overall impacts of decisions, including those on third parties, and
- Governments have responsibility to think long term, so must be conservative about discounting future benefits and costs (1990, 196).

Spiller's views illustrate the problems in assessing the full public values of redundant sites. He demonstrates the inadequacy of a system that often allows disposal of sites without any analysis of the costs and benefits. Where economic analysis occurs there is an inherent bias towards development rather than conservation. It is likely that the use of less economic based tools, such as the planning balance sheet, would better identify and account for the wider costs and benefits of disposal decisions.

Implications for Ecologically Sustainable Development

Wright (1997, 115) argues the principle of ESD legally requires that heritage places continue to be used, to conserve their heritage value. He suggests ESD mandates examination of conservation *and* development values in decision making (1997, 117). ESD requires decision makers to take into account economic development, the environment and social factors. Yet Bates (2001, vii) notes Australian legislation generally incorporates ESD as an *input* to decision making rather than an *outcome* – with no guidelines on how to consider competing values. Statutory authorities must only 'have regard' to the environmental impacts of a proposal. Urwin and Searle (1991, 10) agree that ESD is in competition with other principles, and suggest it is the role of government to resolve this. The Productivity Commission (2000) confirms an inappropriate balance between economic, environmental and social objectives in government decision making caused largely by inadequate knowledge and information (2000, 15).

Duty of Care

Bates (2001) argues a statutory duty of care should be introduced into Biodiversity and Heritage protection legislation to encourage self regulation by the private and public sector to comply with such duty. This would fill gaps in legislation, for example, no duty is implied under current heritage legislation unless items are listed, hence unlisted heritage is not officially recognised. A general duty of care forces greater responsibility and would help in the retention of significant public assets.

Public Participation

Adam (2001, 48) and others suggest that when land is surplus to a particular agency there should be a public consultative process involving the whole of government to assess whether the land in this case should be retained for the public good. The requisitioning of democractic processes by the state by ministerial 'call in' powers, seizure of rights under SEPPs or REPs, or other constitutional changes to civil rights which legislate out opportunities to object to projects bypasses the planning system and blocks public participation. 'Public interest' should be publicly contested through democratic processes such as parliament, local council, the courts, lobbying and the media rather than allowing the market to provide the only public interest (Gleeson and Low, 2000, 175-177, 190).

Arnstein (1995, 359) has noted the tokenism of some types of public involvement in planning processes and has highlighted "the fundamental point that participation without redistribution in power is an empty and frustrating process for the powerless". Cubit (1997, 133) notes the need for a clear framework and prefers 'public process' to the term 'community consultation'. This avoids 'them and us' connotations of 'consultation' and relocates participation to a central position in the process rather than a marginal extra to be (sometimes) tacked on to the approval process. Meanwhile claims of NIMBYism (Not In My Backyard) in public involvement in disputes over public land are dismissed by Adam (2001, 44-45) who suggests fighting for one's backyard is natural, asking if people do not react when immediate interests are threatened, when would they? He also notes interests in public land invariably involve a wider than local context. Public involvement can also be important in terms of future management of surplus sites.

Accountability and transparency issues

Wheeler (2002, 48) suggests that:

> "[W]hen people perform public official functions, they are accountable to the public for their conduct and for decisions they make. Accountability requires transparency as to what that conduct is, what those decisions are, and the reasons for those decisions."

Problems of inadequate participation in asset disposal decisions are compounded by the lack of access to information about how decisions have been made. The public must resort to costly requests for documents (as opposed to information) under Freedom of Information legislation. Kelly (1999b, 20) notes that Australian FOI legislation has 22 exemptions (which restrict information for reasons such as commercial sensitivity), while the American FOI Act has 9. Snell (2002, 57) suggests that most of the claims of 'commercial in confidence' by government agencies are multi million dollar projects that can extend up to 20 years, and precisely the projects where public interest ought to permit the release of information. In contrast to Australia, the New Zealand FOI legislation has a public interest override on all exemptions.

Problems in the timing of disposal processes

Commentators constantly note the importance of exploring options for the fate of sites and buildings before they become redundant to avoid deterioration and vandalism (eg Davies,1997, 11 and Lane, 1997, 151). Lennon (1998, 40) argues that as assessment requires documentary research and community knowledge, it takes time. Moreover assessment should precede decision making, deals and announcements.

Delays and cost blow outs under the current approach

A recent state chamber of commerce study shows major projects in NSW take an average of 3.1 years before development commences, considerably longer than projects Victoria and Queensland (Davis and O'Rourke, 2002, 4). The report refers to the 12 year time span of the proposed redevelopment of the ADI St Mary's site noting its current status is unclear. It was first announced by the Federal Government in 1990. Proposals for other significant public sites (eg Rozelle Hospital the Quarantine Station) cover similar time frames. Significant impacts on the resources of all stakeholders including government departments, approval authorities, taxpayers, the general public, private sector partners and communities and interest groups result from this.

Problems across levels of government

The lack of co-ordination between departments regarding current or future needs with respect to assets earmarked for disposal means opportunities for reuse for other public uses are missed. The Schofield report recommends a 'whole of government' approach to Commonwealth disposal to ensure that options are maximised (CRCHOP, 1996a, 65).

The National Trust also argues for the transfer of some public property to the community at less than market rates, where there has been a history of public use and/or access. Adam (2001, 50) notes other difficulties for councils (and state departments) in dealing with the Commonwealth. For example at the former Defence site in Bundock Street Randwick, details of Commonwealth decontamination work were unavailable to the local council. Moreover the Department of Land and Water Conservation was refused access to the site, when it requested to make an assessment (FADT References Committee Proof Hansard, March 2001, 595-596, cited by Adam, 2001, 49). The lack of information was a factor in the rejection of a Land and Environment Court appeal by the Commonwealth over the site. Local government also comes under state pressure to approve rezonings under urban consolidation policies. Higher level government agencies often make use of their more extensive resources to resort to court appeals when conflicts arise.

<u>The need for policy overhaul</u>

Individual agencies cannot be wholly blamed for the policies which are imposed on them by higher levels of government. Adam (2001, 52) calls for the replacement of current development paradigms by a conservation strategy based on assessment of values and involving genuine public participation to cover all urban areas. It is also apparent that more balanced decision making requires some process that tests the legitimacy of the positions of various stakeholders. The *costs* to the public of public asset sales are rarely counted. The participation of the *public* assumes greater importance in decisions concerning *public* land, yet in many such cases normal environmental impact assessment are bypassed. The impacts of this approach to asset disposal, in terms of lost opportunities for creative and strategic reuse to utilise important public values, lost heritage, delays, economic costs, and impacts on government credibility are significant.

It is obvious that the current approach to both the management and disposal of public property assets is inadequate in many ways. Apart from compliance issues and conflicting priorities, the lack of an overall public process in assessing and appropriately dealing with government assets appears to be the overriding problem in asset disposal decisions. The following section presents some case studies which dramatically illustrate these issues.

5   CASE STUDIES

Two case studies provide an insight into the contentious nature of current government asset disposal practices. The cases illustrate the claimed non financial public values and the process taken (to date) towards disposal and redevelopment of the state Rozelle Hospital and the Commonwealth ADI St Marys sites in Sydney. The analysis highlights issues raised earlier in this report.

Rozelle Hospital (Callan Park) and the Department of Health

High land values and urban consolidation policies have resulted in at least 10 proposals converting Sydney public hospitals to residential development. These include the Mater, Crown Street, Paddington Womens, St Margarets, Camperdown Childrens, Sydney Eye, Parramatta, Lidcombe, Prince Henry, South Sydney and Rozelle Hospitals. Young (2002, 7-8) suggests such sites are attractive for residential development as they are typically on large sites within established public networks, enjoy good access designed for heavy traffic flow, may have access to public transport and wards are easily converted into residential units

While hospital rationalisations apparently reflect declining populations and requirements in inner suburbs, increases from urban consolidation combined with the extent of closures have resulted in the three remaining inner Sydney hospitals having the longest admission waiting times and the most hours of restricted access to emergency departments. (Robinson, 2002, 1). However, older facilities require massive change and upgrades to accommodate procedural, technological and economic changes in patient care, making the construction of new facilities an attractive option.

With respect to mental health facilities, the de-institutionalisation of many services has led to the closure of whole hospitals across the country as a result of the (partial) implementation of recommendations of the Richmond report. This inquiry into mental health services chaired by David Richmond (NSW DOH, 1983, Part 3: 62) recommended the reduction and rationalisation of institutional care provided adequate community support services were made available.

Rozelle Hospital (Callan Park) - Background

In 1976 Callan Park Mental Hospital (1885) was amalgamated with the adjoining Broughton Hall Psychiatric Clinic to become Rozelle Hospital although the community still refer to the site as Callan Park. Currently the 61 hectare site retains some mental health activities but is otherwise in a state of transition. The Sydney College of the Arts now occupies the original asylum block (20 neo classical buildings known as 'Kirkbride') under a long term lease to Sydney University, while the Sydney Writers Centre is based in Garry Owen House.

In line with the Richmond Report, and due to outdated 19th Century equipment and new treatment approaches to mental illness, the NSW Health Department aims to mainstream mental health facilities. Certainly the facilities at Rozelle Hospital require upgrading. While the de-institutionalisation recommended by the report has occurred rapidly, the recommended support services in the community have not been implemented. The resulting crisis in NSW mental health services led to an Upper House Inquiry in 2001. Lennane (2001b) calculates cuts of 40% in mental health staffing from 1989 to 2001 and notes boarding house services are under threat.

The proposal – redevelopment of the Rozelle Hospital site

The Department of Health proposed the closure of Rozelle Hospital and the sale of 8 of the 61 hectares on site for development to fund a new $43 million facility on 2 hectares at Concord Hospital. During the course of the dispute the government promised to return 47 hectares of the Rozelle site to the community for a park, although funding and maintenance issues were not detailed. This led to concerns that the 8 hectares would be the first in a series of developments needed to fund the conservation and management of other parts of the site.

The masterplan was finally released in July 2002 – three months before the government declared it would not proceed with the sale and development proposal. Prior to this, and throughout most of the dispute, the details of the proposal were vague and changed constantly. During the previous 18 months, the land to be sold was revised from 12 to 8 hectares (due to a political promise that no open space would be lost). The return from the development rose from $41-43 million (the cost to Health of the new Concord facilities), to $80 million in the masterplan (after expected decontamination and rehabilitation costs were included).

The masterplan proposed development in three precincts along the south west perimeters of the site and one in the north east of the site opposite Kirkbride. The masterplan proposed densities ranging from FSRs of 1.1:1 to 2.0:1 (UDAS, 2002). This was far higher than the 0.5:1 stipulated in the Leichhardt Town Plan (LEP 20), and even the 0.8:1 used for redundant sites on the nearby Balmain peninsula (considered to be the likely maximum throughout the 'stakeholder process'). Earlier estimates of 625 to 800 dwellings fell far short of the eventual 1,060 to 1,200 dwellings (2,000 residents) in the masterplan proposal. Building heights of 3 and 4 storeys were proposed for new development while over 80 "intrusive" buildings were marked for demolition. Intrusive trees (including native vegetation) were also to be removed to open up or "recover" views. While "health, aged care, home office, educational, institutional and community uses" were also suggested uses for two precincts, the majority of development was proposed to be residential. The site is zoned public purpose under the LEP, however the Planning Minister took over the approval powers in 2001, so the masterplan was released together with proposed changes to SEPP 56 which provided for the increased FSRs and the change of use to residential development.

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History and cultural heritage values of the Rozelle Hospital site

The architecture, landscape and history of use of the site make it culturally significant to the community at a local, state and national level (Lane, 1997). The two 19th century estates (Broughton Hall and Garry Owen) form a contiguous and visually related rare later 19th century landscape which also includes infill 20th century buildings. Callan Park was the first purpose built facility for the "moral therapy treatment of the insane" to be constructed and opened as a complete hospital (Lane, 1997, 152). The character of the site reflects the use of 19th century therapeutic garden theories which promoted the importance of visual quality, as well as the interwar and post World War II garden designs of the 20th century (Leichhardt Council, 2001a).

Kirkbride is described as "Sydney's most imposing sandstone gothic building" and constituted the biggest project of the century for the Colonial Architect, James Barnet (FOCP, 2001d). The heritage significance of Kirkbride is a function its building fabric, materials, form, scale and texture, the building's relationship to its landscape setting and visual importance to the surrounding area (Lane, 1997, 152). The remnants of the Charles Moore gardens surrounding the asylum (designed as a calming influence for the treatment of mental illness) are threatened by the proposal.

However, most of the proposed development is near the Georgian house, Broughton Hall (1842) which was home to shellshocked soldiers during WW1 and became the Broughton Hall psychiatric clinic (Burge, 2001, 20). Further hospital buildings were added in the 1920s and 1930s. Neglect and a recent fire have reduced Broughton Hall to a shell. The Broughton Hall gardens were designed and created as occupational and psychiatric therapy for patients under the supervision of Dr Sydney Evan Jones. They include meandering walks, willow pattern bridges, a rainforest gully and oriental gardens. The fragility and historical significance of these gardens prompted the controversial notion for residential development to surround them to restrict current public access and provide for their maintenance. The masterplan proposed development on three sides of the therapeutic gardens.

Individual and groups of buildings and the grounds of the site are listed on various heritage registers. Kirkbride, Garry Owen House, 'Callan Park' and Broughton Hall, are state heritage items while other buildings and structures are on local heritage listings. (Leichhardt Council 2001b). The site as a whole is identified as a heritage item in Sydney Region Environmental Plan (SREP) 22 (Parramatta River) and is listed on the Register of the National Estate.

The 1991 *Rozelle Hospital Heritage Study* concludes that the site has significance as a place or area, and as a combination of separate entities. The site's significance is summarised by the study as follows:

- A precinct that demonstrates major changes in mental health care in NSW.
- The site contains the original architecture and landscape setting for both institutions.
- It contains rare surviving gentlemen's estates.
- It is a rare surviving late 19th century designed landscape.
- It contributes visually and socially to the local identity and sense of place.
- It reflects the natural landform which was the setting for the original development of the site and suburbs.
- It has been a place of high aesthetic quality within the local area for over 115 years (from Leichhardt Council, 2001b, 8).

The study notes the site as a whole has significance and recommends detailed investigations for conservation policies for the site and the individual elements. It acknowledges pressure for land sales on the site yet recommends that:

"In terms of the conservation of the heritage significance of Rozelle Hospital it is preferable that no land sales occur and the integrity of the site as a single area is preserved." (page 168 cited by Leichhardt Council, 2001b, 8)

Other cultural heritage on the site includes the remains of aboriginal middens, burial sites and early European rock carvings, thought to date from around 1855 to 1920 (Clegg, 1998).

Natural heritage values of the Rozelle Hospital site

Many non indigenous plantings from the Charles Moore gardens dating back 150 years remain on the site in addition to a significant amount of natural bushland. Callan Point is one of the last reminders of the flora and fauna diversity that was once Sydney (Bellissima, 1999, 25). Jensen (1998) notes it contains a range of significant native vegetation including Port Jackson figs, swamp she-oaks, wattles, ferns and swamp-march species. Grey ironbarks, smooth barked apple trees and blackbutts remain on the slopes above King George Park which support over 50 species of native vegetation including wattles, native grasses and flowering natives. The grounds and shoreline mudflats are habitat for a variety of native bird and other species including kookaburras, rainbow lorikeets, honeyeaters, fig birds, butcher birds and various filter feeders.

Open space and recreational value

For 40 years, the community has had access to the hospital grounds which have been used more intensively as 'de facto regional open space' since intensive consolidation has occurred in the area. The grounds have been labelled the 'Centennial Park of the inner west'. The grounds also include the oldest (Glover's) Community Garden in Sydney (Wotton, 1999, 40).

Lennane (1999) highlights the pressure on open space in the area noting that open space in Leichhardt is calculated at 2.2 hectares per 1,000 people. This includes areas such as Harold Park (paceway) and half of Callan Park, yet is still the third lowest rate in Sydney. Intensive consolidation has brought 6,000 new residents to the municipality and Lennane questions where the extra 13 hectares of open space is.

Other qualities of the site

The Callan Park site offers a complete landscape that is still discernable from the ridgeline down to the water, which is unique in the inner west. Robertson notes:

"… the site achieves what no other land in the area can do: it enables the original landform to be read. It conveys a sense of space, history and habitat to the viewer without ever having to set foot on the site. This is perhaps the greatest and most important value of the site. It has many fine heritage buildings but, allowing for proper curtilage, it offers the opportunity for regeneration of habitat and fluvial landforms in the midst of some of the most densely inhabited urban areas." (cited by FOCP, 2001b)

Lennane agrees, adding the value of Callan Park to the community lies in its size and diversity of landscape, which allows people to escape the sounds and sights of urban life (2001a, 20).

The social value of the site for mental health facilities

O'Brien (2001b, 16) reports bed numbers in NSW mental health facilities have been cut from 12,000 to 2,100 in the last 30 years and Lennane attributes the rise in homelessness among people with a psychiatric illness to the government's 'misuse' of the Richmond report. O'Brien notes that despite a critical shortage, the move from Rozelle to Concord is not about increasing beds. While the number of beds at Rozelle is estimated to have reduced from 530 beds to around 200 since 1990 (Lennane, 2001a) figures obtained by the community suggest 150 beds is the maximum likely figure for Concord (FOCP, 2001d).

The Department refuses to clarify exact bed numbers stating "the number of beds is no longer appropriate currency" (Wallace, 2001b). The community disputes that the site is redundant for use for mental health services, arguing that even if the hospital moves, the many buildings on site should be used for badly needed support services and/or other community use.

Recent history of sale proposals for the site

In past years successive state governments have proposed to sell portions of the site. The Liberal Greiner government attempted to sell 6 hectares in 1989 and the Carr Labor Government announced a deal to sell 2 hectares of the site for a nursing home in 1998 (despite a pledge as opposition leader never to sell the site if in government) (Callan Park Action Group, undated). In each case there had been no consultation and the scheme was abandoned due to the outcry.

The planning process in the latest proposal for Rozelle Hospital

The site was listed on Schedule 2 of SEPP 56 – Sydney Harbour Foreshores and Tributaries in 1998 given its strategic significance for the harbour. Leichhardt Council adopted a brief for Callan Park in May 2000 which excluded selling any part of the site. In April 2001 at Callan Park, the Health Minister announced a $107.5 million program to provide 150 more mental health beds and 7,000 new staff in NSW (O'Brien, 2001) making no mention of a proposed closure and partial sale of Callan Park. The same month, the state government announced it would take over the planning control of the site (move it to Schedule 1 of the SEPP) and develop its own masterplan for the site as Central Sydney Area Health Service (CSAHS) would be selling off part of the site (12 hectares - later revised to 8).

Heritage consultants were engaged by CSAHS to prepare a conservation management plan under a brief requiring the nomination of areas that could be sold to finance the hospital's move to Concord and the restoration of remaining heritage items (FOCP, 2001c). This immediately discounted other public values associated with retaining the overall site. Kerr (2000, 36-37) notes the proper sequence for conservation management as follows:

> "a full understanding of a place and its significance should precede and be taken into account in the development of policies for conservation and management, and these in turn should guide the development of any master plan for future change to the place."

Public consultation - the 'stakeholder process'

The 'stakeholder process' for the masterplan started in mid 2001 but suffered from attempts to restrict access to it and the declaration that the sale and development were "givens" and not negotiable.

The process commenced with an information night for an invited audience (residents in the immediate vicinity of the site and chosen stakeholders) in June 2001 to explain the planning process and the background for the decision to move the mental health service from Rozelle to Concord (Wallace, 2001a, 12). Over 300 residents attended. Shortly after this the consultation consultants resigned. A "participative workshop for interested stakeholders" to develop "a vision for the site" was held in July 2001, but abandoned when too many community members turned up. At this point the process appeared to stall, but apparently continued sporadically by telephone with some stakeholders. The masterplan was eventually released in August 2002, after apparently being completed months earlier.

In the intervening period, there was a succession of publicity and press releases from the government and the community with respect to the site. The site is of state significance by definition under SEPP 56 and to allow state approval of the proposal, yet the proposal was treated as a local issue by the government for media and public consultation purposes.

It would seem inconsistent for the government to intervene in the masterplanning and approval of the sale and redevelopment of such a significant site, whilst simultaneously labelling the issue a local one.

An ongoing issue concerning the site is a subdivision application from CSAHS for a lease for a private childcare centre. The council recommended refusal of the application on the grounds that the overall site is significant as a single entity and there was no conservation policy, or masterplan (as required by SEPP 56) against which to judge the proposal (Leichhardt Council, 2001b). Yet as a Crown application, the Applicant and Minister for Planning must agree to the decision. Prior to the completion of the masterplan, the Minister waived the masterplan requirement in this instance on the basis that a draft master plan was being prepared for the site. Approval would isolate a section of the site and set precedents for other sections of the site. The effect of approval prior to the formulation of a masterplan would be to predetermine aspects of the eventual masterplan, which is contrary to the intentions of the SEPP. State pressure to approve development in a piecemeal fashion contrary to its own planning processes, risks adversely affecting the site's cultural heritage values and is inconsistent application of planning policy.

Access to documents

Kerr (2000, 33) notes the importance of public transparency in conservation plans and decision making and argues that confidentiality on reports commissioned with public money is quite improper (2000, 33). However, requests by the Friends of Callan Park to obtain documents such as a land use capability study and the *Rozelle Hospital Heritage and Conservation Report* by Howard Tanner and Associates (2001) prior to the release of the masterplan were unsuccessful. Instead the public had access to these and all the consultants reports when the masterplan and its appendices, and the proposed changes to the SEPP were released simultaneously. They had three weeks (later extended to five) to digest and provide expert responses to information that had been in existence for many months.

The views of the public and the local community

Tom Uren has commented:

> "since I moved back to Balmain 20 years ago, no campaign has received such popular support as the saving of Callan Park." (FOCP, 2002)

The proposal is opposed by environmental and heritage groups, 6 Sydney Councils, various politicians and the Friends of Callan Park which has over 500 members and had secured over 17,000 petition signatures supporting their Callan Park Trust Bill. A survey conducted by Leichhardt Council in late 2001 on community attitudes to the future of Callan Park (Leichhardt Council, 2001a) found over 90% of residents oppose any sale and support continued public ownership of the site. Over 80% support continued mental health facilities on the site, and more than 90% support the restoration of the natural and built heritage on the site (FOCP, 2001a).

Alternative uses and management of the site

Resolutions from a public rally held in 2001 demand the release of suitable buildings on the site to enable charities and non government organisations to provide accommodation and services for homeless people suffering mental illness. The neglect of many of the buildings adds to the community anger over the proposal. The Friends of Callan Park created the Callan Park Trust Bill to guarantee public ownership, protect the current uses of the site (as a mental health facility, plus community and educational uses) and set up a trust to maintain the ecological and heritage values of the site (FOCP, 2002).

Since the recent backdown from the proposal by the Government, the local Labor member who had supported the proposal throughout, has tabled a new bill in parliament to retain current uses and block any sale or residential development on the site.

Callan Park – Comment

The battle over Callan Park illustrates a number of the contested values that arise in public asset disposal. The history, heritage, ecology, open space, size, social and community value of the site demonstrate the requirement for a full assessment of the value of retaining the whole site in public ownership. Only then can the information uncovered be used to balance its overall public values against the financial return of portions of the site.

However, there are also clearly problems in the way the decommissioning of the hospital site and the plans for its future use, are proceeding. The constant revisions in the 'proposal' were a function of ad hoc planning, and attempts at development by an agency that has nothing to do with land development.   Apart from the non-assessment of public values, the case demonstrates attempts to bypass established planning procedures, and block proper public participation despite the fact that the site is publicly owned. The battle is all the more contentious because the local community is very aware of the poor built environment outcomes of nearby sites, such as the Balmain Power Station, which have already been lost from public ownership.

The Australian Defence Industries (ADI) Site, St Marys – and the Department of Defence

The Commonwealth Department of Defence has owned large parcels of land in and around Sydney including six harbour sites which have since been retained in public ownership under the Sydney Harbour Federation Trust after a long battle for their preservation in the mid 1990s and others at Ermington (21 hectares) and Bundock Street, Randwick (68 hectares). One of the highest profile current battles over public land of significant ecological value in Sydney is the conflict over a Defence site at St Marys. This case is described below.

The ADI site redevelopment proposal

The state government has approved plans for the Commonwealth government to sell its 1,538 hectare munitions factory site in St Marys in Sydney's west to Lend Lease for what has been described as Australia's biggest mixed urban development (Jamal, 2002, 2). The original proposal included 736 hectares of housing, 98 hectares of employment (industrial) uses, 42 hectares of flood prone open space and 630 hectares (40% of the site) for a 'park' (O'Brien, 1999). A school is also proposed for six hectares of the site. Recent descriptions of the project suggest it will be a $2 billion development yielding 8,000 homes for 24,000 people (Jamal, 2002, 2). Previously 30,000 residents and 12,000 employees were planned for (Harley, 1995, 45). Three neighbourhoods with a density of 15 dwellings per hectare are planned to be separated by 'nature conservation or public open space' areas.

A number of community and environmental groups, and Penrith Council oppose the project and are campaigning for the whole site to become a new regional park or nature reserve. A strong political campaign run by the resident action group at the November 2001 elections secured promises from both major parties that there would now only be development on the portion of the site that is not registered on the National Estate (approximately half), meaning the development plans (released six years ago) will have to be revised. Meanwhile the battle to save the whole site continues in view of the impacts development would have on retained endangered bushland.

<u>Threatened ecological values and other non financial values of the site</u>

While the ADI Resident Action Group raises concerns about the impact of the proposal on aboriginal sites and colonial heritage, the threat to the ecological value of the Cumberland Plain Woodland is one of the most significant issues in the dispute. While less than 30% of the pre 1750 levels of Castlereagh Woodland remains, O'Brien (1999) notes that only fragments (6%) of Cumberland Plain Woodlands are left. McLoughlin (1997, 167) notes this is due to the attractiveness to urban development of its geological land type. Much of these remaining woodland communities are on the ADI site, consequently 800 hectares of the site have been listed for environmental protection on the Register of the National Estate.

McLoughlin (1997, 168-169) has warned against 'myopic' planning statements that insist urban development can exist satisfactorily in close proximity to biological reserves as long as there are adequate "pollution minimisation and other impact reduction measures" (Land Audit Working Party, 1991 cited by McLoughlin). She notes edge impacts on bushland include altered drainage, moisture and fire regimes, weed invasion, reduced native fauna due to domestic and feral animals, damage from construction works, dumped fill, and the activities of people (collecting bush rock, plants, firewood) and the development and use of walking, riding and fire trails. Objectors argue the proposal will fragment the site, destroy 300 hectares of endangered vegetation and retain a conservation/open space zone of 630 hectares which would be vulnerable to such impacts.

The National Parks Association (NPA, 2000) suggests the site is one of the region's major habitats for native birds and animals and significantly, it is large enough to maintain ecosystem integrity and viability. Apart from the Cumberland Woodland, the site includes rare and endangered Castlereagh, grey box and paperbark swamp woodlands, river flat forest and small wetlands and sedgelands. The NPA notes most of these are inadequately represented in existing conservation reserves elsewhere. The Association states that 25% of the known 190 plant species on the site are rare or vulnerable. It notes the site also supports a high diversity of native fauna including 110 bird species, nine mammal, ten reptile and eight frog species including the endangered green and golden bell frog, and over 40 species of jewel beetles. Local groups note the site is home to thousands of kangaroos, emus, birds, bats, lizards, frogs and possums (ADI RAG & SBAG, 2001a). The NPA claims development of the site contravenes both NSW and Commonwealth threatened species legislation.

The NPA argues the site's greatest potential is the central role it plays in linking other Cumberland Plain bushland fragments. The Hawkesbury Nepean Catchment Management Trust has proposed a 3,500 hectare open space system which includes ADI St Marys, Shanes Park bushland and state owned corridors along South Creek and Ropes Creek to the south. South Creek, which is a major tributary of the Hawkesbury-Nepean River, runs through the land. The NPA also notes the protection of native vegetation is vital to keep the water table down and alleviate increasing soil salinity in western Sydney. In addition, the site maintains local air quality and acts as green lungs for an increasingly urbanised western Sydney. The NPA notes the lack of urban bushland and parks in western Sydney and suggests the region can no longer support the environmental load of further large scale urban development.

Searle (1998) notes concerns about the capacity of the air and water systems in western Sydney to cope with planned urban expansion, were reinforced by various crisis events and commissioned studies. These included predicted significant increases in photochemical smog and a 50% increase in ozone concentrations and peaks of three times the Environmental Protection Authority guidelines in the Hawkesbury-Nepean (Hyde and Johnson, 1991, cited by Searle, 1998). Despite a $600 million ten year Water Board plan to expand and upgrade sewage treatment plants, and a new Regional Environmental Plan to combat stormwater runoff in the catchment, algal blooms (some infecting river water to a poisonous level) continue to be regularly reported in the media.

The development/disposal process for the ADI site

Poor timing and lack of co-ordination have featured throughout the years of the ADI proposal. Rather than following the regional study and being based on it, Lend Lease's Masterplan and the NSW Government's Regional Environmental Study were released and exhibited around the same time in 1995. This reflects the fact that the planning process for the site was always predicated on development, and has occurred without much consideration of the broader regional context. The disposal process started before the listing of the site by both the state and the Commonwealth governments of Cumberland Plain Woodland as an endangered ecological community (Adam, 2001, 49) and before parts of the site were included on the Register of the National Estate.

The *Draft Sydney Regional Environmental Plan – St Marys (SREP)* and the *Draft St Marys Environmental Planning Strategy* were on exhibition until March 2000. The final approval from the NSW Minister for Urban Affairs and Planning was given some months later. In line with the questionable sequence of events to date, this approval was in advance of the release of the recovery plan for Cumberland Plain Woodland.

The NPA notes the incomplete ecological surveys of the site and argues that the planning process has not adequately considered the value to the community of protecting the entire site as a regional park. The secrecy and lack of public access to the process has been another issue in this proposal (ADI RAG & SBAG, 2002). The site is not open to the public and access to visit historic sites, tour the land, or to have fauna surveys completed have been refused. The joint venture agreement between Lend Lease and Comland is not available to public scrutiny, despite hundreds of millions of dollars worth of public land being at stake.

An application to develop a Secondary Catholic School on the north-west corner of the site is currently before the Land and Environment Court. Objections focus on regenerating endangered Cumberland Plain Woodland on this section of the site and the concern that sale and development of part of the whole site sets a precedent for development on the rest of the site.

Political pressure

The ADI RAG group has been politically active maintaining a strong media presence over the years organising rallies, delegations to parliament and letters of protest. The group registered the Save the ADI Site Party and ran candidates in three adjacent seats in the November 2001 federal election. This resulted in bi-partisan commitments from both major parties to save all the heritage listed areas of the site (that is, 828, rather than 630 of the 1,538 hectares) from any development.

Perhaps the most significant achievement, was the Labor party promise to complete an assessment and identification of the heritage values of all Commonwealth property (as recommended in the 1996 Schofield Report). Meanwhile the Liberal party (which was returned to government) undertook to carry out conservation/heritage assessments of other Commonwealth lands in western Sydney only (ADI RAG & SBAG, 2001b). The group announced:

"We and other community groups will strongly follow up both parties after the election to achieve a satisfactory bi-partisan approach to the assessment and identification of heritage values on Commonwealth properties and an appropriate review process to apply before any disposal decisions are made." (ADI RAG & SBAG, 2001c)

ADI site – Comment

The protracted battle over the ADI site at St Marys (approaching ten years long) clearly illustrates the problems that occur when planning for the future of public sites is based on decisions that are made prematurely and without proper assessment of the significant values of the land involved.

All stakeholders are adversely affected by the resulting delays including governments, development industry partners, local and state government planners and community and interest groups. Aspects like the secrecy and blocking of public access throughout the process, only serve to heighten and extend the conflict further.

Issues Arising From The Case Studies

The case studies have illustrated claims of important non financial values to the public which are at risk of being lost. These require investigation prior to future decision making. The cases also highlight a number of problems in the process of disposal which are discussed below.

- Inadequate management of property assets by government – the fire at Broughton Hall and the rundown and derelict facilities at Callan Park are examples of inadequate management of government property. This partly reflects the emphasis on short term efficiency at the expense of longer term investment. Poor management leaves agencies open to accusations of demolition by neglect in order to strengthen redundancy claims and promote options involving redevelopment.

- No attempt to assess non financial values, or to balance these with financial return – TAM forces public sites to be viewed as real estate assets. Development is assumed even when there are documented heritage values. Any assessment of non financial values is rare and selective at best – for example the brief for heritage consultants at Callan Park required areas to be nominated for development, despite previous studies recommending no development. Such assessment *after* major decisions are taken is of little merit.

- No strategic planning results in lost opportunities – the case studies confirm land use decisions are being made by agencies unfamiliar with land use planning or social and environmental values. Consequently the strategic opportunities provided by significant public sites for new public uses are ignored.

- Ad hoc decision making – the lack of consistency in the disposal and planning process is shown by political decisions and state intervention to ensure development. This reduces the legitimacy of government and its decision making processes.

- Pressure for piecemeal approval predetermines masterplans – pressure for development on portions of land prior to finalisation of overall plans is contrary to proper planning process which is designed to ensure development proposals are in line with the overall vision for a site or wider area. Such inconsistency in the application of the government's own planning policies reduces its legitimacy.

- A lack of appropriate public participation – public participation and information are available too late in the process despite the importance of local knowledge for quality decisions and outcomes. Withholding information, refusing access to sites, or engaging in token public consultation, increases conflict unnecessarily creating delays and problems for all players.

- The weakness of compromise proposals – attempts by governments to 'sweeten' sale and redevelopment deals with compromises ignores the need to plan according to the merits of each site as well as the need for strategic planning. Residential development on Callan Park alienates any use of the buildings on site for support mental health services, and the offer of a local park ignores the value of the site as regional space due to its size, topography, history, formal gardens and natural bushland. Development on part of the ADI site would undermine the ecological values of the remaining land, due to the critical reduction in size and the impacts of urban development on endangered communities.

- Agreements benefit the private sector at the expense of the public sector – Government agencies which have responsibility for particular services are not necessarily well placed to negotiate land development deals. Concessions can result in unacceptable impacts on the values of a site or simply provide an inadequate return for the public. At the very least, proposals that best suit the site should be held out for public tender and the involvement of professional negotiators such as the (state government) Property Services Group should be a requirement in such dealings.

- Poor urban outcomes due to lack of integrated decision making – Governments should be directing urban development (particularly urban consolidation) into appropriate areas. Certain redundant public sites located near public transport, and where the real estate value outweighs any loss of other public values should be targeted, but only a full assessment will show which sites these might be.

- Asset realisation, urban consolidation and the provision of public goods – Allowing agencies to make individual decisions about rationalisation of assets (and services) in the absence of any strategic analysis of needs, ignores the resulting contradiction of reduced supply of public goods and simultaneous increases in demand for such goods. Urban consolidation on former public lands automatically increases demand for the public goods that such sites once provided. The simultaneous impacts of developing land with open space are reduced supply and increased demand for open space in the area – placing any other remaining space under greater pressure. The redevelopment of schools and hospitals provides other examples.

- Narrow government focus and the retreat from responsibility – Overall the cases illustrate the widely noted emphasis of neoliberal governments on financial management and the corresponding retreat by governments from other responsibilities such as social responsibilities for health, education and managing urban environments. Treasuries force agencies into asset sales to receive adequate funds to carry out necessary activities. Claims of the high costs of aging infrastructure ignore the government's role in heritage maintenance and modeling recycling and reuse of buildings for a more sustainable approach to development in the long term. Government responsibility extends to all these areas, yet decision making reflects budgetary and financial considerations only.

The case studies demonstrate issues ranging from simple mismanagement of assets to lost heritage and poor urban outcomes. These result from inadequate assessment of values, the lack of public participation and a lack of strategic and integrated decision making with respect to surplus public assets. In view of such issues, the following section examines some different approaches to decision making for the future use of redundant public sites.

6   MODELS, OPTIONS AND POTENTIAL SOLUTIONS

The state government has set up procedures for asset disposal of Crown lands and public lands controlled by local government, but not for other public lands controlled of state agencies. The following section reviews the constraints on Crown and local government public land. It then notes other models or options for managing, classifying and disposing of public land which take greater account of any significant public values of such land.

Assessment and disposal of Crown lands in NSW

A procedure for assessing and identifying appropriate uses of Crown land prior to its sale or lease to private interests exists under the *Crown Lands Act 1989* and *Regulation 1995*. Crown land is public land leased for agricultural, pastoral or other purposes, and lands dedicated or reserved such as national parks, state forests and other reserves. Most land controlled by state or Commonwealth departments and agencies is held under freehold title and is not crown land.

Farrier, Lyster and Pearson (1999) note the principles of Crown land management under the Act include environmental protection and natural resources conservation (including water, soil, flora, fauna and scenic quality) as well as the promotion of public use and multiple use. However they also note such principles are qualified by phrases such as 'where appropriate' and 'wherever possible' and that land is also to be dealt with "in the best interests of the state" in line with the twin objectives of development and conservation (1999, 130-131).

The three step assessment process starts with an inventory of existing Crown land followed by an assessment of the land's capabilities for various purposes including environmental protection, nature conservation, forestry, tourism, recreation, agriculture, industry or mining. Draft assessments must be exhibited for public comment. The final step is the identification of suitable land uses taking into account the inventory, assessment, the views of interested government bodies and any policies relating to the land such as the Coastal Crown Lands Policy or the Crown Lands Caravan Policy (Farrier et al, 1999, 130-132).

The Minister for Land and Water Conservation is the decision maker and can constrain or control the future use of land (whether sold or retained) by attaching lease or sale conditions, or easements to it. Apart from sale or lease outcomes may include the land being set aside for a special purpose or future public requirements (eg national or regional park, nature reserve or historic site) or simply be reserved from sale, lease or licence. In practice, assessment has been on a case by case basis or part of a major land assessment rather than the orderly process indicated by the legislation due to the limited resources of the Department of Land and Water Conservation and the continuing demand for new tenures over the land. Apart from this, Farrier et al note the overall process would be a form of strategic planning.

NSW Local Government Model for managing, developing or selling public lands

All land held or controlled by local government (except Crown land) is defined as public land under the *Local Government Act, 1993*. Councils must keep a publicly available register of such land. The Act classifies council controlled public land as either 'community land' or 'operational land'. The Act imposes severe limitations on a council's ability to deal with community land whereas there are no special restrictions on council powers to manage, develop or dispose of operational land. Community land may include a natural area, sportsground, park, area of cultural significance or land for general community use. Land dedicated under Section 94 of the Environmental Planning and Assessment Act, and land subject to some other restrictions on use such as a covenant or a trust for a public purpose, must be classified as community land. Rourke (1999, 496) notes the wide interpretation of the meaning of "trust for a public purpose" citing the 1998 decision in *Bathurst City Council v PWC Properties Pty Ltd* which reinforced the importance of respecting the process for reclassification of community to operational land. While operational land can be reclassified as community land by council resolutions after taking submissions, community land can only be reclassified as operational land by making a new LEP. A public hearing is also required.

Councils cannot sell or otherwise dispose of community land; it must be used and managed in accordance with a plan of management which must be exhibited for public comment. Restrictions on use can also result from any original terms of the council's ownership of the land (eg covenant or trust). Council may lease or licence community land for up to 21 years, if the plan of management allows for this (Farrier et al, 1999, 158-159). The legislation provides considerable protection to the values of public land but allows for land to be dealt with relatively freely if it has operational land status.

Victorian Lands Bill Model of Public Land Management

Mant (1989) has argued that the listing or reservation approach to conservation that operates in most legislation throughout the country effectively condemns any items not listed to be redeveloped. He was very supportive of the Victorian Lands Bill proposed in 1988 which proposed the division of Crown lands into two separate categories, 'public land' and 'government land'. 'Public land' was proposed as land which should be reserved and maintained for the benefit of present and future generations because of its various values. These included conservation, historic, recreational and tourist value, natural resources, social or cultural significance and strategic value for present and future generations (whether identified or not). 'Government land' was to be any Crown land not meeting such criteria, and could therefore be viewed as a real estate asset.

Mant suggests the strength of the bill was its reversal of the major assumption that Crown land is available for alienation unless it is specifically 'reserved' for a public purpose. Instead, prior to alienation, parcels would need to be specifically identified and transferred from the public land category to the government land category first.

The process of transferring public land to government land under the proposed legislation required an inquiry and report from the Land Conservation Council; approval by the Governor-in-Council (at least); and an Act of parliament (for land currently subject to a reservation). Management plans were also to be required. Various categories of public land (such as national, wilderness and state parks, and various reserves eg for cultural, community or forest use) were supported by a comprehensive system of land management objectives for each zone of land.

Thus two fundamental protective measures were provided for public land in the state. These were a constraint on alienation and a deliberate process for 'unreserving', and the establishment of management objectives for various categories to guide the formulation of management plans and future use. All public land would be viewed as part of the heritage to be passed on to future generations, and the public estate would be viewed as a continuum of land "from wilderness to caravan park" (Mant, 1989, 20). Moreover, the distinction between public land and government land would enable the asset value accounting principles to be applied to government land without being *inappropriately applied* to public land.

Unfortunately, the rise of neoliberalism in Victoria resulted in the Bill not being implemented. As Mant noted at the time:

> "one would understand some economic rationalists not wanting to distinguish between operational assets and land held in trust for future generations" (1989, 21).

However the approaches outlined by the Victorian Lands Bill, the NSW Crown Lands Act and the NSW Local Government Act illustrate a more responsible approach to conservation and management and protection against irresponsible disposal of public lands. There is an ingrained lack of political will at the both Commonwealth and state government level in Australia to implement responsible legislation guiding the management and conservation of all categories of public land.

Suggested Principles for the Disposal of Public Property Assets

The Committee of Review into Commonwealth Owned Heritage Properties (Schofield Report)

The Schofield report (CRCOHP, 1996a, 4) suggests the Commonwealth needs to recognises that public properties are considered by the Australian public to belong to the people, and government agencies are considered to be the custodians. It states such properties must be identified, conserved, used appropriately and valued for reasons quite separate from their commercial

market value. It also notes they are often the cornerstones of the built fabric and social interaction in areas and change of use or disposal can have a major impact on these precincts.

The Committee's *Draft Heritage Asset Manual* (CRCOHP, 1996b) for Commonwealth property managers provides guidelines for sound heritage management practices including identification of heritage property, community involvement and dealing with surplus properties. It suggests the Domestic Property Group advise on the accommodation needs of other government entities as part of the disposal process.

The Australian Heritage Commission

The Schofield Report notes disposal of property on the Register of the National Estate must be considered by the Australian Heritage Commission, whose leasing or disposal preferences are (in order) (CROHP, 1996a, 63, 66):

i.)   transfer to another Commonwealth entity;
ii.)   long term lease (with conservation as a priority);
iii.)   transfer or freehold sale to a state or territory body for the management of heritage
           values;
iv.)   transfer or freehold sale to a local authority, private individual, incorporated body or
           company with adequate protection under state heritage legislation; or
v.)   covenant on a freehold sale which will run in perpetuity with the title.

Protectors of Public Lands

The charter of the Protectors of Public Lands (a coalition of activist groups) states that public lands belong to the people and governments hold such land in trust. It demands all public land of significance remain in public ownership and control. Public land is of significance where it is of environmental, heritage, natural, cultural, social, historic, scientific, aesthetic, ecological, or indigenous value. Furthermore it is also significant public land if it is capable (at present or in the future) of having a value or use, which provides a public benefit outweighing any public benefit from sale or alienation by lease (PPL, 2001a). The group has called for an immediate moratorium on the sale of any public land in NSW until a proper and full assessment of the significance of the land has been carried out in consultation with the community (PPL, 2001c).

The group's staged framework for assessing the significance of land proposed for sale or lease is to identify and detail the respective public values of the land; any future use or value to the public and any public benefits from sale or lease of the land. Wherever land has public value or the benefits of its future use or value outweigh benefits of alienation, the public land is significant and should retained in public ownership and control (PPL, 2001b). Other recommendations include a publicly available National Register of all government owned land, with a statement of significance (identified with public input) for each entry. Notification to all governments and their agencies and the public of land becoming surplus to requirements of a particular agency is recommended along with assessments of significance and change of use. These must involve public participation both as to a consideration of the significance of the land and possible future uses.

National Parks Association

The National Parks Association argues protection of biodiversity is best achieved on high conservation value lands already in public ownership yet notes there is no mechanism to ensure the range of public values (other than the primary purpose of the land) or the potential capabilities of public lands remain intact (2001, 2). When lands no longer serve their original public purpose, the NPA calls for an independent assessment of their significance with public consultation and access prior to end use decisions. It notes agencies have not paid past rates or taxes over the land and therefore cannot view such land as a private owner would and agrees that only sites

with no cultural or natural values that are not required for other public purposes should be sold (Cox, 2002b). In addition, the NPA recommends the suitability of public land to remain under the control of government departments (such as Defence) should be regularly reviewed. Moreover any decontamination or rehabilitation required must be carried out by occupying agencies prior to change of use. The NPA argues for legislation to implement a proper disposal process to overcome current Treasury pressure to view surplus lands as real estate, and to ensure economic incentives do not override public interests. (Cox, 2002b).

<u>Sydney Harbour Federation Trust</u>

After a major battle over planned sales, the Sydney Harbour Federation Trust now has the task of protecting and finding new uses for certain prime harbourside sites (on Middle Head, North Head, South Head, Woolwich Dock, Cockatoo Island and Snapper Island) to be transferred from Commonwealth to state ownership and retained in the public domain. The planning process of the Trust lands includes identification of their significance, determination of conservation management policies and future use plans with early public access and comprehensive consultation and monitoring (SHFT, 2001, 8). The guiding principles include consideration of both the local and whole harbour context, the conservation of heritage and ecosystems, public access to the sites and planning process early on, and the need for a gradual evolution to protect the diversity, pattern and character of each place as a community asset (ISHFT, 2000, 32).

Other Potential Solutions and Options

The following section briefly notes some options for the conservation and management of public land to be retained in public ownership.

<u>Dedication as regional parks or other reservation</u>

In cases such as ADI St Marys and Rozelle Hospital/Callan Park there have been calls to dedicate the land for reservation under the National Parks system or as a regional park. While major parks such as Centennial and Bicentennial Parks are established under legislation, amendments to the *National Parks and Wildlife Act* in 1996 created the new category of regional parks to be managed under the National Parks and Wildlife Service. Regional parks include areas that have been substantially modified since European occupation and are located in an urban context. They are capable of providing open space and recreational opportunities for major regional population centres, and are unsuitable for reservation or dedication as another category of land under the NPWS Act (Hassell, 1998, 1). While public recreation and enjoyment are their primary purpose, conservation of natural and cultural values is an important management aim. Large parcels of land with highly modified landscapes and potential for high visitation are the most suitable areas for such parks. Examples include Parramatta Park (dedicated in 1997) and Rouse Hill Regional Park.

<u>Management Trusts</u>

Community trusts are another management option where community involvement and high visitation are features of important public land. The Cape Byron Headland Trust established in 1989 under the *Crown Lands Act* to manage Byron Bay light house and headland is an example which is self funding (Stuart, 2002).

<u>The use of covenants</u>

Covenants on title are one way of protecting any non financial values of public land which is sold privately. Restrictive covenants have been used in Tasmania to protect the heritage value of public buildings, resulting in protection from demolition or exterior modification, preservation of views to and from properties, and restriction of future subdivisions to ensure adequate curtilage provision and signage requirements.

Bradbury (1997, 131) notes that despite initial reluctance for covenants from marketing agents, the Government Land Sales Program achieved high returns for historic properties which made up only 5% of the sales, bur represented 20% of the value of the program, with sale prices nearly always exceeding reserve prices.

Alternative uses for surplus public buildings

In the Rozelle hospital case over 80 buildings (some of which are only ten years old) were labelled "intrusive development" under the masterplan and earmarked for demolition. The community suggests such buildings should be used for a number of uses predominantly to house ancillary uses for mental health provision. Such uses include the services recommended by the Richmond Report, such as cluster homes, half way house accommodation, long term care, respite accommodation and research.   Other suggestions include use by community and charitable groups. Such buildings are a resource – a point noted by 2001 Homelessness summit (ISRCSD, 2001, 9) which recommends creating a register of vacant buildings and requests governments consider using such buildings for accommodation for the homeless under temporary zonings to allow residential use of such buildings.

Funding for maintenance of government assets

Wright (1997, 119-120) suggests that in general, efforts to prevent redundancy or facilitate reuse will tend to fail unless supplemented by financial assistance schemes.   Moloney (1992, 13) proposes a levy on asset sales to help maintain heritage property similar to the Open Space and Heritage Fund initiated by the NSW Greiner government and other funding policies such as pollution licenses which fund environmental projects. He argues that just as proportions of proceeds from asset sales are directed back into government agencies operational budgets, so should a portion be reinvested in buildings whose maintenance is jeopardized by government restructuring of its property operations. Sullivan (cited by CRCOHP, 1996a, 56) suggests some of the dividend from government corporate or business entities such as Australia Post be diverted to be earmarked for heritage.

Incentives for heritage maintenance of government property

Since 1993 private owners can apply to claim 20% rebates for approved conservation works costing over $10,000 on heritage listed buildings and structures under the *Income Tax Assessment Act, 1936* (Wright, 1997, 120). Wright argues for an extension of the scheme to tax concessions and credits, rebates for conservation and restoration work, accelerated depreciation allowances for capital works on renovation and deductions for donations towards heritage works. A credit system could also extend to public sector agencies. Those agencies which carry out heritage works and avoid redundancy could be reimbursed with credits, and be eligible to apply for a portion of a common pool of funds set aside to assist with the particular funding issues associated with managing aging buildings and sites.

Alternative funding sources for infrastructure

The issue of government asset sales, and much of the contention surrounding these activities concerns the fact that in an environment of limited funds, there are always opportunity costs or alternative uses for taxpayers' money for any project, therefore the costs and benefits of all projects should be known and carefully weighed before funds are allocated. Claims of 'greedy' local groups are baseless in the absence of a proper examination of all the costs and benefits – and where these flow. Moreover the groups in society which benefit from what are often fire sales for short term funds should be more clearly identified. Widespread claims of current mismanagement of funds indicate one area which requires attention by governments.

Others have argued that other more efficient options exist for the funding of government infrastructure. Current government preference for budget surpluses and the maintenance of AAA credit ratings promotes privatisation yet Barwell (2002) suggests that old fashioned borrowing is a more equitable way of financing the costs of infrastructure projects because the cost is then borne by future users as well as present taxpayers. After inflation the real interest rate being paid is only 1-2% which is covered by population growth at least in NSW. Payne (1990) agrees, noting that government can borrow at lower interest rates and create innovative financial instruments such as loans with repayments reflecting growth and income flows. He argues government should utilise the fact that it does not have to pay taxes (nor should it have to make profits). Wilmoth also notes debt finance is appropriate where it can be repaid over the useful life of an asset. When neoliberalism was beginning to take hold in government policy, Wilmoth was critical of what he called the 'fetish' with reducing what was a comparatively small public sector debt (by historical and international standards) (1990, 165).

Wilmoth has noted far too little attention has been paid to interagency and intergovernmental coordination. Certainly savings in consultancy fees alone would result from a more integrated or centralised approach to asset disposal. Inefficiency is constrained when individual government agencies are compelled to devote resources to property disposal and development. This has nothing to do with their core activities, and such resources may be better spent on those core activities. Most significantly, Kirwan (1990, 189) notes that reliance on ad hoc windfalls is hardly a sound basis for public sector funding policy.

This section has demonstrated there are other ways of approaching the issue of surplus public assets which make optimal use of the public values of such properties, and could better assist in the provision of necessary public goods. A categorisation system limiting the use, development or other alienation of public land which has particular public value such as the 'community land' versus 'operational land' classification of public lands in the care of local councils in NSW, and the 'public land' versus 'government land' classification system once proposed in Victoria, would have the impact of providing greater certainty for all stakeholders. Land which clearly has value other than simple financial value would have a measure of protection, and land identified as merely a real estate asset could be expediently disposed of without controversy.

As government funding becomes more scarce, it makes sense to use the enthusiasm and commitment communities have for public sites to ensure local areas retain the diversity and livability that create character and provide a standard of living to which everyone is entitled. An approach that enables government asset disposal to be combined with the strategic planning role of government and the creative and valuable input of local communities, is required.

The solution/s to this problem are not simple and will necessarily incorporate approaches at different levels, some of which will be more politically difficult than others. With this in mind, the following section outlines the main findings of this study and lists some recommendations that go at least some of the way to reducing the impacts of current government asset disposal programs.

7   FINDINGS AND RECOMMENDATIONS

Discussion

The neoliberalist market based approach to governance systematically undervalues public goods and inadequately provides for such goods – particularly the planning of equitable and amenable urban environments. In order to ensure better outcomes, for example in government asset disposal programs, governments should make better use of the traditional strengths of the public sector. These involve the ability of the public sector to effectively **integrate** and **coordinate** agencies and the reliance on **process** in addition to output for the supply of public goods.

Government asset disposal programs appear to neatly satisfy two goals of government – easy funding for budgetary shortfalls and less costly urban development. However the use of surplus government land in this way provides only a short term solution for both issues. Firstly the reliance on ad hoc windfalls from asset disposal is an unsound and unsustainable basis for public sector funding policy. More importantly the automatic use of redundant public sites for infill residential development overlooks any potential for such sites to be used for some alternative public purpose in line with any significant values the site may demonstrate. Only comprehensive assessments of the non financial values of these sites can assist decision making for their optimal future use and ownership. Such assessment is required prior to disposal but ideally would be completed in a strategic way. In this way, this collective public resource could be put to uses that are consistent with strategic assessments of the needs and capacity of the wider urban area (both at the local and regional level). Such needs and capacity may include open space, bushland, representative cultural heritage, urban consolidation or other public infrastructure. It is apparent that such strategic assessments are not occurring or are not being used in tandem with government asset disposal activities and the impacts on the built environment and on affected communities are evident.

The central problem in this issue is to find a better approach to manage the retention and, where appropriate, the disposal of public assets at a time of declining public resources and in a way that provides for optimal urban outcomes. Clearly such an approach needs to better assess the values of surplus land assets, by identifying and weighing non financial values more highly and by taking a longer term view than is currently the case. It is also evident that better outcomes require governments to take a more strategic, integrated and more open approach, and allow for more comprehensive public involvement in decision making for public assets held in trust by owner agencies.

While redundancy is accepted as occurring – especially in medical and military facilities, such sites or property may not be surplus for other public uses. In addition, not all public sites should be retained in public ownership – as the real estate value of some will outweigh any other public value of the site. However, it is evident the potential of many redundant public sites is lost through short term decision making which is often lacking in vigour, logic and transparency. In fact, some past asset disposal decisions of government are overwhelmingly indefensible. Most of the issues raised stem from a distinct lack of information – as to properties owned, the heritage status of properties, the degree of significance of non financial values of properties, the strategic needs for certain public goods, the accommodation needs of other agencies, and the access of the public to information about property disposal. There is an obvious need for a defined public process for public asset disposal that allows for the following:

- adequate management of public assets whether these are operational or surplus,
- full knowledge of the heritage significance of public assets,
- full assessment of all public values (heritage or other) of public sites,
- a strategic approach to what should be retained,
- a co-ordinated approach to disposal which incorporates the accommodation needs of other agencies balanced with any need for retention by the public and any constraints on use because of heritage or other value,
- full investigation of all options for reuse,
- full participation by the public in all these steps, and
- each of these steps must be taken in the appropriate order.

Only after all this, should final decisions about the future use of surplus public sites occur. Options involve either public or private ownership and include either retention, transfer, reuse, lease, sale or redevelopment. It is apparent that any process should apply at both Commonwealth and state levels.

The main findings of this study are summarised below and are followed by recommendations which include necessary strategic changes as well as the immediate actions required by governments. A recommended process for general public sector asset management is outlined, in addition to a suggested process for asset disposal.

Main Findings

The findings are summarised below. They indicate some of the more important considerations for the management of public assets, the operation of disposal programs and the future planning of surplus sites.

Overriding concerns of government

- Adverse Impacts of neoliberalism – the overemphasis on financial considerations at the expense of other public values hampers decision making, as does the emphasis on management and efficiency at the expense of policy and process. The concentration of power in central governments under neoliberalism requires defensible decision making. Neoliberalism impacts on public goods provision and the built environment.

- Lack of leadership and long term stewardship – Governments continue to allow their agencies to dispose of properties which have heritage and other public values. The absence of an overriding process for disposal means governments cannot guarantee sites with significant public value will not be lost. As custodian of the public estate and the planning system itself (at state level), governments have a duty to go further than a conventional developer or land owner and consider the wider impacts of their decisions. Governments should provide leadership and should model sustainable development through reuse and recycling of building stock where this is appropriate.

- Lack of a culture which values the public estate – conflicting policies combined with economic pressures reflect the lack of a culture which values the public estate in central governments and their agencies. A presumption of preservation – until proper assessment demonstrates otherwise – should (but does not) exist.

- Governments recognise the need for selective disposal based on assessment – NSW government legislation to protect categories of Crown and local government land, and the election commitments of political parties at the Commonwealth level, and the presentation of the Schofield Report to the Commonwealth indicate governments are aware that the lack of assessment of sites prior to disposal is an important gap in policy.

- Problems in government structure – separable stand alone entities are poorly suited to the co-ordination and integration encouraged in policy statements. The impacts of individual agencies engaging in planning and development include poor urban outcomes, the accommodation needs of other agencies being ignored and an inefficient use of scarce resources which would be better spent on core activities.

- Need for an integrated and centralised approach – centralisation of government property disposal together with local input to ensure place sensitivity would overcome the issues raised above.

Obvious Agency Concerns

- Lack of compliance with current legislative responsibilities – compliance with legislative responsibilities such the completion and updating of Section 170 Heritage Registers (in NSW), and proper accounting for all property assets is lacking.

- Mismanagement of public heritage – the assumption that items not listed as heritage items can be sold is flawed, given that assessments and registers are incomplete. The valuation of heritage assets in particular should reflect the constraints imposed by their heritage status (whether listed or not).

- Problems in government asset disposal programs – the lack of assessment of the non financial values of public sites prior to disposal is evident, as is the lack of a process which ensures land with significant value to the public is not lost. Decisions that sites be best sold for financial value in the absence of information about other public values, are flawed, and decisions made "in the public interest" while denying public involvement are questionable.

Issues Involving Urban Planning

- No strategic approach to assessment and needs – systematic urban capability studies to show the demand (and potential supply) of public goods (such as open space and bushland pockets) are urgently needed and require integration at a regional level between various state agencies and local councils. This would ensure the more appropriate location of public land uses. It would also result in all options for a site being canvassed, rather than resulting in a development based on the financial needs of a government agency.

- No strategic approach to implementation of planning policy – the current planning framework does more to foster the financial motives of government and the development industry than it does towards the provision of quality urban environments. Surplus sites can be used strategically to ensure that character, diversity and sustainability at the local level is not lost. In addition, the ad hoc application of urban consolidation policies is a function of the absence of policies to propel denser development into appropriate locations such as major transport nodes. State intervention to redevelop major public sites is not justified in light of the poor planning outcomes that have usually resulted. Such intervention creates inconsistencies and contradictions in policy and reduces the legitimacy of government. In addition, consolidation in inner areas logically requires the retention (rather than the closure and further redevelopment) of much public infrastructure. Assumption that the public values of sold sites are protected under the environmental assessment process, ignore the need for strategic planning. Meanwhile the pressure for piecemeal development predicates future options.

Issues involving the general public

- Uncertainty for stakeholders – the 'quick fix' approach has been shown to often result in long drawn out battles and obvious inefficiencies in terms of wasted time, money and resources in the long run for all stakeholders, including planning authorities, the public, private sector partners and government.

- Community and public involvement – secrecy, deal making, state intervention, lack of genuine participation, lack of transparency and lack of access to some sites and to the decision making process are the unacceptable characteristics of current disposal processes for public assets. Conversely good decision making requires systematic examination of alternatives, informed debate, openness, transparency, accountability and access to the decision making process.

- Inappropriate timing of assessment and decision making – the case studies illustrate any assessment of values often comes after disposal decisions have been made. This predicates development and also means delays and redrafting proposals as information is uncovered by belated studies.

- The need for legislative back up – there is a need for Commonwealth legislation directing agencies to maintain comprehensive asset and heritage asset registers. A comprehensive publicly accessible single database of public property assets Australia wide, is needed. Legislation implying a general duty to maintain public assets held by all government entities as a core responsibility is also required. Moreover, an asset management process which includes a disposal process that reinforces an assumption of retention in public ownership until found to be surplus for any public use, is required in legislation at both the Commonwealth and state level.

Recommendations

Specific recommendations in line with the findings are set out below.

Recommended initial government actions

- Responsibility for public heritage
- Central government should assume responsibility (and compel their agencies) to value and manage the public estate responsibly. Stewardship obligations should be enshrined in legislation directing the identification, management and maintenance of all heritage assets controlled, managed, owned or occupied by all government entities, as one of their core responsibilities.
    - The identification of the heritage and other public values of public property assets is imperative for government because:
        - It maintains an entity's reputation as a responsible manager.
        - It avoids costs incurred in the late identification and assessment of heritage values.
        - It provides the basis for conservation and maintenance programs, and funding and management priorities, and indicates options not limited by heritage values.
    - A conservation management plan is needed where heritage value is established. This requires input from various information sources, a statement of significance (as to nature and degree) and implementation strategies for future management and decision making.

- Assume leadership in refurbishment and reuse
    - If governments are to demonstrate commitment to sustainability, they must become leaders in challenging the uncritical acceptance of redundancy, and recognise there are cases where it is more environmentally, socially and economically prudent to creatively reuse facilities, than to demolish and redevelop at frequent intervals.
    - Treasury funding should be tied to demonstrated performance in this area.
    - Government should investigate ways of providing incentives (such as reduced dividends from state owned corporations or government business enterprises), grants and other mechanisms to promote this.

- Funds from asset disposal
    - Central governments and treasuries should no longer insist on asset disposal as a way of reducing funding requirements and should seek alternative ways of raising funds. (including innovative borrowing structures or taxation regimes). Funds acquired from property disposal could either:
        - be used directly by owner agencies for property maintenance, or
        - contribute to a central property maintenance and acquisition fund, which can be distributed to agencies demonstrating both a need for such funds and a sound record in property management. This approach makes disposal a less attractive option for individual agencies.

- Presumptions of preservation over development and public ownership over sale or lease.

  - Legislation outlining asset disposal processes should specify that public land is a public asset held in trust. It should also specify that disposal decisions can only be based on evidence that such land, when surplus, is no longer needed for any other public purpose. Until the full values of such land are investigated and shown to be surplus to any public purpose, the assumption of retention in public ownership should prevail.
  - Upon assessment, a classification system is recommended to differentiate between land which is regarded as still valuable to the public due to significant non financial values ('public land'), and land which is no longer considered significant to the public estate due to its overriding financial or strategic value for some non public use ('government land').
  - The category of the land must be clearly indicated on all registers on which it appears.
  - In order to change the category from government to public land, an owner agency must complete the process outlined for disposal of public assets.
  - Such a category system provides protection where appropriate, clarity and greater certainty for all the stakeholders dealing with the land. It provides a clear signal as to the constraints and potential of particular portions of land.

- A trigger for a public inquiry
  - If the state Minister for Planning considers there are substantial objections to any proposed sale or long term lease as not being in the public interest, after the assessment process and exhibition of recommended options for reuse, it is recommended the Minister be required to call a public inquiry into the issue.
  - In the event of a request for a public inquiry from interested government agencies (eg the Heritage Council, PlannningNSW, NPWS, local councils), an Inquiry must be triggered.
  - Partial sales or long term leases for private housing reflect short term imperatives for financial return from sites with heritage or other constraints preventing full sale. Consequently they too should trigger the inquiry process.
  - Similar triggers for a public inquiry include objections to a determination of significance and/or classification of public land.
  - The inquiry step (possibly costly) ensures only reasonable proposals are attempted.

- Centralise management and disposal of surplus property
  - Surplus property should be managed centrally by a single government agency (termed here the 'government property unit') for each level of government (Commonwealth and state).
  - The unit should include property managers, valuers and other property professionals, urban planners and economists, social and cultural planners, public participation experts and natural and cultural heritage experts.
  - The unit will be responsible for conducting an assessment of the public values of surplus sites if no adequate or recent assessment exists, and for coordinating the search for various future uses in line with the asset disposal process (outlined below).
  - The central linkage point for surplus Commonwealth sites and accommodation needs will be the Commonwealth property unit. The State property unit will perform the same role at the state level. A centralised unit at the local government level (eg under the umbrella of the Local Government Association) should be a linkage point in terms of any contact with local government regarding accommodation needs or availability.
  - Upon making the decision that a property is surplus to current or future needs, an agency should inform the relevant government property unit as soon as it is able to, and the property unit can initiate the search for a new use by another public agency. It should also initiate the assessment of the non financial values of the site making full use of public involvement.

- Strategic planning for needs and urban capabilities
  - State government (PlanningNSW) should coordinate strategic *regional* planning assessments of the need for bushland, green corridors, open space, representative cultural heritage landscapes and items, community and economic centres, public transport infrastructure and housing including preferred areas for urban development – taking into account the potential use of all major public sites. Agencies such as the Heritage Office, NPWS and Department of Transport should also be involved.
  - Local councils should carry out similar assessments considering the needs of the *locality* and its various neighbourhoods with particular reference to the need and opportunities to retain the important local heritage items and landscapes, history, diversity and character that public sites often provide.

Recommended Process for Asset Management at the Agency Level

i.)   IDENTIFY ASSETS

- List all assets on government agency **asset register**.
- Asset register to be publicly available,
- Asset register to be kept up to date,
- Information to feed into a central database/register for all public land in Australia;
- Appropriate flagging of heritage or other known values to be noted.
- List assets on publicly available national database.

ii.)   IDENTIFY HERITAGE VALUES OF ASSETS

- Complete a comprehensive **assessment** of heritage values of properties on the asset register.
  - Seek expert and public involvement for this process,
  - Heritage criteria should refer to the Burra Charter, but should not be limited to this. Submissions from concerned government agencies, local experts and communities may indicate wider criteria is appropriate, depending upon the site and locality.
- List items of heritage value on the agency's **Heritage and Conservation Register** (eg Section 170 Register if a state agency).
  - The Heritage and Conservation Register to be publicly available
- Keep the Heritage and Conservation Register up to date and submit to the Heritage Office (or Australian Heritage Commission or its replacement) each year.
- Complete a **Conservation Management Plan** for all heritage listed items.
  - Seek expert and public involvement for this process.
- Ensure **management, funding and use** of heritage items are **consistent** with Conservation Management Plan.
- Ensure asset valuation in financial reports reflects any heritage or other constraints to realising market value.

Recommended process for disposal of public assets

i.)   ASSET IS DECLARED SURPLUS

- Ensure compliance with process for asset management (outlined above)

ii.)   NOTIFY GOVERNMENT PROPERTY UNIT

- This should be done immediately on confirmation of the decision that the property is surplus to the agency's needs, and certainly before vacating the facility.
- Upon informing the government property unit of an asset's 'surplus' status, an agency must provide access to all known information about the property, its history and links to the community, its heritage status, its past maintenance etc.
- The owner agency will also be responsible for any site decontamination required (in line with its future use) prior to any transfer or disposal.

iii.)   GOVERNMENT PROPERTY UNIT ORGANISE ASSESSMENT OF SIGNFICANCE

- If no full or recent assessment of the public significance of the site exists, this must be completed under the direction of the government property unit.
- The government property unit works with in house and consultant experts, the owner agency, local council, other government agencies with strategic planning responsibilities (such as PlanningNSW, Heritage Office, National Parks and Wildlife Service), interest groups and the general public to determine the extent and significance of any non financial values.
    - Criteria should include heritage significance (as outlined under the Burra Charter) and other social, environmental, economic value and potential value or value for any public purpose.
    - Non financial values are assumed to override any financial value until demonstrated otherwise.
- Public participation should be open and deliberative and may include workshops, open days, written or oral submissions, surveys and meetings.
- Public access to draft documents as they are completed, is required.
- Studies should indicate future possible uses and any constraints on use.

iv.)   DETERMINATION OF SIGNIFICANCE AND PUBLIC LAND CATEGORY

- A determination of significance is made by the government property unit in line with the results of the studies and any public and agency submissions.
- The property is declared 'government land' if it has no significance in terms of non financial or public values and can move to disposal.
- The property is classified 'public land' if assessed to have significance to the public.
- The determination must be published and submissions called for and considered.
- If there is widespread objection to the classification, the Minister for Planning can direct a public inquiry be heard in the public interest to assess the significance, determine the classification and recommend future appropriate tenure and use of the site. An inquiry must be held if a government agency or local council objects to the classification on the grounds that it is against the public interest.
- 'Public land' status must be flagged on all registers the property appears on.
- Any updated information must be added to the registers and databases on which the property is listed.

v.)   GOVERNMENT PROPERTY UNIT TO SEEK ALTERNATIVE USES FOR THE SITE

- If property is classified as 'government land' it can be sold on the market but its future use and the contract must reflect any potential noted by strategic assessments of the area – ie it should be used for urban consolidation, or consolidation with transport infrastructure, or open space requirements identified by planning agencies or local council and with consideration of the results of the assessment of significance studies.
- Alternatively, the property can follow the process for 'public land' and remain in public ownership – at least temporarily.
- If property is classified as 'public land', the government property unit seeks out alternative uses in the following order:
  - Transfer to and use by another government agency (at Commonwealth or state level) for public use.
  - Remain with owner agency, or transfer to the government property unit and be leased to another government agency (at Commonwealth, state or local level) for public use.
  - Transfer to and use by local council for public use.
  - Remain with owner agency or transfer to the government property unit for lease to community groups
  - Transfer to council for lease by community groups
  - Lease to private interest (corporation or individual) for use compatible with significance.
  - The ownership and management options for public land can include more innovative structures such as management by a community trust, where appropriate.
  - Where applicable covenants, easements or lease conditions should be used to protect significant values of the land.
- A social cost benefit analysis should be prepared for any preferred options once they are identified, with a discount rate that reflects long term and potential values adequately.
- The selected option should be published and exhibited and submissions called.
- If there are substantial objections 'in the public interest' to the proposed use and the site is accepted as having major significance, a public hearing into the potential use of the site should be called.
- All studies must be publicly available and submissions invited and considered before final decisions are made.
- Final decisions must take into account the heritage value and status of the site, the assessments of significance of the various public values, including an exploration of the potential uses of the site, and should reflect a presumption of preservation and retention in public ownership over development and alienation unless and until it is demonstrated the site has little value to the public other than its real estate value.

Imperatives For Change

The political nature of many planning decisions is highlighted by this study. However the continued legitimacy of government rests on its ability to demonstrate responsible decision making and open and transparent processes. In order to guarantee that there is no significant impact on the general public estate in light of asset disposal by their agencies, governments must demonstrate that agencies are acting in accordance with a deliberate and responsible process that is also transparent and accountable.

The lack of any political will to change current practice to date is evident. However this analysis indicates there are considerable imperatives from a government perspective to consider the benefits of a more appropriate asset disposal process. These include the following:

- The processes outlined above allow a genuine basis for disposal in cases where public values are not significant.
- Government should be able to arrange an appropriate allocation of resources to foster management and stewardship of the property in its control in the same way that other organisations can.
- Inadequate property management by agencies is unprofessional and leaves them open to accusations of demolition by neglect.
- Selective interference and overriding the general planning system damages the legitimacy of government by indicating its inability to abide by its own rules.
- The costs of decisions which are made in advance of assessment studies include delays, cost blow outs, wasted resources and lost goodwill for governments, consultants, planners and developers as well as communities. Such inefficiency does not foster the partnerships which are important for urban planning and future funding of projects through public-private ventures.
- Blocking the access of the public to the decision making process increases conflict unnecessarily.
- From the government perspective full public participation has numerous advantages:
  - It increases the legitimacy or public credibility of an agency and government as a whole.
  - It promotes easier project implementation due to community involvement, understanding and commitment to agreed outcomes.
  - It allows better decision making by uncovering important local information and perspectives.
  - It provides for future state, local and community partnership arrangements in responsibility for public assets.

Concluding Comment

Some of the solutions noted above can be implemented in the short to medium term. These include attention to compliance, the centralisation of asset disposal and the setting up of an integrated register system for all government property. Others such as the comprehensive assessments of public lands and the strategic assessments of urban capability will take much longer.

The question of how government agencies deal with their surplus lands reflects the choice between prevailing governance paradigms of neoliberalism (economic rationalism) or more interventionist approaches to ensure the maintenance of public goods which are highly valued. Policy and decision making which has impacts on the urban environment must aim for quality outcomes in the long term which means consideration for the protection of natural and cultural heritage and strategic, integrated decisions. This also requires early and effective public participation with accurate information being provided to both government and communities. The recommendations outlined above reflect these responsibilities and indicate an improved approach to government asset disposal.

An improved assessment and classification system for public land will protect land that has continuing value as part of the public estate resource and will allow other less significant land to move more rapidly through the disposal and redevelopment process, to provide funds for management of other public assets by assuming an appropriate new role in the urban context. The costs saved by eliminating protracted conflicts over important public land are likely to be substantial and will partly offset any short term loss of funds from inappropriate asset sales. In any case, the wiser use of resources fostered by a proper public process for the disposal of surplus public assets will better reflect the various needs of urban areas, and is therefore an investment in the future.

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APPENDIX – MAIN DEFINITIONS USED IN THE PAPER

Assets - Service or future economic benefits controlled by a government entity as a result of past transactions or other past events. In this report, assets generally refer to land and property (CRCHOP, 1996b).

Asset Register - The register system used by the asset manager of an entity or agency to record the location, value and condition of assets for auditing and other management purposes. Also referred to as an asset management register (CRCHOP, 1996b).

Conservation - All the processes of looking after a place so as to retain its cultural significance. These include maintenance, and may also include preservation, restoration, reconstruction and adaption, and will commonly be a combination of more than one of these (from the Australia ICOMOS Burra Charter).

Conservation Management Plan - A document which analyses and assesses the cultural significance of a place in detail, identifying necessary restrictions or requirements (and aspirations) and produces a policy to guide future use and management of a place (CRCHOP, 1996b).

Community - A community is a group of people which shares social or cultural characteristics, such as ethnicity or shared interests or values. Community can also be defined by geographic area, that is the people living in a neighbourhood, town, suburb, or local government area, generally in proximity to each other. (CRCHOP, 1996b, 43)

Consultation - A process of discussion between proponents (or their representatives) and those affected by proposed actions (CRCHOP, 1996b).

Crown lands - Crown lands include parks and conservation reserves, unalienated land and leaseholds which are administered by state or local government authorities and/or leased to private tenants (McClellan and Moloney, 1989:15).

Cultural heritage - Cultural heritage generally refers to places of historic, social, aesthetic or scientific value, as well as architectural or technological value. A cultural heritage place may be a site, area, landscape, building, group of buildings or other works together with associated contents and surroundings that is significant for its social, aesthetic or scientific value (Lennon, 1998, 40).

Government - Government refers to the politicians (particularly cabinet) and their treasury departments, these being the central agencies of government. The government is responsible for monitoring how the government agencies manage their property (Balderstone, 1997b, 123).

Government agencies - Government agencies are the line agencies or departments. Examples at the state level include the departments of education, health, social services, and lands - all of which own property which assists them to deliver services. Commonwealth agencies owning large tracts of land include the Departments of Defence and Customs, among others. These owner agencies are responsible for the property under their control. (Balderstone, 1997b, 123).

Heritage - The term heritage denotes that a place, structure or item is of significant of value to the community (Lennon, 1998, 40). The term covers both natural and cultural heritage.

Heritage Asset Register - A subset or component of the asset register used by a government agency to record specific information about places formally assessed as having heritage significance (CRCHOP, 1996b).

Neoliberalism - Neoliberalism is a political ideology also known by various other terms (most usually in Australia as economic rationalism). The ideology is based on neoclassical economics where the free market is assumed the best mechanism for organising economic and social affairs (Gleeson and Low, 39). Various degrees of neoliberalism have been pursued by government throughout Australia over the last two decades.

Participation - A broader concept than consultation, usually encompassing direct public involvement in decision making (CRCHOP, 1996b).

Public lands - Public land is either unalienated Crown land, land held in tenure by public sector agencies (Commonwealth, state or local) and Crown land set aside for particular public purposes.

Stakeholder - An organisation, group or individual with an interest in the process or outcome of decision making by government agencies.