

Corruption in the Australian Land Development Process: Identifying a research agenda

Jago Dodson

Urban Research Program, Griffith University
Email: j.dodson@griffith.edu.au

Eddo Coiacetto

School of Environmental Planning, Griffith University
Email: e.coiacetto@griffith.edu.au

Claire Ellway

Urban Research Program, Griffith University

ABSTRACT

This paper seeks to understand the role of corruption in the land development process, and to comprehend the current extent of corrupt practices in urban development in order to evaluate the impact of corruption on urban environmental outcomes. To date however there has been little scholarly research on corruption in the land development process, from a planning perspective. The paper addresses the issue of corruption by first reviewing how planning theorists have understood corruption in the land development process, next the paper attempts a typology of potential corrupt activity in land development and finally undertakes a preliminary broad survey of reported incidences of land development corruption and makes some observations about the potential for further investigation into this issue. The paper finds that corruption is common but not prevalent in land development but that methodological issues prevent detailed elaboration of the incidence or character of corrupt behaviour.

CORRUPTION AND LAND DEVELOPMENT

Academic approaches to the problem of planning in the public interest for socially beneficial urban outcomes place a great deal of emphasis on formal statutory and community processes to achieve positive outcomes involving the proper way that development is to proceed. Normative theories of planning abound, from the rational comprehensive model to the communicative principles and deliberative democratic practices that are promoted by many scholars and included in statutory and regulatory land development control regimes.

Yet, cases of improper planning processes frequently gain public attention through corrupt or compromised dealings among players and actors in the planning process. In Australia, there is a persistent underlying appreciation among planners, politicians and the public of the potential for corruption in land development processes. Indeed scholars of history frequently allude to the barely repressed memory of the Rum Corps and other close associations between government and speculative interests in the Australian appreciation of land (Forbes and Spearrit, 2003). There is barely a

week that passes without a media report somewhere in Australia alluding to an improper governance or procedural action in the land development.

Queensland is particularly renowned as a place where corrupt land development practices were allegedly allowed to flourish for decades, although there has never been a detailed public inquiry into this questionable history. The convergence of interests between governments and property developers was an appreciated aspect of the era of the legendary white shoe brigade, the last of whose ranks suffered a final speculative encounter with Terra Australis in July of this year (Syvret, 2005). The last two years have allegedly seen a tide of graft seep through South East Queensland; the Tweed Shire Council was sacked by the New South Wales government last year, the Gold Coast City Council is currently subject to a Crime and Misconduct Commission inquiry, and serious questions have also been raised about Redlands Shire Council immediately to the north of the Gold Coast. Clearly there are important planning and land development issues to be considered in regard to these corruption concerns.

CORRUPTION AND PLANNING STUDIES

Given that planning scholars make claims to expertise in the comprehension of planning and land development, such concerns ought to be raised and debated by such commentators. It is worth examining, therefore how planning scholarship and theory addresses issues of corruption in land development processes. Does planning theory provide a comprehensive framework for understanding corruption in land development processes and if so how successful has this been?

There are two scholarly problems associated with the need to comprehend the role of corruption in urban planning. The first relates to the importance of social and political theories of planning adequately incorporating conceptions and implications of corruption into their analyses of planning processes. If corruption is a part of urbanisation processes, then theories of such processes should attempt to incorporate means of understanding corruption. The second important issue is the empirical verification of the role of corruption in determining urban development outcomes. If corruption is implicated in adverse development outcomes that in turn impose costs on the community due to poorer quality development or negative externalities, then there is a need to understand what these adverse outcomes are. Responding to this question necessarily means going beyond dominant juridical or criminological understandings of corruption that focus on improper behaviour in the regulation and administration of due land development processes, towards empirical evaluation of the difference that corruption makes relative to non-corrupt development outcomes. The response to either of these two questions potentially offers new insights into how planning works both as a theoretical and empirical practices.

The stakes in responding to this question are also pertinent. If corruption doesn't make a difference to empirical urban development outcomes then the legitimacy of the planning system would be placed in substantial doubt. Why bother with the pantomime of land-use regulation if it made no substantive difference? Conversely, if corrupt urban development behaviour generates demonstrably worse outcomes for the community then governments may need to double their efforts to protect against corruption and to eradicate perversions of proper planning procedures.

When considered broadly at the scholarly level, planning theory is replete with detailed and extensive models of planning processes, many of which identify the ways in which social and political processes can impact on land-use and urban development outcomes. However, while many theorists address how planning processes can be distorted by political contestation, the criminal or administrative dimension of political contestation is rarely investigated. Despite the scholarly attempts to comprehend the land development process in cities, planning scholars have been deliberately or inadvertently ignorant of questions of corruption. This situation is peculiar given the potential for corruption to occur either grossly or subtly in planning processes.

By comparison, the complex and often murky realm of urban politics has received substantial attention from scholars. Most critical planning theories are inherently attuned to the politics of urban development processes. Many planning theories comprehend formal land-use planning processes as the terrain of legitimacy upon which struggles of power and ambition are played out (Flyvbjerg, 1998). But this recognition of the political dimensions of planning appear to distract attention from the ways in which formal legislative or statutory processes may potentially be distorted, not through the force of influence or power, but through subterfuge and illegality. This corollary of politics, in the form of corruption or the subvention of planning processes, is rarely acknowledged or recognised by scholars – although Flyvbjerg appears to be moving closer to such an appreciation (Flyvbjerg et al., 2006).

It is necessary to temper such observations by recognising that corruption as a feature of the urban development processes is much less prominent or essential phenomenon as the exercise of political will. Politics forms the substrate for urban development whereas corrupt activity by comparison is a much less elemental and even possibly a peripheral phenomenon. However, given the paucity of research into corruption in the land development process we have no extensive theoretical or empirical base from which to make a comprehensive assessment of the role of corruption either in theory or in practice.

This paper constitutes work in progress in our attempt to comprehend the role of corruption in the process of land development in Australia and to assess the impact on urban development outcomes that arise from corrupt planning. Given the paucity of scholarly attempts to comprehend corruption in the land development process we consider it pertinent to the issue to begin our discussion with a review of some of the main theoretical approaches to understanding planning and attempt to identify how these approaches comprehend corruption relative to normal planning processes. The next part of our analysis attempts to construct a typology of corruption in the land development process through a detailed assessment of the points in land development where corruption can occur. Finally, we make a preliminary attempt to assess the current prevalence of corruption in Australian urban planning and identify the impact this has on urban outcomes. Given the lack of good empirical assessments of the extent of corruption in Australian planning processes our method for assessing corruption is based on reported incidences of corruption, rather than on specific empirical enquiry. This highlights the methodological issues present in attempts to study corruption, which our discussion also assesses.

Conventional Theories of Planning

Rational Comprehension

An attempt to understand corruption from a planning perspective suggests the need to understand how planning theory currently address the problem. This section investigates three broad streams of planning theoretical thought to assess how they deal with corrupt planning processes. These approaches include rational comprehensive planning, Marxist theories of urbanisation and communicative planning. While we recognise this is a non-exhaustive selection, their influence on planning scholarship has been immense and thus justifies their inclusion.

One of the most basic models of planning is the rational comprehensive model in which a scientific planner undertakes a detailed survey, analyses the available data and establishes the logical steps to achieve instrumental or desired urban outcomes. Despite sustained critique from both rationalist and politically attuned scholars, the essential elements of the rational comprehensive model of planning remain embedded in planning processes albeit to varying degrees. While the rational comprehensive planning model has an alluring conceptual simplicity, its naivety about the interplay of social, political and economic interests leave it largely incapable of dealing with perverse actions such as corruption. The logical rigour to which the rational comprehensive model of planning aspires is not matched with ground-level savvy, whether about corruption or any other irrational aspect of urbanisation.

To some extent the planning models are derived from the rational comprehensive approach are more sensitive to the complexity of planning realities. Lindblom's (1959) incrementalist theory of planning allows for some barriers to the achievement of rational comprehension of planning processes. Similarly, Etzioni's (1967) 'mixedscanning' approach also allows for a more fallible rationalism, although neither are substantially capable of comprehending the role of corruption in planning processes. Systems theory (McLoughlin, 1969, Chadwick, 1971) which owes much to the rational comprehensive model of planning is also largely incapable of comprehending corrupt behaviour in land development, due to the concentration on formal rationality and logical approaches.

Pluralism and power

Scholarly approaches that are attentive to power have greater potential for comprehending community politics and land development (Hunter, 1953). In particular, pluralist approaches to urban planning are potentially more capable of appreciating the presence and influence of corruption in land development as these allow for elements of political power and influence. Dahl's (Dahl, 1961) classic investigation of local politics noted that the capacity to influence others is a crucial resource in governance processes. However Dahl's pluralism meant that he was unable to appreciate the usurpation of influence through illicit means of achieving political or development outcomes. Similarly the assumption that political power was available to all participants in pluralist politics has been demonstrated to be problematic. Those with greater monetary power or social status typically have greater capacity to exert political influence than those without.

Marxism and urbanisation

Marxist approaches to urbanisation and urban development assume the dominance of capitalist interests over other social or governmental interests (Harvey, 1985, Dear and Scott, 1981). Land is viewed as an element in the capitalist mode of production and thus its exploitation is seen as a necessary and normal feature of capitalist urbanisation, although there is a debate among Marxist urban scholars over the precise status of land under capitalism (Harvey, 1989) and the specific role of the state in legitimating and mediating the development of land (Clark and Dear, 1981, Saunders, 1979). The state within capitalist cities is often viewed as 'oiling the wheels' for development, rather than protecting other interests, such as those who do not possess capital. Marxists recognize that there is a necessary contradiction in capitalist urbanisation whereby untrammelled urban development can produce outcomes that may be in the specific interests of particular capitalists, but when considered more broadly are against the interests of the capitalist class generally. While the state may intervene to prevent particular adverse planning outcomes, planning for urban outcomes is largely supportive of capitalist interests (Clark and Dear, 1981).

Corruption under such a conceptualisation provides a conundrum for Marxists. Because much of Marxist urban theory is founded in the implicit collusion or at least inter-dependence between the local regulatory state and capitalist interests in land markets, it is not clear how corruption fits into the capitalist system. With the state already viewed as rotten due to its structural and functional tendency to periodic or ongoing capture by capitalist interests, worrying about the presence of corrupt action by state officials or individual capitalists hardly seems remarkable. Corruption is thus simply a further specific expression of the hegemony of capital over other classes. From a Marxist conception in which the state is credited with some independence from capital, corruption could be viewed as the subverting of legitimacy of state social control. Corruption doesn't necessarily threaten capitalist interests but by undermining the organising role of the state under capitalism corruption can also erode the legitimacy of the capitalist system. Irrespective of the role of the state, for Marxists, in the absence of large scale reform the whole planning system appears rotten and concerns about specific instances where a particular developer may have achieved an advantage over others, or over broader society seems unremarkable.

Communicative action

Urban theories derived from Habermasian (1979, 1984) concepts of communicative action view planning processes as susceptible to distortion of the social communication of desires and preferences. In the Habermasian view, powerful groups are able to co-opt and distort a normative framework for public decision-making in which socially weaker groups are unable to articulate their interests and preferences. For Habermasians, the inherent distortions of public communication that are present in most planning procedures are a far greater problem than issue of corruption. Indeed, like the Marxists, corruption appears as the ultimate distortion of communicative rationality, yet in a situation where public communication has not occurred because corrupt acts are typically surreptitious. While corruption can thus be seen as the usurpation of the procedures of social legitimation by actors in the urbanisation process, such acts by their nature occur outside of communicative frameworks and are thus not subjected to communicative procedures.

An example of the weaknesses of normative communicative theories in dealing with corrupt practices is Forester's work (Forester, 1989, Forester, 1993, Forester, 1999).

Forester seeks to establish a normative framework for planners to pursue in seeking to achieve positive public planning outcomes (Forester, 1999). Much of this model is framed around the objective of encouraging planners to become communicative practitioners, facilitating and supporting communicative processes via provision of information to public groups, identifying planning problems and issues and inviting recognition and shared interests between competing interests (Forester, 1999). Yet, again, because corruption occurs outside of legitimate communicative processes, Forester's normative approach is weak. The only role that planners can have is encouraging public participation in planning processes as a means of pressuring decision makers or 'whistle blowing' where they are aware of corruption occurring.

This problem is exemplified in the case studies Forester presents with Krumholz (Krumholz and Forester, 1990); despite their best and earnest efforts, planners can't quite seem to achieve the positive outcomes they desire, in the face of a convergence of governments and private interests. While Forester's case studies don't actually identify corrupt practices as impeding positive planning outcomes, that Forester's communicative planning actors are frequently unable to achieve their desired goals in the face of more powerful interests suggests that either they are impotent or their methods are unsuited to the purpose of protecting the public interest in land development.

AUSTRALIAN ASSESSMENTS

There are some important examples of Australian scholarship that assesses the role of corruption in the land development process although these are relatively few in number. Sandercock's (1977, 1979) examination of historical land development processes is perhaps among the most comprehensive set of works, although these lack detail in some instances. Of these, Sandercock (1979) is the most focused example. Sandercock (1979) examined instances of corruption involving the Victorian Housing Commission and land speculators in the 1970s. Sandercock's central concern was the extent to which corruption resulted in adverse public outcomes in terms of the capturing of public wealth by private interests. Thus the Housing Commission scandals involved private land speculators inflating land prices on the urban fringe as a result of their obtaining access to information not generally available. Sandercock also noted that these scandals involved not only corruption but incompetence on the part of public officials and government Ministers, although few acts by public officials or representatives have been deemed corrupt by a process of formal public inquiry.

In her other major contribution to the understanding of land development in Australia Sandercock (1977, p.155) sets out the problem in Marxist terms, which are worth quoting in full:

The ideology of the developer is one of straight-forward profit-maximising, and where the constraints applied by planning authorities increase his [sic] costs without offering a complementary increase in selling price, he will try to avoid them. He can do this either operating only when they do not apply, by resorting to the statutory procedures open to him to appeal against them, by taking some form of political

action, or acting in some less socially acceptable way. This does not make developers peculiar in a capitalist society.

The implication in Sandercock's work is that the dominant view among property and political interests is that public regulation of land development is viewed as an illegitimate imposition. Hence the corollary is that developers view corrupt actions as emancipatory because such behaviour frees them from the perceived illegitimate public regulation that in the Australian context is a normal part of the land development process. Sandercock's work implies that while corruption can be policed it cannot be eradicated because the underlying social assumptions about the ownership and disposal of land combined with governmental taxation and regulatory arrangements covering land, accept that speculation is a legitimate activity. Land development in Australia often involves high levels of speculation (Sandercock, 1977). Such a context can encourage land development actors to subvert legitimate procedures in the pursuit of speculative gains.

This problem is rehearsed in Day's review of development value gain capture in Australia. Day (1995, p.20) notes that in the absence of rigorous and comprehensive policies for ensuring contributions from developers arising from public costs generated by their developments corruption is possible:

[T]he negotiation of development contributions has been arbitrary, uneven and haphazard. Negotiation behind closed doors prior to the formalising of approval is obviously open to corruption. It is based on no clearly defined rationale.

While Day doesn't address corruption directly, like Sandercock he notes that the Australian land development system is riddled with potential for corrupt behaviour to occur. Day's solution to the potential for corruption in land development is to introduce value-capture gains to return the unearned increases in land values to the community. This, Day (1995) argues, would not only produce a revenue stream that could offset reductions in other forms of taxation, but would also reduce the potential for speculative gains to arise through the land development as a result of planning processes. So far value-capture has primarily been promoted as a means of funding urban infrastructure (Fensham and Gleeson, 2003) however the side effect of land-value gain capture on the incentives for corruption in land development should be noted.

The contributions of Sandercock and Day to the understanding of corruption are relatively rare in Australian planning scholarship. Most recent attempts to comprehend urban planning processes in Australia have not assessed the importance or prevalence of corrupt behaviour in the land development process. Thus for example, Gleeson and Low's (2000) assessment of the condition of urban planning in Australia paid little attention to the possibility of corruption influencing planning outcomes. This is not surprising given the attenuated Marxism in Gleeson and Low's work which presumes the takeover of the activities of the state by capitalist interests via the doctrine of neoliberalism. Again the 'capture' of the local state by developer interests makes corrupt activity largely irrelevant – the entire process of legitimation of development activity becomes directed towards the interests of developers. Yet, the problem of corruption remains relevant. Any set of institutional arrangements to

manage or direct the location and intensity of land-use activities, whether neo-liberal or strongly state controlled still retains the potential for corrupt activity.

A few other scholars have noted the presence of corruption in urban development in Australia, but this is typically in passing rather than in detail (e.g Freestone, 2000). Parkin (1982) for example, describes the use of local government – not solely land development processes – by political parties for organisational purposes that can lead to corrupt activities. Although his discussion is very brief, Parkin notes the regular exposure of petty corruption among inner city Sydney municipalities suggesting:

Municipal discretion over development has also produced the worst instances of bribery, corruption and conflict of interests in Australian local government.

Beyond these few attempts to identify corruption as a problem in Australian planning there has been little scholarly attention to the issue. This is despite frequent media reports of corrupt behaviour among actors in the land development process. Some recent reports serve to briefly illustrate this point. Klan (2005) noted that sea-change pressures were straining coastal councils' capacities to deal with urban change and resist developer attempts at bribery. Grennan (2005) reported on the certification of building work by consultants who had assisted developers to attain council approval for the development. Davies (2004) links bribery scandals that erupted in Sydney's western suburbs with intense competition between developers under the recent land boom. Corkill (2005) reported that Queensland's local government was asking for the broadest possible terms of reference for a likely inquiry into corruption within the Gold Coast City Council. Corkill quotes the QLGA president Paul Bell who claims the apprehension of corruption exceeds the reality:

Unfortunately there is a mass mania developing which is not founded in fact and is highly counter productive in terms of the good government of local communities. It is important that everyone takes a cold shower and we deal with the truth of the situation rather than people's political ambitions, prejudices or misguided beliefs.

Clearly Bell statement quote is worth noting, as it suggests that there is a difference between the perception among the public of the incidence of corruption in local government land development regulation and the reality of the incidences. In the absence of formal research into the issue it is not possible to assess the validity of this claim. This is a problem within Australian planning scholarship that deserves attention and rectification and is in part the issue addressed in the research agenda this paper promotes.

ADVANCING KNOWLEDGE OF CORRUPTION

We have established that questions about corruption in the land development process deserve further scholarly attention. The remainder of the paper offers a strategy for advancing scholarly understanding of corruption both from a conceptual and from an empirical perspective. To better conceptualise corruption we first present a typology of corruption that seeks to articulate corrupt actions with points within the land development process. To empirically verify the value and validity of our typology and to test its descriptive power, we test our schema against reported instances of

corruption in Australia, as revealed in news media reports or in the reporting of governments' anti-corruption activities.

Our methodology is necessarily neither exhaustive nor comprehensive. There are many methodological hindrances to the scholarly investigation of corruption relating to the illegality of corrupt actions. Corrupt acts frequently go unreported, while allegations of corruption that receive media attention may be unfounded. Thus investigating corruption based on alleged instances is methodologically problematic. Without adequate resources, primary data collection is limited by both procedural and ethical concerns. However given the paucity of scholarly research on the issue, a basic exercise in assessing the secondary data on corruption is appropriate as a first stage in a more extensive line of inquiry. This secondary assessment is provided below, following the discussion of our corruption typology.

A TYPOLOGY OF CORRUPTION

The typology we offer is somewhat simplistic in that it seeks primarily to set out the points in the land development process where corruption could potentially occur (in the absence of or despite vigilant administrative policing) rather than to enter into an extensive discussion of the nuances of each particular entry-point for corruption. This simplicity is justified on the basis that the lack of scholarly appreciation of corrupt development behaviour indicates the need for taking the discussion back to basic elements. Thus rehearsing the various stages in the development process reminds us of the varied ways in which corrupt actions might occur. But this simplicity is also utilitarian in that the clear exposition of such points allows the later categorisation of reported corrupt actions to be easily and clearly identified in terms of the point in the development process where they have occurred. Empirical research could then identify the weak points at which corruption is more likely to occur.

Corruption is usually defined as a misuse of public office for private gain (Server, 1996, Treisman, 2000) though recent treatments of the topic challenge this as a limited view which, amongst other things, excludes many kinds of corruption (Kleinig and Heffernan, 2004). The many forms corruption takes makes its definition problematic (Miller et al., 2005). These problems are particularly pertinent in defining corruption in urban development since development is a multi-dimensional and variable process involving a range of players and actions. A focus solely on the role of public officials would obscure the many ways corruption can occur in urban development. We classify such corruption using three dimensions:

1. The nature of the actions it involves;
2. The stage at which it occurs in the development process; and
3. The roles of the agents involved in the process.

Nature of the Actions

Corruption in urban development can concern any of four actions types. Corrupt actions here are held to be those that are morally wrong since they violate social norms¹ and/or laws, (Miller et al., 2005), both of which can change.

¹ [Miller et al.](#) Miller, S., Roberts, P. and Spence, E. (2005) *Corruption and anti-corruption : an applied philosophical approach*, Pearson/Prentice Hall, Upper Saddle River, N.J. [explain that "social norms are](#)

Legitimation

Various actions legitimate development. Individual projects are subject to permitting and compliance requirements. Permitting refers to approvals to execute activities while compliance refers to how the executed works conform to the requirements. Legitimation applies to several aspects of the development process:

- Planning and land use;
- Engineering works;
- Building;
- Subdivision and the creation of new titles (including plans, works and legal documents like contracts and body corporate management plans); and
- Various others (e.g. landscaping, heritage codes, licences to pollute, water extraction, transport access).

In generally increasing order of geographical scale there are also:

- plans affecting the development site (especially zoning);
- plans affecting the site surrounds (because these affect its feasibility and value through the externalities of future development);
- formal and informal general development policy and planning frameworks (e.g. whether a Local Government is pro-development or not).

Facilitation

Actions external to a development site, mainly the provision of infrastructure, facilitate development and create betterment for the owner. These are usually public authority actions. The external arrangement of land uses also affects a development's feasibility.

Channelling of finance or other resources

Development requires funding in order to proceed. Estimating profits and accounting in property development is problematic (Phin and Australian Accounting Research Foundation., 1982) and sometimes construction is linked to informal economies (cash payments). Perhaps in combination these two factors render money trails difficult to follow and so explain why development and construction can be destinations for the proceeds of illegal activities.

Channelling of information

Information plays a very important role in development but perfect property information is impossible making property markets inefficient (Adams, 1995, Evans, 1995). Being very information dependent, development offers opportunities for the distortion or channelling of information to the advantage of one party or another: for example about site conditions and market conditions to the parties involved in the exchange of properties; about the likely external impacts of a development to the regulatory authority; or about the likely future land use plans of local authorities to landholders and developers.

regularities in behaviour that a community adheres to because it believes that conformity is morally required".

Stage in the Process

Development processes are highly variable and context and project specific (Gore and Nicholson, 1991, Healey, 1992, Healy, 1991). However, the processes can be seen to have some or all of several elements in which corruption could occur. Some are inter-contingent and their sequence is variable, some occur at specific points in the process and some occur at several.

Site assembly

Negotiations for land acquisition may be extensive and complex with parties seeking to capture some of the betterment value that comes with the conversion of land to a higher value use (Ball, 1983). It is more complicated when several landowners are involved raising the potential for an individual to exercise a degree of monopoly power in the assembly process. This may encourage agents to influence negotiations by unethical means.

Developers may use intermediaries in negotiations to keep their development intentions secret from the landowners as these will affect the landowner's price expectations (Adams, 1994, p. 26). Information plays an important role in the price expectations of buyers and sellers (e.g. future development potential, future infrastructure provisions). This creates opportunities for channelling information. Public development authorities may have access to special information about such factors and may also have powers of compulsory land acquisition that can be used to their advantage or to that of other parties.

Finance

Obtaining funding is critical but very problematic because development is a high-risk industry. Funding approval may be dependent on factors like development approval, track record, the site risks, pre-sales commitment and assembling an acceptable team including architect and engineers. Approval is also reliant on the quality of information: land valuations, sales and profit estimates, and the likelihood of planning approvals and so opportunities exist for channelling information.

As mentioned, development and construction are sometimes funded from illegal activities.

Regulation and planning

Planning and regulation legitimate development and so involve a range of permitting and compliance. Development is a heavily regulated process and unlike many other industries, it is regulated on a product-by-product basis and in considerable detail. Since each site and project is unique, negotiation (sometimes protracted) is inherent in development control regardless of whether the framework is flexible or rigid and legalistic (Booth, 1989).

Planning also concerns the facilitation of development through the provision of infrastructure (its location, timing, type and quality) and its influence on the surrounding land uses.

Regulation and planning encounters a development at many points. The policies and plans may be set down before a development is proposed and perhaps also the

infrastructure plans. Several different types of permits may be required and the permitting process may include preliminary approvals and post-approval amendments.

It is the regulatory framework that is most commonly associated with corruption: developers paying bribes to consent authorities to facilitate specific development approvals. Less specifically, developers may attempt to influence the broad development framework. Advocacy of either broad development interests or of specific development interests and proposals have long been the subject of literature in the field of growth coalitions (Logan and Molotch, 1987, Logan, 1997, Molotch, 1976, Molotch and Vicari, 1988).

Design

Design occurs in:

- Preliminary proposals and concepts;
- Masterplans;
- Detailed engineering design for infrastructure;
- Building design (architectural);
- Building design (engineering including electrical, air conditioning);
- Landscaping design; and
- Survey plans (of new lots).

Preliminary proposals and masterplans may undergo numerous iterations before submission for approval. Even after this, they may still be subject to change in response to emerging information about site conditions, market changes, and changes imposed by other design stages like detailed engineering.

Many of these designs require approvals or may be used in the negotiation of development approvals, funding approval and community acceptance. Design is very information rich and interpretation is important. Development master plans can distort information in subtle, seemingly innocuous, but powerful ways. Models can create impressive images that may be different to the eventual outcomes. These may show, for example, fully landscaped views with full-grown trees. Large master planned community master plans may show retail and other facilities that are actually economically unfeasible.

Engineering plans are highly detailed, precise, require precise calculations and so are expensive and time consuming to prepare. They are sensitive to detail (such as soil conditions) and slight variations in the engineering infrastructure can affect the whole development layout. As details can affect this process and the cost of development, incentives exist to withhold or overlook inconvenient detail.

External infrastructure

Development requires external infrastructure. Some regulatory authorities require developers to provide some of this infrastructure or else to contribute to its provision via developer charges. Similar to these are impact fees that attempt to recoup social and environmental (external) costs of development. Elsewhere, similar charges may be used as means of capturing community benefits in exchange for the private benefits gained by a developer.

Charges can be extremely difficult and subjective to estimate giving rise to opportunities for corruption. The approaches for calculating charges range from highly prescriptive to case-by-case negotiation. Prescriptive approaches may use standard development units (e.g. equivalent tenements) as a basis for apportionment but not all developments are measurable against standards (e.g. industrial installations vary greatly) and so discretion and negotiation remain necessary. Sometimes development proposals that emerge differ greatly from the scenarios that were used to plan infrastructure provision and calculate charges and so the parties must negotiate.

Works

Development may involve the execution of physical works including demolition, contaminated site remediation, vegetation clearing, preparatory earthworks, engineering, building and landscaping.

All or any of these may require permitting and compliance. But construction can offer opportunities to reduce costs and construction times by hiding poor quality work or materials (e.g. the steel in concrete) whose presence and effects take time to uncover.

Creation of new property and titles

Development may create tradeable property and property titles via several information rich processes:

- Preparing plans of subdivision as proposed and executed;
- Preparing legal documents setting out the proposed entitlements;
- For the approval of the subdivision as proposed and executed; and
- For the formal registration of the new titles.

Marketing and sales

Markets in property are said to be inefficient and offer opportunities for channelling information and unethical conduct (Evans, 1995). Developed property sales usually require prior creation of tradeable titles. Sales can occur before, during or after physical development. Pre-selling is increasingly common and is particularly information dependent.

Development and developers are increasingly focused on the information rich activity of marketing (Coiacetto, under review): a systematised approach to identifying target markets, identifying their wants and tastes (or what they can be made to want) and developing products designed to these tastes.

The valuation of the finished product is important in property sales and offers opportunities for unethical conduct (e.g. multi-tiered marketing underpinned by professional valuations).

Some forms of development involve tendering for the development of a pre-sold product: a developer undertakes the development for a third party such as a bank or government department, at a pre-arranged price.

Agents in the Process

Urban development, corruption and development outcomes are the product of agents undertaking the following roles: developer, regulator, intermediary and facilitator.

Agents may play more than one role and can be from either private or public sectors. Each role offers opportunities to act unethically.

We consider this range of roles because agents share not only some responsibility for shaping the overall development outcomes, but also because they have a professional responsibility to not take advantage of their position. A consultant, for example, should act truthfully while a planner should act in the public interest. Our interest here is primarily in the former concept of responsibility.

Developers

The developer manages whole or part of the development process and its risks and can be a private sector or public sector agent or both.

Responsibility for a development may be fragmented amongst several players or may lie with an identifiable actor. A developer may convert a site's use from one to another (e.g. gaining a rezoning) and leave the other development tasks to others or may undertake the whole process. Responsibility may also be fragmented between developers and other roles, for example, some developers may rely heavily on consultants' advice.

Although many kinds of players can become developers, they are increasing professional players emerging from university real estate schools and so should increasingly act in accordance with the responsibility and trust accorded a professional.

Regulators

Regulators are usually public sector officials but in liberalised markets private sector agents play a growing role. Public sector regulators may be elected officials or bureaucrats who, in their day-to-day activities, must work in close contact with developers and so are exposed to their perspectives and influence more than to those of community groups (McGuirk, 1995).

Intermediaries

Agents may play intermediary roles between other development roles or agents. Agents may be involved in:

- Information flows between developers and regulators: regulators assess applications on the basis of information provided by consultants;
- Providing information for land-use plans or in preparing plans;
- Information flows in other directions (e.g. valuers provide information to developers, potential financiers and buyers on the value of the land they may purchase, the development they may lend for, or the products they may purchase); and
- Other intermediary actions (e.g. developers using intermediaries to buy land).

Facilitators

Facilitators are agents who play a role in the development process such as via the resources and skills they contribute. They include surveyors, builders, construction firms and financiers. Sometimes these agents are also the developers.

DESCRIBING URBAN DEVELOPMENT

In this project we are not solely concerned with tracking the incidence and effect of corrupt behaviour within the urban development process, as a scholarly end in itself. Beyond offering some assessment of the extent of corrupt behaviour in the land development process, we are also interested in also assessing Urban development can be described by:

- Whether it occurs
- Its structure:
 - Where it occurs
 - Where it occurs in relation to other land uses
- Its form:
 - Density
 - Dimensions including height and scale, site coverage
 - Appearance
 - The layout and design
 - Landscaping
- Its physical production such as:
 - Clearing
 - Earthworks
 - Transport of materials
 - Construction
 - Waste disposal

These are aspects of development that the land use planning system and regulatory system seeks to regulate in order to:

- Ensure a quality of standards and amenity (e.g. safety, privacy, solar access) is met for present and future users;
- Regulate the external impacts of development (e.g. traffic generation, impacts on hydrology, overshadowing, travel times) for present and future users;
- To coordinate urban development with the provision of infrastructure;
- To achieve a more efficient pattern of land uses than could occur without intervention; and
- To provide for the needs of future generations.

THE INCIDENCE OF CORRUPTION

The above analysis has provided us with some insight into the potential points at which corrupt activity could occur in the urban development process. The next step in our analysis is to investigate empirical instances of corruption to assess the prevalence of corrupt acts relative to the typology to investigate where they fit into the land development process.

The assessment of the incidence of corruption is hindered to a great extent by the lack of data that reveals the type of corruption that has occurred and who was responsible or the land development outcomes that arose. The illegality of corrupt acts necessarily inhibits the extent to which researchers are able to undertake comprehensive assessments of the problem. There are two major publicly available

sources of information about corrupt behaviour in the land development process. These include media reports and formal investigations by government agencies.

Media Reporting of Corruption

Media reports are problematic as a source of information as they typically report allegations and suspicions of corrupt land development activities as well as those which have been proven to be corrupt by dint of an official process. Given the inherently politicised nature of land development in Australia, allegations of corruption can be used as political weapons to diminish the credibility of political rivals or to seek some advantage within the political process. Developers may make spurious allegations to gain influence over politicians or advantage over other developers. However official inquiries may be hindered by lack of incriminating evidence or sufficient corroboration by witnesses. Conversely, not all allegations and actual cases of corruption are necessarily reported. Indeed, given the broad potential for corruption envisaged by our typology there is probably a very high degree of under-reporting.

In this context of both potential over-reporting and under-reporting of actual corruption, a Factiva news database (www.factiva.com) search of Australian newspapers using search terms such as “corruption and developers”, “corruption and building”, “corruption and planning”, “corruption and local government” uncovered approximately 1750 articles.

Media reporting should also provide a ‘trail’ of updates on particular corruption incidents, some of the detail of such incidents and eventual outcomes. This ‘trail’ enables an assessment of the progression of reports of corrupt behaviour through the full process of allegation to resolution through some official process of investigation or inquiry. The assessment of the ‘attrition rate’ between the number of alleged instances of corruption, those that have been reported to and investigated by an official body and those which have been subsequently officially found to be corrupt can thus be assessed. Our testing of this approach, however, found it particularly time-consuming and the tracking of outcomes difficult to achieve.

Official Corruption Statistics

Media reports are not as reliable as official records of corruption. The most reliable sources of information on corruption are the reports provided by official agencies whose task it is to investigate corrupt activity. In Queensland the relevant agency is the Crime and Misconduct Commission (CMC) while in New South Wales the Independent Commission Against Corruption (ICAC) is responsible for policing of corruption. Western Australia operates a Crime and Corruption Commission.

Independent Commission Against Corruption (NSW)

We have focused in this analysis on the NSW ICAC, in part because the limited resources available have made us focus on agencies with the greatest extent of public reporting of their activities. The ICAC is a public authority, enacted by the Independent Commission Against Corruption Act 1988, with the role of investigating allegations of corrupt activity in the NSW public sector (ICAC n.d.A, online). The

body is independent of the government of the day and is accountable to the people of NSW through the NSW Parliament (ICAC n.d.A, online).

The ICAC has the jurisdiction to investigate any allegation or circumstance in which corruption has or is likely to occur (ICAC n.d.B, online). The powers of the ICAC are limited to corrupt activities involving the ‘...conduct of any person that adversely affects, or could adversely affect, the honest or impartial exercise of official functions by a [NSW] public official’ (ICAC n.d.B, online).

As local government officials fall under ICAC’s jurisdiction a component of the agency’s official duty inevitably involves the investigation of corruption in land development processes. It is this specific type of corruption that is of interest to this project.

ICAC provides a greater quantum of official information about its activities, and includes useful statistical breakdowns of its inquiries and outcomes. The total number of complaints to ICAC and the proportion of these which pertain to land development are presented in Table 1.

Table 1: Corruption complaints received by the ICAC from July 2000 to June 2004

Year	Total corruption complaints received by ICAC	Total corruption complaints relating to Building and Development	Proportion of total corruption complaints relating to Building and Development (%)
2000/ 2001	1385	277	20.0
2001/2002	1411	294	20.8
2002/2003	1745	415	23.8
2003/ 2004	2224	434	19.5
TOTAL 2000-2004	6765	1420	21.0

Sources: ICAC Annual Reports 2001 – 2004.

As is demonstrated by the table on average, slightly more than one fifth of complaints to ICAC since 2004 have related to land development.

THE NATURE AND IMPACTS OF CORRUPTION

The ICAC reports provide some information which permits an analysis of the nature and impacts of corruption though this process too is time consuming and prone to imprecision. At this stage we have focused on searching the ICAC reports (of NSW corruption) for instances where guilty verdicts had been returned and then searched the media for further information on these cases. Seven of these instances are summarised in Table 2 below. The details recorded include the location, date, parties involved, a brief overview of the case, and classification of the case against the typology. Also a description of the case outcome is made outlining the ICAC investigation’s verdict and detailing any urban impact of the corrupt conduct. For example it is noted if for instance a DA was given approval and was constructed as a result of the corrupt action. The term ‘potential’ impact is used in cases where the available information seems to indicate that an urban impact seems to have occurred or where it would have occurred had the corrupt act been successful.

The cases in the Table 2 mostly involve corruption as it is usually conceived: the action of legitimation, the regulation and planning stage in the process, and the roles

Table 2: Selected case studies of corruption: typology and impact on urban form (Continued over page)

Case	Overview	Nature of the Action it Involves		Stage in Development Process						Roles of Agents Involved				Urban Impact				Outcome				
		Legitimation	Facilitation	Channelling of Finance or other	Channelling of Information	Site Assembly	Finance	Regulation & Planning	Design	External Infrastructure	Works & Construction	Creation of New Property & Titles	Marketing & Sales	Developer	Regulators	Intermediaries	Facilitators		Structure	Form	Physical Production	Cost to Consumer
Rockdale City councillors and developers, Sydney, NSW. (2000-2002)	Bribes solicited, via intermediaries, for favourable treatment of DAs.	x					x						x Private	x Public		x Private						Both councillors have since resigned. ICAC found corrupt conduct had occurred
Town planner for South Sydney Council, NSW. (1989 to 1991)	Town Planner used his position to financially benefit a firm in which he held a personal interest: giving favourable treatment to their DAs, passing on information and giving extended professional advice.	x		x		x	x						x Private	x Public	x Private		x	x				Planner dismissed after being found guilty of corruption by ICAC
Coffs Harbour City councillor, NSW. (1987 – 1991)	Payments received from developers in return for favourable treatment and promotion of certain developer's property interests.	x					x						x Private	x Public								Lobbying by the councillor was unsuccessful in influencing any decisions made regarding the developments. ICAC found corrupt conduct had occurred.

Governance 09

Fairfield City councillor, NSW. (1988 – 1992)	Payments received from a development company (in which the councillor held a private interest) in return for support of DAs. The councillor was also found to have influenced council employees including town planners, and passed on information to the developer.	x	x	x	x				x	x	As a result, a preliminary application was fast tracked and certain development conditions were not enforced. ICAC found corrupt conduct had occurred.	
Fairfield City councillor, NSW. (1987 – 1988)	Payments received from a private operator in return for support of the construction and continued operation of a car shredder. Also the councillor was found to influence the decisions of council town planners.	x	x		x				x	x	x	The operation continued to occur supported by the councillor despite public complaints. ICAC found corrupt conduct had occurred.
Roads and Traffic Authority (RTA), sales administrator and real estate agents, NSW. (1989 – 1994)	Payments received by RTA sales administrator by real estate agents for their continued role as agents in the sale of excess RTA land.	x		x			x					ICAC found that the RTA officer and four real estate agents had acted corruptly.
Strathfield City Councillors and developers, NSW (2004)	Payments and blackmail of councillors by developers and rival councillors. Linked to political rivalries and opposing views on proposed rezonings included in a draft Local Environmental Plan.	x					x					The attempted acts of corruption were interrupted by an ICAC investigation. Three of five alleged acts were found to have involved corruption. Both councillors have since resigned.

Sources: ICAC (Independent Commission Against Corruption) 1991; 1993; 1995; 1998; 2002; 2005; and various media articles.

are the developer and regulator roles with the former being private sector and the latter, public sector. There however, amongst these cases examples where the action involves the channelling of information, the stages are the site assembly or design stage, or where private sector intermediaries are involved. In three of the cases corruption was revealed to have some impact on the urban environment.

CONCLUSIONS

Corruption in urban development has received little attention in scholarly literature and proper theorising of corruption remains undeveloped. While corruption in urban development is often considered to be rampant, and while our typology reveals a strong potential for corruption to occur in many ways and at many points in the development process, identifying the incidence of corruption using publicly available resources is difficult and problematic. Our work in progress so far reveals that reports are common but that the actual incidence of corruption and its outcomes are very difficult to assess. Investigations of official reports of corruption such as reports of the Independent Commission Against Corruption show that claims of corruption in urban development represent a large proportion of total corruption cases. Investigation of seven of these cases also shows that such corruption is not without its impacts on urban form, structure and other aspects and is clearly an avenue that deserves considerable further investigation.

This paper has reported the results of an ongoing inquiry into corruption in urban development. We have made a substantial theoretical case for greater scholarly understanding of the role that corrupt activity plays in determining urban development outcomes and whether this makes any difference. Our research is ongoing and the data provided above is partial and not capable of informing comprehensive conclusions. However an outcome of our research so far is that there are potentially many insights to be gained from studying corruption, but that methods to undertake such investigation need to be developed.

Publicly available information has limited scope for revealing much about the scope and impacts of corruption leading us to conclude that primary data gathering involving possibly questionnaire and interview based work is required to overcome this shortcoming. This would entail some consideration of the ethics dimensions of corruption research, such as ensuring confidentiality of informants and security of the research staff.

REFERENCES

- Adams, D. (1995) *The British Commercial Development Industry*, *European Planning Studies*, 3(4), 531-542.
- Ball, M. (1983) *Housing policy and economic power: The political economy of owner occupation*, Methuen, London.
- Booth, P. (1989) *How effective is zoning in the control of development?*, *Environment and Planning B: Planning and Design*, 16401-415.

- Chadwick, G. (1971) *A Systems View of Planning: Towards a theory of the urban and regional planning process*, Pergamon Press, Oxford.
- Clark, G. and Dear, M. (1981) In *Urbanization and Urban Development in Capitalist Society*(Eds, Dear, M. and Scott, A. J.) Methuen, London and New York.
- Coiacetto, E. (under review) *Residential sub-market targeting by developers in Brisbane: Some implications for urban development*.
- Corkill, M. (2005) 'Call for widest possible inquiry'; *The Courier Mail*; 1 September, pp. 2
- Dahl, R. A. (1961) *Who Governs: Democracy and power in an American city*, Yale University Press, New Haven.
- Davies, A. (2004) 'Design rules for developments won't block out ground-floor corruption'; *Sydney Morning Herald*; 21 December, pp. 4
- Day, P. (1995) *Land: The elusive quest for social justice, taxation reform and a sustainable planetary environment*, Australian Academic Press, Brisbane.
- Dear, M. and Scott, A. (Eds.) (1981) *Urbanisation and urban planning in capitalist society.*, Methuen, London and New York.
- Etzioni, A. (1967) *Mixed Scanning: A Third approach to Decision Making*, *Public Administration Review*, 27385-392.
- Evans, A. W. (1995) *The Property Market: Ninety per cent Efficient?*, *Urban Studies*, 32(1), 5 - 29.
- Fensham, P. and Gleeson, B. (2003) *Capturing Value for Urban Management: A New Agenda for Betterment*, *Urban Policy and Research*, 21(1), 93-112.
- Flyvbjerg, B. (1998) *Rationality and Power: Democracy in practice*, University of Chicago Press, Chicago & London,.
- Flyvbjerg, B., Holm, M. K. S. and Buhl, S. L. (2006) *Inaccuracy in Traffic Forecasts*, *Transport Reviews*, 26(1), 1-24.
- Forbes, J. and Spearrit, P. (2003) *From Rum Corps to white-shoe brigade*, *Griffith Review*, 1(Summer), 23-35.
- Forester, J. (1989) *Planning in the face of power*, University of California Press, Berkeley, Ca.
- Forester, J. (1993) *Critical Theory, Public Policy and Planning Practice: Towards a Critical Pragmatism*, State University of New York Press, Albany, N.Y.
- Forester, J. (1999) *The Deliberative Practitioner: Encouraging Participatory Planning Processes.*, MIT Press, Cambridge, Massachusetts.

- Freestone, R. (2000) In *Sydney: The Emergence of a World City*(Ed, Connell, J.) Oxford University Press, South Melbourne.
- Gleeson, B. and Low, N. (2000) *Australian Urban Planning: New challenges, new agendas*, Allen and Unwin, St Leonards, NSW.
- Gore, T. and Nicholson, D. (1991) *Models of the land-development process: a critical review.*, *Environment and Planning A.*, **23**(5), 705 - 730.
- Grennan, H. (2005) 'Tribunal acts to end building conflicts'; *Sydney Morning Herald*; 18 January, pp. 29
- Habermas, J. (1979) *Communication and the Evolution of Society*, Heinemann, London.
- Habermas, J. (1984) *The theory of communicative action*, Heinemann Educational, London.
- Harvey, D. (1985) *The Urbanization of Capital*, Johns Hopkins University Press, Baltimore.
- Harvey, D. (1989) *The Urban Experience*, Basil Blackwell, Oxford, UK.
- Healey, P. (1992) *An Institutional Model of the Development Process*, *Journal of Property Research*, **9**(1), 33-44.
- Healy, P. (1991) *Models of the development process: A review*, *Journal of Property Research*, **8**(3), 219-238.
- Hunter, F. (1953) *Community Power Structure: A Study of Decision Makers*, University of North Carolina Press, Chapel Hill.
- ICAC (Independent Commission Against Corruption), (2005) *Report on Investigation into the Relationship Between Certain Strathfield Councillors and Developers*, [online], Available: www.icac.nsw.gov.au, Accessed 20 September 2005.
- ICAC (2002) *Report into Corrupt Conduct Associated with Development Proposals at Rockdale City Council*, [online], Available: www.icac.nsw.gov.au, Accessed 20 September 2005.
- ICAC (1998) *Report on the Investigation into the Conduct of an Alderman on Fairfield City Council*, [online], Available: www.icac.nsw.gov.au, Accessed 20 September 2005.
- ICAC (1995) *Report on Investigation into the RTA and Property Disposal*, [online], Available: www.icac.nsw.gov.au, Accessed 20 September 2005.

- ICAC (1991) *Report on Investigation into the Planning and Building Department of South Sydney Council: December 1991*, [online], Available: www.icac.nsw.gov.au, Accessed 10 June 2005.
- ICAC (1993) Report on Investigation into the Conduct of Brian Zouch: November 1993, [online], Available: www.icac.nsw.gov.au, Accessed 20 September 2005.
- Klan, A. (2005) 'Sin Binned'; *The Australian*; 10 February, pp. 35.
- Kleinig, J. and Heffernan, W. (2004) In *Public and Private Corruption*(Eds, Heffernan, W. and Kleinig, J.) Rowman & Littlefield, Lanham, Maryland, pp. 3-22.
- Krumholz, N. and Forester, J. (1990) *Making Equity Planning Work: Leadership in the Public Sector*, Temple University Press, Philadelphia.
- Lindblom, C. (1959) *The Science of Muddling Through*, *Public Administration Review*, **19**79-88.
- Logan, J. R. and Molotch, H. L. (1987) *Urban Fortunes: The Political Economy of Place.*, University of California Press, Berkeley and Los Angeles.
- Logan, J. R., Whaley, R. B., and K. Crowder. (1997) *The character and consequences of growth regimes: an assessment of 20 years of research.*, *Urban Affairs Review*, **32**(5), 603-629.
- McGuirk, P. M. (1995) *Power and influence in urban planning: community and property interests' participation in Dublin's Planning System.*, *Irish Geography*, **28**(1), 64 - 75.
- McLoughlin, B. (1969) *Urban and Regional Planning: A Systems Approach*, Faber and Faber, London.
- Miller, S., Roberts, P. and Spence, E. (2005) *Corruption and anti-corruption : an applied philosophical approach*, Pearson/Prentice Hall, Upper Saddle River, N.J.
- Molotch, H. and Vicari, S. (1988) *Three ways to build. The development process in the United States, Japan and Italy*, *Urban Affairs Quarterly*, **24**(2), 188-214.
- Molotch, H. L. (1976) *The city as a growth machine: the political economy of growth.*, *American Journal of Sociology*, **84**309 - 32.
- Parkin, A. (1982) *Governing the Cities: The Australian Experience in Perspective*, Macmillan, South Melbourne.
- Phin, P. A. and Australian Accounting Research Foundation. (1982) *Accounting for real estate development*, Australian Accounting Research Foundation, Melbourne.

- Sandercock, L. (1977) *Cities for Sale: Property, politics and urban planning in Australia*, Melbourne University Press, Melbourne.
- Sandercock, L. (1979) *The Land Racket: The real costs of property speculation*, Silverfish for the Australian Association of Socialist Studies, O'Connor, A.C.T.
- Saunders, P. (1979) *Urban Politics: A Sociological Interpretation*, Hutchinson, London.
- Server, O. B. (1996) *Corruption: A Major Problem for Urban Management - Some Evidence from Indonesia*, *Habitat International*, **20**(1), 23-41.
- Syvret, P. (2005) 'White-Shoe Mogul Last of a Kind'; *Courier Mail*; 11 July.
- Treisman, D. (2000) *The Causes of Corruption: a cross national study*, *Journal of Public Economics*, **76**(3), 399-459.