The ethical dilemmas of local government planners in Western Australia

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Abstract: This paper presents a study of ethical dilemmas faced by planners in local government in the Perth Metropolitan Region (PMR), Western Australia. A qualitative methodology has been adopted to identify planners' personal and organisational values and the ethical dilemmas they face in their role.

Local government planning officers operate in a complex political environment in which their decisions include various stakeholder interests such as private developers, local businesses, environmentalists and government authorities. As such, planners face potential competing interests which challenge their own values and compete with their professional obligations relating to planning practice and governance.

Planners from urban-fringe, inner-city and coastal Local Government Areas (LGAs) were invited to participate in this study. Preliminary findings suggest that planners are operating in an increasingly complex decision-making environment. Common themes identified by participants included issues relating to non-conforming land-uses and the management of relationships between local government planners and developers. The management of community perceptions relating to race, socio-economic background and use classes perceived as 'undesirable' by the community also emerged in the findings. Planners were also challenged by the relationship between councillors and the administrative staff of local government. Planning consultancies were also perceived by planners as increasing the potential for unethical behaviour. This study indicates local government planners are facing an increasing range of complex ethical dilemmas yet feel they are neither equipped with the resources nor the support mechanisms to manage them effectively.

Introduction

Perth is often portrayed as the most isolated capital city in the world, with one of the lowest population densities in Australia. It is located in the south-west corner of the Australian continent and is the dominant urban centre in Western Australia. Indeed, Bill Bryson has described Perth as "[f]ar and away the most remote big city on earth, closer to Singapore than to Sydney, though not actually close to either" (2000, p. 287). Perth had a population of approximately 1.8 million in 2011 and is forecast to expand to 2.3 million by 2026 (Australian Bureau of Statistics, 2013). Annual population growth in the Perth Metropolitan Region (PMR) is substantial and one of the highest of the Australian capital cities. Population growth of 1.8% per annum was recorded between 1971 and 1981 and 2.7 % per annum between 1981 and 1991 (BITRE, 2010). However, Perth has one of the lowest population densities of Australian capital cities with 300 people per km^2 recorded in June 2012 (Australian Bureau of Statistics, 2013). This compares with a population density of 380 people per km^2 in Greater Sydney and 430 people per km^2 in Greater Melbourne.

Local government in Western Australia has a long and complex history and has been closely associated with urban and regional planning since the establishment of the Swan River Colony and subsequently the State of Western Australia. Indeed, the earliest forms of local government were established in 1838 as a result of the *Towns Improvement Act 1838* (WA). Both Perth and Fremantle established town trusts in 1838 but their responsibilities were limited, focusing on establishing and improving communication infrastructure through the construction of public roads, bridges, jetties and ferries. The *Municipalities Act 1871* (WA) was a significant piece of legislation allowing the existing town trusts to become municipalities

with many of the responsibilities of contemporary local government including licensing of slaughterhouses and dogs, and the establishment of public libraries, museums and botanical gardens. As a result of the Act, a number of municipalities were established including Fremantle, Geraldton, Albany and Guildford.

There are currently 138 local government authorities in Western Australia, 30 of which are located in the PMR. These local government authorities (LGAs) are diverse in population and area. For example, the Shire of Peppermint Grove located in the western suburbs of the PMR is the smallest in Australia, with an area of 1.5 km^2 and a population of 1,749 (Australian Bureau of Statistics, 2013). Conversely, the City of Stirling is the largest LGA by population in the PMR at 205, 961 (Australian Bureau of Statistics, 2013). The City of Swan is the largest LGA in terms of area at 1,043 km^2 (Metropolitan Local Government Review Panel, 2012). LGAs are diverse in land use, environment and economic activity as well; with inner city LGAs such as the Cities of Perth and Vincent compared with those located on the peri-urban fringe such as the City of Wanneroo and the City of Swan.

There have been a number of reviews of local government since 1954 with several recommending a reduction in the number of LGAs overall but little or no action has been taken to reach this outcome. The Royal Commission on Metropolitan Municipal Boundaries (1974) recommended that the total number of LGAs should be reduced from 26 to 22. However, the number of LGAs in the PMR has increased rather than decreased. For example, the City of Perth was restructured into four new councils in 1994, namely Cambridge, Vincent, Victoria Park and Perth. The structure and functions of local government in WA are again under review by the Metropolitan Local Government Review Panel, chaired by Emeritus Professor Alan Robson. A final report of this review was submitted in July 2012 and recommended that there should be no more than 12 councils within the PMR, although this has subsequently been modified to 14 proposed new councils ('About the Changes', DLGC, n.d.). The most controversial recommendation is the merger of the seven LGAs in the western suburbs into a single new council despite considerable opposition by local community groups to many of the suggested boundary changes and mergers.

Statutory and strategic planning in Western Australia is undertaken by both the private and public sectors. Whilst private sector planning activity has been increasing in recent years, strategic and statutory planning is dominated by the Department of Planning (WA), the Western Australian Planning Commission (WAPC), associated agencies such as the Metropolitan Redevelopment Authority (MRA) and those of the local government authorities with statutory planning responsibilities. Section 3.1 of the *Planning and Development Act 2005* (WA) states that its purpose is to "[p]rovide for an efficient and effective land use planning system in the state; and promote the sustainable use and development of land". The Minister for Planning, has a range of statutory planning responsibilities including maintaining current legislation, approving some planning policy, as well as regional and local planning schemes. The WAPC is "[t]he statutory authority with statewide responsibilities for urban, rural and regional land use planning and land development matters". ('About the WAPC', WAPC, n.d.). It consists of fifteen members, including an independent chairman, and administers regional planning schemes including the Metropolitan Region Scheme and determines all subdivision applications.

Local governments have the responsibility for planning their local communities through a system of town planning schemes, policies and planning strategies. Much of this planning activity is undertaken through the implementation of the District or Town Planning Scheme, and through a system of development approvals when there is an intention to develop or change the use of land.

Background to the research

This study sought to explore the nature of ethical dilemmas faced by local planners in

Western Australia. An initial review of the literature indicates that studies into the role of planners has received attention but more specific research on the ethical dilemmas faced by local government planners has been more limited. Whilst Sarkissian (1996) undertook research into the 'relationship between planning education in general and education in environmental ethics' in Australian planning schools, one of the few studies that dealt with the role of, and dilemmas faced by, local government planners, in metropolitan Perth was undertaken by Hillier (2002). More recently, Steele (2009) studied the changing roles of planners in Queensland as a result of changes to planning legislation and noted that a hybrid role for planners was developing. However, while ethics and planning is in the reviewed literature, specific research relating to the nature of ethical dilemmas experienced by planners has not been extensively explored, particularly in the Australian context. This study represents a preliminary investigation to guide future research in this area.

Both quantitative and qualitative methodologies were considered for this study. In a qualitative process of inquiry, an understanding of the social or human problem is based on building a complex, holistic picture and is conducted in the respondents' natural setting (Creswell, 1994). Therefore, for this study, it was believed that informative and insightful data could be drawn by conducting semi-structured face-to-face interviews with local government planners as opposed to data collected via another data collection method such as a survey. The latter was considered not appropriate for this study because of the limited number of local government planners in Western Australia who agreed to participate and the limited knowledge in the subject of the research. Further, the adoption of a qualitative methodology allowed the researchers to study issues pertaining to local planners' ethical dilemmas in greater detail and depth (Hitchcock & Hughes, 1989; Patton, 2002). This is opposed to counting or measuring a known or pre-determined set of variables more commonly adopted in quantitative research settings. In the case of exploring the nature of ethical dilemmas, a qualitative methodology has the potential to explore the nature of the variables governing this phenomenon.

Data Collection

Local government authorities in the Perth metropolitan area were contacted via email to establish the names and contact details of planners in Western Australia. It was decided not to include regional local government planners in this study as future research opportunities may provide a valuable comparison by their inclusion in this topic of research. Further, the geographical distances between regional locations in Western Australia are vast and would represent a resource intensive project. Once potential participant details were verified personal contact was made via letter and email to planners inviting them to participate in the research. The research background and details relating to interview procedures and ethics were included in this communication. Follow-up contact was made via telephone to confirm interview dates. The first contact made requesting participation in the study did not result in the number of acceptances anticipated given that there are 30 local councils in the PMR. Despite follow up communication to invite planners to participate in the study, only seven planners from urban-fringe, city centre and coastal Local Government Areas (LGAs) within the PMR agreed to participate. Semi-structured interviews were scheduled at each planner's workplace. All planners were emailed the interview questions before the scheduled interview and all were conducted with both researchers in attendance. It was decided not to audio record the interviews as it was considered that there may be a reluctance to reveal examples which may include sensitive and confidential matters. Detailed written notes were taken in each interview.

Participants were asked the following questions in the interview.

1. Describe your role and include general information to give us a context of the council in which you work.
2. Can you identify the values which are of importance to you in your work?

3. Are you able to identify the values of your organisation. Are they promoted formally through training or development?
4. Can you describe a project you have worked on which has confronted your values; an ethical dilemma. Describe the nature and context of the project, what was confronting and how you managed the situation.

Literature Review

Discussion relating to the professional role of planners, their values and the acknowledgement of ethics in decision-making is identified in the literature. However, what is less evident is research which explores the nature of ethical dilemmas experienced by planners, most particularly in Australia. The following overview presents literature which relates to the nature of this study, including a clarification on definitions such as: normative ethics, values, morality, ethics and ethical dilemma.

Firstly, normative or applied ethics, attempts to justify and explain positions on specific moral challenges, a process that involves the application of some moral principle or standard (Barry, 1982). Normative ethical theory poses the question, *what ought I do?* (MacIntyre, 1985; Swanton, 2003). The study of ethics, is '[c]oncerned about what is *right*, *fair*, *just* or *good;* about what we *ought* to do, not just about what *is* the case or what is the most acceptable or expedient' (Preston, 1996, p. 16). Morality refers to the actual conduct of human beings, whereas ethics (often referred to as moral philosophy) relates to the study of the moral conduct itself. As such, morality may be described as experiences of real problems, dilemmas and conflicts that need to be resolved, at times by individuals, groups or organisations. (Badaracco, 2002; Ruggiero (2004). The circumstances in which there are choices relating to moral conduct are influenced by human values (LaFollett, 2000). Values, sometimes referred to as one's principles, are those to which individuals attribute worth and become a guide or reference point for action that has moral significance (Rokeach, 1973; Singer, 1993). Values define who we are, and they influence the choices we make in life (Hood, 2003; Russell, 2001). As such, values influence human behaviour, both in private and public matters (Chatman & Cha, 2003). The personal value system of an individual develops in the context of the specific culture, society and family environment in which he or she develops.

According to Badaracco (2002) ethical dilemmas involve making choices between non-overriding, conflicting moral requirements; for example, loyalty and honesty. Sinnott-Armstrong (1988) proposed that ethical dilemmas are composed of four key elements; no clear resolution is evident, the agent is required to do each of two or more actions, the agent can do each of the actions but not both and neither of the conflicting requirements is overridden. Rost (1995) noted that most people do not use ethical frameworks to judge morality. Rather, they draw on life experiences, personal values and perhaps religious convictions. This is illustrated by Beu, Buckley and Harvey (2003), who stated that while there may be basic moral norms, the dynamic business environment brings with it challenges which cannot be readily answered by moral rules. Ethical decision-making, therefore, is not straightforward and individuals may examine and behave differently when confronted by similar ethical dilemmas.

There are a number of planning scholars whose work emphasises the moral challenges implicit in the planning profession. Wachs (1985) asserts that ethical issues are present in many areas of planning. He remarks that planners exercise their ethical judgments to make decisions that will affect private behaviour and property on behalf of the public welfare. More specific examples are included such as planners accepting gifts and the disclosure of confidential information. Hendler (1995) strongly supports the view that there is an ethical dimension to the planning profession and planning decisions do involve the exercise of human values. Hendler's assessment draws on a number of classical ethical theories and illustrates how each relates to dimensions of the planning profession. One such theory which other scholars cite is the utilitarian theory which seeks planning decisions and outcomes

which deliver the greatest benefits to the greatest number. An example in her argument involves a decision for the development of a new rapid transit line as having benefits to the commuter which must be weighed up to the harm to nearby displaced residents who are fewer in number. Howe (1990) argues that planners, whether consciously or not, make decisions from a preferred ethical theory and that a greater degree of awareness in how individual mindsets may influence decision making in planning. Nevertheless, Howe presents the two most common approaches to ethical decision making; that being utilitarian and deontological theories. The former focusing on the rightness of the consequences and the latter on the means to the decision based on principles such as justice and rights. Notably, no ethical theory in itself may be applied to face the challenges planners may face in their role.

Hoekveld & Needham (2013) argue that planning involves a public agency's regulation decisions which affect the lives of citizens and as such individual planners, while having their own values, need to be made aware of the ethical implications of their work. They make a distinction between the individual values of the planner and the ethical principles which should govern the operation of the agency. The latter, argues Hoekveld & Needham (2013), should form the framework by which planning decisions be made. Earlier research by Howell & Baum (1998) illustrates this in a case study involving the ethical challenges of community participation in planning decisions. In this example, planners espouse the value of community participation but in reality it demonstrates the ethical challenges in planning, in this case, community participation. It illustrates that planners may be committed to the principles of community participation but the process is by no means value neutral.

Birkland (1995) advocates a 'new ethic' (an ethics-based planning approach) which takes account of planning issues which contribute to addressing questions which relate to how we, as a society, ought to live which relates to the fundamental ethical question posed by the ancient philosophers. She argues the basic decision making mechanisms for planners are based on legal, political and market systems which approach planning from a utilitarian perspective of 'who gets what'. The 'new ethic' therefore needs to take account of planning decisions based on improving the human condition.

Campbell & Marshall (1998) confirm the ethical dimension inherent in the role of planning decision-making. Most particularly, they raise the question relating to competing interests which exist in the role of planner. "[A]re planners obliged to serve the interests of their political employers, the organization, personal values, clients, the wider community, future generations or the profession"? (Campbell & Marshall, 1998:17). The findings arising from their research based on focus groups with planners emphasised the tension experienced by planners fulfilling their obligations to corporate and political objectives against decisions which in principle were 'in the public interest'. The engagement of planning consultants, pressure to process planning applications and the perceived risk to the quality of the decision were also themes which emerged from the research. Studies by Howe & Kaufman (1979, 1981) used case scenarios to explore what planners thought were ethical conduct in their role. A key finding in this research distinguished perceptions of ethicality by planners. Politically orientated planners adopted more liberal interpretations to their decisions. Technically oriented planners made decisions based more towards procedural and technical interpretations and a perceived 'value neutral' position on planning matters. While their orientations differed, both groups held similar views that the misrepresentation of information in their role was unethical. In conclusion, studies relating to planning ethics in Australia appear to be extremely limited.

Findings

While this preliminary study had a small number of participants (seven), the semi-structured interviews allowed the researchers to explore in-depth the planners' professional experiences relating to values and ethics. Firstly, in terms of *personal values* which were deemed as important to participants very similar responses emerged. Most planners recalled the importance of integrity and honesty in both their personal and professional lives. Most

planners were able to recall the values which governed their workplace. Many councils had clearly articulated values and a code of conduct clearly visible and some included these in the training and induction sessions and linked them to their performance management system. However, most didn't integrate the values and code of conduct to this level. While some had them on public display, other participants barely mentioned them. One interesting observation was that words like 'innovation' were included as being a value.

The theme *relationship management*, was strongly evident in all the participants interviewed for this study. Participants described the ethical challenges managing their relationships between themselves and planners, developers and members of the community. There was also reference to the impact of the government's policies relating to planning matters and their decision-making. That is, weighing up the potentially competing interests and demands of serving a number of 'communities of obligations' (Bolan, 1983). A notable example which was evident in three councils located in diverse socio-economic areas of Perth, related to decisions pertaining to permitted land use. Residents in these areas objected to the perceived threat that these decisions would have on their community. One participant, a senior planner working in an affluent area of Perth, recommended a plan be passed by council for a mixed housing development. The decision was overturned following strong community opposition that the development would attract 'undesirable' residents to the area. Similar reactions were recalled, for example, to the presence of a proposed tattoo parlour or residential dwellings for indigenous and disadvantaged youth.

"The Council was swayed by the community despite it complying with all planning requirements. The fear of change was stronger than the facts". (P1)

Similar responses were recalled by planners who were frustrated by development applications submitted to council which met all the planning approval requirements but were over-ruled in favour of values which were placed on the projects' perceived harm to the community or what was expressed as councillors serving their own interests. Indeed, one participant encapsulated this in the following comment.

" The biggest problem for councillors is bringing in their own personal values rather than purely looking at the planning issues before them". (P2)

Another common challenge recalled by planners was the management of direct contact made by councillors and developers to staff (including planners) in local government. Some participants relied on the local government's code of ethics to set guidelines relating to this type of contact. One participant recalled a strict directive which prohibited any such contact as the following recollection illustrates.

"Councillors are only allowed to deal with the CEO and executive group. They need to recognize these boundaries. Less experienced staff can find themselves in difficult positions where a councillor requests that an application be viewed more favourably" (P3)

The socio-economic and professional profiles of residents combined with councilors who were perceived as being 'anti-planners' and 'pro-developers' were cited by planners as being particularly complex. One example consisted of a very small but extremely affluent group of residents, some of whom believed they could 'get around the system'. This was enabled by councillors who ignored planning advice and relied on developers whose hospitality was lavished on councillors in exchange for favourable development decisions. This is illustrated in the following planner's recollection.

"I was asked out on a boat trip with councillors which is inappropriate. I was also invited to lunch with a developer and at the end of the lunch there was an expectation that the development application would be going through" (P4).

Other examples involved planners' values being potentially compromised by friends seeking advice on a development application and then applying pressure to approve it. One method to manage this common dilemma cited was establishing a strong community based (local

area planning) forum which made decisions relating to planning more transparent. One participant believed this had decreased the propensity for 'backroom deals' to take place in planning decisions.

Conclusion

This preliminary study suggests the management of relationships is the principal challenge for planners interviewed. That is, there is a challenge and tension between personal values held by planners and those held by councillors and other key stakeholders in the planning process. This specific dilemma is most evident when the professional advice provided by planners in their reports is overturned or modified significantly, despite meeting all statutory planning requirements. Overall, as evidenced by the literature, planners and other key stakeholders are not value neutral. In essence they bring to their profession their own values.

It is acknowledged that the sample size for the survey is small and therefore definitive conclusions cannot be formed. There may be some value in extending this research to rural and regional Australian LGAs to determine if the nature of their ethical dilemmas differs from the themes identified in this preliminary study

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