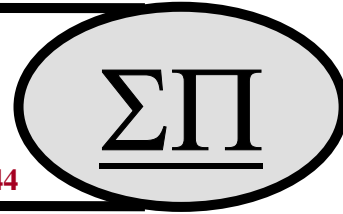


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## Planning Institute of Australia

### Certified Practising Planner

## CHIFLEY BUSINESS SCHOOL

### Legislation & Governance

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### Assignment : Appendix 4 : Assessment Part 2 : 500 Word Essay

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*(Note : The Rainbow 2000<sup>©</sup> - 10<sup>th</sup> Anniversary Project evaluation is dated 13 November 2006, and pre-dates the Commonwealth's UNESCO World Heritage nomination of Australian Convict Colonial Settlements. All five Mayoral candidates for the City of Albany local government elections in October 2007 did endorse that nomination, and they have now been joined by most of the elected Councillors.*

*They have joined most of the O'Connor MHR candidates, and all major WA senate teams (excluding the Citizens' Electoral Council & One Nation) involved in the November 2007 federal election. Individual members of the state government & opposition also support the nomination, while all three major parties remain silent on the matter, understanding only too well the ramifications of their collective decisions over the past decade.*

## **Section 1 – Introduction**

### **1.1 The Proposition**

Question A : Consider the following two different planning system and governance models :

1. A system that places the overall responsibility for deciding policies and applications in the hands of the elected representatives of the relevant Governments (State / Territory and local) with an independent court or tribunal based application appeal body;
2. A system that places the overall responsibility for deciding policies and applications in the hands of a technically based commission supported by local independent panels to assess and decide applications, and an independent technically based tribunal to review both policy and application decisions.

Compare and contrast the models from the perspectives of the following :

- a. Developers
- b. The community
- c. Planning practitioners.

### **1.2 Base Assumptions**

It is assumed for the purposes of this assignment, that the ‘system’ exists and operates within a democratic society with free elections at all representative levels similar to the Australian governance model of jurisdiction that prevails between the Commonwealth, most Australian States (acknowledging that the Territories operate under a slightly different arrangements), and Local Government.

It is also assumed that the referenced terms ‘policies’ and ‘applications’ infers consideration of both statutory and strategic planning assessment processes under both systems.

**ooooo End of Section ooooo**

## **Section 2 – Governance**

### **2.1 Empowerment**

Australia is a democratic society that operates under the rule of common law – that is a basic commitment by the members of society to proceed or take action in accordance with a statement of collective good based on agreed goals, strategies, objectives and outcomes.

Originally, it was the commitment to these principles, and the demonstration of that capacity to act in a fair and equitable manner to all parties concerned that precipitated the British monarchy and parliament granting self-rule to those foundation States of Australia.

Eventually, the collective good of those sovereign States was deemed to be better served again by the formation of the Commonwealth of Australia, whereby certain functions of governance were enshrined in the federal constitution and endorsed by the States (subsequently amended to incorporate representation and participation of the Territories).

To expand that process, Australia agreed to join (and fund) the United Nations General Assembly, and has subsequently adopted and promoted international treaties on a variety of matters where global cooperation is required to deliver anticipated outcome.

### **2.2 Self-determination**

It is a fundamental tenement of our society that to the extent practicable, the individual (or body corporate) should be able to conduct their affairs on land to which they hold legal title free of government intervention.

However, the aspirations of the individual (or body corporate) do not always accord with the collective expectations of society, and accordingly, legislation is enacted to canvass a dispute resolution mechanism between the parties concerned.

Accordingly, education and knowledge are fundamental pre-requisites for humanity to participate under this system of cooperative management, and this necessitates a level of due diligence to explore issues and expand upon the body of knowledge relating to cause and affect in the activities of mankind.

### **2.3 Management**

Under the various constitutions, the Commonwealth and each State and Territory in Australia administer a variety of legislation dealing with what might be termed ‘the practice of sustainable land (and air and water) use management’. This is expressed through the human activities associated with economy, ecology and sociology, mitigated at various times through financial ramification and the political orthodoxy of the governance of the day.

The majority of that governance function is generally administered at the lowest level of governance management on a day-to-day basis by local government in Australia operating at the behest of their respective State / Territory governments, and notwithstanding that local government is not formally recognised in the Commonwealth Constitution.

There is generally a universal governance commitment to avoid duplication of responsibility either between (multiple agencies operating in same legislative jurisdiction) or across levels of governance (conflict of interest between local, regional, state, federal or international priorities), such that there is a clear demarcation of accountability for the delivery of planning process and outcome.

#### 2.4 Administration

There are inherently differences of opinion between stakeholder groups as to what constitutes ‘best practice management and administration’, and it is perhaps more important that whichever system is adopted and implemented, that system retain the ability to discuss and resolve differences of opinion in an amicable fashion to achieve a consensus of outcome.

#### 2.5 Stakeholder adoption

It is a reasonable proposition to suggest that all three groups of stakeholders, developers, the community and planning practitioners, would generally agree that :

- ❖ There is more benefit than cost associated with the administration of a planning system
- ❖ Planning systems should address the priority issues as determined over time
- ❖ Planning systems must be representative and cognizant of community aspiration; and
- ❖ There is a clear requirement to announce the partnership between governance & society.

As Professor of City Policy Peter Newman of Murdoch University and the WA Institute of Sustainability & Technology Policy recently remarked in the Australian Planner, *What is your message to young planners?* –

***“Believe in planning as a deeply significant but troubling professional life which is at the centre of what it means to be human and responsible in our excessively resource-consuming cities. Grasp the hard problems and deliver a sense of hope through your strategies and processes – you may even find they work. Don’t get stuck in the statutory stuff, put it to work for your strategies.”***

ooooo End of Section ooooo

## **Section 3 – Stakeholder Partnership**

### **3.1 Council of Australian Governments**

There is clear recognition within governance for the various levels of government to cooperate in the delivery of services to community and business as primary stakeholders. The formation of the Council of Australian Governments has precipitated multi-jurisdictional discussion of service areas that either duplicate or disaggregate the otherwise efficient and effective delivery of a comprehensive planning service (statutory and strategic).

### **3.2 Development Assessment**

Whether it is statutory or strategic planning process, the ‘development industry’ response to bringing together stakeholders is accurately reflected in the Commonwealth National Office of Local Government’s endeavours to provide direction to industry through the Development Assessment Forum, and comprised :

- ❖ National Office of Local Government
- ❖ State / Territory Government ‘Planning’ Authorities
- ❖ Local Government Associations – National & State / Territory Associations
  
- ❖ Australian Council of Building Design Professions
- ❖ Building Designers Association of Australia
- ❖ Engineers Institution of Australia
- ❖ Housing Industry Association
- ❖ Master Builders Australia
- ❖ Planning Institute of Australia
- ❖ Property Council of Australia
- ❖ Royal Australian Institute of Architects
- ❖ Urban Development Institute of Australia.

In all probability, that group over time will deliver a more consistent approach to planning service; however, that may not necessarily accord with (or pre-empt) either community aspiration and expectation, or business requirement for marginal profitability.

### **3.3 Scale of Planning Practice**

The vast majority of Australia’s population live in urban settlements as small towns, regional centres, regional cities, metropolitan areas, and even city urban conurbations (although most Australians would not see themselves living in anything more than their suburb, town or city).

There has clearly been an evolution of planning practice over the past 30 years in urban affairs for public purposes, residential, commercial and industrial land use classifications expressed through strategic planning documentation such as State legislation, State planning strategy, State planning policy, regional plans, metropolitan plans, local plans, place planning.

### 3.4 Scope of Planning Practice

Those living environments reflect the various industry groups associated with our western style of living, and it can be argued very successfully that insufficient endeavour has been placed on certain sectors by the ‘planning industry’, such as agriculture (rural town centre decline), and mining (proliferation of fly-in-fly-out operations), each having a demonstrable negative impact on the family and community.

‘Planners’ tend to specialise into either geographical area or specific issues, and while there is considerable difference of opinion as to the relative merit and significance of national vs. state vs. regional or local planning, it is the collective sum of that endeavour that ultimately generates growth in the profession and confidence by the community / business environment that, “Yes we are doing the right things to safeguard our future!”

### 3.5 The Unspoken Issues

It is also clear that the community is far from confident about the future, and one can only question why there has been a deplorable lack of discussion on certain issues, including :

- ❖ Global warming and greenhouse emissions
- ❖ Global energy supply and peak oil & gas
- ❖ Indigenous land / human rights and native title resolution.

### 3.6 Systemic Review

It requires an open-minded system founded on cooperation between multiple sectors to achieve better outcomes sooner. It is also self-evident from recent planning failures such as water supply; hospital health crises; the advent of corruption & crime commissions, and their investigation of public entities; and compulsory local government amalgamation / severance / reform, that the ‘system’ model requires examination and renewal.

Whether instigated through legislative reform (eg. Integrated Planning Act), or issues-based community dialogue (eg. Perth’s Network City), the recurring thematic key to successful planning is genuine participation and ownership as opposed to public consultation with and alienation of disenfranchised stakeholders.

Both ‘planning assessment’ governance models proposed have their place, exhibit certain strengths and weaknesses, and create ‘planning’ jobs or other service industry employment opportunities. The question remains as to whether either model actually serves the community they purport to serve, or whether they serve the vested interests of various stakeholder groups including planners.

ooooo End of Section ooooo

## Section 4 – Politics vs. Expertise

### 4.1 Politics

Some politicians begin life by discerning what the voter wants to hear, then telling them that's what they intend to do, and once elected they try to pursue their own personal perceptions of how the world should work. Few constructively engage the community in the design and decision-making processes associated with either statutory or strategic planning.

Once elected, very few actually hold any power in their own right to deliver outcome, but are more often than not, constrained by the alternative viewpoint, whether that be the vocal minority or the silent majority. Often, meaningful community participation is relegated to public consultation on the preferred outcome, as the executive administration manipulates the public agenda to deliver their interpretation of the most desirable outcome (Yes, Minister).

There is the ever present group of lobbyists within industry (eg. retailers, transport, insurance, property developers, home builders, etc.) or the protest groups in community (investment failures, built heritage, green conservationists, etc.) that will advocate the marginal status of electoral confidence to solicit political support and procure their preferred outcome. This may or may not entail reciting the facts in evidence depending upon whether that same material promotes their cause and their desired outcome (eg. lies, damn lies & statistics).

Having an independent court or tribunal to review planning application is an essential part of the judicial framework. However, it is not in itself a guarantee of equality and equity at law, or the precursor to a comprehensive review of all relevant issues pertaining to making a sound commercial (or social) decision in the public interest.

While some politicians have the ability to **vision** future, the courage to exercise **leadership** in the face of adverse opinion, neither makes any difference if that same politician (or group of politicians) is either incapable or unwilling to make a **decision** within the available timeframe or the extant political / financial environment.

### 4.2 Expertise

Trust me, I'm an accredited expert. I know what I'm doing. So go the definitive words of the Career Public Servant or the paid Technical Consultant, and neither makes any difference to the 'affected landowners' or the politician seeking re-election responding to their desperate calls to avert another community planning fiasco.

In due course, both have the capacity to influence the so-called independent technical review process, so while you may well make a few good decisions over a relatively short time-frame, longevity and continuity also count when it comes to achieving major outcomes associated with State infrastructure and capital development works programs.



Even policy programs with State or Federal electoral endorsement can be systematically undermined over time with the actual or perceived incapacity to deliver community benefit being questioned as the basis not to proceed (eg. political spin-doctoring of the message).

Developers seek the confidence to act, invest and predict economic return. Hence, the relative uncertainty of an ever-increasingly disparate public service making demands to respond to this issue or that requirement as administered by adversarial government agencies makes for spiralling holding costs in land development, and ultimately transitions to the consumer through increased costs of construction, basic land & housing package for first home owners who are invariably the custodians of the next generation of consumers.

#### 4.3 Developers

Show me the money – I don't care how we achieve the outcome. The construction industry's increasing level of frustration with 'urban performance' has led to the universal call for improvement in planning process and systems – to the point where other professions (eg. Sociologists, Engineers, Architects, Scientists) are now openly challenging the planners.

#### 4.4 Community

Nothing quite sums up the community attitude to planning as the industry abbreviations :

- ❖ NIMBY – Not in my back yard
- ❖ NOTE – Not over there either
- ❖ IMOKSUs – I'm ok, stuff you (or 'scre-' and 'yous' in the modern vernacular).

#### 4.5 Planning Practitioners

Serving multiple masters is not good for the mind, body, soul and spirit, and the confusion eventually leads to frustration and despondency either in planning process and/or outcome.

I have watched some planners give up in disgust, while others play the game for all it's worth while they can. There are those who play the game cleverly in the private sector (always telling the client what they want to hear as opposed to what they may need to know), and the public sector that observes it's own contribution, and decides they too want to play the game in competition with the private sector (for the collective benefit of the community of course).

I don't think most planners give a toss whether it is a group of politicians (with a court to uphold their decisions), or an expert technical panel (with an even more expert tribunal to review the evidence of the expert panel).

So what's left – well we undertake an interesting project to determine whether planning really is the antithesis of politics – knowing full well that eventually the two must converge.

Please find attached the Rainbow 2000<sup>©</sup> - 10<sup>th</sup> Anniversary Project Evaluation.

**ooooo End of Report ooooo**

## Attachment #1

Our Ref : W97-0100

The Hon John Howard MHR  
Prime Minister  
Commonwealth of Australia  
Parliament House  
CANBERRA ACT 2600

**COPY**

13 November 2006

Dear Prime Minister

### **RAINBOW 2000<sup>®</sup> - a Regional Planning Strategy for Albany & the Great Southern**

The Rainbow 2000<sup>®</sup> Project is both a significant investment opportunity and a research-based examination of the inter-relationship between planning, politics and regional development in Australia. I marvel at the challenge of re-establishing community confidence in strategic planning, and still consider Albany & the Great Southern one of the best opportunities for regional economic development in Australia.

Today is the 10<sup>th</sup> Anniversary of the copyright publication of the Rainbow 2000<sup>®</sup> Project – 13 November 1997.

Since 1997, the Plantation Timber industry is now well established; Fletchers Narrikup Abattoir export quality meats overseas; the Ravensthorpe Nickel mine is operational; CBH has significantly expanded grain storage and handling at the Port of Albany; the Wellstead Magnetite, Lignor Strand Lumber and the Beacons Biomass projects are all firming possibilities; and Bremer Basin Oil & Gas exploration is gaining momentum.

Urban development in the now City of Albany continues to expand as does the population, and the signs are present after 20 years of neglect that strategic planning (local & regional) is back on the political agenda. As a profession, I am not confident that the local planners have genuinely facilitated that process as opposed to directing community aspiration to pre-conceived outcomes (rather than canvassing opportunity).

In my opinion, achieving meaningful community participation has been less than adequate, and the adoption of consultant recommendation and embrace of private enterprise investment initiative has been less than credible. Public infrastructure investment, however, has been outstanding by the Water Corporation (mains distribution and water storage), Western Power (Albany windfarm) and Telstra (mobile & ADSL networks).

The Albany waterfront project after thirty-years of indecision is now closer than ever before. While the city's anti-development group in association with the region's port users recently made an impassioned but ineffectual plea to save that space for very different reasons. The fact is that no credible transport plan has emerged over the last decade which implies that heavy freight access to the port will be a recurring issue with no solution.

With reference to our [AusLink](#) submission dated 11 February 2003 (refer website), and as stated in several of our letters over the years "You can spend hundreds of millions of dollars to make a bad location workable, but Albany is the original hard rock and wall". The question is : Why would you if there were a far better opportunity to provide a long-term solution? And why wouldn't you ? Commercial competition and market manipulation.

Most recently, you will be aware of our call for the development of a National Celebration Strategy for [Anzac 2014-18](#), highlighting the role of Albany during that conflict as the first visual expression of the Anzac legend. The Anzac tradition has grown significantly in stature and psyche of Australian cultural heritage, and while it will change with the passing of each generation, ultimately it is one character that garners instant respect.

It was quite interesting to listen to the speech of the Chairman of the Western Australian Planning Commission at the [Infrastructure WA 2006](#) Conference held in Perth recently advocating greater regional autonomy for self-determination, and to see his reaction to our Rainbow 2000<sup>®</sup> Project exhibition at that forum.

Likewise, to expose the limitations and deficiencies of the governance strategic planning process (AusLink, WA State Infrastructure Strategy, the Lower Great Southern Regional Strategy, and the Draft Albany Local Planning Strategy) only serves to highlight why Australia struggles to move forward in a local-global context.

There have been outstanding achievements relative to social welfare reform and youth development (not Aged); however, progress on Native Title has been largely ineffective at delivering broad-based indigenous outcome.

Earlier this year, I addressed the Commonwealth Study Conference at Marlborough House in London in the lead-up to the 2007 Conference in India, Malaysia & Singapore. I raised three points for discussion, that :

1. **Energy** was an issue not canvassed in the draft conference agenda, and that it would be desirable for the Commonwealth to develop a global position statement in respect to Nuclear power given Australia and Canada's relative wealth of uranium ore – it was agreed to place energy on the agenda.
2. **Religion** could be an issue to place on the draft agenda, given that this X<sup>th</sup> CSC would experience as diverse a range of religious denomination as any before being predominantly Anglo-Saxon Christian in cultural heritage and dominion – it was agreed to retain the CSC framework as apolitical areligious.
3. While the **United Nations** had served the world well for the past 60 years, perhaps it was time to promote a restructure with a new vision for the 21<sup>st</sup> Century, and a new home somewhere in Asia considering the emergence of that socio-economic and political continent – point noted, but it was suggested that global restructuring of human aid management was beyond the scope of one CSC event.

In our recent submission to the Planning Institute of Australia Survey on Regional Economic Development in Australia, I suggested that what we are currently witnessing is the “systemic failure of governance expressed through elected representation, public administration and legislation across all four levels – local, regional, state and federal”, premised mainly on the division of equity / inequality in Australian society (Core KRAs).

I prefer to consider it a new dawn on Australian politics, where power is reinvested in community. I anticipate that the next ten / twenty years including Albany Anzac 2014-18 and Albany Bicentennial 2026-27 will be equally revealing as Australia transitions through several election cycles (Local, State & Federal).

The file [R2000Participation.zip](#) (~1.1MB & ~250 A4 page MS Word Document) available from the Smithson Planning website, documents the more than 10,000 participative actions to date of various stakeholder groups relating to the Rainbow 2000 Project. I think it also provides valuable insight into the need for Infrastructure, Industry, State Government and Local Government reform in relation to regional development in Australia.

For the last time prior to the pending 2007 Federal election, if you would care for a briefing on the project (30 minute PowerPoint presentation), please advise.

Yours faithfully,

**SMITHSON PLANNING**

*Neil R. Smithson*

**Neil R. Smithson**

Managing Director

PIA<sup>CPP</sup>, EIANZ, NELA, LGPA, AAPC, NTWA, FDI, CSC 2003

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