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Come federal election time many in the urban policy community search for signs that an incoming Commonwealth Government will show stronger leadership on cities. In their anticipation, some will hark back to the glory days of national urban policy, prosecuted by the all-reform, all-action Whitlam Labor Government of the 1970s.

In his famous campaign launch speech of November 1972, Whitlam put urban policy at the centre of his visionary agenda. He said ...

“... Labor believes that the national government must involve itself directly in cities. Practically every major national problem relates to cities. A national government which cuts itself off from responsibility for the nation’s cities is cutting itself off from the nation’s real life. A national government which has nothing to say about cities has nothing relevant or enduring to say about the nation or the nation’s future.”

Upon Labor’s election a month later, Whitlam promptly and energetically thrust the Commonwealth Government into all manner of ‘urban issues’ previously seen to be exclusively in the jurisdiction of the States and Territories. These included building entirely new cities to relieve pressure on rapidly growing capital cities, sewerage the suburbs, saving inner city heritage from the then rampant wrecking balls of developers, supporting local and regional

communities to organise and articulate their priority infrastructure needs, setting up land commissions to push down the price of suburban homes for first time buyers, and many more.

The Commonwealth had a clear vision for Australian cities and led from the front. It coaxed, cajoled, bribed, and monstred the States and Territories to get on board.

Is this the kind of leadership and national urban policy we need now? After all, our cities today are beset by a spookily similar array of structural challenges as they were back in the 1970s, but with climate change thrown into the mix.

Well, careful what you wish for. In many respects, it would be better if the Commonwealth scaled back its involvement in urban policy and let State and local governments get on with the job.

What should the role of the commonwealth be when it comes to towns and cities?

It is important to ask two basic questions. Firstly, why do we have a Commonwealth Government? Secondly, what value can it add to the sustainability, prosperity, and inclusiveness of our towns and cities over and above that which can be achieved by the States, Territories and local governments empowered to fulfil their mandates?

One of the founding purposes of the Commonwealth is the achievement of reasonably even living standards across the nation through 'horizontal fiscal equalisation'. This means topping up the self-generated revenues of States and Territories which have smaller tax bases or inherently higher costs due to, say, geographic scale. Equalisation is also pursued via a largely centralised tax and transfer system. These systems can always be improved. But overall, Australia performs pretty well by world standards on horizontal equalisation.

If we assume that the States and Territories are more or less on a level playing field when it comes to managing settlement patterns in their respective jurisdictions, what more do we want the Commonwealth to do on cities, if anything?

Applying the subsidiarity test, there is no point in the Commonwealth duplicating the urban planning,

infrastructure, and community building programs that the State and Territory and local governments would see as core business for their own jurisdictions. This notwithstanding, Prime Minister Morrison has waved away concerns about duplication, arguing that local communities are the winners from all this attention and, to paraphrase, 'what could be wrong with that?' For a start there is the sheer waste involved in function duplication.

Then there is the undermining of faith in institutions and the political process.

It is very tempting for the Commonwealth Government to use its fiscal power – it collects way more taxes than needed to deliver its constitutionally mandated functions in national security, trade, national economic integration, and fiscal equalisation – to curry favour with local communities if there is an electoral advantage in the offing.

We have seen this with federal grant programs for all manner of (very) local infrastructures, from changing sheds for sporting clubs to high street commuter car parks where, apparently, Ministers (no less) have unfettered discretion on which voters get the lollies. Communities seeing Ministers bypassing institutional protocols, like independent civil service advice on project merits and the logical allocation of functions across the spheres of governance, can be forgiven for a creeping cynicism that politicians are only in it for the power.



**Dr Marcus
Spiller**



Moreover, reckless meddling in the service functions of subsidiary layers of government fosters an insidious obfuscation of accountability in our democracy. If the Commonwealth is doing the same things as the States, Territories, and local governments, who does the citizen hold responsible when services are not up to scratch? The facile retort is that ‘people don’t care which level of government is delivering the service in question, so long as it is delivered’.

However, this rhetoric leaves the citizen a victim of an incessant blame game between the spheres of governance, especially if the Commonwealth is deploying funds which, in a strict subsidiarity regime, would have flowed to the States and Territories to support their functions. The Commonwealth blames the States for inefficiency in service provision; the States blame the Commonwealth for inadequate resources. This too stokes cynicism and undermines democratic institutions.

Subsidiarity calls for policy making and service delivery, and the tax raising to support these services, to be undertaken by the most decentralised sphere of governance competent to take on the service or laws in question. Distribution of functions and revenue raising according to this principle should ensure the best match between what citizens prefer and what governments deliver, recognising all the while that this

optimisation should be occurring on a sound platform of horizontal fiscal equalisation. Because subsidiary governments like the States, Territories, and local government stick to a mandate within their bailiwick, they can differentiate their respective tax/spend/regulate regimes without compromising choices open to higher-order communities within which they nest. This differentiation also supports innovation in public policy.

It might be obvious to many, if not all, that the Commonwealth is not best placed to treat with local communities on the tax/spend/regulatory trade-offs involved in resolving which sports groups require changing sheds or whether commuter car parks should be part of a transport plan for a city or corridor. It would be much better if the Commonwealth returned these funds, untied, to the States and Territory Governments who are demonstrably more competent in the subsidiarity sense to make these resource allocation decisions.

This is not to say that, as urban policy involves place-based infrastructure and planning regulation, the Commonwealth has no role in cities, but it does mean that the Commonwealth should be careful about where and when to intervene, lest it undermines the nation’s capacity to evolve a more sustainable pattern of settlement.

The Commonwealth's role should be circumscribed by the achievement of city outcomes which the Government deems to be essential in the national (not State, Territory, or local) interest, but which cannot be expected to arise as a natural outworking of State, Territory, and local governments operating within their respective tax, spend, and regulatory competencies.

'National interests' are those that are outside the subsidiarity remit of the States and Territories. They relate to national economic integration or trade between the States, stewardship of the national economy, national security, and international relations (including treaties). Viewed through this lens, the Commonwealth can have legitimate expectations for Australia's settlement pattern and cities that may not be spontaneously fulfilled by the States and Territories implementing planning and infrastructure policies acting in their own interests.

For example, the Commonwealth may judge that Australia's north should be more heavily populated for security reasons. It may want to see tougher or faster emissions abatement in urban development, in line with the country's international undertakings (though, to date, it has been the States that have set the pace on these issues). The Commonwealth may see national productivity gains in knitting together the labour markets of the major metropolises through better transport links.

In a limited number of areas, the Commonwealth is mandated to act directly to advance these national interests in urban development. Of note is the federal government's jurisdiction over cross border transport and aviation. It can act unilaterally in these matters, and – strictly speaking – under the subsidiarity principle, the States and Territories will be obliged to adapt their planning and investment decisions in line with these higher order decisions.

Outside of interstate trade and aviation, the Commonwealth must find a way of getting the States and Territories to modify their investment and planning decisions at the margin to give effect to nationally defined interests. This is the Rubicon that Whitlam decided to cross. That Government chose to use its superior fiscal power to force its way into the subsidiary domain of the States and Territories. In the years since, the Commonwealth has variously instituted local grant programs where Ministers have unfettered discretion as discussed, pre-empted State infrastructure choices by tying billions of dollars in State transfers to particular projects, and insisted on being a party at the table when metro or regional

plans are being drawn up – such as occurs with the Government's current 'City Deals' program.

Whitlam made no secret of the fact that he saw the States and Territories as an anachronism of the colonial age. In his vision, these jurisdictions would be gone, and Australia would operate in a two-tier subsidiarity system – Canberra dealing directly with regional governments.

But if one works with the reality and, indeed, the value of State and Territory governments and the local governments working under their auspices, an expansive 'direct action' position on the part of the Commonwealth in urban policy risks serious institutional damage and a diminished democracy as discussed.

The alternative to the direct-action approach would involve 'nudging' the States and Territories rather than invading their space, perhaps through the provision of additional, untied, financial assistance over and above that required for horizontal fiscal equalisation.

Outside of the urban policy area, this approach is well-illustrated by the Hawke/Keating Government's 'micro-economic reform' program initiated in the mid-1980s and carried forward by the subsequent Howard Government. The Commonwealth prompted the States to make multiple regulatory reforms outside of the federal government's jurisdiction but which were seen to be vital to the national interest, by providing up-front and performance-based payments designed to share the tax dividend arising from productivity-enhancing changes to competition laws and public ownership of infrastructure.

We can certainly argue about the substantive merits of the market liberalisation program pursued under the banner of micro-economic reform. However, as an exercise in Commonwealth-State relations in pursuit of national goals, it was exemplary.

What might a contemporary national urban policy look like?

A contemporary national urban policy which respects the role and value offered by State, Territory, and local governments would have 4 distinguishing features:

Firstly, it would be explicitly premised on the assumption that subsidiary governments are competent within their own jurisdictions and can be relied upon to act responsibly in the best interests of their constituencies. This might sound gratuitous. Historically, however, there are many examples of the Commonwealth treating the States and Territories with disdain, including Whitlam's cavalier critique of the need for the States, Keating's derisive quip to 'never get between a State Premier and a bucket of money' – notwithstanding that much of the money in question was (and is) rightfully due to these jurisdictions – and the current Commonwealth Government's entirely unapologetic meanderings into hyper-local infrastructure decisions. The leadership and superior competence in local matters demonstrated by State, Territory and local governments in the context of the COVID-19 pandemic may have caused a reset on these prejudices.

Secondly, the Commonwealth needs to do the hard thinking required to clearly articulate what the 'national interest' is in settlement patterns and cities. The test is not whether the matter in question has national consequences; most urban matters, including local development controls, would meet this criterion, as we have seen argued in the recent Falinski Committee report into housing affordability. Rather, the test is a more nuanced and challenging one. As discussed, it requires precise definition of what the nation requires in its urban and regional development patterns that cannot be expected to arise 'naturally' as a result of the States, Territories, and local governments going about their business within their competency mandates. Mostly, the work of subsidiary governments will be delivering outcomes that align with national interests simply because of the broad

alignment between State and national constituency interests.

There will be, however, a handful of areas where a Commonwealth nudge will be warranted. These need to be crisply defined and, ideally, expressed in measurable goals. These could be interpreted as a 'national settlement strategy', but would have a far narrower scope than, say, Whitlam's grand vision. It would be confined, perhaps, to inter-metropolitan links, accelerated climate adaption/mitigation in line with international treaties, and investments required to support national security.

Thirdly, the Commonwealth should direct its own jurisdictional investment and program spending in line with these national goals. The corollary of this is that the federal government would get out of investments and programs that do not have a clear link to these national interests. This means abolishing local community infrastructure grant programs and desisting from meddling in the infrastructure priorities established by the States and Territories under their own competencies. A further consequence of this approach should be a gradual transfer of baseload funding for infrastructure from the Commonwealth budget to State and Territory coffers. Infrastructure Australia could be repurposed to produce the national settlement strategy and to advise Government on what projects within its own jurisdiction are genuinely aligned to the national interest.

Fourthly, for areas outside its jurisdiction, the Commonwealth would establish a national urban adjustment fund. Channelling the micro-economic reform model, this would provide additional untied grants to States and Territories which sign up to deliver mutually agreed outcomes derived from the national settlement strategy. Infrastructure Australia's revised mandate could include oversight of these agreements and performance monitoring.

This is what we should be hearing about during the election campaign, not which car parks or change sheds the Commonwealth will deliver.

MELBOURNE

Level 14, 222 Exhibition Street
Melbourne VIC 3000
+61 3 8616 0331
sgsvic@sgsep.com.au

CANBERRA

Level 2, 28-36 Ainslie Avenue
Canberra ACT 2601
+61 2 6257 4525
sgsact@sgsep.com.au

HOBART

PO Box 123
Franklin TAS 7113
+61 421 372 940
sgstas@sgsep.com.au

SYDNEY

Suite 2.01/50 Holt Street
Surry Hills NSW 2010
+61 2 8307 0121
sgsnsw@sgsep.com.au



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