Possession, Planning and Control:
Imperial and Early Australian Land Policies
As a Cornerstone of
New South Wales History, 1788-1855

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31 March 2015

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Statement of Originality

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made to the text. I give consent to the final version of my thesis being made available worldwide when deposited in the University’s Digital Repository subject to the provisions of the Copyright Act 1968.

Paul Farnill
Acknowledgements and Dedications

I wish to dedicate this work to my late wife Robyne who encouraged me to embark on this research and to acknowledge the help and assistance of three supervisors, Dr Nancy Cushing, Professor John Toon and Dr Hilary Carey all whom have offered encouragement and guidance that I have found invaluable. I would however like to single out Dr Cushing, who has worked tirelessly in reviewing this work and assisting in its presentation and to whom I offer my sincere gratitude.

I wish to acknowledge Rosalie Spire of Historical Research and Data Services – London for her assistance and copying of original archival material from the National Archives of the United Kingdom – Kew.

Lastly I would like to thank my family, particularly my brother Doug Farnill who has proof-read and offered numerous suggestions on this work.

Paul Farnill
9 January 2015
Behold, I am the one who has laid as a foundation...a stone, a cornerstone, of a sure foundation.

Isaiah 28:16

There are few things more pleasing than the contemplation of order and useful arrangement arising gradually out of the tumult and confusion; and perhaps this satisfaction cannot anywhere be more fully enjoyed than where a settlement of civilized people is fixing itself upon a newly discovered or savage coast...wherever chance presents a spot tolerably free from obstacles, or more easily cleared than the rest, with the bustle of various hands busily employed in a number of the most incongruous works, increases rather than diminishes the order... But by degrees large spaces are opened, plans are formed, line marked, and a prospect at least of future regularity clearly discerned; and is made more striking by the recollection of the former confusion.

Arthur Phillip - 1790¹

Land [which has] been separated from the wilderness, purchased, paid for and become subject to private ownership, to transfer and sale...has thus become property to be bought and sold for money

American Senator, Daniel Webster 1838²

There is nothing which so generally strikes the imagination, and engages the affections of mankind as the right of property, or that sole and despotic dominion which one man claims and exercises over the external thing of the world, in total exclusion of the right of any other individual in the universe.

Sir William Blackstone 1765³

¹ Arthur Phillip and John Stockdale, eds., The Voyage of Governor Phillip to Botany Bay, 3rd ed. (London: John Stockdale, 1790). pp144-145
² Daniel. Webster, "Address to US Senate 12 March " Niles' National Register IV, no. 6 (1838).p92
Synopsis

The possession of land, its settlement and the means by which it was occupied, has been a vital determinant in the unfolding of NSW history and yet, in recent times, its importance has been neglected. Rather than a backdrop to a wider historical narrative, land policy in the years of the early governors was crucial to the way in which the colony grew and to the socio-economic and political structures that emerged. The possession of land and its regulation therefore formed a cornerstone on which the history of NSW was founded.

This thesis revisits the early history of NSW and presents land use and ownership as a major theme. Britain’s imperial aspirations were instrumental in James Cook’s taking possession, on behalf of the British Crown, of the land along the continent’s eastern coastline in 1770. Cook’s claim intrinsically carried with it the associated dispossession of the indigenous population from that date. Land and its possession was prominent among the objectives of Arthur Phillip’s 1787 expedition to Botany Bay and is regarded by many historians as the prime reason for the colony’s existence. The selection of the site at Sydney Cove, the colonisation of Norfolk Island, Tasmania, New Zealand and the expansion across the entire continent were processes that unfolded at the confluence of British policies and the exigencies of colonial government. It was land that seeded the power of the NSW Corps officers and enabled them to achieve a monopoly on trade. It was their fear of losing land that ignited a rebellion by the same officers against a sitting governor. Land policy explains the colony’s original slow expansion and, once the confining barriers and restraining policies were breached, the rapid expansion of pastoral pursuits. Finally, land policy was a major cause of tension between the governors and the governed. It was a source of disquiet that tainted colonial politics and led to demands for, and the eventual achievement of, representative government.

An examination of the land policies of both the British government and the early colonial governors Phillip to FitzRoy and the means by which different groups responded to those policies will shed fresh light on the physical, social and political growth of colonial New South Wales.
Preface

In 1989, while completing a Master's degree in Town and Country Planning at Sydney University, I became convinced that the possession of land was a driving force within the history of NSW, and that land policy and controls should figure highly in early colonial history. With some regret I noted an almost complete absence of published material on colonial land policy within the planning literature. This disappointment was amplified by a realisation that recent historians also seemed to have ignored the possession of land as a significant factor in their narratives of the colony’s formative years.

Town and country planning, land use planning or simply planning as it will be referred to in the remainder of the thesis, is the main tool by which land policy and regulation is set. It is therefore expected that works on the history of planning would include details of colonial land use regulation and land controls. Planning covers a far wider field than the laying out streets or townships and encompasses all forms of institutionalised land policies and controls. It includes planning at local, regional and even international levels. NSW land use policies were first implemented when a British government for strategic reasons and to empty Britain’s gaols, proposed a new settlement on the other side of the world. Land policy then continued to shape the colony’s growth into the modern times. Yet the examination of policies on the possession and use of land, together with the interrelationship between histories of land use and other histories have remained relatively neglected.

Once Britain’s colony was planted it was the townships and rural areas, planned (or unplanned) by the early Governors, that provided the physical

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4 Since writing that statement I subsequently discovered a work by Helen Proudfoot, written six years later, but expressing identical sentiments. Proudfoot wrote that with respect to the history of planning, she was “amazed at the ignorance of planners,” see Helen Proudfoot, "Town Plans and their Impact on the Settlement Process in Australia" (Macquarie University PhD, 1995). Preface p iii

5 The Oxford Dictionary defines town or urban planning as “the planning and control of the construction, growth, and development of a town or other urban area.”
environment of the colony. When a colonial governor selected a site for a settlement, granted a portion of land, issued regulations that sought to encourage small-scale agriculture, or attempted to contain the colony’s outward expansion, the decisions had an impact on the way in which the future history of NSW would unfold. Since land policy and regulation were within the scope of both of planning and history I expected to see them reflected in both the planning texts and historical works of a more general nature.

Planning embraces a far wider field than the physical preparation of an urban plan, which presents a major difficulty when discussing any history associated with planning. The difficulty is the formulation of a definitive description of the practice and then confining the topic to that definition. Planner Susan Thompson, writing in Planning Australia, reflected that this was “no easy matter. Planning has been described as “infinitely variable,” a profession that resists all attempts to define it, and “a tangled skein that is difficult to untangle.” Given the lack of an accepted definition Thompson suggested that perhaps planning is best described as being “what planners do.” In acknowledging the difficulty, Leonie Sandercock noted that the boundaries of planning are not fixed, they frequently shift and as a consequence its history is contained only by the definition and purpose of the historian.

Land use planning is a transformational practice that permeated through almost all aspects of colonial society; social, cultural, political, economic and spatial. Accordingly a wide definition of planning has been adopted for this thesis which will encompass all aspects of land policy, inclusive of the regulation, possession  

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10 Thompson and Maginn, Planning Australia. p11
11 Sandercock, Making the Invisible Visible: A multicultural planning history. p6
and control of land. The definition will range from the level of an imperial
government seeking to take possession of an entire continent in order to protect
its trade routes, to an emancipist farmer hoping to profit from a 50 acre
allotment. It has been said that what we see is shaped by the questions we ask
and if as suggested by Richard Waterhouse, our reflections on the past are
critical to our understanding of the future, the question arises, can present day
Australia be holistically understood if the historical significance of land and its
possession is ignored? Can colonial history be complete if the topic of land
control of land is all but neglected? In responding to such questions, this thesis
will highlight the effects that some significant land and land policy decisions
have had on the shaping of NSW history. It will offer a new perspective on the
way components of NSW history can be perceived.

Note on Referencing

The referencing style used throughout this work is “Chicago 16A, Humanities.” It is compiled within Endnote version X7, they include footnotes and a bibliography.

The format of the footnotes and bibliography is generated automatically within the Endnote software.

The full reference with publishing details is shown once only when first used. All subsequent citations are “short title” versions.
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Definitions

Colonial NSW  The colony of NSW with boundaries as varied from time to time.

Colonial Secretary  The Whitehall based bureaucrat, usually a Cabinet Minister, responsible to the British government for the administration of the colony. i.e. The Secretary of State for War and the Colonies, or similar titles applicable from time to time.

Colonists  All people who settled in NSW convict, soldier, free settler, squatter or native born.

Elites  The group of officers who became the colony’s large landowners and who by their position formed a virtual colonial aristocracy. They were joined from time to time by other wealthy land owners.

Early Governors  Governors Arthur Phillip through to Charles FitzRoy

Early Colonial Period  The era between 1788 and responsible government in 1855.

Emancipists  Convicts whose time of punishment has expired.

Exclusives  Free settlers, including military and civil officers, generally with capital and able to obtain large land holdings.

Settlers  Free settlers, including emancipists, generally a farmer with small land holdings, or an immigrant labourer.

Squatter  Person that occupied land without a formal title, but later on the basis of a licence or lease.

Wealthy Squatter  A squatter with capital and influence (as against a squatter of small capital.)

Whitehall  A metonym used to refer to the civil service officers responsible for the colonies.
## Abbreviations

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<th>Abbreviation</th>
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<tr>
<td>NSW</td>
<td>New South Wales</td>
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<tr>
<td>NZ</td>
<td>New Zealand</td>
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<tr>
<td>SA</td>
<td>South Australia</td>
</tr>
<tr>
<td>VDL</td>
<td>Van Diemen’s Land</td>
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<td>CO</td>
<td>Colonial Office</td>
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<td>ML</td>
<td>Mitchell Library</td>
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<td>State Library of NSW</td>
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<td>SLVIC</td>
<td>State Library of Victoria</td>
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