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Draft for Discussion and Resolution of Council on Monday, March 24, 1975, in order to meet the March 31 deadline for Submissions fixed by the Minister for Planning and Environment.

**TOWARDS A NEW PLANNING SYSTEM FOR THE CITY OF SYDNEY,
THE "METRO-CENTRE" OF NEW SOUTH WALES**

A First Report by the Council of The City of Sydney to the Minister for Planning and Environment.

The First Report has been prepared in response to an invitation by the Minister for Planning and Environment for the Sydney City Council to submit, before March 31, 1975, the Council's views on the principles on which a new planning system for NSW should be designed. The Report is pursuant to Policy 3 - Law, and Action Priority 3A, of the 1974-77 City of Sydney Strategic Plan adopted by resolution of the Council on December 2, 1974.

The Council's Policy 3 states :

Recommend new legislation enabling Council to manage the City's environment subject to rights of public challenge and State Government review.

The Council's Action Priority 3A states :

Assist the NSW Minister for Planning and Environment and the new Planning and Environment Commission to review NSW laws, practices and procedures relating to environmental management; prepare for the Minister as a matter of urgency, an analytical report emphasising existing legal impediments and administrative frustrations to the implementation of Council's strategic and action plans, recommending :-

- (1) interim steps urgently necessary; and
- (2) longer-term measures necessary to ensure the effective coordination of environmental management within the City by the Council, subject to rights of public challenge and State Government powers of review.

On June 2, the Minister for Planning and Environment will publish the proposals of his Special Advisor on the new planning system, and will invite the Council to submit a Second Report by July 14, 1975.

The Second Report will state Council's attitude to the Special Advisor's June proposals, and deal with Council's proposals in more detail.

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Annexures to be read in conjunction with this Report:

The City of Sydney Strategic Plan, 1971-74.

Report on conflicts between, and the coordination of, State and City Council planning activities within the City: submitted by the City Council to the State Planning Authority, November, 1972.

The City of Sydney Strategic Plan, 1974-77.

GLOSSARY OF TERMS AND ABBREVIATIONS

- "Action Plan" means a detailed local plan for a Precinct or aspect of the City, and includes a local development control plan and a regulatory code.
- "Central Coast Region of NSW" means one of the nine Regions into which the State is divided pursuant to the Regional Organisation Act of 1972, and includes the Hunter District, the Illawarra District, and the officially unnamed area described by the SPA as the "Sydney Region".
- "City of Sydney" means the area within the boundaries of the Council of the City of Sydney.
- "CoSPAC" - The City of Sydney Parking Advisory Committee set up under S.270D of the LGA to control parking within the City. Alderman W.S. Pascoe represents the City Council as one of five Committee Members.
- "DMR" - The NSW Department of Main Roads.
- "DMT" - The NSW Department of Motor Transport.
- "HOBAC" - The Height of Buildings Committee, a statutory authority established pursuant to the Height of Buildings Act, on which the Council's City Building Surveyor is a Member ex officio.
- "Local plans" include action plans, detailed development control plans, and regulatory codes.
- "LGA" - The Local Government Act of NSW.
- "MWSDB" - The Metropolitan Water Sewerage and Drainage Board.
- "Metro-centre" means the central place of the State, ie. the City of Sydney.
- "NSW Advisory Coordinating Committee for Planning and Environment" means the Committee set up by the Minister for Planning and Environment to advise and assist the PEC. The City Council has a representative on the Committee, Alderman Andrew Briger. Other members represent the PEC, the Local Government Association of NSW, the Shires Association of NSW, the Public Transport Commission, the State Pollution Control Commission, the Department of Agriculture, the DMR, the MWSDB, the Department of Mines, the Department of Local Government, the Department of Decentralisation and Development, and the Treasury.
- "PEC" - The NSW Planning and Environment Commission.
- "PTC" - The NSW Public Transport Commission, which controls and operates all government railways, buses and ferries in the State.

"Structure Plan" means a "strategic plan" possibly amplified by additional maps, diagrams and directives.

"SCRA" - The Sydney Cove Redevelopment Authority set up to plan and develop the East Rocks Area. Alderman Sir Emmett McDermott is a Member of the Authority.

"Sydney Region" - a name used by the NSW State Planning Authority to describe an area larger than the County of Cumberland, including all or part of the Local Government Areas of the Wyong, Gosford, Colo, Blue Mountains, Wollondilly, and Camden, and comprising the Inner and Outer Sydney Statistical Divisions.

"Sydney Region Outline Plan" means a regional structure plan produced for the Sydney Region by the State Planning Authority in 1968.

"TAC" - The NSW Traffic Advisory Committee, an interdepartment committee which advises Ministers on road traffic management within the City of Sydney and the State generally. The City Council is not represented on this Committee but the City Engineer or his representative is occasionally invited to attend when matters of particular importance to the City, such as the Railway Square Pedestrian Subway, are being discussed.

"URTAC" - The NSW Urban and Regional Transportation Advisory Committee, an interdepartmental committee which advises Ministers on transportation planning relevant to the City of Sydney and the State generally. The City Council is not represented on, and has little liaison with, URTAC.

FIRST REPORT, MARCH, 1975

PRINCIPLES AND RECOMMENDATIONS

1. The five square miles within the boundaries of the City of Sydney constitute a distinctly specialised functional unit for the purpose of coordinating environmental planning and management.
2. That functional unit, and its specialised role, can most simply and accurately be defined as the "metro-centre" (literally, the "mother-centre") of the State.
3. The term "metro-centre" is technically and functionally correct for the area within the boundaries of the City of Sydney (as reconstituted in 1969), which were defined by the Local Government Boundaries Commission to implement the State Government's policy decision that the area of the City of Sydney should reflect the "specialised concept" of "a true City type of Local Government" focussed on the most specialised central "administrative, commercial, educational and industrial activities" of the Sydney metropolitan area.
4. The metro-centre is unique in the State, and needs special techniques and procedures for the coordination of environmental planning and management on an area basis, because within it :-
 - (a) there is, each working day, a greater density of people (five to six hundred thousand in 3,900 acres or ~~1,200~~ 1,340 hectares) than in any other part of the State;
 - (b) there is a greater intricacy as well as density of land use and building than in any other part of the State;
 - (c) there is a greater density and variety, and hence degree of conflict, between different types of movement of people, of goods and by vehicles, than in any other part of the State;
 - (d) there is a greater number and complexity of government bodies, business establishments and community groups whose activities overlap and interlink more intricately than in any other part of the State;
 - (e) the need for close and continuing coordination of environmental planning and management involving so many conflicting activities, movement patterns, governmental and private projects and services, is more geographically concentrated within a smaller area than in any other part of the State.
5. The new environmental planning and management system for New South Wales should adhere strictly to the principle that no decision should be made, no detail determined, no job done, by a higher or more centralised authority if it can at all reasonably be delegated to, initiated and carried out at a lower or more geographically local level of authority.

6. Thus, except for matters of essential significance to the State, the coordination of environmental planning and management within the metro-centre of the State should be delegated to the Sydney City Council, subject to rights of the public and State authorities to be fully informed and consulted at every stage in the process; and to the constitutional rights of the State Government to "manage by exceptions", i.e. to withdraw delegated authority if and when it is ever abused, or exercised in conflict with State policies.
7. In practical terms, "environmental planning and management" for any area, whether for the State as a whole, a major region of the State, or the metro-centre of the State, means coordinating the preparation, adoption, implementation and updating of three different types of documents, each of which should have statutory force :-
 - (a) Written Statements of Objectives, Policies and Priorities, or "corporate plans" for the management and coordination within the subject area (whether it be the State as a whole, a major region, or a Local Government Area) of the major economic, social, transportation and other relevant aspects of environmental development or conservation, illustrated by "structure diagrams", with both the written statement and the diagram at a scale of generality appropriate to the size of the subject area. An example of such a document at the regional scale is the 1968 "Sydney Region Outline Plan", the preparation of which was coordinated by the then State Planning Authority. An example at the scale of the metro-centre is the "Statement of Objectives, Policies and Priorities, and the City Structure Diagram" which constitutes the "City of Sydney Strategic Plan" the preparation and updating of which was coordinated by the Sydney City Council in 1971 and in 1974.
 - (b) Land Designation Maps, precisely delineating the areas reserved or designated for particular uses or purposes, and which are subject to, or exempt from, control by particular levels of authority. These can and should be prepared, adopted, implemented and updated at different levels of authority for purposes of different levels of significance. The Federal Government, for example, designates areas of land for purposes which fall within its constitutional authority. The State Government designates, for example, areas for national parks, railways, roads and conservation areas of State-scale significance. Such Maps for major regions of the State should designate land for regional-scale projects or special uses, such as regional transportation, communications, public utilities, public works or special development or conservation zones, which overlap or serve many Local Government Areas. Such Regional Maps, however, should leave blank or only designate very generally indeed, those areas which it is not absolutely essential to determine in any detail at regional level and which can be infilled and administered in detail by Local Authorities. The County of Cumberland Planning Scheme Map of 1951 was an example of such a Regional Land Designation Map. It left broad "Living Area" zones intended for detailed determination in Local

Plans by Local Authorities, and did not concern itself with minor open space reservations, 15 acres being normally the minimum size considered of "County significance". The County Scheme Map designated most of the area within the present boundaries of the City of Sydney as the "County Centre", intended for detailed determination in a separate process of local planning. It seems that in 1975 we should now return to that procedure of separating State or regional, and local issues for determination in different types of Statements and Maps prepared under the coordination of different levels of authority.

- (c) Development Control Orders or Ordinances, which again can be prepared, adopted, administered and updated at different levels of authority for purposes of:
 - (i) ensuring minimum essential degrees of standardisation of environmental planning and management terms and procedures over the State, or a major region, as a whole;
 - (ii) specifying development control procedures and performance standards applicable to land designated on either State, regional or Local "Land Designation Maps".

- 8. It is recommended that the new legislation should provide procedures for coordinating the preparation, statutory adoption, implementation and updating of Written Statements of Objectives, Policies and Priorities; Land Designation Maps; and Development Control Orders; particularly by
 - (a) the central State environmental planning and management authority for matters of State-wide significance; and
 - (b) the Sydney City Council as the responsible environmental planning and management authority for the metro-centre, regardless of whatever procedures are adopted to coordinate the preparation, statutory adoption, implementation and updating of such documents at the level and scale of the "NSW Central Coast Region" or the "Sydney Region" as a whole, both of which encompass areas much larger than the County of Cumberland.

- 9. The Sydney City Council should have the rights to be informed and consulted, and to object formally, during the processes of preparation of any Written Statement, Land Designation Map or Development Control Order at the scale of the State or the Sydney Region as a whole. State authorities and the public should have the same rights to be informed and consulted, and to object, during the processes of coordination by the Sydney City Council of the preparation of any Written Statement, Land Designation Map or Development Control Order for the metro-centre.

- 10. The area within the boundaries of the City of Sydney, as the metro-centre of the State, should be designated, by legislation and administrative procedure, as a special Region or Sub-Region. Under no circumstances should metro-centre planning be dictated by any association of neighbouring Local Government Areas such as Woollahra, South Sydney, Leichhardt, Marrickville or North Sydney, because :-

- (a) the City of Sydney, as metro-centre, has a unique role, unique problems, needs and opportunities different from the roles, problems, needs and opportunities of the inner-ring of metropolitan suburbs and sub-centres surrounding the metro-centre; and
 - (b) as experience between 1948 and 1969 has proved, in any such association, the pressures, distractions or votes of those quite different areas prevent proper specialised attention being given to the special problems of the metro-centre, the area within the present boundaries of the City of Sydney.
11. The 1964-74 NSW planning and development control system has proved unsatisfactory because :-
- (a) it had the effect of centralising far too much detailed decision-making for each Local Government Area in a monolithic State bureaucracy, which found, in practice, that it could not coordinate all the environmental impacts of all special-purpose government authorities and other major developers within each and every Local Government Area;
 - (b) it took the backward step of trying to amalgamate all State, regional and local planning and development control requirements into a monolithic, standardised statutory instrument for each Local Government Area - the Statutory Planning Scheme Ordinance and Map. It proved impossible sensitively and promptly to adapt and vary each such document to meet the different needs of different areas or the changed circumstances of later periods or new attitudes;
 - (c) the monolithic, standardised system did not encourage statements of objectives, policies or priorities, made barely any provision for gaining the assistance of public participation or local knowledge in plan-making, and inadequate provision for giving statutory force to sensitive local detailed "action" plans coordinating positive local environmental improvements and/or incorporating sensitive "performance standards" for development control.
12. The proposed new system should stress the coordination of environmental planning and management at different levels of decision-making. It should, within the metro-centre decentralise to the Sydney City Council the tasks of interpreting, infilling, and implementing in local detail, different types of broad but statutory documents of different types, prepared, approved and monitored at State level.
13. The Sydney City Council should be the authority responsible for coordinating the preparation, gazettal and updating of the "corporate" strategic, or structure "plan" for the metro-centre of the State; detailed land designation or "zoning" maps for the City; and

detailed City development orders specifying sensitive "performance standards" for particular City Precincts. Special-purpose State authorities and the public would participate and the Minister would have power to "call in" particular matters for review and decision at Ministerial level.

14. The Sydney City Council should be designated as the responsible "regional" and local planning authority for the metro-centre, because :-
 - (a) there is only one organisation which concentrates its attention on the coordination and integration of public and private projects within the five square miles of the City. That organisation is the City Council;
 - (b) there is only one authority directly elected on a franchise which makes it highly sensitive to the problems and needs of the users of the City, its residents, tenants and property-owners. That authority is the City Council;
 - (c) unlike any State or region-wide government department or authority, the City Council's attention is not distracted by and fragmented among the problems and needs of a multitude of other localities;
 - (d) the City Council is the logical focal point at which all aspects of the City's problems and potentials can be brought together and seen most clearly as a whole;
 - (e) the City Council is the logical vehicle through which citizens and local interest groups can make known their problems, demands, policies and projects which affect the City. It is also the logical vehicle through which regional, State and national authorities and organisations, some with wider and higher responsibilities, but some with narrower, can make known their problems, demands, policies and projects which affect the City;
 - (f) the City Council is the logical filter through which discussion and debate of these normally conflicting problems, demands, policies and projects should pass. It is the logical body to coordinate decision-making on all these separate policies and projects which interact with one another within the five square miles of the City;
 - (g) the City Council has proven, by its initiatives and experience since 1970, its readiness to accept more responsibility, and its ability to use greater powers and resources effectively to unify and simplify the City's management.

This does not imply that the City Council should make the final policy decisions on all matters affecting the City. The Council is, of course, finally subject to the overriding policy decisions of State and national governments. But it does imply that the Council should have a voice and a role in the making of those policy decisions which affect the City, and far greater powers and resources to interpret and implement them in detail and in specific cases within the City.

15. All State agencies, contrary to the provisions of Schedule 7 of the existing statutory Planning Scheme Ordinance, should submit development applications for the approval of the City Council subject to the proviso that the Council cannot withhold consent or impose conditions without the concurrence of the Minister.
16. It is submitted that the bulk of the work required to produce the recommended three new types of statutory documents has already been done :-
 - (a) the recommended new statutory type of Statement of Objectives, Policies and Priorities for the Metro-Centre can be simply derived from the similar Statement and Structure Diagram which constitutes the 1974-77 City of Sydney Strategic Plan;
 - (b) the recommended new statutory Land Designation Map for essential State purposes can be simply derived or adapted, following further consultations with the relevant authorities, from the precise delineations of the following reservations and zones on the present statutory City of Sydney Planning Scheme Map :-
 - * Special Uses "A" and "B" for Federal and State purposes such as Defence; Port Purposes; University; Technical College; Education; School; Hospital; MWSDB; Public Buildings, Railways, etc, excluding items of minor or purely local significance;
 - * Special Use Reservations, where the land has not already been acquired;
 - * Reservations for County Roads, subject to consultations regarding possible amendments to some of these reservations;
 - * Open Space Reservations, except for areas of purely minor or local significance.

The Local Land Designation Map can be gradually adapted in stages from the zonings of the existing statutory scheme, as varied by the City Council in the light of Council's adopted strategic and action plans;
 - (c) Development Control Orders of State significance can be derived from the existing statutory ordinance, which would entirely remove the necessity for the bulk of referrals of individual development applications to State authorities. Local Development Control Orders could gradually be introduced to vary the existing ordinance by incorporating the recommended performance standards and codes arising from Council's adopted strategic and action plans.
17. A diagram illustrating the major principles and recommendations of this First Report is appended overleaf.

Appendix A

THE SYDNEY CITY COUNCIL'S 1970-75 INITIATIVES IN CORPORATE AND ENVIRONMENTAL PLANNING THROUGH "MANAGEMENT BY OBJECTIVES" FOR THE CITY - THE NEED FOR STATUTORY RECOGNITION TO BE GIVEN TO A REGULARLY UPDATED STATEMENT OF OBJECTIVES, POLICIES AND ACTION PRIORITIES FOR THE METRO-CENTRE, PREPARED BY THE CITY COUNCIL.

The City Council has proven, by its initiatives and experience since 1970, its readiness to accept more responsibility, and its ability to use greater powers and resources effectively to unify and simplify the City's management.

The Sydney City Council in 1970 did something quite without precedent in NSW. It took the initiative in evolving a new kind of City management process. This process is based on the relatively simple idea of "management by objectives". It proceeds through a three-yearly cycle of strategic planning and action.

The Council sought the assistance of authorities, community organisations and the City's citizens in designing this new process, and making it work. By August 2nd, 1971, the Council had researched, prepared and adopted by formal resolution, the City's first comprehensive Statement of Objectives, Policies and Action Priorities. The Council has since striven to move the City towards those Objectives, has bound itself to those Policies, and has worked to achieve those Action Priorities. The Council has sought and obtained the active participation of citizens and community organisations in its detailed planning for action throughout the City. The Council has invited other authorities to be guided by the Statement, and to participate and cooperate in its implementation.

The Council resolved to review and update the Statement in three years time, in 1974, in the light of practical experience gained in action, new information, changing circumstances and public response.

The Statement, as updated every three years, is called the "City of Sydney Strategic Plan". It has, as yet, no formal legal status, but it defines the Objectives and Policies which should guide and govern the exercise of existing legal powers, and indicates those new powers necessary for effective City management and planning. Most importantly, the Strategic Plan specifies the practical actions which should be given priority in the immediate future. These Action Priorities are the Council's short term, 3 year, "work program" for the City.

The Council's new process of City management by objectives is thus :-

- * systematic - it proceeds from the setting of long-term Objectives and medium-term Policies, to the achievement of short-term Priorities.

- * comprehensive - it deals with all aspects of the City's economic, social and physical environment under 16 Policies, ranging from Administration and Finance, through Public Transport, Roads, Parking and Pedestrian facilities, to Community Services and Pollution Control.

* continuous - it proceeds in three-yearly cycles of review of the City's problems and opportunities, the adoption of an updated Statement of Objectives, Policies and Priorities, followed by action to implement the Statement - and the gaining of experience and new information on which the next review is based. Given the current rate of change and evolution of concepts in City management and planning, this cycle-time is a practical one, which also logically fits the three year term of office for which each Council is elected.

* cooperative - it seeks to cooperate with other authorities and organisations in both setting and working to achieve Objectives, Policies and Priorities.

* open - it is widely publicised and participative at all stages.

The process is, nevertheless, responsibly independent - the Council does not hesitate to disagree, and to express such disagreement, with authorities or organisations whose policies or actions are not, in Council's view, likely to contribute to the most desirable future character of the City.

The City of Sydney Strategic Plan, or a document very similar to it, should have statutory force

The City's overall work program for each three year period is set out in an overall summary Statement of approximately one hundred sentences. For 1974-77, the Statement specifies four long-term Objectives, sixteen guiding Policies, and 88 short term Action Priorities.

This Statement has been determined by a comprehensive review of experience of success and failure over the three years since 1971 in implementing the 1971 Statement.

This review was carried out during 1973 and 1974 under the guidance of the City of Sydney Strategic Plan Review Committee, convened on the initiative of the City Council, comprising :-

Alderman Andrew Briger, Chairman
Alderman Leo Port MBE
Alderman Barry Lewis
Mr Nigel Ashton, Chairman, The State Planning Authority of NSW
Mr Frank Pogson, Undersecretary, Ministry of Local Government
Mr Ken Trott, Undersecretary, Ministry of Transport

The 1974 Statement is set out under four long-term Objectives for the City. These are :-

The first Objective - MANAGEMENT

Unify and simplify the City's management in the light of the Council's initiatives and experience since 1970.

The second Objective - ACCESSIBILITY

Create a balanced movement system in which the Central Spine is served by public transport and walkways, and fringed by parking stations and major roads.

The third Objective - DIVERSITY

Conserve and increase the diversity of community activities and services throughout the City.

The fourth Objective - ENVIRONMENT

Conserve, enhance and improve the physical environment of the City.

The Policies and Action Priorities under these objectives, together with the City Structure Diagram, constitute the kind of "guidelines" for the metro-centre of the State which should be given statutory force under new planning legislation.

Such guidelines would then provide the basis for the coordination of the work of all special-purpose authorities within the five square miles of the metro-centre. They would also provide a basis for the preparation, revision and implementation of detailed planning and development control documents by the City Council for each of the precincts of the City.

Appendix B

SOME EXISTING LEGAL IMPEDIMENTS AND ADMINISTRATIVE FRUSTRATIONS TO EFFECTIVE MANAGEMENT OF THE CITY'S ENVIRONMENT BY THE SYDNEY CITY COUNCIL, AND TO EFFECTIVE STATE-CITY COMMUNICATIONS AND DECISION-MAKING IN CITY PLANNING AND DEVELOPMENT CONTROL.

There are five main categories of legal impediments and administrative frustrations :-

Category 1

those arising from the most cumbersome and restrictive provisions of the City of Sydney Planning Scheme Ordinance, which enmesh the centralised State planning authority and the Minister in a host of consultations, concurrences and vetoes over particular development applications;

Category 2

those associated with the functioning of statutory bodies which have taken over aspects of City planning and environmental management, and on which the Council has only token representation, particularly the Height of Buildings Advisory Committee, which duplicates the Council's processes of dealing with major classes of development applications, but also including the CoSPAC and the SCRA;

Category 3

those arising from the Council's lack of power to translate Council's carefully researched overall Strategic Plan, detailed local action plans and codes into policy statements and development control documents having statutory force, thus varying the Planning Scheme Ordinance;

Category 4

those associated with the operations of the Local Government Appeals Tribunal, particularly those caused by (3) above; and

Category 5

those arising out of the fact that Council has no voice in the deliberations and decisions of those State agencies (such as the PTC, DMT, DMR, TAC, URTAC, MSB, Police Traffic Branch, and the various State educational and hospital development authorities) whose activities vitally affect the functioning of the City, and who are not in any way obliged to take cognisance of the City of Sydney Strategic Plan or the detailed local action plans and development control documents derived therefrom.

Category 1

Impediments and frustrations arising from the most cumbersome and restrictive provisions of the City of Sydney Planning Scheme Ordinance, which enmesh the centralised State planning authority and the Minister in a host of consultations, concurrences and vetoes over particular development applications.

These relate to the processing and making of decisions on individual development applications:

- * limitations on Council's powers to refuse consent to, or impose conditions on, those development applications which the Crown is not exempted from submitting (Clauses 34 and 43);
- * the need to consult with the central State authority on many types of applications, mostly of minor import (Clauses 35 and 59);
- * the power of the central State authority to veto particular types of development consents (Clauses 35 and 59);
- * the lack of appeal against the veto of the central State authority, following the recent Supreme Court decision in Parramatta C.C. v. Palmyra;
- * control of development within foreshore scenic protection areas (Clauses 35 and 38).

Development by the Crown or Public Utility Undertaking:

Agencies of the Crown or public utility undertakings are not required to make development applications for many kinds of development set out in Schedule 7 to the Planning Scheme Ordinance. Under Clause 34 of the Ordinance, the Council may not refuse to grant any development application made to it by the Crown or a public utility undertaking or a statutory body or the Totalizator Agency Board, nor attach conditions to its consent to any such application, except with the concurrence of the Minister.

The provisions of Clause 63 of the Ordinance prevent the Council from restricting or prohibiting the use of existing buildings of the Crown and from controlling the operations of the Commissioner of Main Roads (currently being reconstituted as the State Roads Authority).

Under Clause 43, the Council may not refuse to grant consent to development in the Special Uses (Port Purposes) zone or impose any conditions on the granting of such consent, except with the concurrence of the Minister.

Under Clause 35(2), the Council may not determine any application for development in any part of a Waterfront Industrial 4(c) zone until it has consulted with the MSB (currently being reconstituted as the Ports Authority). In determining the application, Council must take into consideration any representations made by the MSB (Ports Authority).

The Maritime Services Board (Ports Authority) considers itself exempted by Schedule 7 (paras 4 and 5) to the Planning Scheme Ordinance, from having to apply for development consent for its own undertakings. The MSB also claims to control all development below high water mark, such as for jetties and marinas.

It is conceded that the Maritime Services Board (Ports Authority) has set up a Foreshores Building Committee of Advice on which the Council is represented. By letter 69/1701 dated 17th January, 1975, the MSB has agreed to take into consideration the objectives of the City of Sydney Strategic Plan and the Council's action plans, but the tone of the Board's correspondence with the Council does not encourage hope for any significant notice being taken of Council's policies or plans.

The situation might be met by a requirement that the MSB (Ports Authority) shall not permit development by agencies other than itself, for any purpose except essential port purposes, whether above or below high water mark on or adjacent to the City boundaries, unless and until the consent of the Council has been obtained.

Works carried out by the MSB in the Special Uses (Port Purposes) zone specifically for port facilities should require an application for Council's consent subject to the proviso that the Council cannot refuse or impose conditions except with the concurrence of the Minister.

Requirements for consultation:

Under the existing Planning Scheme Ordinance, the Council must consult with the centralised State planning authority (now the PEC) on a number of types of development applications set out in Clause 35 :

"35. (1) The responsible authority before determining any application made to it under this Ordinance for consent to carry out the following development of land, that is to say -

- (a) all development, except residential development which does not comprise the erection of a building containing more than four flats, on land having frontage to a main road or county road;
- (b) all development, except residential development which does not comprise the erection of a building containing more than four flats, on land having frontage to a road connecting with a main road or county road which frontage is wholly or partly within three hundred feet, measured along the road alignment of such connecting road, of such main road or county road;
- (c) the erection of a building or group of buildings to be used wholly or partly as commercial premises where the total floor space in such building or group of buildings exceeds 20,000 square feet;
- (d) the erection of a building or group of buildings to be used wholly or partly as a shop where the total floor space of such building or group of buildings exceeds 15,000 square feet;
- (e) hotels, transport terminals, bulk oil terminals, television and broadcasting transmitters and relay stations, heliports, aerodromes and airports;
- (f) all development within a Foreshore Scenic Protection Area;

shall consult with the Authority and shall take into consideration any representations made by the Authority in relation to the proposed development.

Where the application relates to development referred to in paragraphs (a) to (d) inclusive of this subclause, or to development for the purpose of heliports, aerodromes or airports or to development on land between Billyard Avenue and the foreshore of Elizabeth Bay, the responsible authority shall not consent to the development without the concurrence of the Authority."

By letter dated 27th August, 1972, and by subsequent correspondence, the SPA stipulated complex conditions under which the Council may assume the SPA's (now the PEC's) concurrence under Clause 35(1)(a) to (d) inclusive within the City, except where concurrence is required under Clause 59.

The indirectness of consultation with a centralised State bureaucracy involves much administrative effort, and yet results in poor communications beset by delays and misunderstandings.

Requirements for concurrence:

Concurrence of the central State planning authority (now the PEC) is required under Clause 35 to certain kinds of development and to all kinds of development on the land between Billyard Avenue and the foreshore of Elizabeth Bay.

Great areas of the City are now either on or within 300 feet of a main or county road, within which all Development Applications, even minor ones for change of use, must receive the concurrence of the Authority.

Even relatively small developments in the City commonly contain more than 200,000 square feet of commercial floor space or else contain a shop and comprise more than 15,000 square feet. The great volume of such applications requiring concurrence will be appreciated.

It has never been explained why the Ordinance specifically prohibits Council control of development over the 13 residential lots between Billyard Avenue and the foreshore at Elizabeth Bay. These 13 lots are subject under the Statutory Scheme to a Foreshore Building Line and to a Height Limit of 50 feet above Standard Datum. Billyard Avenue itself is at RL45 for a considerable part of its length, and falls to RL15 at Ithaca Road.

Clause 35 should now be stricken from the Ordinance, and any essential concurrences of relevant technical authorities concerning transport terminals, bulk oil terminals, television and broadcasting transmitters and relay stations, heliports, aerodromes and airports should be sought by the City Council directly from those technical authorities, rather than indirectly through the cumbersome machinery of the central State planning authority.

Clause 59 of the Ordinance still requires the City Council to obtain concurrences of the PEC to all development inside the County Centre Zone in areas shown on the Scheme Map by broken blue edging and also in all areas zoned Residential 2(d), 2(e), 2(f) and 2(g), as well as the following areas within the County Centre Zone :-

- (a) all the land north of Bridge Street to Circular Quay;
- (b) the area off Railway Square bounded by George, Hay and Thomas Streets, together with a small area adjacent to the Southern Expressway, Broadway and Wattle Street;
- (c) Woolloomooloo.

The Residential areas within the City affected by Clause 59 are the tiny piece of 2(d) zoning on the Pyrmont peninsula, another small area of 2(d) zoning next to RPA Hospital, and the 2(c) zoning atop the King's Cross Road Tunnel.

The SPA's letter of August 27th, 1972, referred to above, stated that "when a detailed plan has been prepared and approved by the Minister for these areas, steps will be taken to reduce, if not to eliminate, the necessity for consultation in those areas". (It should be noted that Clause 59 makes absolutely no reference to any need for any plans of any sort to be approved by the Minister.)

Why should steps not be taken now? Detailed development control plans and codes for these areas can be codified from the results of the SPA's years of deliberations, and Council's detailed action plans, and Council empowered to control development in accord with such plans.

The absurdity of current procedures under Clauses 35 and 59 of the 1971 City Scheme Ordinance can be demonstrated by reference to many cases which simply waste the time of both the Authority and the Council. One typical example is as follows :-

Development Application for Change of Use from a cafe to a shop for the sale of fishing tackle at 16-18 Quay Street, Haymarket, involving alterations to shopfront and awning costing \$3,000.

Concurrence Required under Clause 59.

| | |
|--|-------------------------|
| Date of Receipt of Development Application by Council | <u>July 12, 1972</u> |
| Referred by Council to SPA | <u>July 18, 1972</u> |
| Receipt of Reference acknowledged by SPA | <u>October 26, 1972</u> |
| Council Consent granted under powers delegated by Council to Council Staff | <u>November 8, 1972</u> |
| Time taken by SPA to give concurrence | <u>3 months 1 week</u> |
| Total time taken to issue Consent | <u>4 months</u> |

All cases of this and similar kinds under Clauses 35 and 59 are a waste of time for both the central State authority and the Council, force unnecessary delays onto Applicants, and tend to bring the development control processes as a whole into disrepute.

The greatest number of references for concurrence arise from Clause 35(1)(a) and (b), which cover development on or within 300 feet of main or county roads. Not infrequently, formal written replies to such references deal with matters which have nothing to do with main or county roads, traffic or traffic access. The formal replies often refer to zoning aspects of the Application, or to the landscaping of the site. In some instances, replies by the central State authority do not answer the basic question of whether or not concurrence is granted, thus necessitating the further paperwork of a further referral. Needless administrative work could be avoided if the number of matters to be referred for concurrence could be severely curtailed, and if answers to the remaining referrals could be kept to the point.

Appeals against refusals of concurrence:

Prior to the recent Supreme Court judgement which stated that, under existing legislation, there is no right of appeal against a refusal of the State planning authority to concur in a consent, such appeals were heard by the appellate body. In many such cases, the Council had to bear the responsibility and the full costs of defending the appeal, without evidence being offered or costs borne by the State authority. If new legislation gives rights of appeal against the veto of a development application by a body other than the City Council, it is only proper that such body should be obliged to defend, and pay the costs of defending, all such appeals.

Foreshore Scenic Protection Areas:

Consultation with the central State authority is currently required over any development in the City's Foreshore Scenic Protection Area. The concurrence of the central State authority is required to any consent for development within the area between Billyard Avenue and Elizabeth Bay. Consultation means delay. The City Council is now fully seized with the importance of foreshore scenic protection and it is time for development control powers in these areas to be fully restored to the Council.

Category 2

Impediments and frustrations associated with the functioning of statutory bodies which have taken over aspects of City planning and environmental management, and on which the Council has only token representation, particularly the Height of Buildings Advisory Committee, which duplicates the Council's processes of dealing with major classes of development applications, but also including the CoSPAC and the SCRA.

The Height of Buildings Advisory Committee (HOBAC):

The Height of Buildings (Metropolitan Police District) Act, 1912, provides for the appointment of a Height of Buildings Advisory Committee. The Act requires that :

"4.(1) A building shall not -

- (a) be erected of a greater height than eighty feet unless the skyline and the plans of such building have been approved by the Minister;
- (b) under any circumstances be erected of a greater height than one hundred and fifty feet unless the skyline and the plans of such building have been approved by the Minister upon the recommendation of the Committee."

It should be noted that the Act binds the Crown, and under Section 4(1)(b) above, the Minister himself is bound by the recommendations of the Committee.

The Height of Buildings Advisory Committee (HOBAC) consists of ten members appointed by the Governor with qualifications as set out in Section 4B(2) of the Act. One of the ten members is the City Building Surveyor, the only Council representative on a development control body which duplicates and can veto the development control processes of the City Council.

The matters which HOBAC may take into consideration in its consideration of applications for approval to erect a building of a greater height than 80 feet or to rebuild, reconstruct or increase a building to a greater height than 80 feet are set out in Section 4C. They are extraordinary in their scope and detail. They involve anything and everything, even aesthetic control. In no way can they be said to be restricted to matters of metropolitan significance.

In respect of a large proportion of applications, a developer is confronted with the necessity of obtaining both development consent from the City Council and the approval of HOBAC.

The inclusion of fire prevention provisions in Ordinance 70 has provided standards and has reduced the work of HOBAC in respect of fire precautions.

The reference of development applications to HOBAC greatly delays the process of approval, and completely duplicates work which can and should now be carried out, for development within the City, by the City Council.

As indicated by Ministers on several occasions over recent years, HOBAC can now either be completely abolished or, alternatively, the City of Sydney can be excised from its area of jurisdiction.

The Parking Advisory Committee for the City of Sydney (CoSPAC):

This is a statutory body established pursuant to Section 270D of the Local Government Act. It now consists of representatives of the Minister for Planning and Environment (currently the Chief Planner of the Planning and Environment Commission), the Commissioner of Police, the Commissioner for Motor Transport, the Public Transport Commission, and the Sydney City Council.

The Parking Advisory Committee has superior powers to Council in decisions on the control of on-street and off-street parking within the City, the location and number of parking meters, charges at parking meters, the development and operation of parking stations and other matters.

The City Council, by devising its Parking Policy and Parking Control Code, first adopted by resolution of Council on December 6th, 1971, has demonstrated its competence and ability in the control of parking within the City. The State Government's Parking Advisory Committee, like HOBAC, served a useful purpose in the early years of the evolution of City planning policy. It has now outlived that usefulness, and should be disbanded.

Control over all aspects of parking within the City can now properly be returned to the Sydney City Council.

The Sydney Cove Redevelopment Authority (SCRA):

This authority was constituted by a special Act of Parliament to develop the East Rocks area at Sydney Cove. One of the six members of the Authority is a representative of the Sydney City Council.

However, the Act exempts the SCRA from the jurisdiction of the Sydney City Council in respect of all matters of planning and development control. As in similar cases where ad hoc development authorities are exempt from coordination and control by the City Council, this experiment has not proven successful. If the developments of ad hoc authorities are to be coordinated with the development of the City as a whole, they should not be completely exempt from the coordination and control of the body charged with responsibility for the City as a whole, that is, the City Council.

The presence of one member of the City Council on such ad hoc authorities is no substitute for development control, and coordination with the City as a whole, by Council itself.

Category 3

Impediments and frustrations arising from the Council's lack of power to translate Council's carefully researched overall Strategic Plan, detailed local action plans and codes into policy statements and development control documents having statutory force, thus varying the Planning Scheme Ordinance.

New legislation must decentralise power, and simplify administrative procedures, for varying matters in statutory planning documents which are not matters of significance to the whole of the Sydney region or the State as a whole.

The Local Government Act in S.342Y provides a theoretically simple procedure for changing the provisions of a prescribed scheme. In effect it allows for suspending the provisions of the scheme and the making of an interim development order designed to permit development prohibited by the scheme to meet the particular circumstances. The change can be incorporated in a formal varying scheme at some later date.

A Council desiring a suspension makes application to the Minister through the central State planning authority. In theory the Minister determines the matter on the advice of the central State authority. Since it is difficult to imagine a Minister rejecting the advice of his technical advisers except for strong considerations of political policy, to all intents and purposes, the central State bureaucracy makes the decision.

Centralised administration isolates the decision-makers far from the scene of local problems. At present there is no appeal from a decision not to suspend the scheme and this tends to make the staff of the central State authority dictatorial and arrogant in these matters. There appears to be, within the authority, a built-in resistance to change of any kind to a prescribed planning scheme, even to the extent of ignoring evidence submitted or not giving due weight to the evidence if the evidence indicates the need for a change.

It is proper that a statutory scheme, prescribed after lengthy procedures designed to ensure its perfection, should not be lightly varied. On the other hand planning, to be successful, must be a continuing process having due regard to changing circumstances and changing public attitudes. Plans must be updated as new information becomes available, particularly from the local detailed action planning program of the City of Sydney.

Pursuant to the City of Sydney Strategic Plan of 1971, the City Council has prepared detailed local "action plans" for most of the City's precincts containing significant residential areas. The "action plans" include recommendations for changes in local zonings and development control codes.

By October, 1974, the City Council had adopted Action Plans for the Surry Hills Residential Village, Surry Hills West, South Paddington, Newtown, Darlinghurst, Kings Cross and the Centennial Park (residential) Precincts. Other Action Plans in hand include those for Woollahroomooloo, Ultimo, Pyrmont, the West Rocks, Oxford Street, Flinders Street, Stanley Street, Chippendale, Camperdown, and the Elizabeth Bay/Potts Point Precincts.

The City Council's local action planning program has been carried out with great care, based on exhaustive research and the full consultation and active involvement of government authorities, interested citizens, developers and resident action groups.

Because the procedures for obtaining the approval of the Minister to suspend or vary the statutory planning scheme are so cumbersome, the "rezoning" and development control recommendations of the detailed plans and codes have as yet no legal force.

The City Council is thus being frustrated by its lack of power to fully control development in accord with sensitive, up-to-date plans prepared with great care and with high degrees of citizen participation.

New legislation must rectify this situation.

Essential changes in the Council's statutory planning scheme could be quickly carried out under existing legislation if the central State planning authority were willing to expedite its processes of advising the Minister, but because it is dilatory or passively resistant, long delays occur. Meanwhile, the old and out of date provisions of the scheme retain their statutory force. The Local Government Appeals Tribunal is not empowered to disregard documents with statutory force.

Hence, Council currently administers development control in accord with the recommendations of its carefully researched and up to date detailed local plans and codes. Yet Council's decisions can be, and are, upset by the Local Government Appeals Tribunal, which must adhere to the statutory provisions of the outdated statutory scheme.

The present system is one where nothing in a statutory scheme, even a matter of local detail, can be changed unless and until the change wends its way upward through a central bureaucratic pyramid to the Minister.

The new legislation should embody the principle of never having anything decided by a higher, or more centralised authority, if it can at all reasonably be carried out at a lower, or more decentralised level.

Authority to change statutory matters of local significance within the City should be fully delegated to the City Council. If any review or oversight by higher authority is considered necessary, the principle of "management by exceptions" should apply. The initiative for preparing, exhibiting, receiving and ruling on objections to, and gazetting changes should lie with the City Council, subject to the right of the Minister to veto or amend such changes within a statutory period of, for example, sixty days.

The State Government should but may not be, willing to fully delegate to the City Council acting alone, with or without the subsequent right of the Minister to veto or amend. In that case, the review power should be delegated to another person or body closer to the local scene, able to communicate more directly with the City Council than the centralised overall State planning authority.

Delegation could be to an independent Commissioner appointed by the Minister; or a statutory Review Committee comprising, say, three representatives of the City Council and three representatives of the Minister. Any one of these alternatives would tend to reduce the remoteness of, and the difficulty of communicating with, the centralised State planning authority, which seem to be the causes of the central authority's brickwall resistance to suggestions for change made by the City Council.

Category 4

Impediments and frustrations associated with the operations of the Local Government Appeals Tribunal, particularly those caused by Category 3 above.

Any planning scheme requires decision-making on the part of the authority charged with its implementation. The more flexible and relaxed the planning controls, the greater the degree of discretion to be exercised. It is difficult for any authority to appear completely impartial and no authority can claim to be infallible. No matter how carefully and conscientiously it may perform its functions relating to development, it is inevitable that the Council's decisions will be challenged on the grounds of validity, reasonableness and competence. So that justice may be seen to be done, it is essential that there should be some provision for appeal against those decisions.

Obviously any tribunal to which such an appeal would lie should be seen to be completely impartial. In addition, it should be capable of resolving the legal issues and competent to assess the technical factors involved. It should be able to take over and make decisions in the event of a reluctant or dilatory responsible authority failing to deal with a matter within a reasonable time.

The Local Government Appeals Tribunal was established by the Local Government (Appeals) Amendment Act, 1971. The Tribunal commenced to function in November, 1972. Decisions of the Tribunal are final but an appeal lies to the NSW Supreme Court on questions of law.

The Tribunal has jurisdiction to hear appeals and objections relating to :-

- * neglect and delay of Council to make a decision within the prescribed period;
- * decisions of Council with regard to development consent, subdivision and buildings (Local Government Act Parts XI, XII and XIA);
- * Objections against -
 - (a) Provisions of ordinances relating to the erection of buildings (LGA S.317M)
 - (b) Minimum requirements of ordinances (LGA S.342NA);
- * decisions in relation to advertisements (LGA S.510);
- * orders to fence swimming pools (LGA S.288C);
- * orders to fence dangerous waterholes (LGA S.289M);
- * orders to make provision for fire prevention measures and fire-fighting equipment in a building (LGA Ss.317D, 317E);
- * decisions made by Council under the Local Government (Regulation of Flats) Act;
- * refusal of an application, approval subject to conditions or failure to notify its decision within 40 days relative to an application for a proposed Strata plan of subdivision or a conversion to Strata Title, under Section 40 of the Strata Titles Act.

The powers of the Tribunal relating to the hearing and determining of an appeal are set out in Section 342BF of the Local Government Act. The following are particularly relevant :-

"342BF. (1) A board shall for the purposes of hearing and determining an appeal have all the powers, authorities, duties, functions and discretions which the person or body whose decision is the subject of the appeal had in respect of the matter the subject of the appeal.

"(2)(k) by its decision confirm, amend, vary or disallow any decision appealed against or dismiss the appeal; or
(1) if the appeal relates to any application made to a council or responsible authority, determine, subject to subsections (1) and (5), the application in such manner as it thinks fit.

"(4) In the exercise and discharge of its powers, authorities, duties, functions and discretions a board shall not be bound to follow strict legal procedure or to observe the rules of law governing the admission of evidence.

"(5) In making its decision a board shall have regard to this Act, the ordinances, the circumstances of the case and the public interest."

From an examination of the reported decisions of the Tribunal, it is clear that the Tribunal assumes that sub-section (5) gives a very wide discretion where the appeal involves matters of opinion.

The general rules governing the exercise of a Council's powers have been laid down by Courts or defined by legislation and are set out here so that they can be considered in relation to the powers, authorities, duties, functions and discretions of the Tribunal :-

- (a) Council must keep within the powers conferred by any Act and must conform with the requirements of any ordinance, regulation or other subordinate legislation;
- (b) any decision must be arrived at in accordance with prescribed procedures and within time limits laid down;
- (c) Council must not base its decisions on extraneous considerations. Generally, moral and economic considerations and the past history of an applicant have been held to be extraneous but may be relevant in special cases. Normally the factors the Council is entitled to consider are specified by an Act or gazetted ordinance under an Act. Any conditions imposed by Council must be directly related to such factors;
- (d) Council is required to consider any application which comes before it strictly in accordance with the merits of the case. Any policy resolution cannot over-ride this requirement. An adopted policy is simply one of the factors to be considered;
- (e) Council cannot fetter its discretion in advance by resolving that matters coming before it will be decided in a certain way, eg. even

though the Council may have a Parking Code, unless that Code is gazetted, it must still consider the merits and depart from the Code if the particular circumstances require such action.

The most significant decisions made by the Tribunal indicate that precedents laid down prior to 1972 by the Land and Valuation Court are being consistently followed. However, while still following precedent, there are areas in which the Tribunal can exercise a wide discretion and seriously affect Council's planning processes.

In particular, there are situations with which the Sydney City Council is concerned. They are :-

- (a) the weight to be given to a varying scheme in the course of preparation;
- (b) the weight to be given to the City of Sydney Strategic Plan;
- (c) the weight to be given to the City Council's action plans and detailed development control plans; and
- (d) the weight to be given to regulatory codes and policy decisions of Council.

Council is frustrated by its lack of power, de jure and de facto, to vary provisions of the statutory planning scheme so as to make action plans effective. There are parts of the City where certain classes of development permissible under the Statutory scheme ought not to be permitted and where uses at present prohibited ought to be permitted.

The Tribunal has only minor powers to vary the provisions of a prescribed scheme. These are limited to the exercise of discretion regarding certain "minimum requirements" (as defined in Section 342NA of the Local Government Act). These can be modified if the Council agrees with the Tribunal pursuant to Section 342NA(3).

On November 8th, 1971, Council resolved to prepare a scheme to vary the City of Sydney Planning Scheme as prescribed in Government Gazette No.78 of July 16th, 1971. A copy of Council's resolution is given below :-

3251/71. City of Sydney Planning Scheme—Proposed preparation of varying scheme to implement policies, etc. of City of Sydney Strategic Plan.

- (a) That with a view to placing the Council in the strongest possible legal position to enforce decisions on City Planning and Development Control, approval be given in accordance with the provisions of Section 342C of Part XIIA of the Local Government Act, 1919, as amended, to the preparation of a Scheme to vary the City of Sydney Planning Scheme as prescribed on the 16th July, 1971, in the light of the Objectives, Policies and Action Priorities contained in the City of Sydney Strategic Plan and in the light of Action Plans, Development Control Policies and Codes adopted by resolutions of Council.
- (b) That, in accordance with Section 342C(2), a copy of part (a) of this resolution be forwarded to The State Planning Authority of New South Wales within fourteen (14) days.
- (c) That, in accordance with Section 342C(3), notice of the resolution be given as prescribed by Ordinance 107 and the required concise statement of the effect of the resolution be "The preparation of a varying scheme to vary the City of Sydney Planning Scheme as prescribed on the 16th July, 1971, in the light of the Objectives, Policies and Action Priorities contained in the City of Sydney Strategic Plan and in the light of Action Plans adopted by resolutions of Council".

- (d) That, in accordance with Section 342C(3), the land to which the resolution applies be defined as the whole of the City of Sydney as now prescribed.
- (e) That the City Planner be directed to confer with Council's Planning Consultants in the drawing up of a list of matters considered necessary to be included in the varying scheme.
- (f) That resolution of Council of the 11th October, 1971, be and the same is hereby rescinded.

Carried.

The Council has completed an extensive program of "action" planning for the various City precincts. Action plans perform three functions :-

- * they are part of the process of preparing a varying scheme;
- * they include detailed development control plans and codes; and
- * they seek to coordinate the planning and operations of public works and public services within each precinct.

Changes needed to the statutory Scheme emerge as detailed action planning proceeds and as a result of experience gained in the implementation of the Scheme.

One problem being encountered by the Council in implementing its planning lies in the difficulties and delays experienced in varying the Statutory Scheme. This matter has been discussed under Category 3 herein.

The attitude of the Tribunal towards varying schemes, detailed development control plans, codes and policy resolutions, based on an examination of recorded decisions, would seem to be :-

- * the Tribunal is prepared to follow the Land and Valuation Court's principle that the weight to be given to a varying scheme "must vary in significance according to the particular town planning objective which the scheme seeks to achieve and the stage of completeness which the scheme has reached at the relevant time";
- * the Tribunal will recognise only "imminent certainty of prescription" of a zoning prohibiting a use as sufficient to warrant refusal of consent on that ground alone;
- * the Tribunal considers that the weight to be given to zoning within existing and proposed schemes is only one factor to be taken into consideration and that it must consider the totality of the evidence in arriving at its decision. Although proper regard should be had to a scheme in the course of preparation, it is but one consideration and total reliance cannot be placed thereon to the exclusion of all other factors which the Council and the Tribunal are statutorily bound to take into account;
- * the Tribunal is inclined to give some weight to the provisions of the City of Sydney Strategic Plan and action plans as one, but not a decisive, factor in its deliberations;

- * the Tribunal is likely to give little weight to proposed planning changes indicated merely by a policy decision of Council. There must be certainty that a change will eventually be prescribed. It is not open to Council to over-ride or cut down the provisions of a prescribed planning scheme by a policy resolution;
- * the Tribunal "will give due weight to a code where its planning merit can be demonstrated and which the Council has caused to be administered in a consistent manner".

This situation is most unsatisfactory, not so much because of the attitude of the Tribunal, but because of the relative powerlessness of the City Council to vary the existing prescribed planning scheme to achieve statutory recognition of its adopted strategic plan, detailed development control (or "action") plans and codes, and its policy resolutions.

Category 5

Impediments and frustrations arising out of the fact that Council has no voice in the deliberations and decisions of those State agencies (such as the PTC, DMT, DMR, TAC, URTAC, MSB, Police Traffic Branch, and the various State educational and hospital development authorities) whose activities vitally affect the functioning of the City, and who are not in any way obliged to take cognisance of the City of Sydney Strategic Plan or the detailed local action plans and development control documents derived therefrom.

This category of existing legal impediments and administrative frustrations focusses on matters which are mostly NOT covered by the statutory planning scheme ordinance.

They mostly concern the traditional attitudes and privileges of special purpose State Government instrumentalities in carrying out their special functions normally without any consultation at all with Local Government, or with a supreme lack of serious regard for the views, representations or ideas of Local Government Authorities.

The autonomy and independence of such ad hoc State authorities may well have been justified in earlier, pioneering days. They may still today be justified in certain areas of the State.

They are, however, certainly completely outmoded and destructive within the complex "metro-centre" of the State, and with respect to a Local Government Authority of the demonstrated calibre of the Sydney City Council.

The City and the State suffer badly by the lack of coordination in the planning and operating of major works and services within the metro-centre of the State. Such works and services include :-

- * the planning of the major arterial road and freeway network within the City, its integration with the local street and parking system, and with the social, economic and environmental problems and needs of the City;

- * the control of vehicular and pedestrian traffic on the street system within the City, including such matters as :-
 - (a) the installation and phasing of traffic lights;
 - (b) the positioning and uses of parking meters and kerbside zones;
 - (c) directional traffic flows in City streets;
 - (d) the degrees of priority to be given to public transport, delivery and essential services vehicles, and pedestrians;
 - (e) the degree to which through-City traffic is permitted or encouraged to use local streets;
 - (f) the closing of local streets to through-traffic;
 - (g) the widening of footpaths and the narrowing of carriageways; and
 - (h) the conversion of carriageways to pedestrian use, or for mini-parks or playgrounds;
- * the location and design of "things in the street", including poles, pipes and wires and the many species of street furniture;
- * the planning, coordination and operation of public transport services and facilities, and their integration with other aspects of City development, such as the use of streets and parking facilities, not only including major matters of long-term and/or metropolitan significance, but also matters such as the provision of innovations by way of special intra-city public transport services; the development of "air-rights" over lands owned by the Public Transport Commission; the improvement of existing railway station concourses and facilities, and their integration with pedestrian networks planned by the City Council; down to matters of such local detail and local importance as the location of bus routes and the positioning of bus stops;
- * the planning and development of lands designated for "special uses" of all kinds :- Port Purposes; Education; Technical College; University; School; Hospital; Law Courts; Public Buildings; and Defence; particularly the planning of institutions for tertiary education, such as the plans of State education authorities for large-scale central expansion of the Sydney Technical College and the NSW Institute of Technology in Ultimo; the expansion of the NSW Teachers College at Newtown, displacing residential uses; and the expansion of large scale hospital facilities elsewhere in the City.

Authority for the above matters within the City of Sydney is divided between the following Ministers, authorities and committees :-

The Minister for Transport and Highways:

Ministry of Transport;
 Public Transport Commission;
 Department of Motor Transport;
 Department of Main Roads (currently being reconstituted as the State Roads Authority);
 The Urban and Regional Transportation Advisory Committee;
 The Traffic Advisory Committee.

The Minister for Local Government and Tourism:

administers all of the Local Government Act relevant to the City except Part XIA, Town and Country Planning Schemes; and the City of Sydney Parking Advisory Committee. The Minister for

Local Government has power to veto local street closures.

The Minister for Public Works and Ports:

The Maritime Services Board (currently being reconstituted as the Ports Authority of NSW).

The Minister for Education:

Department of Technical and Further Education;
Advanced Education Board (Colleges of Advanced Education).

The Minister for Lands and Forests:

The Minister for Lands controls land dedications and titles within the City, particularly, for example, with respect to changing the dedication of streets such as Martin Place from the status of "public roads" to "public recreation space".

The Minister for Police and Services:

Police Department (Traffic Branch).

The Minister for Health:

The Health Commission (responsible for hospitals).

Other matters of particular relevance to the City come under the control of the Minister for Culture, Sport and Recreation, the Minister for Agriculture (the Botanic Gardens and the Domain), the Sydney County Council and the Metropolitan Water Sewerage and Drainage Board.

"Planning" is largely a matter of coordination. Coordination is itself largely a matter of communication.

To achieve effective communication, communication channels are necessary. At State policy-making level, the Cabinet provides the highest channel for coordination and communication between Ministers.

With regard to the coordination of planning for the physical environment, the Planning and Environment Commission is logically the body to coordinate; and the logical channel for communications regarding matters of significance at the overall State level, and the overall Sydney Metropolitan level.

However, the most logical channel and focal point of communications and coordination of matters affecting the area within the boundaries of the metro-centre of the State, the City of Sydney, is NOT a State level authority. Such an authority needs to focus its attention on communications and coordination of all matters within that limited geographical and functional area.

The Sydney City Council should be designated as the responsible "regional" and local planning authority for the metro-centre, because :-

- (a) there is only one organisation which concentrates its attention on the coordination and integration of public and private projects within the five square miles of the City. That organisation is the City Council;
- (b) there is only one authority directly elected on a franchise which makes it highly sensitive to the problems and needs of the users of the City, its residents, tenants and property-owners. That authority is the City Council;
- (c) unlike any State or region-wide government department or authority, the City Council's attention is not distracted by and fragmented among the problems and needs of a multitude of other localities;
- (d) the City Council is the logical focal point at which all aspects of the City's problems and potentials can be brought together and seen most clearly as a whole;
- (e) the City Council is the logical vehicle through which citizens and local interest groups can make known their problems, demands, policies and projects which affect the City. It is also the logical vehicle through which regional, State and national authorities and organisations, some with wider and higher responsibilities, but some with narrower, can make known their problems, demands, policies and projects which affect the City;
- (f) the City Council is the logical filter through which discussion and debate of these normally conflicting problems, demands, policies and projects should pass. It is the logical body to coordinate decision-making on all these separate policies and projects which interact with one another within the five square miles of the City;
- (g) the City Council has proven, by its initiatives and experience since 1970, its readiness to accept more responsibility, and its ability to use greater powers and resources effectively to unify and simplify the City's management.

This does not imply that the City Council should make the final policy decisions on all matters affecting the City. The Council is, of course, finally subject to the overriding policy decisions of State and national governments. But it does imply that the Council should have a voice and a role in the making of those policy decisions which affect the City, and far greater powers and resources to interpret and implement them in detail and in specific cases within the City.