
**The Battle Over Land Use:
An Ideological, Political, and Legal Analysis of
Urban Planning in Sydney**

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Introduction

This paper aims at analysing the ideological, political, and legal background of urban planning on the basis of empirical research on the rezoning of industrial sites in Balmain in Sydney, which has become a contentious issue in recent years. Balmain became a test for the state government policy on urban consolidation. The rezoning in Balmain became a major issue because several giant corporations (Monsanto, Caltex, Unilever, and Balmain Power Station) were involved, with the approval of state government of NSW, against the residents groups and local government of Leichhardt. The state government, the council, the developers, and the residents have been fighting for the right to decide the case. It is interesting to examine in what legal based the laws, the ideological, and political contested on the urban planning. This chapter will analyse a structure of the urban planning from the legal perspective and the theory of the social function of urban planning in Sydney generally, and in some detail will refer to the Balmain case.

Jurisdiction of Land and Environmental Planning

Controls over residential districts, residential flat buildings, and other buildings are dealt with through environmental planning. In modern western countries, there are many demands for environmental Planning which have developed out of concern for such matters as :

1. preservation of a worthwhile environment for individual (the preservation and enhancement of amenity).
2. protection of the environment generally
3. conservation of resources.

4. co-ordination and planning of transport and industry.

All of those matters are of considerable concern, and even more pressing today. Actually, there is no major city in Australia, with the exception of Canberra, has been planned from the outset and so the planners have had to work within an established pattern of existing property rights and residential and industrial development. Consequently, the governments (state/local) face a situation which the bodies appeared to prize "development" above all other consideration.

Planning and Politics

It is not a new phenomenon in the Leichhardt Municipality that the resident groups opposed the plan which was gazetted by the council. The problem is that chief among the residents perceived threats to the Municipality is statutory town planning and what is called "development control". There has been a town plan of sorts legally controlling all development in the Leichhardt Municipality since 1951, when the county of Cumberland Planning Scheme was gazetted. In the Scheme local councils were required to prepare their own detailed plans. A plan was prepared by the Council and placed on public exhibition in 1968 for land owners to object (Harris, 1980). In the same year, Glebe was added to the Leichhardt Municipality from the City of Sydney. A planning scheme for Glebe was gazette in 1971. The plans were based on premises:

1. the residential areas were outmoded and needed wholesale redevelopment for flats and home units;
2. the traffic problems were best solved by new freeways;
3. the proper use of the waterfronts was for port activities.

The plans was objected to by residents groups (The Glebe Society, The Balmain and Ananndale Associations). The council refused to accept the objections, for none of the groups were property owners. The dispute between residents groups and the council affected the outcomes of 1971 council elections. The residents groups and their supporters found themselves in control of the council (Harris, 1980).

In 1989 the rezoning proposal of the five industrial sites in Balmain were gazetted. Residents groups were opposed to the redevelopment of the sites, and as in 1971 elections aldermen who were pro-development lost their seats at the 1991 elections. Subsequently, the council supported the residents groups against the Minister for Planning in the NSW state government.

Under the Environmental Planning & Assessment Act (EPA Act 1979) there are three different types of environmental planning instruments. These are State Environmental Planning Policies, Regional Environmental Plans and Local Environmental Plans. Under the legislation each instrument, state, regional and local, imposes legally binding controls on land use that operate simultaneously. There also may be more than one policy or plan operating at each level. The policies or plans need not be attached to particular land but may have general application. If there is an inconsistency between plans there is a general presumption that a state policy prevails over a regional environmental plan or a local plan, and that a regional plan prevails over a local plan. However, for the purpose of resolving such inconsistencies there is a provision that a later instrument prevails over an earlier instrument unless the contrary intention appears.

At a Housing Industry Conference held on 18 oct.1991 the Premier indicated that the Balmain rezonings were likely to be in place early in 1992 or sooner. At this stage, it is not clear how the two instruments i.e. the SEPP and the REP, would fit together to meet the Government's objectives. It appears from the Minister that the SEPP will provide the policy framework but the instrument used to rezone particular sites will be the REP. On 17 oct.91 the Minister clearly indicated that the SEPP will enable the Minister to rezone sites of state or regional significance for urban consolidation projects. The question is how the proposed SEPP and REP will operate. It may be the council will not only lose its control over rezoning, but also lose its normal responsibilities as the consent authority for subsequent development applications.

The Minister for Planning (Webster) explained that there is no room for compromise with regards to the State policy

(Harris, 1980). Some councils see the policy as a threat to their powers to regulate the land. The state government announced the sites as part of the redundant industrial areas which means part of the urban consolidation policy. Using REP which is authorised by the State policy, to deal with these redundant sites, the Minister took the power from the local government.

In 1992, the Minister for Planning and Energy, Robert Webster, was not satisfied that the programme adopted by Leichhardt Council offered any certainty of resolution of the matter, which he felt had dragged on for too long. The Minister indicated that, having considered the importance of medium density housing and the state and regional significance urban consolidation, he had decided to proceed to make a State Environmental Planning Policy (SEPP) to set out clear principles relating to urban consolidation and criteria under which the state government would take responsibility for rezoning sites of regional significance and dealing with development applications or major urban consolidation projects. The Minister also indicated in his letter to Leichhardt Council that he had directed the Director of Planning to initiate a draft Regional Environmental Plan (REP) to provide a mechanism for rezoning particular sites within the Sydney, Newcastle and Wollongong Metropolitan areas, where the sites are important in meeting the government's urban consolidation objectives. He indicated that the draft REP to be prepared will initially deal with the five Balmain sites i.e. the Monsanto, Ampol, Unilever, Caltex and Balmain Power Station sites.

Social Process of Planning

The increasing complexity of the urban phenomenon and the endemic nature of the problems involved have led to a necessary recourse to institutional mechanisms for the regulation of urban contradictions. In this matter urban planning appears as the potential saviour of the crises felt by urban people in their daily lives. Castells (1978) determined that "planning" can be defined only in terms of desired objectives: an objective of regulation, fundamentally determined by a social role, that is by the institutional place of the intervening agent (the planners)

especially his membership to an administration which should place them above contradictory social interests and which should enable the planner to re-adjust the economic and technical problems which are the cause of the urban conflicts (Harris, 1980). Thus, in this term urban planning understood as a regulatory action exercised by administrative agencies at different levels and branches of the state.

Moreover, urban planning has at its disposal a combination of various means whose examination can provide the global perspective of the urban system. There are planning documents which translate planning norms and perspectives - White papers, master plan etc. according to the degree of generality at the level of they are found. And planning institutions, including administrative services, agencies, research, programming and management organisations. Effective interventions upon problems carried out by the administration, whether or not the plans are made through planning institution, either according to, or in contradiction with, planning documents. In this matter, there are differences between "planning intervention" and "planning institution", so it can be understood the link which exist between the reality of planning and its presence on organisational charts.

The problems are generally recognised: discrepancy is far too often seen in terms of the failure of the objectives and functioning of the planning system. The planner (in state government: Department of Planning; local government: Town planners) sees themselves as a technicians presented with a large number of possibilities which must be continually abandoned in the face of 'social constraints', and political compromise, particularistic demands and budgetary limitations. This always effects the best projects of the planners itself and prevent the great urban developmental tendencies from ever leaving the drawing board. If one were to accept a point of view quite prevalent in the planner professions, one could say that urban planning serves little purpose at the operational level; yet planning is expanding everywhere; new institutions multiply credits allocated, jobs created, techniques developed, university careers transformed, research

undertaken, policies elaborated, and so on. City West project is one of aample with Federal and State funds totalling more than 250 millions dollar. The City West Corporation has been established by the State Government to implement and coordinate the development of City West and manage the expenditure of funds in the provision of infrastructure, and recoupment of funds from sales of government land (Harris, 1980). Therefore, whilst planning appears unable to regulate urban problems effectively, it is becoming important as an institution and as a directional instrument of urbanism.

In order to understand the logic of state intervention in urban problems, this research thesis analyses urban planning as a social process. This analysis reveal its social effectiveness and relate it to the technical inefficiency. The Balmain case of redevelopment provide an example of a specific type of urban growth in the urban region. The Balmain case of redevelopment provides us with a specific example of planning in an urban region, which is characterised by:

1. the presence of a number of valuable waterfront sites which are being contested.
2. proposals for massive high density housing development.
3. the presence of well organized, articulate and highly educated resident action groups.
4. the involvement of different levels of government, planners in different institutional settings, and conflicting planning documents.

At the same time, this research provide the detail of the appearance of administrative institutions and the planning agencies, as well as the proposal and the modification of a number of the planning schemes. Therefore, this research has been able to see the social process of the planning regime, that can been said that there is unusual opportunity for observation to reveal mechanisms which are at the basis of the social role of urban planning. It consists in identifying the major urban problems of the region and in demonstrating their articulation by establishing a system of urban contradictions specific to the region. Following this, we will analyse the major aspects of the social, political, and legal

dynamic underlying the urban system via the local political scene. It will also examine the planning system in terms of the network of the social interests, and administrative organism and their relationship of the urban problems. The analysis will be made in terms of the three dimensions, that are reguly intervention, institutional apparatus, and planning documents. The techniques used include the analysis of documents and statistics, depth interviews with key informants, participant observation of the work of planning and administrative meetings, and lastly, the use of the case of Sydney urban area itself which refers to the Rezoning in Balmain especially, and the urban renewal in the other areas in Sydney.

The Urban System of the Sydney Region and the Local Political Scene

Although it is not possible here to provide an exhaustive description of the Sydney region which specific ally refers to the rezoning in Balmain, it might be useful to outline a number of aspects which can give some meaning to the analysis of planning system. The situation is characterised by rapid house building, hotels, private marinas. The rezoning of Balmain is a part of the urban growth (renewal) of the urban area in Sydney together with the development of the city west, the proposed design of the Sydney Casino, the controversial 10-storey development planned for the Pymont-Ultimo area (Harris, 1980), and above all under the urban consolidation policy.

Giantism in residential development is abroad in other parts of the inner city - the metropolitan plan areas over which the State Government is the consent authority and a financial interest, and the privately owned areas where the Sydney City Council (SCC) has a say. Such a growth not only completely changes the urban landscape, but also entails the influx of labour force which must be housed, serviced, transported, ect. For example, in the Ultimo-Pymont redevelopment, State government proposed to bring 20.000 residents and new employment opportunities for up to 40.000 employees (Harris, 1980). When one adds to this the multiplicity of services which must set up in

different categories, one can understand the conflicts situation and interests in the urban system.

The rezoning in Balmain together with the City West Development program is an opportunity for high-quality urban renewal. It is also in receipt of Better Cities funding from the Federal Government. Therefore all three tiers of government have an interest in its future. It is very important if Sydney gets it right there, it will provide a model for denser inner-city residential developments in all Australian cities (Harris, 1980). In the 'blue print' of the Sydney future explained that the key directions of the growth and change are (Chipperfield, 1991):

a more compact city, taking up less new urban land, getting more out of new and existing land and infrastructure, with improved transport links, and bringing jobs, housing and facilities closer together.

a better environment, through integration of environmental protection and pollution control in planning and the development, more public transport use, reduced new development in the Hawkesbury/ Nepean basin.

a more equable and efficient city, with improved services provision and accessibility, better location of jobs relative to housing, modern cost effective infrastructure and a sound economic base.

effective implementation of the strategy to achieve its vision and goals through improved management, teamwork of government agencies and community participation.

A clear vision for the future of the metropolitan strategies for land use and urban planning are considered essential. The "blue print" sets out what it sees as the full range of forces which shape a metropolitan region:

The State Government is responsible for urban planning and for coordinating and supplying major infrastructure. It has, therefore, considerable power to set and achieve goals for the metropolitan region.

The Commonwealth Government's controls over immigration, monetary policy and the taxation system, also determine the way cities grow and function. These issues must be accounted for in metropolitan strategic planning.

Local Government has a special role. It represents local communities and has vital functions in local planning, building and development approval system and providing local infrastructure. Its understanding and cooperation is crucial to achieving metropolitan goals.

Market forces and the private sector have a profound impact on the style of our cities. The boom in commercial office building in the 1980s for example, will greatly influence commercial employment for the rest of this decade (Chipperfield, 1991).

The observation of the redevelopment program in the Balmain and Pyrmont, to be more precise, precinct in the circuit of production, and also the buildings of housing, transport, collective goods and services, and the symbolic expressing urban landscape, shows that insufficient attention is given to needs and the allocation of new resources. Opposition and protest are not simply the product of 'resistance to change'. There is a struggle between political interests for control of the urban regime as an essential asset to the powerful economic interests which dominate the region because of the financial constraints. Although, there is an effort on the part of the metropolitan government (the local councils: Leichhardt council, Sydney City council, etc. which are controlled by locally elected representatives) to retain the control of council planning and development, in the face of State

Government strategy to control the development. Adequate powers exist at present for Minister (State Government) to control council planning and approve developments, providing they exercise them in accordance with the EAP Act 1979.

However, this is not only be seen as a direct opposition between the state and the 'locals', but rather as a confrontation of social interests, as debate between conflictual approaches to urban development. The residents groups in Balmain, for example, try to put some alternative for the redevelopment of the five sites with some of considerations about the high density of the areas, transport, and environmental problems. The councils tried to preserve its social role as guardian of local society. At different times it makes alliances with both of the two forces in the locality: sometimes drawing closer to large economic interests, at other times supporting the residents groups. The State Government and new interest group (Large industrial interests) organise their strategies in the region which appropriate the control of the redevelopment. The diversity of these interests is expressed in terms of the priorities for urban development.

The diversity of political interests can be seen in the political tendencies in the regions. The Liberal Party of the state government of NSW faces mostly Labor or Independent parties of the majority of councils. Therefore, there are varying social and political interests. The renewal of urban areas are not only using the judicial rules of competence and also there is conflict of interests among the actors and the institution which is involved in the arena (Castells, 1978). Many of the public's rights created during the 1970s and the 1980s have been curtailed by special Acts authorizing privileged projects. In this case, that is Sydney's Darling Harbour Act. As part of exempting these projects from the normal approval processes involving local government, planning appeals tribunals, and the various environmental protection authorities, the Act has deprived the public of their general right to comment, object, and appeal (Castells, 1978).

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A different kind of problem, for members of the public who dare to exercise their rights, is that inquiries may prove to

be a charade, intended from the outset to reach a predetermined outcome. For example, when the state government of NSW make 'ministerial rezoning' or usually call in 'development application' (DA) of a monorail station, they set up an independent tribunal. State government usually only intervene when local government is about to reject a development which the state wants to proceed. The decision to take planning control from the City Council was taken in the knowledge that the council was opposed the project. So, despite the submissions, the Minister for the Environment at the moment, Bob Carr duly approved the new station (Harris, 1980).

This problem is most acute in relation to environmental impact assessment because impact statements are prepared by consultants who can make no claim to independence. Because they are not only employed by the developer but they also often belong to engineering companies eager to secure much more valuable construction contracts for the projects which they have assessed. According to Richard Smythe, a former head of the New South Wales Department of Environment, the proponent of major projects such as Sydney's Harbour Tunnel ask prospective consultants whether they will support the project and reject them if they will not promise to do so. The task of the consultant is not to question the project but to justify it- enabling the developer to maintain the pretence that it has taken environmental considerations seriously (see Department of Planning, City West Development).

The concern of both government and industry to have their impact statements prepared by suitably inclined consultants was demonstrated in 1990 in relation to the Federal Airport Commission's proposed third runway at Mascot in Sydney. Garry Punch, the federal member for Barton whose electorate backs on to Mascot, identified a 'fix' in the way in which a panel dominated by members of the Federal Airport Commission had chosen the consultant to prepare this Environmental Impact statement. In a letter tabled by Punch in the House of Representatives, an adviser to this panel summarized the strengths and the weaknesses of the two main contenders to prepare the impact statement. According

to this letter, one of the tenderers was 'perceived by some committee members as being more independent' from the Federal Airport Commission and 'perhaps less inclined to produce a study to achieve a predetermined result'. This tenderer failed to receive the contract (see Department of Planning, City West Development).

The partisan nature of impact statements means that members of the public can have little confidence that their submissions will be examined with any objectivity if they are considered at all. This problem also happened with the case study of the rezoning five sites in Balmain. After such a long process of conflicting between residents, council, and many times for the residents groups to go to the court, finally state government made the decision. It was stated in the REP- Redevelopment of Urban Land that the draft plan sets out... its aims and objectives, and makes the Minister for Planning the consent authority for the redevelopment of the sites although he may delegate this role to Council (see Department of Planning, City West Development).

The Ministers for Planning in New South Wales have disregarded the recommendations of Commissions of Inquiry under the State EAP Act 1979. At most inquiries, the Department of Planning has made submissions. At the end of the inquiry, the Minister has sought the Department's advice and often had private meetings with the developers. The Department has then repeated its original recommendations and the Minister has acted on its advice (see Department of Planning, City West Development). These processes which usually take the form of special inquiries, are even more dependent on the value judgements of the commissioners than permanent investigative bodies and tribunals which have an established method of considering environmental questions. Whether government chooses to implement or reject the findings of these bodies depends less on their cogency than on the political situation. Thus, there is a relation between a key instrument (legislation, and the bodies of the machine growth) of the industrial power of the emic groups with the urban power of local institutions.

The state, faced with an institutional set up which could threaten the smooth implementation of an economic project of international scale, at one point envisaged the formula of an inter-ministerial mission which would be in charge of urban planning. Generally, in the face of the complexity and the relative strength of the local society (Residents groups and the local governments), the option taken was to support the redevelopments (Sydney Airport, Harbour Tunnel, Darling Harbour, Five sites rezoning in Balmain, the Rocks etc.), which were socially and politically in favour of a narrow collaboration with the large firms.

The conflicts between the residents and the developers have been arisen in the recent years. The residents usually are represented by the councils and the developers, for example in the CBD by the Central Sydney Planning Committee (CPSC); City West, How far the body of the institution can perform their functions is the basic problem that exists and will continue to merge is the inter relationship of the two councils and the developers seeking to plan and regulate the same geographic area in circumstances where the town planning philosophy or value judgment of each as to desirable outcomes of development conflicts (see Department of Planning, City West Development). In order to have more control, there is a new administrative body called a Sydney Regional Planning Authority (SRPA), to cover eight council areas - Sydney, South Sydney, Waverley, Randwick, Botany, Rockdale, Marrickville, and Leichhardt. The SRPA is proposed to have a strategic as well as a statutory planning and development control role. It will control the LEP process (rezoning) in all constituent councils and, with Minister for local Government, is to have powers to call in and determine any worthwhile development applications. Councils will deal only with what is left conflicts (see Department of Planning, City West Development).

To understand why the Minister attracted to the new administrative body, it can be seen that there is political and economic reason. Because of the economic recovery and the olympics on the horizon, there will be unprecedented development activity in the inner-city Sydney Region. First, there is on going development in CBD (Central Business District). Second,

there is possible high rise residential development on the Show-ground, Port Botany, and Botany; and also airport-related activities in Marrickville. And the important thing is the extensive Government interests in the City West area, where the Minister is already the consent authority. The City West Plan is, according to Richard Smyth, the first of the "anything the minister like styles" of plan that will become more prevalent where the government and the business interests are involved conflicts (see Department of Planning, City West Development).

Urban Planning as Ideological Discourse and Negotiating Instrument

How far do the opposing motives of the various urban interest groups, as well as the actual role played by urban planning in the urbanisation process of the Sydney urban regime? What is the socio-political role of urban planning? Is it a vast enterprise of ideological mystification?

The opposition between the local groups and the developers in the rezoning five of the sites in Balmain especially, and in the Sydney Region generally, express the confrontation between different conceptions of urban growth in the region. There is institutional conflicts between Ministerial missions, and the other local authorities planning institutions. The institutional conflict was settled by the court decision and there is in certain degree compromise in the exercised power which is contested among the interests groups. In the court appeal, the residents of Balmain won. However, it doesn't means that the local have won. Because, things are more complicated. There are some considerations which can be seen in this case, especially in the local political scene. Firstly, the case of Balmain sees the redevelopment project reinforcing the symbols of urban centrality, of providing housing and amenities for management of urban regime. Secondly, the State Government ratifies all its problems, increasing the density as part of urban consolidation policy, but treath the community territory of Balmain. thirdly, there is the growing trend toward the defence of interests of the resident to obtain better and decentralised opinion about their amenities, leisure facilities,

vehicular access, park or open spaces, etc.

Urban planning is thus a statement on the city which follows the logic of organization according to different social interests. Moreover, as an urban political process, planning can be appears to be a place for negotiations and mediated expressions of the conflicts, and there is tendencies which confront urban organization (through the whole of social and economic organisation in the urban area).

Conclusion

From the case studies in Balmain and looking at in the broader context of urban development, I try to raise a series of questions that are relevant to this thesis. Underlying all is the fundamental issue of the relationship between public and private expenditure, and the use of government powers in attempting to create the conditions to optimise this expenditure. Implicit in urban regeneration policies are questions about growth-physical, economic and social. What kinds of growth or development are desirable? If the State Government, Department of Planning Sean O'Toole always refers to the experience the redevelopment in Docklands (London) which the past decade has seen growth-measured by some financial indicators, but it has also seen rapid increase in inequality in earnings as well as in access to resources (Harris, 1980). Dramatic inequalities sharpen questions of social justice. Does redevelopment inevitably mean displacing lower income populations? Should economic diversity and social mix be basic planning aims, particularly in cases of such large scale redevelopment in City West project? There are recent signs that agenda is changing as the government feels it necessary to make more positive statements about affordable housing, education and training, and even strategic planning.

Furthermore, there are polarised models of development typified by the label 'free market' and 'state bureaucratic'. The questions are what mechanism could balance between public and private interests, and local, and national interests? Can models of democratic decision making achieve such balance? The increasing scale

and speed of change in urban development, in economic and physical terms, with interlinking of local, national and international interests; it make very interesting to analyse planning and redevelopment by using case study in Balmain especially and inner City of Sydney (City West) generally.

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