

**Urban Planning:
Too important for local government?**

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On 21 June 2006, Planning Minister Frank Sartor announced that the Carlton and United Brewery site would be declared State Significant Development to allow State Government control of the planning process. *“More than a dozen different design schemes have been submitted to the Council at a cost of \$8 million in design fees. But this lengthy process has failed to deliver certainty Designating the CUB site as State Significant and preparing a concept plan will cut six to 12 months off the development process, which has already dragged on far too long.”*

Frank Sartor acknowledged a number of problems with this announcement: Firstly, the City Council did not have a vision for the site or, if it did, it was not acceptable to the developer. Secondly, the scale of the development demanded a solution outside existing planning frameworks. Thirdly, the State did not have the confidence that the City Council could manage the process for an acceptable outcome. Fourthly, the State was concerned that local concerns might overwhelm city-wide or even metropolitan concerns. And fifthly, that the cost, in both dollars and time, of reaching a solution was increasing to unacceptable levels.

How could the Planning Minister have come to such conclusions?

At the time the Minister took over, the Council said, in its press release, that agreement with the developer/owner was nigh. However, such agreements, made between an applicant/suppliant and an approval authority/master are one sided due to the relative powers of the players. An earlier attempt at a plan for the site foundered when the developer walked away. Floor space and parking issues were key to dispute. The evidence is not conclusive on this concern.

Apparently the Minister has suggested that his assumption of planning power over the site will lead to a higher floor space ratio than that proposed by the Council – 4:1. Council seems to have done considerable work on formulating what it sees as appropriate planning controls. Outside experts have been involved as has the community. I think that Planning Minister Sartor, acting on behalf of the State, has every reason to wish to maximise floor space (and hence density and

site population) on the site in order to meet State objectives for development of the urban core of the metropolis. However, I have not carried out an analysis to see what floor space ratio is appropriate and whether Ministerial intervention will be justified by increased density.

The acceptable outcome sought by the State is clearly a floor space and height greater than that supported by Council. Maybe the Council's 4:1 FSR is not enough and a higher result is required to make better use of the key transport infrastructure at this location. Bringing the project under the Minister's ambit is required, if only to establish, from the point of view of the state, what is the appropriate density and height.

Heritage and open space concerns, the stuff of community anxieties, may have driven the project's planning to a degree unacceptable to the original developer. Local concerns should be voiced but must be considered within a citywide/metro framework. This is the stuff of Ministerial interventions. I am reminded of the reaction of the Local Government Association to Frank Sartor's February planning "reforms":

"In the last two months the State Government has alarmed many councils by taking control of state significant development, in other words removing councils from the planning determination".

Well, why would not the State take over those planning matters which are of an importance beyond the immediate local area in which they are sited? The Association seems to acknowledge that some projects are of State significance and that State concerns may need to supersede local concerns and sensibilities.

The last ministerial concern, the cost of time and design work, is an issue. Working out the planning framework as you go, the apparent process in train under the City Council, is a very hit-and-miss way of getting good urban outcomes and one which comes at a high cost in terms of time and design input. On the other hand, as we warn clients continuously, breaching the planning controls will lead to substantial delays and may lead to project rejection.

Was the Minister justified in calling in the project? There is no clear answer but it is appropriate for the State to call in projects of State significance. It is still appropriate after more than two years of planning, design and consultations. After all, the Minister could be seen to have allowed Council and the applicant the room to come to a conclusion without his intervention.

Did he leave the Council any role in planning an important site within the city? Designation of projects as State significant is really an opportunistic move, often based on evolving situations. Being essentially an opportunistic and hence uncommon action, local government is seen as the main player in the local planning sphere. For metro councils,

planning must always be an activity carried out with an eye on the main game – metropolitan planning. To do otherwise would be irrational. But we need metro planning and the belated Carr government move to carry out this essential activity was welcome and necessary.

Other than for State significant sites, it leaves planning generally in the hands of local government, except perhaps where a whole LGA is of State significance, ie City of Sydney and North Sydney. Here, all planning work can be said to be significant for the State as a whole. A Ministerial takeover would require the creation of a new layer of planning bureaucracy. And this is where Ministerial ambitions may founder on the rocks of reality. Where will Frank Sartor find enough planners to staff such a unit when we have a well-documented shortage of urban planners throughout the nation? If State control is imposed, one suspects that it will be at the level of directing the planning effort of targeted councils rather than creating a new bureaucracy.

But the Minister has also indicated that he will intervene in Council planning to the extent of amending DCPs if (he considers it) necessary. Many councils, either deliberately or by accident, have DCPs that contradict or otherwise hamper the provisions in LEPs which have at least run the gauntlet of the Department of Planning. Some of these local authorities are not even aware of the inconsistencies. Others have just buried them so that they are not readily apparent to the uninitiated. I would be pleased if the Minister cleaned up the contradictory and the just plain wrong DCPs. But, who will be available to check the frequent mismatches between height and footprint and floor space? The same ghost planners who are not available for the plethora of Ministerial powers that Frank Sartor has taken for himself in the last 12 months?

Well, where does this leave local planning, planning for the City's urban villages, planning to meet community needs and reasonable community desires? The clash of community and State interests is nowhere more apparent than in the City. The City may have to accept that its well-being needs to be considered by a far wider constituency than its residents and that the State has legitimate interests in this area. No-one can expect that councils elected by relatively small numbers of residents will do anything other than seek to look after their limited (narrow) interests. Only a political body elected by a wider constituency can afford to take a more metropolitan view. Such a body is not yet in evidence.

What is the Neustein solution? Enlarge the size of metropolitan councils by reducing the 43 (or is that 42) metro councils to a number less than five. Either five (or fewer) large councils (based on the Warren Centre model) would be constituted, or even only one council based on the Brisbane model. With much larger electorates, and a planning focus on both the local and the sub-regional, such councils and their bodies politic would be sufficiently insulated from parochial or minor concerns so as to focus on the greater public good. We will be able to avoid the situation

of a council in Sydney's east which recently brought a development application before its full meeting to debate the merits of a glazed panel in a laundry door!

We could get past the current local government philosophy which requires all decisions on development, no matter how trivial, to be brought before councils' political decision makers. There is no need for the interference of councillors in all manner of decisions. Instead, councils could focus on plan making not development control.

In the case of core urban centre development, urban planning is too important to be left to local government but, at present, there is no other way. Urban planning may well be too important for local government but the track record of the State is relatively untried and it faces the same resource restrictions as does local government.