

When the Height of Buildings Act was originally passed in 1912, its primary purpose was to control the erection of buildings up to a height of 150 feet. This Act was administered by the Chief Secretary's Department and was designed generally to permit developers to erect buildings up to 150 feet in height provided adequate provisions were made for light, open space, public safety, prevention and extinguishing of fires.

The above restriction on the height of buildings remained until 1957, when the Act was amended, to enable buildings to be erected to a greater height than 150 feet on the recommendation of the Height of Buildings Advisory Committee. Furthermore, the amendments ensured that buildings should be constructed of a design which would secure an improvement in the access of light and air to the building itself and to the adjoining buildings. In this regard, it must be pointed out that the 1957 amendments did not contain any statutory directions as to limitations on the floor space of a building under 150 feet, but at the same time allowed buildings to be built higher than 150 feet with the Minister's approval, on the recommendation of the Height of Buildings Advisory Committee and subject to Sections 4(4) and 4C of the Act.

In the case of the A.M.P. Building (the first major development considered by the Committee after being constituted under the 1957 amendments to the Act), the Committee objected to the proposal on the grounds that the setback on the upper floors was inadequate, having regard to the height of the building and the floor plan in relation to the area of the site. The approval of the A.M.P. Building with a floor area ratio of 15:1 on its own site had, however, the effect of creating a precedent. Special representations were made in this particular case to the Minister on behalf of the A.M.P. Society and certain conditions, in the public interest, were successfully negotiated by the Committee, which had the effect of restricting development of an adjacent site owned by the Society.

One of the matters which, in the opinion of the Committee, affected the aesthetics and appearance of high buildings to a very important extent and the appearance of the City, was the fact that high buildings would become so prominent on the skyline and could be quite dominant in many of the street scenes around the City. Therefore, the Committee felt that it was essential that buildings should be designed as towers with each elevation being treated adequately and with sufficient modelling to relieve unbroken surfaces over a very large area. Ideally, amalgamation of sites would ensure that buildings would stand clear of the site boundary all around over a certain height, so that the effect obtained by any building will emulate the effect obtained by the Government Architect in his design of the State Government Office Building on the land bounded by Macquarie, Bent and Phillip Streets. In this case, of course, the effect was obtained not only by the skill of the architect, but also by the adequacy of the site and the fact that the floor index was 10.26:1. Once the index became higher it was more difficult to achieve this desirable effect.

The Committee acknowledged that any policy of complete tower structures would restrict high buildings to comparatively large sites or sites with road frontages on at least two sides and, in addition, create the difficulty of only certain sites in the City being suitably developed for tall buildings.

Against this background and in view of the necessity for the Committee to have a definite policy in the consideration of applications referred to it by the Minister, it decided on 15th March, 1961, to appoint a Sub-Committee to report on a number of items, including "floor space ratio of buildings".

Subsequently the Metropolitan Water Board's appeal was heard and His Honour's judgment in part recommended that the Committee adopt a ratio of total floor plan area to area of the site of:-

10 to 1 for a site with one frontage only to a public way;

12 to 1 for a site with a frontage to two or more public ways
(provided the width of each such public way was not less than 60 feet).

In its report, the Sub-Committee stated, inter alia, that the adoption of such floor area ratios in respect of buildings in excess of 150 feet in height could be negated in the main by the Minister continuing to approve of buildings up to 150 feet covering the whole of the site, which would have a floor area ratio in excess of what the Committee would be prepared to recommend in respect of buildings having the same floor space but rising to a height of over 150 feet. It recommended that appropriate approaches should be made to the Minister in respect of this matter. The Committee also urged that the Minister for Local Government be requested to ensure that local planning schemes, including the City of Sydney Planning Scheme, contain provisions for the regulation of floor space.

On 14th June, 1961 the Committee decided to adopt the report of the Sub-Committee and the recommendations contained therein, as a guide for consideration of buildings other than residential buildings, subject to review and consideration of further information obtained as a result of Mr. N.A.W. Ashton's (now Chairman of the State Planning Authority and the Committee) enquiries overseas and that any approach to the Minister be deferred until this review had been carried out.

At this point, it is interesting to note, that although indicating the question of floor space index or plot ratio had not been examined and ventilated in the proceedings to the extent necessary to enable him to reach a considered conclusion on the related question of plot ratio and height, Mr. Justice Hardie, in the appeal by the Metropolitan Water Board v. Cumberland County Council, commented as follows:-

".....An administration of the Act on the footing that it is a yardstick or a guide must have the very serious and irreversible consequences of permitting an excessive development of available City sites, the consequent over-taxing of the roadways and footpaths and other public facilities, and the likelihood of valuations being made of nearby sites on which buildings of pre-war size and dimensions are erected, at such figures that rates and land tax would in many cases practically force the owners into seeking to develop their properties on the same excessive scale.

The dangers and difficulties and civic problems adverted to above would appear to be real and imminent in the Central and Circular Quay sections of the City.....

.....In the absence of legislation prescribing permissible plot ratios, it would seem that the problems require urgent attention both from the Height of Buildings Advisory Committee in relation to buildings over 150 feet in height and from the City Council in relation to those buildings, but more particularly to the buildings up to 150 feet in height. Some degree of co-ordination and uniformity of approach by those two bodies to this important question is obviously desirable. A firm stand taken on this point by the Advisory Committee in relation to buildings more than 150 feet high would be of limited value, and could in the end be detrimental to the future development of the City, unless the City Council as the responsible authority under the County of Cumberland Planning Scheme Ordinance adopted a similar or corresponding attitude to development applications for large buildings covering the whole or a large proportion of the site, but which by reason of their height not being in excess of 150 feet would not come before the Height of Buildings Advisory Committee....."

Mr. Justice Hardie, in his comments, refers only to the City Council in respect of buildings up to 150 feet, but such comments call for consideration by the Minister in respect of approvals which he is required to give to proposals to erect buildings up to a height of 150 feet under the Height of Buildings Act.

Following his visit overseas in 1961, Mr. Ashton (then a member of the Height of Buildings Advisory Committee) made observations on high-rise buildings in North America and Europe. The floor area ratios of the commercial sections of certain large European cities varied between 2 and $5\frac{1}{2}$ and in some large American cities between 8 and 16 (subject to premiums, i.e. which buildings were designed to encourage, in particular, arcading, arrangement with others in the block for through pedestrian traffic and for areas to be set aside for plazas and good lighting to streets, etc.).

Following lengthy discussions on the adoption of a floor area ratio to be used in considering applications, the Committee at its meeting held on 23rd January, 1962, resolved as follows:-

"That the Minister be advised that the Height of Buildings Advisory Committee was concerned at:-

- (a) the potential for increase in building floor area, particularly in the central area of Sydney, with consequent serious problems of design, appearance, availability of public space, light and air, congestion and civil defence;
- (b) the inability of the Committee to have proper regard to the provisions of Section 4C(a)(ii) in that this provision implies that control of floor area should be considered but this may be negated as conditions which might be imposed with a view to restricting floor area of a proposed building over 150 feet may not be applied to a building of 150 feet and such conditions could be ignored simply by building to 150 feet;
- (c) the lack of a determined policy by local government authorities on floor area control."

To summarise the position for the Minister's information, the following points were particularly stressed:-

- (a) The Committee favoured the adoption of a maximum ratio of total floor plan area to area of the site of:-
- 10 to 1, and
12 to 1 for a site where the design and siting of buildings was such as to justify bonus allowances.
- (b) The adoption of any policy by the Committee of restricting the bulk of buildings could be negated in the main by the Minister and Councils continuing to approve of buildings up to a height of 150 feet covering the whole of the site which would have a floor area ratio in excess of what the Committee would recommend in respect of applications considered by it.
- (c) Any restriction on the floor area ratio by the Committee, unless similar action was taken by the Minister and Councils in respect of buildings built over the whole of the site up to 150 feet in height, might well cause developers not to construct buildings over 150 feet in height and might lead to the disadvantages referred to by His Honour Mr. Justice Hardie.

In order to avoid the anomalies set out above, the Committee requested that consideration should be given by the Minister to the adoption of a similar floor area ratio in respect of buildings up to a maximum height of 150 feet and that he concurrently take up the matter with his colleague, the Minister for Local Government, to ensure that local planning schemes, including the City of Sydney Planning Scheme, contain provisions for the regulation of floor space.

J. J. SINGH
Secretary
Height of Buildings Advisory
Committee

3rd March, 1969