

Ridder requests:-

(a) George Clarke to review; see RED annotations in progress at 19.10.00 by GC;

Ridder's 9.10.00 draft is in BLACK, or BLUE struckthrough.

(b) Dr John Roseth to authenticate reference 69/70 to his Citation in Para 9.3 on page 21 herein.

Hobart City Council and the Transition from By-Laws to Planning Schemes

Ben Ridder¹

1.0 Abstract, or: Introduction

1.1 Land use planning [?] can be divided [?] into two categories [?]. The first category encompasses grand visions for future change, and strategic projections of infrastructure requirements [projections come first, visions second]. These processes have been described [by whom?] as 'real' planning, and require time, money and political drive to implement. So-called [by whom?] real planning for "postwar-reconstruction-era" Hobart commenced with the 1943 commissioning of the Cook Plan, published in 1945. [Here, not later, footnote the book, a copy of which I have and prize: F.C.Cook: *City of Hobart Plan*, 84pp, illus, 17 plates, 5 maps; Hobart City Council, 1945] The limited (implementation) of the Cook Plan, and subsequent attempts at strategic planning in Hobart, have been described by Stefan Petrow.² (Plans *per se* don't achieve things, but sometimes people partly implement them.)

1.2 The second category [?] of planning relates to development control, where local authorities [used to] do their best to curtail the disruption associated with commercial expansion, home unit development, and back-yard industry. This has historically been achieved through the enactment of by-laws [by-laws were NEVER enacted by Act of Parliament, but made or changed by a simple un-advertised resolution of a Local Council], and [by-laws?] were generally [in what period?] criticised by planners as reactionary [obsolete communist jargon for anti-progressive?] and short-sighted. Colman for example, has described the use [in what period? in Hobart?] of 'residential districts' (were they by-laws?) as 'a conservative non-planning tool which has apparently enabled many councils to sidestep their primary planning obligations'.³ [Was Colman referring to Hobart in the 1930s or 1960s?] [Paras 1.1 & 1.2 are confused and confusing.]

GC: MY 1967 ANALYSIS & VIEWS WERE AS FOLLOWS: -

[My 1967 views were informed by details of Elizabeth Thomson's 1967 research. Ben Ridder's archival research in 2000 has added archival dates and quotes which help to confirm my 1967 hypotheses beyond doubt, and to add piquant details of human and institutional frailty.

^FFootnotes make use of the following abbreviations:

AOT - Archives of Tasmania

CA - City Architect

CE - City Engineer

HCC - Hobart City Council

LM - Lord Mayor

MCC - ??? Tell us what MCC means.

TC - Town Clerk

TGG - Tasmanian Government Gazette

TPC - Town Planning Committee

¹ The following paper was undertaken while preparing an honours thesis on high-rise apartments for the University of Tasmania (School of Architecture). Some material contained within the thesis compliments the information presented below. Thanks to Bert Dechaineux, Stefan Petrow, George Clarke and Barry McNeill for their comments on this paper.

² S Petrow, 'A city in search of a plan: Hobart, 1945-1962', *Tasmanian Historical Studies*, vol. 5 1995-96, pp. 132-53.

³ J Colman, *Post-War Planning in the County of Cumberland*, Sydney: University of Sydney, 1968, p. 73.

GC-1. The period 1936 to 1972 saw the origin and early evolution of ideas, techniques and processes of “town planning” in Hobart. Building fire-safety regulation started in 1858. What could be called “town planning” regulation can be dated from the Hobart City Council’s first simple 1936 resolution to adopt a zoning By-law to regulate land-use in a “Residential Area”[*Ridder 2000].

GC-2. From 1943, the forward-looking businessmen on the Hobart City Council, led by Lord Mayor Alderman John Soundy CBE, MHA, began “planning for a population of 100,000”[*Foreword to Cook 1945] and commissioned Melbourne-based pioneer Engineer and Town Planner Fred C Cook to produce what became the historic City of Hobart Plan 1945 [*Cook 1945]. Cook found a City of Hobart population of 54,215 in 1944[*Cook p 22]. He estimated that City of Hobart population might grow to 61,000 by 1961[*Cook p 23]. He proposed to accommodate all this residential growth in single-family houses with a few low-density flats close around the city centre, none higher than 3 storeys, or two storeys with an attic, and with each and every flat required to have un-built-on yard space of 2,000 square feet [*Cook pp 31 & 32].

GC-3. When I visited Hobart in 1966-7, I found no reason to believe that the economy or the population of the City of Hobart would ever grow substantially. I quickly saw that the historical accident of its isolated Southern location would inhibit future economic growth, but that it would presumably survive as the administrative and political Capital of what was then the poorest State in the Federation. It would be maintained by Federal equalisation grants and subsidies. I am not now surprised to see that the Australian Bureau of Statistics estimates the population of the City of Hobart in 1999 as 46,128. Unless the City boundaries have been reduced, this is 15% less than it was 55 years ago.

GC-4. Ben Ridder’s recent archival research reveals some fascinating aspects of the Hobart City Council’s valiant efforts and inter-departmental struggles during the ‘fifties and ‘sixties in resisting the logic of economic geography.

GC-5. In 1943, the conservative Tasmanian ALP State Government started to draft, and two years later gazetted, the Town and Country Planning Act, 1945. Like similar 1945 legislation in NSW, this allowed, but did not require, Local Councils to begin to prepare a “draft Planning Scheme” for the future development of any area. The procedures were complicated. In Tasmania, any such draft Planning Scheme had to be provisionally approved by a State Commissioner as worthy of Public Exhibition; then it could be given some weight in assessing development applications, but it was open for Objections, to be considered at later Public Hearings conducted by the State Commissioner; ultimately the State Government might decide to gazette such a Scheme to give it the force of statute law to guide and control future urban development [*Thomson, Battery Point Case Study, 1969 pp 5-18].

GC-6. Over the 55 years since 1945, cultural attitudes, professional concepts and legal processes have evolved only slowly and painfully through experiment and experience in this “new province of law and order” [Justice Higgins 1908]. Often baldly called “planning”, it has also been called town and country, or urban and regional, planning; land-use and/or transportation planning, physical development planning and/or control; or, environmental planning.

GC-7. For several decades, Local Councils felt bewildered and/or threatened by the procedural complexity and supervision specified by the State legislation. Hobart City Council preferred to continue using By-laws, adopted or altered by simple un-advertised Council resolutions, to regulate zoning, subdivision and building [*Thomson 1969 op cit p16].

GC-8. Post-war Hobart City Council Aldermen predominantly represented central City business interests, which naturally and properly wanted their City to grow and prosper with private investment [*Thomson 1969 op cit p 14-15]. They welcomed the 1955 advocacy by Bert Dechaineux, their City Architect who was responsible for development and building control [*Thomson 1969 op cit pp 13-14], that “Battery Point is ideal for multi-storied flats and apartments”. Battery Point was

then an old inner suburb overlooking what was then the port industrial area. They accepted a 1958 prophecy that by 1998 "all of Battery Point, except for two groups of good class homes in the vicinity of Castray Esplanade and Margaret St, will be used for multi-storey flats". In 1960, they accepted their City Architect's economic theory that "it is essential to encourage high density development, the principal reason being to maintain and increase the population of the City. In a vigorous policy of encouragement to high density development... Council will be doing its utmost to support the growth and welfare of the City." [*Ridder 2000].

GC-9. In 1960, the Aldermen adopted, by simple un-advertised resolution, By-law 33* written by the City Architect to guide development in inner-suburban Battery Point [*Ridder 2000]. Under that By-law, they approved the development of 11 to 13 level *Empress Towers* on the residential site closest to the North-East point of Battery Point, with the best water views. In mid 1967, when construction was complete, the City Architect and the then Chairman of the Council's Town Planning Committee, a City retailer, demonstrated their faith in the maxim "build it and people will come" by moving into apartments in *Empress Towers* [*Thomson 1969 op cit, p 76].

GC-10. In August 1963, Hobart City Council similarly adopted By-law 43* written by the City Architect to guide development along the foreshore in outer-suburban Sandy Bay. This was entitled "Sandy Bay Development Code - Apartment Houses" and allowed 3-storey flats along the waterfront [*Ridder 2000]

GC-11. Meanwhile, in 1962, the State Government, impatient with lack of planning activity since 1945, repealed the old Local Government Act that had allowed Councils simply, by ordinary resolution, to adopt or alter any By-law to regulate zoning or development. Hobart City Council was given five years to move to statutory planning schemes, but this period could be extended at the discretion of the State Town Planning Commissioner. The Town and Country Planning Act 1945 was also repealed. All relevant matters were consolidated in the new Local Government Act 1962, and the new Hobart Corporation Act 1963. The latter empowered the Hobart City Council to issue Preservation Orders on properties of special historic or aesthetic merit [*Thomson 1969 op cit, p 8].

GC-12. Only in October 1965, three years later, after pressure from the City Engineer as well as from the State Town Planning Commissioner, did Hobart City Council succumb and resolve to prepare a draft Planning Scheme. "The Lord Mayor's Report 1964-66, said: - 'Council has resolved to prepare a planning scheme for the whole city...it will be carried out in stages, with priority given to areas where changes are likely to be the most rapid. Following the completion of the Sandy Bay Scheme, the City Centre, Battery Point, the Glebe and other inner city residential areas will be planned and these will include areas for medium and high density living.'" [*Thomson 1969 op cit pp 16,17 et seq] The first draft Planning Scheme was to be for Sandy Bay, the relatively new, waterfront outer-suburb then attracting new private house development by people who valued the amenity it had to offer.

GC-13. Clarke learnt in August 1966, as Thomson documented in 1969: "The Council's administration of town planning is split between two departments. Planning schemes are prepared by the Development Branch of the City Engineer's Department, while development control is administered by the Building Surveyor's Branch of the City Architect's Department." [*Thomson 1969 op cit p 13] For years after the legislative reforms of 1962 and 1963, The City Engineer, Peter Crawford, and The City Architect, Bert Dechaineux, were in polite but intense competition which reflected not merely their inter-departmental rivalries, but also their different personalities, and their conflicting attitudes to desirable and acceptable degrees and densities of development of blocks of flats. Bert had crusaded for flats in Hobart ever since he joined the Council, and while Council administered development through By-laws, he held sway with the Aldermen. After the State Government put Council on notice that this must stop and be replaced by Planning Schemes, the City Engineer started to press his views.

GC-14. In November 1964, City Engineer Crawford reported that he was "firmly of the opinion that the zoning of residential areas in Hobart to promote stability of residential development and to protect the character and established pattern of desirable development in each area is a vital necessity." He opposed "the random intrusion of high-rise apartments" and warned that this could cause "declining values in the suburbs affected by incompatible structures" and "the shift of higher income groups into neighbouring municipalities", all of which "would outweigh the rates which Council would gain from the apartment buildings".[*Ridder 2000] Both Engineer Crawford and Architect Dechaineux fabricated economic arguments in their efforts to win the support of the Town Clerk and Aldermen.

GC-15. Ridder's archival research has exposed a mass of fascinating details of the struggle between Engineer and Architect for the soul of the Council and the support of the public, which all needs to be set and interpreted in the context that Thomson and I can give, but which Ridder has not yet been made aware.....The story would be of historical significance not merely in Tasmania, but in the Australia-wide evolution of cultural, professional and legal elements of environmental planning and assessment.

GC-16. I remember City Engineer Crawford, as a serious, responsible, austere, practical, sensible City Engineer, who wanted his Development Engineer to prepare a draft Panning Scheme with those qualities. I remember City Architect Dechaineux as enthusiastic, charming, sophisticated, intelligent, quick, shrewd or visionary, I never knew which.

GC-17. After the 1965-66 popular outcry against proposed flat zonings in Sandy Bay, Crawford started an Australia-wide search for the most up-to-date professional to help him and his Development Engineer. He sent his Development Engineer to Sydney in August 1966 to sound me out. As a result, Council engaged me to assist the City Engineer in his responsibility to prepare a Planning Scheme for Battery Point.

GC-18. On 2nd January 1967, when Thomson and I started work in Hobart, the Sandy Bay draft Planning Scheme went on Public Exhibition. This provoked a popular revolution from the mass of people who valued their Australian dream of single-family house Arcadian amenity. As a result, the Sandy Bay Scheme had to be abandoned in March 1968. But after a series of adventures along the way, which were documented by Thomson up to mid 1968, the Battery Point Planning Scheme was widely accepted by May 1970, and was finally gazetted in November 1972. The adventures along the way included a lot of pioneering firsts in the history of Australian environmental planning practice, as well as some mis-calibration of experimental floor space ratio codes. That's a story worth telling and recording.

A CRITIQUE OF RIDDER'S "CATEGORIES OF LAND-USE PLANNING":

Ridder's Paras 1.1 and 1.2 are unhelpful. They should be completely deleted or completely re-written. The simplest opening, or 'abstract' of Ridder's current paper would be a rewrite of his Para 1.3, with his Paras 14.1 & 14.2 corrected, clarified and brought up to the start of the paper. Ridder only begins to glimpse the difference between an ancient, simple Local Council By-law, and a complicated State Government-driven Planning Scheme, in Paras 14.1 & 14.2, at the very end of his current draft.

Ridder should perhaps save the purple prose of Paras 1.1. & 1.2 for another time.
My experience, of 'categories' of environmental planning, has taught me: -

'Land use planning' is not, or is no longer, the generic name of the activities or processes being discussed. The term was, for a short period, technically useful to distinguish 'land use planning' by one set of professional specialists and authorities, and 'transportation planning' by another set of specialists and authorities. However, attempts to co-ordinate the two activities by isolated, competitive bureaucracies almost universally failed and were abandoned during the 1970s. The term

was not widely used, or understood, by Hobart people in the relevant periods, and is today more used in non-urban, rural, farming, and pastoral regions.

The draft paper focuses on what was called 'town planning' after the 1944 gazettal of the *Tasmanian Town and Country Planning Act* and its 1962/3 repeal and integration into the 1962 *Local Government Act* and 1963 *Hobart Corporation Act*. 'Town Planning' may still be a meaningful term in Hobart, which is still perhaps describable as a 'town'.

Elsewhere in Australia, 'environmental planning', and 'environmental assessment and control' are commonly used terms. Generally, 'planning' and 'assessment and control' are now perceived as aspects of 'management'. We now seek to 'manage' our national economy, our environment, and urban change. The term "environmental management" is useful and relevant today. It could well be used in historical accounts of its evolution from primeval regulatory forms like Council By-laws, through the early experiments with draft planning schemes mandated by 1960s-style legislation.

Ridder tries to contrast something he alleges somebody once called 'real planning' with 'development control', as two 'categories' of 'land use planning'. This is ill-contrived. All exercises in 'planning' and 'control' range themselves along continua, such as a continuum of physical scale, and a continuum of comprehensiveness of subject matter.

A useful distinction is between 'scales' of physical area addressed e.g. a nation, a state, a region, a local government area, a district, a neighbourhood, a precinct, a site, an alteration and addition. Another distinction is the range, breadth or 'comprehensiveness' of subject matters, or sectors of government and/or the economy, and/or society, addressed by the attempt to plan and/or control, or manage.

Compare scales, & phases of evolution in environmental planning: -

COOK 1945: wider area, less depth and less breadth;

CLARKE 1967: smaller area, greater depth, more comprehensive, more dimensions.

In historical fact, my 1967 assistance to Hobart City Council in Battery Point was an experiment in what I then called "a consultative and comprehensive research, planning, & design process", and by 1971, "a community learning process". See Clarke 1972: *Planning as a Community Learning Process*, 14pp; in *Proceedings, Governments in Planning*, RAPI 12th Congress, Brisbane, August 1972.

My 1967 Battery Point work included both broader and deeper urban geographic, economic, and social survey, research and consultation than did Mr Engineer Cook's pioneering 1945 *City of Hobart Plan*. So the 1967 Battery Point exercise was at least equally as "real" as the 1945 Cook exercise. Naturally, the 1967 exercise by two of the next generation's more highly & widely educated and trained people contained infinitely more geographic & statistical, social & economic, analyses than the wartime 1943/44 exercise by an heroic lone pre-war pioneer from a previous generation.

Elizabeth Thomson, the urban geographer who did the detailed surveys and analyses, documented the 1967 professional work. See Thomson 1969: *Battery Point, A Case Study, February 1969*, University of Sydney, pp 19-32 et seq. [I'll send you copies of these and other herein-referenced pages of her Case Study shortly, and later I'll find a way to have the whole of the Case Study copied and donated to the Archives of Tasmania, or the Hobart Public Library].

Similarly, Cook included detailed Zoning Regulations, for all six of his proposed Zones, including his Residential A and B zones, and to the same degree I did. Cook proposed a limited area of Battery Point and several other precincts immediately abutting the CBD as a Residential B Zone with a minimum site area of 4,000 sq feet, with each and every flat enjoying 'a minimum unobstructed, un-built-on yard space of 2,000 square feet per flat'. This was to be Hobart's one and only high density

residential or flats zone!! All other living areas were to be Residential A Zone, with minimum lot size 6,000 sq ft, with 3,000 or 50% un-built-on, where blocks of up to 4 flats were permissible on one lot.

Fred Cook and I equally based our work on what Ridder calls a "*vision for future change*"; and each of us investigated and proposed infrastructure proposals. Each 'vision' equally needed what Ridder calls "political drive" for implementation, and neither received it from a hesitant Hobart City Council in periods lacking significant economic growth, and before the era of strong State Government intervention.

So Ridder's Paras 1.1 & 1.2 "categories" are not valid. Distinctions can be made about: - (a) scale of area addressed; and (b) historical period, or socio-cultural-legal-economic context, which tends to define the breadth and depth of subject-matter.

Fred Cook (I got to know him through Rod Fraser, and wanted to write up his life's work when I was Hon Editor of APIJ 1961-68) was an outstanding example of those great Australians, the Local Government Engineers, and a pioneer in 1930s and 1940s 'town planning'. George Clarke was a product of his 1950s education and experience in Italy, England and the USA, a pioneer (especially in far away Hobart) of the next generation's approaches to the policy-consultative, multi-phase, multi-scale, processes which, over the 40 years since 1960, have evolved into "environmental planning", "environmental assessment" and "development control".

1.3 This paper describes some of the events [!?] surrounding [multitudinous archival details in misunderstood contexts, obscure the historical evolution of] the transition [evolution?] from by-laws [define "a by-law" accurately in its era] to planning schemes [define "a planning scheme" accurately, in the post-1962 LGA and post-1963 HCA era] in Hobart, from the earliest adaptation of building regulations in the thirties, through the controversies about residential amenity in the sixties and early-seventies. Of particular interest is the evolution of residential development control from early Council By-laws to State Government gazetted statutory Planning Schemes. Hobart City Council's first attempts to prepare planning schemes were for Sandy Bay (started 1965 - failed 1968) and for Battery Point (started 1967 - gazetted 1972 [a Council resolution endorsing a draft planning scheme was a trivial event in the complex statutory processes of preparation of a statutory planning scheme.]

"By laws" and "planning schemes" must be accurately distinguished. What is the key distinction? Surely it was that:-

(#) a "by-law" could be made legally enforceable, or altered, by a simple un-advertised resolution of a Council? and so kept full power in Council's hands?

(#) a "planning scheme" could only be made or amended by gazettal by the Governor-in-Council, after complicated State Government regulated procedures including public exhibition, public objections and supervision by the State Town Planning Commissioner and the Minister for Lands and Works? and so transferred power to State Government?

Thomson in 1967 researched and succinctly defined these for Ridder's paper, and should be quoted at the start. See Thomson, Battery Point, a Case Study, 1969, p 16 : -

"In 1943, as Tasmania's Town Planning Bill was in preparation, the Hobart City Council established a Town Planning Committee which, after consideration, recommended that a consultant be engaged to prepare a plan for the future development of the Corporation area. Fred C Cook, then City Engineer for Port Melbourne, Technical Officer to the Metropolitan Town Planning Commission, Melbourne from 1923 to 1929, was engaged and his Plan was started in 1943 and published in 1945. At that time the Town Clerk wrote: - 'Mr Cook's report...will now form the basis from which the Council's statutory plan under the Act will be developed.' (cf. Cook, *op cit.* page 8).

"However, instead of preparing a planning scheme, later Councils have chosen to deal with planning problems through zoning by-laws. The 1962 Local Government Act and the 1963 Hobart Corporation Act resulted in the repeal of provisions empowering the control of land use through zoning by-laws. The new legislation allowed the Council to continue operating under the zoning by-law for a five-year period (1963-1968), which could be extended at the discretion of the Town Planning Commissioner.

"The Lord Mayor's Report 1964-66, said: - 'Council has resolved to prepare a planning scheme for the whole city...it will be carried out in stages, with priority given to areas where changes are likely to be the most rapid. Following the completion of the Sandy Bay Scheme, the City Centre, Battery point, the Glebe and other inner city residential areas will be planned and these will include areas for medium and high density living.'

Historical case studies of evolutionary experiments, failures and successes, are valuable. To me, "By-laws" and "Planning Schemes" were early tentative, often half-hearted, sometimes experimental, pioneering, innovative, phases in the painfully slow 1930s-1980s cultural-political-legal evolution of "a new province for law and order" namely, urban environmental management. I gave the name "community learning process" to this difficult evolutionary period. After decades of ineffective, mis-guided, although often earnest, efforts by Local Government (several of which this paper describes) most if not all State Governments slowly, clumsily but inexorably, learnt between 1945 and the 1980s that necessity obliged them to take full command of environmental planning and development control.

The failed 1973-5 utopian-authoritarian DURD *coup d'état* to centralise and micro-manage urban and regional investment and physical planning in Canberra, permanently killed any future possibility of Federal Government guidance, participation, technical or financial assistance.

State Governments realised that political and economic necessity forced them to take control from their unreliable Local Councils. The NSW *Environmental Planning and Assessment Act, 1979*, finally, several decades late, enshrined the idealised system of objectives-based, participative planning that I had been pioneering and demonstrating in the field since my return to Australia in 1960. The "new province of law and order" had been established. So I retired content from work in Australia, and explored new challenges overseas with the World Bank, Asian Development Bank and United Nations. However, the NSW State Government soon discovered that its new environmental planning system was inconveniently democratic and participative. Power was stripped from independently-minded Local Councils; from environmental professionals in professionally-directed Authorities, Commissions or Departments; consultants were relegated from professional to hireling status. Laws were amended to bring the NSW Land and Environment Court to heel. By the time Neville Wran retired, all State legislation had been altered to ensure that everybody was "subject at all times to the direction and control of the Minister". A political command-and-control system was initiated to subject all Ministers (as well as all Local Councils) to the direction and control of the Premier. For Sydney Region, an economically rational "Urban Consolidation" policy has been enforced by the State to limit outward sprawl, and to force the wholesale high density flat development that tiny Hobart's City Aldermen and City Architect could only dream about in the far off 'sixties.

From 1979 in NSW, "Planning Schemes" became extinct, replaced by "Environmental Planning Instruments" called Local Environment Plans, Regional Environment Plans and State Environmental Planning Policies. Incidentally, I was the first to introduce in Australia, in Victoria in 1967 for Rod Fraser and Minister Rupert Hamer MLC, the legal concept of a State Environmental Planning Policy, a prose statement which when gazetted, had statutory force: see *Organisation for Strategic Planning*, by George Clarke & Tony Winter for the Town & Country Planning Board of Victoria, Government Printer 10524/67, Victoria, July 1967 pp 36, and the subsequent legislation. I was very productive in 1967. Assisting Hobart City Council in Battery Point was only one of many innovative exercises that year.

1.4 At this stage [?] it should be noted that 'the community' is often [wrongly] referred to below as if it were some homogenous mass of people with similar goals and aspirations. This is, of course, not the case. [If it's not true, then don't say or infer it] As highlighted [?] by Sandercock, community pressure over the issue of residential amenity has come invariably [*invariably?*] from middle to upper-class residents.⁵ [Is this scientific discovery known as Sandercock's Law, as in "Hungry people invariably don't spend much time or energy agitating about environmental amenity; but fat, rich people invariably demand amenity, i.e. pleasant surroundings?" Isn't that so trite that if it had been relevant to Hobart in the 'sixties you wouldn't need to cite any scientific experimental or evidence-based authority? Was Leonie (aged 25 when she finished her Thesis) ever such an authority?]

If you are writing a scholarly paper about Hobart in the 1960s, you should not base your paper on quotes of quotes of quotes from another society in another period. Alternatively, if a fact is obviously invariably true in all societies at all times, you don't need to quote authority for it, unless, of course, you refer to Sandercock's Law, as one might to Newton's Laws.

After practice throughout Australia from 1960 to 1966, field evidence and field experience convinced me that cultural attitudes to environment in the six States of Australia could be as different as those in any six countries in Europe. Sandercock was a full time academic student with no work experience; she never had any field or work experience in urban survey or planning. She only ever did academic desk studies quoting from publications. She interpreted everything she read in Marxist terms taught to her by successive Marxist teachers. Her 1974 Canberra PhD thesis, hastily turned into a propagandist tract at the height of the DURD hysteria, **quoted NO evidence from Hobart in the 1950s or 1960s or any other period**; Hobart is not mentioned once in her book; I doubt she has ever been there. She quoted another Marxist academic thesis by fellow student M. Painter, contrasting 'well-heeled, upper-class Ku-ring-gai' on Sydney's high amenity North Shore, and Liverpool on Sydney's hot western working-class plain. Her unsourced passing reference to trendy 1970s Balmain and Glebe is unsubstantiated, and even if true, neither implies nor is evidence of anything happening in Battery Point in the 1950s and 1960s.

Remember Socrates, often quoted by Professor John Anderson: - "the un-examined life is not worth living". Don't uncritically accept the pop slogans of yesteryear. Your Para 1.4 asserts or implies that all the differences of opinion you document in Hobart sprang from an Australia-wide class struggle, with the workers pro-flats, and the bourgeoisie anti-flats. A scholarly paper must recognise that reality was more complex than that. It's your role as a scholar and historian to enquire into evidence, not uncritically to endorse the slogans of yesteryear.

If you are nevertheless committed to Marxist interpretation, then consider for a moment a more credible evidence-based hypothesis that the Marxist truth in 1960s Hobart may have been the opposite: - City-capitalist-businessmen-Aldermen, investors, would-be real estate developers, with their dependent, or "lickspittle" architects and solicitors, may have conspired, either self-consciously or intuitively, to try to stimulate massive flat development over wide areas. In response, Hobart's worker and peasant masses in Sandy Bay and Battery Point may have feared losing, and risen in revolution to protect, their Arcadian Australian dream single-family house quietness, leafiness, privacy, and views.

With regards to Battery Point, Kennedy has investigated issues of class and amenity.⁶ [active voice better than] [I haven't seen this. But if Kennedy has some relevant evidence, why not quote him or her? I only remember 'gentrification' as a pejorative, now obsolete, word mis-applied to processes of land-use succession around central Sydney and Melbourne, to deplore the post-WWII decentralisation

⁵ L. Sandercock, *Cities for Sale: Property, Politics and Urban Planning in (Adelaide, Sydney & Melbourne, not Hobart) Australia*, Carlton, 1975, p. 202.

⁶ BG Kennedy, *The Gentrification of Inner City Hobart*, Honours Thesis, University of Tasmania, 1986, pp. 111-8.

of secondary industry and secondary industrial workers from 19th century inner metropolitan suburbs to larger green-field sites in the burgeoning outer suburbs, and their replacement by tertiary service industry and workers in inner suburbs. I looked for, but failed to find, any evidence of this industrial decentralisation of from Battery Point in 1967. The Marine Board would not countenance any diminution or decentralisation of Port Industry. The private slip-yards were decaying, but there was not yet any significant economic demand for waterfront apartments to replace them. In 1967 I foresaw and planned for the inevitability of a switch in Battery Point's waterfront economic base from port-related industry to tourism, but this only happened slowly over following decades.]

YOUR DRAFT PARA 1.4 NEEDS RE-CASTING:

If your draft is, as you say in Para 1.4, full of wrongful uses of the word 'community', you should correct every such mistake. As an example, see my summary list of special interest groups and their interests on pages 34 & 35 of my *Australian Quarterly* 1960 paper on "*Conflicts in the Green Belt controversy*". That paper and others of earlier dates prove that already by 1959 I analysed **environmental planning issues in terms of conflicts between interest groups**; I had learnt this approach in the United States. Please similarly **briefly list the major conflicting interest groups, or competing stakeholders, re flats in Hobart at the time, and indicate their then special interests or ideologies, e. g.:** -

(1) Aldermen representing City centre business interests, which would benefit from higher residential densities, higher retail spending and higher commercial and industrial land values in and around the City Centre. I dealt with the 1967 Chairman of the Town Planning who was a City retailer (*was he Ron Soundy? perhaps the son of 1943 Lord Mayor John Soundy MHA?*) My Committee Chairman was inspired by tall flats on Battery Point. Around June 1967, he moved into Empress Towers as soon as it was ready for occupation, at the same time as patrician City Architect Bert Dechaineux. Barry Fisher was a would-be real estate developer and an architect, and for some years, a City Alderman. Who had the City Council voting franchise at the time? Surely landowners, ratepayers, business tenants, had special or extra voting rights? In the City of Adelaide through to the 'seventies, John Roche, a big property owner, long-term Alderman and the 1974 Mayor, told me he had about 23 votes in Council elections. On Hobart City Council, if you need a quote, then see **Thomson: Battery Point, a Case Study, 1969 op cit, page 14-15: - "While there is no explicit party policy attributable to the Council, its conservative approach to business and the backgrounds of the individual aldermen lead one to conclude that if Council is aligned with any political philosophy it is one firmly rooted in a high degree of private enterprise operation...the largest sectional interests ... are those concerned with private enterprise in the Central Business District."**

(2) Hobart patriots yearning that small-town, low-growth, low-density Hobart could start to 'progress' in flat-building like mainland Sydney, Melbourne and Perth, and who feared that isolated Hobart would be outgrown by the more centrally placed Launceston; Tasmania was then, as now, the poorest State, depending on Federal Equalisation Grants to run the Tasmanian State Government which, by historical accident, was Hobart-based.

(3) Architects like the City Architect, Bert Dechaineux, who crusaded [your quotes prove beyond any shadow of doubt that Bert was an indefatigable crusader] for flats. Note that the City Architect was in charge of development control; the City Engineer was in charge of preparing planning schemes. In June 1967, at the height of the mass outcry against flats everywhere in Sandy Bay and Battery Point, both Bert and the Chairman of the Town Planning Committee moved into the 11 or 13 storey *Empress Towers* on the NE of Battery Point. Bert still lives there. *Empress Towers* was presumably approved by the Council in 1965 or 1966 under Bert's own 1960 Battery Point Development Code as varied by, or dispensed with, on Bert's own recommendation as Council's City Architect and chief development controller.

"Empress Towers" was like so many other "first up, best dressed" 'sixties flats with superb water views, but which sparked in the majority of voters the continuing anti-flats reactions you document with such puzzlement. The controversies caused the Council to seek an independent Consultant (me). In 1965 and 1966 I had been called in by the WA State Government to advise them how to regulate flat development throughout Perth; and again notably in Sydney by the Woollahra Council in 1968-69 to respond to public outcry over monstrous flats on the harbour peninsula of Darling Point. Since my 1969 plan and development control code, there has never been another monstrous slab or tower built on any slope of Darling Point, except for one elegant round tower on the highest central point of the peninsula. Refer to my publication L.08 on p 17 of my 1995 CV:-.

Darling Point Precinct Environmental Control Plan 1969-1970 for Woollahra Council;

Vol 1 : Evolution of the Plan through Citizen Participation, 66pp;

Vol 2 : The Detailed Plan & Codes, 28 pp plus appendices;

published by Woollahra Council, Sydney, 1970. I still have a few copies.

(3) Private architects and would-be developers, wanting to generate exciting fee-paid work for architects and profit participation by developers. These interests wanted the largest possible areas for flats zones, to maximise their choices and keep land costs down, with minimum controls, because making any flat development economically viable in Hobart in the 1960s was at best difficult, and mostly impossible; there was obviously only a severely limited number of rich sophisticates (upper-class people who enjoyed and advocated tall flats) like Bert and the City retailer Chairman of the Town Planning Committee, who would invest or live in costly multi-storey structures, even on foreshore sites with stunning water views, like *Empress Towers*;

(4) The 40 active members of the Battery Point Progress Association who campaigned effectively against flats in the heritage core of Battery Point. I remember, and Thomson confirms, these then seemed predominantly from two sub-cultures, possibly pre- and post-War generations: -

(a) Older, some working class, some genteel, sentimental, some maybe merely change-resisting, 'dog-in-the-manger' residents (not necessarily 'middle or upper-class') perhaps selfishly defending garden-city amenities, quietness, privacy, and views; and reacting from 1966 onwards against the fear of more high-rise *Empress Towers* or more low-rise, low-cost, less impressive flats; e.g. Mr and Mrs Colin Brewster;

(b) Younger educated professional-class sentimentalists wanting to preserve historic buildings and heritage charm as well as residential quietness, privacy and views; see the list of names in my Report of 26.10.67 to Council;

(6) Maybe some of those whom academic Marxists loved to demonise, the 'invariably middle and upper-class' residents who objected to flats over all or most of outer suburban Sandy Bay as well as Battery Point not only because they genuinely shared the great Australian dream of low-density privacy, views and amenity; but also because they feared having as neighbours, low-cost low-rise flat blocks with tenants who could be noisy, young, badly behaved, possibly even with sexually promiscuous lifestyles. I do remember, as Elizabeth does also, one lone such woman saying words to the effect "if they want to build flats let them build them near the port & industrial area down South St or Kelly St because those are slums, and slummy people live there". Interestingly, that 1960s port industrial zone along Salamanca Place has since evolved into the tourist heritage zone, the equivalent of Sydney's "Rocks".

(7) Maybe political candidates soliciting votes from some or all of the above; I can't remember any standing at the time, but Neil Batt was a resident member of the Progress Association and later became a Minister in an ALP Government; is he still alive?

⁹ M Cannon, *Life in the Cities*, Ringwood, 1988, p. 26.

2.0 [Residential Development Control?] in Hobart Prior to 1943

2.1 The earliest municipal development controls in Hobart, introduced in 1858, required that the walls of all buildings erected within the central part of the city be non-flammable in nature. This zone was known as the Brick Area, and was designed to protect the city from the destructive potential of urban conflagrations.⁹

2.2 In 1935 a motion was approved by the Council (the Council resolved?) to make use of the *Hobart Building Act* to extend the level of control from building construction to land use, although subsequent legal advice indicated that this was not possible under the Act.¹⁰ The Council overcame this obstacle via legislative amendment, resulting in Section 208A of the *Hobart Corporation Act* 1935, which provided for the definition of protected residential areas.¹¹

2.3 The new statutory powers were first used in 1936 to create by-law 44, which prohibited non-residential uses, such as manufacturing and industry, from three residential areas of Hobart (the Sandy Bay foreshore, Fitzroy Place/Dynnyrne and New Town).¹² Subsequent by-laws (45, 52, 54 and 55) approved in 1937, 1939 and 1941, defined six additional residential areas.¹³

2.4 Another development in land use control was achieved with the new *Building Act* 1937. The Building Regulations attached to this act required the Council to define central, inner and outer areas, in which were specified standards relating to minimum open space, and the nature of internal walls and floors.¹⁴ In 1941, the Council used the Building Regulations to restrict the construction of small houses and shacks from certain areas through the definition of minimum floor areas.¹⁵ The rationale for these restrictions was to 'give reasonable protection to the residential areas of the City, and allow the erection of week-end houses at reasonable distances from main outlets and tourist roads'.¹⁶

2.5 During the late-thirties, Council also gained additional control over subdivisions, through changes in the wording of a by-law relating to sewerage provision. By-law 51, which was endorsed by the Council in October 1939, required developers to have new subdivision plans checked by Council officers prior to sale of the land.¹⁷

2.6 These developments in the use of by-laws indicate that, prior to 1940, the Council had achieved some measure of control over land-use via three different paths; the *Hobart Corporation Act* 1935; the *Building Regulations* 1938; and the laws relating to sewerage provision. One other area of control which has not been described [by whom?] concerned by-laws which made allowance for future road widening by specifying set-back distances for new houses.¹⁸

3.0 1945 Zoning By-Laws and the 1945 Cook Plan [??? or: -]

The 1943-1972 transition from By-Laws to Planning Schemes (see Thomson op cit)

3.1 In February 1943, the Hobart City Council established a Town Planning Committee to oversee the preparation of municipal town plan. The Committee appointed FC Cook, a planner from Melbourne, to carry out the task. Cook visited Hobart in May in order to gather information and

¹⁰ AOT MCC 16/36/1, *By-law 44*, Council resolution, 4 March 1935; *Ibid.*, Waugh to TC, 30 August 1935.

¹¹ AOT MCC 16/36/1, *By-law 44*, Council resolution, 16 September 1935.

¹² AOT MCC 16/36/1, *By-law 44*, Building Surveyor to TC, 27 August 1936; TGG, 17 November 1936, pp. 2852-3.

¹³ TGG, 20 April 1937, p. 709; TGG, 20 December 1939, pp. 3319-20; TGG, 9 April 1941, pp. 850-1; TGG, 7 May 1941, p. 1122.

¹⁴ AOT MCC 16/36/2, *Building Regulations 1938*, Council resolution, 18 July 1938.

¹⁵ AOT MCC 16/36/2, *By-law 19*, Council resolution, 31 March 1941.

¹⁶ AOT MCC 16/36/2, *By-law 19*, TC to Health (Building) Committee, 28 February 1941.

¹⁷ AOT MCC 16/36/2, *By-law 43*, TC to Works Committee, 16 August 1939.

¹⁸ FC Cook, *City of Hobart Plan*, Hobart: Hobart City Council, 1945, p. 7.

discuss planning options.¹⁹ Also in May, the Council finalised consolidation of all its by-laws relating to building matters, which included deletion of many which had been rendered obsolete by the 1938 Building Regulations.²⁰

3.2 In July 1945, using the powers defined within the new *Town and Country Planning Act 1944*, and prior to the Cook Plan being made available to the public, the Council adopted a new zoning by-law (64). This repealed all of the previous by-laws relating to residential areas (44, 45, 48, 52, 54, 55 & 61), and defined a number of new areas proposed by Cook - Industrial, Business, Miscellaneous Shopping, and Residential.²¹ [Was this new Zoning By-law more or less as recommended by Cook on pp 31 –38 of the book of his Plan? Residential B for Battery Point? Residential A for Sandy Bay & the rest of the outer fringe?]

3.3 The public response to the Cook Plan, and the subsequent moves [when? was there any serious talk of this in the 1940s or up to 1967 ?] to develop a regional planning scheme for Hobart, are fully detailed by Stefan Petrow in the article 'A City in Search of a Plan'. Petrow indicates that by 1962, despite the efforts of various state (?) and local planning committees, Hobart was still without a plan.²² **The rest of this paper describes the events leading up to the eventual public exhibition of draft planning schemes by the Hobart City Council in 1967 and 1969 and their subsequent rejection (Sandy Bay) or gazettal (Battery Point) by the State Government?** [Was this not a process in which the State tried to induce and finally try to force Local Councils to prepare planning schemes which would be acceptable to local electors, and to the State Government?]

4.0 The Battery Point Development Code of 1960

[Please specify which, there have been so many]

4.1 The potential for flat development appeared to be the driving force behind Council moves to introduce new planning controls for Battery Point during the 'fifties. This issue first came to light in 1955, during consideration of a proposal to extend the Marine Board wharves from Sullivans Cove around the foreshore of Battery Point. The report written by Council officers [name? position? Bert Dechaineux?] includes the following comments:

"From purely Town Planning viewpoints, the present and future land usage in the Battery Point area are of vital concern... The topography of Battery Point is such that it is not suitable nor even economical for industrial or business development but rather its proximity to the City, its aspect and its hilly terrain are ideal for future multi-storied flats and apartments."²³
[Who was this prophet of high-density *ville radieuse*? that's an important historical question]

4.2 In March 1956, Council officers were formally directed by the Town Planning Committee to consider zoning for the future use of the Battery Point area..²⁴ [change to active voice!] The City Engineer consistently deferred this [Crawford? he was a sane man] until February 1957, when the decision was made to pass the matter onto the State Commissioner for Town and Country Planning.²⁵ The Commissioner agreed to assist [how?], as did also S.W.T. Blythe and his architecture students [there were no town planners in Tasmania in those days] at the Hobart Technical College.²⁶

¹⁹ Petrow, pp. 133-4.

²⁰ AOT MCC 16/36/2, *Correspondence relating to by-laws*, Building Surveyor to TC, 15 April 1943; TGG, 26 May 1943, pp. 833-9.

²¹ TGG, 15 August 1945, pp. 1846-50.

²² Petrow, pp. 132-53.

²³ AOT MCC 16/134/2, *Minutes of the TPC*, 5 December 1955.

²⁴ AOT MCC 16/134/2, *Minutes of the TPC*, 19 March 1956.

²⁵ AOT MCC 16/134/3, *Minutes of the TPC*, Most meetings up until 7 February 1957 restate the request for consideration of Battery Point.

²⁶ AOT MCC 16/134/4, *Minutes of the TPC*, 4 October 1957.

4.3 The completed student projects were displayed at the Nettlefold's showroom in August 1958.²⁷ Council officers and Aldermen were invited to a meeting of the Battery Point Progress Association, formed in 1948 to resist port-industrial expansion southward from Salamanca Place, and to request a Town Planning Scheme for Battery Point, to discuss the student work and the future introduction of planning controls.²⁸ The City Engineer [acting on advice or a script from Bert?] who was to attend the meeting, indicated to the Town Clerk that over the next forty years, all of Battery Point, 'except for the two groups of good class homes in the vicinity of Castray Esplanade and Margaret Street, will be used for multi-storey flats'.²⁹ [You should note whether or not this prophecy came true by 1998. Which interest groups prompted this advocacy-prophecy? Bert? The City's commercial Aldermen? Was it based on urban economic or geographic survey and market research?]

Aldermanic opinion took a similar line, with Council endorsing the investigation of 'special rating provisions to encourage flat construction in the area'.³⁰ [You should comment that this demonstrates that from 1958, Council really wanted to force flat development. Would Sandercock say it was the socialist Aldermen who wanted to force open Battery Point to the working class?]

4.4 In June 1959, *The Mercury* reported that the Progress Association was still seeking action [what kind of action?] from the Council, and again invited Council representatives to attend one of their meetings. The article notes that the Association had, since 1948, sought the prohibition of industry, road widening, construction of Cook's proposed foreshore boulevard, and preservation of historic buildings. The Association frowned upon dense concentrations of flats, although tall apartment buildings were considered acceptable if the plans included sufficient open space.³¹ Not long after the Association's request, the Council formally resolved to engage Sydney University Professor Denis Winston, who would be in Tasmania for a conference, to 'report on the potential of Battery Point'.³² Professor Winston had in 1949 come from England to fill the first Chair of Town and Country Planning in Australia.

4.5 Professor Winston's report, posted to the Council in March 1960, identified Battery Point as being of high potential for residential development. He recommended that a development code be drawn up specifying planning requirements relating to open space, parking provision, and the restriction of tall buildings from the foreshore area. Tower blocks were to be encouraged on the higher land, and 'certain selected old properties' acquired by the Council and preserved.³³ [was Winston ignored when 11 or 13 storey *Empress Towers* was approved on the lower foreshores in about 1965?] Winston also expressed the reservation that 'however much it may be regretted... Battery Point is changing'. He considered such change to be inevitable, and 'impossible to prevent short of total resumption of the area by the City Council'. In support of strict planning controls he issued Council with the following warning:

"Without a great deal of ingenuity and active participation on the part of the Council, development will take place in a patchy, un-co-ordinated kind of way, much hardship will be suffered by people in the neighbourhood of over-shadowing and sometimes noisy flats, streets will become over-burdened with traffic and parked cars, and the outlook across the Derwent will be blocked for all but a few in the

²⁷ AOT MCC 16/134/5, *Minutes of the TPC*, 25 July 1958.

²⁸ Kennedy (p. 111) indicates that the Progress Association was 'formed in 1948 primarily to act as a counter to the proposed land use changes suggested in [the Cook Plan]'. This statement is made with reference to the Association's minute book for 1948 to 1953, which is now missing. Kennedy's statement is slightly confusing because (a) the Cook Plan was never implemented except in the form of the zoning by-law 64, and (b) the zoning by-law did not specify any changes to the existing zoning for Battery Point. This suggests that either the Minute Book was misinterpreted by Kennedy, or the original members of the Progress Association were not aware of the zoning by-law.

²⁹ AOT AA236/6, *Battery Point Planning Scheme*, CE to TC, 5 September 1958.

³⁰ AOT MCC 16/134/5, *Minutes of the TPC*, Council resolution, 12 September 1958.

³¹ *The Mercury*, 24 June 1959, p. 3.

³² AOT MCC 16/2/344, *Battery Point Development*, Council Resolution, 26 October 1959.

³³ D Winston, *Report on the Development of Battery Point*, pp. 3-4. This report is found in AOT MCC 16/2/344, *Battery Point Development*, Winston to TC, 29 March 1960.

highest and most expensive flats [like *Empress Towers*?]. In short, most of what is good in the present Battery Point will disappear, without anything very good taking its place except the good profits of a comparatively small number of speculators and developers, who are as likely to have their headquarters in Sydney or Melbourne as in Hobart.³⁴ [You should comment that this echoed the views of the Battery Point Progress Association.]

4.6 Upon **drafting the development code**, which more-or-less [? experience taught me that architects in and on Councils liked to amend town-planners' codes to reduce their restrictiveness] followed Professor Winston's recommendations, the **City Architect** [you must name him: Bert Dechaineux? you must quote the span of years during which Bert worked at the Council, and the span of years during which he was City Architect and in charge of Development Control]

commented that 'for a number of years the Council has recognised that it is **essential to encourage high density development**', the principal reasons being to **maintain and increase the population of the City**.

Bert Dechaineux, the City Architect, continued:

"In a **vigorous policy of encouragement to high density development**, controlled to give the benefits of sun, light, air and natural surroundings of which we are so well endowed, this **Council will be doing its utmost to support the growth and welfare of the City**." [The gospel according to Saint Bert? or the City Centre Commercial Apostles? or both?] The **proposed [Bert's] Battery Point Development Zone marks one of the foremost steps taken by Council since the adoption of Residential and Commercial Zoning in 1945.**³⁵ [Wrote the author of the 1960 Code? Bert?]

4.7 In June, 1960, the Council resolved to adopt the **City Architect's recommended Battery Point Development Code** (by-law 33).³⁶ [Here you must give us some statistical indicator of what was in the Code, what density could be achieved etc. Was it denser than Fred Cook's 1945 highest density recommendation of a minimum 6,000 sq ft lot area, and a minimum of 2,000 sq ft un-built on, unobstructed open yard space per flat?]

4.8 Later that same year a proposal was submitted to the Council for a nine storey apartment building [who by? how many flats? floor space ratio? site coverage? what statistical indicator of density? the whole paper is meaningless unless the reader can gauge the actual densities argued about. It's clear that the cost per square metre of 9-storey development would have been impossible to justify in the limited Hobart market.] in Runnymede Street [on the Point, with water views, but not on as prime a site as the 1966-7 *Empress Towers*?] which would breach some [which?] of the requirements of the Code. In response, the Town Planning Committee suggested [on the recommendation of the City Architect?] that the 'by-law be amended [by simple un-advertised Council resolution?] to **allow Council discretionary powers so that this proposal can be approved**'.³⁷ This amendment [came into force by a simple unadvertised resolution of the Council and] gave Council the power to 'vary or dispense' with most of the provisions of the by-law if they were considered [following consideration of a recommendation from Bert Dechaineux, OIC Development Control] to be unreasonable or unsuitable.³⁸ [Did Bert, as Council's chief development control officer, recommend this? or did one of the businessmen Aldermen? Did any of them declare a personal conflict of interest and abstain from voting?] Unfortunately for the Council, the proposal which inspired the amendment was later withdrawn because of concerns about 'economic conditions'. [In Hobart, unsubsidised private investment in flats requiring lifts, was simply unprofitable on most sites, most of the time.] The local developer, Barry Fisher, who later became a Council Alderman, was subsequently given Council

³⁴ Winston, pp. 2-3.

³⁵ AOT MCC 16/2/344, *Battery Point Development*, CA to TC, 9 May 1960.

³⁶ TGG, By-Law 33 (Battery Point Development), 10 August 1960, pp. 1211-2.

³⁷ AOT MCC 16/2/183, *Runnymede Street*, TPC resolution, 16 August 1960.

³⁸ TGG, By-Law 38, 10 January 1962, p 16.

approval to erect an apparently more profitable complex of four storey walk-up flats on the same site.³⁹ [Was this 3 up and 1 down, from street level?]

4.9 Despite the Battery Point Progress Association's [don't use what you know to be a meaningless word, and don't avoid using the specific real term] agitation for planning controls in Battery Point, it seems that the impetus for the [1960] Development Code came largely from the City Architect's and Council's desire [crusade? determination?] to see the suburb redeveloped as a high-rise residential enclave. The advantages of by-laws, from the perspective of the Council, are demonstrated by the ease [explain 'ease'] with [which] the Development Code was amended [if it was by simple unadvertised resolution of Council, say so] in order to facilitate high-rise development. [But Planning Schemes can equally also have the widest possible discretion and flexibility written into them. **What is the distinction? That By Laws could be adopted and altered by simple unadvertised resolution of Council, while Planning Schemes could only be made or changed through complex State Government procedures leading to gazettal authorised by a Minister?**]

5.0 The 1963 [?] Sandy Bay Development Code

5.1 This Sandy Bay Development Code was drafted in response to concerns expressed in May 1963 by the Council Town Planning Committee that a recently proposed 29-unit development 'might affect the view of residents on the opposite side of Sandy Bay Road' [A reasonable and rational concern]. The City Architect [Bert?] was subsequently directed to investigate a policy for the size of buildings along the Sandy Bay foreshore.⁴⁰

5.2 In response to the Committee's request, by-law 43 (Sandy Bay Development Code - Apartment Houses) was drafted [by City Architect Bert Dechaineux], and approved by the Council in August 1963. This imposed a height limit of 33 feet [!] on flats erected on the waterfront side of Sandy Bay Road [!!!!??] [A *maximum* 3-storey wall along the water's edge in the outermost suburb of a small city like Hobart? Was this not unreasonable?]. It also reiterated the clause contained within the old by-law empowering the Council to assess any proposed apartment building in Sandy Bay 'on its merits'.⁴¹ [This gave effective power to Bert, the senior Council officer advising the Council on the merits of each case.]

5.3 The level of discretion contained within this phrase was soon tested by proposals for flats on both corners of Waimea Avenue and Sandy Bay Road. Apparently in approving the first proposal, Aldermen had regretted making the decision, but felt they had no choice because the plans conformed to the by-law.⁴² [Who wrongly advised them they had no choice?]

5.4 [Your readers need to be alerted here of that rare, and long-since abolished and forgotten, right of Third Parties or Objectors to appeal to a State Authority or Court against the granting by a Council of a Development Consent. These were early features of some early legislation but were abolished by State Governments because they obstructed State Authorities who believed, as did Col Ferrier, Chief Planner in NSW 1963-? that "the job of the Government is to govern" even if indirectly through State Government control of Local Government.] Appeals by local [Sandy Bay?] residents against the Council approvals were subsequently upheld by the Commissioner for Town and Country Planning, Neal [spelling?] Abercrombie,⁴³ demonstrating to Aldermen that their discretionary (By-law?) powers were sufficient to control this sort of development. In delivering his verdict on the first Appeal Abercrombie strongly recommended that Council review their planning

³⁹ AOT MCC 16/2/183, *Runnymede Street*, LJ Hooker to TC, 23 May 1961; see also later material on this same file.

⁴⁰ AOT MCC 16/134/9, *Minutes of the TPC*, 21 May 1963.

⁴¹ TGG, August 1963, p. 1106.

⁴² *The Mercury*, 10 March 1964, p. 3; *The Mercury*, 2 April 1964, p. 3.

⁴³ Neal Abercrombie, who was Commissioner up until the mid-seventies, was the son of Sir Patrick Abercrombie; one of the most prominent figures in the rise of the British town planning movement.

controls for Sandy Bay. During the second Appeal, he made a point of describing the benefits of planning schemes over by-laws.⁴⁴ [Please give us a hint as to the reasons Neal or Neil gave.]

5.5 As in the 1960 Battery Point Code, the 1963 Sandy Bay Development Code was an initiative of the City Architect and the Council to encourage [??] flat development, in this case restricting the height of buildings along the foreshore [to 3 storeys !!!???]. This rather limited perspective of residential amenity was then challenged by residents appealing against flats which complied with the by-law. At the time, these appeals represented an important show of concern by Sandy Bay residents who valued their outer suburban amenity and water views. These were the first objector appeals against the City Council. [end sentence here.] [1944 ?] [since the inclusion of town planning powers in the Local Government Act and the Hobart Corporation Act in 1962?] or [since the adoption of the City Architect's 1963 Sandy Bay Code?] or [because this was the first Consent by the Council that provoked objector appeals?]

6.0 The 1965-66 draft Sandy Bay Planning Scheme which provoked 8,485 objections

6.1 In early 1965 Council officers began to collect data in preparation for a municipal planning scheme. In support of this course of action, the City Engineer, Peter Crawford [I remember Peter as a most sane, serious and sensible man], indicated that he was 'firmly of the opinion that the zoning of residential areas in Hobart to promote stability of residential development and to protect the character and established pattern of desirable development [my underline] in each area is a vital necessity'. He argued that the 'random intrusion of high rise apartments' [this sounds like a criticism of Bert's crusade?] could cause the 'shift of the higher income groups into neighbouring municipalities'. In addition, 'declining values in the suburbs affected by incompatible structures' could outweigh the extra rates which Council would gain from the apartment buildings.⁴⁵ [Peter obviously disapproved of flats in Sandy Bay. This is an argument calculated to appeal to the businessmen Aldermen. Did they also tend to live in Sandy Bay ?]

6.2 Bert Dechaineux, who was the City Architect at the time [between 19?? and 19??], later confirmed that Crawford was never 'pro-flats', and had apparently moved from Star Street to Sonning Crescent in Sandy Bay during the mid-sixties because of his concerns about residential amenity.⁴⁶ [This confirms that the CE & CA were in cultural conflict?]

6.3 Debate on the construction of flats in Sandy Bay escalated throughout 1965, with the number of letters [all from all from Sandercock's class-enemy capitalist-roaders, demonstrably so because they could write letters?] appearing in *The Mercury* reaching a peak in August 1965. In September, 100 concerned residents [invariably middle to upper-class, or simply people who feared their water views would be reduced or spoilt?] attended a Council meeting at which another Sandy Bay flat development was narrowly approved, by four votes to three.⁴⁷

6.4 In October 1965, the Council formally resolved to prepare a planning scheme for Sandy Bay, and to continue to postpone work on the city-wide scheme [Your draft contradicts the Lord Mayor's Report of 1964-66. See Thomson, quoted at length under Para 1.3 of these comments on Page 4.] Sandy Bay was divided into two primary zones, with the development of flats restricted in one zone (R1), and encouraged in the other (R2).⁴⁸ [Where were these zones ? uphill or along the water's edge ?] In February 1966, the City Engineer Peter Crawford, commented that:

“over the whole R2 zone, individual owners will face the possibility of an apartment building near to them. This, it is admitted may be adverse in its effect upon owners in the zone. Other

⁴⁴ AOT AA 500/3, *Appeal 120*, Commissioner to TC, 9 September 1964; AOT AA 500/3, *Appeal 122*, Appeal Decision, 30 June 1965.

⁴⁵ AOT MCC 16/2/327, *Sandy Bay Planning Scheme*, vol. 1, CE to TC, 16 November 1964.

⁴⁶ Letter Bert Dechaineux to Ben Ridder, 3 August 2000; Conversation with Bert Dechaineux, 16 August 2000.

⁴⁷ *The Mercury*, 14 September 1965, p 3.

⁴⁸ *The Mercury*, 14 December 1965, p 3.

owners especially those with larger allotments may regard the R2 zone as having good investment potential." [so the City Engineer sided with the anti-flats residents? Was the City Engineer a middle to upper-class amenity-lover? Was the City Architect a true socialist workers'-flats-advocate, or perhaps an architect who, as he himself wrote to you, was distributing information to Solicitors as to where and how they could invest their client's money in flat development?]

6.5 Crawford also mentioned that the R2 zone would permit 'a reasonably wide freedom of choice both by outside developers on the one hand and by owners who wish to redevelop with apartments on the other'. He warned against reducing the size of the R2 zone, as it would result in larger development projects shifting into 'other suburbs of Hobart or... other municipalities'.⁴⁹ [what market research did he have to make him think that ?]

6.6 These various statements by the City Engineer indicate that further conflict between the Council [Aldermen representing the City Centre commercial interests, and the City Architect ?] and the community [outer suburban families in Sandy Bay who didn't want 3-storey flats between them and the water ?] over the issue of flats was inevitable, despite the compromise represented by the R1 zone. The statements also suggest that consideration of the rate base was important in the decision-making process. Despite Dechaineux's comment that 'no development was ever regarded meritorious for reasons of its rates base',⁵⁰ it seems likely that consideration of future city income would have been a significant factor in shaping the Council's approach to local development opportunities. {Are you serious? Did Crawford resort to faux-economics to dissuade the Business Aldermen from backing Bert's grand vision of flats, financed by Solicitors, designed by architects, almost everywhere?}

7.0 Progress Association Agitation in Battery Point

[The Battery Point Progress Association's reaction against Empress Towers ?]

7.1 In March 1966, as Council officers refined the draft Sandy Bay scheme, the **Battery Point Progress Association** wrote to the Town Clerk requesting a town plan for Battery Point. Residents were becoming concerned about the number of new flats, and had been surprised to learn that high-rise flats were actively encouraged by [Bert Dechaineux's discretion to interpret the 1960] Battery Point Development Code. At the November 1965 meeting of the Progress Association the comment was made that 'we want the old to be blended with the new; so as not to entirely change the face of the Point'.⁵¹ This seems rational and reasonable. Don't be coy. Tell us who recommended Consent for Empress Towers, and when it was approved. Was it advertised beforehand ? Was the local Progress Association notified?]

7.2 In his internal [confidential, unpublished ?] response to the request for a town plan, the City Architect commented that 'Council has previously recognised the necessity for having a planning scheme for Battery Point', although this had been delayed by lack of staff.⁵² [The 'lack of staff' ploy was a standing joke of the period, used by Council Officers who either didn't have the foggiest how to do something, or simply didn't want to do it, or both. In July the City Engineer further emphasised the need for immediate action: 'Battery Point is a unique living area which is ripe for redevelopment. High density and medium density redevelopment is now gaining momentum and the urgency for a master plan is apparent'.⁵³ [The conflict between the rival Departments of City Engineer and City Architect is now plain for all to see. The City Engineer prepared Planning Schemes; the City Architect administered Development Control and Consents. Crawford wanted his Department to prepare a planning scheme. Bert wanted to continue his freedom to recommend and win Development Consents without being restricted by a planning scheme.]

⁴⁹ AOT MCC 16/2/327, *Sandy Bay Planning Scheme*, vol. 1, CE to TC, 22 February 1966.

⁵⁰ Letter Bert Dechaineux to Ben Ridder, 3 August 2000.

⁵¹ Minutes of the Battery Point Progress Association, 20 July 1965 & 15 November 1965.

⁵² AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 1, Progress Association to TC, 30 March 1966; *Ibid.*, CA to CE, 1 April 1966.

⁵³ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. I, CE to TC, 27 July 1966.

[I remember Crawford as an austere, sane, reasonable, practical, evidence-based Engineer;; Bert the Architect was, a charming and ingratiating patrician who I liked personally very much but who clearly was an ideological crusader for flats. **You need to draw attention to this contrast and conflict between the two Department Heads. I believe it was the reason for me being invited to Hobart.]**

The facts about what happened next are:- **In July 1966, the City Engineer consulted colleagues, including Peter Harrison, Chief Planner of the National Capital Development Commission and John Lloyd, the Town Planning Commissioner of Western Australia, in search of the best qualified person in Australia to assist his Department and Council to address the controversies in Battery Point. He was advised to talk to me in Sydney.**

Typical contemporary media accounts included:- Clarke is Australia's first *urbanist* with work experience and post-graduate qualifications in both European 'town planning' and American 'city planning'. In 1960, Clarke returned to Australia and started a radically innovative multi-disciplinary urban research, planning and design consultancy, based in Sydney. He wrote a raft of 'state of the art' professional papers between 1960 and 1966, created a new professional Journal for the Australian Planning Institute, and won new types of problem-solving commissions from Federal, State and Local Government authorities, and from private sector innovators, like G.J.Dusseldorp, founder of Lend Lease. In 1965, uncontrolled flats development in Perth sparked public outcry and media controversies. The WA Premier acted on the advice of his Town Planning Commissioner, John Lloyd, and engaged Clarke as problem solver, to discipline flats developments throughout WA. Clarke won national notice in 1966 when the Government of W.A. gazetted his then wholly innovative '**Residential Development Regulations**': *WA Government Gazette*, 11 March 1966; designed by Clarke after conferring and consulting during 1965 with all the conflicting interest groups or 'stakeholders' in Perth.

As news of this spread around town planning circles, Crawford was searching for someone to assist his Department and his Council to cope with the challenges in Battery Point. Crawford delegated his trusted "Development Engineer" (I can't immediately recall his name) to confer with me in Sydney in August 1966, during the Australian Planning Institute Congress. As a result, Crawford had me invited by Hobart City Council to visit Hobart at Council's expense to discuss what might be done for Battery Point. Quote/cite Reference: Thomson, Elizabeth; *Battery Point, a case study*, February 1969, Thesis, Master of Town and Country Planning, University of Sydney, Volume I, 145 pp; page 25.

7.3 In September 1966 the Council invited George Clarke [Council only offered one fare and hotel bill, not several for "representatives"] - of the Sydney urban research, planning, and design firm Clarke, Gazzard and Partners, to Hobart to discuss how he might assist Council to prepare Council's scheme.⁵⁴ Briefing notes prepared [by whom to impress whom? by the City Architect to impress the Aldermen? were these notes important, My memory is clear that Clarke had already been briefed by Crawford and his Development Engineer] for the consultants included the following:

"With declining population and without suitable industrial areas, the Council feels that it must concentrate on attracting residential development and Battery Point presents itself as a desirable area for high, or higher, density housing."⁵⁵

7.4 George Clarke, a one-time student and good friend of Professor Denis Winston,⁵⁶ addressed the Council in October. Handwritten [whose? Bert's? or the Development Engineer's?] notes of the presentation indicate that Clarke:-

⁵⁴ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 1, Council resolution, 26 September 1966.

⁵⁵ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 1, Undated briefing notes.

⁵⁶ P Ashton, *The Accidental City: Planning Sydney Since 1788*, Sydney, 1993, p. 77.

(a) referred to current conflicts over new blocks of flats in Perth and on the Sydney Harbour foreshore at Darling Point: Monstrous buildings - Disfigurement - last 10 years - upheaval - Council must lead debate.

(b) was certain that "waterfront, north facing areas like Battery Point will never be a slum – the psychological. appeal of a north-east facing location with a good micro-climate and water views will always be strong"

(c) compared Battery point to similar heritage precincts in other waterfront cities, like Beacon Hill in Boston, and College Hill in Providence RI, where he had lived and worked, and urged Council to "preserve old historic character preserve views, etc, work deliberately to give Battery Point something special tourist interest as well."

(d) pointed out that to win the support of voters, State Government Ministers, and investors,, it would be "Necessary to generate public opinion and support - most vital"–

(e) concluded by quoting his old MIT teacher, American utopian Lewis Mumford, (see *Culture of Cities*, in which Mumford urged a participative process for a N.Y. Regional Plan) saying that the process of people openly, participatively sharing and debating ideas of what they could do in their shared environment, is more important than the end result expressed in any particular plan. Not even the most authoritarian plan is ever final or perfect. The process of stakeholder participation and the search for consensus through open debate between conflicting interest groups, is the essence of a good society. Clarke added that such a process is Practically essential to achieve consensus on some creative compromise for implementation.⁵⁷

7.5 These notes, with their new and earnest focus on interest-group consultation and heritage and amenity preservation, indicate that Clarke brought a radically new approach quite different from any other town planners of that period. [These concepts were not widely understood or practised for many years afterwards, and were only enshrined in legislation and standard practice by the 1979 NSW Planning and Assessment Act.] Clarke's October proposal to assist Council indicates that he would open up for discussion Council's stated aims for redevelopment and modernisation. He would stimulate a search for a balance, integration or creative compromise, which might meet some part of each of three stakeholder objectives: -

"(a) allow and encourage residential development to medium and high densities...

"(b) reshape the old street and pedestrian pathway systems to meet the new needs of the redeveloped area;

"(c) preserve, reinstate and revitalize the unique historical character of Battery Point without inhibiting modern development..."⁵⁸

7.6 This proposal, dated 24 October 1966, is detailed in the February 1969 Cas Study by Clarke's urban geographer assistant, Elizabeth Thomson. The appointment of Clarke, Gazzard and Partners to assist Council to prepare Council's Battery Point Planning Scheme, was approved by Aldermen in November 1966.⁵⁹ Clarke Gazzard specified: "We stress that we will seek to serve as a catalyst in the evolution of Hobart's own plan for Battery Point. Therefore we will work from the general to the particular, giving Council staff, Committees and Council itself the opportunity to check and approve each appropriate stage of the process." and "We would consider ourselves as working for the Council, under the day to day authority and direction of the City Engineer." (ref Thomson, *op cit*, p 27).

7.7 At this stage the disparity between the positions of the Council and the Battery Point Progress Association appear quite obvious. Residents still felt obliged to permit some degree of progress, yet sought to place limits on the amount of change which would eventually take place in Battery Point; a

⁵⁷ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 1, Handwritten minutes, 21 October 1966.

⁵⁸ AOT AA236/71, *Battery Point Pl. Scheme*, Clarke to TC, 1 November 1966.

⁵⁹ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 1, Council resolution, 28 November 1966.

sentiment which gained support during 1966 as work started on the eleven-storey Empress Towers.⁶⁰ [You must stress this point more. Your draft seems to avoid discussion of *Empress Towers*, how it got approved with Bert's recommendation, and the great reaction it provoked as people saw it rising up in front of them.] In contrast, the Council [business-oriented Aldermen and the City Architect?] sought to maximise redevelopment potential in order to create a high-density residential area close to the CBD. The Clarke proposal was a balanced approach seeking some creative compromise between the two extremes. In November, Council resolved to accept the Clarke Gazzard proposal.

7.8 Clarke and urban geographer Elizabeth Thomson started work in Hobart on 2 January 1967. Clarke first consulted with Council staff, then with the President of the Battery Point Progress Association on 4 January; with 15 members of the Association's sub-committee on 10 January; and with a leading member of the National Trust; with architects and would-be developers interested in Battery Point; and with a full range of governmental and private bodies with property or operations relevant to Battery Point. These consultative processes continued throughout 1967. Ref Thomson, *op cit*, page 34.]

8.0

The 1967 storm of objections to the Council's draft Sandy Bay Planning Scheme

8.1 Under the *Local Government Act* 1962, draft planning schemes were first approved by the council, then needed the provisional approval of the Commissioner for Town and Country Planning, before a three month public exhibition period. After the scheme had been modified by the council to reflect public comments, the Commissioner would conduct hearings to resolve any disputes. The Commissioner was required to recommend to the State Government what should be done. A standard element of such legislation was that draft planning schemes provisionally approved for public exhibition, had to be taken into account in the assessment of development applications.

8.2 The Sandy Bay scheme [prepared under the influence of Bert Dechaineux ?] was eventually approved by the Council in November 1966, and provisionally approved by the Commissioner soon after. During the three month comment period [on the Sandy Bay Scheme], which commenced in January 1967, many articles and letters appeared in the pages of *The Mercury*, both objecting to the scheme, and encouraging residents to make formal objections to the Council [please note whether or not there were any letters or other signals on behalf of the working classes clamouring for opportunities to rent low-cost flats in the outer suburban waterfront suburb of Sandy Bay? or in Battery Point?]. The City Engineer later made the following comments in relation to the newspaper coverage:

"It is recalled that a wave of misinformed [!?] publicity took place just prior to the closing of objections, and too late for taking effective corrective measures.

"The publicity gave rise to a widespread misconception that the Council had selected Sandy Bay, as distinct from other parts of the City, as an area where blocks of flats up to 13 storeys should be encouraged. However, as previously reported, the scheme will place a considerable additional cost [how?] on flat development, and therefore will act, correctly it is believed, as a brake on the rate of flat building in Sandy Bay.⁶¹"

8.3 By the end of March, while Clarke Gazzard continued to try to build a consensus for Battery Point, - 1,100 Sandy Bay people [!!!], had submitted a total of 8,485 objections to Council's exhibited draft Sandy Bay Planning Scheme[!!!]. (*Convert passive voice to active voice*) The most common objections were :-

Flat development lowers property values (931);

Flat development results in loss of views (893);

The planning scheme does not comply with town planning principles (826);

⁶⁰ *The Saturday Evening Mercury*, 4 June 1966, p. 1.

⁶¹ AOT AA236/70, *Hobart Sandy Bay Pl. Sch.*, CE to TC, 8 June 1967.

Flat development should be planned for other more suitable areas of the City (813);

Flat Development Zones should be reduced and confined to one area (792).

8.4 The comments were analysed by Council staff [for 9 months !!!] between March and December 1967 while Clarke Gazzard were were still trying to find some consensus about Battery Point. The Town Planning Committee agreed with the condemnation of the 'wave of misinformed publicity', and classified nearly all of the public comments, including the five principal objections listed above, as invalid. [Put in active voice, shorten, clarify:] A revised version of the scheme was approved in mid-December, and included a reduction in the size of the R2 zone, in which flats were permitted.] The *Southside News* made the point that, despite being rejected, the general intent of the objections 'obviously influenced the Council in the changes that were recommended'.⁶²

8.5 In March 1968, the Commissioner recommended, and the Minister for Lands and Works authorised, State Government rejection of the Scheme.⁶³ On 25 March, the Commissioner requested Council to prepare a new Scheme, as 'the upholding of the majority of these objections would in my opinion result in the substantial modification of the scheme'. He stated that 'Council has done the right thing at this stage in the policy that has been adopted toward the great majority of the objections'.⁶⁴ This 'policy' is most likely the [reduction in the extent and/or the density of flat zones?] changes made to the scheme by the Council, suggesting that the Commissioner had felt obliged to reject the scheme primarily because of the wording of the Act, not because he disapproved of the scheme itself. [This special pleading about what Abercrombie was 'most likely' 'suggesting' does not sound like Abercrombie, is not objectively justified, or even relevant. Was it suggested to you by Bert?]

8.6 After this rejection by the Minister, the Sandy Bay Scheme was never again put before the public. It did however, remain a matter to be taken into account in development application assessment for over nine years. (*Already stated in your Para 8.1*). Under Section 734 of the *Local Government Act*, councils were required to consider planning schemes in preparation. Consequently the rejected Sandy Bay Scheme became a 'scheme in preparation', prompting one community group to comment that it 'may be expedient from your Council's point of view, but such action would appear to lack validity'.⁶⁵ When the architect Jim Moon drew attention to the issue in *The Mercury*, Council responded by stating that they were operating within the law, and that a new draft scheme was 'in preparation'.⁶⁶

9.0 The 1967-69 evolution of the Battery Point Planning Scheme

9.1 George Clarke and his urban geographer assistant Elizabeth Thomson commenced work on surveys, research and consultations about Battery Point [delete Scheme] [on 2 January 1967] at about the time that the public comment period closed for Sandy Bay.

Preliminary reports submitted by Clarke in June 1967 suggested the following zones:

⁶² AOT MCC 16/2/327, *Sandy Bay Planning Scheme*, vol. 2, Council Resolution, 18 December 1967; *Southside News*, 25 January 1968, p. 1.

⁶³ AOT MCC 16/2/327, *Sandy Bay Planning Scheme*, vol. 3, Commissioner to Minister for Lands and Works, 15 March 1968.

⁶⁴ AOT MCC 16/2/327, *Sandy Bay Planning Scheme*, vol. 3, Commissioner to TC (2 letters), 25 March 1968.

⁶⁵ AOT MCC 16/2/327, *Sandy Bay Planning Scheme*, vol. 3, Sandy Bay Environment Protection Committee to TC, 23 May 1968.

⁶⁶ *The Mercury*, 31 May 1968, p. 4; *The Mercury*, 1 June 1968, p. 6.

R1 - Consisting of the historic village in which 'optimum suggested redevelopment... is for clusters of two-storied town houses which would be in keeping with its present character and which would enhance the intimate scale of street and mews frontages'.

R2 - Consisting of the sloping area below / around the historic core, in which 'four-storied to five-storied buildings' would be encouraged (on the lower side of streets on steep slopes).

R3 - The area around the southern fringe of the planning area, including the flat land to the south of Battery Point, known as Marieville. There would be no height restrictions in this zone; 'if tower blocks are built... they would provide a pleasant back-drop or frame for the first two zones'.⁶⁷

9.2 In collecting information and seeking out interests, opinions, ideas, and proposals relevant to possible alternative futures for Battery Point, Clarke, and his assistant Elizabeth Thomson, consulted many times throughout 1967 with many State and local authorities, business and civic organisations and individuals, including local property owners, retailers, industrialists and residents.⁶⁸ As indicated by Colman, this was a particularly **innovative** [*progressive* is jargon for communist] concept at the time:

"Public relations, particularly with regard to town planning activity, is clearly not regarded as a normal part of a council's duties... With certain exceptions, councils do not attempt to involve the public in the planning process except as may be required by statute.

"A commonly held attitude amongst elected members and the majority of council officers is that it is unnecessary - perhaps even undesirable - to involve the general public in any kind of open dialogue on town or community planning, especially during the stage of scheme preparation."⁶⁹

9.3 In subsequent years, Clarke was recognised by the Royal Australian Planning Institute as being 'among the first planning practitioners to bring public participation into the planning process'. ***Ref:- Award of Sidney Luker Memorial Medal to George Clarke: Citation by John Roseth, President, NSW Division, 29 January 1975; *Archives*, NSW Division, Sydney. The Battery Point Planning Scheme has been similarly acclaimed as a pioneer, not only with respect to community consultation, but also for provisions relating to heritage values, carriageway narrowing, streetscape improvement concepts, the [proposal, not creation] of a pedestrian mall, and an attempt to prepare a capital budget for Council investments proposed by the Scheme.⁷⁰ These innovations attracted some notice among Australian planners . for a few years, before Clarke further refined, developed and implemented them in more innovative and more successful planning processes for, for example, Darling Point, Sydney, 1968-9 for Woollahra Council; 1971-77 for the City of Sydney; and 1973-75 for the City of Adelaide.⁷¹

⁶⁷ AOT AA236/71, *Battery Point Pl. Scheme*, Preliminary Report on Development Control Zones, 13 June 1967; In a letter to the author dated 4 October 2000, Clarke pointed out that in the R2 zone, the maximum building height was three storeys above street level. On steep land, an additional two storeys might be possible, below the level of the street.

⁶⁸ AOT MCC 16/2/350, *Battery Point Town Planning*, vol. 2, Report and Recommendations to the Council, 26 October 1967; Unfortunately the 1969 University of Sydney masters thesis by Thomson, entitled *The Integration of Physical and Financial Planning at the Local Planning Level: Battery Point, A Case Study*, could not be accessed during preparation of this paper.

⁶⁹ Colman, p. 52.

⁷⁰ Elizabeth Thomson, Case Study op cit; and also Letter George Clarke to Ben Ridder, 4 October 2000.

⁷¹ D Gazzard, 'Conservation of the Urban Landscape', *Architecture in Australia*, 61(6), December 1972, p. 663; AS Fogg, *Australian Town Planning Law*, 2nd edition, St Lucia, 1982, p. 410.

REFERENCE requested by Ridder: – [69] Archives of the RAPI NSW Division, 197-5; and a personal email from Dr John Roseth, now a Commissioner of the NSW Land and Environment Court

9.4 A draft Battery Point scheme was approved by the Council in August 1969, followed by the Commissioner's provisional approval in October.

10.0 The November 1969 State Government Film "In Partnership with the People"

The premiere of a film on the planning scheme process, with the Stalinist-style title *In Partnership with the People*, was scheduled for November 3rd 1969, the start of the public exhibition period. The film, organised by the Council in conjunction with the Tasmanian Department of Film Production, sought to convince the viewer that the new planning scheme has full community support and will ensure the preservation of the historic tourist highlights of Battery Point.⁷²

10.1 When some kind of then untitled film about the Lord Mayor walking and talking with people in the streets of Battery Point had been originally suggested two years earlier in October 1967, Clarke had hoped that it might 'document the true story of positive local planning by local government acting for and with the people of a locality',⁷³ Before February 1969, Elizabeth Thomson's Case Study documented his 1968 rejection of the 'puerile' film script written by the State Government Film Unit. His recent comments on the film are as follows:

"The Council and the State Department made their own arrangements, and when I was finally sent a script a year or so later, I absolutely refused to have anything to do with it, because it was so hopelessly crude... I did encourage and assist the Lord Mayor, Sir Basil Osborne, with several ABC TV News report of the Lord Mayor, Sir Basil Osborne, walking and talking with people in the streets of Battery Point, once on 30th October 1967, from which the idea of a film originated, but I later refused to participate in the 1969 State Government film scripted and produced by State film bureaucrats over the following two years to November 1969..⁷⁴"

10.2 The State Government Film Unit's 1969 propaganda film with the Stalinist-style title "In Partnership with the People" reflected the attitude among many politicians, bureaucrats, planners and architects at the time that community consultation was primarily about public relations. A few years earlier, in 1963, Zelman Cowen had told the Australian Architecture Convention: -

"Some people think that public relations very often smack of being ballyhoo, and very often smack of advertising... My own thought is that good public relations in educating people in architecture and the architectural function will at one and the same time be good for the community and good for you."⁷⁵

10.3 The consultative and participative method introduced by Clarke sought to rectify problems spawned by this limited view of the community role in urban planning.⁷⁶ As indicated in the next section however, Clarke's innovative but simple experiments in stakeholder consultation did not quickly produce consensus among all the conflicting interest groups and ideologies then competing for dominance on Battery Point. Perhaps his techniques dramatised conflicts between "redevelopers" like most City Aldermen and the City Architect, and "conservationists" like the active members of the Battery Point Progress Association. His experiences of similar planning conflicts in every Australian

⁷² AOT AB 869/2264, *In Partnership with the People*, Hobart, Department of Film Production, 1969.

⁷³ AOT MCC 16/2/355, *Battery Point Town Planning - Film*, Clarke to CE, 13 November 1967.

⁷⁴ Letter George Clarke to Ben Ridder, 4 October 2000.

⁷⁵ Z Cowen, 'Opening Session: Australian Architecture Convention', *Architecture in Australia*, 52(3), September 1963, p. 97.

⁷⁶ G Clarke, 'The Urban Planning and Development Fields', *Journal of Public Administration*, 29(2), June 1970, pp. 132-3.

State between 1960 and 1971 led him to write "Planning as a Community Learning Process" a 14 pp paper he delivered to the August, 1972, Congress of the Royal Australian Planning Institute, in Brisbane, 4 months before the December 1972 Federal election of Gough Whitlam as Prime Minister, with urban-oriented policies which Clarke had helped Whitlam to evolve. (ref. *Governments in Planning, Proceedings of the 12th Congress of the RAPI, Brisbane, August 1972*).

11.0 The 1969-70 Public Exhibition of Council's draft Battery Point Planning Scheme

11.1 In August 1969, ten days after Council endorsed for public exhibition its draft Battery Point Planning Scheme recommended by the City Engineer (assisted by Clarke), Council also endorsed a recommendation by the City Architect, to approve a flat development which was to occupy two properties in the heart of Battery Point; at 4 Colville Street and 7 Secheron Road. Clarke was never consulted on, or even sent copies of, Development Applications; neither was he engaged or paid for such advice. The Council and the Commissioner were almost immediately presented with a number of appeals against the development from local residents. The Commissioner viewed the appeals with concern, as there existed a legal precedent which held that once a scheme had been provisionally approved, all outstanding appeals were rendered invalid. This was complicated by the erection of Council's standard notice on the development site which advised residents of their right to appeal.

11.2 Faced with this seemingly intractable situation the Commissioner tactfully suggested that 'Council was a bit over-hasty' (a typically English, gentle but exasperated, rebuke of Bert's mischief making?) in approving the development. He went on to advise:

"I believe that Council should delay as much as possible new development in Battery Point until it has some idea how the Scheme is being accepted by the residents. I cannot forget what happened over the Sandy Bay Scheme, and it would be nothing short of tragic if the Battery Point Scheme were to be attacked on the grounds that the Council were jumping the gun, so to speak, as regards new development before all objections were received and considered."⁷⁷

11.3 The three month public comment period for the new scheme commenced on November 3. Within a week the Commissioner had received another appeal against the flats - this time signed by twenty seven people - prompting another letter to the Town Clerk:

"...unless we are very careful, procedures under the Act could be reduced to chaos, some of the mud from which will rub off onto the Scheme. I cannot emphasise too strongly how delicate the situation is. I sympathise with the Council because apparently the proposed flats conform with the projected Scheme; I also sympathise with the residents who suddenly find that a whacking great block of flats (as they see it) is to be plumped down slap in the middle of their Historic Village area. I have not seen the plans for the block but I can imagine what they are like.

"I hope you will accept my apologies for writing you these letters in regard to this matter but my concern is deep."⁷⁸

11.4 It seems that by this stage the Town Clerk was also nervous about the future of the scheme, seeking the following assurance from the City Architect:

"that the buildings proposed for the... two sites are impeccable. That, in size, site development and use they conform and do not obtrude into the area; that in design they are harmonious and that they will fit as snugly into the Battery Point street scene as Entally House would."⁷⁹

⁷⁷ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 5, Commissioner to TC, 30 October 1969.

⁷⁸ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 5, Commissioner to TC, 12 November 1969.

⁷⁹ HCC file 5569693, 4 Colville Street, vol. 1, TC to CA, 17 December 1969; Entally House is a prominent historic building located in the north of Tasmania.

11.5 These concerns were well justified with thirty eight letters of objection to the planning scheme having been sent to the Council before the end of the comment period on 2 February 1970. George Clarke was asked to prepare a report on the objections, which was completed in April. **[I HAVE, AND CAN COMPARE, COLOURED PHOTOS OF THE DRAFT ZONING PLANS as exhibited in 1969, and as amended in May 1970. The Historic Village Residential Zone was much enlarged.]** On the basis of the Clarke's report, Council made various recommendations to the Commissioner regarding changes to the scheme, and it was subsequently announced that the Commissioner would commence public hearings on the scheme in late June 1970.⁸⁰

12.0 State Government's 1972 gazettal of the first Battery Point Planning Scheme

12.1 Considerable delay in proceeding with all of the hearings, because of resistance from the Marine Board, resulted in final State Government approval (gazettal) of the scheme not being granted until November 1972.⁸¹ During this time, with the flats at Colville Street and Secheron Road having been put on hold, the land was sold to the local developers Ward and Dobosz. They quickly submitted a new development application to the Council in May 1972, which was subsequently refused on the grounds that it would detract from the appearance of the area.⁸² This was despite the fact that the proposal had been designed entirely in accordance with the exhibited draft planning scheme. **[I refuse to agree that you can make the assumption in your next sentence, about what I may or may not have "envisaged as optimum" when I never saw this design and never reported on the DA as you infer. Maybe the exhibited draft planning scheme was clumsy or inadequate. That's why it was a draft, and why it was on public exhibition, and why objections had been invited, and why the Commissioner and the Minister had finally to assess and decide what was to be gazetted.]**

12.2 The proposal for flats, which became known as Avon Court, was resubmitted to the Council by Ward and Dobosz twice more, and rejected both times. Eventually the matter was taken to the Supreme Court, which ruled in June 1973 that Council must comply with the provisions of the planning scheme and approve the development.⁸³

13.0 Reflections on the Battery Point Planning Scheme

13.1 In September 1973, at an Australian Institute for Urban Studies (AIUS) seminar, Peter Newton from the Tasmanian College of Advanced Education attempted to explain why 'the people of Battery Point have turned to bite the hand that fed them'. Newton praised the consultative efforts of George Clarke, although said that after his departure in 1967; 'liaison between the Council and residents ceased altogether'. Apparently residents had been in agreement with the general principles of the scheme, and assumed that the detailed planning controls would reflect these principles. Consequently they were 'appalled' when Avon Court was approved, having thought that 'the Plan would have made such a large development impossible'.⁸⁴

13.2 Yet the Avon Court proposal may have been in keeping with the objectives of the Battery Point scheme as outlined in George Clarke's preliminary reports from June 1967. The winter 1967 issue of *Tasmanian Architect* also indicates that the low-rise, high-density redevelopment strategy had the support of the National Trust, and the local architectural and planning community.⁸⁵

⁸⁰ *Southside News*, 28 May 1970, p. 1; AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 6, Open letter from Commissioner, 29 May 1970.

⁸¹ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 7, Commissioner to TC, 1 November 1972.

⁸² HCC file 5569693, 4 *Colville Street*, vol. 2, TPC minutes, 5 June 1972; *Ibid.*, Council resolution, 5 June 1972.

⁸³ HCC file 5569693, 4 *Colville Street*, vol. 3, ARTHUR WARD & ORS v. HOBART CITY COUNCIL, 8 June 1973.

⁸⁴ AOT MCC 16/2/354, *BPPS Review Committee*, vol. 1, Transcript of AIUS Seminar, September 1973.

⁸⁵ BH McNeill (ed), 'The National Trust Battery Point Report', *Tasmanian Architect*, Winter 1967, pp. 15-6; T. Hurburgh, 'Thesis: Battery Point Redevelopment', *Tasmanian Architect*, Winter 1967, pp. 22-4, 29-31. The position of the National Trust is explained more fully in D Young, 'The role of the National Trust in the

13.3 The general principles to which Newton refers were never mentioned in the original scheme approved by Council in 1969, and were only included after the local architect Patrick Bush objected that the scheme contained no 'statement of goals'. A list of what Clarke proposed as "Governing Principles" were adapted by Council as "general principles", and consequently appended to the scheme in April 1970.⁸⁶ These principles emphasised the historic values of Battery Point, and made passing reference to 'the building of new housing in a traditional scale'.⁸⁷ Such principles at that time had no effective legal standing, and clearly promised something which could not be achieved given the principal emphasis of the scheme on medium to high density redevelopment.

13.4 The second Battery Point Planning Scheme, which was gazetted by State Government in June 1979, came about after numerous committee meetings, protests, petitions, community surveys, government debates and controversial development proposals.⁸⁸ The necessity for this continuing drama could be used to condemn the original scheme devised by George Clarke, and the cast in doubt the degree to which it really was 'in partnership with the people'. **11.5** As stated by Jeremy Dawkins however, who was in many ways responsible for the 1979 scheme:

"no change since 1972 has had anything like the impact of Empress Towers or the Prince of Wales Hotel. On the contrary, under these [1972 and 1979 ?] planning schemes [for Battery Point ?], change has reinforced the dominant qualities of the area and has helped to heal some of the damage of earlier development."⁸⁹

13.5 Bert Dechaineux recently stated that this first Battery Point scheme 'provided an excellent holding situation'.⁹⁰ [This is very obscure. Did he mean it delayed people trying to stop Bert from approving flats? or what? Holding what?] This function was achieved by the increased development standards specified in the scheme, which in combination with the end of building boom in 1974, substantially reduced the profitability of flat building ventures. [This does not sound like a sensible statement. Only a very limited number of flats were ever profitable in Hobart, especially in the 1960s.]

14.0 Transition from By-Laws to Planning Schemes [This belongs at the start.]

14.1 The events outlined above demonstrate that, in the case of Hobart City Council, community agitation for the protection of residential amenity played a crucial role during the State Government-enforced transition from by-laws to planning schemes. The Council preferred by-laws because of the ease with which they could be circumvented or modified, and the administrative difficulties inherent in getting a planning scheme approved. (This must be clearly stated at the opening of the paper) This preference was demonstrated by the fate of the rejected Sandy Bay Planning Scheme, which continued to be taken into consideration, yet was never again subjected to the public exhibition process. This practice of using schemes which were not fully approved was quite common in Australia. In Sydney for example, between 1948 and 1968, only four out of thirty-eight councils had fully approved planning schemes - most preferred to remain in the 'interim development' phase.⁹¹

conservation of Hobart buildings in the 1960s', in *Hobart's History: The First Two Hundred Years*, eds. I Terry & K Evans, (Hobart, TAS: Professional Historians Association of Tasmania, 1998), pp. 82-86.

⁸⁶ AOT MCC 16/2/351, *Battery Point Town Planning*, vol. 5, Consultant's Report on Objections and Proposals Urging Amendments to the Publicly Exhibited Planning Scheme, 21 April 1970

⁸⁷ AOT MCC 16/2/355, *Battery Point Town Planning Scheme 1972 - Objections - Decisions*, The Governing Principles of the Battery Pt P.S., April 1970, pp. 2-4.

⁸⁸ A Hudspeth and L Scripps, *Battery Point Historical Research*, Hobart, 1990, pp. 12-18.

⁸⁹ J Dawkins, *On the Right Track: Battery Point and Marierville after 25 Years of Planning*, Hobart: Hobart City Council, 1996, p. 9; The controversial Prince of Wales Hotel was constructed in the late-sixties.

⁹⁰ Letter Bert Dechaineux to Ben Ridder, 3 August 2000.

⁹¹ Colman, pp. 67-74.

14.2 From the community perspective, by-laws had a number of disadvantages. Not only could they be changed without the community's knowledge, but because of the incremental way in which they were amended, it would have been difficult for residents to know what the by-laws were. Bert Dechaineux admits that the 'many amendments made a completely up to date booklet very much sought after. My office prepared many copies for display and for solicitors (I wonder if Sandercock would have called Bert the worker's friend, helping socialist solicitors to invest in workers' flats!) - all for gratis in those days!'.⁹² Hence a planning scheme was attractive to residents because of its rigidity and the consultation which was required before a scheme was given final approval. Finally you get to the point which you should put at the beginning of the paper.

14.3 The experience of Avon Court however, emphasised the problems inherent in a planning scheme which made provision for development proposals which would be passionately opposed by local residents. Although the community managed to convince Council aldermen that the flats were inappropriate, the rigidity of the scheme resulted in the Council's decision being overturned in the Supreme Court. Such an outcome would not have occurred if the by-law had still been in operation.

14.4 The above 14.4 is nonsense. If you want a CONCLUDING PERORATION, try something along the lines of "Historical case studies of evolutionary experiments, failures and successes, are valuable and [see my comments commencing] "State Governments realised" on Page 5 herein.

⁹² Letter Bert Dechaineux to Ben Ridder, 3 August 2000.