

# TOWN PLANNING IN VICTORIA WITH PARTICULAR REFERENCE TO THE AIM AND SCOPE OF THE MELBOURNE METROPOLITAN PLANNING SCHEME

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The first Town and Country Planning Act applicable to the State of Victoria was placed on the statute book on 4 December 1944. This Principal Act was materially amended in July 1948. Under the Town and Country (Metropolitan Area) Act 1949, the Melbourne and Metropolitan Board of Works became the responsible authority for the preparation of a Planning scheme for an arbitrarily defined area of 715 square miles centred on the City of Melbourne. This Act was amended by the Town and Country Planning (Metropolitan Area) Act of 1954.

The Melbourne and Metropolitan Board of Works officially commenced a planning scheme on 12 September 1950. In November 1953, a scheme was formally placed on public exhibition but immediately withdrawn because of a defect in legislation. The scheme, with some amendments, was formally exhibited again on 21 July 1954.

On 16 December 1958, after some 4,000 objections had been finalized and 15,000 applications considered, the Melbourne and Metropolitan Board of Works approved a planning scheme. It is expected that this approved planning scheme will be adopted by the Board when the printing of the requisite maps and ordinance has been completed. The scheme will then be submitted to the Minister for approval by way of the Town and Country Planning Board of Victoria.†

To permit the Board of Works to control development within the area covered by its scheme, the Governor-in-Council approved of an Interim Development Order, notice of which was published in the *Government Gazette* on 1 March 1955.

Behind this comparatively simple recital of dates and statements of facts lies a complex story. It is a story of inadequate, outdated legislation; of fumbling hesitancy, indecision, and outright disinterest on the part of government; of a cumbersome, disjointed, ill-balanced administrative machine; of jealousy and mistrust; of a failure to realize the magnitude and importance of the task that lay ahead by those in government and those responsible for advising government; of frustration and delay; of a lack of co-ordination and co-operation between instrumentalities concerned with development; of duplica-

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† The Scheme was adopted and submitted to the Minister on 20 October 1959.

tion of planning control and conflicting decisions; of a lack of planning control in vital fringe areas; of poor public relations and of pressure groups pursuing a policy of enlightened self-interest to the public good. Despite all these things, running through the story is a thread of hope that our native common-sense will not let us make those mistakes which have been made elsewhere with such tragic and sordid results.

To understand the background to the present Melbourne Master Plan it is necessary to go back to the years immediately after the First World War. There was then a growing feeling that the towns and cities of Victoria and, in particular, Melbourne, should not be allowed to grow in haphazard fashion. After many years of agitation and, finally, after direct representation to the Government by the Melbourne City Council, an Act was passed setting up a Metropolitan Town Planning Commission which consisted of nine members, acting in an honorary capacity, who represented municipal councils and various government agencies. Its sole function was to prepare a report on the Metropolis. Specific instructions governing the activities of the Commission were embodied in the Act of 1922 and read as follows:

The Commission shall inquire into and report upon the present conditions and tendencies of urban development in the Metropolitan area and shall, in such report, set out—

- (a) general plans and recommendations with respect to the better guidance and control of such development or of any portion thereof; and
- (b) estimates . . . of cost. . . .<sup>1</sup>

The Commission was also asked to report on means of securing the necessary co-operation of public and private bodies in the carrying out of the plans and on any legislative enactments that were required. The Act detailed various other matters requiring the attention of the Commission. These included streets and roads, transportation, traffic, waterfront and river improvements, amenities (including natural beauty), control of nuisances, noises, unsightly objects and structures, zoning, parks and reserves, land sub-division, building regulations, housing, wholesale and retail distribution of food, *et cetera*. The Act of 1922 required that the Commission should complete its work within a period of two years at a cost not exceeding £7,500. It is hardly surprising that the period of time allowed and the sum of money available were later extended and increased. The Commission issued a number of interim reports dealing with urgent matters such as the widening of High Street, Kew. (This particular project began last year and has just been completed.) The First Report of the Com-

<sup>1</sup> Metropolitan Town Planning Commission Act 1922, s. 10.

mission was issued in March 1925 and dealt with those matters which in the opinion of the Commission required early attention. These included the setting up of a unified transport authority, the development of a harbour scheme, the checking of unrestricted land subdivision in outer suburban areas, the setting up of a Metropolitan Planning Authority and the creation of a Metropolitan Fund to cover the cost of works. The Final Report of the Commission was dated 1929. It is an impressive and constructive document. Despite the passage of thirty years and considerable developments in planning techniques most of the recommendations made are still sound. In its conclusions the Commission said that the years of honorary work that had gone into the preparation of the report and scheme would be amply repaid if legislative effect were given to its recommendations. Appreciating, no doubt, the disinclination of democratic government to impose controls until the situation is critical, the Commission went so far as to prepare a draft of a Town and Country Planning Act for consideration by the Government. 1929 was a bad year to be thinking of ways and means to control the development and growth of Melbourne. The world-wide economic depression of the early nineteen thirties did that most effectively and, for the first time since the financial collapse in the years after 1890, the population of Melbourne declined. The thoughts of those concerned with the passing of legislation turned to what they considered to be more realistic things than Town Planning. The painstaking work of the Metropolitan Town Planning Commission was shelved and the opportunity to create an organization that could have coped with the growth that took place after the depression was unfortunately lost.

During the depression, the volume of building became negligible but by the late thirties prosperity and confidence were being restored. However, before the country had time to take stock and see where it was heading, war intervened and building again came to a standstill. By 1944 it seemed clear that Germany and Japan would eventually be defeated and politicians began to turn their thoughts to the post-war years. In Great Britain, three reports of great significance in the field of town and country planning had already been produced. In 1940 a Commission under the chairmanship of Sir Montague Barlow had produced the *Report of the Royal Commission on the Distribution of the Industrial Population*.<sup>2</sup> In August 1942 a Committee under the chairmanship of Lord Justice Scott produced a *Report on Land Utilization in Rural Areas*<sup>3</sup> and in September of the same year a Committee sitting under Mr Justice Uthwatt presented a *Report on Compensation and Betterment* to Parliament.<sup>4</sup> The effects of the Scott, Barlow and Uthwatt Reports were considerable and in the five years

<sup>2</sup> 1940 Cmd 6153.

<sup>3</sup> 1942 Cmd 6378.

<sup>4</sup> 1942 Cmd 6386.

following their publication legislative effect was given to most of the recommendations contained in them. One of the first actions of the government of the day was to pass the Ministry of Town and Country Planning Act of 1943 creating a separate Ministry of that name. To quote Mr Desmond Heap:

Thus did planning, after thirty-four years as the slightly irregular offspring of the Ministry of Health, ultimately achieve legitimacy by being graced with a Minister whose interests were not divided but are concerned entirely [as his long title informatively but clumsily declares] with town and country planning.<sup>5</sup>

With such stirring events as these taking place in the mother country it is not surprising that the thoughts of politicians in this country also turned towards the subject. In 1944, the Governments of the Commonwealth and the States agreed it would be desirable to plan future development on a regional basis and decided that the States should aim at defining regional sub-divisions for that purpose. In Victoria, a State Regional Boundaries Committee was set up and, in a report to the Government of Victoria in December 1944, recommended that 'to facilitate the investigation of resources and the planning of future development, the State be divided into thirteen regions'. One of these regions so defined covered the Port Phillip area. In furtherance of this pursuit of town and country planning, on 12 December 1944, the Government of Victoria placed in the statute book the Town and Country Planning Act 1944. It is dangerous and difficult to assess the motivating forces behind a political act but it is hard to escape the conclusion that those responsible for this particular measure cast about, saying to themselves 'We must do something about this town and country planning business'. They must have known of the shelved recommendations of the 1929 Metropolitan Town Planning Commission. They must, too, have been aware of the Town and Country Planning Act of 1932 in England. From these two sources they devised an Act to apply to the State of Victoria. One of the draftsmen who worked on the preparation of the legislation expressed the opinion recently to the writer of this article that the subject was not taken over-seriously. Subsequent results and the state of our present organization to deal with town planning confirm this view.

The Town and Country Planning Act 1944 created the Town and Country Planning Board of Victoria and defined its duties as, first, the making of reports and the giving of advice on matters relating to town and country planning; second, the preparation of planning schemes at the request of the Minister and, third, the submitting of an annual report to the Minister for presentation to Parliament. The Act also

<sup>5</sup> Heap, *An Outline of Planning Law* (2nd ed. 1955) 9.

constituted the councils of municipalities as planning authorities empowering them, if they so desired, to prepare planning schemes in respect of any area or areas of the land within their municipal districts. The Minister reserved to himself the power to compel the council of a municipality or a combination of councils to prepare a scheme. The important point here is that the legislation was permissive. Experience has shown that this kind of legislation, when it relates to town planning, is rarely effective. In a young and developing country there are so many immediate matters to occupy the minds of those concerned with local and state government that those things which seem less urgent and tangible tend to be put aside. Subsequent experience in Victoria has confirmed the results elsewhere. It is difficult to be precise on a matter of this kind but of the two hundred or so municipal authorities in Victoria less than half are engaged in planning activities. Of those who are so engaged perhaps half are making satisfactory progress and a number of these are within the metropolitan area and are therefore duplicating the efforts of the Melbourne and Metropolitan Board of Works.

Realizing the futility of a piecemeal approach, based on planning by the councils of municipalities, the Government of Victoria, in October 1949, passed the Town and Country Planning (Metropolitan Area) Act. This Act empowered the Melbourne and Metropolitan Board of Works to prepare a planning scheme for a Metropolitan area arbitrarily defined by the Act. The Act envisaged this operation being accomplished within a period of three years and gave the Board power to levy a single rate not exceeding a half-penny in the pound of the net annual value of property to cover the cost of the scheme. By 1954 it had become apparent that this approach was wholly unrealistic and the Town and Country Planning (Metropolitan Area) Act of that year was passed. This Act gave limited borrowing powers to the Board of Works and also required them to create a Metropolitan Improvement Fund into which rates levied and any other moneys received by the Board in its role as a responsible authority were to be paid. The Fund was to be applied for and towards costs incurred in the exercise of its planning function, the time limit on which was removed.

With the passage of this Act the administrative position that emerged is as follows. The Town and Country Planning Board of Victoria, created by the Act of 1944, is the senior planning authority with the primary duty of reporting to the Minister on all planning schemes prepared by the State including the one prepared by the Melbourne and Metropolitan Board of Works. The Town and Country Planning Board itself has the power, on the direction of the Minister, to prepare planning schemes. The council of each muni-

pality in the State is a planning authority in its own right. The Melbourne and Metropolitan Board of Works is responsible for preparing a planning scheme for an area defined by statute. This area, set out in the Schedule to the Town and Country Planning (Metropolitan Area) Act 1954, and since amended to a comparatively minor extent by direction of the Governor-in-Council, does not, as one might perhaps expect, coincide with the Port Phillip region that was defined by the State Boundaries Committee in 1944. It covers instead a listed number of municipalities together with so much of the Shires of Broadmeadows, Bulla, Eltham, Werribee and Whittlesea as lie within a distance of fifteen miles from the Elizabeth Street General Post Office, plus so much of the Shire of Frankston and Hastings as lies within twenty-six miles of the same point. The basis of the selection of this area rests on a minor extension of the area controlled by the Melbourne and Metropolitan Board of Works for the purpose of its other functions. When mapped, the boundary makes a sweeping arc to the west, north and east with minor extensions outwards in the north east, plus a long tongue running down towards the tip of the Mornington Peninsula and including part of Frankston, Cranbourne and Berwick. Within this boundary the Board of Works is responsible for the preparation of a planning scheme. Within this same boundary fifteen of the forty-five municipalities concerned are also exercising their planning powers, with varying degrees of vigour and success, for part or all the area under their control. The motives behind this exercise of planning powers by municipal councils in the area being dealt with by the Melbourne and Metropolitan Board of Works are diverse. In some cases there is a genuine desire to fill in the detail of local planning purposely omitted in the scheme prepared by the Board of Works. One municipality embarked on a planning scheme and on its completion found fifty points of difference with the Board of Works scheme. In consultation with the Board of Works forty-nine of the points were settled amicably and the resultant amendments embodied in the Board of Works scheme. The municipality in question thereupon ceased activity on its planning scheme and is relying on the contents of the overall master plan. In other municipalities, the work being done stems from a mistrust and dislike of the powers and intrusion of the Board of Works.

This matter of planning control is further complicated by the right of individual councils to prepare zoning by-laws, under the Local Government Act, defining residential areas. A developer may get a consent to use land for a specific purpose from the Melbourne and Metropolitan Board of Works under its planning scheme only to find that the use conflicts with the zoning by-laws prepared by the municipal council. Under these circumstances the developer may not

proceed unless the council is willing to amend its by-laws. Cases have occurred where councils have been unwilling to take this course. Yet another complicating factor in the Metropolitan area is that within the statutory boundary defined for planning purposes there are nine areas for which planning schemes have already been approved by the Governor-in-Council. These, in theory, should take precedence over the scheme still in course of preparation by the Melbourne and Metropolitan Board of Works. To make the picture worse, the content of some of these approved schemes, in terms of both map and ordinance, is wildly different from the content of the scheme envisaged by the Melbourne and Metropolitan Board of Works.

On the government level there is one other department which has its finger directly in the planning pie. The Department of Local Government, which sits somewhat uneasily between the Town and Country Planning Board and the Minister for Local Government, has its say on planning schemes on their way through to the responsible Minister.

To complete the picture of the administrative arrangements (if they may be graced with the term) that exist in the State for Town and Country Planning, mention needs to be made of one further organization, the roots of which go back to 1944 when the prospect of regional planning was attractive. Within the structure of government there is a body known as the Central Planning Authority. In fact, it has no authority, and it does little planning in the sense understood by the writer. It is, however, central in that it lies within the Premier's Department. It is an organization that is interested in regional planning and is engaged in producing Resources Surveys for the thirteen defined regions of the State. To date, Survey Reports have been produced for eight of the thirteen regions. Reports for the Barwon, Glenelg, West Gippsland, Wimmera and, notably, the Port Phillip Regions are yet to come. Regional Committees exist for all the regions except Barwon and Port Phillip. The Survey Reports are beautifully produced documents and contain a wealth of information some of which is useful for planning purposes. It is regrettable that such admirable surveys are not being succeeded by plans, however rudimentary. In the meantime the data contained in the survey reports is becoming out of date.

It is appropriate next to look at the form of planning scheme that this cumbersome administrative machine is producing, for herein lie the major defects in our planning system. Under legislation in Victoria the planning scheme is required to be comprised of a map and an ordinance. Once approved the scheme becomes a legal document, rigid in performance and capable of amendment only through the same process by which the original scheme was approved. It is for

this reason that planning authorities tend to delay the bringing of schemes to the point of approval, preferring instead to keep them in the stage of interim development control where some flexibility is possible. The policy of the Town and Country Planning Board has been to keep schemes simple and capable of easy interpretation. The theory behind this is that any landowner or developer should be able to consult the scheme map and the ordinance and immediately be able to tell precisely what is permitted and what is prohibited, under the scheme, in respect of any parcel of land. This combination of a legal document, rigid performance and easy interpretation has kept the schemes rudimentary in the extreme. It is true, of course, that in the development of planning techniques in a community it is necessary to proceed step by step and it never pays to get too far ahead of public opinion. The stage in which legislation is permissive and the planning scheme a simple rigid thing is inevitable but the trouble is that we introduced it too late and have stayed with it too long. Particularly is this so in view of the rapidity with which development has occurred in the State. We should, by now, have progressed to the point where we have sufficient trained technicians skilled in the art and science of town and country planning, experienced councils and sufficient public confidence in the virtues of organizing in advance the distribution of land use for it to be possible to have flexible schemes capable of easy adjustment to meet changing needs. That we have not yet reached this stage reflects the disinterest of government and, in particular, its reluctance to see the power of the Board of Works further extended. For planning to be successful it must be comprehensive both as to function and to area. In Victoria it is neither. A Planning Act is only as good as those who administer it will permit it to be. The Schedule to the Principal Act contains items of sufficient scope to permit the preparation of a comprehensive scheme including such matters, for example, as the control of outdoor advertising in the interests of amenity and public safety. The Town and Country Planning Board, when preparing a scheme for the Ocean Road, included provisions to control advertising in this important scenic area only to have them excised by the Minister, presumably on the advice of the Department of Local Government, on the ground that this was a matter capable of being dealt with by by-law on a local basis.

As we have already seen, planning in Victoria is far from being comprehensive as to area. In Ferntree Gully Shire, which lies just outside the Melbourne and Metropolitan Planning Scheme area, it is estimated that in the past few years sufficient sub-division has been allowed to cater for one hundred and fifty years of current growth. This, on the fringe of Metropolitan Melbourne just beyond the boundary of a Scheme designed to regulate and control the use of



land! In the Shire of Bulla, beyond that part which lies within the ambit of the Melbourne and Metropolitan Board of Works, the Premier recently gave an admittedly cautious blessing to a New Town project which has since come to a standstill because water is not available. These things happen because there is no plan for the Port Phillip region. Until there is we cannot hope to solve the planning problems of the metropolitan area of Melbourne. The area of the Melbourne and Metropolitan Scheme extends over some 714 square miles which compares unfavourably with the 1,600 square miles under the control of the Cumberland County Council which is responsible for the preparation of the Sydney Master Plan. It looks even more unsatisfactory when one finds that the whole of the area lying within a radius of fifty miles of Moscow is under planning control. Beyond the boundary of the arbitrary metropolitan area of Melbourne, planning is carried on, or otherwise, at the whim of the municipal councils.

When one comes to look at the ability of the various authorities and organizations in the State to cope with the tasks that fall to them, either by choice or statute, the picture is a varied one. Starting at the bottom of the ladder, it is undoubtedly fair comment to say that municipal councils, relying on their own resources, are ill-equipped to deal with the complex subject of town planning. Shire and Municipal Clerks and Engineers are overworked. The Councils of many authorities are inexperienced and beset by urgent, day to day problems with which they have to deal on a slender budget. The municipality is a most unsatisfactory unit for planning purposes, and within it, through the medium of a rigid scheme, it is difficult to plan positively or comprehensively. At best each little authority can ensure that no grossly harmful development takes place. Planning is too complex for small scale, intimate dealing. The impracticability of the local approach lies in the fact that many of the activities with which planning is concerned transcend local boundaries, and that local authorities everywhere assume, often without justification, that they will continue to expand and develop, and plan accordingly. Apart from this, even if it were physically possible to fit a jig-saw of municipal schemes together, the final result will never be as satisfactory as a plan prepared on a broad basis into which local detail can be fitted. This is now well understood in England, and under the Town and Country Planning Act of 1947, planning powers were taken out of the hands of district councils and put into the hands of the larger authorities, the County and County Borough Councils, thus overnight reducing the number of responsible authorities from 1441 to 145.

Next on the ladder, in this brief survey of the hierarchy of planning authorities, and a good few rungs higher up, is the Melbourne and

Metropolitan Board of Works. The approach of the Board to its planning task has been a practical one from the outset. It has been more concerned to assess the sort of city that exists and to keep it under control than to weave dreams of the sort of city we ought to have. This attitude is clearly reflected in the Melbourne Master Plan which provides for a rationalization of existing conditions rather than a drastic re-modelling. The task that faced the Board of Works was a formidable one, starting as it did from scratch with a limited objective. Few trained men were available and the prospect of termination of appointment at the end of three years was not attractive. Despite this, over the years, the Board has built up a staff and an organization that is the envy of other States. Its main virtue is that it has a hand in the provision of services and the execution of works in addition to its plan-making powers. In this respect it has the advantage over the Cumberland County Council which is an *ad hoc* body responsible only for the plan of Sydney. The limitations and shortcomings of the Board of Works are due not to inherent faults but to external checks and pressures and to a need to tread warily, step by step, along the road. At no time since the scheme began has it been certain that the work would come to fruition. Even now, with the scheme almost at the last hurdle, it is not possible to relax. There is a possibility that the Minister will require re-exhibition of the much amended scheme with consequent uncertainty as to the ultimate outcome. At this point in the growth and development of planning in the State it is important that we should have the major scheme approved so that we may logically proceed to the stage in which a degree of flexibility is legally introduced rather than to continue on the unsatisfactory basis of having finality deferred. The task of the Melbourne and Metropolitan Board of Works has increased year by year and it has faced each new set of problems courageously. It has, throughout, been dogged by an apparent inability on the part of government to realize the enormous waste and random speculation that occurs if development is allowed to proceed unchecked and without guidance. Even now, one reads statements in the press by important members of the Government which lead one to doubt whether it is realized that important policy decisions must soon be made or, alternatively, whether the necessary policy decisions, when made, will be sound. Unless the necessary decisions are made soon the work of the Metropolitan Board over the past few years could easily be nullified.

Ascending the scale in the hierarchy we next come to the Town and Country Planning Board which is the senior planning authority in the State. It sits in the box seat and most of what is good and a good deal of what is bad in our planning system stems from its activities. The Board itself is comprised of three members appointed by the

Governor-in-Council. One of the members is appointed as chairman and serves as a full-time officer. The present Chairman, as a matter of interest, was surveyor to the Metropolitan Town Planning Commission whose report of 1929 met such an ill-deserved fate. The Board employs a Secretary, a Chief Planning Officer and a small number of draftsmen. As an organization it is too small to cope with the tasks that it should be tackling. Politically, it has perhaps been essential that the Board should not be accused of becoming too large. In fact, its smallness is reflected in the extent and scope of planning in the State. The Board is, in effect, the technical branch of the Ministry it serves and, as such, should rival the Melbourne and Metropolitan Board of Works (Planning and Highways Branch) in staff and stature. To an outside observer the Town and Country Planning Board does too little, too late. A classic example of this is the recent assumption by the Board, on the direction of the Minister, of powers of interim development control over residential sub-division in the Shire of Ferntree Gully—truly a case of closing the stable door after the horse had bolted.

One of the major functions of the Town and Country Planning Board, in addition to the inspection of and report to the Minister on all planning schemes prepared in the State, is the consideration of applications for Interim Development Orders which permit responsible authorities to control development during the preparation of a planning scheme. It is the policy of the Town and Country Planning Board not to support applications for Interim Development Orders unless and until the Planning Authority can show that it has made substantial progress with its planning scheme and is in a position effectively and equitably to control development within its area. The threat of the withdrawal of powers of interim development control has been used by the Board to urge a dilatory Planning Authority to greater efforts. Delay in granting powers of control to an authority can often result in evils greater than those which might occur by the premature granting of an Order. In the case of the Melbourne and Metropolitan Board of Works, which commenced its Planning Scheme on 12 September 1950, an Interim Development Order was not given until 1 March 1955. The effect of this was that the Board of Works had no control over sporadic and haphazard development, which was rapidly taking place in many parts of the Metropolitan area, during the preparation of the scheme and for some eighteen months subsequent to the putting of the scheme on deposit for public inspection. During this time, as can easily be imagined, development contrary to the provisions of the planning scheme occurred in many places and, in some instances, to an extent sufficient to warrant modifications of the exhibited proposals.

The Town and Country Planning Board, in its attitude to the issue of Interim Development Orders, displays the familiar mistrust of local government in Victoria, forgetting, perhaps, that maturity comes only with responsibility. It must be admitted that easy and early granting of powers of control could lead to serious abuses and that continued, unconditional renewal might incline an authority not to move to the stage of having an approved scheme when they would be unable to exercise any discretion in dealing with development applications.

The Town and Country Planning Board is largely responsible for the maintenance of the myth that town planning is a task for municipal councils. It is true that they have a part to play, that they need to be consulted at each stage, that they can participate in the control of development (preferably through delegated powers) and that their local knowledge and experience is invaluable. The Town and Country Planning Board has expended much of its energy in urging municipal councils to plan, in some cases with a significant lack of success, instead of devoting its attention to the preparation, either directly or indirectly, of overall plans preferably on a regional basis. It has made several essays into the field of regional planning. It prepared, for example, a scheme for a narrow belt of land flanking the Ocean Road highway that runs through the Bellarine Peninsula past Lorne and Anglesea. As a matter of policy the township areas were excluded from the scheme, again pursuing the theory that local planning was a local matter, this time with some justification as the overall plan had been settled. Unfortunately most of the Councils, and in particular Lorne, have not proceeded to plan within the framework provided. A time limit for positive action by the municipal councils should have been set at the instigation of the Town and Country Planning Board immediately on the completion of the Ocean Road Scheme. Yet another example of this pursuit of the fetish of local authority planning to absurd lengths is provided in the case of the Ferntree Gully Shire. Here is an authority that has defied all attempts to cause it to bring its scheme to a state even approaching finality, that has approved sub-divisions on a wildly irresponsible scale and that has finally been subjected to the unusual but fully justified step of intervention by the Town and Country Planning Board as far as the exercise of interim development control over residential subdivision is concerned. Despite these things it is likely that the Board will still urge the Shire Council to exhibit a Scheme with which the Board profoundly disagrees, if the decisions recently given by them under the Interim Development Order are any guide. The Shire Council will exhibit its scheme, receive objections and submit its proposals to the Board. The Board will then presumably recommend

material alterations of the Scheme to the Minister who will, it is to be expected, take their advice. The only conceivable reason for this sort of activity is that the Board is not equipped to do the job properly by exercising a full interim development control and itself preparing a scheme for this important Shire.

These then are the authorities concerned with the past, present and future planning of the Metropolitan area of Melbourne and beyond. An appreciation of their form, powers and outlook is essential to an understanding of the aims and scope of the Melbourne Master Plan. Apart from these authorities, various organizations have played a significant part in promoting the development of planning of the State. These include the Town and Country Planning Association of Victoria (T.C.P.A.), which is the oldest established group, the City Development Association (C.D.A.), various Progress Associations, the Australian Council to Improve our Neighbourhood (A.C.T.I.O.N.), now moribund, and, more recently, a powerful, wealthy organization comprised of those interested in land sub-division working under the title of the Urban Land Development Association (U.L.D.A.). These groups have from time to time exerted pressure on governments and authorities with good results and no doubt will continue to do so. This citizen participation in the planning process has everything to commend it, particularly in a society where there is a disinclination on the part of Government to take positive and decisive action in the field of town and country planning.

Having looked at the legislation available, the authorities that handle it and the form of plan it is producing, let us now consider the Melbourne Master Plan itself and its administration. The basis on which the original plan was drawn is admirably set out in the *Surveys and Analysis* volume of the publication issued by the Melbourne and Metropolitan Board of Works in 1954. An accompanying volume, entitled the *Report*, gives particulars of the plan itself. This is the plan which was first placed on public exhibition in November 1953. Immediately after exhibition it was pointed out that the current Town and Country Planning Regulations required that copies of the whole of the Scheme should be deposited not only at the Town and Country Planning Board but at the offices of each municipality affected by the scheme. To meet this requirement would have involved such a colossal task of map reproduction that it was preferable to withdraw the Scheme and wait for legislation to be amended, allowing only such parts of the scheme as affected each municipality to be deposited at the Council offices concerned. That such an *impasse* should have been reached, at this stage, is a clear indication of an initial lack of appreciation of the scale of the work involved and again lends weight to the suggestion that the legislation permitting

the preparation of the scheme was ill-considered. The legislation was amended and the Scheme again formally exhibited on 21 July 1954. Even in the short space of time between the first exhibition and the second, events had moved to an extent which involved amendments to the Scheme. These were duly incorporated in the Scheme. Public authorities and municipalities affected by the Scheme were notified and the requisite notices were inserted in the *Government Gazette* calling on all persons affected by the Scheme to set out in writing, within a period of three months of the notice, any objections to the Scheme. The final date for objections was fixed at 21 October 1954, and, in all, 3,467 effective objections were received from private individuals and organizations, 34 from the councils of various municipalities and 12 from public authorities. Some of the objections covered a number of matters with the result that the number of individual points that had to be considered was substantially in excess of 4,000. Subsequent to the closing date for the receipt of objections the Minister of Public Works, in the exercise of his power under section 16 of the Town and Country Planning Act of 1944, directed that the Board of Works should take into consideration a further 145 objections. Under paragraph (d) of sub-section (2) of section 13 of the Town and Country Planning Act 1944 it was laid down that any person or anyone acting on his behalf might appear before the responsible authority in support of any written objections and might submit any other objections to the Scheme. The Town and Country Planning Act of 1954, in a belated appreciation of the import of this provision, amended the section. The effect of the amendment was that an authority might not disallow an objection without allowing the objector a hearing. The effect of this, even so, in so far as the Melbourne and Metropolitan Board of Works was concerned was that over 1,500 objectors were heard by sub-committees of the Board. The last of the objections considered by the Board was finalized during 1958. It will be understood that, apart from amendments to the scheme necessitated by the meeting of objections, changing circumstances and increased experience have caused the Scheme and Ordinance to be materially altered. These essential changes have themselves, because of the limitations of legislation, brought administrative problems to the Board. On 16 December 1958, the Board approved of a Planning Scheme which included all the modifications that had been made over the years. As has been stated, the Board has yet to adopt the Scheme as required by the Act.<sup>6</sup> It was considered desirable to print the Scheme, including all amendments, so that the formal adoption by the Board could relate to a specific document. The Board's Interim Development Order permits the use of land in accordance with the original scheme as exhibited and prohibits the

<sup>6</sup> See note † on page 283.

use of land contrary to the provisions of the original scheme unless the Board otherwise permits. The fact that the Board has now approved a much modified and a materially different scheme does not alter the position. Even in cases where the modified scheme differs from the original scheme any person has the right and cannot be prevented from using land in accordance with the original Scheme. For example, if, in the original Scheme, land was zoned for residential purposes and in the modified scheme it is zoned for industrial purposes, an applicant does not require a permit to erect a dwelling house subject to the conditions prescribed in the original ordinance. If application is made the intending developer is advised that no permit is required and of the amended zoning. He is also told that the proposed use would be a non-conforming use if the Scheme, as amended, is approved by the Governor-in-Council. The important parking provisions of the modified scheme are also incapable of enforcement except in cases where a consent is required under the original scheme. It is situations of this kind which bring planning into disrepute and disclose the deep rift that exists between those who legislate and those who implement.

One of the main strengths of the Board of Works lies in the administrative machine that has been devised to deal with plan making and scheme control. To ease the burden on a limited staff and to facilitate the administration of its Interim Development Order the Board has delegated, to all municipalities that are prepared to accept it, power to grant permits to certain classes of development on land abutting on existing main or secondary roads not affected by a widening or re-alignment proposal. The Councils are prohibited from giving consents contrary to the provisions of the Scheme and may not allow uses in the rural zone other than those normally permitted. Thus limited delegation is a step towards co-operation with municipal councils without prejudicing the contents of the Planning Scheme.

One of the most important sections of the *Survey and Analysis* on which the Master Plan was based is devoted to population growth. For purposes of comparison, forecasts were made in 1950 based on two different rates of migration into Australia. The increasing post-war birthrate was, of course, also taken into account. The two rates of inward migration taken, for the purposes of estimating land needs, were 50,000 and 100,000 persons *per* year. Population forecasting, under optimum conditions, is always difficult and it is easy to be wise after the event. Nevertheless, it is unfortunate for the planning of Melbourne that the lower rate of intake was chosen as a basis for the proposals. For the purpose of setting aside land for development it was estimated that the population of the metropolis would reach 2,500,000 by the year 2000. Some 170,000 acres were allocated for

urban type development in the Scheme. The hard, cold facts of today indicate that we shall reach a population of 2,500,000, not in the year 2000, but by 1975. The effect of this is that problems which it was anticipated would have to be firmly faced by government about 1980 are before us now. There was no suggestion in the Metropolitan Planning Scheme that Melbourne would not be permitted to grow beyond 2,500,000. The Scheme merely indicated that when more living room was required to accommodate a greater population within or adjacent to the metropolitan area, then any extensions beyond the urban limit fixed by the Scheme would need to be controlled and guided, presumably by a further planning scheme devised in accordance with current government policy.

The method used in the present scheme to limit extension outwards is by the creation of a rural zone surrounding the zoned urban area and extending to the metropolitan boundaries. The Board of Works mistakenly allowed the rural zone to be dubbed 'a green belt' and inevitably, as extensions into the rural zone became necessary with increasing population pressure, found itself involved in controversies which culminated in the Banyule affair. In dealing with the application for development at Banyule in the City of Heidelberg, the Board acted strictly within its powers under the Interim Development Order and imposed such conditions on its consent as to secure that the development was orderly and properly provided with necessary public services. The intervention of the Heidelberg Council, acting under its concurrent planning powers, eventually resulted in the imposition of further conditions which are so onerous as to have, at least temporarily, deterred the developer from proceeding with a scheme which had much merit and which would not, as many mistakenly supposed, have destroyed the amenities of the Yarra Valley.

The growth of population in the metropolitan area has exceeded all expectations. From about 20,000 persons *per* year in 1947 it has reached about 50,000 persons *per* year at the present time and shows no signs of diminishing. The Board of Works in its current scheme has zoned an urban area of 200,800 acres which when fully developed to modern density standards can accommodate a population of about 2,600,000. In practice, however, no area ever becomes fully developed and it has been found that when about 85 *per centum* of land in an area has been taken up, population thereafter increases only slowly and may, in fact, decline. This point is well made in a Special Report prepared for and adopted by the Planning and Highways Committee of the Melbourne and Metropolitan Board of Works on 11 August 1959. The report says:

The significance of the figures concerning Metropolitan development is that, although the planning scheme makes provision for a theoretical



population of about 2,600,000, in practice the population of the planned urban area can be expected to stabilise when a population of about 2,250,000 is reached, after which the planned urban area will not readily absorb further population increases. At the present rate of increase of nearly 50,000 persons a year this gives a margin of only about eleven years.<sup>7</sup>

Allied to this problem of the using up of zoned land is the direction in which development is extending and the areas most popular for new development. The trend of development in the past four years shows a strong preference for the eastern and southern suburbs. The land to the west forms part of an unattractive, waterless, windswept plain behind Williamstown and only under extreme pressure will it ever rival the other side of Melbourne for residential purposes. Although the opportunity to expand, according to the plan, is fairly evenly distributed, it is certain that the areas to the east and south will fill up more quickly and necessitate additional provision there probably long before the eleven years estimated above have expired.

The current increase in population brings in its train a demand for land to be used for commercial and industrial purposes. The modern tendency in industry is for large sites to be acquired allowing adequate room for expansion in spacious, single storied buildings. The modern need for ample car-parking facilities also has its effect on the extent of site acquisition. In the Melbourne Metropolitan Planning Scheme careful estimates of needs for industry were made and, in order to ensure freedom of choice, a gross area of double the calculated net site requirements was provided. These standards accord with modern practice and have been widely used both here and overseas. Even so, it has been found that new large industries wishing to establish in Melbourne cannot be accommodated in the zoned industrial areas and the Board has been forced to exercise its discretionary powers and allow some industry in the rural zone.

From these facts it emerges that the Board of Works, in its Scheme, has aimed mainly at the control of sprawling and sporadic growth. Within the Metropolitan area, as defined by statute, this aim has been achieved. The overall population density of the Metropolitan area has increased, since the exercise of planning control, from 9.3 persons *per* acre in 1951 to 10.3 persons *per* acre at the present time. During the same period the average number of persons in each acre of developed residential land (average residential density) has increased from 18.6 to 19.1 *per* acre. These increases, although small, are significant in such a short period of time and compare very favourably with the trend occurring in areas immediately beyond the boundary of the Scheme where development of a sporadic kind is proceeding unchecked.

<sup>7</sup> *The Problem of Urban Expansion in the Melbourne Metropolitan Area* (1959) 4.

The principle adopted in the Metropolitan Planning Scheme of defining an urban zone and surrounding it by a rural zone within which sub-division into lots of less than five, and in some cases two and a half, acres is prohibited, poses a number of serious problems. The lower limit on the size of sub-division has the effect of discouraging extensive development in the rural zone but, at best, it is only a holding device. In any event a rural zone sub-divided, even in part, in this way is no longer an area in which truly rural pursuits predominate. It becomes instead a low density residential area. It is then useless as a green belt because it does not provide that freedom from urban surroundings which those who venture into a green belt are seeking. The problem also arises of the great disparity in land values occurring on opposite sides of a fence or a line drawn on a map. The problem is by no means insoluble but before it can be tackled policy decisions at a higher level than the Board of Works have to be taken. Questions of compensation arise and this involves money that has to be raised by some means or other.

If the theory of confining a Metropolitan urban area by a belt of rural land (a green belt) is still valid, some means will have to be found to cancel the development value of land on the wrong side of the fence. It may be, of course, that we should no longer be basing our planning of the Metropolis on the nineteenth century concept of a Garden City of limited size with its rural food producing land on its doorstep. Modern transportation systems and the dominance of the motor car have changed not only our social and recreational habits but also the facilities for food distribution. It would, perhaps, be more realistic to visualize the future Metropolis as an unending, cellular growth with each cell having some unity and a degree of separation from its neighbouring cells by means of a web of publicly owned open space penetrating to the heart of the complex. The alternatives to this form of development, if a limit is set to the extent of the urban development of the Metropolis, are, first, the development of satellite towns—towns possessing some degree of corporate life but largely dependent on a parent city—and, second, the development of New Towns at a sufficient distance from Melbourne to discourage commuting and the turning of the New Towns into distant dormitory suburbs. Allied to these three possibilities is a continuing need to bring about a re-development of inner suburban areas. At best, however, despite the views of some, it is unlikely that this re-development will do more than counteract the present population drift away from the inner suburbs. There is also a need to find a means of encouraging the development of vacant land in areas provided with public services within the urban area. It is estimated that there are at present about 38,000 vacant blocks in the metropolitan area provided with a piped

water supply, of which some 10,500 also have sewerage facilities available. It is desirable that means should be sought to encourage those holding vacant residential allotments in developed areas to develop them. The system of unimproved rating at present in force in some areas has not proved effective and needs to be augmented. The burden of the waste that lies hidden in this failure to develop land in serviced areas falls on the community.

The pressing problems of how and by what means provision should be made for the future population of metropolitan Melbourne requires important policy decisions to be made by the Government. The choice before it is clear and should be made soon. The problem of where the population is to be located is one for a competent planning authority using recognized and well established techniques. The decisions made at government level on how the population is to be distributed in the State will influence the form of planning authority entrusted with the task.

Whatever form of authority is ultimately devised to prepare the future plans for Melbourne and its surrounding region, two things are certain. First, there is an urgent need for the activities, size and importance of the Town and Country Planning Board to be increased to the point when it becomes an effective technical branch of the Ministry for Local Government. This may involve its abolition and the merging of its personnel into the Department of Local Government. Second, there is a clear and immediate need for a substantial extension of the area controlled for planning purposes by the Melbourne and Metropolitan Board of Works. The greatest danger at the present time lies in the possibility that a token extension will be made thus merely aggravating the difficulties that already exist. Urban development now extends almost continuously beyond the Metropolitan boundary at Ringwood to Croydon, Mooroolbark, and Bayswater in the Shires of Lilydale and Ferntree Gully. The future development of Sunbury and other parts of the Shire of Bulla are of vital concern to the planning authority responsible for the Metropolitan area.

The principle on which the Metropolitan Planning Scheme is based—one of controlled outward expansion with an attempt to correlate services and development—is being prejudiced by development and sub-division in Lilydale, Ferntree Gully, Cranbourne, Frankston and Mornington. This problem is urgent and cannot wait.

If an extension of the metropolitan planning area is made in a few years time the Board could find itself with a legacy of approved subdivisions and scattered development which it would be virtually impossible to bring into a reasonable and ordered pattern.

The problem becomes one of regional significance and the future planning

and development of the region surrounding the metropolitan area (possibly the whole of the Port Phillip region) must be considered as an integral part of the future planning and development of Melbourne.<sup>8</sup>

Allied to these improvements in organization there is a need to amend legislation to permit a flexible planning control by a competent, well staffed authority; there is a crying need for an effective means of co-ordinating the activities of authorities like the Country Roads Board, the State Rivers and Water Supply Commission and the State Electricity Commission with the activities of the planning authorities; there is a need to trim the powers of municipal councils in the initial stages of planning; there is a need to secure a unified control over plans of sub-division so that developers may know where they stand in relation to such matters as the provision of open space and standards of road construction, and there is a need for a concentrated and continuing public relations campaign to ensure that the benefits to be derived from planning are well and widely understood. It is surely not beyond the wit of those who govern in this country to cope with these things. It has been done elsewhere and can be done here. If it is not done the community will suffer in terms of wasted hours of travel, unmade streets, unattractive surroundings and services of a standard that were decried in nineteenth century industrial England.

<sup>8</sup> *Ibid.*