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*Report delle attività
di ricerca*

BEYOND
ALL LIMITS

INTERNATIONAL CONFERENCE
ON SUSTAINABILITY IN ARCHITECTURE,
PLANNING, AND DESIGN
11-12, 13 May_2022

*edited by
Claudio Gambardella*

V: Università
degli Studi
della Campania
Luigi Vanvitelli

*Dipartimento di Architettura e
Disegno Industriale*
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BEYOND ALL LIMITS

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on Sustainability in Architecture,
Planning, and Design

edited by Claudio Gambardella

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Università
degli Studi
della Campania
Luigi Vanvitelli

*Dipartimento di Architettura e
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Research activity report

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Proceedings on International Conference on Sustainability in Architecture, Planning, and Design

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To a sustainable redevelopment of illegal settlements

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Abstract

The paper is divided into two parts, the first proposes a consideration on the planning tools provided by the Italian legislation in force to redevelop the illegal settlements characterized by illegal allotments, drawing some critical suggestions from some case law concerning specific territorial conditions. The second part recognizes in some eco-planning techniques the possibility of new planning tools suitable for solving these territorial problems. It identifies some macro-categories of intervention that these tools should use to plan and implement urban redevelopment characterized by a high degree of environmental sustainability of these parts of the territory that were created without an overall and/or systemic logic, an essential prerequisite for achieving a broader and more harmonious sustainable territorial regeneration.

Keywords

Illegal settlements, Urban Planning Tools, Environmental Sustainability, Eco-Planning, Redevelopment

1. Introduction [CdB - SL]

One of the most controversial topics of territorial policies is represented by illegal settlements and the ways in which this phenomenon has been approached in recent decades. The extension it has achieved, especially in southern Italy, calls for a cultural and technical-scientific debate to deepen this process of land transformation (Colombo, Losco, 2011) The problem of redeveloping this built city, beyond the sanctions imposed by legislation on building amnesty, is crucial because of its size and the way it affects the liveability and environmental quality of large areas of our country. The main objective of the contribution is to improve the understanding of the logic of transformation of these portions of the territory (de Biase, Losco, Macchia, 2017).

The results will contribute to the identification of tools and techniques for the re-development of these settlements through the implementation of Eco-Planning theories aimed at achieving greater resilience of these parts of the territory.

The methodology starts with an analysis of the legal and technical rules that regulate the phenomenon and define the urban planning tools for its implementation. The second step is the reading of emblematic cases and of the urban planning tools employed for their re-development, even if not foreseen by current legislation, such as the case study of Orta di Atella (Ce). Finally, to implement ecologically sustainable solutions, Eco-Planning techniques for the re-development of these settlements are proposed as guidelines for the urban planning tools provided by the national and regional laws in force.



Fig 1. Terzigno (Na) - Extract of Municipal Urban Plan, L. Colombo, S. Losco, R. Maccarone. Edges of built-up and unbuilt implementation areas, line in red.

2. Planning tools of illegal settlements [CdB]

First is essential to remark is the difference between informal (Ricci, 2020) and illegal settlements (Berdini, 2010): only the latter are the specific object of this extended abstract. The main difference that we want to underline here relates to land ownership: in the informal city (Ekandem, 2014), land ownership is indifferent, in the sense that the informal settlement is built regardless of the right of ownership of the land; in the illegal city, on the other hand, at least in the first phase of the spread of unauthorized settlement in Italy, there is a close connection between the right of ownership and the practice of abuse, in the sense that building volumes are built illegally on owned land. The phenomenon of illegal settlements, especially if extensive, can also be seen as an undesired or even wanted consequence of the separation between good politics and good town planning, which are united by the pursuit of the priority and superior public interest as an unavoidable objective to manage and plan the correct transformations of society and territory. This is true if illegal development represents the rule of the transformation and/or expansion of territory, while it loses its meaning if the phenomenon represents an exception with respect to the entire settlement of which it is a part. The term illegal development evokes the anomalous use of a resource (land), its exploitation and the practice of those who benefit themselves over an entire community (Clementi, Perego, 1985), as well as a twisted and pathological relationship with urban planning. This phenomenon, which is particularly diffuse in southern Italy, has not been stopped or given a concrete response. Urban planning instruments have played a significant role, since their absence, outdatedness, lack of clarity or total separation from the real development needs of the territory and the inhabitants have contributed to complicating the scenario. Add to this the continuous evolution (confusion) of the legislation has exploded into several plans that have not reached their objectives due to the lack of a necessary mediation between the conflicting interests of the main social and economic forces at play. How can operate in these areas? One tool that can be used is the built-up and unbuilt implementation area (Terzigno-Na) [fig. 1], which, in order to be able to give concrete answers to the current condition of our territories, must...*be aimed at achieving three objectives: the construction of adequate primary and secondary urbanization; the protection of historical, artistic, archaeological, landscape, environmental and hydrogeological interests; the development of a rational*

territorial and urban insertion of the settlement (Coppola, Chiodelli, 2019). Few instruments have been approved in Italy, among them, the most interesting is the case of Rome, which has provided (Zone F1-PRG 1965, Zone O-Variante delle Borgate 1983 and Toponimi-PRG 2008) *a recovery model based on the detailed planning of perimeter areas through the completion of mainly residential sectors and the acquisition of public areas for the construction of equipment* (ivi). Another emblematic example is the situation of Orta di Atella (Ce), which has suggested the drafting of a special **Implementation Urban Plan**: the posthumous IUP to be used for the new parts of the settlement already built up, with the aim of constituting the necessary legal preconditions for the partial or total removal of building and urban planning abuses resulting from the unlawful direct implementation of the provisions of the existing plan. The posthumous IUP does not exist under Law 1150/42 or LRC 16/2004 but could become part of the urban planning instruments in a surreptitious way, because of two jurisprudential sentences, one by the Cassation Court (section III, 27/09/2010 n. 34881) and another by the Administrative Court (Palermo Sicilia, section II, 15/10/2012 n. 2008). The posthumous IUP is therefore an emergency instrument, used in cases where there is not a lack of authorization (as in the case, for example, of volumes subject to amnesty), but an illegitimacy of the authorization itself, which occurs when the citizen obtains a Building Permit in a ZTO, for which there was an obligation, which was not complied with, to draw up a preliminary IUP. In view of the exceptional way in which most of the abuses have occurred, the phenomenon of illegal settlements in Orta di Atella (CE) calls for a technical and legal instrument that is also exceptional, going beyond and above the wide-ranging urban planning instruments provided by the laws in force.

3. Sustainable redevelopment of illegal settlements [SL]

Eco-Planning is about planning and implementing a habitat in which technology and nature are merged, human creativity and productivity reach the highest levels, residents' health and environmental quality are well protected, and energy, materials and information are used efficiently, with the primary objective of ensuring the correct performance of human activities. The integration of nature and man-made elements in the spatial planning (Un-HABITAT, 2009) is nothing new. Already in the last century (Howard, 1898-1902, Geddes, 1915) already the importance of the interrelationship between cities and natural ecosystems was clear, suggesting the need to limit the anthropization of the territory to properly manage urban growth. The urban planning instrument established by the legislation since the first building amnesty (Law no. 47/1985) to regularize illegal settlements was the modification (general or partial) of the **Municipal Urban Plan** in force aimed at the redevelopment (ivi art. 29) of these built areas, delegating to the Regions the regulation of the formation, adoption and approval by specific laws. Article 23 of Regional Law no. 16/2004 of the Campania Region only partially regulates the provisions of the national law, entrusting the MUP with the delimitation of the existing illegal settlements subject to amnesty. This perimeter, however, regulates the objectives, repeating those already set out in Law no. 47/1985, but not the delimitation criteria. The MUP defines the modalities for the urban/building redevelopment of the illegal settlements, the compulsory interventions and the procedures, including mandatory ones, for the execution of the same, also through the formation of building implementation zones. The MUP can subordinate the implementation of urban and building redevelopment interventions on illegal settlements to the drafting of special IUP, called **Illegal Settlements Redevelopment Plan** for, whose formation procedure follows the rules of the implementation regulation provided for by art. 43-bis. In the regional legislation of Campania, there are therefore three tools to be applied to solve the problem of illegal urban development: the modification of MUP at general municipal planning level, the ISRP and/or the building implementation area at executive planning level. Where illegal urban development represents and embodies the rule of expansion and/or dominant transformation of the territory, a technically relevant solution can be pursued at the general urban planning and/or implementation scale. There is no doubt that this illegal heritage is a condition for drafting new MUPs, so that it can be redeveloped and become a fully-fledged part of the city to which it belongs; to this end, it is useful to identify environmentally sustainable guidelines for drafting these instruments. Eco-Planning applies state-of-the-art techniques to plan and implement transformation interventions that have a sustainable impact on the environment by intervening on water, urban density and form, mobility, biodiversity, waste, soil, energy, and the reduction of greenhouse gas emissions, which can guide the drafting of both MUPs (like zone Br of Terzigno) [fig. 2], building implementation zone and ISRP for the sustainable redevelopment of illegal settlements.

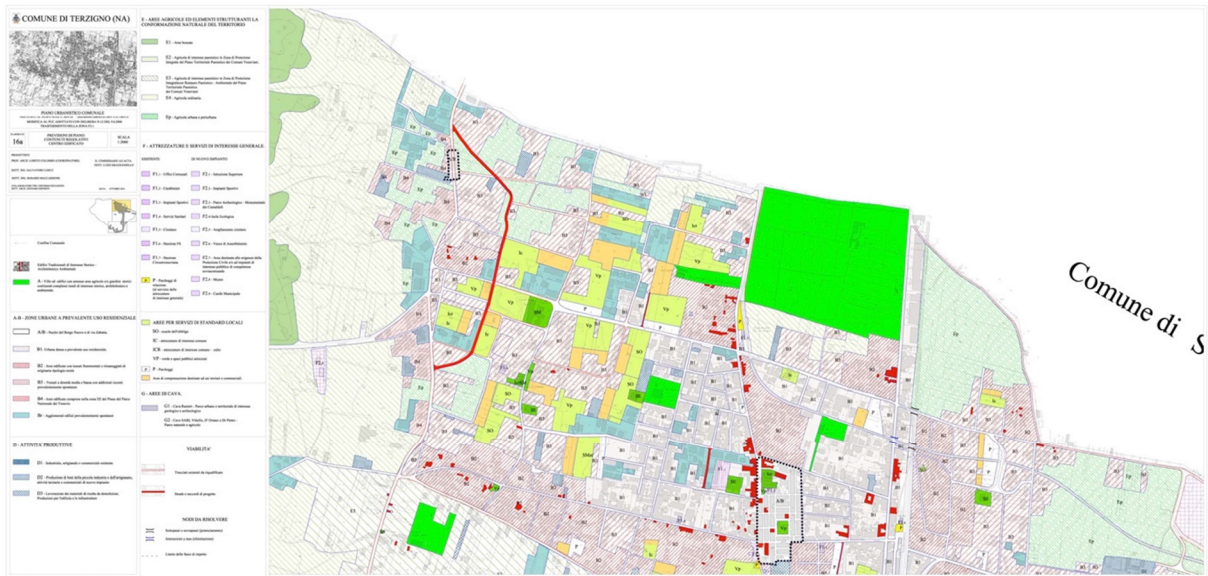


Fig 2. Terzigno (Na) - Extract of Municipal Urban Plan, L. Colombo, S. Losco, R. Maccarone. Zone Br - illegal built-up settlements, shaded in light blue.

Sustainable redevelopment guidelines must provide for the implementation, integration, improvement and redesign of:

- primary urbanization works pursuing the maximum environmental sustainability through the application of water sensitive urban design techniques, the extensive use of slow and/or collective mobility, the integration of energy plants to the local network and to the supra-municipal sector networks, the provision of data networks in coherence with the urban and social morphology;
- secondary urbanization works providing urban arrangements capable of improving the local microclimate by reducing the urban heat island effect;
- settlement fabrics with high residential and/or productive and/or mixed density to limit soil consumption in areas not yet urbanized, to reduce land take, to limit soil sealing, to connect and integrate these settlements with existing consolidated ones;
- configuration of settlement fabrics and performance of the building stock to reduce vulnerability to territorial risks (seismic, hydrogeological, volcanic, technological), energy consumption (construction of nZEB constructions) and waste production;
- morphological quality of the urban and natural landscape also from the point of view of environmental qualities.

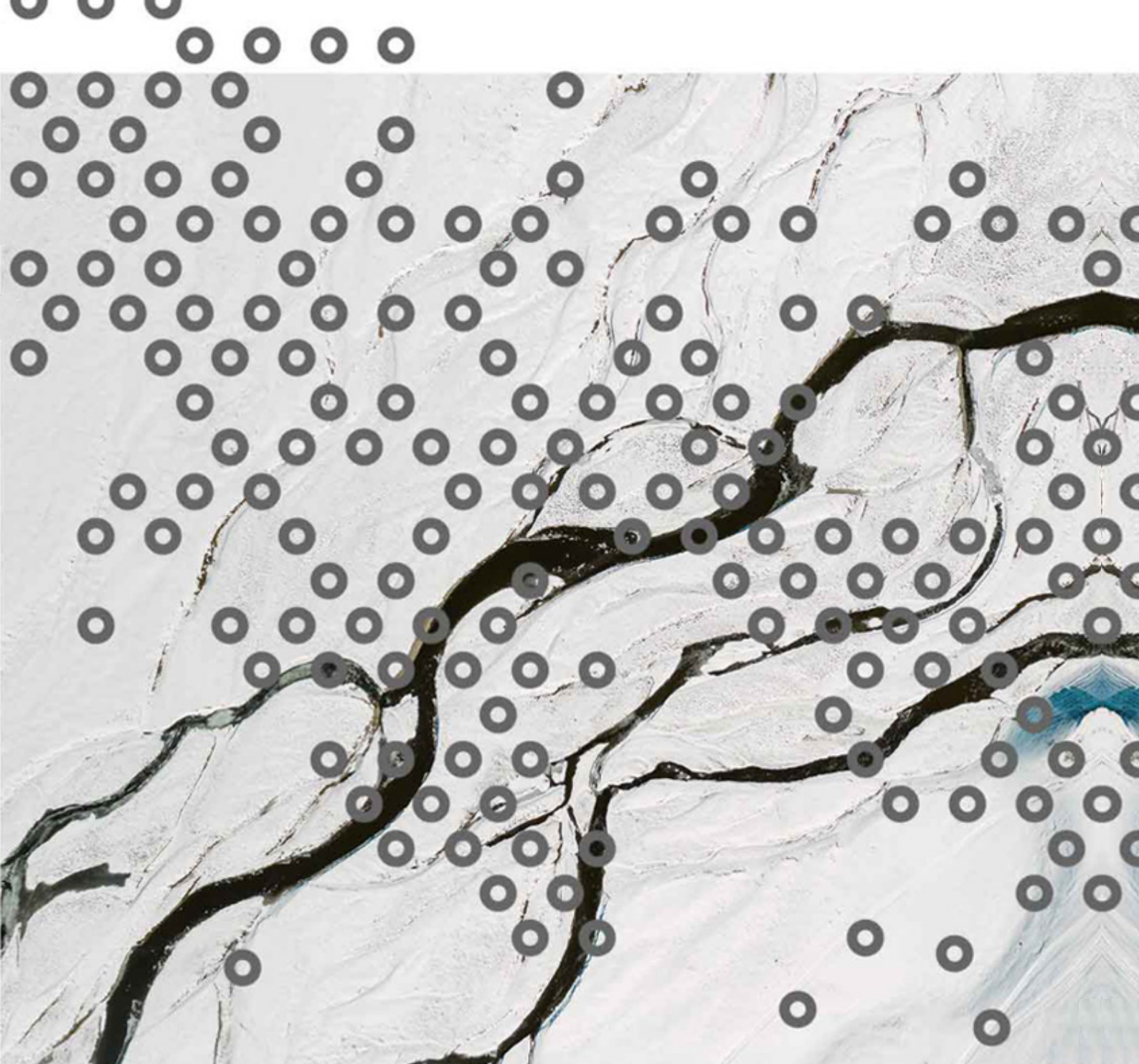
These guidelines can be framed within the wider background both of disciplinary tradition of *Progetto di suolo* (Secchi, 1986) and in the new Eco-Planning theory and techniques (Yeang, 2009. Yang, 2013. Forman, 2014).

4. Conclusions [CdB - SL]

The relevance and interest of the proposed topic is related to the extent and diffusion of the phenomenon of illegal settlements, and to the employment and development prospects that a planned redevelopment would be able to offer. Some reflections may be useful for the development of new technical and legal tools for urban regeneration based on Eco-Planning and public-private partnerships. Several issues remain to be explored, such as: the assessment of environmental damage and compensation, the reduction of land consumption and the mitigation of territorial risks, the overcoming of the separation between sectoral regulations (construction, urban planning, landscape, taxation, and private law), all of which have a heavy impact on the coordination between construction, urban planning, land protection, and territorial and environmental taxation, to name but a few.

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