

**Submission  
No 279**

**INQUIRY INTO PLANNING PROCESS IN NEWCASTLE  
AND THE BROADER HUNTER REGION**

**Name:** Ms Sharon Grierson

**Date received:** 24/10/2014

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1. That a select committee be established to inquire into and report on aspects of the planning process in Newcastle and the broader Hunter Region.

2. The committee is to consider the role of the Department of Planning and Infrastructure, Newcastle City Council, UrbanGrowth NSW, Lake Macquarie Council, and the Hunter Development Corporation in the consideration and assessment of:

(a) State Environmental Planning Policy (SEPP) Amendment (Newcastle City Centre) 2014,

(b) the Newcastle Urban Renewal Strategy,

(c) the Whitebridge development plan in Lake Macquarie,

(d) DA 2014/323 – Newcastle East End Development,

(e) the decision to terminate the Newcastle rail line at Wickham and any proposal to construct light rail including along Hunter and Scott Streets, and

(f) any related matters.

TO WHOM IT MAY CONCERN

**ISSUE 1.**

The NSW ICAC Operation Spicer and Credo raised serious issues of undue influence by donors on the NSW government and on the planning and other decisions made by the government. In particular I draw to the attention of the inquiry the following matters:

- the former NSW Member for Newcastle, Tim Owen, admitted he had lied to ICAC, that he had met to discuss his ICAC evidence with the former Newcastle Lord Mayor Jeff McCloy before appearing at the ICAC Inquiry and that he had accepted an envelope containing \$10 000 cash from Mr McCloy when he was the Liberal Party endorsed candidate for Newcastle. Subsequently he resigned his position as a member of the NSW parliament.
- Mr McCloy in his evidence admitted that he had given the \$10 000 cash to Mr Owen and that he was aware that developers were prohibited donors in NSW. He also conceded that he had given a similar envelope of cash to Andrew Cornwell as the candidate for Charlestown.
- Other Newcastle developers, including Hilton Grugeon, Keith Stronach and Bill Saddington, were also questioned about possible illegal donations to the Liberal party.
- Members of The Alliance, a group promoting their business interests in Newcastle also gave evidence regarding an undeclared third party donation for a campaign to undermine the Labor candidate Jodi McKay.

These revelations have caused great cynicism and distrust by the Newcastle community around whether planning decisions in Newcastle were made according to proper planning processes which took into account best practice urban development and the best interests of the people of Newcastle. The alternative view held by many in the community is that planning decisions were instead guided by the improper relationship between donors and the NSW government and by the best interests of a consortium of business people, developers and the property sector in Newcastle.

**I submit that there is sufficient evidence to lead the public to believe that the significant donations and intervention by The Alliance and by developers, in particular Jeff McCloy and Hilton Grugeon, improperly influenced the decisions of the NSW Planning Ministers, the NSW Minister for Transport and the NSW cabinet.**

**Issue 2:**

**(a) State Environmental Planning Policy (SEPP) Amendment (Newcastle City Centre) 2014,**

**(b) the Newcastle Urban Renewal Strategy,**

**(d) DA 2014/323 – Newcastle East End Development,**

**I submit that Mr McCloy stood to gain a commercial benefit from the above planning decisions.**

In evidence given to ICAC at the public inquiry:

- Mr McCloy revealed that at the same time as he was the Lord Mayor of Newcastle he owned nine properties in the Newcastle CBD and that they all were making a loss. He commented that it was common practice to lodge Development Applications and to sit on them for some time before activating the relevant DA. This “common practice” is considered to be ‘land banking’ and is known to be deliberately used as a tax offset for profit making ventures. Land banking has significantly contributed to the neglect of properties and to commercial inactivity in the Newcastle CBD.
- Mr McCloy’s public admission of “land banking” activity reinforces the belief that his intention is to achieve maximum profit for his properties before developing them rather than contribute to the revitalization of the Newcastle CBD.

**I submit that the planning decisions around the Newcastle CBD East End development dramatically increased the population in that precinct through massive increase to high rise residential development and significantly decreased employment generating activities of retail and commercial in the CBD, thus reducing competition to other business users.**

**For Mr McCloy this would have meant an increase in the value of his properties, an enlarged customer base for his businesses with less competition from retail and commercial enterprises than was previously included in the original 2012 SEPP.**

**The commercial benefit to Mr McCloy as a property owner and developer and a businessman would be of significant pecuniary value.**

The ICAC inquiry also revealed the improper conduct of third party donors through direct attempts by the Alliance to influence the outcome of an election in the benefit of the NSW Liberal Party. This was compounded by their failure to disclose this third party donation. As business owners/operators in the CBD they too would benefit from the amended inner city planning decisions in a similar way to McCloy – an increased customer base, less retail and commercial

competition in the amended development and a relationship with Tim Owen should he be elected as the Member for Newcastle based on their contribution to his election.

**I submit that the actions of the Alliance members as named in ICAC were motivated by self interest and the desire for influence over planning decisions in Newcastle.**

The other major beneficiary of the Newcastle East End development are GPT and UGNSW. Although GPT have not been the subject of any ICAC matters in the current inquiry they were previously found to have breached electoral donor laws.

To elaborate on the serious disregard for proper planning processes with regard to the UGNSW/GPT development in the Newcastle East End I include below a personal submission made previously to the Department of Planning and note that this submission to my knowledge was never published on their website. An opinion piece written for the Newcastle Herald forms part of the original submission. **I have highlighted the most relevant matters with regard to improper planning processes.**

#### **SUBMISSION Re AMENDED NEWCASTLE URBAN RENEWAL STRATEGY**

The following submission outlines objections to the three towers proposed on the UrbanGrowthNSW/GPT site in the eastern CBD of Newcastle. The proposed heights for the three towers are contrary to all previous planning instruments that had high community acceptance and support.

The towers change the overall built form of the eastern CBD precinct and considerably detract from the dominance of the Cathedral as the iconic landmark site when viewing Newcastle from all directions in a 180degree arc. Similarly, the view from the Cathedral in a 180degree arc is considerably disrupted by the three proposed towers. The suggestion that only narrow view corridors are required is an insult to our city and fails to respect the need to preserve the current low scale vista of the original area of the city of Newcastle rising from the harbour to the prominent Cathedral on the hill.

It is this built form that identifies the city of Newcastle world-wide. In fact the present State Member of Newcastle uses this well-recognised vista in his promotional material as do many other organisations seeking to brand and market our city.

Whilst all three towers cause major visual disruption the one located on the corner of Newcomen and King St has the most negative impact with regard to the Cathedral. In addition it completely disrupts views to and from the Newcastle Business Club which is a significant building of heritage importance - one that hosts many important visitors to the city. The view from that club will now be of a carpark and residential apartments. This tower should not proceed on that sensitive site.

The amendments to planning instruments to allow the excessive heights in the three towers are seriously flawed. They allow a commercial FSR bonus to be averaged over three blocks even though the project is largely residential in nature and has reduced commercial and retail space by approximately 75%. No other landholder in this precinct is afforded the same planning generosity which amounts to an anti-competition approach.

I have major probity concerns regarding the approval of this amended NURS by the Minister for Planning who is also the Minister who oversees the UGNSW agency of government which has a commercial partnership with GPT. My experience as a former Chair of the Public Accounts and Audit Committee of the Australian Parliament raises with me serious concern about conflict of interest. The UGNSW/GPT project is a profit making venture and the amendments proposed favour this commercial partnership over all landholders in the same precinct. I suggest that this situation fails established probity guidelines and good governance practice.

Unlike the amendments for the UGNSW/GPT site, the increased height for the building on the University of Newcastle site does not assist commercial gain by the NSW government and instead recognises the need for that building to be a new landmark as a portal to the western precinct of the Newcastle CBD. It too sits in a block surrounded by buildings of heritage and civic importance. However it poses minimal disruption to the vista of the original city in the east and instead heralds a new and exciting opportunity for Newcastle CBD to rise to new heights in the western precinct.

The article following was submitted to the Newcastle Herald as an opinion piece and forms part of my submission.

"Whilst the initial draft Newcastle Urban Renewal Strategy (NURS) had many positive aspects, the March 2014 revision radically departs from well-established planning principles that were understood and accepted by the people of Newcastle, specifically in regard to the UrbanGrowthNSW and GPT (UGNSW/GPT) owned site.

Previous planning instruments recognized the unique heritage quality and form of the original eastern part of the city CBD. Historically those instruments retained the low-scale visual form that saw the city rise from the harbour to the Cathedral and respected the Cathedral as the dominant feature framing the CBD. Heights were carefully managed to avoid detracting from the iconic status of the Cathedral just as is the case in Edinburgh to preserve the dominance of its castle, in San Francisco to preserve the low scale heritage built form rising from the Bay, in Paris to preserve the old city and in Sydney to protect the prominence of the Opera House.

However, amendments made to the NURS to accommodate the UGNSW/GPT submission, totally turn long established planning principles on their head.

The amendments allow UGNSW/GPT to apply the floor space ratio (FSR) bonus for commercial buildings averaged across three blocks to erect 3 residential towers of heights up to 65m on the site of DJ's Carpark, DJ's Foodhall and on the corner of Newcomen and King Streets. This height far exceeds the 24m previously allowed in the sensitive eastern CBD precinct and will radically change the visual appearance of the historic precinct of Newcastle CBD.

UGNSW/GPT have significantly altered their proposal by reducing commercial and retail activities by approximately 75% and replacing space for those employment-generating activities with increased residential apartments. Therefore the proposed height limits and increased FSR are not justified for predominantly residential development and that they do not apply to any other landholders or developments in the eastern CBD precinct, must raise anti-competition issues.

The justifications put forward for drastically altering planning principles to accommodate the towers appear to be population growth, the development's financial viability and the need to maximize construction on locations suspected of having less underground mine workings.

Regarding population growth the proposal assumes that demand for apartments will drastically increase. But whenever single dwellings on large blocks of land within fifteen minutes of the CBD can be purchased for \$400 000 or less then the demand for apartments in the CBD will be finite rather than ever-increasing.

The argument regarding financial viability is not substantiated by other developments taking place now and over the last 5 years that have not been afforded similar planning generosity. The Tattersals development is underway, the first of two new residential developments at the Royal is about to commence as is the development on the Sprockett's Hunter St corner. Developments are lodged or approved for another hotel on the Royal site and for apartments in Pacific St, all adding to the completed projects at the Royal, Arvia on the corner of Church and Watt Sts and the Terminus hotel site in Scott St. All these noteworthy projects were completed under existing planning laws.

However, the cost of grouting old mine workings is a serious liability for developments in the entire CBD. This issue needs a general solution not a solution specific to the UGNSW/GPT site. Instead of corrupting the planning process to ensure its own agency and corporate partner can maximize profits, the NSW government should set up a special fund to address the CBD grouting problem over the next ten years commencing with the UGNSW/GPT site. Funding sources could be excess proceeds anticipated from the sale of the port or coal royalties applied to reconstitute the damage beneath our city.

This would be a genuine catalyst for urban renewal in Newcastle.

That the three towers significantly reduce the dominance of the Cathedral and completely change the vista of our 'old city', the heritage report on these changes

won't be available until after submissions close. Similarly the report to NCC from the Newcastle Urban Design Consultative Group is apparently confidential. Further, the UGNSW/GPT project has no local representation and will be entirely Sydney managed with all profits benefiting UGNSW/GPT.

That the Minister for Planning NSW will endorse these significant planning changes to favour his own agency and their corporate partner above the interests of other developers and to expedite the opportunity for windfall profit, raises serious conflict of interest issues.

The Amended NURS deserves careful scrutiny by experts as well as the general public. Minister Hazzard should accept submissions lodged after 21 March and extend the consultation period to allow more expert input and feedback."

Sharon Grierson is a former Director of The Honeysuckle Development Corporation and former Federal Member of Newcastle.

**I submit that the amended NURS contravenes proper planning processes and state my belief that the original planning proposal was amended to provide maximum financial gain to GPT and their partner UGNSW. That the Planning Minister gives final approval to the amended NURS and is also the Minister for UGNSW represents a major probity issue and conflict of interest. The incorrect use of FSR's to maximize heights is unacceptable and also outside the current legislation. 2 weeks consultation period for major amendments contravened the principles in the NSW Planning Act and the public were denied a heritage assessment and advice from the NCC Urban Design Consultative Committee to inform their response to the amended NURS. The minor reduction to heights announced by the Planning Minister is insulting.**

### ISSUE 3:

(e) the decision to terminate the Newcastle rail line at Wickham and any proposal to construct light rail including along Hunter and Scott Streets,

**I submit that the above decision has also unduly been influenced by the interests of donors and the property sector and that a moratorium should be recommended by the select committee to the commencement of the truncation commencing on Boxing Day 2014 until after the inquiry report has been released and after the March election so the people of Newcastle and the Hunter can express their view at the ballot box.**

The NSW Transport Minister Gladys Berjalkian in a recent media interview stated that the above transport proposal was based on an urban renewal



strategy and was not a public transport solution. Apparently this justifies the destruction of expensive transport infrastructure without the need for any feasibility study or cost benefit analysis being completed or published. Again, this defies proper planning processes.

The proposal includes a light rail route that departs from the rail corridor at Worth Place adjacent to property owned by Hilton Grugeon and continues along Hunter St passing property owned by Jeff McCloy.

Similarly the 2km of light rail is not based on any transport strategy. At a cost of hundreds of millions of dollars it does nothing to address public transport or deter people from bringing cars into the city, the overwhelming majority of which originate from within 7 minutes travel time.

In addition, I draw to the attention of the select committee public comments made by Mr McCloy to Herald journalists and published in the Newcastle Herald July 26 2013.

*“Light rail?”*

*"I'm determined that the light rail should pass down Hunter Street, not on the old heavy rail corridor," he says. "If it runs on the rail corridor it will still only have the same old few stops and that's no use to anybody."*

*So, what about that contentious heavy rail corridor?*

*It should be landscaped, but also provide some car parking, in places, he says. Some artists' impressions will be available from the council soon.*

*Car parking, Cr McCloy says, is critical. He hopes the new law courts and university campus will generate more passengers on public transport, but says cars will be a fact of life for years to come. He isn't happy about the gross shortage of car parking built into the new court project.*

*He says extra parking provided at Honeysuckle has made a huge difference to businesses on the Boardwalk, and blames the previous shortage for having driven customers away.*

*He anticipates at least two major new multi-storey car parks, one to be developed by the Hunter Development Corporation and the other as part of a proposal put forward by developer Jerry Schwartz."*

**I submit that given the views expressed above by Mr McCloy and his generosity in illegal donations to Liberal Party members in Newcastle and surrounding electorates, the public would be justified in being suspicious that the light rail plans have more to responding to the**

**wishes of Mc McCloy than to the transport needs and proper urban renewal of Newcastle.**

Given my diverse networks I am aware that the firm Hassell have submitted to the NSW government a ten year strategy for the urban renewal of Newcastle which includes construction on the heavy rail corridor. Proper planning process would demand that the public be consulted on that strategy before the truncation of the heavy rail from Wickham to Newcastle.

**I submit that the NSW government is hiding the ten year urban renewal strategy from the public who go to a by election tomorrow totally ignorant of what is planned for the rail corridor and their city. Again, this insults proper planning process and the people of Newcastle.**

**ISSUE 4:**

(f) any related matters.

**I submit that the failure by the NSW government to match Federal funding for the redevelopment of Newcastle Art Gallery was unduly influenced by the improper relationship of major donor Jeff McCloy to the NSW government and their elected representatives in Newcastle and surrounding electorates.**

Mr Tim Owen took to his election a promise to match federal funds to redevelop the Art Gallery. When Jeff McCloy was elected it became obvious that he was working against the redevelopment.

As the then Federal Member for Newcastle I met with Mr McCloy in February 2013 to discuss two issues that overlapped federal and council matters – the CBD university campus and the Art Gallery redevelopment. At this meeting it was clear that Mr McCloy was hostile to the Director of the Gallery because of a previous disagreement on public art, providing a dossier he had on Mr Ramsey and this particular matter. He also was clearly against the Art Gallery redevelopment as a financial impost on the council and in particular opposed to the inclusion of function and café facilities.

Even though it was proposed to the general Manager that the council could reduce its contribution to around \$3m – the cost of maintenance and remediation line items already in the NCC budget, Mr McCloy made it obvious that he did not support the project. It was my view that he influenced both Tim Owen and Barry O'Farrell in their decision to not provide funding for this important facility for Newcastle.

**I submit that the improper relationship between the NSW government based on Mr McCloy's generous illegal donations to the NSW Liberal Party and in particular Mr Tim Owen meant decisions were made to satisfy Mr McCloy rather than the best interests of the people of Newcastle.**

Yours Sincerely  
Sharon Grierson