

**Submission
No 349**

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

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PLANNING PROCESS IN NEWCASTLE AND THE BROADER HUNTER REGION
(INQUIRY)

Legislative Council
NSW Parliament
6 Macquarie Street
SYDNEY NSW 2000

**RE: BURDENING NEWCASTLE'S FUTURE –
GPT/URBANGROWTH NSW HIGH-RISE DA2014/323**

To Whom It May Concern,

I wish to raise concerns with the NSW Legislative Council (or Upper House) Inquiry into *Planning Process in Newcastle and the Broader Hunter Region*. Specifically with reference to inadequate community consultation, probity, a lack of transparency and perceived conflict of interests and excessive developer influence on planning decisions surrounding the spot rezoning of Newcastle's Mall and East End heritage area to facilitate the development application **Newcastle East End Project DA2014/323**.

These matters are especially concerning given their proximity to those recently investigated by the Independent Commission Against Corruption (ICAC) during 'Operation Spicer', regarding illegal developer donations at the state government level, specifically relating to Newcastle.

While I support urban renewal in Newcastle I am alarmed at the proposal submitted by joint developers GPT Group / UrbanGrowth NSW, for high rise apartment towers in the low rise, historic inner city Newcastle. This development trebles existing height limits to 20 storeys and significantly increases floor space ratios. The development site is located in the historic Hunter Street Mall, bounded by Hunter, Perkins, King and Newcomen Streets, Newcastle.

To many Newcastle and Hunter residents the city's heritage centre is equivalent to Sydney's historic 'The Rocks' precinct, one of Australia's premier tourist attractions. In simple economic terms, this precinct is a highly valuable asset belonging to all the people of Newcastle and the Hunter. If the GPT/Urbangrowth high rise development goes ahead it will destroy this heritage asset forever and burden Newcastle's future.

Experts have condemned the high rise towers, including "...prominent Newcastle architect Brian Suters, who said the planned changes "demeaned the heritage

significance of the (city's) east end and The Hill". "The proposed changes to Precinct 7 (Hunter Street Mall) which allow for three towers of up to 19 storeys would be an urban disaster for Newcastle," Mr Sutera wrote (Newcastle Herald, 21 April 2014).

The **Newcastle Urban Renewal Strategy (NURS - 2012)** comprises urban renewal planning documents for future development in inner Newcastle. The NURS 2012 acknowledged the historic significance of the city's East End by maintaining a maximum 24 metres (or 8 storeys) height limit. This maximum height limit would protect the human scale, significant public vistas and historic character of this area.

The NURS 2012 document was developed with wide-spread community consultation during 2012 and 2013, and was supported by many residents as well as prominent members of Newcastle's business community, e.g., *"The strategy (NURS 2012) sets out a very exciting vision for making Newcastle a truly world-class city"*. Andrew Fletcher, Regional Director, Property Council of Australia, 2013).

Inadequate community consultation

"NSW Planning and Infrastructure is working to create opportunities for more meaningful community consultation and engagement, to give people and community groups a bigger say in planning decisions and earlier on in the process"

<http://www.planning.nsw.gov.au/en>

[us/policyandlegislation/howplanningworks.aspx#community](http://www.planning.nsw.gov.au/en/us/policyandlegislation/howplanningworks.aspx#community)

Given the Planning Department's stated aim (above) to work with communities through meaningful consultation and engagement, many Newcastle residents feel let down and betrayed by the planning department and government because community consultation for the GPT/Urbangrowth NSW high-rise proposal was grossly inadequate.

The unexpected was hinted at on 19th February 2014 when the Newcastle Herald ran a short story, light on detail, announcing three high-rise towers will be the focus of GPT/Urbangrowth NSW's Hunter Street Mall development. At this time neither GPT nor Urbangrowth NSW made any attempt to contact nearby residents to inform them of this idea. Many people simply ignored the story, which came out of the blue and had no apparent relationship to the NURS (2012).

However, on **5th March 2014**, very detailed planning information became available when the two developers introduced comprehensive development plans for their site during the development exhibition period. The high rise plans ignored existing height limits specified in the NURS 2012, instead proposing to almost treble heights to 69.5 metres (or 20 storeys). At the same time the Planning Department proposed major amendments to the SEPP (2014) that would specifically favour this development going ahead.

On Tuesday **6 March 2014** the Newcastle Herald presented a major story based on the GPT/Urbangrowth NSW high-rise proposal. This was the first time the general public had heard about the massive re-writing of the NURS through proposed **State Environmental Planning Policy (SEPP - 2014)** amendments. The amendments in effect would reverse the city's 2012 planning guidelines, permitting high-rise developments to be built in the low-rise heritage East End instead of the West End (The NURS 2012 was consistent with decades of Newcastle planning strategies that protected the heritage inner city from high rise developments).

Before 6th March most residents had little idea of these impending changes. There were no letterbox notices or door-knocking by representatives of the developers, Planning Department or Newcastle City Council. While residents were left in the dark, the former Lord Mayor Jeff McCloy and former local Member for Newcastle Tim Owen, began spruiking the GPT/Urbangrowth high-rise project in the media. Both these later disgraced elected representatives had known about the GPT/Urbangrowth plans for some time because they had participated in meetings with big property developers, business groups and government agencies, including the Hunter Development Corporation, the Newcastle Alliance and the Property Council of Australia, of which property developer Mr. McCloy was a prominent member in the Hunter Branch. These gatherings helped determine the new high-rise vision for the heritage city centre. There were no such meetings with residents or community groups about this new vision.

Question:

Why wasn't there community consultation with local residents about proposed high-rise towers in the heritage city centre, during 2013 when GPT and Urbangrowth began drawing up their new plans?

It was reported in the Newcastle Herald (19 July 2013), "*Cr. McCloy was critical of height restrictions to protect views to Christ Church Cathedral.*"

And, Ed Crawford, Chairman of the Property Council of Australia's Hunter Board, said "*...administration constraints ranging from view corridors to height limits to boundary setbacks made it tough for developers to get a green light.*" (Newcastle Herald, 19 July 2013).

The public was given just **16 days to lodge their submissions** in response to the SEPP amendments (2014), from 5 - 21 March 2014. This very short period was grossly inadequate for residents to come to grips with the sheer volume of complex new planning information. To make matters more difficult the amendments were inserted into the NURS (2012) without any highlights, so it was extremely difficult to see where the changes were made.

Question:

Why weren't the proposed SEPP changes highlighted / differentiated in the NURS (2012) documents?

The short 16 day period limited opportunities for public consultation and reduced the likelihood of more people making submissions to the planning department. This unfairly favoured the developers GPT/Urbangrowth NSW over residents and was a contributing factor to the erosion of community trust in this planning process.

Nevertheless a total of 266 submissions were received by the Planning Department. The overwhelming majority of submissions - approximately 70% - were against the proposed high-rise development, specifically the increased heights proposed for three buildings within the Hunter Street Mall - East End Precinct. Just 13% supported the GPT/Urbangrowth proposal while 17% were undecided).

A hard copy petition opposing the high rise development signed by over 500 people and an online petition with 676 signatures opposing the project were also received by the Planning Department during this 2 week period.

In addition, a public rally held on 24 May 2014 attracted approximately 1000 people who peacefully marched through Hunter Street Mall to express their opposition to the

proposed high-rise development.

<http://www.theherald.com.au/story/2304551/protestors-march-against-high-rise-development-pictures/?cs=305>

Misleading Public Statements

From the time of the Newcastle Herald's announcement of GPT/Urbangrowth's plans, the joint developers of the East End Project DA2014/323, the former Newcastle Lord Mayor Jeff McCloy, the former Member for Newcastle Tim Owen, the senior Planning Department official and the Planning Minister have consistently maintained the proposed changes to SEPP were only minor. In addition these individuals maintained there was extensive community consultation about the amendments. ***These assertions are completely untrue and should be the subject of questions at the Upper house Newcastle and Hunter Region Planning Inquiry.***

Along with other residents, I met with Department of Planning in Newcastle on 2nd June 2014, to discuss residents' concerns about the GPT/Urbangrowth high-rise proposal. Several times during the meeting referred to the proposed SEPP amendments as only minor changes that did not warrant more time for community assessment. continues to maintain this characterization of the SEPP changes when the evidence is clearly to the contrary. At the June meeting Mr. also maintained there was prior community consultation about proposed amendments but could not provide any evidence to support this claim.

Question:

Perhaps could be asked by the Committee to explain on what basis he holds the view that SEPP changes are minor because all the evidence shows that the changes are massive and overturn fundamental principles of the NURS (2012), including dedicating the Newcastle West End for high-rise city developments.

Furthermore, on what criteria does determine a matter warrants more than 16 days public consultation?

How does this fit with Department of Planning guidelines?

How does this fit with the stated policy by the Premier when he visited Newcastle to apologize to the people of the city following ICAC revelations that his Government would properly engage with and consult with the people of Newcastle.

The massive changes to the SEPP (2014) treble height limits and significantly raise floor space ratios - these are in no way minor changes. Also, there is NO evidence to show any community consultation about the proposed SEPP changes or the GPT/Urbangrowth high-rise tower plans occurred prior to 6th March 2014, when plans were first announced in the Herald.

GPT and Urbangrowth cynically attempted to tick the community consultation box by organizing two quickly scheduled "Information Sessions", both held well after the Herald announcement of their plans (6th March 2014) and within three days of the closing date for SEPP public submissions (21st March 2014).

Residents who attended the sessions were told these were “Information sessions”, not “Community consultation” sessions. Residents were lectured to and very little opportunity was given over for questions.

There were no handouts of relevant information for participants. Many affected residents were not even notified directly about these two sessions and the meetings were held in hotel meeting room that would accommodate barely 50 people. These were sham attempts at community consultation after the event and should be dismissed for lacking any genuine credibility.

There was NO “*meaningful community consultation and engagement*” – as stated in the Planning Department’s own ‘Code of Conduct’.

The Myth of Community Consultation

In 2012 and 2013 there was extensive community consultation involved in the development of the NURS (2012). The result was an award-winning document that most residents and businesses supported and believed to be a viable long-term urban renewal plan for the inner city.

However, the community consultation that occurred during 2012 and 2013 to help develop the NURS (2012) has been misused by a number of key individuals who have been spreading misleading information about consultation also occurring for the SEPP amendments (2014), by conveniently conflating the 2014 SEPP amendments with the earlier NURS consultations. This gave the impression the massive SEPP changes were canvassed much earlier than was the case. It appears this was intended to deceive the public.

Question:

The Committee could ask _____ of the Department of Planning, or former Newcastle Lord Mayor, Jeff McCloy or the former member for Newcastle Tim Owen, to provide evidence for the so-called community consultation they said occurred for the proposed SEPP amendments (2014).

Excessive Developer Influence

The NSW government and the Planning Minister have consistently ignored the wishes of Newcastle people to favour two developers – GPT and Urbangrowth NSW, the later a government agency administered by the Minister for Planning.

On 29th July 2014 the Planning Minister confirmed the approval of the SEPP amendments (2014), announcing slightly reduced building heights to the tallest of the three towers - from 20 to 17 storeys (which can be raised again under certain conditions).

This token height reduction failed to meet community expectations and perpetuated many residents’ concerns about the Planning Department’s bias towards the vested interests of the two developers over the wider interests of the entire Newcastle and Hunter community.

The SEPP amendments represented a seismic change to the NURS (2012). The late July 2014 spot rezoning that it enabled, provided a very poor basis for urban planning in the Hunter because it created an inequitable basis for development favouring one particular private developer – GPT Group - and a government agency

only – Urbangrowth NSW - at the expense of other developers and future re-development in the West End where there is real need for revitalisation.

The lack of genuine community consultation by the developers, the Planning Department choosing to ignore overwhelming public opposition to the proposed developments and dismissing the SEPP amendments (2014) as only minor changes, and finally the Minister for Planning, former Newcastle Lord Mayor Jeff McCloy and MP Tim Owen misleading the community by arguing there was wide community consultation - without providing any evidence to demonstrate when - are factors that have contributed to the erosion of community trust in this planning process.

Conflict of Interests

The changes to the Newcastle DCP were assessed by the NSW state government (Planning Department), which has been unable to allay community concerns of a potential conflict of interest regarding the Government's own financial investment in Urbangrowth NSW (formerly Landcom NSW), and also the Government being the assessing and consent authority (through the Department of Planning).

A disturbing aspect of the entire planning process surrounding The East End Project DA2014/323, is the apparent lack of impartiality and lack of transparency on the part of the Minister of Planning, Planning Department executive former Newcastle Lord Mayor Jeff McCloy and former local Member for Newcastle Tim Owen, whose many decisions and actions appear biased in favour of developers GPT and Urbangrowth NSW. This raises serious concerns about compliance with Local and State Government code of conduct standards and probity in this planning process.

In late July 2014 Minister Pru Goward approved massive changes to the Newcastle Urban Renewal Strategy (2012) and to the Newcastle Local Environmental Plan (2012), through State Environmental Planning Policy (SEPP) amendments (2014), severely disadvantaged the wider urban development community and many Newcastle residents. The minister's spot re-zoning effectively shifted the focus of development opportunities away from balanced growth across the city (including away from Newcastle's West End) to GPT/Urbangrowth's heritage inner city site.

Recommendations:

I respectfully urge the Upper House Committee to please consider making the following recommendations:

- 1. Revoke the SEPP amendment by providing a revised SEPP amendment overriding the 2014 approval.**
- 2. With respect to building heights, restore the NURS (2012) that includes:**
 - **acceptable height limits (maximum 24 metres or roughly 8 storeys)**
 - **appropriate floor-space density provisions**
 - **maintains iconic public vistas to and from the city, and**
 - **facilitates high rise development in the West End rather than the heritage precinct.**

3. Place an immediate moratorium on all development associated with the amended parts of the Newcastle LEP.

In conclusion, I trust this information may assist the Parliamentary Inquiry into *Planning Process in Newcastle and the Broader Hunter Region* and hope the Inquiry will consider my concerns regarding the controversial GPT/Urbangrowth NSW development proposal - DA2014/323 - for high-rise towers in Newcastle's heritage city centre.

I hope the information provided will assist the Inquiry to better understand how poor planning decisions, that will burden Newcastle's future, were made.

This information is confidential and intended for the *Planning Process In Newcastle and the Broader Hunter Region* (Legislative Council Inquiry).

Thank you.

Yours sincerely,

Key abbreviations:

NURS	Newcastle Urban Renewal Strategy
SEPP	State Environmental Planning Policy
LEP	Local Environment Plan
DCP	Development Control Plan
JRPP	Joint Regional Planning Panel