

**Submission
No 268**

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

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The Director
Select Committee on the Planning Process in Newcastle
and the Broader Hunter Region
Parliament House
Macquarie St
SYDNEY NSW 2000

Dear Director

I submit the following for consideration by this Select Committee and its Chairman, Rev the Hon Fred Nile. As per the terms of reference of the committee, my comments relate to 2 (a), (b), (d), (e) and (f). While these matters are complex, and have occurred over time, I have attempted to keep this submission brief.

This Inquiry is a timely and appropriate response to revelations at the recent Independent Commission Against Corruption (ICAC) hearings. It provides an opportunity to objectively examine a series of government decisions made in recent months about development in Newcastle, all of which involve one or more of the people who have had their behaviour and motivation impugned during these hearings.

There are four main issues that need to be closely re-examined in light of this information:

1. The termination of the Newcastle railway line at Wickham
2. The proposal to run a light rail track from the new termination point at Wickham, easterly along the existing rail track to Worth Place, then along new lines down Hunter Street to Pacific Park
3. The decision to massively increase the allowable building heights on land owned by GPT and Urban Growth contrary to the recently reviewed plans
4. The decision not to support the Newcastle Art Gallery expansion and refurbishment, and a number of other decisions by Newcastle City Council during the current term

Termination of Newcastle rail line

The issue of how the Newcastle rail line should function as the city expands has been debated for many years and through a number of governments. It is an issue that has divided our community. Everyone can agree that they would like to see better access across the rail corridor between Hunter Street and the Harbour Foreshore. It is the manner in which this should be done, and what is lost in the process, that causes disagreement.

The current decision has an all-or-nothing approach. It does not consider alternatives such as modern, safe level crossings as are used in Perth. Hunter (then Honeysuckle) Development Corporation built, in anticipation of the line having improved access points, the foundations of crossings at locations such as Steel St and Worth Place.

All sides talk of connectivity, but surely we have to think of the wider connectivity of the Region. I believe that a rail line which connects the centre of our city with the wider Hunter Region, and Sydney, is an invaluable asset for our future; an asset that will become increasingly important as new revitalisation projects come on-line. Projects such as the new 5,000 student university campus, the new law courts, and the proposed GPT/Urban Growth development. With these developments and the increasing population of surrounding suburbs, parking will become more and more difficult. The need to have effective, viable, connective public transport into the city is critical.

The Newcastle Urban Renewal Strategy (2012) states “(s)everal key initiatives will have significant short-term benefits as well as being catalysts for stimulating a wider change in the city centre.” It then nominates “providing additional connections across the rail corridor for pedestrians, cyclists and cars” as a priority. Labor’s recently released *Plan for the Revitalisation of Newcastle* outlines new vehicle and pedestrian crossings at Steel St, Worth Place and Wolfe St. Added to this would be new pedestrian crossings near the Hunter St TAFE campus and at the ends of both Darby St and Brown St.

Significant growth centres such as Maitland and Singleton, as well as other important Hunter centres such as Scone and Dungog have become reliant on the train as a reliable, efficient and timely method of both commuter and leisure travel. These people have not been heard in the decision-making process. Until recently, the Liberal member for Maitland, Robyn Parker, was a

staunch advocate of retaining the line into Newcastle. She understood the benefits to her constituents. Then, it appears, she was pressured by Liberal ministers to keep quiet on the matter, and now, is not contesting the election in March 2015.

GPT saw the advantages of having an existing rail line within a block of its proposed development (their website states that its Melbourne Central project is “conveniently located directly above Melbourne Central train station”). It was only when the GFC occurred that their stance changed dramatically.

The decision to terminate the Newcastle service on 26 December 2014 was made with no clear alternative in place; this is not just bad planning but will be extremely disruptive. The Transport Minister has admitted that this decision is not one that improves public transport. There has been no cost-benefit analysis, and not even the most rudimentary costings have been made available for the proposed light rail. No costings, no details and no schedule for light rail - only a termination of the existing service. It appears that the Baird government’s only commitment is to secure the rail corridor for development before the March election, and the only way they can do this, that does not require a great deal of planning, is terminate the service past Wickham.

The Proposed Light Rail

For some time the government has been dangling the idea of light rail to replace heavy rail. The implication was that the existing tracks would be used for the light rail following some cosmetic treatment including removing fences etc.

There was a great deal of surprise in our community when the former Lord Mayor Jeff McCloy announced last year that the light rail should run down Hunter Street. There was even greater surprise earlier this year when the Minister announced that the proposed route would in fact run down a large part Hunter Street and into Scott Street. Many people commenced speculating as to who was making these decisions, and why?

There are two significant impacts of this plan.

The first is the effect on businesses in Hunter Street during the construction process. While we have

not been given even the slightest advice as to how long the light rail construction will take, it will obviously be an extended period over many months. This will be compounded by the possibility of previous tram tracks and other services in Hunter Street. During this time it is impossible to imagine how people will be able to access businesses in the street, let alone get across to the Foreshore. It is equally unlikely that any form of compensation will be available. There does not seem to have been any thought given to this impact.

The second impact is that the land beneath the current rail line is not substantially undermined and, therefore, provides prime redevelopment potential. Again, the government's position going into the last election, and until very recently, was that this land would be retained as a transport corridor. The Minister for Planning recently announced that this was no longer the case and despite specific questioning in Parliament this week, the Government has not denied that the land would be developed.

These decisions increasingly appear to the community to have been greatly influenced by former Lord Mayor McCloy. Problematically for all involved, there has been very little transparency around how these decisions were made or what matters the relevant ministers took into account. Novocastrians are finding it almost impossible not to suspect that Ministers are more influenced by what benefits developers rather than what is best for our community. These are questions that I believe this inquiry should delve into and answer.

Increased CBD building heights

A revision of the Local Environment Plan for the city has been underway for some years. A proposal, with increased building heights in the CBD, was on display for the latter half of 2013 and received general community approval. Late in the display period GPT and UrbanGrowth, the major landowners of sites along and around the Hunter St Mall, made a submission calling for a further substantial increase in the height limits on their properties. This was a considerable change from their previous, approved, concept plans for the same site. Subsequently, a revised plan went on display incorporating these new heights for a very brief submission period.

The Newcastle community was outraged with these new plans and a substantial number of

submissions were lodged objecting to these new, inappropriate heights. The Minister has since announced the acceptance of the plan with a few, superficial amendments.

There are a number of important elements to this issue. Perhaps the most unavoidable is the fact that there are substantial mine workings under the CBD and these pose serious limitations on what can be built. GPT/UrbanGrowth maintain that the additional heights are required to allow for the cost of grouting these cavities below the city. There has been a call for the state government to accept that the restitution of these mine workings, and that a program to fill these workings should be undertaken by the NSW government. This would ensure that all property owners were treated equally and building heights could be set at the original Newcastle Urban Renewal Strategy (NURS) heights - heights that underwent extensive community consultation and agreement.

The NURS 2012 states:

- Reduce building heights where testing has confirmed a lack of feasibility as well as in areas of the city where a transition in height is needed between the taller city buildings and surrounding lower-scaled areas.
- Ensure the built form responds appropriately to the heritage character and topography of Newcastle
- Provide appropriate controls on key redevelopment sites along with a range of permitted uses to encourage their development.

The current government has overruled this strategy and, against its own guidelines, increased heights in the historic precinct of Newcastle East.

Again, this process was rushed through with little time for community consultation.

It has also been revealed today that Newcastle Council's own independent expert advice that was highly critical of the increased building height limits was kept from both council and the public.

It is widely commented, by residents and visitors alike, that Newcastle has an extremely charming cityscape with many fine buildings; commencing with Customs House near the harbour, leading up the hill and topped by Christchurch Cathedral. The proposed new building heights will substantially

impact on that cityscape.

Given that the consent authority, the Planning Minister, is also directly responsible for UrbanGrowth there would seem to be a substantial conflict of interest.

There has been a great deal of comment in recent years about the decline of the Newcastle CBD. What has not been discussed is GPT's contribution to this decline. GPT commenced acquiring land in the CBD about ten years ago and announced major plans for a CBD shopping centre.

In fact, GPT purchased these sites in full knowledge of the surrounding infrastructure and the existing planning regulations. The purchase took place over time, and many existing tenants were hustled out of their premises on the basis that redevelopment would commence soon. Announcements were made about what was being proposed. The Newcastle community was very responsive to these proposals and GPT were given a great deal of community support.

GPT's attitude changed quite dramatically, however, about the time of the GFC and there were suddenly a number of obstacles in the path of the development. The first notable one was the rail line. What had originally been an attraction to the developer – building a shopping centre adjacent to a railway station that provided direct access from the Central Coast, Hunter Valley and the Mid-north populations - became a demand for the NSW government to spend around \$150 million to remove the rail line. What went wrong?

The only conclusions one can draw are either GPT was looking for an excuse not to go ahead with the project they had been talking up for years (they were in the middle of an extensive, expensive expansion project at nearby Charlestown Square), or the due diligence undertaken by GPT was faulty and they had not properly evaluated the sites they had purchased. Whichever it was GPT certainly were not explaining. They subsequently sold a significant amount of their land to UrbanGrowth for an apparently low price.

Somehow, we seem to have reached a point where GPT and UrbanGrowth have successfully submitted an application for a significant increase in the allowable building height for their land. Apparently the purpose in doing so was to seek the necessary DA approvals for the maximum building height for their sites. Now these applications have been rubber-stamped, it is widely anticipated that they will seek to sell the land.

The Newcastle cityscape has been developing for over two centuries and been nurtured by state and local planners, especially over the last four decades (Newcastle appointed a qualified town planner in 1971). It seems that the future of the cityscape will be determined by the mines that are beneath it or the value of the land owned by two large developers, not by planning principles or aesthetics. One has to wonder why this city has been singled out for this special degree of non-planning and why the NSW government chose to follow this course?

Even before Newcastle City Council developed their Newcastle Urban Strategy the local community has long envisaged that “(t)he City Centre will become a vibrant and safe place to live and work, capitalising on its beachside location, harbour views and rich built heritage.” Novocastrians are rightly proud of their history and are rediscovering it for a range of reasons. People want to live in the historic East End and modern entrepreneurs are also embracing the ambiance of the area. It is recognised as valuable and as an attraction similar to the Rocks precinct in Sydney.

The approach of this government, however, has been to ignore the planning, consultation and processes that are the foundation of documents such as the 2012 Newcastle Urban Renewal Strategy, the DCP and LEP. These plans had sensible, sustainable height limits, were sympathetic to existing precincts, and encouraged higher development in western precincts; the current Planning Minister, under dubious circumstances and with little transparency, has summarily overturned them.

Newcastle Art Gallery

For some time it has been accepted that the Newcastle Art Gallery, with its fabulous collection, has long outgrown its available space.

Upgrading and renovating an Art Gallery is a complex and controversial business. Newcastle City Council had been dealing with the matter for almost a decade. Early plans were deemed to be too expensive and new plans were developed prior to the 2012 council elections.

The city revitalisation strategy had the establishment of the Newcastle Museum and the renovation of the Art Gallery at its core. It recognised that Newcastle had sufficient attractions to entice visitors

to stay in the city rather than pass through and go to the vineyards or Port Stephens. A better set up Art Gallery and a modern museum, especially one appealing to children, the Honeysuckle Precinct and the Maritime Centre would provide a core of activities that would be capable of attracting visitors and holding them for more than a few hours. This was the planning context of the Art Gallery extensions – a Civic Cultural Precinct - and was one that was supported by the tourist industry.

A total of \$7 million, \$1 million from the community and \$6 million from Council through a special rate levy, was committed to this project. Applications were made to both the Commonwealth and State governments for matching grants. Prior to the 2011 NSW elections there was bi-partisan support for the project; the Liberal candidate, Mr Tim Owen, was particularly supportive. The Commonwealth government finally gave its approval subject to matching funds from the NSW government. This was just prior to the NSW local government elections.

The election of Jeff McCloy as Lord Mayor dramatically changed the situation. McCloy, in conjunction with a block of Liberal Party Councillors, almost immediately began talking down the Art Gallery redevelopment. Astonishingly, the Liberal Member for Newcastle, Mr Tim Owen, who had been such an outspoken supporter of the project to this point, reversed his position.

Meetings took place between Mr Owen and Mr McCloy which gave the impression to many that Mr Owen was very much under the influence of Mr McCloy. This perception has been increasingly shared by many in our community, particularly following the information revealed at the ICAC hearings as it shed light on the background to Mr Owen's unexpected change of position. Indeed, Mr Owen met then Lord Mayor McCloy the same day he was interviewed by ICAC investigators.

Subsequently a consistent 7-6 majority on Newcastle City Council, formed by the use of the Lord Mayor's casting vote, carried a number of decisions that restructured the Council, removing the Art Gallery Director and his superior as well as the Museum Director. The Newcastle Art Gallery Foundation was publicly accused of being in breach of taxation laws and its Chairman accused of misleading its Board.

This unprecedented behaviour conducted by the newly appointed General Manager (introduced to the Council by Lord Mayor McCloy) in concert with the Lord Mayor has been very destructive for council morale. For example, there was a great deal of hysteria created about council finances,

citing poor previous financial management and excessive debt. Over a year later it was quietly mentioned that there had been an \$8 million overstatement of depreciation.

The Council suspended contact with the Art Gallery Foundation, an organisation that has raised many millions of dollars for the acquisition of art works. Subsequently, it was indicated that relations could only be restored if the Chairman was removed. The forced resignation was achieved months ago but relations still have not been re-established. A number of donors have indicated that they are reviewing their future plans and the Margaret Olley Trust have announced that they will not be making some planned donations. The behaviour of these people has seriously damaged a number of long-term relationships to the detriment of the Art Gallery.

Recommendations

1. That the details of the decision-making process to cut the Newcastle rail line at Wickham be made public; including the rationale for the terminus location and its ability to be fit for purpose (that is, as an intermodal interchange for buses, trains, trams and taxis).
2. That the detailed process for the decision leading to the route of the light rail line in Newcastle be made available to the public.
3. That all submissions regarding the increased heights of the GPT/Urban Growth be made public and that the decision-making process to allow the increased heights be made public.
4. That the committee strongly support an investigation of the previous Lord Mayor and the current General Manager of Newcastle City Council with regard to:
 - a) The attempt by the current General Manager and ex-Lord Mayor to improperly remove a Councillor from the Board of the Newcastle Art Gallery Foundation for the purpose of appointing another Councillor to the position who was more closely aligned to the Lord Mayor.
 - b) Whether there had been communication between the General Manager and/or the Lord Mayor and the state government, at any level, regarding the Art Gallery that was not

reported to the Council.

5. Establish and report to the Parliament on whether there was departmental advice prepared for Premier O'Farrell regarding the application for matching funds for the Newcastle Art Gallery extensions. Was the department cognisant of the issue, and was the Premier advised of a departmental view on the redevelopment?
6. Have there been other examples when both the Commonwealth and the local Council have committed to funding a project where the NSW government has subsequently refused?

There is a strong perception growing across the Newcastle community that the NSW government, including the former Liberal member for Newcastle, Tim Owen, was inappropriately influenced by ex-Lord Mayor McCloy. This is particularly in relation to decisions about the redevelopment of Newcastle Art Gallery and, potentially, the removal of the existing rail line and the ad hoc proposed light rail route. Many of the decisions made by the current Liberal government in relation to Newcastle development have been poorly planned, lack details such as costings, seem to benefit small sections of the community rather than the majority, absolutely lack transparency and have not provided the community with adequate opportunity to give their input. Given this, it is now essential that Premier Baird institute a formal Inquiry into this whole matter with a view to having these tainted decisions reversed.

Yours sincerely

Tim Crakanthorp