

**Submission  
No 220**

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

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Revised Submission

**Inquiry on the planning process in Newcastle and the Hunter region**  
**SUBMISSION: SYSTEMIC FAILURES OF GOVERNANCE AND THE**  
**BLURRING OF VESTED INTEREST AND PUBLIC INTEREST**

Professor Howard Dick

**A. Introduction**

1. **Standing.** I welcome this Inquiry and the opportunity to make a submission to it. I have been a resident of inner city Newcastle from 1977 to 1995, then since 2001 of Lake Macquarie. Through most of that period I have been actively involved with urban and regional planning issues as an academic and community advocate, including from 2010-12 as a member of the Hunter Independent Public Transport Inquiry (HIPTI) sponsored by The Newcastle Herald. My professional expertise is as an economist with 35 years research experience and publications in urban transport, cities and regionalisation, primarily in Southeast Asia, latterly also in strategy, governance and corruption. From 1995 until retirement in 2009 I held a tenured position in the Department of Management at the University of Melbourne, where I am honorary professorial fellow as well as conjoint professor in the Faculty of Business & Law, University of Newcastle.
2. **TOR.** My submission relates mainly to items 2 a), b) and e) of the Inquiry's TOR and in particular the role of the Department of Planning & Infrastructure, UrbanGrowth NSW and the Hunter Development Corporation (HDC).
3. **Concerns.** Systemic failures of governance across the various TOR include:
  - a) lack of professionalism and rigour in planning assessments;
  - b) undue insider influence on policy and planning decisions from government agencies with a commercial remit (notably UrbanGrowth and HDC);
  - c) undue access to and influence on policy and planning decisions of private developer interests and lobbies;
  - d) lack of any meaningful engagement and dialogue with community representatives and independent professionals offering contrary advice;
  - e) overall lack of transparency in decision-making and the evidence and grounds for decisions to enable public interest to be distinguished from vested interest.

*In combination these factors have led to a situation in which bad decisions have been made that confer windfall gains on developers (private and public) without regard to the long-term public interest or the proper use of public funds.*

4. **Focus.** While hearings into and findings of corruption by ICAC have helped to trigger this Inquiry, and I share public concern with these matters, I see these manifestations of corruption, including in relation to developer donations, as the suppurating head of a

cancer in public administration, not its root or primary cause (see also \*APPENDIX 1, 'Anti Corruption Reform Needs to get to the Roots', an opinion piece submitted to 'The Newcastle Herald' in September 2014 but never published). I respectfully submit that too much focus on alleged corrupt behaviour in regard to developer donations may short-circuit the Inquiry by diverting resources and attention from underlying structural weaknesses in public administration and its consequent vulnerability to insider influence and dealing as well as worsening macular degeneration in regard to the public interest.

5. Among the **structural weaknesses in public administration** I suggest the following matters as worthy of serious investigation:
  - a) **Loss of departmental expertise because of the contracting out of research, analysis and, by extension, of policy formulation itself.** Increasingly bureaucrats are just setting terms of reference and collating consultant reports without a thorough understanding of the issues or the merits of various options and the financial and operational implications. Rail truncation epitomises this.
  - b) **Fear of senior executive staff to give frank and fearless advice** to departmental heads and ministers because of their vulnerability to demotion or dismissal.
  - c) **Undue influence of private vested interests able to secure inside access to information, departmental heads and ministers by virtue of donations to political parties and/or candidates** and the willingness of ministers to indulge those interests with special meetings, briefings etc., thereby giving high-level currency to self-serving opinion and selected facts in pursuit of special deals that confer windfall gains and economic rents.
  - d) **Exercise by commercial statutory corporations such as UrbanGrowth and HDC of regulatory powers and insider influence** on departments and ministers to promote their commercial interests without regard to transparency, checks and balances or the public interest.
  - e) **Downgrading of the regional offices** of the departments of Planning, Transport, etc. so that there is minimal local expertise or knowledge and key decisions are made in Sydney by bureaucrats who lack local knowledge and rely heavily on the advice of vested interests as c) and d) above.
  - f) **Merger of Planning and Infrastructure into a single Department of Planning & Infrastructure whose Minister has a massive conflict of interest as both proponent and assessor.** After the Coalition Government was elected in March 2011, it merged the separate ministries of Planning and Infrastructure. *The blurring between planning, assessment and development that had characterised the post-Carr Labor governments was now formalised as a structural conflict of interest.* The Minister for Planning & Infrastructure is now both developer and

regulator without much pretence of Chinese walls. It was unsound in conception and has been unsound in practice.

6. **Democracy and Parliament.** *It has long been acknowledged as a fundamental tenet that democracy is strong when the system of government has **robust checks and balances**.* Over the past decade in NSW, both Labor and Coalition governments have seen fit to weaken or erode checks and balances in order more easily to push through projects that enjoy the favour of vested interests and are relieved of any rigorous and transparent test of public interest. The result has been to greatly undermine public trust in elected governments and of Parliament itself as the bastion of our democracy. I hope that this inter-party Inquiry may set out some principles for a restoration of robust checks and balances as the basis for good government in NSW. If so, the restoration of separate departments of Planning and Infrastructure should be a prime recommendation.

## **B. The decision to terminate the Newcastle rail line at Wickham [TOR 2d]**

7. I take this matter first because the history of the other matters flow from it. Establishment in 1992 of the **Honeysuckle (now Hunter) Development Corporation (HDC)** created by charter a statutory real estate agency with a large landbank but also with delegated planning authorities and powers. This created *a fundamental conflict of interest that ever since has undermined good government and decision-making in Newcastle.* From the outset, HDC sought to truncate the rail line, initially at Civic, with the backing of the Hunter Business Chamber. This push gave rise to strong community opposition. Local MPs supported the community position and successive Minister for Transport agreed to keep the rail line open.
8. Nevertheless, HDC stuck to its guns and won top-level political support in 2003 when Michael Costa became simultaneously Minister for the Transport and Minister for the Hunter. HDC reported to Mr Costa in his capacity of Minister for the Hunter – indeed, the Minister’s local office was in the HDC building in Honeysuckle – and thereby gained an open line to the Minister for Transport and transport decision-making. Mr Costa supported truncation of the rail line and maintained that position as Minister for Infrastructure and Treasurer (until 2008).
9. With the support of Mr Costa, HDC moved the preferred point of termination back from Civic to Wickham, which would avoid rail movements across Stewart Avenue. HDC commissioned a suite of consultancy studies to support this, including by Urbis a cost-benefit study. In 2009 (revised in 2010) I made a vigorous critique of this cost-benefit study, which made egregious errors and omissions, all biased to in favour of the project [see \*APPENDIX 2, ‘Why the HDC/Urbis Cost-Benefit Study is invalid’]. These matters were never addressed, and indeed it was not in HDC’s commercial interest to do so. Nevertheless, as a developer, HDC was misrepresenting the

economics of public transport with potential not only to damage the public transport system but also to lead to misuse of public funds.

10. I presented my critique of the Wickham cost-benefit study to Ms Jodi McKay as the succeeding Minister for the Hunter and whose offices were also immediately adjacent to HDC on the same floor, but am not aware that she ever took them up with HDC. Her firm position, as I understood it from our last conversation, was that termination was not a transport decision but a planning decision [on which she relied heavily on advice from HDC]. Here it becomes relevant that whereas previously there had been a strong and independent regional office of the Department of Planning, under post-Carr Labor governments, advice and authority over large projects had been moved away from the regional office of Planning into the new Department of Infrastructure (Michael Costa). At the same time, the Honeysuckle Development Corporation was given a wider planning remit as the Hunter Development Corporation, thereby fitting more neatly with the coordinating Minister for the Hunter. Between HDC, the Minister for the Hunter, the Department of Infrastructure and the Department of Planning, the scope for independent and sound public service advice, or for any meaningful public scrutiny of large projects, was all but eliminated. Instead, key figures just pushed matters through. Nevertheless, the Minister for Transport, John Robertson, did not sign off on truncation and the matter was still unresolved when the Keneally Government was defeated at the March 2011 election.
11. After the Liberal Party took over in 2011 with the promise to revitalise Newcastle CBD, the separate ministries of Planning and Infrastructure were merged (#6 above).
12. In Newcastle the conflict of interest between Planning and Infrastructure became even more marked from June 2012 when the state development agency UrbanGrowth (formerly LandCom) became a two-thirds venture partner with GPT in the Hunter Mall revitalisation project. GPT had bought the land from Newcastle Council on the basis of a retail complex, but UrbanGrowth now revised the project to downgrade retail in favour of 400 apartments. UrbanGrowth then insisted that the project would only go ahead if the rail line was truncated.
13. The outcome has been a bizarre situation in which a commercial government agency (UrbanGrowth) has seen fit to determine transport policy, over which it has no authority, by way of an ultimatum to further its own commercial interest. Whatever the politics behind this, the commercial interest is clear: apartments overlooking the river without the visual obstruction of the rail line will sell for a higher price. Those who can afford to live in those apartments with secure underground parking will not use public transport. [See also Section D below].
14. Even more bizarrely, the Minister for Transport and now concurrently Minister for the Hunter has abdicated responsibility for her own portfolio by insisting, like Ms

McKay before her, that truncation is a planning decision, not a transport decision. The difficulty with this argument is that her own Department predicts a 23% loss of patronage when truncation goes ahead and all rail passengers are obliged to transfer to buses at Hamilton. The Minister has not been able to explain how a 23% loss of patronage (= a negative) will translate into a planning benefit (= a positive). Either rail passengers will no longer come to the CBD (which is a loss of business) or they will drive and park (which means worsening congestion and cuts across the government's own target of 20% peak-hour public transport usage by 2016). I know of many urban revitalisation schemes that have been backed by improved public transport; I know of none that have started out by making public transport much slower (50% increase in journey time to/from Maitland or Fassifern), less convenient and less reliable.

15. While the Minister for Transport may sincerely *believe* that truncation of the rail line is essential to the revitalisation of Newcastle CBD, as Minister for Transport and Minister for the Hunter it is incumbent upon her to ensure that the costs and the benefits are identified and quantified, not merely asserted or ignored as best suits her belief. It is called evidence-based decision-making. It is necessary to ensure that good decisions are made and public monies wisely spent. It is also necessary to persuade a sceptical public that good decisions are being made and that their taxes are being wisely spent. As it stands, the Minister looks to be relying heavily on advice from parties who stand to make windfall gains from truncation, UrbanGrowth and GPT because it will boost the value of their high-rise apartments, HDB because a terminus at Wickham will increase circulation where best suits their landbank.
16. *For all these reasons it is essential that the cost-benefit study (which I understand to have been commissioned) be released and subject to independent and public scrutiny BEFORE any action be taken to truncate the rail line, or to commence works at Wickham.*
17. Vital to determining whether truncation is a justifiable use of public money is the way it is done and the consequent calculus of costs and benefits. The Hunter Independent Public transport Inquiry of which I was a member was unanimous that there was no public transport benefit to truncation at Wickham, even with light rail ([www.hipti.org.au](http://www.hipti.org.au)) and that it would add to congestion on Stewart Avenue. If truncation were to proceed, it would make a great deal more sense to truncate at the rail junction at Woodville, where there is much more room than at Wickham for a proper multi-modal interchange and which is also closer to the necessary stabling yards. Here a modern intercity station (Newcastle Central) could be built with road access built above it and integrated with adjacent commercial spaces and facilities. From Woodville, a proper light rail network could fan out with immediate priority to the University campus, Wallsend and, via the completed bypass link, to John Hunter Hospital.

18. The Woodville option was given cursory attention by the Property Council, which rejected it as impractical without thorough professional consideration. Why that brief was given to the Property Council, which is not a repository of professional transport expertise, is a mystery on which the Inquiry might shed light. If government contracts out policy advice, it is surely incumbent to contract it to parties who have professional expertise in the field and are not subject to conflicting vested interests.
19. The other option that deserves further consideration is that of leaving the rail line where it is but beautifying the corridor, adding controlled crossings, improving signalling to coordinate with traffic lights at Stewart Avenue and slowing trains along the Wickham-Newcastle section. Those elements have been taken up in the recent Labor Party proposal but they were recommended by community groups as long ago as the early 1990s. They have never been subject to design and costing because of opposition from HDC, the Hunter Business Chamber, other business interests and, most recently GPT and UrbanGrowth. It is hard to resist the view that vested property interests do not want any effort to be put into the alternative scheme of beautification, even as an interim measure, for fear it will weaken the case for the line's removal. In consequence, there has been a 25-year stalemate that reflects no credit on anyone. The line could have been beautified and sensible improvements made more than 20 years ago by government of either main party.
20. **Evidence-based decision-making** would involve a) retention and beautification with improvements, b) truncation at Wickham, c) truncation at Woodville all be subject to design and costing so that an evidence-based decision can be made on the merits, not on the basis of opinion and propaganda, insider dealing and ultimatums, and developer lobbying backed by donations to political parties.
21. **Passenger statistics.** Evidence-based decision-making on the rail issue has been vitiated from the beginning by the lack of accurate station statistics. Proponents of cutting the rail (none of whom are known to be regular rail users) have always derided rail patronage as part of their propaganda. This has been made easier by the lack of good statistics, variation by time of day/week/season, and the practical reality that trains are not meant to be full when entering or leaving the terminus because there has to be room for passengers boarding or alighting down the line. Ticket-based figures understate. The only reliable method is all-day count at the gate with allowance for weekly and seasonal fluctuations (e.g. school terms, beachgoers). I am not aware that this has been done for Newcastle, Civic or Wickham stations. Government claims about the adequacy of proposed bus services appear to be based on estimates and without allowance for fluctuations. There is also the question of latent patronage that could be tapped by more frequent rail services. Outside the peak, services are only half-hourly on the Maitland line (alternating fast and slow) and effectively only hourly on the Lake/Central Coast line (the stopper runs from (e.g.) Fassifern 46 minutes after the limited express and arrives only 9 minutes

earlier so is hardly an attractive alternative). The Hunter Independent Public Transport Inquiry recommended 15-minute all-day clockface frequencies on both lines. Rail patronage has increased, but it is held back by lack of frequency, also the lack of convenient park-n-ride/bike-n-ride facilities. In short, public transport has not failed in Newcastle – it has not been properly trialled. The determination of vested interests to talk down public transport and ridicule public transport lobbies (most notably Maitland users and Save Our Rail) has undercut sensible measures to improve services as required to achieve Council and NSW Government targets. I hope that this Inquiry may be able to investigate the availability and reliability of rail patronage figures in relation to the Government's justification for rail truncation and the enforced transfer to buses.

22. **Rail-bus transfer after 26 December.** Assurances that extra buses will run every 10 minutes and meet each train are inconsistent (trains do not run to ten minute frequencies) and leave many questions unanswered in regard to waiting times and reliability of connections (see \*APPENDIX 3, 'Rail Truncation and the New Bus Arrangements: Questions for the Minister'). The Minister's statement that buses will leave Newcastle 25 minutes before each rail departure from Hamilton means that travellers will need to add about another 20 minutes to each trip (since the train now takes only 5-6 minutes to cover that distance). That translates into an almost 60% increase in journey time from Newcastle to Maitland (fast service now 35 minutes) or to Fassifern (34 minutes). From December 26, each journey will take almost an hour. That will be a great inconvenience (an extra 3 hours per week for daily commuters) and hardly encourage public transport usage to the CBD.

23. **Developer donations.** I do not believe that developer donations by themselves have determined the decision to truncate the rail line from 26 December 2014. The forceful self-interested role of HDC and UrbanGrowth along with very aggressive developer lobbying are sufficient, combined with the destruction of checks and balances in decision-making structures to give rise to bad decisions. What developer donations have done is to cement the insider position of developers and their lobbies, all both ignorant of and indifferent to the proper role of public transport in urban vitality, especially in a narrow peninsula like downtown Newcastle. Ministers see them as friends and allies, whereas those in the community who continue to argue the case for public transport are seen just as nuisances and kept on the outside, their arguments never being tested and treated on their merits. That is as true of professionals like myself as it is of any other members of the community, some of whom are much more knowledgeable and practical than the bureaucrats who give advice. While I understand this to be the way the world works, certainly in NSW, I also know that it is not healthy for the future of our democracy. The reluctance of ministers and governments to hear contrary viewpoints while indulging contributing vested interests explains a good deal of why communities are fragmenting and why governments are losing respect. It is the proper role of



Parliament to bridge that gap and I am very pleased that the Inquiry is doing so in this case.

### C. Newcastle Urban Renewal Strategy (NURS) [TOR 2b]

24. The Newcastle Urban Renewal Strategy is a very strange document. It purports to be a best-practice strategy and certainly has the rhetoric of it but in vital respects takes an approach that is entirely contrary to best practice. Two particular issues are a) scope, in terms of both area covered and the absence of a cultural component, and b) the illogic of the transport 'strategy'. Detailed comments on NURS may be found at \*APPENDIX 4: Submission – Newcastle Urban Renewal Strategy.
25. **Scope.** Without explanation or rationale, the Strategy confines itself to Hunter Street. Adjacent King Street is excluded. The import of this omission is that the Strategy thereby omits any consideration of Civic Park and the cultural centres that surround it, specifically the Art Gallery, Library, Conservatorium, and the University premises in Nesca House. In any other city, culture would have a central role in urban renewal. In the case of Newcastle, there is passing reference to the existence of these institutions but that is all. More attention is given to the type of trees that should be planted in Wheeler Place (the axis between Civic Station, Civic Park and these cultural sites).
26. *Given that best-practice planning focuses on precincts and the role of cultural activities, how could the entire cultural side of the Civic precinct be sliced off and given no consideration whatsoever?* One possibility is that the planners did not know what they were doing, that there is no longer enough professional expertise within the Department of Planning & Infrastructure and Newcastle City Council for a professional job to be done. The other possibility is that the omission was deliberate and for ulterior motive. At the time the Strategy was released, Newcastle people were waiting on the promised extensions to the Art Gallery, for which \$7m. Federal funding had been promised and matched by a Council contribution. The NSW Government held back on its \$7m. contribution, then Council went to war with the Director of the Gallery and the Chairman of its Foundation, withdrew its contribution, the Federal grant was reallocated and the project collapsed. Somehow, amidst \$350 million in regional infrastructure funds and with \$7 million pledged by the Federal Government, the NSW government could not find \$7 million to give life to a cultural component of urban renewal. It condemned most of the collection to continued obscurity and defied comprehension in terms of revitalisation principles.
27. **Because this matter goes to the integrity of the Urban Renewal Strategy, I hope that the Inquiry will investigate a) why the Strategy did not include King Street and Civic Park, b) why there was no cultural component, including the Art Gallery, c) whether Newcastle City Council and Lord Mayor Jeff McCloy specifically urged the State Government not to proceed with its \$7m. contribution.**

28. The transport component of the Urban Renewal Strategy took truncation as a given with Wickham as a terminus. It allowed for light rail to run along the rail corridor, but this was later amended at short notice and with little justification by the intervention of Lord Mayor Jeff McCloy to run along Hunter Street. The Strategy would have been better informed to explore the alternative scenarios of a) leaving the rail line as is, b) taking it back further to Woodville. The logical difficulty with truncation is that core components of the Strategy are the expansion of the University campus on Hunter and Auckland Streets and the new Law Precinct on the opposite side in Honeysuckle. As it stands, there is a rail connection immediately adjacent to both at Civic. No-one in Government, Council or the University has yet been willing and able to explain in public why the needs of the University campus and Law Precinct, both of which require attendance at precise times, will be better served by forcing all users of public transport to get out at Wickham and transfer to a bus to travel less than a kilometre. For many it will be simpler and more reliable to walk, which may also be good exercise, but that also will take extra time. By no criterion can this be described as good transport planning. Here again, the Minister abdicates responsibility by saying that it is a planning matter, not a transport matter, and that regular buses will be provided (see also Appendix 3). The time and convenience of staff, students and attendees at the Law Precinct is apparently being valued at zero and not being counted in any cost-benefit study.

**29. The Inquiry might investigate what has been done to value the extra time and loss of convenience to public transport users from the proposed truncation and how the impact of the resultant transport choices has been modelled with particular regard to the impact on traffic, parking and pedestrian movements once the new University campus is completed and the Law Precinct is fully operational.**

30. Detailed comments on the Wickham Interchange Review of Environmental Factors (REF) can be found at \*APPENDIX 5.

#### **D. SEPP Amendment (Newcastle City Centre) 2014 [TOR 2a]**

31. When the *Newcastle Urban Renewal Strategy 2012* was placed on public exhibition in early 2013, high-rise buildings were confined to the West End, where they would have no heritage impact. Then UrbanGrowth, which had become two-thirds owner of the GPT property in the East End, successfully lobbied for amendment to build three high-rise apartment towers in the heritage precinct of the Mall. This generated angry community opposition which the Department of Planning & Infrastructure ignored, except for a token concession in the amended extra height. Long-standing height codes that enjoyed broad community support were thereby dumped.

32. A number of matters of public concern arise from this action. *First* and most notably, the proponent, UrbanGrowth, is a state-owned instrumentality reporting to the

Minister for Infrastructure who is, at the same time, Minister for Planning. There could hardly be a more obvious case of insider dealing. *Second*, and reinforcing that concern, UrbanGrowth stands to make a windfall gain from the amendment of longstanding height codes in its favour. It can build to a higher density and, if the rail is truncated according to its extraordinary ultimatum to the Government, they can also be sold with a better view. The developer gain is clear, notwithstanding that UrbanGrowth is a state-owned entity. But in that situation, there should be all the more rigorous and arms-length assessment, not a left-hand/right-hand ministerial deal. *Third*, UrbanGrowth's crash-through approach and contempt for community concerns over heritage, skyline, blocked views, public transport and general amenity epitomise the discredited urban renewal programs of the early postwar years in the US and UK. UrbanGrowth describes itself as 'the State's lead organization responsible for urban transformation'. But in practice UrbanGrowth is responsible to little more than itself and can manipulate planning decisions to its benefit, then it looks like an old-style juggernaut applying discredited 20<sup>th</sup> century solutions, not an agency applying best-practice town planning principles for the 21<sup>st</sup> century.

33. Behind all this is the public interest question of whether UrbanGrowth paid too much for its two-thirds share in what was by 2012 a failed development by GPT. GPT's investment in The Mall was hailed as a \$600 million project but it never made much sense why GPT would invest \$600 million in a new retail complex in such a restricted area with small population and access when it was investing heavily to expand a very successful complex just 10 kilometres away in Charlestown. Delays with the project were explained by delays in truncating the rail line but the suspicion remained that it had only ever been a landbanking operation to block any other entrant. Then the Global Financial Crisis hit. It became apparent that GPT had paid too much, that the project would not proceed in its original form, and that GPT was looking at an exit strategy. UrbanGrowth's paying \$20 million for a two-thirds stake in a nominal \$600 million project looked to be a very good deal for GPT that socialised a good part of its paper losses with a guarantee that, as a minor partner henceforth, it need commit no further funds. However, was that a good deal for the NSW taxpayer? And, if UrbanGrowth/NSW Government did pay too much, does that justify gutting height codes and removing a well-functioning railway to confer windfall gains upon UrbanGrowth/GPT to the likely cost of much of the rest of the community? What due diligence was carried out before the deal was signed and what checks and balances remain to protect the community in Newcastle (and Parra mat ta and elsewhere) and the taxpayer from Urban Growth's enforced transformations and manipulations of planning codes and transport policy? The above are some matters on which the Inquiry may be able to cast light.

34. **Also worthy of investigation is the relationship between UrbanGrowth, the Property Council and the Minister for Planning & Infrastructure.** Public exhibition of the amendment to the SEPP and DCP coincided with an UrbanGrowth launch and promotion at a Property Council lunch in Sydney on Friday 7 March 2014. This launch included a 'fly through' video to show potential property investors what the city

might look like in 2030 [<http://www.theherald.com.au/story/2135324/newcastle-transformation-to-start-in-december-video/?cs=12>]. The scan begins at the West End/Honeysuckle and moves east along the peninsula to show an unbroken line of high-rise buildings, even along the rail corridor except for a short section near the station. This is utterly inconsistent with Government claims that the corridor will be preserved as open space or for future transport use. UrbanGrowth as a development agency is, of course, entitled to present to the property industry's peak association but **several issues arise in this instance. First, did the video fairly reflect the Newcastle Urban Renewal Strategy (not yet amended)? Second, was UrbanGrowth pre-empting community consultation and Government policy in regard to future use of the rail corridor and amendments to inner city height codes? Third, had the Minister authorised this video and presentation and, if so, was it in her capacity as Minister for Planning or Minister for Infrastructure? Fourth, why was the video launched at a Property Council lunch before it had been seen by the people of Newcastle whom it most affected?** Members of the community have grounds for concern that relationships between the Minister-cum-UrbanGrowth and the Property Council have become too close and that vested interest is being placed ahead of public interest.

35. My detailed concerns with the height amendments to the LEP/DCP are set out in \*APPENDIX 6 under the headings of A) Inconsistency with the Vision, B) Conflict with heritage values, C) Flawed Logic and Documentation, D) Urban Design, E) Market Distortions, F Abuse of Planning Powers, Conclusion and Recommendations.

## E. CONCLUSION

36. These various matters all show a consistent blurring of vested interest and public interest combined with a gross lack of evidence-based decision-making, transparency and accountability. The weaknesses are structural, arising over the past decade in particular from the progressive and bi-partisan elimination of checks and balances. The outcome has been a governmental environment conducive to misallocation of public resources for private gain, a situation that vested interests, some private, some public, have ruthlessly exploited.
37. What should most alarm us is not just the evidence before ICAC of corruption but the fact that the amounts contributed to party funds look to be a tiny fraction of the benefits generated by the resultant patronage. If I compare NSW with Indonesia, what stands out is how vulnerable the NSW system has become to corruption and how little money is needed in most cases to grease the wheels, not least because vested interests are already on the inside.
38. Renown international planner Jan Geyl has called for 'Cities for People' (2010). In Newcastle it has become 'Cities for Developers'. Well-paid developers sit comfortably on the inside of policy and decision-making and are regularly consulted.

Communities have complex documents dropped on them, are given short briefings, and given opportunity, in whatever spare and unpaid time they have, to make submissions: nothing is ever received back except a token acknowledgement. Seldom are substantive changes made. Such consultation has become a mere formality and a farce. It is a glaring asymmetry in the way government now conducts its business: insiders (vested interests) and outsiders (voluntary communities). It is not democratic, it is not transparent, it leads to bad planning decisions, alienation of communities and misuse of public funds.

**39. I hope this Inquiry will set out sound principles for bipartisan reform and, in particular, the restoration of robust checks and balances in planning and assessment procedures. The NSW ship of state is in urgent need of maintenance and repair.**

40. I reflect that 25 years ago, in a hung Parliament, I was fortunate to be in the Chamber when John Haddin and his fellow independents spoke to the Bill to establish the Independent Commission Against Corruption (ICAC). That institution has served NSW well and this Parliamentary Inquiry rightly flows from it. *Governments come and go but the NSW Parliament abides as the oldest in this land and as the ultimate guardian of our Democracy and public trust and faith in that Democracy.* Having spent some years in Indonesia between 1972 and 1998 living in the shadow of the stifling repression of the authoritarian Suharto era, as also having briefly visited the USSR and Czechoslovakia in the Brezhnev era, I have great respect for the virtues of Democracy and the need actively to protect them against the insidious influences of patronage, corruption and insider dealing that are always seeking to undermine it. *The essence of our Democracy is not the routine of four- yearly elections but the way we go about the business of government in between those elections, giving vent to the sound and fury of party politics while maintaining the robust checks and balances and due processes that are vital to defining and protecting the public interest.* Regrettably, in NSW that balance has gone awry and it is the proper task of Parliament to restore it. I wish the Inquiry well in its deliberations and will be pleased to assist as best I can.

24 October 2014

## Appendices

1. 'Anti-Corruption Reform needs to get to the Roots', 2 September 2014.
2. Why the HDC/Urbis Cost-Benefit Study is invalid, 24 March 2010
3. Rail Truncation and the New Bus Arrangements: Questions for the Minister
4. Newcastle Urban Renewal Strategy, Submission, 21 March 2013
5. Wickham Interchange Review of Environmental Factors, Submission, 28 August 2014
6. Objection to Increased Building Heights in East End Precinct, 4 April 2014