

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

**Organisation:** Friends of King Edward Park Inc.

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

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## **RE: THE WIRE ENCLOSING THE KING EDWARD HEADLAND RESERVE**

We would like this submission to be read in conjunction with the original submission from Friends of King Edward Park Inc.

We wish to raise concerns with the NSW Legislative Council (or Upper House) Inquiry into *Planning Process in Newcastle and the Broader Hunter Region*. Our concerns relate to probity, a lack of transparency, perceived conflict of interests and excessive developer influence on decisions relating to the wire fencing that has enclosed the King Edward Headland Reserve for the past four or so years.

These matters are especially concerning given their proximity to those recently investigated by the Independent Commission against Corruption (ICAC) in ‘Operation Spicer’ regarding illegal developer donations at the state government level, specifically relating to Newcastle.<sup>1</sup>

**The trustees of the Reserve** are failing in their fiduciary duty of care to adequately maintain and manage the site. (See Attachment 1 for duties of Reserve Trusts)

Various requests from our association to remove the wire and clean up the site have been refused. (See Attachment 2)

The official reasons given for the refusal are public safety, protection of heritage items, judicial review and the fact that the area is a construction site.

However, each October, at Mattara Hill Climb, which is held under the auspices of the Newcastle City Council, the Reserve is used for extra parking. **This ignores Council claims of safety, heritage and judicial review. It also lacks transparency and probity in decision-making.**

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<sup>1</sup> ICAC Transcript 15/8/14 p5415T, lines 10 and foll.

We contend the reasons given for the decision are spurious and that the wire has been left there to degrade the site and condition the public to accept any development that is proposed.

The validity of each of these reasons will be examined in detail.

### **The Site has been fenced for Public Safety**

#### **Reasons.**

- This is patently not true. Part of the tender conditions for the demolition of the old bowling club, was that all dangerous and hazardous materials were to be removed from the Reserve by the contractor. (Attachment 3 received under GIPA) Newcastle City Council's approval for demolition was on the understanding that all asbestos be removed from the site<sup>2</sup>. There should not have been any public safety issues as the one area that could have been vaguely considered dangerous, the bowling club foundations, was separately fenced. A request to remove the wire surrounding the old bowling club lawns, which is the major part of the site, was refused. However, following a letter (attachment 2) written to Mr. Andrew Stoner on 7/11/12 questioning the decision, the interior wire surrounding the foundations was removed. This, of course had the effect of making the entire area unsafe for public access. What were the motives behind this?

**One has to ask the question, is the Crown Lands Department deliberately trying to make the area unsafe?**

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<sup>2</sup> NCC Notice of determination DA10/0308 Condition 3.4

## **The site has been fenced to protect a number of Heritage**

### **Items.**

- To suggest that the Reserve should be fenced because of heritage items is absurd. There are numerous heritage items throughout Newcastle and in particular, in the park itself, there is a very significant heritage fountain. These are not fenced off nor would you expect them to be.

### **The site is in under judicial review**

- The site may be under judicial review, but why does that require the area to be fenced? The Trustees of the Reserve are not absolved from a duty of care to maintain the Reserve in a proper manner because there is unresolved litigation. It no doubt suits the proponent and the Lands Department to have the area looking unkempt and neglected. It fosters the idea that any development would be better than this.

### **The site remains a construction site**

- At present there is no construction on the Headland Reserve, apart from the removal of an electrical connection.

### **Background**

As the accompanying pictures show the area is an overgrown, weed infested patch surrounded by a rusting wire fence. It is situated on Newcastle's most scenic coastal headland and it is an eyesore seen by thousands each day as it stands on a major road travelled by city workers and tourists along our coastal strip.



This was a sign that appeared on the wire surrounding the Headland Reserve. It reads ‘THIS LAND HAS BEEN LOCKED UP TO PREVENT THE RISK OF BIG VISIONS.’ The small type on the bottom of the sign says by order of Newcastle City Council.

It indicates the cynicism and lack of trust with which the general public in Newcastle views these sorts of decisions. This is what we hope the inquiry will address.

- In 2010 the Friends had a working party and mowed and tidied up the site.



As you can see from the photo it is in a very presentable condition after our efforts.

Since then numerous requests by the Friends of King Edward Park to begin the task of basic maintenance such as mowing and clearing the land so it once again resembles parkland and not a dilapidated piece of wasteland have been refused.

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

- That in the interests of probity and transparency the advice, on which the decision to keep the wire was made, is made public and that it is ascertained that no undue influence was applied to this decision. That the cost of maintaining the wire is made publicly available.
- That the Friends of King Edward Park Inc. are appointed one of the trustees of the King Edward Headland Reserve, there are many precedents for this. We would then undertake to ensure that the Reserve is properly maintained, which is not the case at the moment. KEHR has considerable importance both in European and aboriginal history and deserves the proper consideration and maintenance that accords with its importance. (For history refer to original submission.)
- That the site be rehabilitated, the wire removed and that it is opened to the public as its dedication under the Crown Land's Act demands. The Friends would willingly assist in this process, both financially and through a manual contribution.

Thank you.

Yours sincerely

For Friends of King Edward Park Inc.