

**Submission
No 119**

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

Name: Dr Robert Henderson

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NSW Legislative Council Select Committee on the planning process in Newcastle and the Broader Hunter Region.

21 October 2014

Dear Committee Members,

I am a Novocastrian by birth and prior to my retirement was a Visiting Medical Officer at the Royal Newcastle Hospital and subsequently at John Hunter Hospital. I served on the Medical Executive Committee of RNH. I was on the Medical Advisory Board of Lingard Private Hospital, including as Chairman, and on its Board of Advice over many years. I also served for a number of years on the NSW Branch Executive of the Royal Australian and New Zealand College of Ophthalmologists.

After retiring from active medical practice in 2007 I made a commitment to the Newcastle Art Gallery and particularly to the Newcastle Art Gallery Foundation. I believe that society benefits from access to the visual arts and that amongst Newcastle's greatest assets is its excellent collection and its high curatorial standards.

As Chairman of the Newcastle Art Gallery Foundation I found myself at the forefront of public protest at the progressive undermining of this asset that culminated in the abolition of the position of Gallery Director and the failure of a long-planned redevelopment.

NEWCASTLE ART GALLERY REDEVELOPMENT.

I refer to the destruction of a planned and part-funded redevelopment and extension of the Newcastle Art Gallery building in Laman St, Newcastle that forms part of the cultural precinct identified in the Newcastle Urban Renewal Strategy (2012).

My question in relation to this is:

- Was there an 'understanding' between Mr Jeff McCloy and Mr Tim Owen (whose campaign was illegally funded by Mr McCloy) to oppose the Art Gallery redevelopment, and did this result in undue or improper influence or pressure on the NSW government's decision not to proceed with its anticipated contribution to this long-planned project?

It is a fundamental principle of public administration that the government's resources are delivered to those who are entitled to them on the basis of merit and equity and not for extraneous, irrelevant or improper reasons.

The crux of this matter is the sudden and complete change in Tim Owen's attitude to and support for the Gallery redevelopment that occurred immediately after Jeff McCloy was elected Lord Mayor of Newcastle.

BACKGROUND

For more information about Newcastle Art Gallery and the NAG Foundation, please see Appendix 1.

In my opinion, Mr McCloy had formed a negative view of the Art Gallery, its staff and supporters prior to his election as Lord Mayor and he carried this animosity into the office of Lord Mayor. He

opposed the redevelopment project and perhaps used his influence to ensure that NSW government funds would not be made available for the redevelopment. This agenda was pursued behind closed doors and was successful.

In a reversal of previous decisions by the Newcastle City Council dating back to 2004, the Council under the leadership of Lord Mayor McCloy, voting with the bloc of Liberal and Independent Councillors, reallocated Council funds set aside for the project, returned a Federal grant of \$7million and failed to explore appropriate avenues for State funding in spite of bipartisan support prior to the State election in 2011.

Council's earlier commitment to the redevelopment included a specific allocation by Council from its Property Reserve, a special rate variation approved by IPART, the commissioning of detailed plans from renowned architects, an approved Development Application and preliminary site works.

The anticipated allocation of \$7million of State funds would have secured the final portion of tripartite funding for the project. The Federal (Labor) government had allocated \$7million in 2011.

Former MP Mr Tim Owen, in his election campaign and as a new Member, was vociferous in his support of the Gallery redevelopment. During 2012 he supported the redevelopment by his efforts in Macquarie St and by publicly voicing his enthusiasm for the redevelopment.ⁱ

However following the election of Mr Jeff McCloy as the Lord Mayor of Newcastle in September 2012 Mr Owen's attitude changed completely, so that he appeared to no longer advocate for the redevelopment, but deferred to the Lord Mayor.

Mr McCloy made no secret of his opposition to the Art Gallery redevelopment which was then expected to proceed within months. (A DA had been approved in April 2012 and the collection was being packed for storage during the building works).

While he claimed that the Council faced a financial crisis and could not afford the redevelopment at that time, his negative attitude to the Gallery and in particular its Director, his personal attacks on advocates for the redevelopment and his refusal to take into account the backlog of maintenance on the existing building, suggest that this was not his main motive for opposing the redevelopment.

Also in December 2012, the Hunter Regional Action Plan that was produced by the Department of the Premier and Cabinet listed the Newcastle Art Gallery redevelopment as a catalyst project **underway** as part of the priority actions for the revitalisation of Newcastle City Centre. It was described as a catalyst project designed to "grow the visitor economy of the Hunter".ⁱⁱ

Subsequently, the Minister for the Arts, Mr George Souris, announced that the state government would not honour its commitment to the project. Mr Owen had also withdrawn his support. It is important to recognise that these two events occurred after Lord Mayor McCloy made it clear he totally opposed the project.

Following the Local Government Election the following events may be noted:

- A new project manager was appointed by NCC and the scope of works was changed, increasing the identified total cost of the project beyond \$21million.
- 18 October 2012: Minister for the Arts George Souris announced that NSW government was not prepared to provide the \$7million that had been requested.

- 26 October 2012: Together with Mr Bob Bishop, a Director of the NAG Foundation, I met with Mr McCloy to discuss the status of the Art Gallery expansion. Mr McCloy proposed a further meeting when he had more information on the Council's financial position.
- 4 December: Council resolved to halt work or deliberations on the redevelopment "until we have a definitive response from the NSW Government".
- 5 December 2012: Tim Owen stated that funds would need to come from the Hunter Infrastructure and Investment Fund ("it is their call").ⁱⁱⁱ
- The Lord Mayor Mr McCloy proposed a completely different plan that would have seen the NSW government owned former Post Office in Hunter St, a heritage building falling into disrepair and an embarrassment to the State government and the city, restored by the NCC for use as a reference library, the existing library building being incorporated into the Gallery. (This plan proved to be unworkable for a variety of good reasons and can be seen as a mere diversion).^{iv}
- In 2013, NCC failed to apply for funds for the redevelopment of the Art Gallery in two rounds of Resources for Regions applications.
- A Project Control Group (of which I was a member in my capacity as Chairman of the Board of the NAG Foundation)^v was appointed in March 2013; at its second meeting (25.3.13), the Lord Mayor resigned from that Group stating the project was impossible but refusing to hear an architects' presentation that he had specifically requested. Minutes of this meeting are available, along with the architects' plans and the quantity surveyor's report.
- At the above meeting, Independent Councillor Andrea Rufo changed his previously neutral stance on the redevelopment to unbridled support for Cr McCloy's position^{vi}.
- Subsequently, a Leadership Group (of which I was also a member, representing 'the community') was formed, I believe at the instigation of Mr Owen, in an apparent attempt to preserve the Federal grant and to make a united approach to the Premier with a request for State funding.
- A meeting with the Premier and Mr Souris was set down for Wednesday, 29 May 2013.
- In the event, neither a community representative nor the Lord Mayor attended this meeting, Newcastle City Council being represented by Mr Ken Gouldthorp, NCC Acting General Manager (a McCloy appointee). I had understood that I was to have been present at the meeting with the Premier, but I was informed by telephone the afternoon before the meeting that my presence would not be 'suitable'. I don't know what transpired at that meeting. There has been a complete lack of transparency in regard to the decisions made by Mr Souris, Mr O'Farrell and the Department of Planning in relation to the redevelopment.
- Mr Owen claimed he had not seen plans or figures for the Art Gallery redevelopment, which was not the case.^{vii}
- I received a letter dated 2 August 2013 from Premier O'Farrell in which he stated "Although no funds were allocated to the Gallery development in the 2013-14 Budget, I have advised Mr Owen that funds for the redevelopment may be considered in future budgets".
- General Purpose Standing Committee No. 4 of Wednesday 14 August 2013 found Mr Michael Gallacher, then Minister for the Hunter, refuse to answer on at least eight occasions questions relating to the state funding of the Gallery redevelopment.
- Federal funds were re-allocated to the Glendale transport interchange in the lead-up to the Federal election.
- With the Federal funds withdrawn, the NCC allocation revoked and no funding from the NSW Government, the proposed redevelopment of the Art Gallery appears to have been

recklessly and expensively terminated, regardless of the NCC holding a complete set of DA approved, independently quantity-surveyed plans.

I would welcome the opportunity to assist the committee in any way possible including providing further documentation and/or further clarification of the matters I have raised.

Yours sincerely,

Robert Henderson MB BS FRANZCO FRACS

ⁱ NSW Hansard, 25 May, 2011 “I am focused also on securing funding for the Newcastle Regional Art Gallery and our burgeoning public art program.” Also, Letter from Tim Owen to Simon Crean dated 11 May 2011, in support of the redevelopment, refers to “the proposed redevelopment, estimated to cost \$21m” and to Mr Owen’s “discussions with ... Souris, in ensuring the Art Gallery redevelopment receives the state funding it deserves”.

ⁱⁱ The Hunter Regional Action Plan, December 2012, p.11.

ⁱⁱⁱ Newcastle Herald, 5 December 2012.

^{iv} Newcastle Herald, 7 January 2013, 8 March 2013 and other media outlets. In a letter dated 19 March 2013 from Jeff McCloy to Mr Crean, of which I have a copy, Mr McCloy describes the redevelopment as “a concept from the Newcastle Art Gallery Society”. (this was never the case, the Art Gallery Society is a voluntary organisation that arranges social and educational events and raises money in support of the Gallery). He offered his preference for refurbishing the old Post Office and represented the art gallery redevelopment as “illegal” in view of the city’s imminent insolvency. On several levels, this is a misrepresentation of the facts.

^v I am a former board member of the Newcastle Art Gallery Foundation, serving as Chairman (November 2011 –May 2014), and I was privileged to be a member of the Project Control Group and of the Leadership Group of which Rod Harrison (Deputy President Industrial Relations Commission NSW) was the facilitator. We attempted to find a way to continue the project in the face of opposition from Newcastle City Council and the NSW government’s back-peddling on its contribution, with the aim of preserving the federal funding and the funds set aside by NCC.

^{vi} Newcastle Herald, 29 March 2013. Cllr Rufo signed a rescission motion putting the art gallery redevelopment on hold until the NCC deficit is cleared.

^{vii} Emails 30 July 2012 and 8 March 2013, with attachments.