

**Submission  
No 372**

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

**Name:** Ms Caroline Bergman Hart

**Date received:** 21/10/2014

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Reverend the Hon Fred Nile MLC

Chair

Select Committee on the Planning Process in Newcastle and the Broader Hunter Region, NSW Legislative Council

Dear Sir

We are delighted that an enquiry is being held into planning decisions made in Newcastle.

The attention of the enquiry is respectfully directed to the spot-rezoning of the King Edward Park Headland Reserve. The process by which this was achieved fails the basic tests of probity, transparency, accountability and public consultation, and raises strong questions of developer involvement in the political, decision making process.

#### Background

The King Edward Park Headland reserve (KEPHR) is situated within the King Edward Park which was part of the Government domain containing Government House in the early settlement. It was dedicated to the people as parkland in the middle of the nineteenth century. The Headland commands spectacular views of Coast, river, Park and town with the Obelisk and the Cathedral sky-lined. It contains the first coal shaft in the country and the track that was carved by the carts carrying the coal to the port that became Watt Street, the first street in Newcastle.

It is known to the Worimi and Awabakal people as Yirranali, the place of falling rocks and is one of the places documented by Threlkeld in the early 1820s. As late as 1980, it was the sacred place where the Worimi people held up their newborn babies to their ancestors.

The Park is highly valued by all the people of Newcastle.

The KEPHR was used (in spite of public protest at the time) from the latter part of the nineteenth century for a bowling club and tennis court the latter being moved to the Obelisk in the 1930's. The bowling club eventually failed and was demolished in about 2003-4. One of the rinks became an unofficial car park. Since that time it has been shamefully enclosed with public exclusion wire and has fallen into a state of neglect and disrepair. Public appeals to the Trustees (responsible for fulfilling the dedication for public recreation of the site) to allow the area to be tidied have failed for the obvious advantage of making any suggestion for development seem attractive by comparison.

#### Reasons for investigation

- The dedication of the land.

King Edward Headland Reserve (KEHR) is dedicated under s.87 of the Crown Land Act (CLA) to the public for the purpose of public recreation and under the act, need to satisfy two conditions. It must be accessible to the general public as of right, and it must not be used as a source for private profit.

- Public interest should have been a factor in the rezoning decision. In December 2010 when a DA for a function centre was advertised, 300 objections were received. This vital evidence that was available should have informed the debate but was ignored.

- The historical and cultural significance of the site should have been considered.

- The Biscoe judgement in May 2012 should have informed the decision. Mr Justice Biscoe highlighted the significance of the site.

- Non Transparent Process

In June 2011, the Draft 2012 LEP, like the 2003 LEP, excludes function centres on RE1 Land

June 2011 Newcastle City Council rejects an application to allow a function centre as an exception on KEHR.

June 2012 LEP changed to Spot rezone KEHR to allow a function on this land as an exception to other RE1 land.

Friends of King Edward Park (FoKEP) have been unable to define the process adopted by the Government that legitimised the rezoning. Information obtained under FOI gives no reason for re-zoning.

Enquiries have failed to determine the process by which this has occurred, but it is noted that the wording is identical to the developer application for the change.

All references are present in the main submission from the committee of FKEP.

Yours sincerely,

Caroline Bergman Hart and Ben Hart