

**Supplementary
Submission
No 138a**

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

Name: Mr David Blythe

Date received: 22/10/2014

Reverend the Hon Fred Nile MLC
Chair

Select Committee on the Planning Process in Newcastle and the Broader Hunter Region, NSW Legislative Council
newcastleplanning@parliament.nsw.gov.au

Dear Reverend Nile

You will notice that the following is a letter that will be common to many others that you receive regarding the King Edward Park Headland Reserve. I would write an 'original' letter if I thought I could do better; however, having read the form letter supplied I really cannot see how I can improve on it and so I ask you to consider the letter as if it were *my own*, for it specifies my thoughts and feelings, and encapsulates my knowledge very succinctly.

I have very strong feelings about this matter. Over the past four or more years I have watched and grieved over the reserve and witnessed what I regard as *very* underhanded attempts to subvert the law and the intention of the reserve by state and civil authorities to deliver it into the hands of developers and private operatives. I certainly hope that this process can be halted and reversed, and that the reserve can be rehabilitated and returned to its historical and recreational purpose.

It is greatly appreciated by the people of Newcastle that an inquiry is being held by the Upper House into planning decisions in their City and it is understood that this inquiry is in the light of revelations from the recent ICAC investigation into illegal developer donations to political representatives.

The attention of the enquiry is respectfully directed to the spot-rezoning of the King Edward 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 Headland reserve 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.87of 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.

FoKEP have been unable to define the process adopted by the Government that legitimised the rezoning. Information obtained under FOI give 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,

David Blyth