

Submission
No 184

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

Name: Name suppressed

Date received: 23/10/2014

Partially Confidential

The Director

Select Committee on the Planning Process in Newcastle and the Broader Hunter Region

Parliament House

Macquarie St, Sydney NSW 2000

Re: Select Committee on the Planning Process in Newcastle and the Broader Hunter Region

I am writing to express serious concerns regarding the processes that have surrounded a number of key planning decisions in the Newcastle city region, specifically the proposal for massive high rise developments in the Hunter Street Mall precinct and the decisions regarding the closure of the city's rail line, and the route for the proposed "light rail" in Hunter Street. This submission chiefly relates to the following elements of the Inquiry Terms of Reference: 2 a,b,d but also with reference it item 2 e.

I wish to raise the following issues:

1. Conflicts of interest in the planning process
2. Failure of genuine community consultation and engagement
3. Questionable rationale for the planning decisions
4. Other issues relating to planning process highlighted for investigation

1. Conflicts of Interest

There has been significant concern about the perceived conflict of interest surrounding this development proposal:

Firstly, the role of the State Government and its entities as both the developer (through UrbanGrowth) and the consent authority (through the Minister of Planning and Environment who ultimately approves amendments to enable the development, such as the recently approved SEPP amendment and Development Control Plan).

Secondly the role of property developers who would benefit from such decisions and their influence with key political representatives.

Thirdly, the widespread concerns about the conduct and lack of impartiality of the Council leaders, and dismissive attitude to community concerns about these development proposals. A number of important documents have allegedly been unavailable to council (as has been debated among councillors requesting documents) and to the public on the grounds of legalities and confidentiality, yet the grounds for such decisions are unclear.

Perhaps most concerning is the dual role of State government as developer and consent authority. This includes the controlling interest over the makeup of the JRPP itself. This creates the perception of an inescapable conflict of interest and contributes to the loss of community confidence in the probity of this process. Such a dramatic change to previous plans (changes that were clearly in development for some time prior to announcement) without adequate community consultation contribute to the strength of concern about the process. “Spot rezoning” and proposed alteration of existing height limits to favour this proposal and this development on such a massive scale further accentuates a perception of conflict of interest in this process. Regrettably the process has contributed to a widely held view of developer interest dominating decision-making, particularly in light of the recent ICAC revelations, and the clear determination of now resigned local politicians to support this development while dismissing community concerns as a “minority voice”. Such efforts to exert influence over the planning process and decisions I believe could be perceived as linking the recent corruption allegations to this major development.

2. Lack of Genuine Community Engagement and Consultation

There has been a very concerning level of apparent bias among local political leaders in favour of the development, and business interests, to the exclusion of fair and reasonable consultation with the community. Community concerns have been dismissed as “minority voices” by such political leaders who have nevertheless engaged in meetings and consultations with business and property developer groups, while methods of community consultation can only be described as poor, ineffective and failing to conform to reasonable standards of community engagement, including State Government and Council guidelines:

(<http://www.urbangrowthnsw.com.au/news/news/government-says-build,-build,-build.aspx>)

“One of the biggest components of planning reform is to put the community’s integral role in the planning process at the core of the system. NSW Planning and Infrastructure is working to create opportunities for more meaningful community consultation and engagement, to give people and community groups a bigger say in planning decisions and earlier on in the process” <http://www.planning.nsw.gov.au/en-us/policyandlegislation/howplanningworks.aspx#community>

The failure to adhere to these principles in planning decisions in Newcastle, has created an environment that seriously erodes confidence in the probity, openness and transparency of planning, particularly in view of the proximity to the allegations made in ICAC’s Operation Spicer, including the allegations of illegal links between local politicians and local developer/business interests.

The best example of this can be seen in the unacceptably short period of consultation regarding the proposed amendment to height limits in the Newcastle East End, and the absence of open engagement with the community about this change. It is very concerning to see in retrospect, comments some time prior to the announcement by the then Lord Mayor in the local media

criticising community concerns about height limits and vistas, appearing to foreshadow these massive revisions of plans by GPT/Urbangrowth. Once the proposed amendments were announced and subsequent community opposition to the development was expressed, the then Lord Mayor publically implored residents to make submissions to the Department of Planning to support the development, providing further basis for serious concerns about inappropriate conduct and influence, and lack of impartiality, even more so as the Council was also nominating members on the JRPP to review the application.

Following an unacceptably brief period (2 weeks) in which the public had the opportunity to review the extensive documents and plan, the level of community concern was such that a large number of submissions were made to the Department of Planning of which the vast majority opposed the development proposal. There has to date been no specific response by the Department to those concerns, apart from a very minor adjustment to heights (although still enabling developers to implement further increase under some circumstances). Statements and assertions by the Minister for Planning and Premier that comprehensive consultation had already occurred appear to be based on misinformation from the Planning Department, and a conflation of the consultation regarding the 2012 Newcastle Urban Renewal Strategy and the poor consultation with recent amendments. The scale of the amendments necessitated a full and extensive community consultation. This has not occurred and did not occur, and the response from the Department of Planning when asked about this, has been that the amendment was not considered substantial enough to warrant it.

Furthermore, the conduct of such public officials and government entities (eg Council Executive members, local political leaders) in this apparent lack of impartiality, apparent excessive influence by property development groups at the expense of public interest and community engagement and consultation raises serious concerns about level of compliance with Local and State Government code of conduct standards and probity in this planning process.

3. Questionable rationale for planning decisions

Overall, the basis for the decision to alter the Newcastle Urban Renewal Strategy 2012 to include unprecedented, massive high rise in the heritage Newcastle East End requires investigation. While proponents may argue that the height and scale proposed in the DA are necessary for the financial viability of the project, no convincing evidence has been provided that support the proponent's claims regarding the need for this type of development, no alternatives offered to the community, nor authentic involvement of the community in discussion about such major plans.

The adequacy and capacity of public transport access to the city has not been addressed, nor have issues of increased vehicular traffic and loss of rail services. The decision to re-route the light rail down Hunter St requires investigation, particularly in view of the failure of the State Government to provide assurance that the land on which the current rail line runs will be

preserved for public use. The inconsistency and lack of transparency in the basis for such decisions contributes to the loss of public confidence in the planning process. The surprising decision to undertake this “release” of the rail land has prompted strong community opposition and raises important questions about the role of private interests (particularly Hunter St business interests) over public interest in the decision.

The Newcastle East End site is unsuitable for the proposed development. These unacceptable proposed amendments to increase the height of buildings within the Newcastle East End and heritage area allow high-rise to be built in the middle of low-rise and medium-rise buildings based on “spot re-zoning”. This spot re-zoning specifically advantages the State Government entity (UrbanGrowth) and a private partner (GPT). This will destroy the visual connection between the urban structures and natural topography.

The likely impacts of the proposed development include adverse environmental impacts on both the natural and built environments, as well as adverse social and economic impacts in the locality. Additional concerns include, but are not limited to, inequity in development with detrimental impact on proposed West End developments, substantial traffic intensification, diminished heritage values, and degradation of topography and urban form.

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4. Other issues relating to planning processes

In addition to the points outlined above, to date there has not been, to my knowledge, a clear explanation for the following:

-the investment by NSW Government (through UrbanGrowth) in the property, in partnership with a private partner (GPT), and the details of that purchase and related agreements.

-the rationale for this government entity investing in this property, with a view to developing a large commercial/retail and residential precinct. It is unclear how this accords with the role of UrbanGrowth as a government entity.

- the negotiations, decision-making processes and permissions that occurred within the Newcastle City Council about this development, given the impact on existing council property (eg King St car park).

-the rationale and history of the proposed major revision of the 2012 NURS to encompass substantial high rise development in the Newcastle East Precinct that essentially trebles the height limits in this locality,

-the rationale for the haste in its presentation to the community, haste for initiating the project and apparent obstruction to acceptable levels of community engagement

-the advice that the Newcastle City Council (NCC) sought and received from its own planning officers and advisors, and the openness in this process, including open availability of those documents

-the grounds for open discussion and debate about the proposal to have been obstructed within Council, despite motions being put by local Councillors requesting such debate and community involvement.

-the process by which any perceived and actual pecuniary and non-pecuniary conflicts of interest among Councillors regarding all decisions relating to this development proposal were addressed

I wish to emphasise my concern to see Newcastle continue to grow as a vibrant city, but also the concern that I (along with many fellow Novocastrians and people outside the city) have about the associated planning process. Nevertheless this proposal is a radical and unexpected departure from previous planning frameworks such as the 2012 NURS, and contains many elements that are yet to be fully examined and assessed. I believe community members are willing and eager to engage in respectful consultation and partnership to examine a range of options for the city, but have not been given the opportunity to do so in any meaningful, effective and genuine manner in this process.

I respectfully urge the Inquiry to request the Premier Mr Baird to halt these major planning decisions within the City of Newcastle pending further investigation of the planning process, a program of more extensive and genuine community consultation and community engagement in the planning for this city. Furthermore, the Government investment in the Hunter St Mall site needs re-consideration and alternative models that conform to longstanding planning guidelines for this heritage city centre (including those that had previously been established) re-instated.

This submission is intended for the Planning Process In Newcastle and the Broader Hunter Region (Upper House Inquiry).

Yours sincerely