

**Supplementary
Submission
No 324a**

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

Name: Mr John Sutton

Date received: 25/10/2014

Submission 2:

Please accept the following submission outlining my concerns about the process that led to the adoption of State Environmental Planning Policy Amendment (Newcastle City Centre) earlier this year.

The stated intention of the SEPP amendment was to give effect to changes to the Newcastle Local Environment Plan (LEP) that had been signalled in the 2012 Newcastle Urban Renewal Strategy (NURS).

The NURS was exhibited from 14 December 2012 until 19 April 2013, and was the subject of considerable discussion in the community, which ultimately resulted in more than 400 submissions, the vast majority objecting to the inclusion in the strategy of the government's decision in late December to cut the Newcastle rail line.

The core urban development strategy proposed in the NURS was to shift the commercial heart of the CBD westward. Accordingly, among other things, the NURS proposed changes to development controls that would generally raise building height limits and floor space ratios in the city's West End, while preserving the current controls in the eastern end.

While there was some debate over the appropriateness of some of these controls, the general trajectory proposed by the NURS was, on the whole (and with the significant exception of the last minute addition to the document of the government's decision to cut the Newcastle rail line), favourably received by the community.

The government then placed the Draft State Environmental Planning Policy Amendment (Newcastle City Centre) on public exhibition for 16 days, from 5 to 21 March 2014.

However, many Novocastrians were shocked to find that key changes to the Newcastle LEP proposed in the draft SEPP differed dramatically from those proposed in the NURS just a few months before, and represented a major departure of the strategy of focussing large scale commercial development in the West End, and from long established planning principles aimed at protecting the human scale and heritage character of the city's eastern end, especially in relation to public vistas to and from Christ Church Cathedral.

In response to submissions from the University of Newcastle and Urban Growth/GPT, the draft SEPP proposed massive increases in height limits and floor space ratios for development sites in the civic precinct (cnr Auckland and Hunter Sts) and in the inner east section of the CBD on Perkins, Wolfe and Newcomen Streets. These changes were not foreshadowed in the NURS.

The Urban Growth/GPT proposal involved the construction of three high rise towers that would significantly dwarf all other nearby buildings, and would impose themselves in an unprecedented way on public vistas of the Newcastle CBD that have been carefully preserved as the unique built form of the city has evolved. The protection of these vistas had been incorporated into the provisions of the Newcastle LEP; the draft SEPP proposed to remove those protections.

These aspects of the draft SEPP immediately sparked local outrage and criticism, including from distinguished citizens with a long involvement in Newcastle's urban form such as Professor Barry

Maitland, the former head of the University of Newcastle's Architecture Faculty who served for many years on Newcastle's Urban Design Panel.

As I reflected in my submission to the draft SEPP:

I believe that the process used for this SEPP has demonstrated nothing short of contempt for the community. Some of the proposed changes to current planning controls (especially height limits) in the proposed SEPP are radically different from what was proposed in the previously exhibited Newcastle Urban Renewal Strategy (NURS). These changes appear to have been the result of proponent pressure (by Urban Growth NSW and GPT).

It is quite possible that I would have been able to support a number of elements of what is now being proposed had the exhibition period provided adequate time for proper analysis – as I did in my previous submission to the NURS. However, it is unreasonable to expect rational people to support something that they have not had time to properly consider, and the process that has been used to rush through this instrument (and the consequent changes to the Newcastle LEP) has been so appalling that it is difficult to summon any confidence at all in anything it proposes.

This remains my view. The indecent rush to push through changes to planning controls that were so contrary to what had been proposed only a short time before and which would have such a major impact on the future development trajectory of the city suggests a responsiveness to vested interest pressure that is not consistent with sound planning principles or with relevant probity expectations.

Despite the brevity of the SEPP exhibition period, it attracted 133 submissions, the vast majority expressing opposition to the changes that would facilitate the development of the three towers.

When the final SEPP was made, the height controls that would facilitate the three high rise towers remained, with a minor reduction from those proposed in the draft SEPP. The massive opposition to these aspects of the draft SEPP from the general community was effectively ignored.

No argument on planning principles was advanced to justify the proposed increases to the height and FSR controls, and it was clear to everyone that the changes were the result of pressure from the proponents and their supporters.

The former Lord Mayor, Jeff McCloy, and the former state Member for Newcastle, Tim Owen, who were both adversely involved in evidence presented to the ICAC's Operation Spicer Hearings resulting in their resignations from public office due to their involvement in illegal developer donations, were strong supporters of these developments. Mr McCloy used his position as Lord Mayor to encourage influential local vested interest groups such as the Hunter Business Chamber to actively counter community opposition to the development (I have a copy of a letter from Mr McCloy on Lord Mayoral letterhead to this effect).

It has also been recently disclosed that criticism of the proposed towers and of the associated changes to development controls proffered by the Newcastle Urban Design Consultative Group in accordance with their legal function (under SEPP 65) may have been inappropriately suppressed by senior Newcastle City Council staff.

What makes these circumstances all the more disturbing in the context of the Inquiry's concerns, is that Newcastle City Council's only apparent submission in response to the exhibition of the draft SEPP (which proposed major changes to the council's LEP) was a copy of a one page Lord Mayoral

minute proposed by Mr McCloy, that contained a brief mention of support for the Urban Growth / GPT proposal. It is highly unusual for a council not to provide a comprehensive submission prepared by the council's most senior planning staff and endorsed by the elected Council in response to proposed changes to its own major planning instrument. The fact that Newcastle Council did not prepare any such submission, and (apparently) suppressed expert advice critical of proposed changes in the SEPP, suggests that there are compelling grounds for further investigation. I am also aware that the General Manager of Newcastle Council has – without adequate justification – used his authority to obstruct notices of motion from Newcastle Councillor Therese Doyle that would allow the elected council to receive and discuss a council report responding the proposed Urban Growth/GPT development. These matters raise significant probity questions in relation to the possible role of the former Newcastle Lord Mayor and of the council's current General Manager, Ken Gouldthorp. I would be happy to provide any further information that might clarify or expand on any of the information I have provided in this submission.

Thank you for this opportunity to provide this submission.

Regards

John Sutton

[24 October, 2014]