NSW Independent Commisison Against Corruption, “[Investigation into NSW Liberal Party electoral funding](http://www.containerterminalpolicyinnsw.com.au/wp-content/uploads/2016/08/ICAC-Operation-Spicer-30-August-2016.pdf) for the 2011 State election campaign and other matters”, August 30 2016

Chapter 6: The Newcastle Port Corporation plan for Mayfield

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Over time, the NPC developed a “concept plan” for the Mayfield site. The site was to be divided into five “precincts”, each with a different purpose. Only one of the precincts was specifically dedicated as a container terminal; although, as the evidence explained, that was the principal purpose for the whole of the site. For this reason, it is convenient to describe the NPC proposal as one for a container terminal.

The reasons for the NPC’s decision were explained by Mr Webb and included general economic considerations, local issues and features pertinent to the particular site. The Port of Newcastle did not have a container terminal. The development of a container terminal was consistent with the 2003 “Ports Growth Plan”, which provided for Newcastle to supplement Port Botany as Port Botany approached its capacity. The NPC had actually entered into a statement of corporate intent signed by the NPC and its shareholder ministers that incorporated this proposal. The location of a container terminal in Newcastle was strategic, as there was no container terminal between Sydney and Brisbane, and existing rail and road facilities meant that a Newcastle-based container terminal was in a desirable position for market purposes. The Mayfield site allowed access for container ships up to 280 metres long. A container terminal would permit an upgrade of the outdated bulk handling facilities of the Port of Newcastle and allow for more grain exports, an area in which the Port of Newcastle was lagging.

There was a question as to whether there was sufficient market demand to drive the need for a container terminal at Newcastle. The NPC had tested this and found that private industry was willing to take on the risk of the development of a container terminal. The NPC plan for a container terminal was designed to minimise the financial risk to the NSW Government. The plan was to let private industry take the site under a long-term lease and to meet construction and administration costs. By these means, 90% of any financial risk was passed to private industry.

The NPC had considered whether or not the Mayfield site should be developed as a coal terminal, but had arrived at the decision that it should not. Among the reasons for the decision were the NPC’s knowledge of the Capacity Framework Agreement and the inclusion in that agreement of a plan to build T4. The construction of T4 made it unlikely that there would be sufficient market demand for the creation of a fifth coal terminal. Another reason was that the NPC had taken legal advice that suggested that, should the Mayfield site be used for the development of a coal terminal, it could jeopardise the Capacity Framework Agreement. Preservation of the Capacity Framework Agreement was important. The Capacity Framework Agreement was regarded as vital. One witness described it as the major achievement of the NSW Labor Government. The legal advice was that, if another coal terminal came on line, it would undermine the rationale behind the Capacity Framework Agreement so that the ACCC would withdraw its support. There was also a concern that, if a fifth coal terminal was approved, other industry players would withdraw from the Capacity Framework Agreement.

To make it clear, when NPC planned a container terminal it was originally allowing for a limited amount of coal to be handled at the Mayfield site. Over time, that altered, so that by mid-2010 it was decided that only “boutique” coal, destined for export to Turkey, would be handled through the site. This amounted to half a million tonnes per annum, which, in the context of the Port of Newcastle, was only a very small amount. Moreover, this coal would not be in bulk, and would be moved in containers.

By late 2010, the NPC had progressed a long way with its proposal for a container terminal on the Mayfield site. The NPC had tested the market by asking for expressions of interest and studying responses. The NPC selected a consortium called the Newcastle Stevedoring Consortium (NSC). The NSC was comprised of Anglo Ports and Grup TCB, large and experienced international groups within the industry, and a local company, Newcastle Stevedores Pty Ltd.

As a statutory state-owned corporation, the NPC was obliged to comply with the NSW Government’s “Working with Government Guidelines”. Mr Webb explained that, in accordance with the guidelines, the NPC had conducted “direct negotiations” with the NSC. By 2010, the direct negotiations had been completed and the process had moved to the point where the NSC had been identified as the preferred proponent. From this point, the NPC could enter “commercial negotiations” with the NSC with a view to concluding a final contract. This required ministerial approval and the NPC was seeking that permission from Mr Roozendaal.

At the same time that the NPC was seeking to progress its arrangements, Mr Roozendaal was receiving an alternative proposal for the Mayfield site.