

General Purpose Standing Committee No. 4

Badgerys Creek land dealings and planning decisions

Second report

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Terms of reference

1. That General Purpose Standing Committee No. 4 inquire into and report on land dealings and planning decisions relating to land or interests in land held solely or jointly by Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd in or around Badgerys Creek, and in particular:
 - a. identification of land or interests in land in or around Badgerys Creek held solely or jointly by Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd or any company or body or individual associated with such companies and/or what is referred to in the Department of Planning documents as the Medich Property Group,
 - b. the roles of the Minister for Planning, the office of the Minister for Planning, any other Minister, the Department of Planning, and any other NSW Government department or agency past or present, or any individual within the said entities, in decisions or assessments relating to that land, including, but not limited to, decisions or assessments on the Western Sydney Employment Lands Investigation Area,
 - c. the roles of any member of Parliament, the office of any member of Parliament or any other party in dealing with the land,
 - d. the roles and activities of the State Labor party head office and any other registered political party office and any lobbyist in relation to these matters,
 - e. legislative reforms to enhance the integrity of, and public confidence in, the planning and development assessment system, and
 - f. other relevant matters arising from the Government's planning policies and decisions.
2. That the Committee report by 20 November 2009.¹

The House resolved to extend the Committee's reporting date until 25 February 2010.²

¹ LC *Minutes* No. 114, 9 September 2009, Item 229, p 135

² LC *Minutes* No. 128, 24 September 2009, Item 25, p 1541

Committee membership

Hon Jenny Gardiner MLC	The Nationals	<i>Chair</i>
Hon Amanda Fazio MLC³ (to 24/11/2009)	Australian Labor Party	
Hon Kayee Griffin MLC	Australian Labor Party	
Ms Sylvia Hale MLC	The Greens	
Hon Greg Pearce MLC⁴	Liberal Party	
Hon Roy Smith MLC	Shooters Party	
Hon Mick Veitch MLC⁵	Australian Labor Party	
Hon Tony Catanzariti MLC⁶ (from 11/12/2009)	Australian Labor Party	

³ Substituting for Hon Henry Tsang MLC to 24 November 2009.

⁴ Substituting for Hon David Clarke MLC.

⁵ Substituting for Hon Lynda Voltz MLC.

⁶ Appointed to the Committee from 11 December 2009.

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Chair's foreword

This Inquiry was established to examine allegations that property developers and their representatives, particularly professional lobbyists, had exerted undue influence on planning decisions for land at Badgerys Creek. The Committee's first report, tabled in November 2009, made a number of recommendations to improve the transparency and integrity of the planning system. In particular, the Committee recommended stronger regulation of contact between planning officials, development proponents and lobbyists. The Committee also recommended tighter regulation of political donations.

I note that this second supplementary report only became necessary as a result of Mr Graham Richardson's unwillingness to respond in writing to questions submitted after his evidence at the Committee's first hearing.

I would again like to thank my committee colleagues for their contribution to the Inquiry and also thank Madeleine Foley, Teresa McMichael, Christine Nguyen and the other staff who assisted with this Inquiry.



Hon Jenny Gardiner MLC
Committee Chair

Chapter 1 Second report

Background to Inquiry

- 1.1 On 3 September 2009 Sydney businessman Mr Michael McGurk was shot and killed outside his family home. It was later revealed that prior to his death Mr McGurk made an audio tape recording of a conversation between himself and property developer Mr Ron Medich, which Mr McGurk alleged implicated senior NSW Government figures in bribery and corruption involving land dealings at Badgerys Creek.⁷ The land in question at Badgerys Creek is owned by Mr Ron Medich and his brother, Mr Roy Medich.

Conduct of Inquiry

- 1.2 On 9 September 2009 the Legislative Council referred to the General Purpose Standing Committee No. 4 the terms of reference for the current Inquiry into Badgerys Creek land dealings and planning decisions.⁸ The terms of reference require the Committee to inquire into and report on land dealings and planning decisions relating to land or interests in land held solely or jointly by Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd in or around Badgerys Creek. The terms of reference are reproduced on page iv.
- 1.3 The terms of reference initially required the Committee to report by 20 November 2009. However, during the Inquiry, an outstanding issue arose that was not resolved by the reporting date and which led to this date being extended. The issue was the receipt of answers to questions on notice to professional lobbyist Mr Graham Richardson.

Questions on notice to Mr Richardson

- 1.4 Witnesses took a substantial number of questions on notice during the hearings. Committee members also submitted a number of written questions on notice to witnesses after each hearing. Witnesses provided a response to each question on notice, with the exception of Mr Richardson.
- 1.5 Mr Richardson appeared as a witness at the Committee's second hearing on 19 October 2009. Subsequent to his evidence at the hearing, on 21 October 2009 the Committee Secretariat wrote to Mr Richardson to seek answers to a question taken on notice during the hearing, as well as written questions on notice from Committee members that were submitted after the hearing. Mr Richardson was requested to respond to the questions on notice by 28 October 2009. No response was received by this date.

⁷ 'Did he know too much? – Execution bombshell: Political corruption claims,' *Daily Telegraph*, 5 September 2009, p 1; 'Premier Nathan Rees says he had no knowledge of alleged Michael McGurk tape,' *Herald Sun*, 5 September 2009; 'How a quiet bush block turned into a goldmine,' *Sydney Morning Herald*, 7 September 2009, p 1

⁸ LC *Minutes* No 114, 9 September 2009, Item 229, Page 1355

- 1.6 On 4 November 2009 Mr Richardson verbally indicated to the Committee Secretariat that he would not be providing a response to the questions on notice. The Committee did not receive written confirmation from Mr Richardson regarding this matter.
- 1.7 On 11 November 2009, following a resolution of the Committee,⁹ the Committee Chair wrote to Mr Richardson to request that he answer the questions on notice by 19 November 2009. The Committee also submitted an additional written question on notice to Mr Richardson, which he was requested to answer by 19 November 2009. In this letter, Mr Richardson was advised that should he decline to answer the questions on notice, the Committee would consider whether to issue him with a summons under section 4 of the *Parliamentary Evidence Act 1901* (NSW) to attend a hearing to give further evidence.
- 1.8 Mr Richardson provided an interim response to the questions placed on notice on 16 November 2009 and questioned the authority under which the Committee was acting. The Committee Chair responded to Mr Richardson the same day detailing the Committee's powers to seek answers to questions on notice.

Extension of reporting date

- 1.9 The Committee met on 17 November 2009 to consider the Chair's draft report. The matter of Mr Richardson's outstanding answers to the questions on notice was also considered. The Committee was of the view that the answers to the questions asked of Mr Richardson may have added to or changed the outcomes of the Inquiry. The failure to respond made it problematic for the Committee to complete the task given to it by the House.
- 1.10 The Committee therefore resolved to table a substantive report on 20 November 2009 and advise the House that the Committee required additional time to follow up on this outstanding issue.
- 1.11 On 24 November 2009 the House agreed to the Committee's request to extend the reporting date to 25 February 2010 to allow this issue to be resolved, and for the Committee to prepare a supplementary report if necessary.

Evidence from Mr Richardson

- 1.12 The Committee subsequently invited Mr Richardson to attend a hearing on 14 December 2009 and answer questions from the Committee. Mr Richardson agreed to appear voluntarily. During Mr Richardson's appearance before the Committee he answered a number of questions from Committee members, including questions relating to the taped conversation between Mr McGurk and Mr Ron Medich.

⁹ NSW Legislative Council, General Purpose Standing Committee No. 4, *Minutes* No. 42, 11 November 2009, Item 3

ICAC Inquiry

- 1.13** The allegations of corrupt conduct made by Mr McGurk were referred to the Independent Commission Against Corruption (ICAC) in September 2009.¹⁰ After a preliminary investigation the ICAC formed ‘... the provisional conclusion that that no corrupt conduct had occurred.’¹¹ Nevertheless, the ICAC decided that it was in the public interest to hold hearings and make public the corruption claims and to play the taped conversation.
- 1.14** Public hearings were held in February 2010. At the conclusion of the hearings the ICAC Commissioner, the Hon David Ipp AO QC, took the unusual step of making a statement of the Commission’s findings. He did so because he believed it to be ‘... in the public interest that the Commission’s findings be made public without delay.’¹²
- 1.15** The ICAC found that in relation to the taped conversation between Mr McGurk and Mr Ron Medich, Mr Medich was ‘...falsely overstating his influence with the government and was falsely representing that he had bribed Mr Haddad and others ... He told these lies for his own ends, never expecting that they would be made public.’¹³
- 1.16** Commenting on Mr Medich’s reference in the taped conversation to Mr Sam Haddad, Director General of the Department of Planning, the Commissioner said:

Only Mr Haddad was named in the recording as a person who allegedly performed corrupt acts. There is not a scrap of evidence that Mr Haddad was guilty of such acts and the allegations against him should also be described as nonsense.¹⁴

- 1.17** Further, the Commissioner found that Mr McGurk’s claim ‘...to the effect that the recording contained material that could bring down the government, deserves to be described as nonsense.’¹⁵
- 1.18** The Committee welcomes the publication of the ICAC’s findings on the allegations made by Mr McGurk. The Committee notes the finding in its first report that:

... there is no clear evidence that the meetings or communications between Planning officials and proponents and representatives of the Badgerys Creek Consortium influenced planning decisions regarding the Medich site. The Consortium’s land has not been rezoned, and the efforts of the landowners and their representatives,

¹⁰ ‘Statement regarding Michael McGurk matter,’ Independent Commission Against Corruption, 7 September 2009, <<http://www.icac.nsw.gov.au/index.cfm?objectID=977B35DC-AAA1-079B-83E51EEA0AA54C55>> (accessed 15 October 2009)

¹¹ The Hon David Ipp AC QC, Commissioner, Independent Commission Against Corruption, *Findings and Summary of Reasons*, Public Hearing, 5 February 2010, p 232

¹² The Hon David Ipp AC QC, Public Hearing, 5 February 2010, p 231

¹³ The Hon David Ipp AC QC, Public Hearing, 5 February 2010, pp 236-237

¹⁴ The Hon David Ipp AC QC, Public Hearing, 5 February 2010, p 234

¹⁵ The Hon David Ipp AC QC, Public Hearing, 5 February 2010, p 234

particularly lobbyist Mr Richardson, have to date been unsuccessful in achieving any commitment to rezone in the near future.¹⁶

- 1.19** The Committee looks forward to the publication later in the year of the ICAC's views on procedures for lobbying government.¹⁷ This Committee's first report contained a number of recommendations on this issue.

¹⁶ NSW Legislative Council, General Purpose Standing Committee No. 4, *Badgerys Creek land dealings and planning decisions*, Report No. 21, November 2009, p 36

¹⁷ The Hon David Ipp AC QC, Public Hearing, 5 February 2010, p 248

Appendix 1 Witnesses at hearings

Date	Name	Position and Organisation
Monday 14 December 2009 Jubilee Room, Parliament House	Mr Graham Richardson	Registered lobbyist for Medich Properties

Appendix 2 Minutes

Minutes No. 46

Monday 24 November 2009

General Purpose Standing Committee No. 4

Members' Lounge, Parliament House, Sydney, at 6.30 pm

1. Members present

Miss Jenny Gardiner (*Chair*)

Mr Greg Donnelly (Tsang)

Ms Kayee Griffin

Mr Greg Pearce (Clarke)

Mr Roy Smith

Mr Mick Veitch (Voltz)

2. Substitute members

The Chair noted written advice from the Government Whip that he would be substituting for Mr Tsang for the purpose of the meeting.

3. Previous minutes

Resolved, on the motion of Ms Griffin: That Draft Minutes No.'s 43, 44 and 45 be confirmed.

4. Correspondence

The Committee noted the following item of correspondence sent:

- 20 November 2009 – From the Chair to the Hon John Hatzistergos MLC, Leader of the Government in the House, requesting the Government response by 20 May 2010 to the recommendations of the report on Badgerys Creek land dealings and planning decisions.

5. Badgerys Creek Inquiry – Further evidence from Mr Richardson

Resolved, on the motion of Mr Smith: That Mr Graham Richardson be invited to appear as a witness to give evidence to the Committee, for a period of up to 90 minutes.

Resolved, on the motion of Mr Pearce: That Mr Richardson be invited to appear on the morning of either Thursday 10, Monday 14 or Wednesday 16 December 2009, in that order of preference, with the hearing to conclude no later than 2 pm.

6. Adjournment

The Committee adjourned at 6.40 pm *sine die*.

Madeleine Foley

Clerk to the Committee

Minutes No. 47

Monday 14 December 2009

General Purpose Standing Committee No. 4

Jubilee Room, Parliament House, Sydney, at 9.20 am

1. Members present

Miss Jenny Gardiner (*Chair*)
 Mr Greg Donnelly (Catanzariti)
 Ms Kayee Griffin
 Ms Sylvia Hale
 Mr Trevor Khan (participating)
 Mr Greg Pearce (Clarke)
 Mr Roy Smith
 Mr Mick Veitch (Voltz)

2. Committee membership

The Chair noted advice from the Leader of the Government that Mr Catanzariti was nominated to be a member of the Committee in place of Mr Tsang.

3. Substitute members

The Chair noted written advice from the Government Whip that he would be substituting for Mr Catanzariti for the purpose of the meeting.

The Chair advised that Mr Khan would be attending the meeting as a participating member.

4. Previous minutes

Resolved, on the motion of Mr Pearce: That Draft Minutes No. 46 be confirmed.

5. Badgerys Creek – Questions on notice to Mr Richardson

Resolved, on the motion of Ms Hale: That the Committee defer consideration of whether to submit further written questions to Mr Richardson until after the hearing.

6. Badgerys Creek – Public hearing

Witnesses, the public and media were admitted.

Mr Khan joined the meeting as a participating member.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters including the *sub judice* convention, immunity of proceedings from questioning in the courts, the police investigation, and adverse mention.

Mr Richardson was examined on his former oath.

The evidence concluded and the witness withdrew.

7. Badgerys Creek – Deliberative meeting

Resolved, on the motion of Mr Donnelly: That no further written questions be submitted to Mr Richardson after this hearing.

Resolved, on the motion of Mr Donnelly: That the Committee meet at 1 pm on Wednesday 24 February 2010 to consider the Chair's draft final report.

8. Adjournment

The Committee adjourned at 10.30 am *sine die*.

Madeleine Foley

Clerk to the Committee

DRAFT Minutes No. 48

Wednesday 24 February 2010

General Purpose Standing Committee No. 4

Members' Lounge, Parliament House, Sydney, at 1.10 pm

1. Members present

Miss Jenny Gardiner (*Chair*)
Mr Tony Catanzariti
Ms Kayee Griffin
Ms Sylvia Hale
Mr Greg Pearce (Clarke)
Mr Mick Veitch (Voltz)

2. Apologies

Mr Roy Smith

3. Previous minutes

Resolved, on the motion of Ms Hale: That Draft Minutes No. 47 be confirmed.

4. Correspondence

The Committee noted the following items of correspondence sent:

- ***
- ***
- 14 December 2009 – To Mr Graham Richardson requesting an answer to a question taken on notice during the hearing of 14 December 2009.

The Committee noted the following items of correspondence received:

- ***
- 14 December 2009 – From Mr Graham Richardson's Personal Assistant providing an answer from Mr Richardson to a question taken on notice during the hearing of 14 December 2009
- 17 December 2009 – From Mr Ian Faulks, Partner, Safety & Policy Analysis International providing a US Congressional Research Service report on the regulation of lobbyists
- 20 January 2010 – From Mr Russell Grove, Clerk of the Legislative Assembly, attaching correspondence from Mr Nick Bellas commenting on the evidence given by Mr Richardson at the Badgerys Creek Inquiry

Resolved, on the motion of Mr Veitch: That the Committee keep confidential the correspondence from Mr Bellas of 20 January 2010, as forwarded by Mr Grove.

5. Badgerys Creek – Chair's draft second report

The Chair tabled her draft report no. 22 entitled *Badgerys Creek land dealings and planning decisions: Second report*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Pearce: That the draft report be the report of the Committee. Further, that the Committee present the report to the House, together with transcripts of evidence, answers to questions on notice, minutes of proceedings and correspondence relating to the Inquiry, except for documents kept confidential by resolution of the Committee.

6. ***

7. Adjournment

The Committee adjourned at 1.15 pm *sine die*.

Madeleine Foley
Clerk to the Committee