

Our Ref: BB:210045

Your Ref:

9 May 2022

Committee Chair
Portfolio Committee 7
Attn: Ms Cate Faehrmann MLC
Email: PortfolioCommittee7@parliament.nsw.gov.au

Dear Ms Faehrmann

RE: Advice

I confirm I act for Mr Mark Adams.

Mr Adams appreciates the opportunity the Committee has afforded him by raising, on 19 April 2022 its written requisitions of him.

Those requisitions and Mr Adams' responses (expressed in the first person) are **attached**. The Committee will notice Mr Adams has not answered questions 4, 5 and 6. This is because Mr Adams was at all material times excluded from participating in Eco Logical Australia Pty Limited (**ELA**) offsetting projects in Western Sydney due to potential, if not actual, conflicts of interest. I understand Ms Sylvia Fernandez, a Thomson Geer Partner acts for ELA-(). Mr Adams was not involved in the matters to which questions 4, 5 and 6 refer.

Mr Adams was aware from publicly available information of the potential and perceived conflict of interest in his taking on the responsibilities of a Biobank both from an employment, client, and regulator perspective. As such, upon Meridolum No. 1 making the decision to invest in property and prior to its purchase, Mr Adams informed the then ELA CEO on 11 January 2017 about this decision and the need to avoid conflicts of interest. My instructions indicate the information in the **attachment** styled "Publicly Available Information" was current as at the dates referred to.

Further, upon Mr Adams being offered the CEO position of ELA on 28 May 2018, his previous disclosures prompted the preparation of a *Declaration and Undertaking Under Deed Poll and Disclosure Statement* dated 9 July 2018 (redacted copy **attached**). Mr Adams' conflict was also disclosed to ELA staff. As such Mr Adams was obligated to take no part in ELA offsetting projects in Western Sydney.

Yours faithfully

Belling Legal

Bryan Belling
Principal

Liability limited by a scheme approved under Professional Standards legislation.

Mr Adams appreciates the opportunity the Committee has afforded him by raising, on 19 April 2022 its written requisitions of him. He is responding to these Questions on Notice as a director of Meridolum No 1 only. Mr Adams cannot respond to the questions numbered 4, 5 and 6 which questions are directed to Eco Logical Australia Pty Ltd.

Those requisitions and Mr Adams' responses (expressed in the first person) are:

1. Why did you establish Meridolum No 1?

I personally have a lifelong commitment to conservation and for some time had wanted to manage land for positive environmental outcomes.

Meridolum No 1 (Meridolum) was established as an investment vehicle to purchase property and implement biobanking projects. Apparent from the public announcements around the airport, roads, rail lines and urban expansion in Western Sydney, there was an enormous need for active conservation, protection, and restoration of the remaining intact ecosystems across the Cumberland Plain.

As a Director of Meridolum I am very proud of implementing best practice conservation and restoration ecology techniques and the outstanding conservation results that have been achieved on site to date. Since implementing conservation management measures within the critically endangered ecological communities on our land, the White Flowered Wax Plant (*Cyananichum elegans*) a threatened species, is now present on site and very recently the BCT advised on a site visit that they believed they had identified the Green and Golden Bell Frog (*Ranoidea Aurea*).

I am personally committed to achieving long term and meaningful conservation outcomes.

2. How did Meridolum No 1 come to be in contact with Roads and Maritime Services (RMS) about the offsets?

My fellow Director of Meridolum, RMS contacted Steven House directly regarding the availability of credits for the Hardwicke and Hampden Vale biobank sites. At this time, Mr House informed the RMS that Meridolum No 1 was also in the process of biobanking the Cawdor Heights property.

(a) Which party first approached the other to discuss this?

RMS approached Mr Steven House.

(b) On what date did this first approach take place?

14 March 2017

(c) What was your involvement in this?

I was not involved in this.

3. How did you come to purchase the parcels of land in 'Razorback' that make up Meridolum No.1 biobank?

The main property (519 Razorback Road, Cawdor) was identified on realestate.com.au. The secondary property 120 Rotherwood Road Razorback Meridolum contacted the owner directly and negotiated purchasing this property.

a. What was the process by which these parcels of land were identified?

Both Meridolum properties neighbour Steven House's pre-existing biobank – 'Hampden Vale' - one to the north and one to the south. There is also another biobank in the valley called 'Razorback.' These existing biobanks demonstrated that land in the area might be suitable for conservation of remnant Cumberland Plain Woodlands.

Steven House saw the Cawdor property listed for sale on realestate.com.au on 18th September 2016. The property was passed in at auction without a bid on 19 November 2016. Following negotiations after the auction, Meridolum purchased the property on 27 January 2017.

120 Rotherwood Road, Razorback was purchased in January 2018 via direct negotiation with the owner.

b. What was your involvement in identifying these parcels of land?

I did not identify these parcels of land.

c. Who else was involved in purchasing the land?

The four directors of Meridolum participated in purchasing the land together with standard legal and conveyancing agents.

4. On what date was the first conversation held between Eco Logical Australia and the NSW RMS regarding offsets for the Western Sydney Infrastructure Plan?

a. Who was this discussion between?

b. Who initiated those discussions?

i. If you did not initiate these discussions, what was your involvement in them?

I am unable to provide a response as I was not involved in any part of the referenced project.

- 5. Regarding the advice provided by Eco Logical to the RMS on the offsets required for the Western Sydney Infrastructure Plan, who signed off on that advice from Eco Logical?**
 - a. Did you see that advice?**
 - b. Did you have any discussions with anybody regarding that advice?**
 - c. Did you have any discussions with anybody regarding offset requirements for the Western Sydney Infrastructure Plan?**
 - i. If so, who were they with?**

I am unable to provide a response as I was not involved in any part of the referenced project.

- 6. What was your involvement with development of the conservation plan for the Western Sydney Growth Centres?**
 - a. Did you have access to any documents regarding the offsets required at any stage?**
 - i. If so, what was this material?**
 - b. Did you identify that this would be a conflict of interest?**
 - i. If so, when did you do this?**
 - ii. What action did you take to manage this conflict of interest?**

I am unable to provide a response as I was not involved in any part of the referenced project.

Publicly Available information

The expansion and development of Western Sydney was widely known and publicly discussed at that time. State and Federal governments were announcing new airports, new roads, new rail lines, new suburbs, and new employment zones in Western Sydney. This significant increase in infrastructure spending was coupled with potentially new offsetting regulations that would see an increase in the use of offsetting.

The *Biodiversity Conservation Bill* was released in 2016 foreshadowing a significant increase in the application and use of biodiversity offsets. Previously, offsetting had only applied to major projects, but the new NSW Bill proposed expanding offsetting to all developments above a certain minimum size threshold in the Sydney basin and parts of the Hunter region.

Many statements and reports were publicly released regarding the increased infrastructure footprints in Western Sydney, many with offsetting implications including, for example:

- The Western Sydney Airports publicly exhibited EIS, published on 19 October 2015 and again in the final EIS released in September 2016 anticipating the offsetting required of over 10,000 biobanking credits from various plant community types across the Cumberland Plain. This was much larger than anything contemplated previously (see [volume-4_appendix-k2_offset-strategy.pdf \(westernsydneyairport.gov.au\)](#)).
- RMS were one of many Government departments developing infrastructure to service the urban, airport and commercial infrastructure expansion in Western Sydney. The NSW Treasurer publicly announced the following transport project spends via the [media](#) in June 2014:
 - 1.4 billion in Western Sydney roads to support Sydney's second airport at Badgerys Creek
 - A new M9 motorway or an outer Sydney orbital running from the Central Coast to the Illawarra
 - \$400 million for the Parramatta Light Rail
 - \$3.8 billion for West Connex
 - \$8.3 billion North West Rail Link
 - \$681 million in Princes Highway funding
 - \$557 million in Western Sydney Growth Roads
 - \$359 million in Greater Western Highway and Bells Line of Road upgrades
- By way of specific examples, the RMS and in its submission to this Inquiry notes that from 2015 information was publicly available from them on the future alignment of the M12 motorway and that the alignment could be used to infer offset requirements. There was also a video and aerials of the 8 route options online in February 2016 (see [M12 Motorway - Shortlisted route options - YouTube](#)).

- On 7 December 2015, NSW Premier Mike Baird launched a five-year plan to create 200,000 new jobs in Western Sydney, build up the area's health and education sectors and upgrade public transport by 2020. Deloitte's [Shaping Future Cities, Designing Western Sydney](#) outlined the blueprint for this economic transformation of Western Sydney.
- *Growth Centres Conservation Plan* published in 2007 and the Commonwealth Strategic Assessment under EPBC Act which was publicly exhibited, approved, and gazetted by 2012. Further, the Growth Centres Biodiversity Offset Program Annual Reports prepared by the Office of Environment and Heritage each year provided 10 year forecasts for GCC spending on offsets (<https://www.environment.nsw.gov.au/resources/biodiversity/130791grthcntar.pdf>).
- In November 2015, the scoping study into rail investment to service Western Sydney and the proposed Western Sydney Airport was released. The report dated April 2014 earmarked the corridor protected for the new South West Rail Link (see: <https://www.transport.nsw.gov.au/sites/default/files/media/documents/2017/swrl-extension-discussion-paper.pdf>)

DECLARATION AND UNDERTAKING UNDER DEED POLL

To: Eco Logical Australia Pty Ltd (ELA) and Coffey Services Australia Pty Ltd (Coffey)

I, Mark Adams, of [REDACTED] Waverley NSW 2024

being an officer and employee of ELA, acknowledge the terms of my Employment Agreement dated 9 July 2018; and the disclosure statement provided by me including by letter dated 31 May 2018 and supplemented by email of 13 June 2018, which have been summarised in the attached **Disclosure Statement**.

I declare that the Disclosure Statement is a complete disclosure of my personal affairs which could constitute a potential or actual conflict of interest as at the date of this document. I undertake to promptly advise ELA and Coffey of any material changes to the Disclosure Statement and any other matters which could amount to a potential or actual conflict of interest.

In light of the matters in the Disclosure Statement, I undertake in favour of ELA to:

- ensure that any work performed by me for the Meridolum Group of companies:
 - is performed outside of the hours needed to perform my role for ELA, and
 - will not interfere with the performance of my duties to ELA;
- (subject to the exception below) procure that none of the Meridolum Group of companies engage ELA to supply services;
- not use any information (whether confidential or not) that I obtain in the course of or in connection with my employment with ELA, for an improper purpose or for private benefit;
- not access that part of ELA's records and files in relation to the supply of or demand for biobanking or biodiversity stewardship credits (or any equivalent) in NSW (**Project Information**);
- not, directly or indirectly, communicate or disclose (whether in writing or in any other manner) the Project Information to any person or allow or assist any person to observe or have access to any Project Information;
- whenever I become aware of any of the Meridolum Group of companies having any dealings or discussions with any of ELA's clients:
 - immediately be excluded from and not have any involvement with the supply of services by ELA to such clients;
 - not access, communicate or disclose (whether directly or indirectly) ELA's records and files in respect of such clients; and
 - take reasonable steps to procure that ELA discloses my interests in the Meridolum Group of companies to such clients;
- comply with any physical and electronic information barriers implemented by ELA from time to time; and
- ensure Steven House's terms of employment and contract with ELA are developed by ELA HR and approved by Coffey's CEO.

I understand that ELA (acting through [REDACTED] jointly under the supervision of [REDACTED], will be permitted to advise Meridolum No 1 Pty Ltd up until 31 August 2018, on the proposal to divide a BioBanking Trust Fund applying to land at Cawdor (**Services**). I undertake in favour of ELA not to have any involvement in the Services or to discuss the Services with any staff members of ELA, and not to engage in any favourable or unfavourable treatment of the relevant staff members of ELA who will be delivering the Services. I acknowledge that any breach of this document by me may result in ELA terminating the Services.

The Disclosure Statement is given by me for the purposes of complying with my obligations under the terms of my Employment Agreement. Each undertaking given by me under this document is offered as the means for avoiding any potential or actual conflict of interest in connection with the matters set out in the Disclosure Statement and on the basis that Coffey's CEO for and on behalf of ELA accepts each undertaking as a reasonably practical step to manage the matters in the **Disclosure Statement**, consistent with the terms of my Employment Agreement.

I further acknowledge that nothing in this document affects the terms of my Employment Agreement (including my obligations under that agreement), or prevents ELA or Coffey (as the case may be) from relying on or enforcing any right under the Employment Agreement or otherwise.

This document is governed by the laws of New South Wales.

DISCLOSURE STATEMENT

I, **Mark Adams**, of [REDACTED] Waverley NSW 2024, am a Director of three companies:

- Meridolum Holdings Pty (MH) with an approximate 12% unit holding. This Trust owns
- Meridolum No 1 Pty Ltd (MH No 1) which in turn owns 120 Rotherwood Road and 519 Old Razorback Road, Cawdor as a biobank and
- Meridolum Capital Management Pty Ltd (Capital Management) which is run by the four Directors (25% ownership split). Capital Management has no other interests at present.

Meridolum was established to supply biobanking (now biodiversity stewardship) credits to the NSW offsetting market by a small group of industry leaders focused on ethically investing in environmental outcomes. There are four Directors in Meridolum, of which, I represent the AC Family Trust (an investment vehicle for my wife and I). The other directors are Steven House, Justin Punch and Matt Press.

In 2017 Meridolum purchased 200ha property at 519 Old Razorback Road Cawdor (near Camden) with the aim of establishing a biobank on suitable parts of the property.

The biobanking credit availability was publicly advertised on the OEH website (<http://www.environment.nsw.gov.au/bimsprapp/EOIDetails.aspx?ID=286>) on 21 March 2017.

In December 2017 Meridolum purchased an additional neighbouring of 50ha at 120 Rotherwood Road, for the same purpose.

On or near 1 July 2018 Meridolum will sign a Biobanking Agreement with the NSW Minister for the Environment (via the Office of Environment and Heritage).

I am aware in my capacity as Director of Meridolum of ELA clients who are dealing with Meridolum in relation to the potential purchase of Meridolum land and/or Biobanking credits. Such dealings are subject to confidentiality arrangements between those parties and Meridolum. In the event that such dealings become public knowledge or otherwise cease to be subject to any confidentiality arrangement I will notify Coffey.

Signed, Sealed and Delivered by Mark Adams as a Deed Poll

Signature: ..

Date: 9/7/18

Witnessed by MELANIE PURSEY

Signature: ..

Date: 9/7/18