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10/10/2022

## **Inquiry into the granting of Contract #OoS17/18-021 by the Office of Sport**

The Hon Daniel Mookhey MLC  
Public Works Committee  
Legislative Council  
New South Wales Parliament

Copy to:

Upper House Leader – the Hon. Damien Tudehope, MLC  
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Minister for Sport – the Hon, Alister Henskens, MP  
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NSW Office of Sport Chief Executive – Karen Jones  
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The NSW Parliamentary Committee have released its report relating to the above Inquiry on 28/9/2022.

### **General Comments on the Report**

This report seriously criticises the conduct of Barrie Smith, Alex Townsend and Bruce Farrer, all of whom made themselves available to be questioned by the members of the Inquiry **under oath**.

The basis for most of the allegations made in the Report criticising the above conduct is the submissions to the inquiry sent by Berni Saunders, Maggie Dawkins and Hannah Brooks. This is confirmed in the Report where the basis for comments is attributed to submissions made to the Inquiry and/or evidence given under oath to the Inquiry.

However, despite the importance and credibility given to the content of the Berni Saunders, Maggie Dawkins and Hannah Brooks submissions in the Report, neither Berni Saunders, Maggie Dawkins or Hannah Brooks were called before the Inquiry or offered to attend the Inquiry to enable their submissions to be questioned by the members of the Inquiry, and for them to repeat their assertions **under oath**.

Therefore I reject all the untested allegations in the Report attributed to all of the above, and I call upon yourself as the Chair of the Inquiry to withdraw the Report until such time as



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the assertions made by Berni Saunders, Maggie Dawkins and Hannah Brooks can be repeated to the Inquiry under oath.

I am prepared to meet with you or any members of the Committee to demonstrate, with complete documentation of the facts, that the allegations contained in the various sections of the report are incorrect.

I have read the report and I wish to comment on the following sections and to correct errors and refute assertions made in the report.

I will deal with each matter by referring to the reference numbers in Findings, Recommendations and Chapters of the Report.

Yours Sincerely,

Barrie Smith  
Director  
Barrie Smith Motorsport





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### **Findings 1, 2 & 3**

I have no comment to make regarding these findings as they do not relate to me.

### **Finding 4.**

*"Mr Farrar included Ebb and Flow technology in the Equestrian NSW funding request, knowing that this requirement would heavily favour Barrie Smith Motorsport"*

It is not correct that including Ebb & Flow technology in the funding request "heavily favoured" Barrie Smith Motorsport. Capricorn Australia had already installed many arenas which used Ebb & Flow irrigation, so if any tenderer was to be favored by the inclusion of ebb & flow irrigation, it should have been the tenderer with the most experience, Capricorn. While Barrie Smith Motorsport had no experience with ebb & flow arenas, Otto Sport had extensive worldwide experience installing ebb & flow arenas, and it was this expertise which Barrie Smith Motorsport offered in the Tender submission.

### **Finding 5**

*"That the Office of Sport failed to comprehensively investigate the issues relating to the granting of contract number OoS17/18-02, specifically by: • failing to include in the terms of reference for the O'Connor Marsden probity review the use of the second-hand material from Wallaby Hill at the Sydney International Equestrian Centre*

- failing to investigate the potential conflict of interest relating to Ms Alexandra Townsend, and her involvement with Equestrian NSW and Barrie Smith Motorsport PUBLIC WORKS COMMITTEE Report 5 - September 2022 ix*
- failing to investigate the potential financial benefit received by Ms Townsend as a result of the second-hand material from Wallaby Hill being used at Sydney International Equestrian Centre*
- failing to be transparent about the emerging issues relating to the contamination of the upgraded surface at the Sydney International Equestrian Centre."*

There was no potential conflict of interest between Alex Townsend & Barrie Smith Motorsport. Alex Townsend had had no dealings with Barrie Smith Motorsport. She purchased the material for her three projects directly from Otto Sport. The so-called second hand material moved from Wallaby Hill to SIEC was still under the control of Otto Sport as the arena had not been handed over, so Alex Townsend had no



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dealings with Barrie Smith Motorsport in relation to this material – it was Otto Sport's property.

### **Finding 6.**

*"That the use of contaminated second-hand material from Wallaby Hill for the upgrade of the arena at Sydney International Equestrian Centre was inappropriate and likely constituted a breach of the contract between the Office of Sport and Barrie Smith Motorsport"*

I have documentation from Otto Sport which states that:

"As this was a brand new surface which had not been used, and was exactly the ideal composition for an indoor arena such as at SIEC, the decision was taken to truck the surface to SIEC where it was installed under the supervision of the Otto Engineer".

I also have emails from the Office of Sport staff noting the ex Wallaby Hill surface and indicating the steps required to allow this surface to be used. These steps were duly complied with and the results of the requested testing provided.

### **Finding 7.**

*"That the Office of Sport failed in its duty to ensure value for money in the expenditure of public funds by not seeking to terminate its contract with Barrie Smith Motorsport following the installation of the second-hand material from Wallaby Hill at the Sydney International Equestrian Centre. This failure led to questions about the quality of the surface and an ongoing lack of confidence in the facility amongst some in the equestrian community."*

This is not correct. The Office of Sport took steps to ensure that the Wallaby Hill surface was up to specification by requesting Barrie Smith Motorsport undertake Geo-Testing at its own expense. The Geo-Testing confirmed the specification. Acceptance testing of the indoor arena was undertaken by a number of Leading Showjumpers and a leading Dressage rider, all of whom were very impressed with the new surface.

I am not aware of any competitor who has ridden on the surface and who has expressed any lack of confidence – rather my experience, as confirmed by Karen Jones in her submission, is quite the opposite.





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### **Finding 8.**

*“That the Office of Sport was misled by Mr Barrie Smith about the availability of his product, using the excuse of dock delays to pursue the low-cost option of transferring used materials from a failed arena at Wallaby Hill (saving himself and OTTO Sport money). In evidence to the inquiry, Mr Smith was asked (by the Chair) if it was always his intention to source the materials from Ms Alexandra Townsend’s property, to which he replied ‘Certainly’ and then changed his answer to ‘No’. The committee found Mr Smith to be an unconvincing witness.”*

This is totally incorrect and this can be demonstrated by looking at the facts which were included in my response to the enquiry and in this response to the enquiry report.

I cannot recall that I advised the Office of Sport “that the overseas materials required for the upgrade were delayed” nor can I imagine why I would have done so.

I receive daily reports from my shipping agent regarding the status of the various air freight and sea freight shipments, and these will confirm that the containers carrying the SIEC Project materials were always on schedule to be delivered in early January 2018, and that these deliveries happened as planned.

### **Finding 9**

*“That the Office of Sport has since taken steps to rectify the contamination of the upgraded arena surface at the Sydney International Equestrian Centre, and it appears that the surface is now safe for use. However, as it cannot be guaranteed that all contaminated material has been removed, parts of the equestrian community will continue to have a lack confidence in the upgraded arena surface.”*

The rectification referred to was performed by Barrie Smith Motorsport at no cost to the Office of Sport.

The surface has now been installed for over four years, and at no time during this period has there been any documented occurrence of any injury to horse or rider.

In the equestrian community who actually do ride on the SIEC arenas, as opposed to those who do not ride and prefer to criticise on Facebook, there is nothing but praise for the quality of the riding surface as mentioned in the Office of Sport evidence to the Inquiry.



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### **Recommendation 1.**

*“That the NSW Independent Commission Against Corruption give consideration to reopening its investigation of the granting of contract number OoS17/18-02, with specific reference to the use of second-hand material from Wallaby Hill at the Sydney International Equestrian Centre.”*

Documentation was provided to the Inquiry by Otto Sport confirming that the surface removed from Wallaby Hill was “a brand new surface which had not been used and was exactly the ideal composition for an indoor arena such as at SIEC”.

### **Recommendations 2, 3, 4, 5 & 6.**

These Recommendations were not relevant to Barrie Smith Motorsport, so no comment is made.

### **Recommendation 7**

*“That NSW Police give consideration to evidence received during this inquiry regarding Mr Barrie Smith, Mr Bruce Farrar and Ms Alexandra Townsend in order to examine whether there has been any potential breach of the Crimes Act 1900.”*

I would be happy to meet with the NSW Police at any time. I have complete documentation to confirm all the facts which I expressed in my submission to the Inquiry and to disprove the untested assertions which seem to be running the Inquiry. The facts will override Facebook innuendo any time.





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## **Chapter 2.**

2.15 “Some Individuals” Most of the negative comments come solely from the following individuals, Berni Saunders from Victoria and Maggie Dawkins from South Australia and Hannah Brooks, and are promoted on their social media pages – Facebook.

It is unfortunate that these individuals can make wild assertions without any real facts and in pursuit of their own agendas and that these assertions seem to be permeating many sections of this report.

It appears to me that if allegations from Berni Saunders, Maggie Dawkins and Hannah Brooks were removed from this report, the remaining content would be based on facts and not personal agendas.

2.16 Berni Saunders and Maggie Dawkins again.

They do not live in NSW and to my knowledge have no current or previous involvement in Equestrian NSW.

2.17. At no time did Bruce Farrer engage inappropriately with me, either before or after the awarding of the contract. I find it incredible that Maggie Dawkins could tell the Committee that Bruce Farrer had obtained quotes from me before the project had been approved. I have never met nor had any contact with Maggie Dawkins. The only contact I had during the creation of my tender was via Jim Kassif, the Office of Sport Project Manager.

2.18 Maggie Dawkins, living in South Australia, surely cannot be classified as a stakeholder, but is again making allegations which I strongly refute regarding any conflict of interest I had with Bruce Farrer.

2.33 Stephen Dingwall first performed work under contract to Barrie Smith Motorsport following the completion of the installation of both the SIEC Arenas. I engaged him to provide training to SIEC staff in the grooming and maintenance of the new Arenas. Stephen Dingwall has never performed contractual work for Otto Sport.

2.34 It is a ridiculous claim that the family relationship between the President of the Equestrian NSW Board and myself had any influence on the awarding of the tender. Peter Dingwall (President) is a retired ACT Magistrate, and so has a very clear understanding of conflict of interest. I actually had no idea that Peter was the President of the Equestrian NSW Board, although I was aware that he had an interest in Showjumping via his son Stephen.



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2.35 I have never met nor ever had any contact with Maggie Dawkins, so I find the assertions in this section totally fabricated. Another tenderer, Capricorn Australia, had already installed ebb & flow arenas in Australia, and was therefore equally “aligned”.

2.37 It is not correct that only one ebb & flow arena had been installed in Australia. There was only one Otto ebb & flow arena, but Capricorn Australia had installed many ebb & flow arenas over several years.

2.38 This is totally inaccurate. Ebb & Flow is a form of irrigation used in many applications in agriculture – it’s not rocket science. Otto have one design of riding surfaces, independent of the type of irrigation used, which uses their patented Otto Perforated Mat. How the client chooses to irrigate the riding surface is up to the client. The options are underground watering (ebb & flow) or via sprinklers from above the surface. As stated above in 2.37, another tenderer, Capricorn, also proposed ebb & flow irrigation.

2.39 This is a barefaced lie. Yet again, it’s easy to make these assertions, but I am happy to confirm under oath that I had no knowledge of the development of the funding proposal, I certainly did not work closely with Bruce Farrar on the proposal, and I completed the Tender Response without any outside assistance. I note that this was only suggested by the usual suspects, Maggie Dawkins & Hannah Brooks.

2.48 It is absolutely not true that Bruce Farrer informed me that I was the successful tenderer. I was advised of my success by phone from Jim Cassif, the Office of Sport Project Manager who followed up the phone call with an email. Maggie Dawkins would have no idea of this, but still invents her allegations.

2.58 The stakeholder referred to here is Capricorn Australia, who prior to the issue of the SIEC tender, had installed many ebb & flow arenas, so I cannot see that the requirement of an ebb & flow arena favoured Barrie Smith Motorsport, who had installed none (it was Otto who installed the ebb & flow arena at Wallaby Hill).

2.59 Barrie Smith Motorsport submitted the tender document as the agent for Otto Sport in Australia. Otto Sport had many years of experience and the SIEC installation was performed under the control of the Otto Sport engineer.

2.61 The Wallaby Hill arenas were purchased by Wallaby Hill from Otto Sport and were installed by the Otto Sport Engineer. See 2.59 above for additional comments.





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### **Chapter 3.**

3.2 Barrie Smith Motorsport had earlier in 2017 purchased from Otto Sport sufficient material to be able to install an equestrian arena of dimensions 60m \* 20 M, ie 1200M<sup>2</sup>. This material was in a warehouse in Arndell Park. I have documentation to confirm this. I cannot recall that I advised the Office of Sport “that the overseas materials required for the upgrade were delayed”. I receive daily reports from my shipping agent regarding the status of the various air freight and sea freight shipments, and these will confirm that the containers carrying the SIEC Project materials were always on schedule to be delivered in early January 2018, and that these deliveries happened as planned.

3.11, 3.12, 3.13, 3.14, 3.15

These “concerns” are not held by competitors who actually ride on the SIEC Indoor surface. They are allegations by the same “stakeholders” who have raised many other inaccurate and uninformed matters, ie Bernie Saunders & Maggie Dawkins.

Otto Sport provided a letter explaining that there were no safety issues with the SIEC Indoor surface, and that the presence of pieces of Otto Perforated mat, the same mat which was under the riding surface sand, represented no threat to either horse or rider.

Please refer to Finding 5 which refutes any involvement of Alex Townsend.

3.16 The Office of Sport representative was made aware of the source of this material and requested it be Geo-Tech tested before being accepted (refer Appendix E in my submission). This was duly done and the material was accepted.

3.45 I have a copy of the letter from Otto Sport stating that the material removed from Wallaby Hill was “a brand new surface which had not been used and was exactly the ideal composition for an indoor arena such as at SIEC”.

There can be no breach of contract, as The Office of Sport were aware of the material from Wallaby Hill and specified the condition under which it would be accepted. This condition was satisfied by Geo\_Tech results confirming that the mixed sand in the Wallaby Hill surface was identical in composition with the unmixed sand to be used in the remainder of the SIEC project.

If the Wallaby Hill mixture was rejected, I had additional stock in my warehouse (and documentation to confirm this) of Otto Arena Tex (the fibre to be mixed with the sand) which could have been used to create another sand & fibre mix.



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3.48 I have complete documents proving that all the required material for the SIEC arenas was purchased by Barrie Smith Motorsport from Otto Sport.

I have separate invoices for the material for each arena, I have details of the shipping arrangements for that material, and I also have the actual invoices from the shipping company.

At no time was the Office of Sport misled regarding the availability of the materials, and the Project Manager Jim Cassif was kept up to date with the shipping progress.

The arrival of the containers was actually several days early, despite this occurring over the Christmas / New Year period.

The "Certainly" comment was a one word reply to a question which I may not have heard correctly.

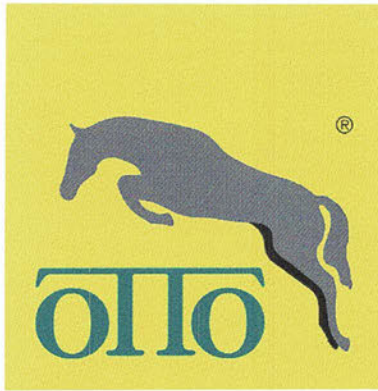
The "No" was part of a several sentence reply which explained clearly that there was no intention at the start of the project for any involvement with a Wallaby Hill surface.

Regarding the "low cost option" comment, the Committee had no cost information available, so this is yet another unfounded assertion. In fact the option of moving the surface from Wallaby Hill incurred additional transport costs, so it was actually a higher cost option.

3.51 I would invite any investigation by the NSW Police. This is because the NSW Police will only be interested in facts, not Facebook innuendo. I have complete documentation to back up my evidence to the committee or to the NSW Police.

3.52 The above also goes for ICAC, and in both cases I would also ask them to investigate why the assertions of a very small number of Facebook warriors seem to have had more influence in the conduct of this enquiry than actual facts.





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### **Notes for Understanding what components constitute an arena:**

There were two arenas installed at SIEC, one Indoor and one outdoor.

Each arena consisted of the following components:

- Ebb & flow system – liner, irrigation pipes, washed sand, automatic water level
- Otto Perforated Mat layer
- Otto Riding surface – silica sand mixed with Otto non-woven geotextile mat
- 

The so called second hand material referred to in the enquiry relates only to the Otto Riding surface of the Indoor arena, and the value of this material was **less than \$40,000 of the total contract cost**. All other components of both arenas are exactly as tendered and were supplied from the material sourced from Otto in Germany and Spain specifically for the SIEC Project.