

The Hon. Susan Higginson MLC,
Member of the Legislative Council

7 February 2023

Dear Ms Higginson,

Response to your invitation to give evidence before the Inquiry into allegations of impropriety against agents of the Hills Shire Council and property developers in the region

Thank you for your invitation to appear before the Portfolio Committee No. 7 – Planning and Environment in its inquiry into allegations of impropriety against agents of the Hills Shire Council and property developers in the region.

I have been travelling since December 2022 and intend to be overseas until March 2023, principally in a remote part of Lebanon where I am originally from. I

am managing overseas business in the Middle East and Asia. If my evidence is needed by the committee I ask that you please postpone the hearing.

I trust you will have no difficulty accommodating this request. The allegations by Mr Williams were made on 23 June 2022 and the committee only called this inquiry in December of last year. If the committee can wait six months to call the inquiry, it is unreasonable to assert that I must urgently return to Australia.

Mr Williams referred his allegations to the Independent Commission Against Corruption before making them in Parliament and the ICAC wrote to him in reply in March 2022 stating that even accepting his allegations, no unlawful conduct had occurred.

Mr Williams stated that “only an external investigation will substantiate these allegations, or ultimately refute them”. It strikes me as profoundly dishonest that Mr Williams failed to mention that he had referred his concerns to the appropriate body (that is, an external investigator), ICAC, and ICAC had found his allegations did not allege any corrupt conduct.

I raise this as it highlights the lack of urgency or importance around this inquiry (which I think is reflected also in the Committee’s delay in calling the inquiry).

Some two weeks after Mr Williams’ allegations, the ABC broadcasted a 4 Corners documentary ‘The War Within’ on 4 July 2022. The intrepid young journalist, Mr Sean Nicholls, exhibited a ‘dossier’ provided to the ICAC from a “senior person within the Alex Hawke faction”. No doubt that person is Mr Williams as the return letter is addressed to Mr Williams (albeit, blurred).

I note that Mr Williams’ allegations made in Parliament extend to a former councillor on Hills Shire Council and current Member of Parliament. That allegation is of direct misconduct (that is, that person received support from me and in exchange advanced my development on Council). This is an allegation I deny. However, what is significant is that, that allegation is most certainly within the purview of the ICAC. This means that Mr Williams omitted this allegation from his dossier but saw fit to include it in his speech under privilege. This is highly questionable.

It is difficult to address Mr Williams’ allegations as his assertions are so lacking in detail or evidence. However, I say of Mr Williams’ allegations:

1. I have not met any of the current councillors of the Hills Shire Council. I am not aware if they support my developments. I am not aware if they are more or less supportive of my development than the previous councillors. Their views on my developments are largely irrelevant to the progress of my development for reasons I will expand on.

During the previous term of Council I conducted extensive developments in and around the Hills Shire Council area. This has included 1,800 dwellings around the new Castle Hill Metro station.

2. The development identified by Mr Williams is a major site surrounding the Cherrybrook Metro station. My revised plan for the site provide for 2,600 homes, over one thousand commuter car parks, the construction of a new school, the preservation of almost all significant trees, and 76% of the site to be turned to open green space. All of the land is within a few minutes' walk of the new metro station and active open space.

I understand that this transport-oriented, master-planned development is precisely what the Government and public are seeking.

3. The principal reason for the rejection of my original planning proposal for the Cherrybrook site was that the NSW Department of Planning was yet to finalise a state led strategy which would provide for critical heights, densities and road patterns for the area.
4. The indicative densities of the Cherrybrook site were established in the Northwest Rail Link Corridor Strategy in 2013. That strategy was expanded on in the Cherrybrook Station Structure Plan.
5. The Cherrybrook Station Precinct Place Strategy was published in December 2022 by the NSW Government. I understand that the Hills Shire Council made a submission during the public exhibition of the strategy entirely consistent with the Council's own strategy for the area resolved by the previous Hills Shire Council.

Any rational assessment of the planning processes around the Cherrybrook site would conclude that the process was a State-led one and any position around the precinct by Council was made by the previous Council and in line with the recommendations of Council's officers (which in turn, were aligned with long-term state government strategies concerning the area).

Any residual discretion on the part of Council would be subject to Department of Planning review (that will be exercised in accordance with the strategy as a matter of law) and any subsequent DAs would be assessed by an independent panel in the first instance and liable to Land and Environment Court review.

Mr Williams raises some issue with my original proposal and that I had proposed for some buildings to be 20 storeys in height. This is, in my mind, the most significant issue in Mr Williams' allegations. I met with Mr Williams personally regarding the Cherrybrook site some years ago to seek his support for the proposal and he stated to me that he "did not care" about it as it was well outside of his electorate. His new found concern is perplexing. The majority of the original proposal was less than twelve stories in height. The additional height does not equate to additional density – and the additional height would permit the majority of the new housing to be delivered closest to the train station allowing more land to be set aside as a town square and public open space. This would have the distinct advantage of ensuring development took place well apart from the existing low-rise community. As the development would be constructed on the downslope – the effective visible height of the buildings would not overly intrude on the skyline. This type of thinking (opposition to height as a proxy for development) infects the planning system in NSW and results in endless suburbs of 5 storey-developments imposing over the back fences of 1 to 2 homes. In the end, the developer will be blamed for a bland Stalinist approach imposed on him by a planning system that bends every time to the hysterical bleating of people like Mr Williams. Meanwhile, the general public flock to be close to high-density developments which provide the commercial and general amenities they desire.

The present urban form of the Cherrybrook/West Pennant Hills area was designed around a mode of living that does not exist anymore. That is, a single-income household that principally uses cars to get around. What I am proposing preserves the fabric of the existing community but provides a nearby hub of commercial services (childcare, early-childhood learning, schooling options, shops) and improves the built form to allow easy pedestrian access to the metro station from the existing suburbs. Most of my recent projects are occupied by retirees (down sizers from the surrounding area), students – both international and local, and first-home buyers. Keeping those people within a community is incredibly important for the social make-up of an area and this can only be achieved by providing a variety of housing types within a suburb.

PWC has done a high level estimate of the Cherrybrook project. It is estimated to:

1. Generate \$467m in economic benefit in its first stage alone (that is, the construction of around 770 apartments),
2. generate 1670 full-time jobs during construction of stage 1, and
3. Save 161,195 hours in commuting time through the through-site connections saving commuters estimated \$49m per year.

The current project has required an investment of around \$350m and by the end of the project PWC estimates another \$797.7m will be required (that is, a total investment of \$1.148bn by myself).

The efforts and expense I have incurred in consolidating the area has opened the opportunity for the master-planning of the area. It is much easier to develop the land in a piece-meal fashion resulting in sub-par planning outcomes but more immediate profit.

I have not had any dealings with the new Hills Shire councillors. PremierState (a government relations firm) and Macroplan (planners) have dealt with the proposal since their engagement in 2020 alongside Grimshaws (an international award winning architectural firm) whose engagement extends further than that. That engagement has been focused on the relevant NSW Government entities (the Department of Planning, TfNSW, School Infrastructure) and the Hills Shire Council. I am unaware of any engagement by them with the elected officials on Council.

I understand that Mr David Elliott has been urging journalists for some time to report on some impropriety regarding the process and each time the journalists have refused Mr Elliott's solicitations. It is clear that these allegations have been designed to discredit the internal opponents of Mr Elliott by association with me with a view for Mr Elliott to retain his seat in Parliament. I sincerely question why Mr Elliott didn't apply this time and effort towards (a) obeying the law (b) being a better Minister (c) building support for himself within his electorate and the Liberal Party.

I deny paying any person to undertake any actions regarding pre-selections or any similar actions.

My knowledge of the Liberal Party of NSW is limited. However, it is ludicrous to suggest that any one person is able to influence the whole of that organisation.

Ultimately, it certainly has nothing to do with me. I have a high public profile and business in the area. This has invited political opportunist to use any connection with me (however slim or tangential) to achieve purely political ends. I believe the targeting of myself, my company, my friends, my family and associated charities by particular government agencies has resulted from political pressure and I will be seeking recourse in the Courts in that respect.

The committee as a whole are an educated group of people with an understanding of how the planning system and how political parties work. You are able to, without hearing from me, determine how outlandish the allegations being levelled are.

Kind regards,

Mr Jean Nassif

Director – Toplace