

The Chairman
The Hon. Scott Farlow, MLC
Select Committee On The Proposal To Develop Rosehill Racecourse
Legislative Council
Parliament of New South Wales

Dear Chairman

Re: **INQUIRY INTO THE PROPOSAL TO DEVELOP ROSEHILL RACECOURSE (“INQUIRY”)**

Please find below my answers to the supplementary questions sent to me by the Inquiry together with the questions I took on notice.

Of the fifteen supplementary questions asked, only two are within the Terms of Reference of the Inquiry. The balance of the questions are clearly outside the Terms of Reference. In addition, none of the questions I have taken on notice are within the Terms of Reference. Accordingly, I formally object to answering those questions and seek your ruling so as to exclude them entirely. However, with a view to assisting the Inquiry as much as possible, I have added commentary and answers to some of the questions, notwithstanding the fact that they are objectionable and objected to.

SUPPLEMENTARY QUESTIONS
Mr Garry Charny, Member, Racing NSW

- 1 Please provide a schedule of all written complaints made against Peter V’landys made to members of the Board of Racing NSW in the past five years.

This question is outside the scope of this Inquiry, is objectionable and is objected to. Nevertheless, in the interests of assisting this Inquiry, I note that my appointment to the board commenced December 2022. No written complaints about Mr V’landys have been brought to the Board in that time. Accordingly, I do not possess a schedule or any other record of any written complaints made against Mr V’landys made to Members of Racing NSW in the past five years.

- 2 Have you seen Mr V’landys employment contract with Racing NSW?

This question is outside the scope of this Inquiry, is objectionable and is objected to. Nevertheless, in the interests of assisting this Inquiry, I confirm that I have seen Mr V’landys employment contract with Racing NSW.

- 3 Is the CEO subject to a performance review each year?
- (a) If yes, when did the last performance review occur and who conducted it?
- (b) If no, why not?

This question is outside the scope of this Inquiry, is objectionable and is objected to. Nevertheless, in the interests of assisting this Inquiry, Mr V'landys is subject to a performance review each year and it is carried out by the Chair of the Audit Committee who then brings it up to the Board for discussion. The last performance review occurred in 2024.

- 4 When was the CEO's most recent employment contract signed with Racing NSW, and what is the duration of that contract?

This question is outside the scope of this Inquiry, is objectionable and objected to. Mr V'landys' contract is commercial in confidence. In these circumstances, if the question is to be pressed and the Chair rules it proper, as the contract is the property of Racing NSW and commercial in confidence, any inquiries in relation to the contract should be directed to Racing NSW (consistent with my evidence at the hearing on 9 August 2024).

- 5 Why has the Board of Racing NSW failed to introduce a Whistleblower Protection policy, especially given the stunning number of racing participants who fear retribution if they speak the truth about your CEO Peter V'landys?

This question is outside the scope of this Inquiry, is objectionable and objected to. Nevertheless, in the interests of assisting this Inquiry, I note that the question makes a number of assumptions which are incorrect and therefore make it impossible to answer. Racing NSW does, in fact, have a Whistleblower Protection policy.

- 6 Why has the Board allowed Mr V'landys to be its CEO part-time given his extensive commitments with rugby league?

This question is outside the scope of this Inquiry, is objectionable and objected to. Nevertheless, in the interests of assisting this Inquiry, I note that Mr V'landys has not been allowed to be the CEO "part-time". Mr V'landys is a conscientious full-time CEO. Moreover, my observation is that Mr V'landys undertakes (and is capable of undertaking) his role as CEO of Racing NSW diligently and effectively notwithstanding his role as Chairman of the NRL (a non-executive position). Further, to my observation, Mr V'landys always undertakes his role as CEO of Racing NSW in the best interests of that organisation.

- 7 What KPIs has the Board applied to its CEO in determining his salary and any contract extensions? What were the outcomes of this process?

This question is outside the scope of this Inquiry, is objectionable and is objected to. I refer to and repeat my answer to Question 4.

- 8 As part of this inquiry, your CEO came to the NSW Parliament and under oath accused me three times of being charged with domestic violence (absurdly untrue). Without evidence and without reading the confidential submissions to the Committee he said the people against him were “Cheats, liars, undesirables and cowards” and “wealthy breeders” waiting to send their horses to abattoirs. As a Racing NSW Board member and also a ‘wealthy breeder’ do you have confidence in the CEO after his low-grade, scragging, unprofessional performance at the Committee, with many people saying they can’t believe such a person runs two sporting codes in Australia? Why hasn’t Mr V’landys been stood down as CEO of Racing NSW pending investigation of the scores of serious allegations made against him by credible people in the racing industry?

This question is outside the scope of this Inquiry, is objectionable and objected to. The question posed is also replete with unsubstantiated assumptions and innuendo and is not capable of being answered in its current form. Having regard to the transcript of the evidence of Mr V’landys, it is also false to suggest Mr V’landys accused Mr Latham of being “charged with domestic violence” (vide T48, T53). As indicated during my evidence before the Inquiry, Mr V’landys is an effective CEO of Racing NSW.

- 9 Credible evidence has been received from multiple sources of your CEO of Racing NSW engaging in:
- abuse of regulatory power
 - repeatedly interfering in stewards’ inquiries and the work of the Integrity Unit
 - threatening to rub out licenced persons without due process
 - intimidation of staff and racing participants because they disagreed with him
 - blackmailing race clubs like Scone and Goulburn, so that they only receive Racing NSW funding in return for major concessions, such as freehold title
 - banning trade union membership among Racing NSW employees
 - presiding over a toxic workplace culture and atrocious working conditions, especially for stewards
 - wasting Racing NSW funds on legal action and numerous lawyer letters because of his own overly-sensitive and litigious nature in personal legal action financed by Racing NSW with his delegation of up to \$1 million
 - sexually inappropriate hiring and promotion employment practices at Racing NSW

- nepotism and favouritism in employment practices at Racing NSW to curry favour from his media allies
 - openly buying influence from politicians and media through the Directors' Room at Royal Randwick and other free hospitality and overseas trips
 - using his media acolytes, like Ben Fordham and James Willis, to hunt down and harass respected long serving racing participants who disagree with him on matters like the extension of Russell Balding's term
 - providing misleading, doctored information to Board meetings from Racing NSW department heads
 - lack of financial accountability and poor financial management practices
 - a control freak culture whereby an extraordinary number of decisions and expenditure authorisations need to be personally approved by Mr V'landys, without appropriate delegations through the organization.
- (a) Mr Charny, what have you done about these chronic problems as a Board member?

This question is outside the scope of this Inquiry, is objectionable and objected to. The question posed is also predicated on unsubstantiated allegations and is not capable of being answered. I am unaware of any evidence whatsoever, let alone any "credible" evidence, of any of the conduct alleged in the question.

- 10 How often have these matters been discussed by the Board given they are well known by current and past Racing NSW employees and senior people in the racing industry?

This question is outside the scope of this Inquiry, is objectionable and objected to. Again, the question posed is predicated on unsubstantiated allegations and is not capable of being answered. I am unaware of any evidence whatsoever, let alone any "credible" evidence, of any of the conduct alleged in the question.

- 11 Aren't Mr V'landys failings also the failings of each and every Board member because they have been too weak and scared to do anything about them?

This question is outside the scope of this Inquiry, is objectionable and objected to. I repeat my answers to question 9 and 10 above. Further, notwithstanding the inflammatory and offensive nature of the question, which in itself renders it objectionable, and answering only on my own behalf, as I cannot speak for other Members, the suggestion that I am weak or scared in relation to Mr V'landys or otherwise is as absurd as it is offensive and is rejected.

- 12 Why did you and the other Racing NSW Board directors sign an NDA on the sale of Rosehill last year if, as you told the Committee, "we actually didn't know what we

were signing an NDA about at that point in time”? Who recommended the signing to the Board and why was this recommendation accepted?

Mr Balding, the Chair of Racing NSW at the relevant time, recommended that the members of Racing NSW sign the NDA as it related to a matter of extreme sensitivity, urgency and vital importance to the racing industry. In those circumstances, I accepted Mr Balding’s recommendation in order to fulfil my role as a Member of Racing NSW. I cannot answer as to why other Members took the same course.

- 13 The power to ban people from race tracks is obviously critically important. Is that power exercised by the RNSW Board, if not how does it work?

This question is outside the scope of this Inquiry, is objectionable and is objected to. Nevertheless, in the interests of assisting this Inquiry, the power to ban people from race tracks is conferred on the Board of Racing NSW pursuant to section 14 (2) (b) of The Thoroughbred Racing Act 1996 and forms part of the proper delegation to the CEO of Racing NSW pursuant to the delegated authorities given to him. The process usually involves the CEO forming a Show Cause Sub-Committee with the power to conduct a Show Cause hearing and make a recommendation to the CEO.

- 14 What is the expectation of the Board and you as a Board member of the role, if any, the Racing NSW CEO should play in the conduct and determination of the outcomes of stewards’ inquiries?

This question is outside the scope of this Inquiry, is objectionable and is objected to. Nevertheless, in the interests of assisting this Inquiry, my expectation is that he would have no role in the determination of stewards’ inquiries. Nor does he. He may have some role in the conduct of Inquiries (i.e. how, why and when they are constituted) as that forms part of his role as CEO. As for the Board’s expectation, I cannot speak for the rest of the Members of the Board.

- 15 In your evidence, you stated that “there is a lot of contingencies in this debate, but the \$5 billion number is completely wrong. If you do a 30-year development with a developer over what I would call normal terms, taking some development risk, the value of this development is closer to \$20 billion to the ATC. That number has not come out and I don’t know why”. Could you provide further details with respect to that evidence, including the basis upon which you have formed your view; modelling or analysis of any projects of a similar nature that have informed your assessment; and your professional experience with development proposals of this scale?

I have formed the view based on the analysis done by an investment bank and valuers that have been retained to undertake that very exercise. I then overlaid my 40 years of experience in board positions on, inter alia, property companies, corporate advisory work and the law to form a view on the veracity of the work undertaken. As mentioned in my opening statement to this Inquiry, I am currently Chair of an ASX 200 property funds manager with circa 21 billion dollars of assets under management. Further, I have advised on commercial property transactions as part of my corporate advisory work for many decades. Whilst the scale of this transaction is substantial, the underlying fundamentals remain the same.

Garry Charny

19 September 2024