

Questions on Notice - Inquiry into Badgerys Creek Land Dealings and Property Decisions

| # | Question | Response |
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| 1 | CHAIR: Can you tell us about meetings with Graeme Richardson and tabulate these meetings? | See attachment Meetings were held on the following dates all matters including non Badgerys Creek matters: - 9 March 2009 - 15 June 2009 - 22 July 2009 - 2 September 2009 Refer to <i>Attachment 1</i> for further details and for file notes of these meetings. |
| 2 | Who prepared and who signed the letter on behalf of the Department of Planning sent to Medich Holdings on 29 March 2007 saying that the department was sympathetic to the request to pursue the development under part 3A? | This letter was prepared by Norma Shankie-Williams in her capacity as Director Regional Coordination and signed by the Director General dated 29 March 2007. |
| 3 | Notes from Director General on file in relation to a presentation by Norm Johnston to the then Minister on the overall 7,000 hectares of land the Department was seeking to investigate - approximately April 2008. | Notes on file show that a presentation was made to the Minister on 25 June 2008. Refer <i>Attachment 2</i> |
| 4 | How many meetings and who attended the meetings that you [Mr Haddad] had with Mr Sartor in relation to the site. | Five meetings were held to the best of recollection and records kept. Refer <i>Attachment 3</i> . |
| 5 | Mr Haddad, would you make available to the Committee the membership and the minutes of the Employment Lands Task Force and the membership and the minutes of the Land Release Advisory Committee? You can take that on notice. | Attached is a list of members of the Employment Lands Taskforce as well as minutes of meetings of the Taskforce (refer <i>Attachment 4</i>). Attached are details of attendees at the Land Release Advisory Committee. The Committee met three times. Minutes of the meetings were Cabinet-in-Confidence (refer <i>Attachment 5</i>). |
| 6 | Ms Sylvia Hale: Mr Haddad, who prepared and who signed off on the briefing note from the Department of Planning to the Minister in early 2007 stating that the proposal for the Badgerys Creek consortium site was "considered appropriate"? Mr FILE: It is going back a couple of years but I think—I will have to take that on notice and have a look at the briefing note itself, because there would be some evidence on it | This Briefing Note was prepared by Anna Johnston in her capacity as Planning Officer. This Briefing Note was endorsed by: - Peter Goth as Regional Director of the Sydney North West Team and - Gail Connolly as Executive Director Metropolitan Planning. This Briefing Note was never endorsed by the Director General. |
| 7 | Ms Sylvia Hale: Mr Haddad, will you go back and consult records and provide the Committee with any notes that you have on meetings at which members of the former Minister for Planning staff were present? | Refer <i>Attachments 3 and 6</i> . Based on Departmental records, Neil Ackland attended a number of meetings in relation to this matter. |

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| | <p>SH: Yes.</p> <p>Ms Sylvia Hale: While you are doing that would you also indicate if there was one person in particular who dealt with the site issues?</p> <p>SH: I will do that with pleasure.</p> | |
| 8 | <p>Mr File: there certainly were representations from the landowners in this area and from other areas sent to the Department over the years previously.</p> <p>Ms Sylvia Hale: So would you be able to provide the Committee with copies of that correspondence?</p> | <p>There were a number of other landowners within the broader WSELIA that made representations to the Department also seeking to have their land included for employment purposes (refer <i>Attachment 7</i>).</p> |
| 9 | <p>Mr Trevor Khan: At the meeting that occurred in your office with Mr Richardson there was at least two people present, including an officer of your department, is that right?</p> <p>Mr Haddad: Yes, the notes can be produced and they will be produced to the inquiry.</p> | <p>Refer <i>Attachment 8</i></p> |
| 10 | <p>The Hon. Greg Pearce: Mr Haddad, what advice or briefings have you or the department given to Mrs Keneally on the employment lands, particularly the three-stage process you outlined before?</p> <p>SH: The advice that we gave the Minister was the outcome of the studies that were done, where we briefed the Minister—</p> <p>When was that?</p> | <p>The Department provided briefings to the Minister's Office in October 2008 and between May and July 2009.</p> <p>The briefings outlined the outcomes of the studies undertaken for potential employment lands in Western Sydney, a potential development staging process and infrastructure requirements to support development.</p> <p>This information was used to prepare a Cabinet submission on the Western Sydney Employment Area.</p> |
| 11 | <p>SH: <i>Mr Johnston told me once that he had a discussion with Mr Richardson and I told him that it is not appropriate for him to discuss with Mr Richardson, Mr Richardson should make representations to the department through the normal process. That is what I told him, but he is a contractor to the department and he is providing broad advice. That is all I can say.</i></p> <p>The Hon. Greg Pearce: Mr Johnston took on notice to provide to us a complete listing of all those contacts that you had and your notes on them.</p> | <p>Refer <i>Attachment 9</i></p> <p>Contacts between Norm Johnston and Graham Richardson:</p> <ul style="list-style-type: none"> - 11 February 2008 – meeting - 14 August 2008 – telephone conversation - 20 August 2008 – telephone conversation - 25 August 2008 – telephone conversation - 30 August 2008 – telephone conversation - 8 October 2008 – did not respond to telephone message |

Additional Questions from Committee - Inquiry into Badgerys Creek Land Dealings and Property Decisions

| # | Question | Response |
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| 1 | What is the name of Norman's Johnston's consultancy company? | Johnston Enterprises (Aust) P/L |
| 2 | Has any other employee of this company been employed by the Department of Planning since 2005? | No. |
| 3 | Is Norman Johnston or his company currently retained/contracted or employed in a contracting or consulting capacity by the Department of Planning? | No. |
| 4 | When was Norman Johnston first retained by the Department of Planning? | January 2008. |
| 5 | How much has the Department paid Norman Johnston or his company in each of the following financial years? 2009/10, 2008/9, 2007/8, 2006/7, 2005/6? | - FY 2007/08 - \$ 258,637.50 - FY 2008/09 - \$ 374,788.15 - FY 2009/10 - \$ 34,556.34 These amounts were based on a per hour rate of \$285 plus GST. |
| 6 | What is or was Norman Johnston's role at the Department of Planning? | Essentially coordinating and project managing the WSELIA project on a contractual basis. |
| 7 | What was the process to engage Mr Johnston or his company? Was there a tender process? Who made the decision to employ Mr Johnston? | There was a short deadline for the WSELIA project. The Department made the decision to engage Mr Johnston, as the best qualified specialist available to meet the deadline. Advice was that a tender was not required under the procurement policy as the quantum for the initial phase of the project was not expected to exceed \$30,000. It was intended that an open tender would follow. |
| 8 | Has Norman Johnston ever declared any actual or potential conflicts of interest? If so what were the nature of these conflicts? | No conflicts declared. |
| 9 | Has Norman Johnston had meetings or telephone conversations with any other lobbyists, besides Mr Graham Richardson? | No |
| 10 | Prior to the Cabinet decision to approve Stages 1 and 2 of the Western Sydney Employment Lands, did the Department ever make a recommendation that Stage 3 be approved as well? If so, when were these recommendations made, and by who? | No recommendation that Stage 3 be approved was made. However, with respect to Stage 3, the Department only sought agreement to commence a regulatory process starting with the exhibition of a draft SEPP to facilitate land use zoning for WSELIA. The exhibition is an early step in the process of rezoning land. As Government did not endorse the exhibition of Stage 3, no further steps in the process were proceeded with. |
| 11 | In evidence to the Budget Estimates Inquiry on 16 Sept (transcript pp 30-31), Mr Haddad stated that he had instituted a Departmental code of conduct in relation to registered lobbyists. | |
| 11(a) | Could you provide further information on the code of | The Premier of NSW issued memorandum 2009-03 |

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| | <p>conduct, and the training undertaken by staff in relation to the code? b. In light of recent controversies about departmental interaction with registered lobbyists, has there been any review of the code of conduct and/or the staff training program related to the code? If so, what, if any, changes are proposed?</p> | <p>outlining the introduction of a Lobbyists Code of Conduct (refer <i>Attachment 10</i> and an associated register effective 1 February 2009. The NSW Department of Planning is required to comply with this Memorandum and Policy.</p> <p>Among other things, the Code provides that Government representatives must not permit lobbying by a professional lobbyist unless the lobbyist is listed on the Register of Lobbyists and has disclosed certain information in his or her initial contact with the Government representative. The Register of Lobbyists is a publicly available document and is available on the Department of Premier and Cabinet's website.</p> <p>On 17 June 2009, the Director General of the Department directed all staff to complete the Lobbyist Code of Conduct Training and noted that the Code of Conduct is intended to ensure that contact between professional lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.</p> <p>On 22 June and 25 September 2009, all staff were reminded to complete the online Lobbyist Code of Conduct training as soon as possible.</p> <p>In addition, on 29 June 2009 the Department issued a general staff communiqué highlighting various new planning and other matters. This communiqué also referred to the Director General's directive to complete the online Lobbyist Code of Conduct training.</p> |
| 12 | <p>Did you personally overturn the Planning Department's decision to rezone the Badgerys Creek Joint Venture Lands in 2008? If not, who did?</p> | <p>No. There was never a recommendation from the Department to rezone the Badgerys Creek Joint Venture lands.</p> |
| 13 | <p>During 2007 and 2008, was any recommendation presented by the Department of Planning to the Minister for Planning for the re-zoning of the Badgerys Creek Joint Venture Lands, and if so when?</p> | <p>No recommendation was put to the former Minister to rezone the Badgerys Creek Consortium lands independently of the WSELIA. A recommendation was put to the former Minister to commence a broader investigation into the WSELIA. This recommendation from the Department to commence investigations was endorsed.</p> |
| 14 | <p>At what time and what day was the Department of Planning Submission to the Badgerys Creek Parliamentary Inquiry put onto the Department of Planning's website?</p> | <p>The submission was accessible on the Department's website on 28 September 2009 at 5:50PM.</p> |
| 15 | <p>Prior to your work for the Department of Planning on</p> | <p>- Roy Medich – No.</p> |

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| | WSELIA, had you previously met Roy Medich, Ron Medich or Graham Richardson? If so, when did you first meet them, in what circumstances, and what is the nature of your relationship with them? | <ul style="list-style-type: none"> - Ron Medich – No. - Mr Richardson – I first met Graham Richardson in my capacity as General Manager of the State's Property Portfolio in about 2005. - No relationship with any party. |
| 16 | In your role with the Department of Planning, did you have any meetings or phone conversations with Sonia Lyneham or any other person from Planning Workshop Australia? What was the purpose of those meetings or conversations, and what was discussed? | Yes. All in relation to progress of WSELIA. |
| 17 | Since you have been employed by the Department of Planning, which Ministers have you met with, how many times, and for what purpose? | <ul style="list-style-type: none"> - Minister Sartor once. - Minister Keneally once - Minister Tripodi twice. - All presentations. |
| 18 | Have you or your company ever previously done work for Ron Medich, Roy Medich, or any of their associated companies? | No |
| 19 | Have you or your company worked for other property development businesses? If so, please provide details of property companies that have employed you in Australia in the past 3 years. | Yes but not in NSW and not related to any party mentioned in this Inquiry. |
| 20 | Have you had meetings or telephone conversations with any other lobbyists, besides Mr Graham Richardson? | See Question 9 of the Additional Questions. |
| 21 | Following Sam Haddad's conversation with you, in which Mr Haddad said that your meeting with Mr Richardson was 'inappropriate', did you have any further contact with Mr Richardson? Did you have any further contact with any other lobbyist? If so, who? | See Question 11 from the Questions on Notice. |
| 22 | In your phone conversation with Michael File regarding the proposed Part 3A declaration of the Badgery's creek site, did you support the Part 3A declaration? | My role was to support the delivery of 4,000 – 5,000 hectares of employment land. |
| 23 | Prior to the Cabinet decision to rezone Stages 1 and 2 of the Western Sydney Employment Lands, did you support or recommend the rezoning of Stage 3? | My role was to support the delivery of 4,000 – 5,000 hectares of employment land. |
| 24 | Has Mr Johnston ever been employed directly by the Department of Planning or by any other government agency? If so, what was the nature and duration of that employment? | <ul style="list-style-type: none"> - Yes by the Department of Planning as a contractor. - Yes for 11 years as Group General Manager, Department of Commerce. |
| 25 | Has Mr Johnston ever been employed by any company other than J E Australia Pty Limited? If so, what are the details? | No. |
| 26 | On how many occasions has J E Australia Pty Limited or its Principal, Norman Johnston, been contracted to perform work for the Department of Planning? | Two. |
| 27 | What were the dates and duration of each contract? What was the brief on each occasion? | <ul style="list-style-type: none"> - January 2008 - May 2009: WSELIA project planning - July 2009 - October 2009: Infrastructure financing and regulation. |

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| 28 | Has the company or Mr Johnston ever performed work for any other State Government entity? | Not as Johnston Enterprises (Aust) P/L. I was employed for 11 years by the Department of Commerce. |
| 29 | Has the company or Mr Johnston ever performed work for any of the Medich Group of companies? If so, when was that work performed and what did it entail? | See response to Question 4 of the Additional Questions. |
| 30 | Has the company or Mr Johnston ever performed work for the University of Sydney? If so, when was that work performed and what did it entail? | No. |
| 31 | What was the nature and scope of work performed by the company or Mr Johnston in relation to the Western Sydney Employment Lands? | Project Manager. |
| 32 | Did the company or Mr Johnston have any contact with Cox Richardson in relation to the Badgerys Creek Consortium proposals? If so, what were the details of those contacts? | None to his recollection. |
| 33 | What contact did the company or Mr Johnston have with Planning Workshop Australia in relation to the Badgerys Creek Consortium proposals? If so, what were the dates and details of those contacts? | Yes, Planning Workshop was a Badgerys Creek Consortium technical representative and project manager. Contacts with Planning Workshop: <ul style="list-style-type: none"> - 24 January 2008: meeting with Sonja Lyneham and Roy Medich. - 6 February 2008: telephone conversation between Norman Johnston and Sonja Lyneham. - 12 February 2008: telephone conversation between Norman Johnston and Sonja Lyneham. - 14 February 2008: email from Sonja Lyneham to Norman Johnston and Liz Gonzalez (Department of Planning). - 3 March 2008: meeting with Planning Workshop, Joe Langley (SKM), Terry Eastoe (SKM) and Norman Johnston. - 6 March 2008: meeting/phone conversation between Norman Johnston and Sonja Lyneham. - 6 March 2008: letter from Norman Johnston to Sonja Lyneham. - 14 March 2008: presentation by Medich/Sydney University to Department of Planning. - 28-29 March: telephone conversation between Norman Johnston and Sonja Lyneham. - 31 March 2008: telephone conversation between Norman Johnston and Sonja Lyneham. - 4 April 2008: email from Sonja Lyneham to Joe Langley (SKM) and Norman Johnston. - 21 April 2008: emails between Norman Johnston and Sonja Lyneham. - 22 April 2008: emails between Norman Johnston and Sonja Lyneham - 1 May 2008: email from Sonja Lyneham to Norman Johnston and Joe Langley (SKM). |

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| | | <ul style="list-style-type: none"> - 2 May 2008: email from Sonja Lyneham to Norman Johnston. - 6 May 2008: email from Norman Johnston to Sonja Lyneham and Joe Langley. - 6 May 2008: email Sonja Lyneham to Norman Johnston - 6 May 2008: email from Sonja Lyneham to Norman Johnston and Joe Langley - 17 June 2008: telephone conversation between Norman Johnston and Sonja Lyneham. - 29 September 2008: telephone conversation between Sonja Lyneham and Norman Johnston - 6 January 2009: telephone conversation. |
| 34 | Has Mr Johnston ever attended a fundraising event for any political party? If so, which party and when? | None to his recollection. |
| 35 | For how long has Mr File been employed by the Department of Planning? | A total of approximately 5 years. |
| 36 | What was Mr File's role before being appointed Director, Strategic Assessments? | Team Leader Strategic Assessments. |
| 37 | Has Mr File ever been employed by any other government agency? If so, what was the nature and duration of that employment? | No other NSW Government agency. Victorian local council – Approximately two years. |
| 38 | Has Mr File ever been employed by a private company or worked as a private consultant? If so, what are the details? | Yes. Halcrow Australia (2000-2001) |
| 39 | Has Mr File ever performed work for any of the Medich Group of companies? If so, when was that work performed and what did it entail? | No. |
| 40 | Has Mr File ever performed work for the University of Sydney? If so, when was that work performed and what did it entail? | Yes. While studying in 2002, he was employed as a research assistant for the Faculty of Architecture (AHURI Grant). This work involved investigating the effectiveness of local housing strategies. |
| 41 | What was the nature and scope of work performed by Mr File in relation to the Western Sydney Employment Lands? | Background research and statutory planning advice for the Department. |
| 42 | Has Mr File ever had any contact with Cox Richardson in relation to the Badgerys Creek Consortium proposals? If so, what were the details of those contacts? | No. |
| 43 | Has Mr File ever had any contact with Planning Workshop Australia in relation to the Badgerys Creek Consortium proposals? If so, what were the dates and details of those contacts? | To the best of his recollection he had one meeting with Planning Workshop. This meeting was held on 20 February 2007 to discuss the WSELIA. |
| 44 | On p.20 of the hearing transcript Mr File states, "I was not day-to-day involved in the studies and looking at the infrastructure constraints ...". What were the names and positions of persons who were involved on a day-to-day basis in examining the infrastructure constraints? | Norman Johnston (Project Manager). |

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| 45 | What were the details of the proposal from Australand that Mr File refers to on p.20? | To declare development by Australand on land known as the Aldington Precinct in the Penrith Local Government Area to be a project to which Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> applies and to authorise the proponent, Australand, to submit a concept plan for the project. The concept plan proposes development for a range of employment purposes and complementary uses servicing workers' needs in the Western Sydney Employment Lands Investigation Area (WSELIA). |
| 46 | When was that proposal under examination by the Department and when was it rejected? | The request to have the Aldington site listed as a State Significant Site was received by the Department on 11 February 2008. The Department considered this proposal and advised Australand on 9 February 2009 that it would be premature to progress development of the subject site in isolation from the wider area. |
| 47 | Why was the Australand proposal rejected? | It was decided to defer commencing processes for individual sites until such time as the strategic investigations for WSELIA were finalised. |
| 48 | Has Mr File ever attended a fundraising event for any political party? If so, which party and when? | No. |
| 49 | On p.21 of the transcript, Mr Haddad states that the proposal to have the former CSIRO land dealt with under Part 3A "started in exactly the same manner as anything. The only difference there is because it was a priority project to government". | |
| 49(a) | Why was it a priority project? | As detailed in the Department's submission to the Inquiry, the priority for Government was to release land for employment purposes in Western Sydney in light of the medium to long term needs. This area (within which the WSELIA is located) has been identified since 1988-89 as an appropriate area for employment generating purposes. |
| 49(b) | Who advocated that it should be given priority? | On 6 March, 2007, the Government released the "Employment Lands for Sydney Action Plan" which was one of the actions identified under the Metropolitan Strategy released in December 2005. The accompanying map identified an egg shaped investigation area which included the WSELIA. |
| 49(c) | Who decided to give it priority status? | NSW Government. |
| 49(d) | When was that decision made? | Employment Lands for Sydney Action Plan released March 2007. Government allocated funds to undertake detailed investigations in late 2007. |

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| 50 | On p22 of the transcript Mr Haddad says that Mr Johnston had told him that he had once had a discussion with Mr Richardson. | |
| 50(a) | When did Mr Johnston tell Mr Haddad about this discussion? | Subsequent to the meeting of 11 February 2008. |
| 50(b) | What did Mr Johnston tell Mr Haddad about the content of his discussion with Mr Richardson? | That he asked the status of the investigations. |
| 50(c) | Why did Mr Haddad consider it inappropriate for Mr Johnston to talk to Mr Richardson? | As he was a contractor with his main role to project manage. |
| 50(d) | Are there written protocols that govern contacts between lobbyists and consultants to the Department? | Yes, the NSW Government Lobbyist Code of Conduct. |
| 50(e) | If not, why not? | N/A (Refer to response 50(d)) |
| 50(f) | If so, will the department provide a copy to the committee? | Refer <i>Attachment 10</i> . |
| 50(g) | Was Mr Johnston given a copy of those protocols? | No. The NSW Lobbyist Code of Conduct was made effective in February 2009. |
| 51. | Does Mr Haddad believe that public confidence in the NSW planning system would be enhanced if proponents and opponents of development applications were not allowed to make donations to political parties or candidates while the relevant applications are being assessed by a council or state government body? | This is a Government policy matter. It is inappropriate for the Director General to comment on. |
| 52 | Did Minister Sartor instruct Mr Haddad to reject the Department recommendation to make the BCC site a state strategic site? | There was no such recommendation. The recommendation by Department staff related to WSELIA (see questions 12 and 13 of the Additional questions) was discussed with the former Minister for Planning. It was agreed to defer commencing processes for individual sites until such time as the strategic investigations for WSELIA were finalised. |
| 53 | If so, what reason or reasons did Mr. Sartor give for overturning the recommendation? Are his reasons stated in any document? | No recommendation from the Director General was overturned. The relevant Briefing Note and associated recommendation was not endorsed by the Director General. It was appropriate to focus on the strategic investigations at that point in time. |
| 54 | Is it the case that the Minister Sartor's policy (and previous to any recommendation to rezone the BCC land, the DoP's official policy) was to stage land releases in a tightly controlled way, outwards from the S-W Rail Link which was first announced in 2004 by Minister Craig Knowles and had been given the go-ahead on 6 March 2008? | I am not aware of any such policy. |

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| 55 | Is it the case that, in rejecting the recommendation to rezone the BCC land, Minister Sartor was reaffirming that policy, that is, that land releases should be oriented towards the S-W Rail Link as the key transport infrastructure for the first stage of the growth area? | No recommendation was made to rezone the Badgerys Creek Consortium lands. |
| 56 | Is it the case that the disciplined land release policy was the principal reason for opposing the BCC land rezoning? | No. Significant infrastructure and servicing issues were the principal reason why the Stage 3 lands of WSELIA were not released. |
| 57 | At what date did the Department become aware that the S-W Rail Link from Glenfield to Leppington would not be proceeding despite a go-ahead having been announced on 6 March 2008. | In November 2008, as part of the Mini Budget process. |
| 58 | Did the cancellation or deferment of the line to Edmondson Park and Leppington strengthen the case for rezoning the BCC land? | This was not a consideration as part of the WSELIA investigations. |
| 59 | Why did the cost estimate for the S-W Rail Link double between 2004 and 2008? (From \$688m to \$1.36bn). | This question should be directed to NSW Transport and Infrastructure. |