

SELECT COMMITTEE ON THE PLANNING PROCESS IN NEWCASTLE AND THE BROADER HUNTER REGION

Answers to Questions on Notice by Department of Planning and Environment

Question 1

Mr DAVID SHOEBRIDGE: I ask you again: Were you aware when he was sitting there briefing you as the secretary of the department that he owned properties at the centre of the project?

Ms McNALLY: I am not clear that I was aware at that first meeting. I have become aware since then.

Mr DAVID SHOEBRIDGE: Ms McNally, you keep saying that you are not clear. I am asking you for your recollection. Were you aware or were you not aware?

Ms McNALLY: I do not recall that I was aware at that time.

Mr DAVID SHOEBRIDGE: Does that mean you were not aware and you were not told?

Ms McNALLY: That would be correct.

Mr DAVID SHOEBRIDGE: It took a long time to get there. It would be easier if you simply answered the questions clearly and succinctly.

Ms McNALLY: I am trying to ensure that people understand that there was no formal process at that Hunter Development Corporation meeting that I attended. I do not know the specific date on which I became aware of Mr Hawes' interest. As far as I can recall, I do not believe I was aware at that meeting.

Mr DAVID SHOEBRIDGE: When did you become aware of Mr Hawes' interest, as you say?

Ms McNALLY: Some time in the last three months; probably before four or five weeks ago. I do not have a specific date in mind.

Mr DAVID SHOEBRIDGE: Can you provide the specific date on notice and the way in which you became aware of his conflict of interest?

Ms McNALLY: I can, yes.

ANSWER

In answer to these and subsequent questions I stated that to the best of my recollection I did not believe I was aware of Mr Hawes' interests when I attended my first meeting of the Hunter Development Corporation board as a member in September.

Subsequent to the Committee's hearing I undertook a record search and determined that I was advised of Mr Hawes' interest on 1 August 2014 when I was informed by an officer of the Department.

Given that no decisions were being made, the nature of the briefing, and the fact the Government had already announced its decision to truncate the rail line and invest in light rail in December 2012 and June 2013 respectively, Mr Hawes' interests were not material to discussions at the September board meeting.

Question 2

CHAIR: Do you have a time line for when physical construction will start on the light rail? When will it be operating for passengers?

Ms McNALLY: No, I do not have that information.

CHAIR: Just approximately—it is one year, five years, 10 years or 20 years away?

Ms McNALLY: I would have to check that with Transport for NSW.

CHAIR: Please take that question on notice.

Ms McNALLY: Yes.

ANSWER

This is a matter that would be more appropriately answered by Transport for NSW.

Question 3

The Hon. GREG PEARCE: Who actually approved the exhibition period? Who in the department approved the 14- and 16-day exhibition?

Mr O'BRIEN: It would have been signed off by the director general at the time.

The Hon. GREG PEARCE: It would have been the director general?

Mr O'BRIEN: Yes, I believe so.

The Hon. GREG PEARCE: Can you check that for us?

Mr O'BRIEN: I can take that on notice, yes.

ANSWER

The Director General endorsed the exhibition period on 1 March 2014.

Question 4

The Hon. LYNDA VOLTZ: How many of the submissions you received supported that height increase?

Mr O'BRIEN: I will have to take that question on notice. I doubt that there were any submissions that particularly focused on support of the height. Many submissions would have supported the development and the increase in vitality in the area, but then many submissions opposed the height.

ANSWER

Many factors are taken into consideration when making planning decisions. The potential impact of building heights on the amenity of an area is one such factor. Ten submissions were received supporting the increased height controls.

Question 5

Mr DAVID SHOEBRIDGE: Was the board of the Hunter Development Corporation informed of Mr Hawes' conflict of interest at the time that they engaged him?

Ms McNALLY: I would have to take that on notice.

Mr DAVID SHOEBRIDGE: Again could you take it on notice and provide the Committee with the papers that show if or how the board was advised?

Ms McNALLY: Yes, I will take that on notice.

ANSWER

This is a matter that would be more appropriately answered by the HDC Board.

Question 6

Mr DAVID SHOEBRIDGE: When Mr Hawes' interest in one of the properties—I think, according to the register, it is 1-9 Beresford Street, Newcastle West—increased from a 25 per cent interest in his declaration on 21 November 2011 to a 50 per cent interest in his declaration on 9 February 2013, will you please advise whether he notified the board of the increase in his ownership of the properties that creates the conflict?

Ms McNALLY: I would have to take that on notice.

ANSWER

This is a matter that would be more appropriately answered by the HDC Board.

Question 7

Mr DAVID SHOEBRIDGE: Are you aware if he did, other than through that declaration?

Ms McNALLY: I am aware that his form that he filled in at the time showed that there was an increase in his interest.

Mr DAVID SHOEBRIDGE: Are you aware of your department's policy on how it deals with conflict of interest and a code of conduct?

Ms McNALLY: Yes I am, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Are you aware that it suggests that the best way of resolving a conflict of interest is to remove the conflict of interest?

Ms McNALLY: It does highlight that as a strategy for dealing with that.

Mr DAVID SHOEBRIDGE: Why was that not insisted upon in relation to Mr Hawes?

Ms McNALLY: I have not got that information.

Mr DAVID SHOEBRIDGE: I am happy for you to provide it on notice.

ANSWER

There are a number of ways in which government agencies can manage perceived, potential or actual conflicts of interest. As I was not the Secretary of the Department of Planning and Environment at the time in question, I cannot comment specifically.

Question 8

Mr DAVID SHOEBRIDGE: What are you doing now to review the situation where you have the general manager of probably the most influential statutory corporation in the Hunter owning properties that put him with a very substantial conflict of interest right at the centre of the most controversial issue in the Hunter, which is the truncation of the railway line? What are you doing to manage that conflict of interest?

Ms McNALLY: I am aware that Mr Hawes' has those interests. I am ensuring that he is not party to any decision-making processes that relate to anything to do with the Hunter Development Corporation. I have raised the matters directly with him. I am also seeking advice on a whole range of activity.

Mr DAVID SHOEBRIDGE: Perhaps you will provide the Committee with a detailed answer on notice about what the advice is?

Ms McNALLY: I am happy to do that.

ANSWER

Since July 2014, the Department has set out a timeframe for mandatory training of staff on key governance policies, established an internal risk management committee and commenced an update of delegations to ensure alignment with the Department's new structure.

Question 9

Mr DAVID SHOEBRIDGE: Some questions were asked by the Hon. Greg Pearce about the 16-day exhibition period for the most recent change to the east end development. Mr O'Brien, what communication did you get from UrbanGrowth in relation to that exhibition period?

Mr O'BRIEN: The first exhibition period back in 2012 they made a formal submission. So from that day they had been preparing new proposals and new work and we had a meeting

with UrbanGrowth where they presented that work. Their consultants presented prior to exhibition.

Mr DAVID SHOEBRIDGE: When was that?

Mr O'BRIEN: Prior to exhibition.

Mr DAVID SHOEBRIDGE: When was that? You can provide the date on notice, if you like.

Mr O'BRIEN: I think it is our submission but I can take it on notice.

ANSWER

UrbanGrowth NSW made a submission dated 28 March 2012 to the public exhibition of the Newcastle Urban Renewal Strategy 2012.

The Department met with UrbanGrowth's appointed architects several times during 2013 to discuss preliminary concepts and design principles for the Newcastle East End site.

Question 10

CHAIR: Will you take that on notice when Mr Hawes became involved in a consultative or in the capacity of a contractor and what influence he had on those decisions?

Ms McNALLY: I am happy to take that on notice.

ANSWER

This is a matter that would more appropriately answered by the HDC Board.

Question 11

CHAIR: Earlier I asked about the comment in the Premier's letter about the \$220,000 cost per week if the line is not truncated on 26 December. Will you take that on notice and provide the Committee what you believe would be the composition of that \$220,000 per week or whether the figure has been plucked out of the air?

Ms McNALLY: I will take that on notice and see what I can do.

ANSWER

This is a matter that would be more appropriately answered by Transport for NSW.

Question 12

CHAIR: Anyhow, if you could provide any further information on notice as to why the heavy railway line is truncated before there is any acceptable alternative transport then that would be good.

Ms McNALLY: I am happy to take that question on notice.

ANSWER

This is a matter that would be more appropriately answered by Transport for NSW.

Question 13

The Hon. GREG PEARCE: In relation to the current rail corridor, is it possible for it to be used for purposes other than rail? If so, what is the process for that to occur?

Ms McNALLY: It is possible for it to be used for purposes other than rail. Really it would be a matter of putting forward an approval process, which would probably happen through the council, and then for that to be approved through a typical approval process.

The Hon. GREG PEARCE: Does it need rezoning?

Ms McNALLY: I would have to take that question on notice. It depends what the purpose is.

ANSWER

Yes.

Question 14

The Hon. LYNDA VOLTZ: I understand that the decision has been made by the Government. But surely the department of planning fulfils a fundamental role in that decision-making process—you provide the advice to the Government. What was your department's advice to the Government in regards to those issues?

Ms McNALLY: I would have to take that question on notice. The department of planning does not typically provide advice on those sorts of matters—we tend to basically, once a project is going ahead, do the assessment. We do the overall strategy. We did the urban renewal strategy. We do the State environmental planning policies. We take more of an assessment role on the individual initiatives.

ANSWER

The Department of Planning and Environment's role was to prepare to the Newcastle Urban Renewal Strategy 2012 and the amendments to the Newcastle Local Environmental Plan and Development Control Plan concerning the Newcastle City Centre. The Department undertook this work in accordance with the statutory requirements of the *Environmental Planning and Assessment Act 1979*.

Question 15

The Hon. LYNDA VOLTZ: In regards to the truncation of the rail line, one of the arguments put forward for the truncation of the rail line is that it will improve traffic flow—in particular on Stewart Avenue. Five per cent of traffic on Stewart Avenue is interrupted by the train line. How would that compare—and you will probably have to take this question on notice because it is not your area—with Marsh Street at Granville where the Carlingford line crosses Parramatta Road?

Ms McNALLY: I will have to take that question on notice. It is fairly technical.

ANSWER

This is a matter that would be more appropriately answered by Transport for NSW.

Question 16

Mr DAVID SHOEBRIDGE: Would you be surprised to know that in an internal handover sheet from Julie Rich of UrbanGrowth she had this to say as recently as February about her organisation's relationship with the Department of Planning and Environment on the east end project:

Agreement has been reached between UGNSW and GPT that the project be accelerated. The timeline to support the master plan DA is presently end March 2014. The latter is placed in jeopardy the longer the re-exhibition of required changes to the proposed LEP. We are not able/willing to submit a DA that is not conforming to the planning framework.

GPT are aware that the end February target may not be achieved due to delays with DPI. They are relying on UG's relationship with DPI to manage this risk on the project's behalf.

Does it trouble you that UrbanGrowth is saying it has a special relationship with your department to manage risk?

Ms McNALLY: I would have to take that on notice and look into that matter.

The Hon. LYNDA VOLTZ: Maybe we could provide that document.

Mr DAVID SHOEBRIDGE: I am happy to provide you with a copy of the document on notice.

Ms McNALLY: That would be good. I am happy to have a look at it.

ANSWER

The Department of Planning and Environment operates independently of UrbanGrowth NSW.

Question 17

Mr DAVID SHOEBRIDGE: Can you provide us with the documents that UrbanGrowth presented to you?

Ms McNALLY: All those documents were placed on public exhibition during the exhibition period.

ANSWER

The public exhibition in March 2014 included a report dated 13 February 2014 prepared by SJB Architects on behalf of UrbanGrowth NSW and GPT. A copy of the report is available at https://majorprojects.affinitylive.com/public/c8a4ac8b698cf10cece9bae4d6b24e16/04_The_GPTGroup_UrbanGrowthNSW_submission_to_amend_controls_Part%201.pdf and https://majorprojects.affinitylive.com/public/8d49d621e4fbe1ad3d0068b832e24b31/04_The_eGPTGroup_UrbanGrowthNSW_submission_to_amend_controls_Part%202.pdf

Question 18

Mr DAVID SHOEBRIDGE: Could you provide on notice any communication that UrbanGrowth had with your department about the exhibition period and whether or not it involved the DPI managing the risk, as suggested by Ms Rich?

Mr O'BRIEN: I can take that on notice. I do not recall any communication about the exhibition period. That was a decision made internally in the department.

ANSWER

UrbanGrowth NSW did not write to the Department concerning the length of the exhibition period.

Question 19

Mr DAVID SHOEBRIDGE: Could you provide us with the briefing document that the director general had?

Mr O'BRIEN: I have said before I will take it on notice.

ANSWER

The briefing note is provided at Attachment 1.

Question 20

Mr DAVID SHOEBRIDGE: Ms McNally, in 2012 there was a briefing note provided to the then Minister, Brad Hazzard, which attached a letter from Jeff McCloy. The briefing note was urging the Government to move with urban renewal and truncate the railway line because a series of landowners were supporting it. There is a covering letter that was signed off by Mr Hawes, who was one of the landowners. What do you make of that, given there was no identification of his conflict of interest in the communication he provided to your former Minister?

Ms McNALLY: Which letter?

Mr DAVID SHOEBRIDGE: It was a letter from Mr McCloy saying he had four properties that were waiting on the truncation of the railway line before he would invest further—he would not buy any new properties unless they got on with it. Mr Hawes sent a briefing note and a memorandum to your former Minister recommending the Minister respond in a positive way to the truncation of the railway line, yet Mr Hawes had not disclosed that he also had property.

Ms McNALLY: I would have to look into it.

Mr DAVID SHOEBRIDGE: I will provide the entire documentation to you and you can provide your answer on notice.

ANSWER

As I was not the Secretary of the Department of Planning and Environment at the time in question, I cannot comment specifically.

Question 21

CHAIR: To clarify the issue of light rail, could you take on notice the proposed time frame for the commencement and the completion of the light rail in Newcastle if you do not have the answer with you now?

Ms McNALLY: I will do so.

ANSWER

This is a matter that would be more appropriately answered by Transport for NSW.

Question 22

Ms McNALLY: I think there has been consultation in a number of ways over a long period. Different views have come out of the consultation. A survey was undertaken in 2009 and 67 per cent of people involved in the survey supported the termination of the railway line.

Mr DAVID SHOEBRIDGE: That is the very survey the Chair just asked you about.

CHAIR: It was based on a certain region of Newcastle and surveyed people who were not particularly worried about the railway line.

Ms McNALLY: I have information that the survey was undertaken and what the results were, but I do not have any information with me on the methodology. I would have to look at the methodology to form a view.

The Hon. GREG PEARCE: Evidence has been given that casts doubt on it. It has been tested. If you could take it on notice—

Mr DAVID SHOEBRIDGE: And review the methodology.

The Hon. LYNDA VOLTZ: Perhaps we could send the evidence that has been provided.

CHAIR: If you could take the actual method of that survey on notice. The Government appears to put a lot of weight on that survey.

Ms McNALLY: I am happy to take that on notice.

ANSWER

This is a matter that would be more appropriately answered by the HDC Board.

Question 23

The Hon. GREG PEARCE: You talked about 10,000 new jobs. What is the current employment number in the City of Newcastle?

Mr O'BRIEN: I will take that on notice. The long-term vision is to increase the CBD uses around Wickham and the west end.

ANSWER

The Newcastle Urban Renewal Strategy 2012 stated there are 22,000 employees in the Newcastle City Centre.

Question 24

The Hon. GREG PEARCE: Have you decided at this stage whether there will be a coordinator for the Newcastle region—he or she who will be the first port of call for concern?

Ms McNALLY: No, I have not decided that yet.

The Hon. GREG PEARCE: You might take that on notice.

Ms McNALLY: Yes, I will take that on notice.

ANSWER

Our regional team based in Newcastle's CBD will continue to work with the local community and respond to any enquiries they may have, and our NSW Information Centre team is also available to support any community queries or requests for information.