

Submission
No 1

INQUIRY INTO BADGERYS CREEK LAND DEALINGS AND PLANNING DECISIONS

Name: Name Suppressed

Date received: 23/09/2009

Partially Confidential

1. There should be no prevention of an appeal from a Part 3A decision.
2. An application made after a refusal under Part 3A should only be allowed to progress if it is materially different in terms of state significant features and an applicant should have to demonstrate that before putting a community under a repeat dose of strain and worry.
3. The Part 3A website stated that there is transparency in the 3A process (or at least until recently it said that). That is now quite clearly bunkum. Recent events have shown that developers are more likely to gain access to a high ranking public servant (eg Mr Sam Haddad). Yet until an event like the McGurk affair a resident of a community has no idea that the developer is working the angles (and being afforded the facility by the officials and the system generally to do that). The Minister defended Mr Haddad's right to hear lobbyists. But when there is no right of appeal and the official does not provide an opportunity to the other side there is obviously real bias in the system. There should be a requirement that every approach to an official is carefully recorded and a report of it is sent to the other side.
4. Lawyers are not allowed to approach judges without the opposing lawyer being there. That rule is strict. That is for a good reason. No sophisticated society can have a system of dispensing justice which does not allow both sides to be heard. The opponent needs to know what is put since the opponent should be given a chance to address on that point. If that chance is not given the audi alterem partem rule is breached.
5. The core problem with the current system is that it takes away from a structured Court process the decision making in relation to "State Significant" projects. It gives the power to the Minister. That is an unappellable power where demonstrably the practice is to give the developer every opportunity.
6. Decisions under Part 3A are issues of justice. The system to deal with such issues has been carefully built up. There is no justification in Part 3A. It has the appearance, at least, of being a charter for bribes. The developer benefits as he gets his consent. The Government raises money through strings attached sponsorship and retains power. But that comes at a real cost to the community.
7. The power to make decisions about "State significant" matters needs very careful thought but it certainly needs changing and it needs to be transparent and even handed.
8. It is 100% imperative that there is an appeal system. Why would the Minister properly fear that if decision making was totally earnest?
9. There should be a degree of finality as well as far as making more part 3A applications is concerned.

Regards