

**Submission
No 10**

INQUIRY INTO BADGERYS CREEK LAND DEALINGS AND PLANNING DECISIONS

Organisation: Penrith City Council
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Date received: 30/09/2009



PENRITH CITY COUNCIL

Serving Our Community

Our Ref: IMS No. 2076283
Contact: Mark Broderick
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29 September 2009

The Director
General Purpose Standing Committee No. 4
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Sir/Madam

Submission to Inquiry into Badgerys Creek Land Dealings & Planning Decisions

Thank you for the invitation to make a submission to the abovementioned Inquiry.

Our investigations indicate that Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd are the owners of Lot 101 DP 848215 (the site), land known as 1953 – 2109 Elizabeth Drive, Badgerys Creek. This land was formerly owned by the Commonwealth Scientific and Industrial Research Organisation (CSIRO), was purchased by Becklon Pty Ltd in early 1997, then by Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd in late 1998.

A summary of Council information is attached. The Council reports and planning strategies mentioned in the submission can be viewed on Council's web site www.penrithcity.nsw.gov.au. Copies of specific correspondence mentioned in the submission can be provided upon request. Please do not hesitate to contact Mark Broderick on 4732 7700 or by email on mbroderick@penrithcity.nsw.gov.au if you have any further questions.

Yours faithfully

Alan Stoneham
General Manager

Encl. Penrith City Council Submission to the Legislative Council's General Purpose Standing Committee No. 4 - Inquiry into Badgerys Creek Land Dealings & Planning Decisions



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CITY COUNCIL**
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submission to
Inquiry into Badgerys Creek
Land Dealings & Planning Decisions**



September 2009

1. Background

The NSW Legislative Council has asked the General Purpose Standing Committee No. 4 to inquire into and report on land dealings and planning decisions relating to land or interests in land held solely or jointly by Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd in or around Badgerys Creek.

The Committee has invited Penrith City Council to make a submission to the Inquiry.

A search of Council records indicates that Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd are the owners of Lot 101 DP 848215 (the site), land known as 1953 – 2109 Elizabeth Drive, Badgerys Creek. This land was formerly owned by the Commonwealth Scientific and Industrial Research Organisation (CSIRO), was purchased by Becklon Pty Ltd in early 1997, then by Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd in late 1998.

2. Summary of Council Information

- 2.1 The site comprises Lot 101 DP 848215, is known as 1953 – 2109 Elizabeth Drive, Badgerys Creek and has an area of 344.7 hectares.
- 2.2 Ownership of the site transferred from CSIRO to Becklon Pty Ltd in early 1997.
- 2.3 Ownership of the site transferred from Becklon Pty Ltd to Ron Medich Properties Pty Ltd and Roy Medich Properties Pty Ltd in late 1998.
- 2.4 The site and surrounding land is currently zoned Rural 1(a) under Local Environmental Plan (LEP) 201 gazetted 12 July 1991, which permits a dwelling house on each lot and rural land uses. Subdivision is limited to a minimum 40 hectare lot size. The land is affected by clause 31 (Airport Noise) of the LEP which limits certain land uses in response to the then proposed Badgerys Creek Airport.

- 2.5 In September 2003 Penrith Council adopted the '*Penrith Rural Lands Strategy*' which recommends that the land be designated 'Rural Conservation' with limited land uses and a 40 hectare minimum lot size.
- 2.6 In September 2005, Cox Richardson Architects & Planners made representations to Council, on behalf of the land owners, seeking rezoning of the land for employment purposes. On 7 December 2005, Council advised Cox Richardson that it could not support the requested rezoning for the following reasons:
- a. Council's *Rural Lands Strategy* adopted in September 2003, designated the site as Rural Conservation
 - b. It would be premature for Council to consider other uses on lands adjacent to the airport site until there is clear direction from the Federal Government as to the future of the airport site
 - c. Council's *Employment Lands Studies Stages 1 & 2* on the City's future need for employment lands indicated that additional employment lands will be required in the medium term. Whilst the extent and location for those lands are yet to be determined, it is likely that land proximate to the City's existing urban areas would be preferred.
- 2.7 In December 2005 the Department of Planning released the '*City of Cities - Metropolitan Strategy for Sydney*'. The Metropolitan Strategy Map (Figure 2, pages 10 and 11) shows land nominated as 'Badgerys Creek' which appears to extend north of Elizabeth Drive and is designated as 'Potential Employment Land for Investigation'.
- 2.8 In January 2006 the Department of Planning (DoP) advised Cox Richardson:

"The request to amend the South West growth centre boundary to include the subject lands was not supported by the Government.

The need to identify and protect well positioned employment lands to cater for long term economic growth in Sydney is of high importance for the NSW Government. Amongst other things, the recently released Metropolitan Strategy for Sydney identifies an area at Badgerys Creek as "Potential Employment Land for Investigation", which includes the land identified in

your correspondence. The investigations will occur through the planning framework established in the Metropolitan Strategy and will ensure that sufficient employment lands are delivered to serve the growth centres and the broader Sydney metropolitan area for the next 25-30 years."

- 2.9 Council's draft Employment Planning Discussion Paper (June 2006) indicated that the City has sufficient employment lands to meet employment needs for the next 10 –15 years. However, Council was mindful of the regional and metropolitan role the lands at Badgerys Creek could play in supporting the employment objectives of the Metropolitan Strategy. Council urged the preparation of a Regional Employment Strategy.

In July 2006 Council wrote to the Director General of the Department of Planning stating:

"Council has previously written to the Department concerning a rezoning proposal for the former CSIRO and University of Sydney lands at Badgerys Creek, which we understand to be within the area designated by the Metropolitan Strategy as future potential employment lands. Other landowners in the area are now making similar proposals. The Department's reply and advice on the timelines and process for examining the future potential employment lands at Badgerys Creek would be appreciated."

- 2.10 The DoP responded to Council's enquiries in October 2006 stating:

"Badgerys Creek is identified in the Metropolitan Strategy as employment land for investigation, as such there is significant potential in this area for the location of employment lands accessible from the Growth Centres. The Metropolitan Strategy concluded that there is a shortage of employment lands in metropolitan Sydney. Subsequently the NSW Government has established an Employment Lands Task Force, which has investigated potential locations for the release of green field employment areas."

The Department's letter did not comment on timeframes for the future investigations.

- 2.11 In March 2007 the State Government released the 'Employment Lands for Sydney Action Plan' which identified the Western Sydney Employment Lands Investigation Area (WSELIA) that extends across Penrith, Liverpool and Fairfield Local Government Areas (LGAs). The site appears to be within the Investigation Area.

- 2.12 On 26 March 2007 Penrith Council adopted an *'Employment Planning Strategy'* for the City. Three submissions sought employment zones for specific sites in the vicinity of Elizabeth Drive in the Badgerys Creek area, including lands adjacent to the SITA Waste Facility, and the former CSIRO/Sydney University lands.

The Strategy recommended that discussions continue with State Government *"to determine an appropriate long-term land use strategy for the area immediately to the north of Elizabeth Drive that interfaces with the South West Growth Centre"*.

- 2.13 In March 2008, the DoP wrote to Council advising of an application by the Badgerys Creek Consortium (BCC) to develop a 'Green Business Park' on the site and surrounding land. The application was made pursuant to Part 3A of the Environmental Planning and Assessment Act (EP&A Act). The DoP sought details of any key issues and assessment requirements to incorporate in the Director General's Requirements (DGRs).

Council responded by emails on 9 and 11 April 2008 stating, among other things:

"Council is of the view that the co-ordinated, orderly and economic delivery of these employment lands necessitates that the planning for the WSELIA inform, guide and direct the planning for specific developments within the precinct. In that regard, it is necessary to complete the WSELIA planning process, with delivery of the respective plans, strategies and contributions plans, prior to approval of a Concept Plan for specific proposals within the WSELIA."

Council's response also recommended issues / matters to be included in the DGRs.

- 2.14 On 28 October 2008, Council commenced the exhibition of draft Penrith Local Environmental Plan (LEP) 2008 (Stage 1), which included the City's rural lands. The formal exhibition closed on 30 January 2009. The draft Penrith LEP 2008 proposed a 'RU2 Rural Landscape' zone for the site. That zone is a rural zone that permits a limited range of rural related land uses including a dwelling house. The draft Penrith LEP 2008 also applied to

this land a minimum 40 hectare lot size, 'scenic and landscape values', and identified specific areas as flood prone.

- 2.15 In January 2009 Worley Parsons made a submission to Penrith Council in response to exhibition of the abovementioned draft Penrith LEP 2008. The submission was made on behalf of the Badgerys Creek Consortium (BCC) which included the owners of the site. It requested that the scenic and landscape values 'overlay' be removed from the draft LEP, and that this land be deferred from the draft LEP pending:
- a. exhibition of the WSELIA outcomes, and
 - b. declaration by the Minister for Planning of the BCC Concept Plan application as a Part 3A major project.
- 2.16 Council considered a report on the draft Penrith LEP 2008 at its meeting on 13 July 2009. The report (and accompanying Discussion Paper) recommended that, in regard to this land, no change be made to the draft LEP at this time.
- 2.17 A spokesperson for Mr Medich spoke against Council's recommendation, and submitted that the proposed RU2 zoning and the Scenic and Landscape Values controls should be deferred until the outcome of the State Government / Department of Planning studies and investigations of the WSELIA were completed, and a decision made by the State Government.
- 2.18 On 11 August 2009 Mr Robert Power (Worley Parsons) and representatives of the Badgerys Creek Consortium (including Mr Roy Medich) met Council officers regarding the proposed draft zoning for the site. The key issues raised in the meeting were the Consortium's requested deferral of the land from draft Penrith Local Environmental Plan 2008 (Stage 1) and the perceived restriction on future development imposed by the Landscape and Scenic Values map.

The Council officers undertook to re-confirm with the Department of Planning that the Department required inclusion of this land in the draft Penrith Local Environmental Plan 2008 (Stage 1), with zones and planning controls consistent with Council's adopted policy position (ie. the *Rural Lands Strategy*).

- 2.19 The Department of Planning advised by letter dated 25 August 2009 that Council should proceed with the exhibited zone for the land, being a Rural designation, until the State Government releases its proposals for the future employment lands (WSELIA). Council is progressing the draft Penrith LEP 2008 (Stage 1) in accordance with the Department's advice.