

**Submission
No 21**

**INQUIRY INTO GRANTING OF CONTRACT NUMBER
OoS17/18-021 BY THE OFFICE OF SPORT**

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Date Received: 2 September 2021

Written responses to this submission published by resolution of the committee 10 November 2021 are hyperlinked below:

- [Mr John Vallance](#)
- [Mr Peter Dingwall](#)
- [Mr Barrie Smith](#)

Submission to the
inquiry into the
awarding of contract
number Oos17/18-021
by the Office of Sport.

HANNAH BROOKS

STOP BULLYING IN EQUESTRIAN SPORTS

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EXECUTIVE SUMMARY

I ask the Public Works Committee to accept my submission for the inquiry into the awarding of contract number Oos17/18-021 by the Office of Sport.

I worked for many years as a volunteer for Equestrian NSW (ENSW), both as a member of the organising committee for the Sydney International Horse Trials and as part of the media teams for the Sydney CDI and the National Dressage Championships.

I founded the online support group Stop Bullying in Equestrian Sport (SBIES) in 2017 after being bullied at several ENSW events and finding the organisation offered no support for volunteers and members. SBIES supports the victims of bullying, harassment, and abuse in equestrian sport. We have grown to a community of over 7900 followers on Facebook and 2000 on Instagram and advocate for governance reform in the sport.

Due to my work with SBIES I was tipped-off to the irregularities with the awarding of the contract by Stuart Ayres for the upgrading of two arenas at the Sydney International Equestrian Centre (SIEC). I decided to investigate the matter further, and subsequently made an FOI request to the Office of Sport.

After examining the documents, it became clear there were serious issues with the tender process. Despite communicating these irregularities with the Office of the Minister for Sport (under both Minister Sidoti and Minister Lee), and Office of Sport CEO Karen Jones - none appropriately addressed my concerns.

The Office of Sport appears to be determined at a minimum to obfuscate and at worst to cover-up this botched tender.

Some key questions that remain unanswered include:

1. How was the awarding of the contract consistent with NSW procurement guidelines?
2. How does the Office of Sport respond to concerns raised by ICAC, including the possibility of corruption in the tendering process?
3. Why was a grant even necessary? Surely, upgrading the arenas would be a part of the maintenance of the site.
4. Why was ENSW allowed to drive the tender process by the Office of Sport?
5. Why were clear perceived conflicts of interest ignored?
6. Why was work not halted when the contaminated surface was identified?
7. Why were contractors and components not listed on the tender documents allowed to be used in the installation?
8. Why did the Office of Sport sign off a second-hand contaminated surface?
9. Why did ENSW continue to receive state government funding while they were being examined by ICAC?
10. What action was taken after the damning ICAC letter to the Office of Sport in December 2020?

12. Why did the Office of Sport withhold documents from my initial FOI request, which only became apparent due to Mr Latham's SO-52 request?

This is not an exhaustive set questions but are some for the committee to consider among the many more that also need to be asked.

For questions like these and no doubt the many others the committee will have to go unanswered will only leave the gate open for NSW taxpayer funds to be wasted on further dodgy deals, public administration malfeasance and more sports rorts.

This manifest contract tender failure serves as flashing red light as how not to conduct a tender given it is replete with potential corrupt dealings, favouritism between interested parties and family members that benefited from the tender, a corrupted assessment process, improper relationships between certain Office of Sport personnel and ESNW board members, and a ESNW board member who benefited from having a contaminated arena surface removed from their own private property at taxpayer expense.

I look forward to the committee hearings and its final report.

*Please note - I have highlighted in blue the specific clauses of the of the Terms of Reference under each subheading of my submission.

1. MISSING DOCUMENTS

(e) whether successive ministers for Sport and the Office of Sport failed to report the information in paragraph (d) above to the appropriate authorities for probity investigation, (i) any other related matters.

On receiving the first tranche of FOI documents on November 14, 2019, it became clear that the **Office of Sport were either withholding documents** from me, or documents relating to this contract had “gone missing”.

Correspondence one could reasonably expect to see from a government department, relating to a contract of this size were missing entirely. This included emails, site notes, reports, and meeting minutes.

It’s concerning that the Office of Sport were unable to provide any evidence of complaints made to them about the surface before the NSW grant submission, and the eventual awarding of the \$735,438 contract to Barrie Smith Motor Sport.

I worked for several elite dressage events at SIEC, including the Sydney CDI and the National Dressage Championships over the years 2013-2018, interviewing judges and senior officials in the years leading up to the granting of the contract and I cannot recall a single protest concerning the surface in the indoor arena.

I questioned Office of Sport CEO, Karen Jones several times about the missing documents. In letters to the Minister’s office dated 20 December 2019 & 24 February 2020, I tabled the issue of the missing documents, and identified the potential for a cover-up by the Office of Sport (see document 1, P12)

In failing to provide me with the relevant documents the Office of Sport prevented my ability to make an informed assessment of the tender process.

It wasn’t until Mr Latham’s SO 52 requests for papers was I able to gain access to some of these missing documents. Who knows if I have received all the relevant documents even now?

2. THE GRANT

(b) the role played by the board, CEO and members of Equestrian NSW (ENSW), Equestrian Australia and officials within the Office of Sport, in both the application for funding and the process for selection of the grant by the Office of Sport,

Karen Jones has been unable to give me an answer as to why it was the responsibility of NSW to secure funding for an upgrade to a state government run facility. It’s reasonable to

expect these upgrades would normally come from the maintenance budget for SIEC, and certainly would not involve the oversight of ENSW.

Once again, I cannot answer this question myself **due to missing documentation**. None of the relevant communication between ENSW and the Minister who awarded the contract, Stuart Ayres, and later the Office of Sport has been provided to me.

It remains unclear if Bruce Farrer contacted Mr Ayres regarding funding opportunities or the other way round? Or if the SEIC management contacted ENSW asking them to act on their behalf?

I was unable to find a published management plan for SIEC and was shocked to discover there is no independent board overseeing the future development of this valuable asset. This goes a long way to explaining why SIEC continues to be such an underutilised public asset.

It has never been explained why the resurfacing of the two arenas at SIEC was made a priority in terms of improvements to the venue. Having been a member of an organising committee running an annual event at the site I can recall our committee discussed several ideas for improving SIEC, including additional truck parking, the catering, on-site accommodation and making the venue was more media and spectator friendly - never once was the quality of the surface in the indoor arena mentioned.

Mr Farrar references the Olympic heritage of the SIEC venue multiple times in his grant proposal. It's interesting to note that the indoor arena wasn't used for the equestrian finals at the Sydney 2000 Olympics, these events were actually held in the Olympic Arena, now known as the main arena (see document 2, P12).

By comparison to the indoor arena, the main arena is much derided by event organisers, officials, and competitors for its significant drainage issues. Furthermore, the main arena is also used more frequently than the indoor arena by event organisers.

Which begs the question why was ENSW so insistent that the upgrades occur on the indoor and warm-up arena rather than the main arena. What was the motive behind that decision?

There appears to be almost no consultation between ENSW, SIEC management and the equestrian community as to which project would be the best use of tax-payer funds to help improve the SIEC facilities. I spent a considerable amount of time looking for either a ENSW or SIEC management, or Office of Sport press release or a social media post calling for expressions of interest or feedback on improving the venue. **The decision to apply for a grant to resurface the two arenas appears to have been at the sole discretion of Bruce Farrar ENSW CEO.**

3. ENSW CONTROL

(b) the role played by the board, CEO and members of Equestrian NSW (ENSW), Equestrian Australia and officials within the Office of Sport, in both the application for funding and the process for selection of the grant by the Office of Sport,

Another question I pose to the Public Works Committee is **why was ENSW put in charge of managing their own grant?** It is farcical to imagine the Office of Sport would give control to ENSW to set the tender specifications, then delegate the evaluation of the respective tenders, and the briefing of Office of Sport staff to an Advisory Panel hand-picked by ENSW, including Bruce Farrar.

The panel's insistence on the use of ebb and flow technology despite there being no clear benefit, the limited installation window, and the tight time frame all combined to heavily restrict the number of companies who could participate in the tender process.

The FOI documents reveal a distinct lack of fairness when evaluating the merits of each of the tenders. With the most, expensive, and least experienced tenderer being recommended unanimously by the panel.

Favourable and preferential treatment was definitely given to Barrie Smith Motor Sports. They were the only bidder who was given the opportunity **to host a site visit**, which was conducted on **the property of ENSW board member, Alex Townsend** (see document 3 (a), P13 & document 3 (b), P14)

It's concerning that a non-conforming tender that was able to be considered, one that was cheaper, could be installed in less time and required less maintenance was rejected outright (see document 8, P19-22)

If the advisory panel had not been stacked with ENSW appointees its questionable as to whether they would have selected a company with no capital works experience, whose previous expertise lay with selling motorsport equipment, as the preferred tender.

4. CONFLICTS OF INTEREST

[\(c\) the potential or otherwise for the existence of corrupt conduct and/or conflicts of interest within the Office of Sport, Barrie Smith Motor Sports P/L and ENSW, in the granting of the contract, with reference to the ICAC letter of 1 December 2020 to the Office of Sport,](#)

[g\) the granting of a peppercorn rent by the Office of Sport to Equestrian NSW for access to and usage of the SIEC site,](#)

When I made my FOI request, **I fully expected to discover the multiple conflicts of interests would have been declared by Bruce Farrar, who would have been aware of all these perceived conflicts of interests.**

Given the **directors of Barrie Smith Motorsports are related, by marriage to the then ENSW President, and his son and daughter-in-law were the sales agents for Otto Sport**, I had believed the organisation would have made the Office of Sport aware of this perceived conflict of interests to avoid any hint of impropriety.

There were multiple undeclared personal, professional, and commercial relationships between the winning tender, ENSW board members & officials, including Barrie Smith, Bruce Farrar (see document 4c, P16), Peter Dingwall, Alex Townsend, and John Vallance

and senior executives at the Office of Sport, including Matt Miller (see document 4b, P15) and Darren Crumpler (see document 4a, P15).

These bureaucrats and office holders were well known to each other. There was clear knowledge of these existing relationships between ENSW and the SIEC management team. ENSW plays a central role in the running of SIEC, The ENSW office and SIEC management have contact on a daily basis. ENSW sanctioned events provide the bulk of the revenue for the venue, fund the maintenance of the cross- country course, and ENSW are given preferential treatment when hiring facilities on the site.

Another example of the established relationship between ENSW and the Office of Sport is the matter of the peppercorn rent in which ENSW pays \$1 pa for the use of the white house at the SIEC site. In addition to this house, ENSW actually uses several storage sheds, and the show jumps and cross-country fences are also stored on the site.

As a reflection of thee interwoven deals, it is interesting to note that after the installation of the Otto Sport surface at SIEC, Otto Sport then went on to become the naming rights sponsor for the ENSW affiliated Sydney CDI dressage event. In addition to Wallaby Hill events for ENSW board member and Barrie Motorsport referee, Alex Townsend (see document 5, P16 & documents 6, P17). **It has never been clarified if ENSW played a role in brokering this sponsorship deal.**

5. CONTAMINATED SURFACE

(d) Office of Sport correspondence to Mr Barrie Smith showing that the original tender specifications were changed from 'importing new material and mixing onsite' at SIEC to 'relocating a surface from another site which had (already) failed' and these contaminated materials were taken from the Wallaby Hill (Robertson) property of Alex Townsend, a ENSW Board member,

For the members of this committee, I would like to clarify something - the SIEC management office is located directly beside the indoor arena (see document 2, P12). The management team at SIEC would have been in daily contact with the contractors and watched the installation of the new surface.

When it was discovered that Barrie Smith was installing a second-hand surface from Wallaby Hill, why wasn't work halted on the project by the SIEC staff?

The original parcel of FOI documents did not reveal the use of the Wallaby Hill surface. Another tip off from an SBIES supporter allowed us to investigate the matter further and supporting documents were later provided by the Office of Sport.

In a letter to Matt Brown at the Office of Sport dated May 18, 2020 (see documents 7, P18) **Barrie Smith himself admits he cannot 100% guarantee he can remove the pieces in attempting to repair the surface.**

Since this issue has been made public - the Office of Sport and the department appeared to have engaged in endless justifications of this contaminated surface and the type of escalated commitment that is only ever accompanied by a truly poor outcome.

Barrie Smith Motorsport was the most expensive of the three tenders received, \$161,189 more than one bid.

Why should the taxpayers of NSW pay top price for a new arena surface, only to be provided with a contaminated surface which was rejected by another customer?

6. TENDER GONE ROGUE

(d) Office of Sport correspondence to Mr Barrie Smith showing that the original tender specifications were changed from 'importing new material and mixing onsite' at SIEC to 'relocating a surface from another site which had (already) failed' and these contaminated materials were taken from the Wallaby Hill (Robertson) property of Alex Townsend, a NSW Board member,

The installation of the arenas at SIEC involved multiple sub-contractors and component providers not listed on the tender agreement with Barrie Smith Motorsports. This is required by NSW law. These unlisted sub-contractors included Wallaby Hill, PMH Building Co, JK Williams, & Excel Earthworks.

There is no way the Office of Sport staff the SIEC staff could have been unaware of this. With PMH Building Co being so bold as to tag in SIEC in their social media posts during the arena installation. (see document 9, P23)

This essentially makes the arena surfaces and the tender a non-compliant tender, and as such brings with it numerous insurance and liability concerns.

7. ADDITIONAL FUNDING

(i) any other related matters.

Why did NSW receive additional funding from the Office of Sport whilst their role in this botched tender process had been referred to ICAC by Karen Jones?

ENSW was awarded \$349, 000 from the Office of Sport under the Community Sport Recovery Program (see document 10, P23) at precisely the same time the arena grant proposal had been referred to ICAC.

ENSW promoted through their social media and annual report the fact they had secured over \$1m of funding in 2019 from the Office of Sport (see document 11, P24).

The grant for the SIEC arena upgrades was only for \$735, 438. When I questioned Karen Jones on what the additional \$264, 562 was for she promised to find out and get back to me with confirmation, she never has.

In his grant application, Bruce Farrar made revenue claims based on the upgrading of the arenas. He projected the upgrades would add an additional 4 international dressage events to the SIEC calendar each year, providing for an additional \$400, 000 pa in revenue (see document 12, P24). Were these targets reached?

With so many question marks over the integrity of ENSW it appears to be a major failure by the Office of Sport to be continuing to provide additional funding to the organisation.

8. ICAC FOLLOW-UP

(c) the potential or otherwise for the existence of corrupt conduct and/or conflicts of interest within the Office of Sport, Barrie Smith Motor Sports P/L and ENSW, in the granting of the contract, with reference to the ICAC letter of 1 December 2020 to the Office of Sport,

I never understood Minister Sidoti's and then Minister Lee's arm's length approach to the investigation of these serious matters. In allowing the Office of Sport to conduct their own investigations you are potentially allowing them to conduct their own cover-up.

The letter sent to CEO Karen Jones from ICAC is damning (see document 13, P25-26). One can only assume it was also sent to the Minister. The ICAC letter implies the Office of Sport did not allow them "viable lines of enquiry" into the matter. Did the Minister investigate this matter with the Office of Sport?

Did Karen Jones, any staff member of the Office of Sport, SIEC or ENSW take up ICAC's offer of training?

Did the Office of Sport or the Department report ENSW to ASIC given the concerns outlined in the ICAC letter?

CONCLUSION

Can I say a major debt of gratitude is owed to the Hon Mark Latham MLC who's dogged pursuit of this issue has resulted in this inquiry. It has also been pleasing to see the new Minister for Sport Natalie Ward take an interest in this matter that was lacking in her predecessors and for Mr Daniel Mookhey MLC to also take an interest.

This manifest failure of public administration and grant tendering while only in the amount of \$1m and hence considered by some to be small is not the point.

The key points are the total failure of the Office of Sport in:

- **The proper and transparent management of the tender process.**
- **Manifest undeclared conflicts of interest.**
- **The potential for corruption in the grants process, and this was identified by ICAC.**
- **The favoring of a tenderer with close family ties to board of NSW;**
- **The removal of a contaminated surface at taxpayers' expense from an NSW board members property Wallaby Hill owned by Alex Townsend to be the SIEC 'new' surface.**
- **The improper closeness of some Office of Sport personnel with NSW board members.**
- **The failure of the Office of Sport to release all documents as required under FOI laws which only became apparent due to Mr Latham's SO-52 request.**
- **The belief by some that they could 'get away with it' until this inquiry was announced**

As they say sunlight is the best disinfectant and hopefully this inquiry will hopefully ensure that light is shone on those bodies and individuals that have sought to defraud and abuse NSW taxpayers to the tune of \$1m through an abject and likely corrupted tendering process.

This inquiry will hopefully send a message that totally inappropriate and possibly corrupt behaviour will not be tolerated regardless of the amount of money involved and those engages in such behaviour will be held accountable.

My final ask of the committee is that this matter be referred to ICAC the NSW Police or both, for a full and thorough investigation.