

REPORT ON PROCEEDINGS BEFORE

PUBLIC WORKS COMMITTEE

**INQUIRY INTO THE GRANTING OF
CONTRACT NUMBER OOS17/18-021 BY THE OFFICE OF SPORT**

UNCORRECTED

At Macquarie Room, Parliament House, Sydney on Thursday, 17 March 2022

The Committee met at 9:20 am

PRESENT

The Hon. Daniel Mookhey (Chair)

The Hon. Lou Amato
The Hon. Mark Latham
The Hon. Shayne Mallard
The Hon. Tara Moriarty

The CHAIR: Welcome to the second public hearing of the inquiry into the granting of contract number OOS17/18-021 by the Office of Sport. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of the land on which Parliament sits. I would also like to pay respects to Elders past, present and emerging of the Eora nation and extend that respect to other Indigenous people who are present. Today we will be hearing from two individuals who provided expert advice during the tender process for the relevant contract. We will also hear from a representative of Capricorn (Australia) Pty Ltd—a company that submitted an unsuccessful tender for the relevant contract—and two individuals involved with Equestrian NSW. Finally, we will hear from the Hon. Geoff Lee, MP, the former Minister for Sport.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the virtual hearing. I therefore urge witnesses to be careful about comments you may be making to the media or to others after you complete your evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. Today's proceedings are being streamed live, and a transcript will be placed on the Committee's website once it is available. In regard to the audibility of the hearing today, we have witnesses appearing in person and via videoconference. I ask Committee members to clarify and clearly identify who questions are directed to. I ask everyone appearing remotely to please state their name when they begin to speak. Could everyone please mute their microphones when they are not speaking. Members and witnesses should avoid speaking over each other so that we can all be heard clearly. Also, to assist Hansard, I remind members and witnesses to speak directly into the microphone and avoid making comments when your head is turned away.

Ms ALEXANDRA TOWNSEND, Board Member, Equestrian NSW, affirmed and examined

The CHAIR: I welcome our first witness. Would you like to start by making a short opening statement?

ALEXANDRA TOWNSEND: I would just like to say good morning. I am here today, as you have summoned me, and happy to answer any questions you have.

The CHAIR: Thank you very much. With that, I will open up questioning. We have resolved, as a Committee, to share it amongst us all. I believe, Mr Latham, you will have the first and probably most of the questions. Over to you.

The Hon. MARK LATHAM: Thank you, Chair. Thank you, Ms Townsend, for your attendance today. Can we just clarify the time line by which the outdoor arena was constructed by Barrie Smith Motorsport and OTTO at your property? There has been a bit of confusion. In the tendered documents, Barrie Smith states that he was working at Wallaby Hill between May and September 2016, but it was a bit later than that, was it not?

ALEXANDRA TOWNSEND: I never had any commercial dealings with Barrie Smith over my arenas. My dealings with the arenas were with OTTO Sport International.

The Hon. MARK LATHAM: They are a German company, but Barrie Smith was their agent in Australia, was he not?

ALEXANDRA TOWNSEND: He may have been at the time, but I did not deal with him over my arenas.

The Hon. MARK LATHAM: Who did you deal with?

ALEXANDRA TOWNSEND: OTTO Sport International sent their engineer over, Gert Herrmann, and he oversaw the installing of my arenas with my subcontractors.

The Hon. MARK LATHAM: So how did you end up as the sole referee for Barrie Smith Motorsport for this contract with the Office of Sport—the work at SIEC—describing it as an excellent result, if you had not actually had any dealings with Barrie Smith?

ALEXANDRA TOWNSEND: I was a referee for the product—OTTO Sport's surfaces.

The Hon. MARK LATHAM: But you must have provided—what?—a verbal or a written reference for Barrie Smith that was included in his tendered document? His tendered document cites you as being the referee. It says here, on page 5 of that tendered document to the New South Wales Government, "Should Barrie Smith Motorsport be the successful tenderer, the exact same team of subcontractors will be used for the SIEC project that were used on the Wallaby Hill Farm project, providing certainty of an excellent result. The contact person at Wallaby Hill Farm is the owner, Alex Townsend." And he lists all your details and a photograph of the work in progress. What did you provide to the Office of Sport in your reference?

ALEXANDRA TOWNSEND: Nothing.

The Hon. MARK LATHAM: No-one ever contacted you and asked you—

ALEXANDRA TOWNSEND: No.

The Hon. MARK LATHAM: —"How is the work being undertaken at Wallaby Hill? Was it an excellent result?" Nothing?

ALEXANDRA TOWNSEND: No. I have never been contacted by the Office of Sport.

The CHAIR: Can I ask you, Ms Townsend, were you aware that Mr Smith had put you up as a reference?

ALEXANDRA TOWNSEND: I would imagine that he would, as we had an OTTO Sport arena in the country.

The CHAIR: Did he seek your permission before he did that?

ALEXANDRA TOWNSEND: I think I had already done a reference for OTTO Sport as a YouTube testimonial in any case in 2016.

The CHAIR: But you draw a distinction between OTTO Sport and Barrie Smith Motorsport?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: I am asking you about Barrie Smith, not OTTO. I understand that you may have verified the product but, in providing Mr Smith a reference as a contractor, did he seek your permission as a contractor?

ALEXANDRA TOWNSEND: I do not recall him asking to have a referee for him, Barrie Smith himself, but for the product, yes.

The CHAIR: So he asked you to endorse the product?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: Do you recall that?

ALEXANDRA TOWNSEND: Not specifically, but I would be happy to.

The CHAIR: Sorry, Ms Townsend, the question is do you recall him asking your permission to endorse the product?

ALEXANDRA TOWNSEND: I do not recall the exact moment and the time and the place but, yes, I have endorsed the product on many occasions.

The CHAIR: But did he tell you that he was intending to use your endorsement in his bid for this contract with the Office of Sport?

ALEXANDRA TOWNSEND: I do not recall exactly the details of what he asked, but he would have had my permission.

The Hon. MARK LATHAM: So you did have a conversation with Barrie Smith about becoming his referee?

ALEXANDRA TOWNSEND: I would have had a conversation about thinking the arena surfaces are fantastic, yes.

The Hon. MARK LATHAM: Other than being fantastic, did he ask you if it is okay to put you down as a referee for the Office of Sport tender?

ALEXANDRA TOWNSEND: He would have—I do not recall his exact words, but I was a referee for the OTTO Sport surfaces.

The Hon. MARK LATHAM: How did you know Barrie Smith?

ALEXANDRA TOWNSEND: It is a small world, the horse world. I knew him through that.

The Hon. MARK LATHAM: And you knew Stephen Dingwall, who was working for him, because he was the son of the president of Equestrian NSW, where you are on the board?

ALEXANDRA TOWNSEND: I knew Stephen Dingwall, who was working for himself as a showjumper at his business, Cavalier Performance Horses.

The Hon. MARK LATHAM: Just coming back to when the work was undertaken, what is your best recollection of when OTTO put this outdoor arena in?

ALEXANDRA TOWNSEND: It was in mid to late 2017.

The Hon. MARK LATHAM: So Barrie Smith saying the work was between May and September 2016 is not correct?

ALEXANDRA TOWNSEND: That would be the gallop track. You were talking about the arena surfaces.

The Hon. MARK LATHAM: Okay. So OTTO did a gallop track for you?

ALEXANDRA TOWNSEND: I bought the products from OTTO Sport Surfaces International and installed the gallop track, yes.

The Hon. MARK LATHAM: Right. In your submission to this inquiry, you have said that the indoor materials were placed for the outdoor arena, and that is why it had to be dug up and it was subsequently stockpiled on your property. At which point did you pay for the work that they had undertaken?

ALEXANDRA TOWNSEND: I am sorry, I do not understand your question. Who am I paying and which surface?

The Hon. MARK LATHAM: Well, OTTO. You have said in your submission, without giving a lot of detail that in general the outdoor arena was built with indoor-type materials, it was not suitable, it was dug up and

the materials were stockpiled on your property. I am just trying to get a handle on the process by which it had to be dug up because after they had built it, or even beforehand, in partial completion you must have paid some money to OTTO.

ALEXANDRA TOWNSEND: Yes.

The Hon. MARK LATHAM: What were those payment arrangements?

ALEXANDRA TOWNSEND: I paid them—I sent money overseas to OTTO Sport International on various dates. I think—do you want them all?

The Hon. MARK LATHAM: Well, no. By 30 August when they had finished the work, you had paid them for the work, is that right? At that point you took possession of the materials and the work that had been undertaken, yes?

ALEXANDRA TOWNSEND: No.

The Hon. MARK LATHAM: No? You paid them but you did not own what they had done for you? Is that what you are saying?

ALEXANDRA TOWNSEND: No, I had not completed payments.

The Hon. MARK LATHAM: Okay. Where were the payments up to by 30 August, when you had a Facebook post saying that the outdoor arena had been installed?

ALEXANDRA TOWNSEND: I still had to pay for the international supervisor costs, the installation of the shaft and some other costs still to go.

The Hon. MARK LATHAM: Were those payments ever undertaken?

ALEXANDRA TOWNSEND: Yes.

The Hon. MARK LATHAM: They were? So you paid in full, ultimately?

ALEXANDRA TOWNSEND: Ultimately, as far as I recall, I think I had paid for most of it by 20 October.

The Hon. MARK LATHAM: At what point was it determined that the materials were not suitable and they had to be dug up and stockpiled?

ALEXANDRA TOWNSEND: I do not remember the exact date, but I believe it was around the beginning of November.

The Hon. MARK LATHAM: Do you recall the pre-tender site visit by the Office of Sport officials David Porter and Kevin Flynn at Wallaby Hill on 1 September?

ALEXANDRA TOWNSEND: Yes, they came with the guys from Tamworth as well to have a look at the installation process.

The CHAIR: Who were the guys from Tamworth?

ALEXANDRA TOWNSEND: There is an equestrian facility up there called the Australian equine and livestock equestrian centre that were putting in a big arena, and they just wanted to come and have a look and see how the process went. So it seemed logical that they be allowed to come visit.

The CHAIR: Just forgive my ignorance here, Ms Townsend. Firstly, your arena, that is your privately owned facility. Is that correct?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: Do you let it out commercially or do you just use it for private use?

ALEXANDRA TOWNSEND: I let it out commercially. We are a registered equestrian centre.

The CHAIR: It is a business, is it not?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: Were you the first person to acquire this particular technology in the State? Is that the reason people were coming to see your site?

ALEXANDRA TOWNSEND: I do not know that we were the first people to acquire the technology, but OTTO Sport has a technology to it, which is the mats, that the other arenas or the other providers do not have.

The CHAIR: Right.

ALEXANDRA TOWNSEND: So I think people were coming to have a look at the EBB & FLOW system, which is the watering bit.

The CHAIR: Got it.

ALEXANDRA TOWNSEND: Then you have the mats in the OTTO version—in the other ones you do not have the mats—and then you have the surface on top. I think there was a picture of them, was there not, of them standing there in the arena, but I do not think the mats were down then.

The CHAIR: So the reason people were coming to visit your facility was that it was novel in that it had technology that was not otherwise available in the State?

ALEXANDRA TOWNSEND: I assume so, but you would have to ask them why they were coming to visit.

The CHAIR: Sure.

The Hon. MARK LATHAM: Were Porter and Flynn not there to check on the quality of the work in light of Barrie Smith tendering for the Office of Sport funding at SIEC?

ALEXANDRA TOWNSEND: I am sorry, Mr Latham, you would have to ask them.

The Hon. MARK LATHAM: But did you meet with them on that day, 1 September 2017?

ALEXANDRA TOWNSEND: I said hello to them as I would imagine anyone would greeting a visitor on their property. I know Dave Porter because I compete at SIEC, so I said hello to Dave and moved on.

The Hon. MARK LATHAM: So they did not ask you at any stage, as the owner of the property, how good this work was, the quality of the work?

ALEXANDRA TOWNSEND: The work was being carried out by my subcontractors. I do not recall the conversation, I am sorry, Mr Latham.

The Hon. MARK LATHAM: Okay. What did Porter and Flynn do on your property, other than saying hello to you?

ALEXANDRA TOWNSEND: I do not know. I am sorry. I had horses that I ride. I do not know, Mr Latham. You will have to ask them.

The Hon. MARK LATHAM: So I will have to ask them. Just coming back to the reference where you are listed for Barrie Smith Motorsport in their tender, was there a written reference that you wrote on his behalf?

ALEXANDRA TOWNSEND: I do not recall.

The Hon. MARK LATHAM: No?

ALEXANDRA TOWNSEND: I do not know.

The Hon. MARK LATHAM: You think maybe it is just the Facebook video that was posted?

ALEXANDRA TOWNSEND: I do not know, Mr Latham. I am sorry. You would have to ask him. I do not recall writing one. I would have been happy to write one for the surface. It is a very good surface. I do not recall.

The Hon. MARK LATHAM: You said in November the surface was dug up. At what point did you first say to OTTO, "This is the wrong material for an outdoor arena and you are going to have to give me my money back and dig it up and get rid of it"?

ALEXANDRA TOWNSEND: I did not.

The Hon. MARK LATHAM: You did not?

ALEXANDRA TOWNSEND: I did not say that to them.

The Hon. MARK LATHAM: No? What did you say? What is the process by which it was dug up in November? What was the decision-making that led to that?

ALEXANDRA TOWNSEND: Well, I live in Robertson and it has an unusually high rainfall, as we have just ascertained, and the outdoor arena did not appear to be draining in the way that it should. I called Gerd Hermann, the engineer, and said, "Is this how it is supposed to work?" and, as far as I recall, he came to the

property and tested the sand and said, "No, this is the wrong sand. It's got too much clay. We'll remove it and replace it."

The Hon. MARK LATHAM: What date did that happen on?

ALEXANDRA TOWNSEND: I cannot remember, but I would probably be able to look it up from the rainfall charts.

The Hon. MARK LATHAM: Right. At that point were you refunded your payments?

ALEXANDRA TOWNSEND: No. I was getting a replacement surface, Mr Latham.

The Hon. MARK LATHAM: Right. Who came in and did that work for you?

ALEXANDRA TOWNSEND: The same subcontractors that I had hired originally were then hired by OTTO Sport International Germany and were instructed to remove the surface and replace it.

The Hon. MARK LATHAM: The surface that was removed and stockpiled, how big was that stockpile and where did it sit on your property?

ALEXANDRA TOWNSEND: It is at the back of the property where it had been mixed, and it sat with other things that are stockpiled up there because it is a working farm and we have, I suppose as you would imagine, a stockpile of sand, dirt and bits and bobs. How big was it? I am not—I am sorry, I am not good at measuring things like that. I think it took about eight trucks to take it out.

The Hon. MARK LATHAM: Right. Was there a development consent with Wingecarribee council to do the arena work in the first instance?

ALEXANDRA TOWNSEND: For this arena?

The Hon. MARK LATHAM: Yes, for the work completed on 30 August.

ALEXANDRA TOWNSEND: It was a replacement surface for an existing arena.

The Hon. MARK LATHAM: Right. And then there was no development application you put in to remove it and stockpile it?

ALEXANDRA TOWNSEND: I am not aware that I required one.

The Hon. MARK LATHAM: Right. What is the process by which this stockpile at the back of the property, which I think probably under property law you are the owner of—you have paid for it; it is sitting on your property. What was the process and decision-making that led to it being removed to go to SIEC?

ALEXANDRA TOWNSEND: I do not know. You would have to ask OTTO Sport Germany. I was told that they would replace it and, therefore, that surface no longer was mine if I was getting a replacement one.

The Hon. MARK LATHAM: Ms Townsend, can I just remind you that you are under oath here at a parliamentary committee? Quite frankly, it is just not credible to say that something where you have been involved, paid for the material and own it, which is sitting on your property, you do not know the decision-making process by which it was removed by these eight trucks from your property and sent to SIEC for a funding project supported by Equestrian NSW, where you are on the board.

ALEXANDRA TOWNSEND: I am sorry that it is not credible to you, Mr Latham, but it is the truth.

The Hon. MARK LATHAM: So someone just was allowed to come into your property and remove it without your knowledge or permission?

ALEXANDRA TOWNSEND: Mr Latham, I had a big event coming up so I needed the new surface put down. So my concern was with the new surface, not the old.

The Hon. MARK LATHAM: That is not answering my question.

ALEXANDRA TOWNSEND: But you are—

The Hon. MARK LATHAM: I am just trying to clarify. Your evidence to this Committee is that you paid for this material stockpiled at the back of your property. Your property would have security gates and various things?

ALEXANDRA TOWNSEND: No.

The Hon. MARK LATHAM: You do not? Anyone can just come in and remove the dirt, and that is what happened?

ALEXANDRA TOWNSEND: Mr Latham, as I said, there were subcontractors that I knew.

The CHAIR: Ms Townsend, you keep using the term "subcontractors", but who was the actual principal contractor—OTTO Sport?

ALEXANDRA TOWNSEND: No. I bought the material from OTTO Sport, Germany.

The CHAIR: Okay.

ALEXANDRA TOWNSEND: And, when I did that, they are not going to send in earthworks trucks from Germany and plumbers and electricians and builders, but I knew plumbers, electricians and builders.

The CHAIR: So you organised—

ALEXANDRA TOWNSEND: So I organised that.

The CHAIR: When you use the term "subcontractors", you mean the people you hired—

ALEXANDRA TOWNSEND: Yes.

The CHAIR: —to install the surface you purchased from OTTO?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: And OTTO was not responsible for finding the installers?

ALEXANDRA TOWNSEND: No.

The CHAIR: They basically only sold you the surface?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: And then—

ALEXANDRA TOWNSEND: And then oversaw it with their engineer.

The CHAIR: And the reason that you called OTTO to remove the surface after the rain event was because you bought it from them. Is that correct?

ALEXANDRA TOWNSEND: I called OTTO because, as I understood it, it should drain better than it was.

The CHAIR: Yes.

ALEXANDRA TOWNSEND: So when it was not draining as well as I expected, I called their engineer who was overseeing my project and said to him, "Is this how it is supposed to drain?"

The CHAIR: And then they told you that they would remove it?

ALEXANDRA TOWNSEND: They would just remove the top section, so the sand and the fibre mix, and replace that.

The CHAIR: Did they take responsibility for organising the people who would physically come and remove it?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: At that point, it became their project management?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: And then they chose Barrie Smith, did they?

ALEXANDRA TOWNSEND: I do not know who they chose to remove it. I know the earthworks guy that they chose to remove it but I do not know how that then eventuated between them and Barrie Smith. I have no knowledge of that.

The CHAIR: To paraphrase, you took responsibility for the installation phase and they took responsibility for the replacement phase?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: Thanks. Sorry, Mr Latham.

The Hon. MARK LATHAM: Were you aware that the failed arena surface material from your property was to be used for the indoor arena at SIEC?

ALEXANDRA TOWNSEND: No.

The Hon. MARK LATHAM: Who would let the eight trucks in to remove the material? How do you gain entry to your property for such a project?

ALEXANDRA TOWNSEND: The earthworks guys know the property well and they would have driven up the public track and through the gate at the back of the property and put it on their truck.

The Hon. MARK LATHAM: Did they ever tell you that they were needing to do this and that this big stockpile of materials would soon be off your property at no cost to you?

ALEXANDRA TOWNSEND: It was not particularly being in comparison to the other stockpiles of stuff there and I think the earthworks guys were there doing some preparation for the event coming up, so I do not know the date that they removed it.

The Hon. MARK LATHAM: Did they ask your permission to remove it?

ALEXANDRA TOWNSEND: Well, I knew they were going to at some stage. It was not mine.

The Hon. MARK LATHAM: How did you know that?

ALEXANDRA TOWNSEND: Because when OTTO Sport's engineer said to me that they were going to replace the surface, or remove the surface and replace it with a new one, but the old surface they would like to stockpile it at the back of the property, they were going to remove it. I had hoped they would let me keep it.

The Hon. MARK LATHAM: Why did you want to keep it?

ALEXANDRA TOWNSEND: It would have been beneficial to use elsewhere.

The Hon. MARK LATHAM: So they came and took it and, as far as you are aware, it was your subcontractors who arranged for the trucks to remove it, not Barrie Smith Motorsport.

ALEXANDRA TOWNSEND: I do not know who arranged. I was not part of that arrangement. It was OTTO Sport—Germany's. They said to me, "We're taking it off. We're going to stockpile it. We'll get you a new one." After that, it was of no consequence to me as to who was taking it where and when. I did not inquire, I am sorry.

The Hon. MARK LATHAM: In this tight-knit equestrian community, where everyone knows everyone else's business, you have had no knowledge, really, of what has gone on with this stockpile and the fact that it was going to SIEC and it was an unsatisfactory outcome at SIEC?

ALEXANDRA TOWNSEND: I am sorry, I do not understand. I had no knowledge at all.

The Hon. MARK LATHAM: You said earlier on in evidence that it is a close-knit equestrian community where people know what is going on with other organisations.

ALEXANDRA TOWNSEND: Yes.

The Hon. MARK LATHAM: And people meet and talk about each other's activities, but your evidence today is that you do not really know that you were a referee for Barrie Smith Motorsport. You did not really know that Barrie Smith Motorsport was involved in winning the tender—

ALEXANDRA TOWNSEND: No. I knew that.

The Hon. MARK LATHAM: —at SIEC.

ALEXANDRA TOWNSEND: I did not say that.

The Hon. MARK LATHAM: Right.

ALEXANDRA TOWNSEND: I did not say that I did not know that Barrie Smith won the tender, did I? If I did, I am sorry.

The Hon. MARK LATHAM: Well, you said you did not really know if you were a referee—

ALEXANDRA TOWNSEND: No. I was a referee—

The Hon. MARK LATHAM: —or what before that was being a referee for this tender.

ALEXANDRA TOWNSEND: I was a referee for the product.

The Hon. MARK LATHAM: For the product. Okay, but not the tender itself.

ALEXANDRA TOWNSEND: I do not remember writing a written referee for the tender itself.

The Hon. MARK LATHAM: Products do not have referees unless it is for a tender purpose of winning Government money, so you do not really know what happened there and you do not really know what Dave Porter and Kevin Flynn were doing at your property on 1 September?

ALEXANDRA TOWNSEND: No. I assumed they were coming to—that is not what I said, Mr Latham. I said I assumed they were coming to have a look at the property but, forgive me—come and have a look at the project—I do not exactly know what they were doing there, no.

The Hon. MARK LATHAM: You said you did not have a conversation with them about the quality of the project. You said hello to them and kept walking.

ALEXANDRA TOWNSEND: I think I said, "Hello, isn't it great? Look at the technology." Something to—what you would say to be polite.

The Hon. MARK LATHAM: Okay.

ALEXANDRA TOWNSEND: And moved on.

The Hon. MARK LATHAM: So you said more than "Hello". You said, "Look at the project. How great is the technology."

ALEXANDRA TOWNSEND: Forgive me, Mr Latham; it was 2017. I do not know exactly what I said.

The CHAIR: Ms Townsend, how long were you a member of the board of Equestrian NSW?

ALEXANDRA TOWNSEND: I was a member—hang on, am I okay to check?

The CHAIR: Of course.

ALEXANDRA TOWNSEND: Thank you. I was a member from 2012 to 2019 and then I stepped down because you are not allowed to stay on the board for a continuous period longer than that. Then I was elected back on in 2020.

The CHAIR: You were familiar, as a board member, that Equestrian NSW was pursuing a replacement of the SIEC surface?

ALEXANDRA TOWNSEND: Yes. I remember there was a board meeting in—can I have a look?

The CHAIR: Yes, of course you can. Ms Townsend, you are entitled to consult your notes and your legal representative as well, if you wish.

ALEXANDRA TOWNSEND: Thank you. I think it was February 2017. I mean, SIEC has been in need of an upgrade for a while—it is a bit like all of us, really; don't age so well.

The CHAIR: Speak for yourself in that respect.

ALEXANDRA TOWNSEND: Sorry.

The CHAIR: Ms Townsend, you were aware at the time that Equestrian NSW was pursuing funding?

ALEXANDRA TOWNSEND: I was aware at the time that we put in a submission and I think from the notes of that meeting it was at that point that I made the board aware of the fact that I was pursuing putting in an OTTO Sport arena, and I believe that was noted and that if there were ever any issues arising from this submission process, that it would be deferred to our FARM committee.

The CHAIR: And you, presumably, were not on that committee?

ALEXANDRA TOWNSEND: No.

The CHAIR: To be fair, what I am interested in is: Did you think that perhaps providing a reference to one of the bidders for the surface may have conflicted with your duties as director?

ALEXANDRA TOWNSEND: I had—no.

The CHAIR: Why not?

ALEXANDRA TOWNSEND: Because I had let the board know that I was an OTTO Sport. I had no involvement in choosing the tender. I had no involvement in the tender process and, to be quite honest, we were the first people to have an OTTO Sport arena in the country.

The CHAIR: I appreciate you are saying that you were not involved in that, but do you appreciate that if a contractor turned up to bid on a project with the support of a board member that, from their perspective, they would have done that because they thought that that would be persuasive?

ALEXANDRA TOWNSEND: I can see that, if you would like to see it in that light, yes. But, equally, it was replacing a Capricorn surface, so then I could see how that would go down badly with that tenderer. I was just being honest. I had an OTTO Sport arena. It was good. I was not involved in the tender process, and I was not involved any further than that.

The Hon. MARK LATHAM: When did you first find out that your materials that had been stockpiled at the back of the property had ended up at SIEC?

ALEXANDRA TOWNSEND: I got a message on my answer phone from a SIEC employee. I do not know the date, but it would have been late 2017.

The Hon. MARK LATHAM: Was that Darren Crumpler?

ALEXANDRA TOWNSEND: No, it was Sue Hartog.

The Hon. MARK LATHAM: And at no time before that did you have any knowledge of where the materials were going once they left your property? Eight trucks came in and no-one ever asked or told you, "We are picking this material up to go to such and such a place"?

ALEXANDRA TOWNSEND: No.

The Hon. MARK LATHAM: What did Sue Hartog say on the voice message?

ALEXANDRA TOWNSEND: I believe she said, "Hi, Alex, it's Sue Hartog. Can you ring me back? It's about your arena surface at SIEC," and then she thought she had hung up and she turned around to Dave Porter and said, "You know what, Dave? I think that Alex Townsend's dodgy." I could not hear Dave's response. The message continued with, "You know what I'm going to do at three o'clock, Dave? I'm going to go have a kip in cabin No. 3." I did not bother to listen to any more of the message, I am afraid.

The Hon. MARK LATHAM: Why would she say that you are dodgy?

ALEXANDRA TOWNSEND: I assume it is the same reason she thought it was okay to go and have a kip on work time. I cannot answer for her.

The CHAIR: Ms Townsend, forgive me, who is Sue Hartog?

ALEXANDRA TOWNSEND: She was an employee of SIEC at the time.

The Hon. MARK LATHAM: What conversations did you have with Bruce Farrar about the fact that your materials had gone to SIEC and all these plastic pieces had contaminated that facility and it is still a problem today? When would you have first discussed that with Bruce Farrar, your CEO at Equestrian?

ALEXANDRA TOWNSEND: There are just several things on that. The contaminants you talk about, I believe, are the rubber nodules that you are referring to.

The Hon. MARK LATHAM: Yes.

ALEXANDRA TOWNSEND: I have some here, if you would like to see them.

The CHAIR: Actually, I would.

ALEXANDRA TOWNSEND: In that case, can I show you?

The CHAIR: Yes. Perhaps your assistants can get it while we continue to ask questions.

ALEXANDRA TOWNSEND: Sorry, it is a little bit arts and craft, but I thought it would be a good way to show you.

The CHAIR: I think you are the first witness who has ever arrived with a diorama, that I can recall.

ALEXANDRA TOWNSEND: Sorry, I realise it is really high school. It is held together with sellotape, sorry.

The CHAIR: Can we tender the diorama?

ALEXANDRA TOWNSEND: It is slightly falling apart, sorry. I might have to pay the cleaning bill. Is this okay? Are you happy?

The CHAIR: In short, yes.

ALEXANDRA TOWNSEND: Essentially, this whole section here is what you would call the watering system, the EBB & FLOW system. There are pipes that go through the arena—sorry, imagine a plastic layer at the bottom. Pipes go through, these ag pipes, and then it sits in a base of river sand, right? And then, basically, the idea is that you water the arena from the bottom up. That way everybody has a consistent watering surface, as opposed to the old method, which was that you would water from the top and you would start the day competing in a bog and the last person would be competing in a dustbowl. So this is far more efficient technology.

Then you have, in OTTO Sport's case, this division layer, which is the rubber mat. That is the layer that none of the other tenderers have, which is why if you look at—I believe with the other tenderers, as I have subsequently looked, you will see that their tender is less expensive because they do not have the rubber mat component. But if you actually take the rubber mat component out of OTTO Sport's tender, I think it still came in cheaper. I do not remember, sorry.

Then you have the rubber mat. The rubber mat acts as a stabilising influence and it helps it drain and it is also anti-concussive, and then you have the sand fibre mix on top. When it was pulled up by the bobcats and taken up, you can only do that on an OTTO Sport arena. When it was taken up, if I show you a bare mat, you will be able to see that it has got the rubber nodules here. These rubber nodules are slightly uneven and effectively—sorry, I am making a mess. These are the rubber nodules here and this is what they were talking about when they talk about it being contaminated. But if you compare them to existing surfaces, which are rubber flakes and aggregate, you can see they are really not that different and are in no way harmful to a horse.

The CHAIR: But the issue of course is that that is not what you were contracted to buy. Do you accept that?

ALEXANDRA TOWNSEND: Yes, I accept that. What is interesting, too, is I was listening to the transcript and I believe that the rubber nodules were initially, once discovered, taken out. But then in 2019 they reappeared. My question is what happened to them in between? I think it is because the SIEC people graded too deep and knocked up their own rubber nodules. That is the only way that they would be there.

The CHAIR: The evidence that we got was that the contamination took place while it was stockpiled on your property, and that is because of the manner in which it was removed from your property. That is what led to the contamination. Of course, this is material that was not meant to be sourced from your property. Did you play any role in supervising its removal whatsoever?

ALEXANDRA TOWNSEND: No. I obviously let the earthworks guys on, but I was not involved.

The Hon. MARK LATHAM: Back to that point of when you first discussed with Bruce Farrar that the materials were being removed from your property and ended up at SIEC.

ALEXANDRA TOWNSEND: I do not recall the first time I would have discussed it, but I would imagine it would have been—there was a jumping competition at SIEC or something that it had to be ready for. I probably would have been at that and seen Bruce at that.

The Hon. MARK LATHAM: And Barrie Smith? Given the fact that your materials have ended up at SIEC and Barrie Smith was under the pump for completing the tender properly, when did you have a discussion with him or Stephen Dingwall about the nature of the problem?

ALEXANDRA TOWNSEND: I know for a fact I did not talk to Stephen Dingwall about the problem, and I do not recall when I would have talked to Barrie Smith. But I would have seen Barrie at the jumping competition, I would imagine. I have to confess, I do not remember those dates clearly, Mr Latham.

The Hon. MARK LATHAM: At any time, given the nature of the problem that was generated at SIEC, did you ring the Office of Sport and say, "Look, I was used as a referee for this. It's ended up as quite the disaster and I'm sorry that my name was used and obviously the workmanship was lousy"?

ALEXANDRA TOWNSEND: Mr Latham, the arena—apart from rubber contaminants, which I believe were removed—is excellent. It is a world-class surface. I have jumped on it. So I would not have rung the Office of Sport to say that. If I had rung the Office of Sport I would have said, "Thank you," and, "Please, could we resurface more of the arenas?" But I did not.

The Hon. MARK LATHAM: I am talking about the fact that they put the wrong materials into your Wallaby Hill property and it had to be dug up and stockpiled and replaced. Wouldn't that indicate that these people did not know what they were doing and you needed to tell the Office of Sport that?

ALEXANDRA TOWNSEND: No, Mr Latham. This is from my indoor arena, which is exactly the same one that is at SIEC, and it is excellent. I have had many competitions on it, with many compliments about the surface. It is an excellent surface.

The Hon. MARK LATHAM: But you were not unhappy that they put the wrong materials in for your arena and they had to be dug up and stockpiled?

ALEXANDRA TOWNSEND: I had the same material in my indoor arena. That was excellent. As for the outdoor arena, they replaced the sand and surface mix.

The Hon. MARK LATHAM: You were not unhappy or distressed about that, that they put the wrong materials in and your whole arena had to be dug up and a big stockpile appears at the back of your property? You are paying for this. Wouldn't you be unhappy about the low quality of work?

ALEXANDRA TOWNSEND: It was the sand supplier that supplied a different sand, unbeknownst to both OTTO Sport and myself.

The CHAIR: Can I ask, then, did OTTO pay for the replacement?

ALEXANDRA TOWNSEND: Yes, because their fibre would have been mixed into it and they wanted the project to be a success.

The CHAIR: So OTTO accepted financial liability for the mistake that your sand contractor made. Is that correct?

ALEXANDRA TOWNSEND: Yes, because OTTO sampled the sand when it was sent to them. I do not know why they decided—I can only speculate as to why they took financial responsibility for the sand component, but by then the sand and the fibre had been mixed and, as you can see, you cannot pull them apart.

The CHAIR: So from your perspective, given you were not paying for it, you were happy for them to replace it for you?

ALEXANDRA TOWNSEND: Yes.

The CHAIR: How long, on your property, was the point of installation to the replacement? What was the time period?

ALEXANDRA TOWNSEND: It was short. It was about three weeks, I think. I had an event at the end of November, beginning of December. Sorry, Mr Latham, I know you find it incredulous that I would not know, but having an event at our place is quite stressful; it is like having 200 horses descend on your home. It is quite stressful with international officials. So that was where my focus was—making sure the arena was ready for that.

The CHAIR: And that would have encouraged you to encourage OTTO to do it fast?

ALEXANDRA TOWNSEND: They knew that it had to be done by that day.

The CHAIR: Fair enough. But, equally, from the perspective of your board membership, putting aside your property, you were aware that the equestrian centre was also hosting a major competition at some point in early 2018, I think it was, we heard.

ALEXANDRA TOWNSEND: Yes.

The CHAIR: And you understood that that was creating pressure on SIEC or Equestrian NSW to deliver the new surface at SIEC.

ALEXANDRA TOWNSEND: Equestrian NSW had—

The CHAIR: The Office of Sport, sorry, yes.

ALEXANDRA TOWNSEND: I was not across their tender process or their time lines.

The CHAIR: Sure, but you were aware that Equestrian NSW was doing the tender process on behalf of the Office of Sport.

ALEXANDRA TOWNSEND: I do not believe the board of Equestrian NSW were doing that, no.

The CHAIR: Okay. But the evidence of Mr Smith was that he was under time pressures to deliver on his contractual commitments. You are aware of that.

ALEXANDRA TOWNSEND: I am now, yes.

The CHAIR: And I think the evidence was that he thought he could grab the material from your arena in order to facilitate his contractual obligations to the Office of Sport. That was the evidence he gave us.

ALEXANDRA TOWNSEND: Yes.

The CHAIR: Did he have any conversations with you at all about this?

The CHAIR: No. You are looking at me as if—when you paint it like that, but it was not like that. The OTTO Sport engineer said, "This is the wrong sand. We need to fix this. We will take it away and replace it."

The CHAIR: Ms Townsend, what I am trying to understand here is that you have responsibilities, of course, as a board member of Equestrian NSW and, of course, Equestrian NSW had an interest in making sure the SIEC surface was available for the event. Do you agree with that?

ALEXANDRA TOWNSEND: No. As I understand, the relationship was between the Office of Sport and Barrie Smith—nothing to do with Equestrian NSW.

The CHAIR: In a legal sense that is right, but you understand, of course, as a user of the SIEC surface, or the principal user of the SIEC surface, that Equestrian NSW of course wanted the facility built on time.

ALEXANDRA TOWNSEND: Well, everybody did, did they not?

The CHAIR: Yes, and, of course, I imagine that Equestrian NSW would have felt some alarm if it was not being delivered on time?

ALEXANDRA TOWNSEND: I think we would have been disappointed, but it was not our responsibility.

The CHAIR: Was the board getting updates about the progress of the SIEC project?

ALEXANDRA TOWNSEND: No.

The CHAIR: Okay. Sorry, Mr Latham.

The Hon. MARK LATHAM: Were you aware of how extensively Mr Farrar was involved in soliciting the grant, not declaring an interest, given the benefit for Stephen Dingwall tipping off Barrie Smith Motorsport about the likely cost of the project and how Barrie Smith Motorsport was chosen even though they had the most expensive tender and were ranked only second on the tender evaluation score and they admitted they had no experience with New South Wales Government work, they had only done one surface, and that was your one, which had to be dug up? Were you aware that all of this was happening with your CEO, Mr Farrar, at Equestrian NSW?

ALEXANDRA TOWNSEND: Sorry, there are lots of facets to that question.

The Hon. MARK LATHAM: Did you know that Mr Farrar had this extensive, what I have just read out, involvement with the tender? He was on the technical advisory committee.

ALEXANDRA TOWNSEND: As far as I know, I do not think all that is accurate. I knew that Mr Farrar was on the advisory committee. I assumed it was because he had a strong engineering background and that had we had another CEO who did not have that background they would not have been asked. As for Stephen Dingwall's relationship, I have no idea about that. As for OTTO Sport having the most expensive tender, I think I explained, because they are the only ones with the mats. That is my awareness.

The Hon. MARK LATHAM: You must know that Stephen Dingwall is the son of the then president Peter Dingwall.

ALEXANDRA TOWNSEND: Yes, I know that.

The Hon. MARK LATHAM: You know that. So you knew that he had that relationship which was not declared by Mr Farrar in his involvement with the tender. Again, you are saying that you were mostly in the dark as to what was going on in the organisation and awarding of the tender?

ALEXANDRA TOWNSEND: Yes.

The Hon. MARK LATHAM: Alright. And at what point did you have a conversation with Barrie Smith to say, "Barrie, you had a contract there to provide the pristine sand and other materials at SIEC. Why did you ever come down to my property to get this stuff that turned out to be full of grommets?"

ALEXANDRA TOWNSEND: No, that was not my responsibility. His contract was with the Office of Sport.

The Hon. MARK LATHAM: So you never had that conversation with Barrie Smith to say, "Why did it turn out this way?" Did you ever find out who gave Barrie Smith an order or permission to go to your property to grab the contaminated material to take to SIEC?

ALEXANDRA TOWNSEND: I was happy for them—it was not my material to—I really do not understand where you are coming at from this, sorry.

The Hon. MARK LATHAM: I am just trying to drill in to what appears to be your stunning ignorance of just about everything that has happened on your property—

ALEXANDRA TOWNSEND: Thank you.

The Hon. MARK LATHAM: —in your contract and your role on Equestrian NSW because, from what I can see as an independent observer, there is every reason to refer this to the New South Wales police because the New South Wales taxpayer has been ripped off hand over fist and you have had a central involvement in what is, in the words of Sue Hartog, a very dodgy process.

ALEXANDRA TOWNSEND: If you choose to see it that way. All I can say is I had no involvement in where the arena surface went.

The Hon. MARK LATHAM: When did you find out where it had gone? Just when the Hartog call came through? Was that the only time?

ALEXANDRA TOWNSEND: Yes, when I got her message.

The Hon. MARK LATHAM: And you never rang Barrie Smith to say, "Listen, I am on the board of Equestrian NSW. You took this off my property and it has turned out to be a debacle at SIEC. Why was this done?"

ALEXANDRA TOWNSEND: No, I did not have that conversation with him because the arena surface is a good surface.

The CHAIR: Ms Townsend, we will bring the hearing to an end in about three minutes. But I was going to ask a couple of quick questions. Firstly, how long did it take to replace your surface?

ALEXANDRA TOWNSEND: I do not remember the exact time frame but I think the arena surface was taken up at the beginning of November and it was put back down—

The Hon. LOU AMATO: What year?

ALEXANDRA TOWNSEND: In 2017. And I think it was put back down—sorry.

The Hon. LOU AMATO: You said that you had it replaced because of the weather conditions at Robertson, because of the excessive rain and everything else at Robertson, and that the sand material had more clay in it, is that correct? That is why you moved it because of the wet conditions?

ALEXANDRA TOWNSEND: The clay content in the sand.

The Hon. LOU AMATO: So when did you finally get problems there at Robertson, in 2017?

ALEXANDRA TOWNSEND: Yes, when?

The Hon. LOU AMATO: I was just wondering because we went through a drought and the drought did not start to break until 2020. I know Robertson very well; I live very close to it.

ALEXANDRA TOWNSEND: Do you?

The Hon. LOU AMATO: Yes, I do. I am just wondering why you removed it when we went through a long period of drought, that is all, and when you would have discovered that there was an issue there.

ALEXANDRA TOWNSEND: It was because there was a weekend in which we had about 200 mls of rain in one weekend and it did not drain properly, the sand. Basically, the sand had too high a clay content in it, which is excellent for an indoor but not great when you cannot control the water on it.

The CHAIR: Ms Townsend, you have said before that it was about three weeks after the original surface at Wallaby Hill was installed that you realised that there was a problem and you notified them about three weeks afterwards.

ALEXANDRA TOWNSEND: Yes.

The CHAIR: And from that three-week point onwards how long did it take to replace the surface?

ALEXANDRA TOWNSEND: As in once I—

The CHAIR: Once you notified them?

ALEXANDRA TOWNSEND: Once I notified them, the new one was installed by the event which was at the beginning of December.

The CHAIR: But how much time was that?

ALEXANDRA TOWNSEND: About three, four weeks.

The CHAIR: So within a month it was replaced from notification.

ALEXANDRA TOWNSEND: Yes.

The CHAIR: But what I am not understanding is, do you know where they sourced the replacement material?

ALEXANDRA TOWNSEND: I did not ask, but I assumed that they had excess fabric.

The CHAIR: Because we were told that part of the reason why they went for Wallaby Hill is that there was a shortage, effectively, or it was hard to find material to source. I am trying to understand how it is the case that Wallaby Hill managed to get replaced fast but SIEC was struggling to find the material. You do not know?

ALEXANDRA TOWNSEND: I am sorry, I did not ask. I did not know to ask.

The CHAIR: Fair enough. Mr Smith's evidence was that they were struggling to source the material, there was pressure under an event and that is why they grabbed the material because it was available and they thought it was the same standard. But if your material was replaced within four weeks, there is an implication here or at least a suggestion that the material that otherwise would have arrived at SIEC went to your property. Do you have any knowledge of that? Do you want to respond to that?

ALEXANDRA TOWNSEND: I would assume that Mr Smith would also have been talking about the other components. You have to remember we were only replacing the sand and the fibre mix and the sand was not coming from Germany.

The CHAIR: The sand was part of the issue, and he was under contractual obligations to derive it from a source in New South Wales, and his evidence was he did, he got it from your property. That is what I am trying to understand because Wallaby Hill managed to get its surface replaced relatively quickly—and I accept that maybe the scope of works was different—but you had no knowledge of where they were getting the material from to replace your surfaces. Is that your evidence? And you made no inquiry?

ALEXANDRA TOWNSEND: No, I did not ask, I am sorry.

The CHAIR: I think at this point we might have to bring this part of the hearing to a close. Ms Townsend, thank you for your appearance today.

ALEXANDRA TOWNSEND: My pleasure.

The CHAIR: I should make the point that you were not subpoenaed, so I thank you for appearing. I recall I did not sign a subpoena and you appeared here voluntarily. I do not think you took any questions on notice, so thank you so much for your appearance today, and safe travels.

ALEXANDRA TOWNSEND: Thank you.

(The witness withdrew.)

LOU VERWEY, Managing Director, Capricorn (Australia) Pty Ltd, before the Committee via videoconference, affirmed and examined

The CHAIR: Mr Verwey, would you like to make an opening statement?

LOU VERWEY: Yes. Good morning, Chair and Committee members, thanks for the invitation to assist with the inquiry. I sincerely hope that this inquiry brings to public attention what has occurred at taxpayers' expense. My name is Lawrence Verwey and together with my daughter we operate Capricorn Australia. I am a director of Capricorn Australia. We both are very proud of the quality products we present and the transparency, honesty and nature of how we conduct our business. Since 2000 Capricorn Australia has been importing Soiltex, a synthetic fibre for arena surfaces. To date we have supplied 350 arenas with this product. Our EBB & FLOW system is a very well-researched and recognised system that we import from Europe. Our supply is using proven components and installation techniques. The product that I tender to SIEC we have successfully installed the system at five arenas. To date we have supplied 20 EBB & FLOW arenas.

When the media release was published in July 2021, I made a submission outlining my concerns about the handling of the tender process and the involvement of Equestrian Australia and New South Wales chief executive officer and Equestrian Australia New South Wales board members. My submission was not based on a sour-grapes approach but upon how the tender process was conducted at the time. It does not surprise me that Equestrian Australia New South Wales chief executive officer describes me as a difficult contractor principal or, in other words, not a mate. It is an inappropriate comment to make by a person in that position. How has this affected the tender selection? Prior to the tender process I emailed the chair of Equestrian Australia with my concerns. In the past I have voiced my concerns over other issues with Equestrian Australia. That does not make you any friends or mates within Equestrian Australia and subsequently you will be seen as being difficult. There were no questions asked after submitting our tender which, in our experience, is extremely unusual.

In closing, I would like to highlight a few points of concern which I also made in my submission—that was the family connection between Dingwall and Smith. Barrie Smith and Bruce Farrar almost hand in hand collected sand from an EBB & FLOW arena recently installed with one of our clients. Equestrian Australia New South Wales board member promoting Barrie Smith website and the ability for Barrie Smith to ship a large amount of equipment or material from Europe in short notice. That was it.

The CHAIR: Thank you. We will begin questions with Mr Latham.

The Hon. MARK LATHAM: Mr Verwey, on that last point you mentioned about shipping the materials from overseas, the Committee heard from Barrie Smith that that was his plan but then there were problems on the docks and then he had a plan B which was to source the sand from a different location. Then he went to plan C, which was to get it from Wallaby Hill. Just on that, and your knowledge of the industry, how realistic was the original timetable to think that these materials could come from overseas at short notice?

LOU VERWEY: Well, the goods which came from overseas were loaded three days after the tender was awarded. So you had to collect those goods first and then consolidate them and then get them in containers and then get them to a port. So we are not talking about sand; we are talking about the mats and other equipment.

The Hon. MARK LATHAM: Mr Smith said he had a particular problem in accessing the right kind of sand.

LOU VERWEY: That is another problem; that could be.

The Hon. MARK LATHAM: But the materials from overseas, these were the mats?

LOU VERWEY: They are the mats.

The Hon. MARK LATHAM: Are you saying they had only three days' notice before they were loaded?

LOU VERWEY: That is correct.

The Hon. MARK LATHAM: You are saying that is very improbable?

LOU VERWEY: If it is three or four days or even five days, that is a very short period of time. If you have to get them from overseas, you cannot organise it in five days. You need to present a container to the vessel five days prior.

The Hon. MARK LATHAM: It is your evidence that the Barrie Smith tender was never realistic and could never be delivered?

LOU VERWEY: Ah, perhaps Mr Smith knew before and purchased the material.

The Hon. MARK LATHAM: In the before time period, your submission makes the claim that you witnessed Mr Farrar, who is the instigator and urger and involved heavily in the process for this tender, take a sample of arena material you installed at Bawley Point and gave it to Mr Smith on 1 October 2017?

LOU VERWEY: Yes.

The Hon. MARK LATHAM: What did you find so alarming about that practice?

LOU VERWEY: Well, I don't think it is appropriate to collect surface material from a supplier's arena for your own benefit.

The Hon. MARK LATHAM: Did you report that to the Office of Sport to say that Mr Farrar appears—

LOU VERWEY: No.

The Hon. MARK LATHAM: Why didn't you?

LOU VERWEY: I have reported it to the chair of Equestrian Australia at that time.

The Hon. MARK LATHAM: When did you find out that Mr Farrar had also spoken to Mr Smith about the likely cost parameters of the project and the amount of money that might need to be quoted in the tender to be successful?

LOU VERWEY: I have not found that out at all.

The Hon. MARK LATHAM: It is reported by the Office of Sport in their material, but you were unaware of that.

LOU VERWEY: Yes.

The Hon. MARK LATHAM: Your knowledge of any assistance Mr Farrar was giving to Mr Smith related to the Willinga Park arena at Bawley Point?

LOU VERWEY: I know nothing about that.

The Hon. MARK LATHAM: I am referring to what happened on 1 October.

LOU VERWEY: Okay. They took the sample.

The Hon. MARK LATHAM: You attended a meeting at the invitation of Jim Kasif, the project manager.

LOU VERWEY: Yes.

The Hon. MARK LATHAM: And you were informed that the SIEC project had to be finished in a certain time frame for the 2018 event. Was the Office of Sport moving its goalposts at that point? Were you originally told of a longer time frame for delivery of the project and then it shortened it up?

LOU VERWEY: No, that project was always the case because it was for the CDI to be held, and I am not sure about the date.

The Hon. MARK LATHAM: Then when you found out about the undeclared conflict of interest, where Mr Farrar did not declare that Stephen Dingwall, the son of his president, would be a financial beneficiary, why did you not write directly to the Office of Sport to let it know about it rather than writing to Equestrian NSW?

LOU VERWEY: My contacts have always been with Equestrian NSW, and I never thought to go through another channel.

The Hon. MARK LATHAM: How do you think the officials at the Office of Sport did find out about that undeclared conflict of interest and then raise it subsequently?

LOU VERWEY: How they found out, do you mean?

The Hon. MARK LATHAM: Yes, do you know?

LOU VERWEY: No, I do not.

The Hon. MARK LATHAM: I do not know if you heard the earlier evidence of Alex Townsend, but as a professional in this industry, how unusual would it be—unprecedented, indeed—to lodge a tender to say that you are getting materials from overseas and sand from a certain location and then go to second-hand materials stockpiled on a property at Wallaby Hill to transport them up to the SIEC?

LOU VERWEY: Transporting and installing second-hand material would not be good in any case.

The Hon. MARK LATHAM: What action have you taken about the fact that you missed out, having been the preferred tenderer in the tender evaluation process, and the contract went elsewhere in these extraordinary circumstances? Have you taken any legal advice about the impropriety of it and sought any compensation for your lost time and effort?

LOU VERWEY: No.

The CHAIR: Was he the preferred tenderer?

The Hon. MARK LATHAM: Yes. That is right, isn't it, Mr Verwey? You were the preferred tenderer, as assessed by the tender evaluation process?

LOU VERWEY: That is what I understand.

The Hon. MARK LATHAM: That is what the Office of Sport documents indicate. What sort of contact did you have with the technical advisory committee that Mr Farrar headed and organised in its work and assessment of your technical proficiency?

LOU VERWEY: None.

The Hon. MARK LATHAM: None? It made no contact with you whatsoever?

LOU VERWEY: No. The only meeting we had was the tender meeting with Mr—what was his name now?—and that meeting was announced three or four days prior to the date when that meeting was. That was the only contact that I had.

The CHAIR: Sorry, Mr who? There was a bit of a technical difficulty.

LOU VERWEY: There was a name. I do not know the name. Hang on. It was a person who was handling the tender. Mr—

The CHAIR: You can take it on notice, if you can, to provide the name.

The Hon. MARK LATHAM: Mr Verwey, what you are saying is that, for the first time ever, the Office of Sport had a technical advisory committee, headed by Mr Farrar, who was the instigator and urger of the grant process. It made no contact with you? It never had a single conversation or did not organise any inspections of—

LOU VERWEY: The only conversation that we had was on the day at the meeting when all contractors were together; we were the four or five suppliers. We were all together there. That is the only contact that I had with this.

The Hon. MARK LATHAM: How surprised were you to find out that the technical advisory committee had moved against the recommendation of the tender evaluation process and effectively knocked you out in favour of Barrie Smith Motorsport, with Karen Jones from the Office of Sport now telling us that that was part of the process?

LOU VERWEY: I was very surprised that that was happening, but also that the tender was asking for the product that only the Office of Sport could supply. We could not supply that product, what was specified in the tender.

The CHAIR: In respect to these particular arenas, and without wanting to necessarily probe you on the commercial nature of your business, are these high-margin products or low-margin products?

LOU VERWEY: I cannot hear you, or I can hardly hear you.

The CHAIR: Are these products high-margin products or are they low-margin products?

LOU VERWEY: If you are looking at margin in percentage, they are very low margin.

The CHAIR: As a result, is it the case that if Mr Smith was using the Wallaby Hill material, he would have saved money on otherwise procuring material?

LOU VERWEY: Yes, because if he would not have been able to re-use it, he has to dispose of it.

The CHAIR: So, as a result, the decision that he was seemingly party to, to use the Wallaby Hill material, would have led to a direct financial benefit to him in that he would have avoided having to pay for its disposal, and presumably would have avoided having to buy the material that he was warranted to pay. Is that fair?

LOU VERWEY: That is what I would say, yes.

The CHAIR: Is that a way in which a person who successfully gains a contract can improve a margin, if the costs obviously are lowered?

LOU VERWEY: I do not understand your question.

The CHAIR: I am saying is that the way in which if the Office of Sport's contract effectively resulted in the winning contractor earning a low margin, one way in which it could potentially improve its margin would be to substitute the materials.

LOU VERWEY: I would not.

The Hon. MARK LATHAM: Mr Verwey, coming back to the tender specifications—where, again, Mr Farrar had a heavy involvement—if they were designed for this EBB & FLOW system that only OTTO and Barrie Smith Motorsport, as their agents, could supply, why did you tender and what sort of product would you have delivered in the context where the tender evaluation had you as the preferred tenderer?

LOU VERWEY: We have quoted for an EBB & FLOW system, with our EBB & FLOW system. In hindsight, we raise that all the time in tendering because the mats were the preferred item, I suppose.

The Hon. MARK LATHAM: So you could have supplied the same material that Barrie Smith was supposed to supply at the SIEC. Is that right?

LOU VERWEY: We have an EBB & FLOW system, but it is different to what is there now. It is an EBB & FLOW system but it works on a different principle.

The Hon. MARK LATHAM: Your feeling is that you could have supplied the product but in the end the technical advisory committee knocked you out on what you see as unfair grounds. Is that right?

LOU VERWEY: Yes, I do not think it is fair.

The Hon. MARK LATHAM: It certainly does not seem fair that it had no contact with you to find out how technically proficient you would have been. It does seem quite an extraordinary process. Is there anything else about the process that you found unusual?

LOU VERWEY: I felt it was unusual the fact that we had submitted our tender and had never been asked any questions, which is quite unusual. If we send a tender in to somebody, a quotation to somebody, we always ask questions. But we have not been asked questions, we have only been told that we were not successful.

The Hon. MARK LATHAM: You have said that the technical advisory committee had no contact. Are you saying that the Tender Evaluation Committee had no contact with you as well?

LOU VERWEY: Yes.

The Hon. MARK LATHAM: And no-one from the Office of Sport had contact with you to assess the quality of what you were submitting?

LOU VERWEY: No.

The Hon. MARK LATHAM: How does that work?

The CHAIR: Did you make inquiries or did you seek to follow up your bid?

LOU VERWEY: No. But that said, if you submit a tender, you just have to wait until somebody calls out.

The CHAIR: Yes, fair. Mr Verwey, did you say in your opening that you installed five arenas?

LOU VERWEY: Yes, at the time.

The CHAIR: Is this a substantial part of your business, arena installations of these surfaces?

LOU VERWEY: Arena supply, yes, is a substantial part of our business. Yes, that is correct.

The CHAIR: You trade in New South Wales. Do you trade elsewhere in Australia or supply?

LOU VERWEY: We trade all over Australia.

The CHAIR: Do you do international work?

LOU VERWEY: Sorry?

The CHAIR: Do you trade internationally?

LOU VERWEY: We trade internationally, but not with arenas.

The CHAIR: I am trying to understand how broad this market is. Have you previously encountered or competed with Barrie Smith Motorsport for the installation of arenas?

LOU VERWEY: The first arena Barrie Smith Motorsport installed was the indoor arena at Wallaby Hill and the second one was the outdoor arena at Wallaby Hill.

The CHAIR: In respect to your experience, is it reasonable to say that you had installed five prior to the SIEC bid?

LOU VERWEY: Yes, correct.

The CHAIR: And, to the best of our knowledge, Mr Smith had only installed one?

LOU VERWEY: Correct. Perhaps prior to the SIEC project he has done—yeah, okay, he has done one. Agreed.

The CHAIR: And there were issues to do with that first installation—namely, the installation of the wrong material—that resulted in a request by the owner of Wallaby Hill to replace that surface. Is that your knowledge?

LOU VERWEY: Yes, that is my knowledge.

The CHAIR: When you bid, did you emphasise your experience in arena installation?

LOU VERWEY: Yes.

The CHAIR: Did you think that was one of the more significant strengths of your bid?

LOU VERWEY: I do not know.

The CHAIR: I am trying to understand. You nominated and you cited your experience with arena installation as a reason why you could be trusted to deliver the surface at SIEC on time and on budget, I presume?

LOU VERWEY: Yes.

The CHAIR: Fair enough. Were you surprised to learn that you had lost out to a person who was relatively new to the industry?

LOU VERWEY: Yes.

The CHAIR: Mr Verwey, since the completion of this particular contract are you continuing to install arenas?

LOU VERWEY: Yes, we had installed five arenas prior to the SIEC project and we now have done over 20.

The CHAIR: In the installation of the further 15, have you competed with Mr Smith since?

LOU VERWEY: Yes, perhaps. We do not always know that.

The CHAIR: Sure. But to the best of your knowledge, Mr Smith is still active in this market?

LOU VERWEY: Yes.

The CHAIR: In respect to the actual tender process, we have now identified Capricorn as being a tenderer and we identified Mr Smith as being a tenderer. Are you aware of anybody else who tendered?

LOU VERWEY: There was a company called Equestrian Surfaces.

The CHAIR: How were you approached to tender? Did you respond to a public and open call for tenders or were you approached and invited to tender?

LOU VERWEY: No, from memory we were made aware that the tender was coming up.

The CHAIR: When you say you were made aware, were you made aware by the Office of Sport?

LOU VERWEY: By Equestrian NSW.

The CHAIR: Did Equestrian NSW ask you to submit a bid?

LOU VERWEY: How did it go? They invited me for the tender meeting and I went to that.

The CHAIR: Just to be clear, your recollection is that Equestrian NSW invited you to that meeting?

LOU VERWEY: Yes.

The CHAIR: Were you aware at the time that Equestrian NSW was not conducting the tender?

LOU VERWEY: No, I was not.

The CHAIR: So you arrived on the expectation that actually the decider, or at least the person or the organisation letting the tender, was Equestrian NSW?

LOU VERWEY: Yes.

The CHAIR: Is it fair to say that Equestrian—and thereafter you found out it was with the Office of Sport, actually?

LOU VERWEY: I found out much later.

The CHAIR: To the best of your knowledge, Equestrian NSW was passing itself off as an agent of the Office of Sport?

LOU VERWEY: Well, they were the talking body, I suppose, and that is what the contact was. But the contact about this particular project was only on that day of the tender meeting.

The CHAIR: Just to be clear, other than the notification, in whatever form, by Equestrian NSW, you otherwise would not have known that this was a job that was available?

LOU VERWEY: No.

The CHAIR: Can we infer from that that Equestrian NSW—in the eyes of the market and bidders, you all thought that Equestrian NSW was playing a key role in the tender?

LOU VERWEY: That is correct.

The CHAIR: Did you think that they had decision-making power in that tender?

LOU VERWEY: That is what I thought, yes.

The CHAIR: Did you ever change your view and realise that it was the Office of Sport that was actually making the decision here?

LOU VERWEY: No.

The CHAIR: To the extent to which you were alarmed about potential conflicts of interest by members of Equestrian NSW, part of that alarm was because you thought Equestrian NSW was the actual organisation letting the tender?

LOU VERWEY: Yes. I was surprised that Mr Farrar was collecting sand from an arena because I thought they were making that decision. Yes, that is correct.

The CHAIR: I guess the obvious question is do you think that the decision was already made to grant the contract to Barrie Smith Motorsport from the very beginning?

LOU VERWEY: That is a hard one. The specification was written about that OTTO product.

The CHAIR: Effectively, you think that the project was deliberately specced so only Mr Smith could win the tender?

LOU VERWEY: I would not use the word "deliberately". But the spec was written around that product.

The CHAIR: Thank you, Mr Verwey, for joining us from overseas at a time that has probably kept you up.

LOU VERWEY: Yes, it is one o'clock.

The CHAIR: We wish you the very best. Enjoy the rest of your evening. Thank you for appearing before us. You have taken one question on notice. The secretariat will be in touch to provide you with that question and you will have 21 days to return an answer. Thank you very much for your time.

(The witness withdrew.)

Mr JOHN VALLANCE, Individual who provided technical advice regarding tender, affirmed and examined

Ms MARY SEEFRIED, Individual who provided technical advice regarding tender, before the Committee via videoconference, affirmed and examined

The CHAIR: I welcome our next panel of witnesses, who are two individuals who provided technical advice regarding this tender. I invite each of the witnesses, if they wish, to make a short opening statement. We might ask Mr Vallance, as he is here in person, to go first.

JOHN VALLANCE: Good morning, honourable members of the Committee. My introductory comments will be brief. I have been involved with the Sydney International Equestrian Centre since its early development in 1998 for the Sydney Olympic Games. Since that time, I have witnessed the centre grow and mature into a true and lasting international equestrian centre. The equestrian community is extremely fortunate that successive State governments have continued to provide funding and support the maintenance and development of the venue. This, in fact, is in contrast to the majority of other Olympic venues which, after the Olympic experience, those venues disappear. Ours still exists in a really strong manner.

The one aspect of the venue that has not kept pace with the new technology available is the upgrading of the arena surfaces. At SIEC, or the Sydney International Equestrian Centre, there are 15 arenas. Of these, there are only four that meet the basic requirements for high-level and safe competition. Two of these are grass arenas, and the other two are the recently installed arenas that we are currently discussing. The two arenas refurbished with the OTTO surface have demonstrated how good an arena surface can be. These arenas allow for premium performance by athletes at all levels of ability, with the efficient conduct of events in a safe and supportive environment. Thank you.

The CHAIR: Thank you. I might ask Ms Seefried if she would like to make a short opening statement as well.

MARY SEEFRIED: I would like to support what John has said. Since the Sydney Olympics—and I actually was a dressage judge for the Sydney Olympics—the science of producing top footing for safety for horses and athletes has improved out of sight and is now a very technical matter. Unfortunately, the arena surfaces at SIEC at the moment mostly are not up to standard for top performance. However, the investment in the indoor surface and the warm-up is a step in the right direction and, certainly, those surfaces are up to standard.

I was recently the technical delegate at the Tokyo Olympics. As a technical delegate, it is my job to declare that the field of play is fit for purpose and ready for competition. Certainly, I am not one of the footing scientists, but I was closely working with two other people hired by the Tokyo Olympics to prepare the surface. They gave me a lot of advice in terms of what is needed for a top surface. Certainly, it would be wonderful if SIEC, which is a fantastic equestrian centre—it has got so many aspects to it which allow it to run all three Olympic disciplines at a high level. In a sense, for jumping and dressage, the surfaces do need improvement generally to run a big championship show there, which is necessary for the development of all equestrian sports in Australia.

The CHAIR: Thank you, Ms Seefried. We will go to questioning from members. As is custom, Mr Latham can commence.

The Hon. MARK LATHAM: Thank you, witnesses. Mr Vallance, I take you to your work on the technical advisory committee. How did you come to be on that committee?

JOHN VALLANCE: I am actually not 100 per cent sure, Mr Latham. I imagine it was through the Office of Sport. They were the main people I had contact with.

The Hon. MARK LATHAM: Imagining what happened, who was the first person to say to you, "John, can we get you on this committee?"

JOHN VALLANCE: I imagine it may have been Bruce Farrar. That is perhaps the only other person, other than one of the members of the Office of Sport.

The Hon. MARK LATHAM: At that stage, did Mr Farrar discuss with you the likely tenderers for this project and who he thought was preferred?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: In your submission to Mr Kasif on 31 October 2017, you provide an outline or a summary, if you like, of the quality and different problems with the three tenderers in the final race:

Equestrian Services, Barrie Smith and Capricorn Australia. Under Barrie Smith Motorsport, your first point is that they have got limited local testimonies. Who did you regard as the referee for Barrie Smith Motorsport?

JOHN VALLANCE: I do not clearly understand your question.

The Hon. MARK LATHAM: You have got a summary of what you think of the Barrie Smith Motorsport tender. This has been submitted to Mr Kasif on 31 October 2017. The first three words say "limited local testimonies", but with significant work at one venue: Wallaby Hill. So when you said they had local testimonies, who were you referring to?

JOHN VALLANCE: It would have been Wallaby Hill.

The Hon. MARK LATHAM: I do not know if you saw the evidence by Alex Townsend earlier in the day, but we were having trouble understanding what was the nature of that reference or testimony from Wallaby Hill. She seemed to be suggesting it was a Facebook video about the product. Was it your understanding that Alex Townsend was only endorsing the product, not the quality of work by Barrie Smith Motorsport?

JOHN VALLANCE: I would imagine that it was the product. In my discussions, and I think in my submission to the Committee, I said that I had experience and discussions with other colleagues in Europe, where this is very common—the OTTO product is quite common and quite widely used. Their endorsement was that there is probably nothing better but, I agree, I had only the experience of Alex Townsend.

The Hon. MARK LATHAM: You discussed it with her, did you? Or there was a written reference she submitted? Or just the Facebook video? What was the nature of your contact with Alex?

JOHN VALLANCE: There was not any discussion at all. I had designed jumping courses at her venue over four or five years at various times. I can recall the first time I designed at her indoor arena, where she had a surface put down and it was hopeless—well, it did not work as it should have. That was subsequently replaced, and I went and had a look at what the OTTO surface had done to it and formed a very positive impression of that.

The CHAIR: When you said you went and had a look, you physically visited?

JOHN VALLANCE: Yes.

The CHAIR: And you did that as part of your duties as a member of the tender evaluation panel?

JOHN VALLANCE: No. It was a little bit prior to becoming involved in the tender process.

The CHAIR: So you just went out of interest, did you?

JOHN VALLANCE: Yes.

The Hon. MARK LATHAM: But you never looked at this outdoor arena at Wallaby Hill that was subsequently dug up?

JOHN VALLANCE: No, I went to the indoor only because primarily that is what I was interested in, as to how the indoor arena had improved from one surface to the next.

The Hon. MARK LATHAM: At no stage did you speak to Alex Townsend and say, "Alex, Barrie Smith Motorsport, they've only done one surface in the country. That's Wallaby Hill outdoor arena. How's it going?"

JOHN VALLANCE: I had no conversation with Alex Townsend at all.

The Hon. MARK LATHAM: No conversation? You never saw any Facebook video from her?

JOHN VALLANCE: No.

The CHAIR: So how did you access the property?

The Hon. MARK LATHAM: You never saw any written document from her?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: How did you know there was a local testimony for Barrie Smith Motorsport if she was the referee and you had zero contact with her?

JOHN VALLANCE: From what I had seen at the indoor arena, I was suitably impressed.

The CHAIR: Sorry, Mr Vallance, I am a bit confused. You went and had a visit to Ms Townsend's property to inspect the surface. Is that correct? Did I hear you correctly?

JOHN VALLANCE: Yes, I did.

The CHAIR: Was that at an event that was being held at the property?

JOHN VALLANCE: No, I happened to be in the area. I have friends at Fitzroy Falls, and I drove down there and had a look.

The CHAIR: So it was a private visit?

JOHN VALLANCE: Yes.

The CHAIR: Just by yourself?

JOHN VALLANCE: Yes.

The CHAIR: Was anybody else there with you?

JOHN VALLANCE: No.

The CHAIR: So how did you get on the property?

JOHN VALLANCE: I push the button on the gate and it opens.

The CHAIR: Did you call Ms Townsend and say, "I'm coming to look"?

JOHN VALLANCE: No. No, it is—

The CHAIR: Mr Vallance, again you are leaving a bit of an impression that you trespassed, like you turned up and went to have a look at the property.

The Hon. MARK LATHAM: Everyone else does. Why not?

The CHAIR: You never actually contacted Ms Townsend to say, "Hey, I'm on your property"?

JOHN VALLANCE: Sorry, yes, I did.

The CHAIR: So you did have a conversation?

JOHN VALLANCE: I did not pre-book.

The CHAIR: You did not pre-book.

JOHN VALLANCE: No.

The CHAIR: You did not give notice of your visit?

JOHN VALLANCE: No. I know Alex well enough not to need to do this.

The CHAIR: Fair enough. Without necessarily understanding all the relationships—but, therefore, you would have had some discussion with Ms Townsend about the quality of the property?

JOHN VALLANCE: About the footing? Yes. At that stage I only looked at the indoor arena.

The CHAIR: And this was after the arena was replaced—Ms Townsend's was replaced, and you were seeing the product that you thought was a good product?

JOHN VALLANCE: Yes, she originally had an arena—

The CHAIR: A hopeless product, you said.

JOHN VALLANCE: —a product there from another company, and it was—

The CHAIR: It was the same company, actually. Ms Townsend said that the original track was installed by OTTO; that there was an issue with the sand, and after a rain event she contacts OTTO and they decide to replace it. You are saying to us that you were aware that she had a hopeless surface—I think that was the term you used.

JOHN VALLANCE: Sorry?

The CHAIR: You used the term that she had a hopeless surface and then she replaced it, and you went and saw the new surface.

JOHN VALLANCE: That is right.

The CHAIR: And that was great, but they were both from the same company—the hopeless one and the good one were both from OTTO.

JOHN VALLANCE: I was not aware of that.

The CHAIR: Okay.

JOHN VALLANCE: For me, there was a difference in the fibre texture and the stuff like that with it, but that was the first surface—her indoor was the first OTTO surface I had been on.

The CHAIR: That you were aware of was an OTTO surface?

JOHN VALLANCE: As I said before, I did not believe that the surface I saw most recent was OTTO.

The CHAIR: This inspection all took place before you were on the tender evaluation panel?

JOHN VALLANCE: Yes.

The CHAIR: Was it before Mr Farrar approached you to serve on that panel?

JOHN VALLANCE: I cannot recall that to answer confidently one way or the other.

The CHAIR: Sure. Thank you.

The Hon. MARK LATHAM: Just to clarify, you never got to personally inspect the outdoor OTTO surface at Wallaby Hill that was finished at the end of August 2017 and ripped up in November?

JOHN VALLANCE: That is right, yes.

The Hon. MARK LATHAM: You never got to see it in the two months it existed there in September and October?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: Did you know by 31 October 2017 that there had been the rain event at Robertson, the drainage was hopeless, too much clay and it was going to be ripped up?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: Did it occur to you that if you had rung Alex Townsend on 30 October before submitting your technical assessment to Mr Kasif and said, "Alex, how's that surface going?", she would have said to you, "Well, it's not good, actually. It doesn't drain and we're going to have to rip it up and replace it"?

JOHN VALLANCE: No, I did not feel that need.

The Hon. MARK LATHAM: But you are submitting a technical assessment for a substantial New South Wales government grant and you had no up-to-date knowledge of how this one arena by Barrie Smith Motorsport was performing at Wallaby Hill? You had no understanding, none whatsoever?

JOHN VALLANCE: That is correct, yes.

The Hon. MARK LATHAM: But you still recommended them.

JOHN VALLANCE: As I mentioned earlier, I had spoken with colleagues in Europe about the format or the process that is used. There are companies other than OTTO, but OTTO has more experience. They are probably the most prolific provider of those surfaces. The other thing with OTTO is they said that they use mats in their surface, which actually separates the competition surface from the drainage surface and also maintains the moisture in the top layer, which is critical for—

The CHAIR: Just to be clear here, Mr Vallance, OTTO did not submit a bid, Barrie Smith did. That was your understanding?

JOHN VALLANCE: Sorry, yes.

The CHAIR: Barrie Smith's bid was using the OTTO product. Is that correct?

JOHN VALLANCE: Okay.

The CHAIR: No, was that your understanding?

JOHN VALLANCE: Yes.

The CHAIR: It is not whether that is correct.

JOHN VALLANCE: Yes.

The CHAIR: That was your understanding?

JOHN VALLANCE: That Barrie Smith was submitting the tender?

The CHAIR: Yes.

JOHN VALLANCE: Yes.

The Hon. MARK LATHAM: Did you have a conversation with Barrie Smith to say, "How is that surface going at Wallaby Hill"?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: Did you have a conversation with Stephen Dingwall from Barrie Smith Motorsport or with his father, Peter?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: Bruce Farrar? On your committee, did anyone else, Ms Farrell or Bruce Farrar, have a firsthand understanding of how the Barrie Smith OTTO surface was performing at Wallaby Hill in September–October 2017?

JOHN VALLANCE: I don't know.

The Hon. MARK LATHAM: You don't know? It did not come to your attention.

JOHN VALLANCE: I do not know.

The Hon. MARK LATHAM: So nobody knew how it was going down there, but they still ended up the preferred TAC recommendation? Is that correct?

JOHN VALLANCE: That is correct, yes.

The Hon. MARK LATHAM: You had no worries about the schedule for getting these mats from overseas, which was very tight?

JOHN VALLANCE: It was understood it was tight but it was manageable and I cannot recall it being a major issue at that time.

The Hon. MARK LATHAM: Your assessment of Capricorn Australia, which had been the tender evaluation committee's preferred tenderer and they had a cheaper quotation than Barrie Smith, the first two lines here read:

First company to install ebb and flow in Australia

Positive response to recent installations.

What were those positive responses?

JOHN VALLANCE: At that stage I understood that he had installed an EBB & FLOW system without mats and without technology involved in having sensors in the soil at Willinga Park, and I had occasion to work on that arena.

The Hon. MARK LATHAM: Is that the only one?

JOHN VALLANCE: Of his arenas?

The Hon. MARK LATHAM: Capricorn, yes.

JOHN VALLANCE: Yes, I am pretty sure it is the only Capricorn arena that—of the EBB & FLOW style.

The Hon. MARK LATHAM: That you came across, yes.

JOHN VALLANCE: Like other arenas, prior to the introduction of the EBB & FLOW, I had seen several.

The Hon. MARK LATHAM: Right. So you knew that Willinga Park was working well for Capricorn but had no knowledge of how the Barrie Smith OTTO one was going at Wallaby Hill. Barrie Smith was costing more. On what basis did your committee recommend for Barrie Smith?

JOHN VALLANCE: I think the reason Barrie Smith's tender came up higher was because of the installation of the mats.

The CHAIR: Okay, as in you thought that the significant advantage of his particular bid was his use, or the use of mats in the OTTO product.

JOHN VALLANCE: It is one of these significant things, yes, and I did not have such great experience with the Capricorn surface when I designed a jumping course at Willinga Park.

The CHAIR: So when you say you did not have much experience it is that you did not have a positive experience?

JOHN VALLANCE: Yes, sorry—did not have a positive experience.

The CHAIR: Right.

JOHN VALLANCE: We were not allowed to put any vehicles on the arena. It was too green, Mr Verwey said. It had been down for two or three months, as I understand it, at that stage. At that time, and the reason we were actually using the Capricorn EBB & FLOW arena was because of a significant rain event. We were originally to jump on the grass arena but it was too wet to safely do that so we transferred all the jumping onto this one warm-up arena that Capricorn had installed. It rained and rained and rained, so the water was not getting away as it should and Mr Verwey had to physically go and adjust the ballcock that determined the level of the water.

It just looked a little bit agricultural to me and my thoughts were, "What happens if it had rained overnight? There is no-one there to adjust the ballcock to do it." So there was that, and there were other arenas, not just EBB & FLOW, but other arenas have been installed and within two or three days they are effectively ready to be competed on. That is part of the reasoning for my decisions.

The Hon. MARK LATHAM: Right. In your summary you say, "The Barrie Smith Motorsport appear to have a schedule in place that will allow them to comply with the tight frame for the installation of a new surface to get ready for this scheduled event in early 2018." Was there any evidence that Barrie Smith could meet his timetable for importing these mats and accessing the sand, other than just an assurance from him? Did anyone say, "Where is your evidence that you can get these things off the dock overseas and into Australia?"

JOHN VALLANCE: Not that I am aware of.

The Hon. MARK LATHAM: No?

The CHAIR: Sorry, just quickly: Did the committee accept that at face value? Is that your evidence, or did the committees of which you were a member accept that representation from Mr Smith at face value?

JOHN VALLANCE: I would say yes.

The CHAIR: Okay. You did not take any other steps to interrogate whether that was feasible?

JOHN VALLANCE: No.

The CHAIR: And it was your understanding that he was sourcing that material from overseas?

JOHN VALLANCE: Yes, and that was told to us—that the mats were coming—

The CHAIR: From overseas?

JOHN VALLANCE: Yes.

The CHAIR: And no-one mentioned to you they were in fact actually likely to come from Wallaby Hill?

JOHN VALLANCE: No.

The CHAIR: Okay. Would it have changed your decision if you knew that?

JOHN VALLANCE: I do not know that the mats were actually ever going to come—

The CHAIR: Or the sand.

JOHN VALLANCE: —or the sand. For me it was not discussed that, you know, the material that had not worked at Wallaby Hill was going to be used in the indoor arena. That was not discussed.

The CHAIR: I appreciate it was not discussed but if the committee was told that how had the committee responded?

JOHN VALLANCE: I suppose it is hard to say.

The CHAIR: I mean, it is material that has been dug up, moved, mixed with other materials including what turned out to be some contaminants. I presume therefore that there was at least some acknowledgement that digging up material, moving it, reinstalling it is perhaps inferior to having brand new material being put in.

JOHN VALLANCE: That was up to the members or representatives of the Office of Sport.

The CHAIR: But, no, I am asking you from a technical sense. Are you suggesting that it does not matter that the material was dug up, mixed with what turned out to be the grommets, and then reinstalled? That has no technical bearing whatsoever?

JOHN VALLANCE: For me it would have been preferable to have the material as was outlined in the tender document and that was outside—you know, sort of outside my remit. That was for an ultimate decision to be made by the Office of Sport.

The CHAIR: But you basically gave your technical recommendation on the material that was put in front of you, which included that the sand would be new sand.

JOHN VALLANCE: No. I do not think—I do not recall that being discussed.

The CHAIR: Okay. Well, Mr Vallance, the taxpayers did not get what we paid for. That is the core of this.

JOHN VALLANCE: Yes.

The CHAIR: We got material that we did not pay for. I am asking you: If you knew that, would that have had any bearing on your decisions?

JOHN VALLANCE: Oh, it would have, and I was consulted on the material that came from Wallaby Hill.

The CHAIR: Sure.

JOHN VALLANCE: I had one meeting where I was introduced to the Office of Sport. At that stage I had been asked to provide expert knowledge, I suppose. I do not think I had been asked to sign off on the material—or the installation of the surface at that stage.

The CHAIR: But you said in your opening statement that you certified it as being fit for purpose. That is correct?

JOHN VALLANCE: Ultimately I did, yes.

The CHAIR: You were both in the evaluation panel on the tender and then, when the actual material was installed, you returned to certify it as being correct.

JOHN VALLANCE: As fit for purpose—safe, and fit for purpose.

The Hon. MARK LATHAM: Did you know at that time about these grommets that were in the surface?

JOHN VALLANCE: At what time was that, Mr Latham?

The Hon. MARK LATHAM: When you signed it off in January 2018?

JOHN VALLANCE: I was aware that there were some grommets in there and I believe in my initial submission I said that there were some, but there was not a proliferation of them.

The Hon. MARK LATHAM: Why did you sign it off if there were these pieces of plastic in there that were not supposed to be there and it was using second-hand materials from Wallaby Hill in noncompliance with the tender spec?

JOHN VALLANCE: The Office of Sport had allowed the noncompliance.

The Hon. MARK LATHAM: Right. They said to you that this is okay; the noncompliance is fine?

JOHN VALLANCE: No, it was never discussed with me. My purpose was to say: Is it a safe and fit for purpose arena? And it certainly was.

The CHAIR: So, Mr Vallance, why did you then just say that the Office of Sport agreed to say it was okay for it not to be contaminated?

JOHN VALLANCE: Sorry?

The CHAIR: You just said that it was your understanding that the Office of Sport had allowed it to be contaminated. Why did you say that because they told us they did not know it was contaminated until well afterwards? Because, at the time you certified it—

JOHN VALLANCE: Yeah, go ahead.

The CHAIR: —Ms Seefried may have certified it as well, the Office of Sport was unaware that the proliferation of grommets was as wide as it was. Their evidence is that they only found out about the scope and scale of the contamination months afterwards; and, in fact, it only came to their attention I think it was seven months or eight months after the site was installed. What I am trying to understand is that it is not the case that the Office of Sport permitted that. They did not know about it, according to them. Are you suggesting that they did actually know about it?

JOHN VALLANCE: Yes.

The CHAIR: Why do you say that they knew about it?

JOHN VALLANCE: I believe in the one meeting I attended that—I can give you an example of, and I do not know who the officer was who made this comment about the material. The material was at the site at that time and I do not know whether they had been down to inspect it but they were aware, I am sure, of the grommets in it.

The Hon. MARK LATHAM: Was that Mr Crumpler, Darren Crumpler?

JOHN VALLANCE: Mr Latham, I really do not know, but the person from the Office of Sport—and they were obviously quite high up—said, "We have to be careful with this because imagine if Alan Jones got hold of it and we had put seconds, or reject material, into this Government contract."

The CHAIR: Sorry, someone said that; someone said to you—

JOHN VALLANCE: No, no—made this—

The CHAIR: —from the Office of Sport.

JOHN VALLANCE: Not specifically to me.

The CHAIR: To who?

JOHN VALLANCE: To the meeting.

The CHAIR: Sorry, a meeting of whom?

JOHN VALLANCE: There was Barrie Smith there, and that was the first time I had met Barrie Smith. There were one or two representatives from SIEC and then other representatives from the Office of Sport.

The CHAIR: And your recollection is that a senior representative from the Office of Sport told that meeting, "Imagine if Alan Jones gets hold of this," and, "We were using second-hand material"?

JOHN VALLANCE: Yes.

The CHAIR: And you have no recollection of who was there and the actual names of the individuals?

JOHN VALLANCE: No.

The CHAIR: On notice, can you see if you can check your records to see if you can recall?

JOHN VALLANCE: I would have to see if SIEC have the minutes of that meeting.

The CHAIR: Was Ms Seefried at the meeting?

JOHN VALLANCE: No.

The CHAIR: After you heard this, what did you do?

JOHN VALLANCE: Nothing.

The CHAIR: Why not?

JOHN VALLANCE: For me, it was outside my remit on it.

The CHAIR: Sorry, a senior official tells you that—

JOHN VALLANCE: No, they did not—

The CHAIR: They told the meeting that you attended.

JOHN VALLANCE: They made the comment to the meeting, yes.

The CHAIR: But it was your responsibility to provide technical certification?

JOHN VALLANCE: I was not consulted on that.

The CHAIR: Sorry, but you said that your job was to certify it as being fit for purpose, correct?

JOHN VALLANCE: At completion of the project, yes.

The CHAIR: So this meeting took place prior to the completion of the project?

JOHN VALLANCE: Well before.

The CHAIR: Where was the meeting?

JOHN VALLANCE: At the Sydney International Equestrian Centre.

The CHAIR: So it was on the site.

JOHN VALLANCE: Yes.

The Hon. MARK LATHAM: Who said this about Alan Jones? Was it Jim Kasif, the project manager?

JOHN VALLANCE: No, it was not Jim.

The Hon. MARK LATHAM: Was it Matt Miller, the CEO of the Office of Sport?

JOHN VALLANCE: I really do not know who it was. It certainly was not Jim Kasif because that was the first time I met him, at the meeting. I do not believe it was Matt Miller. I could not guess.

The Hon. MARK LATHAM: Do you think there would have been minutes taken of this meeting? Was there someone there, you know—

JOHN VALLANCE: I would imagine there would be minutes.

The CHAIR: Was Equestrian NSW at this meeting?

JOHN VALLANCE: I do not believe so.

The CHAIR: So why were you at the meeting? What was the purpose of the meeting?

JOHN VALLANCE: To be introduced to the Office of Sport people as being there.

The CHAIR: Was this the first time you met the Office of Sport?

JOHN VALLANCE: Yes.

The CHAIR: So at your very first meeting with the Office of Sport a senior representative from the Office of Sport says to a meeting, "Imagine if Alan Jones gets hold of this and finds out that we're using"—what? Did you say second-hand material?

JOHN VALLANCE: Yes.

The CHAIR: And that did not surprise you?

JOHN VALLANCE: In what way do you mean by surprised? That someone would say that?

The CHAIR: Yes.

JOHN VALLANCE: For sure I was surprised. But I did not feel it was my place to react to that.

The Hon. MARK LATHAM: But nobody said, "The tender is in noncompliance. Maybe we should ask Barrie Smith to start again"?

JOHN VALLANCE: No, that was outside my remit.

The Hon. MARK LATHAM: But the main concern of the Office of Sport was that Alan Jones would find out not only about the second-hand material but the noncompliance of the tender and the failure of the Office of Sport or anyone else to say to Barrie Smith quite simply, "You've provided a second-hand material with all these plastic pieces in it. You need to comply with the tender for which you're being paid." No-one raised that possibility that he needed to start again?

JOHN VALLANCE: Not that I recall.

The CHAIR: And so at that point you were aware that there is second-hand material.

JOHN VALLANCE: Yes.

The CHAIR: Is that the first time you became aware there was second-hand material?

JOHN VALLANCE: No, I had seen the pile of material as it was dumped at the Sydney International Equestrian Centre.

The CHAIR: So when you first see the pile that has been transported to SIEC from Wallaby Hill is when you first realised it was contaminated?

JOHN VALLANCE: Yes.

The CHAIR: And you did not then tell the Office of Sport that? Or you thought they already knew at that time?

JOHN VALLANCE: Blind Freddy could have seen that there were grommets.

The CHAIR: And then you concluded that it was safe to be installed?

JOHN VALLANCE: No, I did not have to do the safety—

The CHAIR: But you said that your job was to certify it as fit for purpose for safety.

JOHN VALLANCE: At the completion of the project.

The CHAIR: So at the completion of the project you thought it was fit for purpose?

JOHN VALLANCE: Absolutely.

The CHAIR: That turned out to be incorrect though, did it not, because they had to dig it up again and remove all the grommets?

JOHN VALLANCE: No. When the athletes tested it, there were maybe one or two or three grommets. The showjump riders who tested the arena had no issue. They thought it was absolutely fantastic.

The CHAIR: But the evidence we got was that this was a problem that was likely to be exposed with use and that, therefore, the people who first used it would not have noticed it and that as the arena was used is when the magnitude of the problem was certified. That is what we have been told. As a result of that, the Office of Sport has to spend \$300,000-plus to fix it, which is about 10 per cent of the original cost. What I am trying to understand, Mr Vallance, is when you signed it off as being fit for purpose was it a correct judgment?

JOHN VALLANCE: Yes.

The CHAIR: Why?

JOHN VALLANCE: I watched the three showjump riders and showjumping has more impact on a surface than dressage or showing—they are low-impact events. If a horse is jumping an obstacle which is 1.6 metres high and 1.5 metres wide, they need a good surface that does not move away from them on take-off and does not slide away from them on landing. These riders started out at around 1.2 metres and just gradually worked up to about 1.45 and then, in the end, one of the riders—I think it was Billy Raymont—said, "John, put it up to 1.60." He wanted to feel what it was. They came out of there and said, "This is unbelievable."

The CHAIR: That is interesting and useful, but why then did we have to pay \$300,000 to repair the site less than a year after its installation?

JOHN VALLANCE: As you said, if through constant working of the arena the grommets would have come up, then that was a different issue. But who was to know then that within the material there were all these grommets that were going to suddenly appear?

The CHAIR: Was it not your job to know?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: Wouldn't you have known if someone just dug into it and said, "Look, there's three or four of these grommets on top of the surface and we're digging through it now and it will be churned up by use over time," and, "Oh, wow, we've found a lot more below the surface"? Wouldn't that have been a normal testing process before certification?

JOHN VALLANCE: I do not know—

The Hon. MARK LATHAM: You had seen a lot of grommets in the stockpile, so you—

JOHN VALLANCE: I had seen grommets in it, yes.

The Hon. MARK LATHAM: So you must have known they were also below the surface and would come to the surface during use.

JOHN VALLANCE: It depended on how much work was done on removing the grommets before that material was put into the arena.

The Hon. MARK LATHAM: It seems like there are hundreds, maybe thousands, of these things in there. The geotech report said that you will never get rid of them and Karen Smith at the Office of Sport now concedes you will never get rid of all of them. Was it not, sort of, a needle-in-the-haystack problem and you would never get every single of one these things out?

JOHN VALLANCE: Unless you did a major—

The Hon. MARK LATHAM: Unless Barrie Smith complied with the tender spec and actually delivered what he was paid to deliver.

JOHN VALLANCE: That was not my area.

The Hon. MARK LATHAM: I know, but that is your assessment now of what happened. The only way of getting rid of all the grommets was Barrie Smith to go back and start again, as OTTO had to do at Wallaby Hill. They did it at Wallaby Hill, but apparently no-one put any pressure or request or their own initiative to redo the failed surface at SIEC.

JOHN VALLANCE: Yes.

The Hon. MARK LATHAM: So the taxpayer is lumbered with this problem, but down there at Wallaby Hill they were straight in there to correct it for Alex Townsend. They stockpiled the material and sent the problem to Horsley Park. That is what happened. Could I just ask, Mr Vallance, we heard evidence earlier on from Mr Verwey from Capricorn saying that the technical advisory committee had no contact with him. Is that right?

JOHN VALLANCE: I certainly had no contact with him.

The Hon. MARK LATHAM: How are you able to make an assessment of his tender if you had not even spoken to him?

JOHN VALLANCE: From the documentation he provided.

The Hon. MARK LATHAM: But there was no need to follow up and ask any questions about that documentation? Tenderers can provide a glowing set of materials about their own merit that, once questioned, starts to fall apart a bit. But you never went through that process of interrogating the nature of the tender?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: And what about Barrie Smith Motorsport? Was there a conversation with Barrie Smith about his tender?

JOHN VALLANCE: As I said, the first time I met Barrie Smith was at this meeting after the contract had been awarded.

The Hon. MARK LATHAM: Equestrian Surfaces, the third tenderer, were they interviewed?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: And this event at SIEC in January of 2018, what exactly was it? My understanding is that the major event that was coming up was an international dressage event in May 2018. What was it in January, the event that was so pressing that the tight schedule, it was thought, only Barrie Smith could meet it?

JOHN VALLANCE: I do not know.

The Hon. MARK LATHAM: Ms Seefried, do you know what it was in January 2018 at SIEC, the event where people met each other and it was the one that the tight schedule was aimed at?

MARY SEEFRIED: No, I have no idea.

The CHAIR: Ms Seefried, how did you get approached to serve on this committee?

MARY SEEFRIED: I was not on the technical advisory committee.

The CHAIR: And the role that you played was to certify it, is that correct?

MARY SEEFRIED: I was asked by SIEC, Mark Fulcher, the manager of SIEC, to come down and inspect the arena.

The CHAIR: And this was after the installation?

MARY SEEFRIED: Well after the installation. Well after the problems had surfaced.

The Hon. MARK LATHAM: So this is years later?

MARY SEEFRIED: Years later, yes.

The CHAIR: You never actually yourself certified it as being fit for purpose at the point of installation?

MARY SEEFRIED: No. I was not there at that time. I was not involved in the tender process, nothing.

The CHAIR: But your role was after the problems were discovered to provide advice about its consequences?

MARY SEEFRIED: No, not how to repair it. I was aware that there were grommets in the surface, because I was judging at one competition where they were there. But I was purely as an official there; I was not technically contracted, if you like, to give any advice at that stage. That came much later, after improvements had been made.

The CHAIR: But you as an official noticed that there were grommets in the site. That is correct?

MARY SEEFRIED: Yes, and I am trying to recall the year. I think it was 2019 maybe, the national championships at that stage.

The CHAIR: And was there concern amongst the users of the site about the grommets that you are aware of, or did you have any concerns?

MARY SEEFRIED: I think it became common knowledge that we found them because we walk across the arena as officials and we saw them and picked them up. But I did not hear of any welfare issues for horses in relation to that. My sport is dressage, I am a dressage official; I am not a jumping official.

The CHAIR: On balance, is it better to have grommets on sites or not?

MARY SEEFRIED: Of course not. I think psychologically it is not a good look.

The Hon. MARK LATHAM: Mr Vallance, can I just come back to the technical advisory committee process? Did you have conversations with Stephen Dingwall about the Barrie Smith tender?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: Or Peter Dingwall?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: There was also confusion, and the Office of Sport still does not really know, that in serving on the technical advisory committee Mr Farrar lodged a declaration of interest, which was nil, but they cannot find anything that you or Ms Farrell lodged. Do you remember lodging a declaration of interest?

JOHN VALLANCE: No, I do not.

The Hon. MARK LATHAM: No-one asked you, "Have you got any interests here you need to declare to make sure it's a clean process?"

JOHN VALLANCE: I understand what the conflict of interest is about. I cannot recall having made that declaration.

The Hon. MARK LATHAM: And how would you describe your relationship with Stephen Dingwall?

JOHN VALLANCE: When?

The Hon. MARK LATHAM: At any time? For instance, did you approve his selection on the New South Wales State jumping squad?

JOHN VALLANCE: No, I am not a selector. At that stage I was not a selector.

The Hon. MARK LATHAM: You had not ever selected Stephen Dingwall for any position in the jumping fraternity?

JOHN VALLANCE: As I said, I was not a selector.

The Hon. MARK LATHAM: Had you had any commercial contact or arrangements with Stephen Dingwall in any other way?

JOHN VALLANCE: No.

The Hon. MARK LATHAM: How do you explain, in hindsight, Barrie Smith Motorsport getting this tender and, at the end of the day, was this not just a favour to Peter Dingwall that his son was doing the work?

JOHN VALLANCE: I find that preposterous. I think that is ridiculous, I am sorry.

The Hon. MARK LATHAM: It is not as ridiculous as what subsequently happened. There has got to be some explanation.

The CHAIR: Mr Vallance, were you paid to be on this committee?

JOHN VALLANCE: Not on that committee. I was paid on the sign-off—so it may well have been, yes, I was paid by the Office of Sport through Jim Kasif.

The CHAIR: And you were paid, as you understood it, was it for certifying the site as fit for purpose, serving on the committee or both?

JOHN VALLANCE: I would say both.

The CHAIR: So you were paid.

JOHN VALLANCE: Yes.

The CHAIR: And the committee was paid—this was not a unique arrangement for you, to the best of your knowledge?

JOHN VALLANCE: I do not know whether the other committee members were paid or not.

The CHAIR: And you were recruited by Mr Farrar to this committee?

JOHN VALLANCE: Maybe. I simply do not know. I cannot recall.

The CHAIR: But you were approached by Mr Farrar at first instance to serve on the committee?

JOHN VALLANCE: When Oliver Holberg, who was their first choice, was asked to come and certify the arena and he was unable to do so—I think that is knowledge that the committee have—Bruce rang me at some stage and said, "Would you do it?" and "I've nominated you to sign off on it. You have the best credentials in Australia as far as arena surfaces and their fitness for purpose, particularly for jumping", and this is particularly with jumping because, as I have said earlier, it is more demanding on the surface than the other disciplines.

The CHAIR: Sure, but he recruited you to certify the site, is that what you said, or to serve on the committee?

JOHN VALLANCE: Serve on the committee. Jim Kasif was the one who—

The CHAIR: Then asked to you certify the site?

JOHN VALLANCE: Yes.

The Hon. MARK LATHAM: How many meetings did the technical advisory committee have?

JOHN VALLANCE: I do not know. Maybe two, but I am really only guessing, Mr Latham.

The Hon. MARK LATHAM: In his emailed assessment to Mr Kasif, Mr Farrar said that he thought Barrie Smith Motorsport were "easy to do business with" and "Capricorn were difficult". Was that raised at either of those meetings?

JOHN VALLANCE: Not that I recall.

The Hon. MARK LATHAM: Right. And how could that assessment have been made about easy to do business with for Barrie Smith but Capricorn were difficult? Was that your assessment also?

JOHN VALLANCE: No, I was never asked.

The Hon. MARK LATHAM: You were never asked, and it was not raised at your meeting?

JOHN VALLANCE: Not that I recall.

The Hon. MARK LATHAM: It came from Mr Farrar in his assessment to Mr Kasif but was not raised with the other two committee members?

JOHN VALLANCE: I do not recall it being raised.

The CHAIR: Ms Seefried, could I just ask you to explain to us the certification of the remediation or the rectification, which I think is what you were involved in, is that correct?

MARY SEEFRIED: Yes. I understand that the arena was rectified, and I was asked in my capacity as an experienced technical delegate to come down to Sydney and look at the arena and see it actually being used by some dressage horses. I looked at the indoor arena and the outdoor arena and I made an assessment at that stage.

The CHAIR: And you felt that the site was significantly improved from your previous experience with it?

MARY SEEFRIED: Significantly. Significantly improved. And I think the management of the site at that stage impressed me, because all of these arenas are not only dependent on the materials which are used in them but the management process, especially with EBB & FLOW arenas. The outside climate has a big effect on them from day to day, even during one day—whether it rains or it is windy or the humidity, all of those sorts of things. So they are not a set-and-forget type arena. They have to be managed, not only in the amount of water that is available, but also in how the surface is actually prepared through tractor machinery, grading machinery et cetera. I was quite impressed with the knowledge that the management team at SIEC had at that stage.

The CHAIR: This was after it was rectified?

MARY SEEFRIED: Yes.

The CHAIR: How does the site now compare to other sites that offer similar surfaces?

MARY SEEFRIED: I think it is very comparable. I think management has learnt; they have built up a network of people that manage these types of arenas, with the mats in them and the water supply; and I think they want to produce a top arena for performance, and they have.

The CHAIR: Some of these question might be obvious, but you are the expert and I am not. So I am going to put these to you so you can give us your views.

MARY SEEFRIED: That is alright.

The CHAIR: Is it fair to say that the Sydney International Equestrian Centre is a major equestrian site?

MARY SEEFRIED: Yes, it is. It is one of the major sites in Australia.

The CHAIR: Therefore, in order for it to be competitive globally, it has to have best standards. Do you agree with that?

MARY SEEFRIED: It has to have top standards, otherwise competitors riding equestrian athletes, which are at the very top of their game—they cannot afford to have an injury of the horse at all. They will take measures not to have that happen. I was quite happy that horse welfare was being well looked after that time that I inspected it.

The CHAIR: This was after the site was remediated?

MARY SEEFRIED: Totally after the site was remediated and I was informed of what they had done to improve it.

The CHAIR: Do you agree that we—when I say "we", I mean the State of New South Wales—in hosting equestrian events, was at risk of suffering a reputational loss as a result of the incorrect installation that took place at first instance?

MARY SEEFRIED: That is a difficult question to answer. Trust is always very difficult to draw back, and I think there may have been a situation, when the arena was first put down and used, that trust started to decline. I am happy that there have been competitions—major competitions—since that time, where the trust has returned.

The CHAIR: But we did risk losing trust; you would agree with that?

MARY SEEFRIED: Yes. Riders are all about surfaces and they can sometimes use them as an excuse, that their performance is not good enough when the surface is totally okay. But there was a period when the reputation of that surface did decline. I think it has gone now. We have got two or three years on down the track now, and it has been used quite significantly since then, and there has been, to my knowledge, no complaint since.

The CHAIR: Do you agree that, prior to the installation at first instance, the site was old and was requiring an upgrade?

MARY SEEFRIED: It certainly was. It had become—what would one say?—old-fashioned. It did not use the latest technology. We had many international riders who have competed overseas and they knew exactly what a good surface could produce. If I can make an example, before hockey got the AstroTurf, hockey was a game about you did not know where the ball was going to bounce. Once the AstroTurf came into major arenas for hockey—major fields—the sport improved from the grassroots up. This is what is important for all equestrian sports too, because we are not only dealing with Olympic athlete horses; we are dealing with those horses which may become that, and we need to protect them. Horse welfare issues are extremely important for all levels.

The CHAIR: Do you agree, therefore, that the principal reason why the Office of Sport decided to provide the funding was to maintain the reputation of the equestrian centre and its ability to host international events?

MARY SEEFRIED: Sorry, the funding for what in particular?

The CHAIR: To the best of your knowledge, was the decision to provide funding to upgrade the arena designed to make sure that the arena maintained its reputation internationally?

MARY SEEFRIED: Yes, it was. With all good intention, I think, that was the decision to be made: that the surface needed changing and improving for attracting all of the top competitors in Australia.

The CHAIR: As a senior member of the equestrian community, do you agree that it was the expectation of the equestrian community that it would be getting a brand-new surface?

MARY SEEFRIED: Yes, it was. We were very excited about it. Yes.

The CHAIR: I think that is it for this particular panel, unless Ms Moriarty or Mr Amato have any questions.

The Hon. LOU AMATO: No.

The Hon. TARA MORIARTY: No.

The CHAIR: Thank you, Mr Vallance, for your attendance in person. You have agreed to take some questions on notice, for which you will have 21 days to provide answers. The secretariat will provide you with a list of the questions. Ms Seefried, we also thank you for taking the time to join us online. I do not think you took any questions on notice. We are very appreciative of you making yourself available to assist the Committee in its deliberations.

(The witnesses withdrew.)

The Hon. GEOFF LEE, former Minister for Sport, Multiculturalism, Seniors and Veterans, before the Committee via videoconference

The CHAIR: Minister, as you are a serving member of Parliament you are not required to take an oath. You are giving evidence under your existing oath you made to the Parliament. We welcome you and we thank you for taking the time to spend with the Committee this afternoon. I invite you to make a short opening statement, if you so wish.

Dr GEOFF LEE: I thank the Committee and, obviously, I am here to answer any questions. Thank you for the opportunity to make a short statement. I was first appointed as the acting sports Minister on 20 September 2019. I understand from my records, from my recollections, that on 24 October—about a month later—the first complaint about the surface of the equestrian centre was received. I say that at that time there was a complaint and it was drawn to my attention through the Office of Sport, through the regular meetings I had with Karen Jones, the CEO, that there had been rubber grommets in the surfacing sand that they put on that new equestrian centre.

Over a period from about December 2019 to January 2020, we received a number of written complaints by Ms Dawkins and Ms Brooks. There were three formal letters of complaint. They were sent to Minister Sidoti and cc'd to the Office of Sport. Obviously, as acting Minister, I took those seriously. At the time the CEO, Karen Jones, briefed me on the issues and advised the correct course of action, as she saw it. The number one priority obviously was safety, and the number two priority was looking at the conflict of interest with Barrie Smith Motorsport, which were the contractors to rectify. The Office of Sport indicated that the correct course of action was to seek remediation of that ground under the contract condition. I understand and was advised that between January and September 2020 the contractor remediated the surface at no additional cost to the taxpayers.

Going back to March 2020, after a briefing from the Office of Sport we agreed to engage O'Connor Marsden, an independent probity officer, to review the tender process and any undeclared relationships that may or may not have existed in terms of the tender awarding and the people who were involved on the tender panel. On 29 April 2020 that probity officer—and I have referred to them as O'Connor Marsden, OCM—reported that the process was completed. The process complied with the procurement process; however, there were various areas that were identified that needed improvement. At that stage in the meeting I asked Karen Jones, the CEO of the Office of Sport, to refer the matter to ICAC in case there were any corrupt activities happening, to have a look the situation and to provide all the documents, including all the complaints that were made to my Office of Sport.

On 1 December 2020 the ICAC responded to the Office of Sport. From memory, Karen Jones was the one who put in the complaint. The ICAC was not going to investigate, but it gave a series of recommendations to improve and strengthen our procurement process. From the start of 2020 to the start of 2021 Ms Dawkins and Ms Brooks sent a number of similar complaints—similar in nature—to myself or the Office of Sport. I understand that, as acting Minister, I responded. I am happy to table the letter to Ms Dawkins. You should have it in your pack, though, I am sure. It was the 11 February 2021 response to the procurement process and our independent verification of the surface that we had done by independent assessors.

In March 2021 we did an additional assessment, where riders and equestrian experts came to have a look at the track. They visited the site and confirmed that it was a world-class surface. The Office of Sport has—during my time, anyway—realised that there were some flaws in the tendering and procurement process. From my understanding and from my memory, it said that it rectified the tendering and assessment process in line with the independent assessors', OCM and ICAC, recommendations. By 26 May 2021 I stopped being sports Minister. I am happy to take any questions.

The CHAIR: Thank you, Minister. We appreciate the thorough opening statement. One point that you made is that you wish to table some letters. I am advised that we have not received any. If your office is in a position to provide them or can email them through to the Committee secretariat, that would be most helpful.

Dr GEOFF LEE: I can ask them to do that right now, if you like, so that you have a copy of that letter.

The CHAIR: Yes, that would be helpful, because we can probably use it in the questioning. If there is a written copy of your opening statement as well, that might be helpful for Hansard if that could be emailed through. We resolved as a Committee that we would be sharing the questioning. As is custom, we will begin with Mr Latham.

The Hon. MARK LATHAM: Minister, thanks for your opening statement. When did you, as the acting Minister, first find out that the materials at the SIEC had come second-hand from the Wallaby Hill property of Alex Townsend?

Dr GEOFF LEE: I cannot remember the exact date. I think, from memory, I was informed that the problem was that the surface was refurbished and the material that they used had rubber grommets in there. From memory, that is what I understood.

The Hon. MARK LATHAM: Would you have been told that in late 2019 in these briefings from Karen Jones?

Dr GEOFF LEE: I would assume that would be the case but I cannot put a date on it. It would be around late 2019. I cannot remember them saying, "This came from another property". I thought the material just had rubber grommets in there; I did not ask where the material came from. I had no knowledge of that.

The Hon. MARK LATHAM: From our inquiries with this Committee, that seems to be the major part of the scandal, that these second-hand materials have caused the ongoing problems to the point where the Geotech report—and also in evidence from Karen Jones—said that you will never really get rid of the rubber grommets in there. It is something that is going to linger for quite some time. Why was O'Connor Marsden chosen as the probity investigator?

Dr GEOFF LEE: I cannot answer that question. When the Office of Sport recommended it, I agreed with them to do an independent evaluation of the tender and procurement processes. I do not want to assume but my conjecture is that we have a list of appropriate independent people who we go off. But best say it is by Karen Jones.

The Hon. MARK LATHAM: So that was a recommendation to you from Karen Jones, that we send this off to O'Connor Marsden to have a look at it?

Dr GEOFF LEE: No. There were probably discussions. I cannot remember the exact discussion. It was two or three years ago. There would have been a recommendation to get someone to independently assess and I said, "Okay, the Office of Sport can handle that independent assessment." I do not choose who our contractors are; the department does that. As you know, Ministers do not get involved in choosing individual contractors to do things.

The Hon. MARK LATHAM: What knowledge did you have of the terms of reference that were going to be sent to O'Connor Marsden for the probity investigation?

Dr GEOFF LEE: I cannot remember seeing those terms of reference. They would have been discussed, I am sure, but I cannot remember those terms of reference. They would have probably been discussed in a weekly catch-up that we have with Karen Jones.

The Hon. MARK LATHAM: Are you surprised now and do you look back on it with regret that the involvement of Alex Townsend was not part of the terms of reference to O'Connor Marsden?

Dr GEOFF LEE: I do not think I can make an informed comment about that. That was not brought to my attention. I thought the conflict of interest between the contractor and the person on the tender panel was the main issue, as far as I was concerned, and that then resulted in the problems that we have with the grommets. I was satisfied at that point, from the information that I had, that the surface was remediated. The other experts who we brought in had said that the surface was of world-class standard.

The Hon. MARK LATHAM: But do you acknowledge now that it was an oversight in that the grommets came from Wallaby Hill, a property owned by a member of the board of Equestrian NSW, where the president of that body, his son was a financial beneficiary of doing the work and a financial beneficiary of moving this second-hand material to SIEC?

Dr GEOFF LEE: What was the question, Mark?

The Hon. MARK LATHAM: The question was do you believe it was an oversight that this major problem in the process, that the grommets came from Wallaby Hill, which is owned by Alex Townsend, who was on the board of Equestrian NSW, and the president of that board, Mr Dingwall, his son is a major beneficiary financially of the decision to source the material second-hand from Wallaby Hill? Shouldn't that have been referred to O'Connor Marsden as a matter of course?

Dr GEOFF LEE: If that information was known at the time I am sure that would have raised red flags and we would have done that, but to my knowledge and to the best of my recollection that was never brought up as an issue. The relationship between a member of the tender panel and the contractor was brought up to see whether that was potentially corrupt—

The Hon. MARK LATHAM: But that information was known at the time, and well and truly known to the Office of Sport. On 19 December 2017 Darren Crumpler from the Office of Sport was emailing out and

blowing the alarm on the fact that what was being put down at SIEC was second-hand material that came from Wallaby Hill. By the time you sent the terms of reference to O'Connor Marsden in March 2020 it had been known for some 2½ years inside the Office of Sport that the problem of the grommets originated from the property of an Equestrian NSW board member at Wallaby Hill. Why was it not referred on as part of the O'Connor Marsden terms of reference?

Dr GEOFF LEE: As I said to you, I cannot respond on the Office of Sport, but I can certainly respond to the best of my knowledge. I had no idea that it was second-hand material from the son-in-law of the person on the board from whatever hill it was. I just did not know. I cannot look back and say, "Well, I should have made a decision." Hindsight is a great thing. If I knew that then, I probably would have raised red flags.

The Hon. MARK LATHAM: But moments ago in your evidence you said you were informed of that in your regular briefings with Karen Jones in the second half of 2019, so you did know.

Dr GEOFF LEE: No, I think what the information was is that there were rubber grommets within the material. Now, I did not inquire where the material came from. It actually came from a different source which was already contaminated. There were rubber grommets in there. I do not know where they sourced that material from. That was not my understanding of the issue at hand. The issue at hand was there were rubber grommets and that the tender process and the procurement process were not robust enough.

The Hon. MARK LATHAM: But I asked you when you first found out that these materials with the grommets came from Wallaby Hill, and you said in the regular briefings with Karen Jones in the second half of 2019.

Dr GEOFF LEE: I am sorry if I misled you in that way. But to the best of my ability, Mr Latham, there was no suggestion of where the material came from. I understood it was just contaminated material.

The Hon. MARK LATHAM: Looking at it now, it was a major oversight to not include this in the terms of reference to O'Connor Marsden. They never reported on it and then ICAC never had a chance to look at it either, did they, because ICAC examined the O'Connor Marsden report and did not go into the Alex Townsend connection? Is that right?

Dr GEOFF LEE: I am happy to accept that if that was not examined, that material probably did flow to ICAC. But I would assume the Marsden report looked at all the different letters and correspondence from—

The Hon. MARK LATHAM: No, they did not. They did not have terms of reference. I take you to the Office of Sport's submission to this inquiry, written on 14 September 2021 under your time as Minister. On page 68 it states:

- (g) in relation to the suggestion that the use of the Wallaby Hill Materials was due to Ms Townsend being unsatisfied with the Wallaby Hill Farm arena surface, and that the use of the Wallaby Hill Materials was not disclosed, any issues surrounding this would need to be explored with Mr Smith and Ms Townsend.

Why did the Office of Sport not examine and explore this Townsend connection and the impropriety therein by referring it off to O'Connor Marsden? Its report would have looked at it and then been subject to ICAC investigation. How can the Office of Sport in September 2021 say of the Townsend connection, "Well, you'll have to take that up with Smith and Townsend and nowhere else"?

Dr GEOFF LEE: I am sorry, I cannot answer on behalf of what the Office of Sport submission recalled. It was not brought to my—to the best of my recollection, I cannot remember that issue being pressed with me. My issue was that the tender process and procurement had potential for corruption; and the second issue was the surface was unsuitable and unsafe. Once I was satisfied that the surface had been remediated and that we had independent people saying it is world class, that issue disappeared. The other was that the tender procurement and evaluation process was potentially flawed. Unfortunately, the conditions that were set out before I was Minister and agreed and accepted were not robust enough. We made sure, once we recognised those problems from the independent report and ICAC recommendations, that we implemented those to make sure that this situation never happened again.

The CHAIR: But Minister, you do accept that the original processes, as you put it, were not robust enough?

Dr GEOFF LEE: Yes, I think it is clearly stated in the independent report and ICAC report that the processes were not good enough.

The CHAIR: Specifically, in terms of the processes that you accept were not good enough, do you want to identify which part of the process you thought was most deficient, as you saw it?

Dr GEOFF LEE: I cannot remember all the different—one that springs to mind is the declaration of interests of people on the tender panel. I think that was one of them. I could be wrong, but logically you cannot assess—it is the commonsense test—somebody's tender proposal that you have a relationship with, without declaring it or absolving yourself. That is the one that stands out to me. But it was so long ago. I just do not have a memory of the exact recommendations and how we rectified it. Certainly I was assured by the Office of Sport at that time that those processes were tightened up and those procedures were changed to make sure this situation could never happen again.

The CHAIR: Minister, I accept the conflict of interest point you are making there, but one of the issues in this inquiry that has surfaced—and to be fair to the Office of Sport, it now says so—is that part of what was lacking in robustness, if we are to use those terms, was the reliance on Equestrian NSW to the extent that it was to effectively guide it through this process. To be fair to the Office of Sport, as it rightly says, there are so many sports that it has to deal with that it often does rely on the peak bodies of sport organisations to assist it when it comes to specific technical rectifications. It was set up before your time as acting Minister, but do you accept that perhaps the decision to rely so much on Equestrian NSW without necessarily checking whether Equestrian NSW had the right policies in place was part of the reason that gave rise to the corruption risk?

Dr GEOFF LEE: I think it points to what—I think the end outcome of this, Mr Mookhey, is that if you rely upon third parties or community-based organisations to run processes, that has some inherent risk if their policies and procedures are not robust enough. I think that there is some level of problems that could occur—and obviously it did in this case.

The Hon. SHAYNE MALLARD: Good afternoon, Minister. Let me just go over the time line that you gave to us, which was quite comprehensive in your opening statement, and just lead to my question. Just over a month after you became the acting sport Minister, what other portfolio did you have at the same time? Multiculturalism?

Dr GEOFF LEE: Multiculturalism, Seniors, Veterans, Skills and Tertiary Education, and my favourite one was Parramatta.

The Hon. SHAYNE MALLARD: You must have been incredibly busy with briefings and getting across all those various portfolios. However, within four weeks of becoming the acting sport Minister, Ms Jones brought to your attention this issue of the grommets and you probably did not know what they were at the time. Members of the Committee have a comprehensive learning of those. If you look at that time line, you followed the advice of the department of sport, appointed an independent review of the process and a few more complaints came in. But in less than six months you referred the matter to the ICAC, which is a pretty robust thing to do. Would you agree with that, as to how you handled that?

The CHAIR: Did you actually refer it or did the Office of Sport?

The Hon. SHAYNE MALLARD: Sorry?

The CHAIR: Did the Minister refer it or did the Office of Sport refer it?

The Hon. SHAYNE MALLARD: I have notes here that it was referred to the ICAC in—

The CHAIR: Sorry, it is a question I am putting to the Minister. He did make the point earlier that the Office of Sport referred it.

The Hon. SHAYNE MALLARD: Alright, we will clarify that—

The CHAIR: Did it do that on your behalf or did you make a separate reference?

Dr GEOFF LEE: From the best of my knowledge I said, "Ms Jones, can you refer to it to the ICAC to make sure that there is no corruption?"

The Hon. SHAYNE MALLARD: It was the right thing, a very robust thing for a Minister to do. You have had the independent report from O'Connor Marsden and then you refer to the ICAC. The ICAC said it was not going to do further investigation but it made recommendations which are fairly parallel to the O'Connor Marsden recommendations in strengthening it, and you implemented that strengthening. You are confident that the process from your office was comprehensive and ethical, and you processed it all in the proper way?

Dr GEOFF LEE: Yes. I am confident that we followed the right procedure once the complaints were lodged. We went through an independent process. We engaged an independent probity officer to look at the process, and then we actually reported to ICAC what we thought, just to be doubly safe that we were looking at every angle.

The Hon. SHAYNE MALLARD: That is all I wanted to reconfirm.

The Hon. MARK LATHAM: Minister, just on that, why do you think that the ICAC letter of 1 December 2020 makes no mention of Alex Townsend and the fact that the second-hand material had come from the property of a board member of Equestrian NSW as part of the work and finances of the son of the president of Equestrian NSW?

Dr GEOFF LEE: I cannot speculate on what ICAC puts in their letters. You would have to ask ICAC that.

The Hon. MARK LATHAM: You can speculate, can't you? There were no terms of reference about Alex Townsend to O'Connor Marsden. That report was passed on to ICAC, which clearly also did not examine the Townsend connection. These are only partial investigations, aren't they?

Dr GEOFF LEE: I am taking you for your word, Mr Latham. As I said, my recollection of the terms of reference—I cannot recall those terms. You would have those in front of you. I do not think you need me to answer the question.

The Hon. MARK LATHAM: I am just confirming that is the case, as you were the responsible Minister. In the briefings you received from Karen Jones, did she or anyone else in the Office of Sport make any mention of the meeting in early 2018 where, Mr Vallance said earlier on, in giving the technical certification to the arena at SIEC, he was told by a senior Office of Sport official, possibly Matt Miller—that was one that he left open—that the real objective here was to make sure that Alan Jones, the radio broadcaster, did not find out that the materials at SIEC were second-hand and coming from Wallaby Hill? Doesn't that point to thinking of a cover-up and a lack of transparency by the Office of Sport at the moment when the surface was certified?

Dr GEOFF LEE: Can I say that, to the best of my knowledge, Karen Jones never briefed me on those particular accusations that you put there.

The Hon. MARK LATHAM: Was Matt Miller gone by the time you became acting Minister?

Dr GEOFF LEE: Yes.

The Hon. MARK LATHAM: Finally, knowing what we now know, wasn't there an argument, especially given the Alex Townsend connection and what has gone on there, that this should have been referred to the police?

Dr GEOFF LEE: In hindsight, but, looking back at the time, it really never occurred to us that it was a police matter. I thought ICAC—

The CHAIR: I accept that this might not have been discovered through the O'Connor Marsden process, but do you accept that an O'Connor Marsden independent review did not have—let me rephrase that. What was your understanding of O'Connor Marsden's powers here? Was it to review the conduct of the Office of Sport, to review the conduct of Equestrian NSW or both?

Dr GEOFF LEE: From memory—as I have said, this goes back a couple of years now—it was certainly to look at the tender process and procurement process and the potential conflict of interest in the awarding of the contract.

The CHAIR: You accept the contract was let by the Office of Sport, correct?

Dr GEOFF LEE: I assume so, but that was before my time. There must have been a contract. I had no dealings with the contract in the sense that it was—I have some notes here—2017, I think.

The CHAIR: What seems to be apparent is that there certainly is enough, I guess—I do not want to reach conclusions before the Committee has deliberated. Certainly, we have heard evidence that would point to fraud, namely on the part of the contractor in substituting materials. What I am trying to understand is did you have any knowledge or forewarning of that at the time or not?

Dr GEOFF LEE: No. It was never brought to my attention that there was a potential for fraud.

The CHAIR: The reason I ask, Minister, is because the way in which the O'Connor Marsden investigation was set up is that they were not in a position to discover that. If they were only reviewing the Office of Sport, they would have lacked power to write questions to Mr Smith or others. One of the issues that we were interrogating the Office of Sport on was why they did not immediately seek to go to police, given that the only people who did really have the ability to do that was police or, for that matter, the ICAC. But your evidence is that was never contemplated.

Dr GEOFF LEE: It was never brought to my attention that there was a breach of the contract besides the inclusion of foreign material—the rubber grommets in the sand that they put down or the fill material that they put down. It was not—

The CHAIR: We have suffered a technical difficulty.

The Hon. SHAYNE MALLARD: Just at a critical piece of information.

The CHAIR: We will pause.

(Short adjournment)

The CHAIR: We are back online. Minister, we lost you at the point where you were saying, I think, at that time you did not have evidence of fraud before you.

Dr GEOFF LEE: Yes. It was never indicated that it was fraud. As you would realise, the contractual matters of the delivery of any of these projects is managed by the Office of Sport or by the contractor. It is not managed by the ministerial office, so I do not look at the contracts to make sure that they have put the right depth or whatever. We rely upon the department to do that sort of thing.

The CHAIR: When you received the O'Connor Marsden report, you said that report had identified deficiencies. What directions did you give the Office of Sport, and according to what time line, when it comes to the rectification of their process deficiencies?

Dr GEOFF LEE: To the best of my knowledge, I directed them. They briefed me about what the report said and I said, "We have got to follow all of those. Just implement the changes and make it more robust."

The CHAIR: Did they provide you with the report?

Dr GEOFF LEE: I am sure they provided my office with the report.

The CHAIR: And you presumably read it, or your office did?

Dr GEOFF LEE: I had a brief look at it. I am sure someone in my office had a look at it.

The CHAIR: What steps did you take to monitor whether or not the Office of Sport had indeed implemented the recommendations?

Dr GEOFF LEE: I certainly would have brought that up with Karen Jones, asking her whether the recommendations were implemented. From memory—it was quite a while ago, as I said—the ICAC recommendations were similar in nature in that the processes were tightened up and more robust so that we get the right outcomes.

The CHAIR: Thank you, Minister. We appreciate the time that you have spent with us this morning. I do not believe you took any questions on notice. We also thank your office for providing us with the documents that you had tabled as quickly as you did. Thank you for spending some time with us this morning. We will adjourn for 15 minutes. I note that I will pass to the appointed Deputy Chair from this point on.

(The witness withdrew.)

(Short adjournment)

Mr PETER DINGWALL, Former President, Equestrian NSW, affirmed and examined

The Hon. TARA MORIARTY: I welcome the final witness to today's hearing.

PETER DINGWALL: And I have no title.

The Hon. TARA MORIARTY: Thanks for your attendance today. We will open questions perhaps with Mr Latham.

The Hon. MARK LATHAM: Thanks, Mr Dingwall, for your attendance.

The Hon. SHAYNE MALLARD: Was there no opening statement?

The Hon. TARA MORIARTY: Actually, my apologies. Mr Dingwall, did you want to make an opening statement?

PETER DINGWALL: No, I do not think I needed to make an opening statement. I have provided the Committee with a very full statutory declaration. There is nothing I could add to that. I take it the Committee has read that?

The Hon. MARK LATHAM: Indeed. Mr Dingwall, we have not only read your submission but also are hoping that you have heard some of the evidence through the two days of hearing, which I suppose in one part reflects dreadfully on the process by which this grant was allocated.

PETER DINGWALL: You are making assertions there, which are not necessarily correct.

The Hon. MARK LATHAM: How do you think it has been a good process for the taxpayers of New South Wales?

PETER DINGWALL: I would just rather answer questions. If that is the question, I think it has been a very good outcome. There is a world-class equestrian centre with a world-class arena there now, which has been favourably received by all top elite athletes.

The Hon. MARK LATHAM: You do not see an ongoing problem that these rubber grommets, plastic materials, can never be removed from the surface and the surface was a second-hand material outside the terms of the tender—so noncompliance with a very expensive tender—dragging up second-hand materials from Wallaby Hill from one of the properties of one of your board members at Equestrian NSW?

PETER DINGWALL: You have several assertions in there and I have to try to deal with one in turn. You will have to go back. You put so much in that question. What is the first proposition you are putting to me?

The Hon. MARK LATHAM: It has been admitted in the geotech report and also by the Office of Sport that they can never get rid of the rubber grommets that are in the material. Mr Dingwall, whether you like it or not, some equestrian riders and users do not like the idea of their horses shying away from these foreign objects in the surface.

PETER DINGWALL: Well, I have never heard any equestrian say that. If you have any statement from an equestrian who has said that, I would be interested to see it but I have never heard a single competitor make such an assertion.

The Hon. MARK LATHAM: You do not see a problem with horses shying away from these rubber grommets which seemingly will always be in the surface?

PETER DINGWALL: I have never heard of horses shying away from rubber grommets. There are a lot of surfaces that have rubber in them.

The Hon. MARK LATHAM: You should read the submissions to this inquiry and all the correspondence that went through to the Office of Sport.

PETER DINGWALL: Whose submission are you referring to?

The Hon. MARK LATHAM: Well, there is a whole of range of them.

PETER DINGWALL: If you are referring to submissions from people who have never seen the surface, who live in other States, then you can place what weight you like on that but the people who actually compete there have not made any complaints about horses shying away.

The Hon. MARK LATHAM: Do you think the reputation of Equestrian NSW has suffered heavily in this process?

PETER DINGWALL: No.

The Hon. MARK LATHAM: You do not? How do you think it has been a good reflection that the CEO of Equestrian NSW was an instigator of the grant, involved in every step of the way, never declared an interest in the financial benefit to your son, Stephen—

PETER DINGWALL: Can I stop you there? You have repeated that several times during these hearings. You cannot have any evidence that my son obtained any financial benefit from this. That is false. Whoever is giving you that information it is false. There is no evidence that my son received any financial benefit from this project.

The Hon. MARK LATHAM: Does your son work for Barrie Smith Motorsport?

PETER DINGWALL: No.

The Hon. MARK LATHAM: He has never worked for them?

PETER DINGWALL: I have asked him since this inquiry commenced; I did not ask him before. He has never worked for him. He occasionally has done some subcontract work for him on a piecemeal basis, but he does not work for Barrie Smith Motorsport.

The Hon. MARK LATHAM: Was he involved in the Barrie Smith Motorsport contract for the SIEC surface?

PETER DINGWALL: Not that I am aware of.

The Hon. MARK LATHAM: Had no involvement in it whatsoever?

PETER DINGWALL: Not that I am aware of.

The Hon. MARK LATHAM: Well, what is the subcontracting he has done for Barrie Smith Motorsport?

PETER DINGWALL: From what he told me after the event, he did go down to SIEC to help groom the arena and to help the staff at the arena to teach them how to properly maintain the arena.

The Hon. MARK LATHAM: So that is an involvement in this project and he was paid for that?

PETER DINGWALL: Subsequent to the project.

The Hon. MARK LATHAM: Was he paid for that?

PETER DINGWALL: I do not know if he was paid for it or not. I have no idea.

The Hon. MARK LATHAM: He was not there doing it for love, was he?

PETER DINGWALL: I do not know. He may have been paid something to go down. I do not know.

The Hon. MARK LATHAM: You know you are under oath here?

PETER DINGWALL: I wish you would not put that to me. I know what an oath is, don't you worry.

The Hon. MARK LATHAM: Why then would you say that your son has never worked for Barrie Smith Motorsport and then say he has been a subcontractor—

PETER DINGWALL: No, no. I said—

The Hon. MARK LATHAM: He has been a subcontractor to his father-in-law and involved in this particular project at Horsley Park. Why would you contradict yourself?

PETER DINGWALL: I said he was not an employee of Barrie Smith, nor, as one of your informants suggested, was he a manager. Prior to this, I have no idea what his involvement was with Barrie Smith. Only subsequently when I asked him he said that he had done some subcontract work.

The Hon. MARK LATHAM: Why would you say he received no financial benefit in working for Barrie Smith Motorsport when you then say he went to this site and has worked there as a subcontractor?

PETER DINGWALL: No, I did not say that.

The Hon. MARK LATHAM: Yes, you did.

PETER DINGWALL: I said he received no financial benefit from this contract.

The Hon. MARK LATHAM: Why do you think your son refused to give evidence here?

PETER DINGWALL: I was not aware he was asked to give evidence.

The Hon. MARK LATHAM: He was invited and refused to attend.

PETER DINGWALL: That is a matter for him. He probably thought there was no point in wasting his time.

The Hon. MARK LATHAM: Furthermore, there is the fact that your former CEO, because you are no longer the president, tipped off Barrie Smith Motorsport about the likely cost, was involved on a technical advisory committee—and we have heard from John Vallance how bad that was—that became part of the decision to award it to Barrie Smith Motorsport, and the fact that the process was so shoddy and the end result has been so controversial in the equestrian community. Hasn't Equestrian NSW suffered hugely out of this, particularly given the fact that the materials ended up—again, with some financial benefit for Alex Townsend—coming up from her property at Wallaby Hill?

PETER DINGWALL: Again, you make a whole host of assertions there—many of them are wrong. Equestrian NSW's reputation has not been diminished amongst its large membership. It may have been diminished amongst those three or four people who communicate with you but not across the wide equestrian community in New South Wales.

The Hon. MARK LATHAM: Have you read the ICAC letter to Karen Jones of 1 December 2020?

PETER DINGWALL: Yes.

The Hon. MARK LATHAM: And you think there is no adverse reflection there on the role of Equestrian NSW and Bruce Farrar?

PETER DINGWALL: I would not call it "adverse". I think they suggested it might have been a bit better managed.

The Hon. MARK LATHAM: Okay. In point 2, they say:

Mr Farrar appears to have been afforded a significant amount of involvement in the process in the absence of a formal arrangement including a clear description of his duties. It is of some concern that the Office of Sport was 'unable to comment' on whether some of Mr Farrar's actions were the norm for the role he was performing, essentially on behalf of the Office of Sport.

It goes on to say:

Mr Farrar approached Barrie Smith Motor Sport prior to the release of the tender to obtain a funding estimate to include in the proposal. This could be perceived as a tenderer with links to ENSW being given advance notice off the tender and scope.

When you were president of Equestrian NSW, did you take any action against Mr Farrar, given this severe criticism by the ICAC?

PETER DINGWALL: No, we saw no need to.

The Hon. MARK LATHAM: Why is that?

PETER DINGWALL: There was no need to. There was nothing untoward in what he did.

The Hon. MARK LATHAM: No? You would disagree with the ICAC findings?

PETER DINGWALL: The ICAC simply says, from the point of view of the Office of Sport, it could have been better handled. From the Equestrian NSW point of view, nothing for us to comment on.

The Hon. MARK LATHAM: In point 8, they say:

Mr Farrar appears to have been responsible for conducting and/or relaying advice of the outcome of the surface test to the Office of Sport. Given the quality issues that have since become known, [sic] Mr Farrar's involvement is likely to be another contributing factor to the perception that ENSW was partial to Barrie Smith Motor Sport.

PETER DINGWALL: They said a perception, and that is what I mean. They said it probably was not well managed. Perception is not reality, though.

The Hon. MARK LATHAM: It goes to your reputation and that is what I was asking about—that Equestrian NSW has taken a reputational hit, particularly in light—

PETER DINGWALL: You assert that, but I disagree with that.

The Hon. MARK LATHAM: Okay. I am just quoting from the independent ICAC assessment of half of this problem—Mr Farrar's involvement.

PETER DINGWALL: I am not sure that it said anything about reputational damage in that.

The Hon. MARK LATHAM: The Alex Townsend connection was not even examined by O'Connor Marsden or ICAC, but maybe the Committee will make recommendations on that. What discussions did you have with Mr Farrar about this particular grant?

PETER DINGWALL: None beyond what we discussed in the meetings—first meeting when we gave him approval to make the submission for funding. Their RT kept us informed at monthly meetings as to where the thing had progressed, or not progressed, to the point where the submission was complete, submitted. We then reported back on when the funding was likely to come through, if at all, and then we were simply were told that it had been approved and it was going out to tender.

The Hon. MARK LATHAM: At no stage did you declare an interest that your son was a subcontractor to Barrie Smith Motorsport or that your son was closely related to Barrie Smith in the conduct of the awarding of the contract?

PETER DINGWALL: I was not even aware—from my understanding, he was not a subcontractor at that time. He was of course related, but I had no reason to declare any conflict of interest.

The Hon. MARK LATHAM: No? You do not think a relationship, a family relationship, is a reason for declaring a conflict of interest?

PETER DINGWALL: To who?

The Hon. MARK LATHAM: To your board.

PETER DINGWALL: How was there a conflict of interest to the board? The board was not making any decision other than noting that money had been provided and the Office of Sport would now take it on and put the matter out to tender.

The Hon. MARK LATHAM: The board's CEO was excessively involved in the process for the drawing up of the specifications and the awarding of the contract.

PETER DINGWALL: I was not aware of any of that.

The Hon. MARK LATHAM: Are you surprised that so many people in this so-called close-knit equestrian community know nothing or say that they are surprised to hear things that one would have thought were obvious in the knowledge of that community?

PETER DINGWALL: I cannot comment on what people think or do not think or what might surprise them or not surprise them.

The Hon. MARK LATHAM: Has Equestrian NSW responded to the ICAC and rebutted any of these points?

PETER DINGWALL: I have not been invited to and we did not see any need to either.

The Hon. MARK LATHAM: Did you have any discussions with Mr Farrar at any stage about the importance of Barrie Smith Motorsport receiving the contract?

PETER DINGWALL: Not at all.

The Hon. MARK LATHAM: No discussions at all?

PETER DINGWALL: Not at all.

The Hon. MARK LATHAM: Did Mr Farrar ever tell you that they had received the contract?

PETER DINGWALL: No. I knew after the event.

The Hon. MARK LATHAM: Wouldn't he report back to the board as a matter of course about all of the activities that he has engaged in to ensure that Barrie Smith receives the contract?

PETER DINGWALL: I am sorry?

The Hon. MARK LATHAM: Wouldn't he report back to the board as to who had won the contract and the role that he had played?

PETER DINGWALL: I do not recall if he did report back to the board. Our last meeting—sorry, I have got it here. In October 2017 he reported that he had been informed by employees of the Office of Sport that the invitation to tender had been issued for a planned upgrade of the indoor arena in January 2018. At the board meeting held on 27 November 2017, Mr Farrar reported that OTTO Sport was the successful tenderer and work on the upgrade of the arena had commenced and would be completed in January 2018.

The Hon. MARK LATHAM: What was the event, to your knowledge, in January 2018 that was so important for expediting the work and giving it to Barrie Smith Motorsport against the recommendations of the tender evaluation committee?

PETER DINGWALL: You have thrown into your question a whole number of assertions. The question simply is, I take it: What was the event? My recollection was that it was a show horse event run by the Show Horse Council Australasia, who is not a member of Equestrian NSW. It is a separate show horse body in Australia. My recollection was that they had a booking for January for their big show.

The Hon. MARK LATHAM: Why was that so important? Why do you need a new surface for showing horses, as opposed to a jumping event?

PETER DINGWALL: As I understand it, it was not so much us needing a new surface. The work had to be done before that event could commence, otherwise the whole timetable for all of the subsequent events would be put out of kilter.

The Hon. MARK LATHAM: There was no other place at SIEC where they could do their showing of the horses than this particular arena?

PETER DINGWALL: My recollection is that they had a regular booking—an annual booking—for that particular show. That is my recollection.

The Hon. MARK LATHAM: What you are saying to this Committee is that this process unfolded and Barrie Smith Motorsport received the contract to expedite the work for the keeping of bookings at SIEC, rather than the necessary upgrading of a surface for jumping.

PETER DINGWALL: My recollection was that it was not just for jumping; it was to upgrade it. But because of the time frames involved, we got the bookings throughout the year. For this particular one in January—from my recollection, I think it was show horse—the desired time was to get it done in that period prior to that show.

The Hon. SHAYNE MALLARD: I might ask you, sir—excuse my not being across the dates—were you president of Equestrian NSW and chair of the board when the matter was referred to the ICAC by the department of Sport? What I am getting at is: Were you there when the report came back?

PETER DINGWALL: Yes, I think I was. I was there until the end of 2020.

The Hon. SHAYNE MALLARD: I think there is general consensus from most of the stakeholders we have heard from that the recommendations to the ICAC were good recommendations in terms of implementing some stronger robustness around the tender process. Would you agree with that?

PETER DINGWALL: From what little I know of the tender process, I can only say yes. Any recommendations for change to improve must be beneficial.

The Hon. SHAYNE MALLARD: Particularly from a body like the ICAC, which deals across the whole spectrum of government. Did your board consider the ICAC report just as a matter of principle to look at the issues?

PETER DINGWALL: I am not sure that we looked at it as an agenda item. I am sure we received a copy of it. I just do not recall us ever actually discussing it as an agenda item.

The Hon. SHAYNE MALLARD: This is singling out Equestrian NSW in this particular tender, but the ICAC recommendation applies across all the sporting organisations because the Office of Sport administers so many different organisations. What is highlighted here is probably not unique to your organisation in terms of tidying up those tender processes.

PETER DINGWALL: I do not know. That was really all a matter for the Office of Sport to address, not for Equestrian NSW to address.

The Hon. SHAYNE MALLARD: By and large, the commitment and involvement in terms of Equestrian NSW and board positions—is that all honorary and a commitment and passion to the sport of equestrian horses?

PETER DINGWALL: It is totally voluntary and unpaid.

The Hon. SHAYNE MALLARD: Is there anything more you would like to add or anything you would like to correct that you feel needs to be said, Mr Dingwall?

PETER DINGWALL: Not from my point of view. In some of the debate and questioning that I watched there have been a number of factual errors that have crept in. There is some misunderstanding amongst some members of the board. Not deliberately, but because—

The Hon. SHAYNE MALLARD: Anything you feel you have a different view on, you are welcome to write to the Committee and point those difference out. We will decide whether or not to publish them, and we often do. I invite you to do that. We have a due process for witnesses and you are entitled to do that.

PETER DINGWALL: The only other comment I would make is that this term "conflict of interest" is thrown about quite readily nowadays. I invite the Committee to examine what a conflict of interest is, particularly in light of the ICAC guidelines. If you read those, you would think that you would come to the conclusion that I was not within a bull's roar of a conflict of interest.

The Hon. SHAYNE MALLARD: There are different standards of conflicts of interest. We are subject to quite a serious standard of conflict of interest in terms of the Parliament and as a former councillor, I can assure you.

PETER DINGWALL: My former occupation has also taught me a lot about conflicts of interest.

The Hon. SHAYNE MALLARD: And what was that?

PETER DINGWALL: A magistrate.

The Hon. SHAYNE MALLARD: There you go. I would not question you then on that one. That concludes my line of questioning.

The Hon. MARK LATHAM: I will just come to point 7 of the ICAC letter, if I could. It says:

The issue of clearly documented conflict of interest declarations appears to be a widespread one, having regard to the Office of Sport being unable to confirm whether or not former CEO Matt Miller declared his appointment on the selection committee for the ENSW Board ...

Why did the board bring on Matt Miller to vet the sort of person who might be a candidate for board membership?

PETER DINGWALL: Can we just examine the time lines there? Mr Miller was invited on the nominations board well after the arena had been upgraded and the contract had been tendered et cetera. Mr Miller is a person who is very well experienced in sports administration and governance et cetera, and we were introducing the nominations committee. We had attempted to have a nominations committee in the past, but we had not really progressed it very far. We wanted someone of Mr Miller's experience and capabilities to chair that nominations committee, to assist us in getting a very capable and multipurpose board, if you like.

The Hon. MARK LATHAM: Was that a voluntary position?

PETER DINGWALL: Yes.

The Hon. MARK LATHAM: Was there payment for going to meetings?

PETER DINGWALL: No.

The Hon. MARK LATHAM: Was there any other time Mr Miller received a stipend from Equestrian NSW for services under your presidency?

PETER DINGWALL: No, not at all.

The Hon. MARK LATHAM: But it does indicate that—I think the concern of ICAC was that Mr Miller, in running all the sports in New South Wales, why would you jump in and play this special role with Equestrian, indicating a pretty close relationship?

PETER DINGWALL: We would have to look at the actual times. I am not sure Mr Miller was still in charge of the sport when he came on to the nominations committee.

The Hon. MARK LATHAM: How many other former Office of Sport officials have you invited for these kinds of roles?

PETER DINGWALL: I cannot recall inviting anyone. That was the first occasion, from my recollection, that we convened a nominations committee.

The Hon. TARA MORIARTY: If there are no other questions from the Committee, thank you for your attendance today, Mr Dingwall.

PETER DINGWALL: Thank you.

The Hon. TARA MORIARTY: We appreciate it. You are now dismissed. That concludes our hearing for today. Thank you, everybody, for your participation.

(The witness withdrew.)

The Committee adjourned at 13:09.