

REPORT ON PROCEEDINGS BEFORE

**SELECT COMMITTEE ON THE PROPOSAL TO DEVELOP
ROSEHILL RACECOURSE**

**INQUIRY INTO THE PROPOSAL TO DEVELOP ROSEHILL
RACECOURSE**

CORRECTED

At Preston Stanley Room, Parliament House, Sydney, on Thursday 12 September 2024

The Committee met at 9:30.

PRESENT

The Hon. Scott Farlow (Chair)

The Hon. Wes Fang
The Hon. Emma Hurst (Deputy Chair)
The Hon. Dr Sarah Kaine
The Hon. Mark Latham
The Hon. Taylor Martin
The Hon. Bob Nanva
The Hon. Damien Tudehope

PRESENT VIA VIDEOCONFERENCE

Ms Cate Faehrmann
The Hon. Peter Primrose

CORRECTED

The CHAIR: Welcome to the third hearing of the Committee's inquiry into the proposal to develop Rosehill racecourse. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today.

My name is Scott Farlow. I am the Chair of this Select Committee. I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be very careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of those procedures today.

CORRECTED

Mr WILLIAM MURPHY, PSM, Deputy Secretary, Strategic Projects, Premier's Department, sworn and examined

Mr SIMON DRAPER, PSM, Secretary, Premier's Department, affirmed and examined

Ms KATE BOYD, PSM, Secretary, Cabinet Office, affirmed and examined

The CHAIR: I welcome our witnesses. Thank you for making the time today to give evidence. I'm sure these rooms are not unfamiliar to you after the last couple of weeks. Would anyone wish to give an opening statement to start?

SIMON DRAPER: Not from me, Chair.

The CHAIR: We will start with questioning. We will have a free flow of questions today. I will get the ball rolling. When was the first time that you became aware of a proposal to develop Rosehill racecourse?

SIMON DRAPER: Is that question to me?

The CHAIR: I'll start with you, Mr Draper.

SIMON DRAPER: I'll try to think hard to put an exact date on it. It would have been late last year. I would say it was around the time or just before it was going to be announced. So I was aware of it, but what date was that? That would have been late October, early November.

The CHAIR: Mr Murphy, when was the first time you became aware of the proposal to develop Rosehill racecourse?

WILLIAM MURPHY: Formally, I suppose it was the first time I met with the representative of the ATC on 8 November. I met with Steve McMahon on the basis that he had some questions about how, if a metro station was to be built at Rosehill, where it might be situated, and he wanted to talk about various options. In that meeting he also advised that the ATC had been working on a proposal to potentially redevelop Rosehill and some other related projects.

The Hon. DAMIEN TUDEHOPE: That's formally; what's informally then?

The Hon. MARK LATHAM: What date was that, sorry?

WILLIAM MURPHY: That meeting was on 8 November 2023.

The Hon. MARK LATHAM: That's the first time you became aware of it?

WILLIAM MURPHY: Formally.

The CHAIR: When did you informally become aware of it?

WILLIAM MURPHY: I had spoken to Steve McMahon a couple of days earlier to book and arrange a time for when we would meet. As I said, the question that I understood he had was to discuss where a metro station might be able to be located if one were built at Rosehill—something that he said to me he'd been talking to the Government about since 2016. So I asked him to, if he could, email me a drawing or some kind of indication of where the ATC felt might be a good location for a metro station. He emailed me that drawing so that I could get some advice on the practicality of that.

When that drawing arrived, you could see there was a proposed station location drawn on there. There was also what appeared to be some residential development on the site. It was at that point that I wondered whether there might be an alternative proposal in their minds. But it was really at the meeting of 8 November that Mr McMahon said that they were thinking about an alternative proposal for a development there.

The CHAIR: Was it at that point, on about 2 November, that you received that email from Mr McMahon?

WILLIAM MURPHY: It was 2 November, yes.

The CHAIR: At that point did this come out of the blue? What sort of information did you have about Mr McMahon contacting you? Was that facilitated by somebody?

WILLIAM MURPHY: At the time I was acting in the role of Secretary of the Cabinet Office. As part of that role, we would have very regular meetings with the Premier's office about things. I think it was about 31 October, in the regular daily meeting, that the office said that they had met with the ATC and that there was a gentleman there, Steve McMahon, who had some questions about potential locations for a metro station at Rosehill. As you know, the Government had already initiated work to investigate additional stations along that

CORRECTED

line. They asked me to meet with him to see what he needed and how I could put him in touch with the right people in government to answer his questions.

The CHAIR: So the Premier's office, on 31 October, advised you, asked you or tasked you to meet with Mr McMahon to work out—at that stage it was put to you as—the position of a metro station potentially for the area?

WILLIAM MURPHY: That's right.

The CHAIR: Was there any suggestion at that stage of an unsolicited proposal or anything coming forward from the ATC?

WILLIAM MURPHY: That's not how I remember it, but obviously it was a long time ago. There were a lot of matters covered in that meeting. But the action I took from the meeting, in any case, was to contact Steve McMahon to see if we could arrange a time to meet where I could try to help him get some answers to his questions about a metro station at Rosehill.

The CHAIR: When did the codename Project Wattle originate?

WILLIAM MURPHY: On 2 November, when I received that email from the ATC, I sent that to Sydney Metro to ask for advice on the station location—what was practical in terms of that question. But given the impression that there was some plan around residential development in the area too, I sent that on to Investment NSW as a question to ask, "If this becomes a bigger discussion, what's the right pathway or the right mechanism for engaging government on a proposal like this?" That's a normal function that Investment NSW performs for government.

Lots of proposals come to government in different ways and through different channels. Their role is to advise agencies on what is the right mechanism for engaging with this. When they have a proposal put before them, given the confidentiality arrangements and other things that sit around the management of unsolicited proposals, I believe their practice is to create a codename for those projects while they are in early development.

The Hon. MARK LATHAM: Mr Murphy, at that meeting on 31 October who was it in the Premier's office who asked you to do that work?

WILLIAM MURPHY: I don't have a note of that. It would have been either the chief of staff or one of the policy advisers.

The Hon. MARK LATHAM: Not the Premier himself?

WILLIAM MURPHY: I don't recall. That's my best recollection.

The Hon. MARK LATHAM: The Steve McMahon drawing and then your forwarding of it to Sydney Metro for their advice, why didn't that appear in the SO 52 documents that our Chair passed through the upper House?

WILLIAM MURPHY: I believe that was there.

The CHAIR: I believe it was. Mr Murphy, I know it's at a bit of a distance, but does that seem to ring a bell as to what that drawing was?

WILLIAM MURPHY: It rings a bell.

The Hon. MARK LATHAM: At that meeting on 31 October there was no mention of the full sale of Rosehill and the development of the 25,000 dwellings? It was solely about a metro?

WILLIAM MURPHY: The action I took from that meeting was to contact Steve McMahon about the potential location of a metro station. I don't have any notes or recollection of any broader discussion than that.

The Hon. MARK LATHAM: Mr McMahon gave evidence to this inquiry that the day before, on 30 October, he met with the Premier and his chief of staff for a discussion about the full sale of Rosehill. It would seem strange that that wasn't passed on to you; you were solely asked to look at the location of the metro.

WILLIAM MURPHY: I wasn't in the meeting the day before. I don't know what the content of that meeting was. All I can say was the action I took away was to contact Steve McMahon and try and meet with him.

The Hon. MARK LATHAM: You've got no recollection of a mention of the full sale of Rosehill?

WILLIAM MURPHY: That's not my recollection, no.

The Hon. MARK LATHAM: This document here headed "Project Wattle transaction options analysis" that was in the SO 52 for 6 November listed under the Cabinet Office, who's the author of this?

CORRECTED

WILLIAM MURPHY: That was a document prepared by Investment NSW. I believe it's a standard kind of approach that they use when agencies have had a person from outside of government propose some kind of proposition—is that they might do a little bit of analysis of what the options are for the right pathway for this proposition to be considered by government. So the advice that they provided us about the unsolicited proposal process had that analysis attached to it.

The Hon. MARK LATHAM: So you recall receiving this on 6 November, do you, from Rowan Fisher at Investment NSW?

WILLIAM MURPHY: It came in to the team through one of our teams. Yes, I recall that coming in to us.

The Hon. MARK LATHAM: You recall reading the document and making your own assessment of the way forward?

WILLIAM MURPHY: I did have a look at the document.

The Hon. MARK LATHAM: Mr McMahon has said that, out of his meeting with the Premier on 30 October, he regarded you as the point man, if you like, for moving this forward for the full sale of Rosehill.

WILLIAM MURPHY: I can't comment on what Mr McMahon said. But, as I said, I was asked to contact Steve McMahon and have a conversation. In the first instance, the thing that—my recollection is—I was asked to help him answer was whether there might be a way that a metro station that could be built at Rosehill might be built in a location that wasn't the one that he'd been told.

The Hon. MARK LATHAM: I'm trying to piece together the sequence because it's very important to the Committee. How did Investment NSW, Rowan Fisher come to develop this document? Who asked them to do that such that it was presented to you on 6 November?

WILLIAM MURPHY: On 2 November, when I received that email from the ATC, I provided that to the team for advice, and the team, recognising that this might be a commercial proposal or a significant proposal coming in from a third party, sent that email to Investment NSW for advice. The advice came back saying a range of things. I think the document was in the Standing Order 52 as well, with the advice back, which included the advice to—

The Hon. MARK LATHAM: Sure, but Investment NSW prepare a document for the four options of the full sale of Rosehill and someone—I assume you—has told them that's what's on the table, that's what we're discussing with the ATC and the document should be prepared accordingly. They just didn't do this out of the blue by osmosis, did they?

WILLIAM MURPHY: No, it was the email that I received from ATC—

The Hon. MARK LATHAM: About a metro.

WILLIAM MURPHY: —had a drawing with a proposed alternative location for a metro station. But if you look at the rest of that—

The CHAIR: Because you saw all the apartment blocks and the like, so to speak?

WILLIAM MURPHY: There was a sketch on the rest of the site that suggested a plan to develop some residential housing.

The Hon. MARK LATHAM: So your evidence is that you took it off that handwritten sketch that maybe they're interested in the full sale of Rosehill, even though Mr McMahon hadn't actually said that to you?

WILLIAM MURPHY: I took it that the conversation—the primary question that Mr McMahon was seeking my help with was, is there an alternative location for a metro station at Rosehill? But looking at that drawing, it seemed to me that it might be either as a fallback option if the metro couldn't be located or some other purpose—I didn't know what was in his mind there—or that maybe they were contemplating a broader proposal. On that basis, I wanted to make sure that when we had that first meeting with Mr McMahon, that it was appropriately managed.

The Hon. MARK LATHAM: Why didn't you ask Mr McMahon if they were contemplating a broader proposal? Clearly they were because Mr McMahon said that's what he discussed with the Premier on 30 October and then Mr Fisher developed this document for four options for the full sale of Rosehill.

WILLIAM MURPHY: I don't recall having a conversation of that nature. I don't have any meeting notes or other things to that effect.

CORRECTED

The Hon. MARK LATHAM: So your evidence is that because you saw a diagram—but without discussing it with Mr McMahon—you passed the diagram on to Mr Fisher, who then himself thought, "Maybe this involves the full sale of Rosehill," and he develops the document. Is that really what we're talking about?

WILLIAM MURPHY: I was trying to make sure that we were as prepared for that meeting as we could be.

The CHAIR: Mr Murphy, it seems to snowball very quickly from being told from the Premier's office to engage with Mr McMahon about what you found out to be a metro station, and on the basis of an image being provided to you, that we've then got a large-scale document looking at options analysis. Looking at the content of those details, the email from Mr McMahon reads:

Hi Will

As discussed just checking the alignment of any potential Metro Station box at Camellia/Rosehill. We believe it would be in the light gray shaded areas below (toward the left hand side) outside the actual racecourse but inside our spectator precinct.

If you need a better image please let me know.

On the basis of that then, we have it referred off to not just Peter Regan at Sydney Metro, but the Department of Enterprise, Investment and Trade and then an options analysis is done on four things on the basis of just that email.

The Hon. MARK LATHAM: And it becomes an unsolicited proposal.

The CHAIR: And it's read to be an unsolicited proposal at this stage.

WILLIAM MURPHY: No, that was—in response to that email, I did go back to Mr McMahon and say, "We would like some more detailed drawings because it's a little bit hard to really read exactly where your proposed—

The Hon. DAMIEN TUDEHOPE: Was that an email or a phone call?

WILLIAM MURPHY: I think that was an email.

The Hon. MARK LATHAM: On which date?

WILLIAM MURPHY: I don't have the date of that in front of me. Some clearer drawings were provided, which still had the same feature of looking like—

The CHAIR: To be fair to Mr Murphy, I do recall seeing an email to that extent that talked about—or maybe even from Mr Regan it might have come, and forwarded on—looking at whether the massing was apartment blocks or whether the massing was a metro station box, for instance.

WILLIAM MURPHY: Yes, that's right.

The Hon. WES FANG: Mr Murphy, if I could ask, you've received a drawing which has the greyed metro area proposed from the ATC, you've received, on the diagram, pictures of potential apartment blocks and, from there, that email is forwarded on to Investment NSW, who've developed the document as indicated by Mr Latham. Where was the conversation that indicated that it was the proposal of ATC to sell Rosehill to the Government, as opposed to ATC being the developer and actually developing the land itself? Because at some point, if I'd received that document, I would've looked at it and thought, "Well, maybe ATC is planning on getting the metro station at Rosehill and then potentially being themselves the developer of the site." At what point did you realise that they were actually proposing that they would sell Rosehill to the Government in order to provide housing and not be the developer themselves? That must have been a conversation somewhere.

WILLIAM MURPHY: Yeah, that is what happened on 8 November.

The Hon. WES FANG: But this document was prepared on the sixth.

WILLIAM MURPHY: Yes, in preparation for a meeting that I had with Steve McMahon on 8 November.

The Hon. WES FANG: Why would you prepare a document that looks at four different levels of proposed purchasing of Rosehill when you're not aware that they're even considering selling it—that they may themselves be developing it?

WILLIAM MURPHY: No, I didn't prepare that document but it did appear from the sketches that there might be, in the mind of the ATC, a bigger proposal around residential development of Rosehill. Given that they were asking questions of the Government about where a metro station could be located, it seemed to me like something I would get advice from Investment NSW on to say, "If this meeting has a broader outcome, how do we appropriately manage that?"

CORRECTED

The Hon. MARK LATHAM: But doesn't that seem strange, given that Mr McMahon has had a meeting with the Premier on 30 October and told him that they're interested in the full sale of Rosehill pending the metro location, and the Premier says, "Oh, what an exciting idea. Let's develop that and see how it can be achieved". Isn't it incredible that on the very next day—and the chief of staff was part of that meeting, Mr Cullen—they don't tell you that that's what the discussion was about; it was solely about the location of the metro. Then the full sale emerges by looking at a couple of diagrams and sending it off to Investment NSW.

WILLIAM MURPHY: Look, it was a long time—

The Hon. MARK LATHAM: Is that really how it happened?

WILLIAM MURPHY: It was a long time ago, that meeting. All I can say is that I know that out of that meeting I took an action to contact Steve McMahon to help him answer a question about where the metro station might be located. That's why I asked him to send me a drawing of where he thinks it might be located so I could answer that question. You see in his reply he refers to having an interest in understanding where a metro station might be located at Rosehill.

The Hon. MARK LATHAM: Mr McMahon has said you're the can-do man.

The CHAIR: Can I briefly pause for a second because I've gone through my documentation. That meeting actually occurred on 6 February so it was the same day that actually the Project Wattle options analysis was created.

The Hon. MARK LATHAM: Sixth of November.

The CHAIR: Sorry, 6 November, I meant to say. Withdraw, withdraw—it's a different meeting.

The Hon. MARK LATHAM: Having received this document on 6 November, Mr Murphy, what recommendation did you make to the Premier?

WILLIAM MURPHY: I don't have any record of recommendations to the Premier about that. I would have let the Premier know that, in response to his request, I had contacted Steve McMahon and I had a meeting scheduled to meet with Steve McMahon—

The Hon. MARK LATHAM: About the metro?

WILLIAM MURPHY: About the metro station. I got this brief and this advice from Investment NSW, who suggested it would be worth having the meeting with ATC to understand if they have anything broader in mind around this metro station question, on the basis that their analysis suggested that, if the ATC had a broader proposal in mind, that's the kind of proposal that would be best considered under the unsolicited proposals process. They provided advice around how we might manage it from there.

The Hon. MARK LATHAM: That's not actually a recommendation on the document prepared by Mr Fisher. He has just got four options, which are direct deal, a second one for direct deal, unsolicited proposal and then compulsory acquisition. Who actually recommended, out of this document, that the preferred option was option three, unsolicited proposals? How did that happen?

WILLIAM MURPHY: That document came to us attached to an email, which arrived on 6 November, from Katie Knight at Investment NSW. She provided some advice in that email, including a photo to say, "Based on the limited information provided at this time, it appears that the unsolicited proposals process might be the most appropriate pathway."

The Hon. WES FANG: Mr Murphy, are you sure that nobody from the Premier's office was engaging in parallel with Investment NSW at the same time you were? It would seem unusual that just your forwarding of the email alone would provide the impetus for Investment NSW to develop such a—

The Hon. BOB NANVA: Point of order: The witness is being asked for an opinion on a hypothetical question, which isn't in order under the procedural fairness resolution.

The Hon. WES FANG: To the point of order: I'm asking whether there was, in addition to Mr Murphy's engagement with Investment NSW, perhaps any other parallel engagement. That is entirely in order.

The CHAIR: Mr Fang can ask whether Mr Murphy was aware of that. I'll allow the question.

The Hon. WES FANG: Mr Murphy, I think you know the question I'm asking. Was anybody from the Premier's office also engaged with Investment NSW to see the document, as outlined, developed? It would seem unusual that your request alone would see such a comprehensive document developed in such a short period of time.

CORRECTED

WILLIAM MURPHY: I don't know if anybody else was engaging with people that I wasn't aware of at the time. At the time when I got that original email on 2 November, with that drawing on it and then the higher resolution drawings that followed, it looked like the ATC might have a broader proposal in mind. I think that was a reasonable thing for me to assume. I don't believe I contacted ATC directly to ask them that question but, certainly, it looked like that might be something that came up in the meeting. I wanted to make sure that the appropriate protections and processes were in place around that meeting in the event that it did become a discussion about a proposal of that nature.

The Hon. WES FANG: You told ATC that you would progress the engagement with metro in relation to the station but also did you indicate to them that you would be providing their email to Investment NSW for further analysis?

WILLIAM MURPHY: I don't believe I said that I would be doing that. But, before the meeting, I did get back in touch with Steve McMahon to say, "Look, we're meeting on 8 November. From those drawings, it looks like you might have a broader proposal in mind for discussion. If that's the case, we'd like to put some protection around this meeting because it could be that we are discussing matters that are highly commercial."

The Hon. WES FANG: Given that originally Mr McMahon reached out to the Premier's office and, indeed, the Premier himself directly, is it possible at all that Mr McMahon, taking the information gleaned from your conversation with him subsequent to your meeting, may have approached the Premier's office to streamline the analysis by Investment NSW?

WILLIAM MURPHY: I'm not sure of the sequence of events that you're describing there.

The Hon. WES FANG: I just do not understand how, in four days, Investment NSW, off the back of an email with a drawing, has come up with such a substantial proposal.

The Hon. MARK LATHAM: They're appearing later, so we can ask them later.

The Hon. WES FANG: There must be some other engagement, I imagine, from the Premier's office.

SIMON DRAPER: Chair, I haven't wanted to interrupt the questions or the evidence but, just for context, I don't think it would be seen to be a secret to anyone at the ATC or within government or anywhere else that the government was pursuing additional stations on the Sydney Metro West line or housing around those stations. Everyone knows that was the case. It's Mr Murphy's evidence. He was asked to do a specific thing. But it wouldn't be surprising if people were thinking about housing around those sites, albeit that he was asked to do just that particular thing and that had expanded beyond that. I don't think there's any great conspiracy or surprise about that at all.

The Hon. BOB NANVA: There was a well-publicised Mrdak review underway into the Sydney Metro West project, was there not, at the time?

SIMON DRAPER: It couldn't have been a worse kept secret that government was trying to find additional station locations and build housing around those stations.

The Hon. BOB NANVA: This is to Mr Murphy and Mr Draper. Governments get unsolicited proposals all the time. Proponents don't lodge proposals out of the blue without speaking to government. Following the 2 November communication and follow-up email, is it fair to say that this had all the hallmarks of a broader proposal from a proponent, including an unsolicited proposal, and the follow-up advice from Mr Fisher reflects that?

SIMON DRAPER: Maybe Mr Murphy can speak specifically about this case. My experience over the last decade of dealing with these things in government is that, generally speaking—but more often than not—proponents who don't necessarily know their way around government and don't know the ways of government and the policies we have, generally make contact first with Ministers or Premiers or others and their offices to raise potential proposals. It's usually then the case that those Ministers refer those things to agencies and agencies advise them about the options for consideration, if it is in line with the government's priorities. Often, it is an unsolicited proposal that would be recommended, if there is no other avenue for doing so. I always generally advise that the unsolicited proposal pathway is actually one of the hardest pathways for proponents. If there is another way to do it, that is often preferred. But that's a very normal process.

The Hon. BOB NANVA: So it wouldn't have been remarkable, in the context of a Mrdak review into the western metro and a lot of discussion around transit-oriented developments around transport hubs, for a proposal like this to be viewed through the prism of potentially being an unsolicited proposal?

WILLIAM MURPHY: That's right. As I said, the drawings that were provided seemed like there might be a bigger idea in the minds of the ATC. I wanted to make sure we were properly prepared for that first meeting.

CORRECTED

The Hon. BOB NANVA: In the context of a lot of public commentary around a new metro station in that location.

WILLIAM MURPHY: Indeed.

The Hon. MARK LATHAM: Mr Murphy, in reading the Fisher document, you would have noticed under "unsolicited proposal" a listing that states:

Probity risk - perception that NSW Government is engineering an unsolicited proposal for a Government-driven transaction
What was your response to that probity risk and what appears to be Mr Fisher's view that this is a government driven transaction rather than a genuine USP?

WILLIAM MURPHY: I don't know if I would describe that as him saying that that's his perception. But he is saying—

The Hon. MARK LATHAM: That's what he wrote.

WILLIAM MURPHY: —there is a risk that there is that perception. I think that's a reasonable risk to identify around an unsolicited proposal.

SIMON DRAPER: I think we have discussed this in another hearing, Mr Latham. The fact that the perception is there is evidenced by the fact that there is this inquiry and the questions you're asking. The reality is that unsolicited proposals are almost always driven by a desire for government to get something done. If they didn't and if it wasn't in line with government's priorities and expressed policies, it wouldn't proceed. That's the way these things work. People come to government and they only go anywhere if they're in line with something that government wants to get done.

The Hon. MARK LATHAM: We will ask Mr Fisher further about that probity risk that he listed. But I go back to the sequence, Mr Murphy. What happened to Katie Knight's recommendation for the USP? How did that then become government policy?

WILLIAM MURPHY: I don't know what you mean by "government policy".

The Hon. MARK LATHAM: The Premier went out to Rosehill in December and announced that they were doing a USP to sell the site. At that point, it very much looked like government policy. Katie Knight has recommended it here on 6 November. Did you take that then to the Premier and say, "Here are the options. The recommendation is for a USP." Is that how it happened?

WILLIAM MURPHY: How that unfolded was on 8 November I met with Steve McMahon. The meeting opened with him talking to me about the efforts that ATC had made to try to secure a metro station at Rosehill since 2016. It was part of a much longer consideration by the ATC. He asked again, "Is there a prospect that a station at Rosehill could be built to the western edge of the property?" The advice that I'd had from Sydney Metro was that due to a whole range of technical reasons and the way the drillers were moving through the site et cetera, the only location where a metro station could be built on that line was the site that he had been previously told about, which was not a site that suited the ATC because it was obviously underneath one of their grandstands.

The Hon. MARK LATHAM: With respect, Mr Murphy, I have asked twice not about what you were talking about—not at all—but about how Katie Knight's recommendation came to be adopted by the Government. How did the Government arrive at a position of a USP based on the Knight recommendation?

WILLIAM MURPHY: On informing Mr McMahon that the site was not practical, he then said to us in the meeting—I had a representative from Investment NSW in the meeting—if that's not feasible, they are considering an alternative proposal where they would relocate racing and training to other sites and put a proposal to government about redeveloping all of Rosehill for housing.

The Hon. MARK LATHAM: You still haven't answered my question.

WILLIAM MURPHY: So 8 November was the date when that conversation—

The Hon. MARK LATHAM: Yes, but how did it become adopted by the Government?

SIMON DRAPER: Unsolicited proposals need to be in line with the Government's priorities. But unsolicited proposals are ultimately put by proponents. They're not adopted by government. They're adopted by government once they go through a very long, staged process.

The Hon. MARK LATHAM: I'm just seeking clarity about Mr Murphy's evidence. You're saying that Katie Knight recommended the unsolicited proposal process. At this point Mr McMahon doesn't even know what

CORRECTED

an unsolicited proposal is. How did it become the action that the Government carried forward and announced at the press conference in December? What happened to Katie Knight's recommendation? What did you do with it?

WILLIAM MURPHY: Katie Knight's recommendation was that—

The Hon. MARK LATHAM: Surely you took it to the Premier to say, "Here are the options", didn't you?

The Hon. BOB NANVA: Point of order—

The CHAIR: I'll hear the point of order.

The Hon. BOB NANVA: It would be courteous to the witness if he was provided the opportunity to answer a question or a proposition put to him by Mr Latham. I just note that he hasn't been given an ample opportunity to answer that question.

The Hon. MARK LATHAM: With respect, I have asked it four times.

The CHAIR: Mr Latham, in the usual order of things, a question is put to the witness and the witness has the opportunity to answer. You can continue your questioning.

WILLIAM MURPHY: I am really happy to answer your question. In the email from Katie Knight the advice was that if a proposal of this type was made, the most appropriate process for government to receive that would be the unsolicited proposals process. In that meeting on 8 November, after Mr McMahon said to me that they were considering this alternative proposal, the advice that we provided him was, "We think that sort of proposal is best presented to government under the unsolicited proposals process." Fortunately, I had a senior person from Investment NSW in the meeting who was able to describe exactly how that process works and undertook to provide some links to the online information about making that proposal. As always, with all unsolicited proposals, the advice to the proponent is, "If you choose to make a proposal of this nature, we think that is the right process." But it is up to the proponent to decide whether or not they make a proposal.

The Hon. MARK LATHAM: Did you report that back to Chris Minns's office, given they started your involvement?

WILLIAM MURPHY: I'm certain I would have.

The Hon. MARK LATHAM: You reported that back?

WILLIAM MURPHY: Yes.

The CHAIR: In terms of the 8 November meeting, you said that somebody from Investment NSW was present with you. Do you remember who that was?

WILLIAM MURPHY: That was Rowan Fisher. It's in the minutes of the meeting, which are in the Standing Order 52.

The Hon. MARK LATHAM: Can I ask about the Fisher document? It twice lists ICAC's *Direct Negotiations: Guidelines For Managing Risks* document, dated August 2018. Are you familiar with that document?

WILLIAM MURPHY: I am.

The Hon. MARK LATHAM: Page 8 of that document states, "Before agreeing to direct negotiations, the agency should ensure that the 'unique' solution offered by a counterparty is the only viable solution to its requirements." Why was this the only viable solution—a USP—when clearly the EPA Act could have been used for the ATC to lodge a rezoning proposal?

WILLIAM MURPHY: The unsolicited proposals policy has been designed to effectively implement that ICAC report and those recommendations, as I understand it. One of those criteria, as you know, is to test for uniqueness. As with all of the criteria in that policy, those are all tested once a proposal has been lodged. That is the stage one assessment to go through.

The Hon. MARK LATHAM: I will ask Mr Fisher, but why didn't you think a fifth option should have been there—the logical one of rezoning the land?

SIMON DRAPER: We discussed this at the estimates hearing, Mr Latham, it's always possible for any property owner to make an application for the rezoning of their land. But in this case the property owner was seeking something from Government. It was seeking to have a metro station located on that site and a number of other things that they put in their proposal that they wanted from the Government. They can only get that by making a proposal to government. They could make an application to the planning system to rezone that land, but that wouldn't get them anything else other than a rezoning.

CORRECTED

The Hon. MARK LATHAM: Property developers are asking for lots of things all the time and they do it through the EPA Act and other discussions with government. Just on your point about uniqueness, Mr Murphy, page six specified that proposals are not considered unique and are unlikely to be progressed if they do not contain a commercial proposition for the Government. Given that it's going to cost the Government up to \$2.2 billion to build the metro box and station at Rosehill and all the other infrastructure and so forth, what is the commercial proposition that allowed this to be consistent with the USP guidelines?

WILLIAM MURPHY: If you have a look on the New South Wales Government's unsolicited proposals website, there is a summary of the outcome of the stage one assessment, which addresses that question. I copied the answer to that in the Government's submission to this inquiry, so you will find it in there as well. Of course, in a stage one assessment there is still always a lot more detail to work through. The stage one assessment forms a view on whether or not the USP criteria can be met by the proposal. The outcome of stage one, as reported on the Government's website, is that a detailed proposal has the capacity to satisfy all of those criteria and the conclusion of the panel, as summarised in that report, says that the ATC and its proposal are uniquely positioned to deliver a significant housing outcome in a manner proposed that responds to the Government's priorities?

The Hon. MARK LATHAM: How is that a commercial proposition for the Government when it's clearly a commercial proposition for the ATC?

WILLIAM MURPHY: I believe this question was also previously answered in estimates.

The Hon. MARK LATHAM: No, there was no answer. There can't be an answer for the amount of money you're spending.

SIMON DRAPER: Mr Latham, just to go back to it, the document you are reading from is not a list of the criteria. That part of the guidelines was designed to provide some guidance to proponents who bring all sorts of strange things to government to say, "If you just want to develop your land or you just want to sell us a product or if there is a whole bunch of things, please don't waste your time." That particular bullet point relates to where government is potentially using its monies or assets to allocate those things to the proponent. In this case we are already building a metro line. What we are looking for there is a return on investment in terms of wider benefits to society. Government is not a for-profit enterprise. It's designed to deliver wider economic and social benefits. If you look further into the document you'll see that the actual criteria for assessing unsolicited proposals includes "whole-of-government impact". One of those is, "Does the proposal contribute to meeting the objectives of district plans, regional plans, metropolitan plans and delivering on housing targets?"

The Hon. BOB NANVA: The uniqueness, Mr Draper, is that there is a major piece of infrastructure aligned with this landholding and there are 90 hectares of land in the centre of Sydney controlled by four landowners, including 60 hectares controlled by the ATC. That's the uniqueness, isn't it?

SIMON DRAPER: Yes, and it's got a metro line that is about to be run underneath it. That was already happening.

The Hon. DAMIEN TUDEHOPE: Mr Murphy, when was the first time you made contact with Sydney Metro in relation to this proposal?

WILLIAM MURPHY: I believe it was 2 November when I forwarded the ATC's email to Sydney Metro to ask about that.

The Hon. DAMIEN TUDEHOPE: So you'd be aware, of course, that Sydney Metro was already in receipt of the metro review, would you not?

WILLIAM MURPHY: Yes.

The Hon. DAMIEN TUDEHOPE: And the metro review did, in fact, contain within it significant costings in respect of a new station at Rosehill, did it not?

WILLIAM MURPHY: I believe it does.

The Hon. DAMIEN TUDEHOPE: Did you make Mr McMahon aware that that review had been carried out and the potential cost of the delivery of a station at Rosehill?

WILLIAM MURPHY: It's a long time ago. It may have come up in our discussion on 8 November. I haven't made a—the minutes don't show that, but I wouldn't be surprised if—

The Hon. DAMIEN TUDEHOPE: The Government had the metro review on 23 September, well before this proposal came up from the ATC and it, in fact, discusses in some detail the difficulties of building a new metro at Rosehill and the costings attached to that. Wouldn't it have been the case that the first point of call would have been to Metro to sort of say, "Can I disclose the terms of the metro review to the ATC?", because this may

CORRECTED

not have gone anywhere further if the cost to Government was such that it would not contemplate the delivery of this station.

WILLIAM MURPHY: The USP process has a process in it to actually work through all of those questions in detail to make sure that we've got a really clear understanding of what all of the costs and benefits of undertaking this proposition would be. One of the factors that would be worked through in detail during stage two is exactly that—is to really get clear on exactly what it would cost to do that, what would be the contribution to that infrastructure that ATC might make. That would be part of the analysis that results at the end of stage two with a detailed proposal for Government to consider.

The Hon. DAMIEN TUDEHOPE: Do you recall the first involvement of Mr Regan in respect of the discussions in relation to this proposal—because it was the only thing that Mr McMahon really contacted you about?

WILLIAM MURPHY: Yes.

The Hon. DAMIEN TUDEHOPE: It was what he was asking you—is the potential relocation. You had a document or Sydney Metro had a document which actually analysed that in some complete detail. When was he contacted?

WILLIAM MURPHY: The question that I asked Peter Regan on 2 November was, from a technical perspective, is it possible that a station that could be built at Rosehill could be built in this location as the ATC were seeking? That was the question I asked and that was the question I got an answer to.

The Hon. DAMIEN TUDEHOPE: There are a number of positions that potentially—you may or may not know the answers, and we can ask Mr Regan. But, as of today, where are the boring machines?

WILLIAM MURPHY: I believe they're in the ground.

The Hon. DAMIEN TUDEHOPE: I was asking for that answer. But, in terms of their location for the delivery of this metro line, are you aware where they're currently located in the ground?

WILLIAM MURPHY: I'm not aware of exactly where they are and the sort of technical elements of how they might be redirected or adjusted or anything like that. You'd really need to ask Sydney Metro those terms.

The Hon. DAMIEN TUDEHOPE: In assessing the unsolicited proposal, isn't it the case that it's a vastly different outcome potentially and cost wise if, in fact, the boring machines are past any potential station site and the station has got to be retrofitted as opposed to planning for the delivery of the station?

WILLIAM MURPHY: That's a question that you will need to ask Sydney Metro, I think.

The Hon. DAMIEN TUDEHOPE: Isn't it a part of the consideration of the solicited proposal?

WILLIAM MURPHY: Certainly, the cost and the time frame for putting a metro station in at Rosehill would be part of the stage two analysis and negotiation that we're working through now.

SIMON DRAPER: Mr Tudehope, it's probably worth saying—and I think Mr Regan gave evidence at estimates and I think you've got him in an hour.

The Hon. DAMIEN TUDEHOPE: I wasn't in those estimates.

SIMON DRAPER: That's fine. But I think the advice that Metro has given to us—and you can ask directly—was, "We're still at a point where there is opportunity to build that station in an efficient way to facilitate that development." The project is not so advanced. In fact, a great number of the contracts for Sydney Metro West haven't even been let yet.

The Hon. DAMIEN TUDEHOPE: When will we move past that point?

SIMON DRAPER: That is a question for Mr Regan, not one for me.

The Hon. DAMIEN TUDEHOPE: In any event, in terms of the considerations that the ATC will need to put to its members, have they been appraised of the potential costs associated with the delivery of this station and the recovery of those costs as part of the unsolicited proposal?

WILLIAM MURPHY: That's part of the stage two process that we're working through right now.

The Hon. DAMIEN TUDEHOPE: And the, I suppose, value uplift that you would expect to recover, or the Government would expect to recover, as part of the delivery of this station if it were—

WILLIAM MURPHY: The stage two process needs to work through in detail all of the impacts, the cost and benefits, the timeline for achieving the proposal that the ATC have put before Government. When we get to

CORRECTED

the end of that stage, that will be a point where Government can then make a decision about whether it wants to continue with the process or not.

The Hon. DAMIEN TUDEHOPE: Has the Government engaged its own valuation in relation to this site?

WILLIAM MURPHY: The Government has engaged a number of expert advisers so far to support on the analysis. As we go through it, if there are other pieces of advice that we need, we may engage other experts to do that.

The Hon. DAMIEN TUDEHOPE: Are there expert valuations that have been provided? Who are they?

WILLIAM MURPHY: Who are the Government's advisers?

The Hon. DAMIEN TUDEHOPE: Yes.

WILLIAM MURPHY: On the financial commercial advice, we've engaged Deloitte to do that, to support us in that work. We have King and Wood Mallesons, our commercial legal advisers. We have the Centre for International Economics—is our economic adviser, who are doing the economic cost-benefit assessment work for us. And, of course, we have O'Connor Marsden engaged as our independent probity advisers as well.

The Hon. DAMIEN TUDEHOPE: None of those four that you've identified are expert valuers, are they?

WILLIAM MURPHY: No, when it comes to the point where we believe we need to get that advice, we will engage someone to do that.

The Hon. DAMIEN TUDEHOPE: In terms of assessing what the proposal that Government will sign off on—if, in fact, it is prepared to move forward with this—wouldn't it be on the basis of the commercial outcome that the Government sees as outlined by Mr Draper? It's not just a dollar figure; it's a whole lot of policy positions. There has to be some sort of assessment about what the plan would look like, what the uplift would be, what the timing of the development would be. Who is actually going to do the assessment of the value of that work?

WILLIAM MURPHY: Supported by our advisers, the governance of stage two of the USP process establishes an assessment panel, which is made up of senior people from relevant government agencies who will assess where the proposal lands—in terms of all those factors that you've identified. And we'll have independent advice provided on where that meets the criteria or where it doesn't or to what extent it does.

The Hon. DAMIEN TUDEHOPE: Has the ATC been engaged in every step of this process?

WILLIAM MURPHY: As appropriately engaged—that's right.

The Hon. DAMIEN TUDEHOPE: At some point, they're going to have to have a proposal which they put to their members, and someone is going to have to make an assessment of what that proposal looks like.

WILLIAM MURPHY: Yes.

The Hon. DAMIEN TUDEHOPE: Is that something that you're working with the ATC on for the purposes of establishing what the proposal will finally look like that will be put to the members?

WILLIAM MURPHY: We'll need to make sure that, whatever proposal the ATC do put before their members, we can validate that. That will be part of the process.

The Hon. MARK LATHAM: When do you do the land valuation—because that's the key point and it has been contentious at this inquiry? It was announced as \$5 billion in December. The chair of the ATC came and said they've actually got a valuation as low as \$1½ billion. I spoke to a very prominent land developer in Sydney who said he wouldn't pay more than half a billion for it. At the other extreme, Mr Charny was here—a director of Racing NSW and involved in commercial property—saying you can get \$23 billion. This is a very wide range of valuations but, surely, the Government understands it all falls over if it's not worth very much to the ATC. Shouldn't you get an accurate valuation on it and understand that, if it's of the order of two or three billion, the ATC wouldn't be going ahead and everyone is wasting their time?

WILLIAM MURPHY: As you can imagine, there's a lot of work to do in getting an accurate sense of that. There are a lot of things that need to be worked through and validated and resolved, and that's the process that we're working through with the ATC now.

The Hon. BOB NANVA: To that point, the degree to which different agencies or consultants would be engaged would be proportionate to the stage at which the proposal is at, wouldn't it? You wouldn't engage a valuer if you don't know the scope or the depth of the project being proposed.

CORRECTED

WILLIAM MURPHY: That's correct. At some point in this process, we may need to engage additional consultants who specialise in particular areas. When we get to those points, we'll do that work.

The CHAIR: Mr Murphy, we've been told before by Racing NSW in this inquiry that it is a parameter for their approval of any sale of Rosehill that there is an identification of another racecourse within Sydney. Does that form part of the ATC's proposal at the moment?

WILLIAM MURPHY: That will need to be one of the things that we work through with the ATC to have a landing on what is the firm proposal at the end of this stage two process.

The CHAIR: Mr Murphy, can we go back to the beginning, in a sense, and how you were initially provided with this opportunity from the Premier or the Premier's office. I take it that when it was referred to you, and you were of the understanding that it was about an investigation of the metro station—that was, on the face of it, what you were presented with—the Premier, his chief of staff and his office would surely have been aware of the Mrdak review into the metro. Why wasn't it just referred straight to Sydney Metro or to Mr Mrdak himself, if that was all that was put to you in terms of discussions with the ATC?

WILLIAM MURPHY: All I can say is that I left that meeting on 31 October with an instruction to contact Steve McMahon to see if I could help him get an answer to his question. When I met with Steve McMahon on 8 November, I know that he'd had a lot of conversations with government over many years about a metro station. I don't know how those conversations went for him but, however they did, at that point in October last year he still wanted to get another opinion on whether there could be a different location for a metro station at Rosehill.

The Hon. WES FANG: Mr Draper, as part of the approval process by Racing NSW to sell Rosehill, they've indicated that they would need another class one racetrack in the Sydney metropolitan area. The brick pit has been put forward and proposed by proponents as a potential site. We know that Racing NSW has spent about \$200,000, as of their appearance at the previous inquiry, related to the analysis of that site. What work have you undertaken to ameliorate the environmental issues around the site and provide Racing NSW and the ATC with feedback in relation to that proposal? It would seem that Mr Murphy's forwarding of an email to Investment NSW can generate a four-pronged proposal related to the purchase of Rosehill. Given the requirement for another class one track in metropolitan Sydney, I would imagine you must be active in trying to find that site. What work have you done?

SIMON DRAPER: I'm not active in trying to find that site, Mr Fang. That's a part of the proposal they submitted many months after the announcement. As Mr Murphy said, as part of the stage two assessment, the Government will have to determine whether it could contemplate that in any form and whether there was even a role for government in doing so.

The Hon. WES FANG: Ms Boyd, has the Cabinet Office done any work on that?

KATE BOYD: No.

The Hon. WES FANG: So how is it that a sketch from ATC provides in four days, once given to Investment NSW, a comprehensive investment strategy in relation to how the New South Wales Government might procure Rosehill racecourse, yet one of the biggest impediments to that purchase is now another class one track in New South Wales, and the Cabinet Office and Premier's office have been completely hands off on that?

SIMON DRAPER: We're in a different process now. We've got a formal unsolicited proposal process going on. At the time that you're referring to, I'd describe it as an exploratory stage or a preliminary stage. We're now in a much more detailed, structured process, as Mr Murphy described. The whole unsolicited proposal guidelines are designed to set up a very structured and staged approach, with separation of roles to meet the ICAC guidelines that Mr Latham was referring to.

The Hon. WES FANG: I appreciate that, Mr Draper. But you would understand that the impediment to using the brick pit—certainly according to the indication from Racing NSW—is that the footprint of the track itself doesn't actually fit within that. It will have to spread out onto the wetlands that are adjacent to the brick pit. That would mean that there are any number of impediments—environmental, ownership, development. They are going to need an answer to all these impediments before they can indicate whether or not Rosehill can be sold. All that work will have to be coordinated by somebody. If it is not coordinated by the Premier's office or the Cabinet Office, who is supposed to be doing that work?

SIMON DRAPER: We're not the proponent in this process. The proponent is the Australian Turf Club and, as you say, Racing NSW have a relationship there and a role there as well. It's a matter for proponents to develop their proposals and not for the Cabinet Office or the Premier's Department to develop proposals for them.

CORRECTED

The Hon. WES FANG: But in that case, there was no proposal. Mr Murphy effectively had the proposals developed in order to have an unsolicited proposal. It was a solicited unsolicited proposal.

SIMON DRAPER: I think you might be mischaracterising. He can speak for himself, but I think the evidence we've given here is that when proponents come to government, we provide them advice on different ways they can engage with government. One of those is unsolicited proposals. It's very common for us to be asked to talk to people who have ideas about things they'd like to do that require some involvement of government, and very often we end up saying that the best approach is an unsolicited proposal process.

The Hon. WES FANG: Is it fair to say that you could actually have this whole proposal put forward and voted on, with the requirement to have another class one racetrack identified in the Sydney metro area, and the green and gold bell frog could actually stop the whole development proposal because nobody has done the work in relation to the alternative track?

SIMON DRAPER: No, I'm not saying that.

The CHAIR: As you've outlined, the unsolicited proposal is a unique proposition. What makes this unique is that there is a metro that runs underneath the site. Also, as part of the consideration, there is a proposal to take part of the government's land at the Sydney International Equestrian Centre for a training facility. Also, a potential part of the proposal is to take government land at Sydney Olympic Park for the development of another racetrack. With those two being items of consideration, like you are doing valuations of Rosehill, what valuations are being done for what consideration would be required at either the Sydney International Equestrian Centre or the feasibility or the like at Sydney Olympic Park?

SIMON DRAPER: Mr Murphy might want to expand on this, but the training centre that you're referring to is a much firmer part of the proposition. That's much clearer; there's been much more exploration of that—the nature of the tenures there and the potential ways that could be offered. The other element that you described is far less developed. Mr Murphy might want to comment about what work has been going on day to day.

WILLIAM MURPHY: Just to say those are all matters that are part of the stage two process, and we are working through the detail of exactly what those propositions might look like—financially what they might look like, what mechanisms might be available for ATC to access the necessary land for the training facility, for example. Those are all parts of the stage two process we're working through.

The CHAIR: What about with respect to Sydney Olympic Park and the brick pit site? What analysis has been done on that site—the cost that would be involved, the viability of the green and gold bell frog community there and any consideration that may be required, and also the Government's other plans around that site. There's a light rail which is literally running next to that site. There's an important community at Wentworth Point which has a main thoroughfare access way at the back of that site. What consideration has been done there?

WILLIAM MURPHY: You've identified a lot of things that we'll need to work through and be clear on before we can put a detailed proposal before government to consider. Could I just add, though—about the questions that have been asked about the brick pit and green and golden bell frog et cetera—the unsolicited proposals process does not replace or obviate the planning process. In the event that part of an unsolicited proposal is for a development to happen in a particular location, it's often the case that a deal that is made is subject to the condition that the proponent is able to secure planning approval for the work they want to do. That's a separate process; it's not influenced by the USP process.

The Hon. Dr SARAH KAINE: What I'm understanding from the answers, Mr Murphy and Mr Draper, is that this isn't actually just one proposal, is it? There are quite a few components to it. Could you let me know what they are?

WILLIAM MURPHY: The key elements of the proposal are that the ATC would vacate Rosehill and relocate racing to another location. As part of their proposal, they're saying that they will upgrade Warwick Farm to take a different category of racing. There's also a part of their proposal to develop another class one racetrack somewhere in the Sydney metropolitan area. They'll also need to relocate training and stabling facilities that are located at Rosehill. Their proposal is to, in co-location with the Government's Sydney International Equestrian Centre at Horsley Park, build a facility there to house and train thoroughbred racehorses.

The Hon. Dr SARAH KAINE: There are about five or six components to the proposal.

WILLIAM MURPHY: Of course. Then the final one is that, as part of making the deal viable from the ATC's perspective, the expectation is that the Government would agree to build a metro station at Rosehill.

The Hon. BOB NANVA: The ATC's proposition is not the full sale of the racetrack, is it? It's to retain and develop it.

CORRECTED

WILLIAM MURPHY: There's no proposition to sell the site to the Government.

The Hon. MARK LATHAM: No, but to sell it on the housing market.

WILLIAM MURPHY: To sell it for development for housing.

The Hon. MARK LATHAM: Yes. It's a sale.

The Hon. WES FANG: Mr Draper, can you conceivably see a pathway forward where this proposal is mature enough that the ATC members can vote on the proposed sale within the next 12 months?

SIMON DRAPER: Yes.

The Hon. BOB NANVA: I think it's important to ask a question about probity, and we'll ask about Mr Fisher's motivations in the risk advice that he provided. Mr Draper and Mr Murphy, you're respectively on the steering and assessment panels. Is that correct?

SIMON DRAPER: Yes.

WILLIAM MURPHY: Mr Draper chairs the steering committee. There's a very separate assessment panel that reports to the steering committee. I'm not on that assessment panel. I'm running the process, if you like; I'm the nominated contact point for the ATC. Under the USP guidelines, that role is referred to as the proposal manager. There is separation of all of those elements to ensure there is objective, impartial decision-making right through the process.

The Hon. BOB NANVA: But you're both directly involved in the process?

WILLIAM MURPHY: We are both directly involved in the process. The process has an independent probity adviser who oversees every step of the process, and a series of mechanisms in place to identify and appropriately manage any probity risks that arise, including the independent probity adviser preparing their own report at the end of each stage on their perspective on the management of probity throughout process. It's a very structured and disciplined probity-risk process.

The Hon. BOB NANVA: With those guardrails in mind, and both individuals who are directly involved in the proposal, if I can come to that perception risk that was identified by Mr Fisher—that is not the reality, is it? This is not a process that has been engineered by the New South Wales Government.

SIMON DRAPER: No. I would regard this as extremely typical of all the unsolicited proposals I've seen come through government—some very big proposals—in both the way that it originated with contacts at administrative levels; the way it has been referred to agencies; the way it has been managed; the fact that it's being developed in line with a very, very high-profile government priority around housing; and the fact that it's connected to a very well-known desire to add stations to the metro west line. All of that seems utterly typical to me, and in line with the way that the probity arrangements are set up around the guidelines.

The Hon. MARK LATHAM: Did the probity report at the end of stage one identify any concerns? In particular, page 14 of the ICAC document says that you should keep at arm's length people that you're familiar with. You shouldn't have actual or apprehended bias. Of course, we know that Mr McMahon is not the CEO of the ATC; he's a line manager. He got in for a meeting with the Premier. He's a very close friend and political ally of the Premier. Isn't that in breach of the ICAC guidelines? Was that raised by the probity adviser as favouritism?

WILLIAM MURPHY: As I said, we have a really robust probity arrangement in place. Any probity risks that are identified can be managed through that process.

The Hon. MARK LATHAM: Which ones were identified?

SIMON DRAPER: Mr Latham, the whole point is that, once the idea became more developed, it was handed off into the unsolicited proposals process, which separates Ministers, Premiers and others from that process. It's a very structured process.

The Hon. MARK LATHAM: Why on 20 November was Mr Murphy working with Mr McMahon on Mr Minns' press release? That's access to government and decision-making that is completely unprecedented and unheard of. A level of favouritism—

SIMON DRAPER: That's not unprecedented at all.

The Hon. MARK LATHAM: It's not?

SIMON DRAPER: The Government's about to engage in a major initiative around a major project with the potential to develop up to 25,000 homes. They're about to announce it. The idea that government and the proponent don't work together on an announcement is—that's wrong. That's very typical for that to happen.

CORRECTED

The CHAIR: Given the time, that concludes your evidence today. Thank you very much for your attendance before the Committee. I don't think you took anything on notice, but if I missed that the secretariat will be in touch with you. Thank you for your evidence before the inquiry today.

(The witnesses withdrew.)

CORRECTED

Mr PETER REGAN, PSM, Chief Executive, Sydney Metro, affirmed and examined

The CHAIR: Mr Regan, do you have an opening statement you wish to make?

PETER REGAN: I do have a very brief opening statement, if I may. Chair, as you are aware, in December 2023 the New South Wales Government announced that Sydney Metro was to investigate up to two additional station locations on the metro west project to the west of Olympic Park. The New South Wales Government required this investigation to include a potential metro station at Rosehill Gardens. Work on a scoping study for additional stations between Parramatta and Sydney Olympic Park continues to be underway and will continue to be reported to government in due course. The New South Wales Government's consideration of the Australian Turf Club unsolicited proposal to redevelop Rosehill Gardens Racecourse into a mixed-use precinct that includes a new Sydney Metro West station is a separate process. Sydney Metro is not a member of the assessment or the steering committee for the USP proposal, and neither am I. However, the Premier's Department has consulted Sydney Metro on matters relating to the additional station scoping study.

As part of the Sydney Metro scoping study of a potential additional metro station at Rosehill Gardens, early site investigations are required to inform options that will be presented to government. These preliminary site investigations are underway. Sydney Metro is looking at construction options and other considerations associated with a potential station at Rosehill Gardens. This includes options for the timing of construction and procurement of a potential additional station at Rosehill Gardens along the metro west alignment. These options will be refined over coming months for consideration by the Government next year. Work on Sydney Metro West is progressing in parallel with the site investigations at Rosehill Gardens and Sydney Metro's preparation of the scoping study. Station excavation and tunnelling across the metro west alignment is underway and is expected to be completed in 2026.

There are five tunnel boring machines currently in the ground—Jessie, Betty, Beatrice, Daphne and Dorothy, for the record—with the sixth and final metro west tunnel boring machine to be launched later this year. The tunnel boring machines are currently planned to reach James Ruse Drive under Rosehill Gardens late this year. The addition of infrastructure required to support an additional station can be built in such a way that it would not delay that 2032 opening of metro west. Sydney Metro West is continuing to support the Government's priorities. Any future plans for a new station on the metro west line remains subject to a future New South Wales Government decision. I look forward to assisting the Committee.

The CHAIR: Mr Regan, the first question from me is when did you first find out about the proposal to redevelop Rosehill racecourse?

PETER REGAN: I first became aware of the unsolicited proposal from the ATC a day or two before it was announced.

The CHAIR: With respect to the inquiry, you received an email from Mr Murphy. Was that on 2 November?

PETER REGAN: On 2 or 3 November. It was definitely in early November, that's right.

The CHAIR: With respect to what was potentially a station box design, when you received that inquiry, what was your view on that at that stage as to what you were being asked to provide advice on?

PETER REGAN: That email from Mr Murphy, and the attached diagrams, indicated what appeared to be a potential alignment for the metro west tunnels and a greyed-out area for a station box. The images also had some other boxes across the racecourse. I understood what I was being asked to comment on was an initial view on the potential feasibility of that alignment. From memory, the alignment that was in that diagram was slightly different to the alignment of the tunnels that were in place for the metro west project at that time—not materially different, but on a slightly different alignment. It was clear to me that the other boxes across that diagram appeared to be buildings across the racecourse.

The CHAIR: Had you met with the ATC previously and before receiving those documents at all?

PETER REGAN: No.

The CHAIR: Were you aware that the ATC had met with the independent review team on, I think, about 14 August last year?

PETER REGAN: Yes. I was aware that there had been a meeting. The independent review team met with, I understand, over 100 different potential interviewees and stakeholders while conducting the review. I'm aware that one of those was the ATC.

CORRECTED

The CHAIR: Were you aware at the time that advice was provided, as has been put before this Committee, that about 40,000 residences would be required in order to justify a metro station?

PETER REGAN: Not that specific advice, no.

The CHAIR: That wasn't advice that you provided to the metro review team at all in terms of what would justify a metro station being built?

PETER REGAN: There had been, historically, a number of suggestions from different landowners in the Rosehill-Camellia area around the potential insertion of a station on metro west at a range of different options. During the development of metro west, and during that period of the metro review, we were looking at a number of potential different options for insertion of a station. One of the key factors that we were looking at was the potential uplift in housing possibilities from insertion of a new station as a key factor. Other factors, such as the constructability, the impact on the existing alignment and the other land use areas, are all considerations. At that point in time our investigations into a range of options were very high level. There had been a suggestion previously of a station up to the very north-west corner of the ATC land with a development just in that corner, but up until that point I had not seen anything across the whole racecourse.

The CHAIR: Now to turn to the metro review. The metro review final report comments that an additional \$364 million of delay costs to metro west are associated with a block shift to re-profile metro city and south-west and makes clear that it's a point-in-time estimation of delay and impacts. Is this the only delay cost that you're aware of for Sydney Metro West at the moment?

PETER REGAN: The Sydney Metro West project has a budget of \$25.3 billion. We are continuing to work within that budget. As was announced by the Government last year, there was a reallocation of funds from metro west over the next few years to support the completion of the metro south-west. The process that we've continued along over the last year and a bit has been to continue the construction of metro west and continue to prepare for the procurement of the balance of metro west. At this stage the contracts that were let continue to be progressed. There have been no further contracts let for the balance of the project, although we are in procurement for some of those contracts now. We don't yet have a view on what those bids will return and what the forecast will be. We are continuing to work towards that same budget for the actual railway itself. The numbers that you refer to, as I understand, were a point-in-time estimate of a potential impact of doing works later, but at this point those costs are not crystallised because the procurement of the contracts to which they relate has not been completed.

The CHAIR: Mr Regan, with respect, you outlined in your opening submission that you believed a station could be accommodated at Rosehill without delaying the metro at all. Is that still the case—that after 2032 there would be no delay if a decision was made with respect to metro west? To caveat that question somewhat as well, how late can that decision be made so as to not actually delay or impact the delivery of Sydney Metro West by 2032?

PETER REGAN: There's a couple of key points there. Firstly, what we have done over the last six or seven months, as we've prepared for the procurement of the balance of the railway, is do that with the potential for a Rosehill station in mind. Therefore, we have included a series of options in the procurement of the balance of the contracts that would allow those contracts to still be procured, on the basis of delivering the existing nine-station railway, but also have the ability to exercise options at a later date to insert the station. From a procurement point of view, we're trying to keep the process moving forward, but also the ability to insert a station and to safeguard that station within those processes. That's the first point. The second point is that the station itself can be constructed a number of different ways.

The work we're doing at the moment is to look at the different methods of potential construction. Each of those methods would have different timing and different points in the future where a decision would have to be made. You need to sort of marry the two together. There are options in the procurement for the other contracts. There's timing arrangements and flexibility on how it's constructed and then ultimately, if it was to be constructed, a separate contract would need to be procured for the construction of the station itself. Our approach has been to keep as much flexibility in that process as possible so that there are options to insert the station by 2032 or also options to safeguard a station for delivery beyond 2032. We've got a big range of outcomes, all subject to Government decision and all subject to the procurement processes underway.

The CHAIR: As at today, have any changes been made to the process for constructing Sydney Metro West, or procuring Sydney Metro West, as a result of the Rosehill unsolicited proposal?

PETER REGAN: There has been a minor change to the alignment of the tunnel under the Rosehill Garden site. A station on the metro needs to be under section of track that is both straight and flat. The section of tunnel which does, under the original plan for the metro, run directly under Rosehill Gardens was almost straight and flat

CORRECTED

for the length needed for the station. We have made a slight adjustment to that alignment so that it is straight and flat so that it doesn't preclude the ability for a station to be inserted. The balance of the project is not impacted.

The CHAIR: What would be the cost impact of that change that's been made?

PETER REGAN: That section has not been tunnelled, so at the moment it's simply the design costs of doing so. The tunnel boring machines for that section are being operated with two tunnel drives. There is a large cavern that we've constructed at Clyde to the south of the Rosehill racecourse site. We have launched two machines from that site that have travelled to the east to the station box at Olympic Park. They've arrived there in recent months. They are now in the process of being taken back to Clyde, where they'll be reinstalled, reconfigured and pointed then, effectively, to the north-west of Clyde. They will then tunnel through Rosehill to Parramatta and Westmead. At this stage, we expect that tunnel drive to happen later this year. That will be on the new alignment that provides for that straight and flat section.

The Hon. MARK LATHAM: Can I clarify, Mr Regan, your evidence was that the Rosehill station wouldn't be open until 2032?

PETER REGAN: The Government announced at the end of last year, following the completion of the independent review, that the metro west railway would open by 2032, and my evidence before was that it remains possible for the Rosehill station to open in line with the other stations in 2032.

The Hon. MARK LATHAM: Not before then?

PETER REGAN: No, at the moment we're not planning to open the railway prior to 2032.

The Hon. MARK LATHAM: I know it's not your patch, but that is eight years away. ATC and this proposal is looking to sell the land next year. So that eight-year delay would obviously diminish the sale value, wouldn't it?

PETER REGAN: The issue that we are focused on is the ability to construct a station, and that station itself and the process that we're working through is independent of whatever is happening above in terms of ownership or development of the land. I can't really comment on that.

The Hon. MARK LATHAM: What was the outcome when you looked at the station box at Camellia as part of the place strategy initiative?

PETER REGAN: There were some significant challenges with a station further to the north, around the Camellia or the north-west corner of the Rosehill Gardens site. The decision around Camellia, originally, was when the railway was being considered to be on a complete different alignment—an alignment further to the north. Where we're coming through from east Parramatta—

The Hon. MARK LATHAM: What was the problem at Camellia? Was there a flooding and contamination issue making it impractical?

PETER REGAN: On balance, the decision was taken to run an alignment further south and not to put a station there. It is a very heavily contaminated site due to its prior industrial use. The decisions taken in the original investment decision for the railway took that into account and concluded that an alignment further south would be preferable.

The Hon. MARK LATHAM: Did you know, further south, that it wasn't contaminated?

PETER REGAN: Certainly the alignment of the tunnelling is a different matter to the location of the station. Obviously the station requires significantly greater excavation from the surface, and the contamination tends to be closer to the surface. Also, then, the access on the ground. When we're tunnelling, we're often about 20 or 25 metres underground and, therefore, the contamination issues are quite different. As you'd be aware, at the moment there is no station prescribed between Parramatta and Olympic Park. A lot of the rationale for that originally was challenges with the level of contamination at the surface on some of those ex-industrial sites.

The Hon. MARK LATHAM: When Mr Murphy spoke to you about whether we can we look at a Rosehill station, having known the contamination problem at Camellia, what was your reaction?

PETER REGAN: One of the interesting things is there's clearly some very heavy contamination in the land around the Rosehill racecourse. In fact, we're dealing with a very significant rehabilitation at our Clyde site where we're building that launch box for TBMs and the stabling facility. The site there and the sites generally around have been subject to very heavy industrial use and very significant chemical pollution over the years. When I first heard of the consideration at Rosehill, one of the key differences is that that site has not been used for heavy industrial use and, therefore, there is a likelihood it is less contaminated than the adjoining land. That said, we are very conscious that contamination can spread through groundwater underneath sites, so there is still

CORRECTED

a need to run contamination testing and geotechnical testing. That testing is underway at the moment to get a better understanding of the actual condition of the land on the Rosehill site. But it has, I understand, been a racecourse for 150 years, so it is of a different nature to the heavy industrial sites surrounding it.

The Hon. MARK LATHAM: You're not concerned it has been a racecourse for 150 years surrounded by industrial sites? It only came into the STC management—more professional management—after World War II. Say, 100 years ago, it's quite feasible that you're running some factory with lots of waste and chemicals and the like. Instead of the very big expense of transporting it some distance, you'd just sling the private racecourse owner a couple of shillings to dump it over there on the nice open expanses of Rosehill. Isn't that just how the world works?

PETER REGAN: That's why we're doing contamination testing.

The Hon. MARK LATHAM: What are they showing so far?

PETER REGAN: We haven't got the results as yet.

The Hon. MARK LATHAM: When will the results be available?

PETER REGAN: They'll come in the balance of this year, along with the geotechnical investigations we're doing. Certainly the options that I referred to earlier about different ways and timing to construct the station are impacted by the geology. At the moment, the testing that we've done on the site is more for the tunnel alignment further down, but the gap between the tunnel level and the surface level is what we now need to test. As I said, I think there is an expectation that the contamination will be lower than the adjoining sites. But as to how much is there, that's why we need to test.

The Hon. MARK LATHAM: We don't know what happened in detail when it was a private racecourse.

PETER REGAN: Correct, and that's why we'll do that testing.

The Hon. MARK LATHAM: When does your contamination testing finish?

PETER REGAN: It's underway at the moment. We'll get results from that progressively, as we move forward.

The Hon. MARK LATHAM: The ATC members have been told they're having a vote this year. Will it be an informed vote about the feasibility of a station box?

PETER REGAN: I'm not involved in that discussion.

The Hon. MARK LATHAM: I know, but what's your target date for saying the box is feasible?

PETER REGAN: We're continuing to do that design. We're hoping to give advice to government in the coming months around some options and the design options, and that will be informed by that initial contamination testing.

The Hon. MARK LATHAM: November or December?

PETER REGAN: It's in the coming months. We don't have an exact date.

The Hon. MARK LATHAM: You don't know yet. It's open.

The CHAIR: Could I pick up on this point, Mr Latham, and I'll return to you. The metro review did say that Rosehill also has substantial challenges with contamination and will involve significant construction complexities. On what basis was that information drawn from in terms of the contamination issues? I do note that there was an assessment of both the forecourt site and the crossover site in terms of a station. What are some of those challenges in terms of construction?

PETER REGAN: Again, I might answer that in two parts. Firstly, we are, as part of the existing approved metro west project—I mentioned that we've got a train maintenance and stabling facility to the south of the Rosehill Gardens site. Along the western edge of the site, parallel to James Ruse Drive—between James Ruse Drive and the racecourse itself—there is an old rail corridor, the Carlingford rail line, which was closed a number of years ago to be converted to the Parramatta Light Rail. We are tunnelling under that section as a means of accessing the stabling facility from the main running tunnel. So we're effectively tunnelling down the edge of the racecourse site at the moment and coming to surface. There are tunnels that come from about 20 metres down—two tunnels up to the surface. We have done testing around that area and we've got a construction site and a shaft there already underway. We are aware that there is some contamination in the area, but it hasn't been at a level that has prevented that construction. It is a very sensitive piece of construction because we are tunnelling along

CORRECTED

next to where the racecourse is and where the horse training facilities are. So there has been a lot of focus on those environmental factors along there.

The CHAIR: That is the area that abuts James Ruse Drive. Is that correct?

PETER REGAN: That's right. It is on the western side of the racecourse between the racecourse and James Ruse Drive.

The CHAIR: With respect to the construction complexities that exist in that area—

PETER REGAN: Yes, sorry. The construction complexity will depend on the time frames around access to the site. There are a number of different ways that we've built stations on the Sydney Metro. In a lot of cases where we've had full, clear access to the land from above, we have dug a relatively straightforward excavation from the top to create a station box, which is where the future station will go. Then the tunnel boring machines tunnel into that box underground, are pulled through the box and tunnel out the other side. But there are other sites where that hasn't been feasible where, instead, we have tunnelled through the site first without having excavated from the surface and then excavated down from the surface into the top of the tunnel and achieved the same outcome of a station box with tunnel entrance either end. There are other sites, such as the Victoria Cross site in North Sydney, where it wasn't possible to dig a box of that scale. Instead, there, the tunnel boring machines went through the site first and then additional mining equipment was put into the tunnel and a cavern for the station was excavated from within the tunnel, which significantly reduces the level of surface impact and the time by which you would need to have that surface impact.

The reason I say there are a number of options is that each of those construction techniques are different and have different challenges, but they also would enable different time frames for when we would need construction access to the land above. If we did the cut-and-cover method, you need access earlier than if you're mining from within. They're the options that we're preparing for government, and each of them has a range of time frames we're looking at as to when they could be exercised without creating further delay to the whole project. There are a number of options. We're in that design phase looking at those. But from an engineering point of view, they all would appear feasible at this point. The fact that we have that additional tunnelling site just next to the Rosehill racecourse may be able to be used as part of that construction to get that mining equipment in and out.

The Hon. MARK LATHAM: As you'd expect, Mr Regan, the ATC on their own land have done a series of contamination tests. Have they shared those results with you?

PETER REGAN: I would have to check that, Mr Latham. I know there have been discussions, and my team has been in discussions with the ATC around where potential drill holes and things would go. I don't know for sure what has been shared back the other way, but I'm happy to take it on notice.

The Hon. MARK LATHAM: Can you take that on notice?

PETER REGAN: Yes, absolutely.

The Hon. MARK LATHAM: They definitely have done a series of tests, as you'd expect, for this project.

PETER REGAN: Yes, I'm very happy to take that on notice.

The Hon. MARK LATHAM: Mr Regan, are you familiar with the Camellia-Rosehill rezoning civil design package report, prepared by BG&E consultants for the department of planning?

PETER REGAN: Not specifically, no.

The Hon. MARK LATHAM: You aren't? At page 12, it looks at the flooding issues at the confluence of the Parramatta and Duck rivers. It says, "The following are known flooding hotspots." It lists four of them, including through the Rosehill racecourse. How important is it to be flood free in building a station box?

PETER REGAN: I'm very much aware at the site I mentioned a little bit further to the south, where we're building the stabling facility, which borders Duck Creek and Duck River, there are significant flood issues there.

The Hon. MARK LATHAM: The old speedway, yes.

PETER REGAN: The old speedway site, that's right. That has also been a very heavily contaminated site. The works that we are doing there are being structured in a way to have flood mitigation and water retention areas built into the design. With enough planning and with enough land, a lot of those issues can be mitigated so that where a potential station, or in our case further south where the stabling facility is, remains above the maximum likely flood levels. Certainly, we would need to look at similar kinds of arrangements. If that flood area was where the station is, you'd need to mitigate that.

CORRECTED

The Hon. MARK LATHAM: So flooding doesn't worry you as much as soil contamination in terms of the expense of doing and feasibility of doing this?

PETER REGAN: I think, from a feasibility point of view—a technical and engineering feasibility—most things are possible, but it's the time and cost impact that becomes the real issue. Where there's more land available, it is certainly easier to mitigate flooding than when it's very tight. The contamination issue, particularly, as I said before, where we have to come to the surface and excavate closer to the surface, is probably the highest concern.

The Hon. MARK LATHAM: Finally, you said that you didn't know of this BG&E report, but the department of planning has done a lot of work over many years on their Camellia Place strategy, involving Rosehill racecourse, where this all started. Have they shared that material with you?

PETER REGAN: As I said, I'm not aware of the specific report but definitely the department of planning have done a lot of work, and we've had the benefit of some of that work in looking at those options when we looked at different stations. It is known that the area around Rosehill and Camellia is both contaminated and subject to flooding. That's an extra factor that has to be taken into account in terms of remediation.

The Hon. MARK LATHAM: Have you got your own flood incidents report for the station box?

PETER REGAN: I believe we do, and our contractors also look at flood mitigation and protection and flood modelling.

The Hon. MARK LATHAM: Maybe you can share a summary of those results, on notice.

PETER REGAN: I'm happy to take that on notice, yes.

The Hon. DAMIEN TUDEHOPE: Mr Regan, at the time that you were first approached—I think your evidence is that you already had the metro review and the costings associated with that metro review and the potential for a station at Rosehill.

PETER REGAN: Yes. As part of the second phase of the metro review, the terms of reference for that did include looking at other station options. The metro reviewers were looking at questions when we were preparing information on options, and we were also having discussions directly with government around a range of different potential sites along the full alignment as to where additional stations could be considered, or where there were significant gaps between stations, why in the original business case development that was the case. Clearly, a lot of work had been done five years ago, and we were looking again at some of those options. It was relatively high-level work to look at different options, I think, between Parramatta and Olympic Park. We looked at at least five or six different spots. So we were doing work to assist in that review, but no decision had been made at that point—

The Hon. DAMIEN TUDEHOPE: But the material was available to you to be able to provide advice to the Premier's Department pretty well immediately about options for a station at Rosehill in response to Mr McMahon's inquiry?

PETER REGAN: At a relatively high level, we had looked at different options. We hadn't looked specifically originally at the option of a station right under the centre of the racecourse. As I said before, the option that had been looked at at Rosehill racecourse was up more in the north-western corner of the site. Clearly, having the station in the position right in the middle of the racecourse would only work if the racecourse was not an operating racecourse. That wasn't something that had originally been looked at.

The Hon. DAMIEN TUDEHOPE: Would that require a realignment of the—

PETER REGAN: A minor realignment, that's correct.

The Hon. DAMIEN TUDEHOPE: And there would be significant costs with it?

PETER REGAN: Not with the realignment. When we acquire the substratum to build the tunnels, we take an area slightly either to the side when we acquire a property for the alignment of the tunnelling. The alignment change that was required to safeguard for the station was within the substratum that we had already acquired.

The Hon. DAMIEN TUDEHOPE: Chair, I seek to table a copy of the review, because that was information which was available to the Premier's office at the time that the inquiry was made. It would have been relevant for the purposes for ensuring that the answers from Mr McMahon could have been provided relatively straightforwardly.

CORRECTED

The Hon. Dr SARAH KAINE: Mr Regan, thank you for appearing today. You just mentioned alignment, realignment, different configurations. Is it common to get stakeholders, landowners and others coming forward with ideas about where stations should go or particular realignments?

PETER REGAN: Yes.

The Hon. Dr SARAH KAINE: Is that something with this area and the metro that has gone on for a long time—since it was conceived, I guess?

PETER REGAN: I think it's fair to say that landowners who wish to redevelop their land holdings would generally like there to be, if possible, a metro station near their land—sometimes on their land. It is quite common for landowners to make suggestions or inquire about the possibility of inserting stations, especially before the railway is underway. In some cases, after the railway is almost completed, we still get inquiries. I think there possibly is—some of those inquiries can't proceed because they're just off the alignment, and it's not a matter of just moving something over here, necessarily very easily. It is relatively common. Certainly, with the independent review that the Government had underway at the time, I think a number of stakeholders were putting views forward, and there was also a parliamentary inquiry into the metro west alignment, where a number of landowners put views forward as to what other options they believed would be beneficial.

The Hon. BOB NANVA: Is it fair to say they've been advancing those options for a significant number of years now—2018, 2015?

PETER REGAN: Certainly some of those landowners, yes, back to when the project was initially conceived through the development of the business case. I think, if I recall correctly, yes, during that original time before the original investment decision for the project, some probably at least 50 station locations were looked at before the final alignment of nine stations was concluded. There were also a number of alignment options that were looked at, including going north of the Parramatta River and different alignments through Olympic Park. A fair bit of optioneering was done. Some of that was driven from within the work that Sydney Metro and the department of planning were doing, and some of that was advocated for by other landowners or by other stakeholders, certainly, across the piece—be it local government, be it other industry groups or other stakeholder groups. Most people have a view.

The Hon. Dr SARAH KAINE: Yes, I'm sure. With regard to other stakeholders—you've mentioned some there—can you recall any meetings or engagements that you or the former Government had with Geoff Lee, the former State MP for the area, lobbying for extra stations at Rosehill or anywhere else?

PETER REGAN: I can't recall any discussions with former Minister Lee about additional stations. I don't think I was involved in any of those, but I know he—I think he was the member for Parramatta.

The Hon. Dr SARAH KAINE: Yes.

PETER REGAN: I don't recall being in discussions with him personally around that.

The Hon. BOB NANVA: Obviously landowners have been advancing the need for more stations in and around that precinct, whether that's better for their commercial interests or not. What processes were applied by government over that period to handle those requests? Obviously we're dealing with Rosehill right now through a USP process, but what was the process applied with each of those requests historically?

PETER REGAN: The original process around the route selection and the station selection back in, I believe, 2017-18, leading up to the original investment decision, there were, as I said, a number of different alignments, a number of different station options. There was the usual multi-criteria-style analysis done on each of those—constructability, the likely benefits, consideration of contamination, consideration of other issues, looking at the catchment areas—looking at the broader cost and benefit from both a financial and a travel-time saving and an economic benefit, as is done at the early stages of any infrastructure project. That was a fairly robust process that was undertaken originally. There was a set of criteria that had been set to assess how to try to find the right balance between where the stations were located, how many stations there were, the journey time involved. Those processes were relatively robust. Some of that is set out in the environmental impact statements and in the business cases that were done at the time. It was a fairly robust process.

When we were looking, last year, at other options, we had the benefit of being able to look back at some of that additional work, but we did do a fair bit of additional thinking. Obviously, things had moved on somewhat and certainly in some cases, particularly where we had not already tunnelled through the alignment, then there was more optionality. Obviously, it's a lot harder if the tunnel has already gone through. If the tunnel has been made and the alignment has not provided for a station, it is quite difficult to retrofit that station. But before that tunnelling is done, there is more flexibility.

CORRECTED

The Hon. BOB NANVA: But if the requests were coming from a private landowner around Rosehill or Camellia, was that engagement bilateral?

PETER REGAN: There would have been engagement with the department of planning, and I think discussions with Sydney Metro and other agencies. But there had not been any unsolicited proposals or any other detailed propositions that had been entered into in terms of arrangements directly with genuine proposals from the private sector. That work had been done taking into account stakeholder views. Lots of people, as I said, have a view on where they would like a station. That work had been done previously, but not via a formal proposal basis.

The CHAIR: And no determination was ever made in terms of any other station locations, apart from those that were outlined?

PETER REGAN: The decisions around the actual alignment and the project itself, when the investment decisions were made in 2019, settled on the nine-station alignment that is currently under construction. Originally it was eight and then there was an additional one added at Pymont—so nine stations. That's the base that we've been working to and then, over the past year, we've been looking in more detail at the possibility of how you could provide, as I said before, in a number of different ways for either the safeguarding or the construction of a station at Rosehill.

The CHAIR: With respect to both the safeguarding and the construction of the station at Rosehill, the Mrdak review, of course, outlined the cost of that. The station was up to \$2.2 billion and the preserving of the corridor was around one-and-a-bit billion, I think, from memory. Is that cost accurate?

PETER REGAN: I can't comment specifically on some of the actual numbers but, certainly, the work that we were doing—and this is over a year ago now—was, as I said, at quite a high level. Certainly, when you don't have the detail of the geology, the contamination and the time frames, there is a fair bit of contingency when you're doing that kind of forecast. So they were pretty high-level forecasts. Also, it was not clear at what point in time access would be able to be provided, and what form of construction, so the estimates were probably towards the higher end of what would otherwise be achievable if there was clear and clean access to the site and a very defined time frame under which that access would be provided.

We have continued to work up different options and different time frames and different forms of construction. There is still quite a wide range of potential costs. We are working those up for further consideration by Government, because it really does depend on the issue raised before around the contamination, the design, the geotechnical information, the time frame and how the station is constructed—how many entrances it has, where they are located. It's relatively early in the thinking, so we're doing a lot of optioneering at the moment, and there is a pretty wide range of potential cost.

The CHAIR: The benefit to the Government of this proposal is, effectively, the additional housing supply that it would generate. When considering that, at \$2.2 billion it is a cost of about \$88,000 per dwelling. Is there a parameter that you assess in terms of that benefit, when it comes to the feasibility or where you see there is value for money? Are there criteria you use to assess the feasibility of that proposal and the benefit that the Government is receiving?

PETER REGAN: Yes, that would be something that's assessed. The way this process is working, that's not something that we at Sydney Metro are assessing. We are being asked to provide the Government with a range of costs and a range of options for consideration more broadly by the other central agencies that are looking at the overall proposal. Our focus is on preparing those options and not the land use above. There is, clearly, an iteration between the two: The number of housing dwellings that are supported by the station would impact the number of passengers through the station, and the size and the design of the station would need to accommodate what is above it. So they're a little bit iterative. But we're not in that detailed assessment.

The CHAIR: That review did not recommend proceeding with additional stations at either Silverwater or Rosehill. Why was that the case?

PETER REGAN: Well, that was the finding of the review, which was an independent review given to government. The Government then asked that we look at alternative options at a next level of detail, and that's the process that we're going through at the moment—to provide more detail on different options.

The Hon. MARK LATHAM: Mr Regan, you said—and it's a fact of history in Sydney—that it's relatively common for landowners and land developers to want a metro on their site. So there is nothing unique about the ATC, like hundreds of landowners in Sydney over the period, wanting a metro?

CORRECTED

PETER REGAN: Each circumstance is different. Clearly, the size of the landholding and what the landholding could accommodate varies between different landowners, and how much could be developed on a single site versus fragmented sites is probably a factor that would generally be considered.

The Hon. MARK LATHAM: But you've had scores of these requests and looked at them over the years, haven't you?

PETER REGAN: Yes, there are lots of requests. I'm not aware of a request relating to a single landowner with such a large landholding.

The Hon. MARK LATHAM: Not Celestino at Luddenham?

PETER REGAN: No, I'm—

The Hon. MARK LATHAM: They would be about the same size, wouldn't they? Isn't that science park site about the same as Rosehill?

PETER REGAN: I'm not sure of the relative size.

The Hon. MARK LATHAM: But there have been some big, some small?

PETER REGAN: Yes, and certainly there are larger landholdings in the south-west of Sydney or the west of Sydney, like the Celestino site, where there have been historic discussions and decisions made—

The Hon. MARK LATHAM: Yes, they won Lotto.

PETER REGAN: I wasn't involved in that, Mr Latham.

The Hon. BOB NANVA: Would an analogous proposition be the Martin Place unsolicited proposal that has come to fruition?

PETER REGAN: The unsolicited proposal at Martin Place—recently, the station has opened. It is the only station, so far, on the metro network to have been delivered through an unsolicited proposal. Clearly, it's a very high-value site. It's a much smaller site but, given the proximity of where it is and the height that was available, that's been able to support a significant development, which made a very significant contribution to the cost of the station.

The CHAIR: Mr Regan, thank you for your evidence today. Our time has expired. We will now adjourn for morning tea and be back at 10.30 a.m.

(The witness withdrew.)

(Short adjournment)

CORRECTED

Mr ROWAN FISHER, Director, Commercial Transactions, Investment NSW, affirmed and examined

Ms KATIE KNIGHT, Executive Director, Commercial Transactions, Investment NSW, affirmed and examined

The CHAIR: Would either of you like to make a short opening statement before the committee today?

KATIE KNIGHT: No, thank you.

ROWAN FISHER: No, thank you.

The CHAIR: I will ask both of you, when did you first become aware of the proposal for the ATC to redevelop Rosehill racecourse?

KATIE KNIGHT: I became aware on 2 November 2023.

The CHAIR: And Mr Fisher?

ROWAN FISHER: The same date—2 November was the date that I became aware also.

The CHAIR: Mr Fisher, how did you become aware of that at that stage?

ROWAN FISHER: I believe that that was probably in conversation with Ms Knight following an email that the team received regarding the potential proposal coming from TCO.

The CHAIR: Ms Knight, how did you become aware?

KATIE KNIGHT: I received an email from the Cabinet Office seeking advice on an appropriate or potential pathways for a potential transaction.

The CHAIR: It was characterised at that date as a potential transaction, was it?

KATIE KNIGHT: We were just asked for advice on potential pathways.

The CHAIR: With respect to that, was that including the pictures of the potential or including a map?

KATIE KNIGHT: Yes, it was.

The Hon. MARK LATHAM: Who sent you the email from the Cabinet Office?

KATIE KNIGHT: It was a representative of the Cabinet Office.

The Hon. MARK LATHAM: Who? Got a name?

KATIE KNIGHT: I think it's on the email that has been produced. I'd prefer not to use people's names.

The Hon. MARK LATHAM: Mr Murphy said earlier on all he was seeking was some advice about metro location, having had a discussion with Steve McMahon from the ATC. But you're saying that the email was to get advice on the pathway to sell all of the Rosehill site. Is that right?

KATIE KNIGHT: No. We were asked to provide advice about the best way to consider an approach from the ATC.

The Hon. MARK LATHAM: For doing what?

KATIE KNIGHT: We had the diagram, and we provide advice on potential transaction scenarios all the time in early pre-lodgement discussions with potential proponents. This was another example of where we're asked to provide alternative—

The Hon. MARK LATHAM: As of 2 November, what did you believe that the ATC was trying to achieve?

KATIE KNIGHT: I'd received the email, which Steve McMahon is included on, and that map, which showed the racetrack clearly with housing on it.

The CHAIR: With respect to that, that was effectively a forwarded email from Mr McMahon. Is that correct?

KATIE KNIGHT: Correct.

The CHAIR: You receive a forwarded email from Mr McMahon. There must have been some other communication to you prior to that to give you some context, was there?

KATIE KNIGHT: I don't recall any other contact.

CORRECTED

The CHAIR: Out of the blue, you just get a forwarded email with a map on it and a forwarded message from Steve McMahon and then—

KATIE KNIGHT: No. It was through a couple of hands at the Cabinet Office and, "Can you please provide advice about the best way to consider an approach."

The CHAIR: But that was all? That was all the context you were given, just that line?

KATIE KNIGHT: In addition to the map and the words from Steve McMahon.

The Hon. MARK LATHAM: What do those words say, please?

KATIE KNIGHT: It states:

As discussed, just checking on the alignment of any potential Metro Station box at Camellia/Rosehill. We believe it would be in the light gray shaded areas below ... outside the actual racecourse but inside our spectator precinct.

The Hon. MARK LATHAM: That is consistent with what Mr Murphy said earlier on. But what I don't understand, and I think anyone looking at that map, which is sort of on the back of a beer coaster—very fuzzy and some lines drawn on it—why anyone could look at that map and think it had anything to do with the full sale of the site.

The Hon. Dr SARAH KAINE: Is there a question there?

The Hon. MARK LATHAM: Yes. The question is: How could you look at that map and think that it wasn't just about the metro, it was about the full sale of the site?

KATIE KNIGHT: We never thought it was about the full sale of the site. We were providing options for potential pathways.

The Hon. MARK LATHAM: For the metro location only, not the full sale of the site?

KATIE KNIGHT: To interact with the ATC.

The Hon. MARK LATHAM: That takes us to the next step. How then was the document developed that Mr Murphy received on 6 November for the four options to go forward with the full sale of the site? Within four days something has happened—from metro location to a strategy document for full sale.

KATIE KNIGHT: I wouldn't characterise it as a full strategy for the full sale of the site. I would characterise it as setting out four options in which the ATC could approach government with a potential proposal.

The Hon. MARK LATHAM: To do what? This is what we don't understand, you see. You have got a strategy document. It must have an objective. What is the objective?

KATIE KNIGHT: The objective was to provide different alternatives for transactions to government.

The Hon. MARK LATHAM: Any sort of transaction from the ATC? That document could have been there for the metro location. Is that what you're saying?

KATIE KNIGHT: We use this sort of document reasonably regularly in the context of pre-lodgement discussions with different proponents. It will come as no surprise, and I think as has been described at multiple times in estimates and before today, that housing was a strategic priority of this Government. There was a map, there was a racecourse and there was housing on the map. We have been having a number of discussions with proponents about potential housing proposals.

The Hon. MARK LATHAM: I don't see the housing on the map myself. But why is the document headed "Project Wattle"?

The Hon. BOB NANVA: Point of order: I am just querying whether or not the relevant document being cited is a Cabinet document and therefore privileged?

The CHAIR: I will provide the advice for the secretary. The relevant document that was referenced was provided as part of the Standing Order 52 and it was in the non-privileged section of it.

The Hon. MARK LATHAM: It might be useful to table it so everyone can have a look at it. But why was the transaction option analysis in this case headed "Project Wattle"? What was Project Wattle going to be?

KATIE KNIGHT: Project Wattle was simply the advice that we were giving at this time. When we are asked to provide advice in a pre-lodgement context, often they are very confidential discussions and sometimes we give them a project name.

The Hon. MARK LATHAM: What was the nature of this project?

CORRECTED

KATIE KNIGHT: There was no project at this point in time.

The Hon. MARK LATHAM: There's no project but it's called Project Wattle?

KATIE KNIGHT: It was just a name.

The Hon. MARK LATHAM: Just a name. Any request you get for anything you give it a name? Ms Knight, I put it to you it's very hard to follow and believe your evidence that there's a document headed "Project Wattle" and you're saying there's no project.

KATIE KNIGHT: As I've just said, the first approach we got was on the second and we were asked for advice on potential pathways.

The CHAIR: When did you create the Project Wattle name then?

KATIE KNIGHT: I think it would have been at around about this time.

The CHAIR: On 2 November?

KATIE KNIGHT: And I did that. It was my name, my project, and I'm quite proud of it, thank you. The reason for it was because there was a very confidential discussion at this point, very confidential email at this point in time. Obviously we didn't want there to be any further discussion around government at this point on this project.

The Hon. WES FANG: We know that the ATC had been progressing the Camellia proposal, which was to put housing around the racecourse at the time. The ATC had been engaged with landholders around the racecourse at Rosehill and those proposals had been ongoing with the Government, and that was clearly part of the evidence this morning, that it had been part of conversations. The email that you would have received from Mr Murphy effectively outlined the station proposed location by the ATC and asking you to, I guess, provide analysis on that. What led you to believe that the proposal was anything other than a metro station to support the Camellia proposal, as opposed to the whole development of Rosehill racecourse?

KATIE KNIGHT: There was nothing that led me to believe that. I had no information about that.

The Hon. WES FANG: This is my point. What led you, out of the email that you got, to develop in four days, the document without any external—or other conversations? Did anybody from the Premier's office provide advice to you or any of your staff in relation to the proposal? And the conversations between Mr McMahon and the Premier, was there any conversation had between Mr Murphy and yourselves in relation to the development of that document, other than just the email?

KATIE KNIGHT: No.

The Hon. WES FANG: On the basis of the email alone, suggesting a metro station be developed at Rosehill, without the mention of housing, housing targets, housing numbers, any development proposals, you've developed, in four days, the document as outlined by Mr Latham?

ROWAN FISHER: If I may, I'm just looking at a picture of the diagram that was attached to that. There are a large number of boxes which appear to be housing, which cover the racetrack. So they are not just in the corner or on the side of the racetrack, they appear to be over the actual racetrack itself.

The Hon. WES FANG: Would that not lead you to then ask for some guidance from either the proponent or from Mr Murphy or from metro in relation to what is on the table, and what it is that you are supposed to be looking at? Because to receive just the email alone, without any conversation or any further instruction, surely you would have been going outside your delegation to have developed a document like this, and have it turned around in four days? Also, how did you know you needed to have it done in four days? Where was the request for the time frame?

KATIE KNIGHT: There's a number of questions you've put to me there. I'll go back to the first one. What was the first question?

The Hon. WES FANG: We'll go to the actual time frame. How did you know that you needed to have it done in four days so that it would be ready for the subsequent meeting?

KATIE KNIGHT: I don't recall at that time. We just turn around advice as we are asked to do.

The Hon. WES FANG: Were you provided any time frame as to when you had to have this document?

KATIE KNIGHT: I don't recall. I don't believe so.

The Hon. WES FANG: Was it in the email you were sent?

CORRECTED

KATIE KNIGHT: No. There was no request on deadline.

The Hon. WES FANG: So you just magically happened to have a proposal—

The Hon. BOB NANVA: Point of order: I would suggest the manner in which Mr Fang is putting that question is not courteous to the witness. It's just littered with irony. I would just ask that the procedural fairness resolution be upheld with respect to courtesy to witnesses.

The CHAIR: I don't think Mr Fang has breached that yet, but I will be mindful of Mr Fang's questioning.

The Hon. WES FANG: You'll know when I breach it, Bob, don't worry.

KATIE KNIGHT: I think it's fair to say that what we've put out here in this document, they are very boilerplate responses to different pathways to working with government. One of the things that we find regularly when we sit down with potential proponents is that it is confusing. There are different guidelines, there are different documents that apply. One of the things we were trying to do here was to set out those different pathways.

The CHAIR: Is that a standard document that you would use, then?

KATIE KNIGHT: Variations of this, depending on the particular proposal that we are discussing.

The CHAIR: So you've prepared documents such as this in the past previously, and changed names and the like?

The Hon. MARK LATHAM: Variations of it.

KATIE KNIGHT: It depends if it's housing or if it's a potential piece of medical equipment or if it's an IT solution. It depends on what the potential discussion will be about and, therefore, what the risks, what the steps would be, what the benefits would be. That would be different each time. But it is a reasonably regular course of action for the team to have those conversations and to be prepared, like this, to have those conversations.

The Hon. MARK LATHAM: Could I just seek some clarity on an important point. The document, Project Wattle, under the unsolicited proposal—which ultimately Ms Knight recommended—the sixth and final step is the site rezoned to allow residential development. The benefit is significantly increased housing supply along the metro west corridor. This document is to achieve housing on the Rosehill racetrack site plus a metro. What the Committee needs to know is, why did you do both of those things when Mr Murphy said earlier on he was interested in the metro location? It became an unsolicited proposal for the full sale of Rosehill, because Project Wattle, clearly, is about the rezoning for residential purposes.

ROWAN FISHER: I would not agree with that statement, that it had become a USP at that time.

The Hon. MARK LATHAM: Well, out of this document—

ROWAN FISHER: Sorry, can you repeat the initial question?

The Hon. MARK LATHAM: The confusing thing for the Committee to understand is how Mr Murphy said that he forwarded to you the map and the material from Mr McMahon, "interested in the metro site location on Rosehill racecourse". You've drafted up a document here, combined, called Project Wattle, that under an unsolicited proposal the sixth and final step is the site rezoned to allow residential development. The benefit is significantly increased housing supply along the metro west corridor. So this is a document for the full sale of Rosehill plus the metro.

ROWAN FISHER: The document doesn't necessarily say it's for the full sale of Rosehill, but I think it is a natural conclusion, looking at the image that was supplied that, again, shows housing over the entirety—well, not the entirety; it doesn't cover the lake and a couple of other areas—but there is a site there with Rosehill racecourse where you couldn't continue racing there. I think it's a natural conclusion, and something well known in previous statements regarding the metro, that metro sites are generally established where there is housing.

The Hon. MARK LATHAM: This is what I am driving at. You took it upon yourself to assume, because of that map, the Government is interested in the full sale of Rosehill. It wasn't spelled out to you by Mr Murphy?

ROWAN FISHER: I'm not saying that I took anything on myself. I'm saying that is a natural conclusion, to go, "Well what sort of advice might be required," and at that time we had limited knowledge, so that was the best assumption.

The Hon. WES FANG: Mr Fisher, given you had limited knowledge, and given that you had received written instruction only related to the metro station, why would you then go outside of that instruction and delegation to develop, effectively, a document related to developing Rosehill for housing, when that was not the

CORRECTED

question that was asked? Is that usually within the delegation? Is that normal procedure for Investment NSW, to take it upon themselves to generate their own workflow, generate a document and turn it around in four days?

ROWAN FISHER: As Ms Knight has just stated, that document is one that is regularly used and is adapted depending on what a pre-lodgement discussion or an initial discussion with a potential proponent might be.

The CHAIR: But the only information you had to go off was a map, which was fairly scant in its detail, and the words that were forwarded to you, saying:

As discussed, just checking on the alignment of any potential Metro Station box at Camellia/Rosehill. We believe it would be in the light gray shaded areas below ... outside the actual racecourse but inside our spectator precinct.

You weren't asked anything about housing. You were asked about a metro box. That was what was forwarded to you. Your evidence today before the Committee is that, apart from the emails that were provided, no further conversations were had with you. It was just in terms of the advice. On the face of that email, the only advice that was being sought was concerning the development of a metro station. How could you then deduce that this was therefore the complete redevelopment and sale of Rosehill?

KATIE KNIGHT: I think we've talked about the diagram, and I think we've talked about the fact that this time the Government was very clear on its priority around housing and housing supply. So we wanted them to be prepared with the potential scenarios that working with the ATC could look like. That is what we provided in that document. There is nothing more that we can say about it.

The Hon. WES FANG: Surely somebody must have thought, "I'm just going to pick up the phone and ask is this what they are asking us to do?"

KATIE KNIGHT: We were seeking a number of proposals around this time with questions around housing. So we applied this document to other pre-lodgement discussions around housing.

The Hon. Dr SARAH KAINE: Ms Knight, would it be fair to characterise this as your team just efficiently and competently doing their work, comprehensively and within a very good time frame for the people who had asked—in other departments and other areas—for feedback?

KATIE KNIGHT: I'd like to agree with you, yes.

The Hon. DAMIEN TUDEHOPE: Mr Fisher, had you had any discussions with the ATC before this proposal started to develop a life of its own, about the potential redevelopment of Rosehill?

ROWAN FISHER: No.

The Hon. DAMIEN TUDEHOPE: No one from DEIT had any approach from the ATC?

ROWAN FISHER: No. As I indicated earlier, the first I was made aware of a potential concept was on 2 November.

The Hon. DAMIEN TUDEHOPE: Was there any discussion with anyone, to your knowledge, about the increased value of the Rosehill site by the delivery of a metro?

ROWAN FISHER: Sorry?

The Hon. DAMIEN TUDEHOPE: Was there any discussion, with anyone in your department, about the increased value of the Rosehill site as a result of the delivery of a metro?

ROWAN FISHER: I'm a little—not following. Are you still asking prior to 2 November?

The Hon. DAMIEN TUDEHOPE: No, after that.

ROWAN FISHER: At any stage between then and now?

The Hon. DAMIEN TUDEHOPE: Yes, after 2 November.

ROWAN FISHER: Has anyone discussed whether or not putting a metro would increase the value of the Rosehill site?

The Hon. DAMIEN TUDEHOPE: Yes.

ROWAN FISHER: I don't recall any specific discussions about that. I can't comment on—

The Hon. DAMIEN TUDEHOPE: No work has been done in relation to assessing what that uplift in value would be?

CORRECTED

ROWAN FISHER: The USP process, of course, is currently in stage two, and that would be typical work that would be undertaken in the course of stage two.

The Hon. DAMIEN TUDEHOPE: The important thing about a USP, of course, is the Government is impartial in assessing it, isn't it?

ROWAN FISHER: Correct.

The Hon. DAMIEN TUDEHOPE: Do you recall an email you wrote to Vincent Couling on 8 December?

ROWAN FISHER: No, not given the time, but I'm happy to be reminded.

The Hon. DAMIEN TUDEHOPE: You said in that email you're ringing to chat and to discuss the next steps on Wattle, and then you said "super-exciting". Do you recall what was super-exciting?

ROWAN FISHER: No, not at that time.

The Hon. DAMIEN TUDEHOPE: It's not necessarily a phrase you'd use about a person who is so-called impartial, is it?

ROWAN FISHER: We're passionate about our work.

The Hon. DAMIEN TUDEHOPE: I'm sure you are. Ms Knight, you had a meeting with the ATC to discuss the proposal on 8 November, did you not?

KATIE KNIGHT: No, I wasn't at that meeting.

The Hon. DAMIEN TUDEHOPE: Are you sure you weren't at that meeting?

KATIE KNIGHT: I was not at that meeting. I've never met with the ATC.

The Hon. DAMIEN TUDEHOPE: Were you at a meeting on 8 November?

The CHAIR: Are you aware of who the representative of the department was?

KATIE KNIGHT: I believe Mr Fisher was at that meeting.

ROWAN FISHER: I attended that meeting.

The Hon. DAMIEN TUDEHOPE: Mr Fisher, were you at that meeting?

ROWAN FISHER: Yes, I was.

The Hon. DAMIEN TUDEHOPE: I apologise, Ms Knight.

KATIE KNIGHT: That's okay.

The Hon. DAMIEN TUDEHOPE: Mr Fisher, do you recall saying at that meeting, "It should be made clear that any proposal is proponent led and that Government is not developing a proposal with the ATC"?

ROWAN FISHER: I don't recall the specific words I said in that meeting, but that would be consistent with the advice that we would provide all proponents at the stage.

The Hon. DAMIEN TUDEHOPE: And you felt it was—

KATIE KNIGHT: I think you're referring to an email that I sent to the Cabinet Office, where I used exactly those words.

The CHAIR: On 6 November.

KATIE KNIGHT: On 6 November.

The Hon. DAMIEN TUDEHOPE: Why did you feel it was necessary to emphasise that?

KATIE KNIGHT: I think we emphasise that any time we're talking to a potential proponent about any kind of proposal which has not been solicited by government.

The Hon. DAMIEN TUDEHOPE: Were you surprised by the enthusiasm that the Government was showing when it went out and did the media release—

The Hon. BOB NANVA: Point of order: Mr Tudehope is asking Ms Knight an opinion, and I'd say that's not in compliance with the procedural fairness resolution.

The Hon. WES FANG: I think it's entirely valid, Chair. I think the question from Mr Tudehope, asking of the surprise or not, given that the Government—

CORRECTED

The CHAIR: To be fair, unfortunately I was consulting the clerk on another matter, so I didn't actually hear the question. I will allow Mr Tudehope to rephrase the question and then, if you wish to take a point of order again, I will listen this time.

The Hon. DAMIEN TUDEHOPE: Against the background of your caution in relation to ensuring that this is not a proposal coming from the Government, was it consistent with that advice that the Government would actually, on—it escapes me, the exact date—when the public announcement was made, was enthusiastically embracing this proposal?

KATIE KNIGHT: I wouldn't pass any opinion on the appropriateness of that. I don't have a view.

The Hon. DAMIEN TUDEHOPE: Is it consistent with your view that it should not be a government-led proposal?

KATIE KNIGHT: I think what we knew at the time was that there were still pre-lodgement discussions ongoing and that any proposal, if the ATC chose to lodge one, would be led by that proponent.

The Hon. DAMIEN TUDEHOPE: I understand that, but I'm saying you had a strong view that unsolicited proposals are not to be perceived as being government led. In fact, you confirmed that earlier, did you not?

KATIE KNIGHT: I did.

The Hon. DAMIEN TUDEHOPE: Is it consistent with that view that the Government would, in fact, be out there, spruiking—

The Hon. BOB NANVA: Point of order—

The Hon. WES FANG: He hasn't even put a question yet.

The Hon. BOB NANVA: Mr Tudehope is again asking whether or not a government's action is consistent with a view put. I again assert that that is an opinion being sought from—

The CHAIR: I don't think it is an opinion. I'll allow Mr Tudehope to continue.

The Hon. DAMIEN TUDEHOPE: Is it consistent with that view that the Government should, in fact, be out there making embracing comments in relation to this unsolicited proposal, in circumstances where it could create the perception that it was a government-led proposal?

KATIE KNIGHT: It's really not my place to comment on statements made by the Government. We provided our advice—

The Hon. MARK LATHAM: Wasn't that one of your probity risks? In the document, you've listed the perception that New South Wales Government is engineering an unsolicited proposal for a government-driven transaction. You thought that was a probity risk.

KATIE KNIGHT: It was one of a number of risks that we put down. And, with all unsolicited proposals or direct dealings with a potential proponent, that is always a risk, and we always flag that. Certainly a perception risk, and I think the fact that we're here today indicates that there was a perception risk.

The Hon. MARK LATHAM: It's the reality, though, isn't it?

The Hon. Dr SARAH KAINE: Ms Knight, it's business as—

The CHAIR: Mr Latham will continue with his questions then we'll come to you, Dr Kaine.

The Hon. MARK LATHAM: It was more than perception, though. It was the reality that the ATC had never heard of unsolicited proposals, and the Government drove this both in instigating the population that was needed to justify a metro—so, from that, the full sale of Rosehill—and instigating, through your document, the fact that it should be done through a USP.

KATIE KNIGHT: What was the question?

The Hon. MARK LATHAM: The question is, it was more than perception; it was the reality of a government-driven proposal, wasn't it, both in the housing that was recommended and the nature of your document, to tell the ATC, for the first time, "You should do it by a USP."

KATIE KNIGHT: I think, as Mr Draper said, part of our role is to educate the private sector on how potential transactions could be done with government, and that's exactly what we were doing here.

CORRECTED

The Hon. Dr SARAH KAINE: I just want to be really clear on this. The giving of advice about proponent-led proposals is business as usual.

KATIE KNIGHT: Correct. The work of our team, that's exactly what we do on a daily basis.

The Hon. Dr SARAH KAINE: So it's nothing unusual—

KATIE KNIGHT: Nothing unusual.

The Hon. Dr SARAH KAINE: —to highlight this and to suggest that it's taken into consideration. It's just what is done and it is appropriately done in these cases.

KATIE KNIGHT: Correct.

The Hon. MARK LATHAM: With Project Wattle, why did you think the USP was the best recommendation to make?

KATIE KNIGHT: I think we had limited information at the time. We had a potential approach and the unsolicited proposal. I'm a fan of it, the process, because it has really robust guidelines. It has a very staged approach. It has a rigorous assessment and decision-making, separated criteria. So I recommended it as the appropriate path.

The Hon. MARK LATHAM: This is really important. You're saying that, with limited information, you recommended the USP, and that limited information was the fuzzy map and the email from Mr McMahon. That's it?

KATIE KNIGHT: Correct.

The Hon. MARK LATHAM: To your knowledge, who picked up your recommendation and accepted it?

KATIE KNIGHT: I don't have any information about that.

The Hon. MARK LATHAM: In your document, the four options, it mentions the ICAC guidelines about direct negotiations. It says there that direct dealings should only be a last resort, when no other options are viable. Why doesn't the document have a fifth option for doing what every other landowner does, in putting in a rezoning under the EP&A Act?

KATIE KNIGHT: Again, I think Mr Draper gave evidence about that this morning. The information that we were given was around a potential concept that related to metro and potentially housing. By the very nature of the fact that it involved something other than a rezoning or planning application, we said that a potential pathway would be unsolicited proposal.

The Hon. MARK LATHAM: What was the justification for direct dealing in your recommendation?

KATIE KNIGHT: I don't think there was a justification for direct dealing at this point. What would happen from there is, if the proponent chooses to lodge an unsolicited proposal, then we would, of course, assess that proposal in accordance with the criteria that's set out in the guidelines.

The Hon. MARK LATHAM: Did you know of Mr McMahon's relationship with the Premier?

KATIE KNIGHT: I did not.

The Hon. MARK LATHAM: Did you know about the meeting on 30 October, where they agreed that they'd go ahead with the full sale of—

KATIE KNIGHT: I have no knowledge of that.

The Hon. MARK LATHAM: You didn't know about that either. If you had, would you have been worried about the ICAC guidelines, to say favouritism shouldn't be part of this?

The Hon. BOB NANVA: Point of order—

KATIE KNIGHT: I think that's asking me a hypothetical.

The Hon. BOB NANVA: I was just going to say you're asking the witness a hypothetical and an opinion on a hypothetical proposition.

The CHAIR: And the witness has answered it. Questioning to continue?

The Hon. MARK LATHAM: I'm done for the time being.

CORRECTED

The CHAIR: In terms of this level of detail, you've said that you've created option analyses previously. Under what circumstances—would you have done it off the same basis of getting a one-paragraph email forwarded to you, seeking advice with a map attached?

KATIE KNIGHT: Proponents or potential proponents are quite welcome to lodge inquiries through our USP gateway. The level of information that we get differs each time. Sometimes we get a full-blown proposal, which is not lodged as a formal USP but is a very clearly stepped out and detailed document, which obviously enables us to have a really good pre-lodgement discussion because we know a lot. But this sort of level of information is something that we've used in other situations before. Sometimes we have a lot; sometimes we have very little. We may have a phone call. It really depends. But it won't surprise you to know that there are a number of housing inquiries coming in at the moment. This is something that is reasonably familiar for us.

The CHAIR: With respect to the proposal, we've heard previously from the Premier's Department that, essentially, an unsolicited proposal could be approved and then you could still be subject to planning approvals. Is that correct?

KATIE KNIGHT: That's correct. The planning pathways are completely separate from the USP process.

The CHAIR: With respect to that though, the unsolicited proposal would have certain requirements of government—for instance, in this regard transferring land potentially at the Sydney International Equestrian Centre and the building and construction of a metro. Foreseeably, you could have the Government actually agree to an unsolicited proposal when the actual redevelopment may not occur, and particularly when the development of an alternative racetrack may not occur either. Is that correct?

KATIE KNIGHT: I wouldn't like to speak to the details of this particular proposal. I'm not close enough to them. But also, it wouldn't be appropriate even if I was. But I can say that often it is the case that planning pathways are run in parallel, at the same time, and sometimes the USP cannot close or there are other conditions that need to be examined. But they are completely separate processes, and it is often the case that sometimes planning could be achieved in stage one—very, very early in the process—or sometimes it is later. It depends what the proponents chooses to do.

The CHAIR: If that were the case, would the USP not close until those consents were gained?

KATIE KNIGHT: I'd suggest that the proponent would probably not close or submit its non-binding offer if it didn't have any certainty in that regard.

The CHAIR: But, alternatively, they could end up with a metro and a training facility at Horsley Park.

KATIE KNIGHT: I can't comment on that.

The Hon. WES FANG: After the document was provided back to Mr Murphy, what engagement did you have in relation to either the Cabinet Office or the Premier's office seeking additional work?

KATIE KNIGHT: As Mr Fisher said, he attended a meeting on 8 November. Our next phase of work, I think after that meeting, was to develop confidentiality agreements. That was the next request that we were asked to work on.

The Hon. WES FANG: Mr Fisher, at that meeting that you attended, were you provided clarity as to what was on the table in relation to the proposal by ATC, as given by Mr McMahon to the Premier in October? Given that you had no communication between 2 November and that 8 November meeting, did you feel the need to do any refinement work, given that you had confirmation as to what was occurring?

ROWAN FISHER: I think there might have been a couple of questions there.

The Hon. WES FANG: So you were finally given confirmation at that 8 November meeting. Is that correct?

KATIE KNIGHT: Confirmation of what?

The Hon. WES FANG: Confirmation of what was on the table and that Mr McMahon had spoken to the Premier about.

ROWAN FISHER: I have no comment and can't comment on any meeting that might have occurred between Mr McMahon and the Premier. If the question is about what did I learn at that meeting, then, yes, I learnt more about what the ATC were potentially considering than had been given just in that one image.

The Hon. WES FANG: Were you surprised to see that what you had—

CORRECTED

The Hon. Dr SARAH KAINE: Point of order: We're again asking about the feelings of the Committee. I ask that if Mr Fang is going to ask a question, at least frame it in a way that's reasonable for the witnesses.

The Hon. WES FANG: Dr Kaine, I think it is reasonable for me to ask how somebody—

The Hon. Dr SARAH KAINE: Feels?

The CHAIR: Direct comments through the Chair, please.

The Hon. WES FANG: I think it's reasonable for me to ask how somebody might have felt if they'd been working on a document and a proposal for four days to then discover that that was actually the proposal that was on hand. Mr Fisher, did you feel the need to—

The CHAIR: I will rule on the point of order. If you've the phrased question in such a way, you are entitled to ask it.

The Hon. WES FANG: Thank you, Chair. I thought I was already.

The Hon. Dr SARAH KAINE: There you go.

The Hon. WES FANG: Mr Fisher, I think you returned the document on 6 November, and then you had confirmation on 8 November at the meeting on the proposal that ATC had brought. Is that fair? In those two days between the sixth and the eighth, did you have any conversations in relation to what you would be meeting about on the eighth?

ROWAN FISHER: Again, I think there were a couple of questions there. I think you stated that I had confirmation of the proposal. Again, there was no proposal at that time; it was a concept and some ideas that the ATC was presenting. My role in that meeting was to inform the ATC with regard to the USP process and how it operates. And, if they were interested in using that process, then, "These are the steps" and "These are the criteria".

The Hon. WES FANG: Did you get a phone call inviting you to that meeting on the eighth?

ROWAN FISHER: I can't remember if it was a phone call or if it was an Outlook invitation. I don't recall.

The Hon. WES FANG: I imagine if it was an email we would have received it in the SO 52. I don't recall seeing it. Does anybody?

ROWAN FISHER: It would have been in the standing orders if it was an email.

The Hon. WES FANG: I don't recall seeing one. I can assume it was a phone call. Was it? Were you then provided some information as to what the meeting would be about?

ROWAN FISHER: Again, you're asking me to recall whether or not there was a phone call nearly 12 months ago. I've had several phone calls since then. I was asked to attend the meeting to provide information with regard to the USP process.

The Hon. WES FANG: You knew you were going in there to provide advice on the USP?

ROWAN FISHER: Correct. That is something that I very regularly do as part of my role.

The Hon. WES FANG: How was that communicated to you and by whom? You don't recall?

ROWAN FISHER: I think I've answered that question. I don't recall if it was a meeting invitation that was sent to me or a phone call.

The Hon. WES FANG: What preparatory work did you do for that meeting?

ROWAN FISHER: We'd already prepared, through the team, an options analysis which informed some of my thinking. But with regard to providing advice about how the USP process works, because I do it so frequently I am able to just attend the meeting and convey the information.

The Hon. WES FANG: So you can't recall how you were invited to the meeting and you can't recall what issues were raised at the meeting, but you knew you were going to meet with the ATC about a potential unsolicited proposal. Were you provided any other guidance by any other government entities? Did the Premier's office reach out to you? I presume Mr Murphy was still in the Cabinet position. Did the Premier's office reach out to you to seek any advice or to provide you any further guidance?

ROWAN FISHER: Can I just clarify that I think you made a statement there that I knew I was going into a meeting where I knew I would be told more about the issues.

The Hon. WES FANG: No, I said you knew you would be going into a meeting where you would be providing advice to the ATC about the USP.

CORRECTED

KATIE KNIGHT: Process.

ROWAN FISHER: Yes, that's correct.

The Hon. WES FANG: Did anybody from the Premier's office, in those intervening two days, make contact with you to further streamline the evidence that you would provide or the guidance that you would provide to the ATC?

ROWAN FISHER: No.

The Hon. WES FANG: Did any other entity within government reach out to you about this proposal?

ROWAN FISHER: I presumably would have had a discussion with Mr Murphy from the Cabinet Office at that time, just informing me that a meeting had been arranged and asking me if I was available to come and speak with regard to the USP process.

The Hon. WES FANG: Are we to understand that Mr Murphy forwards you the email from Mr McMahon with the photo and you don't speak to him for four days? It's then after you return the document, and having no other visibility as to what's being requested of the Government by the ATC or by the Cabinet Office of you, you've then provided advice. It's at that time that you then pick up the phone and talk to Mr Murphy about the proposal on hand. At no time before you have a conversation with Mr Murphy?

ROWAN FISHER: I think Ms Knight explained earlier that we have a large and regular number of these type of meetings where we may have limited advice. My role was to turn up and speak about the USP process.

The Hon. WES FANG: Ms Knight, is it usual that, where there's an email that's forwarded to Investment NSW by somebody from the Cabinet Office that has a drawing and asks about a metro station, you then authorise your department to provide a document with four distinct circumstances where a proposal might be discussed and looked at by government without having sought consideration or clarification as to what is being asked beforehand? Is that normal? And also then give it a project name?

KATIE KNIGHT: I think I've explained that the advice we provided is very standard advice that we provide to Transport or Health or anyone that asks. It may be provided internally to government, or we may walk into a pre-lodgement meeting with a potential proponent and we may have no information at all about what they are going to propose.

The Hon. WES FANG: How many projects have project names in your office?

KATIE KNIGHT: I couldn't tell you the answer to that.

The Hon. WES FANG: Can you take that on notice? Because I'd be curious to know how many emails develop a project name when received by your office.

KATIE KNIGHT: I can take it on notice. I'm not sure we keep that data, but I can take it on notice.

The Hon. MARK LATHAM: Related to that, could I ask on which occasions you've recommended USPs for land development associated with a metro?

KATIE KNIGHT: I'm not going to discuss the pre-lodgement discussions we have with potential proponents. I can't do that; they're confidential.

The Hon. MARK LATHAM: No, but on how many occasions has something like this happened? Is this the only one, or is it a dozen a year, one a month, three a week?

KATIE KNIGHT: I have had them before. I couldn't tell you how many times.

The Hon. MARK LATHAM: Could you take that on notice, please? Because we were told earlier that the only other metro with a USP is Martin Place, which is obviously a very different circumstance to Rosehill, the only one that went ahead.

KATIE KNIGHT: Sorry, I'm referring to conversations with potential proponents regarding housing, potential housing—

The Hon. MARK LATHAM: No, not conversations, recommendations of a USP. Mr Murphy said, Ms Knight, you recommended the USP out of this options document for Project Wattle.

KATIE KNIGHT: That's right, and I have done that before in alternative situations.

The Hon. MARK LATHAM: I'm asking you if can take on notice how many times over the last 18 months, with this housing supply issue, you've recommended USPs for housing development with a metro.

CORRECTED

KATIE KNIGHT: Yes, I can take it on notice.

The Hon. MARK LATHAM: Is this unique or has it happened on other occasions? At any time, can I ask both witnesses, did you think about seeking more information beyond the fuzzy map and Mr McMahon's metro location and "Can we just find out from Mr Murphy is this about the full sale of Rosehill?"

ROWAN FISHER: That was actually the purpose of 8 November, in part, as I understand it. Again, my role was to speak of the USP process, but I think the intention of that meeting was to learn more about the concept and what they were thinking.

The Hon. MARK LATHAM: Right, but the recommendation had been made at that time, hadn't it? That's what Mr Murphy said.

ROWAN FISHER: Yes, but that's not a conclusion as to—it becomes a USP if the proponent decides to use that pathway.

The Hon. MARK LATHAM: Mr Fisher, at any time did you raise concerns about the speed with which the Cabinet Office was moving on this, that they were doing it too fast and maybe some corners were being cut?

ROWAN FISHER: No.

The Hon. MARK LATHAM: You raised no concerns at any time?

ROWAN FISHER: No.

The Hon. MARK LATHAM: Were you always happy that the direct dealing was the best way to go?

ROWAN FISHER: At that stage, absolutely, and it continues to be that the USP process, as we've described before, is a very robust and structured process for government examining proposals from the private sector.

The Hon. MARK LATHAM: Ms Knight, you mentioned earlier on that you like the USPs, as a matter of principle. Why do you think we see so few of them?

KATIE KNIGHT: We actually see quite a few come in to stage one. As you might appreciate from the guidelines, they are not made public. We have only had nine successful ones since 2012, but that's not to say that we don't have a number of others that come in that don't proceed.

The Hon. DAMIEN TUDEHOPE: This one's certainly public, isn't it?

KATIE KNIGHT: Yes, the website has been updated to include information about the proposal.

The Hon. MARK LATHAM: It was announced at Rosehill in early December, that the—

The Hon. DAMIEN TUDEHOPE: That's a bit inconsistent for a USP.

The Hon. MARK LATHAM: Why do you think this one was announced publicly when for all the others the protocol apparently is for stage one to remain private and confidential?

The Hon. BOB NANVA: Point of order: Again, Ms Knight is being asked an opinion about a matter.

The Hon. MARK LATHAM: Is that the protocol for a stage one USP, to remain confidential?

The CHAIR: Let me rule on it. I think the question is capable of being asked, maybe not in the form that it was put, but Mr Latham can re-ask it.

The Hon. MARK LATHAM: Is it the protocol, Ms Knight, as you indicated earlier, that stage one USPs should remain private and confidential?

KATIE KNIGHT: The USP guidelines do say that, but any decision to make any kind of media statement is not one that we get involved in.

The Hon. MARK LATHAM: Were you ever given an explanation as to why this one didn't remain private and it went so public?

KATIE KNIGHT: No.

The Hon. BOB NANVA: Ms Knight and Mr Fisher, if I could come back to some of the issues raised by Mr Fang a bit earlier. I want to clarify, from the meeting of 30 October to when the announcement was made public, was there any direct engagement between yourselves and Premier's office in that period?

KATIE KNIGHT: Not from me.

CORRECTED

ROWAN FISHER: No.

The Hon. WES FANG: Ms Knight, in circumstances where the guidelines for stage one have been abandoned, should that not then trigger some sort of a review or analysis disconnected from the USP process?

KATIE KNIGHT: What do you mean by the guidelines being abandoned?

The Hon. WES FANG: The guidelines indicate that the stage one should be kept confidential until such time as it progresses. The Government elected to not do that and, indeed, held a press conference at Rosehill announcing the plan. If the guidelines have been abandoned by the Government, what does that do in relation to the rest of the proposal? Surely it must trigger something if the guidelines have been so easily discarded by the Government in relation to the proposal? What happens?

KATIE KNIGHT: To be clear, there was no proposal until 28 March when it was lodged so, technically, we weren't even in stage one at that point.

The CHAIR: There is a document, Mr Fisher, in the Standing Order 52 and I take it that is a note to yourself called "Wattle Discussion RW". Are you familiar with that?

ROWAN FISHER: Yes, I am.

The CHAIR: What were the circumstances around creating that note?

ROWAN FISHER: I'm happy to put some context around that. Those notes—and very rough notes at that—were a discussion that I had with OCM, the probity adviser. I was checking in with them ahead of what would be the first meeting with the ATC and seeking some input from them as to whether or not there was anything specifically that I might need to or should mention during that meeting on 8 November.

The CHAIR: To Mr Fang's questions before about the preparation for the meeting that you undertook—and I think your evidence was this is something fairly standard for you and don't need to do too much—you did actually seek the input of O'Connor Marsden prior to that meeting on the eighth?

ROWAN FISHER: Yes, and that's, again, very—

The CHAIR: Is that standard protocol for you as well?

ROWAN FISHER: Yes, it's very typical. We have various chats with the probity adviser across all of our projects.

The CHAIR: I take it that was a phone call?

ROWAN FISHER: Yes, that's my recollection.

The Hon. WES FANG: What guidance were you seeking? Was it in relation to just a metro station, or was it in relation to the full development of Rosehill racecourse for housing?

ROWAN FISHER: It wasn't specific to either of those points. It was just, "This is a meeting that I'll be attending that has the potential for quite significant scale and complexity. Is there anything that I should consider?"

The Hon. WES FANG: But I would think that without any level of detail—and you said that you always have these conversations—you must have had some specificity about the conversation, otherwise you would already know the answer to that because you said you do this all the time. What was special about this circumstance, given that you had such little detail in the request? It was only asking for a metro station and you'd gone well beyond that delegation to progress the document, as Mr Latham tabled earlier. What specificity did you ask for in that advice that was different to anything that you knew about beforehand? You would've known about it, right? You know your job; you say you do this all the time.

ROWAN FISHER: Again, I think there are a number of questions there. I think there was an assertion that I'd also gone beyond my delegation that I wouldn't necessarily agree with.

The Hon. WES FANG: No, not beyond your delegation. It was beyond what was requested of Investment NSW, which was in writing, to look at a metro station.

ROWAN FISHER: Which question would you prefer me to answer?

The Hon. WES FANG: You've asked for advice before you've gone to the meeting. Surely you must've had some specific information that you were seeking advice about, given if all you had to go off was the email that you received on the second—all it was was a metro station. What specific advice did you have that you sought specific advice from the probity adviser around the meeting?

CORRECTED

ROWAN FISHER: In the normal course of our business we receive, as Ms Knight has mentioned, inquiries and proposals across a wide gamut of different subjects, and they vary quite significantly in their scale and how big and small, that people might be interested in doing things with government. This clearly is further up the end of the scale. Again, from that limited knowledge, at that stage you go, "Well, it's a metro, and looking at the site,"—I think it's 60-odd hectares or so—"that could potentially house a whole suburb." In my mind, that warranted me making a phone call.

The Hon. WES FANG: I understand that, but at that point the only—your evidence and the evidence of everybody else that's appeared is that all you had to go off was the one email sent to you by Mr Murphy and that you'd had no conversations and you had no understanding as to the whole 60 hectares. All the email asked you to do was look at the metro station.

ROWAN FISHER: I believe I've answered the question as to why I made the phone call—because I looked at it and believed that, due to the scale and significance, I was doing my job in seeking advice and seeing whether or not I needed to do anything differently.

The Hon. MARK LATHAM: Can I take you through the note of 3 November—the discussion with RW. You say, "Regardless of who talks to who first, it'll end up like a USP," so already the USP is on the table. "Justification for direct dealings still has to be found," so at that stage you did have a doubt that it could be direct dealing justified?

ROWAN FISHER: I don't agree with that assertion.

The Hon. MARK LATHAM: That's what it writes here. It says, "Justification for direct dealing still has to be found." My question is when did you find it and what was the justification?

ROWAN FISHER: There are a couple of things there. Again, I will go back to the context around the note. That is a very rough note. Sentences in that note don't even make sense, and there are typos et cetera.

The Hon. MARK LATHAM: I wouldn't say that. There are typos, but you can make sense of it.

ROWAN FISHER: The advice—I've already just given evidence as to what my request was to the probity adviser, which was "Do I need to do anything differently? Is there anything I should be cognisant of in that meeting?" I've recorded a few of the things that were mentioned in that meeting very roughly. Now—

The Hon. MARK LATHAM: So you're saying—sorry, carry on. I shouldn't interrupt.

ROWAN FISHER: That's okay. The advice that I received from the probity adviser was "No, there is nothing specific that you need to do." They, in fact—and I think it's represented on that piece of paper that you're holding—went through a number of items. Their advice was that whether or not it ends up being, in the classical sense, a direct dealing or a USP, which is a type of direct dealing, then in any respect the ICAC provisions, as contained either in the ICAC requirements or the USP guide—which, of course, are hand in glove with those—would apply to both.

The Hon. MARK LATHAM: You say the secretary shouldn't be involved. I assume that's the Planning secretary?

ROWAN FISHER: I think the probity adviser was speaking non-specifically about any secretary.

The Hon. MARK LATHAM: Then you say, "A little dep sec steering committee. Send someone lower to investigate bureaucracy, then told to go fetch." What do they go and fetch?

ROWAN FISHER: Again, I think you can tell by—

The Hon. TAYLOR MARTIN: It's colloquial.

ROWAN FISHER: I beg your pardon?

The Hon. TAYLOR MARTIN: It's quite colloquial.

The Hon. MARK LATHAM: What does the bureaucracy have to go and fetch?

ROWAN FISHER: I don't recall specifically. Again, those sentences don't even really make sense.

The Hon. MARK LATHAM: They're written here. It says that the bureaucracy has to go fetch something but if you don't recall what that is—the final sentence says, "Ausgrid—

ROWAN FISHER: It could well be go and fetch the information required for the assessment.

The Hon. MARK LATHAM: Okay. "Ausgrid Mike Pratt secretary, and it compromised the whole thing." What was that a reference to?

CORRECTED

ROWAN FISHER: Again, I think it was with regard to the advice from the probity adviser that USPs are varied in nature. That was a successful USP; it was well before my time in government. He was referring to all sorts of projects and processes can go through the USPs.

The Hon. BOB NANVA: I might ask a question about when the proposition was first put to you, and the context, because much has been made of the map and the email. I want to be very clear: At the time that the proposition was first put to you, there was a well-publicised Mrdak review on foot with respect to west metro, and the Government's agenda around housing and transit-oriented developments also was publicised, was it not?

KATIE KNIGHT: Yes, that's correct.

The Hon. BOB NANVA: You were both aware of both of those?

KATIE KNIGHT: I don't think I had any intimate awareness of the metro review. That's not really something that we get involved in, but certainly housing was something that—

The Hon. BOB NANVA: Is it fair to strip that context away from the advice that you provided with respect to potential steps forward or processes by which to—

KATIE KNIGHT: No, all of that has to be taken into context and is the genesis of why we provided advice around potential pathways and made references to housing.

The Hon. BOB NANVA: So that context informed the advice?

KATIE KNIGHT: Absolutely.

The CHAIR: Thank you, witnesses, for your attendance here today. That brings us to the end of this session. Before we do, however, there was mention of tabled documents by Mr Fang. No documents have been tabled as such. I think he referred to Mr Latham's tabled documents. I, however, am prepared to table—I think it's probably helpful for the Committee and for anyone who comes back and looks at this later on—the emails that were discussed, the map and the options analysis that were part of the SO 52. I'll seek to table those before the Committee that we'll determine later. Thank you for your attendance here today. I think you might've taken something on notice.

KATIE KNIGHT: Yes, I think we took a couple of things.

The CHAIR: The Committee secretariat will be in touch in due course to discuss the arrangements for that.

(The witnesses withdrew.)

CORRECTED

Ms KAREN JONES, Chief Executive, Office of Sport, for Sydney International Equestrian Centre, affirmed and examined

Mrs CARLA ARMANET, CEO, Sydney Olympic Park Authority, sworn and examined

The CHAIR: Welcome, Ms Jones and Mrs Armanet. Would either of you like to make a short opening statement before the Committee? We will start with you, Ms Jones.

KAREN JONES: Good afternoon, Chair and Committee members. I am the chief executive of the Office of Sport. I start by noting that I and the Office of Sport welcome the Committee's inquiry today and we were party to the submission from the New South Wales Government. For those who may not be aware, the Office of Sport manages the Sydney International Equestrian Centre. In relation to the proposal to redevelop Rosehill racecourse as it relates to the Sydney International Equestrian Centre, I have answered questions at budget estimates hearings in February and August of this year. Today there is not much further to add beyond the answers that I have previously provided and the New South Wales Government submission. However, to assist the Committee, I would like to set out a timeline and talk specifically to the Office of Sport's involvement to date.

On 17 and 23 November 2023, representatives from the Australian Turf Club attended the Sydney International Equestrian Centre. As part of the visits, staff from the Office of Sport meet with the representatives and provided a tour of the site and the equestrian centre facilities. On both of these occasions the Australian Turf Club proposal was not known to the Office of Sport. On 7 December 2023 the New South Wales Government announced that discussions had commenced with the Australian Turf Club on a proposal to relocate Rosehill racecourse and build new homes, surrounded by green space, and a new Sydney Metro West station. In the media release accompanying the announcement, the following reference was made to the Sydney International Equestrian Centre, "Under the ATC's proposal: A centre of excellence horse training facility at Horsley Park to accommodate the relocation of 300 to 400 horses from Rosehill Gardens stables." I note that the reference to Horsley Park is a reference to the Sydney International Equestrian Centre.

Following this announcement, no further discussions or meetings were held with the Australian Turf Club until 2 February 2024, when representatives from the Australian Turf Club and Investment NSW attended the Sydney International Equestrian Centre to tour the site and discuss the proposal and the stakeholder engagement process. At this meeting, the Australian Turf Club referenced its draft concepts and indicated their aspirations; however, no documentation was submitted to the Office of Sport for review. On 8 April 2024, the Australian Turf Club advised its members they had submitted a formal stage one submission to the New South Wales Government. On 7 June 2024 the New South Wales Government advised through its unsolicited proposals website that the submission was of sufficient interest to warrant further development and progression to a more defined project.

I note that the New South Wales Premier's Department is coordinating the participation of government agencies in that process and is also supporting the proposal's steering committee and stage two assessment panel. On 9 July 2024 members from this Committee attended the Sydney International Equestrian Centre to view the site and its existing facilities. Then on 6 September 2024—so more recently—representatives from the Australian Turf Club again visited the centre to view the site and its existing facilities. Again, no documentation was provided to the Office of Sport for review and no specific proposal for the Sydney International Equestrian Centre was discussed.

Further to the timeline that I just have set out, a point of contention in my previous evidence provided at budget estimates hearings related to whether a proposed centre of excellence would actually fit on the Sydney International Equestrian Centre site. To that point, my previous evidence is still relevant. In the absence of a final scope and accompanying plans submitted by the ATC to the Office of Sport for consideration, it would be misleading and premature for me to provide a definitive answer to questions as to whether the proposed centre for excellence and/or racehorse training facility would fit on the Sydney International Equestrian Centre site. I remain of that view. When required, the Office of Sport will of course provide advice and assistance to the New South Wales Premier's Department via the unsolicited proposal process. I thank you for your time and indulging me to give my statement. I can provide a copy of my opening statement to Hansard and am available to answer your questions.

The CHAIR: That was all very helpful in the timeline. I appreciate that.

CARLA ARMANET: Good morning, Chair and Committee. I am the chief executive officer of the Sydney Olympic Park Authority, which I will refer to as SOPA throughout this hearing. This is my opening statement to the Legislative Council Select Committee on the Proposal to Develop Rosehill Racecourse. I am providing comments relating to the brick pit, which has been suggested as a potential location for the relocation of Rosehill racecourse. The brick pit is vested in the Sydney Olympic Park Authority Act as part of the Millennium

CORRECTED

Parklands. The brick pit is zoned as C2 environmental conservation under the Central River City SEPP. The objectives of the zone include protecting, managing and restoring areas of high ecological, scientific, cultural and aesthetic value. Permissible uses include environmental facilities, environmental protection work and filming. All other uses are prohibited.

In addition to the C2 environmental conservation zoning, the site is separately identified as part of the environmental conservation area for Sydney Olympic Park as part of our Parklands Plan of Management. A key consideration for the brick pit is the habitat for the green and golden bell frog, which is recognised as a threatened species under both Commonwealth and State environmental legislation. As such, only minor development may be undertaken within this space. SOPA may only grant consent when it considers that the proposed development would not significantly reduce the environmental and ecological value of the conservation area.

The brick pit precinct occupies 27 hectares and is situated in the east parklands. It has boundaries at Marjorie Jackson Parkway to the north, Bennelong Parkway to the east, commercial buildings and a car park to the south and Australia Avenue to the west. Over 3.5 million visitors attend and visit Millennium Parklands each year. The Brickpit Ring Walk receives over 60,000 visitors per year and the adjacent Wentworth Common picnic and recreation area even receives over 36,000 visitors annually. Each year, the horse trail, Wentworth Common and the surrounding areas of the brick pit are licensed to the Royal Agricultural Society of NSW for exclusive use for some 35 days per year to stage the annual Sydney Royal Easter Show as part of their 99-plus year lease.

The Parramatta Light Rail Stage 2 corridor has also been identified to run adjacent to the brick pit on Australia Avenue. Currently, our master plan for 2030 plans for a mixed-use precinct immediately adjoining the brick pit to the south, where the car park is today. The master plan outlines that the precinct's existing industrial and commercial uses will progressively give way to higher densities and a mixed-use to create a compact urban neighbourhood with a vibrant and leafy character. Dwelling numbers in that precinct under master plan 2030 are likely to be approximately 3,200 new apartments. SOPA is in the final stages of preparing our next master plan review, which will see greater densities, community infrastructure and commercial outcomes expanded within the neighbourhood adjacent to the brick pit.

Currently, the brick pit provides habitat for over 121 species of native birds, microbats, reptiles and a number of frog species. The brick pit is a critical habitat for the green and golden bell frog, which, as previously mentioned, is a threatened species under both Commonwealth and State legislation. The green and golden bell frog population at Sydney Olympic Park is one of the largest populations of the species remaining in New South Wales. Sydney Olympic Park is identified as a key management site under the New South Wales Government's Saving our Species program. At present SOPA holds multiple development consents with ongoing obligations to the brick pit. They include licence arrangements for mobile telephone towers and transmission facilities, and also the operation and maintenance of the Water Reclamation and Management Scheme, which is known as WRAMS, the water storage reservoir and associated infrastructure that supports that.

The brick pit acts as a water storage reservoir for the WRAMS system. It stores stormwater and excess treated effluent to provide extra water for final treatment when demand is high. The reservoir holds up to 300 million litres and the WRAMS system services all homes, businesses and major event venues, the public domain irrigation across Sydney Olympic Park and the Newington neighbourhood. I can confirm SOPA has not participated in or facilitated any inspection by Racing NSW or the Australian Turf Club to the brick pit as a potential site for the relocation of the Rosehill racecourse. I can also confirm that on Friday 19 July SOPA hosted 10 members from this parliamentary Committee and secretariat on a site visit to the brick pit. To the full extent of my knowledge, SOPA has not had any further connection with the parliamentary Committee except for the coordination of my attendance to today's hearing.

The CHAIR: Thank you, Mrs Armanet and Ms Jones, and your agencies, for the facilitation of our visits to both the Sydney International Equestrian Centre and the Sydney Olympic Park brick pit. Thank you for those opening statements. Mrs Armanet, with respect to the brick pit site, it has been said—and I note your comments with respect to the green and golden bell frog. We've had evidence before the Committee from Mr McGauran:

... the vulnerability of the green and golden bell frog has eased considerably. Its endangered status has been modified to an extent. That is not your understanding. Is that correct?

CARLA ARMANET: No. It's a high-risk, very small population and we are one of the biggest populations in New South Wales.

The CHAIR: Mrs Armanet, it was advised to the Committee from the Australian Turf Club's proposals that they would be seeking to develop a racetrack on the cliff top. I think their evidence before us was that, effectively, the inside of the brick pit would stay—I won't necessarily say "as is" but be maintained, but there would be development on the top ring on the cliff top. Do you have any idea of what that footprint on the cliff top

CORRECTED

would be? Are there any constraints to development on that cliff-top from other projects that are going ahead at Sydney Olympic Park at the moment or that you're considering?

CARLA ARMANET: Firstly, I'll state I'm not aware of what the proposal entails or have any understanding of what the proposed development actually includes. But what I can say is that the brick pit boundary on most sides is less than around five to 10 metres to roadways, including the proposed Parramatta stage two light rail corridor.

The CHAIR: So that is on Australia Avenue. Is that correct?

CARLA ARMANET: Yes, and Marjorie Jackson Parkway on the other side.

The CHAIR: So the light rail corridor along Australia Avenue and then Marjorie Jackson Parkway, which goes effectively—

CARLA ARMANET: Which is on the other side.

The CHAIR: —as a main commuter road to Wentworth Point and those communities there.

CARLA ARMANET: Yes.

The CHAIR: Then, when it comes to the western end, effectively where the Ferris wheel is for the Easter show, are there any plans for that area along that corridor that Sydney Olympic Park is progressing at the moment?

CARLA ARMANET: Yes, so that is the parkland precinct, which I referred to in my opening statement, which is deemed for higher density residential development. And part of that—there is an ecological easement which must be maintained between the brick pit and the development of that site.

The CHAIR: How many residences are you preparing to put in place there?

CARLA ARMANET: Under the adopted current master plan, 3,200 dwellings.

The CHAIR: Ms Jones, with respect to the Sydney International Equestrian Centre site—and I do very much appreciate your outlining of the timeline so far. We've heard evidence from Sydney Metro and the like, who I guess as well don't have a live proposal, but they're working out their own options analysis for the Government or contingency plans as to what feasibility would look like. Has the Office of Sport been asked by anyone within government to prepare anything similar?

KAREN JONES: No, we haven't.

The Hon. WES FANG: In relation to the brick pit site itself, I believe, when we were asking Racing NSW how they might overlay a track on the footprint, given that I think it's too constrained, they were talking about the possibility it might spill over and actually need to take in some of the wetlands area around to the north-west of the brick pit site itself. What issues would that create in relation to SOPA and the arrangements that they have with the site?

CARLA ARMANET: Firstly, it's difficult to answer that because I'm not clear on what their proposal actually is entailing.

The Hon. WES FANG: Neither am I. That's why I'm asking.

CARLA ARMANET: But in terms of the wetlands and the mangroves and the brick pit, it is a fully connected ecological system, which does rely on each other for its health and wellbeing.

The Hon. WES FANG: I think you mentioned, when we went to visit the brick pit site, that the green and golden bell frog does transit between the wetlands and the brick pit site and that there is a symbiotic relationship in relation to the frogs that are in the brick pit site—that they also need the wetland site as well. Is that correct?

CARLA ARMANET: Yes, it's part of a cleansing process.

The Hon. WES FANG: When we spoke about how that risk to the bell frog might be managed and the potential to move the colony to another location, you indicated that is not a simple process. Could you outline to us some of the risks that might exist?

CARLA ARMANET: The work that has been undertaken over the last 24-odd years at Sydney Olympic Park with the green and golden bell frog is that it is a habitat that doesn't easily relocate. I don't have full details of all the studies that have been undertaken to date, but the survival rate was not high.

The Hon. WES FANG: What is the planning process, as you understand it, should a new class one racetrack be required to be built at Sydney Olympic Park? If the government of the day determined that was to

CORRECTED

occur, what engagement would be required to happen with SOPA to start with? What planning controls would need to be measured, monitored and implemented in order for a class one racetrack to be built on the site?

CARLA ARMANET: At the moment, under the current planning controls, a racetrack would be prohibited. There would need to be a change to the conservation areas under the Local Government Act in which the brick pit falls for it to be considered.

The Hon. WES FANG: So it just can't happen—is what you're saying?

CARLA ARMANET: No.

The Hon. WES FANG: And nobody from Racing NSW has engaged with you? They haven't visited the site—let me say, haven't visited the site in an official capacity. Certainly, we've had evidence that they've driven past and might've hopped out of their cars and had a look, but nobody has actually done any detailed exploration of the site, of the geography and the geology in relation to the proposal?

CARLA ARMANET: No-one.

The CHAIR: Just to pick up on that point, we've received evidence before that there are engineering reports that are being conducted on the site. Have you had any requests from engineers to come and inspect the site or to undertake any analysis?

CARLA ARMANET: No, not in my knowledge. SOPA has not been contacted to conduct any of those engineering reports.

The Hon. WES FANG: Ms Jones, in relation to the equestrian site and the proposal to establish a centre of excellence precinct, if the New South Wales Government was to lose that site in relation to the equestrian precinct itself, what other events would that have an impact on and what would be the fallback for the New South Wales Government in relation to the provision of other sites that might actually make up for things like cross-countries that are operated at the site when it's not being used as an equestrian site?

KAREN JONES: Mr Fang, it's kind of a hypothetical that you're putting to me.

The Hon. WES FANG: This whole process is a hypothetical at the moment, it would seem, but here we are.

KAREN JONES: What I would say is that the Sydney International Equestrian Centre—we host a lot of events out there. We do everything from eventing, like you've mentioned, in terms of cross-country, all the way through to dressage and showjumping. The centre itself is actually used not only by local and grassroots organisations, but it's also used for interstate competition, national competition and, on rare occasions, also international competition. I know that leading up to the announcement there was some advice sought from myself, and we asked that it be co-located on the site, obviously representing our existing stakeholders on the site. I think that what we would still be in discussion about once we get visibility of the proposal is around what does a co-location actually look like.

The Hon. WES FANG: Just on that, you say "once you've got visibility of the proposal". There is a sketch—and I believe Mr Latham has just grabbed it out now—that's probably even more detailed than the one that we were speaking about earlier in relation to a grey box, drawn on a coaster-sized photo of the Rosehill racecourse, for the metro station. A proposal has certainly been put forward in relation to the ATC's plan for the site. Have the ATC or Racing NSW sat down with anybody from the Office of Sport to discuss the proposal or to look at terms in relation to co-location or a takeover of the site? Have you had engagements and conversations with those entities?

KAREN JONES: Only as per my previous evidence, and that was on 2 February. On 2 February, like I've mentioned, it was ATC coming out and looking at the site—doing an inspection, if you like, around the site—and they also talked about their aspirations. We haven't got any documentation.

The Hon. WES FANG: So there's no further engagement from that time until now? Given that there's a requirement for not only the brick pit site but also the equestrian site to be locked away in order to secure accommodations for the existing Rosehill infrastructure and events, surely some conversations must have occurred, because the Rosehill proposal cannot proceed until the two sites have both been locked away.

KAREN JONES: Mr Fang, that's your opinion and that's your comment.

The Hon. WES FANG: No, I take it. It's a very loaded comment, I gather, but let's just work through that.

CORRECTED

KAREN JONES: Sure, and I can only talk to the Sydney International Equestrian Centre, of course. I'll let Ms Armanet talk about the brick pit.

The Hon. WES FANG: It's a question and a statement at the same time; let me put it that way.

KAREN JONES: Yes. From the Office of Sport's point of view, we had that engagement on 2 February. Like I said in my opening statement, they again visited our site on 6 September. But, again, no documentation and no plan were provided to us for our review.

The Hon. WES FANG: No email forwarded? No little coaster-sized photo?

KAREN JONES: Not to my knowledge.

The Hon. WES FANG: Really? Have you asked Investment NSW? Maybe they can send you something

KAREN JONES: As the head of a New South Wales government agency also bound by the unsolicited proposal process, we will follow that process.

The Hon. WES FANG: Apparently they're guidelines, or so we heard from the previous evidence. If they're just guidelines, you don't have to follow them.

The Hon. BOB NANVA: Point of order—

The CHAIR: I don't know what the point of order is but, in the Bill Shorten fashion, I will uphold it anyway.

The Hon. WES FANG: I was pushing my luck, I know.

The CHAIR: I suspect I can deduce what it was and, yes, Mr Fang, you should ask a question and allow it to be answered.

The Hon. WES FANG: I've had my fun.

The Hon. MARK LATHAM: Thank you to both the witnesses for facilitating the visit to your sites, which was very informative for the Committee. Mrs Armanet, just for the record, the brick pit is obviously an industrial wet site. As a keen racegoer, I can't ever imagine a racecourse being built there. The proposal apparently is to run around the top edge. We were told that because it's a man-made site and the current cliffs are at a 90-degree angle, as you'd expect after digging out all the bricks, you get a lot of landslides when it rains heavily. Is that correct—that the outside of the pit, the top bit, starts to fall into the bottom?

CARLA ARMANET: That's correct.

The Hon. MARK LATHAM: We were told that that'll go on for decades until it stabilises at about a 30-degree angle.

CARLA ARMANET: That's correct.

The Hon. MARK LATHAM: Meaning that if you built a racetrack around the current top perimeter, over time it would slide into the pit.

CARLA ARMANET: I'm not sure of the engineering, but—

The Hon. MARK LATHAM: Well, if you build anything up there, it runs the risk of sliding into the pit because of the need to stabilise at the 30-degree angle.

CARLA ARMANET: Yes, you would have to take that into consideration.

The Hon. MARK LATHAM: So you would have to regard it as an engineering feat along the lines of the pyramids or something to actually achieve this racetrack. That's what it looked like.

CARLA ARMANET: Potentially, but—

The Hon. MARK LATHAM: Maybe Racing NSW has got engineers on that scale for their Pharaoh. Ms Jones, there was a statement by the Premier's Department back in December that the ATC had some detailed plans about the equestrian centre training track development and they were going to send them to you, but that hasn't happened over more than nine months.

KAREN JONES: No, we haven't received any of those plans as yet. But, like I said, we will fully cooperate through the unsolicited proposal process. Once we're called upon to give advice, we will absolutely do so.

CORRECTED

The Hon. MARK LATHAM: There were no detailed plans that you could rely on in stage one of the USP, which is now complete?

KAREN JONES: Nothing has been shared with us to date.

The Hon. MARK LATHAM: Have you sought to have a look at stage one of the USP, as a government agency, to see what they've got in mind for your land?

KAREN JONES: Not at this stage, no.

The Hon. MARK LATHAM: You haven't gone to ask about what's in stage one of the USP?

KAREN JONES: No. What we have done, as I said before, is we're happy to engage through the unsolicited proposal process. Once we're called upon, we'll provide advice.

The Hon. MARK LATHAM: You'll wait until you're called upon. That meeting on 2 February raised some issues about the gas pipeline. What does that involve?

KAREN JONES: I'd have to take that on notice. It doesn't mean it didn't happen, but I don't recall much discussion on the gas pipeline.

The Hon. MARK LATHAM: It's something that the Office of Sport raised. And also the relationship with the parklands—what was the concern there?

KAREN JONES: Obviously, our boundary is shared with Greater Sydney Parklands.

The Hon. MARK LATHAM: This might only be in dot point form, but it was said that the ATC wanted to put 700 stables, 50 day yards, trotting and cantering trails, a pool for horse exercise, a 2,400-metre training track, a 1,200-metre hill gallop track, administration buildings and vets on site. Could you fit all that into your existing site?

KAREN JONES: Like I said earlier, yes, at that meeting on 2 February they did discuss their aspirations for the site. I would put what you've just outlined there as their aspirations for the site—

The Hon. MARK LATHAM: Aspirations and nothing more than that.

KAREN JONES: —because we have not yet seen a plan. As per my previous evidence, Mr Latham, I can't provide an answer about whether or not it will fit until I see that plan.

The Hon. MARK LATHAM: When we inspected the site—and, very helpfully, the Western Sydney Parklands drove us around in their bus—having seen an ATC plan, or a map actually, it became apparent that the ATC had messed up the boundaries of SIEC because the southernmost part, the woodlands site that they're looking at, is actually part of the parklands. In that heavily wooded area, they want to put tie-up stalls, horse walkers, accommodation, float drop-off, dedicated feed, the vet facilities I mentioned earlier on, the admin facilities and the equine aquatic training facilities. That would be a major problem, wouldn't it—that they're wanting to knock down all that woodland to the south of your site, which I understand is protected?

KAREN JONES: I'm very keen to have a look at that plan. I haven't seen that plan, so I'd be interested to know whereabouts you sourced that from. But, from our perspective, obviously not only is there the unsolicited proposal process but there is also the planning process, which would take all of those environmental factors into consideration. Yes, obviously we would be a party to that too.

The Hon. MARK LATHAM: Do you think it's been a faulty process so far, that a humble ATC member like myself—

The Hon. BOB NANVA: Point of order—

The CHAIR: I think I know what the point of order is, and yes.

The Hon. MARK LATHAM: What's the point of order?

The CHAIR: Opinion, and I'm willing to uphold it in that regard. The question can be rephrased.

The Hon. MARK LATHAM: How efficient do you believe the process has been, and informative for SIEC and all your users? We were told that it would heavily affect the school cross-country running and also the horse cross-country eventing activities. How efficient do you think it is that a humble ATC member like myself seems to know more about their plans for your site than you know? You've been kept in the dark, haven't you?

KAREN JONES: No, I have not been kept in the dark, Mr Latham. There is a process that is being followed, and that's the unsolicited proposal process. I'm very comfortable that, during that process, the Office of Sport will be engaged at the appropriate time for us to then provide our advice and our feedback around what a

CORRECTED

development on the Sydney International Equestrian Centre site would look like. I do also understand—and again, in my evidence—the ATC have been out there doing their stakeholder engagement and their communications. I don't know where that plan has come from but, if it has come through that process, then it's not something that the Office of Sport has been party to.

The Hon. MARK LATHAM: Ms Jones, how realistic do you think the aspiration for shared facilities is given that some of these horses are very valuable? If Chris Waller goes out there with the daughter of Winx, a \$10 million horse—and if you've seen the Winx movie, the security cameras, the guards, the fences. Horse trainers, by and large, with a \$10 million horse—and others may be a bit more affordable—don't want random people they don't know walking around their stables and facilities, and would have them locked up, effectively. It means that shared facilities would be very difficult in that environment, wouldn't it?

KAREN JONES: When we talk co-location, we don't necessarily go to the extent of shared facilities. It does all depend on what the final design might look like. There could still be separation of those facilities. I can guarantee you that—I know that racehorses are incredibly valuable, but so are some of the equestrian horses as well who are existing stakeholders on our site, too. We would make sure that the stakeholder groups are comfortable with what the arrangements look like.

The Hon. MARK LATHAM: Can I put to you that we know it's co-location because they're planning to plonk all their facilities on the western part of your land? Shared facilities wouldn't be realistic given the security needs of a racing stable like Chris Waller's, would it?

KAREN JONES: That's something that I would be happy to work through with the ATC and also with our equestrian stakeholders to understand what their needs are in terms of facilities. If there are efficiencies to be derived from shared access, then that's something that we could easily explore. If not, then we would look at what the actual separation but still co-location looks like.

The Hon. MARK LATHAM: Do you stable horses permanently on the site?

KAREN JONES: Typically, no—only during eventing.

The CHAIR: Mrs Armanet, with respect to the brick pit site, would you be able to take on notice what the dimensions of the actual cliff top area would be? You also mentioned, in terms of the development that would be happening on the southern end—I mistakenly said the western end before—leading up to Murray Rose Avenue, that there was the requirement for a gap between the brick pit and that development. What is that requirement and what's that governed by?

CARLA ARMANET: The ecological corridor is actually about conserving light spill—enclosing the habitat. There's a lot of frog fencing that you'll see, which we pointed out through the inspection on that day. It's an ecological buffer between the environment and the critical environment of the brick pit and people.

The CHAIR: If you were to, for instance, put a racetrack on that side on the cliff top, that ecological corridor would still be required?

CARLA ARMANET: That would still need to exist.

The CHAIR: I imagine that all the development of the light rail and the like as well—that that's taken into consideration as to whether there needs to be any encroachment along Australia Avenue, for instance?

CARLA ARMANET: That's correct. The light rail corridor—which we can provide that detail on notice for you in terms of the distances between the edge and the corridor as well as the light rail corridor.

The CHAIR: That would be very helpful. Thank you very much. Also, with respect to the site and the ecological communities that exist there, you have, of course, the frog and—Mr Latham has left us—there have been reports of the Latham's snipe. Are there any other ecological communities of concern in that area?

CARLA ARMANET: There are a number of migratory birds. I don't know all the species' names, but the Latham's snipe is one of those—a number of microbats, which are also important colonies, and the frogs as well.

The CHAIR: Finally, from there at least, with respect to the operations at Sydney Olympic Park, you outlined before in terms of the Millennium Parklands—and it's governed by the Sydney Olympic Park Authority Act. Is that correct?

CARLA ARMANET: Correct, yes.

The CHAIR: In terms of anything that were to be conducted in this area, would it require legislation or amendment to the Sydney Olympic Park Authority Act?

CARLA ARMANET: For development of this scale?

CORRECTED

The CHAIR: Yes.

CARLA ARMANET: I would suggest there would be, yes.

The Hon. EMMA HURST: I know that this seems like a basic question, but just so that we've got it on record, what would happen to those species of animals if it was developed into a racecourse?

CARLA ARMANET: I can't really answer that because I don't understand what the development of a racecourse actually means. I have not received any information or have any understanding of the proposal at this stage.

The Hon. EMMA HURST: But there are concerns that it would be problematic in that particular space because of those animals in that space?

CARLA ARMANET: Under the current zoning, a development of this scale, in my opinion, could impact the environmental sustainability of the space.

The Hon. WES FANG: Just so I'm clear, Mrs Armanet, at what point did you learn about the proposal to construct a class one racetrack at the brick pit? Was it through engagement with Racing NSW or the ATC, or was it through the media?

CARLA ARMANET: I think there was a media article in mid March. That's when I was aware that the brick pit was part of a USP.

The Hon. WES FANG: Prior to that article, you were not engaged with, no advice was sought from you, and no site visits occurred. Is that correct?

CARLA ARMANET: That's correct in my knowledge. I started with the Sydney Olympic Park Authority on 22 January of this year.

The Hon. WES FANG: Since that time, since you became aware from the March article, there has been no engagement, no site visits, no detailed design or engineering or geological or planning work that you're aware of in relation to that site?

CARLA ARMANET: That's correct.

The Hon. BOB NANVA: From the point in time at which the scope and detail of the proposal—as far as it concerns Olympic Park and the equestrian centre—is settled by the proponents, you would expect, under the process, to be consulted at that point, wouldn't you?

KAREN JONES: Absolutely.

CARLA ARMANET: Yes.

The Hon. BOB NANVA: And once, as agencies, you are brought into the process under the USP process, you would assess that impartially as you would any other proposition being put to you?

CARLA ARMANET: Correct.

KAREN JONES: Yes, correct.

The Hon. WES FANG: Mrs Armanet, would SOPA object to the construction of a class one racetrack at the brick pit?

CARLA ARMANET: I can't answer that until I have the details of what's in the proposal, which we would assess according to the detail within that. Under the current zoning, it would be challenging.

The CHAIR: Finally, Mrs Armanet, it was suggested at the last hearing by Mr Hinton that it wasn't just about the brick pit, but the brick pit precinct. Have you got an understanding of what the brick pit precinct is?

CARLA ARMANET: In respect to the proposal?

The CHAIR: Yes. I know you've got no idea what the proposal is.

CARLA ARMANET: No, I don't.

The CHAIR: Is there any terminology at all of not just the brick pit itself but a brick pit precinct?

CARLA ARMANET: The brick pit precinct, under our definition—which may be different to the definition that's being used within the unsolicited proposal. Because I don't have knowledge of that, I can only advise you that our definition incorporates Wentworth Common, the horse trail and the brick pit, which makes up 27 hectares.

CORRECTED

The CHAIR: So your definition extends further than just the area bordered by Marjorie Jackson Parkway and the like—and excuse me if I've got the wrong terminology.

CARLA ARMANET: It's within those confines.

The CHAIR: But extends further to Wentworth Common as well. Is that right?

CARLA ARMANET: Yes.

The CHAIR: Thank you very much for your attendance here today. I think you have taken some items on notice, so the secretariat will be in touch with you about getting a return to those answers in due course.

(The witnesses withdrew.)

(Luncheon adjournment)

CORRECTED

Ms CAROLYN McDONALD, Former Stablehand, sworn and examined

Dr PETER KERKENEZOV, Veterinary Surgeon, sworn and examined

The CHAIR: Hello everybody, and welcome back to the inquiry. We have our next witnesses here. Would either of you like to make a brief opening statement before we commence questions?

PETER KERKENEZOV: Yes. I have been a practising equine veterinary surgeon for 54 years and have ridden all types of horses. With the advent of digital radiography, ultrasonography and other modern diagnostic modalities came a dramatic improvement of imagery that provided a more thorough understanding of degenerative changes of the musculoskeletal system. Identifying the root cause of many catastrophic breakdowns was an epiphany. That is, the root cause of many musculoskeletal failures can now be traced back to persistent foot imbalances. The predicament of racehorses in today's society has become widely public knowledge, and if the racing industry is to gain some degree of integrity then the relevant statutory authorities need to take notice and act appropriately.

Integrity and One Welfare are entwined. The once sport of kings has evolved into a commercial structure where, too often, money trumps decency towards the very noble animal upon which this industry is based. The most important issue for the racehorse industry is the welfare of both the horse and rider. Any callous horse welfare issues not only implicate those responsible for the industry's governance but also, at times, State veterinary surgeon boards, practising veterinarians, trainers and owners themselves. I have advocated for many years—for decades—that more intense veterinary scrutiny be afforded to the horses participating at race meetings and in track work. A letter, dated 8 December 2014, was sent to the then Minister for Hospitality, Gaming and Racing, outlining genuine concerns regarding racing unfit horses.

I finally received a reply from the Racing NSW chief executive, dated 14 February 2017—that's over two years later. He stated that all was satisfactory and taken care of, when it was clearly not. To this day, observations validate the fact that too many unfit horses are walking onto tracks across the country, many of whom are also drugged. Hence I am of the opinion that the inquest into the deaths of Chosen Prayer and her rider should be reopened. The Coroners Court final conclusions appear to make no mention of Chosen Prayer's significant foot imbalance, amongst other things. That is, protracted cyclic loading of the forelimbs of Chosen Prayer, in all probability, played a major contributing function in the final demise of both horse and jockey. It's also interesting to note that Chosen Prayer died in March 2017.

CAROLYN McDONALD: Good afternoon. My name is Carolyn McDonald, and my family has been involved in horseracing for six generations. My particular interest in this inquiry relates to horse welfare, which I believe is the most important integrity issue for the racing industry. Just last week at an international conference of horseracing in Japan, horse welfare was the biggest concern expressed at the conference. Having co-authored research papers into catastrophic injuries in racehorses and the use of the whip in horseracing, I have also taken an intense interest over many years in the behaviour of racehorses. As Professor Paul McGreevy, one of my colleagues, states:

My intense interest in animal behaviour is largely because I think it's the clearest lens through which to see animal welfare ... Whenever you look at an animal you can explore what is good about its behaviour, what's less desirable about its behaviour, what is normal about its behaviour and what is alarming.

As I stated in my submission, I am a former registered stablehand with Racing NSW. During such time, I witnessed firsthand the mental, emotional and physical suffering of thoroughbred racehorses kept in stables for up to 23 hours a day. Horse welfare has become a subject of intense debate across the world. A review of the Thoroughbred Racing Act 1996, to include legal protections of the racehorse and implement scientific studies into serious animal and human welfare and safety concerns in the thoroughbred racing and breeding industries, is essential.

The Act is riddled with conflicts of interest between the commercial arm of the industry and the welfare of the horse. In the first instance, the Minister should refer to the contents of the review of thoroughbred racing in New South Wales that was commissioned in the mid-90s by the Minister to Ian Temby, QC. I have a copy of that report by Ian Temby with me today. On the first page it states:

Racing cannot afford a reputation for general corruption. It may well be that some part of the community shuns all forms of racing with a show, real or assumed, of disinterest. However, the whole community shares in huge public revenue derived from racing. It is probably one of this State's largest industries, is the subject of Government control or supervision, and is a huge employer. It is a public industry. An attack upon its reputation leading to a loss of public confidence is a grave matter.

That was the introduction given by His Honor Justice A J Goran, QC, to Temby's review. On page 1 of the Temby review, it states:

CORRECTED

People who like horses like to race them. Probably horses bred for the purpose like to race, although nobody can say for sure, as horses are inscrutable.

Ironically, consent is now the subject of current debate—that is, the consent of the horse. The much-publicised controversy about the famous racehorse, Chautauqua, a few years ago—who refused to jump out of the barriers multiple times—is a classic example. As far as social licence is concerned, Dr Andrew McLean of Equitation Science International states:

Too often it appears that even at the highest levels, horse people and federations believe that all they need to do is convince the public that what they do is justified, kind and legitimate and they see what is known as social license to operate as something to protect. This is a complete misunderstanding. On the contrary, social license is the trust owed to the public and it must be earned.

In a published paper by Iris Bergmann of Sydney university, she states, "Greater ethical scrutiny will be applied to the thoroughbred racing industry whether it likes it or not. Concerns over animal safety and welfare and medication are consistent themes in consumer and stakeholder research. It is the issue of drugs that is arguably taking thoroughbred racing to a tipping point across continents."

The CHAIR: I might start with the first question for both of you. This is an inquiry into the proposal with respect to Rosehill racecourse. What are both of your perspectives with respect to the Rosehill racecourse proposal?

PETER KERKENEZOV: The sale of Rosehill racecourse doesn't concern me. My main interest here is the medicine surgery of horses and their welfare.

CAROLYN McDONALD: We have a housing crisis. There are three racetracks in Sydney—Randwick, Canterbury and Warwick Farm. I think the housing crisis is the priority.

The CHAIR: With respect, if you've been following the inquiry, you would see that one of the parameters in terms of the redevelopment of Rosehill racecourse for housing is that another track be identified in Sydney and constructed in Sydney. Do you have any views on that in terms of the development of another track, whether it be at the Sydney Olympic Park or elsewhere?

CAROLYN McDONALD: I don't really have an opinion on that.

The CHAIR: So you have no views with respect to any of that at all?

CAROLYN McDONALD: There are already three racetracks in Sydney and numerous provincial tracks and numerous country circuit tracks.

The Hon. EMMA HURST: I might start with a few questions to Dr Kerkenezov. You mentioned in your opening statement that you wrote to the racing Minister in 2014. I note that in the letter you state that the legal and public perception ramifications could be sobering, particularly if serious injuries or death were to occur and found attributed to a preventable error. In your opinion, have injuries and deaths to horses and jockeys occurred as a result of some of these preventable welfare issues?

PETER KERKENEZOV: Yes.

The Hon. EMMA HURST: Can you expand?

PETER KERKENEZOV: Chosen Prayer may be one of those horses. I haven't looked at the horse of Marina Morel. I'd like to have a good look at the pathological report. The problem is, as I see it, that a lot of the pathologists aren't looking where I would look, and that's at the distal forelimbs of horses. They break their shoulders; they look in the shoulder. The root cause in many cases—in most cases, I would say—is imbalance of the feet and the sheer forces that cause shifting of weight from one leg to the other and ultimate failure elsewhere.

The Hon. EMMA HURST: You wanted to look further into the Marina Morel case to see if something could have been done to avoid what happened?

PETER KERKENEZOV: I did send some material to the Coroner, but I have not heard back and that was months and months ago.

The Hon. EMMA HURST: Are you able to table with the Committee the information that you sent to the Coroner?

PETER KERKENEZOV: It was an email addressed to the secretary or whoever. I forget his name. It was so long ago now. In fact, I'd forgotten about it until you mentioned it.

The Hon. EMMA HURST: Are you happy to share that email and information with the Committee?

PETER KERKENEZOV: Yes, later on.

CORRECTED

The Hon. EMMA HURST: Of course.

PETER KERKENEZOV: That's assuming I can find the email.

The Hon. EMMA HURST: Yes, you might have to do a search for it. You eventually got a response to your letter three years later, but not from the Minister. The response actually came from the CEO, Peter V'landys, instead. Do you know why the CEO was responding to correspondence that you sent to the Minister?

PETER KERKENEZOV: I would imagine that the Minister asked him because he seemed to be the most obvious person to ask, I suppose, being the CEO of Racing NSW, to reply to my letter.

The Hon. EMMA HURST: Were you surprised to hear back from him instead of the Minister?

PETER KERKENEZOV: No, I wasn't. I thought it was appropriate, but I felt like I was just being fobbed off. It's interesting, as I said earlier, that Chosen Prayer—and the foot is in my addendum. It's obviously seriously malformed and the horse should never have been racing or never have been doing track work.

The Hon. EMMA HURST: Since you sent that letter in 2014, do you feel that Racing NSW has taken action to address these foot and other biomechanical issues that you have raised?

PETER KERKENEZOV: I think that nothing has been done.

The Hon. EMMA HURST: What steps should take place?

PETER KERKENEZOV: They should raise the bar on the scrutiny of racehorses before they do track work or race.

The Hon. EMMA HURST: What does that mean? Does that mean having a full vet check before racing?

PETER KERKENEZOV: Yes. Because, for horses, most of the lamenesses are below the knee and lameness accounts for most of the problems with racehorses, the feet obviously should have prime importance. I see so often horses that are racing that shouldn't be there. I would say that I could go into a stable and probably pull out half the horses, which are unfit to race.

The Hon. EMMA HURST: One proposal that we have received as part of this inquiry, which a lot of welfare organisations have proposed, is that if the sale did go ahead—and they're not presenting a position either way there—there would be a significant amount of money that would then be available. The proposal from those welfare organisations is that a percentage of that money should be earmarked and confirmed to go specifically into some of these animal welfare issues. Is that something that you would support—

PETER KERKENEZOV: Yes.

The Hon. EMMA HURST: —and where do you think that money should be directed in the best ways to support animal welfare?

PETER KERKENEZOV: I think they should have workshops and have someone like myself even. I've done 54 years of this and my clinical experience is probably more than someone who has been involved in an institution, in a university. I have been in the front line and it took me 20 years before I woke up. It wasn't until digital radiography came along that the penny dropped as to what was seriously going wrong. We'd need to do workshops and invite farriers, veterinarians and stewards to come along and indicate where they should be looking, because a lot of these problems can be fixed.

Because the foot is imbalanced badly, it can be remedially shod, and I have been doing that for years. Horses coming from Sydney, coming to country tracks, they've come with absolutely amazingly poor feet and no wonder they couldn't race. Once they get shod up properly and stood up, then they perform really well. It's not the end of the earth. They can be repaired, so the money should be spent on education. It's not hard to check a horse. You can go and buy a \$20 instrument from Bunnings that the roofers use to measure the hoof angle, and hoof angles need to be at least 54 degrees. Anything less shouldn't be racing. I've seen horses racing with hoof angles at 45 degrees, and they're just a disaster waiting to happen.

The Hon. EMMA HURST: Ms McDonald, your submission raises specific welfare issues about the stables at Rosehill racecourse. You mention boxes at Rosehill with copious amounts of scratch marks. Can you talk a little bit further about some of the welfare concerns in regard to the stables and the boxes specifically at Rosehill?

CAROLYN McDONALD: I've seen this at Rosehill, and I mentioned Rosehill because this is about Rosehill. When I worked as a stablehand on other tracks, it was nothing for a horse to be scratched from a race the following day because it had become cast in the box. One horse had to be euthanised; it broke its leg. Some of those boxes—with one stable, when a horse wanted to lie down, he would have to go on the diagonal for his

CORRECTED

body to fit and lay down. They get horribly bored; they are confined. The confinement is shocking. Also, the scratch marks usually come from when the horse becomes cast in the box.

The Hon. EMMA HURST: Can you explain what you mean by that?

CAROLYN McDONALD: If a horse lays down and his body is moved when he has been laying down for a while—and this usually happens in the dead of night when there's usually no-one in the stable complex—and if he is having difficulty getting up, his hoof will slip and slide on the wall. He struggles and panics, and he can't—it's very important for the horse to be able to get up.

The Hon. EMMA HURST: You mention the horses being in these boxes overnight.

CAROLYN McDONALD: Yes.

The Hon. EMMA HURST: How long, typically, would they be left in these small, confined spaces?

CAROLYN McDONALD: Up to 23 hours a day.

The Hon. EMMA HURST: And usually overnight?

CAROLYN McDONALD: Yes. When the trainer was away once, something had to be looked after. I actually slept in the stable complex that night, and I made observations of the horse's behaviour during the night, yes.

The Hon. EMMA HURST: Ms McDonald, I asked the other witness if a percentage of the sale was to go towards animal welfare initiatives, first of all, would you support that; and what welfare initiatives would you focus on?

CAROLYN McDONALD: Yes, I would support that. The welfare issues—I think something has to be done about the confinement of the animal. They are a herd animal. They are living a very unnatural life. Sometimes I would have trouble leading a horse out of its box for trackwork for the morning, and it's because he has been confined for so long and eating the grain and other stuff. Some of the abuse that the horses would get because—a trackwork rider would regard the horse as being badly behaved, but the horse is just behaving according to how it's having to live. It's full of energy to get out there, and it's confined.

The Hon. EMMA HURST: We heard from the CEO of Racing NSW in this inquiry that he believes that the whip does not hurt a horse. What's your reaction to that?

CAROLYN McDONALD: My family goes back to the 1800s, when my family raced horses on Governor FitzRoy's racetrack out at Parramatta. I remember a jockey coming to my father's home, and my father looked at him and he said, "Do you think the whip hurts the horse?" The jockey said, "Come on, John! What do you reckon? That horse will be still stinging on Sunday afternoon." This was after a high-profile horse had won a big prize money race and the horse was flogged, and I think even the trainer had something to say in *The Daily Telegraph* about it. I'm not going to name the horse.

The Hon. EMMA HURST: Do you think it's feasible to have a CEO of Racing NSW who doesn't acknowledge that that's a welfare issue in and of itself?

CAROLYN McDONALD: There is scientific evidence that the whip hurts the horse—scientific evidence. In my opinion, you don't even need scientific evidence. If you use something like a whip on an animal, a dog will yelp but the horse can't because he is a predatory animal. Peter V'landys stated publicly that the whip does not hurt the horse.

The Hon. EMMA HURST: Do you have any reaction to that?

CAROLYN McDONALD: I'd like to know where's his scientific evidence to prove that.

The Hon. EMMA HURST: Your submission also alludes to some corporate governance issues within Racing NSW. I'm just wondering if you can outline what some of your concerns are or what you might know about that.

CAROLYN McDONALD: It has always been my view that the Government legalises horseracing. It condones it, and it supports it. I think the Government has a responsibility to ensure the welfare of the horse and also jockeys and trackwork riders as well.

The Hon. EMMA HURST: You outlined some of the welfare concerns that you've got generally. Do you think that anything has changed for horses since you were a stablehand at Rosehill?

CAROLYN McDONALD: I wasn't a stablehand at Rosehill.

CORRECTED

The Hon. EMMA HURST: Sorry.

CAROLYN McDONALD: I was a stablehand at two different provincial tracks, but I have visited the stables at Rosehill. I'm sorry, I've lost—

The Hon. EMMA HURST: That's all right. I'm happy to ask again. You mentioned some of the welfare issues that you did see when you were a stablehand.

CAROLYN McDONALD: Yes.

The Hon. EMMA HURST: Do you think that anything has changed in the time since you have been a stablehand or are you still seeing the same welfare issues occurring?

CAROLYN McDONALD: Nothing has changed. I go back to 2008, when I seriously sat down and started to document and do my research. It has not changed. The deaths, I think, have increased. The whipping, with my whip study with Sydney university, the fines—it's just laughable. The jockeys are still flogging the horses. One comes to mind. I saw shocking whip marks on a two-year-old, Shaquero, at the Magic Millions a few years ago. I saw the whip marks starting to welt up.

The Hon. EMMA HURST: Was that reported, or did anything happen in that situation?

CAROLYN McDONALD: I'm not in a position to say. Something did happen as a result of that, because I had photos, but I am not in a position to talk about that. It was the steward's report—the vet did not notice the marks on the horse, and this was a baby, a two-year-old.

The Hon. MARK LATHAM: Does Queensland have a different whip rule to New South Wales?

CAROLYN McDONALD: It should not have.

The Hon. MARK LATHAM: But do they?

CAROLYN McDONALD: The whip rules are Australia-wide.

The Hon. MARK LATHAM: You saw this in Queensland?

CAROLYN McDONALD: Yes, the Magic Millions, Shaquero.

The Hon. EMMA HURST: Do you have further questions?

The Hon. MARK LATHAM: No, I'm just clarifying it was in Queensland and not our State.

The Hon. EMMA HURST: This question is to both of you. What major changes in animal welfare would you prioritise within this industry? What are the main things that need to change? I'll start with Ms McDonald, but I will also go to Peter as well.

CAROLYN McDONALD: Definitely the feet, because I have seen shocking feet on the racetrack, the housing of these horses, the veterinary scrutiny. For instance, I'd be at a provincial or a country circuit racetrack, at a race meeting, and the Racing NSW vet on duty for the day, overseeing the horses, was often the private vet of a number of the horses, and I have seen the on-duty vet turn a blind eye because he looks after the horse. He's the private vet for that racehorse.

PETER KERKENEZOV: I've known vets to go and tell trainers that they've got to use him or her because they're the track vet. And I know of cases where the chief steward has directed that a horse be X-rayed and some of my clients have had to go to another vet, the track vet, to get X-rayed.

The Hon. TAYLOR MARTIN: How recent are these instances that you are thinking of?

PETER KERKENEZOV: I sent all this to Peter V'landys, and I have it all on record—all the letters, all the correspondence.

The Hon. TAYLOR MARTIN: Within the past few years?

PETER KERKENEZOV: And the track vet owned horses of his own and used to lease them and race them. He'd be the track vet and he had his own horses racing.

The Hon. EMMA HURST: Do you think that these are systemic issues that are still occurring in the industry?

PETER KERKENEZOV: I don't know whether it's systemic, but I do know this. And I had long correspondence with the Racing NSW legal adviser, or the solicitor, and we corresponded about these issues for weeks, if not months.

CORRECTED

The Hon. EMMA HURST: And do you believe that it is still occurring?

PETER KERKENEZOV: I don't know. In my submission, I list the issues that Racing NSW should look at. I think racing two- and three-year-old horses, they are too immature, in their bones, psychologically, in every possible way. A horse is not fully grown until it is six or seven years old. You could say that a seven-year-old horse, if you want to anthropomorphise, is equivalent to, say, a 21-year-old human. A two-year-old is equivalent to a six-year-old kid, and a three-year-old equates to a nine-year-old child. These horses are breaking down because of their feet. They are too young. They're having surgery, intra-articular injections. They're being subjected to all of these medical short-term treatments, and it just seems so morally wrong. I mean, if you had a six-year-old child and was told that he had to have intra-articular injections to play sports after school and to compete, you'd be horrified.

The Hon. EMMA HURST: Dr Kerkenezov, it sounds to me as though, over the years that you have been a vet that has specialised in horses, you have had quite a bit of correspondence with Racing NSW and possibly also with the racing Minister, but all of that correspondence doesn't seem to have led anywhere or to any changes. Would I be correct in saying that? And if that is a correct evaluation by me, could you tell us how you have felt about that? Has it been frustrating for you that you've been raising these welfare issues and it seems that very little is changing and happening, and why?

PETER KERKENEZOV: Nothing has changed. I have become so frustrated. It's good that I have the opportunity to sit here and talk to you about it, because someone needs to listen.

The Hon. EMMA HURST: How many years have you been advocating for welfare change?

PETER KERKENEZOV: Twenty years. I've been a veterinarian for 54 years. There is probably not much I haven't seen. I've seen the good, the bad and the ugly. I've seen the most horrific things done to horses. I remember one instance where a trainer had a crowbar and busted the horse's front leg so he could claim insurance. Another mare I remember, I went to her, she was in big trouble, and I discovered her vagina full of glass. Someone had a reprisal with the trainer and inserted a bottle and busted it inside her. These things are horrific. There are a lot of trainers out there that are getting hold of prescription drugs, illicit drugs. It is not unusual to go to a stable where the horse has got colic and be told that the trainer has already administered Spasmogesic or some drug—flunixin.

The Hon. EMMA HURST: What happens when that drug has been—

PETER KERKENEZOV: They shouldn't be doing it in the first place, because they're not trained. And veterinarians are actually giving it to them; they're getting it from somewhere. I've spoken to the veterinary surgeons board and they say, "Provide more evidence." My reply to them was, "It's not my job to go investigating. That's your job. I'm not going to go investigating horses and finding out where they get their drugs from. It's not my business. All I can tell the board is that there are improprieties occurring that shouldn't be, and it's the welfare of the horse that is at stake."

The Hon. EMMA HURST: The examples that you've given are quite shocking examples of animal cruelty. Does it feel as though this industry is almost untouchable or that it's an entity of its own and there is no proper oversight?

PETER KERKENEZOV: Yes, I would have to agree with that.

The Hon. EMMA HURST: We have only a few minutes left. I will put this question to both of you again. As part of this inquiry, the committee will put forward recommendations to the Government. Obviously, one part of the inquiry is to look at animal welfare and racing. What recommendations would you like to see put forward by this Committee to the Government? I start with Dr Kerkenezov.

PETER KERKENEZOV: At least put a moratorium on the racing of two-year-olds. That will cause a lot of feathers to be raised. We need to be, obviously, I think probably regulating farriers because they are not being regulated as far as I know. A lot of them just won't listen. They think they know it all, which they don't. A lot of veterinarians aren't shoeing horses. Maybe they should be taught how to shoe horses too. I have been shoeing my own horses and I have ridden trackwork. Although I'm big, tall, I have ridden my own horses. I have always told the jockey, "Don't you ever belt my horse with a whip." I don't know what words the stewards ever had to say about that, but I never heard. I think jumps racing needs to be looked at. I have listed it all. There is a list in my submission 09 and in the addendum I submitted as well. I tried to outline and explain sort of very basically the science behind what I have said here today.

The Hon. WES FANG: I think Emma was hoping you would say that they would ban racing.

CORRECTED

The Hon. EMMA HURST: That's not what I was going to ask you. I didn't think that's what he would be saying.

PETER KERKENEZOV: No, I'm not against racing at all. It needs to just be cleaned up and be made safer. I have done risk assessments time and time again and the risk goes from high to extreme on numerous occasions.

The Hon. EMMA HURST: Ms McDonald?

CAROLYN McDONALD: Firstly, the housing for the horses. The whipping—the whip needs to be banned. The RSPCA, I've got it there but I—

The Hon. WES FANG: They won't do anything.

CAROLYN McDONALD: Sorry?

The Hon. WES FANG: The RSPCA won't do anything, they're hopeless.

CAROLYN McDONALD: Sorry, I didn't hear what you said.

The Hon. WES FANG: I said the RSPCA won't do anything, they're hopeless. But that's a whole other inquiry.

The Hon. EMMA HURST: That's not a question. You can just ignore him and please continue with the answer.

CAROLYN McDONALD: The RSPCA, they would just like to see that the jockeys just carry the whip and only use it for safety reasons, like if a horse takes fright, he will—I have seen lots of horses run right off the track, jump over the outside rail. That is when, you know—definitely the whipping. Something has got to be done about the deaths.

The Hon. EMMA HURST: What do you mean by the deaths?

CAROLYN McDONALD: With my study with Sydney University I did many years, I did five years for the study of all of the deaths of racehorses in New South Wales. That is mentioned in my submission. One horse on a country circuit, she would get underneath—she had 99 starts—she would get underneath the gates, jump the rail and head for the bush. And then another horse in similar circumstances, he got out, ran into the bush and ran into a tree and he had to be euthanised. I think the deaths are abhorrent. I mean, this is all about gambling revenue for the Government and these horses are just racing for their lives. Many disappear.

The CHAIR: There being no further questions, thank you very much for your evidence today. I am not sure if you took any questions on notice, but if you did the secretariat will be in touch with you to elicit those answers from you. Thank you for your attendance.

(The witnesses withdrew.)

CORRECTED

Mrs DEBORAH PREST, Horse Trainer, affirmed and examined

The CHAIR: Mrs Prest, the opportunity is afforded to you if you would like to make a short opening statement to the committee?

DEBORAH PREST: Yes, I would. To the Committee, thank you for this opportunity to speak to this inquiry. But, more importantly I would like to thank you for recognising the desperate need to convene an inquiry in the first instance. I am a trainer, an owner, a breeder. I have been on the board of Greyhound Racing NSW, Riding for the Disabled NSW and a local councillor. I am a mother. I am a mother of a farrier, a punter and a jockey. I think I've done my brood mare details, and I am the wife of a trainer. We are here regarding the proposed sale of Rosehill and the dealings around that proposal. Participants' angst has led to this point and it has taken the proposed sale of an iconic racing and training precinct to leave a scrutiny that has been shone on the racing industry before. The situation is a symptom of the failure of this and previous governments to protect the industry as a whole.

Participants, breeders, owners and trainers, track riders, strappers, jockeys, work to supply the horse to the industry to earn the punting dollar—our lifeblood. As previously presented to the inquiry, we also donate a serious amount of our own money in this pursuit. I live this reality. Racing NSW and the clubs, like the ATC, exist to regulate, distribute prize money, provide racing and training surfaces, and meet minimum standards. Sadly, these administrative bodies and functionaries have gained a life of their own. Wanting us to allow them to operate unfettered with little or no consultation and with past and present Government Ministers—I can't read my own writing because I did it in a hurry—taking their hands-off approach, there has been a reinforcing of the untouchable status. Consultation, apart from selected individuals, is virtually non-existent. Governance is appalling at all levels, right down to the smallest racing association. Cronyism is rife, accountability not enforced and transparency at its best is opaque.

Evidence given to this inquiry shows board members of both Racing NSW and the ATC are also victims of lack of information and lack of consultation. I, being a non-descript bush trainer of second-hand horses, why is there a need for me to write to the previous Minister, Kevin Anderson, to highlight breaches of the thoroughbred Act regarding the racing industry consultative group, failure of Racing NSW's due diligence et cetera? I should be able to be comfortable that these requirements are being met but, sadly, they are not. If such a simple statutory obligation is being overlooked—worse still, ignored—where should we look next? Our Government should be protecting the participants first and foremost, not allowing administrators to empire build at the expense of simple functions.

The annual report of Racing NSW is a very poor document, as pointed out by far more credentialed people than I at this inquiry. How a Minister or a department accepts them as adequate is beyond me. And that refers to the transparency and accountability. The last strategic plan gives no comfort to the average participant about their future. It has gaping holes and is little more than an advertising document for micro-syndication and importing of horses—importing of horses when we have a well-fed timebomb ticking with home bred horses. Again, ministerial approval was obviously given. Members of a club, such as the members of Rosehill, are the backbone of the club. It seems that these days, as evidenced by the need for this inquiry, that the members, like the participants, are an inconvenience to the administrators and executives. I just hope that the overreach by executives has woken the sleeping giant of people power in the racing industry, and that the members and participants will take their industry and sport back and remind administrators and executives that they are paid employees of the industry, and that consultation is the cornerstone of a participant-based industry.

Our Government and racing Minister need to review legislation and write in protections. Areas of particular concern are racecourse development funds and allocations, a strong consultation process—no matter how inconvenient that is to administrators—appeal processes as a separate system, financial accountability, an Auditor-General et cetera, lack of transparency in areas of equine welfare, funding to clubs that creates a level playing field, training facilities and track surfaces. Clubs should not have to beg to meet minimum standards, for example, plastic running rails at all tracks. Selling Rosehill or any other track is not to answer to our woes. Sustainable club funding and good governance is, in all areas. The promises never eventuate. We are still waiting on promises made for track upgrades, stabling, training facilities. They take years, if ever, to start, let alone finish. If we are still looking for a greenfields site for the Newmarket-style training structure, as stated by Peter V'landys in 2021, we will never be able to find a site to relocate Rosehill. As a bush girl, I know selling the farm is not the answer.

The CHAIR: Thank you, Mrs Prest, for your opening statement. So, Mrs Prest, I take it from that you are opposed to the sale of Rosehill?

DEBORAH PREST: Absolutely.

CORRECTED

The CHAIR: Thank you. Questions from other Committee members?

The Hon. EMMA HURST: Thank you for your time today. In your submission you said that you fully expect repercussions from making a submission to this inquiry. Can you tell me what you mean by this?

DEBORAH PREST: In racing, we are not allowed to speak opening or honestly. I have previously been subject to serious fines and suspensions for my public statements on Twitter et cetera, all of which I believed was my opinion, and based in fact. The thing is, nobody wants to know that.

The Hon. EMMA HURST: Who are these repercussions coming from, and why?

DEBORAH PREST: Well, of course it's coming from the authorities. I have people ringing me every day who are upset, worried, they can't bring up something because—it's a unique industry, because we rely on our horses, people have to have a home for their horses who train on track. I don't have to; we have our own private property. I just had a phone call from a girl yesterday that things are going to start changing at her track, and of course she is little. And they are just, "Go, we don't need you here." Other people have been waiting four and five years for the Scone development. They've got young families, they're trying to decide whether to move or stay, because they need to decide whether to keep the kids in school. Suddenly, after the first inquiry, things start happening at Scone. One wonders how that happens. Things are starting to happen at Cessnock that's been laid bare for years. It's reactionary. I guess it is good if it happens; it's good for the people.

The Hon. EMMA HURST: Do you think there are others within the industry that would like to give evidence at this inquiry but they are too nervous?

DEBORAH PREST: Absolutely. Without a doubt.

The Hon. EMMA HURST: Have you heard about people being discouraged to come and give evidence?

DEBORAH PREST: No. I haven't heard of that, except at the first inquiry here. I haven't personally heard that, no.

The Hon. EMMA HURST: You state in your submission that there have been cases of bullying by Racing NSW that seem to be dealt with by the way of non-disclosure agreements. We were given evidence from the CEO of Racing NSW that they've never, ever entered into any private settlements with a former employee and never sign non-disclosure agreements. Where do you get the evidence to say that there is, if they'd denied that exists?

DEBORAH PREST: Being in the industry, I suppose there are a lot of rumours. There's a lot of things that are said. Fiction becomes fact, but I don't think so. I've heard from people directly involved with people who have signed a non-disclosure. I can't speak to Mr V'landys' evidence. I did name the people in my submission, which is not public, of course—the names.

The Hon. EMMA HURST: The names, yes.

DEBORAH PREST: So, yes, it's widely held that is what happens.

The Hon. EMMA HURST: Okay. So you've spoken to those people, but you don't necessarily have the evidence to show that?

DEBORAH PREST: Well, I don't have their non-disclosures. No.

The Hon. EMMA HURST: But you've spoken to them, so you're—

DEBORAH PREST: I've spoken to people connected with helping them. Because I'm rather outspoken about Racing NSW, I field phone calls every single day from people who want things taken forward. But the other thing is you've got to be careful, too, because you've got to check the veracity of their statements and everything. You can't go defending everybody, but there are some pretty ordinary things that happen to people—time delays, paperwork delays, all those sorts of things. But it plays on people's mental health. If you're a horse person, you're a bit different from everybody else because you have this passion and this need to look after these animals and do the job. Not all of us are horrible people. There are horrible people in the industry—just as there are horrible people in life, otherwise we wouldn't need jails and police.

The Hon. EMMA HURST: You talked a little bit there about time delays. Your submission mentions injured workers being bullied, and their struggles for compensation. Can you talk a little bit more about that or give any examples?

DEBORAH PREST: Just that people ring up and say that they get the wrong paperwork and the people don't—Racing NSW is subject to a state insurance regulator. They've been put on—

The Hon. EMMA HURST: Is this the remediation plan by SIRA?

CORRECTED

DEBORAH PREST: Yes, the remediation plan. That would directly relate to those sorts of things. They just can't do things properly for people.

The Hon. EMMA HURST: Do you know some of the examples of people who are having issues that led to that remediation plan?

DEBORAH PREST: I don't know that it led to that remediation plan, but I do know that a lot of people have rung me, saying they are broke. One fellow rang me, he'd had an operation, came out of hospital and he was in a tent because he had no money. He went to a job that he was promised—15 horses to ride a morning. He happened to be injured on the second horse. What happened was the workers compensation only reflects the actual work that he did. This is quite a few years ago. He was getting, like, \$10 for the day. That's all he was getting, and he was severely injured. There is a lot that needs to be looked into regarding that. I just think that a lot of things need a separation of powers because it's an incestuous industry of "This one works for that one, and that one works for that one", and it's the same at all levels. So everyone knows a mate who's got a problem or a mate that's like "He's not a right sort of bloke, we won't help him," sort of thing. It's just unfortunate.

The Hon. EMMA HURST: Your submission raises concerns about how the welfare fund is being spent.

DEBORAH PREST: Absolutely.

The Hon. EMMA HURST: We've had other concerns raised about that. Can you talk a little bit further about your concerns—about what you are hearing about where that welfare fund is going?

DEBORAH PREST: Our prize money is taxed—and that is all that it can be called, a tax. There is no information about how it is spent. There was no consultation about how it should be spent. I believe there was a parliamentarian who said here a few months ago that Racing NSW rehomed 21 horses last year. Me and my partner and the girl who works for us managed to do 11, so I think we are doing all right if that's the case. They've got millions and we've got near zero dollars. There was no consultation on how to do it. It's very poorly done. Now they have this Equimillion, which is a huge prize money show thing. They are excluding us by offering free entry to the horses that are rehomed by Racing NSW, but not the horses rehomed by the general trainer.

So our prize money is funding the horses that we are giving them to sell to someone else to go in a show and they are giving them free entry. No-one wants a horse off us because they can't enter because it's \$1,500. It's just very poorly done. There are a lot of better ways to do it. They could have sponsored across the State small shows that encourage people to have thoroughbreds—a million ways, if they'd just consulted with people on the ground who are actually doing the job and rehoming the horses. Some horses aren't suitable for rehoming; that is the absolute truth. There are some horses that just won't make the grade or could be dangerous. That decision has been taken out of our hands as trainers. I'm a trainer with over 30 years experience. I think I can judge rehoming for more time than that, because I used to take thoroughbreds myself when I was a kid.

We can't even decide whether a horse needs to be put down or destroyed and that because it's been taken out of our hands. Some young girl in the office tells me how to rehome a horse. I take offence to that when she tells me to put it in a sale. I'm not putting a horse in a sale. Someone pays \$600 for it, and what do they do with it? I have no control over where that horse goes if it goes in a sale. So it's particularly offensive that a peak body who'll come down on us for any welfare issue whatsoever tells us to put a horse in a sale just to get rid of it.

The CHAIR: Mrs Prest, in that instance, what would you recommend would be the right outcome? To send the horse to the knackery, or what?

DEBORAH PREST: I actually don't have a problem with horses being destroyed and used for meat if it's done properly. I think the industry should've owned their issue and said, "We have wastage." We should have an industry abattoir and be honest about it, instead of all this, "We've got hundreds of horses and we're looking after them." The statement "We will rehome every horse predominantly domiciled in New South Wales" is ridiculous because they don't take horses easily, they're not the safety net that they purport to be and there's no follow-up. You can't go and see your horses and that. So I don't know. We have reports of horses being put down. Racing NSW introduced a euthanasia policy. Did they do that because they were getting too many horses? I don't know.

The CHAIR: Mrs Prest, one of the recommendations that has been made by a few people who've come before the Committee with respect to any proceeds of sale from Rosehill has been that those proceeds should be used for things like traceability and full traceability of horses within the industry throughout their life. What would be your views on that proposal, having run rehoming institutions yourself?

DEBORAH PREST: Horses are fully traceable in the industry for their life in the industry. We have to do copious amounts of paperwork. If I have a horse in the stables today and I want to put him in the day yard tomorrow, I have to do a stable return to reflect where that horse's position is, even if it's 200 yards away from

CORRECTED

me. We are weighed down with having to—where these horses are and everything, while they're in the industry. But once a horse leaves the industry, Racing NSW has no power over that horse. They might let people think they do, but they don't because it's in private. It's with the people. That then should be to the RSPCA and everything. Racing NSW have no right to go onto private property. That horse is the possession of the next owner. And I think Barry O'Farrell said that when he was on Racing Australia. We really have no comeback once they leave the industry.

If people want to go further with that sort of trace—I always update the whereabouts of my horses. I recently gave away a horse that I had retired for five years to my granddaughter in Queensland. I rang up because there's nowhere I could find to update the whereabouts of the horse, because she'd been retired for so long. The steward said to me, "When was she retired?" I said "2017". Turns out she was retired before the rule came in. He said, "You don't have to do the paperwork." But I did put in a document to Racing Australia, saying her whereabouts. I call that the Gerry Harvey rule because old brood mares don't have to really say where they are, which is pretty sad. But, no, I follow up with all my paperwork. They know where all my horses are. And, as far as lifetime traceability, I think that's a—what do you call it?—a societal problem that we need to look at wider outside the racing industry, because there's more deaths in shows and performance horses than there are in racing. It's 1 per cent in racing, and it's 1.5 per cent in pet horses. There's larger problems than racing as far as horse welfare.

The Hon. MARK LATHAM: Thank you, Mrs Prest, for your evidence today. With this sale of Rosehill, it's supported by Racing NSW. Doesn't that expose the fallacy of the Racing NSW policy in the bush, that they're trying to get the freehold title of country tracks supposedly so that the tracks always stay for racing? They haven't actually got a policy, have they—

DEBORAH PREST: No

The Hon. MARK LATHAM: —of racecourses always being there for racing, as we're seeing at Rosehill, the purpose of our inquiry. So isn't it time to end the extortion racket whereby country tracks only get infrastructure money, they hand over freehold title or they allow Racing NSW to appoint their directors?

DEBORAH PREST: I don't believe any of that should be so. I actually wrote a letter to the racing Minister, regarding my concerns of Mr Balding being on the strategic planning for—what's the land most tracks are on?

The Hon. MARK LATHAM: Crown land.

DEBORAH PREST: Crown land. And I really was concerned about that because my argument with that is that the Crown Lands were doing a strategic plan, they would then look at infrastructure and identify places that were less than desirable or needed a lot of work on it so, I believe, then that Racing NSW would go, "It wasn't us who said it was no good. You're shut." That's my concern. When I was on Greyhounds, if a club applied for money, they got it. And the Greyhound Racing annual reports always had the list in the back of the thing, which club had which project, what they were up to, how much they were given and everything else like that. You won't find much of that with Racing NSW because they don't—the Minister's just received the funded projects by Racing NSW, the latest ones. There's only 11. How can there only be 11 projects? And three of those were in his electorate, at Wyong.

The Hon. MARK LATHAM: We went through that the other day, on Friday, with racing estimates.

DEBORAH PREST: I didn't know. The thing is clubs were put there by the people to race. During COVID we lost a lot of country meetings, and I said to the Racing NSW country people, "You need to give some money to these clubs to keep the volunteers keen to continue racing when we come out of COVID." You know what I mean? It didn't happen, but we lost a lot of volunteers because, once you learn you don't have to turn up and you've got another life, people don't come back. That's the unfortunate part.

The Hon. MARK LATHAM: So you're supporting a different funding model, whereby those rivers of gold from the corporate bookmakers would go directly to clubs, rather than be kept by Racing NSW because—

DEBORAH PREST: I do believe it was a proposal—

The Hon. MARK LATHAM: It seems there's a dozen different ways you could fund the infrastructure the ATC wants, without selling Rosehill.

DEBORAH PREST: Absolutely. You don't sell the farm.

The Hon. MARK LATHAM: The money's concentrated in Racing NSW that's very reluctant to spend any of it, even though there's a pressing need, particularly at Warwick Farm.

CORRECTED

DEBORAH PREST: Warwick Farm was promised 375 stables in 2018. Whatever happened to that?

The Hon. MARK LATHAM: None.

DEBORAH PREST: This is the thing. All these things are promises. What happened at Cessnock after Cessnock was given up and taken up at the Beaumont track at Newcastle, with the country meetings? Cessnock has not had anything spent on it, but apparently some stuff's started. And those sort of things—we're not encouraging participants. People aren't getting their licences in the country that I've noticed. They have people ring every week, saying, "I've been denied a licence." Aren't we supposed to be encouraging participation? We've gone from 1,400 trainers down to 700, and I believe another 90 this year haven't been awarded a licence. So that will be down to 600. Are we going to get to a situation where we have 50 big trainers and we all have to go and work for them?

The Hon. MARK LATHAM: It's headed that way. Is part of the problem, what you mentioned, about free speech? It seems that, under the rules of racing, acting against the best interests of racing, charging people for the most minor, trivial disagreements with something that's regarded as held by Racing NSW—isn't this making racing unenjoyable for a lot of people? They feel under siege, that they haven't got the capacity, the right to speak their mind?

DEBORAH PREST: On the ground, yes.

The Hon. MARK LATHAM: On the ground? And that every little thing they say they'll get a letter from Racing NSW, threatening to deregister them or not restore their licence—

DEBORAH PREST: I've been investigated for conspiring to stop a race meeting. I've been investigated for—gosh only knows what—because I'll say something, and it's just ridiculous. I've been charged with insulting Racing NSW and Mr V'landys, simply by saying that I don't think he should have two roles and, if I was a board member, I wouldn't let him. Simple. If I was a board member, I'd want my CEO to be working 150 per cent on Racing NSW.

The Hon. MARK LATHAM: Of course. You mentioned separation of powers. What did you mean by that?

DEBORAH PREST: With the appeals system and that, I don't believe that the stewards should be able to charge us, then prosecute us and then give us a penalty. It's just—

The Hon. MARK LATHAM: Who should do that?

DEBORAH PREST: I think that there should be money taken off the top—heaven forbid—and there should be a separate appeals process and process that people can go to that they can feel that they put forward their argument separate from—not that I've got anything against the stewards and that. They do a wonderful job. They're stressed and they're under—

The Hon. MARK LATHAM: Underpaid, overworked.

DEBORAH PREST: Not enough people. In the country, they've got huge areas to cover and everything. I haven't had a problem with any stewards, except Mr Van Gestel kept calling me in, but, anyway, had a few trips to Sydney—a bit of fun. But I used to take particular offence to what he used to say to me. He used to say me, "Mrs Prest, why is it your business to bring this up?" I used to say, "Sir, I'm a participant and it is my right to bring it up, because I spend my money to provide product to the industry, and the industry should listen when people have an issue."

The Hon. EMMA HURST: Racing NSW also has a GIPAA disclosure log on its website.

DEBORAH PREST: Yes, they didn't have.

The Hon. EMMA HURST: Yes, I think you're the one who managed to get it up there.

DEBORAH PREST: Yes, because when Mr V'landys barred the joggers—leading them from the car to exercise our horses in the country—I rang up to ask who the freedom of information officer was, and I was told that they didn't have one and they weren't subject to freedom of information. I said, "I think you are." So I rang around the Government and finally got a lady who helped me. She said that they certainly are subject to it. So I rang back and said, "You'd better find a freedom of information officer because I need one." I put in my freedom of information on the correspondence regarding information around the barring of the joggers.

I noticed that on the website now there is a privacy and access spot. When you go to it, it has listed there the freedom of information that has been requested. There's mine, there was one before me regarding welfare and there are about five others. Are we seriously to believe that, with all the stuff that has gone on in this inquiry, there

CORRECTED

have only been about six freedom of information requests to Racing NSW? Not only that, the privacy officer is Mr Vlandys—just as he's appeals officer and just as he's the everything officer!

The Hon. EMMA HURST: Interesting. I notice as well that they don't have anything up since 2021. Do you think that's unlikely?

DEBORAH PREST: I think that's highly unlikely. But then again, having said that, I must give them the benefit of the doubt. Most people, if they were told that Racing NSW wasn't subject to the GIPAA, probably wouldn't pursue it—whereas I'm a bit of a bulldog. I just keep digging until I find something. It gets me into a bit of trouble, but anyway. I've been a local councillor and that's how you had to operate. It took me nine months to get a tap fixed, and I just kept at it.

The Hon. EMMA HURST: We know that feeling.

DEBORAH PREST: I'm not alone?

The Hon. EMMA HURST: No, you're not alone.

The Hon. TAYLOR MARTIN: Which council?

DEBORAH PREST: It was Young Shire Council; now it's Hilltops Council.

The Hon. EMMA HURST: Mr Latham asked you a little bit about your previous prosecution, which I understand was about some critical tweets. Is it commonplace within the industry as well that participants could be targeted or even prosecuted if they're critical of someone within Racing NSW?

DEBORAH PREST: I don't know that anyone has been done for tweets. I think I'm the only one. But I do know there was a chap years ago whose horse broke its leg at the races. He said something on the telly about the track. He was upset—and I would be too. It's very hard when you don't take them home. I have only ever lost one, and I owned it. It's just not the feeling you want. He made comments and he was warned. I think he was fined. Other people have been warned and fined for different comments. If you're not swearing and you're stating something that you believe is true and is a fact, I can't see an issue. But we're just not allowed to do it. It comes under two different things: There's insulting or something to Racing NSW, and the other thing is bringing the industry into disrepute. I would hazard a guess that some of the dingbats on television would bring the industry into disrepute. They should be charged every day.

Ms CATE FAEHRMANN: Mrs Prest, I just want to check with you in terms of what you said earlier about Mr Vlandys being the privacy officer and a range of different things. Are you saying that in terms of Mr Vlandys having some kind of formal agreed authority by the board and it's listed that he is that, for example, or is it in your experience that you're saying that?

DEBORAH PREST: It's listed on the website. I don't know if the board has approved it. The board doesn't know much, from what I've gathered.

Ms CATE FAEHRMANN: So those positions that you said that he was listed as, what were they? You said a couple.

DEBORAH PREST: The privacy officer for the GIPA Act and the appeals officer for racing appeals. The executive of that is his private secretary, Kathy.

Ms CATE FAEHRMANN: Thank you. I just wanted clarification.

DEBORAH PREST: Both are listed on the website.

The Hon. EMMA HURST: Your submission talks about bullying and harassment within Racing NSW as well. I wonder if you could expand a little bit on that and what you have heard.

DEBORAH PREST: Within the organisation itself?

The Hon. EMMA HURST: Yes. I thought your submission—the names were redacted—talked a little bit about issues around bullying and harassment. I don't expect you to use names, but just what you have heard.

DEBORAH PREST: Two were trainers. One lady went to the Supreme Court and won her case. The other one was a trainer who was apparently being harassed by the stewards and everything else like that. She took particular offence and ran off into the bush or whatever. She's no longer a trainer. The thing is, it's a hard enough game without thinking that you're victimised—or without actually being victimised. It's a fine line. I can understand the duty of the stewards; I can understand their position. It's very hard. Some people are less than they should be maybe with their horse care or whatever. Most people try their hardest, but I think there are ways around things that could be done better for people in the industry. I believe there was a young lady who put in a proposal

CORRECTED

regarding mental health and welfare and everything, but I don't think that was ever taken up by Racing NSW. If you're having a particularly hard time or whatever—I had a lady ring me the other day who was having a bit of a hard time—who do you have to ring? You have to ring Racing NSW—seriously!

The Hon. EMMA HURST: What was the proposal that you just mentioned?

DEBORAH PREST: It was about mental health and counselling and everything else like that.

The Hon. EMMA HURST: So it was a proposal for them to set something up?

DEBORAH PREST: Yes, so now they have Racing Mates. I rang the fellow at Racing Mates, but what do you do? You have a yarn, but he can't do that much. He tells you to ring this other number, which tells you to leave a message. Between leaving a message and when they ring back, you could neck yourself—and people have! We have a high incidence of suicide in our industry because it's so personal. People take things so personally about their horses, about their riding or about their work or whatever. There are long hours; it's hard work. Everything adds to it.

The Hon. MARK LATHAM: Or a bad day on the punt.

DEBORAH PREST: That's right. I forgot about punters. Yes, or a bad day on the punt.

The Hon. MARK LATHAM: Feel sorry for us.

DEBORAH PREST: But, then again, punters let it all out on Twitter, so we all know about it. They've got plenty of people who can give them counselling.

The Hon. EMMA HURST: So there's no real structure set up at the moment? There seems to be a bit of a hole.

DEBORAH PREST: They have a number you can ring. There are whole spiels of stuff about bullying and harassment in the calendar, which is our Bible. But I'll give you an example. There are people at a country racetrack—there's a trainer, her partner and her parents. They were subject to bullying by another trainer. It has gone on now since 2017 to the present day. They have had SafeWork, because he rings SafeWork; they've had the council, because he rings the council; they've had the RSPCA, because he rings the RSPCA; and he rang the stewards and said they were jiggering horses, so the stewards turned up from Sydney and totally went through their whole place and searched them and everything.

This family have reported this and they've had investigators investigating it, but to this day there has been no resolution. That sort of ongoing, long, drawn-out—a bit like the promises of track upgrades and everything else—gets to people. It plays on their mind. They're always looking around the corner. The particular person who does the bullying—and I have seen him. The partner of the woman was eating a pie, and he was just screaming at him for eating a pie at a race meeting. It's just ongoing.

The Hon. MARK LATHAM: We're all in trouble now. Everyone eats a pie at the races!

DEBORAH PREST: I know, but it's ongoing. This particular case is ongoing. It has never been resolved.

The CHAIR: Mrs Prest, thank you very much for your evidence here today. I don't think you took anything on notice but, if I'm mistaken and you did, the secretariat will be in contact with you for your evidence. The Committee will now adjourn for a afternoon tea.

(The witness withdrew.)

(Short adjournment)

CORRECTED

Dr SARANNE COOKE, Chair, Racing NSW, sworn and examined

The CHAIR: I welcome Dr Saranne Cooke. Would you like to make an opening statement at all?

SARANNE COOKE: Chair and Committee members, thank you for the opportunity to appear before the Committee today. My name is Dr Saranne Cooke and I am the chair of Racing NSW. I was appointed by the Minister as interim chair in December last year and then, following a search and interview process conducted by an independent panel, was formally appointed to the position by the Minister in February. I am the longest current serving board member of Racing NSW, having joined the board in 2015. I was also deputy chair from 2021 to 2023. I have been a board member and chair for almost 20 organisations over the past 12 years, and some of my other current positions include as chair of the Royal Flying Doctor Service, South Eastern, and chair of the Australasian College of Sport and Exercise Physicians.

The role of Racing NSW is to control, supervise and regulate horseracing in our State. Our statutory duty is to act in the public interest and in the interests of the horseracing industry as a whole in New South Wales. Racing is a very complex sport, with many stakeholders. That extensive list of stakeholders includes owners, trainers, jockeys, breeders, punters and racegoers. And then splice that across the vast geography of our metropolitan, provincial, country and picnic racecourses and you have a vibrant array of experiences and views held by over 50,000 passionate participants and groups. But our role is to act in their collective best interest, for the whole industry. In discharging that duty, we hold the integrity of our sport as our highest priority.

The reality is, as a regulator, if we don't have a fair playing field with an appropriate system of rules, and if we don't look after our elite athletes, people will not place a bet, invest in a racehorse or attend a race meeting in the city or the bush, and we will not have an industry. We have all seen the examples of integrity failures in professional sporting codes around the world and the catastrophic effects. Integrity is our currency and will always be at the centre of our decision-making. Despite the small group of detractors—which, by the way, every regulator expects to have—most people recognise the significant progress that we have made which has led to us being the leading jurisdiction in Australia on most key measures. Further, people from racing jurisdictions around the world have commented to me and others on the success of Racing NSW. We are recognised on the world stage as a leading jurisdiction and we, the people of New South Wales, should all be incredibly proud of that.

In that light, I think there are two achievements worth mentioning. Firstly, there are the huge improvements to our integrity systems, including our welfare programs. We were the first jurisdiction to ban horses from being sent to abattoirs and knackeries. We were the first jurisdiction to allocate a percentage of prize money for our equine welfare. We remain the only jurisdiction to have an excluded persons list registering people who are banned from having a thoroughbred horse in their care. Secondly, I want to highlight the number of new innovations that have successfully attracted an energetic younger demographic, the most notable, of course, being the Everest. From its inception in 2017, the Everest is now a major Sydney event that attracts international attention which has been nothing short of phenomenal. This event has now gone on to have a halo effect for our whole spring carnival and has created a platform from which we have rolled out countless other new races.

All of this could not have been done without the commitment of the team at Racing NSW. In my time on the board, I have observed them to be exceptional people who collectively work within a culture that is collegiate, agile and high performing. It is clear to me that the CEO has surrounded himself with very smart people who challenge, are innovative, dedicated and accountable. Our CEO himself is an exceptional leader, who has previously been titled the foremost sporting administrator in the country. I agree with that. It is often said that the most important decision a board will ever make is who to put in as CEO. Our board is acutely aware that, as an industry, we are facing a number of significant challenges—pressures on our social licence, declines in wagering, wagering reforms, declining foal crops and increasing costs to participants to just name a few. I know that we have the best person in our CEO role, given our assessment of these upcoming challenges and given his exceptional skills, vast knowledge and experience. Our board are in unanimous agreement on this.

It would be remiss of me as chair if I did not call out the treatment of our CEO in this inquiry when unsubstantiated accusations were made against him. This was clearly made in an attempt to discredit and hamper, and this is not okay. We all agree that people should assist this Committee to engage, examine and inform the inquiry into the proposal to develop Rosehill racecourse within the terms of reference, but no reasonable person would agree it to be appropriate to treat someone unfairly in that manner without any procedural fairness.

I also note that I, along with my fellow board members, have been approached by many people both inside and outside the industry who have expressed their disappointment at how this inquiry has at times deviated well outside of its own agreed scope in an attempt to harm the industry as a whole. We should not underestimate the harm that this can cause to the thousands of people who work passionately in this industry that they absolutely love and have dedicated their lives to.

CORRECTED

In the Rosehill proposal, the role of Racing NSW as regulator and commercial operator is to ensure, in line with our statutory duties, that the full transaction and project is in the best interest of the horseracing industry as a whole in New South Wales. Such a transaction would require a variation in the intra-code agreement. Given the ATC is currently required under this agreement to conduct races at Rosehill, this transaction can only be done with our approval. It should be stated, though, that the development of Rosehill and necessary construction of an alternative track is extremely complex. If the proposal has merit, it would end up being a once-in-a-lifetime transaction that would set the industry up for the next 50-plus years. At this point in time, however, we do not have all of the necessary facts and information in order to make that determination, and hence are undertaking a comprehensive due diligence process. Our board will not be in a position to deliberate or make a decision until such time as this is completed.

In closing, there is one other statement that was tabled in relation to me previously that I would like the opportunity to correct. It was said that I do not attend race meetings. To correct the record, in my time on the board, I have travelled countless thousands of kilometres attending well over 100 race meetings right across the State, not only to race meetings at all four Sydney racetracks but to many provincial and country tracks such as Gosford, Kembla Grange, Hawkesbury, Wyong, Dubbo, Grafton, Wagga, Goulburn, Bathurst, Taree, Coonamble and even to two picnic race meetings at Bourke and Louth in the beautiful outback of New South Wales. Last Saturday I was at Randwick, this Sunday I will be at Bathurst and I will be at various meetings almost every weekend in spring. I choose to do this as part of my role because it is close to my heart. It has been an enormous privilege to meet and speak with so many of our passionate participants right across New South Wales and it has been an absolute highlight of my roles. I welcome the opportunity to participate today, and I am happy to answer any question within the scope of this inquiry as it relates to the development of Rosehill racecourse in line with the procedural fairness resolutions.

The CHAIR: When did you and the board first learn about the development proposal at Rosehill racecourse?

SARANNE COOKE: On 20 November last year—it was a Monday; the day before our board meeting—I had a phone call from the then chair, Russell Balding. Russell said to me that we would be made privy to some very highly confidential information at the board meeting the next day and would have to sign a non-disclosure agreement before we were made aware of that information. He said, "I can't go into any details because you haven't signed an NDA." That is the day that I became aware that we were about to sign an NDA. All he said was, "I can't give you the detail, but I'll let you know it's in relation to Rosehill." And then, of course, the next day was the board meeting.

The CHAIR: With respect to that and signing the NDA, what information was then provided to the board at that stage?

SARANNE COOKE: The next day? At the board meeting?

The CHAIR: Yes.

SARANNE COOKE: We signed the NDAs first thing and then we were basically made aware that the ATC were looking to put in an unsolicited proposal on the full sale of Rosehill to the Government and that there had been a briefing that occurred on the 17th—that, obviously, I wasn't at—and then we discussed the merits. We were also briefed that it was just a discussion on the 17th as well.

The CHAIR: You said the "full sale of Rosehill to the Government". Was it characterised to you at that stage that it would be a transaction where the Government would be purchasing Rosehill, or do you mean the full sale of Rosehill for housing to be developed on that site?

SARANNE COOKE: I think it was pitched as an unsolicited proposal to look at the sale of Rosehill.¹

The CHAIR: An unsolicited proposal to look at the sale of Rosehill to the Government?

SARANNE COOKE: Yes, that's right.

The CHAIR: That's how it was pitched at that stage?

SARANNE COOKE: Yes.

¹ Dr Saranne Cooke, Chairman, Racing NSW clarified her evidence in a [correspondence](#) dated 11 October 2024.

CORRECTED

The CHAIR: With respect to the parameters that the board determined, you've said that the board still needs to do a lot of due diligence to work out whether you would necessarily support the sale at the end of the day or not. In terms of the parameters that were set, were any outlined at that stage at any of the board meetings as to what Racing NSW would require to be in place? For instance, you mentioned an alternative track. Were they determined at all by the board?

SARANNE COOKE: Yes, at that meeting where we discussed the merits, we did say that it would absolutely need an alternative track. That was going to be a prerequisite. We said—as I said—that we supported the unsolicited proposal to go in because we felt that if it all stacked up—and we don't know if it will—it could really set the industry up for the next 50 years. We also talked about the fact that it was a very, very complex and very, very significant transaction and that it would need to be appropriately governed and we would need the right skills in place not only at the ATC to handle such a transaction but also that we'd have some work to do in our role as regulator and commercial part of the industry as well with our own decision.

The CHAIR: With respect to those parameters, an alternative track was one. You're outlining that you had concerns about the governance or administration, potentially, of the ATC if that were to occur? We have heard evidence in the past in terms of the expertise that was required with that sum of money. Were they some of the concerns that were expressed by the board?

SARANNE COOKE: Just to make sure I tell you the truth, we didn't say there was a problem with the governance at the time. What we said was—if you think about it, when you're on a board, you have to make sure you do have the right skills at the table before you do an activity. That kind of activity is very different to the everyday running of a racetrack. At the moment the ATC board does their job of overseeing racing on a daily basis at the ATC tracks. This transaction is not core business. It's very big. It's once in a lifetime. It needs a particular skill set. We recognise that.

The Hon. MARK LATHAM: In the 60-page 2024 strategic plan draft that has been released, there are just two sentences about Rosehill. It states:

The ATC has been progressing an unsolicited proposal to the ... Government ...

Racing NSW will be analysing this proposal in detail and ensuring the proper due diligence is completed and the outcomes are in the best interests of the NSW Thoroughbred Racing Industry.

Was that statement and the entire plan approved by the board?

SARANNE COOKE: No, that's exactly what we said. We talked about the length at which we would describe Rosehill in the strategic plan. The good reason we came up with was that it was sufficient because we don't have the information.

The Hon. MARK LATHAM: So the board approved that statement, as it did the entire draft strategic plan that's gone out?

SARANNE COOKE: The board has reviewed it and it's out for consultation. We have not approved the final, as yet, no.

The Hon. MARK LATHAM: But the board did approve that statement going in about Rosehill? It is a neutral statement, it must be said.

SARANNE COOKE: We saw it, yes.

The Hon. MARK LATHAM: Three days prior to the board meeting you mentioned on 20 November, how did the former chair and the CEO go to meet the Cabinet Office of the New South Wales Government and in their minutes be very supportive of the proposal of the sale of Rosehill? How was that done without board approval and is it now the official policy that the CEO will follow?

SARANNE COOKE: To correct you, they met on 17 November.

The Hon. MARK LATHAM: Yes, three days before your meeting on 20 November.

SARANNE COOKE: No, it was four days before. Our meeting was on 21 November. But at that meeting no decision was made. It was simply a discussion. I wasn't at the meeting, but I have read the minutes and I understand that everybody here has. It's very clear that it was just a discussion. There was no decision made. I will also say that when we got to the board meeting on 21 November, we did not say or decide that we supported the sale of Rosehill. We decided that we supported an unsolicited proposal to go to government. That's what we supported.

The Hon. MARK LATHAM: So the board has not given support to the sale of Rosehill? You're waiting for the full diligence and process to unfold?

CORRECTED

SARANNE COOKE: Absolutely. That is correct.

The Hon. MARK LATHAM: At that meeting with the Cabinet Office on 17 November, it is recorded in the minutes that Racing NSW suggested that there may be a need to reform the governance of the ATC via legislation. The key elements of the proposed legislative reform include ensuring the ATC is governed by an appropriate, skills-based board to ensure the right mix of capabilities required, with the implied criticism that those skills aren't there at the moment. Is that the position of the board?

SARANNE COOKE: I'll go back to what I said before, which is that there are certain skills that we need to run a racecourse everyday. They are very, very different skills to handling a transaction that could be as significant as this. It is once in a lifetime. Any reasonable person would recognise that that is a different skill set. We are simply saying that we need to make sure, in line with our statutory duties, that the ATC have the right skills at the table when they're deliberating on that, absolutely.

The Hon. MARK LATHAM: Has the board approved the spending of the due diligence money on the brick pit?

SARANNE COOKE: We are very early in any due diligence at the moment. We're undertaking some ecological and planning work. There is a lot more to come if it gets past the first hurdle. Yes, the board has absolutely approved our expenditure on that.

The Hon. MARK LATHAM: It has approved the expenditure on the due diligence? How much are you spending overall on the due diligence for the ATC proposals, which are not just about the brick pit but also Horsley Park and, of course, Rosehill itself?

SARANNE COOKE: I'll have to take that on notice.

The Hon. MARK LATHAM: Did the board approve the attempted submissions that were made by Racing NSW to this Committee?

SARANNE COOKE: Which particular ones are you referring to—the ones that went in after the last day, I presume?

The Hon. MARK LATHAM: We've received two documents. Have you seen those?

SARANNE COOKE: Yes, I have seen them. The board was fully briefed on both of those.

The Hon. MARK LATHAM: Do you approve of what the submissions were trying to achieve?

SARANNE COOKE: Yes, I do.

The Hon. MARK LATHAM: You do?

SARANNE COOKE: Yes.

The Hon. MARK LATHAM: And no-one on the board had any problem with those two documents that were attempted submissions to this inquiry?

SARANNE COOKE: They were submitted and the board was fully briefed on them.

The Hon. MARK LATHAM: Did anyone on the board raise concerns about the content?

SARANNE COOKE: No, they did not.

The Hon. MARK LATHAM: Has anyone on the board raised concerns about the CEO's attempt to redact a letter on 9 August that was clearly misleading this Committee in the nature of the redaction?

SARANNE COOKE: No.

The Hon. MARK LATHAM: There was no problem there? Mr Chamy, one of your board members, said that none of the five policy positions that were put to the Cabinet Office on 17 November were approved by the board. Is that your understanding as well?

SARANNE COOKE: Again, there were no policy positions put that day. It was a briefing by the Government at the request of the ATC. There were no decisions made and no positions of Racing NSW were tabled on that day.

The Hon. MARK LATHAM: So you dispute the content of the minutes that were taken by the Cabinet Office?

SARANNE COOKE: No, I don't dispute them. I've read them. In my reading of them, it was a discussion.

CORRECTED

The Hon. MARK LATHAM: They say that Racing NSW was very supportive of the proposal.

SARANNE COOKE: The unsolicited proposal—that is correct.

The Hon. MARK LATHAM: And that the money that is raised from it should be used right across the industry, and not just held by the ATC.

SARANNE COOKE: Again, our statutory duty is to make sure that we look out for the whole industry across New South Wales. Part of that is, because it is such a large transaction and such a large windfall that will come once in a lifetime, we do want oversight over that. We do want oversight over what happens to it and to make sure it is in line with the interests of the whole industry across New South Wales.

The Hon. MARK LATHAM: You were supportive of the Horsley Park facility going ahead? That was part of the 17 November position as well.

SARANNE COOKE: I don't believe that they were necessarily supportive. We don't know if Horsley Park will be suitable. That due diligence is still being undertaken.

The Hon. MARK LATHAM: And there was scepticism about whether Warwick Farm could be converted to a top-grade racecourse. Is that the board position also?

SARANNE COOKE: Again, the work is not completed, but it's looking less likely on Warwick Farm.

The CHAIR: Can I just clarify, is it that it is less likely that Warwick Farm could be upgraded to a class one racetrack? Is that right?

SARANNE COOKE: It sounds like it's going to be expensive. We're yet to do the work and, again, we don't make decisions without facts and information by the right experts. We're yet to do that. We'll wait for that and then make the decision. The early indication is that it will be very expensive.

The Hon. MARK LATHAM: Do you think there is a problem with the way in which Racing NSW is being administered if Minister Harris had to write a letter to you on 9 August to say that your consultation group hasn't been meeting and that you need to put out a strategic plan after an excessive delay?

SARANNE COOKE: No, I don't have a problem with that. I have responded to Minister Harris on that. I will take both of those and talk to them. The first one was around the frequency of the meetings of RICG, the Racing Industry Consultation Group. In the Act it says they meet monthly or, if agreed in writing, they can vary that. They have done that, so they meet quarterly. Either the chair or the CEO attends that upon invitation. I've never been invited to attend. The CEO, when he is invited, always attends. Secondly, on the strategic plan, one thing that I need to point out is it is a rolling strategic plan. In other words, it rolls. If you haven't completed a new one, it still stands. The reason that it's slightly later than three years is because of COVID. You might remember that during COVID we were basically the only sport that kept going. There was a lot happening in that time and we needed to make sure that we protected our participants and that we could keep going in a safe manner that protected everybody from this virus, and we did that. That meant that we made a conscious decision that the rolling strategic plan would be in place until COVID settled and we came back to a time where we felt that it was right to go through that process again.

The Hon. MARK LATHAM: What is the view of RICG about the sale of Rosehill?

SARANNE COOKE: I think we should defer to RICG on that. We certainly will do that.

The Hon. MARK LATHAM: But in the meetings that Racing NSW officials have had, is there a position they've arrived at? They do have a very important role in the statute, don't they? It has been spelled out there clearly as the chief consultative body, so you'd expect their view would carry some weight. What is their view?

SARANNE COOKE: Absolutely. You're right. They are the formal consultation group that we use and it is embedded in statute and it's very important. It has a good representation at the table. I don't believe—I'll take it on notice—they've had a formal position put to us on that yet. Again, we haven't got a formal position because we don't have the information at hand.

The Hon. MARK LATHAM: But if RICG was doing its role as a consultative group, surely 10 months into this Rosehill controversy they'd have a point of view?

SARANNE COOKE: No, the information has not been made available for us to share with them.

The Hon. MARK LATHAM: So they haven't considered it yet?

SARANNE COOKE: I'll take that on notice but I don't believe so.

CORRECTED

Ms CATE FAEHRMANN: Dr Cooke, at our first hearing, which I'm sure you were watching, Gai Waterhouse said that there were serious issues in the racing industry in New South Wales. She said that Mr V'landys should move on. What did you make of those comments?

SARANNE COOKE: First of all, that's the role of the board. As I said before, one of the most important decisions a board can make is who is their CEO. In my experience on almost 20 boards, it's one that you do not take lightly. So you look at all sorts of things like where the industry is up to, what the competitors are doing, what the competitive landscape is, what the risks are, what problems we need to solve or tackle or achieve in the next few years, what are the outcomes that we need, and then you look at the skillset of the person. I disagree wholeheartedly. We go through that consideration on an annual basis in closed session and have those discussions. I know the whole board agrees with me that we have the best person in place at this point in time to be our CEO.

Ms CATE FAEHRMANN: Is it usual in terms of managing risk of a board to have a CEO in place for 20 years?

SARANNE COOKE: My answer always to that is it's nuanced. It depends. What it depends on is all of the things I said before: the industry, the risks, what you're facing, where you're heading, what skills you need. That's why CEOs don't have a maximum term by the way. It's because it's nuanced. In my experience, I've had CEOs in place for five years, five minutes, up to 20 years. There is nothing wrong with having a CEO in place for that long if you've done the work to make sure that they are the best person for the job at that time.

Ms CATE FAEHRMANN: What are the delegated authorities that the board of Racing NSW have given to Mr V'landys? Can you list those please?

SARANNE COOKE: Sure. I'm going to take you a step back. Just to be clear, in the code of conduct that we have, the board is responsible for setting policy and strategic direction, and management is responsible for implementing policy and strategic direction. That means that on a daily basis our CEO is responsible for managing the business. In terms of financial delegation, he has \$1 million. That delegation we assess when we talk about the contract because it's embedded within the terms of his contract. In my time, I don't believe that that has ever been varied, which effectively means it has decreased because in real terms it has gone down.

Ms CATE FAEHRMANN: So there is no other delegated authority in any other area—you said \$1 million. What about making key decisions, anything else? Do you have a list and documentation in terms of the delegated authority, which is the usual practice?

SARANNE COOKE: There is absolutely delegation there and he is responsible for implementing the strategic direction and the policy of the board. There is no question about that. We do have a delegation in place.

Ms CATE FAEHRMANN: If you could please provide the delegated authorities, if there is a list and documentation in terms of that protocol, if you could table those—

SARANNE COOKE: I believe that might be confidential but I'll take it on notice.

The Hon. MARK LATHAM: Mr V'landys has publicly said he has a full delegation for running integrity in stewards matters, unlike the Victorian system, where there is a separation of commercial and integrity arms of their controlling bodies. Mr V'landys came here on 9 August and, when asked does he interfere in stewards inquiries, he said, "No, no, never. Under oath, I tell you, no, never." Wouldn't a more honest answer have been to say, "I have a full delegation from the board to run all these integrity matters"?

SARANNE COOKE: The correct answer to that is that technically he can if he wants. The stewards and the integrity department report through to him. He chooses—and the board is fully aware of this—not to involve himself because he wants it done at arms length. He wants it done independently at a distance. We support that—it doesn't mean that he can't step in at any time. You're right. There are many jurisdictions around the world—in Hong Kong the CEO sits on the stewards panel.

Ms CATE FAEHRMANN: Dr Cooke, when did Mr V'landys last have his contract renewed? Can you explain the performance review process that you undertook at that time?

SARANNE COOKE: That's confidential. But what I will say is this: Performance reviews are done annually and they're handled in the usual ways that any board would do. It's done in closed session with the full board and everybody is made aware of the—everyone has a say. That happens regularly.

Ms CATE FAEHRMANN: Dr Cooke, you're a regulatory body. This is an inquiry investigating Rosehill racecourse, but also other issues. We're asking about the employment of the CEO of Racing NSW. The question was when he last had his contract renewed, which is something that we should know. Do you have the answer to that?

CORRECTED

SARANNE COOKE: I think it's commercial in confidence. I'll take it on notice.

The Hon. EMMA HURST: I had a follow-up to the questions that Ms Cate Faehrmann was asking about the delegated authorities. You'll recall that, on the second day of hearing, your colleague Mr Charny described the delegation as being very broad and gave evidence that he felt that it could do with a fresh pair of eyes to look at it. I wonder if, as chair, you've taken any action in response to what he has said.

SARANNE COOKE: I actually disagree with that. I think, if you're looking at a business that has a \$400-million turnover every year, a delegation of \$1 million to your CEO is probably a bit low. We do that annually: Every year we look at the contract and the terms of conditions that will come up because it's in the schedule. But I disagree on that term.

The Hon. EMMA HURST: You'd be aware that a number of concerns have been raised in this inquiry about governance within Racing NSW and that the board doesn't have any proper oversight into the activities of the CEO. I'm wondering if you agree with those statements and, as chair, if you'll be taking any steps in response to those concerns or investigating them further.

SARANNE COOKE: You know, I disagree. As I mentioned, in the code of conduct, management—including the CEO—is responsible for implementing the strategic direction and the policies that we set. He always reports at every board meeting through what we call a bulletin—it's a thick pack of pages—on every departmental report, including the decisions that have been made. We have full oversight of the decisions that are made within delegation.

The Hon. EMMA HURST: Following on from the question from Mr Latham as well, does the board do anything to ensure that there is independence between racing stewards and their decisions and the CEO or any other senior management?

SARANNE COOKE: As I said, the practice is that we let the stewards do their job, and we let the integrity unit go and do their job. There is nothing stopping our CEO from getting involved because he is ultimately responsible. He oversees those departments. We're completely comfortable with that. But, as a general rule, he doesn't get involved; he lets them do their thing. We do that because we think that's just a better way, in practice, to have it operate.

The Hon. EMMA HURST: So there are no procedures in place. That's something that you believe is a personal decision of the CEO.

SARANNE COOKE: No, the board know about that and that's how we talk about things all the time. I think that's an established process that has been in a place for a long time at Racing NSW.

The Hon. EMMA HURST: What formal mechanisms or structures are there for staff at Racing NSW to raise concerns about management and exercising of authorities?

SARANNE COOKE: You're asking if employees have—

The Hon. EMMA HURST: If there are any formal mechanisms or structures in place.

SARANNE COOKE: For employees?

The Hon. EMMA HURST: Yes.

SARANNE COOKE: To make a complaint? Is that what you're saying?

The Hon. EMMA HURST: Yes, to make a complaint or if they're concerned about how authorities are being exercised.

SARANNE COOKE: The process is, that if—by the way, there has never been one in my time and indeed, I believe, as well in the time of our CEO being there. If there was a complaint of an employee, it would go through to the assistant legal counsel, who performs that HR function—and, of course, the board would be informed.

The Hon. EMMA HURST: Is there a whistleblower policy at all?

SARANNE COOKE: Yes, we do have a whistleblower policy in place.

The Hon. MARK LATHAM: Can you provide that to the Committee, please, on notice?

SARANNE COOKE: Yes, I'll take it on notice.

The Hon. EMMA HURST: Is there an HR department as well that would be involved in this at all?

CORRECTED

SARANNE COOKE: We have an HR function—absolutely. A lot of that goes back to the assistant legal counsel. The HR components that are around recruitment and things like performance reviews always go with the line management but, yes, we have an HR function in place.

The Hon. EMMA HURST: But there's no specific HR department. Is that right?

SARANNE COOKE: We don't have a person with "HR" in their title, but we absolutely have an HR function.

The Hon. EMMA HURST: Can you explain what that HR function is, then? If it's not a department, is it somebody who's in another position who fills that role on the side?

SARANNE COOKE: The assistant legal counsel would do anything like a complaint or an investigation or anything like that, or if there are any workplace legislative-type matters that need to be dealt with. In terms of recruitment, hiring, performance reviews and training and all of those sorts of things, that is done with the line management for the employees.

The Hon. EMMA HURST: How does the integrity assurance committee operate within Racing NSW?

SARANNE COOKE: Things can get referred to that committee by the stewards. The stewards make the call as to whether matters get referred to that committee to be handled.

The Hon. EMMA HURST: Do you know how often that committee meets?

SARANNE COOKE: I'll take that on notice.

The Hon. EMMA HURST: Are you also able to take on notice how many times that committee has met within the last, say, two or three years?

SARANNE COOKE: Absolutely.

The Hon. EMMA HURST: I'm wondering as well how often that committee reports to the board.

SARANNE COOKE: I'll take it on notice but I would assume, if it's met, we would hear about it—for matters.

The CHAIR: Thank you very much, Dr Cooke, for your attendance here today and the evidence you've given. You have taken quite a few items on notice this afternoon, so the Committee secretariat will be in touch with you to liaise with you to get an answer to those questions. That concludes our hearing for today and thank you all.

(The witness withdrew.)

The Committee adjourned at 17:00.