
From: Keith Mason [mailto:keith.mason.2@gmail.com]
Sent: Thursday, 31 May 2018 7:20 PM
To: David Blunt
Subject: Re: Clarification in relation to your report - Stadiums disputed documents

This document was not claimed to reveal internal deliberations of Cabinet as per Spigelman's analysis in Chadwick. Nor did it disclose same in my evaluation. I intended and intend that it be covered by my general reasons rejecting PII privilege as claimed in this return. KM

Sent from my iPhone

On 31 May 2018, at 3:19 pm, David Blunt <David.Blunt@parliament.nsw.gov.au> wrote:

Dear Mr Mason,

Thank you for your response below.

This morning, together with officers of the Department of the Legislative Council, I met with DPC staff regarding the implementation of your report.

They raised a further issue, concerning Venues NSW document 00557.

In their submission of 4 May 2018 at par 5.4, Venues NSW stated that "Venues NSW is advised that document no 00557 was a document prepared for the consideration of the Expenditure Review Committee of Cabinet. Accordingly, there is a powerful public interest against its further disclosure".

In response, Mr Searle stated in his submission of 17 May 2018 that "if it was prepared for consideration by a Cabinet sub-Committee as claimed, I assume the Executive would have taken the same approach that it took in relation to the call for papers made by the House for the Business Case in relation to the relocation of the Powerhouse Museum, which was to not only not produce the documents but to not even acknowledge its existence ... There is no information in this document which would cause harm to the public interest if disclosed."

Venues NSW reiterated their initial point in their submission on 18 May 2018 at para 5.6, stating "in relation to document no 00557, this was discussed inadvertently. In any event, while the ordinary practice is not to disclose or refer to Cabinet documents, Cabinet documents are subject to a powerful public interest against disclosure".

We note that you did not make a specific recommendation regarding 00557, therefore can you confirm that you do not uphold the claim of privilege in relation to this document?

Kind regards,
David

From: Keith Mason [<mailto:keith.mason.2@gmail.com>]
Sent: Wednesday, 30 May 2018 8:32 PM
To: David Blunt
Subject: Re: Clarification in relation to your report - Stadiums disputed documents

Dear David,

1. The only documents afforded privileged status in my evaluation were those specifically mentioned in the Report. I assume that those numbered in your email do not involve the unredacted MOU or the Doorn documents or the document with legally privileged status that I mentioned specifically. You mentioned the 2016 Rugby Union MOU. From recollection it had nothing like the Second Schedule to the Rugby League MOU. If you or Monica are still in any doubt after reading this email I shall happily come in on Friday: possibly even tomorrow if I get an unanticipated break from my mediation tomorrow.

2. Only the tables to the Doorn documents which extract detailed information from the Second Schedule of the MOU are to be redacted.

I hope this is clear. Please let me know if not.
keith

On Wed, May 30, 2018 at 3:34 PM, David Blunt <David.Blunt@parliament.nsw.gov.au> wrote:

Dear Mr Mason,

Further to our phone conversation this afternoon, your report has now been tabled and made public, and a Notice of Motion has been given in relation to the implementation of your report. However, after reviewing the privileged documents in dispute, our office has identified a few issues we need to confirm with you before the House can move to adopt the recommendations of your report (if they intend to). Could you please confirm for us the following:

1. The folder of redacted Office of Sport documents does not contain all Office of Sport documents under dispute (this is separate to those documents over which they did not press claims of privilege). (Documents missing from that folder are listed in the table below.) Can you confirm that you did not uphold the claims of privilege over those documents not in the redacted folder but over which the Office of Sport still pressed their claim of privilege?

OOS.0001.0045	OOS.0001.0155	OOS.0001.0737	OOS.0001.0740
OOS.0001.2752	OOS.0001.2753	OOS.0001.2754	OOS.0001.2755
OOS.0001.2778	OOS.0001.2779	OOS.0001.2953	OOS.0001.2958
OOS.0001.2960	OOS.0001.2963	OOS.0001.3049	OOS.0001.3133
OOS.0001.3260	OOS.0001.3264	OOS.0001.3265	OOS.0001.3266
OOS.0001.3267	OOS.0001.3268	OOS.0001.3269	OOS.0001.3270

OOS.0001.3271	OOS.0001.3607	OOS.0001.3740	OOS.0001.3764
OOS.0004.0001			

2. It is our understanding of your report that Venues NSW document 0087 (the complete MOU with Schedule 2) be made public as long as Schedule 2 remain privileged (pg 6). Of the 'Doorn documents' noted in your report (Venues NSW documents 0076, 0077, 0078, 0079, and 0080) can you confirm that your recommendation is for each of these documents to be made public with a table in each of these documents redacted?

Your advice on these matters would be greatly appreciated.

Kind regards

David

David Blunt

Clerk of the Parliaments | Legislative Council


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From: GIPA-DPC [mailto:GIPA@dpc.nsw.gov.au]
Sent: Tuesday, 5 June 2018 12:52 PM
To: Beverly Duffy
Cc: Karen Smith; Julia Carland; David Blunt; Monica Loftus; Madeleine Foley
Subject: RE: Proposed Notice of Motion - Tabling of Privileged Documents Sydney Stadiums

Dear Beverly,

As requested we asked Infrastructure NSW to clarify their statement in the first dot point below, namely; *"There are no documents that Infrastructure NSW claimed as privileged which the independent arbiter subsequently held not to be privileged. Therefore, Infrastructure NSW has no such documents to be tabled"*

They have advised:

"The statement extracted by Jacqueline below was intended to convey that the independent arbiter agreed with INSW's claim for privilege in relation to all documents that INSW claimed privilege over to the extent of the redactions in those documents. As such, in relation to these privileged documents with redactions, the redacted copies are contained in one of the two folders previously provided to the Clerk and the Clerk will need to place the redacted copies in the non-privileged box."

Regards
Jacqueline



**Premier
& Cabinet**

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Please note I work Monday, Tuesday and Wednesday.
On other days please contact Kate Boyd on 9228 4393 or kate.boyd@dpc.nsw.gov.au

From: GIPA-DPC
Sent: Friday, 1 June 2018 4:37 PM
To: david blunt
Cc: Karen Smith; Julia Carland
Subject: RE: Proposed Notice of Motion - Tabling of Privileged Documents Sydney Stadiums

Dear David

Further to our e-mail of yesterday (copied below), we have received the following advice from Infrastructure NSW and the Office of Sport:

Infrastructure NSW advice:

- *There are no documents that Infrastructure NSW claimed as privileged which the independent arbiter subsequently held not to be privileged. Therefore, Infrastructure NSW has no such documents to be tabled;*
- *The Clerk of the Legislative Council will need to place any documents from the Infrastructure NSW privileged box into the non-privileged box where Infrastructure NSW no longer presses its claim of privilege. That is, any documents in the list of documents over which Infrastructure NSW no longer presses its claim of privilege, attached to its submissions dated 4 May 2018, will be transferred from the privileged box to the non-privileged box.*
- *Redacted documents provided to the independent legal arbiter on 4 May 2018 where he agreed with Infrastructure NSW's privilege claim, and the redactions are in line with the privilege claim upheld will be placed by the Clerk of the Legislative Council into the non-privileged box with the redactions.*
- *In relation to the documents that are moving from the privileged box to the non-privileged box, Infrastructure NSW does not need to make any further redactions along the lines of those accepted by the independent legal arbiter should be made, because they do not have any further information that needs to be redacted.*

If the Clerk of the Legislative Council would like Infrastructure NSW to review the folders currently with the Clerk to ensure their contents are accurate and reflect the decision of the independent legal arbiter before they are tabled in Parliament, please let us know and we will have our advisers contact the Clerk for the purposes of doing so.

Office of Sport advice:

Further to our telephone conversation yesterday, I confirm that the NSW Office of Sport does not have any further redactions to make to its documents that are proposed to be tabled in the Legislative Council on 5 June 2018 following the independent arbiter's decision.

*Also, as discussed, I **attach** a copy of Mr Searle's Notice of Motion with our proposed amendments. Our amendments remove references to "folders of documents" and ensure that the Motion more closely aligns with the independent legal arbiter's decision (and is consistent with the other paragraphs of the Motion).*

Finally, as discussed, we are happy to review the documents currently with the Clerk of the Legislative Council that are proposed to be tabled on 5 June 2018 to ensure they are accurate and reflect the decision of the independent legal arbiter. We make this offer given the necessity to migrate documents from the privileged box to the non-privileged box in some instances and to migrate certain redacted documents from the two folders provided on 4 May 2018 to the non-privileged box. Alternatively, we can print a new bundle of documents to reflect the independent legal arbiter's decision.

The document referred to in the Office of Sport response is attached.

Regards
Jacqueleine



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From: GIPA-DPC
Sent: Thursday, 31 May 2018 5:41 PM
To: david blunt
Cc: Karen Smith; Julia Carland
Subject: Proposed Notice of Motion - Tabling of Privileged Documents Sydney Stadiums

Dear David

Further to the meeting today to discuss the import of the proposed Notice of Motion regarding tabling of privileged documents provided in response to the Sydney stadiums call for papers, we confirm the Office of Sport and Infrastructure NSW have been asked to:

1. Advise whether the two folders of redacted documents referred to in proposed order 1.(c) have been redacted to omit the following information:
 - a. hourly rates of consultants,
 - b. personal and private information such as email, postal and residential addresses, telephone numbers, membership numbers, credit card details, banking details, and other personal identifiers relating to members of the public,
 - c. URLs and related Dropbox folders of government departments, and
 - d. banking and credit card details of businesses or companies.

AND

2. Advise whether that information needs to be redacted from any other documents of those agencies considered by the Independent Legal Arbiter not to be privileged, before those documents are tabled and published.

We expect to have their advice by 5pm tomorrow.

In relation to the proposed notice of motion we note the following clarifications may be required:

- that order 1.(a) is subject to orders 1.(c) and (d) – to ensure documents are not published in full where they contain personal and other information in agreed redaction categories,
- that order 1.(b) relates only to documents where the relevant agencies indicated they no longer pressed a privilege claim over *any part* of the document (noting for example that Venues NSW indicated it did not press privilege claims in some instances over documents provided personal information was redacted)

Regards
Jacqueleine



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