



LEGISLATIVE COUNCIL

SELECT COMMITTEE ON THE PROPOSAL TO DEVELOP ROSEHILL RACECOURSE

Proposal to develop Rosehill Racecourse



Report 2

December 2024

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Select Committee on the Proposal to Develop Rosehill
Racecourse

Proposal to develop Rosehill Racecourse

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Proposal to develop Rosehill Racecourse

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Proposal to develop Rosehill Racecourse

"December 2024"

Chair: Hon Scott Farlow MLC



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Terms of reference

1. That a select committee be established to inquire into and report on the proposal to develop Rosehill Racecourse, and in particular:
 - (a) the unsolicited proposal process including associated probity measures
 - (b) the involvement of the Government prior to the unsolicited proposal being made
 - (c) the role of the proposal in meeting housing targets
 - (d) impacts on the cost and delivery of the Sydney Metro
 - (e) potential impacts on parkland in Western Sydney
 - (f) impacts on the racing industry in New South Wales
 - (g) the impact on animal welfare and any integrity concerns associated with the proposal which relate to animal welfare, and
 - (h) any other related matters.
2. That the committee report by 6 December 2024.¹

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 15 May 2024.²

¹ *Minutes*, NSW Legislative Council, 25 September 2024, p 1564.

² *Minutes*, NSW Legislative Council, 15 May 2024, pp 1145-1147.

Committee details

Committee members

Hon Scott Farlow MLC	Liberal Party	<i>Chair</i>
Hon Emma Hurst MLC	Animal Justice Party	<i>Deputy Chair</i>
Ms Cate Faehrmann MLC	The Greens	
Hon Wes Fang MLC	The Nationals	
Hon Dr Sarah Kaine MLC	Australian Labor Party	
Hon Mark Latham MLC*	Independent	
Hon Taylor Martin MLC	Independent	
Hon Bob Nanva MLC	Australian Labor Party	
Hon Peter Primrose MLC	Australian Labor Party	
Hon Damien Tudehope MLC	Liberal Party	

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* The Hon Mark Latham MLC is a participating member from 29 May 2024 for the duration of the inquiry.

Secretariat

Verity Smith, Principal Council Officer
 Emily Whittingstall, Senior Council Officer
 Tina Mrozowska, Council Officer
 Merve Sarikaya, Graduate Officer
 Talina Drabsch, A/Director

Chair's foreword

In December 2023, the NSW Government and Australian Turf Club announced that discussions had commenced regarding a proposal to develop Rosehill Racecourse, potentially allowing for the building of 25,000 new homes. This 'once-in-a-generation opportunity', as described by the NSW Government, provoked an immediate and strong response, especially from those within the racing industry as well as members of the Australian Turf Club.

This inquiry into the proposal to develop Rosehill Racecourse was established in May 2024 after documents were produced to the Legislative Council, in accordance with standing order 52, that raised questions about the way in which the proposal to redevelop Rosehill Racecourse came about. There was a perception among some people that the proposal was either being led by the Government, or fast-tracked by the Government, without adherence to proper probity measures.

Across four public hearings, the committee considered evidence from a wide range of stakeholders about the genesis of the proposal, and the proposal's merits. These stakeholders included senior representatives of the Australian Turf Club, the Government, Racing NSW, the racing industry and animal welfare advocates, as well as the Save Rosehill Group. The committee also received 127 submissions. Our consideration of the evidence has resulted in 10 findings and five recommendations.

The evidence before the committee raised concerns that the proper process had not been followed by the Government in the early stages of its dealings with the Australian Turf Club about the proposal. The committee found that the Premier's diary disclosure of the 30 October 2023 meeting between Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club and the Premier Hon Chris Minns MP as a 'meet and greet' was inaccurate, misleading and did not adequately describe the purpose of this meeting. It was inappropriate given the long-standing friendship of Mr McMahon and the Premier and the nature of the matter discussed at the meeting. Accordingly, the committee recommended that the Ministerial Diary Disclosure requirements be updated to mandate an accurate description of attendees, purpose and any conflicts of interest.

The committee also found that the manner in which the Premier and Government announced the proposal to develop Rosehill Racecourse for housing was in breach of governmental guidelines on unsolicited proposals by failing to maintain impartiality when it championed the proposal.

Throughout the inquiry there was significant conflicting information that was presented, which asked more questions than it answered. Given this conflicting evidence and unanswered questions before the committee with respect to concerns regarding direct dealings and conflicts of interest as part of the proposal to develop Rosehill Racecourse, it led the committee to take the step of referring this report to the ICAC upon its tabling. It is disappointing that this legitimate step of the committee was disclosed to the media prior to the tabling of this report and the committee has resolved to request the President refer this matter to the Privileges Committee.

On behalf of the committee, I would like to thank everyone who contributed to this inquiry, and for their part in making sure the committee was fully informed about multiple aspects of the proposal to develop Rosehill Racecourse. I would also like to thank my fellow committee members for their collegiate approach to the inquiry and particularly thank the professional secretariat staff who supported this inquiry.

Ultimately the proposal to develop Rosehill Racecourse will be one that will need the support of the members of the Australian Turf Club if it is ever to get out of the starting gate.

Hon Scott Farlow MLC
Committee Chair

Findings

- Finding 1** 34
The committee did not receive evidence that on 26 October 2023 the Australian Turf Club had any accurate, verifiable basis to believe that 40,000 dwellings would secure a metro station at Rosehill.
- Finding 2** 35
The use of 'meet and greet' to describe the meeting of Mr Steve McMahon and the Hon Chris Minns MP, Premier, on 30 October 2023 is inaccurate, misleading and does not adequately describe the purpose of this meeting. It is inappropriate given the long-standing friendship of Mr McMahon and the Premier and the nature of the matter discussed at the meeting. Ministerial diary disclosures should properly disclose the purpose of meetings.
- Finding 3** 35
There was significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier.
- Finding 4** 36
The committee finds that, given the significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier and concerns regarding direct dealings and conflicts of interest, this report should be referred to the Independent Commission Against Corruption.
- Finding 5** 36
The manner in which the Premier and Government announced the proposal to develop Rosehill Racecourse for housing was in breach of the *Unsolicited Proposals: Guide for Submission and Assessment* by failing to maintain impartiality when it championed the proposal and for making the public announcement prior to the end of stage one of the unsolicited proposal process.
- Finding 6** 37
The announcement of the signing of a memorandum of understanding between the Australian Turf Club and the Government was poorly handled. Communication between the Australian Turf Club, its board and members, and the general public should have been better managed throughout the whole process.
- Finding 7** 37
There is conflicting evidence and uncertainty with the financial assumptions behind and the financial viability of the proposal to develop Rosehill Racecourse.
- Finding 8** 64
The Brick Pit site at Sydney Olympic Park is highly unlikely to be able to accommodate a racetrack due to environmental factors, including the endangered status of the resident green and golden bell frog population and the ongoing instability of land at the site.
- Finding 9** 64
Outside of the Brick Pit site at Sydney Olympic Park, which is unsuitable to accommodate an alternative racetrack, no other viable or feasible sites have been identified to create another racetrack in metropolitan Sydney.

Finding 10

65

The evidence before the committee did not demonstrate that the proposal to develop Rosehill Racecourse presented immediate monetary value for the New South Wales taxpayer or would, alone, make a significant impact in meeting New South Wales' national housing accord targets. It may, however, provide wider economic and social benefits and make a positive contribution to resolving a chronic housing shortage in Sydney.

Recommendations

- Recommendation 1** **36**
That the NSW Government update the Ministerial Diary Disclosure requirements to mandate an accurate description of attendees, purpose and any conflicts of interest and extend these requirements to Shadow Ministerial spokespeople.
- Recommendation 2** **38**
That the Legislative Council give consideration to establishing an inquiry into the operations of Racing NSW.
- Recommendation 3** **38**
That the NSW Government conduct a thorough review of the *Thoroughbred Racing Act 1996* which, among other things, considers whether the Act is fit for purpose.
- Recommendation 4** **65**
That, as part of the reviews of the *Thoroughbred Racing Act 1996* and the *Prevention of Cruelty to Act 1979*, the NSW Government have regard to the animal welfare issues raised in this report and the recommendations made in the 2021 report of the Thoroughbred Aftercare Welfare Working Group: *The most important participant—A Framework for Thoroughbred Welfare*.
- Recommendation 5** **66**
That the Legislative Council reaffirm its support for the *Parliamentary Evidence Act 1901* and the critical importance of witnesses to committee inquiries giving direct and honest evidence at all times.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 15 May 2024.

The committee received 127 submissions and one supplementary submission.

The committee held four public hearings at Parliament House in Sydney.

The committee also conducted one site visit on 19 July 2024 to Rosehill Racecourse at Rosehill, the Brick Pit at Sydney Olympic Park, and the Sydney International Equestrian Centre and Western Sydney Parklands at Horsley Park.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Procedural issues

Summons

Mr James Cullen, Chief of Staff to the Hon Chris Minns MP, Premier, was invited by the committee to give evidence to the inquiry on two occasions. Mr Cullen declined both invitations. After the second invitation was declined, the committee issued Mr Cullen with a summons to attend to give evidence at a public hearing. Mr Cullen accordingly appeared on Monday 21 October 2024. Mr Cullen's correspondence declining the committee's invitation was published on the inquiry's website.

Possible contempt

At the hearing on 22 July 2024, there were questions and discussion around whether witnesses had been discouraged from attending the hearing. At the second hearing on 9 August 2024, Mr Peter V'landys AM, Chief Executive, Racing NSW, was asked whether he had spoken to any witnesses about the nature of their evidence. Lines of questioning also made general reference to confidential evidence about Racing NSW having been received by the committee.

On 12 August 2024, the committee received correspondence from Racing NSW, responding to matters raised at the hearing on 9 August 2024. The correspondence made specific reference to allegations raised at the hearing by a member arising out of confidential evidence received by the committee. Racing NSW's correspondence stated that it had 'investigated the issues raised with utmost urgency'.

The committee met to discuss this correspondence. Due to the rest of the contents of the correspondence from Racing NSW and other contextual factors, the committee was concerned that such an 'investigation' could be interpreted as a wrongful attempt by Racing NSW to uncover the identity of confidential submission authors, potentially with the intention of discouraging or intimidating these inquiry participants from giving evidence.

The committee subsequently resolved to prepare a special report to the House, recommending that the correspondence be referred to the Privileges Committee for inquiry and report on the basis that it may constitute a substantial interference with the work of the committee and therefore a possible contempt. The special report can be found on Parliament's website.

Chapter 1 Background to the proposal

This chapter provides an overview of the proposal by the Australian Turf Club to develop Rosehill Racecourse. First, it sets out the details of the Australian Turf Club's proposal. It then outlines the unsolicited proposals process in New South Wales, including the various stages involved. Finally, an overview of the associated probity measures is provided.

The Australian Turf Club and Rosehill Racecourse

- 1.1 The Australian Turf Club is a racing club with ownership of all four metropolitan racecourses in Sydney – Rosehill Gardens (also known as Rosehill Racecourse), Royal Randwick, Canterbury Park and Warwick Farm.³
- 1.2 Rosehill Racecourse is located in close proximity to Parramatta and is considered the most popular racetrack for residents of Greater Western Sydney.⁴ It first opened in April 1885 and has since continued to host race meetings every year.⁵ Currently, Rosehill Racecourse hosts 21 premium Saturday race meetings annually, including two major carnivals.⁶
- 1.3 On 7 December 2023, the NSW Government announced that discussions had commenced with the Australian Turf Club regarding a proposal to 'relocate Rosehill Racecourse and build tens of thousands of new homes, surrounded by greenspace and a new Sydney Metro West station'.⁷
- 1.4 On 28 March 2024, the Australian Turf Club lodged a stage one submission under the NSW Government's unsolicited proposals process.⁸
- 1.5 On 7 June 2024, the NSW Government announced that it had determined that the Australian Turf Club's proposal would progress to stage two of the unsolicited proposals process.⁹
- 1.6 The Australian Turf Club proposes to:
 - redevelop its Rosehill Gardens racecourse site (Rosehill Gardens) into a mixed-use precinct which includes up to 25,000 dwellings
 - develop a Centre of Excellence training and stabling facility at a site in Horsley Park
 - upgrade or enhance its facilities at Warwick Farm, Canterbury Park and Royal Randwick racecourses

³ Australian Turf Club, *Timeline*, <https://www.australianturfclub.com.au/history-timeline/>

⁴ Submission 63, Save Rosehill, p 11.

⁵ Submission 63, Save Rosehill, p 11.

⁶ Submission 63, Save Rosehill, p 1.

⁷ Media release, Hon Chris Minns MP, Premier, 'Once-in-a-generation opportunity for Rosehill and to secure the future of the NSW racing industry', 7 December 2023.

⁸ Evidence, Hon Peter McGauran, Chairman, Australian Turf Club, 9 August 2024, p 2.

⁹ Submission 56, NSW Government, p 3.

- develop a potential new racetrack in metropolitan Sydney.¹⁰

1.7 The proposal also detailed that in order to enable this development, the Australian Turf Club sought:

- to establish a Metro West station at Rosehill Gardens
- support to identify a suitable location for a new racetrack
- access to necessary land at Horsley Park.¹¹

1.8 The proposal and some of the associated key events are discussed in greater detail in Chapter 2.

1.9 The Australian Turf Club is made up of over 12,000 members (as of 2023).¹² Under the *Registered Clubs Act 1976*, Rosehill Racecourse cannot be sold unless a majority of Australian Turf Club members vote in favour of its sale.¹³ The issue of who has the final say on the sale of Rosehill Racecourse is examined in Chapter 2.

The unsolicited proposals process

1.10 The NSW Government's *Unsolicited Proposals: Guide for Submission and Assessment* sets out the process of making an unsolicited proposal, including the relevant assessment criteria, those involved in the assessment, and probity measures. This section provides an overview of the various stages in the process, as well as discussing the role of steering committees, the proposal manager, and assessment panel.

1.11 The NSW Government defines an unsolicited proposal as 'an approach to Government from a Proponent with a proposal to deal directly with the Government over a commercial proposition, where the Government has not requested the proposal'.¹⁴ The process aims to encourage ideas and solutions, as well as investment and participation in projects, from the non-government sector.¹⁵

1.12 As outlined in the NSW Government's *Unsolicited Proposals: Guide for Submission and Assessment*, unsolicited proposals are assessed according to specific criteria:

- uniqueness – does the proposal demonstrate unique benefits and the unique ability of the proponent to deliver the proposal?
- value for money - does the proposal deliver value for money to the NSW Government, including consideration of the net economic benefits of the proposal?

¹⁰ Premier's Department, *Australian Turf Club Stage 2 Unsolicited Proposal*, 7 June 2024, p 1 (updated 10 September 2024), <https://www.nsw.gov.au/sites/default/files/noindex/2024-09/Australian%20Turf%20Club%20-%20Stage%20%20Unsolicited%20Proposal.pdf>.

¹¹ Premier's Department, *Australian Turf Club Stage 2 Unsolicited Proposal*, 7 June 2024, p 1 (updated 10 September 2024), <https://www.nsw.gov.au/sites/default/files/noindex/2024-09/Australian%20Turf%20Club%20-%20Stage%20%20Unsolicited%20Proposal.pdf>.

¹² Australian Turf Club, *Annual Report 2023*, p 14.

¹³ Submission 61, Australian Turf Club, p 1.

¹⁴ Submission 56, NSW Government, p 1.

¹⁵ Submission 56, NSW Government, p 1.

- whole of government impact - does the proposal demonstrate overall strategic merit consistent with the Government's plans and priorities?
- return on investment - would the proposal provide a return on investment to the proponent proportionate to the proponent's risks, and industry standards?
- capability and capacity - does the proponent have the experience, capability and capacity to carry out the proposal, including in partnership with third parties?
- affordability - is the proposal affordable in the context of the Government's other priorities as part of the NSW Budget process?
- risk allocation - is the proposed risk allocation between Government and the Proponent appropriate and consistent with the value for money assessment, including in relation to environmental and planning approvals?¹⁶

1.13 The unsolicited proposals process is separated into four phases:

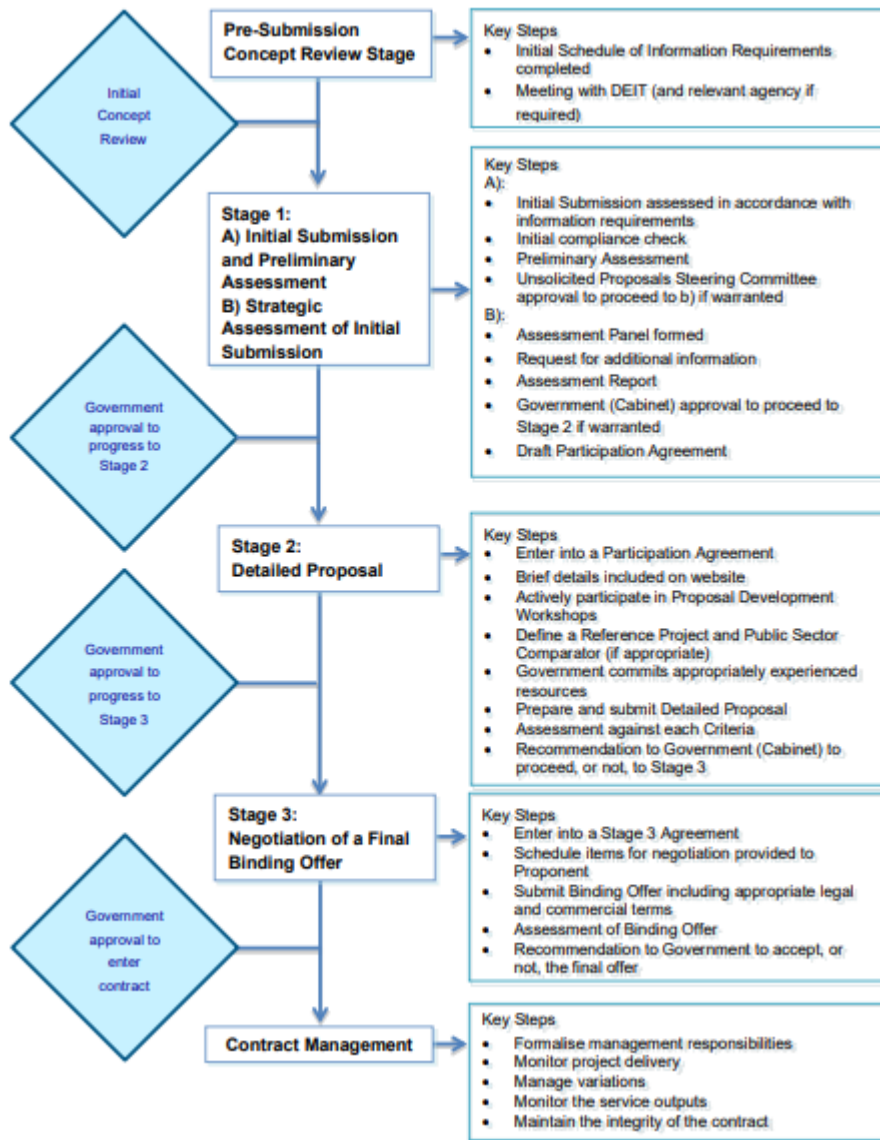
- pre-submission concept review stage
- stage one – initial submission and preliminary assessment
- stage two – detailed proposal
- stage three – negotiation of final binding offer.¹⁷

1.14 The elements of each stage in the unsolicited proposal process are illustrated in Figure 1 below.

¹⁶ Submission 56, NSW Government, pp 1-2.

¹⁷ Submission 56, NSW Government, p 2.

Figure 1 Key stages in the consideration of unsolicited proposals



Source: Submission 56, NSW Government, Attachment 1 – Unsolicited Proposals: Guide for Submission and Assessment, p 28.

1.15 In the 'pre-submission concept review stage', the 'Proponent', being the organisation or entity who wishes to make a proposal, has the opportunity to meet with the Government and receive guidance on whether their proposal is likely to meet the relevant assessment criteria.¹⁸ In this stage, a Proponent may also be guided in their decision on whether or not to lodge their proposal. However, the Government noted that the decision to proceed to stage one of the unsolicited proposals process is ultimately up to the Proponent.¹⁹ All proposals submitted at stage one of the process are kept confidential.²⁰

¹⁸ Submission 56, NSW Government, p 2.

¹⁹ Submission 56, NSW Government, p 2.

²⁰ Submission 56, NSW Government, Attachment 1 – 'Unsolicited Proposals: Guide for Submission and Assessment', p 12.

- 1.16** A proposal is assessed by Investment NSW once a formal stage one submission has been made, in conjunction with relevant agencies, to determine whether it constitutes an unsolicited proposal and can proceed to stage two of the assessment process.²¹
- 1.17** In stage two, the Government and the Proponent work together to develop and assess what is known as a 'Detailed Proposal'.²² According to the Government, '(t)his stage is characterised by a significant program of financial, commercial, technical, legal and economic analysis'.²³
- 1.18** If a proposal progresses to stage three, it is finalised, and the Proponent presents a 'final binding offer' for assessment.²⁴ The Government will then either accept or decline the offer.²⁵
- 1.19** Importantly, other statutory approvals processes, such as planning, are not replaced by the unsolicited proposals process.²⁶

Steering committees

- 1.20** Within the unsolicited proposals process, there is an overarching 'Unsolicited Proposals Steering Committee', comprising senior members of several government agencies.²⁷ Membership of the steering committee can change, and representatives from other government agencies may be required to provide additional input to assist with decision-making.²⁸ The steering committee has a decision-making role in the unsolicited proposals process.²⁹
- 1.21** The responsibilities of this steering committee include: agreeing on feedback that is provided to proponents at stage one; monitoring the progress of assessments; and making recommendations to the Government on whether the proposal should progress from stage one to stage two.³⁰
- 1.22** A 'Proposal Specific Steering Committee' may also be established for certain proposals, especially those that proceed to stage two of the unsolicited proposals assessment process.³¹

²¹ Submission 56, NSW Government, p 2.

²² Submission 56, NSW Government, p 2.

²³ Submission 56, NSW Government, p 2.

²⁴ Submission 56, NSW Government, p 2.

²⁵ Submission 56, NSW Government, p 2.

²⁶ Submission 56, NSW Government, p 1.

²⁷ Submission 56, NSW Government, Attachment 1 – 'Unsolicited Proposals: Guide for Submission and Assessment', p 15.

²⁸ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 15.

²⁹ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 16.

³⁰ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 16.

³¹ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 16.

Membership of this steering committee usually includes a Chair from the lead government agency as well as representatives from other relevant agencies.³²

- 1.23** This steering committee is responsible for tasks such as approving the governance plan that is applied to stages two and three of the unsolicited proposals process, confirming the approach to assessing the proposal's value for money, and agreeing on feedback that is provided to the proponent.³³
- 1.24** At the end of stage two, it is also the role of this steering committee to make a recommendation to the Government on whether the proposal should proceed to stage three of the unsolicited proposals process.³⁴

Proposal manager

- 1.25** In the beginning of the unsolicited proposals process, a 'Proposal Manager' is appointed to 'receive and progress consideration of unsolicited proposals'.³⁵
- 1.26** Once a proposal proceeds to stage two, a separate Proposal Manager is appointed specifically for the proposal.³⁶ As a proposal can be referred to the most relevant government agency if it proceeds to stage two, it is common for the new Proposal Manager to be appointed from that agency.³⁷ It is then the role of the new Proposal Manager to act as the main point of contact for the Proponent.³⁸
- 1.27** The Proposal Manager appointed to oversee the Australian Turf Club's unsolicited proposal is Mr William Murphy PSM.³⁹

Assessment panel

- 1.28** Another element of the unsolicited proposals process is the appointment of an assessment panel. The assessment panel consists of 'appropriately qualified representatives', and its

³² Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 16.

³³ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', pp 16-17.

³⁴ Premier's Department, *Australian Turf Club Stage 2 Unsolicited Proposal*, 7 June 2024, p 2 (updated 10 September 2024), <https://www.nsw.gov.au/sites/default/files/noindex/2024-09/Australian%20Turf%20Club%20-%20Stage%20%20Unsolicited%20Proposal.pdf>.

³⁵ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 17.

³⁶ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 17.

³⁷ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 17.

³⁸ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 17.

³⁹ Evidence, Mr William Murphy, Deputy Secretary, Strategic Projects, Premier's Department, 12 September 2024, p 15.

membership is approved by either the unsolicited proposals steering committee, or the proposal specific steering committee.⁴⁰

1.29 According to the Government, it is the role of the assessment panel, where appropriate, to:

- report to the steering committee or proposal specific steering committee
- participate in meetings with the proponent
- assess the initial submission and detailed proposal against the assessment criteria
- prepare recommendations for the steering committee or proposal specific steering committee
- prepare assessment reports as required by the steering committee or proposal specific steering committee
- consider issues raised by the steering committee or proposal specific steering committee
- prepare a proposed schedule of items for negotiation during stage three (to be approved by the steering committee/project specific steering committee and/or Government (Cabinet), if required).⁴¹

Probity measures

1.30 There are also probity measures applicable to the unsolicited proposals process.⁴² According to the NSW Government, the assessment of unsolicited proposals must be 'fair, open and demonstrate the highest levels of probity' in order to align with public interest.⁴³

1.31 There are five probity principles that aim to uphold integrity within the unsolicited proposals process, namely:

- maintaining impartiality
- maintaining accountability and transparency
- managing conflicts of interest
- maintaining confidentiality
- obtaining value for money.⁴⁴

⁴⁰ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 18.

⁴¹ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 18.

⁴² Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 11.

⁴³ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 11.

⁴⁴ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', pp 11-12.

- 1.32** During the unsolicited proposals process, an independent probity adviser may be appointed if sufficient probity risk is identified, or if it is a large-scale project.⁴⁵ The probity adviser then 'oversees every step of the process'.⁴⁶ The probity adviser also prepares a report at the end of each phase of the unsolicited proposals process outlining how probity has been managed.⁴⁷
- 1.33** If the probity adviser identifies probity concerns with an unsolicited proposal, these may be escalated, including to an 'escalation contact point' where one has been provided'.⁴⁸

⁴⁵ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 19.

⁴⁶ Evidence, Mr William Murphy, Deputy Secretary, Strategic Projects, Premier's Department, 12 September 2024, p 15.

⁴⁷ Evidence, Mr Murphy, 12 September 2024, p 15.

⁴⁸ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 19.

Chapter 2 The proposal by the Australian Turf Club

This chapter provides an overview of the key events leading to the Australian Turf Club's lodgement of the proposal to redevelop Rosehill Racecourse. It then describes the remaining steps necessary for the sale of Rosehill Racecourse to proceed. The role of key stakeholders in the proposal process is also examined, notably that of the Australian Turf Club, the participating government departments, and Racing NSW.

Evolution of the decision to develop Rosehill Racecourse

- 2.1 This section considers when the idea to develop Rosehill Racecourse first originated as well as the key events that led to the Australian Turf Club (ATC) approaching the NSW Government with the concept of the development of the full Rosehill Racecourse site.

The genesis of the proposal by the Australian Turf Club

- 2.2 Evidence was presented to the committee that the Australian Turf Club had been exploring the idea of the development of land it owned around Rosehill Racecourse for a number of years.⁴⁹ Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, told the committee that the 'idea emanated over an eight-year period, since 2016'.⁵⁰ He explained that the New South Wales Government 'first floated' the idea of the 'Camellia precinct' in 2015 and announced its 'metro project' in 2016.⁵¹ The committee learned that plans to redevelop land in Camellia and Rosehill and increase housing capacity in the area had changed multiple times over the years.⁵²
- 2.3 Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, informed the committee that the department's plan for the Camellia-Rosehill precinct, the Camellia-Rosehill Place Strategy⁵³, was 'completed' in 2022, and was followed by a further process of finalising rezoning for the precinct.⁵⁴ She explained that the design of the 'Place Strategy' was based on the Parramatta light rail, rather than contemplating a metro station.⁵⁵

⁴⁹ Evidence, Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, 9 August 2024, p 3.

⁵⁰ Evidence, Mr McMahon, 9 August 2024, p 4.

⁵¹ Evidence, Mr McMahon, 9 August 2024, p 13.

⁵² Evidence, Mr David Borger, Executive Director, Business Western Sydney, 22 July 2024, p 28.

⁵³ This was the plan of the former NSW Department of Planning and Environment.

⁵⁴ Evidence, Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, 21 October 2024, p 2. For the final report, see Department of Planning and Environment, *Camellia-Rosehill Place Strategy*, August 2022.

⁵⁵ Evidence, Ms Fishburn, 21 October 2024, p 3. Ms Fishburn reported to the inquiry that the Rosehill-Camellia Place Strategy is currently on hold while consideration is being undertaken for the unsolicited proposal.

- 2.4 When questioned about the upper limit of dwellings that the Department of Planning, Housing and Infrastructure set for the Rosehill-Camellia precinct, Mr David Borger, Executive Director, Business Western Sydney, recollected that it was 'around 10,000'.⁵⁶
- 2.5 Mr McMahon outlined how the Australian Turf Club had participated in the Camellia-Rosehill plans. He explained that he has 'been involved in plans for the Camellia-Rosehill precinct' since he started working at the Australian Turf Club in 2016, and that the Camellia-Rosehill discussions contemplated land around the edges of Rosehill Racecourse.⁵⁷ Both the Hon Peter McGauran, Chairman, Australian Turf Club and Ms Fishburn agreed that under the Camellia-Rosehill precinct plan, the development of the Australian Turf Club parcels of land would yield approximately 3,000 dwellings in a best case scenario.⁵⁸
- 2.6 Mr McMahon further described how the Australian Turf Club had advocated for a metro station to service Rosehill Racecourse for a number of years.⁵⁹

Transition towards contemplation of the full sale of Rosehill Racecourse

- 2.7 According to Mr McMahon, a number of meetings in 2023 led him to the view that providing increased housing density was critical to securing a metro station at the Rosehill site.⁶⁰ He identified two 'key meetings' in 2023 that preceded the move towards consideration of the full development of Rosehill Racecourse.⁶¹

14 August 2023 – Meeting between the Australian Turf Club and the Sydney Metro Independent Review team

- 2.8 The inquiry heard evidence from both Mr McMahon and Mr Peter Regan PSM, Chief Executive, Sydney Metro, that on 14 August 2023, Mr McMahon met with the Sydney Metro Independent Review team.⁶²
- 2.9 The Sydney Metro Review, announced in April 2023 and conducted by Mr Mike Mrdak AO, was a 'comprehensive and independent review into the Sydney Metro project'.⁶³
- 2.10 Mr Regan provided some context about Sydney Metro's consideration of an additional station on the metro west, and discussions with stakeholders in the Rosehill-Camellia area:

⁵⁶ Evidence, Mr Borger, 22 July 2024, p 28.

⁵⁷ Evidence, Mr McMahon, 9 August 2024, p 3.

⁵⁸ Evidence, Hon Peter McGauran, Chairman, Australian Turf Club, 9 August 2024, p 8, and Evidence, Ms Fishburn, 21 October 2024, p 5.

⁵⁹ Evidence, Mr McMahon, 9 August 2024, p11.

⁶⁰ Evidence, Mr McMahon, 9 August 2024, p 3.

⁶¹ Evidence, Mr McMahon, 9 August 2024, p 3.

⁶² Evidence, Mr McMahon, 9 August 2024, p 4 and Mr Peter Regan PSM, Chief Executive, Sydney Metro, 12 September 2024, p 17.

⁶³ Sydney Metro, 'Sydney Metro Review', 7 December 2023, <https://www.sydneymetro.info/article/sydney-metro-review#:~:text=The%20review%20was%20conducted%20by,released%20on%207%20December%202023>. Throughout the inquiry, this review was often referred to as 'the Mrdak review'.

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.⁶⁴

2.11 Mr Regan confirmed that he was aware that the independent metro review team had met with the Australian Turf Club, and noted that the review team met with 'over 100 different potential interviewees and stakeholders while conducting the review'.⁶⁵

2.12 Questions were raised during the inquiry about both the number of dwellings needed to justify a metro at Rosehill as well as the source of that figure. Mr McMahon recounted the discussion at the meeting with the metro review team concerning the necessary yield of dwellings:

I was asked in that meeting had we ever thought about the racecourse being developed and at that time the answer was no. It's a premium racecourse; no. That's when the discussion was, "Well, you really need 40,000 homes or about that figure to justify a metro due to the cost of the metro and if you pay with developer contributions and the like." I guess that's when the idea was first put into our heads and we had a chat with a property team after that time.⁶⁶

2.13 In response to questioning about whether anyone else had suggested the sale process, Mr McMahon said that it was 'only in our property team, internally'.⁶⁷ Mr McMahon described that after this meeting, he and his property team started to think about looking 'at the numbers', but that they were still opposed to the idea of the full sale of Rosehill Racecourse at that time.⁶⁸

2.14 However, when Mr Regan was asked whether he knew that advice was provided to the Australian Turf Club that 40,000 residences would be required to justify a metro station, his response was that he was not aware of 'that specific advice'.⁶⁹ In providing further context about his advice as to what would justify a metro station being built, Mr Regan noted that 'potential uplift in housing possibilities' was a key factor that Sydney Metro was looking at in considering options for a new station on the metro west.⁷⁰ Constructability and 'the impact on the existing alignment and other land use areas' were other considerations. Mr Regan clarified that as at 14 August, the investigations into metro options in the Rosehill area were not very developed:

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.⁷¹

⁶⁴ Evidence, Mr Regan, 12 September 2024, p 18.

⁶⁵ Evidence, Mr Regan, 12 September 2024, p 17.

⁶⁶ Evidence, Mr McMahon, 9 August 2024, p 4.

⁶⁷ Evidence, Mr McMahon, 9 August 2024, p 4.

⁶⁸ Evidence, Mr McMahon, 9 August 2024, p 11.

⁶⁹ Evidence, Mr Regan, 12 September 2024, p18.

⁷⁰ Evidence, Mr Regan, 12 September 2024, p18.

⁷¹ Evidence, Mr Regan, 12 September 2024, p 18.

- 2.15** Sydney Metro later confirmed that the 14 August 2023 meeting 'was attended by two Sydney Metro Staff in their capacity as Independent Review Secretariat', and that no government official at this meeting stated that the entirety of Rosehill Racecourse needed to be sold to justify a metro station.⁷² Further, 'Sydney Metro did not present a position at this meeting' regarding the development of a station on Rosehill Racecourse or a minimum number of people needing to justify the construction of a station, nor had they ever communicated a population requirement to the Australian Turf Club.⁷³
- 2.16** In response to the suggestion that the inquiry had heard conflicting evidence about the need for approximately 40,000 dwellings to warrant a metro station, Mr McMahon maintained his recollection that this figure was used by a representative from the Sydney Metro Independent Review team. He clarified that the meeting was attended by a number of Sydney Metro Independent Review representatives, including Mr Mike Mrdak, as well as the Australian Turf Club's property advisers from Mostyn Copper.⁷⁴ He told the committee that the Sydney Metro Independent Review Deputy Chair had mentioned that 'typically approximately 40,000 dwellings would be required for a Metro station to be considered'.⁷⁵ He noted that the reference to '40,000 dwellings' being required for a metro station was 'expressed as a general comment during the course of discussions and in a conversational way, rather than as a specific requirement or direction'.⁷⁶
- 2.17** Initially in evidence to the committee, Mr McMahon could not remember who mentioned the 40,000 figure at the 14 August 2023 meeting.⁷⁷ He wrote to the committee on 14 November 2024 to say it was Amanda Yeates, the Deputy Chair, Metro Review, and also the Chief Executive Officer of SunCentral (a consultancy working with Sunshine Coast Councils in Queensland on urban development plans).

25 October 2023 – Meeting between Australian Turf Club and the Secretary of Planning

- 2.18** The second meeting in 2023 that Mr McMahon identified as key in the transition towards considering the full sale of Rosehill occurred on 25 October 2023 with the Secretary of Planning.⁷⁸
- 2.19** Ms Kiersten Fishburn explained that she initiated the meeting as she wanted to progress the rezoning for the Camellia-Rosehill precinct, was interested in the Australian Turf Club plans for the use of Rosehill land, and was keen to understand their interests in relation to the Canterbury-Bankstown precinct.⁷⁹ Ms Fishburn recounted that the meeting involved a presentation of the Australian Turf Club's master plan, including plans for use of the Rosehill land:

⁷² Answers to questions on notice and supplementary questions, Sydney Metro, 3 October 2024, p 4.

⁷³ Answers to questions on notice and supplementary questions, Sydney Metro, 3 October 2024, pp 3-4.

⁷⁴ Correspondence from Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, to Chair, 14 November 2024, pp 1 – 2.

⁷⁵ Correspondence from Mr McMahon to Chair, 14 November 2024, p 2.

⁷⁶ Correspondence from Mr McMahon to Chair, 14 November 2024, p 2.

⁷⁷ Answers to supplementary questions, Mr Steve McMahon, 17 September 2024, p 2.

⁷⁸ Evidence, Mr McMahon, 9 August 2024, p 3.

⁷⁹ Evidence, Ms Fishburn, 21 October 2024, p 2.

I asked them whether they had looked at reconfiguring the racecourse site to get more developable land, noting they had a master plan, and I believe—and again I'm just relying on my memory because there were a number of people in the room—it was Steve McMahon who said, no, they'd looked at it and it didn't work, and Rosehill and Randwick were their premier racecourses.⁸⁰

- 2.20** Ms Fishburn stated that the Australian Turf Club did not raise that they were considering the sale, or potential sale, of the entirety of Rosehill Racecourse at the meeting.⁸¹
- 2.21** Mr McMahon gave evidence that the requirement for 40,000 dwellings to make a metro feasible was again raised at this meeting.⁸² Mr McMahon clarified that he believed that this came 'from them [Department of Planning, Housing and Infrastructure] but I could be wrong'.⁸³
- 2.22** However, when questioned whether it was indicated to the Australian Turf Club that they would require approximately 40,000 dwellings to be able to substantiate a metro, Ms Fishburn stated that the metro was not discussed at that meeting.⁸⁴ She further confirmed that the minutes, which she regarded as accurate, did not mention a requirement for 40,000 dwellings.⁸⁵ She clarified that the only discussion of the metro 'was about building over the metro tunnel and difficulty that they were having in getting information from Transport for NSW'.⁸⁶
- 2.23** Ms Fishburn further stated that she had 'never heard that 40,000 number before', and expressed that she 'would be very surprised if anyone in the planning department had also provided that information'.⁸⁷
- 2.24** Following further questions on notice to clarify his evidence, Mr McMahon described the meeting as 'conversational' in nature. Mr McMahon told the committee 'the impression I took from the discussion was further confirmation that increase housing density would be needed to make the metro feasible'.⁸⁸

The Australian Turf Club decides to explore the full sale

- 2.25** Mr McMahon explained that after the meetings on 14 August and 25 October 2023, it was apparent to him and his property team that the Australian Turf Club could benefit greatly from increased value of the club's land if they could secure a metro on the Rosehill site:

Firstly, the timeframe to secure a metro station was closing rapidly. Secondly, having a metro station at Rosehill would significantly increase the rezoning and housing potential, and therefore the value to the ATC. Thirdly, having a metro on the ATC's

⁸⁰ Evidence, Ms Fishburn, 21 October 2024, p 4.

⁸¹ Evidence, Ms Fishburn, 21 October 2024, p 2.

⁸² Evidence, Mr McMahon, 9 August 2024, p 11.

⁸³ Evidence, Mr McMahon, 9 August 2024, p 11.

⁸⁴ Evidence, Ms Fishburn, 21 October 2024, p 3.

⁸⁵ Evidence, Ms Fishburn, 21 October 2024, p 3.

⁸⁶ Evidence, Ms Fishburn, 21 October 2024, p 3. Ms Fishburn stated that they committed to making contact with Transport.

⁸⁷ Evidence, Ms Fishburn, 21 October 2024, p 4.

⁸⁸ Correspondence from Mr McMahon to Chair, 14 November 2024.

land would reduce the cost to taxpayers because it was already in alignment with the metro line and had a lower contamination and flood risk than neighbouring sites. All of that led me to conclude that there was a big opportunity for the ATC, and also benefit for the wider community, and that I needed to raise that with the ATC's chairman and CEO for further consideration.⁸⁹

2.26 In addition, Mr McMahon outlined the urgency attached to the metro station plans:

We were very conscious that in all public notices—and I've got one here from the Herald—it was very clear that the Government was close to making a decision on the metro and if we did not at least make a move to explore that opportunity then the train station would literally have left. So we needed to make that decision. Hence, I guess, a lot of the haste in having those decisions to pursue.⁹⁰

2.27 Both the Hon Peter McGauran and Mr McMahon told the inquiry that on 26 October 2023, the day after Mr McMahon's meeting with Ms Fishburn, Mr McMahon briefed the Hon Peter McGauran, as Chairman of the Australian Turf Club, and the Chief Executive Officer, Mr Matt Galanos, about the concept of the development of the entire Rosehill Racecourse site.⁹¹ Evidence was provided that Racing NSW were also informed about the proposal on this date.⁹²

2.28 The Hon Peter McGauran stated that it was in this discussion that Mr McMahon first raised that 'Rosehill might yield a return of approximately \$5 billion if a metro station was developed at this site'.⁹³ The Hon Peter McGauran explained that his initial response to the idea was that selling the racetrack was not an option.⁹⁴ He described, however, that his concerns about the challenges facing the Australian Turf Club and the racing industry more widely led him towards exploring the idea of the full sale:

But my concern for the ATC and its future and that of the overall industry led me to conclude that this was an opportunity that we needed to explore. I saw an opportunity to enable the ATC to reinvigorate and reimagine Sydney racing for the future, for 50 years or more. I therefore considered, as did my fellow directors, that it was our fiduciary duty to fully investigate the opportunity.⁹⁵

2.29 Mr McMahon told the committee that it was agreed that he would meet with the Premier to assess whether the Government would be opposed to the idea, and to find out the process for making such a proposal.⁹⁶ The Hon Peter McGauran confirmed that he wanted Mr McMahon

⁸⁹ Evidence, Mr McMahon, 9 August 2024, p 3.

⁹⁰ Evidence, Mr McMahon, 9 August 2024, p 11.

⁹¹ Evidence, Mr McMahon, 9 August 2024, p 3, Evidence, Hon Peter McGauran, 9 August 2024, p 2.

⁹² Evidence, Mr Peter V'landys AM, Chief Executive, Racing NSW, 9 August 2024, p 59.

⁹³ Evidence, Hon Peter McGauran, 9 August 2024, pp 2 and 4.

⁹⁴ Evidence, Hon Peter McGauran, 9 August 2024, p 2.

⁹⁵ Evidence, Hon Peter McGauran, 9 August 2024, p 2.

⁹⁶ Evidence, Mr McMahon, 9 August 2024, p 3-4.

to 'test' whether the government was supportive of the proposal being explored.⁹⁷ The Australian Turf Club Board was yet to be informed.⁹⁸

Moving towards lodgement of the proposal

2.30 The inquiry received a great deal of evidence concerning the timeline of events that flowed from the decision on 26 October 2023 to explore the full sale of Rosehill Racecourse. This included the involvement of staff from governmental departments prior to the lodging of the unsolicited proposal as well as actions taken by the Australian Turf Club.

30 October 2023 – The 'meet and greet'

2.31 Mr McMahon gave evidence that to arrange a meeting with the Premier, he rang Mr James Cullen, Chief of Staff to the Hon Chris Minns MP, Premier, and asked for a meeting.⁹⁹ As Mr McMahon remembers it, he told Mr Cullen that he wanted 'to present an idea that I think would be mutually beneficial for the community and for the racecourse—for the ATC'.¹⁰⁰

2.32 Mr Cullen stated that he first became aware that the Australian Turf Club was considering a formal proposal through a short conversation with Steve McMahon on 26 October 2023, during which Mr McMahon requested a meeting with the Premier.¹⁰¹

He made it clear in that brief conversation that it included that ATC were actively considering bringing a proposal to government to redevelop Rosehill racecourse, and he had some related questions and basically wanted to get a sense from the Government about government interest, so that was the purpose of it, securing a meeting with the Premier.¹⁰²

2.33 Mr Cullen told the committee that the meeting on 30 October 2023 between Mr McMahon, the Hon Chris Minns MP, Premier, and himself lasted for a maximum of 15 minutes.¹⁰³ The meeting was listed in the Premier's diary disclosure as being with the Australian Turf Club and the purpose was recorded as being 'meet and greet'.¹⁰⁴

2.34 Mr McMahon noted that at the meeting, he 'asked advice on the process and was referred to the Cabinet Office'¹⁰⁵.

⁹⁷ Evidence, Hon Peter McGauran, 9 August 2024, p 12.

⁹⁸ Evidence, Hon Peter McGauran, 9 August 2024, p 11 – 12; Evidence, Mr Timothy Hale SC, Vice Chair and Elected Director, Australian Turf Club, 9 August 2024, p 21; and Evidence, Ms Caroline Searcy, Director, Australian Turf Club, 9 August 2024, p 21.

⁹⁹ Evidence, Mr McMahon, 9 August 2024, p 5.

¹⁰⁰ Evidence, Mr McMahon, 9 August 2024, p 18.

¹⁰¹ Evidence, Mr James Cullen, Chief of Staff, Office of the Hon Chris Minns, MP, 21 October 2024, p 27.

¹⁰² Evidence, Mr Cullen, 21 October 2024, p 27.

¹⁰³ Evidence, Mr Cullen, 21 October 2024, p 34.

¹⁰⁴ Tabled document: 'NSW Premier Diary Disclosures 1 October 2023 to 31 December 2023'.

¹⁰⁵ Evidence, Mr McMahon, 9 August 2024, p 5.

- 2.35** Mr Cullen likewise told the committee that he referred Mr McMahon to Mr William Murphy PSM, then Acting Secretary of the Cabinet Office, as the relevant contact from the Cabinet Office.¹⁰⁶

At the meeting of 30 October 2023, Mr McMahon made clear that the ATC was considering formally putting to government a proposal to redevelop Rosehill racecourse. I undertook to hand off Mr McMahon, given the significance of what that would be, the most appropriate contact at an official level, which is why I contacted Mr Murphy.¹⁰⁷ And the Premier agreed with that course of action.¹⁰⁸

- 2.36** Mr Cullen was not able to recall whether Mr McMahon advised the Premier and Mr Cullen of the number of dwellings intended, the potential value of the sale, or whether he had met with the planning secretary.¹⁰⁹
- 2.37** Mr McMahon gave evidence that the Premier and Chief of Staff confirmed that they were interested, but 'they would need to ensure there was a proper process and probity'.¹¹⁰

The relationship between Steve McMahon and the Premier

- 2.38** The relationship between Mr McMahon and the Hon Chris Minns MP, Premier, was of particular interest during the inquiry. Mr McMahon acknowledged that he had been a friend of the Premier for approximately 25 years, and was also a longstanding member of the Australian Labor Party.¹¹¹
- 2.39** In addition, Mr Cullen confirmed that he too was an acquaintance of Mr McMahon, and that he was aware that Mr McMahon and Mr Minns were friends when the meeting for 30 October 2023 was arranged.¹¹² Mr Cullen described the call from Mr McMahon requesting a meeting as 'perfunctory', more 'formal' than 'friendly'.¹¹³
- 2.40** When questioned whether a formal request to meet with the Premier normally results in a meeting within four days, Mr Cullen responded that 'it's not unusual' and that 'there would be members of the Coalition who would have requested a meeting with the Premier and got it on the day they asked. It does happen from time to time. Sometimes it can take longer, sometimes it's shorter. But I think that context is really important'.¹¹⁴ Mr Cullen explained that 'the Government had these clear housing targets and a strategy linked with public transport. The significance of that was obviously, for me, putting in a meeting sooner rather than later'.¹¹⁵

¹⁰⁶ Evidence, Mr Cullen, 21 October 2024, p 27.

¹⁰⁷ Evidence, Mr Cullen, 21 October 2024, p 33.

¹⁰⁸ Evidence, Mr Cullen, 21 October 2024, p 33.

¹⁰⁹ Evidence, Mr Cullen, 21 October 2024, p 34 and 35.

¹¹⁰ Evidence, Mr McMahon, 9 August 2024, p 4.

¹¹¹ Evidence, Mr McMahon, 9 August 2024, p 3. Mr McMahon disclosed that he had been a candidate, a councillor and a mayor, and that he served on Hurstville City Council with the Hon Chris Minns MP.

¹¹² Evidence, Mr Cullen, 21 October 2024, pp 27, 33.

¹¹³ Evidence, Mr Cullen, 21 October 2024, p 27.

¹¹⁴ Evidence, Mr Cullen, 21 October 2024, p 28.

¹¹⁵ Evidence, Mr Cullen, 21 October 2024, p 28.

- 2.41** When challenged about the description of this meeting as a 'meet and greet' in the records, Mr Cullen said that in his view, they 'fully complied with the record keeping requirements'.¹¹⁶ Mr Cullen 'completely reject(ed)' the notion that there was a significant difference in what he knew to be the purpose of the meeting and what he entered into the diary disclosure.¹¹⁷ He described the suggestion that the meeting should have been disclosed as a 'pre-meeting to a USP' as an attempt to 'retrofit'.¹¹⁸
- 2.42** Mr Cullen further rejected the idea that Mr McMahon had been sent to meet with the Premier because his friendship with the Premier would be favourable to the Australian Turf Club, and asserted that it was clear that Mr McMahon 'was speaking as a senior representative of ATC and that he was faithfully relaying ATC were considering putting a formal proposal to government'.¹¹⁹
- 2.43** In contrast, Mr Matthew McGrath, Ex-Chairman, Australian Turf Club, expressed the view that while he found Mr McMahon to be professional and trustworthy, he would have expected the Chief Executive Officer to go to such a meeting.¹²⁰
- 2.44** In response to the proposition that the meeting with the Premier was in breach of Independent Commission Against Corruption guidelines due to Mr McMahon's friendship with the Premier, Mr Simon Draper PSM, Secretary, Premier's Department, stressed that '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'.¹²¹

Government representatives prepare to meet with the Australian Turf Club

- 2.45** There was much discussion during the inquiry about the steps that followed Mr McMahon's meeting with the Premier and Mr Cullen.
- 2.46** As previously noted, Mr Cullen told the committee that he referred the matter to Mr William Murphy PSM, then Acting Secretary of the Cabinet Office,¹²² and the Premier agreed with this course of action. The outcome of the 30 October meeting was for the Premier and his office to refer Steve McMahon to William Murphy. In his evidence, Mr Cullen outlined how he checked with Mr Murphy as to whether he was the right person. He told Mr Murphy that 'at a higher level, the ATC were considering bringing a formal proposal to government that included the redevelopment of Rosehill Racecourse, and that Mr McMahon had some questions attached to that—basically, questions for officials'.¹²³ It was Mr Cullen's view that the context, notably the Government's consideration of the future of the metro west, including additional stations, was 'pretty evident'.¹²⁴

¹¹⁶ Evidence, Mr Cullen, 21 October 2024, p 28.

¹¹⁷ Evidence, Mr Cullen, 21 October 2024, p 34.

¹¹⁸ Evidence, Mr Cullen, 21 October 2024, p 42.

¹¹⁹ Evidence, Mr Cullen, 21 October 2024, p 35.

¹²⁰ Evidence, Mr Matthew McGrath, Ex Chairman, Australian Turf Club, 21 October 2024, p 23.

¹²¹ Evidence, Mr Simon Draper PSM, Secretary, Premier's Department, 12 September 2024, p 15.

¹²² Evidence, Mr Cullen, 21 October 2024, p 27.

¹²³ Evidence, Mr Cullen, 21 October 2024, p 36.

¹²⁴ Evidence, Mr Cullen, 21 October 2024, p 37.

- 2.47** Mr Murphy contended that at a regular daily meeting on 31 October 2023, someone from the Premier's Office told him that Steve McMahon at the Australian Turf Club had some questions, and they asked Mr Murphy to meet with Mr McMahon.¹²⁵ His recollection was that it was to help Mr McMahon 'get some answers to his questions about a metro station at Rosehill'.¹²⁶ Mr Murphy told the committee that he didn't have any notes or recollection about any broader discussion other than Mr McMahon wanting to talk about a potential location of a metro station.¹²⁷
- 2.48** Mr Murphy outlined that he learned more on 2 November 2023 when he received an email, with a map attached, from Mr McMahon.¹²⁸ The email referred to the potential location of a metro station, 'outside the actual racecourse but inside our spectator precinct'.¹²⁹
- 2.49** Mr Murphy's evidence was that as this email led his team to identify that the Australian Turf Club may be considering a 'commercial' or 'significant' proposal, the email was forwarded to Investment NSW.¹³⁰ This was for the purpose of obtaining advice on the 'right pathway or the right mechanism for engaging government' in the event that the Australian Turf Club wished to discuss a bigger proposal for the Rosehill site.¹³¹ Mr Murphy described how he wanted to be prepared for the upcoming meeting with Mr McMahon on 8 November 2023 to ensure that it was 'appropriately managed'.¹³²
- 2.50** The committee learned that Mr McMahon's email dated 2 November 2023, that included a map of Rosehill Racecourse, was forwarded from the Cabinet Office to Ms Katie Knight of Investment NSW, and Mr Rowan Fisher, at the then Department of Enterprise, Industry and Trade, with a request to 'please provide advice about the best way to consider this approach from the ATC'.¹³³ It was the evidence of Ms Knight that this was the only information that was provided to Investment NSW from the Cabinet office about the proposal and she could not recall any external conversations.¹³⁴
- 2.51** Mr Murphy noted that he also sent Mr McMahon's email to Sydney Metro to ask for advice on the location of the station.¹³⁵ Further, he asked Mr Regan on 2 November 2023, whether, 'from a technical perspective', a station could be built in the position requested by the Australian Turf Club.¹³⁶

¹²⁵ Evidence, Mr William Murphy PSM, Deputy Secretary, Strategic Projects, Premier's Department, 12 September 2024, p 3.

¹²⁶ Evidence, Mr Murphy, 12 September 2024, p 3.

¹²⁷ Evidence, Mr Murphy, 12 September 2024, p 3.

¹²⁸ Evidence, Mr Murphy, 12 September 2024, p 2.

¹²⁹ Tabled document: 'Email regarding confidential ATC Rosehill – Metro alignment – 6 November 2023', p 2.

¹³⁰ Evidence, Mr Murphy, 12 September 2024, p 4.

¹³¹ Evidence, Mr Murphy, 12 September 2024, p 3.

¹³² Evidence, Mr Murphy, 12 September 2024, p 4.

¹³³ Tabled document: 'Email regarding confidential ATC Rosehill – Metro alignment', 6 November 2023, p 2.

¹³⁴ Evidence, Ms Katie Knight, Executive Director, Commercial Transactions, Department of Enterprise, Investment and Trade, 12 September 2024, p 26.

¹³⁵ Evidence, Mr Murphy, 12 September 2024, p 3 and Mr Regan, 12 September 2024, p 17.

¹³⁶ Evidence, Mr Murphy, 12 September 2024, p 3.

2.52 When questioned as to why Mr McMahon wasn't directly referred to Sydney Metro or to Mr Mrdak, who was undertaking the independent review of the Sydney Metro project,¹³⁷ Mr Murphy maintained, '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'.¹³⁸

Project Wattle

2.53 The code name 'Project Wattle' was created by Ms Knight of Investment NSW on 2 November 2023 on receipt of the forwarded email from Mr Murphy. When questioned about what Project Wattle was intended to be, Ms Knight explained:

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.¹³⁹

2.54 In answers to questions on notice following the hearing it was advised that nine projects have been assigned a project name since 2022.¹⁴⁰

2.55 The inquiry received evidence from multiple government representatives about the creation of a document by Investment NSW that outlined the options available to the Australian Turf Club - the 'Project Wattle Transaction Options Analysis' document'.¹⁴¹

2.56 Mr Murphy recalled receiving the 'Project Wattle Transaction Options Analysis' on 6 November 2023, with an email from Ms Knight, advising that 'on the limited information provided at this time, it appears that the unsolicited proposals process might be the most appropriate pathway'.¹⁴²

2.57 Both Ms Knight and Mr Fisher appeared at the hearing on 12 September 2024. Ms Knight described how the 'Project Wattle Transaction Options Analysis' document set out 'four options in which the ATC could approach government with a potential proposal'.¹⁴³ These options were as follows:¹⁴⁴

- direct deal (joint venture)
- direct deal (either proponent or government led)
- unsolicited proposal

¹³⁷ For further information on the independent review, chaired by Mr Mrdak, see: Tabled document *Sydney Metro Independent Review, Special Report*, PD 58.

¹³⁸ Evidence, Mr Murphy, 12 September 2024, p 13.

¹³⁹ Evidence, Ms Knight, 12 September 2024, p 27.

¹⁴⁰ Answers to questions on notice, Ms Katie Knight, Executive Director, Commercial Transactions, Department of Enterprise, Investment and Trade, p 1.

¹⁴¹ See, for example, Evidence, Mr Murphy, 12 September 2024, p 6; Evidence, Mr Rowan Fisher, Director, Commercial Transactions, Department of Enterprise, Investment and Trade, 12 September 2024, p 35; Evidence, Ms Knight, 12 September 2024, p 27.

¹⁴² Evidence, Mr Murphy, 12 September 2024, p 4.

¹⁴³ Evidence, Ms Knight, 12 September 2024, p 27.

¹⁴⁴ Tabled document: 'Draft Correspondence from Department of Enterprise, Investment and Trade', 30 January 2023, pp 6 – 7.

- compulsory acquisition.

2.58 When questioned how the Project Wattle document came about so quickly and without having been told to consider the full sale of Rosehill Racecourse, Ms Knight explained:

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.¹⁴⁵

2.59 Ms Knight further added that Investment NSW were dealing with other housing proposals around that time, and that the document was also used in other pre-lodgement discussions.¹⁴⁶ However, she also stated that 'I don't think there was a justification for direct dealing at this point.'¹⁴⁷

2.60 A point of contention throughout the inquiry was whether it was appropriate for the unsolicited proposal process to have been suggested as the pathway forward. Mr Draper explained why the Australian Turf Club plan needed to be treated as an unsolicited proposal rather than some other form:

But in this case the property owner was seeking something from the 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.¹⁴⁸

2.61 In response to questioning about whether the proposal met the 'uniqueness' requirement for an unsolicited proposal, Mr Draper said that the uniqueness of the proposal was located in the alignment of the metro line with such a large landholding in the centre of Sydney. He then highlighted that the metro was already being put in underneath it.¹⁴⁹ In evidence, Sydney Metro's Peter Regan acknowledged, however, it is common in Sydney for land owners seeking a rezoning to also request a rail station on or near their land but that he was 'not aware of a request relating to a single landowner with such a large landholding'.¹⁵⁰

2.62 Further to the Investment NSW creation of the Project Wattle Options Analysis, Mr Fisher also sought the input of probity advisers ahead of meeting with the Australian Turf Club, a process he described as 'very typical'.¹⁵¹

¹⁴⁵ Evidence, Ms Knight, 12 September 2024, p 27.

¹⁴⁶ Evidence, Ms Knight, 12 September 2024, p 30.

¹⁴⁷ Evidence, Ms Knight, 12 September 2024, p 33.

¹⁴⁸ Evidence, Mr Draper, 12 September 2024, p 9.

¹⁴⁹ Evidence, Mr Draper, 12 September 2024, p 10.

¹⁵⁰ Evidence, Mr Regan, 12 September 2024, p 25.

¹⁵¹ Evidence, Mr Fisher, 12 September 2024, p 38.

2.63 When questioned about the identification of a probity risk and 'perception that NSW Government is engineering an unsolicited proposal for a Government-driven transaction', Mr Murphy reflected that he thought that it was a reasonable risk to identify.¹⁵² Ms Knight noted that 'with all unsolicited proposals or direct dealings with a potential proponent, that is always a risk, and we always flag that'.¹⁵³

2.64 Mr Draper elaborated on the normalcy of proposals aligning with the priorities of the Government in order to progress:

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.¹⁵⁴

2.65 On 8 November 2023, Mr McMahon met with Mr Murphy and Mr Fisher.¹⁵⁵ Mr Murphy recalled that it was at this meeting that he realised that the Australian Turf Club was considering selling Rosehill to the Government for housing rather than act as the developer.¹⁵⁶ He noted that Mr McMahon raised an alternative proposal involving all of Rosehill:

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.¹⁵⁷

2.66 The minutes from the meeting described that the next steps would involve the Australian Turf Club providing a proposal consistent with the USP process.¹⁵⁸ They also recorded that the parties agreed to 'make an initial high level assessment of the potential of the proposal and to develop a Memorandum of Understanding to provide a high level governance framework to commence the process'.¹⁵⁹

2.67 A draft memorandum of understanding was produced on 15 November 2023¹⁶⁰ and a draft media release to announce the proposal was sent from Mr Murphy to Mr McMahon for his feedback on 20 November 2023 with an intended announcement date of 23 November 2023.¹⁶¹ The initial media release indicated that 'Racing will be relocated from Rosehill to Warwick Farm',

¹⁵² Evidence, Mr Murphy, 12 September 2024, p 8.

¹⁵³ Evidence, Ms Knight, 12 September 2024, p 32.

¹⁵⁴ Evidence, Mr Draper, 12 September 2024, p 8.

¹⁵⁵ Answers to supplementary questions, Mr William Murphy PSM, Deputy Secretary, Premier's Department, 1 November 2024, p 1.

¹⁵⁶ Evidence, Mr Murphy, 12 September 2024, p 5.

¹⁵⁷ Evidence, Mr Murphy, 12 September 2024, p 8.

¹⁵⁸ Answers to supplementary questions, Mr Murphy, 1 November 2024, p 2.

¹⁵⁹ Answers to supplementary questions, Mr William Murphy PSM, Deputy Secretary, Premier's Department, 1 November 2024, p 2.

¹⁶⁰ Tabled document: 'PD000018 RE: Project Wattle – Draft Memorandum of Understanding', 15 November 2023.

¹⁶¹ Tabled document: 'PD000001 draft release', 20 November 2023.

as was originally indicated to Mr Murphy and Mr Fisher in their meeting with Mr McMahon on 8 November 2023.¹⁶²

21 November 2023 – Australian Turf Club Board meeting

- 2.68** The committee learned that the Australian Turf Club Board was informed of the proposal at a board meeting on 21 November 2023, with a subsequent board meeting held on 23 November 2023.¹⁶³
- 2.69** Mr Timothy Hale SC, Vice Chair and Elected Director, Australian Turf Club, and Ms Caroline Searcy, Director, Australian Turf Club, told the inquiry that they signed confidentiality agreements at the board meeting on 21 November 2023.¹⁶⁴ They recalled being provided with information about the development, including being told of the potential financial return to the Australian Turf Club of \$5 billion.¹⁶⁵
- 2.70** In his answers to supplementary questions, the Hon Peter McGauran clarified that board members were provided with a preliminary figure of \$4.8 billion as an estimated return for the Australian Turf Club.¹⁶⁶ For further discussion about the sale amounts, see para 2.90 onwards.
- 2.71** Ms Searcy expressed that she was surprised at the meeting to learn of steps already taken by Mr McMahon towards the proposal.¹⁶⁷ She explained that while she could understand why Mr McMahon sought the interest of Racing NSW and the government first, 'it's perhaps not the best governance' from a board perspective.¹⁶⁸

6 and 7 December 2023 – Australian Turf Club and NSW Government announcements

- 2.72** In their submission, Mr Kieran Fitzgerald and Ms Jennifer Spithill, members of the Australian Turf Club, informed the committee that members were first notified of the proposal in an email from the Hon Peter McGauran on 6 December 2023.¹⁶⁹ According to Mr Fitzgerald and Ms Spithill, this email noted that the proposal had the potential for:
- a new training Centre of Excellence at Horsley Park
 - investigation of several sites in Sydney for 'a new, world-class racecourse'
 - the redevelopment of Warwick Farm and Canterbury Park racecourses
 - improvements to Royal Randwick racecourse.¹⁷⁰

¹⁶² Answers to supplementary questions, Mr Murphy, 1 November 2024, p 2.

¹⁶³ Evidence, Mr Hale and Ms Searcy, 9 August 2024, p 21.

¹⁶⁴ Evidence, Mr Hale, 9 August 2024, p 21.

¹⁶⁵ Evidence, Mr Hale and Ms Searcy, 9 August 2024, pp 21 – 22.

¹⁶⁶ Answers to supplementary questions, Hon Peter McGauran, Chairman, Australian Turf Club, 17 September 2024, p 1.

¹⁶⁷ Evidence, Ms Searcy, 9 August 2024, p 21.

¹⁶⁸ Evidence, Ms Searcy, 9 August 2024, p 21.

¹⁶⁹ Submission 45, Kieran Fitzgerald and Jennifer Spithill, p 1.

¹⁷⁰ Submission 45, Kieran Fitzgerald and Jennifer Spithill, p 2.

- 2.73** On 7 December 2023, the Hon Chris Minns MP, Premier, formally announced at Rosehill Racecourse that the NSW Government and Australian Turf Club had signed a memorandum of understanding in relation to a proposal to relocate Rosehill Racecourse and build tens of thousands of new homes.¹⁷¹ It was described as a 'once-in-a-generation opportunity'.¹⁷²
- 2.74** Ms Fishburn informed the committee that she only found out about the Rosehill sale by accident on 6 December (the day before its public announcement) when standing next to William Murphy at the NSW Governor's Christmas drinks when he alerted her to the news breaking on social media:
- In relation to Rosehill, I was made aware on 6 December, which was, I believe, the day before the formal announcement. I can remember with some clarity there because it was actually at the Governor's Christmas reception and I was standing next to William Murphy, who I understand the Committee has spoken to, when information started to come out. I think it was on Twitter or X. I don't know. William had it in his hand, not me. He turned to me and said, "This is the project that I'll be working on." I was formally aware then.¹⁷³
- 2.75** According to the *Unsolicited Proposals: Guide for Submission and Assessment*, 'there is need for high levels of accountability and transparency' alongside 'a need for some information to be kept confidential, at least for a specified period of time'.¹⁷⁴ It further states that all 'proposals submitted will be kept confidential at Stage 1 of the assessment process'.¹⁷⁵
- 2.76** As Katie Knight told the Select Committee, 'As you might appreciate from the guidelines, they are not made public'. In answering a question on notice, Ms Knight informed the Rosehill Committee, 'Five unsolicited proposals have been lodged that involve both a housing and railway/metro station commercial proposal in the last 18 months'.¹⁷⁶
- 2.77** According to Mr McMahon, the Government's press release, into which he had input, announced the signing of a Memorandum of Understanding between the Australian Turf Club and NSW Government, rather than the full sale of Rosehill.¹⁷⁷ He described how he had been involved with the Cabinet Office in the preparation of the press release in order to ensure consistency with messaging from the Australian Turf Club to its members:

¹⁷¹ Media release, Hon Chris Minns MP, Premier, 'Once-in-a-generation opportunity for Rosehill and to secure the future of the NSW racing industry', 7 December 2023.

¹⁷² Media release, Hon Chris Minns MP, Premier, 'Once-in-a-generation opportunity for Rosehill and to secure the future of the NSW racing industry', 7 December 2023.

¹⁷³ Evidence, Ms Fishburn, 21 October 2024, p 3.

¹⁷⁴ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', May 2022, p 11.

¹⁷⁵ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', May 2022, p 12.

¹⁷⁶ Answers to questions on notice, Ms Knight, p 1.

¹⁷⁷ Answers to supplementary questions, Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, 17 September 2024, p 3. The Australian Turf Club and the NSW government entered into a memorandum of understanding, signed by Hon Peter McGauran on 1 December and by Katie Knight on 5 December, see: Tabled document, 'Memorandum of understanding', pp 9 – 10.

... I co-ordinated with the NSW Cabinet Office and provided input into a government press release which announced the signing of an MOU between the ATC and the NSW Government (via DEIT) in order to ensure that wording was accurate and consistent with the ATC's planned communication to members.¹⁷⁸

2.78 In his evidence, Mr Draper explained that the reason for an announcement as opposed to confidentiality at stage one was that the Australian Turf Club viewed it as a transparency measure for its membership.¹⁷⁹

2.79 According to the minutes of the Racing NSW Board meeting held on 21 November 2023, a 'Chief Executives Report' updated the Board that at a meeting with Mr Peter V'landys, Chief Executive, Racing NSW, Mr Russell Balding, at the time the Chairman, Racing NSW, and Mr Murphy on 17 November, the Government indicated that it wanted to 'make an early announcement':

Mr Murphy further explained that one opportunity which the Government and the ATC was investigating was the sale of Rosehill Racecourse for residential development. The Government was looking to receive the industry's support for the ATC's proposals and was hopeful of making an early announcement. He suggested that announcement could be made as early as Thursday 23 November 2023.¹⁸⁰

2.80 The minutes further recorded that while the Board recognised the importance of confidentiality for such a matter, it was 'firmly of the view that it would be unwise to make such an early announcement without first informing the affected trainers of the proposal'.¹⁸¹

2.81 Multiple stakeholders provided a wide range of views about the appropriateness of the media announcement:

- Mr Cullen declared it as 'obvious' that the Premier's Department would have engaged with the Australian Turf Club about the media release, describing how 'we would have sought, or it would have been provided to us—I'd have to take that on notice—draft media materials, which we worked through, obviously wanting to make sure they were legalised et cetera'.¹⁸²
- Mr Draper explained the need for the Government and a proponent to work collaboratively:

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.¹⁸³

¹⁷⁸ Answers to supplementary questions, Mr McMahon, 17 September 2024, p 3.

¹⁷⁹ Answers to supplementary questions, Mr Simon Draper PSM, Secretary, Premier's Department, 11 October 2024, p 1.

¹⁸⁰ *Minutes of the meeting of the board of Racing NSW*, 21 November 2023, p 2.

¹⁸¹ Answers to supplementary questions, Dr Saranne Cooke, Chairman, Racing NSW, 31 October 2024, p 3.

¹⁸² Evidence, Mr Cullen, 21 October 2024, p 38.

¹⁸³ Evidence, Mr Draper, 12 September 2024, p 15.

- Ms Caroline Searcy, Australian Turf Club director, lamented the approach taken, clarifying:

We initially wanted, as I said myself, that the announcement would say that the board had signed the MOU purely on the basis of continuing discussions et cetera. So, yes, that press conference being about housing, I think, probably was a negative in terms of the racing industry suddenly being told, effectively, that we are selling. I think that could have certainly been handled better.¹⁸⁴

- Mr Jason Abrahams, Spokesperson, Save Rosehill Group, described the media announcement as a 'blind-side approach'.¹⁸⁵
- When questioned about the Australian Turf Club's handling of the proposal, Mr David Hall AM, Past Chairman and Honorary Treasurer of the Australian Jockey Club, described it as 'appalling governance', including that Mr McMahon was involved with the Cabinet Office in drafting a press release prior to the Australian Turf Club board being aware of the proposal.¹⁸⁶
- Mr John O'Shea, Racehorse Trainer, described his shock 'to read and hear of the announcement, considering there was no appropriate due diligence done. No-one on the board knew about it, and only one or two of the executives knew about it'.¹⁸⁷

Remaining steps for the sale to proceed

- 2.82** The Australian Turf Club formally lodged its proposal on 28 March 2024, with Mr McMahon informing the committee at the hearing on 9 August 2024 that the proposal had since reached stage two – 'detailed proposal'.¹⁸⁸
- 2.83** The inquiry received evidence from the Australian Turf Club, Racing NSW and government officials in relation to the progress of due diligence under stage two, including investigations for a replacement track for Rosehill.¹⁸⁹ See para 3.17 onwards of Chapter 3 for discussion of the options under consideration.
- 2.84** The final stage in the unsolicited proposal process is stage three – 'negotiation of final binding offer'. In this stage 'all outstanding issues are negotiated and finalised, with a view to the Proponent presenting a final binding offer for assessment'.¹⁹⁰ The Government will subsequently decide whether or not to accept the offer.¹⁹¹

¹⁸⁴ Evidence, Ms Searcy, 9 August 2024, p 24.

¹⁸⁵ Evidence, Mr Jason Abrahams, Spokesperson, Save Rosehill Group, 9 August 2024, p 64.

¹⁸⁶ Evidence, Mr David Hall AM, Past Chairman and Honorary Treasurer of the Australian Jockey Club, 22 July 2024, p 14.

¹⁸⁷ Evidence, Mr John O'Shea, Racehorse Trainer, 22 July 2024, p 5.

¹⁸⁸ Submission 56, NSW Government, p 4; Evidence, Mr McMahon, 9 August 2024, p 14.

¹⁸⁹ See, for example, Evidence, Mr McMahon, 9 August 2024, pp 5 and 14; Evidence, Hon Peter McGauran, 9 August 2024, pp 5 and 7; Evidence, Mr Murphy, 12 September 2024, p 11; Evidence, Mr Graeme Hinton, Chief Operating Officer, Racing NSW, 9 August 2024, p 43.

¹⁹⁰ Submission 56, NSW Government, p 2.

¹⁹¹ Submission 56, NSW Government, p 2.

2.85 When asked whether this proposal would be developed as state significant development, Ms Fishburn responded:

It could be dealt with as a planning proposal by council and my understanding from discussions with the CEO of City of Parramatta is that they would be open to that idea. Parramatta is quite a sophisticated council in their ability to deal with planning matters, so that would definitely lie open to them, or it could be done as a State-led rezoning. My guess is I think you're right, we would say that because of the scale and complexity it should be a State-led rezoning, but I don't want to be prejudging a decision that is further down the line.¹⁹²

2.86 Mr Murphy explained how the decision is made:

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.¹⁹³

2.87 However, there are additional steps outside of the unsolicited process that are also necessary to complete in order for the sale to proceed, namely:

- Racing NSW needs to agree to the sale¹⁹⁴ (as discussed at para 2.110)
- a majority of the Australian Turf Club membership needs to vote in favour of the sale¹⁹⁵
- the planning process must be completed for the land to be developed as proposed.¹⁹⁶

2.88 According to the Hon Peter McGauran, the Australian Turf Club will not proceed to a membership vote at the end of the stage two process unless they are satisfied with the terms of the agreement with the Government. In addition, he insisted that the Australian Turf Club membership will decide whether or not to sell:

If it doesn't stack up, then we won't proceed beyond stage two. If we don't negotiate what we need from the Government in stage three, then we won't proceed. It's a members' decision. Under the *Registered Clubs Act 1976* a racecourse is not permitted to be sold unless a majority of members vote in favour. If members vote against the sale of Rosehill Gardens that will be the end of the proposal and the members' decision will be respected. I would hope to have sufficient material to enable members to make a fully informed decision later this year or in the first quarter of next year.¹⁹⁷

2.89 Mr Draper indicated that he thought it was possible that the membership could be in a position to vote on the sale 'within the next 12 months'.¹⁹⁸ Subsequently the Chair of the Australian Turf

¹⁹² Evidence, Ms Fishburn, 21 October 2024, p 6.

¹⁹³ Evidence, Mr Murphy, 12 September 2024, p 12.

¹⁹⁴ Evidence, Mr V'landys, 9 August 2024, p 44.

¹⁹⁵ Submission 61, Australian Turf Club, p 1.

¹⁹⁶ Evidence, Mr Murphy, 9 August 2024, p 14.

¹⁹⁷ Evidence, Hon Peter McGauran, 9 August 2024, p 3.

¹⁹⁸ Evidence, Mr Draper, 12 September 2024, p 15.

Club wrote to members advising an extraordinary general meeting would be held on 3 April 2025 at which members will vote on the proposal.¹⁹⁹

Determining the value of the racecourse

- 2.90** The value of Rosehill Racecourse was a point of contention during the inquiry.
- 2.91** Mr Murphy confirmed that the Government had not yet engaged expert valuers to determine the value of the Rosehill Racecourse, as they were not at the stage of requiring that advice.²⁰⁰
- 2.92** In his evidence, the Hon Peter McGauran explained that the Australian Turf Club had been provided with 'preliminary indicative financials/returns' of \$4.8 billion for the proposed development.²⁰¹ This valuation captured the infrastructure required as per normal development applications and constructions and was provided to the Australian Turf Club Board on 21 November.²⁰² The Australian Turf Club advised members that there was an estimated return of \$5 billion.²⁰³
- 2.93** However, Mr Hale SC, expressed his difficulty in accepting the \$5 billion valuation, referring to the fact that he understands valuation in his professional capacity, as well as noting that he had never seen the valuation for it.²⁰⁴ Mr Hale surmised that the valuation of \$5 billion was based on \$200,000 per dwelling for 25,000 dwellings.²⁰⁵ In Mr Hale 's view, as a barrister with expertise 'in property development and property matters, including the valuation of land', the \$1.6 billion net valuation is more realistic. He reported that the \$1.6 billion valuation took into account 'the Metro Station, the rezoning for Rosehill Racecourse for 25,000 dwellings and the construction and sale of those dwellings over 43 years'.²⁰⁶
- 2.94** At the hearing on 9 August 2024, the Hon Peter McGauran clarified the value of Rosehill Gardens should it be sold with its current zoning:
- The best advice we've had, if you wanted to sell Rosehill Gardens as is, no rezoning, walk-in, walk-out, \$1.6 billion—not \$2 billion. And of course that is a paltry return for the loss of a premium racetrack. We wouldn't even let that bid through the door.²⁰⁷
- 2.95** Nonetheless, Mr Garry Charny, Racing NSW board member, and Mr Peter V'landys AM, Chief Executive, Racing NSW, were both of the view that the sale price could be far greater than the amount suggested by the Australian Turf Club. Mr Charny stated that if a 30 year development is completed on 'normal terms, taking some development risk, 'the value of this development is

¹⁹⁹ Ray Thomas, 'Racing Confidential: Australian Turf Club members to vote on Rosehill sale proposal next year', *The Australian*, 7 November 2024.

²⁰⁰ Evidence, Mr Murphy, 9 August 2024, p 18.

²⁰¹ Answers to supplementary questions, Hon Peter McGauran, 17 September 2024, p 1.

²⁰² Evidence, Mr McMahan, 9 August 2024, p 16; Answers to supplementary questions, Hon Peter McGauran, 17 September 2024, p 1.

²⁰³ Answers to supplementary questions, Hon Peter McGauran, 17 September 2024, p 1.

²⁰⁴ Evidence, Mr Hale, 9 August 2024, p 22.

²⁰⁵ Evidence, Mr Hale, 9 August 2024, p 22.

²⁰⁶ Answers to supplementary questions, Mr Timothy Hale SC, Vice Chair and Elected Director, Australian Turf Club, 17 September 2024, pp 4 and 6.

²⁰⁷ Evidence, Hon Peter McGauran, 9 August 2024, p 9.

closer to \$20 billion to the ATC'.²⁰⁸ Mr V'landys similarly proposed that the value over 30 years would be \$23 billion.²⁰⁹

Membership agreement to sell

2.96 Multiple witnesses spoke of the requirement to gain membership support in order for the sale to proceed, with many highlighting the limited information available to the membership about the proposal.²¹⁰ The committee heard that there would need to be a lot more information available before a decision could be made.²¹¹

2.97 Nonetheless, multiple witnesses, including prominent racing figures, referred to a general view that members were currently opposed to selling the racecourse; with others claiming that they were not aware of any members who supported the sale of the racecourse.²¹²

2.98 The Australian Turf Club held two membership forums in 2024.²¹³ The committee heard that members at the forums were hostile to the proposal.²¹⁴

2.99 Mrs Gai Waterhouse AO, Racehorse Trainer, described a harsh response from members to the Hon Peter McGauran's presentation of the proposal:

It was very much a fait accompli, from the way Mr McGauran was speaking, that this was what was going to happen. Of course, he expected everyone to agree, and I think he was quite shocked at how violent the reaction was to the sale of Rosehill.²¹⁵

2.100 Mr Abrahams similarly recalled the attitude of members at the forum he attended:

It was standing room only, so that tells you how engaged the members were. There was vehement anger in the room towards the submission and the proposal, and there was a conga line of people wanting to give their thoughts over the microphone, to the board.²¹⁶

²⁰⁸ Evidence, Mr Garry Charny, Board Member, Racing NSW, 9 August 2024, p 34.

²⁰⁹ Evidence, Mr V'landys, 9 August 2024, p 57.

²¹⁰ See, for example: Submission 61, Australian Turf Club, p 1; Evidence, Ms Searcy, 9 August 2024, pp 20 – 21; Evidence, Mr Darren McConnell, Vice-President, NSW Racehorse Owners Association, 22 July 2024, p 25.

²¹¹ See, for example, Evidence, Mr Ron Finemore, Owner, Finemore Thoroughbreds Pty Ltd, 21 October 2024, p 25.

²¹² See, for example: Evidence, Mrs Waterhouse, Racehorse Trainer, 22 July 2024, p 6; Evidence, Mr O'Shea, Racehorse Trainer, 22 July 2024, p 6; Evidence, Mr McGrath, 21 October 2024, p 24; Evidence, Mr Hale, 9 August 2024, p 21; Evidence, Ms Searcy, 9 August 2024, p 21.

²¹³ See, for example: Evidence, Mr Abrahams, 9 August 2024, p 64; Evidence, Mr McGrath, 21 October 2024, p 22.

²¹⁴ See, for example, Evidence, Mr McGrath, 21 October 2024, p 22; Evidence, Mrs Waterhouse, 22 July 2024, p 5.

²¹⁵ Evidence, Mrs Waterhouse, 22 July 2024, p 10.

²¹⁶ Evidence, Mr Abrahams, 9 August 2024, p 64.

- 2.101** Mr McGrath posited that it was an error to stop holding forums after the second one.²¹⁷ He suggested that the Australian Turf Club could have better engaged with the membership by:
- holding a panel presenting views for and against the sale
 - facilitating a 'sensitivity vote online' to receive feedback about the membership position.²¹⁸

Involvement and influence of Racing NSW

- 2.102** There was much discussion throughout the inquiry about the involvement of Racing NSW in the unsolicited proposal process. Both the Australian Turf Club and Racing NSW were of the view that the support of Racing NSW, as the regulator, was crucial for any sale to proceed.²¹⁹
- 2.103** The committee learned that Mr McMahon informed the Cabinet office that the Australian Turf Club regulator would need to be part of the conversations, asking whether they should sign the confidentiality agreement.²²⁰
- 2.104** Mr V'landys gave evidence that on 1 November 2023, he and Mr Graeme Hinton, Chief Operating Officer, Racing NSW, were briefed about the proposal by the Hon Peter McGauran and Mr McMahon, as they sought Racing NSW's support for their preliminary proposal for Rosehill.²²¹
- 2.105** Confidentiality deeds were subsequently executed by Mr V'landys and Mr Russell Balding, 'on the basis that there was the potential for commercially sensitive information to be discussed'.²²² Mr V'landys and Mr Balding met with Mr Murphy and another staff member from the Cabinet Office on 17 November 2023.²²³
- 2.106** The Cabinet Office's minutes of those meetings record that Racing NSW 'sought a meeting to share its perspective on a potential Australian Turf Club (ATC) unsolicited proposal and governance issues in the racing sector'.²²⁴ They also note the following suggestions by Racing NSW:
- legislative reform to ensure the Australian Turf Club 'is governed by an appropriately skills-based Board to ensure the right mix of capability required' and that 'the revenue derived from the ATC proposal is reinvested to benefit the racing industry as a whole'²²⁵
 - that Kembla Grange racecourse 'should be an industry asset, and on that basis, transferred under freehold or long term lease to Racing NSW'.²²⁶

²¹⁷ Evidence, Mr McGrath, 21 October 2024, pp 22 and 24.

²¹⁸ Evidence, Mr McGrath, 12 October 2024, p 24.

²¹⁹ Evidence, Mr McGauran, 9 August 2024, p 5; Evidence, Mr V'landys, 9 August 2024, p 44.

²²⁰ Tabled document: 'Email regarding confidentiality deed', 8 November 2023, p 3.

²²¹ Evidence, Mr V'landys, 9 August 2024, p 60.

²²² Tabled document: 'Minutes, Record of meeting with Racing NSW, PD 44', p 1.

²²³ Tabled document: 'Minutes, Record of meeting with Racing NSW, PD 44', p 1.

²²⁴ Tabled document: 'Minutes, Record of meeting with Racing NSW, PD 44', p 1.

²²⁵ Tabled document: 'Minutes, Record of meeting with Racing NSW, PD 44', p 2.

²²⁶ Tabled document: 'Minutes, Record of meeting with Racing NSW, PD 44', p 2.

- 2.107** At the hearing on 9 August 2024, Mr V'landys clarified that his suggestions stemmed from a desire that the revenue from the sale of Rosehill be invested in racing infrastructure:

We have never wanted to seize the revenue, but we have said that we want to see the revenue spent on racing infrastructure. We do not want to see it spent on indulgence of members, who contribute \$6 million, when the racing industry contributes \$256 million. It has got to be an equitable share in how the money is spent. The view of Racing NSW is that the majority should be invested so the ATC gets this revenue and is not reliant on gambling revenue.²²⁷

- 2.108** In her evidence, current Chairman of Racing NSW, Dr Saranne Cooke, recollected that the previous Chairman, Russell Balding, informed her on 20 November 2023 that they would need to sign a non-disclosure agreement at the board meeting on 21 November 2023, in order to receive highly confidential information in relation to Rosehill.²²⁸ The Racing NSW board were then briefed at this meeting.²²⁹

- 2.109** According to the minutes of the Racing NSW board meeting held on 21 November 2023, Mr V'landys reported that he and Mr Balding 'had been called to attend' the meeting with Mr Murphy on 17 November 2023. Those minutes note that Racing NSW is to have oversight of the majority of the proceeds of the sale:

Having further considered the matter the Board resolved to endorse the proposal in principle subject to further negotiations with NSW Government. Further, Racing NSW to have oversight over the majority of the proceeds of the sale after providing a reasonable sum to the ATC (with a proviso that those funds only be used for racing and racing infrastructure).²³⁰

- 2.110** When questioned about reports that he would have 'the final say on the proposal', Mr V'landys explained that the need for Racing NSW to approve the sale stemmed from the intra-code agreement:

One of the agreements that we have is called the intra-code agreement, which is from the privatisation of the TAB. The ATC is required to conduct a minimum amount of metropolitan meetings and at specific tracks. They need our approval in order to vary that agreement. That agreement is then backed up by legislation, the Totalizator Act, that we can give directions to the ATC, or any race club for that matter, in order for them to honour those agreements. They have to. They've got no choice but to honour those agreements. In those agreements, they have to conduct races at Rosehill. In order for them to sell Rosehill, they would need our approval, because that agreement would need to be varied.²³¹

- 2.111** Mr V'landys also highlighted that there is a statutory requirement for Racing NSW to 'act in the best interests of the industry as a whole'.²³² Additionally, both Mr V'landys and Mr Hinton

²²⁷ Evidence, Mr V'landys, 9 August 2024, p 59.

²²⁸ Evidence, Dr Saranne Cooke, Chairman, Racing NSW, 12 September 2024, p 65.

²²⁹ Evidence, Dr Cooke, 12 September 2024, p 65; Answer to supplementary questions, Mr Peter V'landys AM, Chief Executive, Racing NSW, 29 October 2024, p 8.

²³⁰ Minutes of the meeting of the Board of Racing NSW, 21 November 2023, page 3.

²³¹ Evidence, Mr V'landys, 9 August 2024, p 44.

²³² Evidence, Mr V'landys, 9 August 2024, p 44.

indicated the importance of a replacement track in Sydney if Rosehill is no longer to serve as a racecourse, with Mr Vlandys responding that it was 'absolutely' part of the criteria for approving any sale.²³³

- 2.112** Mr Garry Charny, Board Member, Racing NSW, described the role of Racing NSW as 'to control, supervise and regulate horseracing in the State, including the economic development and strategic development, and to initiate, develop and implement policies considered conducive to the promotion, strategic development and welfare of the horseracing industry'.²³⁴ Mr Charny stressed that Rosehill Racecourse is the substantial asset of the Australian Turf Club and its sale would accordingly have a significant impact on the industry:

There is a substantial asset, perhaps the substantial asset owned by the ATC—in fact, the only asset really owned by the ATC—and they are proposing to sell it. That would have a fundamental effect on the ATC and on the industry. As the regulator, it's essential that we keep an eye on what's going on. That's our job.²³⁵

- 2.113** Mr Terry O'Brien, Director, Policy and Racing, Hospitality and Racing, Department of Creative Industries, Tourism, Hospitality and Sport, confirmed that the Office of Racing had not played a role in the announcement or decision-making in relation to the sale of Rosehill Racecourse nor did it have a role in the unsolicited proposal at the time of the hearing.²³⁶ Mr O'Brien asserted that as per Racing NSW's legislated functions including 'around the economic and strategic development of racing', Racing NSW 'would need to consider the loss of a metropolitan track and how it might replace that'.²³⁷
- 2.114** Mr Charny and Mr Hinton confirmed that Racing NSW was currently carrying out due diligence activities to inform itself of the merits of the sale of Rosehill for the industry.²³⁸

Stakeholder concerns about Racing NSW

- 2.115** The inquiry received a significant amount of evidence, public and confidential, in which stakeholders voiced concerns about the role of Racing NSW both in the proposal to develop Rosehill Racecourse, including the genesis of the proposal,²³⁹ as well as more broadly.
- 2.116** Concerns were raised about the integrity of Racing NSW's finances. In his submission to the inquiry, the former NSW Auditor General, Tony Harris, was critical of the presentation of the financial accounts, particularly in the overuse of provisions. Mr. Harris wrote of how:

Provisions are expenses that act to reduce profits (or increase losses) for items that have been incurred but for which payments are not yet due. They include estimates, for example, for payments for workers compensation or insurance payments, that are

²³³ Evidence, Mr Vlandys, 9 August 2024, p 44; Evidence, Mr Hinton, 9 August 2024, p 43.

²³⁴ Evidence, Mr Charny, 9 August 2024, p 28.

²³⁵ Evidence, Mr Charny, 9 August 2024, p 28.

²³⁶ Evidence, Mr Terry O'Brien, Director, Policy and Racing, Hospitality and Racing, Department of Creative Industries, Tourism, Hospitality and Sport, 21 October 2024, pp 10 and 12.

²³⁷ Evidence, Mr O'Brien, 21 October 2024, p 13.

²³⁸ Evidence, Mr Charny, 9 August 2024, p 27; Evidence, Mr Hinton, 9 August 2024, p 43.

²³⁹ See, for example: Evidence, Mrs Waterhouse, 22 July 2024, p 12.

actuarially calculated. While provisions such as these are common in entities' final statements, NSW Racing financial statements have provisions that appear not to represent 'a present legal or constructive obligation as a result of a past event' (Note 1q Summary of Significant Accounting Policies, NSW Racing Financial Statements).

An example of provisions that seem unrelated to obligation arising from past events is the \$116 million set aside for 'investment for capital projects across NSW in accordance with the 2017-19 Racing NSW Strategic Plan.' Another is the \$36 million expenses recognised to 'support Thoroughbred Racing Clubs with financial hardship they may run into' or the \$106 million expense for sustaining (future) increases in Racing NSW prizemoney.

Although these are audited figures, there is sufficient information to suggest that some of these provisions do not meet the definition for provisions set down in accounting standards. If it is confirmed that some of these provisions do not relate to obligations, there would be a need to revise and increase past profit results and increase past results for net assets.²⁴⁰

- 2.117** Mr Jason Abrahams, spokesperson for the Save Rosehill Group, described his uneasiness about the power of Racing NSW and their having access to proceeds of the sale:

What I can say is that there has been a concentration of power and wealth by Racing NSW to the detriment of all clubs, not only the ATC. In the submission made by Racing NSW to the Government, they mentioned that they would like to divert proceeds from the sale away from the club to other areas. That leads you to think, as an ATC member, that ATC members won't get the full sale proceeds because Racing NSW looks to be elbowing in on the proceeds of the sale of an asset which, frankly, they don't own.²⁴¹

- 2.118** The Save Rosehill Group contended that Racing NSW's suggestions of reform to the governance of the Australian Turf Club via legislation, particularly if the unsolicited proposal is 'taken up', showed 'irony and chutzpah', given the state of Racing NSW's governance.²⁴² They held doubts about Racing NSW's motives:

...(w)e question the sincerity of the governance concerns expressed by Racing NSW, which we suspect are intended to cover an attempt to secure control of the proceeds of any sale of Rosehill and diminish member representation and the independence of the ATC board.²⁴³

- 2.119** Mrs Waterhouse expressed her concerns about Racing NSW's control of money across the racing industry in New South Wales generally, and highlighted her fears for Racing NSW's role in any sale of Rosehill Racecourse:

I think also what you should be thinking is—you've got to realise that Racing NSW controls the dollars and cents. If Rosehill's sold, the money goes to one place: Racing NSW. It doesn't go to the members. It doesn't go back to the ATC. The ATC won't get that money. They won't be able to develop the next club. It'll be developed at the—what Mr V'landys and Racing NSW think they should be getting. So, really, we don't

²⁴⁰ Submission 34, Mr Anthony Harris, pp 1 – 2.

²⁴¹ Evidence, Mr Abrahams, 9 August 2024, p 67.

²⁴² Submission 63, Save Rosehill Group, p 6.

²⁴³ Submission 63, Save Rosehill Group, p 6.

know. We're going into a black tunnel. You talk about putting the rail there—us selling it—yet what are you going to get? Peanuts, if that—if we even get that.²⁴⁴

2.120 In addressing these concerns, Mr V'Landys gave evidence to the committee that Racing NSW had no intention of 'seizing' proceeds from the development of Rosehill Racecourse: 'We said that because the ATC is going to receive so much money, they should have relevant skill on that board in order to manage that money. If we were going to take the money, why would we want somebody on that board that had the relevant skill?'²⁴⁵

2.121 Multiple witnesses and submissions raised serious concerns about Racing NSW more generally and how that may impact the nature of their involvement in the proposal:

- a general lack of transparency and accountability, including of finances²⁴⁶
- a culture of bullying²⁴⁷
- tenure of the Chief Executive²⁴⁸
- the controlling nature of Racing NSW.²⁴⁹

2.122 However, witnesses from Racing NSW vigorously defended the actions of Racing NSW, including its workplace culture. When questioned about allegations of a 'toxic culture, an environment of fear and reprisal at Racing NSW', including tracking of staff's email and web activity, Mr V'landys decried the allegation as 'absolute rubbish'.²⁵⁰ He denied any complaints about the culture at Racing NSW, nor about sexual harassment:

I have never had a complaint against me for any situation at any time in my career. For someone to suggest that is the lowest form of life. The other thing it does is take away credibility from people who genuinely do have complaints about people that they don't bring forward. There has never, ever, ever, ever, ever been a complaint about me.²⁵¹

2.123 He told the inquiry that he believed that an email was being circulated to encourage people to make submissions to the inquiry to harm his reputation:

I'm aware of an email that's going around that's basically saying, 'This is your chance to get rid of V'landys, so make up whatever you can, put a submission in. It doesn't matter if it's the truth, it doesn't matter if it's lies, but just smear him.'²⁵²

²⁴⁴ Evidence, Mrs Waterhouse, 22 July 2024, p 11.

²⁴⁵ Evidence, Mr V'landys, 9 August 2024, p 45.

²⁴⁶ See, for example: Evidence, Mrs Deborah Prest, Horse Trainer, 12 September 2024, p57; Evidence, Mr Abrahams, 9 August 2024, p65, Mr Hall, 22 July 2024, p 15.

²⁴⁷ See, for example, Evidence, Mrs Prest, 12 September 2024, p 62.

²⁴⁸ See, for example: Evidence, Mr Hamish Esplin, President, Thoroughbred Breeders NSW, 22 July 2024, p 44; Evidence, Mrs Waterhouse, 22 July 2024, p 7.

²⁴⁹ See, for example: Evidence, Ms Searcy, 9 August 2024, p24; Evidence, Mrs Waterhouse, 22 July 2024, p 2; Evidence, Mr Hall, 22 July 2024, p 15.

²⁵⁰ Evidence, Mr Peter V'landys, 9 August 2024, p 47.

²⁵¹ Evidence, Mr V'landys, 9 August 2024, p 53.

²⁵² Evidence, Mr V'landys, 9 August 2024, p 41.

- 2.124 Dr Cooke defended Mr V'landys as an 'exceptional leader', describing how the Racing NSW board unanimously agreed that Mr V'landys is the best person to be Chief Executive.²⁵³ Dr Cooke was of the view that there has not been a complaint against Mr V'landys in his tenure as Chief Executive.²⁵⁴

Committee comment

- 2.125 Before this inquiry was established, documents were produced to the Legislative Council, in accordance with standing order 52, that raised questions about the way in which the proposal to redevelop Rosehill Racecourse came about. There was a perception among some people that the proposal, spearheaded by Mr McMahon, a known friend of the Premier and long-standing Labor Party member, was either being led by the Government, or fast-tracked by the Government without adherence to proper probity measures.
- 2.126 From the outset, this committee has sought answers to questions around the origins of the idea to redevelop Rosehill Racecourse, including whether the proposal to Government was truly unsolicited, and the nature of the involvement by the Government both before and during the unsolicited proposal process.
- 2.127 The committee accepts that various ideas for the Camellia-Rosehill precinct have been explored over a number of years and that the Australian Turf Club, and particularly Mr McMahon, were involved in some of the discussions with government agencies. What is less apparent, however, are the reasons for the sudden urgency that led to a change of plans by the Australian Turf Club, resulting in their consideration of the full sale of Rosehill Gardens. Questions remain around whether this was truly due to the window closing for securing a metro station at Rosehill.
- 2.128 The committee received conflicting evidence about the content of discussions between Mr McMahon and the independent metro review team on 14 August 2023, and also between Mr McMahon and the Secretary of Planning on 25 October 2023. During the inquiry, the committee heard how these two meetings were viewed as crucial to the Australian Turf Club reconsidering its position about selling Rosehill Gardens. However, a particular sticking point in the evidence was whether these discussions included mention of the need for 40,000 dwellings in order to justify a metro station.

Finding 1

The committee did not receive evidence that on 26 October 2023 the Australian Turf Club had any accurate, verifiable basis to believe that 40,000 dwellings would secure a metro station at Rosehill.

- 2.129 The committee is particularly concerned that for a significant proposition like this, senior public servants were left out of key discussions and decisions. The committee was particularly

²⁵³ Evidence, Dr Cooke, 12 September 2024, p 64.

²⁵⁴ Evidence, Dr Cooke, 12 September 2024, p 70.

concerned about the evidence from Ms Fishburn that she only found out about the sale by accident the day before it was announced by the Premier.

- 2.130** The committee was unconvinced by the evidence that suggested a dramatic change in position overnight of the Australian Turf Club in expressing that Rosehill was a premier racing venue in a meeting with the Secretary of Planning on 25 October with no plans to relocate, to seek to redevelop the racecourse for housing the next day as well as a meeting with the Premier.
- 2.131** A further issue that emerged was the ability of Mr McMahon to secure a meeting with the Premier in such a short timeframe. While the Premier's Chief of Staff, Mr Cullen, claimed this was not unusual, it is not unreasonable to question whether it was due to the friendship of Mr McMahon and the Premier.
- 2.132** The committee is of the view that the Premier should have declared a conflict of interest, especially in light of the Independent Commission Against Corruption ruling on Operation Keppel, due to his close personal relationship with Mr McMahon. Furthermore, given this conflict of interest the Premier should therefore have met with the Chair and/or the Chief Executive Officer of the Australian Turf Club.
- 2.133** Of further concern is the use of the phrase 'meet and greet' to record this meeting in the ministerial diary. The committee is firmly of the view that ministerial diary disclosures should properly disclose the purpose of meetings. We are concerned by use of the phrase 'meet and greet' to describe the initial meeting between Mr McMahon and the Premier on 30 October 2023. In our view, the phrase is inaccurate, misleading and does not adequately describe the matters to be discussed. It is inappropriate given the long-standing friendship of Mr McMahon and the Premier as well as the matters that we now know were discussed at that meeting.
- 2.134** The committee was also concerned to hear from senior public servants that they didn't think there was a justification for direct dealings of the proposal when they were asked to consider it. The Project Wattle document makes several mentions of ICAC's 'Guidelines for Managing Risks in Direct Negotiations' including that public officials should ensure the decision making process is free of any actual or apprehended bias.

Finding 2

The use of 'meet and greet' to describe the meeting of Mr Steve McMahon and the Hon Chris Minns MP, Premier, on 30 October 2023 is inaccurate, misleading and does not adequately describe the purpose of this meeting. It is inappropriate given the long-standing friendship of Mr McMahon and the Premier and the nature of the matter discussed at the meeting. Ministerial diary disclosures should properly disclose the purpose of meetings.

Finding 3

There was significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier.

Finding 4

The committee finds that, given the significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier and concerns regarding direct dealings and conflicts of interest, this report should be referred to the Independent Commission Against Corruption.

- 2.135** In order to ensure ministerial diary disclosures are properly recorded, the committee recommends that the NSW Government update the Ministerial Diary Disclosure requirements to mandate an accurate description of attendees, purpose and any conflicts of interest.
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Recommendation 1

That the NSW Government update the Ministerial Diary Disclosure requirements to mandate an accurate description of attendees, purpose and any conflicts of interest and extend these requirements to Shadow Ministerial spokespeople.

- 2.136** In addition, it is clear that the holding of a press conference at Rosehill Racecourse on 7 December 2023 to announce that a memorandum of understanding had been agreed by the Australian Turf Club and the Government, representing a 'once-in-a-generation opportunity', was poorly handled.
- 2.137** It is extraordinary that a proposal this significant was envisaged to proceed from a pre-lodgement meeting to an announcement in just over two weeks and eventually went through this process with a media announcement from the Premier supporting the proposal in under a month.
- 2.138** The requirements for unsolicited proposals under the *Unsolicited Proposals: Guide for Submission and Assessment* state that 'fair and impartial treatment will be a feature of each stage of the assessment process'.²⁵⁵ It is the committee's view that the comments of the Government in its press release and particularly those of the Premier at the announcement breached these requirements.
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Finding 5

The manner in which the Premier and Government announced the proposal to develop Rosehill Racecourse for housing was in breach of the *Unsolicited Proposals: Guide for Submission and Assessment* by failing to maintain impartiality when it championed the proposal and for making the public announcement prior to the end of stage one of the unsolicited proposal process.

²⁵⁵ Submission 56, NSW Government, Attachment 1 - 'Unsolicited Proposals: Guide for Submission and Assessment', p 11.

- 2.139** Indeed, the committee is of the view that the whole process should have been better handled by the Australian Turf Club and the Government, including management of communication between the Australian Turf Club, its board and members, and the general public. At multiple times throughout the inquiry, it was clear to the committee that key stakeholders were not aware of details of the proposal and that assessment of relevant factors was at a preliminary stage.

Finding 6

The announcement of the signing of a memorandum of understanding between the Australian Turf Club and the Government was poorly handled. Communication between the Australian Turf Club, its board and members, and the general public should have been better managed throughout the whole process.

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- 2.140** While evidence was received with concerns that the proposal to sell Rosehill Racecourse emanated from Racing NSW, there was other evidence that Racing NSW while being informed early in the process, was not the driver of this sale. Racing NSW has expressed their support for the proposal if certain criteria are met by the Australian Turf Club and it remains unclear at what point in the process Racing NSW will make a final determination as to whether to amend the intra-code agreement and thereby approve the sale from their perspective.
- 2.141** Other evidence was received from witnesses, including the Australian Turf Club, that the consideration of selling Rosehill was due to the untenable state of the club's finances. Some witnesses raised concerns that the club's finances are dire in part as a result of the funding model that exists between Racing NSW and the Australian Turf Club.

Finding 7

There is conflicting evidence and uncertainty with the financial assumptions behind and the financial viability of the proposal to develop Rosehill Racecourse.

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- 2.142** Racing NSW as both the regulator and commercial operator of the industry is in a very unique position. Large amounts of evidence were received by the committee both public and confidential, from a wide range of participants who are involved in the racing industry concerning Racing NSW. This evidence alleged serious concerns with Racing NSW and in particular its Chief Executive Officer, many of which were denied by representatives of Racing NSW in their evidence before the committee and subsequent correspondence to the committee. While this evidence was received by the committee and ventilated in many of the hearings, it falls outside the terms of reference before the committee in this instance.
- 2.143** Racing NSW is established under the *Thoroughbred Racing Act 1996*. The Act sets out the functions and powers of Racing NSW, and specifies that it is not subject to direction or control by or on behalf of the Government. The committee is of the view that the various provisions of the Act require examination.
- 2.144** While noting that the matters did not fall within the Terms of Reference, the committee was particularly concerned by the significant volume of confidential evidence we received from

whistleblowers within the industry, which raised serious concerns about Racing NSW, including allegations of illegal activity and other conduct that is plainly not acceptable from a regulatory body. The committee grappled with how to address these allegations without breaching the confidentiality of those who came forward many of whom feared retribution for their actions. The committee believes that these matters are worthy of further investigation.

- 2.145** We accordingly recommend that the Legislative Council give consideration to establishing an inquiry into the operations of Racing NSW. We further recommend that the NSW Government conduct a thorough review of the *Thoroughbred Racing Act 1996* which, among other things, considers whether the Act is fit for purpose.

Recommendation 2

That the Legislative Council give consideration to establishing an inquiry into the operations of Racing NSW.

Recommendation 3

That the NSW Government conduct a thorough review of the *Thoroughbred Racing Act 1996* which, among other things, considers whether the Act is fit for purpose.

Chapter 3 Potential impacts of the development of Rosehill Racecourse

This chapter explores the various impacts of the development of Rosehill Racecourse, especially on the racing industry. It considers the potential replacement of Rosehill Racecourse should it be sold, including the viability of alternative sites that have been proposed. The impacts on housing, and the Sydney Metro West line are also discussed. Finally this chapter outlines various animal welfare concerns, and ideas presented about how proceeds from a sale could be redirected towards improving animal welfare in New South Wales.

Impacts on the racing industry

- 3.1** As described in Chapter 1, Rosehill Racecourse is one of four metropolitan racecourses in Sydney. This section presents stakeholder perspectives about the possible impacts on the industry should the sale of Rosehill Racecourse proceed, from the potential influx of funds to concerns about the loss of one of Sydney's racetracks. This section also looks at some of the options presented as replacements for Rosehill Racecourse.

Generating funds for the industry's future

- 3.2** The leadership of the Australian Turf Club (ATC) highlighted the potential for the sale of Rosehill Racecourse to generate necessary funds to sustain the future of both the Australian Turf Club and the racing industry more broadly. In his opening statement, the Hon Peter McGauran, Chairman, Australian Turf Club, described the need to appeal to the younger generation:

To prosper—not just to survive but to prosper—and to build the facilities for racegoer and horse alike, we need hundreds of millions of dollars. The way people interact with sport and the fan experience generally is rapidly changing... We have to find new ways to appeal to those 18- to 35-year-olds that will take racing through the next 50 years.²⁵⁶

- 3.3** The Hon Peter McGauran went on to stress that current facilities need to improve in order to remain competitive:

The current facilities at all of our four racetracks do not meet the expectations of many of the people that we need to attract as both members and racegoers. Separate to patron's facilities we need to continue to attract the best trainers, jockeys and horses to provide the very best racing. Large and ongoing investment is required to maintain and continuously improve our racing and training surfaces, and our stabling facilities, to ensure they're world class and certainly competitive with Victoria and other States, all of whom are heavy investors in facilities and training centres. The ATC does not have a sustainable business model to do all these things.²⁵⁷

²⁵⁶ Evidence, Hon Peter McGauran, Chairman, Australian Turf Club, 9 August 2024, p 2.

²⁵⁷ Evidence, Hon Peter McGauran, 9 August 2024, p 2.

3.4 In addition, the Hon Peter McGauran explained the need for the Australian Turf Club to explore income streams that do not rely on wagering.²⁵⁸

3.5 Ms Caroline Searcy, Director, Australian Turf Club, agreed that the racing industry faces financial challenges, warranting the exploration of new funding possibilities. Mr Timothy Hale SC, Vice Chair and Elected Director, Australian Turf Club, and Ms Searcy agreed with the proposition that an injection of billions of dollars into world-class facilities would give a competitive advantage to the racing industry in New South Wales over other jurisdictions.²⁵⁹ Ms Searcy described how the money could assist with the challenging upkeep costs of the racing industry:

It would certainly be something that would improve racing and, as I said, there are a lot of headwinds in the racing industry. To be able to have, as you heard before, not only the racing surfaces, the safety for the participants, the hospitality—to have everything improved through a great influx of money certainly would be a fantastic thing for racing in New South Wales.²⁶⁰

3.6 While industry participants acknowledged that more funds would be welcome, there was disagreement over whether the sale of Rosehill Racecourse would be a workable solution. Mr Matthew McGrath, former Chairman, Australian Turf Club, strongly agreed that all race clubs need to diversify their income to become less reliant on wagering revenue. However, he contended that other options such as sponsorship or new non-race day activities were viable revenue streams, ruling out selling a racecourse as an option.²⁶¹

3.7 Likewise, Mr Jason Abrahams, spokesperson for the Save Rosehill Group, acknowledged that 'we need to be able to find out where we can best utilise the funds', but he insisted that 'there are many alternatives, including utilising our existing assets such as Rosehill better. We are already doing that through non-race day events'.²⁶²

3.8 Mrs Gai Waterhouse AO, Racehorse Trainer, agreed that more funding is needed, but like Mr McGrath, did not believe that selling Rosehill Racecourse was the way to solve the problem.²⁶³ In her view, the problem with revenue stemmed from Racing NSW controlling all the money:

Unless you can change, literally immediately, the way that racing is being controlled and the way the money is—one of the reasons, what you're saying, is that there's no money. They've got no money. You can't do things. You can't advertise or do any of those things or make the facilities nicer, be it Warwick Farm or Rosehill or wherever it might be, if you haven't got any money. The club is broke.²⁶⁴

3.9 In a similar vein, Mr Hamish Esplin, President, Thoroughbred Breeders NSW, refuted the proposition that an injection of funds of the scale contemplated by the sale of Rosehill

²⁵⁸ Evidence, Hon Peter McGauran, 9 August 2024, p 2.

²⁵⁹ Evidence, Mr Timothy Hale SC, Vice Chair and Elected Director, Australian Turf Club, 9 August 2024, p 25; Evidence, Ms Caroline Searcy, Director, Australian Turf Club, 9 August 2024, p 25.

²⁶⁰ Evidence, Ms Searcy, 9 August 2024, p 25.

²⁶¹ Evidence, Mr Matthew McGrath, Ex Chairman, Australian Turf Club, 21 October 2024, p 21.

²⁶² Evidence, Mr Jason Abrahams, Spokesperson, Save Rosehill Group, 9 August 2024, p 65.

²⁶³ Evidence, Mrs Gai Waterhouse AO, Racehorse Trainer, 22 July 2024, p 11.

²⁶⁴ Evidence, Mrs Waterhouse, 22 July 2024, p 11.

Racecourse would lead to improvements for breeders.²⁶⁵ He was sceptical that the money would flow properly to the racing industry:

What we say is if you're going to have this massive windfall and have this capital in a company that is somehow related to the regulator but we don't understand how and it's not made clear how, except to say that Racing NSW say they can have the final say on how that money's spent and where it's spent, then we say, "Well, where's the assurance that it's going to be spent properly for us?", whether by way of a new racecourse or whether by way of putting it into very large prize money races at the top, which many of our members don't think really makes its way down to the broader membership of those who breed and race in this State.²⁶⁶

3.10 He was not satisfied that a guarantee would effectively protect the proceeds from the sale of Rosehill so they are quarantined for appropriate use by the industry, the Australian Turf Club and its members.²⁶⁷

Concerns about the loss of Rosehill Racecourse

3.11 Many inquiry participants expressed steadfast opposition to the sale of Rosehill Racecourse:²⁶⁸

- Mr Kieran Fitzgerald and Ms Jennifer Spithill, members of the Australian Turf Club, were of the view that the proposal to develop Rosehill Racecourse is 'deeply flawed', and stated in their submission that it 'would be bad for racing in Sydney'.²⁶⁹
- Another Australian Turf Club member, Mr Oliver Tait, expressed his strong opposition to the proposal, describing Rosehill Racecourse as 'a core industry asset that is vital to the operation of the thoroughbred industry in New South Wales'.²⁷⁰
- Mr Andrew Lockhart also opposed the proposal in any form and emphasised that he would be 'directly and adversely impacted if the proposal goes ahead'.²⁷¹

3.12 Many racing industry stakeholders claimed that Rosehill Racecourse is critical to the success of racing in New South Wales. For example, Mr Ron Finemore, a former chairman of the Australian Jockey Club, characterised it as vital not only to the industry in New South Wales, but nationally as well:

The New South Wales industry is one of the major State participants and therefore the success of the industry in New South Wales is critical to the future of racing in Australia. To do this we must have Randwick and Rosehill racecourses continue into the future.²⁷²

²⁶⁵ Evidence, Mr Hamish Esplin, President, Thoroughbred Breeders NSW, 22 July 2024, p 46.

²⁶⁶ Evidence, Mr Esplin, 22 July 2024, pp 41-42.

²⁶⁷ Evidence, Mr Esplin, 22 July 2024, p 46.

²⁶⁸ For example, Evidence, Mr Abrahams, 9 August 2024, p 63; Evidence, Mr John O'Shea, Racehorse Trainer, 22 July 2024, p 3; Submission 90, Oliver Tait, p 1; Submission 31, Name suppressed, p 1.

²⁶⁹ Submission 45, Mr Kieran Fitzgerald and Ms Jennifer Spithill, p 1.

²⁷⁰ Submission 90, Oliver Tait, p 1.

²⁷¹ Submission 42, Mr Andrew Lockhart, p 1.

²⁷² Evidence, Mr Ron Finemore, Owner, Finemore Thoroughbreds Pty Ltd, 21 October 2024, p 18.

- 3.13** Likewise, Mr Abrahams described Rosehill and Randwick racecourses as 'crucial to maintaining our current racing ecosystem', claiming the loss of either racecourse would 'catastrophically undermine the industry'.²⁷³ He highlighted that Rosehill Racecourse holds '21 premium Saturday race meetings annually, including two major carnivals'.²⁷⁴
- 3.14** In order to counter concerns about the impact on the industry of the loss of Rosehill, the Hon Peter McGauran offered that Rosehill 'will be sold in stages so as to preserve the racing and training aspects'.²⁷⁵
- 3.15** Two prominent racing figures, Mrs Waterhouse and Mr Finemore, cited the closure of Harold Park and the relocation of harness racing to Menangle Park as a dire warning about what would transpire if Rosehill were sold.²⁷⁶ Mrs Waterhouse warned that the trotting industry had experienced a dramatic reduction in attendance as a result:

The parallel business case is Harold Park, which was located in Glebe in inner Sydney and which in 1970 attracted bigger crowds—even on the coldest, wettest day—than at Golden Slipper Day in Rosehill. Harold Park was sold to secure the trotting industry's future. Now zero crowds attend headquarters at Menangle; similarly at Melton, which replaced Moonee Valley in Victoria, with the same result—so tragic.²⁷⁷

- 3.16** However, Mr William Clegg OAM, a member of the Australian Turf Club, cautioned the committee that vocal opponents of the proposal may be self-serving:

The vocal protests from within the racing industry on a yet to be determined proposal and outcome, have no interest in those that could benefit from affordable housing and even the financial security of the racing industry. The vitriol that has been levelled at those, the directors of the ATC, which have a responsibility to the members and good corporate governance to consider and present such a strategic plan, smacks of self-interest and long-term antipathy.

Some that have been the most vocal against the proposal have done very well out of the racing industry.²⁷⁸

Consideration of replacement facilities

- 3.17** The initial proposal for the sale of Rosehill Racecourse envisaged relocating racing from Rosehill to Warwick Farm.²⁷⁹ The final proposal announced and lodged indicated that 'several sites across Sydney will be earmarked and investigated for a new, world-class racecourse track and facilities'.²⁸⁰ In addition, Racing NSW indicated that a replacement metropolitan track would be

²⁷³ Evidence, Mr Abrahams, 9 August 2024, p 63.

²⁷⁴ Evidence, Mr Abrahams, 9 August 2024, p 63.

²⁷⁵ Evidence, Hon Peter McGauran, 9 August 2024, p 8.

²⁷⁶ Evidence, Mr Finemore, 21 October 2024, p 18; Evidence, Mrs Waterhouse, 22 July 2024, p 2.

²⁷⁷ Evidence, Mrs Waterhouse, 22 July 2024, p 2.

²⁷⁸ Submission 36, Mr William Clegg, p 1.

²⁷⁹ Answers to supplementary questions, Mr William Murphy PSM, Deputy Secretary, Strategic Projects, Premier's Department, 1 November 2024, p 1.

²⁸⁰ Media Release, Hon Chris Minns MP, Premier, 'Once-in-a-generation opportunity for Rosehill and to secure the future of the NSW racing industry', 7 December 2023.

a criteria for their approval of the sale, with Mr V'Landys telling the committee, 'I'll make it very clear that they will need a second track for this to proceed'.²⁸¹

3.18 The inquiry received substantial evidence about some of the options for a racetrack that could potentially replace Rosehill Racecourse, including the Brick Pit site at Sydney Olympic Park, as well as upgrades to Warwick Farm and Canterbury racetracks.

3.19 In addition to the sites publicly announced as under consideration, the Hon Peter McGauran informed the committee that the Australian Turf Club is looking into other sites which remain confidential due to 'commercial property issues'.²⁸²

3.20 Mr William Murphy PSM, Deputy Secretary, Strategic Projects, Premier's Department, set out that replacement of Rosehill Racecourse is a key part of the Australian Turf Club's proposal, and outlined the Australian Turf Club's plans for replacement facilities:

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.²⁸³

3.21 Ms Kate Boyd PSM, Secretary, Cabinet Office, confirmed that the Cabinet Office had not worked on attempts to find another site.²⁸⁴

3.22 Mr Simon Draper PSM, Secretary, Premier's Department, explained that he was not actively involved in finding an alternative location:

I'm not active in trying to find that site... 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.²⁸⁵

3.23 Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure outlined that there had been no formal request to investigate other sites:

No, we have not been formally asked to investigate any sites, to my knowledge. Again, I'm relying on the fact that I assume my departmental staff would have advised me on this. I can say, though, that obviously we have considered what assets are in the Government's portfolio, should we be asked to give advice. But, at this point, we haven't been asked.²⁸⁶

²⁸¹ Evidence, Mr Peter V'Landys AM, Chief Executive, Racing NSW, 9 August 2023, p 44.

²⁸² Evidence, Hon Peter McGauran, 9 August 2024, p 7.

²⁸³ Evidence, Mr William Murphy PSM, Deputy Secretary, Strategic Projects, Premier's Department, 12 September 2024, p 14.

²⁸⁴ Evidence, Ms Kate Boyd PSM, Secretary, Cabinet Office, 12 September 2024, p 13.

²⁸⁵ Evidence, Mr Simon Draper PSM, Secretary, Premier's Department, 12 September 2024, p 13.

²⁸⁶ Evidence, Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, 21 October 2024, p. 8.

- 3.24 Mr Peter V'landys AM, Chief Executive, Racing NSW, confirmed that Racing NSW requires the Australian Turf Club to replace Rosehill Racecourse in the event of a sale.²⁸⁷
- 3.25 However, Mr Jason Abrahams, spokesperson for the Save Rosehill Group, was sceptical about the likelihood of a viable alternative to Rosehill.²⁸⁸

Sydney Olympic Park Brick Pit

- 3.26 The Sydney Olympic Park Brick Pit was the main replacement option explored throughout the inquiry and committee members conducted a site tour of the area.
- 3.27 A number of inquiry participants from the racing industry expressed incredulity at the idea that a group one racetrack could be built at the Brick Pit site.
- Mr John O'Shea, Racehorse Trainer, described the idea as 'bordering on preposterous'.²⁸⁹
 - Mr David Capp Hall AM, Past Chairman and Honorary Treasurer of the Australian Jockey Club, labelled it as a 'myth', and 'farcical'.²⁹⁰
 - Mr Richard Callander, Chief Executive, NSW Trainers Association, agreed with the description that it is 'fanciful'.²⁹¹
 - Mr Jason Abrahams, Spokesperson, Save Rosehill Group, called it 'laughable'.²⁹²
- 3.28 In contrast, the Hon Peter McGauran maintained that he is 'suspending judgement on the suitability of the Homebush site as a future racetrack until I have more information from particularly the engineers'.²⁹³
- 3.29 Mr Darren McConnell, Vice-President, NSW Racehorse Owner's Association, similarly reserved his opinion until further information is provided.²⁹⁴
- 3.30 Mr V'landys claimed that Racing NSW was the proponent of the idea to explore Sydney Olympic Park as a replacement site:

It was actually Racing NSW looking at an alternate site. One of the requirements that we said we needed was to ensure that there was public transport and easy access. At the moment, Homebush is an entertainment precinct. Because it's an entertainment precinct and it already has the infrastructure in place, we saw that land and we thought—

²⁸⁷ Evidence, Mr V'landys, 9 August 2024, p 56.

²⁸⁸ Evidence, Mr Abrahams, 9 August 2024, p 63.

²⁸⁹ Evidence, Mr O'Shea, 22 July 2024, p 12.

²⁹⁰ Evidence, Mr David Capp Hall AM, Past Chairman and Honorary Treasurer of the Australian Jockey Club, 22 July 2024, p 19.

²⁹¹ Evidence, Mr Richard Callander, Chief Executive, NSW Trainers Association, 9 August 2024, p 39.

²⁹² Evidence, Mr Abrahams, 9 August 2024, p 64.

²⁹³ Evidence, Hon Peter McGauran, 9 August 2024, p 7.

²⁹⁴ Evidence, Mr Darren McConnell, Vice-President, NSW Racehorse Owners Association, 22 July 2024, p 21.

we oversighted it with a racecourse to see if it fitted and that's what we put forward to the ATC to look at as an alternative.²⁹⁵

- 3.31** When questioned about the feasibility of the Brick Pit site in light of it being ruled out for development for the Sydney Olympics due to environmental factors, the Hon Peter McGauran contended that there was less pressing concern for the green and golden bell frog, and outlined environmental considerations for and against the Brick Pit site:

I think, firstly, the vulnerability of the green and golden bell frog has eased considerably. Its endangered status has been modified to an extent. There are environmental challenges because of the wetland area that you would have seen for yourselves. So we have to address that. But otherwise it's an uncontaminated and non-environmentally sensitive area, apart from those areas that we need to address. Largely, it's a brick pit; an industrial site. You obviously—and I think one of your earlier witnesses said—will have to drain the brick pit. You would, of course, be potentially constructing a track running around the clifftop.²⁹⁶

- 3.32** Similarly, when Mr V'landys was questioned about the site being ruled out for the Sydney Olympics, Mr V'landys explained how Racing NSW arrived at the view that the site may be viable:

Absolutely. We believe that there should be a replacement track. We need another metropolitan track. That's why Homebush was identified. I appreciate that there are these beautiful frogs there, but all the studies that we have done are that we can cohabit with those. As part of the due diligence we've had environmental experts et cetera, and engineers and surveyors look to see if we can put a track on that Homebush Bay. Early indications are that we can put a track there that is bigger than Rosehill that has—one of the things that we require for it in order for it to be conducive to racing is wide turns and long straights. At this stage, and it's only early, that can be done. The objective would be—we only race 23-30 times at Rosehill. We would like then to provide that facility—of course, with the approval of the ATC—to the residents as a parkland for the rest of the time. So we'd only use it for racing purposes. We would not accommodate horses at that racecourse, other than at race meetings. That could be used for the residents, which is a high density area, as open space land.²⁹⁷

- 3.33** In contrast, Mrs Carla Armanet, Chief Executive Officer, Sydney Olympic Park Authority, highlighted considerable challenges with the Brick Pit as a site. She disputed the Hon Peter McGauran's claim that the endangered status of the green and golden bell frog had modified, describing it 'as a high-risk, very small population and ... one of the biggest populations in New South Wales'.²⁹⁸ She further contended that the current planning controls would prohibit a racetrack from being built at the site, noting that 'there would need to be a change to the conservation areas under the *Local Government Act...*'.²⁹⁹ Finally, she confirmed that the site

²⁹⁵ Evidence, Mr V'landys, 9 August 2024, p 56.

²⁹⁶ Evidence, Hon Peter McGauran, 9 August 2024, p 6.

²⁹⁷ Evidence, Mr V'Landys, 9 August 2024, p 44.

²⁹⁸ Evidence, Mrs Carla Armanet, Chief Executive Officer, Sydney Olympic Park Authority, 12 September 2024, p 42.

²⁹⁹ Evidence, Mrs Armanet, 12 September 2024, p 44.

experienced landslides during heavy rain, and that it will be decades before the cliffs stabilise at approximately a 30 degree angle.³⁰⁰

- 3.34** Mrs Armanet also clarified that no one from RacingNSW had engaged with her, nor had anyone undertaken any site inspections. She also did not have any knowledge of what was being proposed.³⁰¹ Mrs Armanet agreed that, once the scope and detail of any proposal was settled, she would expect the Sydney Olympic Park Authority to be brought into the unsolicited proposal process.³⁰²
- 3.35** In a similar vein, Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, reported that the department had not been formally asked to consider the Brick Pit in relation to a racecourse or housing.³⁰³ Importantly, in her evidence to the inquiry she expressed the view that 'the environmental constraints in relation to the Brick Pit would be inhibitive for any form of development'.³⁰⁴
- 3.36** When questioned about the Brick Pit, Mr Adam Leto, Chief Executive Officer, Western Sydney Leadership Dialogue, described his support for the investigation of an alternative racing site in Western Sydney, whether that be at the Brick Pit or elsewhere.³⁰⁵

Horsley Park training facility

- 3.37** As part of its proposal, the Australian Turf Club announced 'a centre of excellence horse training facility at Horsley Park to accommodate the relocation of 300 to 400 horses from Rosehill Gardens stables'.³⁰⁶ Ms Karen Jones, Chief Executive Officer, Office of Sport, clarified that this reference to Horsley Park is specifically to the Sydney International Equestrian Centre.³⁰⁷
- 3.38** In response to questioning about whether the Australian Turf Club would pay for the site, Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, and the Hon Peter McGauran described the 'gifting of Horsley Park' as 'all part of the negotiations'.³⁰⁸
- 3.39** Some inquiry participants expressed concern about the viability of the Sydney International Equestrian Centre site becoming a full-time training facility:
- Mrs Waterhouse remarked upon the cost of such a feat, claiming '(t)o replicate that at Horsley Park or wherever would cost millions upon millions upon millions of dollars'.³⁰⁹

³⁰⁰ Evidence, Mrs Armanet, 12 September 2024, p 45.

³⁰¹ Evidence, Mrs Armanet, 12 September 2024, pp 43 – 44.

³⁰² Evidence, Mrs Armanet, 12 September 2024, p 48.

³⁰³ Evidence, Ms Fishburn, 21 October 2024, p 8.

³⁰⁴ Evidence, Ms Fishburn, 21 October 2024, p 8.

³⁰⁵ Evidence, Mr Adam Leto, Chief Executive Officer, Western Sydney Leadership Dialogue, 22 July 2024, p 30.

³⁰⁶ Evidence, Ms Karen Jones, Chief Executive Officer, Office of Sport, for Sydney International Equestrian Centre, 12 September 2024, p 41

³⁰⁷ Evidence, Ms Jones, 12 September 2024, p 41.

³⁰⁸ Evidence, Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, 9 August 2024, p 17; Evidence, Hon Peter McGauran, 9 August 2024, p 17.

³⁰⁹ Evidence, Mrs Waterhouse, 22 July 2024, p 4.

- Mr O'Shea pointed out that Racing NSW had already looked at 'the Horsley Park proposal on three separate occasions prior to this one and it deemed it inadequate'.³¹⁰
- Ms Julia Ritchie, Spokesperson, Save Rosehill Group, noted that the Horsley Park site is a cross-country course, suggesting it is currently a very different facility compared to Rosehill Racecourse.³¹¹
- Mr Chris Waller, Racehorse Trainer, was sceptical that Horsley Park could adequately replace Rosehill Racecourse:

I think we've got to be looking towards the future and the next generation well beyond us. I just don't really see a place the size of Horsley Park being good enough. That is why I am suggesting they do need some money. Maybe a partial sell-off is helpful because they need to start with a blank canvas and everything needs to be considered—suitable housing for horses; a suitable racetrack to be able to host big events and large numbers of people; and the welfare of horses without enclosed areas. It needs to be an asset for those beyond us. With Horsley Park, it is Crown land and it wouldn't really be an asset for the industry either.³¹²

3.40 Outside the racing industry, Mr Leto voiced his support for upgraded facilities as a centre of excellence at Horsley Park.³¹³

3.41 Animal welfare institute, Sentient, recommended that the Horsley Park facility be used as a training hub:

We also recommend the proposed centre of excellence training and stabling facility at Horsley Park becomes a training hub for teaching equitation science principles to all industry participants, offering thoroughbred rehoming initiatives, such as retraining horses for recreational riding, and making CT imaging available to identify subclinical conditions.³¹⁴

3.42 Ms Jones acknowledged that the border of the Sydney International Equestrian Centre is shared with Greater Sydney Parklands. When referred to the Australian Turf Club plans for Horsley Park, Ms Jones was not able to comment in great detail about the impact on the parklands, noting that she had not seen the Australian Turf Club plan despite her eagerness to see them.³¹⁵

3.43 Further, Ms Jones indicated that representatives of the Australian Turf Club had visited the site on 17 and 23 November 2023, 2 February 2024 and 6 September 2024 and that 'no documentation was provided to the Office of Sport for review and no specific proposal for the Sydney International Equestrian Centre was discussed'.³¹⁶ Ms Jones agreed, however, that once

³¹⁰ Evidence, Mr O'Shea, 22 July 2024, p 4.

³¹¹ Evidence, Ms Julia Ritchie, Spokesperson, Save Rosehill Group, 9 August 2024, p 69.

³¹² Evidence, Mr Christopher Waller, Racehorse Trainer, 9 August 2024, p 83.

³¹³ Evidence, Mr Leto, 22 July 2024, p 31.

³¹⁴ Evidence, Dr Rosemary Elliott, President, Sentient, 9 August 2024, pp73 - 74.

³¹⁵ Evidence, Ms Jones, 12 September 2024, p 46.

³¹⁶ Evidence, Ms Jones, 12 September 2024, p 41.

the scope and detail of any proposal was settled, she would expect the Office of Sport to be brought into the unsolicited proposal process.³¹⁷

The use of Warwick Farm and Canterbury racecourses

- 3.44** In addition to Rosehill Racecourse, Warwick Farm and Canterbury are the other two metropolitan racecourses in western Sydney.³¹⁸ These two racecourses are predominantly used for mid-week racing.³¹⁹
- 3.45** A number of inquiry participants expressed support for racing being kept, or upgraded to group one, in western Sydney.³²⁰ This included Western Sydney Leadership Dialogue who are supportive of the proposal to develop Rosehill and expressed their desire for Racing NSW and the Australian Turf Club to allocate proceeds of the sale to upgrade Warwick Farm and Canterbury racecourses.³²¹
- 3.46** As part of the proposal by the Australian Turf Club, Mr McMahon asserted that Warwick Farm should be upgraded to a group one racetrack.³²²
- 3.47** While some witnesses contended that Warwick Farm could become a group one track,³²³ other witnesses noted the need for serious funds to be spent on Warwick Farm, whether as a replacement or additional track.³²⁴
- 3.48** Mr V'landys described Warwick Farm as a current 'possibility' if it could be demonstrated by an engineer that Warwick Farm can accommodate the standards required for competitive racing.³²⁵
- 3.49** Dr Saranne Cooke, Chairman, Racing NSW, told the inquiry that the early indication was that Warwick Farm will be expensive, making it less likely as an option as a top-grade racecourse.³²⁶
- 3.50** Ms Searcy explained that while she's optimistic about 'bringing people back to racing in Western Sydney', she held concerns that Warwick Farm alone could be a sufficient replacement for Rosehill:

But I don't believe at Warwick Farm—I think the trainers are right—that you could hold the 22 race meetings that you have a year at Rosehill on top of what they already have, which is close to around 20 anyway, to be able to make that the replacement for Rosehill. I think you definitely need a fourth track, I believe, in Sydney for the safety of the racing itself and the track maintenance. When one track is out of play, you're doing

³¹⁷ Evidence, Ms Jones, 12 September 2024, p 48.

³¹⁸ Submission 51, Mr William Rutledge, p 1.

³¹⁹ Submission 51, Mr William Rutledge, p 1.

³²⁰ Evidence, Mr Leto, 22 July 2024, pp 30 -31; Evidence, Mr McGrath, 21 October 2024, p 26.

³²¹ Submission 44, Western Sydney Leadership Dialogue, p 3.

³²² Evidence, Mr McMahon, 9 August 2024, p 15.

³²³ For example, Evidence, Mr McGrath, 21 October 2024, p 26.

³²⁴ For example, Evidence, Mr Abrahams, 9 August 2024, p 66; Evidence, Mr Waller, 9 August 2024, p 87.

³²⁵ Evidence, Mr V'landys, 9 August 2024, p 44.

³²⁶ Evidence, Dr Saranne Cooke, Chairman, Racing NSW, 12 September 2024, p 68.

it up, you can have another one. I don't think Warwick Farm or Canterbury, no matter what you do up, would have the capacity to take over from Rosehill.³²⁷

3.51 A number of inquiry participants also objected to Warwick Farm as an alternative to Rosehill due to concerns including poor wagering and concerns about flooding.³²⁸

3.52 Of note, Ms Fishburn was of the view that the Australian Turf Club, having previously explored Warwick Farm and facing challenges 'in relation to flood constraints and heritage', had decided not to pursue that avenue.³²⁹

3.53 Mr Richard Freedman, racehorse trainer, pressed that any replacement track must be a large track, rather than a smaller track, illustrating the benefits of large racetracks for racing in NSW:

I am not in favour of promoting any more small racetracks in New South Wales. I have trained in Victoria. They have quite a large number of large racetracks. In New South Wales we have quite a large number of small racetracks: Gosford, Wyong, to a degree Canterbury, Warwick Farm. The trouble with them is—and you will notice this—the horses that draw wide at those tracks get scratched. You end up with small field sizes, which is not good for betting turnover. Your owners are not happy jumping from wide gates. We need tracks where the shape of them allows horses to jump from wide gates and have a chance. They are, essentially, the larger tracks. Rosehill and Randwick obviously fill the bill there. Newcastle, Kembla, Scone, Goulburn—they're all large tracks where you can jump from wide gates, so you simply get bigger fields. Bigger fields generally bring bigger turnover.³³⁰

3.54 The possibility of upgrading Canterbury racecourse was also raised during the inquiry. However, some stakeholders expressed the view that this would not be possible.

3.55 In his evidence, Mr Hall commented that 'Canterbury will never be a group one track'.³³¹

3.56 Similarly, Mr V'landys claimed that Canterbury Racecourse would not be able to accommodate an upgraded racetrack.³³²

3.57 However, Mrs Waterhouse indicated with respect to Canterbury Racecourse that 'It's their best. It's their little jewel in the crown, but they want to flog it. It's unbelievable'.³³³

Impacts on the cost and delivery of Metro West

3.58 As discussed in Chapter 2, Mr McMahon explained that one of the reasons he acted with urgency in exploring the opportunity to sell Rosehill Racecourse was that he was aware that the

³²⁷ Evidence, Ms Searcy, 9 August 2024, p 25.

³²⁸ For example, Evidence, Mr O'Shea, 22 July 2024, p 10; Evidence, Mr Esplin, 22 July 2024, p 42; Evidence, Mr Hall, 22 July 2024, p 19.

³²⁹ Evidence, Ms Fishburn, 21 October 2024, p 5.

³³⁰ Evidence, Mr Richard Freedman, Racehorse Trainer, 9 August 2024, p 87.

³³¹ Evidence, Mr Hall, 22 July 2024, p 19.

³³² Evidence, Mr V'landys, 9 August 2024, p 44.

³³³ Evidence, Mrs Waterhouse, 22 July 2024, p 4.

Government was making decisions about the Sydney metro line underneath Rosehill Racecourse.³³⁴

- 3.59** Mr Peter Regan PSM, Chief Executive, Sydney Metro, gave evidence to the inquiry outlining the steps taken so far to progress development of the Sydney Metro West, and how these steps have taken into account the Rosehill Racecourse. He explained that when the Government announced in December 2023 that Sydney Metro would 'investigate up to two additional station locations on the metro west project to the west of Olympic Park', the Government mandated investigation of a site at Rosehill Gardens.³³⁵
- 3.60** Mr Regan noted the following developments regarding the metro west line:³³⁶
- Sydney Metro is investigating options for Rosehill, including 'options for the timing of construction and procurement of a potential additional station at Rosehill Gardens along the metro west alignment'
 - investigations are expected to be put to government for consideration in 2025
 - a decision has yet to be made about a new station on the metro west line.
- 3.61** He also reflected that 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'.³³⁷
- 3.62** Regarding changes that take into consideration the Australian Turf Club's proposal for Rosehill Racecourse, Mr Regan confirmed that a minor change to the alignment of the metro has already been made, to make it straight and flat and allowing for a station to be inserted if such a decision is made.³³⁸ The minor alignment was 'within the substratum that (Sydney Metro) had already acquired'.³³⁹ The only cost at the time of Mr Regan's evidence was the 'design costs' of the realignment, with Mr Regan expecting the tunnel drive for that portion of the metro line to happen in late 2024.³⁴⁰
- 3.63** Mr Regan noted that contamination testing is underway for the land on the Rosehill site. However he expressed hope that results may be better than those of neighbouring land due to it having been a racecourse for 150 years as opposed to industrial land.³⁴¹ While he acknowledged that if the station was in a flood area, it would need to be mitigated, he was more concerned about contamination.³⁴²
- 3.64** Further, Mr Regan outlined how dwelling requirements impact metro planning. He clarified that Sydney Metro's role is to provide options for the Government, and that housing numbers near a metro site are taken into account in designing the metro station:

³³⁴ Evidence, Mr McMahon, 9 August 2024, p 11.

³³⁵ Evidence, Mr Peter Regan PSM, Chief Executive, Sydney Metro, 12 September 2024, p 17.

³³⁶ Evidence, Mr Regan, 12 September 2024, p 17.

³³⁷ Evidence, Mr Regan, 12 September 2024, p 17.

³³⁸ Evidence, Mr Regan, 12 September 2024, p 18.

³³⁹ Evidence, Mr Regan, 12 September 2024, p 22.

³⁴⁰ Evidence, Mr Regan, 12 September 2024, p 19.

³⁴¹ Evidence, Mr Regan, 12 September 2024, pp 20 - 21.

³⁴² Evidence, Mr Regan, 12 September 2024, pp 20 - 21.

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.³⁴³

- 3.65** When it was put to Mr Regan that the independent review 'did not recommend proceeding with additional stations at either Silverwater or Rosehill', Mr Regan acknowledged that was the finding of an independent review provided to Government. He explained that they were subsequently considering various options:

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.³⁴⁴

- 3.66** Evidence before the committee from the *Sydney Metro Independent Review Final Report*, indicated that 'Rosehill would be the most difficult location site to safeguard/build without impacting the current alignment and work program'.³⁴⁵ However, Mr Regan advised the committee that there would not be significant costs to the 'minor realignment' required:

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.³⁴⁶

- 3.67** Additionally, the cost of installing a station at Rosehill is estimated to be \$1.5 to \$2.2 billion.³⁴⁷ Mr Regan gave evidence to the Committee that, at the time of these estimates of \$1.5 to \$2.2 billion, and without having complete details with respect to geology, contamination, time frames, form of construction and access that such 'high level forecasts' contained 'a fair bit of contingency'.³⁴⁸ While no evidence has been provided to the committee that the proceeds of any sale of Rosehill Racecourse will be used to supplement this cost, Mr Regan cited the recently completed example of the Martin Place Metro station, also undertaken as an unsolicited proposal, supporting 'a significant development, which made a very significant contribution to the cost of the station'.³⁴⁹

³⁴³ Evidence, Mr Regan, 12 September 2024, p 24.

³⁴⁴ Evidence, Mr Regan, 12 September 2024, p 24.

³⁴⁵ Tabled document: *Sydney Metro Independent Review Final Report*, p 39.

³⁴⁶ Evidence, Mr Regan, 12 September 2024, p 22.

³⁴⁷ Tabled document: *Sydney Metro Independent Review Final Report*, p 40.

³⁴⁸ Evidence, Mr Regan, 12 September 2024, p 24.

³⁴⁹ Evidence, Mr Regan, 12 September 2024, p 25.

Meeting housing targets

- 3.68** The NSW Government is a signatory to the National Housing Accord and has a five year target to deliver 377,000 new well-located homes across the state by 2029.³⁵⁰
- 3.69** Stakeholders from all domains acknowledged that housing is a matter of public concern, with some noting that housing is a public strategic priority for the Government.³⁵¹
- 3.70** Mr Simon Draper PSM, Secretary, Premier's Department, noted that whether a proposal contributes to such things as meeting housing targets forms part of the assessment:

Government is not a for-profit enterprise. It's designed to deliver wider social and economic 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.'³⁵²

- 3.71** Some witnesses voiced strong support for the sale as a means of providing housing (and, under the proposal, transport in a metro station). Mr Leto of the Western Sydney Leadership Dialogue and Mr David Borger, Executive Director, Business Western Sydney, spoke of the benefit that the development of Rosehill would bring to the area.³⁵³ Mr Borger highlighted the potential boost to economic growth:

The proposed development will result in the creation of 25,000 new homes, providing much-needed housing and revitalising an industrial precinct that has experienced decline since the 1970s. The significant increase in housing supply will help address Sydney's housing crisis and contribute to the overall economic growth of Western Sydney. We fully support the opportunity to have an additional metro west station in Western Sydney close to Parramatta. We think it will supercharge the economic growth of that broader city.³⁵⁴

- 3.72** Mr Borger identified Rosehill as good for housing due to its central location:

I think there's been different versions of the Camellia place strategy, which seeks to maximise the opportunities of the light rail station at Camellia to provide more housing. I think the Camellia place strategy's an important—there needs to be a place strategy and a rezoning proposal before housing can occur anywhere. The fact you've got a light rail stop provides opportunities to get more housing into that precinct and to hopefully rehabilitate some pretty damaged land in a pretty good location within Sydney. If you

³⁵⁰ NSW Planning, 'Housing targets', [Planning.nsw.gov.au/policy-and-legislation/housing/housing-targets](https://planning.nsw.gov.au/policy-and-legislation/housing/housing-targets).

³⁵¹ For example, Evidence, Ms Katie Knight, Executive Director, Commercial Transactions, Department of Enterprise, Investment and Trade, 12 September 2024, p 27; Evidence, Ms Carolyn McDonald, Former Stablehand, 12 September 2024, p 51; Evidence, Mr James Cullen, Chief of Staff, Office of the Hon Chris Minns MP, 21 October 2024, p 27.

³⁵² Evidence, Mr Simon Draper PSM, Secretary, Premier's Department, 12 September 2024, p 10.

³⁵³ Evidence, Mr Leto, 22 July 2024, p 27; Evidence, Mr David Borger, Executive Director, Business Western Sydney, 22 July 2024, p 27. During evidence, Mr Borger confirmed that Business Western Sydney receives membership money of \$17,000 or \$18,000 from the Australian Turf Club each year. The Western Sydney Leadership Dialogue receives \$30,000 each year from the Australian Turf Club.

³⁵⁴ Evidence, Mr Borger, 22 July 2024, p 27.

dropped a map in the very centre of Sydney, it'd probably land in Camellia or Rosehill so this is in the middle of the metropolis. It's a good location generally for housing to be located.³⁵⁵

3.73 He later noted that for the Rosehill development to be a success, it would have to be a 'great place to live', requiring 'housing, jobs, a public domain, a connection to the Parramatta River'.³⁵⁶

3.74 Dr Peter Tulip, Chief Economist, Centre for Independent Studies, argued that a higher demand for housing in other parts of Sydney should not deter the sale of Rosehill:

If I could just say that I strongly agree with what Mr Latham is saying about the misallocation of housing in Sydney. The Centre for Independent Studies put out a report about a year ago saying that where we most need more housing is in the eastern suburbs and the North Shore, where housing is most overpriced. We need housing everywhere. The priorities should be putting it where there is the biggest excess demand. There are places more deserving than Rosehill—that's true. That's not a reason for not doing it at Rosehill.³⁵⁷

3.75 Dr Tulip also noted that the alternative to development at Rosehill to provide increased housing is to continue the 'sprawl' west of Sydney, for example, 'on koala grounds around Appin'.³⁵⁸

3.76 Mr Borger explained the implications for improving access to jobs should there be a metro station at Rosehill:

I think you can't undervalue the time proximity that this train line and the station, if there's one at Rosehill, will actually deliver. We did a piece of work with Arup a number of years ago, and it looked at Olympic Park, which is the next station along. It showed that, I think within half an hour, the number of jobs you could access went from about 70,000 to over 800,000 the day the metro line opens. So that's the sort of transformation that you could see at a place like Rosehill. You've got a two-minute trip to the Parramatta CBD. You've probably got a 17-minute trip to the Sydney CBD, a five-minute trip to Olympic Park. That means all of those jobs are available without polluting the environment or using the congested road system, which makes it a really valuable place to live.³⁵⁹

3.77 Others were questioned about the potential for housing at the Brick Pit instead, given the existence of a metro station there. In principle, Dr Tulip described this as an attractive option.³⁶⁰

3.78 However, Mr V'landys expressed doubts about whether housing could be achieved at the Brick Pit site because of 'environmental problems'. Mr V'landys suggested this is not a concern for the racetrack, as the racetrack could be placed around the perimeter of the brick pit, and the animals could co-exist.³⁶¹

³⁵⁵ Evidence, Mr Borger, 22 July 2024, p 28.

³⁵⁶ Evidence, Mr Borger, 22 July 2024, p 35.

³⁵⁷ Evidence, Dr Peter Tulip, Executive Director, Business Western Sydney, 22 July 2024, p 30.

³⁵⁸ Evidence, Dr Tulip, 22 July 2024, p 34.

³⁵⁹ Evidence, Mr Borger, 22 July 2024, p 38.

³⁶⁰ Evidence, Dr Tulip, 22 July 2024, p 31.

³⁶¹ Evidence, Mr V'landys AM, 9 August 2024, p 57.

- 3.79** Some witnesses expressed the view that there are profitable solutions to generating a significant number of dwellings without needing all of Rosehill Racecourse to be developed. In his evidence, Mr McGrath explained that during his time as Chairman of the Australian Turf Club, he determined that approximately 10,000 dwellings could be created by selling Australian Turf Club land other than the racecourse itself, leading to approximately \$250 million for the club.³⁶² At the hearing, he provided an updated estimate that with the inclusion of additional non-racecourse land owned by the Australian Turf Club, 'there would be close to \$1 billion for the ATC and approximately 20,000 dwellings'.³⁶³
- 3.80** Mr Hall and Mrs Waterhouse had conflicting views about the suggestion that Canterbury could be used for housing instead of Rosehill. Mr Hall claimed that 'if any track had to be provided as a contribution to housing, it should be Canterbury',³⁶⁴ whereas Mrs Waterhouse claimed that Canterbury racecourse has the best return with the best betting turnover. She proposed that some of the Rosehill land around the edges could be developed instead.³⁶⁵
- 3.81** Mr Waller indicated that there were many examples in other jurisdictions, both in Australia and globally, where housing and racecourses co-existed, stating:
- Although I am totally in favour of the retention of Rosehill, I am open to suggestions of alternative proposals such as the selling-off of part of the Rosehill precinct for housing...A study of Sha Tin racetrack in Hong Kong, Flemington in Melbourne or Doomben in Brisbane show how high-rise apartment blocks can exist on previously racing-owned land. A rebuilt Caulfield track in Melbourne is going to have parkland in the centre of the track that is open for community use as well as for housing.³⁶⁶
- 3.82** Mr O'Shea stressed that it is not the role of the racing industry to remedy housing challenges:
- But it is not incumbent upon the administration of racing in this State to rectify the inadequate housing policies of various Federal and State governments. If that was the case, every golf club and football field in the State would also be under consideration for housing development.³⁶⁷
- 3.83** The Save Rosehill Group were also of the view that the racing community is not responsible for 'fixing the housing crisis'.³⁶⁸
- 3.84** Evidence received by the committee was that if the sale of Rosehill Racecourse were to proceed, 25,000 homes would be achieved on the site over '35 years',³⁶⁹ while the Hon Peter McGauran indicated that it was a '40-year project'.³⁷⁰ Additionally, it is unlikely that any homes will be provided on the site within the Housing Accord period as the Hon Peter McGauran indicated

³⁶² Submission 24, Mr Matthew McGrath, p 1.

³⁶³ Evidence, Mr McGrath, 21 October 2024, p 17.

³⁶⁴ Evidence, Mr Hall, 22 July 2024, p 16.

³⁶⁵ Evidence, Mrs Waterhouse AM, 22 July 2024, p 4.

³⁶⁶ Evidence, Mr Waller, 9 August 2024, p 81.

³⁶⁷ Evidence, Mr O'Shea, 22 July 2024, p 3.

³⁶⁸ Submission 63, Save Rosehill Group, p 3.

³⁶⁹ Evidence, Mr Graeme Hinton, Chief Operating Officer, Racing NSW, 9 August 2024, p 58.

³⁷⁰ Evidence, Mr McGauran, 9 August 2024, p 8.

to the committee that 'Racing at Rosehill would have continued between five and seven years anyway'.³⁷¹

Impact on animal welfare

- 3.85** The inquiry heard considerable evidence from racing industry participants and animal welfare advocates about the potential impact of the proposed development on animal welfare, including recommendations for how the proceeds of the sale of Rosehill could be spent.

Racecourse design and animal welfare impacts from the sale

- 3.86** A former stable-hand registered with Racing NSW, Ms Carolyn McDonald, voiced concerns about the current stabling facilities at Rosehill Racecourse and their impacts on horse welfare, drawing on her personal observation from her tenure there.

- 3.87** According to Ms McDonald, the existing stabling facilities at Rosehill lack adequate space.³⁷² Together with the amount of time horses spend in confinement, this contributes to conditions that lead to problematic behaviours. She submitted:

From my observations of Rosehill, there is extremely limited space for every individual horse and there are two-storied stables in order to fit more stables into the racecourse. I have seen videos of horses in their 'boxes' at Rosehill with copious amounts of scratch marks on the stable doors indicative of stereotypic behaviours, boredom and loss of freedom.³⁷³

- 3.88** The detrimental effects of confinement were also highlighted in evidence from Mr Elio Celotto, Campaign Director for the Coalition for the Protection of Racehorses:

Most of them are kept in individual stalls for up to 22 hours a day, often sedated because they develop stereotypical behaviours. So this is something that is completely unnatural to them.³⁷⁴

- 3.89** Evidence from Mr Christopher Waller, racehorse trainer with stables at Rosehill, placed some importance on housing/stabling conditions of horses, suggesting 'suitable housing for horses' and the 'welfare of horses without enclosed areas' are factors that should be considered should a sell-off occur and a new racing/training facility is developed from 'a blank canvas'.³⁷⁵

- 3.90** Similarly, Mr Ron Finemore, Owner of Finemore Thoroughbreds Pty Ltd, agreed that some existing training facilities of the Australian Turf Club are not up to standard and require upgrades.³⁷⁶

³⁷¹ Evidence, Mr McGauran, 9 August 2024, p 7.

³⁷² Evidence, Ms McDonald, 12 September 2024, pp 52-53.

³⁷³ Submission 89, Carolyn McDonald, pp 1-2.

³⁷⁴ Evidence, Mr Elio Celotto, Campaign Director, Coalition for Protection of Racehorses, 22 July 2024, p 54.

³⁷⁵ Evidence, Mr Waller, 9 August 2024, p 83.

³⁷⁶ Evidence, Mr Finemore, 21 October 2024, pp 20-21.

- 3.91** Rider and horse safety also came into focus in evidence concerning the potential benefits for other Australian Turf Club assets/venues should the sale of Rosehill go ahead. Mr Steve McMahon, the Australian Turf Club's Head of Membership and Corporate Affairs, outlined plans for Warwick Farm Racecourse to 'make it wider, make it safer make it better for everyone. Cambered. Safer. Better'.³⁷⁷ He described this upgrade as 'part of the plan if this deal were to go ahead', implying it would be contingent on the sale of Rosehill.³⁷⁸
- 3.92** In terms of future positive impacts more generally, RSPCA NSW drew a correlation between the proposed sale and possible improved animal welfare outcomes from the design and development of the new racecourse. According to this registered charity, the sale of Rosehill presents an opportunity to set a benchmark for animal welfare by incorporating strict welfare guidelines into the design, planning and approval processes for the new facility.³⁷⁹
- 3.93** RSPCA NSW recommended these guidelines cover: safe track design and maintenance to prioritise the safety and wellbeing of horses; start-of-the-art training and rest facilities responsive to the horse's needs; mandatory on-site veterinary care; and appropriate regulation and enforcement as part of the racecourse's operational framework.³⁸⁰

Conditional support for the sale and development

- 3.94** Animal welfare advocates and experts expressed support for the sale and redevelopment of Rosehill Racecourse conditional upon a number of qualifications or caveats.³⁸¹
- 3.95** In the main, these caveats sought to ensure sale proceeds were not used by the industry to expand its operations in ways that will have negative animal welfare impacts, or to ensure that a portion of the proceeds will be invested by the industry in animal welfare initiatives including a fund to provide appropriate care for horses post-racing.³⁸²
- 3.96** Others focussed on banning practices within the industry seen as causing pain and injury to horses (such as the use of whips, tongue ties and spurs) and are out of step with community expectations for animal welfare.³⁸³
- 3.97** The Animal Defenders Office gave further evidence about the inherent risk of harm and injury to horses associated with racing, noting that NSW 'reported the highest number of race deaths in 2022-23 at 53, approximately one death per week'. The Animal Defender Office also raised significant welfare concern about Exercise Induced Pulmonary Haemorrhage (EIPH), which

³⁷⁷ Evidence, Mr McMahon, 9 August 2024, p 15.

³⁷⁸ Evidence, Mr McMahon, 9 August 2024, p 15.

³⁷⁹ Submission 57, RSPCA NSW, p 4.

³⁸⁰ Submission 57, RSPCA NSW, p 4.

³⁸¹ See, for example: Submission 58, Coalition from the Protection of Racehorses, p 1; Submission 127, p 1; Submission 72, Animal Defenders Office, p 1.

³⁸² See, for example: Submission 58, Coalition for the Protection of Racehorses, p 1; Evidence, Ms McDonald, 12 September 2024, p 53; Submission 72, Animal Defenders Office, pp 1 and 5; Submission 57, RSPCA NSW, pp 1, 3 and 4; Submission 23, Sentient: The Veterinary Institute for Animal Ethics, p 7; Evidence, Mr Celotto, 22 July 2024, pp 58 - 59.

³⁸³ See, for example, Evidence, Dr Elliott, 9 August 2024, pp 73-74.

they described as a ‘highly prevalent disease in racehorses, caused by exposure to overly strenuous exercise, and results in bleeding in the lungs’.³⁸⁴

- 3.98** Much of this evidence identified the NSW Government as the key agent to effect these changes, by making them the non-negotiable terms and conditions of its support for the sale.³⁸⁵

The Equine Welfare Fund: transparency, integrity and efficacy

- 3.99** As part of discussion about the need for the need for proceeds from the sale to be invested in animal welfare, witnesses explored the operation of the existing Equine Welfare Fund.

- 3.100** According to the Coalition for the Protection of Racehorses spokesperson, the Equine Welfare Fund was adopted by the industry in response to a nation-wide proposal from the coalition.³⁸⁶

- 3.101** It is funded by a levy on prizemoney and its primary purpose, according to Racing NSW, is 'to ensure horses which are predominantly based and raced in NSW are re-homed'.³⁸⁷ In 2023, the racing industry in New South Wales made approximately \$343 million in prizemoney of which 1.5 per cent – equivalent to over \$5.1 million – was allocated to the Equine Welfare Fund.³⁸⁸

- 3.102** Several animal welfare groups and other inquiry participants questioned whether expenditure from the fund was actually resulting in improvements to the welfare and safety of thoroughbreds, citing a lack of reporting and transparency on the use of these funds.

- 3.103** For example, Mrs Deborah Prest, trainer and self-described 'lifetime participant in racing', submitted that welfare spending is poorly reported by Racing NSW and that there is no transparency on how funds raised by 'taxing' prizemoney, are used.³⁸⁹ Speaking of the re-homing of horses through the fund, she commented:

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.³⁹⁰

- 3.104** In a similar vein, Dr Rosemary Elliott, President of Sentient, described current industry spending on animal welfare as 'a bit inscrutable' despite describing the Equine Welfare Fund as a great initiative.³⁹¹

³⁸⁴ Submission 72, Animal Defenders Office, p 2.

³⁸⁵ See, for example: Evidence, Dr Elliot, 9 August 2024, pp 73-74; Submission 58, Coalition for the Protection of Racehorses, p 1.

³⁸⁶ Evidence, Mr Celotto, 22 July 2024, p 52.

³⁸⁷ Racing NSW, *2023 Annual Report*, p 12.

³⁸⁸ Submission 58, Coalition for the Protection of Racehorses, p 3.

³⁸⁹ Submission 99, Deborah Prest, p 2.

³⁹⁰ Evidence, Mrs Deborah Prest, Horse Trainer, 12 September, p 59.

³⁹¹ Evidence, Dr Elliott, 9 August 2024, p 76.

- 3.105** This resonated with evidence from the Coalition for the Protection of Racehorses, asserting that 'there is no public transparency into how this money is being spent to improve the lives of racehorses pre, during and post racing'.³⁹²
- 3.106** The committee explored suggestions the Fund has been used by Racing NSW for land acquisition and land banking. Responding to questioning about Racing NSW's acquisition of several properties over the last seven years, Mr Abrahams formed the view there is 'clearly land banking going on by Racing NSW' with 'lots of funds going towards that', the precise intent and purpose of which is obscured by what he considered to be a lack of transparency.³⁹³
- 3.107** Germane to Racing NSW's property acquisitions, Mr Abrahams expressed concerns over the governance and transparency of the Equine Welfare Fund, telling the committee that owners who contribute money to the fund are not clear on where that money is going and how it is spent:
- No-one can figure it out. We thought it was for the rehoming funding, but we have got no clarity on that. Many people have asked for clarification and transparency on that issue. We'd love to get it because, as horse lovers, we want to know where the horses are, whether they getting looked after and where the money is being spent. The owners contribute a lot of money to the Equine Welfare fund every week through prize money, so we'd love to know where that money is going and how money it's being spent.³⁹⁴
- 3.108** Suggestions the Equine Welfare Fund has been used by Racing NSW to acquire properties were categorically denied by its Chief Executive, Mr Peter V'landys, and one of its board members, Mr Garry Charny, during their appearance before the committee.³⁹⁵ In his answers to questions on notice, Mr Charny advised the committee that, as far as he is aware, no property has been acquired by Racing NSW using part of the Equine Welfare Fund.³⁹⁶

Key stakeholder recommendations

- 3.109** Animal welfare advocates proposed methods for ensuring the sale of Rosehill could lead to positive impacts for animal welfare in the NSW racing industry.

Establishment of an independent animal welfare body

- 3.110** In response to concerns about the existing strategy for animal welfare, one proposal presented to the inquiry was the Thoroughbred Aftercare Welfare Working Group's recommendation for a 'national organisation dedicated to the development and implementation of a national welfare

³⁹² Submission 58, Coalition for the Protection of Racehorses, p 3.

³⁹³ Evidence, Mr Abrahams, 9 August 2024, p 65.

³⁹⁴ Evidence, Mr Abrahams, 9 August 2024, p 65.

³⁹⁵ Evidence, Mr V'landys, 9 August 2024, p 54; Evidence, Mr Garry Charny, Board Member, Racing NSW, 9 August 2024, p 29. Racing NSW provided an itemised breakdown of annual expenditure from the Equine Welfare Fund across two consecutive financial years in its post-hearing responses: Answers to questions on notice, Racing NSW, 17 September 2024, pp 1-2.

³⁹⁶ Answers to questions on notice, Mr Garry Charny, Board Member, Racing NSW, 19 September 2024, p 1.

strategy', whose 'sole objective would be to improve the welfare of thoroughbreds'.³⁹⁷ Advocates identified the windfall sale of Rosehill as an opportunity to stand up such a body/authority in New South Wales, either as envisioned by the Thoroughbred Aftercare Welfare Working Group or in a modified form.³⁹⁸

- 3.111** RSPCA NSW gave additional evidence about the Thoroughbred Aftercare Welfare Working Group's report - *The most important participant—A Framework for Thoroughbred Welfare* - and expressed frustration that the recommendations of the Report had not yet been actioned:

The Thoroughbred Aftercare Welfare Working Group Report is a pivotal document that provides over 40 recommendations to help improve outcomes for horses leaving the racing industry (TAWWG 2021). The Report took over 18 months to prepare and is the most comprehensive animal welfare document produced by and for thoroughbred racing in Australia. An independent panel, the TAWWG, was formed consisting of four members and chaired by veterinarian and former Victorian premier Denis Napthine. Funding was provided by AgriFutures, Tabcorp, Sportsbet, the Australian Trainers' Association, the Australian Jockeys' Association, the Victoria Racing Club, the Brisbane Turf Club, and Thoroughbred Breeders Australia... To date, there is no evidence of any racing jurisdiction establishing a plan to implement any of these recommendations. This is extremely disappointing, given that the racing industry initiated and facilitated the work.³⁹⁹

- 3.112** Mr Celotto underscored that, with increased animal welfare funding flowing from any future sale, there should be a corresponding increase in transparency over how that money is spent to be sure it is actually delivering tangible animal welfare outcomes. In his opinion, the only way that can be achieved is through 'an independent body that oversees how this money is being spent and what work is actually being done...to make sure [horses are] given the appropriate care'.⁴⁰⁰

Banning the whip

- 3.113** A government-implemented prohibition on the whip – or some variation on its future phasing out – was recommended by inquiry participants, including Sentient, the Animal Defenders Office, and Mr Celotto of the Coalition for the Protection of Racehorses.⁴⁰¹

- 3.114** In evidence to the committee, animal welfare groups emphatically opposed the use of the whip and called for it to be phased out, labelling it a cruel device causing pain, localised trauma, tissue

³⁹⁷ Thoroughbred Aftercare Welfare Working Group, *The Most Important Participant: A framework for thoroughbred welfare*, 2021, p 15.

³⁹⁸ Evidence, Dr Andrea Harvey, Researcher, Sentient, and Associate Professor, Sydney School of Veterinary Sciences, University of Sydney, 9 August 2024, p 76, Submission 58, Coalition for the Protection of Racehorses, p 9.

³⁹⁹ Submission 57, Royal Society for the Prevention of Cruelty to Animals (RSPCA) NSW, p 2.

⁴⁰⁰ Evidence, Mr Celotto, 22 July 2024, p 51.

⁴⁰¹ Submission 23, Sentient: The Veterinary Institute for Animal Ethics, p 8; Submission 72, Animal Defenders Office, p 5; Evidence, Mr Celotto, 22 July 2024, p 50.

damage and mental suffering with no appreciable effect on performance.⁴⁰² For example, the Animal Defenders Office gave evidence raising the following concerns:

Racing NSW still allows an unlimited use of the whip in the final 100 metres of a race, when horses are most fatigued and have the least capacity to respond. RSPCA Australia suggests not only that there is no evidence to show that whipping influences the performance of a horse, but also that the practice results in pain, localised trauma and tissue damage.⁴⁰³

- 3.115** When asked to comment on suggestions the whip is sometimes necessary to straighten a horse and thereby avoid accidents, Professor Paul McGreevy of the University of Sydney's School of Veterinary Science, told the committee the data shows no difference in deviations, nor safety issues or horse performance, when comparing whip-free races with races in which the whip is used.⁴⁰⁴
- 3.116** Mr Vlandys rejected suggestions the whip causes pain, insisting that the whip currently approved by the *Rules of Racing* is padded and – unlike the erstwhile leather whip that 'used to hurt the horse significantly' – does not hurt the horse or leave any marks.⁴⁰⁵ In his words, 'the horse can hardly feel it'.⁴⁰⁶
- 3.117** The scientific merit of Mr Vlandys' evidence was questioned by Professor McGreevy. He concluded that the padded whip is far from the harmless racing device it is often claimed to be, one reason being the unpadded portion of the whip contacts the horse more often than not:

Our studies of slow motion videos have shown that more than 65 per cent of the time, the unpadded section hits the horse. The padded section, nevertheless, can leave welts on the horse. A comparative study of human skin and horse skin shows that, anatomically, you would assume that the horses are feeling an equivalent amount of pain to humans when struck. That's because horses have thick skin but the layer at the outer surface—the epidermis—is as richly innervated in horses as it is in humans. The padded whip is not a "get out of jail free" card at all.⁴⁰⁷

- 3.118** Some inquiry participants questioned the extent to which the rules about the use of the whip are effectively policed or enforced while also suggesting the minor penalties for breaches act as no deterrent.⁴⁰⁸

Whole-of-life tracing

- 3.119** As a further condition for their support for the sale of Rosehill, many animal welfare advocates called for the implementation of a national traceability register for thoroughbreds for their

⁴⁰² Submission 23, Sentient: The Veterinary Institute for Animal Ethics, p 5; Submission 57, RSPCA NSW, p 2; Submission 72, Animal Defenders Office, p 2. See also: Submission 58, Coalition for the Protection of Racehorses, p 5.

⁴⁰³ Submission 72, Animal Defenders Office, p 2.

⁴⁰⁴ Evidence, Professor Paul McGreevy, Sydney School of Veterinary Science, University of Sydney, 9 August 2024, p 78.

⁴⁰⁵ Evidence, Mr Vlandys, 9 August 2024, p 53.

⁴⁰⁶ Evidence, Mr Vlandys, 9 August 2024, p 53.

⁴⁰⁷ Evidence, Professor McGreevy, 9 August 2024, p 74.

⁴⁰⁸ Evidence, Mr Celotto, 22 July 2024, p 56; Submission 89, Carolyn McDonald, p 2.

whole-of-life, including after they exit racing. This was proposed to be funded using proceeds from the sale of Rosehill. While there was some variation in the scope and extent of this proposal, it was repeated in evidence from Mr Celotto, RSPCA NSW, Sentient, the Animal Defenders Office, Professor McGreevy, Dr Elliott and the Coalition for the Protection of Racehorses.⁴⁰⁹

3.120 Additionally, in response to questioning by the committee, the industry regulator's Chief Executive lent his support to whole-of-life tracing.⁴¹⁰

3.121 Likewise, Ms Julia Ritchie of the Save Rosehill Group, considered traceability a pressing issue in relation to re-homing within the industry. Ms Ritchie took the view that the current industry-led rehoming is often 'anecdotal' and that enhanced traceability would 'give you a much better idea of the type of horses, where they go, what we're missing and what we still need to look at'.⁴¹¹

3.122 RSPCA NSW explained they support whole-of-life tracing as a means of addressing the risk of ex-racing horses being sent to slaughter:

The fate of thousands of horses leaving the industry every year raises serious concerns for their welfare, with many sold on again and again with continuing concerns that some are sent to slaughter to be used for pet food, despite requirements by the NSW racing industry that this does not occur. Once they leave the industry, except for those relatively small numbers who are taken into industry rehoming programs, there is virtually no tracking of how they are cared for or what happens to them. Information on the exact destination and number of horses leaving the racing industry is unknown due to a lack of publicly available data.⁴¹²

3.123 In evidence to the committee, whole-of-life tracing was proposed to ensure an end to the practice of thoroughbreds being sent to slaughter when they can no longer race.⁴¹³

3.124 The extent of this practice was disputed in evidence, with industry representatives and animal welfare advocates holding markedly different views. Mr V'landys referred the committee to the Racing NSW ban on thoroughbred horses being sent to abattoirs or knackeries, and insisted that of the retired competitors, '[n]one go to abattoirs'.⁴¹⁴

Capped breeding

3.125 A further condition on support for the proposed sale of Rosehill related to current breeding levels within the industry.

⁴⁰⁹ Evidence, Mr Celotto, 22 July 2024, p 52; Submission 57, RSPCA NSW, p 4; Submission 23, Sentient: The veterinary institute for animal ethics, p 8; Submission 72, Animal Defenders Officer, p 5; Evidence, Professor McGreevy, 9 August 2024, p 73; Evidence, Dr Elliott, 9 August 2024, p 74; Submission 58, Coalition for the Protection of Racehorses, pp 1 - 3.

⁴¹⁰ Evidence, Mr V'landys, 9 August 2024, p 53.

⁴¹¹ Evidence, Ms Ritchie, 9 August 2024, p 71.

⁴¹² Submission 57, RSPCA NSW, pp 1 – 2.

⁴¹³ See, for example: Submission 57, RSPCA NSW, p 1, Submission 23, Sentient, p 6.

⁴¹⁴ Evidence, Mr V'landys, 9 August 2024, pp 53 – 55.

- 3.126** Among animal welfare advocates, there was a clear consensus that the industry is breeding too many thoroughbreds and, consequently, a large proportion are considered excess to the industry's requirements and may be killed.⁴¹⁵ Racing NSW gave evidence to the committee that horses are not being killed in New South Wales.⁴¹⁶
- 3.127** As a condition of their support for the sale of Rosehill, the Animal Defenders Office proposed that the sale proceeds be used to, *inter alia*, advocate for the elimination of so called wastage in the industry including reducing the unnecessary production of foals.⁴¹⁷
- 3.128** This was echoed by Sentient's submission to the inquiry. It proposed greater consideration of the number of horses born to the number that are able to be re-homed, including a forward projection for the next five and ten years. In particular, Sentient recommended a formula be developed to calculate the capacity for the industry to re-home all horses exiting the industry.⁴¹⁸

Industry perspectives on thoroughbred welfare

- 3.129** Some inquiry participants working in the racing industry offered a starkly different perspective on the current state of horse welfare and safety within the industry.
- 3.130** Referring to animal welfare activists outside race meetings, Mr Richard Callander, Chief Executive of the NSW Trainers Association, called into question the veracity of their complaints, stressing instead that the racing industry in New South Wales adopts best practice welfare and has strict licensing requirements.⁴¹⁹
- 3.131** Evidence from Mr V'landys characterised thoroughbred welfare in the racing industry in glowing terms, telling the committee Racing NSW 'leads the world' on welfare, and declaring that he has 'zero tolerance [for] anyone on animal cruelty'.⁴²⁰
- 3.132** Mr V'landys also noted that Racing NSW carries out veterinary inspections for re-homed horses, being 'the only jurisdiction in Australia that inspects where the horse is at all times.'⁴²¹ He submitted that Racing NSW has carried out approximately 3,000 inspections and incurs considerable costs to ensure re-homed horses continue to be well looked after, with consequences for those that are not.⁴²²

⁴¹⁵ Evidence, Mr Celotto, 22 July 2024, p 52, Evidence, Dr Elliot, 9 August 2024, p 78, Submission 57, RSPCA NSW, p 1, Submission 72, Animal Defenders Office, p 3, Submission 5, Professor Paul McGreevy, p 6.

⁴¹⁶ Evidence, Mr V'Landys, 9 August 2024, pp 53 and 55.

⁴¹⁷ Submission 72, Animal Defenders Office, p 5.

⁴¹⁸ Submission 23, Sentient, p 7; Evidence, Dr Elliot, 9 August 2024, p 77 and 78.

⁴¹⁹ Evidence, Mr Callander, 9 August 2024, p 37.

⁴²⁰ Evidence, Mr V'landys, 9 August 2024, p 43.

⁴²¹ Evidence, Mr V'landys, 9 August 2024, p 53.

⁴²² Evidence, Mr V'landys, 9 August 2024, p 53.

Committee comment

- 3.133** Throughout the inquiry, the committee heard a wide range of views about the potential impacts of the sale of Rosehill Racecourse on the racing industry. Some were optimistic about the benefits a sale could bring, while others feared it could result in the undoing of an industry they love.
- 3.134** Witnesses spoke of the funding challenges currently faced by the industry and the ability for a significant injection of funds to improve racing facilities in Sydney, ensuring the longevity of racing in New South Wales. Others spoke thoughtfully about the need for the industry to diversify its income streams and reduce its current reliance on wagering.
- 3.135** The committee notes the considerable evidence from the leadership of the Australian Turf Club, Racing NSW and racing industry participants alike about the great expense of running the racing industry, and the need for an increase in revenue to overcome the 'headwinds' facing the racing industry today. The committee appreciates the funding challenges faced by the racing industry and the concern of the Australian Turf Club to maintain and improve its facilities. We are sympathetic to the appeal of a significant influx of funds and what could be done with the proceeds but the Committee has concluded that the Australian Turf Club has substantially over-estimated to its membership the true value of Rosehill Racecourse.
- 3.136** We note that a number of stakeholders insisted that there are other avenues to the sale of Rosehill Racecourse worth exploring. These stakeholders were firmly of the view that selling Rosehill Racecourse was not the best way to secure necessary funds, and made a number of suggestions as to other options that could help improve funding and deliver more housing supply.
- 3.137** The initial proposal from the Australian Turf Club that sought to relocate racing from Rosehill to Warwick Farm appears to be more consistent with arguments that race attendances are declining and seeking to address the challenges of operating four racecourses within metropolitan Sydney. The revised proposal to identify another racetrack in metropolitan Sydney and that being a requirement of the proposal's approval by Racing NSW, makes it more complicated to find a mutually beneficial proposal for both the Australian Turf Club and the NSW Government.
- 3.138** Throughout the inquiry, the committee learned of some of the alternative options for a racecourse in Sydney should the sale of Rosehill Racecourse proceed. Ensuring the feasibility of an alternative site is a requirement for the approval by Racing NSW and seems key to improving levels of support for the proposal among at least some Australian Turf Club members. However, the various options presented to the committee as under consideration appear problematic.
- 3.139** In particular, it is our view that the Brick Pit site at Homebush is unlikely to be able to accommodate a racetrack due to environmental factors, including the endangered status of the resident green and golden bell frog population and the ongoing instability of land at the site. The committee shares the concern of a number of witnesses that the Brick Pit could have even been proposed as an option. We note the clear obstacles to its suitability identified by the Chief Executive Officer of the Sydney Olympic Park Authority and the Secretary of the Department of Planning, Housing and Infrastructure in their evidence to the committee.

Finding 8

The Brick Pit site at Sydney Olympic Park is highly unlikely to be able to accommodate a racetrack due to environmental factors, including the endangered status of the resident green and golden bell frog population and the ongoing instability of land at the site.

- 3.140** The committee also heard of the limitations of other alternatives proposed as replacements, such as the upgrading of facilities at Warwick Farm.
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Finding 9

Outside of the Brick Pit site at Sydney Olympic Park, which is unsuitable to accommodate an alternative racetrack, no other viable or feasible sites have been identified to create another racetrack in metropolitan Sydney.

- 3.141** In addition, the committee is concerned about the extent of Racing NSW's desired oversight of the proceeds of the sale, noting that the benefits to the Australian Turf Club may be less than they anticipate. Considering the evidence presented with respect to the funding model, the committee shares the concerns of a number of stakeholders that if Racing NSW had oversight of the majority of funds it would not assist the viability of the Australian Turf Club.
- 3.142** Nonetheless, it is clear to the committee that the ongoing need for housing in Sydney presents a number of challenges, and it is right to explore opportunities that will yield more homes. It is clear from the evidence before the committee that there are several proposals that are being explored and proposed by the Australian Turf Club to deliver more homes at Rosehill, Randwick, Warwick Farm and Canterbury racecourses. Evidence before the committee indicated that those proposals could deliver approximately 20,000 dwellings.
- 3.143** The realisation of 25,000 homes over a timeframe of 35 years represents the addition of a little more than 700 homes on an annualised basis in order for the Australian Turf Club to realise their target revenue figure of \$5 billion. This comes with a significant upfront investment from Government in the provision of a metro station at the precinct, indicated to cost up to \$2.2 billion, which is before you take into consideration any land that the Government is to transfer to the Australian Turf Club for training facilities at Horsley Park or the provision of other land within the Sydney metropolitan region for another racetrack.
- 3.144** The committee also notes evidence before it regarding the potential for the proposal to achieve wider social and economic benefits,⁴²³ and that these, too, are a relevant consideration during the unsolicited proposal process.

⁴²³ Submission 64, Liverpool City Council; Submission 1, Business Western Sydney; Submission 25, Centre for Western Sydney; Submission 44, Western Sydney Leadership Dialogue; Submission 70, Committee for Sydney.

Finding 10

The evidence before the committee did not demonstrate that the proposal to develop Rosehill Racecourse presented immediate monetary value for the New South Wales taxpayer or would, alone, make a significant impact in meeting New South Wales' national housing accord targets. It may, however, provide wider economic and social benefits and make a positive contribution to resolving a chronic housing shortage in Sydney.

- 3.145** Finally, we refer to the evidence of many inquiry participants who desired to impress upon the committee some of the shortcomings of the racing industry when it comes to the welfare of horses and the lack of transparency regarding expenditure from the Equine Welfare Fund. The committee notes that should the sale of Rosehill Racecourse proceed, there is an opportunity to use the process involved to improve animal welfare outcomes, whether through the allocation of some of the funds to animal welfare, or in improving facilities at other racetracks. Like the RSPCA, the committee is keen for the safety and wellbeing of racehorses to be improved through improvements in the design of racetracks and associated facilities. The committee recognises that these considerations could potentially be incorporated into the proposal process as part of the conditions for sale.
- 3.146** During this inquiry, the committee received evidence about a range of animal welfare issues, including the risk of injury and death to horses from training and racing, the use of whips, spurs and tongue ties, and the problem of over-breeding and so-called 'wastage' resulting in ex-racing horses possibly ending up in knackeries. The committee was concerned to hear from animal welfare organisations regarding Racing NSW's responses to the latest research and expert opinions regarding animal welfare, and they have not taken steps to implement the recommendations of the 2021 report of the Thoroughbred Aftercare Welfare Working Group: *The most important participant—A Framework for Thoroughbred Welfare*.
- 3.147** The committee has already recommended that the NSW Government conduct a thorough review of the *Thoroughbred Racing Act 1996*. The committee is also aware that the NSW Government made an election commitment to review the *Prevention of Cruelty to Animals Act 1979* and introduce a new animal welfare framework in New South Wales. The committee therefore recommends that, as part of the reviews of these acts, the NSW Government consider the animal welfare issues raised in this inquiry, as well as the recommendations made by the Thoroughbred Aftercare Welfare Working Group.
-

Recommendation 4

That, as part of the reviews of the *Thoroughbred Racing Act 1996* and the *Prevention of Cruelty to Animals Act 1979*, the NSW Government have regard to the animal welfare issues raised in this report and the recommendations made in the 2021 report of the Thoroughbred Aftercare Welfare Working Group: *The most important participant—A Framework for Thoroughbred Welfare*.

- 3.148** The committee was concerned about the extent of conflicting evidence received and as such recommends that the Legislative Council reaffirm its support for the *Parliamentary Evidence Act 1901* and the critical importance of witnesses to committee inquiries giving direct and honest evidence at all times.
-

Recommendation 5

That the Legislative Council reaffirm its support for the *Parliamentary Evidence Act 1901* and the critical importance of witnesses to committee inquiries giving direct and honest evidence at all times.

Appendix 1 Submissions

No.	Author
1	Business Western Sydney
2	Name suppressed
3	Name suppressed
4	Ms Janelle Dilger
5	Professor Paul McGreevy
6	Mr David Hall
7	Mr John Clift
8	Name suppressed
9	Dr Peter Kerkenezov
9a	Dr Peter Kerkenezov
10	Name suppressed
11	Wentworth Capital
12	Name suppressed
13	Mr Graham Reed
14	Mr George Zivkovic
15	Mr Craig Brian Peter Coyle
16	Name suppressed
17	Ms Bronwen Evans
18	Ms Keryn Woolmer
19	Name suppressed
20	Confidential
21	Ms Norma Graves
22	Mr Robert Nowak
23	Sentient, The Veterinary Institute for Animal Ethics
24	Mr Matthew McGrath
25	Centre for Western Sydney
26	James Mathers
27	Mr Martin Zammit
28	Mrs Sandra Zammit
29	Name suppressed
30	Name suppressed

No.	Author
31	Name suppressed
32	Mr Norm Tattersall
33	Name suppressed
34	Mr Anthony Harris
35	Name suppressed
36	Mr William Clegg
37	Ms Jean Shaw
38	Ms Mayumi Beppu
39	Cumberland Bird Observers Club
40	Mr Maurie Catt
41	Ms Judith Shaw
42	Mr Andrew Lockhart
43	Name suppressed
44	Western Sydney Leadership Dialogue
45	Mr Kieran Fitzgerald and Ms Jennifer Spithill
46	Name suppressed
47	Mr Paul Lamphée
48	NSW Jockeys Association
49	Urban Development Institute of Australia NSW
50	Miss Nicola Cramsie
51	Mr William Rutledge
52	Rosehill Camellia Landowners Alliance
53	Sydney YIMBY
54	Advocacy For a Kinder World
55	Mr Matthew Zammit
56	NSW Government
57	Royal Society for the Prevention of Cruelty to Animals (RSPCA) NSW
58	Coalition for the Protection of Racehorses
59	Confidential
60	Mr Christopher Waller
61	Australian Turf Club
62	Thoroughbred Breeders NSW
63	Save Rosehill Group
64	Liverpool City Council
65	Confidential

No.	Author
66	Woppitt Bloodstock Pty Ltd
67	Mr Brian Nutt
68	Cr Helen Hughes
69	Billbergia
70	Committee for Sydney
71	Sustainable Action for Racing
72	Animal Defenders Office Inc.
73	Mrs Rachael McDonald
74	Confidential
75	Name suppressed
76	Confidential
77	Name suppressed
78	Mr Bjorn Baker
79	Confidential
80	Name suppressed
81	Mr Francis Cook
82	Mr David Walter
83	Mr Laurence Bennett
84	Ms Pam Webber
85	Confidential
86	Mr James Attard
87	Name suppressed
88	Ms Sandra Jorgensen
89	Carolyn McDonald
90	Oliver Tait
91	Confidential
92	Confidential
93	Sharilea Hitchcock
94	Confidential
95	Confidential
96	Confidential
97	Name suppressed
98	Confidential
99	Debbie Prest
100	Confidential

No.	Author
101	Confidential
102	Confidential
103	Confidential
104	Errol Chant
105	Name suppressed
106	Confidential
107	Confidential
108	Confidential
109	Michael Inglis
110	Confidential
111	Name suppressed
112	Name suppressed
113	Name suppressed
114	Name suppressed
115	Name suppressed
116	Name suppressed
117	Name suppressed
118	Mr Greg Lamphee
119	Mr Shreshtha Jain
120	Dr Andrew Dudas
121	Ms Cheryl Forrest-Smith
122	Name suppressed
123	Ms Heather Barnes
124	Mr Daniel Johnson
125	Jan Kendall
126	Name suppressed
127	Name suppressed

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday, 22 July 2024 Parliament House, Sydney Macquarie Room	Mrs Gabriel Waterhouse AO	Horse Trainer
	Mr John O'Shea	Horse Trainer
	Mr David Capp Hall AM	Past Chairman and Honorary Treasurer of the Australian Jockey Club
	Mr Darren McConnell	Vice-President, NSW Racehorse Owners Association
	Mr John Leto	CEO Western Sydney Leadership Dialogue
	Mr David Borger	Executive Director, Business Western Sydney
	Dr Peter Tulip	Chief Economist, Centre for Independent Studies
	Mr Hamish Esplin	President, Thoroughbred Breeders NSW
	Mr Elio Celotto	Campaign Director, Coalition for the Protection of Racehorses
	Witness I	
Witness J		
Friday, 9 August 2024 Parliament House, Sydney Macquarie Room	Hon Peter McGauran	Chairman, Australian Turf Club
	Mr Steve McMahon	Head of Membership and Corporate Affairs, Australian Turf Club
	Mr Timothy Hale SC <i>(via videoconference)</i>	Vice Chair and Elected Director, Australian Turf Club
	Ms Caroline Searcy	Director, Australian Turf Club
	Mr Garry Charny	Board Member, Racing NSW
	Mr Richard Callander	Chief Executive, NSW Trainers Association
	Mr Peter V'landys AM	Chief Executive, Racing NSW
	Mr Graeme Hinton	Chief Operating Officer, Racing NSW
	Mr Jason Abrahams	Spokesperson, Save Rosehill Group

Date	Name	Position and Organisation
	Ms Julia Ritchie	Spokesperson, Save Rosehill Group
	Dr Rosemary Elliott	President, Sentient
	Dr Andrea Harvey <i>(via videoconference)</i>	Associate Professor, Sydney School of Veterinary Science, Sentient
	Dr Paul McGreevy	Professor, Sydney School of Veterinary Science, University of Sydney
	Mr Christopher Waller	Racehorse trainer
	Mr Richard Freedman	Racehorse trainer
Thursday, 12 September 2024 Parliament House, Sydney Preston Stanley Room	Mr Simon Draper PSM	Secretary, Premier's Department
	Mr William Murphy PSM	Deputy Secretary, Strategic Projects, Premier's Department
	Ms Kate Boyd PSM	Secretary, Cabinet Office
	Mr Peter Regan PSM	Chief Executive, Sydney Metro
	Mr Rowan Fisher	Director, Commercial Transactions, Department of Enterprise, Investment and Trade
	Ms Katie Knight	Executive Director, Commercial Transactions, Department of Enterprise, Investment and Trade
	Mrs Carla Armanet	CEO, Sydney Olympic Park Authority
	Ms Karen Jones	CEO, Office of Sport, for Sydney International Equestrian Centre
	Dr Peter Kerkenezov	Veterinary Surgeon
	Ms Carolyn McDonald	Former Stablehand
	Mrs Deborah Prest	Horse Trainer
	Dr Saranne Cooke	Chairman, Racing NSW
Monday, 14 October 2024 Parliament House, Sydney Macquarie Room	Witness A	
	Witness B	

Date	Name	Position and Organisation
	Witness C	
	Witness D	
	Witness E	
	Witness F	
	Witness G	
	Witness H	
Monday 21 October 2024 Parliament House, Sydney Macquarie Room	Ms Kiersten Fishburn	Secretary, Department of Planning, Housing and Infrastructure
	Mr Terry O'Brien	Director, Office of Racing
	Mr Matthew McGrath	Ex Chairman, Australian Turf Club
	Mr Ron Finemore	Owner, Finemore Thoroughbreds Pty Ltd
	Mr James Cullen	Chief of Staff, Office of the Hon Chris Minns MP

Appendix 3 Minutes

Minutes no. 1

Wednesday 5 June 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Member's Lounge, Parliament House, Sydney at 12.40 pm

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Ms Faehrmann

Mr Fang

Dr Kaine

Mr Latham (participating)

Mr Martin

Mr Nanva

Mr Primrose

Mr Tudehope

2. Correspondence

The committee noted the following items of correspondence:

Received

- 29 May 2024 – Emails from the Office of Hon Mark Latham MLC, advising that Mr Latham will be a participating member on the inquiry into the proposal to develop Rosehill Racecourse.

3. Tabling of resolution establishing the committee

The committee noted the following resolution of the House establishing the committee, which reads as follows:

Chair to table the resolution of the House establishing the committee, which reads as follows:

(1) That a select committee be established to inquire into and report on the proposal to develop

Rosehill Racecourse, and in particular:

- (a) the unsolicited proposal process including associated probity measures,
- (b) the involvement of the Government prior to the unsolicited proposal being made,
- (c) the role of the proposal in meeting housing targets,
- (d) impacts on the cost and delivery of the Sydney Metro,
- (e) potential impacts on parkland in Western Sydney,
- (f) impacts on the racing industry in New South Wales,
- (g) the impact on animal welfare and any integrity concerns associated with the proposal which relate to animal welfare, and
- (h) any other related matters.

(2) That, notwithstanding anything to the contrary in the standing orders, the committee consist of nine members comprising:

- (a) three government members,
- (b) three opposition members, with one being Mr Farlow, and

- (c) three crossbench members, being Ms Hurst, Ms Faehrmann and Mr Martin.
- (3) That the Chair of the committee be Mr Farlow and the Deputy Chair be Ms Hurst.
- (4) That, unless the committee decides otherwise:
- (a) all inquiries are to be advertised via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales,
 - (b) submissions to inquiries are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,
 - (c) attachments to submissions are to remain confidential,
 - (d) the Chair's proposed witness list is to be circulated to provide members with an opportunity to amend the list, with the witness list agreed to by email, unless a member requests the Chair to convene a meeting to resolve any disagreement,
 - (e) the sequence of questions to be asked at hearings alternate between Opposition, crossbench and Government members, in that order, with equal time allocated to each,
 - (f) transcripts of evidence taken at public hearings are to be published,
 - (g) supplementary questions are to be lodged with the Committee Clerk within two business days following the receipt of the hearing transcript, with witnesses requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to the witness,
 - (h) answers to questions on notice and supplementary questions are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration, and
 - (i) media statements on behalf of the committee are to be made only by the Chair.
- (5) That the committee report by 30 November 2024

4. Conduct of committee proceedings

4.1 Media

The committee noted the Broadcast of Proceedings resolution (as amended by the Legislative Council on 19 October 2022), in particular the provisions relating to the filming, broadcasting, rebroadcasting and photography of committee proceedings, including:

- (4) That unless resolved otherwise by a committee, this House authorises:
- (a) the filming, broadcasting and photography of members and witnesses in committee proceedings:
 - (i) by representatives of media organisations, including from around the committee meeting table,
 - (ii) by any member of the public, from the position of the audience, and
 - (b) the rebroadcasting of committee proceedings on the Legislative Council and Parliament's social media channels.

5. Conduct of inquiry

5.1 Proposed timeline

Resolved, on the motion of Mr Fang: That the committee adopt the following timeline for the administration of the inquiry:

- July 2024: One site visit (Rosehill Racecourse, Sydney International Equestrian Centre, Brickpit Homebush)

- Thursday 18 July 2024: Submissions close
- July 2024: One hearing
- August 2024: One hearing
- September 2024: One hearing
- November 2024: Report deliberative.

5.2 Stakeholder list

Resolved, on the motion of Ms Faehrmann: That:

- the secretariat circulate to members the Chair's proposed list of stakeholders to be invited to make a submission
- members have two days from when the Chair's proposed list is circulated to make amendments or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

5.3 Provision of documents to participating member

Resolved, on the motion of Mr Fang: That Mr Latham, who has advised the committee that he intends to participate for the duration of the inquiry into the proposal to develop Rosehill Racecourse, be provided with copies of all committee papers and that all costs associated with his participation in the inquiry be covered by the committee.

6. Other business

Mr Latham declared that he is a member of the Australian Turf Club.

7. Next meeting

The committee adjourned at 12.43 pm, *sine die*.

Emily Whittingstall
Committee Clerk

Minutes no. 2

Friday 19 July 2024

Select Committee on the Proposal to Develop Rosehill Racecourse
Guardhouse, Macquarie St, Sydney at 7.00 am

1. Members present

Mr Farlow, *Chair* (from 7.50 am until 2.55 pm)

Mr Fang

Mr Latham (participating) (from 10.35 am until 2.55 pm)

Mr Lawrence (substituting for Dr Kaine) (via teleconference from 7.51 am until 7.54 am)

Mr Martin

Mr Nanva (from 7.50 am until 11.35 am)

Mr Primrose

2. Apologies

Ms Faehrmann

Ms Hurst, *Deputy Chair*

Mr Tudehope

3. Previous minutes

Resolved, on the motion of Mr Martin: That draft minutes no. 1 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 11 July 2024 – Email from Nathan Quigley, Save Rosehill Alliance to the secretariat, advising that they are unavailable to appear at the hearing on 22 July 2024
- 12 July 2024 – Email from Darren McConnell, Vice President NSW Racehorse Owners Association to the secretariat, advising of attendance at hearing on 22 July 2024
- 14 July 2024 – Email from Dr Bidha Jones AM, Director of Strategy, Alliance for Animals to secretariat, declining witness invitation
- 14 July 2024 – Email from Rosemary Elliott, Sentient, The Veterinary Institute for Animal Ethics to secretariat, declining witness invitation
- 15 July 2024 – Email from Andrea Heinrich, Executive Assistant & Racing Administration for Gai Waterhouse, to secretariat requesting attendance of support person at hearing on 22 July 2024.

Sent

- 16 July 2024 – Letter from Chair to Ms Donna Davis, MP, Member for Parramatta, advising of site visit in Member's electorate on 19 July 2024
- 16 July 2024 – Letter from Chair to Mrs Tanya Davies, MP, Member for Badgerys Creek, advising of site visit in Member's electorate on 19 July 2024.

5. Inquiry into the proposal to develop Rosehill Racecourse

6. Other business

6.1 Hearing – Monday 22 July 2024

Resolved, on the motion of Mr Fang: That:

- the hearing schedule for Monday 22 July 2024 be amended to allow 45 minutes for the Coalition for the Protection of Racehorses
- Mr Robert Waterhouse be permitted to accompany Mrs Gabriel Waterhouse as a support person at the hearing on Monday 22 July 2024.

6.2 Site visit – Rosehill Racecourse

The committee attended Rosehill Racecourse and was met by:

- Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club
- Matt Sharman, Rosehill Gardens Racecourse General Manager, Australian Turf Club
- Brett deVine, Head of Communications, Australian Turf Club

The committee viewed the Rosehill site and were provided with an overview of the proposal to develop Rosehill Racecourse.

6.3 Site visit – Brickpit, Sydney Olympic Park

The committee attended the Brickpit at Sydney Olympic Park and was met by the following staff:

- Carla Armanet, CEO
- Vivienne Albin, Director, Urban Renewal and Environment
- Kerry Darcovic, Manager, Environment and Ecology
- Jen O'Meara, Senior Ecologist

The committee met with Sydney Olympic Park Authority staff who provided a briefing on the conservation efforts currently underway to protect and restore green and golden bell frog habitat in the Brickpit and participated in a discussion about the potential impact of the proposal to develop Rosehill Racecourse on the Brickpit.

6.4 Site visit – Western Sydney Parklands

The committee attended Western Sydney Parklands and was met by:

- Ben Tax, Director Property Services, Greater Sydney Parklands

- David Kirkland, Senior Manager Environment and Sustainability, Greater Sydney Parklands

The committee took a guided bus tour of the parklands adjacent to the Sydney International Equestrian Centre site, and participated in a discussion about the potential impact of the proposal to develop Rosehill Racecourse on Western Sydney Parklands.

6.5 Site visit – Sydney International Equestrian Centre (SIEC)

The committee attended Sydney International Equestrian Centre and was met by:

- Mr Adam Berry, Executive Director Centres, Venues, NSW Office of Sport
- Mr Mark Fulcher, Venue Manager, SIEC, NSW Office of Sport

The committee viewed the SIEC site and discussed the potential impact of the proposal to develop Rosehill Racecourse on SIEC.

7. Adjournment

The committee adjourned at 3.45 pm until Monday 22 July 2024 at 9.45 am (public hearing).

Emily Whittingstall
Committee Clerk

Minutes no. 3

Monday 22 July 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Macquarie Room, Parliament House, Sydney at 9.46 am.

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Mr Fang

Dr Kaine

Mr Latham (participating until 3.00 pm) (substituting for Mr Martin from 3.00 pm)

Mr Martin (until 3.00 pm)

Mr Nanva

Mr Primrose

Mr Tudehope

2. Correspondence

The committee noted the following items of correspondence:

Received:

- 15 July 2024 – Email from Matthew McGrath, former Chairman Australian Turf Club, to secretariat, advising that he is unavailable to appear at the hearing on 22 July 2024.
- 15 July 2024 – Email from Natasha Field on behalf of Ron Finemore, former Chairman Australian Jockey Club, to secretariat, advising that he is unavailable to appear at the hearing on 22 July 2024.
- 15 July 2024 – Email from Matthew McGrath, former Chairman Australian Turf Club, to secretariat, advising that he is available to appear at a hearing on 12 September 2024.
- 15 July 2024 – Email from Natasha Field on behalf of Ron Finemore, former Chairman Australian Jockey Club, to secretariat advising that he is available to appear at a hearing on 12 September 2024.

3. Approach to submissions – pro formas

Resolved, on the motion of Dr Kaine: That the committee not accept pro formas.

4. Public Hearing

Resolved, on the motion of Mr Primrose: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

Mr Latham declared that he is a member of the Australian Turf Club.

The following witnesses were sworn and examined:

- Mrs Gabriel Waterhouse AO, Horse Trainer
- Mr John O'Shea, Horse Trainer

The evidence concluded and the witnesses withdrew.

The public and the media withdrew.

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of submissions nos. 60 to 62.

Resolved, on the motion of Mr Martin: That the committee proceed to take evidence from Witness I and Witness J *in camera*.

Witnesses I and J were admitted.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Sharon Ohnesorge, Ms Verity Smith, Ms Emily Whittingstall, Ms Tina Mrozowska, Ms Talina Drabsch, Hansard Reporters and AV Broadcast Services staff.

The evidence concluded and the witnesses withdrew.

Witnesses, the public and the media were readmitted.

The following witness was sworn and examined:

- Mr David Capp Hall AM, Past Chairman and Honorary Treasurer of the Australian Jockey Club.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr McConnell, Vice-President, NSW Racehorse Owners Association.

The evidence concluded and the witness withdrew.

The public and the media withdrew.

The committee discussed the conduct of future hearings.

Witnesses, the public and the media were admitted.

The following witnesses were sworn and examined:

- Mr John Leto, CEO Western Sydney Leadership Dialogue
- Mr David Borger, Executive Director, Business Western Sydney
- Dr Peter Tulip, Chief Economist, Centre for Independent Studies.

The evidence concluded and the witnesses withdrew.

Mr Martin left the meeting.

The following witness was sworn and examined:

- Mr Esplin, President, Thoroughbred Breeders NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Elio Celotto, Campaign Director, Coalition for the Protection of Racehorses.

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.45 pm.

The public and the media withdrew.

5. Summoning witnesses

The committee was briefed by Mr Steven Reynolds, Deputy Clerk, on the potential summoning of witnesses to future hearings.

Resolved, on the motion of Mr Tudehope: That:

- as soon as practicable, the secretariat issue a letter to Mr Chris Waller, Mr Richie Callander and Mr Peter V'landys:
 - requesting their attendance at the hearing on 9 August
 - requiring a response by 5 pm, Monday 29 July 2024
 - noting that should they fail to confirm attendance or reply to the invitation, a summons will be issued by the committee
 - in the case of Mr Chris Waller, noting that the committee will accommodate a request that the evidence be taken *in camera*.
- in the event that Mr Chris Waller, Mr Richie Callander, and/or Mr Peter V'Landys decline the committee's invitation to appear on 9 August 2024 or fail to respond to the invitation, under the authority of s 4(2) of the *Parliamentary Evidence Act 1901*, the committee issue a summons to Mr Chris Waller, Mr Richie Callander, and/or Mr Peter V'Landys to attend and give evidence before the committee on 9 August 2024.

6. Next meeting

The committee adjourned at 5.04 pm until 9 August 2024 (public hearing).

Verity Smith

Committee Clerk

Minutes no. 4

Friday 8 August 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Macquarie Room, Parliament House, Sydney at 8.47 am.

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Ms Faehrmann (from 8.52 am)

Mr Fang (via videoconference from 2.15 pm)

Dr Kaine

Mr Latham

Mr Martin

Mr Nanva

Mr Primrose

Mr Tudehope

2. Previous minutes

Resolved, on the motion of Mr Tudehope: That draft minutes nos. 2 and 3 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 16 July 2024 – Email from Garion Thain, Office of the Hon. Bob Nanva MLC to secretariat, advising that Stephen Lawrence will be substituting for Sarah Kaine MLC for the Rosehill Racecourse Inquiry Site visit on Friday 19 July
- 17 July 2024 – Email from Tony Crisafi, CEO, NSW Jockeys Association to secretariat, declining invitation to appear at the hearing on 22 July 2024
- 17 July 2024 – Email from Valance Horne, Executive Assistant to CEO, Chief Executive Office, City of Parramatta to secretariat, declining invitation to appear at the hearing on 22 July 2024
- 18 July 2024 – Email from Tony Crisafi, Chief Executive Officer, NSW Jockeys Association to secretariat, advising of unavailability for hearings in August and September 2024
- 18 July 2024 – Email from Sophie Baker, Executive Assistant, Chris Waller Racing Pty Ltd to secretariat, declining the invitation to Chris Waller to appear at the hearing on 22 July 2024
- 18 July 2024 – Email from Andrea Heinrich, Executive Assistant, Gai Waterhouse Racing to secretariat, requesting that Mr Rob Waterhouse attend as the support person for Mrs Gabriel Waterhouse AO at the hearing on 22 July 2024
- 19 July 2024 – Email from Lauren Myers, Business Support Lead to Director City Futures, Liverpool City Council to secretariat, advising that Mr Mallard will be an apology for the hearing on 22 July 2024
- 19 July 2024 – Email from inquiry participant to Chair, regarding provision of additional information
- 22 July 2024 – Email from the Hon Taylor Martin MLC to secretariat, advising that the Hon Mark Latham MLC will be substituting for him for the remainder of 22 July 2024
- 24 July 2024 – Email from inquiry participant to secretariat, detailing her experience with Racing NSW
- 24 July 2024 – Email from inquiry participant to secretariat, raising concerns about the racing industry
- 25 July 2024 – Email from inquiry participant, former horse trainer to secretariat, raising concerns about Racing NSW
- 25 July 2024 – Letter from inquiry participant, horse trainer to secretariat, providing information about Racing NSW
- 26 July 2024 – Letter from Peter V'landys AM, Chief Executive Officer, Racing NSW to Chair, accepting invitation to attend hearing on Friday 9 August 2024
- 29 July 2024 – Email from Richard Callander, Chief Executive Officer, NSW Trainers Association to Chair, accepting invitation to attend hearing on Friday 9 August 2024
- 1 August 2024 – Email from Richard Freedman, racehorse trainer, accepting invitation to attend the hearing on 9 August 2024 but declining the invitation on behalf of Will Freedman

Sent:

- 23 July 2024 – Letter from Chair to Chris Waller, racehorse trainer, inviting him to appear at a hearing on 9 August 2024
- 23 July 2024 – Letter from Chair to Peter V'landys AM, CEO Racing NSW, inviting him to appear at a hearing on 9 August 2024
- 23 July 2024 – Letter from Chair to Richard Callander, CEO NSW Trainers Association, inviting him to appear at a hearing on 9 August 2024

Resolved, on the motion of Mr Nanva: That the committee keep the following correspondence confidential, as per the request of the author or as per the recommendation of secretariat, as they contain sensitive information and potential adverse mention:

- email from inquiry participant to Chair, regarding provision of additional information, dated 19 July 2024

- email from inquiry participant to secretariat, providing details of her experience with Racing NSW, dated 24 July 2024
- email from inquiry participant to secretariat, raising concerns about the racing industry, dated 24 July 2024
- email from inquiry participant to secretariat, raising concerns about Racing NSW, dated 25 July 2024
- letter from inquiry participant to secretariat providing information about Racing NSW, dated 25 July 2024

Resolved, on the motion of Mr Nanva: That:

- the names of identified inquiry participants be redacted from the minutes
- the name and profession of an inquiry participant be redacted from the minutes.

4. Submissions

4.1 Public submissions

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 4-7, 9, 11, 13-15, 17-18, 21-25, 27-28, 32, 34, 36-42, 44-45, 47-59, 63-64, 66-67, 69-73, 78, 81-84, 86, 88-90.

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of submissions nos. 104 and 105.

4.2 Partially confidential submissions

The following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 2-3, 8, 10, 16, 19, 29-31, 33, 35, 75, 77, 80, 87.

Resolved, on the motion of Mr Primrose: That the committee:

- keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 2-3, 8, 10, 16, 19, 29-31, 33, 35, 75, 77, 80, 87
- authorise the publication of submission nos. 12, 26 and 43 with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat
- authorise the publication of submission nos. 46 and 99 with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat, and
- authorise the publication of submission nos. 68 and 97, with the exception of identifying and/or sensitive information which are to remain confidential, as per the request of the author.

4.3 Confidential submissions

Resolved, on the motion of Mr Primrose: That the committee keep submission nos. 20, 59, 65, 74, 76, 79, 85, 91-96, 98, 100-103, 106-107 confidential, as per the request of the author or as per the recommendation of the secretariat, as they contain identifying and sensitive information and/or adverse mention.

4.4 Email from inquiry participant regarding the provision of additional information

Resolved, on the motion of Mr Tudehope: That the Chair write to the inquiry participant to request the provision of additional information, noting that it will be subject to parliamentary privilege.

5. Public hearing

Resolved, on the motion of Mr Fang: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

Mr Martin declared that he had previously received legal advice from Mr Timothy Hale SC.

Resolved, on the motion of Ms Hurst: That Mr Jonathan Milner, lawyer, be permitted to attend the hearing as a support person for Mr Garry Charny, Board Member, Racing NSW.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Hon Peter McGauran, Chairman, Australian Turf Club
- Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Timothy Hale SC, (via videoconference), Vice Chair and Elected Director, Australian Turf Club
- Ms Caroline Searcy, Director, Australian Turf Club.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Garry Charny, Board Member, Racing NSW.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Richard Callander, Chief Executive, NSW Trainers Association.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Peter V'landys AM, Chief Executive, Racing NSW
- Mr Graeme Hinton, Chief Operating Officer, Racing NSW.

Mr Peter V'landys AM tendered the following document:

- redacted letter from Mr Basil Nolan, President Thoroughbred Breeders Australia and Hamish Esplin, President Thoroughbred Breeders NSW, to Dr Cooke, Chairperson Racing NSW, dated 8 August 2024.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Jason Abrahams, spokesperson, Save Rosehill Group
- Ms Julia Ritchie, spokesperson, Save Rosehill Group.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Rosemary Elliott, President, Sentient
- Dr Andrea Harvey (via videoconference), Associate Professor, Sydney School of Veterinary Science, Sentient
- Dr Paul McGreevy, Professor, Sydney School of Veterinary Science, University of Sydney.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Christopher Waller, racehorse trainer
- Mr Richard Freedman, racehorse trainer.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.30 pm. The public and the media withdrew.

After the hearing – tendered documents

The committee deferred consideration of documents tendered by Mr V'Landys.

6. Additional hearings

The committee noted that members have been approached by people who have not made a written submission due to fear of the submission being leaked or of the author being identified. The committee discussed the possibility of holding an additional hearing to allow for *in camera* evidence to be heard.

Resolved, on the motion of Mr Tudehope: That the secretariat draft and circulate to the committee for its approval, a letter from the Chair to potential witnesses on the list circulated by Ms Hurst:

- ascertaining willingness to attend an *in camera* hearing on a date to be determined
- providing witnesses with the opportunity to attend either in person or via video conference.

7. Next meeting

The committee adjourned at 4.45 pm until 12 September 2024 (public hearing).

Verity Smith

Committee Clerk

Minutes no. 5

Monday 26 August 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Room 1136, Parliament House, Sydney at 1.16 pm.

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Ms Faehrmann (until 1.50 pm)

Mr Fang

Dr Kaine (via videoconference)

Mr Latham (participating)

Mr Martin (via videoconference)(from 1.30 pm)

Mr Nanva (via videoconference)

Mr Primrose

Mr Tudehope (from 1.17 pm)

2. Correspondence

The committee noted the following items of correspondence:

Received

- 12 August 2024 – Letter from inquiry participant to committee, raising concerns about Racing NSW.

Resolved, on the motion of Ms Hurst: That the committee:

- keep the correspondence from inquiry participant to the committee, raising concerns about Racing NSW, dated 12 August 2024, confidential, as per the request of the author, as it contains identifying and sensitive information and potential adverse mention, and
- redact the author's name from the minutes.

3. Consideration of matters raised by Ms Hurst and Mr Latham

The Clerk of the Parliaments briefed the committee about contempt of parliament and the procedure for referring a matter to the Privileges Committee for investigation.

The committee considered correspondence from Mr Graeme Hinton, Chief Operating Officer, Racing NSW to committee dated 12 August 2024, responding to matters raised in the hearing on 9 August 2024.

Resolved, on the motion of Ms Faehrmann: That the committee:

- keep the correspondence from Mr Graeme Hinton, Chief Operating Officer, Racing NSW to committee dated 12 August 2024, responding to matters raised in the hearing on 9 August 2024, confidential as it contains identifying and sensitive information and adverse mention
- make a special report to the House, recommending that the correspondence be referred to the Privileges Committee for inquiry and report on the basis that it may constitute a substantial interference with the work of the committee and therefore a possible contempt
- provide a copy of the correspondence to the Privileges Committee on a confidential basis, should the House refer the matter to the Privileges Committee.

The committee considered the following items:

- redacted letter from Thoroughbred Breeders Australia and Thoroughbred Breeders NSW to Dr Saranne Cooke, Chairperson, Racing NSW, dated 8 August 2024, tendered by Mr Peter V'landys, Chief Executive Officer, Racing NSW, at the hearing 9 August 2024
- correspondence from Mr Tom Reilly, Chief Executive Officer, Thoroughbred Breeders Australia to Chair, responding to evidence given by Mr Peter V'Landys, Chief Executive Officer, Racing NSW, at the hearing on 9 August 2024, dated 12 August 2024.

The committee deferred consideration of its response until answers to questions on notice are received from Racing NSW.

4. Future hearings

Resolved, on the motion of Ms Hurst: That a full day *in camera* hearing be held on 14 October 2024, and that 21 October 2024 be set aside as a reserve date.

5. Next meeting

The committee adjourned at 1.52 pm until Thursday 12 September 2024, Preston Stanley Room, Parliament House (public hearing).

Verity Smith

Committee Clerk

Minutes no. 6

Friday 6 September 2024

Select Committee on the Proposal to develop Rosehill Racecourse
Room 1043, Parliament House, Sydney, 1.46 pm

1. Members present

Mr Farlow, *Chair*
Ms Hurst, *Deputy Chair* (via videoconference)
Ms Faehrmann
Mr Fang
Mr Latham (participating)
Mr Martin (via videoconference)
Mr Murphy (substituting for Dr Kaime)
Mr Nanva (via videoconference)
Mr Primrose (via videoconference)
Mr Tudehope (via telephone)

2. Witness list for hearing on 12 September 2024

The committee considered the witness list for the public hearing on 12 September 2024.

Resolved, on the motion of Ms Faehrmann: That Mr James Cullen, Chief of Staff, Office of the Premier, be invited to appear before the committee at the hearing on 12 September 2024, as part of the panel of witnesses from the Premier's Department and the Cabinet Office.

Resolved, on the motion of Ms Hurst: That Ms Debbie Prest be invited to appear before the committee at the hearing on 12 September 2024.

3. Other business

4. Next meeting

Thursday 12 September 2024, Preston Stanley Room, Parliament House (public hearing).

Verity Smith

Committee Clerk

Minutes no. 7

Thursday 12 September 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Preston Stanley Room, Parliament House, Sydney at 9.02 am.

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair* (until 11.20 am, from 12.05 pm)

Ms Faehrmann (via videoconference)

Mr Fang (in person, then via videoconference from 4.29 pm)

Dr Kaine (until 12.27 pm, from 1.14 pm until 1.23 pm, from 2.28 pm)

Mr Latham

Mr Martin (until 10.43 am, from 11.32 am)

Mr Nanva

Mr Primrose (via videoconference)

Mr Tudehope (until 1.23 pm)

2. Previous minutes

Resolved, on the motion of Ms Hurst: That draft minutes nos. 4, 5 and 6 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 1 August 2024 – Letter from an inquiry participant to the committee, clarifying their evidence on Monday 22 July 2024
- 3 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing amendment to 30 July email
- 6 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing information
- 6 August 2024 – Email from Sandra Jorgensen to secretariat, regarding composition of committee
- 8 August 2024 – Email from an inquiry participant to secretariat, providing correspondence and concerns notice
- 8 August 2024 – Email from Garry Charny, board of Racing NSW, to secretariat, requesting the opportunity to consult legal adviser during hearing
- 9 August 2024 – Email from an inquiry participant, to secretariat reiterating the author's request for confidentiality

- 9 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing information previously provided to Hon Emma Hurst MLC
- 9 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing further information previously provided to Hon Emma Hurst MLC
- 10 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing additional information
- 10 August 2024 – Email from an inquiry participant to secretariat providing Racing NSW letter declining foreperson application
- 11 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing further information about Racing NSW
- 12 August 2024 - Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing further information and copy of correspondence
- 12 August 2024 – Email from an inquiry participant to the committee, providing information about his experience at Racing NSW
- 14 August 2024 – Email from an inquiry participant, to secretariat regarding disqualification
- 15 August 2024 – Email from Paul McGreevy, providing a document that was referred to during the hearing on 9 August 2024
- 16 August 2024 – Email from Sandra Jorgensen to secretariat, providing information in response to evidence at the hearing on 9 August 2024
- 18 August 2024 – Email from Sandra Jorgensen to secretariat, providing information about the impact of a padded whip
- 19 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing further documents and correspondence
- 21 August 2024 – Email from an inquiry participant to the Chair, providing documents requested by the Chair on 20 August 2024
- 21 August 2024 – Email from an inquiry participant to the Chair, providing further information
- 22 August 2024 – Email from Paul McGreevy, providing evidence relating to the practice of sedating horses prior to ridden work
- 22 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing additional information
- 22 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing correction to earlier email 22 August 2024
- 26 August 2024 – Letter from Michael Cleaver, Operations Manager – Integrity, Racing NSW, to secretariat, regarding Mr X.
- 28 August 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing Daily Examiner article 23 May 2011
- 2 September 2024 – Email from an inquiry participant, to secretariat, providing further information in support of his submission
- 3 September 2024 – Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing information about Supreme Court matter
- 3 September 2024 – Email from Peter Mair to secretariat, providing feedback about the 9 August hearing
- 3 September 2024 – Email from an inquiry participant to secretariat, responding to letter from the Chair
- 4 September 2024 – Email from Peter Mair to secretariat, providing information about country racing
- 4 September 2024 – Email from an inquiry participant to secretariat, responding to letter from the Chair
- 4 September 2024 – Email from an inquiry participant to Chair, responding to letter from the Chair
- 5 September 2024 – Email from an inquiry participant to Chair, responding to letter from the Chair
- 5 September 2024 – Email from an inquiry participant to secretariat, responding to letter from the Chair
- 6 September 2024 – Email from an inquiry participant to committee, providing further information.

Sent

- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 3 September 2024 – Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 5 September 2024 - Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing.

Resolved, on the motion of Mr Nanva: That:

- the committee keep the following correspondence confidential, as per the request of the author or as per the recommendation of secretariat, as they contain sensitive information and potential adverse mention:
 - 8 August 2024 – Email from an inquiry participant to secretariat, providing correspondence and concerns notice
 - 9 August 2024 – Email from an inquiry participant, reiterating the author's request for confidentiality
 - 10 August 2024 – Email from an inquiry participant, to secretariat providing Racing NSW letter declining foreperson application
 - 12 August 2024 – Email from an inquiry participant, to the committee, providing information about his experience at Racing NSW
 - 14 August 2024 – Email from an inquiry participant, to secretariat regarding disqualification
 - 21 August 2024 – Email from an inquiry participant, providing documents requested by the Chair on 20 August 2024
 - 21 August 2024 – Email from an inquiry participant to the Chair, providing further information
 - 26 August 2024 – Letter from Michael Cleaver, Operations Manager – Integrity, Racing NSW, to secretariat, regarding Mr X
 - 3 September 2024 – Email from an inquiry participant, to secretariat, responding to letter from the Chair
 - 3 September 2024 – Letters from the Chair to inquiry participants, ascertaining willingness to provide evidence at in-camera hearing
 - 4 September 2024 – Email from an inquiry participant to secretariat, responding to letter from the Chair
 - 4 September 2024 – Email from an inquiry participant to Chair, responding to letter from the Chair
 - 5 September 2024 – Email from an inquiry participant to Chair, responding to letter from the Chair
 - 5 September 2024 – Email from an inquiry participant to secretariat, responding to letter from the Chair
 - 5 September 2024 - Letter from the Chair to an inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
 - 6 September 2024 – Email from an inquiry participant to committee, providing further information

- Various emails from Joseph Golden, thoroughbred breeder and trainer to secretariat, providing information, dated 3 August 2024, 9 to 12 August 2024, 19 August 2024, 22 August 2024, 28 August 2024, and 3 September 2024
- the names of specified inquiry participants be redacted from the minutes
- the name and profession of specified inquiry participants be redacted from the minutes.

Consideration of correspondence received on 26 August 2024 from Michael Cleaver, Operations Manager – Integrity, Racing NSW, deferred to a future meeting.

4. Submissions

4.1 Public submissions

Resolved, on the motion of Dr Kaine: That the committee authorise the publication of submission no. 109.

4.2 Partially confidential submissions

Resolved, on the motion of Mr Nanva: That the committee authorise the publication of submission nos. 9a and 93, with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat.

4.3 Confidential submissions

Resolved, on the motion of Dr Kaine: That the committee keep submission nos. 108 and 110 confidential, as per the request of the author.

5. Answers to questions on notice

The following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Dr Peter Tulip, Chief Economist, Centre for Independent Studies, received 25 August 2024.

Resolved, on the motion of Mr Fang: That the committee authorise the publication of answers to questions on notice from Mr Elio Celotto, Coalition for the Protection of Racehorses, received 19 August 2024, with the exception of identifying information or adverse mention which are to remain confidential, as per the recommendation of the secretariat.

6. Extension of reporting timeline

Resolved, on the motion of Ms Hurst: That the Chair seek a resolution from the House to extend the reporting deadline for the inquiry to Friday 6 December 2024.

7. Special Report to the House

The Chair submitted his draft special report entitled *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after para 1.21:

'It is the suggestion of the committee that, should the House refer the matter to the Privileges Committee, that the Privileges Committee seek submissions from members of the Select Committee.'

Resolved, on the motion of Ms Hurst: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House.
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- The secretariat is tabling the report at 10 am Friday 20 September 2024; and

- The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

8. **Timeline for answers to questions on notice**

Resolved, on the motion of Mr Fang: That Mr Garry Charny be granted a one week extension to provide answers to questions on notice and supplementary questions from the hearing on 9 August 2024.

9. **Public hearing**

Resolved, on the motion of Ms Hurst: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Simon Draper PSM, Secretary, Premier's Department
- Mr William Murphy PSM, Deputy Secretary, Strategic Projects, Premier's Department
- Ms Kate Boyd PSM, Secretary, Cabinet Office

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Peter Regan PSM, Chief Executive, Sydney Metro

Mr Martin left the meeting.

Mr Tudehope tabled the following document:

- 'Sydney Metro Independent Review, Final Report'.

The evidence concluded and the witness withdrew.

Ms Hurst left the meeting.

Mr Martin rejoined the meeting.

The following witnesses were sworn and examined:

- Mr Rowan Fisher, Director, Commercial Transactions, Department of Enterprise, Investment and Trade
- Ms Katie Knight, Executive Director, Commercial Transactions, Department of Enterprise, Investment and Trade

Ms Hurst rejoined the meeting.

Mr Farlow tabled the following documents:

- 'Bundle of emails, map and options analysis'.

The evidence concluded and the witnesses withdrew.

Dr Kaine left the meeting.

The following witnesses were sworn and examined:

- Mrs Carla Armanet, CEO, Sydney Olympic Park Authority
- Ms Karen Jones, CEO, Office of Sport, for Sydney International Equestrian Centre

The evidence concluded and the witnesses withdrew.

The public and the media withdrew.

Dr Kaine rejoined the meeting.

Resolved, on the motion of Mr Fang: That the committee accept and publish the following documents tendered during the public hearing:

- 'Bundle of emails, map and options analysis', tabled by Mr Farlow.

The Clerk Assistant – Committees briefed the committee on aspects of a 2022 Privileges Committee report on the *Examination, publication and use of cabinet documents by Legislative Council committees*.

Mr Tudehope moved: That the document tabled during the hearing this morning, entitled 'Sydney Metro Independent Review, Final Report', be published.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Martin, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Dr Kaine and Mr Tudehope left the meeting.

Witnesses, the public and the media were admitted.

The following witnesses were sworn and examined:

- Dr Peter Kerkenezov, Veterinary Surgeon
- Ms Carolyn McDonald, Former Stablehand

Dr Kaine rejoined the meeting.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mrs Deborah Prest, Horse Trainer

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Saranne Cooke, Chairman, Racing NSW

The evidence concluded and the witness withdrew.

The public hearing concluded at 5.02 pm. The public and the media withdrew.

10. Adjournment

The committee adjourned at 5.03 pm, until Monday 14 October 2024.

Emily Whittingstall

Committee Clerk

Minutes no. 8

Thursday 26 September 2024

Select Committee on the Proposal to Develop Rosehill Racecourse
Macquarie Room, Parliament House, Sydney at 1.02 pm

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Ms Faehrmann

Mr Fang

Dr Kaine

Mr Latham (participating)

Mr Martin

Mr Nanva
Mr Primrose
Mr Rath (substituting for Mr Tudehope)

2. Previous minutes

Resolved, on the motion of Mr Martin: That draft minutes no. 7 be confirmed.

3. Correspondence

The committee considered a letter from Dr Saranne Cooke, Chairman, Racing NSW, to the Chair, regarding the Special Report, received 24 September 2024.

Mr Latham tabled an excerpt from a Racing NSW document: '7. Information Technology (IT) and Use of Electronic Media & Communication Systems, Racing NSW'.

Resolved, on the motion of Ms Faehrmann: That the committee:

- keep the correspondence from Dr Saranne Cooke, Chairman, Racing NSW to the Chair regarding the Special Report, dated 24 September 2024, confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information and potential adverse mention, and
- provide a copy of the letter to the Privileges Committee on a confidential basis.

4. Witness lists

The committee discussed the witnesses proposed for the confidential hearing on Monday 14 October 2024.

Resolved, on the motion of Mr Fang: That the witness list and indicative hearing times proposed for the confidential hearing on 14 October 2024, circulated by the secretariat at the meeting, be confirmed.

The committee discussed the witnesses proposed for Monday 21 October 2024.

Mr Fang moved: That further to Mr Cullen declining to appear at the hearing on 12 September 2024, the Chair write to Mr Cullen to issue an invitation to appear on 21 October, noting the committee's powers to issue a summons if the witness declines or does not respond by 11 October.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Martin, Mr Rath.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Ms Hurst moved: That the committee recall Mr Peter V'landys to appear on 21 October.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst and Mr Martin.

Noes: Mr Fang, Mr Farlow, Dr Kaine, Mr Nanva, Mr Primrose, Mr Rath.

Question resolved in the negative

Resolved, on the motion of Mr Fang: That the committee invite the following witnesses to appear at the hearing on 21 October and for the following indicative times:

- Ms Kiersten Fishburn, Department of Planning, Housing and Infrastructure – 30 minutes
- Mr Terry O'Brien, Office of Racing – 30 minutes
- Mr Matt McGrath, former ATC Chairman, and Mr Ron Finemore, former Australian Jockey Club Chairman, together. – 45 minutes

5. **Answers to questions on notice and supplementary questions - public**

The following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice and supplementary questions – Dr Rosemary Elliott, Sentient, received 17 September 2024
- answers to supplementary questions – Professor Paul McGreevy, Sydney School of Veterinary Science, University of Sydney, received 17 September 2024
- answers to supplementary questions – Mr Tim Hale SC, Vice Chair and Elected Director, Australian Turf Club, received 17 September 2024
- answers to supplementary questions – Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, received 17 September 2024
- answers to supplementary questions – Ms Caroline Searcy, Director, Australian Turf Club, received 17 September 2024
- non-confidential answers to supplementary questions – Hon Peter McGauran, Chairman, Australian Turf Club, received 17 September 2024
- answers to questions on notice and supplementary questions – Mr Garry Charny, Board Member, Racing NSW, received 19 September 2024

5.1 **Answers to questions on notice and supplementary questions and related correspondence – Racing NSW and Thoroughbred Breeders – partially confidential**

Resolved, on the motion of Ms Hurst: That the committee authorise the publication of:

- answers to supplementary questions 1-32 from Mr Peter V'landys and Mr Graeme Hinton, Racing NSW, received 17 September 2024, with the exception of identifying and/or sensitive information, or adverse comment, which are to remain confidential, as per the recommendation of the secretariat, (with the exception of any commercial addresses which are to remain unredacted)
- answers to questions on notice – Mr Peter V'landys AM, Chief Executive, Racing NSW, received 17 September 2024 (no redactions recommended)
- answers to certain supplementary questions within the range of 33 – 114, Mr Peter V'landys AM, Chief Executive, Racing NSW, received 24 September 2024, with the exception of identifying and/or sensitive information, or adverse comment, which are to remain confidential, as per the recommendation of the secretariat.
- email from Mr Tom Reilly, Chief Executive Officer, Thoroughbred Breeders Australia to Chair, received 12 August 2024, responding to evidence at the hearing on 9 August 2024 given by Mr Peter V'landys, Chief Executive Officer, Racing NSW, along with the following attachments:
 - Letter from Basil Nolan, President of Thoroughbred Breeders Australia, and Hamish Esplin, President of Thoroughbred Breeders NSW, to Dr Saranne Cooke, Chairman Racing NSW, concerning comments made by Mr Peter V'landys AM, Chief Executive, Racing NSW, dated 8 August 2024
 - Thoroughbred Breeders Australia, 'A draft proposal for a system of regulation of thoroughbred breeders in Australia', 2016.
 - Thoroughbred Aftercare Welfare Working Group, 'The Most Important Participant, A Framework for Thoroughbred Welfare' Report, 2021.

5.2 **Answers to questions on notice and supplementary questions – Mr Richard Callander and Hon Peter McGauran**

Resolved, on the motion of Mr Nanva: That the committee keep the following responses confidential, as per the request of the author, as they contain sensitive information:

- confidential answers to questions on notice and supplementary questions – Hon Peter McGauran, Chairman, Australian Turf Club, received 17 September 2024.

The committee requested that the secretariat circulate advice provided to the Chair regarding procedural fairness to witnesses requesting confidentiality and deferred resolution of the publication status of answers to questions on notice and supplementary questions from Mr Richard Callander, Chief Executive, NSW Trainers Association, received 16 September 2024, to a future meeting.

5.3 Further supplementary questions to Mr Tim Hale SC and Hon Peter McGauran

Resolved, on the motion of Mr Fang: That the committee:

- write to the Hon Peter McGauran and Mr Tim Hale SC concerning disparities between the valuation of the Rosehill development
- request, on a confidential basis, copies of the following documents by Friday 11 October:
 - The HillPDA valuation
 - The summary of the HillPDA valuation presented to the board of the ATC on 18 April
 - Annexure 1 HillPDA Estate Master Summary.

6. Other business

Resolved, on the motion of Mr Martin: That the secretariat circulate a list of questions for which Mr Vlandys did not provide a response in his answers to supplementary questions received 24 September, and for the committee to consider whether to take any further action.

7. Adjournment

The committee adjourned at 1.41 pm, until Monday 14 October 2024.

Verity Smith

Committee Clerk

Minutes no. 9

14 October 2024

Select Committee on the Proposal to Develop Rosehill Racecourse
Macquarie Room, Parliament House, 9.33am.

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Ms Faehrmann (via videoconference from 11 am)

Mr Fang (via videoconference from 9.33 am, then in person from 2.49 pm)

Dr Kaine (until 10.45 am, then from 2.00 pm)

Mr Latham (participating)

Mr Martin

Mr Nanva

Mr Primrose (until 10.45 am, then from 2.00 pm)

Mr Tudehope (via videoconference from 3.23 pm)

2. Previous minutes

Resolved, on the motion of Ms Hurst: That draft minutes no. 8 be confirmed.

3. *In camera* witnesses

Resolved, on the motion of Ms Hurst: That:

- the committee hear evidence from witnesses *in camera*
- the minutes be redacted to remove the names of witnesses giving evidence.

Resolved, on the motion of Mr Nanva: That, in lieu of distributing the transcript by email, a copy of the transcript is to be made available for members to inspect at the Clerk's office.

4. ***In camera hearing***

Resolved, on the motion of Ms Hurst: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Beverly Duffy, Talina Drabsch, Verity Smith, Emily Whittingstall, Tina Mrozowska, Merve Sarikaya, Hansard reporters and AV staff.

Witness A was sworn and examined.

Witness A tendered the following documents:

- Opening statement
- Bundle of documents circulated on Friday 11 October 2024.

The evidence concluded and the witness withdrew.

Witness B was sworn and examined.

The evidence concluded and the witness withdrew.

Witness C was sworn and examined.

The evidence concluded and the witness withdrew.

Witness D was sworn and examined.

The evidence concluded and the witness withdrew.

Witness E was sworn and examined.

Witness E tendered the following documents:

- Opening statement
- Correspondence

The evidence concluded and the witness withdrew.

Witness F was sworn and examined.

Witness F tendered the following documents:

- Correspondence to Racing NSW
- Resignation letter
- Submission

The evidence concluded and the witness withdrew.

Witness G was sworn and examined.

The evidence concluded and the witness withdrew.

Witness H was sworn and examined.

Witness H tendered the following documents:

- Opening statement
- Excerpt from policy document
- Witness Statement I
- Witness Statement II
- Deed of Release

The evidence concluded and the witness withdrew.

Resolved, on the motion of Ms Hurst: That:

- the committee accept and keep confidential the following documents:
 - Witness A's opening statement and bundle of documents circulated on Friday 11 October 2024,
 - Witness E's opening statement and correspondence
 - Witness F's correspondence to Racing NSW, resignation letter, and submission
 - Witness H's opening statement, excerpt from policy document, Witness Statements and Deed of Release
- each copy of the documents tendered by Witness H be returned to the secretariat, and a copy made available for inspection at the Clerk's office.

5. Correspondence

The committee noted the following items of correspondence:

- 3 September 2024 – Email from inquiry participant to secretariat, responding to Chair's correspondence
- 6 September 2024 – Email from inquiry participant to secretariat, responding to Chair's correspondence
- 6 September 2024 – Email from Max Kennedy, Whip's Adviser, Office of the Hon Bob Nanva MLC, to secretariat, advising of substitution for 6 September meeting
- 7 September 2024 – Email from Dr Kerkenezov to secretariat, providing further information ahead of 12 Sept hearing
- 9 September 2024 – Email from Katie Knight, Executive Director, Commercial Transactions, Investment NSW, to secretariat, advising of Ms Cecilia Ngu's unavailability on 12 September 2024
- 9 September 2024 - Email from Ian Young, Office of Racing, to secretariat, advising of unavailability of Mr Terry O'Brien, Director, Office of Racing, to give evidence on 12 September 2024
- 9 September 2024 - Letter from Mr James Cullen, Chief of Staff, Office of Hon Chris Minns MP, to Chair, declining witness invitation
- 9 September 2024 - Email from Ms Amanda Balis, Director of Cabinet Strategy and Coordination, Department of Planning, Housing and Infrastructure, to secretariat, advising of unavailability of Ms Kiersten Fishburn, to give evidence on 12 September 2024
- 11 September 2024 - Email from Mr Jonathan Milner, lawyer, Arnold Bloch Liebler, to the secretariat, requesting extension for answers to questions on notice
- 11 September 2024 - Email from inquiry participant to the secretariat, responding to the Chair's letter
- 12 September 2024 – Email from Laura Shumack, A/Executive Director, Legal, The Cabinet Office, attaching letter to the Clerk of the Legislative Council - received 12 September 2024
- 14 September 2024 – Email from Mr Joseph Golden to the secretariat providing further information
- 17 September 2024 – Email from Mr Peter V'landys AM, CEO Racing NSW, to the secretariat, requesting an extension to provide answers to supplementary questions
- 18 September 2024 – Letter from Mr Peter V'landys AM, CEO Racing NSW, to the Chair, providing initial response to supplementary questions
- 26 September 2024 – Email from Mr Cooper Gannon, Opposition Whip, advising that Hon. Chris Rath MLC will substitute for the Hon. Damien Tudehope MLC for the 26 September meeting
- 27 September 2024 – Email from inquiry participant to the secretariat, declining the committee's invitation to attend and *in camera* hearing on 14 October 2024
- 27 September 2024 – Email from Ms Sandra Jorgensen to secretariat providing additional information to the inquiry
- 29 September 2024 – Email from Peter Mair to secretariat providing more information to the inquiry
- 30 September 2024 – Email from Peter Mair to secretariat providing more information to the inquiry
- 1 October 2024 – Letter from Hon Mark Latham MLC to Chair regarding correspondence from Mr Michael Cleaver Operations Manager – Integrity, Racing NSW

- 4 October 2024 – Email from Mr James Cullen, Chief of Staff, Office of Hon Chris Minns MP, to Chair, declining witness invitation
- 8 October – Email from Peter Mair to secretariat providing more information to the inquiry

Sent:

- 10 September 2024 - Letter from Chair to inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
- 10 September 2024 - Letter from Chair to inquiry participant to ascertain willingness to provide evidence at in-camera hearing
- 30 September 2024 - Letter from Hon Scott Farlow MLC to Hon Stephen Lawrence MLC referring correspondence to Privileges Committee
- 1 October 2024 - Letter from Chair to Mr Tim Hale SC requesting further documents
- 1 October 2024 - Letter from Chair to Hon Peter McGauran requesting further documents
- 1 October 2024 – Letter from Chair to Mr James Cullen, Chief of Staff, Office of Hon Chris Minns MP, informing of the committee's power to issue a summons

Resolved, on the motion of Mr Fang: That:

- the committee keep the following correspondence confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information:
 - 3 September 2024 – Email from inquiry participant to secretariat, responding to Chair's correspondence
 - 6 September 2024 – Email from inquiry participant to secretariat, responding to Chair's correspondence
 - 11 September 2024 - Email from inquiry participant to the secretariat, responding to the Chair's letter
 - 14 September 2024 – Email from Mr Joseph Golden to the secretariat providing further information
 - 18 September 2024 – Letter from Mr Peter V'landys AM, CEO Racing NSW, to the Chair, providing initial response to supplementary questions
 - 27 September 2024 – Email from inquiry participant to the secretariat, declining the committee's invitation to attend and in camera hearing on 14 October 2024
 - 1 October 2024 – Letter from Hon Mark Latham MLC to Chair regarding correspondence from Mr Michael Cleaver, Operations Manager – Integrity, Racing NSW
 - 10 September 2024 - Letter from Chair to inquiry participant, to ascertain willingness to provide evidence at in-camera hearing
 - 10 September 2024 - Letter from Chair to inquiry participant to ascertain willingness to provide evidence at in-camera hearing
 - 30 September 2024 - Letter from Hon Scott Farlow MLC to Hon Stephen Lawrence MLC referring correspondence to Privileges Committee
- the names of specified inquiry participants be redacted from the minutes.

5.1 Correspondence from Hon. Mark Latham MLC and Mr Michael Cleaver, Operations Manager – Integrity, Racing NSW

Resolved, on the motion of Ms Faehrmann: That Mr Latham be permitted to refer the letter from Michael Cleaver, Operations Manager – Integrity, Racing NSW, to secretariat, dated 15 August 2024 and received 26 August 2024, to the Privileges Committee on a confidential basis.

5.2 Correspondence from Mr James Cullen, Chief of Staff, Office of the Hon Chris Minns MP

Mr Fang moved: That the committee summons Mr James Cullen, Chief of Staff, Office of the Hon Chris Minns MP to appear at the 21 October 2024 hearing.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Martin, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

6. Answers to questions on notice and supplementary questions

6.1 Mr Richard Callander

Resolved, on the motion of Ms Hurst: That the secretariat write to Mr Callander to inform him that the committee is considering the publication status of Mr Callander's answers to questions on notice and supplementary questions, received 16 September 2024, and to invite Mr Callander to provide further information in support of his request for confidentiality.

6.2 Mr Peter V'landys AM

Resolved, on the motion of Ms Faehrmann: That:

- the secretariat recirculate supplementary questions 50, 52, 70, 71, 73, 76, 84, 85, 105, 106, 107 to Mr Peter V'landys among members
- members provide any objection to pursuing answers to these supplementary questions within 24 hours.

7. Witnesses for hearing on 21 October 2024

Ms Hurst moved: That the committee recall Mr Peter V'landys AM, Mr Graeme Hinton and Dr Saranne Cooke to appear at the hearing scheduled for 21 October 2024.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Ms Hurst, Mr Martin.

Noes: Mr Farlow, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Ms Hurst: That:

- i. members review the transcript of the *in camera* hearing to identify information they wish to be made public, as evidence of possible perjury or serious misconduct,
- ii. the committee meet to determine whether to seek witness's permission to publish the relevant information
- iii. the secretariat liaise with relevant witnesses to seek their permission to publish the information
- iv. the committee subsequently determine whether to recall Mr V'landys AM.

8. Next meeting

Monday 21 October, 8.45am, Macquarie Room, Parliament House (public hearing).

Verity Smith

Committee Clerk

Minutes no. 10

Monday 21 October 2024

Select Committee on the Proposal to Develop Rosehill Racecourse
Macquarie Room, Parliament House, Sydney at 8.51 am.

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair* (from 8.57 am)
 Mr D'Adam (substituting for Dr Kaine) (via videoconference)
 Ms Faehrmann (until 11.35 am)
 Mr Fang (via teleconference, then in person from 9.12 am)
 Mr Latham
 Mr Martin (from 8.59 am until 9.37 am, from 10.45 am)
 Mr Nanva
 Mr Primrose
 Mr Tudehope

2. Apologies

Dr Kaine

3. Previous minutes

Resolved, on the motion of Mr Primrose: That draft minutes no. 9 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 10 October 2024 – Email from Ms Sandra Jorgensen to the secretariat, requesting opportunity to appear before the committee
- 11 October 2024 – Letter from Hon Peter McGauran, Chairman Australian Turf Club, to the Chair, responding to the Chair's request for valuation documents
- 11 October 2024 – Letter from Mr Tim Hale SC, Vice Chair and Director, Australian Turf Club, to the Chair, responding to the Chair's request for valuation documents
- 11 October 2024 – Letter from Dr Saranne Cooke, Chairman, Racing NSW, to the Chair, providing clarification of evidence provided at the hearing on 12 September 2024
- 16 October 2024 – Email from an inquiry participant to the Chair, providing further documents
- 16 October 2024 – Letter from Mr Richard Callander, CEO NSW Trainer's Association, to the Chair, providing further information in support of request for confidentiality
- 17 October 2024 – Affidavit of Service, Ms Jenelle Moore, Usher of the Black Rod, Parliament of New South Wales

Sent

- 17 October 2024 – Summons from the Chair to Mr James Cullen, Chief of Staff, Office of Hon Chris Minns MP

Resolved, on the motion of Mr Nanva: That:

- the committee keep the correspondence of an inquiry participant confidential as per the recommendation of secretariat, as it contains sensitive information and potential adverse mention
- the committee keep the correspondence from Mr Richard Callander, CEO, NSW Trainer's Association, to the Chair, providing further information in support of request for confidentiality, as per the request of the author
- the name and profession of an inquiry participant be redacted from the minutes.

4.1 Correspondence from the Hon Peter McGauran, received 11 October 2024

Resolved, on the motion of Ms Faehrmann: That the committee write to the Hon Peter McGauran, Chairman, Australian Turf Club, requesting the provision of valuation documents on a confidential basis, noting that that the documents provided will be held by the Clerk for inspection by committee members.

4.2 Public Submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 118 – 121, 123 – 125.

4.3 Partially confidential submissions

The committee noted that the following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 111 – 117, 122, 126-127.

Resolved, on the motion of Mr Nanva: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 111 – 117, 122, 126 – 127.

5. Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- documents received on notice from Dr Peter Kerkenezov, Equine Surgeon, received 21 September 2024
- answers to questions on notice from Mr Adam Berry, A/Chief Executive Office of Sport on behalf of Ms Karen Jones, Chief Executive, Office of Sport, received 3 October 2024
- answers to questions on notice and supplementary questions from Mr Peter Regan PSM, Chief Executive, Sydney Metro, received 3 October
- answers to supplementary questions from Mr Simon Draper PSM, Secretary Premier's Department, received 11 October 2024
- answers to supplementary questions from Mr William Murphy PSM, Deputy Secretary, Strategic Projects, Premier's Department received 11 October 2024
- answers to questions on notice and supplementary questions from Ms Katie Knight, Executive Director, Commercial Transactions, Department of Enterprise, Investment and Trade, received 11 October 2024
- answers to questions on notice from Dr Saranne Cooke, Chairman, Racing NSW, received 14 October.

Resolved, on the motion of Mr Tudehope: That the committee:

- authorise the publication of the responses to supplementary questions from:
 - Mr Pete Sweney, General Counsel Racing NSW, to the Chair, regarding the supplementary questions for Dr Saranne Cooke, received 11 October 2024
 - Ms Kate Boyd PSM, Secretary, The Cabinet Office, received 14 October 2024
- authorise the publication of the additional information provided by Ms Carolyn McDonald, 9 October 2024, with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat.
- write to Mr Peter V'landys AM to pursue answers to supplementary questions 50, 73, 76, 84 and 85.

5.1 Answers to questions on notice and supplementary questions – Mr Richard Callander, Chief Executive, NSW Trainers Association, received 16 September 2024

Mr Nanva moved: That the committee keep answers to questions on notice and supplementary questions from Mr Richard Callander, Chief Executive, NSW Trainers Association, received 16 September 2024, confidential, as per the request of the author.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Fang, Mr Farlow, Mr Martin, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst.

Question resolved in the affirmative.

5.2 Transcript clarification – 12 September 2024

Resolved, on the motion of Ms Hurst: That the committee:

- authorise the publication of correspondence from Dr Saranne Cooke, Chairman Racing NSW, received on 11 October 2024 providing clarification of evidence provided at the public hearing on 12 September 2024

- authorise the insertion of footnotes at the relevant point in the transcript from 12 September 2024, noting that correspondence clarifying the evidence had been received and providing a hyperlink to the published correspondence
- write to Dr Saranne Cooke, Chairman Racing NSW, to request a copy of the relevant board minutes in support of Dr Cooke's transcript clarification.

6. Public hearing

Resolved, on the motion of Ms Faehrmann: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Terry O'Brien, Director, Office of Racing

The evidence concluded and the witness withdrew.

The public and the media withdrew.

Resolved, on the motion of Mr Fang, that: the committee keep the following documents confidential, as per the request of the authors:

- 11 October 2024 - Letter from Mr Tim Hale SC, Vice Chair and Director, Australian Turf Club, to the Chair, responding to the Chair's request for valuation documents and providing modelling document
- 11 October 2024 – Letter from Hon Peter McGauran, Chairman Australian Turf Club, to the Chair, responding to the Chair's request for valuation documents.

The Clerk Assistant Committees briefed the committee on documents returned in response to an order for papers under Standing Order 52 passed by the Legislative Council on 13 March 2024 relating to "Racecourse housing development proposals".

Witnesses, the public and media were admitted.

The following witnesses were sworn and examined:

- Mr Matthew McGrath, Ex Chairman, Australian Turf Club
- Mr Ron Finemore, Owner, Finemore Thoroughbreds Pty Ltd

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr James Cullen, Chief of Staff, Office of the Hon Chris Minns MP

Mr James Cullen tendered his letter to the Chair, declining witness invitation, received 9 September 2024.

The evidence concluded and the witness withdrew.

The public hearing concluded at 11.40 am. The public and the media withdrew.

Resolved, on the motion of Mr Primrose: That the committee accept and publish the following document tendered during the public hearing:

- 9 September 2024 – Letter from Mr James Cullen, Chief of Staff, Office of Hon Chris Minns MP, to Chair, declining witness invitation.

7. Other business

Resolved, on the motion of Ms Hurst: That:

- the correspondence from Mr Latham to the Chair be held by the Clerk for members to inspect
- the committee to meet, at a time to be determined by email, to consider any action to be taken after consideration of the correspondence.

Resolved, on the motion of Mr Fang: That the secretariat provide witnesses who appeared *in camera* on 14 October 2024 with a copy of their transcripts by email with password protection.

8. Adjournment

The committee adjourned at 11.47 am, *sine die*.

Verity Smith

Committee Clerk

Minutes no. 11

Thursday 24 October 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Room 1043, Parliament House, 6.36 pm

1. Members present

Mr Farlow, Chair

Ms Hurst, Deputy Chair

Ms Faehrmann

Mr Fang

Mr Latham (participating)

Mr Martin

Mr Nanva

Mr Primrose

Ms Suvaal (substituting for Dr Kaine)

Mr Tudehope

2. Previous minutes

Resolved, on the motion of Mr Martin: That draft minutes no. 10 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 17 October 2024 – Email from Mr Peter Mair to secretariat, providing information about ACT racing
- 18 October 2024 – Email from Mr Max Kennedy, Whip's Adviser, Office of the Hon Bob Nanva MLC, to secretariat, advising that Mr Anthony D'Adam will substitute for Dr Sarah Kaine at the public hearing 21 October 2024
- 22 October 2024 – Email from Mr Joseph Golden to secretariat, regarding the racing industry
- 23 October 2024 – Letter from the Hon Stephen Lawrence, Chair of the Privileges Committee, to Chair, regarding referral of the special report.

Sent

- 22 October 2024 – Letter from the Chair to Mr Peter V'Landys AM, Chief Executive Officer, Racing NSW, concerning outstanding supplementary questions
- 22 October 2024 – Letter from the Chair to Dr Saranne Cooke, Chairman, Racing NSW, requesting the provision of further information
- 22 October 2024 – Letter from the Chair to the Hon Peter McGauran, Chairman, Australian Turf Club, providing further information regarding the provision of valuation documents.

Resolved, on the motion of Mr Fang: That the committee keep the correspondence from Mr Joseph Golden, regarding the racing industry, dated 22 October 2024, confidential, as per the recommendation of the secretariat, as it contains potential adverse mention.

4. Racing NSW

Ms Hurst circulated a document regarding confidential evidence received.

Committee discussed Ms Hurst's document and the document prepared by Mr Latham regarding the evidence by Racing NSW and evidence received at the *in camera* hearing.

Resolved, on the motion of Ms Hurst: That the secretariat contact the witnesses from the *in camera* hearing to gauge whether they are happy for any, or all, of their transcript and supporting documents to be published or shared with others.

5. Other business

The Chair tabled the following documents returned under the standing order 52 order for papers, 'Racecourse housing development proposals':

- Business contact form, dated 25 October 2023
- Cabinet in confidence – Rosehill
- Department of Enterprise, Investment and Trade – Stakeholder Communications Strategy – Project Wattle
- Draft correspondence from Department of Enterprise, Investment and Trade, dated 30 January 2023
- Email from Steve McMahon to William Murphy, regarding draft release, dated 21 November 2023
- Email from Lucy Hartas to William Murphy, regarding confidential ATC Rosehill – Metro Alignment, dated 6 November 2023
- Email from Emily Cotton to Kate Boyd, regarding confidentiality deed, dated 7 November 2023
- Email from Emily Cotton to Lucy Hartas and Simon Rowell, regarding confidentiality deed, dated 8 November 2023
- Email from William Murphy to Mark Hare, regarding confidentiality deed, dated 9 November 2023
- Media release, Hon Chris Minns MP, dated 23 November 2023
- Memorandum of understanding – 5 December 2023
- Minutes, Cabinet Office and Racing NSW, dated 17 November 2023.

Resolved, on the motion of Mr Fang: That the Chair write to Mr William Murphy, Deputy Secretary, Premier's Department, requesting a copy of the minutes of the meeting between Mr Murphy and Steve McMahon on 8 November 2023 as they were not provided in response to the order for papers 'Racecourse housing development proposals' on 13 March 2024.

Resolved, on the motion of Ms Faehrmann: That the committee set aside a reserve hearing date on a date to be determined by email.

6. Adjournment

The committee adjourned at 7.25 pm, *sine die*.

Talina Drabsch
Committee Clerk

Minutes no. 12

Thursday 7 November 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Room 1136, Parliament House, Sydney, 3.30 pm

1. Members present

Mr Farlow, Chair
Ms Hurst, Deputy Chair
Ms Faehrmann
Mr Fang
Dr Kaine (via videoconference from 3.40 pm)
Mr Latham (participating)
Mr Martin (via videoconference)
Mr Nanva (via videoconference)
Mr Primrose
Mr Tudehope

2. Previous minutes

Resolved, on the motion of Ms Faehrmann: That draft minutes no. 11 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 24 October 2024 – Email from Garion Thain, Office of the Government Whip to secretariat, advising that Ms Suvaal will be substituting for Dr Kaine at the meeting on 24 October 2024
- 31 October 2024 – Letter from Dr Saranne Cooke, Chairman, Racing NSW to Chair, regarding provision of board minutes
- 4 November 2024 – Email from Dr Peter Kerkenozov to secretariat, requesting change to publication status of answers to questions on notice.

Sent

- 30 October 2024 – Letter from Chair, to Mr William Murphy, Deputy Secretary, Premier's Department regarding minutes
- 5 November 2024 – Letter from Chair, to Dr Saranne Cooke, Chairman, Racing NSW, clarifying that request for minutes was not made under standing order 52.

Resolved, on the motion of Ms Faehrmann: That the committee:

- publish the minutes of the board meeting of Racing NSW, dated 31 October 2023, on Tuesday 12 November 2024
- in accordance with the Procedural Fairness Resolution, write to Dr Saranne Cooke, Chairman, Racing NSW, advising that the committee intends to publish the minutes of the board meeting of Racing NSW dated 31 October 2023 on Tuesday 12 November 2024 and requesting that she inform the committee of the basis of her request for confidentiality prior to that date.

4. Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to supplementary questions from Matthew McGrath, Ex-Chairman, Australian Turf Club, received 28 October 2024
- further answers to supplementary questions from Mr Peter V'Landys, Chief Executive Officer, Racing NSW, received 29 October 2024
- further answers to supplementary questions from Mr William Murphy, Deputy Secretary, Premier's Department, received 1 November 2024.

Resolved, on the motion of Ms Hurst: That the committee keep the following answers to questions on notice and supplementary questions confidential, as per the request of the author and recommendation of the secretariat, as they contain sensitive and identifying information

- answers to questions on notice from witness D, received 23 October 2024
- answers to questions on notice and supplementary questions from Peter McGauran, Chairman, Australian Turf Club, received on 28 October 2024
- answers to supplementary questions from witness H, received 30 October 2024.

4.1 Answers to questions on notice from Dr Peter Kerkenzov, dated 21 September 2024

Resolved, on the motion of Mr Fang: That the committee authorise the republication of answers to questions on notice from Dr Peter Kerkenzov, dated 21 September 2024, with the exception of sensitive information which is to remain confidential, as per the request of the author.

5. Racing NSW

The secretariat briefed the committee on the initial response of *in camera* witnesses to the prospect of their evidence being published or shared in some form.

Resolved, on the motion of Mr Tudehope: That the committee write to the following *in camera* witnesses – Witness B, Witness C, Witness D, Witness E, Witness G, and Witness H:

- providing a copy of their transcript and any submissions, proposing that the material be referred to the Minister for Racing, and/or the following (as relevant):
 - NSW Police, Federal Police, the Australian Tax Office and the Fair Work Ombudsman in the case of Witness H
 - NSW Police in the case of Witness D and Witness G
- asking whether or not they want their name suppressed
- asking whether they are happy for:
 - all evidence to be referred
 - some evidence to be referred, and, if so, to identify which parts may be referred
 - no evidence to be referred.
- requesting a response within seven days.

6. Other business

Resolved, on the motion of Mr Nanva: That the committee write to Mr Steve McMahon, Australian Turf Club, asking him to respond to potential conflicts in his evidence compared to that of Mr Peter Regan, Chief Executive, Sydney Metro, and Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, namely, whether there was discussion at meetings on 14 August 2023 and 25 October 2023 regarding 40,000 dwellings being required to justify a metro.

7. Adjournment

The committee adjourned at 4.31 pm until Friday 29 November 2024, 9.30 am, Room 1254, Parliament House (report deliberative)

Talina Drabsch
Committee Clerk

Minutes no. 13

Friday 29 November, 2024

Select Committee on the Proposal to Develop Rosehill Racecourse
Room 1254, Parliament House, Sydney at 9.33am

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Mr Buttigieg (via videoconference from 2 pm) (substituting for Dr Kaine)

Ms Faehrmann (in person then via videoconference from 2.15 pm)

Mr Fang

Dr Kaine (via videoconference until 2 pm)

Mr Latham (substituting for Mr Martin)

Mr Nanva

Mr Primrose

Mr Tudehope

2. Previous minutes

Resolved, on the motion of Mr Tudehope: That draft minutes no. 12 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 1 August 2024 – Letter from Mr David Hall AM to the committee, clarifying his evidence on Monday 22 July 2024
- 6 August 2024 - Email from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing information
- 15 August 2024 - Email from Dr Paul McGreevy, Professor, Sydney School of Veterinary Science, providing a document that was referred to during the hearing on 9 August 2024
- 1 November 2024 – Letter from the Hon Mark Latham MLC to Chair, regarding evidence of Mr Peter V'landys AM
- 14 November 2024 – Letter from Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, to Chair, clarifying potentially conflicting evidence
- 19 November 2024 – Letter from Mr Pete Sweney, General Counsel, Racing NSW, to secretariat, declining to provide copy of policy
- 20 November 2024 – Email from Witness B, to secretariat, responding to letter from the Chair
- 21 November 2024 – Email from Mr Todd Kirby, Office of the Hon Taylor Martin MLC, to secretariat, advising that Mr Latham will be substituting for Mr Martin on 29 November 2024
- 21 November 2024 – Email from Witness H, to secretariat, responding to letter from the Chair
- 25 November 2024 – Email from Witness C, to the Chair, responding to letter from the Chair
- 26 November 2024 – Email from Witness D, to the secretariat, responding to letter from the Chair
- 26 November 2024 – Email from Witness E, to the secretariat, responding to letter from the Chair

Sent

- 8 November 2024 – Letter from Chair, to Dr Saranne Cooke, Chairman, Racing NSW, regarding committee's intention to publish board minutes
- 8 November 2024 – Letter from Chair, to Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, regarding possible conflicting evidence
- 19 November 2024 – Letter from Chair to Witness B, regarding possible sharing of evidence
- 19 November 2024 – Letter from Chair to Witness C, regarding possible sharing of evidence
- 19 November 2024 – Letter from Chair to Witness D, regarding possible sharing of evidence
- 19 November 2024 – Letter from Chair to Witness E, regarding possible sharing of evidence
- 19 November 2024 – Letter from Chair to Witness G, regarding possible sharing of evidence
- 19 November 2024 – Letter from Chair to Witness H, regarding possible sharing of evidence.

Resolved, on the motion of Mr Tudehope: That the committee:

- keep the letter dated 1 August 2024 from Mr David Hall AM to the committee, clarifying his evidence on Monday 22 July 2024, confidential, as per the request of the author

- keep the email dated 6 August 2024 from Joseph Golden, thoroughbred breeder and trainer, to secretariat, providing information, confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information
- authorise the publication of correspondence from Dr Paul McGreevy, dated 15 August 2024, providing a document that was referred to during the hearing on 9 August 2024
- authorise the publication of correspondence from Mr Steve McMahon, Head of Membership and Corporate Affairs, Australian Turf Club, clarifying potentially conflicting evidence, dated 14 November 2024, with the exception of Annexure 2 which is to remain confidential, as per the request of the author
- keep the correspondence to witnesses B, C, D, E, G and H, regarding the potential sharing of their evidence, confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information
- keep the correspondence from witnesses B, C, D, E and H, regarding the potential sharing of their evidence, confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information.

4. **Answers to questions on notice and supplementary questions**

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Ms Kiersten Fishburn, Secretary, Department of Planning, Housing and Infrastructure, received 14 November 2024
- answers to questions on notice and supplementary questions from Mr James Cullen, Chief of Staff, Office of the Hon Chris Minns MP, received 15 November 2024
- answers to questions on notice, Mr Terry O'Brien, Director, Office of Racing, received 15 November 2024.

Resolved, on the motion of Ms Faehrmann: That the committee keep answers to questions on notice and supplementary questions from Witness E, received 11 November 2024, confidential, as per the request of the author and recommendation of the secretariat as they contain sensitive information.

5. **Tabled documents**

Resolved, on the motion of Mr Latham: That the committee authorise the publication of the following documents, tabled by the Chair:

- Business contact form, dated 25 October 2023
- Cabinet in confidence – Rosehill
- Department of Enterprise, Investment and Trade – Stakeholder Communications Strategy – Project Wattle
- Draft correspondence from Department of Enterprise, Investment and Trade, dated 30 January 2023
- Email from Steve McMahon to William Murphy, regarding draft release, dated 21 November 2023
- Email from Lucy Hartas to William Murphy, regarding confidential ATC Rosehill – Metro Alignment, dated 6 November 2023
- Email from Emily Cotton to Kate Boyd, regarding confidentiality deed, dated 7 November 2023
- Email from Emily Cotton to Lucy Hartas and Simon Rowell, regarding confidentiality deed, dated 8 November 2023
- Email from William Murphy to Mark Hare, regarding confidentiality deed, dated 9 November 2023
- Media release, Hon Chris Minns MP, dated 23 November 2023
- Memorandum of understanding – 5 December 2023
- Minutes, Cabinet Office and Racing NSW, dated 17 November 2023
- Project Wattle, Draft Memorandum of Understanding, PD18
- Draft Release, PD1.

6. Consideration of Chair's draft report

The Chair submitted his draft report entitled, *Proposal to develop Rosehill Racecourse*, which, having been previously circulated, was taken as being read.

Chapter 2

Mr Latham moved: That the following new paragraphs be inserted after paragraph 2.5:

'These were to be built along the carpark land adjoining James Ruse Drive. The ATC estimated that the 3,000 dwellings would yield a return of \$200,000 each, totalling \$600 million. These funds would have been sufficient to build the planned ATC upgrades at Warwick Farm and Canterbury racecourses, plus the Randwick stables. Along with the potential sale of the circus and bowling club sites at Rosehill, the ATC has available to it alternatives to the full sale of Rosehill as a way of funding its capital upgrade plans. This was an alternative approach advocated by the former ATC Chairman, Matt McGrath.

Evidence to the Committee suggests it is unlikely that the ATC membership will approve the full sale of Rosehill when it votes in April 2025. If the membership wants to keep the racetrack, it would be prudent for the ATC Board to explore viable commercial alternatives.

The existing grandstands and carparking areas would be replaced by a much larger grandstand incorporating hotel, residential, retail and commercial facilities built in association with a Metro station. This has the potential to produce an ongoing revenue stream for the ATC, allowing it to meet its recurrent cost and capital upgrade ambitions. Racing would remain at Rosehill.

Finding X

The ATC has available to it alternatives to the full sale of Rosehill as a way of funding its capital upgrade plans at Warwick Farm, Canterbury and Randwick: namely, its original plan for 3,000 dwellings built on the carpark land along James Ruse Drive (as part of the Camellia-Rosehill Place Strategy) and the sale of the circus and bowling club sites at Rosehill. This would be consistent with what appears to be the majority view of ATC members to keep the Rosehill racetrack. Other, larger scale redevelopment plans are also possible while keeping racing at Rosehill.

Recommendation X

In the likelihood of the ATC membership rejecting the sale of Rosehill (or following the election of two new directors in late November, the Board abandoning its USP) the ATC should explore other commercial opportunities at Rosehill to meet its capital upgrade ambitions at Warwick Farm, Canterbury and Randwick.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Resolved in the negative.

Mr Latham moved: That the following new paragraph be inserted after paragraph 2.16:

'Initially in evidence to the Committee, Mr McMahon could not remember who mentioned the 40,000 figure at the 14 August 2023 meeting.' [FOOTNOTE: Answer to supplementary questions, Mr Steve McMahon, 17 September 2024, p 2]. He wrote to the Committee on 14 November 2024 to say it was Amanda Yeates, the Deputy Chair, Metro Review, and also the CEO of SunCentral (a consultancy working with Sunshine Coast Councils in Queensland on urban development plans).'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Resolved, on the motion of Mr Nanva: That paragraph 2.20 be amended by inserting [Department of Planning, Housing and Infrastructure] after 'from them'.

Resolved, on the motion of Mr Nanva: That the following new paragraph be inserted after paragraph 2.23:

'Following further questions on notice to clarify his evidence, Mr McMahon described the meeting as conversational in nature. Mr McMahon told the committee 'the impression I took from the discussion was further confirmation that increase housing density would be needed to make the Metro feasible'. [FOOTNOTE, Correspondence from Mr McMahon to Chair, 14 November 2024.]'

Resolved, on the motion of Ms Faehrmann: That paragraph 2.26 be amended by omitting 'It wasn't for us to automatically, on the spot, reject the potential of a \$5 million dividend' after 'duty to fully investigate the opportunity'.

Resolved, on the motion of Mr Latham: That the following new Finding be inserted in committee comment at the secretariat's discretion:

'Finding X

The committee did not receive evidence that on 26 October 2023 the ATC had any accurate, verifiable basis to believe that 40,000 dwellings would secure a Metro station at Rosehill.'

Resolved, on the motion of Mr Nanva: That paragraph 2.38 be amended by inserting: 'and that 'there would be members of the Coalition who would have requested a meeting with the Premier and got it on the day they asked. It does happen from time to time. Sometimes it can take longer; sometimes it's shorter. But I think that context is really important' after 'that 'it's not unusual'.'

Resolved, on the motion of Ms Faehrmann: That paragraph 2.40 be amended by inserting 'to meet with the Premier' after 'had been sent'.

Ms Faehrmann moved: That the following new paragraph be inserted in committee comment:

'The committee is of the view that the Premier should have declared a conflict of interest, especially in light of the ICAC ruling on Operation Keppel, due to his close personal relationship with Mr McMahon. Furthermore, given this conflict of interest the Premier should then have met with the Chair and/or the CEO of the ATC.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Ms Faehrmann moved: That:

a) the following new paragraph be inserted after paragraph 2.71:

'Ms Fishburn informed the committee that she only found out about the Rosehill sale by accident on 6 December (the day before its public announcement) when standing next to William Murphy at the NSW Governor's Christmas drinks when he alerted her to the news breaking on social media: 'In relation to Rosehill, I was made aware on 6 December, which was, I believe, the day before the formal announcement. I can remember with some clarity there because it was actually at the Governor's Christmas reception and I was standing next to William Murphy, who I understand the Committee has spoken to, when

information started to come out. I think it was on Twitter or X. I don't know. William had it in his hand, not me. He turned to me and said, "This is the project that I'll be working on." I was formally aware then.' [FOOTNOTE: Evidence, Ms Fishburn, 21 October 2024, p 3.]

b) the following new paragraph be inserted after paragraph 2.122:

'The committee is particularly concerned that for a significant proposition like this, senior public servants were left out of key discussions and decisions. The committee was particularly concerned about the evidence from Ms Fishburn that she only found out about the sale by accident the day before it was announced by the Premier.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Resolved, on the motion of Mr Latham: That paragraph 2.44 be amended by inserting 'and the Premier agreed with this course of action. The outcome of the 30 October meeting was for the Premier and his office to refer Steve McMahon to William Murphy.' after 'the Cabinet Office'.

Resolved, on the motion of Ms Faehrmann: That paragraph 2.57 be amended by inserting at the end: 'However, she also stated that 'I don't think there was a justification for direct dealing at this point' [FOOTNOTE: Evidence, Ms Knight, 12 September 2024, p 33]

Resolved, on the motion of Mr Latham: That paragraph 2.59 be amended by

- a) omitting 'agreed' and inserting instead 'said'
- b) inserting at the end: 'In evidence, Sydney Metro's Peter Regan acknowledged, however, it is common in Sydney for land owners seeking a rezoning to also request a rail station on or near their land.' [FOOTNOTE yet to be provided]

Resolved, on the motion of Mr Nanva: That paragraph 2.61 be amended by inserting 'Ms Knight noted that "with all unsolicited proposals or direct dealings with a potential proponent, that is always a risk, and we always flag that"' after 'risk to identify'. [FOOTNOTE: Evidence, Ms Knight, 12 September 2024, p 32]

Mr Latham moved: That the following new paragraphs be inserted after paragraph 2.65:

'Comment: Mr Draper made the ATC's proposal sound incredibly complicated. As of November 2023 the ATC were after just three things: a rezoning at Rosehill (which could have been processed through the EP&A Act, as per ICAC's Guidelines for using direct dealing only as a last resort); a Metro Station (for which they had already made repeated representations to the Government, including from Steve McMahon to the Premier on 30 October, and the Government could approve at any time as part of its Metro Review); and an alternative training site (for which the ATC could purchase land anywhere in Sydney, or take up the longstanding Racing NSW proposal for a Newmarket-type facility in the Southern Highlands to give trainers better facilities and greater financial security).

The Committee notes that in the Project Wattle options paper, the EP&A Act was again excluded as the logical, traditional way of seeking approval for a housing estate in NSW. Instead, Ms Knight suggested an Unsolicited Proposal (USP) process (a form of direct dealing), emailing the Cabinet Office on 6 November: "Based on the limited information provided by the ATC at this time, it appears an Unsolicited Proposal (USP) might be the most appropriate pathway." Mr Murphy took this back to Steve McMahon at an 8 November meeting that Mr Fisher also attended. McMahon accepted Knight's suggestion (even though he had never heard of a USP) and Murphy reported this to the Premier's office.

Mr Murphy's Minutes for the 8 November meeting highlighted his confusion about the ATC's proposal, due to the speed with which it was being rushed through government. The meeting was originally

requested "for advice about a potential location for a Metro Station to be built on land adjacent to Rosehill Gardens racecourse". But within days it had morphed into "a broader concept proposal to relocate racing from Rosehill to Warwick Farm, with the entire Rosehill Gardens site to be developed for housing, green space and a school."

In the new year, it changed again, with Racing NSW demanding a replacement track for Rosehill and the Brickpit site at Homebush examined for this purpose. The upgrading of Warwick Farm racecourse was put on the backburner. Not surprisingly, the officials at Investment NSW were unimpressed by the Cabinet Office's handling of the matter on behalf of the Premier.

Katie Knight's evidence to the 12 September Select Committee hearing was telling. She admitted, "I don't think there was a justification for direct dealing at this point". The USP was recommended with little information (a brief email from Steve McMahon and his fuzzy map). There was no discussion between Investment NSW and the ATC to gather further information or explore other options. Essentially, Ms Knight suggested the USP because "I'm a fan of it", not because of the quality or thoroughness of the material before her. This was confirmed in a file note from Rowan Fisher on 3 November 2023: "Justification for direct dealing still has to be found."

If there was no justification for the direct dealing of a USP, how did it proceed? The Committee concludes that Will Murphy thought his job was simply to get things done, to assist McMahon, no matter the soundness of the process, after the riding instructions he received from James Cullen on 31 October.

From an ATC point of view, it's incredible to think they were willing to proceed with a USP. McMahon and McGauran progressed the sale of an asset they said was worth \$5 billion on the basis of a small fuzzy map, a template document and a half-hearted suggestion from a bureaucrat (Knight) they had never met. All in the space of 13 days (26 October to 8 November). Such was the rush, McMahon didn't even bother to commission professional design drawings of the Rosehill site.

Essentially, the ATC was engaged in an act of faith: that the McMahon-Minns relationship was so strong as to overcome any obstacles which subsequently might arise in the sale and development process. If the Premier was on side, any problem could be fixed. They had what politicians call an 'in' at the top of government.

The ATC concept progressed rapidly because of the Premier's decision to assist McMahon. Remarkably, the ATC Board did not learn of the proposal until 21 November 2023, when it gave a vague, tentative endorsement to explore a USP (see below).

In the three weeks following 30 October, McMahon worked continuously with Minns' officials, while the ATC Board hadn't even considered the matter. Things were being done for McMahon, not an authorised ATC Board position.

By 20 November, McMahon was working with Will Murphy to draft a press release for Premier Minns (for a scheduled announcement three days later) headed, "Once in a generation opportunity for Rosehill and to secure the future NSW Racing Industry". This was the day before the sale of Rosehill, the most valuable industry-owned racing asset in NSW, was first on the ATC Board's meeting agenda. How could this be: an ATC line manager was working on an announcement about Rosehill for his mate Minns before the ATC's governing body, its Board of Directors, even knew of the proposal?

At the 9 August Select Committee hearing, an ATC Director, Caroline Searcy, was critical of the way in which the Board had been bypassed, saying, "I don't think it was right". It should also be noted there was an ATC Board meeting on 30 October 2023, the same day Minns met with McMahon. Yet typically, the Board was not told that one of their staff had been sent to get Government approval for the sale of the club's most valuable asset.

Probity concerns were also raised by Investment NSW.

This would be a useful line of inquiry for ICAC.

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Mr Latham moved: That the following new paragraphs be inserted after paragraph 2.69:

'Comment: The ATC is a company limited by guarantee - that is, a membership body where the members bear a minor liability for financial loss. As such, its directors must discharge fiduciary duties under the Commonwealth Corporations Act 2001, including those of honest disclosure of information to the board.

Throughout the Inquiry the Committee has heard evidence of a worrying level of division, incompetence and lack of disclosure at the ATC. This has included:

- Steve McMahon not having a sound, factual basis (from his meetings with government officials on 14 August and 25 October 2023) for recommending to the Chair and CEO of the ATC that they commence a process for the full sale of Rosehill.
- Steve McMahon telling the NSW Planning Secretary the ATC would never close Rosehill and Randwick but then the next day, falsely using alleged information from her to advance the sale of Rosehill.
- The Chair Peter McGauran and CEO Matt Galanos failing to take the basic administrative step of checking McMahon's assertions with the relevant government authorities before proceeding with the sale of their most valuable asset.
- Sending Steve McMahon to meet with Premier Minns on 30 October due to his political influence over his friend Minns, instead of the Chair and CEO discharging their proper responsibility for this meeting on behalf of the organisation.
- Having an ATC Board meeting on 30 October 2023 but failing to inform other directors that McMahon was meeting with the Premier that day, seeking NSW Government approval for the sale of Rosehill.
- Telling Racing NSW, the Premier's Office, the Cabinet Office, Investment NSW and other public servants of the sale proposal before first informing the ATC Board on 21 November 2023.
- Seeking to progress the sale without any due diligence, professional/reliable valuation, concept designs or Board approval in Steve McMahon's presentation of his small, amateurish 'fuzzy map' to the Cabinet Office in early November 2023.
- Initially presenting to the Cabinet Office a proposal to relocate Group 1 racing from Rosehill to Warwick Farm but then having Racing NSW over-rule the ATC and in early 2024 being forced into exploring the BrickPit option at Homebush. Before the 7 December sale announcement surely this issue should have been sorted out in advance: for the ATC to never be in a position of proposing the closure of a premium racecourse without first establishing a viable alternative in the Sydney basin accessible to ATC members.
- On 20 November Steve McMahon working with the Cabinet Office on a press release for Chris Minns announcing the full sale of Rosehill, a day before the ATC Board was even informed.
- Claims by some ATC directors that the Board never gave approval for the sale announcement on 7 December 2023, rather only a decision to investigate a USP process and seek further information.
- The public split and debate between the ATC Chair and Vice-Chair over the nature of Board decisions and the true valuation of the Rosehill site, with the evidence showing the Vice-Chair was correct about the valuation.
- Never having a proper written valuation of the Rosehill site before the Chair announced it was worth \$5 billion at the 7 December media event.
- The Chair never reporting the \$5 billion figure to the Board and, in fact, reporting (on 23 November 2023) a smaller amount (\$4 billion) he never used publicly.
- Withholding from directors a report on an alternative to the full sale of Rosehill, as commissioned and paid for by the ATC.

- Over a 12-month period never reporting to the ATC membership any of the details of the USP, even at Stage 2 of the process when disclosure was permitted.
- Developing a proposal for a training facility at SIEC Horsley Park which didn't properly understand the boundaries of the facility and at the southern end of the ATC diagram, incorporated protected woodlands from the adjoining Western Sydney Parklands (as per SO52 documents).

This is a long and very concerning list of corporate misgovernance. It may include breaches of the Corporations Act, warranting ASIC investigation of the ATC.

Recommendation: That a copy of the Committee's report be forwarded to ASIC for the corporate regulator's consideration.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Mr Latham moved: That the following new paragraphs be inserted after paragraph 2.77:

'Comment: Again Mr Draper has failed to understand the significance of the ICAC ruling on Gladys Berejiklian. Ministers can not allow a close personal relationship to be maintained or furthered in the exercise of their public duties. They must declare a conflict of interest. Obviously Steve McMahon working on a press release for Chris Minns to announce McMahon's proposal at Rosehill breaches this probity requirement.

The public announcement itself also breached the USP Guidelines. Instead of allowing this to happen Chris Minns and Simon Draper should have said to the ATC: "The Government is not allowed to announce a USP until the end of Stage One of the process; if you need your members to be involved and know of the proposal, then go away and consult with them, develop your proposal further, put it to the relevant membership vote and then come back to the Government to see which process should be followed.' Minns' and Draper's wilful breaching of the USP Guidelines was unacceptable and unnecessary.

The Committee also notes that the ATC's transparency to its membership post-December 2023 has been poor. The members have not been informed of any details from Stage 2 of the USP, which would be permissible under the USP guidelines. Mr Draper has not kept the ATC to its promise of transparency throughout the process.

Section 2.5 of the NSW Government's 'Unsolicited Proposals: Guide for Submission and Assessment' (May 2022) outlines the importance of "maintaining confidentiality". Specifically, "All proposals submitted will be kept confidential at Stage 1 of the assessment process." Yet, in another concession to Steve McMahon, the Premier went ahead with a major media event announcing the USP to sell Rosehill at the racecourse itself on 7 December. Along with the ATC, the NSW Treasurer, Planning Minister and Transport Minister attended, underscoring the magnitude of the announcement for the government.

Minns gave his approval to the development, declaring it a "once-in-a-generation opportunity" and how "this makes a lot of sense for turning land into housing." He said he was "very confident" it would go ahead, as "it's clear the ATC wants to do this, and we want it to happen as well" (See Daily Telegraph website, 7 December 2023). The Premier's message to the public servants assessing the USP was clear: get this done.

Peter McGauran told Sky News in an interview, the site was worth \$5 billion (by a "conservative" valuation) and "Once the government agreed to install a Metro here at Rosehill it was impossible to say No." It was a measure of the ATC's ill-preparedness that, in fact, it has never had a written land valuation for \$5 billion or reported such to its Board; and, officially at least, the State Government still hasn't approved a Metro station at Rosehill.

The 7 December announcement was beneficial for both Chris Minns and Steve McMahon. In the second half of 2023 Minns was being criticised in the media for lacking vision for Sydney's future. A proposal to sell Rosehill for 25,000 dwellings and a Metro station helped the Premier politically. It gave him a vision for Sydney and silenced his critics.

It also marked out McMahon in the NSW racing industry as a 'can-do' man, advancing his career as a racing administrator (with the funds raised from the sale supposedly securing the industry's financial future). The two friends had a lot to gain from a proposal to sell Rosehill. This is the only logical motivation one can find for how McMahon handled the matter pre-October 26.

As of 7 December, Minns had a high-profile public demonstration of his vision for Sydney and, in just six weeks, McMahon had pulled off what appeared to be the greatest coup with the NSW Government in the history of thoroughbred racing. He looked like the rising star of racing administration. On his LinkedIn that evening, McMahon wrote of his "Big day at work. Proud day."

On the night of 7 December, after the triumphant press conference at Rosehill, did Minns and McMahon have every right and reason to get together and say 'After 25 years of working with each other in Labor politics, we've got a really big project up and running that's very helpful to us both'? Yes they did. Their close personal relationship had been strengthened in the exercise of the Premier's public duties.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Ms Faehrmann moved: That the following new paragraph be inserted after paragraph 2.72:

'As Katie Knight told the Select Committee, 'As you might appreciate from the guidelines, they are not made public.' In answering a question on notice, Ms Knight informed the Rosehill Committee, 'Five unsolicited proposals have been lodged that involve both a housing and railway/Metro station commercial proposal in the last 18 months'.' [FOOTNOTE: Answers to questions on notice, Ms Knight, p 1]

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Mr Latham moved: That the following new chapter be inserted after paragraph 2.77:

'Conflict of Interest / Corrupt Conduct

There has never been a USP like it, in the history of scores of these proposals going back to when the USP process started in NSW in 2012. A close friend of the Premier has seemingly used meetings with government officials as a false alibi to meet with the Premier to advance Sydney's biggest-ever real estate deal. The Premier hid the true purpose of the meeting in his declarations, pretending it was a 'meet-and-greet' with someone he had known for 25 years. He then immediately assisted his friend, using the Cabinet Office to recommend a USP from officials who, at the time, thought there was no justification for direct dealing. Then, contrary to his own USP guidelines, the Premier announced it publicly and endorsed the proposal. In less than seven weeks, McMahon had pulled off a major coup with the NSW Government.

There have been multiple probity breaches in this process, with the Premier breaching public trust in his honesty and integrity. Section 6 of the Ministerial Code of Conduct says that Ministers "must not act dishonestly". Section 7 requires Ministers to declare conflicts of interest where their "private interest could objectively have the potential to influence the performance of their public duty." At no time did Chris

Minns declare his interest in having a close personal relationship with Steve McMahon. Nor did he abstain from the decision making process involving McMahon, as required by Part 3, Section 12 of the Ministerial Code.

Section 9 requires Ministers to "not improperly use public property, services or facilities for the private benefit of themselves or any other person." Minns used the services of the Premier's Office, the Cabinet Office and Investment NSW for the benefit of Steve McMahon, in advancing his mate's status and career prospects in the racing industry. Between 30 October and 7 December 2023, McMahon went from being an ordinary line manager at the ATC to the can-do 'miracle man' of racing, getting things done quickly inside the Minns Government.

The Premier also breached several sections of the Government's USP Guidelines (May 2022):

1. As quoted above, up to Stage 2 of the USP process, proposals should remain confidential. Minns breached this with his public announcement of the project on 7 December, using press material written by Steve McMahon. As Katie Knight told the Select Committee, "As you might appreciate from the guidelines, they are not made public." It appears this was the first USP announced by a NSW Premier prior to the end of Stage One assessment. In answering a question on notice, Ms Knight informed the Rosehill Committee, "Five unsolicited proposals have been lodged that involve both a housing and railway/Metro station commercial proposal in the last 18 months", that is, during the life of the Minns Government. Yet only one has been made public: Steve McMahon's.
2. Section 2.5 of the Guidelines state, "The assessment of Unsolicited Proposals must be fair, open and demonstrate the highest levels of probity ... Fair and impartial treatment will be a feature of each stage of the assessment process." The Premier made this impossible with his unprecedented announcement on 7 December. Not only did he break the confidentiality provision, he gave his strong personal support to the project. Inevitably, bureaucrats assessing the USP will think to themselves, "The Premier wants this to happen, am I really in a position to go against his wishes and jeopardise my prospects working for his government? If the head of government wants something done, isn't it my job to deliver it?"
3. The main criteria for a USP is to be unique, provide value for money to the public sector and meet the strategic objectives of government. In announcing the USP, Chris Minns would have known it was far from unique. As the head of Sydney Metro told the Select Committee, it is standard practice in Sydney for would-be housing developers to request a train station on or near their land. The ATC is one of hundreds who have done this over the years. With very few exceptions, these proposals have been assessed through the EP&A Act. Moreover, it is far from unique to turn a Sydney racecourse into housing, with this previously occurring at Harold Park (Glebe), Kensington, Rosebery, Victoria Park (Zetland) and Mascot.
4. Page 6 of the Guidelines states, "Proposals that do not contain a commercial proposition for the Government ... are not considered unique and/or proposals that are unlikely to be progressed". In several Rosehill Committee and Budget Estimates hearings, no Government official has been able to identify what is commercially attractive or viable to the NSW Government in approving a huge housing estate at Rosehill (25,000 dwellings) and then having to fund many billions of dollars in associated social and transport infrastructure. The Rosehill Metro station alone will cost up to \$2.2 billion (as per the findings of the Metro Review). ***
It is likely when the NSW Treasurer Daniel Mookhey attended the 7 December media event at Rosehill he would have told the Premier of the enormous cost to his budget of funding the ATC proposal. Contrary to the USP Guidelines, it has never been a commercial proposition, nor value for money for the Minns Government. Without the involvement of Steve McMahon, it most certainly would not have gone ahead this way.
5. Section 1.1 of the Guidelines defines, "An Unsolicited Proposal is an approach to Government from a Proponent with a proposal to deal directly with the Government over a commercial proposition, where the Government has not requested the proposal." Given the false nature of Steve McMahon's account, it is likely he collaborated with Chris Minns prior to 30 October 2023 on the sale of Rosehill and the Premier promised to find a way of making it happen. Thereafter his Government solicited the Unsolicited Proposal. This concern was listed in the 6 November Project Wattle Transaction Options

Analysis by Katie Knight as a "Probity risk - Perception that NSW Government is engineering an unsolicited proposal for a Government-driven transaction."

The Project Wattle document makes several mentions of ICAC's 'Guidelines for Managing Risks in Direct Negotiations, August 2018', which are well-known across government. The ICAC guidelines have been incorporated into the NSW Government's Direct Dealing Guidelines (June 2021), so there can be no excuse for Chris Minns in breaching them. Yet he has, in five ways:

1. At page 15 of the Guidelines it states, "As a general rule, corrupt or unethical officials try to avoid making records that could be used to expose their conduct." Premier Minns hid the true purpose of his 30 October meeting with Steve McMahon by declaring it as an 'Australian Turf Club, Meet and greet' when it was to discuss the sale of Rosehill. This was the beginning of a pattern of preference Minns displayed towards Steve McMahon. In Supplementary Questions from August's Budget Estimates, Minns refused to answer questions about this. My Question 23 asked, "Aren't 'meet-and-greet' meetings in politics actually first-time, courtesy-type meetings, not the discussion of the sale of major community-held assets?", to which Minns answered, "Premier's Memorandum M2015-05 requires the disclosure of the organisation with whom the meeting is held and the purpose of the meeting." Minns appears to be standing by his misleading descriptor. The idea that longtime friends like Minns and McMahon needed to 'meet-and-greet' is preposterous.
2. ICAC's Guidelines make clear that corruption is less likely to occur if competitive processes for government resources and approvals are established, for example, by open tender. If using a non-competitive process such as direct negotiations, page 14 warns that, "Public officials should ensure the decision making process is free of any actual or apprehended bias." In accepting McMahon's request for a meeting to discuss the sale of a major asset like Rosehill Racecourse, Minns would have known that McMahon was being sent to unduly influence him. The Minns/McMahon relationship was the best chance the ATC had for receiving positive treatment from the Government. Minns should have asked to see the ATC Chair and CEO, not McMahon. He should have also asked if the proposal had been approved by the ATC Board. ICAC is clear on this, with page 17 of the Guidelines specifying, "Agencies should be mindful of the issue of 'capture' or 'familiarity bias'. If staff members have previously worked with the counterparty they may be favourably disposed to its interests." Clearly this applies to the Premier and his time working with McMahon in Carl Scully's ministerial office, on Hurstville Council (2004-08) and inside the ALP. Minns should have declared a conflict of interest to avoid any familiarity bias.
3. Due to the lack of competition, heightened risk of corruption and weaker probity standards that come from direct dealing, Page 5 of ICAC's Guidelines state, "As a general rule, direct negotiations should be avoided". At page 8, it warns, "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". At no stage of the ATC's Unsolicited Proposal did this occur. At his meeting with McMahon, Minns should have said, "We will sort out the possibility of an extra Metro station shortly and then you can lodge a rezoning application if you wish". The only reason the Cabinet Office was tasked with finding a 'process' was to allow McMahon and the ATC to bypass the NSW Environmental Planning and Assessment Act. At the August 28 Budget Estimates, Minns said the EP&A Act had become too complex and difficult for applicants. Instead of fixing the planning statute, the Premier gave his mate McMahon a shortcut route to a Rosehill rezoning.

Once approved by the USP process, Ms Fishburn told the Select Committee she expected Rosehill to become a State Significant Development for Government approval. This means the ATC will be able to bypass the lengthy delays involved in the environmental study and public consultation requirements for a rezoning and development approvals under the EP&A Act.

The Project Wattle options paper presented four development alternatives, but also neglected to mention the EP&A Act as the logical, traditional way of building a housing estate in NSW. Two Investment NSW officials (Knight and Fisher) have said there was no justification for direct dealing at this point. How did it happen, contrary to ICAC's Guidelines? One can only conclude it was a product of McMahon's friendship with the Premier and Minns wanting it to be done that way, rather than sending McMahon through the Planning Act.

4. Page 16 of the ICAC Guidelines require the Government "to conduct due diligence on the counterparty, its key staff and its offer". This never occurred. How could it, given the speed with which Chris Minns wanted to make a public announcement? If the Government had conducted due diligence, it would have uncovered the same appalling problems with the ATC the Rosehill Select Committee inquiry has identified, including likely breaches of the Corporations Act. The ATC's leadership rushed the process, kept its membership in the dark, bypassed normal Board processes, constantly altered the proposal (such as adding the Brickpit) and never had a written land valuation for the \$5 billion it claimed; nor has it ever reported that \$5 billion figure to its Board.

At the 9 August Committee meeting Peter McGauran described \$1.6 billion as "a paltry return on the loss of a premium racetrack; we would not even let that bid through the door." The ATC Chair has, in effect, conceded the Government has been processing a USP for a project that is useless to the ATC. The Minns Government would have known these things if it had conducted the due diligence recommended by ICAC, instead of rushing to assist Steve McMahon.

5. At Page 17 of ICAC's Guidelines there's a warning against the risks involved when proponents in direct dealings receive a finder's or success fee for their work. Having moved the proposal to USP stage so quickly, Steve McMahon has likely received a financial bonus at the ATC. If the sale of Rosehill ever eventuated, he would be further rewarded, something Minns should have checked in advance. In a Budget Estimates Supplementary Question, I asked the Premier if he had done this and he refused to answer. At every turn Minns has ignored the Guidelines for direct dealing, an unacceptable snubbing of ICAC and its probity rules.

Finding

Premier Chris Minns acted improperly in breaching ICAC and USP guidelines and in not declaring his conflict of interest in the sale of Rosehill given his close personal relationship with Steve McMahon. In the exercise of his public duties, the Premier maintained and furthered his relationship with Mr McMahon as both were beneficiaries of the process which has been the subject of this report: Minns in answering media criticism that he lacked a vision for Sydney; and McMahon in enhancing his career path as the 'can-do man' of NSW racing.

Recommendation

That the Committee refer Premier Chris Minns and the contents of this report to ICAC.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Mr Latham: That paragraph 2.80 be amended by inserting at the end:

'When asked whether this proposal would be assessed as state significant development, Ms Fishburn responded: 'It could be dealt with as a planning proposal by council and my understanding from discussions with the CEO of City of Parramatta is that they would be open to that idea. Parramatta is quite a sophisticated council in their ability to deal with planning matters, so that would definitely lie open to them, or it could be done as a State-led rezoning. My guess is I think you're right, we would say that because of the scale and complexity it should be a State-led rezoning, but I don't want to be prejudging a decision that is further down the line.' [FOOTNOTE: Evidence, Ms Fishburn, 21 October 2024, p 6.]

Mr Latham moved: That the following new paragraph be inserted after paragraph 2.84:

'Chris Minns took a more direct responsibility for USPs in 2024. On 12 April 2024, after the ATC had formally lodged its USP, the Premier announced an unexpected reshuffle of administrative responsibilities, with "the transfer of Investment NSW to the Premier's Department" from DEIT. This hadn't been an ALP election promise or foreshadowed in any way. It meant that Minns was now the Minister in charge of Unsolicited Proposals. His Departmental Secretary chairs the Steering Committee for the Rosehill proposal. The Premier has involved himself from beginning to end of the ATC's proposal.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the negative.

Mr Nanva moved: That paragraph 2.88 be amended by inserting 'While not having directly prepared property modelling and data analysis himself,' before 'In Mr Hale's view'.

Question put.

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Mr Nanva moved: That Paragraph 2.90 be amended by inserting 'citing his significant corporate experience with development deals' before 'Mr Charny stated'.

Question put.

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Mr Latham moved: That the following new paragraphs be inserted after paragraph 2.90:

'Comment: The Committee has examined a great deal of evidence about the true value of Rosehill racecourse and the corporate governance of the ATC. There are a number of problems with the way the ATC Chairman Peter McGauran has handled the matter. The evidence suggests he never had a proper written valuation for the \$5 billion figure he announced to his members on 6 December 2023 and publicly with the Premier on 7 December. The number appears to have been an extrapolation from values used in the Camellia-Rosehill Place Strategy, where the ATC thought its 3,000 new dwellings would realise a return of \$200,000 each. Mr McGauran took the \$200,000 number and multiplied it by the 25,000 dwellings proposed across the entire racecourse and came up with \$5 billion.

That is, it was guesswork. Moreover, the \$5 billion figure was never reported to the ATC Board. The proposed 25,000 dwellings would saturate the housing market in that part of Sydney, realising a lower return than envisaged in the McGauran guesswork. Having examined the relevant evidence, the Committee concludes that Tim Hale was correct in pointing to a Net Present Value (NPV) of a fully developed Rosehill (that is, with a rezoning, 25,000 dwellings and a Metro station) of \$1.6 billion, and Mr McGauran misspoke in his evidence on 9 August. Nonetheless, according to McGauran's analysis, \$1.6 billion is a paltry amount for a premium racecourse; and it is surprising the ATC Board has continued to pursue it.

With the efforts of the Minns Government to increase housing supply in Sydney, most developers can expect reduced returns. Now is not a good time for the ATC to sell its most important asset. The ATC

appears to be scrambling to work out ways by which the initial \$5 billion figure can be realised. One way is to become a land developer itself, progressively releasing the 25,000 dwellings onto the market. There are two problems with this approach. First, it will take up to 35 years to realise the full \$5 billion amount, meaning the ATC has no way of funding its capital upgrade plans at other racetracks in a reasonable time period. Second, the ATC's governance for the proposed sale of Rosehill has been appalling, an embarrassing shambles. As Racing NSW said in its meeting with the Cabinet Office on 17 November 2023, the ATC Board lacks the skills and experience to manage such a large project. It may be able to run horse racing meetings, but the ATC is delusional in thinking it could be a successful large scale housing developer in Sydney.

At the Inquiry there was also confusion about the actual nature of the Rosehill proposal. Is it an immediate sale, a delayed sale with development approvals, some kind of joint venture or a long-term land development scheme managed by the ATC? In evidence, the Chair of Racing NSW, Saranne Cooke, said that in November 2023 her Board thought it was for the ATC to sell the land to the Minns Government. Despite various denials, the evidence before the Committee shows that Racing NSW wants to be in control of the money from the sale of Rosehill "after providing a reasonable sum to the ATC" (RNSW Board Minutes, 21 November 2023).

Unfortunately, on this and other matters, the ATC has kept its membership in the dark. The Committee concludes that the membership vote has been delayed to April 2025 because the ATC leadership doesn't know what it is doing. Its handling of this matter has reflected poorly on the organisation and its level of competence.

Findings:

1. The ATC Chair Peter McGauran acted irresponsibly by announcing a \$5 billion value for Rosehill racecourse when he never had a professional written valuation for that amount, nor presented that figure to his Board.
2. The ATC Vice-Chair Tim Hale was correct in saying that the true enhanced development NPV for Rosehill was \$1.6 billion, meaning that by the analysis of the Chair McGauran (describing \$1.6 billion as "a paltry amount" he would never act on) the proposal should never have gone ahead.
3. It will take the ATC up to 40 years to realise \$5 billion from the development of Rosehill, making its capital upgrade ambitions at other racetracks fanciful. In any case, the ATC lacks the skills and capacity to undertake this kind of long-term housing development project.
4. The confusion about the Rosehill proposal has reflected poorly on the competence of racing administrators in NSW and tarnished the reputation of their industry.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Mr Nanva: That paragraph 2.108 be amended by inserting 'at the time of the hearing' after 'in the unsolicited proposal.'

Resolved, on the motion of Mr Latham: That the following new paragraph be inserted after paragraph 2.110:

'Concerns were raised about the integrity of Racing NSW's finances. In his submission to the Inquiry, the former NSW Auditor General, Tony Harris, was critical of the presentation of the financial accounts, particularly in the overuse of provisions. Mr. Harris wrote of how:

Provisions are expenses that act to reduce profits (or increase losses) for items that have been incurred but for which payments are not yet due. They include estimates, for example, for payments for workers compensation or insurance payments, that are actuarially calculated. While provisions such as these are common in entities' final statements, NSW Racing financial

statements have provisions that appear not to represent 'a present legal or constructive obligation as a result of a past event' (Note 1q Summary of Significant Accounting Policies, NSW Racing Financial Statements).

An example of provisions that seem unrelated to obligation arising from past events is the \$116 million set aside for 'investment for capital projects across NSW in accordance with the 2017-19 Racing NSW Strategic Plan.' Another is the \$36 million expenses recognised to 'support Thoroughbred Racing Clubs with financial hardship they may run into' or the \$106 million expense for sustaining (future) increases in Racing NSW prizemoney.

Although these are audited figures, there is sufficient information to suggest that some of these provisions do not meet the definition for provisions set down in accounting standards. If it is confirmed that some of these provisions do not relate to obligations, there would be a need to revise and increase past profit results and increase past results for net assets. [FOOTNOTE: Submission 34, Mr Anthony Harris, pp 1 – 2.]

Resolved, on the motion of Mr Nanva: That the following new paragraph be inserted after paragraph 2.113:

'In addressing these concerns, Mr V'Landys gave evidence to the committee that Racing NSW had no intention of 'seizing' proceeds from the development of Rosehill Racecourse: 'We said that because the ATC is going to receive so much money, they should have relevant skill on that board in order to manage that money. If we were going to take the money, why would we want somebody on that board that had the relevant skill?' [FOOTNOTE: Evidence, Mr V'Landys, 9 August 2024, p 45.]

Mr Latham moved: That the following new paragraph be inserted after paragraph 2.116:

'Mr V'Landys never produced this email and the Committee is unaware of its existence. Overall, the submissions to Inquiry by critics of Racing NSW were not of a kind depicted by the CEO. They contained detailed and credible information about a range of problems at the racing regulator. Unfortunately Racing NSW did not make a submission to the Inquiry about the future of Rosehill racecourse or the NSW racing industry, preferring instead to lodge two attempted submissions identifying whistleblowers and trying to denigrate them. Both items were deemed by the Committee to be inappropriate to be accepted as submissions.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Ms Hurst: That paragraph 2.118 be omitted: 'Likewise, Mr Charny was not aware of any complaints of bullying or harassment in relation to Mr V'landys. He clarified that he was aware of 'scuttlebutt throughout the racing industry', but that he believed there had not been any formal accusation.'

Resolved, on the motion of Ms Faehrmann: That paragraph 2.125 be amended by omitting 'further complicating matters' and inserting instead 'Of further concern'.

Mr Nanva moved: That paragraph 2.125 be amended by:

- a) inserting 'Notwithstanding being technically compliant with the Premier's memorandum and past practices' before 'the committee is firmly'
- b) omitting 'should properly disclose' and inserting instead 'could more appropriately disclose'
- c) omitting 'In our view, the phrase is inaccurate, misleading and does not adequately describe the matters to be discussed. It is inappropriate given the long-standing friendship of Mr McMahon and the Premier as well as the matters that we now know were discussed at that meeting' and inserting instead 'In our view, the

phrase, while consistent with past practice, does not entirely describe a circumstance where there was a long-standing friendship between Mr McMahon and the Premier or matters that were discussed at that meeting'.

Question put.

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Ms Hurst moved: That Finding 1 be amended to omit 'the long-standing friendship of Mr McMahon and the Premier and' after 'It is inappropriate given'.

Question put.

The committee divided.

Ayes: Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Mr Nanva moved: That Finding 1 be omitted: 'The use of 'meet and greet' to describe the meeting of Mr Steve McMahon and the Hon Chris Minns MP, Premier, on 30 October 2023 is inaccurate, misleading and does not adequately describe the purpose of this meeting. It is inappropriate given the long-standing friendship of Mr McMahon and the Premier and the nature of the matter discussed at the meeting. Ministerial diary disclosures should properly disclose the purpose of meetings.' and the following new Finding be inserted instead:

'Finding X

While technically compliant with the Premier's memorandum, and consistent with the practice of the previous government, the use of 'meet and greet' to describe the meeting of Mr Steve McMahon and the Hon Chris Minns MP, Premier, on 30 October 2023 did not fully describe the purpose of this meeting. This is particularly so given the long-standing friendship of Mr McMahon and the Premier and the nature of matters discussed. Ministerial diary disclosures should more fully disclose the purpose of meetings.'

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Ms Faehrmann: That the following new paragraph be inserted after paragraph 2.125:

'The committee was also concerned to hear from senior public servants that they didn't think there was a justification for direct dealings of the proposal when they were asked to consider it. The Project Wattle document makes several mentions of ICAC's 'Guidelines for Managing Risks in Direct Negotiations' including that public officials should ensure the decision making process is free of any actual or apprehended bias!'

Mr Nanva moved: That Recommendation 1 be amended by omitting 'update the' and inserting instead 'consider reforms to'.

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Mr Nanva moved: That Recommendation 1 be amended by inserting 'and extend these requirements to Shadow Ministerial spokespeople' after 'conflicts of interests'.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Resolved, on the motion of Ms Faehrmann: That paragraph 2.123 be amended by omitting:

- a) 'The immediate turnaround of the position' and inserting instead 'The committee was unconvinced by the evidence that suggested a dramatic change in position overnight'
- b) 'to then change position' after 'no plans to relocate'
- c) 'on the very next day and seeking' and inserting instead 'the next day as well as a'
- d) 'is questionable' after 'the Premier'.

Ms Faehrmann moved: That the following new Finding be inserted after Finding 1:

'Finding X

There was significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier.'

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Resolved, on the motion of Ms Hurst: That paragraph 2.132 be amended by omitting 'it is clear from the evidence' and inserting instead 'there was other evidence'.

Resolved, on the motion of Ms Hurst: That paragraph 2.133 be amended by omitting 'While this funding arrangement may be the impetus for the Australian Turf Club considering the sale of its major asset, it is one that will remain in place for the foreseeable future and is a reality that the Australian Turf Club needs to consider unless it is changed.' After 'the Australian Turf Club.'

Resolved, on the motion of Mr Tudehope: That the following new finding be inserted after paragraph 2.133:

'Finding X

There is conflicting evidence and uncertainty with the financial assumptions behind and the financial viability of the proposal to develop Rosehill Racecourse.'

Mr Tudehope moved: That the following new finding and recommendation be inserted after paragraph 2.133:

'Finding X

The model for funding for the ATC from Racing NSW is not fit for purpose and does not ensure long-term financial viability.

Recommendation X

That the NSW Government implement a formal fixed agreement on funding for the ATC from Racing NSW revenue to ensure its long-term viability.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the negative.

Mr Tudehope moved: That the following new recommendation be inserted after Finding 2:

Recommendation X

That the Government does not proceed with the Unsolicited Proposal to develop Rosehill Racecourse for housing as the Government was in breach of the *Unsolicited Proposals: Guide for Submissions and Assessments*.

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the negative.

Ms Faehrmann moved: That paragraph 2.134 be amended by inserting 'and it particular its CEO' after 'This evidence alleged serious concerns with Racing NSW.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Ms Faehrmann moved: That Finding 2 be amended by inserting 'Premier and' after 'The manner in which the'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Resolved, on the motion of Mr Nanva: That paragraph 2.131 be omitted: 'The committee is confounded by the evidence from Mr O'Brien that the Office of Racing played no role in the unsolicited proposal process as it relates to Rosehill Racecourse. This is at odds with the role of Racing NSW, whose support for the potential sale of Rosehill Racecourse was seen as integral to the whole proposal proceeding.'

Mr Nanva moved: That paragraph 2.127 be amended by inserting 'many racing industry stakeholders believe that' after 'it is clear that'.

Question put.

The committee divided.

Ayes: Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Mr Nanva: That paragraph 2.129 be amended by omitting 'are clear' and inserting instead 'state'.

Mr Nanva moved: That paragraph 2.129 be amended by omitting 'It is the committee's view that the comments of the Government in its press release and particularly those of the Premier at the announcement breached these requirements' and inserting instead 'There was a lack of agreement in the evidence as to whether the comments of the government and the Premier at the announcement, during the pre-submission concept review, was inconsistent with these requirements'.

Question put.

The committee divided.

Ayes: Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Mr Nanva moved: That Finding 2 be omitted: 'The manner in which the Government announced the proposal to develop Rosehill Racecourse for housing was in breach of the Unsolicited Proposals: Guide for Submission and Assessment by failing to maintain impartiality when it championed the proposal.', and the following new finding be inserted instead:

'Finding X

The committee recommends that further efforts be undertaken to clarify the impartiality requirements of the USP process and at what stage, including during pre submission concept reviews, government announcements may be publicly made.'

Question put.

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Mr Latham: That Finding 2 be amended by inserting at the end: 'and for making the public announcement prior to the end of Stage One of the USP process'.

Ms Hurst moved: That paragraph 2.134 be amended by omitting 'While this evidence was received by the committee and ventilated in many of the hearings, it falls outside the terms of reference before the committee in this instance' after 'subsequent correspondence to the committee.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Mr Latham.

Noes: Mr Fang, Mr Farlow, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Mr Latham moved: That the following new paragraph and recommendation be inserted after paragraph 2.134:

'Notwithstanding interpretations about the terms of reference, the first and overriding responsibility of a NSW Member of Parliament is to respect and follow the laws of NSW, especially when they concern allegations of criminality. Section 316 of the NSW Crimes Act confers an obligation on anyone with information about the conduct of a serious crime to report the matter to the police. Failure to do so can be punished by imprisonment. The sworn evidence of whistleblowers about Racing NSW falls within this responsibility. Their evidence was credible, consistent and deeply concerning, especially regarding a body

entrusted to regulate a major industry in NSW. The Committee grappled with how to bring these allegations to the attention of the authorities without breaching the confidentiality of those who came forward, very often fearing retribution for their actions. The Committee pays tribute to the courage and motivations of the whistleblowers and seeks a way for their allegations to be properly tested by the NSW justice system, the NSW Parliament and the NSW Government.

Recommendation X

The Committee urges whistleblowers to the Inquiry and MPs participating in its deliberations who have information about wrongdoing by Racing NSW to report it to the relevant authorities: the NSW Police, the Australian Federal Police, the Australian Taxation Office, the NSW Minister for Racing and the NSW Premier.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Latham.

Noes: Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Ms Hurst moved: That the following new paragraph be inserted after paragraph 2.135:

'The committee was particularly concerned by the significant volume of confidential evidence we received from whistleblowers within the industry, which raised serious concerns about Racing NSW, including allegations of illegal activity and other conduct that is plainly not acceptable from a regulatory body. The committee grappled with how to address these allegations without breaching the confidentiality of those who came forward many of whom feared retribution for their actions. The committee believes that these matters are worthy of further investigation.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Mr Latham.

Noes: Mr Fang, Mr Farlow, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Mr Nanva moved: That the following new paragraph be inserted after para 2.135:

'While noting that the matters did not fall within the Terms of Reference, the committee was particularly concerned by the significant volume of confidential evidence we received from whistleblowers within the industry, which raised serious concerns about Racing NSW, including allegations of illegal activity and other conduct that is plainly not acceptable from a regulatory body. The committee grappled with how to address these allegations without breaching the confidentiality of those who came forward many of whom feared retribution for their actions. The committee believes that these matters are worthy of further investigation.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Mr Latham.

Question resolved in the affirmative.

Ms Faehrmann moved: That the following new Finding be inserted:

'Finding X

The committee finds that, given the significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier and concerns regarding direct dealings and conflicts of interest, this report should be referred to the Independent Commission Against Corruption.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Chapter 3

Resolved, on the motion of Ms Hurst: That paragraph 3.1 be amended by omitting 'premium' before 'racetracks'.

Resolved, on the motion of Mr Nanva: That paragraph 3.34 be amended by inserting at the end: 'Mrs Armanet agreed that, once the scope and detail of any proposal was settled, she would expect the Sydney Olympic Park Authority to be brought into the USP process.' [FOOTNOTE: Evidence, Mrs Armanet, 12 September 2024, p 48.]

Resolved, on the motion of Mr Nanva: That paragraph 3.43 be amended by inserting at the end: 'Ms Jones agreed, however, that once the scope and detail of any proposal was settled, she would expect the Office of Sport to be brought into the USP process.' [FOOTNOTE: Evidence, Ms Jones, 12 September, p 48.]

Mr Latham moved: That the following new paragraph and finding be inserted after paragraph 3.43:

'Comment: The Committee inspected the SIEC facility and adjoining Western Sydney Parklands. A number of problems with the proposed thoroughbred training centre were identified:

1. SIEC would lose access to a number of the equestrian and school student cross country events it currently hosts.
2. The ATC plan for the site mistakenly encroaches on the protected woodlands of the Western Sydney Parklands to the south of SIEC, seeking to locate stabling and accommodation facilities on this land. These valuable woodlands should not be destroyed for a horse training facility.
3. The SIEC land appears to be too small. The circumference of the training track and proposed straight course are significantly shorter than currently available at Rosehill.
4. The prospect of 'shared facilities' between SIEC and racehorse trainers is not practical due to the security needs of racing and the extraordinary value of many of the thoroughbreds to be stabled there.
5. The proposed ATC site to the east of SIEC's equestrian arenas is in a dell, making it quite dank and aesthetically unsuitable for a racing facility.
6. The Rosehill trainers, led by Chris Waller, are not supportive of this location and may move their operations interstate, especially to Victoria. Mr Waller has said that, due to climate change, Horsley Park would be too hot for his horses.

Finding: The location of a horse training facility at SIEC Horsley Park is undesirable for the reasons outlined above.'

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the negative.

Resolved, on the motion of Mr Nanva: That paragraph 3.66 be amended by inserting after 'the current alignment and work program', 'However, Mr Regan advised the committee that there would not be significant costs to the 'minor realignment' required:

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.' [FOOTNOTE: Evidence, Mr Regan, 12 September 2024, p 22.]

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.66:

'Additionally, the cost of installing a station at Rosehill is estimated to be \$1.5 to \$2.2 billion. Mr Regan gave evidence to the committee that, at the time of these estimates of \$1.5 to \$2.2 billion and without having complete details with respect to geology, contamination, time frames, form of construction and access that such 'high level forecasts' contained "a fair bit of contingency". [FOOTNOTE: Evidence, 12 September 2024, p 24.] While no evidence has been provided to the committee that the proceeds of any sale of Rosehill racecourse will be used to supplement this cost, Mr Regan cited the recently completed example of the Martin Place Metro station, also undertaken as an unsolicited proposal, supporting "a significant development, which made a very significant contribution to the cost of the station". [FOOTNOTE: Evidence, Mr Regan, 12 September 2024, p 25]'

Question put.

The committee divided.

Ayes: Ms Fachrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Mr Latham moved: That the following paragraphs and recommendation be inserted after paragraph 3.82:

Comment: The Committee heard evidence of how the Minns Government is giving greater priority to Unsolicited Proposals as a way of increasing housing supply in Sydney. This is reflected in the Government's new administrative orders, where Investment NSW and responsibility for USPs has been moved into the Premier's Department.

The Premier has complained at Budget Estimates and in the media about the complexity of the development approvals process in NSW. His solution appears to be the use of USPs, rather than simplifying and streamlining the EP&A Act. This raised probity concerns in the administration of Government. As ICAC has pointed out, the best prevention of corruption comes from open, transparent, competitive processes, rather than the secretive, in-house, monopolistic processes associated with direct dealing (of which USPs are one type).

This is a lesson that can be learned from the process used in the lead up to the Rosehill USP. If not for the work of our Committee the multiple problems and probity concerns (mostly around the undeclared conflict of interest by the Premier in dealing with his Labor mate Steve McMahon) evident in the period 26 October to 7 December 2023 would never have been identified.

USPs have had a flawed history in NSW. Not many have been successful and this latest one has been covered in controversy. The USP process came out of the infamous meeting of James Packer, Barry O'Farrell and Alan Jones in The Toaster in 2012 for a second Sydney casino licence. The media found out about it and the then Government responded with the invention of an ad hoc USP process. It is incredible to think this process could now be the preferred methodology of the NSW Premier for housing development approvals.

Finding: The flaws in and probity concerns from the ATC/Rosehill USP confirm ICAC's advice that government is most likely to serve the public interest and achieve strong integrity standards from open, transparent and competitive processes. Direct dealing should never be used as a substitute for the NSW EP&A Act.

Recommendation: That the Minns Government simplify and streamline the development approvals system in NSW as a way of increasing housing supply, rather than prioritising in its advice to applicants the use of secretive, non-competitive, in-house USPs.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Mr Latham moved: That the following paragraphs be inserted after paragraph 3.82:

'Impact of the proposal on Parramatta LGA

The committee also heard evidence of the local and regional impact of the Rosehill housing proposal, informed by the studies and report of the Camellia-Rosehill Place Strategy (CRPS). Since 2016 Parramatta LGA has taken a greater share of Sydney's housing growth than any other area. The CRPS set an upper housing limit for the precinct of 10,000 dwellings and even then, identified an infrastructure funding gap of \$673 million. It is problematic, therefore, to build 25,000 new dwellings on the Rosehill racecourse site. This would give Rosehill-Camellia the highest population density in the State, 60% denser than Rhodes, 120% denser than Wentworth Point and 270% denser than Pyrmont. Overall, the precinct would have a population density 5500% times greater than the rest of Sydney. 25,000 dwellings is the equivalent of fifty 50-storey apartment towers, the greatest high-rise real estate expansion in Sydney's history.

In terms of a fair burden of residential expansion, there is an argument for other parts of Sydney to be a higher priority than Parramatta. The historic struggle in Western Sydney has been to close the gap between the number of people and the number of jobs and accessible services. The Rosehill USP proposal increases this gap. It eliminates the current employment hub at Rosehill, with thousands of people working in catering, horse training, veterinary science, track maintenance, raceday activities and hosting major tourism events such as the Caravan Camping Holiday Supershow. It adds over 75,000 residents to the district without employment generation beyond the initial construction phase. It also increases the infrastructure funding gap into billions of dollars.

The Committee notes how two 'Western Sydney peak bodies', the Western Sydney Leadership Dialogue and Business Western Sydney, appeared at the 22 July hearing and argued strongly in favour of the Rosehill residential development. However, they failed to declare the ATC as one of their affiliated bodies, contributing annually \$30,000 and \$18,000 respectively. This weakened the independence and objectivity of their evidence.

There are other challenges in the Rosehill development proposal arising from the CRPS. The proposal for a Metro station at Camellia was ruled out due to flood and contamination concerns. These may also be relevant on the adjoining racecourse land. The BD&E rezoning civil design report for the CRPS (January 2024), for instance, identified Rosehill racecourse as a "flooding hotspot". In evidence, Sydney Metro expressed greatest concern (especially with regard to remediation costs) from the possibility of land contamination.

Finding: The scale of residential development proposed in the Rosehill USP represents a disproportionate burden on the Parramatta LGA, both in terms of service provision and employment prospects. The infrastructure funding gap identified in the CRPS will grow substantially. The projected population density numbers (supplied in Department of Planning SO52 documents) represent over-development of the site.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Ms Hurst: That paragraph 3.86 be amended by inserting the following quote at the end:

'Most of them are kept in individual stalls for up to 22 hours a day, often sedated because they develop stereotypical behaviours. So this is something that is completely unnatural to them.' [FOOTNOTE: Evidence, Mr Celotto, 22 July 2024, p 54.]

Ms Hurst moved: That paragraph 3.94 be amended by omitting 'seen as causing' and inserting instead 'that cause'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst.

Noes: Mr Fang, Mr Farlow, Dr Kaine, Mr Latham, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Ms Hurst moved: That paragraph 3.94 be amended by:

- (a) omitting 'being' before 'out of step with community expectations' and inserting instead 'are'
- (b) inserting '(such as the use of whips, tongue ties and spurs)' after 'horses'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Mr Latham.

Question resolved in the affirmative.

Resolved, on the motion of Ms Hurst: That the following new paragraph be inserted after paragraph 3.94:

'The Animal Defenders Office gave further evidence about the inherent risk of harm and injury to horses associated with racing, noting that New South Wales 'reported the highest number of race deaths in 2022-23 at 53, approximately 1 death per week'. The Animal Defenders Office also raised significant welfare concern about exercise induced pulmonary haemorrhage (EIPH), which they described as a 'highly prevalent disease in racehorses, caused by exposure to overly strenuous exercise, and results in bleeding in the lungs'. [FOOTNOTE: Submission 72, Animal Defenders Office, p 2.]

Resolved, on the motion of Ms Hurst: That paragraph 3.99 be amended by omitting 'purported lack of transparency' and inserting instead 'a lack of reporting and transparency on the use of these funds'.

Resolved, on the motion of Ms Hurst: That the following new paragraph and quote be inserted after paragraph 3.107:

'RSPCA NSW gave additional evidence about the Thoroughbred Aftercare Welfare Working Group's report— *The most important participant—A Framework for Thoroughbred Welfare* – and expressed frustration that the recommendations of the Report had not yet been actioned:

The Thoroughbred Aftercare Welfare Working Group Report is a pivotal document that provides over 40 recommendations to help improve outcomes for horses leaving the racing industry (TAWWG 2021). The Report took over 18 months to prepare and is the most comprehensive animal welfare document produced by and for thoroughbred racing in Australia. An independent panel, the TAWWG, was formed consisting of four members and chaired by veterinarian and former Victorian premier Denis Napthine. Funding was provided by AgriFutures, Tabcorp, Sportsbet, the Australian Trainers' Association, the Australian Jockeys' Association, the Victoria Racing Club, the Brisbane Turf Club, and Thoroughbred Breeders Australia. ... To date, there is no evidence of any racing

jurisdiction establishing a plan to implement any of these recommendations. This is extremely disappointing, given that the racing industry initiated and facilitated the work.' [FOOTNOTE: Submission 57, Royal Society for the Prevention of Cruelty to Animals (RSPCA) NSW, p 2].

Resolved, on the motion of Ms Hurst: That paragraph 3.110 be amended by inserting at the end: 'For example, the Animal Defenders Office gave evidence raising the following concerns:

'Racing NSW still allows an unlimited use of the whip in the final 100 metres of a race, when horses are most fatigued and have the least capacity to respond. RSPCA Australia suggests not only that there is no evidence to show that whipping influences the performance of a horse, but also that the practice results in pain, localised trauma and tissue damage.' [FOOTNOTE: Submission 72, Animal Defenders Office, p 2.]

Resolved, on the motion of Ms Hurst: That paragraph 3.113 be amended by inserting the following quote at the end:

'Our studies of slow motion videos have shown that more than 65 per cent of the time, the unpadded section hits the horse. The padded section, nevertheless, can leave welts on the horse. A comparative study of human skin and horse skin shows that, anatomically, you would assume that the horses are feeling an equivalent amount of pain to humans when struck. That's because horses have thick skin but the layer at the outer surface—the epidermis—is as richly innervated in horses as it is in humans. The padded whip is not a "get out of jail free" card at all.' [FOOTNOTE: Evidence, Mr McGreevy, 9 August 2024, p 74.]

Resolved, on the motion of Ms Hurst: That paragraph 3.114 be amended by omitting 'they' after 'extent to which' and inserting instead 'the rules about the use of the whip'.

Resolved, on the motion of Ms Hurst: That the following new paragraph and quote be inserted after paragraph 3.117:

'RSPCA NSW explained they support whole-of-life tracing as a means of addressing the risk of ex-racing horses being sent to slaughter:

The fate of thousands of horses leaving the industry every year raises serious concerns for their welfare, with many sold on again and again with continuing concerns that some are sent to slaughter to be used for pet food, despite requirements by the NSW racing industry that this does not occur. Once they leave the industry, except for those relatively small numbers who are taken into industry rehoming programs, there is virtually no tracking of how they are cared for or what happens to them. Information on the exact destination and number of horses leaving the racing industry is unknown due to a lack of publicly available data.' [FOOTNOTE: Submission 57, RSPCA NSW, pp 1-2.]

Ms Hurst moved: That paragraph 3.118 be amended by omitting 'as a remedy to end the purported' and inserting instead 'to ensure an end to the'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Mr Latham moved: That the following new paragraph be inserted after paragraph 3.118:

'Racing NSW provided evidence to the committee that whole of life tracing, microchipping and reporting has been in place for many years.' [FOOTNOTE: Evidence, Mr V'Landys, 9 August 2024, pp 53 and 55]

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Dr Kaine, Mr Latham, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst.

Question resolved in the affirmative.

Ms Hurst moved: That paragraph 3.121 be amended by omitting 'rendered surplus or excess to the industry's requirements' and inserting instead 'considered excess to the industry's requirements and may be killed'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Mr Latham moved: That the paragraph 3.121 be amended by inserting at the end: 'Racing NSW gave evidence to the committee that horses are not being killed in New South Wales and that whole of life tracing and homing were appropriate.' [FOOTNOTE: Evidence, Mr V'Landys, 9 August 2024, pp 53 and 55].

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Dr Kaine, Mr Latham, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Ms Faehrmann, Ms Hurst.

Question resolved in the affirmative.

Resolved, on the motion of Ms Hurst: That paragraph 3.122 be amended by inserting 'so called' before 'wastage in the industry'.

Ms Hurst moved: That paragraph 3.127 be amended by:

- (a) omitting 'To further demonstrate the industry's credentials,' before 'Mr V'landys noted that'
- (b) inserting 'also' after 'Mr V'landys'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Ms Hurst moved: That paragraph 3.130 be amended by omitting 'in order to attract younger generations' after 'to maintain and improve its facilities'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Mr Latham moved: That paragraph 1.130 be amended by omitting 'should the sale go ahead' after 'what could be done with the proceeds' and inserting instead 'but the Committee has concluded that the Australian Turf Club has substantially over-estimated to its membership the true value of Rosehill racecourse.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

Ms Hurst moved: That paragraph 3.131 be amended by:

- (a) omitting 'At the same time, the committee takes seriously the fears of some inquiry participants that the sale of Rosehill Racecourse would be a devastating blow to the racing industry.' before 'We note that a number'
- (b) omitting 'The committee recognises that selling one of the premium racecourses in Sydney has the potential to irreparably damage the industry in New South Wales.' after 'and deliver more housing supply'.
- (c) inserting 'to the sale of Rosehill Racecourse' after 'there are other avenues'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Mr Latham moved: That paragraph 3.132 be amended by inserting 'Currently the large and growing population of South-West Sydney does not have access to a racetrack hosting Saturday meetings. The spectator facilities at Warwick Farm are from the 1980s, a racing museum, in sharp contrast with the adjoining new and delux-quality Inglis saleyards. This reflects poorly on the ATC's lack of planning, provision and foresight in facilitating support for thoroughbred racing in South-West Sydney.' after 'within metropolitan Sydney.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Mr Nanva: That paragraph 3.134 be amended by omitting 'incredulity of a number of witnesses' and inserting instead 'concern of a number of witnesses'.

Ms Hurst moved: That paragraph 3.135 be amended by omitting 'It is clear to the committee that these other options need to be explored in much greater detail and a proper assessment made as to whether they have the potential to represent genuine alternatives.' after 'facilities at Warwick Farm.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Latham, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Tudehope.

Question resolved in the affirmative.

Mr Nanva moved: That Finding 5 be omitted: 'Outside of the Brick Pit site at Sydney Olympic Park, which is unsuitable to accommodate an alternative racetrack, no other viable or feasible sites have been identified to create another racetrack in metropolitan Sydney', and the following new finding inserted instead:

'Other viable or feasible sites in Greater Western Sydney, including Warwick Farm, must be identified as an alternative to the Brick Pit site at Sydney Olympic Park in the event that it is unsuitable to accommodate a racetrack'.

Question put.

The committee divided.

Ayes: Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Ms Hurst moved: That paragraph 3.137 be amended by omitting 'without the need to sell a racecourse' after 'could deliver approximately 20,000 dwellings'.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Resolved, on the motion of Ms Hurst: That paragraph 3.139 be amended by omitting ' , should a new racecourse be established, or existing facilities upgraded.' after 'in the design of racetracks and associated facilities'.

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.128:

'The Committee also notes evidence before it regarding the potential for the proposal to achieve wider social and economic benefits [FOOTNOTE: Submission 64, Liverpool City Council; Submission 1, Business Western Sydney; Submission 25, Centre for Western Sydney; Submission 44, Western Sydney Leadership Dialogue; Submission 70, Committee for Sydney], and that these, too, are a relevant consideration during the USP process.'

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Dr Kaine, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Mr Latham.

Question resolved in the affirmative.

Resolved, on the motion of Mr Nanva: That the secretariat insert the following quote into the section on unsolicited proposals, with context added:

'Government is a not for profit enterprise. It's designed to deliver wider social and economic 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.' [FOOTNOTE: Evidence, Mr Simon Draper PSM, Secretary, Premier's Department, 12 September 2024, p 10.]

Dr Kaine left the meeting.

Mr Buttigieg joined the meeting.

Mr Latham moved: That the following new paragraphs and recommendation be inserted after paragraph 3.139:

Overall the evidence before the Committee did not reveal systemic animal cruelty to racehorses, whether active, breeding or retired. The industry's attention to raceday, stabling and training practices, veterinary services, rehoming, micro-chipping and whole-of-life tracing is of a reasonable standard. The most damning statement about equine welfare was, in fact, made by the CEO of Racing NSW, Peter V'Landys, who said that some of the evidence to the Committee was motivated by "wealthy breeders" who want to send their horses to abattoirs.

Despite being asked by the Committee, the CEO did not provide details about this claim and it remains unaltered on the public record. This is highly significant: the concern of the industry regulator that some of the more affluent and important people in NSW racing are killing their horses cruelly and unnecessarily.

Recommendation: That the NSW Minister for Racing investigate the claim of animal cruelty (that wealthy breeders are sending their horses to abattoirs) made at the inquiry by the CEO of Racing NSW.

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Mr Buttigieg, Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Nanva, Mr Primrose, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Ms Faehrmann: That the following paragraph and recommendation be inserted after paragraph 3.139:

'The committee was concerned about the extent of conflicting evidence received and as such recommends that the Legislative Council reaffirm its support for the *Parliamentary Evidence Act 1901* and the critical importance of witnesses to committee inquiries giving direct and honest evidence at all times.

Recommendation X

That the Legislative Council reaffirm its support for the *Parliamentary Evidence Act 1901* and the critical importance of witnesses to committee inquiries giving direct and honest evidence at all times.

Mr Nanva moved: That finding 6 be omitted: 'The evidence before the committee did not demonstrate that the proposal to develop Rosehill Racecourse presented immediate value for the New South Wales taxpayer or would make a significant impact in meeting New South Wales' housing targets.' and that the following new finding be inserted instead:

'The evidence before the committee did not demonstrate that the proposal to develop Rosehill Racecourse presented immediate monetary value for the New South Wales taxpayer or would, alone, make a significant impact in meeting New South Wales' national housing accord targets. It may, however, provide wider economic and social benefits and make a positive contribution to resolving a chronic housing shortage in Sydney.'

Question put and passed.

Ms Hurst moved: That the following new paragraphs and recommendation be inserted after paragraph 3.139:

'During this inquiry, the committee received evidence about a range of animal welfare issues, including the risk of injury and death to horses from training and racing, the use of whips, spurs and tongue ties, and the problem of over-breeding and so-called 'wastage' resulting in ex-racing horses possibly ending up in knackeries. The committee was concerned to hear from animal welfare organisations regarding Racing NSW's responses to the latest research and expert opinions regarding animal welfare, and they have not taken steps to implement the recommendations of the 2021 report of the Thoroughbred Aftercare Welfare Working Group: *The most important participant—A Framework for Thoroughbred Welfare*.

The committee has already recommended that the NSW Government conduct a thorough review of the *Thoroughbred Racing Act 1996*. The committee is also aware that the NSW Government made an election

commitment to review the *Prevention of Cruelty to Animals Act 1979* and introduce a new animal welfare framework in New South Wales. The committee therefore recommends that, as part of the reviews of these acts, the NSW Government consider the animal welfare issues raised in this inquiry, as well as the recommendations made by the Thoroughbred Aftercare Welfare Working Group.

Recommendation X

That, as part of the reviews of the *Thoroughbred Racing Act 1996* and the *Prevention of Cruelty to Act 1979*, the NSW Government have regard to the animal welfare issues raised in this report and the recommendations made in the 2021 report of the Thoroughbred Aftercare Welfare Working Group: *The most important participant—A Framework for Thoroughbred Welfare*.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Ms Faehrmann, Ms Hurst, Mr Nanva, Mr Primrose.

Noes: Mr Fang, Mr Farlow, Mr Latham, Mr Tudehope.

Question resolved in the affirmative.

Chapter 1

Resolved, on the motion of Mr Latham: That the second section of chapter 1 titled 'The Australian Turf Club and Rosehill Racecourse' be moved to become the first section of the chapter.

Resolved, on the motion of Mr Fang: That:

- a. The draft report as amended be the report of the committee and that the committee present the report to the House;
- b. The transcripts of evidence, tabled documents, submissions, correspondence, and answers to questions taken on notice and supplementary questions relating to the inquiry be tabled in the House with the report;
- c. Upon tabling, all unpublished attachments to submissions be kept confidential by the committee
- d. Upon tabling, all unpublished transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice and supplementary questions related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee;
- e. The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f. The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g. Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- h. The secretariat is tabling the report at 10.30 am Friday 6 December 2024;
- i. The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

Resolved, on the motion of Mr Latham: That the content of Mr Latham's unsuccessful motions referring to confidential evidence be redacted from the published minutes of the meeting.

Ms Faehrmann moved: That given the significant conflicting evidence regarding the proposal to develop Rosehill Racecourse, including unanswered questions surrounding the involvement of the Premier and concerns regarding direct dealings and conflicts of interest, the committee refer this report to ICAC upon tabling.

Question put.

The committee divided.

Ayes: Ms Faehrmann, Mr Fang, Mr Farlow, Ms Hurst, Mr Latham, Mr Tudehope.

Noes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Question resolved in the affirmative.

7. Correspondence from *in camera* witnesses regarding sharing of evidence

The considered correspondence from witnesses B, C, D, E and H regarding the potential sharing of their evidence.

Resolved, on the motion of Mr Latham: That:

- the evidence from witness B be provided to the Minister for Racing on a confidential basis, with witness B's name and identifying information to be suppressed, in accordance with the wishes of the witness
- the evidence as agreed to by witness D be provided to the Minister for Racing and NSW Police on a confidential basis, with witness D's name to be suppressed, in accordance with the wishes of the witness
- the evidence of witness H be provided to NSW Police, Australian Federal Police, Australian Tax Office and Fair Work Ombudsman on a confidential basis, with witness H's name and sensitive information to be suppressed, in accordance with the wishes of the witness
- the minutes be redacted to remove the names of witnesses B, C, D, E and H
- the correspondence to the Minister for Racing, NSW Police, Australian Federal Police, Australian Tax Office, and Fair Work Ombudsman be kept confidential.

8. Adjournment

The committee adjourned at 2.29 pm. Sine die.

Verity Smith

Committee Clerk

Draft minutes no. 14

Thursday 5 December 2024

Select Committee on the Proposal to Develop Rosehill Racecourse

Room 1043, Parliament House, Sydney, 3.29 pm

1. Members present

Mr Farlow, *Chair*

Ms Hurst, *Deputy Chair*

Ms Faehrmann

Dr Kaine

Mr Latham (substituting for Mr Martin)

Ms MacDonald (substituting for Mr Tudehope)

Ms Munro (substituting for Mr Fang)

Mr Nanva

Mr Primrose

2. Previous minutes

Resolved, on the motion of Ms Hurst: That draft minutes no. 13 be confirmed.

3. Correspondence

The committee noted the following item of correspondence:

Received

- 4 December 2024 – Email from Andrew Rickert, Assistant Chief of Staff, News, Nine, to secretariat, requesting minutes of the report deliberative.

Resolved, on the motion of Mr Nanva: That the committee publish the email dated 4 December 2024 from Andrew Rickert, Assistant Chief of Staff, News, Nine to secretariat, requesting minutes of the report deliberative.

4. Consideration of references for Chair's draft report

Resolved, on the motion of Ms Hurst: That:

- paragraph 3.118 be amended by omitting 'Racing NSW provided evidence to the committee that whole of life tracing, microchipping and reporting has been in place for many years'
- paragraph 3.121 be amended by omitting 'and that whole of life tracing and home were appropriate'.

Resolved on the motion of Mr Nanva: That paragraph 2.59 be amended by inserting 'but that he was 'not aware of a request relating to a single landowner with such a large landholding' after 'on or near their land'.

5. Unauthorised disclosure of report deliberative minutes

The Chair noted that on Friday 29 December 2024, the Select Committee on the Proposal to Develop Rosehill Racecourse held a deliberative meeting to consider the Chair's draft report. At both the beginning and the end of this meeting the Chair reminded members of their responsibilities in relation to the confidentiality of unpublished committee proceedings, including meeting minutes, the draft report and any dissenting statements.

On the evening of Wednesday 4 December and the morning of 5 December, various media outlets reported one of the Committee's findings. On Wednesday 4 December, the committee also received an email from the Assistant Chief of Staff for Channel 9 News, Andrew Rickert, requesting a copy of the Committee's minutes 'which have been released to media outlets this evening'.

The Chair observed that a committee would usually seek to conduct its own internal investigation into the source of the unauthorised disclosure. However, this option is not available to the Committee as it is a Select Committee and will cease to exist on tabling.

Mr Nanva moved:

That the Committee note:

1. Guidance material distributed by the President to all members on 5 July 2024 - including the rules, principles and risks involved in the unauthorised disclosure of unreported committee proceedings.
2. The significant and damaging risks and impacts of the selective and unauthorised disclosure of draft minutes no.13, and report, of this committee include: impeding the effectiveness of this inquiry; damaging the integrity of the committee system; and lowering public confidence in the parliament generally.
3. The selective and unauthorised disclosure on 4 December has also had the effect of, inadvertently or otherwise, running counter to the advice received from the ICAC Chief Commissioner on 8 August 2024 that "the weaponisation of the Commission for political advantage, whether it be via a referral or some other means, is inappropriate".

Accordingly, the Committee requests that the Chair:

1. Write to the Clerk recommending that material be circulated to remind members of the Council of the guidelines concerning unauthorised disclosures and responsibilities with respect to the confidentiality of committee proceedings – including the responsibilities and obligations of participating members.
2. Write to the President and request that he refer this matter to the Privileges Committee as part of its existing investigation into possible contempt arising from this inquiry and request that it further investigate: whether its unauthorised disclosure guidelines have been breached on this occasion; whether the guidelines remain fit for purpose; and any other related matter concerning this unauthorised disclosure.

Ms Faehrmann moved: That the motion of Mr Nanva be amended by omitting '3. The selective and unauthorised disclosure on 4 December has also had the effect of, inadvertently or otherwise, running counter to the advice received from the ICAC Chief Commissioner on 8 August 2024 that "the weaponisation of the Commission for political advantage, whether it be via a referral or some other means, is inappropriate".'

Amendment of Ms Faehrmann put.

The committee divided.

Ayes: Mr Farlow, Ms Hurst, Ms Faehrmann, Mr Latham, Ms MacDonald, Ms Munro.

Noes: Dr Kaine, Mr Nanva, Mr Primrose.

Amendment of Ms Faehrmann resolved in the affirmative.

Original question of Mr Nanva, as amended, put and passed.

6. Adjournment

Meeting adjourned at 3.53pm.

Verity Smith

Committee Clerk

Appendix 4 Dissenting statements

Hon Mark Latham MLC, Independent

The majority work of the Rosehill Committee has shown the NSW Legislative Council at its best. If not for this Select Committee we would not have known of how Premier Chris Minns furthered his close personal relationship with the ATC's Steve McMahon through the Rosehill sale proposal.

Minns knew of the 2023 ICAC ruling in the Berejiklian/Maguire matter (serious corrupt conduct from maintaining or furthering a close personal relationship in the exercise of the Premier's public duties) but still failed to declare a conflict of interest in his dealings with Mr McMahon. Premier Minns breached numerous Ministerial Code of Conduct, Unsolicited Proposal (USP) and ICAC Direct Dealing Guidelines in secretly assisting McMahon. This included:

- * Minns falsely declared his 30 October 2023 meeting with his Labor friend and colleague of 25 years to be a 'meet-and-greet' when it was no such thing;

- * He knew McMahon was being sent by the ATC to influence him politically through their friendship but he still allowed the meeting to proceed, rather than meeting with the ATC Chair and CEO;

- * He excluded senior bureaucrats from the meeting (Planning and Metro) who would have cleared up the unreliable information Mr McMahon used to convince the ATC leadership to sell Rosehill Racecourse (that 40,000 new dwellings at Rosehill/Camellia would deliver a Metro Station);

- * Minns readily assisted McMahon through his Cabinet Office and Investment NSW, while keeping the Planning, Housing and Infrastructure Secretary in the dark;

- * Minns' assistance for McMahon's proposal (which was incredibly rushed and amateurish) was despite the assessment of Investment NSW that in November 2023 they had "limited information" and there was no "justification for direct dealing at this point";

- * The Premier allowed McMahon to draft a press release for him on 20 November announcing the sale of Rosehill, before the ATC Board had even heard of the proposal, let alone approved it;

- * He breached the Government's USP Guidelines by publicly announcing the sale at Rosehill on 7 December 2023 and also declaring his strong support for it (jeopardising impartial assessment of the USP);

- * Minns benefited politically from this announcement (answering his critics with a plan and vision for Sydney) while, as of 7 December 2023, McMahon's reputation and career prospects were massively enhanced as the miracle 'can-do man' getting things done for racing through the Premier.

If the ICAC standard set for former Premier Berejiklian is to mean anything, it must now also apply to an ICAC investigation into Chris Minns. At least Berejiklian had a defence of treating Daryl Maguire no differently to any other MP seeking electorate funding. Minns has no such defence. Within two working days his mate McMahon, a line manager at the ATC, secured a meeting with the Premier for the biggest real estate deal in NSW history.

The Select Committee has resolved to refer material concerning Premier Minns, conflicts of interest and direct dealing to ICAC. Importantly, on a Committee of 9 members, 5 different parties/affiliations voted in favour of the ICAC referral: Greens, AJP, Liberal, Nationals and Independent. Only the 3 Labor MPs were against it. This was also true of the Committee's view that "the Premier should have declared a conflict of interest, especially in light of the ICAC ruling on Operation Keppel, due to his close personal relationship with Mr McMahon."

One hopes, in ICAC's examination of these matters, it also inquires into the other improprieties identified in the Committee process. That is, the dense network of cronyism built around senior Labor MPs, Racing NSW and sections of Sydney's commercial media. Rosehill is just one part of the story.

This is a big moment for ICAC: to use its public responsibilities and special powers to expose this corrupt network. The evidence is all there, spilling out of the Rosehill Inquiry, for those willing to read it, investigate it and act against it.

Due to a lack of time and conflicting evidence, the Committee was not able to identify the true origins of the Rosehill sale proposal. I do not believe it immediately followed the 25 October 2023 meeting identified by Mr McMahon. People in and around the ATC knew about it three months earlier, as did senior figures at Racing NSW. Hopefully this important question will be answered in an ICAC inquiry. If not, it requires further parliamentary investigation.

The effectiveness of the Legislative Council Committee system is also at stake. The Rosehill Committee had to deal with numerous conflicting and misleading pieces of evidence, mainly from Racing NSW. The Parliamentary Evidence Act carries strong penalties for witnesses lying under oath, and these should have been applied as per my attempted Amendment No. 27.

The Committee had to deal with a mountain of material and unfortunately has omitted comment and recommendations on some critical issues, namely:

1. Alternative ways of financing the ATC's capital upgrade program and adding to Sydney's housing stock (without selling Rosehill) as per my Amendment at pages 3-4 of the Committee Minutes, Deliberative Meeting, 29 November 2024;
2. Greater detail, drawn from evidence, on the improper ways by which Chris Minns handled his close personal relationship with Steve McMahon, as per my Amendments, pages 6-15 of the Minutes;
3. The incompetent way in which the ATC tried to progress the sale, including misleading land valuations and misgovernance at Board level, as per my Amendments at pages 8-9 and 15-17 of the Minutes;
4. The unsuitability of the SIEC Horsley Park site as a replacement horse training facility, as per my Amendment at pages 24-25 of the Minutes; and
5. The detrimental and unfair impact of 25,000 new dwellings on the Parramatta LGA, as per my Amendment at pages 26-27 of the Minutes.

Finally, I pay tribute to the Racing NSW whistleblowers who came forward, fearful of retribution but bravely wanting to tell the truth in the best interests of the racing industry. The difficulties the Committee experienced in handling their evidence points to the need for the NSW Parliament to enact specific Whistleblower Protection laws.

Hon Bob Nanva MLC, Hon Sarah Kaine MLC, Hon Peter Primrose MLC Australian Labor Party

The inquiry into the proposal to develop Rosehill Racecourse was established primarily to examine the process by which the proposal came about, the impact of the proposal on housing in NSW, and the impact of the proposal on the future of the racing industry, including with regard to animal welfare.

The evidence provided to the inquiry has only strengthened Government Members' view that the proposal to develop Rosehill Racecourse is a once-in-a-lifetime opportunity to provide a significant uplift in housing supply in NSW. What makes this proposal unique is that just four landholders privately own an entire precinct of 90 hectares, a precinct which already aligns with the expansion of the Sydney Metro.

Having taken more than half a year of the Committee's time, concerns repeatedly raised by particular committee members have not been established by the evidence. They remain mere assertions, presented as facts, by vocal opponents of the proposal.

We acknowledge that members of the ATC have raised good-faith concerns, following public commentary, on the ATC's proposal. It must be noted that at the time of the hearings, a proposal was not long submitted by the ATC under Stage 1 of the USP process. Conjecture and assertions about the project's actual scope, costs and benefits, before they are established, does not assist ATC members with genuine concerns. Once these issues are settled and communicated to ATC members, we urge them to give any final proposal due consideration - including at the ballot box, as is their right.

While the findings of the report inadequately discuss the impact of the proposal on the racing industry, the Committee nevertheless heard substantial and persuasive evidence as to how the sale of Rosehill Racecourse has the potential to revolutionise the NSW racing industry. It is abundantly clear that the proposal has the potential to significantly decrease the industry's addiction to gambling by massively diversifying its revenue, providing recurrent interest payments, and reinvesting huge amounts of money into the welfare of horses.

While omissions from the list doesn't necessarily indicate support for these items, we have significant issues with several of the Committee's findings relating to the process by which the proposal came about, as outlined below.

Item	Position
Finding 3	<p>We take issue with any characterisation of the evidence regarding the Unsolicited Proposals Process, or the Premier's involvement, as conflicting. Through the inquiry, the process that was followed was consistently characterised by witnesses as routine, business as usual, and not unprecedented in any regard.</p> <p>If the Committee has unanswered questions regarding the Premier's involvement, it must be because these questions were unasked – the Premier's Chief of Staff answered all questions, including supplementary questions, that were put to him.</p> <p>Furthermore, the timeline of conversations that the Premier had was not contested, and evidence provided to the inquiry unambiguously affirmed that the Premier and the Premier's Office had no involvement in the USP process in any capacity once</p>

	<p>the ATC had been handed off to The Cabinet Office.</p> <p>Indeed, no evidence has been presented that the very structured and staged approach of the USP process, with separation of roles to meet ICAC guidelines, have not been applied with respect to this proposal.</p>
Finding 4	<p>On 8 August 2024, ICAC Chief Commissioner the Hon John Hatzistergos AM stated “the weaponisation of the Commission for political advantage, whether it be via a referral or some other means, is inappropriate. Doing so, irrespective of whether there is a reasonable basis for such allegations, may cause political damage, and such allegations should not be used as a weapon to level at a political rival.”</p> <p>Through this finding, we believe that the Committee risks inappropriately using ICAC’s referral mechanism.</p> <p>Separately to the merits of the referral, it’s farcical to suggest that ICAC would not be aware of this report and that ICAC would therefore need it referred. This inquiry has been the subject of significant media attention, and not only is the report publicly available, it’s widely distributed with an accompanying media release. We believe that the only logical explanation for the referral is that it has possibly been calculated to cause political damage.</p> <p>Regarding the substance of the referral, the characterisation of the process having “significant conflicting evidence” and there being “unanswered questions” is not borne out by the evidence the Committee received.</p>
Finding 2	<p>The Committee was not provided with evidence that indicates that the Premier’s diary disclosures did not comply with Premier’s Memorandum 2015-05. If the Committee has issues with the Premier’s diary disclosures, but does not suggest that they were in breach of the Premier’s Memorandum, then its issue is with the Memorandum rather than the disclosures themselves.</p> <p>We support a review of the regime underpinning diary disclosures. However, the Committee’s decision to describe as “inappropriate” a diary disclosure that is consistent with the Memorandum, and substantial past practice by the former Government - is misleading, improper, and inherently political.</p>
Finding 5	<p>We take issue with the conclusion reached with respect to this finding, noting the significant lack of agreement in the evidence as to whether the Government and the Premier’s comments during the pre-submission concept review were inconsistent with the guidelines.</p> <p>We believe the majority Committee Members’ interpretation of the requirements would place the Government in an invidious position where all parties would have needed to keep this proposal hidden from the ATC’s 11,000 members until Stage 1 had been considered, and therefore be accused of secrecy.</p> <p>Instead, clarification of the ambiguous and at times inconsistent requirements of the guide should be undertaken. This includes, but is not limited to, at what stage,</p>

	including during pre-submission concept reviews, Government announcements may be publicly made.
Finding 9	We disagree with the implication of this finding that there has been an attempt to identify other viable sites for a racecourse. No process had been undertaken by the ATC to attempt to identify such a site, and it is therefore premature to state that no such site has been found.

