

**REPORT ON PROCEEDINGS BEFORE**

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

**INQUIRY INTO PROPOSAL TO DEVELOP ROSEHILL  
RACECOURSE**

**UNCORRECTED**

**At Macquarie Room, Parliament House, Sydney on Monday 21 October 2024**

**The Committee met at 9:00 am**

**PRESENT**

The Hon. Scott Farlow (Chair)

Ms Cate Faehrmann  
The Hon. Wes Fang  
The Hon. Emma Hurst (Deputy Chair)  
The Hon. Mark Latham  
The Hon. Taylor Martin  
The Hon. Bob Nanva  
The Hon. Peter Primrose  
The Hon. Damien Tudehope

**PRESENT VIA VIDEOCONFERENCE**

The Hon. Anthony D'Adam



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

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

**Ms KIERSTEN EMMA FISHBURN**, Secretary, Department of Planning, Housing and Infrastructure, affirmed and examined

**The CHAIR:** Ms Fishburn, would you like to make a short opening statement?

**KIERSTEN FISHBURN:** No, thank you.

**The CHAIR:** Are you happy to proceed straight to questions?

**KIERSTEN FISHBURN:** Yes.

**The CHAIR:** There has been a long history with the Australian Turf Club [ATC] and looking at development proposals within their land or adjoining land, so to speak. No doubt that has centred around Rosehill and Canterbury, and potentially Randwick as well, from some of the evidence we have received in this inquiry. Could you provide to us where the meeting with the ATC on 25 October came from or how that meeting emanated?

**KIERSTEN FISHBURN:** Yes, I'm happy to provide some information on that. I initiated the meeting with the ATC. There were two things in particular that I was interested in. As I'm sure the Committee is aware from documents that have been provided, we were in the process of trying to get to finalisation of the Camellia- Rosehill Place Strategy—sorry, rezoning. The place strategy had been completed in 2022 and we were working through the rezoning. There were quite a complex number of inputs into that particular rezoning and it was delayed beyond what I was hoping for. I had been aware that the ATC had some interest in a master plan on lands in Rosehill outside of the racecourse itself, so lands where they have their car park and some of their stadium infrastructure, and I was interested to understand from them whether their aspirations were consistent with what we had anticipated from the place strategy.

The second reason that I wanted to meet with the ATC is, as you've mentioned, Canterbury. We were in the process in time, if we think back—it feels like a lot longer than a year ago—of looking at the TOD precincts and the accelerated precincts, of which Canterbury-Bankstown have a number of interests there, so I wanted to understand what the ATC was interested in in relation to Canterbury-Bankstown. I had also met with the ATC on a number of occasions in my previous role and I also wanted to ask them if they'd painted the fence at Warwick Farm because I spent four years badgering them as CEO of Liverpool to paint that fence. I'm sad to say it has not yet been completed.

**The CHAIR:** There might be a recommendation to paint the fence at Warwick Farm from this inquiry.

**KIERSTEN FISHBURN:** I'll keep on trying until I see that fence painted.

**The CHAIR:** With respect to the proposals that they outlined to you then on 25 October, was it outlined to you at all in those meetings that they were considering the sale of Rosehill racecourse, or the potential to redevelop the racecourse entirely?

**KIERSTEN FISHBURN:** No, that wasn't raised with me.

**The CHAIR:** Was there any consideration of potentially redeveloping Canterbury racecourse?

**KIERSTEN FISHBURN:** Yes, they did mention their interest in land on Canterbury racecourse—I'm just going back to my notes as well. They were doing work with council at that point in time. The impression I got was that there were some tension points between their aspiration for development and council's aspiration for public open space. They were interested to look at the department, potentially, being more involved in that, and they were looking to lodge a planning proposal. But, at this point, I haven't seen any of the further documentation there.

**The CHAIR:** With respect to Rosehill, there was some contention in terms of some of the items in the place strategy. Around the stables area, I believe, there had been identification for a school in that precinct. Was that correct?

**KIERSTEN FISHBURN:** Yes, that is correct. They didn't express that particular frustration to me in that meeting, but I was aware, from notes that I had been provided by my staff that there were some tension points there.

**The CHAIR:** With respect to the circus site, which is the area on James Ruse Drive, at the northern tip, was that identified as well for public open space?

**KIERSTEN FISHBURN:** It certainly wasn't discussed in the meeting with me. We didn't get into that level of granularity and I don't have a copy of the place strategy currently on hand, so I'll have to just take that on notice. But it wasn't discussed in that meeting.

**The CHAIR:** Thank you. With respect to that meeting as well, did you indicate to them at that time that they would require, in order to be able to substantiate a metro on the site, in the vicinity of 40,000 dwellings to be able to substantiate a metro?

**KIERSTEN FISHBURN:** We did not discuss metro in that meeting.

**The CHAIR:** That wasn't discussed in that meeting.

**KIERSTEN FISHBURN:** No.

**The Hon. DAMIEN TUDEHOPE:** When did you first become aware of the proposal in relation to Rosehill?

**KIERSTEN FISHBURN:** 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.

**The Hon. DAMIEN TUDEHOPE:** That's also, I suppose, the first time you became aware—it follows—of a proposal in relation to a metro station.

**KIERSTEN FISHBURN:** There had been some discussion—I don't think this is anything confidential—around alternative metro sites when Mike Mrdak was undertaking the review, and the department did provide some advice on different sites and whether they may potentially be suitable for a metro.

**The Hon. DAMIEN TUDEHOPE:** The Chair asked you a question in relation to a metro. You would have to demonstrate 40,000 potential home units before it would justify the delivery of a metro.

**KIERSTEN FISHBURN:** I've never said that nor heard that, and it wouldn't be my place to make that decision. That would be a question for Sydney Metro or the Government themselves.

**The Hon. DAMIEN TUDEHOPE:** But, in respect of the place strategy around Rosehill, had the delivery of a metro station been discussed?

**KIERSTEN FISHBURN:** It wasn't contemplated when we undertook the place strategy. I'm giving you a reverse answer to say, if a metro was confirmed in Rosehill, then we would go back and re-look at the place strategy. The place strategy was made consistent with Parramatta light rail, so the level of uplift is consistent with what we would think would be appropriate for the light rail. It didn't contemplate a metro station.

**The Hon. MARK LATHAM:** Can I put to you, Secretary, a curious question now for the Committee. Mr McMahon from the ATC, who was the author of the proposal to sell Rosehill, gave sworn evidence here that, in August, he had a meeting with the metro review team and they said you needed 40,000 lots there at Rosehill- Camellia to justify a metro and that sparked a proposal, and also the same thing was said at this meeting with you on 25 October. The metro review team have told this Committee they had no such discussion in August. You're saying you had no such discussion in October. I've got the minutes of your meeting under the business contact form, office of the Secretary, and they make no mention of any discussion of metro or 40,000 dwellings being required. If that had been discussed, would they normally be recorded in the minutes?

**KIERSTEN FISHBURN:** Yes. Absolutely. As you can see in my—the only thing that, I note, is not recorded was me asking them whether they were going to paint the fence at Warwick Farm. As you'll note, they did ask me in relation to metro, but it was about building over the metro tunnel and difficulty that they were having in getting information from Transport for NSW. We committed to making that contact for them.

**The Hon. MARK LATHAM:** And you regard these minutes as an accurate reflection of the meeting.

**KIERSTEN FISHBURN:** I do regard them as an accurate reflection.

**The Hon. MARK LATHAM:** Who was it from the ATC who said that, they confirmed that Rosehill and Randwick racecourses are their premier racing venues and there is definitely no plan to relocate these?

**KIERSTEN FISHBURN:** I believe that was Steve McMahon. Because I don't have the minutes in front of me, I'm relying on—I have the minutes in front of me, but we didn't minute exactly who said that. I'm relying on my memory, but I believe it was Steve McMahon.

**The Hon. MARK LATHAM:** That was the one point of view of Mr McMahon that was reflected in the minutes and put to the meeting: "We're not selling." Was there any other meeting that day with Planning or any other communication with Mr McMahon where it was said that a metro would be justified with 40,000 dwellings?

**KIERSTEN FISHBURN:** Certainly not from myself. I would be very surprised. I can't speak for everybody in Planning, but I've never heard that 40,000 number before, so I would be very surprised if anyone in the planning department had also provided that information. Considering people were aware that I was coming to this Committee as well, I would expect that they would have advised me if anything had been said.

**The Hon. MARK LATHAM:** You're aware that the next day, off the back of your meeting, Mr McMahon met with Peter McGauran, the chair of the ATC, and Matt Galanos, the CEO—

**KIERSTEN FISHBURN:** I'm only aware from things I've heard from the Committee and the media. I don't have any actual knowledge.

**The Hon. MARK LATHAM:** —and again gave sworn evidence that, off the back of your meeting, he told them, "Here's our metro opportunity, let's go forward with the sale." They then organised a meeting with the Premier.

**KIERSTEN FISHBURN:** You're asking me to speculate on what occurred in a meeting I didn't attend. I can only tell you that in this meeting, as you've got my record of meeting, I did not discuss the metro, other than their concerns about building on top of the metro, which was consistent with the master plan which they were presenting.

**The Hon. MARK LATHAM:** On the basis of your meeting on 25 October you'd be surprised that that was Mr McMahon's take-away and subsequent action by the ATC? It didn't come from you?

**KIERSTEN FISHBURN:** It didn't come from me, no. I have no authority to speak on behalf of the Government about where a metro stop may or may not be. I think it would be completely inappropriate for me to do that. I was interested in understanding their development aspirations, including their master plan that they were working through with Architectus.

**The Hon. MARK LATHAM:** A metro review team have said the same. Just on renewal at Warwick Farm, you were in charge of the council. You might be happy to hear I've just been able to secure the replacement of the William Long Bridge signs at Warwick Farm, so it's not that hard to get things done. Stick with that fence painting.

**KIERSTEN FISHBURN:** Thanks, Mr Latham. You are clearly more convincing than I am because the fence remains unpainted.

**The Hon. MARK LATHAM:** As a former mayor, of course, I carry weight out there still, so hang in there with your fence. Do you want me to take up the fence?

**KIERSTEN FISHBURN:** I would, thank you very much. We'll take that as an action from this Committee meeting. Thank you, Mr Latham.

**The Hon. MARK LATHAM:** Thank you very much. We can minute that.

**The CHAIR:** Ms Fishburn, in that meeting did you at all suggest the redevelopment of Rosehill racecourse? The question is in what context was it outlined to you that it was their premier racetrack and they had no plans for development?

**KIERSTEN FISHBURN:** They had the master plan, which they were presenting to me. I asked whether they had considered further use of the land, for instance reconfiguring the racecourse so you could get more developable land out of it, and at that point they said I think they'd looked at reconfiguring the racecourse, but Rosehill was their premier racecourse and it was impossible—and Randwick. They also alluded to Randwick. I should say this was in the context of not just discussing Rosehill. We were literally working through all four of the ATC sites and what their aspirations may be on them, so it was a kind of joined-up conversation that's probably not as reflected in the minutes.

**Ms CATE FAEHRMANN:** Can I just have a point of clarification? When you said someone said that Rosehill racecourse was the premier racecourse and it was impossible, who said that?

**KIERSTEN FISHBURN:** No, not that it was impossible. 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.

**The CHAIR:** With respect to the Rosehill-Camellia Place Strategy, what is the status of that now?

**KIERSTEN FISHBURN:** It's currently on hold while consideration is being undertaken for the USP.

**The CHAIR:** No further work is being undertaken on the Rosehill-Camellia Place Strategy?

**KIERSTEN FISHBURN:** Not to my knowledge. We certainly are not progressing it aggressively to get it completed at this point in time because we would have to rework it should Rosehill become part of the strategy.

**The CHAIR:** If Rosehill were not to become part of the strategy, and I do take it that I'm asking you a hypothetical—

**KIERSTEN FISHBURN:** You are asking a hypothetical.

**The CHAIR:** How quickly could you restart the Rosehill-Camellia Place Strategy in terms of investigation?

**KIERSTEN FISHBURN:** We were fairly advanced at the point when Rosehill came into play, so dependent on whether other decisions were made—for example, a metro generally—that would also change it as well. But we were quite advanced around 23 October; hence why I was kind of rounding out the discussions to check that the strategy was consistent with some of the major landowners.

**The CHAIR:** With respect to some of the other sites, you've outlined Canterbury as well. What is the status in terms of redevelopment surrounding the Canterbury racecourse?

**KIERSTEN FISHBURN:** I haven't received an update on that. There is nothing in with the department at this point in time.

**The CHAIR:** That sits with Canterbury-Bankstown Council, doesn't it?

**KIERSTEN FISHBURN:** That would sit with Canterbury-Bankstown Council as a planning proposal, yes.

**The CHAIR:** With respect to some of the other facilities—Warwick Farm. What are some of the visions that were outlined with respect to Warwick Farm and proposals there?

**KIERSTEN FISHBURN:** At that particular meeting in October, they indicated that they had no further aspirations in Warwick Farm. I do recall—and Mr Latham will probably be better able to answer this than me—there are challenges in relation to flood constraints and heritage in Warwick Farm. Certainly, when I was the general manager, we had been exploring some options with ATC, but I believe they've since decided not to pursue those.

**The CHAIR:** With respect to Randwick, what were some of the proposals that were discussed?

**KIERSTEN FISHBURN:** We have on a number of occasions dealt with modifications on Randwick. It was raised at that meeting that they were looking at possibilities of some student accommodation in Randwick and it would come in as a modification to the department. I'll take it on notice, but I don't think it has come into the department since that discussion.

**The CHAIR:** With respect to the ATC's former proposals both along Canterbury and at Rosehill, what was the yield that they were looking at in terms of housing development in both of those sites?

**KIERSTEN FISHBURN:** I cannot recall Canterbury because it's been some time since I've had a look at it, but we'll take that on notice and see what the latest information we had with the department—noting that it would be a planning proposal into council. I believe for their Rosehill plans—again, let me just say this is excluding the racecourse; this is the other lands that they have. I believe the yield was around 3,000 dwellings.

**The CHAIR:** The Sydney Olympic Park site falls within your department's purview.

**KIERSTEN FISHBURN:** It does, yes.

**The CHAIR:** Has the Department of Planning, Housing and Infrastructure done any work with respect to alternative proposals at the brickpit site?

**KIERSTEN FISHBURN:** No, we have not done any direct work on that.

**The CHAIR:** Have you had any discussions with the ATC or Racing NSW?

**KIERSTEN FISHBURN:** I've had no discussions with the ATC. Last time I spoke to my staff at the Sydney Olympic Park Authority about it, they also had had no discussions. I understand you had the CEO of SOPA in. You would be aware from that information it is a very environmentally constrained site. We've always been very clear in every respect in relation to SOPA of those challenges.

**The Hon. MARK LATHAM:** Secretary, you mentioned that you found out about the Rosehill proposal the night before the announcement of the sale at the racecourse itself.

**KIERSTEN FISHBURN:** Yes.

**The Hon. MARK LATHAM:** Is that standard practice in the development and announcement of a USP—that Planning doesn't know about it and is not involved?

**KIERSTEN FISHBURN:** Generally, Planning has a limited involvement in USPs, which is right and proper. Just because something comes in as a USP, it doesn't guarantee a planning outcome. Many times a USP will already be in play before Planning is actually advised that it is there and that we should—there are often requests for specific planning advice. We have a process within the department to manage those. USPs go through our Planning Concierge, who will then seek out advice and provide it back, just so we kind of keep things a bit contained. This USP, obviously, is of a larger scale. I'm happy to talk through the probity pieces we've put into place—I think you've probably got them as discoverable documents—because of the challenges.

**The Hon. MARK LATHAM:** Yes, I saw those.

**KIERSTEN FISHBURN:** So, no, it is not unusual that we become aware of a USP at the point where Government is in discussions about it. When the announcement was made, I understand there was not actually a USP. It was a discussion to move that forward, so that, by the time it became a USP, obviously the department was aware of it. I was having discussions internally about how we would potentially—and it was kind of crystal-balling it because we wanted to manage conflicts into the future rather than those that may exist on the day itself. But we undertook that work and put in place some probity measures.

**The Hon. MARK LATHAM:** And this particular one—when did your concierge become involved for the first time?

**KIERSTEN FISHBURN:** The concierge was not involved in this particular USP due to the scale of it. I was made aware of it, as I said. It was formally announced. We were waiting to see whether the USP would be submitted and at that point I commenced some discussions internally about how we would manage the USP. I might talk you through some of those discussions because I just think it's useful to set the context. Obviously, the USP would be looking at developing Rosehill racecourse. That would require a rezoning to occur. It would require strategic planning. Then, at a certain point, should that occur, down the line there would be development applications coming in. I'm not saying whether the department would be the consent authority or City of Parramatta but I just wanted to put in place barriers around the whole lot of it.

We knew that the complexity of a USP like Rosehill racecourse would require planning advice. There is no way you could get around that. You wouldn't be able to assess it without good planning advice. I made a decision, in consultation with my general counsel, about the way we would deal with this. The planning department is essentially split into two areas: strategic planning and development planning. It matches the planning Act. The strategic planning area would not be involved in providing planning advice for the Rosehill racecourse USP. Instead, the development assessment area would be involved in it, so that there was a separation if it should come in as a planning proposal. And later down the line, if any development applications came into the department—and we're really travelling down in time here—then the deputy secretary, who had been involved in the advice on the USP, would delegate out his powers in relation to those DAs. We just put in place a number of guardrails so that we could make sure that the advice we were providing was sound and reasonable, but that it wasn't conflated with any potential rezoning.

**The Hon. MARK LATHAM:** But something this big would ultimately qualify as State significant development. Is that the expectation for how it would be handled post the USP?

**KIERSTEN FISHBURN:** 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.

**The Hon. MARK LATHAM:** Inside Planning, what is the status of the Camellia-Rosehill rezoning civil design package report from BG&E in January this year that identifies Rosehill racecourse as a flooding hotspot?

**KIERSTEN FISHBURN:** It's an input into the rezoning that is currently on hold.

**The Hon. MARK LATHAM:** Currently on hold?

**KIERSTEN FISHBURN:** Currently on hold.

**The Hon. MARK LATHAM:** This was done for Camellia—

**KIERSTEN FISHBURN:** This was done for Camellia-Rosehill, but the rezoning itself is currently on hold.



**The Hon. MARK LATHAM:** As far as you know, it is a flooding hotspot, according to this report. There is no report that contradicts this?

**KIERSTEN FISHBURN:** I'm not that much into the detail, I'm sorry. I can take that on notice.

**The Hon. MARK LATHAM:** Has Planning looked at contamination issues at Rosehill? I recently spoke to a former racecourse manager who said that if you stand at the winning post at Rosehill you can't see the other side of the course because of the fill and material that has been placed there over many decades. Has that ever been tested for contamination?

**KIERSTEN FISHBURN:** Not to my knowledge. Certainly we would not have undertaken any of that contamination work in relation to the Camellia-Rosehill rezoning because it didn't anticipate the racecourse as part of the rezoning package. There is significant contamination, as you'll be aware, around Camellia-Rosehill and one of the challenges in the place strategy and then in the work towards the subsequent rezoning is managing those contamination issues.

**The Hon. MARK LATHAM:** On a broader policy and development issue, at budget estimates the Premier outlined words to the effect that there's a thousand different nightmare scenarios for trying to get a development through. He has now taken Investment NSW into his own department and USPs look like they're becoming the flavour of the month. What is the attitude of Planning if USPs become an alternative way of getting housing development and housing supply moving in Sydney?

**The Hon. BOB NANVA:** Point of order—

**KIERSTEN FISHBURN:** I don't have an opinion on that.

**The CHAIR:** I will hear the member's point of order.

**The Hon. BOB NANVA:** Mr Latham was asking of the Secretary an opinion. That is not in order.

**The Hon. MARK LATHAM:** Has Planning made any submissions anywhere in government about the development of an alternative planning development model, or given advice to the Premier about it?

**KIERSTEN FISHBURN:** In relation to USPs?

**The Hon. MARK LATHAM:** Yes, USPs emerging—

**KIERSTEN FISHBURN:** No.

**The Hon. MARK LATHAM:** What would you say about it?

**KIERSTEN FISHBURN:** I'm a public servant. I'm not here to give an opinion. What I can say, though, is that Planning consistently has said USPs need to be separated out from the planning outcome and a USP is not a guarantee of a planning outcome. I think that's been a message that the department has been giving consistently for many years. That doesn't speak to the merits of USPs one way or the other; it's simply a statement of fact in relation to how we undertake planning.

**The Hon. MARK LATHAM:** Would it be your expectation all USPs would follow the ICAC guidelines on direct dealing?

**KIERSTEN FISHBURN:** Yes, that would be my expectation.

**The Hon. MARK LATHAM:** Have you made any review? Is there any role for Planning in checking that that is the case?

**KIERSTEN FISHBURN:** No, there is not a role for Planning in relation to that.

**The Hon. BOB NANVA:** Secretary, housing and metro issues around Camellia and Rosehill have been investigated and litigated now since 2016-2017. What sort of analysis was undertaken by Planning with respect to the costs and benefits of the numerous iterations of metro and housing proposals for that area?

**KIERSTEN FISHBURN:** That's not the work for the Planning department to undertake. We would be providing inputs into metro in relation to cost-benefit analysis. To my knowledge—and I will take this on notice, because it's a big department—we have not been asked for specific inputs into cost-benefit analysis in relation to Camellia-Rosehill.

**The Hon. BOB NANVA:** Has Planning undertaken any work with the Mirvac review into the western metro with respect to alignments, uplift in housing, potential for uplift in housing in line with the Government's priorities?

**KIERSTEN FISHBURN:** In the most general sense. We certainly haven't provided any inputs into alignments. We've been asked for advice on a number of suburb areas in that area, such as Silverwater, and whether, for instance, that may be suitable or aspirational for a metro stop. So we tend to provide the input. If I give you an example in relation to Silverwater, what we would raise is it's industrial land, it's fairly fragmented and there are contamination issues. So we would provide that type of planning advice to any discussions and considerations, but we have not been formally asked to look at uplift in relation to a metro location.

**The Hon. WES FANG:** Ms Fishburn, in relation to the brickpit, which was previously mentioned, you've obviously indicated that there are environmental sensitivities around that site. Has there been any consideration at all—should the Rosehill precinct go ahead and it be developed for housing, there would be a need for another class one racetrack in New South Wales. That's been the indication from Racing NSW, and that they would look to use the brickpit for that. Would it not just be simpler to turn the brickpit into housing, if it is available for development, given that it's close to public transport and it's close to housing already? Should the work not be done by the Department of Planning, Housing and Infrastructure in relation to looking at that consideration if there is any possibility at all that the brickpit is going to be used as a racetrack?

**KIERSTEN FISHBURN:** You've asked me quite a few compounded questions there.

**The Hon. WES FANG:** I did because I'm short of time. I thought I would get it all out and then you can pick the bits you like.

**KIERSTEN FISHBURN:** Some of them are really quite speculative in nature, so let me answer what I can in relation to that.

**The Hon. WES FANG:** Seek forgiveness, not permission, I say.

**KIERSTEN FISHBURN:** We have not been formally asked to consider the brickpit in relation to a racecourse or housing. That's a fact. The second fact is that the environmental constraints that I've already alluded to in relation to the brickpit would remain in place, were it housing or any other form of development. I think you would be challenged to manage out those environmental constraints under any development outcome.

**The Hon. WES FANG:** Given that, obviously, the brickpit wasn't part of the land audit that was done in relation to trying to find additional government land for housing, it's unlikely that it's also going to have permission to be used as a racetrack. Is it fair to say that it's a fantasy that we're ever going to see a class one racetrack built on the brickpit?

**KIERSTEN FISHBURN:** You really are asking me to speculate there.

**The Hon. WES FANG:** I know. I appreciate that.

**KIERSTEN FISHBURN:** Secretaries of Planning don't get to deal in fantasy terribly often. I can only repeat what I've said, which is that we've not been asked to consider it. But I do believe that the environmental constraints in relation to the brickpit would be inhibitive for any form of development.

**The Hon. WES FANG:** I take from your answer the words "fantasy" and "class one racetrack at the brick pit" and I will put the two together and I will leave my questioning there.

**KIERSTEN FISHBURN:** I will enjoy looking at the transcript and seeing that I did not conjoin any of those things. But thank you, Mr Fang.

**The Hon. WES FANG:** I know. I guess I'm projecting forward that I am.

**The CHAIR:** Ms Fishburn, on that question, have you been asked to investigate any other sites for a class one racetrack at all?

**KIERSTEN FISHBURN:** 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.

**The CHAIR:** What would those assets potentially be?

**KIERSTEN FISHBURN:** I'm using the word "speculation"; I believe it's been speculated on in the media. Potentially land that is in the Greater Sydney Parklands asset class.

**The CHAIR:** Are we talking around the Sydney International Equestrian Centre site or—

**KIERSTEN FISHBURN:** That's way beyond the conversation points. It's simply acknowledgement that Government does have Greater Sydney Parklands as an asset and has been using that for a number of recreational and sporting purposes.

**The Hon. WES FANG:** You said "formally". Have you been asked informally?

**KIERSTEN FISHBURN:** No, I don't believe so. There was at some point a question circulating around whether SOPA had spoken to the brickpit, so I'm just advising at that point I asked had anyone in SOPA spoken to the ATC about the brickpit. The answer was no. That's the level of advice.

**The CHAIR:** Are there any further questions from the Committee? There being none, thank you very much, Ms Fishburn, for your attendance here today.

**KIERSTEN FISHBURN:** A pleasure, as always, Mr Farlow. And thank you for my fence at Warwick Farm. When I see that painted, I will be delighted.

**The Hon. MARK LATHAM:** I'm on it.

**The Hon. WES FANG:** Have you specified a colour?

**KIERSTEN FISHBURN:** Anything other than peeling khaki green would be delightful.

**The Hon. MARK LATHAM:** The entire racecourse is peeling, but we'll fix up the fence.

**KIERSTEN FISHBURN:** Thank you very much.

**The CHAIR:** Thank you, Ms Fishburn. That concludes your evidence. I'm not sure if you took anything on notice, but if you did, the secretariat will be in touch with you.

**KIERSTEN FISHBURN:** I think I took a few things.

**(The witness withdrew.)**

Mr **TERRY O'BRIEN**, Director, Policy and Racing, Hospitality and Racing, Department of Creative Industries, Tourism, Hospitality and Sport, affirmed and examined

**The CHAIR:** Mr O'Brien, would you like to make a short opening statement?

**TERRY O'BRIEN:** No, I'm fine, thank you.

**The CHAIR:** Mr O'Brien, when did you first learn about the proposal to redevelop Rosehill racecourse for housing?

**TERRY O'BRIEN:** I first learned about it when it was announced in the media.

**The CHAIR:** Was there any consultation at all with the Office of Racing prior to that?

**TERRY O'BRIEN:** No, not about the specific proposal. We were asked to provide some information to the Cabinet Office—it must have been maybe four to six weeks before that—around the role of Racing NSW and the role of the ATC, but not about the specific proposal.

**The CHAIR:** That was effectively the demarcation in terms of land, asset holdings and the like, was it?

**TERRY O'BRIEN:** It was more around what are the legislative responsibilities of Racing NSW and its functions, and also in relation to the ATC and its landholdings.

**The CHAIR:** With respect to the proposal as it stands at the moment and the unsolicited proposal, what is the role of the Office of Racing within that process?

**TERRY O'BRIEN:** We don't have any role in that.

**The CHAIR:** No advisory role whatsoever?

**TERRY O'BRIEN:** No, that's right.

**The CHAIR:** Thank you. Further questions, Committee?

**The Hon. MARK LATHAM:** Who asked you for that advice four to six weeks ahead of the announcement of the sale of Rosehill?

**TERRY O'BRIEN:** It was from the Cabinet Office.

**The Hon. MARK LATHAM:** Mr Murphy?

**TERRY O'BRIEN:** No, it wasn't directly from Mr Murphy. It was from the legal team within the Cabinet Office.

**The Hon. MARK LATHAM:** Did you provide any advice to Investment NSW, because they had some material in this period speculating—they thought confirming—that the board of the ATC could approve the sale of the asset; it didn't have to go to a membership vote?

**TERRY O'BRIEN:** No, I don't recall providing any advice to Investment NSW. My recollection is it was only through the Cabinet Office.

**The Hon. MARK LATHAM:** What was the advice you provided to the Cabinet Office about that particular issue of a membership vote for a sale?

**TERRY O'BRIEN:** We provided some advice around the ATC's role and also its constitution, and as a registered club under the Registered Clubs Act there are some obligations around the sale of core and non-core land and that core land requires a members vote. I think it's a 75 per cent threshold for members to approve the sale of core assets.

**The Hon. MARK LATHAM:** Is that the only advice you provided to the Cabinet Office? You told them about the infrastructure approval role of Racing NSW under the statute?

**TERRY O'BRIEN:** It was more about setting out Racing NSW's roles and responsibilities and functions under the Thoroughbred Racing Act.

**The Hon. MARK LATHAM:** Who in the Cabinet Office asked for that advice?

**TERRY O'BRIEN:** I can't recall the name, but it was from the legal unit within the Cabinet Office.

**The CHAIR:** In terms of the proposal as it stands, we've heard from Racing NSW that they would require, in order to approve any such proposal, an additional group one racetrack to be identified and built within the Sydney metropolitan region. Has the Office of Racing done any work in identifying such a site or assessing any?

**TERRY O'BRIEN:** No, we don't have any role in relation to scoping or looking for new racetracks.

**The CHAIR:** If a new racetrack or the like was identified, would you have any role in terms of accrediting it or approving it?

**TERRY O'BRIEN:** Under the Betting and Racing Act, the Minister is required to license—there is a licensing function for the Minister in relation to racecourses. If Racing NSW and the ATC identified a new racecourse and wished it to be licensed to conduct racing, then we'd have a role in terms of providing a briefing and seeking the Minister's approval for that licensing.

**The CHAIR:** What's that process that you would go through? Do you just effectively verify that it is a racetrack and provide a brief to that effect? What sort of due diligence do you do?

**TERRY O'BRIEN:** It would be in terms of what the Minister needs to—I don't have the particular provisions of the Act in front of me, but it would be making sure that it meets the requirements of the legislation in terms of licensing a racecourse. But we would rely on Racing NSW and the ATC to demonstrate that it meets their requirements, particularly Racing NSW as the regulator of the industry—that it meets their minimum standards and relevant provisions in relation to being an accredited racetrack.

**The CHAIR:** Would you need external consultants or the like to work on such a proposal?

**TERRY O'BRIEN:** No.

**The CHAIR:** You've got all the ability in house to be able to work through?

**TERRY O'BRIEN:** To perform that legislative function, yes.

**The CHAIR:** When was the last new racetrack licensed?

**TERRY O'BRIEN:** I've been in the Office of Racing for eight years. Maybe we've done it three or four times at a maximum.

**The CHAIR:** I take it that most of those have been in regional areas?

**TERRY O'BRIEN:** That's right, yes.

**The CHAIR:** How long is that process that typically undertakes identifying a new racetrack and licensing it?

**TERRY O'BRIEN:** We don't have any role in terms of identifying the racetrack but in terms of—

**The CHAIR:** I understand that, but in terms of that process prior to coming to you and then being licensed through the Office of Racing or, should I say, the Minister with the advice of the Office of Racing?

**TERRY O'BRIEN:** The licensing part in terms of the Minister would probably be one to three months depending on the nature of the proposal.

**The Hon. DAMIEN TUDEHOPE:** Did the Office of Racing provide any probity advice to the Minister in relation to the USP?

**TERRY O'BRIEN:** No.

**The Hon. DAMIEN TUDEHOPE:** Who would have provided that advice to the Minister?

**TERRY O'BRIEN:** My understanding is it would be through Investment NSW, who is responsible for the USP process.

**The Hon. MARK LATHAM:** Have you provided any advice to Minister Harris about this proposal?

**TERRY O'BRIEN:** No, not specifically.

**The Hon. MARK LATHAM:** Were you involved in the commissioning of the probity advice by which he told budget estimates in February that he couldn't talk about it?

**TERRY O'BRIEN:** No, that's the advice I was just referring to and I understand that was through Investment NSW.

**Ms CATE FAEHRMANN:** How many staff does the Office of Racing have?

**TERRY O'BRIEN:** It's six staff, including myself.

**Ms CATE FAEHRMANN:** Could you provide the very small organisational chart to this Committee?

**TERRY O'BRIEN:** Yes.

**Ms CATE FAEHRMANN:** The appointment of members to Racing NSW—does the Office of Racing have anything to do with that process?

**TERRY O'BRIEN:** Yes, we support the Minister to undertake his functions in relation to the related legislation. That includes around board appointments. We provide secretariat support.

**Ms CATE FAEHRMANN:** That's an administrative role?

**TERRY O'BRIEN:** Yes, that's right.

**Ms CATE FAEHRMANN:** It's your understanding the Minister has the final say in the appointment of those members?

**TERRY O'BRIEN:** That's right. That's how it is set out under the Thoroughbred Racing Act, yes.

**Ms CATE FAEHRMANN:** That's how it is set out. Is that how it's done in practice?

**TERRY O'BRIEN:** Yes. There's also Cabinet—

**Ms CATE FAEHRMANN:** Does the CEO of Racing NSW have any say in those appointments?

**TERRY O'BRIEN:** No.

**The Hon. DAMIEN TUDEHOPE:** Just so I understand, the Office of Racing has had no involvement in the announcement or decision-making in relation to the sale of Rosehill racecourse.

**TERRY O'BRIEN:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** Is that your evidence?

**TERRY O'BRIEN:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** I suppose I can't say, "Do you find that unusual?" I find it unusual. Would you agree with the characterisation of this racecourse as one of the number one racecourses in New South Wales?

**TERRY O'BRIEN:** Yes, that's right.

**The Hon. WES FANG:** Mr O'Brien, in that respect, have you not provided any advice to the Minister or this Government in relation to the impact of the loss of a class one racetrack to New South Wales?

**TERRY O'BRIEN:** That's right.

**The Hon. WES FANG:** Have you been asked what impact it would have?

**TERRY O'BRIEN:** No, we haven't. We haven't been asked.

**The Hon. WES FANG:** What advice would you give if you were asked what the loss of a class one racetrack in New South Wales would mean?

**The Hon. BOB NANVA:** Point of order: Mr Fang is asking the witness a question that is both hypothetical and an opinion, and not in order within the procedural fairness resolution.

**The Hon. WES FANG:** To the point of order: The proposal is to develop Rosehill racecourse. It is indeed the title of this inquiry. It is neither speculative nor an assumption to ask, should this go ahead, what it would mean in relation to racing in New South Wales. We are speaking to a director of the Office of Racing. There is a proposal to develop one of the two class one racetracks in New South Wales into housing. My question is valid and in no way is it out of order.

**The Hon. BOB NANVA:** Further to the point of order: The opinion that Mr Fang is seeking is predicated on a hypothetical, and that is Rosehill proceeding, so it is out of order on two grounds.

**The Hon. WES FANG:** Further to the point of order, Mr Nanva, as a member of the Government, is proposing to develop Rosehill racecourse. I'm seeking to understand what it would mean to the Office of Racing. It is not a hypothetical because the Premier did stand there and propose it and again I'm just seeking to understand what impact it would have to racing in New South Wales.

**The CHAIR:** It is a difficult point in terms that it is a proposal. We are having an inquiry into a proposal. Therefore, I think questions with respect to the proposal are valid. However, with respect to the opinion of the witness, I would note that he is a public servant and can't provide an opinion, but if you'd like to rephrase it in terms of the process and the like, I think that is within order.

**The Hon. WES FANG:** I'll rephrase it so that I can perhaps elicit a response. Should the proposal by the Minns Labor Government to develop Rosehill racecourse go ahead and Sydney and New South Wales were to lose a class one racetrack, could your office provide advice as to what that impact would be and can you provide an overview of what you would expect that advice might contain?

**The Hon. PETER PRIMROSE:** Point of order: There is no problem with the first part of the question, but the second part is seeking to elucidate information that a public servant is about to or may provide to a Minister.

**The Hon. WES FANG:** To the point of order: The question has been clearly asked and answered that there has been no advice sought, so there is no advice going to the Minister as yet. I'm asking the question, which I'm entitled to do in the hearing. There is no Cabinet in confidence or issue because there has been no request from the Minister or the Cabinet for this.

**The Hon. PETER PRIMROSE:** But you're asking what that advice may contain.

**The Hon. WES FANG:** Yes, but because the Minister hasn't asked for it, I'll ask for it.

**The CHAIR:** Let's put the question to Mr O'Brien and Mr O'Brien can determine how he answers it.

**TERRY O'BRIEN:** I don't think it would be appropriate to speculate on what advice we might provide at a point in time. What I would point out is that Racing NSW has a number of functions under the racing Act, including around the economic and strategic development of racing in the best interests of racing and the State of New South Wales. It would need to consider the loss of a metropolitan track and how it might replace that.

**The Hon. WES FANG:** Would it be the job of the Office of Racing or Racing NSW to provide the advice to the Minister and the Minns Government as to what impact it would have to racing? Do you see the economic impact and the social impact to New South Wales as something that would be the purview of your office, or the purview of Racing NSW?

**TERRY O'BRIEN:** Racing NSW.

**The Hon. WES FANG:** Typically, what advice do you provide to the Government if it's not strategic or economic? Is it purely technical in nature, related to the Act and the impact of the Act to the Minister and to the department and to Racing NSW itself?

**The Hon. BOB NANVA:** Point of order: This is not a question that relates to the terms of reference. It's the way the office operates. These are questions that can be asked at budget estimates, but that's not a question that refers to the terms of reference with respect to the proposal to develop Rosehill Racecourse.

**The Hon. WES FANG:** To the point of order: I don't understand why the two Labor members over there are running such cover for this. A simple question as to what advice falls within the scope of the Office of Racing versus Racing NSW is, clearly, a valid question. I don't understand why the Government Whip would seek to shut this line of questioning down, other than I'm going down a hole that you don't want me to go down because there's something there.

**The CHAIR:** I think it certainly is a related matter in this instance. In order to be able to understand the role of the Office of Racing in the development of this proposal and the assessment of the proposal, I think, it is helpful to all Committee members to be able to understand what the typical role of the Office of Racing is, particularly as opposed to Racing NSW. So I'll allow the question.

**The Hon. PETER PRIMROSE:** Let's see how deep the hole is.

**The Hon. WES FANG:** You've dug yourselves quite a hole at the moment. Mr O'Brien, the Office of Racing is purely related to technical aspects related to the Act and how it is implemented by the Minister and the Government to Racing NSW?

**TERRY O'BRIEN:** We provide administrative support to the Minister, in relation to racing-related legislation.

**The Hon. WES FANG:** So there's no strategic, no analysis, no economic, no feasibility advice that's provided; it's purely technical in nature, related to the Act only.

**TERRY O'BRIEN:** We might provide some advice in those sorts of areas. But, typically, we would seek that advice from other authorities in relation to those matters though.

**The Hon. WES FANG:** What authorities would they be?

**TERRY O'BRIEN:** Depending on the nature of the expert advice, it might be Racing NSW, it might be NSW Treasury, it might be other government departments.

**The Hon. WES FANG:** In the instance where there's been an unsolicited proposal from the ATC to develop Rosehill Racecourse and both the ATC and Racing NSW have obligations under the Act and under their agreements to provide stability and sustaining economic actions for racing in New South Wales and the Minister is responsible for that, it's not unreasonable then that your office would be engaged to understand the impact that this proposal would have and provide independent advice, even though you might take some advice from, say, Racing NSW, to the Minister about this proposal and yet that hasn't happened. Is that correct?

**TERRY O'BRIEN:** The Minister doesn't have any role in relation to the proposal at this stage.

**The Hon. WES FANG:** The Minister isn't involved in this from a racing standpoint? One of the only two class one tracks is potentially going to be developed for housing. The Minister has no involvement whatsoever in the protection of racing in New South Wales because of this development? That seems extraordinary to me.

**TERRY O'BRIEN:** There's a USP process that's being undertaken at the moment, and that has defined roles and responsibilities in terms of how that is taken forward.

**The Hon. WES FANG:** Who is responsible, then, for providing advice to the Minister and the Government in order to protect racing, should this proposal go ahead?

**TERRY O'BRIEN:** That's a hypothetical. That's probably taking it to the next step. I can't really comment on that. At the moment it's going through a USP process. Depending on the outcome of that—

**The Hon. WES FANG:** Surely that USP must, at some point, balance up the gain in housing versus the loss of a class one racetrack. That surely must be on the Government's radar in relation to this proposal. Is that correct?

**TERRY O'BRIEN:** I think that's for the proponent of the proposal and the Government in terms of the USP process and assessing that to determine.

**The Hon. WES FANG:** Yes, I understand that. But, again, in assessing that, there must be advice given to the Government that looks at the proponent's proposals. We know that one of those proposals has been to turn the brickpit into a class one racetrack. There's been a suggestion that Warwick Farm would be turned into a class one racetrack. There's now a suggestion that they might find another greenfield site to turn into a class one racetrack. Surely at some point there must be involvement from your office to provide analysis as to these contrary proposals that would see another class one racetrack built and then provide advice to the Minister. Do you think it's a sign at all that you've not been asked to do any of that analysis work that the Government acknowledges that there is no class one racetrack alternative that can be put forward?

**TERRY O'BRIEN:** I'm not going to answer the last part of the question because I don't think it's appropriate.

**The Hon. WES FANG:** I know. I just thought I'd throw it in there.

**TERRY O'BRIEN:** We haven't been asked to provide anything at this stage through the USP process. It may be that at some stage in the future we will be.

**The Hon. WES FANG:** Were you ready to provide advice to the Minister?

**TERRY O'BRIEN:** We're always ready to provide advice to the Minister.

**The Hon. WES FANG:** And are you surprised you haven't been asked yet?

**The Hon. BOB NANVA:** Point of order—

**The CHAIR:** I uphold the point of order.

**The Hon. WES FANG:** That was asking an opinion, I know. I did push that one.

**The CHAIR:** Briefly, and then I will go to Mr Nanva, with respect to any of that advice that you would provide, would you provide that advice internally or would you seek advice from, as you said previously, other agencies such as, let's say, for instance, Racing NSW, as to, for instance, whether Warwick Farm could be upgraded to a group one racetrack?

**TERRY O'BRIEN:** It would depend on the nature of the advice that we've been asked to give as to what authorities we might go to to seek some of that further information.



**The CHAIR:** But would you be capable internally of being able to provide advice as to, let's say, for instance, whether Warwick Farm could be upgraded to a group one racetrack?

**TERRY O'BRIEN:** No. We would need to seek external advice on that.

**The Hon. BOB NANVA:** The Committee has previously received evidence that the point at which different agencies are engaged to provide advice is proportionate to the stage at which the USP process is up to. Would you agree with that assessment?

**The Hon. WES FANG:** Point of order: That is seeking a—

**The Hon. BOB NANVA:** I'll rephrase it. Is it correct that advice is sought from agencies proportionate to the point at which USP processes are up to?

**TERRY O'BRIEN:** I'm not an expert on the USP process, but that logically makes sense.

**The Hon. BOB NANVA:** Would you expect to be consulted at the relevant point in time of the USP process, as it accords with whatever powers you have?

**The Hon. WES FANG:** Point of order: That is also seeking an opinion.

**The Hon. BOB NANVA:** I'll rephrase the question again. When the USP is further progressed, will you be consulted at the appropriate time with respect to matters you have carriage over?

**The Hon. WES FANG:** It's seeking an opinion but I'll also let it go.

**The CHAIR:** I don't think it is. Mr O'Brien?

**TERRY O'BRIEN:** We haven't been asked to provide advice at this stage. If we are asked to provide advice in the future then we're able to do that.

**The Hon. BOB NANVA:** In relation to matters within this proposal that you have carriage over?

**The Hon. WES FANG:** No more opinions you want?

**The Hon. BOB NANVA:** I've got plenty of opinions.

**The Hon. DAMIEN TUDEHOPE:** It's true to say that your office is responsible for the administration of the Racing for the Regions fund. Is that right?

**TERRY O'BRIEN:** That's right, yes.

**The Hon. DAMIEN TUDEHOPE:** And there were certain, as I understand, development applications lodged in relation to the Racing for the Regions expenditure?

**TERRY O'BRIEN:** There are a number of different projects under that program, and my understanding is that they will all require development approval.

**The Hon. DAMIEN TUDEHOPE:** Have those development applications been lodged?

**TERRY O'BRIEN:** As I say, there are a number of projects and they're all at different stages. Some of them have been approved, some of them are lodged and some of them are at pre-approval stage at this moment.

**The Hon. DAMIEN TUDEHOPE:** So when you say "a number", how many?

**TERRY O'BRIEN:** How many projects?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**TERRY O'BRIEN:** It's nine regional racecourses. Some of those have a number of projects. I can provide on notice exactly how many projects there are.

**The Hon. DAMIEN TUDEHOPE:** In providing that on notice, can you provide on notice the nature of the projects and the dates where planning approval was sought in relation to those projects?

**TERRY O'BRIEN:** I can provide that on notice, yes.

**Ms CATE FAHRMANN:** I have one final question, Chair, in terms of the selection panel for the members that are up for selection for Racing NSW. Do you know who's on that selection panel or could you provide that on notice?

**TERRY O'BRIEN:** The selection panel is confidential, so I can't disclose who's on that panel.

**The CHAIR:** Thank you, Mr O'Brien, for your evidence today. You have taken some questions on notice. The secretariat will be in touch with you seeking an answer to those questions on notice.

**(The witness withdrew.)**

**(Short adjournment)**

**Mr MATTHEW McGRATH**, Ex-Chairman, Australian Turf Club, sworn and examined

**Mr RON FINEMORE**, Owner, Finemore Thoroughbreds Pty Ltd, sworn and examined

**The CHAIR:** Welcome, Mr McGrath and Mr Finemore. Thank you very much for your attendance here today.

**RON FINEMORE:** I was a past chairman of the AJC and was part of the formation of the ATC through that process.

**The CHAIR:** Would either of you like to make a short opening statement for the benefit of the Committee?

**MATTHEW McGRATH:** I would. Thank you for the invitation to be here today. I was Australian Turf Club chairman from 2018 to 2022. I was a government-appointed director and elected chair by my fellow board members. Under legislation, I ceased my role in 2022. At the AGM two months later, I was gratefully awarded life membership of the ATC.

It's important to acknowledge all those team members who deliver the collective vision and the strategy of the ATC and Racing NSW—the people who grow the grass, to those pouring beers on race day, to the gate attendants and to the head office staff. These are the dedicated people who ensure the success of racing, and we saw it again on Saturday for the eighth edition of the Everest. Members and industry participants have not only built this club, but have supported it through any number of challenges—be it wars, economic downturns, equine influenza and, more recently, COVID. I was asked the question at the second ATC members forum earlier this year, "Why does the ATC always go to Racing NSW for funding?" Over my term as chair, that was not the case. We built four poly tracks at each course at a spend of \$12 million; the Randwick multi-deck car park and day stalls, \$30 million; the Kensington track rebuild, \$15 million; stabling upgrades across all tracks, \$6 million; training track upgrades, \$5 million; and the Winx statue and member facility upgrades, \$10 million, plus \$29 million spent on the Winx Stand—over \$100m in capex, with the vast majority of it spent on welfare outcomes for the horses and the people that care for them, and all 100 per cent fully funded by the Australian Turf Club.

On the Winx Stand, in 2018 I raised with the ATC board to build and name the Winx Stand at Randwick. The club was able to fully fund the \$29 million project. When I discussed this with Racing NSW, they rightly suggested making the stand larger. However, it would double the cost. I successfully negotiated a loan with the then Racing NSW chairman and the current Racing NSW CEO for the extra \$29 million on a 15-year repayment term. Thus, the Winx Stand was built in its current form due to a strong, respectful and cohesive relationship between the ATC and Racing NSW. Though the loan isn't due to expire until 2033, the ATC has already paid down 66 per cent of it. This loan will be paid off some eight years ahead of schedule.

When it comes to the profitability of the ATC, in those four years we amassed \$66 million in EBITDA, had \$38 million in cash at bank and an unspent \$12 million provision from 2018—the best race club performance in Australia. In the aftermath of COVID, we provided an industry leading \$200 credit to all ATC members to thank them for their loyalty. This was, again, fully funded by Australian Turf Club at a cost of \$2 million. We still remained profitable. We still invested in our infrastructure. That leads us to the topic of the funding model. In 2018 I signed a 15-year agreement with Racing NSW that ensured the success of the ATC. It guaranteed a minimum of \$90 million per annum to the ATC. This was an agreement based on what was best for the club and industry. I give credit to Mr Balding and Mr Vlandys in listening to our logic and vision at the time to make this happen.

What has also been raised is the debt that the ATC has incurred to Racing NSW. This was created over a decade ago when the interminable loan was established for the sum of \$99 million, which was the debt of the AJC and STC upon agreeing to merge. This loan is not unique to the ATC, as some 23 other New South Wales race clubs have the same loan set-up with Racing NSW. These loans are due and payable only under the condition of certain land sales that activate the repayment. It's a good and proper model. It was mentioned about how the ATC benefits from Racing NSW paying the prize money. Whilst Racing NSW regulates the industry, manages welfare and collects the wagering revenue, the ATC puts on the racing show in Sydney. Those roles make perfect sense and has made New South Wales racing prosper.

As discussed in my submission, there are three well-developed proposals that we did in my tenure to ensure we never had to sell a racecourse. At Canterbury, the JV with Mirvac on King Street, the Rosehill Bowling Club site and the Rosehill circus site. To add the off-course training sites at Warwick Farm, there would be close to \$1 billion for the ATC and approximately 20,000 dwellings. When I was chair, the decade-long moratorium preventing the sale of Canterbury racecourse concluded. I told interested parties and members that there was no need to sell any racecourse as the work had been done to have other options in place that ensured the financial and social viability of the ATC. In 1885, Rosehill Gardens opened for racing. Around the same time, Wimbledon

centre court, Sydney Cricket Ground and Anfield, the home of Liverpool FC, began. I doubt any member of these internationally iconic venues would vote to close as they are key to each of their cities, as Rosehill is to Sydney.

Finally, and as noted in my submission, we all come from different paths to the Rosehill topic. Mine is simple. When the ATC and Racing NSW work collaboratively and progressively, racing thrives and New South Wales benefits. The results outlined above prove it. Both organisations can be proud of how we worked through COVID and delivered world-class racing and governance. The ATC can and must serve a purpose in establishing thousands of dwellings served by a metro station at Rosehill racecourse. This will retain both the green and racing space for an exciting future for housing, employment and social enjoyment in Western Sydney. As one of 12,000 Australian Turf Club members, I want this club to be successful. I look forward to the day that this issue is solved and I wish the ATC board well in navigating these final stages.

**RON FINEMORE:** I was chairman of the Australian Jockey Club from 2009 until 2011, which was immediately prior to the merger of the STC and AJC, which I worked very hard in my role as chairman of the AJC to get to happen. I strongly believed this would be—and it has been—in the best interests of thoroughbred horseracing in New South Wales. I am an owner and breeder of thoroughbreds, principally to race here in New South Wales. Racing and breeding horses is one of the three key things that I do in life after work and family, so it's definitely a core interest, and let me assure you it is heavily subsidised by my personal financial resources. I only became chairman of the AJC to try to help in negotiating their way through a difficult period they were having. I'm here today with the best interests of the total industry in mind.

I feel strongly that Sydney needs two major racecourses, and they need to continue to be Randwick and Rosehill, with Randwick close to the CBD and Rosehill to the centre of the metropolitan area of Sydney. With the progression of racing in New South Wales since its commencement in 1810, there have been significant positive events that have taken place to progress thoroughbred horseracing to where it is today. To achieve what has been achieved in racing has required the involvement and input of a lot of great people, who at times not everyone would have agreed with. I definitely don't agree with everything that is happening in the administration of racing in New South Wales today, but all those involved in racing have the opportunity of getting involved in the administration and trying to do something about it if they are not happy. That is not as easy as it used to be, with less directors or committee members being directly appointed by the members.

The industry participants have no say in the election of the directors of Racing NSW, other than which government is elected, with the directors all being appointed by the Minister. I believe that a small number of these should be appointed by the Minister, but the majority should be appointed by the members of each of the key participating groups of owners, breeders and trainers. The ATC board has only seven directors, with three appointed by the Minister for racing and only the other four elected by the members. Thoroughbred horseracing and breeding in Australia has approximately 250,000 people working in the industry, servicing it, with roughly 78,000 full-time-equivalent jobs being generated, with around 29,000 of those being in New South Wales. In Australia there are approximately 120,000 individual owners, with Racing NSW saying that they're in the vicinity of 40,000 people from New South Wales, and they are all in it for their entertainment.

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. The fun in racing and why we all do it is to be able to attend and participate up close and directly in the events, as was the case last Saturday. So the key locations, therefore, need to be easily accessible to the maximum number of people possible. By all means, develop any excess land around these racecourses for housing, but please ensure that these two venues stay in place for the future.

In fact, when I was chairman of the AJC, John Cornish had plans drawn up for a new modern trainers' complex at Randwick, to free up the land on which all the trainers are now currently based, on the corner of Anzac Parade and High Street, and build both a shopping centre and apartments on, which would've all been both adjacent to the university and the light rail, which should be re-examined as part of your inquiry. We only need to look at the example of what the closure of Harold Park and the relocation of harness racing to Menangle Park has done to participation in that industry to see that we must keep Randwick and Rosehill. One of the key discussions and concerns of STC members, with the amalgamation of the AJC and STC, was that Canterbury would be sold off and developed for housing. It was never in their wildest thoughts mooted that the sale of Rosehill would be considered.

I think that one area of opportunity for savings is that we are paying far too big a prize money to the new major races. I am supportive of these races. I believe they have been great for the promotion of the industry here in New South Wales, but I don't believe that the prize money needs to be anywhere near as big as it is to get the same promotional effect. These funds could be spread across many other races and the facilities and participants in the industry across all of New South Wales. It is very easy to spend moneys, but it is very hard to earn them in

the first place. The earlier chairmen of Racing NSW—Gary Pemberton, Alan Brown, Alan Bell and John Messara—together with Peter V'landys and their boards, all worked very hard to establish the various funding models that exist today, that made it easy for existing boards to look good in distributing these hard-fought-for funds. We need to be very careful that these funds are spent wisely and not given away too easily. Thank you.

**The CHAIR:** Thank you very much, Mr Finemore. I might start with a couple of questions. I guess one of the constant criticisms through this inquiry has been that it's the funding model that, effectively, has put the ATC in this position, but, Mr McGrath, your evidence, effectively, is that that is not the case.

**MATTHEW McGRATH:** We signed approximately seven different agreements. Those agreements worked very well together. If one has been ended or modified, the other six would then naturally have a problem. But, when I left the ATC, those seven agreements were all in place. So I'm a very strong believer—the funding model that we agreed to in 2018 does see the ATC through for that agreement period of 15 years. One of those agreements was the Winx Stand. And, as I put in my evidence, the Winx Stand was a 15-year agreement, and it will be paid off, basically, within seven or eight years. That money comes from what they call the PGI. In 2015 there was an establishment of a thing called the Randwick Capital Fund, which is the RCF. That money used to flow straight through to the ATC. The PGI, which is international wagering, used to flow straight through. It was then captured into a thing called the RCF. I believe the RCF is a good idea. It's for capex only and requires the two CEOs and the two chairmen of Racing NSW and the ATC to spend that money. That money had grown to a large number, just on \$20 million, because it hadn't been spent. When I became chair, that's when we spent it on the Winx Stand.

**The CHAIR:** Mr McGrath, you've outlined in your submission and with further evidence today as well that there have been proposals for housing on ATC land progressing for quite some time. I think you estimated in your submission that \$250 million could be realised in the next five years, and I think, from your evidence today, you've outlined about 20,000 dwellings could be produced from those proposals, as well.

**MATTHEW McGRATH:** Correct.

**The CHAIR:** To that point, there are proposals that could see a housing uplift but also the retention of Rosehill racecourse and, indeed, all of the ATC's assets.

**MATTHEW McGRATH:** There's an interesting photo that goes around, which is often shown in media, of Rosehill. It will actually show a development and, if you look closely in the background, you'll see the racecourse. That's been shown numerous times in the media. We did a lot of work on that, I would say from 2016 through to 2018, before I became chair, but I was chair of property. The establishment of bringing the bowling club onto the Rosehill Gardens site allowed—

**The CHAIR:** A rooftop development. Is that right?

**MATTHEW McGRATH:** Correct, and if you look really carefully—not everyone looks really carefully on this one—you'll see the racecourse in the background. The racecourse is in the background. That allows for all that housing along James Ruse Drive. At the time when we did that, we hadn't amalgamated with Rosehill Bowling Club, so we didn't own Rosehill Bowling Club. Subsequent to that, we picked up Rosehill Bowling Club as an amalgamation at zero dollars—just brought it across. Then, I think it was in 2020, I did the circus site, taking it from core to non-core land—a 75 per cent vote by members. All of a sudden we then had not only that location along James Ruse Drive, which is the photo I'm talking about in the media, but also the bowling club and the circus site.

The other land, the King Street car park site, we did in 2016. The ATC was paid a deposit by Mirvac at the time. I was there when we signed that off. That's just been waiting. It is independent of Rosehill, but it is waiting there for development. It's been waiting there for eight years. The last one I talked about was the Warwick Farm off-course training sites. If you start from a welfare perspective, that needs to be resolved, and we've tried to resolve that by moving the off-course trainers on course. There are trainers out there who are walking their horses 500 metres from an off-course stable and, as Mr Finemore would know as well, they've been there for decades. Our goal and our plan—there is a plan; there was a drawn plan—was to bring them onto course. We can do that by putting them on the polo fields out the back. That frees up all that land. Every trainer, I can assure you, that owns land out there will advocate to sell those properties—every one of them.

**The CHAIR:** Mr Finemore, in addition to that, you outlined a proposal at Randwick as well with the training facilities or the stabling facilities there, and the potential for housing uplift right next to a light rail line as well.

**RON FINEMORE:** Yes. That was done because the current training facilities at Randwick need a lot of money spent on them, and they haven't had that money spent on them for some time. With John Cornish, we

worked on—all the plans are there for a new training facility to be built straight across from the winning post, on the other side of the track in the side of the hill there, which would free up all that land where the current trainers' facilities are and allow that to be developed into a shopping centre on the corner and then apartments all up High Street. That proposal had all the groundwork done on it, but it never came to fruition because of some complications with zoning et cetera, and we were relying on the university being more involved in it. But today there have been a lot of things happen, especially the light rail et cetera, since then, and all the design and everything has all been done. It's there to be taken out and would add considerably.

**The CHAIR:** Mr Finemore, do you have any recollection as to how many apartments that could have yielded?

**RON FINEMORE:** No, I couldn't answer that because I'd be guessing. That's 11 or 12 years ago, and I didn't have the information on hand to go and grab it.

**MATTHEW McGRATH:** I can add to that. The area that Mr Finemore is talking about is on Wansey Road. When we looked at that—I think it was again in 2016—it was around about an \$80 million development, which was obviously prohibitive at the time. But that then did dovetail into what Mr Finemore was talking about in regard to then doing housing. Predominantly, that housing was student accommodation. That's where we landed. When we built the multideck car park underneath the day stalls, that was pretty revolutionary. I think it's the only one in the world where there are cars parked above horse day stalls. It's an amazing development. That car park has been built to create another two or three levels above, and then we were going to move the ATC admin in, and again more housing and development could occur. That is all drawn; it's all done. It's just a matter of the will to actually get it done.

**The CHAIR:** What we've heard in this Committee so far is that we've had the publicly available figure of \$5 billion as a potential benefit to the ATC out of the development. We've also heard some conflicting information—on the low end down at about \$1.6 billion, in terms of the return to the ATC, to the high end, where it's been put at up to \$25 billion, I think. Do you have any views in terms of the value of that to the ATC, particularly when you consider what would be the value to the ATC of retaining the Rosehill site?

**MATTHEW McGRATH:** I couldn't give you an estimate in terms of what it's worth. All I could give you an estimate of is, when I was there 18 months ago, the properties that we were looking to develop. We had numbers on each of those properties, which were franked by the same company that's doing it now—through MostynCopper and our other advisers. The people who are doing it now were the people who were doing it for us. I couldn't advise in terms of what the value is.

**The CHAIR:** Did that ever contemplate actually a wholesale redevelopment of Rosehill racecourse?

**MATTHEW McGRATH:** Never, no.

**The Hon. EMMA HURST:** Mr Finemore, there have been accusations that Racing NSW was inappropriately involved in pushing for the sale of Rosehill racecourse. Do you believe that Racing NSW has become too influential?

**RON FINEMORE:** As I've indicated in my opening statement, there isn't enough spread of the people that are appointed to the board of Racing NSW to get the proper debate and consideration that needs to take place in all organisations.

**The Hon. EMMA HURST:** On the first day of this inquiry, Ms Waterhouse implied that it was time for new leadership within Racing NSW. Do you agree with her position?

**RON FINEMORE:** I think that change needs to take place in all organisations, but it needs to be appropriate with the whole structure of organisations. For me to give an opinion on that situation—I don't deal directly in there and I'm an outsider, so I wouldn't have close enough involvement in the last 13 years to be able to say.

**The Hon. EMMA HURST:** Perhaps there should be some sort of government review into the entire structure looking into the way that directors are appointed. Would that be something you would support?

**RON FINEMORE:** Definitely.

**The Hon. EMMA HURST:** I've got a question on animal welfare as well and the training facilities of the ATC. Do you believe that they are up to the standard that you would like to see? Or do you feel that some of those upgrades have fallen behind?

**RON FINEMORE:** That's why I was supportive of the changes that were projected to happen or planned to try to happen at Randwick with the new training facilities, with the most modern facilities. Being funded by the

land that it freed up—to me, it solved several problems. Then it was university housing. But I think today there is the opportunity for more wider spread of housing in that situation that would fund that.

**The Hon. EMMA HURST:** So you feel that, yes, there does need to be some sort of funding to improve those training facilities as they currently stand?

**RON FINEMORE:** Yes, definitely.

**The Hon. BOB NANVA:** Mr McGrath, you were the ATC chair between 2018 and 2022. In 2022 the ATC reported a loss of \$7 million in its annual report. It has since undertaken a significant labour force restructuring. Evidence has been provided to the Committee that, if the ATC breaks even in any given year, that is a good year. Did you have visibility over the significant pressures on the cost base of the ATC during your tenure?

**MATTHEW McGRATH:** Yes, of course.

**The Hon. BOB NANVA:** The concern has been raised by stakeholders within the industry that thoroughbred racing derives approximately 80 per cent of its revenue from wagering. Given the cost pressures on the ATC and the substantial risk to being so exposed to wagering revenue, don't you think that it would be appropriate for the board to look at diversifying its revenue base to mitigate against those risks to its organisation?

**MATTHEW McGRATH:** Are you saying diversifying by taking up the sale of Rosehill?

**The Hon. BOB NANVA:** I'm talking about diversifying its revenue base.

**MATTHEW McGRATH:** Of course. I think if we come one step back in terms of the FY22 result, there was a \$12 million provision that was taken up in 2018. That provision remained unspent. That was a provision that was taken up on the QE II cladding, the Queen Elizabeth cladding, so after the Grenfell disaster there was a \$12 million provision that we took up to remove all the cladding that was deemed or had a fire order against the club, amongst many other venues. We stripped pretty much 20 to 30 feet of all the cladding off, from the ground up, which met the fire order at the time. After taking the \$12 million provision in 2018, which derived a loss for the year, the expectation was that that money would come back in FY22. It then landed in FY23, the year after I left, so that's the financial aspect of it.

In regard to diversifying the income, there is absolutely no doubt every race club needs to diversify income—every one. Selling Rosehill would maybe conflict with that, given the amount of non-raceday activity that occurs at Rosehill. You have the caravan and camping show, which is the largest non-raceday activity, I would suggest, of pretty much any race club in Australia. They've been there, I'm going to say, for 10 or 12 years and spent an awful amount of money to be there on that venue, and that drives obviously a lot of participation, a lot of customers. In previous times to myself, the grand pavilion was built. There have been other structures built at Rosehill and they all accommodate non-raceday activity. The grand pavilion can take up to 1,800 people. There is no other venue on any of the ATC sites that can take up to 1,800 people in that type of facility. But I agree completely with you that you need to diversify.

**The Hon. BOB NANVA:** Are those alternative streams that you speak of, the non-raceday activities, sufficient to overcome the significant exposure risk to racing from having 80 per cent of its revenue derived from wagering income?

**MATTHEW McGRATH:** They'd have to be. There are no other avenues other than finding other new revenue streams. There's no other way of doing it, so it has to be non-raceday. Selling an asset is not necessarily a revenue stream, but obviously creating new sponsorships, new non-raceday activity—and I'm outlining ones that are large, I'm outlining the smaller ones like weddings. From that perspective, you're spot on. It has to happen, but selling a racecourse is not part of that equation.

**The Hon. BOB NANVA:** Was the proposal to develop non-core land, I suppose, in the north-western corner part of the board's approach to mitigate against the financial risks faced by the ATC?

**MATTHEW McGRATH:** Correct. All of that money, as I explaining with the capex that we did spend, so we sold some land at Warwick Farm, we sold other land and we had to take land sales at Randwick to accommodate the light rail—all of that money is then sunk straight back in. When we sold the land at Warwick Farm we actually built a polytrack, which was \$4 million. We built an A-grass track, which again is all for horse welfare. It's all to make sure horses are looked after well and the training facilities are as good as they possibly can be. The A-grass was around about \$4 million. We remediated the course proper. Again, that was around about \$3 million or \$4 million. All of that money that we would get from a land sale is all poured back in.

**The Hon. BOB NANVA:** As someone that hasn't been following the ATC's ambitions for that north-western corner since 2016, it's a proposition that has been pursued since 2016 with no success, despite some

very public and private advocacy over seven to eight years. There has been extensive lobbying for a metro station, which that development is predicated on, again for the last seven to eight years, with no success. I suppose what I'm asking is do you have any information that would lead you to conclude that there will be success for that proposal in the next seven years if there hasn't been in the last seven?

**MATTHEW McGRATH:** No. It's a big project. It's been a large project from day dot.

**The Hon. BOB NANVA:** I accept that.

**MATTHEW McGRATH:** There have been three primary core pieces of land. We've purposefully then moved land from core to non-core to build our—sorry, I'm talking like I'm still there, but to build the ATC with that asset base by taking the bowling club and by taking the circus site. Getting 75 per cent of members' vote is a difficult process. So, again, these are all planned out over a long, long period of time. I do agree with you, though. It has taken too long.

**The Hon. BOB NANVA:** I accept that, Mr McGrath, but what I'm saying is that it is a plan that has not substantially changed in the past six to seven years. It's a plan that has not progressed in the past six to seven years. Left unchanged, would you expect it to progress in the next six or seven years if it hasn't in the last seven?

**MATTHEW McGRATH:** It hasn't changed a lot, but I would say that we've created more opportunity to make the value greater.

**The Hon. WES FANG:** Mr Finemore, you've been involved in this for quite a period of time. You were chair of AJC from '09 to '11, correct?

**RON FINEMORE:** Yes.

**The Hon. WES FANG:** In relation to the line of questioning that the Hon. Bob Nava has just put to Mr McGrath, he's indicated that where there are perhaps financial difficulties, you either need to generate more income or that the other way of attracting a revenue stream would be to sell more assets. Do you agree that those are the only two ways you can generate an income there?

**The Hon. MARK LATHAM:** Government grants?

**RON FINEMORE:** I think there are more ways than one. When you're running a business, you've got to also look at costs. I mentioned that maybe the major prize money is too great. It could be spread across New South Wales and the facilities. But these are all just opinions. There are plenty of projects in New South Wales that have been in the making for 10 and 15 years trying to get through the authorities, and they've been driven by people who are making money out of it, not clubs. The people that work in clubs aren't specialists in that situation. I could point out a couple of projects that have been going longer than the ATC has been in place to get approval or to get even on exhibition. It takes a lot of effort and a lot of skills for people to get some of these projects through, and that is a deterrent, especially when you don't have the people with the skills that Mr McGrath has and Mr Cornish—they are both in that skill base—to get them through the process.

The key thing that we were looking at at Randwick was to be able to get the money to upgrade the training facilities, and that was to come out of the other. There would've been a lot more money long term come back to the club from a shopping centre and the student accommodation in conjunction with the university. Some of these things, if you have the resource and were put to the test, they might come, but they won't come in five minutes.

**The Hon. WES FANG:** Outside of your industry experience with thoroughbreds, you've been reasonably successful in business as well. Is that a fair assumption?

**RON FINEMORE:** Oh, well. I'm still in business but I did go broke in 1979.

**The Hon. WES FANG:** Some of your learnings about being successful in business is you don't sell the main asset that is attractive to your core business. Would that be a reasonable assumption?

**RON FINEMORE:** Very much so.

**The Hon. WES FANG:** Do you find it somewhat hypocritical that the very person who is advocating for no government privatisation is advocating for the ATC to sell off their major asset, effectively privatising a major asset in order to fix a bottom line? Is that not somewhat hypocritical from the Labor members opposite? I'm just throwing the ball up in the air. Feel free to swing away, if you'd like.

**RON FINEMORE:** I would think so. In any business where you have the core assets that derive the income for running the business—Rosehill and Randwick, in my opinion, are the core assets for thoroughbred racing in New South Wales, and are major contributors to racing in Australia, but they are the core assets. You've



got to have them and everything else around them, then you work on how you maximise them to leave the core assets in place to be able to run your core business, and that's thoroughbred racing.

**The Hon. WES FANG:** Thank you. I think I got the answer I wanted.

**The Hon. MARK LATHAM:** Thank you to both the ex-chairs for your evidence today and also the insight into the very careful and methodical way in which you both developed various commercial propositions and real estate sales up to the point where they could be executed. To both of you, have you been surprised at the way in which the ATC has handled this Rosehill sale, to make it so rushed, amateurish, at various times keeping the board in the dark, really trying to advance a thought bubble? It stands in stark contrast to how you did things in your time, doesn't it?

**RON FINEMORE:** My answer's yes.

**MATTHEW McGRATH:** I think it's been rushed. Yes. I agree with that.

**The Hon. MARK LATHAM:** In your time, if a line manager came to you and said, "I've had some meeting with some government officials, and we can get a metro if we do certain things at Rosehill," would you have sought that in writing to make sure it was a firm government commitment rather than just rushing off to act on it straightaway?

**MATTHEW McGRATH:** It would've come through the necessary levels. It would've come through into the Executive. We have a property executive. Then I would've picked that up through the CEO. So the CEO wouldn't have presented it to me unless it had been franked by that process.

**The Hon. MARK LATHAM:** You mean there'd been government verification that this was the position, not just a report back from a couple of meetings?

**MATTHEW McGRATH:** I can understand why there'd be a conversation. I get that. But if it was going to be something a little bit stronger, I'd want the CEO to present it to me.

**The Hon. MARK LATHAM:** Especially involving the sale of your major asset.

**MATTHEW McGRATH:** I agree with that.

**The Hon. MARK LATHAM:** Furthermore, if a meeting was to be organised with the Premier, would you have gone, as the chair—and the CEO would also attend?—rather than sending the line manager in question?

**MATTHEW McGRATH:** The three of us would've gone, and we did that on other processes. In terms of other locations, we've actually done that.

**The Hon. MARK LATHAM:** Ethically, what's your judgement of the ATC sending Mr McMahon alone to meet with the Premier, presumably because they thought he could exercise some political influence, given his long-term relationship with the Premier?

**MATTHEW McGRATH:** I wasn't there, but I can only talk for my relationship with Steve McMahon over that period. I found him to be professional, trustworthy. I never had an issue with Steve.

**The Hon. MARK LATHAM:** But would you have sent him just by himself? Or you're saying your evidence is you would've gone, as chair, along with the CEO.

**MATTHEW McGRATH:** I wouldn't have sent him, because I wouldn't have been aware. If he was going to go, I may not have gone to that sort of conversation, but I certainly would expect the CEO to go.

**The Hon. MARK LATHAM:** What were the fiduciary duties that you had as a director—all directors have? What's the legal status of the ATC under the Corporations Act and the responsibilities you're legally obliged to discharge in this circumstance of selling the major asset?

**RON FINEMORE:** I haven't got the information exactly in front of me, but I know what it would be in my role as a director of the company that I own 50 per cent of. It would be to ensure that the board was fully communicated with, and it would be a board decision—how we progress it.

**The Hon. MARK LATHAM:** Before anything was done, before meetings were organised with Government and there was an attempt to organise an unsolicited proposal, you'd want—

**RON FINEMORE:** We might have discussions to get more information, to be able to give all that was available to the directors.

**The Hon. MARK LATHAM:** Would that include a firm valuation of the site, in writing from a credible economic forecaster or land valuer? You'd do that as part of your due diligence?

**RON FINEMORE:** To me, not necessarily. Paper won't refuse ink, and you can get anything on a bit of paper that people aren't putting a price behind. Valuations, in my thing, get back to the assumptions that are used. And if you've got approval, compared to the assumptions that you're just thinking about it, they're dramatically different. But I'm a truck driver, not a property person so Mr McGrath should answer this.

**MATTHEW McGRATH:** I'm not necessarily a property person. But I would say that, on a monthly basis, we would have a property subcommittee. None of this would be missed through the property subcommittee. It would come through that. Nothing would be rushed, because everything would be known within those four weeks, and all the main players on any of these property topics would be in that room, including MostynCopper, who were our advisers. I brought them on in—I think it was 2016. They've been nothing but exceptional all the way through. But all of that would've been picked up by the subcommittees and a board meeting every month.

**The Hon. MARK LATHAM:** Mr McGrath, you'd be seeking board approval at every significant step of the way.

**MATTHEW McGRATH:** A significant step. Conversation in that subcommittee would always rise through to the board each month.

**The Hon. MARK LATHAM:** If you sent a line manager to meet with government on that day and you also had a board meeting that day, would you tell the board that your organisation has approached government for the sale of this major asset?

**MATTHEW McGRATH:** It would come through in the actions of the subcommittee.

**The Hon. MARK LATHAM:** If the chair doesn't do that, are there any problems under the nature of the ATC's incorporation under the Corporations Act?

**MATTHEW McGRATH:** I think they just need to make that judgement. I couldn't tell you that.

**The Hon. MARK LATHAM:** That's a matter for legal advice?

**MATTHEW McGRATH:** Correct.

**The Hon. MARK LATHAM:** Mr Finemore?

**RON FINEMORE:** The same question?

**The Hon. MARK LATHAM:** Yes.

**RON FINEMORE:** I wouldn't be sure in that situation. I know what I'd do. I can only say what I'd do. Communication equals cooperation, as far as I'm concerned. That's one of the things that I live by and that's what I tried to do through my period as chairman of the AJC. Through that period, there were plenty of people that weren't necessarily happy with the merger of the two clubs. In that process, we communicated openly with the people of the STC and with my directors and that's how we got the outcome in the end. How different people do things—mine is honest and open communication to get the cooperation you need to facilitate those things to happen.

**The Hon. MARK LATHAM:** At what stage would you have involved the membership, given that this could be a complete waste of time if the membership—if it became known to you that the membership was hostile to the proposal and it's a complete waste of time to advance it, would you have gone to a membership vote to get it sorted?

**MATTHEW McGRATH:** Ultimately, it would go to a membership vote under this proposal. But I can understand the sensitivity of where the board and the exec were on this. I thought the forums were a very clever way of doing it at the start. They picked up pretty quickly that it was fairly hostile, but that's a small number of members that were in attendance as opposed to the vast majority of the 12,000. There was probably about 150. They probably picked up the tone. But I think stopping after the second forum was an error. That's exacerbated these problems going forward. I would've liked to have seen a panel of pro and against, and members being able to listen to that and then maybe do a sensitivity vote online and just get a bit of a feel of 10 to 20 per cent of the group. I think that would've been a quicker, cleverer, simpler way of doing it, and then go forward after that.

**The Hon. MARK LATHAM:** Do you know any members who support the sale?

**MATTHEW McGRATH:** Not yet, no.

**The Hon. MARK LATHAM:** Mr Finemore?

**RON FINEMORE:** I haven't been talking openly to people about my opinion on the subject or asking people for their opinion. I felt that, by the time it got to that, people would make up their minds. For me, there would need to be a lot more information available before that decision could be made.

**The Hon. BOB NANVA:** Mr McGrath, I put a proposition to you. It's not the role of a commercial organisation like the ATC to resolve the Government's housing problems, is it?

**MATTHEW McGRATH:** No.

**The Hon. BOB NANVA:** And it's not the job of governments to provide infrastructure to commercial organisations like the ATC to provide a private windfall gain for a development?

**MATTHEW McGRATH:** No—well, other than Randwick being on Crown land. But I agree with you, yes.

**The Hon. BOB NANVA:** Would you agree then that, in this context that we are in, the best thing is for a proposal that provides a mutually beneficial outcome to government and the ATC?

**MATTHEW McGRATH:** Agree.

**The Hon. BOB NANVA:** Mr Finemore, coming back to Mr Fang's line of questioning, if a business was singularly deriving an income from a revenue source that is under significant regulatory threat, it wouldn't be remarkable, would it, for a business to explore alternative revenue streams, including looking at restructuring its asset base, if it would provide for long-term financial security of the business in totality? It wouldn't be remarkable to at least look at restructuring the asset base?

**RON FINEMORE:** Well, it would be, because the business mightn't be in place if you take away one of the core assets that has that industry participating. In a business situation the core things that you've got to have no matter what—that's what this would be taking away: one of those. You'd have to find another way, in my opinion.

**The CHAIR:** Mr Finemore, having formerly been the chair of the AJC, looking on the STC, Rosehill would have been seen as the premier asset of that organisation, wouldn't it?

**RON FINEMORE:** As I said, there was concern by the members and the directors of the STC that when the merger took place, Canterbury would be sold. One of the undertakings that was given was that it wouldn't even be considered for 10 years, but there was never any discussion or thought. I don't think anybody dreamed that the consideration would be to sell Rosehill.

**The Hon. DAMIEN TUDEHOPE:** In the course of your time as chairs, did you ever consider the brickpit at Olympic Park as an appropriate site to have a racecourse?

**MATTHEW McGRATH:** It never came up.

**The Hon. DAMIEN TUDEHOPE:** Have you ever looked at that site?

**MATTHEW McGRATH:** No.

**The Hon. DAMIEN TUDEHOPE:** In the sense that this has been the subject of discussion, what would be your view in relation to a racecourse at the brickpit?

**MATTHEW McGRATH:** I don't know the site well enough, but it never came up as an option.

**The Hon. DAMIEN TUDEHOPE:** Mr Finemore, have you ever examined that site?

**RON FINEMORE:** Through a business situation, I was trying to do a development in that part of Sydney at the same time as the Olympic Games was being talked about—the facilities for it. We ended up with a restriction caused by a green frog, and that same green frog was at the brickpit that stopped some of the development taking place in front the Homebush Olympic facilities. That's all my involvement. It wouldn't have got very far because I would've said that the environmentalists will hit us on the head because of my personal experience that I had working through all that.

**The Hon. DAMIEN TUDEHOPE:** In terms of the diversification policy which Mr Nanva has suggested to you, would the acquisition of a site at the brickpit represent diversification, in your view?

**MATTHEW McGRATH:** If that's put up to replace Rosehill, no, I don't see how that would work.

**The CHAIR:** To that point as well, Racing NSW has said that there needs to be another group-one racetrack identified in Sydney. From your experience, could Warwick Farm be upgraded to a group-one racetrack?

**MATTHEW McGRATH:** We might differ here. The work that we did to create almost the centre of excellence at Warwick Farm allowed that to occur. The way we did that was I took an approach that was coming from the inside out, is a good way of putting it. That was doing the training tracks, because they hadn't been done for quite some time, creating the A grass, which hadn't been done for a couple of decades, and then doing the polytrack, which was a brand-new facility. Then we would move out onto the facility, because, as Mr Latham has correctly said, that facility needs work—there's no question about that. We did do some work.

In February 2022 we did make an announcement, which was all backed—all funded—to pull up the track and start again, which was a \$6 million project. It would probably be about 10 or 12 today. That was going to be done jointly with Racing NSW. That was in the media. I know they had some issues in mid-2023—local council kinds of issues. We were then going to supplement that money by redoing all the public and member facilities. I do believe that Warwick Farm could serve that purpose if it needed to, even to have a third track, which would allow us to take group one races back to Western Sydney, which I was a big advocate for. We spent a lot of money at Warwick Farm. It maybe doesn't look like we did, but we spent a lot of money at Warwick Farm.

**The CHAIR:** Just not on the fence, as we heard earlier.

**MATTHEW McGRATH:** The fence was a topic of debate in regard to the agreement with Inglis at that time.

**The CHAIR:** Mr Finemore, your perspectives in terms of Warwick Farm?

**RON FINEMORE:** My opinion is different in that in any business, you have to provide for maintenance as well. One of the things in racing is that when the tracks have to be maintained—that's progressively over the years—you need a long period of time to upgrade racetracks. I think Mr McGrath said six months or longer.

**MATTHEW McGRATH:** Twelve months.

**RON FINEMORE:** And if the weather conditions don't go with it, you need longer. I see the need for the three racetracks so that when the maintenance needs to be done, you can operate your core business in that situation. It may not need as much money to be spent, but it needs money spent on it. You need to continue with Warwick Farm and it wouldn't be able to replace, in my opinion—and it's only my opinion—it wouldn't be able to replace Rosehill.

**MATTHEW McGRATH:** We put in a process that Warwick Farm would be done first, and Mr Finemore is spot on that it would take six to 12 months. Warwick Farm would be done first. Once that was up and running, Rosehill would be done, and then Randwick was going to be done. I'm talking about the course proper. That was all in process and, as I said, it was announced in February 2022 in the media and, as far as I was aware, we were going to move forward with it.

**The CHAIR:** Thank you, Mr McGrath, and thank you, Mr Finemore, for your time today. Unfortunately, our time has expired, but I do appreciate you both coming today. I'm not sure if you took any questions on notice. I don't think you did, but if I'm mistaken the secretariat will be in touch with you. Thank you for your evidence today.

**(The witnesses withdrew.)**

**Mr JAMES CULLEN**, Chief of Staff, Office of the Hon. Chris Minns, MP, sworn and examined

**The CHAIR:** Mr Cullen, would you like to make a short opening statement to the Committee?

**JAMES CULLEN:** That's fine.

**The CHAIR:** When did you first become aware of the proposal to develop Rosehill racecourse?

**JAMES CULLEN:** I first became aware that the ATC were considering bringing a formal proposal, if you like, to the Government initially in a short conversation Steve McMahon had with me on 26 October, to my recollection, and then obviously at a meeting with the Premier on 30 October 2023.

**The CHAIR:** The 26th was when you first became aware from Mr McMahon. How did he phrase that at the time?

**JAMES CULLEN:** It was a very brief conversation and the purpose of the call from Mr McMahon's perspective was to request a meeting. 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.

**The CHAIR:** Following that you identified a time in the Premier's diary for Mr McMahon to meet with the Premier?

**JAMES CULLEN:** For 30 October, that's correct, yes.

**The CHAIR:** In terms of that, did you speak to the Premier before establishing that meeting, or did you just slot that into the diary straightaway?

**JAMES CULLEN:** I don't recall. It wouldn't have surprised me if I just slotted it in the diary. I think obviously context is important here, Chair. The Government had on the record, both in opposition and in government, a long-stated objective to maximise opportunities when it comes to housing density and housing particularly linked with public transport, and specifically the metro west, as flagged by the Government when it announced the metro west review in April 2023. Unsurprisingly, the Government was very interested in proposals that would have the benefit of bringing online additional housing for Sydney. Noting the significance of a proposal in that order, yes, I put a meeting in the diary for 30 October.

**The CHAIR:** Mr Cullen, were you present at that meeting as well?

**JAMES CULLEN:** I was.

**The CHAIR:** Was it just you, the Premier and Mr McMahon at that meeting?

**JAMES CULLEN:** It was.

**The CHAIR:** Prior to that meeting did you seek any advice from any bureaucrats with respect to the unsolicited proposals process or the like?

**JAMES CULLEN:** I think a little bit of context would be important here too, Chair. The unsolicited proposal process obviously commenced further down the track. I think you've had evidence before you about how that process was kicked off, including evidence from officials in the Premier's Department and the Cabinet Office about pre-lodgement meetings that can occur. No-one was talking about an unsolicited proposal around 26 October or 30 October. That just wasn't language which was being used. Obviously, that came later on when advice was sought by the Cabinet Office and further engagements at that point happened with the ATC. What was clear in the meeting of 30 October was ATC were considering basically bringing a formal proposal to Government that included redevelopment of the Rosehill racecourse.

**The CHAIR:** Following that meeting that you had with Mr McMahon, what actions did you take?

**JAMES CULLEN:** I basically quickly handed off to Will Murphy, who was then the acting secretary of the Cabinet Office. I asked him if he was the appropriate contact to be able to deal with ATC from that point on. He came back to me—it was either on the spot or pretty quickly—to indicate that he was, and then I basically gave him Steve McMahon's contact details. My understanding is they obviously conversed after that.

**The Hon. WES FANG:** Mr Cullen, were you aware prior to your conversation with Mr McMahon on 26 October that the Premier and he were friends?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** You were aware?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** In that context, then, did the Premier indicate to you prior to that or around the time of that phone call that he had had any conversation prior to that with Mr McMahon about this proposal?

**JAMES CULLEN:** No.

**The Hon. WES FANG:** So the first you became aware of it was when Mr McMahon called you seeking a meeting?

**JAMES CULLEN:** That's correct.

**The Hon. WES FANG:** The Premier didn't say, "You're going to get a call from somebody about this; just slot it in my diary"? The Premier didn't raise that at all?

**JAMES CULLEN:** No.

**The Hon. WES FANG:** So you were aware that they were friends. You then get a phone call from him. Did he say in that phone call, "Hey, it's Steve. I want to meet up with Chris. We're old mates. By the way, I've got this conversation I want to have about this proposal."? Was it that sort of conversation, or was it "Mr Cullen, I want to meet with the Premier"?

**JAMES CULLEN:** It was closer to the latter. Again, it was perfunctory. He made it clear that there was consideration at the ATC's end to bring a proposal to government and basically wanted to have a meeting with the Premier to discuss that.

**The Hon. WES FANG:** So it was more along the formal route than a friendly route—is that how you would say that conversation went?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** In that case, is it normal that somebody who makes a formal request to meet with the Premier gets to meet with the Premier within four days?

**JAMES CULLEN:** It's not unusual.

**The Hon. WES FANG:** How many times—

**The Hon. BOB NANVA:** Point of order—

**JAMES CULLEN:** If I could just finish. 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, Mr Wang—Mr Fang, sorry.

**The Hon. WES FANG:** You're going to make a reel somewhere, champion, now.

**JAMES CULLEN:** Sorry, Mr Fang. I've been talking to Steve Kamper to too long. Apologies for that.

**The Hon. WES FANG:** You want to avoid doing that.

**JAMES CULLEN:** Yes, sorry about 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.

**The Hon. WES FANG:** Do you typically keep an eye over the Premier's disclosures?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** When the Premier files his meeting disclosures, do you usually take care of those? Does the Premier do them directly?

**JAMES CULLEN:** I would have a role in overseeing that. Basically, in line with the record keeping requirements of the Government, including the diary disclosure process—again, which we inherited from the former Government—we comply in the same way.

**The Hon. WES FANG:** So you've admitted to me that you knew prior to that phone call on 26 October that he and the Premier were friends. You were aware when you took that phone call that they were friends. Why did you list it as a "meet and greet", given that you knew that they already knew each other?

**JAMES CULLEN:** Again, my view is we fully complied with the record keeping requirements, including diary disclosures. A summary in terms of the purpose of the meeting is fairly standard, including the sort of high-level summary that former members of the Coalition Government also provided as well.

**The Hon. WES FANG:** Putting that aside, your Government came into power saying that they were going to have greater transparency and accountability. You've listed this meeting as a "meet and greet", where the Premier met with a friend to discuss a potentially \$5 billion-plus housing proposal and an adjustment to the metro station. You've listed it as a "meet and greet". Do you believe that you have honoured the commitment the Premier made before coming into government, which is greater accountability, by listing that meeting as a "meet and greet"?

**The Hon. BOB NANVA:** Point of order: Mr Fang is asking the witness an opinion, which I would suggest is not in order in accordance with paragraph 10 of the procedural fairness resolution.

**The CHAIR:** I think Mr Fang can word it in a way that would be in order. I ask him to re-word it.

**The Hon. WES FANG:** Do you believe that the Premier has listed that meeting appropriately, given that he was friends with Mr McMahon, given that a major \$5 billion-plus proposal was discussed and it certainly was not simply a meet and greet?

**JAMES CULLEN:** Mr Fang, I'm very comfortable with the record-keeping, including in this instance as well, absolutely.

**The Hon. WES FANG:** How many other times—

**JAMES CULLEN:** Can I just make a point further to that: We're talking about a meeting that occurred on 30 October. The reason why the Committee is talking about that is because of the record-keeping requirements and the fact that the Premier, Premier's office, disclosed the meeting on 30 October.

**The Hon. WES FANG:** No, Mr Cullen. Had the proposal not gone ahead, we would never have been aware that this meet and greet was actually to discuss a \$5 billion-plus housing proposal for Rosehill because it was listed as a meet and greet. I contend that what you're saying is incorrect. I'm asking how many other times have simple meet and greets discussed major infrastructure projects such as this that haven't been fully disclosed in the Premier's meeting logs?

**The Hon. BOB NANVA:** Point of order: That question is not—

**The Hon. WES FANG:** It is entirely in order, Mr Nanva. Please explain to me how you believe it's out of order.

**The Hon. BOB NANVA:** It's not relevant to the terms of reference of this inquiry, under the procedural fairness resolution.

**The Hon. WES FANG:** It is absolutely within the terms of reference.

**The CHAIR:** With respect, how this meeting is characterised and whether meetings would similarly be characterised I think is a fair question for the witness to answer within the terms of reference.

**JAMES CULLEN:** Mr Fang, I'm happy to take that on notice, in terms of other meetings. I would just make the general point—and, again, Mr Draper has given evidence regarding these sorts of pre-lodgement meetings—there is nothing untoward with stakeholders seeking out preliminary views from government before they then go and undertake the work that often is involved with the more formal unsolicited proposal process.

**The Hon. WES FANG:** I don't believe that is for you to determine, Mr Cullen, but I'll pass over.

**The Hon. MARK LATHAM:** Mr Cullen, just on this matter, given that no-one in politics lists meet and greet with someone they've known for 20 years, why wasn't it listed as a meeting with Steve McMahon to discuss the sale of Rosehill?

**JAMES CULLEN:** I refer you to the evidence I've already provided.

**The Hon. MARK LATHAM:** I'm asking why it wasn't. You haven't answered that question as to why it wasn't listed for what it was: an honest assessment that it was a meeting with Steve McMahon to discuss the sale of Rosehill.

**JAMES CULLEN:** We fully complied with the record-keeping requirements, including the diary disclosure obligations. I've already given that evidence and I'm comfortable with it.

**The Hon. MARK LATHAM:** In the document that was prepared and given to the Cabinet Office, mention was made of ICAC's—

**JAMES CULLEN:** Mr Latham, which document are you referring to?

**The Hon. MARK LATHAM:** ICAC's guidelines for direct negotiations and direct dealings. At page 15 it states, "As a general rule, corrupt or unethical officials try to avoid making records that could be used to expose their conduct." Are you aware of that ICAC guideline?

**JAMES CULLEN:** I've seen that you've referred to that before and that guideline has basically been incorporated in the New South Wales Government's USP guidelines as well. Yes, I'm aware of that.

**The Hon. MARK LATHAM:** Under that guideline, why wouldn't you honestly disclose that the meeting on 30 October was with Steve McMahon for the sale of Rosehill?

**JAMES CULLEN:** I'd refer you to the evidence I've already provided.

**The Hon. MARK LATHAM:** Did the Premier approve and tick off that listing, the meet and greet, with an ATC—

**JAMES CULLEN:** It followed the normal process—again as evidence I've already given—that the office undertakes when it comes to preparing and submitting a diary disclosure over the quarter.

**The Hon. MARK LATHAM:** But that would obviously involve the approval of the Premier. He must have some role—

**JAMES CULLEN:** We comply with the process as outlined.

**The Hon. MARK LATHAM:** Which involves the Premier.

**JAMES CULLEN:** I refer you to the relevant Premier's memo.

**The Hon. MARK LATHAM:** Can you help the Committee here with the conflicting evidence about the nature of the meeting on 30 October where Mr McMahon told us that the outcome was that the Premier said that the Cabinet Office would come back to the ATC with its suggestion on the most appropriate process for selling Rosehill but, in answer to a supplementary question at budget estimates asked on the same topic, the Premier said that, no, that wasn't the case—he was advised no.

**JAMES CULLEN:** I don't have that second document you're referring to. I don't know if you're paraphrasing it or if you want to give me a copy of it, but I don't see anything inconsistent there at all.

**The Hon. MARK LATHAM:** The Premier was asked, "Did you tell Mr McMahon on 30 October that you would get the Cabinet Office to come up with a process for selling Rosehill?" The Premier answered, "I am advised no".

**JAMES CULLEN:** I think that particular question, which sounds like a question you've put on notice—

**The Hon. MARK LATHAM:** Yes.

**JAMES CULLEN:** And I think that's your characterisation of it and obviously—

**The Hon. MARK LATHAM:** No, it's not a characterisation of anything. It's a question.

**The Hon. BOB NANVA:** Point of order—

**The Hon. MARK LATHAM:** Did the Premier tell Mr McMahon on 30 October—

**The CHAIR:** Mr Latham and Mr Cullen, a point of order has been raised by Mr Nanva.

**The Hon. BOB NANVA:** Chair, under the procedural fairness resolution, with respect to courtesy to the witness, Mr Cullen ought to be afforded the opportunity to complete his answer before being redirected or being asked a new question.

**The Hon. WES FANG:** He's a big boy, Bob. Come on. He can handle himself.

**The CHAIR:** I uphold the point of order. Mr Latham, if you can put the question to Mr Cullen and then Mr Cullen can answer.

**The Hon. MARK LATHAM:** Mr Cullen was disputing the nature of the question. The Premier was asked, "Did you tell Mr McMahon on 30 October that you would get the Cabinet Office to come up with a process for selling Rosehill?", to which the Premier replied, "I am advised no." Presumably he advised himself of what he said and the answer was no. In evidence to this Committee on the same point, Mr McMahon has given sworn evidence that at the end of the meeting the Premier said he would get the Cabinet Office to provide advice on how to proceed with the process for the sale of Rosehill. So who's correct in their recollection, the Premier or Mr McMahon?



**JAMES CULLEN:** They are not inconsistent, those two you've put. With the question on notice, you've put a particular configuration of what you said is the outcome of the meeting. Obviously, the Premier's response to that is no. Mr McMahon is talking about what he said was the outcome from the meeting, which is his view about the outcome of the meeting. I've already given evidence about how Mr McMahon was basically handed off to the Cabinet Office by me after the meeting. So there is no inconsistency there, Mr Latham.

**The Hon. MARK LATHAM:** You're not giving honest evidence here, are you, Mr Cullen?

**The Hon. BOB NANVA:** Point of order—

**The Hon. MARK LATHAM:** That can't be an honest answer to a clear contradiction placed before this Committee.

**The CHAIR:** Mr Latham, there's a point of order from Mr Nanva.

**The Hon. BOB NANVA:** It's not courteous to the witness. It's an adverse reflection on the witness.

**The Hon. WES FANG:** I'd say it's an accurate reflection.

**The Hon. MARK LATHAM:** My word it is! He's not giving honest evidence.

**The Hon. PETER PRIMROSE:** Haranguing witnesses is not part of our provision.

**The CHAIR:** I will rule on it. Mr Latham, you're entitled to ask a question as to whether their evidence is correct or not, or honest, but making an imputation on the witness would be outside the procedural fairness resolution.

**The Hon. MARK LATHAM:** Mr Cullen, you're under oath. Will you reconsider your answer?

**JAMES CULLEN:** No. I absolutely stand by it. That question that you provided is your summary of the meeting and meeting outcome, to which the Premier has said no. Then you've referred to evidence Mr McMahon has given. So no. Obviously that preamble in your question is absolutely incorrect.

**The Hon. DAMIEN TUDEHOPE:** What was your take on what the outcome of the meeting was?

**JAMES CULLEN:** Mr Tudehope, I've already given evidence to that effect.

**The Hon. DAMIEN TUDEHOPE:** Tell us in your words. What was the outcome of the meeting?

**JAMES CULLEN:** That I would go away and talk to the Cabinet Office, obviously in this case Will Murphy, who was the acting secretary, and seek his advice about what he and someone else the best contact point to be able to engage with the ATC, given that they were going through a process to put a formal proposal to government. Then Mr Murphy obviously confirmed that yes, he was. He then got in contact with Steve McMahon after I gave him Steve McMahon's contact details.

**The Hon. MARK LATHAM:** What are you answering then? Did the Premier tell Mr McMahon at that meeting that he'd get the Cabinet Office to come up with a process for selling Rosehill, which is exactly what you went and did?

**JAMES CULLEN:** Mr Latham, the Premier has said no. I completely reject the way you've configured that meeting—

**The Hon. MARK LATHAM:** I haven't configured anything.

**JAMES CULLEN:** —about somehow the Government has concocted a process to support the selling off of Rosehill. The only person who's talking about the selling off of Rosehill is you.

**The Hon. MARK LATHAM:** Chair, I'm asking a question here that's consistently—

**JAMES CULLEN:** Again, I absolutely reject the preamble of your question.

**The Hon. MARK LATHAM:** Point of order: The witness is not answering the question directly. He's rejecting something that wasn't said. He has an obligation under the Evidence Act, subject to severe penalty, to answer the question directly. Did the Premier, at the meeting on 30 October, tell Mr McMahon he'd get the Cabinet Office—

**The Hon. BOB NANVA:** To the point of order: Mr Cullen has answered the same question three or four times over. You cannot keep asking the same question and expect a different response. He has answered the question truthfully to the best of his recollection. It might assist the witness if the document were tabled.

**The Hon. MARK LATHAM:** Chair, he hasn't.

**The CHAIR:** I think we are at a debating point at the moment. I will allow Mr Latham to put the question to Mr Cullen—it is a lawful question—and Mr Cullen can answer it as he sees fit.

**The Hon. MARK LATHAM:** It's a simple yes or no. Did the Premier, at the meeting on 30 October, tell Mr McMahon he'd get the Cabinet Office to come up with a process for selling Rosehill?

**JAMES CULLEN:** And what was the Premier's answer to your question when you asked him?

**The Hon. MARK LATHAM:** That's not what I'm asking you, Mr Cullen.

**JAMES CULLEN:** You said he said no. The answer is no.

**The Hon. MARK LATHAM:** Your answer is no?

**JAMES CULLEN:** Yes. The Premier's answer is the right one, is correct: no.

**The Hon. DAMIEN TUDEHOPE:** But it's contrary to exactly what you've told us was the conclusion of the meeting.

**The Hon. MARK LATHAM:** So why did you go and get the advice from the Cabinet Office?

**JAMES CULLEN:** No—

**The Hon. BOB NANVA:** It's not, Damien.

**The CHAIR:** One question at a time. The question is from Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Is that contrary to what you have just told us?

**JAMES CULLEN:** Mr Tudehope, with respect, I'm listening to the question and Mr Latham is reading out a question that he's put on notice already to the Premier and that the Premier has responded to. It is Mr Latham's summation of that meeting and meeting outcome. It is not the Government's or the Premier's summation, and it's certainly not mine. So I do reject that, and that is inconsistent with the question and answer given by Mr McMahon.

**The Hon. DAMIEN TUDEHOPE:** Can I just clarify with you, Mr Cullen—

**JAMES CULLEN:** I've got every right to put that.

**The Hon. DAMIEN TUDEHOPE:** You've told us today that, at the conclusion of the meeting, you were told to go away and prepare a process for the purposes of progressing the proposal. You've told us that, haven't you?

**JAMES CULLEN:** That's different to the question Mr Latham just put, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** No, have you told us that?

**JAMES CULLEN:** It's a different question now.

**The Hon. DAMIEN TUDEHOPE:** Have you told us that?

**JAMES CULLEN:** Can you repeat the question, please?

**The Hon. DAMIEN TUDEHOPE:** You've told us that, at the outcome of the meeting, Mr McMahon and you were told to go away and consult with the Cabinet Office for the purposes of establishing the best way of progressing the proposal.

**JAMES CULLEN:** Yes.

**The Hon. DAMIEN TUDEHOPE:** This is the question you were asked—

**JAMES CULLEN:** By who, Mr Tudehope?

**The Hon. DAMIEN TUDEHOPE:** Sorry, not that you were asked—that the Premier was asked in a supplementary question. Don't characterise this as Mr Latham's interpretation. Having heard what you have told us, did you tell Mr McMahon on 30 October that you would get the Cabinet Office to come up with a process for selling Rosehill? Bearing in mind what you have just told us was the conclusion, was that the conclusion you agree with?

**JAMES CULLEN:** Mr Tudehope and Mr Latham, the language of selling Rosehill is not one I accept. I have already given evidence that, following the meeting with Mr McMahon, I undertook to basically hand off to Mr Murphy, and that would then follow a process involving ATC formally putting to government a proposal which included the redevelopment of Rosehill racecourse. I have already given that evidence and confirmed that.

**The Hon. DAMIEN TUDEHOPE:** But would you agree with me that that answer is misleading?

**JAMES CULLEN:** Mr Tudehope, I don't have to agree with the preamble in your question. That's the objection I've got with that, and with what Mr Latham put as well.

**The Hon. WES FANG:** You seem quite agitated, Mr Cullen.

**The Hon. MARK LATHAM:** Point of order: The witness is rejecting the language of selling Rosehill when he has previously said that the meeting was about selling Rosehill. We should deal with this witness for misleading and not being honest and direct in his answers.

**The Hon. PETER PRIMROSE:** These are matters that should be debated in a deliberative meeting and not by haranguing a witness.

**The Hon. MARK LATHAM:** These are important matters, when a witness comes here under oath to mislead.

**The Hon. PETER PRIMROSE:** This is haranguing a witness, and it is the Chair's responsibility to shut it down.

**The CHAIR:** Let us ask questions of the witness and let us have answers from the witness.

**The Hon. MARK LATHAM:** I've got one more question. Why did you go and contact the Cabinet Office out of the meeting on 30 October?

**JAMES CULLEN:** At the meeting of 30 October, 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.

**The Hon. MARK LATHAM:** And the Premier agreed with that course of action?

**JAMES CULLEN:** Yes.

**The Hon. DAMIEN TUDEHOPE:** How long have you known Mr McMahon, Mr Cullen?

**JAMES CULLEN:** Mr Tudehope, obviously it's a matter of record that Mr McMahon is a member of the Labor Party. I've probably encountered him a few times over the last couple of years in various forms.

**The Hon. DAMIEN TUDEHOPE:** Would you consider him a friend?

**JAMES CULLEN:** An acquaintance. We don't hang out socially.

**The Hon. DAMIEN TUDEHOPE:** So you haven't been to any social events that he has been at?

**JAMES CULLEN:** Not that I recall.

**The Hon. DAMIEN TUDEHOPE:** When he rings you up with this proposal and had a discussion with you in relation to the proposal, you knew what he was coming to see you about, did you not?

**JAMES CULLEN:** Again, it was a brief conversation to line up the meeting which followed on the thirtieth, but he talked about the ATC entering into a process to bring, if you like, a formal proposal that included the redevelopment of Rosehill racecourse.

**The Hon. DAMIEN TUDEHOPE:** So you knew that?

**JAMES CULLEN:** I obviously know Rosehill racecourse is a large racing track in Western Sydney, and that it is a significant proposal.

**The Hon. DAMIEN TUDEHOPE:** So you knew that that was the purpose of why he wanted to see the Premier?

**JAMES CULLEN:** That's right.

**The Hon. DAMIEN TUDEHOPE:** So you'd have to agree with me, would you not, that to put in the diary a "meet and greet" was not the purpose of the meeting, was it?

**JAMES CULLEN:** Mr Chair, I think we've gone over this in terms of the diary disclosure. I put evidence on record and I stand by it.

**The Hon. DAMIEN TUDEHOPE:** But you would agree with me that the purpose of the meeting was not a meet and greet, was it?

**JAMES CULLEN:** Mr Tudehope, you're questioning what was put in the diary disclosure for 30 October. I've told you. I completely stand by it. It is consistent, to be frank, with the kinds of returns and diary disclosures that you, in particular, and other members of the former Coalition put as well.

**The Hon. MARK LATHAM:** That doesn't make it right.

**JAMES CULLEN:** It is the convention that we followed.

**The Hon. DAMIEN TUDEHOPE:** I'm glad you've gone and looked at my diary disclosures, Mr Cullen. That's fine. But I would put to you that there is a significant difference in what you knew in your mind—you knew what the purpose of the meeting was—and what you entered into the diary. There's a significant difference between those two things, is there not?

**JAMES CULLEN:** I completely reject that. We've met the record-keeping requirements here, including the diary disclosure obligations that are outlined. You've asked questions of Ms Boyd, through the context of either estimates or this as well. Completely comfortable with what we've done.

**The Hon. DAMIEN TUDEHOPE:** There was no other person in the room, was there, during the course of this discussion?

**JAMES CULLEN:** The meeting on 30 October?

**The Hon. DAMIEN TUDEHOPE:** Besides you and the Premier and Mr McMahon?

**JAMES CULLEN:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** How long did the meeting last?

**JAMES CULLEN:** It was probably 15 minutes—no more than 15 minutes.

**The Hon. DAMIEN TUDEHOPE:** What level of detail was provided? Did Mr McMahon suggest to you the number of potential dwellings which could be the subject?

**JAMES CULLEN:** Not that I recall.

**The Hon. DAMIEN TUDEHOPE:** Not that you recall?

**JAMES CULLEN:** Yes. Not that I recall.

**The Hon. DAMIEN TUDEHOPE:** Did he suggest to you the potential value of the sale to the ATC?

**JAMES CULLEN:** Not that I recall.

**The Hon. DAMIEN TUDEHOPE:** What do you recall, that he said to you?

**JAMES CULLEN:** That ATC were, I suppose, going through the process, early stages, of considering putting a formal proposal to government that included the redevelopment of Rosehill racecourse, obviously linked to, in their mind, a station to be located at Rosehill as part of the metro west development. It was basically that. It wasn't much more detailed than that.

**The Hon. DAMIEN TUDEHOPE:** Was it along the lines of Mr McMahon saying, "If you can deliver a station at Rosehill, we would be in a position to consider the sale of Rosehill"? Is that the conversation that you had?

**JAMES CULLEN:** Again, Mr Chair, the language put by Mr Tudehope about selling Rosehill—that's not within the scope of the USP process or the MOU that was announced by the Government on 7 December. To be frank, that's why I've had a problem with these lines of questioning. But do you want to repeat the question again, in terms of the meeting, Mr Tudehope?

**The Hon. DAMIEN TUDEHOPE:** Did he put to you along the lines of, "If you are prepared to deliver a railway station to Rosehill, then we would be open to considering a redevelopment of the Rosehill racecourse"?

**JAMES CULLEN:** Probably not those words specifically but, yes, it was clear—

**The Hon. DAMIEN TUDEHOPE:** What words do you remember specifically?

**The Hon. BOB NANVA:** Point of order: The witness is answering the question. If we can just let him conclude.

**The CHAIR:** It is a little bit of to and fro, but I think it's within the realms of reasonableness at the moment.

**JAMES CULLEN:** It was absolutely—the context of the meeting was the Government was looking at its position when it comes to metro west and potentially locating additional stations in Western Sydney. So, yes, it was. It was clear the context was ATC was considering tabling a formal proposal with government about redeveloping Rosehill racecourse, linked to a station at Rosehill.

**The Hon. MARK LATHAM:** Did Mr McMahon give any background information, like he'd met with the planning secretary the day before, who'd advised that 40,000 dwellings would justify a metro?

**JAMES CULLEN:** Not that I recall, Mr Latham.

**The Hon. MARK LATHAM:** In Mr McMahon ending up in the Premier's diary, did you ask the question, "Steve, why is the ATC sending you and not the chair and the CEO"?

**JAMES CULLEN:** I didn't ask that question.

**The Hon. MARK LATHAM:** Was it obvious to you that Mr McMahon was being sent by the ATC because he was most likely to exercise influence over the Premier?

**JAMES CULLEN:** Again, I completely reject that characterisation—

**The Hon. MARK LATHAM:** No, it's a question.

**JAMES CULLEN:** —but it was clear that he was speaking as a senior representative of ATC and that he was faithfully relaying ATC were considering putting a formal proposal to government.

**The Hon. MARK LATHAM:** But you're aware of the ICAC guidelines on direct dealing that you shouldn't deal with people where there's an apprehended bias. It would've been better to go with the chair and the CEO of the ATC.

**JAMES CULLEN:** Mr Latham, we've covered this, about where this was, in terms of the USP process. I direct you to page 20 of the New South Wales Government's unsolicited proposal process guidelines, which specifically makes clear that there is nothing inappropriate with pre-lodgement meetings. They happen all the time. This idea that somehow there's a government mailbox which people spend millions of dollars doing up a USP and drop it in it and hope they get a result—that's just not how it works.

**The Hon. MARK LATHAM:** I didn't ask about that. I asked—

**JAMES CULLEN:** Of course stakeholders approach government to work out whether or not there's a level of interest. That's what occurred on 30 October. Obviously, the process played out from there.

**The Hon. MARK LATHAM:** With all due respect, I asked you about the ICAC guidelines on direct dealing, at page 17.

**JAMES CULLEN:** Mr Latham, I've responded that those guidelines are taken into account, in terms of New South Wales Government's unsolicited proposal guidelines.

**The Hon. MARK LATHAM:** At the meeting with the Premier, why did you allow the meeting to go ahead, when Mr McMahon and Mr Minns had worked together and ICAC warns that this familiarity bias—if staff members have previously worked with a counterparty, they may be favourably disposed to its interests. Wouldn't it have been better to meet with the chair and the CEO, where there was no such bias?

**JAMES CULLEN:** I think it was an entirely appropriate meeting, at which the ATC, through Mr McMahon, were relaying some of their thinking about what they wanted to bring to government. It was a preliminary conversation to get a sense of whether or not the Government had any interest. Mr McMahon was a senior representative of the ATC. I thought that was completely appropriate. The other thing, Mr Latham, is that the action that I took away from that was to quickly put him in contact with the Cabinet Office, which I did.

**The Hon. MARK LATHAM:** If Mr Galanos had rung you on 26 October and said, "We hear you've got a meeting on 30"—

**JAMES CULLEN:** Sorry, who is that?

**The Hon. MARK LATHAM:** Mr Galanos. If he had rung you on 26 October, would he have got a meeting on 30 October?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** Mr Cullen, you indicated that there are a number of steps in approving the Premier's disclosures. You accept that ultimately it is the Premier's responsibility to ensure that the disclosures are correct. Do you accept that?

**JAMES CULLEN:** Yes. In line with the Premier's memorandum, yes, we comply with that.

**The Hon. WES FANG:** Is it fair to say that the Premier has final sign-off on those disclosures?

**JAMES CULLEN:** We are totally consistent with the Premier's memorandum, yes.

**The Hon. WES FANG:** And that means the Premier is fully accountable to and aware of those disclosures when they're made?

**JAMES CULLEN:** Of course.

**The Hon. WES FANG:** And the Premier signed off on those disclosures?

**JAMES CULLEN:** I'll take that on notice, but the point I keep coming back to is that we complied fully with the Premier's memorandum.

**The Hon. WES FANG:** Regardless of whether he signed off or not, he is responsible?

**JAMES CULLEN:** Absolutely.

**Ms CATE FAEHRMANN:** What involvement did you or anyone else in the Premier's office have in relation to the development of the legislation to extend Russell Balding's term as chair?

**The Hon. BOB NANVA:** Point of order. I don't believe that question falls within the terms of reference of this inquiry, with respect to—

**Ms CATE FAEHRMANN:** To the point of order—

**The Hon. BOB NANVA:** I have not completed my point of order.

**The CHAIR:** Let Mr Nanva finish his point of order.

**The Hon. BOB NANVA:** I do not believe that question is in line with the terms of reference of this inquiry, with respect to the proposal to develop Rosehill racecourse. It doesn't even fall within "other related matters".

**Ms CATE FAEHRMANN:** To the point of order. It has been speculated in the media that, in fact, the two are linked. That is why I am asking the question.

**The CHAIR:** If you link it in the question, I'll allow it.

**Ms CATE FAEHRMANN:** The legislation for the extension of Russell Balding's term happened in November, which was roughly the same time as when the office was discussing the Rosehill racecourse development. What involvement did the Premier's office have with the legislation to extend the Racing NSW chair's term?

**JAMES CULLEN:** Ms Faehrmann, I probably need to be careful here. There would probably be a Cabinet-in-confidence aspect, I imagine, in terms of, obviously, legislation that would have gone to Cabinet and a process that followed. That was primarily the lead of Minister Harris and his office, in terms of bringing that forward, looking at options and providing advice. But if you want to go any further, I will need to take that bit on notice, because there is a Cabinet-in-confidence aspect.

**Ms CATE FAEHRMANN:** Did you have any discussions at the time in any of the meetings that you had about how this may be required? Did you speak to Peter V'landys about it, for example?

**JAMES CULLEN:** Sorry, Ms Faehrmann, can you repeat that? "Required", what does that mean?

**Ms CATE FAEHRMANN:** Did you speak to Peter V'landys about the legislation that he wanted to extend Russell Balding's term as chair?

**JAMES CULLEN:** No, I have never met or spoken with Mr V'landys.

**The CHAIR:** I have one last question. When you referred the matter on to Mr Murphy, what context did you give him at the time?

**JAMES CULLEN:** That, again, 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.

**The CHAIR:** Mr Murphy's evidence to the inquiry was that he didn't learn about that until 2 November, when he received an email from Mr McMahon, when he saw, effectively, a map. He came to the assumption that

it was for the redevelopment of Rosehill racecourse, and he didn't know prior to that. Can you comment on how he came to that view?

**JAMES CULLEN:** I can't. No, I wouldn't reflect on the evidence that Mr Murphy has given.

**The CHAIR:** But your view is that when you referred the matter to him, you told him exactly what the proposal was about?

**JAMES CULLEN:** The context was also pretty evident, and I probably would have mentioned it too, that the context here of course was metro west and the Government was considering its future, including additional stations. That was the context in which ATC was looking to formally approach government, and obviously Mr Murphy was already aware of that.

**The Hon. DAMIEN TUDEHOPE:** Mr Cullen, why did it take a summons to get you here today?

**JAMES CULLEN:** Mr Tudehope, I'd invite the Committee to table the letter that I provided in response to the first request to appear; obviously I referred the Committee to that the second time. I hold by the McMullan principle, basically—and I know you've got Legislative Council practice as well—which cautions against this being commonplace. It's my view that the Premier and Ministers, as decision-makers, are accountable to the Parliament and through Parliament's committees as well.

**The Hon. DAMIEN TUDEHOPE:** But having received a request from the Committee, notwithstanding that view, why wouldn't you have just taken the view that you should give the evidence that you have given today?

**JAMES CULLEN:** Again, I would really appreciate if the Committee could consider tabling my letter because, to be frank, I explain it and put a bit of detail in, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** But you'd be aware—

**JAMES CULLEN:** I would just point to the fact I'm here.

**The Hon. WES FANG:** Under summons, though.

**JAMES CULLEN:** Yes.

**The Hon. BOB NANVA:** Point of order: The witness has answered the question. He has asserted his legal right to not attend. He has documented to the Committee the reasons why.

**The Hon. DAMIEN TUDEHOPE:** It's not a legal right, mate.

**The Hon. WES FANG:** Yes, especially after we had to summons him.

**The Hon. BOB NANVA:** He has documented his reasons why very clearly and he has answered again, referring to those reasons.

**The Hon. DAMIEN TUDEHOPE:** It was disrespectful.

**The Hon. BOB NANVA:** I don't think there's anything more to gain, and I think we're now badgering the witness.

**The CHAIR:** I will uphold the point of order, in the sense that Mr Cullen has provided an answer. The Committee will certainly take into consideration your request to table your submission to the Committee, and that is fine, but I will let Mr Tudehope continue with his questioning.

**The Hon. DAMIEN TUDEHOPE:** Mr Cullen, you'd be aware that in the previous Government there were numerous occasions when either a chief of staff or staff members had been requested to attend these meetings?

**JAMES CULLEN:** I'm aware of that.

**The Hon. DAMIEN TUDEHOPE:** They didn't require a summons.

**JAMES CULLEN:** I still have the view that I think the McMullan principle is one that we should be holding to. In other jurisdictions it's extremely rare. It doesn't really happen at the Federal level. I think staffing is a really important vocation. We do all need to bear in mind the importance of preserving that. Ultimately, it's the Government, and Premiers and Ministers, that are accountable to the Parliament.

**The Hon. WES FANG:** Do you accept that Labor set the precedent, though, in the last term of Parliament?

**The Hon. BOB NANVA:** Point of order: We're now asking an opinion from Mr Cullen. I don't think that's in order.

**The Hon. WES FANG:** He's not a public servant. He's the chief of staff to the Premier.

**The Hon. BOB NANVA:** The same standards apply. Procedural fairness resolution 10 applies.

**The Hon. WES FANG:** I can ask the witness, though, whether precedent was set when Labor members continually summoned—

**The CHAIR:** Mr Fang, I invite you to rephrase the question for it to be in order.

**The Hon. WES FANG:** Do you accept that Labor members in the previous term of Parliament issued and received acceptance from numerous Coalition staff members to appear before Legislative Council committees?

**JAMES CULLEN:** I'm broadly aware of the history here. I point you to the letter. I received the invitation; I responded; I received a summons; I'm here.

**The Hon. MARK LATHAM:** Mr Cullen, can I take you to the announcement at Rosehill on 6 December that the USP and the sale was going to go ahead. How was that organised?

**JAMES CULLEN:** Do you mean as a media event or do—

**The Hon. MARK LATHAM:** Yes, that's what it was.

**JAMES CULLEN:** —you mean the media materials? Yes, there would have been engagement between the Premier's office, the Cabinet Office and the ATC. My recollection was the media event was at Rosehill so, yes, there would have been engagement involving those parties to put it together. Obviously 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. We would have gone through a process there.

**The Hon. MARK LATHAM:** And, again, Mr McMahon was the point man for the ATC?

**JAMES CULLEN:** Yes, we would have been talking to Mr McMahon about that.

**The Hon. MARK LATHAM:** Are you aware of the evidence of Katie Knight to this inquiry? She is from Investment NSW. She said it was outside the guidelines of USP to make this public announcement, that normally up to and beyond stage one it's kept confidential. Why was it made so public?

**JAMES CULLEN:** Mr Latham, I think you're, with the greatest of respect, cherrypicking some evidence. Other officials have put other evidence on the table about a proposal like this and the idea that somehow no-one would be saying anything publicly before the Government had considered stage one would be extremely unlikely. We live in the real world. We need to take account of that, but I'm aware of that evidence you are referring to.

**The Hon. MARK LATHAM:** You disagree with her conclusion?

**JAMES CULLEN:** I would point you to the evidence provided by other officials, including the Premier's Department and the Cabinet Office.

**The Hon. MARK LATHAM:** I'm asking about her, about Katie Knight.

**JAMES CULLEN:** Sure. I would just point to evidence of other officials.

**The Hon. MARK LATHAM:** Katie Knight has subsequently told this Committee in answers to supplementary questions that there have been five unsolicited proposals of land development involving a metro over the past 18 months and only one of them has been publicly announced. Why does this one stand out as requiring announcement? In the context of the announcement, it looked really good for Mr McMahon, didn't it, that he was getting things done?

**JAMES CULLEN:** On your first question, again, I refer you to the broader context in which the Government's operating here when it comes to linking housing density to public transport and wanting to maximise, in terms of that value-add, the public transport investment in the State and, in the context here, metro west. The Government couldn't have been any clearer or more transparent that it was interested in looking at additional stations along metro west linked to housing density. It couldn't have been any more clearer or public about that.

**The Hon. MARK LATHAM:** Why was this the one out of the five that was announced publicly?

**JAMES CULLEN:** The Government formed a view, based on the advice from the Cabinet Office, that that was appropriate, and then you saw the announcement on 6 or 7 December, which, basically on the advice of the Cabinet Office, we announced an MOU to begin the process of an unsolicited proposal.

**The Hon. MARK LATHAM:** Can you provide that advice to the Committee?



**JAMES CULLEN:** It would have been in consultation with the Cabinet Office.

**The Hon. MARK LATHAM:** Can you provide that advice?

**JAMES CULLEN:** It's probably legal advice so there might be a legal professional privilege issue, but I'm happy to take that on notice, Mr Latham.

**The Hon. MARK LATHAM:** Are you aware of Mr McMahon at the racetrack telling people that he's going to—

**JAMES CULLEN:** Sorry, at the racetrack? When?

**The Hon. MARK LATHAM:** The associates at the racetrack, telling them frequently that he's always going to get a job in the future because people know he can get a meeting so quickly with the Premier.

**The Hon. BOB NANVA:** Point of order—

**The CHAIR:** I'm very conscious of the time that Mr Cullen has been here.

**The Hon. MARK LATHAM:** He did him a big favour, didn't he?

**The CHAIR:** I will uphold the point of order, Mr Nanva.

**The Hon. WES FANG:** We will just summons him again.

**The Hon. DAMIEN TUDEHOPE:** Mr Cullen, when you wrote the letter to this Committee relying on the McMullan principle, did you have any consultation with the Premier before you wrote that letter?

**JAMES CULLEN:** No.

**The Hon. DAMIEN TUDEHOPE:** You didn't discuss it with him?

**JAMES CULLEN:** No.

**The Hon. DAMIEN TUDEHOPE:** Did you discuss with him your appearance here today?

**JAMES CULLEN:** He wished me well this morning.

**The Hon. DAMIEN TUDEHOPE:** Nothing else said in relation to the evidence you might give?

**JAMES CULLEN:** No.

**The Hon. BOB NANVA:** Mr Cullen, stripping away the personal characterisation of what this proposal is—whether it's a redevelopment, whether it's the sale, whether it's a privatisation. Stripping that away, going to 30 October, what is your take-out from that meeting and what did you do following the meeting—

**The Hon. DAMIEN TUDEHOPE:** He already told us that.

**The Hon. BOB NANVA:** —stripping away all the characterisation that has been placed on the substance of the proposal?

**The Hon. DAMIEN TUDEHOPE:** This is the evidence you've already given to me.

**JAMES CULLEN:** I think, Mr Nanva, as per the evidence I've given, it was clear the purpose of the meeting was ATC suggesting that they were putting together a formal proposal to bring to government, gauging basic interest and then working out the next step. Obviously, there would be questions tied up to that about what process formally they need to engage with government, which is when I formed the view that I needed to get some advice and basically hand off to the most appropriate official, which Mr Murphy then suggested would be him, and then he contacted the ATC. That was the process, Mr Nanva. It was clear ATC were bringing forward to government a proposal to redevelop Rosehill, and obviously that has morphed into where you've got the stage one outcome in March this year, which includes the redevelopment of Rosehill racecourse plus a whole lot of other features as well.

**The Hon. BOB NANVA:** Coming to Mr Latham's questions around, I suppose, probity, just generally, the unsolicited proposal process is a fairly structured process, is it not?

**JAMES CULLEN:** Absolutely, it is. I would refer the Committee to the New South Wales government unsolicited proposal guidelines. Importantly, page 20 is very important in terms of anticipating, and it being completely appropriate, that there are pre-lodgement conversations that often do occur between government and proponents, which makes sense because, from a proponent's perspective, often putting together and going through a full process, which is obviously underway in our case with this, you can be looking at spending a lot of money when it comes to consultants. So working out whether or not this is something that the Government is interested

in or not is completely in line with the process outlined in the New South Wales Government's unsolicited proposal process.

**The Hon. BOB NANVA:** So once a proposal becomes more developed, the USP process strips out Premiers, Ministers and staff away from the process. Is that correct?

**JAMES CULLEN:** Yes, that's right.

**The Hon. WES FANG:** Mr Cullen, you indicated that page 20 of the Government's guide indicates that pre-meetings in relation to USPs are entirely appropriate. Is that correct?

**JAMES CULLEN:** Yes. Can you let me go to that?

**The Hon. WES FANG:** Yes. Page 20?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** What does it say?

**JAMES CULLEN:** It says:

It is recognised that there may be numerous discussions at many levels between the proponent and Government stakeholders in order to ascertain Government needs and to better understand the business environment.

**The Hon. WES FANG:** So you acknowledge then that there were pre-meetings about this—

**JAMES CULLEN:** Well, I'm characterising the meeting of 30 October that way.

**The Hon. WES FANG:** Sorry, my point was going to be—and I think you already know now where I'm going to go, Mr Cullen—that you've had a pre-meeting in relation to the USP. Should the Premier's disclosure not have been listed as a pre-meeting to a USP, not a meet and greet? You've misled in your disclosures, is that not correct, Mr Cullen?

**JAMES CULLEN:** You're basically looking at what's occurred subsequently and trying to retrofit. It's a conspiracy in search of a theory, basically. It was not an unsolicited—

**The Hon. WES FANG:** Did you lodge that disclosure on the day?

**JAMES CULLEN:** With respect, Mr Chair—

**The CHAIR:** Order! Mr Cullen, answer the question, and that will conclude Mr Cullen's evidence.

**JAMES CULLEN:** Of course. It was not an unsolicited proposal on 30 October.

**The Hon. WES FANG:** It wasn't a meet and greet either, though, was it?

**The Hon. BOB NANVA:** We've traversed this.

**JAMES CULLEN:** We've canvassed that back and forth.

**The CHAIR:** We have well and truly impinged on this witness's time and gone quite a bit over.

**The Hon. WES FANG:** I think there's a lot more for this witness to answer, Chair.

**The Hon. BOB NANVA:** No, I don't think so.

**The Hon. WES FANG:** I might suggest that we might have to invite him back or summons him back.

**The CHAIR:** I think that Mr Cullen's evidence has been concluded. I note that we are significantly over time.

**The Hon. WES FANG:** And yet still no answers.

**The CHAIR:** Mr Cullen, thank you very much for your attendance here today. You have taken questions on notice. The secretariat will be in touch with you to seek answers for those. Thank you for your evidence today.

**(The witness withdrew.)**

**The Committee adjourned at 11:40.**