

QUEENSLAND RACING COMMISSION OF INQUIRY

AFFIDAVIT OF NICHOLAS JOHN LINDSAY

I, NICHOLAS JOHN LINDSAY, c/o Crown Law, State Law Building, 50 Ann Street, Brisbane in the State of Queensland, Senior Policy Officer (Economic Policy), Department of the Premier and Cabinet states on oath:

**Role**

1. I am currently a Senior Policy Officer (Economic Policy) in the Department of the Premier and Cabinet.
2. During the period 1 January 2007 to 30 April 2012 the roles that I fulfilled were:
  - (a) Policy Officer and Senior Policy Officer:
    - (i) Economic Policy (January 2007 –September 2008); and
    - (ii) Environment and Resources Policy (September 2008-September 2009); and
  - (b) From September 2009 onwards – Senior Policy Officer (Economic Policy).
3. Within the Policy Division of the department, there are a number of teams that are responsible for different portfolios. The portfolios are generally aligned with departmental structures. The Office of Racing was within the scope of my responsibilities from when I re-joined the Economic Policy team in September 2009.
4. As a senior policy officer, my responsibilities were to assist in advising the Premier on a range of portfolio matters, including the Queensland racing industry. My primary role was to liaise with departments on policies and prepare briefing notes for the Premier regarding Cabinet and Cabinet Budget Review Committee ('CBRC') submissions.
5. I reported to Justin Murphy, who in turn reported to the Executive Director. The Executive Director reported to the Associate Director-General, who reported to the Director-General.
6. I did not provide verbal or other direct briefings to the Premier or the Treasurer. Any direct briefings would have been provided by my supervisors.

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Signed: . . . . .  
Deponent



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Affidavit of Nicholas Lindsay

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CROWN SOLICITOR  
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**Contact with racing entities**


- 7. To the best of my recollection, I did not have any contact with officers or employees of the control bodies between January 2007 and April 2012. My contact was limited to interactions with staff of the Office of Racing and Queensland Treasury for the purpose of consultation on the Cabinet and CBRC submissions and the other matters addressed in this statement.

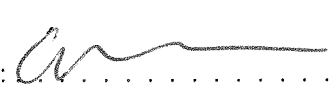
**Cabinet Submissions and Cabinet Budget Review Committee Submissions**

- 8. I understand that the statement of Justin Murphy sets out the process for Cabinet and CBRC submissions in detail. As such, I will only briefly outline the process for consultation on submissions and my role in that process.
- 9. As part of the consultation process, my team received drafts of proposed Cabinet and CBRC submissions, 'advance' copies of the submissions that are lodged with the Cabinet Secretariat and final submissions that are lodged with the Cabinet Secretariat. In all cases we would receive the final submission, but sometimes an advance copy would not be lodged or provided to us.
- 10. My team would provide comments on draft submissions and prepare a briefing note for the Premier in relation to final submissions. My responsibilities included providing comments to relevant departments and preparing these briefing notes. I would also generally participate in team discussions about submissions. The briefing note about the final submissions would be prepared by me or another member of my team.
- 11. If I took the lead on the consultation for a particular submission, I would draft the briefing note and provide it to Justin Murphy and he would provide it to the Executive Director for approval. The Associate Director-General and Director-General would also approve the briefing note prior to consideration by the Premier. Some changes may have been made to the briefing note through the approval process.
- 12. For convenience and ease of understanding, I address the various submissions I have been asked to comment on in chronological order.

**Cabinet Budget Review Committee Submission No 3756 for 26 November 2009**

- 13. I do not recall much involvement with CBRC Submission 3756 and I note that I am not listed as a consultee on page 34 of this submission. The submission was made at a time when I was new in the team and not familiar with the racing portfolio. However, I may have been involved as part of the team structure.

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14. I have located a bundle of emails received and sent by me in relation to this submission. Those documents are attached and marked 'NL-1'. The emails are self-explanatory and demonstrate my involvement in the consultation about this submission.
15. I have also been shown a copy of an email from Justin Murphy to Carol Perrett dated 26 October 2009 at 10:43am. The email records the comments that Justin made on the draft submission. Justin forwarded me a copy of that email, for my information, at 10:51am. A copy of the email Justin sent to me is attached to my statement and marked 'NL-2'.
16. In addition to the emails I have attached to my statement, I may have participated in discussions about the submission, but I do not remember details. Justin was the primary source of consultation for this submission.
17. I have also been shown a copy of the final briefing note prepared by Justin Murphy about this submission. A copy of the briefing note is attached and marked 'NL-3'. Although I do not recall having any involvement in the preparation of this briefing note, I believe it accurately sets out the department's position and my team's advice regarding the submission.

**Cabinet Submission No 7290, for 22 February 2010**


18. I, along with Justin Murphy and Shelley Francis, am listed as a consultee for the Department of the Premier and Cabinet on page 13 of Cabinet Submission 7290 and I recall being involved in the consultation process.
19. I have located a bundle of emails that were sent by or to me regarding this submission or the background to the submission. The emails are attached and marked 'NL-4'. The emails are self-explanatory and demonstrate my involvement in the consultation about this issue. In particular, they show that:
  - (a) I received some preliminary information regarding the amalgamation before receiving a copy of the draft submission.
  - (b) On 29 January 2010 I received a draft submission by email from Carol Perrett and responded with comments.
  - (c) On 31 January 2010 Carol Perrett confirmed that my comments would be addressed in the final submission, but not in time for the advance copy which would be lodged on 1 February.
  - (d) I consulted with Marilyn Ooi, from the department's Law & Justice Policy unit, regarding the submission and passed her comments on to Carol Perrett.



- (e) On 1 February 2010 I emailed Carol Perrett with queries regarding the drafting instructions and she responded on 3 February 2010 with a further explanation.
  - (f) On 3 February I received an updated version of the submission from Bree Linklater.
  - (g) On 5 February 2012, Carol Perrett responded to queries that Justin Murphy and I raised regarding the Country racing advisory bodies.
  - (h) On 9 February 2010, I emailed Nick Williams with our brief for the advance submission.
  - (i) On 12 February 2010 I received an updated version of the submission from Carol Perrett that she said addressed my earlier comments.
20. I prepared a briefing note about the advance submission dated 5 February 2010. The briefing note is self explanatory and sets out the department's position and my advice regarding the advance submission. A copy of that document is attached and marked 'NL-5'.
21. I also prepared a briefing note for the final submission. The briefing note is self explanatory and sets out the department's position and my advice to the Premier regarding the final submission. A copy of the briefing note is attached and marked 'NL-6'. The broad intent of the proposed reforms was supported by the department because amalgamation seemed like a plausible policy. However, we did not support the submission absolutely. My team had some concerns about the lack of industry consultation, as set out in paragraph 12.
22. I most likely discussed the submission with Justin Murphy and other members of my team in the preparation of the briefing note, but I was primarily responsible for the department's advice on this submission.

**Cabinet Submission No 7372, for 14 April 2010**

23. I, along with Justin Murphy and Shelley Francis, am listed as a consultee for the Department of the Premier and Cabinet on page 12 of Cabinet Submission 7372 and I recall being involved in the consultation process.
24. I have located a bundle of emails received and sent by me regarding this submission. The emails are attached and marked 'NL-7'. The emails are self-explanatory and demonstrate my involvement in the consultation about this submission. In particular, they show that:
- (a) In early March 2010, Justin Murphy, Carol Perrett and I exchanged emails regarding this submission and a draft letter to the Premier.
  - (b) I received a copy of the draft submission from Carol Perrett by email on 12 March 2010 and an updated version on 19 March 2010.

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- (c) I consulted with Marilyn Ooi, from the department's Law & Justice Policy unit, regarding the submission and passed her comments on to Carol Perrett.
- (d) On 22 March 2010 I raised a query with Carol Perrett regarding consultation and she responded on 29 March 2010. On 30 March 2010 she provided me an update about the issue.
25. I prepared a briefing note about the advance submission dated 29 March 2010. The briefing note is self explanatory and sets out the department's position and my advice regarding the advance submission. A copy of that document is attached and marked 'NL-8'.
26. I have been shown a briefing note about the final submission that lists Justin Murphy as action officer. It is possible that I drafted this briefing note and Justin signed it because I was absent from the office at the relevant time. In any event, I would have been involved in the preparation of the briefing note and associated discussions about the submission. The briefing note is self explanatory and sets out the department's position and my team's advice to the Premier. A copy of the briefing note is attached and marked 'NL-9'.
27. By the time of this submission, a policy decision had already been made by Cabinet, pursuant to decision 9206, to facilitate the amalgamation of the racing control bodies. As such, it was not appropriate for us to revisit, in detail, the issues raised in our earlier briefing note about submission 7290. However, we still reiterated in the briefing note our concerns about a lack of industry consultation.
28. Following the passage of the passing of the Bill in Parliament, the Governor requested a briefing about it before giving her assent. I have been shown a bundle of emails received and sent by me after the Bill was passed regarding the Governor's briefing. The emails are attached and marked 'NL-10'. The emails are self-explanatory.

**Cabinet Budget Review Committee Submission No 4210 for 7 July 2011**

29. I am listed as a consultee for the Department of the Premier and Cabinet on page 17 of CBRC Submission 4210 and I recall being involved in the consultation process.
30. I have located a bundle of emails received and sent by me regarding this submission. The emails are attached and marked 'JM-11'. The emails are self-explanatory and demonstrate my involvement in the consultation about this submission.
31. I have been shown a copy of a briefing note that I prepared regarding the final submission. The briefing note is self explanatory and sets out the department's position and my advice to

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the Premier. A copy of the briefing note is attached and marked 'NL-12'. I prepared Attachment A to the briefing note in consultation with Queensland Treasury.


32. I most likely discussed the submission with Justin Murphy and other members of my team in the preparation of the briefing note, but I was primarily responsible for the department's advice on this submission.

### **Matter to note or briefing on 30 January 2012**

33. I have some memory of the issues in this matter to note, but I do not recall many details about it. However, I have located a bundle of emails sent or received by me in relation to the Matter to Note. The emails are attached and marked 'NL-13'. The emails are self-explanatory and demonstrate my involvement in advising on the Matter to Note. In particular, they show that:
- (a) Justin Murphy forwarded a copy of the Matter to Note to me and David Hourigan on 25 January 2012 and noted that it was unusual to allocate \$22m by a Matter to Note.
  - (b) I emailed Justin Murphy on 27 January 2012 at 11:55am with dot point notes about the Matter to Note.
  - (c) Justin Murphy emailed David Hourigan with comments on the Matter to Note on 27 January 2012 at 2:34pm. I believe that the dot points in my email to Justin formed the basis of his email to my Executive Director and the department's advice.
  - (d) The comments were passed to Pina Corbone, who was part of the Cabinet Secretarial team.

### **Business Cases**

34. The Mackay business case was approved as part of CBRC decision 3255. Therefore, my team would have been aware of that business case when providing advice about this relevant CBRC submission.
35. A copy of the Mackay business case was also provided to me by email by Carol Perrett on 30 June 2011. Copies of the relevant emails are attached and marked 'NL-14'.
36. I reviewed the business case as part of my consultation on the CBRC submission. My view was that it was an inadequate business case. In my view, it provided insufficient justification for the proposed expenditure, although I agreed in principle with the notion of providing funding for essential public safety matters. I recall making some additional enquiries about the occupational health and safety component of the business cases but I cannot locate any documentation in that regard. I remember that I was particularly concerned about identifying

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how much of the proposed funding was attributable and necessary to address the safety issues raised in the business case.

37. I do not recall having any involvement with the other business cases. The analysis of the business cases was handled by Queensland Treasury, not the Department of the Premier and Cabinet.

### **Other relevant matters**

#### *QR case for change*

38. I have located a copy of an email sent from me to Justin Murphy about the QR Case for Change document dated 18 November 2009. A copy of that email is attached and marked 'NL-15'. The email attached a copy of comments on the Case for Change document. I cannot recall why I received a copy of this document but it may have been as part of the consultation on Cabinet Submission 7290.

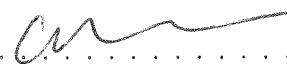
#### *Draft CBRC submission re flood remediation funding*

39. I have been shown an email dated 10 February 2011 from me to Carol Perrett providing comments on a draft CBRC submission. A copy of the email is attached and marked 'NL-16'. The email is self-explanatory and contains my team's preliminary comments on a draft submission about funding for flood remediation.
40. Other documents relevant to my involvement with this submission are attached and marked 'NL-17'. The documents are self-explanatory.
41. I believe that this draft submission may not have proceeded because the Treasurer instead approved an advance of funds from the Racing Industry Capital Development Scheme. I have formed this view on the basis of a letter shown to me from the Treasurer to the Minister for Agriculture, Food and Regional Economies dated 7 March 2011 approving the flood remediation and health and safety funding. A copy of that letter is attached and marked 'NL-18'. CBRC Decision Number 3255 of 7 July 2011 also endorsed the Treasurer's decision of 7 March 2011 to approve the allocation of the funds.

#### *Other correspondence and briefings*

42. As part of my role, I sometimes was required to review and respond to Ministerial correspondence to the Premier and deal with other matters regarding the racing industry. From my recollection, these matters were various and included the Albion Park litigation, the Magic Millions and the Gold Coast Greyhound facility. If I was the originating author of a

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letter or briefing note then my name or initial should be on the document. It is likely that any response was prepared in conjunction with the Office of Racing.

43. For example, I have been shown an email dated 8 March 2012 from Roger Wilesmith to me attaching a briefing note. A copy of the email is attached and marked 'NL-19'. I cannot recall this email specifically but it is likely the brief was provided to me to assist me in drafting another brief for my department.
44. Another example is a Director-General's briefing note dated 19 November 2009 that I have been shown. A copy of that document is attached and marked 'NL-20'. I do not recall details about this briefing note, but it appears to be in relation to the proposal submitted by Queensland racing about amalgamation of the racing control bodies. The briefing note is self explanatory and sets out my advice to the Director-General ahead of his meeting with Bob Bentley.

*Magic Millions CBRC submission*

45. I have been shown documents relating to a CBRC Submission in June 2010 dealing with funding for the Magic Millions. I was involved in the consultation for that process but I cannot recall details about it. Attached and marked 'NL-21' are documents that have been located relating to my involvement with this submission. They are self-explanatory and explain my involvement in this submission. I have no independent recollection of this matter.

*Albion Park litigation*

46. I was involved in monitoring the progress of litigation between Queensland Harness Racing and Bob Bentley. Attached and marked 'NL-22' are documents that have been located relating to my involvement with this matter. They are self-explanatory and explain my involvement. I have no independent recollection of this matter.

47. All of the facts and circumstances deposed to in this affidavit are within my own knowledge and belief, except for the facts and the circumstances deposed to from information only, and my means of knowledge and source of information appear on the face of this my affidavit.

Sworn by NICHOLAS JOHN LINDSAY on 2 September 2013 at Brisbane in the presence of:

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Deponent

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Solicitor/~~Barrister~~/Justice of the Peace/  
Commissioner for Declarations  
CATHERINE LOUISE MCLEMAN

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