



Comptroller and Auditor General

Special Report

Department of the Marine and Natural Resources

Sale of State Lands at Glen Ding
Co. Wicklow

December 1998

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ISBN 0-7076-6708-9

The report was prepared on the basis of information, documentation and explanations obtained from the parties referred to in the report.

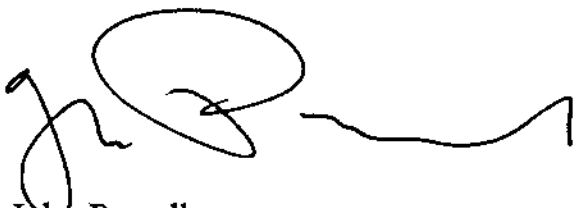
The draft report was sent to the Accounting Officer of the Department of the Marine and Natural Resources and his comments were requested. Where appropriate, these comments were incorporated in the final version of the report.

Special Report of the Comptroller and Auditor General

Sale of State Lands at Glen Ding, Co. Wicklow

I have, in accordance with the provisions of Section 9 of the Comptroller and Auditor General (Amendment) Act, 1993, carried out an examination into the sale of State lands at Glen Ding, Co. Wicklow.

I hereby submit my report of the above examination for presentation to Dáil Éireann pursuant to Section 11 of the said Act.

A handwritten signature in black ink, appearing to be 'John Purcell', with a large, stylized initial 'J' and a long, horizontal flourish extending to the right.

John Purcell
Comptroller and Auditor General

17 December 1998

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Sale of State Lands at Glen Ding, Co. Wicklow

1 Basis for Examination

- 1.1 In line with the standing orders of the Committee of Public Accounts I was requested in private communication to examine the sale by the former Department of Energy of lands at Glen Ding, Co. Wicklow in 1991. On 12 October 1998 I acceded to that request insofar as I agreed to examine the Departmental papers regarding events leading up to and germane to the sale and to report my findings. The examination was carried out under Section 9 of the Comptroller and Auditor General (Amendment) Act, 1993.
- 1.2 Before commencing the examination my officers met with officials of the Department of the Marine and Natural Resources who now hold the relevant files to outline the background to and the extent of the proposed examination. The officials assured us of their full co-operation (which was given) and made all the relevant files available. They also confirmed that the files presented were the full extent of papers in their possession.
- 1.3 Following the review of Departmental files, papers supplied to me by Mr. Dick Roche TD were examined.
- 1.4 The report is based on my examination of both sets of documentation. A draft of this report was sent to the Accounting Officer of the Department and comments were requested. Where appropriate, these comments have been incorporated into this report. The statements attributed in this report to third parties are based solely on the Department's notes.
- 1.5 The Departmental papers consisted of the following files:
 - *File no. EF61/21/89, Parts 1,2 and 3* - Blessington Forest, Glen Ding Wood
These files contain the papers relating directly to the sale.
 - *File no. B29/12/12* - Blessington Forest, Application for land to construct a silt pond - Roadstone Ltd.
This file relates to the sale in 1981 of 16 acres adjoining lands previously sold to Roadstone in 1972. The plot was required for the construction of a silt pond for that company's quarrying operations.
 - *File no. B29/12/17* - Blessington Forest, re Sale of Sand and Gravel site, Hudson Bros., Brittas.
File relates to an unsuccessful request by Hudson Bros. in 1987 to purchase sand and gravel deposits in the Blessington area.

- 1.6 The purpose of the examination was to establish from documentary evidence the facts and chronological order of events leading to the sale and to form an opinion as to whether proper procedures were followed and whether the disposal had been effected upon the most favourable terms reasonably obtainable.
- 1.7 The background and details of this sale have been in the public domain for some time. There has been sustained media interest and the sale has been the subject of several Dáil Questions. A chronology of events leading to the sale is included at Appendix A. Due to the public interest shown in this matter the names of all interested parties are given, though this is not the normal practice in my reports.

2 The Property

Glen Ding Wood forms part of the townland of Deerpark situated about 1.5km northwest of the town of Blessington, Co. Wicklow. The property which is under forestry consists of 72.9 hectares and was one of a number of sites retained by the former Department of Energy on the establishment of Coillte Teo. in 1989 because the property was believed to contain valuable deposits of sand and gravel. It is regarded as a high amenity area adjoining the public road between Blessington and Naas. It is frequented by the public and is visible from the town of Blessington.

3 Initial Interest

- 3.1 In July 1987 representations were made to the Minister of State for Forestry by the late Seán Walsh TD on behalf of Hudson Bros. Ltd., suppliers of building materials. The representations expressed the company's interest in purchasing or leasing lands with sand and gravel deposits in the ownership of the Department in the Blessington area. The Minister of State replied in October 1987 stating that the sand and gravel deposits were required for State afforestation purposes and as such were not available for sale. The reply also stated that even if the deposits were available for sale the property could only be offered for sale by public tender competition.
- 3.2 From September 1987 onwards, the disposal of surplus State property was being considered by all Government Departments on foot of a Government decision in July 1987 that a programme for the sale of surplus State properties should be devised and the receipts therefrom used to redeem the national debt. It was in this context that the Forest Service of the Department of Energy identified its lands at Glen Ding, Blessington for possible disposal.
- 3.3 Interest shown in the property had alerted the Department to its potential sale value particularly in the light of the sand and gravel deposits that it was believed the site contained. In addition to Hudson Bros. Ltd. the following expressions of interest were received:

- On 28 August 1987 Roadstone Dublin Ltd. wrote to the Department stating that they were anxious to purchase the Department's Deerpark lands if they were available for sale.
- An undated letter was received in late 1987 from a Michael Kavanagh, Sand and Gravel Contractor offering £50,000 for five acres of the property.
- The papers indicate that interest was also expressed by Tracey Enterprises Dundrum Ltd. in early 1988.
- On 10 April 1989 Brendan Johnston of Johnston Industries expressed an interest in any sand and gravel bearing lands under the control of the Department and from December 1989 onwards expressed continuing interest in specifically acquiring the Glen Ding property.

4 Archaeological Aspects

- 4.1 On 28 June 1988 the Department requested the Conservation and Recreation Branch of the Office of Public Works (OPW) to advise whether two areas included in the property were of archaeological significance.
- 4.2 OPW replied on 21 July 1988 that the Chief Archaeologist had inspected both sites. He confirmed that one of the sites is only a dried up pond or small lake and is not of archaeological importance. However, his opinion was that *'the other site is an impressive ringfort strategically located with possible Viking associations'*. The reply also stated that in view of the archaeological importance of this site, which is one of the finest of its type in the country, the Commissioners of Public Works were very interested in acquiring it and the surrounding area.
- 4.3 Subsequently the ringfort (Rath Turtle Moat) and an associated area of land, comprising 14.22 hectares, was transferred to OPW leaving a net area for sale of 58.65 hectares.

5 Pre-Sale Considerations

Sand and Gravel Deposits

- 5.1 In April 1988 the Geological Survey of Ireland (GSI) was commissioned by the Department to assess the extent and quality of the sand and gravel deposits. The GSI reporting in June 1988 concluded that:
 - The sand and gravel consisted of approximately 7.4 million cubic metres of

good quality material and 2.6 million cubic metres of lesser quality material.

- Sand and gravel extraction might conflict with the site's present use as an amenity area.

Planning Permission

- 5.2 As it was believed that the value of the property would be greatly enhanced if planning permission for sand and gravel extraction was obtained prior to sale, the Department made contact with Wicklow County Council with a view to securing such permission.
- 5.3 On 8 September 1989 the consultants appointed by the Department (see 5.5) wrote to the Department outlining the many planning difficulties they foresaw following discussions with officials of the County Council. On 16 September the consultants informed the Department that Wicklow County Council had advised them that they would require an Environment Impact Assessment to be carried out for their consideration of the planning permission application.

Valuation of Property

- 5.4 In April 1990 the consultants appointed by the Department, in association with a firm of Minerals and Environmental Science Consultants, valued the property at £1.26 million with planning permission and at £821,000 without planning permission. The valuation was based on the capitalisation of the discounted royalties for the life of the deposit estimated at 20 years and excluded the value of the timber. The consultants were also of the view that:
- Planning approval would be difficult for a new operator because of access difficulties and traffic implications for Blessington
 - There would be resistance to a change of use of the property because of its amenity value to the community
 - Roadstone Ltd, because of their proximity, were considered to be very special adjoining owners whose access to the site would give them an advantage over other potential operators.

Engagement and Cost of Consultants

- 5.5 A file note in August 1988 states that the Department 'should call in for discussion the consultant as advised by Wicklow County Council and make a start in obtaining outline

planning permission' Discussions began with Kieran O'Malley and Co. Ltd., Civil Engineering and Town Planning Consultants in October 1988 and in June 1989 the firm was formally appointed to carry out an appraisal of the site from the point of view of obtaining planning permission prior to disposal.

- 5.6 As part of the valuation process Kieran O'Malley & Co Ltd. engaged John Barnett, Minerals and Environmental Consultants in April 1990 (see 5.4).
- 5.7 The overall cost of these consultancies was £17,776.
- 5.8 Subsequently it came to my notice through media reports and from papers supplied by Mr. Dick Roche TD that both consultants may have previously carried out work on behalf of Roadstone.

6 Sale Process

- 6.1 Following the valuation report, in April 1990, Kieran O'Malley & Co. Ltd. suggested that the Department of Energy would be best advised in the first instance to invite offers by tender for the sale of the property. On 10 May 1990 officials of the Department at the request of Roadstone met with the company's Managing Director and Production Manager. The Department officials stated that the property would be sold probably by public tender but that the method of sale was still subject to a number of considerations. They also stated that there was much interest in the property and the Department would not rule out an offer by Roadstone or anyone else without prejudice to its right to sell the property by public tender.
- 6.2 On 1 August 1990 a further meeting was held with Roadstone, at their request, and they sought clarification of certain matters relating to the sale, i.e. the exact area for sale, value of trees on site, planning permission, tree felling licence.
- 6.3 The Department again met Roadstone on 26 September 1990 who made a firm offer of £1.1 million for the property, £0.4 million of which would be paid when planning permission was secured. This offer was confirmed in writing on 4 October 1990.
- 6.4 The Department met with Kieran O'Malley & Co Ltd. on 18 October 1990 to discuss the Roadstone offer and was advised that it would be most unlikely that any other party would be able to match that offer and strongly recommended that the sale to Roadstone be pursued.
- 6.5 On 14 November 1990 the Minister approved the Department's recommendation that the Roadstone offer be pursued with a view to increasing their bid to £1.25 million without planning permission for sand and gravel extraction. Roadstone concluded its negotiations with the Department at a meeting on 5 December 1990 with an increased

offer of £1.25 million, subject to the approval of the main board of Cement Roadstone Holdings (CRH). At the meeting Roadstone were informed that their offer would be recommended to the Minister for acceptance and would require the approval of the Minister and the Minister for Finance. The papers were submitted to the Secretary on 5 December 1990 who recommended to the Minister that the increased offer of £1.25 million be accepted. The Minister approved the sale on 11 December 1990. On 18 December 1990 the Department received confirmation that approval of the increased offer had been granted by the main board of CRH.

- 6.6 While negotiations on the sale to Roadstone were in progress, a second company, Johnston Industries, sought to purchase the property also. The history of this company's interest in the property is set out in Appendix B. At a meeting with the Department on 13 December 1990 Mr. Brendan Johnston submitted two written offers, dated 10 December 1990, together with a deposit of £80,000:

- £800,000 without conditions
- £715,000 with a further £435,005 payable when planning permission is secured.

At the meeting Mr. Johnston indicated that he was making his best offers and that if his was not the highest offer he would wish the Minister luck in selling to another party. The Department officials undertook to put the offers before the Minister. The papers indicate that on 14 December 1990 the Minister noted the offers and the recommendation that they be rejected as the revised Roadstone offer was significantly higher. On the same date Department of Finance sanction was requested for the sale to Roadstone.

- 6.7 On 17 December 1990, a letter from Mr Johnston's solicitor included a presumption that he was the highest bidder. A reply of 17 December, faxed on that day, denied the presumption and stated that the Minister was considering the offers. On 19 December 1990 a further submission was made to the Minister outlining the details of both offers with a recommendation that the Roadstone offer be accepted. The submission also stated that on the telephone to the senior Departmental negotiator on 14 December 1990 Mr. Johnston did not change his position (offer) even though it was left open to him to do so and said that *'if his offer was not the best he would accept that position'*.

- 6.8 On 20 December 1990

- The Minister approved the recommendation to sell to Roadstone
- Oral Department of Finance sanction was obtained for the sale (confirmed in

writing on 2 January 1991)

- Roadstone were informed in writing that their offer was accepted and
- MacGreevys, solicitors, were informed in writing that their client, Brendan Johnston's unconditional offer had been considered and was not successful.

6.9 On 18 June 1991 a deposit of £62,500 was paid and the sale was finally closed on 23 December 1991 when the balance was paid. The price included an amount of £250,000 in respect of the commercial timber growing on the lands.

6.10 As part of the sale a General Felling Licence, valid for five years, was granted to Roadstone on 3 January 1992 allowing them to clearfell approximately 28 hectares of afforested land and to thin a further 28 hectares at Deerpark, Blessington.

7 Disposal Process

7.1 During the course of the disposal process offers are described as being '*conditional*' or '*unconditional*'. It is my understanding from my examination of the papers that in the context of this sale these terms mean:

- *Conditional* - that the offer is made subject to planning permission being secured for the extraction of sand and gravel from the site
- *Unconditional* - that the offer is not dependent on such planning permission being secured but subject to other conditions of sale including the granting of a tree felling licence.

7.2 Guidelines issued by the Department of Finance for awarding contracts state that:

'The disposal or letting of property should be dealt with by competitive tendering or by auction. This approach provides a mechanism which is both transparent and is likely to achieve a fair price.'

The guidelines provide that departures from this general principle must receive prior approval from the Department of Finance.

7.3 Since the process of selling the Glen Ding property commenced the Department stated on numerous occasions that sale of the property would be by public tender. In fact in reply to a Parliamentary Question on 20 October 1988 the Minister for Energy stated that it was the intention that when the sandpit in question was offered for sale, tenders would be invited by public tender competition which would be advertised in the National Press.

7.4 The papers examined indicate that the reasons for the abandonment of this stated policy, by the Department, in favour of the chosen sale method were:

- The Department believed that the final offer of £1.25m represented a very satisfactory outcome
- The Department also believed that it would be unlikely that any other potential buyer would either match or exceed that offer considering the planning difficulties to be faced
- Strategic advantages would favour Roadstone as an adjoining property owner
- Concern that if the property was put on the market for public sale without planning permission, not only might it draw many objections from interested parties but would most likely damage the prospects of reaching the price on offer from Roadstone
- Roadstone had special advantages as far as obtaining planning permission was concerned in that they had a similar quarrying operation in an adjoining area
- The alternative of offering the property for sale by restricted tender to selected promoters was not considered as if it failed to produce a better offer it would effectively strengthen Roadstone's bargaining position.

8 Conclusions

8.1 The papers reviewed during the course of the examination indicate that the civil servants involved in the sale process made judgments on the basis of the information and advice available at the time and that Ministers acted at all times in accordance with Departmental advice.

8.2 From a purely business point of view the Department could be considered to have acted in a way that ensured that it obtained a good price for the property, viz.

- The Department tried to obtain planning permission to maximise the value of the land. When it was professionally advised that getting such permission would be difficult the Department prudently insisted that the land be sold without any conditions relating to planning permission. The wisdom of that decision has been borne out by An Bord Pleanála's refusal in September 1998 of the purchaser's planning application to extract sand and gravel from the property.
- The Department regarded Roadstone as the prime potential purchaser as they

were a well established large company who

- ▶ needed the property to facilitate ongoing operations in the area
- ▶ had best access to the property

and conducted negotiations with the company until it got an offer which was acceptable from the Department's and its adviser's point of view.

8.3 The Department had a duty to act in an equitable manner even though it is unlikely that the Roadstone offer would have been bettered. The attraction of concluding the sale at what was considered a good price outweighed the imperative to act evenhandedly which is a basic principle when the State is doing business. In this regard, in my opinion, the Department did not conduct the sale in an appropriate manner. Specifically

- Bearing in mind the known marketability of the property it was incumbent on the Department to ensure that all those who had expressed an interest should have been afforded the opportunity of making an offer regardless of the way the sale was handled, e.g. open public tenders, auction or private treaty.
- At a minimum it should have been obvious that adjoining landowners in the sand and gravel business would have been potential purchasers.

8.4 Mr. Johnston's bid for the property was considered before the sale to Roadstone was formally concluded and was not successful because it was lower than Roadstone's offer. Even though Mr. Johnston indicated that his offer was his 'best shot' it must be seen in the context of

- ▶ the series of meetings and correspondence with Roadstone which allowed that firm to vary its offers progressively
- ▶ the fact that, to all intents and purposes, the sale had been agreed with Roadstone (subject only to CRH main board approval) and approved by the Minister on 11 December 1990, two days before the meeting with Mr Johnston at which he tabled his offers.

8.5 Considering the size of the property and the sand and gravel reserves it would have been prudent for the Department to have obtained a second opinion or to have sought advice from the Valuation Office in regard to the value of the property.

- 8.6 The Department might also have considered appointing selling agents, estate agents or auctioneers to handle the sale of the property in order to use their expertise to maximise the return from the sale.
- 8.7 In the case of the appointment of consultants there is no evidence that other consultancy firms were considered. There is also no evidence that any possible question of potential conflicts of interest was considered at the time the consultants were appointed.

9 Accounting Officer's Comments

- 9.1 The Department acted at all times in the best commercial interests of the State.
- 9.2 It was not accepted that the Department was under any commercial or other obligation whatsoever to ensure that all those who had expressed an interest in the property should have been afforded the opportunity of making an offer regardless of the way the sale was handled. This was a judgment call made by the negotiating team having regard to the objective to maximise the value of the sale for the taxpayer, their knowledge of the potential bidders and the risks that the prospects of a favourable price and a secure sale might have been jeopardised. In any event, the Roadstone offer was more than 50% above the only alternative offer received. It was not accepted, therefore, that the Department did not conduct the sale in an appropriate manner. While it is accepted that the State in business transactions should as a basic principle aim to give all parties equal standing in the process, there is no absolute rule or imperative in this regard and the imposition of such a rule could in exceptional cases run contrary to the best commercial interests of the State and impose on the State requirements which do not apply in the private sector.
- 9.3 As regards the exchanges with Mr Johnston, he was afforded every opportunity to make his best offer and was left in no doubt that it was the 'end game'.
- 9.4 The Department's negotiating team was of the highest calibre and had wide experience in commercial matters. The Department secured professional advice from the GSI as well as from consultants of the highest standing and with recognised strengths in planning matters and the valuation of sand and gravel reserves. With this experience and professional advice, there was no need to appoint a sales intermediary or to seek a second opinion on valuation.
- 9.5 As regards conflicts of interest, it should be borne in mind that specialist consultancy firms supply their services to a wide range of clients on different issues at different times and rely for their professional standing on their ability to supply those services on an arm's length basis, notwithstanding the fact that they may have done business previously, or would expect to do business again in the future, with one or other or

both of the parties to a particular business deal.

- 9.6 It was unlikely that the Roadstone offer would have been bettered. In retrospect the deal had proved to be exceptional given the long delays and ultimate failure of the purchaser to obtain planning permission.
- 9.7 Legal proceedings had been initiated by Hudson Bros. Ltd. on 10 November 1998 and that it was the Department's intention to defend the State's interests in a vigorous fashion.

Appendices

Appendix A

Sale of Glen Ding Property Chronology of Events Leading to Sale

1. 23 July 1987 Representations by the late Seán Walsh TD on behalf of Hudson Bros. Ltd. Expressing their interest in sand and gravel deposits in the Blessington area.
 2. 30 July 1987 Government decision to sell State properties
 3. 28 Aug. 1987 Request by Roadstone Ltd. to purchase Glen Ding
 4. 2 Sept. 1987 Acknowledgement of receipt of Roadstone Letter
 5. 8 Oct. 1987 Minister's reply to Sean Walsh stating that the sand and gravel deposits are not available for lease or sale and that if they were available they could only be offered for sale by public tender competition
 6. 2 Nov. 1987 Enquiry from Roadstone whether Department have concluded on availability of Glen Ding lands for purchase or lease
 7. Undated letter from M. Kavanagh offering £50,000 for five acres
 8. 6 Jan. 1988 Acknowledgement of receipt of Kavanagh letter
 9. 24 Feb. 1988 Letter from Treacy Enterprises Dundrum Ltd. to Chris Flood TD thanking him for arranging meeting of representatives of the company and M. Kavanagh with Minister of State to discuss proposal for quarry operation in Blessington area
 10. 19 April 1988 Appointment of GSI to establish the extent, quality and value of sand and gravel deposits
 11. 22 June 1988 Exploratory meeting between Department and officials of Wicklow County Council and of the Department of the Environment re possibility of planning permission for sand and gravel extraction
 12. 28 June 1988 Request to OPW for an opinion on the importance of two archaeological sites on the property
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Appendix A

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| 13. 21 July 1988 | OPW reply identifying one of the sites as an important Ring Fort and confirming that the other is not of archaeological importance |
| 14. 29 Aug. 1988 | File note by Assistant Secretary mentioning appointment of consultant as advised by Wicklow CC to assist in obtaining outline planning permission |
| 15. 4 Oct 1988 | Note of discussion with Department of Finance official re appointment of consultant |
| 16. 5 Oct. 1988 | Initial meeting with Kieran O'Malley, planning consultant |
| 17. 20 Oct. 1988 | Minister's reply to PQ stating that sale would be by public tender |
| 18. 19 Dec. 1988 | Consultants proposal and costings |
| 19. 14 Mar. 1989 | Request from Roadstone to be informed of Department's current proposals for Glen Ding property |
| 20. 10 April 1989 | Letter from Johnston Industries expressing general interest in acquiring sand and gravel deposits |
| 21. 19 April 1989 | Request for Dept. of Finance sanction for engaging of consultant |
| 22. 16 May 1989 | Dept. of Finance sanction for employment of O'Malley, consultants |
| 23. 6 June 1989 | Letter from Roadstone to Coillte Teo. re availability of lands at Deerpark for purchase. Reply issued on 7 June indicating it was a matter for the Forest Service |
| 24. 12 June 1989 | Letter from Roadstone enquiring if property or part of it will be put on the market in the next five years |
| 25. 12 June 1989 | Letter to Roadstone that it is intended to sell the property in the next few years by public tender |
| 26. 16 June 1989 | Letter appointing O'Malley as consultants |
| 27. 8 Sept. 1989 | Letter from O'Malley re planning difficulties |
| 28. 19 Sept. 1989 | Letter from O'Malley re requirement for an Environmental |
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Impact Study

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| 29. 7 Dec. 1989 | Letter from Johnston expressing continued interest in lands bearing sand and gravel deposits under the Department's control and specifically in operating the Blessington property on a consortium basis with the Department |
| 30. 13 Dec 1990 | Note on letter of Department official telling Mr Johnston that the property would be sold by public tender and that he would be informed when tenders were being invited. |
| 31. 12 Jan 1990 | Further enquiry from Roadstone re sale of property in 1990 and stating that the company wishes to make an offer if it comes on the market |
| 32. 16 Feb. 1990 | Reply to Roadstone stating that every effort is being made to put the property on the market this year (1990) |
| 33. 5 Mar. 1990 | File note of telephone enquiry from Roadstone re rumour that Department had secured planning permission for the property. Note states that enquirer was informed that the Department had not got planning permission |
| 34. 25 April 1990 | Valuation by John Barnett Ltd. (assisting O'Malley) of sand and gravel deposits - Valuation £1.26m |
| 35 30 April 1990 | Letter from O'Malley re planning situation |
| 36. 10 May 1990 | Meeting with Roadstone re sale - informed that sale would probably be by public tender but that the method of sale was still subject to a number of considerations |
| 37. 22 May 1990 | Letter from Johnston expressing continued interest in making an offer for the property or a joint venture with the Department to develop the site |
| 38. 29 May 1990 | Reply to Mr. Johnston noting his interest and inviting him to call to the Department to set out in more detail his plans for the property |
| 39. 5 - 6 June 1990 | File note stating that map showing approximate area to be disposed of was sent to Mr. Johnston on 5 June and also to Roadstone on 6 June 1990 |
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Appendix A

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| 40. 20 July 1990 | Meeting with Mr. Johnston who was invited to submit an offer for the property. Mr. Johnston requested information on any bore hole and site investigation information which the Department might have and also a statement of the total area for sale. Mr. Johnston was informed that OPW would be getting a portion of the property around the ring fort. When the Department knew the exact area he would be informed and be provided with any other information which the Department was in a position to give |
| 41. 1 Aug. 1990 | Meeting with Roadstone to discuss sale and related matters, i.e. area, value of trees, planning permission and felling licences |
| 42. 23 Aug. 1990 | Letter to Roadstone setting out basis for valuation of timber on property |
| 43. 5 Sept. 1990 | Follow up letter to meeting of 20 July with Mr. Johnston informing him of the net area to be disposed of and a copy of a map outlining the area to be retained by OPW |
| 44. 7 Sept. 1990 | Memo from Assistant Principal, Forest Service stating that transfer of land to OPW would be finalised when sale was concluded, that the value of the timber which was not to be notified to Roadstone was approximately £340,000. The memo also states that Roadstone are expected to make further contact shortly. They had been given the impression of other serious interest. The memo states that <i>'in fact there was other interest but of doubtful value'</i> |
| 45. 26 Sept. 1990 | Meeting with Roadstone who made an offer for the property, £0.7m when property was handed over and a further £0.4m when planning permission was secured. |
| 46. 4 Oct. 1990 | Offer confirmed in writing |
| 47. 18 Oct. 1990 | Meeting with O'Malley, consultants, to discuss Roadstone offer. It was agreed that Roadstone should be supplied with a figure of £1.5m for the property with the view that they would increase their offer to £1.25m without any planning component |
| 48. 26 Oct 1990 | Submission to Minister stated that, while some general interest had been expressed, only Roadstone had made a meaningful approach. Alternative of offering the property for sale to selected |
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- promoters was considered but, if this failed to produce a better offer, as the Department believed it would, this would effectively strengthen Roadstone's hand. Approval of the Minister to negotiate with Roadstone on the basis discussed on 18 October was sought.
49. 2 Nov. 1990 Letter from Mr. Johnston stating that he was prepared to make an unconditional bid for the property without the benefit of a planning consent. He requested bore hole information and the quantities of material contained in the property. Note on letter by Department official states that Mr. Johnston was informed by telephone on 2 Nov. 1990 that the only information he could be given was that the reserve contained a net deposit of 7 to 8 million tonnes approximately
50. 5 Nov. 1990 Letter from Mr. Johnston requesting a complete ordnance survey plan of the site and states that the site plan which he has received shows only the land in the ownership of the Department which is not included in the sale. Note on letter states that Department despatched map on 6 November.
51. 14 Nov. 1990 Approval by Minister to pursue sale to Roadstone on the basis of submission dated 26 October.
52. 15 Nov. 1990 Letter from Mr. Johnston again requesting property information and seeking to make an appointment to view the property.
53. 16 Nov. 1990 File note states that in his absence Mr. Johnston's secretary was informed by telephone that he could not be given an internal confidential report (presumably, GSI Report)
54. 20 Nov. 1990 File note states that Mr. Johnston was telephoned to confirm appointment to view site. His sister said that he was not available as he was in hospital for a few days. She was requested to ask Mr. Johnston when available to contact the Department to make a further appointment
55. 23 Nov. 1990 Meeting with Roadstone. They were informed that their offer while good did not reflect the real value of the property. Roadstone informed that the Department required £1.5m for the reserve with no involvement in the planning application. Roadstone asked for details of timber volumes and stand maps and hoped to arrange a further meeting upon receipt of this
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information

56. 27 Nov. 1990 Copy of stand map and inventory of timber sent to Roadstone
57. 28 Nov. 1990 Letter from Mr. Johnston requesting appointment to view the site and seeking information in regard to commoners rights, bridal pathways, ancient monuments, rights of way, preservation orders and past planning applications. File notes that appointment was made for 5 December at 10 am.
58. 29 Nov. 1990 Letter to Mr. Johnston confirming appointment and stating that the land for sale is not subject to commoner's rights, bridal pathways, ancient monuments, rights of way, preservation orders and that no planning permission has been sought for the area for sale
59. 30 Nov. 1990 Letter from Johnston Industries accepting appointment and requesting information on classification and grading of forestry and agricultural land contained in the site. File notes that Dept. Of Agriculture was contacted and that they stated that there was no grading system for land
60. 30 Nov. 1990 Reply to Mr. Johnston indicating that Department would facilitate him in any independent evaluation of potential sand and gravel he might wish to undertake.
61. 5 Dec. 1990 Meeting with Roadstone and revised offer of £1.25m submitted. Department agreed to submit it to Minister for approval.
62. 7 Dec. 1990 Offer in writing from Roadstone
63. 11 Dec. 1990 Approval by Minister of Roadstone's offer
64. 12 Dec. 1990 Letter from MacGreevys, solicitors for Mr. Johnston protesting at cancellation by Department of meeting on 13 December due to decision by Minister to sell to land to a third party
65. 12 Dec. 1990 File note of telephone call by Mr. Johnston to Minister's office protesting at sale to another party when he had arranged a meeting for 13 December to formally table his offer
66. 13 Dec. 1990 Letter from Mr. Johnston to Minister seeking to furnish his offer directly to him given that he (Mr. Johnston) is *'unable to rely on*
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your staff at Leeson Lane'

67. 13 Dec. 1990 Meeting between Department officials and Brendan Johnston who submits two written offers. Mr Johnston said he was making his best offers (his best shot) and that if his was not the highest offer he would wish the Minister well in selling to another party. Officials agree to put the offers before the Minister for decision.
68. 14 Dec. 1990 Letter from Department to MacGreevys acknowledging receipt of their letter of 12 December and pointing out that the Department had since met with Mr. Johnston and received his offers
69. 14 Dec. 1990 Johnston offers noted by Minister. Submission to Minister stated that Johnston offer fell "far short of Roadstone offer".
70. 14 Dec. 1990 Request for Dept. of Finance sanction
71. 17 Dec. 1990 Letter from MacGreevys expressing Mr. Johnstons appreciation for meeting of 13 December and presumption that he was the highest bidder for the property
72. 17 Dec. 1990 Letter to MacGreevys denying Mr. Johnston's presumptions and stating that the Minister is considering his offer
73. 18 Dec. 1990 Roadstone's offer confirmed in writing and declared unconditional as main CRH board had approved it
74. 20 Dec. 1990 The Minister, having considered both offers, approves Roadstone offer on recommendation of Department. Submission indicated that in phone conversation on 14 December Mr Johnston did not change his position re his best offers even though it was left open to him to do so.
75. 20 Dec. 1990 Oral sanction for sale received from Department of Finance
76. 20 Dec. 1990 Letter to Roadstone formally accepting offer
77. 20 Dec. 1990 Letter to solicitors representing Johnston informing them of rejection of offer
78. 21 Dec. 1990 Detailed letter from MacGreevys seeking a full explanation of the events of the sale
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Appendix A

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| 79. 2 Jan. 1991 | Dept. of Finance written sanction for sale |
| 80. 7 Jan. 1991 | Draft reply by Chief State Solicitor to MacGreevys letter of 21 December 1990 |
| 81. 8 Jan. 1991 | Note for information of Minister on letter of 21 December 1990 |
| 82. 9 Jan. 1991 | Minister agrees draft letter by Chief State Solicitor to Mr. Johnston |

Appendix B

History of Johnston Industries Interest in Property

Mr. Brendan Johnston, the proprietor of Johnston Industries, had been in correspondence with the Department since April 1989. Initially, the company's interest was in purchasing, leasing or joint venture in regard to any sand, gravel or limestone bearing lands under the control of the Department. The history of Mr. Johnston's specific interest in the Glen Ding is summarised as follows:

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| 10 Apr. 1989 | Letter from Johnston Industries expressing general interest in acquiring sand and gravel deposits under the control of the Department |
| 7 Dec. 1989 | Letter from Johnston Industries expressing continued interest in lands bearing sand and gravel deposits under the Department's control and specifically in operating the Blessington property on a consortium basis with the Department. |
| 13 Dec. 1989 | File note stating that Department official rang Mr. Johnston informing him that the property would be sold by public tender and promising to advise him when tenders are being invited. |
| 22 May 1990 | Letter expressing continued interest in land at Glen Ding |
| 29 May 1990 | Letter to Mr. Johnston inviting him to discuss his plans for the property |
| 20 July 1990 | Meeting with Department Officials. Mr. Johnston stated that he had walked the site and would only be interested in acquiring it if it had full planning permission. Mr. Johnston was informed that the Department proposed to sell the site lock, stock and barrel and would like him to submit an offer on that basis. He was also informed that there were others interested in the property which might still be offered for sale by public tender. |
| 5 Sept. 1990 | Follow up letter to meeting of 20 July informing Mr. Johnston of the net area to be disposed of and enclosing a map of the area to be retained by OPW |
| 2 Nov. 1990 | Letter from Mr Johnston stating that he was prepared to make an unconditional bid for the property without the benefit of a planning |

Appendix B

- consent. He requested borehole information and the quantities of material contained in the property. Note on letter by Department official states that Mr Johnston was informed by phone on 2 November 1990 that the only information he could be given was that the reserve contained a net deposit of 7-8 million tonnes approx.
- 5 Nov. 1990 Letter from Mr. Johnston requesting a complete ordnance survey plan of the site and stating that the site plan which he has received shows only the land in the ownership of the Department which is not included in the sale. Note on letter states that Department despatched map on 6 November
- 15 Nov. 1990 Letter seeking inspection of site with Department staff and requesting information relating to the property
- 16 Nov. 1990 File note stating that in his absence Mr. Johnston's secretary was informed by telephone that he could not be given an internal confidential report (GSI Report)
- 20 Nov. 1990 File note stating that Mr. Johnston was telephoned to confirm appointment to view site. His sister said that he was not available as he was in hospital for a few days. She was requested to ask Mr. Johnston, when available, to contact the Department to make a further appointment
- 28 Nov. 1990 Letter from Mr. Johnston requesting appointment to view the property and requesting information on commoners rights, bridal pathways, ancient monuments, rights of way, preservation orders and past planning applications.
- 29 Nov. 1990 Letter to Mr. Johnston confirming appointment for 5 December 1990 and stating that the land for sale is not subject to commoners rights, bridal pathways, ancient monuments, rights of way, preservation orders and that no planning permission has been sought for the area for sale
- 30 Nov. 1990 Letter from Mr. Johnston confirming appointment and requesting further general information on site.
- 30 Nov. 1990 Reply by Department to Mr Johnston, indicating that Department would facilitate Mr Johnston in any independent evaluation of potential sand and gravel he might wish to undertake.
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Appendix B

- 12 Dec. 1990 Letter from MacGreevys, solicitors, representing Johnston and phone call to Ministers Office protesting at Ministers decision to sell to a third party.
- 12 Dec. 1990 File note of telephone call by Mr. Johnston to Minister's office protesting at decision by Minister to sell to another party when he had arranged a meeting for 13 December to formally table his offer
- 13 Dec. 1990 Letter to Minister seeking to furnish offer directly to him because of difficulties in dealing with Department
- 13 Dec. 1990 Mr. Johnston presents two written offers together with deposit to Department officials at meeting. Mr Johnston said he was making he best offers (his best shot) and that if this was not the highest offer he would wish the minister well in selling to another party.
- 14 Dec. 1990 Johnston offers noted by Minister. Submission to Minister stated that Johnston offer fell "far short of Roadstone offer".
- 14 Dec. 1990 Department reply to MacGreevy's letter of 12 Dec. 1990
- 14 Dec. 1990 In phone conversation with senior negotiator Mr Johnston did not change his position re his best offers even though it was left open to him to do so.
- 17 Dec. 1990 Letter from MacGreevys to Minister expressing gratitude for meeting of 13 Dec. 1990 and presuming that Mr. Johnston was the highest bidder
- 17 Dec. 1990 Letter to MacGreevys denying Mr. Johnston's presumptions and stating that the Minister is considering his offers
- 20 Dec. 1990 Letter to MacGreevys informing them that offer was unsuccessful
- 21 Dec. 1990 Letter of protest from MacGreevys
- 7 Jan. 1991 Draft reply by Chief State Solicitor to MacGreevys letter of 21 December 1990
- 8 Jan. 1991 Note for information of Minister on letter of 21 December 1990
- 9 Jan. 1991 Minister agrees draft letter by Chief State Solicitor
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