



Craig McKune &lt;craigm@amabhungane.org&gt;

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**DTPW response**

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**Craig McKune** <craigm@amabhungane.org>  
To: Nathan Geffen <nathangeffen@gmail.com>

Thu, Jul 14, 2016 at 10:00 AM

**Craig McKune**  
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----- Forwarded message -----

From: **Jacqui Gooch** <Jacqui.Gooch@westerncape.gov.za>  
Date: Wed, Jul 13, 2016 at 3:34 PM  
Subject: RE: amaBhungane query: Gary Fisher  
To: Craig McKune <craigm@amabhungane.org>

Good afternoon Mr McKune

Please find my responses to your questions below:

1. Please feel free to comment generally or specifically on any matters raised in my correspondence with Mr Fisher.

I do not intend to repeat answers to questions you have also asked, and now had answered, by Mr Fisher himself. I point out the proposed disposal of the Tafelberg Site was submitted to the Provincial Cabinet for their consideration in November 2015. As you are aware Mr Fisher's contract appointment in the DTPW came to an end on 30 April 2014. I cannot comment on his role within the private sector since leaving the Department of Transport and Public Works. Whilst at the DTPW, he completed his declaration of interests in accordance with the legislated requirements and hence the declaration of interests that he submitted to DTPW included his interests in CapitalGro.

2. In particular, Fisher's dual role as influential official and private sector beneficiary is likely to raise serious questions about the department's bona fides in its approach to the Tafelberg site, which ultimately led to its proposed sale in the teeth of serious opposition. Please comment.

The insinuation that is being made by you that state employees may not lawfully acquire or hold private sector shares or directorships is incorrect. However in order to be legally compliant in this regard what is required in this respect is that each such employee declare such interests in writing by 30 April each year, which declaration is then sent to, and recorded by, the Public Service Commission in terms of the applicable law and ensures these are recorded and accessible. Such interests which are held by government employees in the private sector hence do not, per se, equate to an assumption of mala fides in the day to day implementation of their government duties.

3. Please provide a copy of Mr Fisher's declaration of interest in respect of CapitalGro? Please include: The date of the declaration? What exactly was disclosed? To whom

On 22 February 2013 a declaration of interest was submitted to the Executive Authority en route to the Public Service Commission as required.

4. What steps, if any, were taken to mitigate against his conflict of interest?

The Executive Authority followed the prescripts of the Public Service Commission in this regard.

Kind regards

Jacqui

**Jacqueline Gooch**

Head of Department

Transport and Public Works

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Be 110% Green, Read from the screen.

**From:** Craig McKune [mailto:[craigm@amabhungane.org](mailto:craigm@amabhungane.org)]

**Sent:** 12 July 2016 02:52 PM

**To:** Jacqui Gooch <[Jacqui.Gooch@westerncape.gov.za](mailto:Jacqui.Gooch@westerncape.gov.za)>

**Cc:** Carl Marx <[Carl.Marx@westerncape.gov.za](mailto:Carl.Marx@westerncape.gov.za)>; Byron La Hoe <[Byron.laHoe@westerncape.gov.za](mailto:Byron.laHoe@westerncape.gov.za)>; Clive Roos <[Clive.Roos@westerncape.gov.za](mailto:Clive.Roos@westerncape.gov.za)>; Stefaans Brümmer <[stefaansb@amabhungane.org](mailto:stefaansb@amabhungane.org)>; Sam Sole <[sams@amabhungane.org](mailto:sams@amabhungane.org)>

**Subject:** Re: amaBhungane query: Gary Fisher

That is unfortunate. We will be filing the story at 5pm tomorrow, and we honestly would like time to properly consider your response and want answers to our four straightforward questions.

**Craig McKune**

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On Tue, Jul 12, 2016 at 2:47 PM, Jacqui Gooch <[Jacqui.Gooch@westerncape.gov.za](mailto:Jacqui.Gooch@westerncape.gov.za)> wrote:

Dear Mr McKune,

Thank you for your reply and the indication of providing additional time until the end of the day today. Unfortunately, as previously stated, I will not be able to provide my response thereto by the end of today.

Kind regards

Jacqui

**Jacqueline Gooch**

Head of Department

Transport and Public Works

WESTERN CAPE GOVERNMENT

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**From:** Craig McKune [mailto:[craigm@amabhungane.org](mailto:craigm@amabhungane.org)]  
**Sent:** 11 July 2016 05:03 PM  
**To:** Jacqui Gooch <[Jacqui.Gooch@westerncape.gov.za](mailto:Jacqui.Gooch@westerncape.gov.za)>  
**Cc:** Carl Marx <[Carl.Marx@westerncape.gov.za](mailto:Carl.Marx@westerncape.gov.za)>; Byron La Hoe <[Byron.laHoe@westerncape.gov.za](mailto:Byron.laHoe@westerncape.gov.za)>; Clive Roos <[Clive.Roos@westerncape.gov.za](mailto:Clive.Roos@westerncape.gov.za)>  
**Subject:** Re: amaBhungane query: Gary Fisher

Dear Ms Gooch,

I can give the department until 5pm tomorrow, Tuesday. I trust that's in order.

Best

Craig

**Craig McKune**

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On Mon, Jul 11, 2016 at 2:18 PM, Jacqui Gooch <[Jacqui.Gooch@westerncape.gov.za](mailto:Jacqui.Gooch@westerncape.gov.za)> wrote:

Dear Mr McKhune

I have this morning read your questions regarding this matter, and am aware that you have submitted questions to Premier Zille's office, as well as to Mr Fisher direct. The most recent questions raised by you are detailed and expansive, and will require some time in order to respond accurately and meaningfully.

From what I have seen, there appear to be factual inaccuracies in some of the conclusions you have already drawn, and we would like the opportunity to make enquiries and deal

with this properly. Please afford us until Wednesday close of business to respond.

Kind regards

Jacqui

**Jacqueline Gooch**

Head of Department

Transport and Public Works

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Be 110% Green, Read from the screen.

**From:** Craig McKune [mailto:[craigm@amabhungane.org](mailto:craigm@amabhungane.org)]

**Sent:** 08 July 2016 06:36 PM

**To:** Tpw Ministry <[Tpw.Ministry@westerncape.gov.za](mailto:Tpw.Ministry@westerncape.gov.za)>; Jacqui Gooch <[Jacqui.Gooch@westerncape.gov.za](mailto:Jacqui.Gooch@westerncape.gov.za)>; Annje Kleynhans <[Annje.Kleynhans@westerncape.gov.za](mailto:Annje.Kleynhans@westerncape.gov.za)>; Carl Marx <[Carl.Marx@westerncape.gov.za](mailto:Carl.Marx@westerncape.gov.za)>; Byron La Hoe <[Byron.laHoe@westerncape.gov.za](mailto:Byron.laHoe@westerncape.gov.za)>; Siphesihle Dube <[Siphesihle.Dube@westerncape.gov.za](mailto:Siphesihle.Dube@westerncape.gov.za)>

**Subject:** amaBhungane query: Gary Fisher

To whom it concerns,

I am a reporter with the amaBhungane Centre for Investigative Journalism.

We are preparing an article about the department's former head Gary Fisher for publication next week. I have copied our correspondence to date below, for your reference. I won't repeat the issues here.

I would be grateful if you could respond to my questions by close of business on Monday:

1. Please feel free to comment generally or specifically on any matters raised in my correspondence with Mr Fisher.
2. In particular, Fisher's dual role as influential official and private sector beneficiary is likely to raise serious questions about the department's bona fides in its approach to the Tafelberg site, which ultimately led to its proposed sale in the teeth of serious opposition. Please comment.
3. Please provide a copy of Mr Fisher's declaration of interest in respect of CapitalGro? Please include: The date of the declaration? What exactly was disclosed? To whom?
4. What steps, if any, were taken to mitigate against his conflict of interest?

Kind regards,

**Craig McKune**

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----- Forwarded message -----

From: **Craig McKune** <[craigm@amabhungane.org](mailto:craigm@amabhungane.org)>

Date: Fri, Jul 8, 2016 at 6:19 PM

Subject: amaBhungane: Further questions re your private and public sector interests

To: Gary Fisher <[gary.fisher@westerncape.gov.za](mailto:gary.fisher@westerncape.gov.za)>, [gary@capitalgro.co.za](mailto:gary@capitalgro.co.za)

Dear Gary,

I am very grateful for your willingness to engage so far. Next week I am out of town so I will not be able to meet, however having considered what you've told me and after some further research we still intend to publish an article next week.

We would like for you to have an opportunity to respond further. I would be grateful if you could respond by close of business on Monday.

Our intended article would inform readers of your seriously conflicted role in that while (and shortly after) you headed public works, oversaw its urban regeneration programme and made key decisions in respect of the Tafelberg site, your company CapitalGro was buying up high-end properties in Sea Point. Your CapitalGro, therefore, stood to benefit from your actions as head of public works.

This is particularly relevant in a context in which, from 2011 to 2014, activists, social housing organisations and city and provincial officials argued strongly in favour of using the site for a mix of much needed inner-city social housing.

In 2011, under your leadership the department advertised a process in respect of Tafelberg. According to a recent affidavit by NASHO's Malcolm McCarthy: "Through NASHO and the SHIs in Cape Town, it was pointed out to DTPW that the conditions in the calls for expressions of interest would not make it possible to achieve the residential integration defined as one of the objectives of the urban regeneration strategy." This indicates that at that stage, the department had a potential bias against social housing.

In response, the department did withdraw the call for expressions of interest, but when housing groups

then presented a feasibility study making the case for social housing on the site, you told them on more than one occasion to rather focus their efforts elsewhere, as you said in Sea Point there would be intense scrutiny by local ratepayers and other stakeholders — which you were to become not long after.

In a further indication that, under your leadership, the department did not seriously engage over a possible mix of social housing, McCarthy's affidavit reports: "The [feasibility] plan was presented and made available to the DTPW officials responsible for the release of the sites. An offer was made to also assist the province to develop a 'proposal assessment' approach that could more fairly assess the 'social development' value of proposals for the use of the sites with the highest value immediate return. This was never pursued by the DTPW."

Further, McCarthy notes: "Despite WCDHS confirming that it needed the Tafelberg site, the DTPW issued a call for expressions of interest in March 2014 in terms of which it proposed to dispose of the Tafelberg site to prospective private investors through a commercial use structure (as opposed to a sale)."

It has also been argued that the call for EOI that you initiated in April 2014 was framed in a way that it emphasised the requirement to maximise revenue and did not seriously present a mix of social housing as an option.

While this was going on, your former business partner (and brother-in-law?) Gavin Klerck was setting up CapitalGro. He registered it in 2010 and it was formally founded in 2013 with you as a board member. While you still headed the department, and while you were working on the EOI, your CapitalGro bought the Regent for R95m. It stands in the vicinity of the Tafelberg site and its value will be affected by the province's policies and decisions in respect of urban regeneration. This is a clear conflict of interest.

And just seven months after you initiated the EOI and left the department — to become the premier's special advisor on regeneration — CapitalGro invested another R96.7m in the Equinox building directly across the road from Tafelberg — a key site of the province's regeneration project. CapitalGro took transfer the month before the department indicated to market its clear intention to sell. At best, this exemplifies the problem of the "revolving door" between public service and the private sector, although it could also be described as a potential conflict of interest.

Your dual role as influential official and private sector beneficiary is likely to raise serious questions about the department's bona fides in its approach to the possible disposal of the Tafelberg site.

My questions follow:

1. In respect of the above, please comment, clarify and explain further?
2. On what date did you acquire shares in CapitalGro and CapitalGro Asset Management? What was your shareholding in each?
3. On what date were you appointed as CapitalGro group chairman?
4. Please provide a copy of your declaration of interest in CapitalGro? Please include: The date of the declaration? What exactly was disclosed? To whom? What steps, if any, were taken to mitigate against the conflict of interest?
5. On what date did CapitalGro initiate negotiations to buy the Regent?
6. On what date did CapitalGro initiate negotiations to buy the Equinox?
7. On what date were you appointed as the premier's special advisor?
8. Did you (and if so, on what date) declare to the premier your interest in CapitalGro and its property interests?
9. On what date was your role as the premier's special advisor on regeneration limited to overseeing the Conradie project?
10. As a major property industry player in the Cape, what steps were taken to mitigate against

any potential conflicts of interest in your role as premier's special advisor?

Kind regards,

**Craig McKune**

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----- Forwarded message -----

From: **Gary Fisher** <[Gary.Fisher@westerncape.gov.za](mailto:Gary.Fisher@westerncape.gov.za)>

Date: Thu, Jul 7, 2016 at 8:15 PM

Subject: Re: amaBhungane query: CapitalGro, Tafelberg, provincial property policy

To: Craig McKune <[craigm@amabhungane.org](mailto:craigm@amabhungane.org)>

Hi Craig,

Sorry, I've been 'away from my desk' since yesterday afternoon. The ambit of my current role was informed by legal advice and the fact that the Conradie Better Living Model Project has been prioritised as a Game Changer, which I have expertise in and have been contracted to advise on.

Sincerely,

Gary.

On 06 Jul 2016, at 5:17 PM, Craig McKune <[craigm@amabhungane.org](mailto:craigm@amabhungane.org)> wrote:

Thank you for the response Gary,

One quick question by way of follow up: Am I correct that the premier was advised by legal staff that your involvement in the property sector presented a potential conflict of interest and that is why your role was limited as you describe in your last answer?

Best

Craig

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On Wed, Jul 6, 2016 at 3:37 PM, Gary Fisher <[Gary.Fisher@westerncape.gov.za](mailto:Gary.Fisher@westerncape.gov.za)> wrote:



Hi Craig,

Thank you for affording me the opportunity to respond, which I have embedded in your mail below. It is not an exhaustive response, and I am available to meet with you from Wednesday next week, as mentioned, should you require further clarification.

Sincerely,

Gary.

On 04 Jul 2016, at 3:28 PM, Craig McKune <[craigm@amabhungane.org](mailto:craigm@amabhungane.org)> wrote:

Dear Mr Fisher,

I am a reporter with the amaBhungane Centre for Investigative Journalism. I am doing some research around the provincial government's proposed sale of the Tafelberg school site for a possible article this week. I am particularly interested in your various roles, which seem to suggest a very serious conflict of interest as property owner/developer/manager on one hand and government official/advisor on the other.

Your roles, on my current understanding:

- \* Head of provincial public works/property from 2011 to 2014

- \* You joined the board and ran CapitalGro during your time as head of public works -- in this role it you were likely to have had a distinct interest in the provincial government's property policies and management. This seems like a very clear conflict.

I became a non-executive board member of Capitalgro in October 2013, towards the end of my tenure at Public Works. This was declared as per the legislated annual declaration of interests. Once I had left the Department of Transport and Public Works at the end of April 2014, I became a director of Capitalgro in June 2014.

- \* As head of PW, you oversaw deliberations over the Tafelberg site including personally trying to convince activists not to push for affordable housing at the site -- at the same time as your company was preparing to invest a huge amount of money in the area (see next point).

I have not at any point engaged any activist on the use of the Tafelberg site.

- \* During your time as head of PW, and shortly after you left the department, your CapitalGro acquired about R190-million in property the vicinity of the Tafelberg site, including a R94m building directly across the road, and another ±R90-million block 500 metres away. CapitalGro took transfer of the Equinox the month before province tendered the sale of the Tafelberg site, and The Regent was acquired not long before that. This looks like a conflict of interest and possible insider trading as the sale of Tafelberg is likely to

boost the value of your investments.

A 'Regeneration programme' was established within Public Works with the objective of scoping a number of strategic state-owned properties for their 'highest and best' use, a definition that takes into account the service delivery mandates of government. Included amongst the properties to be assessed were both former Tafelberg school sites, Somerset Hospital, The Government Motor Garage complex, the Prestwich precinct and several others. One of my last acts before leaving the Department of Transport and Public Works in April 2014, was to initiate an Expression of Interest (EOI) process on the aforementioned sites, which typically allows for comment from the market in order to shape the project feasibilities. Following my departure from the department, I had no involvement whatsoever in any of the sites, and I was not privy to the outcome of the EOI, nor was I part of, or aware of the decision to sell Tafelberg school and the subsequent tender process.

\* After leaving the department, you joined the premier's office as an advisor, advising on major provincial property issues even though your CapitalGro remains a major player in the market. The conflict of interest appears to continue.

Although I was originally appointed to advise on regeneration in my role as special advisor, my role subsequently became limited to overseeing the design and delivery of the Better Living Model Exemplar project, a mixed-use, mixed-income residentially-led affordable living development on the former Conradie Hospital site. My current role does not extend beyond this particular project.

I would appreciate your comments and clarifications in this regard. Please respond by tomorrow.

Kind regards

**Craig McKune**

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