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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO, QC, COMMISSIONER

PUBLIC HEARING

OPERATION HALIFAX

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 17 AUGUST 2010

AT 10.00AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court

THE COMMISSIONER: Mr Gormly.

MR GORMLY: Commissioner, we have Mr Haddad present to (not transcribable)

THE COMMISSIONER: Mr Haddad, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR HADDAD: Under oath, Commissioner.

10

<SAM HADDAD, sworn

[10.02am]

THE COMMISSIONER: Mr Gormly.

MR GORMLY: Commissioner. Mr Haddad, can you tell us your full name?---Sam (not transcribable) Haddad.

20 Thank you. And you are the Director General of the Department of Planning for New South Wales?---That's correct.

Right. Mr Haddad, you've been here before and we know who you are, so normally I would spend some time getting biographical information from you, but I think we're pretty clear on that. I understand that you have prepared some preliminary comments. Perhaps now would be a good time to do that if you wish to do it?---Yes. If you like me, I'll just go through it. It's a very, a very, a very short opening statement, Commissioner. And I've got five copies available to table if need be.

30

All right. Thank you.

THE COMMISSIONER: Thank you?---Thank you. So the, the Department of Planning, which I represent welcomes the opportunity to participate at this inquiry. We want to ensure and on an ongoing basis, the highest integrity and probity practices in the planning systems both in terms of processes and outcomes. And we look forward to this inquiry's outcome to strengthen and maintain those objectives. Land use screening and development processes involve outcomes that may result in significant economic value uplift to individuals and organisations. So as such and to a certain extent as distinct from other sectors, there are extensive legislative policies, organisation operational practices that provide checks and balances, peer reviews, merit evaluations, third party appeals to courts. All that is part of, of the Planning system and of the working of the Planning system. It is however, in my view as important if not more important for the Planning system to also be seen to perform with a high level of integrity, probity and transparency. Community's confidence in the administration of the Planning system is highly influenced by perception issues. This is

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particularly relevant as regards lobbying and lobbyists, the subjects of this inquiry. Under current New South Wales government policy and indeed several other jurisdictions, lobbying is recognised as a legitimate role in the Planning process and registered lobbyists as legitimate stakeholders subject to Codes of Practice and to Codes of Conducts. The management of interfacing between lobbyists and Planning officials in New South Wales has been recently strengthened through the adoption of further codes and obligations to bar contacts and meetings and improve transparency. And I'm just talking in the context of the Planning system and Planning officials in particular. So the attachment to this statement addresses questions raised by ICAC as to the departments Code of Practice concerning meeting, telephone communications and registered lobbyists as well as developers and others and just listed answers to questions that were forwarded to the department. We of course be prepared to provide further information if requested. And if I may just emphasise that I'm just about to initiate a, an independence compliance audit of this Code of Practice. This Code of Practice is only at the beginning and there are a number of issues that are emerging which will need, will need refinements and we welcome the opportunity to raise with ICAC or any other bodies in that regard. But in terms of administering the Code, there are emerging issues which will need to be further clarified. So, the following overview observations are made. Lobbying is not just undertaken by so called lobbyists and I'm talking here from experience. For example, by or on behalf of community groups and local councils. I particularly note the increasing role of Planning and other professional consultants and groups in making representations beyond the merit technical assessment of proposals. This may be seen as an indirect form of, I suppose, a backdoor approach lobbying, which should be managed either by way of Codes of Conduct of the relevant professional associations or through another appropriate Code of Conduct. And that is just crossing the line between the merit assessment, the merit representations of technical issues and what we see as lobbying. This line, the activity of lobbying beyond this, this line, which sometimes it's difficult, but it is an emerging trend which I'm just observing here. As observed by ICACs discussion paper on this matter, the New South Wales lobbying practice involves a relatively high proportion of previously employed ministerial and associated staff. Whilst those personnel are obviously most familiar with the working of governments and they do provide efficiently legitimate lobbying activities, there are heightened perception issues with their involvements, probably to a higher extent then others, emphasising the issue of perception here. Does lobbying and do lobbyists add substantial value to the merit assessment process or decision making, the short answer is no. Lobbyists may assist proponents to navigate through the process of governments and in translating Planning requirements seen as complex. They also may bring into focus the development proposals as to timing or as to significance. Ultimately, and without any doubt merit assessment practices and safeguards guard the decision making. Issues of perception however, may influence community confidence in accepting the decisions where lobbyists are (not transcribable). On the issue of a regulatory

legislative regime to specifically manage lobbying activities, we know that this is a matter of government policy, not appropriate for the department or myself to advocate a particular position in that regard. The view is that it is essential under any regime to have one comprehensive, tested and continuously updated checks and balances and corruption risk prevention measures and an intrinsic part of the administration of the Planning system. And a high level of transparency in any context between lobbyists, lobbying activities and Planning officials. The elements of any regime would benefit from the following. A possible review of the coverage of what constitute  
10 lobbying and lobbyists, security a high level of transparency in the interfacing between lobbyists and planning officials, for example, all contacts and meetings to be undertaken in the presence of instructing clients, records of contacts be publicly available and that's an issue that will be particularly focussing on as part of this review that you're undertaking, a minimum standard of what should be recorded and other factors. (not transcribable) independent monitoring of implementation and of administering the regime may also be, may also need to be, to be considered and again I'm specifically addressing here the confidence in the  
20 administration of the system. Thank you.

THE COMMISSIONER: Thank you, Mr Haddad.

MR GORMLY: Thanks, Mr Haddad. Mr Haddad, I'm just going to have brought up on the screen a copy of the diagrammatic description of the New South Wales Planning system for handling lobbying. Commissioner, it's at page 26 of the volume, if I could perhaps hand up the copy of the volume.

THE COMMISSIONER: Thank you.

30 MR GORMLY: Mr Haddad, do you have a hardcopy of the document with you by any chance? There's a large lever arch folder?---Yes, I do.

I want to spend a few minutes if I may, Mr Haddad, just going through the system as it exists so that we understand the detail. In evidence we've been summarising it to some extent when we've referred to it so far but there are some detail we need to look at. This page in effect divides into two, there's a left-hand half which deals with face to face meetings and a right-hand half that deals with telephone calls. Correct?---That's correct.

40 Okay. Just look at the left-hand panel. First of all this scheme which is a code, it represents a code of practice, deals with anybody who wants to have a meeting with a departmental officer in relation to planning or development matters. Correct?---That's correct.

Right. So anybody who comes to the department from outside the department whether they are a registered lobbyist or not is going to be dealt with under this system?---That's correct.

Right?---Including developers, including councils, including community groups.

Right. All right. Now, the very first thing that you do when they come to your department is require them to request the meeting in writing and to state a reason?---That's correct.

10 Okay. So if they ring up they're going to be asked to go to writing and they're going to be asked to actually put their reason in writing?---That's correct.

Okay. Now, when that request is then made it's going to be determined depending on whether the person requesting the meeting is a registered lobbyist. Is that so?---That's correct.

All right. So if it's not a registered lobbyist then anyone at senior planner level or above can decide whether the meeting will occur?---That's correct.

20 But if there is a registered lobbyist involved then the decision about whether or not to have the meeting must be made at director or above level?---That's correct.

So can I ask how many directors there are in the Department of Planning at present roughly?---Roughly there'll be about six officers, there'll be about I'll say 20 plus in the office.

30 Okay. All right. So quite a lot?---Yeah. (not transcribable) directors including our regional planning directors so we'll have about probably seven, eight in the regions and we'll have the same in that office.

Right. Now, registered lobbyists for the purposes of your code of practice means a person on the lobbyist register that's managed by the Department of Premier and Cabinet?---That's correct.

Right. So that this, this system works in with that system?---That's correct.

40 All right. Now, when the meeting occurs if there is a registered lobbyist present then a director or someone above a director must be present as one of the two people that needs to be present for the meeting?---That's correct, yeah.

I'm sorry to go through it in this way but it's just worth doing, Mr Haddad? ---Yeah.

Then in the next box down, you see record of meeting to be taken by department representative, I think attached to your opening is a copy in blank of the standard form that you use to record a meeting. Commissioner, did you get a copy of the, of the opening?

THE COMMISSIONER: Yes, I did.

MR GORMLY: So we have there a single-page document and you require the meeting time and date, attendees, the issues, the matter discussed, outcomes and you require all officers present to sign the document at the end of the meeting?---That's correct.

10 All right. Now, if a meeting has occurred, and this is a particular point I want to discuss with you, Mr Haddad, if we may, if a meeting has occurred at which a lobbyist is present you require the meeting to be one that is placed on line?---The - - -

That is a record or a reference to the meeting is to be placed on line?---The record of the meeting, the record of all meetings, whether there is a lobbyist or not are immediately placed on the file, on the relevant file.

20 Yes?---And usually through the relevant deputy director general because the reason for that is for the deputy director general to make sure that other staff as applicable are aware of it and if it is a lobbyist, if, if a lobbyist is involved in it then it goes to a central location and it is placed online.

Right?---Through this central, the central location.

Can you just tell us what goes online?---It is the, it's the, the actual record of the meeting or of the telephone discussions that has happened with the lobbyists, the lobbyist.

30 Right, all right?---At this central location here.

So is that the same record of meeting as the one that's filled out by the officers?---It should be the same.

Right?---The same one, yes.

40 Now - - -?---And this is, if I may, my apology, if I may just, this is, this is a particular area that I'm, I want to focus more on, this is, and I'm sorry if I'm interrupting, this is an area where I'm just wanting to make sure that it is working without any, any confusion so that is, that is certainly what the intention is and that, that is happening and it may be happening to a different sort of degree, I'm just, you know, a lot, and certainly it is something that I want to clarify as soon as possible, notwithstanding the audits.

Right?---That's (not transcribable).

Now, there's a number of matters that I want to go to. The first is consistent with the comments made in your opening you draw a fairly sharp distinction

between the planning system and perhaps other parts of government precisely because it deals with this significant economic value uplift. Is, is that the reason why you distinguish planning from other areas?---It is, it is essentially the reason. It's also because, you know, it is essentially the reason and it's because the, the way sometimes you can enter the process may also influence the, the process. Not in terms of the merit assessments but the way that that's this, this process can, can be driven and by that I mean that at the end of the day, whether a piece of land is zoned from example rural to residential, well, there is a significant value uplift. Now, 10 how do you get there, you can get there by way of strategies that we put in place which we nominate, it's notwithstanding this piece of land now as rural but as potentially residential and when you have this the value uplift may not be that high because it's, you know, it's been flagged in strategies.

Right?---As distinct from lands that's not in a strategy and therefore you may influence the value of that land more than if it is in a strategy.

Do I take it from that that you see planning as being higher risk now than perhaps after an area is stabilised, land use has been determined and subject 20 to adjustment it's all taken shape Is that right?---That's correct. It's, it's, it's, it's been an emerging issue for a number of reasons in all market considerations and all the rest of it.

I'm sorry, we're at cross-purposes here. Let me take Badgerys Creek as an example?---Yep.

Badgerys Creek is a large area of rural land next to an expanding city? ---Yeah.

30 Inevitably if that land is going to be used its value will change?---Yeah.

But ultimately planning will have taken place, the construction will have occurred, the infrastructure will be put in place and the problem about significant uplifts in value will then end because it's all stable and it's been done?---That's correct. Yeah.

That's probably generally true isn't it that once community settles in its landscape things are going to go quiet from a planning point of view? ---Yep, yeah. 40

Subject to adjustments?---That's correct.

All right. Well, now, the reason I raise that, Mr Haddad, is because you have also drawn attention or you draw a very sharp distinction between persons who can contribute to the technical determination of merit of an application and those who are there in some other urging or political capacity. Is that right?---That's correct.

You don't mind seeing people like planners or quantity surveyors, builders, even lawyers I suppose, planning lawyers but your system reflects the view that political lobbyists, those that one might typically find on the register as being not helpful generally speaking or not contributors to the value of planning?---Yes. So I'm trying to distinguish, I'm just trying to address lobbying as an activity sort of with a bit of a distinctions from lobbyists and, and as you rightly say if it is, if it is a submission, a representation that deals with the merits of the proposal then that is, that is one, one area that I'm looking at and we have to look at it, I'm not saying that this representation is necessary and independent representation but it is based on technical and scientific sort of data and methods and all the rest of it and then there is a line and when then this line is crossed is where there is more urging to push for a particular position or a particular decision outside the merits consideration. It's a bit difficult but that's what I'm trying to express.

I understand. Do you think that the distinction that you're drawing between the technical lobbyist, planner, architect, et cetera and what I'll call the political lobbyist the one you'd find on the register is a distinction that may be of greater value in your field, that is, planning and the management of land and land use than it is in other areas?---I think it is.

So in a sense one has to treat land use perhaps as a bit different from other areas of government lobbying or lobbying of government?---I think there may be a case to do so and that's why in the Code of Practice I have included all meetings involving everybody.

Yes?---Including consultants, developers, everybody.

All right?---So that I'm looking at the total picture in that context and in the context of transparency.

Do, do you think that that, that that principle extends from your department also to encompass the problems in local government?---I think so, yes.

Right?---Yes.

All right?---I see the planning system as being the planning system - - -

Yes?--- - - - which, which is both states and local.

Mr Haddad, if a result of this inquiry, I'm speaking hypothetically now, were to recommend some changes in the register of lobbyists maintained by the Department of Premier and Cabinet with a view to looking at lobbying at the widest sector of government I take it you, there would, you would accept that there's going to need to be an adjustment to your scheme and your code of practice because it depends in part on a definition of lobbyist that (not transcribable) or a process of registering lobbyists that might change?---That's correct, yes.



All right?---Yes.

Do you - - -?---I accept that.

All right, yeah, that's what I wanted to know?---Yeah.

10 You can see that that could be adjusted to continue to meet the needs of the Department of Planning?---It will obviously need if the definition of what is the register lobbyist is included, it will have then to more specifically be reflected in the Code of Practice that, that's been administered.

Mr Haddad, we've heard in evidence here that the registered lobbyist, the political lobbyist who doesn't have technical skills to offer have made few inroads and, and see not necessarily to be especially interested in the work of local government. We're heard that there are very few lobbyists operating in that field, when they do it's single-project more or less. Is that consistent with your experience as well?---Generally, yes, I'm, I'm not, I'm not aware of many sort of lobbyists, although I mean I'm not, I haven't, I  
20 have no direct sort of information to be able to credibly say one way or the other. What I know is, is that I, if we can quote the word lobbying I or people in the department may be also lobbied by a local government representative. Now, this is happening I'm not sure and I'm not saying that that is, you know, a bad thing or a good thing, I'm just, just saying that that is an area to look at. Now, I am not, I am not, I don't have any particular information to, to lead me to a conclusion that, that it is, it is an issue with local government if this is an issue.

30 Ah hmm?---That's, I'm not sure.

At the present time do you know to what extent your code of practice is being triggered for registered lobbyists? Do you know how often it's had to be used for the registered lobbyist since it's come into operation?---I've got some information and that's what, what's leading me and which I've to do it, I've, they're quoting, and I haven't verified this myself nor did my office but the, the, the corporate governance division which runs the system advised me yesterday that there'd been about almost 56, 56, 56 triggers, not necessarily meetings, but could be phone calls or whatever since  
40 1 December.

2009?---2009. However, this has substantially decreased since January, February, substantially decreased. Now, in saying that I have to go back and I have asked to go a bit more into the system and that's why I was, I was saying that I am going to initiate a bit more of clarification of how it's working.

THE COMMISSIONER: Do you think that's a good thing or a bad thing that it's decreased?---Commissioner, it's a bit, I think, you know, look I

personally think it's not necessarily a bad thing, if I can put it that way. And you know, I have to keep on saying that lobbyists are a legitimate part of the system. But when I say I don't think it is, it is not necessarily a bad thing, it's reflecting my concern about the perception of that.

Well, could we, just to explore that. Do you think that, do you think that a number of approaches by people who you regard as lobbyists are to a degree are necessary and because of your system those people have been discouraged from asking unnecessary questions and are focusing only on those questions that are of real importance to them?---Yes, I think so. Yes, I think so.

Did you think there is any element of people being discouraged where they have genuine need to speak to you, speak to the department?---Yes, I think so too.

You think some people are discouraged when they have a genuine need to speak?---I'm not sure about discouraging, but I think people are much more careful in certainly in seeking meetings and the way it has, it has definitely changed the, sort of the behaviour of the interfacing.

Well, what, what part of the system do you think has the, the force of discouraging them?---If we think about lobbyists, I think probably the fact that that's, that it would be, it would be you know, made public somewhere on a, on a website, I think, probably. I'm just trying to think aloud. But that would be one area that it may well be that some people are, you know, they may see it as being from a perception point of view, a negative thing. I don't know why, but I'm just trying to think that that may be part of it. It may well be that, that the focus is more on advising clients rather than direct communication. And sort of trying to advise clients more. But, it's a bit difficult to pinpoint exactly what's - - -

Yes. It's early days, I know?---It is. Yeah.

But is there any aspect, is there, or is there any possibility that the system requires them to take more trouble, more office work on their part and, and they're just not prepared to do that. Is there, is there anything in that?---Yea, it could be. It could be that this is, this is another factor. It's - - -

MR GORMLY: Mr Haddad, there's nothing in your Code of Practice though which places any burden on the, on the lobbyist other than to write a letter requesting and giving reasons?---Yep.

That's the only demand isn't it?---It is. That is the extra demands, you're right. I mean, that's, that's why I can't see there's, I'm having, it's a bit difficult to pinpoint exactly where it's, what's the reason. The fact is that, yes, you know, and I'm just being very cautious in putting those statistics here.

THE COMMISSIONER: Yes?---But nevertheless there is certainly this trend.

It certainly seems to be a phenomenon caused by the people wishing to contact you being forced to think about whether it's really necessary or not?---Yes. Perfect. That's it.

10 Would it be possible for you to quantify more accurately the, the decline in applications - - -?---Yes.

- - - for us at some later point?---Yes. I'll do that, Commissioner.

Thank you?---I'll do that, Commissioner.

Would it take you more than a week or so?---No. I will do that immediately, Commissioner.

20 Thank you?---Because I'm, I'm also interested in looking at how the system is working.

Yes?---So we'll do that.

And whether one can really, whether one can see a reliable result?---Yes. Sure. We'll do that, Commissioner.

Thank you.

30 MR GORMLY: Mr Haddad, just, if we could just scroll to the bottom of the page, the bottom left hand corner and we go to this internet issue. We have heard, Mr Haddad, in non-Planning areas of government quite strenuous claims that the content of a meeting, for example, with a minister or a director general or someone in a senior position should not be made public. Now that's presumably because there are often policy issues involved, whereas I understand that Planning has moved very much to an objective and merit based scientific structure where discretion is effectively being reduced. It's subject to part 3(a), but, but the system itself is objective. Mr Haddad, have you struck any objections or any difficulties from people about having the contents of a meeting with the department  
40 published?---Very few if any. Very few if any. And generally is it where, generally it's where an organisation sort of exposes a number of projects that they have rather than (not transcribable) and because of that they may be talking about, you know, a variety of activities in different places. Things that they're looking at to do now. Things that they're considering the next five years or ten years and so forth. And they will obviously have difficulties in making such information available. That's, that's, that happened on very, very few if any occasions. Maybe once or twice.

Right?---And probably there are ways of dealing with it in terms of just focusing on the ones that, that can be recorded because - - -

Sure?---usually we don't, we don't sort of, you know, come up with any decision or direction or, or indication when we're talking about long term projects. Usually the discussion, the immediate discussion is around what's happening with, with the projects that are under consideration or about to be under consideration.

10 Right?---And usually there are no reasons why those projects are not, cannot be made publicly available. That's, that's my experience.

All right. Well, I think a distinct difference in, in this Code of Practice is that you only require that it go online if there's been a political or a registered lobbyist involved?---Yes.

If there's a Planner or an architect involved you require the retention of a permanent record on file?---That's correct.

20 But you don't require it to be put online?---No, we don't. And one of the, the practice that we use is, is essentially when we're reporting, my reporting to the, to the minister, we consider all other meetings as being submissions, which we, which we deal with them as submissions. But if there is a registered lobbyist then we basically highlight this more specifically, as a registered lobbyist, as distinct from matters of submissions.

30 Right. If we just move over to the right hand panel dealing with telephone calls. I think we have the same procedure available. In the middle box on the right hand side we see that if a registered lobbyist calls then a note of that conversation, which must be kept is going to be put online. Is that right?---That's correct. Yes.

But not, not (not transcribable)?---That's, that's through the same system with the other, so - - -

Right?---Yep.

40 All right. Well, that, that's a very sharp distinction in the management of the registered lobbyists compared with the technical person?---It is very much so.

All right?---Yes.

I'm just going to put this proposition to you for your comment, Mr Haddad. If one looks at this and compares it with other areas of government one could easily come to the view that registered lobbyists are not being denied access but if they do want to make contact then their contact is going to be made public. Is that a fair way of looking at it?

---That, that is, that is correct answer. The, the, the fundamental thinking of this and that's, that's, that's my submission is because for whatever reason, again I'm not implying that this is bad or good or whatever, there is a perception issue, no matter who is, you know, who is lobbying activities to developers or other sectors. So in my submission in order to address this perception issue which, which ought to be addressed and it's very difficult to address, it's very difficult to address perceptions, is to increase the transparency of the system. And because this is coming much more than anything so people for whatever reason there may be context between  
10 developers and department and other stakeholders and it should be, can't operate without having this contact but if there is a lobbyist, from experience, and I'm not again commenting, I'm emphasising that this a bad thing I'm just saying that there is somehow a perception issue and because of this I want to increase the transparency. So this transparency now if, if the, the people who are actually see it that do the lobbying activity as defined somewhere has increased then in my submission the transparency will also have to increase.

Well, I suppose - - -?---Sorry. Sorry, Commissioner.  
20

THE COMMISSIONER: I beg your pardon. There's just one aspect which is a difficult aspect that I wanted to raise with you. The question of political donations is also part of the perception problem is it not?---That's correct, Commissioner.

And it's very difficult to disentangle and, I'm sorry, I wanted to ask you whether you agree with this, if you don't wish to comment that's entirely up to you but one, unless there is, there is a view that unless there is some really significant control by limiting political donations the, no matter what  
30 you do about transparency a perception of something wrong will still be there. What do you think of that proposition?---Commissioner, it's, it's, it's, it's difficult for me to comment and probably inappropriate about the, the political donation as a policy or a practice associated by, by political parties however I, I agree with, with, with comments, with your comments that when, when it comes to perception, when it comes to perception the perception is much sharper or more sort of, I mean there is obviously perception issue when political donations issues are and this is why, this is why if I may as a result of that within the planning system political  
40 donations must be declared. So when, when there is a political donation it is declared, formally declared and then it goes into a particular regime.

Yes. That's the best one can do?---That's the best one. Now, however, notwithstanding it goes into the political regime probably I'm not qualified to now say what, what, what this, this particular regime did to the, to the, to the perception issue but certainly that's what happened, that's what (not transcribable) and that's an indication by everybody, sorry.

And I think that you have said before, well, I withdraw that. Let me put another proposition to you. In fact another witness has said in this inquiry words to this effect that the more discretion, the more discretion the politicians have in the decision the greater the possibility for a perception of impropriety. Do you agree with that?---I, I, I agree, yes, Commissioner, I generally agree with the proposition that in the current planning system as distinct from the planning system of the eighties and probably early nineties the, the more discretion the more perception and other difficulties associated with even efficiencies (not transcribable) the running of the system, not only  
10 perceptions but, but in, in terms of the, the fact that there is discretion would necessitate me to introduce by the discretion and criteria and other mechanism to monitor and to make sure that this discretion is exercised properly to - - -

All that goes to show, sorry, all that goes to show that the people, the public want to know what was it that actually brought about this decision?---That's correct. That's correct, Commissioner, yep.

MR GORMLY: I take it just following that up that on one view you  
20 couldn't have an efficient exercise of executive power unless there was a degree of discretion available because you do need to consider exceptions and case by case situations. Correct?---That's correct.

Otherwise you end up with a very rigid system?---You can't have it but we're talking about the exception rather than (not transcribable).

Yes, yes, I accept that?---The definition of the exception is, you know, one can, it's, it's guided by a number of factors.

30 I understand that, I'm not - - -?---You can't have it black and white but the more, the more the rules are defined in terms of certain aspects or certain steps in the processes or the decision making probably I will say whether people agree or not with the, with the rules the perception is less, I suppose the confidence in the system is, is more than the more you have the discretion. Inevitably you must have, you will always have a discretion - - -

That's what I'm after. Mr Haddad, I think we're all going to be in agreement here, I'm not putting a proposition different from the one  
40 discretion then a solution to avoiding the perception that a discretion may have miscarried or have been exercised in a partial way or not in an impartial way is the usual things like transparency, the giving or reasons and a detachment or objective or separate assessment of those factors?---That's correct, yes.

And the less there are of those factors the more likely the exercise, the discretion will be suspected?---That's correct.

Can I just take you back to this question of the political lobbyist and your system just for one last matter. When you say that it's the perception issue that causes you to treat the registered lobbyist differently from technical people I take it that that's in part because you may well have turning up to your meeting somebody who is a former minister or a formal senior member of government?---Yep.

10 And of course that kind of person even if they are a completely honest person and person of integrity is going to raise the spectre of the suspicion that their relationships, their knowledge and their familiarity will breed favour for their client against the integrity of the government officer making the decision. Is that right?---That's correct. I agree with that, yep.

20 Well, can I just take you then for a minute to the, to the other kind of lobbyists, ones that I think in your system you're not necessarily calling lobbyists, that is the planner, the architect and the other persons who offer expertise of some kind to the planning system. I take it you accept that they are all representational persons appearing for a client and advocating for their client?---Yeah.

If one of those persons was also a former minister and of course that can happen, particularly in the law, would you agree, you're likely to end up with a lawyer attending?---I agree, yes.

That those perception issues likewise arise?---Yes.

Do you, and they're going to not be registered lobbyists under the current system?---That's correct.

30 Most likely?---Yeah.

40 Do you regard the other procedures that you have in place, that is the recording, two persons present, recording to a certain standard and placing permanently on the file as being a protection against perception independent of the Internet publication requirement?---I think, I think it is a basic protection in review the codes given experience with its, there may be a need to, and I want to say reconsider but probably to think a bit more about the sort of situations that you've just mentioned now, again because of the perception and that is in undertaking this representation there will be a technical component on behalf of clients and there would be other people present which are not necessarily technical in the area or maybe technical but with other qualifications and whether that should be included or not is something that may need to be considered.

All right?---This is certainly something that is, that is very much on my mind and probably my executive in that when we have such good people coming the question is always asked, are you registered lobbyists or you're

not then why not and give us your statement as to why not. And we have a number of cases like that.

Right?---So we do inquire about it, why should we consider you not to be a registered lobbyist if I can - - -

10 THE COMMISSIONER: If there were, if there were a system which involved you speaking only to registered lobbyists, in other words, not, speaking is the wrong word, having meetings only with registered lobbyists - - -?---Yeah.

20 - - - and the, and if the way in which one would become a registered lobbyist was made simple and if registered lobbyists would include anybody who did lobbying and that would then involve engineers, planners perhaps, would that be of concern to you or not?---Well, Commissioner, if I understand the question correctly, well, obviously, you know, if, if, if engineers and others, and the consultants, if they are involved in what we call lobbying activities then I'm not concerned if they become registered lobbyists but only if they become, I mean, it would be difficult to administer the system in my submission where - - -

30 All right, I understand?--- - - - everybody is registered notwithstanding, I am now here to present the planning arguments for this particular case and indeed only the planning arguments, emphasising that I am not expecting the department to consider me independent but here is, here are all the cases, here are all the studies, here is why it should be happening and I keep on answering your questions on that basis. Now, when it comes then to a point where I'm moving from there to then advocate the position of a decision and I'm sorry, I am having difficulty with articulating this.

I understand (not transcribable)?---Beyond, beyond this then it becomes a different, a different thing which I think whether it's right or wrong, I'm not saying it's a bad thing, I'm saying then in this case for the, if we are to be consistent with the concept of transparency and all the rest of it then we should put them in a particular regime.

Let me try and explain to you a proposal that has been developed during the course of this inquiry?---Yes, Commissioner.

40 And that involves a system of, that has two, two branches to it, two limbs to it. The one is a register of lobbyists and that register is based on the idea that anybody who undertakes lobbying activities needs to be registered. So you wouldn't call, you wouldn't, the need to register wouldn't depend upon what you were called, it would depend upon what you actually did?---Yes.

Then the second and separate branch would be some administrative requirement imposed on all ministers in all departments, directors general, chiefs of staff, to only have meetings where lobbying activities take place in



their offices, on site or on some other defined place where there was somebody else, where there was a senior, where there was a department officer present who took notes. Now, obviously if that system, and, and keeps the notes. The register would also reveal what meetings took place and when and with whom, well, not necessarily with whom but certainly what meetings took place and when and that, that would actually, the whole point of that would be to lay a trail under the Freedom of Information legislation that would enable someone wishing to find out more about what was discussed at the meeting to apply to the relevant authority for them, for the minute itself and that would be subject to the legislation. But that would be a much more transparent means of dealing with things than they presently are. But we, it is also clearly understood that a meeting which really results, the purpose of which is simply the imparting of information would not be regarded as lobbying activity?---Yes.

10 And so if you apply your position and you would get a planner coming to explain to you parts of the proposal that's being made that would not be regarded as a planning activity?---Yeah.

20 But it may be that during that meeting the planner stops explaining to you what the proposal means and starts advocating the approval of the proposal which then becomes a lobbying activity?---Yes.

If that happens the, there is a proposal that you should then stop the meeting?---Yeah.

And say look, I'm sorry this part of the meeting I am certainly prepared to have with you but I can't have it with you on this informal basis?---Yes.

30 If you want to have a meeting where you tell me these things you have to be a registered lobbyist and you've then got to, we've got to note the meeting has occurred and I've got to have people here to take minutes and because that hasn't happened we can't do it now but you can make arrangements later for such a meeting to take place. Do you think that can work?---I think it can and I think the, codes, our codes can be more defined to accommodate in principal what, what's been, what's been suggested.

Do you think that it is a good proposal or do you think that it is (not transcribable), do you think, do you see any problems with it?

40 ---Commissioner, I mean, I don't want to just hurry up with, with an answer but I think just from what, I think, I think there are no, no issues with, with administering a proposal like this one. I think in terms of answering the criteria of transparency I think it would, it would improve the, I mean, at least it would clarify the transparency issue and I think it can certainly be accommodated with, with minimum disruption if, you know, if administered properly.

It would encourage Planners to become registered so that when they arrive they're already registered and they may then say to you, look, you better have your people ready. Although I'm coming to explain, we may get on to other matters and - - -?---Yeah. Yeah.

There are, there are many practical way which could accommodate this?  
---Yeah. I agree, Commissioner. I mean in principal, I think. I will add to that that there may be also a role in encouraging and I'm not sure whether that's within the terms of the relevant professional associations as well, to  
10 be able to, to promote those calls to their, to their members at least.

Yes. Because - - -?---That is something that, that - - -

- - - one, one of the ideas is that to get on to the lobbyist register, a person would have to agree to a Code of Conduct?---Yeah.

So you'd have the Code of Conduct, not only with the civil servants but with the public you are dealing with?---Yep.

20 And they would have to acknowledge that that they know that this Code of Conduct applies to the department so that you don't have people complaining about it. They have to acknowledge before they come that they know that this is the procedure that has to apply?---Yeah. I mean I think, I think in principal, I mean I'm happy to provide a separate submission as well, if I may. But I think it's, I can't see anything in terms of the administration officers, something like that, that will be necessary, a necessary (not transcribable) or I can't think immediately of any major issues, as long as there are the appropriate, I suppose, training and  
30 the, the practice and, and making sure that this, this is happening and readjusting (not transcribable) properly.

Right. I'm happy to hear that, Mr Haddad. I should also say to you that your, the system you've devised for your department has been the foundation on which we have worked?---Thank you. Thank you, Commissioner. Thank you.

MR GORMLY: Commissioner, I just have three short matters to raise with Mr Haddad.

40

THE COMMISSIONER: Yes.

MR GORMLY: Mr Haddad, in your system for meeting with lobbyists, you have been very specific about the question of venue. That is you have required that your officers not meet with lobbyists anywhere other than on site, in departmental offices or in council offices. Now, that obviously excludes meeting in bars, restaurants, cafes and so forth?---Absolutely.

That's, I understand an important consideration. Have you had anything else in mind when you prescribed venue or was that the mischief you were trying to deal with?---That's, that's mostly what I was, was trying to, to deal with, yes.

10 Has it caused any difficulties for your department?---There are submissions. I'm getting some preliminary submissions and again, we're going to check from some of our regional, regional officers and some cases where firstly their ability of a director or of a senior planning, planner available at all times. It may be, may be difficult sometimes and certainly the issue of where do we meet is, is an issue. Again, it's not a major sort of factor at the moment, but this is something that we will be engaging in specific discussions. So I'm, I'm really intending, Commissioner, I really want to do it basically as soon as possible. And I just want to have a good, a good look at, at having travelled so far with the (not transcribable) then as I tried to say at the beginning there will be, I mean I would be proposing adjustments to it. Certainly to strengthen some elements. I really want to make sure that where we need to put information publicly available on website or whatever, that everybody is doing it. And in an organisation this is something that's, there may be some teething problems or not. I'm starting to have a feel that we should act much more quickly than what we did in this particular area. But certainly in terms of the culture of meetings, of keeping records of telephone calls and all the rest of it, it is, it's well instituted at all levels.

30 Sure?---Now, I haven't received any major issues from executives or others other than you know (not transcribable) the phone calls every time we're there, we have to do it. Well, you have to do it. And that's what's been happening. And you know, I'm, I'm sometimes in, you know, the car or whatever, I make sure when I go I just dictate it or do something.

Sure?---Even when we don't return calls, then we say phones, you know, such and such date, didn't return calls. And then eventually return or spoke to him or whatever.

All right?---I just want to go back and make sure that all that is happening. Examine, clear to us how, how is it value adding to the transparency and other issues. I haven't got the feel out of, other than what I've said - - -

40 Sure?---in terms of the (not transcribable)

But your feelings is that it is, it is generally working though?---My feeling it is definitely generally working.

All right. And, but I'm not, I can't say it's working a hundred per cent as, as what it was meant to work, but - - -

Okay?---that will need to be adjusted.

All right. So that was the first question was venue. It would seem that you're prescribing venue in the way you have adds to the formality and the recordability of the meeting as well?---It is. It is.

Okay. So that was the venue. The second - - -?---And I would like to maintain it, rightly or wrongly with very few exception if that's the case. So - -

10 All right. Now the second thing is that, if we could just go to the bottom right hand corner of the page. I'm so sorry. I'm so sorry. It's the bottom right hand corner of the protocol itself. What I want to ask you, that's it. What I want to ask you about, Mr Haddad is the question of the training that has been required?---Yes.

You, you require your staff to undertake the eLearning module which is on the website of Premier and Cabinet?---Yes.

20 But you've also said that awareness and understanding of the governments code is to penetrate it's way through to those other areas, that is recruitment and performance, procurement, induction et cetera. Have you found that there have been difficulties in doing that?---So I can, I can say definitely in terms of the first two, no. And personally, I'm involved in the induction programmes and I mean, that's the ongoing training and capacity building. I don't think that there will be difficulties, but it's an area that we need to strengthen.

30 Yes?---We haven't done enough of it yet, so this is an area that I'll be paying particular attention and performance, procurement processes certainly it's been, it's been significantly, significantly strengthened using a lot of those principals and, you know, quite well established within, within the department.

Okay?---So the areas of ongoing training capacity building and performance monitoring are the ones that probably will start to be elevated more then what they are on the departments agenda.

40 Okay. Thank you. And then the, the last matter concerns again that publication of meeting notes on the internet. Mr Haddad, I was wondering with, with the Commissioners permission, if I could ask you to try and establish whether and what kind of problems have arisen about publishing the content of meetings on the internet. And if there are problems, for example, commercial in confidence or other forms of confidentiality problems, if you could without, we don't need to know the, the actual facts, but if you could tell us the nature of the problems, that would be very helpful?---I'm happy to do so. I'm not aware of any immediately, but I'm happy to do so.

Right. Thank you, Commissioner, I have nothing further.

THE COMMISSIONER: Thank you so much for your co-operation Mr Haddad?---Thank you, Commissioner. Thank you.

For all your helpful information that you've given us?---Thank you, Commissioner.

Thank you?---Thank you.

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It has been very helpful to us, I must say?---Thank you.

**THE WITNESS EXCUSED**

**[11.10am]**

MR GORMLY: Commissioner, our next witness is Ms Carol Mills who's the Director General of Communities. Commissioner, consistent in the past, may I have a few minutes with Ms Mills.

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THE COMMISSIONER: Yes. The Commission will adjourn for - - -

MR GORMLY: Five minutes.

THE COMMISSIONER: - - - the time being.

**SHORT ADJOURNMENT**

**[11.10am]**

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MR GORMLY: Commissioner, we have present Ms Carol Mills, Director-General of what is described as Communities an umbrella.

MS MILLS: Good morning.

THE COMMISSIONER: Good morning. Would you care to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS MILLS: By affirmation, thank you.

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THE COMMISSIONER: Mr Gormly.

MR GORMLY: Commissioner. Ms Mills, can you tell us your full name?  
---Carol - - -

I think you're Director-General of Communities New South Wales?---Yes.

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Now, I just want to spend a moment just describing what, can you tell us firstly how would you describe Communities New South Wales as the area that you cover?---The agency is comprised of 24 separate divisions and agencies that cover three core clusters of activity, an arts and culture cluster which comprises the major cultural institutions and the arts policy and funding body, a sport recreation parklands cluster which includes the major sports fields across the state that are administered by the state, SOPA, Centennial Parklands, Western Sydney Parklands and so on and the 11 sport and recreation centres that we offer across the state. The third cluster is what we've called Community Development which is probably the most diverse in terms of its role but it includes things like the Commission for Children and Young People, the Children's Guardian, it has a youth policy, volunteering and also our regulatory areas so the Children's Guardian and the Office for Liquor, Gaming and Racing and the Casino, Liquor and Gaming Authority.

20

All right. Just so that we can get some context here I'm just going to read, tell me if I've got this wrong but I'm just going to read some of the bodies that you administer. So Office of Liquor, Gaming and Racing, New South Wales Sports and Recreation, Casino, Liquor and Gaming Control Authority, Children's Guardian, Commission of Children and Young People, Historical Houses Trust, Art Gallery of New South Wales, State Library, Sydney Opera House, Parramatta Stadium Trust, Western Sydney Parklands Trust, Illawarra Venues Authority and I think I've only covered about half?---(not transcribable) and others, yes.

30

Right.

THE COMMISSIONER: Well, we're very grateful that you've taken the time to come?---It's nice to be out of the office.

40

MR GORMLY: So your area communities is one of what is being called the Super Ministries?---That's right, yes.

You have a total of how many ministers to report to?---Six ministers.

Right. Now, can I just take a moment with you. I think your tertiary background is economics, art, public policy, business administration?

---That's right, yes.

And I think that you've been the Deputy Chair of the Teacher Housing Authority, Chair of Partnership Against Homelessness and you've served on a lot of other state and national boards, committees?---Yes.

Your senior roles have been in the Department of Education and Training, Department of Urban Affairs and Planning and I think you were in fact the inaugural Executive Director of the Office of Community Housing?

10 ---That's right.

At the present time, I'm sorry, I withdraw that. Immediately before your Director-Generalship of Communities you were Director-General of the Department of Arts, Sports and Recreation and prior to that you'd been Deputy Director-General of Department of Housing and also the Department of Aging, Disability and Home Care?---That's right.

Ms Mills, is there anything that you would like to say by way of an opening concerning the subject of lobbying?---Perhaps just some general remarks as they relate to my portfolio if I might. You can see by the list of things that we have within the cluster that it's a very varied group and that we have I guess a range of different ways in which we interact and make decisions or provide advice on behalf of government ranging from direct funding of organisations through to licensing and regulation of industries and also employment bodies et cetera. We also have the provision of major contracts for providing services at our facilities, for example, maintenance, capital construction et cetera and we also let our properties like the, on both the short and long term basis, the stadiums for football, for example, for concerts, entertainment et cetera. We have a very large number of people who use our services each year, if you look at the aggregate we had some work done last year by an independent company which said that we have 50 million customer interfaces a year as an agency, some of those are online, they're not all in person but we have a very high public presence as a group of agencies. And the services we provide are very much focussed around community wellbeing, social capital and (not transcribable) development aspects. So the way in which we interact with our various parties is quite diverse given those diverse roles and in that sense and particularly having read the discussion paper and some of the other background material for this if you take the very broad definition of lobbying as opposed to individual lobbyists we certainly interact with organisations, individuals, industries and industry representatives on a very regular basis, who all have a view of ways in which our resources might best be applied and I guess a lot of the consideration that we've been given to how we as an organisation have transparent systems and have good decision-making processes and that those processes can be understood by the community and by people who have an interest in our decisions is consistent whether we're talking about a formal lobbyist who's actually somebody who we see as being in effect paid to introduce an issue or an organisation to government as opposed to an

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organisation itself which wants to advocate on its own behalf or  
organisation that brings an industry body with it as, in a way to provide  
advocacy and so we've tried to build systems and are in the process of doing  
so that try and reflect the fact that good decision making should be  
transparent. There's a key aspect of community interest in what those  
decisions are and there's a key aspect of community interest in how those  
decisions came to be made and I think that whether you're talking about a  
very narrow definition of lobbyist as being an independent paid person who  
probably doesn't have an interest in the outcome in terms of the lasting  
10 outcome and implementation of that decision so much as they have in the  
introduction of the issue to government or a government representatives and  
potentially the success of that introduction however that might be perceived  
but not a vested interest in, you know, whether an organisation is actually  
doing good or it's in core business. Both of those things really require us to  
have the same sort of systems in place is our view.

All right, thank you. There are a number of areas I want to cover, Ms Mills,  
but can I just ask some more questions about the operation of your area.  
The first is that would it be correct to say that you are, I'll withdraw that and  
20 ask you neutrally. Of the various types of lobbyist that one might identify,  
that is the professional third party lobbyist that you've just been referring to  
or the peak industry body for example, or the charity or church and I  
suppose there are community groups and other groups of lobbyist as well, is  
there any particular sector of that lobbying community that would most  
affect your area?---In a sense because of the diversity we probably deal with  
all of those, I would suggest probably the independent lobbyist least of those  
three groups, certainly from, if you think about non-profit organisations we  
fund many hundreds of arts and sports organisations each year directly or  
we provide subsidies for them to actually access some of our facilities so in  
30 that way we have a very regular interface. In terms of industry bodies I  
would suggest that the, the parties and industry that we deal with most  
directly and most regularly would be representatives of the Liquor, Gaming  
and Racing industry because of our regulatory responsibilities there. And in  
terms of individual I guess paid lobbyists I've tended, most of my exposure  
in my present role has tended to be where they have been used to secure  
meetings with representatives of government as an initial interface meeting.

THE COMMISSIONER: Do you also receive lobbying from corporations  
who have in-house lobbyists, they call, whatever they call them?  
40 ---Government relations sort of staff?

Yes?---Yes, from time to time, yes.

As well?---Yes.

That's another category?---Mmm.



MR GORMLY: We've heard varying views, Ms Mills, about the utility of, of these groupings of people who lobby. Would you generally adopt the view that lobbying is simply part of the system or do you think that there is something to be got rid of?---I think it's part of the system. I think it, it's a product of several things. Government is by its nature a complicated business. I mean, you just, we, we spoke earlier, I have six different ministers and I have 24 different areas and I'm just a small part of government. So the government is by its nature a complex and sometimes an entry point is not understood, corporations, particularly private  
10 companies don't often fully understand the process by which government operates and there is a role for expertise in opening up their awareness of that process. I think that's quite legitimate. I think there's certainly a role for industry bodies to represent the views of their members. When I was in the human services we developed, we fund a number of peak bodies in the non-government sector, for example to represent various aspects of the disability community or homelessness services et cetera and did quite a lot of work to try and identify what we thought were appropriate roles for those bodies, particularly as they received government funding and to try and be  
20 clearly able to separate out the role for which government might pay a peak body and a resourcing body versus where we would expect them to actually secure resources from their membership. But one of the key things for us was that they could actually show they did represent, they had mechanisms for representing their members' views, not just, not just the view of an individual or that they were just in effect for hire. I think in the last area for paid lobbyists, I think there is so many grey areas about that that again I think it would be hard to ever eradicate because people need access and information and short of us providing staff that actually were our own government relations officers you'd end up, you'd still end up with a process whereby people would be trying to secure expertise and knowledge.  
30 I think it's just inevitable but there are ways it can be managed effectively.

I wouldn't want you to think for a second that there was any suggestion that lobbying would be outlawed but - - -?---No.

Yeah. Ms Mills, are there aspects of the lobbying then that you have seen or been exposed to which you would think requires regulation or that you find obstructs the business of government?---I think, perhaps what I've seen and I'm not, and I'm probably referring over my career rather than current  
40 specifically, I've certainly seen a lot of time taken up in government processes by lobbyists getting access to bring ideas forward that have to be for transparency reasons explored and explained as to why a decision may or may not be made and sometimes that is quite time consuming. So that if you think about just that entry point where a door is opened as the result of a, of a lobbyist knowing how to make that happen without always the same level of due process that you might go through in calling for submissions for example, then, yes, the resources can be perhaps misaligned to that purpose.

All right. I'm just going to take you straight if I may to the registration issue.

THE COMMISSIONER: May I, just before you do, Mr Gormly, there's some, just as a matter of general background to the area which you administer, Ms Mills, and I speak now as an ignorant member of the public but I do have an impression that sometimes there is a great deal of comment about funds that are given to one recipient or another and these recipients aren't necessarily commercial organisations?---Mmm.

10

They are not necessarily charities either and they're not necessarily altruistic, there for altruistic purposes. I mean, they could be sporting organisations or other organisations which exist for the benefit of their member who suffer no disability but who have a common interest so that there would be considerable competition sometimes for funding from your, your ministries?---Yes, that's, that's correct.

Is that correct?---Absolutely, yes.

20

And there would be, in that competition I assume that there are people in your department and even ministers who would be heavily lobbied to persuade them to effect funding to particular organisations?---Yes. Look, that's true, I guess I'm happy to describe what I've tried to do while I've been in the department to deal with that issue.

30

And do you accept that although I suppose the majority and perhaps even the vast majority of the work that, that departments for which you're responsible does, does not concern organisations which have at their core a commercial purpose, the earning of profit, nevertheless, the kind of funding or and other work the department does, does give rise to the same kind of perceptions of, I use the word corruption, not because I have any belief that it exists, but simply because, but simply dealing with the notion of perception, that there is with other government areas which do deal with commercial organisation?---Look, I think that's true. And if I can perhaps give one example. Arts funding is probably a relevant experience. When I joined the department, I've done a lot of work in, over the years for Housing and DADHC in funding non-government organisations and in DADHC, Aging Disability and Home Care, we had an annual budget of \$1.0 billion over \$1.0 billion going out to disability and aging organisations, non-profits, but nonetheless, highly commercial activities. And we, I did a lot of reform in that area to deal with the sorts of issues that you're speaking about, but just as a small example, my current area we have an Arts grant programme of about, about \$40 million, \$45 million a year, so quite small compared to my DADHC budget. But nonetheless the same number of organisations, probably trying to get access to that. When I first joined the organisation and asked the question, is it, can it be, can I have full confidence that people are getting this on a merit basis only? And I couldn't answer that question positively. That wasn't to say it wasn't in place, that it was merit based.

40

Difficult to know?---But it was difficult to know. And there were a few reasons for that. One was that people from the sector, there were quite close relationships between individuals in my organisation and the sector representatives who were seeking funding. There'd been a history of, many of those Arts organisations are quite small and don't have a lot of expertise, so they don't necessarily have an advocate or a lobbyist that they can afford to go to, but they became reliant on advice from the department about, you know, what are the priorities, how should we fill in the form? How do we  
10 make sure that you, you like what we're putting in? On one level that's understandable on the other hand it leads to a perception and certainly when I did some, I guess some sounding of the sector, certainly the perception that you've just alluded to, that you had to be in the know to get a grant, you either had to know somebody who helped you through the system or because the money was so restricted because people had historically been getting money, there was no point new people trying because there wouldn't be a process for you getting in. I made quite a lot of fairly radical changes to the, to the system to overcome that, some of which were probably not that popular. But I think bedded down would be fine. We reduced the number  
20 of categories very significantly so that we had 28 different categories of grant. That also meant people shopped around. And, so they could get, argue that they were getting inconsistent decisions because they got money for one category and then another, another independent panel didn't fund them for the same sort of application. So we reduced the number of grants down and we have a much stronger documentation process for decision making. We introduced a scoring process for the independent panels. The panels are made up of experts in the Arts but also finance and other areas that are relevant. We introduced more transparent criteria for selection and we, a number of other changes. I won't go into all of them. But all of them  
30 were designed to make it much more obvious to people how to apply. We did generic training on this is what the new application process is and this is the sort of information we'd be looking for. We posted Q and A's on the website so if any inquiries about how to apply for a grant or any information on a particular grant, that went up on the website so that everybody who was interested could see. We document much more fully and have independent people in the panels documenting the process and decision. And the panels sign it off. If you are unsuccessful in a grant, you receive a letter to that, with that advice, but you also receive a contact persons name whom you can speak to to get clarification as to why you were unsuccessful. And you can  
40 also have a meeting, face to face meeting if you want to do that as well. Now that doesn't mean everybody always will agree. But I feel the process has closed a lot of the loops that people saw as being problems in the past. And I think I could say with much more confidence to you that the most appropriate applications were successful. As I say, I'm not saying the process before was unfair, but it certainly wasn't as transparent.

Yes. And as I understand it, please correct me if I'm wrong, the, you can, from what you've said it seems to me that in summary, you have taken steps

to ensure that better business practices exist within the organisations, number one. And number two, you have taken steps to ensure that the decision making process has become more transparent?---That's right. Yes. Yes.

MR GORMLY: All right. Now, Ms Mills, I want to start from an end away from the register and move to the register. Do you know the extent to which your area of government is placed under demands from the old FOI system or the new GIPA system? Do you get many applications?---We get many, many, I'm not sure, because it's hard to kind of, you know, benchmark. But compared to my other agencies we probably get a consistent sort of pro rata number. So we get, we do get quite a few. They generally relate to I guess commercial, some of our commercial arrangements that have had media interest or they relate to individuals wanting to know why decisions were made, et cetera.

THE COMMISSIONER: So are you involved in the events?---We do, we do under the portfolio have some commercial meetings. So we have tenants on our properties. The drag way is probably one that's been in the media of late. So we have those sorts of arrangements. And without milking that, but from time to time those sorts of things do initiate FOI's, sometimes from the media, sometimes from other parties who have an interest as you alluded to, where the resources went and why they didn't come to me.

Yes.

MR GORMLY: All right. Now the, the new GIPA Act has introduced a regime of more or less requiring information to be made available unless there's a reason not to?---Yep.

Has that brought about much of a change in the administrative practices of the various bodies you look after?---We haven't had to make very many changes. So that's a good thing in the sense that it gives me a sense that we were probably applying reasonable practice previously. I think the, the biggest change that we will see is, I suppose two changes. One is I think the notion that we can provide more general feedback rather than each individual document is, is very practical in a way, because sometimes we, we had an FOI recently where we sent back like three pages, 3,000 pages of documentation. I doubt that the, there was no value in transparency in that, even though they got that material. They've still got to have a capacity to actually analyse all of that. The second area I think is probably still for us to see, which is how much if any extra work it is to consciously make that available regularly, as opposed to just having a regular systematised model of keeping and filing information.

All right. Well, one of the requirements of the Act is that, as I understand it, is that there be on the website of the agency a, a panel that relates to the provision of information under the GIPA Act?---Yes.

And that various pieces of information will then be made available through that, plus information about how to access the system. Ms Mills, I just want to explore with you one expansion of that process. It has been suggested in pursuit of transparency of lobbying activity that it would be of benefit to the public and to the media if contact between lobbying entities, and I don't just mean registered lobbyists, lobbying entities and government officers and particularly decision making, senior government officers would be placed on a website, that is the name of the lobbying entity, the name of the officer  
10 that was subjected to the lobbying, so to speak and a date of the meeting. But not necessarily anything further, so that at least the public would know which interest was lobbying government at what time. That could then trigger a GIPA application should they wish to pursue it. Now you have a very large number of bodies to look after. Do you see any practical difficulty in publishing a list of appointments or consultations between a lobbying entity and a government body, and a government officer within say a period after the meeting occurred, within say 30 days of any meeting occurring? Do you see that that would be impractical?---It comes back to how you're going to, what the definition would be and the purposes of the  
20 meetings.

THE COMMISSIONER: Yes, it does?---I think that it would, there would be grey areas around that. I mean if you took a very broad interpretation and as I said, you know, people, people make contact with government because they want to influence something effectively at the core or to seek information and so, you know, sometimes I have meetings with an industry body and I actually initiate the meeting, it's to provide them with information about policy that's coming into effect or a process that's been  
30 changed et cetera.

That's not the kind of activity that's intended to be covered by this?---So it needs to be I think clear and sometimes meetings cover both of those aspects so I might have a, a quarterly meeting for example with an industry body that would be seen by the community probably as a lobbying body and I have meetings with them on a, on a say a quarterly formalised basis and there would be a combination of issues, the agenda would be comprised by me and by them so you've have to separate all those things out I think.

Not necessarily because you just have to find, as long as there was some  
40 lobbying activity going on then it would have to be recorded?---Well, I appreciate that but as I say I guess it comes back to is the lobbying, if I meet with an industry body and they talk worldly about they don't like a new piece of legislation or they want to influence something that affects their sector as a whole those meetings occur and then sometimes I'll meet with that body and they will want to talk about an individual case, an individual organisation and the, what I would think more clearly lobbying in the sort of narrow sense of arguing for a particular decision or a specific instance.

That may be a valid distinction, valid is the wrong word but I mean there is, on another view both activities should be regarded as lobbying because that's much more than information that's seeking the change the law?  
---Well, look, I, I agree with you there, it is lobbying, I guess I'm saying if you wanted to, if you take a very broad definition of lobbying we will be putting everything we do on the web, virtually every meeting, every, and what you don't want to end up with a self-protection mechanism when we tie ourselves up in red tape because we're worried that we would underreport by, you know, something arising at a meeting that wasn't expected or something.

MR GORMLY: You end up with your 3,000 pages instead of a simple explanation?---Yes, yeah.

Well, Ms Mills, assuming that one attended to those kinds of requirements, definitional requirements I want to put a scenario to you that if the current register of lobbyists were to be expanded so that entities that did lobby were required to register and that would then include the third party lobbyist, peak industry bodies, churches and charities and those corporations that did personally and actively lobby you provided there a definition of lobbying and you required people who wanted to engage in lobbying to register, would it assist your, the various bodies you administer to know that if they met with somebody who was registered that that is a meeting without further consideration that would end up on the register, sorry, that would end up being published as part of the list on the website?---Yeah, I think, I think that would be manageable if it was clear. I think if there was a, something, the registration meant some kind of link to the code of conduct then there would be some value in that. Look, I think that one of the concerns is how you get the balance right between reporting which is meant to be transparent but practicality and I'd, I mean, I just think about the number of meetings we actually have that would fall because as I said, you know, if somebody comes to see us to get, to talk about our funding programs technically you would, they want, they, they move from saying how do I apply to what sort of things are you interested in, what's the current priority areas, by providing that information back you could argue that we're starting to move from straight information provision into influencing than trying to influence us.

THE COMMISSIONER: In the end though no matter what definition one has it's going to depend on the judgement of the individual?---Absolutely, yes.

Is that a problem?---It's always a problem when, no matter how well you train people and no matter how often you do it at the end of the day someone might be busy, someone might forget, someone might not do it, what you wouldn't want to have is a system where people are afraid to actually report, like better not to report it than to report it, that's a concern I'd have I think.

MR GORMLY: Perhaps if I just paint the picture for you, Ms Mills, than that we do it in bits and pieces?---Mmm.

We're interested in your body because you do deal with a large array of quite community involved bodies?---Mmm.

10 This is the scenario. Lobbying at the moment has about it a scepticism and a suspicion that it uses people with past public life and specialists in government relations behind closed doors to produce favoured and preferential deals, that seems to be a common public and media perception of lobbying. The reality may in fact be different. The solution seems to be a much higher degree of transparency and perhaps a higher degree of regulated behaviour on the one hand and greater record-keeping or perhaps more regulated or specific record-keeping than is currently occurring, I'm specifically thinking of ministerial areas there rather than departmental areas where records are generally kept?---Sure.

20 So the proposal is this that you would achieve those goals by first of all regularising contact as to venue and record-keeping, ordinary business conduct but prescribing it as a requirement. That's the first thing. The second would be to identify those bodies that lobby other than in a direct interest so that individuals who are lobbying for themselves would be excluded from this system but perhaps corporations would not. If a corporation is in direct contact with senior and defined senior levels of government or with ministers or chiefs of staff, other ministerial staff they would be caught and bodies that lobby actively particularly for money for non-commercial purposes including charities and churches would also be included but what you would be after is those people that engage in the  
30 conduct of lobbying for broader interest than an immediate personal interest and you may put a financial limit on it of some kind to try and contain the body. And you would require all of those persons if they wish to lobby a government entity to declare themselves by entering their details onto a self-registration public register. They would be required to put their own entity name, perhaps the names of the person who would do the lobbying and if they met with a government officer they would put the name of the department or agency, perhaps the name of the officer and the date of a meeting but no more. If you had that that would enable the public or the  
40 media to see that a meeting has occurred so that the behind closed doors component is dealt with to some extent, certainly the non-publication of the meeting is dealt with. That would also then enable GIPA applications to be made so that you would complete the GIPA process, you don't just provide the facility but you provide the means to know when to make an application through the facility, you complete the trail. Those persons who signed up on the register would be required to adopt a code of conduct. There are already codes of conduct in the public sector to deal with aspects of lobbying and perhaps there could be some attention given to some aspects of that to tidy it up or to make it more cohesive but those members of the

public who wish to lobby would also be subjected to some lines of behaviour or boundaries or rules one could call it which would declare that they understand that the public sector is bound by certain rules and that they too are bound by rules. None of this would be intended to restrict access or to prohibit it in any way, rather to achieve a regularisation and a transparency of contact between non-government and government so that the register is obviously not the full answer, business records is not the full answer, none of it will be an answer to directly and deliberate corrupt behaviour which can be dealt with, found out and dealt with in other ways but it would at least deal with the corrupting effect of suspicion and lack of transparency. Now, bearing in mind that there are practical, some practical difficulties which would involve determining which meetings had to be registered and which did not, is there any comment that you would make about a system of that type as it would impact on the agencies that you administer?---I - - -

We're as interested in, in problems?---Yes, yeah. Look, I mean in principle I absolute support increasing transparency and I think some of those elements that you've just described would be very useful, if not least to make it overt to the other party exactly what purpose they're having the meeting for and what behaviour might be expected of them so I think I actually, you know, because we're certainly very conscious of trying to promote with our own staff this is the sort of behaviour that we expect, you know, note-taking, all of those things you've just spoken about, I think there's some definite advantages in having that both ways. I think the practicality would, would be getting the definitions right and not, not encouraging, not inadvertently encouraging a system that led to underreporting for some reason. So I think that simply means it has to be kept straightforward, that the timeframes in which you'd have to report the information would have to be sensible and that the information that was provided was pretty basic and I, look I, I mean, you know, I can talk about a case myself earlier this year where I was disparaged in the media from, by some part of, another part of government about, you know, being influenced by the fact that I met with somebody. It, I was able to provide all of the minutes of those meetings, I was able to provide all of the agendas for those, I was able to provide, and the matter didn't go any further with the media so in a way it was a self-protection mechanism anyway so I think it trickles both, you know, I would have been very prepared to have that information available prior, you know, I think that would be quite useful. So I certainly think the notion of getting community mechanisms for having the community feel more confident in the way we do our business in government is a good thing and I think that given, as you said, there's a, there's a perception out there about lobbying being automatically a bad thing and a narrow interpretation of lobbying being about sort of individual commercial gain I think expanding community understanding of that would be good. So I think if you did a register you would have to have the practicalities but it also needs to be accompanied by a good awareness raising within the community that if an organisation's on this list it doesn't



mean they're a bad organisation because, because most of them are doing the right thing and you wouldn't want it to be seen as a list that people didn't want to be done. So I think you've got to kind of think through that programme.

10 THE COMMISSIONER: If you expand the list to include charities and churches and non-profit organisations it becomes difficult to regard it as a bad list?---Absolutely, that's why I think there is some advantage in it because it does, it does give that sense that it's a regular part of a relationship with government and I think it's also reasonable to be able to say that the nature of the relationship between government and those parties is, is multi-faceted. Most of those entities don't only exist to lobby. They have many other purposes as well and information sharing and, and being a conduit for information between government and their members is also important so I think if it's seen that lobbying is, is a somewhat regularised part of their business processes that could be a good thing.

20 I'm really, I know we've perhaps skimmed over this but I'm really interested in whatever views you have on the definition aspect - - -?  
---Mmm.

- - - and I know it's difficult to ask you that now because it's, you probably haven't thought of it before and if you do think of it in the future we'd welcome anything you could say?---Yeah, sure.

30 Do you have anything you'd like to say at this moment about the definitional aspect? What sort, in particular, what sort of contacts and meetings do you think shouldn't be required to be mentioned?---I think the category, the categorisation that you just provided is probably quite sensible. I mean, I think if, excuse me, both numerically and practically trying to say that every organisation with whom we had a meeting fig they had an interest in government outcomes is not lobbying in a sense, it's part of, you know, a very long process and remembering at the end of those processes, excuse me, if we have a good transparent mechanism for reporting outcomes, then the individual relationships or the individual meetings become less important so it is a matter, if you're doing a funding arrangement or are tendering for a contract or something, you know, we have standardised processes in place and if, if the, if I can defend the outcome then people don't necessarily have to see who was seen and wasn't  
40 see during the process if we've got robust material if it's available on request. On the other hand, I think the third party thing where people are overtly coming in to try and influence policy or decisions is probably a good way to actually show that lobbyists aren't just individuals, they are actually a core part of government but I still think in terms of definition there is a still this difference between organisations that exist for the benefit of their members and who therefore have an interest in not just securing the decision for example but actually the wellbeing of that industry in the long term so they're actually part, they have a sense of ownership of the outcome versus

a paid lobbyist who simply comes in and who, who is there for a set period of time. They're not interested in the technical merit of the project or the, or the long-term outcome of the project, their success measure is much more short-term.

10 If you required meetings more or less of that kind, I mean because that's just an off the cuff description that does not have any depth or proper care to it but something of that kind would that be a problem give rise to a serious problem definition with your staff?---No, I think if, I think in some ways it would assist, if it was done properly it would assist staff because they would be clearer about the relationship that was being expected through the meeting.

20 And I think that you were present in the hearing room when I put to Mr Haddad, I asked Mr Haddad what he thought of the notion that you can have a meeting which doesn't call for purposes which do not include the kind which require registration then suddenly in the middle of the meeting issues are raised which would be covered, if that occurs the government officer should say stop, you can't go on until you comply with this. How do you feel about that?---Again I think it could be practically handled, it would be unusual that you got into a situation where that wasn't already a registered entity in some way so in that sense it shouldn't be a significant issue.

Just call somebody in to take notes?---Yes, yeah.

That's all?---Yeah. So well, I think that's quite practical.

30 MR GORMLY: Ms Mills, can I discuss with you the expression community groups for a moment? One of the definition, boundary lines that we've been exploring is that if you were to require for example churches, charities, peak bodies to register by direct definition but you wanted to exclude the small community group, perhaps the grass roots type group or even one that's much more formalised than that, it might even own property, some bridge clubs own property or take out leases and you wanted to exclude all of those kinds of smaller bodies do you take the view that the expression community group is one that has a, that is understood within the community to refer to a particular type of body?---Yes.

40 I thinking of a reverse definition, that is, you would say - - -?---Exclude the - - -

- - - community groups need not apply, need not register?---You probably need to add some extra lines I think because we try and use the words community organisation or non-government organisation if we're talking about those sort of, or non-profit but unfortunately the knowledge varies from place to place and organisations self-identifies different things and so I, I would certainly think I meet with some organisations that would

probably fit the category we've just been speaking about but if you ask them were they a community group they'd say yes.

THE COMMISSIONER: One example that immediately springs to my mind is the, is the group that was suddenly formed to protect Centennial Park against parking from the next-door neighbours the Sydney Cricket Ground?---Yes.

10     Something which I'm particularly interested seeing that I walk there often?  
---Yes, you're one of many citizens who have an interest in the issue.

Now, they lobbied I would imagine once, well, they lobbied on one issue, they reformed for one issue, they lobbied on one issue and then they disappeared, they didn't exist anymore but their lobbying was potentially of commercial importance to the people who wanted to take control of those areas of Centennial Park and presumably those people were lobbied or they may not even employ people to lobby on their behalf and you'd have to, they'd have to be registered but the concerned citizens who suddenly  
20     formed this group to protect their community wouldn't, that one might regard as unfair?---I think it's, look, that's something about definition, you always find grey areas, the definition of lobbying itself is grey, the definition of who you might want to include is grey. I think the easier way to start is organisations that have some longevity so that they have a defined purpose, they may be incorporated, they may, I mean, I'm not trying to put a list here but something that gives them, they have recurrent membership or industry members that, that gives you a sense that they have a formalised purpose for being on an ongoing basis, that's different to the one-off, the lobbyist who comes in on a specific issue, you know, I mean, you can think  
30     of many cases where grassroots things have sprung up and disappeared overnight.

You're suggesting that those should be excluded from the definition?---I think it's extremely difficult to include them however coming back to, if I take that case study I didn't meet, well, no final decision has been made by government so perhaps it's a bad one but if you take the case study really those people have public meetings, they used social networking media to get their message out, they had a letter running campaign, all of that was quite public in a sense and it was partly in reaction to community sense that the previous processes hadn't been public. So if we had gone back to the very  
40     beginning about if government decision making processes is, is as transparent as possible then, you know, there's nothing to say that that group should've been registered, they, it would be impractical but you would certainly want to make clear that if a, when the final decision was made whether that had an influence or not.

You say it's impractical because of the numbers. Is that the reason?  
---Numbers and timing, I mean, if you take that, that case would that group that formed, you know, overnight shall I say and probably dissolved quite

quickly as well would they have ever self-identified as meeting that, would they have read the guidelines with, you know, what, what in them would have stimulated them except perhaps seeking a meeting without simply saying no, I won't meet with you until you register. I can't see any other way you'd do it because they wouldn't self-identify as being - - -

MR GORMLY: I suppose a feature of that kind of body too is that part of their technique is generally speaking going to be to try and make the issue public?---Mmm.

10

And if they do that then that produces the very transparency that's being sought in a registration system where often the lobbying occurs in a non-public way, deliberately non-public way.

THE COMMISSIONER: They'd certainly make it public but they may not make the meetings public because they may want to keep the meeting secret especially if they've got some influence with the decision maker?---Yeah. I mean, look, - - -

20

You can take the rugby league clubs who want various things to happen to their grounds they can have public meetings and that would be public but it would be critically important to know whom they met, if a decision is going to be taken to build a huge hotel on the football field?---Yes. Look, I think it's, I mean, because the nature of government is that government makes major policy and financial decisions that impact across the board that there's always going to be parties who have a vested interest in the outcome of that and therefore want to be part of the, by some means or other part of the process and in a sense that's democracy and what you're talking about in terms of non-registration is that sort of if you can define grassroots democracy but I think the core thing is to capture those that the community would be most concerned about which is the perception that behind the scenes people have undue influence and it seems to me that that behind the scenes undue influence whilst it may be perception more than reality is that category of groups that you spoke about that have a professional reason for being either as a group or an individual whereby their success measure, their end of their each year, on an ongoing basis their success measure is decisions are made that they consider to be favourable.

30

40

Your difficulties with the practicality how much are they influenced by the fact that you have a super ministry? I mean if it was one single ministry that had to deal with groups would it be as impractical as it is with your particular - - -?---No, I think you could set up, sorry, sorry, I didn't mean to interrupt you.

You can understand what I mean?---Yeah. Look, I think we could set up a system across our organisation that would at one level be quite effective. The only issue I'm trying to ponder which is regardless of whether you're a super ministry or not is the fact that many of the, I'm just thinking about the

bodies that might fit that category that I deal with, they meet with lots of parts of government, you know, some of the decisions that we make in, shall I say the Liquor, Gaming and Racing industry might affect ministry investment, they might affect communities, they might affect Treasury, the might affect Department of Premier and Cabinet, they might affect planning on certain situations so they'd be multiply registered or was there one central registration point.

10 One's enough?---Yes. So I'd check that they're there and if they're there that's enough. I guess it's just thinking through that, yeah.

Yes?---Then, then that would be, that would probably be okay. And if someone else managed the list, that's okay too.

And you're not going to get the whole community group arriving in your office, you're only going to get one or two aren't you?---One would hope so, yes. Although I mean obviously there are times when we meet with a whole community group, which is - - -

20 Well, that's different?---taking off site, yeah.

There are two more matters, Ms Mills. The first is that in the various possibilities that have been considered, one would place the onus for registering the meeting on the lobbying entity, that is it would be part of their responsibility to keep their entry up to date and add the meetings that they have had with a particular public officer. The other, which might work as well as or independently or separately from is that a department or a minister would be required to note or publish the meeting. On all occasions no more detail than is required, then would be necessary to trigger a GIPA application, if that's required, so two names, the date, nothing else. Do you have a view about the, whether it would be preferable, from a transparency and practicality point of view to have one or the other do it or both?---I think if the community's interest is in what's government doing, then the onus for accountability rests with the government agency to do the registration.

40 And that's consistent with the current shape of the GIPA Act?---Yeah. I think, I mean, and again because we might meet with one (not transcribable) on an issue. If you want, if you take a parkland issue and you wanted to know with whom, you'd probably want to know with whom I met rather than chasing up all the possible entities to find out whether they met with me. You'd want to do it the other way around.

Right.

MR GORMLY: If you were trying to find a level, a departmental or agency level into which contact would become a notifiable event. We talked yesterday about the number of people that come into the RTA and they may

seek the exercise of a discretion that they get a license. An aged person or somebody with limited sight. It would become quite unrealistic and unhelpful to have that treated as a lobbying event registered. But if you were to deal with upper layers of the RTA where there's going to be the expenditure of millions of dollars or tens of millions of dollars, it would be a different matter. Do you, in practical terms, looking at lobbying as an activity which is designed to influence or persuade government in legislation or exercise of discretion policy, do you have a view about whether it is possible to define a category of agency officer with whom the lobbying event occurred that would require notification?--I think if you could take it the other way around as you just described it and actually describe what the nature of the decision was so that could be a scale issue. It could be, you know, for example a dollar value issue or a direct impact on legislation or something to that effect. Then each agency will have within it delegated positions that handle that side and that would then be the people, I mean, the example I'm thinking of, whether it would be, at some point you, you (not transcribable) down, particularly if I look at my department and say we have field officers who in say, Liquor, Game and Racing, are out there everyday dealing with individual venues and inspecting them, you do everything possible in terms of separation or responsibilities to make sure we don't get things like regulatory capture. If you don't get your definition right, the fact that, you know, I argue with you about whether you should issue me a penalty notice when you inspect my hotel, because ultimately there is some discretion in that. I mean that's the nature of the business, that we don't end up capturing things that are again, about, better captured by other mechanisms within government. So it is probably about the scale of decision making.

But - - -

THE COMMISSIONER: But the, sorry, Mr Gormly. But the, the real, the decisions that are of real importance must, are they not the decisions which say a director general would deal with or a chief of staff. I mean do you really go below that? I mean, because if you, one way of limiting the registration is to say that it only applies to meetings with people of that seniority and ministers?--Yeah. Look, I think if you went through, I'm just, I think that's right. If you go through, I'm just thinking about how our delegation system works in the agency. We have effectively five layers of delegation for financial and other delegations. The sorts of scale we're talking about here would only be the top two levels.

And which are?--Sometimes the third level, depending on our structure. Our director general and then executive, we have a number of different titles because of the super ministry model. But effectively the head of that division or agency. You probably need to go one down below that I would think, depending on the nature of the business.

But again, sorry, you'd have, you'd have the director, you'd have the - - -?--  
-The director general, the head of each of the designated areas. So they  
would be the people who report directly to the director general. And  
probably one more layer down, depending on the structure of the  
organisation.

But what would be the point - - -?---Because whereas the decision made to,  
recommendations come to the director general for, let's say a contract or a  
thing - - -

10

Yes?---That I don't sit on the panel. So I might make a, I might sign off on  
it, but the recommendation has been developed up at another level of work  
to me. So in terms of the influence, you want to make sure that the person  
who actually has written the recommendation is, is also being involved in a  
transparent process.

20

Yes. So how would you describe that level down?---I would say, is there a  
generic, there's probably not a generic term but it's, it's the people, it's the,  
I would say it's the third, you know, you've got a director general, then  
you've got people who report directly to the director general. Those two are  
clear I think. Then in some agencies, depending on the nature of their  
business and their scale, they will have another layer of quite senior officers  
who have quite a high degree of advice or decision making power. You'd  
want to pick those people up as well.

30

MR GORMLY: There's no generic way of referring to them. That's going  
to be an agency by agency problem?---I think so. So again, it comes back to  
your delegation issue. If you said to me, anybody who has the ability to  
sign off on something that's over a million dollars, I could be very clearly, I  
could give you a list today of who that is. It's not very many people in one  
organisation. But if I was in another department, the list would probably  
vary a little bit.

40

THE COMMISSIONER: When you say sign off, what do you mean?  
---Either, and again this comes back to how you want to do it. Either to  
recommend the, the allocation or spending of that amount of money or the  
actual final approval of it. So again, look it can vary. We buy, we buy and  
sell artwork. I'll give you an example. So there are decisions made by the  
Trust of the Art Gallery of New South Wales to (not transcribable) the  
painting. And so they were, I'm relying on their expert advice that this is a  
reasonable and sensible thing to remove from the state asset list and I will  
sign off on that. But I want to sell a painting and I might've actually, I get a  
report, but I'm actually not technically involved in and nor do I have the  
skills in technically making a decision about whether the, the, you know, I  
take advice on that. So it's the people who provide that advice that has a  
significant impact probably would also need to be captured.

So would it, what sort of figure would you think would be appropriate without interfering too much in the business of government?---That also is regrettably hard (not transcribable) because as I said, you know, when I, when I was in charge of the grant programme at DADHC, we spent \$1.1 billion a year and I, and we would issue grants of multi million dollars a year to individual organisations. In, in the Arts area now, I give out grants worth between 10 and \$200,000. But the complaints about whether the process is transparent are equally loud.

- 10 If not more?---Yes. So, you know, I think it would require variations. The guidelines would have to talk about significance and, and the definition significance would have to be, you know, variable.

I'm sorry to persist with this, but you're the person who signing off not below you?---Yes.

- 20 So if you were captured it would be enough, wouldn't it?---Look, I think, yes, in the way that you would say I, have I got confidence that within my department the systems are being put in place, yes, that would be okay but if you're talking about to, if you only registered people who met with me you're probably not very accurately reflecting the decision-making process in my agency because there's a lot of things that I, that I do delegate, up to a certain value so I guess again it comes back to risk. I know that's not a very helpful answer to you but because the department's - - -

- 30 I think it describes the problem?---Well, I think, you know, because departments are very big now, I mean, if you spoke to Transport, I mean, if you think about transport it's got, you know, a gazillion dollar budget compared to us, decisions are made there within the RTA, decisions are made within the, there's the Minister of Transport, decisions are made in Maritime, et cetera, each of which potentially would have a specialised relationship with certain companies, a specialised process in making those decisions and although technically they would all go to the director general, the general director is seeking, is receiving advice but has not been party to the process.

Well, one other way of dealing with it is not to try and do it by definition, by reference to the individual but by reference to the amount?---Yes, yeah.

- 40 But even that I think would, would have to vary. If you look at, if you look at, I mean, if you look at the delegations that agencies give their, the daily delegations to staff, it varies according to the nature of the business and what we think the risk is so, you know, if you, if you are a highly centralised organisation and you think risks are very great then you wouldn't delegate much of value below but if you thought your systems were robust, you had a diverse organisation where you relied on specialist advice to do things then you would, you would actually delegate further. I'm not trying to be difficult, I'm just trying to think through how you know - - -



No, that's helpful to know but is it workable? I mean, is the system workable where you list different criteria for each department in, in an atmosphere where departments may change, names of departments may change, the departments may change, I mean, it's quite difficult. If one thinks of drafting legislation?---Yes. I think if you, look, it comes back to then who is accountable. If you, not that I'm volunteering this by any means but if you, if you had a system whereby the director general was required to have an appropriate model in place in each of their agencies so the director general took sign-off responsibility that they had identified the appropriate risk, parts of their organisation and had, and those that are most likely to be falling within the lobbying area that would, it would be manageable for the system and then each individual department would have to, through the director general, would have to come up with a system for, that best fit their particular scenario.

And until, when you talk about a system you mean a system for what?---I mean if you, coming back to the, to, you know, who gets registered, which meetings get registered and who puts the information about those meetings onto the system and if they're trying to keep that as narrow and practical as possible back to the issue of which officers would be required to fit into that category, probably only the directors general would be best placed on a moving basis to work out who those officers might be.

If this was going to be a internal system administered by the government but by directions to the department one could do it on the basis that the directors general should determine which meetings are to be notified - - -?  
---Yes.

- - - and recorded by reference to a general set of criteria?---Yes. I think that's, I can't think of any other very practical way to tell you because department structures vary and the nature of business varies and, you know, as I said in, in, in, when I was in the Housing Department, you know, we would have had, you know, multi-million dollar, I mean, I was responsible for multi-million dollar construction projects on a daily basis and where it's not a direct, I was a deputy director general at the time so, you know, it does just vary according to the, to the role.

Well, that's very helpful, thank you.

MR GORMLY: Could you do it by reference to the SES level or would that not help either?---It would be an indicator but no, it wouldn't be definitive unfortunately. I mean, I think that just the, you know, lobbying - - -

Would it again depend on the agency?---It would depend on the agency, yes.

All right. Okay, I think - - -?---Yeah.

Look, the last matter was one I raised before you started to give evidence, that is, the, this is a completely different topic, Ms Mills. It is the system by which at present a minister who does not wish to accept departmental advice current accounts for the different view. Now, as I understand it there is no system by which a minister at present must give reasons, and this is obviously a transparency issue that's being looked at here?---Mmm.

10 Particularly following lobbying. Do you, is there anything you can tell us which would assist to know how a change of view is registered or accounted for in some way as a matter of ministerial practice over the years?---Yes, I would - - -

20 Not referring to any particular - - -?---No, no, absolutely, so over many years and many different ministers, I don't think there's a standard way of doing that and I think you don't want to, I'm not suggesting this would happen but you wouldn't want to put a situation where things, if you want things written down it's actually quite challenging and, and if, if I were a minister and I had a really controversial thing and I'm not saying I would do this but there might be a temptation to get me to change the department's advice rather than demonstrate that I've actually not taken the advice. So you've got build a system in that actually is going to do what you were trying to achieve and I don't think its straightforward because ultimately the decision, for example, in all our grants and everything else, you know, we, I have a panel that makes a recommendation to me, I then make a recommendation to the minister but it's ultimately the minister's discretion and there aren't guidelines about that, the minister can make - - -

30 Sure?--- - - - any decision they want and that process is known by people. Again it comes back to if you've got proper registration and processes you cover off as many aspects as you can.

40 Can I ask you this, assuming or accepting that there are real problems about a minister having to provide a set of reasons for not following departmental advice, do you, are you able to say whether at present it can be publicly known that a minister is not following department advice, that is, has made a decision which is different from department advice?---Should such a situation arise we wouldn't presently tell people that because ultimately, again, we are providing advice, the minister has discretion as to whether to accept that advice or not but we don't provide public information to say that the minister varied, our advice may have been poor, it may be untimely, it may be - - -

Sure?---And ultimately, yeah, I think it's a - - -

(not transcribable) but he or she takes another view?---Absolutely and they have received advice that wasn't available to us that (not transcribable) an appropriate decision but it's really hard.

Would I be correct in assuming that you think that the current, the current regime is one, whatever it's transparency problems, is not one amenable to change?---I think there's no simple way to introduce the sort of thing you're talking about and I think if you have robustness and transparency along the pathway to the highest degree you can that's probably a significant improvement regardless.

10 THE COMMISSIONER: Well, I suppose Winston Churchill would have been very upset if he'd been told that he couldn't make, he had to follow the War Department?---Yes.

If he took the department's advice I think the second world war might have changed the result?---Yeah, and look I think that's, that's, that's the reality, people, these are elected officials, they're representing the community and they have been given empowerment by the community to make those decisions.

20 MR GORMLY: And I suppose if they make a decision ultimately they're going to be answerable in any event in the public arena?---Absolutely. They have a very high level of accountability. It's just a different form of accountability than, than the, than the departments have.

Yes. Thank you, Ms Mills, I've got nothing further.

THE COMMISSIONER: Thank you very much, Ms Mills, for your time and valuable advice?---Thank you. Best of luck with the rest of the project. I look forward to your outcomes.

30 Thank you.

**THE WITNESS EXCUSED**

**[12.39pm]**

40 MR GORMLY: Now, Commissioner, I have present Ms Rachel McCallum who's the acting executive director of the legal branch in the Department of Premier and Cabinet and she is the person who has day-to-day operation of the, of the register. I will call her, if I may, Miss Rachel McCallum.

THE COMMISSIONER: Thank you.

MR GORMLY: Thanks.

THE COMMISSIONER: Ms McCallum, would you care to give your evidence under oath or to affirm the truth of your evidence?

MS MC CALLUM: I'll swear.

MR GORMLY: Ms McCallum, can you tell us your full name?---Rachel Elizabeth McCallum.

Right. And I'm correct in my description, acting executive director, legal branch, Department of Premier and Cabinet?---Ah, yes, usually. I happen to be acting general counsel at the moment but only until Friday so- - -

10

Right.---?- - -more accurately as you describe.

Right. Ms McCallum, your background is obviously as a lawyer?---Yes.

Yep. Now, you have the day-to-day running of the lobbyists' register. Is that correct?---Yes, that's right. The register is administered in the legal branch or The Department of Premier and Cabinet.

20

All right. Now, is there anything that you would wish to say by way of an opening or preliminary comments about lobbying?---Ah, oh, no. I mean, the, no, no.

All right?---I don't have any opening statement. Thank you.

Okay. We make that offer to everyone?---Sure. I understand.

It's not compulsory?---No.

30

Okay. Can I take you straight to the register then?---Sure.

We're interested in hearing a description of the way in which the register is physically managed at the moment, what kind of demands it makes, whether you consider or whether you've observed anything about the register which might cause difficulties or might be improved, but also as to the feasibility of, I'll withdraw that, as to the impact it would have on the current day-to-day management of the register if it were to be expanded in some way. I understand from a conference with you on another occasion that it would have significant impact. So could I just ask, unleash you, so to speak, on the topic?---Yes.

40

If you could just tell us about the day-to-day management of the register? ---Well, ah, of course the register is, is online, it's available to search online so it's part of the DPC, the Department of Premier and Cabinet, I'll refer to it as DPC, if that's all right, the DPC Website. It's available on the DPC Website to search. It's, it consists of PDF format documents, one for each registered lobbyist, so it's in a searchable PDF system at the moment. There's a variety of information on the actual Website, but the register itself is, is actually a list. You come first to a list and you can search, that's just a

simple search function to search the material that's held on the Website in PDF document form. Those PDFs are compiled by the branch based on applications made and other material supplied by people seeking registration. So I could start from the point at which an application is received or- - -

(not transcribable) Yes?---So- - -

Because at the moment- - -?---Yes.

10

- - -the application is a paper system. Is that right?---Ah, it is. You can, you can fill in that form online, the initial application form, you can fill that in online and it is, we, we receive it via an email if it's submitted online. You must also however submit with, and every application, Statutory Declarations that refer to the, you know, well, it's really relating to a criminal history-type statement which is required under the Code, so a Statutory Declaration from each person who's conducting lobbying activities for that particular person seeking, or company seeking registration. That must be submitted, so it can in fact be, that could be submitted online  
20 but it's received by us as a, as an email from the lobbyist or person seeking registration. It can also be, the form, application form may be downloaded and filled in by hand if, if required and sent to us in, by post or fax as well, again with the accompanying Statutory Declarations. So those are received by legal branch and they are processed. We in legal branch will undertake an assessment of whether the relevant criteria under the Code for registration are met by the application. We have a checklist which, it could be, at the moment we only have one clerical officer who, and otherwise the lawyers actually have to share this responsibility.

30

THE COMMISSIONER: How long does it take to check?---Ah, well, assuming it's more or less in order, not that long. I mean, what we're doing is assessing it simply for whether the company is, I say company but it could be an individual, if it is a company, we check the ABN is right, so we do a search of the ABN, the business, Australian Business Number, so we, we, we conduct a search of that, we check, we're simply checking can we understand what's been written on the forms sometimes to make sure we're getting the correct details. We check the form of the Statutory Declaration, has it been, has it been made in the correct jurisdiction for the person making the declaration and ah, and, and the, and the content is correct, and  
40 then we might look for, which doesn't really happen very often in my experience, we might look for, does anything strike us about the, the names that have been given as clients or as in fact the lobbyist itself. But assuming that those criteria are met, I would say it's, it's, it's quite a quick, it would be under half an hour to make that assessment, depending on each individual application, how many lobbyists, employed lobbyists were actually seeking registration with the company. Ah, so it would be, let's say for argument's sake, half an hour per application and then providing that's in order, we'll prepare a briefing and at the moment under the Code, the,

only the director general of the department can approve the registration of a new lobbyist and so we have to prepare a briefing which will be prepared by one of the officers in the branch, it will come through me as all briefings up the line if you like do, and it will go to, eventually will go to the director general for his approval. It will then come back down to the branch and the, as I said, each lobbyist, registered lobbyist, we, it's not particularly advanced technology, we put it into a Word document that we then convert into a PDF and we upload it onto our Website and we change the list appropriately.

10

Right?---So that's how you get onto the register. And then from then on it's a matter of meeting, that, that lobbyist must, all lobbyists must meet the quarterly updating of details requirements under the Code, plus the annual, which we've just gone through, the annual requirement that new Statutory Declarations be provided for all of the people undertaking lobbying activities. And that, I must say, from that point, and also, from that point onwards of course, if it's a large company, lobbying company, then the changes to the registration details, their registration details are relatively frequent and we maintain paper, hard copy paper files relating to each registered lobbyist. They will make applications for changes to clients, changes to, well, it's mainly changes to clients and changes to the- - -

20

MR GORMLY: Personnel.---?- - -personnel. Ah, I can, I'm, I have the delegation to update their clients' details, so I can just approve that. That comes to me as a paper, as a paper document saying sign here, and then that will be filed on the relevant file so that there's a record of every change that's been made to that lobbyist's registration details.

30

Ah hmm?---I can also approve the removal of, sorry, the removal of employees, I have that delegation, because removing somebody doesn't go to the, sort of their- - -

Sure.---?- - -character, if you like, but if anyone wants to add employees, again that will also be, result in a submission to the director general that he approve the inclusion of that person on the register.

Right?---So as I said we, we do have paper files for each registered lobbyist.

40

Got 111-odd paper files?---Yes, approximately. Well, yes, yes, we have probably slightly more than that at the moment but obviously - - -

THE COMMISSIONER: And you keep that history for what reason?  
---Well, online or you can see it, it's a point in time that you can search so only a point in time.

And as people search from, for the past you need to know?---We need to have a paper system to show what, what was the case at a certain point in

time. That's right. So at the moment we don't have an online facility for archiving that material.

Right.

MR GORMLY: All right. Now, what about the removal of people from the register or the removal of entities? You've told us about staff changes, you have that delegation?---Yes, that's right. Well, that has only occurred, as best as I can recall it's only occurred in the context of this quarterly  
10 updating and it's been as a result of either asking to be removed but more, and it's only infrequently happened that a registered lobbyist has just simply failed to provide the relevant updated confirmation details and/or updated statutory declaration. So either we'll remove, there have been cases where the lobbyist has been removed entirely so the entity if you like has been removed entirely from the register for failing to meet the confirmation details, requirements of the code or individual employees who we know are still individual employees but for some reason such as they're out of the jurisdiction and unavailable to provide their statutory declaration at the relevant time. We, probably only this time actually in the annual reporting  
20 context decided to remove them or recommend that they be removed.

You give warnings?---Yes, many, many. I mean, just recently as an example there were three standard emails, as I said most people are registering via an email contact with the department so there are three standard emails which explain the requirements of the code at sort of intervals, reasonable intervals just prior to the end of the financial year and then at fortnightly intervals thereafter and that's the formal notification that they get but I would say there's also quite a lot of contact by telephone and other less formal emails with, with the entity, like registered lobbyists  
30 reminding them of if they haven't put in something or they fail to attach something that we remind them that they have to do, what they need to do. So we do provide quite a lot of assistance to the lobbyists to meet the requirements of the code insofar as their details are concerned.

And you need to do that? At some stage you do?---Are we required to do that do you mean?

No, no, how irregular are the, is the provision of the information by the lobbyists?---I would say, I can't give you an exact figure but it's, it's  
40 common, I would describe it as, as, as common that we need to assist lobbyists to get that information, those information requirements correct. One, for example, one significant area that causes problems is the jurisdiction in which they're making the statutory declaration, that does seem to prove problems, we do get ones that have been, that have been sworn in at the wrong jurisdiction, we can see on the fact of it it's not correct so we are (not transcribable).

Sworn in Melbourne when it needs to be somewhere in New South Wales?

---That's right, yeah. So we will assist them, we send them the blank format and say you'll need to do it again. So that's, that's a common thing, that's the, I would say that's probably the most common irregularity with the paperwork, the other thing is simply timeliness, whether they're actually meeting the requirements of the, the timing requirements of making the updates. So we have, we, we try, we have to walk that line between being reasonable administrators and also obviously bearing in mind that the online information needs to have integrity, needs to be as recent as possible so it has - - -

10

So you can't let it build up, it's got to be done straightaway?---We try to, yes, yes, we try to get it done as quickly as we can but it is more onerous at the end of financial year because of the additional requirements of providing the statutory declarations at that time.

Are you getting inquiries from the public at all?---I personally never have and about, do you mean about how to register?

20

Anything, anything at all to do with lobbying?---Anything at all.

On lobbyists?---I personally never have and I can't recall but it may have been before my time, as in last year I was in the branch but I wasn't the manager of the branch. I can't recall what I would call general inquiries about the lobbyist register.

30

Do you ever get people attempting to lobby that you would regard as not being caught by the, by the code that requires registration, that is, non-lobbyists attempting to register as lobbyists?---Yes, that has happened. Member organisations have sought to lobby, sought registration for reasons that I suppose they would be best able to speak to but I am fairly sure, not entirely sure, but I think the Property Council has previously sought registration or been on the register. I could get that checked and get back to you but - - -

40

No, that's all right. That was an error, was it?---No, no, no, no. We, we did actually advise, we have advised some organisations that don't appear to be lobbyists that, that within the meaning of the code, that is, that they don't actually need to register so I personally haven't had to do that but I, I guess I, I am recollecting from a colleague who dealt with most of the inquiries from people seeking registration at the time the code was introduced that there were such inquiries and I believe that at least on one occasion, possibly more, there were organisations that you might describe as member organisations on the, on the register.

Right. At the present time the numbers seem to be fairly stable, is that right? The numbers applying to be registered?---Who are actually on the register at any given time?



Yes?---Yes, it's around about 100, a little more, perhaps, it might be a little less once we've, we were just in the process of updating it now as a result of the annual reporting requirements.

So the number's more likely to drop than rise, is it?---At the moment, yes.

Yeah?---I'd say it's likely to go down slightly.

10 Right. There has been some anecdotal evidence, Ms McCallum, in the course of the inquiry that lobbying undertook a great increase, that is organised professional lobbying, undertook a great increase over a period well prior to the last few years and that it's stabilised and I know the register has only been in existence for a short time?---Mmm.

20 But does your department have any form of knowledge of whether or not lobbying has significantly increased or has stabilised in numbers?---I think the only evidence that I'm aware of would be the numbers of registered lobbyists in terms of third party professional lobbying organisations and as you say it has been relatively steady since the requirement to register was introduced last year.

Right?---Other than that I don't think I personally have any knowledge of whether lobbying has increased.

The code requires the adoption of a code of conduct by those registering. Is that correct?---Mmm, mmm.

And that, that in turn requires certain standards of behaviour?---Yes.

30 There is, however, no right of review or right of appeal from a decision for example to remove them from the register. Does that influence the degree to which you are prepared to give reminders for example and prompt lobbyists if they appear simply to have forgotten to comply with the administrative requirements of registration?---It hasn't personally influenced me. The system, that system of prompting them was already there when I took over the management of the branch but I think it would be considered just good administrative practice in, in understanding that the decision to be on the register or not, and I suppose one could talk about is that actually reviewable in some way legally but certainly there's no, it's not  
40 - - -

There's no mechanism?---No, there's no formal mechanism for that. That it's good administrative practice to remind people who are, we're imposing at least an administrative policy requirement on them that they be registered to give them an opportunity to, to do that and to not, and to, and to explain their reasons if they need to for failing to meet those requirements.

Right. Now, the register was obviously a substantial step when it was undertaken. So the questions I'm about to ask are not a criticism in any way even at the register, just exploring how it works. Ms McCallum, there are standards of behaviour required by the code, but would you, well can you tell us is there any mechanism or understanding in place as to what would be done if there were a complaint about a breach of the, of the Code as to conduct? For example, let me give you something fairly clear?---Yeah.

10 The Code requires standards I think of honesty or, you know, let's assume that that could be interpreted as meaning that a lobbyist must not tell a lie to a minister. And a minister came across a clear example where he was or she was misinformed by a lobbyist in a way in which it was apparent that it wasn't a mistake, it was a lie. I'm putting this entirely as a hypothetical- - - ?---Yes, no, I understand.

- - - position. Strictly speaking I suppose, the department could entertain the removal of the name of the person from the register. Is that the sort of sanction that you would regard as currently being available for a breach of the Code?---Yes, removal from the register by the director general.  
20

Right. For that breach?---For, for that breach, yes.

All right. That of course would involve making judgements about - - -?  
---That's right.

Yes. It would be, I'm not trying to second guess, but it would be difficult to carry that task out if there is no, no means of review or appeal. Do you agree?---Yeah, difficult, do you mean would it be difficult to ascertain the truth of the information that was provided to the department that there had  
30 in fact been a breach relating to the honesty or - - -

No, I'm thinking more that given modern attitudes to the way persons are dealt with administratively, that there might be a reluctance to carry out that process if the person didn't have equivalent rights of appeal or review. Particularly if there was a factual question that may involve issues of character or honesty?

THE COMMISSIONER: Well, there's no procedure for resolving that?  
---No, there's no formal procedure for, that's right.  
40

I mean for example, the minister may say this person said black to me and they person may say, no, I said white. And then?---That's true. And, and it may not be possible for the department as administrators of, if you like, that has administrative oversight the Code to ascertain who is in the right there. But I would anticipate that if a formal complaint were made about a lobbyist breaching the Code requirements, then we would, in legal branch we would be called upon to take what reasonable steps we could to investigate, obviously not having any particular investigatory powers to do that, but to,

to formulate a briefing of some kind on that complaint to the director general for his consideration and ultimately determination as to whether that person would remain on the Code, on the register.

Well, I'd say so far there haven't been any complaints anyway?---Not of that nature. Not that I'm, not that I'm aware of. Not, not to legal branch.

10 Right. Now if, if the register were to be expanded in some way to include say a defined category of obvious lobbying bodies, and let me just pluck one really peak bodies who might exist solely for the purpose of representing to government their members?---Yes.

Would I be right in thinking that the current administrative arrangement wouldn't be able to accommodate that change without great expansion or increased cost. Bearing in mind that one might be talking about several hundred peak bodies?---It would undoubtedly increase the administrative workload of my area of the department. That's true. Is that what you mean, a resource question?

20 Yes, it is?---Yes, it would involve additional resources.

Right?---To, to just simply to process the additional number of, of applications for registration that would be received.

All right. At the present time, the online register is a relatively simple mechanism?---It is.

30 I take it that if there were to be an expansion that would almost inevitably lead to a change in the, in the structure of the register and the method by which it was completed? I appreciate - - ?---I, if there were, if there were a change to the requirements of the Code or a new legislative scheme you mean?

Yes?---We would obviously, yes, we'd have to look at, we would obviously need to change the way in which we do things. And it may lead to the need for different information technology response to that.

40 Sure. Has there been any investigation of the, of an increase in the or a change in the information technology currently used?---Yes. We have, we have, we are developing with an IT consultant an online, a more automated way of registering. But that's been, that's been an ongoing process and I, I suppose, conscious of this inquiry, we need to think about the timing of it. But that, that is reasonably close to being finalised, I'm advised. So it may be that it's, from at least a lobbyists perspective, it may be a more automated perhaps user friendly interface. Whether it would fundamentally change the departments administrative practices in terms of keeping files and paper based files, is perhaps less clear. I think there would be a need if the decision making requirements of the Code remain as they are, that we

would need to have a, a robust paper, paper based approval system behind that more automated interface with a lobbyist.

THE COMMISSIONER: Ms McCallum, listening to your evidence, my impression is that there can be no self regulated register that is actually one hundred per cent self regulated. There will always have to be somebody who monitors the register in some way. And maybe more than one person? ---I would think that's, that's my assessment of it as well, yes. But if there needs, if there is a Code that requires integrity measures, integrity, imposes integrity requirements on, on lobbyists, then there needs, there need to be monitoring.

And if the, and if the category of, of people to be described as lobbyists who have to be registered is expanded as Mr Gormly has suggested, that also will require, even with a self, even with a more automated system, that would still expand the number of people required as I, that's the impression I get. ---I think that's undoubtedly would be the case.

THE COMMISSIONER: Because you'd always have to check whether they'd done it properly.---That's right.

And put it right when they haven't done it properly.---How would I anticipate - - -

And answer questions.---Yes. I would anticipate there would be questions, many questions still, that's true, yes.

MR GORMLY: Ms McCallum, do you, I appreciate that this might be a personal view that I'm, well, not a personal view but perhaps a structural view that I'm asking. Given your experience with the register so far and given the general principle that lobbying is part of the ordinary democratic processes and not one to be interfered with, do you see a utility in requiring lobbyists to provide evidence of good character before they go on the register?---It is, I suppose, a personal view and I'm sure there are others but it, at a minimum, underlines that there are integrity, it is an integrity measure and that certain, certain reasonable standards of behaviour are expected of registered lobbyists. So in that sense it serves that purpose and there's an argument that at, should there be a breach at some later point there's also some potential for re-dress I suppose, against the lobbyist who may have made a false statement, yes.

All right.---But we do not go, we do not go behind the statutory declaration at this point as part of the registration process.

There's one other matter I wanted to ask you about and it's not to do with the register – it relates to the question of registered lobbyists currently being prohibited from sitting on boards and committees of government. Are you able to say anything about the number of lobbyists that were affected by that

requirement – that is, that requirement that they can't be on the register and be on a government board or committee?---I'd have to check my notes, I don't have the, I have the, I do have, I think we put them in our submission, in the departments submissions.

(Not transcribable) but you did.---Yes.

There was some four people.---That's right, there hasn't been any particular change to that that I'm aware of - - -

10

THE COMMISSIONER: And of that four some, some resigned as lobbyists and some resigned from the board. Is that right?---That's right, that's right. There was a different approaches taken for personal reasons I imagine.

MR GORMLY: Have there been, have you, are you, without wanting to know who they are, are aware of any complaints about that requirement? ---No I'm not.

All right. I won't take that any further Commissioner.

20

THE COMMISSIONER: Thank you very much for you help and thank you for coming.---Thank you Commissioner, thank you Mr Gormly. You're welcome.

The Commission will now adjourn.

[1.13pm]

**LUNCHEON ADJOURNMENT**