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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC  
CHIEF COMMISSIONER

PUBLIC HEARING

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AT SYDNEY

ON MONDAY 21 OCTOBER, 2019

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

THE COMMISSIONER: Yes. Good morning.

MR CHEN: Commissioner, the first witness for today is Stephen Galilee and he is in the hearing room now, Commissioner, and ready to be called if it's convenient.

THE COMMISSIONER: Thank you. Thank you, Mr Galilee. If you wouldn't mind. Mr Galilee, to give evidence you can elect to give evidence on oath or affirmation, whatever you prefer.

10

MR GALILEE: Affirmation.

THE COMMISSIONER: Affirmation. Thank you. If you wouldn't mind standing, my associate will administer that.

THE COMMISSIONER: Yes, thank you. Take a seat. Mr Galilee, will you just state your full name?---Stephen John Galilee.

Thank you. Mr Galilee, as you are aware the Commission is conducting a public inquiry into lobbying practices, and the nature of the issues that the Commission is investigating will be elaborated in a moment by Senior  
10 Counsel. Just by way of some preliminary observation I'll just advise you of the procedure that applies in public inquiries such as this. Most public inquiries are inquiries into the conduct of persons. This is not such a public inquiry. This is an information gathering public inquiry in relation to the lobbying practices, as you would be aware, but nonetheless I just advise you in case you want to for any reason avail yourself of the procedures under the Independent Commission Against Corruption Act. One of those procedures is that a witness is required to answer all questions but the witness may claim protection against the evidence being used in any other forum in the future – be it criminal, civil or disciplinary, administrative – and the  
20 rationale behind that is to encourage people to come forward and give truthful evidence but it can't be used against them in the future. This, as I say, is a different kind but nonetheless it's a procedure that is available to you if you wanted to ask for what's called a declaration under section 38, which would prevent the evidence being used against you in any respect in the future, except of course, as it is always pointed out, that the protection under section 38 doesn't apply to offences under the Independent Commission Against Corruption Act, such as giving false or misleading evidence. So all of that is just an explanation. If you do wish to give  
30 evidence under a declaration of section 38, it is open to me to make such a declaration. If you don't wish to avail yourself of that, that's of course your choice or you can, at any intermediate stage, ask for a declaration under section 38. I don't know whether these provisions have been explained to you but I'm just taking that precaution to do so.---Thank you.

Have you a view as to what you wish to do?---I'm happy to proceed.

Well, if you at any point wish for me to revisit that question, I of course will do so.---Yep.

40 Yes, thank you.

MR CHEN: Mr Galilee, you're currently the CEO of NSW Minerals Council, are you not?---Yes, I am.

And you've held that position since 2012?---Yes.

Before that time, Mr Galilee, were you the chief of staff to Mr Mike Baird, the then New South Wales Treasurer?---Yes.

For approximately how long did you hold that position, Mr Galilee?

---Approximately nine months, I believe.

Did you move from the position of chief of staff directly into the role of CEO of the NSW Minerals Council?---That was my next role, yeah. I didn't move directly, I had a break in between jobs.

10 What was the period of time?---I think it was probably around about two months, from memory.

Now, prior to the time that you held the position of chief of staff to Mr Baird, were you the chief of staff to Mr Ian McFarlane, the then Minister for Industry, Tourism and Resources?---I was, yes. From 2001, approximately, from about 2000. When he was Small Business Minister, I was his chief of staff initially and then he became a Cabinet minister after the 2001 election and I continued as chief of staff to him in his capacity as Minister for Industry, Tourism and Resources from 2001 to 2004. I left in November 2004 from memory. That was the, around the time of the 2004 federal  
20 election.

Did you also work briefly in the period of about 2007/2008 as a third-party lobbyist?---I did, yes.

Were you employed as a third-party lobbyist or did you run your own business as a third-party lobbyist?---I was a, an employee of a public relations and communications firm called Shack Communications for two years, and part of my role there was to do advocacy and lobbying for clients. That included a range of clients in the construction, engineering – we had a  
30 renewable energy client in the hot water space. And part of that was, was lobbying, and as a requirement under that, we, I was registered as a third-party lobbyist. I think, I was definitely registered in Western Australia. I think I was registered here in New South Wales as well. Possibly in another state, but I, I couldn't recall whether I was or not.

Did that work involve you meeting government and public officials in the federal sphere as well, or just in state spheres?---On one or two occasions, from memory, I believe it did, yes.

40 I just want to ask you a little bit of detail about the NSW Minerals Council, if I might, Mr Galilee.---Yep.

That's the body that represents the New South Wales minerals industry, does it not?---That's correct.

And it's essentially the voice of the industry.---It's the industry association for, for the mining sector in New South Wales, yes.

And it's made up of members or associate members, is that so?---That's right.

Is the membership as a whole approximately 100, give or take a few?  
---Yeah, it's probably a little, little less than 100, but around about that, yeah.

10 And the associate members sometimes include professionals, legal firms and others that perhaps do not directly engage in mining or resources - - -?  
---Yes.

- - - but are related in some way, shape, or form to - - -?---Generally support businesses or supplier business, businesses to our mining member companies would be in that, in that category of membership, yes.

Are the principal members those that conduct mining or exploration in the resources industry generally?---Yes.

20 And the role of the Minerals Council is to provide, what, a unified voice to speak on behalf of all those members associate or otherwise?---As much as possible, yes, public and policy advocacy on behalf of the mining sector in New South Wales.

30 In relation to individual members, do you ever represent them in their own right, or only when it has a broader impact upon your membership?---As a general rule, it would only be where there is an industry-wide issue at stake, and the issue that that company is being subjected to or, or dealing with has ramifications beyond that company for the sector more generally. That would generally be the approach that we would take, yes.

40 A particular, as an example of what would not be covered by the sphere of your work would be - - -?---Yeah.

- - - if a particular, say, mining company had a grievance on an economic issue, which was between it and, say, government, without any wider ramifications, that would be a matter for them to take up, I take it, and not you?---Generally yes, unless it meant potentially that that issue may be applied to other member companies as well.

40 Can I ask you a little bit about the work that, in detail?---Yeah.

Is it made up roughly of public and private advocacy? Is that a fair distinction to make?---We do policy advocacy on behalf of the industry. We do public advocacy as well, in relation to our campaigns and promotion of the sector. We run a series of events throughout the year, events are a big part of what we do. We promote, within the industry, best practice across workplace health and safety, environmental and community management as

well, and some of that is achieved through our awards and through our events too. So that's generally the spread of our activity, yeah.

In terms of the advocacy, because you can understand that's one of the particular focuses of this inquiry - - -?---Yep.

- - - that involves not only the campaigns or assisting with policy submissions and – but also would extend to meeting government officials from time to time.---Yep. On a regular basis.

10

And when I say “government officials”, that might be somebody from, as senior as a minister or – but would include people from government departments or public authorities generally. Is that correct?---That's right. More often than not it is the public departments and authorities than the, than the ministers. But we are in regular contact with a range of departments and agencies because we are a very heavily regulated industry, and my policy staff in particular are in regular contact with departments and agencies, whether it be the Resources Regulator, the Environmental Protection Authority, the Division of Resources and Geoscience, the  
20 Department of Planning, the Office of Water, or what it, what it, what it's called now, and a range of others. To give you an idea of, of some of the reasons for that, in the past four years, we've probably made in the, in the area of around 150 different public submissions in response to government proposals for changes to legislation, policy, or regulation. Those can range from, in length and detail, from being a very short letter stating industry's position to very detailed submissions, potentially 100 pages or more. They often involve a period of public consultation, they often involve a period of engagement directly with departments and agencies. We also have a regular contact with government departments and agencies, at their request, in  
30 relation to some of those changes that are being proposed or on an ongoing basis in relation to things like workplace, workplace health and safety, departmental priorities in relation to their policies, their enforcement, their compliance and those sorts of things.

So just to pick up a couple of the matters you've referred to, Mr Galilee. The policy submissions are not always initiated on your part but sometimes it's responsive to requests made by government departments or officials to your body?---Almost always.

40

I see. You described you have policy staff. I just want to go through, if I can, the structure of the NSW Minerals Council, Mr Galilee.---Yep.

What's the number of employees currently employed by the NSW Minerals Council?---I think we have 15 full-time equivalent at the moment.

And within those numbers, what are engaged in the policy work, be those submissions, advocacy et cetera?---Five or six, at least, and myself of course from time to time.

What's the structure beneath you leading to – I'm sorry, I withdraw that. The five or six, are they the policy staff you referred to in your evidence?  
---Yeah. That, I, I – my team is roughly divided between public advocacy, communications and media. There are four or five, depending on what day of the week it is in that team. There's a policy team, which involves five, five, sometimes six, actually six staff and we have logistics and admin staff and then there is myself and a Chief Financial Officer. So we're a pretty small team and our, our operational staff are roughly divided between that  
10 campaign and media role and the policy engagement role.

In terms of the meetings that may take place with, I'm just going to use it generally, any public official, is the distinction that the people that would do that, in addition to yourself, are the six staff that deal with policy or would it be a mix of the people that are employed doing the public advocacy work?  
---It would probably generally be the policy team who would be engaging in those meetings but from time to time our media and communications staff, they may be at meetings or events as well. But generally, on those policy  
20 issues that we are dealing with on a regular basis across those portfolios, the engagement would be with our policy team because they are the ones in our office who have that policy expertise. Most of them have been there with us for a long time and they have developed a very good set of, of core knowledge in relation to these policy issues that the industries are dealing with and they're able to, in most cases, represent the industry's position on those issues to the relevant officials within government departments and agencies.

I understand. Now, there is another body called the Minerals Council of Australia. Is there not?---There is.  
30

And your body's affiliated with that. Is that so?---We're not affiliated, no. We're, we're an independent organisation. We have informal contact with the Minerals Council of Australia. I think we may even be an associate member for, for appearances sake and we engage with them in their policy forums on a, on a needs basis. Some of the issues they deal with at a federal level won't necessarily be relevant to our state-based members. Some of the issues they deal with are covering other states, for example, in other sectors that may not be as relevant to the sectors we have here in New South Wales. But we do have a, a, a degree of ongoing contact with the Minerals Council  
40 of Australia, as we do with other state associations as well. But we are a separate standalone organisation.

Does that body fund you at all?---No.

Not at all?---No.

Never has?---I don't think so. No, I don't think they have.

Can I ask you some very general questions about funding.---Yep.

The Minerals Council of NSW is funded by its members presumably. Is that so?---Correct, yep.

And it doesn't receive government funding?---No.

And it's described as not-for-profit. Is that so?---That's right.

10 And the funding details are presumably disclosed in your annual reports?  
---Yep.

The funding by its members may vary from year to year. Is that so?---Yes.

20 And is it linked to commodity or resource prices?---It is. The vast bulk of our member revenue comes from our producer companies, and their fees are set as a percentage or proportion of the value of their production. So if their, if commodity prices go up, our fee revenue generally goes up. If commodity prices fall, our fee revenue falls from year to year. And depending on their level of production and the value of their commodity and exchange rates, those sorts of things, we're subject to the same cyclical elements that our, our members are in relation to our revenue.

Are you able to give us a very broad estimate of what in a bad year the funding might be as to a good year, just in general terms?---In a bad year, it might be in the order of 4 to 6 million. In a good year it doesn't go much beyond that. I think it might go up to about 7 or 8 in a good, in a very good year.

30 I want to turn to a different topic if I can, which is just dealing with access to the various public officials that you've given us some evidence about already, Mr Galilee. The range have included, from the top, being ministers to public authorities, government departments and many people within them, is that right?---That's right.

40 In terms of ministers in the ordinary course of work that the Minerals Council would need to engage with, who are they? Is it the Minister for Industry, is it the Treasurer, the Minister for Planning, or is it all of them?  
---Well, there, it depends on what portfolio issue we are pursuing. We have a regular engagement with the Deputy Premier in his capacity as Minister for Resources. As you would expect, we're a major representative stakeholder in the resources sector in New South Wales. There are, I mean, in the end it will depend on what issue we are dealing with and who is responsible for the legislation or the Department. It can, it can be very broad. I mean, at the moment we're engaged in a very public campaign to advocate for improvements to the planning system, so we are engaging with the Department of Planning as we do regularly, but at the moment more regularly on that, on those issues.

And with the minister?---We've had some contact with the minister. We've had, I think we might have had two meetings with the minister since the election in relation to these issues. We would meet, we might have to meet with, sometimes with the Finance Minister on issues in relation to agencies that he's responsible for. Subsidence Advisory NSW is one that comes to mind. We don't have much engagement with the Treasurer. We may have some engagement with the Environment Minister in relation to issues on environmental regulation, and there's also issues that we engage with the  
10 Deputy Premier on in relation to his responsibility for the Resources Regulator, which is a regulator predominantly of workplace health and safety in the industry, but also some environmental and rehabilitation regulation as well.

My question was very widely expressed, and clumsily in any event, but it's a broad section of ministers depending upon the policy issue you need to deal with from time to time?---We don't, we wouldn't have to deal with every minister.

20 Of course.---But there's probably four or five ministers, or four or five portfolios that our policy and regulatory face-to-face engagement would flow to.

THE COMMISSIONER: Just in relation to the example you gave of the current submissions on the prudence of the planning system, what legislation are we talking about there?---The Environmental Planning and Assessment Act, predominantly, which the minister has responsibility for. It's an Act which has been reformed or reform has been attempted now I  
30 think it's four, three times since the change of government in 2011. We've been involved in ongoing and extensive advocacy, seeking changes to that legislation since I've been in this role.

Sorry, we're talking about the Environmental Planning and Assessment Act?---Yes, yeah. And we're in, at the moment we're involved in a public campaign to seek changes to that Act, ideally, or at least improvements to the planning system so we can improve, in our view, certainty for investors in NSW.

40 Planning in what sense so far as the mining industry is concerned? Planning of what and what activities?---The planning and assessment process for major project applications, in our view, has become very risky and uncertain in New South Wales. There is a lot of investor uncertainty in relation to whether or not this is a place to take the risk for investment. We're seeking some changes to restore some consistency and certainty to the planning and assessment system in New South Wales so we can continue to attract that large-scale investment that our projects require.

And again, without descending into too much detail on this topic, just so that I can follow the import of it, when you're talking about risk and uncertainty, in what way, or what sort of examples can you illustrate that? ---Time frames for assessment have increased significantly over the past three or four years. That's a factor in itself, and that's sort of a product of changes to the planning system that have been made on a regular basis, at least over the last eight years. The role of the Independent Planning Commission, formerly the Planning Assessment Commission, in the planning system has created a, a whole level of risk and uncertainty and inconsistency in relation to how, how projects are assessed in the planning system, as well as how government policy is applied or not applied in that assessment process. The structure and role of the Independent Planning Commission itself, in our view, creates a level of uncertainty that our members are telling us is holding back and deterring investment in New South Wales, and other industries are saying the same thing too.

Have there been particular projects that have prompted the, or given impetus to this?---We've seen three or four recent determinations through the planning system that have brought these issues to a head in the view of my membership.

Which ones are they?---We've had the, initially, the United Wambo determination and the condition that was imposed on that project approval in spite of the government policy that we believed would mean that, that that, that condition would not have been imposed. We've seen the Bylong Project recently refused at, at the end of a six-year assessment project, process, in spite of recommendations from the Department of Planning and a range of other government departments and agencies that that project could, could be approved with conditions. We've seen the (not transcribable) Project recently given a partial approval, which has in effect removed the ability of those, that project's existing approval to, to be operable, and to allow that project to continue under its existing approval. And we've seen -- they're, they're the three, they're the three most recent ones, yeah.

All right. Are there any common themes running through those two or three projects you've given examples of?---The common theme, in our view, and, and one of the main bases for our public campaign that we've been running, is the role of the Independent Planning Commission and the inconsistency and uncertainty that that agency has injected into the planning assessment system in New South Wales.

And do you attribute that to any particular fact or factors?---I would attribute it to the, the fact that the Independent Planning Commission is not required to assess projects consistent with NSW Government policy. They're required to take that policy into account. But they can determine projects for their own reasons.

Can determine?---For their own reasons, one way or the other.

All right. Thank you.

MR CHEN: Thank you, Commissioner. Just on the meetings, or still with that theme, Mr Galilee, if a meeting is to be held with a minister, would you always attend that?---If possible I would, but not always.

And, well, the exceptions would be obviously you're away.---Yeah.

10

But ordinarily if a minister's involved, it's sufficiently important for the NSW Minerals Council, is that right?---If, if, if a meeting with a minister is being held, then as CEO I, I would generally want to attend, because I think that, that gives due respect to the office of a minister who's granted you the, the, the meeting.

And a Department head that you may need to see from - - -?---Yep.

20

- - - or the Minerals Council may organise to meet from time to time, again, would that involve you ordinarily going along?---Ordinarily, yes, for the same reasons.

And sometimes public authorities require engagement by, with your body. Would you again go to those meetings?---What do you mean by "public authority"?

30

Well, you gave some examples, Geoscience Australia, the Environmental Planning and Assessment Authority, as a couple - - -?---Oh, yeah, yeah, okay. If I can, I will. But, but not necessarily. Depending on - I mean, that, you know, I have, I have policy directors responsible for various areas of policy who will go to those meetings without me if I'm unable to attend for other, for whatever reason. But I'll try and attend those meetings as well.

When access is sought, or a meeting is sought with a minister, I take it that a member of the public can go onto the website and apply to meet the minister, is that the case?---Yep. Through the ministerial portal?

Yes.---Yes.

40

How does the NSW Minerals Council go about seeking a meeting with a minister in a particular portfolio?---If, generally the same way. I mean, we would apply through the, we send out, I mean, if we were to see a, a minister on a, on an issue, then the reason for the meeting and our view on the issue would generally be stated in a letter that we will formally write to the minister, and we'll submit it through whatever process as we're required to do so by, by that minister's office, and often that will be through the portal.

I see. So you would prepare a letter and attach it and submit it that way?  
---Yep. Yep.

Is there any other means by which the NSW Minerals Council seeks a meeting with the minister other than following those processes? That is to say through the portal.---Not that I'm aware of. I mean, we may send a copy of our letter that we've sent through the portal to the minister's chief of staff or to a relevant adviser so they know that that's been lodged.

10 I see.---Because my experience with these processes, having worked in government, is that often that ministerial meeting request can go into a bureaucratic system and take some time to be processed and that doesn't necessarily mean that we're getting a meeting any, any more quickly. It's just to let them know that we've lodged the meeting request so that they can see formally what our view on a particular issue is.

So when you say you send it, do you mean you post it or do you send it by email?---I send, I, I might copy them into the email that we're sending through the ministerial portal from time to time.

20

So you send it direct email to who, the chief of staff?---Yep, yep.

I see.---Sometimes, yep. Or, or, or if, if it's an issue that covers several different portfolios, then I will copy in the relevant ministerial officers. If we're seeking a meeting with the Minister for Planning, for example, I think there's a ministerial portal for the Minister for Planning, but it's an issue that effects the resources sector, then we'll copy in the Deputy Premier's office because it's an issue affecting the resources sector, and as Resources Minister we believe that they would want to know that we're seeking that meeting.

30

Do you get a response, when you submit a letter or email to the chief of staff, directly back that your request has been received?---Sometimes. Sometimes.

Do you have, in terms of any other communications with the chief of staff, to arrange the meetings directly over the phone or otherwise?---Not normally, no, but our office might do that. They might follow up with a phone call, as you normally would when you've made a meeting request and ask if the meeting's being considered or if there's any progress and sometimes we can have these meetings granted relatively quickly. Sometimes they can take months. Just depends on the officer's view, I guess, of whether the issue we're pursuing is a priority for them and whether they're able to fit us in.

40

And if you consider it is important and pressing so far as you and your member's consideration, you would point that out to them in the letter, I

take it?---Absolutely, yep. In the very first line of the letter it would say, "Urgent," or something like that, or - - -

And you would also, I gather, Mr Galilee, identify in the subject matter of the letter what it is you wanted to talk about. Is that right?---Yes. Generally, yep.

The issue that's been created that requires a response?---Yep.

10 And some of the responses or points you'd like to make in discussions with the minister or his staff. Is that right?---Yep. I mean, well, I would assume in most cases, from my experience working in a minister's office many years ago, that if the minister receives a letter from, say, the Minerals Council or any other stakeholder on a policy issue, that the, I mean and things may have changed since I was last a ministerial adviser, it was a while ago, that the letter would end up in the Department and a departmental officer would draft a response for the minister's office to consider before a response was granted or if it's a meeting request, at some stage within the minister's office, a discussion is going to take place,  
20 possibly at a ministerial diary meeting or something similar, to decide who is going to get a meeting with the minister and when and who is going to get a decline or who is going to get us to meet with somebody else instead.

Do you also have calls to engage with shadow ministers?---Very much so on a very regular basis.

Is the process that you've described for making contact or to arrange a meeting the same or different to that of ministers?---It can be, it can be different. I mean, if, and this is, this is an, this is an area where I believe  
30 there is potentially a hole in the existing regulatory process in relation to lobbying, is that it seems, in my experience that the attention seems to be on government, not on Opposition or crossbenchers who often can have as much, sometimes potentially more influence on the outcome in relation to legislation, in particular at the moment with the current state of the parliament, than government ministers themselves. They're, shadow ministers aren't required to publish their, their diaries. There's no - - -

Just pausing there. You consider they should be?---I think there's a case to be made that the focus should be cast more broadly. If, if the intention of  
40 lobbying regulation is to provide transparency over who is, who is being lobbied in relation to key issues and how that could deliver outcomes, then there is a case to be argued that the regulatory requirement should extend just beyond government ministers.

THE COMMISSIONER: How does that sit, though, with those in government or government officials generally, by virtue of the office they occupy, having the power to make decisions, to give directions, to initiate policy or so on? When you're in Opposition, by definition you're without

power. I'm putting this in a very broad general sense. So what is it that you think would need regulatory control over, take Opposition members, for example, of a State Parliament, that would require regulation, given that though they can influence processes and so on either through what they, their members say in parliament, perhaps what they might put out in the media and so on, where is the parallel between regulating the public officials as against Opposition members?---The government doesn't have a majority in the Legislative Council. It can't pass legislation without a position from the Opposition or the crossbench. So in that chamber at least the Opposition and the crossbenchers do have a degree of power and influence over outcomes. Opposition members of parliament are involved in parliamentary committees, often as chair. That can influence recommendations that go to government in relation to legislation. We recently saw a very high-profile example of an independent member of the Lower House introducing a piece of legislation and having that legislation passed through the parliament under some fairly high profile and sometimes controversial circumstances. So on the principle of it, there's some examples there which would suggest that it's not just the government and government ministers that can influence outcomes through the parliament. If we're looking at how those outcomes are reached and, and who is calling for them and who is lobbying for those, then requirements that are opposed on government ministers could potentially be broadened to include Opposition shadow ministers and crossbench MPs as well.

Can I just ask you this, playing devil's advocate as it were. We have the distinction in our system of government, of course, between the executive and the legislature, and Opposition members, for example, would be expected to fulfil their role as members of parliament by perhaps chairing committees, participating in committees, putting up the case for or against a particular proposition, because that's all inherently a part of the democratic process, and they'd be derelict in their duty if they didn't pursue those matters. On the other hand, when you come to the exercise of public power by the executive government, you're dealing with a different scenario entirely of course, aren't you? And I wonder whether that distinction between, which must be maintained in analysis, means that you couldn't lobby, sorry, you couldn't regulate and control what goes on in parliament, obviously, but you can control what the executive government does, but I'm still struggling to see then how, if you make the distinction I've suggested, you can see there's an equivalent need for regulation on Opposition as against government and public officers generally.---Well, I mean, I just think it's the current state of the parliament, with the government not – I mean, the government can have regulations disallowed and it can have legislation blocked in the Upper House depending on - - -

That's the reality, yes, I understand your point, that's a good point, but government is not all-powerful sometimes.---That's right.

But we would trespass on parliament's patch at our peril if we suggested that there should be some controls over members of parliament and what they say and do. We wouldn't be treading at our peril if we're talking about regulating those who hold public power in terms of decision-making and so on. So are you able to - - -?---I mean, in the end I guess they're matters for the Commission to, to, to dwell upon, but - - -

10 Well, it's a matter for the community, really, and parliament itself, of course.---I mean, I don't think, I'm not, I'm not saying you should be regulating who they meet and what they say. If you're going to regulate and ask ministers to fill out diaries saying who they've met and what they've discussed, then given the current state of the parliament and how the crossbench and the Opposition can determine legislative outcomes, then there is an argument in my view that they should also be required to complete such obligations, because if this is an object in transparency, then it shouldn't be selective transparency given the state of the parliament. And who knows? In the next couple of years we may have a hung parliament in the Lower House as well and you will have potentially three crossbench  
20 crossbench MPs, as we saw recently. In the, in the recent case, you'll see those crossbench MPs potentially wielding significant influence over government direction and policy, and they would, I would imagine be viewed as quite powerful people determining government policy and legislative outcomes under those circumstances, and it is the case in the Upper House now.

I understand your point. Thank you.

MR CHEN: I just want to finish off this topic about how you get access. You've indicated that you do have cause from time to time to see shadow ministers and the procedures are roughly the same so far as you understand  
30 it. Is that so?---Yep. They might have portals, but we'll email them, I'll email them through their parliamentary, whatever their parliament.nsw.gov.au and ask them for a meeting. If it's a formal issue where there might, of significance, we might formally write to them with a, with a, with a, with a written letter, otherwise we would generally send an email and ask if we can see them. The contact with shadow ministers is, is not as formal as it is with ministers on these issues, for some of the reasons that the Commissioner explained.

40 And member of parliaments as a stepdown, again would the processes be not dissimilar to those that you've identified for shadow ministers?---That's right, yes.

Now, what about Department officials, is that done by email, is there a particular portal that you would apply for a meeting?---We have, we have regular meetings with departmental officials across agencies on a range of portfolio issues every - - -

Do you normally have a point of contact or do you go through the website?  
---No, we would generally have a point of contact for those.

10 So the initial way that you would make contact is, you or one of your staff would send a similar letter that you might have fashioned for the minister, but to the Department setting out why you want to see them and requesting a meeting?---That's right, yeah. Or in some cases the ministerial office may, may, may refer us to a departmental official to discuss an issue we may have raised with them. In other cases, like for example with the  
Resources Regulator and the Environmental Protection Authority, we, we meet with them every couple of months to discuss ongoing issues that they may be pursuing or that we may want to raise with them in, in the regulatory space, whether it be environmental regulation or Workplace Health and Safety. We are involved through some legislation in some of the processes of government, some of the legacy issues from previous days in the Workplace Health and Safety space as well.

20 One of the departments that you or your body would have reason to have regular engagement with is the Department of Planning, it might be called different things, from time to time. Is that right?---Yep.

Are you familiar with any of the policies or procedures that that Department has in terms of how you are to make contact with them or how a lobbyist might need to make contact with them?---No. We would generally just write or email and ask for a meeting or we would have ongoing contact with them at their request through a range of different engagement processes that would be related to some of those 150 submissions that we've had to prepare over the last three or four years.

30 THE COMMISSIONER: Just with the Department of Planning, assume in a particular case you write and ask for a meeting on a matter of general concern perhaps to the industry, or it may focus on perhaps one or two mining companies but potentially create a general issue, what's the protocol that the Department of Planning adopts if they agree to the written request for a meeting?---In what way, what do you mean, protocol?

40 Well, do they have a protocol as to how meetings proceed or how the process unwinds from that point if they agree to the request to hold a meeting, do they have a protocol?---Oh, you'd have to ask them I guess. I mean we - - -

No, I just wondered if from your point of view dealing with them whether it's evident that they seem to follow process or protocol or whether it's an ad hoc type of arrangement, depending upon the matter?---Like, I mean just, I mean it, I mean there are some, some engagements with the Department of Planning we have where there are multiple stakeholders involved in the same meeting. They have, they have or have had a process called the Resources Advisory Forum, I think it was called, through the Department of

Planning on a regular basis where a range of different stakeholders sat around a big table and talked about a range of issues that the Department wanted to engage with us all on from time to time. There will be meetings where like on a planning reform issue for example we've written directly to the secretary of the Department asking a meeting to discuss our issues. That meeting, those meetings are conducted as you would expect, sort of, normal professional meetings to be held, where there is, you know, we discuss our issues, we refer to our letter, we outline our position and sometimes we get a good hearing and sometimes we don't, as evidenced by our public campaign on planning reform.

Well, then more mundane issues, perhaps, such as who's present in the room, is a record kept of the meeting and so on? What's your experience?  
---Oh, look, I don't know what they do after - - -

I'm talking about the Department of Planning.---Yeah. I don't know what they do after the meeting is over. I mean, that's, that's a matter for them.

No, I mean during the meeting. Is there some sort of protocol that's usually adopted?---Often there is.

What is that?---The, the regular meetings that we have with some departments and agencies, some which fall within Department of Planning now, there'll be a standing agenda for those meetings. So, for example, we meet with the Division of Resources and Geoscience within the Department of Planning every two or three months or so, for an hour. That involves the deputy secretary of the Department relevant for that area of policy. A few weeks before the meeting they will ask us what issues we would like to discuss and they will invariably be policy issues that we'll be pursuing with the government or they may be issues in relation to processes in the Department. They take a lot of industry money to deliver services for us. So we like to make sure that those services are being delivered in accordance with the group KPIs for example. They will have issues they wish to raise with us from time to time and an agenda will be provided before the meeting which will indicate which issues have been nominated by the, the departmental officials to discuss and which issues we have nominated to discuss and we will work our way through those issues at the meeting and there may be follow-up contact as a result of that. That's also a very similar approach that we take with the Resources Regulator. The Resources Regulator uses us as one of several avenues to disseminate health and safety information to the, through the industry, through our members. There may be, for example, a workplace health and safety issue that is particularly prevalent to relevant at any one time and the Resources Regulator will use their own, I guess they use their own communications as well as asking us to circulate information on various initiatives they may be pursuing, or concerns they might have in relation to safety at any particular time through our membership as well. Those, those meetings are, I find are,

are quite operational and, and can be quite detailed, relating to regulation of equipment and machinery and those sorts of things, quite technical.

Yes. Getting back to the Department of Planning meetings. Are those meetings minuted or recorded?---I don't know. I mean, I don't know whether they are but I don't, I don't think so. I'm sure there's a record of the meeting and in most cases there will generally be our, our meeting request and our letter outlining the issues we wish to discuss.

10 I mean, do you record the meeting or do they record the meeting or do you both record the meeting or - - -?---We don't, we don't record those meetings ourselves other than through the processes that we have asked for the meeting and any follow-up we may need to – I've got 14 staff so it would be difficult for me to record those meetings.

What about the Department?---You'd have to ask them, yeah. They may afterwards make a note of it, I, I don't know, yeah.

20 And with the Department of Planning again, talking about the range of meetings you have. I mean, who else is in the room normally?---We don't have that many meetings with the Department of Planning. So, it would be - - -

Maybe so but - - -?--- - - -whoever we'd requested the meeting with. Sometimes we'll ask if we can meet with certain people and they won't be available. It'd be, it's be any, anyone from, I mean, maybe every now and then the secretary but generally it's, it's possibly deputy secretaries or directors or, or similar. Quite often it will be the operational staff who are responsible for that area of government policy. For example, we might  
30 want a meeting on rehabilitation reform because we believe the reforms being proposed are, are not in the industry's interest and are going to deliver perverse outcomes. So we will seek a meeting on those issues and the relevant operational staff in the Department responsible for carriage of those reforms may meet with us. There may be three or four officials in a meeting like that, for example, and we may be there when they have some member companies present there as well, to discuss some of our issues and the operational issues we can see arising and those sorts of things. And sometimes those meetings can lead to consideration of our issues and sometimes our issues are not considered. It's a, I guess it's a case, an  
40 opportunity to put out case.

All right, thank you.

MR CHEN: Just to come back to, I think I asked you some questions about whether you were aware, and we're using the Department of Planning as an example.---Yep. It's a big department.

Yes, I understand that, and it has changed and it's become larger recently, as I understand it. But in your dealings with the Department of Planning over, I gather, many years, you are not aware of them having any particular policies or procedures in relation to contacts or lobbying contacts, is that the case?---I'm not aware of any formal procedures that they may have in place.

And you haven't been told by departmental staff at any meetings that they do have such a policy or procedure in place?---Not that I can recall, no.

10 Can I just show you a couple of documents, Mr Galilee?---Yeah, sure.

It's not a trick. It's to work out whether or not you have any familiarity with – first there's a document called Engaging with Lobbyists and Business Contacts from the Department of Planning and Environment. Would you have a look at that?---Yep. Thanks.

And that's described as a policy document.---Yep.

20 Have you seen that before, Mr Galilee?---No. But I wouldn't expect that I would if I'm not in the Department of Planning. Is this an internal departmental document?

It is, it is.---Yep.

Would you just have a look at this document as well, please, Mr Galilee. This is described the same way but it's described as a procedure.---Okay. Thanks.

30 Have you seen that document before, Mr Galilee?---No, no.

Has it ever been brought to your attention that there needs to be a specific form completed in any requests that your body might make of the Department to meet with it?---Not that I'm aware of, no.

Thank you. Commissioner, I tender those two documents.

THE COMMISSIONER: How do we describe those documents?

40 MR CHEN: So the first is Engaging with Lobbyists and Business Contacts Policy, dated November 2017, and the second document is described exactly the same way but Procedure.

THE COMMISSIONER: Procedure. Same date?

MR CHEN: Same date.

THE COMMISSIONER: All right. Perhaps we'll mark them as separate exhibits, then.

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: Exhibits 17 and 18 respectively, in the order in which you've just stated.

**#EXH-017 – ENGAGING WITH LOBBYISTS AND BUSINESS CONTACTS - NOVEMBER 2017 – PROCEDURE**

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**#EXH-018 – ENGAGING WITH LOBBYISTS AND BUSINESS CONTACTS - NOVEMBER 2017 – POLICY**

MR CHEN: Thank you. I'm going to cover another topic that the Commission has asked you some questions about, so I'll do it quite quickly if I can. It's about when you do have meetings, and I'm going to go through the various scenarios that might arise. From time to time when you meet or  
20 arrange a meeting with a minister, the minister may or may not be present. Is that sometimes the case?---Well, if, if it's a meeting with the minister, the minister's there.

Sure, but sometimes you may arrange for a meeting and it's been agreed that the minister will not be present.---Oh, yeah, yeah, yeah, okay, yeah.

Do you understand?---Yes, yeah.

30 And in that situation, who would be present, typically? Would it be the chief of staff running the meeting?---It may, it may be.

Who else would it be if it's not the chiefs of staff, Mr Galilee?---It may be the relevant advisers in the minister's office for that issue, not necessarily the chief of staff.

You've worked in a minister's office.---Yep.

40 So you'll be able to assist the Commission on this topic. But I take it at a state level the hierarchy in terms of staff is the senior person is the chief of staff, is that right?---Technically, yes.

And beneath that are a number of advisers, is that so?---Yeah, that's right.

Is there any hierarchy at all within advisers who may work within a minister's office?---When I worked federally, there were senior advisers, there were advisers and there were assistant advisers.

What about at a state level?---I, I think there's a similar hierarchy but I couldn't be sure what it is these days.

Generally speaking, how many staff is within a minister's office?---I, look, I don't know anymore. I mean, it might be half a dozen, it could be more, depending on the seniority of the minister. I'm, I'm, I haven't been a staffer for eight years. I couldn't tell you. I could tell you how many I had when I was chief of staff to the Treasurer, but I wouldn't be able to tell you how many the Treasurer has now.

10

Well, why don't we start with how many there were when you were chief of staff for the Treasurer.---I think there are eight staff in the Treasurer's office.

And was the hierarchy the chief of staff and then senior adviser/advisers? Is that roughly how it was?---Yes, that's roughly how it was, yeah.

And would there be in addition to that administrative staff?---There were diary staff. Often the most powerful people in the office. There was - - -

20

Is that what their title was, diary staff? Or were they called - - -?---It might be personal secretary, executive assistant, depending on whatever they had agreed to be described as.

And the numbers of advisers that would work within a minister's office would vary depending upon, as you indicated, the seniority of the minister in question, is that so?---Yeah, that's right, generally, yeah.

30

But you'd expect, would you not, that at least in a minister's office at a state level there would definitely be a chief of staff?---Yes.

There would definitely be at least a couple of ministerial advisers?---I, look, yes, I would, I guess so, but there may, it depends on the seniority of the minister. There may just be one depending on their office allocation, the budget they've been given, their recruitment practices. But there would definitely be a chief of staff and there would generally be a policy adviser of some sort as well, at least one.

40

And as well as administrative support, such as the - - -?---And media and communication staff, yeah.

I see.---Operational staff too, yeah.

THE COMMISSIONER: At least at the time you were doing that sort of work, was the ministerial staff public servants, or were they not?---They were personal staff to the minister, but there were departmental staff, generally, at least one if not more departmental staff seconded to the office in liaison officer positions, and they would be seconded to a ministerial

office for a period of time. It may be six months, it could be longer, and their role could vary, but in my experience in Canberra, it involved helping to keep the, the flow of documents running through the minister's office back to the Department.

MR CHEN: And back again.---And back and back and back. Yeah, back and forth, yeah.

10 THE COMMISSIONER: And other staff however in the ministerial office, they're not employed as public servants, is that right?---They're employed under a different Act. I'm not, I can't recall what the Act is called, but they're employed directly by the minister. Yeah. That's the same federally as well, I think. Yeah.

MR CHEN: And just moving to a different, well, to different positions, a member of parliament would also have his or her own staff, would they not? ---Members of parliament have electorate staff.

20 I see. So just going back to ministers, they would have electorate staff in addition to their ministerial staff, is that so?---That's right, yep, they would.

And the electorate staff is made up of who, Mr Galilee, do you know?---Oh, I think they might get two, two staff to help run their electorate office.

30 What about shadow MPs? Are they given a greater allowance of staff in addition to electorate staff?---I think it depends on the wing of the Leader of the Opposition, because the way these things are determined, the government sets itself a – the way these things were determined, it may differ now, was that the government would set itself a global budget for ministerial offices. And then the, there is generally an agreement, there was generally an agreement that the Opposition would receive a proportion of that budget. I'm not sure whether, what it was. So let's say for argument's sake, it might be 20 per cent. So the Opposition is allocated 20 per cent of what the government has, and then it's up to the Opposition to allocate that budget across its, its shadow ministry as it sees fit in my experience.

In your experience working as the chief of staff for the Treasurer - - -?  
---Yep. Yep.

40 - - - did the Shadow Treasurer have a chief of staff?---I, look, I can tell you what my experience was when I worked for the Leader of the Opposition here in New South Wales. I don't know whether, what, what the, what Michael Daley had when he was shadow Treasurer to Mike. We had a, a Leader of the Opposition, the Leader of the Opposition had an office. There were probably 10 staff, from memory, allocated to the Leader of the Opposition's office. The Leader of the Opposition in the Upper House had a couple of extra staff allocated to his office. He was a senior shadow minister. We had, the Deputy Leader of the Opposition received one or two

extra staff in, from the, from the Opposition budget. And there were a couple of other shadow ministers from memory that might have received one or two extra as well. The Manager of Opposition Business might have got an extra staff member. From memory, the whips I think get extra staff as part of their parliamentary responsibilities, rather than from the Opposition budget - - -

10 Is the way in which you broadly expect the staffing arrangements to be in terms of the Opposition that the more senior the Department, or portfolio, I'm sorry, the more likely they would be allocated some additional staff?  
---Not necessarily. No. It - - -

I see. In something like Planning, for example - - -?---Yeah.

- - - would you expect that, that being an important portfolio, that they would have been given additional staff?---Not necessarily. No.

20 I see.---Oppositions don't have much staff to hand around, generally. So it will depend, in my experience, on the seniority of the particular politician that had the office, and the, and the, the, the political priority in relation to the portfolio. So the Shadow Minister for Health would arguably have a greater argument, in my, in my experience back in the day, than the Shadow Minister for Planning for extra staff allocations.

Now over the last number of years, presumably you've had considerable contact with ministers, have you not?---Not as much as I would like to, but yes. I do - - -

30 Can you give an estimate?---I have had meetings with ministers over the past few years or so.

Can you give the Commission just a simple estimate of - - -?---Yep.

- - - how many in the last two or three years, how many times you've seen a state minister?---In a formal meeting?

Well, let's start with a formal meeting.---Or, or at functions and events?

40 No, no, just a formal meeting following a request.---I would, in a formal meeting over the past few years I would hazard a guess at eight to 10 possibly.

And what about meetings with their chief of staff?---Maybe 10 to 15 possibly.

Do you have any problems in getting access to a minister?---Sometimes, yes.

What are the problems you encounter?---Long waits to discuss issues we regard as priority.

If something is urgent as you identified earlier in your evidence, I take it that a minister would respond and do their best to try and accommodate you?---I would hope so, but it doesn't feel like it's always the case.

10 When you go to a meeting or you seek to arrange it, I think you've said you normally set out the matters that you'd like to discuss.---Yeah, that's right.

And the issues of concern to your body and your members. Is that right?  
---Yeah, that's right.

And I take it that when you are there or following it, you yourself keep a note of what you discussed, what the outcomes are, what's agreed to be done and matters of that kind?---Yeah, most of the time, yes.

20 And do you have a, once you go to a meeting with a minister, a need to report back to your members in some shape or form?---Sometimes, yes.

And sometimes you would be required to go to several meetings with a minister or you may then be required to follow it up with another meeting from a Department. Is that right?---Yeah, that's, that would be right. Not necessarily follow-up meetings with a minister unless it's an issue of priority or urgency for them, we would generally have follow-up meetings with either their office or the Department or the officials that are responsible for that particular area of policy.

30 And if somebody within your staff happened to attend a meeting, they would need to report to you or keep a record of what was discussed. Is that a fair statement?---They keep me up to date with, with their engagement with, with the government departments and agencies through our regular staff meetings that we hold internally, yeah.

40 The simple proposition though, isn't it, Mr Galilee, is that you and your staff do keep records of what you do, speak to ministers, departmental heads, public officials, as part of your business. Isn't that so?---Well, there'd, there'd be diary entries where we've done that. We wouldn't always necessarily prepare a written note of what's occurred. My, my, the written note of what may have occurred in a meeting for me may be three dot points on a bit of paper reminding me when I got back to the office of the follow-up action that I believed was necessary to get progress on an issue. That might not be an agreed course of action with the people at the meeting, it just might be something that I've decided in the meeting I'm going to do when I get back to the office to try and make our point more forcefully. It's, there are, there are, there will be some record of the meetings that we've held, there's always a meeting, a record in someone's

diary of the meetings that are held, yeah, but, but that's about, would be about as far as it goes for a lot of them.

Sure. But the level of detail just depends upon the circumstances of course, does it not?---That's right, yeah.

10 Now, within a ministerial office, Mr Galilee, who from the minister's side is keeping a note of what might go on at a meeting, is it the chief of staff, is it an advisor or is it somebody else?---Look, I, I, I mean you'd have to ask them.

Well, you were a chief of staff, tell us, if you can the Commissioner - - -? ---Well, yeah, I was, a long time ago, yeah.

Well, you certainly would remember meetings, Mr Galilee?---I remember, I remember, yeah, had a lot of - - -

20 And so was it you that would take the notes or would it be somebody within the staff of the minister?---Well, I would take some notes if there were follow-up, was follow-up action that was going to be required, yes.

But the minister themselves would need to keep a record because he or she may meet many, many people in the course of his or her work, would they not?---Possibly. It would depend on the personal practices of whatever minister you're dealing with I would imagine, but I, there's no requirement, there was no requirement when I was there eight years ago for ministerial staff or ministers to record the details of every meeting they held. There were requirements under the - - -

30 I'm not asking about requirements at the moment, Mr Galilee, I'm just asking about who would, if anybody, take the notes.---So, well, I guess some would or some, and some wouldn't and the level of detail in their notes would depend on the personal style of that person. I mean I, I - - -

THE COMMISSIONER: So there's no prescribed protocol for ministers to adopt, at the time we're speaking of when you were working as chief of staff, it was an ad hoc, depended on the minister's style, personal style? ---That, that's my recollection, yes, yeah.

40 MR CHEN: Would the chief of staff always be involved in a meeting with the minister and a third party? Or would it sometimes simply include the minister and that other third party?---It could, it could just include the minister and a third party. It could include the minister and another adviser and the third party. The chief of staff wouldn't - well, as chief of staff I wouldn't necessarily attend all meetings that the minister had. I would try to but it wasn't always possible. There may be policy advisers with a level of expertise on a particular policy issue that would be best to attend to that while the chief of staff did other things.

THE COMMISSIONER: Were there any meetings held, in your experience anyway, whereby a particular issue, with regard to such, that there should be an independent observer there? When I say observer, I mean - - -?

---Departmental officials from time to time. My experience when I was in Canberra, I worked for a good minister who had a lot of time for the people in his Department, and departmental officials were in meetings on a very regular basis, and that would have also reflected I think some of the, the scale of some of the issues we were dealing with, and the, the industry assistance packages and investment decisions that were being made by the government, led by that minister, would have to involve the departmental agencies in those meetings.

Dr Chen may be coming to this, but I'll just jump ahead and deal with one particular matter. But take, for example, decisions that are required of a minister because your council perhaps has put an issue before the minister, requiring him or her to, as it were, give the tick to what's being proposed, but it doesn't require legislative change, it's a matter that can be dealt with as part and parcel of the day-to-day executive function. If the issue was such that it required some level of detail and so that you put in perhaps not only a detailed submission but primary material to support what you're seeking to convince/persuade government on, how does the decision-making process go in a case such as I'm referring to now, where legislation is not required? It's either a policy decision or it's some other operational decision of some significance. What's the process? The minister's heard from you, received perhaps written submissions, received supplementary documentation and other material for consideration. The minister may consult with the Department, I suppose. How does the decision-making process go? I'm putting it in a very general way.---Yeah, I understand. And I can only, I can only answer generally because I, I am not privy to the threshold at which decisions have to go to Cabinet or have to be discussed with other ministers. But I can, I mean at, at that, at that operational level in relation to, say, for example, we're seeking a change to a policy on exposure levels to dust in, in underground coal mines, there would very rarely be – let me start by saying this, there's very rarely any decision that we are dealing with where the minister can just make the decision. This is, I, I, there are, there'd be some at a very low level, but they would very rarely be made without the concurrence of the minister's Department or agency. We, most of the issues we're dealing with in the regulatory space involve significant consultation processes across a range of stakeholders of which we are just one. They involve public consultation periods. They involve periods of consideration by subject matter experts within Departments and agencies. Recommendations I assume are then made to ministers. Quite often those ministers then have to go and discuss with their relevant state counterparts from other jurisdictions in areas of workplace health and safety and others, for example. So I don't, I don't think there's a lot, I can't think of any off the top of my head where a minister can just sign off on something because we've asked them to. At the more senior level in relation to the issuing of

exploration leases and mining leases and those sorts of things, I mean, they, they, those ministers are depending on the recommendations of their Departments, in our view, and those, those, those applications are assessed through the process of the Department itself. In relation to mining leases, you can't get a mining lease without a planning approval. The planning system is fairly extensive, public and rigorous. It can take six to 12 years to get approval. The mining lease again is not issued by the minister or signed off by the minister without the recommendation from the Department, and that involves have secured a whole lot of post-approval, post-approval, meeting a lot of post-approval requirements as well, so - - -

Take the exploration licence situation. It may be that various issues have to be considered for or against and the Department might, on balance, say no but would it be the case that the minister, stepping back and looking at it all, might say yes?---Possibly but I can't think of a case where that had happened and if, if it, in relation to – I mean, and there are additional process that have been put in place now as a result of previous ICAC investigations into the issuing of exploration leases by, by previous ministers under previous administrations, and those processes are, are independent and arm's length of the minister and they've taken a long time to be implemented and I, I think they're only just starting to, to, to get going after all this time. So, yeah, that's an independent panel that make independent decisions based on the applications they receive. I, I am aware of a, a, a couple of unsolicited requests for exploration leases that have been made to the Department that have been told to go through the process that I just referred to. So my experience is that there is a very, very, very high degree of caution and diligence on these matters and I can't, I can't recall a, an example where a minister has contravened the, the view of their Department, the recommendation of their Department on, on, on exploration licences or mining licences.

Yes, thank you.

MR CHEN: When you worked as a chief of staff in the state sphere, there was no obligation at that stage for ministers to publish their diaries as there is now. Isn't that right?---I think that's right, yeah.

Are you familiar with the practice that has developed now following a premier's directive whereby ministerial diaries are disclosed?---I'm aware of it, yeah.

Have you ever seen the disclosure that is made within those documents or not?---No. I, I haven't, I haven't looked, no. I read about it in the newspapers.

THE COMMISSIONER: Do you think it's a good idea?---I don't, I don't, I don't think - - -

It serves a purpose?---I think it, it serves a purpose and I, I mean, I don't think it necessarily has a lot but it, but it provides some background to, to what ministers are doing and who they're meeting with.

MR CHEN: But you would advocate, to the extent you would, that it should be extended more broadly, to MPs and to shadow ministers, because of the evidence you gave earlier, namely that they can be, in a different case - - -?---Yeah. I have a personal view that - - -

10 Just allow me to finish if I can, just for the transcript.---Yeah, sorry. Yeah.

Because in a given case they can be quite influential?---I, I do, I do believe that and I mean I, you know, I don't necessarily think that the level of regulation that is applying to these activities is adding that much because I think there's a lot of smoke and no fire in a lot of these issues. There's a lot of allegation and claim and counterclaim of things that are, that happening that just aren't happening and my experience is that the things that my industry is accused of doing harking back to previous days just aren't happening and, and, and, I mean, those days are over.

20

THE COMMISSIONER: Just on that point, and again, I'm going to a very broad area which will be probably covered in more detail. But isn't one reason to have transparency so that those who might be affected or feel aggrieved by a decision at least know how the decision was made and on what basis? Would you not advocate for that yourself in the interest of, well, in the interest of transparency and the interests of keeping the community on board?---Yeah.

30 And as you say, that false issues don't start to grow legs and run?---In, in my experience in this job, those that are aggrieved and those that would take the time to look through ministerial diaries are a very small group of people, and no matter what level of regulation you impose upon the activities of an organisation like mine, they will continue to be aggrieved and they will continue to claim that we are acting in some untoward way because they disagree with the issues that we are advocating for.

40 That may be so, but I'm just simply asking you this question. Would you not support transparency process in, in particular, decision making? And when I'm talking about decision-making, I'm referring in particular to the basis of the decision for explaining that it's been done according to due process, would therapeutic in the sense those who might take a contrary view at least are privy to the way in which, and the basis upon which a particular decision was made. Would you not for those reasons be supportive of transparency if it can achieve that purpose?---Yes. If, if it could achieve that purpose, but on a similar basis if transparency is going to apply, my personal view is it should apply universally and across the board and shouldn't be applied selectively and leave out large slabs of the decision-making process, as well as large slabs of the so-called lobbying

industry, including some of the not-for-profits in the contested space that I operate in, who are in many cases as well if not better resourced than myself, collectively have a lot more money to spend than myself to pursue their issues and their causes, are very, are very active in the advocacy or lobbying space with government departments, agencies and ministers themselves, and who argue for more regulation on an outfit like mine but less or none on an outfit like theirs, even though we are the ones with a level of transparency in relation to our funding, our membership, the issues we pursue and the policy objectives that we are seeking to achieve. And quite often the organisations that are contesting our issues, we're not, we don't know who is funding them, we don't know who their members are, and we don't know what issues they're pursuing behind the scenes.

I'm just going to ask you to pause there. I'm really trying to not get into a general discourse about the small "p" political real environment that goes on out there, but what I'm simply seeking your view on is whether or not you are supportive in general terms of transparency of process, by which I mean a process that explains something about the process that was employed in utilising, in reaching or arriving at a position, and a process that would explain the basis upon which that decision was formed. Would you agree that there is - - -?---Yes, absolutely, yep.

It could first prevent misunderstanding by those who are sceptical, perhaps, at the outset.---Yep.

But importantly, bearing in mind that public officials must exercise their office and powers for the purpose for which they're conferred and not for any extraneous reason, are not public officials generally speaking, that you would be dealing with, constrained to ensure, so far as it's possible, that there be a process, processes that are disclosed, a basis for the decision-making is disclosed?---Well, my experience is that that is the case.

I see.---Yeah.

MR CHEN: Thank you, Commissioner. I was on the topic of diary disclosure.---Yes.

If I just come back to that and just open that up a little bit more if I can, Mr Galilee. I think, as I understood it, you accepted the proposition that to the extent there is disclosure of diaries, it should be across the board because of the influence that others such as MPs, crossbenchers et cetera can have?---Yes.

And in terms of detail of what's in the diary disclosures, as it currently exists you're not familiar with that, are you?---Well, I'm familiar with the paperwork we need to complete when we have a meeting with a minister, and the, and, and, and how, what is required, you know, to be, to be entered into that form in relation to who's going to be there and what their, what the

generally high-level issues we're going to discuss are going to be and whether there's going to be a third-party lobbyist there, those sorts of things.

But that sort of information can easily be captured, can it not, and put onto and disclosed on a register or in some wider form of diary disclosure, could it not?---Yeah, I'm sure it could.

10 Because it's information that you prepare and the public official is required to receive before they agree to a meeting, isn't that right?---Well, the minister's required to, yeah.

And similarly government officials beneath the status of a minister would similarly require that kind of information about "Why do you want to see us? What are we going to discuss?" Is that right?---Yes, but I'm, I'm, I'll hazard a guess that you are going to suggest that they should also be required to complete a round of paperwork before every meeting.

20 I'm just at the moment exploring the topic of whether or not this information is generated in any event - - -?---Yeah.

- - - in the course of meetings that are arranged, not simply by your organisation but presumably many others - - -?---Yep. Yep.

30 - - - as a precondition to actually getting into the office of a minister or some other government official.---Well, look, I mean, the information that we're, that you're referring to is captured in the meeting request that we would make, yes. But I, but I'd, I wouldn't, want to avoid a situation where, where my office is required to complete even more paperwork, when the amount of regulation we're already imposed to is quite significant, as, as organisation we are required to comply with the lobbying code of conduct. We are required to provide the information for the ministerial diaries. We are required, in theory, required to comply with electoral funding laws, which have changed from time to time in relation to third-party campaigning. There's also obligations in relation to political donations which don't apply to us because we, we don't make any, but theoretically they would apply as well. I mean - - -

40 THE COMMISSIONER: Does that still apply, sorry to interrupt you, will apply to your members, though?---Some of them it would. But, but increasingly my member companies are deciding not to make political donations, and even if they were, the amount that they would be donating for is, is, is pretty modest, given the caps that apply in New South Wales. But just in relation to one of those compliance requirements, the third-party campaign funding requirements that we are, are required to comply with, in the lead-up, lead-up to the election campaign period, there's a cap that's set. There's spending that needs to be captured by that. The level of compliance that, that - I mean, I'm essentially running a small business with 14 employees and turnover of somewhere between four and seven million. The

level of compliance that is required for us to try to meet our obligations under those reporting requirements – even though arguably we shouldn't be captured because we're not during that period necessarily advertising or, or campaigning for political outcomes – is, is incredibly onerous, and that's just one of the areas of compliance we have to, we have to deal with. If we are then forced to comply with other new areas of, of regulation, I mean, there's got to be at some point a question over, well, what, what value is that delivering, and is that delivering value to a small number of people that are seeking to monitor our activities so they can, because they disagree with the issues that we're pushing? And, and that's, that's, that is my experience, that, you know, the same people that we refer to the ministerial diaries that are reported, and give them to journalists in the media to run stories about, oh, look at all these evil people getting all these meetings in the government, is the same people that oppose our issues, and – I mean, I'm sure they're getting meetings as well.

But the decision to publish the ministerial diaries was not of the, a decision of the aggrieved.---Yeah.

20 It was of the Premier of the day.---Yep.

Seen as a necessary step to take, otherwise it wouldn't have been taken. ---Yeah, and it's there, and we'll comply with it - - -

But would you, just on - - -?--- - - - but I'm just arguing against further regulation.

Oh, just please let me finish. Would you see it appropriate then that the ministerial diaries should record relevant data, by which I mean who the meeting was with, who they represented, whether they were third-party lobbyists, and what the subject matter of the meeting was to be, or was?---It, I think it does, that's what it records now, I think.

You'd agree with that it should disclose - - -?---Yeah.

- - - what the meeting was about, the topic for discussion.---Yep.

All right. Thank you.---Yep. I mean, that's, that's the requirement now under the existing form.

40

Well, to what in practice happens - - -?---Yeah.

- - - is maybe a different question entirely.---Yeah.

So far as these diaries are concerned. Anyway. You needn't trouble yourself - - -?---But can I just make an observation in relation to that?

Sure.---I mean, the, the ministerial meeting that, that occurs in our instance, that requires us to complete that form, is almost always in response to a letter we've written, often a very detailed letter, outlining the policy issues that we're seeking to discuss. So, so there is a, there's a record, a very formal record already, of the issues we're seeking to discuss in that meeting. That correspondence is, is, is available under the, under the state equivalent of the FOI laws. It's available under standing order 50-something in the Upper House for, for, and there are, you know, we, we, we are quite open about the issues we're discussing with these ministers in these meetings.

10 We put it down formally in writing, and we put it into a pretty bureaucratic and open process.

MR CHEN: And you separately though, of course, keep your own note of what's resolved from the meeting.---Sometimes. There's very rarely anything resolved from a meeting with the minister in my experience, other than to have more meetings with a departmental official to keep talking about something and then six years later we get a no. So if, if things were going so well for us, we wouldn't be getting project refusals and we wouldn't be getting increase in regulation and time frames for assessment

20 wouldn't be going up and the number of mines in New South Wales wouldn't be falling, investment wouldn't be dropping and we wouldn't be running a public campaign against the Planning Minister and his planning system.

If there was that level of disclosure that the Commissioner has been asking you questions about and I have, you would still need to conduct your activities in much the same way, would you not, as the CEO of the Minerals Council?---What level of disclosure are you referring to, to extending the meeting request form?

30

Yes. If it captured the information as to why you want the meeting, who's attending the meeting, what was discussed and what was resolved if anything, something may not be resolved. That's not going to stop you carrying out your advocacy on behalf of your members, is it?---We would have to, we'll comply with whatever regulation is imposed upon us in order to do our work for our member companies, but in that case, as I've said earlier, if that obligation is going to be imposed upon me, it should be imposed upon everybody across the board universally who's in this contested space or is seeking to engage with the government and there

40 shouldn't be any argument from any organisations that they're too under-resourced or they're too poor to do it, because as I outlined earlier, the organisations that I'm often dealing with in relation to the issues that I'm pursuing are as much, if not better resourced than me in terms of people, in terms of money, collectively they would have just as much of an ability to complete any increased regulatory requirements as my organisation would, and arguably they have more ability to do that.

THE COMMISSIONER: Can you see an argument that a vested interest, talking about a business enterprise of some kind, whether it's in the mining industry or not, seeking to persuade government to their point of view, should be subject to reasonable transparency and accountability provisions, perhaps of a higher level than somebody who's not trying to persuade government for a commercial reason but perhaps for an environmental reason or some other reason they're agitating? In other words, shouldn't there be some stringency or rigour placed upon an enterprise that's seeking to advance its vested interests commercially in terms of transparency and accountability, than perhaps the agitator who doesn't like mining?  
10 ---There's often as much of a commercial advantage in preventing something from proceeding as allowing it to proceed.

No, but just focus on my question, please, and answer that.---I disagree.

You disagree. Well - - -?---I disagree because you're putting a price on transparency, you're saying transparency applies to some and not others.

No, I'm not doing that. What I'm putting is that - - -?---Well, that's my  
20 view of what that proposition is.

If vested interests are seeking to influence government for a commercial outcome there is, is there not, a need for both transparency and accountability as a general principle, subject perhaps to some exceptions? Do you agree with that?---Yes.

Right. So levels of transparency would at least require some public disclosure as to what it is that they're trying to seek to influence government on for a commercial outcome?---Yeah.  
30

And the basis for it. Is that fair enough?---Yes.

There may be particular aspects of it which may be properly classed as confidential, but subject to confidentiality issues.---Yeah.

So far as your position in the mining industry is concerned in the work you do, you would accept that there ought to be, in general terms at least, both transparency of process and outcome. Is that right?---Yes.

40 And how is that best achieved, should it be for example that the keeping of a record for example as to what was the process and what were the matters that were considered and which were weighed in the balance and led to the decision also be disclosed or available?---Well, possibly. I mean there's already a level of disclosure now. I'm not necessarily arguing against those principles that you espoused, in fact I'm not arguing against them at all, but what I'm arguing against is imposing an additional level of regulatory requirement on, on proponents rather than on the decision-makers, and if you're going to consider additional regulatory and reporting requirements,

then it is the decision-makers in my view that should be obligated to fulfil those additional requirements, bearing in mind the compliance obligations that already apply to an organisation like mine, and if you're going to do that for the reasons of increased transparency, then my very strong view in my eight years' experience in this job and previously working for government, state and federal, is that it should apply universally to everyone who is seeking to influence a government decision, whether it's to support something, to oppose something, whether there's a commercial outcome or not, because often – and I don't know who – the organisations that regularly oppose the projects that my member companies propose, I don't know who their members are, I don't know who's financially backing them and for what reason. There may be a commercial interest involved, there may not be. So you know, these, these reporting requirements should apply across the board. When a project is refused and 350 people lose their job in a mining project, as has happened, those 350 people who've lost their job deserve the same level of transparency as to how that decision was reached and who was advocating against the approval, as anyone who may have been affected by the approval, in my view.

20 But you come back to the point, don't you, that sound decision-making by public officers who at the end of the day do make the decision, should be based on cogent evidence or materials and whatever opposing forces might be advocating, the public official's duty is not to be dissuaded from bringing an independent, detached, informed mind in making that decision. Isn't that right? That's the way the process is intended to operate?---That's right, yeah.

30 So that there may be very vocal anticompetitive forces out there, somebody might be bankrolling them for all we know, but it seems to me that the essentials is that the proponents have got to present all the relevant information, not some, the upside, and acknowledge the downside, and the decision-maker has got to adopt a process whereby he or she will, at the end of the day, be able to make any informed decision no matter how much opposition there might be out there from environmentalists or others. Isn't that the way the process operates because - - -?---If only that was the case. If only that was the case.

40 - - - at the end of the day, the public official carries the responsibility for that decision. Isn't that right?---Yes, but - - -

And the public – sorry to interrupt but I'll just finish on this note – the public official not be persuaded by the noisy protesters and the opponents out there because they haven't put any, unless they have, cogent material upon which the decision can be made. If they have then it should be taken into account. So isn't at the end of the day the safeguard is that we trust, we have public trust in our public officials and in our public authorities to make decisions on cogent evidence in a balanced, detached, informative way? ---I wish that was the case.

Well, are you saying it's not?---I, I, I do, do totally believe that in some cases in our instances in our industry, projects have been refused because of noisy objectors.

10 Well, that's a very serious matter that you've raised.---That's part of the reason why we have the concerns with the planning system right now and the processes that are you place that allow objectors to gain the system that allow them to manufacture legal challenges through the system, that allow them to make submissions past submissions deadlines through the planning process that are taken into consideration where proponents aren't allowed to respond to those. There are many examples in our industry where on balance and impartially a decision I believe would have gone differently to the way it went, but for those noisy objectors that you refer to and it's part of the reason why our industry has had to raise its own voice and mobilise our own supporters and those that work in the industry to engage in a planning process itself to provide a counter-voice to those noisy objectors, and that's what we have to do on a regular basis.

20 I acknowledge in many fields of life bona fide well-informed decision-makers, you still might have a situation where minds differ on the outcome. ---Yeah, that's right, yeah.

But what you're suggesting is that we can't trust public officials with their responsibility and that you're saying there have been cases where officials have misused their office and power. Are you making that charge or are you saying - - -?---No, no, no. I'm saying I believe they have been unduly influenced by, by project opponents and, who are also operating in an unregulated lobbying space.

30 Well, now, I'll just pause there for the moment just so that we can do some programming. How are we travelling for time?

MR CHEN: I believe I'll finish – I just want to put about 10 minutes' worth of short propositions and ask Mr Galilee for his views on them. I believe I'll finish by 20 past 11.00.

40 THE COMMISSIONER: I'm not putting pressure on anyone. I just really wanted to enquire and I know, I'm sure Mr Galilee has other obligations to attend to, but I am assisted by his evidence.

MR CHEN: Indeed, Commissioner. I believe in 15 minutes I will finish and I'll move very promptly to the remaining topics.

THE COMMISSIONER: That's all right. Yes, well, I've been interrupting you. So how are you placed time-wise?---I'm at, at your disposal.

All right, thank you. All right. We'll press on.

MR CHEN: Mr Galilee, I just want to tie off some of the questions and topics that I was asking you questions about a little while ago just on, in terms of disclosure, and I think what you said, if there is increased disclosure, it certainly should apply across the board. Is that so?---That's correct.

10 And I think what, on your evidence so far in any event, to the extent there would be increased disclosure, that should be on the public official, not on the proponent or, I'll just use the word, lobbyist or advocate. Is that your position?---Yep, yes.

20 But on what you've said as well, the information that would be captured in any increased disclosure, it should be in the domain, in any event, because if organisations follow the practice that your organisation follows, you set out in detail why you want a meeting, what the subject matter of the meeting is and, independently, you should have a record, the detail might be a matter for variations, of what happens at that meeting. Is that right?---Not necessarily what happens at the meeting, that's often verbally recited back to me by the staff member that may attend that meeting, but there would, there would generally be some kind of record somewhere, bring that all together and having it centrally available would be an administrative requirement that we would, we would then have to fulfil and, and there would be issues as to the threshold as to at what level do you impose such obligations in relation to officials that you're meeting with and, and under what circumstances it would apply, whether it applies to – I mean, we hold a lot of functions and events for the industry and we invite local MPs, for example, to attend and ministers and shadow ministers from time to time come along to our functions and events, there's an obligation on them to, to declare those if they believe it's a gift above a certain threshold, would we have to report that they came along and, you know, watched the Newcastle Knights playing a high-vis mining jersey once a year, for example, where we often get three or four MPs and shadow ministers from mining regions come along to those events. So there is a threshold issue that would need to be addressed and I could, I would suggest there may be a lot of grey areas there, wherever you draw the line, there's going to be some grey areas.

40 Are there any particular instances that come to your mind where matters raised or policy matters raised by the Minerals Council wouldn't otherwise be in the public domain?---Well, I would like to believe that that campaign on planning reform has helped the government decide that it should have a look at some of the processes that are in place but I suspect that, as the minister has stated himself in his announcement of the review under the Independent Planning Commission, that has more to do with the internal issues of the Planning Commission itself. However, the view of mine and the company's was that over an extended period of time we've been highlighting these issues, publicly and privately, to the government and to the minister and we hadn't been getting the traction or the acknowledgement

of the seriousness of the issues and the concerns we were raising and with a recent refusal on a project that I was referring to earlier, the Bylong Project -  
- -

I think we're just slightly off topic now. I just want to draw you back, if I can. Are there any policy submissions that the Minerals Council has put in, to your knowledge, that have not been made public or you have asked for them not to be made public?---No. And we, we assume all our submissions will be made public. There are, I believe, some requirements in relation to  
10 parliamentary committees that the submissions are not made public until the committee itself releases those on their website once the submission period has, has, has closed. So we, we, we, we abide by that process but generally speaking, all our submissions are on our own website.

Mr Galilee, you gave in your evidence earlier or made some comments about the registration of third-party lobbyists and others, and you thought that, implicitly at least, that that aided in a better understanding of who actually stands behind the lobbyists.---Yeah.

20 Do you have any views about whether or not registration requirements should extend to in-house lobbyists, which would perhaps include yourself and those in your policy team?---I don't think it would add any to public transparency. The reason being that the whole third-party lobbying register concept, as everyone here knows the history of it, and the WA Inc and the Brian Burke, and it came about because lobbying was being undertaken without the disclosure of who that lobbying was being conducted for. And a third-party lobbyist register makes it very clear – in a very public and open way that's available to anybody – who the third-party lobbyist is  
30 representing. In my case it's pretty obvious who I'm representing. I'm representing my member companies who are listed on my member website, and if someone's an in-house lobbyist for a corporation it's pretty obvious, generally speaking, they're representing that company. Obviously there's exceptions for professional services firms that exist right now. I'll go back to the point I made earlier, though. Some of the, some of the associations and not-for-profits that I come into contact with that are in our contested space who are advocating a different point of view, it is unclear who they're representing. I know what they're pushing for but I don't know who's behind them, I don't know who's funding them, I don't know who their members are, and I believe that is a level of transparency that is highly  
40 lacking in the system.

THE COMMISSIONER: You've made that point. But just keep on track, though, if you would, on the point that was raised with you. Could I just perhaps on that issue with in-house lobbyists as it's been referred to, why should they not be bound by, for example, the same code of conduct or regulatory regime as third-party lobbyists?---Well, I think we're all bound by the Lobbying Code of Conduct.

I think that's right. But in terms of regulation generally, if there's regulatory requirements imposed on third-party lobbyists and there could be sanctions if there's been breaches, why should that in principle not apply to in-house lobbyists who, as it were, remain totally unregulated?---Well, what regulation doesn't apply to an in-house lobbyist that applies to a third-party lobbyist right now?

MR CHEN: Registration's one.---The registration.

10 Yes.---But the registration, in my view, is to disclose who they represent.

But that's your point, isn't it? That you support wider registration because your argument is, Mr Galilee, that people who are in your what you describe as contested space, you don't know who they're representing. Is that not right?---But I don't know if registration, them registering as a third-party lobbyist is not going to, is not going to meet that transparency that I'm seeking. Requiring them to publish who their members are or who their financial backers are would, and that's something that we're pursuing through other regulatory bodies, including the Australian Charities and Not-  
20 for-profits Corporation. But, but my, I, you know, if I was going to register as a lobbyist, you know, that's fine. I'll do the paperwork, I'll register and I'll comply with the code of conduct as I do now, but it's not going to add, in my view, to the transparency of who I'm representing because you can just look it up on the NSW Minerals Council website and you can see a list of our members and that's who we're representing.

But you can imagine with another corporation, a private corporation that does engage in lobbying, that that would be a way that you could not or a person interested could not actually find that out.---But we're talking about,  
30 like, someone who does corporate relations for a bank or something? Is that what we're - - -

That might be one example.---Well, they're representing the bank, aren't they? Or they, they're representing the company that employs them if they're an in-house lobbyist. If they're, if they're representing a third party, they're required to report and comply and register as a third-party lobbyist. So I, I mean, I just, I can understand why people think it should apply universally just as a matter of principle, but, and, but I don't think it adds to the transparency that already exists, which is obvious in, you know, in our  
40 case it's obvious. In the case of an in-house lobbyist, with the exception of a professional services firm, it's obvious.

Mr Galilee, you would be generally familiar, would you not, with cooling-off periods, and particularly cooling-off periods that might apply to a minister or a parliamentary secretary?---Yep.

And you're familiar, I guess, at least in a general sense, that at a federal level that that extends to certain public officials at lower levels.---Yep.

You are aware, are you, that in New South Wales there is a similar cooling-off period for ministers and parliamentary secretaries, are you not?---Yes.

But there's no comparable provision that deals with cooling-off periods for public officials, for example, a chief of staff?---Yep.

10 Do you have a view as to why the federal, at least as a matter of principle, the federal regulation of, I'll call them public officials lower than a minister or parliamentary secretary should not apply in New South Wales?---I don't, I don't have a view on that.

You can see some good sense in it applying, can you not?---For consistency perhaps but, I mean, I think we need to be careful to ensure that we're not penalising people who take these jobs.

20 I'm going to ask you about that separately, if I can. I'll just ask you about the level in a moment but as a matter of principle, there's no reason to differentiate the federal sphere to the state sphere, is there?---Not as a matter of principle, no.

And the, if you look at just ministerial staff at the moment, in the federal sphere it deals with positions at an adviser level and above. Is there a comparable position within the state sphere that's described as an adviser level or above?---There would be.

30 Do you know what - - -?---It's probably described in a similar way. It would have been adviser or policy adviser or something like that, back in, back in my day as, as a chief of staff.

40 If it extends to people at that level, is there any reason that you can think of why it wouldn't extend to staff in an electorate office?---I don't think it would, it'd be required or relevant to an electorate staffer to have a cooling-off period, given their duties and responsibilities involve serving that electorate and assisting the MP. There is, there used to be a, a very important distinction on a ministerial, on a minister's staff between their electorate office and the resources they were allocated to serve their electorate and their ministerial office and I am assuming that that is still in place and, and most electorate staff that I have dealt with are, are doing a terrific job under, representing the views and, and interests of their electorate and that, that local community so I don't know why there would need to be a cooling-off there. And can I just make another point on that though, in relation to the ministerial staff. I mean, there, there is an argument, I believe, that we saw recently in the cases of other former ministers, Christopher Pyne and, and the former Deputy Premier as well, Deputy Prime Minister as well, that a cooling-off period should apply in relation to areas of policy and responsibility but I do think we need to be careful not to impose a requirement on what are, in many cases, quite often

relatively junior staff members working in a minister's office who don't have the job security that others do, who can be dismissed on, immediately, under the legislation, to prevent, preventing them from being able to apply the skillset that they have developed or that they have, a similar skillset which can be used for other jobs simply because they have worked as a ministerial staffer for a period of time. You know, I, there, there, there, would be a way that you could potentially implement such a requirement that would provide the transparency that the Commission may be seeking on that and preventing those conflicts of interests occurring. But if you took it too far, I think you do risk penalising people that are, that are working in fairly, fairly demanding roles and often in fairly junior positions with little job security.

What these cooling-off at least are designed to do is to prevent, I'll just call it a public official, from re-engaging with the area or portfolio in which they had been working. Is that generally speaking correct?---That's right. I understand they are, they are, yeah.

And part the issue may be arranging access. They have better opportunity to actually get a meeting with somebody of influence within a government or within a Department or within a public authority. Do you agree?---Yes. That, that, that can be the case but that can be the case through their knowledge of the processes that, that, that apply rather than necessarily any personal contact they may have.

And it's also to preclude them from potentially misusing or having a conflict in relation to information they've acquired during the course of their work?---Yep.

Is there any reason why you can think why the preclusion period for ministers or parliamentary secretaries should not be extended beyond 12 months? For example, in other jurisdictions they're five years. Do you have any view about that?---I, I would have thought 12 months is sufficient.

Why is that?---Issues move on, in politics the caravan moves on. I mean I'm not sure, unless you're involved in a planning assessment decision which can take 12 years, I'm not sure that there is any real risk if that after 12 months a minister or parliamentary secretary are going to be able to commercialise any information that they had 12 months ago in government.

I'm moving to a new topic now, Mr Galilee. You said in your evidence earlier that you don't or your body does not make donations. Is that right? ---That's right.

Does it ever offer gifts, for example, hospitality to public officials?---We do offer hospitality to, to events and dinners that we hold. We hold an industry awards dinner at Parliament House once a year, we invite a range of members of parliament and staff that are relevant to our, to our industry, to

attend that event. We hold a Voice for Mining Family Day at Newcastle Stadium, Newcastle Knights home game once a year where we invite relevant local MPs from mining regions to attend. They would be the two major events that we hold. Oh, we hold an industry Health and Safety Environment and Community Conference in August in the Hunter Valley and again we will invite ministers and shadow ministers and MPs to attend where possible. They're often invited to come and speak, to be the guest speakers and they may stay at the conference that night because they're speaking at a dinner and it's a long way home, that sort of thing. So, so  
10 from time to time, yes, but they're the sorts of, of, of gifts or hospitality we'd be offering and I'm assuming the onus is on those ministers or MPs to declare that. Often we do have MPs ask if they can pay for their dinner so that they, so it's not seen as a gift.

I don't have any further questions, Commissioner, for Mr Galilee.

THE COMMISSIONER: Mr Galilee, thank you very much for your written submissions and also for your evidence today.---Thank you.

20 You're excused.

**THE WITNESS EXCUSED**

**[11.22am]**

THE COMMISSIONER: I'll adjourn.

**SHORT ADJOURNMENT**

**[11.22am]**

30

THE COMMISSIONER: Apologies for keeping everyone waiting. Had some competing commitments.

MR CHEN: Yes. Commissioner, the next witness is Georgina Woods. She's at the hearing room now.

THE COMMISSIONER: Yes.

40 MR CHEN: Commissioner, I've explained in very general terms the operation of section 38 of the Act. She'll take an affirmation at the appropriate time.

THE COMMISSIONER: Thank you. Yes, please come forward. If you wouldn't mind just standing there, thank you, Ms Woods, and we'll have the affirmation administered.

<GEORGINA FRANCES WOODS, affirmed

[11.56am]

THE COMMISSIONER: Thank you. Just take a seat there. And just stating your full name for - - -?---Georgina Frances Woods.

Thank you. Dr Chen, you've explained section 38 to the witness?

MR CHEN: I have, I have.

10

THE COMMISSIONER: Does she want to (not transcribable)

MR CHEN: As I understand it, she does not wish to take, seek a declaration at this time. I don't anticipate, for the benefit of the witness, asking her any questions which will cause any kind of excitement, so - - -

THE COMMISSIONER: All right. You're happy to proceed without a declaration under section 38, but you are at liberty to apply at any time if you wish.---Thanks.

20

Thank you.

MR CHEN: Ms Woods, as I understand it, you've prepared a – oh, sorry, I withdraw that. You're the New South Wales coordinator, are you not, of an organisation known as Lock the Gate?---Yes.

And how long have you been the New South Wales coordinator for?---A little over six years.

30 THE COMMISSIONER: I should note that a submission from Lock the Gate - - -

MR CHEN: I think that's private, Commissioner.

THE COMMISSIONER: Pardon?

MR CHEN: I think it's marked as private, that is to say, not to be made public, in that sense.

40 THE COMMISSIONER: I see. Yes, all right, then. It will remain private, or - - -

MR CHEN: Well, perhaps we can ask the witness.

THE COMMISSIONER: Yes.

MR CHEN: I can ask the witness. Pardon me. Would you just pardon me a moment, Commissioner? Oh, I see. Commissioner, there is some material within it that probably suggest to ask that it should be kept private.

THE COMMISSIONER: All right. We'll leave it.

MR CHEN: But if there's other matters, just to assist you, Commissioner, and the witness, the witness wishes to make a brief opening statement, and as I understand it will be within the scope and suitably brief.

10

THE COMMISSIONER: Yes.

MR CHEN: Commissioner, in due course if the witness feels that she on behalf of Lock the Gate wishes to put in a submission and we can take up some of the matters which we thought perhaps might cause some concern, Mr Broad can speak to Ms Woods afterwards, and that can be resubmitted, and perhaps it can be dealt with that way, if that was an appropriate way of receiving the full submission.

20

THE COMMISSIONER: Very well. Ms Woods, you've heard that. You're agreeable to - - -?---Yep.

If you would wish to develop or put your views forward on any issues, then arrangements are to be made with Counsel, with the Commission officers to arrange a program for you to have that opportunity.---Thank you.

All right. Thank you.

30

MR CHEN: Ms Woods, I'll just take you through a bit of detail first, and then I'll invite you to make the opening statement.---Absolutely.

Lock the Gate is a national organisation, is it not?---Yes.

And it was founded it approximately 2010?---Yes.

And it's a, what's described as a grassroots organisation, is that so?---Yeah, we would describe it that way, yep.

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And the membership, it obviously changes from time to time, but it is approximately 120,000 members?---Well, about that number of supporters.

Supporters.---Actual members of the organisation is much smaller, about 130, but yes, I suppose we are a grassroots organisation, but we're also part of a broader network, yeah, that does, you know, so it's a little hard to, to draw the lines. But yes. Around 120,000 supporters sounds about right.

And the members, are they companies, individuals, that may make contributions, that is to say financial contributions, towards the running of

Lock the Gate? Or is there some other definition that applies?---They are members, you know, for the purposes of our constitution, of the, of the not-for-profit company called Lock the Gate Alliance, for, which I work for. But we have a bunch of, you know, have thousands of donors who contribute money to Lock the Gate who aren't formal members of the organisation.

THE COMMISSIONER: And what's your position in the organisation?  
---I'm the New South Wales coordinator.

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MR CHEN: Now, the principal area that is the concern of Lock the Gate is concerning coalmining, coal seam gas and fracking, is that right?---Yes.

Is it more broad than that or is that sufficiently descriptive of what Lock the Gate focuses upon?---That's, that's sufficient, yep.

It is a registered charity, is it not?---Yes.

It's not-for-profit?---Yes.

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It receives no government funding, does it?---I believe our allocation is that we get the odd grant from government for a specific project. I think we perhaps got an Australia Council grant at one point for an art project, but generally no.

Its operating budget is made up of donations, is that so?---Yes.

And it obviously changes from year to year, does it?---Yes.

30 Are you able to say what currently the budget of Lock the Gate is?---It would be in the order of \$2 million.

And is that for the NSW branch of Lock the Gate?---No, that's across the country.

Nationally, I see. And what about for New South Wales? What's the budget that it has for its activities in New South Wales?---I would say it's probably about a quarter of that total.

40 Now, Lock the Gate in New South Wales has a number of staff, including yourself? Is that – you need to answer orally, sorry. It's recorded.--- Yes, sorry, yes, that's correct.

And you're full-time, are you?---I am.

Is there approximately six full-time staff?---In New South Wales?

Yes.---That sounds right, yes.

And what about Australia-wide in general terms?---I think in full-time equivalent terms it's 13. It might be 15 but, yep, that sort of order.

And of the six in New South Wales, are they all involved in the advocacy work that Lock the Gate does? Or does some have a different role such as finances or matters of that kind?---No, they would all be advocacy people, yes. Well, yeah.

10 Are you the most senior person within Lock the Gate in New South Wales?  
---It's a difficult question to answer because we're not terribly hierarchical in the way that we operate, but I am the person, yes, so my coordination role means that, yes, I am aware of what everybody else is doing and I am the person who has the most contact with the New South Wales Government.

But others do as well, aside from you?---Yes.

I see. Perhaps it might be appropriate now, Ms Woods, if you'd like to make your opening statement.

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THE WITNESS: Yes, sure. Look, I just wanted to make a brief statement partly because our submission was marked confidential. Our basic position is that given the history of corruption, the large amount of capital involved, the involvement of multinational companies and, and state-owned corporations in some instances, and the high stakes in terms of the environmental and social impact of mining, that the mining industry does warrant special consideration in the regulation of lobbying access and influence in New South Wales because it's been our experience and observation that the mining industry has a greater degree of access and influence over government than the people who are affected by the mining industry, and I can give specific examples of, you know, times and occasions when public policy has changed in response to mining industry pressure and campaigning and access to government, and that has had an adverse effect on matters of public interest.

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I suppose it's been our observation, and, you know, this might not otherwise come up if we weren't raising it, that that access is partly influenced by geography because the decisions that are made about the mining projects and policies that affect the communities that we work with – in the Hunter Valley and the north-west of New South Wales particularly – are predominantly or even in some cases are entirely made by people in Sydney, and that includes ministers. I mean, ministers obviously come from different electorates but they, they work here, the bureaucracy is based here, the Planning Commission is based here, and the people who are affected, the communities that we work with, are remote from Sydney and don't have the same degree of opportunity to engage with those government representatives who are Sydney-based, and it takes a great deal of sort of time for people who – not myself, I have a full-time job to do this – but

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other people who are affected by mining with whom we work, it takes them a great deal of time and, and in some cases expense to come to Sydney for the purposes of engaging with the government, and I think that's a really important element of the, of the bias and imbalance in the access of lobbying and influence.

10 And I guess we would also remark that the public interest, the public agencies that regulate the mining industry and make a lot of the decisions that affect the communities that we work with have sort of evolved in the last few years what we would characterise as a service-client relationship. They see themselves as servicing the mining companies and providing them with what they need. And in that dynamic, members of the public who are antagonistic to something that a mining company wants, you know, set up a trouble or an inconvenience, you know, it affects the relationship with the agencies have with the members of the public who are actually affected by those decisions.

20 And I suppose we would also just put forward that we have perceived over a number of years a partiality in the way that the Department of Planning deals with the mining industry in the assessment reports that they produce for mining projects but also in the policies that they develop that govern the impacts that the industry has on people in the communities where we work, and I mean I guess allusion has already been made this morning to the campaign that is being waged currently on television, newspaper and radio advertisements as a backlash against the decision that the Independent Planning Commission made four weeks ago and we can already see evidence that the government is now in a process of responding to that public pressure by the Minerals Council to change policy and potentially  
30 abolish or curtail the role of the Independent Planning Commission in response.

I think that will do to start with, thanks.

THE COMMISSIONER: Okay. Thank you.

MR CHEN: All right. Sorry, Commissioner. In relation to access, you, and when I say you, I mean Lock the Gate, but you in particular would have reason to try and meeting with ministers, departments, public authorities from time to time. Is that right?---Yes.

40 And in relation to the requests for access to meet with any one of those, is a formal request submitted by you on behalf of Lock the Gate through the usual way, that is to say through the website and the officials ways to set up a meeting?---Yes.

Does that request always involve you setting out why you want to meet, what you want to discuss and perhaps some of the outcomes that you'd like to see achieved as a consequence of the meeting?---Yeah. I mean that

would vary, but yes, generally the substance of what we wanted to say would be in the letter.

If we just use ministerial contact for the moment as the example with which to ask questions, the Commission has heard some evidence that not only through the public website but also some people can access or email directly or send a letter directly to a ministerial office or the chief of staff. Is that something that Lock the Gate does or does not do?---If we happen to have a contact for a person in the minister's office who deals with the issues that we are wanting to talk about, then yes, we would take that opportunity.

To be clear, probably the two most relevant departments as they're now known would involve Industry and Planning. Is that correct?---Yeah,, Planning, Industry and Environment are all in one Department, and that includes the Planning Services Division, so the ones who do the assessment processes, the Resources and Geosciences Division, who do mining leases and exploration licences, I think the EPA is also in that cluster, so the Environment Minister and the EPA. They would be the main ones, yeah.

20 But there are a couple of ministers that cover that portfolio, that is to say some industry is dealt with by I think the Deputy Premier and planning is dealt with by Mr Stokes. Is that right?---Yes.

And so the contact ordinarily that Lock the Gate would have would be through those ministers. Is that the case?---We do try, we do have contact with those ministers, yes.

Now, in relation to those ministerial offices, do you have the email contacts for the chief of staff?---I have the email contact for the Deputy Premier's chief of staff but not the Planning Minister.

Have you ever asked for it?---I don't know. Probably. I mean I suppose, you know, aware as we are of the role that ministerial staffers play in the decisions and the processing of considerations, we would always be attempting to understand who in the minister's office plays what role and to establish contact with them so that we can tell them what we think and, you know, potentially help our communities that we work with get access to them. So yes, we do ask for contact details.

40 Over say the last year or two you've obviously had some success in meeting with some ministers, have you not?---Yes.

And are you able to give the Commission some idea of how many meetings you've had with ministers of the state to discuss to discuss issues which have been raised, in general terms?---Since the election in March I believe we've met four ministers.

And how many requests have you made to meet with ministers in that same period?---Oh, I don't know. I don't know, maybe eight, 10.

That seems like quite a good success rate, is that right or not right?---Yeah. I mean, yes, I was pleased to have the opportunity to talk to them, yeah.

10 So access to a minister seems to be reasonably open and available to your organisation. Is that the case?---Yeah. I think, I, I think we do get the opportunity to talk to ministers, yes. There was a, there was a Guardian Australia, sort of, effort to sort of collate the information from the ministerial dairies earlier this year I think, or last year, and they named us as the environmental organisation that had the most ministerial access. So we had 19 meetings with ministers over a period of four years, compared to something like 280 meetings that the mining industry, which is the Minerals Council and their member companies, had over the same period.

20 What about with shadow ministers. Does your organisation have reason to meet with shadow ministers from time to time?---Yep. We meet with shadow ministers, yes.

And also members of parliament from time to time?---Yes.

And is the way that you approach them to secure a meeting the same way, that is a formal request is submitted to their office via the website. Is that the case?---Oh, they don't have the same, you know, online platform portals but their email addresses are available on the Department's, oh I'm sorry, on the parliament website. So normally it would be by that means.

30 And are you able to access, your organisation, shadow ministers and members of parliament in with the same degree of success that you have with ministers?---Yeah, generally. I mean, I would say probably that members of the Opposition are less busy than ministers. So could, you know, so it may be less hard. But I would characterise it as roughly the same, yes.

But you don't have any particular concerns about access to that cohort?  
---No.

40 What about departmental officials, so let's just focus on the Department of Planning. You would have cause to want to meet with them from time to time, would you?---Yes. And I'll just say, we'll just backtrack for a moment just to go back to ministers because I, I just want to draw a distinction between Lock the Gate's success in meeting ministers and the community groups, you know, in the regions affected by mining have frequently attempted to meet ministers and, and are unsuccessful and we've never, for example, had a meeting with the Premier. We've been unsuccessful trying to meet her. So, yeah, I think there are, there's a sort of a network of people, you know, of people who are affected by mining and

then there's us, you know, we are a national scale organisation and they, I am paid to try and get meetings with ministers. So that's why we have the success, I think. So to return to your question. Departmental staff, yes, I do meet staff from the Department of Planning, Industry and Environment.

Can I go back just to take up these other groups that you've mentioned. What about Indigenous groups? Are they are particularly, are they a well-organised group that seeks to be involved in these kind of processes?

10 ---Look, I'm not, yeah, I'm not, yeah, I would say that I, I would imagine it would be very difficult for Indigenous groups to get access to ministers to discuss these mining issues. I mean, perhaps, you know, to meet with a dedicated Minister for Aboriginal Affairs might be easier. I don't have knowledge of that. But for mining, my experience is that, you know, the less money you have, the less sort of tertiary education you have, the further you are away from Sydney, the harder it would be for you to get access.

20 THE COMMISSIONER: When you refer to mining issues, I can imagine lots of issues come up in relation to the mining industry. But if you were asked to nominate, if you like, the top three or six topics that you call mining issues, whether that's by reason of their particular importance or because of their prevalence or whatever else, are you able to do that?

---Yeah.

30 Just to give me a thumbnail sketch, as it were, as to where the main concerns lie?---Yep. So I would say that in the Hunter region, the, the issues that affects most people and is raised most often is air quality because the air in the Hunter Valley regularly breaches national pollution standards. And it's not an issue that's taken particularly seriously by anybody in, in the assessment process. Well, they would not say that but that's our view. And noise is another big one. Social impacts is another very important one for many of our communities. Lots of people are concerned about the biodiversity impacts of mining. I guess that would be the top ones. Yep. I'm sure I've forgotten something but, I mean, oh water. Water is the big one. Yes, water, drilldown of groundwater and, you know, diversion of surface water. I guess I would say too, there's, I mean, there's a fair number of people who are concerned about the greenhouse gas emissions from the use of coal and as the coal industry is so large in the Hunter Valley, that's a big issue for a lot of people.

40 All right. Yes, thank you.

MR CHEN: And just onto access now, with departments, and I gather from your evidence that the most common Department over the course of your work that you would need to be in contact with would be the Department of Planning. Is that right?---Yep.

And you would have had cause to try and meet with them regularly over many years, is that - -?---Yep.

And again, is the process that you make, by submitting a formal request or a letter or an email or a phone call, how does it go about?---Yes, in the first instance, you know, we would send a letter. And then, you know, over the years, oh, I, you know, I have established relationships with, you know, some people in the Department, who have certain roles, and so those people, I might have a direct phone number or email for, so I would make a request of them by phone or email, to have a meeting.

10 Initially when you first sought to establish a contact within the Department, who are you seeking to contact? Is it the Department secretary, is it somebody beneath that?---I suppose, you know, it's, it's hard to say initially, because it's sort of an ongoing thing, but I guess, yes, we would go to the top, because we would want the secretary to be aware of what we were concerned about and what we wanted to raise. And then you would expect a response to that letter to say, "Here is this person lower down the hierarchy that, you know, you can meet to discuss that with."

Just pardon me for a moment.---No worries.

20

And the contacts that you've built up now within the Department, at what level is your entry point to wanting to meeting with a departmental official? Who are you contacting, their position?---Various. I mean, I, I do know some deputy secretaries. But mostly, you know, directors, that sort of – I don't actually know the names of their, I get a bit confused by their - - -

Title.--- - - - tiers, but yes.

Understand.---Yep.

30

Are you aware of any departmental, that is to say, I know it's changed – I'll start again. The Department has changed its name a couple of times, I think, over the years, or it's been part of different portfolios.---Yep.

Are you aware of any policies and procedures in place in the years that you've had contact with them that deal with lobbying contacts, be they policies or procedures?---Oh, I'm aware of them because the ICAC appended them to the material that you are producing for this inquiry, and so I, that, that was, that's my acquaintance with them.

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Were they ever brought to your attention by anybody within the Department?---I don't recall that happening.

And were you ever required to submit a formal form requesting a meeting at all?---I don't recall ever doing that.

Would you have cause to deal with public authorities such as the Environmental Protection Authority and some of the related bodies that you'd be concerned with?---Yes.

Is the way in which you seek to make contact with them to meet with them the same way, by phone, by email, and building up a relationship that way? ---Generally, yes, yep.

10 I want to ask you some questions about who's involved in meetings, and I want to start with a ministerial meeting, and perhaps we can just focus on the four meetings that you've had – or three meetings, I'm not sure whether you said - - -?---Four, yep.

Four this year. Who's the minister that you've met with, or the ministers you've met with this year?---We have met with Minister Stokes, the Minister for Planning, with John Barilaro, who acts in the role of Mining Minister, with Melinda Pavey, the Water Minister, and somebody else, oh, and Matt Kean, the Environment Minister, and Environment and Energy Minister.

20

And when you've met with them, it's I take it in the ministerial offices in Sydney, is it?---Yes.

And you attend, does anybody else from Lock the Gate attend with you? ---For most of those meetings, we, I think, oh, trying to recall, but brought people from the regions to attend the meeting with us, to talk specifically about the issues that they are facing. So from the Hunter Region and/or the North West.

30 And in terms of attendees on the other side, aside from the minister, who else is in attendance at these meetings? Is there - - -?---Generally, there'll be departmental staff, and a, a, one, at least, member of the minister's staff.

In the time that's you've met with shadow ministers, is there a similar group of people on your side that might attend to meet with a shadow minister? ---We do try and do that. I mean, I, we do, it, it, it's – as I said before, it's a significant investment of time for people to travel to Sydney for these meetings, so we try and make it worth people's while and organise a bunch of meetings at once. And so last week, a group of farmers from the North  
40 West came to Sydney and they had a meeting with a bunch of shadow ministers. They weren't successful in meeting with any ministers at that time. They, they attempted to, but they didn't get any ministerial meetings.

THE COMMISSIONER: What issue was dealt with in that meeting?---I should say, though, they did meet with the staff of a couple of ministers. They were there to talk mainly about the Narrabri Coal Seam Gas Project, which is going to be referred to the Independent Planning Commission in the next month or two, as I understand it. I'm not clear. So they wanted to

talk about the threat that project poses to groundwater and other environmental matters.

MR CHEN: When you're meeting with the shadow ministers, are you meeting with staff as well as the shadow minister?---Sometimes, yep.

And does that include departmental staff sometimes or all the times?---I don't recall departmental staff being at meetings with shadow ministers.

10 To be clear, when you go to these meetings, you set out, do you, what it is you want to talk about, what you're hoping to have resolved and who may attend, matters of that kind?---Generally along those lines. When you meet with a minister, you fill out a form that says who is going to be there and, and what you want to discuss.

And that's the form that's on the online platform for each minister, is that right?---No, there's another one.

20 I see. Where is that located?---I don't know. If, the Department of Premier and Cabinet may have it on their website. I'm not sure. But when you, if, you, you fill out your online web form just to submit a letter or a meeting request, and then if you're successful in getting a meeting, they give you a disclosure form and you have to list who is going to be attending the meeting.

And it's only once you submit that does the meeting get confirmed, is that the process?---Yeah, that's right. You have to submit it before the meeting, yep.

30 When you undertake or attend one of these meetings – again let's just use a ministerial meeting if we can – you would record the outcome within your own records, would you not?---Usually, yes. I mean, outcome is generally, you know, we put our position forward and, but I would usually report back, yes, to our team or to the people in the regions who I, you know, had told that we were going to the meeting.

One of the matters that I think has caused you some concern, or your body some concern, is that the ministerial diaries themselves are reasonably scant in terms of detail, is that right?---Yes.

40 And what are the particular concerns that you have with ministerial diaries? Is it the frequency with which they publish the detail or all of those matters?---Both of those. They're only published quarterly and there seems to be an unpredictable amount of time after the quarter that they become available. They're published as PDFs, so separate files for each minister for each quarter, so, you know, you have to sort of open multiple PDFs if you want to get a broad understanding of, of lobbying activities. And generally they don't provide any sort of detail about what the meeting was actually

about. So a meeting with Minister Stokes, for example, would just say “to discuss planning matters”.

So you’d be aware in some other jurisdictions there is a requirement for there to be a more fulsome disclosure about what occurs at a meeting, are you?---Vaguely.

10 Well, in some jurisdictions they require details such as who attends, who attended, the time and place, what is to be discussed, what was resolved and matters of that kind. Do you have any particular views as to whether information of that kind (a) would be useful and (b) whether it would be feasible for an organisation such as yourself to provide it and complete disclosure along those lines?---I think it would be useful. You know, it would make the ministerial diaries, yes, more informative to people from the public casually trying to understand lobbying activity in New South Wales. I think our organisation would certainly be able to do that. I suppose there would be a line, you know, there are sort of community groups who have no money at all, you know, who would, on occasion, would be successful at getting a meeting with a minister, so I wouldn’t want  
20 to generalise about what we can do, you know, compared to perhaps a group with less resources than us, but we, we would be able to do that.

At the moment all that’s disclosed are ministerial diaries, or proactively disclosed are ministerial diaries. There has been some suggestion that uniformity would suggest that MPs’ diaries generally and shadow minister diaries in particular should also be disclosed. Do you have any views about that in terms of aiding transparency?---I suppose I would think that people who have decision-making power, you know, there should be a higher degree of transparency and, you know, I did read the ICAC’s report from  
30 the first phase of this inquiry and I do have some sympathy for the, you know, for the concern about, you know, too much transparency actually harming trust and people perhaps then not accessing government because of, you know, just to meet their local MP to talk about something local, but you know, we generally are in favour of a higher degree of transparency than currently operates, yes.

Does your organisation actively follow or monitor ministerial diaries and who’s meeting who?---Yes, on an ad hoc basis, yes.

40 And what are you monitoring from those diaries?---I suppose we, I look at them to see if specific mining companies have met with ministers, you know, as distinct from the Minerals Council, because, you know, the, the work that we do, you know, there are times when particular mining companies are involved in, you know, quite intense sort of processes to try and get development consent for a mine for example, and so, you know, it would be of interest to us if they had met not just the Planning Minister but potentially the Treasurer or, you know, other ministers. So we do just try to

get an understanding I suppose of, of the mining industry's engagement with government.

So real-time disclosure would be far more helpful than the current regime of disclosure, which is quarterly and within one month of each quarter?---It would be very helpful, yes.

10 And is the idea that you would use them to get an idea of which opponents are actually meeting who so that you could plan or put a competing position. Is that the idea?---Yeah, that's right. So if it turned out that, you know, the company that we were concerned about had met a particular minister, you know, we might then write a letter to that minister outlining our views on the situation at hand, I mean that's entirely hypothetical, but I suppose the other, you know, use we might make of it is if we understood that a, that a company that as involved in a particularly contentious project that had a high impact on environment and people had met a minister we might use the GIPA Act to, you know, get more information about what had been the subject of that discussion.

20 I was actually going to ask you about the GIPA Act now. With what frequency do you seek to use the processes under that Act to gain information?---It varies a lot, but there are times when we use it very frequently, like we have sort of several in play at the moment.

30 And what's the kind of information you're seeking to gather through that process?---Sometimes we try to get ministerial briefs. So before the minister meets anybody the Department produces a briefing note and we have attempted to get those. We've attempted to get correspondence between mining companies and the Department or the minister. We attempt sometimes to get internal discussion from the Department about a contentious issue so that we can understand what approach they're taking to something that's of interest to our communities.

You've couched all of those responses in "attempting to".---Yeah.

Does that mean you actually have sought it unsuccessfully or that's just descriptive of the process you followed?---We've been many times unsuccessful, yes.

40 THE COMMISSIONER: Can I just understand a bit more about that, because you have different areas of interest in the mining field, I mean firstly there may be let's just call them mining proposals, and then you might have the area of policy-making, such as environmental, social policies. As I understand it, many mining proposals, dealing with the first of those two categories, often they're protracted, can take years to be approved or not approved, and I understand that's probably because mining proposal covers a myriad of issues and many of them quite technical. ---Ah hmm.

But it's suggested that all of that's not secretive, it's handed over by the mining companies, this is our case for the proposal and details and documents supporting it are produced to the Department. There hasn't been a suggestion in the evidence I've heard this morning that somebody such as yourself who's interested to follow through a proposal is being denied access. What is the position? Firstly, given the level of complexity that there may be in the mining proposal and perhaps you may need some expertise to even be able to understand it, some of it anyway, and given that it can take a long period of time to reach fruition or not, how, if I can call it your constituency, being denied access to what that proposal's about and how it's tracking and so on?---Are you talking about the GIPA Act or more broadly?

No, I'm just talking, I mean, you know, as I understand it, one of your issues is that, well, mining companies put in these proposals, we're not in the loop, as it were. And I understand it, the counter argument is, well that's not really the case at all. If you want to know what we're proposing and how we're proposing it and the basis for it, you go and speak to the Department of Planning and they'll tell you, or there's another way you can find out. What's the position?---Well, I mean, there, there might be certain officers in the Department who might tell me. I don't think that they would tell a general interested member of the public who they didn't know. But some of them might tell me. I suppose I would say, we have certainly been denied, under the GIPA Act, documents that relate to, for example, we were denied access to community consultation reports that were submitted by the proponent of the Bylong coalmine, that wasn't under the Planning Act, that was a Mining Act matter. For example, when the Warkworth Continuation Project was being lodged, this is a very contentious project five or so years ago, the Department set up working groups with Rio Tinto, the proponent, to discuss with them how the project could be re-lodged after it was overturned by the Land and Environment Court and, and, and be progressed through the planning system. They denied the existence of that working group when asked about it by the local community that was affected by that mine, and the existence of those working groups was only confirmed later in a Budget estimates hearing in parliament. So I, and I suppose I would also say that since the Planning Commission has been proactively publishing all correspondence that it receives about the mining project that it deals with, it sort of, by contrast, you know, makes it clear that there must be a lot of stuff going on in the Department that is not made publically accessible.

Sorry, who did you say was being proactive?---The Independent Planning Commission.

But there are certain matters, such as the working party, for example, you referred to in that example, it may or not be necessary for there to be public access to what the working party is doing. I mean, there may be nothing sinister about the Department forming a committee to examine a particular

issue, given that there's been an adverse ruling, to see if there is a proper alternative route to achieve what they wanted. I mean, there's nothing wrong with that, is there?---Well, we certainly thought it was wrong and the community that was affected by that mine thought so.

What is wrong with that?---Well, I suppose the, the project had been – the Land and Environment Court, acting as the consent authority, had quashed the approval of that project. So it had been deemed not in the public interest for it to proceed.

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Sorry, that is the – which project?---Well, when it was in the court it as called the Warkworth Extension Project and when it came back the second time around, after the court, it was called the Warkworth Continuation Project, but it was substantially the same mining project, had been deemed by the court to be not in the public interest because of its impact on biodiversity and the amenity of the village of Bulga. And then the Department worked with Rio Tinto to re-lodge virtually the same application in the planning process, and changed to one policy and one regulation, to sort of, it removed impediments in New South Wales policy and regulation from the mine proceeding. So, yeah, we certainly considered that wrong. And then, I suppose I would say, you know, whether or not the community of Bulga were invited to participate in such a working group, they at least had the right to know that it was in existence and that, you know, how the Department was conducting itself because the actions of the Department in that instance were very clearly geared towards wanting that mining project to go ahead, against the interests of the people of Bulga.

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Moving away from that class of mining proposals, which may have a great deal of complexity associated with it, you're dealing with policy, the mining companies advocating the change in policy, for example. That is not going to happen overnight. It might take weeks, months or years. So why would you complain about that? What's the problem in you being informed about the proposal for a new policy or change of policy? I mean, can't you access – are you informed?---No.

30

Or if you're not informed, then is there any reason why you couldn't find out through the Department?---Well, it would be, it would be at the discretion of the departmental person I asked whether they told us or not. So, for example, that what's going on at the moment is there, it has been reported in The Daily Telegraph exclusively that the government is considering winding back a regulation that's been in place in New South Wales for 12 years that requires the downstream greenhouse gas emissions created from burning coal exported from here as part of the consideration in determining mining projects. So The Daily Telegraph reported that that is occurring. I have attempted on numerous occasions to contact both Minister Stokes and his staff and people from the Department to say, "Can we please have a meeting to discuss what you are intending to do in this respect?" and we have been unsuccessful. And by the same token, the minister on

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Saturday this week, just two days ago, announced a review into the operation of the Independent Planning Commission. We've written to the Department and to the minister saying, "Can we please have the terms of reference for this review and be involved?" And because there's a lot of other processes of the commission that our communities complain about that they've been trying to get, you know, addressed for many years, and we have not been provided with those terms of reference by either the minister or the Department.

10 How long ago did you make that request?---When it was first mooted, which was, I don't know, maybe 10 days ago. That might not be accurate, my memory, but I, The Daily Telegraph obviously had the terms of reference because they reported it on Saturday, and the minister put out a press release on Saturday saying the review was under way, and there's no public information available about what the review is going to be doing. And, I mean, we are very concerned about it because the ICAC, you know, several years ago recommended expanding the commission's power and remit and staff because it is a check against corruption in the planning sector.

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Thank you.

MR CHEN: Can I pick up a couple of topics that we've touched upon? I just want to follow up and finish the GIPA applications that you've made. I think I asked you the question because your evidence was you're attempting to get information, and I think you've suggested that sometimes you're unsuccessful.---Yep.

30 And one of the examples you gave was in relation to community groups for the Warkworth Extension Project, or as it was initially called. What's the ground upon which you were being refused access to material which you sought to gain access to?---My remarks about Warkworth were more about access to activities of the Department and what they're doing. I don't recall GIPAs associated with Warkworth because it's several years ago now.

Well, factor that out.---Yep.

40 And if you could just focus on your success or otherwise at gaining information.---Yeah, so a recent example would be that we made a GIPA application to the Resources and Geosciences Division to get information about the renewal process for a number of petroleum exploration licences in north-west New South Wales that have been expired for many years. The Petroleum Act allows for licences that are expired to continue to be in force as long as a valid application to renew them has been made. But for these licences, many of them have been expired for a lot of years, and the communities who live in the areas affected by these licences have a great deal of trouble getting information about why they still exist, why they haven't been, why, are they going to be renewed, what's the process for

renewing them or not. So we lodged a GIPA application seeking any ministerial briefs associated with those expired licences and their renewal, and the decision was that we were not allowed to have access to that because they were documents that might tend to reveal the position that a minister had taken in Cabinet, which is one of the – well, the Cabinet exemption in the GIPA Act is very broad, and it is an overriding factor against disclosure.

10 What about seeking information from a relevant Department? Have you lodged applications to seek information from relevant Departments themselves without touching upon that exception that you've referred to? ---Yes. So I referred to the Bylong Project, for example. It, that company, KEPCO, was required to lodge community consultation reports annually as part of the conditions of its coal exploration licence, an authority it's called out there, and we lodged an application for those community consultation reports. Actually now that I'm saying this, we weren't actually denied that but KEPCO objected to the release of those and it's now been sent to the Information Commissioner and we don't expect to get it, just because that process takes an interminable amount of time.

20 What's the length of time an average application might take from application to outcome?---Not including the Information Commissioner, because it really is, that's just, it's interminable, the GIPA process itself I would say often times the requests that we make require third-party consultation and there are set timelines in the Act to allow third parties to object and to allow for their review, so you know, it's probably maybe two months, maybe three. Sorry I can't be more accurate but that's the sort of ballpark.

30 Has it been in your experience a profitable area to gain or to secure material for your organisation or not?---It can be, but it usually only works if you, if you know the specific document that you're trying to get and that document has not gone anywhere near Cabinet, because the agencies, increasingly I think in recent times refuse applications on the grounds that they are an unreasonable diversion of the agency's resources and, and ask that the scope of what you're asking for be reduced. So if you're not quite sure what's happened and you sort of just want correspondence generally, you know, you'll be generally asked by the GIPA officer to narrow your, the scope of your request. I mean I don't know what the effect of that narrowing is  
40 because I'm not privy to the documents.

Right. What about departmental access more generally? The Commissioner's asked you some questions about your interactions with them and interactions by others with them. Do you have regular access with the Department, in particular Planning?---In mean the Department of Planning, yes.

And do you have, are your requests for access generally granted?---It depends who I am asking. I have been refused a meeting by people in the Department of Planning.

THE COMMISSIONER: Do you speak to them in such cases as a representative of - - -?---Of Lock the Gate?

Yes.---Yes.

10 And does that give you a sense of access or entitlement - - -?---I think - - -  
- - - to get information from the departments, in other words do you have, by  
virtue of the fact of your representative position, more access cooperation  
from the Department than the person who just walks off the street?---I think  
that could well be the case because people in the Department are aware that  
Lock the Gate works with and communicates with lots of people in mining-  
affected communities and so, yeah, I think they would see value in meeting  
with us for that reason because they don't get a lot of exposure otherwise,  
yes, I think so, but as I said, I have been refused meetings with people from  
20 the Department of Planning, I think it comes down to a, you know, to the  
particular person in the Department and whether they see value in the sorts  
of issues that we wanted to raise.

MR CHEN: I just want to move to a couple of other topics if I can now, Ms  
Woods. One is the concept of regulatory capture. I think you've got some  
views about that, do you?---Yes. I mean yes. That's certainly a phrase that  
people in our communities use to describe the way that the agencies interact  
with the mining industry.

30 And do you have some particular concerns about that at all?---Well, like I  
said in my opening, I think, you know, the best analogy is that it's as if  
they're, as if the agencies are servicing a client and they have an intimate  
understanding of what that client wants and its motivations and its  
constraints and so you know, I've oftentimes had people in the Department  
explain to me the sort of, the mining company's perspective on what I'm  
saying and it's like, well, I don't, you know, okay, I don't need you to tell  
me what they say, I'm trying to present the sort of public interest  
perspective on this, and I think that, you know, they have a great deal of  
contact with them, you know, perforce, they have to, and, and so it does  
40 give the people in the Department just a greater intimacy and sympathy of  
purpose I suppose. I mean I don't want to characterise it, I don't really  
want to malign the public service, you know, with sweeping generalisations  
about this because, you know, they work hard, many of them, you know,  
earnestly trying to pursue their statutory roles, but I think their degree of  
contact with mining proponents in contrast to the amount of contact they  
have with other people just tends to mean that they have a greater  
understanding and intimacy with the perspectives that the companies have

and are baffled or, you know, not cognisant of the perspectives of people outside the industry.

Where are you getting the numbers from that you're talking about these meetings? I gather it's a perception when you meet with departmental officials from time to time, but where are you getting the perception of numbers or intimacy with the ideas of the mining industry as opposed to community groups or other groups? Where's that coming from?---It's an inference, really. Just based on, well, I mean, I know that the Department of Planning meet them a, a lot because they have to, as the Commissioner said, they have to understand the project. They need to sort of talk through. It is very complicated, so they have meetings with the proponents to talk about the project and then where it's up to, and to tell them what the government needs from them. I mean, I, I hope you speak to the Department, because I really am speaking – you know, these really are inferences. I'm not privy to these meetings myself.

THE COMMISSIONER: In a sense it's a difficult one, isn't it, because it – in the mining industry, it's a highly regulated industry, for obvious reasons, safety reasons, occupational health and safety, and other environmental issues and so it. So in developing a proposal, there's a myriad, if not hundreds of issues of, many of them technical, that have got to be worked through and from the departmental point of view, to be able to do it, they've got to work very closely often with mining company representatives. Same with actual mines that are operating, the inspectors who are down the mine on a daily basis, they get to know the managers or whatever you call them very well. So, in effect, they'd become almost advisers to them as well as being policing function. So you get this problem, don't you, inherently in an industry like that, if they weren't talking to them every day or almost every day, and at a detailed level, they're not doing their job. So, where you draw the line in terms of getting what you call a regulatory capture is problematical, isn't it, in the mining industry?---It is very difficult, certainly. And I suppose, mmm, I've been thinking about this in preparing for today, and I, I guess I would say, not that the, the companies ought not be meeting with the Department, I think we all need access to government, but that there, there should be some sort of protocol or a, or, you know, a code that says, the, the Department needs to go out of its way to balance the contact it's had with a mining proponent with contact with the affected community, because it's been our experience that the, the profound environmental and social consequences, and in some cases personal financial consequences, that are inflicted on people as a result of the mines, the mining decisions that are made in Sydney are not treated with the same degree of seriousness as the, as the sort of financial and, and sort of economic arguments made by the companies.

So is your complaint more that there should be a process whereby potentially-affected persons should be identified and, depending upon the particular case, then given notification at least at some point along the

pipeline, if you like, as to what this proposal may mean to them, that is, to the community, so that they're provided with an opportunity to be heard and perhaps on more than one occasion, before any final decision is reached? Is that really what you're advocating for?---No. No.

No?---We already have the opportunity to be heard. You know, we have opportunity to make submissions via the formal engagement processes in the Environmental Planning and Assessment Act. Affected landholders, you know, there is a notification process in the Mining Act.

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I see.---What I'm talking about is, is more about partiality, and how to correct for the partiality that the agencies tend to adopt towards the economic interest of the mining company, when matters of public interest they don't have, they don't have the same degree of representation being made on their behalf. And matters of public, and certainly people whose private interests are affected by mines, they've lost their water, you know, they're personally affected, their health, it costs them money. But there are also matters of public interest that we don't feel are being treated with adequate gravity by the agencies, and I think that is mostly a consequence of an imbalanced pattern of representation being made.

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Well, when you speak of partiality, at least in this jurisdiction, you're talking about improper partiality, either it may be in process – that the process is partial, not impartial – and/or in the outcome, that there has been favouritism, preferential treatment given in reaching the ultimate decision. So where and how do you suggest in the mining industry that principle, which I've just summarised, how is that to be applied? Where is the improper dealing involved?---Well, I think that the, the conduct of the Independent Planning Commission in the last year or so has been tending more towards an impartial application of government policies on the decisions that they have been making. It has prompted a vicious backlash by the Minerals Council that they have done that, but I think, I mean, and I don't want (not transcribable) people in the Lock the Gate group are probably watching this outraged because they get very angry at decisions that the commission makes. You know, they just approved the Rixs Creek expansion, you know, a week ago, and it's going to, you know, seriously add to the burden of air pollution in the Hunter and it's already beyond safe thresholds. So I'm not endorsing the decisions of the commission, but I do think that, I, it appears to us that the commission is trying to take seriously that impartiality and public trust in a way that the rest of the system has, from the perspective of our communities, failed to do. And, I mean, I don't, I could not, I could not overstate the lack of trust in the communities that we work with towards the Department of Planning. It is, it is long-running and very deep. And, you know, I think it's, it's unfortunate because there are officers in the Department who conduct themselves in the manner in which you described, but the process as a whole is partial in our view. Lisa Corbyn was asked by the former secretary of the Department to do a review of the assessment reports that the Department produces. It's, it's an interim

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document, it doesn't actually have any statutory standing, an interim document prepared by the Department to hand to the IPC before they consider a project, and it has a great deal of bearing on the IPC's understanding of a mining project and its impacts. So it's a very influential document, and it is our view that those documents have been inaccurate and very biased in favour of mining projects, and they tend to treat the economic considerations of mining with a great deal more seriousness than the public interest matters that are harmed by mining. Anyway, Corbyn did a review of the assessment reports to sort of test these complaints that people have been making about them, and, you know, she didn't say they are, they are partial, but she said that it's very important that the Department conduct itself impartially and show that it is conducting itself impartially. And, in fact, speaking of Aboriginal communities, she did single out Aboriginal cultural heritage as a matter that is not being treated with due care by the Planning Department in considerations.

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MR CHEN: I want to move to another topic if I can now, Ms Woods. I want to move to post-separation employment. You're familiar with the concept, are you not?---Yes.

And you understand there is limited regulation of post-separation employment in New South Wales?---Yes.

Only confined to ministers and parliamentary secretaries?---Yes.

You – by that I mean your organisation – have some stronger views about that, do you not?---Yes.

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And do you want to explain what they are first to the Commissioner?---Yes, well, this really goes to the idea of the intimacy between government and the mining industry, when there are people who are working as staffers to ministers or in the Department who then have roles in mining companies or the Minerals Council or the other way around. And I suppose we haven't, you know, preparing our submission we tried to get a few examples of that that we were aware of, and in one example there was actually a crucial decision that was made by the government in the period, you know, when someone had stepped from Santos into government, and then stepped back into Santos again after that crucial decision was made. I can't draw any, you know, inference from that other than presenting that that was what happened, but we're not really able to sort of describe the extent of the revolving door between government and the mining industry because we don't know who the staffers are in most instances, and I think this goes to the point we were discussing before about ministerial staffers. I mean, I feel fortunate when I discover the name and contact details of a ministerial staffer because I'm unable to establish contact with them and tell them what our communities think about things but, yeah, there's no list to consult of who they are. And so, you know, it's, there are some enterprising journalists who have sort of dug around and tried to discover the links

between ministerial staffers and mining companies and the Minerals Council. So some of them are on record, but it is a matter of deep concern to the communities they work in, and they certainly consider it a matter, a matter of trust in the institutions of government, that there is this to-and-fro of people working for the companies and the government agencies and ministerial staff.

10 And is it one of your suggested responses that the greater transparency and identifying who the staffers are at a particular ministerial office, is that one suggestion that your organisation has?---That would be very helpful, yes.

20 But you would certainly know some because presumably you go, or your other fellow members, go to some of the meetings so you would know the names of the people that you're meeting with?---I do, yes. But again, I would say that, you know, if Lock the Gate didn't exist, it would be extraordinarily difficult for the communities that we work with in North West New South Wales and the Hunter to have the sort of, the level, you know, the level of success that we manage to have in terms of getting these matters addressed by the government. Simply because, you know, it takes a great deal of time to establish relationships and, you know, find out their contact details and find out who they are. And I feel like we play a role in doing that for the communities that we work in and it would be much better for all concerned if there were a public register, you know, a publically accessible database of contacts, yep, of them.

30 You also had some views about how long this post-separation employment should be across the board, did you not?---I did. I can't recall what we said. I mean, it probably said five years or something of that kind, yeah. I mean we, you know, it is, in writing our submission and in appearing today I'm, you know, I'm, I'm presenting views that are expressed to me by people in our network and it is, it is something that is very troubling to people in the communities affected by these projects and contributes to this intimacy and purpose that we perceive as occurring. And, you know, it would be terrific for a (not transcribable) or transparency to discover that none of this is happening at all and we are just being paranoid about it, but obviously to have no way of, of being sure, you know, the, the importance that that is playing in the mining companies being able to achieve their ends when they're trying to influence the government.

40 Commissioner, that's the evidence of this witness. Thank you very much.

THE COMMISSIONER: Well, thank you, Ms Woods, for your attendance today, for your written submission and we're grateful to you for the information you've provided through your evidence. I can see there are lots of issues and concerns, but the evidence you've given does help inform the Commission as to what those issues are and hopefully we'll be able to satisfy everyone in the community.---Hopefully. Thank you so much for the opportunity.

Thank you. I'll adjourn.

MR CHEN: Thank you, yes.

**THE WITNESS EXCUSED**

**[12.57pm]**

10 **AT 12.57PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
**[12.57pm]**