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INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

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# OPERATION ECLIPSE

## LOBBYING, ACCESS AND INFLUENCE IN NSW

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# Data Analysis

January 2020

## Background

The Strategic Intelligence and Research Unit (SIRU) conducted the following four-part data analysis in support of the New South Wales (NSW) Independent Commission Against Corruption's ("the Commission") public inquiry into lobbying, access and influence in NSW (Operation Eclipse).

1. Analysis of data contained on the NSW Register of Third-Party Lobbyists ("the Register").
  - i. Data captured on 20 January 2020.
  - ii. Analysis includes a breakdown of the number of lobbyists, owners and clients; relationships between lobbyist organisations; types of clients; and observations on data integrity and functionality.
2. Data-matching of lobbyist organisations, owners, employees and clients listed on the Register with the Commission's complaints data to identify registered entities named in reports.
  - i. Analysis includes a breakdown of the number of reports and date of reporting; organisations and individuals listed as subject of the allegations; conduct and function types; and the identification of specific references to lobbying activity.
3. Data-matching of the Register and NSW Ministers' Diary Disclosures.
  - i. Data available for the period July 2014 to September 2019.
  - ii. Analysis includes a text search for lobbyist organisations, owners and clients (as listed on the Register) to quantify the number of meetings held with these entities.
4. A search of the Commission's complaints data for keywords pertaining to lobbying.

Key findings from the analysis are included in this report to help gauge lobbying, access and influence in NSW, including the use and efficacy of the Register and diary disclosures in documenting lobbying activities.

This report has been redacted for publication.

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## Part 1: NSW Register of Third-Party Lobbyists

- The following analysis is based on information contained on the NSW Register of Third-Party Lobbyists as of 20 January 2020<sup>1</sup>. It should be noted that references to 'lobbyist', unless otherwise stated, signifies registered third-party lobbyists.

### Registered Third-Party Lobbyists in NSW

- There are 261<sup>2</sup> lobbyist organisations listed on the Register.
- Table 1 details the status of those listed. Some are captured more than once due to duplications within the Register.

Status	Number
Active	128
Inactive	99
Cancelled	40
Suspended	3
Ineligible	0
Watch List	0

Table 1: Lobbyist status as of 20 January 2020

### Active Status

- There are 128 third-party lobbyist organisations listed on the Register as active.
- Fifty-two (41%) currently active lobbyist organisations have been registered since the Register commenced on 1 December 2014.
- A further 31 (24%) lobbyist organisations were registered in 2019; the most number of registrations since 2014.

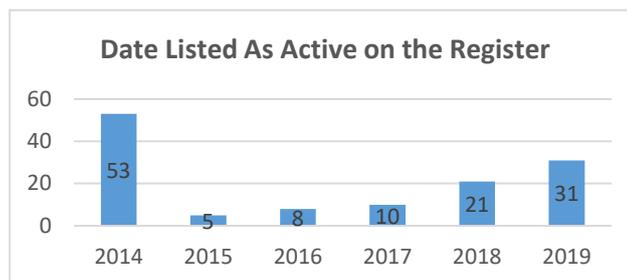


Figure 1: Date Listed as Active on the NSW Register of Third-Party Lobbyists

### Inactive Status

- The status of 'inactive' means the firm "no longer provides lobbying services or undertakes lobbying as a third-party lobbyist".
- There are 99 lobbyist organisations listed as inactive on the Register.
- The majority (78) have been listed as inactive for over 12 months.
- Five organisations have been listed as inactive since the Register commenced on 1 December 2014.
- Several of the lobbyist organisations listed as inactive appear to have been rebranded or actively operate under a different name.

### Suspended

- Three lobbyist organisations are listed as suspended.
  - Two are suspended from 31/10/2019 to 31/02/2020 for 'Failure to Update Details'.

<sup>1</sup>On 20 January 2020, a copy of the NSW Register of Third-Party Lobbyists (<http://lobbyists.elections.nsw.gov.au/whoisontheregister>) was manually copied into an Excel spreadsheet.

<sup>2</sup>Duplicates removed.

- b. One is suspended from 04/12/2019 to 31/01/2020 for 'Contravention of Act or Code.' It is not detailed on the Register what contravention of the Act or Code led to the suspension.
13. One suspended lobbyist organisation had previously been suspended in 2017, for Contravention of Act or Code.
  14. One suspended lobbyist organisation was registered within 12 months prior to its suspension.
  15. The three suspended lobbyist organisations list 11 active clients between them (two lobbyists have one active client each, and the third lobbyist has nine).

### Cancelled

16. Forty<sup>3</sup> lobbyist organisations are listed as cancelled on the Register.
  - a. Six were listed as cancelled in 2015, 27 in 2017 and seven in 2019.
17. The majority of registrations were cancelled for 'Failure to Update Details' (30), with the remaining ten cancelled for 'Contravention of Act or Code'. It is not detailed on the Register what contravention of the Act or Code led to the cancellations.
18. All seven lobbyist organisations that were cancelled in 2019 had previously been suspended.

### Ineligible

19. As of 20 January 2020, there were no entities listed on the Register as ineligible.

### Watch List

20. The Watch List contains the names of lobbyists that the NSW Electoral Commission determines have contravened the *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014* or the *Lobbying of Government Officials Act 2011* in a sufficiently serious way.
21. As of 20 January 2020, there were no entities listed on the Watch List.
22. It could not be readily determined if any lobbyist organisation on the Register has previously been on the Watch List.

### Owners

23. There are 200 organisations/individuals listed as active owners of 126 active lobbyist organisations.
  - a. Two active lobbyist organisations do not have any owners listed as active on the Register.
  - b. There are 832<sup>4</sup> owners listed on the Register in total.
24. Two owners (one individual, one organisation) are recorded as being active for two active lobbyist organisations each.
25. Four lobbyist organisations are listed as active owners of their own organisation.
26. A number of separately registered lobbyist organisations appear to be related entities. Some may have a common ultimate parent company, or might operate under different names/brands.
  - a. Three active lobbyist organisations are listed as active owners of other active lobbyist organisations.
  - b. Two active lobbyist organisations have different names but list the same ABN.

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<sup>3</sup> One lobbyist organisation is listed twice but appears to have been registered and cancelled twice, once in 2015 and once in 2019.

<sup>4</sup> Duplicate entries removed. This figure does include the same individual/organisation more than once, where listed as an owner for multiple lobbyist organisations.

- c. Open source searches reveal corporate links between at least a further five active lobbyist organisations.

**Employees**

- 27. There are 338 individuals listed as active employees of 127 active lobbyist organisations.
  - a. One active lobbyist organisation does not have any active employees listed on the Register.
  - b. There are 910<sup>5</sup> employees listed on the Register in total.
- 28. Nineteen individuals are listed as active employees across at least two active lobbyist organisations.
  - a. Sixteen of these individuals appear to be employed across two related corporate entities.
  - b. One individual is listed as active across three active lobbyist organisations, two of which are related entities.
  - c. Open source searches<sup>6</sup> for the remaining two individuals indicate they previously worked for active lobbyist organisations and have since gained employment with other, unrelated active lobbyist organisations. It appears the status of their employment in the former organisation has not been updated and remains listed as active.
- 29. The most common position description listed for employees of lobbyist organisations (active or otherwise) is 'Director' (152) (Figure 2).
  - a. Eighty-six employees have no position description listed.
  - b. Three employees (all inactive) have the position title of 'lobbyist'.



Figure 2: Top 20 positions listed for employees of registered third-party lobbyist organisations (active or otherwise)

- 30. The status history for employees reveals that some have been registered as active on multiple occasions, sometimes for only a couple of days or a couple of months. For example:
  - a. An employee of one active lobbyist organisation was listed as an active Director between 25 June and 3 August 2018, 30 and 31 May 2019, and 6 June to 14 October 2019.

<sup>5</sup> Duplicate entries removed. This figure does include the same individual more than once, where listed as an employee for multiple lobbyist organisations.

<sup>6</sup> LinkedIn profiles.

**Clients**

- 31. The Register lists 929 active clients of 118 active lobbyist organisations.
  - a. A total of 2,731<sup>7</sup> clients are listed on the Register.
  - b. Most clients appear to be organisations, though at least three active clients are individuals.
- 32. The number of registered clients surged in 2016, though the majority of these clients are no longer active.

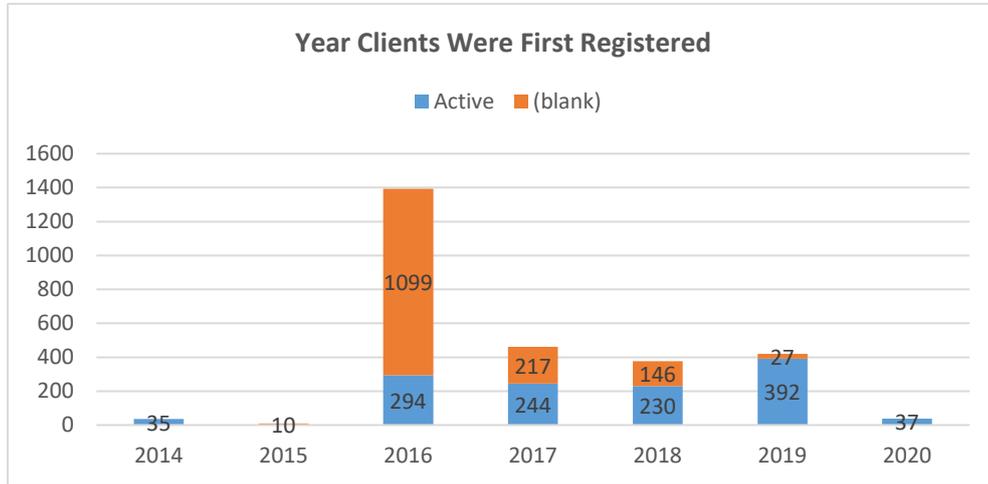


Figure 3: Date (by year) clients (by status) were first listed on the Register

- 33. Table 2 shows that the majority (64.8%) of active lobbyist organisations have between one and five active clients.
  - a. Nearly one-third (37) of active lobbyist organisations currently list only one active client.
  - b. Ten active lobbyist organisations currently have no active clients.
- 34. A small number of active lobbyist organisations represent the majority of active clients.
  - a. Twenty-five (19.5%) active lobbyist organisations have ten or more active clients.
  - b. These lobbyist organisations represent 661 (71.2%) of all active clients.

No. Active Clients	No. Active Lobbyists Organisations
0	10
1-5	83
6-10	5
11-15	2
16-20	4
20-30	6
31-40	5
41-50	3
51-60	0
61-70	1

Table 2: Number of Active Clients Listed for Active Lobbyist Organisations

- 35. The most number of active clients listed for an active lobbyist organisation is 70. The lobbyist organisation with the second largest number of active clients has 42.
- 36. Sixty-five clients<sup>8</sup> are listed as active for more than one active registered lobbyist organisation (i.e. have simultaneous representation).
  - a. Most (38, 58.5%) of these clients are active across two related corporate entities (i.e. entities part of the same consultancy).
  - b. Three clients are listed as active for three active lobbyist organisations.

<sup>7</sup> Duplicate entries removed. This figure does include the same individual/organisation more than once, where listed as a client for multiple lobbyist organisations.

<sup>8</sup> There may be more. This figure is based on a search for matching client names or ABNs. In some cases, the ABN is not listed or the client name may be slightly different.

37. At least 234<sup>9</sup> entities are, or have been, clients of two or more registered lobbyist organisations, though not necessarily at the same time (i.e. some may have had simultaneous representation or simply have switched lobbyist).

**Foreign Principals**

38. The category of ‘foreign principal’ has only been listed on the Register since mid-2019.

39. The term “foreign principal” for the purpose of NSW lobbying laws has the same meaning as in the *Foreign Influence Transparency Scheme Act 2018* of the Commonwealth, which establishes registration of persons undertaking certain activities on behalf of foreign governments and other foreign principals. A foreign principal includes, but is not limited to:

- a. a foreign government
- b. a foreign political organisation
- c. a foreign government-related entity
- d. a foreign government-related individual.

40. Sixteen active clients of 13 active lobbyist organisations are listed as foreign principals on the Register (see Figure 4).

- a. One lobbyist organisation represents three clients that are foreign principals; two associated with Spain and one with Israel.
- b. Another lobbyist organisation represents two foreign principal clients associated with China.

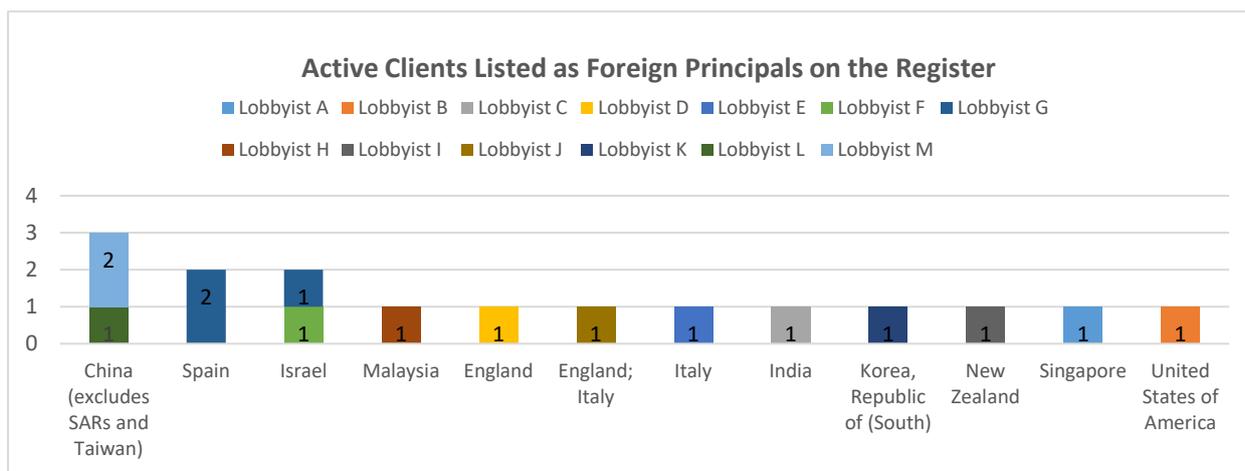


Figure 4: Active Clients (of active lobbyist organisations) listed as foreign principals on the Register

**Industry Types of Clients**

41. To identify patterns in the types of clients seeking lobbying services, a crosscheck was made of client names<sup>10</sup> with businesses listed on the Australian Business Register (ABR). Due to the large volume of information contained in the Register, data-matching was conducted across NSW businesses only, for data dated current as of **20 December 2019**.

<sup>9</sup> This is based on exact text matches. It is possible some clients have been represented by multiple lobbyist organisations but have been named differently.

<sup>10</sup> An exact text match of the client name was made with the organisation and main trading listed on the ABR. As many of the clients on the Register do not have ABNs listed, or have them listed inconsistently or incorrectly, a check against ABNs was not conducted.

42. Of the 2,386<sup>11</sup> clients listed on the Register (active or otherwise), only 736 (30.85%) were identified in the crosscheck. It is likely this figure is low due to client businesses being registered in other states, or the name not being an exact match with what is recorded on the ABR.
43. The results show that finance and investment, other interest groups, computer design, non-residential property operators, real estate and construction, local government, and medical and pharmaceutical industries feature the most where business categories have been identified.
- Of the 736 clients that were identified, the Australian and New Zealand Standard Industrial Classification (ANZSIC) Description (2006) which featured the most was ‘Financial Asset Investing’<sup>12</sup> (43), followed by ‘Business and Professional Association Services’<sup>13</sup> (38) and ‘Other Interest Group Services n.e.c.’<sup>14</sup> (35) (see Figure 5).
  - Notably, organisations recorded as ‘Other Interest Group Services n.e.c.’ are themselves often set up to lobby government (although they may not be required to register).

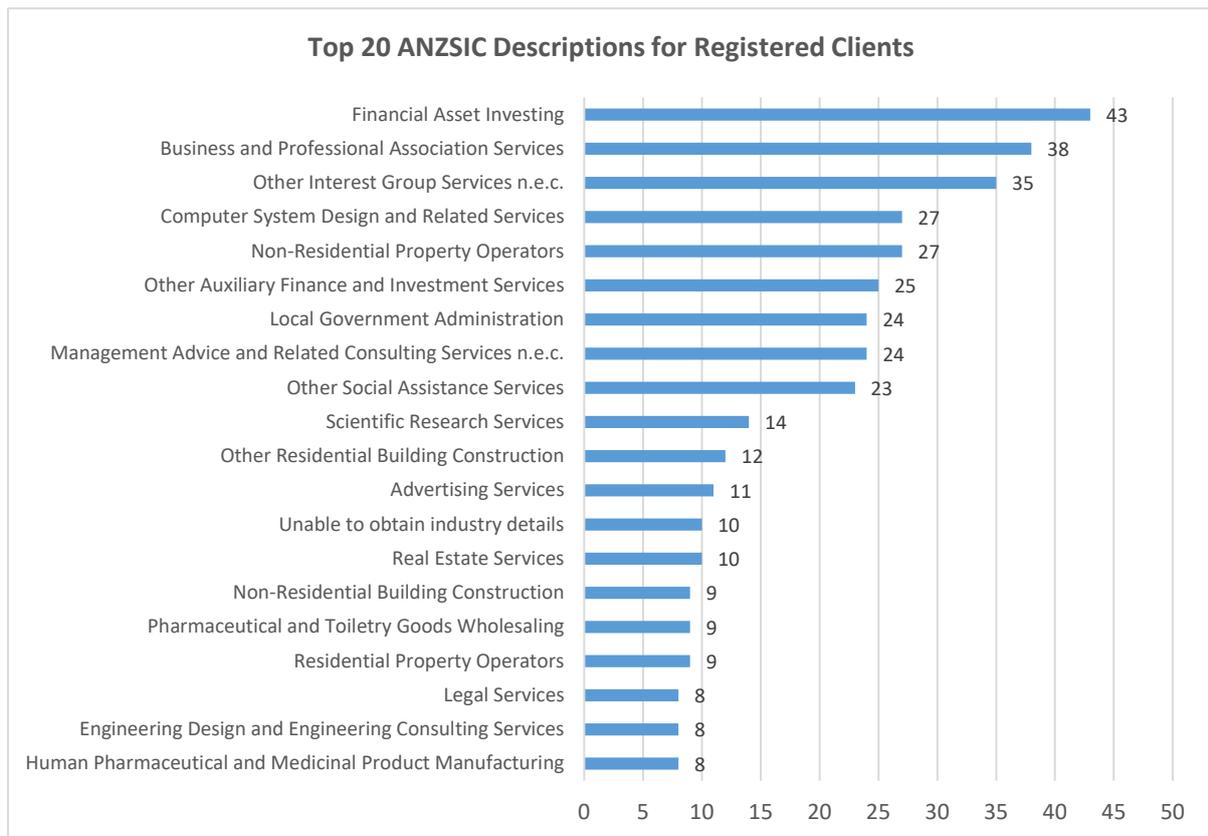


Figure 5: Top 20 ANZSIC descriptions listed for clients identified in ABR cross-match

44. Of those identified which are active clients (314), ‘Financial Asset Investing’ was again the top category (19), followed by ‘Management Advice and Related Consulting Services n.e.c.’, ‘Business and Professional Association Services’, ‘Non-Residential Property Operators’ and ‘Computer System Design and Related Services’ (13 each).

<sup>11</sup> This figure reflects all distinct client entities.

<sup>12</sup> Class 6240 Financial Asset Investing. This class consists of units mainly engaged in investing money on their own account in predominantly financial assets such as shares, bonds, bills and financial derivatives (including mortgages), excluding units of separately constituted superannuation funds. Also included are investment type unit trusts mainly engaged in holding financial assets, as well as financial holding companies holding shares in subsidiary companies.

<sup>13</sup> Class 9551 Business and Professional Association Services. This class consists of units mainly engaged in promoting the business interests of their members (except of organised labour associations and union members).

<sup>14</sup> Class 9559 Other Interest Group Services n.e.c.. This class consists of units mainly engaged in activities that promote the interests of their members (except religious, business and professional, and labour association services). Included in this class are units providing a range of community or sectional interests or in providing civic and social advocacy services not elsewhere classified.

### Lobbyist Organisations as Clients

45. At least three<sup>15</sup> lobbyist organisations are themselves active clients of other active lobbyist organisations.
- a. It is unknown if the organisations have corporate links, though two of the client lobbyist organisations share a common employee with the lobbyist organisation acting on their behalf.
46. A further seven lobbyist organisations have been listed as clients of other lobbyist organisations at some stage.

### Local Councils as Clients

47. Fourteen local councils are listed as active clients of five active lobbyist organisations.
- a. One lobbyist organisation represents eight of these councils.
48. A further sixteen local councils have previously been clients of registered lobbyists.
49. Two councils have had representation from two lobbyist organisations.
50. Most councils (12) were first listed as clients in 2016, with a further six in 2017, eight in 2018 and five in 2019.

### Register Data Integrity and Functionality

51. The data contained in the Register was found to, at times, be inconsistent, incomplete and/or incorrect. This made it difficult to analyse and to data-match with other information sources. The following issues were identified:

#### Active Status

52. One hundred and two (102) owners, 132 employees and 317 clients<sup>16</sup> are listed as active for lobbyist organisations that are currently inactive, cancelled or suspended. It is unknown if this information is reflective of the organisation at the time it was made inactive, cancelled or suspended, or otherwise.

#### Australian Business Numbers (ABN)

53. Six lobbyist organisations on the Register do not have an ABN listed (one which is currently active).
54. One thousand and forty-two (1,042)<sup>17</sup> clients on the Register do not have an ABN listed (301 which are active clients).
55. Eleven clients have only partial or incorrect ABNs listed on the Register (four are active clients).

#### Duplication

56. Ten lobbyist organisations are listed on the Register as having different statuses.
- a. Seven lobbyist organisations are listed as both active and inactive<sup>18</sup>.
  - b. Three lobbyist organisations are listed as both active and cancelled.

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<sup>15</sup> Identified in an exact text match.

<sup>16</sup> Duplicates removed

<sup>17</sup> This includes duplicate entities.

<sup>18</sup> Those with the same name and same ABN.

- c. All list different dates the organisations were first became active, suggesting they have been registered twice.
57. One lobbyist organisation is listed twice as being inactive and another is listed twice as being cancelled.
58. Twenty employees are listed twice on the Register for the same lobbyist organisation.
- a. One employee is listed twice as active for an active lobbyist organisation.
  - b. Nine of the duplicate entries list the same date added to the Register, while the remaining entries list two different dates, suggesting the employee may have been active on several occasions.
59. Twenty-five clients are listed multiple times on the Register for the same lobbyist organisation.
- a. One client is listed five times as being active for an active lobbyist organisation.
  - b. Twelve of the duplicate entries list the same date added to the Register, while the remaining entries list two different dates, suggesting the client may have been active on several occasions.

### Employee Positions

60. Not all employees have a position title listed on the Register.
61. Open source searches<sup>19</sup> reveal that some employees are listed on the Register as being active when it appears they are actually no longer employed by the lobbyist organisation.

### Naming Conventions

62. There is inconsistency in the way the names of individuals are recorded on the Register.
- a. Names will sometimes include middle names or initials, and will vary for the same person across the Register.
  - b. Some names begin with the 'first name' while others are listed 'Surname, First Name/Initials'.

### Navigating the Register and Accessing Information

63. The NSW Electoral Commission website<sup>20</sup> provides a link to download the Register as an Excel file. However, on several occasions between September 2018 and January 2020, this was attempted and the downloaded spreadsheet contained no data.
64. The Register does not offer a function to quickly determine:
- a. If a lobbyist has previously been listed as active, inactive, suspended, cancelled, ineligible, or on the Watch List.
  - b. When a client, employee, or owner became inactive/was previously active. In many cases, this information is not detailed on the Register.
65. While the 'Details' tab contains a note regarding the current status of a lobbyist organisation, it does not detail the status history.
- a. In its current form, viewers of the Register have to select the lobbyist organisation name, 'History' tab, and then select the drop-down for each year (2014-2020) and 'Lobbyist Status'. For an organisation that was first registered in December 2014, this would total 16 steps (mouse clicks) to view the entire status history.

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<sup>19</sup> LinkedIn profiles

<sup>20</sup> <http://www.lobbyists.elections.nsw.gov.au/whoisontheregister>

- b. To obtain the status history of a lobbyist organisation first registered in 2014, as well as all recorded clients, employees and owners, this would require 36 mouse clicks to view/obtain the information.
- 66. The date a lobbyist organisation was first listed on the Register is sometimes not detailed. For example,
  - a. For one lobbyist organisation, the 'Details' section indicates the organisation was authorised to lobby from 02/12/2016 and that the information was last updated on 08/12/2016. However, there is no information contained in the 'Lobbyist Status' drop-down menu between 2014 and 2020 to say when the lobbyist organisation submitted an application and was registered.
- 67. Business links, partnerships or other corporate affiliations between lobbyist organisations are not explicitly detailed in the Register.
  - a. Any associations made in the analysis were identified through common ABNs, owners and employees, or through open source searches.
- 68. The Register does not identify owners or employees who are former government representatives, as provided on the Australian Government Register of Lobbyists<sup>21</sup>.

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<sup>21</sup> <https://lobbyists.ag.gov.au/register>

## Part 2: NSW Registered Third-Party Lobbyists named in reports made to the Commission

69. A search for the names of all lobbyist organisations, owners, employees and clients listed on the Register was conducted across the Commission’s complaints data.

### Registered Lobbying Organisations and Entities

70. No corrupt conduct findings have been made about a registered third-party lobbyist or any of its staff.

71. Nineteen third-party lobbyist organisations<sup>22</sup> have been tagged in 55 reports (including 47 complaints) made to the Commission, dated between 2001 and 2020.

a. The majority of reports have been s10 complaints (34); with nine s11 principal officer reports and three s20 own initiative reports.

72. Fourteen lobbyists (nine of which are currently active) have been listed as the ‘subject organisation’, ‘affected person’ or ‘associated’ in 38 reports<sup>23</sup>, dated between 2003 and 2019.

a. Twelve of these reports, involving nine lobbyists as the subject, were made after the Register commenced in December 2014. The Register indicates seven of the lobbyist organisations were active at the time the report was made to the Commission.

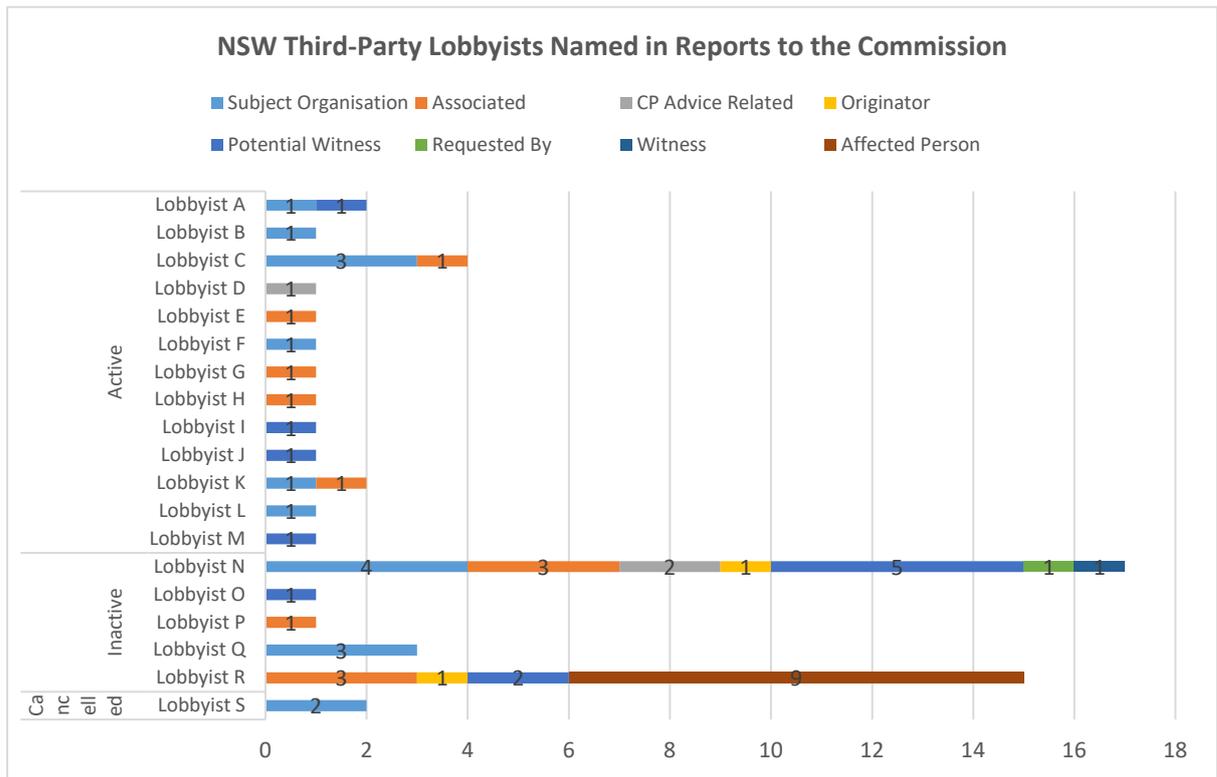


Figure 6: NSW third-party lobbyists named in reports to the Commission

<sup>22</sup> This includes one individual.

<sup>23</sup> Thirty-four complaints, one feedback, and three outside jurisdiction reports.

73. A review of all reports where a lobbyist organisation has been tagged as the ‘subject organisation’, ‘affected person’ or ‘associated’, reveals that 28 (73.7%) pertain to suspected lobbying and undue influence activities.

- a. These reports are dated between 2007 and 2019 and refer to 14 lobbyists (nine which are currently active).
- b. Only nine of the reports explicitly refer to lobbying<sup>24</sup> in the report/allegation.<sup>25</sup>
- c. Five of the matters progressed to an investigation.

**Conduct and Function Types**

74. The majority of reports where a registered lobbyist was linked (as the subject, affected or associated), have alleged conduct involving ‘Partiality’ (13) and ‘Bribery, secret commissions and gifts’ (10), and were in relation to ‘Electoral and political activities’ (12) and ‘Development applications and/or land rezoning’ (10).

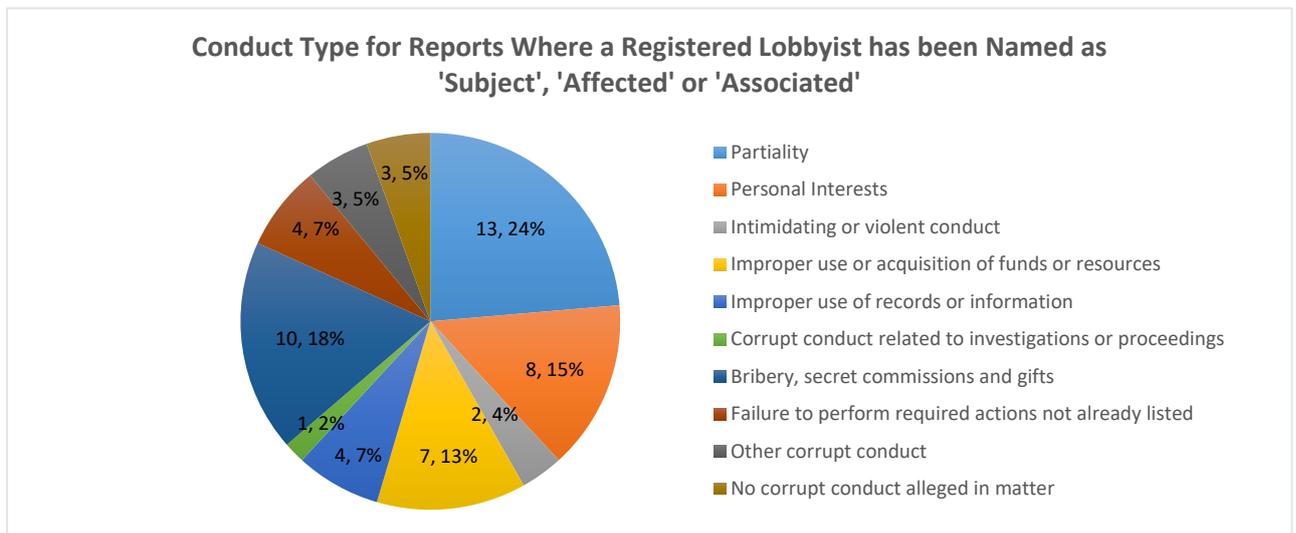


Figure 7: Conduct Types for reports naming registered lobbyists as ‘subject’, ‘affected’ or ‘associated’

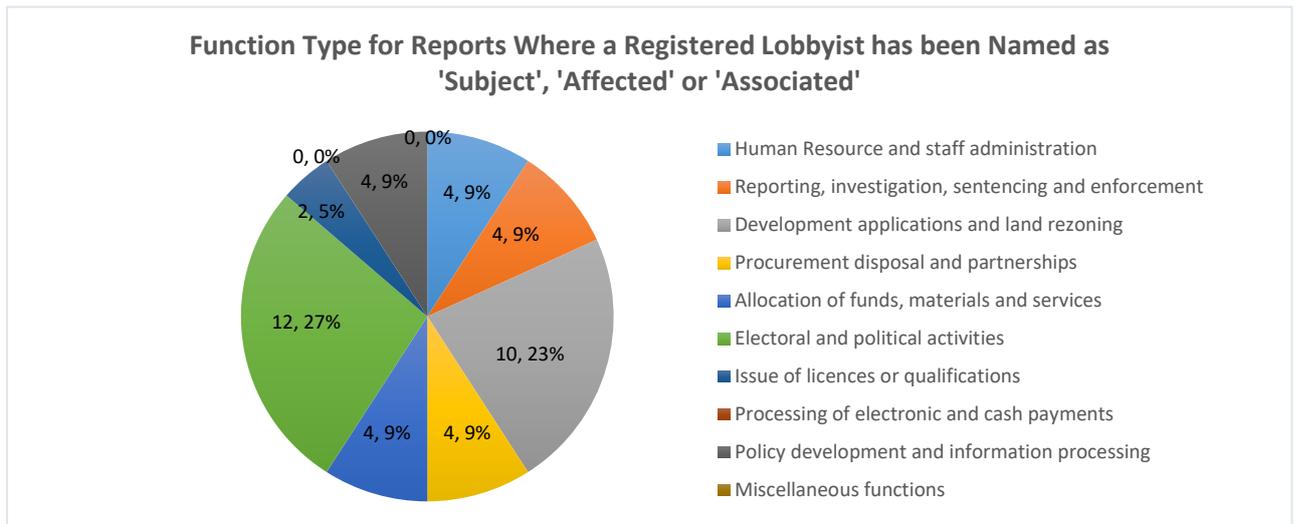


Figure 6: Function Types for reports naming registered lobbyists as ‘subject’, ‘affected’ or ‘associated’

<sup>24</sup> Lobby, lobbying, lobbied, lobbies.

<sup>25</sup> This demonstrates that lobbying activity can be described in different ways.

- a. Currently<sup>26</sup>, lobbying is not captured as conduct or function type when classifying reports made to the Commission.

75. Examples of the type of alleged conduct pertaining to lobbying and influence include:

- a. A ministerial staffer assisted a lobbyist organisation and several of its clients, in gaining access to the Minister for which they worked. It was further alleged the lobbyist organisation would benefit financially from policy changes that affected its clients, and that the staffer was an indirect beneficiary of a 'success fee'. The report also alleged an owner of the same lobbyist organisation had exercised improper influence over various NSW public officials in order to have contracts awarded to the lobbyist organisation's clients, without appropriate tender processes.
- b. Several complaints suggest a few local councillors are influencing the approval process for development applications by rejecting applications and referring the applicants to an associated lobbyist organisation for a fee, or by voting to approve applications associated with certain lobbyist organisations/individuals.
- c. One complaint alleged a revolving door scenario whereby, an individual previously worked for a client of a lobbyist organisation (Client X), then worked for the lobbyist organisation (Lobbyist Y), then became a staffer for a Minister during a period when Client X won a contract and Lobbyist Y was paid a success fee, and then again went back to work for Lobbyist Y.
- d. A lobby group paid for a Minister's election campaign costs. Once elected, changes were made to permits/licencing in conflict with existing policy, which benefitted the lobby group.

## Lobbyist Owners

### Organisations

76. Three organisations<sup>27</sup> (one currently active) listed as owners of third-party lobbyist organisations have been named in reports to the Commission.
- a. Two (one active and one inactive) are listed as owners of the same lobbyist organisation and were named in the same complaint as 'associated' in 2013, which alleged lobbying activity.
  - b. The other organisation was named in four complaints (one as subject, three as associated) between 1994 and 1998.

### Individuals

77. Forty-three<sup>28</sup> individuals who are listed as owners of registered lobbyist organisations have been named in 253 reports (240 complaints) to the Commission, between 1988 and 2019.
- a. The vast majority are s10 reports (193) followed by s11 principal officer reports (22).
  - b. The individuals are linked to 36 lobbyist organisations.
  - c. At least one-third (16<sup>29</sup>) of the owner-individuals named are current or former public officials (Ministers, Members of Parliament, councillors, political advisers, Chief of Staff).

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<sup>26</sup> 'Lobbying and caucusing' was formerly a category used to classify complaints made to the Commission and is tagged in some older allegation summaries.

<sup>27</sup> This excludes lobbyist organisations that are listed as owners.

<sup>28</sup> It is possible other owner individuals have been named in reports but are recorded under different names/spelling and were not identified.

<sup>29</sup> Based on an open source search of the individuals.

78. Since December 2014, when the Register commenced, 12 owner-individuals have been named as 'affected person' or 'associated' in 18 reports to the Commission.
- a. These individuals are linked to 11 lobbyist organisations (i.e. two are co-owners of the same lobbyist organisation).
  - b. Only four individuals were listed on the Register as active owners of a lobbyist organisation at the time of reporting; however, some are alleged to have been involved in lobbying and undue influence activities.
    - i. One report alleges an MP is a close friend of the owner of a lobbyist organisation<sup>30</sup> and refers community groups and other organisations that are seeking funding for projects, to the lobbyist organisation. It also alleges the lobbyist organisation and associated parties donate to the MP.
  - c. Most of the owner-individuals have been named in allegations in relation to other roles they hold/have held; not regarding their activities as owners of lobbyist organisations.

## Employees

79. Due to the large number of entities listed in Commission complaints data, the search for employees of lobbyist organisations was limited to all individuals named as 'affected person' or 'associated' in complaints made since December 2014 (when the Register commenced). The results reflect an **exact text match** of the employee name as listed on the Register. It is therefore possible that some individuals have not been identified.
80. Eighteen individuals<sup>31</sup> listed as employees (13 currently active) of lobbyist organisations have been tagged as 'affected' or 'associated' in 41 reports (35 complaints) made since December 2014.
- a. Two of these individuals were named in eight reports each; however, in both cases, the alleged conduct was in relation to roles held in public office prior to being registered as an employee of a lobbyist organisation. Interestingly, in several reports, it is alleged one of the individuals was lobbied themselves.
  - b. Four individuals were named in the one report in relation to alleged influencing of a development application process.
  - c. Nine of the reports refer explicitly to 'lobby'.
  - d. Seven of the individuals named are listed on the Register as a Director or CEO of the lobbyist organisation.

## Clients

81. Again, due to the large number of entities listed in NSW ICAC complaints, the search for clients of lobbyists was limited to all organisations named as 'subject organisations' or 'associated', and all individuals named as 'affected person' or 'associated', in reports made to the Commission since December 2014. This data was then searched for an **exact text match** of the client name listed on the Register.
82. At least 96 clients of lobbyist organisations have been named in 962 reports (804 complaints) since December 2014.
- a. The majority of these reports (597) pertain to 21 local councils that are listed as clients of lobbyists.
  - b. Other clients include health entities, universities, banks and insurance companies, energy and transport providers, property developers, racing and gaming organisations,

<sup>30</sup> This report was not identified in the search for lobbyist organisations as the organisation has not been tagged as an entity. The lobbyist organisation is named in the allegation.

<sup>31</sup> It should be noted that some individuals are listed as both owners and employees.

telecommunications and technology companies, mining companies, advocacy groups and charities, pharmaceutical companies, and two individuals.

- c. The clients named are associated with 40 lobbyist organisations.
83. Approximately one-third (33) of the clients identified are listed on the Register as active clients, as of 20 January 2020.
84. Fifteen of the reports explicitly refer to 'lobby'<sup>32</sup>. These reports involve 12 clients, seven of which are local councils. Examples of alleged lobbying activity include:
- a. A family member of a state politician/Minister, being a member of a company (client) and lobbying on behalf of the company.
  - b. Preferential treatment by a Minister in meeting with developers and lobbyists.
  - c. A company (client) improperly influencing a Mayor and other councillors regarding development assessments.

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<sup>32</sup> A review of all 962 reports was not feasible so a keyword search was conducted.

## Part 3: NSW Ministers' Diary Disclosures

85. The NSW Ministers' Diary Disclosures are published on the Department of Premier & Cabinet website.<sup>33</sup> The diaries are published quarterly, as individual PDFs for each Minister. Diaries are presented in a table format, under the headings: Date, Organisation/Individual and Purpose of Meeting (see Figure 9).

Date	Organisation/Individual <sup>2</sup>	Purpose of Meeting
14/01/2019	Max Willis	Office of the Director of Public Prosecutions
18/01/2019	President, Law Society of NSW	General legal discussion
23/01/2019	Law Society of NSW	Credential meeting
30/01/2019	ACON Positive Life NSW NSW Gay and Lesbian Rights Lobby	NSW Election commitments for LGBTI Communities
05/02/2019	Aboriginal Legal Service NSW/ACT	Funding
07/02/2019	Teleconference with family members of three children who were murdered in Bowraville Detective Chief Inspector Gary Jubelin, NSW Police Aboriginal Affairs Coffs Harbour Minister Mitchell	Confirming oral hearing of special leave application in Attorney General v XX
19/02/2019	Aboriginal Legal Service NSW/ACT	Funding
19/02/2019	Nature Conservation Council	Clean energy future for NSW
21/02/2019	Charles Clarke	General legal discussion
21/02/2019	Australian Lawyers for Human Rights Community Legal Centres NSW NSW Council for Civil Liberties	Bill of human rights for NSW
26/02/2019	Albury and District Law Society	Discuss local issues
27/02/2019	Coffs Harbour Law Society	Discuss local issues
07/03/2019	Enough is Enough	Funding

Figure 9: Snapshot of page 1 of the Attorney General Disclosure Summary for the Period 1 January to 31 March 2019

86. The diary data, which was available for the period July 2014 to September 2019<sup>34</sup>, was cross-checked with the NSW Register for Third-Party Lobbyists (as downloaded on 20 January 2020) to identify lobbyist organisations, owners, employees and clients.

- a. An **exact text match** was conducted of the Register but a further manual search was conducted for lobbyist organisations.

### NSW Third-Party Lobbyists named in NSW Ministers' Diary Disclosures

87. The following number of meetings were attended by lobbyists (organisations and owners) identified as being active at the time of the meeting:

2014	2015	2016	2017	2018	2019
1	15	23	30	19	34

<sup>33</sup> <https://www.dpc.nsw.gov.au/publications/ministers-diary-disclosures/>

<sup>34</sup> The Guardian Australia made available an Excel spreadsheet containing data from all NSW Ministers' Diary Disclosures dated between July 2014 and December 2018. The Guardian Australia had used a scraping tool to capture the data but had to develop a program to recognise and truncate data per line. While mostly effective, due to the formatting of the diaries (multiple entities are often included in the organisation/individual textboxes and sometimes the names of these entities run across multiple lines) some names were cut into two and captured incorrectly. SIRU further cleaned the data by: (a) identifying 100+ lines with errors (flawed dates, data in the wrong fields, duplicate entities listed in the one cell) and fixing by referring to the original diary PDFs. (b) Cleaning names where the entity name had been split into two or more entities, or had not been separated from other entities (again by referring to the original dairies). (c) Cleaning names for consistency (this was not completed for all entities).

The Commission used the data in this spreadsheet and manually extracted (each PDF file was opened and copied into an Excel spreadsheet) the additional diaries available for the period January to September 2019.

88. As the following sections identify, not all diary entries detailed the individual/s representing the lobbyist organisation. In other cases, an individual who was an active owner or employee of a lobbyist organisation at the time, was not recorded as attending as a representative of the organisation, so it could not be determined if they were lobbying.

**Lobbyist Organisations**

- a. Forty (40) lobbyist organisations listed on the Register are recorded as having met with NSW Minister’s between July 2014 and September 2019. This represents 15% of all lobbyist organisations on the Register (as of 20 January 2020).

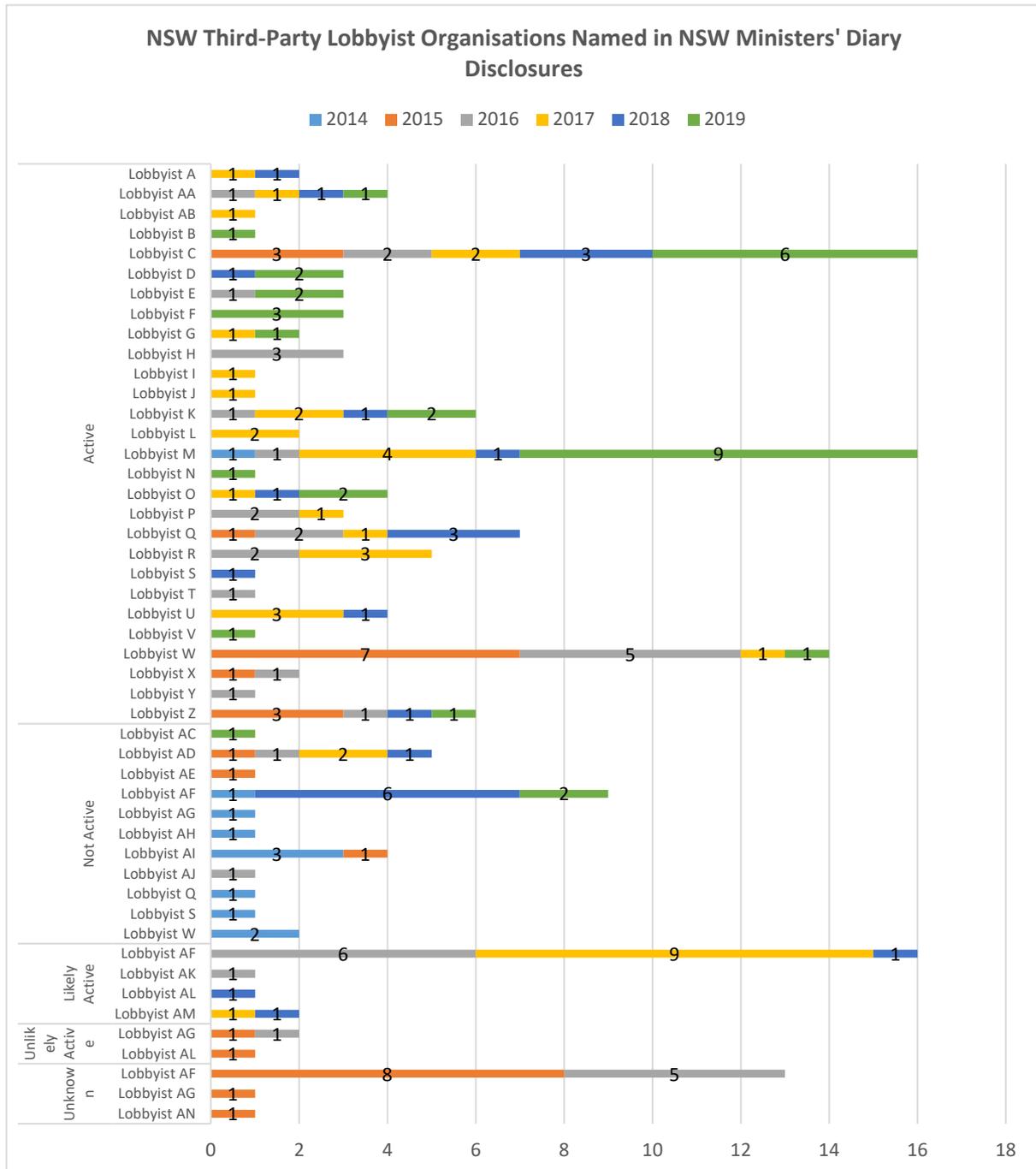


Figure 70: NSW Ministers' meetings with registered third-party lobbyists (including status at time)

- a. At least 28 of these lobbyist organisations attended a meeting/s (112 in total) during a time they were listed as active on the Register. A further four organisations are likely to have been active at the time<sup>35</sup>. This represents approximately 25% of registered active lobbyist organisations.
  - b. Active lobbyist organisations identified attended an average number of four meetings.
  - c. The organisations with the most number of meetings were:
    - i. Lobbyist AF, with 38 meetings; however, it could not be determined if it was actively lobbying in *any* of the meetings<sup>36</sup>. Lobbyist AF was listed on the Register as inactive for at least nine of the meetings.
    - ii. Two lobbyist organisations (C, M) were named in sixteen meetings during which they were registered as active.
    - iii. Another lobbyist organisation (W) was also named in sixteen meetings; however, two were recorded before the Register commenced in December 2014. A further two meeting records suggest the representative for the organisation was attending the meeting in another capacity (as Chairman of another body). However, this organisation is listed on the Register as a client of the lobbyist organisation, and another representative from the lobbyist organisation attended the meetings.
89. In one-third (37)<sup>37</sup> of the 112 meetings attended by an active lobbyist organisation, no details were provided of individuals (i.e. employee and role) representing the lobbyist organisation at the meeting.

### Owners and Employees Named

90. Fifty-nine (59) individuals, listed on the Register as owners and employees of 37 lobbyist organisations, are named in the diaries.
- a. Forty-seven of these individuals are listed on the Register as active owners or employees of a lobbyist organisation at the time of the meeting.
  - b. A further four individuals, not listed on the Register, are identified in the diary disclosures as having attended the meeting as a representative of the lobbyist organisation (e.g. '[Individual name], Director, [Lobbyist Organisation]'). Two of these individuals are identified as directors for the same lobbyist organisation.
  - c. In one case, a person is identified in a diary entry as being the Chairman of a lobbyist organisation but is not listed on the Register as being active at the time.
91. The 59 owners and employees identified attended 100<sup>38</sup> meetings. In 80 of these meetings, those named are recorded on the Register as being active at the time, or are identified as representatives of the lobbyist organisation in the diary entry.
- a. In ten meetings, two or more representatives from a lobbyist organisation attended.
92. In most diary entries where an active owner or employee is named, they are identified as being a representative of the lobbyist organisation. However, on four occasions, seven active owners and employees of four different lobbyist organisations are recorded as having attended meetings without their association to a lobbyist organisation being clearly identified.

<sup>35</sup> In these cases, the Register does not detail the date the lobbyist organisation first became active. It has been determined the organisation was likely active due to other information available on the Register, such as when employees and clients were registered.

<sup>36</sup> The Register does not detail when the organisation first became active.

<sup>37</sup> This includes one meeting where two lobbyist organisations attended and one did not have representative details recorded.

<sup>38</sup> In two instances, it is uncertain if the individuals named are those listed on the Register, due to different spelling/common names. These two meetings have been included but neither were captured in the active figure.

- a. In one meeting, attended by four active employees, the lobbyist organisation is identified as a separate entity.
  - b. On two occasions, just the individual owner is named and no other party is recorded as being present at the meeting.
  - c. In another meeting, the individual attended along with another organisation (not a client of the associated lobbyist organisation).
93. The most number of meetings attended by an owner or employee, who was identified as being an active representative of a lobbyist organisation, is seven.
94. On two occasions, the active owner (company) of a lobbyist organisation was listed as attending meetings with a Minister. It is believed the company was actively lobbying, as at one meeting, two active clients were also present. It would appear the owner company name has been used interchangeably with the lobbyist organisation name, as the same parent company was listed on two further occasions, but where an employee of the lobbyist organisation was also identified.

## Clients

95. Fifty-seven (57) active clients (at the time) were present at 55 meetings attended by active lobbyist organisations. This represents only 47% of all meetings where an active lobbyist organisation (or owner) was present. In other words, in 53% of meetings attended by registered active lobbyists, no client was present.
- a. The 57 clients were represented by 24 lobbyist organisations.
  - b. Nine of these clients attended multiple meetings with Ministers (one client attended four meetings, two clients attended three meetings, and six clients attended two meetings).
  - c. At six meetings, multiple clients of the one lobbyist organisation were present.
  - d. One of the active clients is registered as a foreign principal (associated with the Republic of South Korea).
96. In a further 24 meetings attended by active lobbyist organisations, entities that had previously been or would soon become active clients were also in attendance. On at least 16<sup>39</sup> of these occasions, it is likely the organisation was being represented by the lobbyist organisation but the status at the time could not be identified on the Register.
97. On many occasions, the client had been listed on the Register only days before meeting with a Minister. For example:
- a. Three clients of two different lobbyist organisations met with Ministers on the same day the client was first listed as active on the Register (all were registered in 2019).
  - b. At least a further five clients were registered within four days prior to meeting with a Minister.
98. At fifteen meetings (13%) attended by an active lobbyist organisation, no other entity was recorded as present. At these meetings, as well as those where no active client was present, it is unknown whom, if anyone, the lobbyist was representing.
99. Only one example from the five-year period could be found where it was explicitly stated whom the lobbyist organisation was representing (i.e. 'Lobbyist X representing Client Y').

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<sup>39</sup> In these sixteen meetings, fourteen clients attended, including two that are captured in the active client figures. Combining these figures would bring the total to sixty-nine clients, present at 70 meetings, representing 60% of all meetings where an active lobbyist organisation was present.

**Access to Ministers**

100. The portfolios most frequently engaged by active lobbyists include trade and industry, regional NSW, business, events and sport, health, and lands, forestry and racing.

- a. The Minister for Trade, Tourism, Major Events and Sport (2015-2016) had the most number of meetings with active lobbyists (16), followed by the Deputy Premier and Minister for Regional NSW, Skills and Small Business (2017-2018) (14). The Minister for Health and Medical Research met with active lobbyists on 14 occasions between 2017 and 2019, the Deputy Premier for Regional NSW, Industry and Trade held eight meetings in 2019, and the Minister for Lands, Forestry and Racing held six meetings in 2017.

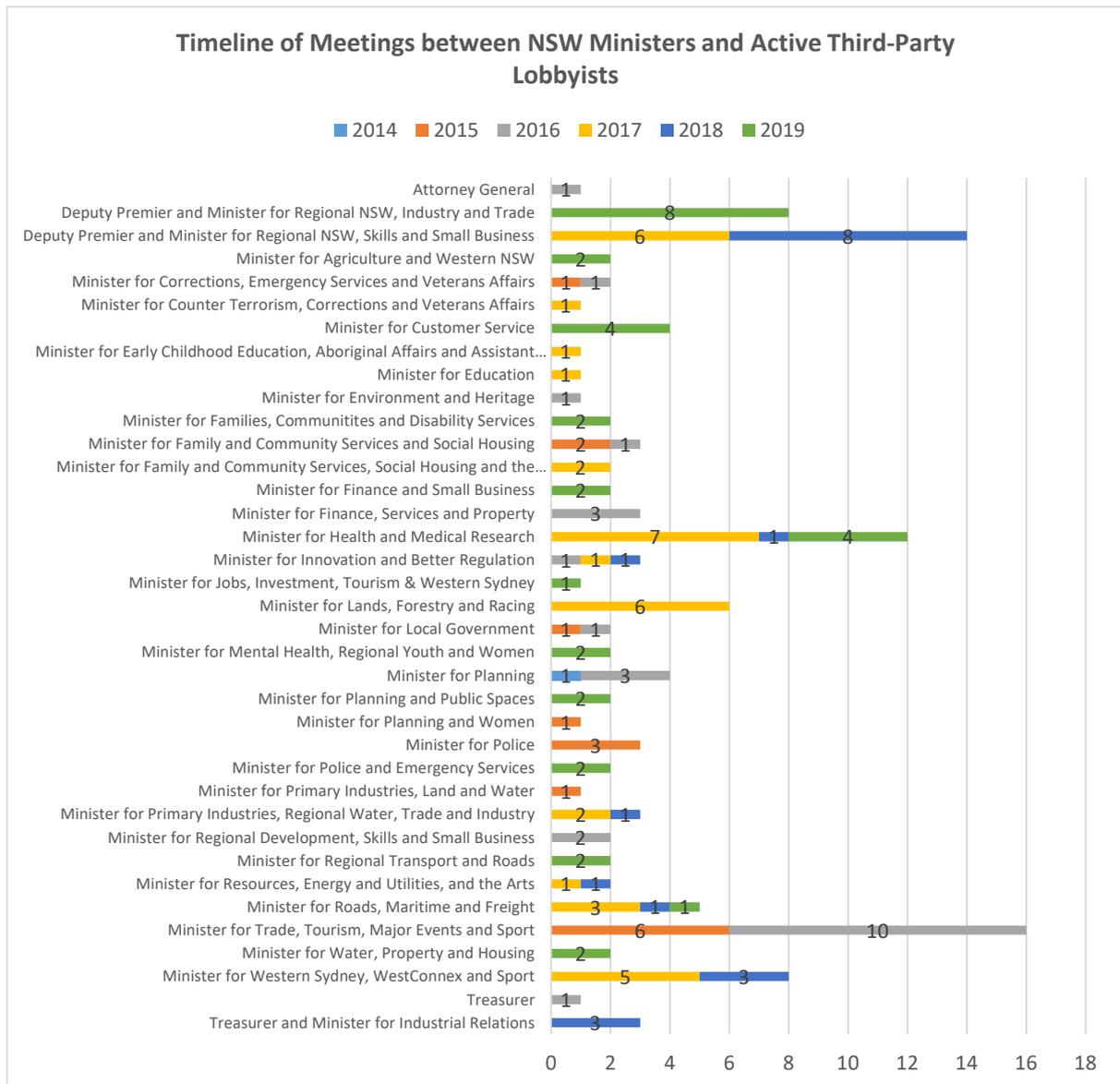


Figure 81: Timeline of meetings with NSW Ministers attended by active third-party lobbyists

101. Most (24 out of 36<sup>40</sup>) of the active lobbyists identified attended multiple meetings with a range of Ministers. Of these lobbyists:

- a. Twenty-three met with different Ministers.
- b. Eleven met with the same Minister more than once.

<sup>40</sup> This includes active lobbyist organisations, owners and employees.



107. A comparison of all clients identified, with those that attended meetings along with a lobbyist organisation, reveals many clients also attended meetings without a lobbyist present. For example:
- a. One client that was identified as attending a meeting with a lobbyist on one occasion is recorded as having met with Ministers on a further 15 occasions.

### Overview of Meetings

108. Between July 2014 and September 2019, the Minister for Health and Medical Research recorded the most number of meetings (1310), followed by the Premier (1233) and the then Minister for Primary Industries, Regional Water, and Trade and Industry (1045).
109. The Minister for Health and Medical Research also met with the widest number of stakeholders (964<sup>43</sup>).
110. The most number of meetings held by a Minister in a year was 693 (Minister for Trade, Tourism, Major Events and Sport in 2016).
111. Due to the way information is recorded/formatted in the diaries, combined with inconsistencies in names, it is difficult to provide a sound analysis of the industry types meeting most frequently with Ministers.<sup>44</sup> However, a pivot on Individual/Organisation names indicates that, aside from other Ministers, Members of Parliament and local councils, the following organisations had the most number of meetings (50+)<sup>45</sup> with NSW Ministers:
- a. NSW Farmers' Association (122)
  - b. NSW Council of Social Services (110)
  - c. NSW Aboriginal Land Council (89)
  - d. Police Association of NSW (87)
  - e. University of Sydney (85)
  - f. NSW Minerals Council (82)
  - g. University of Western Sydney (75)
  - h. NSW Taxi Council, Sydney Business Chamber (74)
  - i. National Rugby League (73)
  - j. Sydney Motorway Corporation (72)
  - k. Lendlease (66)
  - l. University of New South Wales (63)
  - m. Property Council of Australia (60)
  - n. NSW Business Chamber, Infrastructure Partnerships Australia (56)
  - o. Mission Australia (55)
  - p. NSW Jewish Board of Deputies (54)
  - q. PricewaterhouseCoopers (53)
  - r. Deloitte (51)
  - s. NSW Teachers Federation, Australian Medical Association (50)
112. The most frequent words used to describe the purpose of meetings (other than meeting, discuss/ion) include: issues (2266), policy (760), local (719), matters (648), introductory (557), government (544), Sydney (539), regional (537), infrastructure (466), services (453), planning (444), education (421), industry (409), health (394), development (351), reform (341), water (318) and tourism (314).

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<sup>43</sup> It is likely this figure is smaller as the same entity may have been recorded differently.

<sup>44</sup> The Transparency Project, Guardian Australia has conducted some analyses, which identified the mining sector met with Ministers on average once a week over a 4.5-year period, as well as regular access by the racing industry.

<sup>45</sup> These figures are likely to include some duplicates.

## Diary Data Integrity and Functionality

113. Extensive collation and cleaning of the data was required to conduct a baseline analysis, and there remains numerous inconsistencies in the data. This proved challenging in identifying patterns in access and in quantifying engagement. Key issues identified with the data are outlined below.

### Format and Publication

114. The diaries are published quarterly as individual PDFs for each Minister.
- a. Multiple entities are listed in text boxes and the names of entities sometimes run across multiple lines, which makes it difficult to capture/scrape.
  - b. Information is up to three months old.
  - c. There is no easy way to cross-reference the individual diaries to identify when Ministers attended the same meeting.

### Ministers, Organisations and Individuals

115. The diaries do not detail the name of the Minister in office at the time of publication.
116. There is inconsistency in the recording of individuals and organisations.
- a. For example, the Commonwealth Bank of Australia is also recorded as CommBank and CBA.
  - b. There is varied used of abbreviations.
  - c. Organisations, including lobbyist organisations, are not always recorded as the registered business/trading name.
  - d. Some organisations have state and national branches and it is not always identified which entity met with Ministers.
  - e. Some list the full name and title of other Ministers involved in the same meeting, while others will just record the portfolio or name. For example, 'Premier', 'Premier Berejiklian' and 'Gladys Berejiklian'.
117. Some individuals are listed with context as to whom they are/represent and why they are involved in the meeting. For example:
- a. On 15 May 2018, Chris Nalliah, Tessa Taylor, Mr and Mrs Premananth, Van Dang, Dianne Vertsappan and Ziana Azam met with the Minister for Multiculturalism and Minister for Disability Services to 'discuss disability policy'.
118. Other stakeholders are simply not specified. For example:
- a. 29 April 2016 – 'Homelessness organisations & providers' attended the 'Homelessness NSW Conference' with the Minister for Family and Community and Community Services.
  - b. 30 March 2017 – 'various representatives from Universities and Research Institutes' met with the Minister for Medical Research and Health.

### Time and Location

119. The time and location of meetings is not detailed.

### Descriptions of Meetings

120. Often the recorded purpose of the meeting is less than five words and does not provide any real insight into what was discussed at the meeting, what was the objective of the

organisation/individual attending, or any outcomes/actions/items for consideration. For example, the following descriptions are frequently listed:

- a. 'Innovation' and 'Better regulation' – Minister for Innovation and Better Regulation
- b. 'To discuss sport' and 'To discuss Western Sydney' – Minister for Western Sydney, Minister for WestConnex, and Minister for Sport
- c. 'To discuss planning policy' – Minister for Planning
- d. 'Racing issues' and 'land issues' – Minister for Lands and Forestry, and Minister for Racing
- e. 'To discuss counter terrorism' – Minister for Counter Terrorism
- f. 'To discuss education issues' – Minister for Education
- g. 'Industry matters' and 'water issues' – Minister for Primary Industries, Minister for Regional Water and Minister for Trade and Industry
- h. 'Regular meeting' and 'Catch up' – Minister for Police and Minister for Emergency Services
- i. 'Update' and 'Portfolio matters' are also regular descriptions across all diary disclosures.

121. Comparison of descriptions provided by Ministers who have attended the same meeting show variations. For example:

- a. On 6 February 2018, the Minister for Innovation and the Minister for Counter Terrorism and Veteran Affairs) met with The Returned and Services League of Australia (NSW Branch). The reason for the meeting was described as:
  - i. 'Charitable Fundraising Act 1991' (Minister for Innovation)
  - ii. 'To discuss NSW RSL issues' (Minister for Counter Terrorism).

### **Meetings and Attendees Not Recorded**

122. It is apparent not all meetings and attendees are recorded. For example:

- a. The Premier recorded a meeting, held on 8 August 2018, with a lobbyist organisation and its client, as well as the Treasurer; however, the Treasurer's diary entry only records having met with the lobbyist and client, not the Premier.
- b. On 8 June 2017, a meeting was attended by the Deputy Premier, Minister for Primary Industries, Minister for Roads and Minister for Early Childhood, and nine stakeholders including a lobbyist. However, the Minister for Early Education only recorded meeting with the Minister for Primary Industries, the lobbyist and two other stakeholders.

## Part 4: Keyword search of Commission complaints data

123. It is not practical to identify all complaints made to the Commission that relate to lobbying. The Commission does not specifically categorise complaints as being related to “lobbying”, “access” or “influence”, nor are lobbyists (third-party or otherwise) set up as a particular class of entity in the Commission’s data holdings. Furthermore, many complaints made to the Commission state or imply some sort of corrupt relationship between a public official and a person/organisation that wants a favourable decision, without using words such as “lobbying” or “lobbyists”.
124. Nonetheless, in January 2020, a search was conducted of the Commission’s complaints data<sup>46</sup> for the words and phrases: lobby, lobbying, lobbyist, lobbied, undue influence, undue access, cash for access, buy access, influence policy, VIP fundraiser\* and revolving door.
125. While this should not be interpreted as a representative sample of all complaints that might inform the Commission’s analysis, the following observations have been made.

### Timeline and Origin of Information

126. Since 2008, there has been an increase in complaints that contain lobbying and influence keywords, with a significant spike in 2014.
127. The majority (82.3%) of complaints received by the Commission that contain lobbying and influence keywords are Section 10 reports made by members of the public (with Section 11 principal officer reports comprising 15.4%). This is much higher than the average. Of all complaints received by the Commission in 2018-2019, Section 10 reports made up 44% and Section 11 principal officer reports, 29%.

### Entities

#### NSW Public Authorities and Associated Sectors

128. The Local Government sector, consisting of local councils, makes up over half (58%) of all reports where a NSW Public Authority is listed as the ‘subject organisation’ in keyword complaints. One hundred and thirteen (113) current and former councils are named, with the largest number of complaints for a council being 14.
129. The organisation listed the most as the subject of complaints (70 reports) sits within the Government and Financial Services sector.

#### Non-NSW Public Authorities

130. Two hundred and forty-four (244) Non-NSW Public Authority organisations are listed as the subject of keyword complaints.
131. A large proportion of these organisations are involved in property development, construction and infrastructure. Other organisations named include political parties, racing and gambling entities, security, energy and insurance companies, mining bodies, and health organisations.
132. Five organisations identified are registered third-party lobbyists.
133. Thirty-two organisations (13%) are named in multiple complaints.
- a. Most of these complaints refer to the same allegation/s (i.e. multiple sources).
  - b. Most entities with multiple complaints have been the subject of an investigation.

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<sup>46</sup> The search was conducted across ‘Allegation Summaries’, which provide a summary of the original complaint and ‘Analysis and Recommendations’, which are records made by the Commission’s Assessments team.

### NSW Public Officials

134. A total of 643<sup>47</sup> NSW Public Officials are listed as the ‘affected person’ in complaints containing lobbying and influence keywords.
135. The individual listed the most has 12 complaints.
136. Common job titles include Councillor, Mayor and Deputy Mayor, Minister, General Manager Premier, Member, Director, CEO, Politician, and Barrister/Solicitor/Lawyer.

### Non-NSW Public Officials<sup>48</sup>

137. Three-hundred and eighty-seven (387) Non-NSW Public Officials are named in complaints containing lobbying keywords.
138. Many have previously been NSW public officials or are/have been involved in Federal government, some of which have been named in media coverage regarding revolving door activity.
139. Two individuals named in multiple complaints are owners or employees of active third-party lobbyist organisations listed on the Register.
140. Other Non-NSW Public Officials with multiple complaints include media figures and individuals linked to property development and other organisations identified as Non-NSW Public Authorities.

### Lobbyists

141. Multiple complaints suggest organisations and individuals that are not listed on the Register are undertaking third-party lobbying activities. For example:
- a. “[Entity name] is a public company limited by guarantee. It is a lobbying organisation.”
  - b. “[A] fundraiser... was attended by a developer... and his lobbyist [person name].”
  - c. “[Person name] is an unregistered lobbyist”.
  - d. “[Person name] - a lobbyist for [organisation name]”.

### Conduct and Function Types

142. Over half (54.2%) of all keyword complaints pertained to ‘Development applications and land rezoning’ as the function type, while nearly half (48.2%) alleged conduct involving ‘Partiality.’

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<sup>47</sup> Excluding anonymous individuals.

<sup>48</sup> This category refers to current (as of January 2020) Non-NSW Public Officials and individuals where the status is unknown.