



Committee Secretary
Senate Finance and Public Administration Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Tuesday 6 Feb 2024

To the Senate Finance and Public Administration Committees,

Re: Access to Australian Parliament House by lobbyists

Thank you for the opportunity to contribute to the Inquiry into the Lobbying Code of Conduct. This submission is made on behalf of Publish What You Pay Australia, Jubilee Australia, and the Mineral Policy Institute.

Publish What You Pay Australia is a coalition of transparency, social justice, environment, and human rights organisations working to improve transparency and accountability and social and environmental impacts in the mining, oil, gas industry. We are part of the PWYP global network which works across 50 countries.

Jubilee Australia is a research centre that engages in research and advocacy to promote economic justice for communities in the Asia-Pacific region and accountability for Australian corporations and government agencies operating there.

The Mineral Policy Institute is an international civil society organisation with a volunteer board. Operating from Australia MPI focuses on assisting communities affected by specific mining projects and on achieving industry reform through improvements to policy, law and practice. MPIs aim and role is to support mining affected communities to more effectively protect their rights and respond to mining issues that impact on them.

The focus of our submission is on the mining, oil and gas industry and responds to the terms of reference question on the adequacy of current transparency arrangements relating to the lobbyist register, with reference to the adequacy of: (a) current transparency arrangements relating to the lobbyist register.

There are a wide range of policy areas which have an impact on mining, oil and gas business' and in which companies and industry associations actively engage in lobbying. Policy areas include environment, water, native title, tax, corporations, foreign investment, trade and

customs, and competition, industrial relations, occupational health and safety, climate change and many more.

Many of these areas of policy also have a high level of public interest and have a significant impact on public assets, on communities, workers and on our economy. There are many advocacy and civil society organisations who also engage in policy debate on these areas of policy but do not have the same resources, the same access nor do they employ former Ministers and senior political staff in the same way industry does. It is in this context that we make this submission and advocate for improved transparency and accountability in political lobbying in the interest of creating a system where representation on policy issues is more balanced, open, and transparent towards the goal of ensuring political decisions are made in the public interest.

Lobbying is not exclusive to the development of policy but are used in the procurement and contracts, grants and subsidies, and project approvals and condition setting. These are areas where there should be a distinction between working with government and political decision making and influence. Government contracts are published as are the awarding of grants and in some cases assessment processes. The value of this data is limited without being able to identify any lobbying efforts which may have led to political interference in decision making.

We acknowledge that lobbying is an important function of democracy, but caution that it also threatens to undermine the public interest where there is disproportionate access and influence by private actors.

Our coalitions are strong advocates for increasing transparency to combat corruption and undue influence. We make the following recommendations on improving the transparency of the lobbyist register with the aim of creating greater accountability, to act as a disincentive for corruption and to encourage fairer participation in lobbying between private companies and civil society.

The lobbyist register should include details on:

1. In house lobbyists - employees who undertake lobbying activities for the organisation which directly employs them
2. Regular reporting on lobbying activities – which lobbyist is meeting with which government representative on what issue
3. Regular reporting of Ministerial diaries - including the diaries of senior staff
4. Enforcing and strengthening cooling off periods

Below we offer some more detailed comments on these four points. We welcome the governments progress towards increasing transparency in lobbying and the committee's inquiry.

1. Inhouse lobbyists mining, oil and gas.

In the mining oil and gas sector, there are state, territory and national industry organisations whose primary role is to advocate for the interests of their members. The Minerals Council of Australia, Chamber of Minerals and Energy, Australian Energy Producers (formerly Australian Petroleum Production & Exploration Association), Association of Mining and Exploration Companies are all such industry groups. None of these organisations are listed on the Register as lobbyists and only the Minerals Council of Australia is listed as a client of a third-party lobbyist, Headline Advisory Pty Ltd.

Employees of these organisations are engaged frequently in lobbying activities and while they may from time to time contract a third-party lobbying firm, their inhouse lobbying activities currently go unrecorded. It is well publicised and known that these organisations undertake inhouse lobbying and is reported in their activities and annual statements for example:

“AMEC regularly travels to Canberra to **meet with federal parliamentarians and federal ministers** to ensure that our members views are well known and are front and centre in the decision-making process.”¹

“the MCA worked hard to highlight the importance of getting these critical policy areas right via **direct representation**, submissions and **actively engaging with government**, industry (forming close partnerships) and communities.”²

We are strongly of the view that the representations made by inhouse lobbyists in the mining, oil and gas sector – both from industry groups and individual companies should be reported publicly.

¹ AMEC website <https://amec.org.au/jurisdiction/federal/>

² Minerals Council of Australia 2022 Annual Report https://minerals.org.au/wp-content/uploads/2023/10/MCA-Annual-Report_2022.pdf

Lobbying during a project assessment – Yeelirrie case study

(This example is taken from a [submission to the Productivity Commission](#) review on Resource Sector Regulation by the Mineral Policy Institute with references and appendix providing the relevant documents.)

Through senate estimates questions it was revealed that the proponent Cameco (a Canadian company and world's second largest uranium producer) had lobbied the government. The representations to government were made regarding the assessment of the Yeelirrie uranium project. There was a specific appeal by the company opposing a suggested approval condition which would require the company to prove that the mine would not cause extinction. The company argued that the condition *"is probably unachievable and unrealistic, given the uncertainty surrounding sampling and naming of subterranean fauna."* When the proposed mine was eventually approved in 2019 the condition on extinction was not included (*the WA EPA had recommended against the approval of the project all together because all the evidence suggested that if the mine were to proceed it would most likely cause the extinction of up to 15 species of subterranean fauna).

In FoI documents it was revealed that a staff member of Cameco had met with the former federal Resource Minister Matt Canavan at the office of Liberal MP Rick Wilson in Kalgoorlie. Following the meeting former Minister Canavan wrote to former Environment Minister Josh Frydenberg about Cameco's proposal to mine at Yeelirrie (who was the decision maker on the Yeelirrie environment assessment at the time). In documents obtained through FoI Minister Frydenburg wrote *"given the significant delays already experienced by Cameco in relation to Yeelirrie, I would appreciate the Department of the Environment and Energy completing its processes expeditiously and I look forward to reviewing your proposed decision on the project shortly. Thank you for ensuring progress of the Commonwealth environmental approval for this project."*

This representation is also significant given that there was an ongoing court action over the decision at a state level on the question of extinction. The mine was eventually approved by the former Minister Melissa Price, the approval was given on the eve of caretaker period before the 2019 Federal Election and was made before the end of the ruling of a court case in WA over the Yeelirrie State approval.

This example highlights that during the assessment period of a controversial project the proponent lobbied the government over the conditions of an approval and sought an expedited approval. None of these opportunities for engagement with government were made to civil society or the Native Title holders. The representations to government were not published but were identified because of the high level of public interest and engagement on the question of the approval. There are serious questions about the morality and the behaviour of the company and Senior Ministers and whether the decision was in the public interest and how that interest was represented.

In the context of this inquiry, we suggest that had there been greater transparency over inhouse lobbyists and ministerial diaries there would have been a dis-incentive for the proponent to meet Ministers and Members of Parliament during a project assessment – which was also subject to a court process, to actively lobby for a favourable outcome of the assessment. Lobbying of members of parliament by proponents of active applications under government assessment is not prohibited in the code of conduct – but perhaps should be. Members of the public who seek to meet with government on assessments under active consideration by government are frequently refused meetings citing that it would be inappropriate.

2. & 3. Reporting on lobbying activities and regular reporting of Ministerial diaries - including the diaries of the Chief of Staff

Further transparency and reporting on lobbying activities is critical. Disclosure of who the lobbyists are and who they represent is not transparency. All this tells us is that they have access to government and intend to influence decision makers. Sometimes there may be public information about a client or inhouse lobbyist policy agenda but this could be broad and cover a number of issues.

Within the current reporting requirements on lobbying, we have no visibility over which lobbyists (third party or inhouse) are approaching which elected representatives on which policy reforms.

How much access a lobbyist has to which government representatives is also important information. These knowledge gaps make it hard to understand how the influence of different interests are represented in decision making and the outcomes of policy formation.

The timeliness of reporting on lobbying is also critical to transparency. As policy debate unfolds and decisions are made the public should be able to scrutinise how a decision has been influenced. The public and civil society organisations may be able to advocate for equal access and representation or highlight an inequality in the process. If a policy maker is only meeting with industry groups and has not agreed to meet with civil society the public and voters should know. We are of the view that greater transparency on the details of lobbying activities through documenting the issues discussed and the diaries of ministers and senior staff will encourage greater access to civil society and consideration of the public interest in decision making.

4. Cooling off

An article by Senior Lecturer, Science and Technology Studies Program, University of Wollongong Adam Lucas identified *“24 former senior politicians held advisory or fiduciary relations with fossil and/or mining interests”*, and *“107 former and current political advisors held advisory or fiduciary relations with fossil and/or mining interests”* this included within lobbying firms, mining companies, and mining and energy peak bodies.

Of those 24 former politicians there were at least two former Federal Mines Ministers Martin Ferguson (Australian Petroleum Production & Exploration Association 2013) and Ian MacFarlane (Queensland Resource Council 2018) who took up roles with industry advocacy groups. In 2023, former WA Premier Mark McGowan within months of leaving the most senior political role in the State accepted a role as a strategic advisor to Mineral Resources and another role with BHP. Two years earlier WA Treasurer Ben Wyatt retired from politics and took up board roles with both Rio Tinto and Woodside. There are many more examples of industry lobbyists taking up senior positions in Government.

The movement of staff between government and industry is a deeply unfair trait of Australian politics and lobbying. It ensures political access, insights into internal decision-

making processes and power dynamics, those individuals may also have internal power and influence. The advantage of insider knowledge, access and influence in the private sector is unparalleled.

A cooling off period does not entirely remove the power and influence or insights into decision making processes, dynamics or connections with people in government but can water down the impact and act as a disincentive. We strongly support extended cooling off periods for former Ministers and senior political staff taking positions with relevant industry and vice versa.

Thankyou, for considering our submission if you seek any clarification or questions please contact Mia Pepper, National Director, Publish What You Pay Australia