

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

**MINING AMENDMENT (COMPENSATION FOR CANCELLATION
OF EXPLORATION LICENCE) BILL 2019**

CORRECTED

At Preston-Stanley Room, Parliament House, Sydney, on Friday, 9 August 2019

The Committee met at 10:15

PRESENT

The Hon. Niall Blair (Chair)

The Hon. Anthony D'Adam

The Hon. Greg Donnelly (Deputy Chair)

The Hon. Wes Fang

The Hon. Scott Farlow

The Hon. Trevor Khan

The Hon. Rod Roberts

Mr David Shoebridge

The CHAIR: Welcome to the Standing Committee on Law and Justice hearing on the inquiry into the Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019. Before we commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginal people present today. This inquiry is focusing on a bill which was introduced by Reverend the Hon. Fred Nile, MLC, to amend the Mining Act 1992 to provide compensation for persons financially affected by the cancellation of exploration licence 7270 over certain land at Doyles Creek. Today we will be hearing from NuCoal Resources and individual shareholders.

Before we commence I make some brief comments about the procedure for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of the hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Witnesses are advised that any tendered documents should be delivered to the Committee members through the Committee staff. To aid the audibility of this hearing I remind both Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near loudspeakers for persons in the public gallery who have hearing difficulties. Could everyone please turn their mobile phones to silent for the duration of the hearing.

MICHAEL DAVIES, Non-Executive Director, NuCoal Resources, sworn and examined

GORDON GALT, Non-Executive Director and Chairman, NuCoal Resources, sworn and examined

GLEN LEWIS, Non-Executive Director, NuCoal Resources, sworn and examined

The CHAIR: Would you like to start by making an opening statement?

Mr GALT: My name is Gordon Galt, I am the chairman of NuCoal Resources Ltd. With me are my colleagues, Michael Davies and Glen Lewis, who are both non-executive directors of NuCoal. We have provided a detailed submission to this Committee pursuant to the terms of reference and we thank you for the opportunity to appear at this hearing to represent our company and its shareholders. At the outset we would like to state that we are not here to debate or prove the innocence of the company, its shareholders or its directors, because that has already been extensively confirmed by statements on the record, including the Supreme Court of New South Wales, the ICAC commissioner and ex-Premier Barry O'Farrell. The innocence of these parties is not in any doubt.

We are here to support the enactment of the Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019 because in January 2014 the State of New South Wales passed the mining amendment Act, which caused NuCoal shareholders to suffer financial loss. The Act cancelled their ownership of their only major asset, denied them due process and access to the courts to complain about or litigate the matter and took for itself the results of four years of hard exploration work and technical studies, all without any compensation. The Act was passed through Parliament in one day with about three hours notice on an unscheduled sitting day. There was no time or regard for members to look at the legislation and consider it well, no mention that the Premier actually supported compensation himself—which is what he told a dispossessed NuCoal shareholder only two weeks later at Maitland—no mention that ICAC itself had also said that compensation should be considered, and finally no time for any parliamentary committee to look at the proposed legislation, as this is being looked at.

The reason for the haste was never explained, and of course the excuse used to justify the Act, which was that some parties, not including NuCoal or NuCoal shareholders, had allegedly done something wrong, and this was never a justification for the punishment meted out to our innocent mum and dad shareholders. As Mr Peter Phelps elegantly put it in this Parliament on 13 February 2018, the 3,400 NuCoal shareholders became political cannon fodder. Objectively it is hard to imagine that an Australian State would contemplate inflicting such a deliberate punishment on parties whose innocence is unchallenged. There is no quarrel with the State having the ability to expropriate assets as it did via this Act but the State absolutely must allow due process and compensate appropriately when it does it. The Parliament should not allow innocent people to become political cannon fodder.

Clearly, the existing Mining Act is not natural justice or the rule of law in action. Its existence has also had adverse consequences, including materially contributing to the worsening of New South Wales sovereign risk rating, especially in the United States, which is Australia's investor base. It is why the United States trade representative has written another letter to the Australian Department of Foreign Affairs and Trade as late as last week reiterating its ongoing to resolve the claims of its NuCoal shareholders under the Australia-United States Free Trade Agreement and citing the proposed compensation bill as a potentially suitable way to resolve the matter. The compensation bill has one simple objective, to right a wrong by amending the Mining Act 1992 to provide that persons who claim to be financially affected by the cancellation of the Doyles Creek exploration licence can apply to an independent arbitrator for assessment and determination of their claim for compensation. We believe the Parliament of New South Wales should support the compensation bill as proposed and commend it to you on behalf of NuCoal shareholders and the company.

The Hon. TREVOR KHAN: I am just a traffic court lawyer.

Mr GALT: Right.

The Hon. TREVOR KHAN: Matters of high finance are not my strong point, but I suppose I will put this to you: Let us suppose instead of NuCoal purchasing the shares in the Doyles Creek mine it purchased the shares in, say, a car wash. They undertook due diligence and found nothing wrong with the company or the car wash. But let us suppose that unbeknown to the car wash operator, a customer had fallen over and severely injured themselves. Having now acquired the shares in the car wash company, would you agree with me that the liability continues on notwithstanding that NuCoal, having acquired those shares, did not know about that liability at the time.

Mr GALT: Thank you, Mr Khan. You might be a traffic lawyer, but I am not a lawyer at all. I am a simple mining engineer so I do not know the answer to your question. But as far as I can see, I do not know where it is headed towards in terms of intent so I cannot really answer your question.

The Hon. TREVOR KHAN: Let me put it to you that if you acquire a company, rather than the assets of that company, any liabilities that rest with the company also are acquired. It is a fairly basic proposition that even a traffic court lawyer would understand.

Mr GALT: As I said, I am not a traffic court lawyer even, but as far as liability is concerned, I do not know the answer to your question. That is the first thing. The second thing is I do not think there has ever been a liability proven in any case so maybe the point is totally moot.

The Hon. TREVOR KHAN: All right.

Mr GALT: I do not know where the question is going still.

The Hon. TREVOR KHAN: No. Well, that is for me to know and you to find out in due course. Mr Galt, you have described yourself as, what—"a simple mining engineer"?

Mr GALT: That is right, yes.

The Hon. GREG DONNELLY: Point of order: I think the gentleman referred to himself as a "mining engineer".

Mr DAVID SHOEBRIDGE: No, no. He said "simple mining engineer".

Mr GALT: I did say "simple mining engineer".

The Hon. GREG DONNELLY: Okay. I withdraw that then, just so that we are very clear.

The Hon. TREVOR KHAN: Your involvement with the Doyles Creek mine precedes NuCoal's involvement, does it not?

Mr GALT: Yes, it does.

The Hon. TREVOR KHAN: You are a director of—was it Taurus Investments?

Mr GALT: I am a director of Taurus Funds Management Limited.

The Hon. TREVOR KHAN: My apologies.

Mr GALT: Proprietary Limited.

The Hon. TREVOR KHAN: Yes. You were that prior to NuCoal becoming involved with Doyles Creek mine.

Mr GALT: Yes, I was.

The Hon. TREVOR KHAN: Indeed, you acquired shares directly in Doyles Creek mine, did you not?

Mr GALT: I acquired shares in DCM, yes.

The Hon. TREVOR KHAN: And those were acquired from Mrs Ransley, were they—or Mr and Mrs Ransley?

Mr GALT: I have no idea who they were sold by. There were, I think, 30-something-odd shareholders and a number of them pulled shares for sale so I do not know exactly who they came from.

The Hon. TREVOR KHAN: But prior to NuCoal being involved, Taurus, using its short form I suppose, was involved in funding and financing Doyles Creek mine.

Mr GALT: No. That is not correct.

The Hon. TREVOR KHAN: Really.

Mr GALT: Yes. That is not correct.

The Hon. TREVOR KHAN: Taurus acquired shares in Doyles Creek mine?

Mr GALT: No. Taurus did not. I did.

The Hon. TREVOR KHAN: Right.

Mr DAVIES: To be precise or to be clear, there is Taurus Funds Management Pty Limited, which is the manager of various different funds, one of which is Taurus Resources Fund No. 1, which did acquire shares in Doyles Creek Mining Pty Limited in the final quarter of what would have been 2009. Those shares were then exchanged for shares in NuCoal in February 2010, when NuCoal listed on the Australian Securities Exchange.

The Hon. TREVOR KHAN: Indeed.

Mr DAVIES: From memory, I think Taurus also put more money in at the initial public offering [IPO]—part of the funding at the IPO—along, obviously, with that the three-odd-thousand mums and dads shareholders. I do not think Taurus put any money in to fund Doyles Creek Mining. I think it was a secondary acquisition of shares. As Mr Galt said I think there were 30-odd shareholders, or may be slightly less, in the twenties. Who of those, we would have to take that question on notice and go back and give you the details of who the people were precisely who sold some or all of their shareholding at that point in time. But Mr Khan, if I could just—and I am not a lawyer, either; nor am I a traffic court lawyer.

The Hon. TREVOR KHAN: That means I do a good prescribed concentration of alcohol [PCA] plea—not much more.

Mr DAVIES: Yes. Just going back to your question about the car wash where somebody had hurt themselves prior to NuCoal, or indeed any company, acquiring the shares, that would be a potential liability of the company. There is a slight difference here, I think: We are buying a company with an asset that had been granted by the Minister, former Minister. There was no reason to believe and there was nothing on the files. We met, obviously, extensively with people in the department saying, "Oh, actually, there's a whole load of non-compliance on the licence", which would be the analogy, I think, that it would be appropriate for you to use versus your car wash. Somebody has been hurt in a car wash and you clearly have not been operating that in accordance with whatever legislation was relevant for operating a car wash. Here we are acquiring a company, the sole asset of which was an exploration licence, 7270. Of course we did due diligence to see if Doyles Creek Mining Pty Limited was in accordance with its licence conditions.

The Hon. TREVOR KHAN: Sure.

Mr DAVIES: It always has been and, under NuCoal's stewardship, if you talk to people in the department they will tell you that NuCoal was actually a shining light in terms of licence compliance whereas, in general in the industry, you would find there is some quite significant non-compliance. That has never been the case either at DCM or NuCoal.

Mr DAVID SHOEBRIDGE: A better analogy might be if you are purchasing a car and you do your initial due diligence—

The Hon. TREVOR KHAN: He is not a traffic court lawyer. He's a proper one.

Mr DAVIES: Right.

Mr DAVID SHOEBRIDGE: No. I do not pretend to do finance law. I finding it confusing and complicated, and corporate law. But if you purchase a car and you do your due diligence and you believe the person you are purchasing it from had good title, and you hand over the money and you get the car, but it turns out later that the person who sold you the car did not have good title: It was stolen or somebody else's property. Then you simply do not own the car. There is a legal maxim that starts with "nemo dat" and it goes on and it says "You can't get good title in something purchasing from someone, even if you're an innocent purchaser, if the person you're getting it from didn't have good title." These types of "unfairnesses" to innocent purchasers happen all the time. The law recognises that, but that is not the answer, normally, to a compensation claim against a third party.

Mr DAVIES: Thank you, Mr Shoebridge. Again I do not really see that as being analogous. This was a licence granted by the Minister of the Crown.

Mr DAVID SHOEBRIDGE: Licence, car, car wash—you buy an asset, there is a problem that becomes apparent later, you suffer the loss. It happens all the time in a market economy.

Mr DAVIES: Well, I do not think it happens when something is listed on the Australian Securities Exchange.

Mr DAVID SHOEBRIDGE: It sure does.

Mr DAVIES: It has been subjected to due diligence. We used Mallesons, the largest law firm in Australia. It was signed off by the Australian Securities and Investment Commission who have to review these prospectuses. It was signed off by the Australian Securities Exchange. I do not wish to sound disrespectful but

I do not really think that that is an appropriate analogy—either the car wash analogy or the stolen car which I know was a favourite analogy of the former Premier, Mr O'Farrell. I just cannot see how you can compare these things. If that is really what the Australian Securities Exchange is like—dealing in stolen cars and car washes—we are in some big trouble in this country.

The Hon. TREVOR KHAN: All right.

Mr GALT: Surely the State of New South Wales does not put itself in the same position as someone selling a used car, does it?

The Hon. TREVOR KHAN: We ask the questions and you can answer them.

Mr DAVID SHOEBRIDGE: We are at a point in time, anyhow, where we are discussing this.

Mr GALT: Right. It was a rhetorical statement.

The Hon. TREVOR KHAN: Let me ask you this, Mr Galt—

The CHAIR: Let us just all be very mindful of the way that we are conducting this hearing today; that is, by showing respect at all times. Committee members ask questions, the witnesses provide answers and they can seek guidance from behind the witnesses table and that is how we will proceed this morning. If we do that, we will get through this in a way that, hopefully, will provide some clarity and everyone can walk out of here knowing that we have challenged the facts, we have asked our questions, but we have done that in a way that shows the respect and the courtesy that keeps the Parliament and the Committee in good standing.

The Hon. TREVOR KHAN: Let me just ask this: Would you agree that in 2006 a subsidiary of BHP paid \$100 million for access to a mining licence at Carooona?

Mr GALT: I do not know the answer to that question and I do not the detail. I will take it on notice.

The Hon. TREVOR KHAN: Would you agree that in about October 2008 Shenhua was granted an exploration licence by the Minister on the Liverpool Plains? Do you remember that, Mr Davies?

Mr DAVIES: Yes.

The Hon. TREVOR KHAN: Shenhua paid \$300 million for that licence. Do you remember that?

Mr DAVIES: I have no reason to disbelieve that; I know it paid a lot of money.

The Hon. TREVOR KHAN: Two major mining licence transactions netted, over a couple of years, the New South Wales Government \$400 million, or there about. Then we come to the Doyles Creek mine.

Mr DAVID SHOEBRIDGE: There was Ridgeland, was there not? There was \$95 million for the exploration licence [EL] for Ridgeland. Are you aware of the \$95 million for the Ridgeland exploration licence?

Mr GALT: No, I am not aware of that one.

Mr DAVIES: But again, we have no reason to disbelieve the numbers.

The Hon. TREVOR KHAN: Then we come to the Doyles Creek mine exercise where, contrary to what seemed to have been the developing practice by the then Government, Doyles Creek mine was issued with a mining licence on 24 December 2008 without making—

Mr DAVIES: It was 15 December.

Mr DAVID SHOEBRIDGE: I think it was issued on 15 December but the public was notified on Christmas Eve.

Mr DAVIES: There are a couple of things there. First of all, it is not a mining licence; it is an exploration licence.

The Hon. TREVOR KHAN: Thanks for the correction.

Mr DAVIES: It is a very important distinction. Second of all, there were three drill holes into the Doyles Creek tenement EL 7270 over 27 square kilometres. To give you some sort of idea of the size of a drill hole, it is no bigger than that. There were three drill holes over 27 square kilometres. There was not one tonne of resource that existed that could be reportable on that EL when that EL was granted in December.

Mr DAVID SHOEBRIDGE: But we have not got to the price yet. You jumped in advance of the price.

Mr DAVIES: Sure. I will get there. It is a bit like your analogy of a car. One minute you have a Rolls Royce or a Ferrari—which I assume the Shenhua and the BHP ones were, because the department had spent a lot

of money drilling and defining resources that were substantial. BHP and Shenhua obviously formed a view that it was economic to mine. They had to go through the planning approval process and go through all the various study tollgates, etcetera, but ultimately they had already identified that there were economic resources there to mine. That has real tangible value and you can do your discounted cash flow analysis, put some value on it and risk adjust it with different discount rates, etcetera. There was not one tonne of resource on the Doyles Creek ground. In fact, if you look at the neighbouring tenements, one was granted to Peabody only a few months prior to the granting of the Doyles Creek tenement.

As I understand it—and I was obviously not involved back then—that EL was on part of the ground that Doyles Creek was seeking. That was actually excised and directly allocated to Peabody with no big fee paid. If you look immediately across the river from Jerrys Plains to the other side of the Hunter River there is the Plashett tenement. Again, that was granted directly to Bloomfield Colliery. Direct grants are not unusual. When you look at Whitehaven Coal—which is on the Australian Securities Exchange and is a multi-billion dollar company—all but one of its assets over the years were issued through direct allocation with no huge up-front payments. Mr Shoebridge, you want me to answer the question of what the amount was, so I will pass over to Mr Lewis so I do not quote the wrong numbers as to what the total package was that Doyles Creek had committed to as a quid pro quo for being granted the licence.

The Hon. TREVOR KHAN: Were any of those tenements that referred to exploration licences for the purposes of developing a training mine?

Mr DAVIES: The Plashett and the one that was granted to Peabody?

The Hon. TREVOR KHAN: Yes.

Mr DAVIES: No, but they were not restricted. The EL 7270 had one very important restriction on it: any coal that was discovered on the ground could only be exploited through underground mining methods; you could not open pit it. Those restrictions were not applied to Plashett nor Peabody.

Mr DAVID SHOEBRIDGE: But those ELs were all for established, identified and operating mining companies; not a backdoor listed, just-announced, so-called training venture. They were all for established, identified, multinational mining companies.

Mr DAVIES: Of the two that I just mentioned, Peabody is a multinational mining company.

Mr DAVID SHOEBRIDGE: It is not my favourite, for the record, but nevertheless—

Mr DAVIES: It is the world's largest thermal coal producer.

Mr DAVID SHOEBRIDGE: It is quite distinct from a backdoor-listed—I do not know if it was being described as a training corporation at the time—entity with no experience in the market, such as DCM.

Mr DAVIES: Doyles Creek was a private company. Remember, it was NuCoal that was listed.

Mr LEWIS: The licence was actually granted to Doyles Creek Mining long before NuCoal was listed in a reverse listing.

Mr DAVID SHOEBRIDGE: The point is as good with a private corporation as it is with a listed corporation. In fact, it makes it a stronger point.

Mr DAVIES: If you look at Whitehaven, which I mentioned, and the Boggabri tenements and the Narrabri, tenements, they were all for a private company at that point in time. So they have been issued to-

The Hon. TREVOR KHAN: Were any of them for a training mine? You have got to accept that the exploration licence was issued unusually for the development of a training mine.

Mr LEWIS: I do not accept that.

The Hon. TREVOR KHAN: You do not?

Mr LEWIS: No.

Mr GALT: With respect, what does that matter? It was issued. The Minister issued it with conditions, and liability conditions, as I understood it. You could not open cut and you had to establish an ongoing, long-term training mine. Why is that an issue? The licence was issued by the Minister. Why do you need to know any more?

The Hon. TREVOR KHAN: Again, Mr Galt, I am not here to answer your questions.

Mr GALT: It was a rhetorical statement.

The Hon. TREVOR KHAN: The point is: Can you point to any other exploration licence for the development of a training mine?

Mr GALT: No, but plenty are issued for other reasons for State development—

The Hon. TREVOR KHAN: So your answer is no?

Mr GALT: There was clean coal. Moolarben was issued one for other reasons as well—market access. There is a whole raft of reasons over decades and the training mine was just another reason.

The Hon. TREVOR KHAN: Mr Lewis, are you aware of any other exploration licence for a training mine?

Mr LEWIS: No.

The Hon. TREVOR KHAN: Mr Davies?

Mr DAVIES: No.

Mr GALT: That is a good justification for having a mine, is it not?

Mr LEWIS: This was the first one.

The Hon. TREVOR KHAN: Indeed, it was the first one. And one of its proponents—at least of the training mine—was a former senior official of the Construction, Forestry, Maritime, Mining and Energy Union. Is that not right?

Mr LEWIS: Correct.

The Hon. TREVOR KHAN: Indeed. And whilst he was there as a proponent and developer at least during the early stages, he was taken off as a director at one stage, was he not?

Mr LEWIS: He was taken off as a director during the listing process.

The Hon. TREVOR KHAN: He was taken off as a director on 10 July.

Mr LEWIS: Which year?

The Hon. TREVOR KHAN: I am looking at a plaintiff's chronology for High Court proceedings developed by your company. It states, "10 July 2009".

Mr LEWIS: That is about when I went on to the board.

The Hon. TREVOR KHAN: Indeed. You went on to the board on 29 June 2009. Is that not right?

Mr LEWIS: Correct.

The Hon. TREVOR KHAN: And the reason the former Director was taken off as a director was because he smelt. Is that not right?

Mr LEWIS: I am not aware of that.

The Hon. TREVOR KHAN: Mr Lewis, you were getting ready to list and you got the former Director off because there was a smell to him.

Mr DAVID SHOEBRIDGE: Rather than putting it in those terms—you were a director at the time—why did the former Director cease to be a director?

Mr LEWIS: We did not need the former Director as a director anymore because I came onto the board with mining experience. There was no-one else on the Doyles Creek board, until I joined it, that had mining experience. The former Director was the closest to having mining experience. I joined the company as project manager and became the mining person.

Mr DAVID SHOEBRIDGE: That is your evidence on oath; that was the sole reason that the former Director ceased to be a director at the time?

Mr LEWIS: To the best of my knowledge at that time, yes.

The Hon. SCOTT FARLOW: And Mr Lewis, who made the determination that the former Director would leave the board?

Mr LEWIS: I honestly do not know.

The Hon. SCOTT FARLOW: Was it a decision by members of board?

Mr LEWIS: It would be.

The Hon. SCOTT FARLOW: Was it a decision by the former Director?

Mr LEWIS: It would have been but I cannot recall.

Mr DAVID SHOEBRIDGE: We have been a little distracted, Mr Lewis, because you were going to give us—

The CHAIR: Order!

Mr LEWIS: I think we might be going into an area—

The CHAIR: Order! I am mindful of a conversation that we had earlier in relation to how the proceedings are to be dealt with. I just remind members of the conversation. We may look to be a bit more general in some of our questioning rather than being very specific considering the discussion we had earlier. I just ask members to keep that in mind.

Mr DAVID SHOEBRIDGE: Mr Lewis, you were just about to tell us how much money was paid to the State Government by the company for the exploration licence. How much actual money was paid?

Mr LEWIS: Just over a million dollars was paid to the Government for historical drilling, as they call it. It was a fee of forty something thousand dollars and there was a contribution to the Newcastle university for a further million dollars over four years.

Mr DAVID SHOEBRIDGE: So pulling that together it is about two million and forty thousand dollars?

Mr LEWIS: Approximately, yes.

Mr DAVID SHOEBRIDGE: Ridglands was \$95 million, Shenhua was a couple of hundred million and this one was \$2.04 million, is that right?

Mr LEWIS: Yes, but you are talking chalk and cheese. From a mining perspective, you cannot compare those assets. It is like a Ferrari versus a Holden Commodore.

Mr DAVID SHOEBRIDGE: I did not think you liked the car analogy?

Mr LEWIS: I actually am a car buff so I did a different car analogy.

Mr DAVIES: It is like comparing BHP Billiton with a junior miner; one is capped at billions and the other one is capped at \$20 million.

Mr DAVID SHOEBRIDGE: Why don't we do a little time comparison? Mr Davies, you said the reason you thought it was \$2.04 million, so low, was because there were three drilling points, all this big, and that is all the data you had?

Mr DAVIES: That was what the Government had drilled on the tenement, as I understand it, yes, at the point in time when the licence was issued at the end of 2008.

Mr DAVID SHOEBRIDGE: So when was it valued at \$95 million?

Mr DAVIES: That was done at the float, which should have been February 2010.

Mr DAVID SHOEBRIDGE: And you had done a whole lot more exploration between that time and when it was valued at \$95 million?

Mr LEWIS: We had done more work on the project.

Mr DAVID SHOEBRIDGE: How many more drilling points?

Mr LEWIS: We started drilling in November 2009.

Mr DAVID SHOEBRIDGE: But it was valued at \$95 million before then;

Mr LEWIS: It was valued before the float.

Mr DAVID SHOEBRIDGE: The \$95 million was being floated around well before then, so how did it go from \$2.04 million to \$95 million without any additional drilling? As I said, this is not my area of expertise; I do not understand how such a huge increase happens.

Mr LEWIS: There were two drivers. There were studies done that provided a pathway to development and there were economic changes in the mining industry that changed coal prices. If you like, we have got an independent report we had prepared that shows the reason exactly to your question.

Mr GALT: We will take that on notice.

Mr LEWIS: We will take it on notice.

Mr GALT: And we will provide that to you.

Mr DAVID SHOEBRIDGE: Perhaps I did not understand Mr Davies' position, which was the reason for the low value was you only had these three drill points. You have not got any more. It has gone from \$2.04 million to \$95 million. You have not got any more drill points, you do not know any more about the resource.

Mr LEWIS: That is not correct.

Mr GALT: That is not correct.

Mr LEWIS: We will take it on notice and I will provide the report.

Mr DAVID SHOEBRIDGE: Do you see the difficulty I am having, though, in understanding how that happened?

Mr LEWIS: You need to read the report and understand the mining industry.

Mr DAVID SHOEBRIDGE: But you are here. Tell me? You are all here. This is your chance. Tell me?

Mr GALT: It is not something that you can put in two sentences.

Mr LEWIS: No, it is quite detailed.

Mr GALT: Read the report. We will take it on notice.

Mr DAVID SHOEBRIDGE: Take as long as you like?

Mr LEWIS: It is quite detailed.

The Hon. TREVOR KHAN: Mr Lewis, isn't it the case that a number of people gave evidence to ICAC and if we had access to the transcripts of the ICAC evidence, for instance that of Mr Chester, the uncle as opposed to the nephew, he could give us some assistance in his evidence as to how these figures were arrived at?

Mr LEWIS: I don't know. You would have to ask him.

The Hon. TREVOR KHAN: Well, NuCoal had senior counsel at ICAC, did they not, and NuCoal had access, in that sense, to the evidence that was being given by various people to ICAC, did they not?

Mr LEWIS: I sat through it every day, yes.

The Hon. TREVOR KHAN: Mr Chester gave evidence, didn't he?

Mr LEWIS: Yes.

The Hon. TREVOR KHAN: And he gave evidence that this whole exercise was, I think he used the term "speculative", did he not?

Mr LEWIS: I can't recall. If it is in the transcript that is what he said.

The Hon. TREVOR KHAN: And he was one involved in nominating a value of, I think, \$90 million or something for this speculative venture, was he not?

Mr LEWIS: I can't recall whether Michael did it or not.

The Hon. TREVOR KHAN: But if that is the evidence that Mr Chester gave, that would be a satisfactory basis for us to look, would it?

Mr LEWIS: Yes, I would have to agree with that.

Mr GALT: We will provide the report.

The Hon. TREVOR KHAN: Sure. Well, what I am suggesting to you, Mr Galt, is it is not only the report; people were cross-examined at length with regards to the background to nominating values and the like for Doyles Creek mine, isn't that right?

Mr LEWIS: And in the Supreme Court, which is a very interesting transcript to read as well under rules of evidence. It tells an interesting story.

Mr DAVID SHOEBRIDGE: I have got to say this, though. You buy it from the Government, from the people of New South Wales for a fraction over \$2 million and then eight months later it is valued at \$95 million or so. That is an extraordinarily unusual bargain at the expense of the New South Wales taxpayers, is it not?

Mr LEWIS: I disagree.

Mr DAVID SHOEBRIDGE: Why?

Mr LEWIS: As Mr Galt rightly said, that exploration licence came with a significant liability, which, at the time, was around \$30 million. At the time we did proper planning of the mine. The trading mine liability was in excess of \$70 million that it would cost to establish that as part of the ongoing operation. No other exploration licence ever had that.

Mr GALT: And then there was 5 per cent community contribution from the top line.

Mr LEWIS: Which was \$100 million over 20 years.

Mr GALT: Which was another \$100 million-odd over 20 years, 55-odd conditions needed to be read to see what the difference between an asset and liability is.

Mr DAVID SHOEBRIDGE: But all of that was taken into account when you valued it at \$95 million. It was \$95 million over and above all of what you have just said?

Mr GALT: Correct.

Mr DAVID SHOEBRIDGE: So that does not answer the question?

Mr LEWIS: We will provide the report because it does answer the question. It has been done at arm-length by an industry expert.

The Hon. ROD ROBERTS: Thank you, Chair. I will probably ask you, Mr Davies, this question, if you don't mind. We have had the analogy of buying a second-hand car and no guarantee of title. I do not want to lead you into an answer here but if I suggested to you that the car was being sold to you by the Minister of the Crown of New South Wales, what are your thoughts on that?

Mr DAVIES: I think that is a better analogy. If you are buying a fleet car that happens to be sold to you by the Minister for New South Wales then I would hope you have some confidence in the integrity of the Minister.

The Hon. ROD ROBERTS: In relation to the figure that Mr Shoebridge has talked about, that \$2.04 million—

Mr DAVID SHOEBRIDGE: It was Mr Lewis' figure.

The Hon. ROD ROBERTS: Mr Lewis' figure, sorry. I recall you bringing that to attention, but anyway, Mr Lewis' figure, who set that figure?

Mr LEWIS: The Government.

The Hon. ROD ROBERTS: The Government of New South Wales?

Mr LEWIS: Yes.

The Hon. ROD ROBERTS: A Minister of the Crown of New South Wales?

Mr LEWIS: Exactly.

The Hon. ROD ROBERTS: Just one other thing because I am very inexperienced in relation to mining. We hear this term "direct allocation" thrown about and I believe this particular exploration licence is a result of a direct allocation?

Mr LEWIS: That's correct.

The Hon. ROD ROBERTS: Are there other examples of direct allocations from a Minister of the Crown for exploration licences?

Mr LEWIS: In the O'Connor Marsden probity report that was issued in 2010, at the request of the Government it was investigated. There were 33 examples of previous direct allocations.

The Hon. ROD ROBERTS: So a direct allocation from a Minister of the Crown is not unusual on its own?

Mr LEWIS: Absolutely not. I have been involved in at least six.

Mr DAVID SHOEBRIDGE: When you are telling us about that report you will deal with the Clayton Utz report, won't you, that raised a whole series of quite significant concerns?

Mr LEWIS: The Clayton Utz report that recommended a special commission of inquiry to investigate as opposed to ICAC?

Mr DAVID SHOEBRIDGE: But the concerns raised in the Clayton Utz report, a whole series of detailed questions that they have—

Mr LEWIS: And they also offered a solution which wasn't taken up, which was a special commission of inquiry.

The Hon. TREVOR KHAN: Doyles Creek Mine, which is the company which eventually held the exploration licence made its submission to the Minister—this included the directors of the company that provided this—that, "Doyles Creek Mining Pty Ltd (and I will leave out part of it) had sufficient resources to undertake the development." That was untrue, was it not?

Mr LEWIS: Well, I was not a director at the time and I was not involved in what you are talking about. But that was brought up through the ICAC process and I think the answer is on the public record.

The Hon. TREVOR KHAN: It was untrue, was it not, Mr Lewis?

Mr LEWIS: You would have to read the public record.

Mr DAVID SHOEBRIDGE: Mr Lewis, you said the answer is on the public record. You said you attended every day of the inquiry. You were very intimately—I am certain—aware of what is in the ICAC report. It would really be helpful if you answered the question directly.

Mr LEWIS: I will take it on notice and I will come back in writing.

The Hon. TREVOR KHAN: Mr Lewis, I will put this; Doyle Creek Mining Pty Ltd—that is the company that ended up with the exploration licence—also submitted to the Minister that the primary focus of the company was the development of an underground training mine. The primary focus was the development of an underground training mine. That was also untrue, was it not?

Mr LEWIS: No, I do not think it was untrue.

Mr DAVID SHOEBRIDGE: Is that what your prospectus said? When NuCoal prepared its prospectus, did it say its primary goal was an underground training mine?

Mr LEWIS: You are talking about two different entities. One, you are talking about Doyles Creek, now you are talking about the NuCoal prospectus, and they are different.

Mr DAVID SHOEBRIDGE: I am talking about the two. It may be relevant for me to link the two. I am asking you, was that what NuCoal said in its prospectus?

Mr LEWIS: I cannot recall, but I can provide it.

Mr DAVID SHOEBRIDGE: You cannot, Mr Lewis? Seriously? You cannot recall what was in the prospectus that you gave some detailed evidence about earlier?

Mr LEWIS: It is over 100 pages long.

Mr DAVID SHOEBRIDGE: You cannot recall what the primary purpose of the entity NuCoal that you have come here to a parliamentary inquiry to ask about? You cannot recall what the primary purpose of the—

Mr LEWIS: NuCoal was going to develop—

Mr DAVID SHOEBRIDGE: Let me finish—

Mr LEWIS: —unrealised assets.

Mr DAVID SHOEBRIDGE: You cannot recall what the primary purpose of NuCoal was in its prospectus, that is your evidence under oath?

Mr LEWIS: I will take it on notice if you want that detail. You are talking about almost nine years ago. We listed in 2010.

Mr DAVID SHOEBRIDGE: Mr Lewis, if you did not prepare to come to this inquiry, if that is your evidence, you are not prepared—

The CHAIR: The witness has taken the question on notice.

Mr LEWIS: Exactly.

The CHAIR: Move on. We are running out of time. I have a question that I want to ask at the end, so keep that in mind.

The Hon. TREVOR KHAN: The proposal in terms of a training mine was to train 25 miners a year, was it not?

Mr LEWIS: In the original proposal.

The Hon. TREVOR KHAN: That is Mr Chester's evidence to ICAC, is it not, 25 a year?

Mr LEWIS: That is what was in the submission, I believe, to government.

The Hon. TREVOR KHAN: Well, I will get to that. The primary purpose of this development, was not the development of a training mine, was it? It was to make large amounts of money out of a commercial venture?

Mr LEWIS: The commercial mine had to be developed to support the training mine. You cannot build the training mine without the commercial mine. They financially did not stack up. That is evidence that has been provided previously.

The Hon. TREVOR KHAN: Mr Lewis, it stretches credibility to suggest that the primary focus, primary business objective was the development of a training mine, does it not?

Mr LEWIS: You are talking about something that predates me. I did not write any of this that you are talking about.

The Hon. TREVOR KHAN: We were talking about a car before, remember that? How you sort of end up getting the good with the bad? The answer is not to say: I was not there at the time. The entity was a company, Doyles Creek Mining Pty Ltd, which I am suggesting it could be concluded was committing a fraud on the people of New South Wales by proposing that the primary focus of its business operations was the development of an underground training mine.

Mr LEWIS: I think what you are talking about has been run through the Supreme Court in another case and there has been no such submission.

The Hon. TREVOR KHAN: With respect, Mr Lewis, I am asking you a question and asking you to either agree or disagree that it stretches the credulities to suggest that the primary focus of Doyles Creek Mine was the development of a training mine?

Mr LEWIS: At the time they wrote that, I believe that was their focus.

Mr DAVID SHOEBRIDGE: Why do you believe that?

Mr LEWIS: Because I know the history of how they intended to develop their training mine. That was what they were pushing for.

The Hon. TREVOR KHAN: Mr Lewis, could I suggest to you that Mr Chester, the former Director and others knew that if they got hold of an exploration licence that would add something in the order of \$100 million to the value of the company, the mere granting of the licence would add something in the order of \$100 million.

Mr LEWIS: Is that a question?

The Hon. TREVOR KHAN: Yes. You would agree with that, would you not?

Mr LEWIS: No. I do not know the answer to that. You would have to ask—

The Hon. TREVOR KHAN: Did you hear Mr Chester give evidence to that effect before ICAC?

Mr LEWIS: In 2013?

The Hon. TREVOR KHAN: Indeed.

Mr LEWIS: Six years ago?

The Hon. TREVOR KHAN: Around about April of 2013?

Mr DAVID SHOEBRIDGE: I assume these were important events in your life, Mr Lewis, which is why there is an expectation you will remember some of them.

The CHAIR: The members will have to wrap this up quickly. I am going to ask a question.

Mr LEWIS: It actually is a very important event in my life. I sat through the ICAC inquiry.

Mr DAVID SHOEBRIDGE: That is why we are asking you questions about it.

Mr LEWIS: I have been through subsequent Supreme Court cases, so I do know the detail. But at the end of all of that, no fraud has been proven in any court. End of story. So, I am not going to discuss or debate whether fraud was committed because it has not been proven in any jurisdiction.

Mr DAVID SHOEBRIDGE: That was not the Hon. Trevor Khan's question.

Mr LEWIS: I will take it on notice.

The Hon. ROD ROBERTS: Gentlemen, at any stage, in any properly convened court of law in New South Wales operating under the true rules of evidence, has any director, or previous director of NuCoal or their predecessor company, DCM, ever been convicted of any offence in relation to this licence?

Mr DAVIES: I think the only one who would have been, if the former Director was a director of Doyles Creek Mining Pty Ltd, then he was convicted. But that conviction was—again not being a lawyer—quashed or set aside, or whatever the appropriate terminology is. But nobody who was a director of NuCoal Resources Ltd has, I do not believe even been charged in a court of law. I think Chester was deemed corrupt by Commissioner Ipp but he did not recommend that the DPP pursue any case against him, and I think he said Poole, who was also a director of NuCoal in the early days, was corrupt. But again, the DPP, I assume, formed their own view that there was no case to answer.

The Hon. TREVOR KHAN: That is not the test, but you are close.

The CHAIR: I am mindful of time. If we are going to disclose how simple we are, I will do that at the start. I am a horticulturalist, so I am trying to simplify this as much as I can and cut to the chase. Bear with me if I am a bit clunky getting this out. Do we have a case of NuCoal is saying that because of the actions of the Government, their asset was devalued and therefore their shareholders missed out and they should receive compensation? That is number one. Again, fix up my wording. On the other hand, is there an argument to say NuCoal acquired shares in a company and therefore everything that goes with that, along with any liability, and therefore if the shareholders miss out should the shareholders then not be looking at the directors and the due diligence that was carried out from NuCoal to try to find out where they recoup their losses from? Are they the two schools of thought that we are talking about here? Clearly I am sure you can argue that you think it is in the first category that I am talking about there. Is that a simple way to cut to the chase as to where we are looking at today?

Mr LEWIS: I believe it is the first but there is a slight variance on it. We are here on behalf of the shareholders. That is the purpose. There are 3,000 of them. In our opinion they are innocent mum and dad shareholders. What we are after is a process. To date they have been denied any due process to have their case heard. That is all this bill proposes. Then it is up to an arbiter who can decide whether anything should come as a result of that process. We are not here with a hand out asking for compensation. We are here on behalf of those innocent people asking for their ability to have their day in court, so to speak, because it has been taken away from them for the last five years. That is this case in a nutshell, in my opinion.

Mr DAVIES: Yes. Absolutely I agree with what Mr Lewis said. All we are asking for is an independent arbiter and we suggested former High Court judge, Justice Ian Callinan, who is known to the current administration, I believe, and who is used extensively. He is also a highly experienced mediator in commercial litigation matters. I could not imagine anybody better to do the job. If he looked at this and said, "Actually, Davies, Galt and Glen Lewis, you're all a bunch of spivs. I suggest that the shareholders sue you lot." Well, that will be the outcome.

But we are sitting here today. What? Was the licence granted in 2008? NuCoal was floated in 2010. The licence was expropriated in 2014. I think the lawyers here would say we live in a pretty litigious environment if somebody was going to sue the directors through a class action. I think it would have happened a long time ago. In fact, former Premier O'Farrell actually defamed us collectively and we had commenced proceedings against him in the Supreme Court. Ultimately, he apologised. Even the Premier did not think that we had actually done anything wrong.

The CHAIR: Do you want to make any comments on the due diligence? Are you happy with the due diligence that was carried out? Everything, you believe—

Mr LEWIS: We did all required due diligence, as much as you could, for this type of purpose.

Mr GALT: You cannot walk in—

The CHAIR: I am sorry, it will have to be one person speaking at a time.

Mr GALT: You cannot walk in to the Minister and say, "Excuse me, can you please tell me again the thing you signed—

Mr LEWIS: Is legal.

Mr GALT: —is legal?" I mean, that just does not happen. That was the only thing we did not do.

The CHAIR: Okay.

Mr DAVIES: We had ASIC, the ASX, Mallesons—all did the due diligence, all approved the prospectus. If this really was something that had been corruptly granted, then that would have come out through that process.

The Hon. TREVOR KHAN: In that regard, could I ask this, Mr Lewis? Did you attend a community consultation meeting in around about July 2009?

Mr LEWIS: Yes.

The Hon. TREVOR KHAN: Just after becoming a director.

Mr LEWIS: Yes.

The Hon. TREVOR KHAN: That was pretty hot at that stage, was it not?

Mr LEWIS: What do you mean by "hot"?

The Hon. TREVOR KHAN: Well, the consultation with the community in the Doyles Creek area, Jerrys Plains, they were very concerned about the issue of this exploration licence, were they not?

Mr LEWIS: They were primarily concerned about the potential for mining development in their area, yes.

The Hon. TREVOR KHAN: Again, let me just go back. Just, with respect, answer the question. They were very concerned about this development, were they not?

Mr LEWIS: Development, yes.

The Hon. TREVOR KHAN: And they were concerned about the background to the granting of the licence, were they not?

Mr LEWIS: That was one of their concerns.

The Hon. TREVOR KHAN: They were concerned about who had been involved in the obtaining of the licence.

Mr LEWIS: Correct.

Mr DAVID SHOEBRIDGE: They very colourfully described what they saw as a pretence of a training mine at that meeting, did they not?

Mr LEWIS: Can you put that to me again?

Mr DAVID SHOEBRIDGE: They made it pretty bloody clear they thought the training mine was a ruse, a watch-my-hand exercise, so that someone could get a cheap exploration licence. They said it clearly at the meeting.

Mr LEWIS: Yes. I do not doubt that. It does not mean they were correct.

The Hon. TREVOR KHAN: In July of 2009, one of the directors of the Doyles Creek mine was aware of allegations of impropriety. Were you not?

Mr LEWIS: That is a ridiculous assumption to say that a community meeting with landholders that were upset about a potential mine development in their area—and you are talking about probably 15 or 16 people in a room—you cannot say that is the general concern of the public—

Mr DAVID SHOEBRIDGE: Was that in—

The CHAIR: One at a time.

Mr LEWIS: —in the area or in the State or in the country.

Mr DAVID SHOEBRIDGE: But that was not Mr Khan's proposition. His proposition was that you were on notice that more than one person, a number of people at that meeting, said that this exploration licence was dodgy.

Mr LEWIS: That is—

The Hon. GREG DONNELLY: Point of order: I think—

Mr DAVID SHOEBRIDGE: He can answer it.

The Hon. GREG DONNELLY: Hang on. Point of order.

Mr LEWIS: It does not deserve an answer.

The Hon. GREG DONNELLY: My understanding is that the Hon. Trevor Khan went a step further. We can read this in *Hansard* but if I understand what the Hon. Trevor Khan said, he indicated that not only that point that was just addressed but that Mr Lewis knew that. That is what I understand you said.

The Hon. TREVOR KHAN: Yes, yes. That is right, yes.

The Hon. GREG DONNELLY: So let us be very clear what people are having put to them and what people are putting back so that we do not get this all mixed up like porridge, okay? It has to be a proper exchange of answer and question or question and answer.

The Hon. WES FANG: Can I just ask him—

The Hon. TREVOR KHAN: No. Mr Lewis is entitled to—

The CHAIR: I will chair the meeting. Mr Lewis, if you would like to, respond, and then Mr Fang has a follow-up question. It is up to you. If you have finished your response, that is fine.

Mr LEWIS: All I just want to say is that I did not walk away from that meeting with the belief I was on notice that this thing was dodgy. Absolutely not.

The Hon. WES FANG: Acknowledging that you were at that meeting and you did hear those comments, I guess, about questionable parts of the issuing of a licence, what did you do with that information?

Mr LEWIS: We continued to deal with those landholders as far as trying to seek agreement.

The Hon. WES FANG: Did you seek any investigation? Do you seek any clarification?

Mr LEWIS: No.

The Hon. TREVOR KHAN: You see, Mr Lewis, you became a director in June of 2009 having previously worked for DCM. Is it right that you had previously worked for DCM?

Mr LEWIS: Only for a short period.

The Hon. TREVOR KHAN: Sure.

Mr LEWIS: Actually, that is not correct. I worked for ResCo, which was not DCM.

The Hon. TREVOR KHAN: On 29 June 2009, you become a director, yep? A director on 10 July—you will have to accept that I am working off dates that come from NuCoal's chronology to the High Court—one of the directors steps down, yep? Yep?

Mr LEWIS: I think we established that.

The Hon. TREVOR KHAN: Then on 28 July you attend the community consultation meeting where allegations are being put about the very director that has just left the board of DCM, yeah?

Mr LEWIS: Correct.

The Hon. GREG DONNELLY: Point of order: With the greatest respect, the Hon. Trevor Khan has identified himself as a local traffic cop.

The Hon. TREVOR KHAN: No—lawyer.

The Hon. GREG DONNELLY: Sorry, lawyer.

The Hon. TREVOR KHAN: The coppers would never had had me!

The Hon. GREG DONNELLY: I am not reflecting on any sworn officers of the NSW Police Force. What was the term you used?

The Hon. TREVOR KHAN: A traffic court lawyer.

The Hon. GREG DONNELLY: You are undertaking some pretty clear cross-examination, which you are entitled to do.

The Hon. TREVOR KHAN: Yep.

The Hon. GREG DONNELLY: You asked the question and you don't then go, "Yep." Okay? You have to provide Mr Lewis with an opportunity to be able to answer a question, so none of this "Yep", "Yep", "Yep", okay? This is not an inquisition. You can ask questions and allow the gentleman to understand the question, think about it and respond. So none of this "Yep", "Yep", stuff. Okay?

The Hon. TREVOR KHAN: Is that all right, Chair?

The CHAIR: No, no. I am pretty much at the end of—

The Hon. GREG DONNELLY: I am not comfortable with that.

The CHAIR: I am not going to say it again afterwards. We do this in a respectful manner, all right? We already have gone over time. I think it is worthwhile that we continue on with some of the questioning but the way that we do it needs to be respectful. Allow the witnesses an opportunity to provide their answers. I ask you to keep that in mind.

The Hon. TREVOR KHAN: Mr Lewis, do you want me to go over that chronology of those three events?

Mr LEWIS: Well, we may as well go back to the start, yes.

The Hon. TREVOR KHAN: You became a director on 29 June 2009.

Mr LEWIS: Yes.

The Hon. TREVOR KHAN: A director ceases to be a director on 10 July 2009.

Mr LEWIS: I will take that date as correct, based on what you are reading from.

The Hon. TREVOR KHAN: All right. On 28 July you attend a community consultation meeting.

Mr LEWIS: Correct.

The Hon. TREVOR KHAN: At that community consultation meeting, allegations are being made about the former director who has just left the board. Is that right?

Mr LEWIS: I am not sure. "Allegations": Can you be more specific? What were the direct allegations against that so-called director?

Mr DAVID SHOEBRIDGE: Mr Lewis, you were at the meeting. The question is broad, which allows you to answer it.

Mr LEWIS: I was at a meeting with a group of landholders that did not want a mining development in that area. It was a fairly heated meeting. They said a lot of things.

Mr DAVID SHOEBRIDGE: That is what you are being asked about, Mr Lewis. It would assist me if you answered Mr Khan's question.

Mr LEWIS: Could you ask the question again please?

The Hon. TREVOR KHAN: I have asked the question and you have chosen to answer in the way that you did.

The CHAIR: Any further questions? Mr Roberts?

The Hon. ROD ROBERTS: Mr Lewis, you said you were experienced in mining and that is why you were brought onto the board—40 years?

Mr LEWIS: Yes.

The Hon. ROD ROBERTS: In your experience, has any community anywhere welcomed with open arms the fact that a coal mine is going to be built in their area?

Mr LEWIS: Absolutely not. Certainly not in the last 20 years. That was the point I was trying to make about that community meeting: It was no different to others I have been to. People look for any reason—

The Hon. ROD ROBERTS: So it is not unusual to have community angst and displeasure about a mine proposed in an area?

Mr LEWIS: Absolutely correct.

The Hon. ROD ROBERTS: The same as an airport or a road extension?

Mr LEWIS: It was similar to any major development?

Mr DAVID SHOEBRIDGE: This one was different though, was it not? Because there were very clear allegations of impropriety, including some directed at one of your very recently ceased directors. That is what was different about that.

Mr LEWIS: Correct—unsubstantiated allegations.

Mr DAVID SHOEBRIDGE: And you made no efforts to investigate that at all afterwards?

Mr LEWIS: I did not believe that it warranted investigation. It has subsequently been investigated by numerous jurisdictions. And can I just say for the record that my credibility has never been brought into question in any proceeding I have been involved with, and I lived through the ICAC process. I would like that on the record.

The CHAIR: Absolutely.

Mr DAVIES: It is also worth saying on the record that there has been no impropriety proven in any court of law that has not subsequently been quashed. We seem to be attaching a lot of credence to a landowner saying there was some impropriety, which has never been proven 11 years on.

Mr DAVID SHOEBRIDGE: Mr Galt, when were you first involved with either DCM or ResCo?

Mr GALT: I have nothing to do with ResCo.

Mr DAVID SHOEBRIDGE: When were you first involved—what was the date?

Mr GALT: I have nothing to do with ResCo. I cannot give you a date. It was in the second half of 2009.

Mr DAVID SHOEBRIDGE: Did you ever look at the circumstances in which Mr Ransley acquired the land at Jerrys Creek?

Mr GALT: Sorry, which land are you talking about?

Mr DAVID SHOEBRIDGE: He purchased some of the land at Jerrys Creek that eventually fell within the Doyles Creek exploration licence? He was a front. He was actually purchasing it on behalf of DCM. Does that ring any bells?

Mr GALT: No.

Mr DAVID SHOEBRIDGE: You do not know anything at all about that?

Mr GALT: No.

Mr DAVID SHOEBRIDGE: You did not investigate that at all?

Mr GALT: No.

Mr DAVID SHOEBRIDGE: You did not look at the circumstances in which DCM acquired the land through Mr Ransley?

Mr GALT: No.

The CHAIR: I note that you have a number of post-it notes there. Is there anything you want to put on the record before we wrap up?

Mr LEWIS: I have a couple of things. There is no doubt that the mum and dad shareholders are innocent in this process. That has never been called into question. All we are asking for is access to a fair process to consider their case—end of story. That is all this is about. This is not about innocence or anything else.

The CHAIR: Is there anything else you would like to add while we have got you here? In my questioning earlier, I was trying to throw some balls up so that you could cut to the chase and put some of that evidence on record as well, other than what is in your submission. Is there anything else you want to say while we have got you here?

Mr GALT: I would just like to say that when we floated NuCoal all the requisite due diligence was done. We have elaborated on that in all the reports that you have read. No-one believed that any more had to be

done and so we proceeded with the float of the company. We absolutely to the letter of the law carried out the conditions of the EL. We had numerous audits by the department. There was a specific government report called the O'Connor Marsden report that looked into the allegations in 2010. There was nothing wrong as a result of that. To my knowledge it is still published on the website of the department as a definitive piece of work on that EL.

Mr DAVIES: It is on there; I checked this morning.

Mr GALT: I do not know what more I can say other than the government itself, after giving the licence, subsequently stamped the EL again and confirmed to all of the mums and dads that there was no problem investing in this company. So they did. Then they lost their money. We are here to ask for a process so that they can go about asking for some contribution and compensation.

The Hon. NIALL BLAIR: You mentioned a recent letter from the United States. Could you supply that to us as a question on notice?

Mr DAVIES: It has not been supplied to us. We have been told that the US trade representative has written directly to the Department of Foreign Affairs and Trade. Patricia Holmes is the appropriate officer there—she is the head of the legal section, I think, on the North American desk. I understand that Reverend the Hon. Fred Nile's staff may have attempted to get a copy of it and she has refused to provide it. She said it is confidential. But I think that at the beginning of the hearing Gordon outlined what we understand as the essence of it. The US trade representative wishes to have a resolution to this issue and sees that this bill may well be an elegant solution to that.

The CHAIR: If it is confidential how do you know about it?

Mr DAVIES: Because they told us they sent it.

The CHAIR: So they said they sent it but they will not tell you what is in it?

Mr DAVIES: They will not give us a copy—yes.

Mr DAVID SHOEBRIDGE: Who is "they"?

Mr DAVIES: The US trade representative.

Mr DAVID SHOEBRIDGE: Who? What is their name?

Mr DAVIES: Ambassador Lighthizer.

The Hon. GREG DONNELLY: Where is he located? Is he in the United States or Australia?

Mr DAVIES: He is the United States.

The Hon. GREG DONNELLY: Sorry, where is he located?

Mr LEWIS: He is in Washington in the United States.

Mr DAVIES: At the end of our submission there is a letter from him that was sent to Minister Ciobo seeking to trigger arbitration. It is the same.

The CHAIR: Okay. I am just curious.

Mr DAVIES: I have one last thing on due diligence, and I think it is mentioned in the submission. In May 2012 we signed a transaction with Mitsui Matsushima for a joint venture into the asset. The company was going to spend \$40 million to earn a 10 per cent interest—so a so-called farm-in arrangement. Mitsui Matsushima hired Blake Dawson Waldron, which is now Ashurst—one of the world's largest legal firms—to do the due diligence and it came to exactly the same outcome and exactly the same conclusion that we came to, that Mallesons came to, that the Australian Securities Exchange came to, that the Australian Securities and Investments Commission came to and that each individual shareholder who invested in NuCoal came to, which was that the licence had been validly issued. The only reason that transaction was not consummated was that Minister Hartcher refused to put his name on the licence because there was an ICAC hearing pending. Mitsui Matsushima is a very experienced coalmining company. It has been coalmining for 100 years and has been involved, just down the road in the Hunter Valley, with the Liddell mine as a joint-venture partner with Glencore for decades. It did not come down in the last shower of rain.

The CHAIR: Which is we need at the moment.

Mr DAVIES: Yes.

The CHAIR: Thank you for your time. I know you have taken a number of questions on notice. We have resolved that those answers be returned within 21 days. The secretariat will be in contact with you to facilitate those answers. Thank you for your time.

Mr DAVIES: Thank you.

(The witnesses withdrew.)

RODNEY PAUL DOYLE, Shareholder, sworn and examined

DARRELL JOHN LANTRY, Shareholder, sworn and examined

MICHELLE LANTRY, Shareholder, sworn and examined

Mr DOYLE: I am a father, grandfather and shareholder.

The CHAIR: I welcome our next witnesses. Before we start with questions, would any of you like to make an opening statement?

Mr DOYLE: Yes.

Mr LANTRY: Yes, I would too.

The CHAIR: We will start with you, Mr Doyle, and then Mr Lantry or Mrs Lantry.

Mr DOYLE: Firstly, I would just like to acknowledge the actions of Reverend the Hon. Fred Nile for putting the bill forward. It is greatly appreciated and I thank the Committee for the opportunity and the invite to present. I represent myself and my wife, Pauline, who unfortunately could not be here today. She actually has a long-awaited weekend with our two daughters so she will not be here obviously. She is the general manager at the Merringong Theatre in Wollongong. She has graduated from the University of Wollongong with an economics degree. I have also graduated from the University of Wollongong with a degree in science. My background is a coal geologist. I have had some 40 years in industry and various mines in the coal industry. Together we run a small self-managed superannuation fund of which NuCoal is part of our investments. Thank you.

Mr LANTRY: A number of questions were raised earlier with board members. I would like to read my statement. It will probably take about five minutes because I believe it actually covers some of those questions that you guys asked from the shareholders' perspective.

The CHAIR: Sure. That is what we are here for.

Mr LANTRY: So if you will give me that courtesy, I would appreciate it.

The CHAIR: Absolutely.

Mr LANTRY: Thank you. Firstly, to each you, we thank you for your time and the opportunity, and we pass our thanks on to the Hon. Fred Nile for raising the issue. We trust that you all gain an understanding of who we are as people today—true victims who have been treated with total disregard and in a disgraceful manner by the New South Wales Government. We believe this to be true, and I will elaborate why we believe that to be true. We trust that you support the amendment bill to correct the wrong, as Fred Nile has stated. We are Darrell and Michelle from Newcastle here today to represent ourselves. We are not representing the company, we are not representing some multinational fund manager or anyone, just ourselves, who you see as investors who held shares in NuCoal Resources. Let us not forget that we are also citizens of New South Wales. Therefore, one would think that we would have some legal rights, which I will get to in a second.

As I stated, we are not fund managers, we are not wealthy people; we are true mum and dad investors who are not seeking wealth but just an affordable lifestyle and financial security for our family, which any Australian family is entitled to. We had our son later in life so we made an investment in NuCoal, along with other shares. It was all about paying our house off, Michelle not having to go back to work and for me to retire early. I am 53 years of age and have had an interest in the share market since doing commerce at school, so I am quite familiar with the share market and I understand how the share market works. Through that, we had actually made an investment personally and like my colleague here, we actually have a self-managed fund but it is very, very small fry.

We would like to say that we knew the risk of investing in the market. This issue has nothing to do with the share market or the price of coal. This is purely a political issue which we have become collateral damage in. This was not about putting our house on the line on the last of the Dapto dogs. By all accounts NuCoal was a sound investment. We are not here today crying because we lost money—okay—on the share market, so please do not have that impression of us today, you guys and ladies. We had a valuable asset stolen from us by the New South Wales Government. That is how we perceive it and that is how we believe it. We wish you guys to understand that we have actually lost our capital investment, we have lost our potential earnings of that investment in potential increase in value and potential earnings; the gain in the value of the share.

We have been left with a massive debt to repay. We fell behind in our repayments so the banks started ringing us because what had happened was my wife wanted us to invest in property but I was, "No, no, no, the

share market", so we actually took out an investment loan against our house. There is nothing untoward here. It is just common practice. To get ourselves out of trouble when the bank started ringing we have borrowed money from our family to keep our house and we just live from payday to payday. I feel the guilt and the emotional stress that I have created for my family. There has been a great deal of noise surrounding this matter so let us just get to the facts.

It is not a criminal act to invest in the share market. NuCoal is a publicly listed company, not a private identity. The investment industry is based and is regulated by the Australian Securities and Investments Commission, company reports, the ASX and by government reports, which we believe to be true and correct. This is the foundation of the financial system. All investments are based on it. When I did my research NuCoal was recommended to us by many broking firms. One such report was from Morgans, which I have here today. Morgans stockbroking actually introduced us to NuCoal Resources. We did our research, we knew of the Marsden report. We actually invested after that. We did not invest at the time of the prospectus; we invested openly on the market. So we did our research; I knew of the Marsden report and there was no cause found. The issue of how the lease was granted had been dealt with as per a report from the New South Wales Government, so the Government had already examined whether there had been any foul play. It was stated to the public that no foul play was found. I think that is a really important point here for us as shareholders making investment.

So why did we make the investment in NuCoal? Well, I am a proud Australian and I am actually really excited to be a proud Novocastrian. Newcastle had this up-and-coming company NuCoal. I grew up in the Maitland area and I had seen the coal industry grow and be dominated by multinationals. Growing up in the Hunter I could see how multinationals were actually taking the benefit of our country. The company had a strong plan to develop several leases which were all based on Doyles Creek development. I do not know whether you guys have studied this but all but NuCoal did actually have other leases but they were not commercially sound to develop on their own so they needed Doyles Creek. The gentlemen behind me know a lot more about it than what I do but my understanding is there were three leases. They were going to put the infrastructure on one main lease and could actually proceed with the other mines, so there was a strong plan. All the other sites, as I said, were not commercial standalone projects so the quality asset was there of good quality coal.

The company had committed to the community by a training mine—the university in Newcastle and the rescue helicopter—strong experienced management team, overseas contracts in place, as stated here by the Morgan report. It had investors and partnerships in place. There was roughly around 98 per cent approval to start works. Therefore, all environmental issues and everything pretty much had been dealt with. It was a great story. We knew of the resistance and the opposition from the horse breeders in the Hunter. It is interesting that Barry O'Farrell is now the CEO of Racing Australia. We also know of the risk that the lease could be taken from us at any time as per the New South Wales Mining Act.

There is a process stated in the Act which needs to be undertaken. This was not the case with the cancellation of the Doyles Creek licence. I believe that we, as shareholders, had the right to believe that the Act, as it stood, was what we were actually investing in and we had that right if the lease should be taken from us. Let us just bear that in mind: That was actually taken from us, okay? ICAC's report, after everything that was spoken of earlier—and me in the background listening, okay—to me, personally, was going back over old ground. No disrespect: I understand your questions and I understand that the company is saying, "Compensation."

Whether corruption happened or did not happen, I do not know and it is not for me to say. However, what I will say is that ICAC in its report recommended a number of findings. One was the payment of compensation to innocent parties, innocent shareholders. The cancellation of the lease was the only recommendation that was acted on by the O'Farrell Government. There were a number of recommendations and I can talk about them as well, and you guys can challenge me if I have my information wrong because maybe I have, but I do not believe so. ICAC found no wrongdoing by NuCoal. I am sorry: I have gone a bit off track here at the moment. Stick with me for a second. Sorry, guys.

The CHAIR: No, it is all good.

Mr DAVID SHOEBRIDGE: Take your time, Mr Lantry.

The CHAIR: Mr Lantry, your evidence is vital, it is compelling and you are well prepared, so just take your time. We are willing to listen and bear with you.

Mr LANTRY: Thank you, Mr Chairman.

The Hon. GREG DONNELLY: Have a sip of water.

Mr LANTRY: Yes, thank you. I think you can all understand that, seriously, this has put Michelle and I through hell. We know of other shareholders as well. The perception has been that this is all the big end of

town—you know, the fund managers and so forth. I think there has been a perception there that has been carried through. We, as the average person, have been totally disregarded.

The CHAIR: To be clear, that is why you are here after your submissions. We get to choose who we ask to come along and you are now speaking on behalf of those other people. So please—

Mr LANTRY: Thank you, Mr Chairman: You are right because what has happened is we have not had a voice in any of this. I will get to that as well.

The CHAIR: Sure.

Mr LANTRY: It came up before about challenging the company or challenging the Government legally but we will get to that in a second, okay?

The CHAIR: Great.

Mr LANTRY: Note also that the only time NuCoal was engaged in the inquiry was asked if they had actually repurchased the lease. Now, I read every single transcript. Every day I would come home from work and I have actually read it because we had a major investment here, okay? That was the only time, so would you not think that there was some sort of security there, I suppose, if you like: Not a given, not 100 per cent, but you would think that had been some sort of dialogue or something going there with ICAC actually asking or the commissioner actually engaging NuCoal. I could be wrong once again. We have representation, or the company has, but that is my belief—that that was the only time that NuCoal was actually asked.

Barry O'Farrell is on public record stating NuCoal is an innocent party. He later gave a public apology to the directors of the company. Another finding or recommendation was the changed ministerial powers over the Minister's departments. At the same time while all this was going on I was reading *The Sydney Morning Herald* and at the same time Barry O'Farrell was introducing a bill to cancel the lease over the alleged corruption by the former mining Minister not going to public tender, but at the same time the O'Farrell Government was also approving a Crown casino complex without going to public tender, as reported by *The Sydney Morning Herald*—alleged to have used ministerial powers over seven times to gain approvals.

ICAC recommended to pay compensation to innocent shareholders so I would to ask you guys: What if we had invested in Crown casinos? If it had been found that that did not go to public tender, what happens with those shareholders? I will allude to that in a second. In October 2018, we met with eight parliamentarians from a cross-section of benches here at the State Parliament who all stated to us—all of them—that the bill was rushed through both Houses; that time had not been given to them to read the material correctly. One MP stated to us that the ink was not even dry on the paper and that he was called to the Chamber to vote. They also told us that not all the information was supplied. There no supporting documentation to say that ICAC had actually recommended to pay compensation to innocent shareholders.

The MPs knew nothing of the recommendation nor the reference to innocent parties made by ICAC. Now, hang on, we are trying to say we are looking for an independent review of this. We have actually already had it with ICAC. They have already done the independent review and they have said, "You need to pay these people compensation." I have to ask the question: Why was there a need for the bill to be rushed through so fast without the proper consultations? I do not know how many of you guys actually voted on it but I—

Mrs LANTRY: And missing information as well about the recommendations that ICAC made. The MPs were not told.

Mr LANTRY: Thank you Michelle. The bill denies us of challenging the Government as we have been denied all legal access as well. We have had no voice in this and all our rights have been taken from us including our assets with no sound grounds. We have written to the Government over the past five and a half years to seek response to our questions. The response from the Premier's Cabinet office is to seek legal advice. Well, I have got to ask: How is this possible? One, the structure of the bill does not allow this? A murderer in the State of New South Wales has access to the legal system. If he is found guilty, he can actually appeal, okay? So we have no cause there whatsoever as far as a legal stance. Okay, we can sue the directors. We actually went and sought a lawyer. There is no case because no corruption was found. We have not got a case. We are left high and dry. Do you guys realise this? Sorry, I am not supposed to ask the questions.

Mr DAVID SHOEBRIDGE: We will treat it as rhetorical.

Mr LANTRY: Thank you.

The Hon. TREVOR KHAN: We might be more tolerant if you are asking the questions.

Mr LANTRY: Thank you. I think you can feel my emotion.

The Hon. TREVOR KHAN: Yes.

Mr LANTRY: Seriously, it has created a huge strain on our relationship. Like, I have got an 80-year-old mum and, like, it has just created so much drama.

The CHAIR: Yes.

Mr LANTRY: We have been advised of the following numerous times in writing and in media statements by the current and previous Premiers—there have actually been three now—and the comment is, "This decision was not taken lightly." From our perspective, "You're joking, aren't you?" Why was it rushed through Parliament so fast? Seriously, how can anyone accept the comment when the above facts are examined? Just alone on the comments from the eight MPs that we met with, we deserve our right to access a fair and reasonable compensation. Hence we request that you support the amended bill and allow an independent body to address this matter?

The CHAIR: I am sorry, Mr Lantry, did you mean to say "the MPs" that you met?

Mr DAVID SHOEBRIDGE: "The eight MPs".

Mr LANTRY: The eight MPs.

The Hon. GREG DONNELLY: I am sorry: I just misheard you.

Mr LANTRY: Sorry. In closing, we would like to raise the following: As shareholders of NuCoal, if there had been any wrongdoing by the company for whatever reason, what about the shareholders who held bank shares of corruption within the financial organisations that have been in the royal commission of late, and the current allegations made against Crown casino? Are those shareholders also guilty and liable? This is a public company. All the data and everything was found to be correct. Now, if we go at it and we say, "Well, okay, maybe there was corruption"—I am not saying there was, but if there was, that person was employed by the State of New South Wales. Where is the case here?

Also the shareholders of BHP and other multinationals have been entitled and received compensation on the cancellation of their leases, such as Watermark, which you guys spoke about earlier. The Independent Commission Against Corruption—the independent commission—has already done a report on this. They said, "Pay compensation." We believe that you too will see this as morally right to support the amended bill. We were forced to sell our holding at a huge financial loss. We believe that the compensation must be directed to those who have held shares at the time of the bill being passed—the true victims. Michelle and I thank you for your support in us seeking justice to correct the wrong.

The CHAIR: Thank you, Mr Lantry. Mr Doyle, I might just kick off. We have had a pretty good explanation as to the information and the decision-making process that the Lantrys went through to decide to invest. I am curious if you would willing to share your decision-making process, also given your background and knowledge. What led you to invest in NuCoal? Do you want to add anything to what the Lantrys have provided?

Mr DOYLE: I guess my experience as a geologist and working in different mining companies. I had some 20 years working with BHP, about 10 with Shell, Anglo American, Aquila Resources, and currently I work for Hume Coal, which you would be aware of, Mr Chairman.

The CHAIR: I need to declare that I actually reside on that lease.

The Hon. TREVOR KHAN: Not so happy about it, either.

The CHAIR: I have made those normal declarations in the Parliament. Now that you raise it, I will just put that on the record there now.

Mr DOYLE: I come from a position where I really seek great value for our State—I am a very proud New South Welshman—in developing these resources that we have. I certainly see the coal resources of New South Wales as an asset that is a fundamental thing for this State. I feel to some extent that we have invested in the opportunity for a mine to be built and it has not come to fruition. Despite what Darrell said today about the personal losses, I would personally like to emphasise what the State has lost here. There is an opportunity for a very large mine site to be developed, with hundreds and hundreds of people employed, generating jobs. We brought our family up in Scone for about 10 years. They were little kids at the time. Time and time again the people that we are working with are just ordinary families in Australia trying to do the right thing, and here again we have a mine that could have been a similar sort of scenario to the one that I was working at then and currently the one I am trying to build in the Southern Highlands of New South Wales.

I have, on a number of occasions, invested in some pretty astonishingly bad things: Sons of Gwalia, which went belly up; Henry Walker Eltlin, a Western Australian contributor to building infrastructure and

construction, et cetera; they also went down the tube as well; NuCoal seems to have followed a similar path—all of these in our self-managed super fund. The aim of that, clearly, was to be responsible for our own futures into retirement, not having to rely on the Federal purse to actually fund with pensions, et cetera—so trying to be, I guess, responsible citizens and hopefully what this State wants to see; people developing, looking after themselves, contributing. I mentioned children earlier. We have three children. They are all adults. They are all contributing to society in wonderful ways. We are very proud of them, and we also have three glorious grandchildren. I hope they will also follow similar paths to contribute to society to see development take place, to be progressed and to build the State even greater than it is today.

If there is any piece of advice that I would offer to the State: We are not there begging for help. We just want you to get out of the way and stop putting the roadblocks there. We really need development to take off better than it is at current. There is no way we are going to meet the objectives of The Greens to get renewables in place if we do not have more in development to actually support those desires. There is no way that we are going to achieve those things if we do not start acting together to try to achieve those results. I hope that helps.

The CHAIR: What information or research did you do? We have heard the Lantry's had a report from Morgans and researched. Again, I am just curious as to why you decided to invest in NuCoal, other than what you have already mentioned about the fact that it is an opportunity, a new development, et cetera.

Mr DOYLE: Essentially, at the time I had spent '93 and up to 2002 working in the Hunter Valley. I am Wollongong born and bred, a member of that area, and this was 10 years in that environment to get to know the geology, understanding it. As a geologist working in the coalmines there, I fundamentally understood that the resources were there in the ground—hundreds and hundreds of millions of tonnes of coal that could contribute to our State into coal royalties back into the public purse to help pay for hospitals, et cetera. I do not know where we are going to be if we were to stop the clock on coal and what that would impact on our coal royalties. I was very familiar with the coal in the ground in the area and NuCoal was an opportunity from the ground up to see something built. I guess I would thoroughly emphasise the excitement around a new coalmine—a mine of any type—and the experience it has for the community.

Mr DAVID SHOEBRIDGE: Thank you all for your evidence today and for the frankness of it. Mr Lantry, part of your due diligence was looking at reports, like this Morgans report, before you invested?

Mr LANTRY: Yes. It was one of many.

Mr DAVID SHOEBRIDGE: Because you had been trading, interested in the share market—

Mr LANTRY: Since I was at school, yes, in commerce.

Mr DAVID SHOEBRIDGE: Did you read—I will just read you the relevant paragraph on page three of this report.

Mr LANTRY: The disclaimer?

Mr DAVID SHOEBRIDGE: Well, I will just read it to you. It is under the heading, ICAC Progress. You had this before you bought the shares—correct?

Mr LANTRY: I had bought the shares previous to that.

Mr DAVID SHOEBRIDGE: All right.

Mr LANTRY: Hang on, can I—

Mr DAVID SHOEBRIDGE: Let me just read it.

Mr LANTRY: Sorry.

Mr DAVID SHOEBRIDGE: "Unfortunately, there is not yet any clarity on when the ICAC hearings will commence. Resolution of the ICAC inquiry is the biggest driver of the stock. We still hold a firm view that NCR will be absolved of any further scrutiny by the reviewers. We detailed in our note from 29 November damage looks overdone. We still believe that current market pricing implies only a 30 per cent chance of retaining the Doyles Creek exploration licence."

Mr LANTRY: We had actually held the stock before that time though, so we had already had the investment.

Mr DAVID SHOEBRIDGE: You see, the report that you have given us shows us that the market was already—according to this, the best evidence I have seen—saying that they thought there was only a 30 per cent chance that they would hold onto the licence; a 70 per cent chance it would be cancelled. That is a super-speculative investment, Mr Lantry.

The CHAIR: Do you want to just read though the last sentence?

Mr DAVID SHOEBRIDGE: They say, "This looks far too low to us when considering the legal ramifications and the process behind NCR's formation." Were you having a punt?

The CHAIR: Okay. So do we take that that it is not 30 per cent if they are saying, although it is 30, the advisers are saying that is too low.

Mr DAVID SHOEBRIDGE: I am asking about—the market is often right. The market was implying a 30 per cent chance. Mitsui thought that was too low; it is worth a punt, and was that the kind of thinking?

Mr LANTRY: No, I disagree with that. You cannot say that was worth a punt. That is a multinational company that is not going to—as the board said earlier, they had actually done their due diligence before they actually did the arrangement. Have a look on the front page about what the target price was. We had actually bought the holding before that. What happens is we did not actually buy the shares based on that particular report, okay? As I have stated before the stock was introduced to us by Morgans originally.

Mr DAVID SHOEBRIDGE: I did ask you if you had this information when you bought the stocks and you initially said yes, but—

Mr LANTRY: Well, I am sorry: I misunderstood.

Mr DAVID SHOEBRIDGE: That is okay, Mr Lantry.

The CHAIR: Order! To be clear, I think Mr Lantry did correct that to say that no, he owned the shares prior to this report, to be fair.

Mr DAVID SHOEBRIDGE: Was there other information like this from Morgans that was being frank about the ICAC and the risk from ICAC?

Mr LANTRY: Yes, of course there was, but what happened was that holding was already held, so the issue here is that the—

The Hon. TREVOR KHAN: Sorry, Mr Lantry, you are different from the last witnesses, so I am not going to be rude to you.

Mr LANTRY: No, you are all right.

The CHAIR: You should not have been rude to the last witnesses, either. I will not accept anyone being rude to any witnesses.

The Hon. TREVOR KHAN: Can you just explain that? You sort of said it was already held shares. Can you explain what the process was?

Mr LANTRY: We had actually held the stock before ICAC hit the press. Okay?

Mr DAVID SHOEBRIDGE: When?

Mr LANTRY: I would have to come back to you about the dates.

The CHAIR: You can take that on notice.

Mr LANTRY: Yes, I can take it on notice. To be honest with you, we have come in here and totally exposed ourselves. As you probably know, we have been in the media as well.

Mr DAVID SHOEBRIDGE: I suppose, Mr Lantry, one of the key dates in my mind would be, was it after 23 November 2011 or before 23 November 2011?

The Hon. SCOTT FARLOW: If I could assist, perhaps. Mr Lantry, your submission says, at point 3, on 17 June 2010 you purchased 50,000 shares in NuCoal.

The Hon. TREVOR KHAN: No, that is Mr Doyle.

Mr LANTRY: No, that is not my submission.

The Hon. SCOTT FARLOW: Sorry, the wrong submission.

Mr DAVID SHOEBRIDGE: Mr Lantry, the reason I am asking is the matter was referred to ICAC on 23 November 2011.

The Hon. GREG DONNELLY: Point of order: We are dealing with, and I say this respectfully, laypeople. The Hon. Scott Farlow raised a point and Mr Lantry said something and then we cut across to Mr David

Shoebridge. I think we have to allow a person to be able to absorb the question and answer the question as best they can. If you cannot answer a question, you may take it on notice.

Mr DAVID SHOEBRIDGE: I am telling you why the dates are important to me, Mr Lantry, to give you context for the question. It was notorious by 23 November 2011, when both Houses of Parliament referred this issue to ICAC. It was notorious from that point, so I am wondering whether you acquired your shares before or after this huge amount of uncertainty was raised.

Mr LANTRY: No, they were acquired before. Let us make this clear that in the information that I sourced before I made that investment, ICAC was not even mentioned. We were working off the fact that the Marsden report had actually cleared any allegations. At the point when we made the investment, the deck was clear.

Mr DAVID SHOEBRIDGE: Mr Lantry, I might give you the chance to give us an answer on notice about what you knew about the ICAC report at the time.

Mr LANTRY: No disrespect, sir, but I can give it to you now.

Mr DAVID SHOEBRIDGE: Fine.

Mr LANTRY: There was nothing I knew about ICAC at the time because it was not mentioned.

Mr DAVID SHOEBRIDGE: Not mentioned at all.

Mr LANTRY: Was not mentioned at all, as I said to you. I knew of the Marsden report, because I did my homework on this. What has happened is there is a company in Newcastle, Bloomfield Colliery, that owns a number of collieries. They were a major stakeholder in this and I knew of the company. They have a major stake in the Newcastle coal loader. I believed this to be all above board. As I stated before: Were we expected to sell our holding? You are virtually saying to me that I should have sold our holding because the State Government thought there was corruption and they were going to go to ICAC.

Mr DAVID SHOEBRIDGE: I am just asking you questions, Mr Lantry. The Marsden report referenced ICAC.

Mr LANTRY: I am trying to understand why this is such a point.

Mr DAVID SHOEBRIDGE: If you were on notice—

Mr LANTRY: You are more or less implying to me that because it was being referred to ICAC, we should have just sold our holding because corruption was seen.

Mr LANTRY: Mr Lantry, I am just trying to find out if you were on notice about the concerns about the exploration licence at the time you bought your shares. It is a pretty simple question.

Mr LANTRY: No, I was not. That is the whole thing and I believe I answered you.

Mr DAVID SHOEBRIDGE: I thought you said you had read the Marsden report at the time.

Mr LANTRY: Yes, but I was referring to ICAC then. Are you referring to the Marsden report or to ICAC?

Mr DAVID SHOEBRIDGE: If you could tell me when you bought your shares and whether or not the issue of concerns about potential corruption for the explorations had been raised at the time you bought your shares.

The Hon. GREG DONNELLY: Point of order—

Mr LANTRY: When we got our first holding, no.

Mr DAVID SHOEBRIDGE: And when you bought your second holding?

Mr LANTRY: Look, I do not have the dates. I did not bring them with me, so I can come back to you.

Mr DAVID SHOEBRIDGE: That is fine. You said, Mr Doyle—

The Hon. GREG DONNELLY: Point of order, please: Mr Lantry and his wife have come here in good faith. They are doing the best they can in challenging circumstances to provide the frankest of answers with questions coming from various committee members. We are used to this; these people are not. With due respect, the position is a witness may take questions on notice so they can go away and read the transcript.

Mr DAVID SHOEBRIDGE: Mr Chair, I am not here to hear Mr Donnelly's evidence. If he has a point of order, he should make it clearly.

The Hon. GREG DONNELLY: I am getting to it. The witness can, in the cool of the day, read the question, understand it and then respond to it in some detail, which he does not have with him. That is the position. We understand this, but witnesses may not necessarily understand the process, so let us be clear.

Mr LANTRY: Can I make a statement?

The CHAIR: Before you do, Mr Lantry, can I say that I understand Mr Shoebridge trying to piece together a time line and I can understand the line of questioning. I also understand that the witness feels that the line of questioning is questioning his decisions and may be casting some sort of judgement. I do not think that is the case from Mr Shoebridge and I pick up the Deputy Chair's point. It will assist us if we understand time lines. Mr Lantry, you are not being questioned to pass any judgement or to question your decision-making process. If you feel that the questioning is an attack or you do not want to answer a question, just take the question on notice. You can come back to us or you can answer then and there.

Mr LANTRY: To be honest, I thought I had answered the question. As I said earlier, we bought personally and we bought in our self-managed fund. The original holdings were bought previous to any talk of ICAC at all, so that was not known. I would also like to raise the fact, as a shareholder, that I understand Mr Shoebridge's line of questioning on what we knew at the time and the risk actually involved—I get that—but what I would say to you is: Who was actually buying shares when the royal commission came out on the banks? In regard to your questioning, my argument would be: Is no-one going to buy bank shares because it is going before a royal commission at the moment?

The CHAIR: To paraphrase, your initial investment was done based of your local knowledge of companies that are already in existence and may be associated with the project. Any subsequent decisions, even if you were to take the advice of Morgans, the advice quite clearly is to buy. Taken into consideration all of the things when this document makes reference to ICAC, it is still recommending buy, but that is a risk and the risks are outlined. Perhaps we can debate around whether it is 30 per cent or not, but it is there. Clearly you invested early and then you made subsequent investments based on other information and the time line varies.

Mr LANTRY: Correct, because a standard practice investing in a share market is that you buy at a certain price and, if the price drops, you might buy some more. What happened was, as I stated, we did not actually put the house on a dog at Dapto. I will be honest with you that I feel a fool that I got so excited about this company. I was looking to try to find fault.

Mr DAVID SHOEBRIDGE: Mr Landry, if you can, the time frame of when you and your self-managed fund bought the shares and the amount of shares you bought—it would assist me if you could provide that on notice.

The Hon. TREVOR KHAN: Can I just ask a question, Mr Doyle. You bought in two tranches, is that right? One quite early on.

Mr DOYLE: We bought 50,000 shares on 22 June 2010.

The Hon. TREVOR KHAN: Yes, that is quite early on in this exercise.

Mr DOYLE: And 70,000 on 12 December 2013. So that was pretty much in the heat of all this.

The Hon. TREVOR KHAN: I did look at it before and in fact I have got it open. So, by the December—look, I am not asking this and Mr Lantry similarly with you, in terms of your personal decision-making. I suppose that if a recommendation is to be made to back Reverend the Hon. Fred Nile's bill, I am interested in who should be in the pot and who should not be. I am interested, from both of you in that sense, is it every person who invested after the shares were listed until today or is it some other group or some other more restricted period?

Mr LANTRY: To answer your question, our position has always been that it should have been shareholders who actually held shares at the time when the bill was passed.

The Hon. TREVOR KHAN: But people could have lost substantial monies before that, couldn't they?

Mr LANTRY: To be honest with you, in answer to your question, going back to Mr Shoebridge, I actually did sell down some personally because I saw it as a risk. So I sold holdings in my own personal name at a huge loss. What happened was that the bill was passed on 30 January 2014.

The Hon. TREVOR KHAN: You can accept that I voted for it so let us be quite clear about that.

Mr LANTRY: What happened was it was unanimous—it went through both Houses.

The Hon. TREVOR KHAN: It did.

Mr LANTRY: Of course. And that is the argument that I would put forward. I ask you the question of what you actually knew, what information you had at the time when you passed the bill?

The Hon. TREVOR KHAN: Can I just make the observation, notwithstanding what those eight said, the ICAC reports were tabled in Parliament and, if you took interest, you could at least read those. That is not a criticism of you, but I knew.

Mr LANTRY: They told us it was not in their brief.

Mr DAVID SHOEBRIDGE: It is a matter for MPs how much they actually read. A bunch of them do not even read the legislation, I am sorry.

Mr LANTRY: The thing here is, does it really matter when or what or this corruption. At the end of the day—

The Hon. TREVOR KHAN: No, that is not what I was asking.

Mr LANTRY: No I understand that. But why we are here today is to seek an independent arbitrator. That is what we are asking for you guys to support.

Mr DAVID SHOEBRIDGE: We have to set the rules of the game you see and I think that is what the Hon. Trevor Khan is asking about. Are there different rules once all the concerns about ICAC are in the public domain to before they are in the public domain, is that where we draw the line? You see, we have to set the rules of the game.

Mr LANTRY: Could I give a recommendation to the Committee on that?

The Hon. TREVOR KHAN: Sure, but before that, Mr Doyle you had two sets of purchases. One was very early on, you would have known nothing.

Mr DOYLE: Correct.

The Hon. TREVOR KHAN: I am not being critical, you would have known nothing in terms of these issues, I suspect, at that time—whatever else some other people may or may not have known. Your purchase in December 2013 fits into a different category?

Mr DOYLE: Different circumstances, absolutely.

The Hon. TREVOR KHAN: Do you have a view as to who should be in the pot, if there is to be a pot, and who is out?

Mr DOYLE: Sadly I am not Solomon to be able to divide this up.

Mr DAVID SHOEBRIDGE: You are not going to chop yourself in half, Mr Doyle?

Mr DOYLE: Certainly not.

The Hon. GREG DONNELLY: May I say, there are no Solomons around this table.

Mr DOYLE: I do not have a view on that, sorry.

Mr DAVID SHOEBRIDGE: Mr Doyle, when you bought your 70,000 shares on 9 December 2013, that was 2½ months after the initial ICAC findings of corruption. You were buying them on the punt that the final report would clear them, but the punt turned out to be a bad one.

Mr DOYLE: As my record would tend to indicate.

Mr DAVID SHOEBRIDGE: It was a punt.

Mr DOYLE: I thoroughly agree that it was speculative. I wanted that mine to be developed. My understanding of the Act—and I have a section here, which is the power of the Minister in relation to applications underneath the title of "granting an exploration license": The Minister, he or she has the right, after considering an application for an exploration license to grant it or refuse it. You can check that out yourself. That is their basic job in this matter—to consider it.

Mr DAVID SHOEBRIDGE: But do you see—

Mr DOYLE: And, if I may—

The CHAIR: I had indicated that I would give the call to the Hon. Wesley Fang next, so wrap this bit up—

Mr DAVID SHOEBRIDGE: I do not think Mr Doyle is finished.

Mr DOYLE: There has been a bit of talk about car thieves across the board here this morning and no-one has mentioned who they think the thief is.

The CHAIR: Let us just be very careful before you go down that path.

Mr DOYLE: If they are drawing analogies down that line, they should be game enough to state who they think the thief is. My calling of this was that the Minister, rightly or wrongly—I did not have the information, I was not Solomon or anybody else to make that judgement call on the Minister. How I interpreted the Act was simply the case that he was doing his job. You can speculate all the things in the world about whether he was or was not but he had the right to grant that license and so in my mind there has never been a car thief. The license has been appropriately delivered; it was always legal. Over the 10 years since ICAC has been going down the road, the only thing to unravel is the guilt and nuances of people who have been blamed for this or that. I have not seen anything further that makes this action stand stronger. I think it is falling apart and clearly we are here today to look at that in that light.

Mr DAVID SHOEBRIDGE: It is not our job to do a quasi-criminal investigation; that is not our job.

Mr DOYLE: You were the one who brought up the car thief.

Mr DAVID SHOEBRIDGE: I did not say car thief, I said buying and selling cars.

The Hon. SCOTT FARLOW: Just one quick point. Mr Lantry, you were about to make a submission before with respect to the Hon. Trevor Khan's line of questioning about who is in and who is out and you had something you wanted to put on the record. Could you just outline that for the Committee?

Mr LANTRY: Thank you for that opportunity. I believe that it should go back to shareholders, if there is compensation payment. Firstly, what I would ask is that MPs support the fact that it goes to an independent arbitrator and let them make the call so that it is not politically, or in any other way motivated. In relation to setting the rules I would like to see that it went back to shareholders who are on the register come 30 January, when the decision was actually made because that is when the value of the company dropped away. You are probably thinking what sort of litigation will the State have, because there were overseas investors and all this talk about free-trade agreements. To me, it is irrelevant. We are just trying to look after ourselves. But from the State's perspective I would have thought that would have been the time that you would do it because then you would take away any cause for anyone else to come into play. Therefore, you would cover the overseas issue as well.

The Hon. TREVOR KHAN: So, and again, I am asking for your opinion, because we have heard this term "mum and dad investors". How am I to define a mum and dad investor as opposed to somebody else?

Mr LANTRY: Look, I get that—

The Hon. TREVOR KHAN: I am not being critical, I am just asking for an opinion.

Mr LANTRY: Not at all. There have been other people who we know of, retirees—you guys got the submission from Ross Joice and we know him and his wife. Through us being public I have had other shareholders get in touch, so this has probably been the fight that we have had where we have had no voice because a little shareholder like us—it has been foreseen that it is just the managed funds, you know, that it is all caught up with Taurus and these multinational funds overseas. I can understand your line of thinking and where you are coming from and I understand that you are representing the State, so I do not have a problem with the questions you have asked.

The Hon. TREVOR KHAN: No, we are not. That is one thing you can be very comfortable about.

Mr LANTRY: Ok.

Mr DAVID SHOEBRIDGE: Very few people accuse me of representing the Government.

Mr LANTRY: What I meant was, the State as in we are citizens of New South Wales.

The Hon. WES FANG: I would just like to pose a couple of questions. I am playing devil's advocate at this stage. Mr Doyle, you obviously had an initial shareholding and then, Mr Lantry, you brought in this investment note, which is dated 31 May 2012. It is obviously raising questions about ICAC and whether there would be a chance of retaining the DoYLES Creek exploration licence. Mr Doyle, you then went on to increase your shareholding after that time one would presume, knowing the risks that are outlined in the document like this, but also knowing other shareholders would be looking to off-load their shareholding, given the risks that were identified.

My understanding of the share market, and I do not have a great understanding of it, is that price tends to vary with risk. Investors who may have bought in earlier were perhaps prepared to accept a loss after notes like

this are released in which case an investor like you might come in and scoop it up and then potentially make a lot of money later on, but then you also carry the risk that is identified here. When you went on to purchase your second lot of shareholdings, did you give any consideration to potentially selling your first lot instead and actually drawing out or getting out of the game, or do you accept that buying in after all the events of ICAC were publicised and it was a gamble and you were rolling the dice?

Mr DOYLE: I think I have already said I certainly regarded it as speculative. I certainly would like to make profits instead of losing the entire funds in terms of Sons of Gwalia and other shares; that is exactly right. There is one piece of information that I did not put in my submission, which was we did actually sell down 20,000 shares on the sixth of the first 2011.

Mr DAVID SHOEBRIDGE: That is how we get to the 100,000. That is how we square the 70 plus 50.

Mr DOYLE: The first purchase was at 22c. The shares had actually climbed to something like sixty-two and a half and I sold one-third of them, which actually covered the initial investment. What I was holding onto at that time was, effectively, nil debt.

The CHAIR: You had covered your investment.

Mr DOYLE: Exactly right. We still had a 30,000 share in that company and the potential mine. Three years later at an average price of five cents, we bought more shares to round it up to 100,000. Effectively—I have not done the sums, but—

The Hon. WES FANG: So the average price—

The CHAIR: Five cents.

The Hon. WES FANG: Five cents.

Mr DOYLE: Yes.

The Hon. WES FANG: Right.

Mr DOYLE: With—possibly misplaced—but certainly confidence I felt this was a mine that was going to go ahead.

The Hon. WES FANG: But there was certain volatility in the pricing at that time.

Mr DOYLE: Oh, absolutely.

The CHAIR: Which is the share market, yes.

Mr DOYLE: I do have a graph here that actually demonstrates that, if you would like to see it.

The Hon. ANTHONY D'ADAM: Yes. That would be very useful.

The Hon. WES FANG: I think you have already stated you did sell down some of your shares. What information did you have that led you to believe you wanted to hold onto those?

Mr LANTRY: I think we should highlight the fact that, with the share market, prices go up and down every day, okay—whether it be bank shares or speculative stocks. The other thing is that there are different types of investors, okay? That is why I would say that, if any money went back to the company as it stood today, there is a lot of spec shareholders presently at the moment off the punt of what is going to happen today. Let us be totally honest. That is not what we are here for, okay?

Mr DAVID SHOEBRIDGE: I wonder what Mitsui is saying about today's hearing.

Mr LANTRY: I beg your pardon?

Mr DAVID SHOEBRIDGE: I wonder what Mitsui is saying about today's hearing.

Mr LANTRY: Well, they walked away from the deal because things went off the rails, yeah? There are different types of investors, right? What happened was, for this, the investment for us was based on a secure investment. It was not a get-in, get-out in a short period of time. Sure, what is the share market for? It is there to make money. That is the reason for it.

The CHAIR: Yes.

Mr LANTRY: But from our perspective, we were not buying at any time NuCoal shares on a speculative nature. It was an investment.

The Hon. TREVOR KHAN: What sort of percentage of your overall portfolio was—

Mr LANTRY: Oh, you are really embarrassing me now.

The Hon. TREVOR KHAN: No, no.

Mr LANTRY: What has happened is—

The Hon. TREVOR KHAN: I am interested but you do not have to tell me.

Mr LANTRY: What happened is that I just got so excited about this company, okay? I kept trying to find fault because everything just added up. Like what has happened is the lease has actually had the quality of coal. Coal had gone to \$130 a tonne. They were talking about being able to get it out of the ground for \$60 to \$70. What happened was there was going to be one lot of infrastructure. They were actually going to have three coalmines feeding into that one infrastructure. With the Port of Newcastle, coal shipments were actually booked. Bloomfield was going to buy in; overseas investors; do not quote me on it but about 98 per cent of approvals were all through.

The Hon. TREVOR KHAN: All right. I get the flavour. I do not need—

Mr LANTRY: The expectation was that this was going to be a valuable company that the likes of BHP or someone would make a takeover for.

The CHAIR: So we can all agree, it is fair to say that this was not a night at the dish-lickers, right? This is the market. Early investments, we could say, were done because of the opportunity and the price reflected that. That opportunity increased because of the price increase of the shares and then as other information came any subsequent investment after that was also reflected in the share price, and that is when you could probably categorise any further investments as a speculative investment because of the issues that are bubbling around. That includes people who may have invested well and truly afterwards.

Mr LANTRY: I agree. Can I make a comment, which I think would clarify all this for everyone?

The CHAIR: Yes, and then we are going to questions from Mr Roberts.

Mr LANTRY: I feel that anyone who actually bought shares after the Government had actually passed the bill was probably buying speculatively.

The Hon. TREVOR KHAN: More than that.

Mr DAVID SHOEBRIDGE: Probably?

Mr LANTRY: Yes, well that is it, but you guys are asking where is the line in the sand.

The CHAIR: But that is also okay. This is also the market, right?

Mr LANTRY: Exactly.

The CHAIR: I want to make something very clear. It is not illegal to buy shares in a publicly listed company and the share price is reflected by the risk associated with that.

Mr DAVID SHOEBRIDGE: It is not illegal to have a punt.

The CHAIR: It is not a punt. It is actually not a punt. It is an investment and the risk is reflected in the price, and there is information available to make people aware of that risk. If I genuinely want to go to the punt, we will see you at Dapto on Thursday night. Right?

Mr LANTRY: And, look, on average we were probably 22 cents and 17 cents.

The Hon. ROD ROBERTS: I have just two questions. I am mindful of the time. One is for you, Mr Doyle. First of all, thank you for coming and giving evidence today.

Mr DOYLE: You are welcome.

The Hon. ROD ROBERTS: I would like to thank you for your frankness and your honesty in relation to your investments in Sons of Gwalia and I cannot remember the other company that went belly up, but I think, to use your own term, you said they went down the tube. But could you tell me this: Did they go down the tube because of government legislation?

Mr DOYLE: Not to my knowledge. My recollections of Sons of Gwalia was at the time they had terrible mining conditions in the underground mines. Gold was a bit of a problem at that time and they also had issues with their own hedge funding arrangements. They still went on to continue to mine but the company went bust.

The Hon. ROD ROBERTS: I direct my next question to Mr and Mrs Lantry. To you two, thank you very much for coming along today too.

Mr LANTRY: Thank you.

The Hon. ROD ROBERTS: I have a minute knowledge of the share market. I have dabbled and played and I too have lost money over time. I take it from your evidence—and correct me if I am wrong: I am not putting words in your mouth—that you understand that investing in shares has a risk component to it.

Mr LANTRY: Correct, and, as I stated earlier, we are not here crying because we lost money on the share market.

The Hon. ROD ROBERTS: I understand that. Tell me this: In your risk calculation though, has it ever been considered in your mind, in any of your investments let alone NuCoal, that government legislation might be enacted to just cancel that asset out completely without any form of compensation? In your knowledge of the share market, has that ever happened before? Is it something that you would ever contemplate happening?

Mr LANTRY: No, and I would like to add that part of the security, I suppose if you like, in making the investment was the fact that I knew of the Mining Act whereby a process would be undertaken, which was not the case.

The Hon. ROD ROBERTS: Thank you.

The CHAIR: Have you finished, Rod?

The Hon. ROD ROBERTS: Yes, thank you, Chair.

The Hon. SCOTT FARLOW: I am looking at your views with respect to compensation and what that amount would be. Thank you very much, Mr Doyle, for your graph; I have a similar one and I think there is no great deviation, showing a high of about 62 cents in the share price around 31 January 2011 and when the ICAC inquiry was announced on 31 October 2011, the share price was around 35 cents. Through the ICAC hearings it steadily decreased. From the graph I have, at the end of the ICAC report the issue price was around 7 or 8 cents. By the time the Parliament passed the licence cancellation Act, it was down at around 2 cents, from what I can see. What do you want to see the compensation being? What sort of sum total per share?

The CHAIR: This is interesting. Mr Lantry, I think you said that your expectation is not only the loss at the time but potential losses going forward. It is a good question to determine where expectations are. I am happy for you to take it on notice, if you want to put some thought into your answer. Going back to what Mr Khan said, if this does go forward, we need to work out who is in and who is out and the expectations for what people may be looking for as far as where to draw the line. I might add that we could have asked NuCoal earlier and we might put it to NuCoal in writing as a subsequent question to find out where people think the line should be drawn.

The Hon. TREVOR KHAN: Indeed, Mr Galt and Mr Lighthizer might like to consider, when they take it on notice, what the expectation is because—

Mr DAVID SHOEBRIDGE: They cannot answer that.

The Hon. TREVOR KHAN: I know, but they have talked about a letter. If we make a recommendation with regard to mum-and-dad investors, would that satisfy the Americans?

Mr DAVID SHOEBRIDGE: I doubt it would.

The CHAIR: Apologies for us having a conversation amongst ourselves, but this is relevant because we may be directing these questions to some others.

The Hon. SCOTT FARLOW: I would be happy for you to take it on notice, if you would like.

Mr DOYLE: I would prefer not to take it on notice, because I am not sure that I have the qualifications to give you some good advice. However, there was an error by Mr Khan—

The Hon. TREVOR KHAN: There often is.

Mr DOYLE: —this morning about the difference between a mining lease and an exploration licence, and that is chalk and cheese. For the value of a company like NuCoal to get up to 66 cents is not unusual; it might even get up to a dollar or thereabouts with an exploration licence. Once you have done all your homework, you have drilled all the holes and established the resource and done all the prefeasibility work and secured a mining licence, that would increase the value twofold or even fourfold and there would be ample people who would do this homework to establish exactly what the price should be.

The Hon. TREVOR KHAN: But, Mr Doyle, you do agree with the proposition that the mere granting of the exploration licence adds value to a company—just the mere granting of a licence—does it not?

Mr DOYLE: I honestly think you would have to look at what apples you are actually talking about. I do not think it is necessarily across the board and I imagine it would vary between metalliferous propositions versus coal. I think those would be quite different.

Mr DAVID SHOEBRIDGE: As I understand it, your answer to that question is that, when you were thinking compensation, you are not just thinking the loss in historic value of your shares; you also have an eye to what the potential could have been if the exploration licence had turned into a mining licence and it had all gone according to plan.

Mr DOYLE: I have been in this for the long term. We have been invested in those shares for 10 years.

Mr DAVID SHOEBRIDGE: So it is a multiple of your share value.

Mr DOYLE: When I invested in it, I wanted to see this mine development. In all honesty, that on its own would have been reward enough for me. What we have lost out of this issue is really not personally big bickies one way or another.

Mr DAVID SHOEBRIDGE: Could you answer my question then? Are you looking at the historical price for your shares—the acquisition price, if you like—or are you looking at your opportunity cost, which might be a fourfold or an eightfold multiple of that? What are you asking for?

Mr DOYLE: I am not looking in that light at all.

Mr DAVID SHOEBRIDGE: I have given you two.

Mr DOYLE: I understand where you are coming from and the questions you are asking, but I have not considered that. I am a beggar; I am here to support the idea of compensation and the fair rights that have been misplaced out of this whole operation. I am not necessarily asking for any money. However, compensation should be paid for the wrongs that were committed. My personal view, if I can put it on record, is that the mine licence, the exploration licence, should probably be given back to NuCoal.

Mr DAVID SHOEBRIDGE: Mr Lantry?

Mr LANTRY: I have a couple of thoughts on this. First, it is not really for us to decide; that is why it should go to the independent arbitrator. This is not the first time the Government has had to pay compensation or give money back to an organisation for a lease; it happened with the gas fields in northern New South Wales and it has happened with other coalmining companies we spoke of before, so I would think that there would be some sort of criteria that would have to be met. I do not think that any amount of compensation, as far as money is concerned, is going to cover the sleepless nights, the stress and arguments and whatever else it has created in our household. As far as the monetary aspect is concerned, we borrowed as an investment and therefore we are still carrying an interest rate of over 5 per cent. When we came here today we were only asking for you guys to support going to arbitration. I understand that you have to put the rules in place; I did not come here to say to you, "Hey". When I brought up the loss of earnings and so forth, I was trying to highlight the fact of how much pain this has actually caused us. From our perspective, I would be happy just to go with ICAC's ruling, at the time back in January, to compensate shareholders.

The CHAIR: I apologise for us running late and over time, but when we take the effort to get witnesses here, it is a lot better for us to ask extra questions rather than cutting the hearing short. Thank you for coming along. Thank you for being frank. Thank you for your submissions. Your evidence and your submissions help us in our deliberations. I can understand the frustration, the concern and the sweat equity as well as the emotional journey you have been on to get to this point. That is very hard to reflect in black and white in a committee report, but your story has made its way to the Committee members and we feel for the journey that you have been on.

Mr LANTRY: We thank you for that.

The CHAIR: Thank you for your time. I think you took some questions on notice. The secretariat will liaise with you to get your answers to us within 21 days. I would encourage you to read the transcript from today's hearing. If you think there is something that needs to be corrected because it has not been interpreted properly then you have the opportunity to clarify that as well. The transcript will be on the website soon and we will send you a copy of the transcript.

The Hon. GREG DONNELLY: That does not mean you can change what you said.

Mr LANTRY: Can I ask something? What is the process from today? How does this unfold?

The Hon. TREVOR KHAN: That is the mystery.

The CHAIR: The meeting will be closed in a moment. The Committee will then reflect on today's hearing, have a look at the *Hansard* and get the information from the questions that were taken on notice. The Committee will then continue to look at the issue to decide what other witnesses may be called if there are going to be further deliberations. Then the Committee will provide a report. At this stage our reporting date is the end of October leading into November. It is a moving feast and that is as much as I can give you.

Mr LANTRY: I appreciate that, because it gives me an idea.

The CHAIR: That was not giving you a politician's answer that is not an answer, but that is about as much as I can give you at the moment. I call the hearing to a close. I thank everyone for their attendance today.

(The witnesses withdrew.)

The Committee adjourned at 12:42.