

**IN-CAMERA TRANSCRIPT RESOLVED TO BE PUBLISHED BY THE  
COMMITTEE ON 25 OCTOBER 2013.**

## **PRIVILEGES COMMITTEE**

### **INQUIRY INTO THE 2009 MOUNT PENNY RETURN TO ORDER**

---

**At Sydney on Monday 16 September 2013**

---

**The Committee met in camera at 2.30 p.m.**

---

#### **PRESENT**

The Hon. T. Khan (Chair)

The Hon. J. Buckingham

The Hon. D. J. Clarke

The Hon. G. J. Donnelly (Deputy Chair)

The Hon. J. A. Gardiner

The Hon. M. R. Mason-Cox

Reverend the Hon. F. J. Nile

**CHAIR:** Welcome to this hearing of the Privileges Committee Inquiry into the 2009 Mount Penny Return to Order. My name is Trevor Khan and I am chair of this Committee. Before we commence the hearing I will address some procedural matters. The Committee is holding this session of the hearing in camera, which means that at no time will any media or members of the public be in the room. Indeed, I do not think there is anything outside the room to indicate that a hearing is being held.

The transcript of your evidence today will also be confidential. However, after reviewing the transcript the Committee may decide at a later date to make some or all of your evidence public. Normally, the Committee would do so in consultation with you and I can indicate it will be in consultation with you. The likelihood is that the proposal will be that some or all of your evidence be made public. We are holding this session in camera because that has been extended to other witnesses and, having set that precedent, it seems appropriate to maintain it and to at least give you the courtesy of there not being people behind you whilst we ask questions.

Witnesses who appear before parliamentary committees are protected by parliamentary privilege. This means that what is said cannot be used against you later in court proceedings. Our terms of reference require the Committee to inquire into and report on the failure to provide documents in the return to order tabled in the Legislative Council on 26 November 2009 concerning the Mount Penny mining exploration licence and tender process. This includes documents identified in the document comparison matrix provided by the Commissioner of the Independent Commission Against Corruption and tabled in the Legislative Council on 14 March 2013.

At the commencement of your evidence I will invite you to make a short opening statement if you wish. If you have copies that you could provide to members of the Committee that would be appreciated, but it is not obligatory. Members of the Committee will then ask questions. The Committee has resolved that any answers to questions taken on notice during the hearing must be provided within 21 days.

**RICHARD FREDERICK SHELDRAKE**, Director General, New South Wales Department of Primary Industries, affirmed and examined:

**CHAIR:** You may be aware that that document comparison matrix is up on the Privileges Committee website and you may have had access to it. I think you are nodding in the affirmative?

**Dr SHELDRAKE:** Yes, I have had access to it.

**CHAIR:** I will invite you to make an opening statement before we start taking questions. I just make the observation that if you have looked at any of the transcripts you might have seen that this Committee is somewhat unusual in that we are not holding strictly to time limits in respect of Government, Opposition and crossbench members. It is a bit more collaborative in that respect; whether that is good or bad we will see. Nevertheless, that is the way in which we will proceed. Obviously, if you do not understand a question or if you have a concern about a question you are entitled to raise the issue. It is now over to you if you would like to say something in opening.

**Dr SHELDRAKE:** Chair, I do not have an opening statement to make.

**Reverend the Hon. FRED NILE:** Thank you, Dr Sheldrake, for your attendance at our hearing. With regard to the creation of the Mount Penny tenement, the release of it out to tender, the extension of the expression of interest [EOI] process and the final awarding of the exploration licence can you explain your role and the level of your involvement in these matters as director general of your department?

**Dr SHELDRAKE:** My role was largely the oversighting of the agency. Details and the processes, if you have read the Independent Commission Against Corruption [ICAC] findings into Mount Penny, was effectively handled by the staff within the minerals area of the department. The preparation of all the maps, the tender processes and all of those processes were handled and developed by officers within the department.

**Reverend the Hon. FRED NILE:** Were they giving you progress reports? Is that the system you had in your office as director general?

**Dr SHELDRAKE:** There were briefings that I received. Again, as part of the ICAC investigation Jasper, those matters came forward. I cannot here at this point recall the dates of those briefings, but in the material that was provided to the ICAC the exact dates of when I was present as opposed to perhaps when the Minister received briefings have been well documented.

**Reverend the Hon. FRED NILE:** When you received notification of the Standing Order 52 call for documents on 13 November 2009, do you recall if it raised any concern on your part as to why Mount Penny would be the subject of an SO 52?

**Dr SHELDRAKE:** As I sit here now, I do not remember the details of the morning of 13 November. However, at that point in time I had no knowledge of the matters that have unfolded through the Independent Commission Against Corruption process. That is, until that time we treated it as an expression of interest with regard to the 11 small mine allotments that the department dealt with. The first time I became aware of the matters that came before the Independent Commission Against Corruption involving Mr Obeid and then a number of private mining companies was when that became public in May 2010. In answer to your question, I had no knowledge other than the expression of interest process that the department dealt with in 2008 and 2009.

**Reverend the Hon. FRED NILE:** But you were aware of the SO 52?

**Dr SHELDRAKE:** Yes, I was aware of the SO 52.

**Reverend the Hon. FRED NILE:** And it did not cause any reaction in your mind? Did you not wonder what it was all about?

**Dr SHELDRAKE:** I cannot recall the processes of 13 November 2009 in detail. The department would have treated it as an SO 52 request. However, I am aware that there was nothing untoward in that; we did

not believe it was anything more than a request to have papers prepared for the Parliament about the Mount Penny expression of interest process.

**Reverend the Hon. FRED NILE:** You never questioned why anyone would be interested in that particular matter?

**Dr SHELDRAKE:** I did not.

**Reverend the Hon. FRED NILE:** The documents returned in 2009 included a briefing paper prepared by Mr Mullard providing notes for the Minister to argue against the House agreeing to the SO 52 motion. Would such briefings have gone via you before being provided to the Minister?

**Dr SHELDRAKE:** I do not remember that happening. Having said that, if there were evidence that it had been signed off by me, it could have been. But, as I sit here now, I do not remember signing off on that briefing note in relation to the questions in the House.

**Reverend the Hon. FRED NILE:** Do you recall receiving or reviewing this briefing?

**Dr SHELDRAKE:** No, I do not.

**Reverend the Hon. FRED NILE:** Who or what area would have been responsible for monitoring events in Parliament, and who would have authorised the preparation of this briefing?

**Dr SHELDRAKE:** At that time the request would have come down through our ministerial liaison group, which is a process group. That group would have forwarded it to the mineral resources area asking it to prepare the detailed notes.

**CHAIR:** Was the mineral resources area Brad Mullard's section?

**Dr SHELDRAKE:** That would have been Brad Mullard's area. I would like to query the date. On what date was that House briefing prepared?

**CHAIR:** I can assist in that regard. Notice was given by the Hon. Duncan Gay on the Tuesday and the motion was dealt with and agreed to on Thursday 12 November. It is clear that the briefing note or the speech was prepared between the giving of notice on the Tuesday and the motion being agreed to on the Thursday; that is, the Government of the day did not take up the contents of the briefing note that was contained in the return of the call for papers. Does that make sense?

**Dr SHELDRAKE:** Yes, it does. I am not sure that I am familiar with the briefing note that was prepared. So, having said that the ministerial liaison group would have received the request, I would have understood that the mineral resources area would have been asked to prepare the response and it would have resubmitted it through the ministerial liaison group.

**CHAIR:** Further to that, do I take it that you were adopting what I think would have been the practice that the ministerial liaison officers would have gone straight to Brad Mullard in Maitland and not to William Hughes first or to Patricia Madden?

**Dr SHELDRAKE:** I cannot answer whether or not they did. I have recently become aware that Mr Mullard did not receive the request relating to the SO 52. I appreciate that now, but I did not in 2009.

**CHAIR:** But you would understand how incongruous it seems when virtually every witness who has appeared before the Committee, including Mr Mullard, would have assumed that you would go to Mr Mullard in respect of an SO 52?

**Dr SHELDRAKE:** There are perhaps some reasons for that. The time frame that was afforded the department was effectively a week—from 13 to 19 November. There was a delay—and, again, I have seen that recently—and it was forwarded to Deputy Director General Mark Duffy who, under normal circumstances, I think would have normally forwarded that on to Brad Mullard. That didn't happen; it did go to Mr Hughes. I think perhaps if the time frame had not been so tight—with the delay that occurred in the papers going out it effectively afforded only one day for that to be forwarded on by Mr Duffy had he wanted to. So I think if there

had been a longer time period it may well have ended up going from Mark Duffy to Brad Mullard, but that didn't happen.

**CHAIR:** The letter from the Department of Premier and Cabinet comes to your office, is that correct?

**Dr SHELDRAKE:** Yes, that is correct.

**CHAIR:** The corporate mind of your office would be, would it not, that the go-to man in matters such as this is Brad Mullard in Maitland?

**Dr SHELDRAKE:** Brad Mullard was responsible for mineral resources. He would have been the person who I would have thought would prepare material in response to a standing order 52 in relation to this matter. It was forwarded on to Mark Duffy and there perhaps was an expectation that Mr Duffy might have forwarded it to Mr Mullard, but I think in the time frame that was there it didn't happen.

**CHAIR:** In terms of the release of these coal allocation areas you in fact attended meetings with the Minister, did you not?

**Dr SHELDRAKE:** I did.

**CHAIR:** For instance, one of the documents that forms part of the document matrix is an email from Brad Mullard to you dated 16 June 2008 "containing information for the meeting as requested"?

**Dr SHELDRAKE:** Yes.

**CHAIR:** So Brad Mullard was providing information to you relevant, amongst other areas, to Mount Penny that you used for the purpose of meetings with Minister Macdonald?

**Dr SHELDRAKE:** That is correct.

**Reverend the Hon. FRED NILE:** You have mentioned "the delay" a couple of times, so that becomes the excuse. Do you know why there was a delay?

**Dr SHELDRAKE:** No, I don't.

**Reverend the Hon. FRED NILE:** Have you ever worked out why there was a delay?

**Dr SHELDRAKE:** No, I don't know why there was a delay and, as I have said, I think that delay had a bearing on perhaps the material was then subsequently handled within the agency. I think the agency then was endeavouring to meet the Standing Order 52 timeline and, as you have noted, Mr Hughes was requested to provide information but Mr Mullard was not. In hindsight, it would have been beneficial if Mr Mullard had had input.

**Reverend the Hon. FRED NILE:** As the Director General of the department would you not have made it your job to look over what the Minister was going to say in case he may have even accidentally been misleading the House, particularly when dealing with a sensitive issue?

**Dr SHELDRAKE:** I did see some of the material on occasions. I cannot remember the document that you are referring to here specifically and I cannot remember whether I saw it. But both Mark Duffy and Brad Mullard were exceptionally experienced—Deputy Director General and Director, Mineral Resources. Brad Mullard had had something like 30 years in mineral resource management. Mark Duffy had been Director General of two departments before he joined the Department of Primary Industries as Deputy Director General. Not only in the minerals area but also in other areas, I had confidence in people with that expertise and that seniority. So, in answer to your question, I did not see that sort of material on all occasions.

**The Hon. JEREMY BUCKINGHAM:** I am trying to build an understanding of the chain of command, as it were, in the department and how this SO 52 was handled. There seems to be an inconsistency in what the Committee has heard in that regard. Your belief is that the letter requiring the department to respond was forwarded from your office by Mr Anquetil to Mr Duffy?

**Dr SHELDRAKE:** My understanding is—and I notice you have the Maddocks report there; I have also seen the document—it went from Mr Taylor to Mr Duffy and also to Mr Hughes and I think a number of other officers.

**The Hon. JEREMY BUCKINGHAM:** It went from Mr Anquetil to Mr Taylor and then from Mr Taylor to Mr Duffy and Mr Hughes. So Mr Taylor was not getting advice from Mr Duffy as to whom to send it to; he was getting advice from Mr Anquetil?

**Dr SHELDRAKE:** I am not sure whether he got the advice from Mr Anquetil or not. Mr Taylor and Mr Anquetil would have discussed it. Mr Hughes was on the same floor in the building in Park Street and Mr Duffy was in the adjacent building. How the process of who decided to send it to Mr Duffy and then who to cc it to, I can't exactly answer that question.

**The Hon. JEREMY BUCKINGHAM:** It is a critical question. Clearly the contention is that Mr Mullard was never requested. You are suggesting that it was Mr Duffy's responsibility to direct Mr Taylor to source information from Mr Mullard but in actual fact it appears that it was Mr Anquetil who was taking on that role.

**Dr SHELDRAKE:** I think what I would suggest is that in the normal chain of command if Mr Duffy was asked to provide material he would normally have sought advice from Mr Mullard—that is what Mr Duffy would normally have done. What I am suggesting here is that given the time frame that was then in place on Thursday 19—I do not know what Mr Duffy was doing on Thursday 19, but he was probably busy—he did not then forward it on to Mr Mullard asking for advice. In hindsight it would have been helpful if in the first instance it had been cc'd not only to Mr Hughes but also to Mr Mullard; that did not happen.

**CHAIR:** Mr Sheldrake, we are in the position, are we not, where we are in a sense rehashing some of the evidence that, for instance, Mr Paterson did; that is, you are reconstructing what may or may not have happened—and I am not being critical of you—in terms of how we got ourselves in the position that we are all in now. But let me put this to you as the alternative: When one of these calls for papers come in, it ends up with Premier and Cabinet, does it not?

**Dr SHELDRAKE:** That is correct.

**CHAIR:** And they distribute the advice with regards to the call for papers under the letter such as the one you received. Is that right?

**Dr SHELDRAKE:** This is correct.

**CHAIR:** And it places upon you the obligation to respond to that call for papers, does it not?

**Dr SHELDRAKE:** That is correct.

**CHAIR:** You would have treated a call for papers as being a matter of some seriousness. Is that right?

**Dr SHELDRAKE:** Yes, yes.

**CHAIR:** Whether you became aware of it at the time when it was received in your office or when it comes back.

**Dr SHELDRAKE:** That is absolutely correct.

**CHAIR:** So we are dealing with an important document that needs to be responded to for a whole variety of reasons, including the politics of mucking it up. Would that be right?

**Dr SHELDRAKE:** Yes, that is right.

**The Hon. MATTHEW MASON-COX:** In a limited time period.

**CHAIR:** In a limited time period. What you then do, or your office then does, is distribute it to the people that you think are appropriate to respond to that call for papers. Is that right?

**Dr SHELDRAKE:** Correct.

**CHAIR:** Once your department has gathered the information it comes back to you. Is that right?

**Dr SHELDRAKE:** Correct.

**CHAIR:** Looking at it from the position of Premier and Cabinet, or the Government as a whole, the fail-safe on ensuring that there has been an appropriate answer to the call for papers is that you have to certify that to the best of your knowledge—or similar words—information and belief, there has been a proper return to the call for papers. Is that not right?

**Dr SHELDRAKE:** That is also correct.

**CHAIR:** You know where I am going. You see, we do not have to speculate about this part of it because we are now going to talk about you. You got a return to a call for papers, including a list of documents and a bundle of documents, did you not?

**Dr SHELDRAKE:** Yes.

**CHAIR:** Tell us what you did.

**Dr SHELDRAKE:** Well, I, as you know, have signed the letter to counsel for Premier and Cabinet.

**CHAIR:** So you signed it.

**Dr SHELDRAKE:** I did.

**CHAIR:** Good. What else did you do?

**Dr SHELDRAKE:** I think—and again, sitting here now I cannot remember on the morning that I signed that letter, or the afternoon that I signed that letter, that occasion; but I would have in most likelihood discussed it with Mr Anquitel and signed the letter to Premier and Cabinet.

**CHAIR:** All right. I went back earlier and made reference to the fact that you had received an email that included some documents relevant to a meeting that you were going to have with the Minister. Is that right? Indeed, I referred to that as being an email of 16 June 2008, to which the documents were attached. At the time when you received the letter to certify, you knew that you had been in a meeting with the Minister, did you not?

**Dr SHELDRAKE:** As the evidence shows, I attended that meeting and that was part of the Independent Commission Against Corruption [ICAC] proceedings.

**CHAIR:** And indeed you received a number of other emails and indeed even initiated emails regarding the Mount Penny issue.

**Dr SHELDRAKE:** Yes.

**CHAIR:** The allocation of these.

**Dr SHELDRAKE:** Yes, yes.

**CHAIR:** Can I put this to you: When you come to certify one of these things, one of the things that you personally would be concerned to do is to comply with it in terms of documents that you have either received or documents that you have initiated, would you not?

**Dr SHELDRAKE:** In signing the letter that I signed indicating that the material had been provided, I accepted that I had confidence in people who had assisted in compiling that material. So I did not go through the material that was provided and look to see if it coincided with meetings that I had, or it aligned with my diary, or there were emails present.

**CHAIR:** You see, not only was there an obligation on, for instance, whether it be Mr Duffy or other people in the department to produce documents, but some of these documents were actually your documents, were they not? They were emails initiated by you or documents received; that is, they were actually, could I suggest, in your possession.

**Dr SHELDRAKE:** With respect to the emails, and I have seen some of the transcripts—

**CHAIR:** Yes, I am sure.

**Dr SHELDRAKE:** —I think in hindsight I think clearly we should have, as part of Standing Order 52, provided that material. But I think in 2009 the way the Standing Order 52 was worded, although at the beginning of the wording it does say "all documents", the reference is very much around the provision of material associated with the Mount Penny expression of interest process. I do not think in 2009 I or the staff in the department who assisted in compiling the package thought of the need to search for emails. Now, I guess I will contrast that with the way the Independent Commission Against Corruption [ICAC]—

**CHAIR:** Can I just interrupt you there and say that some of your officers from your department who have given evidence are clearly at odds with you on that, and some of the officers who have not given evidence but have given evidence to Maddocks are clearly at odds with you in that regard. I think what you are able to say is, could I suggest respectfully, what your position was, and I do not think actually you can take a corporate view because even senior officers of the department—

**Dr SHELDRAKE:** I accept that.

**CHAIR:** —do not accept that proposition.

**Dr SHELDRAKE:** I accept that, Chair. But I was going to say that I think now we, or I, appreciate that those emails should have been provided but I, in 2009, was not aware of the need to provide those documents. I think that the investigation that the Independent Commission Against Corruption has conducted shows that some of those emails have a link and a relevance to the matters that came out in Jasper.

**The Hon. JEREMY BUCKINGHAM:** Thank you, Chair. Is it your understanding that a draft response would be sent from your office to a ministerial office before being signed off to Premier and Cabinet? Was that the normal practice?

**Dr SHELDRAKE:** I am not aware that that occurred or was intended to occur.

**The Hon. JEREMY BUCKINGHAM:** Would you be surprised if that had occurred—that a draft response was forwarded on to the Minister's office? Was that normal process?

**Dr SHELDRAKE:** I do not recall that that would be normal process, and I was certainly not aware that a draft preparation of the letter was forwarded to the Minister's office.

**The Hon. JEREMY BUCKINGHAM:** You would be surprised if that had occurred.

**Dr SHELDRAKE:** Yes.

**The Hon. JEREMY BUCKINGHAM:** Did you have any discussions in regards to it with the Minister's office at the time that the draft response to the S O 52 was being prepared?

**Dr SHELDRAKE:** I have no memory of having any discussion with the Minister's office about the Standing Order 52.

**The Hon. JEREMY BUCKINGHAM:** In terms of what the Chair was saying, when you came to sign the letter that says to the best of your knowledge this is a complete return, you did not review the documents at all?

**Dr SHELDRAKE:** That is correct.



**The Hon. JEREMY BUCKINGHAM:** You did not take an interest in it? You just looked at the cover letter and said, "I will sign this"?

**Dr SHELDRAKE:** I did not look at the material and I think, as I said—

**CHAIR:** Let us be clear: Did you look at the list of documents?

**Dr SHELDRAKE:** No, I do not recall, as I sit here now, looking at the list of documents.

**Reverend the Hon. FRED NILE:** Were you aware there were no emails included?

**Dr SHELDRAKE:** I am now aware but I do not believe at the time that I was aware that there were no emails included. But yes, that is correct.

**The Hon. MATTHEW MASON-COX:** At the time did you think emails were documents within the purview of the Standing Order 52?

**Dr SHELDRAKE:** In answering the Chair's question previously, I think that at the time my view was to focus on the presentation of documents that were relevant to the expression of interest process. I would not have thought to immediately consider searching for emails that might have been relevant to the Mount Penny expression of interest process.

**CHAIR:** I am a little confused by that answer. Does that mean you would include certain emails but not others?

**Dr SHELDRAKE:** No sorry, I was not trying to be clever.

**CHAIR:** I know you are not, so do not take it that way.

**Dr SHELDRAKE:** My reading of Standing Order 52 in 2009 would have been to search for documents and I would not have immediately thought for emails.

**CHAIR:** To me, that is a very worrisome proposition in 2009. We are not talking about 1984. I would have thought that with the vast bulk of the communications going on in your department, taking into account that it was split between Maitland, Sydney and Orange, the internal communications that went on, putting aside phone calls, would have been by way of emails. Indeed, we have seen in this case that briefs were being prepared and transmitted electronically, attached to emails. So if we take your proposition it would mean that virtually the bulk of documentation would be excluded.

**Dr SHELDRAKE:** The largest number of emails that were not provided through the Standing Order 52 process but were provided to the Independent Commission Against Corruption were email interchanges. Some emails were detailed documents with attachments and most of those attachments would have been provided elsewhere but—

**CHAIR:** Well, they were not. For instance, the briefs to the Minister were not.

**Dr SHELDRAKE:** I notice that two of those briefs were not provided. I think though that, as I have said before, the lack of specificity around the wording of the Standing Order 52 probably resulted, in some people's minds, in the need not to search for emails. The ICAC, in seeking material from the department, makes it really, really clear the sort of material it is after. If you have had a chance to look at some of its requests for material from the department, it usually attaches a schedule—the schedule can go from one paragraph to a number of pages—and it specifies whether it wants emails, documents, correspondence, et cetera. So it is very clear and it is a really good reminder to the staff who are preparing that for the ICAC, or in this case the Standing Order 52 request, the sort of material that is being sought.

**CHAIR:** I have some sympathy for that view but, Dr Sheldrake, when it came to you, that is the response. If we take your evidence on face value what you did was sign a letter. You have no recollection of even looking at the list of documents; that is, applying your mind as to whether there had been an appropriate response to the return?

**Dr SHELDRAKE:** And I do not recall and I am answering your question honestly.

**CHAIR:** I know that and absolutely accept it. But it raises a concern that your certification meant little to nothing.

**Dr SHELDRAKE:** In the position of director general, I sign off on a lot of material. In the 2009 period it was over 2,000 documents a year. I have confidence in my deputy directors general and the senior management team that reported to me. In this case I did not search through the volume of material and I did sign off on that correspondence, as you have suggested.

**CHAIR:** Dr Sheldrake, I will be clear. From my position—I cannot say what the position of the others would be—I do not think that people would have expected the director general of a department to be searching through boxes of documents. But we have not got to that stage. What I have been trying to elicit is whether you read the list of documents and you cannot confirm that you read the list of documents.

**Dr SHELDRAKE:** I cannot confirm that.

**CHAIR:** You see the problem would be that if you had read the list of documents you would have seen, would you not, the absence of correspondence emails from Mr Mullard, which might have set off some alarm bells?

**Dr SHELDRAKE:** That is possible.

**CHAIR:** You were corresponding with Mr Mullard and he was corresponding with you over these issues, was he not?

**Dr SHELDRAKE:** Yes, that is correct and I worked closely with Mr Mullard as a senior manager in the minerals area.

**The Hon. JEREMY BUCKINGHAM:** But you worked closely with him on this issue as well. Lots of the things that you would sign off on would be relatively routine and probably would not have the political sensitivity that this may or may not have. Is that correct?

**Dr SHELDRAKE:** That is correct.

**The Hon. JEREMY BUCKINGHAM:** So it surprises me that something clearly as politically sensitive as an SO 52, in an area where you had had direct involvement, did not trigger in you any curiosity at all. Do you find that surprising that I hold that view?

**Dr SHELDRAKE:** Again in 2009 we had completed the small mines expression of interest process. If I did go through that list, when you look at the list it has a significant number of documents associated with the tender process albeit I recognise there two briefing documents are not provided. I know that now.

**CHAIR:** And other emails between you and Mr Mullard.

**Dr SHELDRAKE:** And a large number of emails; yes, I recognise that.

**CHAIR:** Including between you and Mr Mullard.

**Dr SHELDRAKE:** Yes, but you know I think if I had looked at that I would have noted that a lot of material was provided. Whether I would have noticed that there was email traffic between Brad Mullard and me that was not present or whether two documents were not there, I cannot answer that now.

**The Hon. MATTHEW MASON-COX:** I suppose there is the question of whether you thought an email was within the purview of that standing order, which seems to be unclear in your mind at this time?

**Dr SHELDRAKE:** I think if the request had simply had reference to email, the department would have provided the emails.

**The Hon. MATTHEW MASON-COX:** I ask you a different question. In relation to the certification process you have said that you relied on your staff, at various levels, to compile the list of documents and you have relied on them to ensure that all the appropriate documents were disclosed and you signed off on the letter that certified that all the information, to your knowledge, had been provided. Given that there was no written policy or guidelines in relation to how to respond to a Standing Order 52 and no verification process at all within your department, which has been confirmed by the Maddocks review, how could you gain a level of confidence that your certification was worth anything in that context?

**Dr SHELDRAKE:** I note that that observation was made here by Mark Paterson. As you know, a process has now been developed. But your observation is correct: there was no process in place within the department and within the Department of Premier and Cabinet at the time, around the preparation of material for Standing Order 52. My reference to having confidence in the team of people I had was in relation to their skills and expertise in their fields. I did have confidence in them. In relation to this we would have been better served if we had had a process and procedure in place in 2009.

**The Hon. MATTHEW MASON-COX:** Is it not standard operating practice to have an operating procedure in relation to key processes?

**Dr SHELDRAKE:** Yes, we try to have that in place. For all of the processes—bureaucratic and administrative as well as technical; for example, biosecurity—we try to have standard operating procedures in place. We did not have a standard operating procedure in this case.

**The Hon. MATTHEW MASON-COX:** Some have put it to this Committee that that comes from a culture of non-disclosure within the department at the time. Do you have a view on that?

**Dr SHELDRAKE:** Could you expand that?

**The Hon. MATTHEW MASON-COX:** There was a culture of non-disclosure in that some documents—emails and other documents—were routinely held back to prevent disclosure at that time.

**Dr SHELDRAKE:** Held back from whom?

**The Hon. MATTHEW MASON-COX:** Held back from any Standing Order 52. The reluctance is to provide disclosure—there is a culture of non-disclosure. Do you have any comment on that?

**Dr SHELDRAKE:** I do not believe that that was the case. And I do not believe that that was the culture of the organisation. I think the evidence provided by Maddocks would suggest that the staff did not endeavour to do what you have suggested. I think the commissioner, in his report, in Operation Jasper, suggested that the staff of the department endeavoured to be open and honest and provide all the material that was asked for. So I do not believe that that was in fact the culture of the organisation.

**The Hon. JENNIFER GARDINER:** Did you have any input in the drafting of the policy that is now in place to respond to Standing Order 52? Are you satisfied that the policy is adequate?

**Dr SHELDRAKE:** I did not have input into the drafting of it. But I think I am satisfied with the document. I noticed that you raised here, in these proceedings, with Mark Paterson, some concerns you had about the reference to emails being somewhere down the middle of the document. I think I noticed that Mr Paterson's response was that he was happy to redraft that. I think the outcome of this process will ensure, in absolutely everybody's mind, that emails are part of the documents that are required to be prepared—

**CHAIR:** I think we are all quite confident of that.

**Dr SHELDRAKE:** So in answer to the member's question, I think that the process that we now have in place, with the standard operating procedure and the processes of this Committee, will ensure that, in future, material is provided adequately.

**CHAIR:** If I accept what you say, emails were excluded perhaps because people thought they were not caught by Standing Order 52. Is that right?

**Dr SHELDRAKE:** I am not even sure that it was as conscious as that. My position would be that it was an oversight that the emails were not provided. I do not think there was a decision to say, "Standing Order 52 does not refer to emails; we are not going to provide them." That was not, in my mind, how it occurred. I think it was simply an oversight by some people. You have indicated that others, had they been asked, would have provided those emails.

**CHAIR:** That is pretty clear. Let me move on to the next point. By the time we had a change of government, Mount Penny was red hot, was it not?

**Dr SHELDRAKE:** Yes.

**CHAIR:** Indeed, the Hon. Duncan Gay had been making quite a noise, in opposition, with regard to what had occurred with Mount Penny. Is that right?

**Dr SHELDRAKE:** Yes.

**CHAIR:** He was the Opposition spokesperson on minerals at that stage, amongst other roles.

**Dr SHELDRAKE:** That is correct.

**CHAIR:** So when Minister Hartcher took over you, in your role, were alive to the fact that the incoming Government had a concern with regard to what had happened at Mount Penny. Is that right?

**Dr SHELDRAKE:** Yes.

**CHAIR:** Would it be safe to say that, in the light of that fact, you were not worried about the finer details of whether or not, for instance, an email was a document? When you were asked to find out what happened in relation to Mount Penny it was a question of finding out what happened with Mount Penny and the allocation of that exploration licence. That would be right, would it not?

**Dr SHELDRAKE:** I am not sure whether you are asking me whether I—

**CHAIR:** You were the director general.

**Dr SHELDRAKE:** For a very short period I was director general. During the time of the incoming Government there was a short period when I was director general.

**CHAIR:** Can you possibly explain how the department that you had been in charge of was incapable of producing all the documents in relation to the Clayton Utz review into the Mount Penny exploration licence?

**Dr SHELDRAKE:** I cannot explain that. I was not director general responsible for mineral resources at that time so I had no input into the Clayton Utz matter. I became Director General of the Department of Primary Industries in June 2011.

**CHAIR:** But it had previously been under your control, had it not?

**Dr SHELDRAKE:** Up until Mark Paterson was appointed in June. I do not believe there was any discussion with respect to Clayton Utz at the time, between the change of government in late March and my taking over Primary Industries in June 2011.

**CHAIR:** So it was all in Mr Paterson's time?

**Dr SHELDRAKE:** The engagement of Clayton Utz?

**CHAIR:** Yes.

**Dr SHELDRAKE:** That is correct.

**The Hon. JEREMY BUCKINGHAM:** Mr Anquetil's role was to tell Mr Taylor from whom to seek documents. Is that correct?

**Dr SHELDRAKE:** Mr Anquetil was the director of the Sydney office. Mr Taylor reported to Mr Anquetil.

**The Hon. JEREMY BUCKINGHAM:** That is correct. But did Mr Anquetil tell Mr Taylor who to go to in order to source documents under Standing Order 52? Did he give him any direction?

**CHAIR:** We have Mr Anquetil coming. Is that not a question you should ask Mr Anquetil as opposed to Mr Sheldrake?

**Dr SHELDRAKE:** I do not know the answer to the member's question.

**The Hon. JEREMY BUCKINGHAM:** You said before that you recalled discussing this Standing Order 52 with Mr Anquetil. What were you discussing?

**Dr SHELDRAKE:** I think what I tried to convey was that I did not have memory of this event, but in the normal processes within my office I would have discussed it with Mr Anquetil.

**The Hon. JEREMY BUCKINGHAM:** Would you have discussed who should be responding to it?

**Dr SHELDRAKE:** I cannot answer that; I really cannot. I do not remember that conversation.

**The Hon. JEREMY BUCKINGHAM:** Did you have any discussions with representatives from the Premier's office or the Department of Premier and Cabinet before the draft was signed off by you?

**Dr SHELDRAKE:** I do not believe I did but, again, this is trying to remember something four years ago. I do not believe I had discussions with officers of the Department of Premier and Cabinet.

**The Hon. JEREMY BUCKINGHAM:** You did not discuss it with Mr Graeme Wedderburn?

**Dr SHELDRAKE:** He was not part of the Department of Premier and Cabinet. He was in the Premier's office.

**The Hon. JEREMY BUCKINGHAM:** Yes, I said the Premier's office.

**Dr SHELDRAKE:** I definitely had no conversations—I would have had no conversations with the Premier's office, and I do not recall having any discussions with officers of the Department of Premier and Cabinet.

**The Hon. JEREMY BUCKINGHAM:** We heard that Mr Mullard was sent a copy of the draft response prior to it being signed off. Are you surprised that he was sent a draft response?

**Dr SHELDRAKE:** Just clarify for me—a draft response of what?

**The Hon. JEREMY BUCKINGHAM:** The departmental response to the call for papers was sent to Mr Mullard.

**Dr SHELDRAKE:** I did not realise.

**The Hon. JEREMY BUCKINGHAM:** He was sent a draft response to a call for papers where, naturally, he was asked to provide any documents. You have not been made aware of that subsequently?

**Dr SHELDRAKE:** No, that is correct.

**CHAIR:** Dr Sheldrake, I note that you have come here voluntarily and I am grateful for that. Your time is over. I have a formalised closing statement here.

**Dr SHELDRAKE:** Chair, would I be able to add one more thing?

**CHAIR:** Of course.

**Dr SHELDRAKE:** From my point of view, it is unfortunate that we did not provide the material in the complete sense. I suppose in respect of trying to improve the process in the future, one of the things that would greatly improve the process is if, under the Standing Order 52 process, there was the opportunity for a follow-up provision of material. Say, for example, if the material had been provided and it had been noted that there were no emails, if the Standing Order 52 was flexible enough and had the capability of coming straight back to the department and saying, "But there are no emails. Please provide", then I think the value of the Standing Order 52 process would be enhanced incredibly.

I guess that is following on from my experience with the Independent Commission Against Corruption in that it has come back and requested material from me and the department over a 12-month to 15-month period and clearly it did not get all the material it required in its first call for papers. But with its detailed, analytical and investigative powers it has identified where the shortcomings are and has reapproached me and the department. In making representations as part of this process—that along with addressing the time frame, perhaps making that longer and being more specific in the request, again using the ICAC format—I think that the Standing Order 52 process may be improved.

**CHAIR:** We take all of that on board. I ask you a question in response. When you get your next SO 52 to comply with, what will you do prior to certifying the return?

**Dr SHELDRAKE:** Now that we have an improved process within the department all of the staff, including me, will have a significantly heightened awareness of what is required. I am sure that the material provided to the Parliament will be complete.

**CHAIR:** That is actually non-responsive, Dr Sheldrake. What are you going to do?

**Dr SHELDRAKE:** I did include myself in that heightened awareness. To be specific, I think I would be endeavouring to analyse the material that has been compiled and prepared and I would probably be in line with our process, ensuring that the line manager, so the deputy director general, is comfortable and is signed off. I think that is the role that I would probably try to fulfil.

**CHAIR:** I had hoped you would say that. I will do my final bit. Again, thank you for giving your evidence. As previously indicated, the transcript of your evidence today will remain confidential until we make our further decisions. We will review the transcript and the Committee may decide at a later date to make some or all of your evidence public. I do not think there is anything in respect of what you have said, but if there is anything in respect of what you have said today that comes to mind now that you think should remain confidential, I invite you to indicate what that is.

**Dr SHELDRAKE:** There is nothing that comes to mind. I will read the transcript and if there is anything there that I think should be considered confidential I will write to you, but nothing comes to mind.

**CHAIR:** The process that we will probably adopt—again, it is up to the Committee—is what we have done with other witnesses. Prior to it coming back to the Committee, the secretariat will send you the transcript, perhaps with some proposed redactions for your initial comment. If you agree and the Committee agrees with the redactions, if any, then we will put it up. There may be a bit of toing and froing. We would like to bring this inquiry to an end sooner rather than later. I think you will hear from us reasonably quickly. Once again, thank you for giving your evidence. It has been very helpful. I am most appreciative.

**(The witness withdrew)**

**WILLIAM DONALD HUGHES**, Former Principal Adviser, Coal and Strategic Projects, Industry and Investment NSW, affirmed and examined:

**CHAIR:** Welcome to this hearing of the Privileges Committee as part of an inquiry into the 2009 Mount Penny return to order. Before we commence the hearing I would like to address some procedural matters. The Committee is holding this session of the hearing in camera, which means that at no time will any media or members of the public be in the room. I think, as you have seen outside the room, there should not be anything that indicates that the hearing is on. Plainly, the fact that there is no media hanging around the outside indicates that nobody has been told either.

After reviewing the transcript of your evidence the Committee may decide at a later date to make some or all of your evidence public. Normally the Committee would do so in consultation with you, and I will make quite plain now that it is quite likely that some or all of your evidence will be made public but it will involve a consultative process where we will provide a copy of the transcript to you, perhaps with some suggested redactions, and see what you think of that. Partly our reason for holding the inquiry in camera is to ensure that there are no members of the public and, particularly, media in the back of the room so that it allows a more, in a sense, consultative process to take place involving you and it at least provides you with a degree of anonymity in this process.

Witnesses who appear before parliamentary committees are protected by parliamentary privilege. This means that what is said cannot be used against you later in court proceedings. Our terms of reference require the Committee to inquire into and report on the failure to provide documents in the return to order tabled in the Legislative Council on 26 November 2009 concerning the Mount Penny mining exploration licence and tender process. This includes documents identified in the document comparison matrix provided by the commissioner of the ICAC and tabled in the Legislative Council on 14 March 2013. I am not sure if you are aware that that document comparison matrix was up on the Privileges Committee website for people to inspect if they so wished. It may have been referred to you in other circumstances as well. What will be referred to in the questioning, I suspect, will be the Maddocks report and I am hopeful that you have been provided with a copy of that Maddocks report to examine before you give evidence today.

**Mr HUGHES:** Yes, I have.

**CHAIR:** I think it also may be the case that you gave an interview to solicitors from Maddocks prior to the preparation of that report. Would that be right?

**Mr HUGHES:** That is correct.

**CHAIR:** At the commencement of your evidence I will invite you to make a short opening statement if you wish. If you have copies of that which you can provide to members of the Committee it would be appreciated, although not compulsory. After you have made your opening statement members of the Committee will ask you questions. If you have got a mobile phone I would invite you to turn it off. If you take any questions on notice—that is, you do not quite know what the answer is now but you can find it out—there are 21 days in which to provide that response. We will start with Reverend the Hon. Fred Nile asking you some questions.

**Reverend the Hon. FRED NILE:** Thank you for coming in, Mr Hughes; we appreciate your cooperation. What was your position in 2008-09 and what was your involvement in the creation of the Mount Penny tenement and the awarding of an exploration licence for that area?

**Mr HUGHES:** I will perhaps deal with the position and structure first. In 2008 I was one of two principal advisers within the industry coordination unit. There was a principal adviser, minerals, and a principal adviser, coal and petroleum, I think. Garth Holmes was the then director of the industry coordination group, which predominantly was the only part of minerals based in the Sydney office; the rest of mineral resources was based in Maitland. At the end of 2008, December 2008, Garth Holmes retired. I was appointed acting into the position of director, industry coordination—it was higher duties, effectively—in late 2008 when Garth retired. Going into that role, through the first half of 2008, I was acting director, industry coordination. At 30 June 2009 the position was abolished so I fell back to my substantive role, which was principal adviser, for the rest of that year in 2009.

With respect to the coal release areas expression of interest, up until Garth's retirement I had had no involvement per se with the process. It was only on his retirement that the director, industry coordination, chaired and organised the evaluation panel for the tenders. So my involvement, if you like, sort of commenced effectively at the start of 2009.

**Reverend the Hon. FRED NILE:** How did you come to find out that the Legislative Council had resolved to issue an SO 52—that is, a call for documents—regarding Mount Penny? How did you become aware of that call?

**Mr HUGHES:** I have to be honest: my memory of those events is not clear; it is only based on reading what I have read in the last few days that I could say that I was CC to an email on 19 November.

**Reverend the Hon. FRED NILE:** You apparently provided many of the documents that were then provided by the department in the return to order. How did you locate those documents? Did you search on TRIM or search on hard drives or locate physical files or emails?

**Mr HUGHES:** Again, the Sydney office had the tender documents, so all the companies that had submitted an EOI, all those documents were securely stored in the Sydney office. I think we certainly had copied or provided copies—I cannot remember exactly what version, whether it was a photocopy or the actual whole document at the time. I cannot exactly remember what I provided but it was to do with the expression of interest process that I was the chair of. I think perhaps I provided to Ron Taylor some TRIM numbers; all the tender documents were hard documents at the time.

**Reverend the Hon. FRED NILE:** Did you do any email searches?

**Mr HUGHES:** Again, I cannot fully remember. There was very little, I guess, guidance as to what we were meant to look for. I guess the focus—and I might have had a discussion with Ron about this—was I think he came to me saying we probably need the tender documents for the process, but I cannot recall if I searched email or not. Again, there was very little time or guidance to do what was required.

**Reverend the Hon. FRED NILE:** The ICAC document comparison matrix shows that the department did not provide any documents related to the creation of the Mount Penny tenement. Given that the identification and creation of Mount Penny was so close to the decision to put the area out for expressions of interest, it should have been clear that the documents related to the creation of Mount Penny should have been included, that they were critical documents.

**Mr HUGHES:** I was not involved in what happened in 2008, and they were certainly not documents in my possession. I guess just to clarify again, I chaired the evaluation panel basically from the start of 2009 onwards when Garth Holmes retired. So that involved getting that panel together that assessed the expressions of interest that had been made in the process.

**Reverend the Hon. FRED NILE:** Even though you were not involved in detail, would you agree in principle that those documents relating to the creation of Mount Penny should have been included—that they were fairly critical and important documents?

**Mr HUGHES:** In hindsight, I suppose that is true. At the time I was probably not even aware of those documents. It is only through the Independent Commission Against Corruption [ICAC] process that I am even aware of what documents there were. My focus in 2009 had been the panel and the evaluation process.

**Reverend the Hon. FRED NILE:** Were you involved in the preparation of the two expression of interest [EOI] assessment documents reference JI3.663.686 and JI3.687.734? These were prepared and noted that Monaro Mining was the successful applicant for the Mount Penny licence and that Cascade Coal came second?

**Mr HUGHES:** That was the panel's assessment. Are you talking about the document from May 2009?

**Reverend the Hon. FRED NILE:** I am talking about documents with those reference numbers. Do they ring a bell with you?

**Mr HUGHES:** Yes, they do.



**Reverend the Hon. FRED NILE:** You were involved in preparing those documents?

**Mr HUGHES:** Yes.

**Reverend the Hon. FRED NILE:** Can you explain why they were not included in the return to order?

**Mr HUGHES:** Again, I do not remember the circumstances of the day in late 2009—and, again, I cannot remember whether or not Ron had a chat with me—but we were given very little time to pull anything together. What I think I provided at the time were the tender documents, the panel report and the letters that were signed off. I certainly know that through the ICAC process we had several searches for documents not just one search for documents. I think I went through stuff for ICAC to find more documents several times.

**Reverend the Hon. FRED NILE:** So at no time was there any discussion with anybody saying, "These are controversial documents. It would be best if we did not include them. They might embarrass the Minister or embarrass the Government"?

**Mr HUGHES:** No. There was nothing like that. In fact there was no-one who even checked the documents that I provided.

**CHAIR:** That seems clear now.

**Mr HUGHES:** There was no process to review what was being provided and whether or not they were the right documents or whatever.

**The Hon. JEREMY BUCKINGHAM:** How do you know that?

**Mr HUGHES:** Because no-one sat with me and asked, "Have you provided X, Y and Z?" It was a scramble to get documents together in that time period.

**The Hon. JEREMY BUCKINGHAM:** But how do you know there was no review further up?

**Mr HUGHES:** I am just saying that, from the viewpoint of the provision of documents on that day, as far as I am aware there was no further discussion with me about what was provided.

**The Hon. JEREMY BUCKINGHAM:** We have been provided with a timeline of who knew what when in actually complying with Standing Order 52. You said you got an email. Who did you get that email from? Did you get that email from Ron Taylor, Phil Anquetil, someone in Richard Sheldrake's office or Julie Moloney? Who first informed you of the SO 52 and the need to comply with it?

**Mr HUGHES:** To be frank, I cannot remember. I have looked at the table in the Maddocks report, but other than referring to that table I cannot remember exactly. Ron Taylor and I were on the same floor of the same building so it is possible that he might have even verbally discussed it with me; I am not sure.

**The Hon. JEREMY BUCKINGHAM:** Did you discuss it at all with Phil Anquetil?

**Mr HUGHES:** Not that I can recall, no.

**The Hon. JEREMY BUCKINGHAM:** Did you discuss it at all with Brad Mullard, either at the time or subsequently?

**Mr HUGHES:** Not at the time. I honestly cannot recall—other than I know I did have some communication with Julie, who was part of the Industry Coordination Unit.

**The Hon. JEREMY BUCKINGHAM:** Was that Julie Moloney?

**Mr HUGHES:** Yes. I think I chased up a couple of documents that Ron sought from Julie.

**The Hon. JEREMY BUCKINGHAM:** Who would Julie have been getting those documents from?

**Mr HUGHES:** She probably held them. She held the register for coal expressions of interest. And she produced the EOI information packages.

**The Hon. JEREMY BUCKINGHAM:** Okay.

**CHAIR:** Where was she based?

**Mr HUGHES:** Maitland.

**The Hon. JEREMY BUCKINGHAM:** Did you discuss it at all with Mr Mark Duffy?

**Mr HUGHES:** Not that I can recall. Mark was not in the same building as me, either. I cannot recall, sorry.

**The Hon. GREG DONNELLY:** Thank you for coming along today and making yourself available. I just want to revisit this area about the development of your understanding of what documents to provide. Did anyone give you any instructions, to the best of your recollection, of what documents to go looking for to provide for this Standing Order 52, or was it left to you to come up with some list that you could find?

**Mr HUGHES:** I probably do not have a good recollection of the events. It is possible that Ron might have come around, rung me or discussed this, knowing that I was the chair of the evaluation panel and knowing that the company's submissions were within the Elizabeth Street office. It is possible that he asked for those sorts of documents, but I do not have a strong recollection.

**The Hon. GREG DONNELLY:** So you do not have a recollection of being given any explicit guidance—

**Mr HUGHES:** No.

**The Hon. GREG DONNELLY:**—about what to go and look for?

**Mr HUGHES:** Not explicitly, no.

**The Hon. GREG DONNELLY:** What then was the basis of your search? Were you just asked to go and find relevant documents?

**Mr HUGHES:** I probably had very little guidance as to what to look for. Being part of the evaluation committee, I knew that we had all the tender documents in a compactus—and the panel report, the letters signed off by the director-general and things like that. My thought process was probably to get those documents.

**The Hon. GREG DONNELLY:** Once you had assembled the documents as best you could, what followed after that? What were the steps you took in passing it on to others, as best you can recall?

**Mr HUGHES:** I cannot really recall what the steps were. Ron was on the same floor as me in the building on Elizabeth Street, so it is possible that we just walked around the tender documents to Ron. I honestly cannot recall beyond the fact that Ron and I were on the same floor.

**The Hon. GREG DONNELLY:** Do you have any recollection of anyone saying to you after you had passed the documents on, "Is this all there is?", or "Have you done a thorough search?"

**Mr HUGHES:** I do not recall, sorry.

**The Hon. GREG DONNELLY:** Did anyone come back to you after you had passed the documents on and ask you further questions about the documents?

**Mr HUGHES:** I cannot physically recall. Since 2009 we have lots of Government Information (Public Access) Act requests for information and EOIs so I am sorry but it is very hard to give you a definitive answer on what happened on that.

**The Hon. GREG DONNELLY:** So you do not recall?

**Mr HUGHES:** I do not recall, I am sorry.

**CHAIR:** In 2009 if you received a request under the Government Information (Public Access) Act [GIPA], or it would have been a freedom of information [FOI] request at that stage, when looking for documents would you have checked your emails?

**Mr HUGHES:** I think this is probably a question I would have to answer in hindsight. I had had very little experience. I had come up through the ranks as the economist and then in the principal adviser role we were mainly involved in coordinating the department's input into the planning process and producing the two major publications. I think at that point I had had very little experience with what were freedom of information requests or any other call at that time. If you asked me today I think I would probably give you a fairly comprehensive answer, but I would say at the time I probably was fairly unaware of what exactly was required.

**CHAIR:** Can I infer from that therefore that there was no training or reference to a policy or the like as you moved up the chain of command?

**Mr HUGHES:** To the best of my knowledge there was no policy or training, or very little guidance. I think in terms of the GIPA process today it is a much better organised process today than it probably was back then.

**CHAIR:** Putting aside the organisation, I suppose I am interested in what training you may have received since 2009 of what is required of you as an increasingly more senior officer of the department with regards to such things as GIPA or Standing Order 52s?

**Mr HUGHES:** The director general has released a policy on Standing Order 52s.

**CHAIR:** Does that mean you have read it?

**Mr HUGHES:** Yes. I do not think I had any physical training, if that is what you are talking about, but I have certainly read the policy document that is on our intranet site.

**CHAIR:** I am not trying to belittle it, but at this stage in a sense what has changed between 2009 and now are perhaps two things. One is that a number of people in the department have been alive to this inquiry. Would that be one of them?

**Mr HUGHES:** That is probably true, yes.

**CHAIR:** Secondly, you have seen perhaps in consequence of this inquiry the release of a policy with regard to SO 52s?

**Mr HUGHES:** That would be true too. And of course the whole Independent Commission Against Corruption [ICAC] process I think has made us all much more aware of what documents are. Perhaps that is the other thing.

**CHAIR:** That is helpful. Finally, were you involved in any way in the review of the Mount Penny exploration licence undertaken by Clayton Utz?

**Mr HUGHES:** I was, yes.

**CHAIR:** Did you provide them with the documents that were used in that?

**Mr HUGHES:** I certainly provided them with some documents. I do not know if it was all the documents.

**CHAIR:** That is an interesting question. Who gave you those directions in terms of the preparation of those documents?

**Mr HUGHES:** I think Minister Hartcher and Mark Duffy were working out the terms of engagement for Clayton Utz. I cannot recall. Perhaps Mark Duffy asked me to talk to Clayton Utz. I ended up talking to

Clayton Utz and providing them with what they asked for off me. But, again, I was involved in the evaluation panel side of the process and I do not know what exactly their terms of reference were.

**CHAIR:** You did not perhaps suggest to them they should go off and speak to Brad Mullard, did you?

**Mr HUGHES:** I cannot recall. I would have perhaps assumed that they were going to talk to people up in Maitland, but I am not sure if they did or they did not.

**CHAIR:** It would seem not. Thank you for giving your evidence. I recognise that you have come here voluntarily and I suspect it has been mildly stressful. I am sorry if it has given you any level of stress. As previously indicated, the transcript of your evidence today will remain confidential at the present time. After reviewing the transcript the Committee may decide at a later date to make some or all of your evidence public. Having heard your evidence, the likelihood is that it will be made public or we will be suggesting to you that it should be made public. Obviously, I have not spoken to my fellow Committee members but I do not think you have said anything outrageous that would be damaging to you or anyone else. I suspect that will be the way it will go.

If you can think of anything now that you would not like published you can say now or when the secretariat sends the transcript to you and asks for your opinion please feel free to indicate that you have got some issue with parts of it. I think you have done yourself proud so I would not be concerned with regard to that. Have you got any questions or anything you would like to add?

**Mr HUGHES:** No, I do not. Thank you, Chair.

**CHAIR:** Thank you very much for coming.

**(The witness withdrew)**

**EMMANUEL PHILIPPE ANQUETIL**, Former Officer in the Office of the Director General, Industry and Investment NSW, sworn and examined:

**CHAIR:** Thank you very much for coming. I will go through the procedure that we normally go through at the start of a hearing in anticipation that you would be in the room. Because you were not in the room we will do the formalities. Welcome to this hearing of the Privileges Committee as part of its inquiry into the 2009 Mount Penny return to order. My name is Trevor Khan and I am the chair of the Committee. The Committee is holding this session of the hearing in camera, which means that at no time will any media or members of the public be in the room. Indeed, as you have seen out the front, there are no signs and no members of the media.

The transcript of your evidence today will also be confidential. However, after reviewing the transcript the Committee may decide at a later date to make some or all of your evidence public. Normally, the Committee would do so in consultation with you. Indeed, not only normally but in this case it will be in consultation with you. It is likely that some of your evidence at least will be published. The reason for holding the hearing in camera is to provide you with some degree of relief from the presence of media and members of the public sitting behind you, but for the purposes of our inquiry it is reasonably important that parts of the material be made public to explain what has happened in this case.

Witnesses who appear before parliamentary committees are protected by parliamentary privilege. That means that the evidence that you give cannot be used against you in any later court proceedings. I anticipate that there is nothing that would fall into that category anyway. Nevertheless, our terms of reference require the Committee to inquire into and report on the failure to provide documents in the return to order tabled in the Legislative Council on 26 November 2009 concerning the Mount Penny mining exploration licence and tender process.

This includes documents identified in the document comparison matrix provided by the Commissioner of the Independent Commission Against Corruption and tabled in the Legislative Council on 14 March 2013. You may or may not be aware that that document comparison matrix was available for examination on the Privileges Committee website. You may have had access to it in other circumstances, but I am not sure. The Maddocks report may be referred to in evidence. I hope you have had an opportunity to review it before giving evidence.

**Mr ANQUETIL:** Yes, I have.

**CHAIR:** I know that you were interviewed by a couple of solicitors from Maddocks prior to the preparation of that report.

**Mr ANQUETIL:** Yes, by Mr Norm Lucas.

**CHAIR:** And Laura Gotlieb?

**Mr ANQUETIL:** That is correct.

**CHAIR:** I will invite you to make a short opening statement, and you may do so if you wish. If you have copies of that statement that you can provide to the Committee, that would be appreciated but it is not compulsory. Members of the Committee will then ask you questions. If you cannot answer a question because you are uncertain, you can take it on notice. The Committee has resolved that answers to questions taken on notice during the hearing must be provided within 21 days. Do you wish to make an opening statement?

**Mr ANQUETIL:** No.

**CHAIR:** If you are in doubt about a question, please feel free to ask for clarification.

**Mr ANQUETIL:** Thank you.

**Reverend the Hon. FRED NILE:** Thank you for appearing before the Committee today. We appreciate your cooperation. What was your role in the department when the SO 52 call for papers was issued?

**Mr ANQUETIL:** I was the director of executive support in the Department of Primary Industries. My role was to provide administrative support to the executive of the department. As an extension to that, I also provided support to the ministerial office.

**Reverend the Hon. FRED NILE:** When did you become aware of the SO 52 call for papers? Do you remember when that occurred?

**Mr ANQUETIL:** When I looked at the Maddocks report. That is when I remembered the chain of events. The dates mentioned in the report are the dates I remembered. It arrived on the Friday.

**Reverend the Hon. FRED NILE:** Do you remember the date?

**Mr ANQUETIL:** I think it was Friday the thirteenth.

**Reverend the Hon. FRED NILE:** You probably remember that people were very anxious about the short time frame. For some reason there was a delay of some days before the call for papers was finally registered.

**Mr ANQUETIL:** I do not think the time frame was any different from other time frames we had for SO 52s in the past; they were always short time frames.

**Reverend the Hon. FRED NILE:** The documents returned in 2009 included a briefing paper prepared by Mr Mullard providing notes for the Minister to argue against the House agreeing to the SO 52 motion. Who or what area would have been responsible for monitoring events in Parliament and who would have authorised the preparation of that briefing?

**Mr ANQUETIL:** I am not aware of the document you are talking about. More importantly, I was not involved in the preparation of the briefing. My role was to gather information, to coordinate documents and to provide information to the executive of the department.

**Reverend the Hon. FRED NILE:** Did you help draft the briefing?

**Mr ANQUETIL:** Not those types of briefings.

**Reverend the Hon. FRED NILE:** No-one asked you to help prepare it?

**Mr ANQUETIL:** No.

**Reverend the Hon. FRED NILE:** Did you advise Mr Taylor to whom in the department he should refer the documents? If so, do you recall the day on which you spoke with him? Did you advise Mr Taylor to refer the request to Mr Mullard?

**Mr ANQUETIL:** I cannot recall speaking to Mr Taylor. However, it was normal protocol for him to ask me where to send requests for documents.

**Reverend the Hon. FRED NILE:** Can you explain the delay in the response process and the receipt by the department of the SO 52 on 13 November that you just referred to? It was forwarded to Mr Taylor for action only on 19 November. Why the gap between 13 November and 19 November?

**Mr ANQUETIL:** I remember because during the Maddocks report process I was made aware of the documents in question. I cannot explain the delay in registering the document and sending it to Mr Taylor.

**Reverend the Hon. FRED NILE:** Can you make any suggestions?

**Mr ANQUETIL:** I cannot.

**Reverend the Hon. FRED NILE:** It was sitting in an in-tray but it did not move.

**Mr ANQUETIL:** I find it very strange, but I cannot explain why it did not move.

**Reverend the Hon. FRED NILE:** Did you take any action yourself to help process that request? Did you know it was sitting there?

**Mr ANQUETIL:** I probably knew it was sitting there, but a huge number of documents came through my office. I cannot recall the exact timing.

**The Hon. JEREMY BUCKINGHAM:** Were you surprised when you became aware that the order had not been advanced? An SO 52 from the Legislative Council was just sitting in an in-tray. Surely that would have excited your attention.

**Mr ANQUETIL:** It was only afterwards that I found out about the delay. At the time I did not know there was any delay.

**Reverend the Hon. FRED NILE:** Did you think it was being processed?

**Mr ANQUETIL:** Yes. It is was only when I became aware of the documents that I was aware that there was a delay in the registration process and the fact that it was sent to Mr Taylor four days after it was registered or came into the office.

**CHAIR:** It was six days later.

**The Hon. JEREMY BUCKINGHAM:** You did not think you should get cracking with it because there was a six-day delay?

**Mr ANQUETIL:** I cannot recall the situation at all.

**The Hon. JEREMY BUCKINGHAM:** And you cannot recall talking to Mr Taylor about whom he should or should not contact?

**Mr ANQUETIL:** Mr Lucas from Maddocks asked about this. I know I would have spoken to Mr Taylor, and I am not saying I did not, but I cannot recall when.

**The Hon. JEREMY BUCKINGHAM:** And you cannot recall what direction you gave to him or whether you gave him any direction about whether he should contact William Hughes, Mark Duffy—

**Mr ANQUETIL:** The prudent call would have been for him to send it to the head of the division. That would have been the protocol. If he had asked me where to send a request for documents, I would have told him to send it to the deputy director of the Resources and Energy Division.

**The Hon. JEREMY BUCKINGHAM:** To Mr Duffy?

**Mr ANQUETIL:** Yes.

**The Hon. JEREMY BUCKINGHAM:** Did you talk to Mr Jason Kara when the draft was prepared in the Minister's office?

**Mr ANQUETIL:** I have no recollection of speaking to Mr Kara at all, except, again, during the Maddocks report process. I was shown a draft of a letter that I prepared for both Mr Brown and Mr Kara. Both of those people were chiefs of staff—for the Minister for Primary Industries and the Minister for Mineral Resources. In my role I would have assisted them in preparing a letter in response to the order. I would have given them a draft.

**The Hon. JEREMY BUCKINGHAM:** You drafted a letter for ministerial officers stating that to the best of their ability they had complied with the order?

**Mr ANQUETIL:** No, it was a draft that they could use to finalise their response.

**The Hon. JEREMY BUCKINGHAM:** That is what it is—the Minister is signing off that to the best of his ability or knowledge they are the documents you have?

**Mr ANQUETIL:** But if you have a look at the letter that I did for Mr Kara, I used the same draft that I used for Mr Brown. In other words, I was giving them some words to use. I didn't tell them to use the letter.

**The Hon. JEREMY BUCKINGHAM:** Yes, but both letters say the same thing—there are no documents?

**Mr ANQUETIL:** Exactly, that was a draft I prepared for them.

**The Hon. JEREMY BUCKINGHAM:** How did you know that?

**Mr ANQUETIL:** I didn't know.

**The Hon. JEREMY BUCKINGHAM:** How could you draft the letter?

**Mr ANQUETIL:** I just did a draft for them to help them provide a response. I didn't tell them to sign the letter. I didn't tell the Minister to sign the letter.

**The Hon. JEREMY BUCKINGHAM:** No, but you are providing them with a response saying that you have no documents.

**Mr ANQUETIL:** I am providing them with a draft to assist them to draft the letter.

**The Hon. JEREMY BUCKINGHAM:** Saying they have no documents.

**Mr ANQUETIL:** Yes.

**The Hon. JEREMY BUCKINGHAM:** But you did not know that?

**Mr ANQUETIL:** No, of course I did not.

**The Hon. JEREMY BUCKINGHAM:** That is unusual.

**Mr ANQUETIL:** The Minister for Primary Industries was only in the role for a couple of days.

**The Hon. JEREMY BUCKINGHAM:** That is true.

**Mr ANQUETIL:** And the Minister for Mineral Resources was the same.

**The Hon. JEREMY BUCKINGHAM:** Yes, but the Minister's office, that agency may have had documents.

**Mr ANQUETIL:** Well exactly.

**The Hon. JEREMY BUCKINGHAM:** It is unusual that you would be providing a draft letter saying that they had no documents.

**Mr ANQUETIL:** No, it would not be unusual for me to provide a draft for the Minister's office.

**Reverend the Hon. FRED NILE:** It is just an administrative thing?

**Mr ANQUETIL:** Yes, it is.

**The Hon. JEREMY BUCKINGHAM:** Did you see the draft response to the return to order before it was given to the director general? Did you review it?

**Mr ANQUETIL:** I saw the draft letter, definitely.

**The Hon. JEREMY BUCKINGHAM:** The draft response?

**Mr ANQUETIL:** Yes.



**The Hon. JEREMY BUCKINGHAM:** The index of documents?

**Mr ANQUETIL:** I would not have gone through the index, no.

**The Hon. JEREMY BUCKINGHAM:** You did not see the index at all?

**Mr ANQUETIL:** I would have seen the index but I would not have gone through the index, no.

**The Hon. JEREMY BUCKINGHAM:** So you saw it?

**Mr ANQUETIL:** Yes.

**The Hon. JEREMY BUCKINGHAM:** But you did not go through it?

**Mr ANQUETIL:** No.

**The Hon. JEREMY BUCKINGHAM:** What does that mean?

**Mr ANQUETIL:** That means I prepared the letter for the DG to sign but it was not my role to examine the index to find out whether there were any documents missing.

**The Hon. JEREMY BUCKINGHAM:** Whose role was that?

**Mr ANQUETIL:** It was the deputy DG of minerals and energy.

**CHAIR:** You prepared the letter for the director general?

**Mr ANQUETIL:** No. Mr Taylor prepared that letter.

**CHAIR:** He prepared the letter for the director general?

**Mr ANQUETIL:** Yes.

**CHAIR:** Did you receive the letter for the director general to sign?

**Mr ANQUETIL:** I received the letter so I could organise to get it put on the director general letterhead and organise someone in the DG office to put it on the letterhead for the DG to sign.

**CHAIR:** You got that put on the letterhead?

**Mr ANQUETIL:** Yes.

**CHAIR:** But do you take the letter to the director general to sign?

**Mr ANQUETIL:** Yes.

**CHAIR:** Do you take that with the boxes?

**Mr ANQUETIL:** No.

**CHAIR:** Do you take it with the list of documents?

**Mr ANQUETIL:** Yes, with the index.

**CHAIR:** Are you sure?

**Mr ANQUETIL:** I would assume that is what I have done. I cannot recall. That would be part of the—I would assume that would be part of the document that was provided.

**CHAIR:** I want you to think about it. Was the list of documents in the boxes and did you just give him the letter?

**Mr ANQUETIL:** I cannot recall. That was four years ago. I cannot recall if there was a list. I would have assumed there was a list but I cannot recall that. There is no way I can recall that.

**CHAIR:** It simply comes down to this—there does not seem to be terribly much corporate knowledge as to anyone having reviewed the list. I am wondering if the director general actually signed his certification without the list being there. Is that a possibility?

**Mr ANQUETIL:** That is a possibility, yes. I cannot dispute that.

**The Hon. JEREMY BUCKINGHAM:** So there is a possibility that the Minister signed—

**CHAIR:** No, it was not the Minister; it was the director general.

**The Hon. JEREMY BUCKINGHAM:** Apologies. So there is a possibility that the director general signed the letter saying that to the best of his ability or knowledge these were all the documents in the possession, custody and control of the department without seeing an index or the documents at all?

**Mr ANQUETIL:** He could have. I am not saying that he did, but he could have. There are so many documents contained in some of those orders—sometimes there are boxes. You could not expect the DG to go through those boxes. He would rely on the head of the division to provide the documents that were requested.

**The Hon. JEREMY BUCKINGHAM:** Mr Duffy?

**Mr ANQUETIL:** In that case it was Mr Duffy, but it could have been anyone.

**The Hon. JEREMY BUCKINGHAM:** Why was it that it appears Mr Taylor went directly to Mr Hughes and did not go directly to the head, Mr Duffy? It was only later that Mr Duffy was cc'd in on the request for the order?

**Mr ANQUETIL:** I do not think that is right. I think Mr Taylor went directly to Mr Duffy.

**The Hon. JEREMY BUCKINGHAM:** No, that is not right.

**Mr ANQUETIL:** I think it is.

**The Hon. DAVID CLARKE:** You are familiar with this SO 52 process, are you not?

**Mr ANQUETIL:** Yes, I am.

**The Hon. DAVID CLARKE:** You have been doing it for some time?

**Mr ANQUETIL:** Yes.

**The Hon. DAVID CLARKE:** In collecting documents do you include emails?

**Mr ANQUETIL:** I do not actually collect the documents.

**The Hon. DAVID CLARKE:** No, but do you understand that emails—

**Mr ANQUETIL:** Now I do.

**The Hon. DAVID CLARKE:** When you say, "Now I do", what do you mean?

**Mr ANQUETIL:** Because it has been talked about for a few months now.

**The Hon. DAVID CLARKE:** But before those few months what was your view? Would you automatically have assumed that emails would be included?

**Mr ANQUETIL:** Now with the benefit of hindsight I would.

**The Hon. DAVID CLARKE:** No, at that time?

**Mr ANQUETIL:** I am not sure.

**The Hon. DAVID CLARKE:** For how long have you been involved with this SO 52 process?

**Mr ANQUETIL:** I suppose since about 2003.

**The Hon. DAVID CLARKE:** Ten years. Therefore would you not have had a view on whether emails would be included or not? Would that be something that you would not have to think about? You would just assume that they were or they were not?

**Mr ANQUETIL:** I mean we are talking about it from my point of view now. Now I would say they would be but back then I am not sure how I would have replied.

**The Hon. DAVID CLARKE:** Except that we are talking about a period of 10 years.

**Mr ANQUETIL:** Yes.

**The Hon. DAVID CLARKE:** For 10 years you have been associated with this process. During that period of 10 years would you not have had a view as to whether emails would or would not be included? I mean there are a lot of emails in records, are there not?

**Mr ANQUETIL:** Of course there are emails.

**The Hon. DAVID CLARKE:** Would you not have had a view as to whether emails were part of the documents in a call for documents?

**Mr ANQUETIL:** As I say, now I would say they were but at the time I am not sure whether I would have answered the same way.

**The Hon. DAVID CLARKE:** You are saying for those 10 years you cannot recall what your attitude was to including or not including emails?

**Mr ANQUETIL:** As I explained, I was not actually part of the searching for documents. My role was to put documents together that was provided to us and get the DG to sign. My job was not to go through and actually search for documents.

**The Hon. DAVID CLARKE:** Did you have an impression as to whether "documents" included emails? Would you not get a general impression at least of the things that passed by you? You say now in hindsight but I am talking about those 10 years—that is a long time to be involved in the process.

**Mr ANQUETIL:** We are talking about 2009.

**The Hon. DAVID CLARKE:** Yes, you have been involved in the process—

**Mr ANQUETIL:** But 2009 and 2003—that is not 10 years.

**The Hon. DAVID CLARKE:** No, but you were talking about in hindsight—

**Mr ANQUETIL:** From now.

**The Hon. DAVID CLARKE:** —going back a few months ago.

**Mr ANQUETIL:** Yes.

**The Hon. DAVID CLARKE:** I am talking about that full period of 10 years. It is not six years; it is 10 years since 2003. You cannot recall whether emails would have been included or not included?

**Mr ANQUETIL:** I cannot, I really cannot.

**The Hon. DAVID CLARKE:** In hindsight would you agree that is a pretty important thing to have been directed on?

**Mr ANQUETIL:** I would now, yes, definitely.

**CHAIR:** Whose responsibility do you say it would be to identify documents in the possession of the director general for the purposes of a call for papers? Is that yours?

**Mr ANQUETIL:** At the end of the day it would be my responsibility, yes.

**CHAIR:** If it was your responsibility to essentially protect the interest of the director general with regards to a call for papers, what did you do to identify any documents or papers that the director general had that should have been included in the return?

**Mr ANQUETIL:** I cannot recall what we did in 2009, I am sorry. I would have had a chat to the director general [DG] and asked whether there was any papers that we had to provide.

**CHAIR:** Would you do a TRIM search?

**Mr ANQUETIL:** A TRIM search would have been the thing that we would do, as a given.

**CHAIR:** Well, did you?

**Mr ANQUETIL:** In my office?

**CHAIR:** Yes.

**Mr ANQUETIL:** No.

**CHAIR:** What about a check of emails—you know, a search of Dr Sheldrake's email account? Did you do that?

**Mr ANQUETIL:** No, I did not.

**CHAIR:** Why not?

**Mr ANQUETIL:** As I say, I assumed that the director general would have done it.

**CHAIR:** That is pretty unfair on the director general, is it not? He has thousands of documents that he has to deal with.

**Mr ANQUETIL:** Yes, but the thing is, as I say, we had a chat and I probably—and I cannot recall—but I am just saying that we would have had a chat about whether there were any papers in his office.

**CHAIR:** Were you aware that the director general had met at least once with the Minister with regards to this coal allocation process?

**Mr ANQUETIL:** No, I would not be aware.

**CHAIR:** And that he received essentially briefing documents to allow him to meet with the Minister?

**Mr ANQUETIL:** Well, I would have seen the briefing documents, but only if he had requested some briefing documents. I would have made sure the documents were in his office, but I would not have gone through the documents to see what was there.

**CHAIR:** I am not suggesting that you would have, but taking into account that he is the director general of the department and we are talking about a tender process for exploration licenses, would it not have been reasonable to identify those documents in his office to protect his interests?

**Mr ANQUETIL:** I should have, yes.

**CHAIR:** Was it the time frame that was the problem? This is what you call a Dorothy Dixier. I am giving you the out.

**Mr ANQUETIL:** No. Well, I cannot—no, I cannot use that as an excuse because—no.

**CHAIR:** Can you explain why it took between 13 November and 19 November to forward on the letter from the Department of Premier and Cabinet [DPC] to Mr Taylor?

**Mr ANQUETIL:** No, I cannot.

**CHAIR:** Really, by leaving it so long, you really left Mr Taylor in a very deep hole, did you not, because you only then essentially gave him a day on which to get the documents together to go to the Department of Premier and Cabinet.

**Mr ANQUETIL:** That is what it looks like now.

**CHAIR:** Well, that is what it is, is it not?

**Mr ANQUETIL:** Yes.

**CHAIR:** Because you have seen the documents that were provided by Maddocks that seemed to show that the entry on TRIM was on the morning on 19 November. Is that right?

**Mr ANQUETIL:** Yes.

**CHAIR:** Even though it does not identify you on that TRIM record, it was you that forwarded it on to Mr Taylor.

**Mr ANQUETIL:** I am not sure whether I physically forwarded it on to Mr Taylor.

**CHAIR:** Well, somebody in your section.

**Mr ANQUETIL:** Yes.

**CHAIR:** At your direction. Would that be right?

**Mr ANQUETIL:** Yes.

**The Hon. MATTHEW MASON-COX:** Mr Anquetil, I just wondered: What are you doing now?

**Mr ANQUETIL:** I am the executive director of business services.

**The Hon. MATTHEW MASON-COX:** Within the same department?

**Mr ANQUETIL:** Primary Industries.

**The Hon. MATTHEW MASON-COX:** Okay. When did you start that position?

**Mr ANQUETIL:** In 2011.

**The Hon. MATTHEW MASON-COX:** In what month in 2011?

**Mr ANQUETIL:** November 2011.

**The Hon. MATTHEW MASON-COX:** Thank you very much.

**CHAIR:** Have you received any training since November of 2009 on responding to the Government Information (Public Access) [GIPA] Act and Standing Order 52 requests?

**Mr ANQUETIL:** Not any training, no, but I am quite aware of what is expected.

**CHAIR:** Would you have given that same answer—that is, you are quite aware of what was expected—in 2009?

**Mr ANQUETIL:** Probably not.

**CHAIR:** Have you been made aware of a policy with regards to Standing Order 52s?

**Mr ANQUETIL:** Yes.

**CHAIR:** How did you become aware of that?

**Mr ANQUETIL:** That was through a director general [DG] message from Mr Mark Paterson.

**CHAIR:** There is not much more that we have to go through, but could I just ask this: Were you aware of an article that appeared in the *Australian Financial Review* shortly before the SO 52 was received?

**Mr ANQUETIL:** No. I cannot recall, I am sorry, but I mean there was a lot of talk about—I think at the time about—what was going on, but I cannot recall seeing the article.

**The Hon. JENNIFER GARDINER:** What sort of talk—

**Mr ANQUETIL:** Well—

**The Hon. JENNIFER GARDINER:** —about what was going on? What was going on, did people say?

**Mr ANQUETIL:** No, I mean, the Standing Order 52 was received.

**CHAIR:** There was word about, was there not, that there was something crook about the Mount Penny exploration licence. Was that the case?

**Mr ANQUETIL:** I cannot say they were the words. I cannot say that.

**CHAIR:** I am not suggesting they were the words.

**Mr ANQUETIL:** No.

**CHAIR:** That is a colloquialism.

**Mr ANQUETIL:** Yes.

**CHAIR:** There was concern being expressed with regards to the circumstances surrounding the granting of the Mount Penny exploration licence?

**Mr ANQUETIL:** Well, that could have—that could have been the talk around at the time.

**The Hon. DAVID CLARKE:** What was the talk you were referring to a minute ago when you referred to there was "talk" around? What were you referring to?

**Mr ANQUETIL:** Well, I am not sure. The question was about whether I remembered the article. I do not remember the article. But do not forget that it has been a long time since 2009 and there has been a lot of news about what has gone on, so I cannot exactly tell you when and what I heard.

**The Hon. JEREMY BUCKINGHAM:** Mr Anquetil, you were in the ministerial liaison unit at that time.

**Mr ANQUETIL:** Not in the ministerial liaison unit, but I was the director of executive support—

**The Hon. JEREMY BUCKINGHAM:** Yes.

**Mr ANQUETIL:** —and part of my role was looking after, providing support for, the Minister's office.

**The Hon. JEREMY BUCKINGHAM:** That is right. So Mr Macdonald, as a conduit between the executive—

**Mr ANQUETIL:** And the office.

**The Hon. JEREMY BUCKINGHAM:** —and the director general's department—

**Mr ANQUETIL:** Yes.

**The Hon. JEREMY BUCKINGHAM:** —and then with Mr Primrose too.

**Mr ANQUETIL:** Yes.

**The Hon. JEREMY BUCKINGHAM:** Were you aware of any talk in the department about the SO 52 and how to respond to it when notice was first given of it in the Parliament?

**Mr ANQUETIL:** Well, as I said, I was aware of the Standing Order 52, definitely.

**The Hon. JEREMY BUCKINGHAM:** What was the attitude of the Minister to the SO 52?

**Mr ANQUETIL:** There was no involvement of the Minister as far as Standing Order 52. I can tell you: all the time I have been involved, there has never been any involvement of the Minister's officers or the Ministers with us providing Standing Order 52 or freedom of information or Government Information (Public Access) [GIPA] Act requests.

**The Hon. JEREMY BUCKINGHAM:** No. I am not suggesting there was interference. I am not suggesting that now; I might do that later. Were there discussions between the Minister's office and the executive of the department as to how to respond to the SO 52—whether or not to block it in the Parliament, whether or not to draft a speech in opposition; those types of—

**Mr ANQUETIL:** No.

**The Hon. JEREMY BUCKINGHAM:** You were not involved in any discussions with any of the Ministers' staff in that regard?

**Mr ANQUETIL:** No.

**The Hon. GREG DONNELLY:** In terms of the bringing together of material for SO 52s, do you recall whether there was any procedures document or guidelines or memoranda that actually outlined how a director general and his department would go about collecting the relevant documents for an SO 52 order of the Legislative Council?

**Mr ANQUETIL:** The only procedure that I remember and know about at the time was a sample document that was attached to the letter from the Department of Premier and Cabinet. With a letter that they send you, they send you a sample as to how you should produce documents and what you should—that is all I remember. But I cannot remember having any policy and procedures—ever seeing policy and procedures.

**The Hon. GREG DONNELLY:** I know it is some time ago, but what do you recall was in the sample document? Did it give you some examples of what you might be looking for in a search?

**Mr ANQUETIL:** All I can remember was there was a form with the title of the documents and whether it was privilege or non-privilege. That is all I can remember.

**CHAIR:** Mr Anquetil, I have to give you a little screed at the end to round out what we have done. Firstly, thank you for giving your evidence today. We all recognise that you have come here voluntarily and we are grateful for the assistance that you have given to the Committee in that respect. As previously indicated, the transcript of your evidence will remain confidential at the present time. However, after reviewing the transcript, the Committee may decide—and I can assure you, will decide—to make some or all of the evidence public. It is likely that, within a relatively short time, the secretariat will be in contact with you, giving you a copy of the transcript and inviting you to suggest any redactions of the transcript and perhaps including some draft redactions for your consideration as well. The Committee will consider the transcript itself and what redactions it should have and any input that you might have in relation to that and will then come to a decision.

The Committee attempts, as best it can, to respect the wishes of the witnesses. However, you would understand that, to be frank, in this case what we want and need on the public record is an explanation as to what went wrong in this process. You and others have been very helpful in developing a picture of where things might have fallen off the rails. That is not meant as a criticism of anyone but simply as an observation. If there are, however, any areas of your evidence you have given today that you would like to nominate now as suitable for redaction, I invite you to, although I suspect probably nothing comes to mind right now.

**Mr ANQUETIL:** I agree.

**CHAIR:** The transcript will come to you shortly for consideration. Once again, thank you. I realise that these things are mildly stressful but, as you would understand, it is not so much a question that we feel hurt and wounded that there was not a response to the call for papers but that it was a very significant event, at least in the political, if not the economic, history of New South Wales that was impacted upon by the failure of this return to adequately occur. So again, thank you very much. We will be in touch shortly.

**Mr ANQUETIL:** Thank you very much.

**(The witness withdrew)**

**(The Committee adjourned at 4.42 p.m.)**

---