

GOVERNMENT ENVIRONMENTAL REGULATORS AND THE CAPTURE THEORY

4720. Hon Giz Watson to the Parliamentary Secretary representing the Minister for the Environment

I refer to a newspaper article which appeared in the *Weekend Australian* dated 9 December 2006 titled 'A scandal with entertainment value', a report titled 'The Enforcement of Environmental Protection Laws in Queensland: A case of Regulatory Capture', and a newspaper article from the *West Australian* dated 9 October, 2001 titled 'Temby calls for Broking overhaul' which makes reference to 'capture theory as the process by which government agencies that are responsible for corporate regulation shift from enforcing the public interest to serving the interests of the identities being regulated', and I ask -

- (1) Does the Minister regard it as both ethical and acceptable that the Chairperson of the Environmental Protection Authority (EPA), Mr Wally Cox, or any other members of the EPA can meet with lobbyists over lunch, paid for by the lobbyist or companies to discuss projects/proposals while these are going through the full environmental impact assessment?
- (2) If no to (1), why not?
- (3) If yes to (1), why?
- (4) Is it correct that the report titled 'The Enforcement of Environmental Protection Laws in Queensland: A case of Regulatory Capture' in part states 'Following the Mathews Inquiry, a hospitality register was set up in 1994 after the CJC heard evidence that officers received trips, alcohol, lunches and seats in corporate boxes during major sporting events from mining companies'?
- (5) If no to (4), will the Minister quote the full text from this report referred to question (4)?
- (6) Will the Minister urgently take action to set up a public 'hospitality register' where all EPA members, all EPA services support staff and staff of the Department of Environment and Conservation are required to publicly disclose on a register all alcohol, gifts, lunches, seats in corporate boxes, trips, tickets to events etc received from mining companies and lobbyists?
- (7) If no to (6), why not?
- (8) If yes to (6), when will the Minister set up such a register?

Hon SALLY TALBOT replied:

- (1)-(3) I am advised that the Chairman and Members of the Environmental Protection Authority (EPA) as a matter of general principle do not meet with proponents or their representatives over lunch to discuss proposals that are in the environmental assessment process. The EPA does however undertake a number of site visits including remote site visits as part of the environmental assessment process during which lunch is provided by the proponent. The EPA Chairman also attends a number of industry paid functions to keep abreast of industry issues and provides input to industry on the EPA's expectations for project proposals and the environmental assessment process.
- (4)-(5) The Environmental and Planning Law Journal (Vol 15, No 1) published an article titled 'The Enforcement of Environmental Protection Laws in Queensland: A Case of Regulatory Capture?' by Michael Briody and Tim Prenzler of the School of Justice Administration, Griffith University, Brisbane. Page 69 of the article states: "Following the Matthews Inquiry, a hospitality register was set up in 1994 after the CJC heard evidence that officers received trips, alcohol, lunches and seats in corporate boxes during major sporting events from mining companies." In relation to the statement on page 69, the authors cite the following reference: W Sanderson, "Memo told of BHP bid to discredit Inspector", Courier Mail, 21 June 1997, p9.
- (6)-(8) I am advised that the EPA's existing register of gifts that applies to EPA Members has been extended as of 16 April 2007 to cover disclosure of all alcohol, gifts, lunches, seats in corporate boxes, trips and tickets to events received from proponents and their representatives. All EPA support staff are Department of Environment and Conservation (DEC) employees. The Department of Environment and Conservation (DEC) has a policy dealing with hospitality in its Code of Conduct. This says:

"As a general principle, employees should not accept gifts or benefits. The main risk of accepting a gift or benefit is that it may result in an actual or perceived conflict of interest.

The term 'gift' includes items of commercial, historical or religious value, property (real or otherwise), transfers of money, loans of money or property, free air travel, accommodation and general purchases at valuations significantly below usual retail prices. It does not include items which are regarded as souvenirs or mementos such as cuff links, ties, books, stationery, diaries,

bottles of wine and the like, the approximate retail value of which does not exceed \$30 at the time and place of purchase.

Officers may not demand, seek or accept any benefit, fee, reward, gratuity or remuneration other than approved salaries and entitlements, for services performed by them in the course of their employment either in or out of their prescribed hours of duty. As a general rule, officers should not under any circumstances accept gifts:

- which could give the appearance of a conflict of interest with their duties (past, present or foreseeable future);
- which are given with the objective of securing, or returning, favour or preferment; and
- which involve the transfer of monies, regardless of value, eg. cash or loans.

You may accept a gift or benefit only if it is a token, and only when refusal could be unreasonable, rude or offensive (particularly when travelling overseas). Any gift received is deemed public property as defined by the Financial Management Act 2006 and you must report this in writing to your manager within ten working days or when you return to Australia if you are overseas at the time. The gift should be handed in to your manager until a decision is made about what will happen to the gift."

The Department considers these requirements are sufficient, without the need to establish a public register.