

Industry Associations, ASX Companies, Shareholder Interests and Lobbying



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ABOUT THE AUTHORS

ACCR

The Australasian Centre for Corporate Responsibility (ACCR) is a not-for-profit association that promotes responsible investment through undertaking and publishing research to evaluate and improve the performance of Australian listed companies on environmental, social and governance (ESG) issues. We have a small portfolio of shares that we hold for the purpose of engaging with companies on ESG issues, including through the filing of shareholder resolutions. We encourage other investors to use our research to engage with companies in their portfolio.

www.accr.org.au

About ISS-caer

CAER's mission is to broaden the reach of ethical and responsible investment. To achieve this we provide, structure and add value to ESG information on companies and investment portfolios.

CAER's business activities focus on the provision of expertly assessed ESG information. Our team of analysts have a deep knowledge of the responsible investment market, and are able to provide our clients with expert insights in addition to high quality, well-structured global ESG data.

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ABOUT THE REPORT

ASX-listed companies maintain memberships with a range of industry associations, both in Australia and globally. This report explores lobbying by these industry associations in Australia and the potential risks this lobbying represents for companies and shareholders.

FOREWORD

Political expenditure and lobbying activities undertaken by companies are an area of potential divergence of opinion between the interests of shareholders and company management.¹ As such, in recent years, companies' activities in these areas, and the ways in which companies are directly and indirectly involved in such activities, have come into sharper focus in jurisdictions around the world.

Research by Bebchuk and Jackson provides a taxonomy of avenues for this divergence of opinion as based on political expenditure decisions made by boards and executives in the United States.² In the United Kingdom, legislation now requires shareholder approval for political expenditure. An oft-cited area of concern, corporate political expenditure is increasingly being assessed to ensure that such transactions reflect strategic considerations in line with the company ethos and shareholder interests, and not just the personal interests of limited individuals.

ACCR commissioned this report with ISS-caer to consider this issue in the context of political speech by industry associations in Australia, which are substantially funded by shareholders of ASX listed public companies.

ACCR wishes to thank Bruce Freed and the US Centre for Political Accountability for intellectual assistance and inspiration.

¹ Bebchuk, L and Jackson, R *Corporate political speech: who decides?* Harvard Law Review, 2010, Vol 124:83, pp 83-117.

² *Ibid.*, pp 92-97.

INTRODUCTION

The lobbying activities of industry associations can have a significant impact on politics and society. In Australia, this includes involvement in regulatory and legislative reviews regarding topics that directly impact industry operations, such as trade, employment and taxation, as well as issues that indirectly affect operations, such as climate change, supply-chain participants, and social reform.

Industry associations operate in an intermediary position between their member companies and public servants and politicians, often acting as spokespeople for the collective interests of a group of companies from a particular industry.

As such, investors seeking to ensure that corporate political rights and shareholder funds are used appropriately should also consider the views of industry associations representing those companies. This report encourages investors to consider both the risks and opportunities that industry associations present for their investee companies. By advocating enhanced transparency around the lobbying activities of industry associations, investors can better identify use and misuse of corporate political speech that impacts environmental, social and governance (ESG) issues. Investors can then engage with companies and industry associations seeking to ensure their lobbying activities reflect shareholder interests.

Where there is inconsistency between the views championed by a company and those put forward by an industry association to which the company belongs, this represents a clear misuse of corporate political rights and shareholder funds. It can readily translate to risks to investors with financial implications. These risks include:

- **Reputational risks** – where a company is publicly named for its inconsistent positioning. This can lead to community and consumer campaigns against the company, threatening their social licence to operate.
- **Operational risks** – such as
 - where staff, supply-chain participants and third party relationships are strained due to tensions in the industry network;
 - long-term operational risk that the industry and associated supply chains are exposed to due to resisting economic, social, environmental or technological developments;
 - increase in cost of capital due to the regulatory uncertainty caused by volatility in political consensus.
- **Governance risks** – where a company is contributing via membership fees or donation to a body that does not represent its stated interests or its shareholders' interests. In addition, where a company is donating to an industry association that undertakes activities which do not align with the company's policy or investor expectations regarding political

donations. Australian readers should be aware our controls on corporate political speech are far weaker than those in the US and the UK.³

Concerns about the disconnect between company policy positioning and representations made by their industry associations have also come onto the agenda of the Principles for Responsible Investment (PRI). The PRI notes in its publication on *Investor Expectations on Corporate Lobbying*:

“We believe that companies should be consistent in their policy engagement in all geographic regions and that they should ensure any engagement conducted on their behalf or with their support is aligned with our interest in a safe climate, in turn protecting the long-term value in our portfolios across all sectors and asset classes.”⁴

The statement continues to note that this includes policies, action, advocacy and disclosure regarding climate change. It also focuses on policy engagement relating to climate change, putting forward the argument that companies should be consistent in their policy engagement across all geographic regions, and through their third-party engagement on all environmental, social and governance issues.

These sentiments, coupled with the aforementioned risks, are suggestive of a growing interest by investors and civil society in the lobbying activities of industry associations and the companies that they seek to represent. From the perspective of a ‘Universal Owner’, institutional investors have a responsibility to ensure that lobbying funded by their investees is consistent with the long-term interests of the beneficiaries of their entire portfolio and not simply a reflection of personal or myopic views of particular corporate executives.

Report Structure

This report has two parts. **Part 1** provides a background on industry associations, including:

- description of industry associations and membership types
- potential benefits and disadvantages of belonging to industry associations
- Australian norms and legislation that seek to regulate industry associations
- industry associations and political influence
- examples of investor engagement and tools relating to industry associations policy lobbying

Part 2 of this report examines company practices and specific issue case studies that relate to industry associations in Australia. It analyses the disclosures of 70 of the largest 100 companies on the Australian Stock Exchange regarding corporate political expenditure and membership of

³ Pender, H, *Corporate Political Expenditure in Australia*, 2016, <https://accr.org.au/wp-content/uploads/ACCR_Corporate_Political_Expenditure.pdf> [Accessed 15/10/2018].

⁴ ‘Investor Expectations on Corporate Climate Lobbying’, *Principles for Responsible Investment*, <https://www.unpri.org/Uploads/i/k/t/Investor-Expectations-on-Corporate-Climate-Lobbying_en-GB.pdf> [Accessed 23/08/2018].

industry associations. This analysis excludes companies in the finance and real estate sectors and trade associations representing those sectors. Some reference to companies in these sectors is made in the context of broad cross industry trade associations, such as the Business Council of Australia (BCA).

Part 2 also examines the involvement of industry associations in legislative and regulatory debates regarding three distinct themes:

- climate change
- modern slavery
- sugar regulation

These themes were chosen to demonstrate that industry associations lobby for, and have influence over, policy agenda across different social and environmental issues. For each of these themes, the report explores where industry associations' positions on key issues have been at odds with either the positions of the companies that they represent, or with globally endorsed best practice.

PART 1 - BACKGROUND

What is an Industry Association?

Industry associations are member-based organisations comprising of companies operating in a particular industry. They are also known as trade associations, business associations, industry bodies, and industry trade groups. Industry associations commonly engage in activities that promote the interests of their members to relevant stakeholders, government and community organisations. For the purpose of this report, the term 'industry association' refers to the various iterations of these groups.

Services provided by industry associations include, but are not limited to:

- setting industry standards and voluntary codes
- running training and education programs
- arranging public relations or advertising activities to promote the specific industry
- knowledge sharing and influencing government policy, and
- organising networking events.⁵

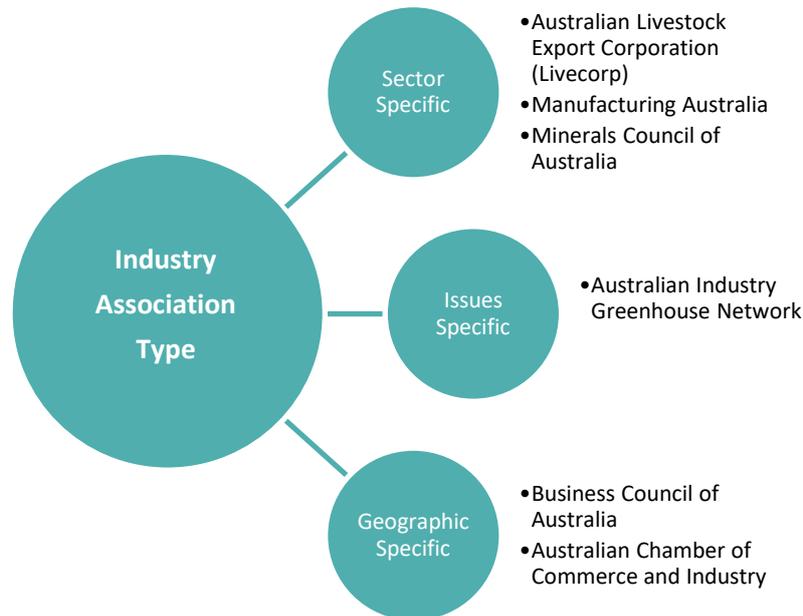
There are different types of industry associations, which can be roughly sorted into the following categories:

- 1) Sector specific industry associations
- 2) Issue specific industry associations
- 3) Geographic specific industry associations

Figure 1 demonstrates examples of section specific, issues specific and geographic specific industry associations present in Australia.

⁵ 'Industry Associations', *Queensland Government*, <<https://www.business.qld.gov.au/starting-business/planning/market-customer-research/resources/associations>> [Accessed 07/08/2018].

Figure 1 Examples of section specific, issues specific and geographic specific Australian Industry Associations



Analysis of disclosed industry association membership suggests that membership is typically comprised of companies operating within that industry, as well as supply-chain or third-party service providers.

Income for industry associations is typically raised through membership fees. This means that most associations are typically not-for-profit organisations. However, some associations are exposed to income tax if their “main purpose is providing hospitality services for members, and political parties.”⁶

For members (i.e. companies) of an industry association, subscription costs incurred are tax deductible in Australia.⁷ Membership fees can be structured in different ways and can depend on factors such as a company revenue, number of employees or an operational measure, such as the barrels of oil equivalent production.⁸ There are also different tiers of membership. For example, the Minerals Council of Australia (MCA) has a Full Membership for “companies directly involved in mining, prospecting or contracting activities relating to the obtaining, concentrating, smelting ore refining of minerals” and an Associate Membership for “companies which carry on as their

⁶ ‘Taxable Organisations’, *Australian Taxation Office*, <<https://www.ato.gov.au/Non-profit/Your-organisation/Do-you-have-to-pay-income-tax-/Taxable-organisations/>> [Accessed 07/08/2018].

⁷ Income and Deductions for Business: Other Operating Expenses, *Australian Taxation Office*, <<https://www.ato.gov.au/Business/Income-and-deductions-for-business/Deductions/Other-operating-expenses/>> [Accessed 07/08/2018].

⁸ For example, APPEA membership relies on BOE production per year. ‘Membership’, *APPEA*, <<https://www.appea.com.au/about-appea/membership/>> [Accessed 07/08/2018].

principal business the supply of equipment, materials, services or capital to a company eligible for Full Membership.”⁹

Becoming a member of an industry association may require a company to make certain commitments. For example, the Australian Petroleum Production & Exploration Association (APPEA) members are bound by the APPEA Principles of Conduct.¹⁰ There are also certain reporting standards that might be associated with membership, as with the MCA’s requirement for membership companies to annually report their water use using the MCA Water Accounting Framework.¹¹

Advantages and Disadvantages of Belonging to an Industry Association

There are advantages and disadvantages to belonging to an industry association, which should be noted by investors prior to engagement on issues relating to industry association membership.

Advantages of belonging to an industry association can include:

- networking among peer businesses
- collectively setting standards for best practice
- developing and implementing industry-wide certification
- opportunities relating to education and professional development, and
- sharing information that is relevant to the industry¹²

Importantly, belonging to an industry association allows members to collectively influence legislative and regulatory outcomes in favour of their industry.

This may include, but is not limited to, negotiating taxation issues, international trade agreements, employment legislation, and influencing legislation regarding supply-chains.

Companies often note that engagement with industry associations comprises part of their stakeholder engagement process. Industry associations can also be utilised as a vehicle to engage broadly with stakeholders such as investors and government organisations, as noted by Rio Tinto in their ‘Participation in Industry Associations’ document.¹³

⁹ ‘MCA Membership’, *Minerals Council of Australia*, <http://www.minerals.org.au/mca/mca_membership> [Accessed 07/08/2018].

¹⁰ APPEA Principles Code of Conduct, 2016, *APPEA*, <https://www.appea.com.au/wp-content/uploads/2016/03/APPEA_Principles-of-Conduct-2016_signed.pdf> [Accessed 07/08/2018].

¹¹ Water Accounting Framework For the Minerals Industry, *Minerals Council of Australia*, January 2014, <http://www.minerals.org.au/sites/default/files/WAF_UserGuide_v1.3_%28Jan_2014%29.pdf> [Accessed 07/08/2018].

¹² ‘Industry Associations’, *Queensland Government*, <<https://www.business.qld.gov.au/starting-business/planning/market-customer-research/resources/associations>> [Accessed 07/08/2018].

¹³ ‘Participation in Industry Associations’, *Rio Tinto*, <https://www.riotinto.com/documents/RT_Participation_in_industry_associations.pdf> [Accessed 21/08/2018].

Benefits of belonging to an industry association are described by BHP in their Industry Association Review:¹⁴

“BHP believes that industry associations have the capacity to play a key role in advancing the development of standards, best practices and constructive policy that are of benefit to members, the economy and society. Similar benefits may be available where non-government organisations organise under a peak body in the not-for-profit sector, or where professionals become a member of a standards body.”

Disadvantages of belonging to an industry association can include:

- membership costs
- potential misalignment between company strategies and policies and industry association strategies and policies
- potential misalignment between a company’s memberships of different industry associations, and
- sharing of advice or misinformation that may not be beneficial to a company

Australian Legislation and Regulations Covering Industry Associations

In Australia, industry associations must ensure that their membership criteria, voluntary codes and advice to members comply with the *Competition and Consumer Act*.¹⁵ The National Competition Council generally oversees restrictions protected by legislation that falls outside of the *Competition and Consumer Act*.

In order to ensure they are operating within the law, industry associations are encouraged to “ensure membership rules are transparent and applied equally to all potential members, including substantiating reasons for accreditation or qualification requirements”.¹⁶ However, this does not pertain to transparency of membership. There are no obligatory reporting requirements relating to disclosing membership of industry associations in Australia. Some industry associations choose to publish a list of their members in annual reports, whilst others keep this information confidential.

In some cases, members of industry associations are also industry associations themselves. For example, the Australian Industry Greenhouse Network includes industry associations and individual business members.¹⁷

¹⁴ BHP Industry Association Review, BHP, 19 December 2017, <https://www.bhp.com/-/media/documents/ourapproach/operatingwithintegrity/industryassociations/171219_bhpindustryassociationreview.pdf> [Accessed 21/08/2018].

¹⁵ ‘Professional Associations’, *Australian Competition and Consumer Commission*, <<https://www.accc.gov.au/business/professional-services/professional-associations>> [Accessed 21/08/2018].

¹⁶ Ibid.

¹⁷ ‘Membership’, *Australian Industry Greenhouse Network*, <<http://www.cement.org.au/AboutUs/CIBoardMembers.aspx>> [Accessed 07/08/2018].

The following section outlines legislation relating to political donations and the lobbying code of conduct.

Political Donations

Under Australian law, industry associations and listed companies are able to make political donations to Australian political parties. Effectively, this is any money provided to political parties to support their campaigns and operations.

Under the *Commonwealth Electoral Act 1918*, cash donations also qualify as 'gifts', which is defined under Section 287 as "any disposition of property made by a person to another person... being a disposition made without adequate consideration in money or money's worth....".¹⁸ This is inclusive of money or a service for which no payment or an inadequate payment is received. Commercial transactions, such as a return on shares or interest, are not considered 'donations' or 'gifts' under these definitions.¹⁹

As per Part XX of the *Commonwealth Electoral Act 1918*, under the Commonwealth funding and disclosure scheme, donations to political parties must be reported to the Australian Electoral Commission. Annual or election period financial disclosures are required to be lodged by candidates, registered political parties, state branches, local branches and sub-party units, donors and other participants.

In Australia, donations and gifts to political parties must be disclosed when they are in excess of \$13,800. This threshold has been increased annually based on increases in the consumer price index since the initial disclosure threshold of \$10,000 was set in 2006.²⁰ Separately, in Victoria a stricter threshold of disclosing donations above \$1000 has been implemented as of 2018.²¹

In accordance with the legislation, industry associations and companies must disclose donations exceeding this threshold that are made to political parties. However, where a separate fundraising body is hired by these groups to raise money for a political party through fees for events or private functions, the money raised can be deposited by the fundraising body as 'other receipts', concealing the original identity of the donor. This has been identified as a pervasive problem in ensuring accountability of the disclosures system.²²

¹⁸ 'Glossary of Terms', *Australian Electoral Commission*, <<https://periodicdisclosures.aec.gov.au/Glossary.aspx>> [Accessed 20/09/2018].

¹⁹ Ibid.

²⁰ 'Disclosure threshold', *Australian Electoral Commission*, <https://www.aec.gov.au/Parties_and_Representatives/public_funding/threshold.htm> [Accessed 21/08/2018].

²¹ <https://www.abc.net.au/news/2018-07-28/victorias-strict-rules-on-political-donations-explained/9997838>.

²² <https://www.theguardian.com/australia-news/2018/sep/03/australias-political-parties-got-62m-in-dark-money-donations-last-year>.

According to research by the University of New South Wales, only 10-20% of donations are disclosed by the major Australian political parties. For 20 – 35% of donations, the source of the donation is not clear, whilst 50 – 70% of donations are “completely opaque”.²³

Lobbying Code of Conduct

In 2011, the Australian Government enforced a Lobbying Code of Conduct and a Register of Lobbyists, which operates in conjunction with the Australian Government Standards of Ministerial Ethics. However, the Lobbying Code of Conduct does not provide any restrictions regarding contact between lobbyists and government representatives.²⁴

Disclosure of Industry Association Membership

In Australia, there are no mandatory disclosure regimes for companies around their membership of industry associations at the federal level. However, there are some voluntary disclosure initiatives that cover elements of industry associations and political lobbying.

ASX Guidelines

The ASX Corporate Governance Principles and Recommendations set out guidance and recommendations relating to corporate governance practices for entities listed on the ASX.²⁵ Under Listing Rule 4.10.3, ASX listed entities are required to benchmark their corporate governance practices against the Council’s recommendations. In the instances where a company does not conform to the standards the company is required to disclose the reasons for non-conformity.²⁶

The ASX Corporate Governance Principles and Recommendations (Fourth Edition) includes recommendations relating to disclosing the affiliations of board directors.²⁷ This is important in the context of industry associations, as it highlights potential conflicts of interest that board members may have between the companies they are responsible to govern, and the industry associations they have affiliations with. This could, for example, result in undue support for an industry

²³ <https://www.theguardian.com/australia-news/2018/sep/03/australias-political-parties-got-62m-in-dark-money-donations-last-year>.

²⁴ Lobbying Code of Conduct, *Department of Prime Minister and Cabinet, Australian Government*, <https://lobbyists.pmc.gov.au/docs/code_conduct.pdf> [Accessed 07/08/2018].

²⁵ Corporate Governance Principles and Recommendations, 3rd Edition, *ASX Corporate Governance Council*, 2012, p3, <<https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf>> [Accessed 21/08/2018].

²⁶ ‘Corporate Governance Council,’ *ASX Limited*, <<https://www.asx.com.au/regulation/corporate-governance-council.htm>>. [Accessed 21/08/2018].

²⁷ Corporate Governance Principles and Recommendations, 3rd Edition, *ASX Corporate Governance Council*, 2012, p3, <<https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf>> [Accessed 21/08/2018].

association, when the company's policy and strategic positioning differs from the industry association. Recommendation 2.3 states:

A listed entity should disclose: (a) the names of the directors considered by the board to be independent directors; (b) if a director has an interest, position, association or relationship of the type described in Box 2.3 but the board is of the opinion that it does not compromise the independence of the director, the nature of the interest, position, association or relationship in question and an explanation of why the board is of that opinion; and (c) the length of service of each director.

The 4th Edition Consultation Paper does not make any recommendations relating to companies disclosing their memberships of industry associations.

CDP

CDP is a not-for-profit organisation that runs a disclosure system for investors, companies, cities, states and regions to measure their environmental impacts.²⁸ The disclosure system is investor led, and CDP has a network of investors and purchasers representing over GBP 100 trillion.²⁹ CDP asks these bodies to voluntarily disclose data on their environmental performance, which CDP draws on to analyse the critical environmental risks, opportunities and impacts. CDP discloses that "over 6,300 companies responded to their climate change, water, forests and supply chain questionnaire this year".³⁰

The CDP questionnaire includes questions regarding companies' activities related to public policy engagement. **Appendix 1** illustrates the questions in the 2018 CDP survey related to influencing climate-related public policy and industry associations.³¹ However, it is important to note that there are no equivalent disclosures for companies relating to their engagement with industry associations and public policy that extends beyond climate change. For example, question C12.3f asks companies to disclose processes they have to ensure consistent policies on issues such as climate change policy.

Although they are not explored in this report, there are also major international industry associations that include Australian members. These include, but are not limited to:

- International Council on Mining and Metals
- US Chamber of Commerce

²⁸ Home Page, CDP, <<https://www.cdp.net/en>> [Accessed 21/08/2018].

²⁹ About Us, CDP, <<https://www.cdp.net/en/info/about-us>> [Accessed 21/08/2018].

³⁰ Ibid.

³¹ 'CDP Question Changes and Map: 2017 to 2018, CDP Climate Change Questionnaire', CDP, Version 2, June 21 2018, <https://b8f65cb373b1b7b15feb-c70d8ead6ced550b4d987d7c03fcdd1d.ssl.cf3.rackcdn.com/cms/guidance_docs/pdfs/000/000/480/original/CDP-climate-change-changes-document.pdf?1518701401> [Accessed 21/08/2018].

- National Association of Manufacturers
- World Coal Association

GRI

The Global Reporting Initiative (GRI) Standards provide a framework for standardised, sustainability reporting that are in use by companies around the world. GRI Disclosure Standard 102-13 requires that companies report “a list of the main memberships of industry or other associations, and national or international advocacy organisations”.³² The GRI recommends those memberships which are most material, are those where a company holds a position on the governance committee, participates in committees, provides substantive funding or views its membership as strategic. Companies that have produced GRI-verified reports include Amcor (ASX:AMC), ANZ (ASX:ANZ), BHP Billiton (ASX:BHP), BlueScope Steel (ASX:BSL), Challenger (ASX:CGF) and Oil Search (ASX:OSH).

Industry associations and political influence

Industry associations commonly assert their political influence through direct policy engagement, including government engagement, media and advertising, and political donations, and indirect policy engagement, such as the sponsorship of think tanks, and by supporting fundraising and campaigning events.

Direct policy engagement

Direct policy engagement by industry associations are detailed below:

- **Government engagement:** Large industry associations seek to represent the voice of their industry in issues of legislative reform and regulation. In many cases, the key offering of an industry association to its members is the provision of consistent engagement with advocacy. One way that industry associations provide this engagement is through writing submissions, both proactively and reactively, to government bodies regarding areas of legislative and regulatory reform. Another way is through presence in cross-industry or governmental working groups for different industry-related issues. Industry associations also proactively engage with and meet members of parliament.
- **Media:** Influencing the media landscape is a second key method through which industry associations influence policy and public attitudes. Interaction with the media includes:
 - **Public commentary:** Providing statements to media regarding issues related to the industry, governmental policy, or specifically relevant events.

³² <https://standards.sinzer.org/gri/requirementfordisclosure/102-13.A>

- **Media releases:** The regular publication of media releases ensures that the views of industry associations are regularly featured in the media (for example, the Minerals Council of Australia published eight media releases in the month of August 2018).³³
- **Advertising campaigns:** Industry associations have mounted large-scale print, digital and television campaigns relating to specific policy issues such as climate change (Minerals Council Coal advertisement campaign 2015; Australian Mining ‘This Is Our Story’ Campaign”); Australian Trade and Industry Alliance anti-carbon tax campaign).
- **Political donations:** Some industry associations make donations to political parties in order to support a specific policy outcome, or to foster closer relationships with politicians.

While there are many forms of political influence used by industry associations, the issue of political donations in particular has come into focus because of increasing public demand for improved transparency in Australia. Companies are increasingly making commitments to prohibit political donations as part of their governance and transparency measures. For example, AGL released a policy in August 2015 to ban political donations. This policy also states: “AGL will not use undisclosed proxies or third parties as intermediaries for purposes of making political donations.”³⁴ AGL disclosed that they decided to ban political contributions to remove the community perception that donations may constitute undue influence from big business on government.³⁵

However, many of the companies that do not make political donations belong to an industry association that does. For example, the 2017-2018 Australian Electoral Commission Donor Data makes clear that BHP, Rio Tinto, South32, Orica, and Newcrest Mining, all of which are members of the Minerals Council of Australia, did not make any political donations in the reporting year. However, the Minerals Council of Australia gave AUD 94,900 to political parties in 2017-2018.³⁶ These donations were made to a variety of different parties, including the Federal National Party, the Federal Liberal Party, the NSW Liberal Party and the Victorian Labor Party.

In response to the Senate Select Committee into the Political Influence of Donations, which considered how political donations may influence public policy matters, the Minerals Council of Australia explained that it makes political contributions:

³³ Media, *Minerals Council of Australia*, <<https://www.minerals.org.au/media>> [Accessed 07/08/2018].

³⁴ Political Donations Policy, *AGL*, August 2015, <<https://www.agl.com.au/-/media/aglmedia/documents/about-agl/who-we-are/corporate-governance-policy/corporate-governance-policies-charter/20170620-agl-political-donations-policy.pdf>> [Accessed 04/09/2018].

³⁵ Cathlin Thurbon, ‘AGL releases new Political Donations Policy prohibiting political donations’, *AGL*, 26 August 2015, <<https://thehub.agl.com.au/articles/2015/08/agl-releases-new-political-donations-policy-prohibiting-political-donations>> [Accessed 04/09/2018].

³⁶ Australian Electoral Commission, Donor Returns – 2017-2018, *Australian Electoral Commission*, <<https://periodicdisclosures.aec.gov.au/Donor.aspx?SubmissionId=68&ClientId=27919>> [Accessed 12/03/2019].

“...because they provide additional opportunities for the MCA to meet with members of parliament. The MCA uses these opportunities to update members of parliament about conditions in the Australian minerals industry and the policy priorities of the MCA.”³⁷

Indirect policy engagement

There are other less direct ways that industry associations may seek to influence policy outcomes. These include, but are not limited to:

- Sponsorship of think tanks
- Supporting fundraising campaigns and events

Sponsorship of Think Tanks:

Australian political parties regularly fund their own think tanks to produce articles and research that inform and influence policy positions. Many of these think tanks qualify as non-governmental organisations under Australian tax law, and therefore are eligible to receive Deductible Gift Recipient status, meaning that donations made to these groups are tax-deductible. It also means that donations made to these groups do not need to be disclosed by donors in the way that donations to political parties do. In effect, industry associations and companies are able to donate funds to organisations engaged in politically-focussed activities without having to disclose their transactions or relationship.

Major think tanks affiliated with Australia’s major political parties are noted below:

- The Australian Greens: The Green Institute
- The National Party: Page Research Centre
- The Liberal Party: The Menzies Research Centre
- The Australian Labor Party: The Chifley Research Centre

Industry associations also utilise think tanks as a vehicle to justify and advocate for their position on particular issues. For example, the COAL21 fund was established in 2006 as a means to advocate for investment in coal-fired power production and research into carbon-capture and storage technologies. The COAL21 Fund is supported by a voluntary levy on coal production and includes 26 investors from among Australia’s black coal producers.³⁸ The funds were channelled through the Australian Coal Association Low Emissions Technology Limited (ACALET), formerly owned by the Australian Coal Association and now is now part of the Minerals Council for

³⁷MCA responses to questions from Senate Select Committee into the Political Influence of Donations (6 November 2017), *Parliament of Australia*, <<https://www.aph.gov.au/DocumentStore.ashx?id=1d43d862-7b5b-4699-be32-0639087458cb>> [Accessed 21/08/2018].

³⁸ ‘Coal 21 Fund’, *Minerals Council of Australia*, <<https://www.minerals.org.au/coal/aboutcoal21>> [Accessed 21/08/2018].

Australia.³⁹ In the Minerals Council 2017 Annual Report, the industry association discloses that they extended the industry owned COAL21 Fund for a further 10 years to continue investment in low emissions coal technologies.⁴⁰

Separately, the COAL21 fund also paid for the establishment of ACA Low Emissions Technologies Limited, one of the top five spenders of 52 third party campaigners in the 2016 federal election. The group, named after the Australian Coal Association, spent approximately \$2.5million “pushing the case for clean coal” according to media reports. According to the Australian Electoral Commission, ACA Low Emissions Technologies also paid for polling of voter intentions and advertisements and print media.⁴¹ Its advertising campaigns – ‘Little black rock - Coal, it’s an amazing thing’ – drew significant public criticism for advocating for increased investment in coal-fired technologies.⁴²

Supporting fundraising campaigns and events:

Political parties and individual politicians regularly set up ‘tours’ or fundraising campaigns whereby companies, business leaders and other influencers buy tickets to exclusive dinners and events with ministers. Often organised by an administrative or event management company that operates separately to the political party, these events often cap attendee numbers to enable focussed and private conversations with ministers, making them a popular choice among business leaders and other interested influencers. News reports from 2006 to 2016 disclose amounts of \$1,400, \$1,500 and \$10,000 being paid by individual business leaders to attend privately organised dinners and luncheons with key politicians.⁴³⁴⁴ One report notes approximately \$233,000 being paid by an investment bank to the two major political parties as membership fees for exclusive business

³⁹ Stephen Long, Pre-election coal advertising funded by money meant for clean coal research, *ABC News*, 20 February 2017, <<http://www.abc.net.au/news/2017-02-20/coal-advertising-funded-by-money-meant-for-clean-coal-research/8287326>> [Accessed 21/08/2018].

⁴⁰ Annual Report 2017, *Minerals Council of Australia*, <<http://www.minerals.org.au/sites/default/files/MCA%20Annual%20Report%202017.pdf>>, p8.

⁴¹ Heath Aston, ‘Mining industry tipped millions into pre-election clean coal campaign’, *The Sydney Morning Herald*, 17 February 2017, <<https://www.smh.com.au/politics/federal/mining-industry-tipped-millions-into-preelection-clean-coal-campaign-20170217-guf3x7.html>> [Accessed 21/08/2018].

⁴² Daniella Miletic, ‘What an ‘amazing little black rock’ did to social media’, *The Sydney Morning Herald*, 7 September 2015, <<https://www.smh.com.au/business/what-an-amazing-little-black-rock-did-to-social-media-20150907-gjgidz.html>> [Accessed 21/08/2018].

⁴³ Are our politicians for sale?, *The Age*, 24 May 2006 <<https://www.theage.com.au/technology/are-our-politicians-for-sale-20060524-ge2dgv.html>> [Accessed 20/09/2018].

⁴⁴ Mark Hawthorne, ‘Three prime ministers hit Melbourne as Liberals mount pre-poll cash grab’, *The Age*, 18 June 2018 <<https://www.theage.com.au/politics/federal/three-prime-ministers-hit-melbourne-as-liberals-mount-prepoll-cash-grab-20160617-gpltiz.html>> [Accessed 20/09/2018].

forums. These include groups such as the Progressive Business Association (Labor), Enterprise Victoria (Liberal) and the Platinum Circle (LNP).⁴⁵

The funding of political events has come under increased scrutiny by State governments. In March 2016, the Australian Electoral Commission prevented the NSW Division of the Liberal Party from accessing \$4.4 million in campaign funds.⁴⁶ The Australian Electoral Commission made this decision after finding that the NSW Division of the Liberal Party breached electoral laws in 2011 by utilising the Free Enterprise Foundation to mask the donations of property developers, who are banned from making political donations in New South Wales.⁴⁷

Enterprise Victoria - the Victorian Liberal Party's administrative arm – notes on its website:

*Enterprise Victoria provides the opportunity for senior Liberals to consult regularly with business leaders, as well as practical support for the election of Liberal governments at Federal and State levels.*⁴⁸

Investor Action regarding Industry Association Membership

Investors have become increasingly active in holding companies accountable for the activities of their industry associations. Reflecting concerns about reputational and governance risks, investors may question a company's board about decisions to stay involved in industry associations that promote positions that are at odds with the companies stated views, or hold companies accountable for the political actions of their industry association. Some of the ways in which investors are approaching such actions are discussed below.

Changing Investor Attitudes: Initiatives and Tools for Investors

There is increasing investor interest in the use and potential misuse of a company's industry association payments and the potential for misalignments. The Principles for Responsible Investment has launched investor engagements into the area, and research has been conducted by NGOs such as Influence Map in the UK. These engagements primarily relate to climate change based lobbying.

⁴⁵ Emma Alberici, 'Sugar tax and the power of big business: How influence trumps evidence in politics', *ABC News*, <<http://www.abc.net.au/news/2018-01-24/sugar-tax-and-the-power-of-big-business/9353626>> [Accessed 20/09/2018].

⁴⁶ Sarah Gerathy, Liberal Party used 'charitable' Free Enterprise Foundation to disguise donations: NSW Electoral Commission, *ABC News*, 24 March 2016, <<http://www.abc.net.au/news/2016-03-24/nsw-liberal-party-disguised-political-donations-free-enterprise/7272446>> [Accessed 20/09/2018].

⁴⁷ Mark Hawthorne, 'Three prime ministers hit Melbourne as Liberals mount pre-poll cash grab', *The Age*, 18 June 2018 <<https://www.theage.com.au/politics/federal/three-prime-ministers-hit-melbourne-as-liberals-mount-prepoll-cash-grab-20160617-gpltiz.html>> [Accessed 20/09/2018].

⁴⁸ 'Welcome to Enterprise Victoria', *Enterprise Victoria*, <<https://www.enterprisevictoria.com.au/#aboutus>> [Accessed 20/09/2018].

Jane Ambachtsheer, who at the time was The Head of Responsible Investment at Mercer, disclosed to Environmental Finance Magazine “the next frontier is for investors to get more involved in thinking about the regulatory environment that is driving companies to behave the way they are behaving, and get more involved in the discussion.” In the interview Ambachtsheer suggested investors should scrutinise and influence the lobbying activities of their holdings and disclosed “one of the roles of the investor – in creating long-term value – is to lobby and put pressure on their holdings not to lobby.”⁴⁹

Principles for Responsible Investment

In 2015, the Principles for Responsible Investment (PRI) launched a collaborative engagement and an investor expectation statement focusing on corporate climate lobbying practices. The PRI continued this engagement in 2017.⁵⁰ This engagement looked at the direct and indirect policy engagement practices of companies and related third-parties on climate issues. This covered information regarding understanding what actions are taken when the position of third party organisations do not align with the company’s own climate change policies and positions.

Figure 2 highlights a selection of the key findings from the analysis of company responses received by the engagement working group between 2015 and 2017.⁵¹

Figure 2 PRI Collaborative Engagement on Corporate Climate Lobbying Practices: Selection of Key Findings

- More companies have a policy covering lobbying; however, the majority do not specifically include climate-related policy engagement.
- There is increased reporting of membership of third party organisations that engage on climate issues, which has been seen through responses to CDP’s Climate Change 2017 questionnaire. This has resulted in greater transparency of third party climate positions and the extent of alignment with the companies’ own positions.
- However, even with improved disclosure, many companies still fail to disclose all of their memberships, particularly third party organisations that are not industry associations. Reporting also tends to focus on industry associations with positive climate positions rather than those with a policy position inconsistent with that of the company.

PRI further analysed the results of the collaborate engagement and explored issues related to climate change lobbying in ‘Convergence on Climate Lobbying: Aligning Corporate Practice with

⁴⁹ Peter Crips, ‘The next frontier of responsible investment’, *Environmental Finance*, Summer 2018, p6.

⁵⁰ PRI collaborate engagement, 31 May 2018, <<https://www.unpri.org/climate-change/the-pri-coordinated-collaborative-engagement-on-climate-lobbying-/3180.article>> [Accessed 27/08/2018]

⁵¹ Ibid.

Investor Expectations’ published in May 2018.⁵² The report describes how negative and resistant corporate interests, often represented by third-parties such as industry associations, can lead to a number of risks for investors. This includes legal and reputational risks in addition to long-term portfolio volatility.⁵³

Influence Map

Influence Map is a UK-based not-for-profit organisation that analyses climate policy lobbying. Influence Map states “our goal is to enable our partners in the finance, NGO and progressive corporate worlds to eliminate blockages to an ambitious policy pathway globally and encourage support.”⁵⁴ Influence Map reports in the three years that they have been operating over 90 Asset Owners and Managers, with a combined £5 trillion assets under management, are using Influence Map’s data and content.⁵⁵

Influence Map has developed a methodology to grade individual industry associations’ influence on climate policy. In addition to assessing influence on climate policy by industry associations, Influence Map also scores individual companies on their own corporate climate change policies, transparency and engagement. This then allows Influence Map to compare and highlight misalignments between a company’s own climate-related policies and those lobbied for by the industry associations they are a member of.

For example, there is a specific profile for BHP which highlights the company’s own positions on climate and energy and whether there is misalignment with these positions and the company’s membership of key industry associations.⁵⁶

The key metrics used by Influence Map are summarised and highlighted in **Table 1**.

⁵² ‘Converging on Climate Lobbying: Aligning Corporate Practice With Investor Expectations’, *Principles for Responsible Investment*, 2018, <<https://www.unpri.org/download?ac=4707>> [Accessed 23/08/2018].

⁵³ Ibid., p5.

⁵⁴ ‘About Influence Map’, *Influence Map*, <<https://influencemap.org/index.html>> [Accessed 23/08/2018].

⁵⁵ Ibid.

⁵⁶ BHP and Trade Associations on Climate, *Influence Map*, December 2017. <https://influencemap.org/site/data/000/306/BHP_InfluenceMap_Dec_2017.pdf> [Accessed 28/08/2018].

Table 1. Influence Map Methodology Metrics for Assessing Influence on Climate Policy ⁵⁷

| Metric | Explanation |
|-------------------------------|---|
| Climate Score | Expresses how supportive or obstructive the company is towards climate policy aligned with the Paris Agreement, based on assessment of numerous disclosure channels over various climate sub-issues, each weighed accordingly for importance. |
| Engagement Intensity | Expresses the intensity of this activity, whether positive or negative. |
| Relative Ranking | An estimation (on a scale of a 1 to 10) of the power the group has in its jurisdiction (e.g. the US, the EU, Japan, International Level). This is done through surveying and aggregating opinions of hundreds of business people, policy makers and civil society groups. |
| Jurisdiction Weighting | Is a factor included to account for both the size of the economy and the contribution to global greenhouse gas emissions that the jurisdiction has in which the trade group is operating. |

Investor Engagement & Shareholder Resolutions

Corporate expenditure through industry association membership and via donations to industry associations can be used to advance agendas which are in conflict with companies' stated positions on environmental, social and governance matters.⁵⁸ These situations have drawn the interest of investors and, in some cases, have resulted in shareholder engagement with companies' in order to ensure that there is no misuse of shareholder funds or unnecessary exposure to reputational risk being taken by the company. Companies have also faced shareholder resolutions relating to membership of industry associations.

The US-based Interfaith Centre for Corporate Responsibility (ICCR) reports that filings addressing corporate lobbying and political contributions were the third most popular category of filings in

⁵⁷ Our Methodology, *Influence Map*, <<https://influencemap.org/site/data/000/286/Methodology.pdf>> [Accessed 28/08/2018].

⁵⁸ BHP Industry Association Review, 19 December 2017, p189.

the United States for the 2018 proxy season, with 45 filings being made out of 266.⁵⁹ **Appendix 2** illustrates some of the shareholder filing requests relating to industry associations in the United States in 2018. Over the last several years, shareholder resolutions on political influence in the United States have been well supported, including 39.6% support at Emerson Electric, and 39% at Alliant Energy in 2018.

In Australia, the ACCR has engaged with several companies about their membership of industry associations where they have had a demonstrably negative impact on domestic climate and energy policy. In 2017, the ACCR filed shareholder resolutions with BHP Billiton, seeking disclosure on industry association memberships and identification of whether the climate policies of its associations were aligned with those of the company.

Despite the board of BHP Billiton recommending shareholders vote against the resolution, the resolution received the support of 9% of shareholders. Following intense investor engagement, the company did produce the requested analysis of its industry associations in December 2017.⁶⁰ BHP Billiton subsequently concluded that it would “cease membership” of the World Coal Association.⁶¹ It was widely reported that BHP pushed for the resignation of Brendan Pearson, the CEO of the Minerals Council of Australia, due to its pro-coal advocacy throughout his tenure⁶².

In 2018, the ACCR filed similar resolutions with Rio Tinto and Origin Energy, which were opposed by the boards of both companies. At Rio Tinto, the resolution received the support of 18% of shareholders. Once again, in a bid to placate investors, Rio Tinto produced the requested analysis in August 2018.⁶³ While the company stated that there was no policy misalignment with the Minerals Council of Australia, the document provided a useful basis from which investors could engage with the company about this issue.

At Origin Energy, the resolution was supported by 46% of shareholders, a record for an NGO-led shareholder resolution. Despite the company acknowledging shareholders’ concerns about advocacy on climate policy⁶⁴, the company has so far refused to review or commit to review the policy positions of its industry associations. The resolution sought to draw investors’ attention to the advocacy of the Australian Petroleum Production and Exploration Association, the Business Council of Australia and the Queensland Resources Council.

⁵⁹ 2018 Proxy Resolution and Voting Guide, *Interfaith Center on Corporate Responsibility*, 2018, p189.

⁶⁰ BHP Industry Association Review, 19 December 2017.

⁶¹ *ibid.*

⁶² <https://www.afr.com/news/clean-coal-crusade-claims-minerals-council-ceo-brendan-pearson-20170922-gyn01f>.

⁶³ Rio Tinto Industry Association Disclosure, August 2018

⁶⁴ Origin Energy, Notice of Annual General Meeting 2018, 14 September 2018

Other Australian companies have also begun to disclose their memberships of industry associations and their advocacy on climate policy, including both BlueScope Steel and Boral.^{65 66}

Similar developments have been observed in other markets. In the United States for example, Anglo American and ConocoPhillips have agreed to disclose information about their memberships of industry associations in response to investor pressure.^{67 68} In the United Kingdom, both Glencore and Royal Dutch Shell have committed to reviewing whether the advocacy of their industry associations is aligned with the Paris Agreement.^{69 70}

⁶⁵ BlueScope and Industry Associations, Climate Change and Energy Policy, September 2018.

⁶⁶ Boral, Industry associations, September 2018.

⁶⁷ Anglo American to review membership of industry groups, Financial Times, 8 May 2018
<<https://www.ft.com/content/8848af86-52df-11e8-b3ee-41e0209208ec>> [Accessed 2 September 2018].

⁶⁸ ConocoPhillips Agrees to Expand Lobbying Disclosure, Walden Asset Management, 27 March 2018,
<<https://waldenassetmgmt.com/wp-content/uploads/2018/03/Walden-ConocoPhillips-Agree-to-Expansion-Lobbying-Disclosure-March-2018.pdf>> [Accessed 2 September 2018].

⁶⁹ <https://www.glencore.com/media-and-insights/news/Furthering-our-commitment-to-the-transition-to-a-low-carbon-economy>

⁷⁰ <https://www.shell.com/media/news-and-media-releases/2018/joint-statement-between-institutional-investors-on-behalf-of-climate-action-and-shell.html>

PART 2 – AUSTRALIAN COMPANY DISCLOSURES & INVOLVEMENT IN POLICY DEBATES

This section analyses the disclosures of 70 companies within the ASX 100, regarding their expenditure of shareholder funds on political donations and their membership of industry associations.

This section also discusses the involvement of industry associations in Australian legislative and policy debates in the following areas:

- Climate change and energy
- Modern Slavery legislation
- Sugar regulation

Methodology

The first part assesses the disclosure by companies of their membership of industry associations, as well as their political expenditure.

Full disclosure is defined as companies disclosing the list of industry associations that they belong to. *Partial disclosure* is defined as companies disclosing examples of their membership of industry associations, however, it is not clear that the examples provided are a definitive list of their industry association membership. *No disclosure* is defined as companies that do not list their membership of industry associations, or disclose vague or indirect information in relation to that membership.

Sources that were checked cover company websites, annual reports, sustainability reports, and company disclosure documents. The research was conducted between August 2018 and February 2019.

The second section of the methodology is a qualitative analysis of specific policy themes that are of interest to investors and have had considerable attention in public debates. These policy themes are important as they impact certain business models.

The three themes of climate change, modern slavery and sugar were chosen for review as there have been significant lobbying and policy debate surrounding them in the Australian context over the past two years. Furthermore, three themes were chosen to demonstrate that industry association engagement does not only lie with one policy issue but can extend over a variety of diverse issues.

The ten industry associations selected for review are influential in relevant national policy debates, and have ASX-listed members (see **Figure 3**). Some industry associations cover more than one issue. For example, the Minerals Council of Australia advocates on multiple issues, including climate change and modern slavery. **Appendix 3** provides an overview of the industry associations covered and their members listed on the ASX.

Figure 3 Industry Associations Selected Categorised Under Selected Themes

| Climate Change | Modern Slavery | Sugar |
|---|--|---|
| <ul style="list-style-type: none"> • Australian Energy Council • Australian Industry Greenhouse Network • The Australian Petroleum Production & Exploration Association • Business Council of Australia • Manufacturing Australia • Minerals Council of Australia | <ul style="list-style-type: none"> • Australian Food and Grocery Council • Australian Retailers Association • Business Council of Australia • National Farmers Federation • Minerals Council of Australia | <ul style="list-style-type: none"> • Australian Beverages Council • Australian Food and Grocery Council |

Political Expenditure in ASX-listed Companies

As noted in **Part 1**, there are no current legislative requirements for companies to disclose their membership of industry associations. However, it has also been demonstrated in Part 1 that company’s membership of industry associations can have operational, reputational, governance and financial implications and therefore should be of investor interest. Companies that publicly disclose their membership of industry associations demonstrate a level of transparency and highlight their involvement in policy engagement on certain issues and the agenda associated with those issues.

16 of the 70 ASX listed companies examined fully disclose their membership of industry associations. Another 13 companies partially disclose their membership of industry associations, leaving 40 companies that do not disclose information regarding their membership of industry associations.

Figure 4 demonstrates the percentages of companies assessed that have full disclosure, partial disclosure and no disclosure of their industry association membership.

Figure 4 Listed Companies Transparency on Industry Association Membership

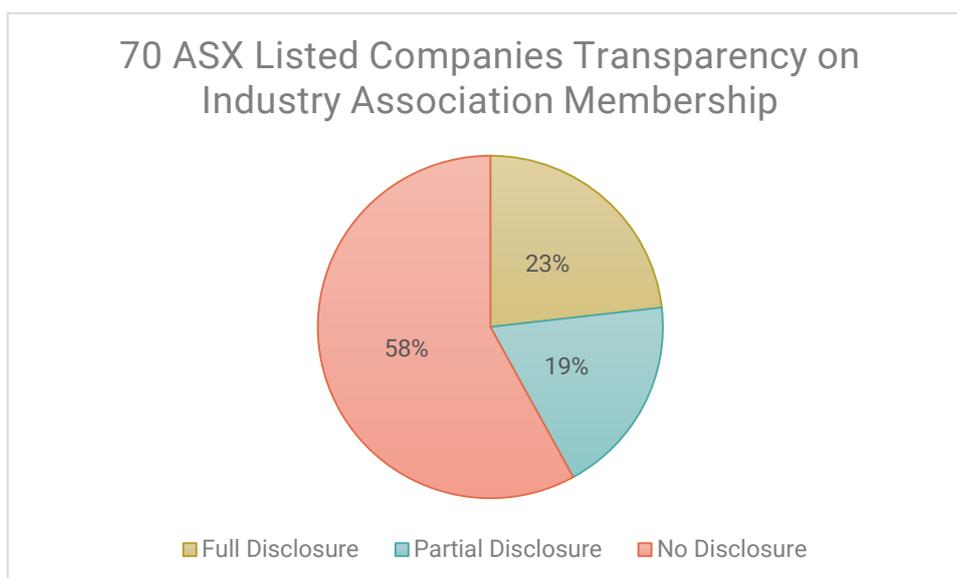


Figure 5 presents a list of companies who disclose both fully or partially their membership of industry associations.

Figure 5 Companies assessed as having Full Disclosures and Partial Disclosure of their Membership of Industry Associations

| Full Disclosure | Partial Disclosure |
|--|--|
| <ul style="list-style-type: none"> • AGL Energy Limited • Alumina Limited • Amcor Limited • Ansell Limited • Ausnet Services Limited • BHP Limited • Bluescope Steel Limited • Boral Limited • Cimic Group Limited • Downer Edi Limited • Duluxgroup Limited • Fortescue Metals Group • Harvey Norman • Incitec Pivot • Newcrest Mining • Oil Search Limited • Sydney Airport | <ul style="list-style-type: none"> • Cleanaway Waste Limited • Coca-Cola Amatil • CSL Limited • Orica Limited • Origin Energy • OZ Minerals • Resmed Inc • Rio Tinto Limited • Santos Limited • SOUTH32 Limited • Tabcorp Holdings Limited • TPG Telecom Limited • Woodside Petroleum |

Out of the ASX 100, 27 companies made political contributions between FY2016-FY2018., according to Australian Electoral Commission data (see **Table 2**). Out of the Industry Associations assessed (refer to **Figure 3**) only the Minerals Council were registered as making payments to political parties between FY2016 and FY2018 (\$33,250 in FY2015/16; \$57,345 in FY2016/17; and \$94,900 in FY2017/18).

Table 2 Political contributions of ASX listed companies between FY 2016 – FY 2018

| Company | Political contributions | | |
|--|-------------------------|---------|---------|
| | FY2016 | FY2017 | FY2018 |
| AMP Services Ltd (AMP) | 41,825 | 64,950 | - |
| ANZ Banking Group Ltd (ANZ) | 200,000 | 300,000 | 500,000 |
| Aurizon Holdings Ltd (AZJ) | 75,969 | 38,820 | - |
| BlueScope Steel Ltd (BSL) | 54,200 | 61,500 | 72,505 |
| Caltex Australia Ltd (CTX) | 46,555 | 39,359 | 96,907 |
| Commonwealth Bank of Australia (CBA) | 130,595 | 95,775 | 157,490 |
| Crown Resorts Ltd (CWN) | 170,041 | 209,964 | 180,638 |
| Healthscope Operations Pty Ltd (HSO) | 30,300 | 17,500 | 35,040 |
| Insurance Australia Group Ltd (IAG) | 82,355 | 70,445 | 75,335 |
| Macquarie Group Ltd (MQG) | 336,900 | 250,550 | 252,910 |
| National Australia Bank Ltd (NAB) | 164,001 | - | - |
| Origin Energy (ORG) | 42,703 | 103,574 | 110,595 |
| QBE Insurance (Australia) Ltd (QBE) | 91,030 | 73,786 | - |
| Ramsay Health Care Ltd (RHC) | 159,500 | - | 66,100 |
| Santos Ltd (STO) | 134,584 | 102,516 | 182,083 |
| SEEK Ltd (SEK) | 22,500 | - | - |
| Sonic Healthcare Ltd (SHL) | 105,000 | - | - |
| Suncorp Group Ltd (SUN) | 68,230 | 67,102 | 25,000 |
| Sydney Airport Corporation Ltd (SYD) | - | 10,100 | 11,500 |
| Tabcorp Holdings Ltd (TAH) | 164,650 | 200,000 | 218,000 |
| Transurban Ltd (TCL) | 35,720 | 64,450 | 59,350 |
| Wesfarmers Ltd (WES) | 43,000 | 198,000 | - |
| Westfield Corporation Ltd (WFD) | 320,000 | - | - |
| Westpac Banking Corporation (WBC) | 168,805 | - | 177,226 |
| Whitehaven Coal Ltd (WHC) | 22,000 | 30,000 | 35,000 |
| Woodside Energy Ltd (WPL) | 250,480 | 279,800 | 237,300 |
| Woolworths Ltd (ALH Group Pty Ltd) (WOW) | 35,436 | - | 41,737 |

Climate

The last decade of Australian climate and energy policy has been characterised by short-lived policy subject to relentless scrutiny and adversarial campaigning by industry associations. It has been argued that the seemingly unsolvable problem of climate policy has driven the turnover of seven Australian Prime Ministers in eleven years.⁷¹

Institutional investors are becoming increasingly alert to lobbying on climate policy by industry associations, and increasingly organised in their attempts to remove obstacles to effective climate action. The UNPRI's recent paper, 'Converging on Climate Lobbying'⁷², was notable for its clarity and catalogue of misdeeds by companies seeking to block effective action on climate change. It also spelled out a path forward for investors, by seeking increased transparency and clear evidence of supporting public policy consistent with the Paris Agreement⁷³.

The broader lack of transparency of industry associations throughout the ASX perhaps enables those industry associations to lobby for climate policy outcomes that are not always in their members' best interests, let alone those of investors.

There is often a significant difference between the formal policies of an industry association and the public advocacy that it undertakes. The most common example of this is companies that endorse the Paris Agreement while advocating for policies that are simply irreconcilable with its central objective: limiting global warming to 2°C above pre-industrial temperatures. It is this fundamental disparity between policy and advocacy that poses the single largest risk to investors.

In its December 2017 report, 'Trade Associations and their Climate Policy Footprint', Influence Map profiled three Australian organisations: Australian Petroleum Production and Exploration Association (APPEA), Business Council of Australia (BCA) and Minerals Council of Australia (MCA). On a scale of -100 to +100, with -100 representing the "most influentially oppositional to climate policy", APPEA scored -10.5, BCA -12.7 and MCA -14.8. It should be noted that, as the study covered 50 international trade associations, a 'jurisdictional weighting' was applied.

The striking conclusion from reviewing the policy and advocacy of scores of industry associations is how few associations actually advocate for an urgent transition to a low carbon economy. Notably,

⁷¹ Annabel Crabb, 'Australia's recent climate change policy: A brief history of seven killings', *ABC News*, <<http://www.abc.net.au/news/2018-08-23/climate-change-policy-a-brief-history-of-seven-killings/10152616>> [Accessed 11/03/2019].

⁷² 'Converging on Climate Lobbying: Aligning Corporate Practice with Investor Expectations', *Principles for Responsible Investment*, 2018, <<https://www.unpri.org/download?ac=4707>> [Accessed 11/03/2019].

⁷³ *ibid.*

the Smart Energy Council⁷⁴ and the Investor Group on Climate Change⁷⁵ stand out in this regard, as both were highly critical of the most recent iteration of federal climate policy – the National Energy Guarantee (NEG) – for its lack of ambition.

The role of industry associations in advocating on climate policy poses a number of risks to investors. The most obvious is the misalignment of interests, where the association lobbies for a policy that is not in a member's best interests. This may manifest itself in advocating for one fuel source over another or, calling for policies that are inconsistent with a commitment to the Paris Agreement, for instance. There are also risks posed by the discrepancy between formal policy and the public advocacy of an industry association.

This section seeks to identify the most “influentially oppositional” industry associations to Australian climate policy that have members listed on the ASX. Given the breadth of lobbying that industry associations conduct across all levels of government – federal, state and local – it seeks to provide a sample of the types of lobbying that are ongoing.

Climate policy is not limited to electricity, or energy for that matter. It extends to vehicle emissions, agriculture (particularly land clearing), building design and energy efficiency. For reasons of brevity, the lobbying analysed in this chapter primarily relates to energy. Finally, while there is some mention of state-based policy, submissions to state-based inquiries related to climate change and energy were largely excluded from scope.

Australian Energy Council

The AEC has 23 full members⁷⁶. AEC members accounted for six of Australia's ten largest carbon emitters (Scope 1+2 CO₂-e) in the 2017/18 financial year.⁷⁷

Policy Positions

The AEC has only existed in its current form since 1 January 2016, following the reorganisation of the Energy Supply Association of Australasia (ESAA), the Energy Networks Association (ENA) and the Energy Retailers Association of Australia (ERAA).⁷⁸

The AEC is one of the more active industry associations on energy policy, making 75 submissions in 2018 alone, in response to various policy initiatives across state and federal governments and

⁷⁴ 'Forces rally to oppose the NEG', *Smart Energy*, 27 April 2018, <<https://www.smartenergy.org.au/news/forces-rally-oppose-neg>> [Accessed 11/03/2019].

⁷⁵ 'Investors call for ambition shortfall to be addressed in the National Energy Guarantee', *Investor Group on Climate Change*, <<https://igcc.org.au/investors-call-for-ambition-shortfall-to-be-addressed-in-the-national-energy-guarantee/>> [Accessed 11/03/2019].

⁷⁶ About us, *Australian Energy Council*, <https://www.energycouncil.com.au/about/> [Accessed 11/03/2019]

⁷⁷ National Greenhouse and Energy Reporting, Corporate emissions and energy data 2016-17, 28 Feb 2018.

⁷⁸ About us, *Australian Energy Council*, <<https://www.energycouncil.com.au/about/>> [Accessed 09/10/2018].

regulatory bodies.⁷⁹ The AEC produces weekly analysis on energy issues⁸⁰, semi-regular reports⁸¹ and maintains a series of factsheets.⁸² One of those factsheets, entitled “The Importance of Coal Seam Gas”, suggests that gas should replace coal fired power, and calls for the abolition of state-based moratoria in order to ensure “the effective operation of the east coast gas market”.⁸³

In recent years, the AEC has:

- argued against high carbon prices as they would “lead to significant asset value loss” for the owners of existing emissions intensive generation⁸⁴;
- published a report that argued against moving to a 5-minute settlement rule from the existing 30-minute settlement rule⁸⁵, in order to protect large, existing generators from fast response technologies such as batteries and demand response⁸⁶;
- criticised state-based Renewable Energy Targets (RETs)⁸⁷;
- called for the removal of state-based moratoria on gas development⁸⁸;
- argued against the extension of the Commonwealth’s RET, criticising its failure to value gas, nuclear or thermal plants fitted with carbon capture and storage⁸⁹;
- proposed that international offsets be used to meet Australia’s abatement commitments⁹⁰;
- claimed that “forcing in subsidised renewables” would not reduce electricity prices in the long run⁹¹;

⁷⁹ Submissions, *Australian Energy Council*, <<https://www.energycouncil.com.au/submissions/>> [Accessed 11/03/2019].

⁸⁰ Analysis, *Australian Energy Council*, <<https://www.energycouncil.com.au/analysis/>> [Accessed 11/03/2019].

⁸¹ Reports, *Australian Energy Council*, <<https://www.energycouncil.com.au/reports/>> [Accessed 11/03/2019].

⁸² Factsheets, *Australian Energy Council*, <<https://www.energycouncil.com.au/factsheets/>> [Accessed 11/03/2019].

⁸³ The Importance of CSG, *Australian Energy Council*, <<https://www.energycouncil.com.au/media/12927/the-importance-of-csg.pdf>> [Accessed 11/03/2019].

⁸⁴ Australian Energy Council, Submission to Senate Inquiry into Retirement of Coal Fired Power Stations, 10 November 2016.

⁸⁵ Russ Skelton & Associates, 5-Minute Settlement – Assessing the Impacts, Report Prepared for Australian Energy Council, March 2017.

⁸⁶ ‘AEMC confirms 5-minute settlement to begin in 2021’, *Renew Economy*, <<https://reneweconomy.com.au/aemc-confirms-5-minute-settlement-to-begin-in-2021-2021/>> [Accessed 11/03/2019].

⁸⁷ Australian Energy Council, Submission to Independent review into the future security of the National Electricity Market, 3 March 2017.

⁸⁸ *ibid.*

⁸⁹ Australian Energy Council, Submission to Review of Climate Change Policies, 12 May 2017.

⁹⁰ *ibid.*

⁹¹ *ibid.*

- argued that an Emissions Guarantee would have adverse impacts on emissions intensive generators, removing incentives to re-invest in aging power stations and encourage the closure of thermal plants⁹²;
- claimed that customers choosing zero emissions energy would be sufficient to replace the RET⁹³;
- co-signed an open letter to the Federal government in support of the National Energy Guarantee (NEG)⁹⁴, despite criticism of the policy by investors for its lack of ambition⁹⁵.

Misalignments

The AEC has been criticised for its defence of industry incumbents, particularly large thermal generators⁹⁶. This was demonstrated most starkly by its opposition to the 5-minute settlement rule, which according to some observers would have had an immediate impact on electricity prices, by reducing the ability of some generators to “game the market”⁹⁷.

The AEC’s pro-gas advocacy appears to be misaligned with two of its members:

- AGL Energy (ASX:AGL): despite being a significant gas retailer, AGL abandoned several gas licences in 2016 and announced plans to cease its own coal seam gas (CSG) production by 2023⁹⁸.
- Infigen Energy (ASX:IFN): does not have any economic interest in gas.

Furthermore, it appears that the AEC’s CSG advocacy is only aligned with one of their members, Origin Energy (ASX:ORG). Of AEC’s 23 full members, Origin Energy (ASX:ORG) is the only company with a direct interest in upstream gas development.

⁹² Australian Energy Council, Submission to Energy Security Board’s Draft Detailed Consultation Paper, 13 July 2018.

⁹³ *ibid.*

⁹⁴ ‘Business and industry united in calling for an end to energy uncertainty’, *Business Council of Australia*, 6 August 2018, <<http://legacy.bca.com.au/media/business-and-industry-united-in-calling-for-an-end-to-energy-uncertainty>> [Accessed 11/03/2019].

⁹⁵ ‘Investors call for ambition shortfall to be addressed in the National Energy Guarantee’, *Investor Group on Climate Change*, <<https://igcc.org.au/investors-call-for-ambition-shortfall-to-be-addressed-in-the-national-energy-guarantee/>> [Accessed 11/03/2019].

⁹⁶ AEMC confirms 5-minute settlement to begin in 2021, *Renew Economy*, <<https://reneweconomy.com.au/aemc-confirms-5-minute-settlement-to-begin-in-2021-2021/>> [Accessed 11/03/2019].

⁹⁷ Review of gas assets and exit of gas exploration and production, *Renew Economy*, <<https://reneweconomy.com.au/regulators-report-points-to-outrageous-gaming-of-south-australia-energy-market-77433/>> [Accessed 11/03/2019].

⁹⁸ ‘Review of gas assets and exit of gas exploration and production’, AGL <<https://www.agl.com.au/about-agl/media-centre/asx-and-media-releases/2016/february/review-of-gas-assets-and-exit-of-gas-exploration-and-production>> [Accessed 11/03/2019].

The AEC's defence of industry incumbents may also have implications for independent investors in renewable energy and fast response technologies.

While it is widely accepted that the electricity sector has the potential to reduce emissions more cost effectively than other sectors, the AEC has not publicly advocated for its members to do the "heavy lifting". Rather, it supported the NEG despite its lack of ambitious targets and criticised the efforts of state governments that have set more ambitious emissions reduction targets.

Australian Industry Greenhouse Network (AIGN)

Policy Positions

The AIGN lobbied against effective policy on climate change throughout the early 2000s⁹⁹, though its influence appears to have waned somewhat in recent years. Its own members once described the organisation as the "greenhouse mafia",¹⁰⁰ and its CEO was a regular participant at UN climate talks for many years.¹⁰¹

Much of the content on the AIGN website is outdated, publishing just one substantive report since April 2015¹⁰². It does, however, publish its "Climate Change Policy Principles" on its website¹⁰³. Although the document does not refer to specific policies, many of these principles describe the features of a high-level policy framework through phrases such as "trade and investment neutral", the use of "market measures" and "balance abatement and adaptation". The AIGN also suggests how these principles should shape domestic policy measures, including:

- no state-based mitigation policies;
- exemptions for Emissions-Intensive Trade-Exposed (EITE) industries;
- compensation for non-trade industry;
- investment in low emission technologies (i.e. carbon capture and storage).¹⁰⁴

In recent years the AIGN has:

- repeated that states should not be involved in emissions mitigation¹⁰⁵;

⁹⁹ Pearse, Guy, High and Dry, 2007.

¹⁰⁰ *ibid.*

¹⁰¹ 'Bonn voyage: climate diplomats head into another round of talks', *The Conversation*, <<https://theconversation.com/bonn-voyage-climate-diplomats-head-into-another-round-of-talks-86184>> [Accessed 11/03/2019].

¹⁰² CIE, Trade competitiveness and international carbon policies, May 2017.

¹⁰³ AIGN Climate Change Policy Principles, AIGN, <http://www.aign.net.au/policy_principles.html> [Accessed 11/03/2019].

¹⁰⁴ *ibid.*

¹⁰⁵ AIGN Comments on Review of Climate Change Policies Discussion Paper, March 2017.

- argued for exemptions from climate policy for Australia’s LNG industry¹⁰⁶;
- published a report entitled ‘Trade competitiveness and international carbon policies’, that argued that Australia’s EITE industries – including Steel, LNG, Aluminium, Cement, Petroleum and Nickel – would be negatively impacted by aggressive carbon reduction policies¹⁰⁷;
- proposed the use of international carbon offsets¹⁰⁸.

Misalignments

AIGN has 16 business members. The AIGN has repeatedly sought to protect the interests of EITE (emissions-intensive and trade exposed) industries, which may be aligned with the short-term interests of its membership. But it is in the interest of long-term investors that all sectors make serious efforts to reduce emissions, and that Australia delivers on its emissions reductions commitments. This is particularly the case for AIGN members with explicit commitments to the Paris Agreement – including BHP Billiton (ASX:BHP), BlueScope Steel (ASX:BSL), Origin Energy (ASX:ORG), Rio Tinto (ASX:RIO), Santos (ASX:STO) and Woodside Petroleum (ASX:WPL).

Yet the AIGN has lobbied against state-based climate policies, despite the Energy Security Board acknowledging that they are decarbonising Australia’s electricity grid in the absence of effective federal policy¹⁰⁹.

The AIGN’s advocacy for carbon capture and storage ahead of renewable or fast response technologies appears to be specifically misaligned with the following member companies:

- BlueScope Steel (ASX:BSL): BlueScope recently announced the largest solar Power Purchase Agreement (PPA) in Australia, which will provide approximately 20% of the company’s electricity requirement¹¹⁰;
- Origin Energy (ASX:ORG): Origin has committed to sourcing 25% of generation capacity from renewable sources by 2020¹¹¹.

Furthermore, AIGN’s previous attendance at UN climate talks, even included within the Australian government delegation, poses serious questions for investors about the role of

¹⁰⁶ *ibid.*

¹⁰⁷ The Centre for International Economics, Trade competitiveness and international carbon policies, May 2017.

¹⁰⁸ *ibid.*

¹⁰⁹ State Renewables Schemes Help Cut CO2 Emissions: Kerry Schott, *Australian Financial Review*, 22 October 2018 <<https://www.afr.com/news/state-renewable-schemes-help-cut-co2-emissions-kerry-schott-20181022-h16ymg>> [Accessed 11/03/2019]

¹¹⁰ ‘Bluescope announced Power Purchase Agreement’, *Bluescope Steel*, <<https://www.bluescope.com/about-us/bluescope-news/2018/07/bluescope-announces-power-purchase-agreement/>> [Accessed 11/03/2019].

¹¹¹ ‘Carbon Commitments’, *Origin Energy*, <<https://www.originenergy.com.au/about/sustainability/carbon-commitments.htm>> [Accessed 11/03/2019].

companies' in influencing national policy. In 2017, the NGO Corporate Accountability found that "corporate capture is a primary obstacle to progress in the UN climate talks"¹¹², due to the levels of access enjoyed by lobbyists.

Australian Petroleum Production and Exploration Association (APPEA)

Policy Positions

APPEA's vision is for a "growing and internationally competitive Australian oil and gas industry"¹¹³, while one of its strategic goals is to "protect the industry's access to resources, offshore and onshore"¹¹⁴. None of APPEA's three strategic goals mentions climate change or emissions reduction.

APPEA last updated its Climate Change Policy Principles in December 2015¹¹⁵. While these principles acknowledge the need to limit global warming to well below 2°C above pre-industrial levels¹¹⁶, they also advocate for "expanding the use of natural gas in the domestic economy", including switching coal fired power to natural gas¹¹⁷. APPEA also calls for the further expansion of the LNG industry, in order to "help Australia's trading partners reduce their greenhouse gas emissions"¹¹⁸, despite the impact increased LNG production would have on Australia's own emissions performance.

In recent years, APPEA has:

- repeatedly called for the "urgent removal of existing bans and moratoriums on natural gas supply on the east coast"^{119 120};
- argued against a domestic gas reservation policy, favouring instead support for gas exploration¹²¹;

¹¹²'Report: Paris deal threatened by corporate capture', *Corporate Accountability* <<https://www.corporateaccountability.org/media/report-paris-deal-threatened-corporate-capture-2/>> [Accessed 11/03/2019].

¹¹³ *ibid.*

¹¹⁴ *ibid.*

¹¹⁵ 'Climate Change Policy Principles', *APPEA*, <<https://www.appea.com.au/wp-content/uploads/2016/02/Climate-Change-Policy-Principles-APPEA-final.pdf>> [Accessed 11/03/2019].

¹¹⁶ *ibid.*

¹¹⁷ *ibid.*

¹¹⁸ *ibid.*

¹¹⁹ APPEA, Submission to Independent review into the future security of the National Electricity Market, March 2017.

¹²⁰ APPEA, Submission to Energy Security Board's Draft Detailed Consultation Paper, 15 June 2018.

¹²¹ APPEA, Submission to Independent review into the future security of the National Electricity Market, March 2017.

- proposed that the Clean Energy Finance Corporation (CEFC) support gas projects¹²²;
- called for greater investment in Australia’s oil and gas sector¹²³;
- argued for exemptions from climate policy for EITE industries such as LNG production¹²⁴;
- opposed state-based renewable energy targets¹²⁵;
- co-signed an open letter to the Federal government in support of the NEG¹²⁶, despite criticism of the policy by investors for its lack of ambition¹²⁷;
- called for LNG plants to be exempt from public disclosure of their emissions¹²⁸.

Misalignments

APPEA has 53 full members. APPEA’s advocacy for the unlimited growth of the industry appears to be misaligned with those APPEA members with explicit commitments to the Paris Agreement, including BHP Billiton (ASX:BHP), Origin Energy (ASX:ORG), Santos (ASX:STO) and Woodside Petroleum (ASX:WPL). Given that the LNG industry has been Australia’s largest source of emissions growth in recent years¹²⁹, APPEA’s advocacy for the continued growth of the industry poses risks to Australia’s ability to meet its own Paris Agreement commitments¹³⁰.

In the case of APPEA, the role of large foreign oil companies such as Chevron and ExxonMobil poses risks to ASX listed members, as it appears unlikely that they would lobby for policies that are in Australia’s national interest. As such, there are inherent risks to investors in ASX-listed APPEA member companies, where foreign and/or private corporations are able to exert influence on the policies which APPEA lobbies in support of.

Despite its role as the peak body for Australia’s oil and gas industry, APPEA has been slow to promote global initiatives such as the Climate and Clean Air Coalition Oil and Gas Methane

¹²² *ibid.*

¹²³ APPEA, Submission to Review of Climate Change Policies, May 2017.

¹²⁴ *ibid.*

¹²⁵ APPEA, Submission to Energy Security Board’s Draft Detailed Consultation Paper, 15 June 2018

¹²⁶ *Business Council of Australia* < <http://legacy.bca.com.au/media/business-and-industry-united-in-calling-for-an-end-to-energy-uncertainty> > [Accessed 11/03/2019].

¹²⁷ ‘Investors call for ambition shortfall to be addressed in the national energy guarantee’, IGCC, <<https://igcc.org.au/investors-call-for-ambition-shortfall-to-be-addressed-in-the-national-energy-guarantee/>> [Accessed 11/03/2019].

¹²⁸ APPEA, Submission to the Review of the National Greenhouse and Energy Reporting Legislation, September 2018

¹²⁹ Quarterly update of Australia’s National Greenhouse Gas Inventory for September 2018, Department of the Environment and Energy, 2018

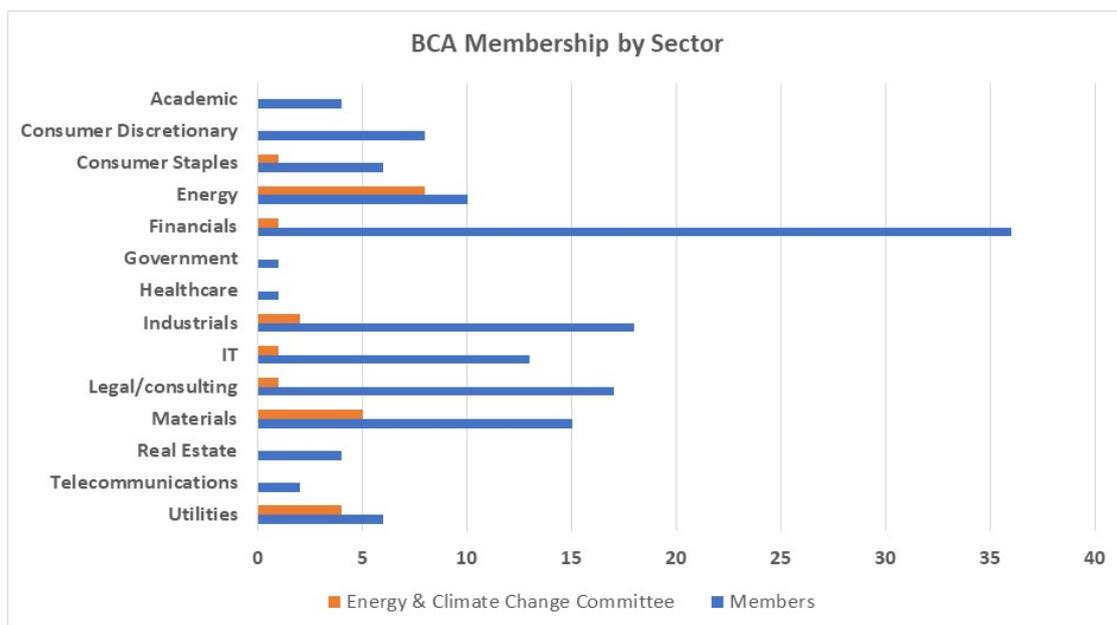
¹³⁰ Australia’s annual emissions continue to rise, driven by LNG production, *The Guardian*, <<https://www.theguardian.com/environment/2019/feb/28/australias-annual-emissions-continue-to-rise-driven-by-lng-production>> [Accessed 11/03/2019].

Partnership¹³¹, which aims to reduce fugitive methane emissions across the sector. The global warming potential of methane is 86 times greater than carbon dioxide over a 20-year timeframe and 28 times greater over a hundred years.¹³² Whilst APPEA member Woodside Petroleum (ASX:WPL) has become the first Australian signatory to the initiative in April 2018¹³³, to date APPEA has failed to promote the initiative to its membership. Furthermore, while APPEA claims to drive “continued improvement in health, safety and environmental management”¹³⁴, it has failed to encourage tangible improvements on methane measurement and reporting.

Business Council of Australia (BCA)

The BCA has 140 members¹³⁵, 22 of whom sit on its Energy and Climate Change Committee¹³⁶. The Committee is dominated by member companies from the Energy and Utilities sectors – arguably those with the most to lose from a transition to a low carbon economy. Just one company from the Financials sector sits on this committee. – BNP Paribas.

Figure 6: Business Council Australia (BCA) Membership by Sector



¹³¹ CCAC Oil Gas Methane Partnership, *CCA Coalition*, <<http://www.ccacoalition.org/en/activity/ccac-oil-gas-methane-partnership>> [Accessed 11/03/2019].

¹³² Climate Council, *Pollution and Price: The Cost of Investing in Gas*, April 2017.

¹³³ Methane Emissions Guiding Principles, *Woodside*, <<https://woodsideannouncements.app.woodside/04.04.2018+Media+Release+-+Methane+Emissions+Guiding+Principles.pdf>> [Accessed 11/03/2019].

¹³⁴ ‘Safety Environment’, *APPEA*, <<https://www.appea.com.au/safety-environment>> [Accessed 11/03/2019].

¹³⁵ <<https://www.bca.com.au/members>> [Accessed 11/03/2019]

¹³⁶ https://www.bca.com.au/energy_and_climate_change_committee

Policy Positions

The BCA was one of the most prominent opponents of Australia's price on carbon throughout its brief existence in 2012-14¹³⁷. The BCA welcomed its repeal in July 2014, claiming it was "the first step" towards a policy that "works for the economy and the environment"¹³⁸. Australia's national emissions have continued to rise in every quarter since its repeal¹³⁹.

The BCA's advocacy on energy and climate change seeks to achieve three goals: affordability, reliability and emissions reduction¹⁴⁰. The BCA's energy policy principles outline a policy framework that is stable, market-based, and technology and fuel neutral.¹⁴¹

However, the BCA's advocacy on climate and energy policy has often diverged from its stated policy aims.

In recent years, the BCA has:

- argued against any extension of the RET and stated that "there was no role for state-based" renewable energy targets¹⁴²;
- called for the removal of state-based moratoria on gas development¹⁴³;
- repeatedly proposed that the Clean Energy Finance Corporation (CEFC) be allowed to consider investment in nuclear or thermal generation with carbon capture and storage¹⁴⁴¹⁴⁵;
- called for the use of international offsets to meet Australia's abatement commitments¹⁴⁶;
- argued for exemptions from climate policy for EITE industries¹⁴⁷;

¹³⁷ Time for Senate to Repeal the Carbon Tax, *Business Council of Australia*, <<http://bca2.amsoftware.com.au/media/time-for-senate-to-repeal-the-carbon-tax>> [Accessed 11/03/2019].

¹³⁸ Business Groups Welcome Carbon Tax Repeal, *Business Council of Australia*, <<http://bca2.amsoftware.com.au/media/business-groups-welcome-carbon-tax-repeal>> [Accessed 11/03/2019].

¹³⁹ Australia's annual emissions continue to rise, driven by LNG production <<https://www.theguardian.com/environment/2019/feb/28/australias-annual-emissions-continue-to-rise-driven-by-lng-production>> [Accessed 30/11/2018].

¹⁴⁰ *Business Council of Australia*, <https://www.bca.com.au/energy_and_climate> [Accessed 11/03/2019].

¹⁴¹ *ibid.*

¹⁴² Business Council of Australia, Submission to Independent review into the future security of the National Electricity Market, March 2017

¹⁴³ *ibid.*

¹⁴⁴ *ibid.*

¹⁴⁵ Business Council of Australia, Submission to Review of Climate Change Policies, May 2017

¹⁴⁶ *ibid.*

¹⁴⁷ *ibid.*

- sought \$200,000 from each of its members to fund a campaign on “pro-business” policies in the lead-up to the next federal election¹⁴⁸;
- stated that a 45% emissions reduction target would be “economy wrecking”¹⁴⁹;
- told the Federal government party room that the BCA would campaign against the Federal opposition’s ambitious climate policies¹⁵⁰;
- supported a pro-rata emissions reduction target of 26% for the electricity sector¹⁵¹;
- stated that more ambitious emissions reduction targets would mean “deindustrialisation”¹⁵²;
- co-signed two open letters to the Federal government in support of the NEG¹⁵³¹⁵⁴, despite criticism of the policy by investors for its lack of ambition¹⁵⁵;
- called for further investment in Australia’s coal-fired power stations¹⁵⁶;
- argued against Paris Agreement-aligned emissions reduction targets¹⁵⁷.

Misalignments

Unlike many industry associations whose membership is drawn from a single sector, the BCA has a large, diverse membership. For this reason alone, the overrepresentation of Energy and Utilities companies on its Energy and Climate Change Committee should concern the remainder of its members and investors in those companies.

¹⁴⁸ Business Council to Ramp Up Role in Politics, *ABC News*, <<http://www.abc.net.au/news/2018-04-30/business-council-to-ramp-up-role-in-politics/9710190>> [Accessed 11/03/2019].

¹⁴⁹ Business Council of Australia, *Twitter*, <<https://twitter.com/BCAcomau/status/1011414577702031361>> [Accessed 11/03/2019].

¹⁵⁰ Turnbull Quashes Abbotts Bid to Give Party Room A Say on Energy Guarantee, *The Guardian*, <<https://www.theguardian.com/australia-news/2018/jun/26/turnbull-quashes-abbotts-bid-to-give-party-room-a-say-on-energy-guarantee>> [Accessed 11/03/2019].

¹⁵¹ Business Council of Australia, Submission to Energy Security Board’s Draft Detailed Consultation Paper, July 2018

¹⁵² Sky News, *Twitter*, <<https://twitter.com/SkyNewsAust/status/1025867269719519232>> [Accessed 11/03/2019].

¹⁵³ *Business Council of Australia*, <<http://www.bca.com.au/media/business-and-industry-united-in-calling-for-an-end-to-energy-uncertainty>> [Accessed 11/03/2019].

¹⁵⁴ Large Energy Users Call for the NEG to be Implemented without Delay, *Business Council of Australia*, <<http://legacy.bca.com.au/media/large-energy-users-call-for-the-neg-to-be-implemented-without-delay>> [Accessed 11/03/2019].

¹⁵⁵ *IGCC*, <<https://igcc.org.au/investors-call-for-ambition-shortfall-to-be-addressed-in-the-national-energy-guarantee/>> [Accessed 11/03/2019].

¹⁵⁶ Business Council of Australia, *Twitter*, <<https://twitter.com/BCAcomau/status/1083146139329691648>> [Accessed 11/03/2019].

¹⁵⁷ Pointless raising carbon targets with no road to get there, *Australian Financial Review*, <<https://www.afr.com/news/economy/pointless-raising-carbon-targets-with-no-road-to-get-there-20190115-h1a2so>> [Accessed 11/03/2019].

Of the BCA's 136 corporate members (excluding four academic institutions), 49 have set an absolute or emissions intensity target, or made a commitment to procure a significant proportion of their energy needs from renewable sources. For these members with the most progressive positions on climate change, there appears to be the most significant risk of policy misalignment with the BCA. ASX-listed companies in this category include:

- AGL Energy (ASX:AGL): committed to the decarbonisation of its generation portfolio by 2050¹⁵⁸;
- BHP Group (ASX:BHP): committed to net zero operational emissions by 2050¹⁵⁹;
- Commonwealth Bank of Australia (ASX:CBA): committed to sourcing 65% of its electricity from renewable sources by 2019, and 100% by 2030¹⁶⁰;
- Mirvac (ASX:MGR): set an emissions reduction target of 100% by 2030¹⁶¹;
- National Australia Bank (ASX:NAB): Australia's largest arranger/lender to renewable energy projects for several years¹⁶²;
- Origin Energy (ASX:ORG): set an emissions reduction target of 50% by 2032 (on 2017 levels)¹⁶³;
- Rio Tinto (ASX:RIO): aiming for a "substantial decarbonisation" of its business by 2050¹⁶⁴;
- South32 (ASX:S32): committed to net zero emissions by 2050¹⁶⁵;
- Stockland (ASX:SGP): committed to net zero emissions by 2050¹⁶⁶;
- Transurban (ASX:TCL): set an emissions reduction target of 52% by 2030 (on 2016 levels)¹⁶⁷;

¹⁵⁸ AGL Energy, <<https://www.agl.com.au/about-agl/who-we-are/our-commitments>> [Accessed 11/03/2019]

¹⁵⁹ BHP Group, <https://www.bhp.com/environment/climate-change> [Accessed 11/03/2019]

¹⁶⁰ Commonwealth Bank of Australia, <https://www.commbank.com.au/guidance/newsroom/cba-renewables-two-thirds-energy-needs-201811.html> [Accessed 11/03/2019]

¹⁶¹ Mirvac, <http://sustainability.mirvac.com/our-strategy/focus_area/climate-change/> [Accessed 11/03/2019].

¹⁶² 'Enabling Infrastructure Energy and Renewables', *National Australia Bank*, <<https://www.nab.com.au/corporate/industry-expertise/enabling-infrastructure-energy-and-renewables>> [Accessed 11/03/2019].

¹⁶³ '6 ways Origin is Tackling Climate Change', *Origin Energy*, <<https://www.originenergy.com.au/blog/lifestyle/6-ways-origin-is-tackling-climate-change--.html>> [Accessed 11/03/2019].

¹⁶⁴ Our approach to climate change 2018, *Rio Tinto*, https://www.riotinto.com/documents/RT_Our_approach_to_climate_change_2018.pdf [Accessed 11/03/2019]

¹⁶⁵ 'Climate Change', *South 32*, <<https://www.south32.net/sustainability/our-future/climate-change>> [Accessed 11/03/2019].

¹⁶⁶ 'What does net zero emissions by 2050 look like for Stockland', *Stockland*, <<https://www.stockland.com.au/sustainability/sustainability-news/what-does-net-zero-emissions-by-2050-look-like-for-stockland>> [Accessed 11/03/2019].

¹⁶⁷ Sustainability Report 2017, *Transurban*, <<https://sr17.transurban.com/>> [Accessed 11/03/2019].

- Westpac Banking Corporation (ASX:WBC): committed to net zero emissions by 2050¹⁶⁸.

More generally, the BCA's repeated, unfounded criticisms of ambitious emissions reduction targets is contrary to the long-term interests of all its members and their investors. These criticisms, which often refer to emissions reductions targets as "economy wrecking" and tantamount to "deindustrialisation", have been echoed by numerous politicians, including the former Federal Energy Minister Josh Frydenberg, suggesting its influence on politicians' perspectives¹⁶⁹.

For this reason, BCA's advocacy has been severely detrimental to effective policy on climate change. Investors should be alert to any company that remains a member of the BCA, particularly if that company has failed to clarify its position or advocate independently and clearly on climate policy.

Manufacturing Australia

Manufacturing Australia has 11 member companies. Given Australia's existing reliance on thermal generation for electricity in Australia, all member companies have a significant carbon footprint.

Policy Positions

Manufacturing Australia has only been active on climate policy for the last year. It does not have any permanent policy positions, but it has made several policy submissions relating to climate issues.

In the last year, Manufacturing Australia has:

- called for an electricity price target, after AGL Energy committed to replacing the Liddell coal fired power station with a mix of renewables and fast response technologies¹⁷⁰;
- repeatedly argued for exemptions from emissions requirements for EITE industries¹⁷¹;
- said it was willing to arrange electricity contracts with large manufacturers (presumably its own members) in order to prolong the life of the Liddell coal fired power station¹⁷³;

¹⁶⁸ Westpac CCE Action Plan, *Westpac*, <https://www.westpac.com.au/content/dam/public/wbc/documents/pdf/aw/sustainability/WestpacCCEActionPlan.pdf> [Accessed 11/03/2019].

¹⁶⁹ *Sky News Australia Twitter*, <<https://twitter.com/SkyNewsAust/status/1029956986425638912>> [Accessed 11/03/2019].

¹⁷⁰ Manufacturers push for price-target on power, *The Australian*, <<https://www.theaustralian.com.au/news/manufacturers-push-for-price-target-on-power/news-story/e1caca64e9545e324f0cea973ee7e981>> [Accessed 11/03/2019].

¹⁷¹ Manufacturing Australia, Submission to Energy Security Board's Draft Consultation Paper, 9 March 2018

¹⁷² Manufacturing Australia, Submission to Energy Security Board's Draft Detailed Consultation Paper, 10 July 2018

¹⁷³ Keeping Liddell Alive Inside Alinta's Bid for the Power Station, *Sydney Morning Herald*, <<https://www.smh.com.au/business/the-economy/keeping-liddell-alive-inside-alinta-s-bid-for-the-power-station-20180404-p4z7oi.html>> [Accessed 11/03/2019].

- held talks with former Federal Energy Minister Josh Frydenberg about buying the Liddell coal fired power station, in order to keep it open¹⁷⁴;
- proposed that Australia “frack like the Americans” in order to reduce energy prices¹⁷⁵;
- urged “Federal and State governments to support measures to increase gas supply and gas suppliers”¹⁷⁶.

Despite Manufacturing Australia’s official support for Australia’s Paris Agreement commitments, its advocacy for extending the life of the Liddell coal fired power station is at odds with scientific opinion that suggests OECD countries must phase out coal fired power generation by 2030¹⁷⁷.

Misalignments

Manufacturing Australia’s pro-coal advocacy appears to be inconsistent with member companies that have made explicit commitments to the Paris Agreement or renewable energy. These companies include:

- BlueScope Steel (ASX:BSL): BlueScope recently announced the largest solar Power Purchase Agreement (PPA) in Australia, which will provide approximately 20% of the company’s electricity requirements¹⁷⁸;
- Orora Group (ASX:ORA): Orora recently signed its second PPA with a wind farm, which will increase the proportion of its energy from renewable sources to 80% (in 2019)¹⁷⁹;
- Rio Tinto (ASX:RIO): Rio divested its thermal coal assets due to climate risk and re-affirmed its commitment to the Paris Agreement following criticism from investors for its membership of industry associations that were blocking progress on climate¹⁸⁰ (NB: Rio Tinto is the majority owner of Manufacturing Australia member Tomago Aluminium).

¹⁷⁴ ‘Alinta Energy to Buy Liddell Power Station from AGL’, *Business Insider*, <<https://www.businessinsider.com.au/alinta-energy-to-buy-liddell-power-station-from-agl-2018-4>> [Accessed 11/03/2019].

¹⁷⁵ ‘Australia’s Big Business Energy Fantasy Lest Frack like America’, *Renew Economy*, <<https://reneweconomy.com.au/australias-big-business-energy-fantasy-lets-frack-like-america-36958/>> [Accessed 11/03/2019].

¹⁷⁶ Manufacturing Australia, Submission to Energy Security Board’s Draft Detailed Consultation Paper, 10 July 2018.

¹⁷⁷ GISGCC Briefing Paper, *The Investor Agenda*, <<https://theinvestoragenda.org/wpcontent/uploads/2018/05/GISGCC-briefing-paper-FINAL.pdf>> [Accessed 11/03/2019].

¹⁷⁸ ‘Bluescope announced Power Purchase Agreement’, *Bluescope*, <<https://www.bluescope.com/about-us/bluescope-news/2018/07/bluescope-announces-power-purchase-agreement/>> [Accessed 11/03/2019].

¹⁷⁹ Packaging Giant Turns to Baseload Green Power in Victoria, *Renew Economy*, <<https://reneweconomy.com.au/packaging-giant-turns-to-baseload-green-power-in-victoria-21372/>> [Accessed 11/03/2019].

¹⁸⁰ ‘Rio Tinto chairman links coal exit to climate action’, *The Australian*, <<https://www.theaustralian.com.au/business/companies/rio-denies-asic-allegations-admits-fraud-and-bribery-claims-have-hit-reputation/news-story/273c9d6807a71d66600227d45f92f843>> [Accessed 11/03/2019].

ASX-listed companies CSR (ASX:CSR) and AMP (ASX:AMP) are also exposed to risks stemming from Manufacturing Australia's climate advocacy, through their joint ownership of Gove Aluminium Finance, which holds a 36.05% stake in Manufacturing Australia member Tomago Aluminium. The apparent lack of oversight by these three ASX-listed companies of Manufacturing Australia's activities suggests that the membership of industry associations by joint venture companies is a key risk for investors.

Minerals Council of Australia

The Minerals Council of Australia (MCA) is the peak body representing Australia's exploration, mining and minerals processing industry. The MCA's full members account for more than 85% of Australia's annual mineral production.¹⁸¹

Of its 44 full members, 23 (51%) are listed on the ASX, though just six of those are included in the benchmark ASX200 index, while the remainder are considered small or micro caps. In addition, the MCA has 29 associate members, most of whom are service providers to the mining industry.

Policy Positions

In the early 2000s, the MCA was closely associated with the 'greenhouse mafia' – the self-given name of a group of fossil fuel executives, who sought to delay climate action under the Howard government¹⁸².

The MCA campaigned heavily against Australia's price on carbon throughout its brief existence in 2012-14¹⁸³, welcoming its repeal in July 2014¹⁸⁴. In 2015-16, the MCA spent \$2.5 million on advertising 'clean coal' in the lead up to the 2016 federal election¹⁸⁵.

In late 2016, MCA CEO Brendan Pearson was forced out by the MCA's largest member BHP Billiton, following intense investor pressure over the MCA's pro-coal advocacy¹⁸⁶. The MCA subsequently

¹⁸¹ 'About MCA', *Minerals Council of Australia*, <<https://minerals.org.au/about-mca-0>> [Accessed 11/03/2019].

¹⁸² Pearse, Guy, *High and Dry*, 2007.

¹⁸³ Industry group steps up carbon ads', *ABC News*, <<http://www.abc.net.au/news/2011-07-21/industry-group-steps-up-carbon-ads/2803794>> [Accessed 11/03/2019].

¹⁸⁴ 'Business Groups Welcome Carbon Tax Repeal', *Business Council of Australia*, <<http://bca2.amsoftware.com.au/media/business-groups-welcome-carbon-tax-repeal>> [Accessed 11/03/2019].

¹⁸⁵ 'Mining industry tipped millions into pre-election clean coal campaign', *Sydney Morning Herald*, <<https://www.smh.com.au/politics/federal/mining-industry-tipped-millions-into-preelection-clean-coal-campaign-20170217-guf3x7.html>> [Accessed 11/03/2019].

¹⁸⁶ 'Clean coal crusade claims minerals council CEO Brendan Pearson', *Australian Financial Review*, <<https://www.afr.com/news/clean-coal-crusade-claims-minerals-council-ceo-brendan-pearson-20170922-gyn01f>> [Accessed 11/03/2019].

updated its Energy and Climate Change Policy, vowing to end its pro-coal agenda, and take a ‘technology neutral’ approach¹⁸⁷.

The MCA’s General Manager of Climate and Energy, Mark McCallum, is also the CEO of Coal21, a fund designed to invest in low emissions technologies, such as carbon capture and storage¹⁸⁸.

Coal21, consistently advocates for coal alone, and took six Federal MPs to Japan on a tour of a coal fired power station in the middle of a national debate about energy policy¹⁸⁹.

Recently, the MCA has:

- repeatedly proposed that so-called ‘High Efficiency Low Emission’ (HELE) coal technologies can assist Australia to meet its Paris Agreement commitments^{190 191};
- argued for the inclusion of carbon capture and storage (CCS) in the remit of the Clean Energy Finance Corporation (CEFC)¹⁹²;
- called for the removal of the legislative prohibition on nuclear energy¹⁹³;
- suggested that a ‘technology neutral’ approach would equally value renewables, gas, nuclear, advanced coal technologies (such as HELE) and CCS¹⁹⁴;
- (Former MCA Executive Director of Coal Greg Evans) stated that he focused his attention on “an influential core of people within the Coalition government that understand the need for reliable baseload energy”¹⁹⁵;
- recommended exemptions from climate policy for EITE industries¹⁹⁶;
- supported the federal government’s proposed policy to underwrite new coal-fired power stations¹⁹⁷.

¹⁸⁷ ‘Minerals Council Goes Cold on Coal in New Energy Policy’, *Sydney Morning Herald*, <<https://www.smh.com.au/business/the-economy/minerals-council-goes-cold-on-coal-in-new-energy-policy-20180314-p4z4bj.html>> [Accessed 11/03/2019].

¹⁸⁸ ‘What We Do’, *Coal 21*, <<https://coal21.com/about-us/what-we-do/>> [Accessed 11/03/2019].

¹⁸⁹ ‘Barking Coalition Back-Benchers Promised a World of Coal’, *Renew Economy*, <<https://reneweconomy.com.au/barking-coalition-back-benchers-promised-a-world-of-coal-84504/>> [Accessed 11/03/2019].

¹⁹⁰ Minerals Council of Australia, Submission to the Inquiry into the retirement of coal fired power stations, 8 November 2016

¹⁹¹ Minerals Council of Australia, Submission to 2017 Review of Climate Change Policies, 19 May 2017

¹⁹² *ibid.*

¹⁹³ *ibid.*

¹⁹⁴ Minerals Council of Australia, Submission to Energy Security Board’s Draft Consultation Paper, 8 March 2018

¹⁹⁵ ‘Clear case’ for coal-fired power stations as state dodges energy crisis’, *2GB*, <<https://www.2gb.com/clear-case-for-coal-fired-power-stations-as-state-dodges-energy-crisis/>> [Accessed 11/03/2019].

¹⁹⁶ Minerals Council of Australia, Submission to Energy Security Board’s Draft Detailed Consultation Paper, 13 July 2018

¹⁹⁷ Minerals Council of Australia, Underwriting New Generation Investments, 12 November 2018

The MCA's calls for new coal fired power stations was co-opted by numerous Coalition MPs, and some have argued that it was former Prime Minister Malcolm Turnbull's unwillingness to support such initiatives that ultimately led to his downfall¹⁹⁸.

Misalignments

In October 2017, The Australia Institute found that just 16 of the MCA's 45 members mine any form of coal, and just three were entirely focused on thermal coal¹⁹⁹. Yet the number of media mentions in 2016/17 involving the MCA and coal far outnumbered any other mineral resource²⁰⁰.

The MCA's pro-coal advocacy poses a serious reputational risk to companies that have made explicit commitments to the Paris Agreement, in addition to those not involved in coal mining, and those for whom coal mining is not their primary business. The following companies appear to be most at risk from such advocacy:

- BHP Billiton (ASX:BHP): explicit commitment to the Paris Agreement; thermal coal mining makes up less than 10% of its Australian revenue²⁰¹;
- CIMIC Group (ASX:CIM): services to thermal coal mining are a minor source of revenue;
- Downer EDI (ASX:DOW): services to thermal coal mining are a minor source of revenue;
- Newcrest (ASX:NCM): not involved in thermal coal mining;
- Rio Tinto (ASX:RIO): explicit commitment to the Paris Agreement; divested its thermal coal assets²⁰².

Despite claims that COAL21 is an entirely separate entity to the MCA, the ongoing overlap of personnel between the two organisations will continue to pose a risk to members concerned about pro-coal lobbying.

The responses of BHP Billiton and Rio Tinto to investor scrutiny about their respective industry associations suggests that companies are becoming increasingly alert to the reputational risk posed by their membership of organisations seen to be blocking action on climate change.

¹⁹⁸Alex Turnbull says coal miners have undue influence on liberals, *ABC News*, <<http://www.abc.net.au/news/2018-08-28/alex-turnbull-says-coal-miners-have-undue-influence-on-liberals/10170908>> [Accessed 11/03/2019].

¹⁹⁹ The Australia Institute, *Mainly Coal Advocacy – What does the MCA stand for?*, October 2017.

²⁰⁰ *ibid.*

²⁰¹ *ibid.*

²⁰² 'Rio Tinto chairman links coal exit to climate action', *The Australian*, <<https://www.theaustralian.com.au/business/companies/rio-denies-asic-allegations-admits-fraud-and-bribery-claims-have-hit-reputation/news-story/273c9d6807a71d66600227d45f92f843>> [Accessed 11/03/2019].

Approaches to Modern Slavery

This section aims to explore industry association’s activities in lobbying issues related to modern slavery. This section will provide a summary of the international and national context of implanting Modern Slavery related policies, and look in particular at submissions and public discourse surrounding the implementation of Modern Slavery legislation in Australia. The section will also provide an analysis of industry associations’ involvement in the policy debate and their members’ activities and highlight potential misalignment.

We note that since the research for this report was concluded, a number of industry associations have successfully lobbied for the repeal of labour-hire licensing legislation in South Australia. This legislation was enacted partially in response to evidence of slavery-like conditions in domestic food supply chains. Given this, a future ACCR report will investigate potential misalignment between industry associations’ lobbying on labour hire and their members’ own activities and positions.

Summary of the Issue

Modern Slavery on the National and International Agenda

On the back of the unanimous endorsement of the United Nations Guiding Principles of Business and Human Rights in June 2011, states and legislatures across the world have been implementing legislation to further entrench businesses obligation to protect, respect and provide remedy for human rights grievances.²⁰³

Table 3 illustrates examples of national legislation that include components that aim to make businesses accountable for human rights risks within their own operations and throughout their supply chain.

²⁰³ Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, 2011, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf> [Accessed 20/09/2018].

Table 3 National Legislation Related to Business and Labour Rights

| Country/Region | Legislation | Business and Human Rights Related Elements |
|-----------------------|---|---|
| United States | Section 1502 - <i>Dodd-Frank Wall Street Reform and Consumer Act</i> (2010) | A Company disclosure requirement for companies to disclose whether their products contain conflict minerals – sourced from the DRC or surrounding countries– by carrying out supply chain due diligence. ²⁰⁴ |
| United Kingdom | Section 54 - <i>UK Modern Slavery Act</i> (2015) | Companies to report in an annual statement the steps they are taking to address modern slavery in their business and supply chain. |
| Netherlands | Child Labour Due Diligence Law (2017) | Companies to address whether child labour exists in their operations or supply chain and how they combat this. |
| France | <i>French law on the Corporate Duty of Vigilance</i> (2017) | Companies to develop a due diligence plan on how the Company mitigates human rights impacts. |

It is important to note that these legislations do not necessarily encompass human rights risks as a whole, but address specific contraventions of human rights. For example, the Dutch Law only addresses the risk of Child Labour. ‘Modern Slavery’ is a term that has come into increasing use to denote bonded labour, forced/compulsory labour, child labour, human trafficking and other ‘slave-like’ practices. The United Kingdom legislated a Modern Slavery Act in 2015.²⁰⁵ Section 54 of this legislation includes a supply chain reporting requirement for companies with an annual revenue of £36 million.²⁰⁶

²⁰⁴ ‘The Dodd Frank Act’s Section 1502 on Conflict Minerals’, *Global Witness Website*, <<https://www.globalwitness.org/en/archive/dodd-frank-acts-section-1502-conflict-minerals/>> [Accessed 20/09/2018].

²⁰⁵ Modern Slavery Act 2015, *United Kingdom Government Legislation Website*, <<http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>> [Accessed 20/09/2018].

²⁰⁶ ‘Inquiry Into Establishing a Modern Slavery Act in Australia – Supply Chain Reporting in the United Kingdom’, *Parliament of Australia*, <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Interim_Report/section?id=committees%2Freportint%2F024092%2F24921> [Accessed 20/09/2018].

Modern Slavery Act in Australia

In February 2017, the Attorney General of Australia, the then Senator George Brandis, asked the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSC) to inquire into and report on 'Establishing a Modern Slavery Act in Australia'. The committee examined whether Australia should adopt a Modern Slavery Act comparable to that in the UK. The committee was also tasked with exploring the extent of modern slavery both in Australia as well as globally, investigating the prevalence of modern slavery in domestic and global supply chains and identifying best practice of companies and governments. Industry associations and businesses have been proactive in engaging in the inquiry process and have been influential in shaping the legislation.

The JSC Inquiry included consultations with communities and public hearings. Individuals and organisations were also able to make submissions for the consideration of the JSC.

It is important to note that not all sections of the Modern Slavery Act are directly applicable to business. The 'Supply Chain Reporting Requirement' is the element of the Act that applies to businesses. In addition to the JSC Inquiry, the Minister for Justice released a consultation Paper on the Australian Government's proposed model for a Modern Slavery reporting requirement in August 2017.

This model was put up for consultation over September and October 2017. The consultation paper highlights various options for the government to take in order to address modern slavery in supply chains. The Government decided on targeted regulatory action through a Modern Slavery and Supply Chains Reporting Requirement. The reporting requirement that was proposed by the Minister for Justice suggested reporting on the following criteria:

1. The entity's structure, its operations, and its supply chains
2. The modern slavery risks present in the entity's operations and supply chains
3. The entity's policies and processes put in place to address modern slavery in its operations and supply chains and their effectiveness (such as codes of conduct, supplier contract terms, and training for staff)
4. The entity's due diligence processes relating to modern slavery in its operations and supply chains and their effectiveness.

This paper heavily influenced the Modern Slavery Bill, which was introduced to the Australian federal parliament on the June 28, 2018. It was passed on November 29, 2018.

Analysis of Industry Association Involvement

Figure 6 highlights industry associations, Australian listed companies and international listed companies that made submissions to the JSC Inquiry. Many companies and industry associations also spoke about their submissions at public hearings. For example, on June 23, 2018, the Australian Retailers Association, Wesfarmers, the Australian Food and Grocery Council and Westpac Group spoke regarding their submissions.²⁰⁷

Figure 6 Joint Standing Committee Inquiry Submissions

| Industry Associations | Australian Listed Companies | International Listed Companies |
|---|--|---|
| <ul style="list-style-type: none"> • Australian Chamber of Commerce and Industry • Australian Food and Grocery Council • Australian Sporting Goods Association • Australian Retailers Association • Business Council of Australia • National Farmers Federation | <ul style="list-style-type: none"> • BHP • Fortescue Metals Group • National Australia Bank • Qantas • Rio Tinto • South 32 • Treasury Wine Estates • Wesfarmers • Westpac Group • Woolworths • Woodside Energy | <ul style="list-style-type: none"> • Adidas Group • ASOS • Marks and Spencer • Nestle Australia |

Figure 7 lists the different industry associations, Australian companies and international companies that made submissions to the Minister for Justice Consultation. Note: associations and companies highlighted in bold are those that are more closely examined in this report.

²⁰⁷ Public Hearing Friday 23 June 2017m Inquiry into establishing a Modern Slavery Act in Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade
<https://www.aph.gov.au/DocumentStore.ashx?hearingid=27652&submissions=false> [Accessed 20/09/2018].

Figure 7 Minister for Justice - Modern Slavery Reporting Requirement Public Consultation²⁰⁸

| Industry Associations | Australian Listed Companies | International Listed Companies |
|---|--|--|
| <ul style="list-style-type: none">• Australian Food and Grocery Council• Australian Retailers Association• Australian Sporting Goods Association• Business Council of Australia• Minerals Council of Australia• National Farmers Federation• Property Council of Australia | <ul style="list-style-type: none">• BHP• Fortescue Metals Group• Mirvac• National Australia Bank• Qantas Group• QBE Insurance Group• Wesfarmers• Westpac Group• Woodside Energy | <ul style="list-style-type: none">• Anglo American• BP Australia• Nestle Australia |

²⁰⁸Modern Slavery Reporting Requirement – Public Consultation, *Department of Home Affairs – Australian Government*, <<https://www.homeaffairs.gov.au/about/consultations/modern-slavery-supply-chains-reporting-requirement>> [Accessed 20/09/2018].

Table 4 highlights selected industry associations submissions to the Minister for Justice Consultation on the Australian Government's proposed model for a Modern Slavery in Supply Chains Reporting Requirement.

Table 4 Industry Association Submissions to the Minister for Justice Consultation on the Australian Government’s Proposed Model for a Modern Slavery in Supply Chains Reporting Requirement

| Industry Association | Supportive | Reporting Threshold | Reporting Requirement | Penalties |
|---|------------|--|--|------------|
| Australian Food & Grocery Council ²⁰⁹ | Yes | “If a business meets the \$100 million total annual revenue threshold (or the level at which the threshold is set) the reporting requirement should be applied irrespective of the corporate structure of the entity.” | Supports the proposal that Modern Slavery Statements must be approved at the equivalent of board level | No mention |

²⁰⁹ Australian Food and Grocery Council Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/australian-food-grocery-council.pdf>> [Accessed 21/09/2018].

| Industry Association | Supportive | Reporting Threshold | Reporting Requirement | Penalties |
|--|--|---|--|---|
| Australian Retailers Association ²¹⁰ | <p>No – The ARA championed a more voluntary code “anti-slavery reporting should be encouraged, rather than compelled”. –</p> <p>“The ARA and industry stakeholders believe that mandatory regimes do not encourage compliance, as this merely mandates organisations meeting a minimum reporting threshold.”</p> | <p>Asks for clarification as to whether small businesses operating within a larger business still need to report.</p> | <p>“Any requirements of a Modern Slavery Act in Australia should be light touch and broad in scope to ensure flexibility and minimise the complexities associated with reporting’ - reporting requirement to favour reporting on international supply chains ahead of domestic practices. The ARA is concerned at the anticipated costs to business of auditing and investigating their supply chains in order to meet their proposed reporting requirements.”</p> | <p>“The ARA and industry stakeholders believe that mandatory regimes do not encourage compliance, as this merely mandates organisations meeting a minimum reporting threshold.”</p> |

²¹⁰Australian Retailers Association Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/australian-retailers-association.pdf>> [Accessed 21/09/2018].

| Industry Association | Supportive | Reporting Threshold | Reporting Requirement | Penalties |
|---|------------|--|--|---|
| Business Council of Australia ²¹¹ | Yes | “There are a range of views among Business Council members on the appropriate level for a threshold. It is difficult to estimate the most appropriate threshold in the absence of more detailed information on the nature and number of businesses at different revenue thresholds. Although the Business Council reserves a position on our preferred threshold, we would not oppose a threshold of \$100 million.” | “The Business Council supports the broad intent to align criteria with the six areas recommended by the UK Modern Slavery Act. The proposed criteria should be optional and represent guidance, rather than mandated.” | “A new reporting requirement should encourage companies to continuously assess their supply chains and operations for evidence of modern slavery, not penalise businesses for exposing problems.” |

²¹¹ Business Council of Australia Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/business-council-australia.pdf>> [Accessed 21/09/2018].

| Industry Association | Supportive | Reporting Threshold | Reporting Requirement | Penalties |
|---|--|---|---|--|
| Farmers' Federation ²¹² | Partial. "The NFF is generally in support of this proposal, it is fair to say that the NFF remains concerned about some aspects." The NFF wants the legislation to be 'targeted' so as to not penalise small and medium size businesses (farmers). | The Consultation Paper queries whether the reporting requirement should be triggered where a "group" of entities has an aggregate turn-over exceeding \$100 million. The NFF submission is that the aggregation should not extend to groups who are not (genuinely) conducting a single business. | Don't want big retailers to push the reporting requirement down the supply chain "requiring farmers to undertake costly audits and engage with other processes to demonstrate that they only use legitimate sources of labour." | No mention |
| Minerals Council of Australia ²¹³ | Yes | Supportive of the 100 million reporting threshold. | "The reporting requirement should not mandate a fixed time of year for entities to report." The MCA supports in principle the consultation criteria rather than optional reporting content to meet the reporting requirement. | No mention – just information regarding reducing "compliance costs". |

²¹² Farmers' Federation Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/farmers-federation.pdf>> [Accessed 21/09/2018].

²¹³ Minerals Council of Australia, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/minerals-council-australia.pdf>> [Accessed 21/09/2018].

Table 5 highlights ASX 100 companies' submissions to the Minister for Justice Submissions into the Modern Slavery Reporting Requirement. This list excludes financial and real estate companies. The company submissions included more specific and nuanced responses to the reporting requirements.

Table 5 Company's Submissions to the Minister for Justice Consultation on the Australian Government's Proposed Model for a Modern Slavery in Slavery in Supply Chains Reporting Requirement

| Company | Supportive | Reporting Threshold | Reporting Requirement Criteria | Penalties |
|--------------------------|------------|--|--|---|
| BHP²¹⁴ | Yes | BHP believes that total annual global revenue of no higher than AUD 50 million would be the appropriate threshold for the reporting requirement. | "BHP welcomes the inclusion of the criteria for reporting as this will encourage more consistent and comparable reporting between companies." The Company suggests alternative wording for clarification on certain aspects such as "due diligence". | The Company states that the obligations suggested, and the introduction of registers identifying which entities were; obliged to submit a report and complied; obliged to submit a report but failed; and not obliged to submit a report but did so (i.e., 'opt-ins') is more appropriate than penalties. |

²¹⁴ BHP Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/bhp.pdf>> [Accessed 21/09/2018].

| Company | Supportive | Reporting Threshold | Reporting Requirement Criteria | Penalties |
|--|------------|---|---|---|
| Fortescue Metals Group ²¹⁵ | Yes | “Fortescue reiterates its view that all businesses, organisations and Government departments or instrumentalities with revenue/turnover in excess of AUD 100m/annum should be required to submit an annual modern slavery statement.” | “Fortescue believes the Australian modern slavery statement must require mandatory minimum criteria to be addressed if it is to be of reasonable utility. Fortescue does not agree that it is appropriate or useful to leave the content of the statement entirely at the submitter’s discretion.” | No information. But Fortescue does support the creation of a central repository and not opposed to this being in the control of the government. |
| Qantas ²¹⁶ | Yes | No comment. | “In light of recent amendments to the guidance material for the UK's Modern Slavery Act 2015 that moves towards mandatory reporting of each of the criteria, it is our preference that any statement made under the United Kingdom's legislation be considered sufficient for the proposed Australian reporting requirement.” | “The Group is not supportive of penalties based on an evaluation of the content nor the impact of reporting. Penalties for non-compliance must relate to a failure to produce any statement.” |

²¹⁵ Fortescue Metals Group Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/fortescue-metals-group.pdf>> [Accessed 21/09/2018].

²¹⁶ Qantas Group Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/qantas-group.pdf>> [Accessed 21/09/2018].

| Company | Supportive | Reporting Threshold | Reporting Requirement Criteria | Penalties |
|----------------------------------|------------|--|--|--|
| Wesfarmers ²¹⁷ | Yes | States that AUD 100 million is considered appropriate, and recommends entities below that threshold level to 'opt in' to the reporting requirements. | States that “companies like Wesfarmers are already making these disclosures in line with best practice sustainability reporting.” | No mention. States that a public repository is a good mechanism to encourage entities to comply. |
| Woodside ²¹⁸ | Yes | Supports threshold. “In addition, we suggest that the Government considers applying the legislation to companies operating in high-risk areas that are below the AUD 100 million annual turnover threshold”. | Woodside does not support the reporting criteria under the UK Modern Slavery legislation being mandated in any Australian legislation. Including the criteria as optional, has the ability to reduce the legislative burden on business, allowing companies the flexibility to implement measures to identify, prevent and mitigate modern slavery in a manner suited to their operations. | Supportive of a centralised repository run by a government as opposed to a third party. |

²¹⁷Wesfarmers Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/wesfarmers.pdf>> [Accessed 21/09/2018].

²¹⁸ ‘Woodside Submission’, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/woodside.pdf>> [Accessed 21/09/2018].

| | | | | |
|---------------------------------|-----|---|--|------------|
| Woolworths²¹⁹ | Yes | Supports threshold. “An existing threshold for ‘large’ businesses currently exist under the Corporations Act 2001 (Commonwealth) – E.g. ‘public companies’ and ‘large proprietary companies’; whether a company is listed on the ASX could also potentially provide a suitable (but narrower) framework...” | Supports reporting requirements. Wants a “uniform basis of reporting – specifying the types of information and level of detail to be disclosed” for easier comparison of companies | No mention |
|---------------------------------|-----|---|--|------------|

²¹⁹ Woolworths Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/wesfarmers.pdf>> [Accessed 21/09/2018].

Analysis of Industry Association Members & Activities

Together **Table 4** and **Table 5** illustrate which industry associations and companies made submissions to the inquiry, and whether these submissions are supportive of the suggested Modern Slavery Act legislation, their position on the suggested 100 million reporting threshold, the suggested four component criteria for the reporting requirement and their position on whether penalties should be included.

While the industry associations analysed here make submissions that are broadly in support of a Modern Slavery Act, both the Australian Retail Association and Farmers' Federation submissions included recommendations regarding reporting requirements which would have substantially reduced the effectiveness of the legislation, particularly regarding the governance of Australian supply chains. These recommendations are broadly misaligned with the existing supply chain policies of their members.

For example, the Australian Retailers Association recommends that the reporting requirement should focus on international supply chains ahead of domestic practices. This is misaligned to both the current Responsible Sourcing Policy of ARA member Woolworths, as well as the recommendation the company puts forward in their submission. While Woolworths had previously distinguished between reporting requirements in its domestic and international supply chains, investigations into slave like conditions in its domestic food supply chains led the company to revise these policies to acknowledge the human rights risks in its Australian supply chain.

Another example of when an industry association does not necessarily encompass the same views as its members can be seen through Fortescue Metals Group and The Business Council for Australia (of which Fortescue Metals Group is a member) submissions. The Business Council of Australia submission states that the reporting criteria should not be mandated, whereas Fortescue Metals Group takes a staunch approach supporting required mandatory minimum criteria to be addressed of the reporting requirement if "it is to be of reasonable utility".²²⁰

The Minerals Council for Australia and BHP also have a misalignment of views. The Minerals Council of Australia states "the reporting requirement should not mandate a fixed time of year for entities to report",²²¹ whereas BHP "supports a six month deadline, rather than a five month deadline, as this aligns with the UK Government Guidance with respect to the UK Modern Slavery Act, but we suggest it be linked to the reporting entity's financial year, rather than the Australian

²²⁰ Fortescue Metals Group Submission, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/fortescue-metals-group.pdf>> [Accessed 21/09/2018].

²²¹ Minerals Council of Australia, *Department of Home Affairs, Parliament of Australia*, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/minerals-council-australia.pdf>> [Accessed 21/09/2018] p3.

financial year.”²²² Furthermore, BHP supports a reporting revenue threshold of \$50 million, which would more closely align to the United Kingdom requirements of an annual total turnover of GBP 36 million or more whereas the Minerals Council of Australia is supportive of the \$100 million reporting threshold.

The positive engagement with this issue by companies such as BHP and Fortescue Metals Group, indicates that certain companies are already proactively considering and engaging on this issue, however there are examples of misalignment between the position of industry associations and members. It must be noted that these companies do not disclose that their position is misaligned to that of their industry association.

On the 4th of September 2018, businesses including Rio Tinto, Lendlease and Mirvac, in conjunction with civil society members, investors, academics and faith-based organisations, wrote a letter to Prime Minister Scott Morrison.²²³ The letter expressed strong support for the Modern Slavery Bill and suggested that an independent statutory officer be appointed to support the operation of the Modern Slavery Act.

The letter also stated that an additional area where the Modern Slavery Bill could be strengthened was to include an amendment to Part 3 Section 24 to establish a rolling three-year review. This example shows how companies together with a range of stakeholder groups, including investors, can engage with government processes in order to implement legislation that addresses human rights risks.

However, this example also highlights that industry associations do not necessarily encompass the same nuanced views as their individual members. For example, the industry association submissions do not cover establishing a rolling three-year review or provide support for an independent statutory officer to be appointed to support the operation of the Modern Slavery Act.

If legislated, the Modern Slavery Act will encourage companies and investors to consider their exposure to modern slavery in their own operations and supply chain. In doing so, investors and companies reduce the reputational, operational, and legal implications that may be associated with having modern slavery found at either an operational or supply chain level. The mandatory Modern Slavery Act Statements will also provide a useful source for investors to identify best practice companies. Moreover, the positive engagement around supporting mechanisms to mitigate instances of modern slavery by companies such as BHP and Fortescue Metals Group, can indicate that certain companies are already proactively engaging and considering the issues. This example then demonstrates the opportunities presented to investors through industry association and company engagement in policy debates. However, the submissions into the Modern Slavery

²²² BHP Submission, *Department of Home Affairs, Parliament of Australia*, p6, <<https://www.homeaffairs.gov.au/consultations/Documents/modern-slavery/bhp.pdf>> [Accessed 21/09/2018].

²²³ Re:Modern Slavery Bill Letter to Prime Minister Scott Morrison, 4 September 2018, <<https://www.business-humanrights.org/sites/default/files/documents/MSA%20-%20Joint%20Letter-%20PM.pdf>> [Accessed 21/09/2018].

Act also demonstrate instances where industry associations' views can be misaligned with their member companies and highlights the lack of transparency.

Sugar Regulation

This section identifies industry association participation in public debate relating to policy measures to tackle the obesity epidemic in Australia, and analyses the lobbying positions taken by those associations against recommendations by local and global health peak bodies. This section looks in particular at policy statements by industry associations, and their contribution to public discourse surrounding the implementation of policy measures aimed at reducing sugar consumption in Australia, including a sugar tax. It also examines their approach to alternative policy measures such as the Health Star Rating System.

The Sugar Sweetened Beverage Tax

In 2018, the Australian Medical Association published a statement on nutrition in which they urged the Australian Government to introduce a sugar sweetened beverage (SSB) tax alongside recommendations on a range of other areas of nutritional education and consumption²²⁴:

There is ongoing concern about the health implications of a diet high in refined and added sugar. While some sugar is naturally occurring in foods such as fruit, vegetables and dairy, it is the addition of sugar to processed foods that is concerning.

Sugary beverages provide individuals with large quantities of sugar and provide little or no satiety. Australians consume large quantities of soft drinks. Large container sizes of soft drinks are significantly cheaper than single serving sizes, which also contributes to overconsumption. Flavoured waters, sports drinks and fruit juices also contain significant quantities of added sugars. Energy drinks are popular among young people. These beverages also contain large quantities of caffeine and should not be readily available to those aged under 18 years. The AMA supports proposals to apply a tax or levy to sugar-sweetened beverages in Australia in order to reduce consumption.

The recommendation came in light of Australia's listing as one of the top 10 highest soft-drink consuming countries per capita, with the average Australian drinking more than two times the limit recommended by the World Health Organisation.²²⁵

The alarming increase in rates of obesity and diabetes in Australia over the last few decades has prompted public discussion of appropriate policy responses. Estimates suggest that 63% of adults

²²⁴ 'AMA Recommendations', *Australian Medical Association*, 7 January 2018, <<https://ama.com.au/position-statement/nutrition-2018>> [Accessed 20/09/2018].

²²⁵ 'Consumption of Sweetened Beverages', *Australian Bureau of Statistics*, <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4364.0.55.007~2011-12~Main%20Features~Consumption%20of%20Sweetened%20Beverages~710>> [Accessed 20/09/2018].

and 27% of children in Australia are either overweight or obese, resulting in an annual cost to the health budget of AUD 8.6 billion.²²⁶

The World Health Organisation wrote in their 2017 report *Taxes on sugary drinks: Why do it?*:²²⁷

Governments can take a number of actions to improve availability and access to healthy foods and have a positive influence on the food people choose to consume. A major action for comprehensive programmes aimed at reducing consumption of sugars is taxation of sugary drinks. Just as taxing tobacco helps to reduce tobacco use, taxing sugary drinks can help reduce consumption of sugars.

Drinks sweetened by sugar have been commonly associated with obesity, type 2 diabetes, cardiovascular disease, tooth decay and bone density problems.²²⁸ Trials of taxes on sugary drinks have found that an increase in the price of drinks results in notable decreases in sales.²²⁹ While this has not been definitively linked to lowering rates of obesity, studies suggest that reduced consumption of sugary drinks could have positive impacts on health outcomes and lower healthcare expenses.²³⁰

34 Australian health, academic and consumer groups - including the Obesity Policy Coalition, Cancer Council and the Heart Foundation - have promoted a tax on sugar sweetened beverages (SSB).²³¹ The World Health Organisation has indicated a preference for a tax on sugary drinks as an effective means to encourage better public health behaviours.²³² Similar taxes have been implemented by 28 countries, including most recently in the United Kingdom.

²²⁶ 'A picture of overweight and obesity in Australia', Australian Institute of Health and Welfare, 2017, <<https://www.aihw.gov.au/getmedia/172fba28-785e-4a08-ab37-2da3bbae40b8/aihw-phe-216.pdf.aspx?inline=true>> [Accessed 20/09/2018].

²²⁷ 'Taxes on sugary drinks: Why do it?', World Health Organization, 2017, <<http://apps.who.int/iris/bitstream/handle/10665/260253/WHO-NMH-PND-16.5Rev.1-eng.pdf;jsessionid=C4649C64FFF3998EC963EB3F9EE72439?sequence=1>> [Accessed 20/09/2018].

²²⁸ Obesity: Sugar-Sweetened Beverages, Obesity and Health, *Australian National Preventative Health Agency, Australian Government*, 2014 <https://sydney.edu.au/medicine/public-health/menzies-health-policy/publications/Evidence_Brief_Sugar_sweetened_Beverages_Obesity_Health.PDF> [Accessed 20/09/2018].

²²⁹ World Health Organization: Taxes on Sugary Drinks, Why Do It? <<http://apps.who.int/iris/bitstream/handle/10665/260253/WHO-NMH-PND-16.5Rev.1-eng.pdf;jsessionid=05D07D541AC2B4AFEF3F8DB683E6A2E8?sequence=1>> [Accessed 20/11/2018].

²³⁰ M Arantxa Colchero, Barry M Popkin, Juan A Rivera, Shu Wen Ng, Beverage purchases from stores in Mexico under the excise tax on sugar sweetened beverages: observational study, *The BMJ*, 6 January 2016, <<https://www.bmj.com/content/352/bmj.h6704>> [Accessed 20/09/2018].

²³¹ Esther Han, 'Beverages industry praises itself for turning politicians away from sugar tax', *Sydney Morning Herald*, <<https://www.smh.com.au/healthcare/beverages-industry-praises-itself-for-turning-politicians-away-from-sugar-tax-20171020-gz520t.html>> [21/11/2018].

²³² 'Implemented Sugar Taxes Worldwide', ABC News, <<http://www.abc.net.au/news/2018-04-30/sugar-taxes-around-the-world/9708400>> [Accessed 20/09/2018].

Counter Policy

Both the AFGC and the Beverages Council have argued that voluntary, self-regulatory measures, are sufficient alternatives to sugar and nutrition-based regulation.

In June 2018 the Beverages Council published an 'Industry Sugar Pledge'. This pledge commits all Beverages Council members to a 10% reduction in sugar in their beverages by 2020, and a 20% reduction by 2025.²³³ This reduction will be measured by quantifying aggregated sales weighted volume data, not by necessarily reducing the amount of sugar in particular drinks (for example, Pepsi or Coke). This means that the reductions could be achieved through increasing production of low-kilojoule soft drinks, or bottled water. AMA President Dr Tony Bartone described the pledge as a 'diversion from the real issue', which is reducing sugar consumption.²³⁴

Both the Beverages Council and the AFGC promote The Health Star Rating system, another voluntary measure which was developed. The system aims to assist consumers to make healthier food choices through food labelling that allocates a star rating out of five to represent the nutritional quality of the food. The Health Star Rating system is voluntary, and food manufacturers are able to decide which products will display health stars. Jane Martin from The Obesity Policy Coalition, who sat on the committee which developed the Health Star Rating system, told ABC Four Corners in 2018 that the scheme is voluntary 'because industry didn't want it to be... they lobbied behind the scenes'.²³⁵ Ms Tanya Barden from the AFGC and Mr Tim Piper from Australian industry Group are the two industry representatives on the Health Star Rating system committee. Again, this demonstrates a need for greater scrutiny over the impact of industry associations in public policy measures, particularly where they relate to guard public health outcomes. The Health Star Rating system is under review, and the findings will be released in mid-2019.

Both the Beverages Council and the AFGC do not support graphic labelling on SSBs, a measure that has been suggested by health experts across Australia. Beverages Council CEO has described such labelling as 'punitive' and unnecessary.²³⁶

²³³ Industry Sugar Pledge, Australian beverages Council, <<http://www.australianbeverages.org/industry-sugar-pledge/>> [Accessed 20/09/2018].

²³⁴ Stephanie Dalzell, 'Soft drink industry pledges to cut sugar overall, but doctors say it's a diversion from the real issue', ABC, <<https://www.abc.net.au/news/2018-06-25/soft-drink-industry-pledge-to-cut-sugar-criticised-by-ama/9906502>> [Accessed 20/09/2018]

²³⁵ <https://www.abc.net.au/news/2018-04-30/big-sugar-and-the-big-flaw-in-australias-health-programs/9707204>

²³⁶ 'Sugar Labelling to take Tobacco Approach After Warnings Ignored', ABC News, <<https://www.abc.net.au/news/2018-05-25/sugar-labelling-to-take-tobacco-approach-after-warnings-ignored/9795554>>

Analysis of Industry Association Involvement

The Australian Beverages Council

The Australian Beverages Council ('Beverages Council'), which includes the Australian Food and Grocery Council and the Canegrowers Association, is a vocal opponent of the SSB tax.

The Beverages Council has 55 members. These include soft drink, energy drink, juice, dairy drinks and water manufacturers and retailers. Members of the Beverages Council include three sugar manufacturers, as well as 14 members who manufacture and retail spring water and/or sparkling water only.

The Beverages Council has been highly transparent in its efforts to lobby the Australian government on the SSB tax. The Beverages Council has published more than 60 press releases in the last four years specifically advocating against increased taxation or labelling of sugary beverages.²³⁷ Several of these press releases were aimed at countering the obesity or sugar-related disease research produced by groups such as the Australian Medical Association and the University of Melbourne.²³⁸ While the Beverages Council has been vocal in opposition to the research findings of these groups, few individual company members have matched their opposition publicly in the media.

This type of concerted policy action by the Beverages Council and its members may well reflect the genuine position of each of the industry group members. However, part of the concern for investors regards whether industry associations can unduly influence public health measures that are consistent with global best practice policy. The SSB tax, which is endorsed by the WHO and implemented across several comparable jurisdictions, is one such example.

The Beverages Council established a sugar roundtable that included the Australian Food and Grocery Council (AFGC), the Australian Industry Group (AIG), the Australian Association of National Advertisers (AANA), the Australian Sugar Research Alliance and the Canegrowers Association, aligning the campaigning efforts of the different industry bodies. These groups, as well as the Australasian Association of Convenience Stores, jointly released a statement condemning the SSB tax.²³⁹ The statement was accompanied by significant media coverage of the various industry associations and their positions on the issue.

²³⁷ 'All Media Releases', *Australian Beverages Council*, <<http://www.australianbeverages.org/category/all-media-releases/>> [Accessed 21/11/2018].

²³⁸ Media Releases, *Australian Food & Grocery Council*, <<https://www.afgc.org.au/category/media-releases/>> [Accessed 20/09/2018].

²³⁹ 'Industry seeks constructive response to obesity', *AI Group*, 23 November 2016, <<https://www.aigroup.com.au/policy-and-research/mediacentre/releases/Industry-Obesity-Joint-Response-Nov23/>> [Accessed 20/09/2018].

The Beverages Council, as well as other roundtable members such as the AFGC, AIG, AANA, and the Australasian Association of Convenience Stores, made independent submissions to the Senate Select Committee on the Obesity Epidemic in Australia.

After the SSB measure failed to gain support from various Australian politicians from the two major parties, in their 2016 annual report the Beverages Council commented on the 'success' of their campaign and intended strategies, noting "we have again successfully managed to ward off any legitimate threat of a discriminatory tax on our products":

Figure 8 Australian Beverages Council's annual report 2016 [excerpts from President's Report]

...as an organisation we have again successfully managed to ward off any legitimate threat of a discriminatory tax on our products, despite the very best efforts from pro-tax proponents.

On behalf of the industry your organisation was quoted in almost 200 news articles and interviews on the day the story broke, which is a tremendous effort. We were also very pleased to have our food policy minister at the time come out quickly and strongly against the idea of a tax.

The Beverages Council devoted significant resources to keeping a tax off the policy table of either the Government or Opposition, through direct engagement with key politicians. Naturally, the Board has a keen focus on what else we need to be doing on this issue over the next term of Government.

In the report, Vered Moses (PepsiCo), the chair of the Beverages Council's Public Affairs Committee, describes 'managing [the] likely eventuality' of a tax on sugar and SSB as a 'top priority'.²⁴⁰

The report also notes that:

*The Beverages Council devoted significant resources to keeping a tax off the policy table of either the Government or Opposition, through direct engagement with key politicians.*²⁴¹

This engagement included inviting key politicians - the Minister for Health Hon Fiona Nash, Opposition Health spokesperson Hon Catherine King, and Independent Senator for South Australia Nick Xenophon - to their annual Board meeting in Australian Parliament House, Canberra. They note that:

²⁴⁰ 2016 Beverages Council Annual Report, Beverages Council, 2016, p7.

²⁴¹ Ibid., p2.

*...some of the support the industry received during the subsequent calls for a soft drink tax as mentioned above we like to think was due in part to the positive outcomes from this meeting in Canberra.*²⁴²

Discussing the anti-SSB tax campaign, Beverages Council chief executive Geoff Parker also writes:

*Our learnings from other markets through our international network tells us that these types of threats must be constantly challenged before they get before a parliament for debate. We have also learned that the broader the industry defensive lines, the better.*²⁴³

These statements articulate the intention of these industry associations to use their resources to persistently influence public and government opinion. It is clear that the Beverage Council's lobbying efforts against a SSB will be proactive and continuous. On January 7 2018, Mr Parker released a media statement saying 'it's disappointing that in 2018 with both the Government and Opposition rejecting the idea that the AMA continues to promulgate a tax'.²⁴⁴

Australian Food & Grocery Council

The AFGC membership includes 150 full members, 45 associate members and 12 affiliate members. Full members include a range of food and beverage manufacturers and retailers, while associate members include accounting, consulting and analytics firms, transport and supply chain logistics companies, chemical additives companies, packaging and information technology companies.²⁴⁵

The AFGC has opposed both the SSB tax as well as proposed changes to sugar labelling. With regards to the SSB tax, the group has been highly visible in the media and made several submissions to government. Media releases published by AFGC have made various arguments against the sugar tax, including:

- Partnering with Canegrowers Association, Australian Sugar Milling Council, and the National Farmers' Federation, one press release discussed a sugar tax as an attack on 40,000 regional jobs of sugar farmers, citing reputational damage and impacts on regional towns in northern New South Wales and far north Queensland.²⁴⁶

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ 'Beverage Industry Responds AMA', *Australian Beverages Council*, <<http://www.australianbeverages.org/beverage-industry-responds-ama-calls-soft-drinks-tax/>> [Accessed 20/09/2018].

²⁴⁵ Annual Report 2017, *Australian Food & Grocery Council*, <<https://www.afgc.org.au/wp-content/uploads/AFGC-Annual-Report-2017-ol.pdf>> [Accessed 20/09/2018].

²⁴⁶ 'Greens Sugar Tax GST an attack on Regional Jobs', *Australian Food and Grocery Council*, <https://www.afgc.org.au/2016/06/greens-sugar-tax-gst-an-attack-on-regional-jobs/>

- Responding to a Melbourne University research paper that called for the taxation of fat, salt and sugar, the AFGC argued that the price increases caused through such taxation would impact low income earners the most.²⁴⁷

The AFGC Submission into the Senate Select Committee Inquiry into the Obesity Epidemic in Australia notes:

- The AFGC recommends any initiative to promote healthy eating be based on the whole of diet, whole food approach of the Australian Dietary Guidelines rather than seeking to limit consumption of particular product categories or single nutrients.²⁴⁸
- Criticising the implementation of SSB tax, the submission states “The experience of applying sugar or fat taxes in other countries has not been popular or successful in reducing obesity”.²⁴⁹

Position of key retailers

Coca Cola Amatil is a member of both the Beverages Council and the AFGC. It is the only company listed on the ASX 100 that is a member of either industry association. A2 milk, listed on the New Zealand stock exchange, is also a member of the AFGC. Both companies have been active in making independent submissions regarding a prospective SSB tax, outlining arguments that are consistent with those put forward by the Beverages Council and the AFGC, that is, opposed to sugar regulation.

While Wesfarmers (Coles), Woolworths and Metcash are ASX 100 companies that are major retailers of sugary beverages, they have not engaged in public discussions relating to a prospective SSB tax. These companies have been impacted by declining sales in soft drinks. In 2017, soft drink sales dropped 2.9 percent in volume across Coles, Woolworths, Foodworks and IGA supermarkets. As reported by Fairfax, the cost of this was estimated to be \$80 million in lost sales.²⁵⁰

²⁴⁷ Food and Drink Tax Proposal Ignores Impact on Costs of Living, Australian Food and Grocery Council <<https://www.afgc.org.au/2017/02/food-and-drink-tax-proposal-ignores-impact-on-costs-of-living>> [Accessed 20/09/2018].

²⁴⁸ <https://www.aph.gov.au/DocumentStore.ashx?id=b1d3913e-fe60-4faa-bdf9-c1d92a936ffd&subId=612934>.

²⁴⁹ Ibid, p19-20.

²⁵⁰ ‘Coles and Woolworths’ soft drink sales slump amid health fears’. *Sydney Morning Herald*, <<https://www.smh.com.au/business/companies/supermarket-soft-drink-sales-slump-amid-health-fears-20170126-gtz5b4.html>> [05/12/2018].

CONCLUSION

As discussed in this report, industry associations' activities in political expenditure, lobbying and influencing government policy, can have significant impacts on a range of environmental, social and governance policy issues. In some cases, these impacts increase the reputational, operational and governance risks incurred by member companies. In other cases, these impacts and the activities associated with them can undermine processes of government policy, civil society, and the transparent functioning of markets.

While industry associations can offer opportunities for companies to share information and undertake meaningful advocacy aligned to strategic development, a lack of transparency and governance around industry association membership and activities can undermine investor and company interests, particularly for long-term investors that occupy a stewardship role.

In Australia, there are no mandatory disclosure requirements for companies regarding their membership of industry associations. Additionally, the regulation regarding lobbying activities does not provide safeguards for excessive or indirect efforts by industry associations to act on behalf of limited corporate interests. As such, a situation is becoming apparent where exercising political influence through increasingly opaque methods has become the mode of operating for large-scale industry associations. The effectiveness and intentionality of some of these efforts can be identified in the policy areas of climate change, modern slavery and sugar regulation, as discussed in this report. In particular, these situations suggest that investors must stay alert to situations where industry associations' positions are in opposition with proven, best practice public policy measures, and ensure that the rationale for such activity is not geared towards corporate profiteering at the cost of better environmental, social and governance outcomes.

Investors can work to address these concerns through corporate engagement, ensuring that companies are accountable for any policy misalignments identified between them and their industry association. Transparency regarding company positions on policy, and furthermore greater transparency of the activities of industry associations themselves, are meaningful places to begin remedying undue influence on public policy.

The recommendations below provide a starting point for investors to act on these issues.

RECOMMENDATIONS

For ASX-listed companies and investors

- Disclose all industry association memberships on a rolling basis, including one-off contributions.
- Disclose all financial contributions that are made to industry association groups on a rolling basis, including one-off contributions.
- Implement governance procedures to monitor activities of industry associations in which membership is held, and the industry associations joined by any subsidiaries or joint ventures.
- Proactively monitor and manage potential conflicts across an industry association's member group.
- Ensure there are processes in place to reassess membership of industry associations if and when the lobbying activity of an industry association differs to the company's aim or position, or conflicts significantly with the interests of investors. Communicate these processes to investors.
- Be prepared to end membership of an industry association if their activities are materially at odds with company interests.

For investors

- Engage with companies to ensure companies put governance processes in place to monitor the activities of their own industry associations, and the industry associations of any subsidiaries or joint ventures.
- Undertake independent monitoring of industry association activities, particularly on key issues relating to ESG positioning of investments.
- Be prepared to implement forceful stewardship programs, including through the filing of shareholder resolutions, if companies are unresponsive to shareholder concerns that have been expressed.

APPENDIX 1 CDP 2018 QUESTIONNAIRE: DISCLOSURES RELATING TO POLITICAL CLIMATE LOBBYING AND INDUSTRY ASSOCIATIONS

| Question | Response Options |
|--|---|
| <p>C12.3 Do you engage in activities that could either directly or indirectly influence public policy on climate-related issues through any of the following?</p> | <ul style="list-style-type: none"> Direct engagement with policy makers Trade associations Funding research organizations Other No |
| <p>C12.3a On what issues have you been engaging directly with policy makers?</p> | <ul style="list-style-type: none"> Mandatory carbon reporting Cap and trade Carbon tax Energy efficiency Clean energy generation Adaptation or resilience Climate finance Regulation of methane Emissions Other, please specify |
| <p>C12.3b Are you on the board of any trade associations or do you provide funding beyond membership?</p> | <ul style="list-style-type: none"> Open response (yes/no) |

| | |
|--|--|
| <p>C12.3c Enter the details of those trade associations that are likely to take a position on climate change legislation</p> | <p>A table that asks for the current details:</p> <p>Trade association</p> <p>Is your position on climate change consistent with theirs?</p> <p>Please explain the trade association’s position</p> <p>Have you, or are you attempting to influence the position</p> |
| <p>C12.3d Do you publicly disclose a list of all research organizations that you fund?</p> | <p>Open response (yes/no)</p> |
| <p>C12.3e Provide details of the other engagement activities that you undertake</p> | <p>Open response</p> |
| <p>C12.3f What processes do you have in place to ensure that all of your direct and indirect activities that influence policy are consistent with your overall climate change strategy?</p> | <p>Open response</p> |
| <p>C12.3g Why do you not engage with policy makers on climate-related issues? (if relevant)</p> | <p>Open response</p> |

APPENDIX 2 SHAREHOLDER FILING REQUESTS RELATING TO TRADE ASSOCIATIONS IN UNITED STATES IN 2018

| Company | Theme | Requests relating to trade associations |
|------------------------------------|--|---|
| Alphabet Inc ²⁵¹ | Political Contributions | <p>The Company to prepare and semi-annually update a report disclosing:</p> <ol style="list-style-type: none"> 1. A full list of trade associations to which it belongs and the non-deductible portion under section 162(e)(1)(B) of the dues paid to each; and 2. Payments to any other third party organization, including those organized under section 501(c)(4) of the Internal Revenue Code, that could be used for election-related purposes. |
| Exxon Mobil ²⁵² | Lobbying Expenditures Disclosure - Climate | <p>The preparation of a report, updated annually, disclosing:</p> <ol style="list-style-type: none"> 1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications. 2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient. 3. ExxonMobil's membership in and payments to any tax-exempt organization that writes and endorses model legislation. 4. Description of management's and the Board's decision-making process and oversight for making payments described in sections 2 and 3 above. |

²⁵¹ Alphabet Inc, Notice of 2017 Annual Meeting of Stockholders and Proxy Statement, https://abc.xyz/investor/static/pdf/2017_alphabet_proxy_statement.pdf

²⁵² 'Lobbying Expenditures Disclosure – Climate – 2018 - Exxon Mobil Corporation', *Online Ethical Investors*, <<http://www.onlineethicalinvestor.org/eidb/wc.dll?eidbproc~reso~13900>> [Accessed: 05/10/2018].

| | | |
|---|--------------------------------|--|
| <p>Exxon Mobil²⁵³</p> | <p>Political Contributions</p> | <p>Prepare and semi-annually update a report disclosing the Company's:</p> <ol style="list-style-type: none"> 1. Policies and procedures for making political contributions and expenditures (direct and indirect) with corporate funds, including the board's role (if any) in that process, and 2. Monetary and non-monetary political contributions or expenditures that could not be deducted as an "ordinary and necessary" business expense under section 162(e)(1)(B) of the Internal Revenue Code, including (but not limited to) contributions or expenditures on behalf of political candidates, parties, and committees and entities organized and operating under section 501(c)(4) of the Internal Revenue Code, as well as the portion of any dues or payments made to any tax-exempt organization (such as a trade association) used for an expenditure or contribution that, if made directly by the Company, would not be deductible under section 162(e)(1)(B) of the Internal Revenue Code. |
| <p>Nike²⁵⁴</p> | <p>Political Contributions</p> | <p>The Company provide a report, updated semi-annually, to disclose the Company's:</p> <ol style="list-style-type: none"> 1. Policies and procedures for making, with corporate funds or assets, direct or indirect contributions and expenditures to: <ol style="list-style-type: none"> (a) participate or intervene in any campaign on behalf of (or in opposition to) any candidate for public office, or (b) influence the general public, or any segment thereof, with respect to an election or referendum. 2. Monetary and non-monetary contributions and expenditures (direct and indirect) used in the manner described in section 1 above, including: <ol style="list-style-type: none"> a. The identity of the recipient as well as the amount paid to each; and b. The title(s) of the person(s) in the Company responsible for oversight and decision-making. |

²⁵³ 'Political Contributions – 2018 – Exxon Mobil Corporation', *Online Ethical Investors*, <<http://www.onlineethicalinvestor.org/eidb/wc.dll?eidbproc~reso~13944>> [Accessed: 05/10/2018].

²⁵⁴ Political Contributions: Nike, *Online Ethical Investors*, <<http://www.onlineethicalinvestor.org/eidb/wc.dll?eidbproc~reso~14052>> [Accessed 05/10/2018].

| | | |
|-------------------------------------|--|---|
| Range Resources Corporation | Political Contributions | This proposal asks the Company to disclose all of its political spending, including payments to trade associations and other tax-exempt organizations used for political purposes |
| Emerson | Political Contributions | Contributions to or expenditures on behalf of entities organized and operating under section 501(c)(4) of the Internal Revenue Code, as well as the portion of any dues or payments that are made to any tax-exempt organization (such as a trade association) that are used for an expenditure or contribution that, if made directly by the Company, would not be deductible under section 162(e)(1)(B) of the Internal Revenue Code. |
| Ford Motor Company | Lobbying Expenditures Disclosure - Climate | The preparation of a report, updated annually disclosing: <ol style="list-style-type: none"> 1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications. 2. Payments by Ford used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient. 3. Description of management’s decision-making process and the Board’s oversight for making payments described in section 2 above. |
| ConocoPhillips²⁵⁵ | Lobbying Expenditures Disclosure - Climate | Prepare a report, updated annually disclosing: <ol style="list-style-type: none"> 1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications. 2. Payments by ConocoPhillips used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient. 3. Description of the decision-making process and oversight by management and the Board for making payments described in section 2 above. |

²⁵⁵ Lobbying Expenditures Disclosure – Climate, 2018 – ConocoPhillips, *Online Ethical Investors*, <<http://www.onlineethicalinvestor.org/eidb/wc.dll?eidbproc~reso~13629>> [Accessed 05/10/2018].

| | | |
|---|--|--|
| International Business Machines Corp²⁵⁶ | Lobbying Expenditures Disclosure - Climate | <p>The preparation of a report, updated annually, and disclosing:</p> <ol style="list-style-type: none"> 1. Company policy and procedures governing lobbying, both direct and indirect lobbying communications. 2. Payments by IBM used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient. 3. Description of the decision-making process and oversight by management and Board for lobbying expenditures. |
| Consolidated Edison Company of New York | Lobbying Expenditures Disclosure - Climate | <p>The preparation of a report, updated annually disclosing:</p> <ol style="list-style-type: none"> 1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications. 2. Payments by Consolidated Edison used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient. 3. Consolidated Edison’s membership in and payments to any tax-exempt organization that writes and endorses model legislation. 4. Description of management’s and the Board’s decision-making process and oversight for making payments described in sections 2 and 3 above. |

²⁵⁶Lobbying Expenditures Disclosure – Climate, 2018 – International Business Machines Corp. (IBM), *Ethical Investor*, <<http://www.onlineethicalinvestor.org/eidb/wc.dll?eidbproc~reso~13720>> [Accessed 05/10/2018].

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| <p>Disney (Walt) Company / ABC</p> | <p>Lobbying Expenditures Disclosure - Climate</p> | <p>The preparation of a report, updated annually disclosing:</p> <ol style="list-style-type: none"> 1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications. 2. Payments by Disney used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient. 3. Disney’s membership in and payments to any tax-exempt organization that writes and endorses model legislation. 4. Description of management’s decision-making process and the Board’s oversight for making payments described in sections 2 and 3 above. |
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APPENDIX 3 AUSTRALIAN INDUSTRY ASSOCIATIONS COVERED

| Industry Association | Description | ASX-Listed Members |
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| Australian Beverages Council (Beverages Council) | The Beverages Council is the peak industry voice representing the non-alcoholic beverage industry. | Coca-Cola Amatil. ²⁵⁷ |
| Australian Energy Council (AEC) | The Australian Energy Council (AEC) represents major electricity and downstream natural gas businesses that provide gas and electricity to customers throughout Australia. ²⁵⁸ Of its 24 members, just three (14%) are listed on the ASX. Notably, due to the nature of electricity generation in Australia, the AEC has nine members (38%) that are owned by domestic governments. ²⁵⁹ | AGL Energy Origin Energy ²⁶⁰ |

²⁵⁷ 'Member Director', *Australian Beverages Council*, <<http://www.australianbeverages.org/about-us/member-directory/>> [Accessed 04/10/2018].

²⁵⁸ 'About', *Australian Energy Council*, <<https://www.energycouncil.com.au/about/>> [Accessed 04/10/2018].

²⁵⁹ National Greenhouse and Energy Reporting, Corporate emissions and energy data 2016-17, 28 Feb 2018.

²⁶⁰ 'Members', *Australian Energy Council*, <<https://www.energycouncil.com.au/about/members/>> [Accessed 30/11/2018].

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| <p>Australian Food and Grocery Council (AFGC)</p> | <p>The Australian Food and Grocery Council represents the food and grocery processing sector.²⁶¹ The AFGC membership includes 150 companies in their full membership, 45 associate members and 12 affiliate members. Full members include a range of food and beverage manufacturers and retailers, while associate members include accounting, consulting and analytics firms, transport and supply chain logistics companies, chemical additives companies, packaging and information technology companies.²⁶²</p> | <p>A2 milk Coca-Cola Amatil²⁶³</p> |
| <p>Australian Retailers Association (ARA)</p> | <p>The ARA states that it is Australia's largest association, representing the countries \$310 billion sector, which employs more than 1.2 million people.²⁶⁴ The ARA represents over 5,000 members.²⁶⁵</p> | |
| <p>Australian Industry Greenhouse Network (AIGN)</p> | <p>AIGN is a network of industry associations and companies that seek to jointly contribute to the climate change policy debate. Of its 15 corporate members, 9 are listed on the ASX (60%). The majority of corporate members are from the Energy sector (10 or 66%), while the remainder come from the Materials sector. Similarly, with the exception of AiGroup, the industry association members represent the Energy and Materials sectors.</p> | <p>BHP Bluescope Steel Caltex Incitec Pivot Origin Energy Rio Tinto Santos Woodside²⁶⁶</p> |

²⁶¹ 'About', *Australian Food and Grocery Council*, <<https://www.afgc.org.au/about-afgc/>> [Accessed 04/10/2018].

²⁶² Annual Report 2017, *Australian Food & Grocery Council*, <<https://www.afgc.org.au/wp-content/uploads/AFGC-Annual-Report-2017-ol.pdf>> [Accessed 20/09/2018].

²⁶³ 'Australian Food and Grocery Council', *Annual Report 2017*, p43 <<https://www.afgc.org.au/wp-content/uploads/AFGC-Annual-Report-2017-ol.pdf>> [Accessed 04/10/2018].

²⁶⁴ About us, *Australian Retailers Association*, <<https://www.retail.org.au/australian-retailers-association/>> [Accessed 04/10/2018].

²⁶⁵ Membership, *Australian Retailers Association*, <<https://www.retail.org.au/membership/#0>> [Accessed 04/10/2018].

²⁶⁶ About, AIGN, <<http://www.aign.net.au/about.html>>, [Accessed 30/11/2018].

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| <p>The Australian Petroleum Production & Exploration Association (APPEA)</p> | <p>The Australian Petroleum Production & Exploration Association (APPEA) is representative body of Australia’s oil and gas exploration and production industry. According to APPEA, its members account for an estimated 98% of the Australia’s petroleum production²⁶⁷.</p> <p>Of its 58 full members, 25 (43%) are listed on the ASX, though just six of those are included in the benchmark ASX200 index, while the remainder are considered small or micro caps. APPEA has 20 (34%) full members that are subsidiaries of listed foreign companies, including BP, Chevron, ExxonMobil, Total and Royal Dutch Shell. In addition, APPEA has 132 associate members, most of whom are service providers to the oil and gas sector.</p> | <p>BHP Oil Search Origin Energy Santos Woodside²⁶⁸</p> |
| <p>Business Council of Australia (BCA)</p> | <p>The Business Council of Australia (BCA) is an association of the CEOs of Australia’s largest companies, designed to influence government policy across a broad range of issues.</p> <p>Of its 140 members at September 2018, 60 (43%) are listed on the ASX, while 50 (36%) are subsidiaries of listed foreign corporations. Though the BCA has members from all sectors of the economy, the Financials sector is overrepresented, accounting for more than a quarter of the membership (36). Industrials is the second most represented sector, with 18 members. There are just 10 members from the Energy sector.</p> | <p>AGL Alumina Amcor AMP ANZ APA Group ASX Bendigo and Adelaide Bank BHP BlueScope Steel Boral Brambles Caltex</p> |

²⁶⁷ About us, APPEA, <<https://www.appea.com.au/about-appea/>> [Accessed 04/10/2018].

²⁶⁸ Members, APPEA, <<https://www.appea.com.au/about-appea/members/>> [Accessed 04/10/2018].

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| | | CIMIC Coca-Cola Amatil Commonwealth Bank Downer Dulux Group Fortescue Metals Group GPT Group Incitec Pivot JB Hi-Fi Lendlease Macquarie Medibank Mirvac NAB Orica Origin Energy Qantas QBE Insurance REA Group Rio Tinto Santos Scentre Group Seek South32 The Star Stockland Suncorp Sydney Airport Tabcorp Holdings |
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| | | <p>Telstra Corporation</p> <p>Transurban</p> <p>Wesfarmers</p> <p>Westpac Group</p> <p>Woodside</p> <p>Woolworths</p> <p>Worley Parsons²⁶⁹</p> |
| Manufacturing Australia (MA) | <p>Manufacturing Australia is an association of CEOs from Australia’s largest manufacturers that seeks to influence government policy that immediately affects the manufacturing industry.</p> <p>Of its 11 members, eight (73%) are listed on the ASX, or nine (82%) if Tomago Aluminium is included, due to its majority ownership by Rio Tinto.</p> | <p>Bluescope Steel</p> <p>Dulux Group</p> <p>Incitec Pivot</p> <p>Orora</p> <p>Tomago Aluminium (Rio Tinto)²⁷⁰</p> |
| Minerals Council of Australia (MCA) | <p>The Minerals Council of Australia (MCA) is the peak body representing Australia’s exploration, mining and minerals processing industry. The MCA’s full members account for more than 85% of Australia’s annual mineral production.²⁷¹</p> <p>Of its 45 members, 23 (51%) are listed on the ASX, though just six of those are included in the benchmark ASX200 index, while the remainder are considered small or micro caps. In addition, the MCA has 29 associate members, most of whom are service providers to the mining industry.</p> | <p>BHP</p> <p>CIMIC</p> <p>Downer Group</p> <p>Newcrest Mining</p> <p>Rio Tinto</p> <p>Whitehaven Coal²⁷²</p> |

²⁶⁹ Members, Business Council of Australia, < <https://www.bca.com.au/members>> [Accessed 30/11/2018]

²⁷⁰ Members, Manufacturing Australia, < <http://manufacturingaustralia.com.au/our-profile/members/>> [Accessed 30/11/2018]

²⁷¹ <http://www.minerals.org.au/about-mca>

²⁷² Member companies, Minerals Council of Australia, < <http://www.minerals.org.au/member-companies>> [Accessed 30/11/2018]

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| National Farmers Federation (NFF) | The National Farmers Federation (NFF) is the peak national body representing farmers and the agricultural industry across Australia. This includes federations such as the Victorian Farmers Federation and the NSW Farmers Association. | Graincorp ²⁷³ |
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²⁷³ Our members, *National Farmers Federation*, <<https://www.nff.org.au/our-members.html>> [Accessed 04/10/2018].