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Foreign corporate influence through the Australian mining lobby

The mining industry is 86% foreign owned and has spent over \$541 million in the last ten years on lobbying Australian governments through its peak lobby groups, which are dominated by foreign interests.

Discussion paper

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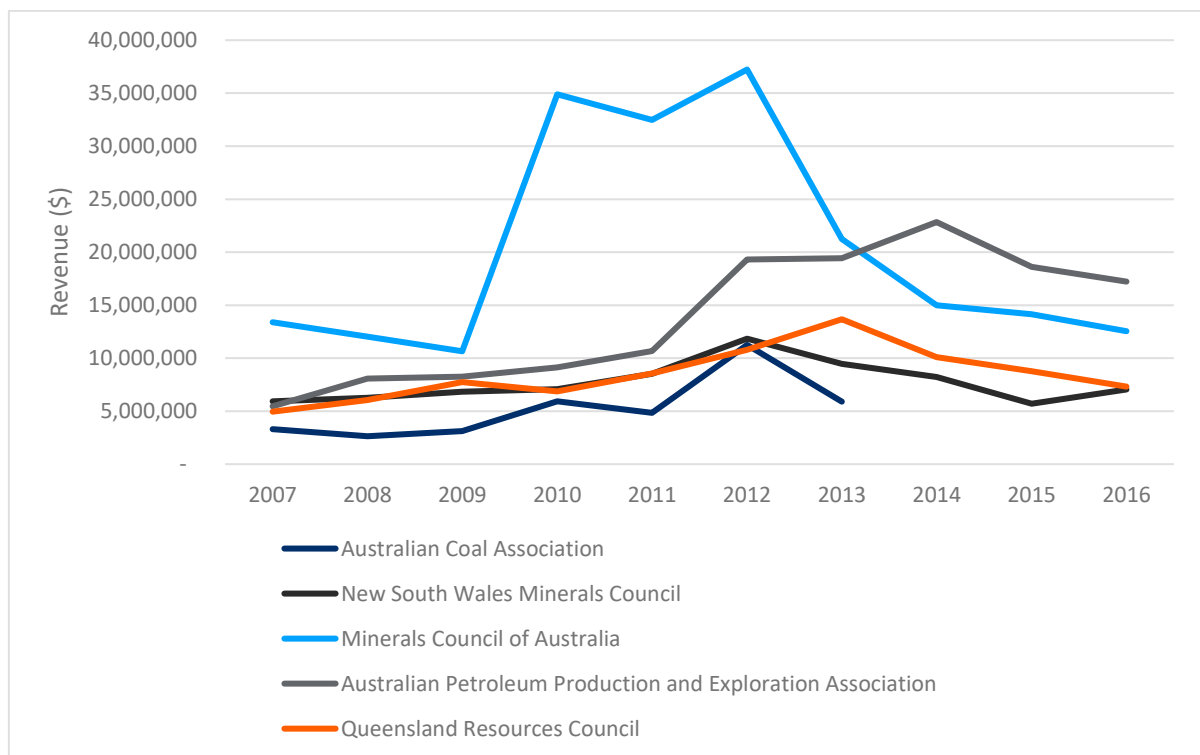
Summary

Australia's mining industry is 86% foreign owned and has spent over \$541 million in the last ten years on lobbying Australian governments through its peak lobby groups, which are dominated by foreign interests. Spending on lobbying by individual mining companies is not public information, but would bring this number up significantly.

This report finds that:

- Total revenue of mining lobby groups over the last 10 years is \$541,275,884, with the Minerals Council of Australia accounting for \$203,594,120 of this
- Mining lobby groups are dominated by foreign interests, with foreign companies holding 10 out of 14 position on both the Minerals Council board and the Queensland Resources Council board
- Mining industry spending on lobbying has cost taxpayers at least \$162.4 million over the decade
- Mining lobby group revenue is increasing over time, and peaked in 2011-12 at \$90.4 million, coinciding with the Minerals Resource Rent Tax debate

Figure 1: Total revenue of mining lobby peak groups 2007-2016



Sources: Annual reports and financial statements to the Australian Securities and Investments Commission.

Importantly, these figures only cover spending by the mining industry on its peak lobbying groups. It does not include spending by individual companies on third party lobbyists and in-house lobbyists, which would bring this number up significantly.

The \$541 million of revenue to the mining lobby is financed by company membership fees to these lobby groups. Membership of these groups is dominated by foreign owned companies, including companies such as Peabody, Anglo American, BHP, Rio Tinto, Glencore and Adani Mining.

A 2011 report estimated 83% of mine production in Australia was attributable to foreign owners, including BHP Billiton and Rio Tinto. Although many think of these as Australian companies, BHP is 76% foreign owned, and Rio Tinto is 83%. Between them they constitute 70% of listed mining company resources. This level of foreign ownership means ‘...BHP under our laws is a foreign corporation, as is Rio Tinto’.¹ A 2016 Treasury paper on Foreign Investment in Australia stated that less than 10% of mining projects currently underway is solely owned by Australian owned companies, while over 90% have some level of foreign ownership. The paper states that foreign investment accounts for 86% share of ownership of major mining projects, including 26% from the US and 27% from the UK.²

In addition, the decision-making bodies of industry lobby groups are dominated by representatives from foreign owned companies. The boards of the Minerals Council of Australia and the Queensland Resources Council are dominated by foreign interests. The Minerals Council of Australia has 10 positions out of 14 occupied by representatives from foreign owned companies. The Queensland Resources Council also has 10 out of 14 positions occupied by representatives from foreign owned companies, giving foreign interests the majority in decisions about lobbying activities of the industry.

In the current debate over coal mines and the role of environmental groups, the mining lobby is asking for two key policy changes:

- Revoking the tax deductibility status of environmental NGOs
- Banning foreign political donations to third parties, including environment and social groups

On the issue of tax deductibility, in fact most mining industry spending on lobbying is tax deductible. The ATO defines tax deductibility quite broadly: ‘*Most expenses you*

¹ Edwards (2011), *Foreign ownership of Australian mining projects*, briefing paper

² Treasury (2016), *Foreign Investment into Australia*, Treasury Working Paper, January 2016, http://treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2016/Foreign%20investment%20into%20Australia/Downloads/PDF/TWP_201601_Foreign_Investment.ashx

incur in running your business are tax deductible'.³ With a combined revenue of \$541 million over last decade, and assuming the company tax rate of 30%, mining lobby groups have therefore cost taxpayers \$162.4 million.

The ban on foreign donations to environment groups has been included in a proposed ban on foreign political donations. The ban on foreign donations was recommended by the Joint Standing Committee on Electoral Matter in their second interim report, to include not just donations to political parties but third parties as well. Third parties are defined by the Australian Electoral Commission as “people or organisations (other than registered political parties, candidates and Federal government agencies) who incur political expenditure”⁴. Dissenting reports to this recommendation were tabled by non-government parliamentarians on the committee, including Labor parliamentarians who argued that there was not enough evidence to ban foreign donations to third parties, and instead recommended that the ban be limited to political parties and associated entities.⁵

The interim report noted that protecting Australia’s sovereignty is key:

The sovereignty of Australia is entrenched within the Constitution and must be protected from outside influence at all times. Only Australians should have the power to influence elections.⁶

This report finds that the mining industry is dominated by foreign companies who are spending hundreds of millions of dollars to influence our political process, and that this is costing taxpayers over \$160 million in tax deductions claimed by the industry.

³ Australian Taxation Office, *Allowable deductions*, accessed 10th November 2016, <https://www.ato.gov.au/business/income-and-deductions-for-business/what-you-can-claim-and-when/allowable-deductions/>

⁴ Australian Electoral Commission (2017), *Financial disclosure: third parties incurring political expenditure*, accessed 18th July 2017, http://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/guides/third-parties/index.htm

⁵ Joint Standing Committee on Electoral Matters (2017), *Second Interim Report on the Inquiry into the conduct of the 2016 federal election: Foreign donations*, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/Report_1

⁶ Joint Standing Committee on Electoral Matters (2017), *Second Interim Report on the Inquiry into the conduct of the 2016 federal election: Foreign donations*, p 19, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/Report_1

Introduction

On the 23rd of October 2016, Resources Minister Matthew Canavan made the following statement in the Courier Mail:

People who are living in luxury on Sunset Boulevard should not be telling people halfway around the world what to do with their land.

The next day the Australian newspaper published an editorial:

To paraphrase John Howard, we should decide what mining projects are opened up in this country and the circumstances in which they open. Such authority rests with Australia's democratically elected representatives and established government processes.

It does not belong with overseas governments (including prospective US presidents or their staff), self-appointed meddling international activists or local vigilante "lawfare" litigants funded by activists. Thinking Australians, whatever their views about coal, should be appalled by the revelation ...⁷

The Australian 3rd November:

The Turnbull government has accused a "cabal of individuals and overseas activists" of trying to prevent jobs being created in Queensland. Federal Resources Minister Matt Canavan has said that the foreign-funded groups "don't live here, they don't understand the region, and they're trying to -corrupt our judicial system and our political system for their own ends".⁸

Despite the focus on foreign intervention in Australian coal politics, these writers pay remarkably little attention to the influence of the largely foreign funded mining and fossil fuel industry has in Australia. Its political power comes from a combination of hundreds of millions of dollars spent on political lobbying, tens of millions spent on political donations, and the close relationship between industry and government power brokers resulting in a trend known as the 'revolving door'.

⁷ The Australian (2016), *Green activists much not usurp national sovereignty*, editorial 24th October 2016, <http://www.theaustralian.com.au/opinion/editorials/green-activists-must-not-usurp-national-sovereignty/news-story/9b699cb973d1903e8da000b95c21c3fd>

⁸ The Australian (2016), *Clinton campaign boss John Podesta paid by Adani fight foundation*, 3rd November 2016, <http://www.theaustralian.com.au/business/news/clinton-campaign-boss-john-podesta-paid-by-adanifight-foundation/news-story/286e1dc07fc19dedda17274c968860f2>

The majority of funding for this extensive lobbying operation comes from foreign companies. They spend large amounts on lobbying and political donations to influence policy decisions in their favour. Their lobbying pushes for a low-tax, low-regulation environment that assists in maximising profits from foreign owned operations in Australia.

For example:

- Lobbying by Rio Tinto and BHP Billiton has prevented an inquiry into the \$75 billion per year iron ore industry.⁹
- The MCA lobbies to maintain subsidies and tax concessions for mining companies which costs Australian taxpayers billions every year. In 2013, taxpayers paid \$4.5 billion in subsidies and concessions to the mining industry.¹⁰
- The mining industry spent at least \$100 million from 2010-2012 lobbying to repeal the Minerals Resource Rent Tax, or 'mining tax' which Budget Papers estimate has reduced tax revenue by \$5.3 billion over the forward estimates.¹¹

Foreign mining companies are then able to write off the original lobby spend as a tax deduction.

This influence can result in policy decisions that are at odds with the public interest, with industry demands currently focused on the tax status of environment groups and the EPBC act.

⁹ See Sydney Morning Herald (2015), *Tony Abbott backing away from iron ore inquiry as big miners come out swinging*, 20th May 2015, <http://www.smh.com.au/federal-politics/political-news/tony-abbott-backing-away-from-iron-ore-inquiry-as-big-miners-come-out-swinging-20150520-gh52vj.html>, and Office of Chief Economist (2014), *Resources Energy Statistics 2014*, <http://www.industry.gov.au/industry/Office-of-the-Chief-Economist/Publications/Documents/res/ResourcesEnergyStatistics2014.pdf>

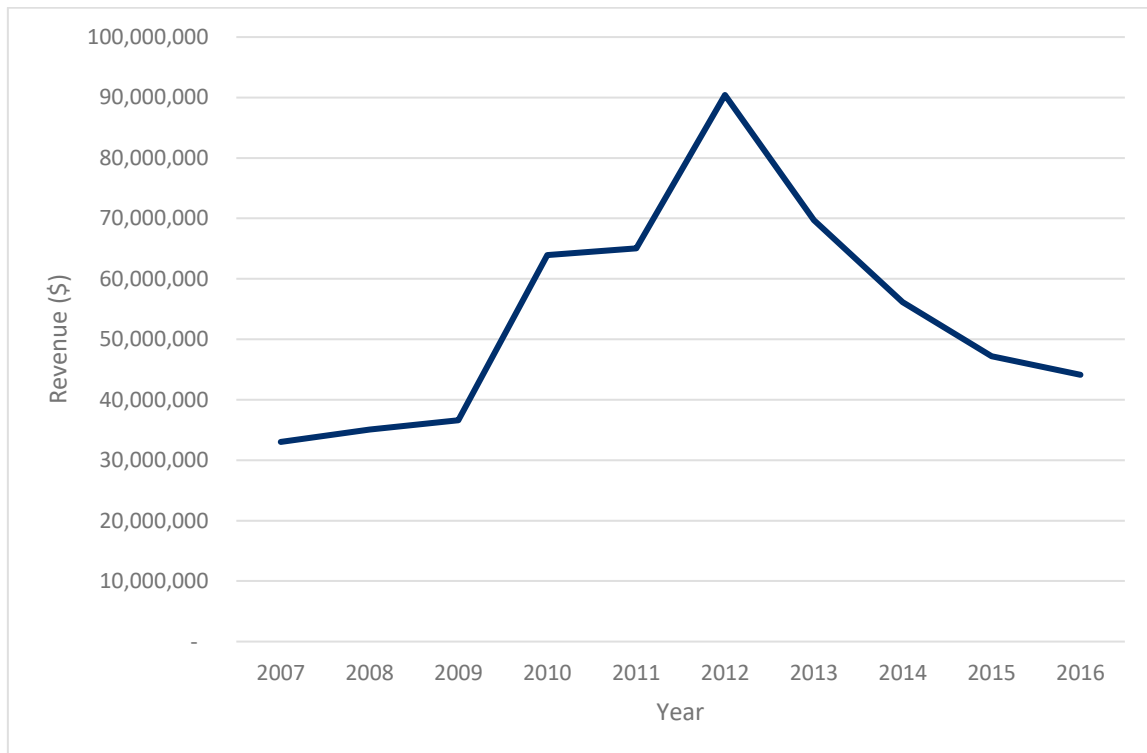
¹⁰ See Minerals Council of Australia (2015), *Powering regional Australia – the case for fuel tax credits*, media release 18th March 2015, http://www.minerals.org.au/news/new_publication_-_powering_regional_australia_the_case_for_fuel_tax_credits, and Grudnoff (2013), *Pouring more fuel on the fire*, The Australia Institute, <http://www.tai.org.au/content/pouring-more-fuel-fire>

¹¹ See Budget Papers 2014-15, Budget Measures, papers 1 and 2, and Sydney Morning Herald (2011), *A snip at \$22m to get rid of PM*, 1st February 2011, <http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html>

Industry lobby groups

The mining and fossil fuel industry spends hundreds of millions on lobbying. The Australia Institute has analysed company annual reports and ASIC statements to calculate the total spent on the industry's major lobby groups in the last ten years. Results are shown in Figure 2, 3 and 4 below:

Figure 2: Total revenue of Industry bodies 2007-2016



Sources: Annual reports and financial statements to the Australian Securities and Investments Commission.

Revenue increased significantly in 2011 and 2012 surrounding the mining tax debate, peaking in 2012 at \$90,418,462. Originally proposed as the Resource Super Profits Tax, the mining tax was an attempt to gain public revenue from the super profits of companies generated by mining non-renewable resources¹². Kevin Rudd introduced the bill in 2010 at a 40% tax rate, and the industry launched a full blown campaign

¹² Budget Review 2010-11, *Taxation – Resource Super Profits Tax*, http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201011/TaxationRSPTax

against it, which led to Julia Gilliard replacing Rudd as PM before the 2011 election.¹³ The bill was then amended and reintroduced as the Minerals Resource Rent Tax in 2012 at a rate of 22.5%.¹⁴ The industry continued to campaign against it in the lead up to the 2013 election, in which Tony Abbott was elected as Prime Minister promising to repeal the tax.¹⁵ This reduced tax revenue by billions of dollars, with a 2011 Budget Review estimating revenue foregone of \$9 billion from the tax in 2013-14.¹⁶

The mining industry ran a similar campaign against a tax on mining in WA. Before the March 2017 election, Nationals leader Brendon Grylls had proposed an increase on the production rental fee on iron ore which, if implemented, would have raised \$3 billion a year for the state's budget.¹⁷ The Minerals Council of Australia endorsed the campaign against the \$5 per tonne levy on BHP and Rio Tinto.¹⁸ After \$2 million public relations campaign led the mining industry, Brendon Grylls lost his seat and the mining industry celebrated Labor taking government.¹⁹

¹³ Sydney Morning Herald (2011), *A snip at \$22m to get rid of PM*, 1st February 2011,

<http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgi.html>

¹⁴ Minerals Resource Rent Tax Act 2012, <https://www.legislation.gov.au/Details/C2012A00013>

¹⁵ Minerals Resource Rent Tax Repeal and Other Measures Bill 2014,

http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5327

¹⁶ Budget Review 2010-11, *Taxation – Resource Super Profits Tax*,

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201011/TaxationRSPTax

¹⁷ Ingram (2017), *WA election: miners campaign against tax fails to win voters*, 3rd March 2017,

Australian Financial Review, <http://www.afr.com/news/politics/national/wa-election-miners-campaign-against-tax-fails-to-win-voters-20170302-gup82r>

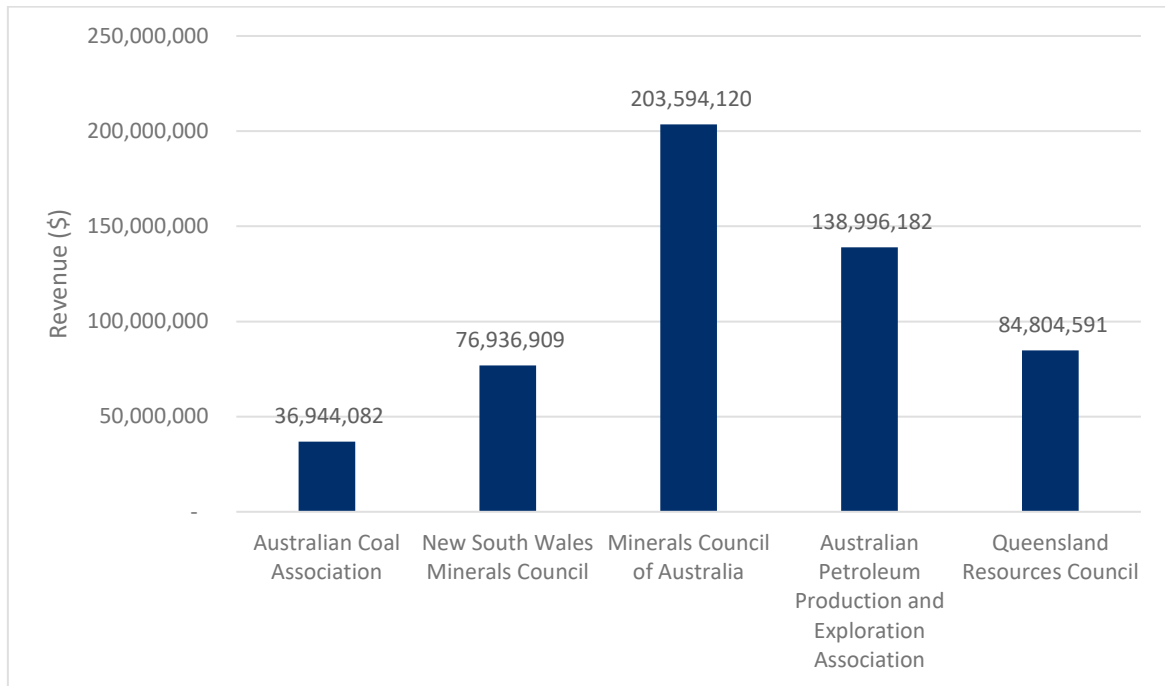
¹⁸ Australian Financial Review (2016), *Miners gear up for tax fight*, 2nd November 2016,

<http://www.afr.com/news/politics/miners-gear-up-for-tax-fight-20161102-gsgeh>

¹⁹ AAP (2017), *WA mining tax defeat welcomed*, 12th March 2017,

<http://www.afr.com/news/politics/national/wa-election-miners-campaign-against-tax-fails-to-win-voters-20170302-gup82r>

Figure 3: Total mining lobby group revenue 2007-2016

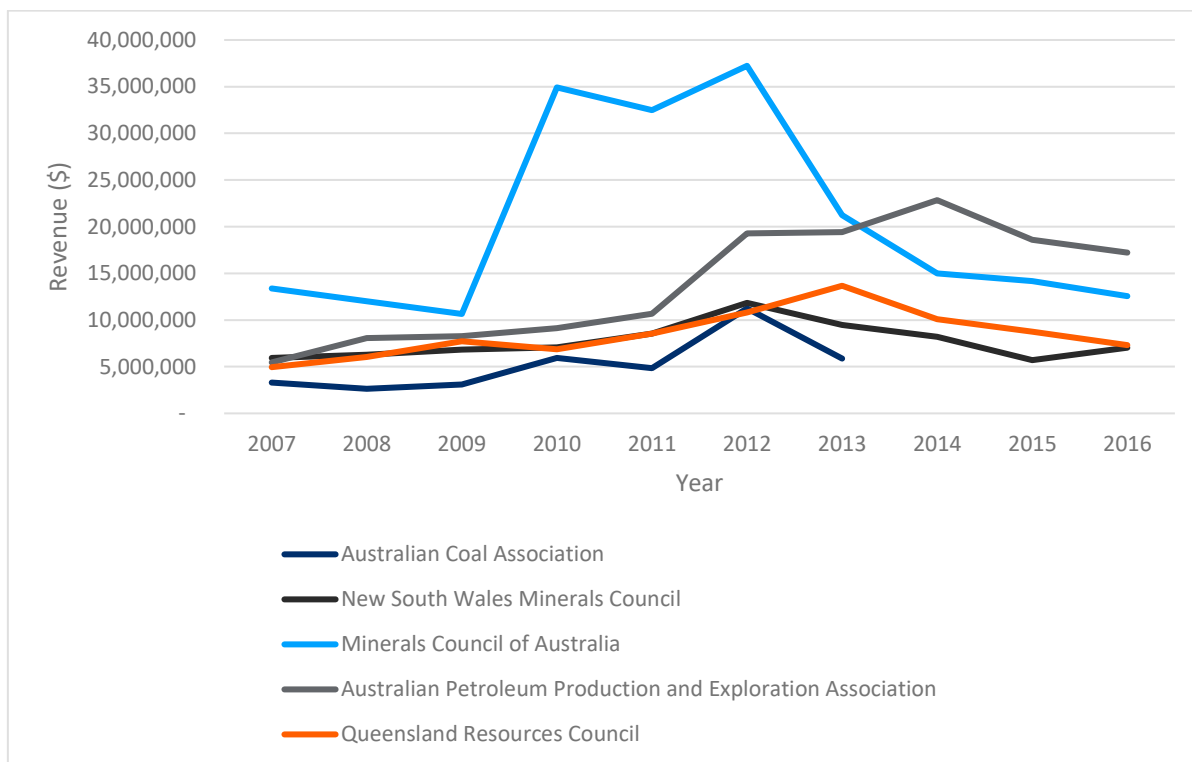


Sources: Annual reports and financial statements to the Australian Securities and Investments Commission. Note that Minerals Council of Australia figures are for the calendar year while other bodies' financial years end in June.

As shown in Figure 3, the Minerals Council of Australia is the best funded lobby group, with over \$200 million in revenue over the last ten years. The gas industry body, APPEA has a budget of \$138.9 million, the next largest, followed by the state-based lobby groups. The Australian Coal Association was merged into the Minerals Council of Australia in 2013.

The fortunes of these groups have fluctuated over the last ten years, as shown in Figure 4. Funding for the MCA increased dramatically in the years 2010-2012 surrounding the Minerals Resource Rent Tax debate.

Figure 4: Revenue of Industry Bodies by year 2007-2016



Sources: Sources: Annual reports and financial statements to the Australian Securities and Investments Commission. Note that Minerals Council of Australia figures are for the calendar year while other bodies' financial years end in June. Note that in 2013 Directors of the Australian Coal Association decided to wind the company up within 12 months. The figures include the reduced incomes in the year following.

APPEA's revenue has increased from \$4.5 million in 2006, to a peak of \$22.8 million in 2014. In 2016 they received \$17.2 million. This has coincided with the boom in unconventional gas in Australia, beginning around 2009. It has also coincided with increasing opposition to unconventional gas, escalating in 2014 with the community campaign against Metgasco in the Northern Rivers of New South Wales.²⁰ Part of this increased industry representation may also have been to raise political support for the export LNG industry, which has struggled to reach profitability with a lower than expected LNG price.²¹

The revenue of the Minerals Council of Australia has slumped from a peak of \$37.2 million in 2012 to \$12.5 million in 2016. This coincides with a growing role of state bodies Queensland Resources Council (QRC) and the NSW Minerals Council. QRC has

²⁰ ABC (2014), *Bentley history*, 20th May 2014, <http://www.abc.net.au/news/2014-05-20/bentley-history/5463800>

²¹ Reuters (2016), *As U.S. shale exports begin, Australia readies world's costliest gas project*, 25th February 2016, <http://www.reuters.com/article/us-australia-lng-gorgon-idUSKCN0VY00Y>

grown from a revenue of \$3.9 million in 2006 to \$10 million in 2014, and the NSW Minerals Council has also grown from \$4.2 million in 2006 to \$8.2 million in 2014.

QRC's revenue peaked in 2013 at \$13.6 million, at a time when many Queensland coal and gas companies were going through the process of acquiring their state government approvals.

As discussed in the next section, the majority of this lobbying funding is from foreign owned companies.

Foreign Ownership

The \$541 million of revenue to the mining lobby is financed by company membership fees to these lobby groups. Membership of these groups is dominated by foreign owned companies, including companies such as Peabody, Anglo American, BHP, Rio Tinto, Glencore and Adani Mining.²²

The foreign companies are considerably larger, however. A 2011 report estimated 83% of mine production in Australia was attributable to foreign owners, including BHP Billiton and Rio Tinto. Although many think of these as Australian companies, BHP is 76% foreign owned, and Rio Tinto is 83%. Between them they constitute 70% of listed mining company resources²³. This level of foreign ownership means ‘...BHP under our laws is a foreign corporation, as is Rio Tinto’.²⁴ A 2016 Treasury paper on Foreign Investment in Australia stated that less than 10% of mining projects currently underway is solely owned by Australian companies, while over 90% have some level of foreign ownership. The paper states that foreign investment accounts for 86% share of ownership of major mining projects.²⁵

By influencing Australian government decision-making through spending hundreds of millions of dollars on political donations and lobbying, foreign mining companies are attempting to have their corporate interests prioritised over the interests of Australian communities, environments and industries. This level of influence can distort sound economic policy making.

In addition, the decision-making bodies of industry lobby groups are dominated by representatives from foreign owned companies. As shown in Table 1 and Table 2 below, the boards of the Minerals Council of Australia and the Queensland Resources Council have high representation from foreign owned companies. Representatives from foreign owned companies hold 10 of 14 positions on the boards of both the Queensland Resources Council and the Minerals Council of Australia, giving foreign interests the majority in decisions about lobbying activities of the industry.

²² Minerals Council of Australia, *MCA Member Companies*, accessed 10th November 2016, http://www.minerals.org.au/mca/mca_member_companies

²³ Edwards, N (2011), *Foreign Ownership of Australian Mining Profits*, Briefing paper

²⁴ Mr Patrick Coleman, Foreign Investment Review Board, *Committee Hansard*, 22 June 2009, p.4

²⁵ Treasury (2016), *Foreign Investment into Australia*, Treasury Working Paper, January 2016, http://treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2016/Foreign%20investment%20into%20Australia/Downloads/PDF/TWP_201601_Foreign_Investment.ashx

Table 1: Foreign company representation on the Minerals Council of Australia board

Name	Representing company
Andrew Michelmore	MMG – listed on Hong Kong and Australia Stock Exchange, major shareholder China Minmetals Corporation (74%) ²⁶
Peter Fryberg	Glencore – listed on the London Stock Exchange, Hong Kong Stock Exchange, major shareholder Glencore Xstrata chief executive Ivan Glasenberg (8.4%) ²⁷
Vanessa Guthrie	Torro Energy – listed on the Australian Stock Exchange
Sandeep Biswas	Newcrest Mining - listed on the Australian Stock Exchange
Mike Henry	BHP Billiton – listed on New York Stock Exchange, London Stock Exchange, Australian Stock Exchange and the Johannesburg Stock Exchange. Major shareholders Bank of America Corp, Dimensional Fund Advisors LP and Eastern Partners LLC ²⁸
Charles Meintjes	Peabody Energy – listed on the New York Stock Exchange
David Moulton	Centennial Coal - owned by Thai-based Banpu
David Overall	Downer EDI – listed on the Australian Stock Exchange
Michael Erickson	AngloGold Ashanti – listed on the New York Stock Exchange, Australian Stock Exchange and the Johannesburg Stock Exchange. Major shareholders Investec Asset Management (South Africa – 7.64%), Public Investment Corporation (South African Government – 7.5%) ²⁹
Bob Vassie	St Barbara - listed on the Australian Stock Exchange
Stephen Dumble	Newmont – listed on the New York Stock Exchange
Michael Wright	Thiess - owned by CIMIC Group, listed on Australian Stock Exchange, major shareholder Hochtief (Germany – 72.68%) ³⁰
Chris Salisbury	Rio Tinto - listed on New York Stock Exchange, London Stock Exchange, Australian Stock Exchange. Major shareholders AXA SA (France – 4.86%), BackRock Inc (US – 8.38% + 5.3%), Shining Prospect Pte Ltd (Singapore – 12.7%) ³¹
Brian Reilly	Cameco Australia - owned by Cameco, which is listed on the New York Stock Exchange and the Toronto Stock Exchange

²⁶ MMG, *Our major shareholder*, accessed 10th November 2016, <http://www.mmg.com/en/About-Us/Company-Overview/Our-major-shareholder.aspx>

²⁷ Mail and Guardian (2014), *Glencore Xstrata: a controversial colossus*, 20th March 2014, <http://mg.co.za/article/2014-03-19-glencore-xstrata-a-controversial-colossus>

²⁸ Investopia, *Top 6 shareholders BHP Billiton*, 15th August 2016, <http://www.investopedia.com/articles/insights/081516/top-6-shareholders-bhp-billiton-bhp-bac.asp>

²⁹ 4 Traders, *Anglogold Ashanti Limited*, accessed 10th November 2016, <http://www.4-traders.com/ANGLOGOLD-ASHANTI-LIMITED-1413422/company/>

³⁰ See Cimic, *Shareholder information: shareholdings*, accessed 1st August 2017, <http://www.cimic.com.au/investor-and-media-centre/shareholder-information/shareholdings>, and Hochtief, *Division Hochtief Asia Pacific*, (accessed 10th November 2016), http://www.hochtief.com/hochtief_en/482.jhtml

³¹ Rio Tinto 2015 Annual Report page 238 http://www.riotinto.com/documents/RT_Annual_Report_2015.pdf

Table 2: Foreign company representation on Queensland Resource Council board

Name	Representing company
Rag Udd	BMA – joint owned by BHP and Mitsubishi ³²
Michael Wright	Thiess – owned by CIMIC Group, listed on Australian Stock Exchange, major shareholder Hochtief (Germany – 72.68%) ³³
Warwick King	APLNG – joint owned by Origin (37.5% - listed on Australian Stock Exchange), Conoco Phillips (37.5% - listed on New York Stock Exchange), and Sinopec (37.5% - listed on Hong Kong Stock Exchange)
Mike Westerman	Glencore - listed on the London Stock Exchange, Hong Kong Stock Exchange, major shareholder Glencore Xstrata chief executive Ivan Glasenberg (8.4%) ³⁴
Greg Chalmers	Jellinbah – private company based in Queensland
Ian Cribb	Glencore - listed on the London Stock Exchange, Hong Kong Stock Exchange, major shareholder Glencore Xstrata chief executive Ivan Glasenberg (8.4%) ³⁵
Brent Gunther	InterGen - InterGen is owned jointly by the Ontario Teachers' Pension Plan and China Huaneng Group/Guandong Yudean Group ³⁶
David Diamond	Anglo American – listed on London Stock Exchange
Mark Le Messurier	Evolution Mining - listed on the Australian Stock Exchange
Shane Stephan	New Hope - listed on the Australian Stock Exchange
Ben Devries	Rio Tinto - listed on New York Stock Exchange, London Stock Exchange, Australian Stock Exchange. Major shareholders AXA SA (France – 4.86%), BackRock Inc (US – 8.38% + 5.3%), Shining Prospect Pte Ltd (Singapore – 12.7%) ³⁷
Ian MacFarlane	QRC
George Schuller Jr	Peabody - listed on the New York Stock Exchange
Simon Slesarewich	Metallica - listed on the Australian Stock Exchange

³² Mitsubishi Australia, *Our business: metals*, accessed 10th November 2016,

<http://www.mitsubishicorp.com/au/en/bg/metals.html>

³³ See Cimic, *Shareholder information: shareholdings*, accessed 1st August 2017,

<http://www.cimic.com.au/investor-and-media-centre/shareholder-information/shareholdings>, and Hochtief, *Division Hochtief Asia Pacific*, (accessed 10th November 2016),

http://www.hochtief.com/hochtief_en/482.jhtml

³⁴ Mail and Guardian (2014), *Glencore Xstrata: a controversial colossus*, 20th March 2014,

<http://mg.co.za/article/2014-03-19-glencore-xstrata-a-controversial-colossus>

³⁵ Mail and Guardian (2014), *Glencore Xstrata: a controversial colossus*, 20th March 2014,

<http://mg.co.za/article/2014-03-19-glencore-xstrata-a-controversial-colossus>

³⁶ InterGen, *Who we are: our shareholders*, (accessed 10th November 2016), <http://www.intergen.com/who-we-are/our-shareholders>

³⁷ Rio Tinto 2015 Annual Report page 238 http://www.riotinto.com/documents/RT_Annual_Report_2015.pdf

Other lobbying

Industry groups represent only one kind of lobbying. No data is available on lobbying expenses for third-party lobbyists or in-house lobbyists. If expenses relating to this lobbying were included, the totals would be significantly higher.

THIRD PARTY LOBBYISTS

Third-party lobbying firms are independent companies who lobby governments and officials on behalf of their clients. Third-party lobbyists who engage the Commonwealth Government are required to be on the Australian Government Register of Lobbyists, which lists 258 different lobbying companies.³⁸ However, a 2012 Federal Senate inquiry estimated that Canberra had four unregistered in-house lobbyists for every registered lobbyist.³⁹

The mining industry utilises 41 separate firms on the Register. To put this in context, in 2015 mining employed less than 2 per cent of the workforce but employed 15 per cent of the firms on the federal lobbying register.⁴⁰

Aside from third-party lobbyists, there are several other ways lobbying is conducted in Australia none of which is included in the above data:

- Companies can employ their own team of government relations and public affairs staff, known as “in-house” lobbyists.
- Senior management and owners of companies can directly lobby ministers and senior civil servants through formal and informal meetings.

“IN-HOUSE” LOBBYISTS

As well as funding industry lobby groups, and engaging the services of external registered lobbyists, resource companies also spend money on internal lobbying, advertising and public relations. The scale of this lobbying activity is hard to uncover, as in-house lobbyists are not required to register. However, during a March 2012 Federal Senate inquiry into

³⁸ Department of Prime Minister and Cabinet, *Australian Government Register of Lobbyists: who is on the register*, (accessed 10th November 2016), http://lobbyists.pmc.gov.au/who_register.cfm

³⁹ Federal Senate Committee on Finance and Public Administration, *Inquiry into the operation of the Lobbying Code of Conduct and the Lobbyist Register*, November 2011 http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2010-13/lobbyingcode2011/index

⁴⁰ Campbell et al (2015), *Powers of deduction*, The Australia Institute, <http://www.tai.org.au/sites/default/files/P166%20Powers%20of%20deduction%20FINAL.pdf>

lobbying, the Department of Prime Minister and Cabinet estimated there were about 4000 “in-house” lobbyists in Canberra working directly for companies who were not covered by lobbying rules.⁴¹ This means that for every third-party lobbyist required to register, there were four “in-house” lobbyists who were not required to do so.

⁴¹ Federal Senate Committee on Finance and Public Administration, Inquiry into the operation of the Lobbying Code of Conduct and the Lobbyist Register, November 2011
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2010-13/lobbyingcode2011/index

Revolving Door

In addition to extensive lobbying and high levels of political donations, the mining and fossil fuel industry also influences policy through employing ex-government representatives. The 'revolving door' of staff between government and industry occurs both at a departmental and a parliamentary level, and has the potential to undermine public confidence in government independence in matters pertaining to the mining and fossil fuel industry.

The 'revolving door' raises numerous concerns, including that government staff may have an eye to future employment when making decisions, that sensitive knowledge may be transferred directly to mining companies when staff switch across, and that mining company staff who re-enter government may provide preferential treatment to mining interests including the secondment and promotion of other mining company staff from inside and outside government.

Two high profile incidences of the revolving door are profile below. The two major Resources Ministers from the last decade, Martin Ferguson and Ian MacFarlane, have left politics to work directly for industry lobby groups APPEA and QRC. Again this threatens independence of government decision making, as both Ferguson and MacFarlane will have close personal and professional relationships with government employees and representatives tasked with making departmental and ministerial decisions about mining industry projects.

MARTIN FERGUSON

Martin Ferguson was the Member for the seat of Batman in Victoria from 1996 to 2013. He was the Shadow Minister for Resources from 2004 to 2006, and then the Minister for Resources from 2007 to March 2013⁴². In October 2013, he was appointed to a newly created role at the oil and gas industry lobby group APPEA, as Chairman of the APPEA Advisory Board.⁴³

IAN MACFARLANE

Ian MacFarlane was the Member for the seat of Groom in Queensland from 1998 to 2016. He was the Minister for Resources from 2011 to 2007, and the Shadow Minister for

⁴² Australian Parliament House, *Parliamentarians: Martin Ferguson*,

http://www.aph.gov.au/Senators_and_Members/Parliamentarian?MPID=LS4

⁴³ APPEA (2013), *Martin Ferguson appointed chair of APPEA advisory board*, 1st October 2013,

http://www.appea.com.au/media_release/martin-ferguson-appointed-chair-appea-advisory-board/

Resources from 2008 to 2009 and again from 2010 to 2013. From 2013 to September 2015 he was the Minister for Industry⁴⁴. His last speech in the House of Representatives was on the 5th May 2016,⁴⁵ and on the 26th September 2016 he was announced as the new Chief Executive of the Queensland mining lobby group QRC.⁴⁶

According to the Department of Premier and Cabinet's Statement of Ministerial Standards and the Standards of Ministerial Ethics, Martin Ferguson and Ian MacFarlane may not have met the post-ministerial work related restrictions:

Ministers are required to undertake that, for an eighteen-month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public.⁴⁷

⁴⁴ Australian Parliament House, *Parliamentarians: Ian MacFarlane*,

http://www.aph.gov.au/Senators_and_Members/Parliamentarian?MPID=WN6

⁴⁵ Hansard, 5th May 2016,

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F5ad31cc6-5b90-4856-adc8-83b8e5eb87ac%2F0028%22>

⁴⁶ ABC (2016), *Ian MacFarlane appointed to run Queensland mining lobby*, 26th September 2016,

<http://www.abc.net.au/news/2016-09-26/ian-macfarlane-appointed-to-run-queensland-mining-lobby/7876942>

⁴⁷ Department of Prime Minister and Cabinet, *Statement of Ministerial standards*,

<https://www.dpmc.gov.au/resource-centre/government/statement-ministerial-standards>

Tax deductibility

Lobbying expenses are tax-deductible as a business expense. As the Australian Tax Office (ATO) puts it:

Most expenses you incur in running your business are tax deductible.⁴⁸

The ATO finds it easier to list business expenses **THAT ARE NOT** tax deductible:

- private or domestic expenses, such as childcare fees or clothes for your family
- expenses relating to income that is not taxable, such as money you earn from a hobby
- expenses that are specifically non-deductible, such as entertainment and parking fines’.

Membership of industry groups qualifies as an approved deduction, as does the payment for any service provided by a lobby group, legal firm, advertisers, public relations firms and so on. In-house legal work, government relations work and similar work can be included in allowable expenses. Indeed, there would not normally be any need to separately identify the tasks undertaken by different employees in a business. All these expenses reduce a business’ taxable income, which is taxed at the company tax rate of 30 per cent.⁴⁹

With a combined revenue of \$541 million over last decade, and assuming the company tax rate of 30%⁵⁰, mining lobby groups have therefore cost taxpayers \$162.38 million. Political expenditure and lobbying by individual mining companies would also be claimed as a tax deduction, so this figure would be much higher with full public disclosure of political expenditure at a company by company level.

⁴⁸ Australian Taxation Office, *Income and deductions: allowable deductions*, (accessed 10th November 2016), <https://www.ato.gov.au/business/income-and-deductions-for-business/what-you-can-claim-and-when/allowable-deductions/>

⁴⁹ Australian Taxation Office, *Rates: company tax*, (accessed 10th November 2016), <https://www.ato.gov.au/Rates/Company-tax/>

⁵⁰ We are aware that the average tax paid by mining companies is less than the theoretical 30 per cent but at the margin a specific tax deduction for a taxpaying company should be worth 30 per cent

Conclusion

Through spending millions on political donations and hundreds of millions on lobbying, the mining and fossil fuel industry is having an undue influence on policy-making in Australia. Although the lack of available information on donations, lobbying, and gifts and benefits given to government representatives by industry makes it difficult to uncover the full extent of industry influence on government decision-making, it is clear that the industry is funding an effective operation to achieve policy outcomes in its favour.

In the current debate over coal mines and the role of environmental groups, the mining lobby is asking for two key policy changes:

- The tax deductibility status of environmental NGOs to be revoked
- Banning foreign political donations to third parties, including environment and social groups

As a result of a broad business tax deduction policy from the ATO, most mining industry spending on lobbying is tax deductible. With a combined revenue of \$541 million over last decade, and assuming the company tax rate of 30%, mining lobby groups have therefore cost taxpayers \$162.38 million.

If the government is concerned about protecting Australia's sovereignty from foreign interests, any regulation should consider the impact of the mining industry on our political processes. The mining industry is dominated by foreign companies who are spending hundreds of millions of dollars to influence our public decision making. The total political expenditure of this industry is difficult to quantify, through this report finds that mining lobby groups have spent \$541 million over the last decade, and that their boards are dominated by foreign mining executives.

Major resource projects can have very significant environmental and social impacts. They can also have negative impacts on non-mining parts other industries, crowding out non-mining businesses and employment. As such it is important that decisions on resource project approvals are made in the interests of all Australians. The merits of the projects should be weighed up against the costs to our environment, communities and other industries such as tourism and manufacturing. Secretive unaccountable lobbying, undisclosed political donations, and unregulated post-separation employment for Minister's and Parliamentarians can distort the decision making process on approvals and regulation and undermine our democracy.