The Australia Institute

Research that matters.

Draft industry action plan

Submission
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Rod Campbell

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Our philosophy

As we begin the 21st century, new dilemmas confront our society and our planet. Unprecedented levels of consumption co-exist with extreme poverty. Through new technology we are more connected than we have ever been, yet civic engagement is declining. Environmental neglect continues despite heightened ecological awareness. A better balance is urgently needed.

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The Institute aims to foster informed debate about our culture, our economy and our environment and bring greater accountability to the democratic process. Our goal is to gather, interpret and communicate evidence in order to both diagnose the problems we face and propose new solutions to tackle them.

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Introduction

The draft Industry Action Plan for the NSW minerals industry is currently on display and is open for public submissions. The Australia Institute has been involved in the planning processes for many minerals projects in the state in recent years. We welcome the opportunity to provide feedback on the draft Action Plan.

Most of the draft Action Plan presents recommendations that maximise the interests of the minerals industry. While this is not surprising, the aims of the NSW government, however, should be to maximise the welfare of the community rather than any particular industry. In some areas, the interests of the industry and the government are aligned, for example in minimising administrative costs. However, in many areas the interests of industry and government are opposing, such as in relation to royalties and environmental regulation.

In our view, most of the draft Action Plan does not work to align the interests of the industry and the community, but merely to push the interests of the industry. There are few examples presented of how industry itself could work to improve community engagement and how it could contribute more to the state which provides its minerals for sale and its workforce.

In this submission we discuss the main sections of the draft action plan and make recommendations on how it can be improved.

Mining in the NSW economy

The first section of the draft Action Plan asks 'How important is mining to NSW's prosperity'. The answer, at least according to the data presented in this section, is 'not particularly'. The draft Action Plan shows that:

- 97.1 per cent of the NSW economy is not mining production. The vast majority of the NSW economy is based on service industries, particularly health care, education and other services. Service industries are the major drivers of economic output in NSW.
- 98.6 per cent of NSW employment is not in the mining sector. Again, service industries are far larger and more labour intensive than the mining industry. Even in the Hunter Valley, the traditional home of the NSW mining industry, the draft Action Plan shows that 92 per cent of people do not work in mining.
- The industry contributes $1.6 billion in government revenue. This represents around 2 per cent of NSW government revenue. 98 per cent of NSW government revenue comes from other sources, particularly from Commonwealth grants raised from income tax, GST and taxes on other industry sectors. The mining industry contributes a similar amount to NSW government revenue as gambling tax.[1]
- The industry raises $17 billion in export revenue. This is a large part of NSW international exports. However, the draft Action Plan fails to note that around 90 per cent of the industry is foreign owned, meaning that profits derived from this revenue largely accrue overseas.[2]

From a state perspective, changes to mining regulations and legislation would mean minor differences in benefits from this minor NSW industry. At a local level, however, the mining industry can be a significant employer – over 20 per cent of the workforce in Singleton and Muswellbrook – and can have major impacts on local communities and the environment.

[1] (Campbell, 2014)
[2] (Campbell, 2014)

A major omission from the draft Action Plan is discussion of how a downturn in the coal industry would affect the industry and communities that are heavily engaged in coal mining. There could be a major downturn in the coal industry under scenarios forecast by the International Energy Agency and Federal Treasury.[3] Future drafts of the Action Plan should consider how industry, government and communities can plan for such an eventuality. While modelling for Regional Development Australia (Hunter) suggests impacts would be minimal, with only a 0.2 to 4.0 per cent change in Upper Hunter employment,[4] the Action Plan should discuss how the industry would respond and how community impacts can be planned for.

Recommendation: Formation of a joint industry, state government, local government and community working group to research how potential structural downturns in the coal industry might affect specific regions such as Upper Hunter, Western Coalfields, Lithgow, Illawarra. A starting point may be to explore the International Energy Agency's 450ppm scenario and how this would affect mining operations in these regions.

Priority area 1: Transparent process and Integrated Policy

This section of the draft Action Plan relates to planning and assessment processes. We agree that these processes can be significantly improved.

A shortcoming of the draft Action Plan is that it does not acknowledge the economic and planning circumstances of NSW that are significantly different to other mining states. NSW is more densely populated than other mining states and mining activity occurs in areas which are intensively utilised by other activities such as agriculture, tourism, winemaking, horse breeding and housing. No area of major mining activity in Australia is as near to other industries, population centres and environmental assets as is the case in the Hunter, Illawarra, Western Coalfields and Lithgow area. Queensland's Bowen and Galilee Basins are relatively remote, as is the Pilbara in Western Australia, the Northern Territory's gas projects and South Australia's Olympic Dam site. The Darling Downs in Queensland is a possible comparison to parts of NSW, and similarly, that area has also been the focus of controversy over mining projects and the planning process.

The draft Action Plan describes "domestic competition for investment"[5] with Queensland and Western Australia. Not only is the notion of competition largely misleading – the minerals in the ground cannot be moved – but without describing the planning context in NSW it is impossible to understand the challenges that are faced. Rather than focussing on "competition for investment", the draft Action Plan should discuss the competition for land, water, labour, services, etc, between the mining industry and other industries in NSW.

Recommendation: the draft Action Plan should acknowledge and describe the planning challenges that are unique to NSW, particularly activity in relatively populated areas and competition for resources with other industries.

The draft Action Plan includes discussion of assessment timeframes in NSW, concluding they are too long. We agree that many projects assessment has taken a long time. In many of the cases mentioned, however, this is because proponents are unwilling to accept the decisions of planners and courts. Of those included in Figure 1 in the draft action plan, this is the case with:

- Drayton South
- Ashton SE Open Cut

[3] (Bullen, Kouparitsas, & Krolikowski, 2014; IEA, 2013)
[4] (Deloitte Access Economics, 2013)
[5] page 7

- Warkworth Extension

We are pleased to read in the draft Action Plan that the taskforce accepts that not all projects will be approved. A formal statement to this effect would increase confidence in the community that the industry is concerned about the impacts it creates and would ease pressure on the planning process.

Recommendation: The Industry Taskforce make a formal statement that the industry acknowledges that some proposals have environmental and social impacts that outweigh their economic benefits and that these projects should not be approved.

A key problem in the planning and assessment process is that the Department of Planning and the Planning Assessment Commission (PAC) lack the resources to adequately scrutinise research commissioned by project proponents. Some examples include:

- Warkworth Expansion – Planning and PAC failed to identify the significant flaws in assessment of economics, social impacts, biodiversity, noise and dust. These were later identified by the Land and Environment Court and upheld in the Court of Appeal.
- Ashton SE Open Cut – Planning and PAC failed to identify massive overstatement of economic benefits, later identified in the Land and Environment Court.
- Maules Creek – Planning failed to identify massive overstatement of economic benefits, subsequently identified in review commissioned by the proponents. Estimated value of around $3.2 billion.[6]
- Terminal 4 Coal Loader – Planning failed to identify massive overstatement of economic benefits. These were initially estimated at up to $60 billion in net present value. Subsequent review commissioned by the PAC has found that if the project is financially viable, benefits to the state are likely to be below $1 billion.[7]

There are countless similar examples of flawed economic assessment in the planning process which has been identified by The Australia Institute. We would be happy to discuss these with the Industry Taskforce and the Government.

While the widespread abuse of economic assessment by proponents is problematic, perhaps most disturbingly, the Department of Planning has recently lied about its assessment of economic impacts in the latest Warkworth proposal. In the Secretary's Assessment report on the project it says:

> *The Department has tested the sensitivity of these estimates to changes in key variables, such as the price of coal, and concluded that even if these variables change significantly over time, the benefits of the project would remain positive.*[8]

This is not the case, as confirmed to The Australia Institute in an email from the Department:

> *The extract [of the Secretary's report] you quote in your email refers to the sensitivity analysis presented in the EIS.*[9]

[6] (Bennett, 2011)
[77] See Centre for International Economics (2014) Review of Terminal 4 economic assessment, available on PAC website.
[8] (NSW DPE, 2014) p4
[9] Email from DPE to Rod Campbell dated 3 December 2014

The Department did not conduct its own rigorous review of the proponent's economic claims, yet wrote in a public document that it had. This demonstrates a concerning lack of integrity and resources within the department.

The work of The Australia Institute has been at the forefront of identifying flawed economic analysis of mining projects in the NSW planning system. Despite this, the draft Action Plan expresses concerns about the quality of The Australia Institute's research.[10]

The draft Action Plan refers to a technical error in four of our submissions. We incorrectly applied the formula for royalty deductions in calculations of net benefit. On becoming aware of our mistake, we published an article and apology in the Newcastle Herald.

In contrast to our actions, no correction or apology has ever been issued by any of the mining industry economists found to have made far more serious errors by courts, PACs or government commissioned reviews. The industry's unwillingness to acknowledge its errors erodes public confidence in the material it submits and in the planning process.

The draft Action Plan highlights the Wallarah 2 PAC as a decision that may have been affected by our error. While the error in royalty calculations was presented to that PAC, the Wallarah 2 assessments contained other serious errors that were not affected by this. For example, the billion dollar difference between the net benefit calculations in the proponent's own commissioned work.[11] It was this huge error by the proponent's economist that the PAC described as "staggering":

> *The unreliability of the Proponent's estimates of project benefits is succinctly summarized by Campbell (2014) referring to the claims made for the project's predecessor against the claims made for the current project. Even allowing for the reduced number of longwalls (11) in the current project, the difference of over $1 billion in claimed benefits is staggering.*[12]

Acknowledging some of the industry's own errors would greatly increase the public's confidence in the planning system and ease pressure on the Planning Department and the PAC.

Recommendation: The Industry Taskforce should make a formal statement acknowledging that some proponents have submitted flawed analysis, apologising for these errors and encouraging the involvement of community groups and independent organisations in the planning process.

The draft Action Plan says an "immediate step" should be the implementation of guidelines for economic assessment.[13] We agree. Cost benefit analysis should be mandatory in line with existing Treasury *Guideline for the use of Cost Benefit Analysis in mining and coal seam gas proposals.*[14]

Furthermore, economic assessment is currently conducted too late in the planning process. It is usually relegated to an appendix of the EIS. This analysis could be conducted far earlier in the process. Current optional cost benefit analysis as part of a gateway process should be mandatory, along with transparent statement of all assumptions behind the analysis.

[10] Page 9
[11] (Gillespie Economics, 2008, 2013)
[12] (PAC NSW, 2014) p64
[13] p13
[14] (NSW Treasury, 2012)

This could assist with the streamlining process desired by the Taskforce, as it would enable decision makers to more easily identify projects of marginal viability and that are unlikely to be in the public interest.

Recommendation: Economic assessment in line with existing guidelines should be mandatory and early in planning and assessment processes.

The main focus of the draft Action Plan Priority Area 1 is on the PAC. The Australia Institute has been critical of the PAC on several occasions and its operation and governance could be significantly improved.

As discussed above, the PAC is not well resourced to assess the economics of projects. This is perhaps best demonstrated in its decision to approve the Cobbora coal project, despite NSW Treasury's finding that the project would lose $1.5 billion.[15] Better resourcing of the PAC could improve its decisions. This seems to have been acknowledged with the PAC's recent tendency to commission external review of some issues, such as the review of the T4 economic debate by the Centre for International Economics.

Recommendation: PAC needs to be better resourced to assess technical material, particularly economics.

We have been critical of the governance of the PAC, particularly over the potential for conflicts of interest:

- Commissioner Gary West sat on several PACs relating to coal projects while working for coal companies.
- Commissioner Neil Shepherd sat on several PACs relating to coal projects while he was the chair of Coal Innovation NSW.
- Commissioner Paul Forward chaired the Cobbora PAC despite working for one of the companies commissioned to assist that PAC.

Recommendation: The processes around disclosure of PAC interests and appointment of PAC members to appropriate projects should be reviewed and improved.

We do not agree with the draft Action Plan that the PAC should be abolished or restrained. The industry's dislike of the PAC appears to extend only as far back as the Drayton South and Coalpac projects which were not approved. Prior to those decisions, all mentions of the PAC in NSW Minerals Council media releases that we can find are positive.

Abolishing or weakening the PAC is not appropriate at a time when NSW is confronted by corruption scandals relating to the coal industry and senior political figures. With ministers from both sides of politics facing charges and ICAC hearings relating to the coal industry, now is certainly not the time to be reducing independence in the planning system.

Under these circumstances the industry and government should be working to increase public confidence in the planning system. One way this could be achieved is to restore third party merits appeal rights to the Land and Environment Court.

Recommendation: Improve community confidence in the planning process by restoring third party merits appeal rights to the Land and Environment Court.

[15] (NSW PAC, 2014; NSW Treasury, 2013)

Priority Area 2: Fiscal Certainty

Much of the discussion in this area of the draft Action Plan makes a basic error in equating royalties with taxes. Royalties are not a tax. Royalties are an input cost to the mining industry. The minerals being mined are owned by the State of NSW and the royalty is the price mining companies pay to buy the minerals from the state.

Bakers buy flour as an input to making bread and selling it. Bakers do not lobby the government to subsidise flour so they can produce bread more cheaply. The sellers of flour set the price of it to cover their costs and improve their welfare as much as possible. The NSW government is selling an input to the mining industry. It should work to cover its costs and extract the greatest possible benefit from its assets to maximise the welfare of the NSW community.

Equating royalties with tax serves to give the impression that the mining industry is heavily taxed. This is not the case, in fact it is lightly taxed relative to other industries in Australia.[16]

From an economic perspective there is no reason why the NSW government would commit to maintaining a particular royalty rate in the long term. This could serve as a minor but useful method for raising revenue in the future, a method that should be retained as an option. The claim on p20 that fees and levies should decrease in real terms is entirely self-serving for the industry and would directly reduce the welfare of the NSW community. This is not a constructive input into an action plan for improving the industry and its practice. This is a blatant call for financial advantage.This recommendation should be rejected.

Recommendation: Calls to reduce returns to the NSW community from the mining industry and to freeze royalties should be dropped from the Action Plan.

Priority Area 3: Developing Skills and Providing Supporting Infrastructure

Most of the sections in this part of the draft action plan are a call for some form of subsidy or government support.

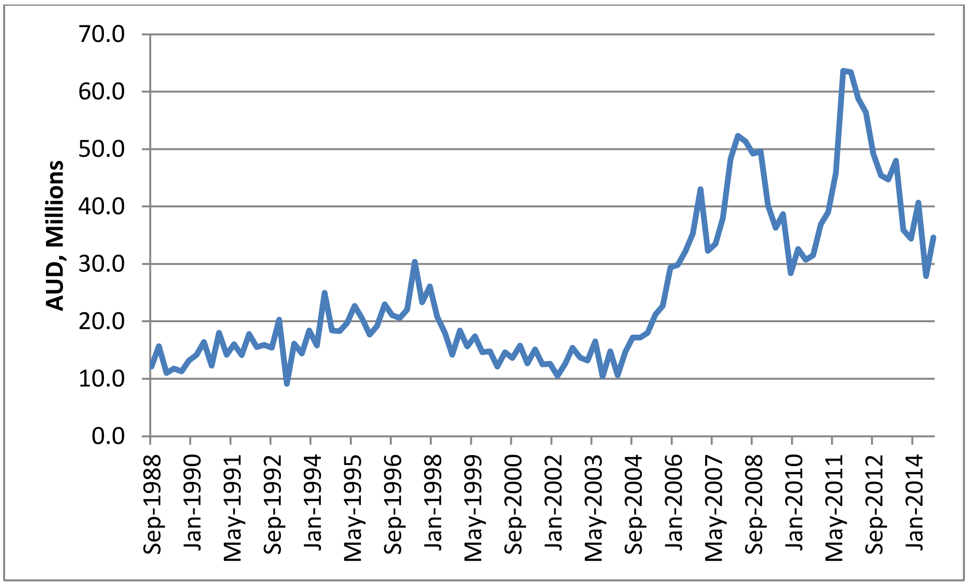
The first section discussing workforce skills is a call for more state-funded training for mining personnel. The NSW government must balance this call with the needs of other industries – the industries that employ 98 per cent of the NSW workforce. There is no discussion of how the industry might take on more apprentices and do more of its own training. Training is seen as a cost that should be borne entirely by governments. Future drafts of the Action Plan should contain detail on how the minerals industry can contribute to building the skills of their own workforce and the wider NSW community.

The second section is a call for the NSW government to spend more on exploration and information for exploration companies – a cost to the government that comes at the expense of spending in other areas such as education and healthcare. No analysis is provided that this spending is a good investment for the state.

The claim that NSW is 'losing the competition for exploration expenditure' is untrue. As shown below, NSW exploration expenditure is at levels well above long term averages. It has been volatile, driven by commodity prices, with minimal influence from policy changes:

[16] (Richardson & Denniss, 2011)

Exploration Expenditure, NSW



Source: ABS 8412.0 Mineral and Petroleum Exploration, Australia

Which states are receiving more or less exploration expenditure is driven far more by commodity prices and geology than by levels of state government subsidy.

The third section is a call for government funding for research into topics that directly benefit the mining industry. Again, no case is put forward as to why funding these areas will provide better return to the state than funding research for the industries that pay 98 per cent of the NSW government's revenue. The call to fund low emission coal technology is particularly concerning. The Australian Coal Association Research program should be funding this work rather than taxpayers. The fact that the coal industry is largely unwilling to fund the research that would ensure its own survival suggests these technologies are largely unfeasible and therefore that government investment should be directed elsewhere.

The final section calling for government spending on infrastructure that would assist the mining industry. Again, no case is put forward as to why this infrastructure provides a greater benefit to the NSW community than investment elsewhere.

Recommendation: All calls for taxpayer funded support of the mining industry through subsidised training, research or infrastructure should come with detailed cost benefit analysis and economic justification.

Performance monitoring and measuring

The proposals for monitoring of the draft Action Plan are flawed from an economic perspective. For example:

- The target of increasing the value of NSW mineral production by 30% by 2020. The goal of government and industry should be to maximise the net returns to their community and shareholders respectively. Targeting a large increase in the gross value of production serves neither of these interests. Pursuing a gross measure of growth rather than maximising net benefits risks undertaking projects that are financially less viable and or which have greater impacts on the community and environment.

- The aim to grow mining capital expenditure or greenfields expenditure. These expenditures will be driven by commodity prices and geology to a far greater degree than changes to government policy. They do not offer a good way of evaluating policy, which should focus on net benefits, not on gross expenditures.

Conclusion and recommendations

The draft Action Plan should be heavily revised if it is to provide a plan for improving confidence in the industry and improving its role in the NSW community and economy. Our recommendations are:

Recommendation: Formation of a joint industry, state government, local government and community working group to research how potential structural downturns in the coal industry might affect specific regions such as Upper Hunter, Western Coalfields, Lithgow, Illawarra. A starting point may be to explore the International Energy Agency's 450ppm scenario and how this would affect mining operations in these regions.

Recommendation: the draft Action Plan should acknowledge and describe the planning challenges that are unique to NSW, particularly activity in relatively populated areas and competition for resources with other industries.

Recommendation: The Industry Taskforce make a formal statement that the industry acknowledges that some proposals have environmental and social impacts that outweigh their economic benefits and that these projects should not be approved.

Recommendation: The Industry Taskforce should make a formal statement acknowledging that some proponents have submitted flawed analysis, apologising for these errors and encouraging the involvement of community groups and independent organisations in the planning process.

Recommendation: Economic assessment in line with existing guidelines should be mandatory and early in planning and assessment processes.

Recommendation: PAC needs to be better resourced to assess technical material, particularly economics.

Recommendation: The processes around disclosure of PAC interests and appointment of PAC members to appropriate projects should be reviewed and improved.

Recommendation: Improve community confidence in the planning process by restoring third party merits appeal rights to the Land and Environment Court.

Recommendation: Calls to reduce returns to the NSW community from the mining industry and to freeze royalties should be dropped from the Action Plan.

Recommendation: All calls for taxpayer funded support of the mining industry through subsidised training, research or infrastructure should come with detailed cost benefit analysis and economic justification.

References

Bennett, J. (2011). Maules Creek Coal Project Economic Impact Assessment: A review. *Research Evaluation*. A review commissioned by Aston Resources, proponents of the Maules Creek Coal Project Proposal. Retrieved from https://majorprojects.affinitylive.com/public/d70ab9717ed8449eafa6b1e7d8e4cea5/Appendix G Bennet Peer Review_lowres.pdf

Bullen, J., Kouparitsas, M., & Krolikowski, M. (2014). *Long-run forecasts of Australia's terms of trade*. Published by The Treasury, Commonwealth of Australia. Retrieved from http://www.treasury.gov.au/~/media/Treasury/Publications and Media/Publications/2014/Long run forecasts of Australias terms of trade/Documents/PDF/long_run_tot.ashx

Campbell, R. (2014). *Seeing through the dust: Coal in the Hunter Valley economy*. The Australia Institute, Policy Brief No. 62. Retrieved from http://www.tai.org.au/content/seeing-through-dust-coal-hunter-valley-economy

Deloitte Access Economics. (2013). *Prospects and challenges for the Hunter region: A strategic economic study*. Report for Regional Development Australia Hunter, Newcastle, NSW. Retrieved from http://rdahunter.org.au/initiatives/prospects-and-challenges-for-the-hunters-future

Gillespie Economics. (2008). *Wallarah 2 Coal Project Benefit Cost Analysis*. Prepared for Hansen Bailey Pty Ltd. Retrieved from https://majorprojects.affinitylive.com/public/f5011bda7bc72d7d4a5058c2ce1826bf/Appendix H - W2CP Benefit Cost Analysis.pdf

Gillespie Economics. (2013). *Wallarah 2 Coal Project - Appendix W Economic Impact Assessment*. Prepared for Hansen Bailey Pty Ltd.

IEA. (2013). *World Energy Outlook 2013*. International Energy Agency, Paris, France.

NSW DPE. (2014). *Warkworth Continuation Project Secretary's Environmental Assessment Report*. NSW Department of Planning and Environment. Retrieved from https://majorprojects.affinitylive.com/public/bb35cb64104a750149cc59bb694ee656/10. Warkworth Continuation Project - Secretary's Assessment Report.pdf

NSW PAC. (2014). *Cobbora Coal Mine Project Determination Report* (pp. 1–19).

NSW Treasury. (2012). *Guideline for the use of Cost Benefit Analysis in mining and coal seam gas proposals*. Retrieved from http://www.planning.nsw.gov.au/LinkClick.aspx?fileticket=1IW95ZTjemY%3D&tabid=205&mid=1081&language=en-AU

NSW Treasury. (2013). *NSW Budget Papers 2013-14, Chapter 9 : Public Trading Enterprises* (pp. 1–20). Retrieved from http://www.budget.nsw.gov.au/__data/assets/pdf_file/0018/25227/Ch_9.pdf

PAC NSW. (2014). *Wallarah 2 Coal Project Review Report*. NSW Planning and Assessment Commission. Retrieved from http://www.pac.nsw.gov.au/Projects/tabid/77/ctl/viewreview/mid/462/pac/371/view/readonly/myctl/rev/Default.aspx

Richardson, D., & Denniss, R. (2011). *Mining the truth: the rhetoric and reality of the mining boom*. Institute paper number 7, The Australia Institute, Canberra.