

Trade associations

The Australian picture

An extensive review of 20 of Australia's largest and most influential trade associations finds that company memberships in these associations may not be to the benefit of shareholders; that the ability of trade associations to raise large sums for political campaigns represents a potential democratic risk; and that most trade associations play little apparent role in self-regulation.

Discussion paper

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Based on trade association profiles prepared by Liz Morison, Robyn Seth-Purdie, Tony Shields, Prachi Arya, Vivien Clarke and Bill Browne

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Summary

The Australia Institute has conducted an extensive study of 20 of Australia's largest and most influential trade associations. The study assesses and compares the size, membership, political activities and members' services offered by each association, and finds that there is tremendous variety in the types and scale of trade association activity. Most trade associations had some political associations and resources for members, and had made submissions to government or parliamentary inquiries – but the extent of each varied greatly across associations. A minority of associations made political contributions, and only two were found to have produced mandatory standards for members.

Motivated by concern that trade associations might be a “conspiracy against the public”, as Adam Smith warned, the research identified potential misalignment between the conduct of trade associations and the interests of their members, their members' shareholders, and the public. These include trade associations overstating the contribution of their sector in order to win a social licence to operate; downplaying climate or public health risks; exploiting political connections; and prioritising the careers of the trade association's staff over the interests of the companies they are meant to represent.

Historical examples show that trade associations in Australia have wielded power and money to frustrate policy reform and win preferential treatment. However, recent failures of trade association lobbying suggests that their influence may be waning.

Better regulation of trade associations could include political transparency measures – like truth in political advertising laws, publishing ministers' diaries and stricter donation disclosure laws; requiring shareholder approval of memberships and donations; and removing tax deductions for lobbying and political campaigning.

Shareholders and the public as a whole can be reasonably concerned that a company's trade association memberships are not always in the public interest, or even in the interests of the owners of that company.

Introduction

Adam Smith, writing in 1776, warned that:

People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.¹

Smith's observation is over two centuries old. To test whether his first observation – that trade associations serve as “a conspiracy against the public” – is true for Australia in the 21st century, the Australia Institute has assembled detailed profiles of 20 of Australia's largest, most active or otherwise significant peak bodies. By the public, we include shareholders – some of whom are concerned that the companies they invest in direct funds to trade associations that act contrary to shareholder interests.

Taken together, trade associations represent major sectors of the Australian economy. Because they represent these sectors, associations wield power and influence well beyond what their staffing and revenue would suggest.

Existing scholarship suggests that Smith's concerns remain valid.

The London-based non-government organisation InfluenceMap charts the influence of various trade associations on public policy to address global warming.² InfluenceMap grades fossil fuel trade associations on this basis, with the Minerals Council of Australia receiving a D- and the Australian Petroleum and Production Association (APPEA, now “Australian Energy Producers”) an E+ on an A to F scale.³

The Centre for Political Accountability, an affiliate of the Wharton Business School in Washington, DC, documents political expenditure in the US by companies and trade

¹ Smith (1776) *An inquiry into the nature and causes of the wealth of nations*, <https://www.gutenberg.org/ebooks/3300>

² InfluenceMap “maintains the world's leading database assessing corporate climate policy engagement (LobbyMap), covering over 400 companies and 200 industry associations globally.” As part of this database, industry associations are ranked according to their InfluenceMap grade, with those at the top having the highest grades (indicating support for Paris-aligned climate policy), and those toward the bottom having the lowest grades (indicating opposition to Paris-aligned climate policy).

³ As at 3 December 2024: InfluenceMap (n.d.) *Industry Associations*, <https://ca100.influencemap.org/industry-associations>

associations. In the US the volume of monies directed by trade associations towards highly partisan political activity are significant.⁴

The UK advisory committee the Committee on Standards in Public Life raised serious concerns about the “revolving door” where personnel move between ministerial offices, public regulators and regulated entities or lobbyists for regulated entities like trade associations.⁵ Similar concerns exist in Australia.⁶

Australian publicly-listed companies publish little information about their political expenditure. An analysis of 75 of the 100 biggest companies on the Australian stock exchange finds none completely disclose their payments to trade associations, 27% partially disclose their payments and 73% do not disclose at all their payments to trade associations.⁷

Running contrary to Adam Smith’s “conspiracy against the public” contention there is also a body of literature which views trade associations as providers of “private ordering”: self-regulation and setting standards and codes (voluntary or mandatory) for companies in a sector.

Underpinning this evaluation of trade associations are four key questions:

- Can shareholders in ASX-listed companies be sure that the money the companies pass to trade associations is used for purposes which benefit shareholders?
- Does Australia have a problem with substantial flows of political money each year going through trade associations, as the United States does?
- What evidence is there that the revolving door between politics, regulators and trade associations can be found in Australia?
- Do trade associations in Australia provide much by way of private ordering?

The author would like to thank the authors and compilers of the 20 trade association profiles: Liz Morison, Robyn Seth-Purdie, Tony Shields, Prachi Arya, Vivien Clarke and Bill Browne.

⁴ See, for example, Center for Political Accountability (2021) *Conflicted consequences*, <https://www.politicalaccountability.net/cpa-reports/>; (2022) *Practical stake*, <https://www.politicalaccountability.net/cpa-reports/>

⁵ Committee on Standards in Public Life (2016) *Striking the balance: Upholding the 7 principles in regulation*, p. v, <https://www.gov.uk/government/publications/striking-the-balance-upholding-the-7-principles-in-regulation>

⁶ Rennie (2016) *The revolving door: why politicians become lobbyists, and lobbyists become politicians*, <http://theconversation.com/the-revolving-door-why-politicians-become-lobbyists-and-lobbyists-become-politicians-64237>

⁷ Browne (2023) *The hidden political expenditure of Australian corporations*, <https://australiainstitute.org.au/report/the-hidden-political-expenditure-of-australian-corporations/>

Trade association functions

Different trade associations serve different needs:

- Industry associations represent and coordinate companies in a particular sector
- Regional associations represent and coordinate companies in a particular market
- Business councils focus on trade or investment barriers
- Technical bodies focus on a particular topic or technical standard.⁸

By this taxonomy, the Minerals Council of Australia is an industry association, the Australian Chamber of Commerce is a regional association, the Business Council of Australia is a business council and Coal21 is a technical body.

The benefits of trade association membership include:

- Policy advocacy with a collective industry voice
- Communication across industry
- Sharing information; distributing the costs of research and development
- Collaborating on best-practice procedures and standards (such as health and safety)
- Pooling resources to gain access to new markets
- Education and professional development.⁹

The 20 trade associations profiled had annual revenues of about \$205 million per annum, over a third of which was the revenue of the Australian Industry Group (Ai Group) at \$68 million. After Ai Group, the largest trade association had revenue of about \$38 million. The smallest trade association had revenue of about \$400,000. Two trade associations profiled closed down or seemingly stopped operating during the research period.

The total annual revenue for Australian trade and professional associations was about \$5.4 billion in 2021. However, this figure includes very large professional associations like CPA Australia and Engineers Australia. Of the associations profiled by the Australia Institute, only one (Ai Group) appears in the seven largest trade or professional associations according to IBIS World.¹⁰

⁸ As outlined by Santos (2022) *2022 statement on review of industry associations*, p. 4, <https://www.santos.com/wp-content/uploads/2022/12/Statement-on-2022-Review-of-Industry-Associations-Final-13-December-2022.pdf>

⁹ Origin (2022) *Industry association review*, p. 2, https://www.originenergy.com.au/about/investors-media/governance/industry_association_memberships/; Rio Tinto (2021) *Industry Association Disclosure*, p. 2, <https://www.riotinto.com/en/sustainability/ethics-integrity/industry-association-disclosure>

¹⁰ IBISWorld (2021) *Industry associations in Australia*, pp. 7, 33–37, <https://www.ibisworld.com/au/industry/industry-associations/683/>

Table 1: Trade association revenue figures

Trade associations profiled	Membership	Revenue
Airlines for Australia and New Zealand	Airlines	Not found
Australasian Gaming Council*	Gambling companies	\$0.5m (2020–21)
Australian Banking Association	Banks	\$14m (2021–22)
Australian Constructors Association	Construction and infrastructure contracting companies	\$3m (2020–21)
Australian Energy Council	Electricity and downstream natural gas businesses in wholesale and retail markets	\$4m (2020–21)
APPEA / Australian Energy Producers	Oil and gas explorers and producers	\$17.1m (2022–23)
Australian Industry Greenhouse Network	Oil and gas and mining industries	\$0.4m (2022–2023)
Australian Industry Group	Businesses generally	\$68m (2021–22)
Australian Pipeline and Gas Association	Gas pipeline industry	\$3m (2020–21)
Australian Private Hospitals Association	Private hospitals	\$2m (2020–21)
Business Council of Australia	Major corporations	\$13m (2022–23)
Carbon Market Institute	Businesses involved in carbon credits	\$2m (2020–21)
Chemistry Australia	Chemical industry	\$2m (2020–21)
Federal Chamber of Automotive Industries	Importers and distributors of new vehicles	\$6m (2021)
Financial Services Council	Financial services sector	\$7m (2022–2023)
Large Format Retail Association	“Big box” retailers	\$1m (2020–21)
Manufacturing Australia	Large manufacturers	\$1m (2020–21)
Minerals Council of Australia	Minerals mining and production sector	\$21m (2021–22)
Property Council of Australia	Property investors, developers and managers	\$38m (2022–23)
Tasmanian Salmonid Growers Association*	Tasmanian salmon farmers	\$2m (2020–21)

Source: Company annual reports and ASIC filings

Note (*): The Australasian Gaming Council and Tasmanian Salmonid Growers Association appear to have ceased operations since this research project began.

Patterns across trade associations

The 20 trade associations profiled represent different sectors, pursue different agendas and provide different services to members. Some are mostly or exclusively lobbying bodies, running political campaigns for the benefit of their industry. Others provide substantial membership benefits, like research, training and networking events. Some provide “private ordering”, setting standards and codes (voluntary or mandatory) for the sector.

Political associations

The vast majority of trade associations had at least some political associations, which included staff or directors who were former parliamentarians, ministers, regulators or political staffers, and former staff or directors who were now parliamentarians, ministers, regulators or political staffers.

To some extent, this may reflect that skills and values overlap between politics, government and lobbying. However, when personnel freely pass between political/government and lobbying roles (the “revolving door”), there is a danger of cosy relationships and perceived conflicts of interest developing. Regulators may have one eye on a future career while overseeing the industry, or bring to their role loyalties from their previous employment.¹¹

Resources for members

Almost all trade associations profiled provided some resources for members, including networking opportunities, information sharing and fact sheets. In most cases, however, these resources did not seem to be the main reason for the association’s existence or a major part of the value the association provided.

Standards for members

A distinctive service provided by trade associations is professional standards of some sort, variously described as codes, principles, guides or standards. These are intended to improve the quality of the sector as a whole, and are for the most part voluntary.

Most trade associations provided voluntary standards or codes of conduct, identified professional standards available elsewhere that members could adopt or provided guidance on how to develop internal codes of conduct and policies.

¹¹ For more on the revolving door, see for example Rennie (2016) *The revolving door: why politicians become lobbyists, and lobbyists become politicians*

One of the functions served by trade associations is “private ordering”, when regulatory authority is exercised by private actors like companies or trade associations, instead of the government. Where professional standards are mandatory or involve a sanction for non-compliance, they serve as a form of private ordering. Such private ordering can be more extensive, efficient or effective than government regulation, because the sector is sometimes more highly-motivated or better-informed than the state is.¹²

Whereas voluntary codes were common, enforceable codes were found in only two trade associations: the Australian Banking Association (ABA) and the Financial Services Council.

The ABA has an enforceable code of conduct registered with the Australian Securities & Investments Commission (ASIC).¹³ The Banking Code Compliance Committee (BCCC) was established to monitor the code. The BCCC’s most serious sanction is to publicly name a bank, which it had done twice in its first three years of operation. The BCCC reports that banks have failed to take investigations seriously.¹⁴

The BCCC’s powers can only be increased with the agreement of the ABA. The ABA had delayed deciding on whether it supported the BCCC’s recommendations to increase its power. Banking analyst Brian Johnson says banks “really don’t want to see anything codified. Banks generally are scared of regulation coming through”.¹⁵ Later that year, the ABA “accepted most of the recommendations within its remit”.¹⁶

The Financial Services Council’s role in private ordering is more extensive. It has about 10 standards that are mandatory for full members, including a code of ethics and a code of conduct; minimum standards of practice for life good practice in native title services; and rules on voting, data collection and claims handling.¹⁷

The Customer Owned Banking Association also has a code registered with ASIC, but it was not one of the 20 trade associations reviewed.¹⁸

¹² For more on private ordering, see Ring (1965) *The role of trade associations in industry self-regulation*, <https://www.jstor.org/stable/25750275>; Schwarcz (2002) *Private ordering*, https://scholarship.law.duke.edu/faculty_scholarship/987

¹³ ASIC (n.d.) *Banking*, <https://asic.gov.au/for-consumers/banking/>

¹⁴ Ziffer (2022) *The banking industry overseer wants more powers, but will it get them?* <https://www.abc.net.au/news/2022-08-22/experts-slam-failure-of-banks-to-self-regulate/101236622>

¹⁵ Ziffer (2022) *The banking industry overseer wants more powers, but will it get them?* <https://www.abc.net.au/news/2022-08-22/experts-slam-failure-of-banks-to-self-regulate/101236622>

¹⁶ BCCC (2022) *BCCC welcomes ABA response to review of Committee’s work*, <https://bankingcode.org.au/bccc-welcomes-aba-response-to-review-of-committees-work/>

¹⁷ Financial Services Council (n.d.) *FSC Standards*, <https://www.fsc.org.au/resources/fsc-standards-and-guidance-notes/standards>

¹⁸ ASIC (n.d.) *Banking*

Policy positions

Most trade associations identified policy positions in one form or another, although this ran the gamut from policy documents on particular topics to top-level policy statements.

Media engagement

Only about half of trade associations regularly engaged with the media, according to whether their websites featured media releases or other evidence. However, among those associations were some that engaged very frequently with the media.

Submissions

Almost all trade associations made submissions to parliamentary or departmental inquiries, and some associations were extremely prolific, making multiple submissions each month.

Research

Most trade associations published research, either written in-house or commissioned from consultants. Much of this research is intended – directly or indirectly – to advance the trade association’s lobbying, by providing evidence of the sector’s economic contribution, making the case for regulation or deregulation favoured by the association, or so on. Some research seems genuinely intended to guide and inform members.

Political contributions

Political contributions were identified from about one in three trade associations. Three trade associations recorded contributions exceeding \$100,000 over a four-year reference period (2018–19 to 2021–22): the Minerals Council (\$720,000), APPEA (now “Australian Energy Producers”) (\$470,000) and the Australian Banking Association (\$380,000).

There have been occasions where much larger sums have been routed through trade associations for political purposes. For example, between November 2016 and May 2017 BHP and Rio each gave \$2.18m to the WA Chamber of Minerals and Energy for political expenditure in relation to the 2017 WA state election.¹⁹ An even more egregious example, the \$20 million campaign against the mining tax, is discussed below. As a consequence, there can be a credible threat of a significant ramp up in trade association political expenditure.

¹⁹ Elections WA (2017) *The Chamber of Minerals and Energy 2017 state election return*, https://www.elections.wa.gov.au/sites/default/files/political_funding/SGE17%20-%20FD8%20-%20ChamberMineralsEnergy.pdf

Misalignments

A misalignment of interests occurs when the interests of a beneficiary differ from the interests of the agent trusted to make decisions on behalf of that beneficiary. For example, within a company there may be a misalignment between shareholders, who want long-term gains, and boards and executives whose compensation is based on short-term gains.

Shareholders are also likely to be more interested in the long-term overall health of the stock market versus the performance of a single company and more interested in environmental, social and governance outcomes. Boards and executives may be more interested in the short-term health of their company or their sector, since they will have skills specific to that company and that sector and competitor companies are possible future employers.

These potential misalignments also arise between trade associations and their members. Trade associations may be influenced by a few major members, or by the career objectives of their staff and directors, to act to the detriment of member companies as a whole. Trade associations may pursue the “lowest common denominator” policy from among their members.²⁰ And even if a trade association is aligned with the interests of most of its members, there may be some members with whom they are misaligned.

Companies that identify misalignments pursue a variety of strategies, including making representations to the association on the company’s position, collaborating within the association, auditing the association’s policies or performance, seeking positions of influence within the association to attempt to change its direction, making public statements about the misalignment and leaving the association.²¹

²⁰ We Mean Business Coalition (2020) *Addressing trade association misalignment on climate policy*, <https://www.wemeanbusinesscoalition.org/blog/addressing-trade-association-misalignment-on-climate-policy/>

²¹ Rio Tinto (2021) *Industry Association Disclosure*; We Mean Business Coalition (2020) *Addressing trade association misalignment on climate policy*, p. 3

MISALIGNMENTS IDENTIFIED

The Australia Institute identified potential misalignments between trade associations and their member companies or their member companies' shareholders (or both).

Special treatment

Trade associations can be effective lobbyists for their members to receive special treatment, whether it is subsidies, exclusion from certain regulation or privileged access to markets.

This benefit may leave companies exposed when that special treatment is withdrawn. It also disadvantages other sectors and the economy as a whole.

Social licence to operate

Trade associations make claims about the economic contribution of their industries. These claims help establish a social licence to operate for industries that have negative social impacts, for example on the climate, environment or public health.

When these claims are spurious or exaggerated, they ultimately reduce confidence in the industry and make it harder for good actors to win trust. Projects that proceed on false pretences are likely to have net negative effects for local communities.

Trade associations may use public relations techniques to manage public outrage instead of addressing underlying issues. Longer-term, this may have a permanent cost to industries even if it allows those industries to continue unaffected in the short term.

Climate action

Trade associations have frequently worked to delay and undermine meaningful climate action. This may serve the short-term financial interests of some of their members, but disadvantage other members who could benefit from the transition to net-zero, as well as disadvantaging shareholders who face an existential threat from runaway climate change.

Climate action is the most frequently acknowledged misalignment. As discussed below, some major energy and mining companies now check for climate misalignment with the trade associations of which they are a member, and has led to those companies quitting some unaligned trade associations.

Public health

There are public health implications for most sectors, whether it is workplace health and safety, the safety of goods produced (such as chemicals or tools) or the personal health implications of a sector's products (poker machines, tobacco, junk food and so on). A trade association that downplays the public health implications of its sector may benefit its members, but not shareholders as a whole.

Political connections

Trade associations are often involved in politics, whether through political contributions; the “revolving door” between regulatory, political and lobbyist roles; or advertising campaigns.

While these political connections can make it easier for the association to lobby for its preferred outcomes, they may backfire after a change in government or if there is a public reaction to political relationships that are perceived as “cosy”.

There is also a risk of overreach. A trade association that makes demands that are not met may expose its weakness, and lose credibility. Politicians and the public may be more responsive to trade associations that are more sparing in the use of their power and influence.

Resistance to competition

Trade associations draw their membership from incumbent companies. This narrows a trade association's priorities to only one sector, and to existing players in that sector. An association is unlikely to support changes that strengthen the sector or economy as a whole if they come at the expense of incumbents.

Shareholders, on the other hand, may benefit more from a stronger sector or economy.

Priorities of association's people different to sector

The staff and board of a trade association have their own incentives that will not necessarily align with those of the association's members. Staff may have one eye on their future employment opportunities, leading them to focus on flashy or fast policy changes rather than more substantive but slower reforms; or to prioritise the interests of a company that might employ them in the future.

The association's largest members may wield outsized influence.

The association may shut down criticism that makes its staff look bad rather than engage with it, even if the latter would benefit the association's members.

Regulation

Trade associations often argue for reduced regulation of their sector. While this can reduce costs, it can be a false economy if crises emerging from poor regulation lead to public relations disasters, legal problems, regulatory overreach or a backlash from the public.

Low levels of regulation also disadvantage those companies that maintain best-practice policies and systems, since their competitors can cut costs by skimping on these areas.

COMPANIES IDENTIFY MISALIGNMENTS

In Australia, shareholder pressure has forced major companies to review their memberships for misalignments, albeit exclusively on the issue of climate action.

BHP Billiton: BHP publishes details of its membership of associations, including membership fees, BHP's governance role (if any) and the rationale for being a member. BHP has quit the World Coal Association and suspended its membership of the Queensland Resources Council, but, as of 2019, remained a member of other associations with which it had "material differences" in outlook on climate change.²²

Rio Tinto: In 2021, Rio Tinto reviewed its trade association memberships and identified three associations with which it was "partially aligned": the Minerals Council of Australia, the Queensland Resources Council and the US Chamber of Commerce, and one association with which it was "not aligned": the US National Mining Association. Rio Tinto quit the Queensland Resources Council but remained a member of the Minerals Council.²³

Santos: In 2022, Santos was a member of three associations that are "neutral" on climate change: the Australian Resources and Energy Employer Association, the PNG Chamber of Mines and Petroleum, Alaska Oil and Gas Association and the Resource Development Council of Alaska. It will work with two of the associations to improve alignment and considered the other two "appropriate" given the focus of their advocacy.²⁴

Origin Energy: In 2022, Origin reviewed its memberships and found that the Queensland Resources Council, Energy Policy Institute of Australia, International Gas Union, Maritime Industry Australia and World LPG Association were only partially aligned on climate.²⁵

Fortescue Metals Group: In 2022, Fortescue withdrew its membership of the NSW Minerals Council because of the council's continued backing for coal and coal exports and of the DomGas Alliance because of the alliance's position on long-term gas development. It remained a member of 26 associations that are only partially aligned with its values.²⁶

²² BHP (n.d.) *Industry associations*, <https://www.bhp.com/about/operating-ethically/industry-associations>; Evans (2019) *BHP won't quit pro-coal industry groups*, <https://www.theaustralian.com.au/business/mining-energy/bhp-wont-quit-procoal-industry-groups/news-story/ce57d8ef2061204fd958a44543155fc2>; Williams (2018) *Top Miner BHP Quits World Coal Association Over Climate Clash*, <https://www.bloomberg.com/news/articles/2018-04-05/top-miner-bhp-quits-world-coal-association-over-climate-clash>

²³ Ker (2022) *Climate conscious Rio Tinto exits Queensland Resources Council*, <https://www.afr.com/companies/mining/climate-conscious-rio-tinto-exits-queensland-resources-council-20220413-p5adbp>; Rio Tinto (2021) *Industry Association Disclosure*

²⁴ Santos (2022) *2022 statement on review of industry associations*, p. 5

²⁵ Origin (2022) *Industry association review*, pp. 7–12

²⁶ Fortescue (2022) *FY22 industry association report*, pp. 7–8, 10–23, <https://www.fmgil.com.au/docs/default-source/corporate-governance-documents/industry-association-report-v1.pdf>

CASE STUDY: THE TRAIL FROM AUSTRALIAN SHAREHOLDERS' FUNDS TO THE CAPITOL HILL RIOT

The US Chamber of Commerce describes itself as the world's largest business organisation and is considered the largest lobbying group in the US.²⁷ It does not publicly reveal its donors or members.

A report published by the US-based Center for Political Accountability (CPA) in April 2022 scrutinises connections between corporations and political activity. Certain organisations and campaigns can pose an existential threat to democratic institutions – such as the storming of the U.S. Capitol on 6 January 2021.²⁸ The intent of this riot was to prevent the certification by the Congress of the election result.

The US Rule of Law Defence Fund (RLDF) is a branch of the Republican Attorneys General Association (RAGA).²⁹ The RLDF made robocalls “encouraging people to march to the U.S. Capitol”, although the RLDF chair has since claimed the decision to do so was unauthorised.³⁰

According to the CPA report, more than half of RAGA's funding in the 2020 election cycle was attributed to public companies and trade associations. The US Chamber of Commerce provided US\$750,375, making it the largest trade association donor.³¹

Some listed Australian companies with operations in the US have current ties to the US Chamber of Commerce, either as members or by making other payments to the Chamber or its affiliates.³² Hence, some Australian companies are distributing shareholder funds to organisations that have encouraged activities highly detrimental to the long term health of US democracy.

²⁷ Influence Watch (n.d.) *Chamber of Commerce of the United States of America*, <https://www.influencewatch.org/non-profit/chamber-of-commerce-of-the-united-states-of-america/>; US Chamber of Commerce (n.d.) *About the US Chamber of Commerce*, <https://www.uschamber.com/about>

²⁸ Center for Political Accountability (2022) *Practical stake*

²⁹ Center for Political Accountability (2022) *Practical stake*, p. 10

³⁰ Corey (2021) *Republican attorneys general dark money group organized protest preceding Capitol mob attack*, <https://documented.net/reporting/republican-attorneys-general-dark-money-group-organized-protest-preceding-capitol-mob-attack>; Strickler & Cavazuti (2021) *Republican AGs group sent robocalls urging march to the Capitol*, <https://www.nbcnews.com/news/us-news/republican-ags-group-sent-robocalls-urging-march-capitol-n1253581>

³¹ Center for Political Accountability (2022) *Practical stake*, p. 10

³² See for example Brambles (2023) *Global Reporting Initiative*, secs. 2–2, <https://www.brambles.com/gri-index>

After the Capitol Hill riot

Some Australian companies have donated to members of Congress who voted against certifying the 2020 US presidential election, or contribute to trade associations who donate to those members of Congress.

In August 2024, Democracy and Donations, a small US-based organisation, identified three Australia-based companies whose US subsidiaries donated “to the campaigns of U.S. Congress members after they voted against certifying the results of the 2020 U.S. presidential election”: Austal, CSL Limited and Rio Tinto.³³

Seven Australia-based companies have a connection with US trade associations that “donated to certain U.S. Congress members after they voted against certifying the 2020 election results”: Austal, CSL Limited, Endeavour Energy, Rio Tinto, South32, TasNetworks and TNA Solutions. Endeavour Energy is 49.6% owned by the state of New South Wales; TasNetworks is wholly owned by the state of Tasmania.³⁴

³³ Donations and Democracy (2024) *Australia briefing*, <https://donations-and-democracy.org/australia-briefing>

³⁴ Donations and Democracy (2024) *Australia briefing*

Trade association influence

Recent Australian political history shows the power and influence of trade associations.

The “greenhouse mafia”

The Australian Industry Greenhouse Network (AIGN) (self-described as the “greenhouse mafia”) used its access to the Howard Government to undermine climate action.³⁵

Labor drops mining tax

In 2010, the Rudd Labor Government announced a mining tax. The Minerals Council of Australia spent about \$20 million of a budgeted \$100 million on an advertising campaign critical of the tax. Opposition Leader Tony Abbott urged mining companies “you need to become political activists – at least for a few months, at least for a couple of years”.³⁶ Prime Minister Kevin Rudd was soon replaced by Julia Gillard, who negotiated a different, lower tax. The mining tax was just the most visible of three major campaigns run against the Rudd–Gillard Governments.³⁷

The ad campaign saved the industry \$4.6 billion over two years, “a return on investment of 20,800 per cent”.³⁸ However, it may have hurt other corporations, since the mining tax would have funded a cut to the overall company tax rate.³⁹

³⁵ Cohen (2006) *The Greenhouse Mafia*, <https://www.abc.net.au/4corners/the-greenhouse-mafia/8953566>

³⁶ Packham (2011) *Tony Abbott presses mining companies to become political activists to fight carbon tax*, <https://www.theaustralian.com.au/nation/climate/tony-abbott-presses-mining-companies-to-become-political-activists-to-fight-carbon-tax/news-story/87d339a9fe6327d474b2a176889276e6>

³⁷ Carbonell (2010) *Mining industry wins the advertising war*, <https://www.abc.net.au/worldtoday/content/2010/s2943169.htm>; Hobbs & McKnight (2013) *Public contest through the popular media: The mining industry’s advertising war against the Australian Labor Government*, https://www.researchgate.net/publication/257939490_Public_Contest_through_the_Popular_Media_The_Mining_Industry%27s_Advertising_War_against_the_Australian_Labor_Government; Osborne & AAP Senior Political Writer (2011) *Mining firms spend \$20m to fight tax*, <https://www.smh.com.au/national/mining-firms-spend-20m-to-fight-tax-20110201-1ac46.html>

³⁸ Hartcher (2011) *Give us \$52m, and we will decide who runs the country*, <https://www.smh.com.au/politics/federal/give-us-52m-and-we-will-decide-who-runs-the-country-20110201-1aceo.html>

³⁹ Hobbs & McKnight (2013) *Public contest through the popular media: The mining industry’s advertising war against the Australian Labor Government*

Labor drops poker machine reform

In 2012, the Gillard Government dropped its plan to implement mandatory pre-commitment for poker machines.⁴⁰ Clubs Australia had lobbied many Labor MPs, particularly those in marginal seats, for that outcome, in a “ferocious” campaign.⁴¹ Clubs Australia also reported that they had met with a close ally of then Foreign Minister Kevin Rudd, saying: “It was made clear at that meeting that Kevin Rudd was sympathetic to the concerns of clubs and as Prime Minister he would kill mandatory pre-commitment.” Rudd denied the claim.⁴²

BCA influence over Abbott Government

Prime Minister Tony Abbott says that a BCA report on reform was “a masterly blueprint” and his government tried to adopt most of it, “only to be thwarted by a populist Senate”.⁴³

Abbott appointed Business Council of Australia president Tony Shepherd to the National Commission of Audit, described as “a line-by-line audit of federal spending and make recommendations to influence proposed spending cuts in their first budget”.⁴⁴ Australia Institute research at the time identified this as a deeply flawed document.⁴⁵

⁴⁰ Martin, O’Keefe, & Beniuk (2012) *Wilkie dumps ALP over broken pokies deal*, <https://www.smh.com.au/national/wilkie-dumps-alp-over-broken-pokies-deal-20120121-1qb04.html>

⁴¹ Griffiths (2012) *Gillard defends tearing up pokies deal*, <https://www.abc.net.au/news/2012-01-23/gillard-defends-pokies-trial/3787500>; McGowan (2021) *NSW Nationals party room unanimously opposes introduction of prepaid gambling cards*, <https://www.theguardian.com/australia-news/2021/feb/23/nsw-nationals-party-room-unanimously-opposes-introduction-of-pre-paid-gambling-cards>

⁴² 9News (2012) *Rudd denies Clubs Australia pokie claims*, <https://www.9news.com.au/national/rudd-denies-clubs-australia-pokie-claims/98270c29-64f4-49a9-82fc-f795ecbf0be9>

⁴³ Kehoe and Durkin (2024) *Has the Business Council lost its mojo?*, <https://www.afr.com/politics/federal/has-the-business-council-lost-its-mojo-20240813-p5k21h>

⁴⁴ Kehoe and Durkin (2024) *Has the Business Council lost its mojo?*

⁴⁵ Richardson, Dennis and Grudnoff (2014) *Auditing the auditors: The People’s Commission of Audit*, <https://australiainstitute.org.au/report/auditing-the-auditors-the-peoples-commission-of-audit/>

Tasmanian Labor loses election after poker machine policy

In 2018, the Tasmanian Labor Opposition brought a proposal to remove poker machines from pubs and clubs in the state to the election.

The Tasmanian Hospitality Association donated about \$270,000 to the Liberal Party and spent more than \$620,000 on a “Love Your Local” campaign.⁴⁶ Clubs ran ads reading “LABOR & THE GREENS THINK YOU’RE STUPID. WHAT’S NEXT? DON’T LET THEM TELL YOU WHAT TO DO”.⁴⁷ Labor estimated that, even before the election, the Liberal Party and hospitality industry had spent \$5 million on advertising, outspending Labor 10:1 on TV advertising.⁴⁸

While the Labor Opposition increased its seats at the election, the Liberal Government won an outright majority of both votes and seats.

ClubsNSW memorandum with Liberals and Nationals

Ahead of the 2019 NSW state election, ClubsNSW struck a memorandum of understanding with the Liberal and National parties, the fourth such agreement. The Liberal–National Government agreed to be bound by the agreement, which guaranteed the clubs a particular gaming tax regime, reduced regulation and collaboration on programs.⁴⁹

Labor drops civil penalties for finance executives

In 2022, the Albanese Government pulled financial services bills that would have imposed \$1.1 million fines on finance executives who fail to take reasonable steps to prevent systemic misconduct. Bank chief executives and the Customer Owned Bank Association lobbied Treasurer Jim Chalmers.⁵⁰

⁴⁶ Baker (2021) *Tasmanian Hospitality Association receives millions in grants after lobbying against Greens, Labor*, <https://www.abc.net.au/news/2021-11-21/tasmanian-hospitality-association-promised-15-million-in-funding/100636750>

⁴⁷ O’Malley (2018) *Rebecca White: The politician who wants to remove pokies from pubs and clubs*, <https://www.smh.com.au/national/rebecca-white-the-politician-who-wants-to-remove-every-pokie-in-her-state-20180223-h0wjta.html>

⁴⁸ Morton (2018) *‘Labor thinks you’re stupid’: pokies lobby fights hard in Tasmanian election*, <https://www.theguardian.com/australia-news/2018/feb/23/labor-thinks-youre-stupid-pokies-lobby-fights-hard-in-tasmanian-election>

⁴⁹ Liberal Party of NSW, ClubsNSW, & NSW Nationals (2018) *Memorandum of understanding: Building strong communities*, <https://www.clubsnsw.com.au/sites/default/files/2018-10/MOU%20-%20%20Circular%2018-082.pdf>

⁵⁰ Clun (2022) *Million-dollar fines dumped after bankers raised ‘legitimate concerns,’* <https://www.smh.com.au/politics/federal/million-dollar-fines-dumped-after-bankers-raised-legitimate-concerns-20221124-p5c159.html>

Minerals Council strategic polling in NSW election

During the 2023 NSW state election, the Perrottet Government “accused the New South Wales Minerals Council of feeding data to the media to undermine the Coalition.” Sky News reported selective polling data from an unidentified source that suggested Energy Minister (and Treasurer) Matt Kean would come close to losing his seat and that he was “a net negative” on the Coalition’s prospects in three key seats. The polling included leading questions like “Do you agree that Matt Kean is responsible for pushing up energy prices?”⁵¹

⁵¹ Hannam (2023) *NSW Liberals accuse Minerals Council of feeding poll data that undermines Matt Kean to the media*, <https://www.theguardian.com/australia-news/2023/mar/23/nsw-liberals-accuse-minerals-council-of-feeding-poll-data-that-undermines-matt-kean-to-the-media>

FADING INFLUENCE?

In recent years, trade associations and lobby groups have struggled to influence policy.

In 2016, senior Liberal Michael Kroger was critical of the BCA's failure to influence the tax debate, saying the association had "no idea how to influence public opinion" and that its CEO Jennifer Westacott should be sacked.⁵² Two years later, the BCA failed to convince Australians or the Senate of the merits of a company tax cut, and Westacott was rejected for the *Australian Financial Review's* 2018 list of the most powerful Australians on the basis that the BCA "is either outgunned ... or lacks resolve".⁵³ In the end, companies that received a company tax cut were those too small to be eligible to join the BCA.⁵⁴

In 2022 the Minerals Council of Australia, NSW Minerals Council and Queensland Resources Council were "preparing to replicate and exceed the \$22m anti-mining tax campaign that led to Kevin Rudd's demise if the Albanese government imposes new taxes and multi-employer bargaining on miners".⁵⁵ The Australian Resources and Energy Employer Association threatened a \$20 million ad campaign.⁵⁶ The Australian Chamber of Commerce and Industry claimed that Albanese Government industrial relations reforms were "a fantasy product".⁵⁷ The government proceeded regardless.⁵⁸

Similarly, the gas industry warned that the Albanese Government's intervention in gas prices could threaten gas projects. The intervention went ahead.⁵⁹

In September 2024, John Kehoe and Patrick Durkin of the *Australian Financial Review* report that the BCA "finds itself at a crossroads", with a "growing number of business and political leaders" questioning its effectiveness, particularly after multi-employer bargaining was adopted. Peter Costello says that "The BCA's influence is at the lowest level since it was

⁵² Coorey (2016) *Michael Kroger says the BCA is "20 years out of date,"* <https://www.afr.com/politics/michael-kroger-says-the-bca-is-20-years-out-of-date-20160816-gqtgxd>; Hepworth (2016) *Business leaders rule Michael Kroger's BCA slur 'out of line,'* <https://theaustralian.com.au/national-affairs/business-leaders-rule-michael-krogers-bca-slur-out-of-line/news-story/96322678fc8272ff9a8652daa46ef010>

⁵³ Coorey (2018) *The 20 most powerful people in Australia in 2018,* <https://www.afr.com/work-and-careers/management/the-20-most-powerful-people-in-australia-in-2018-20180814-h13xqu>

⁵⁴ Kehoe and Durkin (2024) *Has the Business Council lost its mojo?*

⁵⁵ Chambers & Shanahan (2022) *Miners to top 'Rudd tax' campaign in battle over multi-employer bargaining,* <https://www.theaustralian.com.au/nation/politics/miners-dig-in-for-allout-tax-war-over-taxes-and-multiemployer-bargaining/news-story/31c8ab2a57ddda8cca5f75496370e926>

⁵⁶ Aston (2022) *Business groups in IR comeuppance,* <https://www.afr.com/rear-window/business-groups-in-ir-comeuppance-20221127-p5c1mv>

⁵⁷ Roskam (2023) *Bran Black has the hardest job in Australia,* <https://www.afr.com/policy/economy/bran-black-has-the-hardest-job-in-australia-20231004-p5e9tz>

⁵⁸ Coorey (2022) *Mining tax-style campaign? Go for it, says Labor,* <https://www.afr.com/politics/federal/mining-tax-style-campaign-go-for-it-says-labor-20221212-p5c5o4>

⁵⁹ Macdonald-Smith (2022) *Gas plan threatens billions in investments,* <https://www.afr.com/companies/energy/wrong-approach-gas-plan-threatens-supply-20221211-p5c5fi>

formed.” It also proved difficult to fill the role of BCA CEO, with four candidates reportedly turning it down. The trade association’s influence with the Coalition Opposition is at a low ebb.⁶⁰

At the state level, Queensland miners planned a \$40 million advertising campaign against the state government’s coal royalty tax,⁶¹ which did not deter the Palaszczuk Government.

In NSW, the Perrottet Government proceeded with its cashless gambling card scheme despite anger from ClubsNSW, including a “Reform the Right Way” campaign, personal attacks on the Premier and supportive MPs and allegations of misleading robo-calls.⁶² The government also considered banning donations from clubs with poker machines, “a significant blow to the influence of the gambling industry”.⁶³ Perrottet ruled out signing a new memorandum of understanding with the clubs until “until there is agreement on recommendations from the NSW Crime Commission”.⁶⁴

That said, the NSW Liberals were defeated at the 2023 NSW election, and delays to the Minns Labor Government’s more modest proposed trial were attributed by Greens MLC Cate Faehrmann to interference by the gambling industry.⁶⁵

⁶⁰ Kehoe and Durkin (2024) *Has the Business Council lost its mojo?*

⁶¹ Malcolm & Shanahan (2022) *Queensland miners to mount \$40m anti-tax campaign*, <https://www.theaustralian.com.au/nation/politics/queensland-miners-to-mount-40m-antitax-campaign/news-story/a1e0de2169a33a9f55855649a6421386>

⁶² Chrysanthos & Rabe (2022) *‘Not going to be threatened’: Perrottet stares down ClubsNSW scare campaign*, <https://www.smh.com.au/politics/nsw/not-going-to-be-threatened-perrottet-stares-down-clubsnsw-scare-campaign-20221212-p5c5jc.html>; Cormack (2022) *Listen: Mysterious robo-calls deployed by pokie reform opponents in new tactic*, <https://www.smh.com.au/politics/nsw/listen-mysterious-robo-calls-deployed-by-pokie-reform-opponents-in-new-tactic-20221213-p5c5y0.html>

⁶³ Rabe & Cormack (2023) *Perrottet moves to ban club donations in blow to gaming industry*, <https://www.smh.com.au/politics/nsw/perrottet-moves-to-ban-club-donations-in-blow-to-gaming-industry-20230119-p5ce1o.html>

⁶⁴ Jones (2022) *Perrottet says no clubs MoU until reform*, <https://clubmanagement.com.au/perrottet-says-no-clubs-mou-until-reform/>

⁶⁵ Alexander (2023) *NSW cashless gaming trial delayed by wrangling over independent panel*, <https://www.smh.com.au/national/nsw/nsw-cashless-gaming-trial-delayed-by-wrangling-over-independent-panel-20230620-p5di12.html>

Regulation of trade associations

Discussion on how to regulate trade associations has, to date, mostly focused on competition law.⁶⁶ However, the powerful influence that these organisations can exercise means attention should be given to how their political activities might be regulated.

Transparency measures

Since trade associations lobby government and parliamentarians, often make political contributions, and may run political advertising campaigns, reforms that make these processes more transparent would shed light on association behaviour.

The Australia Institute has made the case for truth in political advertising laws, transparency of ministerial diaries to show who is meeting with decision-makers, and a lower threshold before political contributions must be disclosed.⁶⁷

Regulation that requires trade associations to disclose their members and the amount of money contributed by each member would also help illuminate corporate influence.

Shareholder approval of memberships and donations

In the United Kingdom, public companies require the approval of shareholders at an annual general meeting in order to make political donations.⁶⁸

Requiring public companies to secure shareholder approval of political donations and memberships of trade associations would encourage boards to ensure company activities better align with the interests of their shareholders.

⁶⁶ See for example ACCC (2018) *Industry associations*, <https://www.accc.gov.au/business/associations-and-professional-services/industry-associations>

⁶⁷ Browne (2019) *We can handle the truth: opportunities for truth in political advertising*, <https://australiainstitute.org.au/report/we-can-handle-the-truth-opportunities-for-truth-in-political-advertising/>; (2022) *Democracy Agenda for the 47th Parliament of Australia*, <https://australiainstitute.org.au/report/democracy-agenda-for-the-47th-parliament-of-australia/>

⁶⁸ Watson & McKenzie (2022) *Shareholders' rights in private and public companies in the UK: Overview*, sec. "Issues to be approved at an AGM," <https://uk.practicallaw.thomsonreuters.com/5-613-3685>

No tax deductibility for lobbying and political campaigning

Trade association memberships and political advertising are tax deductible for corporations. In effect, this means the public subsidises industry campaigns to influence government policy. In 2015, the Australia Institute estimated that fossil fuel lobby group memberships alone cost the taxpayer about \$20 million per year.⁶⁹ Removing tax deductibility for lobbying and political campaigning (the latter could be defined as advertisements requiring authorisation) would remove this loophole.

⁶⁹ Campbell et al. (2015) *Powers of deduction: tax deductions, environmental organisations and the mining industry*, p. 11, <https://australiainstitute.org.au/report/powers-of-deduction-tax-deductions-environmental-organisations-and-the-mining-industry/>

Conclusion

Detailed research on twenty of Australia's largest or most influential trade associations shows that trade associations are well-resourced, produce large volumes of literature in the form of research papers and submissions and are closely integrated into the Australian political class, and allow the four questions posed in the introduction to be answered.

Can shareholders in ASX-listed companies be sure that the money the companies pass to trade associations is used for purposes which benefit shareholders?

Some fossil fuel companies have improved disclosure as to the congruence between the interests of the company and the climate policies and lobbying of the trade associations they belong to. Outside that situation such disclosure is uncommon, almost unknown.

As a general rule companies do not disclose payments to trade associations which will or may be used for political purposes unless that disclosure is required by law. It is unusual for companies to require trade associations to which they belong to provide them a report to ensure the activities of the trade association are in accord with the core values espoused by the company. It is rare to see consideration by trade associations or member companies of the potential economic and social harm posed by trade association political activity.

Does Australia have a problem with substantial flows of political money each year going through trade associations, as the United States does?

The limited political finance disclosures that are publicly available suggests that Australia does not have such a problem, but Australia does have two associated problems.

The first is that there is a credible threat that a lot of money can be raised from at least some industries and routed through trade associations to campaign against decisions contrary to the financial interests of the trade association members and/or the human capital interests of the people involved in the trade association.

The second is that a significant part of influential intellectual input to policy making is left to trade associations. Their submissions and research can be short termist or self-serving and are too rarely questioned by politicians, bureaucrats and regulators.

What evidence is there that the revolving door between politics, regulators and trade associations can be found in Australia?

There is evidence of a revolving door, but it is more pronounced in some industries.

Do trade associations in Australia in general provide much by way of private ordering?

Trade associations often have guidelines but only two sampled (the Australian Banking Association and the Financial Services Council) had evidence of enforced standards or codes.