CLEAN ECONOMY JOBS, RESOURCES AND TRANSPORT COMMITTEE

Members present:
Ms KE Richards MP—Chair
Mr PT Weir MP
Mr BW Head MP
Ms M Nightingale MP
Mr JA Sullivan MP
Mr LA Walker MP (virtual)
Mr TJ Watts MP

Staff present:
Dr A Ward—Committee Secretary
Mr Z Dadic—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE RESOURCES SAFETY AND HEALTH LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Monday, 13 May 2024

Brisbane

MONDAY, 13 MAY 2024

The committee met at 11.30 am.

CHAIR: Good morning. I declare open the Brisbane public hearing for the committee's inquiry into the Resources Safety and Health Legislation Amendment Bill 2024. My name is Kim Richards. I am the member for Redlands and chair of the committee. I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders both past, present and emerging. We are very fortunate in this country to have two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all now share.

With me here today are Pat Weir, the member for Condamine and deputy chair; Bryson Head, the member for Callide; Jimmy Sullivan, the member for Stafford, who is substituting for the member for Lytton, Joan Pease; Les Walker, the member for Mundingburra, via video link; and Trevor Watts, the member for Toowoomba North. This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind everybody that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. If everyone could turn their phones to silent or turn them off that would be terrific.

HILL, Mr Jason, Industry Safety and Health Representative, Mining and Energy Union, Queensland District.

HUGHES, Mr Mitch, District President, Mining and Energy Union, Queensland District

NEWMAN, Mr Chris, Senior Legal Officer, Mining and Energy Union, Queensland District

WATTS, Mr Steve, Industry Safety and Health Representative, Mining and Energy Union, Queensland District

CHAIR: Welcome. If you would like to make an opening statement and then the committee will have some questions for you.

Mr Hughes: Firstly, I want to thank the committee for working with us to enable us to attend. The committee may be aware we recently lost ISHR, Stephen Woods, and we were waiting to confirm funeral arrangements before we could confirm our attendance. I want to acknowledge that and thank you for working with us on that. Safety and health legislation was first introduced for our industry as standalone legislation following the disaster in Mount Mulligan which saw three quarters of the male population of the township killed. Since 1925 this legislation has been in place. The MEU is the only union that elects and employs three full-time ISHRs to protect the safety and health of all coalmine workers and we support those principles continuing.

As the committee will see from our submission, the MEU supports the amendments overall, but has proposed some further amendments to improve the legislation to better provide clarity on functions, obligations and responsibilities for those who are in charge of the health and safety of coalmine workers. The MEU also believe that there is a missed opportunity in some aspects to further improve in some areas such as the prevention of dust related diseases. Over the last decade there have been a number of fatalities, serious accidents and injuries and then four years ago the Grosvenor explosion. A board of inquiry followed after the Grosvenor explosion and that inquiry made a number of recommendations. Some of those recommendations are still outstanding. The state government will be aware that the MEU will continue to push for reforms and the implementation of all those recommendations that improve the standards and protections for all coalmine workers and we welcome the opportunity to be here today to answer any questions the committee may have of

the MEU. We do note that other parties have not yet had their submissions published so at this stage the MEU may have to take some questions on notice if we are asked about our views based on other parties' submissions and proposed amendments. I will leave my brief opening statement there, Chair.

Mr WEIR: Thank you for being here today. One of the things you raise is the definition of a supervisor. Do you have some concerns with the way that is specified?

Mr Watts: The specific wording around the definition where it says, I believe, 'to implement and monitor', most supervisors in the industry on the AQF 4 level, examples would be deputies, OCEs and other frontline supervisors, their role is to apply and monitor, not implement and monitor. I think it is important to get consistent wording with the AQF and competencies that they require. Most supervisors are not implementing the SHMS, they are applying it and monitoring it.

Mr WEIR: That would be another role. That is not their role, is that what you are saying?

Mr Watts: It is not their role to implement, no.

Mr WEIR: You think that is a mistake?

Mr Watts: I think so. Maybe it is someone not understanding terminology. You want consistent terminology. We say just swap out 'implement' with 'apply'. 'Apply' will pick up every level of supervision, not just your senior leadership.

Mr Newman: I think you will find there are a number of levels within the supervisory scale in the AQF framework. If you look at the superintendent level, their responsibility is implementation. That is not the supervisory level. If you were to maintain consistency you would need to actually separate the difference between a superintendent and a supervisor as per the AQF's scale or you would just have to keep it the way it was. That is the problem with it: you are widening the scope of supervisor because you have not properly defined it as per what the AQF is, which splits different levels of supervisory levels there. Some of them have the ability to implement and some of them do not.

Mr WEIR: Basically, the way this is worded at the moment they would need upskilling to do that role?

Mr Newman: It is just outside the purview of their jurisdictional role. They are meant to be more of the direction to coalmine workers and to apply it as it is written, not to implement.

Mr HEAD: In relation to the need for the SSE being at or near a mine site, I am just wondering whether you could provide some insight as to whether you are supportive of that in principle or whether you think for the sake of ensuring quality, competent and highly qualified personnel must remain in those roles and wish to be employed in those roles. Do you foresee any issues with this and whether it aligns with other jurisdictions?

Mr Hill: We did not really comment on that, but we agree with that process and cannot see it hindering anything else. It will actually improve the health and safety due to the forecast that the people running the mine will be near the mine at all times.

Mr HEAD: Is it more important for a highly qualified SSE to be at hand and available for communication or physically on site? Is there a need for them to be physically on site to give instruction with regard to safety? I am just wanting to unpack that a bit more.

Mr Hill: I think the communication is what it is about. It is the pathway. To be practically close to site, I forget what the exact wording is, the ability to get to site in a short period of time to control the mine. There are obviously different aspects of dealing with situations. You get the information or you go and see it firsthand. You get a better application of what decision-making you are making when you actually go to site and visually see it and get the information firsthand rather than relying on other forms of communication when you are away from the site.

Mr WATTS: Thank you for being here. I am interested in your recommendation about who is responsible for dust monitoring and how that should be implemented in terms of the regulator taking responsibility for that. If you could just expand on that and why you think that is the methodology to go with.

Mr Hill: On that, I think the recent debacle of the health assessment system where the doctors in Mackay got caught—I suppose the investigation is still ongoing on that, but there was an issue in Mackay where 150 health assessments were not aboveboard. The same goes with dust monitoring. The regulator should be doing dust monitoring alongside the companies to ensure that there is compliance with the dust monitoring systems that are happening there now, not just leaving it up to the SSEs or the mine bosses to do the monitoring without any verification that what they are doing is correct and accurate. We are big advocators for independent dust monitoring and independent

medicals and what has been shown up in Mackay actually proves where we stand is correct, that we need independent medicals or health surveillance and independent dust monitoring because if you put the wolf in charge of the henhouse your chooks are going to get eaten.

Mr WATTS: I think the black lung report shows that this is an area that needs to be closely looked at going forward. In terms of the capacity of the department to do that, do you think they have the capacity or would the recommendation come with some suggestion that they increase their capacity?

Mr Hill: They probably would need to increase their capacity a bit. I know other jurisdictions in the world do similar things. In the United States, for example, the company does their own dust monitoring but then the regulator goes through the mines and does dust monitoring as a verification, I suppose, that what is coming from the company is true and accurate and there is compliance. We require that the mines themselves and the SSE verifies all his actions and I think the regulator needs to verify what they are doing is true and accurate as well.

Mr WATTS: If you are aware of other jurisdictions that are doing this well, it would be really helpful if you could let us know so that we can get a hold of what they do.

Mr Hill: I know the United States do that where the regulator does go and do that. The mines have a different system where they are using the PDM real-time monitoring as well to conduct their own monitoring and the regulator goes in there and verifies that as well. There is a bit more on that we might be able to pass on.

Mr SULLIVAN: Given I am a guest of this committee, forgive me if this is an obvious question: in your submission you spoke about the current display of the identity of the site's SSHRs in conspicuous positions in the mine 'in a way likely to come to the attention of coal mine worker at the mine'. I think you put forward that you want to include examples such as 'near the mine record' or 'in the crib room'. I think the drafting of the legislation was intended to list examples but it not be an exclusive list. I think in the current drafting you would still be able to use 'near the mine record' or 'in the crib room', but do you think that needs to be specifically included in the examples in terms of practicality?

Mr Watts: Yes, examples are great, but the example 'near the mine record' is a very poor example because the mine record in the old days used to be a book near the mine entrance or somewhere everyone could see it. Now it is on a computer, so to have a display of something near the mine record might be in an office where no-one is going to see it. I understand the wording does say 'conspicuous positions ... likely to come to the attention of workers', but if it is next to a computer with a mine record in an office somewhere there might be an argument 'we have satisfied that, it is near the mine record'.

Mr Hughes: There is the practicalities for some of the areas of these mines—they are huge. You might see the SSHR contact details at the entrance to the mine and then you have to travel 20 to 40 minutes to the other end and you do not see those details again until you come back out after a 12-hour shift. There is the possibility, the potential, to forget those details if you really need them. I think it is just good to have the display in as many locations as readily accessible to the workforce as possible.

Mr Watts: I will say on the flip side in the crib room is a great example. If every mine did it that would be brilliant. In the crib room everyone would see it; near the mine record—not.

Mr SULLIVAN: Some sites would have several crib rooms, right?

Mr Watts: Yes, crib rooms.

Mr SULLIVAN: You can probably tell I spend a lot of time underground! I am just asking. Thanks.

Mr WEIR: You also talk in your submission about competencies of supervisors and you referred to the Brady review. I am assuming that is the review you were talking to earlier or the board of inquiry into—

Mr Watts: The inquiry—they are two separate things.

Mr WEIR: Then you go on to say that coalmining operators are hiring supervisors with little to no practical mining or trade experience. Are they going into statutory roles? I thought you had to pass an exam before you could go into a statutory position. What do you mean by that if that is not what that is?

Mr Watts: Not for supervisors. There would be a number of supervisors on a mine site, many more than statutory positions under the act. They have to have a certain number of competencies and be appointed by the SSE. In terms of our submission, the issue we are seeing onsite is due to various reasons such as lack of experience of supervisors, and that was certainly highlighted in the Brady review. He pointed out that inadequate supervision has played a part in a lot of serious accidents over the last 20 years. What we are seeing on sites at the moment is supervisors being put in supervisory positions. A couple of examples would be a superintendent, for example, and that is their first job on a coalmine, at superintendent level. Then in relation to other supervisors in the workshops we were getting supervisors of electricians, fitters and boilermakers in workshops who had no trade experience whatsoever. We see that as an issue and this is an opportunity to correct that.

Mr WEIR: Is that an issue that is becoming more prevalent with the labour shortage, or is that an issue that has been there for some time?

Mr Hughes: It has probably been an issue that has come about in the last five to 10 years or so. The point we are trying to make there, though, is if you are responsible for giving direction to a coalmine worker you should at least have the minimum understanding of what that direction means.

Mr Hill: Realistically, a supervisor should have the equivalent of AQF level 4 for that area. For example, if you are a supervisor in a wash plant, you should have the AQF level for processing. That AQF level 4 is the requirement that people need in order to understand, which is apply and monitor, for the area they are supervising, so they have the qualifications and also the skill level that comes with that. If you are a supervisor in a boilermaker shop, you need that skill level with your trade but you also need the AQF of apply and monitor to go on top of that to be the supervisor in that boiler shop. That is where we need to be going if you understand where I am coming from.

Mr Watts: I will point out that in a lot of situations we see people put in the position of supervisor who we do not believe have the necessary experience to be there, so we have put in some experiential requirements as well. Yes, there might be employment shortages and the rest of it, but what we often see is that good, experienced people on the floor are not getting these promotions into supervisory positions. Instead, they are coming from left field, sometimes with no or very little coalmining experience, and going straight into supervisor level.

Mr WEIR: Instead of working their way up?

Mr Watts: Yes. Experience is the best way to learn.

CHAIR: Could you talk a little bit about your concerns about the election process for the safety and health representatives?

Mr Hill: One thing I make clear on that straightaway is that the proposed legislation talks about 'request'—I think that is the word. I do not believe coalmine workers should have to request to have a safety and health representative elected. Under the proposal we put forward that that needs to be changed to 'inform' the SSE or the ISHRs that they want an SSHR elected; they should not have to ask anyone to have safety and health representatives elected. They should be informing the process—the SSE or whomever—that they are going to have an SSHR elected. By asking that it is putting too much power back into the SSE's hands.

CHAIR: Can you talk a little bit more about your concerns about the enforceable undertakings?

Mr Hill: Yes, we believe also that should be a board—a tripartite process—so it is transparent and systematic and applied with consistency through that process. By leaving it in the hands of the CEO we can see trouble with the transparency and consistency in that process because it affects every person onsite. It can be the SSE or a coalmine worker who could be up for this. I know enforceable undertakings does not normally apply to coalmine workers, but there are provisions in there where it can be placed upon them and so it needs to be consistent and transparent. The only way that can happen is through a tripartite board of the regulator, the union and the QRC.

Mr HEAD: You and other submitters have referred to tripartite working groups and certainly in previous inquiries that has come up a lot. I am curious. Has there been a significant development in that space and is the MEU happy with current arrangements in a tripartite manner as far as developing legislation and reviewing health and safety issues across the mining sector are concerned?

Mr Hill: If you are talking about our relationship with the regulator in the past, it has improved a bit—a fair bit, to tell you the truth. This process that we have gone through with amendment to this legislation has been a bit different from what it has been in the past. Last time it was through a tripartite process, but this time it does not seem to be taking that pathway. We have just been on the outside providing comments on the proposed amendments, so to speak. My understanding is that in the past

the review was done through a tripartite process, but I do not believe it was done that way this time. I am a big believer in the tripartite process. We might not always get along, but I think when everything is done through a tripartite process we end up with the best outcome.

Mr WATTS: My next area of interest is to get your understanding of industrial manslaughter in relation to this and whether you have any recommendations that might improve that area.

Mr Watts: We did not put anything in our submission in regards to that.

Mr WATTS: One of the things that worries me is we can put in place lots of regulation, but we are not always going to get the best people to do the job because the ones who are really smart and understand may look at it and say, 'I don't want to be responsible for industrial manslaughter.' I am interested in where that might sit for you guys in terms of balancing someone who can be held responsible versus someone who is trying to get the mine to be safer.

Mr Hill: With the current aspect of the legislation around industrial manslaughter the bar is so high to reach it nearly becomes irrelevant. I do not think there has been a prosecution for a fatality or a serious accident in the coalmining industry from memory. To get to the industrial manslaughter aspect I think you would have to show real neglect or wilful action. The bar is that high, if that is the way it went you probably would be well deserved to get it.

Mr WATTS: As you see that operating on a mine site now, you feel it is not coming up as an issue simply because the bar is set too high—the standard?

Mr Hill: I believe so, yes. Obviously when the legislation first came out there was a lot of noise and jumping up and down, but I think now people realise the bar is so high you have to really be neglectful to reach it.

Mr Newman: I can answer that a bit more. Because industrial manslaughter has a criminal threshold to it, it can be very difficult to talk about those things unless you are thinking about a specific case or matter. We have certainly had our position in the past about which matters should or should not have been subject to industrial manslaughter and the reasons for it.

In terms of how it can be proved, we are supportive of the enforceable undertakings as an alternative compliance method. Industrial manslaughter should be seen as a range of disciplinary actions or responses to fatalities and serious accidents. It is not always going to be going to the worst, but enforceable undertakings is a way to start ensuring further compliance and safety on a mine site. We are supportive of that. We think that the decision-making should not be in one person's hands. That is for that one person as well as the industry as it promotes transparency to ensure that there is industry buy-in that the enforceable undertaking will be effective. If there is buy-in from a tripartite system there will be more buy-in on it and it will be more effective. In terms of industrial manslaughter, it is very difficult until you see one actually progress and go through. That is all on a case-by-case basis. There is not much more you can really—

Mr WATTS: I guess that is my point. It would be the position of the union that a better enforceable undertaking process that is more robust, transparent and has stakeholder engagement would be more effective; would that be right?

Mr Newman: It is a suite of tools that can be used, yes, one of many tools. What we do not want to see is enforceable undertakings being used in lieu of taking a prosecution when a prosecution is something that could be achieved but the risk might be slightly higher, which will always be the case. In terms of—

Mr SULLIVAN: Sorry to interrupt. Are the undertakings at a civil level rather than a criminal decision-making point in terms of beyond a reasonable doubt?

Mr Newman: They can be for that, yes. But the threshold is—

Mr SULLIVAN: As you say, industrial manslaughter being in the Criminal Code attracts the higher—

Mr Newman:—ramifications. Then as Jason says, the bar would be high and obviously the standard of proof is significantly higher to achieve, which makes it difficult. Our position is that is one of a suite that should be used. It should not be used in lieu of other prosecutions, but it is one of a suite that we would see would be effective regulation of the system provided it is used in an appropriate and effective manner.

Mr SULLIVAN: You made the point, Jason, that it has not been used in the coal industry yet. However, I understand it has already been utilised in the construction industry successfully with prosecutions taken to court. Can I make a comment rather than a question? I want to thank the members for the work that you do. I am sure you had interactions with my predecessor as the member

for Stafford, Dr Lynham, who was very passionate about workplace health and safety including in your industry. It is something that I have taken to heart from him as well. I just wanted to thank you for the work you do.

CHAIR: On behalf of myself and the committee I also want to pass on our deepest sympathies and condolences on the passing of your colleague Stephen Woods. I know you have worked collaboratively with our secretariat and us today, so we are very grateful for your time. Thank you very much for appearing before us today.

BERTRAM, Ms Judy, Deputy Chief Executive, Queensland Resources Council

GOLDSBROUGH, Mr Paul, Health and Safety Policy, Queensland Resources Council

NIELSEN, Ms Julie, Director, Health and Safety, Queensland Resources Council

CHAIR: I now welcome representatives from the Queensland Resources Council. I invite you to make a brief opening statement and then the committee will have some questions for you.

Ms Bertram: Thank you very much. I also acknowledge our sympathies for the passing of Stephen Woods as well. He was a very committed union representative and clearly those sorts of things rock the organisation and industry as well.

CHAIR: Indeed, thank you.

Ms Bertram: The Queensland Resources Council wishes to thank the parliament's Clean Economy Jobs, Resources and Transport Committee for the opportunity to present the collated views of the resources sector on the Resources Safety and Health Amendment Bill 2024. My name is Judy Bertram. I am the Deputy Chief Executive at the Queensland Resources Council. I am joined by Julie Nielsen, Director, Health and Safety, and Paul Goldsborough, also part of the Health and Safety team at the QRC. The QRC is the peak representative organisation of the Queensland minerals and energy sector.

The resources sector is committed to continuous improvement in all areas of work health and safety, and follows the best practice risk-based approach to managing risks of work-related injury and disease. Importantly, the resources sector recognises there is no competitive advantage in safety, and acknowledges the importance of continuing to cooperate and share information, research and learnings. The QRC would like to acknowledge and thank the Minister for Resources and Critical Minerals, the Hon. Scott Stewart, for listening to our concerns in relation to the earlier proposals for an additional certificate of competency for site senior executives, the proposal to establish site safety and health committees and regarding the breadth of the definition of 'critical controls'. In terms of consultation around these major regulatory changes, the QRC is of the view that insufficient time has been provided for stakeholders, and for the parliamentary committee itself to fully consider the implications of the provisions and potential unintended consequences contained in the amendment bill.

I will now provide a brief overview of the QRC's key concerns which are contained in more detail in our submission, along with our proposed solutions. The bill amends the act to introduce new certification requirements to demonstrate competency for surface mine manager, mechanical engineer manager and electrical engineering manager roles. The QRC has repeatedly called for the evidence that demonstrates the need for the new role of SMM as well as the new certification requirements in terms of improved health and safety outcomes. To date, this information has not been forthcoming.

The QRC maintains that the requirement for MEM and EEM positions to hold a certificate of competency issued by the Board of Examiners is unnecessary and may duplicate existing professional standards requirements. In Queensland, the practising engineers must be registered to carry out professional engineering services. QRC believes where an MEM or EEM holds registration as a professional engineer with the Board of Professional Engineers Queensland, clause 25 and 29 should be amended to omit the requirement to hold a certificate of competency issued by the Board of Examiners. The QRC does, however, support the proposed requirement for a practising certificate to ensure contemporary industry knowledge.

In regards to the Board of Examiners, the QRC has concerns regarding the capacity of the Board of Examiners to manage the workload generated by the additional requirements for certain workers to hold a certificate of competency and the ongoing introduction of the expanded practising certificate scheme. The QRC has advised that the new certificate requirements to hold a certificate of competency and practising certificate will require the Board of Examiners to assess as many as 400 applicants within a five-year transition period. Given that these qualifications are yet to be developed, the QRC has serious concerns about the capacity and resources of the BOE to complete these assessments in the required time. The experience with the introduction of ventilation officer certificate of competencies which put business continuity at risk must be avoided.

In relation to information-sharing, the QRC acknowledges the essential role Resources Safety & Health Queensland plays in disseminating information on fatalities, HPIs and serious incidents which inform company decision-making to mitigate safety risks. Clauses 96 and 225 provide for detailed information to be released publicly without any caveat around what is released or how the

information would be used. The QRC proposes that these clauses be omitted from the amendment bill while a high-level tripartite committee is established to develop guidelines for information release and sharing.

In regards to industrial manslaughter, the bill amends the definition of 'employer' in the various mining safety acts to broaden the types of entities that can be categorised as 'employer'. QRC understands the intent of the amendments is to capture labour hire agencies under the definition of 'employer'. We believe the proposed amendments may, however, create confusion by expanding the entities captured by the offence, as well as create confusion regarding potential capture of other workers. The amendments are also silent on concurrent multiple duty holders, including apportionment of liability of multiple duty holders. The QRC believes guidance material should be developed and circulated to workers to provide clarity and reassurance.

With respect to 'located at or near the mine', the requirement in clause 9 for the SSC or acting SSC of a mine to be located at or near the mine site when performing their duties, unless they are temporarily absent, lacks clarity. What does 'at or near' mean? To provide certainty to SSCs and others, QRC recommends that clause 9 be amended to omit 'located at or near the mine site' and insert the equivalent New South Wales provision which requires the position holder to be readily available to exercise and is capable of exercising this statutory function.

Other amendments that are of particular concern to QRC that are outlined in our submission relate to remote operating centres and the new power of ISHRs and DWRs to issue a directive. We welcome your questions.

Mr WEIR: You mentioned the SSC being located at or near the mine site. What is your main concern? What is the current procedure or how is that section changing?

Ms Bertram: Our concern with the proposal is just what does it mean. Is it taking it literally, or does it mean 10 kilometres or does it mean 100 kilometres? Instead, we feel something like the New South Wales provision provides greater understanding of what the purpose of 'at or near' means.

Mr WEIR: When we had a briefing from the department, they indicated that there was a lot of this that was reflecting the New South Wales legislation. Is that not correct?

Ms Bertram: Not in terms of the wording.

Mr Goldsbrough: No, it is not. The New South Wales legislation is quite explicit, and it is about having that relationship where the mine can speak to the SSC at any given point where there is an issue at the mine. It is not based on geographic considerations or anything.

Mr WEIR: It would not take a lot of changing to reflect that current position in New South Wales?

Mr Goldsbrough: That is what we are suggesting. Certainly, the companies or our members have made it clear that that would give them certainty in terms of the operation of the provision.

Mr WEIR: The commencement of offence proceedings has been mentioned in a few submissions. That has been extended from 12 months to two years, but there is no end date; is that right?

Ms Bertram: The concern is that the amendments mean it could basically go on forever. The time period for an investigation is not specified. It is only once the decision is handed over to the workplace prosecutor that there is a time frame.

Mr Goldsbrough: The concern, too, is that it allows for really open-ended processes. We are very concerned about families, work groups and so on. I think we have all experienced instances where, as a result of workplace incidents, it has dragged on and had huge effects on people. We are just very concerned that the clock does not start until the point at which it is referred to the workplace prosecutor.

Mr WEIR: If an incident occurs in a mine, the investigation has two years to commence now under this; is that what you are saying?

Mr Goldsbrough: Under the proposal, it will be when it comes to the knowledge of the workplace health and safety prosecutor. The investigation could take six years; it could take six months.

Ms Bertram: It removes any time limit for the conduct of the investigation.

Mr WEIR: Obviously you would want a finding as soon as possible so it does not get repeated?

Mr Goldsbrough: Absolutely.

Mr WEIR: If there is learning to be found, you would think the shortest time frame possible is better for all involved?

Mr Goldsbrough: That is correct.

Ms Bertram: Obviously, the purpose of the investigation should be to quickly establish the facts and to prevent a recurrence before it is handed to the prosecutor.

Mr WEIR: What would your amendment be to that?

Ms Nielsen: We appreciate that every incident differs. There will be quite straightforward matters and there will be quite complex matters, so it is very difficult to have a time frame. Again, this is something that typically perhaps has developed. We have guidance around key milestones for the purposes of the investigation. The investigation component of it is very much what we are talking about, not so much the prosecutorial element associated with it. We recognise that there is great health and safety benefit in ensuring the investigation is completed in a timely manner and that the factual information is shared. What we would propose is that we have some tripartite process where we develop some guidance or have key milestones around when an investigation should be completed. We accept that there is going to be perhaps exceptions where we have very complex matters, but it should be something that is transparent. At the moment there is no indicative time frame associated for an investigation.

Mr Goldsbrough: Adding to Julie comments, it is important to have key milestones and that they are published so that it is a transparent and open process. In our submission, we argue that three years is a reasonable time to undertake an investigation, therefore we propose that it be changed to that. However, where we are silent in the submission is that we have not said there needs to be key milestones set out for the investigation that are agreed, published and transparent so there can be no suggestion on anyone's part.

CHAIR: You are talking more about a framework for the investigation?

Mr Goldsbrough: Talking about both, yes. We do believe that there has to be an end point on the investigation. It cannot drag on for years. We thought three years was reasonable and is in line with a whole range of different legislation, so that is what we have suggested.

Mr SULLIVAN: I take your point around your need for time frames for investigations, whether or not that ends up as a prosecution, but also for the purpose of improving health and making sure mistakes are not made again. Forgive me, I am a guest on this committee, but when there is a death, how does that investigation interface with a coroner's investigation?

CHAIR: Having just read the coroner's report last night.

Mr Goldsbrough: One of the things we outlined in our submission in relation to the release of information components of this bill was we referred to the ATSB investigation into the helicopter incident on the Gold Coast. What they did there was they released factual information very quickly—I think within 14 weeks—and that was subsequently followed up with a further report with much more detail in it at the one-year mark, I think, from memory, and then there has been a third report. However, the investigation in relation to any offences committed by individuals is still ongoing. The beauty of that style of investigation and getting information out was that everyone knows what happened in that incident now—not who is liable, but actually what happened so that corrective action can be taken. We are very keen to see a process instituted where there is timely information available. Our companies are really supportive of seeing information put out so we can all learn from it very quickly.

Mr SULLIVAN: So it is not just about that individual workplace or individual company; if factual information is put out there, it actually gives learnings across the industry; is that a fair summary?

Mr Goldsbrough: Absolutely, yes.

Ms Bertram: To us, that is the purpose of information sharing—the ability to quickly disseminate factual information so that other companies can examine those facts and make sure those sorts of incidents are not going to occur on their sites as well.

Mr HEAD: Under its former name, this committee conducted an inquiry into coalmining industry safety. There have been many other inquiries and reviews into mine safety in Queensland. This particular inquiry by the former committee mentioned the 'tripartite' word 29 times. You have already touched on the benefit of tripartite working groups. Can you elaborate on whether you are involved in any tripartite working group in the development of this significant and comprehensive legislation?

Ms Bertram: In terms of the most recent amendment bill, I think there was an exposure draft that was circulated at the end of last year. There are many elements of this amendment bill that we have not seen prior to very recent times. Obviously, there are the Coal Mining Safety and Health

Advisory Committee and the Mining Safety and Health Advisory Committee that the QRC nominates people for for the minister to select from as representatives of the industry. I do not think that CMSHAC or MSHAC would probably feel that they have had adequate time to digest, particularly the unintended consequences of, some of the aspects of this very serious amendment bill. I think that was reflected as well in the union's earlier presentation.

Mr HEAD: There was not a tripartite group that looked at this in any detail that is worth noting?

Mr Goldsbrough: No. Can I add an example? I think the Mining and Energy Union raised the issue of enforceable undertakings and the need for a tripartite body to oversee those in terms of ensuring transparency and openness about the decisions on who gets one and what is included. We are strongly of that view as well, but that was not something that comes to the table for us so much to comment on or to discuss. For example, I did not know the union position before today. That is another example.

Mr HEAD: Both industry and the unions believe that more issues could have been ironed out if a tripartite group were used in developing this legislation. Would it be fair to say that safety outcomes in Queensland could be limited or impacted by the lack of genuine consultation on this bill?

Ms Bertram: I think both QRC representing our members and the union have safety at heart. There will not always be agreement at times down to the provision level, but I think that the opportunity to have that discussion and be able to discuss varying views is really important.

Mr WATTS: Further to that, you might have heard the union's commentary around enforceable undertakings versus industrial manslaughter. I am interested in your views and how we can be more effective in terms of the process around industrial manslaughter, its definitions and how it operates. We are all interested in mine safety. It would appear that that mechanism is not achieving the outcome.

Mr Goldsbrough: The issue again is how we get out information. If we go back to the information sharing, I think that is a critical component in reducing workplace injury and disease. We need a good evidence base of data in order to do that. I understand that the committee is getting a range of data from Resources Safety & Health Queensland. One member raised concerns before about what impact the industrial manslaughter laws are having on workers. We are strongly of the view—and you will see from our submission—that it creates uncertainty. We accept that it is not going to go down the chain to supervisors and people like that, but it does make people think about, 'Do I really want to be an SSE and so on?' Industrial manslaughter is very different to the EU process. We do not have a problem with the EU process; it is just the committee structure and how it is done.

In terms of industrial manslaughter, the provisions as drafted in the bill do not reflect the national provisions because they are very different in concept. The bill picks up the persons who arrange for workers to do work. It potentially picks up recruitment agencies. Whether they have a liability or not is another thing. This again builds a little bit more uncertainty. I am particularly concerned about the fact that it does not cover off multiple duty holders. On one hand the legislation intends to pick up labour hire and so on, but, by not addressing the issue of multiple duty holders—and you could have an SSE and a labour hire person—there is no clarity in the legislation around who is responsible.

Ms Bertram: We understand that industrial manslaughter requires a criminal burden of proof. It is a very high bar to reach. However, since the implementation a number of years ago of the industrial manslaughter provision in the act, there has been ongoing uncertainty—as I think you have alluded to—around, 'Jeez, could we actually be sent to jail if something were to occur on our site?' It is a continuing issue that is raised by SSEs particularly. One issue in terms of lifting the industrial manslaughter provisions out of the Work Health and Safety Act and putting them into the Resources Safety and Health Act all those years ago, without any recognition of the differences in the acts in particular, is that the resources legislation has statutory positions that mean that industrial manslaughter potentially is targeted at those individuals even though, once again, with a criminal burden of proof, it is highly unlikely, unless they were criminally negligent, to ever be enacted. Certainly, it has caused concern in the industry.

Mr WATTS: As we have gone around and have talked about safety in mines, anecdotally and in evidence at different points people have said that this may be a barrier to getting the best person and/or the best culture, because someone with deep experience is going to say, 'That is not worth it to me.' I am grasping for a way to try to improve that because obviously I believe that if someone is criminally negligent and causes a death then they should be held accountable. I want to be very clear about that. I also do not want it to diminish the competency of a safety officer on site because they are afraid that they might be the one who gets thrown under the bus.

Ms Bertram: I think we would agree. It also relates back to the duration of the investigation as well. If investigations are open-ended, this feeds into that cycle as well.

Mr WEIR: Earlier, you talked about the changes regarding the new requirements for statutory officers to hold a certificate of competency and the workload that would put on the Board of Examiners. Is the Board of Examiners not as properly resourced or do we have a shortage of quality people to take up those positions? What are your concerns?

Ms Bertram: In the last couple of years—and through this amendment bill—there has been a huge load placed on the Board of Examiners. They need to be adequately resourced to carry out this extra work. There is certainly a resourcing issue. They cannot just start now, because for something like a service mine manager they need to identify the competencies—that needs to go through a process of being approved—and identify what training is needed to deliver those competencies. People then go through the process of being able to be ticked off as having those competencies. There is a long process by which people get to that point of being with the Board of Examiners. It is resourcing.

Mr Goldsbrough: In our submission we have argued that the five-year transitional arrangement should commence from the time the Board of Examiners sets the examination. In the case of the ventilation officers a few years ago there was a three-year transitional period and the examination was not done for approximately 12 months. Then we had COVID. It was a huge risk for the industry in terms of getting people assessed. There were not enough skilled assessors initially and so on. It was a nightmare.

Mr WEIR: The Board of Examiners has a significant workload as it stands and you are worried that this is going to further exacerbate that?

Mr Goldsbrough: Currently, it is introducing a number of new certificates of competency by November 2015 across the board.

Ms Bertram: And practising certificates.

Mr HEAD: In relation to your submission on the safety critical roles being required to be at or near the mine site with amendments in this bill, are you able to comment further—you have touched on it in your submission—on what this may mean and potential consequences to the industry if this clause proceeds as currently written?

Ms Bertram: The New South Wales wording is probably a good, easy fix if it were to be adopted. We probably cannot quantify the implications.

Mr HEAD: Would it at all exacerbate issues in retaining SSEs for mine operators? Some of these mines operate in very remote locations.

Ms Bertram: Potentially—depending on how it is interpreted. That is always the point. 'Out on year': what does that mean?

Mr HEAD: If further clarity were given, that would provide QRC with a lot more confidence?

Ms Bertram: Yes.

Mr WATTS: In your submission you talk about a directive to give a report to the chief inspector and how this might be regulatory overreach in the QRC's view. Could you expand on that a little bit for us?

Mr Goldsbrough: It is just that we are concerned that it is open-ended. While we accept that material cannot be used in terms of prosecutions, essentially it gives the chief inspector an unfettered right to seek reports and have studies done and so on without any boundaries around that.

Mr WATTS: What would be the implications of that?

Mr Goldsbrough: It could have significant cost to companies. It could draw out resolution of issues in the workplace where there is a safety issue, because the company or the union cannot agree when they are waiting on a particular report and then its release from the chief inspector. It is a range of factors. We are really concerned that it is so open-ended that it can be used for anything.

Mr WATTS: The recommendation is to omit it. If it were not to be omitted, is there anything that can happen, or is it just simply omit it?

Mr Goldsbrough: The chief inspector and inspectors have extensive powers under the act to seek information and all that now. I would be comfortable that, where the chief inspector required information on a mining operation, that would be made available.

Mr WATTS: They already have significant power and opportunity to get that information?

Mr Goldsbrough: Or to get information, yes. This is a requirement in terms of some studies and so on.

Mr WATTS: Thank you.

CHAIR: I note that we were very disappointed with a number of your members who have not facilitated access to a mine site in Mackay or Moranbah over the next two days. It was very disappointing to hear that some of your members do not have executive management people on site between Mondays and Thursdays to help facilitate visits. We were very disappointed in that regard. That concludes our hearing today. Thank you for appearing before us. I note that there were no questions taken on notice.

Proceedings suspended from 12.29 pm to 1.15 pm.

MYORS, Mr Andrew, President, Mine Managers Association of Australia Inc.

CHAIR: Welcome. I invite you to make a brief opening statement. Then the committee will have some questions for you.

Mr Myors: As mentioned, I am president of the Mine Managers Association. Thank you for the opportunity to speak to this amendment bill. By way of background, our association or its predecessors have been around since 1942. We now have over 400 members that incorporate many different roles in the mining industry in New South Wales, Queensland and other states, and New Zealand, including CEOs, directors, mine managers, consultants and senior technical managers, amongst others. We are predominantly coal industry focused at the moment, both in New South Wales and Queensland, in both underground and open-cut. To the best of my knowledge, all Queensland underground coalmine managers and many SSEs are members of the association. We have a number of objectives, but the two main ones are to promote the interests of our members and to improve and maintain safety and health in mines. We do this in a number of ways, but one of the most important is to get involved in the review of legislation. Collectively, our association has a wealth of technical and operational experience and is well qualified on ways and means to improve safety in our industry.

I am now retired but previously had 41 years in the coal industry, including under-manager, mine manager, general manager, business manager, director of operators that were appointed under various safety acts and other technical roles. Most of my experience is underground. Sadly, I witnessed a number of serious accidents, incidents and fatalities. Some still leave me raw. I am passionate about safety and I think, on behalf of our association, I can provide some valuable input into the deliberations of this committee. It is important from time to time that review of legislation takes place to make sure it is fit for purpose and contemporary, so we commend the government for these types of reviews from time to time. Overall, the Mine Managers Association does not oppose the bill and its objectives. There are many sections we support; some we have opposed but have not elected to comment any further as we feel they are either not material or do not affect our members directly and are better addressed by other parties. I will limit my comments very briefly to two matters and I will assume that the submission has been read.

Firstly, the Mine Managers Association has always advocated that the most senior mining official at an underground mine site, a coalmine, should be the holder of a first-class certificate of competency. In Queensland, that person is the SSE. Accordingly, our association recommends that the SSE should hold a first-class certificate of competency. This was also the recommendation of the board of inquiry into Grosvenor, as I have stated in the submission. Safety outcomes are best served when the person controlling the mine—the business of the mine, the day-to-day operations, the long-term planning—has the best technical knowledge and operational knowledge for any given operation. That person is typically a person with a first-class certificate of competency.

Underground coalmining poses special circumstances where certain hazards, if not controlled, can lead to multiple fatalities. The management of certain hazards is often in competition with each other, so the management of one hazard can immediately affect the management of another hazard in detrimental ways, and often the gestation period associated with these hazards triggering a disaster can be many years. The decisions and the things we do now might not become apparent for 12 months, 24 months or even years in advance. It is that long-term thinking that needs to be brought to coalmine planning to ensure best safety outcomes. We believe this bill has missed a valuable opportunity, as recommended by the recent board of inquiry.

Secondly, if Resources Safety & Health Queensland elects to bring disciplinary actions against a mining official, including a prosecution or the cancellation of a practising certificate, any action should be timely, fair, transparent and in proportion to the alleged offence. In our view, the bill does not address these matters adequately. In particular, section 10A gives a very broad remit for the CEO of RSHQ to bring about a cancellation or suspension of a ticket. We have had instances where this process has played out over many years and sometimes up to five or six years. Prolonged or delayed actions, or regulatory responses against individuals seen as disproportionate, or strongly contested offences do not serve the interests of safety and can place undue stress on the individuals involved.

Further, circumstances such as this can dissuade individuals from taking up these roles at a time when the industry desperately needs more qualified people with statutory certificates. In the case of a prosecution being brought for an alleged offence against the act, there have been amendments contemplated in the bill, but the way we read it proceedings may commence two, four or longer years after the allegation of an offence. The wording of the amendment bill is now that the statutes apply up to two years after the offence come to the notice of the complainant. You can imagine a situation

after an incident where it might take two years for an investigation by the inspectorate to occur, further time to consider that investigation, and then up to two years following that for a prosecution to be commenced. In situations like that, you could easily imagine it is four, five or even more years before those proceedings commence. We do not think that is fair, either for the industry, because typically if something needs to be done it should be done quickly, or for the individual that might be caught up in that.

We believe that the time limit for prosecution for an offence should remain at 12 months. The process to cancel a certificate should commence within three months of the allegation. Following due process to cancel, a certificate should ultimately sit with the Board of Examiners and not with an individual. We believe that the ultimate cancellation of a certificate should rest with the Board of Examiners or some other expert committee so that a wider view of industry objectives in these can be considered. Thank you for reading our submission and listening to my opening comments. I am happy to take questions. Thank you.

Mr WEIR: I will start on the part of the bill that proposes extending the time to commence proceedings for an offence from 12 months to two years. You mentioned earlier a board of inquiry and also, before that, there was another inquiry, the Brady report. Was this amendment suggested in either of those reports?

Mr Myors: Sorry, with regard to—

Mr WEIR: Extending the time to commence proceedings of an offence from 12 months to two years. I was wondering if that was a recommendation from the board of inquiry or a recommendation from the Brady report.

Mr Myors: I would have to take that on notice. I am not quite sure. With the board of inquiry into Grosvenor, the thing that I focused on here was the recommendation about having the SSE hold the first-class certificate, but with regard to the recommendation on time limits for prosecutions I would have to take that on notice.

Mr WEIR: I was wondering why that amendment has been made, because there are a number of submitters who have mentioned it and do not support it.

Mr Myors: I guess that would be our question, too: why the change? We do not think the existing arrangements are perfect, but certainly I think the amendment, as contemplated in the bill, is a backward step.

Mr WEIR: As I was saying earlier, the first thing you want to do is implement any learnings out of any incident as quickly as possible—

Mr Myors: Exactly.

Mr WEIR:—whatever flows from there. That takes me back to where you talked about the board of inquiry. You were saying that an underground mine site controller should have a first-class certificate of competency. This is not the case for any of those positions as it stands?

Mr Myors: As it stands at the moment, there are many SSEs who do have a first-class certificate but it is not mandatory. There have been instances where the SSE does not have a first-class certificate. I am not sure if that is the case in any of the operating mines at the moment, but certainly it is not required by the current legislation and, from our reading of it, it has not been proposed in the amendment bill either.

Mr WEIR: It was a recommendation?

Mr Myors: It was a recommendation. I have quoted the actual recommendation out of the board of inquiry in our submission.

Mr WATTS: Further to that recommendation from 3½ years ago not being adopted in this bill, I want to get your views around an SSE not necessarily being onsite and what implications that might have for the operation of a mine.

Mr Myors: My experience, and I think the experience of many of our members, is that it does come back to individuals. If the SSE is controlling the risks, implementing the mine health and safety management plan, getting involved in long-term planning et cetera, he should be onsite for a good proportion of the time. There are always times when they are going to be away from the site, but, in our view, spending time on the ground at the site, getting to know the people and the management team, is pretty critical if ultimately you are in charge of that site, particularly so obviously if our recommendation is adopted that he should have a first-class certificate.

Mr WATTS: Further to the qualification question, I asked some questions of previous witnesses in relation to industrial manslaughter. Anecdotally, people have said that sometimes that puts people off wanting to take one of the statutory positions. What would be your commentary or experience in that area?

Mr Myors: I think that is a fair comment. I have been through some issues where you start to question whether the role you are taking on is worth the risk you are taking on, and certainly when it comes to industrial manslaughter. There are always instances where there are very black-and-white cases where things have not been done correctly—and our association does not defend anyone or anything in those circumstances, but it is certainly a concern. It would be a concern for many of our members, and particularly for some of our older members, who might be reaching a point where they can either take on another role or not take on another role. The thought of industrial manslaughter or other serious prosecution actions would definitely affect their thinking around what they do next in their life.

Mr WATTS: I am not saying we should not have it, but what I am interested in is whether it is actually adding to the safety or taking it away because maybe the best person for the job is saying, 'It's not worth the risk.'

Mr Myors: I know a number of our members, very experienced members, who would probably be reluctant to take on a practising certificate role now, given some of the issues surrounding industrial manslaughter and the possibility of getting caught up in a prosecution that might last six, seven or eight years, as I spoke about earlier. To a degree, I am in that position. I am 64 and I am not going to take on a role if I thought that at 72 years of age I could still be facing a court. They are things that go through our minds when we are looking at a particular role.

Mr HEAD: Further to people taking on those roles, an amendment in this bill speaks to requirements for the SSE to be at or near a mine. Have you received any information or indication as to what that is defined as by the department?

Mr Myors: No, I have not. I would have to take that on notice or get some further feedback on that.

Mr HEAD: From memory, you have not. It is something that other witnesses have elaborated on. I certainly acknowledge your comments and, having worked in the mining industry as a geologist, I understand you have to be on the ground in a lot of instances to be able to assess things. Do you foresee that requirement being prohibitive to safety outcomes, to add another reason people might not take up a position? At the moment we do not actually know what it means, but say it is very limited and they have to be within 20 minutes of a mine site—there are a lot of very remote mine sites. Would that restrict the number of people or limit the number of people who may be willing to apply for those jobs?

Mr Myors: It could, depending on, again, what stage of life you are up to, where you live, where your family is and all those types of things. It may affect some people and turn them off taking on the role.

Mr HEAD: With regard to first-class competencies, do you know how many people with a first-class certificate of competency are available to take up this role? Where is the capacity to fill those roles?

Mr Myors: I would have to take on notice the exact numbers. I am not familiar exactly about which people are coming through the system and where things are up to. What I can say is that for a number of roles, particularly first-class certificate holders—I should add further, certificate holders who have some experience behind them—it is one thing to jump straight in and be a mine manager; it is another to have your first-class ticket and then get some further experience in maybe a subordinate role for a while. In my case, I spent a couple of years as a deputy manager. I had my first-class certificate, but the experience of being a deputy manager in charge of the mine for short periods of time, relieving and things like that, was fantastic for me. I know for a fact that companies are desperately trying to get good candidates to become first-class ticketholders as well as some of the statutory positions that are mentioned in the act and the amendment bill as well. It is a fairly onerous exam and everything to get through to become a first-class certificate holder, so you need keen, willing people to come through and take up the position. The industry is struggling to get those people now.

Mr WALKER: My question is around when you have a critical incident, a major unwanted event underground. Who controls that? Is it best to have an SSE onsite to control those sorts of emergency events? Who takes control?

Mr Myors: If there is a major unwanted event occurring and unfolding, those situations can often be quite dynamic. It is the operator who ultimately takes control through either the first-class certificate holder or, as I understand it in Queensland, the SSE. There are many other people involved as well such as mines rescue people and possibly the regulators as that event unfolds. I would have to double-check, but I would expect in Queensland at the moment with the way the regulations are written it would be the SSE, but he would be taking a lot of advice from the first-class certificate holder.

Mr WALKER: Is someone there at that SSE level at all times above ground and underground?

Mr Myors: The SSE should be making himself familiar with the site, the operations, the risks, how things are being managed, and the proper implementation of principal hazard management plans and the mine health and safety management plan. You can only do so much remotely. You really do need to get around and talk to people, inspect places, really get your hands dirty to get a feel for what you think is happening and what is actually happening on the ground. That is really, really important in any operation, but particularly underground coalmining.

Mr WALKER: The reason I ask that question is, from my previous experience as a prison officer and youth detention officer, things happen spontaneously within minutes, if not seconds, and someone has to take control and get really good structure around that. I am just trying to picture on a grand scale in a mine how that would be managed in the here and now when it is unfolding.

Mr Myors: Each mine would have to have an emergency management plan because you are absolutely right: major unwanted events and major risks can occur on any day of the week at any time. My experience is they often happen at two o'clock in the morning. That is when you get the phone call. You might not have an SSE or a first-class certificate holder on the site at that particular time. It could be a second-class certificate holder, a control room operator or some other person who has to take immediate control of that situation. You really have to have a structure in place and an escalation of actions and then bring people in as the emergency unfolds to make sure it is being properly managed, particularly in gas and spontaneous combustion events where there is a lot of analysis and a lot of data that starts to get looked at as to how you proceed with the management of that event. That usually involves various experts, but ultimately someone has to make the calls on how you proceed. It can be a very lonely job, I can tell you.

Mr WALKER: I think what we are talking about in this whole process is more pro-active intervention so we do not go through this whole scenario. From our previous experience on committee work we have noted that there is a hotline number. Some had it there for people to ring with fatigue and other safety issues. Then the bonuses were getting caught up in some of this process in that maybe they were not reporting things because they would lose their bonuses. I am looking at it from so many different angles and trying to get the best outcomes. I think pro-active stuff, which we would love to see more of, would be so good for the SSEs and everybody who works in the mining sector. Is there anything you want to add that could make improvements in that space?

Mr Myors: I have not turned my mind to bonuses and other things for this committee. You do hear some anecdotal stuff, but in my experience as a mine manager, general manager, I want people to report things. If you can set up the systems and give people the confidence to report unwanted events, irrespective of how small they are or how trivial they may seem, the better information you will get. That is the type of culture you really want to nurture at any given mine site. When people bring forward information the last thing on their mind should be, 'If I report this, am I going to get a bonus?' I would suggest that, if that is happening, it is the wrong bonus scheme.

One of the things that I learned out of a number of tragedies is trying to ensure there is a culture of chronic unease right through your management team and your workforce so that, whatever you are doing, irrespective of how well you think things are going, there is this notion of chronic unease, of always trying to be aware and anticipate what could happen, what is around the corner. When things are going well, what could happen at two o'clock in the morning? If you can get that right through your management team, whether it is through legislation or site-based, culture-type things, I think that is the very best organisational culture you can foster.

CHAIR: So much is contingent on culture.

Ms NIGHTINGALE: The bill includes amendments to strengthen the competencies of key safety critical roles. Given that you have just said there are a range of skill levels and roles among people who would be onsite at the time of an incident, could you please tell us the current situation with regard to qualifications and competencies required for those key safety critical roles?

Mr Myors: The current situation in Queensland is that you have an SSE. He has a notice of being appointed as an SSE. He has certain qualifications that he has to have in terms of risk management, understanding of the legislation, and implementing a health and safety management

plan. For underground coalmines you then have an underground mine manager. That person has to be a first-class certificate holder. Then below that you have undermanagers, other supervisors such as ventilation officers et cetera. In Queensland there is a regime of competency-based standards that are now being introduced. People need to maintain their competency through a CPD scheme, so you get your certificate of competency for those particular roles and then you also have a practising certificate that you have to maintain over a period of rolling years. That is somewhat similar to New South Wales. At the moment, some of the statutory positions are being addressed in this current amendment bill such as electrical engineering manager, mechanical engineering manager et cetera. I think in those particular aspects the amendment bill is supported by our association.

Ms NIGHTINGALE: Currently, what would be the lowest level of qualifications of someone who might be in the position of making those first response decisions? What currently is the situation around that?

Mr Myors: It depends on what time of day the incident occurs.

Ms NIGHTINGALE: Give a worst-case scenario. Who would be the lowest?

Mr Myors: Probably an undermanager or a deputy or equivalent in that immediate instance. Most mines now have a control room operator who is looking at all of the information coming out of the mine and is in communication with all of the various crews and people underground. Quite often, particularly underground, you might have a situation in one part of the mine but there is a need to coordinate and possibly evacuate the whole mine. That starts to happen in the very first instance by a control room operator or some other similar role. That person would be trained in the emergency management system and evacuation system and the TARPs et cetera that apply for that particular mine.

CHAIR: Thank you very much. That concludes our time for this hearing. We really appreciate your contribution; it was very helpful. Thank you for your submission. There were two questions taken on notice. The secretariat will liaise with you to get your responses by 16 May.

PRYTHERCH, Mr Brad, General Manager, Integrated Operations, BHP Mitsubishi Alliance (BMA)

CHAIR: Thank you for joining us today. Would you like to make a brief opening statement and then the committee will have some questions for you?

Mr Prytherch: Thank you, Chair. On behalf of BMA, I would like to thank the committee for the opportunity to address you on the Resources Safety and Health Legislation Amendment Bill. By way of background, in my role as general manager of integrated operations I am responsible for the day-to-day function of our remote operating centre, based here in Brisbane, that provides mine, plant and core control at our BMA coal sites, which are run by well-trained, highly capable and multiskilled people. Being located at our head office in Brisbane, we are able to access a more diverse talent pool, offer around-the-clock coverage, and ensure a standardised best practice approach to BMA and the entire logistics chain. By remotely monitoring our mining and fixed plant operations, the IROC can embed tight processes that minimise delays, optimise performance and standardise the way in which we work across our sites, ultimately leading to consistent and better decision-making.

I have been with BHP and BMA for over 20 years. I started as a graduate mining engineer and have worked at many of our BMA sites, including Goonyella Riverside, Peak Downs and most recently as general manager and site senior executive at Caval Ridge. My experience is predominantly in open-cut surface mines.

The health and safety of our people throughout these operations is integral to everything we do at BMA. There is nothing more important to us than ensuring every single person goes home. I want to be clear that BMA fully supports the objectives of this bill to improve the health and safety performance of the mining sector and reduce the occurrence of fatalities and serious accidents. However, it is our view that some of the matters need further consideration to actually achieve these objectives. I am here to speak to areas where I can specifically add value, those being amendments in relation to remote operating centres and the competencies for safety critical roles. These areas are relevant to my experience as an SSE and now general manager of integrated operations.

I understand that BMA is one of only a few companies that currently operate a remote operating centre. Our IROC has been operating for many years now and has proven to deliver safe and reliable remote operations centre capability. Our view is that the current legislative framework is sufficient. Workers at our remote operating centre here in Brisbane are already covered and comply with section 39 of the Coal Mining Safety and Health Act and the relevant parts of the safety and health management systems at the respective sites they support.

As an operator of a remote operating centre, BMA has implemented systems to ensure that we are compliant with these existing measures. We have a comprehensive training regime, daily site interfaces using videoconferences, inductions and regular site interactions. In relation to competencies for safety critical positions, there has been limited justification provided for the introduction of the role and competencies for the surface mine manager. We consider this will be a further burden and red tape for SSEs and other senior positions, and this is already a very limited pool of individuals.

I thank the chair and the committee for their time. I am happy to answer any questions or expand on my opening statement if needed.

Mr WEIR: Remote operating centres is a relatively new part of mining. I went to Goonyella recently and saw the trucks driving around with nobody in them. I wish to ask about the role of SSEs, particularly given the industrial manslaughter offences and so on that we face now. How does the role change with remote operated machines onsite like at Goonyella? Does there still have to be somebody onsite?

Mr Prytherch: The SSE is still ultimately responsible for ensuring the safe operations of the mine. Certainly in my time as an SSE, I would be reviewing so I would be comfortable with the way in which the remote operating centre was operating and the scheme they had in place to make sure that those operations were safe. It is probably a clear distinction in that the supervisors who are actually supervising the operations, who are driving around in the field monitoring safety and compliance, are the ones who are giving the direction to the people who are actually doing the work in the field. They are the ones checking that the tip head is safe. They are the ones checking that the road is wide enough. They are the ones doing all of the things that they should as part of the safety and health management system. Then the remote operating centre controllers are essentially providing information to those trucks to say, 'You can go to this dump' or 'You can go to this loading unit.' They are providing information that the supervisor does not have in front of them. That is

probably the clearest distinction. The safety is still the responsibility of the supervisor of those different areas, and the remote operating centre operator is essentially providing information that they have in front of them to optimise the mining operations.

Mr WEIR: Are all those who are working in the remote operating centre up to date with all of the mining safety procedures? They would have had to be upskilled?

Mr Prytherch: For the site that they are supporting, they are trained in how to operate for those different sites. They still clearly have obligations under section 39, 'Obligations of persons generally'. They still know that they have obligations and they know the things they can and cannot do, but they are essentially providing information for the mining operations to continue safely.

Mr WEIR: Do you have concerns with this legislation regarding those positions?

Mr Prytherch: Yes, I think it could have unintentional consequences. In the submission we put very clearly that the definition needs to be a little bit more targeted. For example, we have lots of technology in our mines within the industry these days where there is remote monitoring of equipment health. We have strain gauges on the machines that are monitored by Monash Technology in Melbourne. In its current form that could potentially be classed as a remote operating centre or a remote operating centre employee. I think we need more discussion around the narrowness of the remote operating centre role in its current form.

Mr WEIR: Do you have any concerns regarding the recommendation for a senior site executive to be onsite?

Mr Prytherch: There has always been the requirement that you need to be present onsite. Generally, if you are absent from site for two weeks or more, you have to put somebody in your place. There needs to be somebody onsite to make sure that the safety and health management system is being implemented as intended and probably, as was alluded to in the previous statement, make sure you are connecting with the frontline team members, that the culture is there from a safety point of view, that people are actually following the procedures and they have the right intent, and that you are creating the culture where people are safe to raise hazards and know we are going to do something about it. That is really critical from a leadership perspective. There certainly needs to be an SSE presence onsite.

Having lived in Moranbah and been close to sites for 16 years, I can say you could still go away for the weekend to Townsville and it would be quicker for somebody to fly from Brisbane and be there if something went wrong. I think we just have to be mindful around the unintended consequences of specifically saying that you need to be able to get there within a certain timeframe or something like that.

Mr WATTS: In recommendation 4 you talk about dual coverage issues. Obviously we need good legislation to ensure everybody knows what their obligations are. Could you outline some of the complexities when there seems to be this dual coverage and overlapping? As an organisation, how do you manage that or how you would recommend we as a committee deal with some of that?

Mr Prytherch: We believe there are mechanisms in the current legislation that people still have obligations under section 39, similar to a supplier of plant has obligations to provide safe plant. We believe that is all covered in the existing legislation. Specifically calling out remote operating centres in its current form does not appear to add a lot more value than currently exists. It brings more complexity when you have remote operating centres that support more than one mine site. That is because during a regular shift it would not be uncommon for somebody to be operating at a certain mine site and then later in the day have to crib relief somebody while they have lunch and then take over controlling for those mine sites. They are still trained in both of those seats. It appears as though the legislation in its current form is more targeted to a single remote operating centre for a single site. That is probably the main complexity. Also, the definition of a remote operating centre could encompass the whole of our corporate office, for example, rather than the specific aspects of the remote operating centre.

Mr WATTS: Going forward with a remote operating centre, do you imagine this will become the norm for mines and having good, effective, efficient legislation, particularly around safety, would be important? As we progress forward, how would you keep this up to date and stop either dual regulation or regulation in general unintentionally taking in the corporate office?

Mr Prytherch: I think we could look to other parts of Australia. For example, Western Australia has had remote operating centres for a long period, probably a lot longer than Queensland. I think they have different mechanisms in their legislative environment to deal with that. As a key principle, we should have it less restrictive and more flexible to be able to adapt to technologies moving forward

because the technologies are getting more and more advanced within a shorter period of time. Having that clear definition around what is happening onsite and how that site safety is managed on the ground and then remote operating centres and the information that they are providing to sites to be able to safely undertake those tasks are two clear distinctions.

Mr WATTS: From a government regulatory point of view, what would be the downside of something like that?

Mr Prytherch: Of having remote operating centres included in the legislation?

Mr WATTS: Or allowing multiple sites to be managed in a more streamlined manner?

Mr Prytherch: I think the key restriction, if you call it that, with the current legislation is it is individual mine sites creating their individual mine safety and health management plans and the SSE being responsible for how that is implemented physically at the mine. When technology is applied where you could have people monitoring multiple mines or even equipment manufacturers monitoring information at multiple mines, I think that is where it gets difficult. That is where I believe that the current legislation has enough mechanisms to say that those individuals still have obligations under the mining legislation; they do not need to be called out specifically, similar to a supplier of plant and equipment. We have lots of suppliers from all around the globe. They are already covered off, similar to how we could with remote operating centres.

Mr HEAD: You mentioned that you provided some comment in relation to some of those changes previously. As far as the consultation for this bill and the issues you are raising are concerned, was BMA given appropriate opportunity to review this legislation, provide comment and address some of the concerns?

Mr Prytherch: I would have to take on notice the exact timeframe that we have had. I do know it was relatively short.

Mr HEAD: The specific timeframes are not as critical. I will mention the tripartite working group. It was said that with this bill there was not much tripartite development of this legislation and it was done in isolation across the board. Do you foresee that if industry works with unions and the government in developing this legislation then perhaps we would be a lot more comfortable as opposed to where it currently sits today?

CHAIR: BHP notes on page 4 of their submission that the drafting does not meet the concerns they raise. It says 'throughout consultation', so there has been consultation.

Mr HEAD: Yes, but you can consult for a matter of minutes or meaningfully over an extended period. We have already heard from other witnesses that the consultation has not been anywhere near as good as they would have liked to have seen. I am seeking more of your views on that and some of the other issues you raise, whether you raised them with the department and they were taken on board or whether there are plenty of things you have seen since that you would like to further elaborate on.

Mr Prytherch: The main thing that we need more discussion around is how this could be interpreted to create wider ramifications around what is or is not a remote operating centre and what is or is not a remote operating centre worker. I think they are the two main ones that we need more definition on. We have provided some suggestions on those.

Mr HEAD: If the department had worked with you ahead of time, do you believe that BMA would be in a more comfortable position with where that is at? Obviously a lot of questions and concerns are yet to be answered. Would it have been good to have had them answered ahead of time?

Mr Prytherch: I think some more understanding of what a remote operating centre worker actually does would be useful for all parties. I am excited to welcome you next week to the IROC in Brisbane to show you firsthand.

CHAIR: We are looking forward to seeing it. In your submission, recommendation 6 says 'remove the provisions proposed in relation to competencies for key critical safety roles'. If you remove them, what do you replace them with? It does not outline that at all in the submission. It simply notes that there is concern about placing in the bill the imperative that people have what you would assume to be key competencies for critical safety roles, which is pretty important. What would you suggest replacing it with?

Mr Prytherch: I would have to take the exact aspects on notice. The one that I can talk about is the surface mine manager role. It appears as though that is duplicating some of the SSE responsibilities. In my experience as a practising SSE, I would appoint open-cut examiners, I would make sure that I was comfortable with the way in which the safety and health management system

was implemented and those sorts of things. If you were to bring in another role that does part of what the SSE does, I think most organisations would assume that the SSE would have to do that as well as being an SSE. I think that would also have unintended consequences around being able to attract and retain talent within the industry.

Mr WATTS: You have talked about contemporary legislation and definitions of 'labour hire contract' and 'service provider'. Could you expand on your concerns that are raised in the submission?

Mr Prytherch: I would have to take that on notice.

Mr WEIR: Obviously mining crosses borders. We were told by the department at the public briefing that the intent, particularly around those critical safety roles, was to reflect the New South Wales regulation. Is that what you would see it as? I do not know if you have any experience with New South Wales.

Mr Prytherch: It has been a long time since I have been in New South Wales. I am not sure if the remote operating centre legislation is the same there. I certainly know from exploration in Western Australia that it has taken a different approach and I think we could probably look at that approach in Queensland.

CHAIR: Terrific. Thank you very much for appearing before us. We look forward to coming out for a visit next Monday. Three questions were taken on notice. The secretariat will liaise with you to get a response by Thursday, 16 May at 12 pm. Thank you. I now welcome the next witnesses.

DODUNSKI, Ms Michelle, Private capacity (via videoconference)

DODUNSKI, Mr Phil, Private capacity (via videoconference)

CHAIR: Thank you for joining us this afternoon. On behalf of the committee, I extend our deepest sympathies on the death of your son and what has been a very long and tragic process. Would you like to make an opening statement and then we will have some questions for you?

Ms Dodunski: We would like to thank you for inviting us as witnesses. Gareth's story is horrific and extremely disturbing. We appear today as completely broken and traumatised parents who have been, in our opinion, tortured for a decade by the cruel and unjust legislation the Department of Resources and the regulator have in place for workplace fatalities.

It has been 10 years since Gareth was unlawfully killed in the resources sector and nothing has been done to the fellow who killed him, Carl Thomas, an operator and operations manager for Saxon and Santos, who monumentally failed to prevent that act from happening. All the above had absolute full knowledge and foresight of the danger and risks and chose to do zero to prevent it. We battled for nine years to simply obtain an inquest. When we arrived for that, we were told by one of our legal team that they had all been told to pull back from the regulator, and that is exactly what we witnessed and worse.

We are still waiting on a response from the State Coroner regarding our application to have the very critical error in the task Gareth was killed doing corrected and other areas and serious concerns in the findings corrected and addressed. It has been over eight months since we lodged that application. Parents having to correct the counsel assisting's submissions due to the errors in them is deplorable. The inquest and the findings were obviously, in our opinion, hijacked and influenced to align with the 7.5 years of failed regulatory prosecutions by the failed regulatory prosecutions.

All of the evidence was submitted in that coronial brief and it shows catastrophic failures. The amount of evidence the resources department have held and did not present in their prosecutions is mind-boggling to us as Gareth's parents. They deployed the same tactic at Gareth's inquest. The inquest was not for Gareth; it was for the Department of Resources to again control the outcome and the truth. A massive part of what happened to Gareth was the resources department or regulator failing to enforce full safety and compliance before operations even commenced. That is what they do not want known. Then the incomprehensible direct act of an unqualified but competent driller who was fast-tracked into a role, left unsupervised to operate machinery that he knew had zero safety, was the final link in the chain of failures that killed our son that day.

Everyone involved in Gareth's fatality knew this. There was a near fatality just seven weeks prior on Saxon's rig 188 in South Australia. Saxon, Santos and Carl Thomas did nothing on the rigs in Queensland to prevent it with the full knowledge and foresight of what the outcome would be. Saxon was convicted and fined $210,000 for that offence in South Australia, yet in Queensland for killing Gareth they have received nothing. Jacob Kilby claimed several defences over the years. The worst thing, which they all claimed and lied to us about for 10 years, was that Gareth failed to engage an e-stop, which was seen and heard in the inquest to be a fabrication of the actual facts.

We see an amendment in this act for critical controls. If they are referring to these types of critical controls, it is very basic knowledge in any industry that an e-stop is never used as a safety isolation. If the regulator was unaware of that, then we would seriously question their right to be the regulator of the industry. These blatant failures by these Companies in Resources are never dealt with by the Department of Resources under their legislation. In our opinion, they want it that way. Zero accountability for their failures, as the sheriff, to enforce safety and compliance equals zero accountability for the companies that fail in their safety. It results in the protection of individuals they employ from being held accountable for any offences committed. We have witnessed this. To us, it has been by design: to keep production and profit rolling for the Queensland government.

Somebody needs to hear the entire story of what we have been subjected to and what we have witnessed over a decade while being unable to grieve for our child. It is unbelievable to us as parents that on all the evidence we have seen they have all walked free after killing an innocent young man and mentally and emotionally torturing us as his family in the process. We have documents, emails and personal recordings, and we have been given very scathing reports on exactly how Santos and Saxon were operating during the commissioning of those rigs in 2012 and 2013 by a previous employee, who was then run off when he tried to speak up about it. As Gareth's parents we were told, and laws do not permit us dispersing most of those documents in evidence, in particular from the inquest. How does the actual truth ever get heard when you are essentially held to ransom by the

systems that are supposed to be about accountability, truth and justice? The inquest findings do not show the accurate truth and facts, which was yet another heavy blow to us as a family who believed the inquest was about exactly that.

None of our recommendations for workers' safety were suggested, including the critical recommendation of compulsory drug and alcohol testing, which disgustingly was never conducted on the driller who killed our son. Yet the recommendation to compel witnesses was, even though it was clear during the inquest that the coroner himself had reservations about the illegal issues that would create. We in no way support that recommendation with the knowledge that we have of their legislation and all the legal loopholes it provides for those guilty of committing such heinous offences.

Questions we would like to ask are: who appears to have controlled the entire outcome for Gareth; why did they fail to hold anyone to account; and why have they done zero about fully implementing critical and immediate safety preventives for workers until recently. Phil had 20 years in oil and gas. He knows the truth, he knows safety and risk management inside out, yet they did not listen to him. We are more than willing to answer any questions you may have to the very best of our ability today. Thank you.

Mr WEIR: Thank you for coming along and appearing here today. Many years ago I worked with an exploration drilling crew out in the Tanami Desert, and there was very little to nothing in the way of safety back in those days. You would have had to progress a lot more than what you have just indicated in your statement. Is there anything in this bill as proposed that would address the concerns you raised about your son's incident?

Ms Dodunski: No, I would not say there is anything we have read that we feel would directly affect the safety of workers out in the field.

Mr WEIR: If you could recommend something that should be in the bill to stop this from happening again, what would it be?

Mr Dodunski: I would say the enforcement of the regulations they do have, because they are quite fine. The problem is that they do not have people working who know the industry, who know the tasks and how they are performed, if you know what I mean.

Mr WEIR: I do know what you mean. The focus has been on mining much more than on petroleum, there is no doubt about that. Just listening to what you are saying, you are more concerned with what did not happen and how that was not followed up and thoroughly investigated.

Mr Dodunski: Yes. We were told there was only one inspection on rig 185 by the department prior to Gareth's death, and we found out it was three.

Ms Dodunski: At the inquest it came out that they had done three. One of them we captured in an RTI that we put through over the years. It was with regard to training qualifications and the e-stop devices. It was signed off as being okay, yet none of these people, except for Gareth and one other, were fully qualified to be in the roles they were supposed to be in. There was a framework in place. I think what Phil is trying to say is the enforcement and follow-through of what they do put through and what they do have in the legislation is where the systemic failures are occurring.

Mr Dodunski: It cannot be done from a desktop audit or something like that.

Mr WEIR: For the sake of Hansard and the record, can you explain what an e-stop is?

Ms Dodunski: An e-stop is an emergency stop device for an unfolding emergency, so it is a button. If you saw something happening that needed to be stopped immediately, you would hit the e-stop.

Mr Dodunski: It is generally like a red mushroom button that you put your palm on to stop whatever is happening instantly.

Mr WEIR: Was that faulty?

Ms Dodunski: At the inquest one witness stated that he tried to use it once and it did not stop the retraction of the ST-80, it just kept doing its job. Then in his interview to the investigators, another witness told them the day before Gareth was killed he tested it himself and it did not stop the ST-80 moving at all.

CHAIR: So it was a faulty e-stop.

Mr Dodunski: Apparently, yes.

Ms Dodunski: I would say, yes, it was at the time, but by the time the investigators found that evidence out it was months after the fact.

Mr Dodunski: When they tested it.

Ms Dodunski: When they tested the e-stop, yes.

Ms NIGHTINGALE: When they tested it after the event, was it functional?

Ms Dodunski: I think they said it was, yes.

Mr Dodunski: Yes, it was. I could not say whether it was one or two months after the event.

Ms Dodunski: We do not know the timeframe. We never even knew that information until we saw that in the witness statement in the coronial brief, and they did not use that in any of the prosecutions either or ask that witness those questions. For 10 years, basically, they have tried to say that before Gareth went in to do the task he should have hit an e-stop button to isolate the hydraulic equipment, the ST-80. An e-stop button does not isolate hydraulic equipment. The regulator should know that when these rigs were being commissioned, before anyone was employed on these rigs and they did their commissioning process, their compliance and all those proper protocols they go through. If they had industry knowledge then, they should have known that an e-stop is insufficient on a piece of hydraulic equipment for that. Until you have proper safety in place you cannot start operating. Ultimately, if that was done Gareth would be here today.

Mr Dodunski: That is right.

Mr HEAD: Thank you both for appearing today and sharing your views on this. Thank you for your bravery in sharing your story. I want some insight and your views on the excessive timelines you have been through to try to get some answers. How important is it that government investigates these issues in a timely manner to provide the facts and findings of the investigation but also to provide closure to impacted families and parties?

Ms Dodunski: That is probably the most important fact for any family. We have even been told that we have the record for the longest prosecutorial process, which is obviously not a record we want. We know, from witnessing and watching and observing and sitting in on court things, that it was done deliberately—(inaudible) outright. We watched the safety commissioner get very disturbed at the fact when a magistrate mentioned that there would be an inquest down the track, to the point where the prosecuting barristers had to console her and assure her there would never be an inquest. As parents, we were disturbed by that. The safety commissioner should be all about there being an inquest, if necessary. But the time frames, we could never understand why they were allowed to take 7.5 years to ultimately fail at every single prosecution that they were attempting to do.

Mr Dodunski: We just got told it was how the legal—

Ms Dodunski: We just got repeatedly told it is the legal process; this is how the legal system works. I think there is an issue that should be considered by the government, and I am sure it has been spoken about before: a coroner should be able to come in and do an inquest regardless of any regulatory prosecution going on in the background, for the family, because the inquest is the only place where you actually get to see and hear the majority of what happened to your loved one.

Mr Dodunski: A lot of it was held back from us throughout the trial because they said we were not allowed to know.

Ms Dodunski: We applied with RTIs to get the reports, just the investigation reports. We were denied every time. We did not get those released to us until 5½ years after Gareth was killed and it was by the coroner. The Department of Resources and their in-house legal, everything, they never mentioned to us that we could ask the coroner for them. They just told us that we were not able to have copies of the reports of what happened to Gareth because there was a prosecution proceeding. We did understand that to a certain degree, but 5½ years of being told nothing other than what has been publicly stated by the companies and individuals involved in doing that? The time frames are wrong. I am not sure what they can do about that.

Mr Dodunski: I am pretty sure it can be a lot quicker than that. The investigation was about a year before—

Ms Dodunski: The investigators, it was a year for them to finalise their investigation, which we can understand was a big task for them and a very horrific task for them.

Mr Dodunski: Also that gave people time to disappear.

Ms Dodunski: In my opinion from talking to the investigators, who did treat us very respectfully and were very compassionate towards me and Phil and Gareth, their hands were tied once it went further. They did their job and then they handed over to the department in-house legal and whoever makes the decisions within there on what is happening and what charges and who is going to be

prosecuted. But there was a failure there of the department to ensure that their investigators were given quick timeframes to seize things, to have witnesses remain in the country. They removed witnesses from the country, the companies. We do not agree with the compelling of witnesses because most of the witnesses in Gareth's situation freely did their interviews. They were willing to do their interviews. It was the company that removed them. There was one that refused to do interviews. But they had that information, they had statements and interviewed witnesses. They just did not put all that forward in the prosecutions.

Mr WEIR: What is your latest communication on where this is up to? What is the next step?

Mr Dodunski: We are waiting on the coroner.

Ms Dodunski: After the inquest findings came down, and we knew they were going to be the way they were, we put in an application, as we are supposed to do properly, legally, to the State Coroner and pointed out the errors and especially the error in the task. That has been a critical error since the beginning. Phil tried to explain the regulatory side of things. It was pointed out, during Saxon Energy and Jacob Kilby's trial, to Magistrate Hay. They explained it to her and she then realised that that made a big difference in what happened that day. However, when it went to the appeal, the regulator did not provide the appeals judge with that information and a lot of other critical information, which we were shocked at, and the conviction got overturned. Now we are waiting for the coroner. We did try very hard during the inquest to point out the failure in the task and that it needs to be corrected because it is not accurate, and it did not work out that way so we have applied to the State Coroner to have it corrected and we are waiting for a response from him. That application was put to him two weeks after the findings because we only have a two-week timeframe to do that, so early September.

CHAIR: Thank you for appearing before the committee and for sharing both your story and what has occurred and how we can do things better here in Queensland. Gareth was taken far too soon. On behalf of the committee, I thank you very much for appearing before us here today.

Ms Dodunski: Thank you for inviting us.

The committee adjourned at 2.20 pm.