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CLEAN ECONOMY JOBS, RESOURCES AND TRANSPORT COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr PT Weir MP
Mr BW Head MP
Ms JE Pease MP
Mr LA Walker MP
Mr TJ Watts MP

Staff present:

Dr A Ward—Committee Secretary
Mr Z Dadic—Assistant Committee Secretary

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

TRANSCRIPT OF PROCEEDINGS

Monday, 29 April 2024

Brisbane

MONDAY, 29 APRIL 2024

The committee met at 9.23 am

CHAIR: Good morning. I declare this public briefing for the committee's consideration of the Resources Safety and Health Legislation Amendment Bill 2024 open. My name is Kim Richards. I am the member for Redlands and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay my respects to elders 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 people whose lands, winds and waters we all now share. With me here today are Pat Weir, member for Condamine and deputy chair; Bryson Head, member for Callide; Joan Pease, member for Lytton; Les Walker, member for Mundingburra; and Trevor Watts, member for Toowoomba North.

This briefing 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 proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions to witnesses, so we will take those as read. I also remind any members of the public that they may be excluded from the briefing at the discretion of the committee. I remind committee members that departmental officers are here to provide factual or technical information. Questions seeking opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's discretion 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. I ask everyone present to please turn their mobile phones off or onto silent mode.

ANDERSON, Ms Michelle, Director, Policy and Legislation, Resources Safety and Health Queensland

BARR, Mr Dean, Executive Director, Occupational Health, Resources Safety and Health Queensland

FASCHING, Mr Hermann, Chief Inspector of Mines and Explosives, Resources Safety and Health Queensland

CHAIR: I now welcome officers from Resources Safety and Health Queensland. I invite you to make a brief opening statement after which time the committee will have questions for you.

Mr Barr: Thank you, Chair and the committee, for the opportunity to brief the committee on the Resources Safety and Health Legislation Amendment Bill 2024. I also would like to acknowledge the traditional custodians of the land on which we meet today and pay RSHQ's respects to elders past and present. I would also like to acknowledge the Queensland resources industry workers killed or seriously injured from work related incidents and extend that acknowledgement to their families and co-workers. This bill will help prevent similar incidents occurring in the future. I will keep my opening statement short so we can move onto questions, but I would like to briefly provide an overview of the development of this bill and how some aspects of stakeholder feedback have resulted in changes from original policy proposals.

The primary purpose of this bill is to improve the regulatory frameworks that aim to protect the health and safety of those involved in our resources industry, including mining, quarrying, petroleum, gas and explosive sectors. The proposed amendments have been informed by the Queensland Coal Mining Board of Inquiry into the methane explosion at the Grosvenor Coal Mine in May 2020 that resulted in serious burns to five underground workers. The board members made a number of recommendations for legislation to be amended, such as to enhance focus on controls, clarifying obligations to protect safety applying to all workers regardless of how employed, and to strengthen

protections for workers who may raise safety issues. It has also been informed by a review of fatal incidents into Queensland mines and quarries between 2000 and 2019 by forensic engineer, Dr Sean Brady. Dr Brady made recommendations for industry and the regulator to focus on improving training, supervision, effectiveness of controls, reporting systems and sharing of lessons learned.

Along with implementing recommendations of these reviews, the bill includes a wide range of amendments that will modernise the regulatory enforcement framework, improve consistency and efficiency of processes and address contemporary challenges. The development of the bill has been undertaken in consultation with stakeholders for a full regulatory impact assessment, including consultation and decision regulatory impact statements. In addition, stakeholders were also invited to make submissions on a consultation draft version of the bill over a six-week period between September and November last year. Throughout this process, RSHQ also met key stakeholders, peak bodies and unions to describe the proposed changes and seek feedback. This included input from the statutory tripartite advisory committees chaired by the Commissioner for Resources Safety and Health.

Feedback raised through this range of consultation mechanisms informed the final version of the bill. Some of the more substantive changes from the proposed policy positions included that additional competencies for site senior executives and establishment of site safety and health committees for coalmines would not progress based on the advice from the Coal Mining Safety and Health Advisory Committee. Concerns that proposed definitions for critical controls were too broad have been addressed. The amendments have been refined to ensure that obligations to implement a more robust approach to controls applies to those hazards which present the greatest risk of catastrophic and multiple fatality incidents. Proposed amendments to require any risk associated with remote operating centres to be effectively managed now ensure they do not unintentionally apply to other offsite facilities such as corporate offices. Provisions have also changed to ensure they do not enable remote operating centres to give directions in a supervisory function to mine sites that must ultimately retain control and responsibility for managing risk locally.

Finally, I wish to thank all stakeholders who participated in the development of the bill, the RSHQ policy team and inspectors, as well as the Office of the Queensland Parliamentary Counsel for their efforts. Thank you. We are happy to take questions.

Mr WEIR: Since I have been elected, we have been through some of this legislation a number of times, I think. When the industrial manslaughter legislation was brought in, it was that senior managers would be liable to prosecution for incidences in a mine. Has anyone been subject to any legal action since that legislation was introduced?

Mr Barr: No matters have progressed under those amendments as yet.

Mr WEIR: So does this legislation go to problems that are not progressing through that process?

Mr Barr: No. The amendment to the industrial manslaughter provisions are implementing a recommendation to the Coal Mining Board of Inquiry which was to clarify the application of those provisions as they relate to employers. In particular, the amendments clarify that those provisions will extend to labour hire agencies and their employment of labour hire workers.

Mr WEIR: Are you saying it does not apply to labour hire workers?

Mr Barr: The amendment in the bill clarifies that it will apply to labour hire workers.

Mr WEIR: It did not before?

Mr Barr: No. The issue around clarity was raised by the board of inquiry and recommended that change.

Mr HEAD: With regard to statutory positions in mines—I was trying to find it again—I understand in relation to who can be in those positions. You do not need to have your mine manager's certificate to be an SSE as part of this. I am curious as to what is the need for some of those changes and where is the industry at as far as availability of qualified and competent personnel. Can you comment on that?

Mr Barr: I will comment on the changes to the bill and then I will ask my colleague Hermann to talk about the availability of personnel for those roles. The bill implements recommendations from the board of inquiry around additional competencies for certain key safety critical roles, and that will include mechanical and engineering managers as well as surface mine managers. The inquiry also recommended additional competencies for site senior executives for both underground and open-cut mines. The tripartite Coal Mining Safety and Health Advisory Committee reviewed those

recommendations and made recommendations to the minister that those not progress. Therefore, those particular recommendations are not progressing on the basis that the existing arrangements are sufficient. I might ask Hermann to comment on the availability of personnel.

Mr Fasching: In relation to those positions, the new statutory positions are simply positions that already exist within the industry—engineering managers, electrical engineering managers, surface mine managers. This is simply moving them to a statutory role which will then give the capacity to have statutory competencies attached to that and those provisions. It is not new roles that are being created within the industry; it is existing roles that are becoming statutory positions, and at all of the mine sites today there are people fulfilling those roles.

Mr HEAD: By them becoming statutory, there may be people in those positions in a non-statutory role who may be hesitant to continue if it is statutory in nature. Has the industry raised any concerns about that and whether this may cause a bit of a flurry and a shortage of people willing to fulfil those positions?

Mr Fasching: I am unable to comment in relation to what industry has raised but, as I say, those positions exist. For those individuals who are currently in those roles, they may be required to undertake some additional training and achieve additional competencies depending on what CSMHAC or MSHAC decide the competencies are going to be for those positions. Generally, those individuals are already in roles where they have responsibilities and accountabilities under the legislation and are required to discharge those. If they do not do so, the legislation allows for penalties already. It is just simply that with making these statutory roles you can control the competencies and the experience requirements for those individuals coming into those roles, or being in those roles, so it ensures you have highly competent, experienced people in those roles, which is what you want to be able to manage risk effectively.

Mr Barr: I might add that there is a five-year transitional period in the bill to allow sufficient time for those additional competencies to be acquired.

Mr WATTS: As you would be aware, the time line we are under for this bill is difficult. I am interested in what consultation has gone on with stakeholders to arrive at this point, how detailed that has been, what objections were put forward, and what changes have been made in the feedback just so that we do not end up trying to go down the same rabbit holes that the department has already been down in putting this together.

Mr Barr: I can provide you with an overview of the consultative process and some of those key issues that were raised. In terms of the time line, as I stated earlier, the bill is informed by the Brady review of fatalities in the Coal Mining Board of Inquiry. The Brady review was finalised in 2020 and the board of inquiry in 2021. It is also informed by the Queensland government mining industry-wide safety resets that have occurred in 2019, 2021 and again last year. After the initial policy assessment of those recommendations, a number of significant policy proposals were developed. As you can appreciate, there is a broad range of amendments in this bill and each of those required an amendment of some, if not all, of the resources safety acts. We then proceeded to regulatory impact assessment in line with Queensland government Better Regulation policy and a consultation regulatory impact statement was available in late 2022 for a period of eight weeks to present the government's policies proposed for implementation. During this time, RSHQ held face-to-face meetings with key stakeholders and several open forums were also conducted. A drafting of—

Mr WATTS: Sorry, if I may interrupt, but in terms of key stakeholders, can you give us some idea and where the open forums were held?

Mr Barr: The key stakeholders primarily include the Queensland Resources Council, the Mining and Energy Union and the Australian Workers' Union. They are the key stakeholders as well as the industry operators. Michelle, would you have detail on hand on the locations of the forums?

Ms Anderson: We did conduct some regional forums in Townsville and Mackay.

Mr Fasching: I can add to that. There were also stakeholder meetings held with the CCAA, the Cement Concrete & Aggregates Association, and AMEC, the Australian Association of Mining and Exploration Companies, was also included in that.

Ms Anderson: I can also add that we did consult with all the major stakeholders through the consultation RIS process. We had meetings with, for instance, the QRC, the unions, the industry groups and then also, through the consultation on the bill, we had meetings through the bill process as well.

Ms PEASE: I know in your introduction, Dean, you talked about the BMA and there being some changes to the remote operating centres. Can you elaborate or give us a bit of an understanding about what they do? There is one in Brisbane, I believe, and I would like to have an understanding about what their role is and what the changes will mean to their operation.

Mr Barr: Certainly. BMA operates a remote operating centre in Brisbane. The main role of those centres, as we understand and have observed, is around monitoring the operation. If you do get an opportunity to visit one, I would recommend it. The BMA centre has a separate station for each of their mines in Queensland where they are effectively monitoring the movement of material around their sites. They also monitor data from various sensors on the site and can coordinate responses as issues arise. The bill originally proposed amendments to effectively set up a supervisory role in those centres and enable the giving of directions and instructions from those centres to sites, but based on broad stakeholder feedback the bill has amended that proposal to ensure that that is not enabled and that the legislation acknowledges the existence of those operating centres and ensures any risks arising from them are addressed through the site safety and health management system, and a site senior executive and management structure are ultimately responsible for managing risks from those centres.

Ms PEASE: Could you give an example of that? Would it be that with the monitoring they might watch the movement of the heavy vehicles that are out on the mine site and if they see some not particularly safe behaviours they would then report that to the site manager themselves?

Mr Barr: Certainly they would do that, but what you will see, if you visit there, is primarily the monitoring of the trucks moving along the haul roads to and from where they are acquiring the material back. If there are issues with that operating plant, the remote operating centre can help mitigate that and discuss that with the site on how they might make alternative arrangements to deal with those issues that arise.

Ms PEASE: Are all mine sites monitored remotely? Is it by company? I am trying to understand how it operates.

CHAIR: My question was similar: how many mine sites are actually being monitored out of the remote centre?

Mr Barr: I do not have that detail on me. I do know that obviously BMA do from their sites. I understand Anglo has some centres as well. Hermann, do you have an insight from your role?

Mr Fasching: Certainly from a metalliferous perspective, Rio Tinto does. It tends to be the large multinational organisations that have multiple mine sites across multiple locations, and those remote operating centres—say, for example, the one that is in Brisbane here—will not just be having oversight of Queensland mines; if they have other mines in other states or, in fact, in some cases other countries, they will also be monitoring those activities.

CHAIR: So they are company specific?

Mr Fasching: That is correct, and not all sites have them. Once you drop into the smaller operations, they do not.

Mr WALKER: On previous tours we looked at safety issues in coalmines. Can you tell me what strategies are in place around the reporting of safety issues? We notice that there was a phone number at some mines, but when we asked the question previously a lot of mines did not know of this phone number where they could report safety issues. Has that been stepped up in relation to making that more highly visible for workers in each mine site in Queensland?

Mr Barr: Certainly in terms of reporting incidents and complaints to RSHQ as the regulator we are progressing work in that space off the basis of the Brady fatality review. That highlighted a key role for the regulators, that collection and analysis of that information and sharing information of those lessons learnt. We are currently developing a new online reporting system to make that process a lot more user friendly and efficient, and we have established a new central assessment performance unit with personnel with data science qualification so we can really improve our maturity and that data analysis and sharing information. As that rolls out, it will become—

Mr WALKER: This was a government phone number for reporting safety issues. It seemed to be quite loose. There was some reluctance to report safety issues because of bonuses and other things being affected each month. One of my lines of questioning previously was this number and how we could make that more accessible and anonymous, I suppose, to make sure we encourage people to raise those very serious issues.

Mr Fasching: You are right, Les. That number is shared on publications that we routinely put out. It is sent out via a QR code on those publications. People with a phone can simply scan the QR code. If they want to report a safety incident or if they want to make a complaint, they can scan the QR code and it gives them the number and they can ring it straightaway, and it comes to us. Those systems are anonymous. The legislation requires us to keep the name of the complainant or the person disclosing information to us confidential. It is always going to be an issue encouraging workers to report matters either internally or potentially to the regulator.

Mr WALKER: The number is displayed at the gate of some mines and is very small in some cases. My issue is that no-one is going to get their phone out at the gate and ring up about a safety issue when they are going to work with the boss. Besides that communication, are there going to be billboards or notice boards around the countryside where they can pull up on the side of the road and see the number?

CHAIR: I would assume that, as part of any quality management system, particularly in the mining space where there would be third-party auditing, that would form part of any induction process for any new employee, whether that be through labour hire or through the company itself.

Mr Fasching: Yes, you are correct. The way of reporting incidents and safety concerns forms part of the induction.

Mr WEIR: Unannounced inspections are to increase under this bill. I am interested in your comment there. Will this bill speed up the time frames for reporting of incidents? The time frame from an incident occurring to getting an official report can be years. Will this bill speed up that process?

Mr Barr: Could I seek clarification on your question? Are you referring to investigations or prosecutions?

Mr WEIR: Yes, after an incident, I am talking about the investigation and findings. Sometimes there could be some initial findings that could be released without waiting for years for the full report. Those findings could be implemented and that might save another worker being injured or hurt. Will unannounced inspections increase under this bill?

Mr Barr: In terms of the unannounced inspections, there are no changes in relation to the regulator. That statutory power for inspectors is unchanged. What it will do is provide effectively unannounced inspections from union nominated officials. Under the bill there are changes that will provide that ability. In that sense, there will be potentially an increase in unannounced inspections from those officers.

In terms of prosecutions and investigations, the bill does not specifically change that process in any way. What RSHQ has done in recent years is established a Serious Incident Investigation Unit, where we have centralised our investigatory resources and expanded those resources so we can conduct those investigations quicker. As an example, the incident at Dugald River last year was investigated and referred to the Workplace Health and Safety Prosecutor within nine months. That is quite a shorter time frame than previous matters. In terms of that aspect, that is the way that we are approaching it as a regulator.

Mr HEAD: The explanatory notes refer to consistency with legislation of other jurisdictions. Where does Queensland sit nationally as far as mine safety statistics are concerned for hours worked and everything like that? The explanatory notes say that this bill is a step along the way to achieving more consistency with the likes of New South Wales. I am seeking some comment on whether we are including provisions from New South Wales because they might be doing things better. Where is that coming from?

Mr Barr: I do not have comparable statistics on hand to share. What I can share is in relation to the amendments in the bill that seek some consistency with New South Wales in particular. One is around certificates of competency for those key safety critical roles that I mentioned earlier. They are in place in New South Wales. We will be aligning with New South Wales in terms of those additional certificates of competency.

Another aspect is that one of the recommendations from the Coal Mining Board of Inquiry was for labour hire agencies to have a greater role in the management of safety and health risks on site. The inquiry pointed to the New South Wales legislation and the model work health and safety laws as well in that respect. There is an amendment in the bill that clarifies obligations for labour hire agencies in terms of their workers and requires them to have a safety management plan in consultation with the site senior executive. Michelle, are there any other aspects that I have missed there?

Ms Anderson: There are a few other aspects. There is a provision in the bill which requires SSEs to be located at or near the mine. In relation to that, we have drawn on New South Wales legislation where there are similar provisions. There is also a further drawing on New South Wales in relation to the regulator and the minister's ability to publish information relating to incidents and HPIs. The New South Wales provisions talk about publishing information. We have drawn on the New South Wales example for that as well.

Mr Barr: Enforceable undertakings are also included in the bill. That is a common regulatory tool from other jurisdictions including New South Wales. The New South Wales Resources Regulator has been using those for a number of years. We will be aligning with that as well.

Ms Anderson: There are provisions in the bill which provide improved sentencing options for courts. They have been drawn from the Queensland Work Health and Safety Act, which is similar to the model work health and safety laws across the jurisdictions. There are those provisions as well.

Mr HEAD: You are taking a lot from New South Wales. Anyone can take different bits of legislation from anywhere in the world. Are we taking those provisions because New South Wales has better data that suggests it is a good move? What evidence are you using to implement their legislation? Do they have better mine safety statistics?

CHAIR: I think there is probably the piece that is around harmonisation of workplace health and safety as a standard across all jurisdictions. Would that be fair to say?

Mr HEAD: I am seeking what the data is that is backing it. Harmonisation is great, but what are we using to prove that this is working and that this is good legislation? Do we have data that underpins the need to do this?

Mr Barr: I do not have data on me to share. I can share an observation around the fatality statistics when comparing Queensland and New South Wales. Certainly in the last three to five years there have been fewer fatalities in New South Wales mining than there have been in Queensland. In that shorter period of time there is a comparable difference. The amendments in the bill that cover these additional arrangements are certainly, from our point of view, beneficial. It broadens those regulatory tools that can be used and the sharing of information. From our point of view, we certainly see benefit in those changes.

Mr HEAD: Are you able to get the data?

CHAIR: Specifically what data are you asking for?

Mr HEAD: I would like data on either HPIs or fatalities for hours worked. Is that something that can be taken on notice?

CHAIR: Is that data that you have access to?

Mr Barr: We can certainly look at that and come back to the committee and provide what we can.

CHAIR: Thank you.

Mr WATTS: Under the current legislation, I am interested in which employers are liable for industrial manslaughter and how that compares to other jurisdictions and then the changes proposed in this bill and how they compare to other jurisdictions.

Mr Barr: The current provisions for industrial manslaughter apply to employers under our resources safety and health legislation. That is the model that is used in other workplace health and safety jurisdictions. The issue that has arisen in our resources safety and health legislation because they are not part of the model laws and have their own unique differences is that there was no definition of employer and then the uncertainty around whether that applied to labour hire employees of labour hire agencies. That is what the bill is trying to do—to address that uncertainty by making it clear that labour hire agencies are employers and those manslaughter provisions would apply.

Mr WATTS: How does that compare to other jurisdictions when it comes to industrial manslaughter? Who else has this and does it apply to labour hire or only to employers?

Mr Barr: I understand that industrial manslaughter provisions apply to the model workplace health and safety legislation that applies across Australian jurisdictions. These amendments will bring the resources safety acts in line with those broader jurisdictions across Australia and in Queensland as well under the Work Health and Safety Act.

Ms PEASE: I would like some information around some other amendments that are part of this bill, particularly around the Coroners Court of Queensland recommendation from the findings of the inquest into the mining death of Gareth Dodunski. Can you elaborate on those amendments and what that will mean?

Mr Barr: One of the recommendations from the coroner into that incident was that the Petroleum and Gas (Production and Safety) Act be amended to include a power of inspectors to compel witnesses to answer questions. The coroner found that the investigation into that fatality was limited due to the absence of that power. Those powers currently exist under our mining safety and health legislation. This amendment is bringing the petroleum and gas act in line with our other safety and health legislation that applies to coalmine and mineral mines inquiries.

Ms PEASE: You have spoken about the consultation that you have had with the sector. Was this bill well received? What has the sector done? Have they been supportive of these changes? Given that much of these changes are about a change of culture within those organisations, are they willing to ensure that miners are safe at all times?

Mr Barr: The general feedback from stakeholders has been general support. I think that all stakeholders recognise the need to do better and better protect workers. Our fatalities in the mining sector and the findings from the Brady review and the Coal Mining Board of Inquiry certainly point that out and identify a need to change. Given the broad nature of the bill, there will always be aspects that stakeholders have a different view on. I am sure those stakeholders will identify those matters with you through this process. I think that generally stakeholders are supportive, with certain aspects that they have different views on.

Ms PEASE: With regard to stakeholders who had objections, were they financial objections?

Mr Barr: No, not that I can recall off the top of my head. Interpretation of the legislation and implementation challenges are generally where those concerns lie. For example, one of the key areas of the consultation draft of the bill was around the critical control management. The draft version of the bill proposed changes which stakeholders saw as too broad. They were going to be all encompassing and capture too many hazards and controls. That is an example of where we have taken that feedback onboard and made changes to ensure that those sorts of implementation issues have been addressed as best we can.

Mr WEIR: I am still curious about the parts of this bill that affect labour hire. It says that a definition of 'contractor' has been included. That was never included under the legislation. Are you talking about contractors who come to do work on machines or tyre fitters? What are you talking about there? What contractors were missed?

Mr Barr: The mining safety and health acts currently include provisions for contractors but that does not provide a definition of 'contractor'. The changes in the bill provide that definition which includes labour hire agencies.

Mr WEIR: So under this legislation they come under the supervision of the SSE at the mines?

Mr Barr: That is right, yes.

CHAIR: Thank you very much. I note that you are going to go away and try to find some information in terms of data and what can be provided. If it is possible to receive that by Friday, 3 May, by 12 noon, that would be terrific. Thank you for appearing before us today. We are very grateful for your contributions. Thank you to Hansard. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public briefing closed.

The committee adjourned at 9.59 am.