

## Resources Safety and Health Legislation Amendment Bill 2024

**Submission No:** 1  
**Submitted by:** Mine Managers Association of Australia Incorporated  
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Committee Secretary,  
Clean Economy Jobs, Resources, and Transport Committee,  
Parliament House,  
George Street,  
Brisbane, QLD, 4000

**Email:** [cejrtc@parliament.qld.gov.au](mailto:cejrtc@parliament.qld.gov.au)

Dear Sir/Madam,

### **MMAA Submission - Resources, Safety and Health Legislation Amendment Bill 2024**

On behalf of the Mine Managers' Association of Australia ("the Association"), thank you for the further opportunity to provide comment on the Resources Safety and Health Legislation Amendment Bill 2024 ("the Bill"). The Association supports the periodic review of mining safety legislation to ensure it remains fit for purpose, reflects contemporary best practice and delivers optimum safety outcomes for the industry.

### **General Comments and Background**

By way of background, the Association's predecessor, the Colliery Managers' Association of New South Wales, was constituted in the Hunter Valley in 1942. Since its inception the Association has grown to represent members in most states of the Commonwealth and New Zealand. Our membership has grown to 420 members and membership, whilst mainly directed to practising mine managers, also includes a diverse range of senior management in the coal mining industry: from chairmen and directors of companies, mines inspectors, academics, consultants and senior technical managers. To our knowledge all practising underground mine managers (UMMs) in Queensland are members of the Association, as are a significant number of Site Senior Executives (SSEs). In NSW nearly all practising mine managers (MMEs), both open cut and underground, are members of the Association.

### **The objectives of our Association are:**

- To advance the interests, and raise the status of members,
- To maintain member's competencies and continue their professional development,
- To improve health and safety in the workplace,
- To provide support to members in employment related issues, and
- To contribute to sustainable mine development and industry growth.

The Association seeks to achieve these objects by, amongst other things, providing representation on industry committees formed to frame and/or review legislation, policy, or advice; encouraging the use of risk management and other contemporary safety techniques to identify and control risks

in the mining industry and; promoting industry standardisation of competencies, maintenance of competencies and legislative requirements throughout Australia.

The Association has always advocated for the senior minesite official to be the holder of a First Class Certificate of Competency (Manager of Mining Engineering or equivalent), believing this qualification to be best suited to manage the complex and often inter-related risks associated with mining operations, especially underground coal mining. We also believe mining related safety legislation should be, where possible, harmonised across States and Territories. The risks associated with mining do not recognise state borders and given many companies operate in multiple jurisdictions, simple, uniform safety legislation across all States is a sensible objective. Efforts to harmonise mine safety legislation across of national jurisdictions are supported.

Given this background, we believe the Association is uniquely placed to provide comment on proposed legislation in Australia's mining jurisdictions.

### **Specific Comments on the Bill**

Overall, the Association does not oppose the Bill and its objectives. Accordingly, we will limit our comments to a relatively small number of issues for your consideration and review that are important to our Association, and also, we believe, critical to achieving better safety outcomes in Queensland:

- 1. Qualifications of SSE's.** The Association has always held the view that best safety outcomes are achieved when the most senior officer at an underground mine site controlling day-to-day operations and long term planning is the holder of a First Class Certificate of Competency. The reasons for this are obvious. Underground mining can be complex and often involve competing risks, where mitigation for one can exacerbate another (eg spontaneous combustion management v's methane management v's strata control). Further, the uncontrolled risks associated with underground mining can lead to a greater likelihood of multiple fatalities from a single event compared to other mining operations eg underground explosions, inrush, outbursts and fires to name a few. Safety and minimisation of risk can only be achieved when the site is under the overall control of a person with a strong technical understanding of these matters and their interactions, together with the authority to control finance and other non-technical aspects of the operation.

How this arrangement is ultimately implemented is a matter for regulators and mine operators. In Queensland, the position of SSE is legislated as the most senior site official. As such, we believe that the SSE for underground mines should hold a first class certificate. This does not mean the Association advocates two certificate holders for each site. It simply means that whoever is in charge should be the holder of a first class certificate.

The recent Queensland Coal Mining Board of Inquiry (Part 1, November 2020) also took this view and recommended that the SSE of an underground coal mine should be the holder of a First Class Certificate of Competency:

*“RSHQ takes steps to amend the Act to require than an SSE for an underground coal mine must be the holder of a First Class Certificate of Competency.”*  
Recommendation 14, p145, Chapter 5 Training and Competencies

The Bill has failed to facilitate this recommendation and is a missed opportunity.

Whilst the Association's preferred position is for a surface mine SSE to also hold a first class certificate, we attach greater significance for this requirement in underground mining environments for obvious reasons. We note the requirement for the SSE to appoint a surface mine manager to control the mine, and is appropriate when the SSE does not hold a first class certificate.

- 2. Critical controls.** The association supports the concept of critical controls and their inclusion in the Acts. The proposed definition of critical control, however, will cause problems for both compliance and enforcement, and may prove problematic in legal proceedings.

The concept of a material unwanted event (MUE) is defined to support the definition of a critical control. The Bill defines a MUE as *“an unwanted event in relation to which the potential or real consequence to safety or health exceeds a threshold **defined by the coal mine operator as warranting the highest level of attention**”*. Using this definition, the application of critical controls will be open to a degree of discretion and interpretation by the mine operator. The notion of *“warranting the highest level of attention”* is particularly cumbersome and may prove difficult to apply, enforce and interpret legally.

We appreciate that these definitions and concepts are widely promulgated in industry handbooks and guidance notes on the implementation of critical control based management systems. They may not, however, be so easily applied in legislation and should be reviewed.

The notion of principal mining hazards, and their control, including critical controls is now widely accepted in the industry. A more specific definition of MUE's, thresholds and where critical controls are required as a minimum should be considered.

- 3. Suspension and Cancellation of Certificates of Competency.** Part 10A of the Act gives wide powers to the CEO of RSHQ for the cancellation or suspension of Certificates of Competency following allegations of misconduct, unsafe conduct or contraventions of safety law. Any contemplation to cancel or suspend a certificate should occur in a timely manner, and preferably within 3 months of any alleged incident warranting such action.

It is the position of the Association that certificates of competency should ultimately only be cancelled by the Board of Examiners or another expert panel of industry stakeholders following recommendations from the CEO, and following the appeals, checks and balances proposed in the legislation. In this way, any suspension or cancellation, that can have a serious impact on an individual's personal circumstances and wellbeing, can be more fully considered by a panel of experts, and not rest with the sole discretion of the CEO.

- 4. Limitation on Time for Starting Proceeding.** The Bill proposes extending the time to commence proceedings for an offence from 12 months to two years. The Association opposes this extension. Matters should be dealt with as quickly as possible, both to ensure

timely interventions to deal with serious safety incidents, and also to minimise the significant impact on individuals that may be subject to these proceedings.

- 5. Magistrates Court.** The Bill proposes that various matters previously dealt with by an Industrial Magistrate be now heard in the Magistrates Court.

The Association could find no previous intention by RSHQ for this change, nor any reasons given. It may be that this matter is somewhat immaterial, with no significant adverse consequences for the industry generally or our members, but without obtaining legal advice, we simply don't know. Any advice or further explanation for this change would be appreciated.

Once again, thank you for the opportunity to comment on the Bill. If you require further information from the Association, please contact our secretary whose details are provided below.

Yours faithfully,



Andrew Myors  
President  
C/O The Secretary, Mine Managers Association of Australia,  
PO Box 1116,  
Toronto, NSW, 2283



[admin@minemanagers.com.au](mailto:admin@minemanagers.com.au)