PUBLIC HEARING – 14 December 2016- Blackwater
QUESTIONS ON NOTICE AND ADDITIONAL INFORMATION
Steve Smyth of the CFMEU

Mr SPRINGBORG: *Thank you. I put this question to your national president, Andrew Vickers, in Bundamba a little while ago. The CFMEU has extraordinary networks with mineworkers because of the collegial nature of everything. That has been pretty obvious by the members who have come forward. As far as you know, of any of your former mineworkers, any of those people who we now know had been receiving WorkCover for confirmed cases of pneumoconiosis going back to 2006, or others, there had not even been any of that that had been suggested to your union or your organisers that you know of? It was not until 2015 that this first inkling of it came out? I raise that in the context of how collegial it is and just trying to understand how something that was there just failed to be detected by anything, even the closest networks that were available?*
Mr Smyth: *My first inkling of something happening is when Percy Verrall wrote a letter to the CFMEU asking for some support due to the fact that he was having some health related issues. At the time, we took that up on Percy's behalf. We got some external legal advice but, up until then, no, I was not aware until I had heard through this inquiry and sitting on the Monash review of these other cases. What really surprised me was I then thought, 'Were those guys members?' I will be honest, because if they are members, they normally contact us. I sort of—and I still am—am really surprised by those cases back in the early 2000s. What I have been able to find out is I had a mineworker of ours who told me probably about a month ago that his father-in-law died in 2002 and the cause of death was pneumoconiosis. I have asked him for the death certificate. That was in a conversation. He lives in Rockhampton. He works at Ensham. We were having a conversation and I went, 'Wow!' The guy was a long-term miner from the UK. Up until about a month ago, I believed that pneumoconiosis had been eradicated—sorry, I was not aware of any cases prior to the 2015 case.*

1. **Mr SPRINGBORG:** *That would be really great if we could get some information around that—obviously, understanding and respecting the confidentiality of the family, of course. Long-term coalminers in the UK and a number of people who have been confirmed now as sufferers of CWP worked in the UK industry and then came and worked in Australia either as a result of the closure there or prior to that time. That would be useful. As far as you know, that gentleman worked in the Queensland or Australian coal industry after he moved here?*

Mr Smyth: *He worked at Moura—in the Moura mines, yes. P.2.*

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2. **Mr SPRINGBORG:** *There are a couple of things you have mentioned during the course of your answering questions today and your presentation today that spurred me into some additional questions. You would have heard Gavin this morning give a very good account of difficult situations and he talked about his brother-in-law and one other suffering from what he thought was silicosis. Does your union have a list of retired members or members of whom you are aware have been diagnosed with silicosis which of course as you are aware is a type of pneumoconiosis? Do you have extensive numbers of those? Given the absolute paucity and pathetic nature of diagnostics, it may be possible that there are people out there diagnosed with silicosis who may actually have coal workers' pneumoconiosis?*
   Mr Smyth: *Good question. No, we have not. We can actually find that. That would not be too hard for us to establish. When I say 'hard', we can go back through our records. It is easy for us. We use two law firms to do our common law and I am sure we can re-identify them.*
   Mr SPRINGBORG: *Who knows what is actually out there, because we have a remit to deal with coal workers' pneumoconiosis. As you are aware, pneumoconiosis covers three areas: silicosis, coal workers' pneumoconiosis and of course the asbestos-related disease of mesothelioma.*

CHAIR: *If you can get that information, we would be really grateful. P.13.*

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3. **Mr SPRINGBORG:** *…Based on your experiences, and what you have seen and talked to others, is there a jurisdiction in the world that has world's best practice when it comes to the issue of supporting coal workers in the safest possible environment to ensure that we reduce the impact or likelihood of any dust-borne diseases, particularly pneumoconiosis?*

   Mr Smyth: *I believe it is the US system. I believe the system developed through NIOSH, the National Institute for Occupational Health and Safety, is a long way down that path. I have travelled to a number of other countries to look at the coal industry and a lot of them lean towards the US, particularly NIOSH. Yesterday, two of our ISHRs returned from the US. They were there for a fortnight undertaking a number of visits to MSHA, which is the Mine Safety and Health Administration, similar to the regulator here. NIOSH does the sampling.*

   I am more than happy to provide the correspondence we sent to the US on what was the purpose of the trip. It was to look at world's best practice. Why do they have a dust level of 1.5 milligrams? Why does every worker have a continuous monitor on their hip? That is the nature of it, in conjunction with what we have seen with the screening. That is my experience. Pp 13-14.

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Mr McMILLAN: *You will be grateful that I am coming to the end, as will the committee, no doubt. The committee has received evidence from the Occupational Physician from the Department of Natural Resources and Mines, Dr David Smith. He gave some evidence about a review of the Health Surveillance Unit that was undertaken in 2002.*
Mr Smyth: *Yes*.

4. **Mr McMILLAN:** *He was part of that review. One of the recommendations was for the establishment of the position of an occupational physician, which he then took up. He gave evidence to this committee that, I think, 28 recommendations were made in that report. He considered that the CFMEU objected to, first of all, the form of that report but also obstructed the implementation of those recommendations. He gave evidence that the only recommendation that was implemented was the establishment of the occupational physician and that the 27-odd remaining recommendations were not implemented. Can you give any evidence today about the union's involvement in that review and/or objections or participation in the implementation of those recommendations and, if not, will you take that on notice?*
   Mr Smyth: *I cannot personally talk about that. I will go back a step. We would have been involved in the review because of the tripartite approach. I will take that on notice and find out. It would be remiss of me to answer that in relation to why they were opposed or objected to.*

5. **Mr McMILLAN:** *Dr Smith's evidence has been published by Hansard on the committee's website. Can I ask you to review that carefully and provide a detailed response to the committee?*
   Mr Smyth: *Yes, I can do that.*

Mr McMILLAN: *Thank you very much, Mr Smith*. Pp 26-27.

Response to

Coal Workers' Pneumoconiosis Select Committee Inquiry

Public Hearing Blackwater

14 December 2016

Prepared for

Stephen Smyth

Queensland District President

CFMEU - Mining and Energy Division

18th January 2017

On Wednesday 14 December 2016 Mr Stephen Smyth, Queensland District President of the CFMEU Mining and Energy Division, gave evidence before the Coal Workers' Pneumoconiosis Select Committee Inquiry, in Blackwater.
Mr Smyth was asked some questions by Mr Ben McMillan, Counsel Assisting, in regards to evidence given by Dr David Smith, Occupational Physician from the Department of Natural Resources and Mines, on Wednesday 30 November 2016 in Brisbane.

The relevant part of the question to Mr Smyth is included below: -

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Mr Smyth: *Yes.*

1. ***Mr McMILLAN:*** *He was part of that review. One of the recommendations was for the establishment of the position of an occupational physician, which he then took up. He gave evidence to this committee that, I think, 28 recommendations were made in that report. He considered that the CFMEU objected to, first of all, the form of that report but also obstructed the implementation of those recommendations. He gave evidence that the only recommendation that was implemented was the establishment of the occupational physician and that the 27-odd remaining recommendations were not implemented. Can you give any evidence today about the union's involvement in that review and/or objections or participation in the implementation of those recommendations and, if not, will you take that on notice?*
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   Mr Smyth: *Yes, I can do that.*

Mr McMILLAN: *Thank you very much, Mr Smith. Pp 26-27.*

I am Greg Dalliston, currently appointed, by the CFMEU as one of three Industry Safety and Health Representatives (ISHR), a position which I have held since 16th March 2001. I have been a member of the Queensland Coal Mining Safety and Health Advisory Committee since its inception in 1999. Prior to being appointed to the position of ISHR I held the position of District Union Inspector (since January 1994), and represented the Union on the committees which developed the Queensland coal mining legislation and review of the Health Surveillance Unit and the Coal Industry Employees' Health Scheme. I also represented the Union on the National Mine Safety Framework process as well as the National Harmonisation on WH&S legislation. I have recently been part of a review of the Health Improvement and Awareness Committee (HIAC) for the DNRM.

I have been asked to provide a response to the above, including the unions' response to Dr Smiths' allegation that the CFMEU (the union) obstructed the implementation of the recommendations from the Report into the "Review of the Health Surveillance Unit" 2002. Also I have reviewed Dr Smiths' evidence on Hansard and have provided a response.

Recommendations from the 2002 HSU Report

The Unions had concerns with a push to move from a Coal Mine Workers Health Scheme which under the format taken from the Coal Board had set standards for medical assessment to enter and remain in the industry to one totally controlled at the whim of SSEs and HR departments. The unions position was not to stop a major change in health surveillance and the development of a well resourced and effective HSU, but to have different components of the health scheme in place at mines. Properly designed and conducted pre-employment medicals; ongoing health screening; health monitoring systems for things such as dust, lead, whole of body vibration, diesel particulates, noise etc; identification of physical and psychological impairment programs whether caused by work or returning from issues caused outside of work and the Workers Compensation and rehabilitation programs.

Instead the union was pushed to either support only one part of this or continue toi fight for a holistic program.

It is very interesting to see that the UNION is seen by some as the body which has opposed and obstructed any changes in workers' health rather than seen as a body fighting to ensure workers' health is indeed protected. A number of the recommendations in the 2002HSU Report could have been implemented in some ways by the various governments mines departments over the last 15 years as they are in most cases internal changes to be made as to how the department goes about their work.

The change in the Coal Mining regulation especially the *" fitness for work"* section and the requirement [at s42(1)(b) & s42(3)] for each mine to have *" protocols for physical and psychological impairment of persons at the mine"* has only been implemented at less than 40% of Queensland coal mines, even after similar figures being tabled at the CMSHAC meetings and concern raised with the Inspectorate.

Of great interest is the comments made by Dr Smith in regards to the outcomes of the National Harmonisation

Recommendation 1

That the current Coal Mine Worker's Health Scheme be replaced and included in a new Health Surveillance Unit (HSU) that will be established to meet the needs of the coal mining, metalliferous mining and quarrying industries in Queensland. The unit to function in a manner consistent with the proposed model outlined in Figure 4 (section 7.8).

The CFMEU did not have a problem with setting up of a robust HSU, if it was to have defined roles and responsibilities and be adequately resourced to perform those functions.

The difference which has continued even through the Consultation RIS (developed between the Newman Govt with input by some major mining companies with no worker representative input) and pushed by some Inspectorate members at the end of the National Harmonisation process, was that the government through the Department of Mines (or its equivalent) would have no part in the general health standards. The Coal Health Scheme would instead of having Health Monitoring and surveillance as a part be only that and that the mining companies would control the types of assessment at each mine or for each task dependent of their policies only.

Recommendation 2

It is recommended that the regulator resource and structure the HSU to be an individual part of the Mines Inspectorate within the Bureau of Mining and Petroleum, and be located in Brisbane.

The proposed model for the HSU requires the performance of several functions, an important one being the collection of a wide range of information for further analysis ***(Section 7.8)****.*

CFMEU - Response

This recommendation did not need tripartite support to be implemented, and in fact, was supported by the union but the real opposition to this can be shown by the Departments very own response in the Executive Summary of the report itself taken below:-

It is anticipated that the proposed new health surveillance model should be able to be implemented with the same staff numbers and only a moderate increase in the budget allocation that exists for the current Coal Mine Workers' Health Scheme. The significant change from the current system being that under the new process, only persons whose occupational health has been ***adversely affected*** will be reported to the new HSU. All other medical records will be kept by the Appointed Medical Officers and be available to the HSU

Clearly the Department and one could suggest the government of the day did not whish to provide extra resources while wishing to be seen as promoting much needed change.

Recommendation 3

It is recommended that the role and function of the HSU is to collect and analyse all reports of adverse medical assessments from mines and quarries and other data related to mine and quarry worker health, and report findings to stakeholders.

*The minimum staff level for an effective health surveillance program capable of covering the Queensland mining and quarrying industry was determined as being two persons (****Section 7.8.3****)*

CFMEU Response

Again clearly there was change proposed through the report, but when the final report was sanitised for release there was to be no further resources provided by way of either expertise, people or money to meet the changes required.

The Unions position was that the word "***adverse"*** severely limited what scope of work the HSU would in reality address. Again the Union did not oppose the intent of the recommendation but opposed the limitations being put by the wordsmithing of the recommendations and report.

Recommendation 4

It is recommended that the HSU has a staff level of two full-time positions – being one manager and one data supervisor.

*In order to be able to respond to industry requests for access to medical records held by the HSU, this service will be made available to clients, subject to compliance with privacy requirements, on a full cost recovery basis (****Section 7.9.2****).*

CFMEU -Response

Again the real intent of what the Department wanted out of an effective HSU was clear by the effort proposed to be put in by supply of resources.

Recommendation 5

It is recommended that the HSU may provide additional information services to authorised industry stakeholders on a full cost recovery fee-for-service basis and in compliance with the Queensland Government Privacy Regime.

CFMEU Response

The HSU to be effective and of value to the mining industry was to collect and analyse details gathered by the Health Scheme and the health monitoring/surveillance and to conduct research to provide information to the industry to improve methods of work, and ways of monitoring and analysis in a centralised manner. Again the union opposed this recommendation as did the employers' representatives.

Recommendation 6

That the mining and quarrying industry stakeholders to work in **partnership** with the regulator and other stakeholders for the purpose of achieving an industry free from fatalities, injuries and diseases by eliminating, or establishing effective controls over, identified occupational health risks.

*An important part of the partnership will be the sharing of information between stakeholders. Some of the small mines, quarries and contractors will find it difficult to provide the resources to develop a health surveillance process. In addition, there is no value in each stakeholder doing essentially the same studies on machines and plant. Sharing and pooling of data will assist in accelerating the entire process and minimise inconsistencies between different mines and quarries. The matter was fully supported to throughout the consultation process (**Section 5.1**)*

CFMEU Response

This recommendation is one of those which could have easily been implemented by the Department . It took until approx. 2011 when the National Mine Safety Framework (NMSF) began producing outputs and then when the Safety Levy on mining operations commenced for this to operate.

Recommendation 7

It is recommended that industry operators develop a protocol for sharing information on occupational health risks associated with materials, machinery, plant and processes.

*To ensure the partnership is sustainable, a number of basic legislative requirements will need to be put in place. It is anticipated that the current wording in both mining acts would facilitate the necessary regulations necessary for the functioning of the HSU. Details would be determined by the Office of Parliamentary Counsel (**Section 5.6.5**).*

CFMEU Response

This has never been attempted to be put before the Advisory Committees or other Tripartite Legislation committees.

Recommendation 8

It is recommended that adequate provisions are made in both mining acts to permit the proper functioning of the health surveillance process.

Recommendation 9

That both the coal mining and mining and quarrying regulations be drafted to contain similar provisions requiring mines and quarries to develop and implement processes to systematically monitor and assess workers' occupational health in order to control the risk of disabling injury or disease to mine and quarry workers.

*In order for a health surveillance scheme to be implemented, duties will need to be specified for key personnel such as the Site Senior Executives, employers, employees and the medical practitioner conducting the medical assessments. Many of the provisions already exist or are suggested in the current regulations however the full list of the minimum requirements is listed for completeness (**Sections 7.3.1, 7.3.2, 7.4, 7.5 and 7.8**).*

CFMEU Response

The majority of requirements for:

7.3.1- Site Senior Executive are included in the Coal Regulations and Act by requiring defining the obligations of the SSE at s42 CMSHA 1999 including to develop a SHMS and do this utilising hazard identification and risk management processes, as well as specifically for Health scheme at r46(4) and r49. With the exception of

- *where possible, accommodate persons with diminished work capabilities including during periods of rehabilitation after injury or illness*

which should be addressed by s42(1)(b) & s42(3) for each mine to have *" protocols for physical and psychological impairment of persons at the mine".*

7.3.2 Employers- are met though the requirements of Part 6 Division 2 of the CMSHR2001.

7.4 Appointed Medical Officers- some of this section 7.4.1 duties of the AMO are in the regulation for the NMA but were covered in the Queensland Coal Employees Health Scheme Instruction Manual 1998 which was a document of the HSU but together with the 1993 Order which was transitioned at s296 CMSHA 1999 through ignorance has (we are told) not been reviewed or remade and now as a result of a sunset clause (has been claimed by ex-CIOCM G. Taylor) is not legally in use.
So the requirements 7.4.1 and 7.4.2 of the report while agreed to by the review committee have not been retained in legislation. This includes the competencies of NMAs/AMOs.

7.5 Full Medical Report- this is covered in the requirement of the Approved form for a CMW medical and in part by r47 CMSHR.

7.8 HSU – The union until recently has made approaches to the department of this recommendation to be met and while attempts by both QRC CEO Susan Johnston and Andrew Vickers Qld CFMEU M&E President dating back to 2003 to 2005 to get the Objectives, Role, Structure and Functions of the HSU defined preferably in legislation, except for the 2002 Review report this has never been documented.
This part of the recommendations could have been easily addressed by any of the DGs with a wish to have this done since the report was released in 2002, the union supported the majority of section 7.8 of the report. A presentation on this was done by then CIOCM B Lyne to the QMISHC (Safety Conference).

Recommendation 10

That the mining regulations include provisions for the duties of the site senior executive to ensure:

- that occupational health hazards are identified for all work tasks and occupations at the mine or quarry
- that where hazards are identified the risk is assessed and appropriate control measures established
- that work activities which have been assessed as presenting a low or acceptable level of risk to occupational health, and that do not require a Mine and Quarry Worker's Health assessment, are identified
- that mine and quarry workers are made aware of the occupational health risks likely to be associated with the duties to be undertaken by the worker
- that where risks of occupational injury or disease exist but are not placed under high order controls, an appropriate mine medical assessment standard for the task/occupation, is developed and implemented
- that the mine medical assessment standard is appropriate to the task/occupation and includes, as a minimum, the Mine and Quarry Workers' Health Assessment Form
- that the frequency of medical assessments is sufficient to allow trends in any adverse change in the occupational health of an individual to be monitored and acted upon before a disabling injury or illness occurs
- that where there is a perceived need, based on risk assessment, for an additional medical assessment on a worker, the SSE is to advise the worker, in writing, of the reasons why the additional assessment is being sought
- that where a mine or quarry worker's duties are changed due to occupational injury or disease, the mine or quarry worker is given the opportunity to seek a second medical opinion which in turn is to be considered by the mine's appointed medical officer
- that all medical assessment reports that record adverse biological results or significant adverse change in occupational health are submitted to the regulator (and a copy given to the employee) in a timely fashion
- that medical assessments for all employees are current
- that a system is implemented where the SSE will review the opportunities to accommodate a worker's diminished health capability, either temporarily or permanently. This accommodation process should be consistent with the WorkCover rehabilitation process for an injured or ill mine or quarry worker; and
- that where it is determined that accommodation of the worker's injury or disease is not possible on an ongoing basis, a report is to be submitted to the regulator with a copy to the employee

<u>CFMEU Response</u>
As per 7.3.1

Recommendation 11

That the mining regulations include provisions for the duties of an employer to include:

- payment of the costs in assessing a mine or quarry worker in accordance with the mine medical assessment standard
- the appointment of one or more appointed medical officers to conduct medical assessments in accordance with the mine or quarry standards

CFMEU Response

With agreement and at times leading by the union representatives most of this is covered in regulation for coal, the CFMEU does not represent in Metal mining and quarry legislation.

Recommendation 12

It is recommended that the mining regulations may require employees to undergo medical assessments.

CFMEU Response

As per recommendation 11

Recommendation 13

It is recommended that medical assessments for mine and quarry workers be conducted by or under the supervision of an Appointed Medical Officer as defined under the regulation.

CFMEU Response

As per recommendation 11

Recommendation 14

It is recommended that the mining regulations require Appointed Medical Officers to have the following duties or provide the following services:

- conduct medical assessments in accordance with the mine or quarry medical assessment standards
- provide a health assessment report to the employer and the employee
- maintain the records of all health assessments of persons permanently employed at the mine or quarry
- transfer the medical records to AMOs where the worker is to be, or is currently, employed
- keep all health assessment records in a safe place on behalf of the chief executive
- make all health assessment records available to the regulator for statistical analysis on an as required basis
- submit adverse medical assessment reports to the HSU as defined by the regulator
- to return all medical records to the chief executive in the event of a mine or quarry permanently closing or the medical practice closing permanently and the mine or quarry has not advised of a replacement AMO
- to transfer all records to succeeding AMO.

CFMEU Response

As per recommendation 11

Recommendation 15

It is recommended that the following definitions be included in the regulation*:*

Appointed Medical Officer, means a medical officer who has been appointed by an employer to conduct health assessments of a person at a mine or quarry and who has demonstrated knowledge of the occupational health risks associated with activities performed by the mine's or quarry's workers.

Significant Change in Occupational Health means a change in a worker's occupational health status, determined by a formal medical assessment, that requires the worker to change some or all of their normal work duties.

Accommodation means the provision of alternative work duties that have been assessed as being suitable for the worker to perform with the risk of disabling injury or illness to the worker or other workers being at an acceptable level.

CFMEU Response

Never been raised for inclusion in Coal legislation

Recommendation 16

It is recommended that the HSU develop suitable procedures and processes for health surveillance in mines and quarries and include:

- matters relating to learning materials for appointed medical officers
- the keeping and maintenance of medical assessment records
- require AMOs to provide to HSU health assessment records to an acceptable standard
- the provision of access to the medical records by the HSU
- formats for reports provided by the AMO to the HSU
  - where biological monitoring results exceed the alert or action level
  - where a mine or quarry worker suffers a significant adverse change to his or her health due to occupational injury or illness and
  - on each occasion that a mine or quarry worker is unable to continue employment at a mine or quarry due to health reasons (including non-work related injury or illness)
- models for health assessment reports to be provided to the employee and employer by the AMO (including guidelines to assist with consistency across industry) on such matters as trending graphs.
- provision of electronic formats for AMO medical assessment reports.

CFMEU Response

As per recommendation 11

Recommendation 17

It is recommended that a Medical Advisory Panel be appointed consisting of up to four medical practitioners who are experienced in the mining and quarrying industry and including at least two persons holding a specialist registration in occupational medicine.

CFMEU Response

Never been proposed and as a result of the resources proposed by the Executive Summary probably never been considered until the CWP issue arose and the Minister Lynham intervention.

Recommendation 18

It is recommended that an occupational physician be appointed on a part-time basis for up to two years after the decision to implement a full health surveillance program is made.

CFMEU Response

This recommendation was adopted and enacted although the position, has to the Unions' knowledge, never had any defined role, responsibility or functions.

Recommendation 19

It is recommended that the draft 'Mine and Quarry Workers' Health Assessment Form' be adopted for use across the mining and quarrying industries and lodged in an electronic format where possible.

CFMEU Response

During the consultation with New South Wales and Western Australia, as part of the NMSF and Harmonisation of the Core draft mining legislation the Queensland coal mine health scheme was put forward and was only rejected at the last meeting when opposed by Victoria, Nth Territory the Australian Minerals Council and then was voted out after being in for the majority of the drafting. The main issues with other government appeared to be cost and work required to maintain records.

Recommendation 20

It is recommended that the existing coal industry health surveillance database be integrated into the new health surveillance program.

CFMEU Response

The HSU did not appear to do any statistical analysis except when the Scheme was changed to have the Fatigue assessments included for a period of 6months.

Several matters were identified during the review that require further research to be conducted.

Recommendation 21

It is recommended that the HSU define the scope and objectives for research into matters directly affecting the health of workers in mines and quarries with a priority given to developing musculoskeletal and psychological impairment assessment processes.

CFMEU Response

We would welcome any research into these matters and fatigue, drugs, ageing or other health related matters but have not seen any of these put on the table by the HSU.

Legislation referred to in doc 161130 5pm resit page 5 -

Mr McMILLAN: Did you raise that as a topic of discussion or concern at the biannual meetings of the nominated medical advisers?
Dr Smith: Yes, that's right, but they raised it themselves because there was a certain amount of concern expressed by the original NMAs, the 30 group if I could call it that, because they were required by the coal board, when they were NMAs to the coal board, to meet certain requirements. They had to have some experience in occupational medicine and to have a knowledge of the mines and to have visited the mines that they were providing the service to and when it was taken over by the department and the new regulation was written in 2001 that was dropped and they were concerned about that.

The clause below was part of the 1993 Order and as such would have meant that the Order would have ceased to have effect in May 2000

Sunset Clause

6. *This Regulation has effect for only seven years from 1 May 1993.*

But the 1993 Order was subsequently amended in 1995, and then in 1997 the Coal Mining Legislation Amendment Act 1997, provided for the 1993 Order to become a regulation under the 1925 Coal Mining Act.

Queensland Coal Industry Employees' Health Scheme Regulation 1998

The regulation is the legislative authority for the introduction of the Health Scheme. The Regulation supersedes the 1993 Health Scheme Order which was approved by the Queensland Coal Board, pursuant to the powers and responsibilities given to the Board by the *Coal Industry (Control) Act 1948,* and published in the *Queensland Government Gazette* on 19th March and 16th April, 1993. The 1993 Health Scheme Order was subsequently amended, and that amendment was gazetted on 27th January, 1995. The *Coal Mining Legislation Amendment Act 1997* repealed the *Coal Industry Control Act 1948* and provided for the 1993 Health Scheme Order to become a regulation under the *Coal Mining Act (1925).* Powers held under the former Order by the Queensland Coal Board were transferred to the Chief Executive of the Department of Mines and Energy. For the time being, the position of Chief Executive is taken to mean the Director-General.

When the 1999 Coal Mining Safety and Health Act was assented 2 September but the only ss1-2 commenced on that day and pt 1 div 4 , pt6,12 and schedule 3 commenced on the 29th October 1999 and the remaining parts of the CMSHA 1999 did not commence until the 16 March 2001.
Whit this being correct, why would a regulation under the 1925 Act (the old Order 1993) be called up in a new piece of legislation(the CMSHA 1999 at s 296) as a regulation [*continues in force as a regulation under this Act and may be cited as a Coal Mining (Industry Employees' Health Scheme) Regulation 1993.]* if the sunset clause was meant to have that regulation hold no effect prior to the 1999 CMSHA and 2001 CMSHR commencing?

296 Coal Industry Employees' Health Scheme

(1) The Coal Industry Employees' Health Scheme Order 1993 under the former Act, as in force immediately before the commencement, continues in force as a regulation under this Act and may be cited as a Coal Mining (Industry Employees' Health Scheme) Regulation 1993.
(2) A reference in the regulation to the former entity is taken to be a reference to the chief executive.

So if s296 CMSHA 1999 in fact made *Coal Industry Employees' Health Scheme Order 1993* a regulation under the Act and the requirements of the 1998 Revised Instruction Manual for the Coal Industry Health Scheme would apply at the minimum as guidance for Employers and the HSU. This would include the requirements to be appointed a NMA.

Below is the relevant section from the 1998 Instruction Manual

Requirements for Appointment as Nominated Medical Adviser

11. A Nominated Medical Adviser must have:

(a) a sound knowledge of the Coal Industry Employees' Health Scheme;

(b) an awareness of relevant legislation relating to safety and health in the coal industry;

(c) a sound knowledge of the operations, activities and tasks performed and the environment at the relevant mine;

(d) a willingness to provide advice on appropriate duties to be undertaken by an employee in discussions with employer and employee representatives;

(e) an interest in occupational health and health maintenance programs; and

(f) suitable equipment and facilities.

In the 1998 Instruction Manual it explains what the "Health Scheme" was meant to do as different to workplace health surveillance/ monitoring (testing of the work environment).

The Coal Industry Employees' Health Scheme, administered and applied in accordance with the regulation, guidelines and standards, **will:**

- **ensure entrants to the coal mining industry are fit to undertake their specified duties without risk to themselves or others in the workplace;**
- **ensure existing employees in the coal mining industry are fit to continue to perform their specified duties without risk to themselves or others in the workplace;**
- **provide a means of early identification of those conditions or behaviours which may inhibit employees' abilities to perform specified duties without risk to themselves or others;**
- **provide, over the medium and long term, extensive and reliable health and lifestyle information; and**
- **provide a heightened employee and employer awareness of the individual and collective benefits of workplace health screening and monitoring.**

One would expect as the Departments' Occupational Physician appointed to the HSU, only a short period after the Commencement of the new mining legislation and having knowledge of the 2002 HSU Review report, that the issues mentioned above would have been important and be raised with the Departments' representatives, especially when raised at NMA meetings, and part of the role was to "provide support to medical practitioners including nominated medical advisors."

Appendix 1 – *Coal Mine Workers Health Scheme – Information Sheet 1 19 December 2001*

The last point of this information sheets states;

- *The Health Surveillance Unit of the Department maintains a duplicate set of medical records, which are used for monitoring of and undertaking research on the health of coal mine workers.*

This document was developed and distributed by the HSU prior to Dr Smiths' appointment but clearly states that the HSU will use medical records for monitoring and undertaking research on CMW health.

As the HSU did not apparently send out much Industry correspondence if would not be hard to find this correspondence and hence work role definition.

Appendix 2 - Minute Health Regulation meeting - 9 Nov 1999

Dust

Pre-employment spirometry and chest X-rays are required where employees are likely to be exposed to more than 1.5mg/m3 coal dust or 0.05mg /m3 of silica dust (8 hour test)

Employees who work in these conditions for periods of 12 weeks in any 12 month period, are required to have respiratory assessment at two year intervals and X-rays at five yearly intervals.

All agreed

Page 2 -Also a suggestion from the union that there should be an offences regulation to cover Health Surveillance.

Appendix 3 – Minute Health Regulation meeting – 25 Nov 1999

Excerpt shows issues which the union had concerns could affect CMW if health regulations were not correctly developed or not prescribed

The CFMEU are deeply concerned that at two sites employees are being unjustly terminated for failing to meet certain 'Health Scheme Guidelines'. Generally the industry accepts that these guidelines should trigger a further evidenced based tripartite risk assessment.

There is concern that the current legislation encourages some mines to raise 'Health standard bar' and thus deny employment through discrimination.

The DME is to seek advice from Parliamentary Council as to the potential for discriminatory behaviours based on a Health Surveillance Regulation or Recognised Standard.

Page 2 recommendation that workers be able to select a Dr /NMA from a Department approved list. The intent was to have an approved list of NMAs with the required competencies.

Appendix 4 - Minute Health Regulation meeting – 13 Dec 1999

Unions' concern that the Order 93 and Instruction Manual 1998 would be put in a Recognised Standard and mines may choose to do what they liked and no control over medicals standards which may disadvantage workers.

2 *Crown Law advised Employers could adopt a appropriate standard that was higher than any proposed in a recognised standard. The end arbitration of 'appropriate' would be the courts.*

4 A provision should be included stating that failure to meet Health Scheme criteria cannot be used to exclude mine workers from the industry. Failure to meet criteria should be a trigger to undertake a full risk assessment that establishes that the particular impairment precludes safe or effective work in respect to the position(s) available.

Appendix 5 - Minute Health Regulation meeting – 13 Dec 1999

Commitment to develop a Recognised Standard for Health Scheme but this has never been tabled or developed since regulation made. Unions' concern was that the critical parts of the Order 93 needed to be maintained in prescriptive terms in the Regulations and Act.

The Health Scheme Regulation 1998 was reviewed for development as a Recognised Standard.

Advice would be sought subsequently from the Parliamentary Draftsman as to whether any components might be required as regulations.

This followed on when Mr B Ham (HSU) presented at the NMAs meeting on 20th October 2001 and stated there would be no Recognised Standard and the information be in Instructions with no legal standing.

3 DRAFT RECOGNISED STANDARD

Further to the circulation of the Draft Recognised Standard of the Health Scheme at the last meeting, the Inspectorate has determined that the recognised standard constitutes another unnecessary level of documentation that makes compliance more complex. Subject to advice from the Regulation Committee/ Parliamentary Draftsman, the material will be included in the Health Scheme Instructions. BH

Appendix 6 and 7 – Correspondence emails from union to Department officers - Dec 2000

This related to the lack of agreement on positions not just by the union but also the employers and showed that the union offered a solution to moving forward with the regulations as the timeframe was running short, this is not the evidence offered by Dr Smith.

Appendix 8 - Draft version 9 of the Health Regulations Sept 2000

Except for (d) the rest of this part of the agreed drafted regulation never made it into regulation and without the Manual as mentioned before and no Recognised Standard there was no prescription on requirements for an NMA.

83. Requirements of a Nominated Medical Adviser

A Nominated Medical Adviser must have:

(a) a sound knowledge of the Coal Mine Workers' Health Scheme;

(b) an awareness of relevant legislation relating to safety and health in the coal industry;

(c) a demonstrated knowledge of the coal mining operations including the risks associated with the activities and tasks performed by the coal mine workers for the employer;

(d) a willingness to hold discussions and to provide advice to the employer and the coal mine worker on appropriate duties to be undertaken by the coal mine worker;

(e) a program to maintain currency of knowledge of occupational health issues and health maintenance programs relevant to the coal mining industry; and

(f) access to suitable equipment and facilities

Appendix 9 – minutes coal Health regulation 031001

These highlight that 2 years after the introduction of some health regulations the intent of the tripartite group had not been met and concerns raised by the union.

He (Vickers)advised that he had been previously informed that S 296 of the CMSHA impacted on Ss 42 and 46 of the CMSHR. This would have resolved the situation. The intent of previous groups was to continue to use the complete S 296 (former QCIHS Order) in total and carry it over into the legislation either as a Regulation or as a Recognised Standard. This did not occur and the Scheme is now not being used for the purposes for which it was originally intended. >
The current legislation is being utilised by employers to make people redundant -persons being referred to NMAs after being off work for 2 weeks. (e.g. a knee injury example at Callide Mine)
Persons are being forced to leave the Industry due to health reasons.
Act / Regulations indicate the process to determine when a medical is conducted - not due to a Company whim!
Noted that the new legislation does not mirror the intent of the previous QCIHS Order provisions

Appendix 10 – letter from B McCarty DG to union dated 3 Jan 2006

Issues which require urgent tripartite attention:

1. *procedures for appointment of nominated medical advisors (NMAs) under the Regulation and resolution of differences in opinions provided by NMAs.*

Since that date there has been no change to the Coal mining regulations except for the recently changed regulations to deal with dust and medicals. These even though urgent, have taken over 12 months to be made and in the opinion of the CFMEU still do not go far enough to deal with the health and safety problems identified.

Dr Smith Evidence

In relation to the personal observations made by on the evidence provided by Dr Smith and Mr Stone on 30th November 2016 in response to Mr McMillans' request of Mr S Smyth on transcript of 14th December at Blackwater, this is in addition to the information supplied above which may also relate to the evidence provided by Dr Smith and Mr Stone.

I have been a member of the Coal Mining Safety and Health Committee since its inception in 1999 and which meets quarterly, and except for a few times when asked to give a specific report to the committee I cannot recall Dr Smith in his 13 years as part of the HSU raising reports or concern about CMW health scheme or the HSU roles.

The comment by Dr Smith (at page 3 of 30th Nov 2016 morning transcript) in regards to " so if dust exposure is controlled then CWO will not occur" is interesting, coming from the Department, which even after the first cases of CWP were identified and made public, issued directives to mines to bring their operations' dust exposure under control, but still were aware that a number of these mines were still cutting coal while exposing CMW to dust levels above the legislated exposure limits. This included a mine which had a number of cases of CWP but continued to cut in an effort to produce a record 10 million tons for the calendar year.

Further on page 3 Dr Smith states that it would be nice to know that mines were addressing CWP in Inductions, this has not been the case and the Recognised Standard committee developing the Dust Control Standard made recommendations for SIMTARS to develop some information and videos for use at mines in this regard. (Appendix 11) The Union raised this at the last Safety Conference meeting and CMSHAC meetings on more than one occasion but I do not believe that it has been actioned yet. The Department has put information on their website about dust.

From appendix 11

1. *The committee recommends that Standard 11 be amended to include a section on dust risk management (with a minimum of 1 hr) that incorporates elements of RS on Dust Control, including but not limited to:*
   - *What is coal dust*
   - *What is respirable coal dust*
   - *What is Silica*
   - *What is inhalable coal dust*
   - *What are the effects of respirable coal dust on a person*
   - *Known dust exposures and outcomes, e.g. "Pneumoconiosis," including Silicosis and Coal Workers' Pneumoconiosis, result from breathing silica or coal dust*
   - *Coal Health Assessment components that monitor dust exposure, e.g. Lung function tests and Chest X-rays*
   - *High risk exposure areas on site (underground vs. surface)*
   - *Assessment and monitoring for respirable dust in the workplace, including regulated dust levels*
   - *Relevant applications of the hierarchy of controls for mitigating and managing the impacts of respirable dust on coal mine workers*

2. *In addition, the CFMEU member raised the following:*

   The education updates for RS 11 and site adoption of the education requirements of the RS on Dust Control should be linked to a campaign showing the long-term effects on health. This RS committee should endorse a recommendation to the CMSHAC for a campaign and support for effective communication using videos with input from medical experts on the effects of respirable coal dust and silica on the lungs and body.

Page 4 Dr Smith states that "there are many thousands of assessments that come in a week during the boom". Again, the union representatives have raised its concern about the number of medicals which are not done in accordance with the legislation and asking for action to be taken with NMAs or other Doctors who submit non-compliant medicals and block up the system. No action to date from the Department or the HSU.

Page 5 Mr Stones' comment on Monash "finding" that many of the NMAs are not qualified has been dealt with in the failure of the department to keep the legislation and health scheme requirements even to the previously accepted standard. We did not need Monash to tell us that.

Page 6 Mr Stone raises that the Department has Queensland government t internal audits, if these occur on the effectiveness of the legislation or department they have never been tabled at the CMSHAC meetings and in fact the Committee has been trying for some time to conduct an effectiveness audit of the legislation as is one of their functions. The committee is still waiting to get answers back on provision to them of submissions to the RIS 2013 consultations.

Page 6, 7 and 8 attempt to blame a number of things for not revising the Queensland mining safety and health legislation including the Union again, change in government, National Harmonisation of OHS legislation. The fact is that the CFMEU participated very actively and at great expense in the National Mine Safety Framework, the National harmonisation of mining legislation, the development of a national mining accident and incident database, and the National Worksafe harmonisation of general WPHS legislation through the Model legislation. None of this which affects Queensland coal mining legislation has ever been finalised or implemented.

The only change was the Queensland 2011 WH&S Act changes.

The changes of government referred to were BOTH the 2012 and the 2015 government changes. Work on changes to the Queensland mining Act and Regulations was done through tripartite groups between 2005 and 2009 and has never been taken to parliament. Some people in the department do not even know the work was done.

The Queensland Mine Safety Framework Consultation Regulatory Impact Statement (the RIS) was not developed in the same tripartite manner as the current Coal Mining Safety and Health Act and Regulation (recognised as world best), but instead was developed in the department under the Newman LNP government with numerous representations from BMA and by government employees with guidance by the CIOCM and then ex CIOCM G Taylor (ex BMA and BHP manager and with family BMA connections, and also the Mine Managers Association of Australia (MMAA) President) as an "independent' advisor. Some department inspectors were instructed to meet as part of a "customer service agreements" with mining company representatives to ensure that their matters were considered. It was to be national consistency where some people wanted it and not other places.

At page 103 to 106 inclusive of the RIS the Governments' proposal was to get rid of the Fitness for work components of health and medicals and therefore leave these free for choice at the whim of the Employer or more the Coal Operators who control and appoint the SSEs. This included the current Coal employees health scheme, and fatigue drug testing and any test on physical and psychological impairment the employers decided. While only maintaining some minimal control of the inspectorate over health surveillance issues like dust noise lead etc.

This together with the control by employers of employees' Site Safety and Health Representatives selections, almost total elimination of Industry Safety and Health Representatives' powers was the catalyst for the Union to oppose the RIS as it stood. There was nothing in the RIS about the powers and functions of any HSU.

With the 2015 election coming close the RIS was left aside and an extension to the Coal Mining legislation review requirements put through parliament. With the election of a new government in January 2015 and the unfortunate loss at the same time of the CIOCM, despite numerous approaches by the union to government the mining legislation has still not been reviewed or remade.

The matter of the HSU raising dust issues, was not presented to the CMSHAC of the union, but instead the Inspectorates Hygienist Fritz Djukic and the Deputy Chief inspector Albury raised their concerns about the outcomes of the USA disaster and any flow on affect with Queensland mining. The union again pushed with the CMSHAC and various people including the ex-acting Commissioner for Mine Safety and Assistant DGs and DG to get some assistance and a change to require dust results to be supplied to the Department and the ISHRs.

This met with resistance until the number of CWP cases began to unfold.

The resistance to have dust exceedances above the legislated levl reported, similar to HPIs was at first accepted (after some serious debate) by all parties at the CMSHAC but then was gradually undermined by persons from within the department. The union again had to fight to get the current position (which we are still not satisfied with) but had some support from a number of mining company representatives.

The fight to get real time dust monitors approved for use in Queensland coal mine ERZ1s is still ongoing.

Page 10 and 11 question by Mr Kelly -The issues of casualisation , labour hire , contractors etc not feeling confident to raise safety complaints without fear of retribution is very much alive and kicking out in the industry, it is not just these people , CMW with employment by the operator (used to be called permanent employees) are also careful about who they raise safety issues with for fear of loosing their jobs. The DNRM Inspectorate have seen a rise in number of complaints made directly to them. Even during the initial investigation of the CWP cases contractors were being instructed to work on the return side of the longwall while it was cutting so as to maintain production rates. One example was at an underground mine when two ISHRs announce they were going to conduct a mine inspection and the contractors were taken out of the area only to be ordered back in after the ISHRs left the mine.

Page 11 Mr Stone states that we had 23 mines under directive for controlling dust management. I find that absolutely amazing when the maximum number of operating underground coal mine we have had is 14 at any time, and almost half of them have been under a directive of some sort regards dust.

NSW through an order for Coal Services require a Dust control management plan to be developed implemented and audited for each mining block, similar to the Queensland secondary extraction plans under our legislation. This is not in our revised legislation.

After 5 pm session evidence 30th November 2016

Page 3 Dr Smith stated that he recognised in 2008 that there was some problems with some spirometry results.

This has never been reported to the CMSHAC who have a function to recognise, establish and publish competencies accepted by it as qualifying a person to perform the tasks prescribed under a regulation.

Page 5 evidence by Dr Smith

About advice to NMAs

Question from CFMEU

Will the HSU have a role and functions defined and will the replacement Occupational Physician be trained in the requirements of the mining legislation related to health scheme as part of taking up the role.

Page 5 Dr Smith on practice of NMA not necessarily seeing CMW

The matter of NMAs not seeing the CMW for which they fill out the part 4 of the Approved form, provide a health assessment report, and give advice to the employer about the appropriate duties for the CMW is in accordance with the legislative requirements and is not a concern for the CFMEU.

Provided that the Health assessment has been conducted in accordance with the regulation which includes that it is carried out :

- In accordance with the instructions and covering the matters in the approved form, and
- By or under the supervision of, the nominated medical advisor.

The NMA also has the ability to discuss any issues relating to the medical assessment with the EMO (Examining Medical Officer/ the doctor.

The NMA MUST discuss the Part 4 of the approved form with the CMW whose assessment he signs off on.

Page 6 discussions with Mr Djukic

Mr Djukic raised with the ISHRs in discussion the difficulty in enforcing the dust limits when stated in mg/m3 TWA, the Union sent a letter regards this to the Minister in December 2015.

The appendix mentioned throughout this response as well as a number of relevant Minutes of the CMSHAC and other committees have been provided electronically in separate documents.

Yours in Safety

Greg Dalliston, ISHR

For and on behalf of

Stephen Smyth
District President
Queensland District CFMEU M&E Division

Queensland Government
Natural Resources and Mines

MINUTES MEETING 23
Our Ref: File No 29900, Loose Doc No MI04/05414

Department of Natural Resources and Mines
GPO Box 2454 Brisbane Q 4001
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http://www.nrm.qld.gov.au/mines/safety_health.html

MEETING 23: COAL MINING SAFETY & HEALTH ADVISORY COUNCIL **CMSHAC/23**

MINUTES

Meeting held 27 08 2004, 5th Floor Large Conference Room, Mineral House, 41 George Street 9am-

Members

Mr Peter Minahan	[PM]	Department of Natural Resources and Mines	Chairman
Mr David Mackie	[DM]	Department of Natural Resources and Mines	A/Secretary
Mr Brian Lyne	[BL]	Department of Natural Resources and Mines	
Mr Mike Downs	[MD]	Department of Natural Resources and Mines	
Mr Neville Sneddon	[NS]	Employers' representative	
Mr Shane Hansen	[SH]	Employers' representative	
Mr Andrew Vickers	[AV]	Employees' representative	
Mr Peter Vipen	[PV]	Employees' representative	

By Invitation

Mr David Reece	[DR]	Natural Resources and Mines
Mr Ian Cribb	[IC]	Xstrata Coal Queensland
Dr David Smith	[DS]	Occupational Physician consultant to Natural Resource and Mines

Distribution

The above
Mr Grant Cook — Queensland Resources Council
Mines inspectors

Apologies

Greg Dalliston [GD] Employees'representative

Agenda	AGENDA	Action
1. PM	Welcome and apologies	
2. PM	**Previous Meeting: Minutes**.	
	Item 8	
	Hierarch of competencies for example G3, G2, and G1	
DR	The question is will a higher qualification allow a person to work in a lesser role. For example, could a person with G3 (new identifier MNCG1003A) required to "establish" the mine risk management process undertake a role "implementing" the risk management process which requires G2 (new identifier MNCG1002A); or a role "applying" the risk management process which requires G1 (new identifier MNCG1001A)?	Info
	(Also refer to item 10 meeting 21)	
	The Council recommends that if a person with a higher qualification is appointed to carry out the duties of a lesser role, then the person must have the skills necessary to carry out the functions of the lesser role. Where this lesser role requires a lesser qualification this would typically require a gap analysis to be carried out of a person's competence in relevant units (RPL may be applicable) and then trained to address any deficiencies.	*Dec'n*
	Item 9	
	· Revised assessor training package.	

MEETING 23: COAL MINING SAFETY & HEALTH ADVISORY COUNCIL		CMSHAC/23
	MINUTES	
DR	o Certificate IV assessor competencies will remain valid. o People who train assessors will have to upgrade to revised competency TA004 • When site trainers and assessors being holders of certificate IV are required to have refresher training under s84 of the Coal Mining Safety and Health Regulation 2001 they will have to upgrade their competencies. Summary Status quo maintained: people at a mine trained and assessed by persons with Certificate IV competency can be provided with a “statement of attainment” by an RTO who is in partnership with the mine.	Info
PM	*Item 10* • Advisory Council annual report being prepared • *Members concurred with proposal for continued existence of Board of Examiners (BoE): to be reviewed in 12 months time. Need for BoE could cease when candidates are of sufficient calibre to not require vetting by BoE.*	*Dec’n*
	Item 11 • Availability of P5 explosives o Explosives imported is classified by the importer as P1 not P5 o Amount imported is 3 tonnes not 2 containers of 12 tonnes as previously minuted o Future supply of permitted explosives whether P1 or P5 is problematical and users need to examine security of supply and/or explore alternatives.	Info
3. DM	**Amendments to Coal Mining Safety and Health Regulation 2001** Recommended amendments have been forwarded to the Minister and it is anticipated that they will become law by mid September.	Info
4&5	**Australian Industrial Relations Commission: Hail Creek Preference for Employment** **Waterfall Disaster Coronial Findings** (Discussion merged both topics)	
	Nominated Medical Advisor (NMA) appointments Note: In summary document distributed Appointed Medical Officer is used interchangeably with Nominated Medical Advisor	
BL	Regulation requires the EMPLOYER to appoint the NMA and does not require that Site Senior Executive (SSE) appoints the NMA; amendment to include this provision should be considered	
AV	Difficulty with contractors who do not have an SSE but are empowered to appoint NMA	
BL	Suggest NMA be at least a medical practitioner with additional training relevant to occupational safety and health in the mining industry. Training requirements to be developed by proposed Medical Advisory Panel.	
	Suggest NMA not be appointed until they have an understanding of working environment in the mining industry: would require site inspections for familiarisation.	
	Suggest Heath Surveillance Unit (HSU) produce summary check list of different environments on a mine site that a prospective NMA needs to be familiarised with.	
AV	Possible need to revisit the role of the HSU	
BL	Another matter to consider is the introduction of the term Safety Critical Employees (SCE) be reassessed at frequency dependent on age, medical condition and risk profile of the task	
General Discuss’n	SCE needs defining. What are parameters for deciding? Also consider term Safety Critical Tasks Secretaries Note. Waterfall report defines SCE as danger to public and high risk to self.	
PM	Should obtain examples of medical examinations which could be used in the mining industry Attention Dr David Smith (DS)	DS
	Health Assessment	

	MINUTES	
BL	AIRC finding did not consider case where contractor is doing short-term job with temporary employee. Advice is that an employer who pays a pro rata re imbursement to temporary employee for the period of employment is meeting the requirements of the legislation. *Secretary's note*: This seems to beg the question over what time period and at what rate is the cost of the medical defrayed to the temporary employee and does the employer simply select a rate that is then forced on the temporary employee.	
AV	AIRC finding said the person walks in off the street to get medical and the NMA has no idea of the nature of the work the person is to undertake	
NS	If there was different levels of medicals for safety critical tasks and contractors employees had to be examined at this level it might address the problem	
PM	*Request all members to comment on possible ways the issue of medicals for contractor's employees can be addressed*	All
BL	Suggest that Approved Health Assessment Form should include Assessment of any · risk factors associated with cardiovascular disease. · sleep disorders · symptoms of alcohol abuse For Safety Critical Tasks · assessment of future health risks · requirement for stress tests to be conducted if indicated by cardiovascular risk factors NMA should have the ability to: · conduct additional tests and/or seek expert medical advice · access records pertaining to personal medical history, compensation claims, accident and sick leave	
AV	What ever system is set up it must have provisions to terminate the services of an NMA who is not doing the right thing	
	Review of Health Assessment	
BL	If second medical opinion obtained and difference of opinion emerges with NMA the matter should be presented to a Medical Advisory Panel (MAP) set up for this purpose. MAP report would be sent to NMA and examinee; NMA would forward MAP section 4 report to SSE"	
SH	There needs to be a time frame established for review of health assessment by MAP	
	Section 4 Report	
AV	Existing Section 4 Report is very generic and gives no guidance	
BL	State Rail medical report included restrictions by the medical officer (NMA) where applicable: · Not to work where sudden loss of consciousness could endanger self or others · Not to work alone · Not to work near moving plant or machinery · Not to drive mine vehicles	
BL	Proposed form distributed titled "Section 6: Mine or Quarry Worker's Health Assessment Report"	
IC	As Section 6 report is only at the proposal stage it should have "Proposed" in its title**.**	
BL	New form replaces term "fit for work" and associated boxes with " The worker is capable of 1) Undertaking the nominated tasks with out restrictions. 2) Is capable of undertaking the nominated tasks with the following restriction(s) or suggested accommodations.	
Discuss'n	Suggest add 3) Not capable of undertaking the nominated tasks. Also in box titled Examination Details above cell titled "Position (eg job title (generic))" delete "generic".	
BL	Where possible the employee should be present when NMA has reason to discuss future	

	MINUTES	
	activities of the employee with the employer. The NMA needs to be provided with advice on the scope of the medical information that can be provided to the employer.	
	Manuals	
BL	A draft manual will be prepared by Dr David Smith (DS) · to be reviewed and endorsed by the MAP · to provide reference for agreed assessment tools for use where there is clinical indication or suspicion of latent medical condition	DS
AV	HSU is about health surveillance not entrance medicals	
BL	Trend data from repeat medical examinations recorded in the HSU1 or 2 Report which addresses health surveillance	
BL	Request members to consider the use of the category "Safety critical employee" (also safety critical task)	All
BL	Raised the issue of rehabilitation and the problems previously associated with limitations on rehabilitation imposed by Workers Compensation and Rehabilitation Act 2003 Requested members who are self insured to consider how health surveillance system could link to workers compensation	Members who are self insured
BL	Asked for further comments on proposed replacement for Section 4 Health Assessment Report Form with new Section 6 Mine or Quarry Workers Health Assessment Report.	
IC	Question of validity of industry wide directives: where an incident occurs at a particular mine is it valid to issue an industry wide directive based on that incident without investigating whether the particular circumstances that apply to that incident are present at other mines.	
General discuss'n	Depends on belief of person issuing the Directive. The persons issuing the Directive may be called on to justify whether their belief was reasonable. However there is an offence of not obeying a Directive. Companies would have to get own legal advice on a case by case basis. Directive to suspend operations cannot be stayed but relief may be able to be obtained expeditiously under Judicial Review Act 1991	

Next meeting 17.09 2004 5th Floor Large Conference Room, Mineral House, 41 George Street 9am

Chairman Peter Minahan
Chief Inspector of Mines

Secretary D Mackie

Acting Deputy Chief Inspector of Mines (Technical)
PHONE NO: 3237 1628 FAX NO: 3237 1242 Email: david.mackie@nrm.qld.gov.au

Queensland Government
Natural Resources, Mines and Water

MEETING 29
2 May 2006
Our Ref: File No 29900, Loose Doc No MI06/03284

Department of Natural Resources, Mines and Water
PO Box 2454 Brisbane Q 4001
Level 5, Mineral House, 41 George Street, Brisbane, Queensland 4000
http://www.nrm.qld.gov.au/mines/safety_health.html

DRAFT MINUTES - MEETING 29 OF THE COAL MINING SAFETY & HEALTH ADVISORY COUNCIL	
2 May 2006, 5th Floor Large Conference Room, Mineral House, 41 George St. Brisbane ***1000h to 1400h***	
Members	
Mr Peter Minahan **- Chairman**	Department of Natural Resources, Mines and Water
Mr Mike Downs	Department of Natural Resources, Mines and Water
Mr Brian Lyne	Department of Natural Resources, Mines and Water
Mr Brett Garland	Employer's representative
Mr Neville Sneddon	Employers' representative
Mr Ian Cribb	Employers' representative
Mr Andrew Vickers	Employees' representative
Mr Peter Vipen	Employees' representative
Mr Greg Dalliston	Employees' representative
Mr Stuart Vaccaneo	Employees' representative Observer
Secretary	
Mr John Kabel	Department of Natural Resources , Mines and Water
Distribution List	
Persons named on Agenda	
Mr Grant Cook	QRC Safety Advisor
By Invitation	
Mr Paul Martyn	General Manager, Office of the Director-General, Strategic Policy and Legal
David Smith (part-time)	Department of Natural Resources, Mines and Water

Item	Description	Action
1	No apologies	
2	***Previous minutes*** **-** Corrections and acceptance of minutes for meeting 28.	Information
3	On **Legislation**, Paul Martyn mentioned that he had not handed out flowchart yet, as mentioned in previous minutes, as it still needs some work. He also mentioned he had distributed some drafting instructions at the last meeting: • primarily s42.7 • options for s42.7 to move forward • requested tripartite to consider views for us to give advise to minister • asked for views in general Ian Cribb asked if legislation could be changed to remove ability for it to be stalemated (the section that allows it not to reach final agreement) – and to treat it like any other SOP. Andrew Vickers replied it was not like any other SOP because it involves the assessment of people. Greg Dalliston asked whether any further work had been done on which mines were attempting to comply. There were no documents for education or registers on sites, and he had written to Brian Lyne outlining the situation. Neville Sneddon suggested that the key part (about drug testing or not) was not being considered. In reply to Andrew Vickers' suggestion that we debate urine testing, Neville Sneddon said he	

had read the Drummer paper[1] and did follow-up, and there were probably 4 issues that the paper dispels. These concern:

1. Seven times higher probability for fatal road accidents
2. Walking past someone smoking in the street and getting it in the blood (or casual user)
3. It's illegal, so contents not marked on the packet, users can't know the concentration
4. What do you do with someone testing positive should be a union role

We need to work out what to do after positive testing.

Peter Minahan mentioned the greater human issue – mental impairment tied to recreational use of marijuana, and Brett Garland related that the SSEs had a presentation from Judith Pearl (NSW Police) who stated it can trigger schizophrenia in people susceptible to the condition.

Brian Lyne mentioned that the level of drugs increase the risk – doesn't necessarily relate to impairment. Neville Sneddon said the testing for alcohol doesn't relate to impairment– testing for alcohol blood levels used a deemed point - not an actual measure of impairment. Brett Garland described a move away from 0.5% to 0% in alcohol testing.

Neville Sneddon related the hazards of THC[2] in the blood along with alcohol. This was followed by general discussion on what levels of both alcohol and THC would be acceptable on mines, and then more discussion and examples of retention rates for THC.

Neville Sneddon said we have deemed a point beyond which people shouldn't drive. If we wait to find a direct measure of impairment, in the meantime we'll have to endure the higher accident rate.

Greg Dalliston suggested:

- if we do agree on a form of testing, this will start to drive down the levels of THC,
- every lodge in Qld has been told that 0.5ng/mL THC is equivalent to 0.5% alcohol (as per Drummer paper),
- it shouldn't be a random test once per year,
- and 90% of mines have no drug testing agreement in place, many have nothing at all (parts that don't require agreement).
- Why don't we do alcohol, drugs and fatigue all at once?

Ian Cribb suggested there were opportunities for NRM&W to quantify level of compliance in industry. Neville Sneddon said the main problems were with contractors and casual workers. The Advisory Council needs to show leadership in this.

Andrew Vickers questioned whether the paper doesn't state that levels of THC relate to impairment.

Brett Garland mentioned that well beyond 4 hours, and up to 24 hours, there is still impairment, and Greg Dalliston said that current saliva tests go back 16-20hours. Neville Sneddon stated that the paper says we should be doing regular urine testing and counsel people who test positive.

Brian Lyne related advice from a haematologist who had said saliva tests were inaccurate and could be confused by a 'fisherman's friend'. Peter Vipen replied that Urine testing can also be cheated eg Urol for THC tests. He asked how other mines managed use of Codral, Panadeine Forte etc – a statutory declaration?

Neville Sneddon said that if nothing else, we need a code of practice, while Greg Dalliston suggested a recognised standard requiring a drug test.

Andrew Vickers said the problem is with people testing positive being sacked. Coming to work impaired is the issue. This was followed by general discussion on alcohol testing – no measurement of impairment; measurement of alcohol levels.

Greg Dalliston questioned whether a urine test was an invasion of privacy. There were no problems with a recognised standard stating 1, 2 and 3 stages of failure on testing, however there is disagreement on the testing process.

Neville Sneddon stressed we need to have the right process, to handle people who are positive, and that saliva test are not reliable. Peter Vipen replied that they were looking at doing Saliva testing in conjunction with current Urine testing at his pit. Greg Dalliston asked where does Drummer say that oral testing is ineffective?

Peter Minahan asked how do we take this forward; a one day forum to work this out? Brian Lyne asked whether we as a committee were satisfied there is increased risk in use of drugs? If yes, do we say there is a better way of managing the risk?

In reply, Peter Vipen said:

- they addressed problem with over the counter drugs
- still have THC positive tests using Urine
- this can be abused or cheated
- need safeguards
- nobody wants people impaired at work or on roads
- as a minimum start off with agreeable testing ie Saliva ???????????

Peter Minahan then asked if we could have a trial and collect the data.

Andrew Vickers then asked why urine testing is the preferred method of testing. The Drummer paper mentions counselling and rehabilitation as a result of THC being detected in urine.

General discussion followed on technologies for testing, and how long it's retained in saliva, urine or blood. Peter Vipen mentioned AS4038 with a level of 300ng/mL for cocaine and amphetamines and 50ng/mL for THC.

Ian Cribb:

- believes there is a link between THC and accidents
- Department should state what level of testing should be at
- test such that it can pick up presence of THC for 24 hours (based on the research)
- should get some connection with Drummer (take some myths out of it)

Brian Lyne said we need to consider the method of testing and period of presence, and risks associated with other drugs other than THC. Neville Sneddon mentioned we can't afford to ignore others such as amphetamines. Stuart Vaccaneo mentioned that as 'speed' clears the system faster than THC, people are now using this as the drug of choice, and Peter Minahan said we need to focus on the whole drug spectrum.

Peter Vipen mentioned a test for nine drugs, ("Oraletion"?), followed by general discussion on the range of drugs and detection levels covered by the saliva test. Greg Dalliston stated that blood tests won't be reliable or immediate, but can be part of a stage in the process.

In reply to a question, Andrew Vickers stated if someone is injured and found to have these drugs in his system, it can affect any common law claim but not a worker's compensation claim. He:

	- doesn't overly disagree with QRC, but doesn't read the supplied paper as rigidly i.e. be careful with words like "some degree of impairment within 24 hours" - this isn't absolute empirical data - supports trying to get paper's author Drummer here, also maybe Assoc. Prof. Bob Hoskins, Director of Forensic Medicine at the John Tonge Centre (MMA for some Qld mines); he's aware of the problems in industry. - believes permanent coal mine workers are well protected - won't be a party to amending legislation for (60% of industry) contractors etc will be black balled from the industry. Neville Sneddon mentioned we cannot control what people do out of work time There was no immediate response when Peter Minahan asked - can we wrap this up - if we can progress the understanding of this and get Prof. Drummer and Assoc. Prof. Bob Hoskins from the John Tonge Centre - can we lift the embargo on getting agreement on s42? Ian Cribb asked about the Department's position, after reading the papers, to which Peter Minahan replied that he would like more information from Prof. Drummer etc. Brian Lyne mentioned that whoever we get must be acceptable to all parties. Brett Garland also suggested Judith Pearl (NSW Police) – she has addressed all SSE and sits on Australian Olympics Committee. Brett undertook to distribute presentation given to SSEs. Peter Minahan asked Andrew Vickers that if we can clear up the myths, would he support this. Andrew replied that he'd be in favour of a Recognised Standard if it can be developed. Greg Dalliston added that we need research from Government on information on testing, and also mentioned an Inspector Borman from the Victoria Police. Peter Minahan stated that we won't wait for next Advisory Council meeting to progress this, if we can get the people together before the next meeting. Greg Dalliston raised the issue that s42 also concerns physical and psychological impairment; we have only done one part - before we close out on s42, will we cover this? Anglo has come up with draft procedures or he suggested getting a copy of the North Goonyella agreement. Andrew Vickers said that the QRC & unions agree that the Department should establish a level of compliance on all of s42. He also mentioned the necessity get the medical experts to provide advice on drug levels. **Note 1**. Drummer, Prof. O.H. '*REPORT ON THE OCCUPATIONAL HEALTH AND SAFETY RISKS ASSOCIATED WITH USE OF MARIJUANA IN THE WORKPLACE'*, Victoria Institute of Forensic Medicine, 2006 **Note 2.** THC – Tetrahydrocannabinol, the active component of cannabis	B Garland P Minahan B Lyne is follow up M Downes / B Lyne
4	**LUNCH**	
5	Andrew Vickers stated that Stuart Vaccaneo was attending this meeting as an observer. Peter Minahan mentioned an email from Andrew Vickers on **NMAs and contractors**. Andrew stated that from last meeting, he undertook to provide some words around issue on mis-application of legislation on medical advisors and medicals. However, the words are all there already. People must be told about this and how they must comply. The main problem is the assessment report is not being completed.	

	Ian Cribb said that inspectors should be contacting NMAs and telling them where the report is incomplete. Andrew Vickers agreed. He suggested that perhaps a summary could be drafted and sent out, and he later mentioned example of contractors not having medicals. Brian Lyne outlined a seven point policy on the medical process. Employers include contractors. Ian Cribb suggested encouraging NMAs not to undertake medicals for people without reference from an employer. Brian Lyne replied that we cannot do this as NMAs are service providers and we would be restricting trade. Andrew Vickers stated that it is ~~not~~ a 'statutory health assessment' if it is not done in accordance with the legislation and should not be accepted as such (it does not have the employers details on the assessment). Andrew agreed with Ian Cribb that it is up to the NMA to fix this. Peter Minahan mentioned that this is possibly why NRM&W are getting multiple medicals eg three per year. Replying to Ian Cribb's question, Andrew Vickers said they were not transferable – a new one for each mine is needed. Brian Lyne gave examples of NMAs who only do open cut coal, and people with their medicals will work at underground coal mines. Greg Dalliston suggested using s46.5 here. One mine's NMA can look at another's report, rather than at the worker, to make an evaluation. Brian Lyne said the examining medical officer and the NMA who fills out the last page of the document can be different people. This was followed by general discussion on whole responsibility of SSEs, NMAs, etc. Andrew Vickers said this was failing with the NMA and the contractor (employer). He agreed with Ian Cribb that it is not the SSE's responsibility; it is the contractor's. Greg Dalliston showed the current and proposed approved form. On the old form it was not obvious to the doctor that it didn't come from an employer. On the new form it was more obvious that the employer must have signed it. At this point, Dr. David Smith came in to the meeting as an observer. Peter Minahan said, coming back to contactor as an employer, that we will go out to major contractors (start with body hire) and get them to appoint and register their NMA. He suggests that the mine's NMA then check the other NMA's forms for all those on site. He concluded that this could be done with the existing legislation. Mike Downs mentioned that disputes over content of reports (between doctors) should be also addressed as part of this issue. He has had two complaints and followed our compliance procedures to achieve satisfactory outcomes. It's often a case of doctors assessing a patient with a different criteria or intents. Andrew Vickers asked why must the NMAs review the other NMAs reports? Paul Martyn mentioned that defining the 'Employer' in the regulation and not in the act is unusual legislative drafting. There was then a general discussion concerning current multiple medicals resulting from losses on mines, and major mines not accepting assessments from other mine's NMAs. Brian Lyne mentioned that often an NMA will not accept another's report over 6 to 12 months old, followed by general discussion on reluctance among NMAs to accept another's report.	P Minahan

	Ian Cribb asked if NRM&W could check with NMAs i.e. 'this is the company you have been engaged with and this is what the legislation requires'. We see it as NRM&W's responsibility - it's enforcement of legislation. Peter Minahan replied that we'll look at legislation and will comeback to council with what we will do. He asked Dr David Smith to look into how many reports come in incomplete. Greg Dalliston suggested that on the existing form, there should be a place for the employer to authorise. In response to Neville Sneddon's suggestion that starting today, we look at any incomplete forms and send back those not complying, Peter Minahan replied that we'll do that and see what we've got. He also mentioned a letter to employers and NMAs. Peter also mentioned electronic safeguards when we have electronic lodgement, and Brett Garland suggested this signature or authorisation field be made a required field for electronic lodgement. Brian Lyne suggested we need to discuss these issues with NMAs at the meetings (Grant Cook and Greg Dalliston also attend).	P Minahan D Smith B Lyne
6	On the drafting instructions for Div.2 Part 6 of the CMS&H Regulation Peter Minahan requested comments from council members. Ian Cribb raised issues of the NMA not seeing the coal mine, and who deems an unacceptable level of risk. Andrew Vickers mentioned that part 10 is how the coal board used to operate. Ian Cribb agreed with the requirements in Part 10 requiring the doctor be both: - familiar with health hazards - have satisfactorily completed a health surveillance competency approved by the chief executive Brian Lyne asked about agreement on intent for qualifications for NMA - medical practitioner who has knowledge of legislation and familiarisation with mine types, with people they will be issuing certificates for, and awareness of hazards. There was general agreement to changes to Part 10 on Appointment of Nominated medical adviser, as set out below: "10. To address Commissioner Bacon's concerns it is proposed to amend section 45 to: • Require that the appointment of an NMA be in writing; and • Require that, for a doctor to be eligible for appointment as an NMA, the doctor must: a) Be currently registered as a specialist registrant in the specialty of occupational medicine under the *Medical Practitioners Registration Act 2001*; or b) Have satisfactorily completed a health surveillance competency, if any, that has been approved by the chief executive; and be familiar with the health hazards associated with activities in surface and/or underground mines."	
7	In **other business**, it was decided that time and date of next meeting is 8 June at 8:30am. Suggested dates for further 2006 meetings are: - 8 June, 6 July, 11 Sept.	Information

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Queensland Government
Natural Resources, Mines and Water

MEETING 30
8 June 2006
Our Ref: File No 29900, Loose Doc No MI06/04418

Department of Natural Resources, Mines and Water
PO Box 2454 Brisbane Q 4001
Level 5, Mineral House, 41 George Street, Brisbane, Queensland 4000
http://www.nrm.qld.gov.au/mines/safety_health.html

Note that decisions and action items arising from this meeting are recorded in bold underlined italics.

DRAFT MINUTES - MEETING 30 OF THE COAL MINING SAFETY & HEALTH ADVISORY COUNCIL	
8 June 2006, 5th Floor Large Conference Room, Mineral House, 41 George St. Brisbane ***0930h to 1400h***	
Members	
Mr Peter Minahan - Chair	Department of Natural Resources, Mines and Water
Mr Mike Downs	Department of Natural Resources, Mines and Water
Mr Brian Lyne	Department of Natural Resources, Mines and Water
Mr Brett Garland	Employers' representative
Mr Neville Sneddon	Employers' representative
Mr Ian Cribb	Employers' representative
Mr Andrew Vickers	Employees' representative
Mr Peter Vipen	Employees' representative
Mr Stuart Vaccaneo	Employees' representative Observer
Secretary	
Mr John Kabel	Department of Natural Resources, Mines and Water
Distribution List	
Persons named on Agenda	
Mr Grant Cook	QRC Safety Advisor
By Invitation	
Mr Paul Martyn	General Manager, Office of the Director-General, Strategic Policy and Legal
Mr David Smith (part-time)	Department of Natural Resources, Mines and Water
Apologies	
Mr Greg Dalliston	Employees' representative

	Description	**Action**
1	Peter Minahan **opened the meeting** and welcomed the attendees. He began by suggesting we leave the technicalities of drug testing to our joint metal / coal advisory council meeting on 6 July with Prof. Olaf Drummer. Brian Lyne added that we should leave decisions until we can question the experts. Ian Cribb mentioned his email in which he questioned the need for a level (of a detected drug) rather than to treat the risk – do we need a level? After some general discussion, and with no negative responses to Peter Minahan's question on leaving this discussion until 6 July, Peter suggested the major discussion for today's meeting should be 'What do we do after a positive test result?'	Information
2	Ian Cribb questioned item 6 (drafting instructions for Div.2 Part 6 of the CMS&H Regulation) of the **previous minutes**. He stated that operators have concern at the level of people available to do this. John Kabel replied that that was what the meeting had agreed to – it had been noted down on the draft document at the time. Brian Lyne mentioned that the NSW Coal Services are now reviewing their health surveillance unit, have appointed a new Manager and CEO, and are keen to have common standards between states. Paul Martyn has the legislation flowchart now (attachment 1), - comments back to us please.	Information

3	Peter Minahan mentioned, in regards **what we do after positive testing**, that Mike Downs is developing a self audit tool on levels of compliance, (it will be linked with issues such as training, alcohol, fatigue, etc). Peter then mentioned the 6 July meeting: • Prof. Olaf Drummer will get here before 10am, • Metalliferous Advisory Council will attend also, • meeting to be held in Chifley, for 25 people, to be confirmed. • Bob Hoskin will be there also. In more discussion on what to do after positive result, Peter said a recognised standard had been suggested – he was hoping for progress on a recognised standard which sets out minimum requirements. Ian Cribb asked what industry does in the case of substances labelled, for example, 'causes drowsiness'. Peter Vipen suggested doing a statutory declaration, with specific questions, and if affected then undertake alternative duties. Panadine Forte is known for causing drowsiness – it shouldn't be taken when operating machinery. Ian Cribb asked what guidance was available on this, and what about over the counter drugs; what does the SSE do if the worker says he's OK? Brett Garland suggested when you've filled out the statutory declaration, you need to consider what happens further into the shift, (eg. 4 hrs later when the effects take hold). Peter Vipen mentioned they encourage people to put their hand up when they feel affected. Brian Lyne said that when people are taking drugs that may affect them, they must have the opportunity to talk to their supervisor and take appropriate action. Neville Sneddon asked what happens if workers say they're fine and obviously are not. ***Brett Garland said we should start by looking at acceptable, existing industry SOPs, and Neville Sneddon suggested we put a draft together.***	All
	Andrew Vickers queried the situation where the doctor's opinion on the medical certificate clashes with the SSE's or SHE's opinion; (challenges to the certificate). After more general discussion, Andrew questioned whether we need to develop a complete (or part) protocol. He agreed with Neville Sneddon in that it would be difficult to develop one from scratch – ***we'd be better off looking at what's already out there eg. from Callide, Saraji or North Goonyella, each of which took 6 months to 2 years to develop.***	All
	Peter Minahan suggested we should develop criteria and Paul Martyn then assess what's been done. He asked what outcome we wanted - what's considered to be good practice. Things haven't moved enough so far.	P Martyn
	Neville Sneddon asked what the key ingredients would be – the formal ones already in legislation? Paul Martyn asked what kicks in if a test result is positive - education? Brett Garland replied that education should have been done already; what follows would be various stages of an employee assistance program. Peter Vipen said that a positive result from prescription drugs leads to entry on a register, however if the drug use was not declared then it's seen as a failing of the individual. Brett Garland mentioned the legislation isn't concerned with impairment, but is concerned with illicit use. Brian Lyne discussed the Coal Mining Safety and Health Regulation 2001, agreement on assessment criteria, and the fact that issues of section 42 Safety and health management system for personal fatigue and other physical and psychological impairment, and drugs, are quite different. Brett Garland discussed OH&S law and industrial law - if an employer writes in a condition requiring the employee to be drug free then it will remain an issue in industrial law. Neville Sneddon replied that this discussion came from a gap between industrial law and OH&S law. Brett Garland discussed 'three strikes' and a progression through this. Stewart Vaccaneo and Andrew Vickers replied that with contractors, it's often out on the first strike. Brett Garland asked what we do if it's in their employment contract. Andrew Vickers replied that this must not attempt to replace the coal mining safety and health legislation – it must be	

following a prescribed way – not doing something better. He added that the supreme court will give us answers on this in a few weeks. Neville Sneddon said that now it is largely a problem with contractors. He mentioned the possibility that some might be moving people around depending on testing regimes in place at various mines.

In discussing the court case, Ian Cribb asked whether an employment contract could over-rule S&H legislation. Andrew Vickers replied that the issue is they are not all under the same S&H legislation. Ian answered that the court would determine this; and Paul Martyn added the court will give guidance. Answering Neville Sneddon's question, Andrew Vickers said that the CFMEU, McMahons and the Industrial Relations Commission were involved in this action, and only 1 of 3 decisions had been handed down.

Peter Minahan added we need to get representative SOPs and agreed assessment criteria. Andrew Vickers said the issue has been raised before - who makes the call? An employee declares that he's on something and that he's fine. If the SSE disagrees, what then? A properly defined protocol will cover the SSE. Ian Cribb agreed, but if the SSE accepts the workers assurance and the worker then has an accident, who is held responsible? There was general discussion on the SSEs responsibility in this situation.

Neville Sneddon and Ian Cribb discussed the standing of any warning of 'drowsiness' on the medicine packaging. Neville added that if it may cause drowsiness, user shouldn't be driving machinery. Brett Garland said it was a question of whether the SSE accepts the level of risk. Peter Vipen mentioned drug testing must be done in less than one hour. He went on to talk on the need to control who is on site. It's getting a lot tighter on his pit. Fences need to be locked and there must be control at each gate. There are 364 contracting firms on his books.

Ian Cribb questioned whether the use of Codral and Panadol Forte could be classed as improper use of drugs, and Andrew Vickers replied that improper use means use of illicit drugs or the improper use of legal, prescription drugs. Paul Martyn suggested this part of the legislation might need re-drafting to clarify the intent. Andrew Vickers added that the terms 'illicit' or 'illegal' were deliberately not used.
Ian Cribb described the first stage after a positive test result (no sacking) and an escalation process after that. Peter Vipen and Neville Sneddon agreed they were not looking for impairment levels, and Neville added that all we can do is set standards and deem what are acceptable. Brian Lyne asked whether there was an acceptable level of risk with what is being used. The process should be how we determine there is an acceptable level of risk.

Stewart Vaccaneo outlined the similarity to existing fatigue procedures. Neville Sneddon said that generally if people call up on the two way radio and say they're fatigued, this is addressed. Mike Downs agreed that this scheme generally works well. Peter Vipen said that crews at his pit look after themselves - they have one or two relieving people. He added that it's important to keep AM/FM radios operational in the vehicles. Neville Sneddon stressed the importance of the community radio station. Peter said they have repeaters for 3 FM stations.

Paul Martyn said he'd go back through the legislation to find the intent. We will:

- ***look at SOPs from mines,***
- ***use a staged process to look through an existing SOP,***
- ***audit of mines with respect to section 42.1 regime, and***
- ***take Professor Drummer's advice.***

P Martyn

There was general agreement that it was for Paul Martyn to report to minister on these points.

Neville Sneddon mentioned that overarching issues are currently being tested in the courts, and that in NSW there is a back bench committee looking at probity. Paul Martyn said that we have the scrutiny of legislation committee, which determines breaches of fundamental legislative principles, and the Minister must respond to such concerns. When Neville Sneddon

	asked if they have looked at drug testing, Andrew Vickers replied that they have looked at sanctions in this legislation.	
4	Brian Lyne spoke on the **Draft Policy on the Medical Process,** (attachment 2). He outlined: • an extension of a 7 point list outlined at the last meeting, • an outline of ILO176 and relationship between employers and contractors, • a world wide problem eg. SA and USA, • meeting this month in Geneva addressing contractors, employers and safety (all industry), • we should look at the ILO definition of employer to help reduce confusion. In reply to Ian Cribb's question, Brian Lyne said there was no obligation for us to comply with ILO codes of practice, while Peter Minahan added that, at the same time, we try to make our legislation consistent with the ILO. Brian went on to say this draft document addresses some shortcomings identified from reviews, by Commissioner Bacon, and other issues raised by Dr David Smith. Brian said we lacked the power to tell NMAs to comply with legislation, and we are getting legal advice. Stewart Vaccaneo asked if they had obligations as suppliers of services, or under a contract of employment. David Smith replied that this is a broad obligation, and otherwise there was no mention of Doctors or NMAs in the Act. Section 47 Employers Obligations, mentions NMA obligations but is unclear, and in other sections, employers must 'ask' the NMA. Brian Lyne said that the first entry in the draft is the same as we currently have. David Smith outlined an inconsistency between sections 44 & 46 that needs clarification. Peter Vipen said the safest way is to do the lot. There was general discussion. Andrew Vickers mentioned that 34 fatalities this year USA were at non union mines. Brian mentioned that 'appointment in writing' in the second row was an important inclusion. Ian Cribb and Neville Sneddon said they had received negative feedback on this issue. Brett Garland asked if we couldn't get doctors to look at familiarisation. Replying to Ian Cribb's question, Brian Lyne said that on Sunday morning before the Townsville conference, the annual meeting of NMAs will be held, and he's had generally positive feedback to the idea of familiarisation. Neville Sneddon had issues with No. 1 (on the draft policy) - concerning access to doctors, controls on training, and the SSE as opposed to employer appointing them. Brian Lyne said the SSE rather than the employer was preferred, as the SSE can sign off on a doctor being familiar with all parts of mine. Parts 1 2 and 3 must be read in totality. ***Peter Minahan said we would list all NMAs on the web, so recipients have surety that theirs is a valid medical.*** He believes the medicals are currently transportable. Ian Cribb and Neville Sneddon discussed the case of a mechanical fitter whose medical was transportable but only if the next NMA accepts it. There was general discussion on the 5year life of a coal medical. Brian Lyne spoke on No.2 (on the draft policy), and as per the last minutes, it needs clarification, and needs to be reworded. The intent was we want a medical doctor, and then if there is a health surveillance competency approved then they have it, or have the speciality. The SSE registers more than one NMA rather than each contractor getting their own, which could result in a myriad of NMAs. The contractor will have to go to an NMA appointed by a mine – there will be a list on web. Brett Garland asked if an employer doesn't have control over appointment of NMA, who pays the bill? - it should still be employer who pays the bill. Ian Cribb asked why the SSE rather than employer must appoint the NMAs. Andrew Vickers replied that there would then be a multitude of contractors each appointing their own NMA.	P Minahan

	At this time, Paul Martyn excused himself and left the meeting to attend another appointment. There was general discussion on the question 'is it broken now?' Brett Garland replied that it's been fixed in (1) & (2) – it's a contractual obligation on the companies now. Andrew Vickers said there should be one NMA for every employee in the industry. Brian Lyne said our advice on who's the employer shows it's a complicated and convoluted issue. Peter Minahan said we are trying to solve the issue; 40% of forms coming in were not fully completed – they didn't have 'employer' listed on it. We should start sending these incorrect forms back. Andrew Vickers suggested this does not fix the problem, and Stewart Vaccaneo said it's supposed to be a completed form now. Brett Garland said this issue has been taken back to the coal operators, and they were reminded that each person on site has an employer, and that employer is to have an NMA. ***Peter Minahan reiterated that incomplete forms will be returned – we'll draft an accompanying letter. David Smith mentioned we were looking at electronic completion of forms and we'll make certain fields compulsory and this will fix it - it won't be able to be lodged if incomplete. Brett Garland suggested we let the NMAs know now.*** David Smith replied that it's not just the NMAs, but doctors are not completing the forms - they don't understand what the conditions of work are. Brett Garland asked if we could advertise in a GP's journal on this issue, and David Smith added that there are various doctor's organisations. Andrew Vickers asked when are the forms looked at - can we do an audit and find out which doctors are not filling this out. Answering Neville Sneddon's question on when the forms arrive, Brian Lyne said: • doctors send them in up to 3 months after medical • form gets sent in here usually by the NMA • the GP has to find out who the NMA is to send it on to, and usually contacts us for a list, • the NMA must fill out the section 4 as a result of the report • the person gets section 4 (1 page), and • person at the mine takes a photocopy of this. The person may not in fact even see the NMA. Ian Cribb agreed the answer is to pursue this electronic lodgement system. Neville Sneddon observed there was no difference between a bonafide and a counterfeit form, and Brian Lyne said we must get control over who can appoint an NMA. Neville said he doesn't have a problem with transferring the obligation to the SSE, but the system breaks down when a person can go to a doctor who doesn't follow due process. Brian Lyne added that large medial practices do the face to face medical, then send it to NMA, who doesn't see the individual. Current legislation requires the doctor to discuss results with the employee- we don't have a record. The whole scheme is in serious need of repair, and is not practical. Neville Sneddon and Peter Minahan both suggested some of these forms should be sent back. Brett Garland mentioned that the next NMA meeting is 7 August. ***Ian Cribb said they would talk to their people. He asked what we tell industry - how to let industry know it's an issue. Brett Garland suggested using the operator's forum. Ian asked how to determine who has a valid form, and he agreed with Andrew Vickers that industry must be notified.*** Ian Cribb suggested looking at the whole package and then sign off on the elements if they're acceptable. Brian Lyne mentioned that the inspector doesn't get to see any of this. He said an individual can appoint any doctor as an NMA; we need the ability to control who is an NMA. Peter Minahan discussed what individual mines could do with their NMA - someone at mine	P Minahan All I Cribb All

	could talk to their NMA, and the NMA should reject forms that are not duly completed. Brian Lyne said we have over 20,000 forms, and we don't know where most of these people are now. Andrew Vickers said the SSE should go to the NMA and tell them the position. Use a list of contractors and contracts and make certain that people working for you hold a current statutory health assessment. Ian Cribb mentioned that the QRC doesn't represent all operators, and ***guidance needs to come from the advisory council or the inspectorate. All operators must be made aware of the situation. Peter Minahan agreed to look at this.*** Brian Lyne added that we need direct feedback on changes and areas of concern on his document. Brian noted Ian Cribb's comment that part 19 conflicts with the rehabilitation process, and confirmed that part 20 is for health surveillance. Ian asked how 14 operates. Brian Lyne replied that the NMA statement will detail restriction, (not usually saying none at all), and the SSE makes the determination. Andrew Vickers added that the SSE can make a practical response to the restriction. Ian Cribb discussed a scenario where an assessment goes to an arbitrator, who rules that the worker can return to work, and the worker subsequently has an accident related to this, then the SSE can't be held accountable. Answering Peter Vipen's question, David Smith mentioned that the 40% of forms out of compliance came from 14 different NMAs. In reply to Brett Garland on fast tracking the electronic process, David Smith mentioned possible delays in getting the electronic signature devices to the doctors. ***Peter Vipen proposed a recommendation from CMSHAC that this be fast tracked and that industry be informed of the problem. This was seconded by Andrew Vickers.*** ***Peter Minahan requested that in seeking an agreement on Brian Lyne's table, any comments be submitted by the end of the month.***	P Minahan All All
5	Peter Minahan raised the letter from the QRC requesting that discussion of aspects of the **Transport Infrastructure Act** be placed on the advisory council agenda. He asked when we should spend time on this. Ian Cribb replied that it was not a priority at this time, but that it should not be taken off the table completely, and looked at some time in the future. Andrew Vickers added that he has people looking at this and taking it seriously. There was general agreement to Neville Sneddon's suggestion that the council addresses current issues first.	
6	**Next meeting** 6 July, time and location to be issued.	

Attach. 1,2.

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Queensland Government
Department of Mines and Energy

MEETING 37, 9.00am -2.00pm, 30 August 2007
Our Ref: File No 29900, Loose Doc No MI07/05868

Department of Mines and Energy
PO Box 15216 Brisbane Q 4002
Level 5, Mineral House, 41 George Street, Brisbane, Queensland 4000
http://www.dme.qld.gov.au/mines/safety_health.html

MINUTES - MEETING 37 OF THE COAL MINING SAFETY & HEALTH ADVISORY COUNCIL
Members: Peter Vipen, Brett Garland, Michael Walker, Brian Lyne – Chair, Bob Fulker, Stuart Vaccaneo, Greg Dalliston
Invitees: Dan Hunt, Stewart Bell, Dr David Smith (part) **Secretary:** John Kabel **Apologies:** Ian Cribb

Note that decisions and action items arising from this meeting are recorded in bold underlined italics.

	Description	Action
1	Brian Lyne **opened the meeting and welcomed attendees**. On **minutes on the web**, Dan Hunt mentioned that material that is going to go to Cabinet can't be posted on the web, however ***a list of decisions and meeting outcomes should be published on the web***. He also added that the Minister requires advice from this council. ***The members will agree on a list of what they want to the Minister at the end of the meeting.***	J Kabel All
2	**Previous minutes -meeting 36.** The previous draft minutes were accepted.	Information
3	**Items from previous minutes – 7. Coal Mine Workers Health Scheme –** Brett Garland reported that he and Greg Dalliston haven't had the opportunity to ***meet yet to discuss the health documents. It will be done with high priority before the next meeting.*** Brian Lyne spoke on changes being made to section 42 so it only includes issues on drugs, not fatigue, etc., and on proposed changes to section 48 awaiting QRC agreement There were several issues with wording, and Bob Fulker presented a document (attachment A) containing suggested changes. This sparked considerable discussion: • Greg Dalliston mentioned that the current definition of risk, S49 (5) needs to go back into the proposed document. ***Agreed*** • There was disagreement over whether the Schedule 9 definition of a Nominated Medical Adviser should remain. • Brian Lyne mentioned that David Smith is doing a set of competencies for the nominated medical advisor to be put to this council. If implemented they will be added to the table of competencies recognised by the council and gazetted. Bob Fulker stressed that the contents of schedule 9 must be accommodated in this competency table. • ***As agreement on this matter could not be achieved in a timely fashion, the chairman exercised the power of the chair to remove the new schedule 9 definition, and requested it be put on the agenda for the next meeting.*** Greg Dalliston stated he was against removing the definition of NMA in Schedule 9. In reply to Brett Garland's question, Dan Hunt said that once something has left this council and gone to Parliamentary Counsel for drafting, the Council would normally see it again after drafting, however, it couldn't be guaranteed that this would always happen. He mentioned the Minister makes the final decision, while the Council's role is to advise their positions. Brian Lyne suggested ***taking the proposed draft, with changes from this meeting marked in blue (attachment B), along to Parliamentary Counsel, along with Bob***	B Garland B Lyne J Kabel J Kabel J Kabel

	Description	Action
	Fulker's document to illustrate to Parliamentary Counsel the QRC concerns. When the draft returns from Parliamentary Counsel, we would then expect Council's comments back by a certain date. Members agreed to this proposal	
4	Dr David Smith joined the meeting and spoke on **Schedule 9, Nominated Medical Advisor.** • He handed out draft NMA competencies (attachment C) and a document containing information for new NMAs (attachment D) • He was developing the course in house – It was not proposed to be a formal qualification or an AQF competency • The current approved medical assessment form has no guidance for the doctors appointed by the employer, so a manual for the current form plus information on what's required of them has been prepared • It will be sent out to current NMAs as a standard to which to work and provided to NMAs at a meeting in Brisbane 9 September 2007 • The Information Section to go out now, but the draft manual was only to be in draft until fully reviewed. • Greg Dalliston mentioned that part 8 on the information document cannot have drug testing included on the medical. The mine can ask for whatever they want in the pre-employment medical, but not in subsequent health scheme medicals. He suggested it be changed to 'no drug tests are required in the health assessment.' • Brett Garland added that drug testing can be part of the conditions of employment, but is not part of the approved form from the health scheme. • Council agreed to modify the document where it relates to drug testing • Greg Dalliston mentioned section 7 – the worker shouldn't even be asked. If the mine has additional hazards, the NMA should be aware. Bob Fulker agreed, and suggested that the 2nd last sentence in section 7 'In such a case …..' is not right. Agreed by the Council members • Stuart Vaccaneo cautioned against producing an open-ended standard. ***Brian Lyne said we'll take on board comments on drug testing, and invited comments needed for the next NMAs meeting on 9 September ASAP.***	All
	On David Smith's Competency Document for Health Surveillance in the Qld Coal Industry, (attachment C) general discussion included : • Suggestion for a 12 month 'grandfather clause' • Who will pay for it? • DME will use own ergonomists and hygienists, can run a workshop twice yearly, and may resort to a panel of NMAs and specialists for advice • David Smith's information sheet will certainly assist the process but needs some changes to sections 7 and 8. • Problems with NMAs not seeing risk assessments to be discussed at the 9 September meeting of NMAs. ***Brian Lyne requested that comments on medical forms be made by the next NMA meeting on the 9 September, and that comments on all 3 documents be returned by the 29 November (next meeting).***	All
5	On the **Legislative Amendment Review Committee (LARC)**, Greg Dalliston mentioned problems progressing recognised standards and legislation, and asked that these concerns be expressed to the Minister. ***Stewart Bell undertook to hold the next LARC meeting in October. Brett Garland said the QRC would endorse 2 new members. The secretary is to provide feedback on this to the Minister through these minutes.*** There was also discussion on recruiting for the Chief Inspector of Coal Mines position.	S Bell B Garland J Kabel

	Description	Action
	Greg Dalliston mentioned a previous commitment that it was paid 70% of a mine manager's wage. $250,000 is a standard remuneration package.	
6	**Items from previous minutes – 1. MOLA - Powers of Inspectors.** Ian Cribb sent an email (21 June) to Stewart Bell on this comparing the situation now to 2004, and including the QRC view. (attachment E)	Information
7	**Items from previous minutes – 11. Implementations of recommendations from previous level one emergency exercises** - review the degree to which level 1 exercises recommendations have been implemented and feed back be provided to the Council. Brett Garland reported that he has the information to progress and should be able to email it out to the Council tomorrow. The general response was that the companies have gone through and performed risk assessments, and the report then looks at implementation of results at each site. Greg Dalliston asked about progress with the recommendations from level 1. Brian Lyne has sent out a letter requesting a response. Greg Dalliston mentioned that industry had tested its effectiveness but that DME can't action items without resources. Greg Dalliston, Bob Fulker and Brett Garland also flagged another item from previous minutes – 11 -Brian Lyne's **declaration under the Coal Mining Safety and Health Act 1999, Section 55** Management structure for safe operations at coal mines, to ensure contractors on site are properly supervised.	Information
8	Brian Lyne and Stewart Bell reiterated that the MOLA Bill is expected to be passed in September, the Council will be disbanded and re-constituted, and ***nominations for Advisory Council members, and substitute members, will be needed (6 for each group) by the next meeting. Nominations for QRC representatives for the LARC are also needed.***	All
9	On agenda Item 5 **Subcommittee #1,#2,#3 Fight or Flight reports** and decision on future actions, Brian Lyne reported on subcommittee #1, self escape: • A review has begun on a standard for oxygen self-rescuers and self escape gear in conjunction with NSW. M Walker is on the review group • Simtars have applied for the second stage of an ACARP grant for developing a simulator for use on mines to simulate temperatures and breathing resistance likely to be encountered in emergency escapes • The MSHA SR-MP device is not yet available commercially • Refuge chamber standardization is still being addressed Greg Dalliston reported that subcommittee #2, first response: • Definition and best practice research • Risk assessment on NSW 1st response guidelines on CABA use • Next stage needs decisions on what is first response, legislation, competency standards, and looking at what mines already have • Time to make hard decisions • Recommendations will come back to advisory council for endorsement On subcommittee #3, Greg mentioned: • Chair is Martin Watkinson • Looking at new communication technology, rescue vehicles, emergency legislation • Research projects underway Brian Lyne mentioned that the QRC needs to put more resources into this process. In particular, #3 needs more management and legal resources. ***Brian Lyne will pass on subcommittee minutes to the council, while Greg Dalliston will get copies of the powerpoint slides used.***	B Lyne G Dalliston

	Description	Action
	Greg Dalliston outlined a proposal to do a road-show in Oct / Nov covering Emerald, Tieri, Middlemount and Mackay, to present on the last emergency exercise (Grasstree) and invite open discussion on an emergency response guide. Simtars were looking at putting out CDs during this. Greg also stressed the necessity of undertaking the level 1 recommendations from last years Broadmeadows exercise.	
10	Comments on agenda item 6 **question of deficiencies in MNCG1008A (QMS2)** covering the accident investigation process and the email (attachment F), included: • What is being proposed is above a certificate 3 level and therefore not endorsed • A package could be made to get the same training across industry • Any response should invite the author to become involved in development of higher level competencies. • ***Brian Lyne will respond in writing (see attachment G).***	B Lyne
11	In **General business** on the **Act Review**, Greg Dalliston began discussion on whether the review was to be undertaken by the Advisory Council or the Inspectorate. Greg also quoted the legislation on the role of the Advisory Council, as per S76 (a) (2). in reviewing the Act. The role of the council in such reviews was discussed at length. ***Stewart Bell undertook to circulate a summary of what had been compiled to the Advisory Council (by end Sept.). It will contain most of what was in each submission. It will also contain the Inspectorate's position, and we invite the Advisory Council's position also. Brian Lyne suggested compiling submissions as per sections of the Act, with more contentious issues having various views listed – and move forward from this.*** There was general agreement that we need parameters for effectiveness to apply to the submissions on this. ***This is to be an agenda item for the next meeting also.*** On the Board of Examiners Annual Report, Brett Garland suggested it needs more work, to show we're discharging our responsibilities. ***The Secretary is to pass on the BOE annual report to Brett Garland for additions if required.***	B Lyne S Bell J Kabel J Kabel
12	In **Summary,** Brian Lyne listed the matters to be sent to the Minister as per Agenda Item 2 undertaking: • Review of the Coal Mine Workers Health Scheme to take place between Greg Dalliston and Bret Garland with a report to the next Advisory Council meeting • Agreement to Act changes to sections 46 and 48, not however to changes to NMA. • Discussion sub-committees #1,2,3, and minutes and powerpoints to be distributed to Council members. Note request for extra people for subcommittee #3, including someone who can provide legal advice. • On the Coal Mine Workers' Health Scheme, response on the first section to be sent back through the Secretary. • Noted that the Draft Health Scheme training documents will be discussed at the next NMAs' meeting on 9 September • Stewart Bell to arrange a meeting of the LARC committee by the end of October after QRC provide names of representatives • Brett Garland, Stewart Vaccaneo and Greg Dalliston will have further meetings over the level 1 exercises • A reply will be sent to Jeannette Jones asking her to consider contributing to further reviews of the investigation competency. • Stewart Bell to have the Act review submission summary table drafted and distributed to Council members by end Sept.	Information
13	In **closing**, as this was his last meeting before going on leave prior to retirement, Brian Lyne thanked the members for their support, and urged them to keep up the	Information

	Description	Action
	momentum, especially in the fight and flight seminars. Greg Dalliston, on behalf of the CFMEU, thanked Brian for the efforts he put into the advisory council and progress achieved. Peter Vipen also thanked Brian for his efforts. Brett Garland said Brian had left the industry in better shape than when he had entered it and the Qld had benefited from his work. **Next meeting:** 29 November 2007.	

Attach A, B, C, D, E, F, G.

John Kabel, Secretary Coal Mining Safety and Health Advisory Council
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Queensland Government
Natural Resources and Mines

MEETING MINUTES
Our Ref: File No 29900, Loose Doc No

Department of Natural Resources and Mines
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MEETING 13 OF THE COAL MINING SAFETY & HEALTH ADVISORY COUNCIL			CMSHAC/13
MEMBER		**MINUTES**	**ACTION**
Meeting held 24 May 2002, 6th Floor Large Conference Room, QMEC Building, 9:00 am			
Attendees			
Mr Peter Minahan	[PM]	Department of Natural Resources and Mines	Chairman
Mr Roger Bancroft	[GRB]	Department of Natural Resources and Mines	
Mr Bruce Lovely	[BGL]	Department of Natural Resources and Mines	Acting Secretary
Mr Mike Downs	[MD]	Department of Natural Resources and Mines	
Mr David Mackie	[DM]	Department of Natural Resources and Mines	
Mr John Kabel	[JK]	Department of Natural Resources and Mines	
Mr Grant Cook	[GC]	Employers' representative (substituting for Mr Ron Barker)	
Mr Bruce Robertson	[BR]	Employers' representative (substituting for Mr Neville Sneddon)	
Mr Alan Payne	[AP]	Employers' representative	
Mr Greg Dalliston	[GD]	Employees' representative	
Mr Andrew Vickers	[AV]	Employees' representative	
Mr Paul Sullivan	[PS]	Employees' representative	
Apologies			
Mr Brian Lyne	[BL]	Department of Natural Resources and Mines	
Mr Neville Sneddon	[NS]	Employers' representative	
Mr Ron Barker	[RB]	Employers' representative	

NOTE: Council decisions are highlighted in grey

Member	Minutes	Action
1.	**Welcome and apologies**	
2.	**Previous Meeting** The Minutes were endorsed.	
3.	**Business arising** 1) The meeting agreed that the deadline for Supervisors to acquire competencies S1, S2 and S3 be extended from 1/7/02 till 31/8/02. S1 (risk management) is an urgent priority. If companies are unable to meet this deadline they must have a documented plan to comply at the earliest possible. The QMC will immediately notify members of this decision. Companies should respond to the QMC within 2 weeks regarding their ability to comply. Their situations will be reviewed at the next meeting. 2) GC reported 47 were enrolled in the G3 course run by Jim Joy. AP referred to difficulties in articulation of the course with the more general competencies. These problems are expected to be resolved within a couple of weeks. GD noted that only 12 underground coal mine managers are actually required to possess G3. The meeting decided that such managers must have completed G3 by 1/12/02 or at least be enrolled in it by then with a view to completing it by 1/7/03. GRB to discuss this with Jim Joy.	JK GC GRB GRB
4. MD	**Report on recent fatalities and high potential incidents** Reported on a fatality at BHP Blackwater Open Cut Mine, a frictional ignition at Oaky Creek No.1 Underground Mine, a gas blower behind the face at German Creek Central, and legionella in standing pools underground at Capcoal and North Goonyella.	

MEMBER	MINUTES	ACTION
5. PM	Reported on a fatality at Rishton's Hadleigh Castle underground mine and a high potential incident at Braeside Quarry, Warwick where an operator was removing a blockage in a pug mill. He had removed the guard and was caught in the mill when it restarted.	
6.	The investigations of all these events will be checked for compliance against the new procedures. All inspectors and eventually mines are to be issued with a CD-ROM of ICAM and other investigations processes. MD referred to a rear dump truck reversing over a highwall at Collinsville (driver unhurt!). GD observed that no mine had developed its own SOP on berms. PM said this rash of occurrences was very disturbing. He referred to the outcome of an ignored Directive at Kenmare. "NEWSFLASHES" on such occurrences will be issued on the NR&M website from July.	JK
7.	**Modifications to competencies published in Government Gazette** *CMS&HA* section 67 will be amended on 18/6/02. PM and BGL will meet with representatives of the Surveyors Board Queensland on 28/5/02 to discuss their registration of mine surveyors now that the Board of Examiners' Mine Surveyor Certificate is obsolete.	
	A couple of flaws in the Gazette Notice (ventilation officer, shotfirer) of 15/3/02 will be rectified, and announcements made about the revised deadlines for S1, S2 and S3 (31/8/02) and G3 (1/7/03). JK issued the latest "Competencies Recognised by the Coal Mining Safety and Health Advisory Council" amended as at 22/5/02, showing additions to those for the Surface Electrical Engineering Manager on p.3, and a one page Memo from PS with proposed competencies for Rule 20 parts 1 & 2 of the *CMS&HR* arising from Meeting No. 9, which latter the meeting accepted. All these competencies are available from RTO providers. PS issued copies of pages 34 – 36 from AS/NZS 4761.1(Int):2000.	JK
8.	**Inclusion of Competencies** for section 20 of *CMS&HA* (Competencies of persons carrying out work on electrical equipment), as set out in PS's report from Meeting No. 9, in the list of recognised competencies.	
9.	***CMS&HR* s 218(c) - Person using explosive powered tools underground** - Are competencies required? (from Meeting No 3 (2?)) JK will - • ask WHS if they have a standard for explosive powered tools and whether they still issue a licence for such operators, • circulate their response along with his own recommendation to members, and, upon agreement, • publish in the Gazette. If WHS has nothing, the matter will be referred back to the Regulation Committee.	JK
10.	**Problems with Electrical Engineering competencies** (No RTO's to provide training.) JK issued a memo from Mr Lionel Smith received 23/5/02, noting that some competencies in the Gazette Notice are not directly related to safety (e.g. project management). Mr Steve Moore advised JK that 602, 603 and 606 have no RTO provider. GD believed Illawarra TAFE can provide these, and indeed all the hazardous area competencies. AP stated Mr Rowan is seeking a formal letter from NMITAB listing course providers. PM asked what the Advisory Council should do if there are no providers for its recognised competencies? The meeting decided to press for Option 1 in Mr Lionel Smith's letter (above). The meeting decided, in sequence of investigation - (1) to confirm Illawarra TAFE's ability to provide competencies; (2) if unavailable in Australia, to ask the Electrical Subcommittee to find alternative competencies; (3) or to find RTO's able to assess against the recognised competencies; and (4) to follow the same process for training courses.	G R
11.	**Analysis of implementation of Mining Wardens' Recommendations** There have been 40 Warden's Inquiries since the Kianga No.1 Underground Mine disaster in 1975, of which 15 led to 48 recommendations relating to the Department. Some cannot be implemented because new technology is not available, or because they are impractical. GD drew attention to Task Group 6's recommendations re aided response and self escape response still not addressed. JK will circulate his findings to members.	JK
12.	**Review of Boards of Examiners** A joint subcommittee for the two Advisory Councils will be jointly chaired by inspectors Rowan and Fisher. Employer representatives: Mr Ian MacDonnell (Moranbah North Coal) and TBA Employee representatives: Messrs Stuart Vaccaneo and Ben Swan. A QMC meeting on 7/6/02 will nominate a Mining & Quarrying employers' representative.	GC

MEMBER	MINUTES	ACTION
13.	**Implementation of Review of Mines Inspectorate** PM said the Review was completed 8/3/02, approved by the Minister in early April and conveyed to stakeholders. New 5 year contracts for inspectorial staff will be signed in July. There will be a mini-review in 2004 to ensure the inspectorate's services continue to meet the real needs of the industry and fit into the NR&M. It remains difficult to recruit mines inspectors.	
14.	**Progress on Amendments to Act and Regulations** DM issued copies of the NR&M Legislation Amendment Bill 2002 (amending the *CMS&HA*), expected to be passed on 18/6/02. GRB chairs the Reg. Review C'ttee, whose work is rapidly drawing to a close. Anyone seeking to have amendments made to the Reg. should contact GRB urgently as the next opportunity to amend the Reg. may be years away. GRB issued a thick document "Coal Mining Act & Reg.'s Amendment Progress". Amendments to 47 sections of the Reg. have been approved by the Amendments Subcommittee.	All
15. GRB	**Progress with Recognised Standards** Three are ready now and have been returned to the Reg. Review C'ttee for final approval. Industry response to the draft Stonedusting Reg. is due by 3/6/02. Inspector M Waters is concerned a Recognised Standard will inhibit people seeking any better way. AP agreed, saying that too many imperative words are being used such as "must" and "shall". Such wording should be toned down. PM asked AP to reword a sample document to illustrate what should be done, and offer it to the Subcommittee. The wording should reinforce a process to be gone through to arrive at a defensible outcome.	AP
16. AV	**Interpretation of Regulation section 42 dealing with fitness for duty and health scheme** Drew members' attention to trouble being caused by Reg section 42(7) which requires the SSE to establish criteria for fitness for duty in agreement with a majority of workers at the mine. If the workforce can't agree regarding alcohol induced impairment the SSE then has to decide. Regulation section 42 needs rewording or at least authoritative interpretation as it is rapidly becoming an industrial relations issue likely to end up in the Supreme Court. However a strictly legal ruling is unlikely to afford a constructive and helpful solution to the real issues.	
17. DM	There were tremendous arguments during drawing up section 42. The problem is not with the legislation but with the industry's management of the problem. When there is an accident attributable to persons' lack of fitness for work, prime responsibility legally rests with the SSE.	
18. GC	How do you test for drugs, fatigue and psychological impairment, and get agreement between employers and employees?	
19. PM	Referred to the Guidance Note re Hours of Work. When agreement cannot be reached must we then have recourse to a Directive?	
20. AV	There is disagreement about what the legislation actually says. Can an SSE impose an unagreed drugs (not alcohol), fatigue and psychological impairment testing regime on a workforce? There needs to be agreement on testing methods and a holistic approach to Regulation section 42.	
21. AP	An SSE cannot comply with section 42 if he cannot measure people's impairment. If it cannot be measured it cannot be managed. But the law makes the SSE responsible to ensure people are fit for work.	
22. DM	Stated the alcohol issue had been solved, and both saliva and urine tests are available for other drugs.	
23. AV	There are probably as many affected by fatigue as by ingestion of drugs. One problem is setting an average level of drugs causing impairment. As with alcohol, the same level of drugs taken leads to different levels of impairment in different individuals.	
24. AP	Then let's prioritise the causes of impairment according to ease of measurement, and first agree on those easiest to measure.	
25. DM	The Parliamentary Draftsman demanded all causes of fitness impairment be treated together. There are court cases presently in progress regarding fatigue and hours of work arrangements. **********	
26. AV	Under the old Act the registered mine manager could require a worker to obtain another medical assessment if he suspected his condition had changed. New Reg section 46 has no similar provision. But new Reg. section 49(3) requires a risk assessment to be done if a job description changes to decide if the employee needs a new health assessment in the light of the new job demands. This is also becoming an issue. This is not a mine manager's responsibility any more and may rest with an HR manager or other designated official.	

MEMBER	MINUTES	ACTION
27. AV	Questioned why a workers' compensation doctor's signature should be set aside in favour of an NMA's? AP defended that situation. GD said Reg. section 46 (4)(a), (b) and (c) set out the only ways a worker needs to have a medical.	
28. PM	PM and DM said the Reg. doesn't empower SSE's to send employees off for a new medical whenever they like.	
29. PM	There is a plan to upgrade NR&M's Safety and Heath health group. An independently chaired working party is to review the health requirements of both the coal and metalliferous mining sectors, with membership from employers, employees and the inspectorate. Messrs Dent and Minahan will form a steering committee, and Mr B Lyne will be off line for 3 months to prepare a report.	
30.	**Interpretion of Reg section 82 dealing with training requirements** See item issued by GRB. Not everyone entering a mine site has to be trained according to the Black Coal Training Package. GRB, DM and G Rowan will draft a document clarifying the legislation's intent for the next meeting.	GRB / DM G Rowan
	Concerns on increasing trend to interpretations of Act and Regulation contrary to intent	
31. GRB	Several examples have recently occurred of a tendency for mine operators to ask in connection with a Regulation Section: "How can we NOT do it?". If this persists the question will inevitably arise: "Can the industry be trusted to self-regulate?". If answered in the negative, the ultimate penalty will be a return to more prescriptive regulation.	
32. GC	Said the wording of some Regulation sections left the intent unclear. PM invited people unsure of the intent to contact GRB directly for an authoritative interpretation. Answers to commonly asked questions are expected to be on the web by July.	GRB
33. AP	Recommended auditing focus on lax and offending companies, and urged that infringements be seen in the perspective of the prevailing radical positive changes.	
34. PM	This issue needs to be raised at managers' meetings.	
35. GRB	If members have any concerns about proposed amendments to the Reg. they should contact the Reg. Review C'ttee within the next couple of weeks prior to its next meeting. Thereafter everyone will just have to accept what comes from the Parliamentary Draftsman.	
36.	**Revised accident / incident forms for commencement 1/7/02** These have been circulated throughout industry.	
37. GRB	**Agenda items for future meetings -** Members' suggestions for future Council meetings and agenda items re the Council's functions. The need to proclaim competencies is drawing to an end, so other matters in line with the Advisory Council's constitutional mandate need canvassing. Members to submit items for consideration.	All
38.	DM reported on a meeting with the NSW Director-General and mines inspectors on 13/5/02.	
39.	**Next meeting** Friday 19 July 2002 **at 9:30 am** **Meeting closed** 1.15pm.	

R. Bancroft
Deputy Chief Inspector of Mines (Technical)
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Queensland Government
Natural Resources and Mines

MEETING 18 MINUTES

Our Ref: File No 29900, Loose Doc No

Department of Natural Resources and Mines
GPO Box 2454 Brisbane Q 4001
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http://www.nrm.qld.gov.au/mines/safety_health.html

MEETING 18 OF THE COAL MINING SAFETY & HEALTH ADVISORY COUNCIL **CMSHAC/18**

Tuesday 3 June 2003, 5th Floor Large Conference Room, Minerals House 41 George Street 9:00 am

Attendees

Mr Peter Minahan	[PM]	Department of Natural Resources and Mines	Chairman
Mr Brian Lyne	[BL]	Department of Natural Resources and Mines	
Mr Mike Downs	[MD]	Department of Natural Resources and Mines	
Mr David Mackiie	[DM]	Department of Natural Resources and Mines	A/Secretary
Mr Vickers	[AV]	Employees' representative	
Mr Greg Dalliston	[GD]	Employees' representative	
Mr Peter Viper	[PV]	Employees ' representative	
Mr Neville Sneddon	[NS]	Employer's representative	

By Invitation

Mr Jakeman	[MJ]
Mr Cook	[GC]
Mr Kabel	[JK]

Apologies A Payne : Employers' representative

Member	Minutes	Action
1.	**Introduction** Chairman welcomed members and noted Mr Barker's resignation and expressed thanks.	
2.	**Previous Minutes** Accepted	
3. GD/JK	**Electrical engineering manager's competencies** Discussions were held on the issues behind competencies required for the Underground Electrical Manager under the Act Section 60 (10). Progress has been made on 4 previously unavailable competency Units, UTENES602, UTENES603, UTENES606, and MNCG90A, which are expected to be offered shortly, (actual dates currently being followed up). The remaining 12 mandatory technical units for this statutory position are hazardous area electrical engineering competencies: UTENES010A, UTENES012A, UTENES107A, UTENES214A, UTENES215A, UTENES407A, UTENES408A, UTENES409A, UTENES410A, UTENES609A, UTENES610A, UTENES707A.	

	Electrical engineering manager's competencies; continued Most of these units are available and are beginning to be provided to mining personnel, however an issue has arisen over the provision of unit 215 to non-workshop personnel and unit 407 to non-testing station personnel.	Info
	Decision: Units 215 and 407 should be retained; both competencies should be assessed in the context of work done at a mine.	JK
	Letter of concern to be sent to the NSW Mining Safety Advisory Council on engineering competencies being developed and their application.	JK DM
	Advisory Council members to speak to their counterparts on the NSW Mining Advisory Council to raise the concerns of Qld Advisory Council on the situation with respect to the development in NSW of engineering competencies for engineering management positions at mines.	Sec
	List of members NSW Mining Advisory Council to be circulated to Queensland Council members.	
4. DM	**Amendments to regulations:** Amendments now drafted and forwarded to stakeholders for final endorsement; only minor adjustments anticipated: following this they will be submitted to Cabinet for approval.	DM
5. BL	**Recognised Standards** ***Quality of incombustible dust, sampling and analysis of roadway dust in underground coal mines*** *Approved for gazettal*	DM
	Recognised Standard: Control of risk management practices *Department standard to be gazetted*	DM
	Recognised Standard: Underground Non- explosion protected diesel vehicles *Approved for gazettal*	DM
	Recognised standard: ***Underground electrical equipment and electrical installations*** *Approved for gazettal*	DM
	Full list of required recognised standards to be developed and presented to the next meeting	BL

6. BL	**Regulation 46; Health Assessment** Mr Vickers raised the point that s296 of the Act allows the Coal Board Order 93 to continue as a regulation under the present legislation. The interaction of s296 of the Act and s42 and s46 of the Regulation needs to be established. It was agreed that this should be resolved.	DM
7.	**Regulation 46; Health Assessment: continued** Following resolution of agenda item 6 above an dustry group is to be assembled to discuss basic principles to resolve issues surrounding s42, s46 and s 296 of the Act with object of reaching agreement on application of these sections. To include Industry, CFMEU and Department. List of industry names to be supplied to secretary	BL GC
8. BL	**Use of NSW Coal Mines Qualification Board's Part A &B** Agreement reached with NSW on the use of Part A and B Queensland equivalent of Part B is to be developed.	BL
9. PM	**Council Nominees** Nominations for members of Council required by early August for all current members whose membership expires at the end of August. Note nomination of replacement for Mr Barker is pending; see item 1.	Info all stakeholders
10. BL	**Ventilation officers** It is proposed that consideration be given to providing for two levels of ventilation officer; • Ventilation engineer which would be at professional engineering level; and • Ventilation officer (technician) at para-professional level Council considered this approach worthy of consideration. Proposal and recommendation to be presented to the Council. Appointment of ventilation officers Date set by Advisory Council for appointment of ventilation officers with stated competencies has now passed (December 02) Letter to be sent to SSE 's of all underground mines requesting information regarding conformity with section 61 of the Act; particularly with respect to sections (1) and (4). Date set by council for compliance to remain at December 02	MJ BL, MD
11. **BL**	**Emergency exercise** Update of modified approach out lined by Mr Lyne	info
12. **GD**	**Persons required to have C6** Proposal being developed by ISHR; copy to be forwarded to secretary for distribution	GD
13. **GC**	**Competencies for Qld specific competencies such as G3 and emergency preparedness** Raised for consideration and discussion next meeting; proposal to be prepared by next meeting.; forward to secretary	MJ

14.	**Other Business** [NS] Availability of P5 explosives needs to be considered. This is to be taken up with Chief Explosives Inspectors	BL
	[GD] Decisions of Advisory Council to be catalogued and placed on the web site	DM
	[GD] Some disabling injuries are not being reported. Some reoccurring injuries are also not being reported. Union and Department data base to be cross checked.	GD
	[GD] Competencies for statutory positions and inspectorate eg risk management and emergency response. to be considered and presented to next meeting. Information to be supplied to secretary for distribution.	GD
	Next meeting Thursday 31 July	

Chairman

Mr P J Minahan
Chief Inspector of Mines

Secretary
D Mackie
Acting Deputy Chief Inspector of Mines (Technical)
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MEETING 2 OF THE REVIEW OF THE HEALTH SURVEILLANCE UNIT		
MEMBER	**MINUTES**	**ACTION**

Meeting held 17 July 2002, 5th Floor Conference Room, Mineral House, 2.00pm

Attendees

Dr David Smith	[DS]	Independent Joint-Chair
Mr Brian Lyne	[BL]	Department of Natural Resources and Mines – Joint Chair
Mr Les Wynn	[LW]	Department of Natural Resources and Mines - Secretary
Mr Roger Billingham	[RB]	Department of Natural Resources and Mines
Ms Carmel Bofinger	[CB]	Simtars Representative
Mr Andrew Vickers	[AV]	Coal employees' representative
Mr Mick Madden	[MM]	Coal employers' representative
Mr Peter Lewis	[PL]	Metalliferous employers' representative

Apologies

Mr Bill Wheatley	[BW]	Alternative for Coal employers' representative
Mr Ben Swan	[BS]	Metalliferous employees' representative

NOTE: Meeting decisions are highlighted in grey

Member	Minutes	Action
1. DS	**Welcome and apologies (See above)**	
2.	**Apologies** See above	
3. **BL**	**Previous Meeting of 11 July 2002-07-19** ***Amendment to Minutes*** Referred to the review of Coal Services NSW in Item 4 of the previous meeting and advised that review is only in relation to the coal health scheme operated by Coal Services. (Note from Secretary, the original of the Minutes of 11 July have been amended to reflect that change). ***Matters arising from Minutes*** • BL sought advice from MM about the company health surveillance program of BHP Billiton. • MM responded that there was no overall company strategy. • AV advised there needs to a be a correlation of a worker's health and what the worker has been exposed to in the industry. • BL spoke about the use of the data and that this is included in the Terms of Reference (eg future direction) and will not be missed. • BL advised that there appears to be a fair understanding of the coal workers' health scheme but a limited understanding of the legislative requirements under the *Mining and Quarrying Safety and Health Act* 1999 for health surveillance. He advised that a copy of the metalliferous requirements would be circularised with these Minutes.	LW
3. PL	**Presentation on MIM Health Surveillance Program** • PL spoke to overheads and also handed out a four page "executive type" summary of the operation of the proposed health surveillance program for MIM's operations. • PL said the program had not at this staged been introduced, and that the company would be looking to Government for support / endorsement of the program. There are still IR issues to be addressed. • PL said given the large amount of data the company would need to adopt a staged approach to introduction of the monitoring of the workforce. • PL said he believed that Government would not be in a position to effectively handle this volume of data.	

MEETING 2 OF THE REVIEW OF THE HEALTH SURVEILLANCE UNIT		
MEMBER	**MINUTES**	**ACTION**
3. PL (cont) **DS**	• PL also said the use of incident reporting data for legislative or policy changes would be flawed without further data. • DS said that if limited data only were reported (eg high level exception data) then this would allow for better targeting of resources to undertake specific research. • PL advised that a problem with coal legislation is that a detailed risk assessment is not undertaken prior to employment. However, there is a 98% compliance with the coal legislation and lesser compliance with metalliferous legislation, which is being addressed. • BL spoke to slide, that is a model for health assessment of the mining industry based on risk assessment. Thanked PL for the presentation on the MIM health surveillance program.	
4. BL/DS	**Report on meeting with Q-Stats held on 17 July am.** • Q-Stats collect information from Worker's Compensation providers (eg Government and private insurers). • Analysis of the information is undertaken and results of that analysis are provided to the Division of Workplace Health and Safety. • The information is different to what the department has looked at or provided in the past. The sample data provided does not cover occupational health very well. • Revised data has been requested from Q-Stats and this will be provided to members when received. Included in data requested are deaths in the industry over the last 10 years. • Q-Stats is having difficulty in providing information on individual mines, as analysis is provided on 'statistical local area'. • Muscular skeletal information is not shown separately in sample data (including lump sum payouts) although it is a major issue with the mining industry and would therefore appear to be a high compensation area. Q-Stats do not show information on persons leaving the industry because of muscular skeletal issues. Will seek advice for Q-Stats in this matter. • AV said a reason figures are not provided by Q-Stats on workers leaving the industry for related health issues is that after they are passed fit by Workers Compensation for return to work after receiving a partial payout, the NMA conducts a return to work health assessment and determine they are unfit to work in the industry. • BL said when further data is received from Q-Stats comments on the usefulness of that data will be sought from members.	
5.	**Future Direction** • DS asked if there were suggestions on ideas for future directions for Government involvement for health surveillance to be taken from MIM's model. • CB replied that there were coal mining companies following the MIM example. • PL endorsed CB comments as he had contacted a number of mining companies at the corporate level and those companies philosophically agreed with MIM's model. • AV said there is a similar focus between MIM and coal, but what we want is proper monitoring of workers health and for something to be done about the results of the monitoring. Upgrading of the current monitoring system will define outcomes the industry was promised by Government in 1993. • AV said the CFMEU is supportive of the process if it provides ongoing employment of workers in the occupation of their choice. We need to clearly define the role and functions of the HSU. • DS our focus need to be on health surveillance not safety monitoring. DS spoke to a model for continuous monitoring of lead exposure. This model allowed for different level of monitoring for different types of workers (eg women, men and younger workers). It has levels of removal of persons (action levels) from exposure that were below the lead poisoning levels, and for their return when levels dropped. Normally persons do not reach the removal level before preventative action is taken. • The department does not need to receive all the data on lead monitoring provided the data is available for examination by the department. To receive all the data would swamp the department. It is proposed that only when lead blood levels reach the removal/action levels will the department receive the notification.	

MEETING 2 OF THE REVIEW OF THE HEALTH SURVEILLANCE UNIT		
MEMBER	**MINUTES**	**ACTION**
5. (Cont)	• AV agreed that the example given by DS did not require the provision of all data to the department; in that there are well established and well-known processes associated with lead monitoring which is not the same with the coal industry. The department should take responsibility for ensuring health monitoring is undertaken and reported against, for example research associated with the adverse effects of health hazards of a person working on a continuous miner at the coal face, and persons leaving the industry prematurely unfit for work without knowing the reason why they are unfit, to avoid re-occurrence. • DS said occupational hygiene monitoring also needs to measure damage caused by whole of body vibration. • PL said this group need to develop a model based on the lead poisoning monitoring model and seek input from representative groups. • BL said the DS model should be used as a generic model to identify and establish removal and action levels for mining health hazards. This will provide a reliable source of data. This will include obtaining information on establishing why persons are leaving/being removed the industry. • PL supported the process, as action level data would be notifiable to the department. PL advised that he was previously concerned that only exception/exclusion data would be notifiable. • PL asked for agreement on the future model and then action levels need to be developed for health hazards. • PL advised that MIM meets the cost of health monitoring of its contractors – this ensure the contractors' health is monitored to the same level as MIM employees. There is chronological data on all workers as workers move from site to site. • BL said we need to know what are looking for, tracking the individual is another issue. • CB said the model is fine for well-known health problem, but for lessen known problems there is an issue. • AV said this is a good model for known health hazards for which there are standards. Workers in the coal industry workers are getting out without the reasons/causes being known. The first the CFMEU knowns is at the removal level of the model. • CB said that without large enough data sets, individual operations would have difficulty in monitoring for the unknown. • BL in summarising the discussion said that we don't known why workers are leaving the industry. Some information is known about coal but mainly unknown about metalliferous mining. We need to know why and put in place a structure to manage this. Then in say 2 to 5 years time we will be able to address these issues. • RB asked how do we relate what is being monitored to why people leave the industry. • AV said raw data is available to Government but nothing has been done with the data because the money is not there. Collating and analysing of existing data could assist with establishing causes. • BL said the department's health resourcing to this stage has been devoted at the bottom level of the model and would be better if devoted at looking at the action level data, and does the HSU move to that level? • AV said there is 20+ years of information on coal workers and if we looked at who has left the industry and backed tracked from there, this may provide some information as to causes. • PL said we should get on the front foot and get industry to do the lower level of the model required under legislation. Someone should be collecting the data to give a continuous improvement model. • BL said is appears that the coal industry hides behind the Coal Mine Workers Health Scheme as it does little other monitoring of persons exposed to health hazards. • BL we continue to talk about coal and metal but as it is one industry and we operate in the same areas of risk (while at different levels), I would like to hear our discussions refer to the mining industry. • In relation to the presentation of the lead model by DS, I have not heard anything today to suggest we should not adopt this as our generic model for monitoring of industry hazards.	DS/DS

MEETING 2 OF THE REVIEW OF THE HEALTH SURVEILLANCE UNIT		
MEMBER	**MINUTES**	**ACTION**
	• PL we need to get commitment to the collection of the base data, so we can move towards the collection and analysis of action level data. • BL said another issue is the education of mine workers, otherwise we will continue to have problems in the future. Industry needs to understand where this proposed model may lead. • PL suggested the model will also provide the regulator with a tool for auditing. • BL asked that the members consider for the next meeting avenues for collecting information, for example removal of persons from industry that is reliable and completely legal.	LW
7. Bl	**Next meeting:** **Friday 16 August 2002 from 9am to 12 noon.** **Venue:** **Safety and Health** **5th Floor Conference Room** **Mineral House** **41George Street** **Brisbane**	
8	**Meeting closed 12 noon**	

Distribution
Members
Steering committee

L.Wynn
Manager, Operational Services, Safety and Health
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Queensland Government
Natural Resources and Mines

DRAFT MINUTES OF MEETING OF NOMINATED MEDICAL ADVISERS

DATE -: 20th October, 2001
TIME -: 9-00 am to 1-00 pm
LOCATION -: Royal on the Park - Brisbane

ATTENDANCE

Nominated Medical Advisers - Dr Keith Adam (chairman), Dr George Belonogoff, Dr Peter Fenner, Dr Ed. Foley, Dr Robert Green, Dr Jay Kumar, Dr Peter Ruscoe and Dr Beryl Turner.

Department of Natural Resources and Mines – Bruce Ham

Mining Companies – Grant Cook (QMC) and Andrea Sutton (Blair Athol Coal)

Apologies - Dr David Eaton, Dr David Parker, Dr John Schneider, Dr Michael Smyth, Dr Ross Woodward and Dr Toby Ford.

1 INTRODUCTION

Keith Adam welcomed doctors and visitors.

2 MINUTES OF PREVIOUS MEETING

The previous meeting was held on 29th July. Bruce Ham reported that from the last meeting, he had been requested to follow-up on the lung demand requirements for self-rescue devices worn by underground miners. Advice has been received that these demands are very low and that the equipment requiring this mechanism is limited to only one mine.

Minutes accepted

3 DRAFT RECOGNISED STANDARD

Further to the circulation of the Draft Recognised Standard of the Health Scheme at the last meeting, the Inspectorate has determined that the recognised standard constitutes another unnecessary level of documentation that makes compliance more complex. Subject to advice from the Regulation Committee/ Parliamentary Draftsman, the material will be included in the Health Scheme Instructions.BH

4 DISCUSSION ON MEDICAL GUIDELINES

The approach used in the Medical Examinations for Commercial Vehicle Drivers is better than that used in the previous Health Scheme Instruction Manual and should be considered as a starting point. BH

The health and related safety risk of coal mines are considerably more complex that those associated transport drivers, particularly for underground workers. The format for the Medical Examinations for Commercial Vehicle Drivers is a very useful model as it sets out the current evidence on which a risk based assessment can be made.

There is need to compile statistics on a multitude of conditions / impairments associated with mining operations / operators so that proper evidence based risk assessment can be undertaken.

BT

The approach to generic standards needs to be pursued with caution. Where criteria are not met, then a job specific practical test should be developed to effectively assess whether the duties required can be performed safely. The hazard needs to be clearly defined and management strategies developed.

For example, train drivers need to be able to determine if a light is green or red. There is one opportunity for a colour blind train driver on the Normanton line – This line has only train and no red/green lights.

Consideration needs to be given to the Coroners Test – will a marginal decision be resolved in the Anti-Discrimination Court or the Coroners Court. The definitions and actions imposed by the Anti-Discrimination Act should be noted.

KA

Objective evidence for risk assessment needs to be compiled for each task in a mining operation and for each health criteria related to these tasks. This is a very large task and needs to be centrally co-ordinated. This should be proceed through a series of working groups reporting to successive six monthly NMAs.

– supported by NMAs and industry represenatives.

Blair Athol has a risk factor calculator that may be considered a possible model.

Andrea Sutton

The importance of task analysis needs to be stressed to the mines and contractors. This provides the criteria against which limitations to personal capabilities can be assessed.

It should be noted that a new Medical Examinations for Commercial Vehicle Drivers has recently been released.

Reference material on hearing loss / conservation has been recently released in the US.

The Qld Fire Services have recently being doing interesting work on task ranking.

KA

5 DEVELOPMENT OF MEDICAL GUIDELINES

Components required are ;

1. Development of task analysis library (Grant Cook to Follow up on BHP Goonyella study)
2. Review of cardiovascular disease (see Fed. Road Safety Authority and Prof Bruce Hocking – Dept Social and Community Medicine – Monash University)
3. Development of risk assessment library (Qld Fire Services Research Project – KA to follow-up)

Potential funding sources to be approached – QMC / ACARP; NRM and Research Grant organisations

G. Cook / BH

6 REVIEW OF FORM

Ascultation to be moved below box.
Vision – Box Right then Left
Smoking Question is confusing - See Form B.
Immunisation – [Comment]
Next Assessment [years] [Reason for assessment]
Contact Number for coal mine worker
Signature of coal mine worker on Assessment Report Page
Confirmation of coal mine workers identity

7 FALSIFICATION OF IDENTITY IN OBTAINING HEALTH CLEARANCE

There is some concern that some persons sending in a proxy in order to falsely obtain a fitness assessment. Where doctors become aware of this risk, they require coal mine workers to provide positive photographic proof of identity. This should be recorded on the report form

8 FIRST AID KITS

Negotiations are proceeding with the Health Department regarding the supply of prescribed drugs in First Aid Kits. Western Australia has established protocols for competent persons to administer drugs under medical supervision.

KA

9 REPORT ON RESEARCH BY BRUCE HAM

A brief report was given on the JCB Health and Safety Trust Projects on the feasibility of a national mining health database and the heart disease risk factor projects. The first project has been completed and the second should finish in February 2002. The final part of the heart disease project will examine coal miners death data gained by cross referencing the Queensland and New South Wales registers of coal miners with the National Death Index held by the Australian Institute of Health and Welfare in Canberra.

Preliminary results of the JCB Health and Safety Trust / Office of Economic and Statistical Research / NR&M project in underground longwall monitoring. This project is examining the statistical implications of the current NR&M dust monitoring program. At some but not all mines, there is a significant relationship between dust and production. Such a relation increases the statistical reliability of dust exposure estimates. The study has provided a risk based, statistically coherent strategy for dust sampling. Such a strategy is critical for reliable long term dust dose / respiratory response research. The study also has implications for exposure monitoring programs as required under section 49 of the *Coal Mining Safety and Health Regulations 2001.* The question that needs to be asked as to whether failure to monitor for any exposure would increase corporate liability when a possible exposure based disorder is identified.

10 GENERAL BUSINESS

10.1 Health Cards

There is a demand for contractors to be issued with wallet size health cards to facilitate faster processing. Beryl Turner has used this system for Gladstone Contractors and found some mines are open to a similar system for the many contractors. Key elements of the Health Assessment Report include the NMAs details and the results.

BT to report back

10.2 Drug and Alcohol Management for Contractors

Contractors who have an effective random drug testing program should be provided with a Certificate of Good Standing to exempt them from one-off drug screening prior to starting a contract. Such a random drug testing program is more cost effective and reliable than a one-off test.

Drug and alcohol testing to be discussed further at the next meeting

11 NEXT MEETING

The doctors requested a meeting be held in either the first two weeks (3RD or 10TH) in March 2002.

Bruce Ham
Mining Engineer
Health Surveillance Unit

20 December 2001

19 December 2001

Queensland Government
Natural Resources and Mines

COAL MINE WORKERS HEALTH SCHEME - INFORMATION SHEET 1

FOR COAL MINE WORKERS AND INDUSTRY ENTRANTS

- Under sections 42 and 43 of the *Coal Mining Safety and Health Act 1999*, the Site Senior Executive and all contractors are responsible for the health and safety of workers under their supervision. To give effect to these responsibilities, the Coal Mine Workers' Health Scheme is established (sections 44 to 53 of the Coal Mining Safety and Health Regulation 2001) to promote safe operations by assessing persons fitness to undertake duties without risk to themselves or others and by monitoring changes in health over time.

- Each person who is to be employed as a coal mine worker must have a pre-employment health assessment and periodic health assessments at periods of up to five years unless otherwise determined by the Site Senior Executive.

- Where a health assessment is required, the health assessment should be arranged and paid for by the employer. There is provision that a Site Senior Executive may accept a health assessment undertaken on behalf of another employer.

- The assessment must be carried out:
  (a) on the approved Health Assessment Form; and
  (b) by, or under the supervision of, the Nominated Medical Adviser (NMA) for the employer (the NMAs have a supply of the approved Health Assessment Form).

- The NMA is the doctor appointed by the employer to provide advice to the employer concerning health risk management and fitness for duty. The Department maintains a register of NMAs.

- The employer must complete section 1 of the Health Assessment Form, and under the supervision of the NMA, another doctor may supervise the completion of sections 2 and 3 of the Health Assessment Form.

- The form is then forwarded to the NMA for assessment in relation to the worker or entrant's fitness for duty, and the NMA provides a report on the fitness for duty to the employer. No confidential health information is provided to the employer.

- The NMA must also provide a copy of the report on fitness for duty to the worker or entrant, and the Worker or entrant should request this from the NMA if not provided. The worker or entrant should securely retain this report.

- The Health Surveillance Unit of the Department maintains a duplicate set of medical records, which are used for monitoring of and undertaking research on the health of coal mine workers. No information held by the Department will be disclosed to an employer without the written approval of the worker.

For further information contact
Health Surveillance Unit
Department of Natural Resources and Mines, Safety and Health Division
GPO Box 194, Brisbane QLD 4001
Ph 3239 6897 Fax 3237 1242

REVIEW OF COAL INDUSTRY EMPLOYEES' HEALTH REGULATION

DRAFT MINUTES OF MEETING OF 9 NOVEMBER 1999

Location: **6 Floor Conference Room 61 Mary Street**

Time: **1-30 pm to 4-30pm**

Attendance: **Les Wynn (Chairman), Bruce Ham, David Cliff, Grant Cook, Greg Dalliston, , Allan Doodney, Carmel Bofinger, Andrew Vickers, Mick Nash and in part. Dr Keith Adam and Brian Lyne**

OFFICER		ACTION
1	**Minutes of previous meeting were adopted with the following changes** – CFMEU had advised that did not support the use of BMI or colour vision as employment criteria. C.Bofinger advised 'with PPE' should be changed to 'without PPE'.	B Ham
2 L. Wynn	**Introduction** The objective of the meeting is to work through the draft Risk Categories and as far as possible reach agreement.	
3 G. Dalliston	**Noise induced hearing loss** All workers who are exposed to the risks of being around mining and related machinery should undergo an generic health assessment to ensure they could hear warning signals as well as see warning signs relating to dangerous situations and remove themselves from those risks.	
Decision *Decision*	***Pre-employment audiometry testing will be required for any employees who may be exposed to noise levels above 82dBa .*** ***Where 82 dBa is exceeded for more that 12 weeks in any 12 month period or there is an impulse noise risk (as defined in the Australian Standard), then annual audiometry will be carried out to the Australian Standard***.	All agreed All agreed
4 *Decision*	**Dust** ***Pre-employment spirometry and chest X-rays are required where employees are likely to be exposed to more than 1.5mg/m3 coal dust or 0.05mg /m3 of silica dust (8 hour test)*** ***Employees who work in these conditions for periods of 12 weeks in any 12 month period, are required to have respiratory assessment at two year intervals and X-rays at five yearly intervals.***	All agreed
5	**Hot Work** Further specialist advice is required. Hot work needs to be clearly defined. The Regulation Committee is to be contacted for advice. Dr Adam to review.	B. Ham

6 *Decision*	**Electrical and gas welding and Oxy-cutting** ***A requirement for welding and related activities to be included in Health Surveillance is not needed***.	All Agreed except B. Ham
7 All except B. Lyne B. Lyne *Decision* *Decision*	**Mobile Equipment** Heavy / light vehicle interaction was considered a major risk Vehicles of less than 20t and travelling less than 50km/hr do not represent a risk worthy of inclusion in a Recognised Standard. ***Health assessments should be undertaken by all mobile equipment operators including light vehicle drivers who will be involved in heavy / light vehicle interactions.*** ***Exclusions include light vehicle (Dept of Transport Definition) operators who are restricted to light vehicle roads) only.*** . ***Crane Drivers Medical Standard should be adopted for inclusion in health surveillance.***	 All agree except B. Lyne All agreed /BH
8	Electrical Issues – discussion was postponed until A. Doodney and an electrical inspector can participate.	B. Ham / A. Doodney
9 G. Dalliston	**Regulation Issues** 1 There needs to an offences regulation to cover Health Surveillance 2 There needs to be provision to recognise equivalent health assessments where a person has an assessment under a similar standard .	 L. Wynn B. Ham / L. Wynn
10	**Next Meeting Friday 26th November – 9-30 am to 12-30pm** **6th Floor large conference room**	

Please advise of any errors, additions or omissions in the draft minutes.

Bruce Ham
Secretary - Health Surveillance Review
Health Surveillance Unit
11 November 1999
Ph 07 - 3237 1148

Distribution: Review Group Members
Executive Director - Safety and Health Division
Chief Inspector of Mines
Deputy Chief Inspector of Coal Mines
Deputy Chief Inspector of Mines
Deputy Chief Inspector - Technical Services
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REVIEW OF COAL INDUSTRY EMPLOYEES' HEALTH REGULATION

DRAFT MINUTES OF MEETING OF 25 NOVEMBER 1999

Location: **6 Floor Conference Room 61 Mary Street**

Time: **1-30 pm to 3-30pm**

Attendance: **Les Wynn (Chairman), Bruce Ham (Secretary), David Cliff, Greg Dalliston, Carmel Bofinger, Andrew Vickers, and Brian Lyne**

Apologies **Grant Cook, Mick Nash and Dr Keith Adam**

OFFICER		ACTION
1	**Revised Minutes of previous meeting were adopted**.	B Ham
2 G. Dalliston G. Dalliston	**Business arising out of the Minutes** 1 In relation to the Risk Categories and Medical Guidelines, temperatures should be Effective Temperatures. G. Dalliston spoke to information provided on hot work. Regulations on this issue are yet to be finalised. 2 In relation to Crane Drivers, Workplace Health and Safety could provide little information. Further advice is to be obtained. 3 The CFMEU is not satisfied that BMI should be used as the basis for restrictions or exclusion. It might be useful as an indicator for further assessment	G. Dalliston
3 B. Lyne / A. Vickers G. Dalliston	**Health Assessments for underground workers.** 1 All workers who are exposed to the risk of going underground need to be able to self-escape from any part of a mine to a safe location. Health assessment needs to account for vision, hearing, ability to use a self-rescuer. 2 Face workers are exposed to numerous additional hazards and need a higher level of monitoring. 3 It was suggested that pre-employment medicals be undertaken by all employees, otherwise it would be difficult to monitor employees required to undertake different work.	
4 D Cilff	The QMC advised that a log book for contractors has been proposed to the Minister by the QMC. Further discussion is expected.	
5 A.Vickers	The CFMEU are deeply concerned that at two sites employees are being unjustly terminated for failing to meet certain 'Health Scheme Guidelines'. Generally the industry accepts that these guidelines should trigger a further evidenced based tripartite risk assessment. There is concern that the current legislation encourages some mines to raise 'Health standard bar' and thus deny employment through discrimination. The DME is to seek advice from Parliamentary Council as to the potential for discriminatory behaviours based on a Health Surveillance Regulation or Recognised Standard.	L. Wynn

6 G Dalliston B. Ham	The CFMEU suggested that employees be permitted to access doctors from an approved list or possibly any doctor. B Ham indicated the current Health Scheme largely worked this way, but the mine's NMA was responsible for ensuring standards and assessing the nature and extent of restrictions.	
7	**Next Meeting 13th December – 11-00 am to 4-00 pm** **6th Floor large conference room**	B. Ham

Please advise of any errors, additions or omissions in the draft minutes.

Bruce Ham
Secretary - Health Surveillance Review
Health Surveillance Unit
26 November 1999
Ph 07 - 3237 1148

Distribution: Review Group Members
Executive Director - Safety and Health Division
Chief Inspector of Mines
Deputy Chief Inspector of Coal Mines
Deputy Chief Inspector of Mines
Deputy Chief Inspector - Technical Services
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REVIEW OF COAL INDUSTRY EMPLOYEES' HEALTH REGULATION

DRAFT MINUTES OF MEETING OF 13 DECEMBER 1999

Location: **6 Floor Conference Room 61 Mary Street**

Time: **11-00 am to 4-00pm**

Attendance: **Les Wynn (Chairman), Bruce Ham (Secretary), David Cliff, Andrew Vickers, George Robinson and Brian Lyne, Grant Cook, Lynsey Moore (BHP), Mick Nash, Allan Doodney and Dr Keith Adam**

Apologies **Greg Dalliston, Carmel Bofinger**

OFFICER		ACTION
1	**Minutes of previous meeting were adopted with attendance of George Robinson noted.**.	B Ham
2 D. Mackie A. Vickers A Vickers	**Business arising out of the Minutes** 1 In relation to Crane Drivers, further advice is to be obtained. 2 Crown Law advised Employers could adopt a appropriate standard that was higher than any proposed in a recognised standard. The end arbitration of 'appropriate' would be the courts. 3 There were several Health Scheme related cases currently before the Industrial Court. The Courts findings may affect how new regulations are cast. 4 A provision should be included stating that failure to meet Health Scheme criteria cannot be used to exclude mine workers from the industry. Failure to meet criteria should be a trigger to undertake a full risk assessment that establishes that the particular impairment precludes safe or effective work in respect to the position(s) available.	G. Dalliston
3	**Health Assessments for electrical personnel** After discussion it was decided that; **Decision** ***No additional health requirements for electrical workers are necessary***	All agreed

4	***Decision - Health Assessments for persons underground.*** ***Accompanied Persons*** ***Visitors or short term contractors who are in close and continuous supervision would only be required to undertake a practical test including hearing, vision and their ability to self escape wearing a self-rescuer. (Short term contractors may need to be defined if supervision test is considered inadequate)*** ***Unaccompanied persons*** ***Would require testing for vision, hearing and self-rescue use as well as for mobility and loss of control. This would include blood pressure and diabetes, and a questionnaire for other issues eg epilepsy*** ***Persons working in dust, excess noise and heat*** ***When a person is expected to work for more than 12 weeks in any 52 week period, in noisy, dusty or hot environments, monitoring for these effects will be undertaken in addition to the monitoring for persons working underground.***	All agree All Agree All Agree
5	***Decision – Employer to ensure employees have health assessments*** ***The employer must ensure that employees and entrants covered by this regulation have a current suitable health assessment*** Definition of Employer - Brian Lyne indicated that the definition of Employer in the *Coal Mining Safety and Health Act 1999* should be used. Bruce Ham is to provide copy to the committee.	All agreed B. Ham
6 Liz Bauer	**Requirement for Health Professionals** There was general agreement that the bulk of the testing could be undertaken by either a trained technician or suitably qualified doctor. Employers would have a choice of how it would be managed. In order to maintain a consistent high reliability testing, the testing procedures and equipment maintenance should be under supervision of either a doctor or a degree qualified registered occupational health nurse or equivalent health professional. ***Decision – Health Management Testing*** ***Health management testing could be undertaken by a competent person, however where an abnormality was identified in the questionnaire or testing, then the person must be referred to a doctor***	Agreed in principle All agreed
7 D. Cliff	**Employment Card for Employees and Contractors** The development of a Generic Induction / Employment card was progressing to trial. It would a desirable outcome if data equivalent to that specified on the current Form A.1 or B.1 could be incorporated this card.	For future consideration

8	***Decision*** ***The Employer should pay for the cost of the Health Assessment***	All Agreed
9A. Vickers	**Paid time off to attend Health Assessments** The employer should pay current employees for the time and other costs associated with having the Health Assessment as per the current regulation	D.Cliff sought leave to seek QMC view
10 B.Lyne A.Vickers	The mine operators should be entitled to the detailed health data of employees. The CFMEU would very strongly oppose any such move. The operators should only be provided with similar information to that provided in the current Form A.1 or Form B.1.	
11 L. Wynn B.Lyne B. Ham	Employers to notify DME of Supervising Health Professional with in 5 days of appointment The DME should not be notified of Health Professional nor hold health records as this implied that the Government had a role in certifying the competency of the health professional and the accuracy of such data. This was established in the Gretley Inquiry in relation to mine plans. Employees should be responsible for maintaining their own records The central repository of health records has helped provide a significant public service under the current Health Scheme.	D. Cliff to seek advice: to be discussed at the next meeting.
12	**Decision** ***In view of health requirements for underground workers, it is necessary to review requirements for open cut workers to ensure consistency.***	All agreed
13	**Next Meeting 31st January – 11-00 am to 4-00 pm** **6th Floor large conference room**	B. Ham

Please advise of any errors, additions or omissions in the draft minutes.

Bruce Ham
Secretary - Health Surveillance Review
Health Surveillance Unit
14 December 1999
Ph 07 - 3237 1148

Distribution: Review Group Members
Executive Director - Safety and Health Division
Chief Inspector of Mines
Deputy Chief Inspector of Coal Mines
Deputy Chief Inspector of Mines
Deputy Chief Inspector - Technical Services

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1 All underground workers who are exposed to the risk of going underground need to be able to self-escape from any part of a mine to a safe location. Health assessment needs to account for vision, hearing, ability to use a self-rescuer. Non-clinical (practical) testing may be used for visitors.
2 Underground employees in general work would require vision, hearing and self escape capabilities as well as monitoring for loss of control risks by blood pressure and diabetes testing and a questionnaire for other issues eg epilepsy
3 Face workers are exposed to numerous additional hazards and need a higher level of monitoring dust, noise and heat risk.

G. Cook	**Demarcation of low risk workers** There is concern in the industry as to how low risk workers that are exempted from the requirements will be differentiated from higher risk workers that need to be covered.	
A. Vickers	Short term longwall move contractors would be in a high risk category	All Agree
A. Vickers	This will remain a problem as long as the industry rejects the two other alternatives – every one in or no health surveillance at all.	
L. Wynn	Where legislation leaves grey areas such as this, a court or an inquiry may ultimately decide the issue.	

Where a contrary indicator was identified in screening, the advice of a doctor or other supervising health professional would be required in determining placement and further monitoring and case management

REVIEW OF COAL INDUSTRY EMPLOYEES' HEALTH REGULATION

DRAFT MINUTES OF MEETING OF 3 MARCH 2000

Location: **6 Floor Conference Room 61 Mary Street**

Time: **9-00 am to 3-00pm**

Attendance: **Les Wynn (Chairman), Bruce Ham (Secretary), Peter Minahan (part meeting), Carmel Bofinger, David Cliff, Andrew Vickers (part meeting), George Robinson, Grant Cook, Lynsey Moore, Mick Nash and Dr Keith Adam**

Apologies **Greg Dalliston, Brian Lyne and Mick Nash.**

OFFICER		ACTION
1	**Minutes of previous meeting were adopted.**	B Ham
2	**Business arising out of the Minutes** In relation to Crane Drivers, further advice is to be obtained.	G. Dalliston
3 L. Wynn	As Agreed at meeting of 31 Jan the method of reviewing the Health Scheme would result in reviewing the existing Health Regulations. To achieve a satisfactory and quick review principles for reviewing need to be determined. The principles proposed in the agenda are to be considered for the review. .	All agreed on process but not principles.
4 L. Wynn	To be consistent with the new act and other regulations, the review should focus on the reduction and management of risks and assist persons in meeting their obligations under the new act. These include ensuring persons are fit for duty in the work environment (especially self-escape from underground) and health surveillance monitoring to assess the impacts of hazards and facilitate improved management of the risks of these impacts on individuals.	General agreement
D. Cliff	Health surveillance includes both a health monitoring and an exposure monitoring component. The process of exposure monitoring is complex and needs to be properly addressed at some stage.	

5 Les Wynn A. Vickers P. Minahan K. Adam D. Cliff	Consistent with the approach to regulations and standards, industrial relations issues will not be prescribed. While the principle is appreciated, the nature of fitness for duty assessments is that there is inherently an industrial relations component that allows employers an avenue to terminate employees without necessarily having a system of checks and balances. The CFMEU take the view that a balanced approach is needed. The focus of a Health Scheme should be clearly health and safety. In an operating sense, a concerted effort is required to separate the IR and the health and safety issues. As the health scheme evolves, the industrial relations issues should be highlighted.	
6 K. Adam D. Cliff	The 'fitness for duties' of individuals and health surveillance of the individual and of a mine specific workforce is to be monitored by the site senior executive (SSE). In the case of contract workers, the responsibilities should be shared. This is the situation under the Workplace Health and Safety Act. A recent court case was cited. There is a demand in the industry for a card system to replace or complement the current flow of Form A.1s with contract work. Discussion followed. A card system may be useful as a preliminary indicator but if the industry wanted to pursue functional assessment , health professionals would need to be involved in job specific analysis.	All agree General agreement
7	Entrant and employee have obligations under the act to disclose any issues (including health conditions) that could impair their fitness for duty or the ability of the SSE / NMA to assess their fitness for duty	All agree
8	A basic 'fitness for duty' Health Assessment would be required for all employees /entrants, with provision for additional assessments for those subject to health conditions associated with exposure. The content of these assessment is the be reviewed by Keith Adam and to include relevant components of the commercial vehicles guidelines.	B.Ham and K. Adam
9	The SSE will need to appoint a suitable medical practitioner who can formally notify the SSE of a person's fitness for work. It is proposed that this person be called a nominated medical adviser (NMA)..	
10	The NMA will provide the SSE (and employer as required in the case of a contractor) with sufficient information about a person's capabilities to enable the SSE or employer to satisfactorily manage the associated risks (if any)	
11	The cost of the health assessment is to be borne by the employer. This is consistent with the Workplace Health and Safety Regulations.	All agree

12 D. Cliff B. Ham	The DME will be responsible for monitoring global trends throughout the industry and publishing the results of trends. For the purposes of this meeting the QMC will take 'DME' to mean the central data collection agency. The question of whether the DME (Health Surveillance Unit) should retain their role as the central agency needs to be resolved In anticipation of this question, some discussions notes had been prepared and were circulated. Comment (if any) is to be provided at the next meeting.	All agreed (subject to para 2.) All
12	The scheme needs to provide for assessment of visitors / accompanied persons on site. This should take the form of a questionnaire, with minimal physical testing. (only ability to use self-rescue device)	All agreed
13	Contractors and permanent workforce require the same health assessments unless they fall within the category of visitors and accompanied persons	All agreed
14	The use of personal protective devices and administrative arrangements are not a basis for exemption from health surveillance.	All agreed
15 Les Wynn	The Health Scheme Regulation 1998 was reviewed for development as a Recognised Standard. Advice would be sought subsequently from the Parliamentary Draftsman as to whether any components might be required as regulations.	
16 L. Moore G. Robinson	Review of Health Assessment Forms would be undertaken by K. Adam for circulation prior to the next meeting. BHP was concerned that the current form did not adequately address functional demands. The current health scheme has also been criticised for not adequately identifying psychological problems. It might be of benefit to seek advice from a professional in this area. Brad Strahan has recently done work at North Goonyella and may have a useful input.	K. Adam l. Wynn B. Ham B. Ham
17	Next Meeting – D. Cliff to contact B. Ham on possible dates for circulation of options	

Please advise of any errors, additions or omissions in the draft minutes.

Bruce Ham
Secretary - Health Surveillance Review
6 March 2000
Ph - 3237 1148

Distribution: Review Group Members
Executive Director - Safety and Health Division
Chief Inspector of Mines
Deputy Chief Inspector of Coal Mines
Deputy Chief Inspector of Mines
Deputy Chief Inspector - Technical Services

From: bham@dme.qld.gov.au

Subject: Re: Coal Workers Health Scheme

Andrew,

Progress of the Health Scheme Regulations through Parliamentary Drafting requires some confirmation from you that you wish that the current Draft should progress. Dallo indicated to David Mackie that agreement has not been reached on the draft. This is not my view, but confirmation of agreement is required

In your last email, you indicated that you were preparing a letter to this effect. I have not received any such letter (or cannot recall or find it).

I eagerly await your response.

Regards

Bruce Ham

From: Andrew <cfmeu.andrew@networkers.com.au>

To: <bham@dme.qld.gov.au>

Date: Tuesday, 5 December 2000 9:09 AM

Subject: Re: Planned Health Scheme Review Meeting - 3 January 2001

Les Wynn/Bruce Ham

I am not prepared to agree to leave finalisation of the regulation to be signed off by Departmental Officers. There is too much controversy surrounding this Regulation to place that degree of responsibility and accountability on the Officers. I acknowledge that the "critical event path" requires a tight time frame. If a formal meeting of the Committee is not able to be convened, then I suggest that the OPC draft be circulated to all committee members by e-mail as soon as it is available with a 48hour turnaround for comments.

Andrew Vickers

CFMEU

> From: <bham@dme.qld.gov.au>

> Date: Wed, 29 Nov 2000 10:27:14 +1000

> To: dcliff@qmc.com.au, cfmeu.andrew@networkers.com.au,

> cfmeu.dallo@networkers.com.au, cook.grant.gj@bhp.com.au, mnash@thiess.com.au,

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> cfmeu.dallo@networkers.com.au

> Subject: Planned Health Scheme Review Meeting - 3 January 2001

>

>

>

>

> I refer to my e-mail of 27 November concerning a meeting to review the

> drafting of the health provisions for the Coal Mining Safety and Health

> Regulations 2001.

>

> I proposed that owing to the planned drafting of these provisions by the

> Office
> of the Parliamentary Counsel in the period from 18 December to 31 December
> 2000,
> that a meeting of the Health Review committee be held on 3 January 2001.
>
> The critical event path developed for the introduction of the Regulation calls
> for the Office of Parliamentary Counsel to sign off on the completed
> Regulation
> by 5 January 2001. This is necessary to ensure approval of the Regulation by
> Executive Council and their commencement by 1 March 2001.
>
> It appears that the week of 2 January is not suitable for a large number of
> persons, and I have been asked to re-schedule it for later in January.
> Unfortunately, this is not an acceptable option owing to the critical path.
>
> The drafting instructions for the health provisions have been agreed to by the
> Health Review Committee and these, as you are aware, have been provided to the
> Office of the Parliamentary Counsel.
>
> Owing to the unfortunate situation of being unable to hold a meeting to review
> the OPC drafting, I propose that officers of the Department ensure that the
> intent of the drafting instructions previously agreed to by the Health Scheme
> Review Committee is contained in the final Regulation produced by the OPC.
>
> Your comments on this strategy would be appreciated.
>
>
> LES WYNN
> Manager
> Health Surveillance Unit
>

DRAFTING INSTRUCTIONS
COAL MINING SAFETY AND HEALTH REGULATION 2000

CHAPTER 2 ALL COAL MINES CONT.

PART 12

REGULATION FOR COAL MINE WORKERS' HEALTH SCHEME

Contents **Page**

78. Application

This part applies to coal mine workers, other than coal mine workers who are classified as visitors.

79. Definitions

- ***"Employer"*** for the purposes of the *Coal Mine Workers' Health Scheme* is the Coal Mine Operator or a contractor who employs coal mine workers.

  An employer can be a self-employed contractor.

- ***"Nominated Medical Adviser"*** means a suitable and legally qualified medical practitioner who has been appointed by an employer.

- ***"Visitors "*** means persons whose risk from coal mine health hazards or from health conditions as determined after a risk assessment, is so minimal that the risk can be effectively managed without the need for a health assessment.

- ***"Health Assessment"*** when used in the *Coal Mine Workers' Health Scheme* includes the following:

  (a) ***"Pre-employment screening for fitness for duties"*** includes self-reported details, interview and clinical assessment to enable the Nominated Medial Adviser to compile a report to an employer on a prospective coal mine worker's fitness to work.

  (b) ***"On-going screening for fitness for duties"*** includes self-reported details, interview and clinical assessment to enable the Nominated Medial Adviser to compile a report to an employer on a coal mine workers fitness to continue to undertake work.

- ***"Health monitoring"*** **(by the employer)** may include:
  - advice and aggregated health data provided by the NMA and the Department of Mines and Energy; and
  - previous and subsequent reports and work and environmental data,

  to assess whether the work or the work environment has caused, or has potential to cause, injury or a deterioration in the health of the coal mine worker.

80. Obligation of site senior executive

The site senior executive must inform all other employers at the mine of significant hazards that may impact on the health of coal mine workers on the site.

81. Employer to have a Nominated Medical Adviser

An employer must appoint at least one Nominated Medical Adviser to enable the employer to discharge his/her responsibility under the *Coal Mine Workers' Health Scheme.*

82. Notification of Nominated Medical Adviser

The employer must notify the Department of Mines and Energy of the name and contact details of the Nominated Medical Adviser as soon as practicable following the appointment.

83. Requirements of a Nominated Medical Adviser

A Nominated Medical Adviser must have:

(a) a sound knowledge of the *Coal Mine Workers' Health Scheme*;

(b) an awareness of relevant legislation relating to safety and health in the coal industry;

(c) a demonstrated knowledge of the coal mining operations including the risks associated with the activities and tasks performed by the coal mine workers for the employer;

(d) a willingness to hold discussions and to provide advice to the employer and the coal mine worker on appropriate duties to be undertaken by the coal mine worker;

(e) a program to maintain currency of knowledge of occupational health issues and health maintenance programs relevant to the coal mining industry; and

(f) access to suitable equipment and facilities.

84. Employer to ensure a coal mine worker to undertakes screening for fitness for duties

An employer must ensure a coal mine worker, other than a coal mine worker who is classified as a visitor, undertakes a pre-employment and on-going screening for fitness for duties.

85. Employer must establish and maintain a health monitoring system

(a) An employer must establish and maintain a health monitoring system to determine whether the health of coal mine workers may have been adversely affected by the hazards associated with the employer's operations.

(b) The employer must in relation to health monitoring:

(1) report the results of monitoring where adverse effects are found to the Department of Mines and Energy as soon as practicable; and

(2) make the results available to the coal mine workers.

86. Frequency of Health Assessments

(a) Health Assessments must be undertaken at periods of less that five years and more frequently if required in accordance with national standards, and

(b) Where a persons health could be affected by exposure to a hazard, the elements relating to the monitoring the effects of the hazard must be undertaken in accordance with appropriate national standards.

87. Employer must retain monitoring records

Data collected by or provided to the employer, in relation to health monitoring including environmental and personal monitoring, must be retained by the employer for 30 years unless alternative arrangements are agreed to by the Chief Executive.

88. Forms to be used

A health assessment must be undertaken in accordance with the format in Schedule XXX.

89. Increased frequency of health assessments

Nothing in the *Coal Mine Workers' Health Scheme* shall prevent more frequent health assessments of a coal mine worker where:

(a) there is reasonable concern that there may be a change in the health status of the coal mine worker; or

(b) there has been a change in the tasks or the risks associated with the job undertaken by the coal mine worker.

90. Additional elements to the health assessment

The employer at a particular enterprise may determine through a risk assessment process that additional elements to the health assessment are required for specific tasks or environments.

91. Assessments for visitors at coal mines

The site senior executive must ensure that adequate measures are in place in relation to visitors. These measures include the ability to 'self-escape" from the mine should the need arise.

92. Nominated Medical Adviser to provide advice of results of health assessment

The result of a health assessment of a coal mine worker must be provided to:

(a) the coal mine worker; and

(b) the employer.

93. Employment Restrictions

Where the Nominated Medical Adviser concludes that a coal mine worker is suffering from a condition which may prevent or inhibit performance of work duties, the Nominated Medical Adviser must:

(a) if the coal mine worker so requests, liase with the personal physician of the coal mine worker with a view to the correction, if possible, of the condition which may prevent or inhibit performance of work duties; and

(b) inform the employer and provide sufficient information (but not confidential health information without the coal mine worker's authorisation) to enable the employer to assess and manage the risks (if any) as a consequence of the condition.

94. Review of Employment Restriction

An employer when notified by the Nominated Medical Adviser that a coal mine worker is suffering from a condition which may prevent or inhibit performance of work duties, the employer must, if the coal mine worker so elects, afford reasonable opportunity to the coal mine worker to seek a second opinion from another Nominated Medical Adviser or medical specialist, before the employer terminates or demotes the coal mine worker. The employer must supply the second Nominated Medical Adviser or medical specialist with details of the coal mine worker's job demands.

The employer's Nominated Medical Adviser must review the earlier conclusion about the coal mine worker, if another Nominated Medical Adviser or medical specialist provides a contrary second opinion.

95. Responsibility for cost of health assessments

The employer must pay for the cost of health assessments required under *Coal Mine Workers' Health Scheme* except in relation to a review under Section 94.

However, the employer is not responsible for the treatment of any condition.

96. Ownership

All health assessment records obtained under the *Coal Mine Workers' Health Scheme* are at all times to remain the property of the Department of Mines and Energy, but are to be stored in accordance with Sections 97 and 98.

97. Health assessment records to be retained by the Nominated Medical Adviser

Original health assessment records (other than original chest x-rays films) obtained under the *Coal Mine Workers' Health Scheme* are to be retained by the relevant Nominated Medical Adviser.

98. A copy of the health assessment record to be furnished to the Department of Mines and Energy

A Nominated Medical Adviser must forward the following records to the Department of Mines and Energy as soon as practicable.

(a) a legible copy of the health assessment retained by the Nominated Medical Adviser; and

(b) original chest x-ray and report after examination.

99. Confidentiality of records

All medical information obtained under the *Coal Mine Workers' Health Scheme* must be treated in the utmost confidence at all times.

100. Transfer of Health Assessment Records when a Nominated Medical Adviser ceases to perform duties

Where a Nominated Medical Adviser ceases to perform the duties of that function all original health assessment records retained by the former Nominated Medical Adviser in accordance with Section 83 must be transferred to the custody of the new Nominated Medical Adviser as notified by the employer.

101. Coal mine worker transfers to another employer

When a coal mine worker notifies in writing to the Nominated Medical Adviser, the coal mine workers' transfer to another employer, the Nominated Medical Adviser must forward all original medical records relating to that coal mine worker to the Nominated Medical Adviser for the new employer.

102. Cost of duplicate copy of health assessment

Where a duplicate copy of a record is requested from the Department of Mines and Energy (or chief executive), the Department may charge a fee for the service.

103. Release of Records held by Department of Mines and Energy (or Chief Executive)

Health assessment information held by the Department of Mines and Energy is to be released in the following circumstances:

(a) to any party when authorised in writing by the coal mine worker on payment of the prescribed fee;

(b) where a medical practitioner or hospital satisfies the Department of Mines and Energy (or Chief Executive) of the validity of a request for specific medical information on an employee; or

(c) for third party studies which are acceptable to the Department of Mines and Energy (or Chief Executive) and where the identity of individual employees and employers is not revealed without appropriate authorisations.

104. Release of Records held by Nominated Medical Adviser

Health assessment information held by the Nominated Medical Adviser should to be released to any party when authorised in writing by the coal mine worker.

105. Reciprocity of health assessment

A Nominated Medical Adviser may accept the findings of all or part of a medical report on a coal mine worker in lieu of all or part of a pre-employment screening for fitness for duties or on-going screening for fitness for duties provided the date of the medical report is within the time frames specified in the schedule.

Examples of other medical reports are:

1) *a health assessment undertaken by another Nominated Medical Adviser for a prior employer when a coal mine worker changes employers.*
2) *Examination required under the Queensland Department of Transport "Medical Examinations of Commercial Vehicle Drivers".*
3) *Health assessments undertaken by the Joint Coal Board.*
4) *Health assessments undertaken for other employment.*

Queensland Government
Natural Resources and Mines

APPS.

MEETING MINUTES

DRAFT - Updated 1 October 2003

Department of Natural Resources and Mines
GPO Box 2454 Brisbane Q 4001
Level 5, Mineral House, 41 George Street, Brisbane, Queensland 4000
www.nrm.qld.gov.au

Discussion Notes on Coal Mine Workers Health Regulation

Meeting held 30 September 2003, 5th Floor Conference Room, Mineral House, 2.00 pm

Attendees

Mr Peter Minahan	[PM]	Department of Natural Resources and Mines
Mr Brian Lyne	[BL]	Department of Natural Resources and Mines
Mr Mike Downs	[MD]	Department of Natural Resources and Mines
Mr Les Wynn	[LW]	Department of Natural Resources and Mines
Mr Andrew Vickers	[AV]	Coal employees' representative
Mr Grant Cook	[GC]	Coal employers' representative
Mr Alan Miskin	[AM]	Coal employers' representative
Mr Mitch Jakeman	[MJ]	Coal employers' representative

NOTE: Meeting decisions are highlighted in grey

Member	Notes	Action
1. PM	Welcome, and provided attendees with copies of the 2002/03 Safety Performance and Health Report. He highlighted the significant improvement in Lost Time Injuries, and other indicators. Without those at the table and equivalents in the metalliferous industry these results would not have been achieved. The challenge for the industry is to have a fatality free year for 2003/04	
2. PM	Section 296 of the CMSHA had expired as it had a sunset clause (legal advice) and therefore had no impact on Sections 42 and 46 of the CMSHR. He proposed that we are looking for words agreeable to the parties for inclusion in legislation to resolvee the issue of additional medical examinations.	
3. AV	He advised that he had been previously informed that S 296 of the CMSHA impacted on Ss 42 and 46 of the CMSHR. This would have resolved the situation. The intent of previous groups was to continue to use the complete S 296 (former QCIHS Order) in total and carry it over into the legislation either as a Regulation or as a Recognised Standard. This did not occur and the Scheme is now not being used for the purposes for which it was originally intended. The current legislation is being utilised by employers to make people redundant –persons being referred to NMAs after being off work for 2 weeks. (e.g. a knee injury example at Callide Mine) Persons are being forced to leave the Industry due to health reasons. Act / Regulations indicate the process to determine when a medical is conducted – not due to a company whim! Noted that the new legislation does not mirror the intent of the previous QCIHS Order provisions. SSE say they have a general duty of care, referring workers to Occupational Specialists/Surgeons and Occupational Therapists, requesting detailed reports – without referring to NMA. Therefore the information is available to employer as this is a mine request.	* *
4.GC and AM	Advised that it is the NMA who arranges this referral and not the SSE. It is considered to be a heightened level of risk in an employee returning to work after a major injury.	
5. AV	If the Regulation prescribes an Action to achieve an acceptable level of risk then the intent of the Act must be followed.	
6. AM	Proposed that S 49(3) provides for the assessment of employees at greater level of risk, including those returning from a two week absence.	
7. AV	Disputed this position – impact of a Clearance Certificate. Also noted that the confidentiality of a person's medical record would be compromised. What does periodically as necessary mean in S 46(4)?	
8. BL	Advised that this was included because there is different risk (eg lead) for persons having different level of health and fitness. Our advice is it relates to a person's condition at a point in time whether or not he is fit to go to work without causing a unacceptable level of risk to self or others. Needs the "as necessary" to respond to significant changes in person's medical condition. No doctor could be expected to be	

Discussion Notes on Coal Mine Workers Health Regulation		
MEMBER	**MINUTES**	**ACTION**
	confident a person health would not change over a five-year period.	
9. PM	We have at the moment an amendment, that has not been agreed to, that an additional medical requires written advice from the SSE and signed by the SSE to the workers setting out reasons for extra health assessment.	
10. GC	If a person does not have an impairment, then it does not matter how many medicals are undertaken nothing will be found. What is the issue.	
11. AV	He wants impaired workers retrained and not sacked.	
12. PM	Asked AV to give the operation where this is happening so the S&H can investigate.	
13. AV	SSE at Callide had written to an individual telling the worker that if he does not attend an Orthopaedic Surgeon he will not be allowed to work. He asked what would be done about this issue. He also claimed the Mines Inspectorate had not acted upon other information he had given.	
14. BL	Advised that every situation, where information has been provided to NRM has been investigated and results provided to CFMEU.	
15. MJ	***Undertook to investigate the Callide incident and provide report back to NRM, and if it is in breach of Regulation 46 undertook to fix prior to lodging Report.***	***MJ***
16. BL	Referred to previous QCB Order regarding the protocols for requesting a non-scheduled health assessment. (e.g. the Callide issue) must be in writing and set out reason. The group previously agreed to this.	
17. AV	Said he was satisfied with this, provided that there are provisions on retraining included and that he would take his rehabilitation concerns up with workcover.	
18. BL	Read the provisions from the previous Order relating to retraining and advised that he was unable to find anything in the Order relating to rehabilitation.	
19. BL	Referred to the requirement that a second medical opinion be obtained when an NMA determines there are adverse findings.	
20. AV	Gave an example that if he injuries himself at football and if the doctor gave him a medical certificate that he will be off work for 3 weeks then all employers will accept this medical certificate. So if that doctor said I am now fit to return to work after recovering from the football injury and provided me with a certificate to that effect, then why will industry not accept this advice from the same doctor?	
21. PM	This situation relates to lack of trust with doctors, eg Industry will not trust the local doctor and the employees do not trust the NMAs.	
22. BL	We still do not know who is being put off work -which is a real concern - this will be addressed in new Health Scheme.	
23. BL	Advised that the only way to get a definitive answer is for the Courts to decide, not a dozen lawyers opinions. Cannot go to Court without a real case to judge.	
24. PM	We need to plug any hole, ensure the legislation is being complied with. ***Is happy for the Legislative Amendments Review Committee (LARC) to draft the proposed amendments and provide comment to him.***	***PM***
25. AV	There is concern by both MJ and myself regarding compliance with S42 of the Regulation	
26. AV MJ	Industry cannot enforce S42 and are using S46 to meet their obligations under S42 – a situation that should not continue. ***Needs to take this issue to legislative Review Committee to look at the interacting between S42 and S46. This was agreed to by PM.***	***PM***
27. AV	The LARC is meeting on 23 October 2003.	
28. PM	Sought AV opinion if S42 and 46 can be resolved, will the Union support industry in getting a vote of acceptance at the mine site?	
29. AV	The Union is a democracy and he does not have a vote (or one vote).	
30. PM	***In term of the problems with S42 and 46, requested that Industry and CFMEU provide their views on am amendment to Ss 42 and 46 for referral to the LARC. NRM and will also provide a suggested solution.***	***All***
31. PM	***This group will meet again after the LARC has received the suggested amendments, but before some members of this group leave on an overseas study tour.***	***All***
32.	**Meeting closed 3.20 pm.**	

Queensland Government

Natural Resources and Mines

Please quote: *DG28148*
Contact officer: *Paul Martyn, Strategic Policy & Legal*
Contact telephone: *389 63444*

- 3 JAN 2006

RECEIVED
- 4 JAN 2006
BY:

Mr Andrew Vickers
Queensland District President
CFMEU Mining & Energy Division
PO Box 508
SPRING HILL QLD 4004

Dear Andrew,

Safety and Health in the Coal Industry - Tripartism

As you are aware, the scheduled meeting of the statutory Coal Mining Safety and Health Advisory Council ('the statutory Council') on Friday 9 December 2005 was postponed.

It appears that the statutory Council will not be able to meet twice this year, thus failing to meet its obligations under section 84(2) of the *Coal Mining Safety and Health Act 1999* ('the Act'). I am sure you will agree that, irrespective of the reasons for the postponement, this outcome is disappointing.

The Queensland Government remains committed to tripartism in relation to safety and health in the coal industry. The Government strongly believes that the close involvement of representatives of employees and operators is crucial to achieving the safety and health outcomes that are essential to a strong, progressive industry.

Tripartism takes many forms, only one of which is the statutory Council. For example, the recent Review of the Mining Inspectorate was overseen by a special Committee comprising representative from both coal and metalliferous sectors. On a day-to-day basis, the Safety & Health Division of this Department engages with operators and employee representatives on a wide variety of issues. Different forms of industry consultation are appropriate for different circumstances.

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ABN 83 705 537 586

I am sure your organisation is similarly committed to tripartism. It is timely, given recent events, for the Queensland Government to seek your organisation's views on the most appropriate range of mechanisms to take forward this shared philosophy in the future.

In particular there are immediate issues under the *Coal Mining Safety and Health Regulation 2001* ('the Regulation') that require our urgent attention and co-operation in a tripartite setting:

1. procedures for appointment of nominated medical advisors (NMAs) under the Regulation and resolution of differences in opinions provided by NMAs; and
2. the establishment, and processes for mutual acceptance, of criteria for assessing the fitness of workers in relation personal fatigue and other physical and psychological impairment, and drugs (section 42 of the Regulation).

I would welcome the opportunity to meet with you on this matter.

Yours sincerely

Bob McCarthy
Director-General

John Kabel
Secretariat: Coal Mine Safety and Health Advisory Committee

As part of the meetings held to develop the Recognised Standard on Respirable Dust Control, a number of issues were raised that do not directly relate to the RS. I have attached a spreadsheet of all issues raised. The Recognised Standard Committee on Dust Control has identified the following areas that will need to be addressed, and believe that the CMSHAC should consider the following:

1. The committee recommends that Standard 11 be amended to include a section on dust risk management (with a minimum of 1 hr) that incorporates elements of RS on Dust Control, including but not limited to:
   - What is coal dust
   - What is respirable coal dust
   - What is Silica
   - What is inhalable coal dust
   - What are the effects of respirable coal dust on a person
   - Known dust exposures and outcomes, e.g. "Pneumoconiosis," including Silicosis and Coal Workers' Pneumoconiosis, result from breathing silica or coal dust
   - Coal Health Assessment components that monitor dust exposure, e.g. Lung function tests and Chest X-rays
   - High risk exposure areas on site (underground vs. surface)
   - Assessment and monitoring for respirable dust in the workplace, including regulated dust levels
   - Relevant applications of the hierarchy of controls for mitigating and managing the impacts of respirable dust on coal mine workers

2. In addition, the CFMEU member raised the following:

   The education updates for RS 11 and site adoption of the education requirements of the RS on Dust Control should be linked to a campaign showing the long term effects on health. This RS committee should endorse a recommendation to the CMSHAC for a campaign and support for effective communication using videos with input from medical experts on the effects of respirable coal dust and silica on the lungs and body.

3. There is a difference of opinion between the Mines Inspectors on the committee (Chair-Shaun Dobson, Inspector of Mines (Occupational Hygiene) Fritz Djukic) and our Industry representative (Darren Nichols) regarding the terminology around Respirable Dust and Silica as a Principal Hazard, and the application of 'Critical Controls' for Dust controls that are required to control respirable dust exposure. I have attached the circulated example from the ICMM "Health and Safety Critical Control Management Good Practice Guide" to demonstrate that global best practice is to accept that there are health examples of critical controls.

4. The above issue, and appropriate use of the hierarchy of controls for occupational health exposures and occupational health risk management (where the focus is on ongoing monitoring and review) is of concern. The committee members discussed that one site has determined that CABA was considered an engineering control, therefore the RS has been updated to reinforce that any use of personal respiratory equipment is still PPE, and a lower order control.