



14 December 2016

Lucy Manderson
Acting Inquiry Secretary
Coal Workers' Pneumoconiosis Select Committee
Queensland Parliamentary Service
Parliament House
Cnr George and Alice Streets
Brisbane Qld 4000

By email: Lucy.Manderson@parliament.qld.gov.au

Dear Ms Manderson

CWP Select Committee

Please find attached the submission of the AMWU to this Select Committee. Also attached is the submission of John Hempseed a Retired AMWU member with a long history of employment in the coal industry in the Moura area.

We thank you for the opportunity to put forward a submission and for the caring manner in which the Select Committee treated our members who have appeared as witnesses.

Yours sincerely



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Submission to the Coal Workers'
Pneumoconiosis (CWP) Select
Committee

Terms of Reference

The terms of reference for the Coal Workers' Pneumoconiosis Select Committee are as follows:

- a) The legislative and other regulatory arrangements of Government and industry which have existed in Queensland to eliminate and prevent CWP
- b) Whether these arrangements were adequate and have been adequately and effectively maintained over time
- c) The roles of Government Departments and agencies , mine operators , nominated medical advisors , radiologists, industry safety and health representatives and unions representing coal mine workers in these arrangements
- d) The study into CWP undertaken by Monash University and the findings of the Senate Select Committee on Health (Fifth Interim Report) and other relevant reports and studies
- e) The efficacy and efficiency of adopting methodologies and process for coal mine dust measurement and mitigation, including monitoring regimes , engineering measures, personal protective equipment, statutory requirements, and mine policies and practices in jurisdictions with similar coal mining industries ; and
- f) Other matters the committee determines are relevant, including other respiratory diseases associated with underground coal mining

THE AMWU

The Australian Manufacturing Workers Union (AMWU) is one of the principal unions in the coal mining industry in Queensland. Our members are the maintenance people working at the coal mines. They may be there as permanent fulltime employees of the coal mining company or as employees of contractors to the coal mining company. As this issue has arisen, more and more of our members from both open cut and underground mines have begun to question if they have CWP. Unfortunately many of them are too scared to go to the Doctor to get the definitive diagnosis. They fear that if they are diagnosed then that will be the end of their employment in the coal mining industry.

Each year the AMWU fields numerous calls from its members in regards to resolving dust and asbestos claims as a direct result of work related exposure.

This year, with the emergence of CWP, we are now beginning to see an increasing number of queries about CWP and actual cases of CWP.

It would appear from our discussions with members that the current regulatory frameworks that mandate self regulation have failed in eliminating CWP.

The AMWU congratulates the Government on establishing the select committee to examine all the issues surrounding this disease which most believed had been eradicated and hopes that the inquiry can also consider the range of dust diseases that workers in the coal industry face that place their health at risk.

Our submission will now consider each of the terms of reference outlined by the Committee in turn.

Legislative and other regulatory arrangements of Government and Industry in Queensland to eliminate and prevent CWP

The current legislative and regulatory arrangements are found within the Coal Mining Safety and Health Act 1999 and the Coal Mining Safety and Health Regulation 2001.

The legislation may appear to be quite extensive and far ranging but unfortunately neither the Act nor the Regulation has as a stated aim, the elimination and prevention of CWP. In fact the laws were not specifically designed to ensure CWP's elimination and prevention. The coal mining industry workers now have to deal with this situation and its effects on their health now and in the future.

Are these arrangements adequate and have they been adequately and effectively maintained over time?

The ever increasing numbers of actual and suspected cases of CWP lead to no other conclusion, than these arrangements have not been effective in eliminating and preventing CWP. Discussions with our members across the coal fields be they employees of mines or contractors to the mines (underground or open cut) indicate that the number of actual cases of CWP is higher than those that have to date been reported. The group, which at present appears not to have been closely considered, is that of the retirees from the industry. Attached to this submission is a brief submission from a former and now retired maintenance fitter who had 40 years in the industry.

The AMWU is beginning to get an increasing number of queries from retired Coal Mining industry workers who are experiencing symptoms that would appear to match the symptoms of CWP. Unfortunately they are reluctant to get properly assessed as they fear for their future both in terms of their health and financially.

The roles of government departments and agencies, mine operators, nominated medical advisers, radiologists, industry safety and health representatives and unions representing coal mine workers in these arrangements

The various roles of government departments and agencies, mine operators, nominated medical advisors, radiologists, industry safety and health representatives and unions are defined by the Act and Regulation as detailed above in section 2 of these submissions.

It is clear that at the front end of the regulatory framework, much of the responsibility for the attainment of the stated objectives of the Act and Regulation were left with coal mine operators with some input from unions and oversight from the Mines Inspectorate and, from time to time, the Minister via the Recognised Standards. This model was deliberate. In the second reading speech for the introduction of the Act, the then Minister for Mines remarked:

“The provisions of these Bills will clearly place responsibility and accountability for safety and health where it belongs: with the people in the best position to ensure that this is achieved – the mining industry itself.”

As Mr Stone noted again in the recent public briefing to by the Committee on 14 October 2016:

“In developing the legislation it was recognised that modern safety management focuses on the creation of the concept of on-site ownership of safety and health issues ... The legislation focusses on outcomes rather than prescription. It provides a framework under which individual mines must have systems for appropriately managing risks to an acceptable level.

... The key instrument is a safety and health management system which underpins safety at the mine site. It incorporates risk management elements and practices to ensure the safety and health of persons at mines sites affected by coal mining operations.”

In this way mine operators were effectively permitted to self-regulate; not only were they required to come up their own plan on how to manage the health and safety of mine workers at their own mine sites, they were also required to conduct their own monitoring of dust levels within mines and assess the risks to mine workers from time to time and enforce safe work practices.

In theory, this framework was economically rational and practicably achievable. To require the parties with “skin in the game” to effectively self-regulate with oversight by government, was logical in circumstances where the more prescriptive regulation and control by government agencies could be seen to be inefficient and ineffective when the relevant parties did not, or could not, buy into the regulatory framework.

Notwithstanding the rationality of the current regulatory framework, it has nevertheless been shown to be vastly inadequate to manage the actual safety risks to mine workers, and this is unacceptable.

The simple fact is that mine workers have continued to be excessively exposed to coal and other mining dusts generated by coal mining activities and CWP has developed. Unions have sought to raise valid concerns about this, but for the reasons set out in section 3 above, the self-regulation model has been proven to be a failure.

In our view stronger provisions within both the Act and Regulation are needed to ensure a genuine commitment to protecting the health and safety of workers engaging in mining activities who are at risk of exposure. Recognising that much more work needs to be done to better understand what is best practice in worker safety and mining technologies, we believe that such regulation should at least adopt the following in the short term:

- (a) The position taken by the Australian Institute of Occupational Hygienists of adopting a standard of permissible dust exposure to be 1.0mg/m³ (and not the current 3.0mg/m³ in place in Queensland);
- (b) A minimum standard be created which provides that all coal mine operators institute best practice dust suppression techniques and technologies and also personal protective equipment within coal mining operations with such standards to be continuously reviewed so as to ensure best practice is always adopted;
- (c) To broaden the powers of mine inspectors under Part 9, Division 4 of the Act to ensure mandatory inspections of any and all coal mines or coal mining operations at any time, without prior notice to, or consent, of coal mine operators, including during peak periods of coal operations and at the areas of highest points of activity within the coal mine;
- (d) Mandatory and continuous wearing of real time dust monitors by coal mine workers (both miners and other coal mine workers such as fitters, boilermaker's and the like) over prolonged and extended periods of time, so as to ensure that accurate and reliable measure of dust exposure can be continuously gathered and analysed;
- (e) Mandatory reporting of dust levels (whether they be excessive or not) by coal mine operators at regular intervals to the Mines Inspectorate or the Minister with such results to be made immediately available to the public at all times;
- (f) Greater independent oversight by the Minister or Mines Inspectorate to require shut down of coal mining operations or the imposition of significant monetary penalties where dust levels exceed the minimum standards; and
- (g) Impose greater and significant monetary penalties upon coal mining operators where a worker develops CWP in future and such exposure can be attributed to exposure at one or a number of coal mines (with such penalties to be independent of any personal injury claim brought by a worker); and
- (h) Amendments to the Coal Workers' Health Scheme (Part 6, Division 2 of the Regulation) in line with the recommendation of the Review of Respiratory Component of the Coal Mine Workers'
- (i) Health Scheme for the Queensland Department of Natural Resources and Mines Final Report dated July 2016.

These measures should be accompanied by closer and firmer external regulatory oversight. The self-regulation model is a demonstrable failure.

Effective occupational health and safety regulation is achieved by a judicious balance between the education and self-regulation, and serious sanctions for breaches. The correct balance will be struck by a far greater emphasis on the latter suite of measures.

The study into CWP undertaken by Monash University and the findings of the Senate Select Committee on Health (Fifth Interim Report) and other relevant reports and studies.

The AMWU fully supports the findings and the recommendations of both reports which are very comprehensive.

In addition we would also support the submission by Maurice Blackburn in calling for the use of High Resolution CT Scanning as opposed to simple chest x-rays to screen for CWP. We would also support strongly the additional recommendation by Maurice Blackburn that all workers should be referred early to specialist respiratory physicians with an interest in occupational lung disease.

Other matters the committee determines are relevant, including respiratory diseases associated with underground mining.

The clear lack of detailed comprehensive information about CWP in Australia and around the world is having an impact on the health and safety of workers in the coal mining industry. The workers impacted by CWP are not just found in underground coal mines. Our interaction with the AMWU membership are demonstrating unfortunately, that this problem will be found amongst those workers who work at mine sites in support of the mining operation. The submission attached clearly details some of the areas in which workers encounter significant amounts of coal dust on a regular basis.

The submission also highlights that this disease is having impacts on former workers in this industry. The inquiry needs to consider the impacts on the former workers as well as they will, in time begin to have a significant effect on the medical costs that society is to face in this state as a result of the failure of the legislation and regulation and the associated self regulation in this industry.

If we are to see CWP's impact on the Coal Industry working population begin to decrease over time and in the future there will need to be a scheme developed which will ensure all workers who are exposed have effective regular screening to both track the occurrence and severity of this disease.



Assistant State Secretary
AMWU