

# QRC Submission

## Select Committee Inquiry into Respirable Dust Exposure

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ABN 59 050 486 952  
Level 13 133 Mary St Brisbane Queensland 4000

[www.qrc.org.au](http://www.qrc.org.au)

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The Queensland Resources Council (QRC) welcomes this opportunity to provide a submission to the Coal Workers' Pneumoconiosis (CWP) Select Committee on their extended terms of reference related to occupational respirable dust issues, which were set by the Queensland Parliament on 23 March 2017.

The QRC is the peak representative organisation of the Queensland minerals and energy sector. The QRC's membership encompasses minerals and energy exploration, production and processing companies and associated service companies. The QRC works on behalf of its members to ensure Queensland's resources are developed profitably and competitively, in a socially and environmentally sustainable way.

The QRC has already made two submissions to the Select Committee on coal mine dust lung disease and the management of respirable mine dust in coal mines, therefore this submission deals with exposure to respirable mining dust other than in coal mines. Much of the QRC's first submission addressed the reasons behind the normalisation of risk in relation to coal mine dust, which stemmed from the fact that for many years there was no evidence to industry that any worker had contracted coal workers' pneumoconiosis.

This does not appear to be a relevant factor for silicosis. The risk associated with respirable crystalline silica seems to have been more widely acknowledged inside and outside the mining industry, even prior to the re-identification of CWP in 2015. Silica is a far more aggressive respiratory irritant than coal, and its adverse occupational health effects seem to have been far better known. Despite the greater degree of risk it represents, cases of silicosis within the Queensland mining and quarrying industries still appear to be relatively uncommon. This probably reflects the fact that the danger associated with silica has been more front of mind than was the case for coal dust. Silicosis is a term that is quite widely understood in the community, whereas to the relatively few Queenslanders who knew before 2015 what CWP was, it was simply a disease of the past.

The effective management of occupational exposure to respirable mining dust is of direct importance to the operations of a number of QRC full member companies, which includes all of the major metalliferous mine operators. Some QRC member companies also have interest in rail and ports, and other ports and rail operators are associate members of the Council. All of these companies regard the health and safety of their workers as their highest priority, and they are keen to ensure that no worker contracts a respiratory disease that is associated with occupational exposure to respirable mining dust.

Following discussion with those Members, the QRC believes that the following principles should be adopted in considering what is required to deal with the respirable mine dust hazard moving forward:

- Any change to the regulatory framework should not disrupt critical safety and health functions, or result in any reduction in quality or effectiveness of safety and health services;
- The profile of mining safety and health should not be diminished within the framework of Government priority setting, and industry should remain accountable to a Cabinet Minister;

- The significant steps already taken by government and industry to address the respirable dust risk should be acknowledged and only subject to meaningful change if there is a good reason to do so;
- Other valuable improvements that are in an advanced stage of development by the Department of Natural Resources and Mines and other government departments should not be put at risk or delayed unnecessarily;
- There should be a transparent cost/benefit analysis to ensure the most effective use of finite resources and the sustainability of the measures in the long term before significant changes are made to the existing regulatory structure; and
- A decision on extending the requirements beyond coal mines (for example by amending the definition of a coal worker) should only be contemplated following the presentation of evidence to the Select Committee on its extended terms of reference.

The QRC notes that the terms of reference for the Committee were extended to include other workers and dust exposures only after the Committee was well advanced into an Inquiry that was based on its first terms of reference. However, many of the recommendations made in Report No. 2 of the 55<sup>th</sup> Parliament go directly to the extended terms of reference, or at least affect matters that are covered in the extended terms of reference. This is most obvious for aspects that are related to ports and rail workers, however a number of the recommendations will also affect metals mines and quarries as much as they affect coal mines.

The QRC believes that any recommendations already made by the Select Committee that address its extended terms of reference should not be implemented until the Inquiry has considered all the evidence gathered under those extended terms of reference. The QRC believes that all recommendations should then be subjected to scrutiny against the other principles listed above.

In relation to the recommendations that have already been made, the QRC wishes to place on the record its position on those aspects that go to the Committees extended terms of reference. This position is presented below under broad headings that refer to the grouping of those recommendations within the Committee's report.

### **1. A Mine Safety and Health Authority**

The QRC does not at this time support the establishment of a new statutory Mine Safety and Health Authority (MSHA). In the QRC's view, this proposal would impact all other aspects of safety for coal mining, metalliferous mining and quarrying. Such sweeping change is not supported by the evidence presented to the Committee or the Committee's findings to date. The primary finding of the first stage of the Inquiry was that inadequate attention was given to CWP – not that there has been any failure overall to protect workers in the resources industries. The QRC believes that a framework that has been generally successful can be used to refocus efforts onto CWP, and to deal with respirable mine dust within the resources industry more broadly. Whole-scale upheaval of a regulatory system that might risk some of the achievements related to other hazards in the mining industry is not warranted.

### **2. Resourcing of oversight activities**

The QRC does not support the removal of the current safety and health fee system in favour of funding through royalties. Royalty rates are set based on criteria that are

unrelated to the regulation of any aspect of the resources industry, including safety and health. The QRC believes that the replication in an Authority of many shared Department services that are currently available to the Mine Safety and Health Division of DNRM would be inefficient, leading to unnecessary additional costs. Funding through royalties would also increase the probability of cross-subsidising other sectors, particularly in light of the proposal to require additional "coal workers" to participate in the Health Scheme which would be administered by the Authority. If this is widened even further under the extended terms of reference to cover a range of workers exposed to other respirable dust hazards then the prospect of cross-subsidisation is even greater.

### **3. Occupational Exposure Limit**

The QRC is not opposed in principle to a reduction in the current regulatory Occupational Exposure Limit (OEL) for silica, however the QRC believes that the OEL must be based on the best available scientific information being reviewed by appropriately qualified specialists on a nationally consistent basis. Appropriate transition timeframes should then be provided to implement any change.

The QRC believes that the OEL for crystalline silica should be set through the current review of exposure levels being undertaken by SafeWork Australia. The QRC also notes that, irrespective of what the correct levels are agreed to be, a reasonable timeframe will be required to achieve sustained compliance with any reduction in the OELs. Engineering controls will be required, and these will take time to develop, build, test and refine. Mines may also currently find it difficult to reliably detect respirable crystalline silica exposure at levels as low as 0.05mg/m<sup>3</sup>.

### **4. Other coal workers**

As previously outlined, the QRC advocates that any recommendations already made by the Select Committee that address the extended terms of reference should not be implemented until the Inquiry has considered all the evidence gathered under those extended terms of reference. This includes the addition of other workers within the definition of coal workers.

The QRC encourages the Select Committee to only consider applying its recommendations to other workers in circumstances where the type of task and supporting scientific evidence indicates that the level of exposure may result in significant adverse health effects. Other workers who undertake tasks where scientific evidence demonstrates that the likelihood of developing any significant adverse health effect is low, should not be included.

In addition, the QRC has concerns regarding the potential cross-subsidisation of those other sectors and the potential for jurisdictional uncertainty depending on how the legislation is drafted. To have different regulated requirements applying to some workers who are regulated under the *Work Health and Safety Act 2011* to others, or to call up those workers through the mining safety and health legislation would only make the current level of jurisdictional uncertainty greater.

The QRC believes it is critical that any changes made to deal with the respirable mine dust hazard should follow a Nationally consistent approach and not add to or create jurisdictional uncertainty.

## Dealing with the respirable dust hazard in Queensland mines

The *Mining and Quarrying Safety and Health Act 1999* (MQSH Act) is based on a risk management model that is in turn built on the concept that a requirement to achieve an acceptable level of risk applies to all duty holders at a mine. Queensland mining's acceptable level of risk approach was influenced by the safety culture theories of Professor James Reason and the contemporary risk management movement. Acceptable level of risk dates to the occupational health and safety reforms of the mid-1990s around risk management and the technical analysis of acceptable and intolerable risk.

Acceptable level of risk as expressed through the MQSH Act is a practical, adapted version of the acceptability of risk theories and focuses on the quality of management and risk management systems and processes over time. The QRC does not support any approach that would diminish the risk-based system of regulation in the Queensland mining industry overall.

The *Mining and Quarrying Safety and Health Regulation 2001* requires a Site Safety Executive (SSE) to manage risk from exposure to hazards generally, including exposure to respirable mine dust, to achieve an acceptable level of risk. Exposure risk must be managed by undertaking, where appropriate, health assessments of mine workers and most importantly by limiting worker's exposure to hazards through appropriate risk reduction controls. Exposure needs to be monitored, health surveillance conducted, and appropriate records of all of these activities must be kept by the mine.

In regards more specifically to health surveillance at minerals mines, an SSE must:

- Arrange for health assessment if the SSE believes that exposure may result in an adverse health effect, that the effect may happen under work conditions, and ensure a valid monitoring procedure is available to detect the effect;
- Arrange for assessment to be done by or under the direction of an appropriate doctor;
- Ask the doctor to give health assessment report to SSE and worker;
- Keep the reports for 30 years for hazards that have a cumulative or delayed effect, or otherwise for 7 years.
- Seek and comply with Chief Executive directions about storage of health reports, if mine operations cease.

The QRC believes these arrangements represent a response that supports the management of respirable mine dust to an acceptable level of risk in the Queensland mining sector and that wholesale restructuring of the regulatory framework to address any concerns regarding respirable mine dust within or outside of mining is unwarranted.