



Mine Managers
Association of Australia

MINE MANAGERS' ASSOCIATION OF AUSTRALIA INCORPORATED
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Committee Secretary
Education, Employment and Small Business Committee
Parliament House
George Street
Brisbane Qld 4000
14 April 2018

Dear Ms McGuckin,

RE: MMAA Submission to the EESBC Committee re Mine Legislation (Resources Safety) Amendment Bill 2018

I am writing on behalf of members of the Mine Managers' Association of Australia Incorporated (MMAA) to accept your invitation to attend as a witness at the abovementioned public hearing to be held at Moranbah on Thursday 19 April 2018.

1. History of MMAA

The "Colliery Managers Association, Northern District, NSW" was formed at Maitland NSW on 31st January 1942.

In 1984 the Association altered its name to the NSW Coal Mine Managers' Association and admitted Open Cut Mine Managers.

In September 2002, it was decided to broaden our membership to include managers in senior positions in all mining industries throughout Australia and the Mine Managers' Association of Australia (MMAA) was incorporated on 10th October 2002.

In January 2004, a system of Continuing Professional Development (CPD) was introduced for the benefit of members and other interested parties. Members intending to practice are obliged to register for CPD and comply with the code of conduct and general requirements of the scheme. An annual technical seminar is organised over two days, in addition to the AGM and OGM technical sessions, to provide opportunities for CPD participants to accumulate approved CPD hours. Events and courses run by other organisations are vetted and approved, where suitable, for CPD.

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2. Recent Mining Tragedies

In little more than 50 years there have been 8 tragic mining incidents in Queensland, NSW and New Zealand where there were several lives lost. It is important to our members that the lessons learned from these calamities are not lost by the industry.

Following the death of 4 miners in 1965 in a fire at Bulli colliery in NSW the legislation was changed to prohibit unqualified supervisors giving directions to statutory officials.

In 1972, seventeen people were killed while dealing with a spontaneous combustion event at Box Flat mine in Queensland. A precursor to SIMTARS was established following that incident. The inquiry also recommended **“that any person who is appointed to make technical decisions that affect the Manager’s authority regarding the safety of the mine must be qualified as a Manager under the Act and shall be responsible under the Act.”**

Kianga mine exploded in 1975. The inquiry recommended that the research facilities that were instituted following the Box Flat disaster be expanded to include training and research in gases and spontaneous combustion. It also recommended that the education program for mineworkers and mining officials be upgraded.

After 13 miners were killed in an explosion at Appin in 1979 the position of Ventilation Officer was introduced.

When Moura number 4 mine exploded in 1986, killing 12, again the inquiry highlighted the need for research and training and emphasised the role of statutory officials.

In 1996 an inrush at Gretley Colliery in New South Wales led to four miners being drowned. The subsequent investigation led to the formalisation of the risk assessment process in mines.

A further explosion at Moura number 2 mine in 1994, killing 11 miners, led to the current Queensland legislation replacing an Act and Regulations which traced their origins to the Mount Mulligan explosion in 1921.

It is regrettable that 29 miners were killed in New Zealand in 2010, and a subsequent Royal Commission recommended the adoption of the Queensland standards. The respect with which the Queensland industry is held is reflected in the appointment of the then Queensland Commissioner for Mine Safety and Health to a seat on the Royal Commission.

Our association has actively embraced the findings of these inquiries, which have consistently stressed the importance of the position of the mine manager and found unfavourably about any attempt to diminish the role. Subsequently MMAA has established its own knowledge sharing through a Continuing Professional Development scheme, which has been running in New South Wales since 2004 and is now also enthusiastically embraced

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in Queensland with sessions held in Brisbane and Central Queensland coalfields towns twice a year.

3. Comments on the Amendments

1. Ventilation Officer Competencies

We are fully supportive of the amendment requiring a practical examination to gain certification as a ventilation officer. Whilst the existing prerequisite modules provide excellent technical instruction for aspiring ventilation officers there have been a number of examples, some which had the potential to be catastrophic, where individuals that were deemed competent were unable to translate their technical knowledge to a practical setting in compliance with the Regulation.

Therefore, the requirement to undertake a practical examination whilst demonstrating compliance with regulatory requirements is deemed essential to ensure, as far as practicable, that aspiring ventilation officers are indeed competent.

2. Inspector powers – including workplace entry

We support the principle of mines inspectors having the same rights of entry as a WHS Inspector into a workplace as defined by the WHS Act given that their right of entry is limited by the object of the Acts and the functions of a mines inspector

We are aware of instances where mining equipment repair workshops have been less than diligent in their repair and overhaul of mining equipment and particularly where that specifically relates to flame proof and intrinsically safe electrical equipment and flame proofing of diesel equipment. It is critical that appropriately trained inspectors can enter such premises to determine the appropriate standards of overhaul and repair are being strictly adhered to as any shortcomings could lead to an unacceptable hazard when the said equipment is returned to service.

3. Manufacturer, supplier, designer and importer notification requirements

We fully support the intent of this amendment. It is vital that operators are fully aware of any hazards or defects that may be present in the supplied plant or substance such that risk mitigation procedures can be enacted at the earliest possible time.

4. Contractor and service provider management

The intent of this amendment is fully supported in the integration of specialist services, where they exist, into a single integrated safety and health management system.

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5. Advisory Committees and Board of Examiners membership

(a) Advisory Committees

Whilst we acknowledge and understand the potential requirement for a Ministerial discretionary power relating to the M&QSHAC (Mines and Quarries Safety and Health Advisory Committee) that must, in our opinion, never be the case when it applies to the CMSHAC. It is critical that all members on this Committee be "experienced in coal mining operations".

We would go further and recommend that at least one of the operator representatives be a practicing underground mine manager or SSE with a first class mine manager's certificate of competency. When the "Committee" was first introduced there was, for many years, such an individual on the Committee however, in recent years the three operator representatives have been persons from Brisbane offices and the fact is that in many instances there is a significant variance in what Brisbane staff believe is happening at the "coal face" and what in fact is reality. Further, any decisions made by the Committee will eventually have to be instituted by those at the "coal face" and their practical input for the appropriateness and practicality of any recommendation or decision is critical.

We note that the Select Committee that preceded this Committee in their report stated that as the Chief Inspector was on the Advisory Committee that this would satisfy the requirement of a First Class Certificate. With respect, we disagree as we still consider it necessary that at least one of the operator representatives have a recognised qualification to fully comprehend any complex technical matters which may arise.

We also note that in the case of MSHAC that the current Chief Inspector does not hold a certificate of competence as a metalliferous mine manager.

(b) Board of Examiners membership

We fully support the amendments to address administrative concerns relative to inserting position titles rather than specific names for Inspectorate members. However, we are of the opinion that other matters of membership of the Board should be considered and legislated.

We firmly believe that all Board members should have as a minimum a statutory qualification, ideally there should also be a minimum of one academic who has current knowledge of the content of a degree qualification in mining from various universities (ideally this individual would also be statutorily qualified, if not an exemption could be made). At this time we do not believe that individuals with only the SSE qualification qualify under our proposal as the SSE qualification only entails knowledge of the legislation and does not require technical knowledge of how to extract the commodity whilst controlling hazards and in an efficacious manner.

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All other professional qualification boards, to our knowledge, have members who are similarly professionally qualified. It is critical that Board members are cognisant of requirements to control hazards that are or may be present in a mining operation and further that that knowledge encompasses current technology and thinking. We question the appropriateness of and possible contribution of non-qualified persons.

With respect to statutory qualification, the MMAA also wishes to inform the Parliamentary Committee of the following concern;

For some time now there has been a perceived reluctance on the part of some operators to train candidates for higher certification, that is Second Class certificates and above. This has now reached the point that there is a dearth of RTOs (Recognised Training Organisations) providing courses to reach the minimum prerequisites to sit for certification. This has essentially been occasioned by a lack of candidates and thus numbers to run effective courses.

This not only affects persons coming through the ranks without a degree it also affects degree holders. There is a misconception that a person with a degree prequalifies to sit for a statutory certificate. The fact is that a mining engineering course today is a generic engineering qualification, save for the last year where the undergraduates study mining specific subjects. Unfortunately those course elements do not cover such issues as ventilation, a post graduate diploma, nor do they cover spontaneous combustion, gas drainage, emergency response or a number of other matters which are critical to the safe management of an underground mine.

If this continues there is a real possibility that the industry may face a situation where there are insufficient statutory officials, particularly senior officials, to meet demand.

The MMAA is concerned that some of the issues raised in the Decision Regulatory Impact Statement that was approved by the OBPR (Office of Best Practice Regulation) in 2014 regarding statutory qualification have not advanced further. The two matters of most interest to the MMAA are;

- i. That all underground SSEs must have a minimum of a First Class Mine Managers' Certificate. When the current Act and Regulation were introduced it was clearly understood that a duly qualified individual was required to "control and manage" the mine. Many questioned why an SSE was required and if that individual was required why would that person not be required to have a certificate.

It was stated that there would not be an issue with this and in the early days that was true as all underground SSEs, bar one, had a First Class Certificate. However, over time that number has slowly eroded to where the majority of underground SSEs do not have a First Class Certificate and worse some of those SSEs are allegedly

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giving technical direction to underground mine managers in direct contravention of **s60(5) Coal Mining Safety and Health Act 1999**. We know this is happening but unfortunately we have only had one member who was prepared to make the complaint to the Inspectorate and only then after he had been dismissed. Others aren't prepared to jeopardise their careers and that gives us grave concern that managers are being cowed through fear of losing their employment.

It is, in our opinion, critical that duly qualified individuals do in fact "control and manage" the Mine. The MMAA is about enhancing and raising the standard of qualifications for statutory officials, not standing by and witnessing the diminution of risk management and hazard control through lack of legislated competence.

- ii. When the current **Act (Coal Mining Safety and Health Act 1999)** and **Regulation (Coal Mining Safety and Health Regulation 2001)** were introduced the requirement for a First Class Manager at an open cut coal mine was removed. Over time we question the efficacy of such a decision.

The SSE under **s55(2)** of the **Act** must state the responsibilities and competencies required for senior positions. We know of instances where either persons appointed to the position of "mining manager" do not have the required qualifications or the stated qualifications do not meet best practice.

Many open cut mines, as their life extends, are going deeper and into more difficult geotechnical conditions and thus we believe a higher degree of technical skill and management are required, not less.

To demonstrate this point a notorious fact is that one operation appointed a metallurgist, an ex CHPP (coal handling and preparation plant) manager as a mining manager and as that individual was being driven around the mine site asked the outgoing mining manager if the rock face in front of them is what they termed the high wall. Fortunately that individual is no longer employed in the coal industry.

There are many similar and worrying reports and we believe that to ensure safe operation persons in safety critical roles must be duly qualified.

6. Safety and health management system (SHMS) requirements

We perceive a benefit from such a legislative change and endorse this amendment.

7. Register to be kept by Board of Examiners.

We fully support this proposed amendment. The adoption of a register of qualified personnel, with appropriate personal safeguards, is applauded. This will make the verification of qualification of persons applying for statutory positions in the industry much simpler and more effective.

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8. Health Surveillance

We recognise and support the need for a health assessment regime similar to that which prevails in the CMSHA for the MQSHA.

9. Notification of diseases

Similarly we support the requirement for persons other than the SSE who become aware of a prescribed disease to be responsible to notify that disease to the Department. In many instances the SSE would be unaware of the exact nature of the disease due to privacy issues and thus a notifiable disease may be missed if it falls solely to the SSE to notify.

10. Release of information

This has been an issue that has been a long time coming and we trust that sufficient legal safeguards will be enacted to provide for early release of information based on the best available information at the time of transmittal. We recognise that not all initial information may in fact be completely accurate but at least it will provide sufficient detail for other operations to immediately conduct a risk assessment to establish whether a similar hazard/s exist at that operation.

11. Penalties

Whilst we believe the penalties are excessive it is difficult to argue that case given the proposed amendment aligns with the penalty provisions of the general workplace.

12. Officer obligations

Given our concerns as to non-qualified persons exercising control over statutorily qualified individuals we support this amendment and would go further and strengthen the already mandated requirement that non-qualified individuals cannot give technical direction to those that are statutorily qualified. Provision should also be made to protect individuals who report persons who have failed to comply with or ignore this requirement.

The requirement for “executive officers to ensure effective monitoring, auditing and review of safety and health monitoring at a board level is critical” as identified in the paucity of such action contributing to the catastrophic events at Pike River.

13. Continuing Professional Development

The MMAA supports the introduction of the requirement for continuous professional development (CPD) and for all statutory officials to hold Practising Certificates (PC).

One objective of the MMAA is to:

"To maintain members' competencies and continue their professional development".

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And to achieve this objective through:

"organising technical seminars to advance the art and science of modern mine management theory and practice and the knowledge of members".

Almost from the inception of our association in 1942 our regular meetings have incorporated the presentation of technical papers to promote the transfer of technology and increase the knowledge of our members. In more recent times MMAA recognised the requirement to formalise those technical seminars and set up a CPD scheme. This scheme has now been operating for fourteen years with only minor modification based on operational experience and industry best practice.

The MMAA runs two seminars per annum in New South Wales (there were three until we expanded our scheme in to Queensland) and for the last three years we have been conducting two seminars annually in Queensland.

It should be noted our scheme is open to any individual who wishes to join and is not restricted to MMAA members. One of the significant advantages of our system, in our opinion, is the system is web based and we manage the system and records for the participants, thus easing the burden on individuals maintaining log books and records.

We have knowledge of the New Zealand scheme, in fact of one of our members, along with others, was instrumental in directing policy for the introduction of their CPD scheme and updating the PC scheme that was in place. The MMAA Executive has also had a number of meetings with the NSW Regulator regarding their CPD scheme and we believe that we can assist in ameliorating that system.

With respect to Queensland we are keen to work with the Department to ensure whatever system is introduced is best practice. Our only concern is that whatever system of PCs is introduced the competencies can be compatibly aligned in both the QLD and NSW CPD schemes. It is critical in our opinion that barriers to free movement of statutorily certificated personnel is not inadvertently introduced taking us back to the days when different State certification was not recognised.

14. Chief executive power to suspend or cancel certificates of competency or SSE notices

The MMAA has no issue with the cancellation or suspension of a statutory certificate or SSE notice by the Chief Executive where the holder has contravened a safety and health obligation, provided in the first instance the holder's alleged contravention is adjudicated by the BOE, in effect by a body of their peers and it should be solely on the BOE's recommendation whether the CEO takes action. We are pleased that the certificate holder against whom any allegation is made will have the right to seek external review by the Industrial Magistrates Court.

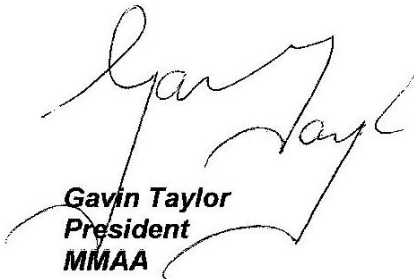
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15. Civil penalties

We have no objections to the amendments proposed.

For further information please contact our Secretary, Ray Robinson, on [redacted] or the addresses above.

Yours sincerely,



Gavin Taylor
President
MMAA