



## ***EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE***

### **Members present:**

Mrs LM Linard MP (Chair)  
Mr N Dametto MP (via teleconference)  
Mr MP Healy MP (via teleconference)  
Mr BM Saunders MP (via teleconference)  
Mrs JA Stuckey MP (via teleconference)  
Mrs SM Wilson MP (via teleconference)

### **Staff present:**

Ms K McGuckin (Acting Committee Secretary)  
Mr G Thomson (Assistant Committee Secretary)

## **PUBLIC HEARING—INQUIRY INTO THE MINES LEGISLATION (RESOURCES SAFETY) AMENDMENT BILL 2018**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 23 APRIL 2018**

**Brisbane**

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### **The committee met at 10.02 am.**

**CHAIR:** Good morning. I now declare open the public hearing for the Education, Employment and Small Business Committee's inquiry into the Mines Legislation (Resources Safety) Amendment Bill 2018. I would like to acknowledge the traditional owners of the land on which we are meeting today and pay my respects to elders past, present and emerging. My name is Leanne Linard, the chair of the committee and member for Nudgee. The other members present via teleconference are: Mrs Jann Stuckey, the deputy chair and member for Currumbin; Mr Michael Healy, the member for Cairns; Mr Nick Dametto, the member for Hinchinbrook; Mr Bruce Saunders, the member for Maryborough; and I understand we also have Mrs Simone Wilson, the member for Pumicestone, who may have to leave early. On 20 March 2018 the Hon. Dr Anthony Lynham, Minister for Natural Resources, Mines and Energy, introduced the Mines Legislation (Resources Safety) Amendment Bill 2018 into the Queensland parliament. The bill was referred to the Education, Employment and Small Business Committee for detailed consideration.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions to witnesses, so we will take those as read. These proceedings are being broadcast and recorded by Hansard. Witnesses will be provided with a transcript. To assist with clarity, can you please identify yourself the first time you speak. I ask everyone present to turn mobile phones off or to silent mode. The purpose of today's hearing is to assist the committee with its examination of the Mines Legislation (Resources Safety) Amendment Bill 2018.

### **BRAKE, Dr Derrick, Director, Mine Ventilation Australia**

**CHAIR:** Welcome, Dr Brake. Thank you for your written submission to the committee. We very much appreciate you taking the time to do that. We have invited you here today to speak to that submission because of the expertise you bring. I invite you to make a brief opening statement before we open for any questions.

**Dr Brake:** I have quite a short submission which makes four points about the proposed changes to the regulations. My first point deals with the ventilation control plan, which is really a blueprint for the safe ventilation of a mine. We see that in other metalliferous mining regulations around Australia now. I note here that I think it is a critical issue. We have not picked up on the concept of principal hazards or principal hazard management plans or ventilation control plans in these new regulations, and I think that is something that really needs to be addressed.

My second point relates to the statutory position of ventilation officer. I would make the comment that it was a statutory position in non-coal mines until 1999. I certainly support it being re-introduced as a statutory position. It is not going to be a magic bullet, but I think it will certainly be an important step in terms of helping to improve the ventilation performance of the non-coal industry.

The third point relates to a sufficiently resourced and qualified inspectorate with an in-depth targeted audit system. I do believe that the inspectorate in Queensland should have its own in-house mine ventilation specialist and needs a well-targeted audit program.

My final point deals with suitable up-to-date guidelines or codes of practice. I think this will be particularly critical for small mines. We have a lot of quarries and small metalliferous mines in Queensland, and to assist them to comply with the regulations—particularly with respect to ventilation as well—we are going to need some good guidelines on that. All of the states have their own guidelines. It is perhaps too big an ask to have harmonised regulations, but I think we could come up with something closer to a national approach with our guidelines in non-coal mines at least.

**CHAIR:** Do you feel that in relation to the coal side of mining we are further along with regard to this; is that what you are suggesting?

**Dr Brake:** Coalmines always have been, because certainly in the immediate sense if ventilation is wrong the issues in coal are going to be more catastrophic. I think the lesson in the last couple of years is that there are two main issues with ventilation: one is the acute problem of an

explosion in the mine or something like that; and then there are long-term sleeper issues such as coal workers' pneumoconiosis. In the case of metalliferous mines we have silica dust, lead and other metals that we mine that can be potentially toxic as well, plus diesel particulate matter and there is the issue of nanoparticles and so forth. Yes, I think we removed pretty much all prescription from the regulations when the new legislation was brought in in 1999, and I think it is overdue that we look at some of the things that I am suggesting now.

**CHAIR:** You are essentially supportive of what is proposed in the bill but you do not think it goes far enough?

**Dr Brake:** That is essentially correct. I did notice a bit of an oddity with the same proposed regulation in the coalmines inquiry, and I have noted that here. In the mining and quarrying act it says, 'The ventilation officer of the mine is responsible for ... the implementation of the mine's ventilation system,' and so on. Whereas in the coalmining act it says, 'Subject to the direction and control of the underground mine manager, the ventilation officer for the mine is responsible for ...' I think in practice the statutory mine manager is always responsible for things overall, so I think the wording in coal is more appropriate than metalliferous there.

**CHAIR:** In the explanatory notes the comments regarding ventilation officer competencies state that, 'Compliance activities have highlighted ongoing deficiencies in the competency and training of ventilation officers.' Obviously from what you are saying it seems that you would say that is a fair point. What do you think the key weaknesses or deficiencies are and what has led to those?

**Dr Brake:** In non-coal mines there are no competency standards for ventilation officers. Anybody can be appointed as a ventilation officer. I am opposed in particular to the idea that we can produce a mining engineer graduate. I run the mining engineering class at Monash University and I am aware that that is a third-year class. Most of my students last year had not been underground in a mine when they did that, so you can imagine the difficulty of communicating to them mine ventilation at that stage. Most of these students only get any decent underground mine experience—if they get any—at the end of the third year. We are just kidding ourselves to think that a graduate mining engineer can take on the roles and responsibilities, which are potentially onerous, of managing the ventilation system in a metalliferous mine.

**CHAIR:** It really comes back to the fact that they need on-the-job experience, which I am sure no-one would argue they need anyway.

**Dr Brake:** They need on-the-job experience. The industry is quite different to coal. There are a lot of very small metalliferous mines. A lot of them are not residential mines—they are fly-in fly-out—so the ventilation guy may not be on-site all the time. He may have multiple roles because they feel the mine cannot justify a full-time ventilation officer on a mine site. There is no ability for mentoring on-site. The guy's supervisor on a site, the technical services superintendent or even the mine manager, may have little or no formal training in mine ventilation themselves either, so certainly it is a recipe for problems. That is why I am in favour of some sort of statutory position, but it needs to be backed up by some sort of competency standard and something set by the board of examiners.

As I mention in my submission, I am also against the concept that you can get a first-class ticket or a ventilation officer's ticket and that does you for life. I have been in the metalliferous mining industry largely all my career and 35 years ago, in my youth, I got a first-class ticket for metalliferous mines but I would question whether that certificate should still be valid. The issue to me is that 10 or 15 years ago if you became a doctor, you were a doctor for life. Now you need to continue with your professional education and so forth if you want to maintain your accreditation. Maintaining accreditation in the world that we live in today is an accepted thing, and we should all be subject to that. Especially if you have a statutory ticket it should be a requirement. There are systems set up with the Australian Institute of Mining and Metallurgy or other bodies such as the Board of Professional Engineers of Queensland, which are already set up to cope with the concept of reaccreditation and maintaining your certification.

**CHAIR:** I will now pass over to the Deputy Chair, the member for Currumbin.

**Mrs STUCKEY:** Good morning to you, Dr Brake. I am interested in your submission; thank you very much for it. I have noted your comments around the lack of the role and scope of ventilation control plans and your concept of principal hazards. Were you able or given the opportunity to contribute to the consultation process for this bill or the drafting of it?

**Dr Brake:** I do not recall anything like that. One of the issues in Queensland is that, like I am coming in here today free of charge, obviously, I have done quite a few jobs—if you want to call it that—for the government over the years at no charge if people want advice about something or other.

There is a limit to what people can do on that, but I do not recall being asked. I am sure that if I was asked I would still have contributed, but I only became aware of this a couple of weeks ago so I decided to put in a submission.

**Mrs STUCKEY:** We all recognise the importance of accreditation, as you have clearly articulated. I am interested in the examination results that the regulatory impact statement revealed for the ventilation officers. There were very high oral and written failure rates of 47 per cent and 51 per cent, respectively. Do you think that the test needs looking at? Is that a high failure rate in your mind, 47 per cent for oral and 51 per cent for written?

**Dr Brake:** I am sorry, I have not read that submission, so it would probably be a little difficult for me to comment on that.

**Mrs STUCKEY:** It was not a submission. These findings were in the regulatory impact statement.

**Dr Brake:** Is this for coal, because at the moment there is no requirement for metalliferous.

**Mrs STUCKEY:** I am pretty sure this is for coal. Madam Chair, perhaps someone could confirm that.

**Dr Brake:** There are coal guys here. I am not surprised that 50 per cent fail, really. I would be disappointed if 95 per cent passed.

**Mrs STUCKEY:** Again, thank you for your submission.

**CHAIR:** Member for Maryborough, do you have any questions for Dr Brake?

**Mr SAUNDERS:** I am right thanks, Chair. It is very interesting and I would like to thank Dr Brake for coming to the committee.

**CHAIR:** Member for Pumicestone, I know you have to go soon, so would you like to ask any questions?

**Mrs WILSON:** I have a brief question. Dr Brake, thank you so much for coming in. You mentioned mineworker safety. The other day when visiting a mine site, one thing I discovered is that they have a clean-shaven policy for mineworkers to make more effective the face apparatus that protects them from coal dust and for other reasons. Do you believe that all coalmines should implement a clean-shaven policy, to ensure that the mineworkers are protected by having a full seal around their faces?

**Dr Brake:** Again, I am not going to comment on coal. It is really not my main area of expertise. Certainly in metalliferous, if you go to lead mines, if you go to uranium mines and even other mines I know of in Queensland that do not fall in those two categories, there will be a clean-shaven policy. I have a beard. I just shave it off when I go to those places. If there are religious grounds, such as you are a Sikh or something like that, there are respiratory helmets that filter the air and pass it across the face, which means you do not need to shave. They are more expensive, a bit more complicated to operate and so forth. If the risk is there, it is quite reasonable to have a clean-shaven policy. If there are particular issues with an individual, there are other options so that they do not need to shave off their beard.

**Mrs WILSON:** Thank you for answering that. I will leave you there now, thank you, Madam Chair.

**CHAIR:** I move to the member for Cairns.

**Mr HEALY:** As everyone has said, Rick, it is great to hear from you. I thank you for your submission, which speaks directly to the points. I am a pretty simple sort of bloke, so for me it really touches off on the key areas. I do like your comments in relation to maintaining efficiencies in the reaccreditation process. I agree that in this day and age it is pretty much a regular thing. I have one question, which is probably on a broader issue so I am asking more for your view as opposed to the restriction of policies. You talk about regulators developing a national standard or a national set of compliance guidelines. Why has not that happened before? Every industry has its quirky issues and vested interests and there are reasons why national standards are not happening. I do not know enough about this particular industry. Can you shine a light on that? Is it just because nobody has tried it?

**Dr Brake:** There was not really the appetite to come up with a national mine framework, because the states could not agree that we needed the same regulations. The coal regulations are quite different between New South Wales and Queensland, which are the two main coal states. You could see that it would be more difficult to come up with guidelines because the regulations themselves are so different.

In non-coal mines, the regulations are relatively similar across Australia. In the past few years, both New South Wales and South Australia have adopted, more or less in whole, the model framework regulations, which I think are actually quite good. They certainly require a ventilation control plan and talk about principal hazard management plans and principal hazards. None of that has been picked up by this new legislation in Queensland in non-coal. I think that is something where we are not going to see the changes we would like to see in non-coal mines in Queensland without that. We need to note that the nature of the industry in Queensland is that we have only a handful of large underground metalliferous mines; the rest are smaller mines and quarries. Those guidelines are going to be particularly important for the smaller operations.

**Mr HEALY:** Finally, in relation to what you have said there, is there a significant disparity between New South Wales and Queensland in relation to the legislation and the bills? Is it safety? Is it efficiency? Is it paperwork? Where is the significant difference?

**Dr Brake:** The main difference—I cannot say—

**Mr HEALY:** I do not expect you go to point A or point B, but in broad terms.

**Dr Brake:** The main difference is that the national model regulations, as I said, have been picked up by New South Wales and South Australia in the last few years. Both have this concept of principal hazard management plans in metalliferous mines and a ventilation control plan. You can imagine if you have a really well-developed management plan for ventilation in a non-coal mine that has looked at all the risks, has looked at what the controls need to be and right down to the procedures that need to be followed and so forth, the guy on site who is responsible for the ventilation does not necessarily need to be a rocket scientist to be able to follow that plan. If you do not have a plan, and there is no requirement for a plan in Queensland, there is a tremendous amount more responsibility on that individual on the mine site and the manager.

**Mr HEALY:** Spot on. Thank you very much for that, I appreciate it.

**CHAIR:** Member for Hinchinbrook?

**Mr DAMETTO:** Thank you, Dr Brake, for making your time available this morning to come in and talk to the committee and also for your submission. My background is as a mechanical fitter. I have worked in metalliferous mines, just like yourself. One thing that came up in your submission and that I applaud is the support for the same work that surrounds a ventilation officer in metalliferous mines and bringing the legislation into an area where it will actually bring the standard up in smaller metalliferous mines. Would you be able to comment on how you think that would improve safety in the smaller mines and quarries?

**Dr Brake:** If you consider some of the ventilation related risks in a small mine, all of these hard-rock mines use drill and blast, which means they have blasting gases underground after they blast. If the ventilation system is not good enough, we have people going into that area and potentially being exposed to blasting gases. There have been many, many fatalities over the years from people being exposed to blasting gases. I have been involved as an expert witness overseas and in Victoria in those very sorts of incidents. Some of the mines are poorly ventilated. If there is a high silica content in either the host rock or the actual mineral itself, there are issues potentially of silicosis and issues with small diesels being underground and so forth. For small mines, some of these people are either not aware of these hazards or do not understand the significance of them.

I think one of the challenges for the Board of Examiners is coming up with something practical. Realistically, I think if we are talking about a mine that has four, five or 10 people, a one-day course that is more to do with what are the hazards, what are the ventilation related hazards in the mine and what is standard good practice to manage those and where do the limits of the on-site expertise end, so that these people know—and this is where the guidelines come in—if we want to operate within the guidelines that are already approved and that are going to result in a safe operation in terms of ventilation, we can do that. If we want to start to move outside of this, we will need to get some outside help in.

**Mr DAMETTO:** Thank you very much for your comment, Dr Brake.

**CHAIR:** I have a quick supplementary question. I have not been to an underground metalliferous mine. I have only been to an underground coalmine. Therefore, I appreciate that I have not seen and talked to the workers there directly, but I would imagine the challenges are mainly the same in regard to getting the bad gases and air out and giving those who are underground healthy and clear air. Also, dust is an issue common to both.

The mine that we went to seemed to have quite a high-tech ventilation system. It was surprising to me just how much airflow there was underground. Looking at the systems, it seemed quite high-tech as to how to monitor them if something goes wrong. I am sure that is so in large mines and that in smaller mines it is more difficult.

If something goes wrong, and you say they do not have to have a plan in place, is it important that someone is on site at all times? One of the questions raised, and your submission mentions this, is that a new VO appointment is required after seven days in coalmines and 14 days in non-coal mines. The question was raised, what does 'present' mean? How do you define 'present'? Is it necessary to be physically present? What are your views on that? If something goes wrong, is it a system that other people can manage? If they can be alerted to it quickly, maybe they can address it quickly. Can you talk a little about that from your expertise?

**Dr Brake:** From a non-coal point of view, particularly with the developments in remote monitoring and measurements and big data and the ability for a guy at home to look at the ventilation system on his computer and so forth, it is probably not essential to have somebody on site all the time. Again, we probably need to remember that many of the metalliferous mines are very small. This is where we get a good risk-assessed ventilation control plan and the concept of trigger action response plans, so if something happens in the mine there is some management reaction to that; then, if something gets worse, there is a more significant reaction. It is a graduated response. That would also apply if someone is off site. We have those plans, so that as the nature of the hazard becomes more urgent there is a more serious response from the mine.

**CHAIR:** Would the small mines have remote monitoring?

**Dr Brake:** Small mines will not have remote monitoring, but in the small mines the supervisors and so forth often have some training, as well, at least to take some basic measurements underground. The small mines will still need to be able to check for blasting gases, for example, after they blast. They will still need to be able to check that temperatures are not excessive underground. There will always need to be somebody on site who can do that—always. The statutory role of the ventilation officer is not necessarily somebody who is going to be underground on dayshift, afternoon shift and nightshift, taking those sorts of measurements. There will be some that will still be done by others, as noted in the ventilation control plan.

**CHAIR:** Are there any supplementary questions from the members online?

**Mr HEALY:** I hear what you say in relation to the smaller mines. There is probably no science to this; it is just an experience question. You obviously have the experience. How difficult would it be for these amendments to be applied by smaller mines or less cost-effective mines, shall we say?

**Dr Brake:** I think it is going to be critical for the Board of Examiners to look at just what sort of competencies people in these smaller mines or even in bigger mines require. At the moment the University of New South Wales offers a course costing \$35,000 plus. That is an expensive course for a small mine. For a big coalmine it is nothing. I think that is going to be a vital issue. We are perhaps going to need to look at trying to attract some other training organisations once the Board of Examiners decides just what they want in that competency. There is a course offered in Perth. It is about \$8,000 to \$10,000. It offers the current non-coal ventilation officers competency. If the course could cost that sort of price then it becomes more viable.

These are significant risks. If you look through the records over the years we have had many serious incidents and fatalities from ventilation related incidents in small mines as well. The figure of \$10,000 is still a lot of money for a small mine perhaps, but I think it is reasonably commensurate with the risk.

**CHAIR:** Dr Brake, thank you very much for coming in and assisting with the inquiry. We very much appreciate your time and expertise.

**DALLISTON, Mr Greg, Industry Safety and Health Representative, Mining and Energy Division, Construction, Forestry, Mining and Energy Union**

**HILL, Mr Jason, Position Industry Safety and Health Representative, Mining and Energy Division, Construction, Forestry, Mining and Energy Union**

**CHAIR:** I welcome Mr Dalliston and Mr Hill from the Construction, Forestry, Mining and Energy Union. I understand Mr Stephen Smyth was to join us but was unable to. Mr Dalliston, would you like to make an opening statement before we open to questions?

**Mr Dalliston:** Thank you very much for giving us the chance to attend today. Our apologies for not being able to attend last week, but we had Coal Mining Safety and Health Advisory Committee, which gives advice to the minister, and Board of Examiners meetings on last week. We could not make those two days of hearings.

The CFMEU would like to state that there have been a number of attempts to make changes to the Coal Mining Safety and Health Act and regulation over the last 10 years. Except for a small amount of change regarding dust and the remake of the regulation in 2017, which was merely a rewrite making grammar changes, there has been little progress in updating legislation to protect coalmine workers' health and safety or maintain or increase it.

The current bill was put forward without major parties who use this legislation daily being aware of its introduction. A similar bill was introduced in late 2017, but lapsed due to the election. The CFMEU tabled a number of issues with that bill and additional information which was raised but not included in the 2017 bill and was told that the bill had to be put through before an election was called and there would be no immediate change for some time. The other issues were to be considered after the election.

Despite Minister Lynham's first reading speech, there has been no consultation since the 2017 bill lapsed—at least none with the CFMEU which represents the majority of coalmine workers. The process for review of the Queensland coalmining safety and health legislation prior to the Newman government was through tripartite consultation and discussion. This has been changed to a policy division of the department developing legislation with little consultation until after the bill was introduced and had its first reading. Then we have been told that there is little chance of change being made.

The CFMEU made a submission on the 2018 bill. Due to the short time frame and the number of other submissions required on mining related matters, as well as organising a meeting with the minister on these and other changes to the legislation, we submitted a second submission after the closing time for submissions. We would like to seek permission to have that submission considered. I am prepared to table that submission today.

The main points in the second submission are that the legislation should address some of the matters put forward in report No. 2 of the Coal Workers' Pneumoconiosis Select Committee of the 55th Parliament tabled one year ago. The CFMEU believes the intent of some of those recommendations could be included in this bill.

There are a few issues which we believe should be put on the record. These include: a timely tripartite review of the coalmining legislation is necessary; and a review of the election process for the election of site safety and health representatives and changes to their powers to enable them to investigate and recommend changes to the mine safety management system as a result of a number of complaints raised by labour hire and contract workers who do not feel confident in raising safety and health matters directly with supervisors or management due to fears of continued unemployment.

A large percentage of fatalities over the last decade have nearly all been contractors or labour hire. This includes three fatalities at Anglo mines within nine months in the period May 2014 to February 2015. The second caused the magistrate to question why the penalty under the Coal Mining Safety and Health Act 1999 should not apply. The operator, Anglo, after another fatal accident at one of their mines only two months after the second, was not even charged with a breach of their obligations.

The CFMEU has written to the minister asking for an inquiry into the company's operations with no action to date. Another concern is the two fatal accidents which occurred in August 2016 and August 2017. These very similar serious accidents involving contractors occurred in the last 18 months.

Part 12 of the Coal Mining Safety and Health Act 1999 relating to boards of inquiry gives the minister the power to establish a board of inquiry about a serious accident or a high potential incident. This replaced the mining warden section in the legislation in March 2001—17 years ago. It has never been utilised and we believe it needs review.

A former chief inspector of coalmines stated to two ISHRs that he would rather have a blue with the CFMEU than a major mining company because they have more money and better lawyers. Recently a CEO of another major mining company said that they have more money and resources than the department and can decide not to share information on an accident/incident investigation if it is heading the wrong way. This shows there is a serious need for review of some sections of the legislation, not to mention this bill, and the jurisdictions in which mining actions are heard.

**CHAIR:** Thank you very much. Mr Dalliston, you mentioned an additional submission. The committee has not had a chance to consider that submission. We have not had a formal meeting to do so since you submitted that late Friday. I certainly have not had a chance to read it and other members may not have either. You have sought leave to table it. I can seek leave of the committee for you to table it and then the committee can consider when we next meet whether we accept it or not. Can I seek leave for the additional information to be tabled at the committee hearing?

**Mrs STUCKEY:** Is this the same submission that we received this morning?

**CHAIR:** Is it the same document that was sent through late Friday that you are seeking to table?

**Mr Dalliston:** Yes.

**CHAIR:** Yes, it is, Deputy Chair.

**Mrs STUCKEY:** It is absolutely the same document?

**Mr Dalliston:** Exactly the same document.

**CHAIR:** Yes, I understand that it is exactly the same document.

**Mrs STUCKEY:** I have no issue with it being tabled.

**CHAIR:** The committee has agreed to table that document. We will take a copy of that now. Thank you for your opening statement. We will open to the committee for questions. Thank you for your expertise. We appreciate that you could not come to our Moranbah visit last week. You were here and we were there. It is beneficial to have you here today. It was beneficial for us to go out to Moranbah and Mount Isa last week. I think it really assisted the committee. It is one thing to read submissions, but it is beneficial to actually see the conditions that people are working in and the challenges they face. I can only speak on my behalf, but what they are doing and the ingenuity of the workforce was very impressive. In terms of ventilation, it was almost windy underground. It is incredible what they do. That helped us a lot.

There is something I would like to understand a bit more. There was a recommendation in the previous committee's report that the government did not support. That was that chief inspectors should hold at a minimum a first-class certificate of competency. My recollection was that comments back from the department—and I hope I reflect these accurately—is that someone on the committee holds that competency but that they were not going to require that the chief inspector hold it. Could you assist as to why you feel it is so important that it is not just someone on the committee but that it is the chief inspector?

**Mr Dalliston:** That comment related to the Board of Examiners. The Board of Examiners is currently made up of three inspectors. One is usually the chief inspector of coalmines. They have coalmine qualifications. One is the chief inspector of metalliferous so they have metalliferous competencies. That leaves the other position available to a number of other certificates currently issued.

Ventilation has been proposed. The other certificates issued are to do with open-cut mines. I sit on the Board of Examiners. We propose to put someone with surface mining qualifications on there to make up the third position. The inspectors usually chair the panels that do the oral examinations for those certificates of competency. That was one reason.

The other reason is that we believe that if you are in charge of a task then you need the relevant competency. If you are in charge of a metalliferous mine you need a metalliferous certificate. If you are in charge of a coalmine you need a coalmining certificate. What has recently happened is that the chief inspector of metalliferous actually has a first-class certificate in coalmining.



Our concern and that of the advisory committee that we both sit on is that if they change it for coalmining and say that they do not need a coalmining certificate what would happen then? It is not just at the Board of Examiners level that it is an issue. For the day-to-day running of that department you need to know what the hazards are and what the controls should be for those risks.

**CHAIR:** It seems to me from your original submission that many of the matters that you were concerned about or raised have been addressed in the 2018 bill. You have clearly outlined those. I thank you for your detailed submission around that. In terms of ventilation officers you say that the new changes made to the 2018 bill address some of your concerns there. The amendment to section 80, appointment of members, entry to workplaces, entry to residential premises have been addressed. It seems like a lot of those things have been worked out.

I have not read in detail the document you are tabling, but I know from casting my eye over it that you feel a large number of issues need to be addressed for the safety of workers. Do you feel that those are the sorts of matters that would be discussed in the committees that you have come down for? Is that where you are discussing these sorts of issues and consulting with the department? I am just wondering why you felt that they are not being addressed given that when reading the submission it looks like the issues you had with the 2017 bill have been addressed. Can you talk a little about what is happening in that consultation body that is working well?

**Mr Dalliston:** The Coal Mining Safety and Health Advisory Committee was originally set-up to advise the minister on matters. When that committee was formed in 1999 there was an act and regulation. It was a legislation committee. It brought in mine managers, open-cut examiners, open-cut managers and so on as well as the people who sit around the table to look at the real issues day to day, whether the legislation was appropriate and what recommendations for change were needed. That is not happening. That committee has not existed since the formation of the Newman government, so nearly eight years ago. From 2008 to 2010 the committee sat. It developed some recommendations. They have been lost somewhere in the mines department and I have not seen anymore discussion or industry consultation.

Last year before the 2017 bill was introduced the minister called back together a committee comprising two Queensland Resources Council, two departmental and two workers' representatives. That committee picked up in excess of 25 issues that needed some action in the short term and yet only the ones that the department completely agreed with were put up. They are the ones that you see in the current bill. All the other matters have been left.

For the last couple of years mine workers have been left in the cold by this government and the last government by not putting forward and actioning any of those issues. There are a number of issues that need addressing that have not been addressed—and not just the dust issues that have been addressed in the last 12 months.

**CHAIR:** That would explain why you are supportive of these amendments: they are consensus amendments. I think that accords with what the department said when it came before us. Again, I do not like to attribute things that could be incorrect, but my recollection was that they said this bill is bringing forward consensus amendments. The other ones that we do not have consensus on are going to be the subject of ongoing discussion for future bills. I am just trying to piece it all together in this space. I am mindful of the time and I do want to let all of my members have a chance to ask questions.

**Mrs STUCKEY:** Good morning and thank you, Madam Chair: you covered some of the ground that I was interested in. Good morning, gentlemen.

**Mr Dalliston:** Good morning.

**Mrs STUCKEY:** I was interested in recommendation No. 3 from 2017 as well, but I think the department gave us a fairly detailed response to that. There were some 23 initiatives, as you have just been discussing, from the last consultation. Nine of those are in this bill and 14, they say, could be progressed. How many of those 14 are in the submission that you have just tabled today?

**Mr Dalliston:** I gave my copy to the bench, but I think it is recommendations 19, 20 and 21 to do with dust levels. Recommendations 45 and 46 to do with medicals I think have been addressed. There are recommendations on the database and access to the database. It would be about eight recommendations. It is recommendations 19, 20, 21, 23, 29, 31, 45 and 46, so eight recommendations.

**Mrs STUCKEY:** And they were the initiatives that came from the last consultation?

**Mr Dalliston:** No, they were recommendations that came from the—

**Mrs STUCKEY:** Regulatory impact statement?

**Mr Dalliston:** No, the select committee on dust and dust issues. A majority of the dust issues has been dealt with through a separate committee—they call it the Monash committee—but these were recommendations which the department could have dealt with, which was dust levels, unannounced inspections and medicals.

**Mrs STUCKEY:** Thank you, I was just trying to get up to speed. Could you give us some more information about your support for recommendation 19?

**Mr Dalliston:** Recommendation 19?

**Mrs STUCKEY:** Yes. You were asking for that to be included as an amendment to this bill and I am really keen to hear from you with your experience.

**Mr Dalliston:** Recommendation 19 was to do with—

**CHAIR:** Would you like this back? I apologise. Deputy Chair, we are reading the copy of his submission and Mr Dalliston is trying to recall it from memory. We will give it to him now.

**Mr Dalliston:** Recommendation 19 was to do with the change in the level of dust. The dust level used to be three milligrams per cubic metre time weighted average. Under the 1925 act it was just straight out no exposure to three milligrams of dust per cubic metre. In the 2001 regulation it became three milligrams per cubic millimetre time weighted average over an eight-hour shift. That was measured through a measuring device referred to in the Australian standards.

That Australian standard changed in 1998 and then again in 2004, and it changed the flow rate of the pump that measures the dust. By changing the flow rate of the pump which measures the dust, New South Wales decreased it from three milligrams to 2.5 milligrams. In Queensland, because there was an Australian standard called up, it was not identified by any of the parties to the legislation and no changes were made. In New South Wales it is currently 2.5; in Queensland is at three. Through dust committees and other information, especially from America, the proposal was to lower the dust rate.

Through the database that the mines department now keeps, it has been shown that most mines are keeping their dust to around one milligram per cubic metre. Therefore, we believe that the legislation should be changed to aim for 1.5. The other issue is silica. In the exceedence rates from the new monitoring system, over 50 per cent of dust exceedence is from silica dust, not just coal dust. We believe that silica dust should be dropped as well. We support the recommendation for the levels to be lowered.

**Mrs STUCKEY:** Thank you for that. I have a genuine interest in these related diseases. Further down under recommendation 20—I hope you still have that submission in front of you—there is mention of a dust abatement plan prior to the commencement of any new development panel or longwall block and prior to the starting of any new mine. Would this requirement fall under a national standard if we were to have those, or is this something that the CFMEU has put in specifically?

**Mr Dalliston:** No, I believe that Mrs Miller went to America—I think Mr Springborg went as well—and they also looked at the New South Wales standards. We do not have any national regulation for coalmining. For seven years I sat on the National Mine Safety Framework. New South Wales and Queensland are by far the major mining states. Western Australia participated, but on the last two days the Northern Territory, Victoria and South Australia outvoted the major mining states and wanted to change most of the stuff that we had in place. That is how the National Mine Safety Framework legislation fell apart.

The Queensland government committed to put into our mining legislation anything from that legislation which would increase the safety and health of mineworkers. We are still waiting on some but most has been done. However, in regard to the dust abatement plan, New South Wales has a scheme called Coal Services which is half-owned by the CFMEU and half-owned by the New South Wales Coal Association. They have an order through their legislation to require a dust abatement plan. Some of the stuff that is in the recommendation put forward we do not support, but we support the intent that there should be a dust abatement plan.

Queensland legislation has been developed on the process of no exemptions, no approvals by the department because that led to being dependent on the government of the day which could change legislation without legislation being changed. There are two sections in the legislation—one at section 320 and one at section 327 of the Queensland mining regulation—which require the reporting of before sealing and before secondary extraction. We see that there can be a similar process for a dust management plan to be submitted by notice to the inspectorate. It does not say 'for approval'; it says 'by notice'. The other two recommendations came out of the 1994 Moura disaster which came out of the 1996 mining warden's report. We cannot see how that could not be put in place straightaway.

**Mrs STUCKEY:** Thank you so much for that. I will give other members a chance to ask some questions. I really appreciate that.

**Mr HEALY:** I am all good. That was a very solid brief and very well answered questions. Thank you very much.

**Mr SAUNDERS:** Good morning, gentlemen, and thank you for coming to the hearing.

**Mr Dalliston:** Good morning.

**Mr SAUNDERS:** One of the things that is concerning me, and it is a bit off topic from the bill, is safety in mines. Yesterday I was talking to a very good friend of mine who works in a mine site. I am getting concerned with what I am hearing from men whom I know personally who are working on mine sites about the lack of safety. If they do speak up they are getting victimised and harassed. My friend has lost his position after speaking up about a safety issue. Is this an epidemic through the coalfields? I am starting to get concerned with what I am hearing. If so, I would like to see an inquiry into working conditions and safety conditions on mine sites.

**Mr Dalliston:** I believe that it is an issue. Our safety representatives from the mine sites and even inspectors will tell you about the number of unanimous complaints—which is allowed under the legislation—they are getting. Their concern is that it is going to them first rather than through the mine site process, but it is exactly for that reason. That is the reason we have asked in our submission for the site safety and health representative to be given increased powers that would at least bring them up to what the workplace health and safety act gives work reps without any competencies. Our people on mine sites do have competencies. There is a national review of the model bill for workplace health and safety and I believe the ACTU is also looking at that matter.

**Mr SAUNDERS:** The other thing that concerned me—and I have said this at the public hearing—is that while we are on the mine site everyone is drinking pina coladas and sitting around. It is all kumbaya, you have leis around your neck and the music is going. That is not the reality. One thing I agree on with the CFMEU is that custodial sentences should apply, because at both mines we visited both managers said that they do not get much interference from head office. If that is the case, I strongly believe—and I may be out of line here, Chair—if it is due to bad management, especially middle management, on a mine site that a custodial sentence should apply instead of a monetary fine imposed.

**Mr Hill:** Was that a question?

**Mr SAUNDERS:** Yes.

**CHAIR:** I think it was a statement but he is very happy for you to support it. You would have noticed that the member for Maryborough said it might be out of line. You would be aware that the minister's introductory statement said it is not something we are looking at in this bill, but industrial manslaughter would be looked at in a future bill. I know that the member for Maryborough is very passionate about this and he has asked many people about it. I think he would be very upset if he did not at least get a quick response and then back to the bill.

**Mr Hill:** I think he is right on the mark there, especially in relation to coalminers bringing up safety issues. Greg has had to go out to a mine recently and sort out issues as a result of safety reps being targeted for raising issues. It is systemic throughout the industry. You will see that especially with labour hire. They are not game to raise issues or they will not have a job tomorrow. We are getting a lot of reports back about that. I think there are a number of mines around where the senior person on site is just a figurehead and it is either being run by a corporate identity or other people who have not got a statutory position on site. Something definitely needs to be done to bring it back into line.

**Mr Dalliston:** I do not think increasing penalties will help. Making it a custodial sentence would probably calm down what has been happening, but the biggest issue is that we have had two court cases for fatalities in the last few years. At the end of the court case in the Magistrates Court they have been allowed to plead guilty. The operator pleads guilty and the people working underneath the operator—the manager and the contract manager—have had the charges against them dropped. They have not even had to sit in the box and sweat some to give their evidence. That is in our introductory submission this morning. We need to change the process. If we are not going to use part 12 of the act, then we need to get rid of it and go back to the mining warden who can call a hearing outside of the minister, because at the moment only the minister can do it. One is increasing penalties but that is not going to work unless we change the process that we use to get to the end result.

**Mr SAUNDERS:** Thank you very much, gentlemen.

**Mr DAMETTO:** Thank you for your submission and for attending today to talk to the committee. My background is metalliferous mining. I have not spent much time at a coalmine other than my visit last week. What I have noticed from my experience working in metalliferous mining and some iron ore construction in Western Australia was what some of the smaller mine sites consider as a high safety standard compared to some of the more well off companies that run some of the larger mine sites. There seems to be quite a big gap between those two. From my understanding there is a balance between exactly what sort of safety standard they can provide and what they can afford. What changes to legislation do you believe there should be and what framework have you set out to close that gap?

**Mr Dalliston:** My apologies, member for Hinchinbrook, but we do not have many in small coalmines. Metalliferous mines are totally different, where you have a lot of quarries. There are probably over 1,000 mines in the state. We have about 60 mines in the state. Our smaller mines are mostly smaller open-cut mines. They have to have the same safety and health management system as the other mines. We find that is a good process. They are given some assistance by both the ISHRs and the inspectorate in terms of how to meet the required standard. We find that the smaller open-cut mines—those with 50 to 100 people, whereas you might have five—seem to meet the legislative requirements word for word whereas the bigger mines seem to try to get around them. The likes of BHP and Anglo have a lot of mines and they seem to have a common process which waters down the process. We find that our smaller mines are probably more compliant than our larger mines because larger mines have larger orders and seem to get more control out of Brisbane head office than on the mine site.

**CHAIR:** Do members have any supplementary questions? I am very surprised that, given you are on the Board of Examiners, the deputy chair has not asked you about the failure rate.

**Mr HEALY:** I did not say it at the outset but I thank you for coming in. I found the submission you wrote detailed and your answers today have been very informative. The committee has visited a couple of sites and have heard that things are really good at one end, yet we hear from a variety of other people that there are concerns and that if people raise concerns they are slowly pushed out. In a perfect world, which we know does not exist, how do you eradicate that? What do you do?

**Mr Dalliston:** Probably the first thing is to fix the process so that the site safety and health representative is elected by the workers, like they used to be. Previously they were elected by the workers at the mine. The Work Health and Safety Act allows for that. Ours allows for the SSE, who is the senior person the SSHR would be arguing with on safety issues, to determine how the election is run through the chief inspectors process. The first thing to do is fix up the election process for the site safety and health reps.

The next thing is to give them the powers to participate in accident investigations and to copy documents. At the moment they have permission to look at documents. A lot of times they are not allowed to participate in the investigation. If they were given that power and they were on-site so that people could see them every day and have trust in them—especially the labour hire people—they would be able to deal with the issues a lot more than they currently can. We run training for those people every year. They are very keen to be able to perform their role. That would be the quickest fix.

The other thing would be to allow for unannounced inspections by ISHRs and inspectors. At the moment, complaints can go only to inspectors. Where there is a limited number of inspectors but a large number of workers, it is pretty hard for an inspector to investigate those minor complaints.

**Mr HEALY:** Thank you. That is very straightforward. I appreciate it.

**CHAIR:** In regard to ventilation officers, it was raised whether seven days was too short, where another needed to be appointed, and that 14 days is reasonable. Could you please speak to that?

**Mr Dalliston:** We believe it is too short. The ventilation officer position was put up after the Moura recommendations. There were three explosions at Moura and one at Box Flat between 1972 and 1994. Most of that had to do with gas and with dusts after the gas explosion. The ventilation officer was put in place. It was asked that that be a statutory position. The people who hold the ventilation officer position go to an RTO and get a unit of competency. We had them turning up to the Board of Examiners to get a higher statutory ticket—a deputy, undermanager or manager, which means that same area of gas and ventilation is questioned as well as other things, like emergencies. In the ventilation and gas area, first off they were not assessed as competent by three of their peers.

The next issue is that at the moment the legislation requires them to be in control of ventilation changes. The ventilation in the metalliferous mine is a spiral type circuit and is a continuous ventilation. Ours is split up into panels. We have a lot more gas. We have spontaneous combustion

which can come up that needs to be addressed. We change mining areas relatively quickly, so the ventilation changes even as you go through one panel. The legislation requires them to be in control of those changes, whether they are actually there or whether they put the changes in place and make sure people are aware. Those changes can happen during the day, at night or on the weekend. They do not only happen Monday to Friday between eight and five.

If it is not going to be a ventilation officer with the full requirement of competencies then it could be a ventilation person with most of those competencies. The major mines in the state—the Anglo mines and the Xstrata mines—have already found that they have three or four people with that qualification at their mine. When one is not there, the other one takes control. The only thing is documentation in terms of who has made the decisions. The mine manager is currently not required to hold all of the ventilation competencies. Under the new proposal the mine manager will be required to have those, because they do not do gas modelling or ventilation modelling in their course. They do the rest of the theory but they do not do that part. We believe that seven days is too much. It should be that they have one present or available.

**CHAIR:** At all times?

**Mr Dalliston:** Yes. We could have a roof fall and that would change the ventilation straightaway. We do not have a lot of roof falls anymore but we still have them. A roof fall will change the ventilation. If you have heating it will change the ventilation. If you have too many diesels in a panel it will change the ventilation. It will change how much gas has come in to get rid of. The gases from shot firing, which we do not do so much underground anymore—we still do some—will change the ventilation. The other thing is to get rid of the heat, so it is to get rid of heat, dust and gases.

**CHAIR:** Thank you very much. We are out of time now. Mr Dalliston and Mr Hill, thank you very much for taking the time to come in today and assist us with your expertise. You clearly know your area and have been involved for a long time. That is really helpful to us. Thank you for your submission, which the committee will have the opportunity to discuss and look at in more detail. I now declare the public hearing closed. I thank our Hansard reporters. I remind you that a transcript of these proceedings will be available on the committee's parliamentary web page in due course. Thank you.

**The committee adjourned at 11.07 am.**