



**Construction, Forestry,  
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Committee Secretary  
Education, Employment and Small Business Committee  
Parliament House  
George Street  
Brisbane Qld 4000

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Dear Committee Secretary

**RE: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020**

The Queensland District of the Construction, Forestry, Maritime, Mining and Energy Union (Mining and Energy Division) ("CFMMEU" or "the Union") is the principle Union for coal mining and is responsible for representing members in the coal mining and power plant industries in Queensland.

The CFMMEU has reviewed the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020* ("the Bill").

The Union submission is that amendments need to be made to be to the Bill in order to include coal mine workers who have statutory responsibilities to respond to serious accidents that occur at a coal mine as part of the cohort of "first responders" that are to be covered by the proposed legislation. The Union submits that these coal mine workers are required to undertake the same risks as other "first responders" in the Bill and are exposed to the same risk of developing Post Traumatic Stress Disorders ("PTSD"). The Union submits that these employees deserve similar consideration and the benefit of the presumption that this legislation affords other first responders and should be included in the cohort of statutory roles covered by the proposed legislation.

Whilst this submission is largely confined to statutory positions for Coal Mines, the Union highlights that similar statutory positions and roles exist for other mines and quarries in Queensland.

**HEALTH AND SAFETY ROLES AND RESPONSIBILITIES UNDER THE COAL MINING SAFETY AND HEALTH ACT**

Under the *Coal Mining Safety and Health Act* ("CMSHA") and its associated Regulations ("CMSHR") there are a number of statutory positions that require employees to deal with serious accidents. Under

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s.16 of the CMSHA, a serious accident is defined as “*an accident that resulted in a) a fatality or b) the worker being admitted to hospital as an in-patient for treatment.*”

The types of statutory positions that are required to deal with serious accidents that occur on a mine site are the Open Cut Examiners (“OCE”) and the Explosive risk Zone Controllers (“ERZ Controller”).<sup>1</sup>

Further, each mine must ensure<sup>2</sup> that they have a “mines rescue team” that is trained and competent to perform aided rescues of coal mine workers in an emergency situation.

## **THE FREQUENCY AND LEVEL OF SERIOUS ACCIDENTS THAT OCCUR IN THE MINING INDUSTRY**

It should come as no surprise that the Coal Mining Industry is recognized as a dangerous occupation. In the mining industry there is, on average, 12 fatalities every 5 years<sup>3</sup> with 20 fatalities in the Coal Mining industry between 2000 and July 2019<sup>4</sup>.

Furthermore, there have been 589<sup>5</sup> serious accidents<sup>6</sup> in the coal mining industry during the same period. As outlined above, under serious accidents must be responded to by either mines rescue or other statutory officials.

As the committee would be aware, there is currently a Coal Mining Board of enquiry looking into the serious accident at the Grosvenor underground mine site in July of this year as well as other “High Potential Incidents” (“HPI”) in the underground coal mining industry.

These statistics reinforce the generally held view that there is a high prevalence for serious accidents and fatalities to occur on a mine site.

## **POLICY OBJECTIVES FOR THE *WORKERS’ COMPENSATION AND REHABILITATION AND OTHER LEGISLATION BILL 2020***

As outlined in the explanatory notes, the objectives of the Bill is to “*introduce presumptive workers’ compensation for first responders and others who work in roles alongside first responders, who are exposed to traumatic incidents due to the nature of their roles.*”

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<sup>1</sup> See s.15 of the CMSHA

<sup>2</sup> See s.173 of the CMSHA and s.35-38 of the CMSHR

<sup>3</sup> See “*Review of all fatal accidents in Queensland mines and quarries from 2000 to 2019*” report by Dr Sean Brady (“Brady report”)

<sup>4</sup> See pg86 Appendix B of the Brady report.

<sup>5</sup> See Brady report pg35 section 4.3.

<sup>6</sup> A “Serious Accident” is defined in s.16 of the CMSHA as an accident that resulted in a) a fatality or b) the worker being admitted to hospital as an in-patient for treatment.

Schedule A of the amendments and the explanatory notes for the Bill sets out the “first responders” that the Bill is intended to cover. These first responders are all occupations where their roles are prescribed by legislation and their roles require them to respond to incidents that:

- Are life threatening
- For which time may be critical to prevent actual or potential death or injury to persons or to prevent or minimise damage to property or the environment

As outlined above coal mine workers also have statutory responsibilities to attend and/or investigate a serious accident. Their role requires them to attend and assist in a range of accidents that will likely involve death or serious injury and will often require the workers to put their own lives at risk in order to assist injured workers and/or to save mining equipment.

Unlike other occupations, coal mining occurs in remote locations far from existing first responders covered in the legislation. Whilst these traditional occupations will attend a serious accident when it occurs on a mining lease, it will often be after the serious accident has occurred and the mines rescue team and the OCE/ERZ Controller has attended the scene and performed their statutory duty.

In these situations, the coal mine workers who attended the serious accident will be exposed to a traumatic event as the other first responders, eg ambulance officer. However, under the proposed legislation, if the ambulance officer developed a PTSD they would be entitled to the presumption that the disorder was work related but the coal mine worker would not. As both employees were required to attend the serious accident under their legislative role, the Union submits that it would be unfair for proposed legislation to provide a presumption for one of the roles and not the other.

Further, the Union refers to the explanatory notes that:

*“it is recognised there are many roles across the public and private sectors which may be exposed to traumatic incident or who regularly work in times of crisis. If the presumption does not apply, workers are still entitled to lodge a claim for a work -related injury under the scheme’s existing decision-making pathway. Under the prescribed head of power, the Bill provides the ability to include additional occupations where there is a strong evidence base of the prevalence between these occupations and PTSD.” (emphasis added)<sup>7</sup>*

The Union’s view is that the statutory roles of OCE, ERZ Controller and mines rescue team member are such occupations where there is strong evidence that there is a prevalence between their duties and the development of PTSD. Not only is there statistical data to show that there is a significant amount of serious accidents occurring within the mine sites, in the Union’s experience members, as well as other coal mine workers have developed PTSD related conditions in performing their roles and being exposed to traumatic accidents and fatalities.

One example of such connection is our member, Mr Anthony Gordon, an open cut examiner at the Goonyella Riverside mine. In 2017 when, as part of his duties, he was required to attend a fatality which

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<sup>7</sup> Explanatory memorandum pg 3.

occurred at the mine site. Later, in 2019, Mr Gordon developed PTSD symptoms and is now unable to continue in his role. Mr Gordon made a workers' compensation claim for his injury but was rejected by his employer's self-insurer at the time, alleging that his injury was not work related. Mr Gordon now has medical evidence confirming that his PTSD was as a result of his work, particularly being exposed to the serious accident involving the death of Mr Springer and has commenced negligence proceedings against his employer.

Mr Gordon's example is relevant for the purposes of this submission as it not only highlights the link between the occupation and the development of PTSD, it shows the need for these occupations to be afforded the presumption in the legislation. If, the Bill was in place when Mr Gordon made his claim, then he would have been afforded the presumption and not would have had his claim rejected.

### **CHANGES TO THE PROPOSED LEGISLATION**

As the Bill already envisages that additional occupations will be added to the cohort of occupations that are afforded a PTSD presumption, the Union submits that an amendment would be simple for the parliament to undertake. The Union submits that all that is needed is for the statutory duties of OCE, ERZ controller and mines rescue team member under the CMSHA be added to the list of First Responders in Schedule 6A of the Bill. Once added, these occupations would receive the same presumption as other First Responders under the proposed legislation.

Regards



**STEPHEN SMYTH**  
District President