

**Submission to Infrastructure, Planning and Natural Resources Committee**

**Regarding the exposure draft - Mine Safety and Health Authority Bill 2017 (the Bill)**

**By:**

David Ralph

Email:

Clause number and heading	Issues	Possible edit
<p>3 - Purpose of Act</p> <p>11 – Functions</p> <p>15 – Appointment of members</p> <p>67 - Expert Medical Advisory Panel</p>	<p>It is suggested that the term “mining and resource”, used in relation to the “mining and resource industry” and the “mining and resource industry workers” is too broad.</p> <p>The focus of the Coal Workers’ Pneumoconiosis Select Committee (the Committee) has predominantly been on the management and prevention of coal workers’ pneumoconiosis (CWP).</p> <p>While this has been the impetus for the drafting of the Bill, it is clear by the Bill’s contents that the establishment of the Mine Health and Safety Authority (the authority) is to oversee workers within the coal and metalliferous mining industry, and quarry workers.</p> <p>While it is appreciated that the term “mining and resource industry” broadly captures such workers, it may also inadvertently capture, for example, forestry or timber workers, and park rangers who work in National Parks.</p> <p>This is because ‘natural resources’ (resources) include vegetation and native fauna, as well as coal and other minerals.</p>	<p>The Bill may define the term ‘mining and resource industry’.</p> <p>This definition may draw on some of the definitions within the <i>Coal Mining Safety and Health Act 1999</i> (CSMHA) and the <i>Mining and Quarrying Safety and Health Act 1999</i>. (MQSHA)</p> <p>The mining and resource industry may be collectively defined as:                      “any person who:                      (a) carries out operations for a mine or quarry; and                      (b) carries out on-site activities for a coal mine.”</p> <p>Where:                      ‘Operations’ has the meaning given to it in section 10 of the MQSHA;</p>

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		<p>'Mine' has the meaning given it in section 9 of the MQSHA;                      'Quarry' has the meaning given to it in section 11 of the MQSHA;                      'On-site activities' has the meaning given to it in section 10 of the CSMHA; and                      'Coal mine' has the meaning given to it in section 9 of the CSMHA.</p>
<p>9 – Administrative Structure</p> <p>11 – Definitions</p> <p>67 - Expert Medical Advisory Panel</p>	<p>It is suggested that the term “Coal Workers’ Health Scheme” should either be defined, or its role or operation stated in the Bill.</p> <p>In isolation, the term “Coal Workers’ Health Scheme” could mean anything.</p> <p>However, in the context of the ‘Black lung, white lies’ Committee Report and the Bill, it appears that reference to the “Coal Workers’ Health Scheme” is a reference to the “Coal Mine Workers' Health Scheme”.</p>	<p>For clarity, define ‘Coal Workers’ Health Scheme’ as:                      “The coal mine workers’ health scheme’ under chapter 2, part 6, division 4 of the Coal Mining safety and Health Regulation 2001.”</p> <p>Conversely, the Bill may refer to the ‘coal mine workers’ health scheme’ instead of the ‘Coal Workers’ Health Scheme’. If this is adopted, there would still need to be a definition for this. It would be the same as that, detailed, above.</p>
<p>11 - Definitions</p> <p>66 - Standing Committee on Dust Research and Control</p>	<p>It is suggested that unless the Committee wanted to capture all ‘types’ of dust, then a specific definition for ‘dust’ needs to be provided for in the Bill.</p> <p>As the Bill currently stands, ‘dust’ takes the dictionary meaning of the word and may mean dust from dirt roads being traversed by vehicles, dust from breaking up concrete or coal or silica dust. These are all activities that create dust and that may be carried out for a quarry, mine or coal mine.</p> <p>In the context of the ‘Black lung, white lies’ Committee Report and the Bill, it appears that a reference to dust is that dust emanating</p>	<p>To ensure that dust, that an ordinary person would be subject to when going about their daily activities, is not caught by the use of the word ‘dust’ in the Bill, the following may be one way of describing the dust:                      “Dust means particles of a mineral, coal or material being quarried resulting from its mining, extraction, processing or handling on a mine, coal mine or quarry”.</p> <p>As transportation of the mineral, coal or material being quarried may also subject the</p>

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	<p>directly from a mineral, quarry material or coal directly related to activities that are its extraction or mining.</p>	<p>mining and resource industry to dust, the definition may be further defined as:                      “Dust means particles of a mineral, coal or material being quarried resulting from—</p> <ul style="list-style-type: none"> <li>• The mining or extraction of it from the area of the mine, coal mine or quarry; or</li> <li>• The processing, handling or transportation of it on a mine, coal mine or quarry.</li> </ul> <p>Where:                      ‘Mine’ has the meaning given it in section 9 of the MQSHA;                      ‘Quarry’ has the meaning given to it in section 11 of the MQSHA; and                      ‘Coal mine’ has the meaning given to it in section 9 of the CSMHA.</p>
<p>19 - Vacancy in office</p>	<p>Clause 19(1)(d) states the following:                      “the member becomes disqualified under section 14 from continuing as a member”.</p>	<p>In the current draft of the Bill, the reference to ‘section 14’ should instead be a reference to ‘section 16’.</p>
<p>32 - Qualifications for appointment</p>	<p>With regard to a qualification required for a Commissioner for Mine Safety and Health, clause 32 states the following:                      “To be appointed as commissioner, a person must have—</p> <ul style="list-style-type: none"> <li>(a) a science or engineering qualification relevant to the mining industry, and professional experience in mine safety; or</li> <li>(b) a qualification in law, and professional experience in the law relating to mine safety; or</li> <li>(c) at least 10 years professional experience in senior positions relating to operational mine safety management.”</li> </ul>	<p>Consideration may be given to qualifying the word ‘mine’ in this context and in relation to other proposals in this response that relate to a quarry, coal mine, or mine.</p> <p>Consequently, may the Committee consider if the qualification required by the Commissioner for Mine Safety and Health, stated at clause 32 of the Bill should read:                      To be appointed as commissioner, a person must have—</p> <ul style="list-style-type: none"> <li>(a) a science or engineering qualification relevant to the mining or quarrying</li> </ul>

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		<p>industry, and professional experience in mine, quarry or coal mine safety; or</p> <p>(b) a qualification in law, and professional experience in the law relating to mine, quarry or coal mine safety; or</p> <p>(c) at least 10 years professional experience in senior positions relating to operational mine, quarry or coal mine safety management.”</p> <p>Where:                      ‘Mine’ has the meaning given it in section 9 of the MQSHA;                      ‘Quarry’ has the meaning given to it in section 11 of the MQSHA; and                      ‘Coal mine’ has the meaning given to it in section 9 of the CSMHA.</p>
38 - Vacancy in office of commissioner	<p>Clause 38(1)(d) states the following:                      “becomes disqualified under section 31 from continuing as commissioner.”</p>	<p>In the current draft of the Bill, the reference to ‘section 31’ should instead be a reference to ‘section 35’.</p>
39 - Commissioner not to engage in other paid employment	<p>Clause 39 currently states:                      “The commissioner must not, with the prior written approval of the board—</p> <p>(a) engage in paid employment outside the duties of the office of the commissioner; or</p> <p>(b) actively take part in activities of a business, or in the management of a corporation carrying on business.”</p>	<p>May the Committee please consider re-drafting this clause. It may read something like:                      “The commissioner must not, without the prior written approval of the board—</p> <p>(a) engage in paid employment outside the duties of the office of the commissioner; or</p> <p>(b) actively take part in activities of a business, or in the management of a corporation carrying on a business.”</p>

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		<p>Or to remove the ‘double negative’ this clause may be re-drafted to read something like:                      “The written approval of the board is required before the commissioner may—                      (a) engage in paid employment outside the duties of the office of the commissioner; or                      (b) actively take part in activities of a business, or in the management of a corporation carrying on a business.”</p>
<p>42 - Commissioner’s functions</p>	<p>Clause 42 currently states:                      “The functions of the commissioner are—                      (a) to advise the Minister, the authority and the board on mine health and safety matters generally; and                      (b) to fulfil the role of chairperson of the board; and                      (c) to monitor and report to the Minister and to Parliament on the administration of provisions about safety and health under this Act and other mining legislation; and                      (d) to start and conduct proceedings for an offence against a mine and safety law; and                      (e) to perform the functions given to the commissioner under this Act or another Act.”</p>	<p>Similar to the response in this document to clause 32, consideration may be given to qualifying the word ‘mine’ in this context and in relation to other proposals in this response that relate to a quarry, coal mine, or mine.</p> <p>Consequently, may the Committee please consider, for clause 42(a), the following:                      “(a) to advise the Minister, the authority and the board on mine, quarry and coal mine health and safety matters generally”                      Where:                      ‘Mine’ has the meaning given it in section 9 of the MQSHA;                      ‘Quarry’ has the meaning given to it in section 11 of the MQSHA; and                      ‘Coal mine’ has the meaning given to it in section 9 of the CSMHA.</p> <p>Also, schedule 1 Dictionary to this Bill defines ‘mining and safety health law’. This definition</p>

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		<p>provides that “<b>mining safety and health law</b> means—</p> <ul style="list-style-type: none"> <li>(a) the <i>Coal Mining Safety and Health Act 1999</i>; or</li> <li>(b) the <i>Mining and Quarrying Safety and Health Act 1999</i>.”</li> </ul> <p>Therefore, for clauses 42(c) and 42(d), it may be preferable that this definition be used as follows:</p> <ul style="list-style-type: none"> <li>“(c) to monitor and report to the Minister and to Parliament on the administration of provisions about safety and health under this Act, the mining safety and health law and other mining legislation; and</li> <li>(d) to start and conduct proceedings for an offence against a mining and safety law; and”.</li> </ul> <p>Further, if the definition of ‘mining and safety health law’ is used in clause 42(c) this may obviate the need to use the words “and other mining legislation”. This is because these mining safety and health law are the only Acts that relate to safety and health for mining in Queensland.</p> <p>Consequently, should clause 42(c) ultimately read something similar to the following:</p> <ul style="list-style-type: none"> <li>“(c) to monitor and report to the Minister and to Parliament on the administration of provisions about safety and health under</li> </ul>

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		this Act and the mining safety and health law; and”.
44 - How commissioner must perform functions	Clause 44(2) states the following: “Except to the extent required for complying with a direction under section 58, the commissioner is not subject to direction by anyone about how the commissioner performs the commissioner’s functions.”	In the current draft of the Bill, the reference to ‘section 58’ should instead be a reference to ‘section 60’.
51 - Vacancy in office of chief executive officer	Clause 51(1)(d) states the following: “becomes disqualified under section 46 from continuing as chief executive officer.”	In the current draft of the Bill, the reference to ‘section 46’ should instead be a reference to ‘section 48’.
54 - Chief executive officer not to engage in other paid employment	Clause 54 currently states: “The chief executive officer must not, with the prior written approval of the board— (a) engage in paid employment outside the duties of the office of the chief executive officer; or (b) actively take part in activities of a business, or in the management of a corporation carrying on business.”	May the Committee please consider re-drafting this clause. It may read something like: “The chief executive officer must not, without the prior written approval of the board— (a) engage in paid employment outside the duties of the office of the chief executive officer; or (b) actively take part in activities of a business, or in the management of a corporation carrying on a business.”  Or to remove the ‘double negative’ this clause may be re-drafted to read something like: “The written approval of the board is required before the chief executive officer may— (a) engage in paid employment outside the duties of the office of the chief executive officer; or (b) actively take part in activities of a business, or in the management of a corporation carrying on a business.”

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62 - Use or disclosure of information	<p>Clause 62(2) currently states:                      “The information may be used or disclosed only in the performance of the Minister’s functions under section 57.”</p>	<p>In the current draft of the Bill, the reference to ‘section 57’ should instead be a reference to ‘section 59’.</p>
63 - Committee’s functions	<p>Clause 63(1)(c) currently states:                      “to periodically review the percentage of mining royalties payable to the fund under section 68”.</p>	<p>In the current draft of the Bill, the reference to ‘section 68’ should instead be a reference to ‘section 70’.</p>
66 - Standing Committee on Dust Research and Control	<p>Clauses 66(2)(a) to 66(2)(d), inclusive, currently states:                      “The committee consists of the number of members decided by the board, who are to include 1 or more persons representing each of the following—</p> <ul style="list-style-type: none"> <li>(a) operators of mines;</li> <li>(b) operators of quarries;</li> <li>(c) workers employed in mines;</li> <li>(d) workers employed in quarries”.</li> </ul>	<p>Similar to the response in this document to clauses 32 and 42, consideration may be given to qualifying the word ‘mine’ in this context and in relation to other proposals in this response that relate to a ‘coal mine’, or ‘mine’.</p> <p>Consequently, may the Committee please consider, for clauses 66(2)(a) to 66(2)(d), inclusive, the following:                      “The committee consists of the number of members decided by the board, who are to include 1 or more persons representing each of the following—</p> <ul style="list-style-type: none"> <li>(a) operators of a mine or a coal mine;</li> <li>(b) operators of a quarry;</li> <li>(c) workers employed in a mine or a coal mine;</li> <li>(d) workers employed in a quarry”.</li> </ul> <p>Where:                      ‘Mine’ has the meaning given it in section 9 of the MQSHA;                      ‘Quarry’ has the meaning given to it in section 11 of the MQSHA; and                      ‘Coal mine’ has the meaning given to it in section 9 of the CSMHA.</p>



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		<p>Alternatively, the Committee may want to clarify that members in the Standing Committee on Dust Research and Control are to include one or more of each of the following:</p> <ul style="list-style-type: none"> <li>• operators of metalliferous mines; and</li> <li>• operators of coal mines; and</li> <li>• workers employed in metalliferous mines; and</li> <li>• workers employed in coal mines.</li> </ul> <p>If that is the Committee’s intention, then clauses 66(2)(a) to 66(2)(d), inclusive may read something similar to the following:          “The committee consists of the number of members decided by the board, who are to include 1 or more persons representing each of the following—</p> <ul style="list-style-type: none"> <li>(a) operators of a mine;</li> <li>(b) operators of a coal mine;</li> <li>(c) operators of a quarry;</li> <li>(d) workers employed in a mine;</li> <li>(e) workers employed in a coal mine;</li> <li>(d) workers employed in a quarry”.</li> </ul> <p>Where:          ‘Mine’ has the meaning given it in section 9 of the MQSHA;          ‘Quarry’ has the meaning given to it in section 11 of the MQSHA; and          ‘Coal mine’ has the meaning given to it in section 9 of the CSMHA.</p>



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70 - Payments of amounts into fund	<p>Clause 70(2) currently states:                      “In this section—  <b>mining royalties</b> means royalties paid under the <i>Mineral Resources Act 1989</i>, chapter 11.”</p>	<p>The Committee may wish to consider including, in the definition for ‘mining royalties’, royalties that are paid under what are known as the ‘Special Agreement Acts’.</p> <p>These Acts are detailed in Schedule 1 to this response document.</p> <p>The agreements within these Acts may provide that royalties payable to the State are provided for in these Special Agreement Acts, rather than under chapter 11 of the <i>Mineral Resources Act 1989</i>.</p>
77 - Annual report	<p>Clause 77(1)(c)(i) currently states:                      “details of—                      (i) each direction given by the Minister under section 56 during the financial year to which the report relates”.</p>	<p>In the current draft of the Bill, the reference to ‘section 56’ should instead be a reference to ‘section 60’.</p>
87 – Amendment of sch 3 (Dictionary) (to the CSMHA)	<p>Clause 87 currently states:                      “Schedule 2, definition <i>commissioner</i>, after ‘Health’—                      insert—                      under the <i>Mine Safety and Health Authority Act 2017</i>’.</p>	<p>In the current draft of the Bill, the reference to ‘Schedule 2’ should instead be a reference to ‘Schedule 3’.</p>

**List of 'Special Agreement Acts'**

*Alcan Queensland Pty. Limited Agreement Act 1965*

*Central Queensland Coal Associates Agreement Act 1968*

*Mount Isa Mines Limited Agreement Act 1985*

*Queensland Nickel Agreement Act 1970*

*Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*

*Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*

