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State Development, Natural Resources and Agricultural  
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Mr Salani Mudongo

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15<sup>th</sup> February 2020

Dear Sir/ Madam

**Re: Submission to the Mineral and Energy Resources and Other Legislation Amendment Bill 2020**

Please accept the following submission to the parliamentary commission regarding the proposed Mineral and Energy Resources and Other Legislation Amendment Bill 2020 introduced by the Honourable Anthony Lynham MP on the 4<sup>th</sup> February 2020. Specifically, the section that refers to *“The Bill to amend the Coal Mining Safety and Health Act 1999 to clarify that only persons who are employees of a coal mine operator may be appointed as certain statutory office holders and the introduction of Industrial manslaughter offence provisions ”*.

I would like to congratulate the Minister on making proactive changes to the coal mining industry following the recent escalating number of fatal injuries to the industry. As a mining engineer who holds both QLD and NSW Deputy’s competency and has worked as a contractor and for the mines at various levels of the business, it is evident that significant changes need to be made in the industry or the rate of fatal injuries will continue to trend at escalating levels.

I have reviewed the Amendment bill and I would like the opportunity to express some concerns and my views on the following amendments;

1. Requirements of statutory office holders
2. Industrial manslaughter offence provisions

**Requirements of statutory office holders**

The bill proposes to amend the Coal Mining Safety and Health Act 1999 in order to protect the safety and health of workers by requiring that persons appointed to critical safety statutory roles for coalmining operations must be an employee of the coalmine operator.

Following my review of the *“Mineral and Energy Resources and Other Legislation Amendment Bill 2020”* and the *“explanatory notes”* I am of the view that the intent of this amendment is to give people appointed in the statutory roles a sense of security that would encourage them to raise safety issues with no fear of reprisal. In my view and experience a complex coal mine workplace has been simplified while overlooking keys issues, a fear of reprisal in a coal mine is often a reflection of various reasons that needs to be addressed prior to implementing the proposed amendment bill. Based on my experience below are few key points that causes fear in coal mining;

- An insecurity about coal mine workers inability to perform a tasks.
- Lack of competency/skills amongst coal mine workers to confront safety concerns with confidence.
- The nature of an industry that has inherent ‘boom and bust’ cycles.

In my view to enact the bill that proposes to amend the Coal Mining Safety and Health Act 1999 in order to protect the safety and health of workers by requiring that persons appointed to critical safety statutory roles for coalmining operations must be an employee of the coalmine operator would have no positive impact on the reporting culture of individuals in the workplace (statutory or non-statutory positions). As a coal mine worker I am highly concerned about the future of my industry in regards to the proposed changes and that a complex coal mine workplace has been simplified creating a false sense of 'progress' within the department and public perception and Parliament that this change would make a difference with better programs and initiatives not adopted leading to opportunity loss.

However the proposed amendment would be forcing people to be employees of the Operator and this would worsen the safety and health status/performance within our industry by;

- Encouraging a complacency within statutory roles due to the removal of competition in the workplace.
- Forcing experienced and high achieving statutory officials to leave the mining industry.
- Removing a component of the reward for being a statutory official and therefore discouraging future generations of statutory officials.

Enacting the proposed amendments to the Coal Mining Safety and Health Act 1999 that requires people to be employed by the operator will not change either the points I have raised above or the assumption made by the Minister. I have full confidence in my view because the current legislation already has a number of protections that are already in place to protect people from reprisal and promote safety within the Coal mining industry;

*Coal Mining Safety and Health Act 1999, Part 17 General section 275AA Protection from reprisal* specifically addresses protection from reprisal therefore must take away the fear of raising safety concerns.

*Coal Mining Safety and Health Act 1999, Part 17 General section 273 Withdrawal of persons in case of danger* specifically addresses protection from working in unsafe workplace.

*Coal Mining Safety and Health Act 1999, Part 8 Industry safety and health representatives* specifically addresses protection from working in unsafe workplace.

*Coal Mining Safety and Health Act 1999, Part 7 Site safety and health representatives* specifically addresses protection from working in unsafe workplace.

*Coal Mining Safety and Health Act 1999, Part 2 The control and management of risk and other basic concepts* specifically addresses having coal mine is a coal mine worker who is authorised by the site senior executive to give directions to other coal mine workers in accordance with the safety and health management system.

Therefore, I **strongly oppose** the bill to amend the Coal Mining Safety and Health Act 1999 in order to protect the safety and health of workers by requiring that persons appointed to critical safety statutory roles for coalmining operations must be an employee of the coalmine operator. It is with great regret that this proposed change is not addressing coal mine safety in any way but rather a public perception that this would make a difference.

In my view, changing to improve the coal mining safety the following key point must be highly considered;

1. Training;
    - Coal mining is a complex business involving complex equipment and the complex process hence the training of all supervisor and team leaders must be of high levels.
    - The mining and resources industry and the associated legislation is complex.
    - The industry should strive for greater education and training of those people that are statutory safety leaders in the industry.
    - Appointed Statutory personnel will never be at all place at the same time while work is ongoing, supervisors and leading hands must be trained and assessed as experienced and competent for their respective specialised area. This must be conducted in the same manner as the statutory officials.
    - To seriously improve safety the industry cannot solely rely on appointed statutory personnel.
    - Serious training gap analysis must be conducted at various levels of the coal mine industry.
  2. Accountability;
  3. Transparency;
  4. Culture;
- To ensure each one of the groups are doing as they say, and finally
  - The industry need to be fully engaged in safety as an ongoing matter, not when there is a negative change and sharing all safety issue.
  - Changing a culture is difficult and requires substantially more effort than just increasing the size of the penalty imposed on non-compliance within the industry. It will take an agreement by all representatives within the industry to work together for a common goal of a creating a safe and sustainable industry
  - Changes in a safety culture require open and engaged communication. This can be achieved by open consultation between all parties within the industry that encourages communication beyond the message, encourages ideas and removes barriers.

#### **Industrial manslaughter offence provisions**

It is greatly disappointing that that the Minister is resorting to means of improving safety culture in the resources sector through introducing industrial manslaughter provisions, in my view this is a poor form of motivation to improve a Safety culture within an industry. The industry already has a number of penalties for non-compliance and in the case of a fatal injuries the statutory leaders are already confronted with investigations and subsequent court proceedings.

It is very sad that well experienced coal mine statutory who understand the Acts will leave the industry paving way for the unexperienced personnel attracted by the rewards of the positions. As a statutory individual if the bill is passed I fear for my future and the future of those in the coal mining industry.

Please accept this submission in good faith and should further information or clarification be required on any of the points made in this letter please do not hesitate to contact me on [REDACTED].

Yours Sincerely,

Mr Salani Mudongo