

COAL MINING SAFETY AND HEALTH AND OTHER LEGISLATION AMENDMENT BILL 2022

Submission No: 7
Submitted by: Isaac Regional Council
Publication:
Attachments: No attachment
Submitter Comments:

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Submission by Isaac Regional Council

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Date: 20 October 2022

ISAAC
REGION 

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EXECUTIVE SUMMARY

Isaac Regional Council (IRC) welcomes the opportunity to comment on the Coal Mining Safety and Health and Other Legislation Amendment Bill 2022.

IRC understands the principal objectives of the Bill relate to two Queensland Government priorities:

1. Safety and health – to provide for exceptions to direct employment requirements for coal mining statutory positions; and
2. Resources – to enable implementation of a key action in the draft Queensland Resources Industry Development Plan (QRIDP), as well as several housekeeping amendments to a number of Acts in the Resources portfolio to address operational issues and correct clerical errors.

Isaac Regional Council recently made a submission¹ to the Inquiry into Coal Mining Industry Safety, to the Transport and Resources Committee dated 30 September 2022. The inquiry is seeking a deeper understanding of the impacts of the current practices and activities of the coal mining industry in relation to safety risk management. I refer you to that document as the basis for this further submission due to the parallels that can be drawn between the two submissions (point 1 of this submission only).

In the context of this Bill, the focus of Isaac Regional Council is the opportunities surrounding the new economy mineral mining likely to result from the rent deferral for new projects and the exceptions to direct employment requirements for coal mining statutory positions.

ABOUT THE ISAAC REGION

The Isaac region encompasses an area of 58,709 square kilometres from prime agricultural land to the resource rich Bowen and Galilee Basins housing the largest coal mining deposits in Australia. The area also includes a coastal strip that brings with it tourism opportunities.

Our region is home to 20,910 residents and approximately 12,080 non-resident workers who travel here primarily for work in the mining industry.²

The Isaac produces \$22.788 billion³ annual economic output and we are proud to be a region which is feeding, powering and building communities.

The Isaac region was built on the back of the mining industry and the Isaac economy is largely driven by the resources sector which generates 13,080 jobs and a \$357.271 million agricultural industry output.⁴

IRC SUBMISSION

1. DIRECT EMPLOYMENT REQUIREMENTS

The Mineral and Energy Resources and Other Legislation Amendment Bill 2020 (Bill) was introduced into the Legislative Assembly and referred to the State Development, Natural Resources and Agricultural Industry Development Committee on 4 February 2020. Eighty submissions were received and the committee held public hearings in Brisbane and Moranbah on 3 March 2020 as well as visiting Broadmeadow Mine near Moranbah to experience the underground mining environment and discuss safety and health in the resources industry with those at the site. In consulting on the proposed changes, the Department of Natural Resources, Mines and Energy consulted with key industry and community groups.

¹ <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=173&id=4194 - Submission 7>

² QLD Government Statisticians Office QGSO, Bowen Basin population report, 2021 <https://www.qgso.qld.gov.au/statistics/theme/population/non-resident-population-queensland-resource-regions/bowen-galilee-basins>

³ REMPLAN: <https://app.remplan.com.au/isaac/economy>

⁴ REMPLAN: <https://app.remplan.com.au/isaac/economy>

The principal policy objectives of the Bill related to three Queensland Government priorities including to strengthen the safety culture in the resources sector through the introduction of industrial manslaughter offence provisions and requiring that persons appointed to critical safety statutory roles for coal mining operations must be an employee of the coal mine operator. This clarification amended the absence of a definition of a prescribed person who may be appointed including a contractor or service provider to the safety critical roles.

During the course of the consultations, briefings and hearings, many raised issues with contracted roles at coal mines being less willing to raise occupational health and safety concerns and jeopardising their ongoing employment at the mine. It is important to note that these contracted roles may refer to those engaged as a 'labour hire worker' or 'contractor' or as an employee of a 'contractor'. Collectively they are all referred to as 'contractors', a term that is not defined by either of the mining safety acts.

At the committee's public briefing, Mr Robert Djukic, Chief Operating Officer, Resources Safety and Health, Department of Natural Resources, Mines and Energy, when discussing the opinions raised about contracted statutory office holders during safety reset sessions that occurred at all Queensland mines and quarries, stated:

*In terms of a fear-of-reprisal reporting culture, these were more observations arising out of the safety reset sessions that occurred last year. I understand that fear of reprisal for raising safety concerns was repeatedly raised by participants in the safety resets as a concern.*⁵

This line of thinking was further supported by submitters who felt that the change would have a positive impact on the industry and could ensure that statutory office holders feel confident to make safety complaints, raise safety issues with a reduced fear of reprisal or impact on their employment.⁶

While some alluded to protections from adverse actions under s275AA of the Coal Mining Safety and Health Act, others questioned how many prosecutions have ever been laid under that section of the act⁷ and went so far as to say:

*It is without doubt that I can say that the right decisions about health and safety are made a lot more often by those who are directly employed.*⁸

At the time of the 2020 Bill being introduced, this same sentiment seemed to underpin the direct employment requirements as they were deemed necessary and critical as the Bill's own Explanatory Note stated:

*The amendments for statutory office holders are justified as they are critical for managing the risks to safety and health of workers.*⁹

These submissions of the 2020 Amendment Bill echo the findings of our own research and submission¹⁰ to the Inquiry into Coal Mining Industry Safety. While IRC recognises that there have been challenges for mine operators in implementing the direct employment requirements for coal mining statutory positions, this should not open the door for safety compromise. The statutory office holder's positions are one of criticality, important for the management of risks to the safety and health of coal mine workers, and therefore the requirements prescribed that persons appointed to critical statutory roles for coal mining operations must be an employee of the coal mine operator. This ensures that those persons can make safety complaints, raise

⁵ State Development, Natural Resources and Agricultural Industry Development Committee, Parliament of Queensland, *Public Briefing - Mineral and Energy Resources and Other Legislation Amendment Bill 2020* (Transcript, 17 February 2020) p. 3

⁶ Submission 42, p. 4

⁷ Submission 13, p. 3

⁸ Submission 13, p. 4

⁹ State Development, Natural Resources and Agricultural Industry Development Committee, Parliament of Queensland, *Mineral and Energy Resources and Other Legislation Amendment Bill 2020* (Explanatory Notes, 2020) p. 11

¹⁰ <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=173&id=4194 - Submission 7>

safety issues, or give help to an official in relation to a safety issue without fear of reprisal or impact on their employment.

IRC are cognizant of the difficulties in filling unplanned, short-term temporary absences or vacancies for critical and statutory positions however research, studies and surveys of coal mine employees consistently demonstrate that the casual nature of a 'contractor's' employment results in a reluctance to report/address safety issues due to fear of reprisal.

Further we would anticipate that any amendments to the Act will not inadvertently allow mine operators with joint projects in mining and exploration activities to exploit the exemption for direct employment of an SSE across both activities. Likewise, the exemptions for entities which employ at least 80 per cent of the workers at a coal mine, through their existence, should not encourage full-service contracts for whole-of-mine operations where the workforce are all engaged on temporary contracts.

2. RESOURCES

As a coal mining region facing a transformational change, we recognise the need to respond to changing supply and demand for fossil fuels and welcomed the Queensland Government's Resources Industry Development Plan action for rent deferral for new economy minerals projects. Queensland is home to many of the new economy minerals that the world needs to contribute to decarbonisation. The exploration of new and deeper reserves and deposits and the re-examination of traditional commodity locations will cement Queensland as a new economy minerals destination and requires the investment of significant funds from mining companies to support and encourage this industry. The rent deferral is a positive action that will allow proponents to direct investment to research and exploration however this concept must be further supported by mineral leases that are designed to encapsulate the intent of the Strong and Sustainable Resource Communities Act 2017.

As Queensland's largest resource council and a region built on the back of the mining industry and largely driven by the resources sector we know all too well the impacts of mining leases on local communities. One of Isaac's communities is a victim of early mining developments that had no social licence or accountability to deliver a sustainable community future and it now faces an uncertain future.

IRC advocated for the introduction of the Strong and Sustainable Resource Communities legislation and continues to advocate all levels of government for practical place-based plans to address the needs of our communities now and in the future.

It is imperative that new economy mineral leases are considered in the context of ensuring the intent of the SSRC Act is maintained with the social impact assessment processes remaining a key component of early engagement with proponents to secure commitments to communities. This will ensure that social and environmental impacts benefits of mining will be assured.

To actively plan for the sustainable futures of our resource communities while developing industry opportunities to ensure the longevity of our mining regions is the blueprint for embracing the transformational change we are all facing.

This will ensure that the standards of resource operators are managed and impacts from the resource sector on communities who host them, are mitigated, opportunities are maximised and there is a net benefit for the communities.

This will require the State Government to invest in adequately resourcing State Regulators of major resource and renewable projects (including the Office of the Coordinator General, Department of Environment and Science and Department of Resources) to enable both upfront education and assessment processes, and understanding of social impacts vital for achieving optimum outcomes for industry and communities in the facilitation of projects by:

- Delivery of improved education and understanding of current legislation, standards, principles and guidelines administered by state agencies.
- Compliance and monitoring by State Government Agencies on delivery of major resource and renewable project commitments, conditions, and improved engagement with community to satisfy conditioning and project commitment deliverables.
- Improved engagement standards on mining lease permit processes outside of Environmental Impact Statement (EIS) assessment criteria are captured and transparently communicated to communities hosting these projects.

This will:

- Ensure that the onus on Councils in educating proponents on appropriate standards and responses to road infrastructure, water, waste and social impacts is removed;
- Achieve consistent outcomes across various localised impacts on land use, socio-economic outcomes, natural resources and infrastructure – depending on legislative head of power and assessing agency of the project;
- Hold proponents accountable to their social commitments made during EIS processes prior to commencement of the SSRC Act;
- Increase regional understanding by assessing authorities when assessing and deciding projects;
- Place an emphasis on quality engagement prior to and during the assessment process by industry and assessing agencies to allow for quality input by local government in the formulation of conditions and baseline acceptable standard;
- Remove the burden on Councils who often carry the bag of community discontent on matters subject to state approval and regulation; due to an absence of regulation and enforcement of off-site impacts such as dust impacts, traffic and infrastructure management and social performance;
- Govern end-of-life processes and impacts on local communities;
- Deliver upfront education on assessment processes and understanding of social impacts, which is vital for achieving optimal outcomes and delivering on the intent of the ESG intents of the QRIDP; and
- There is an immediate need for investment by the State in upfront education on assessment processes and understanding of social impacts, which is vital for achieving optimal outcomes and delivering on the intent of the ESG intents of the QRIDP; and
- Allow the State to directly assist projects under historic legislation and in accordance with historic benchmarks that no longer meet modern-day society's expectations in social or environmental sustainability, both in their ongoing operations and when projects reach their end of life.

CONCLUSION

IRC acknowledges the difficulties in filling unplanned, short-term temporary absences or vacancies for critical and statutory positions and welcomes the Queensland Government's Resources Industry Development Plan action for rent deferral for new economy minerals projects.

The Isaac experience suggests that contract/labour hire in the mining industry affects not only the workplace for which they are engaged, but also the local communities and rent deferral action must be further supported by mineral leases that are designed to encapsulate the intent of the Strong and Sustainable Resource Communities Act 2017.

Key Points

- It is important to clarify that IRC is not opposed to contract or labour hire and recognises that it is sometimes the only viable workforce solution.
- This is evidence of extensive research and reporting on contract/labour hire employee's willingness to address safety issues due to fear of reprisal and the impact on the mining industry.
- The Mineral and Energy Resources and Other Legislation Amendment Bill 2020 labelled the need for direct employment requirements as justified and critical.
- New economy mineral leases must maintain the intent of the SSRC Act with social impact assessment processes remaining a key component of early engagement with proponents to secure commitments to communities to ensure social and environmental benefits of mining will be assured.
- IRC calls on the State Government to invest in adequately resourcing State Regulators of major resource and renewable projects (including the Office of the Coordinator General, Department of Environment and Science and Department of Resources) to enable both upfront education and assessment processes, and understanding of social impacts vital for achieving optimum outcomes for industry and communities in the facilitation of resource, renewable and clean energy projects.

CLOSING COMMENTS

Isaac Regional Council thanks the Queensland Government for this opportunity to provide feedback on the *Coal Mining Industry Safety* inquiry. Should the Committee have any questions or require further information on content contained within this response, please do not hesitate to contact Isaac Regional Council's Advocacy and External Affairs Unit on 1300 ISAACS or email records@isaac.qld.gov.au.

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Chief Executive Officer

21 October 2022

CONTACT US

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