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EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE

Members present:

Mrs LM Linard MP (Chair)
Mr N Dametto MP
Mr MP Healy MP
Mr BM Saunders MP
Mrs SM Wilson MP

Staff present:

Ms K McGuckin (Acting Committee Secretary)

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

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 19 APRIL 2018

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The committee met at 2.33 pm.

CHAIR: Good afternoon. 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. I am the chair of the committee and the member for Nudgee. The other members present here today are Mr Michael Healy, the member for Cairns; Mrs Simone Wilson, the member for Pumicestone; Mr Bruce Saunders, the member for Maryborough; and Mr Mick Dametto, the member for Hinchinbrook. Mrs Jann Stuckey, the member for Currumbin and deputy chair, is unable to attend today.

On 20 March 2018 the Hon. Dr Anthony Lynham, the 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. Only the committee and invited witnesses may participate in the proceedings. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee. The proceedings are being recorded by Hansard. Witnesses will be provided with a transcript after today's proceedings. To assist with clarity, could you please identify yourselves when you first speak and speak clearly and at a reasonable pace.

I ask everyone to turn mobiles off or to silent mode. The purpose of today's hearing is to assist the committee with its examination of this bill. The program for today has been published on the committee's web page and there are hard copies available from committee staff.

HANSFORD, Mr Shane, Acting Manager, Health and Safety Policy, Queensland Resources Council

STANTON, Mr Neville, Principal Operator, Training, Anglo American

CHAIR: Firstly, I thank the Queensland Resources Council for your written submission. Thank you for being here today. I will give you the opportunity to make a brief opening statement in regard to the bill and then we can open for questions.

Mr Hansford: Yes, I would like to make an opening statement. Neville has very kindly offered to be here to assist us in any technical issues in terms of the mining operation and maybe some of the practical aspects of the implementation of the legislation. Given that I do not have an operational mining background, I thought that, rather than taking those more technical questions on notice, hopefully, Neville will be able to step up and assist the committee with those sorts of questions.

CHAIR: Thank you.

Mr Hansford: I would like to thank the committee for asking the QRC to appear today to speak on behalf of our members. Hopefully, yesterday's and today's mine site visits have answered some of your questions in the technical area. As I said, I suspect there might be some more to come in that arena.

The QRC is the peak representative organisation for Queensland resource sector companies. Our 238-strong membership encompasses minerals and energy exploration, production and processing companies and associated service companies. Our submission reflects the input of our membership. The QRC provided a detailed written response to the proposals in the bill when it was first tabled in 2017. For some of them, we have been providing similar comments since 2013. In light of some of the changes that have been made in the 2018 bill, we have also updated our 2017 response. I would like to say that the QRC supports the majority of the initiatives in the bill.

While the matter before the committee is the 2018 bill, I seek your indulgence to talk a little bit about the history behind some of these issues as they go towards explaining our members' positions on those things to which we do not agree. Do I have your leave for that?

CHAIR: Yes.

Mr Hansford: Other stakeholders will doubtless have a similar story, if not necessarily the same position on the same proposals. Some of these issues hark back to the *Queensland's mine safety framework consultation regulatory impact statement*, which was released in 2013, and some others surfaced more recently. As you would be aware, the 2013 RIS is certainly germane to the issue, because it is the basis for the decision RIS that now accompanies this bill.

Even that 2013 RIS was not the real start. The start was in a COAG commitment made a number of years before that—back when Julia Gillard was the federal minister for industrial relations. At that time there was a commitment to harmonise the work health and safety legislation across the country. Several jurisdictions have still not adopted the model act that was developed through that process but that, of course, was where Queensland's Work Health and Safety Act 2011 came from.

A considerable way through the reform process, Queensland decided that it would not harmonise the resource safety legislation but would instead seek a greater level of consistency between the mining safety framework of Queensland and that of the other major mining jurisdictions and a greater level of consistency with the model act. The stated intention was to adopt a consistent approach where doing so provided a benefit to mining safety and health. The QRC has always supported harmonising the relevant legislative frameworks to achieve a best practice outcome because of the benefits that it would bring to our members. Many of our member companies operate under both mining and non-mining safety frameworks and they deal with a significant regulatory burden as a result.

However, the QRC does not support the approach of picking certain aspects of that Work Health and Safety Act without any real justification and without gaining any of the benefits that wider legislative harmonisation would have achieved. There may have been some room for greater compromise if there were benefits in reducing that regulatory burden, but some of what we are now faced with will increase that burden. They are the parts that the QRC does not support. If an increased burden has a strong justification in improved safety outcome then fine. If not then the industry does not support it.

The industry heard virtually nothing more of those 2013 RIS proposals until about this time last year when the then DNRM called together a small number of representatives from operators and unions to see if there were proposals that both sectors could support. Representatives of the QRC went through that process and they advised at that time that we did not support some of the issues, as did the union. However, the things that we are now objecting to were included.

As I stressed, there are a number of proposals in the bill that the QRC supports, so I would not mind setting out our position on each of those proposals up-front just so that we know where we are starting from. In terms of ventilation officer competencies, the QRC has not supported additional statutory positions and certification requirements unless a clear case is made that they will result in improvements to safety and health. Because of the additional focus on ventilation to achieve an acceptable level of risk from exposure to respirable mine dust, the QRC agrees that the case is made for the VO competencies and, therefore, supports this proposal in the bill. When we responded to the 2017 bill we also supported the proposed transition period for the new requirements. However, we note that the tripartite Coal Mining Safety and Health Advisory Committee unanimously supported limiting that transition to three years. On that basis, we support that additional change.

Regarding inspector powers for workplace entry, the QRC supports this proposal. If we are to understand serious incidents and learn from them and to effectively prosecute those who commit serious breaches of the legislation, investigators need reasonable access to all relevant material. The QRC has always been of the understanding that the existing powers of entry under the legislation covered premises off mine sites but only insofar as the work at that place affects the safe operations at a mine. When that 2017 bill was tabled we raised the potential for the proposal to cause jurisdictional uncertainty for those businesses that would generally be regulated under the Work Health and Safety Act. However, we note the DRME's assurance, in responding to our comments, that this is not the case. Given that these businesses are not our members, we are willing to take that assurance at face value.

In regard to manufacturer, supplier, designer and importer notification requirements, the QRC supports this proposal in the bill. It is one of the aspects of the harmonised safety legislation that has always been indicated by the industry, but the framework is worth exploring more broadly for its possible application to mining safety.

In terms of contractor and service provider management, the QRC is not opposed to this proposal, but when the 2017 bill was tabled we suggested that the effectiveness of the legislative requirements needed further review through the advisory committee process. That review occurred, albeit in a somewhat rushed fashion and at the committee's own initiative. The outcome was a unanimous position that the bill would benefit from a definition of the terms 'contractor' and 'service provider'. However, no such definitions have been drafted into the 2018 bill. The QRC notes that the term 'service provider' is defined in clause 12 of the bill as a person who provides a service, but we are unsure whether that clarifies the issue.

Our understanding is that the advisory committee wanted to ensure that the appropriate range of people was captured by these obligations. From the perspective of not imposing an unreasonable regulatory burden, the QRC would not want to see those obligations applied to service providers and contractors who do not undertake activities that would affect the safety and health of coalmine workers. We suggest that defining these terms would help ensure that.

In regard to the membership of advisory committees and the Board of Examiners, proposals to increase the number of inspectorate representatives to three and for appointing chief inspectors by reference to the position are supported. The 2017 bill also proposed to remove the requirement that advisory committee members have operational mining experience. The justification for that change in the explanatory notes was given as addressing difficulties in finding suitable experienced worker representatives for the Mining Safety and Health Advisory Committee. The proposal was extended to the coal advisory committee for the sake of consistency. That is what was in the explanatory notes.

However, when QRC members considered this proposal, some of them highlighted the fact that potentially expanding the experience of the committee could be of benefit—as in both committees. They raised the example, particularly for the coal advisory committee, that they may have benefited from some occupational health experience when they were dealing with coal workers' pneumoconiosis. While the QRC believes that the principle of ensuring that the advisory committees have enough practical experience is important, we did support that proposal in principle, provided the committees would retain adequate practical mining experience and remain effective. Now this proposal has actually been dropped from the bill. We do wonder whether the issue regarding the mining advisory committee has been addressed and suggest that the question of broader experience is still relevant.

In regard to the safety and health management system requirements proposal, the QRC does support this proposal but we also note that the affected companies are not QRC members. In regard to the register to be kept by the Board of Examiners, the proposal is supported in principle, provided its application is consistent with privacy principles. I think the availability of such a register will simplify the process of confirming that individuals have the required competencies for their roles.

In regard to health surveillance, the proposed amendments for the coal act are fully supported, as they are consistent with the recommendations of the review of the Coal Mine Workers' Health Scheme undertaken by the Monash University and the University of Illinois at Chicago. That is the review that has come to be known more generally as the Monash review. The proposed amendments to the mining and quarry safety legislation are supported in principle, subject to further discussion about the regulatory amendments possibly increasing the regulatory burden in the metalliferous mining sector.

In regard to the proposal for notification of diseases, the proposed amendments are supported. However, the QRC believes that further amendment is required to ensure that site senior executives are also made aware of any serious health issues that are likely to pose a risk at the mine. This is an issue that the QRC has raised several times in the past. We believe that this could be one of the factors that contributed to the reidentification of coal workers' pneumoconiosis. One of the things identified by the Monash review was the small number of cases that were identified by the medical practitioners that were not acted upon appropriately. If that information had gone to the SSE, that would have been much less likely to occur.

The QRC also believes that further legislative amendment is required to fully disentangle the issue of fitness for work from health surveillance and to allow fitness for work to be managed by the SSE, just like any other hazard at a mine. This was actually proposed in the 2013 RIS but has stalled. The QRC understands that amendments were drafted at that time but have never been progressed. We encourage the minister to also release these amendments for stakeholder comment because we believe they are likely to be consistent with the Monash review recommendations.

Regarding the release of information, proposed amendments to improve the ability of the inspectorate to disseminate information about accidents, high-potential incidents and other matters to industry are supported in principle, provided adequate protection to personal information is

provided. Again, getting information out to the industry about the cause of serious incidents is very important. The QRC supports in principle the proposal that the existing power for the chief executive to make a public statement about the cancellation of certificates of competency be expanded to cover the cancellation of an SSE notice. The QRC does not, however, support the proposal to allow the chief executive to cancel a statutory ticket.

In regard to penalties, the QRC does not support the proposed increase in penalties, as there is no evidence that the courts have felt hampered by the current penalties being too low. It is one of those areas where alignment with the Work Health and Safety Act is being made but it does not actually address any deficiency in the current legislative approach. If it does proceed, the QRC believes there should also be ongoing alignment in the value of a penalty unit under the two pieces of legislation. Currently, the penalty unit under the resources legislation is 26 per cent higher than the Work Health and Safety Act.

CHAIR: Shane, can I stop you there if you do not mind. You are probably almost finished but I note that the information you are giving is contained in the submission. I am just thinking of the time and I want to make sure we leave time for questions. Thank you very much for that opening statement and some additional clarification you have provided. I will kick off with some questions and then move to my colleagues. Your submission was quite detailed, and I appreciate that it also differentiated between the 2017 and 2018 bills so I thank you for that. I have a few points of clarification regarding your submission. In regard to the competency of ventilation officers, I note the changed position of QRC to support that in the bill but you mentioned that the seven days notification should instead be 14 days. A lot could go wrong in 14 days, couldn't it? I am wondering what you are thinking and why seven days is not achievable.

Mr Hansford: Thank you for the question. This is one of the issues that was discussed at the advisory committee and I was going to touch on that. They did discuss that and teased out that the issue is not so much about the length of that period but understanding what the obligations are in terms of whether or not a person is available to do something. A number of issues that can be dealt with do not actually need a person to attend the mine; it is giving advice based on their experience and qualifications. What was being thought about was defining what being in attendance at a mine actually means. We suggest also that that might be considered as an improvement to the bill. If we could take that approach rather than worry about whether it is seven days or 14 days, but just define exactly what the issue is—that is, that the person is uncontactable to provide the service that they would normally provide to the mine.

CHAIR: In large mines of the nature we have seen in the last couple of days, wouldn't there be more than one person on staff with that competency?

Mr Hansford: Generally speaking, yes, we would expect there to be at least two, I would think. Is that right, Neville?

Mr Stanton: Four.

Mr Hansford: You have four. This is a position that does exist currently.

CHAIR: It is not really a sticking point; it is just some clarification required around the drafting of that and the intended meaning of the words in the legislation.

Mr Hansford: Yes.

CHAIR: Okay. I will move on and not waste time on that. I am interested in the comments around civil penalties. There was some part of your submission committed to that, understandably. I know I cut in on your introductory remarks and you were commenting on the difference in the penalty units under the Work Health and Safety Act and the penalty units proposed. I can see the point of the QRC in regard to the comments made by the minister that it is about harmonisation between the two acts, but I cannot help but think on the other side that we are dealing with an industry where a fine of \$10,000 does not have the same impact and perhaps effect to prevent inappropriate behaviour that it would in a different workplace. What are your comments about that—that, yes, we want harmonisation but we are not necessarily talking about like for like here?

Mr Hansford: I suppose my comments in regard to harmonisation were to highlight that what we are looking at here is not harmonisation but there are a few bits and pieces which are being selected. In relation to the penalties in a general sense for offences, that was picked to be harmonised but the civil penalties are a completely different model to what is proposed in the bill before this committee to what is in the Work Health and Safety Act. That proposal is effectively a system of administrative fines that are inappropriate in the context of some potentially serious concerns about mining safety and health.

I think our position would be that if you are looking at imposing a fine of that size as an administrative penalty then it must be a fairly serious breach and it should be considered for prosecution. I do not think we would support the concept that having high fines would be a deterrent to behaviour. I do not think there is any evidence for that in this industry—that having fines of that nature would achieve that outcome. I think we would far rather see other components of the compliance framework being used.

The Mines Inspectorate do other things than just going around and trying to prosecute people and fine them. They do an excellent job of also assisting the mines, interpreting the legislation and understanding their legislative obligations. They will have a series of meetings if they believe there is a compliance issue. They will meet with the mine management and try to sort that out rather than just go straight to a prosecutorial approach. We believe this kind of a fine is sending the wrong signal. The difference with what is in the Work Health and Safety Act is that that act defines a range of administrative noncompliances as being civil penalty provisions for which proceedings can be taken in a Magistrates Court under the rules of evidence and procedure for civil proceedings, which is quite different to what is proposed as an administrative fine given by the department.

CHAIR: I will continue on that line of thinking before I move to the member for Hinchinbrook. When the department spoke to us, the comment that was made was that prosecution takes time and if there is a significant breach we want to ensure that is rectified immediately, certainly in regard to the safety of workers. If prosecution can be quite drawn out and takes a lot of time, it was proposed that such a penalty be immediate.

In your submission you talk about a high penalty—and I take that point—and also the proposal to suspend or cancel certificates of competency. Your proposal was to extend that out and provide additional opportunities. I take your point in regard to civil penalties around double jeopardy—and those are things that the committee will need to look at—but it does still end up being a minimum of six weeks, if we follow the proposed process you had around suspension or cancellation of certificates. I still think that is quite a protracted period of time if there is a significant concern or breach, that workers are continuing to be in a position where no immediate redress occurs for up to six weeks. I want to understand your comments in regard to those issues.

Mr Hansford: I am sorry. I do not quite understand the question. What is the part about the six weeks?

CHAIR: In your submission you talk in regard to suspension or cancellation of certificates of competency. You feel there should be additional opportunities for up to six weeks before any suspension happens. You give a notification and they can ask for an extension to provide additional information, so you have a six-week window there. I think both that issue and civil penalties are trying to get to a more immediate response and action when there is a significant concern.

Mr Hansford: I think the only answer to that is, yes, we would want to make sure there was natural justice being applied in all cases, particularly in terms of the suspension of a certificate, which we did support. We do not support the cancellation of a ticket without that being directed to the magistrate to make a decision of that nature. As long as natural justice is being afforded and the process provides that then yes. If you are talking about an SSE, who is the most senior safety person at the mine, and suspending their certificate for a period of time, that is a pretty serious step for somebody who is very senior and in a very important position. I do not think it is something that should be taken lightly, but if it is a different way of going about things rather than just looking at prosecution in certain circumstances then, yes, we are certainly willing to consider that.

CHAIR: Thank you.

Mr DAMETTO: Shane, thank you very much for attending. The bill talks about services and goods provided by businesses and companies to the mining industry. You mentioned that earlier. The bill talks about more responsibility of those companies, businesses and service providers talking to the mining industry and letting people know about faulty equipment and things like that. You said you would like to see a bit more clarification about the obligations of companies, businesses and services. Could you clarify that a bit more?

Mr Hansford: I think there are a couple of issues in regard to the requirement for companies, service providers or people who are providing equipment to mine sites to advise of any defects that they become aware of. We 100 per cent fully support that. Anything that has to do with disseminating important information to industry as quickly as possible and as factually as possible is fully supported, because one of the most important things we can do in health and safety is to learn from other things that have happened and make sure that good information is available. I can assure you that the industry is hungry for it. One of the things I do is help conduct SSE forums, where we get together

and share any information that is going on in their own sites. Health and safety is very openly shared amongst all of the resource companies. Was the other part of your question about contractor and service provider provisions?

Mr DAMETTO: Yes.

Mr Hansford: Again, this was discussed at the advisory committee, and the feeling was that the legislation would benefit from a definition for both of those things. That was a unanimous position and, again, there has been no drafting of those provisions—

Mr DAMETTO: So a bit more clarification around the definition of what service is provided to the mining industry would fall under that framework.

Mr Hansford: From the QRC's perspective, we would be concerned about the regulatory burden. If this requirement was to fall on companies' service providers that are not doing something that would affect health and safety at the mine, we would argue that there is very little point in going through a bureaucratic process of exchanging safety systems et cetera. I know that is not what was intended, but currently it is not clear within the bill.

Mr DAMETTO: There are multiple different services that are provided in the mining industry. Sometimes there are consulting firms or engineering firms that come along, there are better processes and there are also people who come along to maintain gear boxes. That service to the mining industry is quite broad.

Mr Hansford: Yes.

Mr DAMETTO: I understand what you are saying there.

Mr HEALY: In your submission to the committee the QRC noted that the bill is substantially the same as the 2017 bill. What consultation have you had with your members in relation to these particular amendments?

Mr Hansford: It is fairly good now. I must admit when the 2017 bill was tabled we did not get as much opportunity. The issue seemed to disappear from the radar and then it was suddenly back on. I know that Ian Macfarlane, our chief executive, made some comments on that in regard to the 2017 bill. Since then we have had a better opportunity to talk to our members about those issues. I am certainly comfortable that they know what is proposed and that our submission reflects a consensus view.

Mrs WILSON: You have asked the question I was going to ask earlier. I would just like to thank you again, Shane, for being here today.

Mr SAUNDERS: Shane, in basic terms you are the union representing the miners and the industry people?

Mr Hansford: Am I a representative of the companies?

Mr SAUNDERS: Yes.

Mr Hansford: Broadly, yes, of our membership.

Mr SAUNDERS: In layman's terms, your organisation is like a union looking after—

Mr Hansford: It is certainly a representative organisation, yes.

Mr SAUNDERS: So it is a union; we will call it that. Your submission is against penalties. The CFMEU, with which I agree—I will put that on the record now—is looking for a 12-month penalty. Why should there not be a custodial sentence? The only way we are going to get change, better legislation and better safety at the workplace, I believe, is through custodial sentences as that will force the manager—and, as I have said today, it will make sure there is better middle management. We know that the problems in a lot of mines are coming from middle management. They are not following the company's or the boss's orders in a lot of cases because it is profit driven or it is driven by bonuses, which we heard about yesterday. Why are you vehemently opposed to someone doing something wrong and not getting a custodial sentence? If someone is killed on a road, someone will be charged and get a custodial sentence. Why is it different? Why can your members, through lack of management and lack of policies, kill someone and get only a \$10,000 fine?

Mr Hansford: I do not fully understand the question but I am going to make some assumptions. I think we are talking about the industrial manslaughter provisions?

Mr SAUNDERS: Yes, but even in here \$10,000, let us be honest, is chickenfeed. It does not even cover a morning tea.

Mr Hansford: I would say categorically that the QRC and any QRC member company would agree that if somebody has committed an offence that would fit the definition of manslaughter they would be charged with manslaughter. A crime is a crime and I cannot see any company saying that the law should not be enforced. What the minister mentioned when he tabled this bill was that he would be undertaking further consultation on industrial manslaughter.

CHAIR: That is right. It is not included in this bill.

Mr Hansford: Our understanding is that a discussion paper on that issue is being prepared by the department and will be released in the fairly near future, but I have to admit I did not prepare today—

CHAIR: No, it is not relevant—

Mr Hansford:—to talk about that particular issue because we are waiting to see what is in the discussion paper. We will then comment on that. If that progresses to something that is a bill and goes to a parliamentary committee, we will then comment on that.

Mr SAUNDERS: Chair, I think it is relevant, because the CFMEU have called for a 12-month penalty and they said they would not back a 12-month penalty.

CHAIR: I said that industrial manslaughter is not relevant. I did not say that civil penalties are not.

Mr SAUNDERS: The CFMEU have put in a submission, which I totally agree with, that if there is an incident on the mine site and it has been caused through neglect and is profit driven then someone should pay the penalty. If we increase these penalties, it may ensure that management, including middle management, follows through with company policy.

Mr Hansford: I do not know. That is a hypothetical. It may. What the QRC and our members are saying is that we would like to see evidence based regulation and legislation put in place. If there is evidence that such a thing would drive a change in behaviour and would in some way improve the health and safety record of our industry, we would certainly consider it. Having said that, and as the committee has seen over the last couple of days, I would say that it can be quite a hazardous environment. The safety record of this industry is second to none. It is superior to the construction industry and a number of other industries in this country and ranks with or above the safety record of other mining jurisdictions around the world. It suggests that our legislation is doing a pretty good job, our industry is doing a pretty good job, our workers are doing a good job, the inspectorate is doing a good job and we are working together towards the same ends.

Mrs WILSON: I want to confirm that the Queensland Resources Council is a not-for-profit peak industry association representing the commercial developers of Queensland minerals and energy resources. Would that be a better way to describe—

Mr Hansford: I wish I had put that in my introductory remarks.

CHAIR: I am interested in the QRC's position on professional development. I would think professional development is always a good thing. There is obviously a reason you have opposed it and I would love some clarification. What is proposed is to clarify the functions of the Board of Examiners so that they would not be limited to only assessing competencies but would extend to professional development. Can you explain why QRC does not support that?

Mr Hansford: I think the issue for the QRC is that it is not about whether or not professional people should continue to update and stay abreast of changes within their field, because of course they should. Most professionals do. Engineers et cetera have these requirements. I think our main concern was whether or not the Board of Examiners would be adequately resourced and the appropriate body to do that. We raise that as an issue. Again, I think the Board of Examiners more broadly is supported in the role that it undertakes to make sure that we have competent people on our mine sites, and we are collecting some evidence about that right now. I have a survey out of the industry more broadly to see what they think about what might be able to be done around the Board of Examiners and those certificates of competency to make it even better. We want to help improve the situation. We are a bit concerned that if a CPD program was sheeted home just to the Board of Examiners in its current form it may be a lot of extra work and it may not be adequately resourced to do that. That is our main concern.

CHAIR: Would it be good work, though? I take your point that it could be a lot of extra work and they might not be resourced to do it, but is it your view that that would be good work? I am trying to get the feel of the QRC. Professional development is a good thing. Is there another place that you think it would be better delivered? I think your submission talked about increasing or changing the

skill mix to have an academic perhaps from university who is well versed in assessing. Is it your view that you think it is good but you need to broaden your view of what the Board of Examiners would be?

Mr Hansford: As I say, I think we are trying to collect evidence around that at the moment. What we are talking about here is a head of power for certain things to happen. There are going to be regulations set so it rolls out under that. I think we need to have a close look at what is proposed in the subordinate legislation to get a really good handle on what it means and what it means for our members and whether or not it could possibly be improved.

CHAIR: My feeling that it is not totally answered in your submission is because you have not totally answered it for yourself yet. You are still gathering information.

Mr Hansford: Yes. From recollection—and I will admit that submission was a little while ago—I think that was the main thrust of our concerns. If it is going to be done, it should be sustainable and affordable, and it should not be an unreasonable regulatory burden.

CHAIR: Thank you very much. There being no further questions, thank you, Shane, for clarifying your submission. It was already fairly detailed so I think you made your job easy for yourself. Neville, you got out of it easy: you did not have any technical questions come your way. On behalf of the committee, I thank you both for appearing today. You are welcome to stay and view the rest of the committee hearing.

SLEIGH, Mr John, Vice-President, Northern Region, Mine Managers Association of Australia

TAYLOR, Mr Gavin, President, Mine Managers Association of Australia

WATTS, Ms Elizabeth, Committee Member, Northern Region, Mine Managers Association of Australia

CHAIR: Good afternoon. Thank you for making the time to come before the committee today and thank you for your submission. Members have read that submission and may have additional questions for you today. I offer you the opportunity to make a brief opening statement and then we will open for questions.

Mr Taylor: On behalf of the Mine Managers Association, we wish to thank you and the panel for the opportunity to attend today and present. We have provided bios, so I do not intend to go into our backgrounds. Our association represents 420 members, 105 of whom reside in Queensland. Our membership, whilst mainly directed to practising mine managers, also includes a diverse range of senior management in the mining industry such as chairmen and directors of companies, mines inspectors, academics, consultants and senior technical managers.

Moving to the proposed amendments, we are happy to support all of the recommendations. However, we would, in a number of the proposed amendments, recommend that with some minor additional amendments the effect of those would ameliorate the overall impact on the safety and health of the industry.

In relation to ventilation officer competencies, we are fully supportive of the requirement for ventilation officers to undertake a practical examination. Whilst the courses required as a prerequisite provide excellent theoretical knowledge, too often there have been instances of individuals not being able to translate their theoretical knowledge into practical application. The introduction of a practical examination will provide comfort that those charged with the management of potentially critical hazards have both the theoretical and the practical skills to manage those hazards.

In relation to inspector powers including workplace entry, given that the right of entry to the inspector is limited to the objects of the acts and the functions of a mines inspector, we fully support this amendment. Too often mining equipment repair shops have been less than diligent in the repair and overhaul of mining equipment, and that is particularly concerning where flame-proof and intrinsically safe electrical equipment is concerned or flame-proof diesel equipment. It is critical that appropriately trained inspectors can enter such premises and determine whether appropriate standards of overhaul and repair have been strictly complied with.

The amendment relating to manufacturing, supply, designer and importer notification requirements is fully supported. It is vital that operators are fully aware of any hazards or defects that may be present in their equipment or substances so that risk mitigation procedures can be deployed at the earliest opportunity.

In relation to contractor and service provider management, in our opinion it is concerning that it has required another amendment to make it incontrovertibly clear that there will be a single safety and health management plan on a mine site. The example utilised in the explanatory notes to explain how a single safety and health management system can be achieved has been around for some time and it is regretful that it had to be utilised again.

In relation to advisory committees, whilst we understand the requirement to introduce a ministerial discretionary power for the Mines and Quarries Safety and Health Committee, we are of the opinion that this should never apply to the coal committee. In our opinion, it is critical that all members be experienced in coalmining operations. With respect, we disagree with the previous select committee's finding that as the chief inspector is a member of the CMSHAC that satisfies the requirement of having a first-class certificate holder and the only one on the committee. We reiterate and recommend that at least one of the three operator representatives be a practising SSE who additionally holds a mine manager's certificate or an underground mine manager. With all due respect to those Brisbane based personnel, their understanding of what is actually occurring at the coalface is at times divorced from reality.

Further, any accepted changes from committee recommendations will eventually have to be implemented at the coalface and a practical understanding of what, if any, difficulties implementation may present is better addressed prior to enactment. We would also respectfully point out that the

current Chief Inspector of Metalliferous Mines and Quarries does not hold a first-class certificate and commend the previous committee for recommending that any individual holding that position must be the holder of an appropriate first-class certificate.

In relation to Board of Examiners membership, we are of the opinion that only those holding statutory qualifications should be members of the board. This is no different to any other body directing professional competence. It should be noted that at this time that would not include the SSE qualification, which is limited to legislative knowledge only and does not include safety and health matters or management of critical hazards. It is also important that an academic with current knowledge of course content at various institutes of higher learning is appointed, so that an assessment can be made on the prerequisite knowledge of candidates. A non-graduate candidate's theoretical knowledge is already known, as the units of competency requirements are set by the board. It would be ideal if the academic also held statutory qualification. However, if that is not possible, a ministerial discretion may be required.

As an aside, we again raise our general concerns regarding the standard of qualifications, as detailed in our written submission. We will not elaborate at this time as they are outside the scope of this committee, but we earnestly request an urgent address of the matters canvassed in the 2013 regulatory impact statement which we believe are also supported by the CFMEU and the inspectorate.

In terms of the safety and health management system requirements, we support the introduction of a safety and health management requirement for opal and gemstone mines with five to 10 workers. We are totally supportive of the amendment relating to the Board of Examiners register. It will greatly assist operators in ensuring job applicants are duly qualified for the position applied for. In terms of health surveillance, we recognise the need for a health assessment regime similar to that which prevails in the Coal Mining Safety and Health Act for the Mining and Quarrying Safety and Health Act and fully support that amendment. Similarly, we support the requirement for persons other than the site senior executive who become aware of a prescribed disease to be obligated to notify the department.

In terms of the release of information, this has been a long time coming and is fully supported. It is critical that information relating to any potential hazard be released at the first available juncture, without fear of legal action if some error may occur and that information released. That error can be addressed later but the potential hazards cannot. In relation to penalties, whilst we believe that the penalties are excessive, it is difficult to argue the case when the proposed amendment aligns with penalty provisions of the general workplace.

In terms of officer obligations, given our concerns as to non-qualified persons exercising control over statutorily qualified individuals, we support this amendment and would go further and strengthen the already mandated requirement that non-qualified individuals cannot give technical direction to those who are statutorily qualified. Provision should also be made to protect individuals who report persons who have failed to comply with or ignore this requirement. The requirement for executive officers to ensure effective monitoring, auditing and review of safety and health monitoring at a board level is critical. That was identified in the paucity of such action contributing to the catastrophic events at Pike River.

As we have alluded to previously and as detailed in our written submission, our association has been committed to continuing professional development for many years and for the last 14 years has had a fully operational web based continuous professional development program in place. Our only reservation with respect to the introduction of a CPD as detailed before the previous committee is that the scheme and the attendant introduction of practising certificates in Queensland must be compatible with New South Wales. Any major variance may well have the unintended consequence of restricting the free movement of statutory officials between states and, given the paucity of qualified persons, that would severely limit operations at some mines. We would be more than happy, as we have done in New South Wales and New Zealand, to work with the Queensland Board of Examiners to outline the scheme and to elucidate the amendments we have made to ameliorate the scheme.

Finally, we fully support the proposed amendment regarding cancellation or suspension of certificates. Our association is committed to ensuring our members are competent and fully comply with the statutes. Any member who knowingly or wilfully breaches legislation will receive no support from our organisation. Our one caveat on that which is being proposed is that the alleged errant official should be judged firstly by a body of his peers—the Board of Examiners—and only on their recommendation would the CEO act. We also appreciate that the individual concerned still has the right to refer the matter to an external review through the Industrial Magistrates Court. There are other

concerns that we believe should be considered to ensure Queensland legislation retains its place as best practice and we would appreciate the opportunity to discuss those considerations at some stage. Again, thank you for the opportunity to attend and submit our considerations.

CHAIR: Thank you very much, Gavin, for your opening statement and for your submission. I will kick off with some questions and then throw over to my colleagues. Operating in a logical fashion as you did through your submission, the first question is about advisory committees. I was interested by your opening statement that you acknowledge and understand the potential requirement for the ministerial discretion which, of course, as we know has been removed. In regard to MSHAC, you acknowledge that it is a ministerial discretion although it has been removed from the bill, but it was overtly not removed from the explanatory notes. That might have confused you.

Mr Taylor: We recognised that because, particularly from the workers' perspective, a number of their union officials were not actually trained miners. A number of other people who were part of that committee did not have underground experience or open-cut experience. Therefore, we could understand why in that particular instance, to ensure that there was proper representation, people without actual experience could be brought onto that committee. That is totally different to the coal committee, because there are a number of people who could be on that.

CHAIR: Your differing opinion about it being potentially okay for the minister's discretion with MSHAC but not with CSMHAC was because of the skill mix that was there presently and not because of any other reason?

Mr Taylor: No. There are any number of people who are more than qualified to be on that committee.

CHAIR: Of course, that has been removed from the bill anyway, so neither his or her discretion—whoever is the minister at the time—will form a part of the bill as it goes forward. I am interested in the Board of Examiners membership. I mentioned to Shane from the Queensland Resources Council that their submission talked about an academic, but it was not their submission; it was your submission that I was referencing. There you go: you know I have read it now. I just had the two confused. I am interested in your statement about that and the skill mix. You also talk about having a concern that the industry itself is facing a challenge around insufficient statutory officials, particularly senior officials, to meet demand. Is there a broader training issue, in both the VET and the training sectors?

Mr Taylor: Yes, there is a huge training issue. One of the problems is that companies are not training people. There has been a gradual decline, particularly in Queensland, where people are being brought through the system, so much so that a lot of the recognised training organisations have gone through the door because people have not been going through. It is really difficult now in Queensland to find someone who can take you all the way through, although I am pleased to say that some of the organisations in Queensland have now brought on board recognised trainers to actually start to train people up again. Our concern is that in some instances it may be too little, too late, because we will then see, I guess, people crossing the border to try to bring people up from New South Wales, which would then denude their industry. Yes, there are a number of issues that have been around for a while.

One of the other problems was that, when we brought in the site senior executive position, for all the right reasons, that was the top job. If you were coming through the ranks and you were appointed to that position as a site senior executive and you did not have to have any qualification, why would you submit yourself to going through the very difficult process of achieving statutory certification if you were going to be appointed to the top job anyway? We had the ludicrous example at one stage where we had one individual, well known to me, who actually failed in his first attempt and a couple of months later was put into the position of site senior executive. Why would you go back and seek your ticket again? If you failed it, that would be a fairly embarrassing thing to happen. We have done some silly things, which has really not encouraged people to go for that certification in Queensland.

CHAIR: In your submission you state that 'SSE qualification only entails knowledge of the legislation and does not require technical knowledge of how to extract the commodity whilst controlling hazards and in an efficacious manner'.

Mr Taylor: That is correct.

CHAIR: We met an SSE today at a local mine and another yesterday. They certainly seemed to have very in-depth knowledge about all of those things, but that is not required?

Mr Taylor: Some do.

Ms Watts: But you do not have to. You could not have any background in mining and simply sit for a two-hour exam. It is mainly a memory test on the legislation, as it were.

CHAIR: But would anyone hire you?

Mr Taylor: Yes.

Mr Sleigh: Quite a number.

Mr Taylor: Without naming names, yes.

CHAIR: Thank you.

Ms Watts: To contrast that, I am from New South Wales, where the mine manager's ticket requires you to have a certain number of years experience in mining, you need to submit to a practical exam, you then need to submit to a legislation exam and then you need to sit in front of a board of examiners who fire questions at you to determine whether or not you are up to the job. It is a third party making the decision as to whether you are competent, as opposed to your employer going, 'Well, we need this person in the role.'

CHAIR: Pardon my ignorance given that this is not my background, but the mine manager would report to the SSE?

Mr Taylor: Correct.

CHAIR: That is a step down?

Mr Taylor: Yes. There is no mine manager anymore in open cut in Queensland. There is in New South Wales. With regard to an underground operation, there is the SSE and an underground mine manager. The underground mine manager under the legislation is supposedly to control and manage the mine and at times that does not happen, and that is a concern as well.

Mr DAMETTO: Gavin, John and Elizabeth, thank you very much for attending today. It is a pleasure to have you here. My question concerns the release of information. In your submission you basically say that there will be safeguards in place that protect people who want to share this information to make it safer at other mine sites to ensure that hazard or that incident does not happen again somewhere else where it could have been prevented. When we talk about the safeguards and who we are going to be safeguarding, I would like to hear your opinion on whistleblowers or people within that mine site who have been tied up where they could not share that information, whether they are from management or from the ground floor. At what stage would they be allowed to share that information? Would it be during the investigation process after the mine site inspector had been there or as the incident happened?

Mr Taylor: There are two things there and I am going to split them up, if you do not mind. The main thrust behind this one was that when a serious incident happened on a mine site it was reported through to the Mines Inspectorate. The ideal would be that the inspectorate would then release that as a safety alert to the whole of industry. The problem is that it goes then into the legal arena and once the lawyers get a hold of it then it necessarily slows up.

Mr DAMETTO: I have seen that in my experience. The cone of silence comes down.

Mr Taylor: Correct. It was really to protect everybody, because we had some instances in New South Wales where some information was released and all kinds of legal action was going to be taken by the company that had seen itself besmirched. Our concern was to get that information out there with regard to the hazards that may be applicable to the companies as quickly as possible so they could run a risk assessment or make an assessment of whether they had the same problem at their mine site, free of any threat of legal. That has now been enacted in New South Wales and hopefully it comes in here very quickly. With regard to whistleblowers, whistleblowers are already protected under legislation. If someone rings an inspector, he or she is protected by the Public Service Act.

Mr DAMETTO: Thank you very much for that.

Mr SAUNDERS: Good afternoon, Gavin. You said in your last statement that you have concerns about mine management. Can you please elaborate on that in terms of the management of mines? Yesterday we had a great discussion with mine management, but it seems to me and people I talk to in the industry—and I have a lot of friends who work in the industry—that the mine companies and the managers talk the talk but a lot of them do not walk the walk. Can you enlighten me about your statement?

Mr Taylor: The biggest concern our organisation has at the present stage—and I reiterate what I said earlier—is that when this legislation came in in 1999 some of us did not agree with the SSE position, although the consensus was that that was the way to go: to place someone there who would

have a legal obligation which was not there previously as a result of Moura. It was always said that, as far as an underground coal operation was concerned, there would be an underground mine manager who had a first-class certificate of competency, and it is enshrined in legislation that that individual would control and manage the mine.

What we have seen—not everywhere but certainly in the recent past—is that a lot of these underground mine managers have been sidelined and sat out onto the side as a compliance manager and are certainly not controlling and managing the mine. We had one instance in the not-too-distant past where one of our managers in this area was given technical direction, refused it and was dismissed from his post. The trouble is: because of the amount of money our people are on, you are not going to get it through the industrial relations court because you are making too much money. That is a concern for us—that is, we have people that are being directed by non-technical people.

Mr SAUNDERS: Have you come across any incidents? Did you say that you have 403 members?

Mr Taylor: Yes, 420.

Mr SAUNDERS: Have you come across any instances where the board of the company has intervened over the mine manager and been profit driven? Yesterday I was horrified to learn that some safety issues in a mine had not been addressed for between three and 12 months and the union and workers had gone to mine management and complained that these safety issues—and we are talking about life-and-death situations here—had not been addressed for between three and 12 months. That particular person got victimised then by mine management, so much so that they were banned from ever working again in this particular town through the mine. Have you ever seen where the mine manager from the board has been pushed like that, where there has been pressure brought to bear?

Mr Taylor: I certainly have not heard of any instances like that in the coal industry—not to that level. In general terms, most senior managers at companies at director level are found to be fairly good. They have a lot of fiduciary responsibilities and everything else. Where it kind of goes amiss sometimes is the linkage from that level to where this level comes in. You often find that what has been said there does not actually happen down the line.

Ms Watts: The majority of mine managers, though, take their responsibilities extremely seriously.

Mr Taylor: Yes, they do.

Ms Watts: They take their duties extremely seriously. I have not come across any mine manager in our association, in the one-on-one dealings that we have—and I know a lot of mine managers because they are my peers—flagrantly flaunting their responsibilities or abdicating their duties from a health and safety point of view. The worst scenario you could ever dream of as a manager is a telephone call to say that you have had a serious incident or accident at your mine site. It is your worst nightmare. Where there are thoughts or comments where people are not taking those responsibilities seriously, that is not my experience, and these guys have probably been doing it a lot longer than I have. It is not common that someone would simply thumb their nose at serious health and safety type issues.

Mr Taylor: In fairness, I think the statistics in this industry in Queensland—the coal industry, because that is where we are from—will stand as a testament to most other places in the world. Is it good enough? No, it is not because one accident is too many, so we need to drive it further. Our concern is that we do not take a retrograde step and go back the other way. There are a lot of reasons we have statutory certificates. There are a lot of reasons we have the legislation that we have now. Let us not go back that way. That is where we want to be. We want to strengthen it and, if anything, go further to make sure that we do not have any incidents.

Mr SAUNDERS: If I can pick your brain, given that you look after mine managers, I was disturbed yesterday. In your professional opinion, how would you rate that—that is, where a mine manager heard about a very serious safety issue and did not act on it for between three and 12 months? How would you feel, Liz? You said that they were your peers. How would you feel about that?

Mr Taylor: I am appalled that that would happen.

Mr SAUNDERS: I beg your pardon? You would report it?

Mr Taylor: No, I am appalled that that would happen.

Mr Sleigh: The system in the coal industry is probably a little bit more effective in terms of the whistleblower concepts that were referred to earlier. It would be highly unlikely that something serious would go unreported to an inspector if the manager had not done anything about it.

Ms Watts: Exactly.

Mr Sleigh: The provision is there in the mines and quarries legislation, but it is actually utilised in the coal legislation—or if it is not utilised then the people in the management position are well and truly aware that it is there.

Mr SAUNDERS: So you have heard of no-one being blackballed on-site through whistleblowing?

Mr Sleigh: I have only been in the industry 54 years, so—

Mr SAUNDERS: I was just asking.

Mr Sleigh: Not recently; not in that time.

Mr Taylor: Clearly there may have been. I cannot say right across-the-board, but I am not as old as him—but am just behind him! I do not know of anybody that has been. Certainly in the good old days—or the bad old days, whichever way you want to put it—a lot of that went on, but I have not heard of that for years. As I said, if you are an inspector in this state and someone makes a complaint to you, you are honour bound not to divulge that person's name. Otherwise you are in deep trouble.

Mr SAUNDERS: I might have to update you on a few things because I have some that I will tell you about.

Mr Taylor: That is fine, but we are talking clearly here on the coal industry and I should say that—

Mr Sleigh: Was this a coal industry issue?

Mr SAUNDERS: Yes. I am not sure whether you have heard it, but it is quite prevalent given what I have heard. I have spoken to a lot of state coal workers in the last three months or four months and they are still getting blackballed on safety issues. A very personal friend of mine cannot get re-employed anywhere because of his stance on safety issues on a site. He is working at half his capacity in another position now because he suddenly just gets rejected at every application he puts in. He is highly qualified for the position but keeps getting rejected, so it is happening.

Mr Taylor: I find that disgusting, but anyway.

Mr Sleigh: And surprising.

Mrs WILSON: Thank you all—Gavin, Elizabeth and John—for coming in. You mentioned earlier that you have 105 Queensland members; is that correct? Can you tell me therefore how many more mine managers are out there who are not members of the association? You can take that on notice.

Mr Taylor: I could be wrong, but I think every practising underground mine manager at the present stage in this state is a member and many SSEs are also members. How many are practising I would have to take on notice.

Mr Sleigh: There is something in the order of 50 open-cut mines and 10 underground mines. That is coalmines. Of the 50 open-cuts, probably 25 to 30 would have representatives on the association. Of the underground mines, all of them are well and truly represented by multiple people to make up that 105.

Mrs WILSON: Thank you so much.

Mr HEALY: Gavin, you made a comment earlier in relation to companies training and I noticed that your submission—and thank you for your submission; it is quite detailed—says that it has now reached a point and there is a dearth of recognised training organisations and that is actually having a detrimental impact. Can you elaborate a little bit more on that, because I think it is not just restricted to this industry? I think it happens in others. I am interested, firstly, in your perception of the training that existing companies are providing and then the ill effects of those RTOs.

Mr Taylor: There are two ways you can come through the ranks, if you wish. One is as a graduate, and you obviously have recognition of that course and then there would be additional training that you have to undertake that is not covered in the graduate program, because most of the graduate program—

Mr HEALY: Like an apprenticeship in that you start here and you work and anything extra you go outside for?

Mr Taylor: Correct, and then if you want to come through as off the tools, if you wish, or off the coalface then there is a whole list of competencies that you have to have for a deputy, an undermanager and then the manager—so third, second and first class—and these are set by the Board of Examiners. There are still a lot of people out there actually training deputies, but when you move up into the second- and the first-class ticket, because there was a dearth of people coming through, a lot of those companies went to the board because they could not maintain the training levels, so for probably the last four years since the last one went out of business there has been no training for the people coming through the ranks. One company—and I will not mention any names—has recognised that and has sat down with a number of people that have different training qualifications but are also competent to train first-class ticket holders. They have actually sat down now, and I believe about six people from their organisation are going to undertake that training with these other recognised training organisations.

Mr HEALY: Gavin, sorry to jump in, but we have met with mine operators in the last couple of days. They tell us how important they are and how important their staff are. I just find that if you are running an organisation you need to have so many in certain areas, so I struggle with that and what you are saying is even more concerning.

Mr Taylor: It has been an issue for a while.

Mr HEALY: How does it get to that? I still want to hear about the RTOs.

Mr Taylor: Essentially because we brought in the SSE, in my opinion. To take it back to simplistic terms, one of the worst things is that we called the person who held that mine manager's certificate a first-class mine manager, because he is not really a mine manager in the total sense of the word. When you go back to the previous commissions, the department was really interested in two things: that the individual understood the statutes in the legislation and that the individual also understood how to win the product safely, with all the hazards in there. The department does not test if that individual can read a P&L sheet or if that individual understands the micro-economics of the business, industrial relations, communications and the whole nine yards of that beautiful big pile that makes up a mine manager.

I would say that that is still the company's problem, because to me it is strange. You would want your people in a senior position to understand the statutes; you would want them to understand how to mine correctly. All of the other things you should be training the people for anyway. You make up that first-class mine manager. There was a problem. We were in the situation where people wanted to appoint their own people because they understood all of this other stuff but they did not understand that stuff. To me, it is an integrated thing and the sooner people realise that the better.

A lot of companies do that. When I came through I was fortunate that I was trained in economics, industrial relations and a whole bunch of other things, not just the mining side of it. That is where the problem lies. As long as you can bring someone in as an SSE who is one of your people, you can push them off to the side. I am not saying that some of these SSEs are not smart people—of course they are; they are graduates; they have some really good training; they may be a mechanical or electrical engineer or whatever else—but you still need to make sure that you have someone at that mine site who understands the hazards associated with mining such as gas, spontaneous combustion and ventilation. That is where our concern is—that we do not lose that.

With regard to the RTOs, before you can train or assess someone you have to have that qualification. The problem we have is that we have a whole bunch of grey heads around who are retiring—

Mr HEALY: I do not have a problem with that. In looking around the room, I think there are a few.

Mr Taylor: We have a lot of people moving on. That was the problem. A lot of people who were doing the training—I can think of two in particular—were at the end of their careers and they found this a nice way to give something back to the industry. When the numbers fell away, unfortunately, so did they. Luckily, now we have another couple of younger guys coming through who have taken us on board and hopefully this will take off again.

Mr HEALY: I would have thought that would be commercially sustainable.

Mr Taylor: I think so. The biggest concern we have had for a period of time is that there are a number of people who are running coal companies in Queensland who do not have a coal background. They are making a lot of money, thank you very much, and, 'Isn't this easy? Why do we need all of this?' It is called Moura, Box Flat, Pike River. That is why we need them and that is why we need to get them back in there to make sure that we have trained people who can deal with these hazards.

Mr HEALY: Thank you very much. I appreciate that.

CHAIR: Thank you very much.

Mr SAUNDERS: You are saying that we have too many accountants running the show these days and it is all about dollars and cents?

Mr Taylor: Never let it be said that I called an accountant.

CHAIR: This question follows on from the question asked by the member for Hinchinbrook in regard to the release of information. You made a comment in your submission that made me question how you find the balance between the timely release of information and the release of correct information. I note your submission and I wanted to ask your opinion on that. You made the statement that, although you recognise that not all initial information may be completely accurate, at least sufficient detail can be put out to try to avoid risks. You make the point that you trust that safeguards will be enacted about the release of information. I can understand the concern around that. I found in the explanatory notes the statement that these amendments—

... will remove all doubt about the release in good faith of incident information including through safety alerts. The amendments are similar to the provision covering the 'publication of information by the regulator' enacted by New South Wales in the Work Health and Safety (Mines) Act 2013.

I imagine you are quite familiar with that. Would that allay your concerns in that regard?

Mr Taylor: New South Wales got the jump before Queensland. It was actually a Queensland initiative.

CHAIR: Okay.

Mr Taylor: They just got in front of us. It is working well in New South Wales.

CHAIR: Okay. Thank you.

Mr Taylor: You are welcome.

CHAIR: I also thank you Gavin, Elizabeth and John for your time today and for answering our questions and for the submission. We thank you very much.

MEIKLE, Mr Jason, Open-Cut Examiner and Site Safety Representative, Goonyella Riverside Mine

CHAIR: Jason, I understand that you have not made a submission to the committee but you have requested to come before the committee and the committee has agreed. Would you like to outline your background and your experience and why you wanted to come?

Mr Meikle: Okay. I have 20 years experience in mining between Western Australia and coalmining in Queensland. I hold a current open-cut examiner's certificate, a current SSE certificate and a current crew manager's certificate. Also, I am currently an open-cut examiner at Goonyella Riverside Mine, which is one of the biggest coalmines in Queensland. I am also elected as one of the site safety and health representatives and I have been for the past 14 years.

CHAIR: Why did you want to come today, Jason?

Mr Meikle: The legislation affects everyone in the industry and I believe that the man at the coalface needs a voice. As I see here today, I do not believe that there are enough men from the coalface voicing their concerns.

CHAIR: Did you want to give us your thoughts on the bill?

Mr Meikle: Yes, I have been through the bill briefly. In regard to the advisory committees and Board of Examiners, I believe that there need to be more people from the coalface there. They need to hold the statutory qualifications for which they are examining. As for the notification of diseases, I believe that the SSE should be informing all parties as per the current legislation with regard to HPis and serious accidents, for example, ISHRs, SSHRs and inspectors. The reason I say that the SSHRs need to know is that, when you look at dust in the industry, I believe that they are the first ones who could be making a change at the coalface at the mine.

Penalties need to be increased. You have mining managers on well over half a million dollars a year. You have people like me in positions. I am on over \$150,000 a year. I am not going to lie. The current penalties need to be increased to make them think about what they are doing. They need to be enforced. I have yet to see a person go to jail for a death in the industry. I stand to be corrected, but that is what I believe. You have people in statutory positions who I believe, if they are negligent, should have their tickets removed for life—not for five years and not for six years but for life.

I will go on to continuing professional development. I believe that statutory holders, SSEs, deputies, OCEs and undermanagers should all have a five-yearly review. I am not saying that they do the full law exam, but they should at least have a review of their knowledge of the legislation they are implementing and working under. You have people who have had open-cut examiners tickets for well over 30 years. I will be honest with you: I do not think they would understand even what the meaning of a supervisor is. Yes, they have a lot of experience in the industry that is helpful, but in this day and age you must understand the legislation under which you are working.

In terms of suspending statutory certificates, I believe that the minister should be able to remove them, full stop. It does not matter what certificate is given; you should be able to remove it. That goes from SSEs right down to the OCE, the deputy on the floor.

I have touched on civil penalties. I believe that they need to be increased. It is as simple as that. A fatality affects everyone. I believe that people do not give it the consideration it deserves. As I said before, when was the last SSE put in jail for a fatality at a mine? I know of at least one who has been involved in three fatalities at different mines but who has never gone to jail.

In terms of consistency with the legislation of other jurisdictions. I will speak for the coal and the metal industries. I have had experience in metals as well. They are two different types of mining. They need to sit totally separate. The coal industry has hazards that the metal mines do not. I cannot speak for the gas industry because I have had no experience in gas, but I would imagine that it would be very similar.

In terms of the amendment to section 42, I have to agree with what Mr Taylor just said. We need to have one single SHMS. That is it. It creates confusion if you have contractors coming into mines and using their own systems. You cannot do it. You have to have one set of rules for everyone.

In terms of the appointment of SSEs, I am a firm believer that the industry has a bit of rot in it at the moment. As far as I am concerned, the most senior person at the mine is not the SSE. You have a general manager who controls the purse strings. To be an effective SSE, I believe that you need to be the purse string holder. You have a GM, who is the sitting up here. When the inspector comes they say, 'The SSE is at the top of the tree.' Bullshit. The GM is the one with the purse strings. He is the one who controls what is going on. There should be no reason the mining companies cannot

have enough SSEs in their positions. If I can sit the exams—and I left school with nothing to my name—and get them, there is no reason the industry cannot have enough SSEs ready. When a GM is appointed at a mine, you cannot tell me that they do not know weeks and months in advance that they are changing the SSE out. Come on. Get with it. These are multibillion dollar companies. If they cannot plan that, they should not be mining. That is all I have at the moment. Are there any questions?

CHAIR: Thank you, Jason, for those points. It seems to me from listening to your comments that you are supportive of the bill.

Mr Meikle: Yes.

CHAIR: Thank you for that. Thank you for going through the individual areas, too. When you were talking about suspension or the cancellation of certificates, you mentioned the minister. The bill proposes that it would be the chief executive. Was that—

Mr Meikle: Either/or.

CHAIR: It was not specifically?

Mr Meikle: No, either/or.

CHAIR: Sorry, I should have started by saying thank you for taking the time to come today and thank you for your interest.

Mr Meikle: That is fine.

CHAIR: We really appreciate it. Thank you for digesting the bill. We know that it is not everyone's area of competence to digest these sorts of things and come with comments. Committees always appreciate a view and thank you for bringing your specific view as a worker in a mine. You said you have had 20 years experience.

Mr Meikle: Yes.

CHAIR: That is 20 years in open cut?

Mr Meikle: Twenty years in open cut.

CHAIR: I am interested to know generally what you have seen over 20 years. We have heard from workers and managers that a lot has changed in that time. What are your broad comments?

Mr Meikle: When I first started, basically everyone worked for a mining company. You got a job with a mining company. You may have been on labour hire for three months. There is a rot I see in the industry right now with labour hire. As a site safety and health representative I have people coming to me on a daily basis with safety issues because they are too scared to speak up for fear of reprisals. I have witnessed reprisals myself and I believe that people have been black-listed, as that gentleman here enlightened you of before. It happens. It is everywhere. I talk to my colleagues at other mines. It is happening there.

Labour hire people are too scared to speak up or have a voice. When they do, they are ridiculed. They are chastised by their supervisors and management. Basically, you are here today and gone tomorrow. There is no reason given why you are dismissed and no longer required. That is the reality of where we are. Those people are not speaking up and blowing the whistle because they are scared for their jobs and their livelihoods. They have families to feed.

CHAIR: Are you speaking about safety concerns?

Mr Meikle: Yes, genuine safety concerns—and I mean genuine.

CHAIR: With regard to civil penalties, which is something you spoke about a number of times and obviously something you are very passionate about, do you think they will have a deterrent effect? We have heard some say they do not think it will.

Mr Meikle: They will if they are used. I do not believe they are used enough. If I do the wrong thing I believe in being chased. I have been chased by a mining company for exercising my powers as a site safety and health rep before, and they came after me. If I am wrong, I believe in the penalties.

CHAIR: Do you think there are not enough measures already in place to take immediate action if there is a concern? Do you think this penalty will be more effective, or is it just an additional resource?

Mr Meikle: I believe it will be more effective if used. There have been times when individuals have asked for SSEs to be prosecuted for breaches of the legislation and it has not happened.

CHAIR: I think the view communicated by the department was that prosecution is quite a lengthy process and this might be timelier. What are your views with regard to that comment?

Mr Meikle: If it is too drawn out, why don't we have a committee that can hear these things with people from the floor? The legislation should be similar to what you had for the wardens inquiries, where both sides—management and people from the floor—sit together. You can get stuff done a lot quicker than having to wait for lawyers to decide matters.

CHAIR: Through the courts.

Mr Meikle: There is only one winner when lawyers are involved.

Mrs WILSON: Thank you for appearing today. Can you just elaborate on which mine you are at?

Mr Meikle: Goonyella Riverside.

Mrs WILSON: Is that a BHP mine?

Mr Meikle: Yes.

Mrs WILSON: What is the behaviour and morale like of the mine workers on-site?

Mr Meikle: Very poor. We currently have a very good SSE. I work with him very well. I have a lot of respect for the man. I have had previous experience where it is very hard to do your job as a site safety and health rep and raise issues through the process. The morale at the mine right now is very low, especially with the labour hire. Do not quote me on these figures, but I would say that we have a 40 per cent permanent workforce and the rest would be labour hire. They are being turned over like you would not believe. I know they advertised recently for truck drivers and they could not get them. I believe word is getting out that it is not a nice place to work at the moment. These people do not have a voice.

Mr SAUNDERS: Thank you for coming in today. It is good to hear from someone from the coalface, so to speak. The mining companies say that they are all great, you all sit around drinking pina coladas and you get on well. What I am seeing and hearing from people I know in the industry—and I know a lot of people in the industry—is that things are not as good as the mining companies profess. You are at the coalface and you are an examiner et cetera. We are hearing from a lot of workers that as they are going along it is all 'safety, safety' and it is all great, but the mine workers are ticking everything off because they are in fear of their jobs. We heard a story yesterday from a gentleman at a particular mine who had the idea that you could stop the mine if you think it is unsafe. This particular gentleman stopped the mine because it was unsafe and he has never been employed again. They got him off the mine site because of an old football injury, and he has never been employed in the mining industry again because he is regarded as a troublemaker. In your experience working in the mines, in your position have you seen and heard that out in the coalfields a lot?

Mr Meikle: I had similar firsthand experience. I shut Goonyella Riverside approximately 11 years ago and BHP asked for my removal through the minister. Yes, I probably was not technically exactly right in what I did. I went right through the process. It is a very daunting proposition when you have an individual like myself up against BHP, one of the biggest mining giants in the world. They intimidate people. They harass people to make decisions. I have even seen statements changed in investigations. I have had racks done, where you identify hazards and do your SOPs, where my signature has appeared on documents and I was in Perth. It happens.

Mr SAUNDERS: That leads to my second question. I think there should be an inquiry into the mining industry in this state regarding this, because this is what I am hearing from you and other people. Like I said, I have a lot of friends who work in the mining industry. We have even heard that mining companies have followed people home and taken photographs in their yard and of their children et cetera when they have had a bit of a disagreement at the site over a safety issue or something. Do you think there should be an inquiry into these allegations?

Mr Meikle: I would love to see an inquiry into it. The problem I see is that you have people in the SSE positions, and most of those people are genuinely trying to do the right thing. As someone spoke about before, the problem appears to be with middle management.

Mr SAUNDERS: What do you mean?

Mr Meikle: You have KPIs attached to safety and production, and I do not believe the two can mix. I have yet to see oil and water mix well, because that is what they are. They talk about safety before production. Bullshit! We have just gone through one of the biggest downturns—

CHAIR: I have to stop you there. We cannot have that language.

Mr Meikle: My apologies for my passion. I am trying to speak as professionally as I can. I am from the floor. I just do not agree.

Mr SAUNDERS: My argument with middle management is—and this is where I am getting feedback—that the mine manager sits up here and talks the talk, but when there are bonuses involved and middle management have KPIs, it looks to me like the mine manager is washing his hands. He says they are doing everything right as a company, and the board of directors is putting it onto middle management to enforce the KPIs. Do you think there should be better training and more regulatory control over these middle managers?

Mr Meikle: Most definitely. I would love to see a mining manager's certificate come into the open-cuts. I would love to see them have a statutory qualification to be out there giving direction. I would love to see it. I reckon it would be a great thing.

Mr SAUNDERS: There is not?

Mr Meikle: No, we currently do not have a mining manager's certificate for open-cuts. You have an SSE and you then have your open-cut examiner. My belief is that the open-cut examiner is the only statutory official in an open-cut mine.

Mr DAMETTO: Thank you for coming along today. I would like to acknowledge your 20 years in the mining industry. Congratulations for sticking it out so long. A little earlier you said that you would like to see more SSEs or mine managers doing jail time over deaths on mine sites or underground sites. My question relates to the SSE who was involved in three fatalities. Do you believe his direct actions amounted to negligence and caused the three deaths on that site?

Mr Meikle: I would have to say that with regard to two of them I have no knowledge of those actions. I was not at the mine. We had a fatality at Goonyella Riverside last year, and I would have to say no, as it is not the SSE's direct responsibility, but he is the person responsible under the legislation—

Mr DAMETTO: I would like to stop you there for a second. If he is not directly negligent for what happened on the site that caused the person's death, then I do not think it is fair for him to go to jail for that fatality.

Mr Meikle: If he is the responsible person. He is the most senior person at the mine.

Mr DAMETTO: Was he directly—

Mr Meikle: Their actions down the chain to their managers; that is where the SSE sits. He should be giving clear direction to his middle management: 'Do not break the law. Make sure you have the supervision that I say you do under section 42.' He is the one that actually appoints them. When you look at section 26, the meaning of a supervisor is in accordance with the SHMS. He should be enforcing this. I do not believe they have the time to be looking at these individual people down the chain—

Mr DAMETTO: I agree with you there.

Mr Meikle: If they had more time to do it, they should do it.

Mr DAMETTO: I think that somebody who does not have the time to micromanage every one of those people should not be going to jail for a fatality on-site. He is controlling, in your words, a group of people. He is not pushing buttons on a computer controlling what is happening on a mine site. I know that you are saying—and I agree—that he is overseeing the whole operation, but going to jail for that is a whole separate bucket of chips.

Mr Meikle: I hold the certificates myself; I would expect it.

Mr DAMETTO: You would be happy to go to jail if someone died on your site?

Mr Meikle: If I was responsible for it and the direction that I gave my men failed, those men have not been given that direction correctly and the man below me should be sharing the cell with me. We should be sharing it together. It would make a lot more people responsible for their actions. People are not being held accountable.

Mrs WILSON: You mentioned that workers are not speaking up on mine sites because they fear the loss of their jobs. Can you give me a further understanding of the people you are talking to? Are they strictly union workers or are they a mixture?

Mr Meikle: No, most definitely not. I would say we probably only have 20 per cent union members amongst our labour hire workforce, and a lot of them are in fear of being in the union because of reprisals. Dust is a classic example in the mines. It is a very hot topic at the moment. They are running through dust and it is not until an OCE like myself comes along and actually pulls these strips up. You cannot even see the truck in front sometimes, and these guys are driving around in it. They are inhaling it. You see it daily. Only today I fielded a call with regard to sanitary bins in toilets. It was an all labour hire workforce, yet they rang me because they do not want to bring it up. Come on! Sanitary bins in toilets should be done daily. This is where we have got to.

Mrs WILSON: When you spoke about dust, I believe that all workers would be provided with PPE. Is it the case that the workers are not following the rules and regulations and not wearing PPE in relation to dust?

Mr Meikle: I am talking about people driving around in dump trucks with air-conditioned cabs. It is not the dust you can see that is killing people; it is the dust that you cannot see. When you get inside some of these cabs and wipe your hand across the dash—it has been cleaned in the morning—it will be black. Those people would not have seen that dust in those cabs. I believe we have five dust related diseases at Goonyella Riverside in the open-cut. I believe we have the highest amount. Nothing is being done.

Mrs WILSON: You are saying that BHP does not currently have any practice in place for maintenance to ensure that those trucks are cleaned in a specific way each day?

Mr Meikle: No, they are definitely not cleaned every day. They have a bannister brush in them and it is up to the individual whether they clean them out. The emphasis is on getting your bottom in that seat and getting that truck running. If you are five minutes over on your meal break they are being pulled in. Why? They are not being given the time to do these things, just the menial tasks. They are putting reject around crib rooms now. Reject is a by-product of the coal process. They are using it around crib rooms because it is very fine and you can walk on it easily. It goes to a powder. These people are out there—and I do not condone what they are doing—smoking and sucking in the dust at the same time. Smoking is a health issue—I understand that—but here we are putting reject around. We are using reject on roads. Reject grinds into a fine powder and blows up into the dust, and these people are breathing it in. You could have a blast crew across the other side of the pit and you have a strip running along here, across a bridge up to a dump. You have men working in there. They might not directly have dust blowing across them, but they are inhaling dust daily.

Mrs WILSON: You have had these people come and speak to you about different issues. What have you done with your employer to have those issues addressed?

Mr Meikle: I have an obligation under the legislation, under my powers and functions as a site safety and health representative and also as the OCE, to go and speak to them. If they are not being actioned I have powers under 99(5). If I do not believe the SSE is taking responsibility I will raise it with the inspectorate through 99(6). If it is an immediate risk I will issue a 101. I have issued two 101s in the last three weeks to cease operations. I do that now.

I am probably one of the more proactive ones in terms of using the powers and functions available to me. Some would probably call it something else. It is the only way to have it documented through the mine records process. I am finding SSEs coming through now who do not even know what was in the mine record book 11 years ago. That is why I issued two 101s in the last three weeks. They do not even understand what is in the mine record book.

Mrs WILSON: Since you have issued those 101s, what has changed at the mine?

Mr Meikle: In terms of the first 101, the SSE believed it was an acceptable level of risk so I waited. They sent it back to work again. It was a dragline operating with one man on it. It was a former chief inspector who—I will not say their name—issued a 167 directive. The inspector set it aside and gave a direction to the mining company that they must do a study. They did two studies. They then must do a trial. They never did the trial to go to one-man dragline operations in 2011 or 2012. It was not until recently they went to do it again and I told them they could not do it. They basically laughed at me.

Easter Friday I had to put my gear on—I was on days off—to head out to the mine to have a look. I shuddered. I had already told management who were there that they could not do it. Since then there have been discussions with the chief inspector, ISHRs and the regional inspector and they have been told to do the study.

Mrs WILSON: I go back to the dump truck issue. Since those issues have come up, what has happened there? Anything?

Mr Meikle: It is still ongoing. It falls on deaf ears, quite often.

Mr DAMETTO: When it comes to dust on-site, are there any dust suppression set-ups, water trucks, sprinklers? What is happening there?

Mr Meikle: When you look at the legislation you see that regulation 89 covers dust. The only thing we have on-site for dust for haul roads is maintenance and watering of haul roads. Our operation has got bigger. I used to be really proud to work where I am and I was planning on retiring there. I will be honest with you. BHP is a good company—do not get me wrong—but as strips have got longer

we have put more trucks in and we do not have enough water carts and enough graders to maintain the roads to a safe level. Water points go down all the time. It is a case of having the facilities to be able to suppress the dust.

Mr DAMETTO: Are they monitoring dust on-site?

Mr Meikle: They do dust monitoring three-monthly. They will come out, pick individuals off the floor and give them a dust monitor. It has a little filter on it. They wear that. The dust-monitoring levels are being given to the coalmine workers now. They were not for a long time. They are also posted on noticeboards. We have had several dust exceedences in the red in recent times. I know of at least one occasion when they questioned an individual but they did not realise who the individual was. As soon as they realised who the individual was they stopped questioning her because her father is one of the ones on site with dust disease.

Mrs WILSON: Have the people in dump trucks been monitored yet?

Mr Meikle: Yes.

Mrs WILSON: What have been the results?

Mr Meikle: They have been reasonably low. It is more exposure of people out on the ground. Just because you are in a truck does not mean that over a prolonged period you are not going to get it.

CHAIR: It certainly seems that you are well versed in the powers that are conferred on your role under the regulations. That is a fabulous thing and well done. It is not easy to understand that. This is a very heavily regulated environment, as it should be. You clearly understand the powers and you are using the powers conferred on you. It seems from the issues you are raising that it is not so much an issue of the adequacy of legislation or regulations in regard to protections; it is more about the application of those.

Mr Meikle: Correct.

CHAIR: Some would say that this industry is too heavily regulated, but it seems that it has good, strong, robust regulation to protect workers. It is just that where it falls down sometimes—and I take my colleagues' comments about feedback being passed on; you have reiterated that—is around application, whether that is middle management or otherwise. Is that a fair statement?

Mr Meikle: Correct.

CHAIR: So we do have a very robust environment in Queensland; that is great.

Mr Meikle: I think we probably have the best legislation going. I am proud of the legislation that we work under.

CHAIR: That is great.

Mr SAUNDERS: Is this epidemic in the coalfields in this area or is this particular to your mine?

Mr Meikle: Epidemic?

Mr SAUNDERS: Is what you are talking about all through the mines?

Mr Meikle: What epidemic are you talking about? It could be several.

Mr SAUNDERS: I mean the breaking of the safety requirements, people not speaking up because they are worried about their jobs and so on.

Mr Meikle: I believe it is rife.

Mr SAUNDERS: It is rife right across—

Mr Meikle: Yes. I speak to my colleagues yearly at a conference that we go to. They are all of a very similar opinion. I believe I can speak for them on that.

Mr SAUNDERS: Thanks for speaking up today. Do you feel that you may be under the spotlight now and that the blowtorch will be put on your belly, as we say?

Mr Meikle: It does not worry me one little bit. The man on the ground needs a voice.

CHAIR: Jason, thank you for making the time to come before the committee today. Thank you very much for talking to us about what you are seeing and sharing your experience. We really appreciate it. On behalf of the committee, I thank all the witnesses who appeared before the committee today. A transcript of our proceedings will be provided to you in due course. It will also be uploaded onto the parliamentary website in due course. I declare the public hearing closed.

The committee adjourned at 4.21 pm.