INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE

Members present:
Mr D Pegg MP (Acting Chair)
Ms LE Donaldson MP
Mrs AM Leahy MP
Mr AJ Perrett MP

Staff present:

Dr J Dewar (Committee Secretary)
Ms M Telford (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE EXPOSURE DRAFT OF THE MINE SAFETY AND HEALTH AUTHORITY BILL 2017

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 8 SEPTEMBER 2017

Brisbane

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001

Committee met at 8.42 am

ACTING CHAIR: Good morning. I declare open the public hearing for the exposure draft of the Mine Safety and Health Authority Bill 2017. Thank you for your attendance here today. I am Duncan Pegg, member for Stretton, and I am substituting for Mr Jim Pearce, member for Mirani, as the acting chair of the committee for this inquiry. The other committee members with me here today are Ms Ann Leahy, deputy chair and member for Warrego; Ms Leanne Donaldson, member for Bundaberg, who is substituting for Mr Craig Crawford, member for Barron River; and Mr Tony Perrett, member for Gympie.

Those here today should note that these proceedings are broadcast to the web and transcribed by Hansard. Media may be present so you may also be filmed or photographed. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. Witnesses should be guided by schedules 3 and 8 of the standing orders. Before we commence, could everyone please switch off their mobile devices or put them on silent mode.

HILL, Mr Jason, Industry, Safety and Health Representative, CFMEU, Mining and Energy Division

WOODS, Mr Stephen, Industry, Safety and Health Representative, CFMEU, Mining and Energy Division

ACTING CHAIR: I welcome the representatives from the CFMEU. I invite you to make an opening statement, after which we will proceed to questions.

Mr Hill: We thank the committee for the invitation to be here today. Both myself and Stephen Woods are ISHRs, or industry safety and health representatives, appointed under the Coal Mining Safety and Health Act. We are employed by the CFMEU Mining and Energy union for the Queensland district.

We both have deputy certificates of competencies and both have over 25 years experience in the coalmining industry. Under the Coal Mining Safety and Health Act we are afforded with a number of functions and powers which allow us, for example, to inspect mines, review procedures, participate in investigations, detect unsafe practices and conditions, take actions to ensure that risk to coalmine workers is at an acceptable level, issue 167 directives and enter any part of the mine on giving reasonable notice.

002 We are here on behalf of the CFMEU to speak on our position on the Mining Safety and Health Authority Bill 2017. In principle we support the bill. As detailed in the report of the Coal Workers Pneumoconiosis Select Committee, there have been a number of catastrophic failures that have led to many coalmine workers contracting this disease, from which some would have died.

At present there have been 27 coalmine workers diagnosed with coal workers' pneumoconiosis. Although there are 27 who have been diagnosed, this number does not take into account the other coalmine dust lung diseases that coalmine workers have been diagnosed with. These failures need addressing otherwise the industry will have learnt nothing and it will only be a matter of time until these failures resurface and cause health and safety issues for coalmine workers.

This can be seen with recent events. In the last few weeks we have had four mines fail to comply with the dust monitoring requirements. Those failures related to the reporting of respirable dust levels which is a requirement under recognised standard 14. Four coalmines and their management failed to report. All that appears to have happened with that is that they received a slap over the knuckles and were allowed to continue to operate, potentially still exposing coalmine workers to unacceptable levels of risk.

The industry needs to be truly independent, this includes medical practitioners and NMAs. We have had 43 chest X-rays recently come back. These are ones that on behalf of our members we sent to the United States to Dr Cohen. Sixteen of the X-rays that came back are 1/0 or higher. The

X-rays of one retired member have come back. In 1995 his X-rays were read as 1/0. His CT scans from 2013 showed he had PMF. He subsequently died late last year without being diagnosed. He had a terrible retirement.

One member received his X-rays back from Dr Cohen last week. He has had two health assessments between sending those X-rays to the United States. His X-rays came back as 0/1. The X-rays that he has had with his health assessments in Australia—he has two in the last 12 months or a bit longer—have failed to pick up anything. It looks like we are still having these failures.

In principle we support the bill. We have some recommendations that we believe need to be put into place to ensure the effectiveness of the bill. We believe these recommendations will help make sure it is independent and works efficiently. Firstly, in terms of clause 15(1)(e), (f) and (g) and the words 'workers employed by a business' we need more clarification around that wording. It needs to be changed to reflect section 79(1)(b) of the Coal Mining Safety and Health Act—that is, industrial organisations representing coalmine workers. We believe that change needs to be made so there is proper, strong representation for the workers in the industry.

Secondly, clause 15(1)(h) states, '2 persons who are independent of the mining and resources industries.' We believe that one of these people should be nominated by the operator and one should be from an industrial organisation representing coalmine workers. That means the independent persons would represent both the operator and the workers.

Thirdly, clause 17(2)(b) states, 'the person does not hold that office for more than 9 years in total.' We need to clarify exactly what nine years means. Does it mean that after nine years you can never hold that position again or if you have a two-year break can you be reappointed? We can see some issues around that, especially for our organisation. We could run out of people.

Fourthly, clause 19(2) states, 'The Governor in Council may, at any time, terminate a board member's appointment for any reason or none.' We believe there needs to be a reason given as to why they were terminated from the board so the person has a right of reply.

Fifthly, clause 32(c) states, 'at least 10 years professional experience in senior positions relating to operational mine safety management.' An example given for 32(c) is a 'site senior executive at an underground mine'. We do not agree in terms of experience that it should be a site senior executive at an underground mine. The Coal Mining Safety and Health Act states that to be an SSE all you need is G3 and to pass a law exam. You actually do not need to have any mining qualifications or mining knowledge other than having studied the act and passed the law exam. Mr Woods and I would actually have more qualifications than that SSE at any time. I am not saying that all SSEs do not have statutory tickets or qualifications, but this leaves it open that you do not need statutory tickets or mining experience to hold an SSE qualification at a mine site. We believe that that role should at least have some statutory ticket behind it. You need practical experience to get that statutory ticket. We should not have an executive person who sits in that role.

Sixthly, we have an issue with the standing dust committee. If each industry—the coalmining, quarrying and hard rock industries and rail, transportation and ports—had their own standing dust committee it would be more effective and robust than having one standing dust committee that ties into all those industries. We believe there needs to be a requirement to have safety representatives on that standing dust committee—representatives such as us—for the coalmining area. The roles, powers and functions of this committee need to be clear and defined. Are they allowed to visit mines? Can they be impeded from visiting mines? In terms of the information they obtain from dust results, no road blocks should be put in place to stop them performing their role and functions.

Seventhly, in terms of schedule 1, the dictionary, we need the definition of 'union' to read as per schedule 3, the dictionary, of the Coal Mining Safety and Health Act which is the CFMEU Mining and Energy Division Queensland district branch.

Eighthly, in terms of clause 11(e)(ii) that should consider the USA and not just within this state and outside the state. That concludes our opening statement.

ACTING CHAIR: We will move onto questions. I had a question about the concept of the independent authority. That is something that has come through in a lot of submissions both for and against this. I was wondering what your view is in relation to the creation of an independent authority?

Mr Hill: Our view is that it is something that we look forward to. It needs to take place. Having true independence is the only way the system is going to move forward. Obviously we have had failures over the last 30 years which have allowed miners to contract this terrible disease. We need a change. If we do not change that means that we have not learnt from the mistakes of the past. In 10 years we will be back to where we came from. We are in an industry that has a reputation of not learning from the past. We need to go forward.

ACTING CHAIR: What is your view of the board composition?

Mr Hill: The composition is good. It just needs the changes around the employee representative side of things. We want what is in the Coal Mining Safety and Health Act for the advisory committee.

Ms LEAHY: I am interested in how you look at the exposure draft bill overall. Do you think it addresses all of the issues that have been raised in the reports or do you think it needs to go further? You have outlined a number of things that you felt should be changed in the legislation. Do you think it will solve some of the systemic failures that we have seen?

Mr Hill: It will go to doing that to a fair extent. Obviously it will be backed up by the rest of the recommendations. The bill sits at the top and the rest of the recommendations are going to flow into it. We need true independence through the board. It talks about independent doctors or medical board. We believe that is a good thing because it takes away companies having ownership of doctors. We believe that is a systemic problem at the moment. If it is a cash for service proposition people do what they are told to do to get their pay. We believe that is an issue. If we take that all away and have an independent system that is a good step forward.

Ms LEAHY: You feel it should be truly independent?

Mr Hill: It should not be influenced by us and it should not be influenced by the company. The board sits, debates and comes up with the best solution available. That way there should not be any influence from anyone.

Ms DONALDSON: You talked about clause 15 and the definition of workers. Clause 15(e) states 'persons representing workers employed in coal mines'. You said the definition of workers needed to be more specific or outlined better. I was interested in what your thoughts are about that and what you meant by that?

Mr Hill: It needs to be clearer. In reviewing the legislation we picked up on what the Coal Mining Safety and Health Act says about representation on the advisory committee. Section 79(1)(b) of the Coal Mining Safety and Health Act talks about industrial organisations representing coalmine workers. It specifically talks about unions representing their workers in those fields. The workers obviously get a stronger voice. They get people who have the facilities and arrangements to investigate issues and bring a robust debate to the table.

Both Mr Woods and I spent two weeks in the United States last year touring from Washington up through West Virginia to Pittsburgh and Chicago investigating their controls and issues with black lung. We looked at dust control and the black lung clinics in Chicago and the science behind it through NIOSH in Pittsburgh. We believe if we have those organisations in place we can bring a proper debate to the table. We have the resources behind us to investigate this and have the science behind this.

003 **Mr PERRETT:** I want to touch on the independence of the authority again. You made mention about it being independent from the unions and being independent from the companies. What about government? The structure of this in respect of what is put in place also allows for that as well in respect of the authority. Given the systemic issues that have been identified, including some scathing comments about the role of the department over a long period of time, what are your thoughts in and around its independence from government as well?

Mr Hill: I think, like I said before, true independence is the only way to move forward. If you get persuaded by one side or the other, you are not going to get the best outcomes for the people at the end of the day. The people who we want to come home at the end of the day are the workers. If you are going to be swayed one way or the other—I suppose we all know how the government works. All organisations lean on them; it depends who is in at the time. Sometimes that is probably not the best outcome for the people at the coalface at the end of the day. We need true independence to get health and safety on the table to do our best to make sure that coalminers come home at the end of the shift free from injury.

Mr PERRETT: You are confident that the independence of this authority will provide an avenue for improved conditions and ultimately improved conditions for workers and safety.

Mr Hill: Yes. We are reasonably confident. Obviously you cannot be a hundred per cent until it starts working. The real devil is in the detail. This sort of system is set up in New South Wales. This is similar to how Coal Services and its board works in New South Wales. We have seen a similar system in the States with NIOSH and MSHA. That seems to work pretty well. I cannot see how it will not work. We are reasonably confident that once the system is set up and working it will work. When there are systems out there that are working and our system has failed, why reinvent the wheel when you can adopt a system that seems to be working reasonably well? Do not get me wrong; I am not saying they are perfect. We need to move forward so we can fix up the issues that we have.

Mr PERRETT: I have another question independent of that but still dealing with the authority. Do you have any comment on the proposed establishment of the authority in Mackay at clause 10(b)? Do you see any potential problems or advantages with this clause?

Mr Hill: Where it is established is probably not of great concern to us. The majority of the mining and ports in Queensland are around the Central and North Queensland area and out to the west, especially if you are talking about hard rock mines. It would probably make more sense to be where the action takes place. As to where it is located, that is probably more a debate for the government. It is the same with the funding. We would rather see it overfunded than underfunded. Where it is set up, we are not really tied to any area.

Mr PERRETT: Dealing with that funding, can you comment on part 9 of the bill—the proposal to abolish the safety and health levy in favour of a percentage of royalty revenue as a way of funding the authority? Do you see any problems or advantages with the funding of this authority?

Mr Hill: I think we understand how that is going to work. We believe it is probably a bit of an advantage. It is currently done per head of miners and the figures can be fudged. The money coming in can relate to booms and lows, where on the royalties side of things it is probably a more consistent process. Again, that is probably a debate for the government to decide how it is going to be funded. At the end of the day we do not care how this is funded as long as it is overfunded and not underfunded. That is our main concern. We want to make sure that it is funded correctly.

Mr PERRETT: That it has adequate funding for the role that it has.

Mr Hill: Yes.

Ms LEAHY: Would the proposed legislation and independent authority impact at all on the role that you currently undertake as a safety officer? Would it change your role at all? I am interested going forward whether it is proposing changes in that regard.

Mr Hill: For our general role and functions and powers under the act, I cannot see any of that changing. It might make us busier if we end up on one of the committees or the board. Generally, in terms of the day-to-day running of our operations, I cannot see that changing.

ACTING CHAIR: Jason or Stephen, is there anything else you would like to say before we close this session?

Mr Hill: No. I am pretty happy if there are no more questions.

ACTING CHAIR: Thank you very much for joining us this morning.

KRULIN, Ms Vanessa, Senior Policy Solicitor, Queensland Law Society

PLUMB, Mr James, Chair, Queensland Law Society Mining and Resources Law Committee, Queensland Law Society

ACTING CHAIR: Good morning. I now welcome representatives from the Queensland Law Society. Thank you very much for joining us this morning and participating in this public hearing. I invite you to make an opening statement, after which I am sure committee members will ask you some questions.

Ms Krulin: Thank you for inviting the Law Society to appear today on the Mine Safety and Health Authority Bill. The Law Society is an independent, apolitical representative body—the peak professional body for the state's legal practitioners, nearly 12,000 of whom we represent, educate and support. In carrying out its central ethos of advocating for good law and good lawyers, the society proffers views which are evidence based and grounded in fundamental legislative principles and the rule of law.

We are pleased to review the exposure draft of the bill and to be given the opportunity to give this committee the feedback of our members. As we included in the submission provided to this committee, QLS has participated in the coal workers' pneumoconiosis stakeholder reference group and separately in the review of this important and related piece of proposed legislation. We would like to note our thanks to the coal workers' select committee for its work on these important issues. The matters considered by the select committee and the formation of the Mine Safety and Health Authority Bill are undoubtedly key elements of the reform which is required for the health and safety of Queenslanders. We have some aspects of the bill we would like to highlight for this committee. James will take you through those parts in more detail.

Mr Plumb: At this stage we wish to highlight two key issues that we have proposed in our submission that the society believes should be addressed by way of amendment to the bill in its current form. The first of those is in relation to the inspection powers and referral. As set out in our submission, we suggest that greater detail of the inspector's powers ought to be expressly included in the drafting. Similar provisions are contained in the Work Health and Safety Act 2011, as well as the Coal Mining Safety and Health Act. These provisions add clarity to the roles, functions and powers of inspectors. They clarify practical applications of the inspector role, such as the general powers of entry to a workplace, notice requirements, as well as the powers to examine, inspect, take measurements and remove for analysis. These provisions also describe the process by which an inspector may apply for a search warrant and associated protocols such as providing a copy of the warrant to the affected party, limitations on entry powers and the like. Inclusions of this detail provide certainty for all parties involved.

The other issue I would like to expressly note arising out of our submission is our belief that there is insufficient protection for personal information gathered during the investigative process. The bill does not, as currently drafted, contain adequate protection of personal and medical information. The authority will be in the practice of regularly collecting, storing, analysing and reporting on sensitive and personal information which must be treated with the utmost care to safeguard the privacy of individuals giving the information. This information should be handled in accordance with Queensland's information privacy principles. We have selected some sections of the bill where this provision is needed. However, we caution that the safeguarding of privacy ought to be a guiding principle of the authority and that appropriate protocols are developed to ensure that private individuals can be confident that their personal and medical data is secure. We have raised other issues in our submission that we would be happy to talk to if required today.

ACTING CHAIR: I want to ask you about the issues you raise in relation to the expert medical advisory panel. You say in your submission that the 'process may be more appropriately managed by Queensland Health'. Why do you think that is the case?

Ms Krulin: There has been some feedback from our members that there could be two elements of that. One is that it is another checking mechanism for the perception of independence of those experts. I am talking separately from the independence of the authority as a whole. While it may be perhaps a little bit in the weeds, it is about making sure that that group of experts are across all of the information, training and education in medical developments that Queensland Health often runs and has budgets to run, making sure that its members are constantly upskilling. There could be some benefit to that that we wanted to raise.

ACTING CHAIR: James, you spoke about the issue of personal information in your opening statement. We have an ongoing investigation in relation to the Medicare numbers being disclosed. It is a serious issue in the community. What kinds of amendments would assist in better protecting personal information?

Mr Plumb: I will start by saying that I am not a subject expert in relation to privacy itself. It is a note at this point that has been raised by our committee and more broadly within the QLS that there is not any express acknowledgement of the sensitive nature of the information provided. We would be happy to come back to you with particular drafting, if that is what you are intending—an acknowledgement that the information gathered is sensitive and should be managed in accordance with the principles.

ACTING CHAIR: If that is possible, drafting would be ideal, but I understand the QLS is very busy—even if it could be fleshed out a bit more as to what the proposed amendment could be.

Ms Krulin: I have a suggestion that might build on it a little bit. In terms of the drafting, as James has said, there should be some explicit note in the act that discusses this. For a person who is putting their faith in the authority, they want to have that in black and white. They may feel particularly vulnerable giving this information over, and it should be expressly noted—whether there is the development of a guideline or a guidance note or something that accompanies this when this proposed legislation develops, when the protocols around the authority develop, when the protocols within the authority to the expert medical panels, to the inspectorate powers, which we have talked a little bit in our submission, develop. Those persons undertaking those roles should be very clear on those more operational aspects of how they collect, how they store, what happens next. To a degree we expect that this will happen but, given the sensitive nature of the medical information, we believe it is important that it should be crystal clear.

004 **Ms LEAHY:** I note in your submission you talk about the minister's role in proposed section 61(3)(a) of the bill. The word 'may' you are suggesting should be replaced by 'must'. Can you give the committee the reasoning behind that?

Ms Krulin: We felt that 'must' was a stronger word and it was quite important that any reasonable requirements should be made and should be transparent.

Ms LEAHY: In relation to that, are you suggesting that it should be published in parliament or are you just suggesting that the report be published?

Ms Krulin: Let me check on the section so I can give you the right context. This is information which the minister may request from the chief executive officer, subsection 1 being 'may, by written notice, ask the chief executive officer for information about a stated matter relevant to the authority's functions'. It states that a request made under this section 'may state reasonable requirements' for that request. In the interests of transparency and independence of the authority, it seems reasonable that they should—not 'may'—state their reasons for making that request if it is reasonable.

Mr PERRETT: Thank you for being here. I note your comments about the oversight of the committee in respect of whether it report back to a government minister or whether oversight should be with a parliamentary committee. Can you give me your thoughts around that and why you are concerned. If the minister does not have direct oversight, what are the best options?

Ms Krulin: Are you referring to our previous submission?

Mr PERRETT: Yes.

Ms Krulin: That was heavily alleviated when we saw this draft, because at that time we had no understanding of where the reporting lines would be. We were very pleased to see with this draft that that structure had been more fleshed out.

Mr PERRETT: So you are satisfied with what is proposed in this exposure draft?

Ms Krulin: Yes.

Mr PERRETT: I noted that initially, and I wanted to be certain that there was clarity in and around that from the legal minds with respect to that oversight.

Ms Krulin: Yes, it is very important.

ACTING CHAIR: James and Vanessa, is there anything else you would like to add before we close this session?

Ms Krulin: Thank you very much for having us.

ACTING CHAIR: Thank you for coming today and for answering our questions. Thank you also for your submission.

Ms LEAHY: Thank you very much for the work that you have done throughout the black lung inquiry as well.

Ms Krulin: I will pass that along to our reference group. Thank you for having us.

Proceedings suspended from 9.18 am to 10.29 am

005 **BERTRAM, Ms Judith, Deputy Chief Executive and Director, Safety and Community Policy, Queensland Resources Council**

HANSFORD, Mr Shane, Health and Safety Policy Adviser, Queensland Resources Council

MACFARLANE, Hon. Ian, Chief Executive, Queensland Resources Council

SIMMONS, Ms Lucy, Manager, Safety and Community Policy, Queensland Resources Council

ACTING CHAIR: I welcome representatives from the Queensland Resources Council.

Mr Macfarlane: I want to thank the committee for asking the QRC to appear today to speak on behalf of our members. The QRC is the peak representative organisation of Queensland resource sector companies. Our 230-strong membership encompasses minerals and energy, exploration, production and processing companies and associated service companies. In 2015-16 the Queensland resources industry was responsible directly and indirectly for over 275,000 jobs and contributed $55.7 billion to the Queensland economy. Coal royalties for this year's budget are forecast at $3.4 billion which is used to fund doctors, nurses, teachers and police in this state. None of these contributions are possible unless we have an unwavering focus on the health and safety of our workers, and the industry prides itself on ensuring the highest standards of health and safety.

The QRC has assisted the parliamentary select committee on CWP as much as possible and acknowledges that their report released earlier this year represents a substantial body of work. The QRC also recognises the committee's engagement with all parties and commends them for undertaking such a complex review. The QRC has made two submissions and appeared before the CWP committee once under its initial terms of reference. We also responded by letter to the chair of the committee to report No. 2, which was tabled in parliament in May. The QRC has also made a submission under the CWP committee's extended terms of reference and will continue to collaborate with the committee as they undertake the rest of their inquiry.

The QRC agrees with many of the recommendations in the CWP committee's report No. 2, noting that many of those recommendations also reflect the recommendations of the Monash review into the Coal Mine Workers' Health Scheme. The QRC is of course on record as supporting all of the Monash review recommendations since the release of that report. While we understand the risks of using lag indicators as a measure of success in safety and health, the fact remains that everyone had placed enormous faith in the health scheme as demonstrating that CWP was no longer present. However, the system drifted to a point of abject failure at so many levels. Industry has cooperated with DNRM and Minister Lynham in both amending the health scheme and improving the management of the hazard, and we will continue to do so no matter what compliance framework is in place.

While QRC is fully supportive of the committee, we have advised where we disagree. Primarily, it is the recommendations that the committee has decided to progress through the working draft of the Mine Safety and Health Authority Bill. The QRC is concerned that an unfair degree of blame for the re-identification of CWP has been pointed at the regulatory agency and is used as a justification for the creation of an authority. These failings were everyone's failings and a balanced analysis would show that the regulator's actions were a series of resourcing decisions that were made in an environment where everyone misjudged the level of risk that existed. We need to improve our ability to critically assess industry-wide risks. We need to be able to question past assumptions about the understood levels of risk that are associated with mining hazards. Not seeing any adverse impacts resulting from a hazard does not necessarily mean that the risk arising from that hazard is being managed appropriately. The risk may not have gone away. It is the industry's view that moving to a more compliance based approach will not be conducive to a better understanding of the actual levels of risk.

In looking at the working draft bill, the first observation QRC has is that the process of bringing it forward makes it very difficult to critically analyse the policy proposals it would deliver. The QRC argues that the proponent for such significant change would bear the onus for demonstrating that change is truly needed. Industry is used to seeing such major policy initiatives subjected to a rigorous regulatory assessment process. However, in this case, we have no regulatory impact statement to consider. Stakeholders should not be expected to demonstrate that the proposed changes are not needed, particularly if no real effort has been made to demonstrate that they represent the best

solution. After the release of the CWP report, the QRC immediately advised the committee chair of our belief that a RIS should be prepared before any legislative amendments were made and we were disappointed that there has been no such analysis of the benefits and the impacts of the committee's recommendations that sit behind this bill. In fact, we are even somewhat confused as to the status of the bill. The bill attached to the CWP committee report No. 3 that was tabled in parliament on 24 August is marked 'working draft only' but is consistently being referred to as an exposure draft.

The QRC notes that the bill has some gaps. For example, if the bill is to create an authority that deals with all mining health and safety, it would need far more detail. Special counsel to the CWP committee provided evidence earlier this week to the effect that this was beyond the scope of the CWP committee's terms of reference and therefore the bill would require further consideration if it were to include all aspects of mine health and safety. If, for example, the petroleum and gas industry was to be regulated by the new authority, we would expect an appropriate process of consultation to be undertaken. The QRC has highlighted that a number of the consequential amendments that would be needed appear to be missing from the bill. For example, without the removal of the current funding model, industry could end up paying for compliance twice. Another example is the reference to a coal workers' health scheme. While renaming the scheme is one of the committee's recommendations, without amendment to the current coalmining regulation there is no such scheme, so that part of the bill is meaningless. I am fairly confident that the minister would not be allowed to bring forward legislation that was at such an early stage of preparation. It is just these types of deficiencies that the regulatory assessment process is designed to illuminate and address.

In the course of the rest of this opening statement I would also like to briefly cover what our members regard as three key policy issues within the bill. They are the unnecessary increase in union powers, the creation of a Mine Safety and Health Authority, and a complex model for funding safety and health compliance through a set percentage of royalties. The first issue I will raise is that industry has long expressed concern over the potential misuse of union powers under the coalmining safety legislation for industrial purposes. The QRC does not support the proposal to remove the requirement for industry safety and health representatives, the ISHRs, and district worker representatives, DWRs, to give reasonable notice for an inspection. The removal of the requirement for reasonable notice increases the potential for the misuse of powers. These worker representatives are not regulators and they should not have the rights of unannounced entry into the mine as a Mines Inspectorate does.

Secondly, industry is not convinced that the case for a Mine Safety and Health Authority has been adequately made. It is clear that the CWP committee's option is that such an authority is needed to restore confidence. However, there has been no analysis of alternative policy approaches that may achieve the same outcome. While we support having a stronger regulator, the existing structure and governance arrangements could be able to be amended to achieve that outcome without a wholesale disruption of establishing a new authority. The QRC does not accept the underlying reason for having an authority is valid. There is not one group of people or organisation that is to blame for the re-identification of CWP. While employers along with DNRM and its inspectors, the health sector and the unions have all shared the responsibility, it is counterproductive and backward looking to apportion blame to one sector. It is our understanding that a RIS would have had to clearly state the policy intent and quantify the benefits of this proposal as well as document the costs and benefits of alternative approaches. In this case the QRC would expect that at least two alternatives would have been canvassed, with those alternatives being the status quo and the delivery of desired changes under an existing regulatory model—that is, could we change the system within DNRM to improve accountability and re-establish worker confidence in the system? For example, if a stakeholder board is needed, then that could potentially be established within the DNRM governance framework. The governance arrangements could also provide for the independence of the commission, which we fully support.

The third and last issue I wish to raise is that the industry is concerned that the proposed funding model is likely to be overly complex and that it is not linked to the provision of mining safety and health compliance services in any way. While we support having a more transparent funding arrangement and for stakeholders to have a say in the compliance priorities, the proposals for funding through a set proportion of royalties would be impractical to administer. However, it is extremely difficult to comment on the proposal in detail without the analysis of a RIS or without knowing what the required regulation would look like. The resource's value and production can oscillate widely—we have seen that more recently—and it is unclear how the proposal would attempt to even this out or how it would even out discrepancies and differences between commodities. The QRC is suggesting that modelling could be done, for example, based on royalties that were collected during the last resource cycle. We suspect that such modelling would demonstrate the amount of funding collected

would often be completely out of sync with the size of the mining workforce or the level of risk associated with mining operations. I will not go into the detail, but our preliminary thinking on this is set out in our submission. Committee members, I welcome your questions.

ACTING CHAIR: Thank you very much, Mr Macfarlane. I have a question in relation to the funding of the authority. I want to know the QRC's views on that and in particular the QRC's views in relation to mining royalties funding the authority.

Mr Macfarlane: As I touched on in my opening comments, there are two significant issues with this. Firstly, the level of royalty is set off the commodity price and in the case of coal it is set in three tiers and there is no correlation between price and risk and no correlation between the income from that commodity and the number of people employed. That said, we also have an issue where in the cycles of commodity prices they do not all move in sync. If we are going to cover, as I understand—although, as I say, it is difficult to have a good understanding of all of the detail—or if we are going to fund this authority from all commodities, you will have a situation where coal might be down and zinc and copper may be up and they would be paying at that stage a disproportionate amount compared to the coal industry, and vice versa of course. We are aware that DNRM have engaged KPMG to do analysis of available funding models and we do not believe that any change should take place until that work is done. I would also just say that during the last boom employment in the coal industry was at its highest during the development phase. While they were developing mines and constructing new mines, wash plants and, in some cases, railway lines, the production had not risen to the level that it has now and therefore the royalty stream had not risen. Royalties are, we think, a highly inappropriate way to raise the money that is required to run the authority. We are not at any point saying that we need to have money available to make sure that the regulations and the system are working properly. As I say, we do not prefer the authority, but in making sure there is sufficient money there are far better ways of doing it than the royalties.

006 **ACTING CHAIR:** In your opening statement you said that the department should not be wearing the blame and that, in fact, a whole range of stakeholders have responsibility for the issues surrounding CWP. Who do you think has been playing the blame game on this issue?

Mr Macfarlane: I would not like to speculate or cast aspersions about the honourable members of the state legislature, but I think a reasoned analysis of this would show that the department performed as it was asked to and, can I say, as it was funded to by a succession of governments. The previous Labor government, the previous LNP government and the current government have resourced the department appropriate to what people believed the risk to be at the time. If there was a failure and if there was one group that you could point the finger at as being responsible for that failure it is most likely the medical profession; the radiologists who failed to identify through the X-rays and monitoring that they were undertaking that CWP still existed. We have been told that, in fact, there were local general practitioners who were not qualified to read X-rays for CWP who actually diagnosed CWP that had not been picked up by those who were the people responsible. The minister and the department have put in place a process that will rectify that and we are fully supportive of it. Can I say that I think it is highly unfair that the department is singled out for criticism in this matter.

ACTING CHAIR: Finally, at page 9 of your submission, there is discussion around functions being assigned to the parliamentary committee. I am not sure if anyone from the QRC had a chance to either watch the public briefing or read the transcript when we got the briefing from Mr McMillan, who was responsible for the working draft. He said that he effectively modelled those provisions on the Parliamentary Crime and Corruption Committee. Can I get the QRC's views in relation to that, given that, effectively, that structure has been replicated in the existing parliamentary committee?

Mr Macfarlane: I assume that you are referring to the authority of the committee in an ongoing sense, Mr Chairman?

ACTING CHAIR: That is correct.

Mr Macfarlane: The QRC believes that the person most responsible under the Westminster governance system that Australia employs, both at a state and federal level, is the minister in his or her role as the representative of the Premier and of the executive government. Committees certainly have roles and their oversight in a number of areas is very important. We do not for a moment take that away. However, in terms of responsibility, we believe that the minister should be responsible for the function of the authority and that the authority should function to him. I understand that the committee has changed its initial recommendation and has now gone down those lines, but retained some of the powers in terms of requiring to be consulted during the selection of the authority board and to review the operation and also the amount of income that the authority is receiving. We see all

those as functions of the elected government. The committee can certainly, in our opinion, ask the minister to appear before them and question him or her on those matters, but in terms of direct responsibility we see it as the responsibility of the minister and the executive government.

Ms LEAHY: I want to pick up on the Acting Chair's comments and some of the comments that Mr Macfarlane made that no group should really be blamed. I do not think that is a productive way to go forward, to single out individual groups for any blame about the re-emergence of black lung. However, in the absence of there being some sort of industry, unions, medical profession actually saying, 'We want to prevent this from happening again in the future', if we were not going down the road of a statutory authority what is the alternative? This morning we heard that there are 27 workers diagnosed with black lung. This is a preventable disease, so what is the alternative? Everyone has some fault here. There needs to be a process to go forward to make sure it does not happen again and we do not repeat the mistakes of the past. What is that collaborative process, if it is not through the independent statutory body?

Mr Macfarlane: With all due respect to the committee's recommendations and to the committee's thoughts, the reality is that a lot has been happening since the re-emergence of CWP. We have had the Monash review, which, as I said, the industry totally supports the recommendations of. The minister has been involved in a number of improvements in the operations around particularly chest X-rays and spirometry. Doctors must now be registered in order to be an NMA. A collaborative coalmine dust lung disease diagnostic pathway has been confirmed. We are using electronic health records. There are moves afoot in terms of surveillance and monitoring.

We would argue that, in terms of what needs to be done to prevent this disease, steps have already been taken by the minister and by the government and we have commended the government on that. We are working with the government and the department and the minister to bring in further changes and further improvements, but to suggest that the model of the department is wrong I think is an unnecessary conclusion. We see a number of ways where the department's operation can be improved and some of that will require increased budgetary allocation. We see that as a far more cost-effective way and producing better outcomes because of the experience within the department that is there already.

Remember that creating an authority means you basically pull everything apart that you have. Where you already have identified what needs to be improved and those improvements are in train, you pull all of that apart and you build a new authority. If you follow the committee's recommendations, you put that authority in Mackay. You create a whole new disconnect and you lose a whole heap of corporate memory. At a time when we are facing an undeniable crisis to ensure that this disease is stamped out, that seems illogical. It seems to us that continuing with the system where we have already identified the deficiencies, where we have already taken steps—and I say 'we'; the government, the department, the industry and the unions—where we have identified what needs to be done and we are confident that that process will deliver, as I say, in a far more effective way to coal workers.

Ms DONALDSON: Mr Macfarlane, my question is related to that of the member for Warrego in relation to the mine safety and health authority. You talked about alternative approaches to establishing an authority, such as the status quo or having the authority within DNRM. Could you expand on your views and your thoughts about why they might be? For me, the status quo is that previously everyone thought black lung was stamped out and there has been a re-emergence. At the time, it was thought to be stamped out and there were changes and things happening to ensure that, but over a long period people have taken their eye of the ball and it has re-emerged. Why do you think maintaining the status quo will stop a further re-emergence by keeping it within DNRM, as opposed to having a statutory authority?

Mr Macfarlane: The fundamental pretext that the re-emergence of black lung was the result of the department not doing its job is wrong. That is not the reason.

Ms DONALDSON: I am not suggesting that.

Mr Macfarlane: No, but I am just saying that. We have confidence in the department. Any department can improve its function and part of improving that function is to increase the resources. As I said in my opening comments, the resources to the department in this area of CWP have been curtailed by a series of governments on the understanding of the information being supplied to it by the medical profession that this disease no longer existed. Having reached a point where we realise that the disease certainly does still exist and we would expect that there will be further cases based on historic exposure, the way to fix that is not to pull down the structure that is there and that is functioning as it is capable of; it is to increase its capabilities. When we say 'status quo', we mean

status quo with more resources and with a full understanding through the issues that I highlighted, particularly around chest X-rays and B reading and double reading, that the department is then able to deal with the regulations and enforce the regulations around that. We saw an example of that the other day and we were not proud of the industry that day when two companies failed to submit samples. However, the department was able to identify a failure in the new regulations. To be fair to the companies, there are ameliorating circumstances in both cases, but we need to get it right as an industry. The department was onto it straightaway. We are confident that the existing structure will work with sufficient resources.

If people do want a separate authority, having it as part of the department and having it as part of the knowledge base, the experience, the understanding and the connection of that department to the minister and the government, to us, seems a far more appropriate and effective way to do it. There is a huge amount of expertise in the department and, in nearly all cases, it is run very professionally. We do not have any qualms about it. You have the people, you have the experience, you have the structures, you have the frameworks; why would not you use what was already there?

Ms DONALDSON: In terms of public confidence and perception, sometimes the perception of things being independent can have a different standard in the community. Do you think the community would have the same level of confidence in an authority within the department as it has in one that is completely independent?

Mr Macfarlane: I think the optics of independent authorities are always seen by the community as an independent structure in itself. However, that is not always the best way to do things. Part of making sure you have the best structure is ensuring that those people responsible for that structure are not criticised unreasonably, particularly for things that they are not responsible for. If there is a lack of confidence in having an authority within the department, it is more to do with the statements around some of the evidence and comments of committee members in relation to the department. As I say, the industry has confidence in the department and we are the ones who are literally at the coalface with them. Without dwelling on the point, I think there has been a number of occasions during the hearings in relation to CWP where the department has been unfairly criticised. If I can be so bold, I have run authorities that are a part of my department. They were very big authorities and they have done the job immaculately and totally independent of the department. Their independence was never in question. However, by using the department to oversight, to run the finances and to manage the personnel, we had a win-win situation.

Mr PERRETT: I also want to ask about moving forward and having confidence that the current system is going to work, even if it is beefed up with some additional dollars and processes. I go back to the comments of the select committee and particularly the chairs, who are two very experienced members of the Queensland parliament. In their forward they said—

> Our bipartisan pursuit of the truth was dogged and we crashed through numerous obstacles to expose what have been catastrophic failings in public administration in Queensland.

That was signed off by two very experienced members of that select committee. I am concerned that if we operate within the same parameters, albeit with some beefed up funding to those areas, perhaps the coal workers, the people who are most exposed to this problem, will not have confidence in the system going forward. I want to hear your thoughts in and around that comment and that confidence. I know this follows on from the member for Bundaberg, but it seems to be a concern that if we stick with the same it will not make a difference into the future.

007 **Mr Macfarlane:** I appreciate your comment and there is no doubt that public confidence has been shaken as a result of comments such as those, but the QRC stands by its view that those assertions are not correct. We also stand by the view that for 30 years the department has administered this area and it has done a job which gave confidence to the workers and the general community in relation to the monitoring and eradication of CWP.

There are other influences and other motives at times in terms of evidence that was presented to the committee, and those influences have been exerted directly and indirectly for a whole range of reasons, some of which I would be bold enough to say are political. As we have maintained all through this process, the department performed the role it was asked to do by a succession of governments. It performed the role on the basis of the information provided to it by the medical fraternity which was supposedly monitoring this situation.

The department, in our view, has done everything it has been asked to do. As I have said, we do not believe that their ineptitude has created the problem that we have now. The problem was created because we were failing to be advised by the medical fraternity of the existence in X-rays of diagnosed CWP. What we need to do—and 'we' is not only the industry, the department and the

minister but the whole of parliament, the whole industry and the whole department—is remind people that for 30 years the department got this right. I think it is quite unfair to have subjected professional public servants to the level of criticism that has been levelled at them.

Mr PERRETT: To move on to another area, you mentioned earlier the importance of regulatory impact statements that could offer alternative measures or solutions. I think you mentioned there could be a couple of others that could be identified through that process. Are you able to expand more on your thoughts around the importance of an RIS linked to this process?

Mr Macfarlane: I will. Can I add one more point in terms of the department and the push to go to an authority? My understanding is that the authority came a great deal from looking at the system that operated in the US. That system is inferior to the Queensland system and the statistics around that will easily demonstrate it—the level of deaths, the occurrence of CWP et cetera. One thing the American system had that we did not have was effective B readers of X-rays, but to suggest that we should have an authority on the basis that America has one I think is purely ungrounded and unwarranted.

In terms of a RIS, there is a whole range of things that we would like a regulatory impact statement to investigate, and that is the normal process of government. When a minister presents draft legislation or an exposure draft of legislation and consults with stakeholders, he or she always has, in my experience, a RIS to fall back on. Bad governance always happens when people skip over RISs, and I can say that not from my experience but from the experience of some of my colleagues when RISs are set aside.

We could use a RIS, for instance, to give a full cost-benefit analysis of the establishment of an authority including the establishment of that authority at Mackay. That would be a good place to start. We could also do an analysis of the alternative policy proposals in terms of how that all fitted together within the current regulatory and administrative structure. We could use a RIS to examine the relative effectiveness of the proposed funding model. We would be very interested in that. As I say, we see that model as being a nightmare, quite frankly, between the fluctuations in commodity prices and its non-correlation with a number of people or risks within the industry and the fluctuations between commodities. We would very much like to see a RIS of that. Those are some of the areas where we would have expected work to have already been done.

I go back to my original comments in terms of my opening statement: we are still not sure what we are dealing with. Are we dealing with a working draft or are we dealing with an exposure draft? My understanding is that we are dealing with a working draft because the committee does not have the authority to present a bill to the House that has budgetary implications.

Mr PERRETT: No doubt you will be looking forward to the government response to this report. I think it is handed down at 12 noon today. That will give not only us as a committee but also more broadly the community, the resource industry, unions and others some indication where the government may go with this.

Mr Macfarlane: I think 'looking forward' is probably the wrong term.

Mr PERRETT: We are certainly looking forward to getting a government response to that.

Mr Macfarlane: I think to have a government response to a committee report that indicates the government may be bringing in legislation but we are still uncertain of the status of this piece of legislation will add to the confusion. I re-emphasise to the committee that, in terms of what is effectively being done to stamp out CWP, that is already being done. Some of the political processes that are being pursued to us show no indication that they will improve the outcomes—in fact, they will perhaps make them more complicated and more expensive.

We have worked very closely with the government, with the minister, with the department and with the Monash review to make sure that effective things are being done now. Bearing in mind that legislation or the government's response and then legislation falls somewhere within the ill-defined area of when the election may be, it could well be that this problem is well and truly solved before that legislation makes it to the House. When I say 'solved' I mean in terms of ensuring we have the processes for cutting the risk of CWP as close as possible to zero.

Ms LEAHY: Mr Macfarlane, I think it is fairly well acknowledged that there have been systems and different bodies which have failed, and there has been a systemic failure over a period of the last 30 years. How do you expect there to be better outcomes by just giving more money to some of those bodies and systems? If the system is broken, how does giving more funding to it give a better outcome?

Mr Macfarlane: With all respect, we do not think the system is broken. We have seen some very important steps taken in terms of the registration of doctors to be NMAs, in the retraining of radiographers to know what they are looking for, in the implementation of double reading, in making sure that we can read an X-ray and that B readers are as good as those in America. That is identification of existing potential disease.

In terms of the practices, the industry is working under the recommendations of the Monash review and we are certainly awaiting further evidence in relation to the allowable dust exposure levels that we should have. The industry is not opposed to lowering those levels providing it is done on the basis of science and fact, not on the basis of an arbitrary number plucked from the air, and providing it is done in such a way that we can implement those changes to the allowable levels and not shut the industry down for a period of time.

We have tightened dust reporting through a recognised standard, and I mentioned a few moments ago two industry members failing in the compliance of that. I can ensure you that they will not fail again. The companies have taken some very strict steps within their organisations to make sure everyone understands exactly what is expected of them. We have better X-ray equipment and better accreditation. In terms of real-time monitoring of dust, we are currently in a trial and we are awaiting approval for a device which will allow the exposure level to be transmitted in real-time. All of those things will lower the risk of CWP.

When I say it just needs more money, I do not mean it just needs more money to be thrown at it; it needs more money to be put in specific areas. Those are some of the areas where we need more money, and they all are expensive and the industry is happy to pay, but we will also need to see some extra resources put back into the department that have been taken out by successive governments on the misunderstanding—and it was a government decision to cut the resources—that CWP had been eradicated.

ACTING CHAIR: Mr Macfarlane, Ms Bertram, Ms Simmons and Mr Hansford, thank you very much for appearing at this hearing today.

CRONIN, Ms Rachael, Deputy Director-General, Resources Safety and Health, Department of Natural Resources and Mines

DJUKIC, Mr Robert, Director, Compliance and Regulatory Policy, Department of Natural Resources and Mines

GOLDSBROUGH, Mr Paul, Executive Director, Safety, Policy and Workers' Compensation Services, Queensland Treasury, Office of Industrial Relations

MILLER, Mr Glenn, Acting Assistant Under Treasurer, Fiscal Management, Queensland Treasury, Office of State Revenue

ACTING CHAIR: I welcome the representatives from the Department of Natural Resources and Mines, Office of Industrial Relations in Queensland Treasury and the Office of State Revenue. I invite you to make an opening statement, after which I am sure committee members will have some questions.

008 **Ms Cronin:** We welcome the opportunities to address the committee this morning about the exposure draft of the Mine Safety and Health Authority Bill. Our submission concerns the technical aspects of the drafting of the bill and provides no commentary on policy matters. These are matters for government. As you may be aware, Minister Lynham is expected to table in parliament the government's response to the CWP committee's second report. I would respectfully refer the committee to that document on matters of policy.

I would like to draw the committee's attention to the following areas in the draft bill. These areas relate to the forms and functions of the authority, its governance structure, the role of the commissioner, the role of the minister and the proposed parliamentary committee, the potential overlap between the proposed and existing funding models, potential portfolio and jurisdictional overlaps and the transfer of the Mines Safety and Health staff to the authority.

Regarding the proposed function of the authority, the draft bill would establish an administrative structure that includes the inspectorates. The draft bill appears to only include one of the three inspectorates being the Mines Inspectorate. No provision has been made for the Explosives Inspectorate or the Petroleum and Gas Inspectorate. Traditionally, the three inspectorates have remained together. The draft bill in its current form does not clearly address whether all or only some of the aspects of the inspectorates would be relocated to the authority.

With regard to the proposed governance structure, the board model proposed by the draft bill is one of a number of possible governance structures for a statutory authority. The Queensland government's submission has taken into consideration the state's Public Interest Map policy, which includes the principles and requirements that agencies should consider when proposing the establishment of non-departmental bodies such as statutory authorities. In 2002 the Commonwealth government commissioned Mr John Uhrig to conduct a review of the corporate governance of Commonwealth statutory authorities and office holders. We have referenced the Uhrig review in our submission.

The composition of the board is proposed to include 15 individuals, and all but two having representational interests. This structure appears to be inconsistent with the findings of the Uhrig review that representational boards may not provide the best form of governance for an authority. According to the Uhrig review, directors may be primarily concerned with their representational interests rather than the entity.

With regard to the role of the commissioner, in addition to chairing the board the bill provides that the commissioner would also have responsibility for key operational functions. These would include directing inspectors to conduct investigations. These simultaneous responsibilities could create a conflict of duties between chairing the board as an oversight function whilst also being accountable for discharging operational functions. Currently, the commissioner is charged with independent monitoring and reporting functions, and it is not clear where this is achieved in the proposed framework.

With regard to the functions of the minister, it is also proposed that the minister could direct the authority and commissioner in exercising their statutory functions. This is unusual for a regulatory body and appears to be inconsistent with the CWP Select Committee recommendation that the commissioner not be subject to direction of the minister and be free from administrative or political control.

Following on from that, the draft bill also proposes that the authority be overseen by a parliamentary committee which would be involved with the appointment of the commissioner, the board and the chief executive for the authority. A permanent parliamentary oversight committee is not common for boards such as this. It is not clear how the parliamentary committee's oversight function would sit alongside that of the minister and it could lead to divided accountability for this function.

The draft bill also reconstitutes the Office of the Commissioner for Mine Safety and Health which is currently established in the Coal Mining Safety and Health Act. The draft bill amends the mining acts to recognise the reconstituted commissioner role. However, it does not amend the petroleum and gas act or the explosives legislation, both of which reference the commissioner. The role of the commissioner in those acts could be considered inoperable.

With regard to the proposed funding model for the authority, the draft bill provides that funding would be drawn from the royalties revenue. Currently, mine safety and health regulatory activities are funded out of a levy based on the number of employees in industry. The draft bill does not amend or repeal the existing provisions about the levy and if passed the legislation could introduce a duplicative funding source.

The draft bill may also give rise to jurisdictional overlap. It appears to extend to workers other than mine workers. This could potentially create jurisdictional overlap as workers involved with coal, other than mine workers, currently fall under the jurisdiction of the Work Health and Safety Act.

Finally, the bill does not appear to provide for the transition of the current Mine Safety and Health staff into the new authority. The bill provides that the staff for the authority are to be employed under the act establishing the authority not under the Public Service Act.

In closing, I would like to thank you again for the opportunity to brief the committee today. My colleagues and I are happy to answer any questions you might have.

ACTING CHAIR: We will now move onto questions. I had a question in relation to the funding of the Mine Safety and Health Authority. As you would be aware, the draft bill proposes revenue be sourced from a percentage of the state's mining royalties. What kind of modelling has DNRM or the Queensland Treasury undertaken in relation to this, if any?

Ms Cronin: I can say that DNRM has not undertaken any modelling, but I can refer to Treasury?

Mr Miller: Treasury itself has not undertaken any modelling, but there was modelling undertaken by the select committee that demonstrated the linkage between how much was raised by the existing levy and what that would translate to in terms of royalties. That is the only modelling that I am aware of.

ACTING CHAIR: I wanted to also ask about the authority being based in Mackay. When we received a briefing from Mr McMillan he said that one of the consequences of that would be that DNRM staff would move across to the new authority. I wanted to find out if there were any challenges and what effect that would have in terms of staff if the authority was based in Mackay?

Ms Cronin: Our comment would be that it is unusual to put in legislation where an office would necessarily be located. That could lead to some inefficient operation. That aside, that is a matter for government as to where they would like to locate the officers. Currently, we have a regional footprint of around 80 per cent when it comes to Mine Safety and Health operating outside the CBD. We have a very large site at Redbank for Simtars and we also have some officers in Mackay both for Simtars and the Mine Safety and Health inspectorate. It is possible, but I think that that is probably something that would be considered with the necessary unions if we went to look to relocate staff.

ACTING CHAIR: Sure. Do you have any comment about the proposal to transfer most of Simtars' current activities to the authority in the future?

Ms Cronin: I think that is a matter for government.

Ms LEAHY: I was wondering whether the department can perhaps provide some advice to the committee. There seems to be a significant turf war. You have fairly well gone through the exposure draft and said that it will not work for all these reasons, but the department has had those systemic failures. They are actually in the select committee's reports. We have heard that earlier. Is there really a motivation from the department to do something positive and to lift the standards so that we do not see that re-emergence of CWP? Is the department just wanting to continue on as it is with those systemic failures or does it really want to do something different?

Ms Cronin: The department operates at the direction of the minister. In the last 12 months, under his direction, we have made a number of changes as to how the health surveillance framework works to improve the outcomes for the coalmine workers safety and health regime. Some of those things he listed in parliament during the week. He talked about delivering 11 of the 18 recommendations from the Monash review. Some of those included creating the new register for doctors, requiring that X-rays be taken to a standard—that will be published, I understand, this week—and a requirement that X-rays will be read by B readers. Since July of last year—I think that was the date—X-rays have been read twice by a radiologist in Australia and a radiologist in the US who are qualified B readers. The radiology fraternity has been undertaking a B reader course. We now have two Australian based B readers in Queensland. I understand there are a couple of other radiologists who have undertaken the course overseas. We are moving to establish a B reading course in Queensland that will be run later this year so we can raise the standard of radiology. I understand that the government will require all X-rays be read by those core group of B reading radiologists.

There have also been changes to require that doctors undertake a certain level of training and have a certain level of experience to form part of the nominated medical adviser program as prescribed in the act. Under his direction, we have made a number of changes.

Ms LEAHY: You have done that now once the select committee has actually done a very extensive report. Why did the department not raise any of those matters and any of these issues in the last five to 10 years? What has the department really been doing to say, 'We have a concern.'?

Ms Cronin: In responding to that, the department has given a submission to the CWP Select Committee when we first presented to that committee. We have written a submission that explains the history of what has transpired. Respectfully, I would refer you to that submission to get that detail.

I can say that when pneumoconiosis first came to light the minister did request Monash University come in and undertake an independent review. That university review did also highlight there had been failings by the medical profession and within the department about how it had been run. We have actioned against those recommendations since that review has come out.

Ms DONALDSON: I have a question about the commissioner and the board. In your submission you talked about the operational role of the commissioner and that role perhaps creating a conflict of interest as with the role as chair of the board. Could you expand on any particular things that have led you to that conclusion?

Ms Cronin: Our response is only technical in nature. If we were putting a draft together these are the things that we would consider. We are simply highlighting opportunities where perhaps it needs more refinement to achieve a certain result. The consideration is that as it is drafted it does provide for a conflict where the chair has an oversight function to give direction to the board and can also direct the authority individually to undertake inspections. It could give rise to conflicts of duties. It may not necessarily; there may be different views. It is just a matter for consideration.

Ms DONALDSON: In relation to the board membership, you see this as being a representative board as opposed to a governance structure. With representatives from different industries, you have highlighted that you do not see that as appropriate for a governance board. That is part of the Uhrig report. Could you expand on that a bit further please?

Ms Cronin: The only comment I can really provide is that we are referencing a report done by the Commonwealth in 2002 that provides a level of experience about best model structures for statutory authorities and other government entities. We are literally providing some commentary about that research. It would be open for government to decide if they would like to have a representational board. That is something for them to consider. It does have some limitations based on the reviews that have been completed. The department does not have a view one way or the other.

Mr PERRETT: The Resource Council raised some concern earlier with regard to the terminology around exposure draft and working draft. Are you able to provide some clarity to this committee in respect of whether there is a misunderstanding about an exposure draft or a working draft? It is certainly stamped with working draft. What are the differences if that is the terminology that is used?

Ms Cronin: The only thing I can provide commentary on would be about government process. Under a government process we would undertake, on occasion, an exposure draft of the bill prior to introduction and prior to it going to any sort of parliamentary committee so that stakeholders could provide commentary on whether they thought it was well drafted or whether there were other issues.

I cannot really comment on their view. They are exposing the draft as a working draft. I believe even Mr McMillan, at the hearing on Monday, indicated that it was to provide commentary and there would need to be perhaps some modifications. I think he pointed out that the terms of reference for

the select committee did not extend to the petroleum and gas or explosive inspectorates and that that is something that would need to be considered by government going forward, if they wanted to move forward. I guess that is the only insight I could provide. If I remember correctly, I think that is what he articulated in his evidence.

009 **Mr PERRETT:** I was just trying to get an understanding of the process. At the top of the page it says 'exposure draft' and then the stamp on the side says 'working draft only'. I thought there may be some differences that were causing confusion with some of the stakeholders in terms of what part of the consideration of the process is taking place. That is why I asked that question.

Mr Djukic: My understanding is that typically things are marked 'working draft' once they have been taken to a point where they will be circulated to stakeholders. There has probably been a conscious decision to take this forward as a policy by the government, for example. I could not offer any more insight besides that.

Mr PERRETT: It was just for clarity in respect of what has been circulated. The next question is about the regulatory impact statement. The Queensland Resources Council made some comment in and around that and the fact that that does not exist and that it may have provided, in their words, some 'alternative solutions' to some of the challenges that are there now. Why hasn't there been a regulatory impact statement undertaken by the department?

Ms Cronin: Under the current framework, as I understand it, the regulatory impact assessment process actually applies to government agencies and legislation brought forward by those agencies. In effect, it probably does not expressly apply to legislation being brought forward by a parliamentary committee. That would be my understanding based on government policy.

Mr PERRETT: They indicated that it exposed significant risk in respect of confidence in the process. While this may be a policy issue, is that something that could be undertaken by the department if that were requested?

Ms Cronin: If the minister asks us to bring forward the legislation and introduce it as his own, I anticipate that the Office of Best Practice Regulation will do an assessment. If that assessment determines that it could have—I think the language they use is an adverse impact or a significant impact—a significant impact then it may require us to do a regulatory impact assessment.

Mr PERRETT: I will move on to some other matters—whether these relate to policy or otherwise I am going to ask anyway, because this about clarity in respect of where we end up. The first recommendation that was made by the select committee is in respect of establishing an authority. That is obviously why we are here, given that it has moved on to that point. The select committee made some very strong comments about a lot of matters. While not apportioning direct blame, one area that I did pick up on—and I want to touch on this to understand the processes within the department and whether this is going to end up delivering what we hope it will, and that is greater safety for coal workers. The commentary that led to recommendation 1 was—

> Given the nature of the system breakdown in relation to CWP, it is clear that DNRM's attempts to amend or improve the system within the limits of the current regulatory structure have been inadequate, resulting in a superficial treatment of some issues. This piecemeal approach will not be sufficient to restore workers' trust in the system or in the adequacy of the protection it affords them.

That led to recommendation 1, which is obviously to establish the authority. Perhaps providing some additional resources to the current system has been suggested. I am new to this in understanding it. The Resources Council believes that that can been done internally within the department; obviously the select committee believes it cannot be. Is there an awareness or is there a changed process within the department given that there has been this commentary around these issues? Is the safety of coalmine workers something that can be adequately addressed within the current structure?

Ms Cronin: In responding to that I would say that in many of the minister's statements he has reiterated the importance of having a regulatory model that has independence. That is paramount to making good regulatory and compliance decisions. If I paraphrase what he has previously articulated, he would be supportive of a model that has independence.

In terms of activity that has been done in the last 12 to 18 months and in terms of funding, the government has allocated—I cannot give you the number off the top of my head, but I can take it on notice, if you like—funding to respond to the re-identification of coal workers' pneumoconiosis. That funding has been going towards some of the key significant changes to the Coal Mine Workers' Health Scheme to build confidence back for coalmine workers and also to make sure that there are sufficient stopgaps in the system. That is looking at things like introducing an independent audit function that would also audit the doctors, audit the X-rays and audit the medical records that come into the

department so we can test the quality of the assessments and the reviews on an annual basis. They are some of the things that are systematically being implemented that this funding has been allocated to. Fundamentally from where we were two years ago to where we are now, it is a very different approach that is being taken to the management of the Coal Mine Workers' Health Scheme. That is in direct response to the minister's actions in relation to the Monash University review.

Mr PERRETT: One of the concerns that was raised by the Resources Council was that if this authority is established as an independent authority there may be corporate knowledge that is lost. Obviously the department should have within its systems that corporate knowledge and the processes that capture that. If this authority is established—obviously the department is still there—what are the processes that would be used to transfer some of that corporate knowledge into that independent authority? Is that of concern to the department, that corporate knowledge may be lost?

Ms Cronin: I think there would be concerns if we were not able to transition all of the staff through and they felt a level of discomfort in the sense that they—with regard to my last point, there is uncertainty in the way that the bill is drafted as to whether the staff would continue to be employed under the Public Service Act. I imagine that would be the intent, but that has not come across in the drafting as clearly as I articulated. I imagine there would be concerns around that and that could lead to a loss of corporate knowledge. To be frank, machinery-of-government changes happen all the time in government. It is the way in which those change transitions occur that ensure that we bring as many people along in the right way as possible to retain that corporate knowledge. It would be a matter for implementation I would suspect.

ACTING CHAIR: I had a question in relation to conceptually creating an independent statutory authority. During the hearing today we have had stakeholders speaking both for and against that. Most recently we had the Queensland Resources Council say that they did not agree with establishing an independent statutory authority. For the benefit of the committee, could you outline some of the advantages and disadvantages of creating an independent statutory authority?

Ms Cronin: To be honest, I think that comes down to how the statutory authority is established. It really is a matter for government. I do not believe that as a public servant I can provide you with a view on what would or would not be appropriate. It is how the statutory authority would be set up. There are many models of statutory authorities. It has been well accepted in the Queensland government organisational structures as something that has been endorsed. There are many of them within Public Service entities, if you like, but each one of them is slightly different.

ACTING CHAIR: It is not unusual to have a statutory authority being created.

Ms Cronin: I would not use the language of whether it is usual or unusual. My response would be that, if the Queensland government were to establish one, it would run through the public interest map that we articulated and it is part of our submission. If it formed the view that that was the most appropriate, I am quite sure that the government would do that. What I am trying to say is that it is not unusual. There are a number of statutory authorities within the Queensland government framework, so it could occur. There is precedence for it—that is what I am saying.

Ms LEAHY: I want to draw the department's attention to recommendation 4. I think it was mentioned in your opening statement as well. The recommendation states—

A parliamentary committee should oversee and monitor the operation of the Mine Safety and Health Authority. The Minister should be required to consult with the parliamentary committee regarding the appointment of the Commissioner and Board.

You mentioned there might be some difficulties with that. What sorts of difficulties do you foresee?

Ms Cronin: I think we have articulated this in part of our submission. Essentially it is common in Queensland for integrity bodies to be overseen by a parliamentary committee and for the committee to have involvement in the appointment of officers to the body. The functions of the integrity bodies relate to ensuring the accountability and integrity of the public sector and government institutions. It is generally unique to integrity bodies. That is referenced in and around page 20 of our submission.

Ms LEAHY: What sorts of difficulties do you see in it being overseen by a parliamentary committee?

Ms Cronin: It would depend on how the parliamentary committee was set up. Currently, as I understand it, the Department of Natural Resources and Mines and the minister is responsible to a committee on an annual basis through estimates where that committee is reported to on the activities of the department. If the committee was more set up like a committee responsible for say, the CCC, it could lead to the fact that there is duplication or confusion of activities between the parliamentary committee and the minister. It is just something to consider.

Ms LEAHY: It was not always the PCCC. It has had different names in the past and there have been successive governments and successive ministers. From what I see in the exposure draft, it is actually modelled on that legislation. We do not seem to have had too much difficulty with successive governments there. I am curious to know—

Ms Cronin: That model is generally set up for integrity bodies such as the CCC. I do not think comparative regulatory bodies such as the Queensland Building and Construction Commission, which is an example of a regulatory statutory authority, report directly to a parliamentary committee. There are a number of different models for consideration.

Mr PERRETT: This question may be to Mr Miller. Can you comment on part 9 of the bill—the proposal to abolish the safety and health levy in favour of a percentage of royalty revenue as a way of funding the authority? Do you see any problems or advantages with this proposal?

Mr Miller: There are a number of issues that have been outlined in the government's submission. Certainly something that I deal with on a regular basis is the volatility in royalty revenue and the implications that has for forward planning of a budget. What we saw in 2016-17 is that coal prices unexpectedly spiked due to a change in Chinese government policy and also the tropical cyclone. What we saw was the coal royalties effectively doubled from one year to the next, and going forward we are expecting that coal royalties will decline as prices normalise. That sort of volatility makes it quite difficult to know exactly how much revenue is going to come in if the recommendation of prescribing a fixed proportion of royalties was adopted. It is certainly an issue that would need to be worked through.

Mr PERRETT: I think the Queensland Resources Council mentioned that it could mean that there is a disproportionate funding commitment based on the uncertainties based in and around that. Is that correct?

Mr Miller: I am not sure what they were getting at—whether they saw a disproportionate commitment from certain sectors of the mining industry. As I understand it, the exposure draft is to cover the mining industry as a whole; it is not just the coalmining industry. If one particular commodity price increases while another drops then the relative contributions of those sectors would change, even though the risk associated with their workers might not necessarily do so. I think it is that linkage that would need to be explored.

ACTING CHAIR: There being no further questions from committee members, thank you very much for appearing at today's hearing and for providing evidence to this inquiry. The committee would appreciate it if the answers to questions taken on notice could be provided by close of business on Wednesday, 13 September 2017. Thank you all for your attendance at today's hearing. I believe the committee has gathered valuable information that will assist in the committee's inquiry into matters relating to the exposure draft of the Mine Safety and Health Authority Bill 2017. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare the hearing closed.

Committee adjourned at 11.44 am