

This is an uncorrected proof of evidence taken before the committee and it is made available under the condition it is recognised as such.



COAL WORKERS' PNEUMOCONIOSIS SELECT SUBCOMMITTEE

Members present:

Mrs JR Miller MP (Chair)
Mr JN Costigan MP
Mr S Knuth MP
Mr LL Millar MP

Member in attendance:

Mr J Pearce MP

Counsel assisting:

Mr B McMillan (Barrister at Law)

Staff present:

Dr J Dewar (Research Director)
Mr S Finnimore (Principal Legal Advisor)
Ms L Manderson (Acting Inquiry Secretary)

PUBLIC HEARING—INQUIRY INTO COAL WORKERS' PNEUMOCONIOSIS

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 3 MARCH 2017

Brisbane

FRIDAY, 3 MARCH 2017

Subcommittee met at 8.58 am

CHAIR: Good morning. I declare open this public hearing of the coal workers' pneumoconiosis inquiry. Thank you for your attendance here today. My name is Jo-Ann Miller. I am the member for Bundamba and the chair of this select committee. The other committee members here with me are: Mr Jason Costigan MP, member for Whitsunday; and Mr Shane Knuth MP, member for Dalrymple. Mr Lachlan Millar MP, member for Gregory, will be standing in for Mr Lawrence Springborg MP, member for Southern Downs and deputy chair, who is unable to be with us today. Other committee members who are unable to be here are: Mr Craig Crawford MP, member for Barron River; and Mr Joe Kelly MP, member for Greenslopes.

The committee has formed a subcommittee here today and we are able to conduct all business of the select committee. The hearing is being transcribed by Hansard. Those here today should note that the hearing is also being broadcast and media may be present, so you may be filmed or photographed. Before we commence, I ask that mobile devices be switched off or put on silent mode. These proceedings are similar to those of the Queensland parliament and are subject to the Legislative Assembly's standing rules and orders. The guide for appearing as a witness before a committee has been provided to those appearing today. The committee will also observe schedule 3 of the standing orders.

BAKER, Mr Peter, Senior Vice President, Underground Operations, Peabody Energy Australia

CARTER, Mr Mike, Site Senior Executive and General Manager, North Goonyella Mine, Peabody Energy Australia

CLOUGH, Mr Andrew, Vice President, Health, Safety and Environment, Peabody Energy Australia

CHAIR: I now welcome representatives from Peabody Energy Australia. We have with us today Mr Peter Baker, Senior Vice President of Underground Operations; Mr Andrew Clough, Vice President of Health, Safety and Environment for Peabody's Australian operations; and Mr Mike Carter, Site Senior Executive and General Manager of the North Goonyella Mine. I welcome you here today. For the benefit of Hansard, I ask witnesses to speak clearly into the microphone and please state your name and position when you first speak. I understand that you have an opening statement. It will followed by questions from our counsel assisting, Mr Ben McMillan, and also questions from members of this committee. The committee secretariat will also provide you with a copy of the *Hansard*. I now ask for your opening statement.

Mr Baker: Thank you, Madam Chair, and good morning to all. By way of introduction, my name is Peter Baker. I am the Senior Vice President of Underground Operations for Peabody Energy Australia. I started in the mining industry some 36 years ago as an operator and have since obtained a degree in mining engineering and hold a First Class Mine Manager's Certificate. My responsibilities now cover all of Peabody's underground mines in New South Wales and Queensland with all general mine managers reporting to me.

With me today are two of my colleagues from Peabody Energy—as Madam Chair introduced, Andrew Clough, Vice President of Safety, Health and Environment; and Mike Carter, General Manager and SSE of North Goonyella Mine. Andrew Clough is responsible for the health, safety and environment systems and policy functions for all of Peabody's mines in New South Wales and Queensland. Andrew has a Bachelor of Mining Engineering and a master's degree in mining geomechanics. He has worked in the mining industry for over 35 years including as general manager of Peabody's Metropolitan underground mine in New South Wales, as well as North Goonyella underground mine in the Bowen Basin. Andrew also spent two years working for the Mines Inspectorate in Queensland on two separate occasions, one of which as chief inspector.

Mike Carter is currently the General Manager and SSE for Peabody Energy's North Goonyella Mine in the Bowen Basin and has been in that position since December 2013. Mike has a Bachelor of Mining Engineering and a First Class Mine Manager's Certificate. Mike has worked in the industry for more than 20 years including as underground mine manager for a number of operations in Australia.

As we stated in our submission to the inquiry, our company is deeply concerned about the re-identification of coal workers' pneumoconiosis and for those who have been diagnosed. CWP is a serious matter for workers and the coal industry. It requires a collective effort from all stakeholders including operators, employers, government, unions and the health sector to ensure that improvements are made to protect coalmine workers from this disease.

Peabody has been involved in the coal mining industry in Queensland since the 1960s, when it played a founding role in the development of the local coal industry. Peabody presently operates four mines in Queensland, including Coppabella, Millennium and Moorvale open-cut mines, as well as the North Goonyella underground mine. Peabody Energy's parent company is based in the United States and the Australian business is headquartered in Brisbane.

Peabody's vision is to operate safe and healthy workplaces that are incident free. Safety is Peabody's first value and that is integrated into all areas of our business. Our goal is to eliminate all workplace incidents, including injuries and occupational illnesses. We are committed to this effort and committed to supporting the work of this committee.

We actively participated in the independent review into the Coal Mine Workers' Health Scheme as an industry representative on the minister's tripartite review committee involving government, the unions and industry, facilitated by Professor Sim. As part of that commitment, we hosted a visit by Professor Sim's team to our North Goonyella underground mine.

Peabody Energy is providing input into the government review of the workers compensation scheme as part of a Queensland Resources Council working group. We are also representing industry on the Coal Mining Safety and Health Act legislation amendments process. We are a member of the Coal Mining Safety and Health Advisory Committee and have had considerable input into the development of the recognised advisory standards. Peabody worked closely with the QRC and other member companies to facilitate a dust control workshop in October 2016 to ensure all industry participants shared different types of mitigation and control measures.

Since hearing of the first diagnosed cases in late 2015, Peabody has undertaken a comprehensive program to provide information to employees, as well as reviewing X-rays and offering new X-rays to those with concerns. We also contacted our former underground employees to provide further information on the re-identification of CWP and offer those who have left the industry or retired X-ray screening and respiratory function testing, as well as general support. All scans are conducted using the dual screening process—first reviewed by an Australian radiologist and then assessed by a United States NIOSH approved reader at the University of Illinois at Chicago under the guidance of Dr Cohen. For our contractor personnel, we have engaged with their employers to ensure they have a current health assessment under the health scheme and are working in accordance with the outcome of that assessment and that they too are offered further screening if they have CWP concerns.

At North Goonyella Mine we have undertaken thorough reviews of our dust management processes and worked with our workforce to implement a range of improvement measures. These include increasing the frequency of monitoring; establishing the most effective methods of dust control at generation points; defining and modifying activities associated with the longwall operation, including no-go zones; and introducing a range of engineering and operational modifications to mitigate the risk of exposure to dust. In our operations, personal protective equipment, or PPE, is always used where there is an elevated risk of exposure and only as a secondary control measure. However, when used properly, it is an effective control in managing dust exposure.

North Goonyella Mine has operated under a directive from the safety inspectorate with respect to dust management which ultimately led to a 'level 4' meeting with the chief inspector in October 2015. We worked actively to address the inspectorate's concerns and minimise dust levels, and ultimately North Goonyella was able to demonstrate effective and sustained dust management and is no longer operating under a directive relating to dust.

There are several matters we would like to submit for consideration by the committee as it prepares its report. Firstly, we support the findings of the Monash review identifying the inadequacy of the previous screening and assessment process. The shortcomings in the process have resulted in a lack of transparency and feedback to mine operators. We support both the recommendations of the review and the government's response.

Secondly, the current workers compensation scheme provides a strong and workable structure that we believe could be amended to deliver appropriate compensation for workers, including retired workers, who have developed CWP. We know of no proper basis for departing from established processes and systems that are understood, applied consistently and have an established legal framework already in place. We are pleased to be involved in providing input to the government review of the scheme as part of the Queensland Resources Council group.

Thirdly, real-time personal dust monitors should be utilised in underground production areas. Greater use of these monitors would enable a higher degree of accurate data collection and a much faster response time for workers regarding dust exposure.

In closing, Peabody Energy is a proud participant in Queensland's coal industry and we are committed to operating safe and healthy workplaces. We express our further commitment to working with our workforce, government and industry to help eradicate the risk of coalmine workers' pneumoconiosis and ensure our people go home safely every day.

CHAIR: Thank you, Mr Baker. We will now go to counsel assisting for his questions.

Mr McMILLAN: Good morning, gentlemen. Thanks for joining us today. I note from your submission that has been provided to the committee that Peabody is the world's largest coal company. You have noted in your submission that you have 26 coal operations located in the United States and Australia. Mr Baker, you have already observed that you have mines both in Queensland and New South Wales. What can you tell us about what you have learnt from your United States operations about the prevalence of coalmine dust lung diseases and, prior to 2015, what thoughts you had about why there had been no reported incidents of CWP in Queensland?

Mr Baker: I look after the underground operations in New South Wales and Queensland. Andrew has more regular contact with the United States. Do you mind if I pass that question to him?

Mr McMILLAN: Sure.

Mr Clough: If I can paraphrase your first question, it was about what we have learnt from the United States on the prevalence of pneumoconiosis. Is that correct?

Mr McMILLAN: Yes.

Mr Clough: I have conversations with my counterpart in the United States. At the moment I know within the Peabody mines in the United States I have been told anecdotally there is one case. I do not have numbers on retired coalmine workers. In terms of the technology between the United States and Australia, I have a monthly meeting with my counterpart where we discuss a whole range of issues including respirable dust. We also have an annual ventilation audit, which is where one of the experts from the United States comes across and has a look at the Australian operations, so we get some cross-pollination in terms of the dust mitigation technologies. A number of the mitigation technologies have been implemented at North Goonyella, particularly in terms of sprays and suppression techniques.

Mr McMILLAN: They are technologies that were already in place in the US operations. Is that right?

Mr Clough: Yes. That is my answer to the first question.

Mr McMILLAN: Can I stop you before you move on to the second part of the question. The committee has heard evidence that there have been some 70,000 CWP cases diagnosed in the United States in the last decade. How many coalmines does Peabody operate in the United States? Given your evidence, I note that you currently have only one case in your workforce there.

Mr Clough: That is what has been told to me anecdotally. I cannot tell you how many mines off the top of my head. My area of responsibility is Australia. If I may, I can take that on notice.

Mr McMILLAN: Thank you. Given your previous experience, prior to 2015, were you aware of the significant incidents of CWP amongst coalminers in the United States?

Mr Clough: What was brought to my attention in my previous role as the chief inspector—and that was brought to my attention through our hygienist at the time, Fritz Djukic—was that it appeared that there was a resurgence or re-identification of CWP happening in the United States. At that time there was no evidence of it being in Australia.

Mr McMILLAN: Why did you think that was the case? Did you turn your mind to why that was the case?

Mr Clough: To give a little bit of background to that, the information that was given to me, as I recollect, came out of autopsies that had been performed on the people who died at Upper Big Branch. My response at the time as chief inspector was to get my inspectors together and say, 'We need to focus on dust levels in the industry.' After doing that with my inspectors, I took a presentation

both to the QRC and SSE forums and basically said, 'This is something we need to have a look at.' Having said that, I had faith in the screening system, as I think everybody did at that time, that there were no cases in Australia.

Mr McMILLAN: I take it that most of the evidence you have just given essentially about your knowledge of CWP and its prevalence emerged from your time as an inspector and chief inspector of mines. Is that right?

Mr Clough: The last part of my statement, yes.

Mr McMILLAN: When did you take up your role as Vice President of Health, Safety and Environment for Peabody?

Mr Clough: In April last year.

Mr McMILLAN: What were you doing immediately prior to that?

Mr Clough: I was the general manager of the Metropolitan colliery in New South Wales.

Mr McMILLAN: I note from Mr Baker's opening remarks that you were also previously general manager at North Goonyella.

Mr Clough: That is correct.

Mr McMILLAN: When was that?

Mr Clough: That was from 2011 to 2013—sorry, 2014. I will need to check that.

Mr McMILLAN: That is all right. I am wanting to establish a general sense of the time frame in which you worked in the private sector as opposed to going into the Mines Inspectorate. From what you have just told me, it seems that you had very senior positions at two Peabody mines—one in New South Wales and one in Queensland—prior to taking up duties as the chief inspector of mines. Is that accurate?

Mr Clough: I had a senior position in Peabody at one of their mines before the chief inspector's role. That was North Goonyella.

Mr McMILLAN: How did you come to be appointed as the chief inspector of mines from that background?

Mr Clough: I left North Goonyella and worked for myself for a period of about 12 months. I was approached by Gavin Taylor, who was looking at retiring, about whether I was interested in applying for the role, and I did. So I was actually approached.

Mr McMILLAN: You left that role to take up your current position; is that right?

Mr Clough: I left that role to take up the position as general manager at Metropolitan colliery.

Mr McMILLAN: I am sorry, yes. The committee has heard some evidence about the notion of regulatory capture and concerns amongst coalmine workers that the flow of staff between the inspectorate, senior positions in mines and back again taints the work that the inspectorate does and compromises his independence. Can you comment upon that given your unique, I suspect, experience in that regard?

Mr Clough: Yes. The first thing I would like to state is that, as mining is a fairly specialist area, industry is the pool where inspectors are drawn from. Historically, an inspector had to have a first-class ticket. They have always been drawn from the management ranks. In later years due to skills shortage that has been watered down a bit. You do not necessarily have to have a first-class ticket to be an inspector anymore. There is a strong connection between the inspectorate and industry by virtue of the fact that that is the training ground where inspectors come from. The other point I would make about safety is that, if you are serious about safety and it is a core value, it does not really matter whether you are with a regulator or whether you are with private industry because the objective is to make sure that coalmine workers all go home safe. Personally I do not see a conflict.

Mr McMILLAN: When you were appointed as chief inspector of mines, what experience prior to that had you had as a mines inspector, if any?

Mr Clough: I had had some experience back in 2003 where I had worked as a field inspector—a district inspector—in Mackay.

Mr McMILLAN: Were you ever given any specific training about how to do inspections or investigations of potential offences before taking up that initial role as an inspector? I am sorry, I should be clearer about that: either before taking it up or immediately after taking it up.

Mr Clough: I was trained on the job how to do investigations. I had the good fortune of working with an ex-police officer at the time who ran me through things like rules of evidence and the proper way of taking statements so, yes, I had some training.

Mr McMILLAN: I would like to go back to my initial question about what you have learned from your US counterparts. Mr Clough, I am grateful for the evidence you have already given about your relationship with your direct US counterpart. I am interested in the process of the dissemination of research information by the National Institute for Occupational Safety and Health, NIOSH, in the United States and the Mining Safety and Health Administration as opposed to the dissemination of similar information by Simtars in Queensland. Can you tell us from your experience what similarities or differences there might be and what Queensland might be able to do better in that regard?

Mr Clough: I am sorry, I did not quite understand the question.

Mr McMILLAN: I apologise; it was a very convoluted question. I will ask it in two parts. Through your discussions with your counterparts in the United States, is it common for industry to receive assistance and information from government regulators in the form of NIOSH and MSHA about, for example, dust mitigation and dust suppression technologies and so on?

Mr Clough: My experience with NIOSH is limited. What I do know is that NIOSH fulfils a similar function to the regulator here where there is dissemination of information to the industry through safety notices—I think they call them fatalgrams if somebody has lost their life. I do not know beyond that what other mechanisms there are in the States for dissemination of information.

Mr McMILLAN: I am aware that Simtars provides some commercial services to Peabody, and I will ask you about those later. I am interested in the experience of the three of you at the table in coalmining, particularly in Queensland. Has Simtars contributed at all to your understanding and use of dust mitigation and dust management technologies or is that something you do entirely in-house?

Mr Clough: Mike might be best to answer that as it is site based.

Mr Carter: We use Simtars largely for monitoring and providing feedback from the monitoring specifically with the data that they capture. They will obtain statements from the guys at times in terms of where they are working and what was actually taking place. The actual engineering controls and a lot of those items come out of the engineering team and the studies conducted there, but they will utilise the data and information captured by Simtars to feed that into a continuous improvement program to make changes.

Mr McMILLAN: Simtars stands for Safety in Mines Testing and Research Station. You are aware that Simtars is funded by the Queensland government to undertake research into a range of mining safety and health issues?

Mr Carter: Yes, I am.

Mr McMILLAN: In the time that you have been general manager at North Goonyella or in senior positions with Peabody, have you ever had the benefit of any of that research provided by Simtars to Peabody?

Mr Carter: Only in the form of what they do in terms of monitoring and those areas, not really in terms of engineering controls.

Mr McMILLAN: Mr Baker, did you want to add anything to that evidence?

Mr Baker: Just that the only connection here is the fee for service work.

Mr Clough: If I may add, as I recall there was a substantial amount of work done with Simtars in terms of stone dusting, which is explosion mitigation. I also had some exposure to the virtual reality work that they were doing. I think there was also some training associated with spontaneous combustion. There has been some work but I do not recall anything particularly on respirable dust.

CHAIR: For the stone dusting, was the inspector Mr Neil Randolph?

Mr Clough: Yes, he was part of that as well.

Mr McMILLAN: I want to ask about your company’s response to the reidentification of CWP in the last two years. First of all, are there any cases of CWP or other coalmine dust lung diseases in your current workforce?

Mr Baker: Yes, we have one case reported in our current workforce

Mr McMILLAN: Is that worker still employed by Peabody?

Mr Baker: Yes, he is.

Mr McMILLAN: Without identifying that worker, can you generally describe his occupational background? What type of environment has he—I am assuming it is a man—worked in to your knowledge?

Mr Baker: To our knowledge the worker has had a number of years underground—more than 10—in a number of different operations and has been maintenance based.

Mr McMILLAN: All in Queensland?

Mr Baker: All in Queensland.

Mr McMILLAN: Has that worker now been removed to a low-dust environment?

Mr Baker: Yes, he has been removed to a low-risk environment.

Mr McMILLAN: Is Peabody a self-insurer or does it operate its workers compensation claims through WorkCover?

Mr Baker: Through WorkCover.

Mr McMILLAN: Has that worker made an application for compensation through WorkCover?

Mr Baker: Not to my knowledge as yet.

Mr McMILLAN: Do I take it that at this stage to the extent that there are any expenses relating to that worker’s change in work environment Peabody is bearing those expenses?

Mr Baker: Yes. If you mean remuneration, there is no change to remuneration.

Mr McMILLAN: What about health surveillance for that worker and medical expenses? Are they being borne by Peabody?

Mr Baker: Yes, we are assisting that gentleman in every way we possibly can.

Mr McMILLAN: The committee is particularly interested in the security of arrangements for workers who have to leave particularly the underground mining environment because of early stage CWP. What security of arrangements does that particular worker have in the arrangements you have currently established for him?

Mr Baker: Security is pretty much the same, Mr McMillan, as when he was in his previous role. Provided the mine is viable, his role remains at the mine.

CHAIR: Where does the worker live?

Mr Baker: In Mackay.

Mr McMILLAN: I think you have already indicated there has been no change in the rate of pay or bonus payments.

Mr Baker: No.

Mr McMILLAN: There has been otherwise no disadvantage to that worker arising from his diagnosis?

Mr Baker: No, there has not. Well, we do not believe there has.

Mr McMILLAN: The submission that Peabody has made to the committee notes a number of activities that have been undertaken since the reidentification of CWP in 2015. At page 3 your submission talks about communications with your underground workforce, which I presume is limited to the North Goonyella Mine in Queensland. That is right, is it not?

Mr Baker: That is correct.

Mr McMILLAN: Commencing in November 2015. First of all, how did you decide what it was that you should tell the workforce and how you should tell them when you decided to make a broadscale communication with the workforce in November 2015?

Mr Baker: There was a group that worked on that communication basically from Brisbane—we had site input—utilising the information that we had drawn from the department at that time. It was somewhat limited but we thought it was best to get that information out to everybody to make sure they had as much information as we did at the time.

Mr McMILLAN: Did you decide at that stage that it was necessary or appropriate to limit that communication to the underground workforce?

Mr Baker: At that time the underground workforce was certainly a priority.

Mr McMILLAN: You have I think five open-cut mines in Queensland?

Mr Baker: We operate three open-cut mines.

Mr McMILLAN: Three currently. Did you give consideration at that stage—and I know you have subsequently—to notifying open-cut workers about the reidentification of CWP and the possibilities of exposure to respirable coal dust?

Mr Baker: Mr McMillan, I am not 100 per cent sure of the communication that was undertaken at the open-cut mines, but I can tell you that there was a priority on the underground operation.

Mr McMILLAN: Mr Clough, you were not at Peabody at that stage, were you?

Mr Clough: I was not in Queensland. I was in New South Wales.

Mr McMILLAN: I note from the submission that there were follow-up communications by letter from 3 December 2015 and presentations given to the underground workforce at North Goonyella.

Mr Baker: That is correct.

Mr McMILLAN: Are you able to provide a generic copy of that letter to the committee?

Mr Baker: Yes.

Mr Carter: A copy of the communications that we provided?

Mr McMILLAN: Yes.

Mr Baker: And the letter that went to the employees about the offer.

Mr McMILLAN: Thank you. I note from your submission that in December 2015 an offer was made to the North Goonyella workforce that anyone concerned about their respiratory health could undertake a subsequent chest X-ray and have that done at the company's expense. How was that offer communicated to the workforce?

Mr Carter: We basically communicated that directly to all shifts. We had forms that could be filled out for those people who wanted to take the X-rays up.

Mr McMILLAN: When you say 'directly to all shifts' you mean orally at the pre start meetings?

Mr Carter: That is correct. Then we had forms available so that people could pick those up independently or at the time.

Mr McMILLAN: What is the size of the workforce at North Goonyella?

Mr Carter: There are 98 employees in the underground workforce and we have an additional 12 employees at the prep plant. As I say, they are the permanent non-shift employees. Then there are another 75 staff employees on top of that, some of whom work underground and others who work on the surface.

Mr McMILLAN: Of the staff employees who do not work underground, do any of them have a history of working underground?

Mr Carter: Some of them will have a history of working underground, yes.

Mr McMILLAN: The submission notes that approximately 25 employees took up the offer. Is that 25 employees in total or was it 25 initially?

Mr Carter: Initially we had 45 people put a request in for the chest X-rays. Out of those 45, it is my understanding, that about 30 had taken up the chest X-rays at that point. We had 45 take the forms, but a lesser number actually elected to go and do the X-rays at that point in time.

Mr McMILLAN: How many have taken up that offer to date?

Mr Carter: It is probably also important to note that a lot of people had recently done it as part of their updated Coal Medical process. Some people were due up shortly after that. There were a large number of people who were additionally picked up both immediately prior to and immediately after that as part of the Coal Board Medical screening process. In addition to that, we also have 21 people in the mines rescue team. The mines rescue medicals are every two years. There were a lot of people who had had the medicals and chest X-rays done as part of that process. Hence, if you work those numbers out most people had had screening fairly recently.

Mr McMILLAN: Could I ask you to take this on notice and give us an exact figure please? What percentage of the workforce at North Goonyella have had a chest X-ray within the last two years?

Mr Carter: I will take that on notice.

Mr McMILLAN: I note that the submission also indicates that those X-rays were performed by a highly experienced radiologist. First of all, how did you determine that the radiologist was highly experienced?

Mr Carter: That is basically conducted through our NMA process and through our medical adviser and Queensland X-ray screening.

Mr McMILLAN: The submission seeks to tell the committee that the person who did those X-rays was highly experienced. How do you know that?

Mr Clough: If I may, Mr McMillan, I do not recall the person's name but they are based in Mackay and they are on the government list of recognised radiographers.

Mr McMILLAN: In your determining who should undertake the new X-rays that were offered to the workforce, did you consult with the Department of Natural Resources and Mines or the college of radiologists about who should be engaged to do that?

Mr Clough: This was when I was in New South Wales. I just know who the person is or who actually conducted the X-rays.

Mr Baker: It is fair to say that we were heavily guided by our NMA.

Mr McMILLAN: I will ask you a little more about the NMA process in a moment. I notice that the next dot point indicates that all of the scans that were undertaken by those 25 employees were interpreted as being negative for coal workers' pneumoconiosis. Can I clarify, was that interpreted by that radiologist or have they subsequently been B read by Dr Cohen's team in the United States?

Mr Clough: I understand that they did go over to the states.

Mr McMILLAN: All of them?

Mr Clough: Yes, that is my understanding.

Mr McMILLAN: Was that at Peabody's expense?

Mr Clough: Yes, I believe so.

Mr McMILLAN: How did you come to choose Dr Cohen's team for this purpose?

Mr Clough: Again, this was before I actually came into this position. My predecessor was also on the Monash review committee. When he left the organisation I replaced him. I think that was where the connection was.

Mr McMILLAN: For the record, Dr Cohen was on that committee as well?

Mr Clough: Dr Cohen was via telephone hook-up but not present.

Mr McMILLAN: Did you give consideration to any other potential B readers or were you satisfied that Dr Cohen was essentially the best there was for that task? When I mean Dr Cohen I refer to his team at the University of Illinois?

Mr Clough: As I said, that process happened before I came into the role. I do not know whether anybody else was considered.

Mr McMILLAN: Can I ask you whether Peabody has made or intends to make any offer to its former employees who might be concerned about their respiratory health in relation to possibly having further chest X-rays or lung function testing?

Mr Clough: I am happy to answer that. We actually went through our database of previous employees—I think 2011 was as far back as we could go—put together a generic letter and sent it out to all the addresses that we had on the database for ex-North Goonyella employees.

Mr McMILLAN: What offer was made in that letter?

Mr Clough: The offer was that if people had any concerns please contact us and we will organise for a respiratory function test for them.

Mr McMILLAN: Mr Carter, could you take on notice to provide a copy of that letter to us as well?

Mr Carter: Sure.

Mr McMILLAN: Can I ask you now about your open-cut workforce and the question is the same. Has any offer been made to the open-cut workforce or will it be made to any workers who are concerned about their respiratory health?

Mr Clough: Yes, the offer has been made to our employees that if they have any concerns about their health we will provide a free respiratory test for them.

Mr McMILLAN: Has there so far been any take-up of the offer to open-cut employees?

Mr Clough: Yes, there has. If I may take on notice the number. It is an ongoing process. People are still coming forward and asking for it.

Mr McMILLAN: Similarly with past employees?

Mr Clough: No, with the open-cut. It has not been extended to past employees.

Mr McMILLAN: I am sorry, I meant the past underground employees. Has there been take-up of that offer yet?

Mr Clough: Yes, there has. There were about 300 letters sent out and about 30 people have asked to have that test done.

Mr McMILLAN: I note from page 4 of your submission that since 2015 Peabody has made a number of improvements across its dust-monitoring and control systems, including the establishment of a dust review committee. Is that committee restricted to North Goonyella or is it in place at the open-cut operations as well or a similar committee?

Mr Clough: I do not believe there is a dust committee in the open-cuts. There are general safety committees, but I do not believe a specific dust committee has been established in the open-cuts.

Mr McMILLAN: Mr Carter, can I ask you what the make-up of that committee is—not the names of individuals but the positions or the representation on that committee?

Mr Carter: It is a cross-section of the workforce to make up the committee. In terms of the participants from the underground workforce, we normally target the people who work in the highest exposure areas so that the participants are able to contribute the most. Typically in our mine that would be the longwall area, although we have had participants from the development area. We always try to include the site safety and health representative where available. We try to schedule the meetings when the site safety and health representatives are actually going to be on day shift as opposed to night shift, where possible. There are a couple of engineers on that committee, the ventilation officer on site and the longwall superintendent for that area.

Mr McMILLAN: How often does that committee meet?

Mr Carter: Once a month.

Mr McMILLAN: In terms of its functions, does it review all of the dust-monitoring results for the previous month?

Mr Carter: Yes, they will review the previous month's samples and also look at the controls that have been in place and provide feedback. The committee also comes up with guidance to provide for training and feedback to the crews moving forward.

Mr McMILLAN: Does the committee have any role in investigating exceedences?

Mr Carter: The initial investigation will generally take place as soon as we get the information back. The committee would normally look at that afterwards. The meeting would take place in addition to the initial investigation.

Mr McMILLAN: Presuming the investigation has been completed in addition to the results, the committee would have access to the findings of the investigation as to how that exceedence might have occurred?

Mr Carter: Yes, that is correct.

Mr McMILLAN: Can you give us a ballpark as to how long you have to wait to get your periodic dust-monitoring results back from the testers?

Mr Carter: It is a typically one week. That has changed at times as the number of samples taken have increased. That is a typical time frame.

Mr McMILLAN: Bearing in mind that workers may be off shift and so on, that allows for an investigation of any exceedences within what period of time?

Mr Carter: If the workers are off shift at that point in time we would wait for them to be return to be able to conduct an interview. It could be anywhere from the sample point up to two weeks.

Mr McMILLAN: So you would expect that two weeks would be the longest period before you would be able to undertake an investigation of a particular exceedence?

Mr Carter: That is correct. If the person was actually due to be away on holidays or leave we would normally seek to do the investigation and get as much information as we can in their absence and then speak to them before their return to work.

Mr McMILLAN: Do you do any real-time dust monitoring at North Goonyella?

Mr Carter: We have used the Hund unit for real-time dust monitoring, but that has predominantly been to establish baseline data to be used in training. We have not used the Hund unit as a proper testing mechanism. We have had one of the engineers go down and basically follow an operator and test in different positions. We have also used it for testing different engineering controls to see the results. It has not been our actual sampling or testing mechanism. We take that data and generate training sessions from the information we have learned from the Hund unit. To date, we have not actually used the PDM3700 although we have recently acquired two. We are going through the process now to actually commence using that monitor underground.

Mr McMILLAN: Why prior to recently have you not sought to utilise the PDM3700 at North Goonyella?

Mr Carter: It has been my understanding that it has not been approved to date and we have been waiting for that approval. We have been monitoring what is happening. We have been using the Hund unit to date for that information and tracking to see if the approval would be granted. That has extended on so we have basically acquired two now. They are currently not certified for use in underground mines, but we are going to be using them as uncertified portable electrical equipment.

Mr McMILLAN: I am happy for any of you at the table to respond to this. You are aware that the use of real-time dust monitoring, in particular the PDM3700, has been commonplace in the United States for a number of years and at least since last year has been mandatory in underground coalmines in the United States. Are you all aware of that?

Mr Clough: Partially aware, but not the whole information. I am certainly aware it has been used in the United States. I was not aware it had become mandatory.

Mr McMILLAN: I should rephrase, I do not think that particular unit is mandatory but it is now mandatory for underground coalmines to use real-time dust monitors for the purposes of their monitoring compliance. I am wondering—you can tell us if anything—about Peabody's experience of using real-time monitoring in its United States operations and how that experience might assist your operations in Queensland?

Mr Clough: I am going to have to talk to my counterpart about that. I do not have that information.

CHAIR: Can you take that on notice and get back to us?

Mr Clough: Yes.

Mr McMILLAN: I note from your submission at page 4—and I take it that this is since 2015; please correct me if it is not—that Peabody engaged the CSIRO to do dust generation modelling as part of a review of dust generation sources. Was that at North Goonyella?

Mr Carter: Yes, it was.

Mr McMILLAN: When was that?

Mr Carter: In early 2014. We got Simtars on site and started getting into increased testing in around quarter 2 of 2014.

Mr Baker: This is CSIRO—the work they did on the particle size which is about the same time; the early part or mid part of 2014.

Mr McMILLAN: It is the second dot point from the bottom on page 4 of the submission.

Mr Carter: Yes. Through the middle of 2014—sorry, could you clarify the question?

Mr McMILLAN: First of all, I was asking when it occurred. You have answered that. What prompted Peabody to engage the CSIRO to do dust generation modelling?

Mr Carter: We had exceedences from the sampling we had taken at that point in time. We had implemented a new piece of technology, new longwall technology, into the mine. We had done a lot of engineering design work for that but then in practice we saw some changes to the design work. In order to be able to put correct engineering controls in place, we wanted to understand from a scientific point of view how best we could do that.

Mr McMILLAN: Did that report or whatever was produced by CSIRO as a result of that engagement give you guidance as to how to reduce the generation of dust on the longwall?

Mr Carter: We used the report to understand particle size and to understand some of the friction factors and the dust suppression measures that we could put in there—the turbo dust group and different options that we had—in order to reduce the dust generation. It still took some time for us to work through implementing all of those controls and to get them all into the right areas.

Mr McMILLAN: Just to be clear, the CSIRO produced a report for you as part of that project?

Mr Carter: They provided feedback on particle size and information. With regard to the exact report, I would have to go back and take on notice the exact report that was produced.

Mr McMILLAN: Were there specific recommendations about what could be done, for example, to manage particle size to reduce dust generation and so on?

Mr Carter: We had several experts who are experts in the field of dust come in with regard to that to make recommendations. We used that to design our sprays and implement updated sprays as part of that.

Mr McMILLAN: Did you commit to implementing all of the recommendations that arose from that review?

Mr Carter: We committed to trialling most everything because sometimes what you see in a design does not actually work in practice. That is where the Hund unit and the testing which we did over time allowed us to make continual improvements. It was a process of engineering studies and reviews, establishing the controls, putting them in place, monitoring them and then going back and changing to continuously improve over time. It was not a single one-off thing which actually made the improvements. When you are making several changes too, it is hard to monitor which changes are being effective. Overall, throughout the duration of the time most of the controls were put in place, but we had to study which controls were the most effective.

Mr McMILLAN: The last dot point on page 4 refers to studies on dust control measures conducted by an external consultant. Are they the Simtars studies that you mentioned a moment ago?

Mr Carter: No. We had another independent consultant come in—the company name escapes me right now—who is an expert in the field of dust—dust particle size and generation, how to suppress dust.

Mr McMILLAN: When was that?

Mr Carter: That study would have been conducted through late 2014 into 2015.

Mr McMILLAN: I realise that Peabody bore the expense, and no doubt it was a substantial expense, for those activities. Is there any process of you sharing the knowledge or the learnings that you obtained through that research with other coalmine operators in Queensland, recognising that you have paid for it and that there is some commerciality to that work?

Mr Carter: Through that time in 2015—I do not have the exact dates with me—our dust committee also met with the dust committee at one of our neighbouring mines just to the south where we actually shared joint learnings through that process.

Mr McMILLAN: Which mine was that?

Mr Carter: That was the Broadmeadow Mine just to the south of our lease. I had numerous discussions with other managers at other sites who were also forthcoming in some of the work that they were doing. We did have a joint meeting and also underground visits at each of the mines to share information.

Mr McMILLAN: Moving on to page 5 of your submission and the measures that have been established since the re-identification of CWP in 2015, I note the third last dot point on that page says, 'P2 dust masks are mandatory during cutting.' First of all, who is required under that initiative to wear P2 respiratory protection?

Mr Carter: The protection is required for anyone on our longwall face who is actually on the longwall face.

Mr McMILLAN: When did that mandatory requirement come into effect?

Mr Carter: Dust masks were standard practice but we formalised it and made them mandatory in July 2014.

Mr McMILLAN: I want to understand this, because we have heard this from a number of different mine operators. What is the difference between something that is a standard practice and then the suggestion that it is now mandatory? Is there a difference between those two things?

Mr Carter: I have to say that, prior to that, when I say it was standard practice it was not enforced, but it was taken up by 100 per cent of the operators who would be on the actual longwall face. I wanted to formalise that so that people were aware of it.

Mr McMILLAN: Prior to making it mandatory in, I think, you said late 2014—

Mr Carter: It was July 2014.

Mr McMILLAN: In July 2014—there was as part of your mine safety and health management system a guidance to workers that they should wear P2 respiratory protective equipment. Is that accurate?

Mr Carter: Yes. That is accurate and it was provided as part of the induction training as well.

Mr McMILLAN: But they were not required to do so.

Mr Carter: Not required but it was taken up pretty much 100 per cent on the longwall face during production periods.

Mr McMILLAN: In July 2014, it was determined that that should be a mandatory requirement.

Mr Carter: Yes, that is correct.

Mr McMILLAN: Do I take it then that it is still not mandatory for workers in the development areas of the mine to wear P2 respiratory protective equipment?

Mr Carter: That process came in later basically. The initial focus at the mine was in longwall because that is where the majority of the exceedences had taken place throughout most of that period. Our development face had not seen substantial issues with dust. That being said, there have been spot times where we have had a problem. We have been able to identify that fairly quickly and rectify.

Mr McMILLAN: Currently, as you sit here today, what areas of your workforce are required to wear respiratory protective equipment while working?

Mr Carter: Subsequent to that change to the longwall face, we have implemented another change for positively ventilated respiratory protection equipment in that area. There was a phased approach of introducing that to the longwall face.

Mr McMILLAN: That is the Airstream helmets?

Mr Carter: There are two units we have available—both the Airstream helmets and the CleanSpace units. In November 2014 is when the CleanSpace units started to be trialled because they were not approved, similar to the PDM3700. Subsequent to that, they got approval. We were the first mine in Queensland to implement those. We subsequently moved to mandatory positively ventilated respiratory protection.

Mr McMILLAN: Going back to my question about the P2 masks, outside of the longwall production crew, is anyone required to wear respiratory protection?

Mr Carter: The longwall production crew is the only mandatory area of the actual mine where we have that in place.

Mr McMILLAN: Who currently undertakes the mandatory periodic dust sampling at North Goonyella?

Mr Carter: Simtars do weekly sampling currently. That is weekly sampling on the longwall face. They also do monthly sampling in the development face area. We also have GCG come in and do monthly sampling which is a generic cross-section of all areas, but the longwall sampling is done by Simtars. We have development sampling also being done by Simtars on a monthly basis.

Mr McMILLAN: I note in the submission you deal briefly with the current Coal Mine Workers' Health Scheme. I am interested to know whether all workers at North Goonyella when they are employed to work there or, indeed, in the underground mines in New South Wales are required to undertake a new chest X-ray regardless of whether or not they may have a current one as a result of working for a different employer. Does that make sense? I am sorry. That was a convoluted question.

Mr Clough: I am happy to answer that. No. We have not made that a requirement. The reason for that is that it is a balance between doing that and the advice we have on the safety of how many times you give people X-rays. We have relied on the previous X-rays if somebody starts at the mine.

Mr McMILLAN: The committee has heard some evidence from mineworkers who have had five or six chest X-rays in five or six years as a result of moving from employer to employer. I commend you for taking a sensible approach in that regard. Is it mandatory essentially for all workers at North Goonyella to have a current valid chest X-ray in the last five years to get on to the site?

Mr Clough: That is correct.

Mr McMILLAN: Do you require any fit testing for respiratory protective equipment?

Mr Clough: Yes, we do actually.

Mr McMILLAN: Is there a clean shaven policy associated with that as well?

Mr Clough: I cannot specifically talk about what policies—

Mr Carter: We do not currently have that in place as a policy. We have discussed it as part of the dust committee. The respiratory protection being provided on the longwall face at present is positively ventilated—it provides 200 litres per minute to the actual wearer. That does deal with some of those issues around facial hair and are fitting. It has been for discussion with the dust committee, but it is not enforced at present.

Mr McMILLAN: Mr Carter and Mr Clough, this is probably more directed to you. Have each of you read the Monash review in its entirety?

Mr Clough: Yes.

Mr Carter: Yes, I did.

Mr McMILLAN: You are aware then of the various criticisms in that report of the current system for the appointment and retention of nominated medical advisers and, indeed, the number of them that have developed over the last 20 years in Queensland?

Mr Clough: Yes, I am aware.

Mr Carter: Yes.

Mr McMILLAN: As a result of that report, has Peabody undertaken any kind of review of its currently appointed nominated medical advisers?

Mr Clough: Yes. We never had a plethora of medical advisers ourselves. We historically had three. We basically use one now. That was probably from about 18 months ago. We have a second one that is a backup if obviously our medical adviser is on leave or something like that.

Mr McMILLAN: Prior to 2015, did you have any particular expectations about the type of experience in the mining industry that those doctors had in order to satisfy you that they were suitable for appointments as NMAs?

Mr Clough: Is this during my role with the regulator?

Mr McMILLAN: No. I am directing the question to Peabody generally, appreciating that you have not been in your current role prior to 2015. Can any of you answer that question?

Mr Carter: Can you clarify that, please?

Mr McMILLAN: Prior to receiving the Monash review report and reading it, was there any particular expectations by Peabody of the type of experience in the mining industry that an NMA should have in order to be appointed to that role?

Mr Clough: I can answer that. Our expectation certainly was that the NMA actually understood the industry and had at least gone underground or visited the mine so they actually understood the nature of the work that was being undertaken. Having said that, the way the system is meant to work is that the NMA does not have to have all of the expertise, but he can make sure that the relevant specialists feed into the process. Our expectation has always been that they certainly understand the industry and the environment that our people work in.

Mr McMILLAN: Subsequent to reading the Monash review, are you satisfied that those doctors who are currently appointed as NMAs, particularly for the North Goonyella Mine, are appropriately aware of the environment in which their patients are working?

Mr Clough: Yes, definitely.

Mr McMILLAN: Have they been underground?

Mr Clough: Yes.

Mr Carter: Yes.

Mr McMILLAN: Madam Chair, I am about to move on to some questions specifically about North Goonyella, but I wonder if you might indulge me to have a five-minute break?

CHAIR: Yes.

Proceedings suspended from 10.00 am to 10.16 am

Mr McMILLAN: Can I ask, before moving on to some specific questions about North Goonyella, generally for your thoughts and any input you have about the current dust occupational exposure limit in the regulation at three milligrams per cubic metre of air. I note that the New South Wales limit is 2.5 and in the United States it is currently 1.5. At least on my review of the scientific information there seems to be a lot of evidence gathered in the United States for a limit of 1.5. Does Peabody have a view or a position in relation to what should be the regulatory limit?

Mr Baker: We do not have a view on that. We really would leave that to the scientists. We know there have been a lot of specialists work on it and we would leave that to them to decide on what that would be.

Mr McMILLAN: I take it that from an operational point of view what you require is certainty about what the expectation is and then once it is set you will work to meet that expectation?

Mr Baker: Certainly from a compliance perspective, but I guess one of the things that Mike will go into in later questioning is that we will target as low as reasonably practicable and so we would be expecting to be well within the statutory limits in all that we do.

Mr McMILLAN: Mike, can I ask you what effect a reduction in the regulatory limit to 1.5 milligrams would have on the North Goonyella operations currently?

Mr Carter: Currently we have been operating on our longwall face in and around the 1.5 to 2 milligrams per cubic metre and that is the testing we have done of the last, say, about two to three months following some changes that we have made. That is our current area where we have been able to get down to. Beyond that it is really implementing automation, as a lot of mining companies are, to try to reduce the exposure to people. That is a large area of work that we are doing separate to all the sprays and all those things. Obviously rotating people through as well as part of that. That is where we are positioned at present now. The real challenge comes when we have adverse roof conditions because at those times it is more difficult to automate the actual production operations. When the roof is actually breaking up and falling in in front you want to support that area as soon as possible and while you can do that from a remote location, generally the proximity is a little bit closer to the production area than if you are fully automated where you can get people into a very clear zone.

Mr McMILLAN: As at today where is North Goonyella at in terms of automation and the effect that that has on the exposure of respirable dust to the workforce?

Mr Carter: When we are in a standard mode of operation we have been able to get automation up to about 90 per cent on the longwall—at times even greater: up to about 95 per cent of the actual longwall face is automated. That being said, that does not mean that we do not have anyone in there, it just enables us to reduce the number of people we have in that working location and also have them working a greater distance away from the actual cutting face.

Mr McMILLAN: Can you break that down for us? Prior to that level of automation, how many workers would be in the dusty environment of the longwall production area as opposed to what there is now and do those workers still work at the mine or are those jobs essentially gone because of automation?

Mr Carter: No, we have basically put them into other areas. It enables us to rotate people between the other jobs. There is lots of work there. That is not the issue. It has not been done as a process of trying to eliminate work, it has been done as a process of trying to reduce the exposure plus also improve the quality of what we are actually doing by simulating the same process over and over.

Mr McMILLAN: How many workers were in the high dust area as opposed to how many are in there now as a result of these developments and initiatives in automation that you have achieved?

Mr Carter: The actual number of workers in that area has not changed. What has changed is where we are positioning them. The position of them is actually different, especially the chocking function which is advancing the shields after the shearer has cut it. The automation has enabled the people who would carry out that function essentially not to be there at all because it is happening automatically.

Mr McMILLAN: What change in the respirable dust sampling on those particular workers have you seen as a result of that automation?

Mr Carter: It has to be combined with a lot of the other improvements we have put in place. I don't think it has been purely a function of the automation. The automation was a key part of that but there was a lot of work being done in different areas in addition to that. I would say it has contributed to probably 50 per cent of our improvement, but the other 50 per cent has come from a lot of changes that have taken place in other areas of the operation.

Mr McMILLAN: As part of Peabody's response to the summons issued by the committee for the production of documents you have produced a number of directives that have been issued by the Department of Natural Resources and Mines and correspondence in relation to that, also a significant number of respirable dust monitoring results going back to at least I think 2012—I think prior to that. I am interested in whether, in the course of preparing for your evidence today, you had the opportunity to review historically the dust sampling results that you were likely to be questioned about?

Mr Carter: I have reviewed portions of them in different areas. We have conducted hundreds and hundreds of samples so I would not say that I could recall every single sample within that process, but there are some samples which I am more familiar with than others.

Mr McMILLAN: No doubt then you will have anticipated I might have asked you about some of the very high samples that have been recorded since 2012. I note in this summary that you have produced for us some samples generally on the longwall production area in the range of 17 milligrams per cubic metre, 24 milligrams per cubic metre, 13, 14, 8.9, 15. Prior to the establishment of the current regime for investigating those exceedences, what happened when you got readings that were five, six, 10 times the occupational limit?

Mr Carter: We would go through the same process of any exceedence where we go in and interview the operator to find out what was happening so that we can make improvements.

Mr McMILLAN: How long have you been doing that?

Mr Carter: All the way back into 2014 basically. Right, right back and probably prior to that. I took over as general manager in December of 2013.

Mr McMILLAN: Mr Clough, were you doing that when you were at North Goonyella?

Mr Clough: I cannot recall any exceedences being brought to my attention, but the standard practice is that you get a de-identified set of results back and you put them up for the workforce to see and if there are exceedences then you will do an investigation to find out if your engineering controls are in place, but I actually can't recall doing any investigations during my tenure.

Mr McMILLAN: Was it part of your safety and health management system when you were at North Goonyella that exceedences of dust sampling should be formally investigated?

Mr Clough: I don't know if it was documented or not, but that was the process, yes.

Mr McMILLAN: In any event, you cannot recall being involved in any such investigation?

Mr Clough: I can't recall, no.

Mr McMILLAN: I am sorry I interrupted you, Mr Carter. Did you have anything else you wanted to say about that?

Mr Carter: Yes, just with regards to the exceedences. We also take static samples of the mine. A static sample is just basically picking a spot. We will often measure what is coming into a work area and what is going out of a work area, with what is going out of the work area basically being the highest possible level. We measure the worst case to understand what that background is. Generally what we found is when we know we have exceedences over what the maximum possible is there are other contributing factors. I know that on one occasion when I interviewed an operator—because generally you will have the pump next to your hip and the sampling unit will be on your collar close to where you are actually inhaling when we asked if he knew what could have contributed to it because there was a lot of dust on the monitor, he actually said that the sample point had actually fallen off onto the ground so hence it was actually just running. That is not to say that that was the case in all the exceedences, that is clearly not the case, but in some of those areas where we have got exceedences way over and above what our static sampling tells us, there are normally other reasons that contribute to that and we pick that up in the investigation.

Mr McMILLAN: Do you agree that the implementation of real-time dust monitoring, and particularly a monitor such as the PDM3700 which has a cumulative reading, would enable workers to ensure that they do not get exceedences anywhere near approaching four, five, 10 times the regulatory limit?

Mr Carter: It would enable the person to be withdrawn before that even became an issue because you would actually have an alarm that you could actually trigger on so that that would not actually take place.

Mr McMILLAN: Would you support the use of real-time monitoring to become mandatory in Queensland?

Mr Carter: As part of the ongoing improvement to it, yes, I would encourage that.

Mr McMILLAN: Some of the results that I have just referred to that were significantly above the regulatory limit occurred in about the middle of 2014 and I think you alluded generally to some difficulties that were had in the mine at that time. Are you able to elaborate on that any further? I know it was before your time.

Mr Carter: No, in 2014 I was there. We had implemented new longwall technology at that point in time. In early 2014 the technology was not working as we had designed it to so there was not a lot of mining taking place. As we managed to get the operations working as planned then the dust actually started increasing through that period. The more sampling we took the better we understood that.

Mr McMILLAN: When you say it was a new form of technology, can you expand upon that?

Mr Carter: It is called top coal caving. It is a conventional longwall essentially with another rear AFC which enables you to cave the coal out the back and actually extract the coal from what is called the goaf behind the actual normal working face.

Mr McMILLAN: It would appear that at least in those initial phases in July and August of 2014, a very significant number of the sampling results were in excess, and some very well in excess, of the regulatory limit. Did you experience real difficulties in managing the dust as a result of employing this new form of coalmining?

Mr Carter: Yes. The designs took into consideration that that was going to happen and there were a lot of sprays put in place to mitigate the effects, but what we saw in reality was a much higher make than what we had planned in terms of the design phase, so it did take some time for us to understand and get the information on it and then put the controls in place. That was a continuous improvement process which took place over quite a period of time where we did see improvements throughout that process. There were obviously ebbs and flows along the way which coincided with whether it be the production or whether it be the roof control issues, but generally speaking we saw an improvement from that period right through to when we were able to obtain compliance.

Mr McMILLAN: Was production slowed or ceased at any stage to ensure that workers were not exposed to excessive dust while you worked through those engineering solutions?

Mr Carter: There were a lot of times where we would actually stand to put controls in place and stop to control the operation.

Mr McMILLAN: I want to ask you about some of the regulatory intervention at North Goonyella from July 2014. I have all of the original documents, but for convenience the committee officers have helpfully prepared a summary of those that I might ask you to look through as I ask you the questions.

Madam Chair, all of these original records have been obtained from Peabody under summons. It is not my intention to table them at this stage unless the need becomes apparent during the course of my questioning.

CHAIR: Thank you very much.

Mr McMILLAN: Mr Carter, the page numbers are a little odd. You will see that the page numbering starts at page 7 of 27.

Mr Carter: Yes.

Mr McMILLAN: If you would go to page 9, which is the third page of the bundle that I have handed to you. I am interested in the directive that was issued to North Goonyella by the Department of Natural Resources and Mines inspectorate on 18 July 2014.

Mr Carter: Yes. The item in the grey?

Mr McMILLAN: Yes, thank you, the item in the grey. I note that the actions that were directed under that directive are listed there and there are five of them. Is it the case essentially that this directive emerged as a result of these high dust results because of the top coal caving mining method?

Mr Carter: That is a reasonable assumption, yes.

Mr McMILLAN: The first directive was, 'Effective immediately, any personnel working on the longwall must wear suitable RPE.' Do you see that?

Mr Carter: Yes, I can see that.

Mr McMILLAN: I have the original directive if you need to look at that. Please just let me know at any stage if you would like to. Wasn't it already a requirement for personnel to wear suitable RPE at that stage, or is that when you implemented the mandatory requirement as a result of that directive?

Mr Carter: The timing is very close to when we actually made it mandatory.

Mr McMILLAN: To recap your evidence earlier, prior to that your operating procedures recommended it, but it was not mandatory.

Mr Carter: It was not mandatory, but during production times and on numerous face inspections—I spent a lot of time on the longwall face—I would not say it was standard practice. It was not an actual written requirement, but it was essentially a requirement in practice.

Mr McMILLAN: The third directive was to 'identify and implement engineering controls on longwall to reduce airborne concentration of respirable dust to acceptable levels'. I note that in the third column to the right there is an indication that the directive was completed on 12 August 2014, so less than a month later.

Mr Carter: It was around coming up with a plan to implement the controls and then, because you still have a period of time where you have to monitor and demonstrate the effectiveness of the controls that you put in place, we did have a plan that we were working towards throughout that process.

Mr McMILLAN: Do I take it that when you were given this directive there was a flurry of activity, if I can describe it in that way, to identify and document the engineering controls you were going to use to try and reduce the dust?

Mr Carter: There was a lot of work taking place both from a documentation perspective, underground on the actual operation, trying to adjust ventilation and how the ventilation worked in the area, monitoring. As I said before, we ramped up the monitoring sort of fourfold from where we were previously to gather more information at shorter time intervals to better understand what was actually taking place.

Mr McMILLAN: Is this directive what prompted your engagement of the CSIRO to do its project?

Mr Carter: Yes, I believe it was Rao Balusu. He works heavily with ventilation and ventilation streams with the CSIRO, especially in relation to the new technology with the top coal caving, to understand how the airflow was actually taking place coming across the face because it was different to what we had done in the past.

Mr McMILLAN: The fourth item on that directive was to 'establish and implement an interim personal dust monitoring program to monitor workers' personal exposures.' Was personal dust monitoring not already being undertaken?

Mr Carter: It was being undertaken but we ramped that up substantially. Like I said, we brought Simtars in initially doing fortnightly samples, and then at a given point in time we changed that to weekly samples. I think it was around August 2015 we then moved to weekly samples.

Mr McMILLAN: As a result of that directive was there any change in your personal dust monitoring program as at July 2014?

Mr Carter: When you say 'change', do you mean in terms of the number of samples being taken or the actual results?

Mr McMILLAN: Any change at all. To be fair to you, I will ask you what I am really interested in. It seems this directive essentially directs you to do something that you were already doing by doing personal dust monitoring to measure the effectiveness of dust controls. I want to know essentially was there more to it than appears on the face of the directive? Were you in fact being asked to increase the frequency of your dust monitoring? What happened as a result of this?

Mr Carter: We had started increasing the sampling frequently sort of prior to this. I believe the directive was trying to provide formalised structure around exactly what was taking place and to give clear guidance. Did we identify that we needed to get more sampling to understand what was happening? Yes, we knew that at that point in time.

Mr McMILLAN: That is what I do not understand. When you say to provide 'clear guidance', to me a directive to establish and implement an interim personal dust monitoring program with no further particularity, when you are already doing personal dust monitoring, does not seem to me to provide you with any clarity or particular guidance at all. Am I mistaken in that regard?

Mr Carter: I could not speak on behalf of the inspectorate with regard to that. We did talk numerous times with the inspectorate around what we were doing, the engineering controls and the specialists that we were bringing in to do that work. There was a lot of consultation taking place. We asked for feedback, anything else that they could see, and their contribution if there was anything they could recommend that we do. I know that the inspectorate actually brought up the issue of speaking to other neighbouring mine sites and the work that they do, because they are obviously not in a position to be able to hand over their information. That triggered what I discussed before, which was the dust committee's joint meeting between Broadmeadow and ourselves. There was participation with them, but I cannot say exactly what that reference might be to.

Mr McMILLAN: The fifth directive was to ‘develop an action plan detailing the short- and long-term time frames with respect to the previous four directives’, and that appears to have been completed by you and your staff within a prompt time frame of less than a month.

Mr Carter: Yes, but there was a substantial amount of work that was required to come out of that. We did have an action plan, but some of those controls were going to take quite a while to actually implement. Some of them were more short term, but some of them were long-term controls.

Mr McMILLAN: The next entry on that page under the grey section is a mine record entry from 30 July 2014, and you will notice that what appears to have prompted that entry is described there. I can assure you that that description is taken directly from the mine record entry.

Mr Carter: Yes.

Mr McMILLAN: ‘Received copy of respirable dust sampling for July. Of nine samples on longwall, five exceeded the upper limit and a further three exceeded 50 per cent of the standard. One sample exceeded limit by more than 20 times, another more than six times.’ Given the directive that had been implemented a couple of weeks earlier and the work that was done as a result of it, it would appear that that directive did not in fact have the consequence of reducing the amount of respirable dust. Is that a fair conclusion to draw from those two events?

Mr Carter: Immediately at that point in time, like I said, the engineering controls and the plans we were putting in place, but the monitoring itself was just providing the information that we needed to understand it. The engineering controls were not able to be implemented that readily, basically.

Mr McMILLAN: If you turn to the next page, it is page 11 of 27. A further directive was issued on 2 September 2014 in the grey area.

Mr Carter: Yes.

Mr McMILLAN: You will see again that this directive required the ‘conduct of personal dust monitoring to verify the effectiveness of controls’. Compliance with that directive was initially required by the end of March 2015, so six months.

Mr Carter: Yes.

Mr McMILLAN: It was ultimately extended significantly to February 2016.

Mr Carter: Yes.

Mr McMILLAN: What is the use, from your perspective, of a directive by the inspectorate to do personal dust monitoring that (a) you are legislatively required to do; and (b) you are in fact already doing? How does that assist you to reduce the risk that your workers are exposed to by respirable dust?

Mr Carter: Throughout that the inspectorate were aware that in order for us to actually make an improvement we had to measure and monitor to make the changes, and we presented the changes that we were planning on doing and the work in order to make those improvements, and they understood that we were improving over that point in time. I guess specifically with regard to the question of issuing a directive to do something which we have a legislative requirement to do, I could not comment.

Mr McMILLAN: One of the consequences of the directive was that you had to report those results to the inspectorate?

Mr Carter: Yes.

Mr McMILLAN: Prior to 1 January this year there was no statutory obligation for a mine operator to report those results to the inspectorate, was there?

Mr Carter: No, there was not, but we had numerous requirements issued to us by the mines department to provide that information. We had done both by correspondence in terms of sending spreadsheets to them, and also we presented numerous times to the mines department in terms of tracked spreadsheets with regard to the monitoring results.

Mr McMILLAN: I take it that as a result of that directive and the requirement to provide those results to the inspectorate, the work around engineering controls, dust mitigation and so on was continuing?

Mr Carter: That is correct.

Mr McMILLAN: Through late 2014 and into early 2015.

Mr Carter: Yes, it was.

Mr McMILLAN: Then at the bottom of page 11 of 27, on 25 February 2015 there was another mine record entry and a substandard conditional practice action issued to the mine requiring actions to be taken when dust suppression systems are not operating as per design specifications. Is it the case that that substandard condition practice notice was issued because you continued to mine while the engineering solutions you had planned were not operational?

Mr Carter: We had a time there when there was a deficiency in our work orders because the work orders were being issued daily, not shiftly, and that was picked up on during one of the inspections. We subsequently changed the work order systems so it would come out shiftly as opposed to daily to deal with that.

Mr McMILLAN: Just to clarify—and I apologise for my ignorance about the expression 'work orders'—does that mean that mining was going on while the dust suppression systems were not working?

Mr Carter: It was actually on a maintenance shift where it was detected we did not have a lot of the controls in place. At the end of the testing on that maintenance shift the guys had started up the face without actually doing some of the control checks in place that we had on a set given work order sheet, which is just—I will not say a list of instructions—but it is a list of tasks which have to be signed off on by the workers and the supervisor. We subsequently changed our procedures to reflect that and the work order system to cover both the maintenance and the production shifts.

Mr McMILLAN: Turning the page to 12 of 27, there is a further mine record entry on 28 April 2015, so two months later, noting a level 3 compliance meeting at the mine.

Mr Carter: Yes.

Mr McMILLAN: Under the key issues involved, it is noted that 'despite previous communication, the mine is still not responding within stipulated time frames given in the directives and SCPs', that is, substandard condition and practice notices. A further two dot points down, specific reference is made to issues with control of respirable dust on the longwall where 'monitoring has been limited and much more needed to reach an acceptable outcome'. This is now some nine months after the initial directive issued in July 2014 and, while the March directive is still in place, a further compliance meeting is required because of, essentially, a lack of monitoring and a lack of effective control of respirable dust.

Mr Carter: I would say that it was more the fact that we had exceedances at that point in time and the percentages of exceedances as opposed to lack of monitoring, because we provided numerous samples basically for them to cover that determination, but the controls were not being effective. So I think it was more to do with the fact that we needed to continue to monitor, which we were already doing, but that we had not been able to get the number of exceedances under control at that point.

Mr McMILLAN: So where it says, 'monitoring has been limited and much more needed to reach an acceptable outcome', do you say that is inaccurate?

Mr Carter: I am probably interpreting that to say that maybe successful monitoring has been limited in terms of achieving compliance, as opposed to not monitoring at all.

Mr McMILLAN: Over the page, on 18 May 2015, another directive is issued. This is page 13 of 27, the grey box in the middle of that page.

Mr Carter: Yes.

Mr McMILLAN: It is 18 May 2015; the data appears just above, to the left. Another directive requiring actions to be taken when the dust suppression system is not operating as per the design specifications and when results from personal dust exposure monitoring results show that coalmine workers have been exposed to unacceptable levels of respirable dust. This is now, I think, the third directive in place—it is the second in only a month—requiring action to be taken when the dust suppression systems are not working. Why was that necessary?

Mr Carter: You will have to excuse me: the time before I was actually mixed up with this time. This was actually the period where it was at the end of the maintenance shift. It was not the actual time before. That has come in later. That is the 29th of the 10th. I guess the actual system itself was not effective at that point in time, so it does not mean that we were not working on it. There was a massive amount of work going into it. We communicated it with the mines department. They had seen the improvements being made, but it still was not at the level of compliance that was expected, hence the directive.

Mr McMILLAN: Over the page, there is another mine record entry on 7 September 2015. At the second paragraph: 'the inspectors outlined the process moving forward if compliance is not achieved by the end of 30th September 2015'. They indicated to you that a level 4 compliance meeting would be required if compliance is not achieved by the end of that month. Were you at that meeting?

Mr Carter: I was at the level 4 meeting. The meeting on the 7th of the 9th, I was unable to attend that meeting.

Mr McMILLAN: Were you made aware of the inspector's comments and advice—

Mr Carter: Yes, I was.

Mr McMILLAN:—prior to 30 September?

Mr Carter: We were in constant communication with the inspectorate over this, presenting the work that was being done regularly with the inspectors and also the actual results from the monitoring, from the work that was being done during that time.

Mr McMILLAN: On 22 October 2015, which is the next entry on that same page, a level 4 compliance meeting was held and Mr Baker frankly acknowledged that history in his opening remarks.

Mr Carter: Yes.

Mr McMILLAN: Clearly, compliance with the previous directives and the level 3 meeting had not been achieved by the end of September?

Mr Carter: It was a bit of a step change in where we were at prior to that, and we came in a bit late. We implemented a new booster pump which enabled a lot of the additional sprays that we put in place in the middle of September 2015. As a result of that we saw a huge step change in a reduction of the results, but we were not able to establish a long enough time frame to avoid the level 4 meeting at that point. There was, I guess you could say, too small of a dataset at that point. But subsequent to that, from there right through to the end of the year and into the start of the next year, we had had a huge reduction in our monitoring results in terms of our dust compliance, but again the dataset at that meeting for the level 4 meeting was quite small at that point in time.

Mr Baker: I know, Mr McMillan, it seems like an extraordinary amount of time working on that, but I make the point that there were 14 separate initiatives implemented over that time. It was not something where we tried something and then had a rest, and then tried something else and then had a rest. It was something that the site was working on continuously through that time.

Mr McMILLAN: It is noted in the mine record entry for that level 4 compliance meeting that a level 4 is held if it is considered that there have been breaches of the legislation, level 4 being one step below level 5, which is prosecution and it is treated by the inspectorate as an extremely serious matter. Was it considered by Peabody to be an extremely serious matter?

Mr Carter: I would say it was. All the way going back into 2014, it was already being treated seriously.

Mr Baker: The meeting absolutely was, Mr McMillan, I can vouch for that. I attended, the acting COO of the company attended, legal counsel attended. It was of the utmost importance to us.

CHAIR: Were you embarrassed by it, having to go to a level 4?

Mr Baker: The short answer is, yes.

Mr McMILLAN: I will go back a step: no prosecution was commenced against Peabody as a result of that prior noncompliance; is that right?

Mr Baker: That is correct.

Mr Carter: No.

Mr McMILLAN: Mr Carter, you indicated that shortly prior to that meeting you had suddenly achieved some success in reducing dust levels?

Mr Carter: There was a step change in the reduction in dust.

Mr McMILLAN: What does that mean?

Mr Carter: A step change means we basically implemented a key component. In order to implement that, there was a lot of work behind it. It was not just a matter of putting a pump in. We had to drill surface-to-seam bore holes, run additional water lines to those holes and additional pipelines underground to be able to feed that system. Obviously, if you have a pump you have to have the power set up for that. That was the work that was being done in advance, because leading into that we were putting more and more sprays in for suppression, so there was a greater use of water. We realised, as we got into that, that we were going to run out of water for the suppression. Then we started working on being able to provide the additional water into the system to provide for those

sprays. As that came online, we saw a great reduction in the results from the monitoring. But again leading into that meeting, we did not have a wide dataset to be able to demonstrate that to a satisfactory level.

Mr McMILLAN: As a result of that meeting and at that meeting, it appears that the Chief Inspector of Mines, Mr Albury, agreed to provide you with an extension of nine weeks to comply with the previously issued directives, making compliance then due by Christmas Eve, 24 December 2015. You will see that at the top of page 15 of 27.

Mr Carter: Yes, that is correct.

Mr McMILLAN: This was essentially to allow you to demonstrate a longer period of positive results; is that right?

Mr Carter: Yes, that is correct, because we provided the feedback with the work that we had done and it was for us to be able to demonstrate that.

Mr McMILLAN: We have heard from other operators who had been under directive during this period or around this time that, at that stage, the inspectorate generally expected a period of three months of positive results before it would release or lift directives that had previously been issued in relation to respirable dust. Is that the same approach that the inspectorate took with you?

Mr Carter: They did not stipulate a time there. I think what they wanted to see was a reasonable dataset for them to be satisfied.

Mr McMILLAN: Notwithstanding that meeting on 22 October, which was taken very seriously by all involved, the inspectorate issues you with another directive only seven days later, on 29 October, again requiring dust suppression audit processes, controls and TARPs, which I think is targeted action response plans.

Mr Carter: Trigger action response plans.

Mr McMILLAN: Thank you. This time, the directive is to suspend operations on longwall 8 until all of the defective dust suppression controls are operational in accordance with the audit sheets and the TARP for those matters. Only seven days after this very serious compliance meeting, it appears from the text of that directive that, once again, mining is occurring while dust suppression measures are not effective.

Mr Carter: Yes, and I actually got the timing wrong before when I said with regards to the maintenance shift; it was actually this time when it was the maintenance shift and the inspector went down towards the end of that shift. After completing the maintenance, when the operators had started up the equipment, they had not actually done those checks prior to that. Like I said, the work order for that work was actually coming in on the next production shift and that is when we subsequently—we had to make the changes to the work order system.

Mr McMILLAN: If you go over the page to 16 of 27, on 15 December 2015 there is another mine record entry in relation to the directive which was then due for compliance on Christmas Eve. A decision was taken by the chief inspector to again extend that directive for a further two months to February 2016. It specifically says at the bottom of that page, 'to allow the mine to collect more data to reflect personal exposures from shifts that meet the target production tonnages'. At this stage, the department is again extending the reach of its directive to require further evidence that respirable dust is below the regulatory limit?

Mr Carter: Yes, and during that period we had complied, but again they wanted a larger dataset to be able to make that decision.

Mr McMILLAN: Across the page to 17 of 27, on 20 January 2016 there is another mine entry and yet another directive—I think we are up to five now—again in relation to respirable dust and requiring the development of a respirable dust TARP. You are already under a directive issued in October, four months earlier, requiring the production of a respirable TARP, aren't you?

Mr Carter: I believe this respirable dust TARP—the answer to that is, yes, specifically for the longwall, which was our area of greatest concern and where we had generally the exceedances. This was basically stating that what we should do is extend that process out to include the outbye and also development areas. What it was saying is 'the work that you are doing there, we would like to see duplicated in other areas of the mine'.

Mr McMILLAN: I forgot to deal with this issue: going back, I am sorry, to the directive in October that required suspension of operations on longwall 8. That directive was issued on 29 October. There is no indication in the material that we have been able to identify when that particular directive was identified as complete or it was lifted. How long was production, in fact, suspended on longwall 8?

Mr Carter: I am going to say around 24 hours. I would have to take that on notice to provide the exact answer, because there were a number of items that had to be put in place at that point in time.

Mr McMILLAN: Thank you. Going back to the January directive, I think you just explained that this was a requirement for a slightly different TARP to the previous one?

Mr Carter: Yes, that is right. Everything that you have been looking through now has been relating to the longwall. What the inspectors looked at there is basically the work that had been done on the longwall in terms of having the TARPs and the controls in place—that is not to say that there was nothing in place, but to extend that to also incorporate the development in out by.

Mr McMILLAN: The nature of the risk based regulation system in Queensland that requires coalmine operators to manage the risk that their workers are exposed to is a proactive one, is it not? It requires you to continuously review your systems and processes to ensure that you are keeping the risk to workers at an acceptable level?

Mr Carter: That is correct.

Mr McMILLAN: The fact that you had previously been issued with, I think, four ongoing directives about the management of respirable dust at your mine, why did that not prompt a proactive review of, for example, your TARPs for development in out by?

Mr Carter: The information we had at that point in time was that the main area of concern was the longwall. That is where the majority of the exceedences had taken place. We had had certain datasets at times in development, but we had normally been able to rectify those very quickly. Almost all of the mine's focus in relation to dust was very heavily concentrated on the longwall at that point.

Mr McMILLAN: If you turn the page to page 18 of 27, the last directive that I want to ask you about was issued on 21 June 2016. That directive required a review of the mine safety and health management system in regard to minimising airborne dust. There was a substandard condition notice as well. This directive is issued some nearly two years to the day after the first directive we discussed from 18 July 2014 and, I think I have counted correctly, five other directives were issued in those two years. Why is it that a directive is then required to review your safety and health management system? Should that not have been going on all along?

Mr Carter: It had been. We had made several updates and reviews to the TARPs and procedure for this throughout that process in 2015 and in 2016, I think, specifically on this—and I am just looking through now to familiarise myself. That was around a longwall move period, actually. That was leading to a longwall move and longwall change-out at that point in time. We had various changes. We had had roof falls in the main gate leading into just before we pulled the longwall out. It was specifically relating to trying to have an incident control team specifically for managing that environment at that point, which was a changed condition for what had been in place from the two years prior for the longwall move.

Mr McMILLAN: The impression that one gets from looking through this bundle of documents and the regulatory compliance history at North Goonyella over this two-year period tends to suggest that a continuous and aggressive program of intervention by the inspectorate was occurring, first of all, and that it was necessary to get action out of your management team. Do you want to correct, or clarify, that impression?

Mr Carter: I would say it coincided with the work that we were doing. We had identified the issue. We were working towards that issue throughout that process. Personally, I spent time underground trying to move and change things and rectify different areas to reduce the dust. I am going back in 2014-15. The notes and mine record entries from the inspectors coincided with all the work that we were doing. I would not say that we were doing that work because of the mines department; we were doing that work irrespective of the mine record entries.

Mr McMILLAN: After you have a level 4 compliance meeting, which you and Mr Baker have both told me you took very seriously and Mr Backer frankly conceded that he was embarrassed by, there are still further directives issued by the department. Is there any way of seeing that other than the fact that you just were not doing what they needed you to do?

Mr Carter: I think it just shows that they had a lot of attention on it and they wanted to basically ensure that we understood that it was important to them—which it was important to us prior to that.

Mr Baker: I think one of the key points, too, Mr McMILLAN was that, prior to the October level 4, there had been exceedences. Post that, the exceedences had dropped away substantially so that the directives were not coming in response to exceedences that we were having in and around the longwall; they were in response to visits where they had visually seen something that was not to their liking.

Mr McMILLAN: Are you telling me that, essentially, after that initial level 4 meeting that you had successfully managed to reduce respirable dust levels below the regulatory limit?

Mr Carter: I think it was from there up until a point where we had substantial roof falls in the main gates. We had managed to mine with all of those controls that we put in place over a long period of time. Just leading to the longwall move, we had numerous main gate roof falls. I believe one of those was in relation to that and how we could control that and control the exposure to the operators, acknowledging the fact that we had to try to make sure that we controlled the roof at that point in time as well.

Mr McMILLAN: At any stage did you give consideration to abandoning the top coal caving method of mining?

Mr Carter: At that stage, when we had achieved compliance and putting the roof falls aside in the main gate, we did not consider abandoning it, because we reinstalled it again in the next block subsequent to that.

Mr Baker: There were substantial changes made in between longwall 8 and longwall 9, too, on our equipment, primarily around dust control.

Mr Carter: Yes, that is correct. While we did a lot of work in situ, there was a lot of work that could not be done with it in situ. During that change-out we put in a lot of additional engineering controls and we communicated those to the Mines Inspectorate, because some of those had six, seven, eight-month lead times, with engineering and planning and manufacturing. Then we reinstalled those changes into the new area.

Mr McMILLAN: Was there any process required by the inspectorate for you to give them an update, or provide them with a plan of those engineering controls before you commenced longwall 9?

Mr Carter: We provided numerous updates. We invited the mines inspectors into the workshops in Mackay. I believe that one or two of the inspectors took that up, because we had our engineers in Mackay in the workshops fabrication go in and see what was taking place and have a look at it. Yes, there were updates provided.

Mr McMILLAN: Mr Clough and perhaps Mr Carter, no doubt, you would be aware that in New South Wales it is a requirement under their regulatory regime for operators to make a proposal before commencing a new longwall block for approval? One of the things that the regulator looks at is the operator’s compliance history on the previous longwall block. It strikes me that the experience that you had with longwall 8 is a prime example of how that regulatory system might have assisted in ensuring that the engineering controls to reduce dust were in place for longwall 9. Would you agree with that?

Mr Clough: I am familiar. I think it is called order 42, I think, in New South Wales.

Mr McMILLAN: Yes.

Mr Clough: Yes, I am familiar with that. I think there is some merit in that system, but I do not know the specifics about what happened at North Goonyella at that time.

Mr McMILLAN: Are you familiar with order 42, Mr Carter?

Mr Carter: In New South Wales? I am not overly familiar with that order, no.

Mr McMILLAN: Essentially, what you have just told me, I think—if I can summarise it—is that you proactively and voluntarily engaged with the inspectorate about what you had achieved on longwall 8 prior to the move to longwall 9 and they were essentially satisfied, in going into longwall 9, that you had done what you could do to meet your obligations?

Mr Carter: That we would be in a better position at that point in time, because they also knew and we provided updates on a lot of the additional controls that we were going to do over and above that for the new longwall.

Mr McMILLAN: When did longwall 9 commence production? Roughly is fine.

Mr Baker: October 2016.

Mr Carter: October 2016.

Mr McMILLAN: And at that time, North Goonyella was not under directive?

Mr Carter: No, it was not.

Mr McMILLAN: You continue to be not under directive?

Mr Carter: At that point in time, no. We continue to be not under a directive; that is correct.

Mr McMILLAN: Sorry, at this point in time?

Mr Carter: At that point in time, yes, and up until now, yes.

Mr McMILLAN: Have there been inspections by the inspectorate of longwall 9?

Mr Carter: Yes, there have been.

Mr McMILLAN: Unannounced inspections?

Mr Carter: I know that we had an unannounced inspection fairly recently. We have probably had a couple, I would say, within the new block.

Mr McMILLAN: Have you experienced respirable dust exceedences on that longwall block?

Mr Carter: I know going back for the last three months we have not had a single exceedence. I am just trying to go back to around the November period, because we had some massive geotechnical issues around November and December that stopped the longwall from operating, basically, for a period of about six weeks or so.

Mr McMILLAN: Do you attribute the success that you have had on longwall 9 to the significant work that you did and were required to do on longwall 8?

Mr Carter: I think all of those learning experiences we had literally from the start all the way through helped to contribute there. There were definitely milestones in there that were bigger than others. There was a lot of the engineering work we then did between the one block to the other, which assisted in improvements right through until now.

Mr McMILLAN: Thank you very much, gentlemen, for your assistance today. I have no further question, madam chair.

CHAIR: Thank you very much, counsel assisting. In relation to the directives that were given to you, was it the same mines inspector who gave you those directives?

Mr Carter: No, it was not. I think the directives come through from five different inspectors, if I am correct.

CHAIR: Okay. I have a general question. Did any of the mines inspectors talk to you about the research and what was happening in NIOSH and MSHA in America in relation to longwall research?

Mr Carter: I do not recall having any conversations around NIOSH or MSHA with the inspectorate.

CHAIR: Ever?

Mr Carter: Not that I can recall.

CHAIR: Mr Clough?

Mr Clough: No.

CHAIR: Even whilst you were working as chief inspector, we know that some people went overseas to take the learnings from NIOSH and MSHA in the US. Were any of those learnings ever conveyed to you either as chief inspector or in your current role?

Mr Clough: During my time with the inspectorate we did have a lady come across from NIOSH—I have forgotten her last name; Susan was her first name—but her focus was on safety and health management systems. I do not recall having any interaction with NIOSH on respirable dust.

CHAIR: What about any senior officers who had been to NIOSH or MSHA? Did they brief you?

Mr Clough: During my tenure, nobody from the inspectorate had been over to NIOSH as far as I recall.

CHAIR: No, but anyone more senior to the inspectorate—more senior officers in the department who we know had gone overseas?

Mr Clough: Yes, I am not aware, I am sorry.

CHAIR: Okay. That information was never passed down to you?

Mr Clough: No.

Mr KNUTH: In your submission you say—

We support making necessary changes to the current workers compensation scheme to ensure that all workers, including retired coal mine workers, are protected and receive compensation.

Are there any old coalminers who are coming to you who have either received a negative report or have not had X-rays but are concerned?

Mr Clough: Yes. Earlier on I said that we had sent letters out to some 300 ex-employees from North Goonyella and about 30 of those people have come forward to have X-rays, which we are facilitating. At the moment, you are probably aware that there is quite a backlog. It is quite a slow process to send them across to the United States and get the B reader to have a look, as a second opinion. Yes, certainly, some of them have taken that up

Mr Baker: If I may add, we also found out about a retired coalminer from North Goonyella through the press that had an issue, so we made contact with his family. Unfortunately we could not speak to him directly but spoke to his wife to offer assistance in any way we could, whether that be medical or transport or whatever is required.

CHAIR: Has that been taken up?

Mr Baker: It has not been taken up, no.

Mr KNUTH: Have you heard of any cases with regard to retired coalminers that are probably worried about taking it up and concerns that it may be revealed that they do have this disease?

Mr Baker: The two that I have spoken to directly—so apart from the gentlemen I just spoke about; I spoke to his wife directly—two other gentlemen made contact with Peabody and I spoke to them also directly. They were concerned but they really wanted to know. It was not about not knowing; it was about knowing. We arranged for both of those to go through the test and fortunately neither came up positive.

Mr MILLAR: Who pays for this—the medical check-ups? Does Peabody pay for that?

Mr Baker: Peabody pays for it, yes.

Mr MILLAR: Is that a general practice in the mining industry that the mining company pays for the medicals?

Mr Baker: Generally it is, yes. The employer pays, so it could be a contracting company or it could be a mining company.

Mr MILLAR: What happens there? If they want a check-up or a medical, do you write to them? How does that happen? Can you just explain that?

Mr Baker: We have contacted, as Andrew said, about 300 prior employees and we have had about 30 responses. The way we then organise that or the way we administer it is we have a person at North Goonyella known as a return-to-work coordinator and that return-to-work coordinator is able to make appointments and keep in contact with a person and arrange spirometry testing, the X-rays and that. It is administered that way.

Mr MILLAR: When doing our original tours one of the concerns of this committee was that they had to make their own way to their own medicals on their own time. That does not happen with Peabody? You provide time for them to have their medicals?

Mr Baker: Our employees?

Mr MILLAR: Yes.

Mr Carter: Our employees have the option of doing it either in company time or doing it in their own time and then they are paid for that. That is part of our certified agreement which stipulates what the compensation is.

Mr MILLAR: That is a general practice right across the mining industry?

Mr Carter: I would not be able to comment on everyone's current agreement, sorry. I know that that has been in place for us. I am not aware of anyone having to do it in their own time that are not compensated as part of it.

Mr Baker: It is general practice across all the Peabody mines.

CHAIR: Thank you very much. I want to thank you for your attendance here today. The committee would appreciate if answers to questions on notice could be made available and provided to us by 5 pm on Monday, 13 March. Our committee will provide you with a copy of the *Hansard* of today's proceedings. If you have any questions, you are able to contact our research director in relation to any issues that may come up. Thank you very much for coming.

Proceedings suspended from 11.18 am to 12.45 pm

COOPER, Mr Matt, Site Senior Executive and General Manager, Broadmeadow Mine, BHP Billiton Mitsubishi Alliance

FOOT, Ms Bobbie, Head, Health Safety and Environment, BHP Billiton Mitsubishi Alliance

CHAIR: Thank you very much for your attendance here this afternoon. Before I welcome Ms Bobbie Foot and Mr Matt Cooper, can I say how extremely disappointed this committee has been in the sense that, whilst we recognise your cooperation in the past with this committee, we are very disappointed that we had to summons BMA and yourselves to attend this hearing today. We have had cooperation from the majority of the coal industry in relation to our inquiry which is very serious because, as you know, 19 men now have been diagnosed with black lung disease and some of those men are going to die a terrible death. For BMA, a transnational company, to write to this committee and give us a lecture about how you have been cooperative in the past and therefore you do not intend to come again in my view could be interpreted as a contempt of this parliament and we will not stand for it. Bearing that in mind, I would think that whoever has been advising you two here before us today needs to go back and re-examine the rules of the parliament, because you have been called before this committee and we have all the rights of the Queensland parliament whilst it is in session. I believe that an apology from BMA to the members of this committee is appropriate.

Matt Cooper, I understand that you are the senior site executive and general manager of the Broadmeadow mine. Bobbie Foot, I know that you are the head of health, safety and environment. I am going to invite you to make an opening statement, then we will go to council assisting and then there will be questions from the committee members who are here today. However, at 1 pm I will adjourn your presence here at the hearing for about five minutes because we have the department of mines coming in to present information in relation to a summons we have issued to them as well. If you would like to start your opening statement I would be very grateful.

Mr Cooper: Thank you, Chair. As you said, my name is Matt Cooper and I am the general manager and site senior executive at BMA's Broadmeadow mine. As you pointed out, I am joined by Ms Bobbie Foot.

The importance of this committee's work and the devolvement of appropriate arrangements to address CWP was reinforced again this week as we learned of the diagnosis of the 19th case of CWP in Queensland. I would like to reiterate that the health and safety of our people is always our first priority and integral to everything we do at BHP Billiton. There is nothing more important to our company than ensuring that everyone goes home safely to their families and friends each day.

As I said in November, this issue is also extremely personal for me, as two Broadmeadow employees were diagnosed last year. As the general manager of the mine I take my responsibility for the health and safety of my workforce very seriously, both professionally and personally. My first response was to ensure that the two affected workers and their loved ones had the support needed to properly consider and assess the diagnosis. Fortunately, both workers were diagnosed at an early stage. Under the advice of medical experts we have worked with both of them, and they have now been redeployed to aboveground roles in low-dust environments. Further, we remain steadfast in our commitment to prevent further cases and ensuring that those affected by CWP receive the support they need. We, this committee, the industry, government and the health surveillance system are all part of the solution.

In respect of our support of the work for the committee, this is our third appearance before the committee. We have provided—

CHAIR: By summons, Mr Cooper. You are only here today because we summonsed you to appear. We need to make that a fact of the committee hearing.

Mr Cooper: Do you want to talk to that?

CHAIR: No. I am in control of the proceedings; not you, Mr Cooper.

Mr Cooper: Apologies, Chair.

CHAIR: Thank you.

Mr Cooper: We provided detailed written submissions in November last year. We have worked constructively with the committee in its engagement with industry. In respect of the document summons issued in November, we have provided more than 5,300 documents to the committee.

Finally, we have invited the committee to visit our Broadmeadow mine to better demonstrate and understand our systems for monitoring and managing dust exposure and to provide an opportunity for the committee to meet and talk directly with our people on the ground. This invitation was first extended in early November and remains open.

In addition to our work supporting the committee we have played an industry-leading role in responding to CWP more generally: adopting an internal coal dust exposure limit target of 2 milligrams per metre cubed in 2012, which is below both the Queensland regulatory limit of 3 and the New South Wales limit of 2.5; assisting the Sim review of the medical surveillance system, including facilitating a visit to one of our sites by Professor Sim and the review team; an early public commitment from BMA asset president Rag Udd to implement a two-reader X-ray review process for all concerned coalmine workers employed by BMA; active participation in joint government and industry union working groups developing new recognised standards for both monitoring and management of coal dust; providing inputs to the government on proposed amendments to the coalmining safety and health regulations dealing with CWP; providing inputs to the government on subsequent revision of the health surveillance scheme in line with recommendations from the Sim review; participating in industry working groups and conferences aimed at sharing best practice in monitoring and managing exposure to coal dust, including an industry workshop in Moranbah; requesting the QRC engage with government to establish a working group to review workers compensation legislation to address gaps in support of people with CWP; and now actively working with the Queensland Resources Council in the review process.

In our own business we have: continued to support our personnel diagnosed with CWP and all other concerned personnel requiring further testing or retesting, including support to retired employees; proactively and transparently ensuring our entire workforce remains up to date with the latest information about CWP; implemented system changes for compliance with amended regulations; and continued to review and improve dust controls across our mines.

In November we advised the committee that we were responding to a directive from the Department of Natural Resources and Mines regarding increased dust levels at Broadmeadow as we commence mining in a new area. I am pleased to confirm that we were able to reduce respirable dust levels to below the regulatory occupational exposure limit on a sustained basis, and that directive was lifted on its due date of 31 January 2017. Successfully addressing the increase in dust in that area of the mine was achieved by working collaboratively with our on-site dust committee to identify and implement effective solutions. These include: increasing crew numbers so we could facilitate task rotation within the crew; experimenting with real-time dust monitors so we could help our workforce and educate them on their positioning in relation to the cutting equipment; implementing more and different types of sprays; and optimising foam suppression we had previously been trialling.

Looking forward, there are a number of areas for reform which we are looking for the committee to support: firstly, improvements in the current workers compensation regime. As mentioned earlier, we have been actively supporting the QRC's participation in the government's review of the workers compensation regime. Second, we support a scientifically based review of the current regulatory OEL for coal dust in Queensland and we are pleased to offer technical support. Third, ensuring mine operators are informed of the diagnosis of occupational diseases such as CWP to enable the operators to assist affected workers and identify whether improvements are required to existing controls. While there have been some improvements to this with the introduction of new regulations and forms, there are still some gaps. Fourth, we are frustrated with the delays in the accreditation of important electrical equipment for use underground such as real-time dust monitoring devices. We would like to see regulatory change to align the Queensland approach with New South Wales, which would enable the faster accreditation of important safety equipment where it has met international safety standards. Fifth, we would support the establishment of a centralised dust exposure database so that individual workers and their medical advisors can readily access and track their exposure history. Finally, we would support the development of medical protocols for the screening, diagnosis and management of CWP. This guidance does not currently exist, and BHP Billiton has recently facilitated engagement between key medical specialist colleges to consider this issue.

In conclusion, we respect the work the committee is doing to investigate this important issue. We remain deeply committed to preventing further cases and ensuring those affected by CWP receive the support they need. We believe that the actions we have taken demonstrate this commitment. Personally, I am very proud of the way our people have come together to face the issue by working together, speaking out to raise concerns they may have and supporting each other. While we have made good advances, we remain committed to the process of continuously improving our operational performance and working with all stakeholders, including the committee, to address CWP. Our

invitation to the committee to visit Broadmeadow underground coalmine and speak to our people remains open, and we would welcome the committee on-site at a time that suits yourselves. Thank you, Chair.

CHAIR: Thank you very much. Given the time limit, I will stand you down. Could you please take a seat at the back while we deal with the department.

PROOF

**DJUKIC, Mr Robert, Director, Coal Workers' Pneumoconiosis Inquiry Unit,
Department of Natural Resources and Mines**

PURTILL, Mr James, Director-general, Department of Natural Resources and Mines

CHAIR: I understand that you are returning the summons. Could you please outline what you have for us.

Mr Purtill: Yes, Madam Chair, we have the documents that were requested in your summons.

CHAIR: Which are?

Mr Djukic: Madam Chair, the documents are all the primary documents that are available that were outlined in the original summary that was provided to you. Where possible these include the travel reports from officers who travelled as well as other information like the approval briefs seeking approval to travel.

We did identify one additional trip when we reviewed our searches against annual reports dating back to 1996. There was one additional trip taken by the then chief inspector of mines to the US, so that documentation is also included.

CHAIR: Thank you very much. Council assisting, would you please take possession of the documents that have been provided.

Director-General, are you going to assure us today that this is all the documentation that the department holds?

Mr Purtill: Madam Chair, we have done as thorough a search as we possibly can. I can outline the lines of inquiry that we have pursued, but we have checked the completeness of the information as initially provided and we have reviewed all of the previous searches that we have undertaken for accuracy. In addition to that, the department has checked the results of its searches against information about departmental overseas travel recorded in all annual reports since the 1995-96 reporting year. The annual reports reveal that departmental officers have undertaken additional travel to that outlined in the summary provided by the department.

In 1999 the then Chief Inspector of Mines undertook travel including a visit to MSHA in the United States among visits to other countries. All available documents relating to this travel are now provided. The department's inquiries have also revealed that the most recent travel plans referred to in the summary, which were to be taken by the then director-general, mines safety and health, Mr Paul Harrison, in February 2015, were approved but the trip was later cancelled.

CHAIR: Thank you very much. Can you please tell the committee at this point whether or not there are any officers of the department or Simtars or anyone else who plan or has been approved to go overseas during the time of this inquiry, for example, the doctor?

Mr Purtill: We had planned for the deputy director-general of mining and energy resources and the executive director assisting with the project to travel to the US, but at the moment that has not proved to be able to line up with Dr Coen and other elements, so we have just suspended that for the time being.

CHAIR: We understand that the new doctor who has been appointed has been given approval to go to the United States soon.

Mr Purtill: I do not recall having signed off on any overseas approval for Clare.

CHAIR: Thank you very much. Please consider that you are discharged from the summons. Thank you very much. I welcome Mr Cooper and Ms Foot.

COOPER, Mr Matt, Site Senior Executive and General Manager, Broadmeadow Mine, BHP Billiton Mitsubishi Alliance

FOOT, Ms Bobbie, Head, Health, Safety and Environment, BHP Billiton Mitsubishi Alliance

CHAIR: We will now go to counsel assisting for questioning.

Mr McMILLAN: Ms Foot, Mr Cooper referred in his opening remarks to the fact that BHP is a participant in the current working group to review the Queensland workers compensation arrangements for coalminers.

Ms Foot: No, just to clarify, we are assisting the QRC, who is part of that working group.

Mr McMILLAN: BHP does not, in fact, have any representation directly in that working group?

Ms Foot: Not directly, only via the QRC.

Mr McMILLAN: Have you been provided with updates by the QRC as to the progress of that group's work?

Ms Foot: I do not have detail, but I understand that they have been meeting regularly and are progressing the discussions in that space. I am sorry, you would need to refer that to that particular group.

Mr McMILLAN: Sure. I understand that BHP is a self-insurer under the Queensland workers compensation scheme.

Ms Foot: That is correct.

Mr McMILLAN: Does that extend to all of BHP's operations including—I am particularly interested in its Hay Point coal terminal?

Ms Foot: Yes, it includes all of our BMI operations.

Mr McMILLAN: So all of those workers are covered by the entity which is the insurer for BHP?

Ms Foot: That is correct.

Mr McMILLAN: What is the name of that entity?

Ms Foot: BHP—sorry, can I just refer to my notes so I can get the exact name for you? BHP Billiton Queensland Workers Compensation.

Mr McMILLAN: Thank you. I understand from your submission that you are aware of three members of your workforce who have been diagnosed with simple coal workers' pneumoconiosis?

Ms Foot: That is correct.

Mr McMILLAN: Two of those are the underground workers from Broadmeadow and a third who has worked exclusively in the open-cut environment?

Ms Foot: That is correct.

Mr McMILLAN: Have each of those workers made claims for workers compensation through your insurer?

Ms Foot: No. It is our understanding that only one of those has, which is the open-cut worker.

Mr McMILLAN: To the extent that the other two workers have had to have modified duties as a result of their diagnosis, BHP is managing that process through its internal return-to-work program?

Ms Foot: I will give a bit of detail and perhaps Matt can expand. Both of those workers, as Matt said in his opening statement, have been redeployed into roles: one within the open cut and one on the surface at the underground mine. That is with similar conditions in place. I do not know why the individuals have chosen not to submit workers compensation claims, but they have not really had expenses I guess from that side.

Mr McMILLAN: When you said they have similar conditions in place, have they been maintained—and Mr Cooper, please feel free to answer this if you can—on the same pay and arrangements that they were on previously?

Mr Cooper: The answer to that is similar or better. In one case we took the opportunity to help an individual move through into an adult apprenticeship. Ultimately, the conditions he will come out of that adult apprenticeship on will be superior to what he went in on. We have kept the individual whole for the period of time he is in the adult apprenticeship.

Mr McMILLAN: To the extent that those workers may have been eligible for bonus payments and so on, have they been disadvantaged to any extent financially as a result of their diagnosis?

Mr Cooper: Not to my knowledge. Certainly the intent of the arrangement we went forward on was not to be disadvantaging him and, as I said, in one case hopefully helping an individual reach a long-term goal of his.

Mr McMILLAN: For the two workers who have not made compensation claims, is BHP meeting the cost of any medical appointments or health surveillance arising from their diagnosis?

Ms Foot: I can speak to that. All of their medical expenses were in relation to the diagnosis, which is actually managed under our Coal Mine Workers' Health Scheme. The only additional things that we would have assisted with was perhaps travel to specialists but as part of that diagnosis. As far as we are aware, I do not think they have had further medical expenses.

Mr McMILLAN: Just to be clear, BHP did meet those expenses as they arose?

Ms Foot: As per the Coal Mine Workers' Health Scheme we are required to pay for those assessments.

Mr McMILLAN: Is that a yes?

Ms Foot: Yes.

Mr Cooper: Can I just add to that? I keep in regular contact with the two gentlemen. At the moment they are on full duties within their redeployed duties. They are working full-time with no restrictions.

Mr McMILLAN: I want to ask about the arrangements for coal workers' health assessments generally, first of all, at the Broadmeadow mine. As I understand the evidence that you have previously given to the committee, particularly in Moranbah on 23 November, it is a requirement for all employees at Broadmeadow to have a current coal workers' health assessment in place to gain access to the site?

Mr Cooper: That is correct.

Mr McMILLAN: That includes a current chest X-ray in the past five years?

Mr Cooper: That is correct. Actually beyond 1 January we need the recommendations of the Sim review met. What we have actually found in practice with that is the second B reader X-ray sometimes is delayed. We have at least one confirmed X-ray and we get a partial clearance and then individuals are not fully cleared until we get the second chest X-ray back from the US. There are occasions where we have people on partial when they come in, but the expectation is that gets cleared up in due course. There are quite tight access controls. I know on a regular basis that we enforce that when we do not have the required section 4s and when the NMA has not seen the X-rays.

Mr McMILLAN: Under section 47 of the act the employer is required to make arrangements for coal workers' health assessments, are they not?

Ms Foot: Correct.

Mr Cooper: Correct.

Mr McMILLAN: How does BHP—or BMA in this case—go about making those arrangements for its workers at Broadmeadow?

Mr Cooper: Basically we have a schedule of our people. The BMA workforce is roughly a touch over 300 people and we understand exactly when their medicals are due.

Ms Foot: I can perhaps talk to the trigger for that. We have a medical database that has the due date for those medicals. A report is run. We are now running those reports a few months ahead given that the X-rays need to go to the United States. That is sent to the site and then I am assuming it is your administrative people who then organise people to go for their assessments.

Mr Cooper: Yes, it is just an administrative task of booking in with the relevant radiologists and NMA and we work our way through the process. As I highlighted before, the only wrinkle we have in the process at the moment is that sometimes there is a delay in getting the second chest X-ray back from the B reader.

Mr McMILLAN: Do you actually make the appointments for the workers and then just tell them when they need to attend?

Mr Cooper: It tends to be a collaborative exercise. In practice what happens is they also advise their administrators and they work with individuals and try to find a time that suits them. Up until recently Moranbah actually has not had an X-ray machine that has been up to standard, so we have

had to coordinate individuals around various parts of Queensland to undertake the testing they need. That has been quite a collaborative piece just trying to work with the individuals to meet their needs and make sure we meet the time lines.

Mr COSTIGAN: Can I just jump in there? Mr Cooper, everyone has to go to Mackay to get that done; is that right?

Mr Cooper: That is correct. If they were Moranbah based or Mackay based, it tended to be Mackay, but we have some of our individuals at Brisbane, Townsville—

Ms Foot: Emerald, for example.

Mr Cooper:—and Emerald, for example. We have tried to fit the circumstance and make it as easy on the individuals as we can. We have also obviously paid overtime for this testing so if an individual had to travel between Moranbah and Mackay we have paid them for their time.

Mr COSTIGAN: For the FIFO workers in Brisbane or Townsville; is that what you are alluding to?

Mr Cooper: Yes, they tend to be FIFO workers or they can be people sometimes who just make a decision that they are heading out on holiday and they think it is more convenient to do it in one of those other centres. There are many reasons why—

Mr COSTIGAN: The people living in the community do not have to go to Mackay?

Mr Cooper: Currently I do not have an update on the status of the X-ray machine in Moranbah but we would hope in the longer term we could actually get that facility back up to standard.

Mr McMILLAN: In relation to routine health assessments that your current workforce have to undergo, do they attend those appointments during ordinary shift time?

Mr Cooper: They actually get the choice. They can either attend during an ordinary shift and be paid as at work or they can take the option of overtime and do it in their own time.

Mr McMILLAN: I take it from that that you do not routinely require workers to attend for their medical assessments on rostered days off?

Mr Cooper: As I said, it is up to the individual working with their superintendent as to whether they decide to do it on their days off or on work time.

Mr McMILLAN: If their personal arrangements make it more convenient for them to do it on a day that they are otherwise not rostered to work, they are paid overtime for that? Is that correct?

Mr Cooper: That is correct.

Mr McMILLAN: I have in front of me a letter on BMA letterhead under the hand of a Doug MacGibbon, manager of processing coal to a worker, who I will not name, in relation to a partial statutory health assessment notice. The letter, which I am happy to show you if needed, requires that person to make an appointment to complete his health assessment. He provides a list of three medical centres but essentially indicates to him that he needs to make that appointment and he must do so on a rostered day off.

Mr Cooper: Given the name, I happen to know that individual. He works at the Blackwater mine. My comments have been entirely related to the Broadmeadow mine.

Mr McMILLAN: Ms Foot, can you assist us to understand why it is that a worker might have been required to attend an appointment on a rostered day off?

Ms Foot: I am not sure of the specifics of that situation, but we would be happy to take it on notice to find out. There are different provisions even within EAs around days off, overtime and so forth.

Mr McMILLAN: Can you explain that to me? When you say EAs, do you mean employment agreements?

Ms Foot: Sorry, yes.

Mr McMILLAN: Mr Cooper has just told us essentially about the EA at Broadmeadow?

Ms Foot: Correct.

Mr McMILLAN: At Broadmeadow workers are entitled to overtime if they attend a medical assessment outside of ordinary working hours. That is not the case across the BMA business?

Mr Cooper: Can I just clarify that? There are requirements under our EAs and there are requirements obviously in caring for our people. We have taken a pretty broad approach at Broadmeadow about this in that it is a real issue of concern for us and our workforce. We have not actually become too tied up in what our EA says around this. It has been more about facilitating a timely and thorough medical check so the individuals involved can actually get certainty about their

particular situation and be able to talk knowledgeably to their family about where they are at. The arrangements that we have put in place at Broadmeadow—obviously with two confirmed cases, we have very much a burning platform to look after our people. I would not want this to become anchored in the details of the EA because that is not the case at Broadmeadow. We have just tried to be very practical about where is the right X-ray machine, how do we make it as easy as possible for our people to take up our voluntary offer of the two X-rays? There are two processes in play here: one, we have provided a voluntary scheme where people can choose to opt in, and then obviously we have the statutory requirement of a chest X-ray every five years. What we have tried to do is make it as easy as possible for people to opt into the voluntary process and then as their time comes up on the five yearly rotation, we have tried to make that as easy on them as possible as well.

Mr McMILLAN: The approach at Broadmeadow is commendable but, Ms Foot, it seems that it does not extend to the workers at Blackwater. Is that the case?

Ms Foot: I will need to check on the administrative practices at Blackwater. It may be simply that maybe more context is needed there, so I am happy to provide that on notice. I do know at some of the other open cuts where I am more familiar with the process it is very similar to what Matt is describing where it is either done in work time or it is paid overtime, so I will need to check into that.

CHAIR: Can you take on notice please that we would like that information for all of BMA's operations in Queensland?

Ms Foot: Okay; absolutely.

Mr McMILLAN: I ask you now about BHP's response to CWP or the reidentification of cases starting in 2015, and you have dealt with this to some extent in your submission. I want to ask about the process by which you have offered new chest X-rays to your underground workforce at Broadmeadow. Just to clarify first of all, is Broadmeadow the only underground mine operated by BHP in Queensland?

Mr Cooper: Currently.

Ms Foot: The only one currently operating.

Mr McMILLAN: Thank you. First of all, you indicate in your submission that in late 2015 you took the decision to offer the underground workforce at Broadmeadow new chest X-rays; is that right?

Mr Cooper: That is right.

Mr McMILLAN: How was that decision arrived at that you would make that offer to the workforce?

Mr Cooper: Maybe I will start and Bobbie can get the technical detail right. I think like most in the industry we were surprised by the re-emergence of CWP, and it was an evolving situation at the time. We obviously had the Sim review with their preliminary report backs giving us some pretty strong indications on where we needed to go. We wanted to care for our people and we wanted to give them as much certainty as we could. Our approach actually evolved as the information came in front of us, but Sim was very clear in the need for one X-ray—a chest X-ray—and also very clear around the qualifications of the radiologists doing the work. Initially our process started by obviously getting the right X-ray, getting it checked by two radiologists off the RANZCR list and at the same time the department also stood up its process of requiring a B reader through that process, so our approach modified. We actually ended up with a triple-check process for most of our people on a voluntary basis, so this was all opt in and this was a voluntary arrangement.

CHAIR: For the benefit of Hansard, I note that we have been joined by the member for Mirani, Mr Jim Pearce.

Ms Foot: If I could just add to that for clarity, as a single X-ray in some cases people needed a new X-ray if the original quality of the X-ray was not digital. That was one of the things that came out of the Sim review and people were offered a new chest X-ray. This was done through the nominated medical adviser—as you understand, we cannot order chest X-rays—and at that point in time there had been a list of radiologists, a smaller group, set up on what is called the RANZCR list which is the college of those that were at that time deemed to be suitable to read the chest X-rays.

Mr McMILLAN: Just to be clear, when you say 'deemed to be suitable', you mean they were nominated by the college as people who were appropriately experienced?

Ms Foot: Yes, by RANZCR and that list is still in place at the moment. What has been added since then—and I cannot recall the specific date by DNRM—is the B reader which is a following read in the US as well.

Mr McMILLAN: Thank you. How was the offer to have a new chest X-ray and have it subsequently read by a second reader communicated to the Broadmeadow workforce?

Mr Cooper: By multiple means; initially verbally from myself. As this situation was evolving, we spent a lot of time as a leadership group actually talking to people at the pre-starts about it, so initially it came around as a verbal offer. That was quickly followed up by a personalised letter to the individual. As Bobbie highlighted, each individual circumstance was slightly different depending on where they were in the cycle of their normal medical checks process and who had actually undertaken that work. The team did a great job identifying what the individual needed to bring them to the standards that Sim was originally recommending and then finally recommended.

Mr McMILLAN: Would you be willing to provide a deidentified version of that letter to the committee? I assume it was a template letter that went to the workforce?

Mr Cooper: Yes. As you can appreciate, there were certain common issues and there was almost a tick box of, 'These are the things that you need to do,' and we are able to provide that.

Mr McMILLAN: If you could provide a copy of that deidentified letter.

Ms Foot: We will get that from our NMA, so our nominated medical adviser had the information about what people needed so a sealed letter was then provided from the NMA.

Mr McMILLAN: Thank you. You have also indicated in your submission that BHP-Billiton has established a process for its retired employees to receive free medical guidance from an occupational and environmental physician. First of all, when was that process established?

Ms Foot: I would need to check. I believe it was around the same time just post the Sim review. I do not think I have it in the notes, but we can certainly clarify. We have given evidence previously about this process, so a process was set up for those that contact us. Probably in part of that and also building on Matt's previous point, the individual offers were also made to former underground workers from our Crinum Mine, which finished at the end of 2015, and we redeployed a lot of those workers into other parts of our open-cut and underground site.

Mr McMILLAN: How was that offer made?

Ms Foot: In that case they had a letter as well and for the former underground workers who are currently at our open-cut mines the GM of each site sat down and spoke to them one on one as well. As you can appreciate, it is probably a smaller number of people.

Mr McMILLAN: How did you go about identifying former underground mineworkers?

Ms Foot: This was in relation to former underground mineworkers who had been redeployed into our business.

Mr McMILLAN: So they were still employees in other parts of the business?

Ms Foot: Correct.

Mr McMILLAN: I see. Have you made any attempt to extend that offer to former employees who are no longer working in any part of BHP?

Ms Foot: The offer is there if people want it. In terms of how we have communicated that, we have done one aspect of it and then the industry as a whole has done a little bit more as well. One of the things that we have done obviously with our internal communications is we have encouraged people to reach out to their networks as well, so we have used the informal networks. As we understand it—and we have checked in with what DNRM and other people have done as well—we understand that the Department of Health has also communicated to GPs with information around CWP and we feel that any retired or former workers that are in the community would probably be going to their GPs if they have any concerns. Some of the GPs in the local towns are people that we work with as NMAs and they are certainly aware of the process as well.

Mr McMILLAN: Section 3.2 of your submission which sets out that process—and I note you have previously given evidence about that process—at this stage, in practice, is limited to retired underground miners or former underground miners who are currently employed by BHP.

Ms Foot: In terms of the take-up, there have been a small number of people that have approached us or our independent occupational physician and taken that up, so that is people that have obviously heard about things and have raised concerns. One of the reasons that we have raised the issue around the workers compensation review and particularly the aspect for retired workers within there is that we would like to see a broader response. Obviously this issue has a lot of media attention at the moment and other bodies such as the CFMEU have done a great job at raising that awareness of the issue as well, but I guess over time that awareness may fall away and that is where that revised scheme in the workers comp space will be important as well.

Mr McMILLAN: With regard to the free process that you have established with the occupational and environmental physician, is that service limited to former underground miners or former employees?

Ms Foot: Sorry; I missed that part of your question. No, it is limited to former employees. 'Limited' is probably too strong a word. Any former employees that have concerns certainly can contact us. It does not matter if they were underground or open cut. In the case of contractors, we would assist them to find the appropriate pathway. We do have some flow charts around that. If they did not have a pathway, then we would look to assist them.

Mr McMILLAN: Ms Foot, have you been following the evidence that has been given by BHP current miners and former miners to this inquiry during its regional hearings?

Ms Foot: I have certainly seen some of it. I am not sure if I have seen every piece.

Mr McMILLAN: Were you aware, for example, that a number of miners gave evidence in towns in the Bowen Basin that they were former employees of BHP that had no knowledge of this arrangement that was available to them to pursue free medical assistance if they were concerned about their respiratory health?

Ms Foot: Yes, I am aware of that and I guess that is why we are saying we need a whole-of-industry response on this. One thing to be aware of is people leave our employment. They are not always retiring. Sometimes they are going to work for another employer in the coal industry and hence they are still in the coalmine worker health scheme. It is actually difficult to figure out exactly which workers need the retired worker service, and that is why we want that to happen as whole of industry as well.

Mr McMILLAN: Just to be clear, no correspondence has been sent utilising your human resources records to any former or retired miners that are no longer employed by the business?

Ms Foot: Correct.

Mr McMILLAN: It is a fairly hollow offer, is it not, if nobody is told about it?

Ms Foot: I believe we are giving evidence here and we have been putting the information out. There is probably more to do in that space and that is why we are actually saying we need to see that whole-of-industry response and we are happy to be part of that.

Mr McMILLAN: I note from your submission that four real-time dust monitors are currently being trialled at Broadmeadow, Mr Cooper.

Mr Cooper: That is correct.

Mr McMILLAN: When were those monitors purchased?

Mr Cooper: I have not got the exact date in front of me, but it would have been around October or November last year.

Mr McMILLAN: Are they the PDM3700 monitors?

Mr Cooper: They are.

Mr McMILLAN: Prior to the purchase of those monitors, was any real-time dust monitoring being done at Broadmeadow?

Mr Cooper: Yes. We had a device that we colloquially called the Hund unit. You may have heard testimony to that.

Mr McMILLAN: We have.

Mr Cooper: I guess what we like about the PDM3700 is the sampling is the equivalent to oak gravimetric sampling whereas the Hund uses a light device and does not distinguish between what could be mortar or dust, so it is a more accurate device. We were using the Hund previously but it had some limitations, so hence the reason we tried to get as many PDM3700s as we could.

Mr McMILLAN: The 3700 also has a cumulative exposure reading that keeps miners informed about what their cumulative exposure is over the course of a shift.

Mr Cooper: Absolutely.

Mr McMILLAN: When you say that you tried to get as many as you could, you have purchased four. Was there a limit to the number of units available from the supplier?

Mr Cooper: At that point in time those four were the last four in the country.

Mr McMILLAN: Is it intended to purchase more?

Mr Cooper: Probably not for the time being because we need to get full use out of them. We have been using those devices as much as we can to improve our understanding and use them as tools to empower our people. As I know you have heard testimony previously, there are limitations on how we can use them because of the certification requirements around them. In practice, what we found is that we can only deploy one or two at any time into the underground environment because of the restrictions around them and hence one of our recommendations. We would like to see some of those certification and approval paths more matched to the New South Wales approach. In this particular case it will not help around this particular unit, but as we think forward and we think about the hierarchy of controls we want to implement to control this problem things like automation are ultimately the engineering controls we want in place because they separate our people from the dust source. In that space, moving to something that looks more like New South Wales will significantly decrease our time to bring in technologies to help us control this issue.

Mr McMILLAN: BHP up until recently, I think if I read your submission correctly, operated an underground mine in San Juan in the United States?

Ms Foot: That is correct.

Mr Cooper: That is correct.

Mr McMILLAN: Are you aware of the use of gravimetric real-time dust monitoring in the United States over the last several years?

Mr Cooper: I would have to take that on notice. I am not explicitly aware of that. What I am aware of is that the San Juan operations focused a lot of their efforts for different reasons, so they had different airborne contaminant issues there. They focused a lot of their efforts on creating the personless face, so our contact with them has been very much in that space of trying to understand their technology to remove our people from the face.

Mr McMILLAN: To be clear, your submission notes that from 31 January last year—2016—BHP had no ongoing involvement in that particular mine.

Ms Foot: That is correct.

Mr McMILLAN: Prior to that, was there any sharing of information, knowledge and experience between the US operations and Australian operations about, for example, dust management, dust mitigation, dust monitoring technologies and approaches?

Mr Cooper: Yes, it was very much. One of my teams went over there very much around the automation space and obviously our reason for being there was around dust control. In terms of the real time, as far as I am aware they were not practising that so our trip focused more on the automation piece.

Ms Foot: If I can add to that, Dr McDonald, who has appeared before the committee as well, sits at a group level for BHP Billiton. He is one of those points of linkage to look at what is happening in other parts of the company. BHP has previously had operations in South Africa as well, so we are able to draw on technology and innovations that are happening across-the-board. I personally have not been involved in that space in the US, but we are getting that sharing of information happening between states and between countries where we have operations.

Mr McMILLAN: I do not mean to be picky. When you say 'we are getting', is that a new occurrence or were you intending to say 'we have been'? I do not mean to be picky; I am just clarifying.

Ms Foot: That is fine. It is ongoing. It relates to other areas of safety and other hazards as well.

Mr Cooper: I think you are aware that we have an industry group working at the moment with the intention of trying to get the 3700 certified or at least a pathway through to using it in environments with less than 1¼ per cent methane, and that seems to be progressing.

Mr McMILLAN: The committee has heard evidence that the PDM3700 or its predecessor, the 3600, both forms of gravimetric real-time dust monitoring, have been in use in United States coalmines for upwards of a decade. I am wondering why with the global reach that BHP has that it was only late last year that you first sought to employ real-time dust monitors at Broadmeadow.

Mr Cooper: There are probably a couple of elements to that answer. The understanding of that technology developed over time. We were not aware of it until some of the workshops that occurred last year. As I said, the issues that the San Juan Mine faced around airborne contaminants were not dust. I would need to take that on notice, but my understanding is that they did not have that in use at their particular operation. It was just a fact that we were unaware of that technology.

Mr Cooper: We have been looking at the issue of real-time monitors through people like Rob for a while. Then we were looking at them for other things like diesel particulate and so on as well, but the Queensland legislative environment for the certification and use often throws up those barriers. That is why we have been calling out for that pathway to be a little more streamlined. If something has been certified in another jurisdiction as safe, logically we should be able to get that for Queensland as well. Sometimes when those things are looked at, people from the Queensland area are saying, 'We can't use it straightaway,' and I think that is unfortunate.

Mr McMILLAN: Does it not suggest a flaw or a breakdown in the flow of information within your company if Dr McDonald is engaging in this kind of global information sharing and yet the site senior executive of your only underground mine in Queensland did not know anything about the PDM3700 until late last year?

Ms Foot: The PDM3700 is the newer model. It is the 3600 that was used earlier. We are aware of this technology but previously it was thought that we could not use it in Queensland.

Mr McMILLAN: Mr Cooper just told us that he did not know anything about it until late last year.

Mr Cooper: Well I personally did not know about it until late last year.

Mr McMILLAN: And you are the site senior executive of BHP's only underground mine in Queensland.

Ms Foot: Yes. However, the health and safety team that contains the hygienists are advising Matt on what the monitoring technology is that we do have available to use. Although we were not able to use the real-time monitors, we have been using monitors ongoing with the personal sampling. We have used static monitors which are not quite as effective as real-time monitors but you can start to get 'there are higher levels of dust here versus here' to try to problem solve and diagnose where your dust sources are coming from. We are still able to use other devices; it is just that these things have their limitations in Queensland. Anglo has been able to find a path through to starting to trial it, which is what we have now picked up on.

Mr Cooper: Now that we are aware of the technology, our focus is how we deploy that into our workplace to help us manage this risk.

Mr McMILLAN: I note your observation that the 3700 is the new model. The testing of that particular model has been conducted by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health over the last four years, and the use of that device was mandatory from at least August last year.

Ms Foot: Yes.

Mr McMILLAN: Surely you must accept that the advice that Mr Cooper has been given is flawed if he did not know about it until late last year.

Ms Foot: We were not aware that we were able to use that even under trial conditions in Queensland. There are other risks that we need to be considering from the explosion risk point of view. At that point we had the information that we needed to get to where we needed to be on dust and we are trying to drive to that next level as well. We found this has helped with the latest controls on positional monitoring in particular.

Mr McMILLAN: Have you both read the Monash review of the respiratory component of the coal workers health scheme in its entirety?

Ms Foot: Yes.

Mr Cooper: In its entirety, no. I have read the executive summary and a good portion of it, but I have not read it in its entirety.

Mr McMILLAN: Did you read the section focused upon the nominated medical advisers and the appointment of them in Queensland?

Mr Cooper: Yes.

Ms Foot: Yes.

Mr McMILLAN: Since you have each read that report or the relevant section of it that I am interested in, has BHP undergone any process of reviewing the current appointments of its nominated medical advisers?

Ms Foot: We have eight nominated medical advisers. I think you have that information in our submission. Given the size of our operations we have had a look at whether or not that is the right number. One of the things was around a large number of nominated medical advisers. We believe we do have the right number. For those people whom we currently have, we are quite satisfied that they have the right qualifications and experience to assist us.

As you would probably be aware, the DNRM is working through those recommendations and hopefully soon putting forward a model around what the NMA accreditation and criteria standards need to be. We are very keen to see that and if there is anything that comes out of that then we will obviously review our position.

Mr McMILLAN: When you say 'we are confident they have the right qualifications and experience' what is your expectation as to qualifications? Obviously they have to be a registered medical doctor.

Ms Foot: Correct.

Mr McMILLAN: In terms of experience with mining and the mining industry, what is your expectation?

Ms Foot: They need to understand the hazards that we have in place. They need to be familiar with that environment. We do that in a number of ways. They would have all visited over time, and they need to have an understanding of the health hazards. We also need to consider the geographic proximity, so our workers need to be able to access doctors as well.

Mr McMILLAN: The Royal Australian and New Zealand College of Radiologists has given evidence to the committee that, in screening or in assessing a chest X-ray for coal workers' pneumoconiosis or other coalmine dust lung diseases, it is critical for the radiologist to have an understanding of the worker's occupational history and particularly their occupational exposure to respirable dust. In the course of the evidence that coalmine workers have given this committee—and I will be corrected if I am mistaken—I do not think a single worker when I have asked them has indicated that the nominated medical adviser has asked them about their occupational exposure to dust. Is that something that you expect your nominated medical advisers would be doing as part of their routine health assessments?

Ms Foot: Obviously I cannot speak to what conversations the nominated medical advisers are having with individuals. However, we regularly provide our nominated medical advisers with our latest exposure profiles so that they understand what people are being exposed to. That is not just for dust but also for noise, silica and other factors. They should have that information available at their fingertips when they are talking to the coalmine worker, and they would really just need to understand what group they belong to. What is the job that they are actually doing.

Mr McMILLAN: When the worker goes for their health assessment, does the nominated medical adviser as part of their paperwork already know what job or task group that worker is part of, or do they need to ask the worker that?

Ms Foot: I am unsure of what paperwork accompanies the person from that side but we could check that.

Mr McMILLAN: What you have told me is that you provide your NMAs with the SEG data so they know, for example, that longwall operators might be expected to be exposed to this level of dust?

Ms Foot: Yes, correct. One of the things that we have called for in our submission is an integrated database for dust. I think we said that at the start as well. As people move between sites and between companies, you can see how that would be really important for those nominated medical advisers and others to have that. That is something that we would like to see developed.

Mr McMILLAN: To take up that point, which company currently provides the service for dust monitoring at Broadmeadow?

Ms Foot: It is a combination of GCG, which is Green Consulting Group, and an internal senior hygienist who has been recently appointed, and we have others in the HSE department who do some supplementary testing.

Mr McMILLAN: How long have you used GCG?

Ms Foot: I would have to take that on notice. It is not a new contract.

Mr Cooper: I have been at the mine for almost two years and they have been our service provider in those two years. We can check for you if you want us to.

Mr McMILLAN: Did Broadmeadow previously use Simtars or have you had a longstanding arrangement with GCG?

Mr Cooper: I could not answer that. As I said, I have been there for—

Ms Foot: I can, because I worked at Broadmeadow in earlier days. We have previously used Simtars and other providers.

Mr McMILLAN: I note that Mr Cooper in his opening remarks made a number of references to the New South Wales regulatory system. You are aware no doubt that in New South Wales all dust-monitoring results are reported to the regulator in addition to the mine operator and the industry's safety and health representatives. Under the current arrangements in Queensland, as I understand them, only exceedences are required to be reported to the regulator, commencing from 1 January this year; is that so?

Mr Cooper: Commencing from 1 January. There obviously have been circumstances over the last two years where mines have been required to periodically provide all their results—they are supplied to us—but in the context of what has been going on with this inquiry. Legislatively, 1 January was the first time we were required to report single exceedences.

Mr McMILLAN: In terms of that industry-wide understanding of dust exposures, do you support a move in Queensland to a reporting system that would require coalmine operators to report all dust results to the regulator first of all?

Mr Cooper: If we wanted to set up a dust database that includes the data across-the-board then it would be essential that it is reported through to a central body such as the DNRM.

Mr McMILLAN: I want to ask you about Simtars research functions. First of all, are you aware that Simtars is funded by the Queensland government to undertake research on a non-commercial basis into a range of safety and health issues across the mining industry?

Ms Foot: Yes.

Mr Cooper: Broadly aware, yes.

Mr McMILLAN: Has BHP been provided or assisted to any extent with any research knowledge development information by Simtars that might have assisted you in tackling the dust problem in your coalmines?

Mr Cooper: Specifically with the dust problems, no, not in my experience in the last four years in the industry, but we use Simtars extensively around gas monitoring. They are effectively the gold standard in that space.

Mr McMILLAN: Is that a commercial service as well?

Mr Cooper: That is a commercial service as well. My experience with Simtars has been exclusively around the provision of gas-monitoring services. More recently, I know Simtars has moved into the RTO space for some mine rescue certifications. That has been my exposure to them, but I have not had any exposure in relation to respirable dust research.

Mr McMILLAN: Ms Foot, from a health and safety point of view, in the non-commercial space is Simtars contributing anything to your work?

Ms Foot: Yes. We are not working directly with them in the commercial sense, but one of the things I have seen over my time in the industry is that at the Queensland Mining Industry Health and Safety Conference, for example, which is held on an annual basis, every time that I have been Simtars has been presenting, from memory, information about what they are doing. Often times it has been in that explosion and gas space which has been a key focus in the past. At the conference last year one of their people was presenting about the dust-monitoring process and something along the lines of best practice in that space. We could get the exact paper for you. We are aware that they are still active in that space. I could not speak to exactly how much research they are doing. You would probably have to direct that towards them.

Mr McMILLAN: I am interested to the extent that you as an operator are undertaking all sorts of initiatives to try to manage dust in your mines and reduce the exposure risk to your workers. Have you been given any assistance by the government entity that is funded to do precisely that?

Ms Foot: What I am aware of is to the extent that I have just given. I am not aware of further things. That is not to say it is not happening.

Mr McMILLAN: Mr Cooper, I want to ask you about the recent compliance history at Broadmeadow. I note that you gave evidence in Moranbah with Ms Foot on 23 November including some reference to that compliance history.

Mr Cooper: That's correct. If you don't mind I can talk knowledgeably and firsthand around the latest directive, but I am going to have to rely on some notes prior to that because they were before my time.

Mr McMILLAN: That is fine. How long have you been the SSE at Broadmeadow?

Mr Cooper: I have been the SSE since May 2015.

Mr McMILLAN: Did you work at Broadmeadow at all before that in another role?

Mr Cooper: You would have to go back a long time. I was actually involved in what was called the exploration at it which was a precursor project to Broadmeadow. Broadmeadow in its current form, no, that was the first time I have worked there.

Mr McMILLAN: Where did you work immediately prior to coming to Broadmeadow?

Mr Cooper: I was the general manager of the Gregory Crinum operation.

Mr McMILLAN: Is that an open-cut mine?

Mr Cooper: No, it was also an underground and open-cut mine that recently closed down.

Ms Foot: It was a BMA mine. It went into care and maintenance in December 2015.

Mr McMILLAN: I think that is referred to in your submission. Thank you for that clarification. To the extent that you are able to answer these questions, even by reference to your notes, please do so. If you cannot then I might ask you to take some of them on notice. Do not feel you need to speculate if you do not know the answer.

Mr Cooper: I certainly will not be speculating.

Mr McMILLAN: You gave evidence on 23 November to the committee that essentially you had two periods of exceedences at Broadmeadow, most recently in late last year and then, before that, in 2013. I think I can summarise your evidence fairly to say that you described both of those periods of exceedences as resulting from difficulties in the mining environment at the time; is that a fair summary of what you told us?

Mr Cooper: I think probably I would characterise it a different way. It was changes in the mining environment. One of those was the change in mining equipment. We undertake a form of mining called top coal caving. We are one of only a few units in Australia. The implementation of that technology certainly into that seam was a new thing and it presented us with unique challenges that we had to understand and overcome. Then more recently we have actually moved into a new area of the mine that was actually subject to methane drainage for the purposes of obviously making it safe from an explosion risk perspective. We attempted to put some controls in place for that. We attempted a technique called water infusion which is to replace the water that you draw off during the methane drainage activities. Unfortunately that was not as successful as we would have liked and that resulted in a temporary spike in those readings. I actually view the latest exceedences as our system actually worked. Our monitoring picked up that we were seeing exposures above the OEL. We self-reported those to the department. At the same time we started to commence an action plan. We worked with our dust committee on site to actually develop a response plan. I am pleased to say that very quickly, within a month after doing that, our longwall SEG was back into compliance and then we were able to demonstrate to the department over the next three months obviously a sustained change in our operating environment and ultimately that resulted in them closing the directive out at the end of January.

Mr McMILLAN: The dust monitoring results that you have provided to the committee as part of the very significant volume of documents that you gathered and provided I have attempted, as best I can, to go through them in some detail, but I notice clearly the focus of your dust monitoring over a number of years has been on longwall production.

Mr Cooper: Yes.

Mr McMILLAN: I am interested in whether or not there has been any change in the sense of a new focus upon dust monitoring in the development areas, especially in light of the fact that it appears from your submission that both the cases of CWP in your underground workforce appear to have worked predominantly in the development area?

Mr Cooper: Our two confirmed cases, it is unclear about where they contracted the disease. Both gentlemen have extensive experience in operations and jurisdictions outside of Queensland.

Mr McMILLAN: Just to be clear, they worked in the development area while they worked for you, but they have other occupational histories in mining beyond that?

Mr Cooper: In one case one gentleman spent 30 years in the UK industry and the other gentleman spent a significant amount of time at other underground operations around Queensland. We know from our monitoring that, in fact, the development SEG is well under the statutory limit. As I said in my opening statement, we actually have a stricter internal limit so we know what the exposures are in those areas. Our monitoring tells us that our problem areas are the longwall so we actually monitor on a risk base. You will see that while we are seeing things unchanged in the development area we tend to monitor more on a quarterly basis because things are not changing, but in the longwall space we monitor on a weekly basis. Our program is actually set up around 90 per cent of the monitoring is planned for planned cutting shifts and 10 per cent is on maintenance shifts because that actually mirrors what our workers do. They will spend 90 per cent of their time planning to cut, 10 per cent on maintenance. That is why we focus in the longwall area because that is our risk and we know that.

Mr McMILLAN: I want to take you through some of the documents that have been produced from your mine by BHP under summons. Rather than dealing with the original documents—we have them of course—the committee secretariat has very helpfully prepared a summary of them for you of the ones that I want to talk to you about. If I can ask you to follow along with me. Madam Chair, for the purposes of the proceedings here today it is not my intention to table or ask the committee to receive the original documents, although of course they have them under summons. No doubt a number of those documents would be subject to commercial-in-confidence considerations so it is my intention only to refer to the entries and unless Mr Cooper asks for them to be tabled I will deal with it in that way.

CHAIR: Thank you, Counsel Assisting.

Mr McMILLAN: Mr Cooper, if you wish to refer to the original records at any stage during the course of my questions please let me know and I will hand them to you. Going through the history, commencing first of all in about 2008, and I apologise if there is odd numbering on the pages, the first page of the bundle that I have handed to you should be marked 20 of 27 at the bottom right hand corner and goes through to page 27 of 27 and that is due to way that the documents have been prepared for the hearing. The first entry I want to ask you about is a mine record entry from 11 April 2008. I notice that it appears that the inspector who made that entry was Mr Fritz Djukic who is a long time inspector at the Department of Natural Resources and Mines inspectorate and an occupational hygienist by profession. He notes in the second paragraph of that entry, 'Respirable dust monitoring results demonstrated that personnel working on the continuous miner are likely to be exposed to respirable dust levels exceeding the adjusted regulatory limit for respirable coal dust.' My understanding of coalmining has increased significantly in the last six months, but is still pretty limited. The continuous miner is used in the development area, is it not?

Mr Cooper: That is correct.

Mr McMILLAN: The questions I have just asked you about the development area, this entry at least at that point in 2008, and I appreciate that is well before your time, suggests that respirable dust is a significant problem at that time in the development area, does it not?

Mr Cooper: It is probably worth highlighting that I am not aware of exactly what machinery was used at that point in time, but I am aware more generally how development miners have progressed over the last decade. It would not surprise me if that was an older type continuous miner and what we deploy today at Broadmeadow, and is more generally used around the industry, is an in-place miner bolter with an on-board ventilation system that has been designed specifically to separate the individuals from the dust source. Obviously I can't talk to something that happened back in 2008. I am not even sure we could take that on notice and get a sensible answer, but I am happy to try if you wish me to. I do know where we are today with our development mining equipment and again I will point to all the monitoring I have had done since I have been there consistently shows the development miners are well under the relevant OELs.

Mr McMILLAN: The committee has heard from the United States that there is a significant prevalence of coal workers' pneumoconiosis and other coalmine dust lung diseases in the US amongst development crews, including roof bolters and continuous miner drivers. Essentially, is your evidence that your monitoring tells you that that is not a problem in your mine?

Mr Cooper: Again I would be hesitant to make detailed comment on this, but I do know most of the continuous miner operations in the US are what is termed a cut and fit or two-pass operation, which is a different machine, different configuration, has individuals placed in different spots. One of the downsides to that technique is exposure to respirable dust. Again when you look at the technology that we deploy, and most of the other longwall mines deploy, they are in-place miner bolters that are specifically set up to separate individuals from dust sources.

Ms Foot: I think it is also important, as per Dr McDonald's previous testimony about some of the differences in the US in terms of development and the thickness of the seams that they are mining, meaning that in some cases that is a mixed dust pneumoconiosis with silicosis. I think you have alluded to that as well.

CHAIR: We have had that evidence given to us, thank you.

Mr McMILLAN: Moving now to the next entry, which is at the bottom of page 20 of 27, from 21 August 2008, again Inspector Djukic and another inspector have attended at the mine and have noted major hazards identified include exposure to increased respirable dust. Back as far as 2008 inspectors attending at the mine are raising this issue with your predecessors about the exposure of that workforce to respirable coalmine dust. Do you know what actions were taken to increase the protection that workers might have had to that exposure at that time?

Mr Cooper: I cannot talk to what actions were taken at the time. I guess what I can say is I am just scanning down through the mine record entry and an important point for me is this bi-directional cutting at Broadmeadow. That is an underground longwall mining technique. You have got two choices, you can uni-di—

Mr McMILLAN: Sorry, I am going to stop you, Mr Cooper. That is not until 2015, is it? Am I mistaken?

Mr Cooper: No, I am looking at 21/8/2008, Fritz Djukic and Tim Watson.

Mr McMILLAN: Yes, I see. Please continue. If you would not mind starting again so the transcript is not interrupted, thank you.

Mr Cooper: Clearly I cannot talk to the circumstances of 2008, but as an experienced underground coalminer, what does catch my eye is that reference to bi-directional cutting. I do know that in Broadmeadow's history it has been actually what we call a uni-directional cutting mine, which is a technique you use when you have got concerns about respirable dust. For most of the mine's history we have been a uni-di mine, which means people can be separated from the dust as you cut. Recently we have moved to being a bi-directional cutting mine, but only after the introduction of high-level automation so again we can actually separate our people and get our people out of the dust. My initial response to that is the bi-directional cutting, and it could be at that point in time they were looking to bring bi-di in. I would need to take it on notice. Again, I want to be transparent with this inquiry, I am not sure how successful we will be tracking down the information back to 2008.

Mr McMILLAN: I will not ask you to do that now because I think I may well be able to deal with the issue that I am interested in in the course of the rest of my questions.

Ms Foot: One thing I would say, and I have just had a quick read, obviously I have not got the original that you are referring to, it is talking about a meeting to discuss the process adopted for the planned introduction of it and it is identifying the hazard in advance of that, which is obviously a normal practice that we would want to see: people identifying that in advance.

Mr Cooper: Sorry, I jumped past that. Where I have got to is this looks like a planning meeting, but I know for most of the mine's life it has actually been a uni-di mine. It could well be they could not satisfy themselves that there was an acceptable level of risk.

Mr McMILLAN: We will deal with that in a moment. I am interested now in the directive that was issued on 22 November 2013 which appears on page 21 of 27. You will see the directive is in the grey shaded box. It is accompanied, as it always is, it seems, with a mine record entry first of all by the inspector and then a directive is issued essentially with five directions to the mine. By this stage you were the site senior executive at Broadmeadow?

Mr Cooper: No, that is not correct. This is 2013. I did not start until May 2015.

Mr McMILLAN: I am sorry about that. Are you able to speak with any level of confidence about these directives?

Mr Cooper: I can refer to my notes. It is fair to say that I took over the mine at the time we were successful in closing this directive. I know Bobbie has actually got some experience in this. I think we will be just be transparent about what we do know and if we do not know, we will take it on notice.

CHAIR: Please proceed.

Mr McMILLAN: The first thing that strikes me about this directive—and this may well be beyond your knowledge—is that it is remarkably similar to directives I have seen issued at about the same time to a number of other mine operators. Do you know whether there were essentially widespread directives issued by the department around late 2013 in relation to respirable dust? Have you had any feedback from your colleagues in other mines about that?

Mr Cooper: No, I would be speculating.

Ms Foot: I do not know either.

Mr McMILLAN: Thank you, Ms Foot. It directs a number of things. The first directive is ‘effective immediately any personnel working on or entering the longwall must wear RPE’. Is it the case that prior to the issuing of that directive the wearing of RPE on the longwall was not mandatory but rather was recommended?

Mr Cooper: I will have to take that on notice. Regulation 89 has always been quite clear that RPE is mandated in those environments where you have exposures above the OEL. That has been the law since 2001. I do not have the context here. By law since 2001 in those environments compulsory RPE is required.

Mr McMILLAN: The committee has heard evidence from a number of mine operators, including most recently this morning from Peabody, indicating that prior to a similar directive being issued to them their standard operating procedures suggested the wearing of respiratory protective equipment on the longwall, but it was not mandatory.

Mr Cooper: From a Broadmeadow safety and health management system perspective we changed, as this directive set out, to compulsory RPE on the longwall. That has not been rescinded. Although the longwall has operated for significant periods of time below OELs we still maintain the compulsory RPE on the longwall. It is probably worth pointing out just for your information the process around RPE. Have you heard testimony about the fit testing process?

Mr McMILLAN: Yes.

Mr Cooper: And access to site.

Ms Foot: We have fit testing as well.

Mr McMILLAN: I think Ms Foot gave that evidence in Moranbah.

Ms Foot: That is right.

Mr McMILLAN: The third paragraph in that directive required ‘major sources of dust generation on the longwall should be identified through real-time monitoring or other techniques and controls prioritised and implemented accordingly’. I note your evidence earlier today that essentially the trial of the PDM3700 monitors has only been in place for a couple of months. How long have you been utilising the Hund monitors?

Mr Cooper: I would need to check that. It was obviously pre-existing when I arrived at the mine. I would suggest it was in response to this directive—for a substantial period of time.

Ms Foot: There were very early versions of real-time monitoring at the beginning of the Broadmeadow Mine with a system called dust track, but it was quite a large system and not wearable. What Matt is talking about is starting to get into the wearable devices.

Mr McMILLAN: The fourth paragraph required you ‘to establish and implement an interim personal dust-monitoring program to monitor workers’ personal exposure on the longwall at regular intervals’. I have copies of your dust-monitoring results. It seems apparent to me that there was already a program of personal dust monitoring on the longwall in place at Broadmeadow at the time this directive was issued?

Ms Foot: That is correct and our data shows that really clearly.

Mr McMILLAN: I wonder what the utility from your perspective is of the department issuing a directive requiring you to do something you are already doing?

Mr Cooper: I cannot answer that. It is probably best directed to the department.

Mr McMILLAN: Is the effect of that direction, although it is clearly not apparent in the text of it, that those results then need to be produced and provided to the department?

Mr Cooper: I would expect so. I can comment on how it has been managed in terms of the recent directive. We received something very similar which was to do something we were already doing but with the effect of regularly reporting all results to the department.

Ms Foot: We have been reporting our results to the department since that time. We were reporting them regularly as a result of that directive.

Mr McMILLAN: The fifth dot point over the page is ‘develop an action plan detailing the short- and long-term time frames with respect to the implementation of those things above’. I note that on the previous page there is an indication that that directive was completed by the end of June 2014. Do we take it, from the practice of the way that the inspectorate interacts with your mine, that the directive is not lifted until all of those things have been satisfied? Is that how it works?

Mr Cooper: That is correct, but I also think we need to point out that the information source here is not complete. We did not actually finally close out this directive until 2015. The point of detail here is that there were actually two directives in play during that time, with essentially the same requirements. It took until 2015 to close this out. The reason it took so long is that we needed to establish over a significant period of time—and I believe that was 12 months, Bobbie—

Ms Foot: It was quite substantial.

Mr Cooper:—that we were in compliance.

Ms Foot: It is important to know as part of that, when we look at our records, that it does show that our average respirable dust exposures were below the regulatory limit for 12 months before that directive was lifted. You need to provide a body of evidence. It cannot be just off a single sample to show that. At that time, the inspectorate required that to be quite lengthy.

Mr McMILLAN: When you gave evidence initially on 11 November you told us that at that stage the longwall production area of the Broadmeadow Mine was the only area of BHP business that at that stage was above—

Ms Foot: Our internal OEL, at that stage.

Mr McMILLAN: All right.

Ms Foot: That is two and obviously the regulatory limit is three milligrams per cubic metre.

Mr McMILLAN: Just to be clear, Mr Cooper, is Broadmeadow still under directive by the department?

Mr Cooper: No. The directive was closed on 31 January after showing three and a bit months of being under the OEL.

Mr McMILLAN: Ms Foot, the reference in your evidence again on 23 November to Broadmeadow was a reference to your internal OEL not the regulatory OEL?

Ms Foot: When we gave evidence the first time we were only over the internal OEL. As per Matt's evidence, this was around the time of the directive when it became apparent that we were over the regulatory limit. Prior to that we were under the regulatory limit but over our internal limit and hence still working very hard to get that under our OEL.

Mr McMILLAN: Mr Cooper, that was the period you explained earlier that you were experiencing high dust levels as a result of the methane drainage?

Mr Cooper: That is correct. As I said before, it was pleasing to see how the team came together and came up an action plan. It has ultimately been successful in reducing the exposures below the OEL.

Mr McMILLAN: For the purposes of the record—and in seeking to be as fair to you as I possibly can—I wanted to note and draw the committee's attention to a mine record entry on 15 April 2014 where Mr Djukic recorded that 'he noted the mine's effort to reduce risk but could not close out the directive due to the lack of quality and repeatable personal exposure monitoring data demonstrating reduction in personal exposure to respirable coal dust'. At the bottom of page 22 that is essentially what you have just described to us. Your efforts were recognised and you needed a longer period of positive results before the directive would be closed out?

Ms Foot: I note he refers specifically to some issues around reduced production for other reasons and so they need to actually understand that it is going to be reflective of the full production. I can appreciate that as well.

Mr McMILLAN: On the next page—page 23 of 27—there is a mine record entry on 27 June 2014 noting that the directives previously issued had been closed and a new directive would be issued requiring the conducting of repeatable representative personal dust monitoring for operators on the LTCC. What does LTCC mean?

Mr Cooper: Longwall top coal caving—it is the technique of longwall mining that we practice.

Mr McMILLAN: The directive itself appears on the following page. Can you explain to us from your perspective why they closed out one directive and then issued another one immediately? Did they explain that to you? That seems an odd regulatory approach?

Ms Foot: Perhaps if I can speak to this. In preparing for the previous hearing we tried to understand why this was the case. The specific reason did not appear to be clear or people could not recall that. I guess it is a question for DNRM.

Mr McMILLAN: Was there a move from one longwall to the next at this time or is it continuing on the same longwall block? Is that apparent to you from the notes?

Mr Cooper: It is not immediately apparent to me. I would need to check that.

Mr McMILLAN: That is fine.

Mr Cooper: I would need to confirm that.

Mr McMILLAN: For the purposes of the record I also note an entry from 6 August 2015 going over from page 24 to page 25 where it is again noted by Mr Djukic and his colleague that there had been a significant reduction in respirable dust-monitoring results across some 370 samples collected and the inspectorate acknowledged the effort that had been made. The directive continued. Again, is that because you needed to demonstrate an extended period of positive results?

Ms Foot: That was our understanding from DNRM. Obviously I was not there at the time but I have spoken to others on that. Their exact thinking is probably better directed to them.

Mr McMILLAN: The next entry is the entry that I alluded to earlier. On 28 October 2015 there is a mine record entry. It is the second sentence that I am interested in. It reads that 'It was recognised that Broadmeadow had done a substantial amount of work to prevent coalmine workers being exposed to unacceptable levels of respiratory dust. However, the method of working had changed from uni-di operations to bi-di operations.' Is it essentially the case that the level of respirable dust that workers were exposed to and are exposed to is significantly higher in the course of bidirectional mining?

Mr Cooper: Not in this case. Historically and traditionally, yes it has been.

Mr McMILLAN: Why not in this case?

Mr Cooper: Because of the use of automation. What we were able to demonstrate and one of the things that we took the inspectors through at that meeting was our records and results as we moved from uni-di to bi-di. We could demonstrate through the use of automation that the exposure levels came down.

Mr McMILLAN: There is a mine record entry from 14 January 2016 commencing at the bottom of that page and continuing over the page. I am sorry that is not the one I wanted to ask you about.

Mr Cooper: It might help you if you go down further in the previous one on 28 October and you can see why the discussion focused on when the automation failed, for exactly that reason. Without automation the result would be increased exposure, but with automation in place the result was less.

Mr McMILLAN: Thank you. The entry on 15 January 2016 was by an inspector expressing concern about the rise of respirable dust-monitoring results and damage to dust controls. Is that the period that I think we have referred to a number of times now where there was the increase in results or is that a different period?

Ms Foot: No, this is January 2016.

Mr Cooper: No.

Mr McMILLAN: So that was a separate—

Mr Cooper: It was just an objection. Can you direct me to which paragraph you are looking at?

Mr McMILLAN: On 15 January 2016, 'Inspector Brennan expressed concern of the rise in respirable dust-monitoring results and damage to dust controls on main gate 10 AFC/BSL crossover.'

Mr Cooper: I would need to check about the actual respirable dust results at the time. My observation is that he is more focussing on the damage to dust controls. At that stage we were not under the directive.

Ms Foot: Is there a question you want to us to take on notice in that space?

Mr McMILLAN: My question was: is that an additional period of an increase in dust exceedences that we have not already referred to?

Ms Foot: No, our data looking at the average exposures through that period is not higher. We can look into the detail of this specific thing, whether there is an outline due to that damage that he refers to.

Mr McMILLAN: Could you take that on notice?

CHAIR: If you can take that on notice that would be good.

Mr McMILLAN: I note that there is an entry that I think I must have missed on 14 January—at the bottom of page 25 of 27—where the inspector notes concerns regarding the delay in investigations of exceedences. I am not particularly interested in that specific entry but, generally speaking, as matters stand at the moment, how long do you need to wait between when a sampling is undertaken and when you get the results of that sampling?

Mr Cooper: Routinely now we are managing to get that turnaround within seven days. It is true to say through this period that we were suffering from some delays in the turnaround at the laboratories. That could be as long as 14 to 21 days depending—there were some outliers around 21 days. We now routinely get the results back within six days.

Mr McMILLAN: Ms Foot, in your experience has the turnaround time on sampling improved significantly in the last couple of years?

Ms Foot: Yes, certainly. It is one of the things that we judge the success of our monitoring contractor on as well.

Mr McMILLAN: Have you had experience of the monitoring performance of multiple providers?

Ms Foot: First, I will need to cast my mind back some time. In the earlier days of Broadmeadow when I worked at the mine there we used Simtars. We are now using GCG. Those are the two that I have mainly been involved with.

Mr McMILLAN: Do you wish to make any observation about the differences and/or improvements in the turnaround time for sampling results?

Ms Foot: I think it is two different periods. It would not be fair to compare those two providers. However, things like capacity in the system when you have boom times was one of the issues that we did find back at the beginning of the mine. Things like making sure that you are spreading the load among different providers can be helpful in that time, and sometimes labs take a little while to build up in response to a boom. I think any monitoring program needs to look at that capacity in the system through the cycles as well.

Mr McMILLAN: Mr Cooper, you referred to a period where there was a slight delay, or slightly longer than currently, in getting results at the start of 2016. That was during a period where at least your mind was under a directive to be doing a high level of monitoring?

Mr Cooper: We recognised that very quickly and we responded appropriately. There were a few weeks there when we were suffering long turnaround times and it happened to coincide with this inspection. It is probably worthwhile also pointing out that one of the recommendations from the inspectorate was to move to a world where—and this is the current world we are in. Often the coalmine workers themselves understand when they have been in a dusty shift. We have moved to a world where they can trigger an investigation without necessarily having to wait for the sample to come back. That is a technique that has been picked up from some of the other mines. We have found that very good actually. An individual had his monitoring done but they often know themselves because there are visual indicators. They are experienced people. They understand when they are in dusty environments. We have now moved to a world where that can trigger an investigation as well. Often what we find in those circumstances is that one our controls has become inactive and we can quickly respond without needing to wait for the turnaround cycle of the lab to tell us something we probably already know anyway.

Mr McMILLAN: That is something akin to an incident report essentially.

Mr Cooper: Essentially. If my recollection is correct, it was actually Inspector Brennan who pointed us that way. I cannot remember which one of our competitors had moved down that track but they suggested it to us. It was something that we picked up and we have found it to be fairly useful.

Mr McMILLAN: There is a final entry that I wanted to ask you about on 30 November 2016. That is not actually on that page. I will hand you a copy of it. It is actually dated 26 October 2016. I think I have handed you the wrong one; I am sorry. Could you tell me the effect of that direction? Is that the direction to review your safety and health management system?

Mr Cooper: This is the process I referred to before where we found that we were over the limits. We self-reported. The inspectors came to the mine and conducted an investigation and then we were issued with this directive.

Mr McMILLAN: The risk based approach to regulation in Queensland essentially requires mine operators who are obligation holders to continuously review their safety and health management systems to ensure that their workers are at an acceptable level of risk, doesn't it?

Mr Cooper: That is correct.

Mr McMILLAN: The significant work that had been done under the two previous directives that were issued and that were still in place at that time no doubt had you reviewing all of your systems including the safety and health management system prior to the issuing of that directive?

Mr Cooper: Yes. The issuing of this directive was a result of our self-reporting the issue. Often we rely on the results themselves to trigger the review. You tell through your results whether what you are doing is effective or not effective. What we saw was that obviously we had a deviation from the norm. That triggered a review which was very much at the time—if you recall, some of the draft recognised standards were starting to come out around monitoring and controls. What this allowed us to do and what we actually did was we took the opportunity to map our safety and health management system against the new draft standard for respirable dust control. Our review was exactly that: it was mapping our safety and health management system against that draft standard. The purpose of this directive was for us to do exactly that.

Mr McMILLAN: You are not suggesting to me though, are you, that you would not have done that but for the directive?

Mr Cooper: No. We were doing it regardless. As I shared with you before, we self-reported. We already were starting to pull together an action plan. Then we took the opportunity of that draft standard to reconfigure our safety and health management system to comply with that draft standard.

Mr McMILLAN: On the face of the directive itself, it would seem to me that this is yet another directive, generally worded, requiring you to do something that you are already doing. Am I mistaken in that regard?

Mr Cooper: No. That is correct. We were already doing it.

Mr McMILLAN: The actual effect of it, if I understand your evidence correctly, is that it required you then to report the outcome of your review of the SHMS to the department.

Mr Cooper: That is correct. At the same time the other element to this directive was to continue to provide more regular monitoring results as well. Part of closing out the directive was the inspectors conducting a review of our dust monitoring control plan to make sure of its compliance with the draft recognised standard.

Mr McMILLAN: Ms Foot, I wanted to take up one point with you, if I could. The committee relatively late in the course of its investigation and inquiry has heard some evidence about the exposure of workers at coal ports to respirable dust, particularly workers involved in the loading and unloading of trains on to ships. Are you in a position today—if you are not, please tell me—to outline for us the monitoring regime that is in place at the Hay Point Coal Terminal?

Ms Foot: Absolutely. The same process applies as for the mines in that we have the quarterly hygiene sampling. We have data going back over some period. I would need to check the exact period. If we have not provided that data—we probably have not because we only provided you data—

Mr McMILLAN: I do not think we have ever asked you for it.

Ms Foot: Sure—in relation to the mines. Exposures at our port are also below the 1.5 milligrams per cubic metre, as I have previously stated the mines were, apart from the longwall.

Mr McMILLAN: That is the same type of personal gravimetric monitoring that is done in the mines.

Ms Foot: Yes, the same process. Our internal standards, irrespective of the legislation, require us to do that anyway even if it were not legislation.

Mr McMILLAN: The Coal Mining Safety and Health Act does not apply to workers at coal ports, does it?

Ms Foot: That is correct but obviously other legislation does.

Mr McMILLAN: Those workers are covered by the Work Health and Safety Act?

Ms Foot: Correct.

Mr McMILLAN: Which has obviously no specific provisions directed to monitoring for coalmine dust but does have provisions in relation to the mitigation of risk including, for example, airborne contaminants.

Ms Foot: Yes, that is correct. We operate in all different jurisdictions in the world and some of those jurisdictions have very little in the way of legislation. That is why we have our internal standards that are consistent.

Mr McMILLAN: You have a comprehensive safety and health management system that applies at the Hay Point Coal Terminal?

Ms Foot: Yes. We have an equivalent. It may not be called that.

Mr McMILLAN: It is not called that.

Ms Foot: Yes.

Mr McMILLAN: It is called something else. Is it built in the same way as the mine's system that we are now familiar with is? It consists of potentially many hundreds of documents, detailing a whole range of different processes.

Ms Foot: I would have to take the specifics on notice because obviously our safety and health management systems are set up very specifically to comply with that act, but you would be familiar with the look and feel of things such as procedures around certain hazards and then documenting controls et cetera.

Mr McMILLAN: Generally speaking, you can tell us though that personal gravimetric dust monitoring is conducted at Hay Point.

Ms Foot: Yes.

Mr McMILLAN: On a quarterly basis.

Ms Foot: Yes.

Mr McMILLAN: Across a range of different occupational task groups.

Ms Foot: Yes, that is correct. The program is set up by the same certified occupational hygienist. They supervise its execution. It is the same external contractor who conducts the monitoring.

Mr McMILLAN: I appreciate that a significant portion of the work done nowadays at that terminal is automated but, to the extent that workers are physically exposed outside of a cabin environment to respirable dust, are they required to wear respiratory protective equipment at the coal port?

Ms Foot: Yes. Obviously our monitoring results are showing that we are below 1.5, which is even lower than our internal limit. However, if there is a specific task that is dusty or something like that—we are talking about that single one-off type situation—then respiratory protective equipment is provided and the expectation is that it is worn.

Mr McMILLAN: It is available to all workers at the Hay Point Coal Terminal.

Ms Foot: Yes, all workers.

Mr McMILLAN: Thank you. That concludes my questions. Thank you both for your assistance today.

CHAIR: We will now have a five-minute break.

Proceedings suspended from 2.26 pm to 2.30 pm

CHAIR: Thank you very much. The committee is now resumed. I would now like to go to counsel assisting.

Ms Foot: Excuse me, chair, if I may, I just wanted to correct something that I said before. I got slightly confused on dates.

CHAIR: Yes, you may.

Ms Foot: You were asking about a previous testimony on 11 November as to whether I was referring to the Broadmeadow mine as being over the regulatory limit or the internal limit.

Mr McMILLAN: Yes.

Ms Foot: I said the regulatory limit on 11 November and I meant the regulatory limit on 11 November. I just got slightly confused on the dates.

Mr McMILLAN: Thank you for that clarification.

Ms Foot: I did not want to cause confusion.

Mr McMILLAN: No, that is helpful. Thank you.

CHAIR: We will now go to counsel assisting.

Mr McMILLAN: I wanted to ask you to take on notice that the committee would like to receive and review the dust monitoring results that you have available for the Hay Point coal terminal.

Ms Foot: No problem.

Mr McMILLAN: That will be of great assistance to its inquiry in that regard. The only other matter that I expressly asked Mr Cooper to come back to us on has completely escaped me, so I will come back to you after questions from the committee members. Thank you.

CHAIR: No worries. Thank you very much. I would now like to go to Mr Jason Costigan, the member for Whitsunday.

Mr COSTIGAN: Good afternoon, Ms Foot and Mr Cooper. Thank you for being with us here today. I just wanted to go back to some of the material that was put up by Dr McDonald, who was here alongside you, Ms Foot, on Remembrance Day. My apologies for not being able to be here that day due to other commitments in my electorate. I see that Dr McDonald spoke about the availability of medical support for retired workers.

Ms Foot: Yes.

Mr COSTIGAN: I do not doubt that one bit, but my concern is how that has been communicated to those former BMA employees, particularly in my part of the world where your company, of course, is well known. In fact, the launch of the BMA Mackay Marina Run is on today, I think. How have you communicated that to people? Have you taken out advertisements in the *Daily Mercury*? Have you written to them via HR with records that you have? Mr Cooper and Ms Foot, I need to know a bit more about that. How many former BMA employees have tapped into it?

Ms Foot: Certainly. I have answered quite a lot, so I will refer to answers to counsel assisting. No, we have not taken out advertisements or written to former workers. We have internally communicated within our workforce and asked people to use their networks. We acknowledge that other people have raised this issue and we feel that people will come to us. We have not advertised the service as such, no. In relation to the second part of your question about how many people have taken that up, that is in single figures. The latest information I have is four people have so far taken that up.

Mr Cooper: I am aware of an extensive campaign to reach out to our NMAs and our doctors. As Bobbie said, we feel and our experience has been that, if someone has a concern, they have either reached out through their networks to the company or they tend to go to see their GP.

Mr COSTIGAN: Ms Foot, given your professional background, do you think that there is merit—and I am not saying that I am the doyen of communicators and marketing; there are other people in the room who might beat me there—in getting an ambassador out there in the community to try to engage former coal workers to come forward? We have had this discussion before; it has been kicked around in other hearings. With the machismo of coal workers and how tough they are and so forth, a lot of people are reluctant to come forward, to try to get people to take the issue seriously enough to go to see someone of the medical profession to get some assistance.

Ms Foot: Yes, certainly. For those who are not currently in the industry, there has been some communication. I understand that DNRM has put in advertisements in regional newspapers about the issue.

CHAIR: They have not worked, Ms Foot.

Ms Foot: I guess that is the thing. There are a number of strategies that can be tried. It is just trying to get that to be the most effective.

CHAIR: Have you tried looking up the electoral rolls with the full name of the person who worked for you?

Ms Foot: I think one of the issues is that we are not sure who has gone into a retired space versus who is simply working for another coalmining company, or another contractor.

CHAIR: But if they are on the electoral rolls, they are still there. They are required by law to have a current address on an electoral roll somewhere in the country—if they are still in the country.

Ms Foot: I understand that. One of the other things that we have found is that the personal engagement with our own workforce has been the factor that has convinced people to come forward. About 95 per cent of the Broadmeadow workforce has taken up that voluntary additional process ahead of when their test is due. That has largely been through that personal engagement through Matt and his team and at the open cuts through the GMs directly. It is an issue that needs a whole-of-industry response. I would agree that more could be done in that space.

Mr COSTIGAN: Sure, but my point is that BMA has this great history in the Bowen Basin. Obviously, a lot of retired mineworkers are living in Mackay or across the broader Mackay-Whitsunday region. They are retired now. They are not working for other mines or other mining companies. Do you think having only a handful of people coming forward is acceptable? Are you happy and satisfied with your engagement with retired mineworkers in relation to these matters?

Ms Foot: I guess there are two issues at play for people who might need that testing. Obviously, there are people who have symptoms and, therefore, may be at risk of having CWP that potentially is more advanced. Really, we want people to be going to their doctor and getting the appropriate assistance in that case. The other issue is around the anxiety. If people are feeling anxious, obviously, that is not great for people, even if they do not have any actual lung issue. It may be that people are not concerned—that is one possibility—or it may be, as you say, that they have not heard about the options that are available to them. Whilst more can be done, if people are not experiencing symptoms and they are retired and do not have ongoing exposure to dust, from a medical point of view they are not at ongoing risk from that side as well. I think that is an important point also.

CHAIR: You think that? We know that CWP has a long latency period. Therefore, they might not have any symptoms for many years. Would you consider, as a so-called good citizen type of employer, that the least you can do is to look up the electoral rolls, which is quite easy to do, to try to find your former employees, your retired people?

Ms Foot: We can certainly look at what more can be done in that space. We would like to see a whole-of-industry response to be truly effective.

Mr COSTIGAN: How many retired BMA employees would there be?

Ms Foot: I would have to take that question on notice. I would not be sure of that.

CHAIR: Okay. If you could take that on notice, that would be good.

Mr COSTIGAN: Thank you very much.

Mr MILLAR: I want to go back to an issue that I think was a question that you will get back to counsel assisting in regard to and that is highlighting the employer's responsibility for the health assessments. Do you remember the question from counsel assisting? Matt, I think you said that, at Broadmeadow, when someone gets their health assessment done, it is done on work hours, or in overtime; is that right?

Mr Cooper: That is correct.

Mr MILLAR: This is a question to you, Bobbie. Why would it not be a general agreement across all BMA mines? Why is it one mine here? I know that you say that it is under the EBA, but we are talking about a health issue here.

Ms Foot: If I could clarify, we have not said that it is not the issue at the other mines; we have said that we will go and have a look at it and check and come back to you. It is quite possible that that may be the case. I just cannot definitely give you that right now.

Mr MILLAR: There is a letter here from the mine, which nominates three medical practices—two in Blackwater and one in Rockhampton. Basically, the concern here is that this person is unhappy that they have to do it themselves. I am sure at Broadmeadow you provide the opportunity for them to do that in work hours, or do that in overtime. I am just wondering why that would not be generally across-the-board?

Ms Foot: As I have already said, it may be and we are going to take the question on notice. I cannot answer to that specific situation without going and checking. We will do that.

Mr MILLAR: Thank you.

CHAIR: Just further to the question from Lachlan Millar, who is the state representative for Blackwater and also Emerald and a lot of the surrounding mines as well, if that is not the case, would BMA at least consider having the same standards across all of your mines?

Ms Foot: We would certainly be looking into that. As we have said, this is a serious issue. We want people to be going and getting their health assessments. If that is not currently the case, then we will be looking at what we can do in that space.

CHAIR: Thank you.

Mr PEARCE: This whole issue is about the workplace health and safety of workers. I have attended a few of these hearings. I have read some of the transcripts. I have to say that I have not read every word, because, with my other work, I do not have the time. I note in several areas where you in your submissions and that of other companies talk about the management of coal dust, real-time dust exposure, how the company manages the risk of exposure and supporting our people. The management of people in the workplace is what I want to know about. What is the process for a worker who happens to question or refuses to work in a location where he thinks that it is just too dangerous, too dusty? What is the process if the worker goes to a member of management and raises that issue?

Mr Cooper: I can share the way this issue played out at Broadmeadow and how we work with our people. Obviously, the re-emergence of the CWP issue came as a surprise to all of us. As a leadership team, we talked through that at the prestart process. The vast majority of people understood what our controls were and what their exposures were, but in our circumstances we had two individuals who were not convinced, who did not feel comfortable going underground in the shifts after this information came to light. Ultimately, we sat down with those individuals and worked through their concerns. It was a very facts based conversation about where they worked, what was the exposure, where did the exposure come from, what were the appropriate controls in place to make sure that the level of risk to them was acceptable. Over a period of two or three days those individuals got comfortable and chose to return to the workplace.

Mr PEARCE: Are they still at the mine?

Mr Cooper: Yes.

Mr PEARCE: Do you want to add to that?

Ms Foot: Does that answer your question or was your question broader than that?

Mr PEARCE: That is fine. I have been around the industry for quite a while, as you know. I would like to know if BHP has ever targeted workers for their persistence in questioning or challenging these health and safety issues at a mine site, particularly in an unsafe area? How are those mineworkers treated by the company, because they continually raise these issues?

Mr Cooper: We welcome that. Safety is our No. 1 priority. We are very conscious of the fact that the perception is it is not safe to speak up. We need people to speak up so that we can create a safe work environment. We have many examples of where we have put systems and processes in place to encourage that sort of behaviour and we welcome it. I personally think that a good prestart process is one where people generally raise safety issues and we can deal with them.

On a routine basis, I will spend about 10 per cent of my time in the mine. Part of what I do is what we term field leadership activities. That is a systematic process of how we check the effectiveness of our safety and health management system and our safety approach. Clearly, this issue about 'safe to speak up' is alive out there, so I have been very conscious in trying to test that piece with the workforce, different elements of the workforce—contractors, labour hire, my own people. Pretty uniformly, they come back and they are satisfied with the approaches and the mechanisms that we have in place. I often go into the detail of getting them to give me specific examples where they have raised safety concerns with their supervisors and whether it was dealt with to their satisfaction. To date, I have not found a circumstance where an individual has raised a legitimate safety concern that has not been dealt with. Obviously through those interactions, it is not just myself; it is my whole leadership team. We conduct about 1,000 of these interactions a month; 10,000 last year. So far, we have not found a circumstance where a safety issue—a number of safety issues have been raised, but in all circumstances they have been dealt with.

Ms Foot: The process that Matt is referring to in the field leadership space is that engagement and that two-way discussion. There are 20,000 of those per month occurring across BMA. That is one way. I think the safe-to-speak-up message and what we are actually trying to get people to do there is something that we have been promoting right across our sites. Often times, as you know, Mr Pearce, the people who are doing the job actually have some great ideas about how we can improve it or how we can put further controls in place, so it is something that we actually want to encourage.

Mr PEARCE: I will put it to you that the workplace culture at BHP mines is one that is about discouraging employees to raise issues. Workers are telling me that they cannot raise issues because of their fear of being targeted for raising workplace health and safety issues. They might raise it and get away with it once, but if they come back two or three times they are not game to do it anymore because they fear for their job. How would you like to respond to that?

Mr Cooper: I would find that deeply concerning. I would actually like to understand more about those circumstances, so we can investigate those, because that is not the culture we aspire to build. It is certainly not the culture in my mind. I have been a general manager now in BMA for four years and at no stage have we ever targeted or terminated someone for raising a safety issue.

CHAIR: Have you used any other excuses to target or terminate someone?

Mr Cooper: No, I have not.

Ms Foot: I guess, as you said, there is a perception out there. We recognise that some people may have that perception or that concern, but we are doing everything that we can to reduce that concern. If people really feel like they are not comfortable to speak up—some people are not good at speaking up in public, for example—or raise that, there are other avenues for people to use to raise concerns as well. Some of those are enshrined in legislation, as you know, such as SSHRs and ISHRs. Then there are other mechanisms, including anonymous reporting internally and so forth, as well. We have a range of mechanisms that are there and available for people to use.

Mr Cooper: Again I reinforce the invitation to come to the Broadmeadow Mine and talk to our people. If you wish, you can come to the mine, talk to the people and get their view on it.

Mr PEARCE: Who monitors that policy? There might be somebody below yourself who is actually targeting a worker and doing everything he or she can to get rid of that worker, simply because the worker had had the courage to stand up and raise issues, such as union reps, for example.

Mr Cooper: I am not aware of any cases. If you have any specific examples I will be happy to treat those in confidence, so that we can deal with them appropriately.

Mr PEARCE: You have no knowledge of workers at the mine where you work? Of course, there are other mines where workers have been targeted because they have had the courage to raise safety issues in a consistent manner.

Mr Cooper: Absolutely not. In fact, the reverse is true. I actually take it as a sign of a positive culture when people are raising issues and they are out in the open and we can deal with them.

Ms Foot: In fact, we have examples where people have received positive recognition for raising those safety issues and particularly getting those ideas and solutions from other sites. Some people who are moving between sites, for example, bringing those ideas forward has enabled us to improve some things.

Mr Cooper: It is clearly recognised in all the safety literature that I have read that the safe-to-speak-up culture is core to good health and safety outcomes. That is what we aspire to at BMA and BHP Billiton. We want people feeling that they can speak up, so that we can raise these issues and deal with them.

Mr PEARCE: I do say this with respect: I think there is a need for you to have a closer look at that, because what I have just raised with you is true. It is happening out there on a regular basis. Either you guys do not want to know about it or you are a party to it. It is as simple as that. The last question that I would like to ask is this: does BHP participate in the practice of entering workers' names on a blacklist so that they cannot get a job anywhere else in the industry?

Mr Cooper: Not to my knowledge, no.

Ms Foot: Absolutely no.

CHAIR: Thank you very much. Is there anything else that you would like to add to your testimony this afternoon?

Mr Cooper: We would like to take the opportunity to touch on our recommendations again with your patience, if that is okay? We do think it is important that we get this on the record. Firstly, I think you have heard from us today that we would like to see improvements to the current workers compensation regime. We would also like to support a scientifically-based review of the current regulatory OEL, and we would be happy to lend our technical support to that. Third, we would like to ensure mine operators are informed of the diagnoses of occupational diseases such as CWP. Fourth, you have heard us talk about how we are frustrated with the delays in the accreditation process and we would like to find ways to speed that up. We think mirroring or harmonising with New South Wales just makes sense. For a number of technologies that we know exist and what we know is coming in the future, it will help the industry. Fifth, we would like to establish a centralised dust exposure database and we have talked at length about why we think that is of benefit. Finally, we support the development of medical protocols for the screening, diagnosis and management of CWP. Is there anything that you would like to add?

Ms Foot: Thank you for the opportunity.

CHAIR: We have some supplementary questions.

Mr COSTIGAN: I have one final question, and thank you for your indulgence, Madam Chair. I want to draw Ms Foot's and Mr Cooper's attention to the opinion piece penned by Mr Rag Udd, your asset president and, I assume, still board vice-president of the Queensland Resources Council. That

piece was published in the *Daily Mercury* and attached as part of the BHP Billiton submission to the committee. For the benefit of those in the gallery, I will quote the penultimate paragraph of that opinion piece dated 16 July 2016. He says—

This week our leaders at Broadmeadow met with their crews to talk about the findings of the Sim Review and to encourage them to take up our offer of additional reviews of their existing chest x-rays or new x-rays if required. Similar conversations have been happening across our other sites as well.

Mr Udd makes no mention of what is happening with former employees. Can you explain why the big kahuna, if you like, of BMA did not take the opportunity there in the *Daily Mercury* to raise that, so that former employees knew what was available to them?

Ms Foot: Certainly. Perhaps I can provide a little bit of context. As you are probably aware, around that time the Sim review had just been released. I think you would probably agree it contains quite a lot of concerning information. Our workforce was very concerned from that side of things.

Mr COSTIGAN: No doubt.

Ms Foot: At that point in time, we were quite focused on our current workforce. I guess it was only in the coming months that we turned our attention to looking at what we can do for the former workers, as well. It was simply a matter of what our focus was probably on at that point in time.

Mr COSTIGAN: I do not doubt that, Ms Foot. I read the *Daily Mercury* pretty closely. It does not take me long to read it, I might add. However, I do not think you are getting the message out at all and that is symbolic of it, going back to 16 July. I put it to you, Ms Foot and Mr Cooper, you need to lift your game in getting that message out to former employees, big time.

Mr Cooper: Noted.

Ms Foot: Thank you, noted.

CHAIR: Counsel Assisting?

Mr McMILLAN: Thank you, Madam Chair. The matter that escaped my memory earlier I think, Ms Foot, you are already on to. For the purposes of the Hansard transcript, I want to ask you to take this question on notice: could you please advise the committee what the current arrangements are across BHP mines in Queensland for the provision of paid leave for workers to attend coal workers' health assessments?

Ms Foot: Certainly.

Mr McMILLAN: Thank you.

CHAIR: In conclusion and before you go, I know that BHP Billiton Mitsubishi Alliance may feel that it is above any government or any other organisation. However, I remind you that your company is not above this or any other parliament in Australia, including this parliament here in Queensland. As a committee, we are still quite disturbed that we had to summons you to be here today. I sincerely hope that, if we need you to come back here in the future and we invite you to attend this committee, you will attend willingly and truthfully answer any questions that are put before you and not cause us to have to summons any of you again. We see it as potentially—and it could potentially be—in contempt of the Queensland parliament. Just because BHP Billiton Mitsubishi Alliance is a transnational company, is a big company, does not mean that you are above this parliament or any other parliament in this country. I would ask that you take that message back to the most senior levels in your company.

I thank you for coming here today, even though it was by summons. I also ask you to provide the answers to the questions taken on notice by 5 pm on Monday, 13 March. I ask that you give an undertaking that, if we invite you to appear in future, you intend to appear without summons. I ask you that now.

Ms Foot: Yes, certainly.

Mr Cooper: More than happy to reappear, if you wish us to.

CHAIR: Thank you very much. Thank you for coming here this afternoon.

Mr Cooper: Thank you.

CHAIR: The committee will take a break for five minutes.

Proceedings suspended from 2.56 pm to 3.04 pm

BRAY, Mr Ian, Assistant National Secretary, Maritime Union of Australia

MAHER-BOYLE, Ms Nicola, Executive Legal Adviser, Maritime Union of Australia

CHAIR: We now resume the hearing of the Coal Workers' Pneumoconiosis Select Committee. Thank you for your attendance here today. Before we commence I ask that all mobile phones be switched to silent. These proceedings are similar to the parliament and are subject to the Legislative Assembly's standing rules and orders. The guide for appearing as a witness before a committee has been provided to those appearing today. The committee will also observe schedule 3 of the standing orders.

Today before us we have Mr Ian Bray. Mr Bray is the assistant national secretary of the Maritime Union of Australia. Providing advice to Mr Bray we have Ms Nicola Mayer-Boyle. Thank you very much for being here today as well.

For the benefit of Hansard I would like to ask the witnesses to speak clearly into the microphone and please state your name and position when you first speak. I would like to invite Mr Bray to make an opening statement. Following that Mr Ben McMillan, council assisting, will be asking questions and then there may be questions from our committee itself. Mr Bray, if you could commence with your opening statement.

Mr Bray: Thank you, Madam Chair. My name is Ian Bray. I am the assistant national secretary of the Maritime Union of Australia. I have held that position for several years. Prior to that I was assistant branch secretary in the West Australia branch of the Maritime Union, and prior to that I was a seafarer engaged in various parts of the industry from containers to bulk trades to towage to offshore oil and gas for a period of 19 years. I left school and pretty much followed the maritime industry my entire life, and it is something that is very near and dear to me. Representing workers in quite often a dangerous industry is quite an honour. I would like to thank the committee for inviting us, and I would also like to put on record that we certainly thank the CFMEU in terms of raising our awareness of this particular inquiry and also the particular dangers around CWP.

Maritime workers quite often are at the front end or the back end because, regardless of whether it is receiving goods coming into a port or whether it is making sure those goods get out, they are the facilitators of the trade. There may be some major occupational health and safety issues in a particular industry that quite often we are the last to hear of, and in this particular case that is one of them. I have to say what an education it has been over the last nine or 10 days for us even as representatives of workers in the maritime industry. It is deeply concerning, because in that short period of time we have found that we believe there have been maritime workers who have been exposed in particular to coal dust around some of the ports that are under identification through this inquiry. Even more concerning is the level of awareness and understanding that they actually had about the potential dangers of exposure to coal dust.

One of the things that we have definitely learned, without any decision coming from a parliamentary committee, is the fact that we have a huge amount of work to do in terms of an education process in terms of port workers in coal environments.

CHAIR: Thank you very much. Mr Bray, for the benefit of those who are tuning in on air this afternoon, would you just like to explain to us the role of your members at the end of the chain. As I understand it, the coal comes down to the port by train, it is offloaded at the port site, and if you could take it from there. Walk us through what happens in relation to your members.

Mr Bray: There are a whole range of functions that need to be performed from loading the product onto a ship. Depending on if it is coastal, there could be seafarers that are actually on that ship that is being loaded, although that is getting less and less at this point in time, but the line boat facilities, pilot boat facilities, tugboats—all of those services that are required to either facilitate a ship coming into port or leave a port our workers are involved in. Quite often they are always in the port vicinity and depending on how much exposure and how close they are if there is coal loading—in multiuser ports where there might be coal, there could be alumina, there could be various other products as well—but they genuinely very seldom leave the vicinity of the port.

Mr McMILLAN: Mr Bray, has your union received any communication or correspondence from the Queensland Department of Natural Resources and Mines alerting you to the re-identification of now 19 cases of coal workers' pneumoconiosis?

Mr Bray: Not to my knowledge.

Mr McMILLAN: You indicated in your opening statement that you have been on a fairly steep learning curve over the last nine days. Prior to the CFMEU bringing your attention to the work of this inquiry, did you get any feedback through your members about concerns that they had arising from the re-identification of CWP in coalmine workers in Queensland?

Mr Bray: No.

Mr McMILLAN: I take it that you have not at this stage had the opportunity to consult with members about their experience of, for example, dust monitoring regimes, RPE and so on for the purposes of giving evidence here today?

Mr Bray: That is correct. As a result of only being aware in such short notice, we are now ramping up the awareness around this as quickly as we can as an organisation. One of the things that I am concerned about is I am not sure whether the employers that employ our workers in the port are even aware. It seems to me to be the culture that coal dust exists in the coalmine but it does not apply in any other environment, and I think that is a big gap in terms of any consideration. In fairness to the employees on the waterfront, I think they deserve an opportunity to see how serious they intend to treat the issue, but I would have to say there is probably a high degree of ignorance—not through any fault of their own, just through the culture—that it exists in a mine place and not elsewhere.

Mr McMILLAN: You have made a number of recommendations in your submission to the inquiry, and I want to go through them with you if I can. Prior to the recommendation section you made reference to the evidence that was given to this committee by Mr Davison on 1 February 2017. Were you quite shocked and distressed by the evidence that he gave about the lack of systems in place in coal ports to protect workers from coal dust?

Mr Bray: I am to a point. In particular with coal, yes, because you would not think that coal could have such a damaging effect on workers in terms of their health and safety. But to the level of any jurisdictional responsibility, whether it be regulatory regime—a port authority, for example—that facilitates the trade in a port, I am really shocked.

Mr McMILLAN: For the purposes of the transcript and to clarify, you yourself have never worked in a coal port?

Mr Bray: I may have passed through as a seafarer in a bygone day, yes, but not—

Mr McMILLAN: Not in coal handling?

Mr Bray: No.

Mr McMILLAN: The recommendations that you set out in section 5 of your submission appear to me to draw heavily from the regulatory regime in New South Wales. I am particularly interested in the submission essentially by the MUA that coal dust monitoring or compulsory coal dust monitoring should be extended to coal ports.

Mr Bray: We believe so. Based on some early discussions with some of our members that do work in coal ports, we can report here beyond doubt that they are dusty environments. They are exposed to coal dust, and depending on where in the vicinity of the port that they work from time to time that may vary, but it is a constant. We think that that evidence will be given at a later date, but that is enough for us to say that if the dust is in the environment we think there needs to be serious consideration to where the regulatory regime starts and finishes in terms of jurisdiction.

Mr McMILLAN: The Coal Mining Safety and Health Act in Queensland does not extend to workers in coal ports at present. Do you support the effective extension of the provisions particularly in relation to the coalminers' health assessment scheme to those workers who work with coal in coal ports?

Mr Bray: Most definitely.

Mr McMILLAN: Including a regime of mandatory periodic health assessments and health surveillance?

Mr Bray: Yes, we do.

Mr McMILLAN: I take it that that health surveillance in your view should include chest X-rays and spirometry lung function testing?

Mr Bray: Yes.

Mr McMILLAN: So that those workers can have a proper and complete understanding of both their exposure and their actual respiratory health?

Mr Bray: That is correct.

Mr McMILLAN: At paragraph 5.4 of your submission you recommend that it be mandatory for workers involved in the transportation of coal to be provided with and wear PPE including suitable dust masks. Does your union cover the workers who transport coal by rail, or is it only those workers who actually—

Mr Bray: No, that would be the RTBU I would imagine from memory. I think I would be correct in saying that. However, there are some points of crossover, if you like at receipt in some ports. It depends on the historical arrangements et cetera. By and large we would be saying as a broadsheet that would be the RTBU.

Mr McMILLAN: You certainly support the use of respiratory protective equipment, both in the transport of coal for those workers in that area and the workers who are handling the coal at the port?

Mr Bray: For sure.

Mr McMILLAN: I think you were present for the hearing earlier today when representatives of BHP Billiton indicated that respiratory protective equipment is available for all workers at their Hay Point coal terminal? Were you present when that evidence was given?

Mr Bray: Yes.

Mr McMILLAN: Are you able to give us any indication as to the feedback from your workers about the availability or otherwise of that RPE at that point?

Mr Bray: To a point it is correct that there is protective equipment provided, but it is always in conjunction with the work that is being performed. So a seafarer on a tug will have gloves, a hard hat and maybe a flotation device in case they fall over, but I do not believe that the regime has been set up to deal with any potential exposure to dust and protect them from any potential respiratory disease. I do not believe that that exists in a port. We have spoken to our members in the last nine days and they were like, 'What? What are you talking about?' It is completely at a point where we are starting at ground zero. Our industry has failed in some respect as to not paying enough attention in terms of what has gone on in the past. I think, too, that is because historically everybody thought that this disease had been dealt with never to return. I think everybody has been caught on the back foot and it is a lesson for everybody.

Mr McMILLAN: Further to my first question about correspondence from the Department of Natural Resources and Mines, has any approach to your union been made by that department to assist them in alerting coal port workers of their regime for secondary or B reading of chest X-rays by appropriately qualified persons in the United States?

Mr Bray: Not to my knowledge, but I would be reasonably comfortable in saying I do not believe anybody in our organisation would have been approached.

Mr McMILLAN: Thank you, Mr Bray. Those are the questions I have at this stage.

CHAIR: I would now like to go to Mr Jason Costigan, member for Whitsunday, who is very familiar with the coal ports in his area.

Mr COSTIGAN: And probably from well before I came into this place. Thanks, Mr Bray, for coming up to Queensland on this very important occasion to give evidence before the committee. Welcome to Ms Maher-Boyle as well. Mr Bray, CWP, as you would well be aware I assume, was believed to be a disease confined to underground mining operations.

Mr Bray: Correct.

Mr COSTIGAN: Of course that has since been proven to be false. Therefore, do you believe, given what you have heard and read up on, that it is only a matter of time before we see a confirmed case of CWP in relation to a coal port worker?

Mr Bray: I do. As I say, in the last nine days we have been reaching out to our membership and having some discussions. One of our members is probably going to give evidence on Tuesday who we now think has been exposed to a point we have intervened and recommended that he get some urgent testing. It is undiagnosed at this point, but we believe that he is a possible victim of contracting the disease.

Mr COSTIGAN: Can I jump in on that note as that leads me into my next question. Without giving too much away, this is a member of yours, of the MUA I assume, a long-time member?

Mr Bray: Yes.

Mr COSTIGAN: Would I be right in suggesting this gentleman works on the tugs at the point of Hay Point?

Mr Bray: Correct.

Mr COSTIGAN: And has done so for many years, if not, decades?

Mr Bray: Yes.

Mr COSTIGAN: It is a small part of the world and people talk. Your members are very much engaged now if they were not before. Is that fair to say?

Mr Bray: Correct. Part of our responsibility now is we have been talking as an organisation about needing to go and visit all of the ports and raise the awareness around this particular issue. It really is a case of ignorance for the maritime industry because we just thought like everybody else it was in an underground coalmine. You do not really understand until you start to see it come into the open-cut mines. You read and you say it has been eradicated and all of a sudden it re-emerges. It is just one of those things. We are still very shocked. I am more deeply concerned for the member that we have identified in Hay Point because it is just something that could have been completely avoided in our view had everybody been aware.

Mr COSTIGAN: Mr Bray, have you been to the port of Hay Point?

Mr Bray: I have.

Mr COSTIGAN: What about the port of Gladstone?

Mr Bray: I have.

Mr COSTIGAN: The port of Abbot Point?

Mr Bray: I have, only once at Abbot Point.

Mr COSTIGAN: What about the coal ports in New South Wales and your home state, or your adopted state, if I could be so colourful, Port Kembla and the port of Newcastle?

Mr Bray: I have been to Port Kembla. I have been to Newcastle quite often.

Mr COSTIGAN: Would you suggest those port workers are reading up on this developing situation in Queensland and then some?

Mr Bray: Again, I would say that our port workers in New South Wales may be just as exposed because the assumption is that the regulatory regime starts and finishes at the gate of the mine. I think we are probably equally as vulnerable in New South Wales as we are in Queensland.

Mr COSTIGAN: I dare say you would be looking forward to the evidence that is to be given in Mackay on Tuesday evening?

Mr Bray: Very much so.

Mr COSTIGAN: Me too. Thanks, Mr Bray.

Mr MILLAR: There are not too many ports in the seat of Gregory.

CHAIR: None to be precise.

Mr MILLAR: When you fly over Mackay and you fly over Gladstone you see the operation. Can you tell me who are the employers of your members? Who employs your members?

Mr Bray: It is a very good question because you will have a range of employers depending on what the work is and who has the towage contract at a particular time, which is another sore point. It could be Daltug in Hay Point, for example. Up until recently it was Teekay. Then through some sham contracting arrangement and partnerships they were removed and we now have a set of workers who actually do not have an employer. They have set up an employment arrangement themselves through a partnership. We do not even know what kind of responsibilities they have—

Mr MILLAR: What I am trying to get to is whoever is the company is then contracted by BMA? Would I be right in saying that?

Mr Bray: I believe so. I also believe in some cases BMA actually own the asset in terms of the tugging in some of the ports.

Mr MILLAR: Given that this has been an issue now on our radar for the last 12 months, would you expect BMA to be able to communicate to your companies or the companies that have the tugboats to say, 'We do have a problem. We are starting to see this issue not only in underground but also in open cut.' Has there been any discussion whatsoever?

Mr Bray: There has been no discussion. If you want to broaden that out it could be not only for our members who work around a port; it could be any worker around a port. The simplest way to communicate some type of awareness program and to mitigate against exposure would have been

probably through the relevant port authority. I do not believe that that has occurred because I have not seen any notices and none of our members are raising any awareness to say that they have had any notification from a port authority to say that there could be potential exposure. It could have been handled better I guess is what you are looking at in terms of an answer. I do not think it has been satisfactory.

Mr MILLAR: Just quickly, how would you like to see this communicated to your members and the people who work on the tugboats? What would be the best way to get the message out? Also what is needed?

Mr Bray: I think there are probably several ways. Some of the suggestions that have been made from this committee here in terms of BMA and how they engage in the community is one. We probably have some responsibility ourselves through our own communication channels. Also, as I say, using the existing infrastructure that is there in terms of port authorities that are there to facilitate the trade—for us that would be a very reasonable approach in terms of ports. We have corresponded not only with our members but also all the employers that we know across the ports making them aware of what is going on. We have asked them now to start considering mandatory testing in the initial phases of all of their employees so at least we can try to get some kind of base level of testing in terms of what may be a high level of exposure.

Mr MILLAR: Because they do not need a coal board examination, do they?

Mr Bray: No. We do not mind who communicates as long as we have some kind of process to say, 'No worker within X amount of time should be unaware of the issue and the potential danger.' That for us would be how we would measure the success or failure of communication.

Mr PEARCE: I do not really have a question, but I might make a suggestion if it is okay with you. Do you think you would be able to get some of your members to identify some of the areas that they consider high risk as far as coal dust is concerned? There are some places, even on a ship and in the mines, where most of the time you are in a high-risk area, even with ventilation and all that sort of thing. I think it would be a good thing for the committee to have that.

CHAIR: Would that be okay?

Mr Bray: We would be happy to do it. We have been thinking ourselves in terms of what kind of proactiveness the members could take in terms of mitigating against the risk as well. We just have to do what we can with what we have got until something gets sorted out. We would be more than happy to sit down and identify those and hand them to the committee or elsewhere if that is recommended without any problem at all.

Mr PEARCE: Information is the key.

CHAIR: Thank you very much. We have had some evidence in relation to pinch points from pit to port, for example. We know that there is only a certain amount of water that can go on the coal as it is being loaded on board and that is because water is heavy—

Mr Bray: They do not want to pay for it.

CHAIR: Yes, they do not want to pay for water if you get my gist.

Mr Bray: We know too well.

CHAIR: I am sure you do, so obviously that is an issue as we go along. Mr Bray, we never, ever thought that when we started this inquiry we would end up at the port, but as the evidence has come before us it is obviously an issue of concern to this committee. Certainly your members—or anyone else, for that matter—can come before us on Tuesday afternoon in Mackay to be able to give us further understanding of the process and also how the coal is loaded. I now go back to counsel assisting.

Mr McMILLAN: Thank you, Madam Chair. There is just one matter that I omitted to ask you about, Mr Bray. A number of entities that have come before the committee have recommended that the committee essentially consider recommending to the parliament the establishment of a standing dust committee for the Queensland coal industry similar to that that exists in New South Wales. As I understand it, the New South Wales dust committee does not include any representation from port workers. First of all, are you able to comment upon that at all?

Mr Bray: I can certainly comment in the fact that we will be corresponding to the relevant people to seek that we are acknowledged in terms of the transport chain and the potential exposure. As I say, we are really starting from ground zero on this and we have a lot of work to do in this particular area. For the purpose of your question—

Mr McMILLAN: You would recommend?

Mr Bray:—we have every intention to make sure that there is some kind of maritime voice now on those safety committees.

Mr McMILLAN: If this committee were to recommend the establishment of a standing dust committee in Queensland for the Queensland coal industry, it would be your strong view that there should be representation of port workers on that committee?

Mr Bray: Sure. Most definitely.

Mr COSTIGAN: Mr Bray, I asked questions earlier today in relation to retired mineworkers. What about your former members—your retired workers that were members of the MUA? I am thinking of them straightaway. I dare say some of these people have been in the business for a long time given that Hay Point goes back to 1971, Dalrymple Bay 1986 and the port of Abbot Point 1984. Some of these people may well have retired recently or are about to retire. What about the ones that are out of the business now who are sitting back? Have you been able to connect with them in order to communicate the situation to them and perhaps urging them to come to Mackay to the Quest on Macalister on Tuesday afternoon from five o'clock?

Mr Bray: We have considered it. We think that for us it is fairly important that they are part of the process, and you are right in what you say—they have probably spent most of their working lives in those kinds of environments and just because we found out a little over a week ago of the potential exposure does not mean that they have not been exposed for quite an excessive period of time. We are working really hard. One member who worked many years in Hay Point will be there on Tuesday. I think, though, he may be giving evidence by phone. He is in Maryborough, but he did work in the port all of his life and I think he is giving evidence by phone. We are happy to assist the committee in getting in touch with anybody that we have contact with at short notice. We do know we have two, but if we can find more we are more than happy to say, 'Come along and tell your story.'

CHAIR: Thank you very much. There being no further questions, I thank you, Mr Bray, and certainly thank Ms Maher-Boyle for coming along here today. We look forward to any other submissions you have. We know you have only had a week or so. If you could, we ask that you keep us updated as to where you are at with your members as well. Thank you very much for flying up from Sydney today. We really appreciate it.

Mr Bray: Not a problem. Thank you.

CHAIR: I now formally close the public session.

Subcommittee adjourned at 3.33 pm