

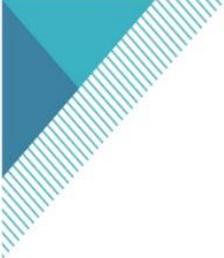


Funding the resources safety and health regulator in Queensland

Discussion paper

May 2018

Project Management Office



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Introduction

On 15 September 2016, the Queensland Parliament established the Coal Workers' Pneumoconiosis Select Committee (CWP Select Committee) to conduct an inquiry into the re-emergence of coal workers' pneumoconiosis (CWP) in Queensland.

On 29 May 2017, the CWP Select Committee released a report no. 2 - *Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*. The report makes 68 recommendations, a number of which relate to structural changes and funding for the resources safety and health regulator, currently the Resources Safety and Health (RSH) division within the Department of Natural Resources, Mines and Energy (DNRME)—formerly the Department of Natural Resources and Mines (DNRM).

In undertaking its inquiry the CWP Select Committee considered the funding source for the regulatory framework for mine safety and health in Queensland. The CWP Select Committee acknowledged the importance of ensuring that the operations of the regulator are appropriately funded. With this in mind the CWP Select Committee examined the suitability of the current safety and health fee (also known as the levy) under Part 2A of Chapter 2 of the Coal Mining Safety and Health Regulation 2001.¹

The CWP Select Committee report no. 2 found that the current safety and health fee is not an appropriate method of funding a truly independent mine safety and health regulator with a fully functional mines inspectorate.² The CWP Select Committee recommended that the safety and health fee currently provided for by Part 2A of Chapter 2 of the Coal Mining Safety and Health Regulation 2001 be abolished; and that the regulator be funded by a dedicated proportion of coal and mineral royalties.³

The Queensland Government's response to the CWP Select Committee report supported, or supported in principle, all 68 recommendations. The government noted that a number of recommendations required further investigation and consultation with stakeholders. The recommendations relating to funding the regulator were among those.

The government has established a Project Management Office (PMO), led by a person independent of existing government agency structures (PMO Executive), to undertake consultation and develop options for the Minister for Natural Resources, Mines and Energy on an alternative regulator model and a sustainable and effective funding model for the regulator.

The PMO has identified funding model options for the resources safety and health regulator in Queensland. This paper considers the current safety and health fee and three alternative funding models which may be adopted to provide a sustainable and effective funding source for the regulator.

Have your say

The PMO is seeking stakeholder feedback on the funding model options outlined in this discussion paper. Stakeholders are asked to provide feedback on which funding model they prefer.

The feedback obtained from stakeholders will inform the final recommendations of the PMO Executive to the Minister for Natural Resources, Mines and Energy.

¹ The Coal Mining Safety and Health Regulation 2001 was remade as the Coal Mining Safety and Health Regulation 2017 and commenced on 1 September 2017.

² Coal Workers' Pneumoconiosis Select Committee, 55th Queensland Parliament, *Black lung white lies: Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*, report no. 2, May 2017, p. 77.

³ As above, p. 79.



Scope

In accordance with its initial terms of reference, the CWP Select Committee was established by the Queensland Parliament to inquire into the re-emergence of CWP in Queensland coal mines. At the time of releasing report no. 2, the CWP Select Committee's focus was on coal mining activity.⁴

In terms of the funding of regulatory functions, the recommendations of the CWP Select Committee relate to the safety and health fee provided for under Part 2A of Chapter 2 of the Coal Mining Safety and Health Regulation 2001. Currently, the safety and health fee applies to all operations regulated under the Coal Mining Safety and Health Regulation 2017, Mining and Quarrying Safety and Health Regulation 2017 and Explosives Regulation 2017.⁵

Noting the CWP Select Committee's finding that the safety and health fee is not an appropriate method to fund a truly independent mine safety and health regulator with a fully functional mines inspectorate,⁶ this discussion paper considers the safety and health fee as it applies to regulatory activity across the coal mining, mineral mines and quarries, and explosives industries. The funding model options presented in this paper are proposed to apply across these industries.

The CWP Select Committee report is silent on the petroleum and gas fee (P&G fee) payable under the Petroleum and Gas (Production and Safety) Regulation 2004. Accordingly, the P&G fee is not being considered as part of this review.

The CWP Select Committee recommended that the regulator be funded from a dedicated proportion of coal and mineral royalties. The PMO investigated this proposal and presented a position in Focus Paper 4 - *An examination of the proposal to fund the regulator from mining royalties*.⁷ The PMO concluded that the use of royalties is not a viable option to fund the regulator. On this basis, the use of royalties is not considered as a potential funding model option in this discussion paper.

Scope of this paper

The funding models presented in this discussion paper are proposed to apply to the coal mining, mineral mines and quarries, and explosives industries.

The P&G fee is not being considered under this review.

Purpose

The purpose of this discussion paper is to:

- consider the CWP Select Committee's recommendation that the safety and health fee be abolished
- provide detail on potential funding model options identified to fund the regulator
- seek feedback from stakeholders on the funding model options and identify a preferred model.

This discussion paper identifies potential funding model options to provide a sustainable and effective source of funding to the regulator. Importantly the type of model adopted must be

⁴ On 23 March 2017 the CWP Select Committee's terms of reference was expanded to include other workforce cohorts and occupational respirable dust issues.

⁵ See Part 2A of Chapter 2 of the Coal Mining Safety and Health Regulation 2017, Part 2A of Chapter 2 of the Mining and Quarrying Safety and Health Regulation 2017 and Part 12 of the Explosives Regulation 2017.

⁶ Coal Workers' Pneumoconiosis Select Committee, 55th Queensland Parliament, *Black lung white lies: Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*, report no. 2, May 2017, p. 77.

⁷ Focus Paper 4 – *An examination of the proposal to fund the regulator from mining royalties*, available at: <<https://www.business.qld.gov.au/industries/mining-energy-water/resources/safety-health/mining/medicals/pneumoconiosis/consultation>>, [accessed 16 April 2018].



assessed against key criteria – effectiveness, efficiency and transparency. The funding model must also ensure it provides for full cost recovery of the regulatory activities undertaken by the regulator across the coal mining, mineral mines and quarries, and explosives industries.

Stakeholders are asked to consider how the funding model options presented in this discussion paper achieve the criteria of effectiveness, efficiency and transparency, and provide feedback, nominating a preferred model.

Detailed modelling

In addition to this discussion paper, the PMO has commissioned independent modelling of the funding options presented in this paper to assist stakeholders in gaining a better understanding of the financial implications of each option.

The detailed modelling will provide estimates of fee levels and revenue projections for each model, based on the indicative costs calculated for the regulator model options identified in Discussion Paper 1 - Options for resources safety and health regulator models in Queensland.

The detailed modelling will be provided to stakeholders during the consultation period for this discussion paper.

Background

CWP Select Committee recommendations

In its report no. 2, the CWP Select Committee noted that the funds from the safety and health fee have been insufficient to support the government's response to the re-identification of CWP, with funds being supplemented with additional government funding.⁸

The CWP Select Committee report also highlighted concerns about the methodology used to calculate the safety and health fee with a view to establishing a more reliable funding source. The CWP Select Committee noted that currently the amount of available revenue from the safety and health fee depends on the total number of employees in the mining industry, which in turn is dependent on the economic health of the mining industry at any time.⁹

The CWP Select Committee report no. 2 made three recommendations that relate specifically to funding of the regulator. These recommendations are:

Recommendation 16

The safety and health fee currently provided for by part 2A of chapter 2 of *the Coal Mining Safety and Health Regulation 2001* should be abolished.¹⁰

Recommendation 17

The Mine Safety and Health Authority should be funded by a dedicated proportion of coal and mineral royalties paid to the Queensland Government, to be determined in consultation with industry and unions after an assessment of the operating costs of the Authority is undertaken. The dedicated proportion of the royalties should be fixed by regulation and reviewed periodically by the parliamentary committee responsible for the Mine Safety and Health Authority.¹¹

⁸ Coal Workers' Pneumoconiosis Select Committee, 55th Queensland Parliament, *Black lung white lies: Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*, report no. 2, May 2017, p. 76.

⁹ As above, p. 76.

¹⁰ As above, p. 79.

¹¹ As above, p. 79.

Recommendation 18

Any surplus income derived from the dedicated proportion of royalties that is not allocated to or expended by the annual budget of the Authority should be invested with the Queensland Investment Corporation for the future research and operational needs of the Authority.¹²

The government response

The Queensland Government tabled its response to the CWP Select Committee report no. 2 on 8 September 2017. The government provided in principle support for recommendations 16 to 18 which relate to funding of the regulator.

The government acknowledged that reform of the funding model is necessary and recognised the need for a revenue stream that better meets the needs of a dynamic and changing environment.¹³ The government also recognised the need for a funding model that will maintain stable funding to deliver a best practice safety and health regulatory framework in Queensland.¹⁴ The government proposed that the existing safety and health fee continue until an alternative funding model is determined and implemented.¹⁵

The government signalled that further consultation was required regarding the recommendation to abolish the safety and health fee; and that independent advice was required regarding funding the regulator from a dedicated proportion of royalties.¹⁶ The government has established the PMO to consult on funding model options and provide advice to the Minister for Natural Resources, Mines and Energy on a sustainable and effective funding model for the regulator.

Safety and health fee

Current approach

The safety and health fee was introduced in 2008 to recover the cost of safety and health services provided by the Queensland Government to the mining, quarrying, explosives and fireworks industries.¹⁷ The safety and health fee applies to all operations regulated under the Coal Mining Safety and Health Regulation 2017, Mining and Quarrying Safety and Health Regulation 2017 and Explosives Regulation 2017.¹⁸

The legislation provides that the responsible person (e.g. a mine or quarry operator or explosives authority holder) must pay the safety and health fee to cover the cost of the department's activities carried out for the purposes of safety and health for mining operations or explosives during each financial year.¹⁹

The safety and health fee is calculated on the number of workers in the industry and the budgeted cost of services. In 2010, exemptions from the requirement to pay the safety and health fee were included for operations with 5 or fewer workers.²⁰

¹² Coal Workers' Pneumoconiosis Select Committee, 55th Queensland Parliament, *Black lung white lies: Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*, report no. 2, May 2017, p. 79.

¹³ Queensland Government, *Response to Coal Workers' Pneumoconiosis Select Committee report no. 2 – Inquiry into the re-identification of coal workers' pneumoconiosis in Queensland*, September 2017, p. 22.

¹⁴ As above.

¹⁵ As above.

¹⁶ As above.

¹⁷ Mining and Other Legislation (Safety and Health Fee) Amendment Bill 2008.

¹⁸ See Part 2A of Chapter 2 of the Coal Mining Safety and Health Regulation 2017, Part 2A of Chapter 2 of the Mining and Quarrying Safety and Health Regulation and Part 12 of the Explosives Regulation 2017.

¹⁹ See section 12E of the Coal Mining Safety and Health Regulation 2017, section 11C of the Mining and Quarrying Safety and Health Regulation 2017 and section 178 of the Explosives Regulation 2017.

²⁰ Mining and Other Legislation Amendment Regulation (No. 1) 2010.

The estimated revenue collected by the safety and health fee in the 2016-17 financial year across the coal, mineral mines and quarries and explosives industries was as follows:

Table 1: Estimated revenue collected by safety and health fee in 2016-17²¹

Tier	Fee rate	No. of operators	Revenue
1 – 5 employees	\$0.0	2050	-
6 – 10 employees	\$107.10	66	\$0.06m
11 + employees	\$850.00	141	\$36.34m
		2257	\$36.4m

Currently, the safety and health fee funds the functions undertaken by the following business units and activities of the resources safety and health regulator (RSH division within DNRME):

Table 2: RSH business units and activities funded by the safety and health fee

Inspectorate	Safety and health fee
Coal Mines Inspectorate	100% funded
Mineral Mines and Quarries Inspectorate	
Explosives Inspectorate	
Health Surveillance Unit	
Safety in Mines Testing and Research Station (Simtars)	Approximately 50% funded (remaining funding from fee for service activities)
Business Strategy Services and corporate support costs related to RSH business units and activities	Partially funded (remaining funding from P&G fee)

The safety and health fee does not fund the Office of the Commissioner for Mine Safety and Health or emerging issues relating to CWP (e.g. the team responsible for the Coal Mine Workers' Health Scheme, and implementation of Monash Review recommendations), which are funded from limited life government funding.

CWP Select Committee recommendation to abolish the fee

Recommendation 16 which proposes to abolish the current safety and health fee funding model, is presumptive of an alternative means of funding the regulator being implemented. The CWP Select Committee suggested in recommendations 17 and 18 that a proportion of coal and mineral royalty revenue would be a more appropriate funding mechanism than the current safety and health fee, which is based on employee numbers.

This proposition was examined in Focus Paper 4 - *An examination of the proposal to fund the regulator from mining royalties*. In that paper, the PMO determined that a royalties based system was not an optimal solution. As the proposal to abolish the current safety and health fee cannot sensibly be taken forward until a replacement mechanism has been identified and arrangements for implementation are well progressed, it is necessary to consider alternatives to both the current funding model and the replacement proposed by the CWP Select Committee.

²¹ The safety and health fee is indexed to the Queensland Government's current fees and charges indexation policy rate of 3.5 per cent per annum.



Requirement for cost recovery

A funding model option will need to provide for cost recovery of regulatory activities across the coal mining, mineral mines and quarries, and explosives industries. This will include the cost of a future regulator model and CWP-related expenses.

The Queensland Government provides a diverse range of services, support and benefits to the Queensland public to achieve its policy outcomes. These activities are funded from different revenue sources, including general fees and charges, payments for public assets, government investments, cost recovery and other revenue-raising measures.

Cost recovery involves the government charging users some or all of the efficient costs of a specific government activity. That activity may include the provision of goods, services or regulation, or a combination of these.²²

The Queensland Government's overarching cost recovery policy is that, unless government has made a deliberate decision otherwise, fees or charges applied by departments and statutory bodies for the provision of goods and services will reflect full cost recovery.²³ The cost recovery policy promotes consistent, transparent and accountable charging for government activities and supports the proper use of public resources. This position is based on the 'beneficiary pays' principle. As noted by Queensland Treasury's *Principles for Fees and Charges*:

*...those individuals and groups who benefit from the provision of a good, product or service should pay for it. The beneficiaries of goods and services for which charges are made should be identified to assist in making decisions on how these groups can best be charged.*²⁴

The government's policy also provides that there is a need to undertake regular monitoring and review of fees and charges regimes. This is important to ensure that fees and charges remain relevant in light of government priorities, and that emerging issues can be identified and addressed early.²⁵

CWP-related regulator expenses

Following the re-identification of CWP, the Queensland Government has committed \$24.788 million (over 2016-17 to 2018-19) to address CWP and implement recommendations from the Monash Review.

Independent analysis has indicated that the ongoing CWP-related costs will be approximately \$4 million per annum.²⁶ These costs are indicative only and additional costs relating to CWP may be identified in the future. The ongoing CWP-related costs are not currently being funded by the safety and health fee. A funding model for the regulator will need to provide for the cost recovery of activities relating to CWP.

²² Further information in relation to cost recovery issues can be obtained from: Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (Resource Management Guide No. 304) July 2014 – Third Edition*; and Australian National Audit Office, *Administering Regulation – Better practice guide*, June 2014.

²³ Queensland Treasury (2018) *Principles for Fees and Charges*, p. 2.

²⁴ As above, p. 4.

²⁵ As above, p. 9.

²⁶ BDO, *Resources Safety & Health Regulator Models - Cost Modelling*, April 2018, available at <<https://www.business.qld.gov.au/industries/mining-energy-water/resources/safety-health/mining/medicals/pneumoconiosis/consultation>>, [accessed 20 April 2018].



Cost to fully fund the regulator

In addition to recommendations relating to funding the regulator, the CWP Select Committee recommended the establishment of an independent Mine Safety and Health Authority to regulate safety and health in the Queensland mining industry.

The government response to the CWP Select Committee report recognised and strongly supported the importance of ensuring appropriate independence of the regulator from industry facilitation within the government.

The PMO has considered the model presented by the CWP Select Committee and identified three alternative regulator models which seek to achieve the intent of the CWP Select Committee recommendations. The regulator model options are outlined in Discussion Paper 1 – *Options for resources safety and health regulator model in Queensland*. The discussion paper sought feedback from stakeholders on the potential regulator models. This feedback will inform the advice from the PMO Executive to the Minister for Natural Resources, Mines and Energy.

To inform the regulator models presented in Discussion Paper 1, independent cost modelling was prepared for each regulator model. These costs are indicative costs only. A summary of the cost for each regulator model option is at Appendix 1.

The funding model for the regulator will need to support the full cost of the regulator regarding activities relating to coal mining, mineral mines and quarries, and explosives. The regulator costs will need to be recovered from the funding model adopted for the coal mining, mineral mines and quarries, and explosives industries (currently the safety and health fee); and the existing P&G fee (charges to which are not being considered by the PMO).

Options for funding models for the regulator

The following options have been identified as potential funding model options for the resources safety and health regulator in Queensland:

- **Option 1: Current safety and health fee** - status quo with the existing tiers and fee levels per worker
- **Option 2: Increased fees within existing tiers** – an alternative model based on existing tiers of the safety and health fee with an increase to fee levels per worker
- **Option 3: New tiers and adjusted fees** – an alternative model based on new tiers and adjusted fee levels per worker
- **Option 4: Base and variable fee** – The model includes a flat-rate base charge using the tiers proposed in Option 3 to cover the fixed costs of the regulator. It also includes a variable charge that is based on both employment numbers and safety risks.

These options were identified on the basis of providing an efficient, effective and transparent funding model that provides a sustainable revenue stream to the regulator to cost recover resource safety and health regulatory activities.

The PMO investigated a number of alternative models to the current approach of the safety and health fee, which is based on worker numbers. A summary of other models considered is at Appendix 2.

Assessment of models

Criteria for assessing each funding model option

In considering possible options for funding the resources safety and health regulator in Queensland, stakeholders will need to be satisfied that the options are capable of achieving the key principles that underpin an operational funding model.

The four funding model options will be assessed against the following three criteria:

Criteria	Explanation
Effectiveness	The funding mechanism should recover costs in a predictable and sustainable way to ensure the desired outcomes of regulation are achieved
Efficiency	The activity being cost recovered should be delivered in a cost effective way with the costs recovered in a manner that is equitable
Transparency	A cost recovery mechanism should be easily understood and communicated clearly to stakeholders, both in terms of how it works and what expenses it is recovering

Stakeholders are asked to apply the above criteria to each option in order to inform a view on which option provides a preferred funding model.

The preferred funding option will need to demonstrate that it is effective, efficient and transparent.

To be clear, the criteria outlined above are used to assess the suitability of each option. It is about gauging the relative merits of the option in recovering costs in an appropriate manner i.e. effectively, efficiently and in a transparent way. By way of explanation, applying the assessment criteria outlined here is not about assessing how well or otherwise the regulator is undertaking their



tasks but how the funding process is operating in terms of ease of calculating and collecting levy payments. This should not be a burden on industry.

While this process is not an assessment of the regulator's performance this is not to say that the role of the regulator should be ignored.

The regulator needs to have open disclosure in relation to the costs attributed to the funding model, including inspectorate processes, focus areas and strategic direction encompassing regulatory intent. The funding model provides the machinery for the resources industry to pay for regulatory services. The regulator in turn must be accountable for service delivery to the extent that industry users can clearly link service delivery to payments. The funding model needs to be supported by systems and processes to give effect to the criteria upon which the model is based.

A more detailed explanation of each of the criteria is provided at Appendix 3. The information below provides observations for each option against the criteria of effectiveness, efficiency and transparency.

As noted, in addition to the criteria, a funding model option will need to provide for full cost recovery of regulatory activities across the coal mining, mineral mines and quarries, and explosives industries in accordance with the Queensland Government principles relating to cost recovery.

Option 1: Current safety and health fee

Responsible person ²⁷	5 or fewer workers	Tier 1	Tier 2
		6 to 10 workers	11 workers or more
<ul style="list-style-type: none"> Mine/quarry operators Explosives authority holders 	Exempt	\$110.80 per worker	\$880.00 per worker

Overview

- The current safety and health fee is calculated on the number of workers in the industry and the budgeted cost of services.
- The tiers for the safety and health fee are based on: 5 or fewer workers (exempt); 6 to 10 workers (Tier 1); and 11 workers or more (Tier 2).

Observations

Effectiveness

- There is a longer-term weakness in the ability of the safety and health fee to guarantee enough revenue to cover existing operating expenses or take account of additional and ongoing costs relating to CWP. In its current form, the safety and health fee is not meeting its objective of effectively providing full cost recovery.
- As noted, the safety and health fee is based on the number of workers in the industry. This is generally less precise than alternatives, such as site-specific fee for service charges. However, charging an employment-based fee is an administratively simpler approach that is consistent with the approach taken to collecting fees for mine safety and health in other Australian jurisdictions, such as New South Wales (which charges a fee based on wages) and Western Australia (which charges a fee based on mine hours worked).
- Administration costs are an important consideration. The current approach exempts operations with 5 or fewer workers from paying the safety and health fee. This exemption was introduced in 2010-11 in recognition of the fact that the administrative burden of collecting fees amongst the small operators was greater than the revenue acquired.
- There is evidence that the current safety and health fee has demonstrated difficulty in providing a revenue stream that is both predictable and sustainable. Since its inception in 2008, the safety and health fee has experienced some volatility. Operating and capital expenses associated with the safety and health fee exceeded revenue in 2008-09, 2010-11, 2013-14, 2014-15 and 2015-16, resulting in net deficits.²⁸
- These deficits have, however, largely been balanced by surpluses in other years, resulting in an overall deficit of less than 1 per cent over the years from 2008-09 to 2016-17. Nevertheless, over the same period revenue has declined at an average annual rate of 6 per cent, while expenses have declined at an average rate of 5 per cent.²⁹

²⁷ These are examples. It is proposed that the funding model would be paid by responsible persons currently required to pay under section 12E of the Coal Mining Safety and Health Regulation 2017, section 11C of the Mining and Quarrying Safety and Health Regulation 2017 and section 178 of the Explosives Regulation 2017.

²⁸ Internal PMO calculations based on DNRME data.

²⁹ As above.



Efficiency

- In terms of vertical equity, the use of only two tiers pushes much of the cost recovery burden onto the final tier (those operations with 11 or more workers), which currently accounts for approximately 99 per cent of revenue.³⁰
- It should be noted, however, that the level of progressivity is naturally skewed by employment being concentrated in a minority of large mines. For example, Tier 2 currently consists of 162 operators and 44,627 workers, with the ten largest operators in this tier accounting for 35 per cent of workers. The current safety and health fee debatably operates from too narrow a base as a consequence of the limited number of tiers employed.³¹
- The current safety and health fee also presents some difficulties in terms of horizontal equity.³² While the coal industry provides approximately 70 per cent of total revenue, it accounts for, on average, less than half of regulatory activity. By contrast, the metalliferous industry provides about 25 per cent of revenue but accounts for close to 40 per cent, on average, of regulatory activity.³³
- This imbalance is partly a function of the greater share of employment in the coal industry.

Transparency

- Concerns have been identified by stakeholders that the current safety and health fee lacks transparency.³⁴
- While the methodology employed to calculate the fee at each tier, along with worker numbers obtained through the census and the regulatory activities undertaken by DNRME that are financed by the fee are all publicly available, they are not presented in a manner that would allow stakeholders to easily determine whether cost recovered activities are being implemented efficiently or effectively. For example:
 - The annual *Queensland Mines and Quarries Safety Performance and Health Report* provides a range of data regarding the safety performance of the sector, including regulatory actions taken by DNRME. However, it does not link regulatory activities to revenue from the safety and health fee, or compare revenue raised from each industry with the amount of regulatory effort expended on that industry.
 - Revenue raised from the safety and health fee is presented in the departmental Annual Report, along with expenses. Expenses are, however, expressed at a high level with little clarity around the costs of particular activities.³⁵
 - The relevant website notes that the safety and health fee is reviewed annually. In 2017-18 the safety and health fee was increased by 3.5 per cent in line with the government indexation rate for fees and charges. There does not, however, appear to be any public resources for stakeholders that documents the decision making process for this review.

³⁰ Vertical equity refers to those persons or entities with greater means or who create greater costs contributing proportionately more than those with lesser means or who create fewer regulatory costs.

³¹ Derived from DNRME employment census data, available at: [accessed 13 April 2018]

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/safety-health/mining/levy-census>.

³² Horizontal equity refers to treating persons or entities in similar situations in similar ways.

³³ Internal PMO calculations based on DNRME data.

³⁴ Queensland Resources Council submission to Infrastructure, Planning and Natural Resources Committee inquiry on the Exposure Draft Mine Safety and Health Authority Bill 2017.

³⁵ Department of Natural Resources and Mines, *Annual Report 2016-17*, p. 35.

Option 2: Increased fees within existing tiers

Responsible person ³⁶	5 or fewer workers	Tier 1	Tier 2
		6 to 10 workers	11 workers or more
<ul style="list-style-type: none"> Mine/quarry operators Explosives authority holders 	Exempt	% increase to current fee per worker	% increase to current fee per worker

Overview

- This option provides higher fee levels for Tier 1 (6 to 10 workers) and Tier 2 (11 workers or more).
- The increase in fees for Tiers 1 and 2 would be proportionate (e.g. both are increased by the same percentage of current levels) and based on removing any anticipated revenue shortfall that may eventuate from Option 1.
- Under this option, operations with 5 or fewer workers would continue to be exempt.

Observations

Effectiveness

- Increasing the fee levels for both Tiers 1 and 2 would increase the total revenue obtained per worker and overall revenue. In this way, fee levels could be calculated to more accurately track costs of regulatory activities providing a model that would fully recover costs with greater consistency. This would go some way towards addressing issues of effectiveness in the current model in regard to its ability to provide a sustainable revenue stream for regulatory activities.
- Option 2 would continue to be based on employee numbers. This option would not add any additional administrative complexity to current arrangements.
- In terms of reliability, this option has similar exposure to fluctuations in employment levels as Option 1. An unanticipated reduction in employment levels in the coal and metalliferous mining industries may expose a resources safety and health regulator to financial risk.

Efficiency

- Option 2 will not address the issues regarding vertical and horizontal equity identified in relation to Option 1.
- In terms of vertical equity, this option does not widen the current revenue base (e.g. by including those operations that are exempt). Similarly this option does not distribute the revenue burden more widely (e.g. by further segmenting Tiers 1 and 2). Consequently, under this option, the majority of the revenue burden would continue to be carried by large operators within Tier 2.

³⁶ These are examples. It is proposed that the funding model would be paid by responsible persons currently required to pay under section 12E of the Coal Mining Safety and Health Regulation 2017, section 11C of the Mining and Quarrying Safety and Health Regulation 2017 and section 178 of the Explosives Regulation 2017.

- 
- This option does not address the concerns regarding horizontal equity identified in relation to Option 1. Under this option it is likely that the coal industry would continue to carry the majority of the revenue burden.

Transparency

- Option 2 does not directly address the transparency issues identified in Option 1. However, this option could be implemented in a manner that addresses these concerns, including through clear, regular communication with stakeholders and the release of materials that:
 - describe what regulatory services and associated costs are intended to be paid for through the funding model
 - explain how the funding model works, including the release at regular intervals of information on key aggregates, such as:
 - the total amount of revenue raised
 - how much is raised by individual industries
 - how the revenue aligns with regulatory functions performed.
- Further, additional stakeholder consultation could be undertaken within the periodic review of the funding model. This process could be used as an opportunity for the regulator to clearly set out any changes to circumstances (including market conditions, government policy changes and operational factors) that are impacting on the effectiveness and efficiency of the funding model.

Option 3: New tiers and adjusted fees

		Tier 1	Tier 2	Tier 3	Tier 4
Responsible person ³⁷	5 or fewer workers	6 to 10 workers	11 to 19 workers	20 to 99 workers	100+ workers
<ul style="list-style-type: none"> Mine/quarry operators Explosives authority holders 	Exempt	No. of workers multiplied by \$A*	No. of workers multiplied by \$B*	No. of workers multiplied by \$C*	No. of workers multiplied by \$D*

* Note: The fee per worker would increase at each tier

Overview

- This option proposes replacing the two tier structure of Options 1 and 2 with a four tier structure as demonstrated in the table above.
- The objective of this option is to spread the regulatory cost burden more widely by introducing two middle tiers – Tier 2 (11 to 19 workers) and Tier 3 (20 to 99 workers). The highest tier would begin at 100 workers, rather than 11 workers under the current safety and health fee.
- The fee paid per worker under this option is intended to be progressive – that is, as the number of workers increases between tiers so too does the fee charged per worker.
- This option would continue to exempt operations with 5 or fewer workers.

Observations

Effectiveness

- This option provides an opportunity to improve the sustainability of the funding model beyond that of the previous options. This is because this option provides the opportunity to widen the revenue base. Creating more tiers allows fee levels to be set more progressively. The result of this would likely be that operations that fall into Tiers 2 and 3 (e.g. medium size mines) may be liable to pay more than they currently do.
- It is unlikely that this option would add substantially to the current administrative burden because it is still based on worker numbers. Administrative costs would not differ significantly from that of the previous options.
- This option has an increased flexibility to adjust fee levels to ensure a full cost recovery model is achieved.

Efficiency

- This option offers the opportunity to address some of the vertical equity issues identified with previous options.
- The approach outlined here creates greater improvement in terms of vertical equity. The widening of the revenue base may result in some of the burden being lifted from mines currently in the top tier – though given the skewed nature of employment towards the coal

³⁷ These are examples. It is proposed that the funding model would be paid by responsible persons currently required to pay under section 12E of the Coal Mining Safety and Health Regulation 2017, section 11C of the Mining and Quarrying Safety and Health Regulation 2017 and section 178 of the Explosives Regulation 2017.



industry and large operations, it is unlikely that this burden could be reduced significantly. Some of the cost burden could also be lifted from the smallest mines.

- This option however, does little to address horizontal equity concerns as it remains entirely based on worker numbers with no variation in fees paid in relation to other factors, such as the level of risk to workers created by the type of mine in question.

Transparency

- This option does not directly address the transparency issues identified in Option 1. However, this option could be implemented in a manner that addresses these concerns, including through clear, regular communication with stakeholders and the release of materials that:
 - describe what regulatory services and associated costs are intended to be paid for through the funding model
 - explain how the funding model works, including the release at regular intervals of information on key aggregates, such as:
 - the total amount of revenue raised
 - how much is raised by individual industries
 - how the revenue aligns with regulatory functions performed.
- Further, additional stakeholder consultation could be undertaken within the periodic review of the funding model. This process could be used as an opportunity for the regulator to clearly set out any changes to circumstances (including market conditions, government policy changes and operational factors) that are impacting on the effectiveness and efficiency of the funding model

Option 4: Base and variable fee

Total Fee = Base charge + Variable charge

Base charge					
		Tier 1	Tier 2	Tier 3	Tier 4
Responsible person ³⁸	5 or fewer workers	6 to 10 workers	11 to 19 workers	20 to 99 workers	100+ workers
<ul style="list-style-type: none"> Mine/quarry operators Explosives authority holders 	Exempt	Flat-rate fee of \$W*	Flat-rate fee of \$X*	Flat-rate fee of Y*	Flat-rate fee of Z*
* Note: The flat-rate fee would increase at each tier					

+

Variable charge				
Fee per worker	X	No. of workers	X	Risk multiplier

Overview

- This option provides a fee based on two separate components:
 - Base charge:** This charge is designed to recover fixed costs (such as administration and corporate costs) that do not vary according to the number of regulatory services provided. The base charge would adopt an annual flat-rate fee per tier instead of a rate per worker. For example, a higher base charge would be paid by operators in Tier 4 than by operators that fall into Tier 3 and so on.
 - Variable charge:** This charge would be set to cover the costs that relate specifically to regulatory activities (such as auditing and inspection activities). This option would include a fee per worker and a multiplier that accounts for the relative risk of operations.
- The base charge would continue to function in much the same way as previous options, with operators being charged according to the number of employees they have. The difference here, however, would be that a flat-rate charge would be applied per tier as opposed to a rate applied per worker for each tier.
- The variable charge in particular marks a departure from previous options as it is based on employment numbers and incorporates risk. The variable charge would apply a risk multiplier that would be indicative of the relative safety risk associated with the operation or mining type (e.g. above-ground versus underground mining operations). By way of example, underground mining may be judged to present a higher level of risk to workers than above-ground mining. On that basis, underground mining may be assigned a higher risk factor e.g. a risk rating of 1.2 as opposed to a risk rating of 1.0 for above-ground mining. This would mean that the fee rate would be multiplied by the assigned risk factor.

³⁸ These are examples. It is proposed that the funding model would be paid by responsible persons currently required to pay under section 12E of the Coal Mining Safety and Health Regulation 2017, section 11C of the Mining and Quarrying Safety and Health Regulation 2017 and section 178 of the Explosives Regulation 2017.



Observations

Effectiveness

- This option provides a greater opportunity than previous options to provide a more stable and predictable revenue source.
- Greater predictability would be obtained through a fixed charge that is designed, in the first instance, to recover the fixed costs of the regulator. Given that the base charge is a flat-rate per tier, it would also likely be somewhat less responsive to changes in overall employment levels.
- A risk based approach would, however, be substantially more complex to administer. In particular, risk multipliers would need to factor in a range of variables and be based on extensive and accurate data. This would likely increase administrative costs, both in terms of the effort required to calculate risk multipliers and in carrying out an appropriate extensive consultation process to finalise them.

Efficiency

- This option improves on previous options regarding equity. It can decrease vertical inequity by applying the same tiers and, consequently, progressivity in the base charge.
- Option 4 can, however, go one step further and link fee levels more closely to the risk of particular mine types through a risk multiplier in the variable charge. Incorporating risk into the variable charge aims to link revenue more closely to the regulatory effort undertaken by the regulator.
- Under this option operations with relatively higher risk (because of the type of mining they are undertaking) but fewer workers would carry a larger share of the overall cost burden than may otherwise be the case under other options. By contrast, operations that employ high numbers of workers but have relatively lower levels of risk, would carry a reduced share of the regulatory burden.
- In this way, Option 4 is more horizontally equitable than Options 1, 2 and 3, which are based entirely on employee numbers. While all previous options can treat mines with similar sized workforces in the same manner, these options cannot account for the differences in inherent risk between mines with similar sized workforces, resulting in mines with a lower risk paying the same amount even though they may cost less to regulate.
- However, it should be noted that the skewed nature of employment towards the coal industry and particularly towards large coal mines means that it is unlikely Option 4 would reduce the disparities in revenue share and regulatory burden entirely.

Transparency

- This option does not directly address the transparency issues identified in Option 1. Like Options 2 and 3, Option 4 could be implemented in a manner that addresses these concerns.
- As identified in relation to effectiveness, Option 4 would introduce an increased administrative burden regarding the calculation of appropriate risk multipliers. This would naturally extend to ensuring that there is transparency regarding this process, particularly in terms of the data that has been relied upon. The calculation of risk multipliers would likely require an extensive stakeholder consultation process.

Comparison of funding model options

	Option 1 – Current safety and health fee	Option 2 – Increased fees within existing tiers	Option 3 – New tiers and adjusted fees	Option 4 – Base and variable fee
Future proof (Effectiveness)	<ul style="list-style-type: none"> Does not accommodate changes in industry trends and activities and services delivered 	<ul style="list-style-type: none"> Increased fees reduces some potential revenue shortfalls 	<ul style="list-style-type: none"> Broadening the tiers reduces some potential revenue shortfalls 	<ul style="list-style-type: none"> A base charge allows for coverage of fixed costs and a variable element to be adjusted based on industry trends
Simple and transparent (Transparency)	<ul style="list-style-type: none"> Current system is relatively simple to understand Administrative burden is average Some lack of transparency to stakeholders 	<ul style="list-style-type: none"> Relatively simple to understand as based on worker numbers Administrative burden is average Implementation may reduce some lack of transparency to stakeholders 	<ul style="list-style-type: none"> Relatively simple to understand as based on worker numbers Administrative burden is average Implementation may reduce some lack of transparency to stakeholders 	<ul style="list-style-type: none"> Additional administration required, as 2 charges need to be administered Inclusion of a risk element to the variable charge would increase complexity and, therefore, administrative burden Could be introduced in a manner that increases transparency to stakeholders
Fair and equitable (Effectiveness and efficiency)	<ul style="list-style-type: none"> Does not fix underlying issues of equity and cross subsidisation Some operators are exempt 	<ul style="list-style-type: none"> Does not fix underlying issues of equity and cross subsidisation Some operators are exempt 	<ul style="list-style-type: none"> Reduces some underlying issues of equity and cross subsidisation Some operators are exempt 	<ul style="list-style-type: none"> Further reduces underlying issues of equity and cross subsidisation Some operators are exempt Additional tiers help to make the fee more progressive, in terms of the base charge Addresses differences in risk between types of mining through a risk multiplier in the variable charge

	Option 1 – Current safety and health fee	Option 2 – Increased fees within existing tiers	Option 3 – New tiers and adjusted fees	Option 4 – Base and variable fee
Aligned to costs (Effectiveness)	<ul style="list-style-type: none"> Does not solve issues of alignment to costs Revenue still not linked to risk profiles or regulatory effort 	<ul style="list-style-type: none"> Improves cost recovery potential Revenue still not linked to risk profiles or regulatory effort 	<ul style="list-style-type: none"> Improves cost recovery potential Revenue still not linked to risk profiles or regulatory effort 	<ul style="list-style-type: none"> Fixed costs covered through base fee Variable fee can be adjusted to the required risks and effort through the use of a multiplier
Ease of implementation (Efficiency)	<ul style="list-style-type: none"> No change to current system No additional cost to implement 	<ul style="list-style-type: none"> Minimal change to current system Quick to implement Low cost to implement 	<ul style="list-style-type: none"> Medium change to current system by adding additional tiers Easy to implement Relatively low cost to implement 	<ul style="list-style-type: none"> Some additional time, effort and cost required to shift towards a base and variable system A suitable base charge would need to be devised that accurately accounts for the fixed costs of the regulator A variable charge partly based on risk would require a detailed consideration of relevant data and stakeholder consultation



Have your say

Stakeholders are invited to submit comments on the options for a funding model for the resources safety and health regulator outlined in this discussion paper. Stakeholders are asked to rank the options based on preference.

The Project Management Office (PMO) has developed the following documents to assist stakeholders in forming a view about a preferred model. The documents are available on the PMO [website](#):

- Focus Paper 4 – *An examination of the proposal to fund the regulator from mining royalties*
- Additional costings for regulator models presented in Discussion Paper 1

Detailed modelling will be made available during the consultation period to assist stakeholders in gaining a better understanding of the financial implications of each option. Specifically, the modelling document will assign values to each funding model based on indicative costings for each of the regulator options prepared in Discussion Paper 1. This will be available on the PMO website.

How to make a submission

Visit the **Get Involved website** at www.getinvolved.qld.gov.au.

Submissions can also be made by completing the **stakeholder feedback form** available from the PMO and submitting by email or post:

Email: pmo.cwp@dnrme.qld.gov.au

Post: Project Management Office
Department of Natural Resources, Mines and Energy
PO Box 15216
City East QLD 4002

Submissions close 5 pm, Friday 1 June 2018.

For more information, visit www.business.qld.gov.au or call 07 3199 8022.

Appendix 1 – Summary of costs for regulator models

	Option 1 Mine Safety and Health Authority (\$ million)	Option 2 Standalone Statutory Entity (\$ million)	Option 3 Division within a department or agency (\$ million)	Option 4 Combined WHS and Resources Safety and Health regulator (\$ million)
Set up and one-off costs	\$26.25 - \$29.05	\$2.65	\$0.40	\$0.40
Ongoing costs:				
- RSH costs	\$60.96	\$60.96	\$60.96	\$60.96
- CWP-related costs	\$4.00	\$4.00	\$4.00	\$4.00
- Additional corporate, business strategy and services costs	\$3.08	\$1.68	-	-
- Mobile health units (5 units)	Approx. \$1.70 - \$2.70	-	-	-
- Relocation to Mackay	\$1.68	-	-	-
- Simtars no longer offering occupational hygiene as fee for service	\$0.95	-	-	-
Total cost in Year 1	\$98.62 - \$102.42	\$69.29	\$65.36	\$65.36

* Note: The total cost for the regulator would be recovered from the existing P&G fee (changes to which are not being considered by the PMO); the fee model adopted for the coal mining, mineral mines and quarries, and explosives industries (currently the safety and health fee); and Simtars' fee for service revenue.

** More detail on cost modelling is available in: BDO, *Resources Safety & Health Regulator Models - Cost Modelling*, April 2018 at: <https://www.business.qld.gov.au/industries/mining-energy-water/resources/safety-health/mining/medicals/pneumoconiosis/consultation>

Appendix 2 – Consideration of alternative models

The PMO considered the types of fees collected in the mining industry in other jurisdictions. A summary of jurisdictions is outlined below:

	Queensland	New South Wales	Western Australia	Victoria
Fee type	Worker numbers	Proportion of wages	Hours worked	Fixed and variable
Name	Safety and health fee	Mine Safety Fund	Mine Safety and Inspection Levy	Extractive Industry Regulations Fee
Method	Based on the number of workers	Based on wages	Based on mine hours	Fees charged for specific activities as well as annual fees

In determining potential funding model options for the regulator, the PMO has also considered other funding options calculated on:

- a dedicated proportion of coal and mineral royalties
- the volume of production
- a proportion of wages
- the safety performance of operators or authority holders

These options did not provide an optimal solution to a viable funding model and have been excluded from further consideration. The issues associated with these alternative options are explained in more detail below.

Funding regulator from a dedicated proportion of royalties

In its report no. 2, the CWP Select Committee recommended that the regulator should be funded by a dedicated proportion of coal and mineral royalties paid to the Queensland Government. The CWP Select Committee stated that utilising a designated proportion of coal and mineral royalties would be a more appropriate and robust funding mechanism than the current levy, to support the full-funding of safety and health activities within the mining industry.³⁹

The government response to the CWP Select Committee report noted that the proposal to use coal and mineral royalties needs to be fully investigated to determine whether the proposal is appropriate or whether there is a more effective funding mechanism.⁴⁰

The PMO has undertaken a detailed analysis of the CWP Select Committee's recommendations that the regulator be funded by a dedicated proportion of royalties, which is presented in Focus Paper 4. The focus paper investigates whether the use of royalties is an appropriate funding option for mine safety and health regulatory activities.

³⁹ Coal Workers' Pneumoconiosis Select Committee, 55th Queensland Parliament, *Black lung white lies: Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*, report no. 2, May 2017, p. 8.

⁴⁰ Queensland Government, *Response to Coal Workers' Pneumoconiosis Select Committee report no. 2 – Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland*, September 2017, p. 23.



In Focus Paper 4, the PMO makes the following findings:

- funding regulatory services for a discrete work process is out of step with the purpose and objectives of the payment of royalties to the Queensland community
- the use of a royalties based funding approach does not conform to best practice principles regarding the recovery of costs by the government for the delivery of regulatory services.

The PMO position presented in Focus Paper 4 is that royalty revenue should not be pursued as a viable funding option for mine safety and health regulatory activities. On this basis, the use of royalties has not been considered as a funding model option in this discussion paper.

Funding calculated on volumes of production

The PMO considered the approach of utilising a funding model based on volumes of production, however this was excluded due to the likelihood that this approach could be considered as a tax on goods, and therefore a duty on excise.

This is highly problematic as section 90 of the Commonwealth Constitution provides the Commonwealth Parliament with the exclusive power to impose duties on excise. Excise duty is a tax on certain goods produced or manufactured in Australia, such as coal.⁴¹ The High Court has held that the closer the relationship between a tax and the production of goods, the more likely it is to be found to be an excise for the purposes of section 90 of the Constitution.⁴² The effect of section 90 of the Constitution is that states are constrained in their legislative power to impose taxation in respect to goods.

For this reason, linking the funding for the regulator to a fee based on the quantum or value of production would likely raise concerns regarding section 90 of the Constitution. This approach has therefore not been considered as an option in this discussion paper.

Funding model calculated on a proportion of wages

The PMO considered the option of funding the regulator from a proportion of wages. A similar approach is currently adopted in New South Wales for the Mine Safety Fund under the *Mine Safety (Cost Recovery) Act 2005*. In New South Wales, employers with workers in the mining industry are required to pay a Mine Safety Fund premium adjustment, based on wages.⁴³

In considering this approach, the PMO identified the following considerations:

- the additional burden on industry to provide detailed information relating to wages
- the additional complexity in calculating fees based on a proportion of wages
- the increased cost to the regulator to administer the funding scheme (i.e. systems, processes)
- the difficulty in verifying information as the WorkCover regulator and resources safety and health regulator are separate.

It should also be noted that the deficiencies identified by the CWP Select Committee regarding the use of employment as a basis for the calculation of a safety and health fee also apply to wages. Given that the overall value of wages paid in the industry is highly correlated to employment levels, a safety and health fee methodology based on a proportion of wages would also be highly exposed to the economic health of the mining industry. Furthermore, the time lag between

⁴¹ Australian Government, *Excise duties*, available at: <<https://www.business.gov.au/info/run/tax/excise-duties>>, [accessed 17 April 2018].

⁴² See *Andersons Pty Ltd v Victoria* (1964) 111 CLR 353 at 365.

⁴³ Icare NSW, *Calculating the cost of your workers insurance premiums*, available at: <<https://www.icare.nsw.gov.au/employers/manage-your-policy/premiums/calculating-the-cost-of-your-premium/>>, [accessed 17 April 2018].



wages/employment adjustments and fee obligations has the potential to impose cost pressures on operators. This would be especially marked during periods of downturn in mining activity.

Due to these issues, the PMO does not consider a funding model based on a proportion of wages an appropriate and sustainable option for the regulator and therefore this option has not been considered in this discussion paper.

Funding model calculated on safety performance

The PMO considered the option of a model in which the safety and health fee is adjusted for individual operations based on the past safety performance of operators. This could involve:

- rewarding good safety performance through a discount on safety and health fees
- financial penalties for poor safety performance by way of increased fee payments.

The inherent safety risk of a particular type of mine/mining is a feature of the cost recovery methodology applied in New South Wales. It is also built into the framework proposed in Option 4 in this Discussion Paper. Option 4 contemplates risk relativities across mining activities rather than attempting to measure specific safety performance.

While there is a valid theoretical argument that a safety performance based approach may provide incentives for safer work practices, there are complexities with this approach that make it a less practical solution.

A regulatory system that privileges rewards over punishments may provide perverse incentives for those being regulated. For example, explicit incentives for good behaviour can provide an incentive to create the appearance of good safety management practices rather than achieving improved safety outcomes.

Notwithstanding the practical limitations of measuring actual safety performance, this type of approach can have the unintended consequence of creating a “league table” mentality. Worksites may be identified as being either poor performers or good performers which may have reputational impacts which are not necessarily reflective of actual practice.

A further consideration in relation to a performance based system is that injury data, which is usually taken as a measure of performance, is typically a lag indicator that may in fact be out of step with current practice. By way of example, an operator may be receiving discounts on fee payments based on past performance despite more recent poor safety outcomes.

Against this background the PMO has not included a funding model based on safety performance as a viable option for further consideration in this discussion paper.

Appendix 3 – Detailed discussion of criteria

The following criteria are used to assess the merits of the funding models presented in this discussion paper. The funding model must be capable of demonstrating that the criteria outlined below have been achieved.

Effectiveness

A funding mechanism must be effective at achieving its stated purpose, which is to recover all of the costs of delivering regulatory services. Therefore, a key requirement for a funding mechanism is that it achieves this purpose effectively by providing a predictable and sustainable source of revenue to recover costs fully.

It is often the case that the costs of government service delivery are spread widely due to the indirect and dispersed nature of the benefits. As a result some government services, such as public healthcare, education, and some transport infrastructure tend to be paid for by all taxpayers from general government revenue. In some circumstances however, government can more readily identify those who benefit from the delivery of a government service, such as licensing requirements for motor vehicles or high risk work. It is generally accepted that, in these cases, it is more equitable for government to recover the costs of service delivery directly from the identified beneficiaries instead of from general tax revenue. This is known as the beneficiary pays principle or beneficiary principle.⁴⁴

The imperative for full cost recovery is reflected in the Queensland Treasury's *Principles for Fees and Charges*, which states:

*Section 18 of the Financial and Performance Management Standard 2009 (the FPMS) provides that, in deciding charges for goods and services, departments and statutory bodies must have regard to the full cost of providing the goods or services. Unless the government has made a deliberate decision otherwise, fees or charges applied by departments and statutory bodies for the provision of goods and services will reflect full cost recovery.*⁴⁵

An extension of this is that a funding mechanism should be designed to achieve full cost recovery in a predictable and sustainable manner to ensure that regulatory services can be provided to a level and standard that achieves the desired outcomes of regulation.

This includes consideration of issues such as:

- *Costs of administration:* Generally, the link between the costs of the activity being performed by the regulator and the cost recovery charge should be as close as possible. This would ideally be done through site-specific fee for service charges. This, however, can be impractical for a number of reasons, including the costs of administration. As a result, it can often be more straightforward for a regulator to charge an industry-wide levy. There is a balance to be struck in the design of a cost recovery charge between developing a more precise but more complex and, consequently, more expensive cost model and a simpler and less expensive and, therefore, administratively cheaper approach.⁴⁶

⁴⁴ For a more detailed discussion of the beneficiary principle, or the beneficiary pays principle, see Productivity Commission (2001) *Cost Recovery by Government agencies*, Inquiry Report, p. 15-17.

⁴⁵ Queensland Treasury (2007) *Principles for Fees and Charges*, p. 3

⁴⁶ Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (Resource Management Guide No. 304) July 2014 – Third Edition*, p. 11.

- *Reliability and measurability*: The precision with which a cost recovery model can be linked to regulatory costs also depends on the reliability and predictability of estimated costs. In situations where regulatory costs can vary greatly from year to year, less precise but more stable approaches may have to be considered.

Efficiency

A cost recovery mechanism should avoid creating distortions in the allocation of resources and ensure that the cost burden of regulation is shared equitably. To achieve efficiency, cost recovery fees and charges should reflect the minimum cost necessary to provide the service, whilst ensuring that regulatory objectives are being achieved.

This means that government providers of services should ensure that costs are minimised where possible and that 'gold plating' does not occur. As part of this, cost recovery charges should be minimised by being designed to capture only those costs that are related specifically to regulation of prescribed activities.

Costs that are specifically related to performing regulatory functions may include:

- *Variable costs*: These are costs that vary with the number of regulatory services delivered and typically include direct labour costs (e.g. staffing salaries and other on-costs) and materials required for staff to deliver regulatory services (e.g. computers or other electronic devices and vehicles).
- *Indirect costs*: These include overheads or corporate services costs, such as human resources, information technology support, communications and legal services.
- *Fixed costs*: Fixed costs include those that do not vary according to the number of regulatory services delivered. This typically includes building costs, such as office space rent.

Additionally, an efficient cost recovery mechanism should aim to achieve equity by ensuring that the burden of cost recovery is shared appropriately across the participants in the industry being regulated. This is known as achieving horizontal equity. Horizontal equity refers to treating persons or entities in similar situations in similar ways – in this case, participants in the resource industry paying the associated costs of mine safety and health regulation.

The design of a cost recovery mechanism may also give consideration to vertical equity. Vertical equity refers to those persons or entities with greater means or who create greater costs contributing proportionately more than those with lesser means or who create fewer regulatory costs. Considerations of to what extent issues of vertical and horizontal equity can be addressed may also be dependent on the trade-offs described in the previous section between complexity and expense regarding cost recovery charges.⁴⁷

Transparency

In addition to being effective and efficient, a funding mechanism should be transparent. Transparency is closely related to accountability. Accountability involves ensuring that government departments and entities, their staff and the responsible ministers are answerable for their actions and decisions in relation to cost recovery.⁴⁸

In order to be transparent, a cost recovery mechanism should be easily understood both in terms of its how it works and the functions for which it is recovering costs. This means that the methodology used to calculate fees should be made available in an easy to understand way to

⁴⁷ For a more fulsome discussion of the economic principles underlying cost recovery, see Productivity Commission (2001) *Cost recovery by Government agencies*, report no. 15, p. 11-33.

⁴⁸ Department of Finance, *Australian Government Cost Recovery Guidelines (Resource Management Guide No. 304) July 2014 – Third Edition*, p. 11-12.



allow stakeholders to determine whether cost recovered activities are being implemented efficiently, effectively and consistently with government decisions and relevant legislation.

Amongst other things, the documentation provided regarding a cost recovery model should:

- clearly identify which government services are being recovered, including which components of government entities are delivering the services
- provide a level of detail that is be balanced against the cost of developing and maintaining the model and proportional to the size and complexity of the activity
- be detailed enough to allow the Parliament, those who pay cost recovery charges, and other stakeholders to analyse the activity.

Transparency also requires active engagement with stakeholders. Government entities providing services that require cost recovery should engage actively with stakeholders throughout all stages of the cost recovery process, from policy development through to implementation and review.

As noted by the Queensland Government's *Principles for Fees and Charges* policy, government entities should consider how any fees and charges for cost recovery will be monitored and reviewed in the future to ensure that a cost recovery mechanism:

- continues to be efficient
- incorporates any changes to government policy, legislation or service delivery arrangements that impact on the fee or charge in question
- remains closely aligned to the cost structure underlying the amount of the fee or charge, and that the cost structure itself is efficient.⁴⁹

⁴⁹ Queensland Treasury (2007) *Principles for Fees and Charges*, p. 9.

