Options for resources safety and health regulator models in Queensland

Discussion paper
March 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 contains 68 recommendations. A number of these recommendations relate to structural changes to the resources safety and health regulator, which is currently a division within the Department of Natural Resources, Mines and Energy (DNRME)—formerly the Department of Natural Resources and Mines (DNRM).

The CWP Select Committee expressed a view that ‘the responsibility for overseeing the health and safety of workers should not rest with the body also charged with promoting and supporting the industry; namely DNRM.’ Furthermore, the CWP Select Committee noted that ‘only a truly independent regulatory body, charged with responsibility for ensuring the safety and health of Queensland’s mine and resource industry workers, can restore public faith in the system.’

The Queensland Government’s response to the report supported, or supported in principle, all 68 recommendations, noting that some require further investigation and consultation with stakeholders.

Specifically, in relation to the issue of structural changes to the regulator, the Queensland Government committed to establishing the Project Management Office (PMO), led by a person independent of existing government agency structures (PMO Executive) to develop options for alternative regulatory models and provide advice to the Minister on a preferred model.

The advice of the PMO Executive is to be informed by stakeholder consultation. This discussion paper represents one part of that process.

This discussion paper is seeking feedback from stakeholders on whether the model proposed by the CWP Select Committee is best placed to deliver independence and the standards of governance expected of public authorities. This paper explores this issue by considering both the model proposed by the CWP Select Committee and alternative options for a regulator model.

Funding options to support the potential regulator model will be considered through a separate consultation and stakeholder engagement process.

Have your say

The Queensland Government is seeking stakeholder feedback on the proposed models outlined in this discussion paper. A rating system and feedback form has been provided in the ‘Have your say’ section at the end of this document.

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

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Background

Resources safety regulation

Resources safety and health in Queensland is currently regulated by the following legislation:

- Coal Mining Safety and Health Act 1999
- Mining and Quarrying Safety and Health Act 1999
- Explosives Act 1999

Current structure of the regulator

Resources Safety and Health division

The Resources Safety and Health division within DNRME regulates safety and health in the Queensland resources sector.

The role of the division is to ensure acceptable safety and health standards are established and practised within the resources industry.

The division comprises the following business units:

- Inspectorates—coal mines, mineral mines and quarries, explosives and petroleum and gas inspectorates
- Occupational Health and Hygiene—Coal Mine Workers’ Health Scheme and Health Surveillance Unit
- Safety in Mines Testing and Research Station (Simtars)—research, testing, engineering, scientific and training services that enhance industry safety and health outcomes
- Business Strategy and Services—performance and governance, operational policy, capital asset management and business services.
The Executive Director of the division reports to the Director-General of DNRME and the Minister for Natural Resources, Mines and Energy.

The inspectorates within the Resources Safety and Health division undertake functions including monitoring and auditing industry performance, to detect and prevent unsafe practices and to hold accountable those who fail to fulfil their safety and health obligations.

The division has staff located across Queensland—in the northern region (based in Townsville, with offices in Mount Isa and Atherton), central region (based in Rockhampton, with an office in Mackay) and southern region (based at Woolloongabba in Brisbane).

**Commissioner for Mine Safety and Health**

The current structure includes the role of Commissioner for Mine Safety and Health. The Commissioner is an independent statutory position established under the *Coal Mining Safety and Health Act 1999*.

The functions of the Commissioner include:

- advising the Minister on mine safety and health matters
- chairing the Coal Mining Safety and Health Advisory Committee and Mining Safety and Health Advisory Committee
- monitoring and reporting to the Minister and to Parliament on the administration of the relevant resources safety Acts
- other functions given to the Commissioner under the provisions of the *Coal Mining Safety and Health Act 1999* and other mining legislation.

The Commissioner is a public servant and reports to the Minister for Natural Resources, Mines and Energy.

**Advisory committees**

The Coal Mining Safety and Health Advisory Committee (CMSHAC) and Mining Safety and Health Advisory Committee (MSHAC) are statutory committees that provide advice to the Minister for Natural Resources, Mines and Energy in relation to the safety and health of mine workers. The committees include representatives from industry, unions and government.

**Queensland Ombudsman review**

In 2008 the Queensland Ombudsman undertook a review and released a report on *The Regulation of Mine Safety in Queensland and the Queensland Mines Inspectorate*. The review considered the complaints handling, inspection and investigation functions of the Queensland Mines Inspectorate (QMI) within the then Department of Mines and Energy.

The basis for the review included:

- the fact that a significant proportion of workplace deaths and injuries occurs in the mining industry
- the fact that the QMI regulates one of the largest and most important industries in the state’s economy
- criticisms of the QMI’s performance by the media and by academic experts on mine safety.
Potential for regulatory capture

The Ombudsman review considered the potential for regulatory capture in mine safety. Regulatory capture was described as a regulator becoming so identified with the industry or sector it is intended to regulate that it can no longer effectively discharge its regulatory functions, creating a loss of impartiality.²

The Ombudsman review did not find any evidence of regulatory capture. The Ombudsman report noted that the inspectorate was not inappropriately influenced by the mining industry in the performance of its functions.³

The report identified that there may be a reasonable perception that the inspectorate may be subject to inappropriate influence from industry, including for the following reasons:⁴

- a lack of organisational autonomy having regard to its position within the administrative framework of the DME
- regional factors, leading to the development of social relationships and reliance on mine operators’ hospitality
- staffing issues, including a high degree of mobility between the QMI and the mining industry.

Independence of the regulator

The Ombudsman report noted that on the basis of the evidence gathered during the review, steps needed to be taken to enhance the inspectorates’ operational independence.

Further, the report noted that if the inspectorates remained part of DME, it was vital that the organisational structure of DME and its practices and procedures deal directly with the risk and perception of regulatory capture or inappropriate influence from areas of DME responsible for promoting and supporting the mining industry.⁵

The Ombudsman report recommended that:

- the Executive Director of Safety and Health be empowered to report directly to the Minister on mine safety issues (Recommendation 40)
- a proposal be developed for the Minister to give legislative recognition to the existence and role of the QMI and to recognise its operational independence (Recommendation 41).

These recommendations have not been adopted.

Role of the Commissioner

The Ombudsman report also recommended that the position of Commissioner for Mine Safety be established by legislation to advise the Minister on mine safety matters, chair the CMSHAC and the MSHAC, and report to Parliament on the performance of the QMI (Recommendation 39). The current role and functions of the Commissioner for Mine Safety and Health align with this recommendation.

³ As above, p. 127.
⁴ As above, p. 127.
⁵ As above, p. 136.
CWP Select Committee report

The CWP Select Committee released report no. 2 on 29 May 2017. The report made 68 recommendations, a number of which focus on structural changes to the regulator. In particular, the report recommended the establishment of the regulator as an independent statutory body separated from the industry facilitation arm of the department.

The CWP Select Committee ceased upon the dissolution of the Queensland Parliament on 29 October 2017.

The government’s response

The Queensland Government tabled its response to the CWP Select Committee’s report on 8 September 2017.

The government’s response supported, or supported in principle, all 68 recommendations, noting that some recommendations relating to the structure of the regulator required further consultation or independent advice.

The government’s response noted the following considerations regarding the structure of the regulator:

- **Governance** - Governance arrangements, including reporting mechanisms, should achieve appropriate transparency and ensure the Minister has adequate oversight of the performance of the regulator.

- **Ministerial direction** - The regulator must be free from the direction of the Minister or any other entity in exercising its operational or regulatory functions, including Parliament, although it must operate with transparency and be accountable to the Minister and stakeholders.

- **Type of body** - Whether or not the regulator should be established as an incorporated entity or other administrative unit of government requires consideration in order to determine which model would deliver maximum effectiveness and efficiency.

- **Board of directors** - To ensure appropriate independence, the regulator should not be subject to a board of directors or any other entity in its operational decision-making. A governance model that places a board of directors above the senior officer of the regulator could give rise to undue interference in the exercise of regulatory functions.

- **Parliamentary oversight** - It may be appropriate for the regulator to be accountable to a parliamentary committee in the same way as other government agencies.

- **Functions** - A safety and health regulator should cover all mineral and energy resources industries, including mining, petroleum and gas, and explosives. Regulation of safety and health across all resources industries ensures consistency and efficiency, and avoids unnecessary duplication of functions within government.

- **Advisory committees** - The role of advisory committees, such as the CMSHAC and MSHAC, is essential to the tripartite (industry, unions and government) spirit of the mining safety and health regulatory framework.

- **Structure** - It is important that structural arrangements ensure appropriate delineation between regulatory and research functions (e.g. dust monitoring or coal mine workers’ health).
• **Staffing** - It is necessary to maintain the knowledge and integrity of the Resources Safety and Health division, and to respect the rights and interests of public servants who are currently employed within the division.

**CWP Select Committee exposure draft Bill**

On 24 August 2017, the CWP Select Committee tabled an exposure draft Mine Safety and Health Authority Bill 2017 as part of its report no. 3.

The exposure draft Bill proposed the establishment of a Mine Safety and Health Authority to regulate safety and health in the Queensland mining industry. The report and exposure draft Bill were referred to the then Parliamentary Infrastructure, Planning and Natural Resources Committee for review.

The structure, role and functions of the Mine Safety and Health Authority model proposed in the exposure draft Bill is presented as Option 1 in this discussion paper.

The organisational structure proposed by the CWP Select Committee as presented at Option 1 encompasses recommendations 1 to 9 and recommendation 61 of the Select Committee’s report no. 2. (See Appendix 1 for the CWP Select Committee’s recommendations relating to a regulator model)

**The government’s response**

On 7 September 2017, the Queensland Government made a submission to the parliamentary committee on the report and exposure draft Bill, noting the following matters:

• **Proposed functions of the authority** - No provision was made for the Explosives Inspectorate or the Petroleum and Gas Inspectorate.

• **Proposed governance structure** -
  
  • Under a board model directors may be primarily concerned with their representational interests rather than the entity.
  
  • In addition to chairing the board, the Commissioner would be responsible for key operational functions (i.e. directing inspectors to conduct a review). This could create a conflict of duties between chairing the board as an oversight function and being accountable for discharging operational functions.
  
  • It is not clear how independent monitoring and reporting will be undertaken under the proposed model.

• **Proposed functions of the Minister** - It is unusual that the Minister could direct the authority and the Commissioner in the exercise of operational and regulatory functions. This is unusual for a regulatory body.

• **Proposed oversight by a parliamentary committee** - The proposed parliamentary committee would be involved in the appointment of the Commissioner, board and Chief Executive of the authority. A permanent parliamentary oversight committee is not common for bodies such as this. It is not clear how the parliamentary committee’s oversight function would sit alongside that of the Minister, and it could lead to divided accountability for this function.
• **Proposed staffing arrangements** - The exposure draft Bill does not provide for the transition of current mine safety and health staff to the new authority, instead providing that staff of the authority are to be employed under the Act establishing the authority, not under the *Public Service Act 2008*.

• **Potential for jurisdictional overlap** - The model may give rise to jurisdictional overlap, extending to non–coal mine workers. These workers currently fall under the jurisdiction of the *Work Health and Safety Act 2011*.

On 5 October 2017 the parliamentary committee tabled its report on the outcomes of the review. The report noted the contents of the exposure draft Bill but made no recommendations in relation to it. The exposure draft Bill lapsed with the dissolution of Queensland Parliament on 29 October 2017.

**Government boards in Queensland**

**Overview of governance arrangements**

The establishment of a Mine Safety and Health Authority as outlined in the exposure draft Bill contemplates the appointment of a board of directors. The following information provides an overview of the role of government boards in Queensland. A more detailed analysis of the role and functions of boards and advisory committees is provided in a separate focus paper, *Overview of Governance Arrangements for Public Authorities*. The focus paper includes a consideration of how governance arrangements in relation to boards and committees operate in other organisations with regulatory functions that are broadly similar to the proposed authority.

**Role of government boards**

In Queensland there are various government boards which range in scale and character including advisory boards, professional registration boards and governing boards overseeing government trading enterprises.

Government boards in Queensland can be divided broadly into six functional categories:

<table>
<thead>
<tr>
<th>Board type</th>
<th>Function</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trading</td>
<td>Boards of public trading enterprises engaged in commercial activities – e.g. port authorities.</td>
</tr>
<tr>
<td>Governing</td>
<td>Boards of statutory authorities which govern operation of an agency – e.g. Legal Aid Board, University Councils.</td>
</tr>
<tr>
<td>Policy/review/specialist</td>
<td>Committees with a policy, review, specialist or scientific role - e.g. Local Government Grants Commission, Radiation Advisory Council or the Non-State Schools Accreditation Board.</td>
</tr>
<tr>
<td>Regulatory/registration/</td>
<td>Boards with regulatory or registration role; or with a quasi-judicial, complaints or appeals role – e.g. Board of the Queensland College of Teachers, Queensland Gaming Commission or the Energy Ombudsman Queensland.</td>
</tr>
<tr>
<td>appeal</td>
<td></td>
</tr>
<tr>
<td>Trustees</td>
<td>Boards which manage public trusts – e.g. Anzac Day Trust.</td>
</tr>
<tr>
<td>Advisory/consultative</td>
<td>Boards and committees with advisory or consultative role – e.g. Work Health and Safety Board.</td>
</tr>
</tbody>
</table>

Requirements for government boards

The Department of the Premier and Cabinet has developed a guide “Welcome Aboard: A guide for members of Queensland Government Boards, committees and statutory authorities”.

The guide provides the following information regarding specific requirements of government boards:

- **Ministerial responsibility** - Ministers are responsible to Parliament for the operation of all government boards and agencies within their portfolio. The Minister may appoint members directly, or recommend appointments to Cabinet or the Governor in Council.

- **Role of chair** - The chair is responsible for ensuring the board operates effectively, reporting to the Minister, and reviewing board and organisational performance.

- **Role of Chief Executive Officer** – For government boards that operate with a Chief Executive Officer (CEO), the responsibilities of the CEO include employment and management of all staff, managing the budget of the entity, implementing board decisions, preparing strategic plans -including organisational performance targets, operational and administrative functions, and communications to and from the organisation. The CEO is the primary link between the board and staff. The CEO should work closely with the chair.

- **Board composition** – Members are to be appropriately skilled and experienced. The selection process should be merit based. Care must be taken to ensure that members are aware of, and avoid, conflicts of interest (or potential conflicts of interest).

- **Duties and responsibilities of members** - Obligations placed on government board members are strict, particularly because members are often responsible for spending taxpayers’ money and the control of public assets. Members have legislative responsibilities and fiduciary duties including under the Corporations Act 2001 (Cth). The Public Sector Ethics Act 1994 also applies to a government board if it is a public sector entity.

Public interest requirements in establishing government bodies

The Queensland Government has adopted a Public Interest Map Policy which includes the principles and requirements that agencies must consider when proposing the establishment of non-departmental bodies such as statutory authorities.


The core premises of the Public Interest Map Policy are that:

- ministers are responsible to Parliament, and ultimately to the electorate, for the operation of all departmental and non-departmental bodies within their portfolio

- a portfolio department is the organisational form of first choice for government

- delegation, or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.
The Public Interest Map Policy also sets out a number of requirements that must be met for the establishment of non-departmental bodies, including:

- the development of a public interest case for its establishment (the Threshold Test)
- consideration of the most suitable organisational form (the Organisational Form Guide)
- consideration of how the body should govern and be governed (the Good Governance Framework)
- approval requirements within government prior to proceeding with the new body’s establishment.

An independent review of government boards, committees and statutory authorities was undertaken in 2008-09 which recommended that some existing boards be abolished or merged. The government accepted most recommendations, as a result, the number of government boards decreased.

Further information on the existing governance structures of public authorities is provided in Focus Paper 1, provided as a companion paper to this discussion paper.
Options for a regulator model

The following options have been identified as potential models for a resources safety and health regulator in Queensland:

- **Option 1: A Mine Safety and Health Authority** - This is a standalone authority that reflects the model recommended by the CWP Select Committee.

- **Option 2: A standalone statutory entity** - This option proposes the creation of a standalone entity separate and independent of DNRME with a different governance structure to that proposed by the CWP Select Committee in Option 1.

- **Option 3: A division within a department or agency** - This option proposes the establishment of the regulator within an existing governmental structure. The model does not prescribe which government department or agency, and may create a new entity separate and independent of DNRME or provide an amendment to current arrangements.

- **Option 4: A combined work health and safety and resources safety and health regulator** - This option proposes moving the Resources Safety and Health division currently within DNRME into the work health and safety framework within the Office of Industrial Relations. This would create a single government entity responsible for the administration of safety and health across all industry sectors.

Assessment of models

In undertaking a process of structural reform, government agencies (and indeed business organisations of any type) must satisfy key tests of effectiveness and performance in fulfilling their policy objectives. Ultimately the organisational structure will be measured against accountability, effectiveness, efficiency and transparency. In terms of the current proposal for a resources safety and health regulator in Queensland, the tests of independence and public confidence have been identified as further components of the proposed reforms. Accordingly, these principles are the fundamental elements against which an organisational form is to be assessed.

A preferred regulator model must be able to demonstrate that it is capable of achieving an appropriate or acceptable level of accountability, effectiveness, efficiency, transparency, independence and public confidence.

It is noted that institutional reform of a regulator model will involve additional costs with respect to set-up and operational activities. These costs will vary across the options presented in this Discussion Paper. Respondents will need to bear in mind that additional costs for the delivery of safety and health regulatory functions will likely be borne by industry. These matters will be dealt with in more detail in Discussion Paper 2 addressing possible funding models for the regulator.
Criteria for assessing each option for a regulator model

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Explanation</th>
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<tbody>
<tr>
<td>Accountability</td>
<td>Structural arrangements are consistent with the principle of responsible government, in that the entity's functions are accountable to the Executive, which is, in turn, accountable to Parliament. Lines of accountability are clear and responsibilities are well understood.</td>
</tr>
<tr>
<td>Effectiveness</td>
<td>The entity is able to successfully support the objects of the relevant legislation. The entity has access to appropriate levels of resources and expertise.</td>
</tr>
<tr>
<td>Efficiency</td>
<td>There is no or minimal overlap or duplication with government departments or other relevant bodies. The entity has flexibility to anticipate and respond quickly to emerging needs and changing regulatory issues.</td>
</tr>
<tr>
<td>Transparency</td>
<td>Government, stakeholders and the public are able to clearly identify the objectives of the entity and how it is performing against those objectives.</td>
</tr>
<tr>
<td>Independence</td>
<td>The entity carries out its functions and powers as a regulator independently and is free from actual regulatory and political capture.</td>
</tr>
<tr>
<td>Public confidence</td>
<td>There is a high likelihood of public confidence in the compliance and enforcement functions. The risk of perceived regulatory and political capture is low.</td>
</tr>
</tbody>
</table>

Additional matters relevant to regulator structure

In addition to considering a resources safety and health regulator model, stakeholders are asked to indicate their position in relation to the following recommendations contained in the CWP Select Committee report:

- establishing the Mine Safety and Health Authority in Mackay (recommendation 5)
- discontinuing the fee for service for occupational hygiene (recommendation 9).

These recommendations are integral to the organisational structure and need to be considered in that setting. However, the recommendations are quite specific with implications for service delivery of the proposed entity. With this in mind both issues have been included as additional matters in the ‘Have your say’ section of this discussion paper.

Stakeholders are asked to indicate their position on the proposal to establish the Mine Safety and Health Authority in Mackay and to discontinue the fee for service arrangements for occupational hygiene services. This can be done by responding to the questions on these recommendations in the ‘Have your say’ section of this paper.

To assist stakeholders in reaching an informed view, two focus papers with more detailed information on these proposals have been prepared as companion documents to this discussion paper:

- **Focus Paper 2** – This focus paper deals with the proposed location of the regulator in Mackay
- **Focus Paper 3** – This focus paper deals with the proposal to discontinue the fee for service for occupational hygiene.
Option 1: A Mine Safety and Health Authority (CWP Select Committee model)

Mine Safety and Health Authority model

Overview
Option 1 proposes the establishment of a standalone statutory authority and body corporate. This would create a new entity separate to, and independent of, DNRME.

This option presents a governance structure with roles for a Minister, parliamentary committee, board of directors, Commissioner, CEO and others.

<table>
<thead>
<tr>
<th>Option 1: A Mine Safety and Health Authority</th>
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</thead>
<tbody>
<tr>
<td><strong>Type of body</strong></td>
</tr>
<tr>
<td>• Independent authority</td>
</tr>
<tr>
<td>• Established as a body corporate</td>
</tr>
<tr>
<td>• Represents the state</td>
</tr>
<tr>
<td>• Reports to a parliamentary committee</td>
</tr>
<tr>
<td><strong>Governance structure</strong></td>
</tr>
<tr>
<td>• Parliamentary committee</td>
</tr>
<tr>
<td>• Minister</td>
</tr>
<tr>
<td>• Commissioner for Mine Safety and Health</td>
</tr>
<tr>
<td>• Board of directors</td>
</tr>
<tr>
<td>• CEO</td>
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</tbody>
</table>
### Option 1: A Mine Safety and Health Authority

<table>
<thead>
<tr>
<th>Characteristics of governance arrangements</th>
<th>Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Office of the CEO (including corporate services)</td>
<td>• Board of directors</td>
</tr>
<tr>
<td>• Standing Dust Committee on Research and Control</td>
<td>• Commissioner</td>
</tr>
<tr>
<td>• Expert Medical Advisory Panel</td>
<td>• CEO</td>
</tr>
</tbody>
</table>

#### Board of directors
- Oversees the authority
- Responsible for the way the authority performs its functions and exercises its powers
- Commissioner is chair of the board
- 15 members appointed by the Governor in Council, on the recommendation of the Minister and in consultation with the parliamentary committee

#### Commissioner for Mine Safety and Health
- Full-time position and most senior position at the authority
- Appointed by the Governor in Council for not more than 5 years
- Minister may nominate a Commissioner following consultation with the parliamentary committee and obtaining bipartisan support
- Functions include:
  - advising the Minister, the authority and the board on mine safety and health matters generally
  - chairing the board
  - chairing the Standing Dust Committee on Research and Control
  - monitoring and reporting to the Minister and to Parliament on the administration of provisions about safety and health under the Act establishing the authority and other mining legislation
  - starting and conducting proceedings for an offence against a mine and safety law
  - performing functions under an Act.

#### CEO
- Manages the authority, as required by board policies
- Reports to the board and Minister
- May attend board meetings but is not entitled to vote
- Appointed by Governor in Council for a term not more than 5 years
Option 1: A Mine Safety and Health Authority

- Minister may nominate CEO following consultation with the parliamentary committee and obtaining bipartisan support

**Minister**
- Oversees performance of the authority’s functions, and informs Parliament and the community of the authority’s performance
- May give written direction to the Commissioner or the authority
- May request information from the CEO

**Parliamentary committee**
- Monitors and reviews performance of the authority’s functions and advises the Minister on the appointment of the Commissioner, board members and CEO
- Power to request information from the CEO on a matter relevant to the authority’s functions

**Audit and review**
- Audit and review function to be undertaken by the Commissioner

**Miscellaneous matters**
- Head office based in Mackay
- Other offices established at the discretion of the Minister
- Authority to be established by an Act
- Staff appointed under the Act—not public servants
- New enabling legislation would need to be drafted to give effect to the model—this would impact the timing of establishing a new body

**Observations**

**Accountability**

- This model includes roles for the Executive and Parliamentary representatives.
- The lines of accountability within the model are complex and imprecisely drawn—the chain of command and reporting arrangements are not clear, and it is not clear if this model is consistent with the principles of responsible government.
- It is usual practice for government entities to report to existing parliamentary committees through the parliamentary estimates process. There are no examples of parliamentary committees having oversight of functions similar to DNRME’s safety and health function.
- The independent statutory advisory committees are to be abolished under this model, with their functions transferred to the board. This arrangement may weaken, or be perceived to weaken, accountability and independence.
- The representational composition of the board of directors may not offer the optimum arrangements for assuring high standards of governance, and may be subject to perceived or actual factionalism.
- The quorum arrangements for the board of directors may require attention—as presently drafted it appears that 4 votes (of 15) could be sufficient for a binding decision. Again, this may lead to perceived or actual factionalism becoming an issue.
• There is potential for a conflict of interest between the Commissioner’s proposed role as chair of the board and the operational role for the Commissioner, including initiating legal proceedings.

• Due to the proposed functions of the Commissioner, there may be a potential conflict if the Commissioner undertakes audit and review functions for the authority. External auditing and review mechanisms may be required to ensure accountability.

Effectiveness

• The entity and enabling legislation would be created in tandem, meaning there should be a good match between the objects of legislation and the design of the regulator to enable delivery.

• The authority would focus on the function of regulating resources safety and health. The authority would not be subject to competing priorities.

• This model, as outlined in the draft exposure Bill, is not fully formed and raises a number of issues important for the effective operation of the regulator. For example, the Bill does not define ‘resource industry workers’, leading to potential confusion and overlap with the Work Health and Safety Act 2011.

• The proposed relocation of staff to Mackay does not take into consideration the full range of services of the regulator (e.g. petroleum & gas).

• In terms of a Mackay relocation, it is not clear whether the regulator would be able to attract and retain sufficient numbers of appropriately qualified and experienced staff in a regional base.

• Fixing Mackay as the location of the regulator in the Act could impede the government’s ability to respond quickly to changed circumstances, including emergency situations such as a natural disaster.

Efficiency

• This model provides for an independent regulator, which would generally have the capacity to respond flexibly to emerging needs and be free from competing priorities.

• A standalone body cannot draw on additional local resource to meet emerging needs.

• The creation of a new authority would require significant additional investment in terms of accommodation and tertiary support staff (human resources, legal, finance and communications).

• The model proposed does not include the Petroleum and Gas or Explosives inspectorates. If these functions do not transfer to a new body, significant duplication would occur, with associated cost increases.

• It is not clear if the existing Board of Examiners currently operating within the inspectorates would continue.

• The model requires the creation of another parliamentary committee in addition to the existing portfolio committee.

• There may be a potential overlap with the proposed functions of the authority and the Office of Industrial Relations regarding administering the Coal Workers’ Health Scheme. This would need to be clarified.

• Creating a statutory body may divert time and resources from resources safety and health and DNRME while the transition to the new model is organised.

• The Independent Review in 2008–09 recommended the reduction of a number of government boards, committees and bodies. There would need to be sufficient justification
to determine that a new statutory body is required. Requirements outlined in the Queensland Government Public Interest Map Policy would also need to be met (i.e. there is a public interest case for its establishment and this body is the most suitable organisational form).

Transparency

- This model proposes the establishment of the authority under a specific piece of enabling legislation, which would provide certainty around the objectives of the entity.
- It is not clear how the model provides additional or improved transparency when compared to current arrangements.
- The model does not provide for mechanisms to enable public reporting of the authority’s progress against objectives.

Independence

- This model provides for a standalone legal entity with no connection to the economic facilitation arm of mining (i.e. DNRME). This would provide for independence and may address concerns around perceived or actual regulatory capture.
- It is not clear whether the model offers improved independence of the regulator, when compared with current arrangements.

Public confidence

- The risk of perceived regulatory capture ought to be low given increased distance between the entity and economic and political interests.
- The structure of the authority is complex and may not be easily understood. There is a risk that confusion over accountability and responsibility would damage public confidence.
Option 2: A standalone statutory entity

Overview

Option 2 proposes the establishment of a new standalone statutory entity, separate and independent of DNRME.

This option presents a governance structure encompassing roles for a Minister, a Chief Executive and advisory committees, with the usual oversight provided by a portfolio parliamentary committee.

Advisory committees would continue to provide strategic advice to the Minister and would be chaired by an independent person appointed by the Minister. Related committees such as the Board of Examiners would continue.

This option represents a recognised model of an independent entity, such as that employed by the Australian Human Rights Commission, with the addition of body corporate status.

A separate Commissioner’s role to the Chief Executive is not proposed. Monitoring and review functions are currently available within existing government structures and independent statutory offices. The Queensland Auditor-General undertakes financial audits annually of public sector entities, unless an entity is specifically exempted. The Auditor-General may also conduct a performance audit of all or any particular activities of a public sector entity. This includes whether organisational objectives are being achieved economically, efficiently and effectively.

Additionally, an agency may request an external auditor to undertake an independent audit of any of the agency's functions. Furthermore, the Queensland Ombudsman on complaint (from any source) may undertake an independent investigation of administrative actions of agencies. The relevant parliamentary committee is also responsible for assessing the public accounts of each department within its portfolio in regard to integrity, economy, efficiency and effectiveness of financial management and may initiate an inquiry into any matter it considers appropriate within its portfolio area.
## Option 2: A standalone statutory entity

| Type of body | • Standalone statutory entity  
| | • Reports to a Minister  
| | • Oversight by an existing portfolio parliamentary committee |

| Governance structure | • Minister  
| | • Chief Executive (CEO or Commissioner)  
| | • Office of Chief Executive (including corporate services)  
| | • Structure to be determined by Chief Executive (i.e. inspectorates, technical services and research, Coal Mine Workers’ Health Scheme, health surveillance and corporate functions)—the structure of the statutory body would not be provided for in legislation  
| | • Advisory committees |

| Characteristics of governance arrangements | Structure  
| | • Chief Executive (CEO or Commissioner)  
| | • Office of Chief Executive (including corporate services)  
| | • Inspectorates regulating all resources safety and health issues (coal mines, mineral mines and quarries, petroleum and gas and explosives)  
| | • Technical services and research  
| | • Coal Mine Workers’ Health Scheme  
| | • Health surveillance |

| | Chief Executive  
| | • Responsible for the functions and performance of agency  
| | • Reports to the Minister on policy matters (not operational issues)  
| | • Independent on operational matters  
| | • Appointed by the Minister |

| | Minister  
| | • Responsible for oversight of the agency  
| | • May request information from the Chief Executive  
| | • No power to give written direction |

| | Advisory committees  
| | • Existing advisory committees to continue (CMSHAC and MSHAC)—potential review of functions, roles and membership  
| | • Chaired by an independent person appointed by the Minister  
| | • Minister/Chief Executive to determine additional committees (e.g. dust committee or medical advisory committee) |

| | Audit and performance functions  
| | • Queensland Audit Office or an external auditor—financial and performance audits of public sector entities |

| | Monitor and review functions  
| | • Queensland Ombudsman to investigate administrative actions of agencies upon complaint, on reference from Parliament or on the Ombudsman’s own initiative |
Option 2: A standalone statutory entity

<table>
<thead>
<tr>
<th>Miscellaneous matters</th>
</tr>
</thead>
<tbody>
<tr>
<td>• No prescribed location for head office</td>
</tr>
<tr>
<td>• Staff appointed under the <em>Public Service Act 2008</em></td>
</tr>
<tr>
<td>• New enabling legislation would need to be drafted to give effect to the model—this would impact the timing for establishing a new body</td>
</tr>
<tr>
<td>• Legislative provisions should enable the regulator to adapt and respond to changes in the industry environment</td>
</tr>
</tbody>
</table>

Observations

Accountability

• This model provides for a clear line of sight from the entity to the Executive and on to Parliament.
• The entity is accountable to a parliamentary committee through existing processes.
• A Chief Executive responsible for the statutory body and reporting directly to the Minister and Parliament provides clarity in reporting and responsibilities.
• This model replicates some of the features proposed by the CWP Select Committee, with reporting lines from the entity through to the Minister.
• The model proposes that the Chief Executive must report to the Minister on policy matters, which may lead to the perception of political pressure being exerted upon the entity.
• The Minister’s role and interaction with the statutory body and Chief Executive would need to be considered carefully to balance responsible government with sufficient independence, particularly on operational matters.
• The Independent Review in 2008–09 recommended the reduction of a number of government boards, committees and bodies. There would need to be sufficient justification to determine a new statutory body is required. Requirements outlined in the Queensland Government Public Interest Map Policy would also need to be met (i.e. there is a public interest case for its establishment and this body is the most suitable organisational form).

Effectiveness

• The creation of a statutory body enables the body to focus on its function of regulating resources safety and health. The body would not be subject to competing priorities.
• The entity and enabling legislation would be created in tandem, meaning there should be a good match between the objects of legislation and the design of the regulator.
• The retention of advisory committees provides for independent advice and expertise to be provided to the Minister.
• It is not clear how the model provides additional or improved effectiveness over existing arrangements.

Efficiency

• An independent regulator would generally have the capacity to respond flexibly to emerging needs and be free from competing priorities.
• This model anticipates that the Mineral Mines and Quarries, the Petroleum and Gas and the Explosives inspectorates would be included within the entity, minimising overlap.
• A standalone body cannot draw on additional local resources to meet emerging needs.
• The creation of a new entity would require significant additional investment in terms of accommodation and tertiary support staff (human resources, legal, finance and communications).
• Creating a statutory body may divert time and resources from resources safety and health and DNRME while the transition to the new model is organised.

Transparency
• A specific piece of enabling legislation would provide certainty around entity objectives.
• The Queensland Audit Office and Queensland Ombudsman would provide monitoring and review functions, achieving transparency and a mechanism to publicly report on how the entity is performing against the objectives.
• It is not clear how this proposed model provides additional or improved transparency over existing arrangements.

Independence
• A standalone legal entity, legally constituted as separate from DNRME, would provide independence and may address concerns around perceived or actual regulatory capture.
• The Chief Executive would be required to report to the Minister on policy issues, not operational matters.
• It is not clear whether this proposed model offers improved independence of the regulator, when compared with current arrangements.

Public Confidence
• The risk of perceived regulatory capture ought to be low given increased distance between the entity and economic and political interests.
• Clarity, simplicity and familiarity of this model may inspire greater trust.
• Public confidence is derived from effective service delivery. There is a risk that if service delivery arrangements were unchanged, public confidence would be unmoved.
Option 3: A division within a department or agency

Overview

Option 3 proposes the establishment of the regulator within an existing governmental structure. Importantly, the model does not prescribe the government department or agency in which the regulator is placed, noting this may reflect the existing arrangements. This model may create a new entity separate and independent of DNRME, or provide an amendment to current arrangements, to ensure an appropriate separation from business units responsible for promoting and supporting the industry.

A separate Commissioner’s role to the Chief Executive is not proposed. Monitoring and review functions are currently available within existing government structures and independent statutory offices. The Queensland Auditor-General undertakes financial audits annually of public sector entities, unless an entity is specifically exempted. The Auditor-General may also conduct a performance audit of all or any particular activities of a public sector entity. This includes whether organisational objectives are being achieved economically, efficiently and effectively. Additionally, an agency may request an external auditor undertake an independent audit of any of the agency’s functions. Furthermore, the Queensland Ombudsman on complaint (from any source) may undertake an independent investigation of administrative actions of agencies. The relevant parliamentary committee is also responsible for assessing the public accounts of each department within its portfolio in regard to integrity, economy, efficiency and effectiveness of financial management and may initiate an inquiry into any matter it considers appropriate within its portfolio area.

Advisory committees would continue to provide strategic advice to the Minister and would be chaired by an independent person appointed by the Minister.
<table>
<thead>
<tr>
<th>Option 3: A division within a department or agency</th>
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</thead>
<tbody>
<tr>
<td><strong>Type of body</strong></td>
</tr>
<tr>
<td>• Division within a department or agency</td>
</tr>
<tr>
<td>• Report to the Chief Executive of the department or agency and the Minister</td>
</tr>
<tr>
<td><strong>Governance structure</strong></td>
</tr>
<tr>
<td>• Minister</td>
</tr>
<tr>
<td>• Chief Executive of department or agency</td>
</tr>
<tr>
<td>• Safety and health regulator—executive (Deputy Director-General or Executive Director)</td>
</tr>
<tr>
<td>• Structure to be determined by executive (i.e. inspectorates, technical services and research, Coal Mine Workers’ Health Scheme, health surveillance)—the structure would not be provided for in legislation</td>
</tr>
<tr>
<td>• Advisory committees</td>
</tr>
<tr>
<td>• Corporate services to be provided by the department or agency</td>
</tr>
<tr>
<td><strong>Characteristics of governance arrangements</strong></td>
</tr>
<tr>
<td><strong>Structure</strong></td>
</tr>
<tr>
<td>• Minister</td>
</tr>
<tr>
<td>• Chief Executive of department or agency</td>
</tr>
<tr>
<td>• Executive of resources safety and health regulator (Deputy Director-General or Executive Director)</td>
</tr>
<tr>
<td>• Structure to be determined by the Chief Executive or regulator (i.e. inspectorates, technical services and research, Coal Mine Workers’ Health Scheme and health surveillance)</td>
</tr>
<tr>
<td><strong>Minister</strong></td>
</tr>
<tr>
<td>• Responsible for oversight of the department or agency</td>
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<tr>
<td>• May request information from the department or agency</td>
</tr>
<tr>
<td><strong>Resources safety and health regulator</strong></td>
</tr>
<tr>
<td>• Responsible for the functions and performance of division</td>
</tr>
<tr>
<td>• Reports to the Chief Executive of the department or agency and the Minister</td>
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<td>• Appointed by the Chief Executive</td>
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<td><strong>Advisory committees</strong></td>
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<td><strong>Monitor and review functions</strong></td>
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</tr>
</tbody>
</table>
Option 3: A division within a department or agency

| Miscellaneous matters | • Co-located with existing department and agency  
|                       | • Staff appointed under the Public Service Act 2008  
|                       | • Use of department or agency corporate services (i.e. information technology, finance, human resources, legal, communications)  
|                       | • If the regulator were to be located in a department or agency other than DNRME, a machinery-of-government change would be required to give effect to the new model—additional legislative amendments would be required to existing legislation to give effect to the model (i.e. review and monitoring functions) |

Observations

Accountability

• There is a clear line of sight from the division to the Executive and on to Parliament.

• The regulator would be accountable to the parliamentary committee responsible for the department or agency within which the regulator is located (not necessarily DNRME).

• This is a modification of the model currently operating in Queensland and, therefore, criticism of the current regulatory system would likely persist. However, this model does allow for the division to be moved out of DNRME and for independent oversight by the Queensland Audit Office and Queensland Ombudsman.

• As the regulator reports to the Chief Executive of the department or agency as well as the Minister, there is less clarity in reporting lines and greater potential for real or perceived interference.

• The Minister’s role and interaction with the regulator and the department or agency would need to be considered carefully to balance responsible government and provide the division with sufficient independence, particularly on operational matters.

Effectiveness

• The retention of independent advisory committees provides for independent advice and expertise to be provided to the Executive and Minister.

• As this is a very close match to existing arrangements, it is not clear how the model proposed provides additional or improved effectiveness over the status quo.

• If the regulator operates in a department or agency that is not within the mining portfolio or does not report to a minister responsible for mining, the Chief Executive or the Minister may not have knowledge, understanding or experience in resources safety matters.

Efficiency

• Establishing the regulator as a division of a department or agency would enable access to existing corporate functions and resources, creating efficiencies and improving cost-effectiveness.

• This model avoids the need to create an entirely new entity, representing significant efficiencies in accommodation and tertiary support staff costs (human resources, legal, finance and communications).
• The regulator may be subject to competing priorities and resourcing of the department or agency and may have reduced capacity to respond flexibly to emerging needs.
• Moving the regulator to another department or agency would divert time and resources from the regulator while the transition to the new model is organised.

Transparency
• Existing legislation provides clarity around the objectives of the entity.
• The Queensland Audit Office and Queensland Ombudsman would provide monitoring and review functions.
• Although there is information currently available to help identify the objectives of the regulator and its progress against those objectives, it is possible that the largely departmental structure serves to alienate some stakeholders, limiting the effectiveness of transparency efforts.

Independence
• The structure allows for a specific resources safety and health regulator, separate from the rest of the department or agency and focused on carrying out its functions and exercising its powers. This would achieve a level of independence and may address concerns regarding potential regulatory capture.

Public confidence
• This is a well-known model with no major changes, other than the addition of improved independent audit and review provided by the Queensland Audit Office and Queensland Ombudsman, which may improve public confidence.
• There is a particular risk that this model does not go far enough to be seen to be addressing past failings.
• If the regulator operates within the department responsible for mining this may not address concerns regarding potential regulatory capture. While no evidence of impropriety has been found within the existing system, the perception of regulatory capture may be enough to undermine public confidence in the division.
• If the regulator operates in a department or agency that is not within the mining portfolio or does not report to a minister responsible for mining, this may impact on the credibility of the regulator and public expectation.
Option 4: A combined Work Health and Safety and Resources Safety and Health regulator

Overview

Option 4 proposes the establishment of a regulator with responsibility for work health and safety and resources safety and health within the existing governmental structure.

This model would create a new entity within the Office of Industrial Relations under the Minister responsible for work health and safety. Advisory committees would continue to provide strategic advice to the Minister and would be chaired by an independent person appointed by the Minister.

A separate Commissioner's role to the Chief Executive is not proposed. Monitoring and review functions are currently available within existing government structures and independent statutory offices. The Queensland Auditor-General undertakes financial audits annually of public sector entities, unless an entity is specifically exempted. The Auditor-General may also conduct a performance audit of all or any particular activities of a public sector entity. This includes whether organisational objectives are being achieved economically, efficiently and effectively. Additionally, an agency may request an external auditor undertake an independent audit of any of the agency's functions. Furthermore, the Queensland Ombudsman on complaint (from any source) may undertake an independent investigation of administrative actions of agencies. The relevant
A parliamentary committee is also responsible for assessing the public accounts of each department within its portfolio in regard to integrity, economy, efficiency and effectiveness of financial management and may initiate an inquiry into any matter it considers appropriate within its portfolio area.

### Option 4: A combined Work Health and Safety and Resources Safety and Health regulator

| Type of body | Combined safety and health regulator (work health and safety and resources safety and health)  
|             | An entity within the Office of Industrial Relations  
|             | Reports to the Director-General of department  
|             | Reports to the Minister responsible for work health and safety |

| Governance structure | Minister responsible for work health and safety  
|                      | Director-General of department  
|                      | An entity within the Office of Industrial Relations  
|                      | Resources safety and health executive  
|                      | Structure to be determined by the Director-General (i.e. inspectorates, technical services and research, Coal Mine Workers’ Health Scheme, health surveillance)—the structure would not be provided for in legislation  
|                      | Advisory committees  
|                      | Corporate services to be shared with the department  
|                      | Option for prosecution/investigations/licensing to be combined and streamlined |

| Characteristics of governance arrangements | Structure  
|                                           | Minister responsible for work health and safety  
|                                           | Director-General of department  
|                                           | Deputy Director-General, Office of Industrial Relations  
|                                           | Structure to be determined by Director-General (i.e. inspectorates, technical services and research, Coal Mine Workers’ Health Scheme, health surveillance)  
|                                           | Minister  
|                                           | Responsible for oversight of the department  
|                                           | May request information from the department  
|                                           | Safety and health regulator  
|                                           | Responsible for the functions and performance across work health and safety and resources safety and health  
|                                           | Reports to the Director-General of the department and the Minister  
|                                           | Appointed by the Director-General  
|                                           | Advisory committees  
|                                           | Existing advisory committees to continue (CMSHAC and MSHAC)—potential review of functions, roles and membership  
|                                           | Audit and performance functions  
|                                           | Queensland Audit Office to perform financial and performance audits of public sector entities |
Option 4: A combined Work Health and Safety and Resources Safety and Health regulator

<table>
<thead>
<tr>
<th>Monitor and review functions</th>
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<tbody>
<tr>
<td>• Queensland Ombudsman to investigate administrative actions of agencies upon complaint, on</td>
</tr>
<tr>
<td>reference from Parliament or on the Ombudsman’s own initiative</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Miscellaneous matters</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Co-located with the Office of Industrial Relations within a relevant department</td>
</tr>
<tr>
<td>• Staff appointed under the Public Service Act 2008</td>
</tr>
<tr>
<td>• Use of department corporate services (i.e. information technology, finance, human resources,</td>
</tr>
<tr>
<td>legal, and communications)</td>
</tr>
<tr>
<td>• Machinery-of-government changes would be required to give effect to this model</td>
</tr>
<tr>
<td>• Additional legislative amendments would be required to existing legislation to give effect</td>
</tr>
<tr>
<td>to the model (i.e. review and monitoring functions)</td>
</tr>
</tbody>
</table>

Observations

Accountability

- There is a clear line of sight from the regulator to the Executive and on to Parliament.
- The regulator would be accountable to the relevant parliamentary committee.
- The model has a longer chain of command structure than options 2 and 3, potentially impacting accountability.
- The Minister’s role and interaction with the regulator and the department would need to be considered carefully to balance responsible government with sufficient independence, particularly on operational matters.

Effectiveness

- Clarity of focus is likely across the functions of the regulator.
- The retention of independent advisory committees provides for independent advice and expertise to be provided to the Executive.
- It is not clear if this model provides real improvements in effectiveness compared with current arrangements.

Efficiency

- As a part of a department, there would be potential to draw on additional local resources to meet emerging needs.
- Efficiencies may arise by utilising a range of resources focused on workplace safety.
- This model avoids the need to create an entirely new entity, representing significant efficiencies in accommodation and tertiary support staff costs (human resources, legal, finance and communications).
- In an entity in which all staff are concerned with health and safety, there is likely to be increased transferable skills to provide support.
- Practices and processes would need to be in place to ensure regulatory focus on mining safety is retained and not diminished by broader work health and safety issues.
• Moving the regulator to another department would divert time and resources from the regulator while the transition to the new model is organised.

Transparency
• The regulator would have a clear focus on health and safety across all industry sectors.
• Existing legislation provides clarity around the objectives of the regulator.
• The Queensland Audit Office and Queensland Ombudsman would provide monitoring and review functions.
• As with Option 3, it is possible that a departmental structure of this form may be seen as less transparent.

Independence
• The structure allows for a regulator with the singular focus of safeguarding workers’ health and safety. Two specific units (work health and safety and resources safety and health) are proposed, although the structure of the organisation would be determined by the Director-General.
• This model may reduce the risk of regulatory capture by being independent of the department promoting the resources sector.
• There is a possibility that work health and safety and resources safety and health could compete for departmental resources.

Public confidence
• This is a well-known model with no major changes, other than the addition of improved independent audit and review provided by the Queensland Audit Office and Queensland Ombudsman, which may improve public confidence.
• The co-location of functions with responsibility for health and safety may aid public understanding of those functions and send a clear message that the administration of workplace safety across all industry sectors is centralised in a single entity.
• There is a risk that this model does not go far enough to be seen to be addressing past failings.
Have your say

Stakeholders are invited to submit comments on the four options for a resources safety and health regulator model outlined in this discussion paper.

Feedback is requested on whether:

- each model achieves an appropriate level of accountability, effectiveness, efficiency and transparency
- each model achieves an acceptable level of independence and public confidence
- there are changes that could be made to improve these models

The following focus papers are available on the Project Management Office website:

- Focus Paper 1: Overview of governance arrangements for public authorities
- Focus Paper 2: Proposed location of the regulator in Mackay
- Focus Paper 3: Simtars fee for service review

How to make a submission


Submissions can also be made by completing the stakeholder feedback form available on the Project Management Office website for each option in this discussion paper 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 27 April 2018

For more information, visit www.business.qld.gov.au or call 07 3199 8022.
Appendix 1: CWP Select Committee recommendations relating to a regulator model

**Recommendation 1:** There should be a truly independent Mine Safety and Health Authority, established as a statutory authority and body corporate, with responsibility for ensuring the safety and health of mining and resource industry workers in Queensland.

**Recommendation 2:** The Mine Safety and Health Authority should be established under its own legislation as a ‘unit of public administration’ for the purposes of the *Crime and Corruption Act 2001* and a ‘public authority’ for the purposes of the *Right to Information Act 2009*.

**Recommendation 3:** The Mine Safety and Health Authority should be governed by a board of directors, chaired by the Commissioner for Mine Safety and Health, and including representation of:
- coal mine operators
- metalliferous mine operators
- unions
- resources transportation and ports, and
- persons independent of the mining industry (including resources transportation and ports).

**Recommendation 4:** A parliamentary committee should oversee and monitor the operation of the Mine Safety and Health Authority. The Minister should be required to consult with the parliamentary committee regarding the appointment of the Commissioner and Board.

**Recommendation 5:** The Mine Safety and Health Authority should be established in Mackay, ensuring the Commissioner, senior management, Mines Inspectorate, Coal Workers’ Health Scheme, and mobile units are all based in central Queensland.

**Recommendation 6:** The Commissioner for Mine Safety and Health should be a senior officer of the Mine Safety and Health Authority and given proper statutory independence, with the Commissioner not subject to the direction of the Minister.

**Recommendation 7:** The Mines Inspectorate, currently within DNRM should be administratively relocated within the Mine Safety and Health Authority, ensuring statutory and administrative independence from DNRM.

**Recommendation 8:** The Commissioner should have an express power to direct inspectors, including the chief inspector, inspection officers and authorised officers, in relation to the investigation of a possible offence or offences against the mining safety and health Acts.

**Recommendation 9:** The occupational hygiene services currently offered by SIMTARS on a fee for service basis should be discontinued. The officers who currently provide those services should be redeployed to the Mine Safety and Health Authority to undertake research and/or occupational hygiene inspection activities within the inspectorates.

**Recommendation 61:** The Coal Mining Safety and Health Advisory Committee and similar committees established under the mining safety and health Acts should be abolished and their statutory functions transferred to the Board of the Mine Safety and Health Authority.