

# Chapter 4

## Recommendations

4.1 The committee was pleased to receive many submissions with considered recommendations aimed at providing a comprehensive response to the re-emergence of CWP. The committee supports many of these recommendations, and in a number of cases, the committee has adopted the recommendations. This chapter provides a discussion of the committee's final recommendations, in light of the findings detailed in Chapter 3.

4.2 The committee's recommendations are grouped according to the importance and immediacy of the required actions:

- reduction in coal dust exposure and improved coal dust monitoring;
- more rigorous and regular medical screening for CWP; and
- more rigorous coal dust regulation.

4.3 The recommendations are grouped into immediate and medium-term actions. This reflects the committee's concern that immediate action can and must be taken to protect the health of coal mine workers in order to halt the incidence of CWP.

### **Reduced coal dust exposure and improved coal dust monitoring**

#### *Immediate actions*

4.4 CWP is a preventable disease. It is caused by exposure to hazardous levels of coal dust. For 30 years it has been thought that CWP was eradicated in Australia, but the eight cases diagnosed since mid-2015 have demonstrated that coal mine safety standards in Queensland, and possibly throughout Australia, are currently inadequate.

4.5 The committee believes that the health and safety of coal mine workers must be given the highest priority in any response to the re-emergence of CWP. The committee stresses the need for measures that immediately eliminate workers' exposure to harmful levels of coal dust.

4.6 The committee is concerned by evidence which demonstrates that coal miners' exposure to damaging levels of dust continues unabated, particularly where mining companies undertake longwall mining in order to increase productivity. The committee is also concerned that data on the incidence of mine workers' exposure to damaging levels of coal dust is unavailable because mines have failed to sufficiently monitor and report dust levels. The committee is equally concerned by mining companies' ineffective dust control measures, and is greatly concerned by the ineffective regulation which has allowed these problems to continue without impediment.

4.7 As noted in Chapter 3, there is no nationally agreed or statutory coal dust exposure limit for coal mines. Without an upper national exposure limit for coal dust levels, any efforts to reduce coal dust or workers' exposure will be futile. Likewise without an acceptable industry standard for safe coal dust levels, any attempt to

mitigate the production of, and exposure to, coal dust will lack rigour, and will not afford adequate protection to coal workers across Australia. While there is no national body responsible for monitoring mine safety, Safe Work Australia has the capacity to develop an interim national standard. Such a national standard should then be incorporated into all mine safety legislation.

4.8 Until a national dust exposure standard has been agreed upon and implemented nationally, the currently harmful coal dust levels will continue to threaten the health of Australian coal miners. So, as the current Queensland Acting Chief Inspector of Mines, Mr Russell Albury, advised in his evidence to the committee, ‘if a person is in an unsafe position then they have the right to and should withdraw from that position’.<sup>1</sup> The committee understands this to mean that if a Queensland coal worker becomes aware that the level of coal dust has reached or exceeded the Queensland regulated standard, they have the right to leave that area for a safe area, without any detriment to their pay or conditions.<sup>2</sup>

4.9 Lack of a national dust exposure level is indicative of the wider problem highlighted by the re-emergence of CWP; that is the lack of Commonwealth-led response to this issue. The committee believes that leadership by the Commonwealth Government is essential if Australia is to respond effectively to the re-emergence of CWP.

4.10 As discussed in Chapter 3, up until quite recently, the Commonwealth Government had actively participated in the development of health and safety standards for the mining sector through the NMSF. Implementation of the NMSF has been protracted and the Commonwealth Government’s engagement with the states on implementing nationally consistent mine safety legislation eventually devolved from the COAG Ministerial level to departmental officials in 2013.

4.11 The committee considers that the re-emergence of CWP demands a strong response, and therefore recommends that the Commonwealth Government take the lead by establishing a National Coal Dust Monitoring Group.

### **Recommendation 1**

**4.12 The committee recommends that the Commonwealth Government establish a National Coal Dust Monitoring Group comprised of representatives from mining companies, state governments, technical experts and industry stakeholders such as mining unions, and that it urgently undertake an analysis as to the cause of the serious and widespread breaches of dust mitigation measures in the industry. Following the analysis, the National Coal Dust Monitoring Group should develop and implement a work program for effective coal dust mitigation measures aimed at the immediate reduction of coal mine workers' exposure to harmful levels of coal dust.**

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1 Mr Russell Albury, Acting Chief Inspector of Mines, Queensland, *Committee Hansard*, 23 March 2016, p. 55.

2 See Mr Russell Albury, Acting Chief Inspector of Mines, Queensland, *Committee Hansard*, 23 March 2016, p. 55; and CFMEU, Submission 199.

**4.13** The committee recommends that Safe Work Australia reviews current coal dust exposure levels and the current Australian and international academic and industry literature on the safest possible workable threshold for exposure to coal dust, with a view to developing a best practice national maximum exposure level. Safe Work Australia should report its findings to the National Coal Dust Monitoring Group, including whether the exposure level should be measured as a dust load of milligrams per tonne of coal cut, as distinct from time weighted averages for exposure.

**4.14** The committee recommends that all Australian States and Territories adopt the national standard for coal dust exposure. The standard would then be subject to regular review by the National Coal Dust Monitoring Group, with the review being based on dust reading and disease data provided by the mine regulators in Australian jurisdictions.

**4.15** The committee also recommends that in the short-term, coal mining companies adopt the lowest Australian level ( $2.5 \text{ mg/m}^3$ ) for coal dust exposure until a national standard has been agreed upon and implemented with a more rigorous, independent testing regime instigated as soon as practical in Queensland.

**4.16** The committee recommends that until the national standard has been developed and adopted, state governments advise mining companies that coal workers should be withdrawn from areas subject to unsafe dust levels without penalty. In addition, the Queensland government and the Department of Natural Resources and Mines should instigate a process of formal warnings followed by naming in a public register for non-compliant companies, along with additional sanctions for non-compliance.

**4.17** The committee recommends that mining companies operating in Queensland, in consultation with the Queensland Government, technical experts and industry stakeholders, urgently employ more effective coal dust mitigation measures to immediately reduce coal mine workers' current exposure to coal dust.

**4.18** Evidence before the Committee makes clear that there is inconsistent and sometimes non-existent dust monitoring in Queensland coal mines. Without adequate coal dust monitoring systems, it is impossible to guarantee that workers are currently protected from exposure to hazardous levels of coal dust.

**4.19** Evidence before the committee also indicates that the current Queensland regulatory system is ineffective in setting proper controls for dust monitoring because the mines operate in a largely self-regulated landscape as a result of previous government legislation. While the committee notes that changes to previous legislation can take time, immediate action must be taken by the Queensland Government to protect Queensland coal mine workers, and to require more thorough dust monitoring and control measures.

**4.20** One of the issues highlighted by the CFMEU regarding dust monitoring was that the compliance and enforcement regime in Queensland is opaque. The CFMEU

advocated for improved transparency about mine safety including the identity of the mines inspected, dust testing results, and any compliance directions issued by the Chief Inspector of Coal Mines. This argument is supported by the committee's findings in Chapter 3 regarding the mine Directives issued by the Mines Inspectorate as part of its compliance regime.

4.21 University of Wollongong researchers Drs Plush, Aziz, and Ren argued in their 2011 research paper that the mining industry in Australia should have a database of best practice dust suppression techniques and management of dust sampling data.

4.22 The committee supports this suggestion, given that such a database would contribute towards ensuring the use of best practice techniques in coal mines Australia wide.

4.23 NSW Coal Services explained that under the NSW model, dust control is seen as 'the true prevention focus' for NSW Coal Services and their stakeholders.<sup>3</sup> Ms Lucy Flemming, CEO of NSW Coal Services told the committee that:

The dust requirements in New South Wales are pursuant to the regulation which prescribes monitoring requirements for respirable dust, including specific locations and frequencies of that dust monitoring. It is actually very highly regulated. That regulation also directs us to be independent of the mine and we must be licensed by the New South Wales Department of Industry, Division of Resources and Energy. If we do measure any dust exceedances, there must be resampling and corrective action taken.<sup>4</sup>

4.24 Ms Flemming explained that when conducting dust monitoring, NSW Coal Services is empowered to travel into the mines to the coalface and provide immediate advice and corrective action on dust control:

Getting down to their expertise, the occupational hygiene team have a very broad level of skills, incorporating actual hygienists, specialist laboratory technicians and coal industry experienced inspectors. We actually have ex-coalminers on staff being able to monitor dust and also provide educational assistance as they go. Being an effective licensed provider in doing dust monitoring is more than just being able to apply a personal dust monitor to a worker and being a NATA [National Association of Testing Authorities] accredited laboratory. Our inspectors actually go underground with the miners. They travel underground with the mining crew to conduct the actual dust monitoring and are able to observe any operational practices. They are able to audit control measures and provide on the spot guidance and education to the coalminers underground. If we see something that is not quite right, we can give on-the-spot advice and assistance to make that worker safer and stand out of the dust. We work collaboratively with the mine management to help monitor the effectiveness of improvement

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3 Ms Lucy Flemming, CEO, NSW Coal Services, *Committee Hansard*, 8 March 2016, p. 10.

4 Ms Lucy Flemming, CEO, NSW Coal Services, *Committee Hansard*, 8 March 2016, p. 10.

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opportunities or any corrective actions that have been implemented to rectify any exceedances detected.<sup>5</sup>

4.25 Graph 1 provided to the committee in NSW Coal Services's submission is proof that NSW's regulatory scheme works.

4.26 By comparison, Graph 2, which is reported in the Queensland Commissioner for Mines Safety and Health, Queensland Mines Inspectorate Annual Performance Report 2014-15, is proof that the Queensland system has resulted in workers being exposed to hazardous levels of dust.

4.27 The committee considers that there cannot be effective monitoring and mitigation of coal dust without a focus on prevention of dust diseases such as CWP embedded in legislation. In NSW, the focus on prevention and mitigating of dust levels is a core part of the work of NSW Coal Services. The opposite is true of the Queensland regime, where, as noted in Chapter 2, monitoring arrangements are result of previous governments legislation, is the responsibility of the mining companies. The DNRM only provides light-touch oversight and reporting on compliance.

4.28 Given their role in providing a safe system of work for coal miners, the committee was disappointed that witnesses from the Queensland Resources Council, Vale Australia, Anglo American Coal, and the DNRM were unfamiliar with the conclusions of Drs Plush, Ren, and Aziz's 2011 research paper, chiefly, that dust controls in longwall mining could be greatly improved.

4.29 The committee also notes that Professor Sim's interim report, part of his review of the CWHS, emphasises the need for the prevention of coal dust exposure:

The review team would like to emphasise medical surveillance of CMDLD [coal mine dust lung disease] is only useful for secondary prevention and identifying where there may have been excessive coal mine dust exposure. However, because of the long latency in the development of CMDLD, it is not a substitute for primary prevention, which should be in the form of coal mine dust monitoring and control.<sup>6</sup>

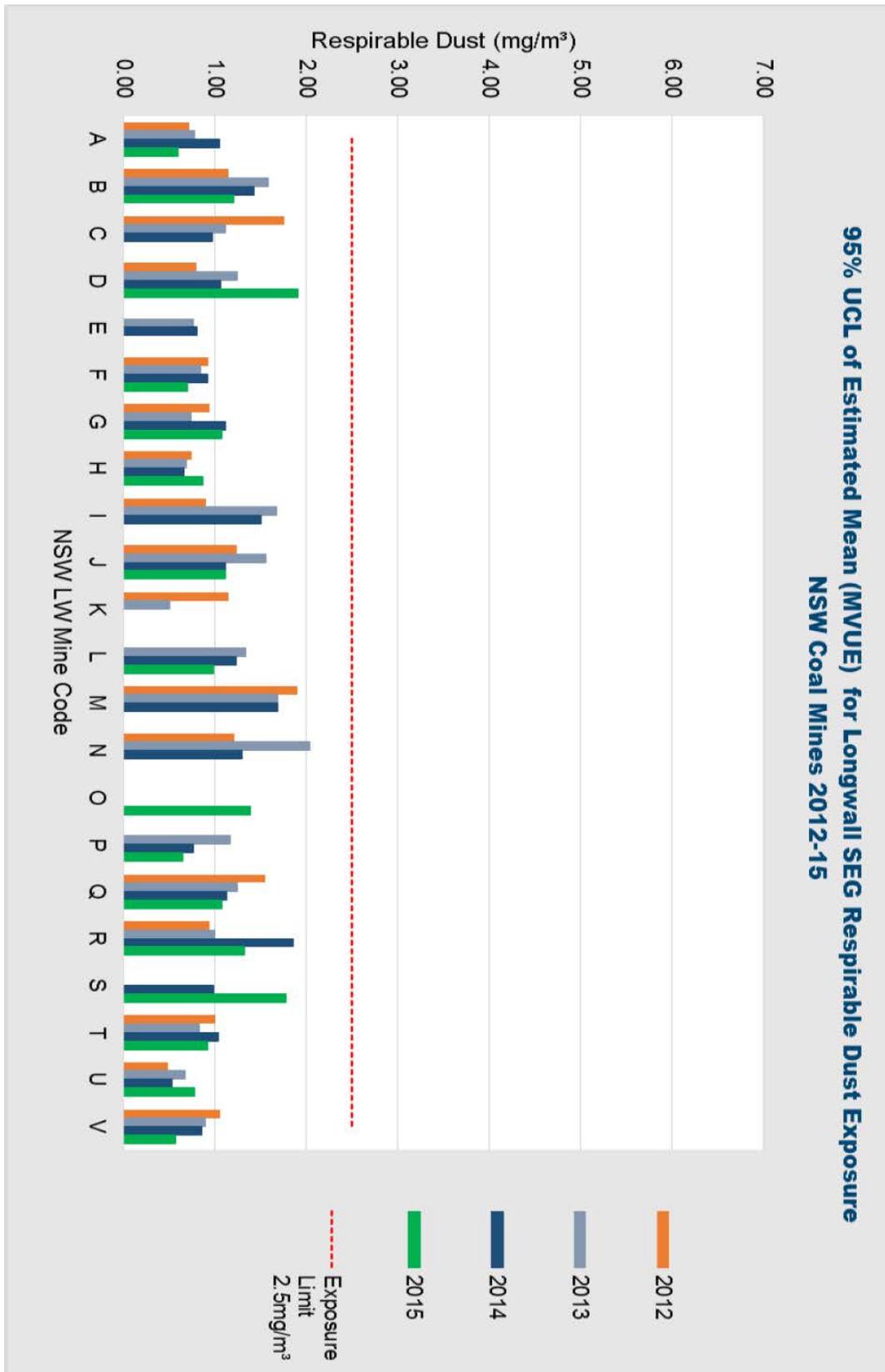
4.30 The committee urges the Queensland Government to review the NSW Coal Services model with a view to strengthening the protection for mine workers in the Queensland mining legislation.

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5 Ms Lucy Flemming, NSW, Coal Services, *Committee Hansard*, 8 March 2016, p. 10.

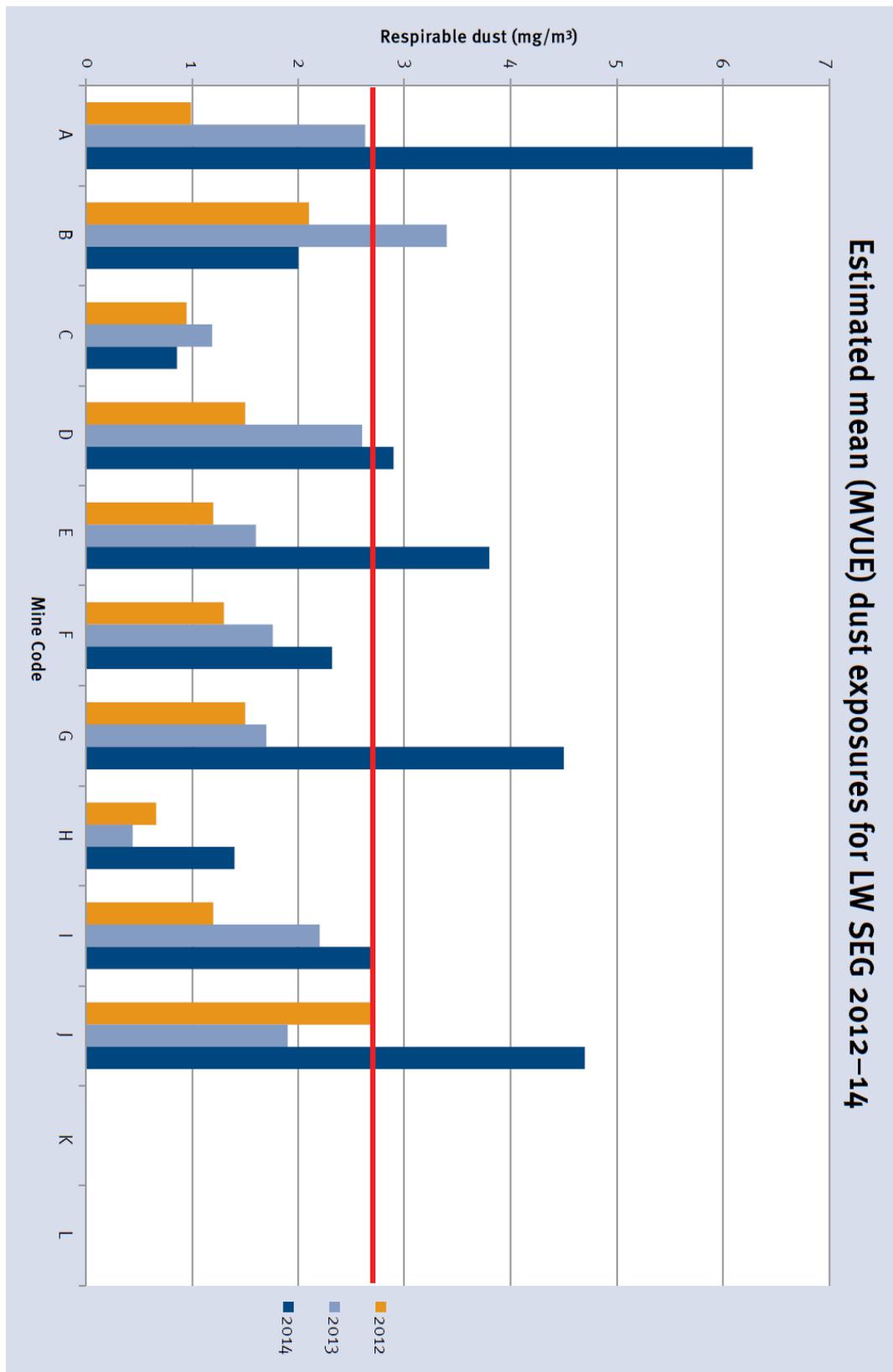
6 Centre for Occupational and Environmental Health, Monash University, and School of Public Health, University of Illinois at Chicago, *Interim Finding: Review of Respiratory Component of the Coal Mine Workers' Health Scheme*, 31 March 2016, p. 6.

**Graph 1—Coal dust concentration in NSW mines, 2012-15<sup>7</sup>**



7 NSW Coal Services, *Submission 198*, p. 10.

**Graph 2—Coal dust concentration levels in Queensland mines, 2012-2014<sup>8</sup>**



8 Commissioner for Mine Safety and Health, *Queensland Mines Inspectorate Annual Performance Report 2014-15*, p. 3.

## **Recommendation 2**

**4.31** In light of emerging problems identified in the mining industry the committee is concerned that safety standards in all jurisdictions may not be providing a safe working environment for mine workers. The committee therefore recommends that the state governments identify best practice dust monitoring devices or similar best practice technology to be used in all Australian coal mines. The Queensland government should review the protections provided under the Coal Services New South Wales model and identify which aspects should be applied to any new legislative regime in Queensland.

**4.32** The committee also recommends that the state governments require that dust monitoring be undertaken in a consistent and methodical way, which monitors dust levels in all relevant parts of the mine during both maintenance and production times.

**4.33** The committee also recommends that state governments increase public transparency and accountability around dust monitoring. Dust monitoring data should be made publically available as a means of increasing accountability and restoring coal mine workers' confidence in the regulatory system.

## **Recommendation 3**

**4.34** The committee recommends that the proposed National Coal Dust Monitoring Group in consultation with mining companies, state governments, technical experts and industry stakeholders, and with the support of Safe Work Australia, create and manage a database of best practice dust suppression techniques and management of dust sampling data. This would enable coal mining companies to continuously improve their safe work practices and provide increased protection for coal miners.

**4.35** The committee recommends that the establishment of the database, and its day to day running costs, be funded by the state government and the coal mining industry.

**4.36** The committee recommends legislation requiring mining companies' input on, and compliance with the database must be instigated at both federal and state government levels.

**4.37** The committee recommends that the National Coal Dust Monitoring Group, and state based bodies, also facilitate cross-jurisdiction information sharing about coal dust mitigation measures.

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### *Medium-term actions*

4.38 Evidence received by the committee points to the superiority of the NSW regulatory system, which includes a Standing Dust Committee which is a forum for participation of all concerned parties in dust mitigation: industry stakeholders, unions, and government.

4.39 A standing dust committee, or a similar independent body, would allow Queensland stakeholders to work together to implement best practice dust controls.

### **Recommendation 4**

**4.40 The committee recommends that, in addition to the National Coal Dust Monitoring Group, the Queensland Government, in consultation with mining companies, technical experts, unions, and industry stakeholders, form a standing dust committee or similar forum, in the near to medium term, to achieve best practice dust control in Queensland coal mines and to address the concerns raised about the current mitigation and monitoring issues.**

### **More thorough medical screening for CWP**

#### *Immediate actions*

4.41 Evidence from Mr Keith Stoddart, who has been diagnosed with CWP was a damning indictment on the inability of the Queensland CWHS to provide adequate screening, and to be a means of support for miners diagnosed with CWP:

I have paid for all of this myself. All of my travelling, all of my CAT scans, PET scans, the specialists; it has all come out of my pocket.<sup>9</sup>

4.42 The committee believes action should be taken immediately to provide support for former coal mine workers like Mr Stoddart, who have been diagnosed with CWP, and to arrange for medical screening for current coal mine workers.

4.43 The committee is also concerned by evidence from miners that they have lost confidence in the CWHS, and that they believed that their x-rays were not being assessed under the CWHS.

4.44 While the focus of these recommendations at present time is confined to Queensland, CWP may yet reveal itself to be a national problem. Disappointingly, it appears there is no assistance currently available for former coal miners who wish to be tested for CWP. The committee heard that many former miners do not even realise that they should be tested.

4.45 In undertaking this inquiry, the committee has taken a federal perspective on the issue of the re-emergence of CWP. The committee believes that this issue is not limited to Queensland alone, and that without national best practice standards of dust control and monitoring, and without a national emphasis on prevention as noted above, there will be more reported cases of CWP in Australia.

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9 Mr Keith Stoddart, coal miner, private capacity, *Committee Hansard*, 8 March 2016, p. 3.

4.46 The committee is of the view that a national focus is needed to establish a mechanism by which former workers seeking medical advice, and those workers diagnosed with CWP, can receive assistance.

4.47 CWP is a disease with no cure. Its effects on the human respiratory system are debilitating. Mrs Danielle Stoddart told the committee that she had seen her husband, Mr Keith Stoddart, become a shadow of his former self as CWP took hold of his lungs:

I have seen Keith go, every day actually, as soon as he exerts himself—he cannot even manage mowing a lawn. He does not have the energy or the strength to do things that he used to be able to do. Once, he used to wake up in the morning and his breathing would be fine for a couple of hours. Now it is starting to get that way that as soon as he gets up he is exhausted. He is starting to wake up through the night with pains in his chest. He is very angry because of what is happening to him, and I find it hard to understand. So, therefore, we have had a few words trying to come to grips with what is happening to him and what kind of a life he is going to have. He needs quality of life. This is what I want for him. You will just to excuse me for a minute. I just cannot—<sup>10</sup>

4.48 Mr Percy Verrall described a similar situation:

It has bugged my life. I can walk for only about three houses and I am bugged and have to go back. My lounge chair lies down like a bed and I go back and lie down on that. It takes me over an hour to start feeling good again. That is how bad I get. Like right now, even when I am talking too long I lose my breath.<sup>11</sup>

4.49 Establishing a nationally consistent scheme to help former coal mine workers will require the cooperation of government, industry, unions, and the health system. Ultimately however, the committee is persuaded by the description of the US model provided by Professor Robert Cohen and discussed in Chapter 3 as the best compensation model. Under this scheme, compensation for workers who contract CWP is the responsibility of the insurer of the mining company.

4.50 As noted in Chapter 3, the question of funding any form of support or on-going screening scheme for former mine workers was discussed at the committee's public hearings. The committee agrees with the comments made by Mr Andrew Vella, General Manager at the Vale Australia Carborough Downs Mine, when he described the need for an industry-wide compensation fund.<sup>12</sup>

4.51 Such a fund would need to be free from the current problems associated with workers' access to compensation, including time limitations. A number of witnesses

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10 Mrs Danielle Stoddart, wife of Mr Keith Stoddart, coal miner, private capacity, *Committee Hansard*, 8 March 2016, p. 5.

11 Mr Percy Verrall, retired coal miner, private capacity, *Committee Hansard*, 7 March 2016, p. 7.

12 Mr Andrew Vella, General Manager, Carborough Downs Mine, Vale Australia, *Committee Hansard*, 7 March 2016, p. 37.

agreed that the period over which CWP develops means that time-limits on access to compensation deny sufferers a fair outcome. Dr Richard Slaughter, from the College of Radiologists, told the committee that 'most patients who have pneumoconiosis had at least 10 years of [dust] exposure.'<sup>13</sup> Dr Slaughter could see no reason why a limitation should be imposed on workers who develop CWP and seek compensation:

We recognise that this disease is caused by dust exposure, and that is an ongoing process that can worsen after the exposure.<sup>14</sup>

4.52 Dr Rob McCartney, Chief Medical Officer, Anglo American Coal, agreed:

Senator CAMERON: Okay. Finally, does anyone disagree with the need for ongoing monitoring? There is also the latency period—the period that people can make a workers compensation claim. Do you both agree that that should be extended?

Dr McCartney: I think that is the main issue. People leave employment, and they have been exposed to hazards that can cause chronic disease or to carcinogenic hazards. To cease health surveillance at the point of ceasing employment does not make sense, and they definitely should be followed up.

Senator CAMERON: Surely the main issue is that people are dying?

Dr McCartney: Correct. Also, in relation to the issue of compensation: just because one has stopped working, one is not excluded from compensation. You can still make compensation claims well after you have ceased employment, and should be allowed to. That does happen in this sector as well, I believe.<sup>15</sup>

4.53 Ms Flemming, CEO of NSW Coal Services told the committee that:

The most important thing for an injured worker is their health—to make sure that they are able to get the necessary treatment required to, in the best case scenario, return to work and return to a relatively normal way of life. This is a very serious disease. Some of those things might not be possible. So it is assisting the worker as much as possible more from a medical perspective, but also, obviously, a financial perspective. If things have been incurred that should have been covered from a workers compensation system, then they would be paid for.<sup>16</sup>

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13 Dr Richard Slaughter, cardiovascular and thoracic radiologist, representative, Royal Australian and New Zealand College of Radiologists, *Committee Hansard*, 7 March 2016, p. 24.

14 Dr Richard Slaughter, cardiovascular and thoracic radiologist, representative, Royal Australian and New Zealand College of Radiologists, *Committee Hansard*, 7 March 2016, p. 24.

15 Dr Rob McCartney, Chief Medical Officer, Anglo American Coal, *Committee Hansard*, 7 March 2016, p. 37.

16 Ms Lucy Flemming, CEO, NSW Coal Services, *Committee Hansard*, 8 March 2016, p. 13.

## **Recommendation 5**

**4.54** The committee recommends that the mining industry, through its representative bodies, must create an industry-wide fund to provide compensation for coal mine workers who contract CWP. The fund's aims should include identification of, and communications with former mine workers who may require CWP screening and compensation for travel, medical, and other costs associated with undergoing CWP screening and diagnosis. Workers' access to compensation from this fund should not be time-limited in any way.

**4.55** The committee also recommends that state governments provide a means for former and current miners to seek assistance which is independent of their employers and Nominated Medical Advisors such as a hotline or helpdesk, to be funded by the industry and independently administered by an organisation such as the Lung Foundation Australia.

### *Medium term actions*

4.56 From the evidence received, it is clear that the CWHS is urgently in need of improvement. In the medium-term, an overhaul of the CWHS will be the only way that Queensland miners' confidence in the screening process can be restored.

4.57 The committee understands that the Queensland Government will examine changes to the CWHS once the Sim review is complete. Professor Sim provided his report to the Queensland Government on 31 March 2016 and the report was released publicly on 8 April 2016.

4.58 The Thoracic Society made a number of recommendations in relation to CWP screening practices, and the committee endorses these recommendations and strongly encourages the Queensland Government to have regard to these recommendations.<sup>17</sup>

4.59 The committee believes that the National Coal Dust Monitoring Group would be best placed to set standards for screening.

## **Better coal dust regulation**

### *Immediate actions*

4.60 As noted above, the committee believes that strong regulation, with a focus on independent checks and balances, is vital to creating a healthier and safer work environment for coal miners. Evidence the committee received about the NSW Coal Services system supported this conclusion.

4.61 Under the NSW system, the independent organisation NSW Coal Services is jointly owned by the mining industry and the CFMEU. It has carriage of dust monitoring, compliance, and enforcement, and provides medical screening services.

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17 Thoracic Society of Australia and New Zealand and Lung Foundation Australia, Submission 194, pp. 5-6.

4.62 In comparison, the Queensland system puts the onus on mining companies to properly conduct dust monitoring. The Mines Inspectorate monitors companies' compliance with dust levels and issues directives for non-compliance. The CWHS hinges upon the Nominated Medical Advisors, who are both chosen and remunerated by the mining companies.

4.63 The committee fears that without action now, the high levels of hazardous dust in Queensland mines is potentially setting up current and future coal mine workers to develop CWP in the future.

4.64 The committee believes that the stark difference between the Queensland and NSW coal dust levels indicates that properly regulated dust mitigation and dust monitoring have a huge impact on the dust levels to which coal mine workers are exposed.

4.65 Evidence before the committee clearly indicates that without independent, high quality dust monitoring and effective dust controls, dust exposure can spike to dangerous levels. Higher levels of hazardous dust are clearly linked to the development of CWP; a point on which all witnesses and submitters were in agreement.

4.66 However, the committee considers that there cannot be effective monitoring and mitigation without a focus on prevention of dust diseases embedded in legislation. In NSW, this focus on prevention and mitigating dust levels is a core part of the work of NSW Coal Services. The opposite is true in Queensland, where, as noted in Chapter 2, monitoring is the responsibility of the mining companies and the DNRM reports on compliance.

4.67 While the committee supports the Queensland Government's response to the re-emergence of CWP, and its five point action plan, the committee urges the Queensland Government to look to the NSW Coal Services model for ways in which the Queensland regulations can be improved.

## **Recommendation 6**

**4.68 The committee recommends that the Queensland Government gives the highest priority to its review of coal dust regulations as part of its five point action plan. To achieve this the committee recommends that the Queensland Government take note of the concerns expressed by the committee in relation to the mine Directives, particularly the enforcement of these Directives and the need for the information contained within the Directives and rates of compliance to be able to be audited and reported on. Directives issued by government departments should use standardised language and have a rigorous process for auditing, compliance, and data collection.**

4.69 The committee is of the view that the Queensland coal mine regulatory system is at a high risk of regulatory capture. This conclusion was borne out when it became clear on repeated questioning that Queensland Government officials could not provide evidence of what measures were in place to limit the possibility of regulatory capture.

4.70 The committee urges the Queensland Government to note, as part of its review, the evidence provided by the Acting Chief Inspector of Mines and the Deputy Director-General, Minerals and Energy Resources, which demonstrated that the relationship between the regulator and the regulated is very close, and subject to a perceived, if not real, conflict of interest.<sup>18</sup>

4.71 An important part of the response to the re-emergence of CWP will be restoring confidence in the regulatory protections for coal mine workers. The committee therefore urges the Queensland Government to do all it can to ensure the independence of its regulatory regime and officials.

### **Recommendation 7**

**4.72 The committee recommends that the Queensland Government direct relevant officials to undertake independent, high level, training on avoiding regulatory capture.**

**4.73 The committee recommends that in developing this training the Queensland Government have regard to the Better Practice Guides developed by the Australian National Audit Office in relation to regulatory capture.**

4.74 As outlined in Chapter 3, the committee believes that the NMAs are particularly vulnerable to regulatory capture. Further, the committee agrees with the points made by Professor Sim at the committee's public hearing on 7 March 2016, that the NMAs should have special training for their role, and be geographically proximate to the mine they serve.

4.75 Professor Sim's interim report was publicly released on 8 April 2016. The report's findings were the same as the evidence Professor Sim had provided to the committee at its hearing, and the report made the following recommendations in relation to NMAs:

- Appointment of NMAs to assess the respiratory health of those miners at risk of dust exposure should become a QDNRM function, but consideration will need to be given to the minimum numbers and geographical spread to ensure that miners, including those who are fly-in-fly-out, have easy access to an NMA.

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18 Ms Rachel Cronin, Deputy Director-General, and Mr Russell Albury, Acting Chief Inspector Mines, Department of Natural Resources and Mines, Queensland Government, Queensland, *Committee Hansard*, 23 March 2016, p.48, p. 49 and p. 56.

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- Minimum requirements to be met by NMAs in terms of medical training and experience to undertake the respiratory component of the coal mine health assessment should be established.
  - A formal induction training and ongoing audit program for these NMAs should be developed. The training should be completed by NMAs prior to undertaking respiratory assessments in the coal mine workers' health assessment scheme.
  - This training program should include:
    1. Information about the primary purpose of the respiratory component of the health assessment scheme, in particular health protection, prevention and early detection of CMDLD [coal mine dust lung disease].
    2. Information about the spectrum of diseases included in CMDLD.
    3. How to conduct and interpret quality spirometry.
    4. An introduction to the ILO CXR [chest x-rays] classification of pneumoconiosis.
    5. Information about coal dust and silica exposure associated with the coal mining industry in Queensland.
    6. A visit to a mine(s), with a focus on inspecting those jobs "at risk of dust exposure".
    7. Training in how to complete each section of the respiratory component of the health assessment form and identify abnormalities.
    8. Training in the use of clinical guidelines for follow-up and appropriate referral in cases where respiratory abnormalities are found.
  - An experienced Medical Officer should be responsible for the ongoing training and audit of those NMAs undertaking respiratory assessments.
  - NMA training and auditing should utilise effective methods of modern communication, such as webinars, where geographical constraints make travel difficult.<sup>19</sup>

4.76 The committee supports the recommendations made in Professor Sim's interim report and urges the Queensland Government to implementing these recommendations promptly.

4.77 The committee is sceptical of the role of the NMAs, particularly given the risk of regulatory capture by mining companies. However, the committee did not receive

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19 Centre for Occupational and Environmental Health, Monash University, and School of Public Health, University of Illinois at Chicago, *Interim Finding: Review of Respiratory Component of the Coal Mine Workers' Health Scheme*, 31 March 2016, p. 10.

enough evidence to enable a clear determination on the continuation of the NMAs role. The committee believes that the NMA role should be part of consideration in the National Coal Dust Monitoring Group recommended by the committee. At a minimum the committee believes that the positions of NMAs must be both independent and statutory-based, with selections approved by specialist advice from organisations such as the Thoracic Society or the Lung Foundation Australia.

## **Recommendation 8**

**4.78 The committee recommends that in the short term the Queensland Government mitigate the risk of regulatory capture of the Nominated Medical Advisors by making the role an independent statutory position, selected through a rigorous process conducted by Queensland Health in consultation with the Department of Natural Resources and Mines and specialists groups such as the Thoracic Society and the Lung Foundation.**

### *Medium-term actions*

4.79 As noted with regard to coal dust exposure and medical screening, the committee received a number of recommendations which were based on a national approach. In particular, the committee supports the recommendations of the Thoracic Society and Lung Foundation Australia which could form the basis for a national best practice health monitoring model encompassing:

- a nation-wide action to protect workers from dust disease by enhancement of the current framework for regulation of dust management and surveillance of exposed workers for respiratory disease;
- publication of Australian jurisdictions' current screening practices;
- mandatory participation of coal miners and workers exposed to respirable free silica in a regular screening program;
- establishment and mandatory reporting of pneumoconiosis cases of all types (including CWP) to a national registry;
- referral for all coal miners presenting with respiratory symptoms for assessment to a respiratory specialist physician, ideally with qualifications in occupational lung disease;
- ongoing discussions in relation to development of the optimal construct of a screening program, including radiological interpretation and respiratory function testing suited to the Australian context;
- development of GP training materials to identify and refer coal miners, including retired workers with respiratory disease, to a respiratory specialist; and
- ongoing screening for miners who have since retired.

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## **Concluding remarks**

4.80 As the committee's inquiry has progressed, the committee has been horrified that a disease thought to be eradicated in Australia for over 30 years has re-emerged. The committee believes that all stakeholders must work together to halt the re-emergence of CWP. The recommendations in this report should form the base-line of immediate and medium term Commonwealth and state measures to ensure that CWP can be prevented. Failure to take up these recommendations will fail Australian coal workers. In this regard, the committee echoes the wise words of Mr Percy Verrall at the committee's hearing on 7 March 2016 in Brisbane:

I do not want to see any of the younger generation coming in, in that condition. It has to be fixed up so they do not get black lungs like all the other miners. They could finish up just the same way as me or be walking around with an oxygen bottle hooked up to them all the time.<sup>20</sup>

**Senator Deborah O'Neill**

**Chair**

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20 Mr Percy Verrall, retired coal miner, private capacity, *Committee Hansard*, 7 March 2016, p. 3.