

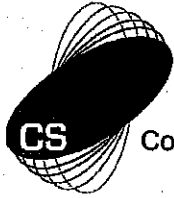
**Submission  
No 272**

## **INQUIRY INTO NSW WORKERS COMPENSATION SCHEME**

**Organisation:** Coal Services Pty Limited

**Date received:** 17/05/2012

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**Coal Services Pty Limited**

ABN 98 099 078 234

Occupational Health Services for Industry

Statistical Services

Training and Mines Rescue Procedures

Workers' Compensation Insurance for the NSW Coal Industry

17 May 2012

The Honourable Robert Borsak  
Chairperson  
Joint Select Committee on the New South Wales Workers Compensation Scheme  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Sir

**RE: NEW SOUTH WALES WORKERS COMPENSATION – ISSUES PAPER**

Coal Services Pty Limited would like to thank you for the opportunity to provide input into the review of the New South Wales Workers Compensation Scheme and would welcome further consultation and discussion to share firsthand the learnings, experiences and successes of our organisation.

**History of Coal Services Pty Limited**

On 1 January 2002, the *Coal Industry Act 2001* was enacted, creating Coal Services Pty Limited (CSPL) and its subsidiary entities Coal Mines Insurance Pty Limited (CMI) and Mines Rescue Pty Limited (MRS). These entities took over the functions formerly performed by the Joint Coal Board and Mines Rescue Board.

The new organisational arrangements were necessary following a decision of the Commonwealth Government to repeal the Commonwealth's *Coal Industry Act 1946* and withdraw from its involvement with the Joint Coal Board. The new entities, jointly owned by the Construction Forestry, Mining and Energy Union and the New South Wales Minerals Council, form a multi-faceted organisation that is industry owned providing best practice occupational health, safety, worker's compensation insurance, training and mines rescue services to the coal mining industry in New South Wales.

**Statutory Obligations**

Section 10 of the *Coal Industry Act 2001* sets out the general functions of an approved company, if they are specified in its notice of approval, which is the case for Coal Services Pty Limited. These functions include, but are not limited to:

- Providing occupational health and rehabilitation services for workers engaged in the coal industry, including providing preventative medical services, monitoring workers' health and investigating related health matters

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- Collecting, collating and disseminating accident and other statistics relating to the health and safety of workers engaged in the coal industry
- Referring matters relating to the safety of workers engaged in the coal industry to the Chief Inspector of coal mines
- Monitoring, promoting and specifying adequate training standards relating to health and safety for workers engaged in the coal industry
- Approving training schemes
- Monitoring dust in coal mines
- Providing mines rescue and other training services
- Administering and providing a workers' compensation insurance scheme in relation to workers engaged in the coal industry

This provides a holistic, complementary model, with a strong injury prevention/zero harm focus, that proactively assists to stop workers being injured in the first place, and where an injury does occur, CSPL is able to provide expert injury management services as part of its workers compensation responsibilities.

The strong preventative nature of this model has allowed CSPL to support employers and employees in achieving superior injury reduction outcomes over the last ten years.

#### **Coal Mines Insurance (CMI) – A Specialised Workers Compensation Insurer**

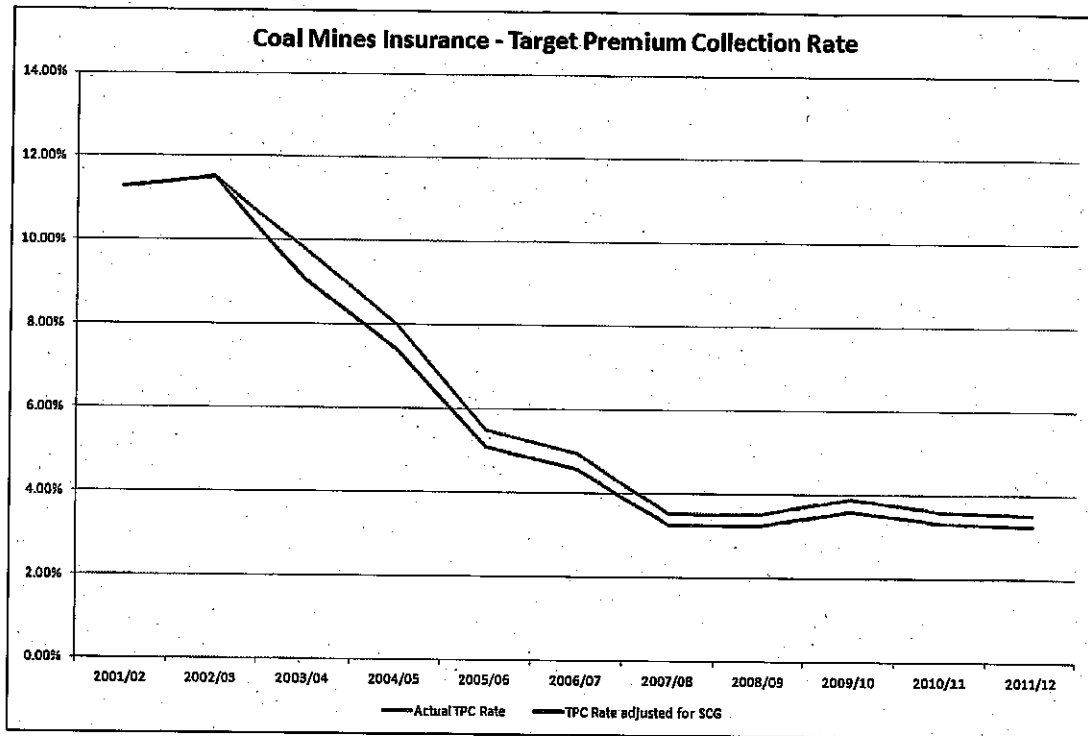
As a specialised insurer, the New South Wales Workers Compensation Scheme deficit referred to in your correspondence does not impact upon the Coal Mines Insurance operation. The CMI Scheme is responsible for its own liabilities, and as at March 2012 had a funding ratio of 121%. Having said this, CMI conducts its operations in accordance with the same legislative instruments as the New South Wales Workers Compensation Scheme, so any change or reform of these instruments has the potential to significantly affect the 26,500 employees for whom we provide insurance coverage; the 870 organisations which employ them; and ultimately the financial viability of the CMI Scheme, A scheme which has existed since 1921, 90 years, some 66 years longer than the New South Wales Workers Compensation Scheme.

In our opinion, extensive injury prevention activities, strong scheme leadership, solid case management practices and a close working relationship with both employees and employers within industry are also important drivers of scheme success.

#### **Coal Mines Insurance Scheme turnaround**

At the time the *New South Wales Coal Industry Act 2001* commenced and Coal Services Pty Limited was formed, the CMI Scheme had a target premium collection rate of 11.29%. The target premium collection rate for the 2011/12 premium year is 3.50%; or 3.24%; when adjusted for inclusion of the superannuation contribution guarantee as declarable wages, as is the case with the New South Wales Workers Compensation Scheme and other large schemes in Australia. This represents a 71.4% decrease in target premium collection rate over a 10 year period, with the expectation of this premium level being sustainable over the long term.

The following graph shows the Coal Mines Insurance Scheme target premium collection rate from the inception of Coal Services Pty Limited to date:



The target premium collection rate features both the risk premium, that is to say, premium to pay for the cost of the claims incurred, but also the cost of undertaking the general functions of the organisation as outlined in the *New South Wales Coal Industry Act 2001*. The actual risk premium component of the target collection rate for 2011/12 was 2.33% of wages.

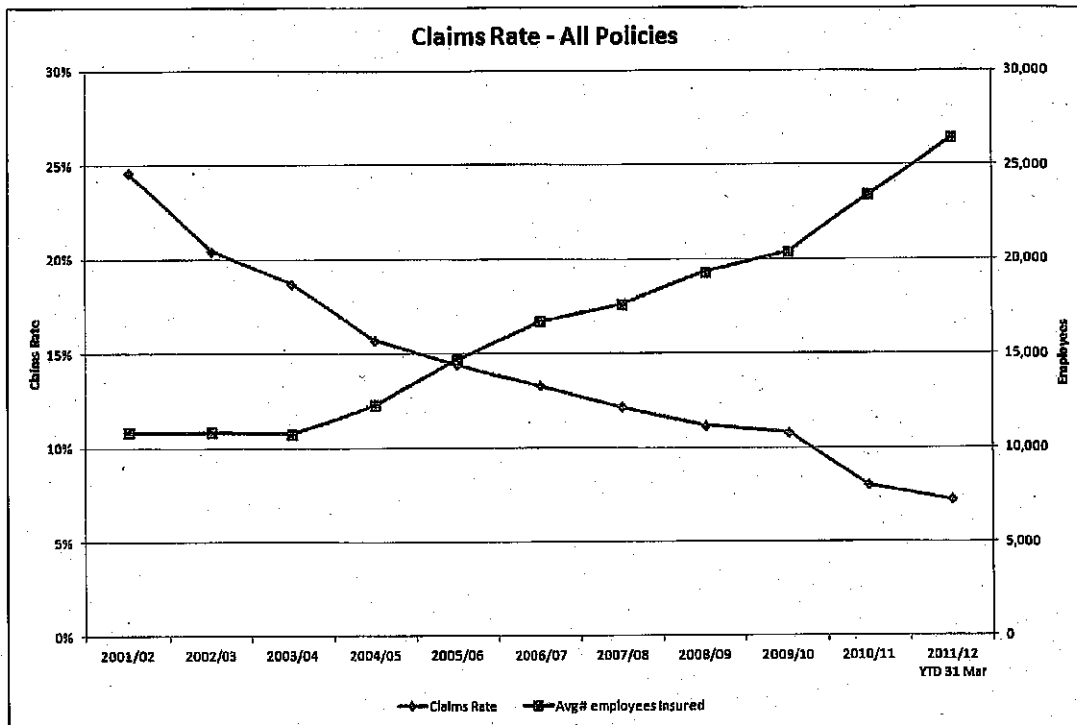
It is important to reiterate that the reduction in target collection rate over the 10 years has been achieved by CMI operating in accordance with the same legislative instruments as the New South Wales Workers Compensation Scheme, with the addition of *Schedule 6, Part 18 of the New South Wales Workers Compensation Act 1987*; *Section 7A of the New South Wales Workers Compensation Act 1987*; and, *Section 9A of the New South Wales Workplace Injury Management and Workers Compensation Act 1998*; the three of which either enable special provisions or exemptions from current legislative provisions for coal industry employees.

Over the same period (2001/02 through to 2011/12) the number of employees for whom insurance cover is provided has increased by 143%; from 10,819 at 30 June 2002 to 26,393 at 31 March 2012; whilst the claim rate has fallen 71%; from 24.61% at 30 June 2002 to 7.23% at 31 March 2012. In 2001/02 one in four employees in the coal mining industry would receive an injury which met the legislative requirement to report as a claim. As at 31 March 2012, this has reduced to seven in one hundred.

We do acknowledge that the coal industry in New South Wales is in a boom period, and enjoying full employment. However, with the number of new employees entering the industry with no previous coal mining experience, it would be reasonable to expect the number of injuries to increase. CMI's reported injury rate continues to decrease. The impact of preventative measures, and the involvement of employer and employee in their implementation, cannot be underestimated. The vast majority of Coal Services Pty Limited's work with the coal mining industry focuses on active injury prevention. The induction programs each new coal mining employee must undertake; the periodic health surveillance, including chest x-rays; the response and emergency preparedness training; the drug and alcohol screening; the hearing protection testing; and the gas, dust, diesel, silica, vibration and noise sampling, make what is a particularly

risky business activity as safe as it can possibly be. Further, the ongoing identification of risks from correct use of injury data allows for the development and implementation of industry wide solutions. All of these activities are performed in-house through CMI, Coal Services Health, MRS and its Regulation and Compliance unit.

The following graph clearly illustrates the improvement in claim rate performance despite the significant increase in employees insured since the inception of Coal Services Pty Limited:

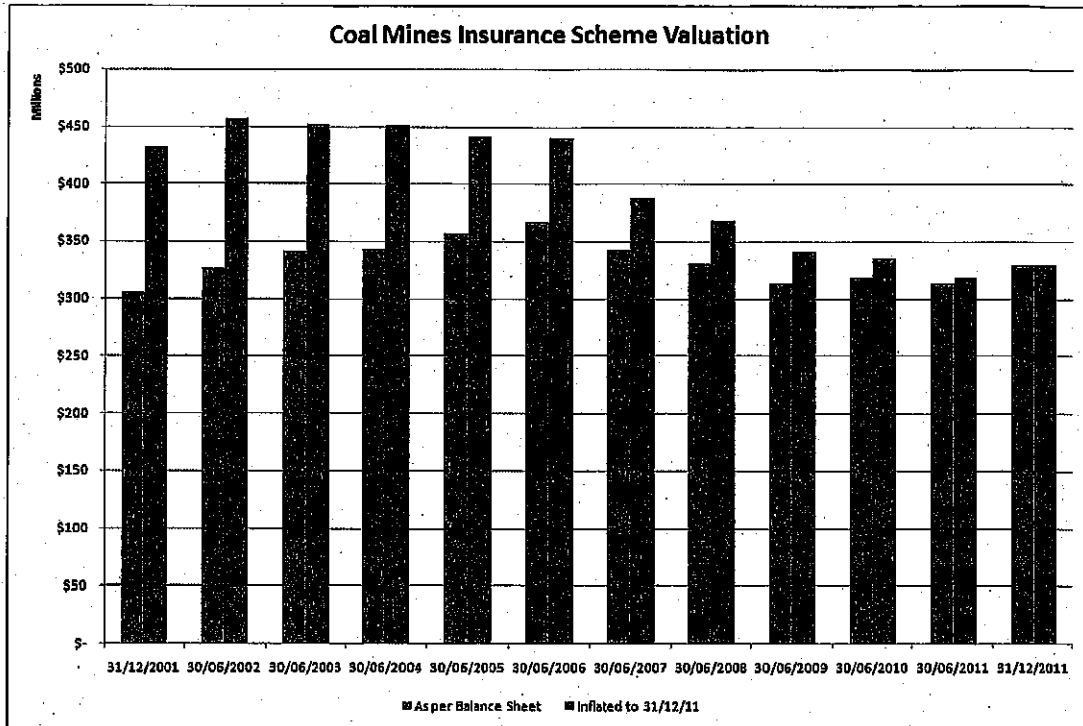


Another major indicator of performance turnaround is the stability in scheme valuation over the same period of time. Despite inflation and the growth of the industry, the scheme has seen very little change in the central claims estimate valuation in raw dollar terms over the period. In fact when the historical performance is inflated to 31 December 2011 terms, the CMI Scheme has improved by over \$100 million from 31 December 2001 through to 31 December 2011.

Whilst the CMI Scheme saw a slight deterioration in the six months to December 2011, this was predominately the result of a shift in economic factors, in particular the yield curve. It is expected that a similar deterioration in economic factors will occur at 30 June 2012.

Where trends and issues are identified within the claims portfolio at valuation, CMI works closely with its independent consultant actuary, Ernst & Young, to proactively identify the root cause of the issue and then implement action plans to ensure that the trend is improved in a sustainable manner. The CMI Scheme has a suite of performance reporting which allows for real time monitoring of performance with adjustments made as necessary. Additionally, Coal Services Pty Limited has implemented strong management processes and procedures to ensure our employees have the proper technical skill set to appropriately manage injured workers and get them back to health. It is acknowledged that the size of the CMI Scheme portfolio does allow for much closer management; however the fundamentals are the same as for larger workers compensation insurance schemes.

The following graph illustrates the actuarial performance of the Coal Mines Insurance portfolio from the date of inception of Coal Services Pty Limited on a balance sheet basis and also when inflated to 31 December 2011 terms.



As can be seen the turnaround in the performance of the Coal Mines Insurance Scheme has been significant, especially when considered in comparison to how the same economic factors have contributed in no small part to the deterioration of the New South Wales Workers Compensation Scheme.

#### What led to the turnaround in Scheme performance?

Predominantly, the turnaround was achieved through the recognition that the previous position was untenable. This was recognised by both shareholders, the Construction, Forestry, Mining and Energy Union and the New South Wales Minerals Council. A full review of the scheme was undertaken, commencing in 2003 and concluding in 2004 by Ernst and Young. Several recommendations from that and subsequent reviews were implemented by management.

As previously stated effort was placed primarily in supporting the actions of employers and employees to improve safety at work and to achieve the early return to work of injured employees.

Coal Services Pty Limited invested heavily in the technology to support claims management. There was also a significant investment in training and development of employees responsible for claims management. More recently Coal Services Pty Limited has invested in performance analysis tools; allowing the claims management teams to appropriately manage their claims portfolios and to early identify emerging trends.

The direct involvement of employers and workers in the New South Wales coal mining industry also provided a major contribution to the success of the CMI Scheme. By Coal Services Pty Limited working closely with the industry to assist in improved education and health and safety

practices, injuries have consistently and sustainably reduced, flowing through to a greatly reduced premium rate making the Scheme more affordable to the coal mining employers in New South Wales.

### **Benefit comparison**

Whilst CMI is bound by the same legislative instruments as the New South Wales WorkCover Scheme, Schedule 6, Part 18 of New South Wales Workers Compensation Act 1987 means certain characteristics are different.

The CMI Scheme was largely exempt from the 2001 legislative reform; meaning employees covered by Coal Mines Insurance continue to receive permanent impairment benefits in accordance with the Table of MAIMS, as opposed to Whole Person Impairment; have access to Common Law, as opposed to Work Injury Damages; and have unrestricted access to redemptions (commutations).

### **Comment on 'Options for Change' outlined in the Issues Paper**

We do not believe it is appropriate for CSPL to comment directly on particular 'Options for Change' as outlined in the Issues Paper. We do however; welcome the opportunity to discuss firsthand our experiences and the contributors to our results, especially the successful injury prevention and industry engagement strategies that we have employed.

### **Additional considerations**

The options for change do not offer any initiatives which strike at the root cause of the need for a workers' compensation system. We reiterate that we believe the key task is to prevent injuries and incidents from occurring in the first place. On this basis, perhaps the review should be expanded to consider the operation and effectiveness of the Workplace Health and Safety Division of the regulatory authority; its interaction with the employers of New South Wales and the integration with the risk management activities undertaken.

None of the identified options for change examine the effectiveness of the premium model and whether it drives the right behaviours. The premium model is an important driver to achieving the performance objectives of any workers compensation scheme.

Whilst the options for change propose a strengthened regulatory framework for health providers, it is important to consider the involvement and role other participants play in the system such as the Workers Compensation Commission, the legal providers who represent workers and employers alike, and the employers and workers themselves.

### **Conclusion**

Coal Services Pty Limited agrees that the workers compensation system is a critical component of the New South Wales economic system. Workers and employers alike need to know that there is a system which supports them in case of an injury. Workers need to receive fair income replacement, medical coverage and, where appropriate compensation for injuries sustained. Workers, their families, and employers should be appropriately protected by the insurance system. Premiums should be fair and reasonable, and bear relevance to risk. Premiums should be appropriately balanced between user pays and insurance protection. Coal Services Pty Limited

further agrees that workers compensation be affordable and efficient whilst allowing New South Wales to be competitive with its most comparable states in Victoria and Queensland.

Coal Services Pty Limited suggests three additional areas for consideration by the Committee as potential options for change. These being the link between the regulatory authority and industry with respect to injury prevention; a review of aspects of the premium model in light of the behaviour it encourages; and a review of the judicial and legal aspects of the New South Wales Workers Compensation Scheme.

To this end, Coal Services Pty Limited would reiterate two key opening remarks. The CMI Scheme does not contribute to, nor is it impacted by, the New South Wales Workers Compensation Scheme deficit. Coal Services Pty Limited does not see that just legislative reform is the solution to improving scheme performance. Rather, strong scheme leadership, injury prevention initiatives, solid case management practices and a close working relationship with both employee and employer groups will drive performance improvement.

Coal Services Pty Limited would like to again thank you for the opportunity to provide input into the review of the New South Wales Workers Compensation Scheme. Should you wish to discuss any aspect of this response further please contact me on [redacted], or alternatively by email at [redacted]

Yours sincerely

**Lucy Flemming**  
Managing Director/CEO