

# Injury Schemes Seminar

Balancing Outcomes

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# An examination of the legislative framework governing commuter safety in the Queensland Mining Industry

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# Overview

- **Commuting in the mining industry**
  - Background
  - The problem
  - Journey management
  - The structure of the legislative framework
- **Legislation and Regulation**
  - Workplace safety in Queensland mining
  - Risk management
  - Mining legislation and journey management
  - Commuting and employee responsibilities
  - Queensland Workers' Compensation Scheme
- **Industry standards**
  - Industry standards and journey management
- **Regulated and organisational policy documents**
  - Policy documents and journey management
- **Observations & Conclusions**



# Commuting in the Mining Industry

- Commuting is the term given to the journey of a worker to and from their permanent home, or in some cases, from the site accommodation to the site
- Commuting can involve:
  - a daily commute to the mine site (or coal mine site), or
  - the commute to the worker's permanent home at the beginning and end of a work cycle or roster
- It may involve air travel, driving, company provided bus, car pooling or other means of transport

(State of Queensland, Department of Natural Resources and Mines, 2013: 2)



# Background

- Coronial inquiry investigating the deaths of two mine workers and a Police Officer
  - Two separate motor vehicle incidents
  - 2005 & 2007
- One purpose of the inquest was to investigate if fatigue significantly contributed to the incidents
- The findings were not reported until February 2011
- The inquest made recommendations on:
  - the implications resulting from a *travelling* workforce
  - organisations running 24-hour a day operation
  - driver fatigue



**OFFICE OF THE STATE CORONER  
FINDINGS OF INQUEST**

(Coroner of Queensland, 2011)



# The Problem

- Fatigued driving
  - Fatigue results in
    - a diminished capacity for work
    - decrements in attention, perception, decision-making
    - decrements in skill and performance

(Job & Dalziel, 2001: 469)

- 23% of mine workers describe falling asleep at the wheel in the past 12 months

(Di Milla & Bowden, 2007)

- Rural and remote driving
  - crashes occurring in rural and remote areas are likely to result in serious or catastrophic injuries, if not death

(Siskind et al., 2011)



## The Problem (2)

- The general trend of driving following long shifts or shift blocks is becoming common practice due to:
  - the (usually) remote location of worksite
  - legislation supporting increased shift length
  - mining companies are typically under increased production pressures resulting in 24-hour production
  - the increasing trend of this behaviour legitimises it as acceptable in the minds of the workers



## The Problem (3)

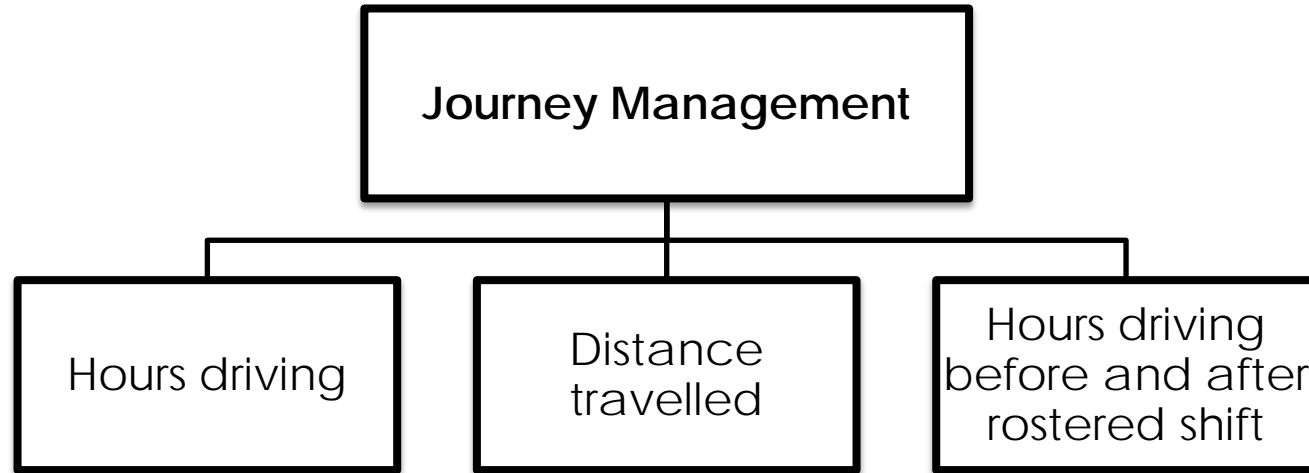
- 386 responses drawn from a single Bowen Basin mine site
  - 71% of these mine workers drove greater than 200 kilometres from their residential address to work
  - 50% of workers surveyed drove more than 400 kilometres
  - 31% of workers surveyed drove more than 600 kilometres
- The highest commuter fatality rate was recorded by the mining industry in 2010/11
  - 2.44 commuter deaths per 100,000 workers (two and a half times the national rate)

(Safe Work Australia, 2012)



# Journey Management

Journey management policies tend to be related to fatigue management despite other identifiable risks (e.g., rural and remote driving)

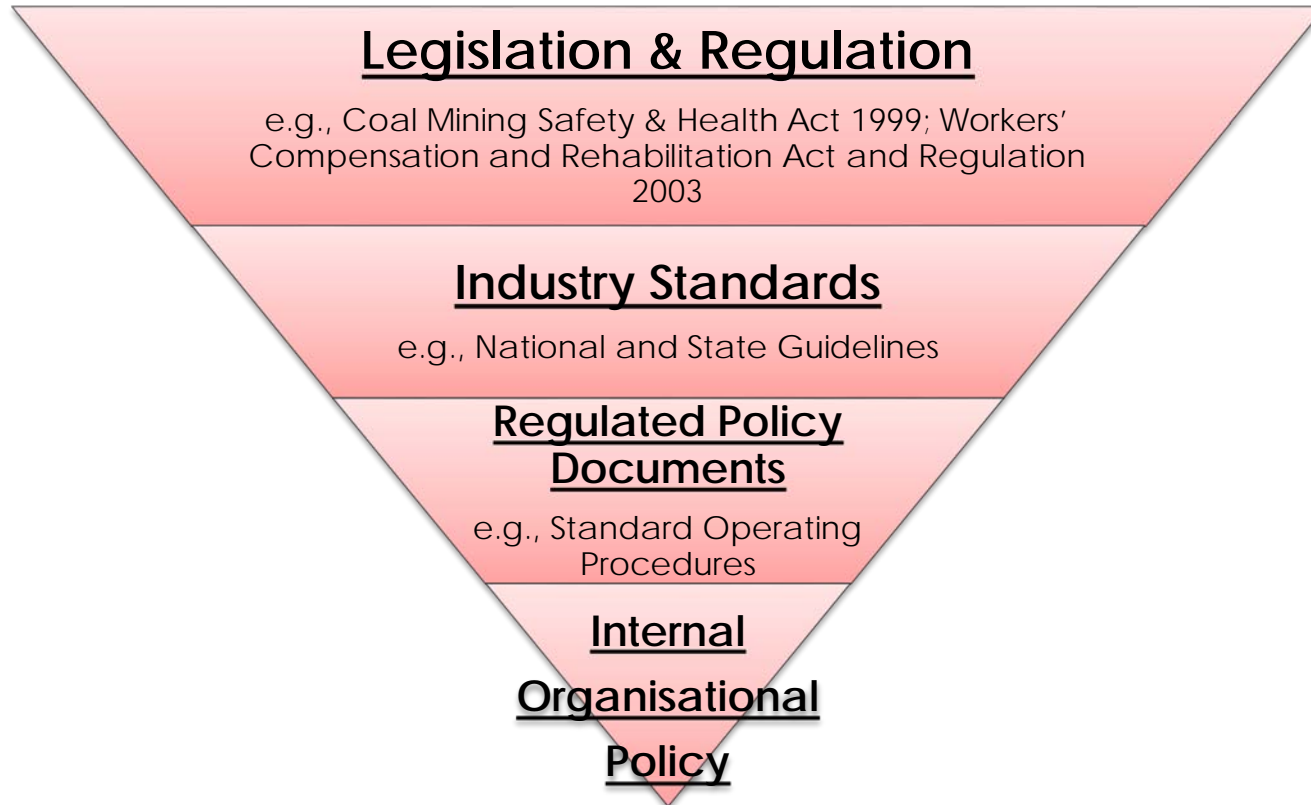


(State of Queensland, Department of Natural Resources and Mines, 2013: 2)





# Structure of the Legislative Framework





# Legislation & Regulation



# Workplace Safety in Queensland Mining

- There are various, inter-related legislative requirements governing safety in the Queensland mining industry
  - These requirements result in a strong, proactive, safety-orientated focus
  - Mining health and safety fits within a risk management framework and generally holds the same objectives as other safety legislation (e.g., the *Workplace Health and Safety Act 2011*)



# Risk Management

- Safety legislation generally holds the same aims and objectives associated with risk management
- The legislation sets a general standard which must be achieved by an employer
- The specific way the general outcome is achieved is up to the employer and the way the employer interprets the requirements of the legislation



(State of Queensland, Department of Natural Resources and Mines, 2013: 31)



# Mining Legislation and Journey Management

- A primary objective of the Queensland mining legislation relates to an employer's responsibility to manage risks associated with 'on-site' activities
  - Risk management tools
    - fatigue management plans
    - safe operating procedures
- Attempts to implement journey management plans have tended to be more ad-hoc



# Commuting and Employee Responsibilities

- Employees' have responsibilities as a road users to act appropriately to protect themselves and other road users, including:
  - Driving for the prevailing conditions
  - Take rest breaks
  - Acknowledge relevant traffic laws
- The responsibility between employer and employee is somewhat blurred given these competing responsibilities



# Queensland Workers' Compensation Scheme

- The Queensland Workers' Compensation Scheme is one of two schemes to provide cover to workers for their journey to and from work without restrictions
  - Provides compensation to workers injured in crashes while commuting  
(Finance and Administration Committee: Parliamentary Committees, 2013)
- Operates as a no-fault system for costs associated with rehabilitation and medical treatment as well as providing an allowance for weekly benefits
- Ongoing industry debate regarding journey claims
  - Commuting is arguably outside the bounds of the worksite
  - The employer has no control over employee actions  
(Finance and Administration Committee: Parliamentary Committees, 2013)



## Queensland Workers' Compensation Scheme (2)

- The Queensland Scheme requires workers to commence their journey without a significant delay or deviation
- Workers' in the industry are concerned that they would not be covered by the appropriate workers' compensation insurance if they were to engage in a rest break following their shift before commencing their journey home

(Coroner of Queensland, 2011)

- This concern has the potential to exacerbate the culture of commuting immediately following the end of the shift





# Queensland Workers' Compensation Scheme (3)

- Typically journey claims do not directly impact employers financially (with some exceptions, like self-insurers)
- There is no clear punitive reason for an organisation to enforce a proactive journey management approach
- Accordingly, the scheme has the potential to limit a proactive risk management approach of organisations in respect to commuting



# Industry Standards

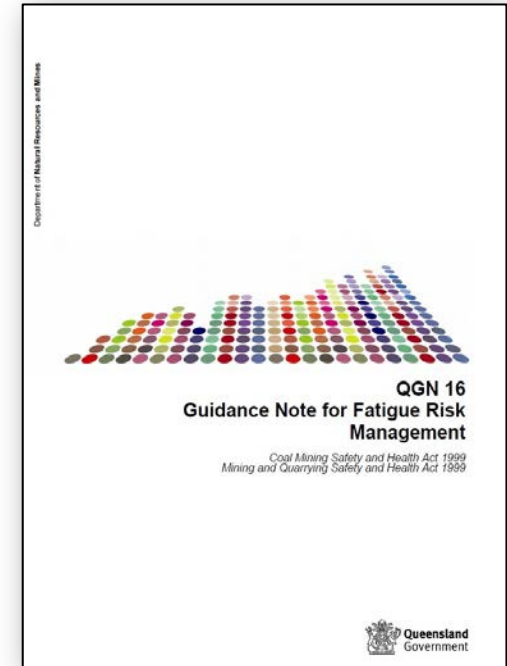


# Industry Standards

## QGN16 – Guidance Note for Fatigue Risk Management

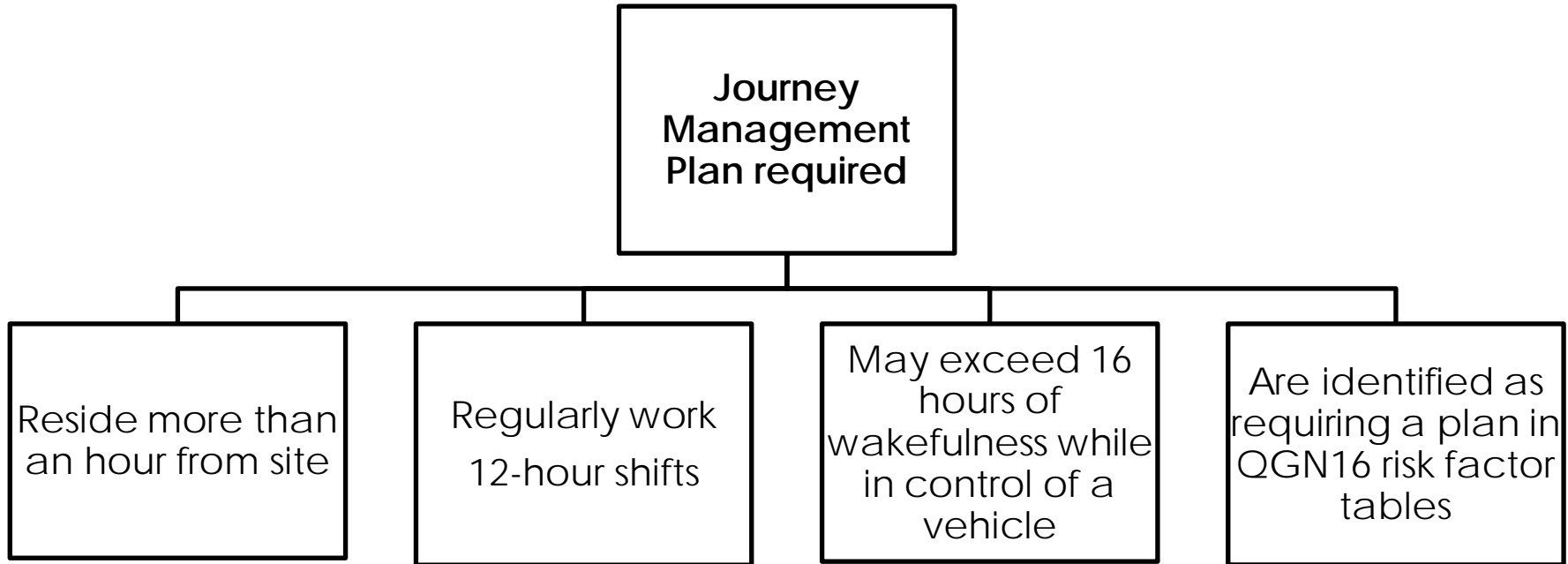
(State of Queensland, Department of Natural Resources and Mines, 2013)

- The 'Guidance Note for Fatigue Risk Management' provides direction to control the risks associated with fatigue
- There are references to commuting within the note





## Industry Standards (2)





# Industry Standards and Journey Management

- Journey management examples provided in the guidance note relate specific to on-site issues
  - Do workers have to travel more than 2 hours to arrive on-site for the first shift
  - Sites with organised travel (e.g. fly in/fly out) should be aware that those who are commuting for long distances may have already limited sleep opportunity
  - The first day shift in particular has been found to be difficult due to the transition between the 'normal' sleep wake times of workers at home, and the adapted sleep wake times required for work  
(State of Queensland, Department of Natural Resources and Mines, 2013)
- Continued reference to 'fitness for work' rather than 'fitness to commute'
- Risk focused on fatigue -related risk

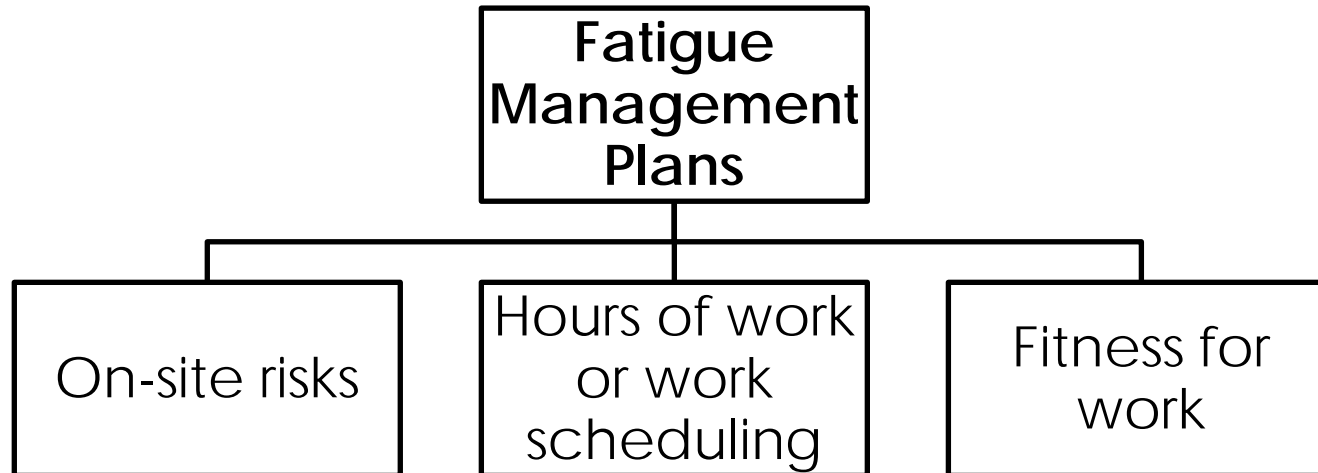


# Regulated & Organisational Policy Documents



# Regulated & Organisational Policy Documents

- Regulated organisational and policy documents are prescriptive safety documents which, at an organisational level, are tailored to the organisation
  - Fatigue management plans
  - Safe operating procedures





# Policy Documents and Journey Management

- Commuting is typically briefly mentioned in Fatigue Management Plans (FMPs) and other organisation specific documents
- FMPs focus on site-related risks
- The association of FMPs with fitness for work results in a targeted journey management plan for journeys to work but typically does not consider the journey home as closely
  - Attempts to address this 'off-site' behaviour have tended to be more ad-hoc
- Safety managers suggest that their primary concern is related to the journey home rather than the journey to work, which is inconsistent with the policies and plans





# Observations

- In the example of Queensland mining industry, the legislation does not compel a proactive journey management plan resulting in organisations concentrating on '*fitness to work*' and ignores employees' '*fitness to commute*'
- The legislation as it currently stands in Queensland refers to the implementation of safety and health management plan for site-related activities (i.e., those activities on an area of land which fall within the definition of a coal mine)
- Regulated policy documents are drafted in respect to on-site safety issues. There are typically no specific policies in respect to commuting



## Observations (2)

- The industry and policy documents concentrate on the fatigued-driving risk as the key risk for drive-in/drive-out workers.
  - Therefore, risk management and policies associated with this 'risk' fall within the scope of an organisation's FMP, which is associated with on-site issues (e.g., hours of work and work scheduling concerns)
- The categorisation of this risk as a fatigue-related risk rather than a road safety risk
- There is an obligation on the employee in respect to safe and responsible driving on the road, which has blurred the apportionment of responsibilities between the employer and employee



# Conclusions

- The safety and compensation legislation in Queensland does not compel employers to be proactive about the issue of commuting (blurred understanding of responsibility between employer and employee regarding this issue)
- Any attempt to address this issue typically focuses on the commute to work and ignores the commute home (focus on fitness to work and on-site risks)
- As a result training and education of employees is categorised in the context of on-site risks and hours of work or work scheduling concerns rather than driver education associated with:
  - fatigue-related risks
  - risks of rural and remote driving
  - the employee's responsibility as a road user



# Where to from here?

- This research forms part of my PhD project which aims to explore the influences on worker commuting behaviour
- The first part of this research looks at the context in which worker commuting occurs
  - Legislation and enforcement, organisational policies and employment structures (discussed here today)
- Following studies will investigate influences on individual commuting decisions:
  - Individual attitudes
  - Social & cultural influences
    - family, work colleagues



# Questions

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