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# The Next Steps Towards “Zero Harm”

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# Agenda

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Current trends in safety performance

Legislation and Risk Management

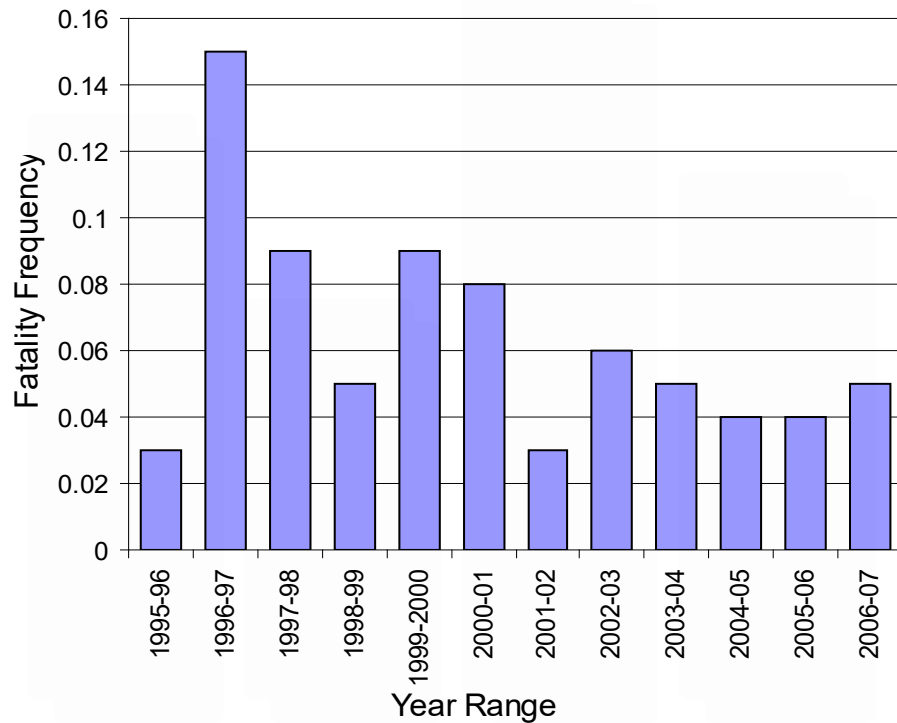
Safety and Health Management Systems

Prosecution Policies

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# Current Trends in Safety Performance

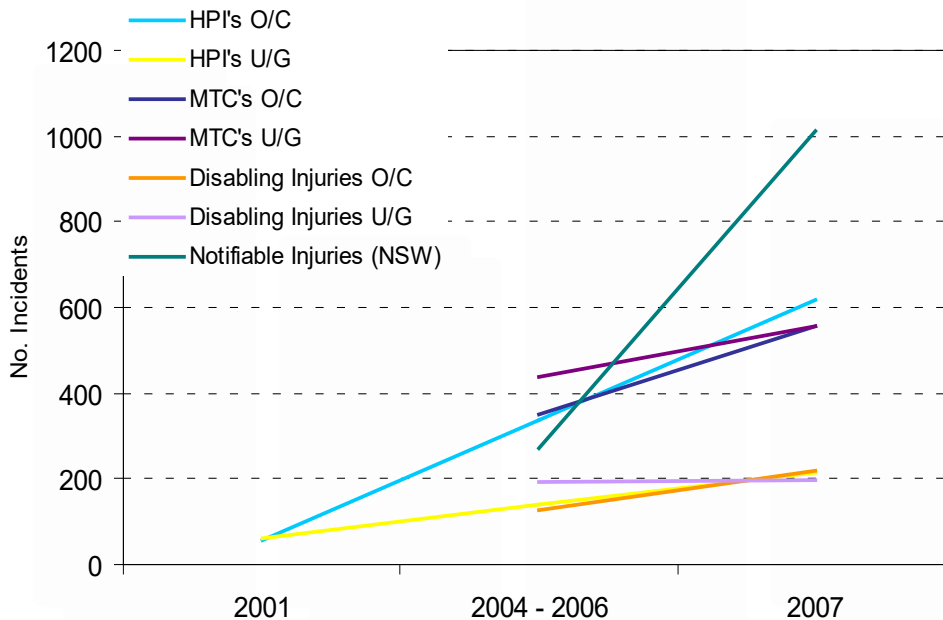
# Fatality Frequency Rate from 2002-2007



- LTIFR – plateauing
- FFR – increased 06/07
- Fatalities in 07 higher than six year average
- LTIFR decreases number of fatalities increasing

# Safety Indicators in Qld & NSW 2001-2007

**Safety Indicators  
Increase Over Captioned Period**



- HPIs in u/g & o/c increasing
- MTCs in u/g & o/c increasing
- Disabling injuries in o/c & u/g increasing
- Notifiable injuries increasing NSW

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# Legislation and Risk Management

# Inadequate Legislation

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- Open cut mine can be managed by a person with no mining qualifications or experience
- The SSE at an u/g or o/c does not require any mining qualifications or experience
- Undermanager is no longer required in U/G mines

# Inadequate Legislation

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- An inspector in Qld no longer requires a first class certificate of competency
- Essentially no distinction between an inspector and an inspection officer
- The lack of uniformity in Australian OHS needs urgent attention
- Training of miners in Risk Management philosophy



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# Safety and Health Management Systems

# Management Systems Lack Accessibility

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- Paper work generated during an audit weakens the input of employees
- So cumbersome that they may become another system that sits in the site library
- Size of the doc.can limit availability to the workforce
- Difficult for employees to understand information
- Communication by management

# Effects of Awareness and Fatigue Issues

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- Move away from eight hour to twelve hour shift and four and seven day rosters
- Effects of fatigue similar to moderate alcohol consumption
- Vehicle crashes occurring after miners have worked a 12hr shift due to the effects of fatigue

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# Prosecutions

# Prosecutions Overview

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- Function of prosecution is a highly contentious issue in the mining industry
- Seething dispute in NSW
- Counter – productive and inhibits appropriate investigation
- In the Gretley case companies and staff were prosecuted

# Automatic prosecutions have negative impact

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- The lessons from serious incidents and accidents are not being used to prevent a recurrence of the incident or accident
- This policy does not encourage near miss reporting
- Disincentive for young people to consider a management role
- It moves away from a no blame culture

# Client Legal Privilege

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- Documents produced for the purpose of obtaining legal advice or in the anticipation of possible prosecution may be subject to client legal privilege.
- This means there is a basis to say those documents do not need to be produced to the inspector or to a court or a tribunal

# Client Legal Privilege

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- Companies need to be careful about generating reports about incidents or accidents
- Employees are encouraged not to write written documents without approval
- Some companies will volunteer all relevant information others may not
- In Qld more companies ensure co-operation while protecting their legal position



# Prosecution Outcomes

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- Lessons from incidents are not being learned due to the fear of being prosecuted
- Companies are being encouraged to seek client privilege
- The vengeful prosecution at Gretley against those who neither intended harm nor were reckless in their behaviour is considered unjust.
- Lack of protection for growing number of contract workers

# Enquiry Comparisons

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	<b>Period</b>	<b>Average time taken to conduct inquiry</b>
Queensland Wardens Court	1998 to 2001	6.7 Months
Prosecutions in NSW	1995 to 2007	4.7 years
Queensland Coroners Court	2002 to 2007	2.2 years

# Criminal Proceedings

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- Criminal proceedings should only be used for infringement of a type where exemplary punishment would be generally expected and supported by the public.
- Offences of flagrant, wilful or reckless nature which either have or could have resulted in serious injury

# Fatality Investigation

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- In Jan 2008 BHPB prevented mine investigators from accessing the scene of a fatal accident for more than 24 hours.
- Minister for mines in Qld had to call a meeting with BHPB in order for them to co-operate.

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# Recommendations

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- Consider the Wardens Court of Enquiry where there is no fear of prosecution
- Contractors used for special work tasks or for peaks and troughs
- Fatigue impairment should be compared to the effects of moderate alcohol consumption
- More training given to mine staff in order for them to conduct appropriate risk assessments and understand their obligations under SHMS

# Recommendations

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- 12 hour shifts for underground miners should be addressed
- Industry conducts more system audits rather than compliance audits
- Legislation deficiencies in Qld regarding the SSE & U/M should be addressed