

February 2020

Common Cause.



BHP MANAGER CHARGED OVER DEATH

The Queensland Government is prosecuting BHP and one of its senior mine managers over the death of mineworker Allan Houston at Saraji mine on New Year's Eve 2018.

The charges were laid as tragedy struck again in the Queensland coal industry with the death of tyre fitter Donald Rabbit at Curragh mine in January.

BHP Mitsubishi Alliance (BMA) senior executive Timothy Fuller has been charged with breaches of statutory health and safety obligations over the death.

Allan Houston died when his dozer rolled 18 metres off an embankment during his night shift, landing in a pool of mud and water and drowning him. Fuller has been charged, even though he had only been appointed weeks earlier, because he was responsible for all truck and shovel burden excavation activities and drill and blast activities.

Court documents filed at Mackay courthouse state that dragline preparation in the mine's Bauhinia Pit involved up to three dozers at a time working on the bench. The documents say that no procedures were in place for dozer push bench preparation. The Mines Department also alleges BMA's health and safety procedures for risk management and working in and around water were not implemented.

The Union is very concerned that procedures for working around water were not in place as there had been a close call at nearby Peak Downs mine just six months earlier. In July 2018, a dozer was operating in 700mm of water, before catching an object and falling into an unknown void. Water entered the dozer and the operator was unable to exit. He was rescued by workmates breaking the dozer windows, but left traumatised and injured.

BHP's own ICAM report into the July incident found that there were no adequate controls and risk assessments in place for working in and around water and it was common practice for dozers to push coal in water. It also found there was a mandate to keep trucks running to meet production targets, rather than take the time to pump water.

Allan Houston's death was even more tragic due to lessons not being learnt from the Peak Downs near miss, said Queensland President Stephen Smyth.

"We welcome the fact that BHP will be prosecuted over Allan's death and the strong message it sends to the industry."

"The coal industry has had a culture of production at any cost."

"If companies are going to change their behaviour and provide safe workplaces, then there needs to be real consequences for breaches of safety requirements."

Just as Allan Houston's death cast a pall over the start of 2019 for the mining industry, the tragic death of Donald Rabbit at Curragh mine has been a devastating start to 2020.

Donald, just 33, had nearly finished his shift on 12 January when he was crushed to death by equipment. CFMEU safety inspectors were quickly on the scene and will complete an independent investigation.

The Queensland coal industry has been shaken by six deaths in the last year.

As soon as parliament returned last week, the Queensland government introduced legislation extending industrial manslaughter laws to cover the mining industry.

Under industrial manslaughter laws – which are still to pass through parliament and are not in play in the current BHP prosecution – executives will face up to 20 years jail if a worker's death is found to be the result of criminal negligence.

While the mining industry has fought hard against industrial manslaughter laws, the Union has fought harder to introduce them. Industrial manslaughter laws will act as a deterrent to the high tolerance of risk among mine operators and bring the industry in line with the rest of the workforce, said Stephen Smyth.

"It puts everyone on notice about the importance of workers going to work and coming home at the end of the day. Our members and their families welcome it."

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VALE

Keith



Timbs

In his long career as an underground coal miner, Keith Timbs earned a reputation for scrupulous workmanship and looking after his workmates.

Keith, father of South Western District Vice President Bob Timbs, began his working life with an apprenticeship at Tallawarra Power Station as a fitter and turner. He left to work in mines in 1971, joining his brother Ian and father Ernie at Wongawilli before heading up to the Burragarong Valley to work at Nattai North. In 1980 he transferred to Tahmoor where he worked for the next 29 years before retiring to spend more time with his wife Wendy and family.

Ian Timbs, who worked alongside Keith at various mines, said his brother was given the nickname 'Mother' because of his care and attention to detail.

Keith Timbs (right) finishes a shift at Tahmoor, with brother Ian (right)

"When blokes were assigned to work with him it soon became obvious to them as to why he was given this nickname. He always fussed around after them to make sure everybody and everything was just right."

"He spent a lot of his time at Tahmoor installing pipelines. His specialty was the large 450mm gas pipes. When men on the back shifts had to do some of these installations he would come in the next day and check on their work and if it was not up to his standard he said nothing but quietly and efficiently rearranged it until it did and then got on with his own work."

When Bob followed his father into the coal mining industry, Keith was quick to instill union values in his son.

"He said, 'the reason we are safe is the union – don't question what they're doing, just bloody do it'."

Keith got along with everyone in the industry – workmates and bosses alike – and no-one ever said a bad word about him, said Bob.

During the early days of his career at Tallawarra power station, Keith was exposed to asbestos on a daily basis, leading to a painful battle with mesothelioma and his death shortly before Christmas.

Our thoughts are with the Timbs family at the loss of a loving family man and dedicated lifelong coal miner. Vale Keith.

MELANIE IS RIDING FOR A CURE

Melanie Lasisz lost her husband Chadd to cancer in 2016, leaving her with a toddler and newborn baby. Now she is embarking on an epic bike ride to raise money and awareness for curing cancer.

(caption 1) WA District President Robert Sanford and District Secretary Greg Busson present Melanie with sponsorship for the Tour de Cure

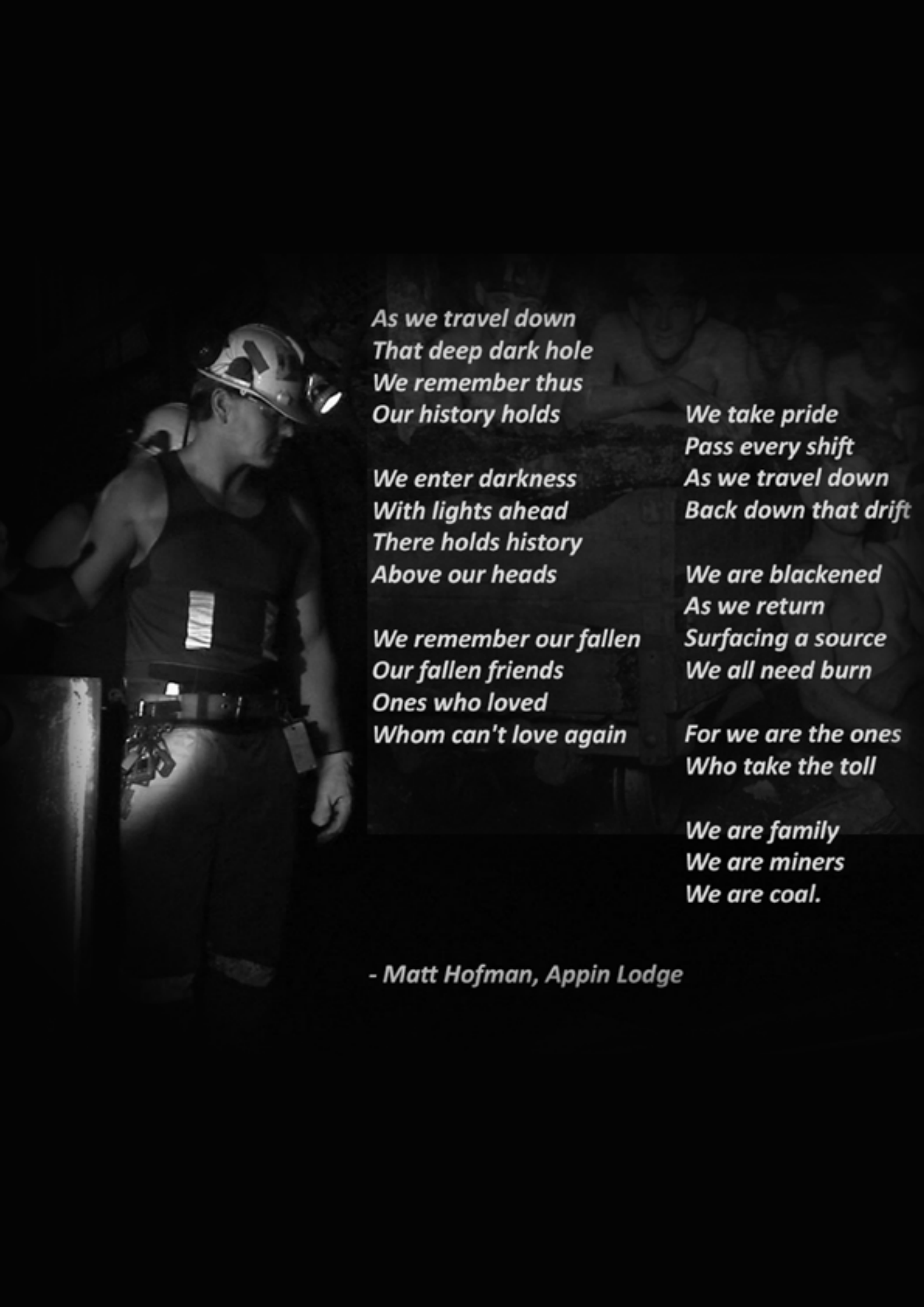
Chadd was a coal miner and proud CFMEU member at Collie's Premier Coal in Western Australia, when he died after short battle with cancer aged just 37. Melanie's son Kye was just 22 months old and her daughter Mikayla just six weeks old.

She's had a tough few years raising the kids without their dad. Now she's raising money for cancer research by cycling in the Tour de Cure – Ride to Cure Cancer, a nine-day 1400km bike ride from NSW to Queensland. It sets off from Newcastle on 26 March and finishes in Noosa on 3 April. That's a huge ride!

The Union's WA District and National Office have been proud to contribute to Melanie's fundraising effort She is just a few dollars away from reaching her \$15,000 goal and [you can help her get there.](#)

Follow Melanie's progress on our [Facebook page.](#)





*As we travel down
That deep dark hole
We remember thus
Our history holds*

*We enter darkness
With lights ahead
There holds history
Above our heads*

*We remember our fallen
Our fallen friends
Ones who loved
Whom can't love again*

*We take pride
Pass every shift
As we travel down
Back down that drift*

*We are blackened
As we return
Surfacing a source
We all need burn*

*For we are the ones
Who take the toll*

*We are family
We are miners
We are coal.*

- Matt Hofman, Appin Lodge

DRIFT INTO FAILURE

How complacency kills miners

AN INDEPENDENT REVIEW OF QUEENSLAND MINING DEATHS HAS CONCLUDED THAT THE RECENT TRAGIC DEATH TOLL WILL CONTINUE UNLESS COMPANIES OVERHAUL THEIR SAFETY CULTURE. HERE ARE SOME OF THE TAKEOUTS OF DR SEAN BRADY'S REVIEW OF FATAL ACCIDENTS SINCE 2000.

1. Without change, the rate of fatalities will continue

The mining industry has a fatality cycle characterised by periods where a significant number of fatalities occur, followed by periods with few to no fatalities. If thinking and processes around safety remain the same, this will continue. Disturbingly, the report says that the shocking increase in fatalities over the past 18 months is not an aberration but a continuation of the industry's usual cycle.

2. Deaths are caused by 'everyday' failures, not freak accidents

The majority of the 47 deaths in Queensland mining and quarrying since 2000 were caused by preventable factors involving system failures. While they may superficially look like 'freak' accidents that could not have been anticipated, the causes are usually much more banal. A large number of the fatalities involved inadequate training, inadequate supervision and ineffective or absent control measures.

3. Poor training a major factor

Of the 47 fatalities, 17 involved a lack of task-specific training or competency for the tasks being undertaken. A further nine involved inadequate training – that's over half of fatalities involving a deficiency in training. Tasks were often undertaken at the direction of supervisors who were aware of the deficiency in training. Lack of training in many cases resulted in workers being unaware of hazards.

4. Stop blaming the victim

When an incident or fatality occurs, there is an inclination among organisations to blame human error on behalf of the worker. Of the 47 fatalities examined, human error in and of itself was not a major factor. "While it is often involved, typically many other factors are required to cause fatalities. While it is important to hold people accountable for their actions, it is also important to ensure that the drive for accountability does not overshadow the importance of learning the lessons from the incident... Asking why operators made mistakes helps to expose the system errors that led to, or allowed, the human error... If internal mining company investigations are largely identifying human error as the cause, they are likely missing valuable learning opportunities."

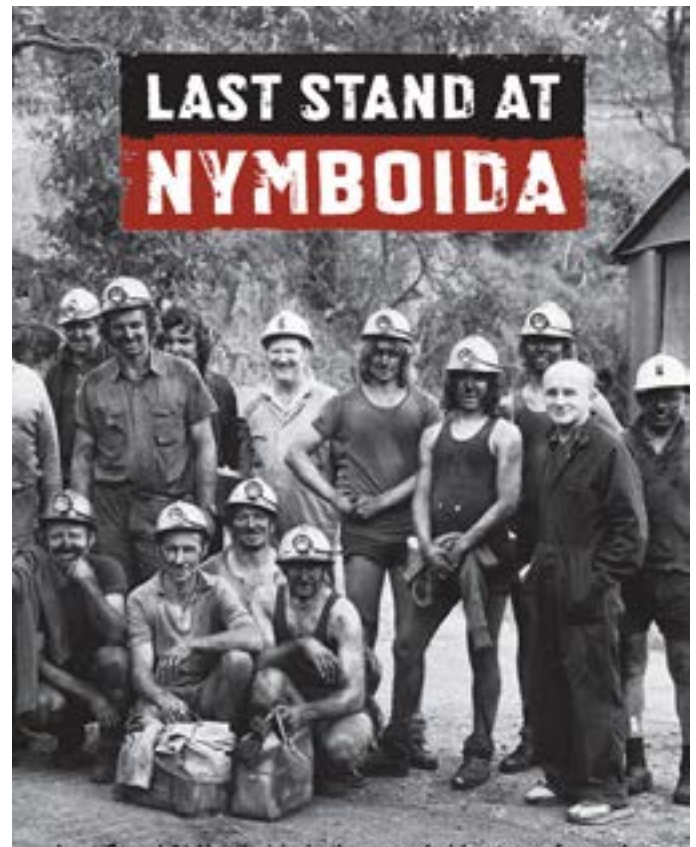
5. Industry's 'drift into failure'

Dr Brady concludes that the Queensland mining industry exhibits a 'drift into failure', with a greater acceptance of risk over time. He argues that periods where there are few to no fatalities are typically periods where a 'drift into failure' occurs. "Safety is compromised for a variety of reason, often benign, over time. These compromises typically result in a series of minor near-miss incidents." He argues that the mining industry must actively seek out the near-miss signals which provide an opportunity to identify and remove hazards.

6. Lost Time Injury (LTI) rate not a good safety indicator

Lost Time Injuries (LTIs) are not a reliable indicator of safety as they are prone to manipulation and are measure of how the industry manages injuries after they occur, rather than industry safety. "At best the LTI Frequency Rate is a distraction that focuses industry on the wrong safety measure, at worst it results in early warning signs being missed." The report instead recommends that the Serious Accident Frequency Rate be selected as it is a genuine reflection of how many people are getting seriously injured and is less likely to be susceptible to manipulation.

The Union has welcomed Dr Brady's report, which was commissioned by the Queensland Government and has been tabled in parliament. You can read the full report [here](#).



FIFO WORKERS BITTER OVER RIO'S BEER RIP-OFF

FIFO mineworkers staying in Rio Tinto camps across the Pilbara have faced a massive hike in beer prices since the start of February.

Rio Tinto and its camp operator Sodexo told workers that the price of alcohol would increase an average of 14%, but some brands went up by almost 50%.

The price increases come after significant price rises last year as well.

The new price list sees a can of Emu Export jump from \$3.30 to \$4.80, an increase of 45%, while Carlton Dry stubbies went up from \$4.10 to \$5.50, a 34% increase.

In a letter to employees in January, Rio and Sodexo told staff that the new alcohol pricing policy was about consistency with local Pilbara retail outlets.

However, members said that at Rio's more remote camps, there is simply nowhere else to purchase alcohol.

What's going on in your camp? Let us know at commoncause@cfmeu.com.au

HOW THE NYMBOIDA MINERS DUG IN AND CHANGED HISTORY

Forty five years ago this week, the mineworkers at Nymboida Colliery in our Northern District began a work-in at the mine that marked a historic turning point for the workers and the Miners Federation.

In February 1975, the mine owner had given one week's notice and declared bankruptcy. The workers refused to accept the sack and the loss of their entitlements and so they dug in and continued to work the mine.

With the Union, at the time lead by the formidable Bill Chapman, the workers made a successful takeover of the mine. Over the next four years Nymboida provided income and covered all of their entitlements.

Nymboida proved that a trade union could profitably operate a mine where a private company failed.

After the closure of Nymboida the Federation acquired a replacement lease for a new Hunter Valley coal mine known as United Collieries.

From that venture was born the Mineworkers Trust. Funds from the royalties of coal sales from United have for decades funded countless projects in local communities, hospitals, sporting groups and schools as well as the annual scholarship program.

Known as 'the mine the workers ran', the story of Nymboida has been celebrated in books and in 2011, a film, 'Last Stand at Nymboida' recorded the unique and extraordinary story that our Union holds proud.

[Watch the trailer.](#)

FROM THE GENERAL SECRETARY

Morrison Government wants new laws to stop casual claims



Exploitation of labour hire workers remains a major problem across the coal mining industry. You all know the situation: mineworkers side by side, doing the same job, on the same roster – but some earn much less with no job security because they are labour hire.

To get justice for casual mineworkers we need fairer workplace laws. But when the Morrison Government talks about changing the law it's only to make things harder for casuals.

Outsourcing a significant portion of the workforce to lower-paid labour hire is a damaging and divisive business model that our Union has been fighting hard to stop. Mining companies should simply not be allowed to ignore union-negotiated site agreements and replace permanent jobs with casual labour hire.

However, the law currently doesn't prevent it. Under federal employment law, the Fair Work Commission (FWC) can approve enterprise agreements that pay significantly less than union collective site agreements, so long as it judges that workers are better off overall than the Black Coal Mining Industry Award. That includes allowing for casual work, even though the Black Coal Award doesn't allow for casual work. Despite arguments from the union, the FWC doesn't consider casual work to be a detriment to workers, so long as they receive a casual loading.

To make things worse, the casual loading only has to be applied to the Award, not to industry standard rates of pay that have been achieved over many years of union collective bargaining – leaving casuals with 30 to 40% less pay than permanents.

This state of affairs is terrible for the affected workers and their families, but it also has a flow-on economic cost to those communities and regions that depend on coal mining wages. We are looking forward to releasing a report next month that looks at how much the labour hire model is costing mining communities.

Ultimately, if we want justice for casuals in the mining industry, we need new laws to put an end to the 'permanent casual' employment model and stop the race to the bottom on wages. However, the Morrison Government has flagged introducing new legislation that would have the opposite effect, preventing exploited casuals from accessing entitlements.

In 2018, we had an important Federal Court win in the matter of our member Paul Skene against labour hire company WorkPac. The court agreed with Paul's assessment that he was not a casual but was in fact a permanent employee. It found that Paul could not properly be considered a casual under the Fair Work Act due to the regular and continuous nature of his work on a fixed roster. He was therefore entitled to receive accrued annual pay on termination of his employment.

The decision sent employer groups into a frenzy, with claims it would lead to an epidemic of 'double-dipping' by greedy casual workers across the workforce, claiming backpaid entitlements when they had already received a 'casual loading'.

This is just plain wrong. In the Skene case the court found that there was no identifiable 'casual loading'. But equally, from a real-world perspective, Paul Skene was paid far less than the permanent employees he worked side by side with, even taking into account his flat-rate of pay. In which universe is that double-dipping?

Rather than do anything to address dodgy work practices and the widespread exploitation of casuals, the Morrison Government has backed employers trying to overturn this decision in court. Workpac launched a follow-up matter known as 'Rossato', hoping for a decision that finds casuals cannot claim entitlements. The Federal Government has intervened to support them.

Last week, Industrial Relations Minister Christian Porter flagged that if employers were unsuccessful in overturning the Skene decision through the Rossato case, he would look at new legislation to 'clear up the casuals issue'. You can bet he's not talking about clearing up the exploitative business model, rather 'clearing up' casuals' right to claim backpay after being unlawfully employed.

With the coal industry in the spotlight, we need politicians not only willing to stand up for mining jobs, but for permanent, secure mining jobs on the conditions Union members have fought for and won over generations. We will keep holding them to account.

GRAHAME KELLY - GENERAL SECRETARY