



NSW Mine Safety Advisory Council

Meeting 3 – 7 September 2022

Meeting details

Meeting	NSW Mine Safety Advisory Council (MSAC)	Date	8 September 2022
Location	Western Mines Rescue Station, 3 Proto Avenue, Lithgow	Time	9am to 12pm
Chair	Hon. George Souris AM (Independent)	Reference	RDOC22/201164
Secretary	Mr Tony Linnane (Mining, Exploration and Geoscience, Department of Regional NSW)		
Members	Mr Aaron Brannigan (NSW Minerals Council (Metalliferous)) Assoc. Prof. Deborah Yates (Independent) Mr Ian Cribb (NSW Minerals Council (coal)) Mr Graeme Osborne (Construction, Forestry, Maritime, Mining and Energy Union (Mining and Energy Division)) Mr James Collings (Cement Concrete and Aggregates Australia) Ms Julie Armour (Independent) Mr Peter Day (Resources Regulator, Department of Regional NSW) Mr Robin Williams (Construction Forestry Mining Maritime and Energy Union)		
Observers	Mr Garvin Burns (NSW Resources Regulator) Mr James Barben (NSW Minerals Council) Mr Jason Kuchel (Cement Concrete & Aggregates Australia) Ms Lucy Flemming (Coal Services) Ms Kelly Collins (NSW Resources Regulator)		
Apologies	Nil		
Not present	Mr Brock Skelton (Australian Workers' Union, New South Wales Branch)		
Secretariat	Ms Anna Ormerod (Mining, Exploration and Geoscience, Department of Regional NSW)		
Presenters	Christina Folley, Clare Ingerman, Ivor Roberts (Western Australian Department of Mines, Industry Regulation and Safety)		

Meeting agenda items

Paper	Agenda item
1	<p>Welcome and Chair's report</p> <ul style="list-style-type: none">■ The Chair commenced the meeting at 8:45am.■ The Chair delivered an Acknowledgement of Country and welcomed members, delegates and observers to the meeting. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the:<ul style="list-style-type: none">○ delegates and observers for the meeting○ membership changes in 2022○ events attended by the Chair since the last meeting○ key stakeholder events planned for 2022.
2	<p>Declaration of interests</p> <ul style="list-style-type: none">■ Mr Williams requested that "District President, CFMMEU" under Interests and positions in trade unions, professional, business or community associations and organisations column be included in his pecuniary interest declaration.■ No conflicts of interest were received. <p>Actions</p> <ul style="list-style-type: none">A. Secretariat to update Mr Williams pecuniary interest declaration.
3	<p>Acceptance of previous minutes and actions</p> <ul style="list-style-type: none">■ No changes were requested to the minutes. <p>Outcomes</p> <ul style="list-style-type: none">• Members endorsed the minutes of the last meeting.• Members noted the status of actions arising from the last meeting.
4	<p>Correspondence</p> <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the incoming and outgoing correspondence since the last meeting.

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5 11	<p>Implementation of recommendations of the statutory review of the WHS (MPS) laws and Legislative framework update</p> <ul style="list-style-type: none">■ The Chair advised that agenda items 5 and 11 would be discussed together.■ Mr Linnane provided members with a verbal overview of the papers and outlined the legislative and regulatory amendments.■ Mr Cribb asked if there was process for reinstating a practising certificate or certificate of competence and if there was a set period before an individual can reapply.■ Mr Burns replied that there is nothing to stop a certificate being reinstated or an individual from reapplying. One option is to suspend a certificate for a period rather than cancel it.■ Mr Day commented that if a certificate is cancelled an individual can reapply and that would be assessed on a case-by-case basis. The Department would need to see that the reason for cancellation had been addressed to the satisfaction of the department.■ Mr Burns advised that the Department would publish a fact sheet to provide as much clarity as possible.■ Mr Collings arrived at 9:55am. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted that the <i>Work Health and Safety (Mines and Petroleum Sites) Amendment Act 2022</i> commenced on 1 August 2022.• Members noted that the <i>Work Health and Safety (Mines and Petroleum Sites) Regulation 2022</i> commenced on 1 September 2022.• Members noted the update on legislative developments and reform.
6	<p>Survey of mining industry on perceptions that labour hire and non-permanent workers under-report safety concerns</p> <ul style="list-style-type: none">■ Mr Day provided members with a verbal overview of the paper and advised that:<ul style="list-style-type: none">□ the reason for the MSAC survey was to determine if low level of reporting was an issue in NSW□ a draft report was sent to members out of session□ the survey contractor was confident that there was a satisfactory enough response to produce some observations from the data□ the survey included permanent and non-permanent staff

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	<ul style="list-style-type: none">□ the survey highlighted a poor level of comfort in reporting by both permanent and non-permanent staff; it was more prevalent in non-permanent staff□ perception is often reality – the perception is that there will be reprisals for reporting□ there is a difference between managers and workers responses□ there is a lack of knowledge around labour hire companies not being aware of the process to report□ there is a difference between the mature and younger workforce; there is more reluctance for younger workers to report□ the Resources Regulator is commencing a compliance project looking at reporting (coal and metex); the report from that project that will show the level of non-compliance.□ by the end of the year, we should have a good package of information for discussion and analysis□ there is some similarity with Glencore’s report. <ul style="list-style-type: none">■ Mr Cribb commented that:<ul style="list-style-type: none">□ Glencore’s lowest failure was providing information back to people in relation to decision making around actions; there was some comment around high potential incidents and reporting□ he is concerned about the difference between two reports□ when the Glencore survey was undertaken, business stopped to allow workers to complete the survey; there was over 90% participation□ the problem with opt in surveys is a low response rate; if people are given an allocated time to complete the survey, they are more likely to complete it.■ Members noted that the:<ul style="list-style-type: none">□ survey was poorly supported□ the low level of responses means the results were not statistically representative when considering contractors and labour hire□ non-paper-based surveys are a problem as mine sites don’t allow phones on site□ opt-in surveys can be problematic

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	<ul style="list-style-type: none"><input type="checkbox"/> the background, purpose of the survey and the intention of developing plans from the survey needs to be clearly communicated.■ Mr Williams commented that the low participation rates were surprising but the results were not as he believes contractors don't report due to fear of reprisal.■ Mr Cribb commented that MSAC needs to go through results and build action plans to build on the results.■ Mr Day commented that:<ul style="list-style-type: none"><input type="checkbox"/> the Resources Regulator is undertaking a compliance project in the next six months. The results from that project, in addition to the "Enough is Enough" report and projects in other jurisdictions should all be considered by MSAC as a package once the compliance project is finished.<input type="checkbox"/> additional work needs to be done around design and communication<input type="checkbox"/> the results of the survey just completed needs to be put on the Resources Regulator's website with an action plan.■ Mr Day proposed that a follow-up survey be done next year and then every two years to monitor trends, that would then give long-term results as it is the trend that is important not necessarily one-off results <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the survey report and findings. <p>Actions</p> <ul style="list-style-type: none">B. MSAC to review the outcomes of the Resources Regulator compliance project in early 2023 to determine if further specific action is required.C. MSAC to coordinate a follow-up survey in late 2023.
8	<p>Resourcing and pipeline of statutory roles under WHS (MPS) laws (schedule 10)</p> <ul style="list-style-type: none">■ Mr Day provided a verbal overview on the paper.■ Mr Cribb commented that the concerns were more about why we weren't attracting people in the industry not about maintaining them.■ Mr Burns commented that matters related to competence need to be referred to the Mining and Petroleum Competence Board. <p>Outcomes</p>

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	<ul style="list-style-type: none"> Members noted the interim report on audits of practising certificate holders' compliance with their maintenance of competence condition.
9	<p>Member updates</p> <ul style="list-style-type: none"> Ms Flemming provided members with a verbal overview of the paper. It was agreed that Ms Flemming would provide a break-up of how many order 43 assessments were undertaken. <p>Outcomes</p> <ul style="list-style-type: none"> Members noted the report tabled by Coal Services. <p>Action</p> <p>D. Ms Flemming to provide a break-up of order 43 assessments.</p> <p>Presentation</p> <ul style="list-style-type: none"> Members received a presentation from the Western Australian Department of Mines, Industry Regulation and Safety on its approach to mental health and its Mental Awareness, Respect and Safety program. The Chaired thanked Ms Christina Folley, Ms Clare Ingerman and Mr Ivor Roberts for their time and presentations. It was agreed that the secretariat would collate questions from MSAC members and send through to WA. <p>Actions</p> <p>E. Secretariat to send questions from MSAC members to WA out of session.</p>
7	<p>Psychosocial hazards (including bullying and harassment)</p> <ul style="list-style-type: none"> Mr Burns commented that in the last three years the Resources Regulator has received 42 complaints about bullying, harassment and intimidation. In last 12 months the number of complaints has doubled. Ms Flemming commented that this is also reflected though Coal Mines Insurance with 13 claims in the last 6 months with an increase in females reporting. <p>Outcomes</p> <ul style="list-style-type: none"> Members noted the paper.
10	<p>National Dust Diseases Task Force</p>

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	<ul style="list-style-type: none">■ Mr Linnane provided members with a verbal overview of the paper.■ Ms Yates commented that there are several jurisdictions where the breadth of diseases has been broadened and that silicosis is likely to extend into the quarrying industry. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted progress on consultation and development of the National Silicosis Prevention Strategy and associated National Action Plan.
12	<p>NSW Resources Regulator report</p> <ul style="list-style-type: none">■ Mr Burns provided members with a verbal overview of the paper.■ Mr Burns delivered a presentation to members on collisions involving mobile plant, noting:<ul style="list-style-type: none">□ there area of most concern is the open cut sector□ the Resources Regulator is deploying inspectors to sites after an incident□ an industry round table was held three years ago□ all incidents had administrative controls in place; if engineering controls were installed, the likelihood of the incident occurring would have been reduced. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the quarterly safety report.
13	<p>Mine safety levy report</p> <ul style="list-style-type: none">■ Mr Day provided members with a verbal overview of the paper.■ Mr Cribb commented that MSAC used to be provided with a more detailed breakdown of the main line item costs, but it is no longer received. Mr Day agreed to provide further breakdowns next meeting. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the Mine Safety Levy Fund report. <p>Actions</p> <ul style="list-style-type: none">F. Mr Day to provide further breakdown of the mine safety levy report for next meeting.
14	<p>Update on MSAC Strategic Plan</p>

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	<ul style="list-style-type: none">■ Mr Linnane provided members with a verbal overview of the paper. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the progress of strategies identified in MSAC’s Strategic Plan to 2023.
15	<p>Additional business</p> <ul style="list-style-type: none">■ There was no additional business. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the information on silica and dust diseases.
16	<p>Next meeting</p> <ul style="list-style-type: none">■ The next meeting will be held on 1 December 2022. Mr Barben agreed to identify a host location for the meeting. <p>Outcomes</p> <ul style="list-style-type: none">• Members agreed that the 2023 meetings will be held on:<ul style="list-style-type: none">○ Thursday 2 March 2023○ Thursday 1 June 2023○ Thursday 7 September 2023○ Thursday 7 December 2023.
17	<p>Review of coal industry health surveillance scheme</p> <ul style="list-style-type: none">■ Ms Yates left the meeting at 12:31pm due to a conflict of interest with the agenda item.■ Mr Day advised members that:<ul style="list-style-type: none">□ since the last MSAC meeting, the steering committee agreed that the review would include a qualitative review of a sample of worker health assessments of 100 underground coal mine workers with at least 20 years’ work experience (randomly selected) and, in addition, worker health assessments (including x-rays) of 172 coal mine workers and worker health assessments (including spirometry) of 44 coal mine workers identified by Coal Services as having abnormal results□ Bob Cohen will be travelling to Australia on 13 October and meeting with key stakeholders

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	<ul style="list-style-type: none">□ a draft report has been requested for the December meeting and the UIC will present at the December meeting. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the update on the status of the review of the coal industry health surveillance scheme.
	<p>Meeting close</p> <ul style="list-style-type: none">■ The Chair thanked Coal Services for hosting the meeting.■ The Chair closed the meeting at 12:35 pm.

Summary of actions

AGENDA ITEM	ACTION
Declaration of interests (2)	A. Secretariat to update Mr Williams pecuniary interest declaration.
Survey of mining industry on perceptions that labour hire and non-permanent workers under-report safety concerns (6)	B. MSAC to review the outcomes of the Resources Regulator compliance project in early 2023 to determine if further specific action is required. C. MSAC to coordinate a follow-up survey in late 2023.
Member updates (9)	D. Ms Flemming to provide a break-up of order 43 assessments.
Presentation: WA Government's response to the Enough is Enough report	E. Secretariat to send questions from MSAC members to WA out of session.
Mine Safety Levy Report (13)	F. Mr Day to provide further breakdown of the mine safety levy report for next meeting.

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