

Minutes

NSW Mine Safety Advisory Council

Details

Location:	Coal Services Newcastle Mines Rescue Station Room 1, 533 Lake Road, Argenton
Date/time:	7 December 2023 9.00 am
Secretary:	Tony Linnane Mining, Exploration and Geoscience, Department of Regional NSW

Members

1. **Chairperson:** Hon. George Souris AM, Independent Chair
2. Prof. Deborah Yates, Independent
3. Ms Julie Armour, Independent
4. Mr James Collings, Cement Concrete and Aggregates Australia
5. Mr Peter Day, Resources Regulator, Department of Regional NSW
6. Mr Robin Williams, Mining and Energy Union
7. Mr Graeme Osborne, Mining and Energy Union
8. Mr Ron Cowdrey, Australian Workers' Union, New South Wales Branch
9. Mr Ian Cribb, NSW Minerals Council (coal)
10. Ms Kylie Harris, NSW Minerals Council (metalliferous)

Observers

11. Mr Anthony Margetts, Resources Regulator, Department of Regional NSW (only attended up to Paper 5)
12. Mr James Barben, NSW Minerals Council
13. Mr Jason Kuchel, Cement Concrete & Aggregates Australia
14. Ms Lucy Flemming, Coal Services

Apologies

Nil

Secretariat

Ms Amanda Quin
Mining, Exploration and Geoscience,
Department of Regional NSW

Meeting minutes

Paper	Agenda item
1	<p data-bbox="300 309 778 347">Welcome and Chair’s report</p> <ul data-bbox="300 392 1460 705" style="list-style-type: none"> <li data-bbox="300 392 1460 504">• The Chair commenced the meeting at 9am and delivered an Acknowledgement of Country and welcomed members and observers and noted the passing of Mr Anthony Keon. <li data-bbox="300 526 1460 604">• Mr Tony Linnane paid tribute to Mr Keon, recognising his significant contributions to the Council and the Department. <li data-bbox="300 627 1460 705">• The Chair congratulated Mr Anthony Margetts on his appointment as Chief Inspector. <p data-bbox="300 739 470 777">Outcomes</p> <ul data-bbox="300 801 1412 880" style="list-style-type: none"> <li data-bbox="300 801 1412 880">• The Council noted the Chair’s report and expressed sadness at the news of Mr Anthony Keon’s passing and offered condolences to his family.
2	<p data-bbox="300 940 710 978">Declaration of interests</p> <ul data-bbox="300 1019 1460 1198" style="list-style-type: none"> <li data-bbox="300 1019 1460 1064">• A declaration of interest had been received from Mr Ron Cowdrey. <li data-bbox="300 1075 1460 1198">• Prof. Deborah Yates declared that she was mentioned in Attachment A to Paper 5. This mention solely arose from Coal Services having forwarded proposed guidelines to Prof. Yates for review. <p data-bbox="300 1232 470 1270">Outcomes</p> <ul data-bbox="300 1294 1412 1373" style="list-style-type: none"> <li data-bbox="300 1294 1412 1373">• The Council noted the updates to the pecuniary interest register and that Prof. Yates is mentioned in attachment A to Paper 5.
3	<p data-bbox="300 1433 1061 1471">Acceptance of previous minutes and actions</p> <ul data-bbox="300 1512 1404 1691" style="list-style-type: none"> <li data-bbox="300 1512 1404 1590">• It was noted that the terminology regarding vehicle interaction did not reflect previously agreed wording. <li data-bbox="300 1601 1404 1691">• For future minutes, papers and agendas, vehicle interaction awareness is the agreed terminology, rather than vehicle interaction avoidance. <p data-bbox="300 1724 470 1762">Outcomes</p> <ul data-bbox="300 1787 1356 1888" style="list-style-type: none"> <li data-bbox="300 1787 1356 1832">• Members endorsed the minutes of the last meeting on 7 September 2023. <li data-bbox="300 1843 1356 1888">• Members noted the status of actions arising from the last meeting.

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4	<p data-bbox="300 219 584 259">Correspondence</p> <p data-bbox="300 304 466 340">Outcomes</p> <ul data-bbox="300 367 1350 443" style="list-style-type: none"> Members noted the incoming and outgoing correspondence since the last meeting.
5	<p data-bbox="300 501 1228 542">Review of the coal worker health surveillance scheme</p> <ul data-bbox="300 582 1461 1196" style="list-style-type: none"> Coal Services provided a Progress Report and members noted that the majority of items will be completed by January 2024, however some items will be addressed in a staged approach over a longer time horizon. Recommendations 2 and 14 will have impacts on Coal Services Occupational Hygiene and the CMI workers compensation scheme. Further consultation and a full impact assessment on workers, employers and Coal Services will be required. A review working group has been formed to assist with the implementation of some of the Review Recommendations, with STAC Consulting engaged to undertake an the impact assessment for recommendations 2 and 14.. Recommendation 6 will be reviewed further. Queensland requires a dual reader system, however there is a potential alternative utilising more modern technology including HRCT. It was endorsed that HOACHI be engaged as the external independent reviewer to address some components of recommendations 9 and 11. <p data-bbox="300 1240 466 1276">Outcomes</p> <p data-bbox="300 1303 520 1339">Members noted:</p> <ul data-bbox="347 1352 1445 1666" style="list-style-type: none"> the Progress Report provided by Coal Services on recommendations from the Review of the Coal Industry Health Surveillance Scheme (CIHSS) that the MSAC CIHSS Steering Committee supports the proposed engagement of HOACHI as the external independent reviewer to address some components of Recommendations 9 and 11 of the Review the MSAC CIHSS Steering Committee’s advice to Coal Services clarifying the scope of recommendations 9 and 11 of the Review. <p data-bbox="300 1711 424 1747">Actions</p> <ol data-bbox="300 1778 1445 2002" style="list-style-type: none"> The Department to provide a progress report regarding the review of the CIHSS in Chair’s meeting report to the Minister. The Department to publish a half yearly update on its website regarding the progress of the CIHSS. Coal Services to:

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	<ul style="list-style-type: none"> i. consult the MSAC Review Implementation Working Group on the impact of recommendations 2 and 14 and provide an update on the impact analysis (to be undertaken by STAC Consulting) at the March 2024 Council meeting ii. consult with the MSAC regarding recommendation 6, with an alternative approach proposed to implementing this recommendation iii. engage HOACHI as the external independent reviewer to address some components of recommendations 9 and 11 of the Review iv. implement a communications strategy and issue communications to industry regarding the review of the coal worker health surveillance scheme, particularly the context of recommendation 14.
6	<p>Airborne contaminants management and reporting framework for the metalliferous and quarries sectors</p> <p>Outcomes</p> <ul style="list-style-type: none"> • Members noted the status of the airborne contaminants management and reporting framework for the metalliferous and quarrying sectors.
7	<p>MSAC strategic plan to 2026</p> <ul style="list-style-type: none"> • The Resources Regulator will develop a draft work plan to implement to the MSAC Strategic Plan to 2026 for MSAC’s consideration. • It was noted that the proposed template does not refer to muscular skeletal disorders. This should be added. <p>Outcomes</p> <ul style="list-style-type: none"> • Agreed that a work plan to implement the MSAC Strategic Plan to 2026 is to be developed by the department utilising the proposed template, including the addition of muscular skeletal disorders. <p>Actions</p> <ul style="list-style-type: none"> D. The Department is to develop a work plan to implement the MSAC Strategic Plan to 2026, to include muscular skeletal disorders.

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8	<p data-bbox="300 219 592 259">Member updates</p> <p data-bbox="300 302 624 338">Coal Services Update</p> <p data-bbox="300 362 1449 479">Lucy Flemming tabled the Coal Services report. Ms Flemming drew the Council members attention to items of interest in the dust, health and workers compensation space including:</p> <ul data-bbox="300 504 1449 1167" style="list-style-type: none"> <li data-bbox="300 504 1449 577">• Respirable silica – there will be challenges for measuring the lower exposure standard and for operations to meet it <li data-bbox="300 600 1449 757">• The graph with the quarter 3 results shows there are more surface operations than previously. There are exceedance rates, particularly with longwall. Ms Flemming noted that both year on year trends and seasonality are reviewed. Additionally inhalable is analysed as well as respirable <li data-bbox="300 779 1449 853">• There has been a reduction in external doctor network use, with an increase in coal services doctor use <li data-bbox="300 875 1449 949">• The Thoracic Society spirometry standard level has been lowered, which picks up more COPD, which may not necessarily be work-related <li data-bbox="300 972 1449 1003">• 18 people had work restrictions, with some totally unfit <li data-bbox="300 1025 1449 1099">• The number of psychological claims is lower, however there are still complex claims <li data-bbox="300 1122 1449 1167">• Obesity issues are increasing, resulting in body stressing injuries. <p data-bbox="300 1189 1449 1305">Ms Flemming noted that across Australian jurisdictions there has been an increase in worker-on-worker claims (bullying, harassment etc) and obesity and other health-related issues (e.g., body stressing injuries such as ankle sprains).</p> <p data-bbox="300 1346 1222 1382">Update regarding positive duty regarding sexual harassment</p> <p data-bbox="300 1406 624 1438">Julie Armour noted that:</p> <ul data-bbox="300 1462 1449 2018" style="list-style-type: none"> <li data-bbox="300 1462 1449 1704">• The Australian Human Rights Commission (AHRC) national legislation regarding the positive duty for PCBUs regarding sexual harassment is enforceable from December 2023. Ms Armour requested that awareness be raised with the mining regulator, employer bodies and unions regarding the positive duty and the various information guides available from the Human Rights Commission including Australian Human Rights Commission Factsheet <li data-bbox="300 1727 1449 2018">• The positive duty aims to create change by preventing workplace sex discrimination, sexual harassment, and other unlawful behaviour from happening, rather than reacting to it after it has occurred. Previously, it was left to workers to report unlawful behaviours. The positive duty requires organisations and businesses to take ‘reasonable and proportionate measures’ to eliminate the following behaviour as far as possible: <ul data-bbox="347 1989 1118 2018" style="list-style-type: none"> <li data-bbox="347 1989 1118 2018">– discrimination on the ground of sex in a work context,

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	<ul style="list-style-type: none"> – sexual harassment in connection with work, – sex-based harassment in connection with work conduct creating a workplace environment that is hostile on the ground of sex, – related acts of victimisation. <ul style="list-style-type: none"> • This discussion also raised that AIRC (and its state/territory-based branches) can work with relevant bodies involved in potentially dealing with sexual harassment from state & territory based WHS and mining regulators, national bodies including Safe Work Australia, mining employer bodies and unions can work together to assist in raising awareness of the implementation of this positive duty and how resources can be better shared. <p>Outcomes</p> <ul style="list-style-type: none"> • Members noted the report tabled by Coal Services and the update provided by Ms Julie Armour regarding the enforcement of the positive duty regarding sexual harassment. <p>Actions</p> <p>E. Secretariat to circulate to members resources from the Australian Human Rights Commission regarding the positive duty to eliminate unlawful sex discrimination.</p>
9	<p>National Dust Disease Task Force</p> <ul style="list-style-type: none"> • The Australian Department of Health is yet to discuss with the states the outcomes from the public consultation on the 2023 – 2028 National Silicosis Prevention Strategy and associated National Action Plan. <p>Outcomes</p> <p>Members:</p> <ul style="list-style-type: none"> • noted the introduction of the National Occupational Respiratory Disease Registry Bill 2023 to the Australian Parliament. • noted that the Australian Department of Health and Aged Care has set up a National Registry Build Advisory Group to advise on the build of the national occupational respiratory disease register. • agreed to maintain a watching brief regarding the draft 2023 – 2028 National Silicosis Prevention Strategy and associated National Action Plan.

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10	<p data-bbox="300 219 817 264">Legislative framework update</p> <p data-bbox="300 304 469 340">Outcomes</p> <p data-bbox="300 367 520 398">Members noted:</p> <ul data-bbox="360 430 1465 1084" style="list-style-type: none"> • the commencement on 1 January 2024 of audiometric testing requirements under Clause 58 of the Work Health Safety Regulation 2017, which will apply to all mining operations in NSW except workers at coal mines. Workers at coal mines have an existing medical assessment regime under Order 43 of the <i>Coal Industry Act 2001</i>. • that the NSW Resources Regulator has received submissions on its Vehicle Interaction Controls in NSW Mines Discussion Paper, which will inform a position paper on adverse vehicle interactions. • that the NSW Parliament has assented to the <i>Work Health and Safety Amendment Act 2023</i>, the <i>Radiation Control Amendment Act 2023</i> and the <i>Explosives Amendment Act 2023</i>. • that Report 84 – 2023 Review of the Workers Compensation Scheme was tabled by the Legislative Council’s Standing Committee on Law and Justice in the NSW parliament on 5 December 2023. The government response is due on 5 March 2024.
11	<p data-bbox="300 1144 880 1189">NSW Resources Regulator report</p> <ul data-bbox="300 1227 1465 1711" style="list-style-type: none"> • The Resources Regulator’s compliance priorities include: <ul data-bbox="351 1285 1465 1711" style="list-style-type: none"> – Proactive assessments regarding control plans – with targeted programs around airborne contaminants, psychosocial and lifting and crange – Targeted assessments regarding mobile plants for opencut coal and metals mine, to focus on decreasing the number of fires – Airborne contaminants for metals mine – focusing on compliance with the regulations – Audiometric testing targeting metals mines – to ensure new requirements are clear, to include road shows for the quarry sector – Blasting and fire procedures – focussing on small mines and targeted quarries. <p data-bbox="300 1751 469 1787">Outcomes</p> <p data-bbox="300 1814 520 1845">Members noted:</p> <ul data-bbox="341 1877 1436 1966" style="list-style-type: none"> • the Resources Regulator’s compliance priorities for January to June 2024 • the Resources Regulator’s quarterly safety report – July to September 2023

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	<ul style="list-style-type: none"> the Resources Regulator’s proposal to form a vehicle interaction awareness advisory committee the Resources Regulator has published a factsheet on sexual harassment on its website and is working with SafeWork NSW regarding this issue. 															
12	<p>Mine safety levy report</p> <p>Outcomes</p> <ul style="list-style-type: none"> Members noted the Mine Safety Levy Fund report – Actuals & Forecast October 2023. 															
	<p>2024 meeting dates and venues</p> <p>Outcomes</p> <ul style="list-style-type: none"> 2024 meetings are scheduled as follows: <table border="1" data-bbox="300 996 1481 1597"> <thead> <tr> <th>Meeting</th> <th>Date</th> <th>Venue</th> </tr> </thead> <tbody> <tr> <td>Meeting 1</td> <td>Monday 18 March 2024 at 12 noon</td> <td>Moolarben Coal Mine 12 Ulan-Wollar Road, Ulan NSW</td> </tr> <tr> <td>Meeting 2</td> <td>Monday 17 June 2024 at 12 noon</td> <td>MEU Northern office 67A Aberdare Road Aberdare</td> </tr> <tr> <td>Meeting 3</td> <td>Thursday 5 September 2024</td> <td>NSW Minerals Council office 12 O’Connell Street Sydney</td> </tr> <tr> <td>Meeting 4</td> <td>Thursday 5 December 2024</td> <td>Department of Regional NSW 516 High Street Maitland</td> </tr> </tbody> </table>	Meeting	Date	Venue	Meeting 1	Monday 18 March 2024 at 12 noon	Moolarben Coal Mine 12 Ulan-Wollar Road, Ulan NSW	Meeting 2	Monday 17 June 2024 at 12 noon	MEU Northern office 67A Aberdare Road Aberdare	Meeting 3	Thursday 5 September 2024	NSW Minerals Council office 12 O’Connell Street Sydney	Meeting 4	Thursday 5 December 2024	Department of Regional NSW 516 High Street Maitland
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13	<p>Additional business</p> <ul style="list-style-type: none"> No additional business was raised. 															
	<p>Next meeting</p> <ul style="list-style-type: none"> The next meeting will be held at 12 noon on Monday 18 March 2024 at Moolarben Coal Mine, 12 Ulan-Wollar Road, Ulan NSW. 															

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	<p data-bbox="300 219 544 264">Meeting close</p> <ul data-bbox="300 302 1123 394" style="list-style-type: none"><li data-bbox="300 302 1123 338">• The Chair thanked Coal Services for hosting the meeting.<li data-bbox="300 356 911 394">• The Chair closed the meeting at 11.49 am.

Summary of actions

AGENDA ITEM	ACTION
Paper 5	<p>A. The Department to provide a progress report regarding the review of the coal worker health surveillance scheme to the Minister in January 2024, to be combined with the Chair’s MSAC 7 December 2023 meeting report to the Minister.</p> <p>B. The Department to publish a half yearly update on its website regarding the progress of the coal worker health surveillance scheme</p> <p>C. Coal Services to:</p> <ul style="list-style-type: none"> i. consult the MSAC Review Implementation Working Group on the impact of recommendations 2 and 14 and provide an update on the impact analysis (to be undertaken by STAC Consulting) at the March 2024 Council meeting ii. consult with the MSAC regarding recommendation 6, with an alternative approach proposed to implement this recommendation iii. engage HOACHI as the external independent reviewer to address some components of recommendations 9 and 11 of the Review iv. implement a communications strategy and issue communications to industry regarding the review of the coal worker health surveillance scheme, particularly the context of recommendation 14.
Paper 7	<p>D. The Department is to develop a work plan to implement the MSAC Strategic Plan to 2026, to include scoping of a project in respect of muscular skeletal disorders.</p>
Paper 8	<p>E. Secretariat to circulate to members resources from the Australian Human Rights Commission regarding the positive duty to eliminate unlawful sex discrimination.</p>