

NSW MINE SAFETY ADVISORY COUNCIL

Meeting minutes

Meeting details

Meeting	NSW Mine Safety Advisory Council	Date	Thursday 5 September 2019
Location	CFMEU, 67A Aberdare Road, Aberdare NSW	Time	9am to 12pm
Chair	Hon. George Souris AM		
Attendees	<p>Mr Ian Cribb (NSW Minerals Council (coal))</p> <p>Mr Rob Cunningham (NSW Minerals Council (metalliferous))</p> <p>Mr Peter Jordan (Construction Forestry Mining Maritime and Energy Union)</p> <p>Mr Anthony Keon (Resources Regulator, Department of Planning, Industry and Environment)</p> <p>Ms Julie Armour (Independent)</p> <p>Mr Tony Linnane (MSAC Secretary, Resources Regulator, Department of Planning, Industry and Environment)</p>		
Apologies	<p>Mr Graeme Osborne (Construction Forestry Mining Maritime and Energy Union)</p> <p>Mr Tony Cartwright (Independent)</p> <p>Mr Brock Skelton (Australian Workers' Union, New South Wales Branch)</p>		
Not present	Mr Matthew Freeman (Cement Concrete & Aggregates Australia)		
Observers	<p>Mr Garvin Burns (Resources Regulator, Department of Planning, Industry and Environment)</p> <p>Ms Lucy Flemming (Coal Services)</p> <p>Mr Bruce Grimshaw (Coal Services)</p> <p>Mr James Barben (NSW Minerals Council)</p> <p>Mr Jason Kuchel (Cement Concrete & Aggregates Australia)</p>		
Prepared by	Ms Anna Ormerod (Resources Regulator, Department of Planning, Industry and Environment)	CM9	DOC19/798409

Minutes

AGENDA ITEM	DISCUSSED/ACTION	DECISION/ACTION
1	<p>Welcome and apologies</p> <ul style="list-style-type: none"> ■ The Chair opened the meeting at 9am. ■ The Chair thanked Mr Jordan and the CFMMEU for hosting the meeting. ■ Mr Osborne and Mr Skelton were noted as late apologies. ■ Mr Linnane advised that Cabinet approved the four new member appointments on 2 September 2019. The new appointees will be formally advised of their appointment by the Minister. ■ Members noted the membership changes, appointments expiring in 2019, apologies and observers. ■ Members noted the Chair's report. 	
2	<p>Declaration of interests</p> <ul style="list-style-type: none"> ■ The Chair requested members declare conflicts of interest. No conflicts were declared. ■ No changes were requested to the Pecuniary Interests Register. 	
3	<p>Acceptance of previous minutes and actions</p> <ul style="list-style-type: none"> ■ The Chair asked if any changes were required to the tabled minutes. ■ No changes were requested. ■ Members noted the status of actions arising from the last meeting. 	<p>Decision</p> <p>Members endorsed the minutes of the last meeting held on 6 June 2019 without change.</p>
4	<p>Correspondence</p> <ul style="list-style-type: none"> ■ Members noted the incoming and outgoing correspondence since the last meeting. 	
5	<p>Coal dust and silica exposure standards</p>	<p>Action</p>

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	<ul style="list-style-type: none"> ■ The Chair advised that Ms Jackii Shepherd from Safe Work Australia was unable to join the meeting. ■ Mr Linnane advised that the two standards recommended by SWA members would be considered by the relevant WHS Ministers and a response provided by 25 September 2019. The NSW WHS Minister is Kevin Anderson. ■ The Chair asked if anyone from industry has contacted Minister Anderson: <ul style="list-style-type: none"> □ Ms Flemming advised that Coal Services has made representations to the NSW SWA member Carmel Donnelly from SIRA. □ Mr Barben advised that the NSW Minerals Council has reached out to Minister Anderson and the Federal Minister. □ Mr Kuchel advised that the CCAA has also made representations to Minister Anderson's office. ■ Mr Cribb commented that MSAC can provide advice to the Deputy Premier on its position on the proposed standards. Ms Flemming added that there is no medical evidence to back up the need for the changes. ■ Mr Cribb commented that it was raised at the recent Queensland health and safety conference about adopting coal mining practices in tunnelling and other industries where dust exposure is an issue. ■ Ms Flemming added that Coal Services has provided advice to SafeWork NSW on the practices in the coal industry. SafeWork NSW has implemented their own task force in tunnelling since then. There are also issues with diesel not just dust. ■ Mr Cunningham commented that the standards set for tunnelling are less than what is set in the mining industry. ■ Ms Barben requested that if MSAC agrees to provide advice to the Deputy Premier, that the advice include 	<ul style="list-style-type: none"> a. Secretariat to draft advice to the Deputy Premier and circulate to MSAC members for comment.

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	<p>consultation with industry if consideration is given to further lower the standards.</p> <ul style="list-style-type: none"> ■ Ms Flemming said Coal Services continues to have concerns about the evidence base and lack of broader analysis underpinning the proposed change in the exposure standards ■ The Chair requested that the advice to the Deputy Premier be circulated to MSAC members for comment prior to sending. ■ Mr Keon said the Resource Regulator supported the exposure standards proposed by SWA for approval. He also added that it is the regulator's view that the 0.02 standard for silica is not appropriate as you cannot test at that level. Further, he said the regulator was not opposed to the change in limits as it encourages behavioural change; it is seen as a positive outcome. Organisations should not aim for the upper limits as limits should be kept as low as possible. It is expected that Minister Anderson will refer to the Deputy Premier for advice in relation to the standards for mining. ■ Mr Cunningham commented that the three-year transition is the most important part as businesses will need time to change. ■ It was noted that members did not reach a consensus as to whether to expressly support or object to the proposed new limits. ■ Mr Jordan asked who would carry out the investigation into measurement and practical considerations as recommended to the WHS Ministers by SWA. ■ Mr Linnane replied that it was likely Safe Work Australia would coordinate the recommendations but who would undertake the work needs to be finalised. ■ Mr Keon added that we could request further clarification. 	

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6	<p>Queensland fatalities review</p> <ul style="list-style-type: none"> ■ The Chair invited Mr Linnane to comment on the paper. ■ Mr Linnane advised that the Resources Regulator has provided advice to the Deputy Premier so he can consider what is happening in Queensland and if anything needs to be considered in NSW. ■ Mr Cribb clarified that in Queensland every committee must go before the gender equality committee to see if it meets the required criteria. The CFMMEU did not put forward a female representative as no one had the necessary experience. This has since been resolved. ■ The Chair commented that NSW needs to monitor what is happening in Queensland. ■ Mr Cribb commented that there have been 28 cases of coal workers' pneumoconiosis in Queensland. The 72 cases reporting in the newspaper article includes all lung diseases. ■ Ms Flemming commented that there have been four confirmed cases in NSW. ■ Mr Keon added that of the four cases, one was found not to be coal workers' pneumoconiosis and one was a case of a worker who was predominantly employed in tunnelling. ■ Mr Jordan commented that this needs to be clear when reporting that there have been two cases of coal workers' pneumoconiosis and the other two cases are contributed to something else. ■ Ms Flemming commented that there have been other cases where coal dust could be a contributing factor, but the primary cause of those lung diseases was likely to be smoking related. ■ Mr Cribb commented that it is important to note the whole system failed in Queensland. The last report was done in 1986. The 28 cases include current and past mine 	<p>Action</p> <ul style="list-style-type: none"> b. Mr Cribb to present the reset presentation at the next meeting for the benefit of the Deputy Premier.

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	<p>workers with different time periods when the disease developed. The media article discussed a review of the health and safety legislation being conducted by the University of Queensland, but that review is now forming part of the review into mine safety.</p> <ul style="list-style-type: none"> ■ Mr Barben advised that the Queensland minister released a media release yesterday announcing the establishment of an independent body as part of the mine safety review. ■ Mr Cribb advised that it came out of the recommendations of the Parliamentary Select Committee into coal workers' pneumoconiosis. ■ Mr Keon commented that the Resource Regulator is considering the use of videos and resources for tool box talks to keep the issue alive and being discussed. Any suggestions from members are welcome. ■ Mr Cribb advised that this is being done in Queensland and there are plans for it to commence in NSW. The presentation took between 5 to 7 hours at each site. The presentation included discussion about the six fatalities and then focused on their own site and the specific fatal hazards at each site. Participants were then broken up into work groups and talked about each of the hazards, identified their knowledge and where they are deficient in their controls. Mr Cribb offered members an opportunity to view the presentation. ■ Mr Cribb gave an overview of the presentation to the meeting. ■ The Chair advised that the Deputy Premier is attending the December meeting and he may be interested in viewing the presentation too. ■ Ms Flemming asked what the workforce response to the presentation was. 	

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	<ul style="list-style-type: none"> ■ Mr Cribb responded that is was quite positive. The depth of the content was seen to be realistic not cosmetic. Breaking into work groups was found to be very useful. 	
7	<p>Employment type and safety performance in NSW mines 2017-2018</p> <ul style="list-style-type: none"> ■ The Chair invited Mr Linnane to comment on the paper. ■ Mr Linnane advised that the Resources Regulator has prepared a more detailed report further to the one considered by MSAC in March. The data reveals contractors are less likely to record an injury however the fatality rate has an increasing trend. There are a variety of factors that could explain the results including type of work, familiarity with safety systems, under-reporting etc. ■ Ms Flemming commented that the types of duties contractors are undertaking needs to be taken into consideration as that could explain the differences in the statistics. It is difficult with such a small data set. ■ Mr Linnane advised that the data is not broken down into that level of detail. ■ Mr Burns commented that the activity they were undertaking at the time of an incident can be identified. The fatalities could be building contractors undertaking construction work. The real concern needs to be contractors involved in mining activities, but it is hard to get that data. ■ The Chair asked if the data suggests there is need for further investigation or consideration or if should MSAC note the report and look at it again in 6 months. ■ Ms Flemming commented that when you overlay the data with the workers compensation data, there is an overall reduction in injury rates. ■ Mr Burns advised members that the Resource Regulator undertakes proactive and reactive work such as examining what plans in place to prevent injuries. 	<p>Decision</p> <p>Members noted the report and agreed to revisit the statistics in 6 months.</p>

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	<ul style="list-style-type: none"> ■ Members agreed that there is no need for further investigation or consideration at this time and that MSAC should look at the statistics again in 6 months. 	
8	<p>Diesel particulate exposure standard for NSW mines</p> <ul style="list-style-type: none"> ■ The Chair invited Mr Burns to comment on the paper. ■ Mr Burns advised that the Resources Regulator commissioned occupational hygienist Alan Rogers to conduct a review into the potential introduction of a diesel particulate workplace exposure standard for mines in NSW. The discussion paper was released last week and is open for a period of six weeks. The Resources Regulator is advocating that a 0.1 mg/m³ limit be introduced. If introduced, it may require changes in legislation. ■ The Chair asked if an update would be provided at the next meeting once the consultation period has closed. ■ Mr Burns agreed to provide an update at the next meeting. ■ Mr Kuchel asked if it is only seen as an issue in underground or if it is an issue in open cut mines as well. ■ Mr Burns replied that it is prevalent in underground, but surface mining has been considered and work areas where it could be an issue have been identified. ■ Mr Kuchel asked if any testing been done. ■ Mr Burns replied no but studies have been done by the Resources Regulator; there is some data out of Queensland and Western Australia and various research papers. ■ The Chair asked how levels are measured in an open cut environment? ■ Mr Burns replied that real time monitors available and air samples can also be taken. 	<p>Action</p> <ul style="list-style-type: none"> c. Department to present an update on the proposed diesel particulate exposure standard at the next meeting. d. Secretariat to ensure future papers not for distribution are clearly marked.

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	<ul style="list-style-type: none"> ■ Mr Kuchel asked if the MSAC paper can be shared to stakeholders. ■ Members agreed. ■ Mr Burns strongly encouraged everyone to also read the full report to ensure they are better informed. ■ The Chair requested that all papers which are confidential for members only have a clear indication on the paper that they cannot be circulated outside of the MSAC meeting. ■ Members noted the discussion paper. 	
9	<p>Regulator's report</p> <ul style="list-style-type: none"> ■ The Chair invited Mr Burns to comment on the paper. ■ Mr Burns advised that: <ul style="list-style-type: none"> ▣ the most significant issue over the reporting issue was the death of a light vehicle operator after colliding with a bulldozer. The initial investigation findings have been released. There have been four other incidents involving dozers in the last six weeks. This is a focus area for the Resources Regulator. ■ Mr Keon advised that an animation on the Maules Creek Mine incident was released last week. A causal investigation is being conducted. ■ Mr Burns advised that the Resources Regulator has completed a compliance blitz. The outcomes were pleasing. ■ Ms Armour asked if any trends were identified. ■ Mr Burns replied no major trends were identified but there were some issues with plans not being in place and / or not being followed, dust management and awareness and complacency. ■ Mr Keon advised that a full report is available on the Resources Regulator's website. 	

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	<ul style="list-style-type: none"> ■ Mr Jordan asked if the blitz was a useful tool and if it would be continued, and if so, is there merit focusing on particular sections only. ■ Mr Burns replied that it was useful. It was intelligence lead and targeted by sector and mine type. There was a consistent theme of failings of supervision. ■ Ms Armour raised that a result of the roundtable was inadequate supervision and questioned what strategies have been put in place to address it. ■ Mr Burns replied that the Resources Regulator has developed specific assessment templates focusing on supervision. The blitz was a proactive approach. Changes have also been made in the competency space where levels of experience have been increased for certificates of competence. There was no specific action out of the roundtable other than everyone agreeing that there were issues. ■ Mr Cribb commented that there are two parts: <ul style="list-style-type: none"> ○ the volume of work needed to be undertaken by supervisors, and ○ the ability of supervisors to do their job. Their work load is increasing and levels of paperwork are becoming over bearing. ■ Mr Linnane advised that a review of the WHS (Mines and Petroleum Sites) Act and Regulation will be undertaken in 2020. The Deputy Premier is identifying a lead reviewer. There will be a targeted consultation process. ■ Mr Burns advised that fatigue has been identified as an area that needs further work in the areas of travel and journey plans, controls and education. The Resources Regulator will be developing a communication and 	

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	<p>education package which will be presented to MSAC once drafted.</p> <ul style="list-style-type: none"> ■ Members were shown the video from the Maules Creek Mine truck collision. ■ Members noted the regulator’s report to MSAC. 	
10	<p>Mine safety levy report</p> <ul style="list-style-type: none"> ■ The Chair invited Mr Keon to comment on the paper. ■ Mr Keon advised: <ul style="list-style-type: none"> □ figures are less than expected due to machinery of government changes, a general reduction across industry, structural changes and a recruitment freeze □ at the next MSAC meeting, the Resources Regulator will present a report with indicative figures for next year, how much the reserve can be drawn upon and discuss how industry wants to see the levy reduced (i.e. as a one-off hit or over several years). ■ Members noted the update on implementation of the recommendations from the Independent Review of the Mine and Petroleum Site Safety Levy. ■ Members noted the Mine Safety Levy Fund report. 	<p>Action</p> <p>e. Department to provide an update on the levy reduction at the next meeting.</p>
11	<p>Media campaign update</p> <ul style="list-style-type: none"> ■ The Chair invited Mr Linnane to comment on the paper. ■ Mr Linnane advised that the terms of reference has been updated to reflect members concerns from the last meeting. It was advised that due to a change in staffing, the sub-committee is now chaired by Ms Melanie Brown (Director Regulatory Operations). The first area the sub-committee will focus on is dust. ■ Mr Jordan asked when mental health will be considered and whether MSAC can request the sub-committee look at that issue with some urgency. He advised that mental 	<p>Actions</p> <p>f. Secretariat to provide member feedback on mental health the sub-committee chair.</p>

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	<p>health is a real issue in the industry. There have been eight suicides in the coal industry this year in the district. It is a worrying trend. It has been talked about for a couple of years at MSAC now.</p> <ul style="list-style-type: none"> ■ Mr Linnane commented that the sub-committee has prioritised dust and fatigue at this stage, but the secretariat can take the comments back to the sub-committee for consideration. ■ Mr Jordan commented that a lot of work done has been done previously on fatigue, but nothing done on mental health. ■ Mr Keon commented that it was timely they consider dust first. The Resource Regulator is also looking at the issue of fatigue. The issue of mental health however, is better placed with the sub-committee rather than the Resources Regulator. ■ Members noted the report. 	
12	<p>HSEC presentations</p> <ul style="list-style-type: none"> ■ Members noted the presentations. 	
13	<p>Additional business</p> <ul style="list-style-type: none"> ■ The Chair called for additional business items not on the agenda. ■ Mr Cunningham raised there have been recent conversations on critical risk management and critical controls and asked if the Resource Regulator will be releasing a draft paper on it. ■ Mr Burns replied that the Resource Regulator will be publishing a factsheet on how it approaches assessments. ■ It was agreed that this would be discussed at the next meeting. 	<p>Action</p> <p>g. Department to provide factsheet on critical risk management and controls at the next meeting.</p>
14	<p>Future MSAC meetings and conferences</p> <ul style="list-style-type: none"> ■ Members agreed to the 2020 meeting dates. 	<p>Decision</p>

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	<ul style="list-style-type: none"> Members noted the conferences for 2019. 	Members agreed to the MSAC meeting dates for 2020 as: <ul style="list-style-type: none"> 5 March 4 June 3 September 3 December
	Meeting close <ul style="list-style-type: none"> The Chair thanked the CFMMEU for hosting the meeting. The Chair closed the meeting at 11:40 am. 	
	<ul style="list-style-type: none"> Further to agenda item 5, Mr Cribb showed members a copy of the Collinsville Safety Reset 2019 presentation. 	

Action items

NO.	RESPONSIBILITY	ACTION	DUE DATE
A	Tony Linnane	Secretariat to draft advice to the Deputy Premier and circulate to MSAC members for comment.	20 September 2019
B	Ian Cribb	Mr Cribb to present the reset presentation at the next meeting for the benefit of the Deputy Premier.	5 December 2019
C	Anthony Keon	Department to present an update on the proposed diesel particulate exposure standard at the next meeting.	5 December 2019
D	Anna Ormerod	Secretariat to ensure future papers not for distribution are clearly marked.	5 December 2019 and ongoing
E	Anthony Keon	Department to provide an update on the levy reduction at the next meeting.	5 December 2019
F	Tony Linnane	Secretariat to provide member feedback on mental health the sub-committee chair.	27 September 2019
G	Anthony Keon	Department to provide factsheet on critical risk management and controls at the next meeting.	5 December 2019

