

Mine Safety Advisory Council



Minutes

10.30am – 2.30pm – 12 May 2011

Horatio Motel, Mudgee

No.	Item	Attachment	Action
1	<p>Welcome and apologies</p> <p>Present: Members: Norman Jennings (Chairman), Barbara McPhee (Independent), Graeme Peel (Independent), Ian Cribb (NSWMC), Tony McPaul (NSWMC), Susan Fields (CCAA), Peter Jordan (CFMEU), Andy Honeysett (CFMEU), Alan Coutts (DTIRIS NSW).</p> <p> Secretariat: Jenny Nash, John Flint, Bruce Jones.</p> <p>Apologies: Minister Hartcher, Rob Regan (DTIRIS NSW), Glenn Seton (AWU), Andrew McMahon (NSWMC Observer).</p> <p>The Chairman welcomed members to the meeting, and Bruce Jones, who is working for the Secretariat whilst Tim Crakanthorp is on a temporary reassignment within the Department. The Chairman also advised members that he had invited Minister Hartcher and Cr Des Kennedy, Mayor of the Mid-Western Regional Council, to help launch the Council's Community Grants initiative; however the Minister was unable to attend due to Parliament sitting.</p>		
2	<p>Media event – Launch of Regional Community Grants Scheme Pilot</p> <p>The Community Grants Scheme Pilot was jointly launched by the Chairman and Cr Kennedy, Mayor of the Mid-Western Regional Council, with representatives of the Mudgee Guardian and WINTV Dubbo in attendance. The Chairman was also interviewed by ABC Orange.</p>	1	
3	<p>Declaration of conflict of interest</p> <p>The Chairman asked if any member had a declaration to make. There were no conflicts of interest to declare. Susan Fields stated that she does perform contract work for the Brief Group; however she has no involvement with the work they are currently undertaking for the Department. Members considered there was no actual or perceived conflict of interest in this declaration.</p>		Noted.

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4	<p>Business arising from the minutes</p> <p>The Chairman invited members to adopt the Minutes of the previous meeting.</p> <p>The Chairman advised members that, as per the Minutes he had written to the Minister Hartcher on several topics.</p> <p>Members agreed to adopt the minutes unamended.</p>	2	<p>Chairman has written to the Minister.</p> <p>Minutes adopted.</p>
5	<p>World-leading OHS Action Plan and Vision</p> <p>The Chairman brought members' attention to Attachment 3 and gave a brief re-cap of what was discussed about the Plan at the February MSAC meeting and the suggestions made to be incorporated into the Action Plan; that the plan had been agreed to in-principle and the members had wanted a more readable Vision document. Both matters had been actioned and the Chairman had written to Minister seeking his endorsement of these documents.</p> <p>Members agreed the amended Action Plan and updated Vision document be accepted and the plan be commenced in the 2011/12 financial year, with matters being reported on a regular basis as has been the case in the past.</p> <p>When endorsed, the Action Plan and Vision document are to be communicated to industry.</p>	3	<p>Action Plan and Vision document agreed by members.</p> <p>Minister to endorse then communicated to industry.</p>
6	<p>National Mine Safety Framework (NMSF) update</p> <p>The Chairman invited Jenny Nash to give a presentation on progress of the new legislation. She advised members that NSW is the first State to introduce the Work Health and Safety (WHS) Bill which is to come into effect 1 January 2012; the Bill was introduced in conjunction with amendments to the NSW OHS Act that have changed the responsibilities of company officers, the onus of the burden of proof, and removed the ability of third parties to make prosecutions. Transitional arrangements towards the WHS Act are still being worked on for commencement in January 2012.</p> <p>Progress on mining specific legislation, including core and non-core and stakeholder consultation, was discussed.</p> <p>The DTIRIS member is confident that, despite Safe Work Australia's slowness with drafting the mining-specific legislation the process is still on track for commencement on 1 January 2012; while the non-Core legislation is still not finalised and agreed by ministers, the three main mining states are agreed that their legislation will be very similar.</p> <p>Members requested a copy of the presentation be made available to them. Secretariat to send with copy of minutes.</p>		<p>Noted.</p> <p>Copy of DTIRIS presentation to be sent to members with minutes.</p>

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7	<p>Health Management Advisory Committee</p> <p>The Chairman referred to Attachment 4 and requested the Secretariat to update members on this issue and the holding of the first meeting of the Health Management Advisory Committee (HMAC) on 24 March 2011.</p> <p>Members agreed with the HMAC interpretation of its Terms of Reference and supported the progression of the Health Indices tele-survey project.</p> <p>Independent member Graeme Peel thought the first HMAC meeting augured well for the future and that HMAC business is now progressing; detail of Lag data so far is alright and does not require analysis as the numbers are too small to be of use. The work to be done on the Health Indices is the key to progress and HMAC awaits proposals to conduct the tele-survey.</p> <p>Members discussed the factsheets on lead health indices and requested some changes – Fatigue should include “Management” in heading, and Manual Task Management should be changed to “MSD Management” – and endorsed subsequent publication and distribution. Members would have one week in which to review the final draft and comments received by the Secretariat would be incorporated and finalised at the next HMAC meeting on 2 June 2011.</p> <p>Members desire the final factsheets be distributed as soon as possible after June 2.</p>	4	<p>Members endorsed HMAC interpretation of ToR.</p> <p>Members support Health Indices tele-survey.</p> <p>Some changes to factsheets; further feedback within 1 week; considered endorsed for publication and distribution after HMAC 2 June 2011.</p>
8	<p>Macken Board of Inquiry</p> <p>The Chairman brought members' attention to Attachment 5, the Macken Board of Inquiry Schedule, and he re-capped on the discussion at the previous meeting on this topic; that members wanted time to comment on the report of the Department's actions in response to the recommendations. He advised that the only comments received by MSAC had been from the CFMEU. He had, however, received a copy of a letter from the Minerals Council to the Minister which he had been advised would be the basis of their comments at MSAC. He asked DTIRIS to comment, then NSWMC representatives, then CFMEU, and then for members to proceed to a discussion in the context of the former Minister's request that MSAC report and advise on the Macken and Jennings reports. Jenny Nash reported on progress on the Brief Group's work on collecting information on the conduct of Level 3 investigations since 2007:</p> <ul style="list-style-type: none"> o the Brief Group has commenced interviews since MSAC last met; o they have begun interviewing stakeholders and people at major mine operations, including the MSAC Chairman; o the process is providing real information and perceptions on what has happened since 2007; and o the focus is on Level 3 investigations and other high level interactions and this is providing excellent feedback. 	5	

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	<p>Jenny advised that the Department's report (Attachment 5 Appendix B) had been updated with an explanation of (Rec 14) "Show Cause" made clearer, the (Rec 12) Level 3 Investigation data more detailed and that the (Rec 13) Inter Government Agreement is now signed by NSW, WA and QLD, which will bring a consistent application of processes in those states. She pointed out that by no means all Level 3 investigations led to prosecutions and added that the interview process was generating solid information on what is happening and how the investigation process is working.</p> <p>NSWMC asked when is the "Show Cause" applied and was advised by DTIRIS that it happens prior to a matter going to the Assessment Review Committee, which then considers whether to recommend to the Director General whether or not to prosecute.</p> <p>NSWMC member (Tony McPaul) advised:</p> <ul style="list-style-type: none"> o Brief Group interviews took place at the Newcrest Cadia operation the previous Tuesday; o a wide cross-section of employees had been made available for one-on-one interviews and this worked well. <p>Members commended the efficient and encompassing way this had been organised.</p> <p>In relating to the letter from the NSWMC, their members advised that a Working Group had been put together by the Minerals Council which was of the view that:</p> <ul style="list-style-type: none"> o some of the outstanding matters from the Macken report were being dealt with through the National process (e.g. enforcement and infringements); o the perception of their members that their concerns expressed to the Macken and Jennings inquiries about investigations were being ignored, had not changed; o their members did not view the Jennings Committee as independent due to the presence on it of Barry Buffier and Peter Robson; and o there should be a code of conduct for investigators. <p>The Chairman stated that Mr Buffier was Director-General at that time and was a member of the Review Committee because of his deep concern about the allegations and perceptions expressed by members of the Minerals Council at a time when no formal complaints had been raised. Mr Robson, Chairman of the ARC, is independent of the Department. The Chairman commented that:</p> <ul style="list-style-type: none"> o the Review he chaired was a collegiate effort to examine issues and was carried out in good faith; o the Review Committee was put together to seek feedback on specific issues; o one individual who was identified by the Committee but not named in the interviews, had left the Department before the Review took place; o the Review Committee found that at no time has the Department had a culture of seeking prosecutions at all costs; o he understood the Department has advised significant changes based on the recommendations of the Macken and Jennings reports, as shown in the schedule. 	5B	<p>Members briefed on updated report from the Department and initiatives since the last meeting.</p> <p>Brief Group process encouraging.</p> <p>Letter from NSWMC discussed and views aired.</p>

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	<p>CFMEU members supported both the Macken and Jennings processes and could not see the need for further inquiries and supported the implementation of all the Macken recommendations. They commented that it was interesting that there was concern expressed by employers about bullying and targeting of their members, when union members have historically faced bullying by companies in the industry, and they would like to know what comes back from the Brief Group project and move forward.</p> <p>Alan Coutts (DTIRIS) commented on views expressed and said:</p> <ul style="list-style-type: none"> o he believed the Review Committee took industry perceptions and views on board and made recommendations that led to extensive training by the Department. However, it needs to be recognised that an investigation can be a stressful process, notwithstanding recent efforts to ensure investigations progress as professionally and appropriately as possible; o the Department had undertaken training of investigators and that investigations are an accountable process, and the Department acknowledges that it has to improve more in both areas, and that is why the Brief Group, an independent consultant, had been engaged to review what the Department has done since 2007; o the Department continues to build respectful relationships with stakeholders, recognising that there are two sides to each investigation; and o despite the views expressed in the Minerals Council's letter, it was time to agree to put the past to one side and build on the information that would be provided by the Brief Group. The Department would make this available to MSAC. This should provide a sound basis to improving stakeholder relationships, improve the regulatory process and improve industry understanding of the Department's approach to enforcement. <p>In the course of further discussion regarding the letter from the NSWMC, the perception and concerns of all stakeholders were discussed and various issues and views were aired that:</p> <ul style="list-style-type: none"> o the delay in releasing the Macken and Jennings reports was unfortunate and increased the perception that something was being hidden and no action was being taken, as it took 3 years for them to be released; o investigations took far too long and information on what was happening was hard to obtain; o concerns by the NSWMC that their complaints had been ignored were apparent in their letter to the Minister; o some information given to Macken about investigations was conflicting and unsubstantiated; o DTIRIS does have a Code of Conduct similar to WorkCover's and other Government departments and the Code has been applied to a matter recently raised with the Department; o the review of an enforcement document that was prepared post-Gretley has been delayed because of national changes; o the Department had tried prior to the release of the reports to take all the recommendations on board; and o there has been an acknowledgement of problems and a learning process, but perception has overtaken reality to a certain extent. 		<p>Brief Group engaged to review what has been done since 2007.</p> <p>DTIRIS Code of Conduct similar to WorkCover. Enforcement Policy review part of National process.</p>

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	<p>The DTIRIS member said that the Department would advise the Minister against holding another inquiry; it was time to move on. Department initiatives since the enquiries and the project now being conducted for the Department by the Brief Group, demonstrated that the Department was moving forward.</p> <p>All members agreed that these matters should be put behind and MSAC and its membership should be looking forward based on information gathered by the Brief Group project, although the NSWMC was not prepared to say before seeing them, that outcomes from the Brief Group would satisfy their members' concerns. Some of them would have difficulty in letting go of the past without clear evidence of change.</p> <p>The Chairman concluded that as a result of a full and frank discussion, all stakeholders have aired their concerns and now better understand each other's perspectives.</p> <p>Members agreed they were very interested in discussing the findings from the Brief Group project at their next meeting on 27 July 2011. Members see the findings of the project as an important ingredient to dealing with outstanding issues not being resolved under the National process. Information from the Brief Group (even if not final) will provide the basis for reaching agreement on how to address any issues or perceptions that remain.</p> <p>Members asked that the Brief Group be invited to come to the next Council meeting on 27th July 2011 in Cessnock to report findings.</p>		<p>Brief Group review important to resolution of issues and in moving forward.</p> <p>Brief Group invited to report findings at next Council meeting on 27th July in Cessnock.</p>
9	<p>OHS Culture Working Party (CWP) update</p> <p>The Chairman brought members' attention to Attachments 6-9; the OHS Culture Working Party project updates.</p> <p>CWP Terms of Reference revision and membership composition was discussed and accepted; members considered it important to have the membership of the CWP reflecting the stakeholder make-up of MSAC. The role of the Working Party to be reviewed after the CEO OHS Culture Review event in 2012.</p> <p><u>Culture Project</u></p> <p>Members were advised the first phase of the Future Facilitator workshop worked well and participants seem keen, and the tools being developed seem comprehensive; the second phase will be held in late May; there is interest in the mines around the Nyngan / Cobar area and workshops may be held there. MSAC is sponsoring a related workshop to be held on 27 July at the NSWMC OHS Conference on the same day as the next MSAC meeting.</p> <p><u>ANTS Project</u></p> <p>All comments from MSAC members have been incorporated and the factsheets re-worked by a plain-English expert. Both industry and union representatives reported the factsheets already produced are useful and look forward to the next in the series. Two slight typographical errors picked up by members will be actioned by Secretariat. The factsheets were endorsed for publication and distribution.</p>	6 7 8	<p>MSAC endorses CWP ToR and membership and will review role after 2012 CEO event.</p> <p>Report noted. MSAC sponsorship of the workshop noted.</p> <p>Report noted and revised ANTS factsheets endorsed for publication and distribution.</p>

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	<p><u>Marketing and communication</u> Members noted the briefing paper and agreed that two young driver programs will be sponsored in the 2011/12 financial year, with one to be held in Broken Hill in August/September 2011, and the other in March 2012 at a location to be determined. MSAC supports the strategic direction of the Mudgee Pilot Campaign.</p> <p><u>Sponsorship of Mines Rescue Challenge 2011 Cobar</u> Members agreed that MSAC will become a Silver (\$5,000) sponsor for the 2011 Mines Rescue Challenge to be held in Cobar from 9-11 September 2011. Members saw this as another way to promote MSAC and capitalise on the pilot Young Drivers program conducted in Cobar. NSWMC member asked that the MSAC branding poster "Looking out for each other" be promoted at the event.</p>	9 10	Members endorse two Young Driver programs to be held in 2011/12. MSAC approves becoming Silver \$5,000 Sponsor for the 2011 Mines Rescue Challenge.
10	<p>Programmed work</p> <p><u>Wran Mine Safety Review:</u> The Chairman brought members' attention to Attachment 11, the Wran Review. He summarised the report and members agreed that of the 31 recommendations from the Wran Review, nothing was left to be actioned, except those which are by their nature on-going. These remaining items had been incorporated into MSAC's World-leading Action Plan or are being dealt with through the NMSF. On the suggestion of DTIRIS and NSWMC representatives, members agreed that these items could be reported on as separate agenda items in the future as and when they warrant reporting. Members also agreed that a statement on the Departmental and MSAC website is required stating that, MSAC has agreed that all the 31 Wran recommendations are now complete (except for on-going ones) after the Minister's agreement is gained.</p> <p><u>Summary Matrix of MSAC Programmed Work:</u> The Secretariat reported that the delay in marketing work is now being addressed with the launch of branding and community grants pilots. The Secretariat also advised that as the Health Management Advisory Committee had now commenced, this item will get back on track. The Good Practice initiative had been discussed and a strategy had been devised for the revised MSAC Action Plan and actioning on this initiative would have to wait for the completion of the Culture Project.</p> <p><u>Programmed work schedule for 2010/11:</u> The Chairman advised that this schedule, containing non-Wran items, had been covered in discussion today and that some have now commenced (e.g. HMAC and continuation of the Community Awareness / Young Drivers initiatives).</p>	11 12 13	Members agreed all 31 Wran Recs complete and, pending Minister's endorsement, that a statement to be posted on DITIRS and MSAC websites. On-going matters to be reported on as separate agenda items in the future when required. Noted. Noted.

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11	<p>MSAC Business</p> <p><u>Mine safety budget update – quarterly report (Q3)</u></p> <p>The Chairman brought members' attention to Attachment 14, the Mine safety budget update – quarterly report (Q3). Jenny Nash reported to members that the budget looks likely to achieve an under-spend as previously indicated; revenue is also up on previous estimates. Revenue estimates will be looked at more closely for the next budget; in the area of recruitment there has been one new inspector and one new laboratory technician at Thornton Technical Centre appointed since the last meeting. Members noted the budget.</p> <p><u>MSAC budget update</u></p> <p>The Chairman brought members' attention to Attachment 15, the MSAC budget update. Members noted the MSAC budget.</p>	14 15	Noted. Noted.
12	<p>Other Business</p> <p>The Chairman reported that he had spoken at the International Fatigue Conference held recently in Fremantle and noted that his was one of only very few papers that was practical rather than more academic studies. The Chairman and Heather Jackson have written a paper for the special fatigue edition of the journal Accident Analysis and Prevention.</p> <p>DTIRIS raised the following matters:</p> <p><u>Mine Safety one-stop shop</u></p> <p>Jenny Nash reported DTIRIS has been working on increasing the amount of actions that can be done on-line; this should be ready to go live by the end of June, but still needs a review by a technical reference group and she will be sending out a note to members about this.</p> <p><u>Communications Function Review and Embedded Communications Project</u></p> <p>There will be a survey coming out soon as part of the review by DTIRIS of their communication unit functions and the embedding project is about getting things implemented at the mine site and information about it will be coming out soon for comment.</p> <p><u>Pilot Mudgee Community Grants</u></p> <p>Secretariat informed members of intention to engage a tele-survey group to conduct an evaluation of the Community Grants and MSAC branding pilot marketing campaigns. A quote to conduct this had been obtained which would cost MSAC \$5,000 and was included in the budget. The issue will be discussed at the next Culture Working Party (CWP) meeting.</p>		Noted. Noted. Noted. Noted. Evaluation of MSAC marketing campaign to be discussed at next CWP meeting
13	<p>Close Next meeting – 27 July 2011, Crowne Plaza in Hunter Valley after NSWMC conference commencing 1.30pm</p>		