



# NSW MINE SAFETY ADVISORY COUNCIL

## Meeting minutes

### Meeting details

Meeting	<b>NSW Mine Safety Advisory Council</b>	Date	Thursday 3 September 2020
Location	Videoconference	Time	9am to 12pm
Chair	Hon George Souris AM		
Attendees	Mr Ian Cribb (NSW Minerals Council (coal)) Mr Peter Jordan (Construction Forestry Maritime Mining and Energy Union) Mr Anthony Keon (Resources Regulator, Department of Regional NSW) Ms Julie Armour (Independent) Mr Graeme Osborne (Construction Forestry Maritime, Mining and Energy Union) Mr Brock Skelton (Australian Workers' Union, New South Wales Branch) Mr Tony Cartwright (Independent) Mr Matthew Freeman (Cement Concrete & Aggregates Australia) Mr Rob Cunningham (NSW Minerals Council (metalliferous)) Mr Tony Linnane (MSAC Secretary, Resources Regulator, Department of Regional NSW) Mr Garvin Burns (Chief Inspector, Resources Regulator, Department of Regional NSW)		
Apologies	Mr Bruce Grimshaw (Coal Services) (Observer)		
Observers	Ms Lucy Flemming (Coal Services) Mr James Barben (NSW Minerals Council) Mr Jason Kuchel (Cement Concrete & Aggregates Australia)		
Prepared by	Ms Sally Tull (Resources Regulator, Department of Regional NSW)	CM9	DOC20/713058

## Minutes

AGENDA ITEM	DISCUSSED/ACTION
1	<p><b>Welcome and apologies</b></p> <ul style="list-style-type: none"> <li>■ The Chair welcomed the members and thanked them for joining the meeting.</li> <li>■ The Chair noted the apology from guest Bruce Grimshaw</li> </ul>
2	<p><b>Declaration of interests</b></p> <ul style="list-style-type: none"> <li>■ The Chair asked members to declare any conflicts of interests. Nil conflicts were declared.</li> <li>■ Members noted that the re-appointment process for Peter Jordan and Ian Cribb is currently underway.</li> </ul>
3	<p><b>Acceptance of previous minutes and actions</b></p> <ul style="list-style-type: none"> <li>■ Requested changes from members have been made to the minutes from the previous meetings for the consideration of members.</li> <li>■ Members accepted the minutes.</li> <li>■ There were nil actions from last meeting.</li> </ul>
4	<p><b>Correspondence</b></p> <ul style="list-style-type: none"> <li>■ The Chair's correspondence to the Deputy Premier following the last meeting to be added to next meeting correspondence.</li> </ul>
5	<p><b>Impact of COVID-19 on mining industry</b></p> <ul style="list-style-type: none"> <li>■ Mr Burns provided an overview of the impact of COVID-19 on the mining industry: <ul style="list-style-type: none"> <li>□ there are still no confirmed cases of COVID in the mining industry</li> <li>□ close to 200 planned inspections have been undertaken. COVID controls assessments are now integrated all site inspections. Inspections have found compliance is generally good. COVID controls are being integrated into business as usual activities. Some larger operations routinely don't abide social distancing requirements. A small number of notices have been issued to quarry managers for a lack of documented controls.</li> <li>□ Resources Regulator and Mining Exploration and Geoscience have commenced assessing border crossing exemption applications – with 22 considered thus far</li> </ul> </li> </ul>

AGENDA ITEM	DISCUSSED/ACTION
	<ul style="list-style-type: none"> <li>▣ the number of Resources Regulator safety inspections are almost back to pre-COVID levels</li> <li>▣ industry engagement activities are returning to pre-COVID levels (except for face-to-face seminars).</li> <li>▣ exams for key statutory functions have been scheduled</li> <li>▣ there has been a reduction in COVID-related complaints</li> <li>▣ no more complaints have been received regarding N-95 masks</li> <li>▣ no significant issues were raised by other jurisdictions during collaboration with federal bodies</li> <li>■ The Chair noted COVID is being managed very well by industry</li> <li>■ Ms Flemming advised members that:               <ul style="list-style-type: none"> <li>▣ Coal Services suspended statutory Order 43 medical services for a period due to COVID as adequate PPE could not be procured. Services have now resumed with controls in place</li> <li>▣ SIRA has reported that is has received 303 workers compensation claims / notifications for COVID-related conditions in NSW. Psychological impacts of COVID appear to have been significant.</li> </ul> </li> <li>■ Mr Cribb advised members that open cut vehicle training has resumed and limited to two people per vehicle. Workers are now carpooling again. Charters running workers to Queensland are not requiring people to be separated by seats anymore.</li> </ul>
6	<p><b>Occupational lung diseases in Australia 2006-2019 report</b></p> <ul style="list-style-type: none"> <li>■ Mr Linnane provided an overview of the <i>Occupational lung diseases in Australia 2006-2019 report</i> for discussion noting that:               <ul style="list-style-type: none"> <li>▣ lung diseases are continuing to be a problem in Australia</li> <li>▣ claims for asbestosis have been declining overtime.</li> <li>▣ better data collection and further research is needed lung all diseases</li> </ul> </li> <li>■ Mr Linnane said there is nothing new in the report of which the regulator or MSAC was not already aware.</li> <li>■ Ms Flemming noted the data in the report does not reflect recent sources and needs to be based on current known data.. The report does not include various information provided by Coal Services to SafeWork NSW or Safe Work Australia</li> </ul>

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or that is publicly available for evidence provided to various government inquiries. Consultation with the report writers at Safe Work Australia were not aware of the recent work done by Coal Services. A report by the Dust Disease Care Scheme in NSW published in 2019 found an increase in silicosis cases on previous years.

- The Chair noted that the report would benefit from interstate comparisons. Mr Linnane noted there are deficiencies in data - Coal Services identifies cases through Order 43 Health Surveillance and workers compensation claims. Data from the mining industry cannot be compared other industries as silicosis is only now becoming a notifiable disease in NSW.
- Ms Armour asked if there is any information that was left out of the report that we need to be aware of, such as lung cancers and infections? Ms Flemming replied Coal Services does occasionally receive notifications of other types of lung diseases, such as bronchitis, asthma, mould, etc.
- Mr Barben asked Mr Linnane if the comment on the report provided by the Resources Regulator will be made available to other parties, or just MSAC. Mr Linnane replied the comment is only for MSAC.

**Decision: Members noted the report**

7

**Queensland adoption of health surveillance for all mine workers**

- Mr Linnane advised members of the Queensland government’s adoption of health surveillance for all mine workers:
  - the changes extend the current requirements in place for coal mine workers to all mine workers
  - the cost of health surveillance for workers will be borne by mine operators
  - health surveillance for retired workers which will be funded by the Queensland government.
  - the changes will be reflected in the Mining and Quarrying Safety and Health Regulation 2017.
- Mr Linnane noted there is a similar health surveillance program in place in NSW. Under Coal Services’ Order 43, all workers at a coal mine must have a pre-placement medical before employment and ongoing periodic medicals, ensuring

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a baseline for future health surveillance. Coal Services provides health surveillance services to retired coal mine workers.

- There is no comparative mandated health surveillance scheme for metals mines and quarry workers in NSW. However, health monitoring required under the Work Health and Safety Regulation 2017 is monitoring of a worker to identify changes in their health status due to exposure to certain substances. Health monitoring must be supervised by a registered medical practitioner with experience in health monitoring. Health monitoring includes key substances that workers are exposed to. Other health issues are not covered.
- Ms Flemming advised Coal Services is investigating how such a scheme could be spread to greater numbers of workers outside of coal? Ms Flemming asked a question of how the system was funded in Queensland and if the government pay for the administration of a database for coal mine workers and retired mine workers?
- Mr Cribb noted that in the coal sector, the mine pays for the medicals to meet the elements of the NSW scheme. The Queensland mining industry pays a levy to the Queensland government to fund the inspectorate but is unsure how the government funds health surveillance for retired workers.
- Mr Keon asked members if there is a gap and business case for change? Or is the current framework sufficient? Mr Keon said the Resources Regulator does not support the department holding health records.
- Mr Burns said from the lack of data of the past three years we do not have well developed understanding of health impact on non-coal mine workers. The Resources Regulator has powers to ensure operators have health monitoring. Education and compliance activities ensure mines adhere to health guidelines. The Resources Regulator is in an education and advice phase now.
- Mr Cunningham said changes have been made in the metals mines sector. Operators they have spoken to are serious about making a safe place to work. Mr Cunningham has seen education and surveillance in the workplace. He hopes this is in line with what inspectors have observed.
- Mr Cribb noted that if there is a significant rise in silicosis and we cannot say there is an adequate scheme in place, then the industry should do something.

**Decision: Members noted the report on the new Queensland legislation**

AGENDA ITEM	DISCUSSED/ACTION
8	<p><b>MSAC annual report 2019/2020</b></p> <ul style="list-style-type: none"> <li>■ Mr Linnane tabled the draft MSAC annual report 2019/2020 and invited comments from members.</li> <li>■ Mr Keon asked for the reference to the Resources Regulator to be removed from the document as it was an MSAC report.</li> </ul> <p><b>Decision: Members endorsed the draft annual report</b></p> <p><b>Action: Secretariat to prepare briefing to Deputy Premier from the Chair on the annual report</b></p>
9	<p><b>Legislative framework update</b></p> <ul style="list-style-type: none"> <li>■ Mr Linnane advised the <i>Legislative framework update</i> is a new standing item to provide an update on NSW work health and safety laws.</li> <li>■ Mr Linnane provided an update of changes: <ul style="list-style-type: none"> <li>□ decision to implement a new exposure standard. The changes to regulation are going through the approval process now. The new respirable coal dust workplace exposure standard of 1.5mg/m<sup>3</sup> will take effect in NSW from 1 February 2021</li> <li>□ implementation of a class exemption for WHS reporting obligations and change to annual reporting</li> <li>□ the draft report on the statutory review of WHS (MPS) Act 2013 and WHS MPS (Regulation) 2014 is being finalised and will be tabled in Parliament</li> <li>□ the new respirable crystalline silica workplace exposure standard of 0.05mg/m<sup>3</sup> is in effect in NSW (it commenced 1 July 2020)</li> <li>□ the transitional arrangements for certificates of competence concludes from October. From 1 October 2020, people exercising a statutory function requiring a practising certificate will then be required to hold one</li> <li>□ the three-tiered approach to NSW quarries is almost fully implemented</li> <li>□ there are new arrangements for the provision of mine survey plans to the regulator to reduce submission frequency. An online portal for submission has been introduced</li> </ul> </li> </ul>

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- the new experience requirements for certificates of competence agreed to by the Mining and Petroleum Competence Board will take effect from 1 April 2021
- the Minister for Better Regulation has developed a new advisory group, Family and Injured Worker Support Group
- a review of the model WHS laws was undertaken in 2018. The *Work Health and Safety Amendment (Review) Act 2020*, which was based on the recommendations of the review, was passed. Key changes were made to NSW WHS laws including:
  - the enhancement of the Category 1 offence to include ‘gross negligence’ as a fault element
  - the prohibition of insurance and indemnity arrangements
  - increased penalty amounts for all WHS offences and change to units from amounts
  - extension of time in which a person can ask the WHS regulators to start a prosecution in response to a Category 1 or Category 2 offence from 12 to 18 months
  - clarification that a health and safety representative can choose their course of training
- The Chair noted it would be beneficial if Mr Linnane provided a written report to members on the verbal update.
- Ms Armour noted that one role of the new advisory group is to campaign health and safety issues. MSAC is currently working on dust, mental health and fatigue campaigns. Ms Armour asked what relationship will we have with the advisory group to make the most of campaigns? Mr Linnane said the Resources Regulator was not involved in the development of the group. Mr Keon advised the regulator has been meeting regularly with SafeWork NSW and to work on a campaign on mental health and how we can leverage off their services.
- Mr Linnane said the Centre for Work Health and Safety will soon commence a project led by Black Dog and the University of New South Wales to analyse coronial inquiries data on work-related suicide, including mining. The project is estimated to be completed early in the new year.
- Mr Keon noted that Queensland has lowered the coal dust exposure standard.

AGENDA ITEM	DISCUSSED/ACTION
	<b>Action: Mr Linnane to provide members a written report on WHS laws</b>
10	<p><b>Member update</b></p> <ul style="list-style-type: none"> <li>■ Mr Cunningham advised of a recent incident at Northparkes Mine involving extra low voltage. There have been two incidents in five weeks where an electrician and operator were exposed to 16 volts. These incidents impact the individual as any electric shock would. Controls have been put in place to reduce the risk further to protect the worker. Northparkes Mine will continue to work with the OEM about this incident.</li> <li>■ Mr Skelton noted that mental health issues are being raised, possibly due to COVID-19 restrictions. Some mine sites have notified work groups of wanting to change roster arrangements. We are seeing mental health impacts on members.</li> <li>■ Ms Flemming tabled a paper and suggested it be a standing item: <i>Order 42 Respirable Crystalline Silica (RCS) (Quartz) Exposure Trends Following Workplace Exposure Standard (WES) Revision from 1 July 2020 to 0.05mg/m<sup>3</sup></i>. The paper noted there were a number of exceedances and there is a significant number of instances where RPE is not being worn when workers are exposed to above the standard. There is more work to be done in this area. Mr Cribb asked if Coal Services data on exceedances and testing could be provided to the Queensland Mine Safety Advisory Council as a comparison between jurisdictions.</li> <li>■ Ms Flemming also noted Coal Services are required to provide self-contained self-rescuer training on live trainers. There has been an increase in exothermic reactions during this training. This training has been suspended and alternative methods are being investigated. A verbal update has been provided to the Resources Regulator. There will be a formal communication given to industry.</li> <li>■ Mr Kuchel noted the learnings from the false-positive COVID-19 case at a quarry were shared to membership. Exercises are underway to determine how to cope in the case of a positive case.</li> </ul>
11	<p><b>Regulator's report, quarterly and annual safety reports</b></p> <ul style="list-style-type: none"> <li>■ Mr Burns presented the Regulator's report to members.</li> <li>■ Mr Keon provided the following updates to the Council: <ul style="list-style-type: none"> <li>□ the regulator responded to a fatality at Springvale. Nothing has been identified to indicate it is workplace related</li> </ul> </li> </ul>



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	<ul style="list-style-type: none"> <li> <span style="color: #0070C0;">□</span> the regulator will shortly release an investigation report and animation regarding a fatality at an open cut metals mine where a worker fell from a scissor lift and died of complications                     </li> </ul> <p><b>Decision: Members noted the reports</b></p>
12	<p><b>Mine Safety Levy report</b></p> <ul style="list-style-type: none"> <li> <span style="color: #0070C0;">■</span> Mr Keon advised members that a detailed report of the mine safety levy will be published later in the year.                     </li> <li> <span style="color: #0070C0;">■</span> Mr Keon advised that the anticipated reserve as at 30 June 2020 was \$2 million more than anticipated due to COVID-19 impacts resulting in underspends. The levy determination for the 2021/22 period would account for this and draw down on this excess                     </li> <li> <span style="color: #0070C0;">■</span> Mr Cribb asked why the drawdown for next year is only \$2 million. Mr Keon replied that the regulator had drawn down significantly on the fund this year with the aim of trying to achieve 10% of the levy determination in one go. This will not be achieved this year due to unforeseen underspends and the regulator would again draw down in the next financial year. The Resources Regulator would draw down on the amount necessary to bring the reserve back to around the 10% mark.                     </li> <li> <span style="color: #0070C0;">■</span> <b>Decision: Members noted the report</b> </li> </ul>
13	<p><b>Multi-media campaign sub-committee</b></p> <ul style="list-style-type: none"> <li> <span style="color: #0070C0;">■</span> Mr Linnane provided an overview of the dust campaign activities:                     <ul style="list-style-type: none"> <li> <span style="color: #0070C0;">□</span> the evaluation survey has been circulated                             </li> <li> <span style="color: #0070C0;">□</span> the Resources Regulator has been very active in promoting the survey                             </li> <li> <span style="color: #0070C0;">□</span> 100 responses have been received so far and 10% of respondents are mine workers                             </li> <li> <span style="color: #0070C0;">□</span> an update will be provided to Council at the next meeting                             </li> </ul> </li> <li> <span style="color: #0070C0;">■</span> Inspectors provided feedback that workers wanted to know what the right answers were for the survey – they were advised that any response was relevant to understanding the effectiveness of the campaign                     </li> </ul> <p><b>Decision: Members noted the report</b></p>
14	<p><b>Additional business</b></p>

AGENDA ITEM	DISCUSSED/ACTION
	<ul style="list-style-type: none"> <li>■ Nil</li> </ul>
15	<p><b>Future MSAC meetings and conferences</b></p> <ul style="list-style-type: none"> <li>■ The Council agreed to the following meeting dates and locations:                             <ul style="list-style-type: none"> <li>□ 3 December 2020 – videoconference</li> <li>□ 11 March 2021 – Mr Jordan to confirm availability of CFMMEU venue</li> <li>□ 3 June 2021 - Mine site (TBD)</li> <li>□ 2 September 2021 - (TBD)</li> <li>□ 2 December 2021 – (TBD)</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>■ Meeting concluded 10:57am.</li> </ul>

## Approval

NAME/POSITION	SIGNATURE/APPROVAL	DATE
George Souris, Chair	Approved at MSAC meeting	3 December 2020

## Action items

NO.	RESPONSIBILITY	ACTION	DUE DATE
A	Secretariat	Include the Chair's letter to the Deputy Premier on the June meeting in the correspondence for the December 2020 meeting	3 December 2020
B	Secretariat	Remove the Resources Regulator logo from the annual report	3 December 2020
C	Secretariat	Prepare briefing to Deputy Premier from the Chair on the annual report	3 December 2020
D	Tony Linnane	Circulate details of legislative updates to members	3 December 2020