

Meeting	Mine Safety Advisory Council				
Meeting No.	4 of 2017	Date	Thursday, 7 December 2017	Time	10:00 – 14:00
Location	CFMEU Offices Aberdare Rd Cessnock				
Members	Mr Carl Scully (Chair), Mr Andy Honeysett (CFMEU), Mr Brock Skelton (AWU), Mr Chris Dolden (CCAA), Mr Ian Cribb (NSWMC), Mr Peter Jordan (CFMEU), Mr Rob Cunningham(NSWMC), Mr Anthony Keon (Department, alternate Lee Shearer)				
Observers	Mr Bruce Grimshaw (Coal Services), Mr Dave McLean (Department), Ms Mel Brown (Department), Ms Lucy Flemming (Coal Services), Ms Monique Andrew (CCAA), Mr Tony Linnane (Department), Ms Evelyn Subiago (NSWMC)				
Secretariat	Mr John Flint, Ms Rebecca Allan				
Apologies	Ms Lee Shearer (Department), Mr James Barben (NSWMC)				

Item	Issue	Actions
1	INTRODUCTION	
1.1	Welcome and Apologies <ul style="list-style-type: none"> The Chair opened the meeting at 10:00am and thanked everyone for their attendance. The Chair acknowledged Mr Hacking's departure from CCAA and Ms Andrew's new position as state director and congratulated her on her new position. The Chair thanked Mr Jordan and the CFMEU for hosting the meeting. Apologies were noted from Ms Shearer and Mr Barben. It was noted that Ms Subiago was standing in for Mr Barben. 	
1.2	Declaration of Conflict of Interest <ul style="list-style-type: none"> The Chair requested members declare any conflicts of interest. No conflicts of interest were declared. 	
1.3	Acceptance of Previous Minutes (Paper 1) <ul style="list-style-type: none"> The minutes of the last meeting on 28 September 2017 were endorsed, pending two changes below <ol style="list-style-type: none"> Clarification that Rix's Creek involved a <i>truck</i> tailgate Correction of error in section 4.1 (CFMEU recorded inaccurately as CFEMU) The status of actions arising from last meeting's minutes was noted. 	a. Secretariat to update minutes from September meeting

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1.4	<p>Correspondence (Paper 2)</p> <ul style="list-style-type: none"> Members noted the incoming correspondence. 	
2	FOR DISCUSSION AND/OR DECISION	
2.1	<p><u>Regulatory Report (Paper 3)</u> <u>MSAC Quarterly Safety Report</u></p> <ul style="list-style-type: none"> Mr Keon gave an overview of this paper (tabled at the meeting) and apologised for late distribution of report – delay due to re-architecture of data in order to ensure consistency, accuracy and breakdown of data by sectors moving forward. Mr Keon stated that no major incidents had occurred during the Jul – Sept 2017 quarter, however, noted that there were two issues of concern that were identified: <ol style="list-style-type: none"> Methane gas exceedances – Mr Keon clarified that the concern of the Regulator was regarding the management of these exceedances, not the gas exceedance itself. This included trigger action response plans not being followed by PCBUs. Mr McLean gave further details to the Council on this issue and stated that the Regulator has since re-visited the mines in question to review TARPs and management systems to ensure improved responses to these incidents in the future. Ventilation and diesel emissions – Mr McLean stated that this is part of the Regulator’s TAPs program and that it has been found that, in some instances, airflow and/or monitoring systems have been inadequate in some mines. Mr McLean explained what is required for adequate ventilation and provided an example of such a system. Mr Skelton asked what has been the response of mines in these situations and Mr McLean stated that mines are aware that the Regulator is visiting and have generally been cooperative and receptive to Regulator feedback. Any resistance to Regulator responses can usually be overcome by clear explanation from the Regulator as to where the concern stems from. <p><u>Causal Investigations</u></p> <ul style="list-style-type: none"> A discussion occurred regarding the two causal investigations that have been undertaken since the Regulator released the Causal Investigation Policy in April 2017. Mr Keon gave an overview of the investigations and stated that there has been an overwhelmingly positive response to the 	

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	<p>introduction of causal investigations from industry. Mr Keon acknowledged that learnings have been made during the two investigations and that improvements will result from this.</p> <ul style="list-style-type: none"> • Mr Cribb stated that, whilst feedback from industry has been positive, an early conversation with PCBUs on a decision to conduct a causal investigation will give clear direction to all parties involved and could be a point of improvement for the Regulator. • Mr Keon acknowledged this point and stated that the Regulator needs to be comfortable that there is no serious wrongdoing prior to launching a causal investigation, which may affect the ability for an ‘early conversation’, suggested by Mr Cribb. Mr Keon again acknowledged that this is a learning process for the Regulator, with continual improvements gained from each investigation that is conducted. • A question was put to the Regulator asking what the internal response to the implementation of causal investigations had been. Mr McLean stated that inspectors have embraced the idea. As with any new process, Mr McLean recognised that there are challenges with implementing change, however, noted that the response has been positive internally and the fluid nature of the process means that continual improvements can be made. • Mr Scully (Chair) asked if Mr Cribb had been satisfied with this new process. Mr Cribb stated that he was and stated that participation is key and that all parties need to go in with an open attitude as there are many benefits to be gained in focusing on the cause of incidents in the right cases. • Mr Honeysett stated that he was impressed with the Regulator’s Ulan West causal investigation, with a definite benefit in the approach of focusing on the cause, rather than allocating blame for incidents. • Ms Flemming congratulated the Regulator on the continual improvement of its reporting and MSAC members agreed. There were some suggestions for further refinement of the MSAC Quarterly Report, which are listed below. The Regulator has agreed to implement these moving forward. • Peter Jordan requested further information on the types of complaints that had been received by the Regulator in p 18. • Mr Scully (Chair) requested that the number of injuries, not just incidences, be included. It was indicated that on page 14 incidents reported to the Regulator are shown by how they are triaged and by sector. The Regulator will look at how it can show incidents by different categories in the future. • Mr Keon stated that, whilst this report is for MSAC circulation only, a similar, external facing, 	<p>b. The regulator will look at making improvements to the report for next meeting regarding complaints and reported incidents</p>

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	<p>report will be formulated next year.</p> <ul style="list-style-type: none"> • Ms Andrews asked if there had been any observations/feedback on the issue of truck tailgates, which was raised in the September MSAC meeting. Mr McLean stated that nothing specific has been raised by inspectors. Whilst this could indicate that the message has been received by industry, Mr McLean suggested that it may also mean that further engagement is needed with industry on the issue. • Ms Andrews stated that it was pleasing that the CCAA received the letter from the Regulator regarding the truck tailgate issue as it allowed them to circulate and raise awareness of the issue with its stakeholders. • Mr Keon stated that the Regulator is focused on engagement and improving the awareness and dissemination of important information from the Regulator to all appropriate stakeholders. • MSAC noted the Jul – Sept 2017 MSAC Quarterly Report. 	
2.2	<p>Regulatory Strategies (Paper 4)</p> <ul style="list-style-type: none"> • Mr Keon initially spoke to this paper and stated that, whilst the compliance priorities for next year have not yet been finalised and published, they will include fires in mobile plants, hazardous chemicals and the updating of guidance material. • It was noted the causal investigation update was provided during discussions on paper 3. Mr Linnane mentioned that the Wongawilli causal investigation had resulted in media interest, with Mr Linnane providing an interview to ABC Illawarra on the investigation and its outcomes. • Ms Brown gave a presentation on Health Control Plans (HCPs) and Human and Organisational Factors (HOF) and the actions the Regulator has been undertaking on these areas. • The presentation included an overview of the workshops that the Regulator has recently conducted on HCPs. Ms Flemming stated that there had been positive feedback from people that had attended. • Mr Skelton stated that feedback on the templates provided at the workshop had been positive, however, some participants had questioned whether the appropriate persons had been present at the workshops. Ms Brown acknowledged this and stated that consideration would be given to targeting the most appropriate participants for workshops conducted moving forward. • Ms Andrews asked how guides developed by the Regulator reflect different sector obligations and Ms Brown stated that guides address more general obligations across all sectors, hence, are not sector specific. 	

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	<ul style="list-style-type: none"> Ms Brown stepped through how HOF activities of the Regulator are being imbedded into proactive and responsive strategies. <p>MSAC noted:</p> <ol style="list-style-type: none"> Proposed Compliance Priorities for January – June 2018 period Causal Investigation update Update on Human and Organisational Factors (HOF) and Health Control Plans provided by the Resources Regulator 	
2.3	<p>Airborne Contaminants (Paper 5)</p> <ul style="list-style-type: none"> Mr Flint spoke to this paper and provided an overview as to how the MSAC Secretariat had arrived at the proposed recommendations for Airborne Contaminants. He reminded members the secretariat was requested to table a short report recommending concrete actions for MSAC consideration. It was noted that there was an error in Appendix B of Paper 5. Amended copies of Appendix B were tabled at the meeting. Specific topic areas on health monitoring, exposure monitoring, guidance and research and data were discussed by members as outlined in Paper 5 of the agenda. MSAC's resolution on the ten recommendations is as follows: <p>Recommendation 1 – Occurrence CWP, CMDLD and Pneumoconiosis identified are to be reported to the Resources Regulator. The Secretariat to provide a proposal on options on how this could be done.</p> <p>Recommendation 2 – Coal Services to complete Order 43. Coal Service and the Resources Regulator to discuss what guidance should be given to other sectors based on the qualifications, skills and experience needed for the other sectors based on Coal Services' work. The Resources Regulator may need to seek expert advice.</p> <p>Recommendation 3 – Members agreed that Safe Work Australia is the appropriate forum to review exposure standards for respirable coal and crystalline silica dust. MSAC should monitor activities in the SWA review process.</p> <p>Recommendation 4 – Members agreed that a paper is not required on the usefulness of real time dust monitoring as there are a number ACARP projects currently in progress on this issue. Members agreed MSAC should have a watching brief on real time monitoring.</p> 	<ol style="list-style-type: none"> The secretariat to provide a proposal on how cases of CWP/CMDLD and pneumoconiosis are reported to the Resources Regulator for the March 2018 MSAC meeting. Coal Services to complete Order 43. Resources Regulator, in consultation with Coal Services, to provide guidance to other sectors on qualifications and experience of medical practitioners conducting health monitoring of workers. MSAC to monitor SWA exposure standard review. MSAC to have a watching brief on real time dust

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	<p>Recommendation 5 – Members agreed that guidance or code of practice should be developed by the Resources Regulator on the Airborne Contaminants Principle Hazard Management Plan. Documents published by other Jurisdictions should be reviewed such as the:</p> <ul style="list-style-type: none"> - NZ Approved Code of Practice (<i>Air Quality in the Extractives Industry – Sept 2016</i>) - Queensland Recognised standard 14 (<i>Monitoring respirable dust in coal mines – 2016</i>) - QGL02 (<i>Guideline for Management of Respirable Crystalline Silica in Queensland Mineral Mines and Quarries – August 2017</i>) <p>Good practice information is already available and is being developed through ACARP.</p> <p>Recommendation 6 – Members agreed that MSAC should monitor exposure monitoring exceedances reported to the Resources Regulator under planned amendments to the WHS(M&P) Regulation. PCBU's are currently required to report negative health monitoring (specific test) results to the Resources Regulator under the WHS Regulation. It was agreed that Coal Services did not need to update MSAC as this would be a duplication.</p> <p>Recommendation 7 – If there is a risk of an adverse health effect and worker health monitoring is required, MSAC members agreed the Safe Work Australia guidelines should be used. Members agreed this material be up to date so it is relevant to the metal and extractives sectors.</p> <p>Recommendation 8 – Minimum exposure monitoring arrangements should be covered in the documents produced in recommendation 5. The CCAA is developing its own national guidance and that MSAC should wait to review that material and that the CCAA and NSWMC metals representative should have discussions on relevance across both sectors.</p> <p>Recommendation 9 – Members agreed there is no need to write to Safe Work NSW regarding recommendations about workers in the coal supply chain.</p> <p>Recommendation 10 – A recommendation was put forward that MSAC should have a watching brief on strategies to support retired coal workers participating in continuing health monitoring after leaving the industry. This was not adopted but was agreed that it was everyone's responsibility to encourage former workers to participate.</p> <ul style="list-style-type: none"> • MSAC noted Coal Services response to "Implication of Pyritic Coal Dust for Coal Workers". 	<p>monitoring.</p> <ul style="list-style-type: none"> h. The Resources Regulator to develop a guide or code on Airborne Contaminant Principle Hazard Management Plan and consult with MSAC and relevant stakeholders. i. MSAC to monitor worker dust exposure monitoring exceedances reported to the Resources Regulator. j. The metal and extractive sectors to use SWA worker health monitoring guidance for silica. k. The CCAA and NSWMC should discuss the CCAA's proposed guidance on silica.
2.4	<p>Fatigue Management (Paper 6)</p> <ul style="list-style-type: none"> • Ms Brown spoke to this paper. • Mr Scully (Chair) noted the history of the guide, which was originally created as an MSAC branded publication. • Mr Jordan expressed concern that stakeholders were not given a final opportunity to comment 	<ul style="list-style-type: none"> i. Written feedback on Draft Fatigue Guide to be provided to MSAC secretariat by Wednesday 14 February

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	<p>on latest version of the Fatigue Guide and requested a final round of consultation/feedback, with guide to be finalised in March MSAC meeting. Mr Jordan noted that the guide is not yet reflective of the CFMEU working group's position on fatigue.</p> <ul style="list-style-type: none"> • Mr Scully (Chair) noted the concerns of Mr Jordan and commented that it is crucial this project is brought to a close as soon as possible. • All stakeholders agreed that the preference is to have MSAC logo on guide if a consensus can be reached. • Mr Cribb noted that it will be difficult to gain an agreement across all stakeholder's due to differing points of view. Mr Scully (Chair) reminded all that this was a piece of guidance only. • Mr Keon discussed the Regulator's strong desire to publish guidance as soon as possible in order to address gaps that have been identified in advice currently available. • Mr Honeysett expressed concern that the guidance does not specifically prescribe the process for consultation required by PCBU's, including the opportunity for worker representatives to report back to the people they represent. • Mr Linnane acknowledged that consultation is a requirement, however, what the law requires and what is occurring in practice may not be aligned. As the document is guidance only, it does make clear that consultation is needed. If consultation is not occurring, this is the responsibility of the workplace and not something to be included in this document. • Mr Keon added that the Regulator will take on board this potential gap in consultation even if it is not an issue for the guidance document currently being considered. Mr Scully (Chair) clarified that consultation does not necessarily mean consensus but should be more than notification, an opportunity to discuss should be provided. • Mr Jordon expressed concern as it was his view that the guide in its current form cannot be practically used and only creates confusion. He stated that the CFMEU would oppose the document if it were to be published in its current format. He confirmed that it is still the CFMEU's view that guidance is not powerful enough to prompt real change to the issue of fatigue, which was identified years prior by MSAC as one of the main emerging issues in the industry. • Mr Scully (Chair) thanked Mr Jordan for his frank feedback. • It was agreed that stakeholders could provide further written feedback to the MSAC Secretariat by Wednesday 14 February 2018. The Regulator will consider feedback, update the guide and circulate with MSAC agenda papers for this meeting. • Mr Keon noted that this guidance was not the only action being undertaken by the Regulator to 	<p>2018. (MSAC Secretariat to send email confirming requirement and due date).</p> <p>m. MSAC secretariat to consolidate feedback and Resources Regulator to consider and update guide accordingly.</p> <p>n. Final updated fatigue guide to be distributed with MSAC agenda papers for March 2018 meeting. A decision to be made in this meeting regarding the inclusion of the MSAC logo.</p>

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	<p>address fatigue. He emphasised the fact that fatigue is being prioritised by the Regulator and, as an example, pointed to its inclusion in recent TAPs.</p>	
2.5	<p>Learning from disasters (Paper 7)</p> <ul style="list-style-type: none"> • Ms Brown talked to this paper and gave an overview of the Regulator’s actions since the September MSAC meeting, including the identification of potential gaps. • Mr Cribb noted that a lot of the recommendations from the report may be outdated as they occurred prior to the introduction of the new legislation in 2015. • It was identified that the legislation does not cover control of people during an emergency (exclusion zones). This issue was discussed by MSAC members before Ms Brown reminded the Council that the recommendation for consideration today is the formulation of a working group to discuss all potential gaps further. • Ms Brown also stated that there is a stage 2 report from Mr Parcell that will need to be considered by the working group if the recommendation is adopted by MSAC. • Mr Jordan spoke to the need to ensure the correct people are identified and included in the working group. • MSAC supported the formulation of a working group to consider Stage 1 & 2 reports on Learning from Disasters. • Ms Brown, as Regulator representative, to liaise with stakeholders of MSAC to identify correct people for working group. Regulator to provide a progress report to MSAC for March 2018 meeting, with the view to completing review by June 2018. 	<ul style="list-style-type: none"> o. Resources Regulator to liaise with stakeholders of MSAC to identify correct people for working group (approximately five participants suggested). p. Regulator to provide a progress report to MSAC for March 2018 meeting, with the view to completing review by June 2018.
2.6	<p>Mine Safety Levy Review Report update (Paper 8)</p> <ul style="list-style-type: none"> • Mr Scully (Chair) spoke to this paper and gave an overview of the report (tabled at the meeting). • Mr Scully (Chair) explained that the purpose of the review that he conducted was to review the transparency of the Mine Safety Levy and address substantial concerns that have previously been raised by MSAC stakeholders, particularly NSWMC. • Mr Scully (Chair) noted that all recommendations in the report have been supported by the Regulator. • Ms Andrews asked for further information on the implementation pathway for these recommendations and Mr Keon advised that the Regulator has accepted all the 	<ul style="list-style-type: none"> q. MSAC Secretariat to email electronic copy of report to MSAC participants, noting that this is not for publication. r. Stakeholders to provide feedback on findings of report to MSAC secretariat by Wednesday 14 February 2018.

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	<p>recommendations. Mr Keon also noted that some recommendations are already in the process of being implemented.</p> <ul style="list-style-type: none"> Ms Flemming noted that they would require a determination by March for scheduling and budgeting purposes. The Mine Safety Levy Review report was noted by MSAC. 	
2.7	<p>Feedback required – Mine Safety Performance Report (Paper 9)</p> <ul style="list-style-type: none"> Ms Brown spoke to this paper and the feedback that has been requested from MSAC. Mr Keon acknowledged that there is a significant, unavoidable, lag between the period and when data is available for reporting purposes. Ms Flemming stated that the report is much improved from previous versions. Ms Flemming did suggest the inclusion of commentary around insights (trends/drivers etc.). Ms Flemming also suggested that fatalities, by their nature, should not be averaged out across periods. Mr Cribb was concerned that the stakeholders he requested feedback from were not aware of the report's existence, even though they held senior safety positions in PCBUs. Mr Cribb tabled a written comment for consideration. Mr Linnane stated that the report is published on the Regulator webpage and links emailed out to subscribers when it is released. A discussion occurred regarding the improvement of awareness / marketing of the report to relevant stakeholders and the Regulator has taken these comments on board for consideration. Mr Keon noted that that there is a strong focus on improving awareness of the Regulator and any guidance / reporting material published. Mr Cunningham state that the report was useful for benchmarking processes, however, he did confirm that the timeliness of the report is an issue. Mr Cunningham tabled written comment for consideration. Ms Flemming stated that Coal Services uses the report to gain understanding of industry issues to be utilised from a prevention standpoint moving forward. Ms Flemming noted that QLD had just released their annual report. Mr Skelton questioned the need to provide data from 1900s in report. Mr Linnane stated that this provides historical context and supports the reasoning behind specific legislative requirements that have been imposed on this industry when compared to others. Other participants agreed that historical data should be retained in the report. 	<p>s. Resources Regulator to consider incorporating feedback into future reports and consider strategies to increase the distribution and awareness of the report when published.</p>

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	<ul style="list-style-type: none"> Mr Jordan stated that this is a useful document, including historical data, as it is used during local HSR training. Mr Jordan noted that it is particularly beneficial for people new to the industry to gain an understanding of the history and is also useful in gaining an oversight across all sectors of the industry. Mr Dolden stated that the safety alerts released by the Regulator are the practical information sets used by people 'on-the-ground'. Mr Dolden did not suggest any changes or improvements to the annual report. 	
3	FOR DISCUSSION AND/OR DECISION	
3.1	<p>EOI Independent Members (Paper 10)</p> <ul style="list-style-type: none"> Mr Flint spoke to this paper and gave an overview of the process moving forward, including the intent to have the selection process finalised and new independent members appointed in time to attend March MSAC meeting. MSAC noted that panel members nominated are Ms Andrews, Mr Skelton, Mr Barben and Mr Jordan. This panel will be tasked with providing a shortlist of suitable applicants to the Minister for final selection. It was noted that a letter of thanks on behalf of MSAC had been distributed to Mr Graeme Peel and Ms Barbara McPhee by the Chair. 	<p>t. Selection panel make short list recommendation to the Minister.</p>
3.2	<p>MSAC Strategic Plan (Paper 11)</p> <ul style="list-style-type: none"> MSAC noted this paper. No further comments were made. 	
3.3	<p>Statutory Functions – role descriptions published (Paper 12)</p> <ul style="list-style-type: none"> MSAC noted this paper. No further comments were made. 	
3.4	<p>Meetings for 2018 (Paper 13)</p> <p>It was agreed that MSAC meetings for 2018 would take place on the dates specified below:</p> <ul style="list-style-type: none"> 27 March – Sydney, hosted by Department (location TBA) 14 June – Wollongong, hosted by Coal Services 6 Sept – Hunter, hosted by CFMEU 4 December – Sydney, host TBA 	

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4	Other Business	
4.1	March 2018 MSAC Meeting <ul style="list-style-type: none"> • Meeting to be held in Sydney – DPE conference room TBA. 	u. MSAC secretariat to book and confirm location for MSAC meeting on 27 March 2018.
5	Close of meeting	
5.1	Thanked all for contributions of members throughout the year. The Chair closed the meeting at 1:16 pm.	