

NSW MINE SAFETY ADVISORY COUNCIL

Meeting minutes

Meeting details

Meeting	NSW Mine Safety Advisory Council	Date	Tuesday 6 June 2019
Location	Department of Planning and Environment Waratah Room, Level 31, 320 Pitt Street, Sydney	Time	9am to 12pm
Chair	George Souris		
Attendees	Darren Nicholls (NSW Minerals Council (Coal)), Rob Cunningham (NSW Minerals Council (Metalliferous)), Andy Honeysett (Construction Forestry Mining Maritime and Energy Union), Peter Jordan (Construction Forestry Mining Maritime and Energy Union), Anthony Keon (Resources Regulator, Department of Planning and Environment), Julie Armour (Independent), Tony Cartwright (Independent), Tony Linnane (MSAC Secretary, Resources Regulator, Department of Planning and Environment)		
Apologies	Ian Cribb (NSW Minerals Council (Coal))		
Not present	Brock Skelton (Australian Workers' Union, New South Wales Branch)		
Presenters	John Flint (Resources Regulator, Department of Planning and Environment) Teleconference: Jackii Shepherd (Safe Work Australia)		
Observers	Lucy Flemming (Coal Services), Bruce Grimshaw (Coal Services), James Barben (NSW Minerals Council), Jason Kuchel (Cement Concrete & Aggregates Australia), Matthew Freeman (Cement Concrete & Aggregates Australia)		
Prepared by	Anna Ormerod (Resources Regulator, Department of Planning and Environment)	CM9	DOC19/494672

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 welcomed Mr Matthew Freeman as an observer and noted Mr Freeman has been nominated as the new CCAA representative. ■ Mr Garvin Burns (Chief Inspector, Resources Regulator) was noted as a late apology. ■ The Board noted the membership changes, appointments expiring in 2019, apologies and observers. 	
2	<p>Declaration of interests</p> <ul style="list-style-type: none"> ■ The chair requested members declare conflicts of interest. No conflicts were declared. ■ An updated Pecuniary Interests Register was tabled at the meeting. The updated register included an update from Ms Julie Armour. 	
3	<p>Acceptance of previous minutes and actions</p> <ul style="list-style-type: none"> ■ Members endorsed the minutes of the last meeting held on 7 March 2019 without change. ■ Members noted the status of actions arising from the last meeting. ■ Members noted the final version of the MSAC Constitution. 	
4	<p>Correspondence</p> <ul style="list-style-type: none"> ■ The Chair advised he met with Deputy Premier and extended an invitation for the Deputy Premier to attend the MSAC meeting. Unfortunately, it is a parliamentary sitting day, so he was unable to attend but is hoping to attend a meeting later this year. ■ Members noted the incoming and outgoing correspondence since the last meeting. 	

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5	<p>Learning from disasters training package</p> <ul style="list-style-type: none"> ■ Mr John Flint presented on the learning from disasters training package. It was advised that as part of the maintenance of competence scheme, all practising certificate holders must have eight hours of learning from disasters. ■ Mr Nicholls asked if the outcomes were competency based. ■ Mr Flint advised that the training package meets the requirement for formal training however it is not a competence unit. ■ Mr Honeysett stated that the Mining and Petroleum Competence Board (MPCB) were concerned that most of the workforce and managers are trained in Australia and incidents are still occurring. ■ Mr Nicholls questioned where the findings come from for case studies. ■ Mr Flint replied that they were a part of findings from the Resource Regulator's investigations incidents which are available on the Department's website. ■ Mr Nicholls questioned what if the industry doesn't agree with the investigation findings of the Department? He added that for education purposes we should be using information that is not just the view of the regulator but a consensus view. Mr Cunningham commented that industry was involved in the preparation of the material. ■ Mr Flint commented that the MPCB was consulted and discussions were held internally. The case studies have been presented to MSAC previously for comment. The information used is information that is already in the public domain. The training package was developed by a consultant engaged to undertake the body of work. ■ My Honeysett commented that it is the Resources Regulator's role to investigate incidents and identify findings. 	<p>Action</p> <ol style="list-style-type: none"> 1. Resources Regulator to consider an alternate video to the Pike River video as part of the Learning from Disasters training package.

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	<ul style="list-style-type: none"> <li data-bbox="336 443 1201 611">■ Mr Keon commented that the Resources Regulator has a statutory role to undertake investigations and publish its findings. It does not seek a consensus view when doing so. A consensus view will not necessarily be reached. <li data-bbox="336 629 1201 707">■ Ms Armor asked how the success of the training package will be assessed. <li data-bbox="336 725 1201 848">■ Mr Linnane commented that this will be done as part of the assessment of the maintenance of competence scheme. The Department and the MPCB will review over time. <li data-bbox="336 866 1201 1034">■ Mr Nicholls commented that the biggest issue is that most workers haven't lived through a disaster. This is a great initiative. We just must ensure it meets the needs of the audience. <li data-bbox="336 1052 1201 1131">■ Mr Flint advised that the training package has been trialled internally with our own practicing certificate holders. <li data-bbox="336 1149 1201 1361">■ Mr Kuchel raised concerns over using an incident, where there had not been any injuries or deaths, as a failure of the company concerned, when it could have been the case or be perceived to be the case, of having good controls in place, which ensured no injuries or deaths occurred. <li data-bbox="336 1379 1201 1682">■ Mr Cunningham said the Moolarben highwall failure case study was essentially a free lesson. There were no fatalities, but the potential was there. Risks and management of the public domain should have been taken into consideration. The message is we shouldn't be limited by boundaries, we need to consider what the impacts would be if the risk area was extended. <li data-bbox="336 1700 1201 1964">■ Mr Keon brought members attention to the heading "Learning from disasters". At the time, the risk was unknown but now the incident has occurred, and the risks has been identified, we need to take the learnings and do better. At the end of last year, the Resources Regulator held a round table to address why there are so many near misses. Industry 	

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	<p>said it was becoming complacent. It is important that we keep issues live and have the discussions. It is not intending to criticise but discuss what can we learn now we know what we know.</p> <ul style="list-style-type: none"> ■ Mr Nicholls commented that the Pike River disaster is a great case study but the video does not address the failures relating to the incident, it is more about the failure of the legal system. ■ Mr Keon agreed. It was agreed that the Resources Regulator would reconsider the use of the video and seek a video more relevant to lessons learned from the incident. ■ Members noted the presentation on the learning from disasters training package. 	
<i>Mr Flint left the meeting at 10:20am.</i>		
6	<p>SWA review of coal dust and silica exposure standards</p> <ul style="list-style-type: none"> ■ Ms Jackii Shepherd from SafeWork Australia joined the meeting via teleconference at 10:20am. Ms Shepherd provided a verbal update on the status of the review as follows: <ul style="list-style-type: none"> □ The public consultation period has closed. 87 submissions were received (20 for coal dust and 67 for silica). □ The Strategic Issues Group (SIG) met last Thursday to review the submissions. The SIG will present SWA members with options for consideration based on the feedback. □ Four options were presented for coal: (1) adopting recommendations as per draft evaluation report; (2) adopting a single exposure standard of 0.9; (3) adopting an alternate standard of 1.5; (4) maintaining status quo. It was agreed to present options (2) and (3) to SWA members for consideration. There was also a strong request for a staged transitional period over 3 	<p>Actions</p> <ol style="list-style-type: none"> 2. Secretariat to add an update on the coal dust and silica exposure standards to the agenda for the next meeting. 3. Secretariat to send Ms Jackii Shepherd, SWA details for the September MSAC meeting. 4. Ms Flemming to send the Wesley Dust

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	<p>years with a gradual drop being applied over the years rather than a significant single drop over a longer period of time.</p> <ul style="list-style-type: none"> <li data-bbox="427 577 1209 880">□ Three options were presented for silica: (1) adopt the recommended standard of 0.02; (2) adopt a standard of 0.05 and undertake additional research to understand measurement and analysis issues; (3) maintain status quo. Only one member supported maintaining the maintain status quo. It was agreed to put forward options (1) and (2) to SWA members. <li data-bbox="427 902 1177 1014">□ All feedback from the consultation period and a summary of pros and cons will be provided to SWA members. <li data-bbox="427 1037 1193 1294">□ The Chair commented that a three-year transitional period was quick. Ms Shepherd commented that 5 years is more common. However, the transitional period was tested in the consultation and feedback was that a 3-year period was preferred over a 5-year transitional period. <li data-bbox="427 1317 1209 1440">□ Ms Shepherd asked MSAC members if anyone has any information on silica extended work shifts. Is there a normal roster for a monthly or weekly shift? <li data-bbox="427 1462 1209 1630">□ Mr Cunningham commented that there are a range of different rosters. In the metals industry, a 12-hour shift is common with between 42 and low 50s hours worked in a week. <li data-bbox="427 1653 1209 1899">□ Mr Barben commented that the proposals put forward are very concerning. Industry cannot comply with the numbers put forward. He asked if SWA were going to do a regulatory impact statement to determine the costs to industry and the impact of the new standards. <li data-bbox="427 1921 1177 2000">□ Ms Shepherd replied that at the commencement of the process for all the exposure standards, SWA 	<p>Disease Research Centre report to the secretariat for circulating to members.</p>

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	<p>received information from the Minerals Council and mining companies on cost implications. These have been integrated into the modelling with two cases identified. Under a low-case scenario there will be minimal changes required. Under a high-case scenario, duty holders will need to make significant changes. There are no plans at this stage to undertake another regulatory impact statement. The SIG can recommend another one be undertaken but it is up to SWA members to decide.</p> <ul style="list-style-type: none"> <li data-bbox="427 891 1225 1059">▣ Mr Barben commented that no one contemplated the amount of changes that would be required. NSW has been dragged along as an unintended consequence and no real benefits are going to be seen here. <li data-bbox="427 1077 1225 1200">▣ Mr Nicholls asked what evidence was used to support the changes. Mr Barben commented that medical impacts only were considered. <li data-bbox="427 1218 1225 1344">▣ Mr Nicholls commented that in Queensland there was a failure over the entire system. This is not seen in NSW. There are no drivers for change here. <li data-bbox="427 1361 1225 1709">▣ Ms Flemming commented that Coal Services tried to draw on some of that evidence in its submission. NSW does have some cases of CWP but there is a very strong congruence to smoking. NSW has a worker's compensation scheme that looks after all workers. A strong case for change is not being identified in the workers compensation space, nor through dust or health surveillance results. <li data-bbox="427 1727 1225 1984">▣ Ms Shepherd commented that SIG discussed the difference between the frameworks in each state. NSW does have more stringent monitoring and investigation of exceedances. NSW and Queensland members were very clear about the circumstances in the numbers going forward. Ms Shepherd 	

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	<p>commented she was happy to go to next SWA meeting and reiterate this and was happy for MSAC to provide her with key points to be raised.</p> <ul style="list-style-type: none"> <li data-bbox="427 577 1225 790">□ Mr Kuchel raised a question in relation to silica option 2 and whether the 0.05 standard would be adopted, and then additional research be undertaken or whether the research be undertaken first to consider if the 0.05 standard was appropriate. <li data-bbox="427 808 1225 976">□ Ms Shepherd replied that the recommendation is to adopt the 0.05 standard and then undertake research on the 0.02 standard to see if it is appropriate for extended shifts. <li data-bbox="427 994 1225 1473">□ Mr Kuchel commented that even adopting a 0.05 standard without undertaking research is a concern. Even at a standard that of 0.05, there is a potential for a regular exceedance and reporting requirement. It is impractical even introducing 0.05 maximum standard with the tools currently at their disposal. Additional research should be undertaken prior to the 0.05 standard being adopted. There is no need to reduce the limit as there has not been an issue here in NSW, at very least a more realistic level should be considered, even 0.07. <li data-bbox="427 1491 1225 1794">□ Ms Shepherd commented that there are some difficulties measuring down to the 0.02 standards using existing measurement equipment and techniques. Further research needs to be undertaken to determine the next steps. Measurement issues are not impacting 0.05 at this time as you can approve compliance. <li data-bbox="427 1812 1225 1946">□ Ms Flemming commented that SWA could look at the evidence and databases available in NSW to see if a reduction is required. 	

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	<ul style="list-style-type: none"> ▣ Ms Shepherd commented that NSW, Queensland and Western Australia have offered access to their databases. The SIG will take that proposal to SWA members for consideration. ▣ Ms Shepherd commented that the membership is available on the SWA website. The NSW government representative on SWA is Carmel Donnelly, Chief Executive, State Insurance Regulatory Authority (SIRA). ▣ Ms Shepherd replied that the representation on SIG is the same as SWA but not necessarily the members. The membership is not on the website. The NSW member is Andrew Gavrielatos from SafeWork NSW. ▣ The Chair questioned how MSAC members could put forward their positions directly to SWA as there concerns that the views around the table haven't got through to the SWA members. ▣ Ms Shepherd replied that all submissions received during the public consultation period have been considered. For further contact, the best option is to contact the relevant SWA member directly. ▣ Mr Nicholls asked if a position can be put forward via the relevant member and then be presented to SWA directly. Ms Shepherd replied that this has been done before, but they need to put it to the member first. The members would then need to make a request through the chair. ▣ Ms Shepherd said the proposals will be put to SWA members on July 31. ▣ The Chair thanked Ms Shepherd for her update. 	
	<i>Ms Shepherd left the meeting at 11:00am.</i>	
	<ul style="list-style-type: none"> ▣ Mr Jordan commented that the CFMMEU (national office) participated in a meeting last Friday that the 	

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	<p>ACTU convened. At the meeting, the CFMMEU stressed that it was supportive of the Coal Services position.</p> <ul style="list-style-type: none"> ▣ Mr Linnane commented that SafeWork Australia is a national body. It is the decision body for all industry. The mining industry is just one seat at the table. ▣ Mr Kuchel asked if it was appropriate for a letter to come from MSAC to Carmel Donnelly or the Minister. ▣ The Chair commented that it would not be appropriate coming from MSAC as it cannot be seen as a lobby group. Individual members will need to contact their relevant SWA member or Minister directly. The Deputy Premier will be given an update as part of the regular update provided by the Chair after each meeting. ■ Mr Linnane raised that at the last MSAC meeting, Mr Cribb provided some correspondence from the Coal Mine Dust Lung Disease Collaborative Group. Mr Linnane asked members to consider if there is anything that needs to be done by MSAC? ■ Ms Flemming commented that Coal Services supports several of the recommendations. A report was issued today by the Wesley Dust Disease Research Centre as part of the Queensland review. Ms Flemming agreed to send the report to members via the secretariat. 	
7	<p>MSAC strategic focus</p> <ul style="list-style-type: none"> ■ Members noted that the Chair has written to the Deputy Premier regarding MSAC's priority areas of focus and seeking feedback on additional areas for consideration. ■ Members noted that the Deputy Premier has not yet provided a response. 	

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8	<p>Preventing fires on mobile plant</p> <ul style="list-style-type: none"> ■ Mr Keon provided advised that a discussion paper was put out last year suggesting legislative changes. Several submissions were received. The Resources Regulator has since moved away from legislative changes as what needs to be achieved can be done in the current framework. The main aim is to challenge operators to ensure they are doing what is reasonably practical. ■ Mr Cunningham asked if the paper tabled for the meeting was a discussion paper. Mr Keon replied that it is the Resources Regulator’s draft position. ■ Mr Cunningham commented that there are some points in relation to the metals sector that could have some word smithing and he would like to feedback to the Resources Regulator. ■ Mr Nicholls commented that a few of the terms state ‘respondents claimed’. It is a dismissive approach of some of the positions put in. ■ Mr Barben commented that the NSW Minerals Council provided an extensive submission on this. However, no response was received to its submission. This paper is dismissive of its position and submission. At the start of the paper it states ‘must be part of a strategy’; this can introduce hazards that don’t exist. ■ Mr Keon replied that all submissions were considered. He agreed that further wordsmithing needs to be done on the paper hence why it has been presented as a draft. Fundamentally, the take home message is that more can be done. It is about challenging each operator to consider what they are doing and what more they could do. Mr Keon requested that members seek feedback from their relevant stakeholders and provide feedback to the secretariat within 2 weeks. 	<p>Action</p> <p>5. Members to provide feedback on the ‘Preventing fires on mobile plant’ position paper to the secretariat by 20 June 2019.</p>

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	<ul style="list-style-type: none"> ■ Mr Keon agreed to circulate a final draft once complete. ■ Members noted the attached preventing fires on mobile plant position paper. 	
9	<p>Regulator's report</p> <ul style="list-style-type: none"> ■ Mr Keon provided an update as per the report. It was also advised that: <ul style="list-style-type: none"> □ a new casual investigation has commenced at Wilpinjong □ any time there is a fatal injury at a mine site it is investigated by the Resources Regulator until it can rule out that it is a work place related fatality. ■ Members noted the Regulator's report to MSAC. 	
10	<p>Mine safety levy report</p> <ul style="list-style-type: none"> ■ Mr Keon provided a verbal report per the paper and attachments. ■ Mr Keon specifically highlighted that the levy reserve will increase from 10% of the levy determination to 12.5% by June 2020. This is in large part due to unbudgeted revenue in 2018/19. ■ Mr Keon also advised that the department had identified further potential efficiency gains as part of the recent machinery of government changes. ■ As a result of the above the levy forecasted determination for 2020/21 would be revised down. ■ Mr Barben commented that it was raised at the last meeting that there challenges in receiving ongoing detailed financial reports from the department. ■ Mr Keon replied that this is still a work in progress. The Resources Regulator has increased its internal capacity. An improved reporting and budgeting processes is a high priority for the new executive. 	

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	<ul style="list-style-type: none"> ■ 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. 	
11	<p>Media campaign update</p> <ul style="list-style-type: none"> ■ Mr Linnane advised that the sub-committee met twice this year. ■ Members noted the revised draft timeline for communications activities for the three focus areas: airborne contaminants, mental health and fatigue in 2019/2020. ■ Members noted the Terms of Reference for the MSAC multi-media campaign sub-committee and raised the following: <ul style="list-style-type: none"> □ Mr Keon raised concerns that the sub-committee is just packaging up general issues. There is an excellent opportunity to be more targeted and creative with its approach and try something new (e.g. billboards, social media). □ Ms Armor agreed especially regarding mental health. There are specific issues for the mining industry which seem to be ignored. It is very generic rather than targeted. □ Mr Jordan supported Mr Keon's comments. He raised that the June 2018 meeting minutes state that the purpose was to undertake a multi-media education and awareness campaign. The terms of reference do not reflect that. Mr Jordan also raised that on page 3 it states "Decisions will be by consensus between the members. If a matter cannot be resolved by consensus, the majority view will prevail" which is different to how MSAC works. The sub-committee should adopt the same principles as MSAC and attempt to reach a consensus. If they cannot reach a 	<p>Actions</p> <ol style="list-style-type: none"> 6. Secretariat to provide MSAC's feedback to the MSAC multi-media campaign sub-committee on its terms of reference. 7. The multi-media campaign sub-committee to update its terms of reference and present to MSAC at the next meeting.

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	<p>consensus it should come back to MSAC for resolution.</p> <ul style="list-style-type: none"> Members noted the NSW Resources Regulator's airborne contaminants focus theme email signature banner. 	
12	<p>Additional business</p> <ul style="list-style-type: none"> The Chair called for additional business items not on the agenda. Mr Honeysett advised that he received an anonymous email regarding a small contracting company seeking to engage in work at a mine, where the manager is insisting on a clause to create a penalty if any LTIs are recorded. The matter is still being investigated however, it is a concern that the message is not drilling down to where it should. 	
13	<p>Future MSAC meetings and engagement events</p> <ul style="list-style-type: none"> Members noted the details for the MSAC meetings for the remainder of 2019. Members noted the conferences for 2019. 	
	<p>Meeting close</p> <ul style="list-style-type: none"> The Chair extended his thanks to Mr Honeysett for his efforts and work as a member of MSAC. Mr Keon also thanked Mr Honeysett on behalf of the Resources Regulator. The Chair thanked the Department for hosting the meeting. The Chair closed the meeting at 11:50am. 	

Action items

NO.	RESPONSIBILITY	ACTION	DUE DATE
1	Anthony Keon, Department of Planning and Environment	Resources Regulator to consider an alternate to the Pike River video as part of the Learning from Disasters training package.	20 August 2019
2	Secretariat	Secretariat to add an update on the coal dust and silica exposure standards to the agenda for the next meeting.	20 August 2019
3	Secretariat	Secretariat to send Ms Jackii Shepherd, SWA details for the September MSAC meeting.	30 June 2019
4	Lucy Flemming, Coal Services	Ms Flemming to send the Wesley Dust Disease Research Centre report to the secretariat for circulation to members.	30 June 2019
5	All MSAC members	Members to provide feedback on the 'Preventing fires on mobile plant' position paper to the secretariat by 20 June 2019.	20 June 2019
6	Secretariat	Secretariat to provide MSAC's feedback to the MSAC multi-media campaign sub-committee on its terms of reference.	30 June 2019
7	Multi-media campaign sub-committee	The multi-media campaign sub-committee to update its terms of reference and present to MSAC at the next meeting.	20 August 2019