

# Feedback Form

\* Required field

## Contact details

Name*		Ray Robinson			
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Suburb	[REDACTED]	State	[REDACTED]	Postcode	[REDACTED]
Postal address (if different from above)					
Suburb		State		Postcode	

## Organisation

Are you an individual representing at organisation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide the organisations' name:	Mine Managers Association of Australia Incorporated

## Privacy *(please tick one)*

<input checked="" type="checkbox"/> I consent to my submission being published, including my identity.
<input type="checkbox"/> I consent for my submission being published, excluding my identity <i>(please answer question below)</i> .
Please provide a valid reason/s for the request to <b>exclude</b> identity:

## National context

**DO YOU HAVE ANY COMMENTS REGARDING THE WHS (MPS) LAWS AND THEIR NATIONAL CONTEXT? SEE QUESTIONS BELOW**

***PLEASE CLARIFY YOUR RESPONSE AND GIVE REASONS FOR YOUR VIEW.***

1. Do the WHS (MPS) laws remain consistent with the National Mine Safety Framework principles?	The WH&S Act, we believe, is consistent with the National Mine Safety Framework (NMSF) however, that is not the case with the Regulation. There are still significant differences in that area.
2. Is the objective of seeking national consistency relating to WHS in relation to mines and petroleum sites still valid?	We believe it is. We have members who work across different States and they are highly mobile. It would be more efficacious if every State had the same legislation to avoid any misapplication of legislation by individuals who have spent time in another jurisdiction.
3. Has the WHS (MPS) framework facilitated effective interstate regulatory cooperation?	The NMSF did enhance effective regulatory cooperation but, in our opinion, there was an element of chauvinism in certain instances that prevented full alignment of Regulation. There should be further discussion between the main mining States of NSW, Queensland and Western Australia to continue toward to full unanimity and hopefully from there, complete alignment.
4. Are there any developments in mine and petroleum safety laws in the major mining states that could improve safety regulation and outcomes in NSW?	There are no developments that we are aware off that would ameliorate safety regulations and outcomes in NSW.

## WHS (MPS) Act

**DO YOU HAVE ANY COMMENTS REGARDING THE WHS (MPS) ACT? SEE QUESTIONS BELOW**

***PLEASE CLARIFY YOUR RESPONSE AND GIVE REASONS FOR YOUR VIEW.***

<p>5. Are the objects of the WHS (MPS) Act still valid, appropriate and working as intended? (<a href="#">Part 1 of Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>6. Are there any areas <b>arising from application</b> of the WHS (MPS) laws that have had unintended outcomes? (<a href="#">Part 1 of Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>7. Are the provisions under the WHS (MPS) laws <b>for incident notification</b> still valid, appropriate and working as intended? (<a href="#">Part 3 of the Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>8. Are the provisions for <b>functions of government officials</b> still valid, appropriate and working as intended? (<a href="#">Part 4 of the Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>9. Are the provisions <b>for worker representation</b> in coal mines still valid, appropriate and working as intended? (<a href="#">Part 5 of the Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>10. Are the provisions <b>for enforcement measures</b> still valid, appropriate and working as intended? (<a href="#">Part 6 of the Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>11. Are the provisions <b>for a Board of Inquiry</b> still valid, appropriate and working as intended? (<a href="#">Part 7 of the Act</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Act.</p>
<p>12. Are the provisions <b>for statutory bodies</b> still valid, appropriate and working as intended? (<a href="#">Part 8 of the Act</a>)</p>	<p>We do not believe the composition of either the MSAC (Council) or the MPCB (Competency Board), specifically, is appropriate because their membership is too far removed from the 'coal face'. Whilst we accept there is a requirement for a specialist and senior overview of safety and health policies and procedures there should, in our opinion, be input from practitioners. There needs to be balance and consideration of how those policies and procedures can effectively be introduced and what the likely outcomes may be. Currently there are no mining</p>

engineers with underground coal experience nor mine managers on the Council and we thus question the efficacy of the Council when dealing with the inherent high-risk hazards in underground coal mining.

Worse still in our view, and a genuine concern to our membership is the composition of the Competency Board demonstrated by actions which appear to be deleterious to the coal industry.

Our concerns include:

- No specific requirement for coal mining representatives with operational experience and statutory qualification in coal mine management,
- coal mining participation heavily diluted by representatives from the Regulator, other disciplines and training and administration,
- having a Board comprised of representatives from other mines, quarries and petroleum is problematic when there is little synergy in methods of operation, and mining equipment deployed,
- major hazards in coal mines are very different and competence in one class of mine does not allow you to operate in another.
- decisions of the competence board and its stated future direction suggest a deficiency in input from people with technical and practical operational experience in decision making and this is causing our association great concern.

Examples of these concerns are:

- Supervisory experience requirements for people intending to sit for statutory certificates, particularly supervisory experience for deputy and OCE candidates (impractical and unlikely to be exercised diligently in underground coal mines), is likely to lead to unintended consequences of insufficient candidates leading to an adverse impact at mining operations,
- Undermanager not permitted to exercise the function of a Deputy without a deputies' certificate,

	<ul style="list-style-type: none"> <li>• Manager not permitted to exercise the functions of an Undermanager without an Undermanager’s certificate,</li> <li>• cessation of Part A examination for mine managers prevents advancement through the ranks for the more experienced mine workers, given the problematic access to the Cert IV examination,</li> <li>• intention to discontinue the mine manager’s certificate applicable for both underground and open cut mine classes,</li> <li>• maintenance of competence cap on learning from seminars when this is the only current option for mine managers to present or embrace contemporary control measures covering multiple mine hazards,</li> <li>• Complexity of the MOC scheme compliance requirements and onerous audit conditions.</li> </ul>
<p>13. Do the provisions for statutory <b>bodies</b> ensure adequate representation in the provision of advice in relation to health and safety and competence? (<a href="#">Part 8 of the Act</a>)</p>	<p>No. See 12 above.</p>

## WHS (MPS) Regulation

**DO YOU HAVE ANY COMMENTS REGARDING THE WHS (MPS) REGULATION? SEE QUESTIONS BELOW  
PLEASE CLARIFY YOUR RESPONSE AND GIVE REASONS FOR YOUR VIEW.**

<p>14. Are the provisions <b>for nomination and appointment of operators</b> still valid, appropriate and working as intended? (<a href="#">Part 1A of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>15. Are the provisions <b>for managing risk</b> in addition to the WHS Regulation still valid, appropriate and working as intended? (<a href="#">Part 2, Div 1, Subdivision 1 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>16. Are the provisions <b>for SMS, including PHMP &amp; PCP</b>, still valid, appropriate and working as intended? (<a href="#">Part 2, Div 1, Subdiv 2-4 and Div 2 and 3 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>17. Are the provisions for <b>specific control measures</b> still valid, appropriate and working as intended? (<a href="#">Part 2, Div 4-5 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>18. Are the provisions <b>for emergency management</b> still valid, appropriate and working as intended? (<a href="#">Part 2, Div 6 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>19. Are the provisions <b>for information, instruction and training</b> still valid, appropriate and working as intended? (<a href="#">Part 2, Div 7 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>20. Are the provisions for <b>health monitoring</b> still valid, appropriate and working as intended? (<a href="#">Part 3 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>

<p>21. Are the provisions <b>for consultation and worker safety role</b> still valid, appropriate and working as intended? (<a href="#">Part 4 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>22. Are the provisions <b>for survey plans and mine plans</b> still valid, appropriate and working as intended? (<a href="#">Part 5 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>23. Are the provisions <b>for notifications and information to be provided to the regulator and information to be kept by the operator</b> still valid, appropriate and working as intended? (<a href="#">Part 6</a> and <a href="#">Part 7 of the Regulation</a>)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
<p>24. Are provisions for <b>statutory functions</b> still valid, appropriate and working as intended? (<a href="#">Part 8 of the Regulation</a>)</p>	<p>Statutory competence in coal mining related employment was introduced into the 19th century British coal industry as a consequence of continuing horrific loss of life and in particular disasters caused through fire and explosion. Australia quickly followed suit and it is significant that in nearly every inquiry into early mine disasters in this country competence, or the lack thereof, has featured.</p> <p>More recent inquiries have emphasised the requirement for greater training in statutory competence and the absolute need for continuing professional development to ensure certificates of competence were not for life. Those recommendations have been enacted in New South Wales, namely, current practising certificates and continuing professional development, however, the statutory position of a mine manager appears to be diminishing which, to the Association, is somewhat incongruous.</p> <p>The senior person on a mine site was the statutory mine manager during a period when the Australian coal industry, both NSW and Queensland, was recognised as best practice in the world of coal mining. That individual, the mine manager, was trained in all aspects of mine safety and was examined by a body of their peers as a final test to ensure that the individual was, as far as</p>

practicable, competent to safely operate a coal mine prior to issuance of the First Class Certificate.

The current NSW legislative requirement is that a “manager of mining engineering” be appointed and that individual must possess a relevant mine manager’s certificate. The statutory function of mining engineering manager “is to develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine” Essentially this is a monitoring and advisory role and does not constitute control of operations, it represents a very small portion of the overall safety and health functions at a mine.

The Mine Operator’s most senior person on a mine site, sometimes called operations manager or general manager, does not have, under the current statutes, any requirement to hold statutory competence and indeed in some cases such persons have been appointed that have had no formal training in engineering or coal mining. This practice to date, whilst uncommon, is increasing and trending to what we have seen in Queensland where companies are not training their own people. Those holding statutory certification are becoming scarce and some coal operators are choosing not to employ First Class certificate holders in those positions.

To have individuals managing such recognised high risk businesses without formal technical training or qualification is tantamount, in our opinion, to gross negligence. For those that say there is still a manager of mining engineering appointed are conveniently missing the point as we have seen in Queensland and just recently at a mine in NSW. Those individuals are not in control of operations and are reluctant to speak out when they have been overruled as it will almost certainly see their dismissal or transfer to a lesser role.

We would urge consideration be given to the return, in legislation, of the senior person on a mine site having charge of the resources and finances being a statutorily qualified mine manager.

<p>25. Are provisions for licensed activities and registration of plant still valid, appropriate and working as intended? (<a href="#">Part 9</a> and <a href="#">cl 177</a> of the Regulation)</p>	<p>Our members have not raised specific issues relating to this part of the Regulation.</p>
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## Submitting the form

Please return your form via:

**Email:** [rr.feedback@planning.nsw.gov.au](mailto:rr.feedback@planning.nsw.gov.au)

**Post:** Statutory review of WHS (MPS) laws 2020  
NSW Resources Regulator – Regulation Development  
PO Box 344  
Hunter Regional Mail Centre 2310 NSW

**By the closing date:** 17 April 2020

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