



# NSW Mine Safety Advisory Council

## Meeting 1 – 11 March 2021

### Meeting details

Meeting	<b>NSW Mine Safety Advisory Council</b>	Date	11 March 2021
Location	CFMEU Northern Mining & NSW Energy District office 67A Aberdare Road, Aberdare NSW 2325	Time	9am to 12pm
Chair	Hon. George Souris AM		
Secretary	Mr Tony Linnane (Resources Regulator, Department of Regional NSW)		
Attendees	Mr Anthony Keon (Resources Regulator, Department of Regional NSW) Mr Brock Skelton (Australian Workers' Union, New South Wales Branch) Mr Graeme Osborne (Construction Forestry Maritime, Mining and Energy Union) Mr Ian Cribb (NSW Minerals Council (coal)) Ms Julie Armour (Independent) Mr Peter Jordan (Construction Forestry Maritime Mining and Energy Union)		
Via teleconference	Mr Matthew Freeman (Cement Concrete & Aggregates Australia) Mr Rob Cunningham (NSW Minerals Council (metalliferous))		
Observers	Mr Garvin Burns (Resources Regulator, Department of Regional NSW) Ms Lucy Flemming (Coal Services) Mr James Barben (NSW Minerals Council) Mr Jason Kuchel (Cement Concrete & Aggregates Australia, teleconference)		
Not present	Mr Tony Cartwright (Independent)		
Prepared by	Ms Anna Ormerod (Resources Regulator, Department of Regional NSW)	Reference	SF20/122287

### Minutes

#### AGENDA DISCUSSED/ACTION ITEM

- 1 **Welcome and Chair's report**
  - The meeting commenced at 9am.

AGENDA ITEM	DISCUSSED/ACTION
	<ul style="list-style-type: none"><li>■ The Chair welcomed members and observers to the meeting.</li><li>■ The Chair advised that Mr Jordan has been reappointed by Minister for a further three years.</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 interest arising from agenda items or advise if any changes need to be made to the pecuniary interests register.</li><li>■ The Chair advised that he and Mr Freeman have provided updated declarations of pecuniary interests to the secretariat. The updates will be reflected in the papers for the next meeting.</li><li>■ No other conflicts were declared.</li></ul> <p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Action A: Secretariat to update the pecuniary interests register to include changes by George Souris and Matthew Freeman.</a></li></ul>
3	<p><b>Acceptance of previous minutes and actions</b></p> <ul style="list-style-type: none"><li>■ Mr Cribb requested a change to the minutes under agenda item 2, Declaration of interests on page 2. It should read that Mr Cribb is a member of the NSW Minerals Council, not a director.</li></ul> <p><b>Outcomes</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Members endorsed the minutes of the last meeting subject to the above change.</a></li><li>■ <a href="#">Members noted the status of action items arising from the last meeting.</a></li></ul> <p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Action B: Secretariat to update the minutes from the last meeting with changes from Ian Cribb.</a></li></ul>
4	<p><b>Correspondence</b></p> <ul style="list-style-type: none"><li>■ The Chair raised that the letter to the Deputy Premier with minutes from the last meeting was not in the table of correspondence.</li><li>■ Members noted the correspondence and attachments.</li></ul>

AGENDA ITEM	DISCUSSED/ACTION
	<p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ Action C: Secretariat to add the Chair’s letter to the Deputy Premier about the December 2020 meeting to the table of correspondence for the next meeting.</li></ul>
5	<p><b>Recommendations for MSAC from report on the statutory review of the WHS (MPS) laws</b></p> <ul style="list-style-type: none"><li>■ Mr Linnane advised that of the seven recommendations assigned to the Resources Regulator and MSAC, analysis of five would be presented at the June meeting. Recommendation 2 won’t be considered until Western Australia has enacted its new legislation. Recommendation 12 has been adopted and the secretariat has commenced placing the agendas on the website. To date, no feedback has been received about the published agendas.</li><li>■ The Chair asked if an individual has comment on an agenda item, but they do not know the contact details of the relevant MSAC member, can they contact them through the secretariat?</li><li>■ Mr Linnane said the MSAC webpage could be updated to allow the public to submit enquiries which could then refer to the relevant members.</li></ul> <p><b>Outcomes</b></p> <ul style="list-style-type: none"><li>■ Members noted the seven recommendations from the statutory review report which require the advice of MSAC and that they will be considered at the June 2021 meeting.</li></ul> <p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ Action D: Secretariat to add a comment to the MSAC webpage that individuals with an interest in any meeting agenda items can contact the secretariat to refer the matter to the relevant MSAC member.</li></ul>
6	<p><b>Analysis of serious injuries notifications</b></p> <ul style="list-style-type: none"><li>■ Mr Burns provided an update to members on the analysis of serious injuries notifications per the attachment in the papers.</li><li>■ Mr Burns advised there had been a downward trend in the long-term serious injury frequency rate and that serious injuries to hands, fingers and wrists were approximately double the serious injuries to any other bodily location during the past three years.</li></ul>

AGENDA ITEM	DISCUSSED/ACTION
	<ul style="list-style-type: none"><li>■ Mr Jordan asked if data is available to identify if the injured person is a tradesman. Mr Burns replied yes, it is captured in the injury form. Hand injuries are predominately occurring to contractors. Head injuries are predominately occurring to mine workers.</li><li>■ Mr Osborne asked if there was a difference in injury rates between contractor and permanent employees. Mr Burns replied yes but consideration also needs to be given to other factors such as frequency rates and the tasks that individuals are undertaking at the time of injury. Most injuries are not occurring during high risk activities but rather during mundane and routine activities.</li><li>■ Mr Keon commented that the Resources Regulator is examining the data to identify any trends and see if anything can be done before they become an issue.</li><li>■ Ms Flemming commented that Coal Services has seen an improvement in reporting. There is a consistent frequency of injury but an increase in the severity.</li><li>■ Mr Jordan asked if there is a significant difference in seasonal change. Mr Burns replied that those statistics were not considered as part of this report. It is not something that has been examined but the data is available for an analysis to be undertaken.</li><li>■ Mr Jordan commented that the report was very useful and interesting to read and the verbal report provided by Mr Burns assisted with the understanding.</li></ul> <p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Action E: Resources Regulator to undertake further analysis based on seasonality and time of day.</a></li></ul>
7	<p><b>Fatality at Cowal Gold Mine</b></p> <ul style="list-style-type: none"><li>■ Mr Keon said the Resources Regulator sought members' views as to whether the fatality at Cowal Gold mine is recorded as a workplace fatality and the approach the Resources Regulator should take going forward. He said there was a reasonable argument to be made either way</li><li>■ Mr Keon stated that to-date the incident had been recorded as a workplace fatality with the Resources Regulator adopting a 'but for' approach.</li></ul>

### AGENDA DISCUSSED/ACTION ITEM

- Mr Burns commented that it is important to note the determination will not change the Resources Regulator’s approach. All fatalities at mines will still be investigated - only the reporting of the incident will change.
- Mr Keon said the regulator investigates risk and what happened as a result of the incident irrespective of whether the result was death.
- Mr Skelton asked what the consequences were if it was classified as a workplace incident rather than not. Mr Keon said the only consequence if it is determined a death as a result of a workplace incident it is reflected in the statistics.

#### Outcome

- Members agreed that the incident should be reported as a workplace fatality.

- 8 **Review of coal industry health surveillance scheme**
- Mr Linnane tabled the Resources Regulator’s media release on the review of the coal industry health surveillance scheme. Mr Keon and the Chair have approved the media release. A copy of the media release will be emailed to members and observers attending via teleconference today.
  - Mr Linnane advised that the review is progressing.
    - The steering committee held its first meeting last week
    - Progress has been made with the procurement process. The RFQ documents were reviewed last week and the steering committee is satisfied that the statement of requirements reflects the terms of reference agreed by MSAC
    - The steering committee will monitor the delivery of the contract and review and provide feedback on draft report. Consideration of the final report and recommendations will be the responsibility of MSAC
    - The steering committee will provide an update to MSAC at each meeting and updates out of session as required
    - Mr Jordan and Mr Osborne said they had no issues with no employee representative being on the steering committee.
  - Mr Keon said it was anticipated the media release would be published next week.

AGENDA ITEM	DISCUSSED/ACTION
	<p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ Action F: Secretariat to send a copy of health surveillance scheme review media release to the members and observers attending the meeting via teleconference.</li></ul>
9	<p><b>Safe Work Australia amendment proposal – WESFAC standard for carbon dioxide in coal mines</b></p> <ul style="list-style-type: none"><li>■ Mr Linnane advised that SafeWork Australia are proposing changes to the WESFAC standard for carbon dioxide in coal mines to bringing it into line with other industries. The Resources Regulator has been in contact with Safe Work Australia and advised that it will be providing feedback once it has had time to consider the issue. Safe Work Australia advised that no decision will be made until the second half of 2021 and that a three-year transition period will likely apply.</li><li>■ Mr Barben commented that the proposed changes will have a significant impact on the NSW mining industry. Some mines are concerned that it will result in closure. There are no records of incidents of health or harm directly related to carbon dioxide except fire. There are concerns about the process Safe Work Australia is taking. Recommendations appear to be based on literature without consultation with industry. The NSW Minerals Council has written to the chair of Safe Work Australia seeking a meeting and requesting it considers revising its approach and include consultation with industry to ensure references they are relying on are relevant.</li><li>■ Mr Cribb said it appears to be considered from a health perspective only and is not evidence based in consideration of the legislation. All interested parties need to put their position to the relevant ministers. NSW needs to align with Queensland and the other mining states. The Chair commented that MSAC could meet with ministers to raise the issue.</li><li>■ Mr Skelton commented he is concerned about exposure standard change and the process Safe Work Australia has followed.</li><li>■ Mr Burns commented that the Resources Regulator submission to Safe Work Australia will take into consideration industry submissions and Coal Services data, underpinned by research.</li></ul>

AGENDA ITEM	DISCUSSED/ACTION
	<ul style="list-style-type: none"><li>■ Mr Jordan commented that MSAC should adopt a position of opposing the changes proposed by Safe Work Australia. Members supported this position and providing advice to the Deputy Premier.</li></ul> <p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Action G: Secretariat to draft a letter from the chair to the Deputy Premier advising that MSAC does not support the proposed changes to the WESFAC standard for carbon dioxide in coal mines.</a></li></ul>
10	<p><b>Member update</b></p> <p>A. <u>COVID</u></p> <ul style="list-style-type: none"><li>■ Mr Jordan advised that the paper presented for the meeting adequately addresses his questions about MSAC's obligations, if any, with COVID.</li><li>■ Mr Linnane commented that since the commencement of COVID, Safe Work Australia has been coordinating publications. Mr Burns commented that the Resources Regulator has been involved from the outset and will continue to be involved.</li><li>■ Mr Barben commented that one of its members is one of the first tier of organisations to be involved in the vaccinations. It was invited by Safe Work Australia to participate. As part of process, it was asked to identify workers in three tiers. All employees were then written to offering them the change to have a vaccination. It is a completely voluntary process. Vaccinations haven't been administered yet.</li><li>■ The Chair asked if mines invite employees to have a flu vaccine. Ms Flemming said Coal Services provides flu vaccines but would not be providing COVID vaccines.</li></ul> <p>B. <u>Coal Services</u></p> <ul style="list-style-type: none"><li>■ Ms Flemming referred members to the attached report and advised that the Queensland information has been included in the report. There has been an improvement from last report in relation to people wearing RPE and exceedances with the lower rates.</li><li>■ Mr Burns added that outside the coal sector, there has been an increase in number of exceedances by non-coal mines. Nine of those are a result of the free</li></ul>

AGENDA ITEM	DISCUSSED/ACTION
	<p>testing offered to small mines. He said we are starting to see a pattern in small quarrying sector.</p> <ul style="list-style-type: none"><li>■ Ms Flemming commented that future reports can include injury trends if members are happy with that. Members agreed.</li></ul> <p><b>Actions</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Action H: Ms Flemming to include injury trends in future Coal Services reports.</a></li></ul>
11	<p><b>Legislative framework update</b></p> <ul style="list-style-type: none"><li>■ Mr Linnane advised that the Resources Regulator is preparing a discussion paper on the statutory review recommendations.</li><li>■ Mines must now notify the Resources Regulator for schedule 11 (hazardous chemical notifications) instead of SafeWork NSW.</li><li>■ New workplace standards for airborne contaminants commenced on 1 February 2021.</li><li>■ There is now a more streamlined approach for quarry manager practising certificate for tier-2 quarries.</li></ul> <p><b>Outcome</b></p> <ul style="list-style-type: none"><li>■ <a href="#">Members noted the update on legislative developments and reform.</a></li></ul>
12	<p><b>NSW Resources Regulator report</b></p> <ul style="list-style-type: none"><li>■ Mr Burns delivered a presentation and highlighted:<ul style="list-style-type: none"><li>□ There was a significant drop in incidents throughout the initial phases of COVID, an increase middle of the year and substantial drop off towards the end of 2020.</li><li>□ There were five interventions initiated since the last meeting.</li><li>□ More inspections were carried out during COVID than in the previous months. All industry engagement was cancelled allowing for additional inspections to be undertaken.</li><li>□ In relation to security sensitive ammonium nitrate, 47 sites have been inspected.</li></ul></li></ul>

AGENDA ITEM	DISCUSSED/ACTION
	<ul style="list-style-type: none"><li>□ There have been several incidents involving entanglement around conveyors. It is now a compliance priority. There has also been a recurring theme around complaints about contractor management.</li><li>□ A major project compliance program in Lightning Ridge has started.</li><li>□ There have been several high potential incidents involving light vehicle/heavy vehicle interactions. The Resources Regulator is considering a compliance campaign.</li><li>■ Mr Cribb commented there had been a recent incident at his site where a light vehicle operator did not see a truck. Mr Burns commented that video footage is very frightening. Technology is available and controls are being implemented but incidents are still occurring. Mr Skelton commented that it comes down to complacency; people are zoning out. Mr Jordan commented that drivers are looking both ways but crawling through stop signs and not stopping.</li><li>■ Mr Keon delivered a presentation about the Resources Regulator’s new draft strategic approach. The Resources Regulator will be writing formally to all MSAC members in the next few weeks regarding the new approach.</li></ul> <p><b>Outcome</b></p> <ul style="list-style-type: none"><li>■ Members noted the presentation.</li></ul>
13	<p><b>Mine safety levy report</b></p> <ul style="list-style-type: none"><li>■ Mr Keon also provided an update to members on the mine safety levy per the papers. The new budgets have been submitted to the Deputy Premier and Secretary.</li><li>■ If accepted by the Deputy Premier, forecast expenditure for 2021/22 period will be the same or slightly lower than the current period.</li><li>■ However, as the 2020/21 period drew down heavily on the reserve, the amount required to be collected will increase for the next period.</li></ul> <p><b>Outcome</b></p> <ul style="list-style-type: none"><li>■ Members noted the report.</li></ul>

# NSW MINE SAFETY ADVISORY COUNCIL

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AGENDA ITEM	DISCUSSED/ACTION
14	<p><b>Multi-media campaign sub-committee</b></p> <ul style="list-style-type: none"> <li>Mr Linnane advised that it is proposed to retire the multi-media campaign sub-committee and make the Resources Regulator responsible for continuing to develop material.</li> <li>Mr Keon commented that it was more practical going forward for the Resources Regulator to develop the resources with the support of MSAC.</li> </ul> <p><b>Outcome</b></p> <ul style="list-style-type: none"> <li>Members agreed to retire the multi-media campaign sub-committee.</li> </ul>
15	<p><b>Additional business</b></p> <ul style="list-style-type: none"> <li>There was no additional business.</li> </ul>
14	<p><b>Next meeting and meeting close</b></p> <ul style="list-style-type: none"> <li>The Chair advised that the Deputy Premier will attend the next meeting on 3 June 2021 in Sydney.</li> <li>Mr Linnane advised that the NSW Minerals Council boardroom will be the venue.</li> <li>The Chair thanked Mr Jordan for hosting the meeting.</li> <li>The meeting closed at 12:07pm.</li> </ul>

## Action items

NO.	RESPONSIBILITY	ACTION	AGENDA ITEM	DUE DATE
A	Secretariat	Update the pecuniary interests register to include changes by George Souris and Matthew Freeman	2	Next meeting
B	Secretariat	Update the minutes from the last meeting with changes from Ian Cribb	3	Next meeting
C	Secretariat	Include chair's letter to the Deputy Premier about the December 2020 meeting to the table of correspondence for the next meeting	4	Next meeting

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NO.	RESPONSIBILITY	ACTION	AGENDA ITEM	DUE DATE
D	Secretariat	Add comment to the MSAC webpage that individuals with an interest in any meeting agenda items can contact the secretariat to refer the matter to the relevant MSAC member	5	Completed
E	Resources Regulator	Undertake further analysis of serious injuries based on seasonality and time of day	6	Next meeting
F	Secretariat	Send copy of health surveillance scheme review media release to the members and observers attending the meeting via teleconference	8	Completed
G	Secretariat	Draft a letter from the chair to the Deputy Premier advising that MSAC does not support the proposed changes to the WESFAC standard for carbon dioxide in coal mines	9	March 31
H	Lucy Flemming	Include injury trends in future Coal Services reports	10	Next meeting

## Approval

NAME/POSITION	SIGNATURE/APPROVAL	DATE
Hon. George Souris, Chair	Approved at MSAC meeting	3 June 2021

**Comment:**