



Department
of Industry
Resources & Energy

Mine Safety

Mine Safety NSW

Mine Safety Advisory Council

Constitution

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What is the Mine Safety Advisory Council?

The NSW Mine Safety Advisory Council (MSAC) is a tripartite forum made up of employers, unions and government. It was established to foster an industry with safety as a core value and to provide advice to the Minister for Industry, Resources and Energy on strategic health and safety issues in the mining and extractives industry.

It is established under the *Work, Health and Safety (Mines) Act 2013* No 54.

MSAC comprises people representing the interests of industry, unions, NSW Department of Industry and independent work health and safety experts. It is chaired by an independent chairperson.

MSAC is a collaborative partnership that integrates the views of all stakeholders while working towards common goals to:

- strengthen relationships and build trust;
- agree on priority work health and safety issues and actions to address them; and
- gather, analyse, evaluate and communicate information on work health and safety.

Vision

The NSW government's vision is for MSAC to operate in an environment of trust and co-operation to address health and safety issues and that all stakeholders demonstrate a willingness to support the work of the Council and move forward on mutual matters of importance as one group.

Terms of reference

- To establish strategic safety and health direction and goals.
- To analyse and review the safety performance of the industry and to provide information to stakeholders so that safety performance is improved.
- To provide leadership to the mining industry to develop safe and healthy workplaces within a framework which:
 - encourages innovative and safe technology and processes;
 - sets the strategic direction for the industry in developing competent people;
 - advances a legislative framework which leads to safe mining practice.
- To encourage a move towards cross-industry and national standards.
- To interact with the safety advisory committees to enable them to lead their industry sectors, and to inform the work of the council.

Membership

MSAC will comprise of the following members appointed by the Minister:

- NSW Minerals Council representative (representing the coal sector);
- NSW Minerals Council representative (representing the metalliferous sector);
- Cement Concrete & Aggregates Australia representative;

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- Construction, Forestry, Mining and Energy Union, Mining and Energy Division representative;
 - Australian Workers Union, Greater NSW Branch representative;
 - NSW Department of Industry representative;
 - Independent members who have expertise that is of assistance to the Council;
 - Independent Chairperson.

Term of members

Membership terms, as specified in the member's instrument of appointment, must not exceed three years. Members, however, are generally eligible for re-appointment.

Other key participants

Minister for Industry, Resources and Energy

MSAC is appointed and authorised by the Minister of Industry, Resources and Energy (the Minister) under the *Work, Health and Safety (Mines) Act 2013* No 54. It is subject to the direction and control of the Minister.

NSW Department of Industry, Division of Resources & Energy

NSW Department of Industry is the regulator of mine safety in New South Wales.

Secretariat

The secretariat function is provided by NSW Department of Industry. The secretariat provides policy, research and administrative functions to support the operation of MSAC.

Conduct of meetings

Frequency

A minimum of two meetings must be held each year. A meeting may be convened by the Chair or by NSW Department of Industry.

Quorum

The quorum for a meeting is a simple majority and must include at least one departmental, one union and one employer representative. Decisions must not be made at a meeting without a quorum.

Form of meeting

A meeting may take the form of a face to face meeting, teleconference, video conference or consensus via electronic means (such as email).

Duties of the chair

The chair shall preside at all meetings of MSAC. The chair has the same right to raise issues for discussion and contribute to meeting agendas as the other members. In the absence of the chair, the deputy chair shall preside.

If both the chairperson and deputy chair are absent, the members present may elect a member to preside at the meeting.

The chair's general responsibilities include:

- Ensuring that the MSAC performs its functions, acts within its statutory powers, and complies with legal obligations and policies;
- Facilitating the conduct of meetings, including the preparation of an agenda, to allow frank and open discussion;
- Facilitating the flow of information to members and stakeholders;
- Liaising with the relevant ministers and departmental representatives.

Decision making

The members must endeavour to reach consensus on all matters in providing their advice. Where consensus cannot be reached the Council will provide advice to the department by way of the secretariat, setting out the majority view and the alternative views, together with an analysis of the advantages and disadvantages of each view.

Advice should be made in the light of applicable legislation, the code of conduct, Government policy and MSAC objectives. Decisions and outcomes must be in the public interest and be able to withstand public scrutiny. Conflicts of interest, including personal gain at public expense, must be avoided.

MSAC will provide advice to the Minister via a report after each meeting

Appointment of Deputies

A deputy may be appointed by a member, in writing to the MSAC Chairperson or secretariat by that member, for a specified meeting to ensure the stakeholder's organisation has a voice at that meeting. If a deputy for the MSAC Chairperson is required, members will vote at that meeting to elect a Chairperson from NSW Department of Industry or the independent members present.

Observers

Members will be informed when observers will be attending. Observers have no role in discussions and may not speak unless invited to by the Chairperson.

Working groups

MSAC may establish special purpose working groups to workshop specific issues and develop papers to inform its formulation of advice. Such working groups may be comprised of sub-groups of the Council, the regulator, parties outside the Council with expertise relevant to the issue being considered, or a combination.

The procedures of the working groups should follow those of MSAC.

Conduct of members

Code of Conduct

Members of MSAC are committed to the standards and principles outlined in the Code of Conduct (the Code of Conduct for Members of Advisory Committees/Boards, Contractors and Consultants to the NSW Department of Industry, Regional Infrastructure and Services). The code is designed to attract the highest level of confidence by providing guidelines on expected standards of behaviour.

The code is to be updated periodically to take account of changed circumstances or new situations, to maintain its currency and value. All members have a responsibility to understand their duties and responsibilities outlined within this code.

Conflicts of interest

All MSAC members must disclose interests, which include positions and pecuniary interests in corporations, partnerships or other businesses that may be relevant to the activities of the Council.

This does not apply to an interest of a member in a matter that arises merely because the member is associated with the organisation by which the member was nominated.

All members must complete a *Conflict of Interest Declaration* form and identification of conflicts of interest must remain a standard agenda item for each meeting.

When an issue arises, which may be either a real or perceived conflict of interest, the member must disclose full and accurate details of the issue to the chair as soon as practicable.

All declarations are to be recorded within a register maintained by the secretariat and noted within the minutes of the meeting.

MSAC should make a decision as to how to manage the conflict of interest and record reasons for that decision. A decision may include:

- Agreeing that the member will not participate in any discussion relating to the interest or issue, not receive any relevant Board papers, or be absent from the meeting room when any discussion or vote is taking place and not vote on the matter;
- Severing the connection, such as resigning from the position giving rise to the conflict;
- Resigning from MSAC.

Confidentiality

From time to time MSAC members may be given access to confidential material. These materials are shown in good faith and members must ensure that confidentiality is maintained. Documents that are confidential will be marked accordingly.

Strategic Plan

MSAC will have a strategic plan to achieve its objectives that has been agreed to by members and endorsed by the Minister.

The strategic plan provides the basis for MSAC's accountability for its key outputs of advice and recommendations on work, health and safety issues.

Review

The operation of MSAC will be reviewed every three years to assess how the Council has achieved its objectives, and evaluate how effectively it has met its terms of reference. This will allow for any necessary adjustments to be made.