



MINING AND PETROLEUM COMPETENCE BOARD

Meeting 1 – 16 February 2021

Meeting details

Meeting	Mining and Petroleum Competence Board	Date	Tuesday 16 February 2021
Location	Videoconference	Time	9am – 12pm
Chair	Ruth Mackay (Chair, Independent)		
Attendees	Andrew Grivas (NSW Minerals Council - Metalliferous) Ashley McLeod (NSW Minerals Council) Chris Dolden (Cement Concrete & Aggregates Australia) Garvin Burns (Resources Regulator, Department of Regional NSW) Justin Smith (Australian Workers' Union) Peter Standish (Independent) Stephen Tranter (Construction, Forestry, Maritime, Mining and Energy Union) Tony Linnane (Resources Regulator, Department of Regional NSW)		
Apologies	Stephen Barrett (Construction, Forestry, Maritime, Mining and Energy Union) Janine Lea-Barrett (Independent)		
Not present	Stephen Luck (Construction, Forestry, Maritime, Mining and Energy Union)		
Presenter	Andrew Palmer (Resources Regulator, Department of Regional NSW)		
Observers	Evelyn Subagio (NSW Minerals Council)		
Prepared by	Anna Ormerod (Resources Regulator, Department of Regional NSW)	CM9	DOC21/128264

Minutes

PAPER DISCUSSION	
1	<p><u>Welcome and apologies</u></p> <ul style="list-style-type: none">■ The meeting commenced at 9:04am.■ The Chair:<ul style="list-style-type: none">□ welcomed the members to the meeting□ noted apologies from Mr Barrett and Ms Lea-Barrett.
2	<p><u>Declaration of interests</u></p> <ul style="list-style-type: none">■ No conflicts of interest from agenda items were declared.■ No changes were requested to the pecuniary interests register.

PAPER	DISCUSSION
3	<p><u>Acceptance of previous minutes and actions</u></p> <ul style="list-style-type: none">■ The Chair advised there were some typing errors in the minutes and agreed to send them to the secretariat out of session.■ No other changes were requested to the minutes. <p>Outcome</p> <ul style="list-style-type: none">■ The Board accepted the minutes and actions from the previous meetings subject to the Chair’s amendments. Moved Mr Standish. Seconded Mr Linnane. <p>Actions</p> <ul style="list-style-type: none">■ Action A: Chair to send amendments to the previous minutes to the secretariat.
4	<p><u>Correspondence</u></p> <ul style="list-style-type: none">■ The Chair referred members to the correspondence detailed in the paper. <p>Outcome</p> <ul style="list-style-type: none">■ The Board noted the correspondence.■ Members agreed to send a letter of appreciation to exam panel member Mr Kim Nguyen, who has resigned. <p>Actions</p> <ul style="list-style-type: none">■ Action B: Secretariat to draft a letter to Kim Nguyen for Chair’s signature.
5	<p><u>Appointment of examiners communication strategy</u></p> <ul style="list-style-type: none">■ Mr Palmer advised that the communication strategy was an action from the last meeting. The strategy is designed to encourage more panel members with representatives across industry. Mr Palmer sought feedback from the Board.■ Mr Standish commented that the strategy didn’t target organisations under represented on examiners panel. Mr Palmer stated that panel members will approach people in industry. All stakeholders will be approached so everyone can be involved. Most representatives will be from industry and the Resources Regulator.■ Mr Grivas asked how we get interest from those who use the resource but don’t contribute panel members. Mr Burns commented that there are no issues regarding the willingness of organisations to contribute representatives. The issue is the ability of individuals to commit due to a conflict of priorities. The Resources Regulator will continue an informal approach.

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- The Chair commented that there is no target audience or strategy for individuals. Mr Linnane replied that individuals are targeted through newsletters and the Resources Regulator’s website.
- The Chair commented that the key messages are not very enticing for individuals to want to be an examiner. The messages detail the benefits for organisations. The messages should include the benefit for individuals such as professional development.
- Mr Palmer agreed. Individuals can also claim the time they spend on panels for their maintenance of competence. Mr Burns added that it would be useful to add more operational aspects of being on a panel such as including on a resume and personal development.
- The Chair asked about the payment given to panel members. Mr Linnane advised that the fees are set as part of the NSW Government boards and committees framework. Individuals who participate do not do it to supplement their income. In certain panels the remuneration is higher but it is not reflective of their total time. Most people who participate are being paid by their employer.
- Mr Dolden commented that there is a high level of interest from industry but there is a breakdown once the responsibility is handed off to individuals. A fact sheet targeted at individuals on how to apply to be a panel member and a checklist would be very useful. This would take some of the unknown out of the process.
- Mr Palmer commented that the concept of a fact sheet is a good idea to manage the expectations of individuals interested in becoming panel members.

Actions

- [Action C: Department to create a fact sheet and checklist for individuals wanting to become panel members.](#)

- 6 **Changes to statutory functions in South Australia**
- Mr Linnane advised that from 1 January 2021, South Australia will no longer undertake competency assessments, issue certificates or register individuals to undertake statutory functions. The mine operator will now determine if an individual is competent to undertake a role. NSW will no longer recognise individuals from South Australia under the mutual recognition scheme as they are no longer registered. This does not impact on those individuals who received mutual recognition before 1 January 2021.
 - Mr Standish asked if an individual has qualifications in NSW and is working in South Australia, does it count towards their maintenance of competence. Mr Linnane confirmed it does. The need to demonstrate the experience meets the requirements.

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- Mr Smith joined the meeting at 9:38am.
- Mr Linnane commented that individuals can no longer apply for mutual recognition from 1 January 2021, even if they received a certificate of competence prior to 1 January 2021.
- Mr Linnane provided a verbal update on the proposed automatic mutual recognition scheme. Under the current scheme individuals are required to notify the relevant state authority about their intent to work in that state. An automatic mutual recognition scheme removes the requirement to notify. This has been flagged as an issue in NSW due to maintenance of competence. The Board will be kept informed of any further developments.

Outcomes

- The Board noted the changes to the statutory functions in South Australia.
- The Board noted the implications on mutual recognition arrangements.

7 Statutory review of the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and Regulation

- Mr Linnane commented that the independent review by Kym Bills was tabled in parliament at the end of the year. Several recommendations relate to activities of the Board as per the paper.
- Recommendation 11 is for consideration by the Minister so is not a matter for the Board.
- Recommendation 12 has been accepted. Agendas for Board meetings will be published on the Resources Regulator's website prior to each meeting.
- Recommendation 16 will be presented to the Board at the next meeting for consideration. The Resources Regulator is undertaking further analysis.
- Recommendation 17 is being put to the Board today for discussion.
 - Mr Linnane said the Board should consider whether engineering roles in mining and petroleum should be specified in legislation similarly to professional engineering roles in construction under the *Design and Building Practitioners Act 2020*. NSW has a rigorous system in place including a statutory function scheme, specified roles and competencies, assessment process and maintenance of competence scheme. This system replicates other professional associations in other jurisdictions. It is the Resources Regulator's position that there is no need for mining engineering roles to be incorporated into any other scheme.

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- Mr Burns added that it would be a duplication and burdensome. It was not intended to apply to the mining industry.
- Mr Smith commented that up until 2002, mine surveying took a different path with professional organisations to maintain competencies but remained in partnership with mining. Mr Smith asked if there is an expectation that there will be a partnership role with a professional engineering body. Mr Linnane replied that the role of mining surveyor is a statutory function under the scheme. They need to be a registered mine surveyor.
- Mr Linnane commented that there are a couple of statutory functions where a person is eligible to exercise the function if they have a certificate of competence or are registered by Engineers Australia. There is a replicated scheme in place for some of the engineering functions. The issue is that there is no professional body that has established a registration scheme for mining engineers.
- Mr Standish commented that engineers register with AusIMM. Mr Linnane commented that AusIMM does not register to the extent that the Resources Regulator does in relation to competence. Engineers Australia has a specified competency process.
- The Chair referred to the recommendation in the paper and asked if members support the Resources Regulator's position to advise the minister that it is not necessary to have mining engineering roles captured in a professional scheme.
- All members agreed.
- Mr Linnane advised the Resources Regulator would undertake further analysis on recommendation 34 and bring it back to the May meeting for discussion. It is requested that members consider the recommendation and provide feedback to the Resources Regulator out of session. The Resources Regulator will then collate the feedback for discussion at the May meeting.
 - Mr Standish requested that this be a specific action item.
 - The Chair agreed.
- Mr Standish asked if recommendation 37 needs to be considered by the Board as it relates to 'education'.
 - Mr Linnane responded that the recommendation is specifically targeted at the Resources Regulator. The term 'reasonably practicable' is defined in legislation. The challenge exists where what is reasonably practicable in one scenario may not be in another. It is objective so cannot be applied the same way in different

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circumstances. Mr Burns commented that the recommendation is for the Resources Regulator so is outside the scope of the board.

Outcomes

- The Board noted that recommendation 11 is for consideration by the Minister.
- The Board noted that recommendation 12 has been accepted and that the agendas for Board meetings will be published on the Resources Regulator's website prior to each meeting.
- The Board noted that the Resources Regulator will undertake further analysis on recommendation 16 and will provide an update to the Board at the May 2021 meeting.
- The Board agreed to advise the Minister that it is not necessary to have mining engineering roles captured in a professional scheme.
- The Board agreed to provide comment on recommendation 34 out of session and that the Resources Regulator would provide an update at the May 2021 meeting.

Actions

- Action D: Resources Regulator to undertake further analysis on recommendation 16 and provide an update to the Board at the May 2021 meeting.
- Action E: Resources Regulator's to prepare advice to Minister that it is not necessary to have mining engineering roles captured in a professional scheme (recommendation 17).
- Action F: Members consider recommendation 34 and provide feedback to the Resources Regulator out of session.
- Action G: Resources Regulator to collate member feedback, undertake further analysis on recommendation 34 and provide an update to the Board at the May 2021 meeting.

8

MPCB communication plan

- Mr Grivas joined the meeting at 10:08am.
- Mr Linnane requested comments from members on the communications plan attached to the papers.
- Mr Standish commented that the plan includes a list of activities but does not include the types of people we are wanting to interact with and the method and frequency of interaction. The stakeholders could be broken down into three categories: individuals in the industry, existing certificate holders and others impacted by certificate holders.
- Mr Linnane commented that the action plan gets to the essence of the timeframe and aim. The target audience could be further sub-divided.

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- Mr Dolden suggested that the plan be left quite broad. The trouble with specifying sub-groups is that you may exclude someone.
- The Chair commented that the plan is passive in terms of a communication plan. It includes practical actions detailed in the Board's workplan but is not very proactive. It should include more active and engaging actions.
- Mr Burns commented that it is a procedural document. It supports the communication detailed in the strategic plan.
- Mr Grivas supported the plan as presented. There has been no feedback that information is not getting out to the relevant people.
- Mr Linnane commented that the strategic plan and communications plan reflect the role of the Board, an advisory board. It is not going to be overly aggressive as the nature of the Board does not lend itself to that. The strategic plan does deal with the collaborative communication strategy. The document can be expanded but we need to get the balance right between having large unusable document and having enough information.
- Mr Linnane proposed that the secretariat further reviews the draft document and presents it at the next meeting. It was requested that if any members have further comments to send them to the secretariat out of session.
- Mr Tranter said the plan needs to make sure we are addressing all the actions in the strategic plan.
- The Chair further commented that the actions in the plan are standard actions that happen routinely. If an issue emerges, the Board will want to be more proactive. We do have listed signature block.

Outcomes

- The Board did not endorse the MPCB communication plan.

Actions

- Action H: Secretariat to review the draft communication plan and present it at the next meeting.
- Action I: Members to provide further comments on the communication plan to the secretariat out of session.

The meeting paused at 10:35am and recommenced at 10:50am.

9

Update on the work plan to support the Strategic Plan to 2023

- Mr Linnane referred members to the attachment and requested feedback.

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- The Chair commented that the attachment was useful for keeping track of the Board's projects.
- No other comments were received.

Outcome

- The Board noted the status of projects identified in the Board's work plan to support the Strategic Plan to 2023.

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Certificate of competence examination review project plan

- Mr Palmer referred members to the attachment and requested feedback.
- Mr McLeod asked how members of the steering group came to the decision to change the 60% pass mark to competent/not competent and not re-examine competencies in the oral exams already examined in written exams.
- Mr Linnane advised that there was no documented reason why the pass mark was set at 60%. The oral exams use a competent/non competent marking scale and there is no reason why the written exams should be different. There are several competencies which individuals are expected to demonstrate; some are deemed to be essential, others desirable. If essential, they must demonstrate they are competent and if not, they are marked as not competent.
- Mr Burns commented that the wording in the brief may be leading to some confusion. The recommendations came out of the working groups and were then endorsed by the project steering group. It was an outcome of the project itself.

Outcomes

- The Board noted the conclusion of the blueprinting project by Johnstaff Pty Ltd
- The Board noted the progress by the Resources Regulator in actioning the recommendations from the Johnstaff Group review into the certificate of competence examination process
- The Board noted reporting on the review recommendations will then be made through the implementation plan for blueprinting to be tabled at the May 2021 meeting.

Actions

- Action J: Resources Regulator to present the implementation plan for blueprinting at the May 2021 meeting.

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Progress for practising certificates and maintenance of competence

- Mr Palmer advised that the implementation of practising certificates is completed as at September 2020. There will now be a regular turnover of certificates. It is recommended that regular quarterly report presented to the Board each meeting now be presented annually. It is recommended that updates about examinations now be presented to the Board quarterly rather than annually.
- Mr Palmer advised that he has been reappointed to the Coal Mining Industry Reference Committee for another 12 months.
- The Chair commented that group 2 numbers were low and asked if that was that problematic. Mr Linnane responded that it wasn't as not a lot of people that perform those functions and there is a low turnover.
- Mr Dolden commented that the individuals who received their certificates in the period September 2017 to August 2018 will soon be coming up for renewal. He asked if the Department has a view on what numbers might be at risk due to inactivity. Is there any communication that we can drive out of this for those people in that space?
- Mr Palmer advised that the Department has undertaken some voluntary auditing. It is intended that more will be done once resources are available. There are no definitive numbers on compliance levels. However, there are positive signs people are engaged through the various workshops.
- The Chair asked if there is a time when the Board should be concerned and flag for follow up? Mr Linnane commented that if individuals are not complying with the requirements, that is a compliance issue for the Resources Regulator to manage. If there is evidence that the approach is not working, this may be a matter for the board to consider.
- Mr Burns commented that the Resources Regulator undertakes planned inspections as part of its compliance and enforcement approach. There is anecdotal evidence that individuals are pushing this back on the company. The challenge will be to get responsibility back to the individual level for management of compliance.
- Mr Dolden advised that he didn't have any concerns with the compliance approach but the question was more from the Board's point of view if there is going to be an emerging issue. Mr Burns commented that anecdotally, feedback is positive that people understand obligations and are taking necessary steps.

Outcomes

- [The Board noted the progress report for practising certificates and maintenance of competence from November 2020 to January 2021.](#)

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	<ul style="list-style-type: none">■ The Board agreed that the Resources Regulator will present a report on practising certificates and maintenance of competence on an annual basis.■ The Board agreed that the Resources Regulator will present a report on outcomes of examinations at each meeting. <p>Action</p> <ul style="list-style-type: none">■ Action K: Resources Regulator to present a report on outcomes of examinations at each meeting.
12	<p><u>Resources Regulator Quarterly Safety Report</u></p> <ul style="list-style-type: none">■ Mr Burns referred members to the attachment. He brought members attention to some key statistics.■ Mr Andrew Grivas joined the meeting at 11:34am.■ Mr Burns added that there was a dramatic increase in the assessment work undertaken. During this period, several assessments were conducted at each site – COVID, dust and another. <p>Outcomes</p> <ul style="list-style-type: none">■ The Board noted the Resources Regulator Quarterly Safety Report.
13	<p><u>Appointment of examiners</u></p> <ul style="list-style-type: none">■ Mr Grivas noted that some experience for one nominee was listed at a mine which appeared to be on care and maintenance while he was holding that position. Mr Burns confirmed that the mine was operating during that time. <p>Outcomes</p> <ul style="list-style-type: none">■ The Board approved the appointment of examiners as recommended. Moved Mr Smith. Seconded Mr Standish.
14	<p><u>Additional business</u></p> <ul style="list-style-type: none">■ The Chair requested members raise any additional items of business.■ Mr Palmer advised that at a previous meeting, the Board discussed the proposed deletion of competencies in the RII training package. The Board’s view to retain the competencies was put to Skills for Australia. It was however decided to delete the competencies. The Board will be advised of further details when available.
15	<p><u>Next meeting and meeting close</u></p> <ul style="list-style-type: none">■ The next meeting is scheduled for Tuesday 18 May 2021.

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- The meeting closed at 11:45am.

Action items

NO.	RESPONSIBILITY	ACTION	AGENDA ITEM	DUE DATE
A	Chair	Chair to send amendments to the previous minutes to the secretariat.	3	
B	Secretariat	Secretariat to draft a letter to resigning exam panel member Kim Nguyen for Chair's signature.	4	
C	Resources Regulator	Resources Regulator to create a fact sheet and checklist for individuals to become panel members.	5	
D	Resources Regulator	Resources Regulator to undertake further analysis on recommendation 16 and provide an update to the Board at the May 2021 meeting.	7	
E	Resources Regulator	Resources Regulator's to prepare advice to Minister that it is not necessary to have mining engineering roles captured in a professional scheme (recommendation 17).	7	
F	Members	Members consider recommendation 34 and provide feedback to the Resources Regulator out of session.	7	
G	Resources Regulator	Resources Regulator to collate member feedback, undertake further analysis on recommendation 34 and provide an update to the Board at the May meeting.	7	
H	Secretariat	Secretariat to review the communication plan and present it at the next meeting.	8	
I	Members	Members to provide further comments on the communication plan to the secretariat out of session.	8	
J	Resources Regulator	Resources Regulator to present the implementation plan for blueprinting at the May 2021 meeting.	10	
K	Resources Regulator	Resources Regulator to present a report on outcomes of examinations at each meeting.	11	

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Approval

NAME/POSITION	SIGNATURE/APPROVAL	DATE
Ruth Mackay, Chair	Approved at MPCB meeting	18 May 2021

Comment: