



MINING AND PETROLEUM COMPETENCE BOARD

Meeting 3 – 17 August 2021

Meeting details

Meeting	Mining and Petroleum Competence Board	Date	17 August 2021
Location	Video conference (via Microsoft Teams)	Time	9am – 11:30am
Chair	<ul style="list-style-type: none">■ Ruth Mackay (Chair, Independent)		
Attendees	<ul style="list-style-type: none">■ Ashley McLeod (NSW Minerals Council)■ Chris Dolden (Cement Concrete & Aggregates Australia)■ Andrew Grivas (NSW Minerals Council - Metalliferous)■ Stephen Tranter (Construction, Forestry, Maritime, Mining and Energy Union (Mining and Energy Division))■ Justin Smith (Australian Workers' Union, New South Wales Branch)■ Peter Standish (Independent)■ Janine Lea-Barrett (Independent)■ Leigh Nicholls (delegate of Garvin Burns, NSW Resources Regulator, Department of Regional NSW)■ Tony Linnane (Mining, Exploration and Geoscience, Department of Regional NSW)		
Apologies	<ul style="list-style-type: none">■ Stephen Luck (delegate of Stephen Barrett, Construction, Forestry, Maritime, Mining and Energy Union (Mining and Energy Division))		
Observers	<ul style="list-style-type: none">■ Andrew Palmer (Resources Regulator, Department of Regional NSW)■ Evelyn Subagio (NSW Minerals Council)■ Garvin Burns (NSW Resources Regulator, Department of Regional NSW)		
Prepared by	Anna Ormerod (NSW Resources Regulator, Department of Regional NSW)	CM9 ref	DOC21/827876

Minutes

PAPER	DISCUSSION
1	<p><u>Welcome and apologies</u></p> <ul style="list-style-type: none">■ The meeting commenced at 9am.■ Members noted Mr Nicholls was attending the meeting as Mr Burns’ delegate.■ The Chair congratulated Mr Standish and Mr Tranter on their reappointments.■ The Chair advised that an expression of interest process was underway for an independent member of the Board. Ms Lea-Barrett’s position expires on 30 October 2021.
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.
3	<p><u>Acceptance of previous minutes and actions</u></p> <ul style="list-style-type: none">■ The Chair requested the following amendments:<ul style="list-style-type: none">□ dot point should read “the Regulator” not “to Regulator” (page 5)□ the third outcome on page 6 should be added to the actions register “The Chair of the Board write to the Deputy Premier recommending the amendment to the statutory function of electrical engineer (coal mines other than underground coal mines) as outlined in item 3.6 of the recommendation 34 analysis”. <p>Outcomes</p> <ul style="list-style-type: none">■ The Board accepted the minutes and actions from the previous meetings subject to the above modifications. Moved Chris. Seconded Peter. <p>Actions</p> <ol style="list-style-type: none">A. Secretariat to update the minutes from the May 2021 meeting with the changes requested by members at the meeting.B. The Chair to write to the Deputy Premier recommending the amendment to the statutory function of electrical engineer (coal mines other than underground coal mines) as outlined in item 3.6 of the recommendation 34 analysis.
4	<p><u>Correspondence</u></p> <ul style="list-style-type: none">■ The Chair referred members to the correspondence detailed in the paper.

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	<p>Outcomes</p> <ul style="list-style-type: none">Members noted the correspondence since the last meeting.
5	<p><u>Statutory Review of the Work Health and Safety (Mines and Petroleum Sites) laws</u></p> <ul style="list-style-type: none">Mr Linnane advised that Mr John Flint is no longer working with the Department and acknowledged the contribution Mr Flint has made to the Board.Mr Linnane commented that attachment A details how the Resources Regulator arrived at its recommendations for recommendation 34 as requested at the last meeting. The Resources Regulator’s position is that evidence hasn’t been provided to clearly demonstrate that there is a problem.Mr Linnane commented in relation to a mechanical tradesperson, a variety of work is undertaken in that space and as such it is not possible to articulate and prescribe specific competencies and skills. The mine operators should be provided the flexibility to determine what is needed. All types of work undertaken need to be considered in the mechanical engineering control plan.Mr McLeod advised that he supported the Regulator’s position on mechanical tradesperson roles.All members agreed.The Chair offered thanks to John Flint for all his hard work on the Board and wished him well. <p>Outcomes</p> <ul style="list-style-type: none">The Board noted the Resources Regulator’s justification for its positions on recommendation 34 regarding statutory functions.The Board endorsed the Resources Regulator’s positions on recommendation 34 regarding statutory functions.The Board endorsed the Resources Regulator’s position regarding the competency requirements for the statutory function of qualified mechanical tradesperson (coal mines).Moved Mr McLeod. Seconded Ms Lea-Barrett.
6	<p><u>Assessing competencies through blueprinting</u></p> <ul style="list-style-type: none">Mr Palmer advised that questions asked in written exams can currently be reassessed in oral exams. This practice will not continue from the 2022/2023 financial year. Benchmarks will only be assessed once.

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- Mr McLeod asked if someone fails a benchmark question in the oral exam, do they need to redo their written exam again? If they fail an oral question on benchmark 2, can they be reassessed on the original question?
- Mr Palmer said that is currently still under discussion. However, each benchmark will only be assessed once. If an exam needs to be retaken it will be a different question but will be based on the benchmark.
- Mr Dolden asked if candidates will need to be marked competent on each benchmark and will they need to get 100%?
- Mr Palmer said the mark to be deemed competent will be covered in the working documents. Examiners will have a marking criteria. One part of the exam will have questions for essential competencies, so they need to be marked as competent. Other questions may assess desirable competencies so only need a percentage mark for 60% or more (or closest rounded percentage) in total for those questions to be deemed competent in that part of the exam paper and overall.

Outcomes

- The Board noted:
 - competencies are blueprinted across several assessment types for assessing different benchmarks
 - 2021/2022 will be the last year of examiners asking additional questions of candidates in oral exams, based on their written exam marks
 - in 2022/2023 competencies will be assessed as met or not once for a benchmark
 - the Resources Regulator is still considering how to assess candidates who resit exams.
- Moved Ms Lea-Barrett. Seconded Mr Linnane.

7

Grosvenor Board of Inquiry

- Mr Linnane advised that the Resources Regulator has undertaken an analysis of the findings and recommendations of the Grosvenor Board of Inquiry to identify any recommendations that may be relevant to NSW. There is one recommendation for consideration of the Board in relation to a WHS management system unit of competence (RIIWH5601E) for a site senior executive (SSE). NSW does not have the position of SSE in its framework. As NSW functions under model WHS laws, it has a specific officer duty and statutory functions. The SSE function in Queensland is aligned with the officer duty in NSW. The Board should consider whether it is appropriate for

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the mining engineering function to have these competencies and if it should be a pre-requisite or part of qualifications delivered by other providers. If part of qualifications, there are several different tertiary institutions, and some might be outside our national borders.

- Mr Standish commented that there is merit in what is being put forward as it is unknown whether current courses focus much on it.
- Mr Smith commented that typically when a disaster occurs competencies are examined to identify any gaps. After the Gretley disaster, there was a change in competencies for mine surveyors. Mr Smith recommended an increase in competencies to prevent future repeating itself.
- Mr Linnane said the Board should adopt a unit of competence as a prerequisite. It is not a significant regulatory burden as it is one unit of competence.
- Mr Standish asked if the Resources Regulator has a position as to whether current mine managers would need to obtain the competency.
- Mr Linnane replied it wouldn't be made retrospective but would need to be discussed with industry.
- Mr Standish asked if the Board should then need look at the institution's approach based on that. Do the education institutions currently address it?
- Mr Linnane said the most effective way is to make it a pre-requisite as it cannot be forced in a tertiary institution.
- The Chair asked if all members were comfortable with the board agreeing that an additional unit be added.
- All members agreed.

Outcomes

- The Board agreed that RIIWHS601E competency (establishing and maintaining the WHS management system) should be a pre-requisite for applying for a mining engineering manager certificate of competence.
- Moved Ms Lea-Barrett. Seconded Mr Smith.

8

MPCB Communication Plan

- Mr Palmer advised that the communication plan has been updated per discussions at the last meeting. The plan was endorsed at last meeting and is now attached for information of members.
- Ms Lea-Barrett asked who is presenting at the relevant seminars. The Chair advised the she will be presenting.

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- Mr Linnane commented that presenting at seminars on behalf of the Board is one of the functions of the role of the chair.
- Mr Dolden left the meeting at 9:55am.

Outcomes

- The Board noted the final MPCB communication plan.
- Moved Ms Lea-Barrett. Seconded Mr Linnane.

9

Report from the Australasian Mining Competency Advisory Council (AMCAC) meeting

- Mr Burns advised that he, Mr Linnane and the Chair attended the last AMCAC meeting. There were concerns flagged with automatic mutual recognition and the proposed arrangements by WA. A follow-up meeting has been scheduled for further discussions. WA was concerned that an individual undertaking restricted electrical work in NSW can end up as a licenced electrician in WA. NSW did not agree with their interpretation. WA was going to seek further clarification but there has been no further communication.
- Mr Linnane commented that WA hope to have new legislation finalised and in place from 1 January 2022.
- Mr Burns commented that in Queensland there has been a level of stagnation with their board of examiners and finalisation of their competency framework.
- There has been a change of legislation in South Australia. The removal of registration in WHS legislation has flowed onto NSW in terms of mutual recognition.
- Mr Linnane commented that the Resources Regulator has made an order that a person who holds a South Australian certificate of competence is eligible to be granted a NSW certificate of competence for 3 or 5 years as a result of facilitating mutual recognition. This is in place for a short period as South Australia moves away from granting certificates and from registration.
- The Chair commented that there had been a director jailed in WA for gross negligence under WHS laws.
- The Chair commented that WA has adjusted its petroleum regulations.
- Several NSW stakeholders have expressed concerns over automatic recognition particularly in relation to safety issues. NSW has adopted the changes on the basis that several occupations, included all the mining functions, are exempted. The initial exemption is 12 months.
- Mr Burns advised he would send a copy of the AMCAC minutes to members.
- Mr Burns commented that all the certificate of competence under NSW legislation are exempt until June 2022. It is expected that in June 2022, NSW will need to justify

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	<p>continuance. It is expected it will become more problematic to justify further than that.</p> <p>Outcomes</p> <ul style="list-style-type: none">■ The Board noted the verbal update on the outcomes of the May 2021 AMCAC meeting. <p>Actions</p> <p>C. Mr Burns to send a copy of the AMCAC minutes for the May 2021 meeting to members.</p>
10	<p><u>MPCB work plan</u></p> <p>Outcomes</p> <ul style="list-style-type: none">■ The Board noted the status of projects identified in the Board’s work plan to support the Strategic Plan to 2023.
11	<p><u>Report on certification outcomes</u></p> <ul style="list-style-type: none">■ Mr Palmer advised that the percentage issue column was removed from Attachment A as it wasn’t adding any value. There were no significant changes from last quarter.■ Mr Standish asked if there were any learnings from the denied mutual recognition case. Mr Palmer replied that case was a quarry manger with a South Australian Certificate of Competence. As South Australian certificates weren’t recognised, the application was denied. It has since however been gazetted to recognise the certificates so the application can now be reassessed.■ Mr McLeod asked whether the three people failed who failed the quarry manager exams on ventilation were degree qualified. If so, they should have a good understanding of the matters. Mr Palmer replied that the exam was for the mining engineering manager, not quarrying manager. The feedback provided to the applicants was that they undertake training to obtain a ventilation qualification.■ Mr McLeod commented that people should have a certain level of educations/skills/qualifications before they sit for exams. <p>Outcomes</p> <ul style="list-style-type: none">■ The Board noted the application and exam outcomes reported for certification from May to July 2021.

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12	<p><u>Resources Regulator Quarterly Safety Report</u></p> <ul style="list-style-type: none">■ Mr Nicholls advised that there was an increase in the severity of vehicle collisions during the period. The Resources Regulator conducted a targeted awareness campaign in May 2021 involving over 300 presentations to 13,500 workers. Feedback was positive.■ The Chair commented that the report was very impressive. <p>Outcomes</p> <ul style="list-style-type: none">■ The Board noted the Resources Regulator Quarterly Safety Report.
13	<p><u>Update on implementation of blueprinting</u></p> <p>Outcomes</p> <ul style="list-style-type: none">■ Members noted the status of the blueprinting implementation project.
14	<p><u>Recruitment for independent board member</u></p> <ul style="list-style-type: none">■ Mr Palmer advised that a panel meeting was scheduled for 2 August 2021 but was postponed.■ Mr Tranter, Mr Smith and Mr Dolden nominated to join the assessment panel.
15	<p><u>Additional business</u></p> <ul style="list-style-type: none">■ The Chair requested members raise any additional items of business.■ It was advised that the date for the next AMCAC meeting will be sent to members once available. Nominations will then be sought from members to attend. <p>Action</p> <ul style="list-style-type: none">D. Secretariat to send the date for the next AMCAC meeting to volunteers once known and seek volunteers from MPCB members to attend.
16	<p><u>Next meeting and meeting close</u></p> <ul style="list-style-type: none">■ The next meeting is scheduled for Tuesday 16 November 2021.■ Mr Tranter volunteered to host the meeting subject to COVID restrictions.■ Ms Lea-Barrett thanked all board members as this is her last meeting as an independent member.■ The meeting closed at 11:15am.

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	<p>Outcomes</p> <ul style="list-style-type: none">■ The Board agreed to hold the next meeting at the CMFEU office in Aberdare subject to COVID restrictions. <p>Actions</p> <p>E. Secretariat to update the appointment for the next MPCB meeting with the venue.</p>

Action items

NO.	ACTION	AGENDA ITEM
A	Secretariat to update the minutes from the May 2021 meeting with the changes requested by members at the meeting.	3
B	The Chair to write to the Deputy Premier recommending the amendment to the statutory function of electrical engineer (coal mines other than underground coal mines) as outlined in item 3.6 of the recommendation 34 analysis.	3
C	Mr Burns to send a copy of the AMCAC minutes for the May 2021 meeting to members	9
D	Secretariat to send the date for the next AMCAC meeting to volunteers once known and seek volunteers from MPCB members to attend.	15
E	Secretariat to update the appointment for the next MPCB meeting with the venue.	16

Approval

NAME/POSITION	SIGNATURE/APPROVAL	DATE
Ruth Mackay	Approved	16 November 2021

Comment: