



NSW Mine Safety Advisory Council

Meeting 4 – 2 December 2021

Meeting details

Meeting	NSW Mine Safety Advisory Council (MSAC)	Date	2 December 2021
Location	Hunter Valley Mines Rescue Station 6 Lachlan Avenue, Singleton Heights	Time	9am to 12pm
Chair	Hon. George Souris AM (Independent)	Reference	DOC21/1116363
Secretary	Mr Tony Linnane (Mining, Exploration and Geoscience, Department of Regional NSW)		
Members	Mr Garvin Burns (delegate for 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 (Mining and Energy Division)) Mr Ian Cribb (NSW Minerals Council (coal)) Mr Rob Cunningham (NSW Minerals Council (metalliferous)) Ms Julie Armour (Independent) Assoc. Prof. Deborah Yates (Independent)		
Special Guest	Georgina Beattie, Deputy Secretary (Mining, Exploration and Geoscience, Department of Regional NSW)		
Observers	Mr James Barben (NSW Minerals Council) Mr Jason Kuchel (Cement Concrete & Aggregates Australia) Mr Leigh Nicholls (Chief Inspector, Resources Regulator, Department of Regional NSW) Ms Lucy Flemming (Coal Services)		
Presenters	Mr Lucas Boyne (Coal Services) Mr Bob Cohen (University of Illinois (Chicago))		
Apologies	Mr Peter Jordan (Construction, Forestry, Maritime, Mining and Energy Union (Mining and Energy Division))		
Secretariat	Ms Anna Ormerod (Mining, Exploration and Geoscience, Department of Regional NSW)		

Meeting agenda items

Paper	Agenda item
	<p>Welcome</p> <ul style="list-style-type: none">■ The Chair thanked Ms Lucy Flemming for hosting the meeting and for providing a tour of the Mines Rescue station.■ The Chair welcomed and introduced Ms Georgina Beattie, Deputy Secretary, Mining Exploration and Geoscience (MEG), as a special guest to the meeting.■ Ms Beattie thanked the Chair for the invitation and Coal Services for the tour.
1	<p>Chair's report</p> <ul style="list-style-type: none">■ The Chair noted an apology from Mr Peter Jordan.■ Mr Linnane advised that:<ul style="list-style-type: none">□ the Hon Souris has been reappointed as chair of MSAC□ Mr Matthew Freeman has resigned from MSAC□ Mr Cunningham has elected not to seek reappointment when his position expires on 27 June 2022.
2	<p>Declaration of interests</p> <ul style="list-style-type: none">■ Mr Cribb requested that changes be made to his declaration in the pecuniary interests table.■ Ms Flemming declared that Coal Services is part of the review of coal industry health surveillance scheme. Members agreed this did not preclude Ms Flemming from participating in discussions about the project.■ Ms Yates declared she is involved in the review of coal industry health surveillance scheme. Members agreed that Ms Yates would not be present at the meeting for agenda item 17. <p>Actions</p> <ul style="list-style-type: none">A. Secretariat to update the pecuniary interests register with Mr Cribb's amendments.
3	<p>Acceptance of previous minutes and actions</p> <ul style="list-style-type: none">■ The Chair advised that some minor grammatical errors had been made to the draft version distributed out of session.

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	<ul style="list-style-type: none">■ Mr Linnane advised that all actions are on the agenda for discussion today, are complete or are in progress. <p>Outcomes</p> <ul style="list-style-type: none">● MSAC endorsed the minutes of the last meeting held on 2 September 2021.● MSAC noted the status of actions arising from the last meeting. <p>Actions</p> <ul style="list-style-type: none">B. Secretariat to provide future versions of minutes in track changes.
4	<p>Correspondence</p> <p>Outcomes</p> <ul style="list-style-type: none">● MSAC noted the incoming and outgoing correspondence since the last meeting.
5	<p>Recommendations for MSAC from the report on the statutory review of the WHS (MPS) laws</p> <ul style="list-style-type: none">■ Mr Linnane advised that the recommendation in the paper is for members to discuss the costs and benefits of extending industry safety and health representative roles to non-coal mines and consider what advice should be provided to the Minister.■ Mr Burns said the paper has been drafted to give as much information as possible to members but is not a statement of the Regulator’s position. The Resources Regulator’s position is that a case hasn’t been made in terms of cost benefit. It recognises that more work needs to be done in terms of worker representation as there are low number of HSRs in the industry.■ Mr Skelton advised that the AWU is willing to bear the cost associated with extending industry safety and health representative roles to non-coal mines. There are no issues with eligibility requirements. The concern is that WHS permit holders do not have the same functions that exist in the coal sector.■ Mr Cunningham commented that the metal sector does not support the recommendation. In 2016, there was significant changes in Resources Regulator reforms and how the Regulator operates. Interactions with mine sites has increased and is of a valuable nature, allowing more structured contact.■ Mr Osborne commented that the CFMMEU sees an advantage for workers and that relationships with the Regulator and management on site would be strengthened. If can be done to reinforce safety and regulations, it is worth looking at it.

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	<ul style="list-style-type: none">■ Mr Cribb commented that there is not much difference in terms of powers. The only difference is the ability to suspend an operation. The CFMMEU put a lot of energy into the engagement and training of ISHRs. It about level of support that needs to be put in and the number of representatives at sites. There should be a push for more safety representatives at sites.■ Mr Skelton said the fundamental difference in the powers is the ability for a worker representative to accompany an inspector. There have been several occasions where inspectors have gone to site, but workers are not allowed to accompany and assist them.■ Ms Armour commented there appears to be a lack of information as to how effectively those in the non-coal sector can operate.■ Ms Yates commented that it is clear the risks to health extend beyond the coal industry. The difficulty with measuring is that you can't see what can't be measured.■ The Chair said he didn't believe a case has been made out for the change and suggested the outcome was to note the recommendation and leave open for the future but recommend not making a legislative change at this point. <p>Outcomes</p> <ul style="list-style-type: none">• A majority of members agreed to advise the Minister that legislative amendment should not be made at this stage to extend industry safety and health representative roles to non-coal mines.• Mr Brock Skelton, Mr Graeme Osborne and Ms Deborah Yates did not agree to the above resolution. <p>Actions</p> <p>C. Department to write to the Minister advising MSAC does not agree to extending industry safety and health representative roles to non-coal mines, noting three members did not support this decision.</p>
6	<p>Survey of mining industry on perceptions that labour hire and non-permanent workers under-report safety concerns</p> <ul style="list-style-type: none">■ Mr Burns thanked the participants who assisted with drafting the survey and advised members:<ul style="list-style-type: none">□ the survey will be distributed for completion during quarter 1 of 2022□ the results will be presented to MSAC in quarter 2 of 2022□ MSAC members will be requested to assist in distributing the survey

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	<ul style="list-style-type: none"><input type="checkbox"/> it is proposed that the survey will be done via QR code<input type="checkbox"/> paper copies will also be distributed at mine sites. <ul style="list-style-type: none">■ Mr Burns said the survey can be extended to all the coal sector if MSAC feels it is warranted. Members agreed that the survey should apply to all coal sectors.■ Mr Osborne advised the CFMEU is happy to distribute the survey to its members. <p>Outcomes</p> <ul style="list-style-type: none">• MSAC agreed to extend the survey to include all coal sectors. <p>Actions</p> <ul style="list-style-type: none">D. Resources Regulator to distribute the survey to all coal sectors in quarter 1 of 2022.E. Resources Regulator to provide a report on the outcomes of the survey to MSAC members at the June 2022 meeting.
7	<p>Impacts of COVID-19 and mandatory testing in the mining industry</p> <ul style="list-style-type: none">■ Mr Burns advised that:<ul style="list-style-type: none"><input type="checkbox"/> the Resources Regulator has done a lot of work over the past 18 months to assist industry understand its obligations in relation to COVID-19<input type="checkbox"/> mandatory vaccinations are a matter for the mining operations in terms of complying with health orders<input type="checkbox"/> there are several companies who have implemented mandatory vaccinations<input type="checkbox"/> the Resources Regulator has not received any claims of bullying, harassment or victimisation.■ Mr Burns said the Resources Regulator checks what risk controls a mine site has implemented for COVID, whether all controls have been considered and whether those controls are being implemented.■ Ms Yates commented that vaccinations reduce transmission by 50%. They are the only appropriate way to prevent COVID. Most countries are going towards mandatory vaccination. It is a health decision.■ Mr Burns said here is no requirement for sites to notify the Regulator, but the Regulator are aware of some sites introducing mandatory vaccinations. The Regulator has requested that mine operators advise the Resources Regulator of confirmed cases. There is a legal requirement to notify SafeWork NSW. In the first 12 months of COVID the Resources Regulator received regular phone calls from workers who were

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	concerned about COVID management. There has been zero contact from workers over the last three months.
8	<p>MSAC Strategic Plan</p> <ul style="list-style-type: none">■ Mr Linnane advised that the priority focus areas have been streamlined into 3 areas. All 7 original areas have been captured under the 3 focus areas. Several strategies have been identified across each focus area.■ At Ms Armour’s suggestion, members agreed to include psychosocial hazards as an issue to be included under the Focus on Health topic. <p>Outcomes</p> <ul style="list-style-type: none">• Members endorsed the MSAC Strategic Plan to 2023 subject to including psychosocial hazards as a strategy under ‘Focus on Health’ and amending the typing error. <p>Actions</p> <ul style="list-style-type: none">F. Secretariat to add psychosocial hazards as an additional strategy under ‘Focus on Health’ in the strategic plan.G. Secretariat to amend typing error on page 4 in the strategic plan.H. Secretariat to present the strategic plan to the Minister for endorsement and signature.
9	<p>MSAC Annual Report 2020-2021</p> <ul style="list-style-type: none">■ The Chair asked members for comments on the annual report.■ No comments were received. <p>Outcomes</p> <ul style="list-style-type: none">• Members endorsed the MSAC Annual Report 2020-21. <p>Actions</p> <ul style="list-style-type: none">I. Secretariat to present the annual report to the Minister for information.J. Secretariat to publish the annual report on the website.
10	<p>2022 meeting dates</p> <p>Outcomes</p> <ul style="list-style-type: none">• Members agreed to the following hosts for 2022 meetings subject to confirmation of room availability:

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	<ul style="list-style-type: none">○ 3 March 2022 – Hosted by the Department in Maitland○ 2 June 2022 – Hosted by industry○ 8 September 2022 – Hosted by the CFMMEU○ 1 December 2022 – Hosted by the NSW Minerals Council <ul style="list-style-type: none">● Members agreed to confirm the location and venue of the June meeting at the March meeting. <p>Actions</p> <ul style="list-style-type: none">K. Secretariat to update the March meeting invitation with the venue.L. Mr Osborne to confirm room availability of the CFMMEU for the September meeting.
11	<p>Member updates</p> <ul style="list-style-type: none">■ Mr Lucas Boyne presented to members on Coals Service’s dust surveillance activities.■ Ms Flemming provided an update on the Order 42 airborne dust report. <p>Outcomes</p> <ul style="list-style-type: none">● Members noted the report tabled by Coal Services.
12	<p>National Dust Diseases Task Force</p> <ul style="list-style-type: none">■ Mr Linnane advised that MSAC is maintaining a watching brief on the activities of the National Dust Disease Task Force. At the national level, a strategy and action plan is being developed.■ Ms Yates advised that the national guideline for silica workers is due to be released at the end of the year. <p>Outcomes</p> <ul style="list-style-type: none">● Members noted the update and that a National Silicosis Prevention Strategy and associated National Action Plan are being developed.
13	<p>Legislative framework update</p> <ul style="list-style-type: none">■ Mr Linnane advised that:<ul style="list-style-type: none">□ amendments to the Work Health and Safety (Mines and Petroleum Sites) Regulation commenced on 12 November□ the proposed minor amendments to the <i>Work Health and Safety (Mines and Petroleum Sites) Act</i> from the statutory review will be progressed in early 2022

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	<ul style="list-style-type: none">□ a proposal to reduce the silica exposure standard in WESFAC will be considered by Safe Work Australia members. The Resources Regulator does not support the reduction because of concerns with the reliability of test and analysing sample at the lower levels. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the update on legislative developments and reform.
14	<p>NSW Resources Regulator report</p> <ul style="list-style-type: none">■ Mr Nicholls advised that due to COVID, assessments have been primarily done via desktop. The Regulator’s focus is to get out in the field more this quarter.■ Mr Burns advised that:<ul style="list-style-type: none">□ The Regulator’s priorities for the next 6 months will be published soon.□ industry engagement activities were cancelled due to COVID□ an online written exam scheme will commence early next year. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the Quarterly safety report – July to September 2021.
15	<p>Mine safety levy report</p> <ul style="list-style-type: none">■ Mr Burns advised that figures have been impacted by COVID. <p>Outcomes</p> <ul style="list-style-type: none">• Members noted the Mine Safety Levy Fund report- Actuals & Forecast Oct 2021 and the NSW Resources Regulator Annual Report 2020/21.
16	<p>Additional business</p> <ul style="list-style-type: none">■ There was no additional business. <p><i>Deborah Yates left the meeting at 11:15am.</i></p>
17	<p>University of Illinois (Chicago) presentation on review of coal industry health surveillance scheme</p> <ul style="list-style-type: none">■ Mr Bob Cohen of the University of Illinois presented members with an update on the review of coal industry health surveillance scheme.■ Mr Linnane advised that:<ul style="list-style-type: none">□ Mr Cribb, Mr Souris and Anthony Keon are the steering committee

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	<ul style="list-style-type: none">□ Mr Linnane and Ms Lynne Shields from the Department meet with the team on a fortnightly basis□ there have been challenges due to COVID□ a delay in settling the procurement has impacted timelines□ face-to-face involvement was one of the concerns with the project; it is expected that Mr Cohen and staff will make a trip to Australia in February 2022. <ul style="list-style-type: none">■ Ms Flemming commented that privacy matters and providing deidentified data is an issue that needs to be worked out.■ Mr Linnane advised that public submissions opened this week. Submissions will go directly to the University, not the Department.■ The Chair thanked Mr Cohen and his team.

Meeting close

The meeting closed at **12:10pm**.

Approval

Name/Position	Signature/approval	Date
NSW Mine Safety Advisory Council members	Endorsed at meeting on 3 March 2022.	03/03/22

Summary of actions

NO.	ACTION	AGENDA ITEM
A	Secretariat to update the pecuniary interests register with Mr Cribb's amendments.	2
B	Secretariat to provide future versions of minutes in track changes.	3
C	Department to write to the Minister advising MSAC does not agree to extending industry safety and health representative roles to non-coal mines, noting three members did not support this decision.	5
D	Resources Regulator to distribute the survey to all coal sectors in quarter 1 of 2022.	6
E	Resources Regulator to provide a report on the outcomes of the survey to MSAC members at the June 2022 meeting.	6
F	Secretariat to add psychosocial hazards as an additional strategy under 'Focus on Health' in the strategic plan.	8
G	Secretariat to amend typing error on page 4 in the strategic plan.	8
H	Secretariat to present the strategic plan to the Minister for endorsement and signature.	8
I	Secretariat to present the annual report to the Minister for information.	9
J	Secretariat to publish the annual report on the website.	9
K	Secretariat to update the March meeting invitation with the venue.	10
L	Mr Osborne to confirm room availability of the CFMMEU for the September meeting.	10