

Mining and Petroleum Competence Board Annual Report

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What is the Mining and Petroleum Competence Board?

The Mining and Petroleum Competence Board (the Board) is a statutory board that advises the Minister responsible for administering the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (the Act) and its supporting Regulation, and the NSW Resources Regulator on:

- setting of competence standards
- standards for assessing competence
- requirements for the maintenance of competence for exercising functions at a mine that impact on the health and safety of any person.

The Board is established under the Act and the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 (Regulation).

The Board comprises people representing the interests of employers and employees, and officers of the Department of Regional NSW. The Board also includes independent members with expertise in the development and assessment of competence standards for people performing functions at mines. The Board has an independent chair.

Vision

The Board's vision is to improve mine safety by contributing to the development of world-leading competence standards in the NSW mining and petroleum industries.

Mission

The Board aims to ensure the competence of people performing safety critical roles in NSW mining operations, as part of an overall strategy to improve mine safety performance by:

- maintaining a strategic focus on significant competence issues
- undertaking consultation with all relevant stakeholders when progressing competence matters
- ensuring processes are put in place to quickly identify emerging issues and respond accordingly
- liaising with other jurisdictions, with an aim to promote consistency in competence standards
- ensuring that all key stakeholders have access to consistent and accurate information regarding competence standards.

The role of the Regulator

The responsible Minister and the NSW Resources Regulator, Department of Regional NSW, take advice from the Board on how to carry out their functions under the Act and the Regulation to:

- determine the requirements for certificates of competence and conduct examinations
- administer the issuing of certificates of competence and practising certificates, including requirements to maintain competence.

More information

For comprehensive information on the Board and its activities visit the webpage:

www.resourcesregulator.nsw.gov.au/safety-and-health/about-us/competence-board

Contact the Board

NSW Mining and Petroleum Competence Board

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Introduction

The Board was established in 2014 following the introduction of the Act. The Board is subject to the control and direction of the Minister. Section 68 of the Act requires the Board to provide an annual report within six months of June 30 of its activities during the preceding year.

This is the Board's ninth annual report and covers activities between 1 July 2022 and 30 June 2023.

The Board met on four occasions during the year:

- 16 August 2022
- 8 November 2022
- 14 February 2023
- 23 May 2023.

Functions of the board

The Board has the following functions under section 67(1) of the Act:

- overseeing the development of competence standards for people exercising functions at a mine that may impact on the health and safety of any person
- undertaking initial and ongoing assessments of the competence of people exercising any such function
- advising the Minister on matters related to the competence required of people to exercise any such function.

The Board also has the following functions under section 170(1) of the Regulation:

- advising the regulator on the training, qualifications, experience, knowledge, or skills required for the exercise of statutory functions
- advising the regulator on the conduct of assessments, including the nature, type, and manner of assessments
- making recommendations to the regulator in relation to conditions that may be imposed on a practising certificate
- ensuring, as far as possible, that the competency required under this Regulation in respect of the exercise of a statutory function is consistent with the competency required in other Australian jurisdictions for the exercise of the statutory function
- recommending to the regulator requirements in relation to maintenance of competency for holders of practising certificates.

Terms of reference

The Board's terms of reference are to:

- oversee the development of competence standards
- oversee the assessment and examination process for the issuing of certificates of competence
- oversee requirements for the maintenance of competence
- provide advice to the Minister and regulator on matters related to competence requirements.

Identified priorities and vision

The Board has agreed on a vision to develop an efficient and effective scheme to ensure people carrying out statutory functions under the Act and the Regulation are competent to carry out those roles to best practice WHS and engineering standards.

To achieve the vision, the Board identified the following priorities to 2023:

1. Monitor and review competence standards and assessment for statutory functions.
2. Monitoring and oversight of the maintenance of competence scheme.
3. Identify and address emerging issues for statutory functions.
4. Develop and implement a collaborative communication strategy.

Implementing actions in these priority areas contributes to achieving the Regulator's aim for a safe and responsible mining, extractive and petroleum industry in NSW.

Membership of the Board and attendance at meetings

The below table details the members of the Board and the attendance of each member at the four Board meetings held during the 2022/2023 financial year.

| Name/position | Nominee | Appointed under (Act section) | No. of meetings attended / No. of meetings held whilst a member |
|---|--|--|---|
| Ms Ruth Mackay ¹ Chair | Independent | 65(1)(a) – chairperson | 1 / 1 |
| Ms Joanne Muller AM ² Chair | Independent | 65(1)(a) – chairperson | 3/3 |
| Mr Christopher Dolden ³ Member | Cement Concrete & Aggregates Australia | 65(1)(b) – representing interests of employers | 2/2 |
| Mr Andrew Grivas ⁴ Member | NSW Minerals Council | 65(1)(b) – representing interests of employers | 0/2 Mr Thomas Lethbridge attended as delegate for Mr Grivas at 1 meeting |
| Mr Thomas Lethbridge ⁵ | NSW Minerals Council | 65(1)(b) – representing interests of employers | 0/1 |
| Mr Ashley McLeod Member | NSW Minerals Council | 65(1)(b) – representing interests of employers | 4/4 |

¹ Ms Mackay's appointment ended 5 September 2022.

² Ms Muller's appointment commenced 30 September 2022.

³ Mr Dolden's appointment ended 28 January 2023.

⁴ Mr Grivas' appointment ended 5 February 2023.

⁵ Mr Lethbridge's appointment commenced 6 February 2023 and ended 3 March 2023.

| Name/position | Nominee | Appointed under (Act section) | No. of meetings attended / No. of meetings held whilst a member |
|--|--|--|---|
| Mr Stephen Barrett Member | Mining and Energy Union | 65(1)(c) – representing interests of employees | 4/4 |
| Mr Stephen Tranter Member | Mining and Energy Union | 65(1)(c) – representing interests of employees | 3/4 |
| Mr Justin Smith ⁶ Member | Australian Workers Union | 65(1)(c) – representing interests of employees | 0/2 |
| Dr Peter Standish ⁷ Member | Independent | 65(1)(d) – independent | 2/3 |
| Ms Kylie Fahey Member | Independent | 65(1)(d) – independent | 4/4 |
| Mr Garvin Burns Member | Department of Regional NSW | 65(1)(e) – officer of the department | 4/4 |
| Mr Tony Linnane ⁸ Member | Department of Regional NSW | 65(1)(e) – officer of the department | 0/0 |
| Mr Marwan El-Chamy ⁹ Member | Department of Regional NSW | 65(1)(e) – officer of the department | 1 / 3 Ms Angela Hudson attended as delegate for Mr El-Chamy at 2 meetings. |
| Ms Angela Hudson ¹⁰ Member | Department of Regional NSW | 65(1)(e) – officer of the department | 0/1 Mr Lewis Stoll attended as delegate for Ms Hudson at 1 meeting. |
| Mr Ron Cowdrey ¹¹ Member | Australian Workers Union | 65(1)(c) – representing interests of employees | 0/0 |
| Mr Kurt Bridges ¹² Member | Cement Concrete & Aggregates Australia | 65(1)(b) – representing interests of employers | 0/0 |

⁶ Mr Smith's appointment ended 27 January 2023.

⁷ Dr Standish's appointment ended 31 March 2023.

⁸ Mr Linnane's appointment ended 27 July 2022.

⁹ Mr El-Chamy's appointment commenced 28 July 2022 and ended 16 May 2023.

¹⁰ Ms Hudson's appointment commenced 16 May 2023.

¹¹ Mr Cowdrey's appointment commenced 13 June 2023. Mr Cowdrey attended as an observer at the 23 May 2023 meeting.

¹² Mr Bridges' appointment commenced 30 June 2023. Mr Bridges attended as an observer at the 23 May 2023 meeting.

| Name/position | Nominee | Appointed under (Act section) | No. of meetings attended / No. of meetings held whilst a member |
|---------------------------------------|----------------------|--|---|
| Mr Craig Reed ¹³ Member | NSW Minerals Council | 65(1)(b) – representing interests of employers | 0/0 |

¹³ Mr Reed’s appointment commenced 30 June 2023. Mr Reed attended as an observer at the 23 May 2023 meeting.

Activities of the Board in the preceding year

In line with the Board's endorsed Strategic Plan to 2023, the Board undertook the following activities during the reporting period. The Board worked to an approved work plan developed to support its Strategic Plan to 2023. The activities in the work plan are monitored by the Board on a quarterly basis.

1. Monitor and review competence standards and assessment for statutory functions

There are existing competence standards for statutory functions requiring certificates of competence.

Competence standards need to be monitored and revised in response to emerging issues to ensure safety standards are maintained. The Board advises the Resources Regulator on updating the competence standards for statutory functions requiring certificates of competence and the standards that should apply in the processes to assess applicants. This enables the competence standards for statutory functions to be up to date, relevant and world leading so people conducting these functions are competent and support safe mining operations.

1.1 Monitor the scheme while ensuring that it is aligned with other jurisdictions

Two members of the Board plus the Chief Inspector of the Resources Regulator are members of the Australasian Mining Competence Advisory Council (AMCAC).

AMCAC was established as part of mine safety regulatory reform in the states of New South Wales, Queensland, and Western Australia, with the view of achieving, as far as possible, cross-jurisdictional consistency for the competencies required for safety critical positions at mines. The intended regulatory reforms have been implemented, accordingly AMCAC now only meets by exception.

There were no AMCAC meetings held during the reporting period.

Participation in Industry Reference Committee meetings

The NSW Resources Regulator attended the following Industry Reference Committee meetings relating to the Resources and Infrastructure Training Package, under the Australian Industry Skills Committee and reported to the Board:

| Date | Event |
|------------------|--|
| 6 July 2022 | Coal Mining Industry Reference Committee |
| 22 November 2022 | Coal Mining Industry Reference Committee |

The final meeting of the Coal Mining Industry Reference Committee was held on 22 November 2022. Jobs and Skills Councils have now replaced the previous industry reference committee arrangements. The Australian Minerals and Energy Skills Alliance (AUSMESA) has been appointed to represent the mining sectors.

1.2 Reform the assessment process

The assessment scheme for certificates of competence involves panels of people from industry and the mine safety regulator assessing the eligibility of applicants, including examining candidates through written and oral assessments. The scheme needs to remain efficient and effective so only suitable people receive a certificate of competence.

Certificate of competence examinations

Certificates of competence to exercise certain statutory functions are granted under the Regulation. A person is eligible to hold a certificate of competence for a statutory function once they have been assessed and deemed competent to exercise that function.

Key requirements to determine competence for a certificate of competence include specified qualifications and experience, satisfying set criteria and an examination process. The assessment process is facilitated by the NSW Resources Regulator, with competence standards determined in consultation with the Mining and Petroleum Competence Board.

In response to an independent review conducted in 2019, a blueprint framework was developed to standardise the way exams are constructed and delivered. The purpose of the framework is to achieve validity, reliability, transparency, and consistency of assessment. Dr Bruce Mowbray undertook an external review of the blueprinting framework during the reporting period, to identify opportunities for improvement. Full implementation of the blueprint framework is to occur in the 2023/2024 reporting year.

Additionally, the Board endorsed a pilot project to trial on-line written exams for the Quarry Manager certificate of competence. The pilot on-line exams were conducted on 8 September 2022.

Examiners and exam calendar

During the reporting period the Board endorsed the composition of examination panel members for the 2022/23 financial year. The Resources Regulator provides a calendar of planned exams annually to inform the Board. The calendar is available on the NSW Resources Regulator's website.

1.3 Set and integrate specific requirements for emerging skillsets into standards and assessments

In reviewing the schemes for competency standards and assessment, emerging skills sets for statutory functions need to be identified and integrated into the competency standards.

In the reporting year the Board undertook a workshop to identify strategic priorities for the Board for the 2023-2026 years. These priorities are being developed into a new Strategic plan for the Board.

2. Monitoring and oversight of the maintenance of competence scheme

2.1 Board decision making is informed by evidence

The Board considers relevant information when making decisions. The NSW Resources Regulator provides regular reports, policy position papers and analysis of reviews and inquiries to inform the Board of competence and assessment matters.

2.2 Monitor and review the scheme auditing process

Practising certificates are required by people to exercise the statutory function prescribed in mine safety legislation. A key condition of a practising certificate is to maintain competence. The Board advises on the implementation of the scheme and performance of certificate holders in fulfilling their maintenance of competence obligations.

Practising certificate holders' compliance with maintenance of competence requirements are monitored by the NSW Resources Regulator and the Board. The NSW Resources Regulator provides reports on assessment outcomes for each Board meeting.

To ensure compliance, random mandatory auditing is undertaken on an ongoing basis.

A pilot of outsourcing audits of NSW practising certificate holders for their maintenance of competence was conducted from March to October 2022 by the NSW Resources Regulator.

Two suppliers (Mines Rescue Pty Ltd and Core Mine Training Pty Ltd) were contracted under the Department of Regional NSW procurement framework to request and complete audits in accordance with the Regulators prescribed processes. 105 audits were completed from April to July 2022. Overall, the majority of practising certificate holders were found to be substantially complying with the gazetted maintenance of competence requirements.

2.3 Proactive monitoring of performance indicators

The Resources Regulator quarterly safety reports and updates on the competence assessment scheme are tabled at each Board meeting. The Board monitors and identifies trends from these reports.

The Board considers the effectiveness of maintenance of competence obligations on achieving the vision of a safe mining industry. The Board monitors indicators that report on practising certificate holders' awareness of their requirements and the effect of the scheme on safety, supervision, and the implementation of control measures.

In the reporting year, the Board endorsed a Mining, Exploration and Geoscience (Department of Regional NSW) project for the evaluation of the maintenance of competence scheme. It is proposed that the project be carried out in the 2023/2024 reporting year.

3. Identify and address emerging issues for statutory functions

The scheme for the statutory competency framework needs to be responsive to industry changes, as mine operators seek to be more productive and safer. These changes need to be identified and the impact on the competencies of statutory functions considered. This assists the Board in the early identification of emerging issues and advise on proactive steps to respond appropriately so people remain competent to the determined standards.

3.1 Monitor the mining industry for changes that may impact on the operation of the competency schemes for certificates

The Board draws upon its tripartite representation from across the mining industry to identify emerging trends affecting competency.

Resources and Infrastructure Industry training package

During the reporting period, the Board was represented by the NSW Resources Regulator at two meetings of the Coal Mining Industry Reference Committee for the Resources and Infrastructure Training package under the Australian Qualifications Framework (AQF).

The final Coal Mining Industry Reference Committee was held on 22 November 2022. Jobs and Skills Councils have now replaced the previous industry reference committee arrangements. The Australian Minerals and Energy Skills Alliance (AUSMESA) has been appointed to represent the mining sectors.

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

A report on the statutory review of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* (WHS (MPS) laws) was tabled in Parliament on 10 November 2020. The review made 40 recommendations for improvements to the operation of laws, five of which were for action of the Resources Regulator in conjunction with the Board.

The implementation of the statutory review recommendations was completed during the reporting period. This included:

- the commencement of the remade Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 on 1 September 2022

- the commencement of additional amendments and the publication of various supporting notices and communications in the NSW Government Gazette and the Resources Regulator website. Such notices included gazettals in October and November 2022 regarding maintenance of competency and to Tier 2 Quarry manager competences.

3.2. New modules are developed in response to emerging issues

Statutory functions require competent people to carry them out. As these competencies required change, there is a need to ensure people stay current. One way of ensuring currency of competencies is for maintenance of competence to underpin requirements for practising certificates.

During the reporting year, the Board:

- considered proposals for additional qualifications and change in qualifications
- endorsed the following units of competence as satisfying the Deputy pre-requisites for emergency response and preparedness:
 - RIIERR501E Implement underground coal mine emergency preparedness and response systems
 - RIIERR501D & RIIERR501A underground coal mine emergency preparedness and response systems or other equivalent superseded unit number.

4. Develop and implement a collaborative communication strategy

4.1 Develop key messages to be communicated

The Board reports on activities detailed in its Communications Plan at each meeting. The objective of the Communication Plan is to increase awareness within stakeholder groups and broader community about the activities of the Board. Sections 4.2 to 4.4 detail the activities completed during the reporting period.

4.2 Utilise a broad range of communication channels

To keep stakeholders informed of Board activities, the Board utilises a range of communication channels including:

- delivering presentations at stakeholder events
- participating in stakeholder forums including Australasian Mining Competence Advisory Council and Industry Reference Committees
- delivery of webinars and workshops
- publishing articles in the Mine Safety News
- publishing new and updated guidance material, board meeting agendas and minutes on the Resources Regulator's website.

These activities are detailed below.

Seminars, meetings, and presentations

The chair of the Board attended the following NSW Resources Regulator seminars.

- 2022 Mining Engineering Managers Safety Seminar
- 2022 Electrical Engineering Safety Seminar.

The Resources Regulator presented at the following meetings and seminars:

- 21 July 2022 – IQA Newcastle Chapter meeting – presentation on Practising certificates, Certificates of competence and Maintenance of Competence

- 22 November 2022 – Coal Services Mines Rescue – Order 34 Training Plans for NSW mine operators
- 1 February 2023 – Annual examiners meeting
- 10 March to 17 April 2023 - Six convenor working group meetings on revising competency framework
- 5, 12 and 19 May 2023 – Blueprinting convenors working group
- 14 June 2023 - Webinar on practising certificates and maintenance of competence.

Mine Safety News publications

The following articles relating to activities of the Board, were published in the NSW Resources Regulator's Mine Safety News.

| Date | Topic |
|-------------------|--|
| 1 July 2022 | 2022 exam papers (link) |
| 14 July 2022 | Practising certificate holders must maintain contact details |
| 28 July 2022 | Update on work health and safety laws – including independence of MPCB Chair |
| 11 August 2022 | Changes for quarry manager tier 2 practising certificates – 1 October 2022 |
| 11 August 2022 | Update on work health and safety laws – including independence of MPCB Chair |
| 1 September 2022 | Call for expressions of interest – certificate of competence examiner |
| 1 September 2022 | Reminder to renew practising certificate |
| 1 September 2022 | Changes for quarry manager tier 2 practising certificates – 1 October 2022 |
| 1 September 2022 | Prerequisites and exam details quarry manager of mines other than underground mines or coal mines (link) |
| 15 September 2022 | Call for expressions of interest – certificate of competence examiner |
| 15 September 2022 | Reminder to renew practising certificate |
| 15 September 2022 | Changes for quarry manager tier 2 practising certificates – 1 October 2022 |
| 29 September 2022 | Call for expressions of interest – certificate of competence examiner |
| 29 September 2022 | Practising certificate renewals |
| 29 September 2022 | Changes for quarry manager tier 2 practising certificates – 1 October 2022 |
| 29 September 2022 | Certificate of competence exam calendar 2023 (link) |
| 13 October 2022 | Exam calendar: certificate of competence |
| 13 October 2022 | Exam paper: Quarry manager – September 2022 |
| 27 October 2022 | Deputy Certificate of Competence oral exam briefing sessions |
| 27 October 2022 | Form: Quarry manager practising certificate with conditions for tier 2 quarries (link) |
| 27 October 2022 | Guide: Quarry manager practising certificate with conditions for tier 2 quarries (link) |
| 27 October 2022 | Guide: Applying for a Certificate of Competence (link) |

| | |
|------------------|--|
| 27 October 2022 | Prerequisites and written exam details – quarry manager of mines other than underground or coal mines (link) |
| 10 November 2022 | Deputy Certificate of Competence oral exam briefing sessions |
| 24 November 2022 | Portal upgrades for practising certificate holders |
| 13 April 2023 | Call for expressions of interest – certificate of competence examiner |
| 13 April 2023 | Practising certificate renewal (link) |
| 25 May 2023 | Practising certificate and maintenance of competence webinar – scheduled for 14 June 2023 |
| 9 June 2023 | Call for expressions of interest for independent member of MPCB |
| 9 June 2023 | Practising certificate and maintenance of competence webinar – scheduled for 14 June 2023 |
| 29 June 2023 | WHS certificates have a fresh new look (re-design of certificates of competence and practising certificates) |
| 29 June 2023 | Update on practising certificates and maintenance of competence webinar Q&A transcript (link) |

Board meeting agendas and minutes

The agendas and minutes from Board meetings during the reporting period were published on the Resources Regulator website.

Guidance material

During the reporting period, the following new and updated guidance material was published on the Resources Regulator website:

| Date | Title |
|------------------|---|
| 12 July 2022 | Guide: experienced prerequisites explained for certificate of competence application |
| 12 July 2022 | Fact sheet: recognition of qualifications and units of competence |
| 1 September 2022 | Guide to applying for a certificate of competence 2022-2023 |
| 17 October 2022 | Guide: Quarry manager practising certificate with conditions for Tier 2 quarries |
| 19 October 2022 | Prerequisites and written examination details Quarry manager of mines other than underground coal mines or coal mines |
| 19 October 2022 | Guide: Applying for a certificate of competence 2022 - 2023 (updated) |
| 13 February 2023 | Fact sheet: Quarry manager practising certificate three tier approach |
| 10 March 2023 | Fact sheet: Auditing of WHS practising certificate holders |

4.3 Communication plan that supports the implementation of competency requirements

During the reporting period, the Board implemented a range of communication strategies identified in its Communication Plan, to ensure stakeholders are informed of the activities of the board including:

- potential applicants for certificates of competence

- the mining industry, including mine operators, workers, and stakeholder organisations
- registered training organisations (RTOs) and educational bodies/institutions.

These activities are detailed in 4.2 above.

4.4 Prepare and publish annual report for Minister

In accordance with section 68 of the Act, the Board produces an Annual Report. The Annual Report informs the Minister of the activities of the board in the preceding financial year.