

NSW Mine Safety Advisory Council Annual Report 2022 - 2023

October 2023



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Introduction

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

MSAC is established under section 60 of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*. Membership is specified in the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022*.

MSAC comprises industry representatives, unions, NSW Department of Regional NSW and independent work health and safety experts. It has an independent chair.

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
- gather, analyse, evaluate, and communicate information on work health and safety.

This MSAC annual report covers activities between 1 July 2022 and 30 June 2023.

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 MSAC and move forward collectively on mutually important matters.

Terms of reference

MSAC's terms of reference are to:

- establish strategic safety and health direction and goals
- analyse and review the safety performance of the industry
- 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
 - encourage a move towards cross-industry and national standards.

Functions of MSAC

The functions of MSAC are detailed in the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (the Act) and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022* (the Regulation).

MSAC's functions under section 61 of the Act are:

- to advise the responsible Minister on any policy matter relating to work health and safety in mines
- any other advisory function relating to work health and safety in mines as prescribed by the regulations.

The functions as prescribed under section 164 of the Regulation are to:

- to advise the Minister on any matter, other than a policy matter, relating to work health and safety in mines that is referred to it by the Minister, and

- to advise the Minister on any other matter, other than a policy matter, relating to work health and safety in mines that it considers relevant.

More information on MSAC

For comprehensive information on MSAC and its activities visit the webpage:
www.resourcesregulator.nsw.gov.au/safety-and-health/about-us/advisory-council

Contact MSAC

NSW Mine Safety Advisory Council

c/- NSW Department of Regional NSW

PO Box 344, Hunter Region Mail Centre NSW 2310

Email: rr.secretariat@regional.nsw.gov.au

Membership

The members of MSAC during the 2022-2023 financial year were:

Name	Nominee	Appointed under (Regulation section)
Hon. George Souris	Independent Chairperson	164(1)(d) and (2)
Mr Ian Cribb	NSW Minerals Council (coal sector)	164(1)(a)(i)
Mr Aaron Brannigan	NSW Minerals Council (metalliferous sector)	164(1)(a)(ii)
Mr James Collings	Cement Concrete & Aggregates Australia	164(1)(a)(iii)
Mr Robin Williams	Mining and Energy Union	164(1)(b)(i)
Mr Graeme Osborne	Mining and Energy Union	164(1)(b)(i)
Mr Brock Skelton	Australian Workers Union, NSW Branch	164(1)(b)(ii)
Mr Peter Day	NSW Resources Regulator, Department of Regional NSW	164(1)(c)
Ms Julie Armour	Independent member	164(1)(d)
Prof. Deborah Yates	Independent member	164(1)(d)

The Secretary of MSAC is appointed by the Secretary of the Department of Regional NSW under section 164(3) of the Regulation. The MSAC Secretary for the reporting period was Mr Tony Linnane, Department of Regional NSW. The Department provides Secretariat support.

Meetings

The council met on four occasions during the reporting period:

- 8 September 2022
- 1 December 2022
- 2 March 2023
- 1 June 2023.

Attendance at MSAC meetings during the reporting period is detailed below:

Member	Position	Present	Represented
Hon. George Souris	Chairperson	4/4	n/a
Mr Ian Cribb	Member	3/4	1/4
Mr Brock Skelton ¹	Member	0/2	0/2
Ms Julie Armour	Member	4/4	n/a
Prof. Deborah Yates	Member	4/4	n/a
Mr Graeme Osborne	Member	3/4	n/a
Mr James Collings	Member	4/4	0/0
Mr Peter Day	Member	4/4	0/0
Mr Robin Williams	Member	4/4	0/0
Mr Aaron Brannigan	Member	3/4	1/4

MSAC meetings were also attended by invited observers from Coal Services, NSW Minerals Council, Cement, Concrete & Aggregates Australia and the Department of Regional NSW.

¹ Mr Brock Skelton's term expired on 15 December 2022

MSAC activities and focus during 2022-23

The *NSW Mine Safety Advisory Council Strategic Plan to 2023* (MSAC Strategic Plan) lists three priority focus areas and 18 strategies for improving WHS for the NSW mining industry:

1. Focus on health.
2. Focus on fatal incidents, serious injuries and illnesses.
3. Focus on emerging trends.

MSAC oversees the implementation of the actions and provides the Minister, industry and the community with regular updates on its progress.

Activities of MSAC during the reporting period against the three priority focus areas and strategies is detailed below.

Focus on health

The health of workers in the NSW mining industry continues to be a major focus for MSAC.

In recent years there has been a re-emergence of coal worker pneumoconiosis and silicosis in the Queensland and NSW mining industries. NSW has had a robust and multi-faceted framework in place for managing the risks associated with occupational dust disease in the coal mining sector for many years. This includes a comprehensive regulatory scheme in place under the Resources Regulator and Coal Services, with specific mining health and safety legislation.

Coal mine worker health surveillance scheme review

MSAC has overseen an independent quality assurance review by the University of Illinois (Chicago) of the health surveillance scheme for coal mine workers provided by Coal Services Health. The purpose of the review was to ensure that the scheme is providing robust and effective health surveillance for NSW coal workers. The review also sought to provide assurance to industry that the scheme is effective in the early identification of health conditions or potential health conditions that may affect workers.

The University provided a review report to MSAC which found that Coal Services Health has a robust system of medical surveillance of coal mine workers, and they have made considerable improvements since the re-identification of black lung disease in Australia in 2015. The review found, however, that there is room for significant improvements in Coal Services Health's protocols for data collection, chest imaging and spirometry. In addition, the review determined that clear training on the spectrum of coal mine dust lung disease should be provided to Coal Services Health's external doctor network and respiratory specialist providers.

The review report made 16 recommendations based on its findings, which MSAC accepted. At its June 2023 meeting, MSAC agreed to an action plan for implementing the recommendations and to oversee their implementation.

Monitoring health and safety

MSAC receives quarterly updates from Coal Services on health surveillance in the coal sector. This includes an ongoing update on airborne dust, periodic medical compliance and workers compensation claims and injury trends. MSAC also receives quarterly updates from the Resources Regulator on health and safety performance report for mining operators in NSW, safety incident notifications, compliance activities and outcomes.

Psychosocial hazards (including bullying and harassment)

MSAC monitored the implementation of changes to the Work Health and Safety Regulation 2017 on psychosocial risks to understand the extent of exposure to these risks in the NSW mining and petroleum sectors. The Resources Regulator will monitor compliance with the legislative changes and update MSAC.

Members agreed that further work needs to be undertaken by MSAC to determine the extent and any further actions required.

National Dust Disease Taskforce

The Department provided MSAC with regular updates on the National Dust Disease Taskforce. The Taskforce was established in July 2019 to develop a nationally consistent approach to the prevention, early identification, control, and management of occupational dust diseases in Australia.

The Australian Government Department of Health is developing the 2023 – 2028 National Silicosis Prevention Strategy (NSPS) and associated National Action Plan (NAP). The action plan will outline Commonwealth and state and territory government, industry, union, and medical peak body commitments. The Resources Regulator provided input into the consultation process.

MSAC members continue to monitor the work of the Taskforce.

Focus on fatal incidents, serious injuries, and illness

Fatalities and serious injuries and illnesses are key measures which are the focus of health and safety performance in the NSW mining industry. While they are lag indicators, fatality and serious injury and illness data are indicative of the effectiveness of the implementation of critical risk controls.

MSAC received advice from the Resources Regulator on quarterly trends of serious injuries and illnesses notified to the regulator during the reporting period. MSAC considered an analysis provided by the regulator and agreed to continue monitoring trends on a quarterly basis.

Focus on emerging trends

MSAC monitored and considered relevant information to anticipate emerging (or re-emerging) issues and provided the opportunity for key stakeholders to discuss solutions or research going forward.

Nature of employment and the impact this may have on safety reporting culture

MSAC sought to determine the prevalence in NSW of a perception that labour hire and other non-permanent employees under-report safety concerns for fear of reprisal. This was in response to the Queensland Coal Mining Board of Inquiry Grosvenor report. The Resources Regulator surveyed NSW mine workers on MSAC's behalf.

The survey was distributed to all coal sectors in quarter 1 of 2022. MSAC considered the outcomes of final report at its September 2022 meeting. MSAC noted that the response rate for the survey was very poor which impacts the potential validity of the survey outcomes and has agreed to conduct a follow-up survey in the 2023-24 financial year.

WHS (Mines and Petroleum Sites) laws

MSAC has participated in the NSW Government's review of the work health and safety laws applying to the mining and petroleum industries on an ongoing basis. This included considering seven of the 40 recommendations that Mr Kym Bills made in his 2020 statutory review of these laws. Some of these recommendations were implemented through legislative and regulatory amendments.

MSAC provided advice on the development of amendments to the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*, which commenced on 1 August 2022. The amendments streamlined, clarified and modernised some processes and provisions while enhancing probity controls for statutory roles.

MSAC also provided advice on the remade Work Health and Safety (Mines and Petroleum Sites) Regulation 2022, which commenced on 1 September 2022. The Regulation is a remake of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, which lapsed on 1 September 2022 in accordance with NSW subordinate legislation laws.

MSAC monitors Safe Work Australia strategies such as the Australian Work Health and Safety Strategy 2023-2033 agreed by all Australian governments.

MSAC continues to monitor the Safe Work Australia review of workplace exposure standards for airborne contaminants. During the reporting period, MSAC discussed the proposed diesel particulate matter exposure standard of 15ug REC/m³ for elemental carbon. The current exposure standard in the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 is 100ug REC/m³.