

Mining and Petroleum Competence Board Annual Report 2021-2022

November 2022



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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 (Deputy Premier) 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 *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (Act) and *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022* (Regulation).

The Board comprises people representing the interests of employers and employees, officers of the Department of Regional NSW and independents with expertise in the development and assessment of competence standards for people performing functions at mines. The Board is chaired by an independent chairperson.

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 Minister (Deputy Premier) 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 seventh annual report and covers activities between 1 July 2021 and 30 June 2022.

The Board met on four occasions during the year:

- 17 August 2021
- 16 November 2021
- 15 February 2022
- 10 May 2022.

As a result of COVID-19 restrictions, two of the four meetings were held via teleconference.

Functions of the board

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

- oversee the development of competence standards for people exercising functions at a mine that may impact on the health and safety of any person
- undertake initial and ongoing assessments of the competence of people exercising any such function
- advise 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 to:

- advise the regulator on the training, qualifications, experience, knowledge or skills required for the exercise of statutory functions
- advise the regulator on the conduct of assessments, including the nature, type and manner of assessments
- make recommendations to the regulator in relation to conditions that may be imposed on a practising certificate
- ensure, 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
- recommend 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 work health and safety (WHS) laws 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 will contribute to achieving the aim of the regulator for a safe and responsible mining, extractive and petroleum industry in NSW.

Membership of the Board

The members of the Board during the 2021/2022 financial year were:

Name	Nominee	Appointed under (Act section)
Ruth Mackay	Independent	65(1)(a) – chairperson
Chris Dolden	Cement Concrete & Aggregates Australia	65(1)(b) – representing interests of employers
Andrew Grivas	NSW Minerals Council	65(1)(b) – representing interests of employers
Ashley McLeod	NSW Minerals Council	65(1)(b) – representing interests of employers
Stephen Barrett	Construction, Forestry, Maritime, Mining and Energy Union	65(1)(c) – representing interests of employees
Stephen Tranter	Construction, Forestry, Maritime, Mining and Energy Union	65(1)(c) – representing interests of employees
Justin Smith	Australian Workers Union	65(1)(c) – representing interests of employees
Peter Standish	Independent	65(1)(d) – independent

Name	Nominee	Appointed under (Act section)
Janine Lea-Barrett ¹	Independent	65(1)(d) – independent
Kylie Fahey ²	Independent	65(1)(d) – independent
Garvin Burns	Department of Regional NSW	65(1)(e) – officer of the department
Tony Linnane	Department of Regional NSW	65(1)(e) – officer of the department

Attendance at MPCB meetings during 2021/2022 is detailed in the table below.

Member	Position	Meetings	Member
Ruth Mackay	Chairperson	4/4	-
Andrew Grivas	Member	2/4	2/4
Ashley McLeod	Member	4/4	-
Chris Dolden	Member	4/4	-
Garvin Burns	Member	0/4	4/4
Janine Lea-Barrett	Member	1/1	
Justin Smith	Member	4/4	-
Kylie Fahey	Member	3/3	-
Peter Standish	Member	4/4	-
Stephen Barrett	Member	1/4	0/4
Stephen Tranter	Member	4/4	-
Tony Linnane	Member	4/4	-

¹ Janine Lea-Barrett’s appointment expired on 30 October 2021

² Kylie Fahey’s appointment commenced on 15 November 2021

Activities of the Board in the preceding year

In line with the Board's endorsed Strategic Plan to 2023, the following activities were undertaken during the reporting period. The Board approved a work plan 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

To ensure consistency with other Australian states, 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 to ensure nationally consistent competencies for statutory positions in mining. AMCAC was established as part of the mine safety regulatory reform in the states of New South Wales, Queensland and Western Australia. Nil AMCAC meetings were held during the reporting period.

The Board monitors and influences Industry Reference Committees relating to the Resources and Infrastructure Training Package, under the Australian Industry Skills Committee. These committees are reviewing and updating units of competency for mining related qualifications.

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 Work Health and Safety (Mines and Petroleum Sites) Regulation 2022. 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, review, a blueprint framework was developed and implemented, to standardise the way exams are constructed and delivered. The framework ensures validity, reliability, transparency and consistency of assessment.

During the reporting period, the Board endorsed changes to the assessment process. It was agreed that for candidates to be granted a certificate of competence they must be:

- assessed as competent for 100% of essential competencies and minimum 60% of desirable competencies in one round of exams for a function in a year,
- candidates who are assessed as competent for a minimum of 60% of essential and desirable competencies (or closest rounded down percentage) in their first attempt at the oral exam can re-sit in that round of exams.

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 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. During the reporting period, the Board endorsed the following changes to practising certificates and certificates of competence.

Quarry manager certificate of competence

The Board endorsed the unit of competence RIIBLA401E Manage blasting operations (or equivalent superseded versions) as a pre-requisite for all new applicants for the quarry manager certificate of competence from the 2023 exams.

Quarry manager tier 2 practising certificate

The Board endorsed the gazettal for tier 2 quarry manager practising certificate requirements to be amended to add an eligible qualification for all tier 2 quarries (not specific locations):

- RII60220 – Advanced Diploma of Extractive Industries Management, and any superseded equivalent version with the equivalent of RII60220 mandatory units completed, and
- Elective unit RIIBLA602E – Establish and maintain explosives safety and security management systems to be completed as part of RII60220.
- upgrade from 'specific locations' to 'all tier 2 quarries' practising certificates, that other qualifications to those listed as eligible for a new certificate will be accepted if they are comparative.

Mining engineering manager certificate of competence

As part of the recommendations from the Queensland Coal Mining Board of Inquiry (Grosvenor Report), 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.

2. Monitoring and oversight of the maintenance of competence scheme

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.

2.1 Board decision making is informed by evidence

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

2.2 Monitor and review the scheme auditing process

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

To ensure compliance, auditing is undertaken on an ongoing basis, starting with voluntary audits in years two and three of the scheme and progressing to random mandatory audits. Voluntary audits were not completed during the reporting period.

Core Mine Training and Mines Rescue were contracted to complete 100 audits of practising certificate holders for their compliance with the maintenance of competence condition by 30 June 2022. The Board will consider the outcomes of the audit at the first scheduled meeting of 2022/2023 financial year.

2.3. Proactive monitoring of performance indicators

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.

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.

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.

Impacts of COVID-19

The Board monitored the impacts of COVID-19 on examinations and maintenance of competence. During the reporting period, some examinations for certificates of competence were rescheduled due to COVID-19.

Resources and Infrastructure Industry training package

The Board and the Resources Regulator continued to be represented on the Coal Mining Industry Reference Committee for the Resources and Infrastructure Training package under the Australian Qualifications Framework (AQF). This involved input into various consultation processes to review and improve qualifications and units of competence impacting WHS, such as mine emergency response, and as pre-requisites for certificates of competence. These activities have supported improvements in the currency of competencies for mine workers.

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 Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 (WHS (MPS) laws) was tabled in Parliament by the Deputy Premier on 10 November 2020. The review made 40 recommendations for improvements to the operation of the laws. Of the 40 recommendations, five were for action of the Resources Regulator in conjunction with the Board.

The Board considered whether:

The scope of the functions in Schedule 10 should be reviewed by the Mining and Petroleum Competence Board to ensure that there are no significant omissions or inflexibilities (recommendation 34 from the report).

The Board agreed:

- that no further statutory function positions are required
- the inclusion of a site senior executive (SSE) function is not considered necessary
- a statutory function of a Geotechnical Engineer is not warranted
- there is no need for a power system protection specialist and does not consider there is evidence to support this
- not to support the expansion of engineering manager roles
- there is not enough evidence to make the mine surveyor role a key statutory function
- that the function of Electrical Engineer be updated to include 'supervise and monitor' for consistency with the Mining Engineering Manager and Electrical Engineering Manager statutory functions, and the wording in the Electrical Engineering Control Plan Code of Practice be updated.

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.

Mechanical tradesperson statutory function

During the reporting period, the Board endorsed that the WHS (MPS) Regulation be amended to provide mine operators with the flexibility to identify appropriate qualifications, skills and experience in the mine's mechanical engineering control plan (MECP) which would be required in order to be nominated for the qualified mechanical tradesperson statutory functions.

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 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 in the tables below.

Seminars and presentations

The chair of the Board was scheduled to present on Board activities at the following NSW Resources Regulator seminars.

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

These seminars were cancelled because of COVID-19.

Participation in meetings

Date	Event
15 September 2021	Coal Mining Industry Reference Committee

Date	Event
23 November 2021	Coal Mining Industry Reference Committee
24 March 2022	Coal Mining Industry Reference Committee

Workshops

A series of workshops held by the Resources Regulator in mining areas of regional NSW during the reporting period.

Date	Event	Location
8 June 2022	Coal Services Order 34 workshops	Gunnedah
8 June 2022	Maintenance of competence sessions by Resources Regulator	Gunnedah
9 June 2022	Coal Services Order 34 workshops	Singleton
9 June 2022	Maintenance of competence sessions by Resources Regulator	Singleton
10 June 2022	Coal Services Order 34 workshops	Newcastle
10 June 2022	Maintenance of competence sessions by Resources Regulator	Newcastle
16 June 2022	Coal Services Order 34 workshops	Mudgee
16 June 2022	Maintenance of competence sessions by Resources Regulator	Mudgee
17 June 2022	Coal Services Order 34 workshops	Wollongong

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
8 July 2021	Examination booklet – Deputy of underground coal mines updated Examiner's report - Mining engineering manager of underground mines other than coal mines certificate of competence (Feb - May 2021) Examiner's report - Underground mine supervisor of underground mines other than coal mines Certificate of competence (November 2020)

Date	Topic
	<p>Examiner's report - Underground mine supervisor of underground mines other than coal mines certificate of competence (May 2021)</p> <p>Gazette - Notice of other criteria in respect of statutory functions (South Australian certificates of competence)</p>
23 July 2021	COVID-19 impacts on Certificate of Competence exams
5 August 2021	Greater Sydney Area COVID-19 lockdown impacts on upcoming certificate of competence exams
19 August 2021	<p>Changes to applying for Quarry Manager Tier-2 practising certificates</p> <p>Examiners Report: Mining engineering manager of underground coal mines certificate of competence, Oct 2020 - Feb 2021</p>
2 September 2021	<p>Reopening of applications for postponed exams</p> <p>Guide: Quarry manager with restricted conditions for Tier-2 quarries</p>
30 September 2021	<p>Reopening of applications for postponed exams (Mining engineering manager of coal mines other than underground mines and Open cut examiner of coal mines other than underground mines)</p> <p>Briefing session recording: Maintenance of competence for practising certificates</p>
28 October 2021	<p>Extension available to complete exams for certificates of competence</p> <p>Sample: Practical experience for certificate of competence online application</p>
11 November 2021	Updated briefing sessions and exam dates
25 November 2021	Narrabri/Gunnedah maintenance of competence sessions
9 December 2021	<p>Certificate of competence exam calendar updated for first half of 2022</p> <p>Portfolio requirements for certificate of competence exams from 2022-2023</p>
23 December 2021	MPCB meeting minutes (August 2021)
20 January 2022	<p>Mechanical engineer of coal mines other than underground - Nov 2021 exam paper</p> <p>Mechanical engineering manager of underground coal mines - Nov 2021 exam paper</p>
3 March 2022	Examiner's Report: Mechanical engineer of coal mines other than underground mines 2020 - 2021

Date	Topic
	Examiner's Report: Mechanical engineering manager of underground coal mines 2020 - 2021
17 March 2022	<p>Expressions of interest for Chairperson of the Mining and Petroleum Competence Board</p> <p>Updates to certificate of competence exam calendar</p> <p>Changes for quarry manager tier practising certificates 2022 – 2024</p> <p>Exam paper – Mining engineering manager of underground coal mines certificate of competence</p>
31 March 2022	<p>Expressions of interest for Chairperson of the Mining and Petroleum Competence Board</p> <p>Updates to certificate of competence exam calendar</p> <p>Changes for quarry manager tier practising certificates 2022 – 2024</p>
14 April 2022	<p>Updates to certificate of competence exam calendar</p> <p>Updated maintenance of competence resources and compliance auditing</p> <p>Expressions of interest for Chairperson of the Mining and Petroleum Competence Board</p> <p>Exam paper: Electrical engineering managers of coal mines other than underground mines CEE1 and CEE2</p> <p>Exam paper: Electrical engineer of coal mines other than underground mines CME3</p>
5 May 2022	<p>Reminder - maintenance of competence compliance auditing</p> <p>Reminder to renew practising certificate</p>
19 May 2022	<p>Call for expressions of interest – certificate of competence examiner</p> <p>Portfolio requirements for certificate of competence exams from 2022-2023</p> <p>Reminder - maintenance of competence compliance auditing</p>
2 June 2022	<p>Extension to call for expressions of interest – certificate of competence examiner</p> <p>2022 exam calendar updated</p>
16 June 2022	<p>2022 exam calendar updated</p> <p>Have your say: Proposed WHS (MPS) Regulation 2022</p>

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 Board published the following new and updated guidance material:

- revised webpage and forms for quarry manager tier applications to be part written submitted through the online portal
- Applying for a certificate of competence guide
- updated webpages and guidance for all certificates for changeover to applying through Regulator portal.

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 Work Health and Safety (Mines and Petroleum Sites) Act 2013, the Mining and Petroleum Competence Board produces an Annual Report. The Annual Report informs the Minister of the activities of the board in the preceding financial year.