



ANNUAL REPORT

NSW MINE SAFETY ADVISORY COUNCIL

2020-2021



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Introduction

The NSW Mine Safety Advisory Council (MSAC) is a tripartite forum made up of 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 stipulated in the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

MSAC comprises people representing the interests of industry, unions, NSW Department of Regional NSW and independent work health and safety experts. It is chaired by an independent chairperson.

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 2020 and 30 June 2021.

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 on mutual matters of importance as one group.

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.

For comprehensive information visit the [MSAC webpage](#).

Functions of MSAC

The functions of MSAC are detailed in the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (Act) and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* (Regulation).

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

- to provide advice to the Minister (Deputy Premier) on any policy matter relating to work health and safety in mines
- any other advisory function relating to work health and safety in mines that is prescribed by the regulations.

The functions prescribed under clause 161 of the Regulation are:

- 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

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

www.resourcesregulator.nsw.gov.au/safety-and-health/about-us/advisory-council

Contact the Board

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Membership

The members of MSAC during the 2020/21 financial year were:

NAME	NOMINEE OF	REGULATION SECTION	TERM EXPIRES
Hon. George Souris	Independent Chairperson	160(1)(d) and (2)	22/10/2024
Mr Ian Cribb	NSW Minerals Council	160(1)(a)(i)	29/11/2023
Mr Peter Jordan	Construction Forestry Maritime Mining and Energy Union, Mining and Energy Division	160(1)(b)(i)	02/12/2023
Mr Brock Skelton	Australian Workers Union, NSW Branch	160(1)(b)(ii)	15/12/2022
Ms Julie Armour	Independent member	160(1)(d)	20/06/2024
Mr Tony Cartwright	Independent member	160(1)(d)	11/04/2021
Assoc. Prof. Deborah Yates ¹	Independent member	160(1)(d)	20/06/2024
Mr Rob Cunningham	NSW Minerals Council	160(1)(a)(ii)	27/06/2022
Mr Matthew Freeman	Cement Concrete & Aggregates Australia	160(1)(a)(iii)	27/06/2022
Mr Graeme Osborne	Construction Forestry Maritime Mining and Energy Union, Mining and Energy Division	160(1)(b)(ii)	27/06/2022
Mr Anthony Keon	NSW Resources Regulator	160(1)(c)	27/06/2022

The Secretary of MSAC is appointed by the Secretary under section 160(3) of the Regulation. The Secretary for the reporting period was Mr Tony Linnane, Department of Regional NSW. Secretariat support is provided by the Department of Regional NSW.

¹ Assoc. Prof. Deborah Yates was appointed as an independent member on 21 June 2021 replacing Mr Tony Cartwright.

Meetings

The council met on four occasions during the reporting period:

- 3 September 2020
- 3 December 2020
- 11 March 2021
- 3 June 2021.

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	4/4	n/a
Mr Peter Jordan	Member	4/4	n/a
Mr Brock Skelton	Member	3/4	0/4
Ms Julie Armour	Member	4/4	n/a
Mr Tony Cartwright	Member	2/3	0/3
Assoc Prof Deborah Yates	Member	0/0	n/a
Mr Rob Cunningham	Member	4/4	n/a
Mr Matthew Freeman	Member	2/4	0/4
Mr Graeme Osborne	Member	4/4	n/a
Mr Anthony Keon	Member	4/4	n/a

Note: Assoc Professor Yates was appointed on 21 June 2021. No meetings were held after her appointment during the reporting period.

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

MSAC activities and focus during 2020/2021

The NSW Mine Safety Advisory Council Strategic Plan to 2020 lists six strategic action areas:

1. Evidence-based regulatory approach.
2. Participate, engage and communicate with industry and community.
3. Focus on health and wellbeing.
4. Identify risks of fatal incidents and disease.
5. Address emerging trends.
6. Human and organisational factors.

During the reporting period MSAC commenced a review of its Strategic Plan.

Key matters considered

To ensure its advice-giving function reflects emerging and significant issues, MSAC has maintained a focus on a wide range of matters relevant to work health and safety in mining as part of its strategic focus.

Health and wellbeing

Impact of COVID-19 on mining industry

MSAC received updates from the Resources Regulator and members on the impact of COVID-19 on the mining industry and the Department's regulatory functions. The COVID-19 pandemic and associated restrictions enacted by governments had a significant impact on the NSW mining industry and the regulatory functions of the Resources Regulator.

MSAC noted that the Resources Regulator:

- reduced the number of site assessments as a risk control measure during the early stages of the pandemic
- continued to send inspectors to mine sites to focus on the physical implementation of controls to manage the risk to workers arising from the impacts of COVID-19
- suspended normal planned assessment programs
- continued responding to incidents within the constraints imposed by risk controls

- implemented a response plan to manage the risk of COVID-19 transmission
- suspended oral and written exams
- introduced controls such as remote working, extensive use of videoconferencing, postponement or cancellation of industry engagement activities and cancellation of non-essential travel.

In March 2021, MSAC considered the NSW resources industry's rights and obligations under the model work health and safety laws in relation to the COVID-19 vaccine. MSAC agreed to monitor the situation and follow advice provided by Safe Work Australia in relation to COVID-19 safety measures and vaccinations.

Analysis of serious injuries

MSAC considered advice by the Resources Regulator that there had been an increase in the number of serious injuries and illnesses notified to the regulator during the reporting period. MSAC considered an analysis provided by the regulator and agreed to monitor the numbers on a quarterly basis to identify any trends.

The report [Review of serious injury and illness incident notifications 2019 – 2020](#) was published on the Resources Regulator's website detailing the serious injuries and illnesses.

National Dust Disease Taskforce

MSAC was provided with an update by the Resources Regulator 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 Taskforce released a consultation document on the National Dust Disease Taskforce's Draft Vision, Strategies and Priority Areas for Action in April 2021.

MASC members agreed to continue to monitor the work of the Taskforce.

Legislation and standards

Statutory review of WHS mines and petroleum sites laws

MSAC participated in the NSW Government's review of the work health and safety laws applying to the mining and petroleum industries. The key aim of the review was to determine whether the laws were meeting their objectives to ensure safe mining and petroleum workplaces. Mr Kym Bills lead the review and was guided by a steering committee and assisted by the Resources Regulator. The review commenced in March 2020. The MSAC Chairperson, Hon. George Souris AM, participated in a

consultation session with Mr Bills. The 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 found the objectives of the Act remain valid and its terms generally appropriate for securing those objectives. It also made 40 recommendations for improvements to the operation of the laws. Of those 40 recommendations, seven required consideration by MSAC in consultation with the Resources Regulator.

Mr Bills attended the December MSAC meeting to brief members directly and provide overview of the statutory review report.

During the reporting period, MSAC:

- agreed to publish meeting agendas ahead of their scheduled meetings with sufficient time to allow for industry stakeholders to provide input
- considered an analysis on amendments to the Queensland mine safety legislation to determine if any changes were relevant to NSW. MSAC agreed that further work needs to be undertaken on the suspension or cancellation of certificates of competency and site senior executive notices. MSAC agreed that no further action was required on the other Queensland amendments as they are currently covered by NSW arrangements.

The Resources Regulator is preparing advice on the other recommendations for MSAC's consideration.

Carbon dioxide workplace exposure standard

In March 2011, MSAC considered Safe Work Australia's proposed amendment to the exposure standard for carbon dioxide at coal mines. Safe Work Australia published an evaluation report on the carbon dioxide exposure standard recommending a time weighted average (TWA) of 5,000 ppm and a short-term exposure limit (STEL) of 30,000 ppm to protect for physiological changes, metabolic stress and asphyxiation in exposed workers.

MSAC discussed the matter and did not support the proposed changes to the WESFAC standard and agreed to write to the Deputy Premier stating its position. The Deputy Premier considered advice from MSAC and the Resources Regulator and accepted that the position that the standard in NSW should not change. Amendments were progressed to prescribe the carbon dioxide exposure standard for coal mines in the NSW legislation.

Sub-committees

Multi-media campaign sub-committee and multi-media dust campaign

The multi-media campaign sub-committee was established by MSAC to develop and promote educational campaigns.

The *Take action to prevent dust disease* toolkit campaign was launched in July 2020. The campaign's objectives were to increase mine worker's awareness of the important health and safety issue with respect to dust, raise how dust can directly impact mine workers and contractors and provide call to action for workers to take steps to ensure their own personal safety, as well as the safety of their work mates. The campaign featured a toolkit of videos, guidance and other resources. An evaluation report on the campaign was tabled at the MSAC meeting of 3 December 2020.

Members agreed to retire the multi-media campaign sub-committee in March 2021. The Resources Regulator, with the support of MSAC, will continued to develop and distribute educational and guidance material as part of its normal regulatory approach.

Coal industry health surveillance scheme

MSAC endorsed a proposal to conduct an independent review of the NSW health surveillance scheme for coal workers provided by Coal Services. The purpose of the review is to ensure the scheme is performing to its best capacity.

MSAC agreed to establish a steering committee and endorsed terms of reference for the review. The steering committee comprises stakeholder representatives from MSAC with support from the Resources Regulator Secretariat. An independent contract was engaged to undertake the review.

The University of Illinois (Chicago) has been engaged to undertake the review and will report back to MSAC in early 2022.

Communication

Board meeting agendas and minutes

The agendas from MSAC meetings in 2021 were published in advance on the Resources Regulator website.

The minutes from all MSAC meetings were published on the [MSAC webpage](#) on the Resources Regulator website.