

# Minutes

## Mining and Petroleum Competence Board

### Details

**Location:** Glencore  
Level 14, 727 Hunter Street  
Newcastle

**Date/time:** 14 May 2024  
9.30 am

**Chairperson:** Joanne Muller, AM (Independent)

### People present

1. **Chairperson:** Joanne Muller, AM (Independent)
2. **Member:** Kylie Fahey (Independent) – remote attendance
3. **Member:** Jessica Urquhart (Independent)
4. **Member:** Stephen Barrett (Mining and Energy Union NSW)
5. **Member:** Tony Israel (NSW Minerals Council)
6. **Member:** Craig Reed (NSW Minerals Council)
7. **Member:** Kurt Bridges (Cement Concrete & Aggregates Australia)
8. **Member:** Anthony Margetts (Resources Regulator, Department of Regional NSW)
9. **Member:** Angela Hudson (Mining, Exploration and Geoscience, Department of Regional NSW)

### Secretariat

Amanda Quin, Policy Officer (Mining, Exploration and Geoscience, Department of Regional NSW)

### Observers

1. Andrew Palmer (Resources Regulator, Department of Regional NSW)

### Apologies

1. **Member:** Stephen Tranter (Mining and Energy Union NSW)
2. **Member:** Ron Cowdrey (Australian Workers Union)

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### This Meeting:

No.	Issue
1	<b>Welcome, Acknowledgement of Country &amp; Board member changes</b> The meeting opened at 9.32 am. Jessica Urquhart gave the Acknowledgement of Country.

The Chair:

- called for a moment of reflection regarding the passing of Kurt Hourigan on 13 March 2024 at the Ballarat Gold Mine
- welcomed the board members and observer, noted the reappointment of Stephen Tranter as a member and acknowledged apologies from Stephen Tranter and Ron Cowdrey
- noted that an additional hour was added to the meeting schedule in response to post-meeting survey responses.

Outcomes

1. The board noted the apologies and observers and the survey outcomes regarding the operation of the 27 February 2024 meeting.

**2 Declaration of interests**

- The Chair acknowledged receipt of updates for Kylie Fahey’s declaration of interest.
- Members were reminded to declare any additional conflicts or interests.

Outcomes

1. No additional declarations were made.

**Actions**

- A. Secretariat to record the updates to Kylie Fahey’s declaration of interest in the board register.

**3 Acceptance of previous minutes and actions**

Prior to the meeting an amendment was proposed regarding Action K for the 27 February 2024 meeting minutes.

Outcomes

1. The board endorsed the minutes from the 27 February 2024 meeting as amended regarding Action K and noted the status of actions arising from that meeting.

**Actions**

- B. Secretariat to publish 27 February 2024 minutes as amended regarding Action K on the Resources Regulator’s website.

**4 Correspondence**

The Chair noted that:

- Paper 9 addresses the correspondence regarding AMCAC
- Paper 11 addresses correspondence from Dr Colwell and from Mr van der Merwe

- The board needs to consider the request from the NSW Ombudsman regarding the Public Interest Disclosures Act 2022.

#### Outcomes

##### 1. The board:

- acknowledged the correspondence from NSW Ombudsman regarding obligations under the Public Interests Disclosure Act 2022 (PID Act)
- agreed to allow the Department of Regional NSW to take on those PID Act obligations on behalf of the board should the department be willing to do so, and
- should that not be the position then the MPCB Chair to be the disclosure coordinator for the purposes of the PID Act.

#### Actions

- C. Secretariat to circulate updates to the board as required regarding whether the Department of Regional NSW is taking on the board's obligations under the Public Interests Disclosure Act 2022.

## 5 MPCB Charter

- The Chair noted the proposed amendment to the MPCB Charter regarding confidentiality and proposed that the following sentence:

*When the disclosure or publication of confidential board information is permitted, the minimum amount of information to achieve the approved purpose is to be disclosed/published.*

be inserted as a new sentence after the third dot point.

- It was further proposed that the wording of the new section regarding confidentiality be re-ordered such that the Chair's approval be required for all dot points, other than disclosures required by law.

#### Outcomes

The board:

1. Agreed with the intention of the amendment of the Charter and requested that further wording be circulated by the secretariat within one week for consideration regarding the second dot point above.

#### Actions

- D. Secretariat to prepare additional wording regarding the proposed Charter amendment and circulate to board members for endorsement by 21 May 2024.
- E. Following board endorsement the Secretariat to submit the new Charter to the Minister for approval.
- F. Secretariat to publish MPCB Charter on the board's web-page on the NSW Resources Regulator's website after Minister approval.

## 6 Publication of summary and report on certificates issued and exam results 2018-2023

The board reviewed the:

- updated report to Mining and Petroleum Competence Board on practising certificates and certificate of competence examination results 2018-2023 (Report) and
- proposed recommendations (Recommendations) to the NSW mining industry regarding the low exam pass rates and diminishing practising certificate numbers.

Discussion focussed on the opportunities for:

- industry to respond to the low exam pass rates and diminishing practising certificate numbers
- the board and the NSW Resources Regulator to bring the issue to the attention of industry.

### Outcomes

The board:

1. Requested that page 6 of the Report be amended as follows:
  - the percentage decrease of 6.5% be included in the sentence relating to the decrease in practising certificate numbers since 2023
  - in the heading of the first table on page 6 - insert the words “Open cut” before “Coal mines (36)”.
2. Requested that the Recommendations be amended as follows:
  - Recommendation 1:
    - Regulator column 2<sup>nd</sup> dot point: after the word “around” insert the words “and promoting clarity around”
    - Regulator column 3<sup>rd</sup> dot point: after the word “flexible” insert the words “with appropriate resourcing for examinations”
    - Board column 2<sup>nd</sup> dot point: amend to read “Presentation to forums to raise awareness broadly within industry and stakeholder organisations”.
  - Recommendation 3:
    - Board column 2<sup>nd</sup> dot point: insert the word “appropriate” after the word “support”.
3. Requested the NSW Resources Regulator to develop:
  - a future trend projection for practising certificate numbers, candidate numbers and pass/fail rates over a 3 year and 5-year period
  - a communications strategy for the Report and the Recommendations to target mine operators and employer stakeholders (e.g. CCAA and NSW Minerals Council) and to articulate the board’s role, the regulator’s role and industry’s role.

4. Noted that the Resources Regulator will publish the Report (as amended as per outcome 1) and the Recommendations (as amended as per outcome 2) after developing the future trend projections.
5. Noted that the Resources Regulator proposes to publish updated learning guides in 2025.

#### Actions

- G. The department to develop projected future trends as flagged in outcome 3 for paper 6.
- H. The department to develop a communications strategy as flagged in outcome 3 for paper 6.
- I. The department to amend the Report and Recommendations as flagged in outcomes 1 and 2 for paper 6 and to publish the same after developing projected future trends and developing the communications strategy.
- J. The secretariat to include an update on actions to address practising certificate numbers as a standing paper for MPCB meeting agendas.
- K. Resources Regulator to update learning guides in 2025.

## 7 Automatic Mutual Recognition

Automatic Mutual Recognition (AMR) will commence in the NSW mining industry on 1 July 2024:

- legislative amendments are being drafted to impose a maintenance of competence condition on all persons performing statutory functions in NSW
- issues around maintenance of competence auditing and repeated short-term employment are still being considered.

The board reviewed the Resources Regulator's draft AMR factsheet.

#### Outcomes

The board:

1. Requested that the following link be added to the AMR factsheet to direct readers to a list of NSW mining occupations:  
<https://www.resourcesregulator.nsw.gov.au/safety/certification/statutory-functions>
2. Requested the department:
  - to further develop its position around maintenance of competence auditing and requirements under AMR
  - present an updated AMR factsheet or other guidance to the board for review at its August 2024 meeting, to include reference to maintenance of competence requirements.

#### Actions

- L. The secretariat to include Automatic Mutual Recognition in the board agenda for August 2024

- M. The department to further develop its position around maintenance of competence auditing and requirements under AMR
- N. The department to prepare an amended AMR factsheet or other guidance to include the link as per outcome 1 for paper 7 and with reference to maintenance of competence requirements.

## 8 Evaluation of the Maintenance of Competence scheme

- The discussion paper *Evaluation of the practising certificate maintenance of competence scheme requirements* was available for public comment on the Resources Regulator’s website between 13 November 2023 and 16 February 2024.
- In response to submissions received, the board reviewed options to improve the maintenance of competence scheme.

### Outcomes

The board:

1. endorsed the options presented in paper 8 to improve the maintenance of competence scheme
2. noted that the final report on the consultation regarding the scheme requirements and options for improvement will be submitted to the Minister for approval.

### Actions

- O. The department to submit the proposed maintenance of competence scheme changes to the Minister for approval
- P. Following Minister’s approval of the changes to the maintenance of competence scheme:
  - the department to develop an implementation plan for the changes to the maintenance of competence scheme
  - the secretariat to include the implementation plan as an agenda item for board information.

## 9 Competence framework desktop review of comparable jurisdictions including update on AMCAC

The board reviewed a competence framework desktop review of comparable jurisdictions.

### Outcomes

The board:

1. Noted that the Australasian Mine Competency Advisory Council (AMCAC) has not met for an extended period.
2. Noted the competence framework desktop review of comparable jurisdictions
3. Agreed on the following for monitoring comparable jurisdictions:

- As applicable, board members to advise the board of any changes to the competence framework in other comparable jurisdictions of which they become aware
- A scan of the competence framework for comparable jurisdictions is to be included as a work item in each future strategic plan (i.e., once each 3 years)
- When the board is contemplating endorsing a change to the NSW competence framework, where possible the board is to consider how other comparable jurisdictions have addressed the issue
- The board is to take appropriate opportunities to engage with other comparable jurisdictions.

#### Actions

- Q. A scan of the competence framework for comparable jurisdictions is to be included as a work item in each future board strategic plan.

### 10 Revised guide to certificates of competence 2024

The board generally discussed the revised guide to certificates of competence. Members raised questions around the timing and number of exams and exam resourcing.

#### Outcomes

1. The board endorsed the revised Guide to applying for a certificate of competence (2024) for publication.

#### Actions

- R. That the revised Guide to applying for a certificate of competence (2024) be published.

### 11 Correspondence (Dr Mark Colwell and Mr John van der Merwe)

- The board considered Dr Mark Colwell's request for the introduction of a geotechnical statutory function:
  - the members agreed that there have been no significant changes since this issue was last reviewed by the board in 2020. The board agreed to maintain the position that a geotechnical statutory function was not warranted
  - the Mining and Energy Union – Southwestern District representative accepted the board's decision but noted for the record that the South Western District supports the introduction of a geotechnical statutory function.
- The board reviewed the correspondence from Mr John van der Merwe regarding a proposal for additional qualifications for the Ventilation Auditor (Underground coal mines) statutory function.

#### Outcomes

The board:

1. Noted the correspondence received from Dr Mark Colwell and agreed to maintain the 2020 position that a geotechnical statutory function was not warranted. The Chair is authorised to write to Dr Colwell advising him of this outcome.
2. Noted the correspondence received from Mr John van der Merwe and requested the Resources Regulator to prepare a paper analysing the proposed changes to the eligibility requirements for Ventilation Auditor (Underground coal mines).

#### Actions

- S. The Chair to write to Dr Mark Colwell to advise him that the board maintains its 2020 position that a geotechnical statutory function is not warranted.
- T. A paper be prepared for the board's consideration regarding Mr John van der Merwe's requested changes to the eligibility requirements for Ventilation Auditor (Underground coal mines).

## 12 Quarterly report on certification outcomes

A new dataset was included in this report on the number of examination attempts and pass/failure rates for the period January to March 2024.

- 25 candidates sat oral examinations, with 12 candidates graded as competent and 13 as not yet competent.

#### Outcomes

The board:

1. Noted the new dataset on the number of examination attempts and pass/failure rates and agreed that this data be included in future quarterly reports.
2. Noted the reports on certification outcomes for January to March 2024, certification activities completed for 2 February 2024 to 19 April 2024 and planned activities for June to August 2024.

#### Actions

- U. Data on number of examination attempts and pass/failure rate to be included in future quarterly reports.

## 13 Resources Regulator Quarterly Safety Report

The Resources Regulator tabled the quarterly safety report for October 2023 to December 2023.

#### Outcomes

1. The board noted the quarterly safety report for October 2023 to December 2023.

## 14 MPCB 2024 work plan and communication plan

The board reviewed the status of the board's work plan and communication plan.



Outcomes

The board noted:

1. the status of projects in the MPCB work plan and the status of actions in the MPCB communication plan
2. the report on outcomes of the 2023 changes to Electrical Engineers (surface mines) and Manager of Electrical Engineers (underground mines) is now scheduled for the February 2025 board meeting.

**Actions**

- V. The secretariat to include the report on outcomes of the 2023 changes to Electrical Engineers (surface mines) and Manager of Electrical Engineers (underground mines) in the board agenda for February 2025.

**15 Meeting dates and venues**

Meeting dates and venues for the remainder of 2024 are:

Meeting Date	Host	Venue
Tuesday 6 August 2024	Mining and Energy Union	Nymboida House, 215 Clarence Street Sydney
Tuesday 12 November 2024	Department of Regional NSW	516 High Street, Maitland

Outcomes

1. Anthony Margetts, Chief Inspector of Mines, advised he was unable to attend the 6 August 2024 meeting, but would send a proxy/delegate.

**16 Additional business**

- A member has received a letter addressed to the board from the Mining Engineering Manager Underground Mines other than Coal panel regarding candidate concerns.

Outcomes

1. The board agreed to consider the correspondence at its August 2024 board meeting.
2. The board noted that the secretariat contact details are [rr.secretariat@regional.nsw.gov.au](mailto:rr.secretariat@regional.nsw.gov.au) and can be found on the board’s webpage. Any member who receives board correspondence should forward the same to the secretariat and the Chair.

**Actions**

- W. The member who received the exam panel correspondence is to forward the correspondence to the secretariat and notify the sender that their correspondence will be considered at the board's August 2024 meeting
- X. The secretariat is to circulate the exam panel correspondence to the board members and include it as an agenda item for the August 2024 board meeting.

Meeting closed 1.19 pm

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**Next Meeting: 9.30 am 6 August 2024 at Nymboida House, 215 Clarence Street, Sydney**

### **Summary of Actions**

- A. Secretariat to record the updates to Kylie Fahey's declaration of interest in the board register.
- B. Secretariat to publish 27 February 2024 minutes as amended regarding Action K on the Resources Regulator's website.
- C. Secretariat to circulate updates to the board as required regarding whether the Department of Regional NSW is taking on the board's obligations under the Public Interests Disclosure Act 2022.
- D. Secretariat to prepare additional wording regarding the proposed Charter amendment and circulate to board members for endorsement by 21 May 2024.
- E. Following board endorsement the Secretariat to submit the new Charter to the Minister for approval.
- F. Secretariat to publish MPCB Charter on the board's web-page on the NSW Resources Regulator's website after Minister approval.
- G. The department to develop projected future trends as flagged in outcome 3 for paper 6.
- H. The department to develop a communications strategy as flagged in outcome 3 for paper 6.
- I. The department to amend the Report and Recommendations as flagged in outcomes 1 and 2 for paper 6 and to publish the same after developing projected future trends and developing the communications strategy.
- J. The secretariat to include an update on actions to address practising certificate numbers as a standing paper for MPCB meeting agendas.
- K. Resources Regulator to update learning guides in 2025.
- L. The secretariat to include Automatic Mutual Recognition in the board agenda for August 2024
- M. The department to further develop its position around maintenance of competence auditing and requirements under AMR

- N. The department to prepare an amended AMR factsheet or other guidance to include the link as per outcome 1 for paper 7 and with reference to maintenance of competence requirements.
- O. The department to submit the proposed maintenance of competence scheme changes to the Minister for approval
- P. Following Minister’s approval of the changes to the maintenance of competence scheme:
- the department to develop an implementation plan for the changes to the maintenance of competence scheme
  - the secretariat to include the implementation plan as an agenda item for board information.
- Q. A scan of the competence framework for comparable jurisdictions is to be included as a work item in each future board strategic plan.
- R. That the revised Guide to applying for a certificate of competence (2024) be published.
- S. The Chair to write to Dr Mark Colwell to advise him that the board maintains its 2020 position that a geotechnical statutory function is not warranted.
- T. A paper be prepared for the board’s consideration regarding Mr John van der Merwe’s requested changes to the eligibility requirements for Ventilation Auditor (Underground coal mines).
- U. Data on number of examination attempts and pass/failure rate to be included in future quarterly reports.
- V. The secretariat to include the report on outcomes of the 2023 changes to Electrical Engineers (surface mines) and Manager of Electrical Engineers (underground mines) in the board agenda for February 2025.
- W. The member who received the exam panel correspondence is to forward the correspondence to the secretariat and notify the sender that their correspondence will be considered at the board’s August 2024 meeting
- X. The secretariat is to circulate the exam panel correspondence to the board members and include it as an agenda item for the August 2024 board meeting.

**Approval**

Name/position	Signature/approval	Date
Joanne Muller, AM Independent Chair	Approved	06/08/2024

**Comment:**

[insert any comments from approver]