

Minutes

Mining and Petroleum Competence Board

Details

Location: Mining and Energy union
Level 11, Nymboida House
215 Clarence Street, Sydney

Date/time: 06 August 2024
9.30 am

Chairperson: Joanne Muller, AM (Independent)

People present

1. **Chairperson:** Joanne Muller, AM (Independent)
2. **Member:** Jessica Urquhart (Independent)
3. **Member:** Kylie Fahey (Independent)
4. **Member:** Stephen Barrett (Mining and Energy Union NSW)
5. **Member:** Stephen Tranter (Mining and Energy Union NSW)
6. **Member:** Angela Hudson (NSW Resources, Department of Primary Industries and Regional Development)
7. **Member:** Ron Cowdrey (Australian Workers Union)
8. **Member:** Anthony Israel (NSW Minerals Council)
9. **Member:** Craig Reed (NSW Minerals Council)
10. Dwaine Jones (Resources Regulator, Department of Primary Industries and Regional Development for Anthony Margetts)

Secretariat

1. Vanessa Cleary, Policy Officer (NSW Resources, Department of Primary Industries and Regional Development)
2. Javier Garcia, Graduate Policy Officer (NSW Resources, Department of Primary Industries and Regional Development)

Observers

1. Andrew Palmer (Resources Regulator, Department of Primary Industries and Regional Development)

Apologies

1. **Member:** Kurt Bridges
2. **Member:** Anthony Margetts (NSW Resources Regulator, Department of Primary Industries and Regional Development)

This Meeting:

No.	Issue
1	<p>Welcome, Acknowledgement of Country and Board member changes</p> <p>The Chair opened the meeting at 9.32 am. Amanda Quin gave the Acknowledgement of Country.</p> <p>The Chair welcomed the board members and observers. Amanda Quin was congratulated on her new appointment and the Chair expressed her sincere thanks for her excellent support of the Board and welcomed both Vanessa Cleary and Javier Garcia as to the MPCB as the new secretariat.</p> <p>The Chair proposed to reduce the frequency of the post meeting surveys to be conducted only on alternate meetings rather than after every meeting.</p> <p><u>Outcomes</u></p> <p>The board:</p> <ol style="list-style-type: none"> 1. Endorsed the Chairs' proposal to reduce the periodicity of the post meeting surveys. 2. Noted Vanessa Cleary and Javier Garcia are now conducting the role of secretariat. <p><u>Actions</u></p> <p>A. Secretariat to reduce periodicity of post meeting surveys to every other meeting with next survey to be conducted post meeting 4/24.</p>
2	<p>Declaration of interests</p> <p>Mr Craig Reed advised the board to a potential conflict regarding Mr Matthew Ireland as had recently worked with him.</p> <p><u>Outcomes</u></p> <ol style="list-style-type: none"> 1. The Chair noted the conflict and agreed that due to the small size of the metalliferous industry it was almost impossible not to acquaint with people during your employment and did not believe it needed to be recorded in the board register. 2. Craig Reed agreed to abstain from voting on Paper 11. (Brief to appoint new examiners). <p><u>Actions</u></p> <p>B. Secretariat to update pecuniary interests register to remove reference to 'CFMEU'.</p>
3	<p>Acceptance of previous minutes and Action items</p> <p><u>Outcomes</u></p> <ol style="list-style-type: none"> 1. The Board endorsed the minutes from 14 May 2024 meeting.

2. The Board **noted** the status of actions arising.

Actions

C. Secretariat to publish 14 May 2024 MPCB meeting minutes on the Resources Regulator website.

4 Correspondence

The Chair acknowledged the return of the Strategic plan back from MO with the small changes.

Angela Hudson provided an update on the Public Information Disclosure Act and advised that this is still under consideration with the legal teams but assured the board that the Department will undertake all obligations and conduct the required reporting.

Outcomes

1. The Board **noted** the update.

5 Procedure for addressing holders not audited for maintenance of competence.

Resources Regulator provided the board with a draft procedure for addressing audit non-respondents. The proposed procedure addresses the issue of practising certificate holders who did not respond to requests.

The Regulator plans that the outstanding audits (except those ceasing to practise e.g. retirees, and want their certificate cancelled) will be completed in the following 3 financial years. These will be conducted alongside ongoing new audits for holders, for a total of 100 audits per annum.

There are no provisions under the WHS (Mines and Petroleum Sites) Regulation for practising certificate holders to voluntarily surrender their certificates. The Regulator is developing processes to suspend or cancel a practising certificate for this scenario. It is proposed that Factsheet Practising Certificates will be updated. The Regulator is initiating plans to add voluntary surrender provisions for practising certificates when the WHS (Mines and Petroleum Sites) Regulation is next reviewed (due in 2026).

The board discussed the draft procedure with concerns raised about leniency regarding time limits imposed on non-responders. The discussion focussed on tightening up compliance through increased communication and additional contact methods.

Outcomes

The board:

1. **Agreed** to review the amended procedure at next meeting which includes the recommendation of reduction of timeframe for response to 28 days with the inclusion of potential for certificate suspension for non-compliance.

2. **Noted** that currently there is no provisions for voluntary surrender of certificates and that the Regulator will request legislative amendments when the WHS (Mines and Petroleum Sites) Regulation is next reviewed in 2026.

3. **Noted** the Regulator plans to finish following up non-respondent holders and have them audited within the next 3 financial years (2024-2027)

Actions

D. Resources Regulator are to revise the procedure amending compliance timeframes and outlining the path for non-respondents. The revised paper is to be presented to MPCB at next meeting for approval

E. Resources Regulator to provide a newsletter article for Mine Safety News, advising practitioners to update contact details.

F. Secretariat to provide Chair with slide which communicates compliance requirements for audits.

6 MPCB Annual Report

The board considered the annual report which followed the same format from 2023. Comments were requested from the Board.

Outcomes

1. The board conditionally **endorsed** the MPCB Annual Report for 2023-2024, and the inclusion of additional wording provided by Tony Israel be added to 1.4.

Actions

G. Secretariat to include an additional dot point in section 1.4 of the annual report stating 'Request the Regulator to develop an action plan to address low candidate numbers and improve candidate pass rates to ensure the future practicing certificate needs of industry are met.'

H. Secretariat to circulate amended annual report to board members out of session prior to submitting to Minister.

7 Automatic Mutual Recognition

Andrew Palmer updated the board on approach to automatic mutual recognition (AMR).

The board discussed the risk regarding the provision allowing for persons to practice for 30 days prior to being granted AMR. It was noted that risk for persons employed in these specialist roles was minimal as mine operators had additional checks in place.

Outcomes

The board:

1. **Endorsed** the position taken by the Regulator **noting** the draft regulation will be released later in August.

2. **Noted** the factsheet has been updated reflecting the new departmental name.
3. **Agreed** that AMR and the 30-day grace period for employment supports workforce mobility and poses minimal risks to safety with the onus on individual mine sites verifying qualifications for those persons working in the 30-day grace period.

8 Ventilation Auditor pre-requisites

Andrew Palmer addressed the board on a proposal made by John van der Merwe (a summary is on page 2 of paper 8). The position stated by the Regulator after the analysis was that they were not supportive of the proposal.

Discussions were then focussed on the possibility of expanding eligibility requirements to include persons who hold the Mining Engineering Manager (Underground Coal) certificate of competence. This level of competency and experience of persons in this role was deemed appropriate to undertake ventilation audit roles.

Outcomes

The board:

1. **Endorsed** the expansion of the eligibility requirements to include persons holding certificate of competence in the Mining Engineering Manager (underground coal).
2. **Noted** that the expansion of eligibility does not negate the requirement for persons to hold the approved 'Global Auditor' qualification.
3. **Noted** that the decision to expand eligibility did not address all of Mr Van der Merwe's requests but provide a good outcome.

Actions

- I. **Regulator to draft a letter for the Chair to John van der Merwe thanking him for his letter and detailed analysis. The letter will advise him that the board have considered current circumstances and have resolved to extend the Ventilation Auditor eligible pre-requisites to include the MEM (Underground Coal Mine) or equivalent, in lieu of one of the prescribed ventilations qualifications.**

9 Examination Panel Correspondence

The board discussed correspondence received from the examiners for Mining Engineering Manager (Underground Mines other than Coal). The correspondence was in relation to a candidate's appeal which resulted in the candidate being given the opportunity to re-sit their third oral exam attempt. The focus of the discussion was on examiner conduct based on conflict of interest (COI) advice provided by the Regulator.

The Regulator provided an analysis of the correspondence and stated:

- their position does not contravene examination requirements by upholding the appeal by the candidate,
- the candidate's appeal was assessed under the relevant ministerial representation process

- the Chief Inspector advised the convenor that the appeal was upheld, and re-examination was awarded due to a COI not being managed as required.

Outcomes

The board:

1. **Noted** the correspondence received from the examiners for the Mining Engineering Manager (Underground Coal) regarding a candidate appeal.
2. **Noted** the analysis and position declared by the Regulator in response to the correspondence.
3. **Agreed** that newly appointed examiners would be included on the panel to assess this candidate to ensure impartiality. The new examiners are to be supported by the Regulator and made aware of the protocols regarding appropriate examination approach.
4. **Agreed** a review is required on the dated procedure pertinent to examiner performance and table the procedure and recommended changes at the next meeting.

Actions

- J. Regulator is to conduct a procedural review with regards to examiner performance to be tabled including any recommended changes at the next meeting for review. If such a procedure does not exist, it should be developed.
- K. Secretariat to draft response acknowledging receipt of letter of complaint from examiners. The response will advise that the matter has been considered, but that it will be handled by the Regulator.

10 **Gazettal of acceptance of South Australian qualifications and former NSW certificates of competence/qualifications for practising certificates**

Discussion was held by the board regarding the gazettal of two notices on 28 July 2024 and that the board had not been informed by the Regulator prior to publication of the notices. It was explained that the purpose of the gazettal was simply to tidy up any confusion due to gaps in legislation and transition.

Outcomes:

1. The board **noted** the publication of the following gazette notices on 28 June 2024:
 - Notice of other criteria in respect of statutory functions (South Australian certificates) 2024
 - Notice of other criteria for competence to hold a practising certificate for statutory functions 2024
2. The Department **agreed** to notify the board prior to publishing any future gazettal pertinent to the board.

11 **Appointment of examiners**

The board was asked to endorse Robert Alan Jay and Matthew James Ireland. Attachment A to the paper outlined the qualifications and experience of the recommended appointees.

Ron Cowdrey and **Jessica Urquhart** declared a conflict of interest as both have had dealings with Matthew Ireland prior.

Outcomes

The board:

1. **Endorsed** the appointment of Robert Jay and Matthew Ireland.
2. **Acknowledged** the disclosed conflict of interest with Ron Cowdrey, Jessica Urquhart and Craig Reed who all **abstained** from voting on this matter.

12 Update on actions to address practising certificate numbers

The Chair thanked Andrew Palmer for the paper and raised her concerns regarding the falling number of certificate holders.

The discussion focussed on the low examination pass rates and diminishing practising certificate holders and methods of escalating the issue with industry stakeholders.

Outcomes

The board:

1. **Noted** the dataset showed a falling number of certificate holders.
2. **Endorsed** the communications plan. And agreed that the information contained is sufficient to highlight to industry that action is required to address the statistics.
3. **Recommended** the Regulator host an online webinar for mine operators to highlight the declining trend and cavass and propose actions that can be taken by industry to address this.

Actions

- L. **Secretariat to prepare a slide for Chair to use at upcoming forums highlighting ways in which industry can act to the address declining number of personnel holding practising certificates.**
- M. **The Regulator to organise a online webinar for Mine operators to articulate issue of declining practising certificate numbers and potential actions.**

13 Quarterly report on certification outcomes

The board discussed concerns raised in the report about the number of candidates failing oral exams. It is the position of the board that qualifications consolidated by actual experience is essential for success. There was the perception that the teaching methods employed by some registered training organisations (RTO) may be flawed, with inadequate emphasis on relevant practical experience. The board understood that it is outside of their bailiwick to approach an RTO regarding candidate performance at certification exams.

Outcomes

The MPCB **noted** the report and **agreed** that the standard of the examinations was appropriate with concerns raised relating to the lack of preparation of candidates presenting for assessment.

16 Meeting dates and venues

Meeting dates and venues for 2025 are:

Meeting Date	Host	Venue
Tuesday 18 February 2025	Department of Primary Industries and Regional Development	Level 1, 516 High Street, Maitland
Tuesday 6 May 2025	Glencore	Newcastle or Hunter Valley location tbc.
Tuesday 5 August 2025	Mining and Energy Union	Nymboida House, 215 Clarence Street, Sydney
Tuesday 11 November 2025	Department of Primary Industries and Regional Development	Level1, 516 High Street, Maitland

Outcomes

The board **agreed** to the proposed date and venues for meetings in 2025.

17 Additional business

Nil

Meeting closed 12.54 pm

Next Meeting: 9.30 am 12 November at 516 High Street, Maitland

Summary of Actions

- A. Secretariat to reduce periodicity of post meeting surveys to every other meeting with next survey to be conducted post meeting 4/24.
- B. Secretariat to update pecuniary interests register to remove reference to CFMEU.
- C. Secretariat to publish 14 May 2024 MPCB meeting minutes on the Resources Regulator website.
- D. Resources Regulator are to revise the procedure amending compliance timeframes and outlining the path for non- respondents. The revised paper is to be presented to MPCB at next meeting for approval
- E. Resources Regulator to provide a newsletter article for Mine Safety News, advising practitioners to update contact details.
- F. Secretariat to provide Chair with slide which communicates compliance requirements for audits.
- G. Secretariat to include an additional dot point in section 1.4 of the annual report stating 'Request the Regulator to develop an action plan to address low candidate numbers and improve candidate pass rates to ensure the future practicing certificate needs of industry are met.'
- H. Secretariat to circulate amended annual report to board members out of session prior to submitting to Minister.
- I. Regulator to draft a letter for the chair to John van der Merwe thanking him for his letter and detailed analysis. The letter will advise him that the board have considered current circumstances and have resolved to extend the eligibility to act as a Ventilation Auditor to the MEM roles.
- J. Regulator is to conduct a procedural review with regards to examiner performance to be tabled including any recommended changes at the next meeting for review. If such a procedure does not exist, it should be developed.
- K. Secretariat to draft response acknowledging receipt of letter of complaint from examiners. The response will advise that the matter has been considered, but that it will be handled by the Regulator.
- L. Secretariat to prepare a slide for Chair to use at upcoming forums highlighting ways in which industry can act to the address declining number of personnel holding practising certificates.
- M. The Regulator to organise a online webinar for Mine operators to articulate issue of declining practising certificate numbers and potential actions.

Approval

Name/position	Signature/approval	Date
Joanne Muller, AM Independent Chair	Approved	12/11/2024