



MINING AND PETROLEUM COMPETENCE BOARD

Meeting 4 – 17 November 2020

Meeting details

Meeting	Mining and Petroleum Competence Board	Date	Tuesday 17 November 2020
Location	Videoconference	Time	9am – 12pm
Chair	Ruth Mackay (Chair, Independent)		
Attendees	Andrew Grivas (NSW Minerals Council - Metalliferous) Ashley McLeod (NSW Minerals Council) Chris Dolden (Cement Concrete & Aggregates Australia) Garvin Burns (Resources Regulator, Department of Regional NSW) Janine Lea-Barrett (Independent) Justin Smith (Australian Workers' Union) Peter Standish (Independent) Stephen Luck (Construction, Forestry, Maritime, Mining and Energy Union) Stephen Tranter (Construction, Forestry, Maritime, Mining and Energy Union) Tony Linnane (Resources Regulator, Department of Regional NSW)		
Apologies	Stephen Barrett (Construction, Forestry, Maritime, Mining and Energy Union)		
Presenter	Andrew Palmer (Resources Regulator, Department of Regional NSW)		
Observers	Evelyn Subagio (NSW Minerals Council)		
Prepared by	Anna Ormerod (Resources Regulator, Department of Regional NSW)	CM9	DOC20/970197

Minutes

PAPER DISCUSSION	
1	Welcome and apologies <ul style="list-style-type: none">■ The meeting commenced at 9:03am.■ The Chair:<ul style="list-style-type: none">□ welcomed the members to the meeting□ noted Mr Luck is in attending in place of Mr Barrett.
2	Declaration of interests <ul style="list-style-type: none">■ No conflicts of interests from agenda items were declared.

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	<ul style="list-style-type: none">■ The Chair advised that the secretariat sent through an updated version of the pecuniary interest register yesterday which included Mr Luck's declaration. No additional changes were requested.
3	<p>Acceptance of previous minutes and actions</p> <ul style="list-style-type: none">■ No changes were requested to the minutes.■ Mr Grivas agreed to send the declaration of pecuniary interests to the secretariat today.■ The Board accepted the minutes and actions from the previous meetings. <p><i>Action 1: Mr Grivas to send completed declaration of pecuniary interests to secretariat.</i></p>
4	<p>Correspondence</p> <ul style="list-style-type: none">■ The Board noted the correspondence.
5	<p>Prerequisites for appointment of examiners</p> <ul style="list-style-type: none">■ Mr Burns advised that the Resources Regulator is recommending to the Board an amendment to the prerequisites for appointment as an examiner as per the paper. He noted that there are four requirements proposed and that the Resources Regulator can exercise discretion within those requirements, given the large number of scenarios which may be presented.■ Mr McLeod questioned if there had been an issue with the way the examiners have conducted themselves. Mr Burns responded that the blueprinting project highlighted general concerns regarding approaches to competencies.■ Mr McLeod commented that the proposed requirements of being in a statutory function and holding a current practising certificate demonstrate a level of competence. He agreed there should be some degree of flexibility as an individual will not lose their ability in the short term but it might become an issue in the long term.■ Mr Burns agreed that there needs to be some level of discretion for someone on short-term secondment outside NSW. There could be a significant number of other scenarios where we would need to exercise discretion. There is an issue around the maintenance of competence while working interstate. He said there are four proposed requirements, so we don't narrow the field of potential examiners. The key is that individuals understand issues that impact mines in NSW. There are specific hazards in NSW that are not present in other jurisdictions.

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- The Chair asked if a lead time would be relevant, for example within three or six months. During that time, individuals are still going to be aware of issues. Mr Burns agreed. It is anticipated that the Board would propose additional conditions.
- The Chair said based on the paper the Board cannot accept the recommendation as it is because the recommendation states that an application “must” meet the criteria. That does not allow for discretion. Mr Burns agreed. The Board should endorse subject to discretionary conditions it sees as relevant.
- Mr McLeod further commented on the proposed three or six month timeframes. He noted that most panels have one written and two oral exams per year. The timeframes should take into consideration the transition period for new examiners to each panel. Examiners need to sit through at least one exam to be a competent panel member.
- Mr Burns commented that there is an issue ensuring there are enough examiners. Some panels have reserve members, others do not. There needs to be a pool of examiners which is larger than the number of examiners required for each panel. An important factor arose out of the blueprinting project that it is important that examiners are provided opportunities to sit on panels while minimising the conflict with their day job. Part of the solution is that we need more examiners and need companies to permit people to perform these roles.
- The Chair asked if the Board can give the Resources Regulator discretion to implement a transition period for the new requirements such as 12 months. Is increasing the number for the pool of examiners and encouraging companies to provide individual to be examiners something for the Resources Regulator to take on board or is it an action for the Board? Mr Burns replied that the Resources Regulator has raised the issue of the conflict between sitting on a panel versus responsibilities to employers with the NSW Mine Safety Advisory Council. The Board may agree that it is appropriate to communicate directly through a letter to companies as well.
- The Chair agreed that a letter from the Board might be useful alerting people to the concerns and encouraging more people to become examiners.
- Mr McLeod commented that it is also the responsibility of convenors of panels to put pressure on their peers. He asked if open cut panels were short of examiners. Mr Burns replied that open cut panels are good for numbers. There is a numbers concern for under manager and deputy panels. There is a large pool of candidates but a low number of examiners and availability of examiners.
- Mr McLeod proposed that a five minute presentation be given at the next mine managers association meeting. The letter from the Board will go out to a wide audience so there also needs to be a more targeted approach directly to companies.

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Mr Burns replied that the Resources Regulator has been targeting companies directly. A letter from the Board would be another method in the approach to boost numbers. Mr Burns proposed that the Regulator develops a communication strategy to industry for consideration of the Board.

- The Board agreed to request that the Resources Regulator develop a communications strategy to encourage more examiners including a targeted approach to companies. It was requested that the strategy be presented at the next Board meeting.
- The Chair proposed that the Board accept the recommendation subject to the Resources Regulator having discretion. It was also proposed that this be for a period of 12 months.
- Mr Burns commented that he would need to take the period on notice but suggested a period of up to 12 months would be better. Mr Burns agreed that the Resources Regulator would develop a short explanation of how the discretion would be exercised, the timeframe and nature of any absence.
- Members supported the adoption of the requirements in the paper subject to giving the Resources Regulator discretion as noted above. Moved Mr McLeod. Seconded Mr Dolden.

Board decision: The Board agreed that the Resources Regulator should have discretion in exercising the prerequisites for appointment of examiners up to a period of 12 months.

Board decision: The Board agreed to accept the recommendations in the paper subject to removing the word 'must' and including the discretion above.

Action 2: The Board requested that the Resources Regulator develop a communications strategy to encourage more examiners to participate on panels and present at the next Board meeting.

Action 3: The Board requested that the Resources Regulator develop a short explanation of how the discretion for prerequisites for appointment of examiners would be exercised, the timeframe and nature of any absence and present at the next Board meeting.

6	MPCB Annual Report 2019/20 <ul style="list-style-type: none">■ The Board noted that the annual report for 2019/20 has been provided to the Deputy Premier and published on the Resources Regulator website.
7	Certificate of competence examination review project plan <ul style="list-style-type: none">■ Mr Linnane advised that the project has been underway for two months. There has been good input from examiners, six workshops undertaken, and several review sessions held. The project is on track for full delivery by end of 2020.

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- Mr Linnane brought members attention to the attachment and noted that most recommendations of review from last year will be addressed in blue printing project. The second stage of the project will be to start implementing the recommendation. One of the key challenges has been lack of understanding about the project by examiners. One of the most valuable outcomes has been a recognition and understanding by examiner when preparing assessments; clearly identifying what they are assessing, what needs to be demonstrated and clear criteria.
- Mr Linnane advised that there has been some feedback that the competencies framework documents for each statutory function is too comprehensive and duplicative. Advice has been provided back that the documents were developed by the Resources Regulator and Board in consultation with industry over a period. At the end of the project, the Board may consider whether a holistic review is undertaken but documents will not be reviewed individually
- Mr Burns commented that the biggest challenge was a lack of understanding of what the examination process was going to be.
- Mr Standish commented that it is not an issue in having duplication across competencies as this may be required to fully assess the required skills.
- The Board noted the paper.

- 8 **Update on resumption of certificate of competence examinations**
- Mr Palmer brought members attention to the schedule attached to the paper.
 - Mr Standish asked if the schedule is subject to change without notice given COVID. Mr Palmer said this may be the case and advised that the Resources Regulator follows stringent requirements including temperature checks, social distancing, declarations etc.
 - Members did not have any additional comments.
 - The Board noted the paper.

- 9 **Progress for practising certificates and maintenance of competence**
- Mr Palmer brought members attention to the paper and attachment A detailing the progress with practising certificates and maintenance of competence.
 - Members did not have any additional comments.
 - Mr Palmer advised that a copy of the out-of-session paper endorsed by the Board is attached at B. He said that correspondence was received yesterday about the proposed removal of units of competence from the national training system. Most

PAPER DISCUSSION

feedback has been in support of retaining the units of competence. Concerns raised by industry reference committees include:

- there has been a short timeframe for consideration and response and longer timeframes have been requested
 - enrolments are influenced by various factors - enrolment numbers are not the sole - nor an appropriate - indicator of industry need
 - consideration should be given to the impact of unit deletions on qualifications and skill sets
- Members did not have any additional comments.
 - Members noted the update.

10

Draft work plan to support Strategic Plan

- Mr Linnane commented that the draft work plan was presented at the last meeting but not endorsed as some members wished to make additional comments.
- Mr Standish commented that he has now addressed his previous concerns through a review process internally.
- Members did not have any additional comments.
- The Board endorsed the plan. Moved Mr McLeod. Seconded Mr Linnane.

Board decision: The Board endorsed the draft work plan to support the strategic plan.

11

Resources Regulator Quarterly Safety Report

- Mr Linnane advised that it was agreed last meeting that the Resources Regulator would table the quarterly safety report as a standing agenda item. There is nothing of note for the Board in the end June report regarding training and competency.
- The Chair raised that the report states that inspections at petroleum sites have increased. The need to have a representative from the petroleum industry on the Board has been discussed at previous meetings. It was the Chair's understanding that there were no petroleum sites so a representative was not required.
- Mr Burns advised that the statistics are based on number of wells being inspected. In terms of risk profile and activity of the industry, there is very little activity other than something coming out of a pipe. The Regulator has petroleum inspectors who have had no field work for almost four months. There is very little physical activity.
- Mr Linnane commented that there are only four statutory functions relating to petroleum. No assessments are undertaken and there is no oversight of competencies. The Minister has not thought it necessary at this time to appoint a petroleum industry representative to the Board.

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- Mr Standish asked if the reduction in incidents in the report reflects a reduction in activity levels or less reporting. Mr Burns commented that some activity has been scaled back which has correlated in reduced incidents in coal. Overall, however there has been an increase compared to the first quarter of the year. There has been a reduction of activity in coal only.
- Mr McLeod commented that there had been a drop in incidents in his company when COVID-19 restrictions were in place during March to June.
- Mr Burns commented that there was a significant drop in those quarters relating to the initial peak of COVID-19. However, the Resources Regulator can only speculate as it does not receive data to why accidents don't occur. There was a heightened level of concern about jobs. There is a concern about a rise in incidents of trucks/dozers colliding. The Resources Regulator is escalating a response to those incidents.
- The Chair commented that the report was a fantastic resource.
- The Chair asked if anything has been identified in terms of trends and competencies at this stage. Mr Burns responded no. It comes back to controls. There will be an element of competence in any incident but for the Board it is a matter of reinforcement.
- Members did not have any additional comments.
- The Board noted the report.

12 **Changes to practising certificate fees**

- Mr Linnane advised the Board that the Resources Regulator has revised the application fees for practising certificates for statutory functions following a review as per the paper.
- The Board noted the revised fees.

13 **Australasian Mining Competency Advisory Council (AMCAC) update**

- Mr Burns advised that he attended the last AMCAC meeting and nothing of significant note for the Board arose.
- Mr Linnane noted that NSW is most active participant. Minutes have not been received yet, but they will be circulated to Board members once received.
- The Chair asked if we were continuing to work with Queensland. Mr Burns replied that there had been no further interactions at this stage as Queensland have other matters on which to focus.
- Members did not have any additional comments.
- The Board noted the report.

PAPER	DISCUSSION
	<p><i>Action 4: Secretariat to circulate minutes of the last AMCAC meeting once received, to Board members.</i></p>
14	<p>Additional business</p> <ul style="list-style-type: none">■ The Chair requested members raise any additional items of business.■ Mr Linnane brought member’s attention to the email circulated on 10 November 2020 in relation to the report on the Statutory Review of the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and Regulation. The report made 40 recommendations:<ul style="list-style-type: none">□ 15 recommendations propose legislative amendments. The Government will be undertaking further consultation with industry.□ 25 recommendations are to be implemented by the Resources Regulator, the Board and/or the NSW Mine Safety Advisory Council. The Government has accepted the recommendations. The Resources Regulator will undertake further work on the recommendations for consideration of the Board in early 2021. One of the recommendations is that both the Board and the NSW Mine Safety Advisory Council publish meeting agendas ahead of each meeting. The Government has accepted this recommendation and the secretariat will publish on the Resource Regulator’s website. <p><i>Action 5: Resources Regulator to present a paper on the recommendations from the report on the Statutory Review of the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and Regulation at the next Board meeting.</i></p>
15	<p>Meeting schedule for 2021</p> <ul style="list-style-type: none">■ The Chair noted that the proposed meetings for 2021 were all via teleconference and questioned if the meetings could be changed to face-to-face. Mr Linnane advised that face-to-face meetings could occur, COVID-19 permitting.■ Mr Burns commented that there was no reason we couldn’t hold face-to-face meetings now with appropriate controls. He proposed that the meetings be held face to face unless circumstances change. Mr Standish supported the proposal.■ Ms Lea-Barrett indicated preference for video conference due to her remote location.■ Mr Burns advised that webinar capabilities could be set up to enable remote participants to participate without attending in person.■ Mr Linnane commented that we need to consider geographic locations and venues if face-to-face meetings are to be held. The venues need to be able to comply with social distancing and other restrictions due to COVID-19. The Department no longer

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has access to the meeting rooms in Sydney so members could consider hosting or holding meetings in the in Hunter.

- Members agreed the meetings for 2021 would be held face-to-face unless circumstances change as a result of COVID-19.
- Members agreed to the meeting dates for 2021:
 - Tuesday 16 February 2021
 - Tuesday 18 May 2021
 - Tuesday 17 August 2021
 - Tuesday 16 November 2021

Board decision: The Board agreed the meetings for 2021 would be held face-to-face unless circumstances change as a result of COVID-19.

Board decision: The Board agreed to the meeting dates for 2021.

Action 6: Secretariat to send calendar invitations to members for the 2021 meetings.

Action 7: Secretariat to identify locations and venues for the 2021 meetings.

The meeting closed at 11:05am.

Action items

NO.	RESPONSIBILITY	ACTION	AGENDA ITEM	DUE DATE
1	Andrew Grivas	Mr Grivas to send completed declaration of pecuniary interests to secretariat.	3	16/02/21
2	Garvin Burns	Resources Regulator to develop a communications strategy to encourage more examiners to participate on panels and present at the next Board meeting.	5	16/02/21
3	Garvin Burns	Resources Regulator to develop a short explanation of how the discretion for prerequisites for appointment of examiners would be exercised, the timeframe and nature of any absence and present at the next Board meeting.	5	16/02/21
4	Anna Ormerod	Secretariat to circulate minutes of the last AMCAC meeting once received, to Board members.	13	16/02/21

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NO.	RESPONSIBILITY	ACTION	AGENDA ITEM	DUE DATE
5	Tony Linnane	Resources Regulator to present a paper on the recommendations from the report on the Statutory Review of the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and Regulation at the next Board meeting.	14	16/02/21
6	Anna Ormerod	Secretariat to send calendar invitations to members for the 2021 meetings.	15	16/02/21
7	Anna Ormerod	Secretariat to identify locations and venues for the 2021 meetings.	15	16/02/21

Approval

NAME/POSITION	SIGNATURE/APPROVAL	DATE
Ruth Mackay, Chair	Approved at MPCB meeting	16 February 2021

Comment: