

Meeting	Mining and Petroleum Competence Board (MPCB)				
Meeting No.	4 of 2018	Date	Tuesday 20 November 2018	Time	9:30am – 2:00pm
Location	Department of Planning and Environment, Banksia Room, Level 27, 320 Pitt Street Sydney				
Chair	Ms Ruth Mackay (Independent)				
Members	Mr Greg Shields (NSWMC), Ms Rachael Whiting (NSWMC), Mr Andy Honeysett (CFMEU), Mr Stephen Tranter (CFMEU), Mr Peter Standish (Independent), Ms Janine Lea-Barrett (Independent), Mr Tony Linnane (Resources Regulator), Mr Brock Skelton (AWU) representing Mr Ron Cowdrey (AWU)				
Observers	Mr Andrew Palmer (Resources Regulator)				
Secretariat	Ms Anna Ormerod (Resources Regulator)				
Apologies	Ms Leanne Parker (CCAA), Mr Ron Cowdrey (AWU), Mr Garvin Burns (Resources Regulator)				

MINUTES

No	Agenda item discussions	Outcomes / Actions
1	Introduction	
1.1	<p>Welcome and apologies</p> <ul style="list-style-type: none"> The Chair opened the meeting at 9:30am. The Chair acknowledged the traditional custodians of the land, the Gadigal people of the Eora nation, and paid respects to Elders past, present and future. The Chair welcomes Ms Lea-Barrett, the new independent member replacing Mr Bob Gibbons. Apologies were received from Ms Parker, Mr Cowdrey and Mr Burns. Mr Skelton was welcomed as Mr Cowdrey's delegate. 	

No	Agenda item discussions	Outcomes / Actions
1.2	Declaration of conflict of interest <ul style="list-style-type: none"> • No conflicts of interest were declared. 	
1.3	Acceptance of previous minutes and actions arising (paper 1) <ul style="list-style-type: none"> • No changes were requested to the minutes of the last meeting. • The status of the actions from the last meeting were noted. 	<u>Outcome</u> The minutes of the last meeting on 21 August 2018 were endorsed without change.
1.4	Correspondence (paper 2) <ul style="list-style-type: none"> • Mr Standish requested that the letters to Mr Greg Goodsir and Mr Mark Davis be re-written to make them more appreciative. • The Chair requested that the letters also thank them both for their efforts. 	<u>Outcome</u> Members noted the incoming and outgoing correspondence. <u>Action</u> a. Department to re-write letters to Mr Goodsir and Mr Davis and send to Chair out of session for signature.
2	For discussion and/or decision	
2.1	Practising certificate system and maintenance of competence scheme (paper 3) <ul style="list-style-type: none"> • Mr Palmer spoke to the paper. He proposed that the figures in attachment A be broken down into functions as well for the next meeting. Mr Palmer advised that: <ul style="list-style-type: none"> ○ approximately 1,000 certificates have been issued to date ○ a help desk was set up at the Mechanical Engineering Safety Seminar and Electrical Engineering Safety Seminar but only a few enquiries were received ○ a forum will be held in March next year to discuss the practising certificates and maintenance of competence scheme ○ a paper on auditing will be presented at the next meeting ○ the 2 year grace period is still in effect. 	<u>Action</u> b. Mr Palmer to update the practising certificates flyer to: <ul style="list-style-type: none"> ○ include changes made by the Chair ○ clearly articulate consequences of not holding a certificate ○ include key dates

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	<ul style="list-style-type: none"> • The Chair provided written comments on the flyer to Mr Palmer at the meeting. • Mr Linnane advised that the Resources Regulator was happy to accept any feedback on the flyer from board members. Any additional feedback can be provided to Mr Palmer out of session. • Ms Lea-Barrett reinforced the need to ensure people are aware that the grace period is still available. • The Chair questioned how well the bottom up approach is working. • Mr Tranter commented he is still being asked questions by people who have no idea about the requirements. The flyer would be helpful for industry to communicate the requirements. • Mr Linnane commented that there is still work for the Resources Regulator to do. Both a bottom up and top down approach is needed. • Mr Tranter commented that people don't understand the repercussions if they don't have a certificate. • The Chair commented that the flyer should be updated to be clear that there are consequences if a certificate is not obtained. The language on the flyer needs to have less assumed knowledge. • Mr Linnane confirmed it is up to the individual and mine operator to ensure that people fulfilling roles must have the correct certificate. • Mr Tranter commented that mine operators need to be made aware of the dates. • Mr Shields further added that the requirements need to be spelt out in plain English. It is a business risk of the company; if people don't get the correct certificates by the due dates, they will not have enough people to fill the statutory roles. • Mr Standish noted that mine operators are predominately companies and not natural persons. It was questioned whether this was an issue as no single individual is the owner of the activity. • Mr Linnane commented that this was not necessarily an issue as most of obligations in laws are with the mine operator. The entity is responsible and it allocates responsibilities to a person within in its organisation. It is individuals who may need further targeting. If they don't meet the obligations the Resources Regulator will deal with as appropriate. 	<ul style="list-style-type: none"> ○ update the language to have less assumed knowledge. c. Members to advise Mr Palmer directly of any further changes to the practising certificates flyer out of session. d. Communications strategy to be added to the agenda for the next meeting.

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	<ul style="list-style-type: none"> • Ms Whiting questioned whether inspectors can make it a compliance priority. • Mr Linnane advised that this will be a focus of inspectors towards the end of next year. • The Chair questioned whether a 'last chance' flyer should be developed 6 months before the deadline. • Mr Linnane agreed that is something that could be considered. The Resources Regulator would appreciate suggestions from board members which can be incorporated into the communications strategy. • It was agreed that the Board should consider communication at the next meeting in March. • Ms Lea-Barrett questioned if something could be presented at the MEMMES meetings (Ms Lea-Barrett chair for Western division). • Mr Linnane commented that identifying all bodies and stake holders and the best format to provide the information should be part of the communications strategy. 	
2.2	<p>Statutory function experience (paper 4)</p> <ul style="list-style-type: none"> • Mr Linnane spoke to the paper and noted that draft wording was circulated out of session with feedback received from Mr Shields. He commented there needs to be a move from a model where several people could sign off on experience to the relevant statutory function holder sign off. There needs to be a transition in place for the changes. • Mr Linnane raised a potential issue with sign-offs where: <ul style="list-style-type: none"> ○ a person applies for a certificate of competence but is not currently employed at a mine, or ○ a person exercising a statutory function at a mine refuses to sign off on experience based on a personal dislike. <p>In these instances, anyone who holds the relevant statutory qualification should be able to sign off. This could be someone who holds the function at another mine. The original intent was for senior certificate holders to decide whether the experience is appropriate. Mr Linnane proposed that sign-off not be limited to persons performing statutory functions at the mine but extended to anyone performing a statutory function.</p>	<p><u>Outcomes</u></p> <ul style="list-style-type: none"> • The Board noted that the Resources Regulator will implement sign-off for experience in certificate of competence applications as: <ul style="list-style-type: none"> ○ a 'hybrid' sign-off by supervisors or statutory function holders in 2019 ○ sign-off by statutory function holders only from 2020. • The Board agreed for the wording for sign-off on experience from 2020 to be only the relevant supervising statutory

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	<ul style="list-style-type: none"> • Mr Shields agreed adding there needs to be flexibility but sign-off is still required by someone with relevant experience, knowledge and authority. • The Chair provided written changes to wording to Mr Palmer at the meeting. • The Board noted that the Resources Regulator will implement sign-off for experience in certificate of competence applications as: <ul style="list-style-type: none"> ○ a 'hybrid' sign-off by supervisors or statutory function holders in 2019 ○ sign-off by statutory function holders only from 2020. • The Board agreed for the wording for sign-off on experience from 2020 to be only the relevant supervising statutory function holder (engineering manager or quarry manager). 	<p>function holder (engineering manager or quarry manager).</p>
2.3	<p>Identification of competencies for statutory functions requiring practising certificates (paper 5)</p> <ul style="list-style-type: none"> • Mr Palmer noted that at the last meeting the Board reviewed the overall framework. Changes were made to first drafts and then sent back out for review by focus group members. The table on page 2 of the paper details the themes from feedback. • Members discussed each theme. <ul style="list-style-type: none"> <u>Theme 1</u> <ul style="list-style-type: none"> ○ The Board agreed to request a consultant review to shorten documents without compromising content. <u>Theme 2</u> <ul style="list-style-type: none"> ○ The Board agreed to request a consultant review to relocate technical competencies to that dedicated section. <u>Theme 3</u> <ul style="list-style-type: none"> ○ Mr Linnane advised that the identification of competencies project examines what tasks a person would be expected to perform in a role and what competencies they would need to perform them. A review of the assessment process would then be undertaken. The review will benchmark what we currently do against best practice. A 	<p><u>Outcomes</u></p> <p>Table of themes from feedback for identification of competencies drafts (page 2). Response to themes:</p> <ul style="list-style-type: none"> a) The Board agreed to request consultant review to shorten documents without compromising content. b) The Board agreed to request consultant review to relocate technical competencies to that dedicated section. c) The Board agreed to request the Resources Regulator undertake a further project to apply the competencies to writing examination documents for each certificate including questions after it considers the outcomes of the review.

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	<p>contractor will be engaged to undertake the review. The Resources Regulator will work with panels to develop how to do the assessments.</p> <ul style="list-style-type: none"> ○ Ms Lea-Barrett questioned how long it would take to complete the review. ○ Mr Linnane advised that it hasn't gone out to tender yet but hope to have out in couple of weeks. It is expected the project will be completed by the first half of next year and then the learnings will be rolled out. The Resources Regulator will come back to the board with what current practice verses best practice looks like. ○ The Board agreed the Resources Regulator consider undertaking a further project to apply the competencies to writing examination documents for each certificate including questions after it considers the outcomes of the review. <p><u>Theme 4</u></p> <ul style="list-style-type: none"> ○ The Board agreed to request the consultant review include leadership competencies. <p><u>Theme 5</u></p> <ul style="list-style-type: none"> ○ The Board agreed to remove knowledge of the Coal Industry Act. ○ The Board agreed that knowledge of the Explosives Act is relevant and required. <ul style="list-style-type: none"> ● Members discussed the table of statutory function competencies and feedback received on page 3 of the paper. ● Members agreed to remove references to the Radiation Control Act. <ul style="list-style-type: none"> ● Mr Palmer sought further comments. ● Mr Standish raised that the draft competencies were written in training speak not plain English. The use of pictures and/or graphics is also required. ● Mr Shields agreed noting that most examiners do not have a background in training. ● Ms Lea-Barrett questioned whether the competencies for metalliferous will be done the same as coal. 	<ul style="list-style-type: none"> d) The Board agreed to request the consultant review include leadership competencies. e) The Board agreed to remove knowledge of the Coal Industry Act. The Board agreed that the Explosives Act is required. <p>Table of statutory function competencies and feedback received (page 3):</p> <ul style="list-style-type: none"> ● The Board agreed to remove references to the Radiation Control Act. <p>The Board endorsed drafts of competencies for statutory functions subject to the review of wording and the addition of pictures/graphics.</p> <p><u>Actions</u></p> <ul style="list-style-type: none"> e. Mr Palmer to make the following changes to the draft competencies: <ul style="list-style-type: none"> ○ review the language to ensure they are written in plain English ○ add pictures/graphics

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	<ul style="list-style-type: none"> • Mr Linnane advised that there is no mechanical engineer function in the non-coal sector and there is no intent to introduce one. If there is no function, you don't need the qualification. • The Board endorsed recommendation 1 subject to: <ul style="list-style-type: none"> ○ reviewing the language ○ adding pictures/graphics. • It was requested that the drafts be presented at the next meeting for finalisation. 	<ul style="list-style-type: none"> ○ remove references to the Coal Industry Act and the Radiation Control Act. f. The Resources Regulator to request the consultants: <ul style="list-style-type: none"> ○ shorten the documents without compromising content ○ relocate technical competencies to that dedicated section ○ include leadership competencies. g. Final versions of the competencies to be presented at the next meeting. h. The Resources Regulator to undertake a further project to apply the competencies to writing examination documents for each certificate including questions after it considers the outcomes of the review.
2.4	<p>New appointment process for examiners and membership of exam panels for 2019 (paper 6)</p> <ul style="list-style-type: none"> • Mr Palmer commented on the paper. It was advised that attachment A was endorsed by the Board 18 months ago. Steps 9, 10 and 11 have been added. The Resources Regulator will advise the Board of any issues. 	<p><u>Outcomes</u></p> <p>The Board:</p> <ul style="list-style-type: none"> • endorsed the new process for appointing examiners without an expiry date on their term of appointment

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	<ul style="list-style-type: none"> • The Chair questioned whether there should be a process to reconfirm criteria as per point 3, in particular that an individual has not been subject to actions for breaches of WHS laws or breaches of their practising certificate conditions. • Mr Palmer noted that individuals are required to declare conflicts of interest for each examination. The Resources Regulator would be aware of any breaches and prosecutions. • The Board endorsed the recommendations. 	<ul style="list-style-type: none"> • requested the Regulator provide, at the February 2019 meeting, an instrument amending the appointment of current examiners to be for an indefinite period • noted appointment of new examiners in paper 7 is proposed to be for an indefinite appointment term. <p><u>Action</u></p> <ol style="list-style-type: none"> i. Resources Regulator to provide, at the next meeting, an instrument amending the appointment of current examiners to be for an indefinite period.
2.5	<p>Appointments of examiners (paper 7)</p> <ul style="list-style-type: none"> • Mr Palmer advised that examiners were obtained through an individual approaching the Resources Regulator directly or members of the panel. No EOI process was undertaken. • The Board approved the appointment of examiners in the brief (attachments A & B). • The Board noted the proposed membership of examination panels for certificates of competence in 2019 (attachment C). 	<p><u>Outcomes</u></p> <p>The Board:</p> <ul style="list-style-type: none"> • approved the appointment of examiners in the brief (attachments A & B) • noted the proposed membership of examination panels for certificates of competence in 2019 (attachment C).

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2.6	<p>Stepped approach for certificates of competencies (paper 8)</p> <ul style="list-style-type: none"> • Mr Linnane spoke to the paper and noted that the Board previously agreed to increase the levels of experience to 3, 4 and 5 years. A stepped approach to qualifications was discussed last meeting. Members agreed to consult and come back to this board meeting with comments. • The Chair opened the meeting to members for comment. • Mr Shields advised that the Minerals Council had been consulted. It is opposed to a stepped process because there are no issues with the current arrangements. The changes are not necessary and would be onerous. The increase in experience requirements addresses the issues raised. • Ms Whiting commented that individuals from QLD are coming to NSW for certification. If we change the qualifications more people from NSW will go to QLD for certification and then seek mutual recognition. They will see NSW as having a more difficult process. It is considered too time consuming by the time they get all experience and certificates. Feedback has been received that there should be two set processes; one for individuals coming straight from university and another for those working in the mine. No other feedback from metals. • Mr Shields confirmed that the Minerals Council supports the increase in experience but not the stepped approach. • Mr Skelton commented that hands on experience is more valuable than anything else. The company should also look at qualifications as well. • Mr Honeysett commented that the process is no more onerous than getting a licence to drive a vehicle (need auto, manual, MR, HR). • Mr Linnane raised the two issues are: <ol style="list-style-type: none"> 1. The original concern is that people are performing functions they are not qualified for i.e. individuals with a mining managers certificate are performing the deputy role. Legally they can but they don't have the necessary experience to perform the role. This can be changed so that you can only perform the role you hold a certificate for. This recognises that they are different functions. This would require an extension of the legislation. 	<p><u>Outcomes</u> The Board agreed that a problem exists in relation to individuals performing roles without the relevant experience.</p> <p><u>Action</u></p> <p>j. Resources Regulator to develop a discussion paper for consideration by the Board at the next meeting that:</p> <ul style="list-style-type: none"> ○ identifies the problem ○ identifies three possible solutions ○ includes consultation with other jurisdictions.

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	<p>2. Broaden the assessment process. The undermanagers assessment be expanded to cover everything to be a deputy and undermanager. Mining engineering manager expanded even further to include experience and pre-requisites for a deputy and undermanager. Practical experience would already be built into experience requirements. An individual would only need to sit the exams once.</p> <ul style="list-style-type: none"> • Mr Shields commented that the main concern is people coming from university, undertaking a planning role and then sitting the exams to become an undermanager. They have the 3 years' experience but no hands-on practical experience. This runs the risk of people in roles with no understanding of what goes on underground and they are the most senior manager on shift at the time. • Mr Linnane commented that we could prescribe where the experience is completed and for how long. Written and oral exams would be longer and more onerous. • The Chair commented that there is Board agreement that there is a problem but it needs to consider the solution. • It was requested that the Resources Regulator develop a discussion paper identifying the problem and at least three options for consideration by the Board at the next meeting. <p><u>Additional comments from discussions at agenda item 2.9 – Annual Report (paper 11)</u></p> <ul style="list-style-type: none"> • Mr Shields questioned whether what is happening in other jurisdictions needs to be considered in the stepped approach. • Mr Linnane commented that we can go to the other jurisdictions for comment. It could be tabled as part of AMCAC. • Mr Palmer advised that Qld are implementing a stepped approach. They have already implemented the experience requirements. • The Chair requested that consultation with other jurisdictions be included in the discussion paper for the next meeting. 	

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2.7	<p>Revised fees for certificates of competence (paper 9)</p> <ul style="list-style-type: none"> • Mr Linnane advised that the Resources Regulator is proposing to amend the fees for certificate of competence. It was further advised that: <ul style="list-style-type: none"> ○ fees have not changed for 11 years ○ Mr Palmer has developed a user pays approach based on a cost recovery for delivery of service ○ the new fees are consistent across coal and metex ○ fees are to be paid by the individual who may or may not work in the mining industry meaning they are not funded by the levy ○ the new fee structure will be introduced from 2020. • The Board noted the paper. 	<p><u>Outcomes</u></p> <p>The Board:</p> <ul style="list-style-type: none"> • noted that the Resources Regulator proposes to implement revised fees for applying for a certificate of competence and being examined from 2020 • noted that the revised fees will be communicated in a strategy.
2.8	<p>Update on RII package and Industry Reference Committees (paper 10)</p> <ul style="list-style-type: none"> • Mr Palmer provided a verbal report on the paper. • Mr Standish raised whether a compliance module should be added to the certificates of competency (RIIGOV601D – Establish, maintain and develop a statutory compliance management system). • Mr Palmer agreed to consider the competency. • It was requested that members provide further feedback to Mr Palmer directly out of session. 	<p><u>Action</u></p> <ul style="list-style-type: none"> k. Mr Palmer to consider including competency RIIGOV601D. l. Members to provide further feedback to Mr Palmer out of session.
2.9	<p>Annual Report 2018 (paper 11)</p> <ul style="list-style-type: none"> • Mr Linnane advised that the annual report is a legislative requirement that needs to be provided to the Minister by end December. A draft copy is attached to the papers for comment. • Mr Standish advised that the link to the website under “How can I find out more information” does not work. 	<p><u>Outcome</u></p> <p>The annual report was approved subject to discussed changes and further comment from the Chair.</p> <p><u>Action</u></p> <ul style="list-style-type: none"> m. Secretariat to make the following changes to the annual report:

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	<ul style="list-style-type: none"> The Chair raised that the Board has an obligation in relation to a consistent approach with other Australian jurisdictions, but it is not detailed in the annual report under functions or terms of reference. Mr Linnane confirmed that it is one of the functions detailed in paragraph 166 of Regulation. Mr Palmer's participation in AMCAC and IRCs are good examples. It was agreed to add the functions under the Regulation to the annual report. The Chair advised that the annual report was missing from her papers and wished to provide further comments out of session. The annual report was approved subject to changes above and additional changes sent through by the Chair. 	<ul style="list-style-type: none"> update web site link under "How can I find out more information" add functions from the Regulation.
3	Business for noting	
3.1	<p>Learning from disasters training package (paper 12)</p> <ul style="list-style-type: none"> Mr Linnane advised that the learning from disasters training package has been finalised by the contractor. The Resources Regulator is currently developing a communications plans to roll out in 2019. The Board noted the final version of the learning from disasters training package. 	
3.2	<p>AMCAC meeting update (paper 13)</p> <ul style="list-style-type: none"> Mr Linnane advised that Mr Burns attended and presented papers – analysis of statutory function schemes and a comparison to other states. His view is we are more closely aligned to other jurisdictions for certificate competence requirements. It was advised that the AMCAC meetings are held every 6 months. 	<p><u>Outcome</u> The Board noted the update for the AMCAC meeting on 18 October 2018.</p>
3.3	<p>2019 meeting calendar (paper 14)</p> <ul style="list-style-type: none"> Members noted the meeting dates for 2019. Mr Linnane recommended that meetings remain in Sydney. Members agreed. 	<p><u>Outcome</u> 2019 meetings to be held in Sydney on: 1. Tuesday 19 February 2019</p>

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		<p>2. Tuesday 21 May 2019 3. Tuesday 20 August 2019 4. Tuesday 19 November 2019</p> <p><u>Action</u> n. Secretariat to send calendar invitations to members for the 2019 meetings.</p>
4	Other Business	
4.1	<p>Additional business</p> <p><u>March forum</u></p> <ul style="list-style-type: none"> Mr Palmer raised that a forum is scheduled for March 2019 targeting individuals and mining bodies. The forum will cover practising certificates, maintenance of competence scheme changes and proposed changes, and the mining disasters training package. It is envisaged that mine operators will be invited to speak about their operations. An invitation will be extended to all board members. <p><u>Papers for next meeting</u></p> <ul style="list-style-type: none"> The Chair noted that an update on the progress of the strategic plan was missing from this meeting's agenda. It was requested that it be added to the agenda for the next meeting and remain as a standing agenda item for all meetings. Ms Lea-Barrett questioned whether an online forum could be used for board papers instead of emailing documents given the size of the files. It was agreed that the secretariat would consider options for the next meeting. 	<p><u>Actions</u></p> <ul style="list-style-type: none"> o. Secretariat to consider online platforms for meeting papers for the next meeting. p. Secretariat to add an update on the Strategic Plan to the agenda as a standing agenda item for all meetings.

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	<p><u>Exams</u></p> <ul style="list-style-type: none"> • Mr Honeysett brought to the Board feedback from Mr Steve Barrett in relation to raising the pass mark for written exams. In his view 60% is a little low and should be 65 – 70%. It was also raised that more time is needed for the oral exams as 45 minutes too short. The length of the exam should be extended to 1.5 hours. • Mr Tranter raised that the time might have to be extended given the new requirements. • The Chair raised that the Board should consider the length and pass mark of exams as part of the review of assessments. • Mr Linnane agreed. The one area that still needs to be addressed is the framework and foundation. There may be some parts that you need 100% to pass and others you just need 50%. • Mr Standish questioned whether experience could be considered as part of the examination process. • Mr Linnane advised that this should come out as part of the review. <p><u>Exam results</u></p> <ul style="list-style-type: none"> • Mr Palmer advised that a report will be presented at the next Board meeting on certificates of competence. 8 people sat and failed the recent underground mechanical engineering manager's legislation paper. The application of the legislation was the major cause of the high failure rate. 	
4.2	<p>Next meeting</p> <ul style="list-style-type: none"> • The next meeting will be held on Tuesday 19 February 2019 at 9:30am in Sydney. • The chair closed the meeting at 1:17pm. 	