

# MPCB MEETING MINUTES

## 19 NOVEMBER 2019

|                    |   |             |                          |
|--------------------|---|-------------|--------------------------|
| <b>Meeting</b>     | Mining and Petroleum Competence Board   | <b>Date</b> | Tuesday 19 November 2019 |
| <b>Location</b>    | Waratah Room, Department of Planning, Industry & Environment, Level 31, 320 Pitt St Sydney.   | <b>Time</b> | 9am – 4pm                |
| <b>Chair</b>       | Ruth Mackay (Chair, Independent)  |             |                          |
| <b>Attendees</b>   | Chris Dolden (Cement Concrete & Aggregates Australia), Stephen Barrett (Construction, Forestry, Maritime, Mining and Energy Union), Stephen Tranter (Construction, Forestry, Maritime, Mining and Energy Union), Justin Smith (Australian Workers' Union), Peter Standish (Independent), Tony Linnane (Resources Regulator, Department of Planning, Industry & Environment), Janine Lea-Barrett (Independent), Garvin Burns (Resources Regulator, Department of Planning, Industry & Environment) |             |                          |
| <b>Apologies</b>   | Greg Shields (NSW Minerals Council), Rachael Whiting (NSW Minerals Council)   |             |                          |
| <b>Guests</b>      | Andrew Palmer (Resources Regulator, Department of Planning, Industry & Environment), Evelyn Subagio (NSW Minerals Council)  |             |                          |
| <b>Prepared by</b> | Kylie Cooksey (Resources Regulator, Department of Planning, Industry & Environment)   | <b>CM9</b>  | DOC19/1028895            |

## Minutes

### AGENDA ITEM DISCUSSED/ACTION

- 1 **Welcome and apologies**
  - The Chair welcomed members and acknowledged the traditional custodians of the land.
  - Apologies were noted from Mr Shields and Ms Whiting.
  - Mr Chris Dolden was welcomed as Ms Parker's delegate for today's meeting. He has been nominated by the CCAA to replace Ms Parker on the Board.

- The Board requested and members agreed that a letter be sent to Ms Parker thanking her for her participation, recognising her length of service, her contribution, her experience and her generosity of time.
- Ms Subagio arrived at 9.24am.

**Action:**

- A. Secretariat to draft a letter of recognition and gratitude to Ms Parker**

**2 Declaration of interests**

- No conflicts declared.
- Mr Linnane reminded all members to notify the secretariat if any changes were required.
- Ms Lea-Barrett requested a change to the pecuniary interest register. She declared a new source of income from Aeris Resources. It was agreed that the secretariat would send the pecuniary interest form to Ms Lea-Barrett for updating.

**Action:**

- B. Secretariat to send the pecuniary interest form to Janine Lea-Barrett for updating**

**3 Acceptance of previous minutes and actions**

- The minutes were accepted. Moved by Mr Standish, seconded by Mr Barrett.
- Mr Linnane informed the Chair that the minutes template had been revised.
- Development of the action plan to address the recommendations of the Johnstaff review was noted.
- All other actions from meeting held 20 August 2019 have been completed.

**4 Correspondence**

- Incoming and outgoing correspondence was noted.

**5 Proposed changes to experience for certificates of competence**

- The Board discussed major themes at August 2019 meeting. Attachment A is the Regulator response to the 18 submissions received.

**Question 1:**

- Mr Linnane advised that the information required to be supplied for evidence/logbook will be broadened. The auditing of practising certificates and the

maintenance of competence is separate. The experience information is not currently audited by the Regulator.

- Mr Barrett asked about the slight change in wording, for example 'at the face during production', and whether the Regulator is going to check on the experience due to those changes. Mr Burns replied that the exam panel review the experience and ask for more information if necessary.
- Mr Standish stated that some responses are worth consideration. Some concerns need to be discussed again as a group to ensure a sound position.
- The Chair noted that there were a number of people opposed.
- Mr Burns replied that of the 18 submissions, 6 were from the same company and there weren't any of which the Regulator was not already aware. 18 submissions indicates that a large number of people are not concerned.
- Mr Standish said this allayed some of his concerns.
- The Chair noted that the Minerals Council opposed question 1.
- Mr Linnane replied that the opposition was in the context of the metalliferous sector, not the coal sector. The overwhelming majority of certificates are from the coal sector, possibly 70%. There was a lack of objection from the coal sector about the increase to experience requirements.
- Mr Standish asked about recognition in other states. Mr Burns replied that there is an agreed position and a documented table regarding mutual recognition with other jurisdictions and will be discussed later in the AMCAC update.
- Ms Subagio highlighted that NSWMC members in the coal sector had expressed concern over the increase in experience requirements. A particular concern was that the increased experience requirements catered for those that entered the industry with a trade background, but it didn't acknowledge the extensive length of time that those with a university background would end up being required to undertake.. Mr Burns responded that the fast tracking of university qualified engineers was a key driver. There is no evidence to suggest that a university degree offers an advantage. The orals are about associated technical skills, the law and applied application of mining techniques and methods. This was initially raised by the CFMMEU. Applications for mining engineering at university had halved before these changes. Some in industry have cadet schemes but understanding theory and solving complex technical problems is something that all are trying to address. The metalliferous sector is another step, making requirements tougher, and there is a difference again with quarrying to manage a mine safely. Mutual recognition is a compromise to get 5 jurisdictions to align. There were prolonged discussions at AMCAC.

**Question 2:**

- Mr Linnane explained that supervision can be both direct and general. There will be recognition that people have had experience in supervising, not necessarily at a particular mine. The proposed changes will make that clear. The Regulator did not support the proposal that a formal training activity could constitute supervision, stating that appropriate supervision is actual practical supervisory experience, not attending training.

**Question 3:**

- Mr Linnane explained that the proposal is to develop the standards of monitoring and supervising of mining operations, recognising that there needs to be appropriate experience, and that mining operations is a broad term, not just about extraction.
- Mr Burns stated that the Resources Regulator inspectors must have the experience and the qualifications. It is causing a shortfall, but that has been recognised and is being addressed. Industry and regulators in other states are also facing this issue.

**Question 4:**

- The competencies framework has clear guidance on what practical mining experience looks like in relation to mining operations at a mine. Noting that some wording is dated, the proposal will address that. The pathways to get the experience will be clearer, need to be relevant, and require exposure to mining operations.
- Mr Burns reported that the key thing from AMCAC was that the council has moved out of the development phase, is now positioned with a scheme in place, acknowledging that pleasing everyone is implausible. Now moving into monitoring phase, examining issues as they come to light which changes the purpose of AMAC slightly, ensuring what we have is working properly. The strategic plan reflects that.
- The Chair commented that one of the things this Board is supposed to do is propose harmonisation across the states.
- Mr Linnane replied that this Board is to determine that what is done in NSW takes into consideration what is happening in other jurisdictions. AMCAC provides a streamlined way to do that.
- Mr Burns stated that VIC, NT, SA and TAS are not committed to the process. QLD is sitting back to some degree but are going through some structural reform that may change their approach. It is mostly driven by NSW and WA; the other states are not playing an active part.

**Outcome:**

**The Board agreed with all recommendations for proposed changes to experience requirements for certificates of competence. Mr Barrett moved and Ms Lea-Barrett seconded.**

6 **Quarry manager statutory function three-tiered approach**

- At the MPCB meeting of 20 August 2019 this approach was put forward with 4 recommendations, 3 of which were accepted.
- The implementation was subject to discussion with CCAA. Ms Parker had noted that further discussion with the Regulator was needed.
- The proposal was to introduce the approach from 1 September 2020 for new applicants and proposed transitional arrangements will be in place. Tier 3 has no formal requirement for competency other than ensuring that the Quarry Manager is a competent person. Tier 1 needs a practising certificate based on a certificate of competence. Tier 2 must have a practising certificate gained by 2 years' experience and Certificate IV in surface extraction operations. Endorse earthmoving and civil works as experience.
- Mr Burns discussed the meeting with the CCAA to clarify the concerns. The Regulator will work with mine operators to make sure there is a suitable transitional arrangement. And will amend guidance to provide clarity around experience. There have been presentations around the state to stakeholders via roadshows and workshops etc. There will be a pragmatic and practical approach on a case by case basis, providing more context and broadening the suitable experience that should be considered regarding an applicant.
- Mr Dolden commented that from the CCAA perspective, tier 3 is a separate issue, it is a practical perspective, and there is no debate or concern from the CCAA. The concern was regarding the application of the tool between 1 & 2, but the meeting with the Regulator suggested it was a strong guideline. The CCAA is relatively satisfied and has no strong objections.

**Outcome:**

**Members endorsed the recommendations. Mr Standish moved and Mr Barrett seconded.**

7 Part A examinations

- The NSW Minerals Council raised the re-introduction of part A examinations for certificate of competence for coal mine mining engineering manager and undermanager.
- Mr Linnane reported that the Regulator used to hold part A exams for the above statutory functions to reflect the transition in the competency arrangement under the old Act, but also to recognise the availability of the courses available through vocational training. This changed due to changes in the diploma training packages.

The NSW Minerals Council suggested that this was not a viable option for potential candidates. Currently there are 6 RTOs who have endorsement to deliver the Advanced Diploma of Coal Mining Management and 2 have advertised course availability. The Diploma of Underground Coal Mining Management has 7 RTO's endorsed to deliver the training. The view of the Regulator is that the RTO's do offer and can deliver the courses. The Regulator has not had any specific concerns raised other than the submission by the NSW Minerals Council about the availability of training offered by RTOs. The accessibility to training through RTO website training.gov.au has every training course in Australia and who is endorsed to deliver it.

- The Chair asked that the Board write to the NSW Minerals Council noting the availability of training and that the need to re-introduce the exam is not supported.
- Mr Barrett asked to also make them aware that training is available by correspondence.
- Ms Lea-Barrett noted also it is only coal, not metalliferous.

**Outcome:**

**Members agreed to advise the NSW Minerals Council that re-introduction of Part A examinations is not supported by the Board, noting the above comments.**

**Action:**

- C. **Secretariat to write to the NSW Minerals Council.**

8 **MPCB Annual Report 2018/2019**

- The Chair thanked the Resources Regulator for the preparation of the annual report and noted the fourth objective about promoting consistency.
- Mr Linnane asked for any feedback from members regarding the report. There is a requirement in legislation to provide a report to the Minister regarding the operations of the Board.
- Ms Lea-Barrett asked why there is not a petroleum representative on the Board.
- Mr Linnane said the Minister has not made that decision at this time to appointment a person to represent the petroleum sector.

**Outcome:**

**The annual report was approved by members subject to formatting changes to be submitted by Mr Standish.**

**Action:**

**D. Mr Standish to provide formatting issues to the secretariat out of session**

9 **Competency landscape presentation**

- The presentation was delivered to the NSW Minerals Council earlier in the year and has been made available to members.
- Mr Standish asked if the Board can make the Minister aware of the concerns surrounding the emerging trends and suggest that there may be scope for the Department to address this.
- Mr Linnane replied that the key issue for the Board is to facilitate pathways for people to become statutory function holders. It is up to the stakeholders to consider and determine how they want to respond. The stakeholders can provide the information to industry. It is not the function of the Regulator.
- The Chair acknowledged that the presentation was for the NSW Minerals Council in the first place.
- The Chair recommended that individual stakeholders on the Board note the information and take it back to their people for the individual action of members.

**Action:**

**E. Mr Standish asked that Recommendation 1 on Paper 9 be changed to ‘highlight’ the competency landscape rather than ‘note’.**

10 **MPCB meeting dates for 2020**

- Ms Lea-Barrett asked if there has been consideration to hold meetings outside Sydney. The Chair commented that she found it useful to visit some locations and get a better perspective. If opportunities arise where other things are going on, could the Board participate as an additional benefit of getting together, but that there needed to be a purpose.

**Outcome:**

**Members agree with the dates proposed.**

**Action:**

**F. Members to provide feedback through the secretariat if there are any opportunities that could be considered for future locations of meetings.**

11 **Implementation of the practising certificate system and maintenance of competence scheme**

- Mr Palmer presented a progress report on the system and the scheme (Attachment A) and a list of registered training providers for the Learning from Disasters program (Attachment B). He asked the Board to note that there had been low numbers of attendees to practising certificate workshops in September and October 2019.
- Mr Burns discussed the concern that people may retrospectively account for hours when it is too late. It has been discussed with industry in a variety of ways, for example third party providers of apps. The Regulator can continue to highlight, but there has to be a level of personal responsibility.
- Mr Barrett commented that it appeared that a number of workers believe that the company is going to send them away to do training when the time comes.
- Mr Burns responded that companies need to provide the opportunity.
- Mr Dolden commented that the IQA is reviewing how to do training. Electrical and automation is an emerging issue.
- Mr Palmer added that there will be webinars in the future rather than face-to-face. Also, regarding seminars, people can be provided with access to information via a QR code.
- The Chair suggested that the education issue could be revisited this afternoon.

**The Board noted the paper and attachments.**

12 **RII training package**

- Mr Palmer provided a report regarding the IRC meeting 4 (Attachment A). The coal mining qualification was put out for public consultation. Stream 1 is awaiting approval, stream 2 (coal only) is being finalised after consultation with industry workshops and stream 3 closed for consultation on 8 November 2019. The Regulator may participate in targeted focus groups for extractives and has reviewed and provided written feedback for lateral load shifting and pulling related units.
- Ms Lea-Barrett commented that there is a representative from the Regulator on that board, but there is not on the Metex board.

**The Board noted the paper and attachment.**

13 **Geotechnical engineer statutory function**

- The CFMMEU formally requested the introduction of a new statutory function. At the MPCB meeting in May 2019, the Regulator was asked to prepare a discussion paper, which was then circulated for comment. The August 2019 attachment was provided in relation to public consultation, and the process is to be considered more broadly today. The Board is to consider the analysis of the key themes and the Regulator will develop the public response and publish on the website.
- Mr Linnane advised that the public consultation process closed 19 October 2019. There were 13 submissions; 8 were supportive of the proposed function and 5 opposed.
- Mr Barrett commented that the geological conditions in different mines needs to be taken into consideration. Some of the concerns raised need to be considered due to esteem, for example part of a paper that was in support of a proposal in the past. The concern raised by CFMMEU is not reflected in papers, this year there have been 11 falls of ground in the southern districts. Risk assessment issue is that some operators shop for advice for relevant support to reduce costs. Legislation allows for other key statutory functions to be appointed to 2-3 different mines. Mr Barrett disagrees with Glencore's view that one would be needed at every mine.
- Mr Barrett commented that there were changes to legislation to introduce the specific role of Ventilation Officer (VO) because there was a requirement and an understanding that it was a different type of skill.
- The Chair commented that Glencore made the point that the qualification isn't available which is a fundamental issue. Secondly, Glencore dispute the need.
- Mr Barrett responded that there are certainly courses available. The concern is that mining conditions and depth of cover are vastly different to 10 years ago. There is a need for individual knowledge in strata support and design. You want someone with a high-level technical knowledge of that particular mine.
- Mr Burns put forward the position of the Regulator that the case for the new statutory function has not been made out.
- Ms Lea-Barrett asked how the qualification would be obtained. Mr Burns replied that the Regulator has not looked at that because that framework hasn't been considered.
- Mr Linnane commented that if it was identified to be a key statutory function, then one person could be both MEM and Geotechnical engineer.
- Mr Tranter asked about the hazards and the consequences, is there a disparity there? What is the requirement? Mr Linnane replied that the statutory function is a safety critical role
- Mr Barrett commented that there are very few MEMs that would hold the role of VO without the ventilation qualification for a while because of the complexity. It is the

same argument being put forward. Mr Burns commented that there are currently 8 principal hazards, we don't have a key statutory function for oversight, control plans are separate.

- Mr Smith commented that he supports the CFMMEU and Mr Barrett. Historically statutory functions have been introduced by triggers. The introduction of the VO acknowledged the complexities of what we were moving into. In terms of what is needed by the MEM to manage and control risk, is now a role of VO.
- Mr Dolden commented that the statutory position doesn't stop people from shopping anyway, people with credibility will find what they need. There have been a number of problems identified, and he is not sure that creating a statutory position will fix them. He does not support CFMMEU at this point.
- Mr Standish asked if having a statutory function will make a big difference. Looking at the major incidents mentioned, it is a big challenge. The metalliferous sector is handling it within the current framework.
- The Chair acknowledged that the paramount concern of all members is the safety of workers. She asked the Regulator to provide its position in writing

**Outcome:**

**The Board considered the paper and requested the Resources Regulator provide documentation outlining their position. This is to be circulated to members for feedback. The Board has not determined an outcome at this time.**

**Action:**

**G. Department to table its position in writing.**

14 **AMCAC update**

- Mr Burns provided the AMCAC update advising that the key outcome was the review of the strategic plan. There was strong consensus that it was necessary to move on from development, that there would be perpetual development regarding an agreed map of mutual recognition. Mapping between all jurisdictions is not going to be a thing, for example VIC and TAS are not contributors. It was agreed that it is the best we can expect.
- Mr Tranter added that many of the outstanding actions from a while back were tidied up, a lot of decisions made and moved on.
- Mr Burns reported that secretariat support and federal govt oversight are a challenge. CCIM and AMCAC are not federally supported. At this stage, in

consideration of costs, NSW has taken on the secretariat of AMCAC to keep it going. Both CCIM And AMCAC have a goal for a dedicated webpage. Each jurisdiction to develop a page with regard to mutual recognition and replicate across jurisdictions. Applicants will go to the page in their jurisdiction and links to all will be there.

- The Chair asked if the Minister is aware of the AMCAC meeting and the lack of Commonwealth support. Mr Burns replied that when the minutes are finalised a brief will be prepared.
- The Chair asked if the Board should advise the Minister separately that this outcome has been noted. In terms of the role and responsibility of the board, is the Minister aware of the difficulty to make progress in relation to that area of our responsibility.
- Mr Burns responded that the draft minutes will hopefully be provided to the council next week and then a copy will be provided to MPCB members for comment. The Resources Regulator can draft a brief to bring it to the attention of the Minister.

**Outcome:**

**The Board agreed that a brief would be drafted to bring the Minister’s attention to the concerns of the AMCAC meeting held 31 October 2019 regarding federal support for CCIM and AMCAC.**

15 **Exams calendar 2020**

- Mr Standish asked if a board member could observe the examination process at some point. Members responded that Mr Burns is a reserve examiner, Mr Barrett is a current examiner, and Mr Shields is a current examiner.
- Ms Lea-Barrett asked that it be noted with an asterisk that there is another avenue of competence not noted on a lot of documentation for underground other than coal electrical engineer. There is no exam because it doesn’t fall under the competency exams. The electrical engineer is indicated as competent when they are stage 2 through Engineers Australia so they don’t sit a competency exam.
- Mr Dolden noted that there is a second round of Quarry Manager exams, but it may not go ahead if there aren’t the numbers.

**The Board noted the paper.**

16 **Membership of examination panels in 2020**

**The Board noted the paper and approved the appointments.**

17 **Additional business**

- Ms Subagio asked what the next steps are for the Johnstaff report. Mr Linnane responded that there is an implementation plan being prepared for the upcoming meeting 18 February 2020.

## Planning session – review of the MPCB strategic plan

18 **Review of the current Strategic Plan to 2020**

- Catherine Bass-Kendzy arrived at 1pm to facilitate the strategic planning session.

19 **Future strategic issues**

20 **Next steps and meeting close**

- Meeting closed at 3.50pm

## Action items

| NO. | RESPONSIBILITY | ACTION  | DUE DATE   |
|-----|----------------|---|------------|
| A   | Secretariat    | Secretariat to draft a letter of appreciation and gratitude to Ms Parker.   | 18/02/2020 |
| B   | Secretariat    | Secretariat to send the pecuniary interest form to Janine Lea-Barrett for updating.   | 18/02/2020 |
| C   | Secretariat    | Secretariat to write to the NSW Minerals Council noting the comments of the Board regarding the Part A examinations proposal. | 18/02/2020 |
| D   | Peter Standish | Mr Standish to provide formatting issues regarding the MPCB annual report to the secretariat out of session.                  | 30/11/2019 |
| E   | Secretariat    | Secretariat to change the word 'note' to 'highlight' in recommendation 1 on paper 9.  | 30/11/2019 |

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| F | All members                    | Members to provide feedback through the secretariat if there are any opportunities that could be considered for future locations of meetings.                        | Ongoing    |
| G | Tony Linnane /<br>Garvin Burns | Department to provide documentation on the Geotechnical engineer statutory function proposal, outlining their position and why this approach should not be taken.    | 18/02/2020 |
| H | Secretariat                    | Secretariat to draft brief to bring the Minister's attention to the concerns of the AMCAC meeting held 31 October 2019 regarding federal support for CCIM and AMCAC. | 18/02/2020 |

## Approval

| NAME/POSITION                 | SIGNATURE/APPROVAL       | DATE             |
|-------------------------------|--------------------------|------------------|
| Ruth Mackay, Chairperson MPCB | Approved at MPCB meeting | 18 February 2020 |