

MPCB MEETING MINUTES

20 AUGUST 2019

Meeting	Mining and Petroleum Competence Board	Date	Tuesday 20 August 2019
Location	Waratah Room, Department of Planning & Environment, Level 31, 320 Pitt St Sydney	Time	9:30am – 2pm
Chair	Ruth Mackay (Chair, Independent)		
Attendees	Peter Smith – <i>delegate for Greg Shields</i> (NSW Minerals Council), Leanne Parker (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 and Environment)		
Dial in	Rachael Whiting (NSW Minerals Council)		
Apologies	Janine Lea-Barrett (Independent), Greg Shields (NSW Minerals Council), Garvin Burns (Resources Regulator, Department of Planning, Industry and Environment)		
Guests	Andrew Palmer (Resources Regulator, Department of Planning, Industry and Environment), Evelyn Subagio (NSW Minerals Council), Michael Mara (Senior Consultant, Johnstaff)		
Prepared by	Anna Ormerod (Resources Regulator, Department of Planning and Environment)	CM9	DOC19/745597

Minutes

AGENDA ITEM	DISCUSSED/ACTION	DECISION/ACTION
1	<p>Welcome and apologies</p> <ul style="list-style-type: none"> The meeting was opened by Mr Linnane at 9:30am as Chair Ruth Mackay's flight was delayed. Apologies were noted from Mr Burns, Ms Lea-Barrett and Mr Shields. Mr Peter Smith was welcomed as Mr Shields' delegate for the meeting. 	

	<ul style="list-style-type: none"> ■ Due to a delayed flight, Ms Whiting dialled into the meeting. ■ Members were advised of the new appointments. Mr Barrett was welcomed to his first meeting. ■ Mr Michael Mara arrived at 9:35am. 	
2	<p>Declaration of interests</p> <ul style="list-style-type: none"> ■ No conflicts declared. ■ Mr Tranter requested a change to the pecuniary interests register. It was requested that his affiliation with the CFMMEU be added. It was agreed that the secretariat would send the pecuniary interest form to Mr Tranter for updating. ■ Mr Linnane reminded all members to notify the secretariat if any changes were required. 	<p><i>Action</i></p> <p>a. Secretariat to send the pecuniary interest form to Stephen Tranter for updating.</p>
3	<p>Acceptance of previous minutes and actions</p> <ul style="list-style-type: none"> ■ It was requested that the spelling of Evelyn Subagio's name be corrected in the minutes. ■ The minutes were accepted subject to the above amendment. Moved by Mr Standish, seconded by Mr Tranter. ■ Mr Linnane advised that action (f) from the last meeting <i>Department to update the examination process for the agreement of the Board</i> will be actioned as part of the review of the examination process (paper 5). ■ The status of all action items was noted. 	
4	<p>Correspondence</p> <ul style="list-style-type: none"> ■ Incoming and outgoing correspondence was noted. 	
5	<p>Review of the certificate of competence examination process</p> <ul style="list-style-type: none"> ■ Mr Linnane advised that the Department engaged Johnstaff to undertake a review of the certificate of competence examination process. The report was attached to the papers. 	<p><i>Actions</i></p> <p>b. Secretariat to include recommendations for the November strategic planning meeting.</p>

- Mr Linnane introduced Mr Michael Mara from Johnstaff and advised Mr Mara was attending the meeting to answer questions about the review.
 - Mr Mara provided an overview of the review. He thanked everyone involved. The review looked at the best way to assess competence. He said the term 'best practice' however can have a vague meaning. There are several ways to test people but the most effective is to watch someone undertake a task. Unfortunately, it is not always practical or efficient to do that. Best practice needs to be practical and efficient. On that basis, the review determined that there was nothing wrong with current process used by the Department for assessments. The review found the other industry leader is the medical industry. There is a growing trend in the medical industry to do blue printing; to map out and put together a framework. The Australian Pharmacy Council engaged Queensland experts to blueprint their examination process.
 - Mr Linnane advised that Johnstaff was asked to challenge what the Department currently does, to look at what other industries are doing and what other mechanisms are available. The recommendations in the report have been allocated to the Department or to the MPCB.
 - Mr Linnane requested comments from members.
 - Mr Barrett commented that pass rates should be based on a pass for each topic not an overall pass rate. He questioned why the deputies exam is one document where under manager and manager exams are 3 separate exams. There should be consistency.
 - Mr Linnane responded that undermanager and manager exams includes ventilation which the deputies exam does not.
 - The chair Ms Mackay and Mr Justin Smith arrived at 10am.
- c. Department to develop a plan for implementing the recommendations in the review agreed to by the Board.

- Mr Linnane commented that further discussions should occur offline between the Department and Mr Barrett in relation to the exams. The review looked at the process more broadly rather than the finer detail.
- Mr Barrett further commented that he supported an online process as long as it was conducted by the Resources Regulator in a secure environment. He would not support it going out to an RTO. He raised a concern as to how some questions would go on line when you are required to produce drawings, etc.
- Mr Mara replied that would come down to the technology used. Suitable technology would need to be found.
- Mr Barrett added that we would also need to consider computer skill sets if exams are on line as not everyone is technologically savvy.
- Mr Linnane said the Department had raised concerns about recommendation 2.
- Mr Mara commented that the recommendation is around the perception and perceived risk. The risk stems from where the chief inspector signed off on the recommendation of competence. If there was action to be taken on a person deemed competent, then there would be conflicts if the chief inspector is to authorise action against someone he deemed competent. If delegated to another person, this would mitigate the risk.
- Mr Linnane commented that there is a potential conflict with authorising and subsequent enforcement action if an incident occurs. However, it is not different to a range of other authorisations the Department has responsibility for. The Department has clear guidelines and a governance framework to mitigate these risks - the people who deal with the matter would be different to those who granted the authorisation. The alternative would be to get someone outside the Resources Regulator but there are concerns around this.

- Ms Parker agreed with the recommendations and liked the alternative models. The medical model where an individual must complete an assessment before phase 2 and then phase 3 has some merit.
- Mr Barrett commented that the way individuals now enter the program is different to previous times. Previously individuals were well supported by mining company in terms of money and time. Now you can request sponsorship, but you only get your money back once the course is completed. You don't get time and access support.
- Mr Standish commented that for all statutory roles, a key component is the quality of decision making by individuals in the roles. The pharmacist model seems to be the most closely aligned. He asked if this came out in the review.
- Mr Mara responded that it did. The significance of this process in mine safety was quickly identified. When looking at other industries Johnstaff focused on those other roles that make important decisions which could result in someone losing their life. There wasn't too much to draw comparison from except the pharmacy internship which highlighted the importance of WHS and the decisions people were making. This was reiterated by the Department at the start of the project and by board members during the consultation phase.
- Mr Standish asked if there was a requirement that the Board needs to act quickly or if it was more the case of polishing and refining existing practices.
- Mr Mara replied that there is a need to enhance and improve current practices.
- Mr Barrett commented that there is merit in virtual reality being used to assess individuals in underground coal.
- Mr Standish raised that the practice in New Zealand where the number of attempts at exams is restricted is not reflected in the project.

- Mr Mara replied that New Zealand implemented several recommendations following Pike River which improved their processes dramatically. Pass rates have been higher in recent times due to changes to pre-course material, advice provided to candidates before exams and requirements for additional courses. However, New Zealand is much smaller so it is easier to coordinate.
- Mr Standish asked if the review identified good practice in Western Australia.
- Mr Mara replied that they didn't look at what they were doing but spoke to the Western Australian regulator. He advised they didn't have the best scheme but it worked. One consequence of enhancing NSW's practices is that some of the other states fall behind and then it brings into question recognition of interstate qualifications.
- Mr P Smith commented that is why blueprinting is so important. The variability in performance from other states is considerable. There are different risks at different mines. We need certainty that individuals come with the required experience. He added that the age demographics on how tickets are spread across industry is a concern as 80% of tickets held are by those over 50 years old.
- Mr Linnane commented that the figure includes everyone from the late 1800s. Some of those people have retired or died.
- Mr Barrett agreed that blueprinting is critical.
- Mr Mara commented that the Western Australian regulator advised that they are paring back the process as a significant amount of weight is now placed on employers to scrutinise each worker in a statutory function.
- The Board discussed each recommendation in the report and agreed to the following:
 - Recommendation 1 – agreed.
 - Recommendation 2 – agreed the Department should consider.

- Mr Linnane advised that the Department wouldn't look at transferring responsibility for exercising the regulator's power to grant practising certificates away from the Chief Inspector at this time however, the Department agrees to consider the recommendation and formulate a response including reasons.
- Mr Standish commented that it is a good recommendation for Department to look at.
- Mr Barrett supported the position staying with the Chief Inspector.
- The chair advised that the Civil Aviation Authority does something similar and agreed to look into it further.
- ▣ Recommendation 3 – agreed.
 - Mr Mara commented the current process should be improved in the first instance through blue printing and then innovation looked at (e.g. technology).
- ▣ Recommendation 4 – agreed.
- ▣ Recommendation 5 – agreed.
 - Mr Standish asked what blueprinting means.
 - Mr Linnane replied that it is specifying the process you are delivering (design of the process). It was reinforced that under the mutual recognition scheme NSW does not have an option to not recognise a licence for an equivalent occupation from another jurisdiction. The certificate must be accepted. In NSW, we have a description, identified competencies, identified pre-requisite academic qualifications and experience for each certificate. Johnstaff recommended a blueprint assessment process to take all those factors into consideration to ensure the individual academic achievement and

experience aligns with their ability to demonstrate they can meet the requirements for the statutory functions. A blueprint also ensures consistency across assessments; it ensures examiners have built and delivered a process that the regulator and Board have endorsed.

- Mr Barrett commented that part c (minimum pass mark in each content area) is a must.
- ▣ Recommendation 6 – agreed.
- ▣ Recommendation 7 a – agreed to consider further down the track.
 - Mr Standish raised concerns about ensuring the person who has completed the online exam is the same person applying for a certificate.
 - Mr Linnane replied governance arrangements would be put in place whether the exams are conducted on written paper or online platforms. The Department would not allow the conduct of online assessments at a remote location without oversight.
- ▣ Recommendation 7 b – not supported being outsourced by an RTO.
 - Mr Linnane commented that the delivery of the assessment needs to be designed and delivered by suitably qualified and competent people. It needs to be considered whether the Board and Department could coordinate the assessment panel and exam questions, but the conduct of exams be facilitated by an external qualified education body such as TAFE NSW or a university.
 - Mr P Smith asked if we accept qualifications provided by external providers (i.e. Cert IV attained through TAFE) why would this recommendation not be considered?

- Mr Linnane commented we could explore what opportunities future technology hold while ensuring processes are robust and efficient.
- Recommendation 7 c – members supported exams being conducted at the same time but not one exam for all qualifications.
- Recommendation 7 d – agreed.
- Recommendation 8 – agreed.
 - Mr Tranter commented we should consider using virtual reality as an option if we want to evolve.
 - Mr P Smith commented it would be good for training but not sure how testing would work.
 - Mr Barrett commented that access to virtual reality could be a potential difficulty.
 - Mr Linnane commented that a bank of scenarios could be built where a panel could have several people working through the same scenario at the same time.
- The chair thanked Mr Mara for his report and his attendance at the meeting.
- Mr Mara left the meeting at 11:40am.
- Mr Standish suggested the recommendations be included in the planning for the November strategic meeting. The chair agreed.

6

Implementation of the practising certificate system and maintenance of competence scheme

- Mr Palmer provided a verbal report per the paper. It was noted that the number of practicing certificates issued as at end July is 2,720 (per attachment B). It was originally estimated around 4,000 certificates would be issued; the new forecast is 3,370.
- Mr Standish advised that he received good feedback from the workshop.

7

Discussion paper on proposed changes to experience for certificates of competence

- Mr Linnane reported on the paper. 18 submissions were received from 8 individuals and 10 organisations. Yesterday the secretariat circulated a summary of responses and major themes to members.
- Mr Tranter questioned why there are different requirements across the industry; it should be more consistent.
- Mr Linnane advised that historically there were two different competence boards – one for coal and one for metals mines and quarries.
- Mr Tranter commented that moving forward we should be consistent and looking more holistically.
- Ms Parker commented that we need to be clear on what we are trying to achieve.
- Mr P Smith commented we need to consider what level and degree are we expecting business critical decisions to be made and what experience level are we comfortable with those decision makers having.
- Ms Whiting commented that this needs to be looked at in conjunction with paper 5. There is a link between examinations and experience.
- Mr Standish commented that we cannot just mandate a set period of time for experience as some people will have the required level of experience after a couple of years and others won't.
- Ms Whiting raised concerns around how the experience requirements break down – clarification is needed about what type and where the experience should occur. There are no concerns about the level of experience.
- Ms Parker commented that the original problem was around new graduates getting certificates without any hands-on experience.
- Mr Tranter added they could become deputies or frontline managers when they hadn't been exposed to the hazards.

Actions

- d. Department and Ms Parker to meet with the CCAA about the discussion paper.
- e. Department to provide an updated discussion paper on proposed changes to certificates of competence (incorporating members and consultation comments) at the November meeting.

- Ms Parker added it is about ensuring people get exposure to relevant experiences. How do we instil reasonable expectations? It is not just about book learning but also about people skills.
- Mr Barrett added there are problems where some people are managers but have never been at the coal face. They have been in an office or on the surface.
- Mr P Smith questioned whether it comes back to the assessment criteria. They need to have some technical understanding, people skills and be able to operate in that space. Does the proposal create disincentive for people to take on roles?
- Ms Parker asked we require evidence of experience in applications instead of setting a required number of years' experience.
- Mr Linnane replied that these concerns can be addressed by greater clarity.
- Mr Tranter commented that the mentor component is missing.
- The Chair asked what is the next step, how do we progress? Do we need to clarify supervision and what experience looks like? We need more clarity in a future paper about what we are trying to achieve.
- Ms Parker commented that she would like a workshop for the quarrying sector and further discussions offline between the Department and the CCAA.
- Mr Linnane commented that through the examination process and results and our experience as regulator, supervision is a concern. It has been made a focus of the Resource Regulator's compliance blitz. Deficiency in supervision and implementation of control measures is a causal factor of incidents. The capability of people in supervisory roles is a concern. The Department does not have a fundamental problem with the proposed levels. It is the Department's view that a greater emphasis needs to be placed on practical experience and supervision.
- Members agreed to the following actions:

8	<p>RII training package</p> <ul style="list-style-type: none"> ■ Mr Palmer provided a verbal report per the paper. It was advised that Skills for Australia will be releasing the proposed coal mining qualifications for comment next month. It was agreed that Mr Palmer will send the link to members via the secretariat once released.
9	<p>Quarry manager statutory function three-tiered approach</p> <ul style="list-style-type: none"> ■ Ms Parker recommended that a meeting be arranged between Ms Parker, the CCAA and Department representatives regarding the quarry manager statutory function. ■ Mr Linnane confirmed that feedback was only received from the CCAA. The requirements for each tier are detailed in the paper. There may be some quarries that come in and out of tier 1 and tier 2. ■ Ms Parker commented that the transferability of people is an issue. ■ The board endorsed recommendation 1. ■ Recommendation 2 was not endorsed subject to the Department meeting with the CCAA.

- Department to come back to the board at the next meeting with an updated version addressing the feedback
- Department and Ms Parker to discuss a meeting with CCAA to discuss its concerns.
- Ms Whiting commented that she is happy with the actions talked about so far. There is a need to define terminology and the context and then send back out for input and feedback. No one disputed the five years' experience but there were concerns around the definitions and clarity of what is required.
- Mr Linnane added that no further industry comment would be sought until the Department and Board have considered the matter further.

Action

- f. Mr Palmer to advise board members via the secretariat once the coal mining qualifications are released for comment.

Outcomes

The Board:

- endorsed the implementation of a quarry manger statutory function three-tier scheme
- did not endorse the implementation for tier 1 and tier 2 sites to commence on 1 September 2020
- endorsed the implementation of

	<ul style="list-style-type: none"> ■ Recommendation 3 was endorsed. ■ Recommendation 4 was noted. 	<p>tier 3 sites commence as soon as practicable</p> <ul style="list-style-type: none"> ■ noted that the Resources Regulator will develop an implementation plan. <p><i>Action</i></p> <p>g. Department to meet with Ms Parker and the CCAA regarding feedback on the quarry manger statutory function three-tier scheme.</p>
10	<p>Competency landscape presentation</p> <ul style="list-style-type: none"> ■ Due to time restrictions, it was agreed to hold this agenda item until the November meeting. 	<p><i>Action</i></p> <p>h. Secretariat to add competency landscape presentation to the November agenda.</p>
11	<p>AMCAC update</p> <ul style="list-style-type: none"> ■ Mr Linnane provided an update on the last AMCAC meeting. It was advised that the next meeting is scheduled for Thursday 31 October 2019. NSW will be chairing and providing secretariat support for the next 12 months. Nominations are being sought for two board representatives to attend the meeting. It was requested that members advise the secretariat if they are available to attend. ■ The chair asked if AMCAC have a strategic plan and whether the MPCB can drive some of the work of AMCAC. ■ Mr Linnane advised that AMCAC has a program of works. 	<p><i>Action</i></p> <p>i. Secretariat to email members seeking nominations to attend the AMCAC meeting on 31 October 2019.</p> <p>j. Secretariat to put the AMCAC workplan on the November strategic plan agenda.</p>

	<ul style="list-style-type: none"> ■ It was requested that the secretariat put the AMCAC workplan on the November strategic plan agenda. 	
12	<p>MPCB strategic plan and charter</p> <ul style="list-style-type: none"> ■ Mr Linnane reported on the paper. ■ Members agreed to provide comments out of session on the strategic plan and charter in order to prepare for the November meeting. 	<p><i>Action</i></p> <p>k. Members to provide strategic issues for consideration and comments on the charter to the secretariat out of session.</p>
13	<p>Differences in competencies between levels of AQF qualifications</p> <ul style="list-style-type: none"> ■ Mr Palmer provided a verbal report per the paper. ■ The Board noted the report. 	
14	<p>Geotechnical engineer statutory function</p> <ul style="list-style-type: none"> ■ Mr Linnane spoke to the paper and advised that a discussion paper will be released for public consultation. ■ Mr Barrett commented that the paper hasn't covered the major strata failures we have had over the last few years. The pros and cons table on page 9 doesn't adequately reflect some of the other risks. ■ Mr Linnane commented that the paper is trying to capture an overview of the issue and provide a balanced assessment. 	
15	<p>Blasting explosives user licence</p> <ul style="list-style-type: none"> ■ The board noted the paper. 	
16	<p>Additional business</p> <ul style="list-style-type: none"> ■ Mr Barrett commented that further to paper 13, the ventilation officer qualification is different to the written exam. 	
17	<p>Future meetings</p>	

- It was agreed that meeting dates for 2020 would be advised at the next meeting.

The meeting closed at 2:20pm.

Action items

NO.	RESPONSIBILITY	ACTION	DUE DATE
A	Secretariat	Secretariat to send the pecuniary interest form to Stephen Tranter for updating.	27/08/19
B	Secretariat	Secretariat to include recommendations for the November strategic planning meeting.	19/11/19
C	Tony Linnane	Department to develop a plan for implementing the recommendations in the review agreed to by the Board.	18/02/20
D	Tony Linnane / Leanne Parker	Department and Ms Parker to meet with the CCAA about the discussion paper.	30/09/19
E	Tony Linnane	Department to provide an updated discussion paper on proposed changes to certificates of competence (incorporating members and consultation comments) at the November meeting.	19/11/19
F	Andrew Palmer	Mr Palmer to advise board members via the secretariat once the coal mining qualifications are released for comment.	N/A
G	Tony Linnane	Department to meet with Ms Parker and the CCAA regarding feedback on the quarry manger statutory function three-tier scheme.	30/09/19
H	Secretariat	Secretariat to add competency landscape presentation to the November agenda.	19/11/19
I	Secretariat	Secretariat to email members seeking nominations to attend the AMCAC meeting on 31 October 2019.	27/08/19
j	Secretariat	Secretariat to put the AMCAC workplan on the November strategic plan agenda.	19/11/19
K	Members	Members to provide strategic issues for consideration and comments on the charter to the secretariat out of session.	27/09/19

Approval

NAME/POSITION	SIGNATURE/APPROVAL	DATE
Ruth Mackay, Chair MPCB	Approved at MPCB meeting	19 Nov 2019