

Meeting	Mine Safety Advisory Council		
Meeting No.	3 of 2015	Date	3 December 2015
Location	MLC Centre, Level 47, 19 Martin Place, Sydney	Time	10:00am – 1:30pm
Members	Mr Carl Scully (Chair), Mr Ian Cribb (NSWMC), Mr Tony McPaul (NSWMC), Mr Andy Honeysett (CFMEU), Mr Peter Jordan (CFMEU), Mr Glenn Seton (AWU), Mr Douglas Revette (Department), Ms Barbara McPhee (Independent), Dr Graeme Peel (Independent), Ms Monique Andrew (CCAA) – representing Mr Scott Tipping		
Secretariat	Mr John Flint (Department), Ms Anna Kneath (Department)		
Observers	Ms Jenny Nash (Department), Ms Lee Shearer (Department), Mr Greg Sullivan (NSWMC), Mr Gary Parker (Department), Mr Tony Linnane (Department), Ms Penny Lee (Department)		
Guests	Mr Nick McDermott, Advisor (Minister for Industry, Resources and Energy) Mr Patrick Hornby, Manager – Legal Services (Australian Transport Safety Bureau)		
Apologies	Mr Scott Tipping (CCAA)		

MINUTES

Item	Issue	Actions
1	INTRODUCTION	
1.1	<p>Welcome and Apologies</p> <ul style="list-style-type: none"> The Chair opened the meeting at 10.05am. The Chair welcomed Mr Nick McDermott, Advisor for the Minister for Industry, Resources and Energy, to the meeting. Mr McDermott advised that the Minister was unable to attend but requested he attend in the Ministers place. Mr McDermott passed on the Ministers thanks to MSAC members for all the work and assistance the Council provides to the Minister, mine safety is a priority for the Minister and he is particularly interested in the Medlock review and its implementation. The Chair noted the apology from Mr Tipping and that Ms Andrew was representing Mr Tipping. 	

Item	Issue	Actions
1.2	Declaration of Conflict of Interest <ul style="list-style-type: none"> • The Chair requested members declare any conflicts of interest. • No conflicts of interest declared. 	
1.3	Acceptance of Previous Minutes <ul style="list-style-type: none"> • It was noted that item 2.5, Bullying and Harassment, states: “... <i>definitions need to be formalised as bullying can happen only once where harassment is ongoing</i>”. It was raised that this is not correct as bullying is not one off but ongoing as per the SafeWork NSW definition. • Members agreed that the SafeWork NSW definition for bullying and harassment should be used. • Members accepted the minutes from the last meeting on 17 September 2015, as a true and accurate record. 	
1.4	Correspondence <ul style="list-style-type: none"> • The Chair advised that he has sent letters to the WA and QLD mine advisory committees per the action from last meeting. A reply has been received from QLD. Mr Scully is hoping to meet with Mr Harrison from QLD in the first quarter of 2016 and then with Mr Ridge from WA. • Mr Flint advised that he has spoken to Mr Ridge who advised that the Chair’s correspondence will be tabled at the next WA Mining Industry Advisory Committee meeting. 	
2	FOR DISCUSSION AND/OR DECISION	
2.1	Dual Investigation Model <ul style="list-style-type: none"> • The Chair introduced Mr Patrick Hornby from the Australian Transport Safety Bureau (ATSB). The Chair advised that the ATSB/CASA model is one example of a dual investigation process currently used in Australia. • Mr Hornby sought feedback from members around topics of interest for MSAC. Members raised: <ul style="list-style-type: none"> ○ identifying what controls have failed resulting in an incident; and ○ the subsequent timeliness of the release of information ○ safety alerts are general in nature and point in a certain direction but do not advise what specifically needs to be looked at ○ concerns over the potential for legal proceedings and companies invoking legal privilege ○ formal court proceedings delaying the release of information ○ unexpected incidents which are not taken into consideration as part of the risk management approach ○ meeting public expectations. • Mr Hornby noted the above and advised that timeliness is a struggle even with a dual investigation model. 	a. Secretariat to undertake further work on the four options proposed at the meeting and present them to MSAC at the next meeting in March: <ol style="list-style-type: none"> i. Internal investigation unit within the Department ii. Brand new entity iii. Expand OTSI to give it a mining division iv. Coal Services undertaking the independent investigations.

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	<ul style="list-style-type: none"> • Mr Hornby delivered a presentation to MSAC on the ATSB operations. • Key points from the presentation and discussions were: <ul style="list-style-type: none"> ○ the ATSB is multi-modal which includes aviation, rail and marine ○ a COAG Agreement is in place to recognise the structure nationally ○ the Office of Transport Safety Investigations (OTSI) is an independent statutory body which also investigates public transport safety incidents (rail, bus and ferry) in NSW ○ the ATSB delegates OTSI powers under their legislation to investigate and produce a report to the ATSB ○ the volume of flights and rail travel each year is significant (millions) – economies of scale is a consideration ○ CASA has previously tried to carry out both roles as regulator and independent ‘no blame’ investigator, however found considerable difficulties particularly around the collection of evidence and the responsibilities of the regulator ○ CASA existed for 10 years prior to the establishment of the ATSB ○ it is difficult to have a model where the ‘no blame’ and enforcement investigations are conducted by the regulator – it is difficult for the regulator to investigate itself ○ ideally the ‘no blame’ investigations should sit outside the regulator and any policy maker ○ ‘no blame’ investigations do not publish names but inference can be made from the reports ○ ATSB investigations look at a variety of influences and contributory factors which are not necessarily a direct link to the incident (such as individual actions, local conditions, risk controls, organisational influences and regulatory oversight) ○ ATSB preliminary reports are issued within one month with a final report completed and published between 3 and 12 months ○ ATSB staff are prohibited from disclosing information to others and cannot be compelled to attend court for a criminal or civil proceeding ○ final investigative reports are given to the Coroner when there is a fatality ○ the ATSB liaise with CASA throughout their investigation ○ confidential/anonymous reporting schemes for accidents are in place however they do present challenges for investigations ○ it is preferable to have an anonymous reporting system for hazards which can then go back to the regulator for investigators to follow up ○ there is not a large amount of prosecutions in the aviation industry; instead, CASA use suspension or cancellation of a licence as their primary enforcement tool (as per CASA’s 10 points on just culture) ○ CASA has a serious and imminent risk provision allowing them to suspend licences prior to an investigation being completed ○ an MOU is in place between the ATSB and CASA. 	<ul style="list-style-type: none"> b. Ms Shearer to consider that the Regulator makes an early determination into whether or not it will be pursuing prosecutions and clear guidelines in relation to its prosecution policy. c. Secretariat to follow up on ATSB one month factual examples from Mr Hornby and distribute to members.

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	<ul style="list-style-type: none"> • A number of 3 month and 12 month ATSB example reports were tabled at the meeting. Mr Hornby agreed to email one month factual examples to the Secretariat for distribution to members. • The Chair thanked Mr Hornby for his time and for his presentation to MSAC. <p><i>Mr Hornby left the meeting at 11:20am.</i></p> <ul style="list-style-type: none"> • Two documents emailed to members on 2 December were tabled at the meeting: <ol style="list-style-type: none"> 1. Analysis of the Aviation Dual Investigation Model 2. Comparison of Possible Dual Investigation Models • Ms Shearer advised that the Department requested advice on the proposed dual investigation models. Five models were presented to the Department as detailed in the Comparison document. Ms Shearer stated that if MSAC agreed that a dual investigation model was beneficial for the industry, that it should be a completely separate entity from the regulator. • Mr McPaul raised that the presentation from Mr Hornby was beneficial and he needs to give further consideration on the need for a dual investigation model. Mr McPaul stated that the aim of getting information out early on the cause of an incident still has to be the goal. • Mr Revette questioned whether a dual investigation model will achieve that aim. • Mr Cribb indicated his support for a dual investigation model. If the dual investigation process is not adopted then there are a number of principles which should be considered for the mining industry. The 12 month time frame for a final report is a good one. • Mr Jordan raised that a number of members had mentioned funding as a consideration but if a dual investigation model is seen as a valuable process for the industry we shouldn't be deterred by it. Mr Jordan also requested further time to reconsider the value of a dual investigation model. • Members all agreed that further consideration needs to be given to the dual investigation model proposal and the suitability for the mining industry. • The Chair proposed that the Secretariat undertake further work on the four options and present them to MSAC at the next meeting in March: <ol style="list-style-type: none"> i. Internal investigation unit within the Department ii. Brand new entity iii. Expand OTSI to give it a mining division iv. Coal Services undertaking the independent investigations. • Ms Shearer proposed that another option be considered – that the Regulator makes an early determination into whether or not it will be pursuing prosecutions. The regulator should also make clear guidelines in relation to its prosecution policy. • Members agreed that a timeframe of 12 months should be applied for finalising this project. 	

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	<ul style="list-style-type: none"> The Chair requested that Mr McDermott assure the Minister that MSAC is treating this issue seriously and considering it a high priority. Mr McDermott advised that it is one of the Minister's highest priorities as it has been approximately 2 years since the report was released. <p><i>Mr McDermott and Ms Lee left the meeting at 11:56am.</i></p>																			
2.2	<p>Electrical Design Program</p> <ul style="list-style-type: none"> Members noted that this is a worthwhile program to ensure that the development of standards meet Australia's requirements. Members endorsed the Department attending the IECEx meetings and the IEC Technical Standards Development and Maintenance meetings for a further 5 year period: <table border="0" data-bbox="331 638 1505 837"> <thead> <tr> <th><u>Date</u></th> <th><u>IECEX management meetings</u></th> <th><u>Maintenance teams for IEC Standards Meetings</u></th> </tr> </thead> <tbody> <tr> <td>2016</td> <td>South Africa</td> <td>TC31 UK & 80th General meeting Germany</td> </tr> <tr> <td>2017</td> <td>USA</td> <td>TC31 UK & 81st General meeting Russia</td> </tr> <tr> <td>2018</td> <td>France</td> <td>TC31 TBC & 82nd General meeting USA</td> </tr> <tr> <td>2019</td> <td>United Arab Emirates</td> <td>TC31 TBC & 83rd General meeting TBC</td> </tr> <tr> <td>2020</td> <td>Canada</td> <td>TC31 TBC & 84nd General meeting TBC</td> </tr> </tbody> </table> <ul style="list-style-type: none"> It was agreed that the Chair would write to the Department confirming MSACs endorsement. 	<u>Date</u>	<u>IECEX management meetings</u>	<u>Maintenance teams for IEC Standards Meetings</u>	2016	South Africa	TC31 UK & 80 th General meeting Germany	2017	USA	TC31 UK & 81 st General meeting Russia	2018	France	TC31 TBC & 82 nd General meeting USA	2019	United Arab Emirates	TC31 TBC & 83 rd General meeting TBC	2020	Canada	TC31 TBC & 84 nd General meeting TBC	<p>a. Chair to write to the Department endorsing attendance the IECEx and IEC Technical Standards Development and Maintenance meetings for a further 5 year period.</p>
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2.3	<p>Fatalities Review</p> <ul style="list-style-type: none"> The Department's <i>Mine Safety Regulatory Reform Incident Prevention Strategy December 2015</i> draft document was tabled at the meeting. Ms Shearer provided a verbal update on the Department's progress. It was advised that: <ul style="list-style-type: none"> the document is still in draft the document details the Departments plan on how it is going to operationalise findings of the Wilkinson Report there is an ambitious timeline with the Department aiming to have all work completed by mid-next year before moving into implementation phase the Department will be extending invitations for stakeholder participation in January 2016 the Department is seeking feedback from MSAC members any questions or feedback should be directed to Ms Shearer directly. Members agreed to provide feedback to Ms Shearer on the document by 4 January 2016. It was requested that Mr Flint email members a copy of the document, Ms Shearer's contact details and the deadline for feedback. 	<p>a. Secretariat to email members the Incident Prevention Strategy document, Ms Shearer's contact details and confirming the deadline for feedback.</p> <p>b. Secretariat to add the fatalities review as a standing agenda item.</p> <p>c. Members to provide feedback on the Incident Prevention Strategy document by 4 January 2016.</p>																		

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	<ul style="list-style-type: none"> The Chair requested that an update be provided to members as a standing agenda item. 	
2.4	<p>MSAC Strategic Planning</p> <ul style="list-style-type: none"> The Chair raised that a number of members were unable to attend the strategic planning session proposed for 10 February 2016. The Chair suggested that the strategic planning session be moved to March to enable all members to attend. Members agreed that: <ul style="list-style-type: none"> the next MSAC meeting be moved and held on the afternoon of Tuesday 8 March in Mudgee the strategic planning dinner be held after the MSAC meeting on Tuesday 8 March the date for the MSAC strategic planning session be changed to Wednesday 9 March 2016. Mr Cribb also extended an invitation for a visit to a mine site on the morning of Tuesday 8 March. Members also agreed to extend an invitation to: <ul style="list-style-type: none"> the Minister for the mine site tour and MSAC meeting on Tuesday 8 March Mr Bruce Grimshaw and Ms Lucy Flemming from Coal Services for the strategic planning session on Wednesday 9 March Members agreed to engage Mr Greg Masters to facilitate the session as members were happy with his service when he was previously engaged. It was requested that the Secretariat check with Mr Masters if he is available for Wednesday 9 March. The Chair advised that the Secretariat has put together a draft outline of current initiatives and emerging issues for consideration at the strategic planning session. The Chair requested that the Secretariat email the document to members for feedback. It was also requested that the Secretariat prepare pre reading and an analysis of the last strategic planning session for members prior to the strategic planning session on 9 March 2016. 	<p>Secretariat to:</p> <ol style="list-style-type: none"> Invite the Minister to the mine site tour and MSAC meeting on Tuesday 8 March in Mudgee Invite Mr Grimshaw and Ms Flemming from Coal Services to the strategic planning session on Wednesday 9 March Confirm with Mr Masters his availability 9 March and if available, engage Mr Masters as the external facilitator Email the current initiatives and emerging issues to members for feedback Prepare pre reading and documentation for the strategic planning session.
2.5	<p>Vehicle Interoperability Project Presentation</p> <ul style="list-style-type: none"> Mr Cribb introduced the presenters, Mr Tony Egan and Mr Tim Gray from Glencore who have been participating in the EMESRT group on collision avoidance and proximity detection. Mr Egan and Mr Gray delivered a presentation to MSAC titled <i>EMESRT – a ‘Safety by Design’ initiative operated by the global mining industry – Vehicle Interaction</i>. Key points from the presentation included: <ul style="list-style-type: none"> a problem industry faces is vehicle interaction design should go beyond the standards – standards are the minimum and there is a time lag associated the gap between the developers and industry knowledge needs to be bridged 	

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	<ul style="list-style-type: none"> ○ incident prevention needs to focus on all nine levels of prevention ○ need to look at 1 to 6 layers to lower the exposure ● Mr Cribb raised that there is a perception that you can buy technology to avoid collision but it is not the case – it cannot give you the protection that you expect. ● The Chair thanked Mr Egan and Mr Gray for their presentation. 	
3	BUSINESS FOR NOTING	
3.1	Fatigue Management <ul style="list-style-type: none"> ● Members noted that HMAC will be holding a full day workshop on 2 February at Maitland to discuss fatigue management in further detail. ● Members agreed that Dr Mabbott should be invited to attend the above workshop. 	a. Secretariat to invite Dr Mabbott to the HMAC workshop on 2 February 2016.
3.2	Bullying and Harassment <ul style="list-style-type: none"> ● Members noted the paper on bullying and harassment. 	
3.3	Contractor WHS <ul style="list-style-type: none"> ● Members noted the paper on contractor WHS. 	
3.4	MSAC Program Summary Matrix <ul style="list-style-type: none"> ● Members noted the updated program summary matrix. 	
3.5	2016 Meeting Dates Calendar <ul style="list-style-type: none"> ● It was noted that the dates for the first MSAC meeting and the strategic planning session need to be updated further to discussions at item 2.4. ● Dates for the remaining meetings were noted: <ul style="list-style-type: none"> ○ Tuesday 8 March 2016 ○ Wednesday 8 June 2016 ○ Thursday 8 September 2016 ○ Thursday 8 December 2016 	a. Secretariat to update the MSAC calendar with the new dates for the first MSAC meeting and the strategic planning session.
4	OTHER BUSINESS	
	<ul style="list-style-type: none"> ● There was no other business. 	
5	CLOSE	
	<ul style="list-style-type: none"> ● The Chair closed the meeting at 1:15pm. 	