



## Ministerial Advisory Panel on Safety Legislation Reform

### AGENDA

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Date:	Wednesday 22 January 2014	Time:	8:30am – 10:30am
Venue:	Fraser Suites Fraser Room 2, Level 1 10 Adelaide Terrace, East Perth		

Item No.	Item	Who
1.	Welcome and introductions	Chair
2.	Terms of reference	Chair
3.	Panel membership and proposed meeting dates	Chair
4.	Safety legislation reform strategy	Simon Ridge
5.	National reforms	Michael Tooma
6.	Safety Legislation Reform Progress Report	Simon Ridge
7.	Petroleum safety legislation	Simon Ridge
8.	Other business	Panel
9.	<i>Next Meeting: 26 March 2014 8:30 – 10:30am</i>	

#### Information Papers:

- Terms of Reference – **Attachment 1**
- Proposed meeting dates - **Attachment 2**
- Safety Legislation Reform progress report – **Attachment 3**
- Petroleum Discussion Paper – **Attachment 4**



## Terms of Reference

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### Ministerial Advisory Panel on Safety Legislation Reform

#### Members

Mr Ian Fletcher (Chair)	Mr Simon Ridge Executive Director Resources Safety Division  Department of Mines and Petroleum
Mr Richard Kern Regional Manager Asia Pacific - Newmont  Chamber of Minerals and Energy of WA	Mr Justin Fromm Senior Policy Officer  Association of Mining and Exploration Companies
Mr Kevin Wolfe Business Development Manager Monadelphous  Australian Pipeline Industry Association Ltd	Ms Miranda Jane Taylor Director Environment, Safety & Productivity  Australian Petroleum Production & Exploration Association Ltd
Mr Greg Stagbouer Director  Australian Drilling Industry Association	Mr Nick Zovko Regulatory Policy Manager  Plastics and Chemical Industries Association
Mr Chris Oughton Director  Kwinana Industries Council	Mr Stephen Price Branch Secretary WA  Australian Workers' Union
Mr Glenn McLaren OHS Advisor  Australian Manufacturing Workers' Union	Mr Gary Wood Secretary  CFMEU Mining and Energy Division WA District
Ms Karin Lee Manager Safety and Risk Services  Chamber of Commerce and Industry Western Australia	Mr Michael Tooma Partner – Head of Occupational Health Safety and Security  Norton Rose Fulbright Australia



facilities and petroleum safety into one act and regulations, and input into the dangerous goods safety legislation in line with the nationally harmonised model.

## Background

In 2006, the Council of Australian Governments (COAG) nominated reform of occupational health and safety (OHS) laws across Australia as a priority area for business regulation reform.

A hybrid model was used to develop national harmonised OHS laws:

- a) a model Work Health and Safety Bill for general industry developed under the auspices of Safe Work Australia; and
- b) harmonised OHS laws for mining being developed under the National Mine Safety Framework (NMSF) endorsed by the Ministerial Council for Petroleum and Resources (now the Standing Council on Energy and Resources).

The model laws were designed so that all workplaces in WA will be covered by the general WHS Act apart from those involved with mining and petroleum. This Act will be administered by WorkSafe.

The mining industry in WA will be covered by its own Act and regulations which replicates the general WHS Act and its regulations but includes mining specific provisions - the Work Health and Safety (Resources) legislation. It is proposed to move MHFs from the Dangerous Goods Safety Act into this Act.

The legislation will contain the best elements of the Model Mines Work Health and Safety Act and regulations developed under the National Harmonisation and the National Mine Safety Framework process. The Department will ensure over-prescription is removed, and the provisions don't have a negative impact on the resources industry in WA.

## Role

The Ministerial Advisory Panel will provide advice to the Minister for Mines and Petroleum and the Safety Legislation Reform Team on:

- reform of the mining, petroleum and dangerous goods legislation;
- communication and implementation of safety legislation reforms, to ensure a common understanding;
- consider proposals, provide comment and endorse information being sent to the Minister in relation to the safety legislation reform;
- provide input and guidance to the Safety Legislation Reform project as required.

## Scope

The Ministerial Advisory Panel will provide advice on reforms and issues related to its role, as identified in this document.

The Panel will not become involved in the day-to-day functioning, processes and structure of the Department of Mines and Petroleum, but may contribute advice where appropriate.



## Resources and Budget

The Department will commit the following staff to attend each Panel meeting and provide executive support:

Mr Lew Pritchard	General Manager, Business Development, Resources Safety Division, DMP
Ms Jennifer Shelton	Project Manager, Resources Safety Division, DMP

## Governance

The Advisory Panel will be independently chaired by Mr Ian Fletcher appointed by the Minister for Mines and Petroleum, and will report regularly to the Minister on the progress of implementing the safety legislation reforms.

## Reporting Structure and Process

The Ministerial Advisory Panel will be provided with a progress report from the Safety Legislation Reform Team as a standing agenda item.

## Term

The Panel will operate from November 2013 to December 2014, or until such time as the Minister determines that the Panel has completed its objectives.

## Frequency of Meetings

Meetings will be scheduled bi-monthly, or as deemed necessary by the Panel. It may be appropriate to review items out-of-session.

## Representatives & Proxies

Industry and union peak bodies will nominate appropriate representatives to the Panel, and select a suitable proxy in case the Panel member cannot attend.

Panel members must commit to attending all meetings. If unable to attend, they must ask their proxy to attend on their behalf. Panel members must share any information and correspondence from the Panel meetings with the peak body they represent.

Proxies must be approved by the peak body, and must pass on any correspondence to the Panel member.

Should a Panel member need to cease involvement in the Panel for any reason, they must notify the peak body that they represent, advising them to nominate a replacement.

A resignation of a Panel member must be done in writing by the representative body to the Executive Officer of the Panel.

Panel members may from time-to-time invite an observer, but this should be minimised and observers cannot participate in meeting discussions. The Department should be given two weeks' notice in writing, if a Panel member intends to bring an observer in order to prepare a suitable meeting venue.



## Information Management

### Recording of Proceedings

Meetings will be formally structured.

The Agenda and supporting information papers should be provided to Panel members no less than one week in advance of each Panel meeting.

Summarised Minutes and Actions will be produced. If no consensus is reached or there is dissent by the Ministerial Advisory Panel, this will be recorded in the minutes.

Minutes will be circulated, and members given seven days to respond with any changes or concerns, a non-response after seven days will be treated as confirmation. Any confidential matters may be removed at the Panel's discretion before the Minutes are published on the Department's website.

The meetings may be audio-recorded for the sole purpose of producing accurate written Minutes of the meeting. The recordings will be deleted once the Minutes are confirmed as the official record of the meeting. The recordings will not be distributed.

Draft papers and minutes are not to be distributed by members until final approval of the document.

## Obligations

### Minister

The Minister appoints the Chair to facilitate meetings, and report progress and feedback from the Panel.

### Chair

The Chair facilitates each meeting and ensures that the Department considers the advice and feedback from the Panel in developing the safety legislation reforms, and provides appropriate support to the work of the Panel.

### General Manager, Business Development Resources Safety Division

General Manager, Business Development will ensure that the Safety Legislation Reform team provides appropriate and timely executive support to the work of the Panel, and is responsible for project managing implementation and communication of the reforms.

### Industry and Union Organisations

Industry and union organisations are responsible for nominating suitable representatives and proxies to the panel, providing advice to the Minister and the Department via the Panel members, and communicating with their constituent members.

### Panel Members & Proxies

Panel members and their proxies are responsible for representing their respective industry or union groups in contributing advice to the Panel, and must relay information and correspondence back to those groups.



Government of **Western Australia**  
Department of **Mines and Petroleum**

## Ministerial Advisory Panel on Safety Legislation Reform

### Proposed meeting dates

Wednesday 22 January 2014	8:30 – 10:30am
Wednesday 26 March 2014	8:30 – 10:30am
Wednesday 21 May 2014	8:30 – 10:30am
Wednesday 23 July 2014	8:30 – 10:30am
Wednesday 24 September 2014	8:30 – 10:30am



Government of **Western Australia**  
Department of **Mines and Petroleum**

## **Ministerial Advisory Panel on Safety Legislation Reform**

### **Background to OHS (mining) National Harmonisation**

In 2006, the Council of Australian Governments (COAG) nominated reform of occupational health and safety (OHS) laws across Australia as a priority area for business regulation reform.

A hybrid model was used to develop national harmonised OHS laws:

- a) a model Work Health and Safety Bill for general industry developed under the auspices of Safe Work Australia; and
- b) harmonised OHS laws for mining being developed under the National Mine Safety Framework (NMSF) endorsed by the Ministerial Council for Petroleum and Resources (now the Standing Council on Energy and Resources).

The model laws were designed so that all workplaces in WA will be covered by the general WHS Act apart from those involved with mining and petroleum. This Act will be administered by WorkSafe.

The mining industry in WA will be covered by its own Act and regulations which replicates the general WHS Act and its regulations but includes mining specific provisions - the work health and safety (resources) legislation.

The WA work health and safety (resources) legislation will contain the best elements of the Model Mines Work Health and Safety Act and regulations developed under the national harmonisation and the National Mine Safety Framework process. It is proposed that WA will adopt approximately 95% of the national mining WHS laws.

### Link to the National Model Work Health and Safety Laws

Model Act:

<http://www.safeworkaustralia.gov.au/sites/swa/model-whs-laws/model-whs-act/pages/model-whs-act>

### **Progress to date**

Discussions are taking place between DMP and WorkSafe about the adoption of the nationally harmonised legislation. The drafting instructions for the WHS Resources Bill have been finalised - effectively combining the model mining and major hazard facilities. DMP is working with WorkSafe to present the final submission to government.

### **Impact on Dangerous Goods Legislation**

The implementation of work health and safety (resources) legislation will require consequential amendments to the *Dangerous Goods Safety Act 2004* to remove MHFs and bring the legislation in line with the national model.

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Government of **Western Australia**  
Department of **Mines and Petroleum**

## **Ministerial Advisory Panel on Safety Legislation Reform**

This will harmonise the dangerous goods legislation with the model WHS legislation and see the adoption of naming conventions of the Globally Harmonised System for naming hazardous chemicals.

### **Statutory Review of Dangerous Goods Legislation**

RSD is also undertaking a statutory five year review of the effectiveness and efficiency of the Dangerous Goods Safety legislation. An external consultant has been engaged to undertake the review. The expected timeframe for completion of this project is six months – approximate completion date June 2014.

Section 69 of the *Dangerous Goods Safety Act 2004* requires that as soon as practicable after the fifth anniversary of its commencement, the Minister must review and prepare a report on the operation and effectiveness of the Act; and as soon as practicable after completion of the report, the Minister must cause it to be laid before each house of Parliament.

#### **Scope of service for the review**

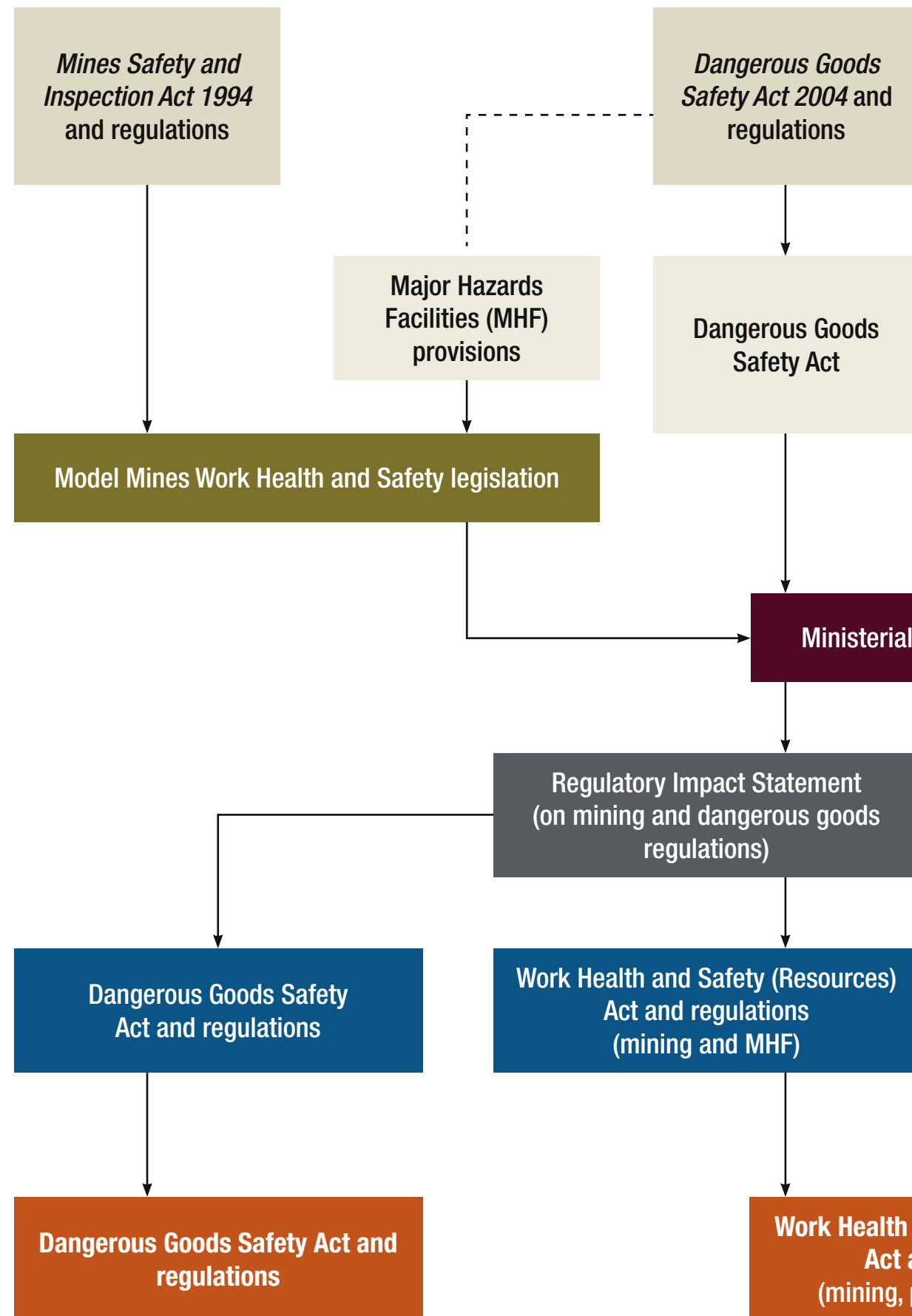
The review process should include the following:

- Preparation of a discussion paper to form the basis of seeking stakeholder feedback.
- Direct consultation with major peak stakeholder organisations (e.g. CCI WA, CME WA, PACIA, Kwinana Industries Council).
- Indirect consultation (i.e. by letter, DMP web page etc.) with other stakeholders organisations (contact details to be provided by DMP) and the general public.
- Collation and analysis of feedback.
- Preparation of a draft final report for DMP and Minister's office comment.
- Completion of a final report for the Minister to table in Parliament.

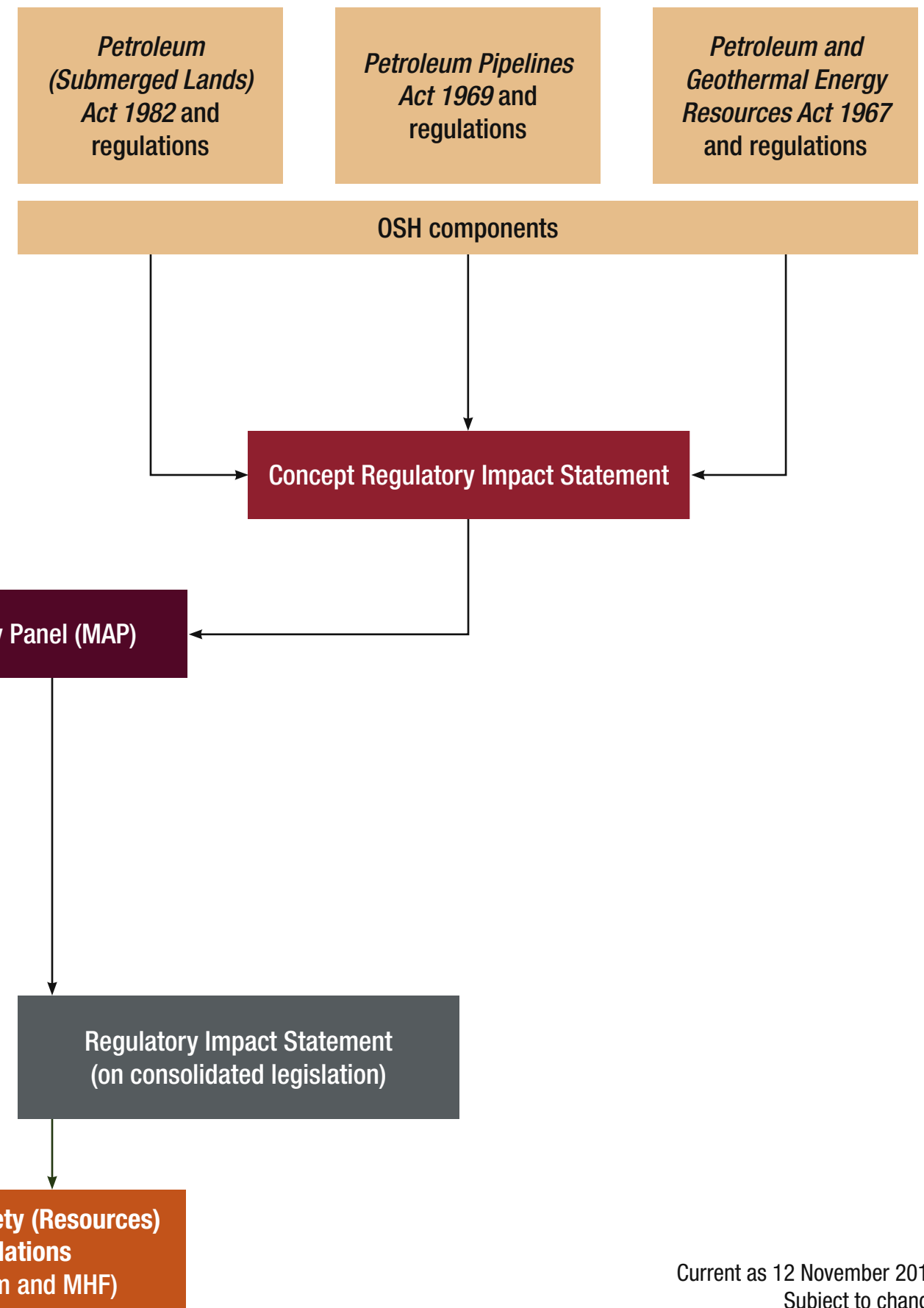
The outcomes of the review will be fed into the Safety Legislation Reform project and the recommendations of the consultant



## Stage 1



## Stage 2





Government of **Western Australia**  
Department of **Mines and Petroleum**  
Resources Safety

# **Discussion Paper**

## **Petroleum Safety Legislation**

**10 January 2014**

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Postal address: Mineral House, 100 Plain Street, East Perth WA 6004  
Telephone: (08) 9358 8002 Facsimile: (08) 9358 8000  
[ResourcesSafety@dmp.wa.gov.au](mailto:ResourcesSafety@dmp.wa.gov.au)  
[www.dmp.wa.gov.au](http://www.dmp.wa.gov.au)

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# Petroleum Safety Legislation

## 1. Purpose

To inform stakeholders that the Department of Mines and Petroleum (DMP) will undertake a review of the petroleum safety legislation with the intent to incorporate petroleum safety provisions into the work health and safety (resources) legislation. The Department will seek stakeholder comments on the review. This consultation will be undertaken in the form of a Regulatory Impact Statement (RIS).

## 2. Introduction and background

The DMP Resources Safety Division (RSD) is currently undertaking a review of the resources safety legislation in Western Australia relating to mining, petroleum and dangerous goods.

The review of the resources safety legislation was prompted by Western Australia's (WA) intended adoption of the nationally harmonised work health and safety (WHS) laws for mining as part of the Council of Australian Governments' National Reform Agenda aiming to reduce regulatory burdens and create a seamless national economy. See **Appendix 1** for background on the National Harmonisation of OHS.

This will see WA adopt approximately 95% of the national mining WHS laws. It will also see consequential amendments to the dangerous goods safety legislation to bring the legislation in line with the national model, and the transfer of the current regulatory requirements for major hazard facilities (MHFs) into the WHS resources legislation, in accordance with the national model.

RSD is also proposing to consider the incorporation of the safety provisions from the petroleum legislation into the new *Work Health and Safety (Resources) Bill* (WA) (WHS Resources Bill). This Bill will combine the national model mining and major hazard facilities provisions, as well as the petroleum safety provisions, into one act and one set of regulations.

Merging the petroleum safety provisions into the WHS Resources Bill will remove the OSH laws from the following petroleum legislation:

- *Petroleum and Geothermal Energy Resources Act 1967*
- *Petroleum Pipelines Act 1969*
- *Petroleum (Submerged Lands) Act 1982*

This approach will streamline and simplify the petroleum safety legislation and ensure alignment with the program of the national harmonisation of OHS laws, as well as the federal laws relating to petroleum safety regulation.

## 3. Role and function of DMP (the regulator)

RSD is the primary safety regulator for the mining, petroleum, geothermal and dangerous goods industries in Western Australia.

The Petroleum Safety Branch of RSD administers the safety and structural integrity provisions of the pipeline, petroleum and geothermal legislation that applies both onshore and in coastal waters. It provides specialised safety and risk management advice as part of its approval processes.

Functions include:

- Occupational safety and health regulatory services;
- Safety management system assessment, review and approval;
- Specialist advice, compliance auditing and investigations; and
- Promoting safety and health outcomes, including education and information.

## 4. Current Legislation

The safety and health provisions for the petroleum industry are contained in three separate acts and its regulations. See **Appendix 2** for a list of the petroleum legislation administered by RSD.

The original intent of the legislation was to manage the resource and not predominately related to the regulation of safety and health of the industry. The safety requirements were added over time and are considered by some to be an 'after thought' which would have been better in a separate piece of safety legislation.

The Commonwealth Adjacent Area petroleum safety legislation is administered by the Commonwealth through the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). See **Appendix 3** Relationship between Petroleum Safety Division and NOPSEMA.

## 5. Legislative Reforms to be introduced

There are mainly three separate (but similar) petroleum acts covering industry in WA. The acts are hybrid in nature and regulate not only the management of the resource but also the safety function. There is a certain amount of duplication and legal interference between the three acts which may result in confusion particularly in circumstances where prosecution proceedings may be instigated.

For these reasons, DMP considers it prudent that the management of the resource function and the safety regulatory functions is separated. Also, that the safety provisions are brought together in one piece of safety legislation.

Key factors to be considered:

- There has been a move towards nationally consistent legislation in OSH to improve worker safety and to reduce administrative burden for the resources industry; WA is an active participant in this process. An example where consistent safety outcomes are required is in the case of a worker travelling from a construction site, to a mine site, to a petroleum facility.
- Whilst the OHS of the petroleum industry manages an integrated system, there are usually several pieces of legislation and often multiple jurisdictions covering the one field development project. This is particularly the case with pipelines.
- In January 2012, DMP assumed the safety regulation in the State Territorial seas, a duty previously carried out by the National Offshore Petroleum Safety Authority (NOPSA). This has added to the complexity of the role of regulator in managing OSH in the petroleum industry. Particularly in relation to the inspectorate skillset, systems of work and the need to maintain consistency with NOPSEMA's approach as much as practicable, particularly for field development projects which stretch over both jurisdictions.
- Having a single piece of safety legislation - the WHS resources legislation (mining, petroleum and major hazard facilities) will help simplify and clarify resources sector safety legislation in Western Australia. It will provide opportunities to streamline educational and enforcement activities and enable far more efficient use of inspectorate resources.
- The current legislation is cumbersome for industry to use because of the mixture of provisions for managing the resource and safety.
- The original intent of the petroleum legislation was to manage the resource and not predominately related to the regulation of safety and health of the industry. The safety requirements have been added over time.
- In addition to the issues raised, the introduction of safety levies across RSD for mining, petroleum and dangerous goods has also highlighted the need for consistent safety regulation across the sectors to eliminate any misconception that one section may be being 'over serviced' and others 'under serviced'.

- The regulation of the 'safety case' regime is currently inconsistent across petroleum operations and non-petroleum declared MHFs, and those not declared MHFs.

## 6. Petroleum Safety Bill 1998

A project to create separate petroleum safety legislation was undertaken by DMP in the past. The *Petroleum Safety Bill 1998* (PSB) was passed by both houses of Parliament in 1999. It was intended that the PSB would apply consistent Safety Case and OHS requirements across facilities and operations under the *Petroleum Act 1967*, *Petroleum (Submerged Lands) Act 1982* and the *Petroleum Pipelines Act 1969*.

The PSB contained OHS provision that are consistent with the *Occupational Safety & Health Act 1984* (a condition of drafting of this Act) and therefore with the *Mining Safety Inspection Act 1994*.

Proclamation was held pending development of regulations which was delayed by a series of events such as the Laing review. The review, carried out in 2003, of the state mining and occupational safety acts strongly recommended that the regulations for the PSA be finalised as soon as possible. However due to a series of restructures, and the creation of NOPSA by the Commonwealth, the PSB was rescinded in 2005.

## 7. Stakeholder Liaison

During the consultation phase, DMP will identify the impacts of this legislative change on the petroleum industry by undertaking a RIS. This will involve:

- Liaising with industry and union stakeholders via the new Ministerial Advisory Panel on Safety Legislation Reform. The Panel will meet regularly to consider issues and provide advice to the Director General and the project team, and make recommendations to the Minister for Mines and Petroleum;
- Consulting with the Mining Industry Advisory Committee and other stakeholder groups;
- Consulting with other Divisions within DMP and other relevant government agencies; and
- Producing guidance material to assist industry.

DMP intends to engage a consultant to carry out the RIS.

## 8. Communications

A communications strategy will be developed for consulting with the petroleum industry. This will involve producing:

- Fact Sheets;
- Frequently Asked Questions sheets;
- Direct email to operators;
- Letter mail outs;
- Briefing sessions;
- Dedicated phone number and email inbox; and
- Face to face meetings.

## 9. Timeline

Early involvement with all petroleum industry stakeholders is crucial to the success of this proposal. A RIS on the concept will be conducted to obtain in principle support of key stakeholders to proceed with developing the proposal.

The timing for implementation of the work health and safety (resources) legislation is March 2015. This will be mining and major hazard facilities only. Once the legislation is operational, DMP will look at

incorporating the petroleum safety components depending on the outcomes and recommendations in the RIS.

Recommendations from the review will be forwarded to the Minister for Mines and Petroleum for his consideration.

MAP communications will be sent to the Minister who will decide on the direction to be taken, and the release of any material.

DRAFT

## APPENDIX 1

### *Background to OHS (mining) National Harmonisation*

A national Model Work Health and Safety Bill was developed to underpin the new harmonised work health and safety (WHS) framework in Australia, and mining specific regulations developed under the National Mine Safety Framework.

The model laws were designed so that all workplaces in WA would be covered by the general WHS Act apart from those involved with mining and petroleum. This act will be administered by WorkSafe.

The mining industry in WA would be covered by its own Act and regulations which replicates the general WHS Act and its regulations but includes mining specific provisions - the Work Health and Safety (Resources) legislation. It is proposed to move MHFs from the *Dangerous Goods Safety Act 2004* into this Act.

The legislation will contain the best elements of the Model Mines Work Health and Safety Act and regulations developed under the National Harmonisation and the National Mine Safety Framework process. The Department will ensure over-prescription is removed and the provisions don't have a negative impact on the resources industry in WA. The implementation of Work Health and Safety (Resources) legislation will also require consequential amendments to the *Dangerous Goods Safety Act 2004*.

### *Dangerous Goods Legislation*

RSD is also undertaking a statutory five year review of the effectiveness and efficiency of the *Dangerous Goods Safety Act 2004*. During this review RSD is also running a parallel process of harmonising the dangerous goods legislation with the model WHS legislation and adopting naming conventions of the Globally Harmonised System for naming hazardous chemicals.



## APPENDIX 2

*List of Petroleum legislation administered by the  
Resources Safety Division of the Department of Mines and Petroleum.*

<b>Petroleum Acts</b>
<i>Petroleum and Geothermal Energy Resources Act 1967</i>
<i>Petroleum Pipelines Act 1969</i>
<i>Petroleum (Submerged Lands) Act 1982</i>
<i>Petroleum and Geothermal Energy Safety Levies Act 2011</i>
<b>Regulations</b>
Petroleum and Geothermal Energy Resources (Occupational Safety and Health) Regulations 2010
Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010
Petroleum and Geothermal Energy Resources Regulation 1987
Petroleum Pipelines Regulations 1970
Petroleum Pipelines (Occupational Safety and Health) Regulations 2010
Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010
Petroleum (Submerged Lands) (Diving Safety) Regulations 2007
Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007
Petroleum (Submerged Lands) (Pipelines) Regulations 2007
Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007
Petroleum (Submerged Lands) (Management of Well Operations) Regulations 2006
Petroleum (Submerged Lands) Regulations 1990
Petroleum and Geothermal Energy Safety Levies Regulations 2011
<b>Schedules</b>
Schedule of Geothermal Exploration and Production Requirements 2009
Schedule of Onshore Petroleum Exploration and Production Requirements 1991
Schedule of Specific Requirements as to Petroleum Exploration and Production Western Australia Coastal Waters 2007
Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production (November 2005 Electronic Consolidation)

## APPENDIX 3

### *Petroleum Safety Branch - Relationship with NOPSEMA*

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is the Commonwealth statutory authority responsible for administering health and safety, well integrity and environmental management for offshore oil and gas operations in Commonwealth waters.

The responsibility to investigate and report on offshore environmental management practices and make recommendations had previously rested with WA as the Designated Authority, however the passing of the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011*; and amendments to the *Petroleum (Submerged Lands) Act 1982* transferred this duty to NOPSEMA from 1 January 2012, and WA assumed responsibility for administering safety in the State's coastal waters.

This service had previously been provided by the National Offshore Petroleum Safety Authority (NOPSA). NOPSEMA superseded NOPSA, which was established in Australia in 2005 with a remit to regulate the health and safety of workers on offshore facilities in Commonwealth waters, and in waters where State powers had been conferred. Following strong recommendations arising from the Final Government Response to the Report of the Montara Commission of Inquiry (2011) and the Productivity Commission Report (2009), the presiding Commonwealth Minister for Resources, Energy and Tourism at that time, Martin Ferguson, endorsed the establishment of NOPSEMA as the single, unified national regulator to enforce compliance with offshore safety, well integrity and environmental management across the industry.

NOPSEMA effectively replaced the role of the Designated Authority in relation to health and safety, structural integrity, environmental management, resource management, title management and day-to-day operations associated with petroleum activities in Commonwealth waters pertaining to all States and Territory.

NOPSEMA's role includes regulation of occupational health and safety, wells and well operations, together with regulation of the structural integrity of facilities and environmental management within Commonwealth waters. These additional functions have been reflected in the organisation's change of name from NOPSA to NOPSEMA.

## APPENDIX 4

### *Federal Government Policy*

A national Model Work Health and Safety Bill was developed under the *Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety* (IGA) to underpin the new harmonised work health and safety (WHS) framework in Australia.

In March 2008, the Council of Australian Governments (COAG) announced the Productivity Commission Review of regulatory burden on the upstream petroleum (oil and gas) sector.

The Productivity Commission was requested to consider Australia's framework for upstream petroleum regulation and consider opportunities for streamlining regulatory approvals, providing clear timeframes and removing duplication between jurisdictions. In April 2009, the Productivity Commission released its [\*final Review of Regulatory Burden on the Upstream Petroleum \(Oil & Gas\) Sector\*](#). One of the recommendations, in part, identified the need for States and Territories to maintain consistency with the Federal requirements for safety regulation of the offshore petroleum industry. This recommendation is as follows and was broadly accepted by all States / Territories.

**RECOMMENDATION 10.3:** *Separate policy and regulatory; objective-based legislation; statutory timeframes; increased transparency in reporting requirements and timeframes*

*Governments should review and update all existing legislation to ensure it is consistent with the features of best practice regulation and good regulatory design. In particular, updated legislation and its administration should:*

*Separate policy advice from regulation where practicable  
- where not practicable, for example due to scale particularly in smaller jurisdictions, reliance on appropriate checks and balances and transparency in policy and regulation making processes will be increasingly important.*

*Promote the use of objective-based legislation where feasible.*

*Ensure approval processes are best practice and clearly defined.*

*Set statutory timelines for individual regulatory decisions (any decision should include a 'stop the clock' mechanism). There should be two timelines: one excluding periods when the 'clock' is stopped and one including all time elapsed. There should also be disclosure of reasons for regulators requesting additional information, and measurement and public disclosure of their performance against these targets.*

*Measure and report overall timelines taking into account all stages of key regulatory processes (including scoping, advising, consultation and decisions).*

*Be consistent with the definitions, format and approach of the updated Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cwlth).*

*Provide clear guidelines where feasible on information requirements to assist proponents in efficiently providing the necessary information to allow timely regulatory decisions.*

*Ensure reporting requirements are clear, justified, and avoid duplication and overlap with other mandatory reporting requirements.*

### *State Government Policy*

The State Government is supportive of the rationalisation of OSH legislation in the resources sector.



File No: A1375/201301

## MEETING MINUTES

**Date:** Wednesday, 22 January 2014

**Time:** 8:30am to 10:30am

**Venue:** Fraser Suites, Fraser Room 2 – Level 1 – 10 Adelaide Terrace, East Perth

### Present

Mr Ian Fletcher	Independent Chairperson
Mr Simon Ridge	Executive Director, Resources Safety Division, Department of Mines and Petroleum (DMP)
Mr Greg Stagbouer	Director, Australian Drilling Industry Association (ADIA)
Mr Kevin Wolfe	Business Development Manager, Monadelphous (representing Australian Pipeline Industry Association- APIA)
Ms Jennifer Low	Policy Advisor, Chamber of Commerce and Industry WA (CCI WA) ( <i>Proxy for Karin Lee</i> )
Mr Andrew Taylor	Senior Policy Advisory, Australian Petroleum Production and Exploration Association (APPEA) ( <i>Proxy for Miranda Jane Taylor</i> )
Mr Richard Kern	Regional Manager Asia Pacific Newmont (representing Chamber of Minerals and Energy WA - CMEWA)
Mr Justin Fromm	Senior Policy Officer, Association of Mining and Exploration Companies (AMEC)
Mr Stephen Price	Secretary, Australian Workers Union
Mr Glenn McLaren	State Organiser, OHS Advisor, Australian Manufacturing Workers' Union (AMWU)
Mr Gary Wood	Secretary, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA District
Mr Chris Oughton	Director, Kwinana Industries Council (KIC) ( <i>Proxy</i> )
Mr Michael Tooma	Partner, Norton Rose Fulbright
Mr Lew Pritchard	General Manager Business Development, Department of Mines and Petroleum (DMP)
Ms Jennifer Shelton	Principal Policy Officer, Department of Mines and Petroleum (DMP)

### Apologies

Mr Nick Zovko	Regulatory Policy Manager, Plastics and Chemicals Industries Association (PACIA)
Ms Karin Lee	Manager Safety and Risk Services, Chamber of Commerce and Industry WA (CCI WA)
Ms Miranda Jane Taylor	Director – Environment, Safety & Productivity, Australian Petroleum Production and Exploration Association (APPEA)

### Agenda items and actions

Item	Topic	Action
1.	<b>Welcome and Introductions</b>	
	<ul style="list-style-type: none"><li>The Chair welcomed and thanked Panel members for attending.</li><li>The Chair gave a summary of his experience and explained that he was appointed by the Minister for Mines and Petroleum as the independent chair of the Panel.</li><li>Nominations for members and proxies should have been sent in writing to DMP prior to the meeting. If members or their respective organisations have not appointed a proxy, please do so within the week so DMP can finalise the</li></ul>	Panel members to confirm their proxies before 28 January 2014.



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	<ul style="list-style-type: none"> <li>appointments with the Minister.</li> <li>The members introduced themselves.</li> </ul>	
2.	<b>Terms of Reference</b>	
	<ul style="list-style-type: none"> <li>The Panel reviewed the terms of reference which was distributed with the agenda.</li> <li>The Chair explained that the Panel is to provide advice to the Minister for Mines and Petroleum Bill Marmion on the safety legislation reform process.</li> <li>The Panel requested that the process for 'out of session' tacit approval of the minutes be included in the terms of reference.</li> <li>The Chair stressed the need for Panel members to feed information back to their respective organisations.</li> </ul>	Include in terms of reference out of session tacit approval of minutes
3.	<b>Panel membership and proposed meeting dates</b>	
	<ul style="list-style-type: none"> <li>Panel members agreed with the proposed meeting dates for the year.</li> <li>The Panel will operate until December 2014, but that is at the discretion of the Minister. Meetings will be held bi-monthly but may change depending on the needs of the Panel.</li> </ul>	
4.	<b>Safety legislation reform strategy</b>	
	<ul style="list-style-type: none"> <li>Simon Ridge provided an overview of the safety legislation reform project.</li> <li>The mining industry in WA is to have its own Act and regulations which replicate the general work health and safety (WHS) Act and its regulations, and will include mining specific provisions. This will be the WHS (resources) legislation. Major hazard facilities will be included in the WHS (resources) legislation, and possibly, after consultation with industry, petroleum safety.</li> <li>When the WHS (resources) legislation is operational, DMP will take responsibility for occupational health and safety on major hazard facilities. This is currently administered by WorkSafe.</li> <li>The WA WHS (resources) legislation will contain the best elements of the Model Mines Work Health and Safety Act and regulations developed under the national harmonisation and the National Mine Safety Framework process. It is expected that WA will adopt approximately 95% of the model mining WHS Bill.</li> <li>Members sought information about how DMP will determine what is included in the WHS (resources) legislation for WA. Simon Ridge explained that DMP is looking at how provisions are working in other States. The plan is to remove some of the prescription in the WHS model regulations in favour of codes of practice. DMP intends to be consistent with the model legislation; the intention is not to recreate the legislation and deviate from harmonisation.</li> <li>DMP will come up with discussion points on the regulations for the Panel. The points and provisions will be discussed and hopefully consensus reached by the Panel.</li> <li>There will be regulatory impact statements (RIS) throughout this process. The first RIS will be on the concept of including the petroleum safety provisions in the WHS legislation; and then a RIS on the WHS (resources) regulations. A third RIS will be undertaken on the detail of the petroleum safety regulations.</li> </ul>	



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	<ul style="list-style-type: none"><li>Members asked for advice on what the government is not willing to consider changing in the legislation. Previously, the government had views on four specific areas - penalty levels, union right of entry, health and safety representatives' capacity to direct the cessation of work, and reverse onus of proof in discrimination matters. Simon Ridge advised that the decision on those issues was up to government but further information would be provided throughout the course of MAP. He indicated that further discussions are taking place on the penalties issue.</li></ul>	The Panel would like clarity what the WA government is not willing to compromise on in the WHS legislation.
5.	<b>National reforms</b>	
	<ul style="list-style-type: none"><li>Mr Tooma provided an overview of the WHS process, the key principals of the WHS laws and model mining, and his experience and observations.</li><li>Mr Tooma's PowerPoint 'Presentation on National Reforms' will be distributed to Panel members with the minutes.</li></ul>	Mr Tooma's presentation to be distributed to Panel members with the minutes.
6.	<b>Safety legislation reform progress report</b>	
	<ul style="list-style-type: none"><li>A safety legislation progress report was distributed with the agenda. This will be a standing agenda item.</li><li>The Panel members reviewed the diagram and the timeline for the project. The timeline is based on the assumptions listed at the bottom of the chart.</li><li>DMP and WorkSafe intend to put together a joint submission to have the general WHS and the WHS (resources) legislation put through parliament together.</li><li>The Chair explained that DMP is currently undertaking a statutory review of the dangerous goods legislation which should be completed by June 2014. The recommendations from that review will be fed into the safety legislation reform process.</li><li>The Panel members sought advice on how the WHS (resources) legislation will be structured. It is intended that the general regulations will be upfront, then chapters on mining, major hazards, and petroleum safety.</li><li>There will also be a restructure within the Resources Safety Division (RSD) DMP. As of 1 February, the major hazard facilities and petroleum safety branches will merge and report to the same director. There will be other changes to team structures. The Panel asked for a diagram of the restructure.</li><li>The levies will need to be reviewed in time. There is a belief that the various levies can be standardised and the Panel will have input into this process. DMP does not see a need to employ additional inspectors through this restructure. The cost of running the inspectorate should not change.</li><li>The Panel sought advice on how codes of practices will be developed and if DMP is capable of producing the codes. Simon Ridge advised that there are a lot of codes being developed at a federal level. DMP would not choose to recreate those unless there was something specific to WA. The existing codes in WA would still stand. We would not be starting from scratch.</li><li>Members would like to view the drafting instructions for the Bill. DMP advised that the drafting instructions will not be released at this stage but there will be an opportunity for members to review the provisions once government has</li></ul>	<p>Project team to provide a diagram of the restructure proposed within RSD.</p> <p>MAP members would like to be kept informed of the internal restructure.</p>



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	agreed to them.	
<b>7.</b>	<b>Petroleum discussion paper</b>	
	<ul style="list-style-type: none"> <li>Simon Ridge provided a summary of the petroleum discussion paper. DMP is looking at incorporating the petroleum safety provisions from the three sets of petroleum legislation into the WHS (resources) legislation.</li> <li>The petroleum safety provisions in WA legislation will still need to maintain consistency with the Commonwealth legislation.</li> <li>The petroleum discussion paper sets out the reasoning and the method for incorporating the petroleum safety provisions in the WHS (resources) legislation. DMP is seeking comments and feedback on this concept paper.</li> <li>The Panel members advised that they would need time to seek feedback from their respective organisations.</li> <li>Once the paper is finalised, DMP will look at consultation with the industry possibly through a RIS, to seek support and feedback for the concept.</li> </ul>	Panel members to provide feedback on the Petroleum Discussion Paper by 12 February 2014.
<b>8.</b>	<b>Other Business</b>	
	<ul style="list-style-type: none"> <li>Members raised concern with jurisdictional issues with rail safety. This issue will be communicated to Parliamentary Council's Office when the drafting commences.</li> <li>Safework Australia prepares tables detailing amendments to the WHS legislation. If there is a table of amendments for the mining WHS components the Panel would like a copy.</li> </ul>	If Safework Australia put out a table of amendments for the mining WHS legislation, the Panel would like a copy.
<b>9.</b>	<b>Next Meeting</b>	
	<ul style="list-style-type: none"> <li>Wednesday 26 March 2014 – 8:30am – 10:30am</li> </ul>	