



## Ministerial Advisory Panel on Safety Legislation Reform

### AGENDA

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Date:	Wednesday 28 May 2014	Time:	8:30am – 10:30am
Venue:	Fraser Suites Fraser Room 3, Level 1 10 Adelaide Terrace, East Perth		

Item No.	Item	Who
1.	Actions of previous meeting (Att.1)	Chair
2.	Review of Dangerous Goods - presentation	George McCullagh
3.	RSD Internal restructure update	Simon Ridge
4.	Update on legislation	Chair
5.	Working groups terms of reference: <ul style="list-style-type: none"><li>- Confined spaces (Att. 2.1)</li><li>- Guarding (Att. 2.2)</li><li>- Asbestos Att. 2.3)</li></ul> Meeting dates and times (Att. 3)	Chair
6.	Management and Supervision (Att. 4)	Simon Ridge
7.	Other business	Panel
8.	<i>Next Meeting: 23 July 2014 8:30 – 10:30am</i>	

#### Information Papers:

- Actions list – **Attachment 1**
- Working groups terms of reference – **Attachments 2.1, 2.2, 2.3**
- Working groups date and times – **Attachment 3**
- Submission from CME on Management & Supervision – **Attachment 4**



# TERMS OF REFERENCE

## Confined Spaces Work Group

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### Objective

- Develop an agreed set of provisions for confined spaces that will ensure safety capabilities of both industry and the regulator.

### Background

- The Government announced its intention to introduce the nationally harmonised occupational health and safety legislation in the Western Australia's resources sector.
- The Minister for Mines and Petroleum announced the formation of a Ministerial Advisory Panel for the implementation of the legislation.
- The Advisory Panel has responsibility for providing advice to the Minister for Mines and Petroleum on the nationally harmonised regulations.
- The Advisory Panel formed this working group to review the provisions in the nationally harmonised model.

### Membership

- The Work Group will be chaired by the Australian Pipeline Industry Association representative Kevin Wolfe, and will report to the Ministerial Advisory Panel on progress.
- The Work Group will have representatives from industry, unions and the regulator.

### Role

The Work Group will:

- Review the nationally harmonised work health and safety regulations for confined spaces;
- Identify areas of prescription that could be added and/or removed and put into codes or guidance material;
- Review legislation from other jurisdictions, and the Australian Standard on confined spaces;
- Propose provisions, and level of prescription that should be included in the regulations;



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## **Attachment 2.1**

- Report its finding to the Ministerial Advisory Panel for endorsement; and
- Complete its task within three months.



# TERMS OF REFERENCE

## Guarding Work Group

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### Objective

- Develop an agreed set of provisions for guarding that will ensure safety capabilities of both industry and the regulator.

### Background

- The Government announced its intention to introduce the nationally harmonised occupational health and safety legislation in the Western Australia's resources sector.
- The Minister for Mines and Petroleum announced the formation of a Ministerial Advisory Panel for the implementation of the legislation.
- The Advisory Panel has responsibility for providing advice to the Minister for Mines and Petroleum on the nationally harmonised regulations.
- The Advisory Panel formed this Working Group to review the provisions in the nationally harmonised model.

### Membership

- The Work Group will be chaired by the Chamber of Minerals and Energy representative Richard Kern, and will report to the Ministerial Advisory Panel on progress.
- The Work Group will have representatives from industry, unions and the regulator.

### Role

The Work Group will:

- Review the section of the nationally harmonised work health and safety regulations for guarding;
- Identify areas of prescription that could be added and/or removed and put into codes or guidance material;



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Department of **Mines and Petroleum**

- Review legislation from other jurisdictions, and the Australian Standard on guarding;
- Propose provisions, and level of prescription that should be included in the regulations;
- Report its finding to the Ministerial Advisory Panel for endorsement; and
- Complete its task within three months.



# TERMS OF REFERENCE

## Asbestos Work Group

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### Objective

- Develop an agreed set of provisions for Asbestos that will ensure safety capabilities of both industry and the regulator.

### Background

- The Government announced its intention to introduce the nationally harmonised occupational health and safety legislation in the Western Australia's resources sector.
- The Minister for Mines and Petroleum announced the formation of a Ministerial Advisory Panel for the implementation of the legislation.
- The Advisory Panel has responsibility for providing advice to the Minister for Mines and Petroleum on the nationally harmonised regulations.
- The Work Group will be chaired by the Australian Drilling Industry Association representative Greg Stagbouer, and will report to the Ministerial Advisory Panel on progress.
- The Work Group will have representatives from industry, unions and the regulator.

### Role

The Work Group will:

- Review the section of the nationally harmonised work health and safety regulations for Asbestos;
- Identify areas of prescription that could be removed and put into codes or guidance material;
- Review legislation from other jurisdictions, and the Australian Standard on Asbestos;
- Agree on the key provisions and level of prescription that should be included in the regulations; and
- Report its finding to the Ministerial Advisory Panel for endorsement.



## Attachment 3

### MINISTERIAL ADVISORY PANEL – Working Group Dates & Times

Guarding Working Group 1		
Date:	Time:	Location:
5 <sup>th</sup> June 2014 Thurs	2:00pm – 3:30pm	Department of Mines and Petroleum 100 Plain Street, East Perth DG Conf Room, 8 <sup>th</sup> Floor South
9 <sup>th</sup> July 2014 Wed	10:30am -12:00pm	

Confined Spaces Working Group 2		
Date:	Time:	Location:
20 <sup>th</sup> June 2014 Fri	10:00am – 11:30am	Department of Mines and Petroleum 100 Plain Street, East Perth 6 <sup>th</sup> Floor Conf Room, North
3 <sup>rd</sup> July 2014 Thurs	11:00am – 12:30pm	

Asbestos Working Group 3		
Date:	Time:	Location:
6 <sup>th</sup> June 2014 Fri	9:30am – 10:30am	Department of Mines and Petroleum 100 Plain Street, East Perth DG Conf Room, 8 <sup>th</sup> Floor South
26 <sup>th</sup> June 2014 Thurs	10:00am – 11:30am	

## Chamber of Minerals and Energy WA

### Management and Supervision

#### Purpose

To discuss industry concerns regarding current *Mines Safety and Inspection Act 1994* (MSIA) requirements relating to management and supervision.

#### Background

DMP's study of fatalities identifies management and supervision on mine sites as a key concern.

In January the Department of Mines and Petroleum (DMP) Resources Safety Division (RSD) wrote to Principal Employers, Registered Managers and Statutory appointed managers in the mining sector to highlight issues relating to onsite management coverage and absence from the mine.

In these letters RSD note in order to comply with the legislation:

- A Registered Manager, Quarry Manager or Underground Manager must be present at the mine on a daily basis except in accordance with a commute schedule, where alternate managers are on duty
- A deputy manager needs to be appointed and present at the mine for every position where a required Statutory Manager is incapacitated or is expected to be absent.

RSD interpret 'control and supervise on a daily basis' to mean a relevant Registered Manager, Quarry Manager and Underground Manager, alternate or deputy must be physically present for a period of time on a daily basis.

A number of CME members have expressed concern over the interpretation by the DMP Resources Safety Division of MISA requirements relating to supervision on a mine site. Industry is of the view the above interpretation does not allow adequate flexibility for contemporary operational practices in particular for residential sites.

Ambiguity in the existing provisions of the legislation is also of concern, as well as a lack of clear and consistent guidance on requirements from DMP.

In the short term, CME has invited RSD to attend member forums to clarify current requirements and supports the approach of the inspectorate to work with companies to ensure appropriate management coverage systems are in place.

In the longer term, CME considers the review being undertaken by the Safety Legislation Reform Ministerial Advisory Panel is also an opportunity to remove unnecessary prescription and address concerns with aspects of the MSIA.





File No: A1375/201301

## MEETING MINUTES

Date:	Wednesday, 28 May 2014	Time:	8:30am to 10:30am
Venue:	Fraser Suites, Fraser Room 3 – 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 Justin Fromm	Senior Policy Officer, Association of Mining and Exploration Companies (AMEC)
Mr Stephen Price	Secretary, Australian Workers Union
Mr Richard Kern	Regional Manager Asia Pacific Newmont (representing Chamber of Minerals and Energy WA - CMEWA)
Mr Gary Wood	Secretary, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA District
Mr Bob Gregorovich	CSBP, representing Kwinana Industries Council (KIC) ( <i>Proxy for Chris Oughton</i> )
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 Leigh Meyers	Leigh Meyers, representing Plastics and Chemicals Industries Association (PACIA) ( <i>proxy Nick Zovko</i> )
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)
Mr David Eyre	Project Manager, Department of Mines and Petroleum (DMP)

### Apologies

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)
Mr Michael Tooma	Partner, Norton Rose Fulbright
Mr Glenn McLaren	State Organiser, OHS Advisor, Australian Manufacturing Workers' Union (AMWU)
Mr Nick Zovko	Regulatory Policy Manager, Plastics and Chemicals Industries Association (PACIA)
Mr Mark Cooper	representing Australian Pipeline Industry Association (APIA) ( <i>proxy for Kevin Wolfe</i> )
Mr Kevin Wolfe	Business Development Manager, Monadelphous representing Australian Pipeline Industry Association (APIA)

### Agenda items

Item	Topic	Action
1.	Introduction	
	<ul style="list-style-type: none"><li>The Chair welcomed George McCullagh, consultant undertaking the review of the Dangerous Goods legislation, and thanked Panel members for attending.</li></ul>	



Item	Topic	Action
	<ul style="list-style-type: none"><li>• The proxies introduced themselves.</li><li>• The Chair, Ian Fletcher, declared a non-material interest as a non-executive director of CPC Engineering, the company had a fatality this week. Minister Marmion put out a press release; a copy is available for members.</li><li>• The minutes from the previous meeting of 26 March 2014 were approved out of session and uploaded to the DMP website.</li><li>• Actions from the previous meeting:<ul style="list-style-type: none"><li>○ The action items for Greg Stagbouer and Miranda Jane Taylor will be carried over to the next meeting.</li><li>○ The items in relation to providing the Act and proposed MHF regulations, will have to be carried over to the next meeting also as final government approval has not been received yet.</li></ul></li></ul>	
<b>2.</b>	<b>Review of Dangerous Goods - Presentation George McCullagh</b>	
	<ul style="list-style-type: none"><li>• George McCullagh has been appointed by the Minister for Mines and Petroleum to undertake the statutory review of the Dangerous Goods legislation and administration.</li><li>• George gave a powerpoint presentation which will be distributed to members with the minutes.</li><li>• The recommendations from the review are expected by 30<sup>th</sup> June 2014.</li><li>• Members noted some observations about the review process:<ul style="list-style-type: none"><li>- During the presentation, Mr McCullagh advised that it might be possible to have an advisory group like the Victorian MHFs Advisory group. It was highlighted by members that the consultation process on the dangerous goods review has not involved workers or unions. However, the MHF advisory body in Victoria does have a union representative on board.</li><li>- Members asked about other reviews of the dangerous goods legislation. Mr McCullagh advised that this is the first statutory review of the legislation but there have been many amendments to the regulations over the past few years.</li><li>- Members also queried why a review was taking place when there might be changes recommended by this safety reform process. Regardless of the outcomes of the reform or other reviews, there is still a legal requirement to review the dangerous goods legislation every five years.</li></ul></li></ul>	The dangerous goods presentation to be sent to members with the minutes.
<b>3.</b>	<b>RSD Internal Restructure Update</b>	
	<ul style="list-style-type: none"><li>• A review of the structure of the Resources Safety Division was undertaken towards the end of 2013. The recommendations from this review are being implemented.</li><li>• The dangerous goods and petroleum safety branches have merged and now come under one director. The director of petroleum safety has recently retired. As a result of the merger, the positions of the director and team leaders roles have been advertised on the open market. The recruitment process for these roles should be completed by the end of June.</li><li>• The two branches facilitate a safety case regime which was one of the reasons for the merger. This will help create greater consistency when dealing with industry.</li></ul>	



Item	Topic	Action
4.	<b>Update on legislation</b>	
	<ul style="list-style-type: none"><li>The Chair advised that the Chamber of Minerals and Energy wrote a letter to the Honorable Michael Mischin, who is the Minister for WorkSafe. The CME requested that WA delay the adoption of the national harmonisation until the COAG review of the legislation which is expected in 2015. However, the MAP process is continuing. What we are doing is modernising WA legislation, and we can review any outcomes of the COAG review when available. The working groups are a positive step to completing the review of legislation and it's not preferable to put this work on hold until the outcome of the COAG review.</li><li>The Chair is confident that the safety legislation reform process will proceed as planned.</li><li>Members advised that they don't want to do a 'patch work' job on the Mines Safety and Inspection Act (MSIA) by trying to make it less prescriptive in some areas and trying to modernise it in other areas. This would move WA into an area where the legislation isn't consistent and there will be confusion which could lead to mistakes by industry.</li><li>Members expressed concern about mixed messages. There have been a number of reviews and reports over the past five years which has caused delays in progressing or updating mining legislation in WA. The work and the outputs from the National Mines Safety Framework (NMSF) have been delayed because of national harmonisation. Regardless of upcoming or proposed reviews, members would like to progress to the new modern risk based approach without delay.</li><li>Members also expressed concern about delays in this MAP safety legislation review process, and queried how the Panel can ensure the recommendations from the NMSF are implemented if this MAP process does not proceed. The Chair advised that he doesn't foresee that happening, the support from MAP members will ensure work continues on developing the best safety outcomes for the WA resources industry.</li><li>Richard Kern CME representative advised that CME acknowledges that the current legislation is outdated and new risk based legislation is required.</li></ul>	Ian Fletcher will meet with the CEO of the CME and possibly the CME safety committee to discuss their view on the legislation.
5.	<b>Working groups terms of reference</b>	
	<ul style="list-style-type: none"><li>The working group (Guarding, Confined Spaces, Asbestos) terms of reference, membership and dates were distributed with the agenda.</li><li>The timeframe for the working groups is three months.</li><li>The role of the groups is to look at the current legislation and codes, identify any areas of concern, and then come back to MAP with some recommendations. We are not asking the groups to write legislation.</li><li>The purpose is for the groups to work quickly on their topic, and then move on to other areas of concern which could be the management and supervision issue.</li></ul>	
6.	<b>Management and Supervision</b>	
	<ul style="list-style-type: none"><li>The CME provided a paper to MAP on its concern with the management and supervision provision in the MSIA, this was in response to a letter DMP sent to</li></ul>	A working group on management and



Item	Topic	Action
	<p>industry. The paper asks MAP to consider reviewing those provisions in the new legislation.</p> <ul style="list-style-type: none"><li>• The members agreed to form a working group on this issue. The working group will be established after the three current groups complete their tasks.</li><li>• Members agreed that MAP shouldn't recommend amendments to the current MSIA as it is out of the scope of the Panel.</li><li>• Simon Ridge advised that since the letter was sent to industry, he has given presentations about the current provisions in the MSIA to clarify the management and supervisions requirements.</li></ul>	<p>supervision will be formed after the current groups complete their tasks.</p>
<b>7.</b>	<b>Other Business</b>	
	<p><b>Professor Sparrow Lectures</b></p> <ul style="list-style-type: none"><li>• MAP members attended a presentation and executive briefing on 19 May 2014 by the guest speaker Professor Malcolm Sparrow, from the John F. Kennedy School of Government at Harvard University, who discussed risk-based regulation.</li><li>• Members discussed Professor Sparrow's regulatory model and where they think the Department sits within that model.</li><li>• Members agreed that a 'one size fits all' approach to the mining industry in WA would not work. The way operators behave depends on the level of maturity and size of their operation. Some of the bigger operators are at level 3 or 4 on the model where they are operating in a risk management environment, and others are smaller companies that prefer and are still operating at level 1.</li><li>• The regulatory model highlighted for members the need to ensure the new legislation meets the need of all operators. This can be achieved by having modern risk-based legislation whilst also ensuring there is sufficient guidance material, templates and codes for the smaller operators.</li></ul>	
<b>8.</b>	<b>Next Meeting</b>	
	<ul style="list-style-type: none"><li>• The next meeting is <b>Wednesday 23 July 2014, 8:30am – 10:30am.</b></li></ul>	



File No: A1375/201301

## ACTIONS LIST – 28 May 2014

### Ministerial Advisory Panel

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#### Active Actions

ACTION ITEM		DUE DATE	STATUS
1.	<b>Meeting 22 January 2014</b>		
	MAP members would like to be kept informed of the internal restructure.	ongoing	<b>Ongoing:</b> DMP to provide updates on the progress of the RSD restructure as information becomes available. Standing agenda item.
2.	<b>Meeting 26 March 2014</b>		
	Department to provide details (the 5% changes) of changes between the national model and the WHS Resources Bill.	28 May 2014	
	DMP to meet with APPEA to discuss the petroleum legislation.	30 April 2014	Meeting scheduled for 9 <sup>th</sup> June.
	Miranda Jane Taylor to provide a copy of pilot training course on MHFs critical risks from Victoria.	28 May 2014	
	DMP to invite an officer from WorkSafe to join MAP when the discussions on the regulations commence.	28 May 2014	
	Greg Stagbouer to provide a copy of the Defence training model.	28 May 2014	
3.	<b>Meeting 28 May 2014</b>		
	Ian Fletcher to meet with the CEO of the CME and possibly the CME safety committee to discuss their view on the legislation.	23 July 2014	
	A working group on management and supervision will be formed after the current groups complete their tasks.	24 Sept 2014	

#### Completed Actions

ACTION ITEM		DUE DATE	STATUS
1.	<b>Meeting 22 January 2014</b>		



ACTION ITEM		DUE DATE	STATUS
	Panel members to confirm their proxies before 28 January 2014.	28 January 2014	<b>Completed</b> Proxies approved by the Minister
	Include in terms of reference out of session tacit approval of minutes	1 February 2014	<b>Completed</b> Terms of reference amended and approved by Minister
	The Panel would like clarity what the WA government is not willing to compromise on in the WHS legislation.	26 March 2014	<b>Completed</b> Confirmation of the issues the government is not willing to consider changing in the WHS 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. The Department understands that the level of penalties is subject to some discussion, but the position on the other items remains unchanged.
	Mr Tooma's presentation to be distributed to Panel members with the minutes.	28 January 2014	<b>Completed</b> Emailed to members on 28 January 2014
	Project team to provide a diagram of the restructure proposed within RSD.	26 March 2014	<b>Completed</b> Distributed with the agenda for meeting 26 March 2014
	If Safework Australia put out a table of amendments for the mining WHS legislation, the Panel would like a copy.	26 March 2014	<b>Completed</b> Safework Australia does not have a table for the mining amendments. DMP will continue to monitor.
	Panel members to provide feedback on the Petroleum Discussion Paper by 12 February 2014.	12 February 2014	<b>Completed</b> Comments received. Summary provided with MAP agenda papers for 26 March meeting.
<b>2.</b>	<b>Meeting 26 March 2014</b>		
	Project team to send an invitation and details of the Professor Sparrow presentations to members. Members to respond with their preference to attend one of or all of the sessions.	26 March 2014	<b>Completed</b> Email to members sent 26 March 2014
	MIAC minutes to be attached to the meeting papers.	2 April 2014	<b>Completed</b> Link to MIAC minutes sent 26 March 2014
	Project team to send the link to the model regulations and members to come back to DMP by the end of April with any concerns.	30 April 2014	<b>Completed:</b> Email containing links to the Safework Australia website sent to members 2 April 2014
	Project team to coordinate members for the working groups, and terms of reference for the groups.	30 April 2014	<b>Completed:</b> ToR drafted, nominations received, meetings scheduled.



ACTION ITEM		DUE DATE	STATUS
	Department to meet with Nick Zovko to discuss the GHS.	30 April 2014	<b>Completed</b>
<b>3.</b>	<b>Meeting 28 May 2014</b>		
	The dangerous goods presentation to be sent to members with the minutes.	4 June 2014	<b>Completed</b>