



Ministerial Advisory Panel on Safety Legislation Reform

AGENDA

Date:	Wednesday 27 May 2015	Time:	8:30am – 10:30am
Venue:	Fraser Room 4, Fraser Suites - Level 1 10 Adelaide Terrace, East Perth		

Item No.	Item	Who
1.	Welcome and apologies	Chair
2.	Actions from the previous meeting – Attachment 1	Chair
3.	Safety Legislation Reform Update – Attachment 2	Chair
4.	WHS (Resources) Bill feedback – Attachments 3A & 3B	Simon Ridge
5.	Advisory Committees – Attachment 4	Simon Ridge
6.	Other business	Chair
7.	<i>Next Meeting: 29 July 2015 8:30am – 10:30am</i>	

Information Papers:

1. Actions list
2. Safety Legislation Reform progress update
- 3A. WHS (Resources) Bill feedback from APGA
- 3B. DMP clarification on WHS (Resources) Bill to APGA
4. Advisory Committees



File No: A1375/201301

ACTIONS LIST – 27 May 2015

Ministerial Advisory Panel

Active Actions

ACTION ITEM	DUE DATE	STATUS
1. Meeting 26 March 2014		
DMP to invite an officer from WorkSafe to join MAP when the discussions on the regulations commence.	TBA	WorkSafe to be invited when discussions on regulations commence.

Completed Actions

ACTION ITEM	DUE DATE	STATUS
1. Meeting 25 March 2015		
NOPSEMA PowerPoint Presentation to be sent to members with the minutes.	27 March 2015	Completed
“Indicative Structure of Work Health and Safety (Resources) Act and Regulations”, handout to be sent to members with the minutes. Members to provide comments on the structure by 30 April.	27 March 2015	Completed
Send members a copy of the expected implementation timeline for the WHS R legislation.	27 March 2015	Completed
Members to provide comments on the proposed RIAC by 30 April 2015.	30 April 2015	Completed



Ministerial Advisory Panel on Safety Legislation Reform

Progress update: 25 March 2015

Regulatory Impact Statement – Work Health and Safety (Resources) Bill

DMP issued a tender for a consultant to independently manage the Regulatory Impact Statement (RIS) consultation process to identify the issues, costs and benefits of the proposed Work Health and Safety (Resources) Bill.

Marsden Jacob Associates were the successful respondent and initial planning meetings have been scheduled for late May 2015.

The Bill is high-level and mainly based upon the Model WHS legislation and WorkSafe's WHS Bill for general industry, both of which have undergone extensive public consultation. There will be some resources-specific provisions, but most of the detailed, sector-specific provisions for mining, petroleum and MHFs are in the regulations, which will be subject to another RIS process in 2016.

Therefore, the focus for this Consultation RIS will be to identify any issues associated with the key principles and structure of the WHS (Resources) Bill.

A draft of the WHS (Resources) Bill Consultation RIS will be provided to MAP for comment, before being made public. The RIS process will include a public consultation period from late June to mid-August 2015, as well as a stakeholder forum in Perth.

It is expected that the Decision RIS on the Bill should be finalised by 31 October 2015.

Work Health and Safety (Resources) Bill

Drafting instructions for the WHS (Resources) Bill are progressing well.

DMP's Petroleum Division has confirmed that it does not foresee any difficulties in amending the three petroleum Acts to remove the health and safety provisions.

DMP is liaising with NOPSEMA on the petroleum-specific provisions in the legislation.

The WHS (Resources) Bill is still on track to go into Parliament in late-2015, following the RIS consultation process.



Australian Pipelines
& Gas Association
T 02 6273 0577
F 02 6273 0588
W www.apga.org.au
A 1st Floor,
7 National Circuit
Barton ACT 2600
PO Box 5416,
Kingston ACT 2604

6 May 2015

Mr Ian Fletcher
Independent Chair
Safety Legislation Reform Ministerial Advisory Panel
Department of Mines and Petroleum
100 Plain Street
East Perth WA 6004

Dear Mr Fletcher

The Australian Pipelines and Gas Association (APGA) provides this submission in response to the decision of the Minister to endorse the recommendation from the Decision-RIS to unify safety legislation covering mining, petroleum and major hazard facilities into a single Act (proposed to be called the Work Health and Safety (Resources) Bill (“Act”)), with one regulator, DMP.

APGA notes that it is not proposed to adopt a one-size-fits-all approach to the Act in that there will still be sector specific requirements and risk management approaches – which APGA understands will be outlined in regulations and codes of practice relevant to pipeline specifics where identified. In this regard, APGA has been provided with the indicative structure of the proposed Act and regulations that were tabled at the meeting of the MAP held on 25 March 2015.

Accordingly, this submission focuses on three matters:

1. We provide APGA’s members’ views on the subject matter of the proposed generic provisions to be covered by the Act;
2. We outline the case for the development of regulations specific to the petroleum pipelines sector (currently regulated by the *Petroleum Pipelines Act (1969)*); and
3. We highlight other areas that APGA believes require further consideration before a decision should be made about how it is to be addressed under the proposed regime.

We note the relatively compressed timetable being proposed by the DMP to enact the Act and associated regulations. APGA submits that, given the significant changes being proposed, the importance of the subject matter and the limited resources of our member organisations:

- the MAP should continue to play a key role in the development of the proposed Act and regulations; and
- consideration should be given to extending the period for consultation before the Bill is submitted to parliament and any of the subordinate regulations are made.

Differences between operation of pipelines and mines

At the outset however, it is important to provide an outline of the key differences between the operations in the petroleum pipeline sector and the mining sector in order to give some context as to the APGA's submissions. The following table highlights the key areas of difference.

Topic	Petroleum Pipelines	Mining
Familiarity with risk based culture	<p>Safety Case Regime has been in effect for in excess of 10 years. Risk based approach to safety systems and industry as a whole is in effect.</p> <p>Risk based culture is well established</p> <p>Risk based culture is consistent across the industry and not just specific to the asset or operating company.</p> <p>Concept of ALARP is well understood</p>	Safety Case structure not established
Level of unionisation of workforce	Little or no union involvement	Heavily unionised
Operating skillset of workforce	Operating skill set is task specific and highly trained and required to demonstrate competencies specific to tasks being undertaken	Broader skill set of workforce
Interface with public	<p>Significant engagement with public in day to day operations</p> <p>Operating methodology / culture to engage with public</p>	While support of local communities may be evident there are no general public considerations
Geographical footprint	<p>Generally covers over 1,000kms</p> <p>Pipeline assets are linear, cannot be fenced off and access is controlled only by awareness but no physical controlled entry point can be established</p>	Mine site can be fenced or well-defined with controlled entry points controlling access on and off site.

Topic	Petroleum Pipelines	Mining
	Many assets make up a pipeline – spread over various sites	
Location of workforce	<p>Most sites are remotely operated with attendance on site on a temporary basis to undertake repairs and ongoing maintenance</p> <p>The licensee or delegate cannot be present at site 24/7</p>	<p>Permanently manned sites</p> <p>Registered Manager or delegate is at site 24/7</p>
Engagement of workforce	<p>Staff are heavily involved in the risk assessment process</p> <p>Well established committee structure – voluntary process that has representation across all parts of the workforce.</p>	Unclear
Environmental impact	<p>Significantly lesser impact and risk than mining</p> <ul style="list-style-type: none"> • Linear environmental footprint with smaller impact • Following construction there is minimal impact or change to the environment • Majority of pipeline facilities and assets are buried below ground • Rehabilitation occurs often (at the completion of a pipeline construction). 	<p>Environmental Impact generally significant with higher environmental risks</p> <ul style="list-style-type: none"> • Large environment foot print impacting the habitat for long durations • Landscape significantly scared/impacted • Continued impact and changes to the environment throughout operating life of a mine site • Excessive bi-products and over burden and management of these. • Rehabilitation only occurs at the end of the mining operation.

Proposed generic provisions to be covered by the Act

APGA notes that, in the draft structure document tabled at the meeting of the MAP held on 25 March 2015, a list of topics was outlined for inclusion in the generic Act (and that this list differs from the

list included in the RIS consultation paper released by the DMP in 2014). Given the operational differences outlined above, APGA submits that certain topics should not be included in the generic provisions.

Attachment 1 contains a marked up version of the proposed generic provisions identifying those topics that should be moved from the generic provisions of the Act to industry specific regulations (particularly those specific to the pipeline industry).

Further, APGA submits that there should also be reference in the proposed generic provisions to the establishment and ongoing operation of the Ministerial Advisory group.

In addition, the attached marked up version outlines APGA's position that:

- there should be a separate set of regulations specific to pipelines, including the topics that should be covered in these specific regulations (as outlined below);
- there should be a set of regulations dealing with risk management. These regulations would allow for a consistent framework for a risk management and risk based approach across all sectors but still allowing for the industry specific regulations to deal with risk management processes that are specific to a particular sector. This unified risk approach would enable the existing regimes of the petroleum and pipeline sectors to be retained whilst introducing a risk based approach to mining and MHF as appropriate. So, for example, concepts such as the requirement to engage with the public and achieving the standard of ALARP can be implemented in the pipeline specific set of regulations.

The case for industry specific regulations for the petroleum pipeline sector

APGA notes that in the draft structure document tabled at the meeting of the MAP held on 25 March 2015, it was not proposed to make regulations specific to the petroleum pipeline sector.

APGA submits that there are several reasons for ensuring that a set of regulations be established that is specific to the petroleum pipeline sector (and that this set of regulations be separate from other parts of the petroleum sector). They are as follows:

- (1) The pipeline sector has an enviable safety record that, in part, is due to a well understood and effective safety regime. Further, the industry has a sound working relationship with regulatory agencies.
- (2) Those involved in the operation of petroleum pipelines generally have little or no involvement in the other industries proposed to be covered by the proposed Act.
- (3) The concept of ALARP is well established within the pipeline industry as part of the overall risk management approach. APGA submits that this needs to be continued under the new regime.
- (4) Given the operational differences outlined above, APGA submits that the petroleum pipeline specific regulations should cover:
 - a. The safety case content and approval process,
 - b. Independent validation processes.
 - c. Asset integrity
 - d. Concepts of licensee's representative and person in control (as opposed to PCBU)
 - e. Health and safety duties for licensee's rep and person in control

- f. The requirement to have regard to public safety
- g. Incident notifications and management
- h. Consultation and representation and participation – HSE committee etc
- i. Record keeping
- j. Continual improvement.

To ensure that the content of industry specific regulations is appropriate, APGA recommends that working groups for each industry sector is set up and involve industry representatives. This could be done as a subcommittee or working group under the MAP structure.

Areas requiring further consideration

APGA submits that further consideration needs to be given to the following matters before a final position is reached:

- (1) Basis for establishing generic regulations – APGA understands that the matters to be addressed in the proposed generic regulations are likely to be based on similar regulations being considered by WorkSafe. Given the operational differences outlined above, APGA recommends that further work be undertaken to consider whether this is the most appropriate starting point.
- (2) Codes of Practice – APGA also understands that Codes of Practice are to form part of the regulatory framework and they are to be based on the codes that have been developed as part of the national OH&S harmonisation process and the DMP's existing codes set up for the mining industry. Again, given the operational differences outlined above, APGA recommends that further work be undertaken to consider whether these codes are the most appropriate starting point for the pipeline industry.
- (3) Regionally based inspectorate agencies – given the fact that the main transmission pipelines in WA traverse the length of the State, there could be a number of practical difficulties that arise in having several regionally based inspectorates responsible for pipelines. An example of this difficulty is due to the fact that the operating skill set of the pipeline workforce is task specific and highly trained – it may be difficult to resource each regional inspectorate with appropriate skills.
- (4) There needs to be clarity regarding which regulatory regime applies (and the standard to which it must adhere) to operations that are located on land which is currently regulated under both the *Mines Safety Inspection Act* and the *Petroleum Pipelines Act*.
- (5) Link between the safety regime and other aspects of the *Petroleum Pipelines Act* not specific to OH&S - APGA submits that it is important to understand how the new regime will link with aspects of the current Act that are not specific to HSE e.g. Titles and Licensing? This is particularly important given that approval of a safety case is required as part of the consent to construct and consent to operate under a pipeline licence. APGA would be extremely concerned were a separate agency within DMP to be established to regulate safety matters and that agency were to be separate from the agency responsible for approvals. APGA questions whether such a proposal is consistent with national and international best practice, particularly in the case of petroleum pipelines.
- (6) A mapping and comparison of each section of each Act (and the proposed Green Bill) should be undertaken. This would more clearly identify the benefits of consolidating the Acts and may make clear alternative options. APGA has already commenced this analysis and would be willing to work with the DMP's officers to build on the already commenced work.

Finally, it has been advised that *'removing the OHS provisions from the three petroleum acts will have an impact on the remaining petroleum legislation and that the Petroleum Division of DMP is looking at how they will manage this'*. APGA requests that the pipeline industry have input into this process.

APGA appreciates the opportunity to make this submission. Together with its members, we are committed to working with the MAP and the DMP to ensure that the outcome of the proposed Act achieves its objectives and in particular, does not impose added cost and risk for the petroleum pipeline sector for no added benefit.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Cheryl Cartwright', with a long horizontal flourish extending to the right.

Cheryl Cartwright
Chief Executive

Attachment 1 Proposed changes to the proposed structure

<p>Work health and Safety (Resources) Act: <i>Generic provisions</i></p>	<p>Work health and Safety (Resources) Regulations: <i>Sector-specific and generic provisions</i></p>
<ul style="list-style-type: none"> • Introduction • Objects of the Act • Interpretation (definitions) – some common, some sector specific • Application of the Act: scope of the Act and activities to which the Act applies • Health and safety duties (some common provisions, some sector-specific) – management of risks, risk control measure, duty of care, offences and penalties • Incident notification • Authorisations: authorisation or workplaces/plant/substance/work, prescribed qualifications or experience; commencement/suspension/closure. Recommencement of operations • Consultation, representation and participation:., issues resolution, right to cease unsafe work, provisional improvement notices • Discriminatory, coercive and misleading conduct • Functions and power of the regulator • Securing compliance – appointment and powers of inspectors • Enforcement measures – improvement notices, prohibition notices, non-disturbance notices, injunctions • Review of decisions • Legal proceedings – prosecutions, sentencing, infringement notices • General (Some common provisions, some sector-specific) – offence to give false or misleading information, immunity from liability, confidentiality of information, sharing of information with corresponding regulator, codes of practice, regulation-making powers, board of examiners (mining), boards of 	<p>GENERIC PROVISIONS</p> <p>1) Risk Management Regulations</p> <p>This chapter is to establish a common risk based framework for the industry specific chapters to base their HSE systems upon e.g. Safety Case for Petroleum Chapter.</p> <p>Purpose to provide a common framework to be established for ease of interpretation, review, approval, audit and ensure requirements of legislation are being met.</p> <p>The risk management framework will assist in identifying risks in a consistent manner assisting with reviews and approvals.</p> <p>Industry specific regulations will be in industry specific chapters</p> <p>2) MINING CHAPTER</p> <p>3) PETROLEUM CHAPTER</p> <p>Should cover Off-shore Petroleum & Gas (Production & Exploration) and On-shore Petroleum & Gas (Production & Exploration – incl. Gas Storage)</p>

<p>inquiry, statutory committees, review of the Act</p> <ul style="list-style-type: none"> • Schedules (some common provisions, some sector-specific) – regulation making powers, work health and safety tribunal, health and safety magistrates, transitional provisions, repeals, consequential amendments to other Acts • Ministerial advisory group 	
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<p>4) PETROLEUM PIPELINE CHAPTER</p> <p>Should cover both Off-shore and on shore Petroleum & Gas Pipelines</p> <p>Pipeline specific regulations required for:</p> <ul style="list-style-type: none"> - Concepts of licensee's rep and person in control (as opposed to PCBU) - Health and safety duties for licensee's rep and person in control - Public safety - Incident notifications - Consultation and representation and participation – HSE committee etc - Records - ALARP level of risk management 	
<p>5) MHF CHAPTER</p>	



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

Your ref: 150505 WA Safety Legislation Reform submission
Our ref: A1213/201301
Enquiries: Simon Ridge - Ph 9358 8143
Email: Simon.RIDGE@dmp.wa.gov.au

Cheryl Cartwright
Chief Executive
Australian Pipelines and Gas Association (APGA)
PO Box 5416
Kingston ACT 2604

Dear Ms Cartwright

WORK HEALTH AND SAFETY (RESOURCES) BILL

Thank you for your letter dated 6 May 2015 to Mr Ian Fletcher, Independent Chair of the Ministerial Advisory Panel on Safety Legislation Reform (MAP), regarding the proposed Work Health and Safety (Resources) Bill.

We have passed your letter to Mr Fletcher for his consideration. However, in the meantime, I would like to provide the following clarification regarding the proposed Bill.

Consultation

Consultation will occur throughout the development of the Bill and the regulations, via MAP and formal RIS public consultation processes.

The draft Consultation RIS on the Bill will be sent to MAP members. Public comment for this RIS is expected to occur from late June to mid-August 2015 and includes a stakeholder forum.

MAP may also hold industry workshops or establish working groups to deal with specific issues, presenting another opportunity for APGA to provide input.

The WHS (Resources) Bill is high-level and based on the national Model WHS Act and WorkSafe's WHS Bill for general industry, which have undergone extensive public consultation. The detailed and sector-specific requirements will be in the regulations, which will be subject to a separate RIS consultation process in 2016. I consider that the proposed consultation periods are sufficient.

Differences between operation of pipelines and mines

I agree that there are significant differences between pipeline operations and mining, other types of petroleum operations and major hazard facilities. There are also some similarities.

We will ensure that we cater for these differences, whilst taking the advantage of simplifying the State's safety legislation around the similarities.

Proposed generic provisions to be covered by the Act

The list of generic provisions tabled at the 25 March 2015 MAP meeting was for indicative purposes only. The drafting instructions for the legislation are still being developed, but the generic provisions in the Bill are based on the model WHS Act, and will include the following:

WHS (Resources) Bill provisions (high level)

- Introduction
- Object of the Act
- Interpretation (definitions) – some common, some sector-specific
- Application of the Act
- Health and safety duties – some common provisions, some sector-specific
- Incident notification
- Authorisations
- Consultation, representation and participation
- Discriminatory, coercive and misleading conduct
- Functions and powers of the regulator
- Securing compliance – appointments and powers of inspectors
- Enforcement measures
- Review of decisions
- Legal proceedings
- General - some common provisions, some sector-specific
- Regulation making powers

The case for industry-specific regulation for the petroleum pipeline sector

The proposed Work Health and Safety (Resources) Bill should result in improved consistency between the various industry sectors, as well as with the Commonwealth. It will still contain a few sector-specific provisions where necessary, but most of the sector-specific detailed provisions will be in the regulations.

The structure and content of the regulations is yet to be developed. Whilst there may be some pipeline-specific regulations, it is too early to say what these will be and where they will be placed in the regulations.

We can confirm that under the proposed Bill, the petroleum pipeline industry will continue to use a safety case approach and there is no intention to bring about "wholesale change" to a sector that has an exceptionally good safety record.

Use of the ALARP concept is still under consideration. The WHS legislation uses 'so far as is reasonably practicable' (SFAIRP), which HSE UK considers to be the same as ALARP. Safe Work Australia has produced a guide: [*How to Determine what is Reasonably Practicable to meet a Health and Safety Duty*](#). This is perhaps a matter that could be referred to MAP for consideration.

Your letter mentions that pipeline operators have little or no involvement with other industries. However, there are interfaces between pipelines and mining operations, petroleum facilities and major hazard facilities.

We will consider your suggestions for other pipeline-specific regulations at the appropriate time in the development process.

Areas requiring further consideration

1. *Basis for establishing generic regulations:* Some of the generic requirements are the same across all industry sectors, so there should be no issues with adopting these. There will be sector-specific regulations where necessary. It should also be noted that the generic regulations used by WorkSafe are based on the national model WHS regulations already used across Australia, including jurisdictions which regulate pipeline operations.
2. *Codes of Practice:* Similar to the development of the regulations, Codes of Practice may be developed around specific issues, which could be generic or sector-specific. There are no plans for specific Codes of Practice to apply to the pipelines industry.
3. *Regionally based inspectorate agencies:* There are no plans to change the inspectorate structure already in place for petroleum pipelines. The regional inspectorates focus on the regulation of mining operations, and this will not change.
4. *Licensed petroleum pipelines on mine sites:* In the proposed Bill, licenced pipelines will fall within the definition of 'petroleum operation' and safety will be the responsibility of the 'petroleum resources operator' (pipeline operators will fall within that scope). For the part of the pipeline that falls within a mine boundary, but is covered under the pipeline licence, an exclusion clause in the definition of the 'mining operation' will be added. This should clarify the respective safety responsibilities of mine operators and pipeline operators.
5. *Approvals:* Three specialised divisions within DMP handle separate aspects of the approval process, and have done so for a number of years: Resources Safety Division (safety approvals); Petroleum Division (titles and licensing approvals), and Environment Division (environmental approvals). From 30 June 2005 to 30 March 2009, Resources Safety was under the Department of Consumer and Employment Protection, and this did not cause any significant impact upon approvals processes. We plan to continue to define a pipeline operation based on a title under the *Petroleum Pipelines Act 1969*. We do not foresee any approval delays resulting from the implementation of the WHS (R) Bill.
6. *Comparison of Acts:* Alternative options for the consolidation of resources safety legislation have already been considered as part of the 2014 Regulatory Impact Statement consultation process. The Decision RIS recommended consolidation under one Act. The RIS on the proposed WHS (Resources) Bill will focus on the main changes and key principles of the new legislation. We are also happy to have input into your mapping and comparison exercise. You may wish to contact Mr Lew Pritchard in relation to this matter.

Impact of WHS (Resources) Bill upon the three Petroleum Acts: The main impact is amending the three petroleum Acts to remove the health and safety provisions. The Petroleum Division does not foresee any difficulties in this task.

We thank you for taking the time to prepare a comprehensive response on the structure of the proposed WHS (Resources) legislation and we trust that this letter provides the clarification you require.

We are happy to provide further information when the structure and content of the legislation is further developed and look forward to working with APGA to ensure a smooth transition for the pipeline industry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'SL Ridge', written in a cursive style.

Simon Ridge
EXECUTIVE DIRECTOR
RESOURCES SAFETY

14 May 2015



Meeting date	27 May 2015
Agenda item	5. STATUTORY ADVISORY COMMITTEES UNDER THE <i>WORK HEALTH AND SAFETY (RESOURCES) ACT</i> .

Agenda item type: ☐ For information ☐ For decision ☒ For consideration and comment

Purpose

To present to the Ministerial Advisory Panel for its consideration and comment, an overview of an alternative model for stakeholder consultation under the *Work Health and Safety (Resources) Act* (the WHSR Act). The model is based on two independent advisory bodies reporting to the Minister who will be administering the WHSR Act.

Background

At its 25 March 2015 meeting, MAP considered a proposal for an advisory body to be created under the WHSR Act, the 'Resources Industry Advisory Committee' (RIAC). It was proposed that RIAC would provide advice to the Minister administering the WHSR Act on work health and safety (WHS) issues for mining and exploration, petroleum and Major Hazards Facilities (MHF).

Feedback from MAP members to the Department on the RIAC proposal resulted in an alternate model being developed for MAP's consideration.

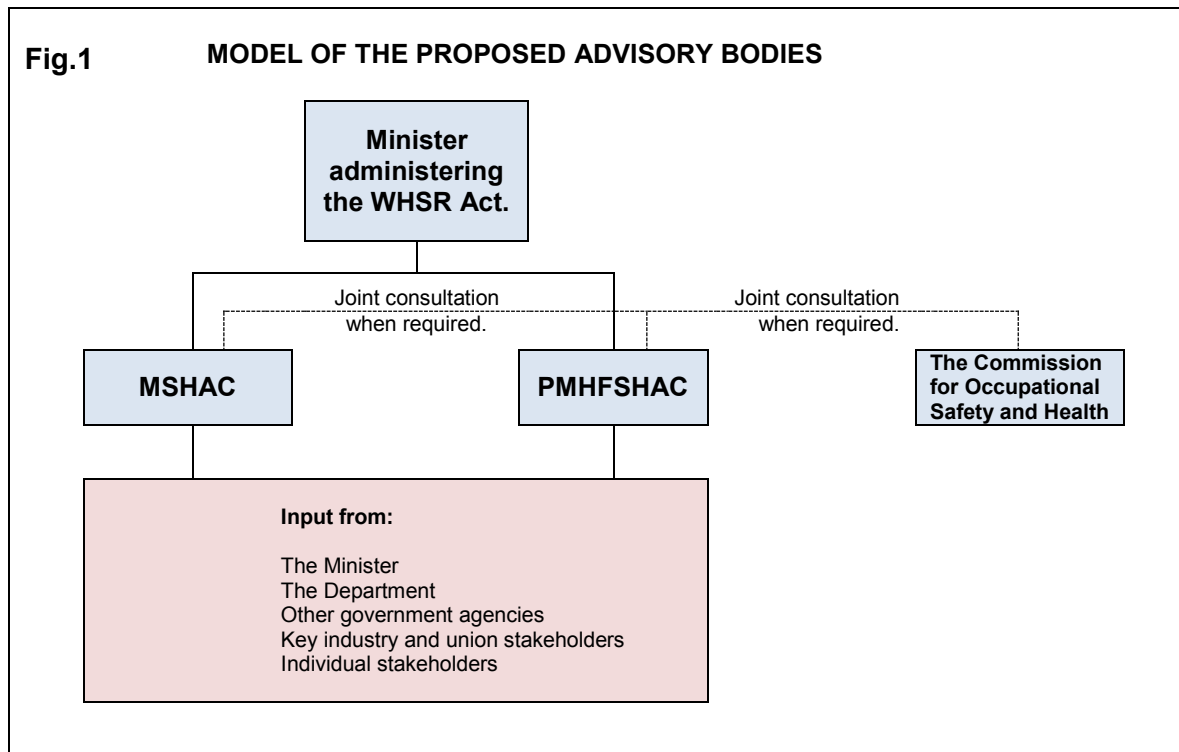
Two Committees Model

The alternative model is predicated on two bodies advising on OHS in their respective sectors:

- the *Mining Safety and Health Advisory Committee* (MSHAC); and
- the *Petroleum and Major Hazards Facilities Safety and Health Advisory Committee* (PMHFSHAC)

(NOTE: The names of the two bodies are indicative only for the purpose of this paper.)

Both bodies will have statutory status created under the WHSR Act, with their key function being to advise the Minister on OHS issues in their respective sectors. Figure 1 shows the arrangement of the two bodies. Note that while both bodies have links to the Commission for Occupational Safety and Health, which would be consulted on cross jurisdictional OHS issues, they are separate entities under different legislation. The MSHAC and the PMHFSHAC would also confer with each other whenever the need arises.



The membership of the two bodies will be tripartite, with equal representation from industry and union stakeholders, in keeping with established custom and practice in OHS.

Both bodies will have the same independent chairperson appointed by the Minister, to ensure consistency and cross-communication.

An existing example of a statutory body being described is the Mining Industry Advisory Committee (MIAC) created under the *Occupational Safety and Health Act 1984*. The difference is that MIAC does not have an independent Chair but rather an officer of the Department appointed by the Minister. In all other respects, the membership, functions and operation of the proposed MSHAC and the PMHFSHAC would mirror MIAC.

Terms of Reference (TOR)

Listed below is a set of generic TOR that would apply to both bodies:

1. Provide advice to the Minister administering the WHSR Act on OHS matters considered by the body.
2. Provide advice to the Department on guidance material addressing specific OHS issues.
3. Perform environmental scanning on emerging issues likely to impact OHS in the sector.
4. Provide a forum for stakeholders in which to raise OHS issues.
5. Work collaboratively with other OHS bodies to implement strategies to resolve sector specific OHS issues.
6. Liaise with, and seek input from, key stakeholders and individuals when deemed necessary.

Independence

It is proposed that both bodies will be independent, answerable only to the Minister administering the WHSR Act. Both bodies will be free to draft their own rules of operation covering meeting procedure, voting, record keeping and other administrative matters.

The Minister will nominate the independent Chairperson, who will chair both Committees.

Operation

It is envisaged both bodies will meet every two months with other meetings convened when deemed necessary. The actual frequency rate of meetings, however, will be determined by members.

The two bodies will have the option of forming *ad hoc* sub-committees/working parties should the need arise. The Department will provide secretarial support to the bodies and any sub committees.

Membership of the proposed bodies

The table below shows the proposed make-up of both bodies with the tenure of members likely to be three years as is the case for MIAC. Members would be eligible to be re-nominated for subsequent terms.

Each body will have four independent members providing technical expertise on matters tabled.

Key stakeholders will submit to the Minister for approval names of representatives to sit on the bodies.

	MSHAC		PMHFSHAC	
Chairperson	1x	Independent Chairperson appointed by the Minister (same Chairperson for PMHFSHAC).	1x	Independent Chairperson appointed by the Minister (same Chairperson for MSHAC).
Government	1x	Officer of the Department of Mines and Petroleum.	1x	Officer of the Department of Mines and Petroleum.
Industry	3x	One member nominated by the Association of Mining and Exploration Companies. Two members nominated by the Chamber of Minerals and Energy	5x	The following stakeholders nominate one member each: <ul style="list-style-type: none">• Australian Drilling Industry Association• Australian Petroleum Production and Exploration Association• Australian Pipelines and Gas Association• Chamber of Commerce and Industry• Plastics and Chemical Industries Association
Unions	3x	Nominated by UnionsWA.	5x	Nominated by UnionsWA.
Independent Members	4x	Appointed by the Minister.	4x	Appointed by the Minister.

Key points

- At the March 2015 meeting, MAP considered a model of a single statutory advisory body (RIAC) covering the three resources regulated under the WHSR Act. Feedback received from MAP members indicated that particular model was not widely supported.
- The Department is proposing an alternative model based on two separate advisory bodies which report to the Minister. One body will deal with OHS in the mining and

exploration sector, while the other will deal with OHS in the petroleum and MHF sectors.

- The key function of both bodies is to advise the Minister on OHS issues related to their respective sectors. Other functions include conducting environmental scanning, providing advice to industry stakeholders and endorsing guidance material developed by the Department.
- Both bodies will have the same independent chairperson appointed by the Minister to ensure consistency and cross-communication.
- Membership of each committee will be tripartite, with equal representation by industry and unions. Membership will also include representatives from Government and independent members with the latter providing expert advice on technical matters tabled at meetings.
- The committees will confer with each other and with the Commission for Occupational Safety and Health on cross-jurisdictional OHS issues.
- The bodies will be free to develop their rules of operation with secretariat support being provided by the Department.

Recommendations

It is recommended that members:

1. consult their constituents on the proposed model; and
2. provide comment to the department no later than 10 June 2015.

Decision

Recommendations	Yes	No	Comments
It is recommended that members: <ol style="list-style-type: none">1. consult their constituents on the proposed model;2. provide comment to the department by 10 June 2015.			



File No: A1375/201301

MEETING MINUTES:

Ministerial Advisory Panel on Safety Legislation Reform

Date:	Wednesday, 27 May 2015	Time:	8:30am to 9:30am
Venue:	Fraser Suites, Fraser Room 4 – Level 1 – 10 Adelaide Terrace, East Perth		

Present

Mr Ian Fletcher	Independent Chairperson
Mr Michael Tooma	Partner, Norton Rose Fulbright - Independent Expert (<i>teleconference</i>)
Mr Simon Bennison	Chief Executive Officer, Association of Mining and Exploration Companies (AMEC)
Ms Linda Morich	Union Organiser, Rail Tram and Bus Union (<i>proxy for Glenn McLaren</i>)
Mr Kevin Wolfe	Business Development Manager, Monadelphous (representing Australian Pipelines and Gas Association - APGA)
Ms Miranda Jane Taylor	Director – Environment, Safety & Productivity, Australian Petroleum Production and Exploration Association (APPEA)
Ms Karin Lee	Manager Safety and Risk Services, Chamber of Commerce and Industry WA (CCI WA)
Mr Steve McCann	OH&S Officer, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA District (<i>proxy for Gary Wood</i>)
Mr Richard Kern	Regional Manager Asia Pacific Newmont (representing Chamber of Minerals and Energy WA - CMEWA)
Mr Simon Ridge	Executive Director, Resources Safety Division, Department of Mines and Petroleum (DMP)
Mr Andrew Chaplyn	State Mining Engineer and Director Mines Safety, Resources Safety Division, DMP
Mr Ross Stidolph	Director Dangerous Goods and Petroleum Safety, DMP
Mr Lew Pritchard	General Manager Business Development, DMP
Ms Jennifer Shelton	Principal Policy Officer, DMP
Mr Bob Gregorovich	CSBP, representing Kwinana Industries Council (KIC) (<i>proxy for Chris Oughton</i>)

Apologies

Mr Rick Armstrong	Rio Tinto, Representing, Australian Drilling Industry Association (ADIA)
Mr Glenn McLaren	State Organiser, OHS Advisor, Australian Manufacturing Workers' Union (AMWU)
Mr Stephen Price	Secretary, Australian Workers Union (AWU)
Mr Gary Wood	Secretary, Construction Forestry Mining and Energy Union (CFMEU) Mining and Energy Division WA District
Mr David Eyre	A/Principal Policy Officer, DMP
Mr Chris Oughton	Director, Kwinana Industries Council (KIC)
Mr Nick Zovko	Regulatory Policy Manager, Plastics and Chemicals Industries Association (PACIA)

Agenda items

Item	Topic	Action
1.	Welcome and apologies	
	<ul style="list-style-type: none"> The Chair welcomed and introduced the proxies. Due to an ACTU Conference in Melbourne, unions have nominated proxies. Minutes from the previous meeting were confirmed out of session and uploaded to the DMP website. 	

Item	Topic	Action
2.	Actions from the previous meeting (Attachment 1)	
	<p>Active actions:</p> <p>DMP to invite an officer from WorkSafe to join MAP when the discussions on the regulations commence.</p> <p><i>WorkSafe to be invited when discussions on regulations commence. A senior DMP officer will join WorkSafe part-time in 2016, to work together on the legislation.</i></p>	
3.	Safety Legislation Reform Update (Attachment 2)	
	<p>Regulatory Impact Statement (RIS) on Work Health and Safety (Resources) Bill:</p> <p>The department issued a tender for a consultant to independently manage the next RIS process, on the Work Health and Safety (Resources) Bill. Marsden Jacob Associates was awarded the tender. DMP is working with them to prepare the Consultation RIS, which will be sent to MAP as soon as possible. The public comment period is late June to mid-August 2015 and includes a stakeholder forum.</p> <p>Work Health and Safety (Resources) Bill – progress update:</p> <p>DMP has started preparing the drafting instructions for the Bill, which will later need Cabinet approval before the Bill can be drafted. Petroleum Division foresees no difficulties in removing safety provisions from the three petroleum Acts. The legislative development work is on track with the timeline.</p> <p>The Bill is high-level and based on the model WHS Act and WorkSafe's WHS Bill for general industry, which have already undergone extensive consultation. Most of the detail moves to the regulations or guidance material, where appropriate. The legislation will be more adaptable as circumstances change.</p> <p>The model WHS Act covers safety for mining and MHFs and other States already cover onshore petroleum safety in their OSH legislation, so this concept is not new.</p> <p>Petroleum safety legislation is more complex than mining and MHFs. DMP has developed a relatively simple definition of petroleum facilities, covering onshore and offshore facilities. DMP is in discussions with NOPSEMA on the offshore definition.</p> <p>CME's senior executive have endorsed providing input into the single consolidated Bill for the resources sector (Option 1).</p> <p>Work Health and Safety Bill for general industry - WorkSafe ('Green Bill')</p> <p>Public comment for WorkSafe's WHS 'Green Bill' for general industry ended on 30 January 2015. Industry and union groups lodged submissions. Whilst acknowledging that the responses need to be analysed, there was some concern amongst members that there has been four months with no progress update.</p>	<p>Consultation RIS on WHS (Resources) Bill to be circulated to MAP as soon as possible</p>
4.	WHS (Resources) Bill feedback (Attachments 3A & 3B)	
	<p>At the previous meeting, members were asked to provide comments on the proposed structure of the WHS (Resources) Bill. APGA met with DMP and later sent a written submission (Attachment 3A), to which DMP responded (Attachment 3B).</p> <p>The various industry sectors have some differences, but there are similarities. Most of the detail is in the regulations, and stakeholders will be able to provide input as these are developed.</p>	

Item	Topic	Action
5.	Advisory Committees (Attachment 4)	
	<p>At the previous meeting, MAP was asked to comment on a proposed 'Resources Industry Advisory Committee' covering mining, petroleum and MHFs. Feedback on this model was that mining and petroleum/MHF representatives did not wish to discuss sector-specific issues and the committee would be too large.</p> <p>DMP considered the feedback and now proposes a two-Committee arrangement:</p> <ul style="list-style-type: none"> one committee to consider mining-related WHS matters and another committee to consider petroleum and MHF WHS matters. the same independent Chair will run both committees, to ensure consistency and cross-communication. equal representation between industry and unions, plus some independent experts. DMP will be a member of both Committees and provide the secretariat. COSH may have a role, on generic work health and safety issues. <p>Codes of Practice and guidance material would be developed by sub-committees established by the two advisory committees</p> <p>MIAC was established under the OSH Act, with DMP as the Chair. This will change, with MIAC under the WHS (Resources) Act and an Independent Chair.</p> <p>The name of the petroleum and MHF committee is to be decided.</p>	<p>MAP to provide comment to David Eyre by 10 June 2015 on the proposed two advisory committees</p>
6.	Other business	
	<p>Mine safety</p> <p>The Chair noted that there have been two mining fatalities recently and asked the Panel to comment.</p> <p>DMP advised that although the mining industry went for almost two years without a fatality (2011-2013), there was no reduction in serious incidents. DMP promotes hazard identification, risk assessment and the hierarchy of hazard control. Mining is a high-risk industry, but the industry is highly reliant on PPE and administrative controls, which are the least effective hazard controls. Engineering controls, substitution and elimination are more effective hazard controls. Until these are implemented, workers are exposed to risk.</p> <p>Unions are concerned that mining industry layoffs and cost-cutting may impact maintenance and safety. DMP has noted that safety reporting decreases when experienced mine workers are laid off, so the regulator does not receive the information it needs. NOPSEMA also noted that whenever commodity prices fall, there is a lag of 3 – 6 months before maintenance and safety are impacted. Whilst DMP has a role in monitoring compliance, industry and its employees must maintain their focus on safety.</p> <p>WHS (Resources) Regulations</p> <p>When work starts on the regulations, workshops or working groups may be needed, particularly where there are different industry sectors involved – e.g. licenced gas pipelines on mining operations, MHFs, interface of offshore wells to a facility.</p>	<p>DMP to provide list of potential workshops to MAP by 12 June 2015. MAP to consult their members and provide feedback by 30 June 2015.</p>
7.	Next meeting	
	The next meeting is Wednesday 29 July 2015, 8:30am – 10:30am.	



File No: A1375/201301

ACTIONS LIST – Post meeting 27 May 2015

Ministerial Advisory Panel

Active Actions

ACTION ITEM		DUE DATE	STATUS
1.	Meeting 26 March 2014		
	DMP to invite an officer from WorkSafe to join MAP when the discussions on the regulations commence.	TBA	WorkSafe to be invited when discussions on regulations commence.
2.	Meeting 27 May 2015		
	Consultation RIS on WHS (Resources) Bill to be circulated to MAP as soon as possible	June 2015	
	MAP to provide comment to David Eyre on the proposed two advisory committees	10 June 2015	
	DMP to provide list of potential workshops to MAP by 12 June 2015.	12 June 2015	
	MAP to consult their members and provide feedback by 30 June 2015.	30 June 2015	

Completed Actions

ACTION ITEM		DUE DATE	STATUS
1.	Meeting 25 March 2015		
	NOPSEMA PowerPoint Presentation to be sent to members with the minutes.	27 March 2015	Completed
	"Indicative Structure of Work Health and Safety (Resources) Act and Regulations", handout to be sent to members with the minutes. Members to provide comments on the structure by 30 April.	27 March 2015	Completed
	Send members a copy of the expected implementation timeline for the WHS R legislation.	27 March 2015	Completed
	Members to provide comments on the proposed RIAC by 30 April 2015.	30 April 2015	Completed