

Mining Industry Advisory Committee

COMMUNIQUE

A summary of the 11 August 2021 meeting

1. Automatic Mutual Recognition

MIAC members were provided an update on recent amendments to the *Mutual Recognition Amendment Act 2021* (Commonwealth) (MRAA21). A DMIRS Officer provided an overview of the Automatic Mutual Recognition (AMR) scheme, which commenced on 1 July 2021 with New South Wales, Victoria, the Australian Capital Territory and Northern Territory participating. In December 2020, the Western Australian (WA) Government committed to work towards implementing the scheme.

The AMR allows individual licensees to undertake activities in WA under their home state certificate of competency, if the activity is covered by an occupation for which a certificate of competency is required in WA. Key concepts of the AMR include licensees nominating their home State and the option for a licensee to choose a second State if their principal place of residence is different to their work. In the second State a licensee can only do activities they are authorised to do under their home State certificate of competency.

One main divergence from Mutual Recognition is that with the AMR there is no requirement for activities authorised to be carried out under the home State and host state licenses to be substantially the same. There is a requirement to be licensed to undertake the activities in both jurisdictions. Other differences include:

- A person must have a home State licence at all times to undertake activities in another state/territory;
- Information sharing obligations on host states are significantly greater especially regarding disciplinary actions;
- If a person's AMR is cancelled/suspended/ends through disciplinary proceedings in a host state their home state licence is affected the same way; and
- The home State can reinstate cancelled/suspended substantive licences.

Temporary exemptions have been sought for WA until 30 June 2022 for occupational licenses and certificates of competency that are part of the scheme, and for which DMIRS has responsibility.

MIAC members were asked for feedback about a proposal for Mines Safety Certificates of competency to be given a long-term exemption, due to the significant lack of equivalency between WA's qualifications and experience requirements and those that apply in Mines Safety legislation in New South Wales and Queensland. Long-term exemptions require proof of significant risk for workers and an assessment of the lack of equivalency would need to be conducted.

A union member supported seeking a five-year extension of the exemptions, especially for high-risk occupations, noting major concerns about training, in particular the differing standards and requirements between states. MIAC members discussed issues in relation to equivalency, the need to consider the possible impact on skills shortages in seeking an exemption, and the need to assess the risk to workers.

A mapping exercise to determine the different requirements for certificates of competency will be undertaken shortly. MIAC will be updated in relation to AMR.

2. Department of Health – COVID-19 and vaccine roll-out

MIAC members were provided an update on the COVID-19 and vaccine roll-out following meetings with Officers from the WA Department of Health COVID-19 Task Force.

At the previous MIAC meeting it was agreed to consider how the mining industry could support the Department of Health in its vaccine roll-out. It was noted that COVID-19 vaccine supply issues were impacting the roll-out.

Recent discussions during meetings with the COVID-19 Task Force focussed on measures that could be applied when vaccine supplies improve. These included:

- exploring a pilot program, with Tom Price mine site being identified as the location to provide facilities for vaccination;
- how industry communications could be aligned to support the Government messaging about the importance of getting a vaccination and how to get a vaccination in regional areas; and
- the Department of Health forming an industry liaison group to coordinate information across industry.

MIAC members discussed issues of vaccine supply, the challenge of getting vaccinations to regional and remote areas, and the importance of forward planning to ensure action can be taken when supplies are available.

3. Harassment and sexual assaults in industry

The Chair provided information about alleged sexual assault and harassment incidents in the mining sector and activities undertaken which are aimed at preventing such incidents.

The Chair advised of correspondence sent to all Registered Managers, Alternate Registered Managers, Deputy Registered Managers, Exploration Managers, and principal employer CEOs, which outlines expectations in relation to the reporting of and response to psychosocial hazard exposures. Attached to the correspondence was an overview of the requirements of Sections 76, 78 and 79 of the *Mines Safety and Inspection Act 1994* (MSI Act) which requires all incidents and injuries, including psychological and psychosocial hazard exposures, to be notified to the District Inspector. The WorkSafe Western Australian Commissioner, and officers from DMIRS recently met with the WA Police Force (WAPOL).

A safety bulletin will be issued to reinforce expectations. An industry member noted that an important inclusion in the safety bulletin was clarification of the reporting processes.

The Chair noted DMIRS has provided input to a whole-of-government submission to the Community Development and Justice Standing Committee Parliamentary inquiry into sexual harassment against women in the fly-in fly-out (FIFO) mining industry. Suitable recommendations are likely to come from the inquiry.

The Chair advised that reporting requirements in relation to criminal law, and how an investigation can be conducted without breaching the law will be discussed at the next meeting with WAPOL.

A Mines Safety Inspector emphasised DMIRS' goal of achieving implementation of risk-based solutions to assist in prevention and likelihood of occurrences, in addition to the legislative obligations set out in Sections 76, 78 and 79 of the MSI Act. The message to and from management needs to be that it is no more difficult to implement risk-based management of psychosocial hazards than it is to implement risk-based solutions for physical hazards. The Mines Safety Inspector noted the opportunities available in making physical changes to an environment which could assist in prevention of occurrences. At one camp learnings from an audit demonstrated that adequate orientation of the camp assisted in elevating a sense of security. A MIAC member suggested mentors could assist to empower people and provide a safe place to report or discuss incidents.

Issues raised and discussed included:

- anonymity of those reporting occurrences;
- the benefit of an incident scene being frozen;
- the time between an occurrence and the report of an occurrence;
- the diversity of moral, legal and social beliefs;
- the sense that a victim will not be believed; and
- the belief that nothing will happen if a report is made.

Industry members noted the importance of:

- building a safe work environment and developing the reporting process concurrently;
- building trust in the reporting process; and
- ensuring a reporting process was implemented sensitively.

4. Appointment of MIAC members

The Chair advised the Cabinet Submission for the re-appointment of current MIAC members was approved by Hon Bill Johnston, Minister for Mines and Petroleum, and Hon Stephen Dawson, Minister for Industrial Relations.

The Cabinet of Western Australia endorsed the appointment of all MIAC members effective for a two-year period, commencing 1 September 2021 and expiring 31 August 2023, or on the date the Work Health and Safety Act 2020 comes into effect, whichever is sooner.

The Chair congratulated MIAC members on their re-appointment.

5. Strategy for Codes of Practice

The Chair provided an update on the strategy to review codes of practice (Codes) for the new work health and safety (WHS) laws, advising the work on Codes is continuing. The aim is to ensure the Mine Safety Management System (MSMS) Code is completed first.

A Mines Safety Inspector explained the MSMS Code will be provided to MIAC for review, when completed. Guidance for industry on the day of proclamation of the WHS legislation is the key goal. The Western Australian legislation on MSMS is similar to that used in New South Wales, and has formed the basis of the Western Australian MSMS Code. The NSW Code has been in effect since 2015. Flexibility in development of an MSMS is important and a model that covers all hazards and risks, and allows for small, medium and large mining operations should be considered. DMIRS hopes mining operators will begin developing their own MSMS without delay. The Chair noted that most companies already have safety management systems that could be a starting point. However, a mining operation that lacks an MSMS in the interim will not necessarily mean it is unsafe.

Industry members discussed the need to have the final draft MSMS Code available for industry review as soon as possible to prevent the need for reworking plans. The opportunity to communicate the complexity of an MSMS is dependent on the operation's risk profile, and highlight the processes of how it is used by the business, not just how to develop the plan was also noted by MIAC members. Industry members suggested holding special meetings to review the draft MSMS Code.

An Industry member advised LAC had completed its review of mining related Codes and suggested MIAC now consider which other Codes may relate to mining. It is the Commission's responsibility to make the final decision about which Codes apply to mining.

A union member suggested making a recommendation to the Commission about codes which MIAC considers apply to mining. This was supported by Industry members. MIAC members AGREED to provide advice to the Executive Officer regarding which of the general codes apply to mining for inclusion in a working paper, with the recommendations from this paper to be provided to the Commission at its October meeting. The Executive Officer AGREED to prepare a working paper in which MIAC members could include advice and which will be updated following the Commission September meeting.

6. Work Health and Safety (WHS) legislation

MIAC members were advised drafting instructions for the three sets of WHS Regulations covering general, mining, and petroleum and geothermal energy operations workplaces have been approved by the Minister and sent to Parliamentary Counsel's Office (PCO).

The Chair advised of an '*Overview to Western Australia's Work Health and Safety Act 2020*' that is waiting for final approval. Once approved it will be circulated to MIAC members for their use and information. An Industry member acknowledged the opportunity of working with DMIRS to develop the overview and noted eagerness for its release. The document will also be used by training groups as a framework during training sessions.

Industry members highlighted the impact on small business and industry of the requirement to complete a Mine Safety Management System (MSMS) for all contractors. The need for a pragmatic approach was suggested. The legislation defines a contractor as anyone who provides a service to the mining operator and the impact on small business of this definition and the requirement to develop an MSMS had been raised with the Minister. A meeting with AMEC is planned where issues of the effect on small contractors will be discussed. An Industry member noted the need to find a solution and requested a meeting be held to discuss and develop strategies to ensure there was no adverse effect on industry.

7. Mines Safety Directorate: events of 2021

The Chair reported on events to be held in 2021, noting that finalists had been announced for the, 2021 Work Health and Safety Excellence Awards, with the award ceremony will take place on 22 October 2021 during Safe Work Month. MIAC members will receive an invitation to the event.

8. Mental Health

The Chair noted the earlier discussion relating to mental health and harassment and sexual assaults in the industry, and that Mentally Healthy Workplace Audits were continuing.

9. Significant incident reports

MIAC members were informed that no Significant Incident Reports or Mines Safety Bulletins have been issued since the June meeting.

10. Commission Report

The Commission report provided information from meetings of 7 July and 4 August 2021. The Commission minutes can be viewed on the DMIRS website.

11. Beyond 2020 Commitments

The Chair provided an update the Mines Safety Directorate's progress in achieving the Beyond 2020 commitments, noting the continued focus on four key focus areas of:

- Hazardous manual tasks;
- Repeat hazard exposure;
- Contractor management; and
- Mentally healthy workplaces.

12. Next meeting: 13 October 2021

For further information on the Mining Industry Advisory Committee, refer to the MIAC page on the DMIRS website:

<http://www.dmp.wa.gov.au/Safety/What-is-the-Mining-Industry-8578.aspx>.

Andrew Chaplyn – Chair