Commission for Occupational Safety and Health
MINUTES – 2 September 2020

Meeting No: 399
Venue: Koorling Dandjoo Conference Room, 1 Adelaide Terrace, Perth
Time: 8.30am
Secretariat: Department of Mines, Industry Regulation and Safety (DMIRS)

Attendees
Mr Darren Kavanagh Chair
WorkSafe Western Australian Commissioner (Commissioner)
Dr Lin Fritschi Expert member
Dr Matthew Davies Expert member
Dr Julia Norris Expert member
Ms Adrienne LaBombard Chamber of Minerals and Energy WA (CMEWA), proxy for Ms Elysha Millard
Ms Dana Errington UnionsWA, proxy for Mr Owen Whittle
Mr Glenn McLaren UnionsWA
Mr Andrew Chaplyn Director Mines Safety, DMIRS
Mr Paul Moss Chamber of Commerce and Industry WA (CCIWA)
Ms Andrea Roelofs Chamber of Commerce and Industry WA

Invited Guests
Mr Chris White Chief Executive Officer, WorkCover
Ms Sally North Director WorkSafe Service Industries and Specialists, DMIRS
(part of meeting)

Observer
Mr Ian Munns Deputy Director General Safety Regulation, DMIRS

Apologies
Ms Erin Gisborne UnionsWA
Mr Owen Whittle UnionsWA
Ms Elysha Millard CMEWA

Executive Support
Ms Anika Moore Executive Officer, DMIRS

Administrative Support
Ms Sari Mattila External Consultant
ADMINISTRATION

1.1 Opening and welcome
The Chair opened the meeting at 8.32am, welcoming attendees including Ms Dana Errington, proxy for Mr Owen Whittle (UnionsWA) and Ms Adrienne LaBombard, proxy for Ms Elysha Millard (CMEWA).
The Chair advised that Ms Sally North, Director WorkSafe Service Industries and Specialists (WSIS), DMIRS would join the meeting at item 3.1 to make a presentation to the Commission.

1.2 Apologies
Apologies were accepted from Mr Owen Whittle, Ms Elysha Millard and Ms Erin Gisborne. There was no proxy for Ms Gisborne as she was a late apology.

1.3 Confirmation of agenda
The agenda was confirmed as the business of the meeting.

1.4 Declarations of Conflicts of Interest
Conflicts of interest were declared by the Chair and a CCIWA representative, in relation to Agenda Item 4.1 – Re-accreditation of safety and health representative (SHRep) training courses.

1.5 Other Business admitted by the Chair
The Chair advised that he would provide a verbal update later in the meeting, in relation to the response to the Standing Committee on Public Administration Coming home safely: WorkSafe and the workplace culture in Western Australia Report.

PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes
The Chair requested an amendment to comments at agenda item 3.1 in the sixth paragraph. The amendment is to read:

The Chair noted the Commission has an interest in the Serious Crash Advice Forms used by WA Police, which the Commissioner is seeking to have amended.

A motion to accept the amended minutes of meeting 398 held on 5 August 2020, subject to the above amendment, was EN�ORSED.

2.2 Review action list from previous meeting
The Commissioner highlighted general action list item:

3.1 of 3 April 2019 – WorkSafe and the Commissioner to approach WAPOL (and any other relevant state agency) to determine if they can collect data indicating accidents that may be work-related and report back to the Commission.

The Commissioner advised that he had met with acting WA Police Commissioner Mr Gary Dreibergs. Their discussion included possible changes to the WA Police Serious Crash Advice 1-18 Form and training for inspectors. The Commissioner will provide a report to the Commission at the 4 November 2020 meeting.

The Executive Officer asked Commission members for the contact details of appropriate Department of Health staff, to progress general action list item:
3.8 of 5 August 2020 – Action 7 - The Chair to invite a representative from the data linkage management team at the Department of Health to present to the Commission about the benefits and limitations of work related to data linkage.

Dr Lin Fritschi informed attendees that she may be able to provide the contact details.

Dr Fritschi referred to a Legislative Advisory Committee (LAC) action list item:

5.4 of 7 August 2019 - Once it has been published, LAC to consider the National Guide for Working with Silica and Silica Containing Products along with the Western Australian Guidance Note: Safe Stone Product Fabrication and Installation. Ms Sally North to be advised when this occurs.

Dr Fritschi asked if LAC had considered the guidance note. A CCIWA representative advised it had not been on the LAC priority list due to work on other priority codes. The Commissioner AGREED the guidance note should be an active item on the LAC action list.

The Chair noted that the LAC Action List was provided as a record for Commission members. Commission members had no further comments in relation to the general action list or the LAC action list.

**ACTION 1**

**Dr Lin Fritschi to provide contact details for someone in the data linkage management team at the Department of Health to the Executive Officer.**

**ACTION 2**

**Executive Officer to advise the LAC Executive Officer that the existing LAC action to consider the National Guide for Working with Silica and Silica Containing Products should be an active LAC action, rather than on hold.**

3 AGENDA ITEMS

3.1 Silica project update

The Chair introduced Ms Sally North, to provide the Commission with an update on the current number of silicosis cases in Western Australia and the ongoing silica inspection project.

Ms North provided information about a proactive inspection campaign which has been ongoing since July 2018, focusing on the control of respirable crystalline silica (RCS) in the engineered stone industry. Ms North advised that:

- to date 100 workplace inspections have been conducted, with 840 improvement notices issued, and 11 prohibition notices issued;
- 259 people have undergone RCS health surveillance that was notified to WorkSafe, with 11 found to have chronic silicosis and 33 requiring further assessment;
- the WorkSafe 2020-2021 Operational Plan includes a program for the Construction Branch of the WorkSafe Industrial and Regional Industry Safety Directorate of DMIRS to conduct approximately 20 proactive inspections of workplaces where engineered stone benchtops are being installed;
- the Occupational Health, Hygiene and Noise Team (OHHN) team of the WSIS Directorate has commenced RCS monitoring programs in stone fabrication, wall chasing, stone product installation and assay laboratories (sample preparation areas);
- WorkSafe is running a Recall Project for up to 100 high risk stone fabrication workers through its contract occupational physicians, with high risk workers who have not had a CT scan identified through the health surveillance information provided to WorkSafe and contacted with an offer to have a free low dose CT scan;
• to date, under the Recall Project, 75 workers have been offered low dose CT scans and 61 have completed the scans; and

• WorkSafe is working towards collaborating with Dr Fraser Brims through the Institute for Respiratory Health on the WA Silicosis Screening Program, to offer free health surveillance screening for up to 100 workers who are at high risk of silica exposure and have not had health surveillance yet.

Ms North explained that the key issues found during the silica inspection project include:

• access to Appointed Medical Practitioners (AMPs) in regional areas is limited;
• there is not a public register of AMPs;
• the rate of non-compliance is significant, particularly in workplaces that have not had a previous inspection;
• the cost of health surveillance may be a barrier; and
• for those with silicosis, there may be a recommendation from the doctor that they do not return to their occupation, creating an economic and social impact; this risk dissuades people from participating in health surveillance.

The Chair thanked Ms North for providing the Commission with an update.

Dr Julia Norris expressed support for the Recall Project and noted the possible issues caused by employers being responsible for appointing an AMP.

There was discussion regarding access to AMPs in regional areas and the varying levels of knowledge amongst general practitioners (GPs) regarding the legislative requirement for AMPs to contact WorkSafe. Ms North noted that if GPs do contact WorkSafe they are provided with information about their responsibilities and may then be well equipped to be an AMP. Members acknowledged that most of the issues relating to AMPs not following requirements was the result of insufficient understanding of AMP responsibilities.

Dr Lin Fritschi highlighted the urgency required in taking action to protect workers from exposure to RCS. She asked why manufactured stone should not be banned, given what is known about the dangers to workers’ health. Dr Fritschi referred to data from the following research articles, indicating that a third of patients with simple pneumoconiosis progress to massive fibrosis after only four years:

• Artificial Stone Silicosis: Removal from Exposure Is Not Enough (Cohen et al.); and
• Artificial Stone Silicosis: Rapid Progression Following Exposure Cessation (Jimenez et al.).

Dr Norris emphasised the importance of implementing the approach agreed at the previous Commission meeting, to introduce a requirement for low dose CT scans. She also suggested that the Government should play a more active role in regulating AMPs and communicating to employers how they go about finding an informed and experienced AMP.

Dr Matthew Davies suggested that the term Appointed Medical Practitioner inferred a level of authority that is not validated and that a detailed analysis of the entire installation process is required, to determine if manufactured stone can be used safely.

A UnionsWA representative commented that the figures quoted were disturbing and supported the idea of banning the product. He compared it to asbestos, emphasising the harm and deaths caused by artificial stone, adding that the significant number of cases demonstrates that safety practices are not being followed or are not effective. A UnionsWA representative requested future updates to the Commission regarding the proactive inspection program.
Commission members spoke about evidence of compliance with exposure standard levels throughout the industry. Ms North noted that there is a general acceptance of certain levels of dust in the construction industry and highlighted the importance of changing this culture, as many different types of dust can be dangerous if inhaled.

The Chair noted that the number of cases indicate the need for change in the industry. He commented that the current approach is to control exposure levels in the industry and there is a requirement for all bodies involved to find motivators for change, suggesting that a discussion about banning the product may provide a vehicle to motivate change.

There was discussion regarding the Australian Engineered Stone Advisory Group (AESAG) which is made up of the four largest suppliers of engineered stone in Australia. AESAG intends to set up an accreditation scheme, whereby stone fabricators must provide proof of compliance with WHS laws before they are sold artificial stone by any AESAG member company. The Commissioner informed members that a relevant paper had gone to Safe Work Australia (SWA) and that he would provide it to the Commission, subject to approval from SWA.

Members requested ongoing updates and AGREED that the Chair should write to the Minister, advising of the Commission’s concerns relating to RCS.

**ACTION 3**
Commissioner to write to the Minister, advising of issues identified during the WorkSafe Silica Inspection Project and include information about the Commission’s concerns in relation to respirable crystalline silica.

**ACTION 4**
Dr Lin Fritschi to provide the following reports to the Executive Officer, for circulation to Commission members:

- Artificial Stone Silicosis: Removal from Exposure Is Not Enough; and
- Artificial Stone Silicosis: Rapid Progression Following Exposure Cessation

**ACTION 5**
Ms Sally North to provide a written update to the Commission regarding the silica inspection project, with data from relevant regulatory programs.

**ACTION 6**
Ms Sally North to provide a written update to the Commission, regarding the 33 workers that underwent respirable crystalline silica health surveillance and were deemed as requiring further assessment.

**ACTION 7**
Commissioner to provide Safe Work Australia paper relating to the Australian Engineered Stone Advisory Group to the Commission, subject to approval from SWA.

### 3.2 COVID-19 pandemic and recovery – updates and discussion

The Chair reminded Commission members of the importance of ongoing vigilance, noting that areas of concern in Western Australia are ports and road borders.

Dr Matthew Davies asked if there are any restrictions in Western Australia that would stop WorkSafe Inspectors from accessing aged care facilities. The Chair advised that there are no legislative restrictions in Western Australia that stop WorkSafe Inspectors from attending aged care facilities, but that a flexible regulatory approach to aged care was adopted because residents are at greater risk from COVID-19 than Inspectors.
In response to a question from Dr Julia Norris about PPE, the Chair informed attendees that there was ongoing discussion with the Department of Health about the availability of P2 N95, and PAPR masks. Indications from Victoria are that donning and doffing of PPE is where most issues occur and these processes have been reviewed in Western Australia.

The CMEWA representative asked about protocols surrounding essential worker entry into the State and sought DMIRS assistance in progressing approval of travel exemptions for certain categories of mining workers. Mr Andrew Chaplyn noted there is a working group advising the Department of the Premier and Cabinet regarding travel exemption decisions.

Mr Chris White advised members that a definition of ‘protected worker’ has been included in the new workers’ compensation legislation. He noted that the definition will make it easier for health care workers that are exposed to COVID-19 at work to make a claim.

3.3 Commission Work Plan

The Chair sought feedback on the Commission Work Plan, which is intended to assist the Commission in determining priority areas for upcoming work, and consideration as to whether the Risk Register could be used to filter and prioritise Commission work activities.

The Chair noted the need to consider resourcing requirements in relation to maintaining the Risk Register in its current format.

A CCIWA representative maintained that the Risk Register could inform the Work Plan, advising that it was last reviewed by a sub-working group during 2018.

She informed members that recommendations made at that time included that:

- the Risk Register be reviewed annually by the Commission;
- the Risk Register be used to inform Commission work priorities;
- WorkSafe should update, review and populate the evidence and activity columns; and
- Commission members should be able to table issues at any time for addition to the register.

A CCIWA representative advised that historically the register was useful in understanding the reasons why certain issues were prioritised. She also noted that resourcing the maintenance of the Risk Register was a consideration.

Dr Lin Fritschi highlighted the benefit of the register, as a memory of when issues were discussed and what was agreed. She suggested adopting a system that required less resourcing than the current format of the Risk Register.

Dr Matthew Davies advised that the original purpose of the register was to allow for proactivity and to capture the history of issues considered by the Commission.

The Chair recognised the significant amount of work involved in creating and updating the risk register, noting that the Commission does not have the resources to maintain the register in its current form. He suggested that it be referred to LAC to be turned in to an issues register, to keep track of topics considered by the Commission.

The Commission ENDORSED the Work Plan, noting that it is a living document and will be tabled at every second or third Commission meeting for consideration.

The Commission AGREED to refer the Risk Register to LAC for consideration of the most appropriate format and process for using to prioritise the Work Plan.

The Commissioner asked that the Occupational Diving Code of Practice be added to the Work Plan and be given a priority rating of ‘High’. Members agreed with the suggested insertion.
ACTION 8
The Commission Risk Register be referred to LAC to be made into an issues register, as well as for consideration of the appropriate format and process for using to prioritise the Work Plan.

ACTION 9
Executive Officer to add the Occupational Diving Code of Practice to the Commission Work Plan table, with a priority rating of ‘High’.

4 STANDING ITEMS

4.1 Re-accreditation applications for safety and health representative training courses
The Chair presented the Commission with applications for re-accreditation of safety and health representative training courses, from RPS Energy Pty Ltd (RPS) and Felgate Safety Training.
In considering the Felgate Safety Training application, Commission members agreed that application was complete and that the information provided met requirements.
In considering the RPS application, the Commission noted the response from the Australian Skills Quality Authority (ASQA), clarifying the requirements of training organisations contracting training providers that are not registered training organisations (RTOs). The clarification was sought after concerns were raised at the previous Commission meeting regarding agreements between one RTO and another, or between an RTO and a non-RTO.
Dr Matthew Davies commented that the advice provided by ASQA was helpful and clear.
UnionsWA highlighted the oversight requirements referred to by ASQA in its response and noted it was not the Commission’s role to provide oversight or monitor RTOs and hoped the Chair would reach out to ASQA in relation to its responsibility to provide oversight of high risk work license holders.
The Chair thanked a UnionsWA member for assistance in preparing the letter to ASQA.
The Commission ENDORSED the re-accreditation of Felgate Safety Training and RPS Energy for a further three years.

4.2 Legislative Advisory Committee report – 12 August 2020 meeting
The Chair provided an update regarding the LAC meeting held on 12 August 2020.
The Chair advised that LAC has been productive with the review of several Codes of Practice. He acknowledged the significant amount of work that has been completed on the Bullying and Harassment at Work Code of Practice, highlighting the input by WorkSafe Inspectors with relevant expertise in assisting to produce a valuable document.
LAC members agreed to source diesel exhaust guidance material produced by Safe Work Australia, with a view to reviewing the material and preparing a paper for Commission consideration.
The Commission NOTED the update from the Chair.

4.3 Construction Industry Safety Advisory Committee Report – 18 August 2020 meeting
The Commissioner provided a report of the 18 August 2020 meeting.
On behalf of CISAC, the Commissioner sought Commission approval to produce guidance materials and issue a safety alert in relation to concrete placing units (CPUs).
The Commissioner provided background to the concerns raised by industry around design, maintenance and competent persons. He also explained the disparities in requirements for truck-mounted and static CPU operators to have a high risk work licence and the Western Australian Construction Safety Alliance support for the development of guidance materials.

The Commission **AGREED** that they should consider the papers tabled at CISAC, before making a decision. Members asked that the papers be circulated to the Commission, so that a decision can be made out of session.

The Commissioner advised that work on the Excavation Code of Practice is progressing, with the intention that the member review is completed at the next CISAC meeting.

Commission members expressed their appreciation for the contribution of Mr Chris Kirwin, during his 22-year tenure as a member of CISAC. Mr Kirwin is no longer a member of CISAC as he recently moved out of the Director Worksafe Industrial and Regional position, to lead a project to replace the WISE system currently used by WorkSafe.

The Commission **NOTED** the update.

**ACTION 10**

*Executive Officer to circulate concrete placing units papers tabled at CISAC, for the Commission to consider out of session.*

**ACTION 11**

*The Commission to consider the concrete placing units papers and make decisions regarding the need to develop guidance materials and issue a safety alert relating to concrete placing units.*

**ACTION 12**

*The Chair to advise Mr Chris Kirwin that the Commission have expressed appreciation for his 22-year contribution to CISAC.*

### 4.4 Agricultural Working Group update – 28 August 2020

The Chair provided a report of the 28 August 2020 AWG meeting, which included:

- discussion about finalising work on its campaign to improve farm safety, with remaining funds to be expended on producing social media materials; and
- agreement that a closing report will be prepared to be provided to the Minister by December 2020.

There was discussion of a possible amalgamation of the Agricultural Industry Safety Group (AISG) and the AWG. After consideration of the proposal by the AISG, the AWG will put a formal proposal before the Commission for decision.

The Commission **NOTED** the update.

### 4.5 Mining Industry Advisory Committee Update – 12 August 2020 meeting

Mr Andrew Chaplyn presented a summary of issues and projects discussed at MIAC, highlighting a presentation made by Drs Laura Fruhen and Jess Gilbert of their research and findings into the impact of COVID-19 on the mental health of FIFO workers.

Commission members emphasised the need to increase the number of people surveyed to ensure accurate and meaningful data. At the time of the presentation to MIAC, 300 people had responded to the current survey. A previous survey in 2018 had 3000 participants. A UnionsWA representative advised that the survey had been made available to their members and was much shorter than the original survey.
Other items covered during the MIAC meeting included:

- Discussion about the Brady Review during which MIAC members agreed to a separate meeting, to consider where MIAC should focus and progress the development of an action plan.

- Discussion about the workplace exposure standard for diesel particulate matter. MIAC did not endorse a 12-month transition period, instead opting for immediate implementation of the workplace exposure standard for diesel particulate matter. The Minister will be advised of MIAC’s preference.

The Commission NOTED the update.

4.6 WorkCover report (verbal)

Mr Chris White reported that:

- legislative amendments to enable presumptive coverage for COVID-19 workers should be in operation as soon as the regulations are through;

- there was a large decrease in workers’ compensation claims during the past financial year; and

- no new claims related to silica have been received in Western Australia, with five current claims related to stone benchtop work and two from the mining sector.

The Commission NOTED the report provided by Mr White.

4.7 Regulatory Activity Report – July 2020

The Commission NOTED the Regulatory Activity Report to 31 July 2020.

4.8 Fatalities and significant incidents

The Commission NOTED the fatalities and significant incidents report.

4.9 Exemption Certificates

There were three exemption certificates granted since the previous meeting. Two related to versions of the Australian Standard AS 1418.10 and the other to Australian Standard AS 2550.10.

The Commission NOTED the advice.

4.10 Commission Correspondence

The Chair drew Commission member's attention to his letter to the Road Safety Commission (RSC) with suggestions of matters for inclusion in the new 10-year road safety strategy, currently being developed by RSC. The Chair advised that he had a meeting scheduled with the RSC, to continue collaborating on relevant issues.

Dr Matthew Davies noted the evaluation report provided by Training Services Australia, relating to online SHRep training at Christmas Island using Zoom. He expressed appreciation for the detail and candour of the report.

The Commission NOTED the incoming and outgoing correspondence included in the agenda papers.
5 OTHER BUSINESS

5.1 Publication of WorkSafe enquiry

The Chair informed members that the Standing Committee on Public Administration *Coming home safely: WorkSafe and the workplace culture in Western Australia* Report (Report) had been published, noting that it has 94 recommendations. The Chair advised that lack of resourcing was a consistent theme in the report, with many of the recommendations already being acted on by DMIRS and some already complete.

The Commission will review and discuss relevant Report recommendations, after the Government response has been tabled in parliament.

**ACTION 13**

*Executive Officer to circulate the Coming home safely: WorkSafe and the workplace culture in Western Australia Report to Commission members.*

5.2 Update on the Work Health and Safety (WHS) legislation

In response to a question from a UnionsWA representative, Mr Ian Munns advised that the Minister is still seeking to get the WHS Bill through Parliament in 2020. He noted that there is some debate continuing in relation to the industrial manslaughter provisions.

Mr Munns informed attendees that the Minister intends to obtain necessary agreements and see the WHS Bill pass through Parliament before the end of the sitting period. If agreement cannot be reached the Bill may not pass this year and would lapse, which would lead to work on the Bill having to start over.

6 CLOSE AND NEXT MEETING

There being no further business, the Chair declared the meeting closed at 10.47am. The next meeting is scheduled for 7 October 2020.


ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Darren Kavanagh

Chair     Date