

Commission for Occupational Safety and Health MINUTES – 4 November 2020

Meeting No:	401	Time:	8.30am
Venue	Koorling Dandjoo Conference Room, 1 Adelaide Terrace, Perth	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 Andrea Roelofs	Chamber of Commerce and Industry WA (CCIWA)
Mr Robert Carruthers	Chamber of Minerals and Energy WA (CMEWA), proxy for Ms Elysha Millard
Ms Erin Gisborne	UnionsWA
Mr Glenn McLaren	UnionsWA
Mr Owen Whittle	UnionsWA
Mr Andrew Chaplyn	Director Mines Safety, DMIRS
Mr Chris White	Chief Executive Officer, WorkCover

Observer

Mr Ian Munns	Deputy Director General Safety Regulation, DMIRS
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Apologies

Ms Elysha Millard	Chamber of Minerals and Energy WA CMEWA
Mr Paul Moss	Chamber of Commerce and Industry WA (CCIWA)

Executive Support

Ms Anika Moore	Executive Officer, DMIRS
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Administrative Support

Ms Sari Mattila	External Consultant
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1 ADMINISTRATION

1.1 Opening and welcome

The Chair opened the 401st meeting of the Commission at 8.33am, welcoming attendees including Mr Robert Carruthers, proxy for Ms Elysha Millard (CMEWA), and acknowledged the permanent appointment to the Commission of Ms Erin Gisborne and Ms Elysha Millard.

1.2 Apologies

Apologies were accepted from Ms Elysha Millard (CMEWA) and Mr Paul Moss (CCIWA). There was no proxy for Mr Paul Moss as he was a late apology.

1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting, with Standing Item 4.1 deferred to the end of the meeting to allow a UnionsWA representative to depart due to a conflict of interest, but be present for all other Items.

1.4 Declarations of Conflicts of Interest

Conflicts of interest were declared by two UnionsWA representatives and a CCIWA representative, in relation to safety and health representative training items.

1.5 Other Business admitted by the Chair

No other business was admitted by the Chair.

2 PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes

Commission members **ENDORSED** the minutes of meeting 400, held on 7 October 2020, as presented.

2.2 Review action list from previous meeting

The Chair drew members' attention to two items:

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.*

The Chair advised that a representative of the data linkage management team was not able to attend the meeting and that, due to Commission work priorities for the 2 December 2020 meeting, the item may need to be deferred to February 2021.

General action list item **3.7 of 7 October 2020 – Action 9** - *DMIRS to provide safety and health representative training data, broken down by month from March to June 2020, for inclusion in the 2 December 2020 Commission agenda.*

The Chair informed members that DMIRS had provided a response in relation to the action, advising that RTOs provide training figures annually, which do not indicate the month when the training occurred. He asked members if a paper on the topic would be useful.

Dr Lin Fritschi suggested that a paper would allow for consideration of possible ongoing issues and that the Commission may need to consider the data that is received from training providers and discuss whether a more detailed breakdown would be useful.

Commission members **AGREED** that a paper regarding safety and health representative training data should be tabled at a future Commission meeting for consideration, before the item is closed.

A UnionsWA representative asked about general action list item **13 of 7 October 2020 – Action 13 - DMIRS to provide a paper to assist the Commission to consider options to address issues relating to assessor proportions.**

The Commissioner advised that the report is being prepared by the Department and it is intended that it will be provided to members for the 3 February 2021 Commission meeting.

A UnionsWA representative advised of a desk top exercise being conducted by the Australian Maritime Safety Authority and the National Occupational Health and Safety Commission, which may provide more information in relation to General action list item **3.1 of 7 October 2020 - Action 3 - Chair to write to AMSA requesting information about crew change over procedures and issues raised in relation to COVID-19.** The Commissioner noted the details of the activity would be available and suggested that it be tabled at the 2 December 2020 Commission meeting.

In response to a query from Dr Matthew Davies, about the welfare of workers undergoing further assessment, the Executive Officer will seek an update from Ms Sally North in relation to General action list item **3.1 of 2 September 2020 - 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.**

Commission members had no further comments in relation to the general action list or the LAC action list.

ACTION 1

Executive Officer to draft a paper, setting out the current reporting requirements for training providers, for consideration by the Commission.

ACTION 2

Executive Officer to seek an update from Ms Sally North in relation to action item 3.1 of 2 September 2020 - Action 6 and include information in the next Commission meeting agenda.

3 AGENDA ITEMS

3.1 COVID-19 pandemic and recovery – updates and discussion

The Chair highlighted the Western Australian government announcement that the State's hard borders would be removed on 14 November 2020 and would become a "controlled border". He also noted that Western Australia is still in a state of emergency and remains under the direction of the State Emergency Coordinator.

Commission members **AGREED** that the COVID-19 pandemic and recovery agenda item should remain on the agenda for upcoming meetings.

ACTION 3

Executive Officer to retain the COVID-19 pandemic and recovery – updates and discussion as an item on future Commission meeting agendas.

3.2 Commission Work Plan – for reference

The Chair presented the Commission *Work Plan* to members, reminding them that it should be regularly referred to in discussions and when prioritising activities and projects. The Chair drew attendee's attention to Work Plan project 4, which is of high priority and includes substantial work on five codes of practice by Commission sub-committees.

The Chair noted that the *Prevention of Falls from Heights at Workplaces* Code of Practice is complete, with work continuing on the *Violence and Aggression at Work* Code of Practice, the *Bullying* Code of Practice and the *Occupational Safety and Health in the WA Public Sector* Code of Practice. Work has not yet commenced on the *Working Hours* Code of Practice and the *First Aid Facilities and Services* Code of Practice. The Chair also noted that work is also underway on the *Excavation Code of Practice* and asked that it be included within project 4 of the Commission Work Plan.

The Chair advised that the Legislative Advisory Committee (LAC) had discussed whether or not subordinate committees can add items to the Commission Work Plan. The Chair informed LAC that all proposed additions to the Commission Work Plan must be provided to the Commission for decision and prioritisation.

The Chair asked the Executive Officer to update the text at the start of the Work Plan to include this requirement and also to remove the “draft” watermark from the document.

ACTION 4

Executive Officer to make the following requested amendments to the Commission Work Plan:

- **include the ‘Excavation Code of Practice’ as part of project 4;**
- **incorporate the requirement for all sub-committee proposals to come to the Commission for consideration, before being added to the Work Plan; and**
- **remove the “draft” watermark from the document.**

The Commission **NOTED** the *Work Plan*.

3.3 WHS Legislation – verbal update

Mr Ian Munns advised that the *Work Health and Safety Bill 2019* had passed through Parliament and would become an Act upon being assented by the Governor. The Work Health and Safety (WHS) Act will not be implemented until the WHS Regulations package is in place.

Mr Munns informed attendees that all of the WHS Regulations submissions received during the public consultation process and a report summarising the submissions had been provided to the Minister for review. The Minister will make a decision as to how the drafting process will proceed. Once drafted, the WHS Regulations would then be sent to the Minister for approval, then to Parliament. Work to finalise the WHS Regulations will progress through 2021

Commission members **NOTED** the update.

3.4 Affected Workers and Families Advisory Committee - update

The Commissioner provided an update in relation to the Affected Workers and Families Advisory Committee (Families Committee), previously referred to as the Family Support Group. The Terms of Reference reflect those of Queensland’s ‘*Consultative committee for work-related fatalities and serious incidents*’.

The Commissioner advised that DMIRS had employed a Family Liaison Officer, who will work closely with the Families Committee, with a view to improving communication with families.

In response to a query from Dr Matthew Davies about the interface with the Coroner’s Office, the Commissioner noted one of the key recommendations of the Senate Report *They never came home—the framework surrounding the prevention, investigation and prosecution of industrial deaths in Australia* was that regulators improve collaboration, which includes improving communication and relationships with the Coroner’s Office.

The Commissioner emphasised the importance of bringing the updated Terms of Reference to the Commission for endorsement. Attendees were informed that this would likely be at the 4 December 2020 meeting, commenting that he is conscious of his position as Acting Chair of the Commission while also being the Commissioner and Co-Chair of the Families Committee. The Chair advised that, if there was a separate Commission Chair, he would bring a proposal to them for consideration in his role as Commissioner, noting that he cannot do so given the current circumstances.

The Commission **NOTED** the update.

3.5 Commission News

The Chair provided information regarding the current processes for announcement and broad circulation of Commission publications and sought agreement to remove the standing item 'Commission Newsletter' from the agenda.

The Chair highlighted the need to ensure materials produced for publication by the Commission are distributed in the most effective manner and provided details about the steps by which Commission publications are published and promoted amongst stakeholders by DMIRS. This includes distribution of Commission publications through the DMIRS website, WorkSafe channels, inspectors, safety education officers, call centre officers and specific information through other safety and health outlets, to industry groups and stakeholders.

Commission members noted the importance of being aware of information published, with a suggestion that a communications update be provided. Also highlighted was the need to ensure the public recognised the distinction between the roles of WorkSafe and the Commission.

The Commission **AGREED** to remove the standing item 'Commission Newsletter' from the agenda.

The Commission **AGREED** to seek advice from DMIRS, as required, when preparing material for publication.

ACTION 5

Executive Officer to remove the standing item 'Commission Newsletter' from the agenda for future meetings.

4 STANDING ITEMS

4.1 Application for re-accreditation of SHRep training – Unity Training Services

NOTE: A UnionsWA member departed the meeting prior to discussion of this item, due to a conflict of interest.

The Chair presented an application for re-accreditation of safety and health representative (SHRep) training from Unity Training Services.

Commission members **AGREED** the application was comprehensive and covered all areas required. No objections were raised or requirements for conditions to be applied suggested.

The Commission **ENDORSED** the application by Unity Training Services for re-accreditation of SHRep training.

4.2 Aveling – updated Safety and Health Representatives Course Manual

The Chair presented the Commission with an updated SHRep Training Course Manual (SHRep Training Manual), provided by Aveling.

Commission members were advised of recent updates to the Certificate III in Work Health and Safety and that training provider Aveling had updated their SHRep Training Manual accordingly. It was noted that the changes are minimal and the Aveling SHRep Training Manual was provided for consideration by the Commission, prior to implementation by Aveling.

Commission members noted that it would be more efficient if a document summarising the changes was provided, along with the full document, and **AGREED** to request a summary from Aveling for circulation out of session, so that a decision could be made before the 2 December 2020 Commission meeting.

A CCIWA representative suggested that changes be made to the [Guidelines and criteria for accreditation of training courses for safety and health representatives \(guidelines\)](#), to include a specific requirement for a summary of changes to be provided with amended Course Manuals or training materials submitted to the Commission for consideration. Commission members **AGREED** to review the guidelines at a future Commission meeting and determine how best to amend them.

Commission members also **AGREED** that, in the meantime before the guidelines are amended and published, if other registered training organisations submit training materials for Commission consideration DMIRS should ask them to provide a summary of changes.

ACTION 6

DMIRS to request a summary of changes made to the Course Manual from Aveling and the Executive Officer to circulate out of session, for consideration by the Commission.

ACTION 7

Executive Officer to include the [Guidelines and criteria for accreditation of training courses for safety and health representatives](#) as an agenda item, for consideration at a future Commission meeting.

ACTION 8

DMIRS to request a summary of changes from registered training organisations if they submit training materials for Commission consideration, before the guidelines are amended and published.

4.3 Construction Industry Safety Advisory Committee Report – 20 October 2020 meeting

The Commissioner provided a report of the 20 October 2020 CISAC meeting. He advised that the review of the *Excavation Code of Practice* (Code) is in its final stages, with a draft of the revised Code expected to be presented for endorsement at the 17 November 2020 CISAC meeting. The Chair informed attendees that the draft updated Code may be presented at the 2 December 2020 Commission meeting for review.

The Commissioner advised that CISAC is considering guidance material, for the operation of static concrete placing units, and that Safe Work Australia is seeking the views of jurisdictional representatives in relation to the guidance. The draft guidance material for the operation of static concrete placing units will be brought to the Commission for consideration.

The Commission **NOTED** the update.

4.4 MIAC and Mines Safety Directorate Update

Mr Andrew Chaplyn drew attention to the MIAC Communique from the 14 October 2020 MIAC meeting, as well as a special meeting held on 16 September 2020 to consider the Brady Review recommendations, with a view to determine MIAC focus areas and to progress the development of an action plan.

Mr Chaplyn highlighted a presentation from Intersafe about its Incident Data Analysis Project, which involved analysis of a dataset of serious actual and potential incidents from six Western Australian resource sector companies over a five-year period from July 2014 to June 2019. He noted that CMEWA were instrumental in delivery of the report. In response to a question from Dr Matthew Davies, the CMEWA representative suggested that it would be beneficial to share the report and Mr Chaplyn agreed to provide the report to Commission members.

The Mental Health Strategies Working Group Close-out Report was also discussed at the meeting and it was agreed that there would be a standing item on the MIAC agenda for issues related to mental health in the workplace.

Mr Chaplyn advised that there was conversation at MIAC regarding COVID-19 safety controls in place at sites visited by Mines Safety Inspectors, as well as progress to implement the workplace exposure standard (WES) for respirable crystalline silica (RCS), respirable coal dust (RCD) and diesel particulate matter (DPM).

The Commission **NOTED** the update.

ACTION 9

State Mining Engineer to provide a copy of the Incident Data Analysis Project report to Commission members.

4.5 Agricultural Working Group update – safety campaign videos

The Chair provided an update regarding the SafeAgWA campaign, advising that the AWG had produced 12 short videos to publish on social media, as part of the education campaign. He commented that the videos are peer messages, including one from a Country Women's Association representative, highlighting how her family manages farm safety when children are present, as well as others from the wheat, sheep farming and sheering industries.

After viewing the videos, Commission members were positive about the concept of peers championing safety messages, but raised concerns about the accuracy of some commentary. The Commissioner agreed to provide the concerns raised by Commission members to the AWG and ensure that the information provided in the videos is reviewed before publication.

The Chair advised that the AWG report, which will explore the effectiveness of the campaign, will be provided to the Commission for consideration and approval to forward to the Minister.

The Commission **NOTED** the update.

4.6 WorkCover WA verbal update

Mr Chris White provided a verbal report, advising that the *Workers Compensation Injury Management Amendment COVID-19 Response Act 2020* had been implemented smoothly.

He advised that no new Western Australian silicosis claims had been received but some insurance companies had expressed concerns about future silicosis claims liabilities. Mr White informed attendees that there were some cases of silicosis where claims had not been submitted. He explained that due to the low number of cases, privacy issues prevent discussion about confirmed cases.

Mr White reported that there has been a small fee increase for insurance service providers. He also advised that WorkCover had recently issued principles for self-insured practices.

Mr White informed the Commission that the draft new Workers' Compensation Bill is close to being finalised. He explained that a companion consultation document will be provided to the Minister for consideration.

The Commission **NOTED** the update.

4.7 Regulatory Activity Report – September 2020

The Commissioner drew member's attention to the number of cases referred to the Occupational Safety and Health Tribunal (OSH Tribunal). Twelve matters were referred in 2019-20. The Commissioner suggested that the Commission should monitor the number of matters that go to the OSH Tribunal.

The Commission **NOTED** the Regulatory Activity Report to 30 September 2020.

4.8 Fatalities and significant incidents

The Commissioner reported on a recent fatal work-related incident, where a 52-year-old truck driver was struck by another truck in the dark, as the other truck was leaving a car park.

The Commissioner advised members that the recent fatality at Curtin University will be included in a future report.

The Commission **NOTED** the fatalities and significant incidents report.

4.9 Exemption Certificates

There were three exemption certificates granted since the previous meeting. Two relating to amusement devices under AS 3533.2 – 2009 *Mobile rides and devices* and the other a non-metallic pressure vessel as referred to in AS 1210-2010.

A UnionsWA representative noted the amusement rides referred to in the exemption certificates were listed for use in public events and sought assurance they would be inspected prior to use. The Commissioner advised that the rides referred to in the exemption certificates were stored under cover and will be inspected prior to use.

The Commission **NOTED** the exemption certificates.

4.10 Commission Correspondence

The Chair drew Commission member's attention to the final version of the Commission Annual Report 2010-20, which members had approved out of session. He informed attendees that the report will be tabled in Parliament, advising that once it is publicly available it will be published on the DMIRS website.

The Commission **NOTED** the incoming correspondence included in the agenda papers.

5 OTHER BUSINESS

In response to a query from Dr Matthew Davies about a response to the Standing Committee in relation to the [Coming home safely: WorkSafe and the workplace culture in Western Australia Report](#). Mr Ian Munns advised the Government response to the report recommendations was endorsed by Cabinet and tabled in Parliament. He noted that DMIRS and the Commissioner had taken on board the recommendations and were working to implement changes within WorkSafe, including pursuing enhanced performance and continuing to look for opportunities to improve.

The Executive Officer advised that the deadline for agenda items for the 2 December 2020 Commission meeting would be a few days earlier than usual, with papers due to her by 13 November 2020.

6 CLOSE AND NEXT MEETING

There being no further business, the Chair declared the meeting closed at 10.35am. The next meeting is scheduled for 2 December 2020.

**MINUTES OF MEETING NO: 401
OF THE
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH
HELD ON 4 NOVEMBER 2020**

ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Darren Kavanagh

Chair

Date