

Commission for Occupational Safety and Health MINUTES – 6 November 2019

Meeting No:	391	Time:	8.30am
Venue	Koorling Dandjoo Room, Level 2, 1 Adelaide Terrace, East Perth	Secretariat:	Department of Mines, Industry Regulation and Safety (DMIRS)

Attendees

Ms Stephanie Mayman	Chair
Mr Darren Kavanagh	WorkSafe Western Australia Commissioner (Commissioner)
Ms Joy Barrett	UnionsWA
Dr Lin Fritschi (to 11.35am)	Expert membe
Mr Andrew Chaplyn	Director Mines Safety, DMIRS
Ms Adrienne LaBombard	Chamber of Minerals and Energy WA (CMEWA)
Mr Glenn McLaren	UnionsWA
Ms Andrea Roelofs (to 11.15am)	Chamber of Commerce and Industry WA (CCIWA)
Mr Owen Whittle	UnionsWA
Dr Julia Norris	Expert member
Mr Paul Moss	Chamber of Commerce and Industry WA (CCIWA)

Invited Guests

Ms Jean Mangharam	Principal Scientific Officer, DMIRS
Dr Peter Connaughton	President of the Australasian Faculty of Occupational and Environmental Medicine
Mr Justin Napier	General Manager, Regulatory Operations, Comcare
Mr Michael Evans	Assistant Director, Western Australia, Comcare
Mr Chris White	Chief Executive Officer, WorkCover
Mr Ian Munns (Observer)	Deputy Director General Safety Regulation, DMIRS

Apologies

Dr Matthew Davies	Expert member
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Executive Support

Dr Tony Stephens	Executive Officer, DMIRS
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1 ADMINISTRATION

1.1 Opening and welcome

The Chair opened the meeting at 8.30am and welcomed new members Mr Paul Moss and Dr Julia Norris. Dr Norris gave the other members a quick overview of her qualifications and experience.

1.2 Apologies

The Chair accepted an apology from Commission member Dr Matthew Davies.

The Chair noted that Ms Andrea Roelofs had to leave the meeting at 11.00am.

1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting.

1.4 Declarations of Conflicts of Interest

No conflicts of interest were declared.

1.5 Other Business admitted by the Chair

The Chair advised that she had a late paper on the next scheduled meeting of the Commission.

2 PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes

A motion to accept the minutes of meeting 390 held on 16 October 2019 was **ENDORSED**.

Moved: UnionsWA; seconded: CMEWA.

2.2 Review action list from previous meeting

The Chair asked if members had any questions regarding the action list.

A progress report was requested on Item 3.3 regarding statutory declarations for registered training organisations. Mr Ian Munns will investigate and report back to members.

Members advised that they had no other questions and the action list was **NOTED**.

ACTION

Mr Munns to produce a progress report on the statutory declarations for registered training organisations.

2.3 Update on Commission Strategic Plan 2019 to 2022

The Chair provided members with a progress update on development of the plan. A foreword from the Chair had now included in the document and a context statement from the Commissioner was currently being prepared.

The job description form has now been removed from the Commission Business Case 2019 to 2020.

The Chair advised of a recent meeting attended by herself, the Commissioner, Mr Munns and Mr David Smith, the Director General of the Department for Mines, Industry Regulation and Safety (DMIRS), at which the issue of ongoing resourcing for Commission activities was discussed.

Although Mr Smith was pleased with the business planning already completed by the Commission, there was a need for members to agree on key activities to enable resources to be allocated. Mr Smith has requested that the scope of the existing business case be extended from one year to three years and then represented. This will assist in resource planning in the longer-term.

Mr Munns elaborated on the challenge being presented by the limited availability of resources. He explained how DMIRS receives its direction from the Minister and must therefore give priority to allocating resources to achieve those outcomes within current budgetary requirements.

Mr Munns also explained that the DMIRS policy team was small and had to balance a workload that included directives from the Minister, WHS Bill matters, public and industry engagement, actions on behalf of the Commissioner and activities generated by the Commission. Until the WHS legislation has been passed in Parliament, the respective Codes of Practice remain uncertain.

The UnionsWA representative raised concerns that the Agricultural Working Group (AWG) and Diving Working Group (DWG) may be drawing on a too greater share of available resources. The Commissioner agreed that the AWG should probably receive greater support from industry, but that the DWG had now completed its main task and would no longer be a drain on resources.

It was suggested that Commission actions involving DMIRS staff should be included in a separate list to other actions. This would reduce the potential for some actions to be temporarily overlooked.

The Commission **ENDORSED** the Strategic Plan 2019 to 2022, subject to the current editing process. It was **AGREED** that the business case be forwarded to the Legislative Advisory Committee for its attention.

ACTION

The Executive Officer to refer the Commission Business Case 2019 to 2020 to the Legislative Advisory Committee.

ACTION

The Executive Officer to separate action items involving DMIRS staff from other actions in all future action lists.

2.4 Presentation on Work-related Musculoskeletal Disease (WMSD)

Ms Jean Mangharam, Principal Scientific Officer with WorkSafe, and Dr Peter Connaughton, President of the Australasian Faculty of Occupational and Environmental Medicine, gave a joint presentation to the Commission on the topic of the Western Australian strategy and framework for dealing with work-related musculoskeletal disease.

The overall trend is positive for the management of work-related musculoskeletal disease, and this may be a result of increased education and enforcement efforts by WorkSafe. It was noted that agricultural, forestry and fishing is the only industry group that has experienced an increase in incidents.

Key points from the presentation include:

- WMSDs contribute to 60 per cent of lost-time injuries and are a source of high burden for the state and industry in terms of lost time, financial cost and impairment;

- that due to the complexity of the condition, a framework has been developed using review of literature, data and stakeholder engagement workshops to serve as a multi-stakeholder road-map for preventing and managing WMSDs; and
- major priorities articulated by the WMSD Framework being to acknowledge complexity and optimise timing of intervention; build capacity of stakeholders; and focus on high risk areas.

Dr Connaughton gave a verbal overview of the work he has been involved with in this field. He then answered questions from the members.

The Commission **ENDORSED** the Western Australian Strategy for the Prevention and Management of Work-related Musculoskeletal Disorders. It also **AGREED** to evaluate the detailed framework and provide comments.

The Chair thanked Ms Mangharam and Dr Connaughton for their attendance.

ACTION

The Executive Officer to circulate the PowerPoint presentation created by Ms Mangharam to members.

ACTION

The Executive Officer to circulate the WA Framework for the Prevention and Management of Work-related Musculoskeletal Disorders to members for comment.

2.5 Update on translation of the Safe Stone Product Fabrication and Installation Guidance Note

The Chair advised that the Information and Development Branch of DMIRS had sourced quotes for the translation of the Safe Stone Product Fabrication and Installation Guidance Note and a condensed version, into Simplified Chinese. The cost of the full guidance note being \$2,489.85 and the cost of the shorter checklist being \$1,873.41.

The UnionsWA representative raised concerns about the significant amount of time required to obtain the quotes.

Expert member Dr Lin Fritschi raised concerns about the use of the word “safe” in the guidance note. Her suggestion being that as there was no safe level for respirable silica dust, there was also no means of making the fabrication and installation of products with a high silica content “safe” for workers and others in the vicinity.

Mr Munns outlined the benefits of translating the shorter checklist document rather than the full guidance note, particularly its higher degree of readability for workers on the floor.

The CCIWA representative raised concerns about whether the checklist was comprehensive enough.

The Chair asked members to consider if both the full guidance note and the shorter checklist should be translated. A motion to translate both documents into Simplified Chinese was **ENDORSED**. Moved by UnionsWA. Seconded by CCIWA.

ACTION

DMIRS to progress the translation into Simplified Chinese of both the guidance note and the checklist, using the existing quotes.

3 AGENGA ITEMS

3.1 Commission Annual Report 2018-2019

The Chair gave a progress update on the Commission's annual report.

The endorsed report was progressed through the DMIRS approval process. A briefing note was prepared and submitted to the Minister, along with the required 12 hard copies and one digital copy.

The Minister will forward these copies to the Parliamentary Services Branch of the Department of the Premier and Cabinet.

The Commission **NOTED** that the *Commission Annual Report 2018-2019* had now been submitted to the Minister.

3.2 Changes to process for demolition licences

The Commissioner outlined recent changes to the experience requirements and processing of demolition licences in Western Australia. These bring the State into line with other jurisdictions. He advised that six key areas were contentious within the local demolition industry. These being:

- An experience test required for each application prior to expiry;
- experience must be a minimum of three jobs over five years;
- exam attempts limited to three chances, resulting in refusal if failed three times;
- application refused if the applicant applies again within three months of failing exams;
- unlawful experience will not be considered; and
- notification of demolition work to be submitted and cross-referenced internally to corroborate claimed experience.

The Commissioner explained how implementing these changes may limit the industry, but are integral to ensuring that those who hold a demolition licence, retain their skills if they are to remain licensed. The regulator must continue to be satisfied that licence holders can perform work in a safe and proper manner, as per the OSH Regulations. Experience tests at each application, limiting exams, and the level of experience, forces applicants to remain competent in their work, and ensures the safety of themselves, their workers and the public.

The Commissioner intends to continue consulting with industry on these matters.

The Commission **NOTED** the changes to demolition licences.

3.3 Presentation by Mr Justin Napier from Comcare

Two of Comcare's senior staff, General Manager Regulatory Operations Mr Justin Napier and Assistant Director for Western Australia Mr Michael Evans, provided the Commission with an overview of their role and jurisdiction.

Mr Napier outlined some of his experience around the introduction of harmonised work, health and safety laws around Australia. He highlighted the fact that Western Australia was in the unique position of having three distinct legislation scheduled for introduction – general workplace, mining and petroleum/gas. It also had the opportunity to learn from the findings of other States regarding transitional arrangements.

Experience had shown that ideally, model laws should leave no legislative gaps. One workplace may exist within multiple jurisdictions and a range of contractor and sub-contractor arrangements. It was therefore crucial that regulators remain vigilant and ensure that persons

conducting a business or undertaking (PCBUs) are made aware that they cannot contract out of their duties.

At the moment, Comcare and the Government of Western Australian work closely together in locations such as Christmas Island.

Comcare is keen to progress a Memorandum of Understanding (MOU) with Western Australia as this will facilitate an efficient and effective relationship. An MOU with the Heads of Workplace Safety Authorities (HWSA) group is already in place.

The UnionsWA representative enquired if an MOU with Western Australia would extend to situations where there is currently a degree of confusion about health and safety representative authority, such as on naval ships berthed in local ports. Mr Napier requested that UnionsWA raise this with him in writing so that his team could follow-up.

The Chair thanked Mr Napier and Mr Evans for their attendance.

The Commission **NOTED** the content of the presentation.

4 STANDING ITEMS

4.1 White Card units of competency

The Chair presented members with a list of eleven proposed recommendations for construction induction training (White Card) in Western Australia. These have been developed in preparation for a proposed letter to the Minister that will outline the Commission's views on the topic.

Members voiced opinions about various recommendations.

The CCIWA representative raised concerns about the overall quality of White Card training and suggested the current list of recommendations may need to be simplified. It was also felt that the final recommendations would benefit from broader consultation.

The UnionsWA representative and Mr Munns raised concerns that there might be an emerging tendency for the White Card to be seen as a substitute for training obligations under section 19 of the *Occupational Safety and Health Act 1984*.

Mr Munns advised that implementation of the proposed recommendations may involve a number of policy decisions, administrative implications and possibly additional fees. Transitional arrangements would also be required.

The Chair suggested that a White Card should not be a document for life. Refresher training is required to provide holders with updates on health and safety aspects.

The Chair will draft a letter to the Minister outlining the Commission's view regarding construction induction training. Comments from Construction Industry Safety Advisory Committee members will also be incorporated. This will then be circulated to members for comment. When there is agreement on the content of the letter, it will be forwarded to the Minister.

ACTION

The Chair to seek comments from members regarding the final composition of a draft letter to the Minister. A copy will be provided to Mr Munns.

5 REPORTS

5.1 Legislative Advisory Committee (LAC)

The Chair provided an update regarding LAC's review of the *Violence, Aggression and Bullying at Work* Code of Practice, which is being divided into two Codes.

The members have completed initial consultation with their stakeholders and comments will be reported and discussed at the next scheduled meeting. It is anticipated that a set of agreed changes will emerge.

The Chair has written to WorkCover and WA Police, seeking statistics on threatening behaviour in workplaces.

DMIRS Director WorkSafe Service Industries and Specialists, Ms Sally North, will be attending the LAC December meeting to present the latest research, findings and WorkSafe initiatives related to violence and aggression in Western Australian workplaces.

The Commission **NOTED** the LAC report and verbal update by the Chair.

5.2 Construction Industry Safety Advisory Committee (CISAC)

The Commissioner advised that CISAC had finalised comments on the Code of Practice: *Prevention of Falls at Workplaces* and that these will now be forwarded to the Legislative Advisory Committee for actioning.

The Commissioner provided advice that CISAC has also commenced work on updating the *Excavation* Code of Practice, predicting that a draft should come to the Commission for consideration at the February 2020 meeting.

CISAC members have been given the opportunity to provide comment to DMIRS on the current Safe Work Australia review of transport and logistics industry national assessment instruments.

The Chair congratulated the Commissioner on the progress achieved by CISAC and commented that other Codes of Practice may not be updated for some years.

The Commission **NOTED** the CISAC report and verbal update provided by the Commissioner.

5.3 Mining Industry Advisory Committee (MIAC)

The Mining Industry Advisory Committee has not met since the 16 October 2019 Commission meeting.

5.4 Agricultural Working Group (AWG)

The Agricultural Working Group has not met since the 16 October 2019 Commission meeting.

5.5 WorkCover WA Report

Mr Chris White reported that:

- WorkCover now had six existing claims relating to silicosis;
- there was one long-standing claim from the mining industry;
- a new claim lodged in New South Wales involved a person who had worked briefly at a gold mine in Western Australia;
- Western Australia was unable to share claims data with other jurisdictions because of the low number involved. Such a small sample creates security and privacy issues;
- the challenge with silicosis is that although serious, it is often a low-impairment condition. This was unlike asbestosis which always results in high-impairment; and

- there has been no hint of any acute cases in Western Australia to date.

The Commission **NOTED** the verbal report by Mr White and congratulated him on his recent permanent appointment as Chief Executive Officer of WorkCover.

5.6 Regulatory Activity Report

The Chair asked if there were any questions regarding the Regulatory Activity Report.

There were no questions from members.

The Commission **NOTED** the Regulatory Activity Report to 30 September 2019.

5.7 Fatalities and significant incidents

The Commissioner reported on a recent fatal workplace incident involving a 63-year-old truck driver at Woottating, near York. An investigation was underway, with few details as yet available.

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

5.8 Exemption certificates

There were no exemption certificates granted since the previous meeting.

6 OTHER BUSINESS

6.6 Cancellation of the December 2019 Commission meeting.

The Chair introduced a late paper requesting that the Commission meeting scheduled for 4 December 2019 be cancelled and that any emerging items be held over until the first meeting in 2020.

This would be a gesture of goodwill recognising the current resourcing difficulties being experienced by the DMIRS policy group. Any urgent out-of-session decisions can be made electronically. All sub-committees would still meet as scheduled.

The Commission **ENDORSED** a proposal to cancel the December meeting and defer any routine matters until the first meeting in 2020.

7 CLOSE AND NEXT MEETING

There being no further business, the Chair declared the meeting closed at 12.10pm. The next meeting will be held at 1 Adelaide Terrace, East Perth on 5 February 2020.

**MINUTES OF MEETING NO: 391
OF THE
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH
HELD ON 6 NOVEMBER 2019**

ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Stephanie Mayman

Chair

Date