



<b>Meeting No.</b>	27	<b>Time:</b>	9.00am
<b>Venue</b>	Koorling Dandjoo Conference Room, 1 Adelaide Terrace, East Perth		

## Work Health and Safety Commission Minutes – 4 December 2024

### Attendees

Dr Patricia Todd	Chairperson
Ms Sally North	Ex-officio member – WorkSafe Commissioner (via Microsoft TEAMS; joined at approx. 10am)
Mr Tony Robertson	Public service representative with knowledge of, and experience in, mining – A/Director WorkSafe Mines Safety
Mr Glenn McLaren	Member – nominated by Unions WA
Ms Naomi McCrae	Member – nominated by Unions WA (attendance via Microsoft TEAMS)
Ms Michelle Gadellaa	Member – nominated by the Chamber of Minerals and Energy Western Australia (CME)
Ms Jennifer Low	Member – Chamber of Commerce and Industry of Western Australia (CCIWA) (via TEAMS; joined at approx. 10am)
Mrs Agnes McKay	Member – CCIWA
Ms Tracey Bence	Expert member
Dr Lin Fritschi	Expert member
Dr Matthew Govorko	Expert member
Ms Helen Brown	Executive Officer – Senior Policy Officer, WorkSafe

### Guests

Mr Chris White	Regular guest – Chief Executive Officer, WorkCover WA
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Mr Antony Pearson

Unions WA (guest representative)

Ms Tracy Lacey

Manager Safety Education, Worksafe

## 1 WELCOME, APOLOGIES, AGENDA

### 1.1 Opening and welcome

The Chairperson welcomed members and guests and noted that two members are affected by travel to the Safe Work Australia meeting on 5 December and will therefore attend by Microsoft TEAMS for only part of the meeting.

### 1.2 Apologies

Apology: Naomi McCrae

### 1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting.

### 1.4 Declarations of Conflicts of Interest

A CCIWA representative expressed a perceived conflict of interest in relation to Agenda Item 4.4 (FIFO Code feedback), given that CCIWA had made a submission during the public consultation period. The Chairperson noted that organisations represented by other WHSC members also made submissions. As the feedback was only for noting, no action to address the perceived conflicts of interest was necessary.

## 2 PREVIOUS MEETING/S

### 2.1 Confirm minutes of previous meeting

The Minutes of the Work Health and Safety Commission (WHSC) meeting of 6 November 2024 were **ENDORSED** as a true and correct record subject to some minor amendments relating to Agenda Item 4.9.

### 2.2 Review action list from previous meeting

The WHSC **NOTED** the Action List. Action items were discussed by exception, as follows:

- Item E (*A letter to the Minister for Industrial Relations will be sent, outlining the increased demands on the WorkSafe drafting team due to the introduction of the new WHS legislation and the resulting backlog, and requesting additional resources to address the backlog and on an ongoing basis*) – Tracey Bence queried the 'on hold' status of this item as it has been unaddressed for several months, which generated significant discussion.

The Chairperson noted that the WHSC is getting more detailed updates and schedules from WorkSafe on the progress of development of codes and guidance. Any letter

needs to be specific. The hard work of WorkSafe's drafting team was acknowledged by several members.

The WorkSafe Manager Safety Education explained that the issue is not only a resourcing issue but the ability to attract and retain suitable personnel. Writing for codes is a different skill to other types of professional writing. The production of publications has significantly improved over the last year.

The WHSC **AGREED** to send a letter to the Minister for Industrial Relations regarding WorkSafe resourcing issues in the context of the timely production or amendment of codes of practice and guidance.

**ACTION 1** – The Chairperson will proceed with Action Item E by writing to the Minister for Industrial Relations regarding WorkSafe resourcing issues in the context of the timely production or amendment of codes of practice and guidance.

### 2.3 Codes of Practice - Update

The WHSC **NOTED** the table providing updates on codes of practice and other guidance that have been the subject of a decision by the WHSC. These were discussed by exception as follows:

- Development of Code of Practice: *Design and management of mining and construction accommodation* – Tracey Bence referred to the update that there were issues with the scope of the code and overlap with other codes. The Chairperson noted that the scope is an unresolved issue, with uncertainty as to whether it should include mining and construction only or should be broader.

Comments are summarised below.

- A presentation on fatigue at the recent Australian Institute of Occupational Hygienists conference highlighted the impact of the design of facilities on quality of sleep. Information is available on what is required for accommodation that optimizes health and safety. A survey of FIFO workers showed that the most important elements of their accommodation that affect sleep quality are actually inexpensive, being pillows, mattresses and quietly-closing doors. Tracey Bence will provide the conference presentation slides titled *A Sleep Environment Blueprint for Mining Camps: Enhancing Wellbeing and Performance – Data from an Australian research study* by ECU Centre for Precision Health Research Centre.
- A Unions WA representative stated that there is a need for more specific information about accommodation. For example, some big workers are only provided with small single beds and foam mattresses. Accommodation may not be sound-proofed and workers are disturbed by their neighbour's toilet flushing or door shutting.
- The scope could include all employer-provided accommodation except where there is a tenancy agreement.

- Amongst the feedback on the 'FIFO Code' were detailed comments about accommodation.

It was **AGREED** that representatives of the WHSC and WorkSafe will meet to discuss the scope of the proposed code or practice for accommodation.

**ACTION 2** – Representatives of WHSC and WorkSafe will meet to discuss the scope of the proposed code or practice for accommodation.

**ACTION 3** – Tracey Bence will provide information arising from the survey of FIFO workers on the topic of accommodation, for the purpose of informing drafting of the code of practice.

3	AGENDA	ITEMS	FOR	NOTING
	(Discussed by exception)			

### 3.1 HSR Training - approvals

The WHSC **ENDORSED** the following approvals of applications relating to the training of Health and Safety Representatives:

- Application to become a new training provider by South Metropolitan TAFE (nominated trainer = Julie Barker);
- Application by Pinnacle Safety and Training for additional trainer Megan Koti; and
- Application by Mine Training Australia for additional trainers Michael Sumich and Neville Matthews.

### 3.2 Construction Industry Safety Advisory Committee (CISAC) - Report

The WHSC **NOTED** the report of the CISAC meeting held on 19 November 2024. Key points discussed were:

- feedback received during the public consultation period for the amendments to the Code of Practice: *Managing the risks of falls in housing construction*;
- the need for guidance regarding battery energy storage systems; and
- whether the proposed code of practice for precast, tilt-up and concrete elements in building construction should be a guide instead.

The WHSC **ENDORSED** Ms Michelle DeGalt-Rohlf as the new member of CISAC representing the Master Builders Association of WA, replacing Mr Brett Mainwaring.

The potential inclusion of information regarding battery energy storage systems in the draft Code of Practice: *Managing electrical risks in the workplace* was raised, given the prevalence of fires arising from lithium batteries. Sites where there is a reliance on battery powered tooling are common, often with banks of batteries in sea containers.

There is usually no fire suppression or smoke detectors. This type of situation does not appear to be regulated.

The Chairperson noted that the CISAC report states that the WorkSafe Commissioner agreed that guidance on this issue is required.

### **3.3 Mining and Petroleum Advisory Committee (MAPAC) - Report**

Nil

### **3.4 Agricultural Safety Advisory Committee (ASAC) - Report**

Nil

### **3.5 Legislative Advisory Committee (LAC) - Report**

The WHSC **NOTED** the report of the LAC meeting on 20 November 2024. Key points discussed were:

- the scope of the proposed guide for managing the risks of working in heat; and
- issues relevant to the proposed information sheet for medicinal cannabis.

Chris White (WorkCover WA) commented that the challenges relating to the use of medicinal cannabis in the workplace, such as whether it is necessary and the interaction with safety, are also experienced in the workers' compensation sphere. Medicinal cannabis is being heavily marketed.

### **3.6 WorkSafe events and promotions update**

The WHSC **NOTED** the WorkSafe events and promotions update, which included an update on stakeholder guidance being produced, public consultations and promotions, and WorkSafe events.

Key points were that the:

- new WorkSafe website is now live;
- first HSR morning tea will take place on 11 December;
- two interns have developed a survey to seek information from WHSC members regarding their views about codes of practice, to be circulated and responded to by 9 December, and
- a report will be presented to the WHSC on the survey results.

### **3.7 Regulatory Activity Report**

The WHSC **NOTED** WorkSafe Regulatory Activity Report for the period to 30 September 2024. Members were pleased with the new format.

It was noted that WorkSafe Mines Safety data for the periods 2022-23 and 2023-24 was not included.

In response to a query, Tony Robertson explained the process for reviewing and possibly overturning prohibition and improvement notices, whereby a subject matter expert will conduct a technical review of the facts and the quality of the notice itself will be reviewed.

### 3.8 Exemptions

The WHSC **NOTED** the exemptions from requirements of the Work Health and Safety (General) Regulations 2022 granted by the WorkSafe Commissioner during the period 16 October to 14 November 2024 inclusive.

### 3.9 Correspondence

The WHSC **NOTED** the following correspondence:

- 3.9A – Chairperson WHSC to Minister McGurk – Comments on Civil Contractors’ Federation draft training course for use of earthmoving equipment as a crane
- 3.9B – Response from Safe Work Australia – Progress of infectious diseases code
- 3.9C – Chairperson WHSC and Safe Work Australia – Second query and response re technical basis for workplace exposure standard (WES) for diesel particulate matter (DPM).

It was **AGREED** that the matter of the WES for DPM will be discussed further at the WHSC’s February 2025 meeting.

## 4 ITEMS FOR DISCUSSION

### 4.1 WorkCover WA report (standing item)

The WHSC **NOTED** the verbal report delivered by the Chief Executive Officer of WorkCover WA. The key points were:

- it is six months since the introduction of the *Workers Compensation and Injury Management Act 2023*, and an internal and stakeholder review of the implementation with a focus on forms and processes will be undertaken;
- many resources have been allocated to address a settlement backlog; and
- in 2025 there will be a focus on interactions with general practitioners and the medical profession who are the ‘gatekeepers’ for workers’ compensation and with whom there has traditionally been difficulty engaging (Mr White acknowledged the good work of those general practitioners who do carefully and responsibly assess patients for workers’ compensation).

### 4.2 Fatality Update Report (standing item)

The WHSC **NOTED** the Fatality Update Report for the month ending October 2024.

### 4.3 Code of Practice: Managing electrical risks in the workplace

The WHSC was presented with the final draft of the Code of Practice: *Managing electrical risks in the workplace* ('the Code') for endorsement.

It is based on the equivalent model code but has been amended to reflect requirements in Western Australia's (WA's) Electricity (Licensing) Regulations 1991 and variations in WA's WHS legislation. The Code was released for public consultation, resulting in 13 responses.

Discussion took place about whether safety issues associated with banks of batteries such as in sea containers on construction sites fit within the scope.

The WHSC **ENDORSED** the Code for gazettal subject to querying whether safety issues regarding banks of storage batteries should be included.

**ACTION 4** – Communicate with WorkSafe regarding safety for battery storage banks and potential inclusion in the Code of Practice: *Managing electrical risks in the workplace* or other guidance.

### 4.4 'FIFO' Code – Feedback from public consultation

The WHSC **NOTED** the feedback resulting from public consultation for the draft Code of Practice: *Psychosocial hazards at work for fly-in fly-out workers in the resources and construction sectors* ('FIFO Code').

The FIFO Code is a new version of the existing *Mentally healthy workplaces for fly-in fly-out (FIFO) workers in the resources and construction sector* which has been reviewed and amended to ensure it aligns with the WHS laws and current knowledge and practices. The revised code focuses broadly on psychosocial hazards.

Twenty-four responses were received during the public consultation period, which ran from 1 August – 24 October 2024. The WHSC commended WorkSafe for collating the large volume of feedback. The Chairperson commented on the usefulness of the feedback and the quality and extensiveness of submissions, expressing appreciation to those who made submissions. Particular mention was made of the usefulness of feedback submitted by FIFO Focus and the Society for Industrial and Organizational Psychology.

The Chairperson noted feedback expressing confusion about the number of 'psychosocial codes' and their overlap and stated that a way forward on this matter needs to be prioritised. This view was supported by industry representatives.

Dr Fritschi suggested that consolidation of the 'psychosocial codes' is a 'discreet project' that one person could undertake and for which funding could be requested. This would align with the outcomes of the *Enough is Enough Report*. Chris White noted the number of interest groups involved and that consolidation will not simply be a technical exercise.

A CCIWA representative stated that the core issue is that none of the psychosocial codes tell 'how' to manage psychosocial risks. If the codes are to be consolidated, it would be beneficial to collaborate with WorkSafe with regard to how inspectors are approaching psychosocial matters. Knowledge and understanding has increased since publication of the psychosocial codes.

The WorkSafe Commissioner indicated that WorkSafe could consider providing funds for the consolidation of the psychosocial codes within their current budget. It was **AGREED** that WorkSafe will be asked to investigate this option.

The Chairperson questioned whether the FIFO Code can be finalised before any review of the psychosocial codes. It was **AGREED** that finalisation of the FIFO Code should proceed.

**ACTION 5** – The WHSC will ask WorkSafe to consider funding of a project officer to review the psychosocial codes with a view to rationalising, consolidating and/or rewriting them due to overlap and lack of practical information.

#### 4.4A Miscellaneous

The Chairperson took the opportunity to raise several matters with the WorkSafe Commissioner ('the Commissioner') given that the Commissioner may have needed to leave the meeting early.

On the matter of the WES for DPM the Commissioner noted that, at the conference of the Australian Institute of Occupational Hygienists, some other mining jurisdictions were considering introducing a WES of 0.05mg/m<sup>3</sup>. In Western Australia, the WES for DPM is 0.1mg/m<sup>3</sup> according to the Work Health and Safety (Mines) Regulations 2022. The WorkSafe Director Mines Safety is arranging a meeting with counterparts in other jurisdictions to discuss the matter.

The Chairperson raised the matter of regulation of the use of earthmoving machinery as a crane and the suitability of the training course for Item 15A (use of slewing earthmoving machinery with a safe working load greater than 3 tonnes as a crane) of Schedule 3 of the Work Health and Safety (General) Regulations 2022 and Work Health and Safety (Mines) Regulations 2022. The Commissioner reported that the Minister has considered the matter in view of the national move to investigate regulating the use of earthmoving machinery as a crane and the associated timeframes. It has been decided that a general exemption will be granted from the requirement for a licence to use earthmoving machinery as a crane on the condition that a suitable training course is undertaken. A working group will be formed to develop a training course. A regulatory amendment to this effect would achieve the same outcomes.

The Commissioner suggested that the date of the 5 February 2025 WHSC meeting be moved forward to avoid the caretaker period. This will be investigated.

In response to a query about the safety of battery energy storage systems, the Commissioner reported that it was felt by the relevant working group that this topic was not best suited to the Code of Practice: *Managing electrical risks in the workplace*. It is



an emerging area and would be better in a WorkSafe guidance sheet or similar at this stage.

#### **4.5 Query re proposed code for pre-cast, tilt-up and concrete elements in building construction**

The WHSC discussed the views of WorkSafe that a guide be produced instead of the proposed Code of Practice: *Pre-cast, tilt-up and concrete elements in building construction*.

At the May 2024 meeting, the WHSC endorsed the development of a code after being provided with a rationale for development by the Construction Industry Safety Advisory Committee (CISAC). However, WorkSafe is of the view that the relevant legislative requirements point to Australian Standards (ASs) and the content of these cannot be copied be due to copyright restrictions, thus limiting information that can be included in the code. WorkSafe proposed that a guide be developed based on the Safe Work Australia Guide but with a WA context.

This proposal was opposed by CISAC members at their meeting on 19 November 2024.

The Commissioner commented that, because the relevant regulations refer to ASs, they are effectively very detailed and therefore there may be less need for a code of practice. CISAC has the strong view that the original decision to develop a code should stand. Codes are more accessible, and information can be drawn from the *National Code of Practice for Precast, Tilt-up and Concrete Elements in Building Construction* (2008) ('National Code') by the Australian Safety and Compensation Council.

A union representative commented that working with precast, tilt-up and concrete elements is high risk work. Coroner's recommendations have not necessarily been reflected in the ASs. A CCIWA representative commented that people must pay to purchase Australian Standards, which is a disincentive to access them.

A CCIWA representative suggested developing a code and removing references to the relevant ASs from the WHS laws. Discussion took place about the broader issue of referencing ASs in legislation. The Commissioner noted that there are fewer references in the WHS legislation than in the former OSH legislation. Where requirements are very technical, it is harder to remove the reference to ASs. The Commissioner would not like to see removal of the references to ASs before a code is published. It was suggested that WorkSafe meet with the CCIWA representative to discuss what information from ASs can be included in codes.

A Unions WA representative drew attention to the agenda paper showing a comparison between the contents of the relevant ASs, National Code and SWA *Guide to managing risk in construction: prefabricated concrete*, noting that certain important aspects are not included.

The WHSC **AGREED** in principle that the decision stands to develop a Code of Practice for pre-cast, tilt-up and concrete elements in building construction.

#### **4.6 Safe Work Australia (SWA) update (standing item)**

The WHSC noted the agenda for the next day's SWA meeting. The agenda item concerning options to improve quad bike safety was welcomed, given continuing fatalities.

#### **4.7 Silica** (standing item)

Comments included:

- there have been no new workers' compensation claims since the last meeting;
- some data has been released by the National Occupational Respiratory Disease Registry;
- a manufacturer of engineered stone was cited that has been attempting to avoid workers' compensation claims relating to silica as their head office is in the Middle East and they have not got Australian insurance;
- it would be interesting to know what replacements for engineered stone are comprised of and if they are safe to use; and
- former WHSC member Dr Julia Norris stated at the conference of the Australian Institute of Occupational Hygienists that, following the prohibition of engineered stone, some small businesses are becoming complacent about dust control; WorkSafe inspectors have been made aware of this.

## **5 OTHER BUSINESS**

### **5.1 Members to advise**

Concern about Monkey Pox was raised. There have been no deaths in Australia but over 500 cases have been reported. Those most impacted are working age males. In African countries Monkey Pox is spreading by non-sexual means and is passing to children at a high rate.

## **6 NEXT MEETING**

6.1 The Chairperson wished everyone a joyful and relaxing Christmas and New Year. The meeting closed at 10.50am.

Next WHSC meeting – 5 February 2024

**CLOSE**