

22 April 2005

Mr John Mitas
Chief Inspector
Minerals and Petroleum Regulation
Department of Primary Industries
GPO Box 4440
Melbourne, Vic, 3001

Dear John,

Re: Comments on the NMSF – Nationally Coordinated Strategy on Consultation

The Minerals Council of Australia, Victorian Division is pleased to be invited to comment on the National Mine Safety Framework Strategy No. 6 – Consultation, received in March 2005.

The Minerals Council of Australia (MCA) is the peak, national organisation representing the exploration, mining and minerals processing industry in Australia. The membership of the Council accounts for some 85 per cent of Australian minerals production and over 90 per cent of Australia's mineral exports. MCAVic is the Division of the MCA that represents the interests of members operating in Victoria.

It is our view that effective consultation underpins and is integral with improved OHS outcomes at mine sites and should be seen as the way of doing business. As stated by Margot Hoyte of VTHC at the Victorian Minerals Industry Annual Safety Seminar on 13 April in Melbourne, effective consultation is commonsense and a fundamental prerequisite to effective safety and health programs. As well, Carl Luttig of Zeal Consultants said at the same seminar, consultation is undertaken widely in most workplaces but it needs to be focused and directed to be effective and that consultation should be a key safety value. The MCA wholeheartedly supports all of the above points. It is noted that the new Victorian OHS Act is built around a requirement for effective consultation.

Accountabilities

We agree with the stated accountabilities of government but would make the point that it is State and Territory Governments that legislate and regulate OHS, not the Commonwealth.

With respect to the accountabilities of employer and employee representative bodies we are concerned that the Strategy claims that these bodies are "responsible" for contributing to consultative processes at the state and national level. We are unaware of any formal

responsibility for these bodies. It is certainly an aim of most representative bodies and the Minerals Council of Australia in particular to work with member companies on pre-competitive measures to dramatically improve OHS outcomes in the Australian minerals sector. But there certainly is no legislated or legal responsibility.

Similarly we are concerned that the statement that “Industry and employees” are responsible for carrying out meaningful consultation within workgroups or workplaces. Surely it is “Employers and employees” that are responsible.

Consultation at the Workgroup or Workplace Level

The authors of the draft Strategy have done an excellent job at documenting the intrinsic value of effective consultation at the workgroup and workplace level and the proposed guidelines for consultation are generally sound.

However, there is an ambiguity in the Guideline dot point related to the responsibilities of employees that requires remedy. The guideline states that employees have a responsibility to “adhere to the safety and health requirements, which are agreed to through the consultative process”. As defined elsewhere in the guideline, consultation is not about agreement, it is about sharing relevant information, providing employees with an opportunity to have their say, and valuing their contribution. It would be an inappropriate outcome if employees were only to adhere to OHS requirements which they agreed with. It is therefore recommended that the guideline be amended to state that employees have a responsibility to “adhere to the safety and health requirements which have been through a consultative process”.

Consultation at the State and Industry Level

The authors of the draft Strategy have proposed tripartite consultation at the state level between employer bodies, employee representative bodies and government. Such arrangements are proposed under the new OHS Act in Victoria at a high level involving peak employer representatives and the Trades Hall Council.

Within the Victorian minerals industry consultation on OHS matters occurs at the state level in the following fora:

- The Minerals and Petroleum Regulatory Stakeholders Forum organised by the Department of Primary Industries includes OHS matters in its agenda and involves representatives of all sectors of the industry.
- The MCAVic Safety and Health Working Group includes ex-officio representation from the Chief Inspector of Mines.

MCAVic does not agree with the need for the proposed Guidelines nor do we agree with the content of the Guidelines. The Guidelines as drafted appear to assume that the minerals industry is the premier industry in all states, unfortunately is in not yet the case and a more realistic arrangement is warranted.

Consultation at the National Level

The authors of the draft Strategy have noted that no consultative arrangements presently exist at the national level specifically for the minerals industry.

At the national level, strategic policy matters are dealt with by the National Occupational Health and Safety Council which is a tripartite forum with extensive consultation arrangements on OHS matters. The NOHSC considers nationally significant issues that are the priority issues of the minerals industry and many other industries.

It would be very inefficient if every industry was to form its own consultative forum at the national level.

MCAVic appreciates the excellent work undertaken by the Committee of Chief Inspectors of Mines and believes that the current consultation arrangements with the Victorian representatives are more than adequate to ensure national coordination.

MCA is very aware that OHS is legislated and regulated at the State level and that the NOHSC already provides a national forum for nationally significant issues. We therefore do not see any value in a national tripartite forum set up specifically for the minerals industry.

We would be pleased to discuss the above comments with you should you wish.

Yours sincerely,



Chris Fraser
Executive Director, Victoria