



Implementation Report

Updated June 2009

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Executive Summary

The National Mine Safety Framework (NMSF), an initiative of the Ministerial Council on Mineral and Petroleum Resources (MCMPR), aims for a nationally consistent occupational health and safety (OHS) regime in the mining industry. The Framework consists of seven strategies, focused on areas where consistency across jurisdictions would be most beneficial. The goal of the NMSF is to achieve both consistency and improved safety outcomes through appropriate regulatory frameworks.

In November 2005, MCMPR established a tripartite Steering Group (comprising State/Northern Territory and Australian Government officials, five industry associations, and two trade unions and the Australian Council of Trade Unions) to guide the development of the framework. The Steering Group met for the first time in July 2006.

The Steering Group has finalised its development of the seven strategies, and makes the following recommendations:

Strategy 1 - A nationally consistent legislative framework: The Steering Group recommends that MCMPR endorse the NMSF Legislative Framework. This Framework identifies a set of broad legislative principles that all jurisdictions have committed to implementing to ensure legislative consistency. The Steering Group recommends the development of Drafting Instructions and Example Clauses based on this Legislative Framework, as a mechanism to translate the broad principles of the Legislative Framework into legislative change.

The Drafting Instructions and Example Clauses are being developed flexibly to remain consistent with the concurrent review into model OHS laws, announced by the Minister for Employment and Workplace Relations on 4 April 2008.

Strategy 2 - Competency support: The Steering Group recommends that MCMPR endorse the strategies developed for Competency Support of both the Industry and the Regulator. For the Industry Competency Strategy, this will involve the development of a standard set of competencies for 18 mining specific roles identified in various jurisdictions' legislation, reaching agreement on how those competencies are demonstrated, and identifying a process that allows jurisdictions to implement the agreed national standards in a manner consistent with their respective legislation.

The implementation of the Regulator Competency strategy will involve the refinement of a list of 'competencies within the ideal inspectorate', undertaking an independent capability analysis of the inspectorate based on this competency list, and the development and/or delivery of training to improve or broaden capabilities, as identified during the independent capability analysis. This will involve the delivery of training packages at a national level, such as through a national regulators forum.

Strategy 3 - Compliance support: The Steering Group recommends that MCMPR endorse the Compliance Support strategy, which aims to provide advisory information for duty holders to assist them in achieving compliance. This includes:

- The development of National Guidance Material;
- The development of an online repository of guidance material, for which the Steering Group recommends the redevelopment of the University of Queensland's Minerals Industry Risk Management Gateway – or MIRMgate – a known resource for risk management advisory information in the mining industry, and;
- The ongoing facilitation of a communication network between those developing guidance materials, and the users of guidance material.

Strategy 4 - A nationally coordinated protocol on enforcement: The Steering Group recommends that MCMPR endorse the five elements of the Enforcement Framework, including:

- National Enforcement Principles, which outline the goals of enforcement and the principles that should guide regulators in taking enforcement action and have been developed by the Steering Group with reference to Director of Public Prosecution guidelines;
- Enforcement Tools;
- National Enforcement Implementation Guidelines;
- An audit mechanism to assess consistency between jurisdictions, and;
- Mechanisms to drive consistency in practice.

Strategy 5 - Consistent and reliable data collection and analysis: The Steering Group recommends that MCMPR endorse the National Data Set, which identifies safety and health statistics that all jurisdictions would be required to collect in order to achieve consistency in data collection and analysis.

The Steering Group also recommends that MCMPR endorse the establishment of a National Mine Safety Database to house the National Data Set, ensuring the highest degree of consistency in data collection and analysis, and making it possible to accurately identify national trends.

Strategy 6 - Effective consultation mechanisms: The Steering Group recommends that MCMPR endorse the Consultation Framework, which identifies broad legislative principles that all jurisdictions have committed to implementing. A key aspect of the Consultation Framework is that it does not aim to dictate *how* consultation will take place, only that genuine consultation *must* take place, allowing a mine site to establish a consultation mechanism suited to its circumstances.

The Steering Group again recommends the development of Drafting Instructions and Example Clauses (a key recommendation for the realisation of Strategy 1 – A Nationally Consistent Legislative Framework), to give effect to the Consultation Framework.

Strategy 7 - A collaborative approach to research: The Steering Group recommends that MCMPR endorse the Research Framework, which consists of four elements aimed at fostering effective research into occupational safety and health in the mining industry and effective utilisation of that research. These four elements involve:

- The identification of relevant research and the establishment of an online repository for this information (the Steering Group also recommends the redevelopment of MIRMgate as this repository of research information);
- Establishing a mechanism to facilitate collaborative research projects;
- Fostering stakeholder awareness of relevant research information, and;
- Fostering industry implementation of research outcomes.

Implementation

These recommendations have been developed with the input of all major stakeholders, and refined through an exhaustive national consultation process.

It is the Steering Group's view that the goal of a nationally consistent OHS regime in the mining industry will not be realised unless these recommendations are implemented. The goal of consistency in legislation, guidance and implementation (i.e. 'on-the-ground' consistency in how legislation is implemented and enforced) will not be reached if there is no mechanism in place to oversee and drive the process and if such a mechanism is not adequately resourced. If this opportunity to implement the strategies of the NMSF is not capitalised upon now, while there is momentum and commitment to the process, there is the potential to set the process back significantly and undermine the hard work that has been done to date.

The Steering Group therefore recommends that an appropriate mechanism should be in place to facilitate and oversee the implementation of the above recommendations. The Steering Group specifically recommends that MCMPR endorse the ongoing role of the Steering Group, with a Secretariat (noting that the Steering Group would determine the size and functions of the Secretariat, based on the activities it directs the Secretariat to undertake), as this mechanism. An extensive forward work program, should it be accepted, is provided in this report.

In order for this mechanism to be effective in realising the goals of the NMSF, adequate funding is critical. The Steering Group therefore recommends that MCMPR agree to ongoing annual government funding for the ongoing implementation activities as well as the costs associated with the establishment and running of the mechanism undertaking these activities.

Summary of Recommendations

Strategy 1 – A Nationally Consistent Legislative Framework

NMSF Steering Group Recommendations

1. *That Ministers endorse the NMSF Legislative Framework.*
2. *That Ministers endorse the ongoing development of the NMSF Legislative Framework Drafting Instructions and Example Clauses, noting that the outcomes of the National Review into Model OHS Laws will be taken into account in the finalisation of these drafting instructions, to ensure the NMSF is consistent with the model OHS legislation to be developed.*

Strategy 2 – Competency Support

NMSF Steering Group Recommendations:

1. *That Ministers endorse the Competency Support – Industry Strategy, including:*
 - *the development of a standard set of competencies for 18 mining specific roles identified in various jurisdictions' legislation;*
 - *reaching agreement on how those competencies are demonstrated; and*
 - *identifying a process to implement the agreed national standard..*
2. *That Ministers endorse the Competency Support – Regulator Strategy, including:*
 - *the refinement of a list of 'competencies within the ideal inspectorate';*
 - *undertaking an independent capability analysis of the inspectorate based on this competency list; and*
 - *the development and/or delivery of training to improve or broaden capabilities, as identified during the independent capability analysis.*
3. *That Ministers endorse the coordination of an annual national regulators forum, to enhance consistent competency development of the regulator.*

Strategy 3 – Compliance Support

NMSF Steering Group Recommendations

1. *That Ministers endorse the immediate goal of the Compliance Support Strategy – the redevelopment of the MIRMgate website as an online repository of guidance material.*
 - *noting that it is anticipated that an annual contribution of \$20,000 needs to be factored into future funding proposals to action this strategy and facilitate the increased flow of information to MIRMgate.*
2. *That Ministers endorse the long-term goal of the Compliance Support Strategy – to develop national guidance material, focussing on issues where inconsistencies across jurisdictions are causing confusion for industry stakeholders.*

Strategy 4 – A Nationally Coordinated Protocol on Enforcement

NMSF Steering Group Recommendations:

1. *That Ministers endorse the five elements of the Enforcement Framework, including:*
 - *National Enforcement Principles, which outline the goals of enforcement and the principles that should guide regulators in taking enforcement action;*
 - *Enforcement Tools;*
 - *National Enforcement Implementation Guidelines*
 - *An audit mechanism to ensure consistency between jurisdictions; and*
 - *Mechanisms to drive consistency in practice.*
2. *That Ministers endorse the National Enforcement Principles document.*

Strategy 5 – Consistent and Reliable Data Collection and Analysis

NMSF Steering Group Recommendations:

1. *That Ministers endorse the refined National Data Set.*
2. *That Ministers endorse the establishment of an electronic National Mine Safety Database*
 - *noting the capital expense involved in the establishment of a national database, estimated at \$1.2 million.*

Strategy 6 – Effective Consultation Mechanisms

NMSF Steering Group Recommendations:

1. *That Ministers endorse the NMSF Consultation Framework, unchanged since the December 2007 MCMPR Out-of-Session paper.*
2. *That Ministers endorse the development of the NMSF Legislative Framework Drafting Instructions and Example Clauses, as per Strategy 1 above.*

Strategy 7 – A Collaborative Approach to Research

NMSF Steering Group Recommendations

1. *That Ministers endorse the four elements of the Research Strategy, including*
 - *the identification of relevant research and the redevelopment of the MIRMgate website as an online repository of research information;*
 - *establishing a mechanism to facilitate collaborative research projects;*
 - *fostering stakeholder awareness of relevant research information; and*
 - *fostering industry implementation of research outcomes*
2. *That Ministers note that it is anticipated that an annual contribution of \$20,000 needs to be factored into future funding proposals to action this strategy and facilitate the increased flow of information to MIRMgate (as per Strategy 3 above).*

Ongoing Implementation Mechanism

NMSF Steering Group Recommendation

- 1. That Ministers agree that a mechanism should be put in place to facilitate and oversee the ongoing implementation activities; and*
- 2. That Ministers endorse option 3 'continuation of the NMSF Steering Group, with a Secretariat' as this mechanism, with the size and functions of the Secretariat to be determined by the Steering Group.*

Ongoing Funding

NMSF Steering Group Recommendations

- 1. That Ministers agree that adequate funding is required to ensure the goals of the NMSF are realised; and*
- 2. That Ministers agree to ongoing annual government funding through MCMPR, based on the funding requirements contained within the indicative budget.*

Background

The National Mine Safety Framework (NMSF) is an initiative of the Ministerial Council on Mineral and Petroleum Resources (MCMPR). The NMSF aims for a nationally consistent occupational health and safety (OHS) regime in the mining industry. This includes consistent legislative principles in conjunction with a consistent approach to the interpretation, implementation and application of that legislation. The Framework consists of seven strategies, focused on areas where consistency across jurisdictions would be most beneficial. The strategies are:

- **Nationally consistent legislative framework:** to provide a nationally consistent legislative framework that protects the safety and health of mine employees and persons who may be affected by mining operations. The legislative framework incorporates the principles adopted in the International Labour Organisations' *Convention 176: Safety and Health in Mines*.
- **Competency support:** to encourage and promote continuous skills development and consistent levels of competency nationwide, for both the regulator and the industry.
- **Compliance support:** to develop a national approach to providing advisory information for duty holders to assist them in achieving compliance, while recognising the varying needs of individual operations.
- **A nationally coordinated protocol on enforcement:** to develop a nationally consistent and transparent approach to enforcement that provides clear and consistent standards for duty holders, and supports equitable outcomes from governments' contribution to safety and health in the mining industry.
- **Consistent and reliable data collection and analysis:** to develop a national mining industry data set, and facilitate consistent collection and analysis of data across jurisdictions.
- **Effective consultation mechanisms:** to establish an effective national approach to consultation with stakeholders and between jurisdictions on safety and health in the mining industry, at both the workplace and State/Territory levels.
- **A collaborative approach to research:** to establish appropriate mechanisms for governments to foster effective research into occupational safety and health in the mining industry.

These seven strategies were initially developed by the Chief Inspectors of Mines, a subcommittee of the MCMPR, consisting of the most senior officers with regulatory responsibility for mining operations in the States and Northern Territory. The seven strategies were endorsed by MCMPR in 2002.

In November 2005, MCMPR re-endorsed the initiative with the establishment of a tripartite Steering Group.¹ The Steering Group represents eighteen organisations, with representatives from State, Northern Territory and Australian Governments, five industry associations, two unions and the Australian Council of Trade Unions (refer to **Attachment A** for a list of Steering Group member organisations). The Hon Clive Brown, former Western Australian Minister for State Development, chairs the Steering Group, which met for the first time in July 2006. The Steering Group's terms of reference can be found at **Attachment B**.

Banks Report & Council of Australian Governments (COAG) endorsement

On 12 October 2005, the Prime Minister announced the appointment of a taskforce to identify practical options for alleviating the compliance burden on business from Government regulation. The Taskforce was Chaired by Mr Gary Banks. The Taskforce's report, *'Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business'* (known as the "Banks Report") was delivered to the Prime Minister and Treasurer on 31 January 2006. The report made a number of recommendations relating to health and safety regulation, including a specific recommendation regarding the NMSF - recommendation 4.30, which states:

COAG should establish a high-level representative group to oversee the National Mine Safety Framework. This group should work closely with the Ministerial Council on Mineral and Petroleum Resources to oversee the next stage of reform, including the delivery of a single national regulatory body.

[*\(Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, January 2006\)*](#)

The Australian Government agreed in full or in part to 158 of the 178 recommendations within the report, including recommendation 4.30. COAG also considered the report (and the Australian Government's responses) and, at its 10 February and 14 July 2006 meetings, agreed to a range of measures to address the regulatory hot spots identified in the report. At its 14 July 2006 meeting, COAG noted the following: "the *Report of the Taskforce on Reducing Regulatory Burdens on Business* made a number of recommendations with Commonwealth-State implications. The Commonwealth's interim response to this report sought cooperation from the States and Territories in progressing through COAG the issues of a National Mine Safety Framework..." ([COAG Communiqué – 14 July 2006](#))

The Chair of the MCMPR wrote to the Prime Minister on 21 June 2006, informing him that Council had established a National Mine Safety Framework Steering Group, which would develop a set of principles to guide and further develop the Framework. MCMPR agreed at that time that consideration of a national authority was premature, given the complexity of the work to implement the National Mine Safety Framework, and should be postponed until the framework is completed. Consideration of a single national authority was not included in the Steering Group's terms of reference.

¹ Noting that this action preceded both the Banks report recommendation to this and the subsequent endorsement by COAG – see below.

At the COAG 26 March 2008 meeting, “COAG also agreed to an ambitious new COAG regulation reform agenda covering nine areas – standard business reporting, food regulation, *mine safety*, electronic conveyancing, upstream petroleum (oil and gas) regulation, maritime safety, wine labelling, directors’ liabilities and financial service delivery” ([COAG Communiqué – 26 March 2008](#), emphasis added). This reform agenda was supported by the Business Regulation and Competition Working Group (BRCWG) Implementation Plan which includes specific timeframes for the delivery of the NMSF options for national mine safety regulation (refer **Attachment C**). This Working Group was established by COAG on 20 December 2007.²

² It should be noted that this BRCWG Implementation Plan states that the MCMPR (in consultation with BRCWG) is to report on options for reform in national mine safety regulation by October 2008. The Chair of the MCMPR wrote to Prime Minister Rudd on 27 June 2008 to inform him that, despite the great deal of progress on the NMSF, the MCMPR would not be in a position to deliver its final recommendations by October 2008, but would do so by December 2008. The NMSF Steering Group prepared its timelines in September 2007, to deliver its recommendations to MCMPR by November 2008. The Steering Group shortened these timelines to meet an October deadline set by COAG in March 2008, but the public consultation process in July 2008 meant that the timelines could not be shortened any further.

Process

The development of the NMSF strategies has been an inclusive, comprehensive and transparent process. The major stakeholders are all part of the development process, and the views of all stakeholders are heard and considered through nation-wide public consultations.

At its first meeting in July 2006, the Steering Group agreed to focus initially on three out of the seven strategies: a legislative framework, consultation framework and development of a national data set. Tripartite Working Groups developed the strategies, which were then considered by the Steering Group in an iterative process. Extensive public consultations were then undertaken around Australia in June 2007.

These consultations consisted of seven facilitated workshops in Melbourne, Sydney, Adelaide, Brisbane, Mackay, Perth and Kalgoorlie (approximately 175 people participated in these workshops in total); 35 one-on-one meetings with key stakeholders; and written online submissions. eNewsletters were used to promote the workshops and encourage online submissions.

All public feedback was considered by the relevant Working Groups and the Steering Group. The strategies were then finalised and enjoyed unanimous support from the Steering Group with the exception of clause 21 in the Legislative Framework. This clause refers to site health and safety representatives having the ability to direct others to stop work, and is not unanimously supported by the Steering Group.

These strategies were delivered to MCMPR in November 2007 for consideration and endorsement.

In December 2007, the Steering Group commenced development of the remaining four strategies: competency support, compliance support, a consistent enforcement protocol and a collaborative approach to research. Public consultations on these strategies were undertaken in late July 2008, through four facilitated workshops in Perth, Sydney, Brisbane and Hobart (attended by approximately 125 stakeholders in total), 18 one-on-one meetings with key stakeholders and online submissions.

The Working Groups considered the public consultation feedback in August 2008, with the Steering Group finalising its recommendations on the implementation of the remaining four strategies at its meeting in Hobart on 4-5 September 2008. These recommendations are detailed within this Implementation Report, which was finalised and delivered to MCMPR in October 2008.

This report has since been endorsed the MCMPR on 28 October 2008 and by COAG on 30 April 2009.

NMSF & National OHS Harmonisation

On 4 April 2008, the Minister for Employment and Workplace Relations announced a National Review into Model Occupational Health and Safety Laws (the Review). The Review is being undertaken by a three-person advisory panel (the Review Panel), chaired by Robin Stewart-Compton. The Review Panel is tasked with reporting to the Workplace Relations Ministers' Council (WRMC) on the optimal structure and content of model OHS legislation, capable of being adopted in all jurisdictions.

At its 3 July 2008 meeting, COAG formalised its commitment to the harmonisation of OHS legislation, signing an Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety. In signing the agreement, jurisdictions have committed to the adoption and implementation of this model OHS legislation. The development of the legislation is to be overseen by the Australian Safety and Compensation Council (ASCC) replacement body³ and endorsed by the WRMC and then COAG by December 2011.

The approach of the NMSF is broader than the Review, focussing on a range of areas, in addition to legislative consistency, to help realise the goal of a nationally consistent OHS regime in the mining industry. However, the NMSF Steering Group and MCMPR acknowledge that the outcomes of the Review (and the model OHS legislation that will subsequently be developed) may have a direct impact on mine safety legislation – as the Review Panel may make recommendations relating to the structure of industry specific legislation, and the relationship between it and general OHS legislation. These recommendations will be considered by the WRMC and COAG before being incorporated into the model OHS legislation. In consideration of this, the NMSF Steering Group has adopted an approach to the implementation of the NMSF Strategy 1 – a Nationally Consistent Legislative Framework – that is flexible enough to ensure that inconsistencies, should they arise, can be overcome.

Currently, three types of legislation exist in the mining industry: mining specific OHS legislation and regulations (Queensland and Western Australia), general OHS legislation supplemented by specific mining regulations (either stand alone regulations or mining sections within general OHS regulations) (Victoria, South Australia, Northern Territory, Tasmania) and general OHS legislation with subsidiary mining OHS legislation (New South Wales). Commonwealth OHS legislation does not apply directly to the onshore mining industry.

The Steering Group will not be making recommendations on the legislative instruments that should be used to implement nationally consistent legislation. However, it recognises that the Review is considering this issue.

³ The ASCC is likely to be replaced by SafeWork Australia, an independent statutory authority established by the Australian Government. Legislation establishing the body was introduced into Parliament on 4 September 2008, and at the time of writing was still being considered.

In order to translate the high-level principles of the NMSF Legislative Framework into legislative change that drives consistency between jurisdictions, the Steering Group has started to prepare drafting instructions and example clauses based on the principles of the Legislative Framework. The drafting instructions will clearly explain the intent of each clause and define the intended policy outcome, with the example clauses provided as a guide of what such a clause embodying the intent and policy outcomes might look like. If needed, jurisdictions could then use the example clause in its entirety, or modify it to suit the jurisdiction's terminology.

The Steering Group expects that these drafting instructions will be largely agreed by its membership in March-April 2009. The Review Panel's recommendations regarding the scope and coverage of the national model OHS legislation will be delivered to the WRMC by 30 January 2010. This timing will therefore allow the NMSF Steering Group to take into account the recommendations from the Review as it finalises the drafting instructions and, if necessary, make amendments to ensure consistency is maintained. The Steering Group is cognisant of the importance of aligning the drafting instructions and example clauses with the outcomes of the Review.

Irrespective of the outcomes of the Review, there will still need to be some mining industry specific legislative instrument, of which the NMSF Legislative Framework Drafting Instructions should form the basis. The Drafting Instructions are therefore being prepared so that they could be utilised as a guide for drafting the variety of legislative instruments.

The NMSF Steering Group Secretariat has been meeting regularly with the Office of the ASCC since the inception of the NMSF Steering Group. The Secretariat will continue to meet regularly with any replacement body, to ensure it keeps abreast of the direction of the Review and the subsequent development of model OHS legislation.

In some jurisdictions, there is a strong historical context for mining industry specific OHS legislation. This legislation has been shaped by imperatives in particular jurisdictions and influenced by the development of the industry, resulting in variations between jurisdictions.. The aim of the NMSF is to put in place a consistent approach for a full range of safety issues, as stated in the seven strategies, without losing the provisions that remain relevant, some of which are the result of hard won lessons from the past and must be retained to ensure the safety of mineworkers.

Finally, the NMSF Steering Group believes that the work undertaken to date is enormously valuable in influencing a national OHS framework and considers that NMSF can also add value to the national harmonisation process as an example of what can be achieved through an open, highly-consultative process.

Strategies

Strategy 1: Nationally Consistent Legislative Framework

The goal of Strategy 1 - Nationally Consistent Legislative Framework is: to provide a nationally consistent legislative framework that protects the safety and health of mine employees and persons who may be affected by mining operations. The legislative framework incorporates the principles adopted in the International Labour Organisations' Convention 176: Safety and Health in Mines.

The following Legislative Framework identifies a set of broad legislative principles that all jurisdictions have committed to implementing, to ensure legislative consistency. The Legislative Framework consists of two sections: the first section contains broad 'Overarching Principles' and the second section identifies the 'Key Features' that further refine the overarching principles. Some of the clauses are also followed by 'Explanatory Boxes', which have been included to clarify the intent of the clause, for those clauses where the Steering Group considered more information was needed. This Framework is to be supported by Drafting Instructions and Example Clauses.

A key platform of the Legislative Framework is the adoption of a 'safety management system' approach, with the identification, mitigation and monitoring of hazards being the central element of the management system. To work effectively, this approach requires genuine consultation with the workforce to identify hazards, appropriate mitigation and monitoring strategies, and a genuine commitment by management to respond to issues raised.

When it is implemented, the Legislative Framework will contain what the Steering Group believes is an appropriate balance between the different legislative approaches: process-based; performance based; general duties and prescription. The mix of approaches is designed to strike a balance between the objectives of:

- (i) pursuing a planned, proactive and systematic approach to managing OHS;
- (ii) providing clarity about OHS problems to be addressed and outcomes to be achieved; and
- (iii) when necessary, specifying preventive measures for high risk, technical and design matters.

As noted in the 'Background' section, this document has been unanimously endorsed by the Steering Group, with the exception of clause 21, which relates to site health and safety representatives having the power to direct others to remove themselves from immediate danger. This can have the effect of stopping work.

At its July 2008 meeting, MCMPR noted that the Steering Group had agreed to the preparation of Drafting Instructions and Example Clauses based on the agreed Legislative Framework – to translate the broad principles of the Framework into legislative change that drives consistency between jurisdictions.

The Drafting Instructions will clearly set out the intent of each clause and the intended policy outcomes. It is intended that jurisdictions' legislative instruments would need

to comply with the Drafting Instructions, by complying with the intent of each clause and by fulfilling the intended policy outcomes.

As the name suggests, the Example Clauses will be provided as examples of clauses that comply with the intent and policy outcomes outlined in the Drafting Instructions. If a jurisdiction did not have a clause addressing a particular issue, the Example Clause could be adopted, or modified to suit that jurisdiction's terminology. The Example Clauses may not be needed if jurisdictions have a clause addressing the required issues, provided the existing clause fulfilled the intent and policy outcomes outlined in the Drafting Instructions.

As detailed in the 'NMSF & National OHS Harmonisation' section, the Steering Group expects that these drafting instructions will be largely agreed by its membership in March-April 2009, and is cognisant of the importance of aligning the drafting instructions and example clauses with the model OHS legislation to be developed following the National Review into Model OHS Laws. The Steering Group will be taking into account the recommendations from the Review as it finalises the drafting instructions and, if necessary, making amendments to ensure there are no inconsistencies between the NMSF and the model OHS legislation.

Action Table
Refinement of NMSF Drafting Instructions and Example Clauses
Finalisation of NMSF Drafting Instructions and Example Clauses, taking into consideration the outcomes of the National OHS Model Legislation Review

NMSF Steering Group Recommendations
<ol style="list-style-type: none"> 1. That Ministers endorse the NMSF Legislative Framework. 2. That Ministers endorse the ongoing development of the NMSF Legislative Framework Drafting Instructions and Example Clauses, noting that the outcomes of the National Review into Model OHS Laws will be taken into account in the finalisation of these drafting instructions, to ensure the NMSF is consistent with the model OHS legislation to be developed.

NATIONAL MINE SAFETY FRAMEWORK

LEGISLATIVE FRAMEWORK

Overarching Principles

1. The National Mine Safety Framework (NMSF) identified that a nationally consistent legislative framework is essential for an efficient, effective and equitable regulatory system in each jurisdiction and across jurisdictions. The legislative framework shall include objectives that seek to foster continuous improvement. This does not mean that legislation should be identical, but rather that each jurisdiction should follow these overarching principles and key features. As a minimum, the legislation shall incorporate the intentions of the *International Labour Organisation Convention 176: Safety and Health in Mines* (ILO C176), and be aimed at making worksites in the Australian mining industry free from death, injury and disease.

This clause summarises the central intent of the document, consistent with Strategy 1 of the National Mine Safety Framework (NMSF), which aims to deliver a nationally consistent legislative framework.

Despite the constant challenge of achieving a mining industry free from death, injury and disease in practice, it was agreed that this is the goal towards which the industry as a whole should strive.

2. All parties, government and private, agree that mine safety and health legislation shall provide ways to regulate the safety and health practices at mines, ranging from those employing the most modern and sophisticated safety management practices and technology, to small mining operations operated by just a few people using basic equipment and methods.

This clause is drafted to reflect that all mines, no matter what their scope or how complex, should be covered by these principles and key features.

Overarching principles of a nationally consistent legislative framework shall include:

- a. legislative and regulatory framework that is clear and enforceable and requires all involved with mining operations to discharge their responsibility for health and safety;
- b. clear and specific legislative obligations on those involved in the mining industry including owners, employers, employees, contractors, and includes suppliers of goods or services, manufacturers, designers and importers, with the level of obligation being commensurate with the degree of responsibility or control held.

The intention of this clause is to ensure the legislation applies broadly to those directly involved in or supply to the mining industry.

- c. effective risk-based safety and health management systems, developed and implemented, that apply to all types of risk of personal harm, addressing all reasonably foreseeable hazards not just major accident events;
- d. a preventative approach supported by the identification and promotion of leading practice, sharing information and learning from experience.
- e. genuine consultative arrangements between management and mine employees which actively seek the representation of all in the development of safety and health policies and practices;

It should be noted that 'Strategy 6-effective consultation mechanisms' of the NMSF details a proposed national approach to consultation in the workplace. This strategy is also available for public comment.

- f. the ability of employees to collectively select safety and health representatives;
- g. all persons covered by the legislation be empowered to identify and report hazards without discrimination or retaliation;
- h. assessment, monitoring, auditing/validation and review of the safety and health management systems including emergency response procedures and comprehensive reporting against appropriate performance criteria;
- i. training, competence and relevant accreditation, of all employees appropriate to their duties;
- j. regulatory powers for investigation and reporting;
- k. application of graduated enforcement measures; and
- l. State/Territory regulatory authorities demonstrate independence, transparency and openness and have adequate competent and experienced skilled personnel;
- m. provision for a process for resolving issues.

Key Features

Objectives

3. The legislation shall clearly state its objectives and the ways in which these are to be achieved. These objectives shall include:
 - securing the health and safety of all persons at the mine site;
 - continuous improvement and effective implementation of safety and health systems;
 - focus on prevention;
 - identification and control of all hazards;
 - effective consultation.

It is intended that the legislation shall broadly identify how these objectives are to be achieved – which will consist of a range of approaches incorporating a mix of principles, performance and process-based standards and, where necessary, prescription.

Glossary

4. A comprehensive glossary covering all major terms used in the legislation shall be included.

A glossary shall ensure that the definitions of key terms of mining health and safety legislation across all jurisdictions are consistent.

Control and management of risk

5. The legislation shall encompass the principle that the management of safety and health shall be undertaken using risk management practices.

It was agreed that an important process-based standard in the pursuit of safety is the requirement to undertake risk management practices. This approach encourages a holistic and systematic approach to managing OHS across the whole organisation, and aims to encourage an attitude of continuous improvement.

6. All mining operations shall be conducted such that risks are managed using risk management practices so that residual risks are as low as reasonably practicable. The risk management process shall include hazard identification, risk analysis, risk reduction and risk monitoring. The hierarchy of hazard controls in the order of elimination, substitution, separation, engineering controls, administrative controls and personal protective equipment should be used.
7. Particular attention shall be given to core risks of the industry, ensuring that high consequence/low probability events are addressed.

Obligations

8. The obligations of all persons covered by the legislation shall be clear and specific and, where practicable, indicate how those obligations shall be fulfilled.

The responsibility of safety and health at a mine site does not rest with one person; everyone has a part to play. This 'principle-based standard' allows a person with obligations the flexibility to determine how they intend to meet their obligations within their specific circumstances. However, sometimes it is practicable that the legislation clearly identify how people should fulfil their obligations.

9. Obligations shall extend to any person whose actions could affect the safety and health of those involved in the mining industry including owners, employers, employees, contractors, and includes suppliers of goods or services, manufacturers, designers and importers.

This clause explicitly acknowledges that all people whose actions could affect the safety and health of persons at mine sites have obligations. Specifically, onsite and offsite personnel may include, but is not limited to, managers and board members that have control of or influence over safety at a mine site, but may not physically work at that mine site.

10. The level of obligations imposed shall be commensurate with the degree of control, accountability and responsibility held.

This clause explicitly acknowledges that while all involved have health and safety responsibilities, some positions/people have a greater degree of control over the health and safety at a mine site, and their obligations should therefore be appropriate to that degree of control, accountability and responsibility. I.e. responsibilities of some positions/people will be more onerous than others.

Management

11. The legislation shall specify such key positions which are considered necessary for the safe operation of the mine within the mine management and supervision structure and the functions, responsibilities and required competencies of persons in those positions.

This clause recognises the importance of ensuring one or more positions or roles within the management structure have specified occupational safety and health functions, responsibilities and competencies. The legislation will specify the employer will allocate those positions or roles to one or more people within the management structure. The nature and form of the management structure will be determined by the employer.

12. Whenever two or more employers undertake activities at the same mine, the employer in charge of the mine shall be primarily responsible for the safety and health of all persons at the mine site and coordinate the measures concerning the safety of the operations. This shall not relieve individual employers from responsibilities for the implementation of all measures concerning the safety and health of their workers.

Everyone at a mine site has a part to play in the safe running of that mine site. However, this clause acknowledges that there needs to be someone who has overall health and safety responsibility at the mine to ensure a coordinated approach to the safety and health management.

13. Where appropriate, specific obligations may need to be placed on key personnel supervising underground mining operations.

This clause is included to acknowledge that underground mining has its own set of hazards and issues, some of which are different to other parts of the industry, and therefore the competency of underground mine management may be different.

14. The obligations imposed in this section shall be commensurate with the degree of control accountability and responsibility held.

This clause is included to clarify that - as required by clause 10 – the functions and responsibilities of these key personnel need to be tailored to the degree of control and accountability held.

15. Arrangements may be required for the appointment of replacement personnel in the absence from duty of certain key personnel.

This clause is included to ensure that there is always someone who has responsibility for the overall and key functions for health and safety at the mine. Specifically, in the event of an emergency, there are personnel that know what to do, and that appropriate procedures and reporting hierarchy is still in place.

Safety management systems

16. Legislation shall require the development and implementation of risk-based safety and health management systems that:

- form a documented and auditable system constituting part of the overall management system of the mine;
- define the safety and health policy for the mine and cover such aspects as organisational structure and resources, responsibilities, policy and procedures for the operation of the mine, measuring, monitoring auditing and reviewing of processes and work practices;
- define methods for developing, implementing, maintaining and reviewing safety and health practices and policy;
- acknowledge the size and complexity of a safety system will depend on the size and complexity of the mine site, and its attendant risks.

This clause is a process-based standard requiring a safety and health management system, which is based on a risk-based approach. Therefore the safety and health management system will be developed in accord with the requirements under the 'Control and management of risk' section above. This clause sets out the various aspects required of a safety and health management system, which encourages a continuous improvement approach. The last dot point specifically acknowledges that the size and complexity of a safety system will depend on the size and complexity of the mine site, and its attendant risks.

Consultative arrangements

17. Legislation shall provide for consultation processes, which acknowledge the right of all employees to be involved in the development of the risk-based safety and health management system, policies and practices. The consultation process shall include mine-site consultation which can involve safety and health committees and mine employees' safety and health representatives, and shall provide a mechanism for resolution of safety and health disagreements.

This clause acknowledges that it is essential that employees are involved in the development of the safety and health management systems, for these processes affect them directly. Employees will know how things are done in practice and why, and often what the risks are. Participation in this process allows individuals to see how their efforts fit into the larger process.

18. Where appropriate, tripartite industry advisory safety and health councils shall be established to undertake jurisdiction-wide consultation.

Consultation and communication, sharing ideas and solving issues are important, not just at the mine site level, but also at a jurisdictional level. Workforce, industry and government participation should be catered for, where these stakeholders want to be involved.

Employee representation

19. Provision shall be made for employees to be informed about hazards in their workplace and to collectively select safety and health representatives to represent them in such matters as:
- workers' inspections and investigations conducted by the employer and the competent authority; and
 - the formulation of safety and health procedures and policies.
20. Employees have the right to remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health.

This is explicitly acknowledging what is already a common-law right.

21. If a site safety and health representative reasonably believes there is an immediate danger to the safety and health of mine workers from mining operations, the representative shall have the right to direct the persons to remove themselves from that immediate danger.*
(*Please note this clause is not unanimously agreed.)

This clause acknowledges that work pressures can sometimes cloud individuals' judgement of a situation, and it requires someone, in this case the safety and health representative, to give the direction for people to remove themselves from an unsafe situation.

Appropriate checks and balances would be detailed in legislation. It should be noted that 'safety and health representatives' referred to in this clause will have a different nomenclature in different jurisdictions.

22. The legislation shall recognise that employees, and their safety and health representatives, have an important role to play in the review of safety and health procedures, the detection and assessment of workplace hazards that may impact on safety and health, the formulation of control measures and the investigation of safety and health concerns raised by employees. They should be empowered to do this without fear of discrimination or retaliation.

Clause 17 sets out the requirement for employee representation in the development of the health and safety management system. This clause requires that employees are to be involved in the on-going maintenance/review of that system, as set out above.

Mines inspectors

23. Legislation shall provide for the establishment of a professional and technically competent mines inspectorate with appropriate experience, skills and qualifications.

It should be noted that 'Strategy 2—competency support' and 'Strategy 3—compliance support' of the NMSF will address aspects of the appropriate experience, skills and qualifications required.

24. The inspectorate shall be provided with adequate powers and resources to undertake an independent evaluation of the operator's safety and health management system. This shall include: enforcing the legislation; monitoring safety and health performance; inspecting and auditing mines; providing coaching, mentoring, education and sharing of information including during emergencies; directing remedial actions to be undertaken in the event of unsafe practices; and investigating complaints, fatalities, serious accidents, dangerous occurrences and any other matter relating to the safety and health of mine workers.

Accidents, Incidents and dangerous occurrences

25. Legislation shall include provisions for the investigation of accidents, incidents and dangerous occurrences and define the means by which these events are investigated and reported upon.

Key findings and preventative measures arising from investigations shall be made available to all stakeholders at the earliest opportunity.

Given the aim of investigations is to identify causes to prevent similar incidents from happening, it is important that stakeholders have access to reports so preventative action can be taken as soon as possible.

Information will be released as soon as it is legally and ethically able to be released. There may be a considerable delay in the release of information where, for example, it is part of a coronial inquest or forms part of a prosecution that may be mounted by a regulatory authority.

26. Legislation shall provide for sites and associated equipment to be left undisturbed until investigations are complete and for those that are allowed to be disturbed with the approval of the inspectorate.

Fitness for work

27. Provision may be made to cover the health surveillance of workers exposed to occupational health hazards specific to mining and to determine a worker's fitness to safely perform specific duties. The type of health surveillance required will need to consider the types of hazards, the exposure of individuals to hazards and whether any hazardous exposure would result in health deterioration after long-term or short-term exposure. A broad range of health hazards should be considered.

It should be noted that Strategy 5 of the NMSF aims for a 'consistent and reliable data and analysis'. It is intended that in the future health surveillance will be included in a national data set, collected in all jurisdictions. The initial proposed data set is also available for public comment.

28. The mine safety management system shall identify and manage the hazards associated with fitness for work issues, including:
- fatigue management;
 - drugs and alcohol impairment;
 - the effects of exposures in the working environment, such as dust, noise, heat and chemicals;
 - relevant health surveillance for occupational health hazards specific to the mine.

These fitness for work issues shall be addressed through nationally consistent codes of practice, standards or guidelines.

The mine safety and health management system, identified in clause 16, must address the above fitness for work aspects. These aspects impact on both the fitness of the individual to undertake the work safely, and the impact of the work on the individual. Codes of Practice or Standards can provide guidance, as per clause 41.

Emergency response

29. Provision must be made for the establishment of mine emergency response resources and procedures and, where necessary, mines rescue facilities and personnel for reasonably foreseeable events.
30. Emergency response plans shall clearly specify how the mine will interact with emergency authorities, the conduct of emergency operations and the regular testing and review of emergency response capabilities.

Reporting

31. The legislation shall provide for specified timeframes for reporting accidents, incidents and dangerous occurrences to the regulator.
32. Legislation shall also provide for regulatory authorities to collect accident, incidents, occupational disease and dangerous occurrence statistics and analyse and publish such statistics in a timely fashion. Statistics collected and published shall be to a uniform national standard.

It should be noted that Strategy 5 of the NMSF aims for a 'consistent and reliable data and analysis'. An initial national data set has been developed, and is also available for public comment.

Mine plans

33. The legislation shall provide for the surveying of mines by competent survey personnel and the preparation by competent personnel of appropriate plans drawn to an accuracy and to a scale that are 'fit for purpose'. The plans shall be prepared before the start of operations and shall be brought up to date periodically during operations and at cessation of operations. The plans should show surface and underground workings, relevant features and escape routes and should be referenced to the Geocentric Datum of Australia (GDA) and the Australian Height Datum (AHD).

Accurate plans can then be referred to in the future, ensuring management is informed of previous mining activities, or activities undertaken near the mine.

34. Where more than one seam, level or deposit is worked at a mine, plans shall be prepared so that the location of the workings of each seam or deposit can be clearly related to each other.
35. Provision shall be made for retention and accessibility of appropriate mine plans by a government agency following cessation of mining operations.
36. These provisions shall apply unless the regulator otherwise determines.

Small mines may be exempted from the operation of these provisions where the regulator forms the view that lesser requirements are appropriate, having regard to the relative risks of the mine and the practicality and reasonableness of applying these requirements.

Offences

37. The enforcement provisions of the legislation shall include a range of corrective measures including penalties in the event of non-compliance with the legislation.
38. Such corrective measures and penalties shall be framed to reflect the nature of non-compliance and the potential consequence. Provision shall be made for graduated enforcement measures. .

It should be noted that Strategy 4 of the NSMF is a 'nationally co-ordinated protocol on enforcement.' This protocol, which is still being developed, will include graduated enforcement measures.

39. Any provisions for penalties shall include provisions for defences and an appeal process to safeguard the rights of individuals and corporations.

Regulatory framework and content

40. The nature and scope of the subordinate mining safety and health regulations shall be specified and be capable of covering the risks that may be present in mining operations. In particular, principal hazards and safety and health practices which are relevant to the mining industry shall be addressed in regulations. Issues may be mining specific, for example, mine ventilation, ground or strata control, and means of egress; or they may be generic, for example, explosives, fire fighting, or hazardous atmospheres.

This clause is drafted to acknowledge that in some jurisdictions, the safety and health at mines falls under broader OHS legislation, thus the importance of safety and health regulations which are specific to mining. There are some well-known risks in the mining industry, such as those listed above, and some of these have tried and tested management solutions. These risks, and where necessary the management of these risks may be included in the regulations.

Structure and relationships

41. Legislation and standards covering mining operations shall encourage continuous improvement in OHS outcomes. They shall consist of a range of approaches, incorporating a mix of principles, performance and process-based standards and prescription. Such a mix shall strike a balance between a proactive and systematic approach to safety management, the identification of outcomes to be achieved and, where necessary, the specification of prescriptive measures.

This clause is a statement acknowledging the intent of the legislation, and the range of approaches that are evident in these overarching principles and key features.

42. The Act and Regulation may be supplemented by nationally consistent Standards or Codes of a subordinate legislative nature, such as guidelines or codes of practice. The legislative implications of such guidelines or codes of practice shall be specifically identified.

The intention of this clause is that new national codes of practice or guidelines will be developed over time. State/Territory based codes of practice or guidelines will continue to operate until replaced by an appropriate national code or guideline.

Strategy 2: Competency Support

The goal of Strategy 2 – Competency Support is: to encourage and promote continuous skills development and consistent levels of competency nationwide, for both the regulator and the industry.

The tripartite Steering Group has chosen to address these aspects separately, and has developed plans for Industry Competency Support and Regulator Competency Support.

Industry Competency Support

In the mining industry, there are a number of roles/functions that are considered critical to ensure the safe operation of a mine. These roles and functions are of such importance that, in some jurisdictions, mandatory requirements have been set out in legislation for these roles/functions. The Steering Group has identified 49 such positions with legislative requirements across jurisdictions, of which 18 are mining specific roles identified in legislation.

The requirements for these roles/functions have often been shaped by historical circumstances (often fatalities), resulting in variations between jurisdictions. These variations have meant that if a person passes the requirements for a particular role in one jurisdiction, they are not automatically accepted as competent to undertake that role in another jurisdiction, although the work being performed may be reasonably equivalent.

This process of standardisation is a difficult one, as some jurisdictions do not have legislative requirements for any roles and, for those that do have legislative requirements, there are differences in those requirements. In addition, changing these requirements may require a change not only to legislation but also to supporting infrastructure, such as content that is set by the Boards of Examiners and inspectorate functions.

The goal of the industry aspect of this strategy is therefore to:

- establish clear standards of competency for safety critical roles/functions within the mining industry;
- make it easier for companies to operate nationally; and
- remove artificial barriers to workforce movements between jurisdictions, thereby facilitating a national labour market.

To achieve these goals, the Steering Group has commenced the mapping of competencies against the functions of the 18 mining specific roles identified in legislation. Details of these 18 mining specific roles, and the jurisdictions that have legislative requirements for them, are at **Attachment D**.

The competencies identified during this mapping process will be based on competency elements sourced from SkillsDMC, the industry skills council for the coal mining, civil construction, construction materials, drilling and metalliferous industry

sectors⁴. These elements of competency have been developed by SkillsDMC in consultation with industry, regulators and training providers, and are both comprehensive and industry approved.

Once the NMSF Steering Group Secretariat has completed this mapping of competencies against functions for all 18 roles, agreement would be sought on this 'mapping' between the functions of each role, and the core competencies identified: that is, agreement that a person in this role does indeed need to undertake these functions, and that the competencies identified would demonstrate that the person is able to undertake those functions. This agreement would be sought at a workshop or meeting involving a broad range of stakeholders, such as policy makers, Board of Examiner's representatives, SkillsDMC and any other relevant stakeholders.

The next step will be to seek broad stakeholder agreement on an acceptable range of evidence and competency assessment processes to demonstrate these competencies. Discussion on this issue would include the same broad range of stakeholders, including policy makers, Board of Examiners' representatives and SkillsDMC⁵. This discussion will aim to identify any problem areas in terms of stakeholders' views on reasonable evidence of competency, as well as issues regarding competency assessment processes.

The second phase of this strategy will be to identify a process by which agreement can be reached for the implementation of national standards, based on the discussions and agreements reached during the first phase of the strategy's development.

The overall objective is to achieve the agreement of stakeholders that the competencies determined for these 18 roles can be accepted and appropriately implemented across Australia. This implementation may be through legislation, or the development of guidelines. These competencies, and the evidence and assessment of them, would then be acceptable in any jurisdiction, thereby removing artificial barriers to the mobility of labour across jurisdictions, within the context of these 18 roles.

<i>Action Table</i>
Complete competency mapping for all 18 mining specific positions identified in legislation.
Seek agreement from jurisdictions on whether these are acceptable competency requirements for the roles/functions.
Seek agreement from jurisdictions on an acceptable range of evidences to demonstrate these competencies.
Identify an acceptable process for implementing legislative change.

⁴ Industry Skills Councils have two key roles: to provide accurate industry intelligence to the vocational education and training (VET) sector about current and future skills needs and training requirements; and to support the development, implementation and continuous improvement of quality, nationally recognised training products and services, including Training Packages, that meet the needs of the industry..

⁵ The NMSF Steering Group notes that the COAG Mutual Recognition Taskforce is looking at standardising licensing requirements for a range of occupations. However, the processes are unlikely to overlap, as (with the exception of a 'shotfirer') these mining specific roles/functions do not involve the issuing of licences.

Regulator Competency

The focus of the second aspect of this strategy – Regulator Competency – is on improving regulator competency where it is needed most. This would be done in three stages, detailed below.

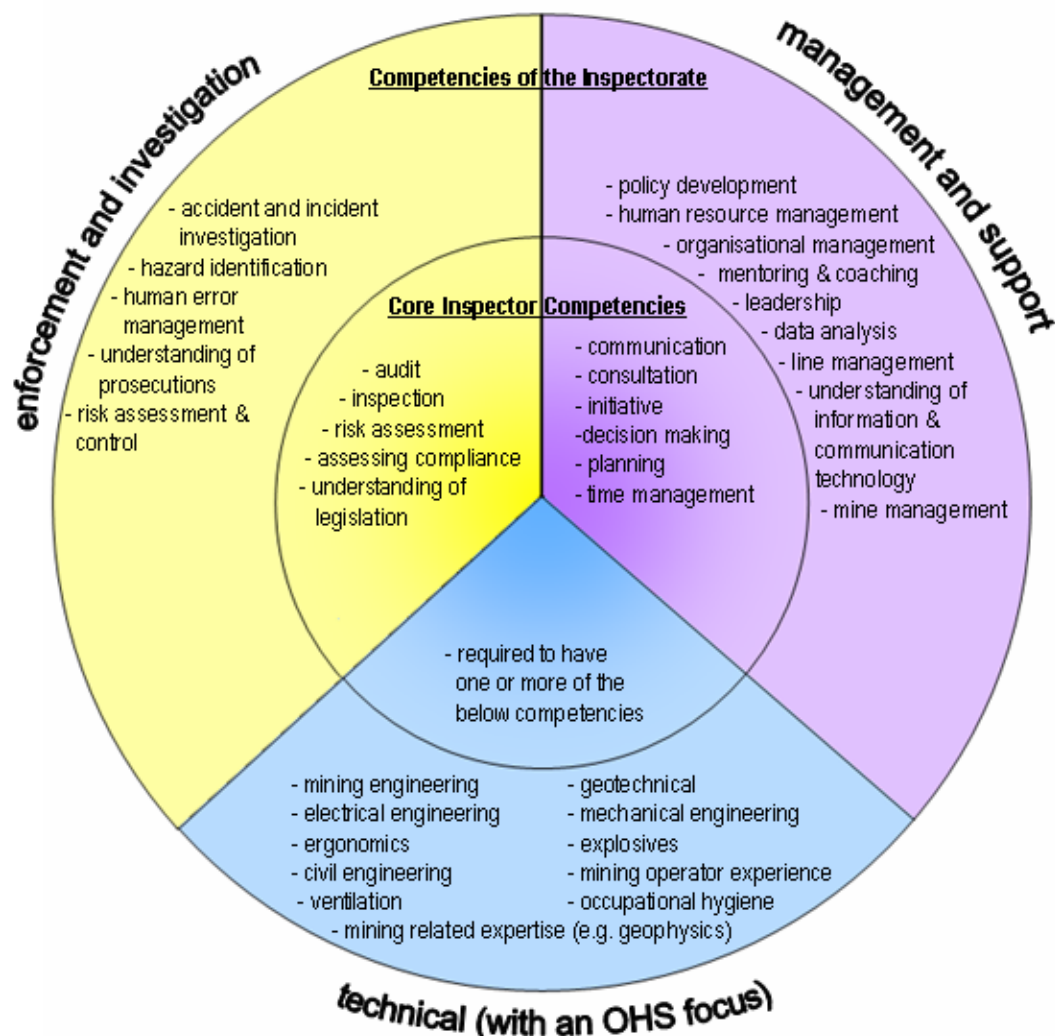
Stage One – Refine the list of competencies that should exist within the ideal inspectorate.

A list of competencies of the ideal inspectorate was developed at a "Role of the Regulator" Workshop, held by the Steering Group in February 2008. The workshop was attended by the Chief Inspectors of Mines, workforce and industry representatives, academics and other experts. The workshop consisted of a facilitated discussion on the role of the regulator within the mining industry, and from that, workshop participants identified the key competencies that should exist within the inspectorate as a whole.

The identified competencies, for both the individual inspector and the inspectorate as a whole. i.e. as an organisation, have been summarised into three main categories – technical (e.g. mining engineering, electrical engineering, ergonomics); management and support (e.g. mine management, communication and consultation, policy development) and enforcement and investigation (e.g. understanding legislation, inspection, accident and incident investigation).

The figure below is a graphical illustration of these competencies:

Figure 1: Competencies that should exist within the Ideal Inspectorate



These competencies, identified at the "Role of the Regulator" Workshop, are the starting point for the strategy. The first stage in the implementation of this strategy will be to further refine this competency list, utilising existing competency resources such as the national competency standards for regulators.

Stage Two – Undertake an independent capability analysis of the inspectorate.

The second stage in the implementation of this strategy will involve the development of a strategic initiative to undertake a capability analysis of the inspectorate, based on the refined competency list for the ideal inspectorate. This may include:

- what competencies are covered well by jurisdictions;
- what competencies could be covered better; and
- what initiatives jurisdictions already have in place to build competency.

The Steering Group will determine the scope of this capability analysis, and will be involved in the selection of a suitable independent consultant to undertake this work.

Stage Three – Develop and/or deliver training to improve competency where it is needed most.

Based on the outcomes of the capability analysis, the third stage in the implementation of this strategy will be to concentrate on the competencies where improved training could be most beneficial. This may involve the development and delivery of new training packages to inspectorates across Australia; rolling out training packages done well in a particular jurisdiction throughout other jurisdictions; or the updating of existing training packages for delivery at a national level.

Training packages could be focussed on skills such as auditing of safety management systems, the use of influence to achieve good outcomes, and will draw upon the outcomes sought through the adoption of the enforcement principles and implementation guidelines. It is proposed that they would focus on improving capabilities that would also align with the seven NMSF strategies, and building consistency through interpretation and application of legislation and guidance.

Ideally, these training packages and courses will be delivered in an environment that would bring inspectors together from across Australia, such as through a national regulators forum. The coordination of a national regulators forum would ensure the same training is delivered to regulators, thereby facilitating consistency in the delivery of training packages and in the implementation of that training. It would also provide an opportunity for regulators to build networks with colleagues in other jurisdictions, encouraging greater communication and information sharing.

Action Table
Refine the list of competencies that should exist within the ideal inspectorate.
Develop a project plan to implement a capability analysis of inspectorate competencies, based on the refined competency list.
Based on the outcomes of the capability analysis: <ul style="list-style-type: none"> – identify training packages within jurisdictions that could be distributed nationally; and – identify areas where training might need to be developed
Development of new training packages and/or refinement of existing training packages.

Coordination of the inaugural national regulators forum, to be held annually.

NMSF Steering Group Recommendations:

1. *That Ministers endorse the Competency Support – Industry Strategy, including:*
 - *the development of a standard set of competencies for 18 mining specific roles identified in various jurisdictions' legislation;*
 - *reaching agreement on how those competencies are demonstrated; and*
 - *identifying a process to implement the agreed national standard..*
2. *That Ministers endorse the Competency Support – Regulator Strategy, including:*
 - *the refinement of a list of 'competencies within the ideal inspectorate';*
 - *undertaking an independent capability analysis of the inspectorate based on this competency list; and*
 - *the development and/or delivery of training to improve or broaden capabilities, as identified during the independent capability analysis.*
3. *That Ministers endorse the coordination of an annual national regulators forum, to enhance consistent competency development of the regulator.*

Strategy 3: Compliance Support

The goal of Strategy 3 – Compliance Support is: to develop a national approach to providing advisory information for duty holders to assist them in achieving compliance, while recognising the varying needs of individual operations.

The Steering Group has identified three elements to help achieve this goal.

1. National Guidance Material

The Steering Group aims to develop long term national guidance material on key issues where a national approach would be beneficial; focusing in the first instance on issues where inconsistency across jurisdictions is causing uncertainty for industry stakeholders.

The Steering Group is likely to coordinate the development of national guidance material; utilising the existing tripartite bodies that exist in most jurisdictions, as key forums of consultation.

2. Online repository of guidance material

In the immediate term, the Steering Group believes that industry would benefit from access to a national database of guidance material for individual jurisdictions.

The Steering Group proposes that all relevant compliance material should be housed in a central online repository, where anyone with a duty to comply is able to search for relevant information that may assist in fulfilling that duty. This repository should have a standard summary or abstract of information. This should enable duty holders to decide "at a glance" which document would be most useful to them.

The Steering Group recommends that the Minerals Industry Risk Management Gateway – or MIRMgate – should be utilised as this online repository of guidance material. MIRMgate was developed by the Minerals Industry Safety and Health Centre (MISHC) within the University of Queensland as a “one stop shop for good practice information about managing safety and health risks in the minerals industry”. MIRMgate is a well known resource for risk management information in the mining industry. MISHC is responsible for the ongoing maintenance and development of MIRMgate.

A capability analysis has been undertaken by the Commonwealth Scientific and Industrial Research Organisation (CSIRO) to assess the suitability of MIRMgate as an online repository for guidance material, and to assess its capacity to deal with an increased flow of information into the repository, and increased access to the information contained within its database. The analysis concluded that, with appropriate funding, MIRMgate could be expanded to house additional guidance material, and that MISHC would be willing to work with the Steering Group to redevelop the functionality of the site, to ensure it can meet the needs of the industry.

The responses to this strategy during the public consultations highlighted the need to make improvements to the MIRMgate search function; provide an indication of the quality of documents on MIRMgate, including information on the source of documents; provide a means for MIRMgate users to provide feedback on documents they have utilised; and undertake a re-evaluation of the information currently stored on MIRMgate, to ensure its relevance and appropriate classification. To address these issues, the Steering Group proposes to:

- work with MISHC to improve the functionality, navigation and ‘look and feel’ of the MIRMgate site, including holding focus group meetings to guide the direction of website changes; and
- redesign the MIRMgate website, in partnership with MISHC, based on feedback from focus groups

In order to ensure MISHC has the capacity to further develop MIRMgate and provide access to relevant guidance material, an annual contribution of \$20,000 would be required. This funding requirement has been reflected in the indicative budget of ongoing implementation activities, which is discussed in the Implementation and Funding Mechanisms section of this Implementation Report.

3. Facilitate communication network

As an ongoing task, the Steering Group, through its Secretariat, also aims to facilitate communication between people or organisations developing guidance material to encourage greater coordination between relevant organisations when developing guidance material, and help to eliminate duplication of effort.

Action Table

Facilitate the communication of information regarding the development of guidance material to and from jurisdictions' tripartite bodies.
Convene focus groups to consider functionality, navigation and ‘look and feel’ of the MIRMgate website.
In partnership with MISHC, commence redesign of the MIRMgate website, based on feedback from focus groups.
Commence scoping of guidance material to be added to MIRMgate.
Consideration of potential issues for the development of national guidance material.

NMSF Steering Group Recommendations

1. That Ministers endorse the immediate goal of the Compliance Support Strategy – the redevelopment of the MIRMgate website as an online repository of guidance material.
- noting that it is anticipated that an annual contribution of \$20,000 needs to be factored into future funding proposals to action this strategy and facilitate the increased flow of information to MIRMgate.
2. That Ministers endorse the long-term goal of the Compliance Support Strategy – to develop national guidance material, focussing on issues where inconsistencies across jurisdictions are causing confusion for industry stakeholders.

Strategy 4: Nationally Coordinated Protocol on Enforcement

The goal of Strategy 4 – Nationally Coordinated Protocol on Enforcement is: to develop a nationally consistent and transparent approach to enforcement that provides clear and consistent standards for duty holders, and supports equitable outcomes from governments' contribution to safety and health in the mining industry.

The aim of this strategy is therefore to develop a policy framework that provides the following outcomes:

- an enforcement policy that is consistently implemented across jurisdictions;
- an enforcement policy that is transparent – which involves having an established enforcement process and ensuring decisions are taken in accordance with that known process;
- an enforcement policy that provides clarity and certainty for duty holders;
- ensuring enforcement action is exercised in a fair and unbiased manner.

The Steering Group has identified the following ‘Enforcement Framework’ consisting of five elements, which together will achieve these goals.

1. National Enforcement Principles

This element identifies a set of principles, which outline the goals of enforcement and the principles that should guide the regulator when determining if an enforcement action should be taken. This document has been developed by the Steering Group, drawing on the provisions within State and Commonwealth Director of Public Prosecution (DPP) guidelines, and is included below.

2. Enforcement Tools

This element will identify a hierarchy of enforcement tools. Currently not all jurisdictions have the same enforcement tools⁶; however, there is a large degree of consistency. At this stage, it is not the focus of the Steering Group to seek uniformity of the enforcement tools between the jurisdictions (although this may be a longer term goal). All jurisdictions do have a hierarchy of tools from which they can draw; at this stage, the focus will be on ensuring the whole hierarchy of tools are consistently utilised.

3. National Enforcement Implementation Guidelines

These ‘Implementation Guidelines’ will be a tool to encourage inspectors to be consistent in their application of the enforcement principles and their approach to enforcement decision making. (You will note that the Enforcement Principles document refers to these Implementation Principles, which are yet to be developed.) The Enforcement Working Group has identified the United Kingdom Health and Safety Executive’s ‘Enforcement Management Model’ as an example or model that may inform the development of these Implementation Guidelines.

⁶ The Steering Group notes that the Review Panel may also make recommendations regarding consistency of enforcement tools and their application.

4. An audit mechanism to ensure consistency between jurisdictions

An audit tool will be developed (following the development of the Implementation Guidelines) that could be applied either by the jurisdictions or by an independent body such as the Steering Group. The aim of this tool will be to ensure that the Enforcement Principles and Implementation Guidelines are being applied consistently across jurisdictions.

5. Mechanisms to drive consistency in practice.

The application of the Enforcement Principles and Implementation Guidelines requires a shared understanding of the documents to drive consistency in practice. This is best achieved by mechanisms that bring regulators from across the country together to interact and engender this shared understanding. These mechanisms include:

- national regulator training;
- industry awareness of enforcement tools;
- secondments between jurisdictions; and
- a national regulator forum.

Action Table
Refinement of Enforcement Tools
Commence development of National Enforcement Implementation Guidelines, utilising the United Kingdom Health and Safety Executive's 'Enforcement Management Model' as a potential example or model.
Development of an audit tool to ensure consistent application of the Enforcement Principles and Implementation Guidelines.
As part of the Regulator Competency Support Strategy, commence the development of national regulator training.
Coordination of a national regulator forum
Establish processes to facilitate secondments between jurisdictions.

NMSF Steering Group Recommendations:

1. That Ministers endorse the five elements of the Enforcement Framework, including:
 - National Enforcement Principles, which outline the goals of enforcement and the principles that should guide regulators in taking enforcement action;
 - Enforcement Tools;
 - National Enforcement Implementation Guidelines
 - An audit mechanism to ensure consistency between jurisdictions; and
 - Mechanisms to drive consistency in practice.
2. That Ministers endorse the National Enforcement Principles document detailed below.

NATIONAL MINE SAFETY FRAMEWORK

NATIONAL ENFORCEMENT PRINCIPLES

Introduction

The National Mine Safety Framework aims to deliver a consistent legislative and regulatory framework across Australia for safety and health matters relevant to the mining industry. Development of a consistent approach to enforcement, as a critical element of health and safety regulation, will provide clear and consistent standards for duty holders and support equitable outcomes from governments' contribution to safety and health in the mining industry. Jurisdictions will be asked to ensure their enforcement and compliance policies are consistent with the principles contained in this document to drive nationally consistent 'on-the-ground' enforcement of occupational health and safety requirements. Guidelines will be developed that provide greater detail on the application of these principles, including ways of jurisdictions achieving a consistent application of common enforcement tools such as those mentioned in Appendix A.

Acknowledgement

Much of this document has been based on the United Kingdom Health and Safety Commission's Enforcement Policy Statement.

Policy Statement on Enforcement

The purpose and method of enforcement

1. The objective of enforcement policies across jurisdictions is the encouragement of compliance with the aim of achieving occupational health and safety, including the prevention of work-related death, injury and illness. Real and sustainable improvement in health and safety is achieved by the active involvement of employers, employees and their representatives, and other duty holders. The term 'enforcement' can be defined as an interaction or intervention by the enforcing authorities to ensure compliance and/or to seek corrective action regarding non-compliance by duty holders.

Enforcement is a means of achieving the ultimate objectives of protecting the occupational health and safety of the mining workforce and those who may be affected by mining.

2. The purpose of enforcement is to:
- ensure that duty holders take action to deal immediately with serious hazards and risks;
 - promote and achieve sustained compliance with the law;
 - ensure that duty holders who breach health and safety requirements or who fail in their responsibilities are held to account;
 - act as a deterrent against non-compliance by duty holders.

3. The enforcing authorities have a range of tools at their disposal in seeking to secure compliance with the law and to ensure a proportionate response to non-compliance with the law.
4. Before taking any enforcement action, the circumstances encountered during inspections or following incidents or complaints must be considered. In deciding what resources to devote to these investigations, enforcing authorities should have regard to the principles of enforcement set out in this statement and the objectives published in the National Enforcement Implementation Guidelines¹.
5. Enforcing authorities are expected to use discretion in deciding when to investigate or what enforcement action may be appropriate. Nevertheless, enforcing authorities should set down in writing the decision-making process which inspectors will follow when deciding on enforcement action, and make this publicly available. It is expected that such judgements will be made in accordance with the following principles.

The principles of enforcement

6. A belief in firm but fair enforcement of health and safety law is paramount. This should be informed by the principles of proportionality in applying the law and securing compliance; targeting of enforcement action; consistency of approach; fairness of all enforcement activities; transparency about how the regulator operates and what those regulated may expect; accountability for the regulator's actions; and independence from inappropriate influence. These principles should apply both to enforcement in particular cases and to the health and safety enforcing authorities' management of enforcement activities as a whole.

Proportionality

- 6(a). Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by enforcing authorities to achieve compliance or bring duty holders to account for non-compliance should be proportionate to any risks to health and safety, or to the seriousness of any breach, which includes any actual or potential harm arising from a breach of the law.

Targeting

- 6(b). Enforcement action needs to be targeted. Targeting means making sure that interventions are focussed on those activities which give rise to the most serious risks or where the hazards are least well controlled; and that action is focused on the duty holders who are responsible for the risk and who are best placed to control it. This includes employers, manufacturers, suppliers, and others who have responsibility for safety in mining.

Consistency

- 6(c). Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.

¹ This document has not yet been developed

Fairness

6(d). All compliance and enforcement activities (including decision-making) must be undertaken with impartiality, balance, and integrity.

Transparency

6(e). Transparency means helping duty holders to understand what is expected of them and what they should expect from the enforcing authorities. This can be achieved through making publicly available the established policies and the decision making processes by which enforcement activity is governed. Transparency also means making clear to duty holders not only what they have to do but, where this is relevant, what they do not. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.

Accountability

6(f). Regulators are accountable to the public for their actions including their responsiveness and timeliness. This means that enforcing authorities must have policies and standards (such as the five enforcement principles above) against which they can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.

Independence

6(g). The role of the enforcing authorities is to act impartially and with objectivity. The enforcement authorities' decisions must not be inappropriately influenced by external interests. The exercise of the enforcing authorities' discretion, to determine the appropriate nature of enforcement activity, must be based on a clear and objective analysis of the evidence available, the applicable law and any relevant policies, standards and guidance material that may be in place.

Prosecution

7. While the primary purpose of the enforcing authorities is to ensure that duty holders manage and control risks effectively, thus preventing harm, prosecution can be an essential part of enforcement.

8. The decision whether or not to prosecute is the most important step in the prosecution process. In Australia, the decision to proceed with a court case rests with the enforcing authorities or in some cases approved other parties. Enforcing authorities must use discretion in deciding whether to bring a prosecution and should make the decision whether or not to prosecute as quickly as possible, while ensuring the integrity of the investigation is maintained. It should also be noted that the use of safety and health law may not be the only option open in determining prosecution action.

9. The enforcement principles previously stated are of particular importance in the decision to prosecute, especially fairness and consistency. A two stage test must be satisfied in the exercise of this discretion:

- there must be sufficient evidence to justify prosecution of the case; and
- it must be evident from the facts of the case, and all the surrounding circumstances, that the prosecution would be in the public interest.

9(a) The initial consideration is whether the evidence is sufficient to justify prosecution. A prosecution should not be undertaken unless there is admissible, substantial and reliable evidence that an offence has been committed by the alleged offender, i.e. a prima facie case.

9(b) When deciding whether the evidence is sufficient to justify prosecution of the case the existence of a bare prima facie case is not enough. Consideration must also be given to the prospects of conviction. A prosecution should not proceed if there is no reasonable prospect of a conviction being secured.

9(c) Once it has been determined that the evidence is sufficient to justify prosecution, the enforcing authorities must then consider whether, in the light of the provable facts and the whole of the surrounding circumstances, the public interest requires a prosecution to be pursued. It is not the rule that all offences brought to the attention of the authorities must be prosecuted.

9(d) The factors which can properly be taken into account in deciding whether the public interest requires a prosecution will vary from case to case. While many public interest factors militate against a decision to proceed with a prosecution, there are public interest factors which operate in favour of proceeding (for example, the seriousness of the offence, the need for deterrence). Generally speaking, the more serious the offence the more likely it will be that the public interest will require that a prosecution be pursued.

9(e) The Factors which may be taken into consideration when deciding whether prosecution or other punitive action is appropriate, and if so, of what kind include the following.

- i) Nature and Circumstances of the Alleged Offence
- ii) Characteristics of the Alleged Offender
- iii) Level of Public Concern
- iv) Impact of Offence
- v) Deterrence
- vi) Effect of Prosecution
- vii) Administrative Considerations (e.g. the length or expense of a court hearing)

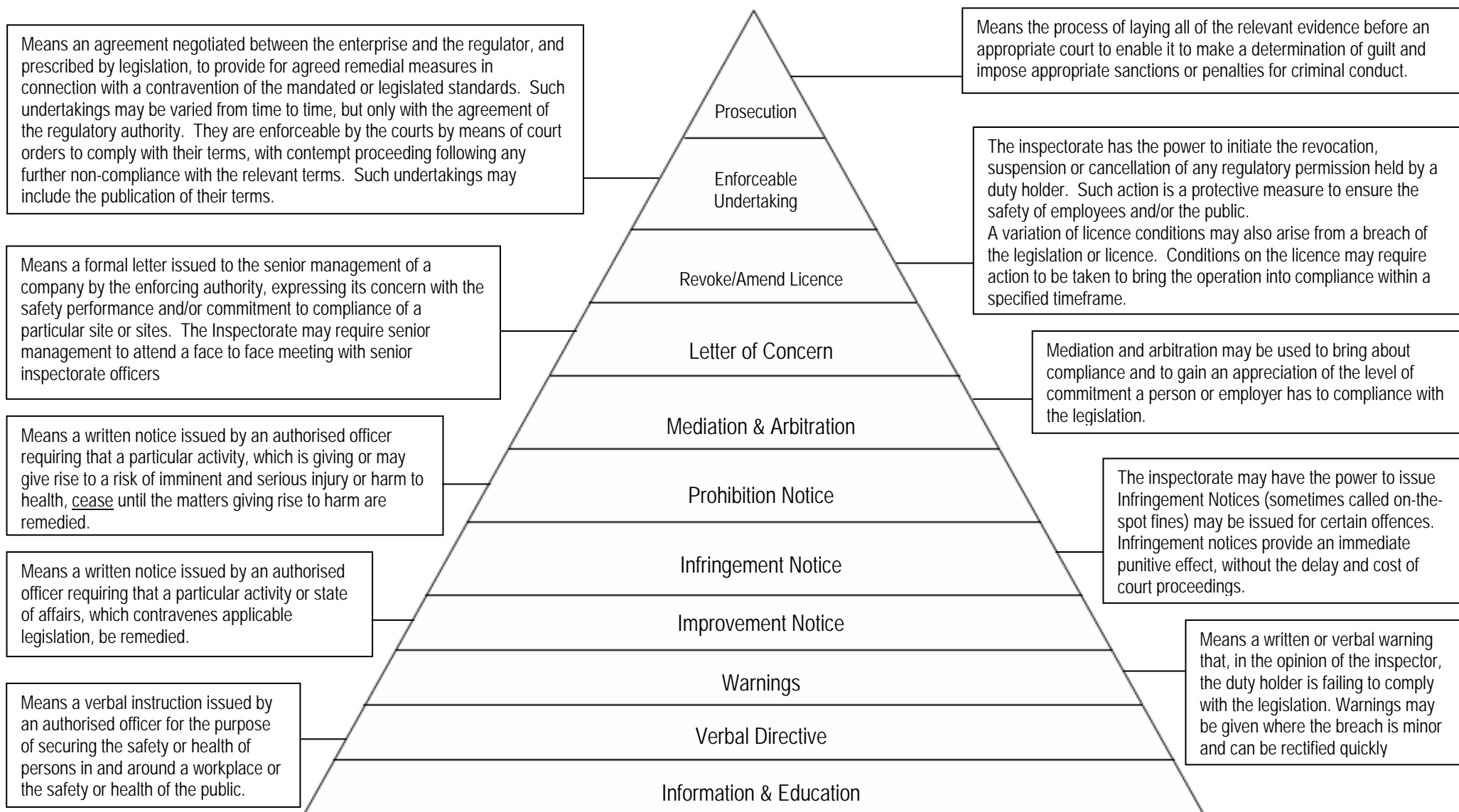
The applicability of and weight to be given to these and other factors will depend on the particular circumstances of each case. These factors are detailed further in the National Enforcement Implementation Guidelines²

10. Where circumstances warrant it and the evidence to support a case is available, enforcing authorities may prosecute without prior warning or recourse to alternative actions.

² This document has not yet been developed.

Appendix A – Example Enforcement Tools

Note: The enforcing authorities in each jurisdiction may not utilise all of the tools contained within this diagram. It is provided as an example only.



Strategy 5: Consistent and Reliable Data Collection and Analysis

The goal of Strategy 5 – Consistent and Reliable Data Collection and Analysis is: to develop a national mining industry data set, and facilitate consistent collection and analysis of data across jurisdictions

To achieve this goal, Strategy 5 has involved the development of a national mining industry data set, which allows analysis across jurisdictions, and the recommended development of a National Mine Safety Database.

National Data Set

The following National Data Set identifies safety and health statistics, which all jurisdictions will be required to collect in order to ensure consistency in data collection and analysis. The National Data Set will form the basis of consistent incident report forms and quarterly reports. If they desire, jurisdictions may collect statistics above and beyond those identified in the national data set.

The National Data Set has been endorsed by MCMPR Ministers in its entirety, though the Steering Group has further refined the classifications of some data fields, as set out within this Implementation Report.

The aim of the National Data Set is to start with a simple, manageable set of data that most jurisdictions are already capturing at least in part, though not in a consistent manner. The Steering Group has agreed that the second phase of this strategy will be to expand the data set to include health indicators, within a reasonable timeframe.

National Database

The NMSF Steering Group has also undertaken a scoping study to investigate the feasibility of establishing a National Mine Safety Database to house the National Data Set. The NMSF Steering Group Secretariat engaged a Business Analyst to undertake this study, the outcomes of which were considered by the NMSF Steering Group at its 4-5 September 2008 meeting. The Executive Summary from the Database Scoping Study can be found at **Attachment D**.

The NMSF Steering Group had endorsed the development of a database as a repository for the National Data Set, as an ideal outcome of this strategy. The Steering Group considers that a national database will add significant value to the effectiveness of the Data Set, by allowing national trends to be identified in order for preventative measure to be developed at a jurisdictional and national level, and to ensure the highest degree of consistency in collection and analysis. It is also intended that companies will be able to access their own company information and compare it against industry aggregates, and access jurisdictional and national trends. The database will make it possible to 'drill down' across variables within the data, for example it would be possible to see that in state 'x', the number of incidents involving falling objects in underground mines is greater than in state 'y', even though there are fewer underground mines in state 'x' than in state 'y'. This type of detailed analysis cannot be currently undertaken nationally.

The scoping study identified three possible models for the database:

- Centralised: this model would require incident reports to be sent directly to the central database, which would be housed in a central location.
- Distributed: this model would require incident reports to be sent directly to the inspectorate's database, and the data set information would be 'extracted' from the inspectorates' databases.
- Hybrid: a combination of the centralised and distributed models, which would link existing databases into a single centralised database.

The NMSF Steering Group recommends the establishment of a national electronic repository for incident reporting, and recommends that the database should be a hybrid model. This model would give jurisdictions the option of retaining their existing computerised systems, or utilising the central database as their main database (while retaining control over the flow and access to information).

There is a major capital cost associated with the development of a national database, estimated at \$1.2 million, as reflected in the budget for ongoing implementation activities. However, the development of the database is critical to ensure the national data set is consistently collected and analysed, and to ensure reliable national trend identification.

It is the Steering Group's view that this opportunity for the establishment of a national database should be capitalised upon while there is a focus on the issue and a willingness to do so, despite the capital costs associated with its development.

Action Table
Seek agreement of jurisdictions on technical aspects of database development (e.g. security, vendor criteria, portal technology)
Request for tender for database development.
Commence database development.

NMSF Steering Group Recommendations:

1. *That Ministers endorse the refined National Data Set.*
2. *That Ministers endorse the establishment of an electronic National Mine Safety Database*
 - *noting the capital expense involved in the establishment of a national database, estimated at \$1.2 million.*

NATIONAL MINE SAFETY FRAMEWORK

NATIONAL DATA SET

Incident/Disease Report form

Mine Owner

Definition. The name of the organisation that owns the mine.

Purpose. To identify the owner of the mine. This may or may not be the same as the mine operator.

Mine Operator

Definition. The name of the organisation that operates the mine, and is therefore responsible for the health and safety at the mine site.

Purpose. To identify the operator of the mine. This may or may not be the same as the mine owner.

Individual's employer

Definition. The name of the organisation that directly employs the injured worker/s.

Purpose. To identify the organisation that directly employs the injured worker. This may be the mine operator, or it may be a (sub)contractor, or labour hire suppliers.

Comment: Individuals who are self employed would list their own business name in this data field.

Industry of the employer

Definition. The main activity of the employer at the mine site where the incident occurred.

Purpose. To enable comparison of aggregate data within specific sectors of the industry.

Classification/coding. It is intended that classifications options will be given, based on the ANZSIC code 'Industry of the Employer'. The activity of the establishment should generally be determined as the main income earning activity of the establishment.

Location

Definition. The name and physical address of the mine site where the incident occurred.

Purpose. To enable identification of the geographic location of injury/disease occurrences.

Severity indicator

- Definition.* Identification of the incident as either a fatality, lost-time injury, medical treatment injury or high potential incident.
- Purpose.* To enable identification of the category of incident for comparison of aggregate data.
- Classification/coding.* Fatality, permanent incapacity, lost-time injury, medical treatment injury high potential incident.

Name of injured worker

- Comment.* This would be highly confidential information, with access limited to the relevant inspectorate and the database manager.

Sex

- Definition.* The sex of the worker.
- Purpose.* To facilitate analysis of injury and disease experience by sex of the worker.
- Classification/coding.* To be recorded as male or female.
- Comment.* Analysis of this data item should not be undertaken in isolation of other data items as there is a risk that incorrect conclusions, possibly of a discriminatory nature, may be drawn.

Date of birth

- Definition.* The date of birth of the worker.
- Purpose.* To enable analysis of occurrences by age to determine any links between types of occurrences and specific age groups. To assist in the unique identification of workers.
- Classification/coding.* To be recorded in day, month, year format.
- Comment.* Analysis of this data item should not be undertaken in isolation of other data items as there is a risk that incorrect conclusions, possibly of a discriminatory nature, may be drawn.

Working and Travel Hours

- Definition.* The worker's shift start time, shift finish time, and number of hours worked in their roster prior to the time of the incident.
- Purpose.* To identify any possible links between specific types of shift arrangements and injury/disease experience so that preventive action can be targeted more effectively.
- Classification/coding.* Shift start time, shift length time, hours worked in current roster cycle, travel time to work this shift, travel time to work this roster cycle. [These classifications need to be confirmed.]

Occupation

Definition. The worker's occupation at the time of the injury or reporting of the disease.

Purpose. To identify the occupation of injured workers, allowing analysis of occupationally related injury/disease experience. To assist in targeting high-risk occupation groups for priority prevention activity and to enable the comparison of employers' experiences with aggregate statistics.

Classification/coding. It is intended that classifications options will be given, based on the ANZSCO code of 'Occupation' as the basis (with additions suitable for the mining industry).

Date of injury occurrence or report of disease

Definition. The date of the injury occurrence or the date the disease was first reported.

Purpose. To enable comparison of data over time, to monitor performance and to indicate seasonal trends.

Classification/coding. To be recorded in day, month, year format.

Time of occurrence

Definition. The time of the injury occurrence. Not relevant for disease occurrences.

Purpose. To enable analysis of occurrence by time of day.

Classification/coding. To be recorded in 24-hour clock format.

Place on mine site where incident occurred

Definition. Identification of where the injury occurrence or disease exposure occurred.

Purpose. To enable analysis by place on mine site, and identify links between other factors such as bodily location of injury or disease.

Classification/coding. It is intended that classifications options will be given, yet to be finalised.

Description of occurrence

Definition. Description of the processes and circumstances leading to the injury/disease occurrence.

Purpose. Fundamental to identifying the nature of the occurrence.

Classification/coding. Information should be recorded in the form of a structured narrative with details provided under the following headings:

- a) What was the worker(s) doing at the time of the disease exposure or just before the injury occurrence (for example, driving a haul truck)?
- b) What happened unexpectedly, including the name of any particular chemical, product, process, or equipment involved (for example, brakes failed on truck, slipped on wet floor, scaffolding collapsed)?
- c) How exactly was the injury or disease sustained and what particular chemical, product, process or equipment was involved (for example, hit head on cabin of truck, lacerated knee when landing on ground)?

In addition, coding options will be given based on TOOCS codes of 'Mechanism of incident' and 'Agency of injury/disease'.

Bodily location of injury or disease

Definition. The bodily location of the most serious original injury or part of the body affected by disease.

Purpose. To enable analysis of injuries or diseases affecting specific bodily locations to assist in the development of programs to counteract such injuries, for example, eye injuries via an eye protection program. To enable a more detailed analysis of the nature of the work injury/disease.

Classification/coding. It is intended that classifications options will be given, based on TOOCS code of 'Bodily Location of Injury or Disease'.

Nature of injury or disease

Definition. The most serious injury or disease sustained or suffered by the worker.

Purpose. To provide additional information essential to the assessment of each injury or disease occurrence for use in determining corrective action and rehabilitation requirements and in monitoring the employer's injury and disease experience.

Classification/coding. It is intended that classifications options will be given, based on TOOCS code of 'Nature of Injury or Disease'.

Employment arrangements

Definition. The employment arrangements of the worker at the time of the injury occurrence or reporting of the disease.

Purpose. To identify any possible links between employment arrangements and injury and disease experience so that preventive action, in particular the development of training programs, can be targeted more effectively.

Classification/coding. Employee (of operator), self-employed persons, employee of contractor, labour-hire employee, other (including visitors, volunteers, work experience persons)

Quarterly Statistics

Commodity Processed

Definition. The primary commodity produced at the mine site where the injury occurred or disease identified.

Purpose. To identify any possible links between commodity processed and injury and disease experience so that preventative action can be targeted more effectively.

Classification/coding It is intended that classifications options will be given, yet to be finalised.

Number of employees

Definition. The average number of workers who worked in the recording unit during the recording period.

Purpose. To enable the calculation of incidence rates for the recording unit, for identifying high risk groups and for monitoring the success of preventive strategies over time.

Classification/coding Employees, contractors.

Number of hours worked

Definition. The total number of hours worked by employees in the recording unit during the recording period.

Purpose. To enable the calculation of frequency rates for the recording unit and the enterprise as a whole, for identifying high risk groups and for monitoring the success of preventive strategies over time.

Classification/coding Employees, contractors.

Comment In calculating the total number of hours worked, any extra hours worked, such as additional shifts and overtime, should be included.

Number of incidents

Definition. The total number of incidents (including lost time injuries, medical treatment injuries, restricted duties injuries and high potential incidents) recorded in the reporting period.

Purpose. To enable the calculation of incidence rates for the recording period.

Number of lost time injuries

Definition. Total number of injuries/disease occurrences that resulted in lost time, i.e. the inability to work the next day or longer (whether they are rostered on or not).

Purpose. To enable the calculation of lost time rates for the recording period.

Classification/coding. Employee/contractor.

Days lost from work

Definition. The total number of days lost from work as a result of the injuries/disease.

Purpose. To provide an indication of the severity of lost-time injuries and diseases in terms of lost working time and to enable the calculation of average time lost rates.

Classification/coding. Recorded in total days by employee and contractor.

Comment. Time lost for part-time workers is calculated as for full-time workers irrespective of the number of hours usually worked each day or shift. For example, if a worker usually works two hours a day and is off work for five days the time lost is five days. The day of the injury is not counted as a lost day. Lost days start from the day after the incident occurred, and includes *all* days unable to work until the person resumes work. An injury sustained by a worker under a labour hire arrangement, would also be calculated as for full-time workers, irrespective of the number of hours or days they have been hired. For example, if a labour hire worker is hired for a period of time, and is injured during this time, the lost time is counted until they are *able* to return to work, irrespective if they are hired or not.

Number of restricted duties injuries (employee/contractor)

Definition. Total number of injuries/disease occurrences that resulted in restricted duties.

Purpose. To enable the calculation of incidence rates for the recording period.

Classification/coding. Employee/contractor.

Number of days on restricted duties

Definition. The total number of days where employees/contractors have to work on restricted duties.

Purpose. To enable the calculation of incidence rates for the recording period.

Classification/coding. Recorded in total days by employee and contractor.

Comment The day of the injury is not counted as a restricted duty day. Restricted duties start from the day after the incident occurred, and includes all days on restricted duties until the person resumes normal work (equal to that they were undertaking before the injury/disease).

Number of medical treatment injuries

Definition. An MTI is a work-related injury resulting in the management and care of a patient, which does not result in lost time or restricted work.

An MTI includes suturing of any wound, treatment of fractures, treatment of bruises by drainage of blood, treatment of second and third degree burns.

MTIs do not include:

- visits to physicians or other licensed health care professionals for observation or counselling*
- conduct of diagnostic procedures, such as X-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (eg eye drops to dilate pupils)
- visits to physicians or other licensed health care professionals solely for therapy as a preventative measure (eg physiotherapy, massage, tetanus or flu shots)
- first aid injuries

[* This is intended to refer to diagnostic counselling, used to determine if treatment is required. If treatment is given, or further treatment is required, then it is considered an MTI]

Purpose. To enable the calculation of incidence rates for the recording period.

Classification/coding. Employee/contractor.

Fatalities

Definition. Total number of fatalities that occurred as a result of an injury or disease occurrence.

Purpose. To identify number of fatalities.

Classification/coding. Employee/contractor.

Strategy 6: Effective Consultation Mechanisms

The goal of Strategy 6 – Effective Consultation Mechanisms is: to establish an effective national approach to consultation with stakeholders and between jurisdictions on safety and health in the mining industry, at both the workplace and state/territory levels.

The following Consultation Framework identifies broad legislative principles, which all jurisdictions have committed to implementing to ensure legislative consistency. A key aspect of the Consultation Framework is that it does not aim to dictate *how* consultation will take place at a mine site, only that genuine consultation *must* take place.

It recognises that the usual consultation mechanisms are health and safety representatives and/or health and safety committees; but allows a mine site to establish a consultation mechanism better suited to its circumstances. The Consultation Framework details aspects of consultation that a mine site's consultation policy must address, such as establishing procedures and identifying when consultation is required.

The Consultation Framework was unanimously agreed by the Steering Group, and endorsed in its entirety by the MCMPR Ministers. The principles of the Consultation Framework have also been incorporated into the NMSF Legislative Framework Drafting Instructions.

<i>Action Table</i>
Refinement of NMSF Drafting Instructions and Example Clauses
Finalisation of NMSF Drafting Instructions and Example Clauses, taking into consideration the outcomes of the National OHS Model Legislation Review

NMSF Steering Group Recommendations:

- 1. That Ministers endorse the NMSF Consultation Framework, unchanged since the December 2007 MCMPR Out-of-Session paper.*
- 2. That Ministers endorse the development of the NMSF Legislative Framework Drafting Instructions and Example Clauses, as per Strategy 1.*

NATIONAL MINE SAFETY FRAMEWORK CONSULTATION FRAMEWORK

Duty of employer to consult

1. An employer must consult with employees to enable them to contribute to the making of decisions affecting their safety and health at work.

When consultation is required

2. Consultation must occur in all matters related to safety and health, including but not limited to:
 - the development of risk-based safety and health management systems;
 - identification of hazards;
 - making decisions about measures to be taken to control risks;
 - changes to premises, work systems or methods, or plant or substances which may affect health and safety;
 - procedures for consultation; and
 - monitoring of health.

How consultation is undertaken

3. The broad mechanisms for consultation can include one or more of the following:
 - Health and Safety Representatives (HSRs) and/or;
 - Occupational Health and Safety (OHS) Committee and/or;
 - Other agreed arrangements.

The employer must consult with employees on the formal OHS consultative arrangements to be adopted at the workplace.

The broad mechanisms of consultation is aimed to be sufficiently flexible to suit a wide variety of circumstances. It shall provide for employees and employers to shape their own consultative arrangements.

Advice, Assistance and Representation

4. To assist with consultation employers and employees (including HSRs) may seek assistance, advice or representation as required.

Establishment of Committees, election of representatives or other arrangements

5. Employees can collectively select through democratic processes, committee members and/or health and safety representatives. Alternatively the workplace may choose an other arrangement provided such an arrangement is agreed to by a majority of employees.

6. The employer shall provide for:
 - the formation of a committee where the majority of employees so request or where initiated by the employer;
 - the election of HSRs when requested by one or more employees;
 - alternative arrangements where the majority of employees agree;
 - consultation to occur on the level of coverage for HSRs and committees.
7. In the case of an OHS Committee the following procedures are to apply:
 - The employee representatives must be elected by and from the employees in the relevant workgroup the committee represents;
 - The number of employer representatives on a committee must not exceed the number of employee representatives on the Committee;
 - The chairperson of a committee is not to be an employer representative;
 - The employer representatives have the appropriate authority to make decisions or effectively act upon OHS issues raised by the Committee.

Establishing consultation arrangements

8. As part of the consultation process the employer and employees shall establish as appropriate:
 - procedures for consultation;
 - representation of workgroups;
 - number of employer and employee representatives;
 - reporting and meeting arrangements;
 - training of HSRs and committee representatives;
 - relationships with other workgroups of other employers (e.g. contractors);
 - arrangements for elections;
 - a dispute resolution mechanism.

Any of these matters that remain unresolved may be referred by either party to the jurisdictions' regulatory body.

Functions of health and safety representatives

9. The functions of the HSRs, may include the following:
 - conduct investigations;
 - accompany an inspector in investigations and inspections;
 - accompany an employer in their investigations;
 - in consultation with the employer to inspect all or part of the workplace at any time in relation to OHS matters;
 - make enquiries about operations relevant to health and safety;
 - access to relevant documents and information;
 - consult and cooperate with the manager of the mine and liaise with the employees on OHS matters;
 - participate in the development and implementation of the safety management system;
 - make recommendations on OHS training;
 - receive a copy of any improvement/prohibition notices issued;

- be informed immediately of any accident or hazardous occurrence that may affect the safety and/or health of any worker and to be given copies of any reports prepared by or on behalf of the employer in relation to the occurrence.

Functions of Health and Safety Committees

10. The functions of OHS Committees may include the following:

- To facilitate consultation and cooperation between employers and the employees in relation to OHS matters.
- To keep itself informed as to standards relating to safety and health
- To recommend to the employer and employees the establishment, maintenance and monitoring of programmes relating to the health and safety of employees
- To keep in a readily accessible place, information in relation to hazards that arise or may arise at the workplace;
- To consider and make such recommendations to the employer as to any changes or intended changes to the workplace that may reasonably be expected to affect the health and safety of employees at the workplace;
- To consider any matters referred by a health and safety representative; and
- To perform such other functions which may be prescribed in regulations or given to the committee, with its consent, by the employer

Workgroups represented by HSRs or OHS Committees

11. The relevant workgroups to be represented by HSR's or Committee's are to be determined in a manner that ensures that they are able to represent effectively the employees in each workgroup and to have meaningful communication with the employees in the workgroup they represent. The following factors shall be considered in identifying the matters, areas or kinds of work in respect of which each HSR or Committee is to perform their functions:

- hours of work, including shift work and roster schedules;
- patterns of work (e.g. part time, seasonal or short term employees);
- number and grouping of employees;
- location of work;
- different types of work performed;
- attributes of employees (e.g. age, ethnicity, gender);
- relationships with other workgroups of other employers (e.g. contractors and the interaction of employees with the employees of other employers).

Obligations of employer with respect to duty to consult

12. The employer is obligated to ensure that consultation can occur and those involved in consultation are both given assistance to do so and not discriminated against or disadvantaged by virtue of that consultation.

13. To ensure adequate consultation can occur, the employer shall:

- keep records;
- communicate outcomes;
- make time available for consultation during work hours;
- provide reasonable facilities and access for the purpose of consultation;
- ensure employees participating are not financially disadvantaged and any reasonable costs incurred are met;

- facilitate consultation with representatives of other employers at the mine site;
- ensure that employees participating in consultation are not discriminated against because of that representation;
- allow HSRs time off work to attend relevant and agreed training without loss of remuneration or other entitlements;
- provide relevant information in an accessible format.

Training

14. HSRs and OHS committee members shall undertake training, to ensure they have the relevant skills to undertake their responsibilities. Training is to be conducted by a provider that has been accredited by the relevant regulatory authority, and has been agreed between the employer and employee.

Strategy 7: Collaborative Approach to Research

The goal of Strategy 7 – Collaborative Approach to Research is: to establish appropriate mechanisms for governments to foster effective research into occupational safety and health in the mining industry.

The Steering Group has identified the following four elements to achieve this goal.

1. **Identify:** *identify existing research in relevant mining areas, and establish a one-stop-website as a repository for this information.*

A targeted literature review will be undertaken by an appropriate expert to identify past, present and planned research on good practice information on occupational safety and health and the mining industry. The targeted literature review will focus on research that informs development, implementation and evaluation of issues with a national focus. It will also focus on applied research, which provides information about the nature and extent of specific nationally-significant workplace problems. The scope of the literature review will be further refined by the Research Working Group, and informed by what stakeholders see as the key issues that should be researched.

Once identified, relevant and useful research/information will be made available to stakeholders on an ongoing basis via the internet. This website would have adequate search functions, and be presented in a way that facilitates implementation by relevant mining industry stakeholders.

The Steering Group recommends the use of the University of Queensland's MIRMgate as this web-based repository. As detailed in the 'Strategy 3 – Compliance Support' section, MIRMgate was developed by the Minerals Industry Safety and Health Centre (MISHC) within the University of Queensland as a "one-stop shop for good practice information about managing safety and health risks in the minerals industry" (<http://www.mirmgate.com/>), and could be expanded to house both research and guidance material. Research bodies would be encouraged to submit their research to the database through an initial review process and on an ongoing basis.

The targeted literature review will also focus on identifying any major research 'gaps' on MIRMgate.

As discussed in Strategy 3, a report undertaken on the suitability of MIRMgate as this repository concluded that, with appropriate funding, MIRMgate could be expanded to house research information, and that MISHC, the centre within the university responsible for the management of MIRMgate, would be willing to work with the Steering Group to redevelop the "look and feel" and functionality of the site, to ensure it can meet the needs of the industry. To facilitate this, an annual contribution of \$20,000 would be required. This funding requirement has been reflected in the indicative budget of ongoing implementation activities, which is discussed in the Implementation and Funding Mechanisms section of this Implementation Report.

2. **Coordinate:** *establish a mechanism to coordinate collaborative research projects and identify research projects and/or principles.*

The second element of this strategy is to establish a mechanism to coordinate collaborative research projects. In practice this will be facilitating a communication network or some other more formal meeting to ensure there is a greater degree of coordination and collaboration.

3. **Communicate:** *foster awareness within stakeholders regarding the relevant research available to them.*

A key issue raised during the July 2008 public consultations was the need to utilise existing research, and ensure the outcomes and potential benefits of existing research were known by relevant stakeholders.

Ensuring the effective communication of research outcomes and/or implications of research to relevant stakeholders (including companies, governments, unions, industry associations, and tripartite safety groups) will facilitate effective decision making, whether this be decision making regarding policy or practice.

The most effective communication mechanism is likely to differ depending on what the research is, and who should be made aware of it, that is, the 'target audience'. Therefore, a tailored communication strategy should be developed for major research outcomes. Such a communication strategy should:

- identifying which stakeholders should be made aware of the research (e.g. mine manager, health and safety managers, regulators, workforce, industry groups, tripartite safety groups etc.);
- developing and implementing a targeted communication strategy (e.g. a targeted email, a conference presentation, a newsletter, a phone call to key people, tabled for information at relevant committees, article in relevant publications); and
- clearly identifying how research, its outcomes or implications can or should be used by the target audience (e.g. incorporated into Codes of Practice, considered in the development of company policies, emerging issue to be considered by governments).

Communication mechanisms should direct people to the repository website (see above), but should be more proactive than just posting research on the repository website (i.e. MIRMgate). Individuals often suffer from information overload, and often don't go to a website until an issue becomes a problem and they specifically search out information. A website with full reports or studies should be a reference point.

If there is an active mechanism to communicate major research outcomes, which proactively brings issues to the awareness of relevant stakeholders, this is likely to be a more effective way to utilise research to the benefit of the industry.

This would require a communication expert on the NMSF Secretariat, or equivalent, to review research submitted to the database, identify which research outcomes should be more broadly communicated, and develop tailored communication strategies accordingly.

4. **Implement:** *foster industry implementation of research outcomes.*

This element is an extension of the ‘Communicate’ element above. The tailored communication strategy outlined above should identify how research, its outcomes or implications can or should be used by the target audience (e.g. incorporated into Codes of Practice, considered in the development of company policies, considered as emerging issue by governments). The following activities may be undertaken to further foster stakeholder implementation of relevant outcomes: workshops, training, preparation of case studies, newsletters.

Action Table

Undertake an audit of research material currently housed on MIRMgate, to feed into Literature Review scope.
Engage a consultant to undertake a literature review, to identify research material that should be added to MIRMgate.
Convene focus groups to consider functionality, navigation and ‘look and feel’ of the MIRMgate website.
In partnership with MISHC, commence redesign of the MIRMgate website, based on feedback from focus groups.
Develop communication mechanisms to foster stakeholder awareness regarding research of relevance to them, and encourage the implementation of that research.

NMSF Steering Group Recommendations

1. *That Ministers endorse the four elements of the Research Strategy, including*
 - *the identification of relevant research and the redevelopment of the MIRMgate website as an online repository of research information;*
 - *establishing a mechanism to facilitate collaborative research projects;*
 - *fostering stakeholder awareness of relevant research information; and*
 - *fostering industry implementation of research outcomes*
2. *That Ministers note that it is anticipated that an annual contribution of \$20,000 needs to be factored into future funding proposals to action this strategy and facilitate the increased flow of information to MIRMgate (as per Strategy 3).*

Implementation Mechanisms & Funding

This report makes recommendation on how the seven strategies, or goals, of the NMSF can be realised. These recommendations have been developed with the input of all major stakeholders, and refined through an exhaustive national consultation process. This development process, according to the major stakeholders involved, has been highly successful.

The COAG and MCMPR goal of a nationally consistent OHS regime in the mining industry will not be realised unless the recommendations in this report are implemented. The goal of consistency in legislation and implementation (i.e. 'on-the-ground' consistency in how legislation is implemented and enforced) will not be reached if there is no mechanism in place to oversee and drive the process, or if such a mechanism is not adequately resourced. It is the Steering Group's view that if this opportunity to implement the strategies of the NMSF is not capitalised upon now, while there is momentum and commitment to the process, there is the potential to set the process back significantly.

The following recommendations therefore relate to the realisation of the goals of the seven NMSF strategies – the implementation phase.

The implementation of the National Mine Safety Framework strategies will require ongoing activities and coordination in order to be successful. The Steering Group will recommend a mechanism to implement the activities and strategies that comprise the framework, provide a national tripartite mining forum to consider issues that have implications for the mining industry across Australia, and ensure that information and best practice arising out of research, State reviews and experience are shared across state and territory borders and across stakeholders.

Ongoing activities relating to the implementation of the seven strategies, which are summarised in **Attachment E**, include:

- monitoring the implementation/adoption of the legislative framework;
- coordination of a legislative drafters workshop
- national consideration and adoption of positive initiatives developed at a State and Territory level;
- development of national competency requirements, in consultation with jurisdictions' Board of Examiners, SkillsDMC and other relevant bodies;
- coordination/development of national guidance material;
- facilitation of communication between organisations developing guidance material;
- in consultation with the University of Queensland, undertake the redevelopment of MIRMgate;
- convening "focus groups" to inform the redevelopment of MIRMgate as a one-stop repository of guidance and research material;
- raising industry awareness of enforcement tools;
- development and administration of a national database;
- national data reporting;
- updating of national data set/database, including the addition of health indicators;

- organisation and hosting of annual National Regulator Forum;
- facilitation of secondments between regulators;
- development and delivery of inspectorate training;
- undertaking a targeted literature review;
- development of tailored communication strategies for raising awareness of research being undertaken and the uptake of research and guidance material developed;
- reviewing inspectorates against enforcement guidelines; and
- continued communication with State/NT tripartite mining groups.

There are also a number of other activities, currently outside the current scope of the seven NMSF strategies, which it may be beneficial to have a coordinated approach in the future. These activities include:

- facilitation of a national accreditation scheme for training organisations;
- responding to industry and regulator needs as required; and
- addressing other issues that may arise during the implementation phase of the strategies.

Coordination Mechanisms

A mechanism would need to be in place to facilitate and oversee these ongoing activities, to ensure consistency is actually achieved. The Steering Group have considered the following three coordination mechanisms:

1. A national regulatory authority

This option would involve the creation of a single national regulatory authority with responsibility for the safety regulation of mining activity across all jurisdictions in Australia. The national regulator could be managed flexibly, to meet changes in regulatory demand and to use resources more cost effectively through staff and skills mobility across jurisdictions.

The national authority would report to State/Northern Territory Ministers regarding incidents and safety issues in all jurisdictions.

This option relates to recommendation 4.30 from the 'Banks Report'. On 12 October 2005, the Prime Minister announced the appointment of a taskforce to identify practical options for alleviating the compliance burden on business from Government regulation, chaired by Mr Gary Banks. The Taskforce's report, *'Rethinking Regulation; Report of the Taskforce on Reducing Regulatory Burdens on Business'* (known as the Banks Report) was delivered to the Prime Minister and Treasurer on 31 January 2006 with recommendations for health and safety regulation including a specific recommendation regarding the NMSF. Recommendation 4.30 states:

COAG should establish a high-level representative group to oversee the National Mine Safety Framework. This group should work closely with the Ministerial Council on Mineral and Petroleum Resources to oversee the next stage of reform, including the delivery of a single national regulatory body.

However, this option is outside the terms of reference for this Steering Group. As detailed in the 'Background' section of this Implementation Report, this is due to the MCMPR agreement that consideration of a national authority was premature, given the complexity of the work required to implement the NMSF.

2. A national coordination body

This option would involve setting up a separate body to drive coordination and consistency. This body would take on an administration and coordination role to ensure consistency between jurisdictions, and also take on the functions of Secretariat to the NMSF Steering Group and possibly Secretariat to meetings of the Chief Inspectors of Mines.

The NMSF Steering Group would operate like a Board, signing off on ~~its~~ the Body's activity plan, ensuring that it was addressing the priority issues as identified by all major stakeholders in the industry.

The body would advise MCMPR and possibly also the WRMC, on behalf of both the Steering Group and the Chief Inspectors.

This body would be established as a separate legal entity, within the Australian Government Department of Resources, Energy and Tourism (RET) as either a corporation or a statutory body.

3. Continuation of the NMSF Steering Group, with a Secretariat

The third alternative is to continue the Steering Group, with a Secretariat with the expertise and capacity needed to fully implement the strategies. The Steering Group would determine the size and functions of the Secretariat, based on the activities it directs the Secretariat to undertake. The Secretariat would continue to sit within the RET, providing an administrative and coordination role to ongoing activities.

The Secretariat would continue to carry out work under the direction of the NMSF Steering Group, which would also continue in a manner similar to its present form. The Terms of Reference for the Steering Group would need to be updated, to reflect the different stage of work being undertaken.

This option would be administered through a Memorandum of Understanding (MoU) with MCMPR for the Secretariat to undertake certain coordination aspects in the implementation of activities. The NMSF Steering Group would sign-off on an annual business plan and budget detailing the planned work of the Secretariat. The Secretariat could also possibly take on the role of Secretariat to the Chief Inspectors of Mines.

The Secretariat could include a communication expert to facilitate communication requirements, and a data expert to facilitate ongoing database administration and expansion.

For reference, the three mechanism options are graphically represented below.

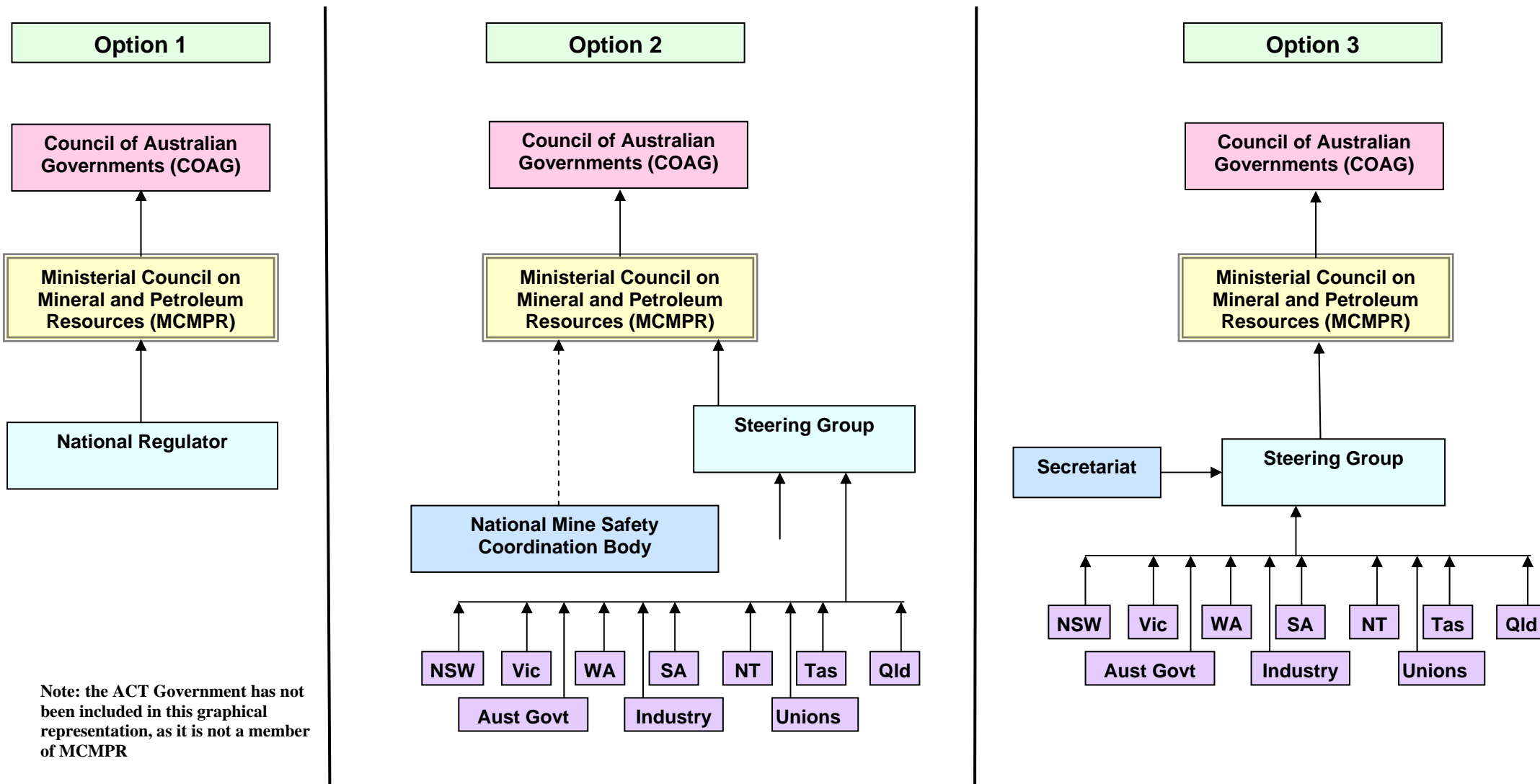
Given the success and effectiveness of the process to date, the Steering Group recommends option three: “Continuation of the NMSF Steering Group, with a Secretariat”. There are a number of advantages to this option, including the relative ease of establishing this mechanism (i.e. an MoU with MCMPR, or a revised Terms of Reference); Secretariat housing within RET eliminates the need to replicate corporate, information technology, account and human resource services, and building rent; and it would retain a direct reporting relationship with the Commonwealth Resources Minister and MCMPR.

NMSF Steering Group Recommendation

- 1. That Ministers agree that a mechanism should be put in place to facilitate and oversee the ongoing implementation activities; and*
- 2. That Ministers endorse option 3 ‘continuation of the NMSF Steering Group, with a Secretariat’ as this mechanism, with the size and functions of the Secretariat to be determined by the Steering Group.*

Figure 2: Three possible models for the coordination of ongoing implementation activities

Three possible Models for a National Approach to Mine Safety in Australia



Funding

Adequate funding for these and any other ongoing implementation activities, as well as the cost associated with the establishment and running of a coordination mechanism, is crucial if the goals of the NMSF are to be realised. If governments are committed to ensuring a consistent OHS regime in the mining industry, the implementation of the NMSF will need to be funded and overseen by an appropriate mechanism. A detailed indicative budget has therefore been prepared (based on the continuation of the Steering Group, with an expanded Secretariat), and is at **Attachment G**.

This budget details both the operational costs involved in undertaking these implementation activities, and the capital cost involved in the development of a national database. It is estimated that the ongoing costs would be between \$1.2 and \$1.4 million per annum. In the first year, this would be in addition to the capital cost of \$1.2 million to establish the national database. This indicative budget includes the costs of staffing the Secretariat but does not include the continued “in kind” support of Steering Group members, including the costs of members' time, travel and the hosting of meetings.

The Steering Group identified and considered the following funding options.

- 1. A principal and interest model:** whereby a once off payment is collected which would be of a sufficient amount to fund the operation of the body off a proportion of the interest. A proportion of the interest would need to be reinvested with the principal to maintain the real dollar value of the principle, which would ensure funding security for the body. This once off lump sum could be collected from industry as a contribution, and from governments. It is estimated that this lump sum would need to be in the order of \$20-30 million, with governments to contribute half (with proportions similar to the MCMPR formula) and industry to contribute the remainder as a once off contribution to mine safety.
- 2. Ongoing annual government funding:** continued funding from all State/Northern Territory and Australian governments through MCMPR. The distribution of funding requirements between jurisdictions is a matter to be determined by MCMPR. A potential option would be to continue funding according to the MCMPR formula, as utilised for the initial NMSF funding. An indicative breakdown of funding according to this formula is at **Attachment H**. However, this formula is based on population data, rather than the relative size of the mining industry in each jurisdiction. The MCMPR may therefore wish to consider an alternative method to determine the breakdown of funding.
- 3. An annual industry levy:** whereby an annual safety levy would be imposed on industry – potentially based on annual profits, number of employees, or other such factors.

The Steering Group recommends option two – ongoing annual government funding, as this is an established process that has proven to work successfully. It also eliminates the need for complex legal and administrative mechanisms to be established to collect either industry contributions or levies.

NMSF Steering Group Recommendations

- 1. That Ministers agree that adequate funding is required to ensure the goals of the NMSF are realised; and*
- 2. That Ministers agree to ongoing annual government funding through MCMPR, based on the funding requirements contained within the indicative budget.*

Ongoing Activities Action Table

Action Table	
<i>Strategy 3 – Compliance Support</i>	Facilitate the communication of information regarding the development of guidance material to and from jurisdictions' tripartite bodies.
<i>Strategy 4 - Enforcement</i>	Refinement of Enforcement Tools
<i>Strategy 1 – Legislation</i> <i>Strategy 6 - Consultation</i>	Refinement of NMSF Drafting Instructions and Example Clauses
<i>Strategy 7 – Research</i>	Undertake an audit of research material currently housed on MIRMgate, to feed into Literature Review scope.
<i>Strategy 3 – Compliance Support</i> <i>Strategy 7 – Research</i>	Convene focus groups to consider functionality, navigation and 'look and feel' of MIRMgate site.
<i>Strategy 4 – Enforcement</i>	Commence development of National Enforcement Implementation Guidelines, utilising the United Kingdom Health and Safety Executive's 'Enforcement Management Model' as a potential example or model.
<i>Strategy 5 – Data</i>	Seek agreement of jurisdictions on technical aspects of database development (e.g. security, vendor criteria, portal technology)
<i>Strategy 7 – Research</i>	Engage a consultant to undertake a literature review, to identify research material that should be added to MIRMgate.
<i>Strategy 2 – Competency Support (Industry)</i>	Complete competency mapping for all 18 mining specific positions identified in legislation.
<i>Strategy 2 – Competency Support (Regulator)</i>	Refine the list of competencies that should exist within the ideal inspectorate.
<i>Strategy 2 – Competency Support (Industry)</i>	Seek agreement from jurisdictions on whether these are acceptable competency requirements for the roles/functions.
<i>Strategy 2 – Competency Support (Regulator)</i>	Develop a project plan to implement a capability analysis of inspectorate competencies, based on the refined competency list.

Action Table	
Strategy 3 – Compliance Support Strategy 7 – Research	In partnership with MISHC, commence redesign of MIRMgate website, based on feedback from focus groups.
Strategy 7 – Research	Develop communication mechanisms to foster stakeholder awareness regarding research of relevance to them, and encourage the implementation of that research.
Strategy 1 – Legislation Strategy 6 – Consultation	Finalisation of NMSF Drafting Instructions and Example Clauses, taking into consideration the outcomes of the National OHS Model Legislation Review
Strategy 2 – Competency Support (Industry)	Seek agreement from jurisdictions on an acceptable range of evidences to demonstrate these competencies.
Strategy 2 – Competency Support (Regulator)	Based on the outcomes of the capability analysis: – identify training packages within jurisdictions that could be distributed nationally; and – identify areas where training might need to be developed
Strategy 3 – Compliance Support	Commence scoping of guidance material to be added to MIRMgate.
Strategy 4 – Enforcement	Development of an audit tool to ensure consistent application of the Enforcement Principles and Implementation Guidelines.
Strategy 5 – Data	Request for tender for database development.
Strategy 2 – Competency Support (Industry)	Identify an acceptable process for implementing legislative change.
Strategy 2 – Competency Support (Regulator)	Development of new training packages and/or refinement of existing training packages.
Strategy 4 – Enforcement	As part of the Regulator Competency Support Strategy, commence the development of national regulator training.
Strategy 2 – Competency Support (Regulator) Strategy 4 – Enforcement	Coordination of the inaugural national regulators forum, to be held annually.
Strategy 5 – Data	Commence database development.

<i>Action Table</i>	
<i>Strategy 3 – Compliance Support</i>	Consideration of potential issues for the development of national guidance material.
<i>Strategy 4 – Enforcement</i>	Establish processes to facilitate secondments between jurisdictions.

Attachments

ATTACHMENT A

The Steering Group consists of representatives from the following organisations:

- **Department of Employment, Economic Development and Innovation (Mines and Energy), Queensland**
- **Department of Primary Industries and Resources, South Australia**
- **SafeWork, South Australia**
- **Department of Primary Industries, New South Wales**
- **Department of Mines and Petroleum, Western Australia**
- **Department of Resources, Energy and Tourism, Australian Government**
- **Department of Primary Industries, Victoria**
- **WorkSafe, Victoria**
- **Department of Primary Industry, Fisheries and Mines, Northern Territory**
- **WorkSafe, Northern Territory**
- **Workplace Standards, Tasmania**
- **Minerals Council of Australia**
- **New South Wales Minerals Council**
- **Chamber of Minerals and Energy, Western Australia**
- **Queensland Resources Council**
- **Cement, Concrete and Aggregates Australia**
- **Australian Workers Union**
- **Construction, Forestry, Mining and Energy Union**
- **Australian Council of Trade Unions**

NATIONAL MINE SAFETY FRAMEWORK STEERING GROUP

TERMS OF REFERENCE

Background

In March 2002, the Ministerial Council on Mineral and Petroleum Resources (MCMPR) agreed to the National Mine Safety Framework (NMSF) as a mechanism for delivering a nationally consistent mine health and safety regime across jurisdictions. Strong leadership by government and a comprehensive and coordinated stakeholder engagement process is particularly important in developing an efficient and effective approach to delivering a nationally consistent mine health and safety framework.

On 25 November 2005, the Ministers re-endorsed the MCMPR's Vision statement that '*jurisdictions look for opportunities for improving consistency and efficiency of legislative and regulatory Frameworks through the NMSF and in consultation with key stakeholders*'. Ministers also directed officials to agree the make up of a representative group comprising employers, employees and government for consideration by Ministers out of session and for the Group to report back on a set of agreed overarching principles to guide the further development of the NMSF, by the next MCMPR meeting.

Arising from the Banks taskforce report "Rethinking Regulation" the Prime Minister (PM) has written to Premiers and Chief Ministers requesting the MCMPR develop the NMSF and report progress to COAG. The letter also states the MCMPR should consider the merits of establishing a single national authority. The Chair of the MCMPR is writing to the PM informing him the MCMPR have agreed to establish a NMSF Steering Group, which will develop a set of principles to guide and further develop the NMSF and report to the MCMPR through SCO. This work will not include the consideration of the merits of establishing a single national authority.

Terms of Reference

The objectives of the group are to:

1. report on a set of agreed overarching principles to guide the further development of the NMSF;
2. advise on priority areas for the future development of the NMSF reflecting stakeholder and jurisdictional experiences and aspirations;
3. recommend any changes in the NMSF that are necessary to respond to State/NT or industry initiatives; and
4. advise on the best way to engage stakeholders on the NMSF in the future.

The NMSF Steering Group roles and responsibilities will be to:

5. review the existing NMSF material;
6. assess the implications of the three State reviews and relevant industry initiatives for the NMSF and its Implementation Plan;
7. review progress with the NMSF;
8. in the light of the above, develop a set priority areas for the future development of the NMSF;
9. provide advice to the SCO on mechanisms to finalise the implementation of the NMSF;
10. report to the MCMPR on these priorities and advice within 6 months of the first meeting;
11. support but not duplicate established consultative arrangements including State/NT consultative groups and any other organisation with an interest in mine health and safety.

Membership

The NMSF Steering Group will comprise:

- an independent Chair to be selected by SCO;
- SCO members, or a person nominated by the member (it is up to each jurisdiction to determine if they would like a SCO representative);
- the Conference of the Chief Inspectors of Mines (it is up to each jurisdiction to determine if they would like a Chief Inspector of Mines representative);
- a representative from the Minerals Council of Australia and a representative from each of the three States that have undertaken mine safety reviews (NSW Minerals Council, WA Chamber of Minerals and Energy and Queensland Resources Council) and the Cement, Concrete & Aggregate Australia Association;
- a representative from each of the three major unions which represent mining industry employees (the Australian Council of Trade Unions, Australian Workers Union and the Construction Forestry Mining and Energy Union).

Administrative Arrangements

Chair - the Hon Clive Brown (retired Western Australian MP) will serve as Chair of the NMSF Steering Group.

Secretariat - will be housed in the Resources Division of the Department of Industry, Tourism and Resources (DITR). Ideally the Secretariat will also include secondees from State/Territory jurisdictions, funded by their respective jurisdiction.

Consultation - Members of the NMSF Steering Group will be responsible for consulting with members of their respective organisations and relevant stakeholders.

Funding - Members of the NMSF Steering Group will be responsible for their own costs including air fares, accommodation and meals when attending meetings or other related business.

Decisions - Prior to making a decision the NMSF Steering Group will endeavour to consult with relevant stakeholders with an interest in mine health and safety. All efforts will be made to arrive at decisions by consensus.

Meetings

- The Chair will convene meetings.
- Where a member is unable to attend in person the member may make arrangements with the Chair to attend through telephone or video conference or have an alternate attend.
- At a meeting a quorum shall be constituted by any 10 members, providing that includes:
 - an Australian Government representative;
 - three State or Territory representatives;
 - an employer representative; and
 - an employee representative
- Inter-sessional discussions and consultations will occur, when deemed by the Chair as appropriate.

COUNCIL OF AUSTRALIAN GOVERNMENTS' - BUSINESS REGULATION AND COMPETITION WORKING GROUP (BRCWG)
COMMONWEALTH-STATE IMPLEMENTATION PLAN AND FORWARD WORK PROGRAM (EXCERPT)

IMPLEMENTATION PLAN SUMMARY

ISSUE	OBJECTIVE/BENEFITS	DELIVERABLE	TIMEFRAME	OUTCOME
National Mine Safety Framework	To reduce the regulatory burden on business and support the delivery of the mining industry goal of zero harm in the workplace by delivering a nationally consistent mine safety regime	COAG agrees that the Ministerial Council on Minerals and Petroleum Resources (MCMPR) in consultation with BRCWG report on options for reform in national mine safety regulation by October 2008. A legislative framework, consultation framework and a national data set has been developed under the National Mine Safety Framework process and are currently being considered by all State governments and the Northern Territory for their endorsement. All Australian Governments acknowledge the commitment and ownership that has been shown by stakeholders in this tripartite process	26 March 2008	Harmonisation
		MCMPR to report to COAG on options for national mine safety regulation	October 2008	
		MCMPR endorsement of final strategies and, if appropriate, the merits of a national authority and related recommendation to COAG	December 2008	
		COAG agrees final stages	March 2009	

MINING INDUSTRY SPECIFIC ROLES WITH LEGISLATE REQUIREMENTS

Role	Qld	NSW	Vic	SA	WA	NT	Tas	Key Differences
Assistant underground manager					✓			
Deputy (coal)	✓	✓			✓			<ul style="list-style-type: none"> ➤ NSW does not have a requirement for a character reference ➤ age specifications: 21 in NSW, 23 in WA, none specified in Qld ➤ 3 years experience required in NSW & Qld, only 2 in WA (if holder of a degree/diploma etc) ➤ In Qld, types and duration of practical experience required much more detailed ➤ Oral exam not required in WA ➤ All: examinations focus on relevant state legislation
Engineering occupations			✓			✓		
Foreman or shift boss – underground (m)					✓			
Manager (coal) - underground	✓	✓						<ul style="list-style-type: none"> ➤ minimum age requirement in NSW ➤ letter of endorsement from SSE required in Qld ➤ in Qld, required to demonstrate competencies in shotfiring, risk management, and gas testing (as well as degree/diploma) ➤ both require minimum of 3 years experience, though in NSW only 2 must be in underground coal mining ➤ in Qld, types and duration of practical experience required is much more detailed ➤ examinations focus on the relevant state legislation
Manager of Electrical Engineering		✓						
Manager of Mechanical Engineering		✓						
Open cut examiners	✓	✓						<ul style="list-style-type: none"> ➤ minimum age requirement in NSW ➤ letter of endorsement from SSE required in Qld ➤ in Qld, this position is for coal only ➤ examinations focus on the relevant state legislation ➤ education and experience requirements vary greatly, eg:

Role	Qld	NSW	Vic	SA	WA	NT	Tas	Key Differences
								<ul style="list-style-type: none"> - in NSW, holders of degree/diploma only required to have 1 years experience; all candidates must have minimum of 3 years experience in Qld - in NSW, applicants may have a minimum of 5 years experience in supervising production operations, in lieu of formal qualifications - in Qld, must have experience in blasting, including verified log of activities
Open cut manager		✓						
Overman (coal)					✓			
Quarry manager		✓	✓	✓	✓			<ul style="list-style-type: none"> ➤ in Vic, requirements are not specific, must appoint a "competent person", which is a person who "has acquired appropriate and adequate knowledge and skills, through training and experience or both" ➤ NSW & WA, first aid certificate required ➤ in WA, minimum age requirement (24 years) and character referee ➤ Bachelor of Mining Engineering required in SA & NSW, whilst a Bachelor of Engineering is sufficient in WA ➤ minimum of 3 years experience in SA & NSW, only 2 years required in WA ➤ requirement for 3 months experience in handling and use of explosives in NSW & WA only ➤ examinations focus on relevant state legislation; no oral examination required in WA
Shotfirer	✓	✓	✓	✓	✓	✓	✓	<ul style="list-style-type: none"> ➤ All: required to pass an "approved course of training" and undergo security clearance ➤ minimum age requirement of 18 years in WA, NSW & SA ➤ in NSW, experience requirements are more detailed – 6 months' experience including 12 or more blasts; or 30 or more for development mining in below ground mines

Role	Qld	NSW	Vic	SA	WA	NT	Tas	Key Differences
								<ul style="list-style-type: none"> ➤ in NSW, required to undergo a practical assessment by a regulatory inspector ➤ different process in WA, initially issued with a Restricted Permit – after 3 months experience and completion of 25 shots – may apply for restriction to be lifted ➤ in Vic, additional requirements if High Consequence Dangerous Goods (HCDG) or Security Sensitive Ammonium Nitrate (SSAN) is used
Surveyor	✓	✓			✓	✓		<ul style="list-style-type: none"> ➤ 3 years experience required in NSW, only 2 in WA ➤ character referee required in WA ➤ no additional examinations required in WA
Surveyor – surface only	✓	✓			✓			<ul style="list-style-type: none"> ➤ 3 years experience required in NSW, only 1 in WA ➤ character referee required in WA ➤ no additional examinations required in WA
Under manager	✓	✓			✓			<ul style="list-style-type: none"> ➤ NSW & Qld position is for underground coal mines; the WA for underground metalliferous ➤ minimum age: 21 in NSW; 25 in WA ➤ mine rescue training required in NSW ➤ 5 years experience in WA; 3 years in NSW ➤ examination on ventilation, and oral exam required in NSW ➤ examinations focus on relevant state legislation
Underground manager (metalliferous)	✓	✓	✓	✓	✓			<ul style="list-style-type: none"> ➤ in Vic, requirements are not specific, must appoint a "competent person", which is a person who "has acquired appropriate and adequate knowledge and skills" ➤ minimum age of 25 years and character referee required in WA ➤ NSW & WA – required to have a first aid certificate ➤ experience requirements vary: in WA – 5 years experience, with at least 3 underground; in NSW – 3 years experience, with at least 2 underground; in Qld – 3 years underground experience, with at least 2 in metalliferous; in SA – just 3 years underground experience

Role	Qld	NSW	Vic	SA	WA	NT	Tas	Key Differences
								<ul style="list-style-type: none"> ➤ in Qld, evidence of competency in risk management also required (AQF Level 6) ➤ written examinations only in WA & SA; written and oral examinations in Qld & NSW ➤ examinations focus on relevant state legislation
Underground supervisor								
Winding engine driver		✓	✓		✓		✓	<ul style="list-style-type: none"> ➤ WA and NSW have more extensive requirements than other states, with WA requirements particularly specific. ➤ in WA, practical experience of 300 hours required (at a rate of not less than 12hrs or more than 40hrs per week), in NSW – not less than five hrs per week for 12 weeks ➤ must pass examinations set by the Board in WA

NATIONAL MINE SAFETY DATABASE SCOPING STUDY

EXECUTIVE SUMMARY

Statement of the Problem

There is no consistent national mine, quarry and exploration health and safety data collected, resulting in a lack of nationally consistent incident reporting.

Background

The National Mine Safety Framework (NMSF) aims to deliver greater consistency in mine safety and health regulations across Australia. The Framework is comprised of seven strategies where consistency across jurisdictions would be most beneficial. Strategy Five of the Framework is the establishment and collection of a nationally consistent health and safety data set to allow consistent collection and analysis. A national health and safety dataset has been developed. The NMSF Steering Group, which is implementing the NMSF, agreed that to aid consistent collection and analysis of this dataset, a national database should be investigated.

This scoping study was commissioned by the Department of Resource, Energy and Tourism on behalf of the NMSF Steering Group, to investigate the use of electronic systems to solve the above stated business problem. The study is divided into four major sections;

1. the current data collection processes in use in the different Australian jurisdictions;
2. a proposed logical design for a national database (i.e. process and information flows, security design and architecture models);
3. evaluation of business applications (i.e. of software and hardware vendors); and
4. physical design options (i.e. where the national database should be physically hosted).

Current Processes

The current data collection processes used by the different jurisdictions in Australia for the recording of incidents vary from paper based through to computerised systems. A national comparison of health and safety statistics is currently prepared by the Minerals Council of Australia (MCA). The different statistics collected and the different collection methods used poses a challenge for the MCA when collating statistics on an annual basis. The scoping study identified key issues that affect the current reporting processes, these include:

- data is inputted by multiple people, increasing the risk of error;
- not all incident management systems are compatible;
- data collected is based on state/territories legislation and is therefore not the same;
- there is a lack of complete and consistent data;
- data inaccuracies compromising national data quality; and
- data integrity checking for incidents is not up-to-date and does not reflect a national standard.

Logical Design

This section outlines the main process or steps proposed in the national database, from the point that a user at the mine site submits an incident report to when the information from that report is available in an aggregated format for reporting and online statistics.

Essentially mine personnel will complete an incident report form (either web-based or paper-based), these will then be forwarded on to the relevant inspectorate (either via the web or in hardcopy); the inspectorate will then review, validate and approve them. The approved incident report will then be forwarded and stored on the national database. If the data entered is inaccurate or is incomplete, the inspectorate will either ring the mine to get more accurate information, or send it back to the user for updating. The national database will enable real-time web statistics and reports. For instance, companies will be able to access their own company information and compare it against industry aggregates, as well as access jurisdictional and national trends; the inspectorates will be able to access the raw data for their jurisdictions as well as jurisdictional and national trends. Reports will also be available in Excel, PDF and MS Word formats.

The section also outlines the security framework of the database. It is intended that different stakeholders will have different levels of access to the database, to ensure that the data is utilised to its full extent by all stakeholders. Therefore, the level of access to the Incident Management information must be controlled and monitored to ensure the right information is available to the right people.

The section also identifies and evaluates three different Architecture Models for the database. Three models were identified:

- **Centralised:** essentially this model would require incident reports to be sent directly to the central database, which would be housed in a central location.
- **Distributed:** essentially this model would require incident reports to be sent directly to the inspectorate's database, and the data set information would be 'extracted' from the inspectorates' databases.
- **Hybrid:** a combination of the centralised and distributed model.

Given that some jurisdictions will choose to retain their existing mature computerised systems, and some jurisdictions may decide to utilise the central database as their main database (while retaining control over the flow and access to information), the Hybrid approach is therefore recommended.

Business Applications

A range of vendor business systems was investigated for their suitability, i.e. vendors who sell appropriate software that is able to be modified to suit the business requirements of the proposed national database, and would be capable of physically hosting the database. A total of 30 vendors were initially assessed, from which 13 were short listed. These 13 were analysed and compared in greater detail, to create a shortlist of four. A rigorous comparison was made of these remaining four, which are:

- STEMS Solutions;
- NetSight;
- Enablon; and

- Warwickic Systems.

Each system was analysed for capability against the business needs of the database, resulting in list of advantages and disadvantages as well as product pricing for each system.

The Enablon system is recommended due to its suitability to the business and technical needs, whilst being flexible and extensible for future expansion.

It should be noted that the study produced a high level analysis of available systems with approximate business application and hosting costings, and further business and financial analysis would need to be performed before procuring the recommended system.

Physical Design Options

The cost of building a purpose-built database of this size and complexity is cost prohibitive, in the order of \$30 million, and could take up to three years to develop. It would also require extensive IT resources to host and maintain. For this reason, it is recommended that the basic software system be purchased from a vendor.

This section also investigates where the database should be physically located. Three options were investigated and evaluated:

- **Self Hosted System:** under this option the database would be hosted on the owner's server, which would require the technical management and maintenance by the owner (e.g. the Department of Resources, Energy and Tourism on behalf of all Governments).
 - **Estimated Total Cost:**
 - \$1,173,478 - One time (vendor creation and installation cost)
 - \$10 million over 2 years
 - \$150,000 - annual (maintenance & hosting cost)
- **Third Party Hosted System:** under this option the database would be hosted on another organisation's server, and they would be required to undertake the technical management and maintenance. This would be controlled through a service level agreement with the database owner.
 - **Estimated Total Cost:**
 - \$1,173,478 - One time (vendor creation and installation cost)
 - \$250,000 - One time (third party installation cost)
 - \$150,000 - annual (third party's maintenance & hosting cost)
- **Vendor Hosted System:** under this option the vendor who provided the software would also host the system on their own server.
 - **Estimated Total Cost:**
 - \$1,173,478 - One time (vendor creation and installation cost)
 - \$186,479 - annual (vendors maintenance and hosting cost)

A vendor hosted system is recommended: vendor-hosted systems are more cost effective because the software and hardware upgrades are included in the one package price, they provide ongoing technical support and maintenance of the system as part of the package price, and the contract and security arrangements are less complicated than with a third-party hosted system.

Summary of Key Recommendations

Vendor Supplied Software is recommended: The cost of building a purpose-built database of this size and complexity is cost prohibitive, in the order of \$30 million, and could take up to three years to develop. It would also require extensive IT resources to host and maintain. For this reason, it is recommended that the basic software system be purchased from a vendor.

Business Application Recommended: The Enablon system is recommended due to its suitability to the business and technical needs, whilst being flexible and extensible for future expansion.

A vendor hosted system is recommended: vendor-hosted systems are more cost effective because the software and hardware upgrades are included in the one package price, they provide ongoing technical support and maintenance of the system as part of the package price, and the contract and security arrangements are less complicated than with a third-party hosted system.



National Mine Safety Framework
Goal: To deliver a nationally consistent health and safety regime for the mining industry.

Strategy 1: Nationally consistent legislation

Goal: To provide a nationally consistent legislative framework that protects the safety and health of mine employees and persons who may be affected by mining operations.

Strategy

- A legislative framework has been developed and endorsed by all jurisdictions (with some caveats).
- Development of drafting instructions and example clauses, based on the legislative framework.

On-going activities

- Development of drafting instructions & example clauses
- Legislative drafters workshop
- Monitoring the implementation/adoption of the legislative framework drafting instructions.

Strategy 2: Competency support

Goal: To encourage and promote continuous skills development and competency nationwide, for both the industry and the regulator.

Strategy

- To obtain jurisdictional agreement on the competency requirements for 18 identified mining specific statutory roles.
- Identify competencies that should exist within the ideal inspectorate and facilitate training that addresses these competencies.

On-going activities

- Liaising with jurisdictions' Board of Examiners, SkillsDMC and other relevant bodies.
- National Regulator forum
- Regulator secondments
- Development & delivery of training

Strategy 3: Compliance support

Goal: To develop a national approach to providing advisory information for duty holders to assist them in achieving compliance, recognising the varying needs of individual operations.

Strategy

- Redevelopment of MIRMgate as a one-stop-shop repository of guidance material.
- Develop national guidance material.
- Facilitate communication between organisations that produce guidance material.

On-going activities

- Redevelopment of MIRMgate
- Coordinating/development of national guidance material.
- Facilitating communication between organisations.

Strategy 4: Enforcement

Goal: To develop a nationally consistent and transparent approach to enforcement that provides clear and consistent standards for duty holders, and supports equitable outcomes from governments' contribution to safety and health in the mining industry.

Strategy

- National Enforcement Principles
- Enforcement Tools
- National Enforcement Implementation Guidelines
- An audit mechanism to ensure consistency between jurisdictions
- Mechanisms to drive consistency in practice

On-going activities

- Development of implementation guidelines
- Development of audit tool
- National regulator training.
- Increase industry awareness of enforcement tools.
- National regulator forum



National Mine Safety Framework
Goal: To deliver a nationally consistent health and safety regime for the mining industry.

Strategy 5: Data collection

Goal: •To develop a national mining industry data set that allows analysis across jurisdictions, and the development of a National Mine Safety Database.

Strategy

- A National Data Set has been developed and endorsed by jurisdictions.
- Development of a National Database
- Phase 2: the development of health indicators to be included in the National Data Set

On-going activities

- Development & administration of a National Database
- Data reporting
- Expansion of data set to include health indicators

Strategy 6: Consultation

Goal: • To establish an effective national approach to consultation with stakeholders and between jurisdictions on safety and health in the mining industry.

Strategy

- A consultation framework has been developed and endorsed by jurisdictions.

On-going activities

- Monitoring the implementation/adoption of the consultation framework, through the Legislative Framework Drafting Instructions.

Strategy 7: Research

Goal: To establish appropriate mechanisms for governments to foster effective research into occupational safety and health in the mining industry.

Strategy

- Redevelopment of MIRMgate as a one-stop-repository of research material.
- Undertake a targeted literature review, to identify 'research gaps' and information to be made available on MIRMgate.
- Foster awareness and implementation of research with relevant stakeholders.

On-going activities

- Redevelopment of MIRMgate
- Undertake literature review
- Awareness raising and implementation promotion

National network and consultation

Goal: To provide a forum for a national network to facilitate communication, consultation and improvements, and to build trust between mining industry stakeholders.

Approach

- National Steering Group meetings
- Communication Strategy with State/NT Tripartite Mining Groups
- Undertake national consultation forums
- Report to MCMPR as a consolidated voice

On-going activities

- As Above
- Responding to industry and regulator needs as required.

National Mine Safety Framework Budget 2009-2013

	2009-10	2010-11	2011-12	2012-13	TOTAL
	(\$)	(\$)	(\$)	(\$)	(\$)
OPERATIONAL COSTS					
Maintaining the NMSF Secretariat	683,383	689,258	695,823	702,317	2,770,781
Staff costs (including salary, superannuation, training, ICT and property costs)					
EL2	160,667	162,149	163,805	165,443	652,064
2 EL1s	266,928	269,390	272,141	274,863	1,083,322
APS6	110,986	112,010	113,154	114,285	450,435
APS5	98,382	99,289	100,303	101,306	399,280
Steering group meetings - 4 per year					
Chair time	8,800	8,800	8,800	8,800	35,200
Chair travel	8,000	8,000	8,000	8,000	32,000
Chair accommodation and incidentals	1,420	1,420	1,420	1,420	5,680
Secretariat travel	8,800	8,800	8,800	8,800	35,200
Secretariat accommodation and incidentals	3,400	3,400	3,400	3,400	13,600
Venue and catering	2,000	2,000	2,000	2,000	8,000
Conferences	14,000	14,000	14,000	14,000	56,000
Strategy 1: Nationally consistent legislation	53,080	43,720	43,720	43,720	184,240
Working group meetings - 6 in 2009-10, 3 per year ongoing					
Secretariat travel	13,200	6,600	6,600	6,600	33,000
Secretariat accommodation and incidentals	2,520	1,260	1,260	1,260	6,300
Venue and catering	3,000	1,500	1,500	1,500	7,500
Monitoring the implementation/adoption of the legislative framework (costs largely funded from secretariat)					
Legal costs	10,000	10,000	10,000	10,000	40,000
Drafters workshop					
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
Facilitator	15,000	15,000	15,000	15,000	60,000

	2009-10 (\$)	2010-11 (\$)	2011-12 (\$)	2012-13 (\$)	TOTAL (\$)
Strategy 2: Competency support	213,120	213,120	213,120	213,120	852,480
Working group meetings - 3 per year					
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
3 Meetings of Board of Examiners/training bodies/skillsDMC/others to agree requirements for demonstrating competencies					
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
Facilitator	15,000	15,000	15,000	15,000	60,000
Organising and hosting of annual National Regulator forum	50,000	50,000	50,000	50,000	200,000
Facilitating regulator secondments or exchanges between regulators					
Relocation costs (including transport, short-term accomm, and removalists)	5,000	5,000	5,000	5,000	20,000
Return flights for secondees	1,100	1,100	1,100	1,100	4,400
Travel costs for short term exchanges	3,300	3,300	3,300	3,300	13,200
Developing & delivering inspectorate training	120,000	120,000	120,000	120,000	480,000
Strategy 3: Compliance support	99,360	99,360	99,360	99,360	397,440
Working group meetings - 3 per year					
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
Coordinating/development of national guidance	70,000	70,000	70,000	70,000	280,000
Facilitating communication (funded from secretariat)					
Improving MIRMgate to ensure it is a suitable repository for mine safety information	50,000	-	-	-	50,000
Ongoing support of MIRMgate	20,000	20,000	20,000	20,000	80,000
Strategy 4: Enforcement	121,720	12,360	60,660	12,360	207,100
Working group meetings - 3 per year					

	2009-10 (\$)	2010-11 (\$)	2011-12 (\$)	2012-13 (\$)	TOTAL (\$)
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
National regulator training (see Strategy 1 - developing and delivering inspectorate training)					
1 awareness campaign per year (inc awareness of enforcement tools)	3,000	3,000	3,000	3,000	12,000
Secondments between jurisdictions (see Strategy 2 - facilitating regulator secondments)					
National regulator forum (see Strategy 2 - organising and hosting a national regulator forum)					
Development of implementation guidelines					
Consultant to review HSE (UK) guidelines and update for Australia	80,000	-	-	-	80,000
Stakeholder workshop to finalise	9,360	-	-	-	9,360
Develop audit tool for reviewing inspectorates - expert input	20,000	-	-	-	20,000
Reviewing inspectorates against enforcement guidelines					
Engaging consultant	-	-	38,000	-	38,000
Consultant travel	-	-	10,300	-	10,300
Strategy 5: Data collection	198,339	198,339	198,339	198,339	793,356
Working group meetings - 3 per year					
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
The administration of the National Database	186,479	186,479	186,479	186,479	745,916
National data reporting (production of an annual report)	2,500	2,500	2,500	2,500	10,000
Strategy 6: Consultation	9,360	9,360	9,360	9,360	37,440
Working group meetings - 3 per year					
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
Monitoring the implementation of the consultation framework (see Strategy 1 - monitoring implementation of legislative framework)					
Strategy 7: Research	9,360	9,360	9,360	29,360	57,440
Working group meetings - 3 per year					

	2009-10 (\$)	2010-11 (\$)	2011-12 (\$)	2012-13 (\$)	TOTAL (\$)
Secretariat travel	6,600	6,600	6,600	6,600	26,400
Secretariat accommodation and incidentals	1,260	1,260	1,260	1,260	5,040
Venue and catering	1,500	1,500	1,500	1,500	6,000
Undertaking a literature review - 2012-13	-	-	-	20,000	20,000
Awareness raising and implementation promotion (see Strategy 4 - awareness campaigns)					
Improving MIRMgate to ensure it is a suitable repository for mine safety information (see Strategy 3)					
Ongoing support of MIRMgate (see Strategy 3)					
Operational Subtotal	1,387,722	1,274,877	1,329,742	1,307,936	5,300,277
CAPITAL COSTS					
Strategy 5: Data Collection	1,173,478				1,173,478
Development of a National Database	1,173,478	-	-	-	1,173,478
Capital Subtotal	1,173,478				1,173,478
TOTAL	2,561,200	1,274,877	1,329,724	1,307,936	6,473,755

Jurisdiction Contributions - According to MCMPR Formulae

Jurisdiction	2009-10	TOTAL
	(\$)	(\$)
Commonwealth *	1,301,089.60	3,288,667.54
New South Wales	422,598.00	1,068,169.58
Victoria	317,588.80	802,745.62
Queensland	253,558.80	640,901.75
Western Australia	128,060.00	323,687.75
South Australia	97,325.60	246,002.69
Tasmania	30,734.40	77,685.06
Northern Territory	12,806.00	32,368.78
Total	2,561,200.00	6,473,755.00

*Includes ACT contribution