Submission
February 2015

Education and Health Standing Committee - Parliamentary Inquiry

Shining a Light on FIFO Mental Health Discussion Paper

Prepared By
Adrienne LaBombard
a.labombard@cmewa.com

The Chamber of Minerals and Energy of Western Australia Level 10, 2 Mill Street, Perth, Western Australia
Locked Bag N984, Perth WA 6844 **p** +61 8 9220 8500 **f** +61 8 9221 3701 **e** chamber@cmewa.com **w** cmewa.com

Contents

About CME

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia funded by its member companies, which generate 95 % of the value of all mineral and energy production and employ 80 % of the resources sector workforce in the state.

The Western Australian resources sector is diverse and complex, covering exploration, processing, downstream value adding and refining of over 50 different types of mineral and energy resources.

In 2013, the value of Western Australia's mineral and petroleum production was $113.8 billion, accounting for 91 % of the state's total merchandise exports and thus representing the majority of Western Australia's 43 % contribution to Australian merchandise exports. Furthermore, royalty payments to the State Government are forecast to total $6.1 billion in 2013-14.

Recommendations

- CME considers the challenge for the inquiry, industry, community and government is to clearly understand what is causal, contributory or coincidental so we can respond to improve the health and wellbeing of not only the employees in the resources sector and their families but also the broader community of WA. CME recommends the Committee acknowledge the importance of building an evidence base to promote this objective.
- CME supports the ongoing implementation of State Government Mental Health and Suicide Prevention strategies in consultation with industry and encourages the Committee to explore whether adequate Government funding has been allocated to ensure the strategies can be rolled out across the community.
- CME recommends the Committee acknowledge the need for a collaborative evidence based approach designed to raise awareness and break down stigma across all workplaces and communities is required.
- It is overly simplistic to argue a particular demographic profile predisposes a single workforce to mental health issues especially where there is no evidence resources sector employees experience higher rates of mental illness than the general population. CME recommends the Committee focus recommendations on developing an evidence base and promoting understanding of the wide range of risk factors rather than starting with the assumption of a problem.
- Different workplaces, with different workforces, will require a multifaceted and staged approach to mental health and wellbeing tailored to the needs of the employees. CME recommends the Committee avoid taking a simplistic one size fits all approach.
- Gaps in knowledge need to be identified and addressed in a coordinated way to ensure going forward industry, government and the community can rely on a robust evidence base to inform policy development and promote mental health outcomes within across the community. CME would be willing to assist facilitate a discussion between industry researchers and government to identify where further research is required and develop a plan for how this research could be coordinated.
- Industry supports in principal the current proposal in the proposed Work Health and Safety Bill (Green Bill) to include a definition of 'health' which explicitly covers both physical and psychological health and considers this should also be included in workplace safety legislation to apply to the resources sector.

- CME considers a legislative response including additional prescription around the management of psychological hazards would be out of step with the fundamental principles of the nationally harmonised model safety and health legislation and counter to the positive direction being taken by the Western Australian Government in reforming and modernising our current legislative framework.
- CME considers existing legislative provisions ensure adequate coverage of all resource sector employees and would not support additional prescription in the area of contractor management.
- Industry would strongly oppose any effort to extend the definition of the 'workplace' to include the wide range of accommodation arrangements employed as part of resource sector operations.
- CME does not consider there is a gap in coverage regarding the application of occupational health and safety legislation to employee accommodation. To the extent accommodation arrangements may give rise to hazards in the working environment, including psychological hazards, the employer is already legally obliged to identify and manage those hazards, as far as reasonably practicable.
- It is important to note 'motelling' is a strategy used by companies to manage their available resources, maximise the use and functionality of existing facilities and provide a range of roster types. Industry would be strongly opposed to prescription in this space.
- CME recommends the Committee note the controls put in place at resource sector operations and accommodation facilities have been implemented based on risk to ensure the safety and wellbeing of employees and ensure compliance with duty of care obligations.
- CME supports the role of the Coroner as having sole jurisdiction in ruling cause of death in relation to reportable deaths and maintaining the central database for the collation and analysis of causal factors related to these deaths.
- CME considers any changes to safety and health legislation to clarify the notification of prescribed injuries and deaths must not impose unnecessary reporting obligations on companies or create duplicative investigative effort between the relevant regulators, the Coroner and the WA Police.

Introduction

CME appreciates the opportunity to address the issues raised by the Education and Health Standing Committee's (the Committee's) inquiry into mental health within the fly-in fly-out (FIFO) workforce Discussion Paper: *Shining a Light on FIFO Mental Health* (the Discussion Paper).

CME and our member companies are committed to ensuring the safety and health of the resource sector workforce, and this commitment extends equally across our diverse residential, drive-in drive-out and fly-in fly-out workforce. For this reason, the following submission will focus on mental health in the resource sector workplace broadly, providing responses to comments made in the Discussion Paper with reference to the specifics of the FIFO work practice as needed.

This submission seeks to, as far as possible, provide an evidence-based response to issues raised in the Discussion Paper and recommends next steps to ensure industry, government and community efforts continue to improve safety and health outcomes for all employees in Western Australia.

In addition to the wide range of our member companies, CME has canvassed the views of other industry associations such as the Australian Petroleum Production and Exploration Association (APPEA), the Chamber of Commerce and Industry (CCI) Western Australia and the Australian Mines and Metal Association (AMMA) in developing this submission.

Addressing Mental Health in the Workplace

The Western Australian resources sector is committed to ensuring the mental health and wellbeing of its workforce, as part of its ongoing commitment to health and safety. The industry has recognised the importance of addressing health and wellbeing in the workplace for decades, with a range of different formal and informal strategies already in place.

Industry continues to strive towards continuous improvement in all areas of safety and health, whereby companies seek to continuously innovate and improve their practices. Along with safety, the industry's approach to mental health and wellbeing has evolved from reactive compliance based responses to proactive, tailored and diverse wellness programs.

The resources industry is not alone in its work to address mental health and wellbeing in the workplace and, as noted in our engagement in the Inquiry to date, the complex issues of mental health conditions and suicide are felt across the broader society. According to the National Mental Health Commission, "at any one time, one-sixth of the working age population is suffering from symptoms of mental illness, most commonly depression and anxiety"[1].

There is a range of research to support the value of addressing mental health in the workplace in terms of productivity, increased employee engagement and reduced absenteeism:

> *"There is increasing evidence that workplaces can play an important and active role in maintaining the mental health and wellbeing of their employees. Every business has a legal and moral responsibility to provide a safe and fair workplace. [...] A well designed workplace should support individual mental*

[1] Harvey et al (2014), Developing a mentally healthy workplace: a review of the literature, Pg. 5. Available at: http://www.mentalhealthcommission.gov.au/media-centre/news/workplacementalhealthreport.aspx

health and lead to reduced absenteeism, increased employee engagement and improved productivity."[2]

A number of reports have also highlighted the business case for ensuring a focus on both physical and mental health noting positive wellbeing strategies and outcomes result in benefits both for individual employees and the organisation as a whole.[3]

CME supports the ongoing development of evidenced based material to assist all workplaces in identifying and implementing effective workplace wellbeing strategies. To support the resources sector in this regard, CME's Mental Health Working Group has considered the available resources and collated these into a web based resource highlighting the key elements for effective workplace mental health strategies.[4].

CME has also engaged directly with organisations such as Beyond Blue, Lifeline WA and other mental health and wellbeing service providers, research bodies and industry associations to ensure this information is available to the broader resources sector and to identify opportunities to collaborate on additional research and other initiatives.

Additionally, CME is aware of a range of resources which have been developed to assist all workplaces in promoting the wellbeing and mental health of employees. Examples of existing resources include:

- NSW Minerals Industry Blueprint for Mental Health and Wellbeing[5]
- Beyond Blue National Workplace Program[6]
- HeadsUp Create a Heads Up action plan for your business[7]
- MindUK Taking care of your staff[8]
- Guarding Minds@ Work Resources (Canada)[9]

Employment in the resource sector is not a direct cause of mental health issues. Not only is there no evidence to suggest the prevalence of mental health issues are higher in the resource sector than the general population, the assumption a particular work practice or occupation could lead to mental health issues is fundamentally flawed.

As noted in a recent report developed by researchers from the University of New South Wales and the Black Dog Institute for the National Mental Health Commission and the Mentally Healthy Workplace Alliance, "While research has typically focused on how an adverse working environment can impact on employee mental health, there is no work environment or type of trauma that automatically leads to mental illness."[10]

---

[2] ibid. See also: PWC, Mentally Healthy Workplace Alliance, 2014, Creating a Mentally Health Workplace Return on Investment Analysis, http://www.headsup.org.au/docs/default-source/resources/beyondblue_workplaceroi_finalreport_may-2014.pdf

[3] Harvey et al, 2014, Pg. 9.

[4] https://www.cmewa.com/policy-and-publications/policy-areas/people-and-communities

[5] http://www.himh.org.au/__data/assets/pdf_file/0020/9902/Blueprint-for-mental-health-and-wellbeing.pdf

[6] http://www.beyondblue.org.au/

[7] http://www.headsup.org.au/

[8] http://www.mind.org.uk/for-business/mental-health-at-work/taking-care-of-your-staff/

[9] https://www.workplacestrategiesformentalhealth.com/free-training-and-tools/guarding-minds-work

[10] Harvey et al, 2014, Pg. 23.

The same report goes on to point out, "The aetiology of mental health is complex...Any suggestion of simple cause and effect relationship between work and mental health are likely to be inaccurate."[11]

CME considers the challenge for the inquiry, industry, community and government is to clearly understand what is causal, contributory or coincidental so we can respond to improve the health and wellbeing of not only the employees in the resources sector and their families but also the broader community of WA. CME recommends the Committee acknowledge the importance of building an evidence base to promote this objective.

The Committee has acknowledged there is a wide range of multiple and interacting factors which may contribute (positively or negatively) to both mental health and mental illness within the community. The body of research on this is extensive and has informed the development of both state and national mental health and suicide prevention strategies[12].

Management of mental health requires sophisticated and accessible support services, education to reduce stigma, promotion of proactive prevention approaches and research to identify risk factors and improve mental health outcomes. CME strongly supports efforts to make a real impact in all these areas.

The Mental Health Commission (the Commission) last year released: *Mental Health 2020: making it personal and everybody's business.* CME supports the strategy's acknowledgement of the need for industry, government and communities to work together with a focus on early intervention and reducing stigma in order to improve mental health outcomes across the Western Australian community.

The Commission will shortly be releasing a new Suicide Prevention Strategy which also promotes a collaborative approach. CME welcomes the opportunity to work with the Commission on the development and implementation of these strategies.

CME supports the ongoing implementation of State Government Mental Health Suicide Prevention strategies in consultation with industry and encourages the Committee to explore whether adequate Government funding has been allocated to ensure the strategies can be rolled out across the community.

Stigma

The Committee observes in the Discussion Paper Introduction:

> *"It is clear that FIFO work practices will remain a feature of the Western Australian employment landscape into the future. There was very little indication, based upon the submissions made to the inquiry, of an appetite to end FIFO, but there was a clear view that FIFO work practices could be improved to provide better protections for workers' mental wellbeing..."*[13]

CME welcomes the Committee's acknowledgement of the significant ongoing need for the FIFO work practice within Western Australia, however is disappointed arguments for a broader focus on mental health raised in a number of submissions to the Inquiry have gone unanswered. CME remains concerned limiting the focus of the present inquiry to the FIFO

[11] ibid

[12] See for example: Australian Bureau of Statistics, 'National Survey of Mental Health and Wellbeing', 4326.0, Australia, and Slade T., Johnston, A., Teesson, M., Whiteford, H., Burgess, P., Pirkis, J., and Saw, S., (2009). 'The Mental Health of Australians'. Report on the 2007 National Survey of Mental Health and Wellbeing'. Department of Health and Ageing, Canberra;

[13] Education and Health Standing Committee (2014) Shining a Light on FIFO Mental Health Discussion Paper, p. 8

work practice is a missed opportunity to address mental health in a comprehensive and meaningful way.

Fly-in fly-out as a lifestyle choice works for the vast majority of people doing it. However it is important to acknowledge fly-in fly-out as a work practice is not without its challenges and does not suit everybody, and even if it does for a period of time that may change as individual circumstances change.

As noted in our testimony to the inquiry, while companies provide information about the possible challenges of doing fly-in fly-out, future employees need to consider the appropriateness of it for them and their families. Importantly they need to work through, as a family, if and when fly-in fly-out stops being right for them, how do they transition out of it.

The inquiry's focus on FIFO risks unnecessarily stigmatises these employees and the FIFO employment option. The promulgation of myths associated with working FIFO has a long history. Following the launch of the present Inquiry, reports and stories emerged in the media targeting FIFO as an alleged causal factor in relation to trafficking of illicit substances and domestic violence despite a lack of evidence to support such allegations.

As the recent Operation Red Water in the Pilbara has demonstrated, there is no basis for assertions the resources sector or FIFO employees are contributing to the significant issues around the trafficking or use of illicit substances in our regional communities. However, this example does demonstrate the industry is taking a proactive approach to these issues and highlights the potential benefits of industry, community and government collaboration in making a measurable impact on these types of issues[14].

CME does not agree with the Committee's emphasis on the resource sector in making the comment:

> *"...a stigma associated with mental health pervades the resources sector, particularly because of the 24x7 nature of FIFO. This stigma is a significant workplace cultural issue and is a major barrier to encouraging help seeking behaviour amongst the FIFO workforce."*[15]

Aside from the demographics of the resources sector being predominantly male, there is no evidence to suggest "*the 24/7 nature of FIFO*" is contributing to issues around stigma with mental health, nor that "*the stigma associated with mental health pervades the resources sector*". Without any comparative evidence based research misconceived perceptions will continue and further stigmatise those working in the sector.

CME recognises workplaces have the opportunity to play an important role in assisting to address the stigma associated with mental health. In the resources sector this is proactively being done through a variety of programs and activities such as mental health awareness training, peer support programs, celebration of mental health week, and participation in range of other industry and community initiatives and events. These initiatives have been discussed in more detail in the previous CME submission and will not be canvassed further here.[16]

To have a measurable impact on reducing the societal stigma and misunderstanding around the spectrum of mental health issues and ensure individuals access support early and throughout mental illness it is important to remove barriers, not just within the workplace but throughout the broader community.

---

[14] WA Police media release: http://www.police.wa.gov.au/LinkClick.aspx?fileticket=XiIOWOXIY98%3d&tabid=1489&mid=1983

[15] Discussion Paper, p. 31

[16] CME Submission (October 2014), Parliamentary Inquiry - Mental Health Impact of Fly-in Fly-out,Work Arrangements, pp 8-13 and Appendix 1

CME is concerned if the Committee's final recommendations continue to only target FIFO work practices a significant opportunity will be lost. As highlighted in our testimony and previous submission to the inquiry, mental illness and suicide have significant impacts across the community[17]. Noting the higher incidence of suicide among men for example, the Coroner's database finds men most at risk of suicide are:

- aged 20-34 years and 75 years and above;
- Aboriginal;
- living in rural and remote areas; and/or
- in custody[18].

However, there is no evidence of a higher incidence of suicide or mental illness within the resource sector workforce[19].

In order for a step improvement to be made, industry considers the stigma associated with mental health must be addressed across the broader community and be based on evidence to assist in improving the effectiveness of strategies to raise awareness and increase help seeking behaviour.

Additionally, the Committee should recognise another type of stigma present within the community in relation to working FIFO and the ongoing demonisation of FIFO employees in the media, associating FIFO with various social ills or trends, despite a lack of evidence.. This behaviour either reflects or contributes to stereotypes and negative feelings toward FIFO - creating an anti-FIFO stigma.

Lifeline WA refers to the stigma of working within the FIFO industry in their 2013 report and notes some study participants tended to refer to their professions rather than the fact they were employed on a FIFO basis or worked remotely.[20]

CME is concerned stereotypes and the tendency to 'blame FIFO' is creating a stigma which may present yet another barrier for those employed in the industry to speak up and access assistance when they need it.

In order to measurably improve mental health outcomes in the general population, CME considers Government must look broadly across the state, industry sectors and communities to foster an environment for stakeholders to work collaboratively to address mental health issues.

CME recommends the Committee acknowledge the need for a collaborative evidence based approach designed to raise awareness and break down stigma across all workplaces and communities is required.

Mental Illness and Suicide - Demographic Factors

The Discussion Paper notes some of the demographic factors associated with higher prevalence of mental illness and suicide appear to align with the common demographic profile of the resources sector workforce. These factors include the gender, age, education level and occupation of those employed in the sector.

---

[17] CME Submission, Parliamentary Inquiry, pp 14-17

[18] Department of Health, 2009, *Western Australia Suicide Prevention Strategy 2009-2012,* Government of Western Australia

[19] CME Submission, Parliamentary Inquiry, pp 17-20. See also: Safe Work Australia (2013), Incidence The Incidence of Accepted Workers' Compensation Claims for Mental Stress in Australia.

[20] Lifeline WA. (2013). *FIFO/DIDO Mental Health Research Report 2013.* Retrieved from http://www.lifelinewa.org.au/download/FIFO+DIDO+Mental+Health+Research+Report+2013.pdf

The Committee extrapolates from this:

> *"Regardless of the exact number of reported suicides over the relevant period, and the various problems with identifying and recording them, it is clear from the information reported above that the resources industry has an issue with mental health within its workforce.*
>
> *The Committee is confident to make this statement simply because the demographics of the workforce clearly show that they are at a heightened risk of mental health problems than the broader population as a whole."*[21]

The resources industry recognises there are correlations between the average age, sex, education level and occupations of the employees within resources sector workforce and the demographic factors associated with higher rates of mental illness and suicide[22].

Importantly, companies also have mechanisms in place to ensure a robust understanding of the unique demographic profiles of their site specific workforces to inform development of appropriate strategies to engage the workforce, promote employee retention, productivity, reduce absenteeism and "presenteeism" and ensure their safety and health.

These strategies recognise, at a finer level of detail particular demographics are actually more or less at risk of developing particular types of mental health issues, and are likely to require different approaches and types of support to address these.

For example, an Australian Bureau of Statitics Study finds differences in the prevlance of common mental health issues between male and female populations, with females found to have a higher prevalence of affective disorders and anxiety disorders when compared to males.

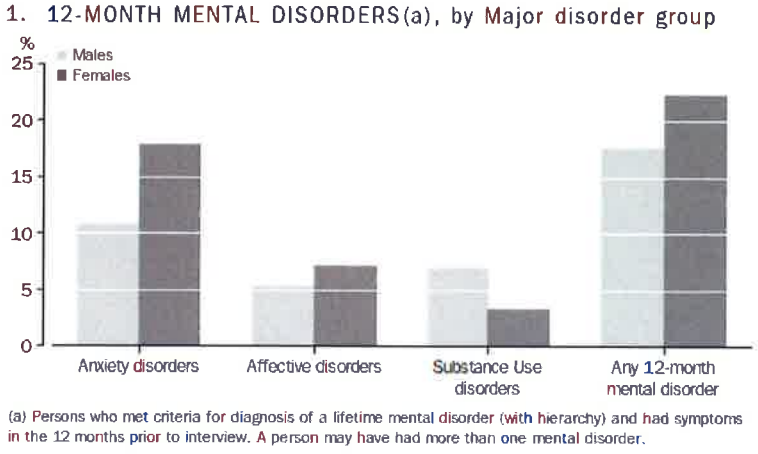

Figure 2[23]

The broad spectrum of mental health issues and complexity of associated contributing and mitigating factors means it is critcal we continue to unpack these statistics and build a robust evidence base to inform strategies and target assistance where it is most needed..

It is overly simplistic to argue a particular demographic profile predisposes a single workforce to mental health issues especially where there is no evidence resources sector employees experience higher rates of mental illness than the general

---

[21] Discusson Paper, p 55

[22] CME Submission, Parliamentary Inquiry, pp 19-20

[23] ABS (2007) National Survey of Mental Health and Wellbeing: Summary of Results, 4326.0, Australia. See also: ABS (2014) Psychological Disability, 2012, 4433.0.55.004, Australia. Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/4433.0.55.004?OpenDocument

population. CME recommends the Committee focus recommendations on developing an evidence base and promoting understanding of the wide range of risk factors rather than starting with the assumption of a problem.

Assessing the potential risk factors and implementing strategies targeted to company specific demographic profiles is central to the risk management process undertaken by companies to establish safety management systems within the workplace as well as broader programs and initiatives to promote the safety and wellbeing of the workforce as detailed in our previous submission.

Industry is committed to continuous improvement in this area and through the CME Mental Health Working Group, promotes and actively supports ongoing research, programs and best practice advice relating to understanding and addressing the risk factors associated with mental health conditions and suicide to ensure the latest information can be made available to industry.

No One Size Fits All Approach

The diversity of resource industry workplaces, practices and demographics means it is imperative a risk based approach to mental health is used. This extends to the development of wellbeing strategies to address the specific needs of the resource sector workforce.

The complexity of mental health and range of external, cultural and internal factors which may determine an individual's predisposition to mental illness and responsiveness to different types of support and treatment options, means a one size fit all wellbeing strategy is unlikely to be the most effective.

According to CME's biennial *Diversity in the Resources Sector Survey*, the female workforce participation rate in the industry is at 19 per cent, which is consistent with previous figures and significantly higher than national and international comparisons for similar jurisdictions.

In the context of addressing mental health and wellbeing, a focus to date has largely been on the male workforce, due to the higher risk profile for men working in remote and regional areas, as outlined by the Mental Health Commissioner[24] and noted in a range of industry submissions to this Inquiry.

However, considering the different strategies used by men and women to manage their own mental health conditions, as outlined in the Lifeline WA study[25], CME considers it is important to acknowledge the need for a broad range of strategies to address mental health and wellbeing in the workplace.

CME notes the Committee's request for further information on the uptake of Employee Assistance Programs (EAP). It is important to note however, EAP utilisation data should not be viewed in isolation as an indicator of the mental health of the workforce. A high EAP utilisation may well represent a strong positive attitude to help seeking behaviour in the workforce.

Recognising this, industry views EAP data in conjunction with other data sources, such as access rates for peer support initiatives and data from injury/illness management programs, to provide a more comprehensive picture of the mental health and wellbeing of the workforce. This information is then used to inform the development or fine tuning of site based policies, strategies and initiatives.

---

[24] Mental Health Commissioner, Presentation to the CME FIFO Forum, 31 July 2014

[25] Lifeline WA. (2013)

Different workplaces, with different workforces, will require a multifaceted and staged approach to mental health and wellbeing – tailored to the needs of the employees. CME recommends the Committee avoid taking a simplistic one size fits all approach.

CME considers it is critical workplaces maintain the flexibility to develop and implement wellbeing strategies tailored to their specific work forces. The introduction of unnecessary prescription tends to drive compliance driven approaches and would not be consistent with best practice safety and health regulation."

Building an Evidence Base

CME welcomes the Committee's acknowledgement in the Discussion Paper regarding the lack of empirical evidence to support assertions the prevalence of mental illness is higher within the FIFO workforce. However, CME remains concerned in the absence of this data the Committee is relying on the mental health risk factors associated with the demographic profile of the FIFO workforce to support the need for a specific focus on this workforce.

In order to understand the prevalence, contributing factors and impact of mental illness within particular sub-sets of the population, first there is the need to establish baselines for community, workforce and other key sub-groups through maintenance of robust and reliable data sources. This is critical to allow regulators to make informed, transparent and evidenced based policy decisions and allocate resources where they are most needed.

Improved data is critical for developing evidence based solutions. The Office of the State Coroner needs to be resourced to ensure the maintenance of a comprehensive record of "reportable deaths" and to enable the Coroner to analyse potentially contributing demographics and other factors to enhance our understanding of populations at risk and risk factors relating to deaths by intentional self-harm.

CME has acknowledged challenges around access to reliable data sources throughout the Inquiry. **Gaps in knowledge need to be identified and addressed in a coordinated way to ensure industry, government and the community can rely on a robust evidence base to inform policy development and promote mental health outcomes across the community.**

CME would be willing to assist facilitate a discussion between industry researchers and government to identify where further research is required and develop a plan for how this research could be coordinated.

Further, developing an understanding of the prevalence, contributing factors and impact of mental illness within the workplace and in the broader community is fundamental in developing appropriate and effective strategies to manage these complex conditions in the long term.

The evolution of how companies in all sectors address physical and psychological wellbeing within the workplace is continual. As these programs develop and mature, evaluating their effectiveness through an evidence and risk based approach is important to ensure resources and efforts are directed where they are most needed and targeted to address the identified contributing factors and company specific needs.

Regulation

The resource industry supports an outcomes focused, risk based approach to workplace health and safety legislation. Risk based legislation need not be prescriptive but rather allow the appropriate person with control over a matter to identify the risk control measures best suited to eliminating or minimising risks.

In this context, CME welcomes the State Government's commitment to modernising Western Australian safety legislation in line with the objectives of national harmonisation and tailored

to suit the specific operating environment in Western Australia. CME continues to support the broad principles of national harmonisation of WHS laws and acknowledges the operational benefits to companies operating across jurisdictions.

Our existing legislative framework in Western Australian is directed at protecting the health and safety of people while at work. It creates a proactive regime of obligations on employers and imposes criminal or quasi-criminal punishments if those obligations are not met.

There are two broad themes of health and safety regulation, being general duties and specific requirements. For example, the *Mines Safety Inspection Act 1994* (MSIA) does not contain specific requirements regulating fatigue, however, the hazards associated with fatigue are regulated through the general duties of the MSIA with further guidance provided through the Working Hours Code of Practice.

In the resource sector there is an imperative to address mental health as part of discharging the duty of care to ensure the safety and health of employees as required under the MSIA, *Petroleum and Geothermal Energy Resources Act 1967* (PGERA) *and the Occupational Safety and Health Act 1984 (WA)* (OSHA).

As the Committee has pointed out, the term 'health' is not defined in the current legislation. However, as noted by the Department of Mines and Petroleum (DMP) the term is generally understood to encapsulate physical and psychological within the definition of 'health'.[26]

Aligned to the national model work health and safety laws, the Western Australian Work Health and Safety Bill (Green Bill) currently out for public comment for application in Western Australia, defines health to means 'physical and psychological health'.

Industry supports in principal the current proposal in the Green Bill to include a definition of 'health' which explicitly covers both physical and psychological health and considers this should also be included in workplace safety legislation to apply to the resources sector.

In complex operating environments such as the resources sector, mental illness can create potential risks to employee safety and health by impacting an employee's fitness to operate. These risks include impacts on personal psychological health as well as risks to the safety of others should a lack of fitness to operate (ie fatigue, poor judgement or distraction) lead to mistakes on the job.

The resources industry recognises mental health as a critical safety and health issue and companies already have a range of policies and procedures in place to promote wellbeing, identify fitness to operate risks and ensure employees are aware of the risks and have access to training and support.[27] These procedures form an important part of onsite safety and health management systems.

It is important to note just as safety and health legislation places a primary duty of care on the employers to ensure as far as reasonably practicable the safety and health of employees, there is also a reciprocal duty on employees to ensure as far as reasonably practicable they do not put themselves or other as risk[28]. This is also relevant in the context of psychological health and highlights the importance of encouraging employee resilience, help-seeking behaviour and breaking down stigma to ensure employees can address these issues before they present a risk to themselves or others in the work context.

Under existing duty of care provisions, employers have an obligation to ensure as far as reasonable practicable their employees are not exposed to hazards in the working

---

[26] DMP Testimony (November, 2014) Parliamentary Inquiry Mental Health Impacts of Fly in Fly-out Work Arrangements

[27] CME Submission, Parliamentary Inquiry, pp 8-13 and Appendix 1

[28] Mines Safety and Inspection Act 1994 (MSIA), Section 10

environment. In addition to physical harm and injury the resources industry understand this to include both:

a. Harm to physical or psychological health; and
b. Harm that may be caused by the poor physical or psychological health of others.

To the extent it is identified FIFO or any other system of work creates relevant hazards within the workplace or exposes employees to risks to their health and safety, it is consistent with existing safety and health principles and duty of care provisions for an employer to put in place steps to manage these risks where it is reasonably practicable to do so.

It is CME's view obligations to manage risks associated with psychological injury, whether within the workplace or within the accommodation site, already exists as part of an employer's general duty of care under both the MSIA and OSHA.

CME considers a legislative response including additional prescription around the management of psychological hazards would be out of step with the fundamental principles of the nationally harmonised model safety and health legislation and counter to the positive direction being taken by the Western Australian Government in reforming and modernising our current legislative framework.

Contractor Management

CME notes the Committee raised a number of questions about the extension of duty of care obligations from a principal through to contractor employees as well as the management of mental health within the contracting sector.[29]

Existing OSH obligations under both the OSHA and MSIA deem a principal in a contracting arrangement has the same OSH obligations to its contractors and contractor's employees, as it owes to its own employees, to the extent the principal has the capacity to exercise relevant control.

Additionally, CME's initial submission to the Inquiry included an appendix detailing the wide range of mental health initiatives utilised by CME member companies, including our mining, oil gas and contracting members. Likewise the points made in this submission should be taken to reflect the actions and positions of the wide range of CME member companies across each of these sectors.

CME considers existing legislative provisions ensure adequate coverage of all resource sector employees and would not support additional prescription in the area of contractor management.

Accommodation

CME considers the current arrangements under the OSHA and the MSIA ensure there is a duty holder who owes a duty to employees residing in accommodation under its management and control.

As noted in the CME submission to the Green Bill, simplification of these provisions is supported to provide greater clarity in respect of which Act applies and which regulator is responsible for administering legislation at employee accommodation.

It is important to note, however, the diversity of accommodation associated with resource sector operations will make a prescriptive regulatory approach unviable. There are several different types of accommodation arrangements and facilities. For example:

---

[29] Discussion Paper, p 69

- company owned accommodation on a mining or exploration lease, which is operated by a third party for the company's employees and contractors;
- company owned accommodation which may straddle a mining tenement such that it is neither exclusively on or off the mining or exploration lease, which is operated by a third party for the company's employees and contractors;
- company owned accommodation within town boundaries, which is operated by a third party for the company's employees and contractors;
- third party owned and operated accommodation within town boundaries, which is used by only one company client, for that company's employees and contractors;
- third party owned and operated accommodation within town boundaries occupied by a combination of persons working at mining operations and other workplaces covered by the Green Bill, but is not a motel/hotel; and
- accommodation provided in motels/hotels or serviced apartments.

The OSH and MSI Acts also create specific obligations in relation to residents of accommodation, where that accommodation is found to be part of the "working environment"[30]. These obligations are over and above general duty of care obligations discussed above.

The question of whether these specific duties (in additional to general duty of care) apply, and under whose jurisdiction, rests on whether the accommodation is located on or off a mining tenement and is considered to be part of the working environment in so far as residents are concerned.

CME notes the Committee's comment on the application of MSIA Section 15D[31]. However, while the MSIA duty to 'maintain the premises' will not directly apply to accommodation located outside a mining tenement, to the extent the accommodation is used by employees in the course of their employment in 'mining operations', CME understands MSIA general duty of care principles will apply.

In traditional working environments, there has been a clear distinction between "work" and "home". However, as the Committee has pointed out modern working arrangements and travel make those distinctions less clear.

In some cases accommodation will be found to be part of the work environment. For example, the WA Supreme Court considered the issue in Kirwin -v- Laing O'Rourke (BMC) Pty Ltd [2010] WASC 194.

The case involved an employer's obligation under the OSHA when employees had been killed and injured when a cyclone hit a rail village where employees stayed during the construction of a railway line. One question was whether the 'dongas' at the rail village formed part of the work environment for the purposes of the OSHA. Ultimately, the Court found they did. Key considerations in the decision were:

- Elements of the employer's business (vehicle maintenance and administration) were effectively co-located with the Accommodation (dongas); and
- The employer exercised a level of control and supervision over the employees while they were at the Accommodation.

---

[30] *Occupational Safety and Health Act 1984* (OSHA), Section 23G and MSIA, Section 15D

[31] Discussion Paper, p 77

CME considers the test applied in the case above provides important guidance to determine whether modern accommodation arrangements can be considered to be part of the working environment.

Industry would strongly oppose any effort to extend the definition of the 'workplace' to include the wide range of accommodation arrangements employed as part of resource sector operations.

This approach would extend union right of entry to accommodation residents, and in industry's view there is no evidence this would lead to improved safety or health outcomes. Further, companies are committed to providing accommodation arrangements which as far as possible ensure employees are able to rest and recuperate when they are off shift.

It is also important to note an employer's obligation to "provide and maintain at a mine a working environment in which that employer's employees are not exposed to hazards"[32] does not vary depending on the type or location of accommodation, although what is reasonably practicable for an employer to do, may change.

For example, where a third party owns and operates accommodation which is used by only one company client, for that company's employees and contractors, it may be the company requires limits on the types and quantities of alcohol that can be consumed at the accommodation to reduce the risks of fatigue or impaired judgement due to alcohol, which may create hazards in the working environment.

However, it may not be practicable (or possible) for the company to exercise similar control over accommodation owned and operated by a third party located within a town site or a commercial hotel where their employees might stay.

In this example, while the physical accommodation is clearly not part of the *working environment* and may be outside the control and operation of the company, this does not remove the employer's obligation to provide and maintain a working environment where their employees are not exposed to hazards.

CME does not consider there is a gap in coverage regarding the application of occupational health and safety legislation to employee accommodation. To the extent accommodation arrangements may give rise to hazards in the working environment, including psychological hazards, the employer is already legally obliged to identify and manage those hazards, as far as reasonably practicable.

Accommodation Facilities

The quality of resource sector employer provided accommodation including available amenities, social programs and facilities has improved exponentially over the last decade.

In the Interim report the Committee expresses concern with the practice of 'motelling', however, it appears from the discussion there is some confusion between this practice and what is known as 'hot bedding'. There is an important distinction between these terms and most importantly to note is that 'hot bedding' is no longer utilised within the sector.

The following table outlines definition and utilisation of accommodation practice within the sector as provided by CME member companies.

[32] MSIA section 9(1)

Accommodation Room Allocation Type	Definition	Prevalence
Permanent	Occupant A is provided the same accommodation room from one roster cycle to the next. This can involve scenarios where; the room is not occupied by others while they are on 'R and R' or the room is occupied by others while they are on 'R and R'. In the case of the latter personal effects are packed away in a locker situated either in or outside the room. A limited number of personal effects may be left in the room between roster cycles.	The accommodation type regularly used in accommodation villages servicing onshore resources projects, particularly those ongoing projects with a permanent workforce.
Rotational (Motelling)	Occupant A is allocated an accommodation room for their roster cycle. When they are on 'R and R' that room is allocated to Occupant B. When Occupant A returns to the accommodation village they are allocated a different room for the roster cycle. For returning occupants a limited number of personal effects may be stored on site, this is generally through lockers or in a centralised storage facility.	Regularly used in accommodation villages servicing onshore resources projects with a permanent workforce. The predominant accommodation type used in accommodation villages servicing onshore resources construction projects.
Shared Accommodation	The same room is used by two or more occupants at the same time. Separate beds are provided for the exclusive use of each occupant. Share accommodation will be combined with either *Permanent* or *Rotational* room allocation.	The predominant form of accommodation offshore throughout the world and rarely used at onshore accommodation facilities.
Hot Bedding	The same room and the same bed are used by two occupants on opposing shifts on the same day one after the other for the duration of their roster. For example, Occupant A is on day shift and will occupy the room and bed at night, while Occupant B is on a night shift, Occupant B will then occupy the room and bed during the day, while Occupant A is on day shift.	Not utilised in recent history.

It is important to note 'motelling' is a strategy used by companies to manage their available resources, maximise the use and functionality of existing facilities and enable flexibility to provide a range of roster types. Industry would be strongly opposed to prescription in this space.

To change this approach would impose a significant additional cost on companies as additional facilities would need to be constructed to meet demand for rooms. As a result, the environmental footprint of current accommodation facilities would likely also need to increase, which in some instances is not possible due to environmental conditions imposed on the project.

While factors such as 'feelings of isolation' may in some cases be associated with mental health issues, there is no evidence to suggest the practice of 'motelling' is contributing to this. The importance of cohesion in villages for the workforce is acknowledged. However, cohesion and a sense of community within workplace accommodation are not just about where an employee's room is located.

Companies and accommodation services providers employ a range of strategies to promote a sense of community within accommodation villages and reduce feelings of isolation. Examples of this include the provision of social spaces such as dry messes, wet messes, sports facilities and organised social activities such as games nights, movie nights, and book clubs.

In should be noted the practice of 'motelling' itself can also create the opportunity for employees to engage with different people throughout the site as their room and neighbours change. In some accommodation villages this may also enable integration of contracting and permanent employees or employees from a range of different companies and sectors.

Control

The Committee has commented:

> *"The extreme level of control exercised over FIFO employees while they are on site may heighten the risk of mental ill-health amongst the workforce. This level of control varies between camps but seems to have increased over time"*[33]

Given the duty of care provisions in the occupational safety and health legislation, it would not be possible for industry to comply with these requirements without implementing measures to manage hazards including the unsafe behaviours of employees and others in accommodation facilities.

These controls vary from site to site depending on site specific risk profiles and may include setting clear expectations around appropriate behaviour and conduct such as policies relating to the consumption of alcohol to mitigate risks associated with fatigue and being unfit for work. Policies may also include the setting of noise levels in specific areas between certain time periods to ensure employees are able to relax and sleep when they are off shift.

The Committee appears to have a particular interest in 'control' as it relates to the movement of people from site based accommodation villages to adjacent or nearby town sites. Policies around this vary and are again dependent on site specific risk assessments and the degree to which factors outside the workplace can reasonably be controlled or managed by the employer in order avoid and minimise risks to employee safety and health.

The extent to which interaction with towns in proximity of site based accommodation may occur is likely to depend on a range of factors including the travel distance, fatigue policies and site specific drug and alcohol polices.

CME recommends the Committee note the controls applied at resource sector operations and accommodation facilities have been implemented based on risk to ensure the safety and wellbeing of employees and ensure compliance with duty of care obligations.

Further, CME notes if the definition 'workplace' were extended to include employee accommodation facilities, as suggested by Committee, the level of control required to be exercised would increase significantly. In order to comply with workplace safety and health legislation resource companies would likely need to eliminate the service of alcohol, risk assess all unsupervised pastimes such as sport and check all personal items for dangerous goods such as aerosols.

CME does not consider this would create a positive environment within these accommodation villages.

---

[33] *Discussion Paper, p 44*

Notification of incidents and investigation

Under the OHSA, an employer must notify the regulator of a death, or prescribed injury that occurs at a workplace including at certain 'residential premises' as defined under Section 23G[34].

Under the MSIA, the registered manager must notify the relevant district inspector of certain prescribed injuries, which would include a fatality that occurs "in an accident at a mine".[35] Whether this includes injuries which occurred within accommodation located on the mining tenement is subject to whether this is considered part of the working environment.[36]

Under the proposed Green Bill, a person who conducts a business or undertaking (PCBU) must notify the regulator immediately after becoming aware of a "notifiable incident" (which includes death, serious injury or illness and a dangerous incident) arising out of the conduct of the business or undertaking.[37]

CME notes, the concept of PCBU may clarify reporting requirements and supports the provision being framed around work relatedness rather than physical location of the event, and understands this concept will also be included in safety and health legislation for the resources sector.

Currently any death in accommodation facilities located on or off a mining tenement or petroleum lease would be considered a "reportable death" and investigated under the Coroners Act 1996 (WA)[38].

Under the Coroner's Act, "a person must report a death that is or may be a reportable death to a coroner or a member of the Police Force immediately after he or she becomes aware of the death, unless the person has reasonable grounds to believe that the death has already been reported."[39] It is important to note the jurisdiction to determine cause death for 'reportable deaths' clearly lies with the Coroner's Court[40].

The responsibility should remain with the Coroner to determine cause of death for 'reportable deaths'[41] including deaths from non-natural causes such as suicide, given the level of investigation will extend well beyond the work environment and include interviews with family, friends and employers and consideration of a wide range of personal information which may or may not have any relationship to the individuals place or type of employment.

CME supports the role of the Coroner as having sole jurisdiction in ruling cause of death in relation to reportable deaths and maintaining the central database for the collation and analysis of causal factors related to these deaths.

Where a fatality is reported to either regulator covering the OSHA or MSIA, a judgment must be made regarding work-relatedness requiring a clear, consistent, transparent process for making these judgments. WorkSafe Western Australia provides guidance on their website for this[42].

---

[34] OHSA, Section 231

[35] MSIA, Section 76

[36] MSIA, Section 4

[37] Work Health and Safety Bill 2014, Section 38

[38] Coroner's Act, Section 3

[39] Coroner's Act, Section 17

[40] http://www.coronerscourt.wa.gov.au/ and Coroner's Act, Section 3

[41] Coroner's Act, Section 3

[42] http://www.commerce.wa.gov.au/worksafe/recording-traumatic-work-related-fatalities-worksafe

Where a death is reported as required under the Coroners Act, for example where a 'reportable death' occurs outside the working environment, there is process in place whereby the Police advise WorkSafe Western Australia or DMP of potentially work-related incidents and seek their involvement in the investigation so a determination on jurisdiction can be made.

While there is no mandatory obligation for DMP or Worksafe Western Australia to investigate an injury or death which occurred outside the 'mining operation' or 'workplace' they would not be excluded from otherwise conducting an investigation into the systems of work at a relevant workplace if they considered these in any way contributed to that injury or death.

Put another way, there would be nothing to stop the DMP from investigating an employer's systems of work generally following a fatality at accommodation on a mine site (or related to a mine site), even if there was no specific jurisdiction in relation to the accommodation.

Beyond regulatory requirements, employers are increasingly alerting DMP to accidents or incidents which may occur within employer accommodation even where the accommodation is not considered to be part of the 'working environment'.

CME considers any changes to the legislation to clarify the notification of prescribed injuries and deaths must not impose unnecessary reporting obligations on companies or create duplicative investigative effort between the relevant regulators, the Coroner and the WA Police.

Conclusion

CME would like to thank the Committee for the opportunity to provide further input into the Inquiry, following our initial submission and CME's appearance at the Committee hearings on Wednesday 5 November.

Despite concerns regarding limiting the focus of the inquiry to a review of mental health within the FIFO workforce, CME considers mental health is a critical public health issue and welcomes the focus on improving wellbeing outcomes for employees.

CME welcomes the opportunity to engage with the Committee, government, research bodies and other sectors to identify and address research gaps. It is critical future policy decisions can be based on a sound evidence base.

As has been demonstrated throughout this submission industry is committed to the wellbeing of its workforce, including physical and psychological wellbeing and is continually working to enhance existing strategies and implement new initiatives. The current regulatory environment provides appropriate and adequate coverage of employee safety and health and industry goes above and beyond these requirements to continually improve safety and health outcomes of all employees. Additional prescriptive regulation would be inconsistent with a best practice risk based approach.

In making recommendations as outlined in this submission, CME would emphasise the need to view and respond to the issues of mental health and suicide as public health issues, with an integrated, multi-faceted, cross-sectoral approach as recommended in the Western Australian Mental Health and Suicide Prevention strategies.

If you have any further queries regarding the above matters, please contact Adrienne LaBombard, Manager Workplace Health and Safety, on (08) 9220 8520 or a.labombard@cmewa.com.

Authorised by	Position	Date	Signed
Reg Howard-Smith	Chief Executive	12 February 2015	
Document reference	141205-OHS-CME DRAFT Submission -Inquiry Mental Health and FIFO-v1.0		