

**The Australian Manufacturing Workers' Union –  
WA Branch**



**Submission to the Inquiry into Sexual Harassment  
Against Women in the FIFO Mining Industry**

**4 August 2021**

Australian Manufacturing Workers' Union  
(Registered as AFMEPKIU)

WA State Parliament  
Legislative Assembly



4 August 2021

Dear Members of the Committee

The AMWU welcomes the opportunity to provide submissions to the Inquiry into Sexual Harassment Against Women in the FIFO Mining Industry.

The AMWU represents over 5,000 members in Western Australia working across major sectors of the Australian economy, including in the FIFO mining industry. We cover many employees who are employed by labour hire and in insecure work in maintenance services, engineering, construction and other aspects of the mining and resource sector. This means that our members often have a different experience from those who are directly employed by the principal mining companies.

Sexual harassment is a scourge of our society, and AMWU members, like all people, deserve protection from this risk and the right to be safe and supported at work. The FIFO Mining Industry has a range of problems that contribute to a heightened risk of sexual harassment. No single factor creates sexual harassment, but no stone should be left unturned to prevent it. Sexual harassment and assault occur in many workplaces, but it flourishes in environments without regulation, protection, and community. We need to work together to make sure that there is a clear line of responsibility for behaviour onsite, and that the mining industry is a safe and good place to live and work.

I worked for many years in the FIFO mining industry when I was 'on the tools'. The awareness of the problems created by gender and power imbalance has improved since I lived onsite. But I have listened to members about the conditions and problems of working onsite that continue, and in some areas have worsened since my time on the shopfloor. If FIFO is necessary in the mining industry, more must be done to make it safe and comfortable for workers. In this submission we endeavour to address critical issues raised by AMWU members in their struggle to have good and safe workplaces. Should you wish to discuss anything outlined in this submission, please contact Alex Cassie at [redacted] or on (08) 9223 0800.

Yours sincerely,

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## Introduction

Sexual harassment can be a range of actions and occurs in many workplaces. It is a scourge on society, and the AMWU is glad of the opportunity to contribute to this inquiry.

There are two major themes that arise repeatedly when inquiring into this subject. The first is responsibility.

Individuals should hold themselves and others to high standards of behaviour with a zero-tolerance approach to sexual harassment and assault. It has been our members' experience there has not been a culture of zero-tolerance in the fly in fly out (FIFO) mining industry to date and that the AMWU also can and will do more to promote this.

To support and enforce personal responsibility, there must be a clear chain of responsibility for workplaces and living spaces. Currently this is a significant failing in the FIFO industry. With cascading levels of contracting and outsourcing, a sense of 'every person for themselves' is created that undermines the ability of individuals to speak up when something is wrong. A site may be created for one company's mine, but managed by a different company, with labour hire employees living in a campsite run by another contractor entirely. This creates a disconnect in accountability between the principal, the employer, and the contractor who houses the workers once tools have been downed for the day. Combined with an increase in the use of casual insecure work, an environment is created that even when a person on site wants to speak up about being assaulted, or witnessing assault, they do not know who they can turn to safely and with support and without ramifications for their job.

The second theme is the importance of safe and good places to live and work. There are immediate practical changes that can be made to improve safety on site and decrease risk multipliers. But in the long-term, the industry needs to make changes that foster community, improve mental health, and make the industry more attractive to a diverse range of workers – particularly women. The best way to decrease sexual harassment and assault in any place is to have a balanced community of people who know each other and support each other. This has not been the case in the FIFO mining industry.

These two themes are linked, and necessary. We must work to create good workplaces and living places, and the lines of responsibility for doing so must be clear and undeniable.

### **What does this look like in reality?**

Many of the factors that can increase the likelihood and risks of sexual harassment exist in FIFO workplaces. The following listed risks are taken from Safe Work Australia's National Guidance material on preventing workplace sexual harassment (<https://www.safeworkaustralia.gov.au/doc/preventing-workplace-sexual-harassment-guide>):

- *low worker diversity e.g., the workforce is dominated by one gender, age group, race, or culture*
- *power imbalances e.g., workplaces where one gender holds most of the management and decision-making positions*
- *workplace culture that supports or tolerates sexual harassment, including where lower level (but still harmful) forms of harassment are accepted e.g., small acts of disrespect and inequality are ignored, and reports of sexual harassment or inappropriate behaviours are not taken seriously*
- *use of alcohol in a work context, and attendance at conferences and social events as part of work duties, including overnight travel*
- *workers are isolated, in restrictive spaces like cars, working at residential premises, living in employer provided accommodation, working from remote locations with limited supervision, or have restricted access to help and support*
- *poor understanding among workplace leaders of the nature, drivers and impacts of sexual harassment.*

All of these exist in FIFO workplaces. FIFO workplace specific risks also exist and are explored further in (II). The AMWU has raised many of these problems in past campaigns for the FIFO Mental Health

Code of Practice, and in workplace campaigns for improved conditions. The overarching problems with FIFO workplaces are contributing factors for sexual harassment. These workplaces remain poorly regulated. Living conditions are often treated as a bargaining chip for employers, rather than with minimum standards. Reliance on casuals means workers are unlikely to speak up, and even if they are keen to there are few channels to report. Union access is restricted. An undermining of community means workers don't know each other. All of this continues to contribute to why a gender imbalance exists, as women are warned off the industry.

Every worker should be safe and supported at work. This is a complex issue but that should not dissuade serious interest in improving workplace conditions. Any improvements must begin with a thorough and transparent assessment of all risk factors, without focusing on single-standalone issues or quick fixes.

## **I. Is there a clear understanding of the prevalence, nature, outcomes, and reporting of sexual harassment in FIFO workplaces?**

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*FIFO work is a key part of our economy but is poorly regulated and largely reliant on self-reporting. This includes reporting on the factors that elevate the risks of sexual harassment, and the reporting of sexual harassment.*

FIFO work has been part of Western Australia's economy for over fifty years, but it has grown exponentially in the 21<sup>st</sup> century. FIFO camps were established as an alternative to the creation of mining towns and are cheaper. Shorter mine life cycles and problems associated with decommissioning towns after deposits are exhausted have been cited as reasons business favours the FIFO system. With the strong encouragement of resource companies, FIFO has now become the default labour force model for Australian resource development, especially in Western Australia. FIFO is now considered an essential part of the WA employment landscape, with over 60,000 FIFO workers across WA's mines.

The growth of FIFO has occurred almost completely under the self-regulation of resource companies. FIFO accommodation management has largely been dealt with on a company by company or even project by project basis. The complex issues of housing and servicing tens of thousands of people are dealt with largely behind closed doors by private companies. The AMWU finds this scenario extraordinary, given the huge numbers of workers involved and the unique challenges FIFO workers face. A consequence of industry self-regulation is the huge variation in FIFO standards between companies, sites, and projects, including the variables that believe influence the risks of sexual harassment and assault.

The AMWU's knowledge of this comes from direct member contact and reporting, including surveys, meetings, and visits. There is a lack of official data and reporting. Key to this problem is that while there are requirements to report on WHS incidents during shift, off shift there is no requirement to report as the camps are not considered the workplace. This is despite the fact that the campsite's entire *raison d'être* is for workers, is entirely controlled by the employer, and is dependent on work performance and behaviour. It is realistic that this Inquiry's terms of reference refer to the accommodation facilities as 'workplace', but the reporting regimes of FIFO employers do not reflect this reality.

### **Lack of clear chains of responsibility**

In all issues of site management, workers must navigate cascading levels of responsibility. A worker contracted by a labour hire company living in accommodation managed by another contractor to a principal company of whom there are only three representatives onsite will be told that the buck stops with the principal, but the reality is much different. Even if and when a worker wants to speak up about assault or harassment, it is unclear how or to whom they should do so.

To prevent behaviour escalating to criminal assault, non-criminal behaviour needs to be monitored and reported, but it is not. In the case of sexual harassment, as in the case of non-sexual violence and mental health incidents of self-harm, there is no understanding of if workers should go to Human Relations, or Work Health and Safety representatives. Frequently it is only when behaviours escalate to criminal level, or hospitalization, that the incident is even reported to the principal.

## Reporting – and why it doesn't happen

Violent sexual assault and rape are at the extreme end of sexual harassment behaviours. It is well documented that these unconscionable attacks are usually the escalation of continuous behaviour, (and is often not reported itself). 'Lower level' sexual harassment is less likely to be reported. The Australian Human Rights Commission 2018 sexual harassment survey showed that only 17% of workers who experienced sexual harassment reported the conduct. This does make it difficult to understand how and when harassment occurs and how to stop it. There are multiple studies on why people are unlikely to report sexual harassment and violence in workplaces. In the experience of the AMWU, there are increased obstacles in FIFO workplaces.

- *Distrust in the system:* many AMWU members have the perception that their employer does not care, nor will act appropriately in response to a report of harassment. This is related to the fact that there is a cascading system of responsibility – a worker may be contracted by labour hire, living in a site managed by accommodation management, in a workplace managed by a prime employer. Where does the chain of responsibility lie?
- *Lack of avenues for reporting:* Practical WHS on the job has a clear chain of reporting, thanks to the work of the union movement. But there is often no indication of where an employer should go to report an 'interpersonal' issue, or any other concern. We have had instances where workers have called the police directly in the absence of any reporting avenue (see case study).
- *Fear of recrimination:* Many FIFO workers are on casual contracts in insecure work. There is a pervasive fear that if you speak up about any issue you can be replaced by someone who won't complain. This is borne out in reality, and we have had instances of members being sacked and booked on the first flight out for complaints. This is the 'window seat' mentality – i.e., you will get the first window seat out for speaking up. When the AMWU ran a comprehensive survey of FIFO members in 2015, 57.5% of 236 respondents listed the fear of negative effects on future employment.
- *Loss of shifts:* In the rare instances when a complaint is made against another worker onsite, it is noted as 'personal conflict' and the complainant is stood down rather than the respondent during the time of investigation. This is a financial and reputational disincentive to ever make a complaint.

**Recommendation 1:** That the State government accommodation and campsites to be considered as workplaces for the purposes of Industrial and WHS legislation.

**Recommendation 2:** That the State government require reporting of assault, harassment, and injuries that occur in accommodation and campsites to the regulator.

**Recommendation 3:** That the State government and Federal government work more closely together to provide accurate FIFO data to the Australian Bureau of Statistics

**Recommendation 4:** An independent and confidential reporting hotline for mental health, harassment, and bullying issues to be established by the State government.

**Recommendation 5:** That the State government dedicate resources to the regulator to bring campsites and accommodation up to standard.

**Recommendation 6:** That complaints of harassment and assault do not lead to the complainant being stood down, rather that temporary solutions (i.e. moving accommodations) be found whilst the investigation is occurring. Complainants should not be penalised.

## **II. Do existing workplace characteristics and practices – including but not limited to workplace cultures, rosters, drug and alcohol policies and recruitment practices – adequately protect against sexual harassment?**

*Sexual harassment and assault occur in many workplaces. There are specific aspects of FIFO workplaces that exacerbate the risk. More should be done to make FIFO mining camps a good place to live and work.*

Employers exercise complete control over the FIFO worker's life. For the majority of resource workers today, FIFO is the only option employers will facilitate. This necessitates employees placing themselves completely into the care of their employer for weeks at a time. Employees are completely dependent on their employer for basic sustenance, accommodation, transport, sleeping patterns, communication and most importantly, medical care. Employers' decisions about the workplace dictate the employee's lives. Where one sleeps, eats, relaxes and who they sleep, eat, and relax next to is dictated by the employer, via contractors and site managers.

Conditions vary greatly between camps, but in the camps provided for contract labour hire standards fall well below what would be considered an attractive place to live and work. For example, Rio Tinto's Camp for its direct employees at Gudai-Darri is portrayed as state of the art. A small minority of workers live there. But the nearby campsite for contractors, who make up the majority of the workforce, is colloquially referred to as 'the Wild West'.

There are minimal amenities, diversions, or structure to create community provided on a FIFO camp. No consideration is taken for the creation of a camp that is for anything other than finishing a shift, eating, sleeping, and working. If FIFO is necessary for the mining industry, camps should be created with the intention of making it more attractive for a diverse range of workers – particularly women. This would serve two purposes. Firstly, the practical changes would minimize exacerbating risk factors in sexual assault (security around sleeping quarters). But more importantly in the long run these changes could help address the gender imbalance, the isolation, and the culture that contribute to sexual harassment and assault.

### **Motelling**

Camp practices such as "motelling", where workers change dongas at each swing, dissolve the community fabric that exists with more permanent arrangements and undermine camp cohesiveness. FIFO camps should be run as the communities they are and having continuity of neighbours is more likely to result in mutually supportive support camp relationships. In our experience, the stability non-motelling camps results in higher likelihood of peers identifying mental and physical changes in workmates and more openness in discussing accompanying issues. Knowing your neighbours also provides a level of comfort to vulnerable workers during long swings away from regular support networks. Additionally, we submit that the insidious practice of 'hot bedding' where one worker leaves a bed for his shift only to have it filled during his absence is the worst possible scenario for comfort, privacy, and security and should be banned outright.

The breakdown of any community structure is an exacerbating factor in sexual harassment. It makes people feel less inclined to talk about something that may be happening to them, and it makes those who would commit harassment have fewer boundaries on their behaviour.

Notably, sites also often have multiple rooms that can be opened with one key. The consistent undermining of personal, private safe spaces contributes to the risk of sexual assault.

### **Common spaces and recreation**

Campsites do not have an adequate range of places to go outside of work hours. Commonly the only place for workers to go outside of work hours is the wet mess, or the gym if they are lucky. There are not a range of safe places for people to go to unwind or relax away from large groups other than their donga. This exacerbates the problems of harassment and why it is not reported due to proximity, stress, gender imbalance, and poor mental health. Workers simply cannot get away from each other to deescalate bad behaviour. A limit on alcohol is only one blunt tool to address this problem. The response of workers to further limitations on their freedom should be understood in the context of a lack of options and activities for them in the first place.

If workers were able to know with whom they would regularly be onsite, shared interests and activities could be developed to contribute to a sense of community. For example, this could be provided via onsite scheduled activities either run by the site or by the workers themselves, contributing to a culture where people know each other and look forward to returning to work. Camp committees made of worker representatives to meet regularly and set action plans for improving life onsite would help foster responsibility. The benefits of these measures would include; attracting and retaining more women in the industry; and creating a culture where people can regulate each other's behaviour and have the confidence to speak up.

Ultimately, significant changes should be made to the FIFO mining industry to make the living conditions more welcoming for a wider range of people. This would decrease the gender imbalance and foster a more natural sense of community that would lower some of the risk factors.

**Recommendation 5:** Living conditions be subject to minimum standards rather than as part of the bargaining arrangements.

**Recommendation 6:** Establishment of more recreation spaces for quiet and safe relaxation outside of messes and gyms.

**Recommendation 7:** An end to 'motelling', and a return to having synchronised rosters to foster a sense of community.

**Recommendation 8:** The establishment of onsite practices of activities leaders, free spaces for community, and a range of activities.

**Recommendation 9:** Camp Committees, made up of worker representatives, be established.

### **3. Are current legislation, regulations, policies, and practices adequate for FIFO workplaces in Western Australia?**

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*FIFO workplaces are largely self-regulated and secretive due to the nature of their isolation and of the power of the employer.*

No. The campsites are underregulated, beginning with the fact that they are not designated as workplaces. There is some good legislation, but it currently does not apply to the campsites and accommodation where workers spend so much of their time. This could be changed as per recommendation one.

The launch of a FIFO Mental Health Code of Practice in 2019 was a big step forward that covered a range of living condition questions. But it remains an example of the lack of regulation of an industry that controls every aspect of a worker's life. It was the first Code in Australia and remains entirely voluntary. In 2019, WA Labor committed to investigating and reviewing the compliance by resource and construction employers and hosts to the Code, and to legislate to make it enforceable if there is demonstrable failure to comply. To date the review has not been completed. The AMWU believes that many aspects of the FIFO Code of Practice would directly assist in lowering risk factors of sexual harassment.

**Recommendation 7:** That the State Government investigate and reviews compliance by resource and construction employers to the Code of Practice for Mentally Healthy workplaces for fly-in fly-out workers.