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To whom it may concern,

BMA Submission to RSHQ Discussion Paper – Legislative options to clarify obligations to manage psychosocial hazards in Queensland's resources industry

Thank you for the opportunity to provide feedback in response to the Resources Safety and Health Queensland (RSHQ) discussion paper, titled *Legislative options to clarify obligations to manage psychosocial hazards in Queensland's resources industry*, dated April 2025 (Discussion Paper).

BHP Mitsubishi Alliance (BMA) acknowledges the importance of effectively managing psychosocial hazards and risks within Queensland's resources industry and supports efforts to ensure both physical and psychological safety and health is clearly protected under legislation.

BMA has considered the potential legislative change options for Queensland's mining safety and health legislation (namely, the *Coal Mining Safety and Health Act 1999* (CMSHA) and *Coal Mining Safety and Health Regulation 2017* (CMSHR)) set out in the Discussion Paper and submits the below feedback in response to the applicable options and questions.

4.0 Protecting workers from psychological harm

Option 1: Mines and quarries – clarifying that health is physical and psychological

Would this option be effective in clarifying that health includes both physical and psychological health?

BMA considers that the current legislative framework under the CMSHA and CMSHR is sufficiently clear.

Although "health" is not currently defined, when the term is considered according to its ordinary meaning,¹ it is evident that references to "health" (including in the context of "safety and health") in the legislation include both physical and psychological health.

This interpretation is confirmed through the available guidance material relating to psychosocial hazards and psychosocial risks, including guidance material already published by RSHQ (discussed further below).

If RSHQ determines that additional clarification in the legislation is required, the amendments to the CMSHA should be limited to the inclusion of a definition for "health" which aligns with the definition used in the *Work Health and Safety Act 2011* (Qld) (WHS Act).²

¹ The Macquarie Dictionary defines "health" as: "1. soundness of body; freedom from disease or ailment; 2. the general condition of the body or mind with reference to soundness and vigour: good health."

² WHS Act, Schedule 5.

Option 2: Mines and quarries – no change to clarify that health is physical and psychological

Do you support no change to clarify that health is physical and psychological?

Yes. As set out above, BMA does not consider that legislative amendment is necessary.

5.0 Managing the risk of psychosocial hazards

Option 1: Mines, quarries and P&G – requirements and definitions for psychosocial hazards and psychosocial risks

Would this option be effective in clarifying obligations for the safety and health management system (SHMS) to provide for the management of psychosocial risks?

BMA considers that the detail included in the current legislative framework under the CMSHA and CMSHR sufficiently sets out the obligations and requirements for managing psychosocial risks. BMA submits that the proposed amendments in Option 1 are unnecessary and accordingly, will only add to the complexity of the current legislation.

SHMS requirements

The CMSHA already requires the development of a safety and health management system (**SHMS**) that:

- incorporates risk management elements and practices that ensure the safety and health of all persons who may be affected by coal mining operations; and
- provides for a single, comprehensive and integrated system for the management of all aspects of risks to safety and health in relation to the operation of the coal mine (emphasis added).³

Based on the position set out immediately above with respect to the ordinary meaning of “health,” BMA considers that the requirements are already sufficiently clear that a SHMS must provide for the management of both physical and psychological risks.

Additional definitions

Likewise, BMA does not consider that definitions for “psychosocial risk” and “psychosocial hazard” are required in the CMSHA and/or CMSHR.

“Risk” and “hazard” are already defined terms in the current legislative framework under the CMSHA and CMSHR, with:

- “risk” meaning “the risk of injury or illness to a person arising out of a hazard;”⁴ and
- “hazard” meaning “a thing or a situation with potential to cause injury or illness to a person.”⁵

Specific “types” of risks and hazards are not further defined in the legislation. Rather, they must be considered according to the general definition.

Although “injury” or “illness” are not defined terms, when the terms are considered according to their ordinary meanings,⁶ it is evident that references to “injury” or “illness” (including in the context of “injury or illness”) in the legislation include all kinds of injuries and illnesses, whether physical or psychological injuries.

This interpretation is confirmed through the available guidance material relating to psychosocial hazards and psychosocial risks, including guidance material already published by RSHQ (discussed further below).

As such, BMA considers that the existing defined terms of “risk” and “hazard” sufficiently address and include psychosocial risk and psychosocial hazards.

If RSHQ determines that additional clarification in the legislation is required, the amendments to the CMSHA and/or CMSHR should be limited to the inclusion of definitions for “psychosocial risk” and “psychosocial

³ CMSHA, s 62.

⁴ CMSHA, s 18.

⁵ CMSHA, s 19.

⁶ The Macquarie Dictionary defines “injury” as, relevantly: “1. harm of any kind done or sustained: to escape without injury; 2. a particular form or instance of harm: severe bodily injuries.” “Illness” is defined as, relevantly: “1. a state of bad health; sickness; 2. an attack of sickness.”

hazard" that align with the definitions used in the WHS Act (with relevant amendments in the context of the existing CMSHA/CMSHR framework) to facilitate consistent outcomes across Queensland.

Consultation requirements

BMA considers that the existing consultation obligations contained in the CMSHA and CMSHR are sufficient.

Specific statutory consultation requirements extend to the development of standard operating procedures (SOPs)⁷ and the "fitness provisions" under Part 6 of the CMSHR, and reviewing existing SOPs and principal hazard management plans (PHMPs) where changes to the SHMS are being made.⁸ Further consultation requirements, including as part of the risk assessment process, are provided for under the SHMS (and must be complied with).

BMA submits that the SHMSs implemented at its sites include robust consultation requirements as part of the risk management process provided for in each SHMS.

As such, additional statutory consultation requirements for psychosocial hazards and risks are not required and would only add to the complexity of the current legislation and lead to inconsistency in regard to how these hazards and risks are assessed and managed compared to others.

Sexual harassment

In relation to sexual harassment, BMA agrees that the introduction of explicit requirements for managing sexual harassment within the CMSHR, in line with amendments made to the *Work Health and Safety Regulation 2017* (Qld) (WHS Reg) for general Queensland workplaces, is not necessary.

As above, BMA considers that the obligations to manage psychosocial hazards (including sexual harassment) and psychosocial risks are already sufficiently clear in the existing legislative framework under the CMSHA and CMSHR. Likewise, the existing guidance produced by RSHQ (discussed further below) already provides detailed, practical information on how to effectively manage these risks.

Would this option be effective in clarifying what psychosocial hazards and psychosocial risks are within Queensland's resources safety and health regulations?

As above, BMA does not consider that further clarification is required, and to do so through legislative amendments would only add to the complexity of the existing legislation.

BMA notes that RSHQ has already published guidance materials in connection with psychosocial hazards, including:

- [Managing psychosocial hazards in Queensland's resources industries](#), which includes examples of common psychosocial hazards which align with the guidance produced by other regulators; and
- [Guide to managing the risks of workplace sexual harassment in the Queensland resources industry](#), which provides specific guidance in relation to sexual harassment (a type of psychosocial hazard).

BMA notes that further targeted guidance on the topic of psychosocial hazards and psychosocial risks could be produced by RSHQ. This could include, for example, updating the [Mining Hazards Database](#) kept by the CEO under section 280 of the CMSHA to include common psychosocial hazards that exist in the mining industry, foreseeable risks that arise from these hazards, and appropriate methods of controlling the risks and applicable reference material.

Option 2: Mines, quarries and P&G – no change to include requirements and definitions for psychosocial hazards and psychosocial risks

Do you support no change to clarify requirements to manage psychosocial risks within the safety and health management system?

Yes. As set out above, BMA does not consider that legislative amendment is necessary.

⁷ CMSHR, s 10.

⁸ CMSHA, s 64.

6.0 Psychosocial risk controls

Option 1: Mines, quarries and P&G – no change to existing obligations for controlling psychosocial risks

Are existing obligations sufficient for controlling psychosocial risks to as low as reasonably achievable?

Yes. BMA considers that psychosocial risks can, and should, be managed in the same way as other safety and health risks to achieve an acceptable level of risk under the existing legislative framework under the CMSHA and CMSHR.

Option 2: Mines, quarries and P&G – amendments to specify factors to consider when implementing psychosocial risk controls

Would amendments to specify factors to consider when implementing psychosocial risk controls assist in achieving more effective risk management?

No. As above, BMA considers that the existing obligations under the legislative framework are sufficient to enable identification (and implementation) of suitable controls to manage psychosocial risks, in line with the existing risk management elements and practices incorporated into sites' SHMSs.

Option 3: Mines, quarries and P&G – inclusion of hierarchy of controls for managing psychosocial risks

Would amendments to include the hierarchy of controls for managing psychosocial risks assist in achieving more effective risk management?

No. As above, BMA considers that the existing obligations under the legislative framework are sufficient to enable identification (and implementation) of suitable controls to manage psychosocial risks.

In particular, BMA considers that the inclusion of the hierarchy of controls for managing psychosocial risk in the legislation would:

- add unnecessary complexity (where the hierarchy of controls methodology is not currently considered by the CMSHA or CMSHR for the management of risk); and
- result in a less integrated and consistent approach to risk management (where the hierarchy of controls was required to be applied for the management of psychosocial risks, but not required for other risks under the CMSHA or CMSHR).

7.0 Reporting obligations

Option 1: Mines, quarries, and P&G – update reporting obligations guidance material to inform Queensland's resources industry on psychosocial reporting requirements

Would updating SSE reporting obligations guidance material to inform Queensland's resources industry on psychosocial reporting requirements provide more clarity on reporting obligations? If supportive, provide examples of what would be helpful to clarify.

BMA considers that:

- existing reporting obligations contained in the CMSHA and CMSHR are sufficient and do not require any further legislative changes to capture relevant incidents arising from psychosocial hazard incidents, subject to amending section 198 of the CMSHA to remove the requirement to provide the names of witnesses, persons present or affected persons when notifying a psychosocial hazard incident, discussed further below. This is important to ensure operators can take a trauma-informed and impacted person centric approach in responding to these events and comply with whistleblower protections (where applicable). There is a real risk mandatory reporting of these types of events to RSHQ without appropriate safeguards (i.e. de-identification) could re-traumatise or further harm impacted persons, particularly when reporting may be contrary to an impacted person's wishes; and
- updated guidance on psychosocial hazard incident reporting requirements would be useful for duty holders to consider.

Of course, the guidance material would need to align closely with and supplement the existing reporting requirements under the CMSHA and CMSHR. Updated guidance material would not be an appropriate mechanism to introduce additional reporting requirements not already contemplated by the legislation.

As an example, updated guidance could include examples of psychosocial incidents that have the *potential* to cause significant adverse effects on the health or safety of a person (i.e. reportable as a high potential incidents (HPIs) under the CMSHA). This would assist SSEs to understand and comply with their reporting obligations under the CMSHA and CMSHR.

Conversely, privacy and confidentiality requirements (or exceptions) for reporting accidents and incidents (including psychosocial hazard incidents) should be addressed in the legislation (as discussed further below).

Option 2: Mines, quarries, and P&G – clarify within Queensland’s mining legislation and introduce in P&G legislation RSHQ CEO power to require statistical information relating to exposure to psychosocial hazards

Do you support the introduction (P&G), clarification (mines and quarries) and use of the RSHQ CEO power to require statistical information relating to exposure to psychosocial hazards? If supportive, what statistical information would be reasonable to request?

As above, BMA considers that the existing reporting obligations contained in the CMSHA and CMSHR are sufficient to address psychosocial hazard incidents.

With regard to requiring statistical information about exposures to psychosocial hazards, BMA has concerns about how an “exposure” would be defined in the context of coal mining operations. For example, the risk management framework under the CMSHA and CMSHR acknowledges that risk (including psychosocial risk) may not be able to be completely removed. Rather, it requires that risk (including psychosocial risk) is managed to an acceptable level.

In this regard, BMA has already previously highlighted that there will be some psychosocial hazards at a coal mine cannot be eliminated (e.g. remote work, environmental conditions). On that basis, although controls to manage risk to an acceptable level will be implemented, it is possible that coal mine workers and other persons could still be “exposed” to psychosocial hazards that cannot be eliminated.

As such, data relating to “exposures” may not be reflective of the efficacy of the risk management approach adopted. That is, an “exposure” may not necessarily indicate a failure of the risk management process.

If RSHQ determines that statistical information is required, BMA submits that it should be captured through an existing process (rather than through the introduction of new reporting obligations, such as those proposed by Option 3 discussed below) to reduce the administrative burden of additional reporting.

Further consideration would need to be given to the type of information being required by RSHQ (including how an “exposure” would be defined) and how this information would ultimately be used by RSHQ.

Further detail would also need to be provided about how the information provided to RSHQ would support or impact safety and health outcomes. Given the issues identified above, it is not clear how statistical information relating to exposures to psychosocial hazards would strengthen RSHQ’s understanding of psychosocial risk management.

Option 3: Mines, quarries, and P&G – amend Queensland’s mining and P&G legislation to require periodical reporting of exposure to traumatic events, bullying and harassment (incl. sexual harassment)

Do you support amendments to Queensland’s mining and P&G legislation to require periodical reporting of exposure to traumatic events, bullying and harassment (incl. sexual harassment)?

No. As above, BMA considers that the existing reporting obligations contained in the CMSHA and CMSHR are sufficient to address psychosocial hazard incidents.

Amending the CMSHA and/or CMSHR to include new requirements for periodic (6 monthly) de-identified reporting of incidents and reports of:

- exposure to traumatic events (including where workers are exposed to fatalities, serious injuries or instances of serious abuse); and
- bullying and harassment (including sexual harassment) (including where the behaviour may reasonably be considered to have occurred and exposes a worker to a risk to their safety and/or health),

is not supported by BMA.

Overall, BMA considers that the additional reporting requirements proposed in Option 3:

- will create uncertainty about the matters required to be reported (exposing duty holders to a risk of non-compliance). In particular, further consideration would need to be given to:
 - how an event would be assessed as "traumatic," noting that trauma is subjective and experienced differently by different people;
 - what would constitute an "exposure" to an event, and the efficacy of reporting this in circumstances where "exposures" may not be reflective of the efficacy of the risk management approach adopted (i.e. an "exposure" may not necessarily indicate a failure of the risk management process); and
 - how/when a behaviour could "reasonably be considered to have occurred" in the context of bullying and harassment
- may not effectively address whistleblowing and privacy issues, noting that de-identification may not be sufficient depending on the circumstances and the level of detail required to be reported;
- are not consistent with the primary purpose of incident notification (i.e. timely investigation and action to ensure adequate risk management).
- are duplicative of the existing notification requirements, which already capture serious accidents and HPIs involving fatal and serious injury events and/or incidents of bullying and harassment (where they meet the relevant definitions for notification); and
- will create additional administrative burden.

As above, further detail would need to be provided about how the information reported to RSHQ would support or impact safety and health outcomes.

BMA also notes that the similar periodic reporting principles for psychosocial hazard incidents, as outlined in Safe Work Australia's [Consultation paper – WHS incident notification](#), have now been abandoned following a period of consultation and consideration of stakeholder feedback. As such, it is unlikely that model WHS laws (and consequently the WHS Act in Queensland) will adopt these additional reporting requirements. Therefore, any potential benefits of a consistent approach across coal mines and general workplaces in Queensland are now unlikely to be realised through these proposed amendments. BMA does not consider there is any strong rationale to impose additional reporting requirements that would apply only for coal mines (and not other workplaces).

Option 1: Mines and quarries – no requirement to provide names of witnesses or persons present for high potential incidents involving psychosocial hazards

Do you support removing the requirement to provide names of witnesses or persons present to Industry Safety and Health Representatives and District Workers' Representatives for HPIs involving psychosocial hazards?

Yes. BMA supports amending section 198 of the CSMHA to remove the requirement to provide the names of witnesses, persons present or affected persons to an industry safety and health representative (ISHR) when notifying a HPI involving a psychosocial hazard.

Similarly, BMA submits that similar amendments could be made in relation to the notification requirements for an inspector, where the same information (names of witnesses, persons present or affected persons) are defined as required information that must be given (as set out in the current approved form, [CMSHA1](#)).

BMA considers that the same principles apply. That is, protection of impacted persons' wishes and privacy, compliance with BMA's internal complaint, grievance and investigation procedures and whistleblower obligations. This enables operators to take a trauma-informed and impacted person centric approach in responding to these types of events where there is a risk of re-traumatising impacted persons through reporting and regulator engagement.

As above, BMA does not consider that amendments to section 198 would require a definition of psychosocial hazard to be inserted into the CSMHA. Rather, confidentiality requirements could be imposed for certain

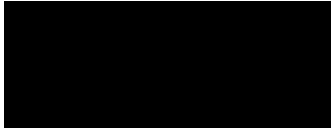
types of incidents (i.e. those in connection with bullying and harassment (including sexual harassment) or sexual assault) which require adherence to the principles set out above.

Next steps

BMA welcomes further discussion with RSHQ around clarifying obligations to manage psychosocial hazards, and any further consultation on proposed changes to any legislation or development of recognised standards / guidance material.

Thank you for the opportunity to provide this feedback for consideration.

Yours sincerely



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