



Government of Western Australia
Department of Mines and Petroleum

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Ms Lucy Roberts
Principal Research Officer
Legislative Assembly Education and Health Standing Committee
Parliament House
PERTH WA 6000

Dear Ms Roberts

**EDUCATION AND HEALTH STANDING COMMITTEE INQUIRY INTO MENTAL HEALTH
IMPACTS OF FIFO WORK ARRANGEMENTS**

I refer to the letter from Dr Jacobs dated 23 April 2015 regarding follow-up questions from the 22 April 2015 briefing with the Committee.

Please find attached a submission which responds to the Committee's questions.

I trust that this information will assist the Committee in its Inquiry.

Yours sincerely

Richard Sellers
DIRECTOR GENERAL

4 May 2015

Att: DMP response to follow-up questions from the 22 April 2015 Committee briefing

DMP response to follow-up questions from the 22 April 2015 Committee briefing

The questions from the Committee and the responses from the department are as follows:

1. *The total number of resource workers in WA currently. If possible, could you please also provide an indication of how this has reduced from the peak of the mining boom?*

MINING (including mineral exploration)		
Highest on record	108,670 FTE (August 2013)	116,775 employees (July 2013)
Current (Feb 2015)	87,330 FTE	104,298 employees

ONSHORE PETROLEUM		
Highest on record	4,131 FTE (June 2012)	4,237 employees (January 2012)
Current (Feb 2015)	1,825 FTE	1,785 employees

OFFSHORE PETROLEUM		
Highest on record	1,956 FTE (January 2012)	N/A (see notes)
Current (Feb 2015)	187 FTE	N/A (see notes)

NOTES:

- *FTEs are calculated from total hours worked in industry, whereas actual employee numbers are a head count including part-time workers. Highest number of hours worked may not coincide with the highest number of employees.*
- *Due to delays in receipt of company data, February 2015 is the most recent complete data set available.*
- *DMP recognises that its current data gathering and reporting systems require improvement. Prior to this Inquiry, development work commenced on enhancements to the Safety Regulation System (SRS) database, to improve data collation, categorisation, analysis and reporting.*
- **Offshore petroleum:**
 - *Historically, and for consistency with Commonwealth reporting requirements, offshore petroleum companies only report the number of hours worked, not actual number of workers. To provide a comparison with the other data, we have converted these hours to Full Time Equivalent (FTE) employees using a standard calculation. Actual number of workers would be higher.*
 - *Offshore petroleum data can vary significantly. For example, many offshore platforms are unmanned, but work crews will visit the platforms periodically for maintenance and this will temporarily increase hours worked/FTEs.*
- **Major Hazard Facilities:** *OSH at MHFs is currently under the jurisdiction of WorkSafe, so DMP does not maintain data on current employee numbers. Under the proposed Work Health and Safety (Resources) Bill, OSH responsibility for MHFs will be transferred to DMP.*

2. Any information you are able to provide on the progress of the 'Resources Bill' currently being developed.

Consolidation of resources safety legislation

In 2014, a Regulatory Impact Statement process was undertaken to consult stakeholders on the options for the structure of resources safety legislation. The Decision-RIS was finalised in January 2015, recommending the unification of safety legislation for mining, petroleum and major hazard facilities legislation, under one regulator, DMP. This includes the transfer of OSH responsibility for major hazard facilities from WorkSafe to DMP.

Work Health and Safety (Resources) Bill

The Minister for Mines and Petroleum provided approval for the department to prepare drafting instructions for the consolidated Act, known as the Work Health and Safety (Resources) Bill (WHS (R) Bill), which will consolidate safety provisions from six Acts.

Preparation of the drafting instructions is underway.

DMP is liaising with the WorkSafe division of the Department of Commerce, to ensure consistency with their separate Work Health and Safety Bill for general industry. The department is also liaising with the National Offshore Petroleum Safety and Environmental Management Authority, to ensure alignment, where appropriate, with offshore petroleum safety requirements in Commonwealth waters.

DMP has committed to full and open consultation, with industry and unions providing advice throughout the legislative development process. In addition to ongoing consultation through the Ministerial Advisory Panel on Safety Legislation Reform, there will be additional formal consultation periods using an independently-managed Regulatory Impact Statement (RIS) process.

The next RIS will be on the WHS (R) Bill, with a public consultation period from late June to mid-August 2015. Following approval of the Decision RIS on the Bill, the drafting instructions will then be submitted for government approval to draft the Bill itself. It is proposed that the WHS (R) Bill be introduced to Parliament by 30 April 2016.

The WHS (R) Bill will be consistent with WorkSafe's WHS Bill for general industry. The WHS (R) Bill mainly consists of high-level, generic health and safety provisions, apart from a few resources industry-specific changes.

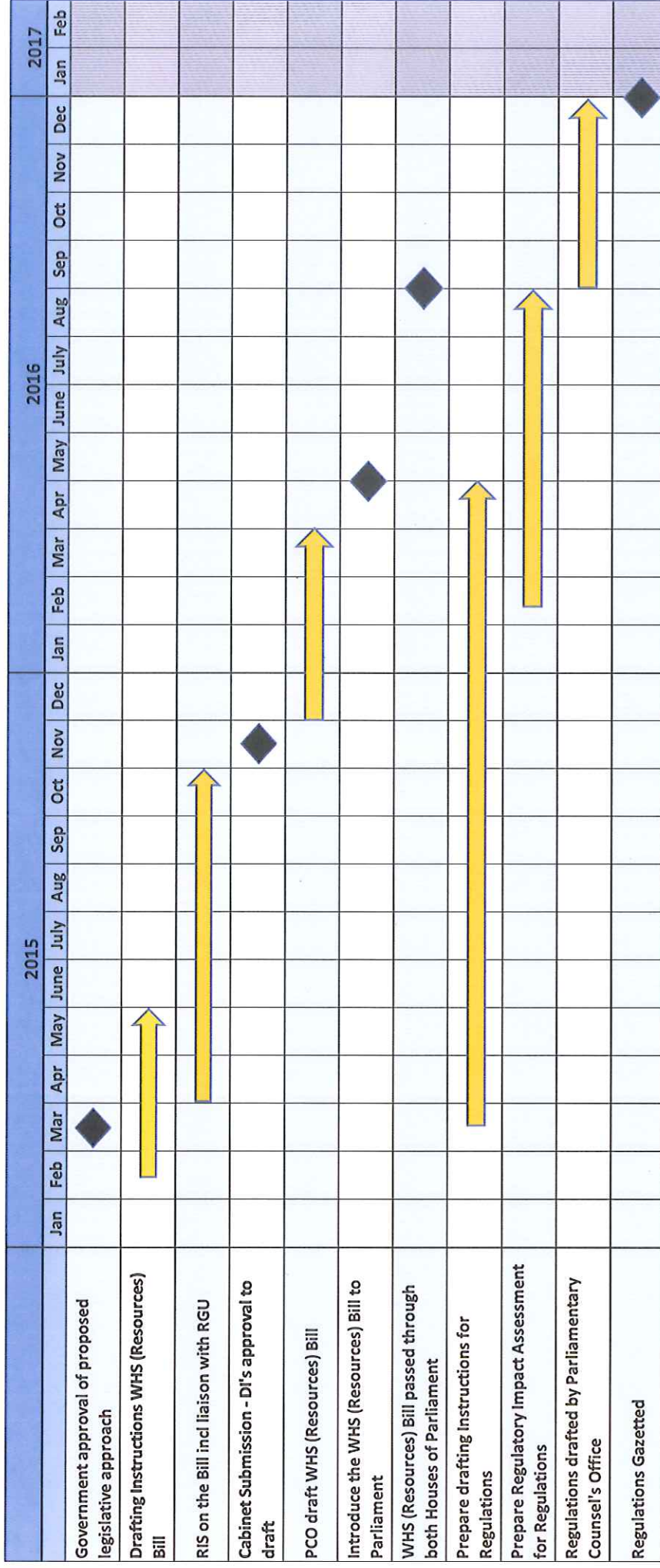
Work Health and Safety (Resources) Regulations

The detailed health and safety requirements will be placed in the WHS (Resources) Regulations. It is currently envisaged that the regulations will contain a section for generic provisions as well as separate, sector-specific sections to cover the particular requirements for mining, petroleum and major hazard facilities.

Another RIS will be prepared for the WHS (Resources) Regulations, with consultation scheduled for early- to mid-2016.

It is proposed that the regulations should be gazetted by 1 December 2016.

Work Health and Safety (Resources) legislation - indicative timeline



Assumptions:

- Government approval of drafting instructions is obtained quickly
- PCO can commit resources immediately to the drafting process
- No significant delays in passing the Bill through Parliament
- RIS doesn't raise any major issues

3. *Under section 15(d)(2) of the Mines Safety and Inspection Act, it appears that FIFO employees residing in employer-provided accommodation located away from a mining tenement receive greater protection than those accommodated on a mining tenement. Section 15(d)(2) requires an employer to:*

...so far as is practicable, maintain the premises so that the employee occupying the premises is not exposed to hazards at the premises.

Is this understanding correct according to your interpretation of the Act?

Could section 15(d) be altered to extend this protection to employees residing in employer-provided accommodation on a mining tenement?

As discussed with the Principal Research Officer, the department is awaiting legal advice on the interpretation of Section 15D of the MSI Act, and will provide a response as soon as this advice is received.

With regard to the second part of the question, any alteration to the MSI Act would require consultation on the potential impacts and time for the Parliamentary process. Given that the proposed Work Health and Safety (Resources) Bill should be implemented at the end of 2016, it may not be worth amending the MSI Act in the interim.

OSH coverage at employer-provided accommodation camps under the proposed Work Health and Safety (Resources) Bill is currently under consideration, with a view to ensuring consistency between the various industry sectors. This is subject to a Government decision and public consultation.

The WHS (R) Bill is based on the national WHS Model Act, which harmonises work health and safety laws across Australia. With regard to accommodation, the WHS Act states:

19(4) Primary duty of care

If:

- (a) a worker occupies accommodation that is owned by or under the management or control of the person conducting the business or undertaking; and*
 - (b) the occupancy is necessary for the purposes of the worker's engagement because other accommodation is not reasonably available,*
- the person conducting the business or undertaking must, so far as is reasonably practicable, maintain the premises so that the worker occupying the premises is not exposed to risks to health and safety.*