



**Western Australian Parliament – Community
Development and Justice Standing Committee**

**Inquiry into sexual harassment against women
in the FIFO mining industry (“Inquiry”)**

17 August 2021

Introduction

Everyone has a right to be safe at work.

We recognise that this is about more than eliminating accidents and injuries. It is also about ensuring people are safe from sexual harassment.¹

Our position on this is clear. Sexual harassment is completely unacceptable, contrary to our values and unlawful.

Over a number of years, we have taken action to prevent sexual harassment, including through education, encouraging reporting and security measures.

But the conduct continues and, as long as it does, we must and will do more.

This Inquiry and the circumstances that led to its calling reflect confronting and, in some cases, criminal behaviour that exists in our industry. We do not, and must not, shy away from it.

Behind each of these stories, there is a person who has been impacted.

We are deeply sorry and apologise unreservedly to those who have experienced, or continue to experience, any form of sexual harassment in our workplaces.

We are determined to continue to address this, with focus and urgency. This is why we have sought input from external experts to ensure we apply best practice, have committed around AU\$300 million to the further improvement of our camp and workplace facilities and have tied completion of actions to prevent sexual harassment to executive and employee remuneration. It is also why we support the introduction of a positive duty on employers to prevent sexual harassment.

We welcome the Committee's establishment of this Inquiry. It is an important opportunity to identify lessons and actions to improve the health, safety and wellbeing of women, and all people, in the mining industry.

There continues to be a long way to go on workplace safety. According to the Australian Human Rights Commission's most recent national survey on sexual harassment in Australian workplaces, 71% of Australians have been sexually harassed in their lifetimes and 39% of Australian women experienced sexual harassment in the workplace in the five years to 2018. The same survey concluded that in the mining industry, an estimated 74% of women and 32% of men had experienced workplace sexual harassment in the past five years.

This is a critical issue for BHP and for our industry. While much action is underway, more must be done to make our workplaces safe and inclusive for everyone.

In this submission, we set out what we have done to progress this agenda (including where we believe we have made progress and what more we need to do), a summary of reports received, and our views on where we, our industry and the broader regulatory and governance environment can continue to improve.

Background and experience to date

In October 2016, BHP set a goal of achieving gender balance in our workforce by 2025.

We strongly believe that as well as making our workplaces more inclusive and diverse, this will improve our business performance, help us attract talent and lead to better innovation and decision-making.

Since 2016, the percentage of women in our workforce has increased from 17.6% to 29.8%, and within leadership from 15.9% to 25.1%. BHP's Executive Leadership Team has equal representation of women and men.

We have approximately 13,500 employees across our Western Australian operations. Ensuring that all our employees and contractors feel safe, respected and included is fundamental to our ability to attract and retain a diverse workforce. Accordingly, we have a strong focus on building an inclusive and respectful culture, and on preventing and responding appropriately to any form of sexual harassment. Our actions in this area have been informed by feedback from employees,

¹ Consistent with the Terms of Reference for the Inquiry and the Committee's advice of 9 July 2021 for people wishing to make a submission, we use the term "sexual harassment" in this submission to encompass both sexual assault and sexual harassment. At BHP, our approach is generally to refer to both sexual assault and sexual harassment in our internal communications.

concerns and views shared with us directly by those who have been impacted by sexual harassment and advice from external experts.²

We set out in **Annexure A** a timeline of our key actions taken to date, with further detail in the sections below on our experience in relation to prevention, reporting and responding to sexual harassment, and our focus areas for further improvement. We recognise that there is still much more that needs to be done. We continue to learn, and look forward to working closely with our industry, this Inquiry and others to continue to move this agenda decisively forward.

Sexual harassment as a health and safety risk

In 2018, we formally defined sexual harassment as a health and safety risk, to be overseen in the same way as all other occupational health and safety risks in our workplaces and business.

Our experience has been that this was an important step forward in the development of our approach and has helped us to provide a sharper and more effective focus, language and framework for discussing and addressing these behaviours.

It means that we now apply a systematic, risk-based process to evaluate and manage the risk of sexual harassment. This includes risk assessments to identify scenarios in which risks arise, their causes and the actions that we can take to prevent and reduce harm (we refer to these actions as “controls”).

As part of the risk assessment processes in relation to sexual harassment, we have engaged members of our workforce with experience at site and at camps and experts in health and safety, harassment and inclusion and diversity. Through this, we identified factors that can contribute to the risk of workplace sexual harassment that are more pronounced in the mining industry, as well as factors that are common across all industries and workplaces. Factors identified as more prevalent in the mining industry which can increase risk include isolated or remote working locations, a largely male-dominated workforce, and camp and accommodation villages (e.g. camp design and security measures). Other factors identified that are more common across industries include workplace culture, awareness of behavioural expectations, alcohol and drug use, level of confidence in the reporting and investigation process, personal relationships and situations of power imbalance.

Taking into account these factors, we have identified and developed a range of controls and actions to help prevent sexual harassment or reduce its harmful impact if it does occur. There are eight “core controls” or areas for action that we are focussed on:

- culture, leadership and training;
- security measures at accommodation villages;
- recruitment processes;
- contractor and third party engagement;
- emergency response;
- trauma informed (well-being) care;
- accessible, confidential reporting and victim-centric investigations; and
- appropriate disciplinary action.

Each of these is discussed in the following sections in the categories of: Prevention, Reporting and Response.

We continue to measure and test that these are the right controls and areas for focus, including through feedback from employees and impacted persons and we look forward to the collective learnings of the Inquiry in this regard.

We are also working with a panel of experts from the Queensland University of Technology (Professor Paula McDonald, Professor Kerry Carrington and Associate Professor Michael Flood) and a clinical psychologist and complex trauma expert (Maya Manning) to conduct a best practice review of controls in relation to sexual harassment.

² This includes engagement with the Australian Sex Discrimination Commissioner (Kate Jenkins), the Victorian Equal Opportunity and Human Rights Commissioner (Kristen Hilton), Lifeline WA, the Sexual Assault Resource Centre (education sessions), the Equal Opportunity Commission (WA) (facilitated workshops), the RMIT University's Centre for Innovative Justice and its restorative justice service, Open Circle, amongst others.

Prevention

Culture, leadership and training

We have a zero-tolerance approach to sexual harassment.

This is set out clearly in *Our Charter* and *Our Code*, which are the foundation of what we do and how we do it, and form part of all employee contracts. *Our Code* makes it clear that sexual harassment will not be tolerated, and that any form of retaliation is prohibited.

Our zero tolerance for this behaviour has been reinforced in regular senior leadership messages, including messages and videos from our current and former CEOs.

We appreciate that policies and statements alone are not enough to shift behaviours and culture and we set out below some of the further steps we have taken to drive cultural change.

Respectful Behaviour Campaign

In 2018, we commenced a sustained program of work (the *Respectful Behaviours Campaign*) designed to drive a safer and more inclusive workplace by encouraging and supporting our workforce to identify and call out disrespectful behaviour, including sexual harassment. This followed analysis of turnover rates and listening sessions with employees that identified sexual harassment as a factor in turnover rates and an impediment to the inclusive and safe culture that we seek.

The aim of the campaign is to help employees identify and appreciate the impact of disrespectful behaviour (including sexual harassment), recognise that it is happening at BHP, and understand what they can do if they experience or see this behaviour, and where they can go to receive support. The campaign includes stories of employee experiences and directly addresses some of the impediments we have identified to change, such as references to 'harmless banter' or an under-appreciation that comments that may be viewed as harmless or even complimentary, are unacceptable and harmful.

Campaign materials were developed to lift the stigma on the topic, shift the culture on what is 'acceptable' or tolerated, and build understanding and confidence to call out sexual harassment, including as a bystander.

The campaign has included leader-led team discussions, facilitated workshops, town hall briefings and other communications. For example:

- "is that ok?" conversation cards were developed to challenge peoples pre-conceived ideas on what might be considered 'normal' or 'acceptable' conduct, and encourage discussions about the right way to respond if you observe this behaviour;
- an 'it happened to me' campaign brought to life the impact of sexual harassment by sharing stories of BHP employees;
- a 'not at BHP' facilitated workshop discussion on and reaffirmed our zero tolerance policy; and
- a series of articles and internal communications were launched to lift awareness and promote discussion (for example, an article titled 'Call it what it is, it's sexual harassment').

In support of this program, we have set up an *Online Respect at BHP Resource Hub* accessible to all employees and contractors. The Hub provides access to practical materials relating to sexual harassment and respectful behaviour, including quick reference guides on what is sexual harassment and how to report it. The Hub has been accessed over 12,000 times since November 2020.

Though there is further work to do, we believe that this ongoing campaign has helped us to start to build a broader and deeper organisational understanding about harassment and greater awareness that comments which may not have been intended to cause offence, can cause harm and are not acceptable.

Field Leadership

For many years, BHP has run a Field Leadership Program designed to embed a strong safety culture and promote a culture of care. Under the Program, leaders from all levels of BHP spend time 'in the field' engaging directly with employees and contractors at all levels about safety and observing controls and behaviours in action - asking questions about what they see, what risks and issues have been considered, and where support is needed. More recently, sexual harassment has become part of the Field Leadership Program. This is a means of getting direct feedback on progress, gaps, concerns and areas for improvement. It also provides opportunities for leaders to identify positive behaviours, at-risk behaviours and opportunities for system improvements, as well as reinforce the need to stamp out all forms of sexual harassment.

Training

Mandatory training for employees and embedded contractors includes annual training on *Our Code*, which covers sexual harassment and asks questions about the appropriateness of conduct in different scenarios of sexual harassment, and what steps to take if someone experiences or sees sexual harassment. *Our Code* training also highlights that any form of retaliation against someone who raises a concern is prohibited.

Other training and support includes:

- *Leadership development sessions* – training for leaders on sexual harassment, how to support impacted persons, and how to talk to the team about sexual harassment.
- *Spectrum of Conduct* – leader-led discussions aimed at equipping people to identify the range of behaviour that constitutes sexual harassment and how to respond appropriately;
- *What is Sexual Harassment and How Do I Report It?* – a program available to all employees that sets out the findings of the 2018 Australian Human Rights Commission National Survey on Sexual Harassment in Australian workplaces, debunks common myths about sexual harassment, and explains how it can be reported;
- *Demystifying Investigations* – a program available to all employees that explains what happens after a concern is raised, and options available for support; and
- *Emergency Response Training* – training for paramedics and emergency services officers employed or contracted by BHP on emergency response to a sexual assault.

We recognise that there is still much more that needs to be done to support our leaders and teams in having discussions about sexual harassment, some of whom feel that sexual harassment can be difficult to talk about, and this work will continue.

KPIs

Recognising that incentives drive behaviour, we have for a number of years had performance criteria linked to remuneration for our Executive Leadership Team and other company employees that includes progress towards greater inclusion, diversity and gender representation.

Recently, we also introduced KPIs into the scorecards for our Executive Leadership Team and other company employees that link remuneration outcomes for FY2022 to compliance with our program for elimination of sexual harassment. Performance against these KPIs will impact FY2022 remuneration outcomes for our Executive Leadership Team and other company employees.

Security

BHP has invested in security programs and physical infrastructure designed to prevent and respond to sexual harassment across our Western Australian camp accommodation facilities.

Security initiatives implemented include:

- from November 2019, employing security guards (day and night) at all accommodation villages;
- from 2019, an on-going program to ensure door viewers and chains are progressively installed on all room doors;
- in 2019 and 2021, installing pool screening and window coverings at certain sites;
- in 2020, implementing the Ask-for-Angela service, a well-known program in the hospitality industry, which allows anyone who feels unsafe at a facility where alcohol is served to ask bar staff for “Angela” (a code word that triggers the bar staff to seek help for the worker);
- in 2020, the installation of visible emergency contact information in all accommodation rooms;
- in July 2020, enhancing village lighting at certain sites;
- from 2020, installing additional CCTV in common areas and duress alarms at certain sites;
- from October 2020, implementing the SafeZone mobile app (which has Walk2Room, Help, and Emergency functionality to request assistance and notify security guards) across all WAIO accommodation villages;
- in 2020 and 2021, installing security gates to restrict public access at certain sites;
- in April 2021, installing at village entry and other locations signs that explain our behavioural expectations at BHP’s sites; and
- in 2021, a room allocation process for people who feel vulnerable at certain sites.

Photos of some of the above initiatives *in situ* are included in **Annexure B** to this submission.

The implementation of security measures is continuing, with more to do (particularly at older facilities). We have committed around AU\$300 million for this work, which includes electronic locking for rooms with alarms transmitted to on-site security guards, body cameras for security guards, additional CCTV, door upgrades for rooms and improved lighting.

Employee recruitment

BHP conducts a review of potential candidates which includes, where relevant to the role, criminal background checks. We are also introducing changes to supplement the approach we currently take by: (a) implementing a pilot requiring criminal checks for all employees (in order to test the effectiveness of this control); and (b) introducing a pre-employment due diligence questionnaire to be completed by external hires, which requires disclosure of (among other things) any allegations, investigations or convictions of sexual assault or sexual harassment or crimes of a violent nature.

Additionally, BHP's recruitment system is designed to ensure BHP does not rehire any previous employees who have been dismissed for breaches of *Our Code*. This includes a process to flag any employees who have been dismissed by BHP following a substantiated case of sexual harassment. All of BHP's operated sites in Western Australia maintain site access systems that block access to terminated employees or contractors found to have engaged in sexual harassment.

Contractors and third party suppliers

Contractors are expected to meet our behaviour standards and complete mandatory training. We ensure contractors are aware of our systems and processes for complaint reporting and investigation, support and well-being.

In its terms and conditions with contractors, BHP now explicitly calls out BHP's position and policies on sexual harassment, rather than indirectly through reference to a requirement for compliance with BHP's Code of Conduct as was previously the case. We are also working to further embed diversity and inclusion strategies into contracting arrangements.

BHP has local systems in place to block access to contractors found to have engaged in sexual assault or sexual harassment, and is in the process of implementing a global flagging system.

We are also working with contract partners to share lessons and address sexual harassment in our workplaces, recognising that this will be an important factor in addressing this behaviour. For example, we are working with Compass Group, which provides food and support services at BHP worksite and accommodation villages, to pilot a collaborative approach for preventing and responding to sexual harassment, including response protocols, joint employee training session and knowledge sharing.

Drug and alcohol policies

Alcohol consumption increases the risk of a number of health and safety issues, as well as the risk of disrespectful behaviour, including sexual harassment.

BHP has implemented controls and education programs to manage alcohol and drug use across its workplaces and accommodation villages.

For workplaces, *Our Code* bans alcohol and illegal drugs. That requirement is backed up with testing and support services.

For accommodation villages, from 1 March 2021, BHP introduced limits on alcohol intake at its WAIO villages to six standard drinks per day, and prohibited higher risk behaviour including the 'stockpiling' of alcohol and the consumption of full-strength drinks. As part of the change, a new swipe card technology was implemented across the WAIO village facilities to track the number of purchases made by an individual in a 24-hour period.

In May 2021, BHP announced that a new Alcohol Management Standard (the **Standard**) would be implemented from 1 July at BHP owned and operated village facilities across all Australian assets. Under the Standard:

- the amount of alcohol that can be consumed at BHP accommodation village facilities within Australia within a 24-hour period is limited to four standard drinks per person;
- behaviours which are potentially high-risk are prohibited, including alcohol consumption after 10pm, the stockpiling of alcohol, and the service of full-strength drinks or drinks that encourage rapid consumption;
- individuals are not permitted to be in possession of any more than four standard drinks at one time; and
- food and non-alcoholic drinks must be available wherever alcohol is made available.

Employees who breach the Standard are subject to disciplinary action.

To further assist in managing drug and alcohol use, we provide and promote alternative activities and facilities such as exercise classes, cooking classes, trivia and golf. We are working on a number of additional initiatives to promote activities that support healthy lifestyles at our accommodation villages, particularly during standard rest periods between shift changes, which is a period we have identified as a risk for a spike in alcohol consumption.

Reporting and response

Promoting and centralising reporting

To create safe workplaces, we must create an environment in which people feel safe to report sexual harassment or assault and have effective and accessible avenues to do so.

We have taken a range of steps to encourage this reporting, including:

- **Centralised and confidential reporting tool and investigations.** EthicsPoint is our centralised, confidential reporting tool. It is available 24/7, in multiple languages, to all employees, contractors and the public, and allows concerns to be raised anonymously. The most serious allegations, including sexual harassment, are investigated by a specialised, centralised investigations team (Central Investigation Team) to seek to build confidence in the investigation process and improve the experience of those who raise concerns (see below).

- **Supporting policies and processes.** *Our Requirements for Business Conduct* is a BHP policy that sets out the duties of employees and contractors to report any concerns about conduct (including sexual harassment), as well as prohibiting any form of retaliation for raising a concern. This is supported by guides on how BHP employees and contractors should respond if they witness or become aware of misconduct, including sexual harassment.
- **Leadership messages and campaigns encouraging reporting.** For example, as part of the Respectful Behaviours Campaign, a range of CEO and senior leader messages and campaign material have strongly encouraged employees and contractors to report any disrespectful behaviour they experience or see (including sexual harassment).
- **Mandatory reporting into EthicsPoint of sexual harassment.** In October 2020, we made it a requirement that any serious allegation raised directly with BHP managers and leaders, including sexual harassment, be entered by them into EthicsPoint (anonymously if requested). This was to ensure that all such cases were investigated appropriately and consistently, and recorded centrally. Adding this requirement also means we are capturing more cases in a single repository which provides greater ability to monitor trends. Currently, a substantial portion of reports received into EthicsPoint are those entered by managers and leaders in accordance with this policy. This has had a positive impact on the overall levels of reporting of incidences of sexual harassment.
- **Reporting linked to remuneration of senior management.** In recognition of the findings of the 2020 Respect@Work Report that there is a significant issue with under-reporting of sexual harassment in workplaces including the mining industry, relevant senior leaders were given KPIs designed to encourage greater reporting of sexual harassment.

We are promoting the reporting of all cases of sexual harassment centrally in our EthicsPoint system so that we can build our understanding of the prevalence and nature of the problem, identify contributing factors and work out what needs to change to make our workplaces safer for everyone. An area we are also actively working on is to establish a system for appropriate communication of reporting to employees to ensure lessons are learned, while also respecting the privacy and interests of impacted individuals.

Victim-centric investigations

Since early 2019, allegations of sexual harassment have been investigated by BHP's specialist Central Investigations Team. The Central Investigations Team sits within BHP's Ethics & Compliance business unit, which is separate from other business units. This change was introduced in recognition of the need to enhance our investigation processes in order to improve reporting and increase the confidence of, and support for, impacted persons in our investigations.

To encourage reporting, respect the privacy and wishes of impacted persons and meet whistleblower requirements, investigations are conducted confidentially. The identity of the person making the report, witnesses, any other impacted people and the subject of the report are only disclosed to the extent necessary. More recently, the Central Investigations Team introduced experts trained in a victim-centric, trauma-informed approach. This means that we seek to put the impacted person at the centre of decisions regarding the investigation by, for example, holding initial discussions with the individual about the process and options for resolution, ensuring they are updated throughout the investigation and receive appropriate support throughout.

Our approach to investigations and broader response to allegations of sexual harassment has evolved and improved significantly in recent years. We also recognise that we still have more to learn in this area and are seeking advice from external experts on best practice when responding to sexual harassment allegations.

Trauma informed care and Support Service

In 2021, we employed a psychologist with expertise in the provision of trauma informed care. This appointment is helping us to improve the care and support that we provide to those impacted by sexual harassment, and to ensure that specialist psychological expertise is taken into account in the development and implementation of our systems and controls.

In July 2021 we began to provide trauma informed support options for anyone impacted by sexual assault or harassment, including tailored Employee Assistance Program assistance and options to access trauma specific clinical and non-clinical care under the direction of experienced clinicians. This can include establishing an evidence-based care plan (based on clinical and non-clinical options) and a work plan, if required.

Additionally, in 2020 we began working on a new global Support Service in consultation with subject matter experts, including psychologists and sexual assault trauma counsellors, Lifeline and the Sexual Assault Resource Centre. This service is now available to all employees and contractors to provide impacted persons (regardless of whether an investigation is underway) with practical support (such as changes to shifts), wellbeing support and advice on the investigation process and alternative resolution options. The service also provides advice to line leaders and bystanders on how to respond to reports or incidents.

We have established a diverse team of case coordinators, including Indigenous Australians and English and Spanish speakers.

Discipline

Once the Central Investigations Team completes an investigation, the matter is handed over to the responsible business unit, with the support of Human Resources, to determine and implement the appropriate response.

In determining the appropriate disciplinary outcome, we are guided by the severity of the substantiated conduct, as well as any mitigating circumstances. In the majority of cases, a show-cause meeting is held with the respondent employee and any additional information provided by the respondent employee is considered before disciplinary action is taken.

In cases where sexual assault is substantiated, the respondent employee's employment is terminated. In cases where sexual harassment is substantiated, the employee's employment is also usually terminated. We would like to be more open in how we communicate the outcomes of investigations in relation to sexual assault and sexual harassment to the workforce and are looking at how this can be achieved in a more uniform manner, while also taking into account the interests of the impacted person.

Matters investigated by the Central Investigations Team may also involve contractors. In those circumstances, BHP or the contracting employer will conduct an investigation. While BHP is unable to dictate the disciplinary action that contractors should take in cases where allegations are substantiated against their personnel, we do decide whether the contractor will continue to be granted access to BHP sites.

Removal of non-disclosure agreements

In late 2018, in the context of the Sex Discrimination Commissioner's Inquiry into Sexual Harassment, BHP publicly stated that it would not enforce any confidentiality obligations in relation to submissions made by existing or former BHP employees or contractors. BHP also ceased using non-disclosure agreements or confidentiality obligations in settlement agreements relating to sexual assault or sexual harassment in March 2019 and will not enforce any non-disclosure agreements or confidentiality obligations in historical agreements.

In early 2020, we introduced a requirement for our contractors and vendors that they must not use or enforce non-disclosure obligations or agreements where their personnel working on BHP engagements have made allegations regarding conduct that is inconsistent with *Our Code*.

External reporting

We encourage all employees and contractors who report sexual assault or attempted sexual assault to report this to law enforcement, and provide support in doing so. While we endeavour to respect the decision of impacted persons as to whether they wish a matter to be reported to law enforcement, the exceptions are where we believe an impacted person's immediate safety is at risk, if we believe the alleged conduct of the respondent is a health or safety issue for our workforce or the broader community, or we are obliged by law.

We cooperate fully with law enforcement to assist with their investigations. We also offer and provide specialist support to impacted persons in connection with law enforcement processes.

In cases covered by workplace or safety laws, BHP sites have procedures for assessing whether sexual harassment meets the applicable statutory requirements for notification to the relevant safety regulator. In Western Australia, the Department of Mines, Industry Regulation and Safety (DMIRS) has recently advised it expects incidents of sexual harassment will be notified to safety regulators where the conduct falls within sections 76, 78 or 79 of the *Mines Safety and Inspection Act 1994* (WA) (**MSI Act**) (for mining operations) and section 231 of the *Occupational Safety and Health Act 1984* (WA) (**OSH Act**) and we are working with DMIRS to ensure we fully meet this requirement. BHP is also participating in industry consultation on the new *Code of practice – violence and aggression at work* and *Code of practice – workplace behaviour* being developed by DMIRS.

Reports of sexual harassment

The reporting rate of allegations of sexual harassment has steadily increased in recent years. We believe this reflects actions we have taken to increase awareness, promote and centralise reporting and investigations, along with broader societal developments and intolerance of this behaviour.

While we have made progress in encouraging reporting, we remain of the view based on workforce wide and industry specific data produced in the Respect@Work Report that we are likely still experiencing under-reporting for sexual harassment. We have an ongoing program of work in place to continue to promote reporting.

Across our operational sites and camps in WA for the two years from 1 July 2019 to 30 June 2021, EthicsPoint received two reports containing allegations of non-consensual sexual penetration, one report of attempted non-consensual sexual penetration and three reports containing allegations of non-consensual kissing or touching of breasts that have been substantiated following investigation by our Central Investigations Team.

One further report received in this period containing an allegation of non-consensual sexual penetration and two further reports containing allegations of non-consensual touching of breasts are currently under investigation by BHP's Central Investigations Team.

One report of non-consensual sexual penetration and four reports of alleged non-consensual touching of a sexual nature (as described above) were received that were not substantiated.

Over the same two year period, one allegation of non-consensual sexual penetration and three allegations of non-consensual touching of a sexual nature were received by EthicsPoint that were not able to be progressed to a concluded investigation. Reasons for this included that an alleged perpetrator could not be identified, had been previously terminated, or the impacted person did not wish for BHP's investigation to continue.

All substantiated and unsubstantiated reports of non-consensual intercourse were reported to the police, other than one in line with the wishes of the impacted person. All respondents who were identified in substantiated cases have been terminated or, if a contractor, removed from site.

In addition to the above, 73 substantiated reports to EthicsPoint were received containing allegations of behaviour at WA operational sites and camps for the two years from 1 July 2019 to 30 June 2021 that have been substantiated as constituting other forms of sexual harassment. This includes inappropriate comments of a sexual nature, unwelcome comments about looks or dress, inappropriate 'jokes', 'wolf whistles', unwelcome touching (for example of back, arm, shoulder or hugging), requests for massage, sending inappropriate text messages or images, staring or leering, or persistent requests for personal information or dates or other unwanted advances. A significant number of these cases involve unwelcome comments or 'jokes' of a sexual nature (approximately 34%) or the sending or displaying of unwanted or inappropriate electronic messages or images (approximately 30%). Of these 73 reports, 48 have resulted in termination or otherwise permanent removal of the respondent from our company and any of its worksites.

We welcome these reports, and are committed to investigating them thoroughly and taking action where inappropriate or unwanted behaviours are substantiated.

Opportunities and reform

In the following section, we summarise the areas we have identified for improvement in our own approach, as well as suggestions for industry steps and broader regulatory reform.

BHP systems, processes and controls: priority improvement areas

As outlined above, we have taken a range of steps to work towards eradicating sexual harassment from our workplaces.

Progress has been made, but there is still more work to be done on a number of fronts.

We are committed to a process of continual improvement. As part of that, we monitor, assess and refine the approach we are taking.

That process has identified a range of priority areas referred to above, and summarised below for reference:

- **Coordination and integration.** One of the key opportunities we have identified to improve our approach is through greater coordination of our efforts to eliminate sexual harassment given that the work involves a range of different areas of expertise, from health and safety and human resources to investigations. We believe that bringing greater coordination of these efforts will accelerate control implementation and achieve more uniform standards across the company. To help facilitate this, we have recently appointed a Project Management Office to oversee and coordinate all sexual harassment work across the company.
- **Expert best practice review of controls.** We have engaged an expert panel to review the controls we have in place for sexual harassment and advise on best practice in preventing of sexual harassment and further harm when responding to allegations of sexual harassment.
- **Village security.** We have committed around AU\$300 million for the accelerated improvement of village security. Our Project Management Office is overseeing this work, which is described above.
- **Emergency response and trauma-informed (wellbeing) care and investigations.** We are still learning and adapting our approach to investigations and support and are seeking to improve through feedback and reviews and guidance from experts.
- **Systems improvement.** We are developing a functionality within our Global Contractor Management System to enable a flagging system for any new recruits or contractors that have been removed from a BHP site anywhere in the world as a result of sexual harassment.

- **More background checks.** We already obtain criminal background checks for certain external hires. We are trialling an approach at one of our assets of seeking criminal background checks for all external hires to assess whether it assists us to avoid candidates with past records of sexual harassment, assault or violence.
- **Healthy Lifestyle Choices.** We are developing initiatives to promote and facilitate activities that support healthy lifestyles at our accommodation villages, including the Lifestyle Teams and Resident Committees initiatives.
- **Restorative engagement.** With the assistance of RMIT University's Centre for Innovative Justice and its restorative justice service, Open Circle, we have been developing a restorative engagement program which will soon be made available within BHP. The program, which is based on trauma-informed principles, will provide a voluntary option for impacted persons to participate in a facilitated meeting with a senior BHP leader. It has been shown in other settings that restorative engagement has the potential to provide healing through the fulfilment of justice needs – such as voice, validation and prevention – which may not have been met through other processes.
- **Focus on high risk groups.** We are assessing how we can enhance and tailor our controls to further reduce the risk for groups at higher risk of sexual assault or sexual harassment (e.g. workers under 30).

Industry practices and initiatives

The mining industry is taking a collective approach to reducing sexual harassment incidents and risks. This is in line with the approach taken for other significant health and safety issues facing the industry. Examples of industry and government-led initiatives to reduce sexual harassment include:

- the Mineral Council of Australia (**MCA**)'s recently published an Industry Code on Eliminating Sexual Harassment. The Code establishes clear expectations on companies in the minerals industry in developing a culture of respect that empowers individuals to raise concerns in a supportive and protected way. In July 2020, the MCA also established a Respect@Work Taskforce involving industry participants, including BHP;
- the Western Australian Chamber of Minerals and Energy (**CME**)'s Safe & Respectful Behaviours Working Group is tasked to:
 - operationalise code of conduct principles for member companies that are focussed on behaviours at external events, after-hours on site, and social media activities; and
 - encourage the adoption by members of a wide range of safety controls, including the prevention of unacceptable behaviour, best-practice risk mitigation, and how operations respond to allegation and instances of unacceptable behaviour;
- a recent Sharing Lessons session run by the CME, which involved a number of mining industry participants sharing best-practice prevention and controls for addressing sexual harassment in the workplace; and
- support for female participation in mining initiatives and networks, such as the Women in Mining and Resources Western Australian (**WMRWA**) network, which aims to encourage women to increase their presence in the mining industry, provide a strong network for women, and advocate for the industry to be proactive in attracting and retaining women in the sector.

We believe that there are opportunities for increased collaboration among key stakeholders (including mining companies, industry associations, regulators, and unions) in relation to initiatives to improve the industry's approach to sexual harassment. We consider that the following areas could benefit from increased industry-wide focus and standardisation:

- mechanisms to address the movement between sites of individuals who are found to have committed sexual harassment;
- approaches to training for security guards across the sector, including specialised training in dealing with sexual harassment;
- minimum security standards for village accommodation;
- background checks for employees and contractor engagement; and
- consideration of an approach to rehabilitation of individuals who are found to have committed sexual harassment.

Regulation and practice

BHP supports a positive duty in relation to sexual harassment

In its Respect@Work Report, the Australian Human Rights Commission (**AHRC**) recommended that:

- the *Sex Discrimination Act 1984* (Cth) (**SD Act**) be amended to introduce a positive duty on all employers to take reasonable and proportionate measures to eliminate sexual discrimination, sexual harassment and victimisation (Recommendation 17); and

- the AHRC be given the function of assessing compliance with the positive duty, and for enforcement, which may include providing the AHRC with the powers set out in the Respect@Work Report (Recommendation 18).

The proposed duty broadly reflects the positive duty in the *Equal Opportunity Act 2010* (Vic), which has been in place since 2010 and applies to some of BHP's employees.

While safety laws already require employers to take reasonably practicable measures to prevent workplace sexual harassment, BHP supports the introduction into the SD Act of a positive duty on employers to take reasonable and proportionate measures to prevent workplace sexual harassment.

To maximise the benefit of that reform, BHP recommends that:

- consistent with the safety framework, the duty be framed by measures that are reasonably practicable;
- steps are taken to ensure the positive duties in the SD Act and in safety laws are consistent and do not result in confusion or unnecessary complexity, including for impacted persons of sexual harassment;
- legislators and regulators explain how the positive duty in the SD Act and the positive duties in safety legislation will work together in practice, and what this means for impacted persons, employers and other stakeholders; and
- measures are put in place to avoid the enforcement activities of safety regulators and the AHRC overlapping. Regulatory overlap could result in confusion, delay and, in some cases, increased stress upon impacted persons in sensitive sexual harassment matters.

BHP supports greater alignment regarding acceptable conduct

In the 2020 Respect@Work report, the Australian Human Rights Commission stressed the need for relevant regulators to have appropriate understanding, skills and knowledge in relation to sexual harassment.

We see an opportunity in this regard to ensure alignment in understanding between different regulators and the judiciary, including the development of consistent guidelines. This would help avoid situations where employees are dismissed following sexual harassment, but are later reinstated following a tribunal decision that demonstrates a greater tolerance for sexual harassment.

BHP supports enhanced national reporting

BHP supports a governance reporting regime in relation to sexual harassment. We believe this would increase transparency on sexual harassment and improve the mining industry's understanding of sexual harassment issues. BHP considers that recommendations 2 to 4 of the Respect@Work Report propose a helpful framework for such a regime.

The recommendations propose:

- establishing a nationally representative survey every four years, funded by the Australian Government, that provides data on sexual harassment, including the prevalence, nature, reporting, impacts of and responses to sexual harassment in the workplace, and identifies trends over time;
- ensuring agencies that handle workplace sexual harassment matters work with the Workplace Sexual Harassment Council to collect de-identified data relating to workplace sexual harassment enquiries, complaints, claims and settlement outcomes (contributing to a coordinated system of annual reporting on workplace sexual harassment metrics); and
- developing and implementing a National Sexual Harassment Research Agenda that will identify priorities for research relating to sexual harassment (in addition to the National Sexual Harassment Survey) and guide national and state policy and practice.

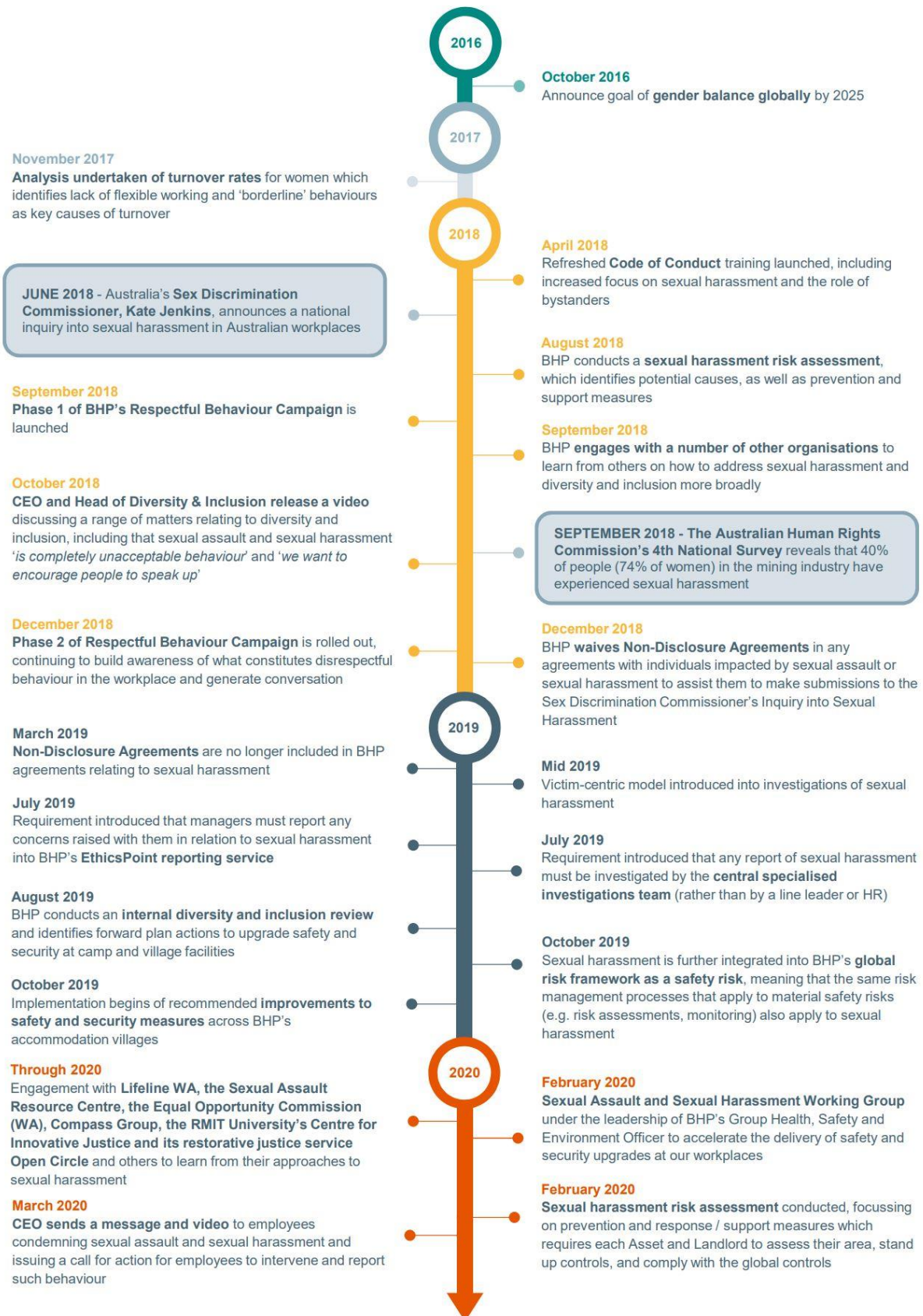
Conclusion

We want our workplaces to be safe and inclusive for all.

To achieve this, we are determined to do whatever it takes to eliminate sexual harassment in our workplaces. We have been working on this for some time but know that there is still much more to do.

This Inquiry is an important further step forward in this work. We welcome its work and commit our ongoing co-operation and effort to help achieve its objectives.

Annexure A: Timeline of actions



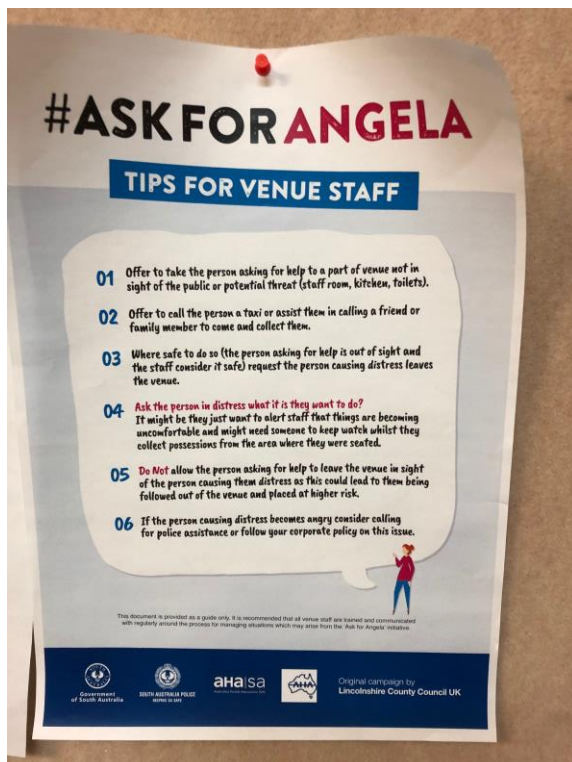


Annexure B: Photos of initiatives *in situ* and campaigns

Respectful behaviours signage



Ask for Angela' Campaign



Alcohol awareness signage

BHP

Alcohol: Australian guidelines to reduce health risks from drinking alcohol

Challenge yourself

Aim for no more than 10 standard drinks a week...



...and no more than 4 standard drinks on any one day.



For more information, scan the QR code or go to:
www.nhmrc.gov.au/health-advice/alcohol

BHP

Alcohol: Tips to cut down

- 1 Aim for a few alcohol-free days every week. Our villages offer a range of different activities.
- 2 Plan what you're doing after work so it doesn't involve alcohol.
- 3 Quench your thirst with a non-alcoholic drink or water.
- 4 Try low or no alcohol alternatives.
- 5 Alternate alcoholic and non-alcoholic drinks.
- 6 Eat something before you drink.



Challenge yourself:



Try Dry July
Go alcohol-free in July
to raise funds for people
affected by cancer



**Check out Hello
Sunday Morning**
Get the Daybreak App and help
to reset your drinking habits

BHP

Alcohol: Where to go for help

There are a range of resources to help you make changes to your alcohol use.



5 minute self-test: Is your drinking putting you at risk?
www.alcoholinkagain.com.au

Support Services:

- 1 **BHP Employee Assistance Program**
Phone: 1800 30 30 90 (WA/SA)
1800 056 076 (QLD/NSW)
- 2 **National Alcohol and Other Drug Hotline**
Phone: 1800 250 015
- 3 **Alcohol and Drug Foundation**
www.adf.org.au
- 4 **eheadspace**
(for people under 25 years)
www.headspace.org.au/eheadspace
- 5 **AODconnect app**
(for Aboriginal and Torres Strait
Islander peoples)
www.health.gov.au/resources/apps-and-tools/aodconnect-app



If you drink every day and are considering stopping or significantly cutting back, speak to your doctor (GP) or a healthcare professional about the best approach.

BHP

Alcohol management: Drinking alcohol at our village

From the 1 July, the following will be in place to help reduce the risks from drinking alcohol.



- ✓ Maximum of four standard drinks per person in any 24-hour period.
- ✓ Maximum of four drinks in your possession at any one time (no stockpiling).
- ✓ A system will be used to help you and bar staff track the number of drinks you have purchased.
- ✗ No full-strength alcoholic drinks or shots.
- ✗ Alcohol bought outside of the accommodation village can't be brought in (except where the village doesn't serve alcohol).
- ✗ No one can be drunk while at an accommodation village.
- ✗ There will be no drinking at accommodation villages after 9:30PM.



Speak to your GP, HSE team or line leader for more resources and support, or call our confidential Employee Assistance Program 24/7 on 1800 056 076 (QLD/NSW) or 1800 30 30 90 (WA/SA).

Alcohol awareness wallet card



Alcohol management swipe card system



Signage regarding our SafeZone app and Walk to Room Service

