



Macmahon Holdings Limited

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5 November 2021

Ms Libby Mettam MLA
Chair
Community Development and Justice Standing Committee
Legislative Assembly
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Ms Mettam

INQUIRY INTO SEXUAL HARASSMENT AGAINST WOMEN IN THE FIFO MINING INDUSTRY MACMAHON SUBMISSION

Macmahon is pleased to make a submission to the inquiry into sexual harassment against women in the FIFO mining industry by the Community Development and Justice Standing Committee.

We welcome the establishment of this Inquiry by the Committee and see it as a significant opportunity to identify issues and develop actions to improve the health and safety of all workers in the mining industry, particularly women.

The health and safety of our people is our top priority, including ensuring everyone is safe from sexual harassment. We acknowledge that regrettably sexual harassment does occur in the FIFO mining industry. This is totally unacceptable and contrary to our values. We also acknowledge that as an equal opportunity employer we have a duty to prevent sexual harassment and respond when it does occur. To this end, we encourage all our people to speak up if they have experienced sexual harassment. We have also commenced a review of our internal processes to ensure we are doing everything we can to prevent any occurrence within our company.

To date we have been active in seeking to reduce and eliminate all instances of harassment (including sexual harassment) with initiatives including regular education and training, providing clear options for reporting harassment, and promoting mental health awareness. We have in place several policies to identify and address sexual harassment.

However, we are committed to continuing to improve and enhance these initiatives to address the issue of sexual harassment in the FIFO mining industry head on. As an industry and as a company we should not rest until zero tolerance becomes zero incidents.

Please find **attached** our submission to the Committee which provides a detailed overview of our organisation, the ways in which Macmahon aims to proactively prevent and deal with sexual harassment,



and our responses to the Inquiry's Terms of Reference.

Kind regards

Mick Finnegan
CEO & Managing Director

MACMAHON'S SUBMISSION TO THE WA PARLIAMENTARY INQUIRY INTO SEXUAL HARASSMENT AGAINST WOMEN IN THE FIFO MINING INDUSTRY

Macmahon welcomes the Parliamentary Inquiry into sexual harassment against women in the FIFO mining industry as it will assist the industry to gain a better understanding of sexual harassment, its prevalence in the FIFO mining industry, and the role of workplace culture, policies and practices in preventing sexual harassment. The industry will be able to learn from the Inquiry's findings to reduce sexual harassment in our workplaces.

We recognise that safety is not just about preventing accidents and injuries. It's also about promoting a culture in the workplace where employees feel safe at work. Sexual harassment is unlawful and is not tolerated in any way, shape or form at Macmahon. We also recognise that there is a lot of work to be done as a business, and within the mining industry more broadly, to eliminate sexual harassment from our operations.

As noted in our covering letter, as an industry and as a company we should not rest until zero tolerance becomes zero incidents.

This submission provides an overview of our organisation and addresses each of the questions which the Committee will be considering in its Terms of Reference.

About Macmahon

Founded in 1963, Macmahon Holdings Limited¹ is an ASX listed company that offers mining and construction services to clients throughout Australia and internationally. We currently provide services to major resource companies across various commodity sectors.

At Macmahon, the safety and health of our employees, contractors and stakeholders is of primary importance and integral to the way we work. Macmahon is committed to providing a safe and respectful workplace that is free from harassment, discrimination and bullying and where diversity and inclusion is valued and supported.

Our people are essential to our long term success. At 30 June 2021, our workforce comprised 7,069 people, of which 3,975 were located in Australia.

Out of our total workforce, 94% are FIFO which includes remote mine employees who 'Drive in/Drive Out' or live locally, and support services staff who attend site occasionally but not on

¹ Macmahon Holdings Limited is the parent group of the Macmahon group of companies. Any reference in this statement to 'Macmahon' or 'our' refers to Macmahon Holdings Limited and its controlled entities.

a regular roster.

Macmahon is a service provider and does not 'own' or 'control' any mine sites. As a result, the accommodation, facilities and amenities for our FIFO workforce are generally provided by our mining clients.

Terms of Reference

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

1.1 We believe it is widely accepted that sexual harassment is a community wide problem that is not necessarily limited to the FIFO mining industry. However, there are features of FIFO workplaces which can make it difficult to have a complete understanding of all incidents of sexual harassment. This includes the fact that FIFO people work and live together in close proximity over extended periods of time.

1.2 We recognise that under reporting of sexual harassment, occurs for reasons including shame, lack of knowledge of how to report, fear of retribution, imbalance of power, and a lack of confidence that reporting will lead to a satisfactory result. The steps Macmahon is taking to address those issues are detailed below.

Reporting

1.3 Our people are strongly encouraged to report any incidents of sexual harassment. Macmahon has established policies detailed further below to ensure that any individual who makes such a report is supported and protected from any detrimental consequence as a result of the disclosure.

1.4 Macmahon maintains a register of all complaints, including sexual harassment complaints, how they are managed and resolved.

1.5 Our people have multiple reporting options available to them, including the ability to make anonymous reports, and we encourage people to report incidents of sexual harassment. These include:

- a) raising a complaint with a supervisor or a HR representative;
- b) lodging a complaints form;
- c) making a complaint under our Whistleblower Policy which provides a formal

channel for reporting any misconduct on a confidential and/or anonymous basis. Complaints can be made to a designated Protected Disclosures Officer, any of Macmahon's officers or senior managers, or through a dedicated "Whistleblower Hotline";

- d) reaching out to the Employee Assistance Program offered by third party provider Converge International. The program provides 24 hours a day, 7 days a week telephone and face-to-face counselling to any worker who requires support in relation to having been involved in, or having made a complaint about, sexual harassment; and
- e) participating in Macmahon's '*Strong Minds, Strong Mines*' program. This program was developed in partnership with Resource Minds and Macmahon's Mental and Physical Health Ambassador. It is an awareness and education program that addresses the mental, physical, and social problems that can affect people working in remote environments. Macmahon has an ambassador who promotes this program on site and at our corporate offices through 12 learning modules. The leader of this program is also a WA White Ribbon ambassador.

1.6 Any worker who reports an incident of sexual harassment, or any alleged breach of the Macmahon Code of Conduct by someone else, and follows the reporting procedure will not be disadvantaged or prejudiced because they came forward. Any report made by a worker will be acted upon, and to the greatest extent possible, kept confidential.

1.7 Following receipt of a report, Macmahon will carry out a prompt investigation to address the complaint or disclosure made and inform the worker of the outcome.

Responsibilities

1.8 In order to deal with sexual harassment in the best way possible, Macmahon attributes responsibility at each level of the business as set out below:

- a) Managers/Supervisors are accountable for:
 - i. providing an environment which encourages a fair and equitable workplace for all workers and leading by their own example;
 - ii. ensuring employees understand and comply with Macmahon policies and procedures, and Equal Employment Opportunity (**EEO**) principles (including on sexual harassment);

- iii. treating sexual harassment complaints seriously and acting promptly and fairly to ensure that all complaints are resolved as soon as practical;
- iv. conducting and contributing to investigations of sexual harassment complaints and maintaining appropriate records;
- v. complying with applicable legislation and procedures; and
- vi. refraining from discussing grievances with others who are not directly involved to endeavour to ensure confidentiality at all times.

b) Human Resources representatives are accountable for:

- i. determining whether the matter will be investigated internally or referred to an independent external investigator;
- ii. providing advice, support and guidance to managers/supervisors in managing sexual harassment complaints;
- iii. providing advice and support to workers when concerns or complaints are raised directly with HR or when complaints are referred to HR by another party;
- iv. providing information about acceptable behaviours in the workplace and relevant policies and procedures;
- v. providing options on how to best manage and resolve an issue when a complaint is raised;
- vi. maintaining appropriate records;
- vii. ensuring that the confidentiality of the process is maintained so far as is practicable;
- viii. when a complaint is unresolved, or is directed to Macmahon from an external body, HR will:
 - A. advise relevant management of the complaint;
 - B. formally investigate the complaint;
 - C. obtain written statements regarding the complaint and review any

relevant documentation;

- D. where appropriate, seek external advice or assistance to complete the investigation;
- E. remain independent and impartial;
- F. recommend outcome options to the decision maker to resolve the matter; and
- G. keep the complainant informed of the progress of the complaint.

Other Macmahon initiatives

1.9 At Macmahon, we try to ensure that our people feel comfortable and safe reporting any incident of sexual harassment. To this end, we instruct our employees to:

- a) complete induction, compliance and refresher training;
- b) comply with Macmahon policies and procedures;
- c) comply with applicable laws;
- d) work with colleagues to comply with the principles outlined in policies and procedure on sexual harassment;
- e) report unlawful, discriminatory practices an/or behaviours to management or HR;
- f) adhere to Macmahon's Code of Conduct; and
- g) maintain confidentiality if involved in a complaint/investigation in any capacity, including being a witness.

1.10 We conduct exit surveys with departing employees at which time issues can be raised regarding unlawful or inappropriate behaviour or safety issues. The survey captures data and information which is aimed at identifying any issues or gaps on inappropriate and/or unlawful conduct, including but not limited to sexual harassment.

1.11 Despite our efforts, we acknowledge that given the recent exposing of the prevalence of inappropriate behaviour there may be, and in fact there is likely to be, incidents of sexual harassment that we are not aware because they have not been reported or brought to the attention of the relevant personnel at Macmahon. We acknowledge that

this is something Macmahon and the industry needs to continue working on and getting better at. Macmahon is committed to doing this work to ensure people feel safe and supported to make a sexual harassment report. Macmahon's HR and HSEQT divisions has been tasked with reporting to senior management what improvements can be made to our existing policies and initiatives so that staff feel safe and confident reporting any sexual harassment issues they encounter.

2. *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?*

Workplace Culture

- 2.1. Macmahon is a values-driven organisation, which is reflected in our workplace policies and practices. We are dedicated to ensuring that Macmahon has a safe, respectful, and inclusive culture at all of our operations.
- 2.2. The measures we have put in place to address this objective are detailed below.
- 2.3. Code of Conduct (Code) - This is our primary workplace policy. The Code applies to all workers and is the overriding document which governs behaviour. The Code sets out the guidelines that everyone must follow (including directors, senior executives, employees, contractors and subcontractors) to maintain high ethical standards, appropriate corporate behaviour and accountability across Macmahon. At the heart of the Code is the emphasis on our people not engaging in harassment (including sexual harassment), bullying, discrimination, vilification or victimisation. The Code further provides that our workers must not use their position to harass or disadvantage another person. If an employee does not follow the standard of conduct outlined in the Code then they will be subject to disciplinary action up to and including possible termination of employment.
- 2.4. Policies and procedures - Macmahon has in place the following policies, procedures and guidelines which aim to protect all our people from unwanted sexual advances or harassment and gives them guidelines to report incidents:
 - a) Equal Employment and Diversity Policy;
 - b) Diversity Policy;
 - c) Discrimination, Harassment and Bullying Complaint and Resolution Procedure;

- d) HR Investigations Procedure;
- e) Counselling Discipline and Termination Procedure;
- f) Fair Treatment Procedure; and
- g) Handling EEO Issues for Managers/Supervisors Guideline.

2.5. Training and education - Our employees are educated and made aware that Macmahon does not tolerate harassment of any kind, including sexual harassment, through induction presentations, training and videos. Macmahon also provides regular and ongoing training to our employees which addresses sexual harassment in the workplace - including the '*Respectful Workplace*' training module, and the '*HR Essentials for Employees, Employee Conduct*' training module which explains what sexual harassment is, provides examples of behaviour that constitutes harassment (including sexual harassment), perceptions of harassment, and explains how individuals can raise any concerns if faced with harassment, including sexual harassment.

2.6. New workers must also complete mandatory, site-specific induction and training given by our client site owners on processes and procedures relating to sexual harassment in advance of employees being stationed on those sites.

2.7. Leaders to lead by example – We recognise that culture starts at the top. Macmahon provides dedicated and specific training and support to its leaders so that they model appropriate behaviours, create a safe and respectful workplace for their teams, and call out poor behaviours. We offer the following training to our leaders:

- a) '*HR Essentials Training for Frontline Leaders*' for new or newly promoted leaders;
- b) '*Effective Supervisor Program*' which provides an overview of EEO, bullying, harassment and discrimination behaviours, as well as promoting safe, respectful and inclusive behaviours. This program was designed inhouse in partnership with, and facilitated by, the Australian Institute of Management Western Australia. The program provides leaders with the tools to encourage two-way dialogue, procuring feedback and engaging in effective communications;
- c) '*Experienced Leaders Program*' developed inhouse and facilitated by the Australian Institute of Management Western Australia covering topics such as

responsive communication, inappropriate behaviours, body language, and leading by example. The program also covers values and the importance of the moral compass, unconscious bias, influencing (influence more and power less), collaborative leadership styles in dealing with and managing conflict, and tools for navigating difficult conversations; and

- d) 'Manager *Development Program*' which looks at ethics and decision making. This program uses a number of case studies aimed at raising awareness about the high costs of low emotional intelligence, as well as how to build a culture of safety including psychological safety, impacts of a blame culture, and how to be more impactful in driving an inclusive and respectful working environment.

2.8. Strong Minds, Strong Mines – our wellness program that addresses the mental, physical, and social problems that can affect people working in remote environments.

2.9. Sense of community - Macmahon, in conjunction with its clients, aims to promote a sense of community for our FIFO workers where the living villages can function as a community promoting safety and harmony between our team members. For example, we recently hosted families of our FIFO team on the Tropicana mine site in WA where they participated in family friendly activities.

Rosters

2.10. Macmahon recognises that lengthy FIFO rosters can impact on work life balance, mental wellbeing, and the health and safety of our FIFO workers. As a result, Macmahon offers its FIFO workforce the flexibility to choose their preferred roster pattern - for example, either 2 weeks on /1 week off or 2 weeks on / 2 weeks off.

Drug and alcohol

2.11. Macmahon considers the safety and health of its people to be a priority and continuously works to ensure that its business operations maintain a zero tolerance to workers being under the influence of drugs and alcohol in the workplace during work hours.

2.12. Through its Drug and Alcohol Policy, Macmahon ensures that:

- a) risks associated with alcohol and other drugs in the workplace are reduced;
- b) workers are aware of their obligations and responsibilities relating to drug and

alcohol use and the effects of drugs and alcohol on their ability to work safely;
and

- c) appropriate sensitivity is applied to all drug and alcohol testing processes.
- 2.13. Macmahon employees are provided with information, instruction and training on drug and alcohol usage. All new workers are screened for drug and alcohol use prior to commencement of employment and/or mobilisation to site.
- 2.14. Deliberate breaches and misconduct including wilful, reckless or inappropriate behaviour including sexual harassment associated with drug and alcohol use or misuse will not be tolerated and is subject to disciplinary action, up to and including termination of employment.
- 2.15. Additionally, counselling is available to Macmahon workers with a positive result or where there is evidence to suggest that the person may be affected by drug or alcohol misuse or dependency.
- 2.16. We are committed to improving the health, safety and wellbeing of all employees through the implementation of the Drug and Alcohol Policy and will review the policy for completeness and practicability periodically.

Recruitment practices

- 2.17. Macmahon recognises the benefits of having a diverse workforce and appreciates that gender diversity in the workplace can go a long way to preventing sexual harassment.
- 2.18. Increasing female employment rates remains a priority and we continue to support improvements in the industry's gender ratio by actively encouraging female applicants.
- 2.19. Macmahon has produced a separate report on its Gender Equality Indicators in accordance with the Workplace Gender Equality Act 2012. A copy of this report is available on the Macmahon website.
- 2.20. Macmahon has in place a Diversity Policy which requires the Board to set and report against measurable diversity targets. The following table outlines our measurable objectives in relation to diversity and the progress made towards achieving those objectives as at 30 June 2021:

	FY21 Target	FY21 Actual
Indigenous Australian employees	5.5%	4.7%
Female Directors	30%	25%
Percent of females in senior management positions	20%	12.2%
Percentage of female employees across Australia	15%	14.2%
Percentage of female employees across the whole organisation	15%	12.4%

2.21. We acknowledge that we have not met these targets for FY21 and this has largely been as a result of the shortage of skilled workforce in our industry. We will continue to encourage diverse applicants and will raise awareness of females working in the mining industry at school and tertiary levels.

2.22. The fact that sexual harassment is occurring on mine sites despite the various protocols and training programs that exist does indicate that further change is required to stamp this behaviour out completely.

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

3.1. Ultimately, the issue of sexual harassment comes down to personal behaviour and companies' ability to instil the right culture, education programs and protocols at their worksites. Legislation alone is not, and cannot be, the silver bullet to fix this issue.

3.2. There are multiple pieces of legislation and regulations in this space; however this is not something that Macmahon sees as an issue and is happy to comply with the standards set in each. Numerous pieces of legislation operating in the same space can cause potential confusion, particularly for clarity purposes for both employers and employees. For example, if an employee elects to make a complaint to an external body, there may be confusion as to which regulator has responsibility and who the complaint should be made to.

3.3. Macmahon believes that clarity around how the different laws interact, when each law applies and the inclusion of standard and unified definitions would be helpful in this space, for example one definition of 'sexual harassment'.

3.4. Macmahon understands that sexual harassment is a workplace safety issue, as such:

- a) WorkSafe has increased responsibility to deal with sexual harassment in the workplace. Currently WorkSafe have not clarified what 'sexual harassment' is or what workplace systems employers should have in place to address sexual harassment as a safety issue. Further, given criminal prosecutions concerning sexual harassment could be brought by WorkSafe against employers, akin to other workplace safety hazard prosecutions, Macmahon believes further clarity and guidance should be provided by WorkSafe. This should include: How it defines sexual harassment, how it can be eliminated as a safety hazard in the workplace, and best practice measures employers should be putting in place; and
 - b) from January 2022 sexual harassment will be dealt with under the WHS Act. Macmahon believes it would be helpful for the WHS Act to include a definition of what sexual harassment is.
- 3.5. Macmahon is pleased with the Federal Government's amendments to the FW Act and *Fair Work Regulations 2009* (Cth) to include sexual harassment in the definition of 'serious misconduct' and making clear that sexual harassment can be a valid reason for dismissal in determining whether an employee had been unfairly dismissed. This provides more clarity for employers in circumstances sexual harassment occurs in the workplace and the ability to respond appropriately in circumstances of termination without fear of reprisal from the relevant employee.
- 4. *What actions are being taken by industry and government to improve the situation and are there any examples of good practice?***
- 4.1. Macmahon aims to continue improving its practices to create a safe and respectful environment for all individuals free of sexual harassment, but acknowledges that more can be done by Macmahon, our clients and other stakeholders in the mining industry. Macmahon is committed to doing this work.
 - 4.2. Macmahon regularly reviews its policies and procedures to ensure that they are current, appropriate and effective. We also conduct companywide, anonymous surveys to gauge our employee's collective experience of the workplace environment including the systems, structures, process and quality of relationships which exist. Our last survey was held in 2019 and we are currently considering the questions for another survey in relation to workplace sexual harassment, reporting, and safety.
 - 4.3. Macmahon is committed to learning about, and addressing, the drivers of sexual harassment within the FIFO mining industry and improving as a business. We believe

that there is room for cultural change to create an environment where workers feel safe and secure at work, and if they aren't, they are able to speak up without fear, and where leaders exemplify the right values. To this end, Macmahon will:

- a) implement and promote a stand-alone policy on sexual harassment;
- b) conduct an anonymous survey directly related to issues of reporting and addressing sexual harassment to inform the implementation of additional measures;
- c) ensure that all employees complete the 'Respectful Workplace' behaviour module training, if they have not done so;
- d) review its corporate risk register to consider how sexual harassment risk should be addressed;
- e) carry out 'bystander' training and education on sexual harassment;
- f) enhance our complaint reporting options to include an anonymous online mechanism that is both contactless and anonymous; and
- g) roll out videos and other material, specific to sexual harassment, to our various sites and workplaces.

4.4. We often engage in collaborative discussions with our clients to ensure consistency between our approaches, including on addressing and eliminating sexual harassment. More recently, on 1 September 2021 we participated in an "Inclusion and Diversity" contractor forum with Gold Fields Ltd.

4.5. Macmahon is a member of the Chamber of Minerals and Energy (**CME**) and is a participating member of the CME's Safe & Respectful Working Committee, Diversity & Inclusion Reference Committee, as well as the WHS Committee.

4.6. We are committed to working with the government and the industry to permanently change our workplace culture to create safe workplaces that are free from sexual harassment.

MACMAHON HOLDINGS LTD

5 November 2021