

**To: SafeWork Australia**

**Re: Consultation on Options to Improve WHS Incident Notification**

1 September 2023

## Introduction

AMEC appreciates the opportunity to provide a submission to the SafeWork Australia consultation regarding incident notification provisions under model Work Health and Safety (WHS) laws. The outlined options could have significant impacts to Australia's mineral exploration and mining industry. We welcome continued engagement through this process.

## About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 550 member companies across Australia. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2021/22 Industry generated a record high \$413 billion in resources exports, invested \$3.86 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$63 billion in royalties and taxes.

## Options to improve WHS incident notification

### General Comments

Safety is the top priority for AMEC and our members. With model WHS laws now well embedded in all jurisdictions except Victoria, a review to improve incident notification provisions is welcome. The review and any recommendations must recognise that while each jurisdiction barring Victoria has model WHS laws in place, they all have varying laws to suit the unique attributes of the industries operating within their jurisdiction. WA for instance, has WHS(Mines) specific Regulations, in recognition of the substantial footprint of the industry, and has introduced 'reportable' and 'notifiable' incident reporting requirements.

Any findings and recommendations should facilitate a timely, effective incident notification process. They should complement existing systems and frameworks across industry and Government, in recognition of the significant focus industry has dedicated to physical and psychological safety.

We welcome through this review and other ensuing processes, opportunities to address gaps within notification processes and procedures, without creating additional burden or red tape, with limited demonstrable increase to safety outcomes. We note that any change to model WHS laws will not

automatically come to effect in each jurisdiction, until that jurisdiction has introduced the relevant legislative amendments.

### **Incident Notification from the Regulator**

AMEC's main point of advocacy through this consultation is the need for the timely release of information relating to incidents, from the relevant Regulator, as a 'single source of truth'.

The mineral exploration and mining industry has a well-established 'safety share' culture. It enables companies to put aside commercial sensitivities where possible, to share safety information with each other, encourage idea sharing and generation, and the adoption of best practice, scalable to each relevant operation's capacity. We have a long history of prioritising worker safety, quickly responding to risks across operations, to ensure worker and workplace safety is optimised. The ability to do so is in large part, reliant on receiving timely, up-to-date and factual information from Government.

Under the current regime, the ability for WHS Regulators to provide timely, contributing factors to a safety incident to the industry, has been restricted.

In Western Australia for example, there has been a concerning, increasing trend of the delayed release of safety critical information pertaining to serious and/or major incidents at WA mining operations, impacting our ability to address potential similar hazards and/or risks across other operations. This reduces the ability of explorers and miners to concertedly address safety concerns in real-time across the industry.

Historically, a 'Safety Alert' would be issued containing major contributing factors relating to serious incidents, enabling other industry members to undertake a review of similar risks they may have across their own operations, to prevent a similar incident from occurring.

Concerningly, with the introduction of industrial manslaughter laws and punitive action, we have seen limited capacity for this sharing culture, to the detriment of safety. This is in part believed to be due to Regulator views that the sharing of information prior to a formal investigation being concluded, could compromise the integrity of an investigation and potential prosecution.

However, it still occurs in Australian jurisdictions under model WHS laws, such as New South Wales, without compromising the integrity of investigations.

An update to WHS incident notification provisions can reduce barriers to the sharing of WHS incident information from Regulators, and provide more timely, consistent safety alerts for industry to follow. To address concerns regarding the integrity of investigations, a statement can be included, to be drafted by the State Government's legal advisors, stating the alert is subject to initial review and could change subject to further investigation, subject to consultation and further deliberation by each State / Territory jurisdiction.

### **Final Comment**

AMEC welcomes continued engagement as SafeWork Australia consults on reforms to WHS incident notification provisions. Any changes should increase safety outcomes and data collected by the State / Territory's WHS Regulator, and facilitate ongoing safety improvements across public and private industry.

**For further information please contact:**

Sam Panickar

Director – SA & Industry Policy, AMEC

0423 914 249

