

FINAL REPORT

FEBRUARY 2015

Decision RIS: Structure of Mining, Petroleum and Major Hazard Facilities Safety Legislation

Advice prepared for the Department of Mines and Petroleum

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Executive Summary

The Department of Mines and Petroleum (DMP) Resources Safety Division is responsible for the regulation and administration of safety provisions pertaining to WA's resources industry, including the mining, petroleum and geothermal energy, and major hazard facilities (MHF)¹ sectors.

The WA government has committed to modernising the safety legislation covering mining, petroleum and MHFs in WA.²

Consistent with the Regulatory Impact Assessment (RIA) requirements which applies to regulatory proposals in Western Australia, DMP engaged Marsden Jacob to undertake an independent consultation process and develop this Decisions Regulatory Impact Assessment (D-RIS) report.

The proposal for change covered by this D-RIS relates to the consolidation of current law and regulations from a high level, structural point of view. The detailed content of the legislation does not form part of this D-RIS, rather the content will be reviewed and streamlined via subsequent processes and the impacts analysed via separate Regulatory Impact Statements.

Consultation process

Marsden Jacob (with input from DMP) prepared a Consultation Paper³ which sought stakeholder comments on the impact of each of the structural reform options. The Consultation Paper was published on 3 November 2014 and made available via the Marsden Jacob Associates website.

The Consultation Paper sought input from all stakeholders on the appropriateness of the objective of proposed change as well as on each of the structural options for consolidation of safety aspects legislation.

The consultation period ran for seven weeks until 19 December 2014. A total of twenty nine (29) submissions were received, of which ten (10) were confidential.

Key impacted stakeholders were notified by written correspondence at the beginning of the consultation period. Marsden Jacob and DMP made use of a number of distribution lists (including Safety Alert emails targeting over 3,500 subscribers) to ensure widespread knowledge of the review and opportunities to provide input.

Further, a stakeholder forum was held in Perth on Wednesday, 26 November. The stakeholder forum was attended by approximately 60 representatives from a range of industry, peak bodies, and government representatives in attendance.

¹ The exception is Occupational Health and Safety (OHS) for MHFs where WorkSafe is the regulator under the *Occupational Safety and Health Act 1984*.

² Modernisation of the safety legislation for mining and dangerous goods has commenced, with modernisation of petroleum safety legislation to follow. Stakeholder consultation on the content of safety legislation covered by the modernisation process has commenced and will continue throughout the reform process.

³ The Consultation Paper constitutes a Consultation Regulatory Impact Statement (C-RIS) for the purposes of the Regulatory Impact Assessment process.

Statement of issue

Currently the safety legislation covering mining, petroleum and MHFs is spread across multiple Acts and regulations, and in some cases involves multiple regulators. A regulatory failure exists in that the current structure is not the most efficient and effective form to enable achievement of safety objectives.

Marsden Jacob concluded that while the current legislative structure appears to be working, it could be improved. Marsden Jacob also considers that this position is supported by the low level of industry support for the status quo.

Objective of proposed change

The objective proposed in the Consultation Paper was broadly supported by stakeholders, however having reviewed the comments provided Marsden Jacob considers that the objective proposed is appropriate but for clarity could be supported by two guiding principles.

Marsden Jacob recommends the objective be:

To develop a regulatory structure that supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHF. In addition the regulatory structure should seek to:

- *improve health and safety outcomes while balancing regulatory burden; and*
- *improve consistency between the industries and with the Commonwealth while recognising sector specific risks and approaches to risk management.*

Options to address issue

Five options for reforming the structure of mining, petroleum and MHF legislation in WA were considered. These options can be summarised as:

- Option 1: Unified safety Act covering mining, petroleum and MHF, one regulator for all resource sites.
- Option 2: Consolidated safety Act covering petroleum and MHF, mines safety Act remains separate, one regulator for all resource sites.
- Option 3: Mines safety Act remains separate, a consolidated petroleum safety specific Act, and MHF safety provisions remain split across two Acts. Two regulators for MHF sites.
- Option 4: Consolidated safety Act covering mining and petroleum, MHF safety provisions remain split across two Acts. Two regulators for MHF sites.
- Option 5: Maintain the status quo. A mines safety Act, safety provisions for petroleum remain split across three separate Acts, and MHF safety provisions remain split across two Acts. Two regulators for MHF sites.

Several additional options were raised by stakeholders in consultation, however for reasons outlined in section 5 of this report, Marsden Jacob considered the existing range options identified in the C-RIS provided a suitable range for stakeholder comments. Importantly, for stakeholders who did not consider that legislative structure is an issue, Option 5 (retain status quo) could be selected

Collation of consultation responses

In reviewing submissions, Marsden Jacob identified a number of common themes to concerns raised with consolidation. In assessing the submissions it was noted that some respondents identified concerns as a reason not to progress with a particular option (e.g. consolidation under Option 1), whereas other respondents identified the same concern as a factor to be managed in undertaking consolidation.

The key themes identified across the twenty nine (29) submissions were:

- further detail and consultation is required;
- the substantial scale of reform being considered;
- need for recognition of differences between the industries and the risk of oversimplification; and
- regulation of MHFs.

Assessment against RIS criteria

The D-RIS requires an assessment of whether the legislative and/or regulatory change will meet its objective; whether it will be a net benefit to the economy, and whether the regulatory change will have an impact on the environment; social justice; health; equity; and other relevant areas.

Ability to meet objective

- Options 1, 2 and 3 were identified in a similar number of stakeholder submissions as the preferred option (best meeting the objectives and producing the greatest net benefit)

Benefits

- The benefits identified in the C-RIS are broadly supported. While some respondents queried some of the benefits, the benefits identified appear expected to arise (though some benefits may not be realised by some respondents). The C-RIS proposed that Option 1 would produce the largest benefit over the longer term.

Costs

- Marsden Jacob considered comments both in support of the set up costs identified and those suggesting the costs were understated. Due to the range of comments Marsden Jacob were not persuaded that any option had significantly different set up costs.

While a number of respondents indicated that additional costs could arise under Option 1 (or Option 2) – from a “one size fits all” approach to safety, DMP are confident that the remainder of the reform process (with RISs proposed for both the Act and the regulations) will ensure that Option 1 and 2 do not impose a “one size fits all” approach to safety.

On balance Marsden Jacob considers that if the government commits to undertaking a detailed RIS for the Act and another RIS for the regulations then the risk of a “one size fits all” approach to safety will be appropriately managed.

Once the risk of a “one size fits all” approach to safety is removed – through an appropriate RIS process; Option 1 remains the option that is likely to deliver the greatest net benefits.

Other impacts

- It appears unlikely that any of the options will have a significant impact on the environment; social justice; health; equity; and other relevant areas.

Distribution of impacts

- It appears unlikely that any of the options will result in costs or benefits being distributed unfairly.

Preferred Option

Marsden Jacob considers that efficiencies could be obtained with well developed, consolidated legislation that would not be possible under separate legislative instruments.

We also recognise that there is a risk that consolidated legislation could introduce inappropriate ‘one size fits all’ solutions. However, this risk can be managed through detailed assessment of the content of the legislation in subsequent RISs.

Therefore, we recommend that the detailed legislative and regulatory content associated with Option 1 be further developed and be subject to further scrutiny through separate RIS processes. Provided the legislative and regulatory content is found to provide a net benefit compared with the status quo, Option 1 should be implemented as the preferred option.

If it is not possible to develop legislative and regulatory content that delivers a net benefit, or if other factors cause the development of Option 1 to be delayed and risk delaying the implementation of modernisation for mining and/or general industry, then Option 2 should be implemented.

Recommendations

The following recommendations have been made to support the efficient progression of reform. We note that a number of these recommendations capture commitments made by DMP during the consultation as well as key contingent requirements made by respondents – which were seen as appropriate to maximise the benefits and minimise the costs of the reform process.

- **Recommendation 1: Objectives**

The objective of the structural reform of safety legislation should be:

To develop a regulatory structure that supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHF. In addition the regulatory structure should seek to:

- *improve health and safety outcomes while balancing regulatory burden; and*
 - *improve consistency between the industries and with the Commonwealth while recognising sector specific risks and approaches to risk management.*
- **Recommendation 2: Preferred Option**

Following detailed legislative and regulatory content development and a further RIS process, Marsden Jacob recommends Option 1 should be implemented as the preferred option. We note that if it is not possible to develop legislative and regulatory content that delivers a net benefit, or if other factors cause the development of Option 1 to be delayed and risk delaying the implementation of modernisation for mining and/or general industry, then Option 2 should be implemented.

- **Recommendation 3: Further consultation on modernisation**

Marsden Jacob recommends that further detailed RISs are used to ensure that all elements of the legislation and regulations are considered in detail. Marsden Jacob notes that DMP have committed to undertake two further RISs, one on the content of legislation for Petroleum and MHF operations, and a second RIS on the content of regulations (covering mining, petroleum and MHFs).

- **Recommendation 4: Process and timing**

The proposed process and timing is set out in section 10.1.1. Marsden Jacob recommends that the process and timing are constantly monitored to ensure that consideration of particular elements (such as petroleum and MHFs) does not delay the implementation of modernised legislation for broader industry (e.g. general industry and mining).

- **Recommendation 5: Specialist branches**

Within Resources Safety Division specialist branches and inspectors with skills aligned to the industry sector they regulate should be retained.

- **Recommendation 6: Cost recovery levies and fees**

Marsden Jacob recommends that DMP undertakes a review of cost recovery levies and fees legislation with appropriate consultation. Until a review is undertaken, Marsden Jacob recommends that the DMP follow its statements from the C-RIS that the selection of legislative structure will not impact on MHF fees.

Implementation and Evaluation Strategy

DMP have identified two possible processes for the modernisation of resource safety legislation. DMP is considering implementing a single step process – but this will depend on the timing of both the general industry safety legislation and regulations as well as the modernisation of the mining, petroleum and gas and MHF legislation and regulations.

Single step process

A single step process would include the following key steps – with estimated timings:

- the Minister to select an option from the current RIS by mid-2015;
- RIS on new Bill by early 2016;
- RIS on new regulations by early 2017; and
- legislation finalised and implementation targeted for end of 2017.

Two-step process

Under a two-step process, modernisation of the mining legislation would progress ahead of the Petroleum and MHF legislation. Under this arrangement the WHS (Mines) Bill would be introduced to Parliament towards the end of-2015.

A RIS on the mining regulations will be undertaken in late 2015 with a target milestone for gazettal of the regulations around July of 2016.

Phase 2 of the modernisation process would cover petroleum and MHFs and is broadly expected to occur between 2015 and 2017.

Under the two-step process, a RIS for the petroleum and MHF sections of the Bill would be undertaken in

early 2016.

A RIS for the petroleum and MHF regulations would be undertaken in early 2017.

Evaluation strategy

The Department of Mines and Petroleum plan to include a five year review of the legislation in the modernised act (or acts). DMP have indicated that they consider these review provisions to be standard.

1. Introduction

1.1 Background

The Department of Mines and Petroleum (DMP) Resources Safety Division is responsible for the regulation and administration of safety provisions pertaining to WA's resources industry, including the mining, petroleum and geothermal energy, and Major Hazard Facilities (MHF)⁴ sectors.

Legislated safety obligations for these industries are currently contained within six different parliamentary acts and their associated regulations:

- *Mines Safety and Inspection Act 1994*;
- *Petroleum and Geothermal Energy Resources Act 1967*;
- *Petroleum Pipelines Act 1969*;
- *Petroleum (Submerged Lands) Act 1982*;
- *Dangerous Goods Safety Act 2004*; and
- *Occupational Safety and Health Act 1984* (regulated by WorkSafe WA within the Department of Commerce).

The WA government has committed to modernising the safety legislation covering mining, petroleum and MHF in WA.⁵ As legislation for all three areas is undergoing reform, there is a rare opportunity to review the legislative structure and consider consolidation of the current Acts and regulations.

The DMP identified five options for consolidation (including retaining the status quo) which were consulted on. The options provide for consolidation or partial consolidation of the safety aspects of current Acts into a single safety specific Act or reduced number of safety specific Acts. Two of the options also consider the transfer of regulator responsibilities for Occupational Health and Safety (OHS) for MHFs from WorkSafe to DMP as a consequence of consolidation.

A number of legislative reviews relating to modernisation of safety provisions are currently underway, or proposed for implementation, during the next three years. A summary of these reviews is provided in Figure 1. Separate consultation processes on changes to the detail of the legislation will be undertaken at the appropriate time.

Figure 1: Current and planned reforms of safety resources provisions for mining, petroleum and MHF

Mines safety

The current *Mines Safety Inspection Act 1994* will be replaced with modernised and harmonised mine safety legislation.

It is currently intended that the modernised mine safety act will align with the safety legislation for general industry and so is dependent on the current consultation on the "Green Bill" for Work Health and Safety in Western Australia.

Pending the outcome of the consultation on the Green Bill, the Minister for Mines and Petroleum has

⁴ The exception is Occupational Health and Safety (OHS) for MHFs where WorkSafe is the regulator under the *Occupational Safety and Health Act 1984*.

⁵ Modernisation of the safety legislation for mining and dangerous goods has commenced, with modernisation of petroleum safety legislation to follow. Stakeholder consultation on the content of safety legislation covered by the modernisation process has commenced and will continue throughout the reform process.

approved the preparation of drafting instructions for the proposed Work Health and Safety (Mines) Bill. The Bill is largely based on the national Model Work Health and Safety Act and National Mines Safety Framework, tailored to suit Western Australia.

A preliminary timeframe for the drafting, review of content and consultation was published in July 2014⁶. It is intended that the new Work Health and Safety (Mines) legislation will be implemented in mid-2016.

Petroleum safety

DMP is responsible for administering three petroleum Acts, which contain safety provisions: the *Petroleum and Geothermal Energy Resources Act 1967*; the *Petroleum Pipelines Act 1969*; and the *Petroleum (Submerged Lands) Act 1982*.

DMP will seek to align with the National Offshore Petroleum Safety and Environmental Management Authority (commonly referred to as NOPSEMA) with respect to the consolidation and modernisation of petroleum safety legislation.

The timing for this review and associated consultation has not yet been confirmed. However, pending the outcome of this review, steps will be taken to modernise the safety provisions (regardless of the preferred consolidation option) during the two-year period following acceptance of this Regulatory Impact Assessment by the Minister.

MHF safety

The occupational health and safety provisions for MHF are current contained in the *Occupational Health and Safety Act 1984*, which is administered by the WorkSafe Division of the Department of Commerce.

Process safety provisions are contained in MHF regulations under the *Dangerous Goods Safety Act 2004*, which is administered by the Resources Safety Division of DMP. In accordance with Section 69 of this Act, an independent review of the effectiveness of the Act was completed in 2014. The report on this review has been presented to the Minister for Mines and Petroleum for tabling in Parliament.⁷

1.2 Regulatory Impact Assessment process

In WA, regulatory proposals are required to satisfy Regulatory Impact Assessment (RIA) requirements.⁸

Guidance on the RIA requirements and process is outlined in the *Regulatory Impact Assessment Guidelines for Western Australia* (the Guidelines) and the process is overseen by the Regulatory Gatekeeping Unit within the Department of Finance.

As the proposed changes being considered would necessitate significant change to the structural form of primary legislation (in the first instance), the DMP considered it appropriate to consider the reform under the RIA process.

⁶ Ministerial Advisory Panel, 2014, *Minutes from July 2014 meeting*, 23 July, Attachment 2B. Available at: http://www.dmp.wa.gov.au/documents/Misc/LP_MAPMinutes_23July2014.pdf

⁷ Refer to: <http://www.dmp.wa.gov.au/6626.aspx>

⁸ There are a number exceptions where the RIA process does not apply including where impacts are expected to be minimal and where the RIA process would be of limited value. The full list of exceptions are identified in the RIS Guidelines. www.finance.wa.gov.au/cms/Economic_Reform/RIA_support.aspx

Consistent with this process and following discussions with the Regulatory Gatekeeping Unit⁹, the Consultation Regulatory Impact Statement (C-RIS) was published on 3 November 2014 and stakeholders were invited to comment on the content of the report.

The C-RIS outlined a statement of issue, a proposed objective for resolving the issues, proposed options to address the issues, and an initial assessment of the potential impact of the proposed change.

The C-RIS sought input from all stakeholders on the appropriateness of the objective of proposed change as well as on each of the structural options for consolidation of safety aspects legislation. A summary of the responses received is provided in section 6.

The second stage of the RIA process is the Decision RIS (D-RIS). The D-RIS is required to analyse the impacts of the various options on all stakeholder groups with consideration to comments received in the consultation period, and draw conclusions based on the analysis. From this analysis, recommendation of a preferred option to be implemented to achieve the policy objective is identified.

The D-RIS builds on the C-RIS to objectively weigh the costs and benefits of each option, discuss consultation outcomes and on the basis of the analysis and recommend the option which provides the greatest net benefit for society as a whole. This analysis is set out in detail in section 4

Importantly, the *Regulatory Impact Assessment Guidelines for Western Australia*¹⁰ specify that the D-RIS considers:

- a) whether the legislative and/or regulatory change will meet its objective;
- b) whether it will be a net benefit to the economy; and
- c) whether the regulatory change will have an impact on:
 - the environment;
 - social justice;
 - health;
 - equity; and
 - other relevant areas.

1.3 Overview of stakeholders impacted

The size of the industries (number of companies) and company profiles (number of employees) differ significantly between the stakeholder groups impacted by the proposed reforms. For this reason, consideration of responses based purely on the number of responses received may not provide an accurate reflection of the impacts to industry and the wider community. Further, it is recognised that the change impact is potentially larger for particular industry sectors depending on the reform option.

In order to give an indication of the scale of the industries impacted, Marsden Jacob compared data from DMP and from the Australian Bureau of Statistics on numbers of companies and employment. This data is summarised in Table 1.

For this analysis Marsden Jacob used DMP's contacts database rather than other figures – such as licences. This seeks to overcome differing approaches to licences that are used by companies. While there is a significant discrepancy between the DMP contacts database and the Australian Bureau of

⁹ The Regulatory Gatekeeping Unit reviewed the draft Consultation RIS and provided written advice that it did not have any comments on the paper.

¹⁰ Appendix 3, RIS Adequacy Criteria

Statistics data this is likely to be due to differing definitions and convoluted company structures. It should also be noted that as major hazard facilities are not identified in Australian Bureau of Statistics business data, these data are not available.

Table 1: Industries potentially impacted

	DMP contacts database	Australian Bureau of Statistics	DMP Employment numbers (average figures for 2013/14)
Large Mining (200+ employees)		50	Mining: 97,795 Mineral Exploration: 2,375
Small to Medium Mining (1-200 employees)		1,120	
Petroleum & Gas (Production & Exploration)		205	On-shore petroleum: 2,153 Off-shore petroleum: 494
Petroleum & Gas (Pipelines & Networks)		26	
MHF sites	17		4,280*
MHF and Mining	2		
Prospective MHFs	4		
Contractors	18		
Geothermal operators	3		
Unions	3		

Note: Non employing companies are not included in the ABS figures

** Employment figures at December 2014*

Source: Marsden Jacob analysis of DMP data and Australian Bureau of Statistics 81650 Counts of Australian Businesses, including Entries and Exits, Jun 2009 to Jun 2013 – Utilising West Australian businesses operating at end of financial year

2. Consultation process

The process Marsden Jacob used in preparing the RIS follows the guidance and advice of the Regulatory Gatekeeping Unit within the WA Department of Finance. This section summarises the process used including the type of engagement and coverage of the consultation in numeric terms.

2.1 Consultation Paper

Marsden Jacob (with input from DMP) prepared the Consultation Paper which sought stakeholder comments on the impact of each of the structural reform options. The Consultation Paper was published on 3 November 2014 and made available via the Marsden Jacob Associates website¹¹.

The Consultation Paper provided:

- background information on the proposed options for reform and clarification on the management of change in the context of separate modernisation reforms;
- a clear statement of the regulatory issue and a proposed objective for the change;
- a range of feasible options which may be adopted in addressing the issue;
- an explanation of the likely impacts, costs and benefits, to government, industry and the WA community of change options; and
- outlined the opportunity for industry stakeholders and interested parties to provide comment, feedback and critical information in response to the proposed structural reform options.

The Consultation Paper constitutes a Consultation Regulatory Impact Statement (C-RIS) for the purposes of the Regulatory Impact Assessment process.

2.1.1 Stakeholder forum

As part of the consultation process, Marsden Jacob hosted a stakeholder forum on Wednesday, 26 November to discuss the structural reform options.

The forum ran for three hours and consisted of two parts. In the first part, presentations were given by DMP and Marsden Jacob which were followed by a question and answer session. Copies of the presentations were distributed via email and made available on Marsden Jacob's website following the forum.

In the second part of the forum Marsden Jacob facilitated a workshop style session after the DMP representatives had departed.

In the second session, various groups of stakeholders were able to discuss the potential impacts of the proposed changes with other stakeholders in related industries. Attendees were also asked to consider providing preliminary comments to Marsden Jacob on workshop papers.¹² Towards the end of the session an open discussion was held.

¹¹ <http://www.marsdenjacob.com.au/structural-reform-resources-safety-legislation-wa/>

¹² The workshop papers consisted of a number of classification questions (to determine relevant sector and size of organisation) and each of the questions outlined in the Consultation Paper. Participants were advised that if the papers were to be submitted that these would constitute a 'first draft' should the same organisation later put in a formal submission. Many of the participants elected to take the worksheets away to facilitate internal discussions.

Marsden Jacob received 67 responses to attend the forum and around 60 attendees were present on the day. Importantly, attendance included a balanced range of industry and stakeholder organisations.

Table 2 provides a breakdown of the numbers of attendees from each of the sector areas. Issues and questions raised during the forum were considered in the analysis underlying sections 7 and 8 of this report.

Table 2: Stakeholder forum attendees and industry representation

Sector	Number of attendees	Number of companies/groups represented
Petroleum Exploration & Production Operators	5	5
Petroleum Exploration & Production Operators and MHF Operator	7	3
Pipeline operators	8	3
Major hazard facilities	9	8
Mining	7	7
Contractors, consultants, lawyers	12	10
Industry peak bodies	7	5
Project team	5	2
TOTAL	60	43

Source: Marsden Jacob analysis of RSVPs to forum

2.1.2 Written submissions

Stakeholders were invited to provide written submissions to Marsden Jacob by Friday, 19 December via email and post.

Stakeholders were provided with the opportunity to comment both generally on the proposed structure for the legislation, and specifically on the purpose of the legislation and the impact (costs and benefits) of each of the reform options outlined in the Consultation Paper.

A total of twenty nine (29) submissions were received, of which ten (10) were confidential. A list of the non-confidential submissions received is provided in Appendix 2. Content of submissions is summarised in section 6 as well as particular comments being reflected in relevant subsections throughout this report.

Table 3 summarises the number of responses received from each respondent group. It should be noted that the sum of respondent numbers in each category is greater than the total number of respondents. This is because some respondents identified themselves as belonging to multiple groups.

Table 3: Summary of consultation responses received

Respondent group	Responses received
Mining	8
Petroleum and Gas – production & exploration	5
Petroleum and Gas – pipelines & networks	5
Major hazard facilities	6
Government	2
Employee organisations and unions	4
Training and other	5

Note: as a number of respondents represented several categories, total numbers do not equate to the actual number of submissions received.

It should be noted that some similar responses were received from related companies and there were other instances where peak stakeholder groups submitted similar responses to the companies represented.

2.2 Other stakeholder contact

The consultation process ran for a seven week period from 3 November to 19 December 2014.

During this period, stakeholders were advised and updated on the consultation via a number of methods including website announcements, written correspondence to senior officers, safety alert emails, email correspondence and targeted telephone calls. The following summarises engagement with stakeholders:

- **Website announcements:**
 - 31 October: Marsden Jacob accounted the consultation on its website¹³ and the dedicated consultation webpage “went live”; and
 - 3 November: DMP published a press release announcing the consultation¹⁴ which was subsequently picked up and re-published by a number of media and news websites.
- **Written correspondence to senior officers:**
 - 7 November: DMP sent out 96 letters to senior officers at all petroleum and MHF companies. A number of consultancy firms and drilling contractors also received letters.
- **Email correspondence:**
 - 3 November: DMP directly emailed members of the Ministerial Advisory Panel¹⁵ and Mining Industry Advisory Committee¹⁶ informing them of the consultation and inviting members to make a submission to the C-RIS process;
 - 4 November: Resource Safety Alert email from DMP advising recipients of the consultation. This email was received by ~3,500 recipients who subscribe to the weekly email service;

¹³ For announcement post, refer to: <http://www.marsdenjacob.com.au/consultation-now-open-structural-reform-mining-petroleum-major-hazard-facilities-safety-legislation/>

¹⁴ Department press release, 3 November 2014, http://www.dmp.wa.gov.au/7105_21003.aspx

¹⁵ www.dmp.wa.gov.au/19517.aspx

¹⁶ www.dmp.wa.gov.au/14390.aspx

- *14 November:* Marsden Jacob sent a follow up email to ~100 recipients associated with organisations to whom DMP had sent written correspondence;
 - *14 November:* DMP directly emailed members of the Ministerial Advisory Panel and Mining Industry Advisory Committee advising them of the stakeholder forum and inviting members to attend;
 - *18 November:* DMP emailed attendees from a safety forum held the previous week advising them of the consultation and the stakeholder forum. The email was sent to ~150 safety people involved with petroleum and MHFs; and
 - *26 November:* Marsden Jacob emailed 67 people who had responded to attend the stakeholder forum. The email thanked attendees for their attendance, provided copies of the forum presentations (made by DMP and Marsden Jacob), as well as copies of the workshop papers.
- **Telephone calls:**
 - *Mid-November:* Targeted phone calls made by Marsden Jacob to petroleum and MHF companies about the consultation and advising of the date for the stakeholder forum.
 - **Stakeholder forum and presentations:**
 - *26 November:* Marsden Jacob hosted a stakeholder forum and workshop. 67 people responded to attend the forum and it is estimated that 60 people attended on the day.
 - *5 December:* Marsden Jacob gave a short presentation on the proposed reform and consultation process at the OHS breakfast seminar “Dissecting WA’s ‘green Bill’ for WHS” hosted by Norton Rose Fulbright.
 - *10 December:* Marsden Jacob presented to members of the Ministerial Advisory Panel.

Marsden Jacob notes that particular consideration was given to achieving forum attendance and input from petroleum and MHF companies. This was considered appropriate as safety modernisation processes (including consultation) for these industries is currently yet to commence, while the process to modernise mining safety legislation is already relatively advanced. In addition, the safety aspects for mining are already contained within a single Act whereas several Acts deal with safety for both petroleum and MHF sectors.

2.3 Concerns raised with the process

Through the consultation process, a small number of stakeholders indicated they had concerns with the RIS process. These concerns arose from a different understanding of the status of this RIS within the broader reform process, the RIS process used or the level of detail required in the C-RIS.

Some industry representatives expected content of the C-RIS to include much greater quantification of the likely impacts. The Australian Pipeline Industry Association (APIA) stated:

Before a decision can be made, there should be a more thorough analysis should be undertaken and made public, as set out in Appendix 3: RIS Adequacy of the 2010 Regulatory Impact Assessment Guidelines for Western Australia issued by the WA Department of Treasury and Finance.

The C-RIS was prepared in consultation with the Regulatory Gatekeeping Unit and with reference to the Guidelines. As such, although this opinion was noted the requirement to provide an additional C-RIS or impact analysis is not considered necessary.

Similarly, a small number of respondents indicated that they did not feel sufficient information had been provided in the C-RIS – particularly with regards to the content of change and detail of other planned reform processes - to enable them to respond to the structural reform process as an independent change. For example AMEC stated:

As stated at [the] Forum by AMEC and other attendees insufficient information has been provided relating to the implications on industry of changing to any of the Options listed in the Consultation Paper.

It appears that the reform has only concentrated on the potential duplication and efficiency savings within the Resources Safety Division, and no consideration given to the administration and compliance cost on industry.

Additionally, three (3) respondents considered the content of legislation should drive the reform as they considered the preference would depend on these outcomes.

It is noted the purpose of including question 3(b) in the Consultation Paper: “*Is this [option] preference independent of potential outcomes of the streamlining and modernisation of the various Acts?*” was to illicit the extent to which stakeholders were able to comment in the absence of other reform processes.

Responses to this question and content of submissions indicated a majority of stakeholders considered the preferences for structural reform to be independent of the content of other reforms or otherwise understood the nature of the reform process and did not highlight the order of reforms as an issue (68% of submissions).

At the forum, Marsden Jacob encouraged stakeholders who had particular concerns over the subsequent steps to the reform process to provide comment which reflected any caveats or interdependent preferences in written submissions. Following this advice, a number of stakeholders commented on both their first preference for reform, but also the need for comprehensive RIS processes to be undertaken on the content of legislation. These concerns are set out in detail in section 6.2 and they are assessed against the RIS criteria in section 7.

We note that a small number of respondents expressed appreciation at the early consultation opportunity. For example, the Australian Petroleum Production & Exploration Association (APPEA) stated:

APPEA welcomes the very broad and well-structured review process and looks forward to continuing its support of the review as it progresses.

Marsden Jacob considers that, on balance that the majority of stakeholders understood the process and where able to make informed comment based on the information provided.

For clarity, it is reiterated that DMP intends to review and streamlined the detailed content of the legislation (which does not form part of this D-RIS) via separate processes. The impact of any content changes proposed via those separate processes will be analysed and consulted on via separate Regulatory Impact Statements. The process and timing of these next reform steps is detailed in Section 10.1.1.

3. Statement of issue

Currently the safety legislation covering mining, petroleum and MHFs is spread across multiple Acts and regulations, and in some cases involves multiple regulators.

DMP is concerned that the current structure is not the most efficient and effective form. DMP considers that the current structure hinders the consistent and efficient regulation of similar safety aspects across different industries. Further, the potential for duplicated (and inconsistent) responsibilities and accountabilities may occur where there are two or more Acts dealing with the same safety aspects of a single work site.¹⁷

For example, the existence of two regulators and two Acts for MHF safety matters - WorkSafe is the regulator for OHS aspects and DMP is the regulator for operational and processes aspects of MHF sites. This duplication can add unnecessary complexity and ambiguity.

DMP comments that while there are risks that are unique to each industry (mining, petroleum, MHFs etc.) there are a number of elements that are common to two or more industries. Ensuring appropriate legislative consistency between the industries should ease the movement of both contractors and staff between these industries.

For clarity, the issue identified is classified as regulatory failure for the purposes of the RIS. Regulatory failures exist where the regulation is not well-designed or targeted to address the identified policy issue (in this case safety objectives) such that there is potential for unintended or undesirable consequences (such as increased cost to businesses, the community and the economy).¹⁸

3.1 Summary of comments received

The majority of submissions recognised the difficulties inherent with current legislative instruments and welcomed the opportunity to comment on the overall structure as the first stage of a wider reform and modernisation process being undertaken.

While consistency of the legislative content was most commonly raised as the primary issue it is noted that content does not form part of this change proposal. However, a number of stakeholders recognised that consolidation would facilitate later discussions to ensure appropriate consistency was achieved both across the resources sector and with wider safety legislation. The Civil Contractors Federation (CCF) commented:

While CCF WA's preferred position is that all WA workplaces be covered by one WHS Act, the approach proposed by DMP will at least be a significant improvement over the current situation.

Consolidation will help streamline the process of harmonising WA's mining, petroleum and MHF safety leg with the broader WHS Act.

For other stakeholders, the role of multiple legislative instruments facilitating safety objectives was less of an issue. The Australian Pipeline Industry Association stated:

¹⁷ Particularly for where multiple types of operations (e.g. petroleum and MHF) co-exist on one site.

¹⁸ West Australian Government (201?) *Regulatory Impact Assessment Guidelines for Western Australia*, prepared by the Regulatory Gatekeeping Unit, Department of Finance. Available at: <http://www.finance.wa.gov.au/cms/content.aspx?id=16898>

A single piece of omnibus legislation that purports to consistently regulate multiple industries with unique safety considerations should not be presumed to be superior in any way to multiple pieces of well-designed and specifically tailored legislation.

The dual regulatory roles for MHF sites also were highlighted as an inefficiency. Both from a duplication perspective and in terms of the added complexity this results in for some stakeholders. Ausdrill International Management Services noted that the transfer of responsibilities would avoid confusion and delays:

We also believe the transfer of responsibility of General Safety Provisions from Worksafe to Department of Mines and Petroleum for Major Hazards Facilities', will avoid confusion over who has jurisdiction for a given event at a MHF and avoid the inevitable delays that occur whilst those discussions regarding who is responsible take place.

Other submissions expressed the view that a change in regulator roles would introduce complexity and costs – rather than address a current issue. Cristal Pigments Australia stated:

The premise that one unified Resource Work Health & Safety Act would remove the perceived burden of multiple regulators for business is incorrect. Many businesses like Cristal operate on multiple sites. Some sites are MHF's or mines etc., others handle dangerous goods but are not MHF's, others are purely administrative in nature or involve a warehousing or perhaps an engineering function.

In this situation presumably any facility that is not an MHF, a mine site or an on or offshore energy facility would still be covered by the broader Workplace Health and Safety Act and as such come under the auspices of WorkCover. While Option 1 [Note - the options consulted on are set out in section 5] would see one less regulator on some sites it would not see the business as a whole dealing with fewer regulators.

Marsden Jacob acknowledges Cristal Pigment Australia's submission and has sought further clarification from DMP as to the extent which a move to a single regulator for MHF sites would impact the range of MHFs in WA.

DMP agreed that while companies operating a range of different sites (which include MHFs) may (depending on the profile of the sites) see one less regulator on some sites, it may not see the business as a whole dealing with fewer regulators. DMP also commented that there are a limited number of stakeholders in this position.

Importantly, consistent enforcement across the resources industry was identified as a potential issue which would be rectified with the transfer of OHS responsibilities. A confidential submissions by an experienced safety practitioner commented:

It is likely that a unified DMP inspectorate for both MHF and petroleum legislation will provide for more consistent enforcement.

3.2 Marsden Jacob recommendation

On balance, Marsden Jacob considers that while an adequate achievement of overall safety objectives is being attained under the status quo, there is sufficient evidence to suggest the following issues exist:

- unnecessary complexity and a potential for duplication and/or inconsistency due to safety specific provisions appearing in different legislative instruments;
- increased costs to government in maintaining the consistency of the legislation;
- potential ambiguity in regulatory responsibilities for MHF sites; and

- potential for inconsistent enforcement of occupational health and safety at MHF sites compared to other resource sectors due to two different regulators.

Marsden Jacob concluded that while the current legislative structure appears to be working, it could be improved. Marsden Jacob also considers that this position is supported by the low level of industry support for the status quo.

4. Objective of proposed change

The objective of the proposed change suggested in the Consultation Paper was:

to develop a regulatory structure that supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHF¹⁹

The Consultation Paper also noted that consistency across safety provisions within legislation, while not the subject of this consultation, would likely be facilitated on an ongoing basis by the structure of legislative instruments. To this end, the objective of the proposed change options was also to select a structure which best supports achievement of wider safety objectives and outcomes in WA.

At the stakeholder forum, it was further highlighted that the purpose of the consultation was to understand from industry “*which of the options will establish a statutory framework which best facilitated the achievement of safety objectives consistently and efficiently over the life of the legislation*”.²⁰

Comments on the objective were sought through the consultation process. Stakeholders were asked to comment on two questions:

1. *Is the objective identified appropriate?*
2. *Are there any other objectives that should be considered in assessing the options?*

4.1 Summary of comments received

Most responses indicated broad agreement with the stated objective and no comments were received indicating disagreement with the objective. One confidential submission indicated that they considered the objective was *focused on the mining and petroleum and geothermal energy resource operators* – but did not propose appropriate edits or alternative text.

A number of submissions highlighted that further refinement of the objective would be beneficial. In particular, two (2) of the twenty nine (29) submissions received stated that inclusion of ‘consistency with Commonwealth safety legislation’ was an important objective which needed to be formally recognised. Many of these submissions highlighted the national OHS harmonisation process and the desire for adoption of the reforms to continue in WA (for the resources sectors). Petroleum industry stakeholders also stressed the need for consistency between WA offshore legislation, other State legislation and NOSPEMA regulated Commonwealth waters.

While consistency across legislation was considered important, it is noted that industry also stressed the risks of overemphasising consistency. Consistency for consistency’s sake was highlighted as a risk either because inappropriately high safety requirements would impose additional costs, or alternatively loss of focus or lowering of requirements may have consequences for safety outcomes. Such concerns were most commonly raised by stakeholders in the context of comparing different options; however Marsden Jacob considers these comments are also appropriate to assess to inform the refinement of the objective.

Further recommendations included that the objective should:

- pursue the best / highest / improved safety outcomes (rather than ‘high’ safety standards);

¹⁹ Marsden Jacob Associates (2014) *Consultation Paper: Structure of Mining, Petroleum and Major Hazard Facilities Safety Legislation*, Consultation Regulatory Impact Statement prepared for the Department of Mines and Petroleum, 3 November, p.6

²⁰ Marsden Jacob Associates (2014) *Presentation at Stakeholder Workshop* held on 26 November 2014, slide 5. Presentation available at: <http://www.marsdenjacob.com.au/structural-reform-resources-safety-legislation-wa/>

- recognise and respond to the sector specific approaches to risk management;
- ensure the burden of regulatory reform is minimised; and
- ensure that the specialist skills of the regulator are maintained.

Stakeholders also commented that safety provisions needed to apply to all sites appropriately, based on informed understanding of operational risks; not on arbitrarily decided numbers of workers or productions levels.

4.2 Marsden Jacob recommendation

Having reviewed the comments provided Marsden Jacob considers that the objective proposed is appropriate but for clarity could be supported by two guiding principles.

For this reason Marsden Jacob recommends the objective be:

to develop a regulatory structure that supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHF

In addition Marsden Jacob recommends the guiding principles supporting the objective should be:

the regulatory structure should seek to:

- *improve health and safety outcomes while balancing regulatory burden; and*
- *improve consistency between the industries and with the Commonwealth while recognising sector specific risks and approaches to risk management.*

5. Options to address the issue

In preparing the review, DMP identified five options for reforming the structure of mining, petroleum and MHF legislation in WA. These options can be summarised as:

- Option 1: Unified safety Act covering mining, petroleum and MHF, one regulator for all resource sites.
- Option 2: Consolidated safety Act covering petroleum and MHF, mines safety Act remains separate, one regulator for all resource sites.
- Option 3: Mines safety Act remains separate, a consolidated petroleum safety specific Act, and MHF safety provisions remain split across two Acts. Two regulators for MHF sites.
- Option 4: Consolidated safety Act covering mining and petroleum, MHF safety provisions remain split across two Acts. Two regulators for MHF sites.
- Option 5: Maintain the status quo. A mines safety Act, safety provisions for petroleum remain split across three separate Acts, and MHF safety provisions remain split across two Acts. Two regulators for MHF sites.

In summary, Option 1 represents the creation of a single unified safety Act and can be considered the “full reform” option. In contrast, Option 5 represents the maintenance of the status quo where mining, petroleum and MHF are dealt with under separate Acts.

Options 2, 3 and 4 represent various partial reform options.

Each of the options is summarised in Table 4 (see following page), which specifies the outcome of the option in terms of legislation (Mining Legislation, Petroleum Legislation and MHF Legislation).

Table 4 also specifies the proposed regulator responsibility for MHF safety provisions applicable to each option. As the Government responsibilities for petroleum and for mines safety would remain unchanged under each option, responsibilities for these industries have not been included in the table.

Other jurisdictions

In developing the five options, DMP considered the legislative framework used in other Australian jurisdictions.

Across Australia a range of legislative structures are used for occupational health and safety for mining, petroleum, and MHF industries. As the mining regulations under the Model WHS legislation have been finalised relatively recently (2013), the mining safety legislation has been or continues to be the subject of review in a number of states and territories.

The Model WHS Act and Regulations include both mining and MHFs within the single act and supporting regulations. This structure was adopted by South Australia and consequently occupational health and safety for mining, petroleum, and MHF industries is regulated under one Act.

While Victoria has not adopted any elements of WHS, occupational health and safety for mining, onshore petroleum, and MHF industries are regulated under one Act. Offshore petroleum regulation was handed over to the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

An alternative structure is used in New South Wales – where the *Work Health and Safety (WHS) Act 2011* and the *Work Health and Safety (WHS) Regulation 2011* apply to all workplaces in NSW. This is supported by the *Work Health and Safety (Mines) Act 2013* and *Work Health and Safety (Mines) Regulation 2014*.

Table 4: Summary of options considered

	Option 1	Option 2	Option 3	Option 4	Option 5 (Status Quo)
Mining legislation		NEW Work Health and Safety (Mines) Act which replaces <i>Mines Safety and Inspection Act 1994</i>	NEW Work Health and Safety (Mines) Act which replaces <i>Mines Safety and Inspection Act 1994</i>		NEW Work Health and Safety (Mines) Act which replaces <i>Mines Safety and Inspection Act 1994</i>
Petroleum Legislation	NEW Work Health and Safety (Resources) Act Unifying safety provisions into one Act covering: <ul style="list-style-type: none"> • Mining • Petroleum • MHF 	NEW Work Health and Safety (Petroleum, Geothermal Energy and Major Hazard Facilities) Act Consolidating safety provisions into one Act covering: <ul style="list-style-type: none"> • Petroleum • MHF 	NEW Work Health and Safety (Petroleum and Geothermal Energy) Act Consolidating safety provisions from the three separate petroleum Acts into one Act	NEW Work Health and Safety (Resources) Act Consolidating safety provisions into one Act covering: <ul style="list-style-type: none"> • Mining • Petroleum 	Petroleum safety provisions remain with current petroleum Acts: <ul style="list-style-type: none"> • <i>Petroleum and Geothermal Energy Resources Act 1967</i> • <i>Petroleum Pipelines Act 1969</i> • <i>Petroleum (Submerged Lands) Act 1982</i>
MHF legislation			MHF safety provisions remain under two acts: <ul style="list-style-type: none"> • process safety remains under <i>Dangerous Goods Safety Act 2004</i> • OSH remains under <i>Occupational Safety and Health Act 1984</i> 	MHF safety provisions remain under two acts: <ul style="list-style-type: none"> • process safety remains under <i>Dangerous Goods Safety Act 2004</i> • OSH remains under <i>Occupational Safety and Health Act 1984</i> 	MHF safety provisions remain under two acts: <ul style="list-style-type: none"> • process safety remains under <i>Dangerous Goods Safety Act 2004</i> • OSH remains under <i>Occupational Safety and Health Act 1984</i>
MHF Government Roles	Unified responsibility: Responsibility for regulation of OHS at MHF is transferred from WorkSafe to the DMP (making DMP responsible for both process safety aspects and the OHS for MHFs).	Unified responsibility: Responsibility for regulation of OHS at MHF is transferred from WorkSafe to the DMP (making DMP responsible for both process safety aspects and the OHS for MHFs).	Split responsibility: WorkSafe retains responsibility for regulation of OHS and the DMP continues to regulate process safety aspects for MHFs.	Split responsibility: WorkSafe retains responsibility for regulation of OHS and the DMP continues to regulate process safety aspects for MHFs.	Split responsibility: WorkSafe retains responsibility for regulation of OHS and the DMP continues to regulate process safety aspects for MHFs.

Note: The naming of new Acts outlined above are indicative only. Actual names would be subject to Parliamentary Counsel naming protocols.

5.1 Summary of comments received

A number of stakeholders commented on the range of options. While most stated they preferred one of the options identified in the C-RIS, a small number of stakeholders queried the inclusion of additional options or otherwise stated a preference for an option not included in the C-RIS.

A petroleum and MHF confidential submission commented that Option 5 without modernisation was the preferred option on the grounds that:

All other options introduce additional overheads to our businesses without any quantified justification in risk reduction or service improvement.

Marsden Jacob notes that as part of the Safety Legislation Reform program, DMP will modernise the safety legislation applicable to the resources industry.

Pipeline industry representatives uniformly supported Option 3 but APIA and several confidential submissions also expressed a preference for the pipeline sector to retain specific legislation (in its own right) as another option, based on inherent differences between the industries:

APIA's preference is for an option that ensures each industry under consideration, being mining, petroleum and major hazard facilities (MHF) has its own, fit-for-purpose regulatory framework for safety (based on the above APIA would contend that the pipeline industry should be considered separate to petroleum).

However, submissions also acknowledged that most of the stakeholders regulated under the *Petroleum and Geothermal Energy Resources Act 1967* and the *Petroleum (Submerged Lands) Act 1982* would also have obligations under the *Petroleum Pipelines Act 1969*.

In supporting Option 3, it was also noted by APIA that a deficiency would remain:

... [Option 3] delivers the three distinct mining, petroleum and MHF sectors three distinct, specific and targeted acts. However, a deficiency in Option 3 was noted in that it leaves the MHF sector with two sets of legislation.

5.2 Marsden Jacob recommendation

Based on the responses received and specifically the limited number of responses that proposed alternative options, Marsden Jacob recommends that the options identified in the C-RIS provided a suitable range for stakeholder comments.

Importantly, for stakeholders who did not consider that legislative structure is an issue, Option 5 (retain status quo) could be selected.

6. Collation of consultation responses

Interest in the consultation and its potential outcomes was expressed by a diverse array of stakeholders with differing focuses and exposure to impacts resultant from the various structural reform options.

Consideration has been given to all submissions received as well as comments noted at the Stakeholder Forum.

6.1 Summary of comments received

In the C-RIS, Option 1 was identified as DMP's preferred option for reform. Stakeholders were requested to comment on which reform option they considered would fulfil the identified reform objectives and deliver the greatest benefits for the WA community and also to comment on whether they considered Option 1 fulfilled this requirement.

6.1.1 Raw analysis of responses

A raw analysis of responses (i.e. unweighted and taking all responses equally) to the preferred options (Question 3a in the C-RIS) is summarised in Table 5. As shown, Options 4 and 5 received low levels of support, while Options 1, 2 and 3 received similar levels of support. **Note: as some respondents identified themselves as representing multiple industry categories, the sum of responses attributed to each industry category does not equate to the actual number of submissions received.**

Table 5: Summary of preferred options

Preferred Option	Mining	Petroleum facilities	Major hazard facilities	Total	%
Option 1	5	4	4	7	24%
Option 2	7	6	3	8	28%
Option 3	1	6	1	7	24%
Option 4	0	0	1	1	3%
Option 5	0	1	2	2	7%
Not Options 1 or 2	1	0	0	1	3%
Other	0	1	1	2	7%
Not stated	0	0	1	1	3%
Total	14	18	13	29	

Note: as a number of respondents represented several categories, total numbers do not equate to the actual number of submissions received.

A similar raw analysis of Stakeholders views of Option 1 (taken from responses to question 3) is set out in Table 6 and shows that similar numbers of responses either supported or provided conditional support for Option 1 (41%) compared to not supporting this option (45%). As with the other raw analysis, numbers are based on the responses from stakeholders based on the industry categories they represent. As such, the total number of responses is not reflective of the actual number of submissions. In terms of the number of submissions, analysis found that twelve (12) submissions provided support or conditional

support for Option 1, while thirteen (13) submissions were not supportive of Option 1 and a further two (2) submissions reflected a slight preference against the option.

Table 6: Stakeholders views of Option 1

Response to Option 1	Mining	Petroleum facilities	Major hazard facilities	Total	%
Supported	5	4	4	7	24%
Conditional support	2	3	2	5	17%
Slight preference against	1	1	0	2	7%
Unclear	2	1	1	2	7%
Not supported	4	9	6	13	45%
Total	14	18	13	29	

Note: as a number of respondents represented several categories, total numbers do not equate to the actual number of submissions received.

Finally, while preferences over the change of regulator responsibilities for MHFs were often reflected in option preferences, a raw analysis of stakeholder views on the number of regulators is shown in Table 7.

The table reflects stakeholder preferences for a single regulator, however it is important to note that raw analysis does not necessarily represent the preferences of those stakeholders most impacted by the change.

Table 7: Stakeholders views on change in regulator responsibilities for MHF sites

Preferred regulator numbers	Mining	Petroleum facilities	Major hazard facilities	Total	%
Single regulator	9	9	6	12	41%
Single regulator support implied	1	2	1	2	7%
Two regulators	0	2	5	6	21%
Two regulators support implied	1	1	0	1	3%
No preference	3	4	1	8	28%
Total	14	18	13	29	

Note: as a number of respondents represented several categories, total numbers do not equate to the actual number of submissions received.

6.1.2 Summary of preferences by industry

In light of the uneven distribution of companies and effected parties in each of the sectors, the following provides a sector by sector summary of comments received in written submissions.

It is noted that while some industry sectors tended towards a consistent view (such as pipelines and MHFs), other stakeholder clustering's represented a range of differing views. The following summary attempts to recognise these differences, however, it has been necessary to interpret similar arguments for reasons of brevity.

Mining

Preferences across mining sector submissions were mixed. Options 1, 2 and 3 were preferred by different stakeholders.

Option 1 was supported by Australasian Institute of Mining and Metallurgy (AusIMM), Ausdrill International Management Services, and conditionally supported (pending further justification or as the final result of a staged reform process) in confidential submissions. AusIMM commented that:

the design of a new regulatory structure provides consistency across jurisdictions (where possible and appropriate), delivers clarity of obligations for those working in the sector, and supports the recognition and transferability of health and safety skill and expertise across sectors and jurisdictions.

Option 2 was preferred both as a realistic and lower risk first step towards consolidation and a final outcome on the basis that further consolidation undermined important differences between sectors and safety outcomes. Where it was preferred as the final reform outcome, differences in operational activities, safety risks and an aversion to ‘one-size-fits-all’ risks under full consolidation were cited as the primary drivers for preferences. Australian Mines and Metals Association (AMMA) supported Option 2 on the basis that:

Mine safety has its own particular issues that AMMA believes are best handled by specific and discrete regulations, legislation and inspectorates (even if housed within the same department). This is also important to ensure continued appropriate funding for mine safety.

The fact is that mining and petroleum have very different risk profiles and are very different industries. Petroleum and MHF safety is very much built on a “safety case” model whereas mining is built on a “safety management system” model.

A lack of detail of the likely form and content of the consolidated legislation appeared to be a hurdle in support for Option 1. Lack of detail was cited as the reason behind provision of only conditional support for the option (pending further justification or as the final result of a staged reform process). In addition, a lack of detail was cited by some respondents as the reason for an inability to provide comment on potential impacts. In particular, the Association of Mining and Exploration Companies (AMEC) stated that it would not be in a position to provide informed comment until information (such as a business case, SWOT analysis or identification of Department efficiency saving, and how proposed changes relate to other safety reforms currently under consideration by the WA Government) had been made available.

Other points raised by mining industry stakeholders included:

- that the mining sector had recently undergone an extensive reform process and that a further reform to a single resources Act would impose two rounds of reform in quick succession.
- that the short term costs of further reform to adopt Option 1 would far outweighed of the long term benefits associated with companies that currently refer to multiple Acts only needing to refer to a single Act.

Petroleum

The petroleum industry stakeholders predominately preferred Options 2 and 3. While only one submission preferred Option 1, conditional support for the option was stated in a number of cases. Another submission preferred the current status quo.

Conditional support for Option 1 was made along similar lines as those suggested by mining industry stakeholders: that Option 1 would impose multiple rounds of reform. APPEA expanded on the potential success of reforms if consolidation efforts are pushed too far noting:

[Option 1] has significant attendant risk that a common act becomes too difficult to agree. If carried forward APPEA recommends Option 2 also be matured as a contingency.

A confidential submission supported Option 1 for the reasons outlined in the Consultation Paper but notes that:

Logically, this preference is not completely independent of the streamlining and modernisation of the various Acts based on the consistency principles enunciated.

Some submissions considered Option 2 was preferred as a lower risk option than Option 1. Similarly, Option 3 was supported on the basis that it provided some benefits but recognised inherent differences between the sectors. In particular:

The mining industry is inherently different to the petroleum and major hazardous facilities sectors and the newly drafted Work Health and Safety (Mines) Act is understood to be an improved regulatory process for this sector. The revision of the Mine Act however should be a separate activity and not a catalyst to merge all resource sectors into a single Act.

A confidential submission commented that Option 5 without modernisation was the preferred option on the grounds that:

All other options introduce additional overheads to our businesses without any quantified justification in risk reduction or service improvement.

However, Marsden Jacob notes that modernisation of the safety legislation for each industry is a stated government objective and so formed a part of each option.

Marsden Jacob notes the mixed preferences of petroleum industry stakeholders partly reflects individual stakeholder's exposure to other industry activities. For example, petroleum stakeholders with MHF sites tended to mirror MHF only stakeholder comments.

Pipelines

Pipeline industry representatives uniformly supported Option 3 and expressly did not support Option 1. Option 3 was supported by APIA, for example, on the basis that it:

... delivers the three distinct mining, petroleum and MHF sectors three distinct, specific and targeted acts. However, a deficiency in Option 3 was noted in that it leaves the MHF sector with two sets of legislation [an option which should have been included in the Consultation Paper].

Confidential submissions commented on the distinct pipeline requirements. For example:

Pipelines are linear compared to a mine or MHF which are contained within a compound and require a different skill set and knowledge of personnel carrying inspections, audits etc.

APIA and several confidential submissions also expressed a preference for the pipeline sector to retain specific legislation (in its own right), based on these differences:

APIA's preference is for an option that ensures each industry under consideration, being mining, petroleum and major hazard facilities (MHF) has its own, fit-for-purpose regulatory framework for safety (based on the above APIA would contend that the pipeline industry should be considered separate to petroleum).

However, submissions also acknowledged that most of the stakeholders regulated under the *Petroleum and Geothermal Energy Resources Act 1967* and the *Petroleum (Submerged Lands) Act 1982* would also have obligations under the *Petroleum Pipelines Act 1969*.

Option 1 was not supported as it was stated this option would create significant new compliance and monitoring costs. The submissions proposed costs arise due to much of the new legislation being largely irrelevant to any individual stakeholder.

APIA stated that:

a single piece of omnibus legislation that purports to consistently regulate multiple industries with unique safety considerations should not be presumed to be superior in any way to multiple pieces of well-designed and specifically tailored legislation.

Pipelines further rejected full consolidation as:

- the benefits of unifying the Acts had not been clearly established in the Consultation RIS and it was unclear as to whether consolidation would provide any benefits;
- pipelines are separate and quite different operations from other resource industry operations;
- specialisation of safety inspectors for the pipeline industry means that benefits from an increased resource pool may be limited.

Pipelines did not express a strong preference as to the number of regulators. The transfer of regulatory responsibilities was either not commented on or broadly supported in submissions. It is noted that none of the stand-alone pipeline industry stakeholders are currently covered by both petroleum & gas legislation as well as being classified as an MHF site (and therefore being covered by the relevant legislation).

Major hazard facilities

The majority of MHF industry submission focused primarily on the potential change in regulatory responsibilities. All but one submission stated a preference for retaining two regulators. The reasons for preferring separate regulators included:

- potential dilution of expertise and focus if there is no change to existing resources and potential associated safety risks inherent in such resourcing;
- reluctance to relinquish the well-established and proven track record of WorkSafe and existing working relationships in regulating OHS aspects of MHF sites; and
- additional costs to industry associated with training and retaining inspectors with skills in OHS and process safety which would like be recovered in the form of increased fees.

The preference over retaining current regulatory responsibilities tended to dominate preference selection (such that Options 1 and 2 were generally not preferred). A number of submissions also commented that a lack of sufficient detail or defined benefits cited under Option 1 (or any other option) supported retaining the status quo under Option 5.

Safety representatives, safety organisations and unions

All safety representatives, safety organisations and worker representatives uniformly supported a single regulator to the current dual regulatory roles for MHF sites. Options 1 or 2 were preferred, with some respondents considering Option 2 as a logical step towards the managed progression to Option 1 over time.

While many of the submissions highlighted the importance in clearly recognising the inherent differences in the resources sectors which fundamentally change the health and safety risks, this was raised as an important consideration for the detail reform process to consider, rather than a potentially unmanageable risk as it was positioned in some industry specific submissions.

The Occupational Health Society of Australia stated that coordination of roles or delegation of responsibilities for an individual site could be feasible in the absence of legislative change. It is noted that such a transfer currently occurs between DMP and WorkSafe WA for the construction phase of mining sites.

Other industry and peak body representatives

Other industry and industry peak bodies either preferred Option 1 or did not support Option 1 at all.

Where Option 1 was not supported, it was largely driven by a lack of support for changed regulator responsibilities. In addition, some stakeholders considered full consolidation posed a risk of existing sector approaches becoming inappropriately standardised. For example, the Cement Concrete & Aggregates Association noted:

The risk profiles of an open cut mine and a quarry are very different to that of an oil rig or MHF. The latter two operations face catastrophic risks that have wide ranging impacts on the environment and the community. A health and safety incident at a quarry is far less likely to impact the environment or the wider community.

6.2 Common themes to comments

In reviewing submissions, Marsden Jacob identified a number of common themes to concerns raised with consolidation. This section summarises the key themes to emerge – but importantly does not summarise indications of support for consolidation. For simplicity we have grouped similar themes together, although we recognise that there are nuances to the various arguments and that a number of the arguments are interlinked.

It is important to note also that some respondents identified concerns as a reason not to progress with a particular option (e.g. consolidation under Option 1), whereas other respondents identified the same concern as a factor to be managed in undertaking consolidation. In this section comments on the same topic are grouped together – irrespective of whether the issue is seen as a “fatal flaw” or a factor to be managed.

The key themes identified across the twenty nine (29) submissions were:

- further detail and consultation is required;
- the substantial scale of reform being considered;
- need for recognition of differences between the industries and the risk of oversimplification; and
- regulation of MHFs.

Each of these themes are summarised in turn below. Importantly these comments are not evaluated in this section, as this is undertaken in sections 7 and 8.

6.2.1 Further consultation is required

As noted in section 2.3, a small number of respondents indicated that they considered that the level of detail provided in the C-RIS was deficient.

Similarly, a small number of respondents sought additional consultation prior to the selection of option. For example the Kwinana Industry Council stated:

It is hoped that further consultation will occur prior to final decision on the option made

And the Chamber of Commerce and Industry stated:

The consultation paper does not provide sufficient detail in order for industry to make an informed decision as to which option accomplishes both a reduction in costs and improved safety outcomes.

In contrast other stakeholders noted that the legislative structure (the subject of this RIS) is only a small part of the reform process.

BP Refinery Kwinana clarified the consideration of content was a separate question for which specific opportunity to comment should be provided:

This review is limited to reforming the legislative and regulatory structure not the content that sits under the structure. There should not be changes to content as a result of this review. It is vital that we are given adequate opportunity to comment on future proposed changes to content.

6.2.2 Scale of reform/ number of reforms being considered

Some respondents indicated that they considered the scale of the change to be substantial and that Option 1 represents too large a change to be achievable. For example the Construction, Forestry and, Mining and Energy Union (CFMEU) stated:

Option 1 is the ideal state, and one WA should strive to achieve, however the gap between Option 1 and Option 5 (current state) is too wide from a legislative, regulatory, WHS cultural, industry, and work practice perspective.

The CFMEU would support a managed progression to Option 1, following a period of further discussion and consideration.

Australian Mines and Metals Association (AMMA) stated:

Option 1 in the consultation paper, which appears to be the option the state government favours, would bring together under a single Act and regulator the safety aspects of petroleum and geothermal legislation, mining legislation and MHFs.

In AMMA's view, this would be a bridge too far in the current environment and would not produce the best outcomes for safety in Western Australia.

APPEA commented:

Option 1 has attendant risks in that consolidation of Mining and Petroleum/MHF acts may prove to be too difficult to achieve in practice.

In contrast to these comments, a number of submissions were supportive of consolidation – particularly under Option 1 or Option 2 – and did not appear to consider the change to be excessive.

A confidential submission suggested a staged process:

Ideally, a streamlining and modernisation of the various Acts would occur first.

However, another submission (from the Chamber of Minerals and Energy) was concerned that Option 1 could result in two step process:

Option 1 would effectively require the mining sector to experience two large scale reforms in succession

6.2.3 Risk of oversimplification, need for recognition of differences between the industries

A number of submissions commented on the differences between industries.

While some submissions raised this as important to keep at the front of mind in the consideration of (separate) legislative reform following consolidation, others considered the differences would undermine benefits and introduce risks.

For example, Australian Petroleum Production & Exploration Association (APPEA) commented:

APPEA notes that the risk profiles, culture and terminology of the mining industry is somewhat different to the oil and gas industry.

Similarly, Cement Concrete & Aggregates Australia stated:

CCAA supports a unified regulatory authority responsible for two sets of laws, one for the mining industry and one for the petroleum and MHF industries, as the two industries have significantly different risk profiles.

The amalgamation of one set of laws that manage the health and safety risks at mines, petroleum sites and MHF increases the risk of inappropriate regulations being applied to operations with different risk profiles. This increases the risk of regulatory burden, especially for less complex operations.

Mining representatives also considered differences in safety issues across industries as important. For example, Option 2 was supported by Australian Mines and Metals Association (AMMA) on the basis that:

Mine safety has its own particular issues that AMMA believes are best handled by specific and discrete regulations, legislation and inspectorates (even if housed within the same department). This is also important to ensure continued appropriate funding for mine safety.

The fact is that mining and petroleum have very different risk profiles and are very different industries. Petroleum and MHF safety is very much built on a “safety case” model whereas mining is built on a “safety management system” model.

CCI stated

Due to a fundamentally different approach to risk-management between certain sectors, there is a risk that consolidating the legislation and creating minimum standards will result in certain sectors of the industry being over-regulated in lower risk areas with no perceived safety benefits.

A confidential submission stated:

It has ... not been established how the DMP would consistently applying the same safety regime across these very different industries nor have any inherent safety advantages been promoted by undertaking this reform.

Some respondents expressed this concern in terms of a risk that a “one size fits all approach” to risk could be applied – potentially either increasing compliance costs or reducing levels of safety.

A further variation of this concern was that DMP inspectors would not be able to be experts in all elements. Some respondents considered this a fatal flaw, for example a confidential submission stated:

It is our opinion that the DMP is unlikely to find sufficient number of individuals who are skilled, experienced and capable of effectively achieving the desired results in these related but different disciplines.

In contrast, other respondents suggested that maintaining separate inspectorate would be sufficient. The Occupational Health Society of Australia - WA Branch stated:

There needs to be a clear recognition that the mining and petroleum sectors are fundamentally different and each has specific health and safety concerns. Maintaining

inspectories with the expertise to respond to those concerns ... is critical to workplace health and safety.

6.2.4 Regulation of MHFs

Comments regarding the proposed change in regulator for MHFs were mixed. A number of MHF industry stakeholders stated a preference to retain the current (two regulator) system. Plastics and Chemicals Industries Association (PACIA) explained:

The benefits of maintaining split roles would ensure:

- *companies with multiple sites (MHF and non-MHF) will have consistent application and decisions by one regulator on a specific legislative requirements – not two different views;*
- *same level of safety benefit, with reduced costs;*
- *consistency for businesses - as roles are known and established within organisations; and*
- *reduced complexity for businesses transitioning in site changes of MHF.*

A number of the submissions which did not support the unified regulatory responsibilities also highlighted a reluctance to forgo existing working relationships.

Meanwhile, other stakeholders considered there would be benefits in the changed regulatory responsibilities and reporting (Australian Mines and Metals Association, Cement Concrete & Aggregates Australia, Chamber of Minerals and Energy, Safety Institute of Australia – WA Branch, Ausdrill International Management Services, and three confidential submissions). For example, Australian Petroleum Production & Exploration Association's (APPEA) submission stated:

The reduction in the number of regulators for Major Hazard Facilities proposed in Options 1 and 2, supports both increased effectiveness (by retaining critical safety skills in one regulatory department) and efficiency (by reducing the quantity of bureaucracy and the number of perspectives on safety risk)

Further, it is noted that all safety representatives, safety organisations and worker representatives preferred a single regulator to the current dual regulatory roles for MHF sites.

7. Impact analysis

As set out in section 1.2 the D-RIS requires an assessment of whether the legislative and/or regulatory change will meet its objective; whether it will be a net benefit to the economy, and whether the regulatory change will have an impact on:

- the environment;
- social justice;
- health;
- equity; and
- other relevant areas.

To identify the legislative framework which best facilitates safety outcomes, the costs and benefits of each option relative to the Option 5 (status quo) were identified in the C-RIS. The costs and benefits of change may accrue to any sector of the community including industry, government or employees.

In assessing the RIS criteria Marsden Jacob consider first the submissions on the objective proposed in the C-RIS and then the submissions on the costs and the benefits of each option (the net benefit of each option naturally being the sum of the costs and the benefits). These are discussed in turn below. Finally we consider whether the regulatory change will have an impact on the environment; social justice; health; equity; and other relevant areas.

7.1 Achievement of objectives

As set out in section 4 respondents agreed with the proposed objective, but suggested some additional points that are included as guiding principles. The final objective for the structural reform is:

To develop a regulatory structure that supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHF. The regulatory structure should seek to:

- *improve health and safety outcomes while balancing regulatory burden; and*
- *improve consistency between the industries and with the Commonwealth while recognising sector specific risks and approaches to risk management.*

As the objective that was consulted on was not substantially altered in response to the consultation, Marsden Jacob determined that respondents' comments on the objective should still be considered.

Question 3 of the C-RIS was:

3. *Do you believe that Option 1 best fulfils the objectives identified?*
 - a. *Which option best fulfils the reform objectives and delivers the greatest benefit for the WA community?*
 - b. *Is this preference independent of potential outcomes of the streamlining and modernisation of the various Acts?*

As set out in Table 5, a similar number of respondents identified Options 1, Option 2 and Option 3 as best fulfilling the objectives and delivering the greatest benefit for the WA community.

7.2 Costs of the proposed consolidation

7.2.1 Costs proposed in the C-RIS

The C-RIS proposed that the costs of legislative change include both set up costs and ongoing costs.

Set up costs

Set up costs include the development of the legislative reform as well as the implementation costs that occur in the initial year of the legislation being in place. These costs traditionally fall to government during the development of the legislation, and both government and industry in the implementation of the legislation.

All safety legislation will be subject to modernisation through separate processes, regardless of any consolidation of the legislative framework. While some legal and other administrative costs would be incurred as a result of consolidation, these would constitute marginal additions to the costs of legislative change arising from modernisation.

Preliminary analysis by DMP indicates that there would be limited set up costs associated with the adoption of any of the reform options when compared to Option 5 (status quo) and that the costs are likely to be fairly consistent across each of the options, including under Option 5 (status quo).

DMP has recognised that some additional work may be necessary in consolidating the Petroleum Acts, due to the interactions with the “non-safety” elements within the three petroleum Acts as well as Commonwealth legislation. This consideration is relevant to each of the Options 1 to 4 when compared to the Option 5 (status quo).

Ongoing costs

Ongoing costs of a legislative change are dependent on the substantive requirements of the change.

No substantive changes to the content of safety provisions or the administration of safety processes (beyond a transfer of regulator responsibilities for Options 1 and 2)²¹ are being considered as part of this consultation. As such, the ongoing costs (which are dependent on the content of legislation) are considered unchanged across the options, including Option 5 (status quo), for the purposes of this Regulatory Impact Assessment.

7.2.2 Comments on costs provided in submissions

The majority of respondents either made no comments on costs or supported the costs identified in the C-RIS.

Comments on setup costs

Regulatory burden from multiple rounds of reform

A small number of respondents (the Chamber of Minerals and Energy of Western Australia and a confidential submission) commented that Option 1 imposes two rounds of reform in quick succession. From Marsden Jacob’s understanding of the reform process, this concern will not arise as the timing of the mining and other safety legislation will be managed and will be implemented together.

²¹ It should be noted that DMP have stated that the proposed transfer of roles for OHS safety on MHF would not result in an increase in fees for these sites.

Section 10.1.1 details DMP’s proposed approach and current planned timings for this to occur.

One respondent (Dampier to Bunbury Pipeline (DBP)) stated:

...the safety regime for pipelines only changed relatively recently in 2010 through Schedule 1 of the Petroleum Pipelines Act (WA) 1969 and the Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations (WA) 2010. There is therefore a real risk that introducing a further change to the regulatory framework will not only impose considerable compliance and change processes on DBP, it will create uncertainty amongst workers. Over the last 4 years, DBP has expended considerable effort in modifying its safety processes to comply with these requirements.

While Marsden Jacob understands Dampier to Bunbury Pipeline’s concerns, the choice of any option considered in this RIS will not impact on the content of the legislation – which is the likely cost driver behind compliance costs. Marsden Jacob agrees that changes in legislative structure may drive some set up costs. However, in Marsden Jacob’s experience changes relating only to legislative structure tend to be relatively small in cost and it is noted these may be incurred anyway if substantive changes arise through the modernisation process.

Conversely, one respondent (Ausdrill International Management Services) commented that:

any short term costs will be greatly outweighed by the long term benefits

Initial costs associated with a change in regulator

All but one MHF industry submission stated a preference for retaining two regulators. A number of the justifications for the preference related to costs which appear relatively small– such as a reluctance to relinquish well-established working relationships, a requirement for additional government resources (which was estimated by DMP to be negligible in size) or otherwise a potential loss of appropriate focus on risk types by the regulator.

However, a number of the submissions noted potential set-up costs associated with training and familiarisation with any modified processes.

Marsden Jacob notes that while some set-up costs relating to changed regulatory responsibilities would be inevitable for both industry and DMP, these appear relatively small compared to many regulatory setup costs.

Ongoing costs

Risk of increased compliance costs/ Over simplification

A number of respondents expressed concern that Option 1 – and to a lesser extent Option 2 – would increase the risk of a “one size fits all” approach to safety management. It is feared that such an approach would enforce consistency across differing industries and risk profiles. If this were to occur this could either increase compliance costs without improving safety or could reduce the levels of safety for particular industries.

Cristal Pigments Australia commented:

Option 1 may confuse two fundamentally different approaches to risk management. OHS is fundamentally focused on high frequency, lower consequence events and the management of the associated hazards. ...Process or Technical Safety on the other hand is about the management of low frequency high consequence events.

While this difference in risk profiles is accepted, Marsden Jacob notes that the Model WHS Act and Regulations include both mining and MHFs within the single act and single set of regulations.

Furthermore it is noted that in both Queensland and New South Wales, MHFs are regulated under the WHS Act that also cover general industry – despite the presence of specific mine safety legislation in each state.

Some respondents suggest that the risk of increased compliance costs from an excessive focus on consistency can be managed through a staged process -

Ideally, a streamlining and modernisation of the various Acts would occur first. To conduct an effective streamlining, a mapping and comparison of each section of each Act would need to be made.

Through the RIS process DMP outlined that a mapping and comparison of both the primary legislation and regulations has been undertaken internally and these will be presented and discussed in detail during the subsequent RISs for both the acts and regulations. In addition, DMP contends that the plan to undertake multiple RISs will ensure that a “one size fits all” approach to risk management does not occur.

A further possible solution to the perceived risks of Option 1 was suggested by Australian Petroleum Production & Exploration Association which stated:

If Option 1 is to be progressed, Option 2 should be carried as a contingency to avoid the potential lost opportunity of reverting to the status quo, should Option 1 fail to be implemented

DMP indicated that if Option 1 were the preferred outcome they would progress on that basis, but would continue to consider Option 2 as a contingency, in the (unlikely) case consolidation was to become unmanageable in the later RIS processes.

Specialist inspectorates

A number of respondents expressed concern that individual DMP safety inspectors would not be able to deal with the full range of possible industries and hazards. Some respondents proposed that this should be managed by maintaining separate inspectorates. For example the Chamber of Minerals and Energy (CME) stated:

CME recommends specialist ‘divisions’ within the DMP and specialist expertise within the inspectorate be maintained and strengthened. Industry values the role of the regulator in providing advice on best practice and working collaboratively to promote continuous improvement.

DMP indicated that they would commit to maintaining separation within the Resource Safety Division and specialist expertise within the inspectorate.

Fees for MHFs

Some MHFs noted that fees may increase if DMP becomes responsible for occupational health and safety on MHFs. This point was noted by Cristal Pigments Australia:

It is difficult to imagine that costs to industry will not increase if the DMP assumes responsibility for the regulation of OHS from Worksafe due to the cost recovery provisions of RADARS.

Marsden Jacob notes that – at least for the short term - this point was addressed in Appendix 2 of the C-RIS, which stated:

The structure of fees and levies is independent of the legislative structure and as such, no changes to current charges are expected as a result of the consolidation of legislation.

If the preferred option includes transfer of responsibilities for MHF OSH from WorkSafe to DMP, the MHF fees are not expected to be impacted.

DMP is aware that cost recovery for safety regulatory services is applied using different methodologies. A wider review of cost recovery levies and fees legislation will be undertaken later, under a separate process, with appropriate consultation. The cost recovery review is not dependent on the structure of the legislation.

7.3 Benefits of the proposed consolidation

7.3.1 Benefits proposed in the C-RIS

The C-RIS proposed that the types of benefits arising from each Option can be aligned with the objectives identified in section 2 of the C-RIS (consistency, equity and efficiency). Each of the benefit types are described in detail below, the alignment of each benefit type to each Option is then considered in detail.

Consistency and equity

Preliminary analysis indicates that each of the reform options would deliver varying levels of the benefits relating to consistency and equity.

Consistency of approaches to safety regulation and standards across resources industry sectors is important for achieving equitable safety conditions where the same risks and safety consequences are evident across different industries and work sites.

Reform of the legislative framework is likely to facilitate consistency in approach and the detail of safety activities and standards.

The regulatory structure being determined by this consultation process will affect the future consistency and ease of administration of the legislation, when the legislation is modernised later.

Consolidation of safety provisions into a unified Act with a single regulator under Option 1 would enable consistency to be maintained over time.

Modernisation of separate Acts under Options 2 to 5 will initially result in a consistency of the approach, objectives and standards across separate Acts (where appropriate). If the legislation is not consolidated, there is a risk that these separate Acts will “drift apart” over time - as has already happened with petroleum legislation. This would result in inconsistencies in the Acts arising on a case-by-case basis.

Efficiency

Preliminary analysis indicates that each of the reform Options would deliver varying efficiency benefits to government, industry and employees.

Efficiency gains and ease of regulatory burden is likely to be driven by:

- (a) the number of Acts containing provisions relevant to a particular industry sector (e.g. the three separate Acts covering petroleum safety), and
- (b) the number of Acts and regulators applicable to a single work site (e.g. some sites have mining operations and petroleum pipelines; some MHFs are located on the same site as a mining or petroleum operation; all MHFs a covered by two Acts and two regulators).

By reducing the number of Acts, it is proposed that the consolidation will assist to:

- **Reduced costs for compliance, compliance monitoring, enforcement and administrative costs**
A simplified legislative structure will enable the use of common terminology and compliance requirements, which will remove duplication, simplify approvals, documentation and reporting, as

well as reducing legal/consultant and administrative costs. These benefits would apply to industry and government.

- **Reduce ongoing training costs for both industry and the regulator, arising from a simplified legislative structure**

It is proposed that a simplified legislative structure will result in reduced training costs for all workers (industry and government) using the safety Acts due to use of a simplified structure.

- **Increase mobility of workers between industries**

The simplified legislative structure and the use of common definitions and regulatory requirements will increase the mobility of workers between industries. This benefit would potentially accrue to both government and industry employers and employees.

- **Reduce ongoing legislative change costs to ensure consistency between legislation**

The consolidation of Acts would simplify and reduce future costs of legislative change, such as reflecting changes across multiple separate acts. These costs would be noted by government in reduced regulatory analysis, regulatory drafting, and communication with industry.

Consolidation of regulatory roles for MHF is expected to:

- **Reduce reporting to multiple government departments - removing duplication and reducing compliance costs;**

Reducing the number of government departments each MHF site reports to would remove duplication and consequently reduce compliance costs. These benefits would be noted by industry.

- **Enable a single government regulator to be responsible for each MHF site**

Having a single government regulator responsible for each MHF site will remove any opportunity for ambiguity or inconsistency. For example, a single regulator for each site covering both process safety and worker OHS may deliver potential efficiencies in inspection and documentation processes. A single regulator covering safety across the three resource industries may also enable consideration of further efficiency gains. For example, a single safety case may be appropriate for sites that are currently covered by both petroleum and MHF (or a combination of Acts) in lieu of potentially duplicated processes. Benefits from removal of duplication of single work sites would be noted by both government and industry.

Alignment of benefits to each of the Options

As set out above, the benefits of reform are related to both the number of acts and the number of regulators. Table 8 sets out the expected number of Acts and number of regulators under each Option and the resulting impact on expected benefits.

Table 8: Number of Acts, regulators and resultant expected benefits under each Option

	Number of Acts	Number of regulators	Summary of the benefits
Option 1	1 Act Unified Safety Act for Mines, Petroleum and MHF	1 Regulator	Maximum benefit achieved Benefits arising from unification of all safety acts achieved Benefits of 1 regulator achieved
Option 2	2 Acts Safety Act for mines and separate Act consolidating Petroleum and MHF	1 Regulator	Some benefits arising from consolidation of the petroleum and MHF Acts. Benefits of 1 regulator achieved
Option 3	4 Acts Separate safety act for mines and for both Petroleum and two Acts covering MHF	2 Regulators	Small benefits arising from consolidating the petroleum Acts No benefits from consolidation of the regulatory roles
Option 4	3 Acts Consolidated safety act covering mines and petroleum and a separate act for MHF	2 Regulators	Some benefits arising from consolidation of the petroleum and mines safety Acts. No benefits from consolidation of the regulatory roles
Option 5	6 Acts One safety act for mines, three acts for Petroleum and two acts covering MHF	2 Regulators	No benefits (status quo)

7.3.2 Comments on benefits provided in submissions

A range of comments were made by respondents on the benefits proposed in the C-RIS.

General comments

A number of respondents were supportive of the benefits identified and the allocation of benefits to Options.

In addition to particular points for and against the benefits identified, some general comments were provided on the benefits.

The Australian Pipeline Industry Association (APIA) stated:

The analysis of the costs and benefits set out in the Consultation RIS is very high level and is simplistically applied to each option on the basis that the fewer pieces of legislation exist the greater the benefit. APIA considers that many of the benefits that have been mentioned would actually arise from a streamlining and modernisation process, not the legislative simplification that is proposed. The benefits arising from streamlining should not be attributed to this reform process.

A confidential submission stated:

Positive cost savings to Government may be achieved, which should be supported, but the detail of this aspect is not clear enough

BP Refinery Kwinana stated:

Content of proposed options, not the structure, will have the largest influence on the effectiveness of continuously improving both the safety performance and the competitiveness of industry.

While each of these comments query the benefits identified in the C-RIS, there are a similar number of comments supporting the benefits identified.

Importantly Marsden Jacob acknowledges and agrees with comments made by some respondents that the selection of legislative structure does not guarantee compliance costs savings. Instead the legislative structure provides a foundation for the primary and subsidiary legislation – which will be considered in subsequent RISs.

Comments on efficiency

Increased mobility of workers

Three respondents (all confidential), commented that

the suggested cost efficiencies relating to training and increased mobility between sectors by consolidating the resources Acts are not understood.

However a confidential response from a group involved in training stated:

It is clear from our own training records that there is significant movement of personnel between the mining and petroleum industries and major hazard facilities in WA. The amalgamation of the legislation for these three industries would definitely allow this type of movement to occur more easily. The benefit to personnel and to companies would be a reduced requirement for re-training of personnel who move from one industry to another, which may allow individuals to extend their training into more specialised or advanced areas.

Given the differing responses it appears reasonable to conclude that some level of personnel movement occurs between industries – but this may not be seen by all sectors or all industry participants.

Benefits of a single regulator for MHFs

Contrasting views were put forward on benefits of a single regulator for MHFs.

One respondent (confidential) stated:

It is our understanding that Major Hazardous Facilities who also have dangerous good storage will still have DG managed by WorkSafe, even under a consolidated regime. It is unclear what benefit MHF would gain from a consolidated Act.

In response to the particular point, DMP provided the following clarification:

MHF's that also store dangerous goods on the same MHF declared site will have OHS for the entire site regulated by DMP. There is no intention to divide the site (e.g. dangerous goods storage area with OHS regulated by WorkSafe, and MHF area OHS regulated by DMP).

However, it is possible for a company with an MHF to have other 'off-site' sections of its business that hold a dangerous goods licence of some sort. As most of these sites have their

own personnel who work independently from the MHF, the OHS for these other dangerous goods sites would continue to be regulated by WorkSafe.

Other respondents commented that they considered a single regulator would provide benefits. For example one respondent (Ausdrill International Management Services) stated:

We also believe the transfer of responsibility of General Safety Provisions from Worksafe to Department of Mines and Petroleum for Major Hazards Facilities', will avoid confusion over who has jurisdiction for a given event at a MHF and avoid the inevitable delays that occur whilst those discussions regarding who is responsible take place

Comments on consistency and equity

Consistency with broader WHS legislation

A number of submissions commented they that they supported the harmonisation objective and a small number of submissions indicated they would prefer that all WA workplaces be covered by one Work Health and Safety Act (e.g. Civil Contractors Federation). However, DMPs proposal to ensure resources safety legislation was consistent with the boarder Work Health and Safety Act was considered acceptable.

Fundamentally different approaches to risk management

Australasia Institute of Mining and Metallurgy (AusIMM) stressed the need for legislation to be outcome and risk-oriented (specifying the goals to be achieved, rather than the steps businesses must take). AusIMM supported Option 1 and commented that the design of a new regulatory structure provides consistency across jurisdictions (where possible and appropriate), delivers clarity of obligations for those working in the sector, and supports the recognition and transferability of health and safety skill and expertise across sectors and jurisdictions.

The industries which are subject to consolidation under a single Act have very different operational activities and risk profiles and although the detail of the proposed changes was not currently being considered, that the perceived benefits of Option 1 had not been clearly demonstrated.

This comment is related to the *Risk of increased compliance costs/ Over simplification* which is addressed in section 7.2.2 above.

7.4 Other potential impacts of each option

The C-RIS did not identify any potential impacts on relevant areas identified in the RIS criteria such as the environment; social justice; health; or equity.

Similarly respondents to the C-RIS did not identify potential impacts of these kinds for any of the Options.

Occupational health and safety could be considered an “other relevant area”. A number of respondents commented that improved safety should be an objective of the structural reform (see section 4) and some respondents commented that any of the options considered in the RIS would not ensure an improvement in safety.

Importantly, Marsden Jacob acknowledges and agrees with comments made by some respondents that the selection of legislative structure does not guarantee improved safety. Instead the legislative structure provides a foundation for the primary and subsidiary legislation – the content of which will be considered in subsequent RISs.

7.5 Distribution of costs and benefits

Overview of responses provided

No respondents expressed significant concern over the distribution of costs and benefits.

One confidential submission indicated that they considered distribution of costs and benefits to be unfair – but did not provide detail or evidence of the issue. The response appears concerned that the (perceived) focus of the structural reform is on mining and petroleum and geothermal energy resource operators.

Two respondents provided qualified support. The Cement Concrete & Aggregates Australia stated:

Provided that effective guidance material is provided to small operators and that the health and safety management laws are applied proportionate to the risks and scale of the operation then there should not be undue regulatory burden or costs for industry.

Similarly the Australian Pipeline Industry Association (APIA) stated:

APIA considers the all the options to have the potential to unfairly distribute costs.

A point raised by a number of respondents is that amongst the various stakeholder groups the greatest benefit of Option 1 or Option 2 will fall to companies that currently operate across a number of legislative areas. For instance large offshore oil and gas producers would benefit greatly from the alignment of Commonwealth and state petroleum and gas legislation as well as MHF provisions. Similarly contractors and employees that move between differing legislative areas would benefit from increased consistency – and this should provide benefits to all companies.

Conversely, the businesses that operate in only one area – such as only gas pipelines, only MHFs or only mining will benefit the least – but these groups should still benefit from decreased contractor costs and increased employee mobility.

8. Assessment of options against RIS criteria

8.1 Assessment of Options against RIS criteria

As detailed in section 7, Marsden Jacob have used the responses to the C-RIS to assess each of the Options against the RIS criteria, for simplicity, this analysis is summarised below in Table 9.

Table 9: Summary assessment against RIS criteria

Criteria	Assessment
Whether the legislative change will meet its objective	Options 1, 2 and 3 were identified in a similar number of stakeholder submissions as the preferred option (best meeting the objectives and producing the greatest net benefit)
Whether it will be a net benefit to the economy (Benefits)	The benefits identified in the C-RIS are broadly supported. While some respondents queried some of the benefits, the benefits identified appear expected to arise (though some benefits may not be realised by some respondents). The C-RIS proposed that Option 1 would produce the largest benefit over the longer term.
Whether it will be a net benefit to the economy (Costs)	<p>Marsden Jacob considered comments both in support of the set up costs identified and suggesting the costs were understated. Due to the range of comments Marsden Jacob were not persuaded that any option had significantly different set up costs.</p> <p>While a number of respondents indicated that additional costs could arise under Option 1 (or Option 2) – from a “one size fits all” approach to safety, DMP are confident that the remainder of the reform process (with RISs proposed for both the legislation and the regulation) will ensure that Option 1 and 2 do not impose a “one size fits all” approach to safety.</p> <p>On balance Marsden Jacob considers that if the government commits to undertaking a detailed RIS for the legislation and another RIS for the regulations then the risk of a “one size fits all” approach to safety will be appropriately managed.</p> <p>Once the risk of a “one size fits all” approach to safety is removed – through an appropriate RIS process; Option 1 remains the option that is likely to deliver the greatest net benefits.</p>
Whether the regulatory change will have an impact on: <ul style="list-style-type: none"> the environment; social justice; health; equity; and other relevant areas. 	It appears unlikely that any of the options will have a significant impact on the environment; social justice; health; equity; and other relevant areas.
Whether the legislative change result in costs or benefits being distributed unfairly	It appears unlikely that any of the options will result in costs or benefits being distributed unfairly

8.2 Preferred option

Marsden Jacob considers that efficiencies could be obtained with well developed, consolidated legislation that would not be possible under separate legislative instruments.

We also recognise that there is a risk that consolidated legislation could introduce inappropriate ‘one size fits all’ solutions. However, this risk can be managed through detailed assessment of the content of the legislation and regulations in subsequent RISs.

Therefore, we recommend that the detailed legislative and regulatory content associated with Option 1 be further developed and be subject to further scrutiny through separate RIS processes. Provided the legislative and regulatory content is found to provide a net benefit compared with the status quo, Option 1 should be implemented as the preferred option.

If it is not possible to develop legislative and regulatory content that delivers a net benefit, or if other factors cause the development of Option 1 to be delayed and risk delaying the implementation of modernisation for mining and/or general industry, then Option 2 should be implemented.

9. Recommendations

In the recommendations below Marsden Jacob have captured a number of the commitments made by DMP during the consultation as well as suggestions made by respondents – which were seen as appropriate to maximise the benefits and minimise the costs of the reform process.

9.1.1 Recommendation 1: Objectives

Marsden Jacob recommends that the objective of the structural reform of safety legislation should be:

To develop a regulatory structure that supports the delivery of high standards of safety in an efficient, equitable and consistent manner across mining, petroleum and MHF. In addition the regulatory structure should seek to:

- *improve health and safety outcomes while balancing regulatory burden; and*
- *improve consistency between the industries and with the Commonwealth while recognising sector specific risks and approaches to risk management.*

9.1.2 Recommendation 2: Preferred option

Marsden Jacob recommend that the detailed legislative and regulatory content associated with Option 1 be further developed and be subject to further scrutiny through separate RIS processes (covering the content of the legislation and the regulations respectively). Provided the legislative and regulatory content is found to provide a net benefit compared with the status quo, Option 1 should be implemented as the preferred option.

If it is not possible to develop legislative and regulatory content that delivers a net benefit, or if other factors cause the development of Option 1 to be delayed and risk delaying the implementation of modernisation for mining and or general industry, then Option 2 should be implemented.

9.1.3 Recommendation 3: Further consultation on modernisation

Marsden Jacob notes that DMP have committed to undertake two further RISs, one on the content of legislation for Petroleum and MHF operations, and a second RIS on the content of regulations (covering mining, petroleum and MHFs).

Marsden Jacob recommends that further detailed RISs are used to ensure that all elements of the legislation and regulations are considered in detail.

9.1.4 Recommendation 4: Process and timing

The proposed process and timing is set out in section 10.1.1. Marsden Jacob recommends that the process and timing are constantly monitored to ensure that consideration of particular elements (such as petroleum and MHFs) does not delay the implementation of modernised legislation for broader industry (e.g. general industry and mining).

9.1.5 Recommendation 5: Specialist divisions

Within Resources Safety Division specialist branches and inspectors with skills aligned to the industry sector they regulate should be retained.

9.1.6 Recommendation 6: Cost recovery levies and fees

Marsden Jacob recommends that DMP undertakes a review of cost recovery levies and fees legislation with appropriate consultation.

Until a review is undertaken, Marsden Jacob recommends that the DMP follow its statements from the C-RIS that the selection of legislative structure will not impact on MHF fees.

10. Implementation and Evaluation Strategy

10.1 Timing of implementation

The West Australian Government has previously stated that they wish to implement WHS for mining and general industry concurrently.

Process and timing for the modernisation of safety for general industry

The Work Health and Safety “Green bill” is currently being consulted on. If it is proposed to implement the modernised legislation then the government will seek to consult on the regulations through a RIS, which could occur in late 2015.

10.1.1 Process and timing for the modernisation of resource safety legislation

DMP have identified two possible processes for the modernisation of resource safety legislation. DMP is considering implementing a single step process – but this will depend on the timing of both the general industry safety legislation and regulations as well as the modernisation of the mining, petroleum and gas and MHF legislation and regulations.

Single step process

A single step process would include the following key steps – with estimated timings:

- the Minister to select an option from the current RIS by mid-2015;
- RIS on new Bill²² by early 2016;
- RIS on new regulations by early 2017; and
- legislation finalised and implementation targeted for end of 2017.

Two-step process

Under a two-step process, modernisation of the mining legislation would progress ahead of the Petroleum and MHF legislation. Under this arrangement the WHS (Mines) Bill would be introduced to Parliament towards the end of-2015.

A RIS on the mining regulations will be undertaken in late 2015 with a target milestone for gazettal of the regulations around July of 2016.

Phase 2 of the modernisation process would cover petroleum and MHFs and is broadly expected to occur between 2015 and 2017.

Under the two-step process, a RIS for the petroleum and MHF sections of the Bill would be undertaken in early 2016.

A RIS for the petroleum and MHF regulations would be undertaken in early 2017.

²² Under Option 1 the RIS would be on the consolidated Bill, whereas if Option 2 were progressed the RIS would be on the Petroleum and MHF Safety Bill

10.2 Evaluation Strategy

The Department of Mines and Petroleum plan to include a five year review of the legislation in the modernised act (or acts). DMP have indicated that they consider these review provisions to be standard.

Appendix 1: Background

Overview

DMP has received Government approval to reform the safety legislation that applies to the resources sector.

DMP is modernising the *Mine Safety Inspection Act 1994* (likely to be called the Work Health and Safety (Mines) Act) by adopting the best provisions of the national model work health and safety legislation, and the outcomes of the National Mine Safety Framework process, tailored to suit the needs of the Western Australian resources sector.

While the department is modernising safety legislation for mining, it is also examining the feasibility and options for consolidating this with the safety and health legislation for petroleum and MHF.

Mines safety

Occupational safety and health in the mining industry is currently regulated under the *Mines Safety and Inspection Act, 1994*.

Overview of the current Act

Relevant sections of the current Act align well with the safety provisions for general industry (specified under the *Occupational Safety and Health Act 1984*). However, the current Act is considered to be outdated and too prescriptive.

Modernisation of the Act

The Act will be modernised and is likely to be called the Work Health and Safety (Mines) Act. This reform process has commenced and will continue regardless of the preferred consolidation options which are selected. Government is ensuring input on the modernisation reform is received from a broad range of stakeholders through the use of the Ministerial Advisory Panel on Safety Legislation Reform²³, working groups and workshops²⁴.

Content of the modernised Act

The content of the revised Work Health and Safety (Mines) Act is likely to substantively align with the proposed Western Australian version of the Workplace Health and Safety Act, which covers occupational health and safety for general industry.²⁵ The revised act will also draw many provisions from the National Mine Safety Framework process.

Timing of modernisation

It is expected that implementation of the revised Work Health and Safety (Mines) Act will occur in mid-2016, subject to Parliamentary processes and consultation.

DMP have already prepared drafting instructions for Parliamentary Counsel's Office and the Bill is expected to be tabled in Parliament in late 2015.

²³ The membership of the Ministerial Advisory Panel on Safety Legislation Reform and minutes of meetings are available here <http://www.dmp.wa.gov.au/19517.aspx>

²⁴ Three working groups (Guarding, Confined Spaces and Asbestos) and one workshop (management and supervision) have concluded. Their reports will be considered during development of the new regulations.

²⁵ On 12 August 2014, the Minister for Commerce, Hon Michael Mischin MLC announced in parliament that a Western Australian version of the model workplace health and safety (WHS) bill would be introduced shortly into State Parliament. This will be in the form of a green bill, which will be released for a consultation period of three months.

Key milestones are the passage of the Act through Parliament by the end of 2015 and gazettal of the regulations around July 2016.²⁶

Major Hazard Facilities safety

Overview of the current Act

Process safety for Major Hazard Facilities (MHF) is regulated through Major Hazard Facilities Regulations under the *Dangerous Goods Safety Act 2004*.

The Major Hazard Facilities Regulations apply to those sites with dangerous goods (including mine sites) where the Chief Officer has determined that the site will be classified as a Major Hazard Facility (MHF). The status of a site as a MHF is based on the critical quantity of dangerous goods and likelihood of a major incident.

The Dangerous Good Safety (Major Hazard Facilities) Regulations 2007 (MHF Regulations) are one of seven sets of regulations that give effect to the *Dangerous Goods Safety Act 2004*. The MHF Regulations apply in addition to other dangerous goods safety storage and handling regulations. These regulations relate to process safety and not occupational safety and health.

Occupational safety and health at MHFs is currently regulated by WorkSafe under the *Occupational Safety and Health Act 1984*.

Modernisation

In August 2014, the Minister for Mines and Petroleum announced the proposed transfer of regulatory responsibility for OHS on MHF sites from WorkSafe to DMP²⁷. However, the proposal is subject to the outcome of this RIS consultation process, and is contingent on the adoption of either Option 1 or Option 2.

Regardless of the selected option, DMP will continue to maintain the *Dangerous Goods Safety Act 2004*, as this Act covers other dangerous goods safety requirements.

If Option 1 or Option 2 are not adopted, DMP will retain responsibility for process safety at MHFs and the MHF regulations would remain under the *Dangerous Goods Safety Act 2004*. The legislation for MHFs would be modernised at a later date. WorkSafe would retain responsibility for MHF occupational safety and health and include it in their proposed Work Health and Safety Act for general industry.

The modernisation of MHF safety legislation is subject to detailed development and stakeholder consultation, and the method is dependent upon which option is selected through this RIS. As such, timeframes for the modernisation process are currently uncertain, but it is broadly expected to occur between 2015 and 2017.

²⁶ Ministerial Advisory Panel minutes 23 July 2014, Attachment 2B.

²⁷ Marmion, B (Hon.), 2014, *New Resources Safety Bill aims to save WA lives*, media release, 13 August, Ministers Office, Perth. Available at: www.mediastatements.wa.gov.au/pages/StatementDetails.aspx?listName=MinisterialStatementsBarnett&StatId=342

Petroleum safety

Overview of the current Acts

Occupational health and safety on petroleum sites is currently regulated under a number of State and Commonwealth Acts.

State Legislation

DMP has responsibility for occupational safety and health (OSH) regulation of petroleum, pipeline and geothermal activities, both onshore and in State coastal waters.

The safety and health provisions for the petroleum industry are contained in three separate (but similar) acts and regulations:

- *Petroleum and Geothermal Energy Resources Act 1967*: covers all onshore areas of the State, including its islands and, in certain circumstances, areas of submerged lands internal to the State (i.e. those waters landward of the base line), other than ‘subsisting’ permit areas under the *Petroleum (Submerged Lands) Act 1982* (PSLA82);
- *Petroleum (Submerged Lands) Act 1982*: applies to Western Australia’s territorial sea to the three nautical mile mark, including the territorial sea around State islands, and under certain circumstances, some areas of internal waters; and
- *Petroleum Pipelines Act 1969*: applies to petroleum pipelines on land within the State.

Under Council of Australian Governments (COAG) arrangements, petroleum legislation in the various States and Territories is broadly aligned with Commonwealth legislation.

Commonwealth legislation

The National Offshore Petroleum Safety and Environmental Management Authority (commonly referred to as NOPSEMA) is the regulator administering safety and health under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, which applies to continental shelf waters outside of the three nautical mile boundary.

Modernisation

It is proposed that the petroleum safety legislation (irrespective of the final structure) would be modernised to align with the Commonwealth petroleum legislation and, where appropriate, the modernised Work Health and Safety Acts for mining and general industry in WA.

The modernisation of petroleum safety legislation is subject to detailed development and stakeholder consultation, so the timeframe is currently uncertain, but is broadly expected to occur between 2015 and 2017.

Appendix 2: List of submissions received

Details of the proposed options for reform are outlined in the Consultation Paper. All stakeholders were invited to make a submission on the Consultation paper by 5pm WST on 19 December 2014.

Submissions were received via email or hard copy.

The following submissions have been received in response to the Consultation Paper:

1. [Association of Mining and Exploration Companies \(AMEC\)](#)
2. [Austrill International Management Services](#)
3. [Australasia Institute of Mining and Metallurgy \(AusIMM\)](#)
4. [Australian Mines and Metals Association \(AMMA\)](#)
5. [Australian Petroleum Production & Exploration Association \(APPEA\)](#)
6. [Australian Pipeline Industry Association \(APIA\)](#)
7. [BP Refinery Kwinana](#)
8. [Cement Concrete & Aggregates Australia \(CCAA\)](#)
9. [CFMEU Mining and Energy Division](#)
10. [Chamber of Commerce and Industry WA](#)
11. [Chamber of Minerals and Energy WA](#)
12. [Civil Contractors Federation WA \(CCFWA\)](#)
13. [Cristal Pigments Australia](#)
14. [Dampier Bunbury Pipeline](#)
15. [Kwinana Industries Council](#)
16. [NOPSEMA Advisory Board \(letter to Minister\)](#)
17. [Occupational Health Society of Australia](#)
18. [Plastics and Chemicals Industries Association \(PACIA\)](#)
19. [Safety Institute of Australia – WA Branch](#)

In addition to the above responses Marsden Jacob received a number of confidential responses. These responses came from a range of stakeholders including gas, mining and MHF companies, safety training companies, and individuals with specialist safety experience in resource industries.