



Government of **Western Australia**  
Department of **Health**

Your Ref:  
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Contact:

The Honourable Mark McGowan MLA  
Premier of Western Australia  
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Dear Premier

## **MANDATORY VACCINATION FOR THE RESOURCES INDUSTRY**

With the progression of the COVID-19 pandemic and the roll-out of the COVID-19 vaccines, I have recommended the mandating of COVID-19 vaccination for several different professional cohorts; these include hotel quarantine staff (28 April 2021), healthcare and health support workers (09 August 2021), mission critical police staff (25 August 2021), port workers (07 September 2021), and freight and logistics workers (10 September 2021). The Australian Health Protection Principal Committee has also recommended the mandating of vaccination of residential aged care workers (29 June 2021) and residential disability support workers (09 July 2021). All of these are in different stages of implementation, with vaccine mandates covering hotel quarantine, residential age care facilities, mission-critical police areas and the high-risk areas in public and private hospitals now in place.

Since the first mandates in May 2021, the Delta variant strain has become the dominant strain in Australia. The Delta variant is significantly more contagious than previous strains of COVID-19 and there is emerging evidence that it leads to more severe outcomes, with nearly double the hospitalisation rate of those with the Alpha variant. People who have not been fully vaccinated against COVID-19 are most at risk. In each case, the step to mandate vaccination has been taken to mitigate the risk of staff contracting COVID-19 and/or transmission to those under their care or in the community. In each case, the benefits of vaccination significantly outweigh any risks.

The resources industry, including mining and oil and petroleum operations, is a major employer of fly in fly out (FIFO) and drive in drive out (DIDO) workers from the metropolitan and regional centres and of both Aboriginal and non-Indigenous staff in rural and remote areas of Western Australia. Many of these country regions are significantly under-represented in the percentage of people vaccinated against COVID-19, with only 19.4% fully vaccinated in the Pilbara, 33.4% in the Goldfields, 38.2% in the Kimberley and 39% in the Midwest, compared to a State average of 49.8% fully vaccinated. There are also increased rates of chronic disease in the rural

and regional areas, particularly of diabetes and asthma, which will increase the susceptibility of this population to serious adverse outcomes.

In my letter of 9 August 2021 regarding the mandatory vaccination of health care workers, I noted that hospitals in regional areas, who may be required to accept COVID-19 cases, are smaller than those in the metropolitan area and may not have an intensive care or high dependency unit. Should a COVID-19 outbreak occur in regional WA, this would represent a significant challenge for local healthcare staff and testing and tracing staff, and would likely require the deployment of staff and resources from the metropolitan area to regional sites. It could also result in groups of health workers who are unable to work, due to disease or quarantine requirements, requiring deployment of further staff. Vaccination is the most effective intervention for the prevention of disease and therefore the prevention of the implications detailed.

With the Aboriginal groups in the regional areas, the situation is worse. When the COVID-19 vaccination program was introduced by the Australian Government in February 2021, vaccine supplies were limited and directed towards priority groups for vaccination. Aboriginal people over the age of 55 years were deemed to be in the second highest priority group for vaccination (Phase 1b), with those under 55 years deemed to be in Phase 2a. While Aboriginal people are at an increased risk in any public health emergency, they are particularly susceptible to serious outcomes from COVID-19. The various factors that increase this susceptibility include higher rates of other chronic health issues in these communities, difficulties in accessing appropriate and timely health care, the increased mobility of people in the community and the reliance on outreach services in remote places. Despite the prioritisation of this group, vaccination rates in Aboriginal communities have remained low; on 27 September 2021, 47.2% of Western Australians over the age of 16 years were fully vaccinated, while only 15.6% and 13.2% of the Aboriginal populations in WA's outback North and South respectively were fully vaccinated.

Aboriginal communities are often situated in the regional and remote regions where resource companies operate, with much of the land on which mining or resource company operations occur being covered by native title and lands rights regimes. Significant engagement occurs between resources companies and Aboriginal people regarding land access, employment and social support. Mining is also the largest employer of Aboriginal people in remote areas. The Minerals Council of Australia report that Aboriginal Australians represent 9.7% of all mining apprentices and trainees. As the resources workforce is typically highly mobile, with many employees employed on a FIFO or DIDO basis, this industry represents a significant COVID-19 importation risk to local Aboriginal and regional communities. Should a COVID-19 outbreak occur at a regional or remote resource site, it is expected that it could spread rapidly to nearby regional and remote communities, Aboriginal populations in those communities and onto local Aboriginal communities should onward transmission occur. While the 'Remote Aboriginal Communities Directions (No 3)' are still in effect, which limit who can enter remote Aboriginal communities, movement in and out of those communities could lead to the disease being inadvertently introduced. Protection of vulnerable remote Aboriginal communities is of paramount importance in the response to the COVID-19 pandemic. Vaccination represents an important

intervention for the prevention of transmission of COVID-19 to the resources industry workforce and to vulnerable groups with whom the workforce interacts.

The mobility and work practices of the resources industry is also an issue. While there is no specific information on the vaccination status of this workforce, the average age of this workforce is 41 years. The age groups between 20 and 40 are generally significantly under-represented in the percentage of people vaccinated against COVID-19, with only 23.75% fully vaccinated in the 20-29 year age group and 40.7% in the 30-39 year age group, compared to a State average of 49.8% fully vaccinated. On site, there is a high degree of mixing of personnel, with the potential for rapid spread among unvaccinated personnel. The workforces, on completion of their rotations, return to a wide range of metropolitan, regional and local settings, with the potential to seed into those communities. The current modelling shows that WA is the most susceptible of all the jurisdictions to a major outbreak, due to the increased numbers of people moving around in our society and the mixing between non-family groups. The emergence of the highly transmissible Delta variant has increased this susceptibility further, particularly among household and work groups. While vaccine uptake is starting to reduce this susceptibility, WA's susceptibility to a major outbreak is expected to remain very high over the next three months.

Finally, if there is a case of COVID-19 on a resources site, it is likely that the spread would be significant and management of such an outbreak would be challenging. Due to their repeated interactions and confined living arrangements on site, resources employees are more likely to spread infection to others, compared to many other workplaces. Mining camps and offshore facilities require workers to reside in close quarters with shared facilities. In addition, there are multiple shared areas, such as recreation areas, bars and food service areas, which are expected to have high frequency contact surfaces, where infectious respiratory droplets are more likely to settle and contaminate others. This has the potential to result in high transmission of the COVID-19 virus if present. COVID-19 vaccination of this workforce will reduce the propensity of transmission in this workforce and will reduce the impact of COVID-19 on the individuals within the workforce.

### **Public Health Grounds**

There are good public health grounds for mandating the COVID-19 vaccine for personnel required to work on regional and remote resources sites if the following conditions are met:

1. **There is a serious public health risk** – As of 4 October 2021, there have been over 4.8 million deaths attributed to COVID-19 globally and 234 million cases. While Australia has been relatively protected due to effective public health measures, COVID-19 disease continues to cause major outbreaks in many parts of the world, particularly in parts of Asia in recent weeks. Even among survivors, there is emerging evidence that there may be long-term consequences for those who have been infected but survived, even from mild disease. 'Long COVID-19' health implications may present a grave future public health problem.

Resources staff are a highly mobile workforce, who may have travelled from overseas or other jurisdictions that are experiencing community transmission of COVID-19 and

are often required to work in very close contact with others. On 26 June 2021, Northern Territory (NT) Health reported an infectious community COVID-19 case employed at the Newmont-owned Granites gold mine in the Tanami Desert, around 540 kilometres north-west of Alice Springs. The worker had been infected with the Delta variant at the Airport Novotel Langley quarantine hotel in Brisbane before travelling to the mine site. He was potentially infectious at the mine site from June 18 to June 24 and approximately 800 workers left the mine during that period and travelled to several jurisdictions, including Western Australia. While there were no subsequent cases in WA, there were secondary cases in both Darwin and Brisbane. Given the mobility of this workforce, the potential for infection either at their home base or during travel, the potential to spread rapidly on site if introduced and the potential to seed into the broader community by returning workers, full vaccination of resources personnel, combined with the other risk mitigation measures currently implemented, will greatly mitigate this serious public health risk.

2. **The vaccine is safe and effective** – All persons in WA are currently being offered the Pfizer or Moderna COVID-19 vaccines, which have completed rigorous safety evaluations prior to registration by the Therapeutic Goods Administration (TGA). In addition, the vaccines have been given safely around the world in hundreds of millions of doses, while only producing transitory, mostly mild, side-effects. Recent studies in the United Kingdom have shown both vaccines to be highly effective in preventing clinical disease generally and serious disease particularly. Both the Pfizer and Moderna vaccines have been demonstrated to be effective in preventing infection in individuals and subsequently reduce community spread to others in the community, particularly those who are more vulnerable, such as the Aboriginal population, those over 70 years of age and those who can't be vaccinated on medical grounds.
3. **The mandating of the vaccine is proportionate.** According to the principle of proportionality, additional measures are justified when the restrictions placed on individuals are both minimised and proportionate to the expected advantages offered by the more coercive policy. Although voluntary compliance by resources personnel would be preferable to mandates, the lack of uptake of the vaccine leaves limited options. Unvaccinated workers who may spread COVID-19 can cause tremendous harm, not only in the more vulnerable Aboriginal communities and under-vaccinated regional and remote areas of Western Australia, but also across the broader WA population.
4. **The mandate is lawful and reasonable.** On 13 August 2021, the Fair Work Ombudsman advised that employers may be able to require employees to get vaccinated where it is:
  - required by a specific law (e.g. Public Health Order);
  - permitted by an industrial instrument (e.g. award, agreement, contract); or
  - lawful and reasonable, as assessed on a case by case basis.

“Reasonable” considers factors like the nature of the workplace (e.g. the extent of public contact) and the extent of community transmission in the relevant location. The Ombudsman noted that the three tiers where mandatory vaccination would be considered “reasonable” were:

- Likely to be reasonable:
  - Tier 1: employees required to interact with people with an increased risk of being infected with COVID-19 (e.g. hotel quarantine/border control)
  - Tier 2: close contact with people vulnerable to COVID-19 (e.g. aged care, Aboriginal communities)
- Dependent on circumstances (e.g. likelihood of transmission):
  - Tier 3: interaction with other employees or the public (e.g. essential retail)

In this instance, mandating vaccines for workers at resource sites, for the reasons outlined above, would be considered reasonable on the grounds of close contact with vulnerable populations (Tier 2). Given the mobility of the FIFO and DIDO workers, there is also anticipated to be an increased risk of being infected with COVID-19 (Tier 1).

In developing Directions under the *Public Health Act 2016*, the preferred option is that unvaccinated workers not be allowed to attend or work in rural or remote resources sites. This still allows choice by the individual not to take the vaccine and to work in an alternative part of the organisation or to seek other employment. As the COVID-19 vaccinations significantly reduce the risk of transmission to others, all employees should be required to be vaccinated, including Aboriginal and other local employees. It is noted that some resources companies also employ staff in the metropolitan area to undertake remote mission critical tasks, which could be jeopardised by the unavailability of certain employees, such as remote train and port control. Provision should also be made for such remote operations to be prescribed as areas where vaccination is mandatory. This approach to mandating the vaccine is proportionate to the risk, the efforts made to encourage the voluntary uptake of the vaccine and the benefits achieved.

I am of the view, as the Chief Health Officer, that, for the reasons outlined above, the benefits outweigh the risks of mandatory vaccination of resources personnel employed in regional and remote locations and at mission critical facilities, and that this should be implemented as soon as practicable. I further recommend that mandatory vaccination be required by way of Directions issued under the *Public Health Act 2016*. This would require all resources industry workers, who work in rural or remote areas or mission critical facilities, to be vaccinated on or after 01 December 2021. There would also be a further requirement for full vaccination by 01 January 2022.

Yours sincerely



Dr Andrew Robertson CSC, PSM  
**CHIEF HEALTH OFFICER**

05 October 2021