

## Fortescue Ltd Enforceable Undertaking

15 December 2023

### ENFORCEABLE UNDERTAKING

Part 11

*Work Health and Safety Act 2020 (WA)*

The commitments in this enforceable undertaking are given by

Fortescue Ltd

(ACN: 002 594 872)

to and accepted by the Acting WorkSafe Commissioner as the regulator under the  
*Work Health and Safety Act 2020 (WA)*.

#### **Privacy statement**

*WorkSafe WA respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of making an undertaking to the Commissioner of WorkSafe as the regulator under the Work Health and Safety Act 2020 (WA). This information will be managed within the requirements of the current state government privacy regime and the Work Health and Safety Act 2020.*

*WorkSafe WA may publish the undertaking and the information contained in it for the purposes identified in the undertaking or for other appropriate legal purposes in various publications such as newspapers and on its website. WorkSafe WA may be required to disclose personal information to other regulatory agencies in accordance with the law enforcement activities which may be conducted as part of an investigation. Further information on our privacy policy is available at [dmirs.wa.gov.au/worksafe](https://dmirs.wa.gov.au/worksafe).*

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## Fortescue Ltd Enforceable Undertaking

### Purpose

The purpose of this enforceable undertaking (**Undertaking**) is to document the undertakings given to WorkSafe WA and accepted by the WorkSafe Commissioner as the regulator (**Commissioner**) pursuant to Part 11 of the *Work Health and Safety Act 2020* (**WHS Act**) in connection with the matters relating to alleged contraventions of the WHS Act or the *Work Health and Safety (General) Regulations 2022* (WA) (**General Regulations**) or the *Work Health and Safety (Mines) Regulations 2022* (WA) (**Mines Regulations**) (together, **Regulations**).

### Section 1 – General Information

#### 1.1 Details of the person giving the undertaking: Fortescue Ltd (Fortescue)

<b>Registered address:</b>		Level 2 87 Adelaide Terrace, East Perth WA 6004
<b>Postal address:</b>		Level 2 87 Adelaide Terrace, East Perth WA 6004
<b>Telephone contact:</b>		██████████
<b>Email address:</b>		████████████████████
<b>Legal structure:</b>		Australian public company, limited by shares
<b>Type of business:</b>		Fortescue is a publicly owned mining and energy company
<b>Commencement date of entity:</b>		4 May 1983
<b>Number of workers:</b>		More than 5,000
<b>Products and/or services:</b>		Fortescue is a publicly traded company registered and based in Australia, deriving revenue from the sale of iron ore. The company engages in all aspects of mining activities in the Pilbara region of Western Australia and has a green energy division headquartered in Australia that operates throughout the world.

#### 1.2 Commencement

This Undertaking comes into effect and becomes enforceable on 22 December 2023 (**Commencement Date**).

This Undertaking may be executed by counterpart.

#### 1.3 Duration

- i. Section 4 identifies estimated timeframes for completion of each strategy identified in this Undertaking.
- ii. The Undertaking will be concluded on written advice from the Commissioner to Fortescue when all requirements of the Undertaking have been satisfactorily executed.

## Section 2 – The alleged contravention

### 2.1 Details of the alleged contravention

It is alleged by WorkSafe WA that between 29 July 2022 and 4 August 2022, Fortescue refused or failed to comply with a requirement to provide documents and to answer questions in relation to its operations, without reasonable excuse, contrary to section 171(7) of the WHS Act.

### 2.2 Details of events surrounding the alleged contravention

On 31 March 2022, the substantive provisions of the WHS Act commenced. The Commissioner is the regulator under the WHS Act and is responsible for the administration of the WHS Act. Fortescue is subject to the provisions of the WHS Act, the Regulations and relevant codes of practice.

After the commencement of the substantive provisions of the WHS Act, WorkSafe Inspectors issued notices under the WHS Act for the production of documents and requiring answers to questions in respect of historic incidents occurring prior to 31 March 2022.

### 2.3 An acknowledgement that WorkSafe WA alleged a contravention has occurred

The Commissioner charged Fortescue with breaching the WHS Act, alleging that Fortescue had refused or failed, without reasonable excuse, to produce documents and answer questions in accordance with the notices.

Fortescue has denied those charges.

### 2.4 Resolving the alleged contravention

Without any admission of liability, WorkSafe WA and Fortescue have agreed to resolve the charges the subject of the alleged contraventions by entering into this Undertaking, which will take effect on the Commencement Date.

The Commissioner has accepted this Undertaking from Fortescue on the basis that it is likely to deliver superior work health and safety outcomes than a Court sanction not only to Fortescue's own operations, but for the mining industry and community generally.

The Commissioner will apply to discontinue the charges described above.

### 2.5 Prior work health and safety convictions

Fortescue does not have any prior convictions under the WHS Act, the *Mines Safety and Inspection Act 1994 (WA)*, nor the *Occupational Safety and Health Act 1984 (WA)*.

## Section 3 – Statements, commitments, and acknowledgements

### 3.1 An acknowledgement of the powers and functions of Inspectors

Fortescue acknowledges the powers and functions of Inspectors under the WHS Act and is committed to working collaboratively with and complying with the lawful directions or requirements of Inspectors, the Department of Mines, Energy, Industry Regulation and Safety (**DEMIRS**), formerly the Department of Mines, Industry Regulation and Safety (**DMIRS**), and WorkSafe WA to achieve the objectives of the WHS Act.

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### **3.2 A statement of assurance about future work health and safety behaviour**

Fortescue is committed to complying with its obligations under the WHS Act and ensuring, so far as is reasonably practicable, the health and safety of all workers and those who may be affected by its obligations as a Person Conducting a Business or Undertaking (**PCBU**) under the WHS Act.

### **3.3 An acknowledgement that the Undertaking has been accepted to deliver superior health and safety outcomes**

Fortescue acknowledges that the Commissioner accepts this Undertaking on the basis that it is likely to deliver superior health and safety outcomes to a court sanction not only for Fortescue's own operations, but for the mining industry and the community generally.

### **3.4 An acknowledgement that the Undertaking will be published and publicised**

Fortescue acknowledges that this Undertaking will be published on the WorkSafe WA internet site for a five-year period from the Commencement Date, and may be referenced in WorkSafe WA Publications.

Fortescue also acknowledges that WorkSafe WA will publish a summary of the undertaking on its internet site in the terms set out in **Schedule A** to this Undertaking.

### **3.5 A statement of ability to comply with the terms of the Undertaking**

Fortescue acknowledges that it has the financial ability to comply with the terms of this Undertaking.

### **3.6 A commitment regarding inconsistent statements**

Fortescue commits that it will not make any statement or otherwise imply anything that is inconsistent with the statements, commitments or acknowledgements contained in this Undertaking and will take steps to ensure its representatives, employees and officers do not make such statements.

### **3.7 Reliance on commitments**

Fortescue acknowledges that WorkSafe WA may rely upon the commitments and statements set out in Section 2 of this Undertaking when making decisions regarding enforcement action if WorkSafe WA forms the view that Fortescue fails to comply with its work health and safety obligations in the future, including but not limited to any failure to comply with its obligations under this Undertaking.

### **3.8 An acknowledgement of ongoing monitoring to ensure compliance**

Fortescue acknowledges that WorkSafe WA will provide ongoing monitoring of the strategies. Fortescue has committed to ensure compliance with the terms of this Undertaking. DEMIRS will provide Fortescue with a point of contact for the monitoring. Fortescue and WorkSafe WA will conduct in person meetings at quarterly intervals for monitoring purposes (see **Schedule B**).

### **3.9 Withdrawal or variation**

Fortescue may, with the written agreement of WorkSafe WA, withdraw or vary the Undertaking in accordance with section 221 of the WHS Act.

### 3.10 An acknowledgement of WHS Undertaking Policy and contravention of the Undertaking

Fortescue has read and understood the WorkSafe WA WHS Undertaking Policy dated March 2022. Fortescue acknowledges that if Fortescue contravenes any of the terms of this Undertaking, WorkSafe WA may apply to the Magistrates Court for orders in accordance with section 220 of the WHS Act.

### 3.11 A commitment regarding the minimum total expenditure under the Undertaking

Fortescue is committed to a minimum total expenditure of \$1,470,000 under this Undertaking. The suggested ranges provided for individual strategies is indicative and is not intended to represent binding individual commitments by Fortescue.

## Section 4 – Strategies

Fortescue undertakes to deliver the following Strategies.

Each strategy in this Undertaking aims to provide lasting work health and safety benefits across the workplace, the mining industry, and the community, or a combination of these.

### Strategies that relate to the prevention of psychosocial hazards (lefthand side of the safety bowtie)

#### 4.1 Strategy 1 – Contractor and sub-contractor education sessions

Education sessions are an opportunity to drive cultural change among the contractor and sub-contractor workforce. [REDACTED] has been identified as the preferred provider of the education sessions, or to have significant input on the content of the education sessions if [REDACTED] cannot facilitate them directly. The sessions will use a focus group style format to explore the data around psychosocial safety matters relevant to the industry.

Fortescue will provide education sessions to be attended by managers and employees of contractors and sub-contractors in the mining industry. Education sessions will be facilitated by [REDACTED] (subject to availability, or a facilitator of equivalent expertise). The education sessions delivered will aim to expose negative behaviours impacting on psychosocial health, and to empower individuals to act positively in the workplace. It is proposed that the education sessions be split between Perth based sessions and regional based sessions subject to interest and needs (minimum of **3 initial sessions provided by end of Q2 2024**).

#### **Key deliverables and time frames:**

Education sessions with contractors and sub-contractors in the mining industry to be facilitated by [REDACTED] (subject to availability). Summary reports of outcomes and learnings from the sessions to be collated and provided to WorkSafe WA for review by **end of Q2 2024**.

#### **Enough is Enough recommendations:**

Recommendation 6 – The mining and resources sector actively work to reduce the risks which are exacerbated by high rates of labour-hire and sub-contracting.

Recommendation 7 – Acknowledging the wide range of company size and capability, the large mining companies and representative bodies should develop a template/framework to assist all companies to review their workplace culture, processes, and work and living conditions to identify factors which allow sexual harassment to persist.

**Estimated range: \$100,000 to \$150,000**

## Fortescue Ltd Enforceable Undertaking

### 4.2 Strategy 2 – Executive engagement, vision and commitment program

Enough Is Enough identified that there is great potential to use the “cascading” of expectations through contracting structures to increase awareness and prevention of psychosocial hazards in PCBUs of varying size, from billion dollar ASX listed resource companies all the way through, to family operated small businesses providing contracting and sub-contracting services.

The commitment of executives at PCBUs operating in all segments of the mining industry is essential for driving long term change in the PCBU’s psychosocial safety culture. Regardless of the role or size of the PCBU, executives will need to be given access to the current best practices regarding management of psychosocial safety matters, and continuous improvement to be taken back to their respective businesses.

In consultation with relevant subject matter experts, Fortescue will develop a program for psychosocial injury prevention aimed at executives in the mining industry. The program will be designed for delivery to all parts of the workforce to those in positions of leadership, from executives to site senior executives to supervisors.

The program will be developed for delivery to all parts of the workforce in positions of leadership, from executives to site senior executives to supervisors. The training is to be delivered on an ongoing basis as part of all leaders mandatory training and upskilling. Fortescue will complete a Pilot Project delivered to Fortescue leaders at a cross section of the organisation. Supporting materials to be provided to WorkSafe and/or industry for equivalent use.

Pilot to be completed with Fortescue leaders at a cross section of the organisation. Supporting materials to be provided to WorkSafe WA and/or industry for equivalent use. WorkSafe may publish the materials online.

Part of the executive program is proposed to be to reach out to other industry stakeholders performing similar work to initiate a psychosocial management working group, similar in composition and function to the Emergency Response Working Group.

#### **Key deliverables and time frames:**

Guidance documents aimed at executives in the mining industry, quick reference guides and templates for psychosocial injury prevention in the mining industry to be developed in consultation with relevant subject matter experts. Documents to be provided to WorkSafe WA for review by **end of Q2 2024**.

Executive training sessions for raising awareness of the newly developed documentation and how to implement them in their respective PCBUs to be facilitated by the relevant subject matter expert. Training sessions to commence **within 12 weeks** of acceptance of the documents by WorkSafe WA. WorkSafe may use, circulate or publish the guidance material and templates.

#### **Enough is Enough recommendations:**

Recommendation 9 – The industry should ensure that sexual harassment and assault training is accredited, fit-for-purpose, and delivered by suitable practitioners. Training should be mandatory and ongoing for all employees. There should be additional specialist training for people who must formally respond to incidents.

**Estimated range: \$100,000 to \$125,000**



#### 4.3 Strategy 3 – Literature review and taxonomy

An obstacle to obtaining the best information regarding psychosocial safety issues for PCBUs is that the current state of knowledge is spread across a wide range of sources. The literature review would be an opportunity for a university or a qualified consultant to review current reports, tools and recommendations in the management of psychosocial risk, and collate them into a single location.

Fortescue will engage a suitably qualified consultant to review current reports, tools and recommendations in the management of psychosocial risk, and collate them into a single location to develop a cohesive language framework for industry to adopt to ensure that all participants are communicating clearly and efficiently regarding the management of psychosocial safety matters. The taxonomy will include a review of the twenty psychosocial hazards and risk factors identified in the WorkSafe WA Code of Practice (regarding psychosocial hazards in the workplace), the national Code of Practice – Managing psychosocial hazards at work, and the greater psychosocial body of research to provide a language framework.

Delivering such a resource would allow smaller contracting and sub-contracting businesses in the mining industry to be able to “speak the same language” as the principals they contract to. Ensuring that there is a common understanding of the issues surrounding psychosocial hazards will allow all PCBUs in a particular workplace to more effectively manage and control those hazards and thereby prevent injury.

To encourage uptake of these resources by the industry the resources could be hosted on DEMIRS internet sites for ease of access.

**Key deliverables and time frames:**

Literature review providing an overview of the current state of knowledge regarding management of psychosocial safety issues to be provided to WorkSafe WA for review by **end of Q2 2024**.

Taxonomy of terms and language framework to be provided to WorkSafe WA for review by **end of Q4 2024**.

**Estimated range: \$150,000 to \$225,000**

#### 4.4 Strategy 4 – Multi-year plan

The multi-year plan is an initiative to understand and better address psychosocial risks specifically in the mining and resources industry. Fortescue will engage [REDACTED] to provide a review of the multi-year plan and input on the content and interpretation of key metrics. There currently exists a gap in industry knowledge on the existence or implementation of leading and lagging metrics concerning psychosocial safety. A key outcome of this multi-year plan is to fill that gap and provide PCBUs with the resources to effectively monitor and evaluate their psychosocial risk management practices.

**Key deliverables and time frames:**

Engage [REDACTED] and with his feedback and input, develop an action plan to measure trends and report observations over a period of three years. Action plan to be provided to WorkSafe WA for review by **end of Q2 2024**.

Subject to WorkSafe WA’s views of the action plan, provide progress reports to WorkSafe WA as requested and present findings to industry at the conclusion of the multi-year plan.

**Estimated range: \$200,000 to \$250,000**

#### 4.5 Strategy 5 – Mining in the community

Issues relating to psychosocial hazards and injuries in the mining industry are a part of the issues facing the wider community. As a member of the mining industry, Fortescue is able to adapt work product that has been developed fit-for-purpose for the mining industry and deliver it to community groups in regional centres (such as Port Hedland and Karratha).

Non-mining offerings include media and awareness tools from the Respectful Behaviour Program (see below). The Fortescue branded content for internal delivery is able to be rebranded for community consumption.

**There are a number of community based initiatives under development and in the early stages of delivery driven by different bodies and agencies. Fortescue can contribute to those initiatives in a meaningful way as a member of the Western Australian community.**

**Key deliverables and time frames:**

Engage in consultation with existing initiatives such as the MARS Respectful Relationships and SHare programs for Fortescue to contribute a suite of resources, including guideline documents, videos, graphics, posters, basic training programs, templates and quick reference guides by **end of Q2 2024**.

**Estimated range: \$20,000 to \$50,000**

#### 4.6 Strategy 6 – Better communities in mining

Emerging research has identified that the spaces that people occupy and the way they are designed can have an impact on the presence and severity of psychosocial risks and hazards. Fortescue proposes that it engage subject matter experts (particularly from psychology backgrounds) to review Fortescue's existing camp designs and develop psychosocial risk assessments based on camp facilities and layouts.

Fortescue proposes that this engagement be used to develop best practice design elements that promote safe and inclusive environments. These best practice elements are to be published and provided as part of the content Fortescue offers on either its own developed platform, or on the platforms developed by other bodies.

Publishing best practice design elements on a third party internet site, or making them available via industry advisory bodies will be of benefit to the industry generally by encouraging review of existing facilities and camp layouts through the lens of psychosocial risk assessment to understand what and where improvements might be made. As exploration in the Pilbara continues, and existing camp infrastructure at long standing operations starts to approach end of life, a wide range of PCBUs will benefit from these resources when designing and constructing new accommodation.

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### **Key deliverables and time frames:**

Fortescue will engage subject matter experts and participate in the review of camp design and psychosocial risk assessments by **end of Q4 2024**.

### **Enough is Enough recommendations:**

Recommendation 7 – Acknowledging the wide range of company size and capability, the large mining companies and representative bodies should develop a template/framework to assist all companies to review their workplace culture, processes, and work and living conditions to identify factors which allow sexual harassment to persist.

Recommendation 8 – The mining and resources industry must establish acceptable standards for accommodation facilities, including security and other safety measures (including lighting, locks, CCTV, public area layouts).

**Estimated range: \$50,000 to \$70,000**

## **4.7 Strategy 7 – Respectful behaviour advertising**

The development of high quality advertisements regarding respectful behaviour to be deployed to camp televisions in communal areas and in private accommodations. The advertisements could be distributed to other operators to play at sites not managed or controlled by Fortescue. Some of the topics available to deliver include “how to be a good bystander” and “how to get access to support”.

We understand that the State government is rolling out a range of programs in response to the *Enough is Enough* report. This includes the “Sexual Harassment awareness reporting engagement” strategy (**SHare**). To avoid duplication of content Fortescue would seek to consult with WorkSafe WA regarding the proposed advertisements in order to target areas of need not currently covered by SHare.

Engaging with WorkSafe WA to provide additional resources for respectful behaviour advertising will facilitate the upskilling of all industry participants regarding the management and control of psychosocial hazards, regardless of entity size or commercial arrangements.

### **Key deliverables and time frames:**

Advertising campaign to be submitted to WorkSafe WA by **end of Q4 2023**.

Following agreement between Fortescue and DEMIRS on final form of the advertising campaign, Fortescue to assist WorkSafe WA to make it available to industry within **12 weeks** or another timeframe as agreed with WorkSafe WA.

### **Enough is Enough recommendations:**

Recommendation 15 – The Minister for Mines instruct WorkSafe WA to work with industry bodies to explore options for industry-funded widespread rollout of consistent, all-hours, third-party anonymous reporting platforms to complement existing company systems. In doing so, consideration must be given to promoting and building trust in potential users, including education sessions, culturally sensitive reporting options and evidence-driven wraparound support services.

**Estimated range: \$50,000 to \$75,000**

#### 4.8 Strategy 8 – Respectful behaviour platform

Fortescue will invest in the development of an information and resources platform (**Workplace Respect Platform**) for the mining industry, using “Play by the Rules”, MARS “Respectful Relationships” and SHare as guidance. This would allow for the distribution of important resources to all participants prepared to become involved in the program.

In addition to a focus on the mining industry, resources can be developed to assist remote communities on some common psychosocial issues affecting them (such as high rates of domestic violence and substance abuse issues). These features of the “Play by the Rules” platform would be included in the Workplace Respect Platform.

We also understand that the Department of Communities has partnered with WorkSafe WA and applied for MARS Program funding to expand its “Respectful Relationships” program into the mining sector.

Mindful of the desire to avoid duplication, Fortescue proposes that if WorkSafe WA views the development of a standalone platform as unnecessary, Fortescue could contribute materials for inclusion in the “Respectful Relationships” program.

**Key deliverables and time frames:**

Proposal for an initial suite of resources and packages to be launched with the Workplace Respect Platform to be submitted to DEMIRS by **end of Q3 2024**.

The resources for the initial suite is to include guideline documents, videos, graphics, posters, basic training programs, templates and quick reference guides for all participants in the mining industry, including contractors and sub-contractors.

**Items of expenditure:**

Advertising costs, publishing and branding costs, consultancy fees.

**Estimated range: \$150,000 to \$175,000**

#### 4.9 Strategy 9 – Psychosocial assurance standard

Fortescue will develop and implement a psychosocial assurance standard for any contractor or sub-contractor to be engaged on Fortescue sites.

The psychosocial assurance standard developed contains the minimum requirements for commencing works on Fortescue sites. The standard sets minimum training and induction requirements for any PCBU providing work under a contract for services.

The minimum requirements for commencing works on Fortescue sites will reflect best practice for managing and controlling psychosocial hazards. Fortescue aims to be the industry leader in the management and control of psychosocial hazards. Implementing a psychosocial assurance standard would have the effect of upskilling Fortescue’s contractors, sub-contractors and labour hire providers. The upskilling of these other PCBUs to meet Fortescue’s industry leading standards will have the effect of improving the standards at other workplaces where those PCBUs provide services.

In addition to training and induction requirements, the standard sets out the minimum requirements for the management of psychosocial hazards by the PCBU. This includes the ways in which the PCBU will prevent, so far as reasonably practicable, exposure to psychosocial hazards.

**Fortescue proposes that it develop the psychosocial assurance standard in line with best practice for the management of these issues. PCBUs complying with the standard can take the**

## Fortescue Ltd Enforceable Undertaking

accreditation from working on Fortescue sites to give assurance to other participants in the mining industry.

In order to develop the psychosocial assurance standard in line with best practice, Fortescue intends to seek the input and feedback from [REDACTED] before rolling out to contractors and sub-contractors engaged on its sites.

**Key deliverables and time frames:**

Psychosocial assurance standard setting out best practice for managing psychosocial safety issues to be submitted to WorkSafe WA by **end of Q4 2024**.

**Enough is Enough recommendations:**

Recommendation 6 – The mining and resources sector actively work to reduce the risks which are exacerbated by high rates of labour-hire and sub-contracting.

**Estimated range: \$100,000 to \$120,000**

## Strategies that relate to the response to psychosocial hazards (righthand side of the safety bowtie)

### 4.10 Strategy 10 – Security and duress app

Fortescue will develop a security and duress app to be made available to the public via the Google Play Store. The app will be freely available and specific to the location of the user for contacting camp security and emergency services in the case of emergency situations. The app will provide users with access to resources and other support services for non-emergency situations (such as direct contact with Employee Assistance Programs or similar services).

We understand that WAPOL is currently using the “Safe2Say” app as an anonymous platform for raising issues. The app has not been picked up by industry due to difficulties encountered with implementation across different systems. The security and duress app is proposed to be developed so that it does not substantially cross over or duplicate existing technology, or, if it does, be developed in such a way as to allow for greater uptake in industry.

**Key deliverables and time frames:**

Prototype app and supporting documentation (such as user guides, quick reference guides, training sessions) to be submitted to WorkSafe WA by **end of Q4 2024**.

Following agreement between Fortescue and WorkSafe WA on final form of the app, Fortescue to make it available to industry within **12 weeks** or another timeframe as agreed with WorkSafe WA.

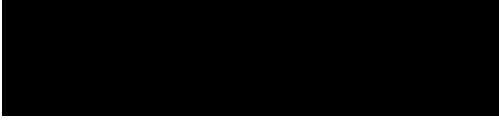
**Enough is Enough Recommendation:**

Recommendation 16 – Mining companies establish a number of internal and external options for reporting and obtaining support for incidents of sexual harassment and assault. All employees must be informed of these options.

**Estimated range: \$550,000 to \$800,000**


## Section 5 – Execution of Undertaking

Fortescue Ltd gives this Undertaking and commits to the terms herein.


Signed: 

[Executed on behalf of Fortescue Ltd in accordance with section 126(1) of the *Corporations Act 2001* (Cth)]

Name: 

Position: 

Dated at East Perth this Friday 15 December 2023

Signed: 

Witnessed in the presence of

Dated at East Perth this Friday 15 December 2023

Fortescue Ltd Enforceable Undertaking

**Section 6 – Acceptance of Undertaking**

I accept this Undertaking as an enforceable undertaking under section 216 of the WHS Act.

Signed:



Name: Sally North

Position: Acting WorkSafe Commissioner

Dated at *West Perth* this *19<sup>th</sup>* of *December 2023*

## Fortescue Ltd Enforceable Undertaking

### Schedule A

Summary statement regarding the undertaking to be published on the DEMIRS internet site.

**Obligation holder:** Fortescue Limited (**Fortescue**)

**Date accepted:** 18 December 2023

**Background:** On 31 March 2022, the substantive provisions of the *Work Health and Safety Act 2020 (WA) (WHS Act)* came into effect (**Commencement Date**). In July and August 2022, WorkSafe Inspectors issued notices to Fortescue under section 171 of the WHS Act. The Notices related to historic incidents of alleged exposure to psychosocial hazards. The alleged incidents occurred prior to the Commencement Date, when the relevant provisions of the (now repealed) *Mines Safety and Inspection Act 1994 (WA)* applied.

**Alleged breach:** It was alleged that Fortescue refused or failed, without reasonable excuse, to produce documents or answer questions in accordance with the Notices in contravention of section 171(7) of the WHS Act.

**Summary of undertaking:** In the event of an alleged contravention of the WHS Act, the WorkSafe Commissioner may, as an alternative to prosecution, accept an enforceable undertaking (**Undertaking**) given by a person who is alleged to have committed the contravention. The giving of the Undertaking is not an admission of guilt, and the acceptance of the Undertaking is not a finding of criminal guilt in relation to the alleged contravention. The accepted Undertaking aims to deliver superior health and safety outcomes to workers, the workplace, and the mining industry and community generally, which may not have been delivered if the matter were prosecuted.

The Undertaking given by Fortescue in relation to the alleged contravention has been accepted by the Acting WorkSafe Commissioner as an enforceable undertaking under Part 11 of the WHS Act.

The Undertaking includes the following elements.

- Engaging eminent subject matter experts to consult on strategies aimed at preventing and responding to psychosocial hazards and injuries.
- Developing education sessions to target contractor and sub-contractor entities to be delivered in Perth and in regional Western Australia.
- Developing an engagement, vision and commitment program for executives at entities operating in all segments of the mining industry.
- An investment in researching a literature review and taxonomy of psychosocial hazards for use by all mining industry participants.
- Developing respectful behaviour advertisements in collaboration with the WorkSafe WA.
- Developing a psychosocial assurance standard for contractors and sub-contractors engaged on Fortescue sites.
- Developing a security and duress app to be made available to all participants in the mining industry regardless of site or employer via public app stores.

**This undertaking has a total minimum expenditure of \$1,470,000.**



## Fortescue Ltd Enforceable Undertaking

### Schedule B

The WorkSafe monitoring and compliance point of contact at the date of entering into the Undertaking is given below. The point of contact may be varied by WorkSafe by providing Fortescue with written notice of the change.

Name: [REDACTED]

Role: [REDACTED]

Contact No: [REDACTED]

Email: [REDACTED] and [REDACTED]

Fortescue will nominate a company representative for the purposes of the Undertaking. The company representative may be varied by Fortescue by providing WorkSafe with written notice of the change.

Name: [REDACTED]

Role: [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

For the purposes of monitoring compliance with the terms of the Undertaking, Fortescue agrees to meet in person with WorkSafe.

Meetings are to be arranged by agreement between the WorkSafe point of contact and the Fortescue company representative above. The draft meeting schedule is as follows.

1. By 1 March 2024
2. By 1 June 2024
3. By 1 September 2024
4. By 1 December 2024
5. By 1 March 2025
6. By 1 June 2025
7. By 1 September 2025
8. By 1 December 2025
9. By 1 March 2026
10. By 1 June 2026