

11 June 2015

The Finance and Administration Committee  
Parliament House  
Alice & George Streets  
BRISBANE QLD 4002

Email: [fac@parliament.qld.gov.au](mailto:fac@parliament.qld.gov.au)

Dear Sir / Madam

**Re: Inquiry into the Work Health & Safety & Other Legislation Amendment Bill 2015 (Qld)**

AMMA welcomes the opportunity to provide feedback to the committee in relation to the above Bill.

AMMA is Australia's national resource industry employer group, a unified voice driving effective workforce outcomes to ensure the Australian resource industry is an attractive place to invest, do business, and create jobs.

AMMA members include companies employing Australians in mining, hydrocarbons, maritime, exploration, energy, transport, construction, smelting and refining, as well as suppliers to those industries.

The resource industry currently employs more than 1.1 million people either directly or indirectly and accounts for 18% of economic activity in Australia<sup>1</sup> (double its share of a decade ago).

AMMA's position in relation to the proposed Bill is as follows.

**Union access to workplaces**

As a broad principal, AMMA supports the goals of national harmonisation of Australia's work health and safety laws, including in relation to union access to workplaces.

Noting the above, however, AMMA does not support the Bill's amendments in relation to union access to workplaces which would remove the current 24-hour

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<sup>1</sup> Reserve Bank of Australia research discussion paper, *Industry dimensions of the resources boom*, February 2013

notice requirement under the Work Health & Safety Act 2011 (Qld) (Clauses 18 and 23 of the Bill).

AMMA has long supported sensible controls over union access to workplaces and maintains access should be treated as a privilege rather than a right. AMMA does not, therefore, support the right of entry amendments in the Bill, which would do no more than open up union access to worksites and remove a sensible and proportionate condition for entry.

AMMA supports a well-resourced inspectorate exercising appropriate powers to investigate alleged safety breaches rather than allowing unions untrammelled access to worksites.

Allowing unions to give reduced (or in fact absolutely no) notice of entry will provide an environment rife for misuse of entry privileges. Evidence to the current Royal Commission into Trade Union Governance and Corruption is already uncovering misuse of entry permits, false declarations and the holding of permits by persons with criminal convictions. In the words of counsel assisting the Royal Commission, "abuse of right of entry permits by some union officials is widespread".

As AMMA highlighted in its 2009 [submission](#) to the South Australian Draft OHS Consultation Bill, we had concerns with the SA Bill (and subsequently the Model Work Health & Safety Act's) scope for entry to occur without 24 hours' notice. This potentially allows an authorised union official to enter and wander the workplace without a requirement to immediately notify the employer or occupier, putting at risk the safety of him or herself as well as others in the workplace.

Across the ensuing six years, the need for proper controls around onsite access in order to manage safety risks has become even clearer.

When governments propose to allow unions to enter workplaces, an appropriate balance must be struck between the right of the union to represent its members with the right of the employer to operate its business without undue interference and interruption. As the Royal Commission is finding, the potential for misuse of union entry is a genuine concern and one that must also be taken into account by this committee.

We believe this Bill would fail to meet the above dual objectives and do not think the Bill would improve industrial relations or safety in Queensland.

We also believe that changing the Qld Act again will create significant confusion among employers as to their compliance obligations.

## **Assistants to health and safety representatives**

For the reasons stated above, AMMA also does not support the removal of the 24-hour notice requirement for persons to enter workplaces to assist an elected health and safety representative in their safety duties.

As confirmed in the Explanatory Memorandum to the Bill at page 5: "If the person assisting the HSR also happens to be a WHS entry permit holder, the governance arrangements in the WHS Act that apply to WHS entry permit holders would be applicable to any action taken by that person as a WHS entry permit holder."

This would have the effect of allowing union officials (noting that assistance can be provided by "any person") the ability to enter sites to hold discussions with workers under the guise of assisting a HSR with no requirement to give notice.

Entry for consultation and discussion purposes is subject to 24 hours' notice under the current legislation ([s122](#) of the Qld WHS Act) and that section is not proposed to be changed via this Bill. However, the potential for the other changed provisions to be misused for other purposes is substantial were this Bill to be passed.

## **The power of health and safety reps to order unsafe work to cease**

AMMA maintains that the common law right for individuals to stop work if there is an imminent risk to health or safety is adequate to protect their health and wellbeing. Again, the potential for elected health and safety reps to misuse a power to order work to cease for industrial gain would be significant if this Bill passes in its current form.

AMMA therefore does not support amendments contained within Clauses 17 and 21 of the Bill.

## **Incident notification requirements**

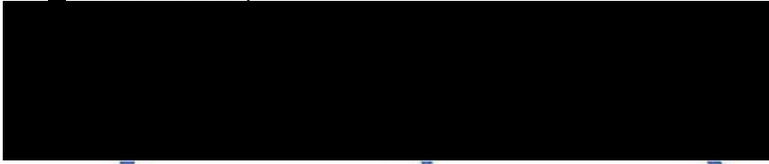
AMMA notes the Bill as drafted would amend the definition of "serious injury" such that an employer would be required to notify the regulator immediately on becoming aware that a broader range of notifiable incidents has arisen. It would also require the employer to preserve the incident site until an inspector directs otherwise.

AMMA believes this would create an unnecessary regulatory burden for employers and may lead to inadvertent breaches of [s39](#) of the Qld WHS Act in relation to incidents that would not reasonably warrant immediate notification to the regulator or strict preservation of the site.

As a result, AMMA also does not support those provisions in the Bill (Clause 16).

We hope this assists your consideration of the above Bill. AMMA would be pleased to answer any questions you may have in relation to this submission and / or position on the amending Bill.

Yours sincerely



Scott Barklamb  
Executive Director - Policy