



Submission: Resources Safety and Health Queensland Bill 2019

Committee Secretary
 State Development, Natural Resources & Agricultural
 Industry Development Committee
 Parliament House
 George Street
 Brisbane QLD 4000

(by email: sdnraidc@parliament.qld.gov.au)

Dear Committee Secretary and Committee Members

As Chair of the Australian Institute of Health and Safety College of Fellows, I am pleased to make this submission on behalf of the Institute. I acknowledge the input of Institute members, particularly the Chair of our Queensland Branch, Mr Brett Jones.

The AIHS is strongly supportive of the objective and key elements of the *Resources Safety and Health Queensland Bill 2019* as outlined in the Minister's Explanatory Speech and in the Bill and its detailed Explanatory Notes. There are many major accidents around the world such as in aviation and resource industries where conflicts between a legitimate government and departmental development goal and an important safety goal led to poor safety outcomes and also where fragmentation of the safety function was an issue¹. Locating a safety regulator (or investigator) within a department with its head subject to contractual and other pressures to compromise safety can also be problematic, especially when necessary 'bad news' needs to be delivered. The only real downside from the structural separation proposed in the Bill is the need for critical mass. Bringing resource areas together will address some of this. Service agreements for IT and other necessary corporate functions not easily or efficiently covered in-house can address others.

Fundamentally, the AIHS supports the introduction of Resources Safety and Health Queensland. This support is founded upon:

- the (partial) alignment of the critical regulatory frameworks for coal mining, mining and quarrying, petroleum and gas and explosives;
- the stated function of the new regulator (ref: Part 1 Div 2 s10);
- the execution of some of the 68 recommendations of the Coal Workers Pneumoconiosis (CWP) select committee, particularly those designed to improve health and safety governance; and
- the framework for working with the (newly formed) WHS Prosecutor in Queensland.

With this support in mind, the AIHS respectfully presents the following matters for consideration on behalf of our members, and as a stakeholder representative of the health and safety profession:

- Applying the new legislation to onshore coal seam gas may not sufficiently address potential resource conflicts with agriculture and optimise safety. Further, greater conformity with the

¹ Including the US FAA 'dual mandate' (see <https://www.wsj.com/articles/SB832289435710220000> and https://www.postandcourier.com/opinion/commentary/faa-has-long-history-of-coziness-with-aviation-industry/article_77533758-4f34-11e9-99a7-c3542e5fc519.html) and within the then Western Australian Department as found in the Varanus Island report: <https://www.slp.wa.gov.au/salesinfo/varanusinquiry.pdf>

Queensland *Work Health and Safety Act 2011*² is desirable and this Bill may lead to less.

- The new Regulator has very broad powers (ref: s24, s33, s44, s59). Clarity around these powers would be advantageous for health and safety professionals in order to effectively advise their employers (and others).
- The inclusion of a fee for service entity (SIMTARS) under the Resources Safety and Health Regulator does not align with either the purpose of independence, or the recommendation of the CWP select committee (recommendation 9)³. How potential conflict is proposed to be managed is important.
- Clarity is needed around the existing mandatory reporting requirements under the Coal Mining Safety and Mining and Quarrying legislation, and the role of the WHS Prosecutor in the disclosure of information (ref: s67 of the Bill) as it may create an unintended consequence of reduced reporting.

The Committee may wish to review these matters.

The AIHS also notes that advisory committees will be formed/re-formed under the new Resources Safety and Health Regulator. The AIHS would appreciate the opportunity to have a representative member on any relevant tripartite committees addressing safety and health matters that are formed under this new entity.

Some relevant background on the AIHS is appended. In addition to honorary roles with the AIHS, my own relevant background includes: inaugural head of the Australian Transport Safety Bureau for its first decade from 1999 in which different modes of transport were brought together under one new Act and the ATSB was then made an independent Commission from 2009⁴; Chair of the International Transportation Safety Association; lead reviewer and investigator of the \$3 billion Varanus Island gas pipeline explosions offshore WA in 2008; project director for national mine safety legislative reform (including Queensland) 2009-11; member of the NOPSEMA Board 2011-18; and CEO of a CSIRO research joint venture with UWA and Curtin University and major oil and gas industry partners from September 2011 to August 2018.

For any desired follow-up, my best contacts are email [REDACTED] and mobile [REDACTED]

Yours sincerely



Kym Bills
Chair College of Fellows

19 September 2019



² <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2011-018>

³ <https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2017/5517T815.pdf>

⁴ https://www.atsb.gov.au/about_atsb/legislation/trans_safety/tsi_qa/

APPENDIX: About the AIHS

The Australian Institute of Health and Safety (AIHS) is the national association for people who work in generalist health and safety (practitioner and professional) roles, and for leaders in health and safety more generally⁵. We have many members in the resources industry, including in Queensland. On 1 July 2019 our name changed from the Safety Institute of Australia to emphasise the importance of occupational health as well as safety. For more than 70 years we have worked towards our vision of safe and healthy people in productive workplaces and communities. The AIHS is constituted as a not-for-profit company under Corporations Law. Our Patron is the Governor-General of Australia.

The AIHS is mainly funded by member contributions and has a Chief Executive and small paid secretariat based in Melbourne. Most of its work is undertaken by volunteers who Chair and contribute to State Branch Committees or operate nationally through the AIHS Board and committees. About 5 per cent of the membership are Fellows and comprise a College of Fellows as thought leaders for the Institute who seek to ensure policies are based on evidence and world class professional standards are met.

The AIHS strongly supports collaboration, including with our long-standing strategic partners. We share a common commitment with tripartite stakeholders to provide the best possible health and safety policy and practice advice for the benefit of the wider community. However, our own voice as a profession and association of health and safety experts is often distinct from union, employer, or even government views. Our focus is on the science and practice of health and safety based on best available evidence to create safer and healthier workplaces. As a result, it is not uncommon for the Institute to present a view on an issue which unions, employer groups, or even regulators, may not agree with.

Legislative and WHS policy framework

As a commonwealth, we are faced with the challenge of differential legislation, and more significantly, differential *application* of that legislation amongst different state and territory jurisdictions. This presents a range of particular challenges especially for businesses and workers that operate on a national scale across jurisdictional boundaries, as is common in resources industries. Scarce internal funding and focus can be diverted to managing varying compliance regimes rather than controlling critical hazards and managing risk.

The Australian Work Health and Safety Strategy 2012-2022 as amended in 2018⁶ has strong support by the AIHS and other stakeholders across the nation. The Strategy is managed by Safe Work Australia (SWA) through its CEO and Board utilising a tripartite committee framework comprising jurisdictions (governments/regulators), employers and unions. SWA's website provides background on the model WHS Act and Regulations and model Codes and guidance material⁷. SWA operates with regard to a July 2008 Intergovernmental Agreement (IGA) signed by all jurisdictions⁸ that undertook to harmonise OHS legislation.

The OHS Body of Knowledge

The *Australian OHS Body of Knowledge*⁹ (BoK) represents the best repository of its kind in the world on the practice, science and psychology of workplace health and safety and possibly Australia's greatest single health and safety asset, based as it is in the world's best evidence and research into health and safety practice. The BoK is used as an underpinning knowledge base used by universities providing OHS studies, and accredited courses. The BoK is used internationally. The *Steward* of the BoK (protector of the IP) is the AIHS, which maintains the BoK as a public good and provides the BoK open-source and free of charge.

⁵ See <https://www.aihs.org.au/about>

⁶ <https://www.safeworkaustralia.gov.au/about-us/australian-work-health-and-safety-strategy-2012-2022>

⁷ See <https://www.safeworkaustralia.gov.au/law-and-regulation/model-whs-laws>

⁸ See <http://www.coag.gov.au/content/intergovernmental-agreement-regulatory-and-operational-reform-occupational-health-and-safety>

⁹ [The OHS Body of Knowledge](#)

The profession and its capability to provide high quality advice to prevent deaths and injuries

While oil and gas, mining, explosives and other high risk work like electricity have their own important qualification and competency criteria and assessment, two distinct levels of education form the key entry points to work in the generalist health and safety profession who work alongside such specialists:

- **Practitioner level work:** is at the operations level implementing health and safety systems, and requires VET training. Commonly, people at these levels hold a minimum of Cert IV or Diploma in Workplace Health and Safety. At the practitioner/operational level, training standards have dropped significantly since the de-regulation of the VET system and are a serious concern. Employers can no longer trust the level of knowledge of recent Cert IV and Diploma graduates. The implications of this are very serious, especially in high risk industries, where health and safety advisors' actions can directly affect the lives and wellbeing of the workforce. The Institute sees this is a critically important issue, and recently successfully advocated for a priority review of VET health and safety course content. Unfortunately, this view was not shared by either union or employer groups involved in the review, who argued that they did not wish to make the courses harder for their members and users of the training to undertake.
- **Professional level work:** is more applicable to management (and board) levels in designing health and safety systems within the broader organisational context. Commonly, people in these roles have bachelor's degrees or post graduate qualifications in health and safety. At the professional level, the process for continuous improvements in the quality of education is well structured and strongly underway. *The Australian OHS Body of Knowledge* underpins the work of the Australian OHS education accreditation board (AOHSEAB)¹⁰, constituted under the AIHS, which now accredits all but one of Australia's higher education courses in OHS, in a program which is focused around continuous improvement and development based on current knowledge and emerging research.

Providing greater clarity and confidence in the quality of health and safety advice

As we move toward stronger regulation and enforcement in many areas, and the outcomes of inquiries such as into Dreamworld and franchising, and the Royal Commissions into Banking and Finance and into Aged Care, business accountability is being (as it should be) brought into sharper focus. As this occurs, both business and regulatory authorities are seeking greater clarity and confidence in the advice that business gets from health and safety consultants, as well as health and safety practitioners and professionals within their businesses.

Certification of the profession is a process which delivers on key aspects of this need. After 35 years of the USA, Canada and the UK certifying their health and safety professions, the SIA (now AIHS) commenced an international standard certification program¹¹ in 2016, based around the OHS professional Global Capability Framework¹², adopted in more than 30 countries. Two thousand early adopters have been certified at practitioner, professional, and chartered professional levels, but there is ongoing work to be done to socialise the program within Australian business and other organisations, promote the value of using certified practitioners and professionals, and ensure competency is maintained through continuing professional development. Australia was a major contributor to the OHS Global Capability Framework and a senior member of the AIHS College of Fellows is the current Chair of the International Network of Safety and Health Practitioner Organisations (INSHPO). The Institute considers that encouragement or even legislative reference to the preferred use of certified OHS professionals would improve the quality of safety outcomes.

¹⁰ [Australian OHS Education Accreditation Board](#)

¹¹ [Health and Safety profession certification program overview](#)

¹² [INSHPO OHS Professional Global Capability Framework](#)