



AEISG SUBMISSION ON THE RESOURCES SAFETY AND HEALTH BILL 2019

Introduction

The Australasian Explosives Industry Safety Group (AEISG) is an incorporated industry association representing all the significant manufacturers and suppliers of explosives in Australasia. While relatively small in number, AEISG membership includes large national and international explosives suppliers, operating nationally across state/territory jurisdictional borders, providing in excess of three million tonnes of explosives per annum to the resource, construction and other sectors.

Explosives have long been subject to tight legislative controls for community safety and security reasons. These controls are acknowledged, understood and supported by our industry. However, in Australia there has been continued increase and divergence of state and territory legislation in this area over the years to the point where the explosives industry is now constrained by multiple sets of inconsistent and unnecessary requirements with little to no mutual recognition or acknowledgement of other jurisdictional licences, permits, authorisations or approvals.

This inconsistent and disjointed explosives legislation across state and territory jurisdictions, which prevents the free flow of products, people and equipment across the country, is the major impediment to safety and productivity improvements and now seriously compromises national security.

Under its constitution, AEISG activities are to focus on safety and security and accordingly one of its main roles is to liaise with regulatory agencies impacting the explosives industry and ensure effectiveness, efficiency and consistency in the way those agencies undertake their necessary functions.

As such, AEISG followed the processes undertaken by the Project Management Office (PMO) in the Department of Natural Resources, Mines and Energy (DNRME) which was established to address the recommendations of the Coal Workers' Pneumoconiosis Select Committee (CWP Select Committee), and the Queensland Government's response to those recommendations, to monitor any potential impacts on the explosives industries in Australia.

Where relevant, AEISG made submissions to the PMO on issues raised in its Discussion Papers and Focus Papers, particularly in relation to:

- Options for resources safety and health regulator models in Queensland; and
 - Funding the resources safety and health regulator in Queensland,
- but received no feedback on issues raised in our submissions.

Now that the Resources Safety and Health Queensland Bill 2019 has emerged, AEISG would like to take the opportunity to make a submission on its contents relative to the explosives industries in Australia.

Issues

1. Purposes of the Resources Safety and Health Queensland Bill 2019.

As outlined in the proposed Act:

‘4 Main purposes

The main purposes of this Act are –

- a) to establish an independent statutory body called Resources Safety and Health Queensland to regulate safety and health in the resources sector; and*
- b) to establish the Resources Safety and Health Queensland employing office; and*
- c) to provide for the Commissioner for Resources Safety and Health.*

10 Functions

- 1) The main function of RSHQ is to administer the Resources Safety Acts and to further their purposes.*
- 2) Without limiting subsection (1), RSHQ has the following functions –*
 - a) protecting the safety and health of persons in the resources industry;*
 - b) regulating safety and health in the resources industry;*
 - c) monitoring compliance with, and the effectiveness of, the Resources Safety Acts;*
 - d) carrying out commercial activities incidental to RSHQ’s main function.*

3) RSHQ also has the functions given to it under this Act or another Act.

12 Performing functions and exercising powers inside and outside Queensland

RSHQ may perform its functions, or exercise its powers, inside or outside Queensland.

49 Qualifications for appointment

To be appointed as the commissioner, a person must have –

- a) a professional qualification relevant to the resources industry, and professional experience in safety and health in the resources sector; or*
- b) professional experience in senior operational positions relating to the management of safety and health in the resources sector, and demonstrated competence in the management of safety and health in the resources sector.*

Schedule 1 Dictionary

Resources Safety Act means –

- a) the Coal Mining Safety and Health Act 1999; or*
- b) the Explosives Act 1999; or*
- c) the Mining and quarrying Safety and Health Act 1999; or*
- d) the Petroleum and Gas (Production and Safety) Act 2004.'*

While AEISG did not support this option for a regulator model in its submission to the PMO, preferring the option for a combined Work Health and Safety and Resources Safety and Health regulator, it provides no further comment on this regulatory option chosen.

However, AEISG now has issues of concern with the inclusion of the explosives legislation and the explosives regulator within the scope of the proposed Resources Safety and Health Queensland (RSHQ) to be established by this Bill.

The following points are relevant:

- i. The CWP Select Committee made no recommendations in relation to the explosives legislation or the explosives inspectorate in Queensland which would cause it to be included in the proposed RSHQ.
- ii. As can be seen from the selected sections of the Bill referenced above, there is, understandably, a primary focus on resources safety and health in its purpose, functions and necessary qualifications for the position of Commissioner. However, none of the above recognise or acknowledge the completely different purpose and aims of the explosives legislation in Queensland and hence diminish its importance with respect to the critical role it plays in public safety.
- iii. Explosives legislation in Queensland, as in all other states and territories, is NOT an industry safety and health legislation NOR is it resource industry focussed.

Rather, explosives legislation is focussed on public safety and security as outlined in Section 2A of the Queensland Explosives Act 1999:

'2A Purpose of Act

- 1) *The purpose of this Act is to regulate the handling of, and access to, explosives to protect public health and safety, property and the environment.'*

The explosives legislation covers all types of explosives, including blasting explosives, fireworks, ammunition, flares and other explosive safety devices (e.g. automobile airbags) and toys (e.g. bon-bons, sparklers, caps for toy guns).

'Schedule 2 Dictionary (Explosives Act 1999)

explosive includes—

(a) a substance or a thing containing a substance, manufactured or used with a view to produce—

(i) a practical effect by explosion; or

(ii) a pyrotechnic effect; and

(b) a substance or thing declared under a regulation to be an explosive.

Examples of explosives—

ammunition, detonators, gunpowder, nitroglycerine, pyrotechnics (including fireworks)'

Further, the explosives legislation regulates all types of explosives activities including import and export of explosives via Queensland ports, explosives manufacturing and storage sites, transport of explosives on public roads in Queensland, sale of explosives to all authorised persons and use of explosives by all industry sectors. Therefore, the explosives legislation and the inspectorate are mainly involved, or should be, with explosives activities in the public arena.

- iv. The explosives industries, like all other non–mining industries, are subject to and operate under jurisdictional workplace health and safety (WHS) legislation and are overseen by the associated WHS inspectorate. In the case of Queensland, the explosives industries operate under WHS legislation administered by WorkCover Queensland as well as the Explosives Act 1999.
- v. The explosives industry which AEISG represents is NOT part of the resource industry but is a supplier of products to that industry and others (e.g. construction, farming, Defence) in the same manner as the electricity, fuel, water, transport, machinery or other relevant suppliers of goods and services. There is no logical reason for it to be included within the definition of ‘Resource Safety Act’ or indeed within the Resources Safety and Health Queensland Bill 2019, as it has no significance on resources safety and health.
- vi. Explosives legislation and its effective administration sits within relevant agencies responsible for workplace safety in all other state and territory jurisdictions:
 - Victoria – WorkSafe Victoria
 - Western Australia – Department of Mines, Industry Regulation and Safety
 - ACT – WorkSafe ACT
 - Tasmania – WorkSafe Tasmania
 - South Australia – SafeWork SA
 - Northern Territory – NT WorkSafe
 - New South Wales – SafeWork NSW

This has enabled the explosives industries to address their workplace health and safety issues under the WHS legislation and their

explosives safety and security issues under the explosives legislation within the single agency.

Further, after several years of work by both industry and regulators to address the COAG recommendation to harmonise explosives legislation in Australia, all WHS Ministers have agreed to implement four (4) significant changes to explosives legislation. AEISG believes that this would be more easily achieved if the explosives legislation was not incorrectly caught up in a different and otherwise focussed agency such as RSHQ.

- vii. The explosives industries are concerned that the inclusion of this public safety legislation within RSHQ will result in the industry contributing to the funding of a body which offers it no services. As outlined in the PMO Focus Paper 4, the Queensland Treasury's Principles for Fees and Charges stipulates:

“___ those individuals and groups who benefit from the provision of a good, product or service should pay for it.”

In the case of a public safety Act such as the Explosives Act 1999 and its administration, it is clearly the public that benefits from the service, as intended and expressed in the legislation itself, and hence the service should be funded by all taxpayers from general government revenue as it has been for several decades prior to 2008.

The explosives industries already pay for authorisations, licences, permits, etc. issued under the explosives legislation in Queensland for public benefit and have no concerns with these costs.

- viii. 'Explosives' is mentioned only a few times in the Resources Safety and Health Bill 2019 – mainly in the index and the consequential amendments to the explosives legislation to include the CEO of RSHQ. It is incorrectly included, AEISG believes, in the definition as a 'Resource Safety Act', which it is not. It would not be difficult to make a slight amendment to exclude reference within the Bill to explosives or the Explosives Act 1999.

Summary

AEISG believes there is no justification, and indeed no reason, to include non-resource related legislation within the scope of RSHQ and asks that the Committee consider amending the Bill to exclude reference to the Explosives Act 1999 as a 'Resource Safety Act' which it is not. Options for proper



administration of explosives legislation in Queensland should include WorkCover Queensland to maintain consistency with all other state and territory jurisdictions in Australia.

AEISG welcomes the opportunity to provide this submission on behalf of its members, and believes other explosives industry groups or associations covering fireworks, shooters, explosives safety devices etc. would express similar concerns if provided the opportunity.

R A (Bob) Sheridan
Chief Executive Officer
Australasian Explosives Industry Safety Group

