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State Development, Natural Resources and Agricultural
Industry Development Committee
Parliament House
George Street
Brisbane Qld 4000

Attention: Committee Secretary

By email: sdnraidc@parliament.qld.gov.au

26th February 2020

Dear Committee Secretary

Mineral and Energy Resources and Other Legislation Amendment Bill 2020

As a Site Senior Executive (SSE) from Anglo American's metallurgical coal mine in Queensland – appointed under the *Coal Mining Safety and Health Act 1999* (Qld) – and on behalf of all Anglo American SSEs we are highly concerned with the implications of the Queensland Government's current proposed mechanism to introduce an industrial manslaughter offence to resources legislation.

Anglo American is working with the Queensland Resources Council and we strongly support the position of the industry on this matter. However, we felt it necessary for you to hear from us directly about why we believe that the current draft Bill must be amended.

Between us we are responsible for the safety and health of around 5000 Coal Mine Workers at our sites. We oversee comprehensive safety and health management systems, drawing on international best practice in what we call our Elimination of Fatalities Framework. Safety is our foremost value and we are working hard to embody this in every decision we take and in ensuring that there is a strong culture of 'speak-up' at our sites.

If the legislation as drafted is passed, it will have serious consequences for the operation of our sites, which go far beyond the intention to protect Coal Mine Workers at Queensland mines and may, in fact, perversely undermine the safety of people in our industry.

The main issues with the current drafting of the Bill are as follows:

- SSE's, other site statutory positions and site management could be subject to criminal charges as opposed to the mining company, with limited defenses in relation to the practical decision-making that happens on mine sites every day.
- This is despite the fact that the officer due diligence requirements, which were introduced to the CSMH Act in November 2018 as part of the *Mines Legislation (Resources Safety) Amendment Act 2018* (Qld), specifically excludes SSE's and their direct or indirect reports from the operation of that duty;

Member of the Anglo American plc group

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- The standard of conduct that is proposed to apply to the Industrial Manslaughter offence is negligence. In terms of criminal culpability, this is much lower than the standard which applies under the Criminal Code for manslaughter; and
- There is no time period limitation for prosecutions.

From a practical perspective, each of the issues identified above would have negative consequences for how we manage our sites, including:

- Site statutory positions and managers may avoid responsibility for decisions where safety risks are being considered. This is actually the opposite of what we are trying to achieve in our leaders having a sense of personal responsibility and commitment in site safety risk assessments and ensuring the day to day safe management of operational activity.
- There would be a disincentive for operational employees to become statutory officials – undermining a decades-old system of promotion, which is a source of pride for our workforce and ensures experienced and respected people are in statutory positions. This could significantly reduce the pool of experienced people available for these roles;
- Spurious claims could be made in relation to minor injuries, taking supervisory focus away from time in field and the critical tasks to manage serious risks;
- Persons willing to be nominated to be voted into the role of SSHR will now contemplate the fear of prosecution. The appointment of the SSHR is one of the crucial roles in assessing the level of risk to Coal Mine Workers is at an acceptable level of risk.

I appreciate the opportunity to submit this submission to the Committee on these issues from the people who have been appointed under legislation to manage Queensland's mines.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Damien Wynn', written over a white background.

Damien Wynn
General Manager/SSE Grasstree Mine

