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

Submission to the Mineral and Energy Resources and Other Legislation Amendment Bill 2020

Please accept my submission to the parliamentary commission regarding the proposed *Mineral and Energy Resources and Other Legislative Amendment Bill 2020*, in particular in reference to:

- Safety and health – to strengthen the safety culture in the resources sector by introducing manslaughter offenses in the Coal Mining Safety and Health Act 1999 and;
- The section that refers to “The Bill amends the Coal Mining Safety and Health Act 1999 to clarify that only persons who are employees of a coal mine operator may be appointed as certain statutory office holders.”

I forward my submission as someone who has worked for and with the Queensland Mining sector for over 30 years, working with all levels of government and key stakeholders in relation to coal mining in the Bowen, Surat and Galilee Basins. I have lived in mining communities for many years and four members of my family have contributed decades to the coal mining sector. However, my perspective as the mother of a seriously injured mine worker is most relevant to this submission.

1. *Safety and health – to strengthen the safety culture in the resources sector by introducing manslaughter offenses in the Coal Mining Safety and Health Act 1999*

I have had extensive conversations with a number of key stakeholders to understand the impetus in considering Industrial Manslaughter (IM) legislation for the mining sector and to investigate the research and evidence used to conclude that the implementation of such significant legislation would address the issue of “deaths” in the mining sector. Unless I am mistaken it appears that this decision is not based on multi-stakeholder consultation, research and investigation rather a narrow consultation process, by this I mean the consultation process that does not appear to have been broad and open to all stakeholders ie. injured mine workers, family members, on-site mine workers, the many highly qualified, experienced and respected mine safety professionals who have dedicated their entire careers to the mining

sector. In fact, there appears to be an incorrect assumption and confusion by many in the industry that one of these highly respected, qualified and experienced mining professionals is the author of the review which is identified as the *Brady Report* an "...analysis of fatalities, serious accidents and high potential accidents that have occurred in the Queensland Mining and quarrying industries over the past 20 years. (Australian Mining Monthly, 07 February 2020).

The author, in fact, of the Brady Report is a respected structural engineer who attributes the "...47 mining deaths over the past 20 years in the Queensland Mining Sector to a combination of; failures of controls; lack of training and absence or inadequate supervision". (Australian Mining Monthly, 07 February 2020). I cannot, however, find any examination or analysis from an Industrial Psychology or Cultural perspective in this report.

I note that Mr Tim Lyons made a case supporting the addition of a new IM offence where a fatality occurred in the workplace but his recommendation was in reference to Workplace Health and Safety Queensland and referred to a "big stick" approach to industry with generally one operator with employees, I do not believe this is comparable or aligned to the mining sector.

My comments below are in regard to my concern that this legislation is to include on-site safety officials. One of the possible serious outcomes, if this legislation is implemented, could be the culture of transparency and of freely sharing information as it relates to safety will diminish and cooperation in the event of an accident investigation would likely decrease. This is echoed by Dr David Cliff, Professor of Risk and Knowledge Transfer at the Minerals Industry Safety and Health Centre:

'Industrial manslaughter is a complex question. If you bring in a big stick to frighten people into vigilance, the negative perception of that stick will have a detrimental impact on health and safety because people become unwilling to share what happened.'

Cliff urged caution because information sharing could simply dry up. "There is a culture of openness which sees information about fatalities being shared so we can learn from our mistakes. The new industrial manslaughter law risks that of not being as open as it has been in the past." (Australian Mine Safety Journal, February 2020)

- The industry already has legislation, the Coal Mining Safety and Health Act 1999 (CMSHA) to adequately address negligence, however, the powerful tools at the disposal of the Queensland Mining Inspectorate do not seem to have been extensively utilised ie.:
  - How many prosecutions have been handed down to date?
  - How many statutory qualifications have been suspended or withdrawn?
  - How many significant penalties have been handed down?
- There are many issues that could be rectified that no doubt would have a positive impact on mine safety:
  - The proposed compulsory qualification of a Diploma of Underground Coal Management (second class ticket) for those appointed as Undermanagers was decided as unnecessary therefore a higher level of safety qualification deleted out of the industry. This decision could be reviewed.
  - Those that cannot pass a statutory "oral" exam in Qld can and do go to NSW, pass there and come back to Qld and get appointed into those statutory

positions in Qld coal mines. I believe it is counterproductive to mine safety to allow someone who cannot pass an oral exam in Qld hold that statutory position. This could be reviewed.

- A vigorous holistic inquiry would determine if any of the major changes in the coal mining sector over the past two decades have had an impact on the increase in major accidents and deaths ie:
  - FIFO / DIDO
  - Longer hours of work and extended rosters
  - Working away from home
  - Huge increase in contract workforce whose conditions of employment are substantially different to the permanent workforce ie: longevity, wages, sick leave, annual leave and even differences in the quality of accommodation

Over the years the mining industry has changed substantially perhaps the systems and processes to support those changes have not been adequately identified and/or put into place? How can new legislation be proposed without an analysis of the culture and psychology of a sector that has undergone so many changes over the last two decades?

I understand that there is a great deal of pressure to take prompt action in reducing deaths in the industry, however, the systems and tools are already in place to do this and it appears that they may not have been effectively utilised, why? If a holistic inquiry with inclusive vigorous debate by all key stakeholders is undertaken an informed strategic solution could be identified and implemented. If this critical step is overlooked or bypassed and the proposed IM legislation includes those on the “coal face” it is likely nothing will change and in fact it could undermine all the positive work that has been done in regards to the improved culture of communication in relation to safety on mine sites and this will likely be replaced with silence and a “blame game” and expose the workforce to even greater risk.

Finally, in relation to the proposed IM legislation I would also like to draw your attention to the Corrective Services Act 2006 which establishes mandatory sentences (Queensland Sentencing Guidelines Council). The Corrective Services Act 2006 set down 20 years for murder or repeat serious child sex offence which is the same sentence being proposed for the IM legislation. The distinction between murder and manslaughter is the element of intent, the intent kill. The proposed 20-year imprisonment for IM seems excessive and outside the parameters set out by Corrective services Act 2006, why?

As the mother of a seriously injured coal mine worker, if I believed for one moment that this proposed legislation would reduce major accidents and deaths in the coal mining sector you would not be hearing from me but I fear it will add an extra burden and stress to those already working in a high risk industry.

2. *The section that refers to “The Bill amends the Coal Mining Safety and Health Act 1999 to clarify that only persons who are employees of a coal mine operator may be appointed as certain statutory office holders.”*

I believe that this would have a positive impact on the industry and could ensure that statutory office holders feel confident to make safety complaints, raise safety issues with a reduced fear of reprisal or impact on their employment. Listening to years of comments made by many mine workers of contract companies the following are my observations;

- Permanent and contract workforces are often not on the same playing field:
  - Unless the contractor is working under his/her own company the remuneration packages can be substantially less than the onsite permanent workforce.
  - An “us and them” culture on the mine site (contractors are often not viewed as the same/equal as a permanent employee even if in the same role)
  - The recruitment process may not have the same rigor as onsite employment
  - Due to the nature of contract employment workers can be terminated at any time for any reason/or no reason given. Due to the conditions of their employment these employees often do not fit within the parameters of Fair Work Commission, so they have no recourse
  - Because of the transient nature of the contract workforce a minimal increase in the hourly rate is enough for some contractors to move frequently from one site to another (this actually pushed the hourly rate of statutory officials into unsustainable territory when the mining sector was experiencing a boom). This constant movement between sites means that a thorough understanding of the site, the onsite processes and an understanding of the workforce is hard to achieve. No consistency!
  - I am aware of numerous individuals who have identified safety issues who have been terminated or whose contracts were not renewed. Whilst not the norm this culture exists.

The proposed changes would eliminate most if not all of the above issues and would likely only impact those that own their own businesses.

I thank you for the opportunity of presenting my observations and comments through the submission process.

Your Sincerely

Dr Anne Smith

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