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27 February 2020

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

Via email: [sdnraidc@parliament.qld.gov.au](mailto:sdnraidc@parliament.qld.gov.au)

Dear Sir/Madam,

**RE: Mineral and Energy Resources and Other Legislation Amendment Bill 2020**

I am writing to provide feedback on the above Bill and, in particular, the industrial manslaughter provisions in the Bill.

APPEA understand government's intent is to align resources legislation with the *Work Health and Safety Act 2011 (WHS Act)* by establishing a new industrial manslaughter offence to apply 'senior officers' and 'executive officers', meaning the highest level of management within an organisation.

The government's [worksafe.qld.gov.au](http://worksafe.qld.gov.au) site expresses the concept of 'senior officer' in relation to the WHS Act as follows [emphasis added]<sup>1</sup>:

'The use of the term 'senior officer' for the industrial manslaughter offence is intended to capture individuals of the highest levels in an organisation (those who can create and influence safety management and culture at their workplace). The rationale for capturing these higher level officers is to ensure health and safety is managed as a cultural priority within organisations and to guarantee that safety standards are managed and supported from the top down.'

APPEA supports this approach and the introduction of the offence on these terms.

The [worksafe.qld.gov.au](http://worksafe.qld.gov.au) site instructively goes on to define who is not a 'senior officer' [emphasis added]<sup>2</sup>:

'A person is not a senior officer if they simply provide advice for the consideration of decision-makers or are only involved in the administration of a business process. For example, a manager or supervisor in an operational area of the business (i.e. a line manager) will not be a senior officer as the manager or supervisor administers the decisions of more senior management and do not make key decisions on how the business is managed.'

We are gravely concerned that the drafting of the Bill does not achieve the above as line managers, specifically the statutory position of Site Safety Manager (SSM) and people who report to SSMs, will be subject to the industrial manslaughter offence.

<sup>1</sup> <https://www.worksafe.qld.gov.au/laws-and-compliance/compliance-and-enforcement/penalties/industrial-manslaughter-offence>

<sup>2</sup> Ibid

Canberra [REDACTED]

Adelaide [REDACTED]

Darwin [REDACTED]

Perth [REDACTED]

Melbourne [REDACTED]



The Bill, as drafted, will therefore have a material and negative impact on the industry's ability to attract high quality individuals to fill these operational roles. Oil and gas is a global industry and the best workers are free to work in jurisdictions where they are not inappropriately subjected to severe offences of this nature. By extension the Bill will degrade safety outcomes.

In part 2 of this submission we propose two simple and straightforward amendments to fully align the Bill with the WHS Act and avoid this unintended outcome.

## 1. Queensland oil and gas safety

Queensland's oil and gas industry is committed to keeping all workers safe. We have long recognised that safe operations can only be achieved by a strong safety culture driven by senior management and supported by all staff. We proactively work to ensure safety is front of mind for all workers. We work together to continuously improve safety practices and outcomes across the industry, and we share information and learnings. We recognise that oil and gas production, like any industrial activity, is hazardous but we do not accept that injuries or fatalities are an inevitable consequence of our operations. All workers have the right to return safely to their families after each shift and that is the industry's highest priority.

To help drive continuous improvement in safety Queensland's oil and gas industry established *Safer Together*<sup>3</sup>. *Safer Together* is a not-for-profit, member-led organisation committed to creating the leadership and collaboration needed to build a strong and consistent safety culture. *Safer Together* was formed and is operated by industry participants and contract partners.

Through *Safer Together* the industry has developed a variety of initiatives to improve safety performance including common in-vehicle monitoring system specifications, specifications for light and heavy vehicles operating in the industry, common safety training requirements and competencies, safety culture toolkits, standardised safety induction training, and processes for communication and sharing learnings from safety incidents.

Over the past three years (Q4 2015 to Q3 2018) fatality and accident data indicates the industry's approach to safety and the existing regulatory system is producing results on a variety of metrics:

Hours worked	77.6 million (avg. 2.16 million hours per month, reducing more recently to 1.70 million hours per month)
Fatalities	1
LTI	46
RWC	83
MTC	95
FAR	1.29 per 100 million hours worked
LTIFR	0.59 per million hours worked
TRIFR	2.89 per million hours worked

The industry's 2017 FAR of 1.29 compared to the global petroleum industry's 2017 FAR of 1.10. In 2018 there were no fatalities in the Australian petroleum and gas industry at all, giving a FAR of 0.00 which compares to the global industry FAR of 1.01, these are the lowest figures on record.

<sup>3</sup> <https://www.safertogether.com.au/>



To put these figures into context, a person is approximately 20 times more likely to be killed in a road traffic accident in Queensland than a Queensland gas industry worker is to be killed at work.

**2. Application of industrial manslaughter to line managers**

Our key concern is that the industrial manslaughter offence is applied to ‘senior officers’ and ‘executive officers’ and these terms are defined too broadly.

The effect is the industrial manslaughter offence will apply to SSMs, which is a statutory role defined in the *Petroleum and Gas (Production and Safety) Act 2004 (P&G Act)*. SSMs have operational safety obligations under the P&G Act and are not at the highest levels of organisations. SSMs are operational managers of the type that are defined as ‘not senior officers’ on the government’s [worksafe.qld.gov.au](http://worksafe.qld.gov.au) site.

If the intent of the Bill is to align the P&G Act with the WHS Act – which APPEA supports - then the Bill requires amendment. In the alternative, if government instead proposes to apply the industrial manslaughter offence to line managers then APPEA is strongly opposed to the Bill.

We believe the simplest option to amend the Bill to ensure alignment with the WHS Act is to explicitly exclude SSMs and those who report to them, and to amend the definition of ‘executive office’ so that it accurately describes the highest level of management. Amendments to this effect are as follows:

Provision	Recommendation
799I Definitions for part	<p>The term 'senior officer' be amended as follows:</p> <p><i>senior officer</i>, of an employer for an operating plant or gas work, means—</p> <p>(a) if the employer is a corporation—an executive officer of the corporation; or</p> <p>(b) otherwise—the holder of an executive position (however described) in relation to the employer who makes, or takes part in making, decisions affecting all, or a substantial part, of the employer’s functions.</p> <p><b>To remove any doubt, <i>senior officer</i> does not include a site safety manager under this Act or any person who reports to the site safety manager.</b></p>
Schedule 2 Dictionary	<p>The term 'executive officer' be amended as follows:</p> <p><i>executive officer</i>, of a corporation, means a person who <del>is concerned with, or takes part in, its management</del> <b>makes or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation</b>, whether or not the person is a director or the person’s position is given the name of executive officer.</p>



We would be pleased to give evidence to the Committee on this submission.

Yours sincerely

A handwritten signature in blue ink that reads "Matt Paul".

**Matthew Paul**  
Queensland Policy Director