

Please direct all responses/queries to:  
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Our reference: 1401512577

26 June 2020

Standing Committee on Legislation  
Legislative Council Committee Office  
18-32 Parliament Place  
West Perth WA 6005

Dear Sir or Madam,

### **Work Health and Safety Bill 2019**

Woodside Energy Ltd (Woodside) welcomes the opportunity to contribute to the Standing Committee on Legislation's inquiry into the *Work Health and Safety Bill 2019* (WHS Bill). At Woodside, protecting the health and safety (H&S) of our people and our host communities is essential to our future success and is embedded in our organisational culture. We publicly report on our H&S outcomes every year through our Sustainable Development Report. In 2019, our focus on H&S culture saw our lowest ever total recordable injury rate (TRIR) of 0.90 and lost time injury frequency (LTIF) of 0.19 per million hours worked. This LTIF compares to the Western Australian oil and gas extraction sector average (0.71) and the average for all WA industries (7.66) in the three years to 2018 (Worksafe WA data).

Woodside welcomes the work under the previous and current governments to harmonise Western Australia's WHS laws with the national WHS Model Act, as agreed by the Council of Australian Government (COAG) in 2008. Woodside has worked with the Chamber of Minerals and Energy WA (CME) in the development of its comprehensive response to the WHS Bill and this letter is to confirm our support for the CME submission to this Inquiry, and in particular its concerns with elements of the legislation's industrial manslaughter provisions.

Woodside does not oppose the introduction of industrial manslaughter provisions in Western Australia. We recognise and support the Government's efforts to implement laws that appropriately respond to workplace fatalities and to hold those responsible for reckless and intentional acts to account. No workplace fatality is acceptable. However, the consultation process for the WHS Bill did not include the industrial manslaughter offences. Therefore, detailed consideration by the industry or the public has not been able to inform parliamentary consideration.

Woodside broadly supports the inclusion of the proposed s30A 'criminal' industrial manslaughter offence which has an appropriately high burden of proof regarding gross negligence that causes death. This offence requires an officer, or person conducting a business or undertaking (PCBU), to knowingly disregard their duties under WHS legislation, and for this conscious failure to result in death. We consider the requirement to prove gross negligence to be commensurate with the seriousness of this offence.

However, compared to the 'criminal' provisions, the 'simple' offence:

- proposes a low threshold of "neglect" of duty that is likely to apply broadly to all fatalities able to be prosecuted;
- does not harmonise, and goes beyond any other jurisdiction's industrial manslaughter laws;
- is more wide reaching than the recommendations of the national review of WHS laws; and
- is likely to have significant unintended consequences to work H&S practices.

This approach could have unintended consequences to H&S processes and practices in workplaces. For example, given the major hazard profile of our sector, it is unlikely that a serious safety incident would be caused by one act or individual, rather a failure of broader organisational systems. Therefore, our focus is on fostering a positive H&S culture throughout the organisation and this approach is modelled on an international best practice<sup>1</sup> structure with four key themes: standards, communication, risk management and involvement.

Communication is a critical driver of a positive H&S culture which identifies and reports on issues so that they can be learned from, and so that repeats are avoided. The low threshold of the 'simple' offence, which in effect could result in an individual being prosecuted for any neglect of a H&S duty that causes death regardless of contributing circumstances, could be counterproductive as it could unintentionally create a culture of fear of reporting due to risk of prosecution. Moreover, as the maximum penalty for a 'simple' offence is 10 years imprisonment and a fine of \$2.5 million, the threshold of 'neglect' for such a significant charge is very low.

We therefore request that the Standing Committee on Legislation recommends removal of the 30B 'simple' industrial manslaughter offence from the WHS Bill. In the event that the Committee recommends retaining the simple offence we would request amendments to the provisions to address industry concerns.

Yours faithfully

Fiona Hick  
Senior Vice President Operations

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<sup>1</sup> See for example the work of the Energy Institute, London: [www.energyinst.org](http://www.energyinst.org)