

26 June 2020

CONFIDENTIAL

Hon Dr Sally Talbot
Chair, Standing Committee on Legislation
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Email: lccl@parliament.wa.gov.au

South32 Worsley Alumina Pty Ltd
Gastaldo Road
Collie WA 6225
PO Box 344
Collie WA 6225
Australia
T: +61 8 9734 8311

Dear Dr Talbot

COMMITTEE INQUIRY: WORK HEALTH AND SAFETY BILL 2019

I am the Vice President Operations for Worsley Alumina which comprises a bauxite mine near Boddington and an alumina refinery near Collie in Western Australia. Worsley Alumina has a significant workforce of approximately 1500 employees and more than 500 contractors across its operations. I have extensive experience across the resources industry, both in Australia and overseas. I write to you regarding the Standing Committee on Legislation's current Inquiry on the *Work Health and Safety Bill 2019 (Bill)*, specifically with respect to the proposed introduction of industrial manslaughter offences.

Nothing is more important to us than creating a working environment where everyone goes home safe and well every day. Whilst we recognise and agree appropriate laws are needed to respond to workplace fatalities and to hold officers and PCBU's responsible for reckless and intentional acts, we are concerned about the Government's proposal to introduce the broadest of all industrial manslaughter (and other) offences in Australia via the Bill, and that this may have unintended consequences.

We confirm that we support the submissions made by The Chamber of Minerals and Energy of Western Australia (**CME**) on the Bill, including those made on or about the date of this letter.

Without limiting the areas of concern as well articulated by CME (noting that we support CME's submissions on these matters, including with respect to sections 30 through to 31 of the Bill), section 30B of the Bill as currently proposed exposes officers to prosecution if the PCBU's breach of duty which causes death is attributable to "any neglect" on the part of the officer. There is no requirement for the officer to disregard a known likelihood of death. In our view, industrial manslaughter offences should only be reserved for gross disregard for known risk to an individual's life and, given the severity of the applicable penalties, any prosecution should have the oversight of the Director of Public Prosecutions and be heard the District Court or Supreme Court (with it being clear than individuals have access to the defences available under WA's criminal code for other serious offences).

It is critical that in achieving WHS reform we do not lose sight of its ultimate purpose - to protect and improve worker health and safety. What we do not wish to see is overly punitive approaches under the Bill negatively impacting the willingness of PCBUs and individuals to cooperate (including with the WHS regulator), deeply investigate and share learnings to improve health and safety.

Thank you for your consideration of this important matter.

Yours sincerely

Noel Pillay
Vice President Operations – Worsley Alumina