

9 July 2008

National OH&S Review Secretariat  
Department of Education, Employment  
and Workplace Relations  
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CANBERRA ACT

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Dear Secretariat

The Australian Sugar Milling Council Pty Limited (ASMC) is the representative body of the owners and operators of the 26 Queensland raw sugar mills.

Each of the companies that own and operate the Queensland raw sugar mills is a member of the ASMC.

The ASMC is a Member of Commerce Queensland and a number of the major sugar milling companies are also Members of Commerce Queensland.

The ASMC's Safety Committee, ASMC staff and ASMC Members also Members of Commerce Queensland have made contributions to the Commerce Queensland submission in response to the *National Review into Model Occupational Health and Safety Laws Issues Paper May 2008*.

The ASMC has not prepared a detailed comprehensive submission in response to the *Issues Paper*.

The purpose of this letter is to inform the Secretariat of the Queensland sugar milling industry's endorsement of the Commerce Queensland submission and to particularly highlight certain points: -

**Q12&13** Cover WH&S of most industries under a single system with industry issues, changing work organisation and emerging hazards being addressed in industry-specific or hazard-specific codes of practice. This approach sits comfortably with Lord Robens - refer para 2.1 of the *Issues paper*.

**Q24** The employers' duty of care can only be owed where it is reasonably practical for them to be able to exercise control – eg to employees, contractors and visitors and not to those with no authority to be on the employer's premises eg, trespassers. This accepts that the employer can secure the premises from trespassers where reasonable practical.

**Q26** The duties of others, not trespassers, but visitors to the workplace and members of the public, are to follow reasonable instructions.

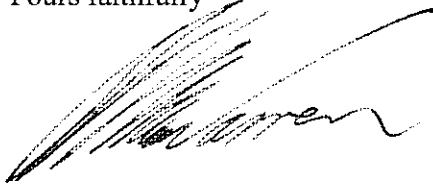
**Q67** Right to cease unsafe work is implied in the legislation and the employment relationship on this matter is addressed already in State and Federal Industrial Legislation. To make a duplicate, specific reference to the industrial issue in WH&S legislation is unnecessary and it may promote confusion and conflict.

**Q92-96** Issuing an improvement notice in any form, including a prohibition notice, can only be the responsibility and power of an inspector. An inspector is assessed and appointed to evaluate situations and deal with them in a manner that is consistent across Australia; otherwise the intent of harmonised legislation – commonality - is significantly compromised.

**Q110** Similarly to the point made in the above paragraph, for a consistent approach to applying the legislation, entitlement to commence proceedings can only lie with law enforcement authorities (the police or the inspectorate). Law enforcement authorities have been established for the purpose of civil protection and have specific powers and purpose. The purpose of other bodies, eg industrial organizations are not necessarily consistent with those of the law enforcement bodies; will vary from one to the next in accordance with each organisation's constitution; and policing WH&S is the purpose of none and the expertise of few, if any, industrial organisations. To give other bodies (eg industrial organisations) power to commence criminal proceedings lays open the opportunity or risk of confusing the purpose of the organisation with the purpose of the WH&S legislation. Consistency, an intended outcome of harmonization, would be compromised if the power to commence proceedings were to be made available beyond the law enforcement bodies.

The opportunity to be consulted on the very significant content of the *Issues Paper* is appreciated.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P H Warren', written over a light blue horizontal line.

P H Warren  
**Manager Industrial Relations**