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27 November 2020

Critical Infrastructure Centre
Department of Home Affairs



RESPONSE TO EXPOSURE DRAFT OF THE SECURITY LEGISLATION AMENDMENT (CRITICAL INFRASTRUCTURE) BILL 2020

Thank you for the opportunity to review the Exposure Draft of the Security Legislation Amendment (Critical Infrastructure) Bill 2020 and the accompanying Explanatory Document.

Santos welcomes the opportunity to provide on-going feedback on this matter as it progresses. We acknowledge the importance of Government and industry working collaboratively to effectively manage the security and resilience of Australia's critical infrastructure.

The oil and gas industry has robust and mature risk management frameworks to ensure the availability, integrity and security of assets and information. We recognise that in this globally challenging environment it is important to continue to review, refresh and audit these processes and we are open to doing so. However, given the strength of the existing practices and in keeping with the approach to the defence sector, we would welcome discussion with Government regarding the necessity or otherwise of requiring oil and gas industry participants to meet additional obligations if our current practices prove adequate on review.

We note the stated commitment to a co-design process of sector specific standards to ensure, in achieving the outcomes, they are:

1. appropriate and proportionate to the sector risk profile;
2. recognise and do not duplicate existing regulated and non-regulated risk management approaches; and
3. minimise the regulatory burden.

We urge Government to maintain that commitment to co-design in order to maximise the capability the sector has already developed and to ensure the highest possible engagement in the joint outcomes.

From our review of the Exposure Draft, we have identified some key issues in respect of which we look forward to further consultation and discussion to provide clarity. To assist the Centre in understanding these areas of interest and focus for future engagement we note them below as being:

1. The criteria and approach for identifying systems of national significance and critical liquid fuel assets that would have a significant detrimental impact on the nation if compromised. Some early

indications of the types of infrastructure likely to be included (by way of examples if appropriate) would be appreciated and assist us in future co-design engagement.

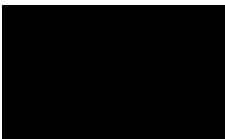
2. In respect of the positive security obligations, further detail is required to:
 - a. understand the “on-switch” and transition processes for implementation of the obligations and some apparent inconsistencies between the intention described in the Explanatory Memorandum and the Bill (see, for example, sections 30AB and 30BB of the Bill);
 - b. determine (through consulting with industry) the most appropriate threshold for the imposition of the obligations (versus them being imposed on all CI assets); and
 - c. ensure any duplication of regulatory reporting and oversight is removed, especially given the diversity of the infrastructure and operations within the energy sector and level of existing regulation (especially at State level).
3. Technology and cost considerations for the access to system information requirements in the enhanced cyber security obligations.
4. Government’s approach and expectations in respect of timing for the implementation of the new obligations, compliance costs and management of the burden on industry arising from the new obligations.
5. Introduction of civil penalties for failure to develop appropriate systems, to monitor and report which appear more punitive than the current legislation.
6. Introduction of investigatory powers. This Bill provides Home Affairs broad powers to monitor and investigate our operations and we will need further detail as to the circumstances in which these will be used, potential impacts on our operations and potential consequences and penalties associated with the use of these powers; and
7. The scope of the offering of immunity from prosecution in circumstances in which action has been directed by the Government is unclear. We will require a far greater understanding of our potential exposures under this directive and the coverage of the immunity.

Finally, Santos notes and welcomes the current Trusted Information Sharing Network (TISN) refresh and, as a current participant, looks forward to the role it will play in improving collaboration and information sharing within and across sectors and the Federal and State governments.

In a recent TISN refresh information session with the Oil and Gas Security Forum (OSGF), it was suggested oil and gas be included in a Resources sector group with mining and chemicals rather than being included in the Energy sector group with Electricity. There is a logic to that grouping given the similarities in the existing risk management and regulatory approaches for the oil and gas, mining and chemical industries. We would be interested to understand if there was an intent to do the same with the critical infrastructure reform, as this may aid in the development of sector standards and regulation.

We look forward to participating in the next stage of this process and invite you to maintain contact with Matt Sherwell, Manager Policy and Regulatory Affairs at [REDACTED] or the undersigned who will co-ordinate the company’s involvement as required.

Yours sincerely



Beverley East
Head of Government Affairs
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