



CLEAN ECONOMY JOBS, RESOURCES AND TRANSPORT COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr PT Weir MP
Mr BW Head MP
Ms JE Pease MP
Mr LA Walker MP (videoconference)
Mr TJ Watts MP

Staff present:

Dr A Ward—Committee Secretary
Mr Z Dadic—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE ELECTRICAL SAFETY AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Monday, 8 July 2024

Brisbane

MONDAY, 8 JULY 2024

The committee met at 9.29 am.

CHAIR: Good morning everyone. I declare open the public hearing for the committee's inquiry into the Electrical Safety and Other Legislation Amendment Bill 2024. My name is Kim Richards. I am the member for Redlands and chair of the committee. I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. We are very fortunate in this country to have two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all now share. With me here today are: Pat Weir, member for Condamine and deputy chair; Bryson Head, member for Callide; Trevor Watts, member for Toowoomba North; Joan Pease, member for Lytton; and via videoconference Les Walker, the member for Mundingburra.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. If everyone could turn their phones to silent, that would be terrific.

ONG, Mr Peter, State Secretary, Electrical Trades Union

WHESHLER, Mr Robert, Electrical Tradesperson, Electrical Trades Union

CHAIR: I welcome representatives from the Electrical Trades Union.

Mr Ong: Thank you, Chair. I start by acknowledging the traditional owners of the land on which we meet today and pay my respects to elders past and present. I also acknowledge all of the MPs in the room and online. I am the State Secretary of the Electrical Trades Union. We represent over 15,000 electrical workers in the state of Queensland. With me today is Robert Wheshler, an experienced electrician with over 20 years experience in the electrical trade. Robbie has vast experience when it comes to major project work and major infrastructure work. One of the issues I want to raise relates to the meaning of 'electrical work' in the Electrical Safety Act—more specifically that 'electrical work does not include the following'.

Further, an amendment to the QBCC Act I think contradicts what is being done under the Electrical Safety Act and creates what I see as a precarious situation where non-licensed people are doing licensed electrical work. There is a new certificate III qualification that has been implemented by the QBCC called UEE31020. It is the Certificate III in Fire Protection Control. Licensed electricians used to do this work. As long as you had an electrical licence, you were fine to do that work. Amendments have been made to establish this qualification. Within that qualification is a module called UEERL0005—

Locate and rectify faults in low voltage ... electrical equipment ...

Our concern is that people undertaking this course—UEE31020; Certificate III in Fire Protection Control—receive no licence outcome whatsoever. The qualification—specifically 'locate and rectify faults in LV electrical work'—means that they are testing and locating faults and then doing rectification work on electrical equipment. Under the Electrical Safety Act you cannot test or do rectification work on electrical equipment unless you have an electrical licence. Where that qualification is utilised—it is utilised in a number of other certificates—all of them have to attain a restricted electrical ticket. They would have to do a course to get their restricted electrical ticket and then apply to the Electrical Safety Office to get a restricted electrical licence to do that work. Under what the QBCC is now doing, they do not have to do that.

The National Fire Industry Association, NFIA, has pushed this qualification into the QBCC. I know that its representatives will be speaking to you later today. Their submission states that the Electrical Safety Act does not supersede, override or impede on what they have already put into the

QBCC. For us, it is a real concern that we will now have people not doing any qualifications to receive a restricted electrical ticket. It is undermining the Electrical Safety Act by allowing people to work on electrical equipment without any electrical qualification or electrical licence whatsoever. That is the first issue.

The NFIA is asking that all building work under the QBCC Act be excluded from electrical work under the Electrical Safety Act. Currently, QBCC Regulation 2018 states what is not building work. Schedule 1 at section 20 states—

Electrical work

Electrical work under the Electrical Safety Act 2002.

Obviously, that will be amended when this bill passes. Section 21 is basically what I just spoke about with that new qualification in that they have introduced work for emergency detection and warning systems. That qualification 'locate and rectify faults in LV electrical equipment' has been introduced specifically for the fire industry to install fire alarms and fire panels and then the test and fault-finding of that electrical equipment and the fixing or repair of.

Again, already in the Queensland Building and Construction Commission Act is what is not building work—so electrical work—and it goes on—

Work for emergency detection and warning systems

Inspection, testing, installation or general repair by a person who is a licensed electrical mechanic, of a fire detection system, alarm system or emergency warning and communication system for a building.

Under the QBCC Act, electrical work was excluded, yet now they are asking that all building work under the QBCC Act be excluded from the Electrical Safety Act. That is a real concern for us because we believe that it opens it up for unlicensed electrical work.

Thirdly, I bring to the committee's attention what we have been pushing for under section 18 of the Electrical Safety Act, 'Meaning of electrical work'—

(2) **Electrical work** does not include the following—

...

- (e) building or repairing ducts conduits or troughs ... where electrical wiring will be or is installed if—
 - (i) the channels are not intended to be earthed; and
 - (ii) wiring installed in the channels is not energised; and
 - (iii) the work is done under the supervision of a person licensed to perform electrical installation work ...

Most people would look at that and say, 'Well, it clearly states that it is only not electrical work if it is done under the supervision of an electrician.' I do not know what committee members think, but I would think that this applies when an electrician is sitting beside them watching them do the work or directing them to do the work. Unfortunately, it has been our experience over a long time that that is exploited to the extent that there might be a licensed electrician sitting in a hut or a construction shed three kilometres away with a team of 30 TAs—non-licensed electricians—doing not only that work but also the installation of cable trays and conduit in the ground.

Even though, on face value, we would think that most of this is not electrical work—they are putting up cable trays; they are putting in conduits in the ground—the reality is that it is done by TAs without the direct supervision of a licensed electrician. I should have mentioned that the change we are after relates to (iii) where it states 'the work is done under the supervision of a person licensed to perform electrical installation' We are after 'the work is done under the direct supervision'. The reasoning behind that is if you are installing cable tray and you have hundreds and hundreds of metres of cable that then has to be installed on that cable tray at a later date, if you do not understand the whole process of pulling cables and installing those cables you might be a bit rough when you are installing the cable tray. You have to cut sections. There are often angles and circular bends. If you do not understand the whole process, you are just going to rough it in.

If you have no direction from a licensed electrician, this may create situations where there are sharp edges. If it is not done in a tradesman-like manner some people would say, 'So what if it does not look too great?' The reality is if you start pulling cables along that cable tray and you have sharp edges, you are going to de-sheath the cable and expose live parts which will not be picked up until all those cables have been bundled and tied in all the way along. It will only be picked up at commissioning stage—if it is picked up—that you have something down to earth—if the earthing has been put on properly. One of two things will happen. It will either be picked up at the commissioning phase and all of that cable will have to be ripped out all the way back, re-pulled in and reinstalled,

which is obviously a massive cost. Depending on the project size, it will cost more for some than others. The other situation you can face, which none of us want to see, is where it is not picked up until it is livened up and then the whole cable tray is livened up.

The same applies for conduits. Again, a lot of civil contractors think, 'We will just bang the conduits in the ground.' It does seem that you just install conduits and it is not that hard. If you do not understand the radiuses there are issues. These 100-millimeter conduits are installed for kilometres with pits in between. If you have radiuses in there or dips, you are not going to be able to pull a cable through. Quite often, these pits and pipes are installed months before the cables are pulled through. If you do not have a tradesman directly supervising that, all sorts of different situations can happen. You will end up with corners that you cannot even pull a cable through or—and I have experienced this on numerous occasions—you will come to install the cables and go to lift all the pits along the run only to find that simple things like end caps have not been put on when it has been installed. The conduits are all full of mud, snakes and all sorts of things. I have actually lifted pits that are chock-a-block with mud because they have been installed by civil workers who do not understand the end process.

We are asking for a simple change—add the word 'direct' in front of 'supervision' in (iii). It would simply say 'work is done under the direct supervision of a licensed electrician'. As I said, this is being exploited. In the case of a solar farm, there will be 250 backpackers installing panels, plugging them in and putting in those ducts and troughs. We are seeing situations where contractors have to go back after the fact and replace troughs and cables. It is an added cost and obviously it is going to introduce unsafe situations. I will just throw to Robbie for a bit of a worker's perspective rather than relying on the state secretary's perspective.

Mr Wheshler: I am an electrician of approximately 20 years. I am currently working on Cross River Rail. I am a health and safety representative, the union delegate, a father, a husband and an electrical worker. On Cross River Rail I could probably elaborate on a couple of things that Pete touched on. On the bending radius of cables, large main cables have a radius of how sharply you can bend them before the cable sheath starts to distort and starts to damage the cable. There have been two situations on Cross River Rail that I can think of where we have installed cables with large gangs of trade assistants—namely, working under supervision, probably not direct supervision, not closely enough. We tied the cables through a large section. Maybe 120 metres of cable was installed. Prior to energising the cable, we went back to do a walk-through—a visual inspection of the installation—and found that the cable sheath was all distorted. We then had to untie all of that cable which is quite tedious. There is a lot of expense and cost and loss of productivity in untying that cable and reinstalling it.

When a cable cuts across a corner, to get more length you have to pull a lot back to get that into that corner. Pete spoke about underground conduits. At the northern portal of Cross River Rail there was a civil contractor there that installed large sections of conduits for underground cabling. Those conduits ended up doing a bit of a wave system underground like this instead of a straight run through. That is probably due to the compaction level of soil at the bottom of the trench when it is settling. Then the electricians come through to winch the cable through. When you have a straight run of a conduit there is not much strain on the winch, but when the conduits are doing this—a big deflection underground—it puts a lot more strain on the cable itself but also the winch. We were not able to pull those cables through and that section was dug up and replaced.

Pete spoke about cable trays. They require to be done in a tradesmen-like manner, I suppose, when you have to grind and do sets in specific corners for cable trays that have sharp edges. We file it. We spray it. We do it in a tradesmen-like manner and ensure there are no sharp edges on the trays. Only about two weeks ago we had some earthing cable installed and a large section of the sheath of the cable was ripped and the trade assistant did not bring it to anyone's attention. Again, it was only later on when we went back that we saw the damage and had to repair it. Again, there was lost productivity and expense to do that.

Mr Ong: I did mean to say one thing about the NFIA asking that all building work under the QBCC Act should be excluded from electrical work under the Electrical Safety Act. Identifying practically what is a real issue for us is a task such as putting in split air-conditioning systems. We all know what a split air-conditioning system is. You have to feed a 240-volt electrical cable to that as a main source of power supply. Then you have interacting looms of low-voltage electrical wiring that goes between your outside unit and your inside head. Right now this is done by licensed electricians. The only thing I can see by NFIA asking that it be excluded is that they want refrigeration mechanics to be able to do that without a restricted electrical ticket, which we are deadset against. I imagine the

electrical safety officer would be deadset against it. It is certainly not something that we support. We ask the committee to look at it strongly, because it is going to end up putting people's lives at risk and exposing people to live parts, I would suggest. That is about it from us.

CHAIR: We will go to the deputy chair for the first question.

Mr WEIR: Overall you support the bill. Your main issues are with what is not in the bill. Do you think some of these issues you are talking about go back to a shortage of electricians? This committee looked at the renewable energy bill, as you know. One of the things that came out then was just how short of electricians we are. Do you think that is part of what is bringing about these changes?

Mr Ong: I do not think that is part of the problem. I think it comes down to cost. Obviously there is a big difference in the hourly rate for a labourer or a TA, trade assistant, compared to a licensed electrician. We have changed that over the years to a certain extent, but there is still a big gap. We had an issue back in 2002—all the way back then—when electricians would employ 40 TAs and two electricians, and that was purely around the difference in cost. Under the award they were classed as a grade 2 and an electrician is a grade 5. To stop that gap and to stop them having a cheap workforce, if you like, under our EBAs we class a TA as a grade 4, so it is only one level back from a grade 5 when it comes to hourly rate. Our own electrician members fairly blew up about that, as you can imagine. They were like, 'How come they are getting paid only one level less than a licensed electrician?' We said it was to try to stop the exploitation of non-licensed electrical people being hired and doing licensed electrical work.

We are starting to see a bit of a skill shortage out there for electrical and we have a real push on for more apprentices, but we see it more as a cost- and money-saving exercise by employers and companies rather than a skill shortage. Especially in the solar area, it is a clear money-saving exercise. They can exploit—not 'exploit', because backpackers are happy to go out and work because they get an extension to their visas. If you are paying a backpacker \$18 to \$20 an hour and a licensed electrician \$55, it is a big difference. They would rather not pay licensed electricians to install solar panels and connect the wiring in between. The unfortunate thing is that solar panels plug one into the other so they do not see it as electrical work. That is why we have pushed so hard. Who would have thought that a solar panel is not a piece of electrical equipment? Until such time as we amended the act, that is exactly what it was. That allowed them to use backpackers to install them.

Mr HEAD: What does direct supervision look like?

Mr Ong: Direct supervision means in line of sight—you can see them. In a perfect world, for us it would be one to one, but we understand that that is not always going to be the case. What we are trying to avoid is 30 TAs along a two-kilometre run and either no electricians, which is the case we quite often come upon, or an electrician up in the office. It needs to be in sight of the licensed electrician that is installing that work.

Mr HEAD: For context, I know that Chinchilla has a couple of big solar farms with hundreds of backpackers. You mentioned line of sight in an area—say, one in 10. That is 25 electricians you would need on that site that you do not have currently. Is it line of sight every minute of the job or line of sight within reason? I am trying to comprehend what that looks like and the flow-on impacts of how we deliver different projects.

Mr Ong: If they are installing work then it needs to be line of sight of the electrician while they are doing that work. That is when these hazards happen. If you are going to create a situation that is going to de-sheath a cable or if you are going to install a conduit in the ground, that is going to create a hazard or a risk when pulling the cable through it. The thing is that the people who are installing the cable trays or the conduits, who are just there to do a task, only think about the task they are doing. They do not have a tradesman's mind or attitude that this is just a piece in a larger task and if you do not do this properly when we do the next task—which is to pull the cables through it or along it—you are going to create a live situation or a hazardous situation.

Mr HEAD: In having it defined strictly as direct supervision, it would then have to be quite prescriptive in nature. If you are laying a straight line of conduit without right angles or anything like that, I would like to think anyone can put in a conduit without electrical cable at that point in time. It is a pipe in the ground until such time as electrical cable comes in. If you are laying conduit in the ground without right angles and you define that as installing electrical equipment, that then needs direct supervision. It seems very prohibitive for a task that does not have risk at that point in time. From what you are saying, it is when you are putting in angles or joins or things like that that are going to create risks down the track that it is a problem.

Mr Ong: Again, you are thinking of it as a simple task—plugging one bit of conduit into the other, right? Put a bit of blue glue on it and plug it in. What about the depth of the trench that you have to dig to put it in? What bedding sand goes underneath it? You just heard Robbie talk about a situation where things were not done properly, so after it had been filled in and compacted you ended up with a situation where your conduit—which could just be those straight lengths—is now wavy, like this, because you have not had a tradesman supervising the bedding sand—how deep it has to go and the compaction of that—so you do not end up with a situation like that.

Mr HEAD: If you had someone who was qualified to go along and check it before it gets buried—

Mr Ong: You mean like a licensed electrician?

Mr HEAD: Yes. If they are checking it before it gets buried, they do not have to be there to directly supervise every stage of the task as such.

CHAIR: I would argue that is direct supervision.

Mr Ong: It is, but you cannot come back and run a line of sight over it. You have to be involved in that process all the way through so that you are measuring that you have the right depth, you have the right amount of road base, you have laid your duct tape that goes over the top of it. What do they call that?

Mr Wheshler: Marker tape?

Mr Ong: You know the hard plastic stuff. Anyway, there are all sorts of things that need to be done. If you just have a TA or a backpacker who really is not interested—they are there to make a dollar. If they are told, 'Put that up,' they will put that up. They will not think about any other part of the process that has to happen.

Mr WATTS: I am interested in the difference between a TA and an apprentice. What level of supervision would be required if they were an apprentice versus if they were a TA? Ultimately, we are going to need more electricians so we need more apprentices. In terms of cost, I am curious to understand the EB difference between an apprentice and a TA and also what direct supervision would mean between an apprentice and a TA if you are trying to achieve some of those tasks.

Mr Ong: There are supervision guidelines for apprentices. I would have thought it was one on one all the way, but I think that is up to about third year. There is a certain level that they hit. I do not have it off the top of my head, but there is a supervision guideline for apprentices where they must have direct supervision—so one-on-one supervision—up until about third year. I am going to say third year but do not hold me to it. Again, they are picking up electrical skills all the way along and being trained one on one with a tradesperson. That is the nature of an apprentice-tradesperson relationship. They are picking up skills. They are being trained to have those skills to each level—first year, second year and third year, when eventually they can start doing work on their own.

If TAs were given direct supervision, they might get more of that training but they are a trade assistant. It is in their name. They are there to assist the tradesperson. Unfortunately, that has been exploited. Because a TA might be \$10 or \$15 an hour cheaper than a tradesperson, you will get more of them on the job than tradespeople. Instead of being trade assistants and under direct supervision, they are left to do their own thing.

Mr WATTS: Dollar wise, where would a trade assistant fall compared to a first-year or a second-year apprentice?

Mr Ong: I am going to talk EBA rates. A first-year apprentice would be sitting around \$17 or \$18 an hour, a TA would be sitting around \$42 or \$43 an hour and a tradesman would be about \$60 an hour.

Ms PEASE: The bill proposes to extend the scope of industrial manslaughter in the Workplace Health and Safety Act for negligent deaths of workers, bystanders and other persons. Does the ETU have any comments around those changes?

Mr Ong: I think it could only help. You have caught me a bit unaware there. I have not had a lot to do with that other than campaigning to get industrial manslaughter in place. Anything to strengthen that piece of legislation we would be supportive of.

CHAIR: Thank you very much for appearing before us today. There were no questions taken on notice.

Mr Ong: Thank you. We appreciate it.

LEHMANN, Mr Chris, GM Advocacy, Membership & Partnerships, Master Electricians Australia

RAYMOND, Ms Kate, Chief Executive Officer, Master Electricians Australia

CHAIR: Welcome. I invite you to make an opening statement. Then the committee will have some questions for you.

Ms Raymond: We thank the committee for the opportunity to speak today. Master Electricians Australia is the peak industry association representing electrical contractors. Master Electricians has been heavily involved in the consultation process leading to the current drafting of the bill before the committee, and we are generally supportive of the provisions contained within the bill. We commend the Queensland government's amendments which address our previously raised concerns regarding the high-risk extra-low-voltage equipment—noting, though, the devil can be in the detail where equipment may be prescribed by regulation. We also note and support the department's stated intention to continue to consult in relation to any future regulations.

With regard to regulations, we also seek regulatory clarity that licensed electrical workers may continue to carry out, without additional qualification or licence, the installation, maintenance, inspection and testing of electrical equipment associated with passive fire protection such as emergency lighting and warning systems. Master Electricians also welcomes the provisions in the bill that integrate battery and other storage technology within the definition of 'electrical installation'.

MEA supports initiatives that improve worker safety. We have raised some concerns, however, with the proposed widening of industrial manslaughter provisions, particularly the potential inequitable impact on SMEs, noting larger businesses have the resources to have detailed systems in place, and we submit that greater support for small to medium enterprise businesses is needed to assist those in having the opportunity to have similar systems in place in their businesses.

To conclude, we are in a period of electrification with rapid evolution of electrical appliances and installations and MEA welcomes the futureproofing aspects of the bill to ensure appropriate regulation of emerging technologies. Thank you.

CHAIR: Thank you very much.

Mr WEIR: I asked this question of the ETU just before, so I will ask the same question in the sense of some of the amendments that they talked about and some of the issues that you raised. Does the number of electricians that we currently have impact on the legislation as has been drafted or is that a barrier?

Ms Raymond: I might start with a general proposition and then pass to my colleague Chris. MEA members are very concerned about the lack of skilled workforce of licensed electricians and skilled electricians in Queensland. In particular our regional members—those around the Mackay to Cairns regions—are particularly experiencing what we describe as a poaching of workers for regional projects that obviously have often very highly paid positions within those projects, so the local regional businesses servicing smaller residential work struggle to attract workers because there are not enough workers for everyone, so it does become an issue. We would like to see more apprentices. We would like to see more apprentices on larger projects and from government energy corporations to try to assist that process, but we do not want to see electrical work being carried out by unqualified or unlicensed people either. One of our concerns with a lack of qualified electrical workers in small businesses is that home owners might start wanting to do electrical work themselves because they cannot actually get a sparkie out, so it is a very vexed and complex issue that needs to be balanced very carefully.

Mr Lehmann: Just to back up what Kate was saying there, we find ourselves in furious agreement with the ETU on most of what they have brought up, but around the issue of skills shortages the feedback we have from our members is that it is very real. We have instances of members, mostly in those regional locations, who have had multiple members of their staff leave because the money on offer in some of those electrification projects and EBA jobs is more than what the residential and light commercial market can afford to pay. In multiple instances electrical businesses, because they then lose the ability to have the supervision ratios for apprentices, have sadly had to even put apprentices off. Skills shortages are a very real thing for our members and the electrical industry in general.

SMEs generally in the past have done most of the heavy lifting in terms of employing apprentices and training those people to be tradespeople and then putting extra skills into them once they become tradespeople only to have them poached by GOCs and bigger businesses that can

afford to pay the bigger wages. In echoing what Kate said, we would love to see bigger businesses and GOCs doing their bit a bit more in terms of training the apprentices of the future. One of the complicating issues in that is if you are going to have apprentices on something like a solar farm or some of those bigger civil projects those apprentices may not get the scope to be able to complete their licensing requirements to become an electrician. That is where we think there is an opportunity for bigger businesses and GOCs to work with small to medium enterprises so that apprentices can still get that scope. We are all creating more electrical apprentices, but SMEs might actually be getting some support from the bigger businesses helping them work to train that next generation of electricians. I hope that answers the question.

CHAIR: There was good news last week with Energex and Ergon announcing their largest recruitment ever of apprentices. I think it was 185, which is a 10 per cent increase on last year's apprenticeship numbers, so I think that is good news for the industry.

Mr Lehmann: And that is very welcome, but in my former profession when I was an electrical contractor quite often I was called upon by lift companies—and we did work with the railway and what not—to help them get scope that they had missed out on with the narrower field of work they have in some of those employers, especially the larger employers, so we need to find ways to help that. That 185 is good, but with the workforce that Energex and Energy Queensland have they still need to do more.

Mr HEAD: With those bigger projects than that, I am curious about the remit of that supervision provision and things like that. Across the board, when it comes to workplace health and safety there are conversations around risk-based versus prescription-based safety. I am curious what your views are on whether this goes to continuing the approach of risk-based safety in supervision in giving electrical superintendents and electricians on the site the opportunity to set the tone for the safety standards and requirements on a worksite. Do you have any comments on that?

Ms Raymond: I will just give a quick overarching comment and pass to Chris. Certainly risk-based assessment is something we support. In relation to the trade assistant question and what direct supervision is, the only additional comment I would make, further to the evidence that has already been provided to the committee this morning, is that there might be instances where there are very experienced TAs who have been doing the same task over and over for a number of years and in that instance may be eligible for a general or broad level of supervision depending on their experience which is an assessment and a risk-based assessment that can be made by the supervising electrician. I will hand over to Chris.

Mr Lehmann: I would just like to reinforce what Kate said. The issues that Robert and Peter both spoke about in their appearance are very real. We only differ around the margins on what that risk and competency-based assessment should be. Echoing what Kate said, you have crews of TAs that do nothing but haul cables and they are excellent at it and they probably do it better than most electricians do, but of course there are people who want to cut corners and what not. The onus should be on the supervising contractor—the PCBU—to make sure that they are looking at not only the risk of the activity they are doing but also the competency of the people who are doing it. As the risk assessment is written, we believe that should also be the case with competency assessments.

Mr WATTS: I guess I am still trying to get my head clearly around the fact that you have a TA, a limited licence, an apprentice and a trade and obviously different ones are being used at different points primarily to save money and/or because the job is not that complex. What I think we all want to see is more qualified trade, so therefore we need more apprentices. Can you explain when you would use a TA—you just said there might be a job where this is what they have been doing over and over and they are very good at it—versus a limited licence versus an apprentice and whether this bill is addressing any of that?

Ms Raymond: I will pass to Chris, but an apprentice is a relationship of training someone, so it is part of a training process that that person wants to become a licensed electrician. I do not think the bill alters any of that. With regard to the restricted electrical licence, I do not believe there is an alteration of that either, which is when it is appropriate for another trade to be able to do a small amount of electrical work. For example, a plumber can have a restricted electrical licence to replace a like-for-like hot-water system, so if they are literally replacing the same thing then a small amount of skill set is all that is needed to do that very small scope of work—so the electrical component is very small, low-risk and there is some training that is done towards that. I think what the ETU was getting at was the fire protection put into the QBCC reg and took away from the restricted electrical applications so that the ESO actually was not involved and should be, so we support the ETU in the statements that were made in that regard. Then a trade assistant is more of a general labour in a way, but it is not. It is a bit more than that, but it does need some supervision. Chris—

Mr WATTS: Sorry, but just before you go on with the answer, so a trade assistant would not necessarily be someone who would get a limited licence to do something? That would be another trade who has a limited licence?

Mr Lehmann: Yes.

Ms Raymond: Yes.

Mr WATTS: Okay; thank you.

Mr Lehmann: People like plumbers, as Kate has indicated, for disconnection and reconnection. In other states they call it a discon/recon licence, so basically it is safely isolating, disconnecting and then reconnecting like for like. Refrigeration mechanics have it and plumbers have it, as do some mechanical trades like fitters that might work in the food service industry in terms of disconnecting and reconnecting motors.

Touching briefly on what Kate alluded to with fire protection, where these types of arrangements have been introduced into other states it has caused quite a bit of angst and havoc in the industry. In New South Wales, for instance, you have the situation now where the only class of people who can install and replace a 240-volt low-voltage exit and emergency light is a licensed electrician, but if they are replacing it or testing it in an installation that has already been certified they need to get a fire protection person to sign off to say that that is right, even though the fire protection trade cannot physically perform the work. We want to stop that dilution. Electrical work is electrical work. Electricians should be able to do it.

Restricted licences do not generally happen in that there is not a lot of scope for them to work in things like solar farms and a lot of installation work, as in the tunnels that Robert was referring to. We only really disagree with the union around that competency and risk assessment on types of, say, assembly work that might be performed in terms of installing tray or conduit. One hundred per cent we want to make sure it is done to the standard and someone is supervising to make sure that happens. Have I answered the question, or did I get lost in talking about fire protection?

Mr WATTS: It is helpful for me to understand the difference. There seems to be your domestic type electrician who needs a big scope of work and lots of different things versus someone who is working in a very narrow field, for example on a big project, doing one type of job over and over again. I am trying to understand how the bill is addressing the safety issues around that.

Mr Lehmann: An electrical fitter is an electrical fitter. They have done a cert III; they have to meet all of the competencies in their broad-based trade. There is not a cigarette paper between the ETU and us: that should continue. We want to turn out electricians who have a broad base of skills who can then adapt and specialise in different industries and go on to post-trade training, diplomas or even degrees. Some of these jobs might be very specialised in terms of installation, and if you have apprentices on there they sometimes do not get the scope of work to be turned out as a broad-based electrical licensed tradesperson. That is probably one of the reasons some of those construction projects and what not in the past have not employed as many apprentices as perhaps they could have.

Ms Raymond: It is also probably worth noting that, although they may be repetitive tasks, they are still complex tasks and an awful lot of training is still required. Where that involves electrical work, we would not like to see any narrowing of the licence scope for certain tasks in that regard. We believe that a full training complement is required for electrical work tasks.

Ms PEASE: I just want to understand the types of people you represent. What are the organisations that you represent?

Ms Raymond: The vast majority are small businesses with zero to five employees throughout. The majority of our members are located in Queensland as well, although they do exist around the country.

Ms PEASE: A lot of this talk is around large-scale processes, but for many of your members it would be the installation of small projects, houses and small developments.

Ms Raymond: We certainly do represent members who work on large-scale projects as well, but the bulk of our members are small businesses.

Ms PEASE: I appreciate the effort you have gone to with your submission. It is great; thank you very much. One of the things you spoke about in your opening statement related to changes to industrial manslaughter and your concerns around what the implications might be for SMEs. You suggested there could be some support for that. Could you elaborate on what that might look like?

Ms Raymond: It is difficult to say. We would like to consult with government on that. We would certainly like to see support for small businesses, which might not have the financial resources that large businesses do, to implement some of the more complex systems and legal assistance that is in place for large businesses. It is something we would be very happy to discuss in more detail with the ESO and the department and others.

Mr Lehmann: In fact, our raison d'être as an organisation is to help our members run safe, profitable, compliant businesses. We have technical support; we have safety support. All of that is offered in the membership. We would love to see more people avail themselves of that type of support, especially small employers, which would help make the entire industry safer.

CHAIR: Your issue is not generally with what is proposed in terms of prosecution processes under industrial manslaughter; it is around wraparound services per your members in terms of assistance and processes around understanding their obligations?

Mr Lehmann: Supporting them.

Ms PEASE: I am going to show my ignorance here with regard to electrical work. There has been a lot of talk about low-voltage work and exit signs and all of those other issues you spoke about. One has to do the installation and someone else has to come and test it. Could you explain that a bit more to me? What is the main issue you are experiencing with this?

Ms Raymond: Recently Queensland and other states introduced comprehensive passive fire regulations which essentially set out a really detailed licensing framework around emergency lighting, warning and detection systems, sprinkler systems, fire collars and things like that, penetrations through walls and making sure there are firewalls and things. They were split into streams and additional competencies and licensing requirements were added for each stream. They were split into the initial design and certification of the system, which we believe is a passive fire skill; the installation itself, which we believe, depending on the nature of it, if it is electrical, is electrical work; and then the inspection, testing and maintenance regime—again, if it is electrical, we believe it is electrical work—and certification, which happens at the start.

Our view was that there was overreach by the QBCC regs—to be fair, it is not the QBCC itself; it is the department—around electrical work, and it crossed over into the scope of electrical work, which should be regulated properly by the ESO, in our view, not the QBCC. There is a stream of passive fire that is called electrical. The hint should be in the name: really, that does not belong with the QBCC.

For the design and certification it is not a problem that is passive firework, but when we are talking about the installation of electrical items, repair and maintenance—even signing a report that you have done the inspection—at the moment there was a carve-out for the inspection and testing of emergency lighting, but what was not carved out was signing the piece of paper after that report. The electrician can go and inspect and test it, but they cannot sign the piece of paper that is required by the Australian Standard to say they have done that because technically that is certification. The QBCC said that is within the scope of the certification licence now, and the electrician cannot get the certification licence without doing another cert III or cert IV—another full qualification—which is ridiculous. It should not have happened and it needs to have been carved out. With warning and detection systems, in our view the installation and maintenance of those should be electrical work, properly. Currently, an electrician has to obtain additional quals and an additional licence to do that work with the QBCC when that is electrical work. We think there has been an overreach.

Mr WATTS: Just as an example, I used to be a publican. If my emergency light stops working and it is not the bulb, if something else has gone wrong, an electrician could come and fix it. Once they are finished, I then need to call a fire safety certifier to come and check it is on? Is that what we are saying?

Mr Lehmann: If you take it to its logical conclusion, that is what we are arguing against. That is what has happened in other states. We are in a cost-of-living crisis. Businesses are trying to stay afloat. It really just puts layers of costs on. We are not saying that electricians who do not have fire protection design experience should be designing and certifying systems at the start, but if your exit or emergency light goes out then the only person who can come and replace it is an electrician.

Mr WATTS: The only person who can certify it is a certifier. An electrician cannot because they are not certifying the whole system; they are just certifying this little bit.

Mr Lehmann: The condition of it. If they were to move that to another room or you had a change in layout, sure, then you have to get a fire protection professional back in to make sure it is still compliant. If it is in the same place it has been for 20 years and you are coming in once every six or 12 months to switch it off for 90 minutes to make sure they are going to stay on for the regulated amount of time, an electrician should be able to do that. It is a nonsense if they cannot.

CHAIR: I should also acknowledge that we have the Electrical Safety Commissioner in the room, which is terrific, and the Assistant Minister for Clean Economy Jobs. Thank you for being here today.

Mr WALKER: I was going to ask the same question around certification and who can touch the lighting. It is the same scenario with smoke detectors, which is quite concerning when we have a big push on through Queensland Fire and Emergency Services to get more smoke detectors. If an electrician is in the house testing the lighting or another issue, it would be good if they could have a quick look at the smoke detector and make sure everything is functioning at that level. Following on from those previous questions, are you telling me you have to get someone else back to certify that it is okay?

Mr Lehmann: Residential is different to class 1 buildings. Again, if it is 240-volt smoke alarm and not the ELV ones that tie into fire panels and what not, then there should be no impediment for a licensed electrician to test and replace those in a class 1 building.

Mr WALKER: From memory, they all have to be hardwired now. There are no more battery operated ones. In the scenario of a small business, be that a pub or a convenience store, are you telling me that you have to get a certifier back into a convenience store to check the smoke detector?

Mr Lehmann: I am not 100 per cent across that. I stand to be corrected by people in the room who might know the ins and outs of this better than I do. There is a provision that you can have a wireless 10-year lithium smoke detector installed to be compliant, but for new installations they must be hardwired and interconnected. You cannot replace an existing hardwired, interconnected smoke alarm with a wireless interconnected smoke alarm.

Mr WALKER: From what I gather, emergency exit lighting and smoke detectors have to be done by a certifier to check it and make sure it functions but an electrician can fix it.

CHAIR: Yes, in a commercial context.

Ms Raymond: The report is considered part of the certification function; that is right.

Mr HEAD: Some of the changes in relation to the requirement to produce documents for investigation or following an incident generally align with the powers of an inspector under the WHS Act. I was just curious whether your members have a view about its implementation in this act and whether it is reasonable. Do they have any concerns as to the drafting of those provisions?

Ms Raymond: I am not aware of any.

Mr Lehmann: I am not aware of any concerns that have been raised by our members.

CHAIR: There being no further questions, I thank you very much for appearing before us here today. I note that no questions were taken on notice.

TOSH, Mr Nate, Legislation and Policy Officer, Queensland Council of Unions

CHAIR: I invite you to make an opening statement. Then the committee will have some questions. We note that Jacqueline is an apology.

Mr Tosh: Thank you, Chair, and good morning, committee members. I would like to acknowledge the Turrbal and Yagara people as the traditional custodians of the land on which this hearing is taking place and pay my respects to elders past and present. The QCU's submission related only to the work health and safety amendments in part 5 of the bill so I will keep my opening remarks in relation to that.

The amendments maintain and strengthen the national harmonisation of laws relating to work health and safety and facilitate a consistent national approach to work health and safety in Queensland which accords with the objects of the Work Health and Safety Act. Clause 40 of the bill implements recommendation 23a of the Boland review to introduce an alternative fault element of negligence into the category 1 offence. This is something that was recommended back in 2008 in the national *Review of the model work health and safety laws*, so it is a long time coming. The amendment also aligns Queensland's Work Health and Safety Act with the model laws, which have included the fault element of negligence since April 2022. The Commonwealth jurisdiction, the ACT, South Australia and New South Wales have all done the same.

Clause 42 of the bill amends Queensland's work health and safety laws to ensure they are consistent with the approach to industrial manslaughter in most of the country. Another recommendation of the Boland review was that the offence of industrial manslaughter should include the death of other persons at the workplace in addition to workers. Recommendation 23b of that review specifically recommended that the offence cover the death of an individual to whom a duty is owed. This is exactly what the bill proposes to do. The offence applies in this way in the Commonwealth jurisdiction as well as the ACT, Western Australia, Northern Territory, New South Wales as of 24 June 2024, and South Australia, which commenced 1 July. Alternative verdicts have also been introduced in all of these jurisdictions.

The amendments to sections 68 and 118 of the Work Health and Safety Act at clauses 46 and 47 of the bill implement key recommendations from the 2022 review of the Work Health and Safety Act. They provide health and safety representatives and entry permit holders with prescribed powers similar to inspectors under section 165(1)(d) of the Work Health and Safety Act to take measurements and conduct tests and to take photographs and videos. The QCU has strongly advocated for this. It is currently common practice of health and safety representatives and entry permit holders and assists them in effectively identifying hazards, inspecting suspected contraventions and collecting evidence to assist with timely resolution of work health and safety issues. The inclusion of the amendments will, however, remove any doubt that the current practice is lawful. For these reasons, and the further reasons set out in our written submissions, the QCU supports the amendments in part 5 of the bill.

CHAIR: Thank you very much. I will hand over to the deputy chair.

Mr WEIR: The term 'negligent conduct' seems fairly broad. Is that deliberate? Is it accidental? At what level is negligence determined?

Mr Tosh: I do not profess to be a person who was behind the initial thinking about how the industrial manslaughter provision would be framed. Arising out of the Boland review that I previously mentioned and all of the jurisdictions that have implemented it, the idea of both negligence and reckless conduct is included in the provision. I think negligence very much aligns with the—it was mentioned earlier in one of the other submitters' presentations this idea of a risk-based approach. I really think it leans on the actions that employers should be taking as far as reasonably practicable in terms of ensuring the safety of their workers.

When we look at things like the existence of a code of practice or other regulations, if the employer is knowingly not providing that standard or they decide for particular reasons to not take action as far as reasonably practicable in terms of the hierarchy of controls—maybe because of cost they decide they are not going to eliminate something or they are just going to put an administrative control in place—I think that is what it is trying to lean on. Does that make sense?

Mr WEIR: Yes, it does. We heard a concern from Master Electricians that small and medium-sized businesses might be more impacted by this, given history, than larger corporations. Do you agree with that? What are your thoughts on that?

Mr Tosh: The first response would be that no employer should be immune from industrial manslaughter. I do not think that was the proposal that was put forward. I think the proposal that was put forward is that small and medium enterprise might need support in relation to their obligations and

in relation to the things that they can do to ensure their workers are safe. That would definitely be something that the Queensland Council of Unions and our affiliates would support. I think everyone has an interest in ensuring that the workers who turn up in the morning can return home safely to their loved ones. If that is going to provide that support to small and medium enterprise—these things can get complicated—then that will be supported.

Mr HEAD: Generally members of unions would work on larger projects, but the changes relate to a lot of equipment that is being installed in homes and things like that. Has your membership brought to you any concerns that you can share around some of those home installations that have been happening—batteries and things like that—that have posed significant risk to consumers and the workers?

Mr Tosh: Is this in relation to the amendments with respect to electrical safety?

Mr HEAD: Yes.

Mr Tosh: The QCU would rely on the submissions that have already been made by the Electrical Trades Union and others. Being a council of unions, we obviously have a broad base of affiliates who represent workers in different industries. When it comes to the specific detail with respect to that, we rely on their expertise. I do not think there is anything more useful I would be able to add, other than to say we support the previous submissions of the ETU.

Mr HEAD: I was curious whether there might have been members of other unions outside the ETU that have been engaged in tasks that they might have seen as unsafe but were completely lawful before this legislation. If you are unable to comment, that is okay.

Mr Tosh: I would need to take that on notice.

Mr HEAD: If there is anything you could provide, that might be helpful—otherwise, no worries.

Mr WATTS: The explanatory notes talk about concerns about the quality of training of high-risk work licence applicants by registered training organisations. Do you have any comment about RTOs and the types of training issues that might exist?

Mr Tosh: With RTOs currently?

Mr WATTS: Yes, in relation to high-risk work licences.

Mr Tosh: I will have to take that question on notice. I am not directly across that issue. I apologise. Jacqueline was a late apology. I will get you that on notice as well.

CHAIR: Thank you.

Ms PEASE: Thank you for coming in. I appreciate your time and understand that you were called up at the last minute. I note that generally the QCU is very supportive of the changes in the bill, particularly protecting workers rights. I was interested to hear your response to Master Electricians and their concerns around getting some support for small and medium enterprises. I know this is a big scope of work that has to be done to support them, but I am pleased to hear that you understand the importance of that. Particularly around people who are bystanders who are at work sites, do you have any commentary around what we might be able to do to help those small to medium enterprises?

Mr Tosh: I really think that issue comes down to them understanding what their duties are currently. The bystander issue is really about industrial manslaughter applying to anyone who the PCBU owes a duty. I would like to think that they already have that understanding in terms of their regular business with work health and safety—that what they should be doing is not just about keeping their workers safe but people who are visiting the workplace or whatever it might be.

Ms PEASE: I can imagine potentially the owners of the property might come on site and want to have a look and consider the work that is going on, so they would potentially be bystanders no doubt.

Mr Tosh: I am not 100 per cent sure if they would be captured—they may be. I am not going to provide any sort of—

Ms PEASE: Sorry, that might have been outside the scope. There has been a lot of discussion this morning around the issue for electricians to be able to sign off on work or testing work—for example, exit signs in the case of fire. Do you have any comments on that or is that outside of what you would want to comment on?

Mr Tosh: I think we would reserve any commentary for the particular unions that represent those workers directly.

Mr WEIR: I go to the removal of the limitation period—the alternative verdicts piece. Surely if you have an incident, the shorter timeframe you could possibly come to an outcome the better.

Mr Tosh: There would be others who would be able to provide confirmation of this. My thoughts were that that is to assist with the practicality of having the alternative verdicts. Currently what could be a factor that might limit—I do not want to speak on behalf of the Work Health and Safety Prosecutor—their process for saying, ‘Will I pursue a prosecution?’ is that they might not reach the threshold for industrial manslaughter. Then there might be some umming and aching about that. I think the removal of the limitation period means that, if they think there is enough there, they can pursue the industrial manslaughter charge. Then if, for instance, that threshold is not met, there is not going to be an inhibiting factor or prohibition because of the timeframe being limited for them to then be able to give effect to the alternative verdicts. I think it was really about the practicalities of making the alternative verdicts work.

Mr WEIR: We could possibly see these cases going for years.

Mr Tosh: I cannot speak on the legalities of how the prosecutions might work.

Mr WEIR: Was there a case that highlighted why this needed to change? Was there something specific that affected this that you are aware of?

Mr Tosh: The alternative verdicts was, as I understand it—I am not 100 per cent sure. I could be wrong about this. The extension to individuals was part of the Boland review. I think the Work Health and Safety Prosecutor in their review of the provisions covered some of this content around the difficulties with establishing the threshold for industrial manslaughter. Essentially, the summary for a layperson like me would be that it allows a system where an employer is not going to be immune from their conduct just because of a technicality. Otherwise an industrial manslaughter charge could be pursued. Either there is the limitation period issue or the threshold is not met and then, even though everyone agrees that the employer has not complied with their duty under the legislation and that has unfortunately resulted in the death of a worker, they suffer no consequences.

Mr WEIR: That is one I might put that to the Law Society when they appear.

Mr Tosh: Yes.

Mr HEAD: Do you have any comments more generally, noting that you are supportive of the bill before us, as you represent a broad remit of members who come under various aspects of other workplace health and safety legislation? Does this bill go far enough in addressing other concerns in workplace health and safety in the electrical aspect, noting that there are differences in respect of how safety personnel and inspectors play out in different workplaces across the state?

Mr Tosh: I am not sure I understand the question.

Mr HEAD: Essentially, does this bill in the scheme of workplace health and safety across Queensland align well with existing workplace health and safety law or are there a few gaps in what is before us so far in addressing some of the broader goals of workplace health and safety legislation in Queensland?

Mr Tosh: There is probably always more we can do with respect to work health and safety. I am not sure if this is the right forum for me to cite a wish list of the Queensland Council of Unions. In terms of the particular amendments that we have spoken to, I understand the bill makes the requisite changes to other safety acts in the state with respect to industrial manslaughter and alternative verdicts et cetera. With respect to that, I think it has done the job it is required to do.

Ms PEASE: In your submission you mentioned that New South Wales introduced some legislation recently and that Queensland is the last jurisdiction in Australia to introduce legislation around the bystander.

Mr Tosh: Yes.

Ms PEASE: Can you provide any information about the other jurisdictions around Australia and how successful that has been?

Mr Tosh: I would need to take that on notice. I do not have that information off the top of my head. I would need to go and do some research about the prosecutions that have occurred in those jurisdictions. What I do know with respect to that submission is that Queensland was one of the first to introduce industrial manslaughter. It was only applied to the worker. When the Boland review occurred, comment was made about that—Queensland being one of the first and that it is only the worker and that it should extend to individuals as well. Then all of the other jurisdictions have followed—and they are most of the jurisdictions that have followed the model laws. I think Tasmania is the only one that does not have it. For all of them it is the individual to whom a work health and safety duty is owed.

Ms PEASE: So the other jurisdictions do not include bystander?

Mr Tosh: No, they do. It is just framed as an individual to whom a duty is owed.

Ms PEASE: Is that okay to ask for that information, Chair?

CHAIR: Yes.

Ms PEASE: It would be interesting to know if there have been any prosecutions.

Mr Tosh: I am happy to see what we can obtain. In the absence of obtaining specific information, I could maybe even get some advice from our counterparts in other jurisdictions.

Ms PEASE: Thank you so much for that.

CHAIR: If there are no further questions, thank you very much for joining us today, Nate Tosh, and pass on our regards to Jacqueline.

Mr Tosh: Will do. Thank you very much.

CHAIR: There were three questions taken on notice. If you could endeavour to have responses back to us by 12 pm on 12 July, that would be terrific.

Mr Tosh: Is it possible to get a summary of what they were?

CHAIR: Yes. The secretariat will send that to you.

Proceedings suspended from 10.46 am to 10.59 am.

BRODNIK, Ms Kate, Special Counsel, Legal Policy, Queensland Law Society

QUINN, Mr Patrick, Deputy Chair, Criminal Law Committee, Queensland Law Society

CHAIR: I now welcome from the Queensland Law Society Kate Brodnik, Special Counsel, Legal Policy, and Patrick Quinn, Deputy Chair of the Queensland Law Society Criminal Law Committee. I invite you to make a brief opening statement and then the committee will have some questions for you.

Ms Brodnik: Thank you for inviting the Queensland Law Society to appear at today's hearing. In opening I would like to respectfully acknowledge and recognise the traditional owners and custodians of the land on which we meet. As the committee may be aware, the Queensland Law Society is the peak professional body for the state's legal practitioners. We are independent and apolitical and we are a representative body. I am joined today, as you said, Chair, by Patrick Quinn, Deputy Chair of the QLS Criminal Law Committee.

Our submission focused on a few discrete issues in the bill—one being the changes to sections 68 and 118 of the Work Health and Safety Act. Those changes allow health and safety representatives and entry permit holders to take videos and photos of suspected contraventions of the act and in other limited cases. While QLS considers there is some utility in allowing those people to take photos and videos, there are significant risks of misuse, whether intended or otherwise, and we do not consider the bill or the current provisions of the act have addressed those. We would like amendments to the bill to recognise the risks that exist and to address these.

The other issue we raised concerned the changes to the criminal law offences in the safety act. I will hand over to Patrick to make a few comments about those, and then we would be happy to take the committee's questions.

Mr Quinn: The main objective of the Queensland Work Health and Safety Act is to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces and the harmonisation of workplace health and safety laws, particularly criminal offences, and that is supported by the QLS. Looking to the key provisions, however, uniformity in the maximum penalties does not exist. That is going to lead to some questions as to how precedent is going to operate particularly between the differing jurisdictions.

We make the following submissions: one, there needs to be uniformity in the scope of the laws. For the law to serve as a guide, as a deterrent and as a precedent there needs to be uniformity in the penalties and the duties including who they are owed by and to whom they are owed.

In respect of the amendment to make it easier for the prosecution to prove category 1 offences by including negligence, we see a difficulty in there being both fault elements involved in a single charge. With recklessness there is a need to prove intention, and that is not the case with negligence. They are our opening comments.

CHAIR: Thank you. The deputy chair has a question.

Mr WEIR: That is exactly what I am curious about and probably even more so after the previous witness from the Council of Unions. They talked about cost could be negligence. I am going to use a situation as an MP of where we have had an incident at a power station. There is talk that that may have been a cost-cutting measure. If that is the case, is the minister negligent? This could be Main Roads or anyone, but that is the situation we have in front of us. Is that negligence? Could you be held negligent? How high does this go? How ambiguous is it?

Mr Quinn: The negligence must be by the PCBU, the person conducting the business or undertaking. I am not sure if it goes that high. I would be very surprised if it did go as high as the minister.

Mr WEIR: You cannot rule it out or you can?

Mr Quinn: I would like to take that on notice and we will provide a response.

Mr WEIR: That would be good if you could. There still seems to be ambiguity about where the responsibility lies.

Mr Quinn: There is no definition of negligence. The common-law definition would apply.

Mr WALKER: I raise a point of order, Madam Chair.

Mr WEIR: Common law but not industrial.

CHAIR: What is your point of order?

Mr WALKER: We seem to be having a trial by committee in relation to a ministerial position in this government. That incident is currently being investigated, yet we are having commentary around the legal perspective.

CHAIR: It was a broad definition across the responsibility of a minister full stop when it comes to legalities, but it is possibly a little hypothetical as well, I would suggest. Let's keep going.

Mr WEIR: It is about duties and by whom, as you said earlier. Could negligence or the responsibility be better defined?

Mr Quinn: It is not defined in this bill or in the legislation.

CHAIR: That is the role for the judiciary, is it not?

Mr Quinn: That is right. The common-law definition would therefore apply.

Mr HEAD: I am curious whether you had any comments in relation to the provisions about the requirement to produce documents for an investigation. I understand that they generally align with the broader WHS Act. Does the Law Society have any comments or concerns about the way this is drafted and how it will apply in practice and whether there are any concerns about people handing over documents that may well be outside the scope of the investigation that might embroil people where under other acts and in other situations there are indemnity clauses?

Mr Quinn: I would need to take that on notice and come back to the committee on that. I am just not familiar enough with how that would operate with respect to what is proposed here.

Mr HEAD: Thank you.

Ms Brodnik: Having said that, there is often some compulsion when it comes to investigative powers. Any legislation though introducing those powers or amending those powers does need to be cognisant of other uses that that information could possibly be used for. The Queensland Law Society's position is that documents need to be used or information needs to be used for the purpose for which it was handed over or required to be handed over and there should not be derivative use of that evidence or that information for other circumstances.

Mr WATTS: I am interested in section 34—in particular, this idea of someone being charged with manslaughter but if they are not found guilty of manslaughter they might end up with a lesser charge and the timeliness of that versus the situation of double jeopardy, where you charging them with a lesser offence may preclude you from pursuing the manslaughter offence. Is this legislation drafted tightly enough to get both a timely outcome and an appropriate outcome? I would not want to see the manslaughter offence be a fishing exercise to gather information to charge with a lesser offence. Does that make sense?

Mr Quinn: Yes, it does. It is interesting. Of course for industrial manslaughter there has to be a death which is not the case with category 1 or category 2 offences. There is only the amendment in circumstances where there has been a death and they have proceeded on a charge of industrial manslaughter on indictment. I think it would be more limited because of that. It is not a removal of the limitation period full stop.

Mr WATTS: So you would not charge concurrently with those other offences? You would wait until the outcome of the industrial manslaughter case and then use evidence for that for charging for the lesser offences if they were found not guilty. Is that right?

Mr Quinn: I can see the issue that you raise. I think the original question was: is the drafting tight enough on that to essentially prevent it being abused? I do not think so. I do not think it is likely to be abused in the way it is currently drafted. The intention is clear that it is only where that prosecution has been not successful on industrial manslaughter.

Mr WATTS: Forgive me because I am not familiar enough with the law. In a case outside of industrial manslaughter—let's say a manslaughter charge—and that is not upheld, would the police prosecutor be able to go back and charge them with a lesser offence or would that have been part of the original charge as well?

Mr Quinn: I do not know if I quite understand the question. If there was a charge of manslaughter and that was not successful, could someone then be charged with—

Mr WATTS: Grievous bodily harm, for example.

Mr Quinn: No.

Mr WATTS: In this case in the event that it was not successful they would be able to charge them with the lesser offence, yes?

CHAIR: In the judicial system could they not be found guilty of a lesser charge?

Mr Quinn: There is an alternative as opposed to running another prosecution.

Mr WATTS: That is my point. My understanding of this—and correct me if I am wrong, and I may well be—is that you could run this entire prosecution and get the outcome of not guilty but then use the evidence from that for an alternative offence.

Mr Quinn: Member, I think the difficulty there is that it is at the same time. It is the one prosecution.

Mr WATTS: That is my question: is it?

Mr Quinn: What the bill seeks to do is to allow for an alternative verdict. That would be similar, for example, to an offence of rape where sexual assault is an alternative verdict that the jury is able to return. It is not that the prosecution ends and then there is a recharging and we start again. I think that where the amendment to the limitation exists, notwithstanding when the charge of industrial manslaughter is brought, is that the alternative verdicts of the category 1 or category 2 offences are available if it was taken on indictment, whereas you could not charge for the category 1 or category 2 offence on its own.

Mr WATTS: That is because of the time limitation.

Mr Quinn: Correct. That is right. It is not that there are going to be separate proceedings. This all arises in one proceeding. It is not that you get a dry run and then you get to go away and come back. It is an alternative verdict that is available.

Mr WATTS: That brings some clarity for me. Thank you.

Ms PEASE: I want to talk further about the concerns you have raised with regard to the filming and photography of the site which you mentioned in your submission and you raised in your opening statement. Are you aware of what happens in other jurisdictions around that matter?

Ms Brodnik: No, I am not actually. We would be happy to check that.

Ms PEASE: It would be interesting to know what other jurisdictions have with regard to that. You talked about your concerns, but perhaps you could elaborate and state what it is you are concerned that these workplace health and safety officers might do. It is the quality of the phone that might be used to take photographs or is it the breach of privacy that they are going to release it on the internet. What are your actual concerns?

Ms Brodnik: The concerns are those that you mentioned, so the security and storage on the personal devices which might be able to be used. There is nothing in the bill to suggest when the video or image is required to be deleted. For example, if it was taken and given to the employer or an investigator then there should be an explicit requirement for it to be deleted. There should be explicit requirements around whether you need to capture an individual to take the appropriate video or image. For example, if you are taking a video of a machine without a safety guard, do you need to capture the person operating it to show the contravention? Arguably not.

There needs to be something in the legislation but also appropriate training and guidance for the health and safety representatives and also the entry permit holders about what can and cannot be done. There are obviously the issues of reputational damage if the material is published, say, on social media or the like. There is potentially IP sensitivities and commercial-in-confidence materials that also could be published which would not be appropriate.

In the provisions there is a reference to section 271 in the act. That section does provide prohibitions on information and documents that someone obtains in the carrying out of their function and that section says you cannot use it for another purpose and there are penalties that apply. Our concern is the risks with videos and images taken on a personal phone and the privacy concerns that we are becoming more alive to as technology grows. There have been a number of privacy reviews and other inquiries that are really trying to rein in what is out there. Our concern is that the existing provisions do not address the risks. For example, you are not subject to the prohibition if you are carrying out a function, and one of the functions of the health and safety representative is to protect a worker from a safety risk. Arguably, that could be done by giving the video or image to someone else. We think if you are going to have this ability for someone to take a video or a photo and it might be used for an investigation then there need to be some specific guardrails put up around it.

Mr WALKER: In relation to evidence collecting or workplace health and safety photos, would it be the same guidelines in relation to how evidence on any matter, by law, is gathered, recorded and secured? Is that what you are suggesting?

Ms Brodnik: Yes. As we were saying with information requests before, any information or document that is collected should really only be used for its intended purpose under the legislation. It should not be disclosed elsewhere. As I said, existing section 271 does deal with that. In the context, though, of data that can be transferred from devices and that could be unintentionally shared or lost in some way, we think there needs to be something more.

Mr WALKER: Are you suggesting some training in that package—for example, that the workplace and health safety officers be trained in relation to photo taking, the gathering of evidence and how that is collected and recorded? Is that what you are suggesting?

Ms Brodnik: Yes, some training for those people who are going to now have this power would be good. I think also some training about the security of their own devices and what steps they need to take to ensure that security.

CHAIR: Thank you very much for appearing before us today. We are grateful for your contributions. I note that three questions were taken on notice. Could we get responses to those questions by 12 pm on 12 July? Thank you very much for appearing today.

O'CONNOR, Mr Sean, Deputy Chair, Consultative Committee for Work-Related Fatalities and Serious Incidents

CHAIR: Welcome. Thank you very much for appearing before the committee. I thank you for your advocacy work, particularly with regard to this area and in the loss of your sister. Would you like to make an opening statement?

Mr O'Connor: Thank you for having me here today. I am the deputy chair of the Consultative Committee for Work-Related Fatalities and Serious Incidents, also known as the consultative committee, which was established under the Work Health and Safety Act. The committee provides advice and recommendations to Minister Grace about information and support needs for people impacted by work related deaths, serious incidents and illness. We are passionate about assisting other families going through very difficult days, months and years following the death of a family member or a family member sustaining serious injury or illness.

In short, we all qualified for a committee that we do not want to be in. The entire purpose of what we do is to make sure no other families qualify to join the committee. We do not get paid. We do not get pay rises. We do not get business opportunities from the introduction of different things. We just do not want anybody else to be here doing this.

On behalf of the committee, we support the Electrical Safety and Other Legislation Amendment Bill 2024. As the deputy chair, I firmly believe that the proposed inclusions and amendments outlined in the bill are integral to advancing electrical safety in Queensland. In addition to our support for the bill, our committee remains committed to the importance of electrical safety in our communities. We also continue to strongly advocate for further legislative changes that include the mandatory installation of safety switches in all residential, commercial and industrial buildings and consideration of adopting—I will break script here.

In New Zealand schools, for safety switches they went to 10 milliamps because if anybody is going to stick anything in a power point it is a schoolkid. That change was made to the wiring rules in 2014 specifically for New Zealand. In Queensland and Australia, we maintain 30 milliamps. The other point is the mandatory de-energisation of buildings before any work is commenced on a roof or in a ceiling space. That is it from me.

Mr WEIR: You have been involved in the formation of the policy that is in front of the committee and you support the proposals?

Mr O'Connor: Correct.

Mr WEIR: We have heard concerns that smaller businesses might struggle with the industrial manslaughter provisions. Have you had much interaction with the smaller operators around their concerns in that area?

Mr O'Connor: I have to be careful how I go with this one. I guess it was a smaller business saving money that got my sister killed. There were a lot of good reasons he did not have to do the things that he did. The differences or the gaps in the legislation that are proposed to be closed here are the gaps that he slipped through, effectively. When you aligned the Work Health and Safety Act and the Electrical Safety Act at the time of the offence and the prosecution and everything, because my sister was not a worker and he was a business and he did not kill a worker—he killed a customer—the penalties were not applicable to him. He got a little bit of something, but if he had given that same thing to his storeperson and they plugged it into the wall and died then he would be in jail. However, she was a customer so it was not applicable. The changes outlined in the bill close that gap and we are strongly in support. I do hear your point about whether we have consulted with smaller businesses, but emotionally we are a bit limited.

Mr WEIR: I understand that. I am sorry that I made you relive that.

Mr O'Connor: No, that is okay. It is why I am here. We do not want anybody else to end up where we are and that is why we do it.

Mr WEIR: That is right. It does not matter whether it is a worker or an innocent bystander; it is all the same. Thank you for that.

Mr HEAD: Thank you, Sean, for being here and for your advocacy in this space. I am curious: in your submission you talk about the mandatory installation of safety switches in all residential, commercial and industrial buildings. As a layperson, I thought it was.

Mr O'Connor: In new buildings in Queensland you will have your power points and lights covered; that is the summary. In old buildings—and I am not going to quote dates—after the changes came into effect, when a property was sold the obligation was on the new owner to retrofit safety

switches to power points. With rental properties, say you inherent grandma's house and you want to rent it and put tenants in there, the obligation on the landlord is to fit safety switches to the power points. New buildings have lighting covered, but, effectively, if you have an old house you have safety switches on the power points. However, to change a light bulb—you probably do not have safety switch protection if you are climbing around in the ceiling. You know you have a big bank of safety switches in the switchboard, but they probably do not protect the circuits for the wires that you are crawling over while you are up there. Your grandparents are probably at the bigger risk if they have not sold their house and they have not rented it out. It might not be a new build and it might not even have protection on the power points. I wandered off a bit there. Did I answer that enough?

CHAIR: You answered that perfectly.

Mr HEAD: Yes. It is something that I was not aware of.

Mr O'Connor: To elaborate a bit more, an interesting scenario is the statistics around electrocution and electric shock from power points and lights. It was considerably more for power points so we went for that, back when all the changes happened, because lights were not bad. However, the number of people changing light bulbs who fell off ladders was actually quite high in the same period. That is because they copped a shock and fell off the ladder, which prevented them from continuing to be hooked up to the electrical source. Something was better than nothing with the original introduction of it and new buildings are all covered, but there is still quite a large portion uncovered.

Mr HEAD: They broke their back rather than getting electrocuted.

Mr O'Connor: Or their leg or had a fall from height. Statistically, the fall was worse than them getting a tingle.

Mr WATTS: Thanks very much for being here. I have just invested a lot of money in putting safety switches across my old house. It cost me over \$10,000 so I feel both the need and the pain. I am interested in your suggestion that in schools it should be at 10 milliamps as opposed to 30 milliamps. I am curious whether there is an evidence base that suggests that is a better outcome. Is there any data that would indicate that is what we should do? Is it enough? I am trying to understand why 30 and why 10?

Mr O'Connor: The problem with an electric shock or death by electrocution is the amount of current that runs through your heart if you touch something and you complete the circuit. Safety switches at 30 milliamps kick in just an absolute fraction before irreversible damage to the heart is done. There is a number of medical studies on how much it takes to do irreparable damage to the heart muscles. Ten milliamps is just reducing that threshold. I want to provide accurate information but I am not a doctor.

Mr WATTS: That is fine.

Mr O'Connor: I guess it would be safe to say that 30 milliamps is very close to the threshold of no returns. If you touch a power point and the safety switch goes off then you literally only just dodge that bullet. At 10 milliamps you have safe headway.

Mr WATTS: This is not reassuring me that my investment was a good one.

Mr O'Connor: It is better than nothing. You have done the right thing, that's for sure.

Mr HEAD: I am assuming that is set higher because the circuits may not be a danger to people but it might not be perfect electrical equipment and will not trip the safety switch too much. Is that some of the reasoning behind it being higher? Is it more related to the electrical equipment that is going to be plugged into the circuit?

Mr O'Connor: No. Because it is looking for earth leakage, it should not do that, so it should not really want anything. Back when they first came out there were limitations to the sensitivity of the circuits or to the devices. They have gotten better over time, but with an old house and a new safety switch the fridge trips it and everyone is like, 'Oh.' At the time of introduction, 30 was appropriate probably given the limitations of the technology, house wiring, appliances and things like that, but, yes, it has been a fair while since then. With the 10 milliamps we are specifically just talking about schools. New Zealand went for it and the reasons there were quite clear—that is, all those paperclips and kids.

CHAIR: Danger. Definitely.

Mr O'Connor: Did I cover that?

Mr HEAD: Yes; thank you.

Ms PEASE: Thank you so much for coming in and for all of the work of the committee. It is an amazing amount of work that you have had to do and I acknowledge the tragedy that made you become a member of that committee. I am interested in a couple of points, particularly around the changes with regard to bystanders. Are you aware of other legislation and how successful that has been in other states or other jurisdictions?

Mr O'Connor: I am not aware of others or the other states or what they might have done or their effectiveness. I can reflect upon the case involving the death of my sister. I just remember them walking us through it and explaining. This is quite terrible, but in the eyes of the law in Queensland her life was not worth as much as any worker and it had been identified as something to get tightened up. I had that conversation seven years ago and I am glad that we are here now and it has been put forward as part of the bill, but, no, I am not specifically aware of what anybody else is doing with it or if it is effective. I was just excited that it was considered here.

Ms PEASE: Thank you very much to you and your committee for the work that you are doing advocating for people. I am not sure if you have been in the room for very long to hear some of the other witnesses who have talked about the requirement for filming—that is, the ability for people to film and photograph workplace health and safety matters. Do you have any comments around that?

Mr O'Connor: All of the families that we deal with have lost somebody or they have a life-changing injury. There are countless stories where people say, 'We've got this bit of information' or 'We have this photo' or 'We have this or that but it won't be admissible.' We get that a fair bit. We believe my sister passed away some time in the midafternoon. She was found about midnight. The very next morning the inspectors were around there checking it out and an electrician snuck out from around the back, but they did not have a way to capture that so it never happened but he was there, if that makes sense.

Ms PEASE: Yes, it does, so being able to record and photograph—

Mr O'Connor: I do not care whose phone the photo came off. If it is a significant piece of evidence in a prosecution and if having that kind of power stops people from thinking they can get away with it by thinking, 'In the early morning I'll fix that up so it doesn't look too bad,' then I would support it.

Ms PEASE: Thank you so much. I appreciate it.

Mr O'Connor: Sorry if the opinion is a bit—

Ms PEASE: No, it is perfect.

CHAIR: It is very useful experience.

Ms PEASE: Thank you. I am sorry to have gone back to that but I appreciate your honesty. Thank you.

CHAIR: Member for Mundingburra, did you have a question?

Mr WALKER: No, thank you, Chair.

Mr HEAD: There are things we have heard more generally when it comes to industrial manslaughter—that in the Criminal Code there is means for prosecution, but, as the Queensland Law Society just said, the difference is negligence. Is that, if you are able to share, the key piece or a key defining point that was missing in your sister's situation?

Mr O'Connor: Yes. Recklessness and negligence are quite different. Recklessness does not cover, 'Oh, I didn't know' or 'I wasn't sure' or 'I didn't look that up,' whereas for the negligence bit there is an obligation. If you want to import and distribute electrical equipment in Australia and sell it to people, there are obligations on you. If you say, 'I didn't know that,' it is not technically reckless, but it is negligent if you want to be in that line of business and not know what the rules are. That is probably the biggest summary I have, I guess, and I guess that is the intent of it. None of it is about catching people out in loopholes. Even if this was in place prior to my sister's death it would not bring her back, so we are not out for higher forms of justice or anything. It does not change anything for us; it is more about having the things in place to let people know that it is not okay to say, 'I didn't look up that webpage' or 'I had a copy that was out of date.' Electricity is so dangerous that it has its own piece of law around it. There is a demon in the walls there. You want to be able to plug something in and be okay. A lot of this is about tightening it up because, for the people responsible for the safety of that power point or that appliance in your hand, there are just a few too many things to slip through the cracks and get away with it, I guess you could say. I do not know if I covered that well.

Mr HEAD: No, that is very helpful. Thank you, Sean.

CHAIR: Thank you very much for appearing before us today. Your contribution has been extraordinary and your advocacy work incredible, so thank you for all that you and your committee do. I am so pleased that this legislation will go some way to making sure that situations like that which occurred to your sister do not happen to anybody else, so thank you very much for appearing before us today.

Mr O'Connor: Thank you for your time.

FOGARTY, Ms Shannon, Director, Member Workplace Support, National Fire Industry Association of Australia Ltd

CHAIR: Welcome. I invite you to make a brief opening statement. Then the committee will have some questions for you.

Ms Fogarty: Thank you, Chair, Deputy Chair and committee members, for the opportunity to speak today on behalf of the National Fire Industry Association. The NFIA is the peak association in the fire protection sector. We represent employers, suppliers and industry stakeholders who work at the front line of fire protection. I refer to the NFIA's submission in response to the bill and reiterate that the NFIA strongly supports increased protections against the design and supply of unsafe products and we commend the government's strong stance on this issue. However, the current wording of the bill gives rise to substantial risks of unintended consequences and conflicts for Queensland's fire protection sector, which I represent. This concern relates to the performance of fire protection work currently regulated as licensed work under other state legislation.

The current wording of the bill would allow for fire protection work, equipment and systems to be regulated within the definition of electrical work. This could and would have the effect that people performing this work would require both the relevant QBCC licence and an electrical licence and anyone who currently performs this work under a QBCC licence would be excluded from industry if they do not also hold an electrical licence. Further, the NFIA is also aware of other submissions which, among other things, call for ES3 telecommunications data cabling and equipment to be regulated as prescribed items under proposed section 14(1)(c). This would subsequently capture fire protection equipment which can currently be safely installed and maintained and certified by someone holding the relevant QBCC licence. The exemptions sought by the NFIA would resolve each of these concerns, and I will turn to that in a moment.

Given the safety-critical nature of fire protection work, the government has already regulated the performance of this work by linking licensing outcomes to appropriate qualifications and experience requirements that protect Queenslanders' safety in a framework specific to fire protection. The QBCC framework ensures the people performing this work can do so safely and to the required standards. It therefore follows, from our perspective, that any legislative change must not conflict with the existing framework as it was most recently updated in 2020—I note there was a big overhaul of that in 2020—so the NFIA is seeking an inclusion within the bill that, where an individual or contractor holds a licence under the QBCC licensing framework which permits them to perform specified fire protection work—and I note that the scope of that is outlined in that legislation—then they remain able to perform that work currently within the scope of that licence without also needing to hold an additional licence under the electrical safety framework.

I note that in prior submissions we presented a number of different options as to how it could be dealt with. Particularly upon further consideration and consultation with a number of other groups, we have landed that the most appropriate way, we believe, to deal with this would simply be to, rather than exclude the work entirely, just allow that for that work if you hold the relevant licence within that QBCC framework it is satisfactory to perform that work without requiring an additional licence. Thank you. That was all I wanted to add at the start.

CHAIR: Terrific. Thank you.

Mr WEIR: Could you give an example of what you are meaning by what you can do now which you are worried you may not?

Ms Fogarty: Yes, absolutely. For example, I will turn to the technical qualifications document which has the licences set out in it. My apologies; I will turn to my prior submission. There are a number of licences, so for contractors and nominee supervisors there is the design and certification of fire alarm systems, so those are systems for fire alarms. We have the certification of emergency lighting in buildings and the install and maintenance of fire alarm systems and the inspection and testing of emergency lighting. Then for occupational we have similar ones although not exactly the same, so it is a separate list. There is the design of fire detection, alarm and warning systems; the certification of fire alarm systems; the certification of emergency lighting; the install and maintenance of fire alarm systems; and the inspection and testing of emergency lighting.

Mr WEIR: Are these systems hardwired or not?

Ms Fogarty: The extent of those licences covers just the extra-low-voltage elements. In terms of whether they are hardwired I can certainly seek advice, but the extent of my knowledge is that all of these systems that our guys are working with are restricted to the extra-low-voltage element of it, so people holding these licences are not performing regular voltage or low-voltage work; it is specifically extra low voltage.

Mr HEAD: With that comment, I am just reflecting back to a previous hearing on the definition of low and ultra low voltage. I will try to form a question, but I do not think I am there yet sorry, Chair.

CHAIR: I will come back to you.

Mr WATTS: I have had a fair bit to do with this, having run pubs and nightclubs for a long time and having your whole system checked, monitored and maintained. From time to time, the fire regs would change and stuff would have to be moved or expanded. My question here is about the demarcation between who is able to do what part of the job. By ultra low voltage, we are really talking about a cat 5 cable, a communications cable, being effectively wired and plugged into a device; would that be correct?

Ms Fogarty: I would have to get advice on whether that is all we are speaking about here. I know that the ES3 cabling does encompass within that fire protection cabling.

Mr WATTS: Yes.

Ms Fogarty: I would have to confirm, but we are specifically just referring to the electrical low-voltage components.

Mr WATTS: From a practical point of view, as a former publican, I am sure many of my colleagues in the industry would say, 'I just want to be able to call someone and make sure the system is safe so that come Friday night, if anything goes wrong, it all works,' and want to understand who to call and who is able to do what level of work and whether they need to get two people in—one to fix it and one to certify. Can you give us an explanation of what you think should happen from your industry's point of view? We have heard from the ETU. I am concerned that without some sort of overlapping between these two, in a practical sense, a person is going to have to coordinate two trades to arrive at the same time before they can open their business if something has malfunctioned. That seems quite onerous on something that is so important to have work.

Ms Fogarty: Absolutely. We certainly have not had that concern raised with us. I would note that there are a lot of fire protection contractors who engage both electricians and fire protection specialists, but we would be saying that if you have a concern with a fire protection specific system you should contact a fire protection contractor who has the specific knowledge in that space, who works with fire protection systems. It would not be unusual for a fire protection contractor to engage both, so we would say that you would not need to engage two contractors.

Mr WATTS: Do you see any way that the specific licensing of the various functions here can be streamlined so that someone can look at the ultra-low-voltage part of it but they have some capacity around an understanding to do with electrical, or vice versa?

Ms Fogarty: With respect to just this bill, our concern is to those people who would suddenly not be able to perform the work that they are currently able to perform. I note that there was a fair amount of streamlining that went into that QBCC framework review in 2019 and subsequently the 2020 legislation. Obviously there is that difficulty of where we are dealing with two separate pieces of legislation here and trying to make those work together as well as possible. In that respect, our concern here is to not remove from those people the capacity to perform that work. Whether or not there is further capacity to streamline would require a consideration of both those bills together, I imagine.

Mr WATTS: What would be your view of upskilling those people—obviously not a four-year apprenticeship but a level of upskilling that would allow them to do that particular type of work?

Ms Fogarty: Currently, I believe to perform electrical work they would need to undertake a four-year apprenticeship. Again, I would have to take this information from elsewhere, but I do not believe there is a significant degree of overlap to perform electrical work currently. They would need to go through a four-year apprenticeship.

Mr WATTS: I understand that, but specifically the issue here is: I have been called in to fix a piece of ultra-low-voltage whatever because it is malfunctioning or to take that one out and put a new one in, and it cannot be certified by me. That is the problem.

Ms Fogarty: I just have to confirm. If it is emergency lighting, there is a category for certification of emergency lighting. Apologies, I did need to just double-check. There is a licensing category under the QBCC framework for the certification of emergency lighting.

Mr HEAD: My understanding was that the ultra-low-voltage equipment was only going to come under this if it was prescribed. You are seeking a surety that this equipment will not be prescribed under the regulation that follows this legislation?

Ms Fogarty: We see it as more appropriate that, rather than taking that approach, there is an assurance within the bill that, even if something is prescribed, as long as they hold a licence that is currently administered by the QBCC that allows them to perform the specific scope of that licence then they can perform that without also needing an electrical licence.

CHAIR: You are saying that the scope of that already exists within the QBCC framework, that they have the skill and qualification?

Ms Fogarty: That is correct. If we look at excluding certain items from being able to be prescribed, I think we are already looking at that issue with the ES3 cabling. I do not have that technical knowledge in my mind, but, for many reasons, there are submissions for the ES3 cabling to be included in the regulation as prescribed equipment. As far as it extends to fire protection work, we would want people who are already licensed to perform work with that cabling to continue to be able to perform it, but I do not have a comment today on whether or not that should be prescribed for any other reasons. I am only able to speak about that fire protection framework. There may be other reasons outside of fire protection for the non-fire protection ES3 cabling that may be needed to be prescribed.

Mr HEAD: It is now a legislative requirement for a lot of that fire protection equipment to be installed and now we are getting to a point where there are all of these different subcategories that have opened up the need for that particular certification, because we did not have enough electricians to be doing all of that at one point in time. The flow-on effect is that now we are here and, perhaps to address that, there needs to be a subcategory to ensure that and, as you were saying, under the QBCC keep that exemption there?

Ms Fogarty: In addition to the shortage, these people who are performing dry fire protection work have knowledge, skills, qualification and experience specifically in dealing with fire protection cabling and systems and equipment. There are two elements to it: there is the shortage, but these people are specialised, specifically trained in that area. Given the significant risk of fire, we want to see fire protection specialists working on fire protection systems.

CHAIR: In terms of the matter you were raising before, what has been the NFIA's interface with the electrical safety commission on this matter? Have you had any dialogue?

Ms Fogarty: I do not believe so.

Ms PEASE: In your submission you talk about other jurisdictions. What are they doing in other jurisdictions around this?

Ms Fogarty: When Queensland proceeded with its fire protection framework review in 2019 and 2020 it was seen as Australia-leading in terms of where the government went with that and where it landed, and other jurisdictions have been looking to that broadly across both wet and dry fire. I believe Western Australia and New South Wales are in particular looking to Queensland in respect of dry fire. It is held as being the Australian standard for where we want fire protection licensing to be. I believe there are other jurisdictions that are looking to it as well. Dry fire is certainly something that is on the minds of other governments in terms of needing to protect people against that risk and make sure the people performing that work are appropriately licensed and qualified, but Queensland is certainly still leading in this space in that respect.

Ms PEASE: Can you explain to me the difference between a dry and wet fire?

Ms Fogarty: Wet fire is our fire protection components that involve, for example, sprinkler systems and hydrants—

Ms PEASE: That is fine. You also talk in your submission around the requirement that operators have until 1 May 2025 to have completed their certification. How many people have gone through that already, do you know? Are your members on target to complete that upskilling?

Ms Fogarty: I would have to confirm with the training organisation, but I can certainly get the figures for that.

Ms PEASE: Who is providing the training? Is it a TAFE, is it you or is it an RTO?

Ms Fogarty: There is an RTO called Fire Industry Training, FIT. They are specific to the fire protection industry and they provide training.

Ms PEASE: What qualification does that give them? I know it is an UEE31011, Certificate III in Fire Protection Control. What does that actually mean?

Ms Fogarty: For the licences that the qualification requirements are met with the UEE qualification you have referred to, that means they have undergone, I believe, three years—I would have to confirm—of essentially training in specifically dry fire protection but for a number of years. I will just confirm here that, with reference to occupational licences, the design of a fire detection alarm

and a warning system—warning systems are slightly separate—they need a Diploma of Fire Systems Design, which is a CPC50520, including very specific units of competency with respect to detection systems. The certification for fire alarm systems requires a Certificate IV in Fire Systems Compliance. The certificate IV is also required for the certifying of emergency lighting. For install and maintain, that is where we go back to that Certificate III in Fire Protection Control. Similarly for inspect and test emergency lighting, there is an additional unit required as part of that which is specific to inspecting and testing emergency and exit lighting.

Ms PEASE: Would all of your members have undertaken all of that training? Is there a bare minimum that they have to undertake to be able to become an officer or someone who goes out and does the work?

Ms Fogarty: The bare minimum in terms of the training is that, in order to perform that work, they need to obtain the licence that is prescribed in the QBCC. They need to have met those requirements. Of course, given that only occurred in 2020, there have been some transition periods, so people who are already performing that work have just undertaken or are in the process of undertaking a huge amount of training to then maintain that licence, to keep it. For new entrants there is obviously that technical qualification requirement.

Ms PEASE: Just to confirm, what are the bare minimum requirements to obtain that licence now, if you are starting off fresh?

CHAIR: When it comes to low voltage.

Ms Fogarty: It depends on the licence that you are wanting to obtain. With regard to occupational licensing, straight off the bat, walking in off the street, if you would like to design those fire detection alarm and warning systems you will need to complete a Diploma of Fire Systems Design, in addition to five specific units of competency. If you would like to certify fire alarm systems, you will need a Certificate IV in Fire Systems Compliance for fire detection. If you would like to certify emergency lighting, you will need to complete that Certificate IV in Fire Systems Compliance and complete, as part of that, two specific—

Ms PEASE: Sorry, I am trying to understand. You can get a licence without having to complete all of those steps?

Ms Fogarty: Not currently.

Ms PEASE: It only applies to fire and low-voltage smoke detectors et cetera. It does not apply to low-voltage things like charging for scooters and things like that?

Ms Fogarty: No. It is just extra-low voltage, not low voltage.

CHAIR: There being no further questions, I thank you very much, Ms Fogarty, for appearing before us today. If we can get your responses to the two questions taken on notice by 12 pm on 12 July, that would be terrific. Thank you very much.

ROBERTS, Mr Neil, Director, Policy, Technical & Safety, National Electrical and Communications Association (via videoconference)

CHAIR: Welcome. I invite you to make an opening statement. Then we will have some questions for you.

Mr Roberts: The National Electrical and Communications Association is a peak industry body. We represent electrical contractors and communications contractors. We have previously contributed to this debate in a joint submission with the MEA and NFIA, but on this occasion we chose to make an individual submission. I will leave it at that and I am open to questions.

Mr WEIR: Is your main concern around the low-voltage amendments?

Mr Roberts: In our submission, we basically supported the MEA and the changes that are being proposed, particularly around extra-low voltage, with the prescription of extra-low-voltage equipment that could present an electrical safety risk to workers. That is why we are suggesting that, now that the SPR is quite widely adopted and battery technologies are there which can present an electrical risk, even at extra-low voltage—they can produce quite a large electrical explosion or fault—those should be prescribed and they should really come under the term ‘electrical work’ and be subjected to work by licensed electricians.

Mr WEIR: I think Master Electricians had something similar in theirs.

Mr WATTS: I am trying to understand what ES3 telecommunication data cabling equipment is. Can you give us a practical example of what ES3 data cabling is?

Mr Roberts: ES3 just stands for energy supply. There are three categories: ES1, ES2 and ES3. ES1 is extra-low voltage, with very low capacity for electrical risk; ES2 is a slightly higher one; and ES3 is basically open in terms of what sort of energy it can deliver. Naturally it is reasonably low, but it is unspecified. There is audio equipment where the communication line is doubling up as the actual supply to the equipment being used.

Mr WATTS: Is that like a CCTV camera that has a data cable going in the back of it which powers it up and also sends the signal?

Mr Roberts: That is right. It is one cable both providing the electrical supply to power the unit and carrying the data.

Mr WATTS: You say that should be a prescribed item under this.

Mr Roberts: Where it is above that ES2 level—where it is getting into the ES3 level, where it could produce a spark or hazard to the individual installing or maintaining it.

Mr WATTS: For clarity, can you give us an example of what equipment would qualify at the ES3 level?

Mr Roberts: There is some audio equipment that can do that—a speaker, for example, that provides power but also delivers digital signals over that system. To take the NFIA’s point, it could extend into fire communications cabling as well.

CHAIR: I think they mentioned ES3 cabling in their contribution.

Mr Roberts: They did.

Mr HEAD: In practice, how widely is ES3 versus ES2 used? You mentioned sound equipment. Is there potential that a sound tech who does not have any formal qualifications has a fit-out full of ES3 cables they would have to replace? How common is ES3 compared to ES2, for example?

Mr Roberts: Not very common. Basic telecommunications systems and ACMA systems are mostly at that ES1 and ES2 level. ES3 has specific applications. To tell you the truth, ES3 was put in as a late inclusion because obviously we identified battery systems off power grid supplies to houses and that type of thing in the submission. ES3 was nominated by one of our communications experts to basically say there is another hazard here which is effectively not controlled by a standard other than to say you are able to do it. Where there is a limit on the ability of the installation itself to put a cap on the energy level, an electrical licence is the most prudent way to handle it.

Mr HEAD: Does an ES3 cable look the same as say a cat 5 ethernet cable, where you pick it up and you know what it is? If you are around the house and you see it sticking out somewhere and you have data points through your wall, can the layperson see what it is? Is it easy to see what an ES2 cable is compared to an ES3 so you do not go and accidentally do illegal work?

Mr Roberts: A cat 5 is not going to be at the ES3 level. By its nature, if it is going to present a risk it is going to be a heavier duty cable. It is going to be thicker and have larger conductors, effectively. It is not something that a layperson will easily be able to pick out. You would be looking for markings, but you would also be going back to the equipment it is sourcing from.

CHAIR: Member for Mundingburra, do you have a question?

Mr WALKER: No, thank you, Chair.

Ms PEASE: With cat 3, you talk about it being a cable. Is it connected to electricity? You talked about a speaker. Is that a speaker plugged into the back that is getting electricity from the computer and then pumping it out through the speaker, or is it something completely different?

Mr Roberts: No, this is more in the realm of specific equipment. The cabling will be connected to a driving device, if you like, and then that device will either be plugged in or hardwired into an installation. If we take the fire example, obviously the fire panels are hardwired into the electrical installation. You more likely will have ES1, 2 or 3 telecommunications cable coming out of that panel through the smoke detectors or other devices out in the building itself.

Ms PEASE: It is hardwired. With our NBN and those sorts of things, is that ES3?

Mr Roberts: I do not know, to tell you the truth.

Ms PEASE: Sorry?

Mr Roberts (Inaudible) use ES3 with that energy supply level. I do not know if the NBN one is that. I do know that some Telstra wires coming to your house can carry some hazardous voltage above ELV, but they have specific (inaudible) for that.

Ms PEASE: That explains it to me. It is something that is physically connected to power, but it is just very low-voltage power.

Mr Roberts: That is right.

Mr WEIR: You made a comment about concerns you have with industrial manslaughter. What are your specific concerns around that piece of legislation?

Mr Roberts: We share the concerns of the Master Electricians around the application of it. Master Electricians obviously did some research as to how it was applied in different jurisdictions.

CHAIR: As Master Electricians pointed out in their submission, it is not necessarily with the legislation and the responsibility and obligation of PCBUs; it is how to make sure smaller and medium businesses understand their obligations and those systems and frameworks of bigger entities and GOCs that could be useful education for small and medium businesses. I do not think it is taking away the onus and obligation of keeping your workers safe.

Mr Roberts: No, I agree. It is more what are the most appropriate mechanisms and what are the most appropriate charges to bring against someone who has been negligent or reckless. We are going through the same debate in New South Wales. As you probably know, they have just introduced their manslaughter law into the WHS legislation. When we have looked at it, we have always had the view that there is an existing manslaughter law in the Crimes Act or the Criminal Code and there already exists in the WHS legislation a mechanism by which a category 1 offence can be charged after the coroner has had their inquest and decided for or against referring to the DPP. Our argument would be that the mechanisms are already there for manslaughter in the broadest terms without interfering with the WHS legislation.

Mr HEAD: Generally, a lot of recommendations throughout various workplace health and safety and mine safety legislation talks about risk versus a prescription-based approach to safety. Now a specific list of equipment is going to be prescribed. Obviously we are not electricians, and that is what adds to some of the confusion around ES3 versus ES2 and how you identify it. You might think you are pulling a data cable through your house completely ignorant to the fact it is prescribed electrical equipment and illegal to do so. Is there a way this legislation could achieve similar outcomes for the safety of workers and the public and everyone involved with a more risk-based approach rather than being as prescriptive as it is?

Mr Roberts: The difficulty we have with this is that you have extra-low voltage, which by definition does not come under electrical work, but now we have technologies coming in which do present an electrical risk, so you could go back to the Electricity Safety Act and use that qualifier because it is already there in the Queensland act. What I understand is that electrical work or electrical equipment that presents an electrical risk could be roped in in that way, but at this point I would be guessing as to how that could be constructed.

CHAIR: There being no further questions, I thank you very much for appearing before us today. We appreciate your contribution. That concludes this hearing. Thank you to everyone who has participated today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing for the Electrical Safety and Other Legislation Amendment Bill closed.

The committee adjourned at 12.13 pm.