Mr Tony Marks
[redacted]

3 August 2015

Finance and Administration Committee of the Queensland Parliament
By email: fac@parliament.qld.gov.au

CC: Mark Furner MP, Member for Ferny Grove
By email: ferny.grove@parliament.qld.gov.au

CC: Robert Katter MP, Member for Mount Isa
By email: mount.isa@parliament.qld.gov.au

CC: Shane Knuth MP, Member for Dalrymple
By email: dalrymple@parliament.qld.gov.au

Your ref: B6/B7.15

To whom it may concern,

Re: Inquiries into the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 ("Government Bill")* and *Workers' Compensation and Rehabilitation (Protecting Firefighters) Amendment Bill 2015 ("Private Member's Bill")*

I write on my own behalf and as a volunteer with 30 plus years operational experience, 16 of those years as a volunteer firefighter and 4 years as fire warden in Queensland. I also write as an interested party given I was diagnosed with one of the specified conditions just under a year ago, but was unaware until recently that my condition may have been related to my period of service as a volunteer. Hence, I have a personal interest in seeing the changes introduced to Parliament are fair and equitable for all firefighters, whether they be volunteers or paid.

The issues I have specific concerns in the proposed Government Bill are as follows:

1. The requirement that there be 150 exposure incidents attended before any presumption the condition is occupationally based, thereby discriminating between a paid and a volunteer firefighter, is inequitable and irrational. In this respect, I refer to paragraph 36D(1)(c) and respectfully suggest this requirement be removed, such that all persons engaged in operational fire duties are subject to the same tests. In this respect, the Private Member's Bill has much to commend it in terms of its approach to the problem of occupationally induced cancerous conditions.

To highlight the inequity further, where a paid firefighter attends a grass fire, that could be their only exposure incident of that type for their whole career and, as long as they remain in an operational role, they would satisfy the requirements of the proposed Government Bill. In contrast, if that person were a volunteer, they would still need to attend a further 149 incidents to satisfy the requirements of the Government's Bill. This does not make good sense and fails to even meet the standards espoused in the explanatory memorandum. Hence this is not good law and should be recommended be removed from the Bill for consideration by Parliament;

2. The rationale for introducing an arbitrary 150 exposure incidents seemingly has no medical or scientific basis/justification for being used as the grounds upon which a condition is presumed to have resulted from their firefighting activities. In theory, a single incident could be sufficient to cause one of the conditions to exist and for the condition to be recognised as an occupational/workplace injury. This is the default position for all paid firefighters.

   Further, it is not just the exposure at a fire incident that should be considered in the scheme of the legislation, but all potential chemical exposure events that occur during the course of a firefighter's duties. For example, attendance at bushfire investigations and hazmat events are not considered exposure incidents. Likewise, exposure to chemicals while undertaking threat assessments on private or public lands are not considered or, for that matter, exposure to chemicals while undertaking routine maintenance activities e.g. refilling of drip torches, pouring of/removal of foam concentrates from bulk pales or water systems on fire appliances. All events are occupational hazards and events with the potential to cause one of the specified conditions and should be included in the scheme of the legislation. To do otherwise is illogical and inequitable.

   I would also note that many Brigades, hence volunteers, may never attend the requisite number of exposure incidents due to the nature of their activities and the types of events they attend. This may particularly be the case for Primary Producer and like low activity Brigades, where a volunteer may never attend 150 incidents over the course of their volunteer career, yet their attendance at one event may be the cause of their condition. Hence, this fact alone should be reason enough to remove any requirement for attendance at a specified number of incidents and to simply revert to periods of service in operational duties, consistent with that proposed by the Private Member's Bill;

3. The lack of an effective recording system within QFES concerning volunteers and fire wardens to prove any minimum number of exposure incidents have been attended by a potential claimant is a significant evidentiary impediment. This is both a historical issue, where recording

by QFES (then QFRS) was scant/non-existent, and a prospective matter under the current arrangements. Hence, whether the number is 1, 10, 50, 100 or 150 exposure incidents is largely irrelevant as most volunteers and fire wardens will not be able to show or prove how many incidents of the required type they have attended. This is an obvious impediment for any volunteer seeking to rely upon the presumption as it will not, in most cases, be able to be proven. Samford RFB is fortunate as it has historically maintained and continues to maintain robust records for all incidents members attend, but Samford would be an exception to the rule compared to most RFBs.

In regards to Fire Wardens, there is no formal recording system in place to identify when they are at the scene of an exposure incident, as defined in the Government's Bill. In fact, most of their activities go unrecorded, the only possible exception being where a Permit to Light has been issued (the physical record being the issuing of a permit), but that would not qualify as an exposure incident as no fire would have been lit at that stage, even though they may have been exposed to chemical hazards likely to result in one of the specified conditions when visiting a site to assess the conditions upon which a permit will be issued;

4. I note that for a person who is both a fire officer and a volunteer, the requirements of paragraphs 36D(1)(b) and (c) are cumulative due to the use of the word "and" in the legislation. This means a fire officer who also volunteers is disadvantaged compared to one of their colleagues who does not. This clearly is not an intended consequence of the legislation and could prevent a fire officer from consideration under the presumption if they have not attended the requisite 150 exposure incidents in their capacity as a volunteer. Once again, this highlights the need to remove any requirement for a minimum number of qualifying incidents, consistent with the scheme of the proposed Private Members Bill, and for all incidents to be considered based upon the number of years of operational/occupational exposure completed by a "firefighter";

5. Proposed section 36F introduces a concept of when an exposure is considered to be one event. While this may make sense for attendance at an urban fire event which is usually quickly contained, short in duration and extinguished in a single turnout, however, in a rural context, this is illogical. It is common for a vegetation fire to be extinguished, yet the fire will reignite due to worsening fire weather on the day or a spot fire igniting new bush, thereby resulting in a further turnout of volunteers to the same general location at a later point on the same day. As currently drafted, the subsequent turnout will not be counted, even though it is essentially a different fire event. In any event, assuming the QFES recording system does record the events adequately and that the turnout is recorded by QFES, each will have a separate incident number and each will be recorded as a separate fire

event from an evidential point of view, leaving the volunteer to debug the data to prove their claim. Hence, the scheme of the proposed Government Bill fails to align to the way bushfire events occur, are recorded by QFES and the operational requirements of a volunteer's role.

I would also note that events like spot fires originating from the original fire are separate fires and can be separated by considerable distances. In this instance, each spot fire would be a separate fire or "igniting event", yet the proposed provision would regard this as a single event. Specifically, proposed paragraph 36F(2)(c) would deem these to all be the same exposure incident, which is inconsistent with the way in which bushfire events can and do unfold. Hence, my recommendation is for this section to be excised from the Bill; and

6. Proposed section 712 (clause 20 of the Government Bill) is highly prejudicial, discriminatory and inequitable to those firefighters who have already received a diagnosis that they have one of the specified conditions detailed in proposed Schedule 4A. This provision must be removed as it will impact many firefighters who have contracted their condition due to their service, their only fault being they were diagnosed before these amendments came into effect. This provision fails any test based on equity and common sense; if a condition arises from their service as a firefighter and is an occupational injury, then they should be entitled to claim under the relevant Act on the same basis as any other firefighter.

   I also note that any subsequent reoccurrence of a cancer after treatment (i.e. the firefighter is in remission and returns to work) will not qualify under the Act as their first diagnosis predated the legislative changes. Once again, this is highly discriminatory and inequitable. If an injury is occupationally induced, it should for all time be included in the in the scheme of the Act, meaning this proposed section must be removed from the amendments to be considered by Parliament.

I appreciate you taking the time to consider my submission and trust that it may help in common sense prevailing with the passing of these important changes. I would also be more than happy to provide further testimony should the Committee see that is appropriate. My immediate contact details are [redacted].

Yours faithfully,

Tony Marks
Second Officer, Samford Rural Fire Brigade & Fire Warden