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**STRONGER
TOGETHER**

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22 April 2022

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: lasc@parliament.qld.gov.au

Dear Sir/Madam,

We provide these submissions to the Committee in relation to the *Personal Injuries Proceedings and Other Legislation Amendment Bill 2022* ("**Bill**") introduced on 31 March 2022.

The Australian Workers' Union ("**AWU**") has a large and diverse membership across many industries in Queensland due to the broad eligibility rules of its state-registered and federally-registered branches. In particular, our members work in mining, quarrying, asphaltting, roadmaking, local government, manufacturing and civil construction where they are potentially exposed to dust and silica and could may develop silicosis or other dust disease as a result.

The AWU does not support the Bill because of the imposition of a new definition of a 'terminal condition' in section 58 of the Bill that will limit the scope of claims under Part 3, Division 4 of the *Workers Compensation and Rehabilitation Act 2003* ("**WCRA**") to 'a condition that is expected to terminate the worker's life within 3 years after the terminal nature of the condition is diagnosed.'

We understand the decision in *Blanch v Workers' Compensation Regulator* [2021] QIRC 408 to be the primary reason for this changed definition in the Bill. In respect of these changes the Explanatory Notes for the Bill say:

The Bill will also confirm when an entitlement for terminal workers' compensation arises under the WCR Act. This amendment confirms the government's policy intent and protects the financial sustainability of the workers' compensation scheme following the December 2021 decision in *Blanch v Workers' Compensation Regulator* [2021] QIRC 408 (Blanch). This decision expanded access to this type of compensation beyond the policy intent of previous amendments in 2019.

The AWU cannot agree with the claim that the decision in Blanch reduces the financial sustainability of the workers compensation scheme without supporting evidence. We have seen no evidence in our initial consultation discussions with the Department about these proposed

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changes and accordingly call on the government to substantiate the claim that leaving the current definition of a terminal condition in place will negatively impact the financial sustainability of the scheme.

We also cannot agree with the claim in the Explanatory Notes that the decision in *Blanch* 'expanded access to this type of compensation beyond the policy intent of previous amendments in 2019.' With respect, the decision in *Blanch* gives the existing provision its proper construction and we cannot see that this construction was not Parliament's intent when the current provisions were introduced.

We view reducing the threshold to three years to be unfair and believe the government should amend the bill to reflect a period of at least five years.

The AWU is strongly opposed to section 66 of the Bill, which creates a new section 746 in the amended Act which make the implementation of these provisions retrospective. Many AWU members suffering terminal illnesses already have applications and appeals afoot under the current legislation for which they have expended costs and energy in good faith. We submit that the proposed changes will cause significant detriment to those members by removing their cause of action whilst proceedings are afoot. Terminally ill workers should not be treated in such a harsh and unreasonable way and the AWU calls on the government to make such changes to the Bill as will ensure those proceedings are able to stay alive.

Please do not hesitate to contact me on telephone [REDACTED] or email [REDACTED] if you wish to discuss this matter further.

Yours Sincerely



STEVE BAKER
SECRETARY

Secretary: Steve Baker