



STATE DEVELOPMENT, INFRASTRUCTURE AND WORKS COMMITTEE

Mr JJ McDonald MP—Chair
Mr SR King MP
Mr TA James MP
Mr D Kempton MP
Hon. G Grace MP
Mr BJ Mellish MP

Staff present:

Ms S Galbraith—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE ELECTRICAL SAFETY AND OTHER LEGISLATION AMENDMENT BILL 2025

TRANSCRIPT OF PROCEEDINGS

Wednesday, 19 November 2025

Brisbane

WEDNESDAY, 19 NOVEMBER 2025

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The committee met at 9.31 am.

CHAIR: I declare open the public hearing for the inquiry into the Electrical Safety and Other Legislation Amendment Bill 2025. I am Jim McDonald, the member for Lockyer and chair of the committee. With me here today are: Mr Terry James, the member for Mulgrave; Mr David Kempton, the member for Cook; Mr Shane King, the member for Kurwongbah and acting deputy chair; Mr Bart Mellish, the member for Aspley; and the Hon. Grace Grace, the member for McConnell, who is substituting for Ms Jonty Bush, the member for Cooper.

The purpose of today's hearing is to assist the committee with its examination of the Electrical Safety and Other Legislation Amendment Bill 2025. 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.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's 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. Please turn your mobile phones off or to silent mode. Finally, please remember to press your microphone on before you start speaking and off when you are finished.

CARLISLE, Mr Jordon, Workplace Relations Manager, Master Electricians Australia

DUNCAN, Mr Matthew, Technical Support Manager, Master Electricians Australia

MARLOW, Mr Kristian, Policy Adviser, Civil Contractors Federation Queensland

MARONEY, Mr Rob, General Manager, Workplace Relations, Master Builders Queensland

CHAIR: Good morning. Would you like to make an opening statement?

Mr Duncan: Thank you. Master Electricians is a peak industry association representing electrical contractors and has been doing so in Queensland for 88 years. The majority of our membership base is comprised of small to medium businesses that are located within Queensland. Thank you for the opportunity to provide comment on the proposed amendments to the Queensland electrical and workplace health and safety frameworks. We are generally supportive of the changes proposed by the Queensland government.

As a member of the Queensland Electrical Equipment Committee, I am also pleased to see the necessary steps are being taken to ensure that the regulator's powers to prohibit the sale, installation and use of unsafe electrical equipment are appropriately conferred by the Electrical Safety Act. In addition, confirming the ability for electricity entities to continue to give electrical equipment defect notices through clearly prescribed provisions within the regulation will continue to assist the ability of the ESO to keep Queenslanders safe.

With regard to the workplace health and safety changes, MEA sees that these are an important step towards restoring proportionality, accountability and efficiency within workplace regulations. In particular, MEA supports reforms that streamline information requests, prevent any potential misuse of regulatory powers, and assure that workplace health and safety oversight remains targeted at genuine safety concerns. I am happy to answer any questions you have on the proposed changes within the Electrical Safety Act. My colleague Jordon is available to discuss changes within the Workplace Health and Safety Act amendments.

Mr Marlow: Civil Contractors Federation Queensland represents the interests and enhanced prosperity of the civil construction industry in Queensland. CCF Queensland prides itself on being the voice of the civil construction industry and advocates for the interests of industry to all levels of government. We are responsible for representing the Queensland civil construction industry from as far north as Cairns and Cape York to the New South Wales border. CCF Queensland believes that every individual has the right to a safe working environment. A civil construction industry that can ensure the wellbeing of the workforce has a greater chance of achieving sustainability and productivity. Safety on the worksite is not just about avoiding incidents but also about ensuring the psychological safety and personal privacy of workers. Accordingly, we are supportive of the bill in its entirety and hopeful of its swift passage through the parliament. Anything that can be done to practically improve the safety of workers in the construction industry should be done.

We note much of the media commentary around the bill and that the Queensland Productivity Commission recently handed its report on construction sector productivity to government. This report, much like this bill, talks to the industrial environment in the Queensland construction industry. The key finding we wish to highlight from that report is that productivity in the Queensland construction industry today is earning five per cent higher than it was in 1994. In comparison, productivity in the market economy grew by 65 per cent. Part of this no doubt was the fault of the deliberate use of unproductive and oftentimes intimidatory industrial tactics by the former leadership of the CFMEU.

Whilst we respect and understand the rights of workers to unionise and for the advocacy of unions on behalf of their workers and members to be strong and robust, violence and intimidatory tactics have no place in modern Queensland. We are hopeful that the current inquiry into the administration of that union will lead to a new era in the construction industry where collaboration and productivity are key principles by which the relationship between workers and businesses is defined. Ultimately, productivity will be the tide that lifts all boats in the sector. Productivity drives higher wages, profits and value for taxpayers. It is a win-win-win for businesses, workers and Queenslanders. We commend this bill for driving safety and for helping the Queensland construction industry move towards a more harmonious and productive future.

Mr Maroney: Much like my learned colleagues here, Master Builders Queensland represents employers and industry in the commercial and residential building industry all across Queensland. We also support the passing of this bill. We see it as an opportunity to move back to the model laws in relation to the misuse of power and workplace relations laws in this state by bad actors we have seen in the past. We feel that repealing this part of the amendment from March 2024 is the first step to doing that. This provides a platform for productivity to start to return to worksites in Queensland, in particular in the sense of supporting the cultural shift that we need to see in relation to how the industry operates.

Mr KING: Thanks for coming in today. I am glad we are all on the same page about safety. We want people to go home safe at the end of the day. I have a concern that it is seen as an administrative burden for a workplace health and safety representative or permit holder to be able to ask the regulator for information. We are repealing it before it has come in, so we have not actually seen it in action as an administrative burden. We have no examples of that apart from one we are dealing with as a committee. I am just interested to know what the administrative burden would be.

If I could just paint a little bit of a picture—I am sorry about the preamble, Chair, but I think I need to paint a picture—say, for example, a person in control of a business takes over an historic site. They have their data, and the workplace health and safety rep goes to the person in control of the business and says, ‘Look, we’ve got some concerns. We’ve got to dig over there to put some earthworks in. We may have found some asbestos. What’s the history?’ The PCBU says, ‘I don’t know. We’ve just taken over this site. The regulator will have that information.’ We understand that they then have to go and take out an RTI to get that information. I think getting that history is a good thing for safety. Could you comment on that? That is just one example.

Mr Marlow: I certainly take your point. I suppose I would hope that people have enough common sense to say that if there is asbestos suspected at a site they would not commence work. They would do the safety work. Asbestos is an extremely serious industrial hazard. Whilst I appreciate the point you are trying to make with that example, I would very much hope that if anyone thought asbestos was anywhere they would deal with that concern prior to commencing work.

Mr Carlisle: I would have also expected that if there was asbestos and the previous PCBU was aware of that they would do things like labelling. If you have a concern about the actions of a particular party, you would be looking at what that previous PCBU did. Did they simply just go, ‘We just won’t worry about that. We’ll just push that into the’—

Mr KING: One would hope not. You never know. My argument would be that the regulator would have that information and access to that regulator. Asbestos is just one example. There is long history in power stations and other things where one of your members would go in to do some work and want the history. A power station usually would be the same person in control.

Mr Maroney: Looking at an event where it was unknown whether asbestos was there, there are a whole lot of procedures and processes that would be put in place. A new PCBU should be treating a worksite just like any other new worksite they have gone to where they may be unaware of these things. Going to the regulator to identify that and having that as the only form of evidence is not all the PCBU is responsible for under the act. There would be many other provisions within the act that would support them to navigate their way through that potential issue you explained. I think the further part where Master Builders Queensland would see the administrative burden, among other things, is how other parts of the act that were amended in that same suite of legislation are in a similar vein and how they have been used inappropriately to cause productivity issues, administrative burden and the like. This is another part of that same legislation which we see would be treated in the same way.

Mr KEMPTON: Matthew, you say you are generally supportive but you were concerned about the misuse of regulatory powers or that it was vulnerable to overuse. Can you give any examples of what you mean by that?

Mr Duncan: I might defer to Jordon to answer that question. The overuse of powers is more in our workplace relations space.

Mr Carlisle: I would not have a specific example of the overuse of that particular scenario. It is, as Mr Maroney highlighted, an area in which there is regular misuse of those sorts of scenarios. I recall one site, Brooke on Brooke Street, where a forklift had the handbrake left off and they shut the entire site down due to one thing that was happening on a car park level rather than just simply isolate that to a particular event. We are seeking to ensure that kind of misuse is not able to occur. I could not talk specifically to that one kind of example, but we know that the misuse of powers is something that—and workplace health and safety powers are an industrial tool rather than a safety tool. That is the concern we would raise.

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Mr MELLISH: It is my understanding that with matters like coronial inquests, workplace investigations, civil legal actions or other issues that could arise following a workplace injury or a fatality, a pretty high burden would be placed on the PCBU for document storage and management. Would it be more efficient and reduce the risk to the PCBU for the regulator to store that instead of the PCBU?

Mr Maroney: We encourage all of our members to keep very thorough records. Keeping thorough records is in and of itself a form of harm reduction. We understand that part of the impetus for this bill is that the regulator has a lot of manual processes that it has to go through and it does not have unlimited people to perform those manual processes. In response to your question we would say that it is critically important that all PCBUs keep very thorough safety records, and that is part of their obligations under the act.

CHAIR: Did you have something to add, Jordon?

Mr Carlisle: We held a session with our members just the other day where the prime message was records, records, records. You could not bang on about it more. It does not matter whether there is the potential for a coronial inquest or just simply you want to respond to anything; if you do not have records for it, you cannot really do it.

Mr JAMES: Matthew, in your opening statement, amongst other things, you spoke about how the changes represent an important step towards restoring proportionality. Can you expand on that?

Mr Duncan: It is really just to say bringing that position back to a proportional response for the actions that are probably being taken, as Jordon alluded to. We have seen a number of instances where sites are shut down for a very minor or a very isolated area of a piece of work happening, whereas that could be sectioned off as more of a proportionate response to the safety incident that could have been raised.

Mr JAMES: In relation to the proposed amendments, do you see the same issues still happening, or are you happy with the amendments?

Mr Duncan: I believe the proposed amendments are adequate to combat that.

Mr KING: Were you consulted and worked with during the drafting of this legislation to help with that?

Mr Marlow: We made a submission and we are being consulted now.

Mr Maroney: We have been advocating for changes to legislation in line with this particular WHS element of this legislation, so we see this as a response to some of our advocacy, and we are obviously being consulted with now in relation to that.

Mr Duncan: It is similar for us. We have done advocacy work for some time but not direct consultation prior to the release of the bill.

CHAIR: The 2022 independent review that was conducted by a number of notary examiners or reviewers did not include this change. Did any of you advocate to the former government or minister to see these changes that were proposed?

Mr Maroney: No is the simple answer. They would see this legislation seeking to be amended as relevant for adding value to safety on worksites, so therefore we would have not advocated for it to be included originally.

CHAIR: To the Civil Contractors Federation, in your view, did the proposed information-sharing laws create a risk of being abused by entry permit holders? If so, in your view, would it be in the best interests of workers' safety if these laws were repealed?

Mr Marlow: Yes. We are absolutely very supportive of this Electrical Safety and Other Legislation Amendment Bill in its entirety, including repealing that provision. Part of workers' safety, as I outlined in my opening statement, is the right to privacy and psychological safety. I think that answers your question, Chair.

Mr KING: I will go back to my scenario. Let's take asbestos out of the equation and just consider historic data. A workplace health and safety rep on a site needs the information that the PCBU cannot provide, so they have to take out an RTI. That will obviously be of cost to someone. The health and safety rep is a volunteer role, so why should they be doing that? Should there be some sort of allowance or compensation in order to repay that? They would have to carry a financial burden to promote safety on the site for all their workmates—everyone on the site, including all trades. What are your thoughts on that?

Mr Maroney: If there was a cost burden in the sense of submitting the RTI, I think you would find that most employers would probably refund or reimburse in that sense. Elected WHS officers or HSRs within most building and construction worksites would probably be the people who would undertake that activity, and they, under the existing enterprise arrangement that we have in this state, receive an allowance already for their duties. I think they would be suitably and well and truly compensated for the additional cost, outside of the scope of their work or employment, to do those sorts of administrative tasks or requests, if that was what was required.

Mr KING: So the allowance they get for doing that role would cover the cost of RTI?

Mr Maroney: For the administrative effort, yes, that you referred to in the sense of any submission costs. I am sure an employer would no doubt reimburse them for some sort of out-of-pocket costs, or would actually submit the RTI on their behalf as a request from the workforce, if it was gone about properly through, say, the safety committee or whatever the case might be.

Mr Carlisle: I support those statements.

Mr KEMPTON: Kristian, in your submission you note that the proposed information-sharing laws were an enormous overreach which went beyond a reasonable and balanced approach to safety. Would you be able to expand on that, please?

Mr Marlow: Certainly being able to request the information as many times as you wanted is a massive overreach. There needs to be specificity and a targeted approach in terms of workplace safety. We mentioned intimidation earlier. I think intimidation and/or violence as an industrial tactic is a risk to worker safety, and all risks to worker safety must be balanced appropriately.

Mr MELLISH: Going to some of your submissions on productivity more generally, what else do you see as needing to happen on worksites in terms of lifting productivity in the lead-up to the Olympics? That is a pretty open-ended question.

Mr Marlow: In the past we have certainly advocated for an independent construction regulator to oversee both head contractors and unions. That may be best set up at the federal level, though there may be scope to look at it at the state level to oversee productivity on state infrastructure projects. We would like to see an end to pattern bargaining and really restore enterprise bargaining. Again, it is about a culture of collaboration. I think five per cent in the construction sector in quite literally my lifetime, versus 65 per cent in the rest of the market sector, is hurting everyone. That is hurting businesses, that is hurting taxpayers and that is hurting workers, because ultimately productivity should and will drive higher wages. Other than that, I do not really have more to add.

Mr Maroney: I suppose we could talk about productivity for a long time. I will keep it to the context of the WHS legislation and how sites are operated. For us at Master Builders Queensland, we see the industrialisation of safety on worksites as one of the biggest drains on productivity, and the imbalance of employer/employee consultation and engagement and how work is done is being circumvented through potential politicising and industrialising safety. We see that as a significant issue in relation to how it is delivered. With some of the projects that are directly around 1 William Street and Parliament House here, you can see evidence of that.

Additionally around productivity, as Kristian touched on with pattern bargaining, we see that the nature of the industrial environment and industrial arrangements that are in place in our industry at the moment have shifted from one of consultation to one of consent. That one of consent means that there is only one person in power or one party in power in relation to how sites are run and how productivity is delivered. Unfortunately, at the moment that is captured as being the CFMEU in relation to the enterprise agreement arrangement through the nature of BPIC and other things like that in the past. We see a rollback of that and an unwinding of that as critical. One thing that could be done in relation to that, as Kristian touched on, is a regulator, whether that was a federal regulator or a state-based regulator. In relation to elements of a previous building code or something to that effect, that could add value to unlocking some productivity around the industrial arrangements across our industry.

Mr Carlisle: I would like to build on what Mr Maroney said there, particularly the workplace health and safety use. I know that historically we like to look at—I recall my fun times at uni—days lost to industrial action, and we watch this graph just plummet down to the ground, but I have never seen a corresponding graph that looks at stoppage and lost time due to workplace health and safety incidents, whether that is genuine, vexatious or whatever—just pure data. How much time are we losing because maybe we are not getting workplace health and safety 100 per cent right? What does that look like? I think you would find that that graph went like that—that the opposite has become true. Certainly the conditions around pattern bargaining that the CFMEU has instilled flow straight down to the ETU which affects our members. There is the concept of tier 1 construction sites and those sorts of things and the impact of BPIC is certainly is huge.

As an example, when we had the Children's Hospital case, we had some wastewater on about 30 square metres on a six-level building. The 30 square metres of one level shut down the entire site. It took 150 employees off for multiple days. The employer had to go along and make a section 418 application to the Fair Work Commission, not to determine whether or not the safety measures were appropriate and whether or not they could return to work but to determine whether or not it was industrial action. That seems to be the other way around. Should we not be looking at whether or not that measure they put in place is appropriate to mean there is no longer a serious and imminent risk? Is that not what we are supposed to be determining—serious and imminent risk? Have they adequately addressed the serious and imminent risk? Can the 150 employees now return to work? That should have been the question, not whether or not this was some action organised by the union.

Mr JAMES: Rob, you mentioned briefly that during the explanatory speech the Deputy Premier raised concerns about the CFMEU using these information-sharing laws as part of a harassment campaign. Do your members share a similar concern?

Mr Maroney: Simply, yes, hence we have advocated for not only this piece of legislation in the WHS Act but also other legislation that was changed as part of that same amendment in March 2024 to be repealed because there has been a misuse of power, and particularly seen from the tier 1 builders through the CFMEU and some of the other building trades groups like the electricians' and plumbers' unions. Put simply, this piece of legislation is one minor and small step in what we see as a change needed to bring productivity and remove as much as possible the industrialisation of sites away from WHS and keep it in IR and let safety be about safety and proper engagement and support of workers going home safely every day.

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Mr Carlisle: I would like to add an example that contextualises some of what those things are. On the Cross River Rail project there was CFMEU action in relation to bargaining. That became an intimidatory picket line and workers had to send out canary employees to determine which particular Cross River Rail project the CFMEU were on that day so it would be safe for them to go to work on another site, whether it was Boggo Road, Roma Street or whatever. They had to send one supervisor to see: 'Are they here today? Yes? Then workers can go to the other site.' We had a massive—speculative, again—section 418 application to try to resolve that issue which went, frankly, up hill and down dale, but it did not really address the issue that it was not safe for those workers to go to work and that they had to put one canary out there. I think that was pretty sad. That was July of last year.

I believe on one of those sites there was a physical altercation. Someone was later found, via mobile phone information, and they were dealt with in the way that we would not want people dealt with on construction sites.

Mr KING: I appreciate your comments. Most of what we have been talking about is historic and no-one is here to defend that behaviour—let's get that clear. The concerns I have about this piece of legislation are about people onsite being able to access data for site safety—not for intimidation and not for industrial reasons but for the safety of their workmates. I am sure we all have a concern that they should be able to access that and go to the regulator. Kristian, I take your point: if there is a prescriptive way to stop overreach as an amendment to this legislation, that would then be comfortable. My concern is that someone cannot access that data and someone may die on a site because they are not able to access it. Surely, there has to be a way forward—for them to be able to access that without the onerous burden of an RTI and spending their allowance to have to pay for it. Surely there could be a realistic amendment to that.

Mr Carlisle: This probably harks back to some time I spent in the Army, but any site is like a rifle. If you see a rifle on the ground and you go to pick it up, you treat every rifle like it is immediately a problem.

Mr KING: You want to know the history.

Mr Carlisle: No, you unpack the rifle. You check that it is safe. You remove things that could contain rounds and you check. You look down the barrel of a rifle and you go, 'That is a clear rifle now,' and you put it back together and you can confidently say, 'I'm now holding a safe rifle.' That is a construction site, in my view.

Mr Maroney: Not to dramatise things, but you did mention the potential of injuring or seriously injuring a worker. There are many other parts of the legislation that do not require going back in time to look at potential data points and information that a PCBU has to manage an imminent risk to a worker. If there is an imminent risk to a worker, there is right-of-entry legislation—under 117. A union can utilise that part of the legislation to seek access to a site to manage a suspected contravention. I do not think it requires going back in time to look at records and history for things that could be five, 10, 15 or 20 years old. That would be a fishing expedition to acquire information to be used, in our view, in an inappropriate way. There are many other parts of the legislation that could be used to support the type of example that I think you were alluding to in relation to imminent risk to the health and safety of a worker.

Mr KING: I was just referring to health and safety, not someone using it for industrial harm or anything like that. It was purely for the health and safety of their workmates, wanting to get that data. Thank you for your response.

CHAIR: My question is with regard to the currency of the workplace health and safety laws that will eventuate as a result of this being repealed. Jordon, I appreciate your commentary around a rifle and making sure it is safe. That is the current problem. With that analogy and given the advocacy of each of your groups for safe workplaces, do you think focusing on current issues and current education issues and having staff time devoted to that—rather than historical context—is beneficial?

Mr Marlow: We are certainly very proactive in terms of helping our members to stay educated about safety. We put out guides; we do workshops. We recently had a National Safe Work Month breakfast. An expert in data and AI came to talk about the risks of that. A representative from Workplace Health and Safety Queensland came to talk about the new audiometric testing requirements. We also had a gentleman come out and talk about the risks of silica dust, which is very topical. We take an enormously proactive attitude towards worker safety. It is the No. 1 focus and concern of our members, as it should be for everyone in the industry. Being alert to emerging and ongoing issues is absolutely critical.

Mr Maroney: Absolutely. I echo what Kristian said. Proactive support, education and awareness of workers—and PCBUs, for that matter—is critical. We see a raft of legislation continuing to change across the WHS legislation. One of the things that is continually done, not only by all of us as employer representatives but also within key businesses, is educating and engaging with workforces about modern methods of dealing with safety issues, delivering work, changes to legislation—all of those sorts of things. More time and effort into that would be of greater value than—to answer your question, Chair—looking back at previous records as to what may have occurred or could have occurred at a point in time.

Mr Carlisle: Our core focus is on compliance. We have a technical team about electrical safety compliance, I help members predominantly with industrial relations compliance and we have a safety team that is all about, as you guessed, safety. In terms of compliance, educating and bringing people into the modern approach to how we keep people safe and send people home safely, we want to do whatever we can with that and look forward.

Mr Duncan: I agree. Looking for current safety hazards and helping our contractors and their employees to identify those hazards as they exist now and what potentially could change in the future is key right now.

CHAIR: The time for this session has now expired. There being no questions taken on notice, I thank you all for being here today and for appearing before the committee. I hope you enjoy the balance of your day.

BRODNIK, Ms Kate, Principal Policy Solicitor, Queensland Law Society

TATE, Mr Rohan, Member, Industrial Law Committee, Queensland Law Society

CHAIR: Welcome. I invite you to make an opening statement, after which the committee will have questions for you.

Ms Brodnik: Thank you for inviting the Queensland Law Society to appear today. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which we meet. As the committee may be aware, the Queensland Law Society is a peak professional body for the state's legal practitioners. We are an independent, apolitical representative body.

We would like to thank the committee for accepting our late written submission dealing with the amendments to the Work Health and Safety and Other Legislation Amendment Act. Essentially, our submission provides that, while new section 155A is flawed, there are good public policy arguments for it to be amended rather than repealed. We believe it is premature to repeal the section altogether before the impacts on the regulator, employers and worker safety are known. We submit that the government should take the opportunity to consult and review how information is best produced and then amend accordingly.

The provision of appropriately scoped information about a contravention of the act or a serious risk to health and safety will assist in addressing these risks and is commensurate with the purposes of the act including the role of the regulator, the health and safety representative and the entry permit holder. I am joined today by Rohan Tate, a member of our Industrial Law Committee. We are happy to answer the committee's questions.

Mr MELLISH: Thank you for your submission and for appearing. You have suggested amendments in your submission rather than the wholesale repeal of section 155A. Can you expand on your reasons for that and what those amendments would look like?

Ms Brodnik: Looking at the section as drafted, it is apparent that, while it is discretionary and therefore it seems up to the regulator to decide what information should be disclosed under the section and in accordance with their policies, there are no timeframes or other criteria which might sufficiently narrow the scope. There are confidentiality requirements in relation to personal information, but we would be happy to see that protected. As we said, that would be our preference, rather than repealing it. If there was a concern about multiple requests or about going too far back in time and that it would be too administratively burdensome for the regulator, we would be happy to look at some amendments that can facilitate both paths.

Mr MELLISH: One of the arguments from the government for the repeal is the administrative burden placed on the regulator. Do you have any views on that? You mentioned before that it could be amended or changed so it is not as burdensome.

Ms Brodnik: Yes, that is right. I see from the materials there was a suggestion early on that it might be an automated process. I do not think that is ever possible when you need to make assessments and review to see what information needs to be redacted because it is personal or medical information. There will be some resources that need to be expended, but it could be limited to a certain type of request and in a certain period of time to lessen the burden. The regulator has these functions under the act and should be appropriately resourced to carry out these functions. The alternative, potentially, is getting the employer to do so, which would then be burdensome on the employer.

Mr KEMPTON: Could you give any practical examples of the issues that practitioners will face as a result of this bill in their day-to-day practice in the area?

Mr Tate: At the moment it is not introduced. We are probably focused on 155A. Putting the practical issues to one side, the purpose of the Work Health and Safety Act is to eliminate hazards in the workplace, whether that be the worst thing—a fatality—or injuries. From a practical perspective, looking at the Work Health and Safety Act as a work health and safety act—putting to one side any industrial concerns—the free flow of information and the access to information on a worksite is a good thing because if people are better educated on a worksite about what incidents might be occurring then hazards can be addressed.

Having a look at the proposed changes, my concern would be that there is a mechanism—albeit it has not started—which could assist in the free flow of information which, used for an appropriate purpose, being onsite work health and safety hazards, could assist in reducing harms and the risk of the worst thing possible: a fatality onsite. We have a lot of big construction coming up in Queensland. Worksites are dangerous places. I do not know the figures, but it is something like a

person a day dies on a construction site in Australia. This is not only about construction—it is about other things as well—but I think anything to improve the flow of information would be helpful. Definitely thinking about how to manage that with a policy for the regulator so that it is a bit more streamlined perhaps would be a good thing.

Mr KING: I know that you were here for the last session so I will not go into the depth I did then in terms of a scenario, but if someone needs that information and the PCBU does not have it then being able to access that information should be imperative and not be a financial burden on someone on a worksite. Would the amendments you have suggested enable that to continue?

Mr Tate: We would probably like some time to be consulted and to consider what the position might be, thinking about how that information is delivered and obtained, to perhaps deal with some of the concerns that have been raised and make sure that information is promptly provided to people on a worksite—that is what it is about—to then deal with those issues. I think some further consultation would be helpful. I think it would be manageable to deal with some of the issues that I heard being raised earlier today.

Mr JAMES: Rohan, you mentioned better education on a worksite. Doesn't this normally happen anyway on a worksite—the principal contractor, the superintendent and the PCBUs regularly have meetings about this before they commence the day?

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Mr Tate: I think the issue is: what if we do not have a good employer? What if we do not have a PCBU that is complying with their obligations? Let us take an example where there has been a particular incident onsite. You have had the inspectorate come out and they have issued a PIN. No-one really knows about it; that is not being communicated. They have not done their proper pre-start meeting—it has not been disseminated—but someone has heard from someone else on the other shift that something has happened and it has not been disseminated. This would allow that person to go and find out that information, and that is where I think it is powerful.

I think in a scenario where perhaps things are working well, sure, perhaps it is going to be disseminated, but what if it is not? The fact is that people do not comply with the Work Health and Safety Act all the time. It is a regulatory instrument that is meant to improve safety on worksites and I think this—used in the way that I think it is intended from my reading of it; I do not know the historical background for it—can help in certain situations. People may not feel the need to go and request this information, for example, if the appropriate things have happened onsite and there has been the appropriate spreading of information through the appropriate channels at pre-starts and so forth.

CHAIR: With regard to the 2022 independent review into these matters, there was no recommendation in that review that included these information-sharing laws. Were you consulted about those information-sharing laws back at that time and did you advocate for them?

Ms Brodnik: We did have to go back and look to see if we made a submission and participated in the inquiry on the previous bill. We did, but we did not look at this particular new section. There was a lot in that legislation so we focused on some of the other matters. I do not think we made a submission to the review and, no, I do not believe we were consulted beforehand.

CHAIR: I note that you were here earlier, and I reference some of the concerns and intimidation referenced by the previous witnesses. Do you have concerns about the misuse of these laws and the negative impact this would have on the health and wellbeing of workers?

Ms Brodnik: Something I omitted to say when I was asked about what measures we could recommend to refine the section is that if there was a concern about the types of behaviour that you just mentioned you could amend the section to say what the information could be used for. I note there is currently section 271, but that relates to the use of confidential information and the misuse. If you want to narrow the scope of any information then that could be appropriately narrowed to say, as has been suggested here, that it is only for health and safety and is not necessarily used for other things.

Mr JAMES: Can you explain the value to worker safety when an EPH or HSR receives information from notices relating to particular hazards that are no longer at the workplace and that no longer represent a risk to workers?

Mr Tate: At the end of the day, as experiential learners—as human beings—I think all information is good. I am not certain if there is a particular scenario that led to that line of questioning, but I think the purpose of the Work Health and Safety Act and the objects in section 3 are about protecting workers and other persons against harm to their health, safety and welfare. As long as the information is assisting to manage future hazards, I am not certain why there would be a problem with information being provided for a safety purpose because I think information is power insofar as being able to ensure we stop bad things happening on worksites and at workplaces.

Ms Brodnik: Maybe an example would be a piece of machinery or something that is no longer used by the worksite. Potentially information about that particular piece of machinery is not as relevant for the future. Again, that could be something that is incorporated into a policy that the regulator would adhere to when responding to an information request.

Mr Tate: I could probably say this as well: workplaces are not static. Whether it be a legal office, a worksite or a power station, things change. Maybe something happened 10 years ago and then the same thing might come in—again, I am just using something off the top of my head—and some other issue then might happen in the future that is a bit similar to something in the past and if there is a learning from the past to prevent a hazard in the future that would be helpful. Shutdowns are an example. It might be that there is an imminent issue with a shutdown at a power station and someone wants some information about a previous shutdown to make sure there is compliance with the future shutdown. Technically that is historical data, but that could then be used to frame the health and safety model to deal with the next shutdown—just as an example.

Mr JAMES: How would you prevent that information from being misused?

Mr Tate: What does 'misuse' mean?

Mr JAMES: I reference the CFMEU inquiry.

Mr Tate: Perhaps that might be best answered, if it is related to the commission of inquiry, up the road. It is a bit of a difficult one. Health and safety is about health and safety and that is what it should be about. It should not be used for any purpose other than the objects of the act, which is improving conditions for everybody that is working. That is my firm view.

CHAIR: At last week's public briefing the member for McConnel drew an analogy between the administrative resources required to find notices to answer a question on notice and the resources required to respond to requests under the proposed laws as two different aspects. Would you agree that these are two different administrative functions, which the department correctly pointed out would require many additional elements, such as checking proof of identity of the requester and checking the requester has standing in the matter.

Mr Tate: If I have understood your question properly, the question here then becomes a balancing act between resources and reducing risk. If there is a compliance cost and we save a life, that is, I think, a question for you. I think there should be a way for this to be able to be done in a way that is not overly burdensome that also then helps creates safer workplaces.

Ms Brodnik: Chair, do you mind if I just add to that?

CHAIR: Okay.

Ms Brodnik: I was just thinking across the different policy areas that QLS looks at and as I imagine inspectors' and regulators' processes become more and more automated—things are more online; there is not as much paper floating around—that might reduce the resource burden. In terms of verifying identity, there are whole-of-government resources that have been developed, like QDI and other things, that could be looked at to help streamline that process a little bit.

CHAIR: The committee has no further questions for you. Thank you very much for your submission and your thoughtfulness. I hope you enjoy the balance of your day. There are no questions on notice. Thank you for being here today.

GAFFY, Mr Darryn, Senior Industrial Officer, Shop, Distributive and Allied Employees Association Queensland

LITTLEBOY, Mr Matt, Workplace Health and Safety Officer, Shop, Distributive and Allied Employees Association Queensland

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

CHAIR: Thank you, gentlemen, for being here today. I invite you to make an opening statement, after which the committee will have questions for you.

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.

I would like to start by reiterating our submission in relation to the failure to adequately engage in consultation with the community in developing the bill and the appropriateness of this process being used as a substitute for proper consultation. You have just heard from others who have said they would appreciate further consultation. In our view, a mere two hours is clearly not enough time to understand the issues, for those affected by the proposed amendments to ventilate their concerns or to proactively engage in dialogue about the potential options for resolving the issues. That horse has obviously bolted and each of you now has an unenviable task of having to work through those matters quickly in response to the specific amendments in the bill.

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The irony of that situation, the one that we find ourselves in, is that the bill seeks to repeal provisions in an act—the Work Health and Safety Act—that is underpinned by the concept of consultation and cooperation. That is what work health and safety is all about in the end: the relevant parties consulting and cooperating with each other to make workplaces safe and ensure workers and others entering the workplace are given the highest level of protection against harm to their health, safety and welfare. It is in the object of the Work Health and Safety Act and there is even a code of practice about it. Our principal submissions relate to part 4 of the bill and specifically clause 12, which proposes to omit section 52 of the Work Health and Safety and Other Legislation Amendment Act 2024 to repeal the not-yet-proclaimed new section 155A of the Work Health and Safety Act.

Before I turn to a summary of our key submissions, I want to provide a few remarks about the context in which the committee ought to consider the bill. The first is that the HSR is voluntary. In a workplace, there is a natural power dynamic because the PCBU is the employer and the HSRs are workers. The PCBU, in terms of work health and safety, has all the control. They manage the workplace. HSR powers and functions in the act are designed to balance things so that workers can have a reasonable say and a fair go in terms of making sure their workplace is safe.

Work health and safety is also designed on a tripartite system with regulators, employers and workers coming together and working together. It also does not exclusively apply to the construction industry. You have heard a lot about that. The introduction of this bill seemed to be all about that. It is not about the construction industry, construction industry employer associations or construction unions. Work health and safety applies to every worker and PCBU in this state. This is a state that, according to Jobs and Skills Australia, has approximately 3.01 million people in employment. Approximately 283,100 of those people are employed in construction—that is, 9.4 per cent of Queenslanders. Ninety per cent of working Queenslanders, whom you represent, do not work in construction. One in four working Queenslanders work in the healthcare and social assistance or retail trade industries alone. The committee is in receipt of submissions from unions that represent relevant workers in those industries, including the SDA who appear with me today. Their voices are extremely important to the committee's consideration of the bill.

Construction is also not the only dangerous industry to work in. According to Safe Work Australia's *Key work health and safety statistics Australia 2025* report, published in October this year, the agriculture, forestry and fishing industry and the transport, postal and warehousing industry both had a significantly higher fatality rate per 100,000 workers than construction in 2024. That is 13.7 and 7.4 respectively versus 2.8 for construction. The most serious workers compensation claims were made in the healthcare and social assistance industry: 19.9 per cent versus 12 per cent for construction. The thing about all of those industries that I just mentioned is that insecure work is common in those industries, which leaves workers vulnerable to the worst impacts of reprisal from egregious employers.

I turn to section 155A. We submit to the committee that the provision should not be repealed. This is for all the reasons detailed in our written submission. In summary, they are that it facilitates the application of the existing right in section 70(1) (cb) of the Work Health and Safety Act for a HSR to receive improvement, prohibition and non-disturbance notices from PCBUs, particularly when a PCBU fails to comply with that obligation. In those circumstances, it provides the HSR with an avenue, other than appointing an inspector or filing a work health and safety dispute in the Queensland Industrial Relations Commission under the Work Health and Safety Act, to obtain a copy of the notice. These are rights that are viewed by many PCBUs as adversarial and many HSRs, particularly in the industries I mentioned, are reluctant to exercise them for fear of reprisal. The informal administrative release of the information from a regulator to the HSR provides some protection because it is less adversarial.

In a similar vein, section 155A also applies to requests from work health and safety entry permit holders to further safeguard HSRs from reprisal as they will not be identified as a person who is asking for the information. In respect of workers who are not represented by HSRs, it ensures they are entitled to the same fair and effective representation from their union as those represented by a HSR, which is an object of the Work Health and Safety Act. In respect of the information contained in historical notices, it provides HSRs and entry permit holders with a valuable tool to gather necessary evidence to resolve recurring work health and safety issues in alternative pathways that are provided by the work health and safety laws such as filing a dispute, particularly when the conduct of recidivist PCBUs has been subject to inconsistent compliance and enforcement approaches by the regulator.

Lastly, the concerns regarding misuse, in our view, are not warranted. As currently prescribed in the Work Health and Safety and Other Legislation Amendment Act, section 155A, if commenced, would be subject to the existing requirements in the Work Health and Safety Act in respect of confidentiality of information in section 271. Section 64(1) of the Work Health and Safety and Other Legislation Amendment Act provides that amendment so that it would apply to section 155A. That section does two things. The first thing is that it says that someone must not disclose to anyone else the information or give access to the document or use the information for any purpose other than those prescribed in that section. There is a range of them, but essentially they are all about what is necessary to exercise the powers and functions under the act. It is about work health and safety purposes. The regulator's power in section 155A is also discretionary, and the issues regarding the reason or purpose of a request could reasonably be resolved.

The QCU and the SDA have made sensible suggestions about this matter. I have not had the time to review the Law Society's submissions but it sounds like they have made similar suggestions.

CHAIR: Darryn or Matt, would you like to make an opening statement?

Mr Littleboy: The SDA represents primarily the retail, fast-food and warehousing or logistics sectors in Queensland. Our submission really goes to similar points that Nate was raising with regard to the proposed repeal before commencement of the unproclaimed section 155A of the Work Health and Safety and Other Legislation Amendment Act 2024. The main the points we want to call out are through our submission and I guess it is in contrast to the points raised for the removal in and of itself.

Nate has raised a few of the points we would also make. In the retail sector we are talking about a workforce that is definitely not a militant workforce or that type of a workforce. There is a lot of precarious employment throughout, particularly if you look into fast food on top of that. It is a young workforce and retail increasingly is becoming a younger end workforce. It is a lot of people's first job. That creates a power dynamic that does not necessarily exist in all other industries. It also creates a situation where safety is not always the focal point of those workers, I suppose, in that it is a new workforce and they do not have the confidence to raise these types of issues. Even to talk around HSRs, in and of itself, they are not as common in these industries as they would be in probably some other industries, unfortunately, but that is definitely something else to consider around those things.

There are existing mechanisms within the act to allow for access to information. From our experience, just to talk around some of those things, particularly with section 210, the display of notices, when we are looking at retailers, particularly the bigger retailers, we are talking about multiple stores across a very large geographical area. There are no guarantees these things have been put up or put up in a place where they will be noticed. A lot of workers do not necessarily access a lunchroom for a break. They are not working shift patterns that are long enough to be in there to have a break. They come into work and leave again. Having these notices displayed is really going to be up to a PCBU that is potentially not happy about the situation in the first place. It is also the engagement of that workforce.

To build on that from an entry permit holder perspective, and we can talk to this from actual experience, if we were to raise—and typically it does fall to us to raise this in our industries—these issues to the regulator, for us to access information on an issue or a suspected contravention that we have raised we have to access it through right to information. By doing so, we can only access that once the matter has been deemed closed by the regulator, which is not timely and it really makes it almost a pointless endeavour, because if we cannot act and we cannot get that information we have no ability to see what is happening, to see whether or not that PCBU is complying or following steps. As we have been told, confidentiality prohibits the regulator from telling us anything further than what we can actually see occurring in the workplace itself.

Without going on about a lot of it, another point to make around it was a suggestion that the harmonisation between the states is a key focus here. Over the past 10 years at least, Queensland has definitely been leading the way in health and safety. A lot of states are now trying to catch up. We are seeing them taking some great aspects of our legislation to include into theirs. While alignment is a good thing and it gets everyone up to a standard, I do not think it is a case of saying that we should not be continuing to stay where we were as far as moving these things forward.

Lastly, for us, there are definitely avenues here to approach this if it is not just implemented as it stands. We think that at least there should be some exploration of it, whether it is a 12-month period or whether there are certain boundaries that are put across it. To use the examples, if the HSR for that work group or, in our case, the entry permit holder has raised those issues then surely they are an interested party. You can understand that you do not want everybody under the sun having access to it, but if they are directly involved or directly affected by the issue then I think that is the important thing.

Mr MELLISH: We have heard a bit this morning—you might have heard some of that—about safety concerns from a construction industry point of view. Obviously the SDA and QCU represent a lot of members who are not in the construction industry. From a retail, warehousing and distribution point of view, how can you see the positive implementation of the existing section 155A in terms of worker safety? I recall being a night filler in my 20s and seeing some pretty unsafe infrastructure or work practices at a few worksites. For some of your non-construction members, how do you see the benefits of the bill as it stood before these proposed changes?

Mr Littleboy: Again to touch on retail particularly, and obviously fast food falls into a similar sort of category with those types of things, we are talking about a workforce that is typically not encouraged to speak up and typically does not speak up. Where we do get HSRs in place, it is a very difficult job for them. I think Nate rightly pointed out before that we cannot really call it a job; it is a volunteer role. It is a very different dynamic for that individual in the workplace. There tends to be, in our experience at least, a lot of friction that comes from that.

Whilst there are a lot of avenues within the legislation that provide for the HSR and the PCBU to work together, that does not necessarily occur. In fact, in some respects we see that the HSRs have to fight pretty hard to actually get recognised in their roles, for what it stands for. Looking at that as far as having the ability to get any notices and that type of information directly, whilst the act does allow for access to that information it is not a 'must'; it is a 'may' currently. I think it is important that, if the PCBU is not going to comply with these things, there is an avenue for a HSR or, in our case, an entry permit holder to get access to them in a timely manner where it can actually have some impact and hopefully get an issue resolved faster.

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CHAIR: Did you have something to add, Nate?

Mr Tosh: I do, yes. I just want to add a couple of things. Leading on from the comment that Matt made around HSRs in some industries not being that common, that might be because of the transient workforce and the time it takes to get HSRs established. There might be other reasons for that such as the power dynamics and people being reluctant to stick their hand up or whatever it might be. The current sharing of information provisions to HSRs only works where they are elected in workplaces. If you ask the regulator how many HSRs are elected in Queensland, it is not every workplace in Queensland. Not every workplace has a HSR, so what happens in those circumstances for those workers to find out what is going on? Either the PCBU has to tell them or there was the ability in terms of the job of 155A—that is, 155A would allow an entry permit holder, along with the other things they can do in terms of entering a workplace and gathering information, to seek that information. When they got that information, they could then, for instance, find out what is going on, enter the workplace to hold discussions and educate those workers about their health and safety and how they can keep themselves safe in the workplace and also educate them about what they can do themselves to keep themselves safe in the workplace, how to raise an issue and so on and so forth. It can work in that way.

I also want to talk about a circumstance where you have workplaces that are hierarchical, which creates other issues in terms of HSRs standing up and seeking information. I had a story from an affiliate—that is, a union that represents workers in a government department that is hierarchical. An issue happened in a particular workplace and it affected the workers in that work group, so the HSR in that work group shared that information, but that issue had broader application to the operations of the whole department in terms of these workers. They were police officers. There had to be a lengthy process that the union had to get involved in industrially to get the PCBU to agree to share that information with other HSRs or workers in other work groups so they could be aware of what the issue is. The benefit of this provision is that the current information-sharing provisions to HSRs are about sharing information to a HSR for that particular work group, but it is not always that the issue that arises in that particular location or that work group has sole application there. It can have broader application, so it allows for the workers in similar scenarios where that safety issue may not have arisen—say an employer has a site A, B and C—but there is the potential for that risk to arise and those workers can be made aware of that. I hope that answers your question.

Mr MELLISH: Thank you.

Mr KEMPTON: Nate, under the proposed laws an EPH or a HSR can make a blanket request to a regulator for information relating to improvement notices or prohibition notices that can date back well into the past. Is it not the case that these requests will capture information on hazards no longer present on worksites? If that is the case, what benefit could that provide?

Mr Tosh: That is a good question. One of the benefits they can provide is when you look at the nature of what those notices are about. Let us talk about prohibition notices. Prohibition notices are where an inspector has formed a reasonable belief that something that is happening in a workplace involves or will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard or that if it occurs it will lead to those things and then it is issued to prohibit the PCBU from carrying out that activity. You have a circumstance where an inspector—a representative of the regulator—has formed a view about something and that being of serious or imminent risk to health or safety, so there is a view that is on record. That can assist with future issues to say that that view has already been expressed and this is the rationale as to why and that can help the parties reach a timely, final and effective resolution, which is what issue resolution is all about in the Work Health and Safety Act, because we can understand what the rationale was then and why that view was formed and so why wouldn't that same view be formed now? It is beneficial. Obviously the Work Health and Safety Act is about, in the first instance, the parties working together. If we can understand that and we can have that conversation now instead of involving an inspector or instead of going down to the Queensland Industrial Relations Commission for a dispute, that is beneficial for everyone. It gets resolved in a more timely manner and is more effective. I think that is a benefit.

Mr KEMPTON: So you are saying it may validate a position or in fact discount it by having a reference?

Mr Tosh: It could do both, but it is going to help the parties, I guess, overcome an impasse or just be able to work through an issue with some context about how these things have been dealt with before or the views that have been previously formed.

CHAIR: You went to something about which I was going to ask a point of clarification, but it is a requirement and it is an obligation that the PCBU must give a copy of that to the HSR.

Mr Tosh: It is, yes, and that is to the HSR, and I guess that goes to my previous point: we have lots of workplaces that do not have HSRs. Have a look at the Public Service. There are lots of departments that do not have HSRs. These things take time to establish and the 2022 review heard a lot from stakeholders who provided input about all of the barriers that—not all—recalcitrant PCBUs put in place to prevent that from being established, so we need to remember workers—and it is the majority of them—who are not represented by HSRs.

Mr KING: Thanks for coming in. I am from the construction industry, but I appreciate where you are coming from. Health care and retail are exactly the same and face the same risks and hazards. I did like the point about that historic data. If you have a new PCBU that has taken over a site in a factory or whatever, they do not know the history but are able to get that history. It is a two-way street. You may be able to say, 'Yes, there was a historic accident. All the rumours are true, but it's been dealt with. It's no longer a hazard and work can proceed,' so it does go both ways. Thanks for clarifying that.

My question is about the perceived administrative burden that we keep hearing about in that this would be a huge administrative burden on the regulator. We only have one example of when this has been used that we are dealing with as a committee, but I will not raise that now. If this piece of legislation has not come into effect now, how do we know it is an administrative burden? Someone mentioned earlier a potential trial to see, if we do bring this in, if it does create problems. I just wanted to see if you could expand on that, please.

Mr Littleboy: I think that is our position. From our perspective, getting rid of it before it commences means that it is really difficult to say the impact it is going to have. Obviously we can talk to it from the industries that we cover, and we really do not see that it would be an onerous thing. We are very active in our industries and we have very good working relationships with all of the companies that we deal with, and a lot of them are very big companies. When you get to these types of situations where this becomes necessary, we do not look at the regulator as some policeman who has to come in. Sometimes that is just the way that we get something resolved. We can have a different type of a conversation, because everyone is right until they are wrong a lot of the times. For us, it is a case to see if the historical side of it becomes too burdensome, but I guess the immediacy is how we view it as a problem.

In retail these problems will crop up and they need to be dealt with then and there. There are plenty of examples of these types of issues that we have dealt with. It is no good waiting six to eight months for us to get information after it is all said and done, and we are still not 100 per cent sure a lot of the time because in an RTI, for example, a lot of the information gets redacted. We do not get everything. We do not know what has happened and the inspectors are not able to tell us all the intimate details. Unfortunately, we are one of those industries where we are not flush with HSRs, so it really does fall on to us to do a lot of that legwork for our members. Equally, I note that HSRs are still volunteers and workers, so it is not as easy as it sounds for them to just go and do all these things either, so we are really key in supporting all of that. From our perspective, that is why we would say, 'Yes, it would be interesting to see it play out,' because I personally do not think it would be as burdensome as it has been made to sound.

Mr Tosh: Could I please add to that?

CHAIR: You can add something, Nate.

Mr Tosh: Thank you, Chair. I think the first thing about the administrative burden is that it would have been really great to be consulted about that and understand exactly what the burden was so we can work through the issues. That would have been helpful. I think some of the amendments that have been suggested—SDA, ourselves, the Law Society—might go to narrow the scope. Maybe that could resolve some administrative burden, but the thing that I think about is: what is the alternative? The alternative is RTI. That is administratively burdensome for the department. Not only that, it is costly on whoever is making the application. The minimum time you can get any documents is 35 business days. That is not quick enough to resolve a work health and safety issue that is imminent. That is ridiculous, actually. I do not know if anyone has gone through the RTI process. The minimum days is 35, but you get about seven extensions and you do not get the documents until forever. That is not appropriate for the purposes of seeking information for work health and safety. We need to know today because we need to keep people safe. We need it to keep people safe yesterday; that is why we need to know today. I guess that is what I would say with regard to that.

CHAIR: What you were just talking about then, Nate, is historical matters whereas this deals with the current safety issues immediately which would not require an RTI.

Mr Tosh: Not necessarily, because 155A is not restricted only to historical information; it just says I can get information on a prohibition and improvement notice. One may have been issued yesterday and, from what I gathered from the public briefing, the regulator would say, 'Sorry, you've got to go through RTI.' We would say, 'You issued it yesterday. Can't you give me information about it?'

CHAIR: There is that obligation for them to share, but we are going around in circles with that one.

Mr JAMES: Matt, in your submission, option 2 of the summary states—

Amend rather than repeal, adding clear request criteria and privacy safeguards.

Can you extrapolate on clear request criteria? Also, how do you guarantee the privacy safeguards?

Mr Littleboy: I guess that is where we sit on this in terms of the parameters and, again, that comes down to a consultation piece. If this was to continue and that was something everyone was to look at, I think that would be a really important step in it: to try and look at the original intent, but what

007 is an intent that is going to work for all sides in all of these things? It is a good, proactive step, and that is where safety should sit—it should not just be a reactive thing—and I think kind of without it that is where we sit. As far as the privacy and other matters that go with that, there is a lot of privacy that is already in place. Just to pick up on something Nate just said, when we have raised an issue in the past with the regulator and then asked for some feedback from the inspector, we have been told that due to privacy they cannot tell us anything. The only way we will get that information is to do an RTI. The ridiculousness of that is that I cannot put in an RTI until the matter is closed, because if I put it in while it is still live the only thing that will come up is that I have put in a complaint around a suspected contravention.

There is a lot of privacy and confidentiality that already sits around all of this. If you do an RTI, that goes through a fairly rigorous process as well. You do not necessarily get all of the information. Up-front we look at who has access to that information. If it is a retail-based issue and it is something that we have interest in then it is probably us. Does that matter for a construction business somewhere else? It probably does not. We look at the relevance as much as anything. Whilst you can learn from safety issues in other places, in something like this it is really to do with who needs to know or who should know as opposed to saying, 'Too bad. You can find out later.'

Mr Tosh: I mentioned earlier that if section 155A were to commence amendments would be made so that section 271 would also apply about confidentiality of information. There is specifically a note that says, 'The use or disclosure of personal information is also regulated under the Privacy Act ...' The privacy laws apply to information that would be shared under this provision because section 271 applies, and section 271 explicitly calls out the Privacy Act and also how that information can be used. It says that information about a person cannot be accessed or used without their consent if it is about a particular person. There are already provisions in the Work Health and Safety Act to deal with what you are talking about. The amendments in the Work Health and Safety and Other Legislation Amendment Act made that apply to section 155A.

Mr MELLISH: Following on from your point about existing privacy laws applying, both of your submissions mention that the regulator already has RTI processes in place, so they are familiar with having to review and redact particular information. Do you question why, then, that is being used as a reason for repealing this section in that that would have to go through a review and redact process before passing on information, whereas they already do that?

Mr Littleboy: An experience we have had in the last 12 months is probably the best way I can frame this. It was us that raised a suspected contravention to the regulator. An inspector was engaged and it went through a process. That process took a number of months back and forth. Again, we are on the sidelines during that process. We do not actually know what is going on. In the words of the inspector, 'I can only tell you what you would be able to see in the workplace.' That is a lot of engagement that we have to do on top of what we would normally do. Even then there are no clear guidelines about what they have to do or how they are going to do that.

It is great that the inspector is involved and has said, 'You have to control this in this manner,' but when we do not know what those controls are we do not know if they are being applied accurately. Again, in the workforces that we represent, we are talking about in some cases businesses that have hundreds of locations across the state. They might well have a very good control mechanism in place, but when that filters out across all the stores, the guarantee that everyone is going to follow it starts to change. That is what we found particularly in this instance.

Going through the RTI process, I think the issue itself was raised in, say, June. We finally got the information in March or April the following year, heavily redacted. We called the inspector to come and sit with us to go through it because we finally could talk about something that we originally raised in our own way. Again, for us it comes back to things happening in a timely manner. It is equally frustrating for the inspectors because you can tell that they are trying not to breach confidentiality, but they are trying to have a conversation with you. They are working to find a fix for the issue.

Mr MELLISH: From June to March, the issue will probably resolve itself or other people have been affected that you could not help or assist.

Mr Littleboy: Suffice it to say, the issue is still going on. It is still being resolved.

Mr Tosh: I will add some input to that. Consultation would have been really good to understand why an RTI application somehow is less administratively burdensome than an application under section 155A. They already do it with RTIs, so we do not really understand that. Also, at the public briefing it sounded like the department were talking about resources that would be required. I do not know if it is a resourcing decision that has ended up in a provision from an act being repealed, but that seems like a nonsensical thing to occur to me.

CHAIR: We have been referring to you as SDA. For those who are watching, SDA is short for the Shop, Distributive and Allied Employees Association. Thank you for your insight into the different safety issues in your workplaces versus some of the construction workplaces. It shows that one size does not fit all, but we need to have a system to make sure that workplace health and safety representatives and PCBUs are working together. My understanding is that it is not common practice to resolve these things through RTIs. It is more about the communication and the obligations that are in place. That is not a question; it is a statement. Do you agree with that statement?

Mr Tosh: I think the intention of the act is that PCBUs and workers will talk to each other. The things that are then put in the act are when that does not happen so there are mechanisms in place to ensure people can access that information.

CHAIR: SDA, in terms of your submission, you mention the 2022 review into the workplace health and safety recommendations, the independent review, and you refer to 'this enhancement', by which I assume you mean the information-sharing laws. Is that correct?

Mr Littleboy: It talks in that recommendation particularly around imposing onto the PCBU that requirement. The way I would view that is that this is keeping that in check with what—from our perspective, particularly, as I say, not all workers and not all workforces have the HSRs or have the ability to have those conversations. Again, a HSR can request and not get. If there is no HSR, which across retail is very common, there is nobody to make that request. It would fall back onto us, for example. That is where we would see that coming in.

CHAIR: The 2022 independent review did not actually recommend the information-sharing laws.

Mr Tosh: While the recommendation was specifically about what section 70(1) (cb) does, which is the PCBU sharing that with the HSR—again, I do not know; I was not involved in the development of the bill—my take is that section 155A addresses key issues or threads in the review and facilitates section 70(1) (cb). It talked about workers and HSRs fearing reprisal. I talked about that before. In section 18 of our submission we talk about the 2022 review and that the reviewers commented—

'[f]or HSRs to be able to perform the role envisaged by the WHS Act, it is necessary for [them] to be completely integrated into the identification and resolution of safety issues at a workplace', and identified an HSR's right to receive information as a key issue that required clarification to ensure this is fully realised.

They then said—

'[i]t is impossible for an HSR to be effective in the performance of their functions and powers if they are not apprised of the safety issues that have been identified at a workplace'.

That issue and reprisal is what section 155A is aimed at. In addition to that, it is aimed at when a PCBU does not comply with their obligation under section 70(1) (cb).

CHAIR: In relation to that 2022 independent review, it did not make that recommendation. Can you tell the committee what advocacy you each made to the former government or minister with regard to having these amendments put in place back then?

Mr Tosh: I would have to take that on notice. I am happy to provide a fulsome answer to the committee. What I will say as a brief comment is that we have advocated from the beginning of the review for greater information sharing to allow both HSRs and entry permit holders to appropriately perform their functions under the act. Information is key—you have heard from other submitters—to understanding the issues and being able to resolve them.

Mr Littleboy: I would have to take that on notice as well. I could not recall that off the top of my head. I just highlight that ours is an industry and multiple industries where HSRs are not prevalent. That is something we think is a big concern. Of that nature is why we think it is really important, because we want it to be a more inclusive thing as opposed to an 'us' versus 'them' scenario that seems to persist now. I would have to take that on notice.

Mr KING: I really appreciate looking at it through the prism of the non-construction sector. We all see the heat in the media about a particular militant construction union, but that is a very small percentage of what we are talking about here. I will go back to the administrative burden of going through an RTI process—and I appreciate you illustrating that for us—versus the administrative burden of going to the regulator under section 155A versus the administrative burden of a workplace fatality. That is a huge administrative burden, I would imagine. If you weigh the three of those up, do you have a final comment on that?

Mr Littleboy: It is a pertinent thing and I think it is a frustration for us when we look at WHS. Retail does not get this banner headline and it is not a big focus for a lot of people, but there are a lot of safety issues et cetera in retail. You do not have to look too far to see the increase, even in the media reporting, of the violence and things that are going on within the industry. Equally, that is increasing but so is weaponised violence. We now have the knife laws that have been introduced. There are other things imminently, hopefully, that we can see, but that is a big issue. I would always say that in the interests of safety it should be proactive. Unfortunately, what we see so often is that it is reactive. I would agree that we certainly do not want to see that in any industry but certainly not within the industries that we look after.

Mr Tosh: I will answer that question in a different way. What I will say is that a fatality is the worst circumstance that can occur in terms of work health and safety. The concept of work health and safety throughout the act comes with the idea of 'reasonably practicable'. In that it talks about all of the relevant matters that must be considered. Finally is cost. Cost is the last thing you worry about. You think about the degree of harm, the likelihood of the hazard occurring, the availability and suitability of ways to eliminate the risk. What a person concerned knows or ought to reasonably know about the hazard or the ways of eliminating the risk is also key. Information sharing is about everyone being able to know that. There needs to be the correct balance between what is the administrative burden and what is providing workers with the highest level of protection against harm to their safety, welfare and health, which is in the object of the Work Health and Safety Act.

CHAIR: The time for this hearing has now expired. You have taken a couple of questions on notice. If you could get responses back to us by Tuesday, 25 November, that would be great. Thank you for appearing before the committee today and providing your evidence. That concludes this hearing. Thank you for your participation. I also thank all those who were here earlier. Thank you to our Hansard reporters, secretariat staff and broadcast staff for your assistance. A transcript of today's briefing will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 11.13 am.