COMMISSION OF INQUIRY
INTO THE CFMEU AND
MISCONDUCT IN THE CONSTRUCTION INDUSTRY

CEPU, ETUQ, AND PGEU FURTHER SUBMISSIONS ON A CODE OF PRACTICE AND INDEPENDENT REGULATOR

Introduction

1. The unions provided submissions to the Commission about a proposed code on 14 August 2026. This document is supplementary to those submissions and should be read with them. Terms defined in the 14 August submissions have the same meaning here.

2. The Commission provided material used by the Productivity Commission to the unions after the unions provided their 14 August submissions. That material has permitted Professor O'Brien to better understand the assumptions and modelling undertaken by the Productivity Commission. He has provided a supplementary report,[1] in which he explains that his opinions have not changed, and in fact have been strengthened in two respects, in light of material produced by the Productivity Commission.

3. The unions have also obtained an expert report from Professor Walters,[2] an emeritus professor at Cardiff University who is an expert in workplace health and safety. He provides an opinion regarding those considerations in respect of the proposed code.

4. The two further reports reinforce the unions' submissions that the Commission should not accept that the reintroduction of a code and and independent regulator will improve productivity or workplace health and safety in the Queensland construction industry. No sufficient basis has been identified to justify either conclusion.

Professor O'Brien's opinions have not changed

5. Professor O'Brien's first report predominantly addresses the first, and primary, justification advanced by Counsel Assisting for the reintroduction of a code, *viz.*, that it may deliver improvements to productivity in the Queensland construction industry.[3] That claim is said to be supported, principally, by the Productivity Commission's recommendation to re-introduce such a code.[4]

6. Professor O'Brien's first report directly contradicts the methodology, foundations, and conclusions expressed by the Productivity Commission. In light of that report, it was submitted that the Commission would be very slow to adopt any of the Productivity Commission's recommendations.[5] Professor O'Brien's supplementary report confirms that his opinions have not changed, and in fact, his opinions have been strengthened in two respects.

---

1 **Professor O'Brien's Supplementary Report** dated 16 September 2026.

2 **Professor Walters' Expert Report** dated 21 September 2026.

3 Counsel Assisting's further submissions at page 5, [14](a) and pages 5 to 9, [16] to [28].

4 Counsel Assisting's further submissions at page 8, [27].

5 Unions' 14 August submissions at page 7, [29].

7. *First*, in respect of the opinions he expresses in response to Question 5, the further material reinforces his view that cost and productivity aspects of BPIC were conflated by the Productivity Commission.[6] Professor O'Brien notes that the BPIC cost benefit model included items in the 'productivity' estimates that reflect costs associated with the operation of BPIC and would not be captured in official ABS productivity estimates.[7] He reiterates that care must be taken to distinguish between the cost and productivity aspects of BPIC.[8]

8. *Second*, in respect of the opinions he expresses in response to Question 6, the further material reinforces his view that the assumptions used in the Productivity Commission's BPIC cost benefit analysis appear to have been based more on hypothetical scenarios than observed behaviour and that substantially different cost and benefit estimates could have been obtained using alternative plausible assumptions.[9]

9. Consistently with his earlier opinion, Professor O'Brien observes that the Productivity Commission's BPIC cost benefit analysis model details the very large number of assumptions used to estimate the various costs and benefits of BPIC and opines that other plausible assumptions could provide significantly different estimates.[10]

10. Professor O'Brien examines some of the Productivity Commission's assumptions revealed in the BPIC cost benefit analysis model and models alternative estimates based on other plausible assumptions.[11] In one example, Professor O'Brien expresses concerns about the methodology used in estimating the direct benefits to construction workers in respect of higher wages.[12] He considers that a clear rationale for the Productivity Commission's assumption of a 30% to 50% wage premium for BPIC workers above the industry standard has not been established upon sound economic judgement or available data.[13] And he considers that the higher wage costs estimates are significantly overstated—the existence of any wage premium above industry standard, let alone of 30% to 50% above, is not justified by the available ABS data.[14]

11. The further material enabled Professor O'Brien to model the alternative assumptions using the Productivity Commission's BPIC cost benefit model.[15] Professor O'Brien quantifies the effects of various alternative assumptions, which demonstrate significantly different net cost estimates. In quantifying those effects, he highlights the high variability that flows from the Productivity Commission's methodology.

---

6 Professor O'Brien's Supplementary Report at page 2, [3] (Response),

7 Professor O'Brien's Supplementary Report at page 3-4, [10]-[11].

8 Professor O'Brien's Supplementary Report at page 4, [11].

9 Professor O'Brien's Supplementary Report at pages 2-3, [4] (Response)

10 Professor O'Brien's Supplementary Report at page 5, [13].

11 Professor O'Brien's Supplementary Report at pages 5-25, [14]-[85].

12 Professor O'Brien's Supplementary Report at pages 6-8, [16]-[25].

13 Professor O'Brien's Supplementary Report at pages 6-7, [21]-[24].

14 Professor O'Brien's Supplementary Report at page 7, [24].

15 Professor O'Brien's Supplementary Report at pages 2-3, [4] (Response).

12. Professor O'Brien calculates that the net cost estimate of the low scenario using the alternative assumptions is up to $654 million, compared with $5.698 billion using the Productivity Commission's assumptions.[16] The Productivity Commission's low scenario estimate is almost nine times higher than Professor O'Brien's estimate based upon alternative plausible assumptions.

13. A lack of access to relevant data to use as an evidence base has prevented further alternative assumptions being applied, particularly for the high scenario.[17] Even allowing for that limitation, the net cost estimate of the high scenario using the alternative assumptions is up to $9.188 billion, compared with $29.588 billion using the Productivity Commission's assumptions. The Productivity Commission's high scenario estimate is greater than three times higher than Professor O'Brien's estimate based upon alternative plausible assumptions.

14. The views Professor O'Brien expresses in his supplementary report reinforce the fact that significant care should be exercised in placing any weight upon the Productivity Commission's report and the recommendations it contains.

15. The unions reiterate the submission that the Commission should not accept that the re-introduction of a code and an independent regulator will improve productivity in the Queensland construction industry. No sufficient basis has been identified to justify such a conclusion and, at best, the Productivity Commission's report is an unreliable foundation for such a recommendation—*a fortiori* given Professor O'Brien's views.

Professor Walters' opinions do not support the proposed code

16. Professor Walters addresses the third, and subsidiary, justification advanced by Counsel Assisting for the re-introduction of a code, *viz.*, that it may improve safety on construction sites.[18] Counsel Assisting cites no evidence for the proposition and rather wrote that it followed because it is '*axiomatic that reducing the frequency with which non-essential personnel are moving around an active construction site will in turn reduce the incidence of preventable accidents.*'[19]

17. Professor Walters doubts this assertion. He considers that important questions arise over who is deemed to be 'non-essential.'[20] In his report, Professor Walters' explains how scrutiny of work practices in fact leads to better safety outcomes and how unions have played a positive role in preventative health and safety.[21]

---

16 Professor O'Brien's Supplementary Report at page 25, [84].

17 Professor O'Brien's Supplementary Report at page 25, [84].

18 Counsel Assisting's further submissions at pages 9 to 10, [31].

19 Counsel Assisting's further submissions at pages 9 to 10, [31].

20 Professor Walters' Expert Report at page 19.

21 Professor Walters' Expert Report at pages 5, 11-19.

18. Professor Walters expresses the view that the proposed code is primarily aimed at addressing industrial relations issues, rather than concerning health and safety.[22] He considers that any restriction on otherwise lawful access would be a step backwards, rather than forwards, in improving workplace health and safety.[23] In light of his views, and given that counsel assisting has obtained no expert evidence on the topic, the Commission should not accept the third justification advanced for support for the reintroduction of a code. The conclusion urged by counsel assisting is inconsistent with academic consensus and fundamental norms.

Conclusion

19. As advanced in the unions' 14 August submissions, there are real and substantial difficulties with the foundation for Counsel Assisting's further submissions. The further material provided by the Productivity Commission has not caused Professor O'Brien to alter the views he expresses and the conclusions of the Productivity Commission in its report should be doubted.

20. Ultimately, the views expressed by Professor O'Brien and Professor Walter's support the unions' position that the Commission ought not make the recommendations suggested by Counsel Assisting. Those views demonstrate that there are persuasive reasons to doubt that the code will improve, rather than harm, productivity and safety in the construction industry. And those views demonstrate that the proposed code is unlikely to provide even an opportunity to address productivity or safety in the construction industry.

21. As with their 14 August submissions, the unions would be pleased to assist the Commission in addressing the matters in these written submissions orally.

Hamish Clift
Susanna Connolly

Counsel for the CEPU, ETUQ, and PGEU
25 September 2026

[22] Professor Walters' Expert Report at page 19-20.

[23] Professor Walters' Expert Report at page 20.

UNIVERSITY
OF WOLLONGONG
AUSTRALIA

SUPPLEMENTARY EXPERT REPORT OF PROFESSOR MARTIN O'BRIEN

School of Business
Faculty of Arts Society and Business
University of Wollongong
Northfields Ave
Wollongong NSW 2522
[redacted]

Written for the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

Overview and Summary of Responses

1. This supplementary report is in response to a Letter of Instruction received from Alexandra Jarrett of Hall Payne Lawyers dated 27 August 2026. In this letter four questions were provided to me. Namely:

2. **Question 1.** In preparing your expert report, question 3 asked you about how productivity in the construction industry changed in Queensland and Australia over the last 30 years. In paragraphs 12 to 21 of your expert report, you consider the methodology employed by the Productivity Commission for the composition of the Queensland construction industry productivity estimates reported in figure 2.9 at p 89 of the final report. You express the opinion that the methodology employed by the Productivity Commission is not clear and that you were unable to replicate the estimates of the Productivity Commission. Does any of the material now briefed to you cause any change to the opinions you express in those paragraphs? Please explain your answer.

   Response: The material briefed was not directly relevant to the QPC productivity estimates from Figure 2.9 of the QPC Final Report. As such, my opinions from question 3 of my original report have not changed.

3. **Question 2.** In preparing your expert report, questions 4 and 5 asked you to assess sections 2.3 and 2.4 of the final report. In response to those questions, in paragraphs 22 to 49 and 50 to 80, respectively, you express disagreement with the Productivity Commission's conclusions. Does any of the material now briefed to you cause any change to the opinions you express in those paragraphs? Please explain your answer.

   Response: The material briefed to me contained items relevant to the cost benefit modelling of Best Practices Industry Conditions (BPICs). Sections 2.3 and 2.4 did not address the cost benefit modelling. BPICs was not mentioned in Section 2.3, while it was addressed in one subsection of Section 2.4. Therefore, my opinions in relation to Section 2.3 (question 4 from my original report) remain unchanged. The main opinion of relevance to Section 2.4 (question 5 from my original report) was that there was some apparent confusion between the understanding of cost versus productivity aspects of BPICs. This has only been reinforced with respect to the materials now briefed to me. For example, aspects of BPICs that may result in work stoppages such as inclement weather and RDOs have been labelled as productivity effects in the cost benefit analysis, however, they would not in fact affect productivity using the methodology used by the ABS to measure and quantify productivity.

4. **Question 3.** In preparing your expert report, question 6 asked you to assess the 'industry reset' proposal and related recommendations set out by the Productivity Commission in section 4 of the final report. In response to that question, in paragraphs 81 to 120 you set out your views about the 'industry reset' proposal and recommendations: you disagree with the premise of an industry reset, agree with some recommendations and others of which you disagree with. Does any of the material now briefed to you cause any change to the opinions you express in those paragraphs? Please explain your answer.

   Response: The main opinions in my original report were that the assumptions used in the BPICs cost benefit analysis appeared to be based more on hypothetical scenarios rather than observed behaviour, and that substantially different cost and benefit

estimates could have been obtained using alternative plausible assumptions. The material briefed to me allows the modelling of alternative assumptions using the spreadsheet based BPICs cost benefit model. In this present report I quantify the effects of various alternative assumptions, arriving at substantially different net cost estimates of between $601m to $654m for the low scenario, compared to $5,698m from the QPC Final Report, and $8,496m to $9,188m for the high scenario compared to $20,588m from the QPC Final Report.

5. **Question 4.** Is there otherwise anything in the material now briefed to you that causes any change to the opinions you express in your expert report or which you consider relevant to any of the opinions you express in your expert report? Please explain your answer.

   Response: There were no other matters raised in response to this question.

Formal responses to Questions

Question 1

6. The material briefed to me does not contain any materials directly relevant to the estimation of Queensland construction industry productivity trends in Figure 2.9 of the QPC Final Report. As such, the opinions expressed in relation to question 3 and paragraphs 12 to 21 of my original report remain unchanged.

Question 2

7. Section 2.3 of the QPC Final Report attributed the major contributor of the challenges faced in the Queensland construction industry to poor labour productivity growth. The material briefed does not directly address the content covered in Section 2.3 and therefore my opinions in relation to this section of the QPC Final Report remain unchanged.

8. Section 2.4 of the QPC Final Report then analysed the main causes of poor labour productivity growth. Namely, industry fragmentation, regulatory burden and Queensland government procurement policy.

9. In relation to Queensland government procurement policy the Best Practices Industry Conditions (BPICs) was the main issue put forth by the QPC as inhibiting labour productivity. The opinion expressed in my original report was that the commentary on BPICs provided on p 92 of the QPC Final Report seemed focussed more on costs rather than productivity. I thus cautioned that care should be taken to distinguish the cost vs productivity implications of BPICs in paragraph 56 of my original report.

10. The brief material provided to me for this supplementary report provides the detail of the cost benefit analysis (CBA) of BPICs undertaken in Section 4 of the QPC Final Report rather than relating specifically to Section 2.4. The brief material, particularly that contained in attachment 7 ("BPICs model used in QPC construction enquiry – main version.xlsx", referred to hereafter as the BPICs CBA Model), and attachment 9

(Appendix C Modelling of BPICs.pdf) categorises one form of cost as driven by productivity loss[1] while other categories of costs are attributed to different causes.

11. Elsewhere in individual tabs of the BPICs CBA Model reference was made to "productivity loss"[2], "productivity effects"[3] or "productive time lost"[4] when quantifying various costs associated with BPICs. These items may be reflected in costs associated with the operation of BPICs. However, the items included in these "productivity" estimates would not be captured in official ABS productivity estimates. For example, "weather"[5] and "conditions (RDO's union days etc)"[6] were categorised as "Productivity loss: Loss of work hours"[7]. However, the ABS calculates productivity based on an hours *worked*, rather than hours *paid*, basis (ABS 2026). Therefore, if no hours were worked due to inclement weather or RDOs, these would not lead to any productivity loss or slowdown in ABS productivity statistics as they would reflect zero output and also zero input. As such, the briefing material does not change, but rather reinforces, my opinion that one must take care to distinguish between cost vs productivity aspects of BPICs.

Question 3

12. My opinions of the BPICs cost benefit analysis reported in the QPC Final Report were summarised in paragraph 100 and 101 of my original report:

> "100. QPC state that the analysis has been "informed by observed market performance and stakeholder evidence" (QPC Final Report p 404). However, in my opinion it is clear that the modelling performed by QPC relies primarily on assumptions of the hypothetical scenarios relating to the use of BPICs on worksites rather than reflecting collected data of outcomes reflecting their application in practice. The QPC acknowledge some of the uncertainty regarding the impact of BPICs on worksites on p 406 of the QPC Final Report and address this with the use of "high" and "low" scenarios in their modelling, however, these scenarios are also not based on realised data and fail to acknowledge the full range or scope of outcomes that may occur within BPICs. For example, even the low scenario factors in higher costs, longer construction times, worker shortages and only a 1 per cent improvement in productivity.
>
> 101. A relatively small financial benefit is attributed to safety improvements in this modelling (approximately $15,000 per avoided claim). Furthermore, all BPICs items such as RDOs, union meetings, and weather related delays that could potentially be associated with beneficial safety outcomes and related productivity improvements are treated as additional costs. Similarly, relatively high financial values are placed on highly uncertain hypothetical spillover events in the private sector that are alleged to be indirectly attributable to the BPICs such as workforce shortages, impacts on residential construction and

[1] For example, see Table C.16 in Appendix C of the QPC Final Report.
[2] BPICs CBA Model, Summary sheet tab, cell B39.
[3] BPICs CBA Model, Workforce estimates tab, cell B69
[4] BPICs CBA Model, Project delays – other tab, cell B62.
[5] BPICs CBA Model, Summary sheet tab, cell C41.
[6] BPICs CBA Model, Summary sheet tab, cell C42.
[7] BPICs CBA Model, Summary sheet tab, cell B40.

business investment. In summary, I am sceptical of these cost benefit analysis results as different plausible assumptions can produce substantially different estimates of net benefits and costs."

13. The brief material provided to me, particularly attachment 7 (the BPICs CBA Model), details the many assumptions and calculations performed in the BPICs cost benefit analysis. It is apparent that a very large number of assumptions have been used to estimate the various cost and benefit facets of BPICs and that other plausible assumptions could provide significantly different estimates. As such, the briefing material does not change, but rather reinforces, my opinions.

14. I demonstrate this in the below exercise where I critique aspects of the BPICs CBA Model methodology and provide alternative estimates based on other plausible assumptions.

Analysis of Estimated Benefits

15. Starting with the estimated benefits, Table 1 shows the summary of the various categories of benefits estimated in the BPICs CBA Model. For convenience, the individual benefits are coded from (a) to (g) in the below table and addressed in Sections a to g below.

Table 1. Reproduction of Table C.15 from Appendix C of the QPC Final Report - Estimated direct and indirect benefits, $ million, NPV

	Low scenario	High scenario
Direct benefits:		
to construction workers		
higher wages (a)	4,661	9,278
reduced working hours (b)	695	1,042
safety (c)	12	11
Indirect benefits:		
to construction workers		
higher wages (d)	84	702
reduced working hours (e)	54	71
to landlords (f)	1,416	4,863
to existing homeowners (g)	476	2,069
Total benefits	7,398	18,037

Source: QPC Final Report Appendix C p420.

a. Direct Benefits – to construction workers - higher wages

16. The direct benefits to construction workers via higher wages was the largest individual benefit item estimated in the BPICs CBA Model. The methodology for the direct benefits for higher wages was explained in pp 410-411 in Appendix C of the QPC Final Report. Here the BPICs wage rates were asserted to be between 30 or 50% above that of the industry standard wage rate for the low and high scenario, respectively[8].

17. The exact expenditure associated with "higher" BPICs wages were not known by the QPC but rather assumed to be 23% of construction project total costs[9]. For example, in 2024-25 project expenditure was estimated as $6,649m and as such, "assumed wage costs"[10] was estimated as 0.23*6,649 = $1,547m[11]. A "BPICs escalation" calculation was then calculated as 30% or 50% of this assumed wage cost estimate, depending on the low vs high scenario. For the high scenario, this meant that the BPICs escalation for 2024-25 was calculated as 0.5*1547 = $774m[12]. I have some concerns with this methodology.

18. First, it is unclear to me why BPICs wage costs for 2024-25, 2025-26 and 2026-27 needed to be assumed rather than using actual or budgeted wages costs. Presumably BPICs wage rates would have been applicable up until November 2024 when BPICs was paused. Furthermore, arguments were made elsewhere in the QPC Final Report that BPICs wage rates were fixed in many enterprise agreements until 2027 and therefore still in operation even if the BPICs itself was not in operation[13]. In summary, presumably the actual wage cost data is available for government construction sites to be used directly in this analysis rather than assumed.

19. Second, a further wage cost escalation estimate was performed in the Higher wages tab, whereby it was assumed that an additional 8 to 9% (low scenario) or 29% to 30% (high scenario) workers were required on BPICs sites. By definition, this additional worker assumption adds a further 8 to 9% or 29 to 30% onto the BPICs higher wages expenditure estimate used to summarise benefits to workers. For example, for 2024-25 this adds 0.29*774 = $225m onto the higher wages estimate under the high scenario.

20. The addition of additional workers for BPICs sites was not explained in pp 410 to 411 of Appendix C of the QPC Final Report within the "Higher than standard industry wages" section. However, the calculations associated with this estimate can be traced within the BPICs CBA Model to a string of further assumptions applied in the Project delays – other, Project delays – weather and Reduced flexibility tabs. These assumptions are explored further in Section f below.

21. Third, in my opinion a clear rationale for the 30% or 50% wage rate premium for BPICs workers over the industry standard has not been established upon sound economic judgement or available data. On p 411 of Appendix C in the QPC Final Report, ABS Employee Earnings and Hours data was quoted to demonstrate that the median total hourly cash earnings for construction trades workers were $43 per hour in 2023. Other

[8] See Table C.3 Appendix C of QPC Final Report, p 411.
[9] See Table C.4 Appendix C of QPC Final Report, p 411.
[10] This was the terminology used in cell B38 of the Higher wages tab of the BPICs CBA Model.
[11] BPICs CBA Model, Higher wages tab, cell C38.
[12] BPICs CBA Model, Higher wages tab, cell C40.
[13] For example, see QPC Final Report p 107.

evidence was produced showing that apprentices were paid between $51 to 52 per hour in BPICs agreements, while mid-level electrical and construction workers were paid between $69 to 70 per hour. An exact calculation was not presented as to why 30% or 50% were chosen as the parameters to represent the low and high scenarios for BPICs wage rates being higher than industry standard wages. However, if we apply these percentages to the ABS estimate of $43 per hour we can ascertain that these wage premiums imply that BPICs construction trades workers were assumed to earn approximately $55.90 per hour for the low scenario and $64.50 per hour for the high scenario[14].

22. Using the same 2023 ABS Employee Earnings and Hours dataset, I was able to obtain an estimate of median total hourly cash earnings for Queensland construction trades workers[15] of $45.80 per hour, comparable to the $43 per hour quoted in the QPC Final Report[16]. It should be noted that this estimate includes those on all methods of pay setting. That is, award rates, collective agreements, individual arrangements and owner managers of incorporated enterprises. In my opinion, to provide the most accurate comparator, the appropriate group of workers should be those covered by "collective agreements" only[17].

23. Using the same 2023 ABS Employee Earnings and Hours dataset, Queensland construction trades workers covered by collective agreements had median total hourly cash earnings of $73.40 per hour. It could be argued that BPICs workers, or those covered by enterprise agreements reflecting BPICs standards, may be included in this Queensland based estimate thereby rendering it an inappropriate comparator. If we look at Australian-wide wage rates instead, the ABS data shows that construction trades workers covered by collective agreements across Australia as a whole earned a median wage of $65 per hour. Based on this analysis of ABS data it is apparent that the industry standard across Australia of $65 per hour was marginally above that of $64.50 per hour implied by BPICs wages under the high scenario in the BPICs CBA Model.

24. In summary, the higher wage costs estimates used as direct benefit item are significantly overestimated in my opinion. The existence of any wage premium, let alone that of 30 to 50%, above industry standard was not justified with reference to available ABS data. Applying the assumption that there was no BPICs wage premium, the direct benefit attributed to construction workers and higher wages reduces from $4,661m for the low scenario and $9,278m for the high scenario to zero in both scenarios. The results are displayed in Table 2. The convention used throughout this report is to present the original estimate from the QPC Final Report with the "strikethrough" line and then the new estimate using alternative assumptions presented to the immediate right.

---

[14] That is, multiplying $43 per hour by 1.3 and 1.5, respectively.

[15] That is, Australian and New Zealand Standard Classification of Occupations Major Sub-group 33 Construction Trades Workers.

[16] Appendix C of the QPC simply described their estimate as "…the ABS employee earnings and hours for 2023 show that average construction trades workers' median total hourly cash earnings are in the order of $43 (including overtime)." Appendix C QPC Final Report p 411. However, closer examination of cells Q22 to S28 of the Higher wages tab of the BPICs CBA Model shows that in addition to construction trades workers (ie. ANZSCO sub-major group 33), other ANZSCO minor groups of electricians and construction and mining labourers were also included.

[17] The implicit assumption here is that a hypothetical worker on a BPICs worksite would be covered by an alternative enterprise agreement in the absence of BPICs.

25. It is noted that the QPC did provide an alternative cost benefit analysis excluding the BPICs wage premium in attachment 8 (BPICs model used in QPC construction inquiry - wage_impacts_removed.xlsx). While the main higher wage estimate had been removed, the wage estimate associated with additional workers was still present. That is, for the high scenario, the 2024-25 direct benefit excluded the $774m estimate but included the $225m estimate. However, in the present exercise when I removed the wage premium of 30 or 50% and ran the simulation in the BPICs CBA Model spreadsheet I obtained a zero estimate for both components of the higher wage estimate.

Table 2. Alternative cost benefit scenario for Direct Benefits – to construction workers - higher wages ($m)

	Low scenario	High scenario
Direct benefits:		
to construction workers		
higher wages (a)	~~4,661~~ 0	~~9,278~~ 0

b. Direct Benefits – to construction workers - reduced working hours

26. The explanation for reduced working hours as a direct benefit for construction workers was not obvious in the documentation of cost benefit model in Appendix C of the QPC Final Report. However, with reference to the BPICs CMA Model spreadsheet it was apparent that this estimate came from row 80 of the Project delays – other tab and specifically relates to RDOs. It was calculated as the ratio of "Assumed loss of days from RDOs"[18] divided by "normal working time"[19], and then converted to a monetary value by multiplying this ratio by the labour cost share of BPICs projects[20].

27. The normal working time and labour cost share values used in the calculation were constant regardless of the scenario, however, RDOs were assumed to be 13 days in the low scenario and 19.5 days in the high scenario. The additional 6.5 RDO days in the high scenario was described as "Impact from other RDOs (ratio)" in cells A11 and Q11 of the Project delays – other tab and calculated as 50% of the 13 RDOs for BPICs sites. This additional amount of RDOs for the high scenario was also described as "impact from less flexible RDOs" in Table C.7 of the QPC Final Report, although the rationale for this impact as well as its quantification as an additional 50% of RDOs was absent from any QPC documentation that I am aware of. I have reservations regarding the accuracy and utility of the RDO estimates used in the BPICs CBA Model.

28. First, in my opinion it should not be a natural assumption that an additional 13 days of RDOs should be attributed to reduced working days and thereby direct benefits for construction workers. Data shown in Appendix C1 on pp 424 to 427 of the QPC Final Report showed that the applicable Award covers 38 hours per week while that for BPICs was a 40 hour work week. Other commentary provided by the QPC suggested that it was standard industry practice for construction workers to work an additional 2 hours

[18] BPICs CBA Model, Project delays - other tab, cell E13.
[19] BPICs CBA Model, Project delays - other tab, cell D61.
[20] That is, 23% of total BPICs project costs.

per week as overtime rather than receive RDOs[21], presumably paid at an overtime rate of time. Working an additional 2 hours per week over 48 weeks translates to 96 hours per year and the equivalent of approximately 13 days of work. However, being paid at time and a half translates this to the equivalent of 13*1.5 = 19.5 days of work. As BPICs allows for 26 RDOs, this implies an additional 6.5 days only rather than the 13 used in the BPICs CBA Model.

29. Second, the justification or evidence base for an additional 6.5 RDOs in the high scenario, attributed to impact from other RDOs, or impact from less flexible RDOs, is not apparent to me.

30. In my opinion a reasonable assumption would be that an additional 6.5 RDOs is appropriate for the cost benefit analysis under both the low and high scenarios, rather than the existing 13 days (low scenario) or 19.5 days (high scenario). The results of this alternative scenario are reported in Table 3. The alternative direct benefit estimate is 50% lower in the case of the low scenario and 67% lower in the case of the high scenario.

Table 3. Alternative cost benefit scenario for Direct Benefits – to construction workers – reduced working hours ($m)

	Low scenario	High scenario
Direct benefits:		
to construction workers		
reduced working hours (b)	~~695~~ 347	~~1,042~~ 347

c. Direct benefits – to construction workers - safety

31. Direct benefits to construction workers from safety were quantified as the result of reductions in workers compensation payouts to serious injury claims as well as fatalities. The median compensation claim of $15,072, attributed to 2023 Safe Work Australia data (QPC Final Report p 412, BPICs CBA Model Safety tab cell E31), was used in these calculations. However, other available data from Safe Work Australia suggests that $19,973 was the appropriate median compensation claim for the Construction industry in 2023 (Safe Work Australia 2025). Changing the existing value of $15072 to $19973 has a marginal effect to increase the estimated benefit, as shown in Table 4.

32. Previous research documented in my original report established a direction of causality from safety outcomes to labour productivity outcomes (for example, Cooper 2005, Lamm et al. 2007, Kazaz et al. 2008, Robles et al. 2014, Kazaz and Acıkara 2015, Buhai et al. 2017, Katz et al. 2019, Gurmu 2021 – see my original report). Therefore, in my opinion, improvements to safety should also be incorporated into improved productivity outcomes and quantified as an additional benefit. This issue will be discussed further in paragraph 47.

[21] QPC Final Report p413, BPICs CBA Model, Project delays - other tab, cell A6.

Table 4. Alternative cost benefit scenario for Direct Benefits – to construction workers – safety ($m)

	Low scenario	High scenario
Direct benefits:		
to construction workers		
safety (c)	~~12~~ 14	~~11~~ 13

d. Indirect Benefits – to construction workers - higher wages

33. I presume that this estimate reflects BPICs wages being applied to a subset of the private sector assumed to be covered by BPICs enterprise agreements[22]. However, I was unable to locate any documentation regarding the methodology used for this estimate in Appendix C of the QPC Final Report. The calculation underpinning this estimate was ascertained from closer examination of the Indirect effects – residential tab of the BPICs CBA Model and was relatively complex, consisting of a range of individual calculations relating to delays and costs attributable to BPICs, and then multiplied by the BPICs higher wage premium of 30% or 50% for the low and high scenario respectively. However, if the industry standard wage rate for those covered by enterprise agreements was approximately at the same rate as that of BPICs, as was evident from analysis of the ABS Employee Earnings and Hours data documented above, there would be no financial benefit in terms of higher wage rates accruing to those private sector workers now covered by BPICs wage rates. Therefore, as with Section a of this report, this estimate should be zero.

34. Again, it is noted that the QPC did provide alternative cost benefit analysis estimates excluding the BPICs wage premium in attachment 8 (BPICs model used in QPC construction inquiry - wage_impacts_removed.xlsx). However, in my opinion there was an error in the methodology used in this particular model. While the main direct benefit estimate for higher wages for workers on BPICs projects was removed, the indirect benefit estimate for those in the private sector was still present in the model output. However, if there was a negligible difference between the industry standard wage and BPICs wage rate as was implied by this modelling, then this indirect benefit should also be zero.

[22] For example, "…the modelling assumed BPICs encourage the roll-out of BPICs-like conditions onto the high rise residential construction sites" QPC Final Report Appendix C p 415, and "Construction worker benefits are from both direct (accruing from government BPICs sites) and indirect (accruing from residential sites) effects." QPC Final Report Appendix C p 420.

Table 5. Alternative cost benefit scenario for Indirect benefits – to construction workers – higher wages ($m)

	Low scenario	High scenario
Indirect benefits:		
to construction workers		
higher wages (d)	~~84~~ 0	~~702~~ 0

e. Indirect Benefits – to construction workers - reduced working hours

35. This estimate was calculated in a similar fashion to that for workers on BPICs projects described in Section b, by assuming an additional number of RDOs. The hypothetical number of workers affected by this calculation in any given year ranges between 2,500 to 3,000, and is in turn the product of an assumed % that BPICs influences EBAs on other sites[23], another proportion simply described as the "share attributable to BPICs"[24], attached dwelling construction costs, as well as new supply estimates[25]. The basis of the various percentages attributed to BPICs were not explained in Appendix C of the QPC Final Report nor in the spreadsheet model. Due to an absence of available data I am not in a position to offer alternative evidence based assumptions.

36. Applying the same assumption as that for BPICs workers in Section b, being an assumed total of 6.5 RDOs per year in both the low and high scenarios, results in the following alternative estimates reported in Table 6.

Table 6. Alternative cost benefit scenario for Indirect benefits – to construction workers – reduced working hours ($m)

	Low scenario	High scenario
Indirect benefits:		
to construction workers		
reduced working hours (e)	~~54~~ 27	~~71~~ 27

f. Indirect benefits – to landlords

37. Landlords were assumed to benefit from higher rental income linked to fewer homes being built as a result of workforce shortages attributed to BPICs as well as additional construction delays in building homes associated with worksites operating under CMFEU EBAs (QPC Final Report p 420). There were many calculations underlying the rental income estimate in the Indirect effects – residential tab of the BPICs CBA Model. However, at the source of the estimate was delays in housing being built, summarised in cells D to I73. In turn, these delays were comprised of four main

[23] BPICs CBA Model, Indirect effects - residential tab, cell E45.
[24] BPICs CBA Model, Indirect effects - residential tab, cell E46.
[25] BPICs CBA Model, Indirect effects - residential tab, cell J111.

components. These components are analysed separately below, before estimates are presented incorporating all alternative assumptions in Table 12.

38. First, additional workforce requirements for BPICs were assumed to represent workforce shortages to the private sector, representing a total of 17,356 workers over 2024-25 to 2029-30 (average of 2,893 workers per year or 8 to 9% of the total BPICS workforce) in the low scenario, or a total of 61,484 workers (average of 10,247 workers per year or 29 to 30% of the total BPICs workforce) in the high scenario[26]. Any increase in BPICs workforce requirements should not by default reduce the workforce available to the private sector unless two conditions are met. Namely, that the workforce does indeed transfer from the private sector to the BPICs projects, and that the size of the Queensland construction workforce is fixed or constant.

39. To meet the first condition, we would require that BPICs wages and conditions were superior to the private sector in order to motivate a worker's job mobility from the private sector to a BPICs worksite. Previous analysis in this report based on ABS Employee Earnings and Hours data showed that BPICs wage rates were comparable to the industry standard rate, however, it could be argued that conditions were more generous in BPICs agreements compared to the private sector and this may motivate job mobility.

40. With regard to the second condition, Queensland construction industry employment is not fixed or constant. A simple regression using the last 20 years of Queensland construction industry employment data from the ABS labour force survey fitted with a linear time trend shows that employment in the industry increases on average by 1,643 workers per quarter[27].

41. Furthermore, other analysis presented in paragraph 139 of my original report showed that Queensland construction has historically benefitted from inward migration of workers from interstate[28], meaning that it is plausible that increase in the BPICs workforce in future time periods may originate from interstate rather than the existing Queensland private sector.

42. Finally, it could also be argued that any decrease in private sector construction workforce linked to increases in BPICs employment is more an economic issue reflecting construction skills shortages in the sector, from the unique circumstances of high demand for public infrastructure projects associated with the Olympics coinciding with high demand for housing, as well as Queensland procurement policy in general, rather than being specifically attributable to BPICs. Reduction in employment within the private sector construction industry being directly attributable to BPICs is also not consistent with other aspects of the BPICs CBA Model. For example, while additional employment in BPICs projects was specifically accounted for as a direct benefit in Section a, there was no specific corresponding cost estimate from lost employment and wages in the private sector in the BPICs CBA Model, and thus there is an implicit assumption that the additional BPICs workers represents a net increase to employment.

---

[26] BPICs CBA Model, Workforce estimates tab, cells C73 to H73.

[27] Using quarterly Queensland construction employment ('000) data from Feb 2016 to 2026 resulted in an estimated equation of $\hat{y}_t = 217.888 + 1.643t$.

[28] Analysis of 2021 census data showed that Queensland construction benefitted from a net inflow of 1,499 workers between 2020 and 2021, and 5,272 workers from 2016 to 2021.

43. One possible assumption that can be utilised in the BPICs CBA Model is that no workforce shortages will be attributed to BPICs. If we remove the assumption that there will be workforce shortages caused by BPICs, *ceteris paribus*, indirect benefits to landlords will be less than one third of existing estimates (see Table 7). This will be called Scenario A and used in other cost and benefit estimates described elsewhere in this report.

Table 7. Alternative cost benefit scenario for Indirect benefits – to landlords (assuming no workforce shortages attributed to BPICs (Scenario A)) ($m)

	Low scenario	High scenario
Indirect benefits:		
to landlords (f)	~~1,416~~ 433	~~4,863~~ 1,302

44. As an alternative, Scenario B provides a closer scrutiny of the methodology underpinning the additional BPICs workforce requirements (and by definition, the private sector shortages) to provide a different set of modelling assumptions. The additional BPICs workforce calculation is based on three separate components collectively described as "productivity effects"[29].

45. The first and largest component comes from the Project delays – other tab and consists of days lost to RDOs (13 to 19.5 days), industrial stoppages (0 to 6.6 days), union meetings (6 to 24 days) and reduced work hours (0 to 4.8 days). There is obviously a large difference between low and high scenarios here (19 vs 55 days lost). As applied previously, the number of RDOs will be reduced to 6.5 days in both low and high scenarios. I do not possess alternative data to present other assumptions underpinned by a sound evidence base.

46. The second component comes from the project delays – weather tab and is described in Table C.6 of Appendix C of the QPC Final Report. Similarly, I have no data or evidence base to present an alternative assumption here.

47. The final component of the "productivity effects" comes from the Reduced flexibility tab and represents productivity impacts not already considered. It takes the value of either +1% (low scenario) or -1% (high scenario), as summarised in Table C.8 of Appendix C in the QPC Final Report. As the effect of safety, RDOs, or constructive key stakeholder engagement[30] has not been previously considered by the QPC to have a positive effect on productivity in the BPICs CBA Model an alternative scenario provided here is to assume an increase of productivity of 5% in the low scenario while maintaining the productivity decrease of 1% in the high scenario.

48. *Ceteris paribus*, including these alternative "productivity effect" assumptions in Scenario B, has a significant but smaller impact than that of Scenario A where no workforce impact was assumed. The largest change to estimates was observed for the

[29] BPICs CBA Model, Workforce estimates tab, cell B69.
[30] A quote from the Air Conditioning and Mechanical Contractors Association of Australia provided on p 109 of the QPC Final Report indicates that high productivity outcomes are possible where all parties engage constructively with BPICs provisions.

low scenario as a result of the larger productivity improvement assumption, reducing the indirect benefit to landlords to less than one half the existing estimate.

Table 8. Alternative cost benefit scenario for Indirect benefits – to landlords (assuming alternative productivity effects (Scenario B)) ($m)

	Low scenario	High scenario
Indirect benefits:		
to landlords (f)	~~1,416~~ 638	~~4,863~~ 4,258

49. Second, any given percentage workforce shortage was assumed to cause double the percentage delay in construction[31]. This estimate of 200% was described in footnote 79 of Appendix C in the QPC Final Report as "To the best of the Commission's knowledge there are no empirical studies examining the relationship between trades shortages and construction times."

50. As there is no economic theory, rationale or research to support this assumption, an alternative assumption may be that any workforce shortage is reflected as an identical construction delay (ie. 100%). *Ceteris paribus*, this alternative assumption decreases the indirect benefit to landlords estimate by approximately 50% for the low scenario and 40% for the high scenario (see Table 9).

Table 9. Alternative cost benefit scenario for Indirect benefits – to landlords (assuming alternative 100% workforce shortage to construction delay percentage) ($m)

	Low scenario	High scenario
Indirect benefits:		
to landlords (f)	~~1,416~~ 924	~~4,863~~ 2,923

51. Third, the estimate assumes that BPICs affects 34% of EBAs on other sites[32]. I have no data to offer an alternative evidence base and assumption here.

52. Fourth, CMFEU EBAs were assumed to cause delays of between 8% (low scenario) to 25% (high scenario) on attached dwellings[33]. In turn these percentages were derived from QEAS analysis conducted on behalf of Masters Builders Queensland (QEAS 2024). However, some QEAS modelling assumptions are inconsistent with those of the QPC in the BPICs CBA Model. For example, QEAS assumed that a non-EBA worksite operated for 302 days per year[34], however, "normal working time" was defined as 264 days by the QPC in cell D61 of the Project delays – other tab of the BPICs CBA Model.

[31] BPICs CBA Model, Indirect effects - residential tab, cell E43.
[32] BPICs CBA Model, Indirect effects - residential tab, cell E45.
[33] BPICs CBA Model, Indirect effects - residential tab, cell E49.
[34] This comprises 6 days per week multiplied by 52 weeks, then subtracting 10 public holidays.

Using 264 days as the appropriate comparison, the delays from the QEAS analysis can be recalculated as 4.5% (low scenario) and 14% (high scenario)[35].

53. *Ceteris paribus*, incorporating this assumption reduces indirect benefits to landlords by between 12 to 14% (see Table 10).

Table 10. Alternative cost benefit scenario for Indirect benefits – to landlords (assuming alternative construction delays) ($m)

	Low scenario	High scenario
Indirect benefits:		
to landlords (f)	~~1,416~~ 1,217	~~4,863~~ 4,282

54. Ultimately the estimated construction delays based on the components explored above affect rental vacancy rates. The BPICs CBA Model assumed any given percentage point decrease in vacancy rates results in a 4.4% increase in rent[36]. However, Reserve Bank of Australia research used elsewhere in Appendix C of the QPC Final Report (Saunders and Tulip 2019, see Table C.11 QPC Final Report), provide an alternative elasticity estimate. Specifically, that a one percentage point decrease in vacancy rates increases the growth of real rent by 2 percentage points initially and by 1.4 percentage points in the long term.

55. Therefore, replacing the elasticity of supply (rental prices) of 4.4 with 1.4 for the low scenario, and 2 for the high scenario, results in the following estimates displayed in Table 11. *Ceteris paribus*, the alternative elasticities reduce the indirect benefit to landlords by over 50%.

Table 11. Alternative cost benefit scenario for Indirect benefits – to landlords (assuming alternative elasticity of supply (rental prices)) ($m)

	Low scenario	High scenario
Indirect benefits:		
to landlords (f)	~~1,416~~ 451	~~4,863~~ 2,211

56. The above analysis has been conducted using *ceteris paribus* conditions to disentangle the influence of each individual components of the indirect benefit to landlords estimate on an individual and independent basis. Combining all alternative assumptions together produces the following estimates displayed in Table 12.

[35] Table 1 of the QEAS Report provides a comparison of working days per year for the Queensland CMFEU EBA vs non-EBA sites. The Queensland CMFEU EBA site was assumed to work 206 days per year compared to 302 days for the non-EBA. Subsequently the construction delay estimated in Table 5 of the QEAS Report for the high usage provision was 50%, which is approximately equal to (302 – 206)*100/206. Replacing 302 with 264 provides an estimated delay of 28%. The value used in the BPICs CBA Model was calculated as 50% of this delay = 14%. The low scenario was calculated on a pro rata basis as one third of this value.
[36] BPICs CBA Model, Indirect effects - residential tab, cell E55.

57. These assumptions result in a significant reduction in indirect benefit to landlord estimates of between 80 to 95%.

Table 12. Alternative cost benefit scenario for Indirect benefits – to landlords (all assumptions) ($m)

	Low scenario	High scenario
Indirect benefits:		
to landlords (f) Scenario A	~~1,416~~ 75	~~4,863~~ 333
to landlords (f) Scenario B	~~1,416~~ 107	~~4,863~~ 999

58. Regardless of the alternative estimates presented above, in my opinion there were issues with the plausibility of the original BPICs CBA Model estimates of indirect benefits to landlords. Under the high scenario these estimates implied that renters would pay an additional $2594.79 on average in 2029-30, or $49.90 per week. Available ABS data shows that median rent in Queensland increased by a total of $180 per week (from $380 to $560) over 7 years from June 2018 to in April 2025 (ABS 2025). Therefore, to suggest that rent for Queenslanders would increase by an average of approximately $50 per week over a 6 year period due solely to BPICs appears to be both excessive and implausible.

g. Indirect benefits – to existing homeowners

59. Using a similar logic and sequence of calculations as that for landlords, indirect benefits to existing homeowners were assumed to be the result of selling houses to first homebuyers at an inflated price due to construction delays and a lower level of housing stock attributed to BPICs. As with the landlord estimate, the key influences on this calculation were the assumed workforce shortages, the workforce shortage to construction delay factor, extent to which BPICs EBAs affect other sites, and CMFEU EBA delays[37].

60. Using the same alternative assumptions as with the landlord analysis, two sets of estimates are produced below in Table 13 reflecting Scenario A (no workforce reductions) and Scenario B (alternative productivity effects[38]). As expected, the assumption of no workforce shortages attributed to BPICs produces a much lower estimate of indirect benefits. Notably, both Scenario A and B result in negative indirect benefit estimates for the low scenario. This implies that sufficient supply of housing was produced to avoid supply shortages in the low scenario.

[37] Summarised in BPICs CBA Model, Indirect effects - residential tab, cells D73 to I73 and D76 to I76.

[38] As with the previous analysis, this entails 6.5 RDOs under both the low and high scenarios, and an increase in productivity of 5% for the low scenario.

Table 13. Alternative cost benefit scenario for Indirect benefits – to existing homeowners ($m)

	Low scenario	High scenario
Indirect benefits:		
to existing homeowners (g) Scenario A	~~476~~ -82	~~2,069~~ 153
to existing homeowners (g) Scenario B	~~476~~ -33	~~2,069~~ 842

Summary of Alternative Benefit Estimates

61. Table 14 presents a summary of the alternative benefit estimates from Sections a to g. For the low scenario estimated benefits range between $381m to $462m using the alternative assumptions described above compared to $7,398m from the QPC Final Report. That is, approximately 5 to 6% of the original estimate.

62. Similarly, for the high scenario, the estimated benefits range between $873m to $2,228 under the alternative assumptions compared to the $18,037m from the QPC Final Report. Scenario A was approximately 5% of the original estimate, while Scenario B was approximately 12% of the original estimate from the QPC Final Report.

Table 14. Summary of Alternative Benefit Estimates ($m)

	Low scenario	High scenario
Direct benefits:		
to construction workers		
higher wages (a)	~~4,661~~ 0	~~9,278~~ 0
reduced working hours (b)	~~695~~ 347	~~1,042~~ 347
safety (c)	~~12~~ 14	~~11~~ 13
Indirect benefits:		
to construction workers		
higher wages (d)	~~84~~ 0	~~702~~ 0
reduced working hours (e)	~~54~~ 27	~~71~~ 27
to landlords (f) Scenario A	~~1,416~~ 75	~~4,863~~ 333
to landlords (f) Scenario B	~~1,416~~ 107	~~4,863~~ 999
to existing homeowners (g) Scenario A	~~476~~ -82	~~2,069~~ 153
to existing homeowners (g) Scenario B	~~476~~ -33	~~2,069~~ 842
Total benefits Scenario A	~~7,398~~ 381	~~18,037~~ 873
Total benefits Scenario B	~~7,398~~ 462	~~18,037~~ 2,228

Analysis of Estimated Costs

63. Table 15 reproduces the costs estimated by the BPICs CBA Model and reported in Appendix C of the QPC Final Report. As before, each individual cost is labelled from (h) to (p) in the below table and addressed below in Sections h to p.

Table 15. Reproduction of Table C.16 from Appendix C of QPC Final Report - Estimated direct and indirect costs, $ million, NPV

	Low scenario	High scenario
Direct costs:		
to taxpayers		
higher wage costs (h)	4,661	9,278
higher costs from productivity loss (i)	1,629	5,996
deadweight loss from taxation (j)	1,887	4,582
Indirect costs:		
housing market impacts		
to first home buyers (k)	476	2,069
to renters (l)	1,416	4,863
to purchasers of new units (m)	168	1,405
to those missing out on housing (n)	699	2,390
to businesses		
to investors (o)	1,435	5,140
to infrastructure users		
infrastructure delays (p)	725	2,901
Total costs	13,096	38,625

Source: QPC Final Report Appendix C p421.

h. Direct costs – to taxpayers - higher wage costs

64. The QPC applied the same methodology for direct costs to taxpayers associated with higher wages as was done in Section a for the direct benefits to workers from higher wages. As such, the same quantitative estimate are evident for items a and h. Likewise, in this current exercise the same alternative assumption will be applied that there was no wage premium associated with BPICs wages. Consistent with Section a and Table 2, Table 16 shows that this assumption results in a zero estimate for the direct cost to taxpayers.

Table 16. Alternative cost benefit scenario for Direct costs – to taxpayers – higher wage costs ($m)

	Low scenario	High scenario
Direct costs:		
to taxpayers		
higher wage costs (h)	~~4,661~~ 0	~~9,278~~ 0

i. Direct costs – to taxpayers - higher costs from productivity loss

65. A similar methodology was used here as was applied for the indirect benefit to landlords estimate described in paragraphs 45 to 47 of Section f. That is, productivity loss was attributed to delays associated with weather[39]; conditions[40], described as RDOs, industrial stoppages, union stoppages and reduced working hours; and restrictive practices[41]. Whereas these productivity effects were applied to housing construction for the landlords analysis, they are applied to BPICs construction costs here.

66. Again, it should be noted that the items described in the BPICs CBA Model as productivity losses would not be captured by ABS productivity measures as they result in zero hours worked (such as weather delays, RDOs etc).

67. The same alternative assumptions were applied here as with paragraphs 45 to 47. That is, assuming 6.5 RDOs per year in both low and high scenarios, and increasing productivity growth to 5% in the low scenario. Table 17 displays the effects of these alternative assumptions. The largest impact was observed for the low scenario with an 80% reduction in the cost estimate, while a smaller impact of approximately 17% was observed in the high scenario.

Table 17. Alternative cost benefit scenario for Direct costs – to taxpayers – higher costs from productivity loss ($m)

	Low scenario	High scenario
Direct costs:		
to taxpayers		
higher costs from productivity loss (i)	~~1,629~~ 315	~~5,996~~ 4,995

[39] BPICs CBA Model, Summary sheet tab, cell C41.
[40] BPICs CBA Model, Summary sheet tab, cell C42.
[41] BPICs CBA Model, Summary sheet tab, cell C43.

j. Direct costs – to taxpayers - deadweight loss from taxation

68. A 30% deadweight loss from taxation was applied to both the higher wage and productivity loss cost estimates. This assumes that any additional expenditure would be financed by taxation and furthermore that this taxation reduces economic welfare.

69. While the taxation burden of 30% is broadly supported by economic convention and research it may be offset by other factors. For example, if the taxation raising revenue is used for public infrastructure the conventional economic criticisms of taxes are significantly mitigated. That is, benefits that flow to the community from the public infrastructure projects can offset the costs.

70. A perusal of BPICs projects in the Project expenditures tab of the BPICs CBA Model lists schools, hospitals, roads and transport projects, all of which would be expected to generate community benefits. Elsewhere in Appendix C of the QPC Final Report a benefit-cost ratio of 1.2 (or net benefit of 20%) was assumed for BPICs projects, in turn based on a reference to Infrastructure Australia data[42]. As such, a reasonable assumption may be that the net deadweight loss may be 30 – 20 = 10%.

71. The deadweight loss estimate is dependent upon both the deadweight percentage as well as the assumed level of taxation from the additional public expenditure. For the purposes of this exercise it was assumed that public expenditure is the sum of costs presented in Table 16 and 17.

Table 18. Alternative cost benefit scenario for Direct costs – to taxpayers – deadweight loss from taxation ($m)

	Low scenario	High scenario
Direct costs:		
to taxpayers		
deadweight loss from taxation (j)	~~1,887~~ 32	~~4,582~~ 499

k. Indirect costs – housing market impacts – to first home buyers

72. This estimate was identical to that for the Indirect benefit to existing homeowners, assumed to come from higher house prices from construction delays attributed to BPICs. As such, the same estimates as that from Table 13 are produced below, with both Scenario A (no workforce shortages) and Scenario B (alternative productivity effects).

[42] Infrastructure Australia's annual performance statement (2024a, p. 9), as quoted in Appendix C of the QPC Final Report p 419.

Table 19. Alternative cost benefit scenario for Indirect costs – housing market impacts – to first homebuyers ($m)

	Low scenario	High scenario
indirect costs:		
Housing market impacts		
to first homebuyers (k) Scenario A	~~476~~ -82	~~2,069~~ 153
to first homebuyers (k) Scenario B	~~476~~ -33	~~2,069~~ 842

l. Indirect costs – housing market impacts – to renters

73. This estimate was identical to that for the Indirect benefit to landlords. As such, the same estimates as that from Table 12 are produced below.

Table 20. Alternative cost benefit scenario for Indirect costs – housing market impacts – to renters ($m)

	Low scenario	High scenario
indirect costs:		
Housing market impacts		
to renters (l) Scenario A	~~1,416~~ 75	~~4,863~~ 333
to renters (l) Scenario B	~~1,416~~ 107	~~4,863~~ 999

m. Indirect costs – housing market impacts – to purchasers of new units

74. The main components contributing to this estimate were from assumed delays[43] and cost increases[44]. These delays and cost components are sensitive to other assumptions critiqued previously in relation to indirect benefits to landlords in Section f of this report. Namely, private sector workforce shortages associated with BPICs[45], the relationship between workforce shortages and construction delays[46], as well as estimates of construction delays sourced from QEAS[47]. The same alternative assumptions as that from Section f are applied here, including both Scenarios A and B.

75. In addition, the cost estimates to purchasers of new units were also dependent on building cost estimates associated with the impact of CMFEU EBAs on 1 to 4 bedroom units derived from QEAS analysis[48]. However, the methodology for these estimates

[43] BPICs CBA Model, Indirect effects - residential tab, cells D to I73.
[44] BPICs CBA Model, Indirect effects - residential tab, cells D to I74.
[45] BPICs CBA Model, Workforce estimates tab, cells C to H77.
[46] BPICs CBA Model, Indirect effects - residential tab, cell E43.
[47] BPICs CBA Model, Indirect effects - residential tab, cells Y to AA11.
[48] BPICs CBA Model, Indirect effects - residential tab, cells Y to AA19.

was absent from the QEAS Report (QEAS 2024) and as such I am unable to offer alternative assumptions for this component.

76. Table 21 displays the results of the alternative assumptions. Surprisingly, incorporating these assumptions which have the effect of reducing construction delays had the impact of increasing the cost estimate to purchasers of new units. This is explained by the BPICs CBA Model methodology which assumes a fixed construction cost per unit built, meaning that a higher number of units built results in increased total costs.

Table 21. Alternative cost benefit scenario for Indirect costs – housing market impacts – to purchasers of new units ($m)

	Low scenario	High scenario
indirect costs:		
Housing market impacts		
to purchasers of new units (m) Scenario A	~~168~~ 175	~~1,405~~ 1,615
to purchasers of new units (m) Scenario B	~~168~~ 175	~~1,405~~ 1,078

n. Indirect costs – housing market impacts – to those missing out on housing

77. These indirect costs are calculated as the cumulative delays in attached and detached housing multiplied by annual average rent. Similar to the previous landlord indirect benefit analysis documented in Section f, these delays are reliant on other assumptions regarding workforce shortages, productivity effects, workforce shortage to construction delay factor, and QEAS CMFEU EBA delay estimates. Incorporating the same alternative assumptions as that from Section f results in the following estimates presented in Table 22.

Table 22. Alternative cost benefit scenario for Indirect costs – housing market impacts – to those missing out on housing ($m)

	Low scenario	High scenario
indirect costs:		
Housing market impacts		
to those missing out on housing (n) Scenario A	~~699~~ 104	~~2,390~~ 324
to those missing out on housing (n) Scenario B	~~699~~ 157	~~2,390~~ 1,553

o. Indirect costs – to businesses – to investors

78. The rationale for spillovers to business investment is explained in p 418 of Appendix C in the QPC Final Report. That is, similar to the residential market, BPICs-like conditions were expected to lead to higher project costs and delays on commercial building sites. However, the estimate reflects investment foregone due to workforce

shortages rather than any additional costs or delays associated with BPICs that was used as the methodology for residential construction estimates. Therefore, the indirect cost to investors is directly dependent upon the hypothesised magnitude of workforce reductions attributed to BPICs[49].

79. If we assume that any workforce shortages in the private sector are attributed to general workforce shortages in construction observed nationally and not BPICs specifically[50], Table 23 shows that the indirect cost to investors will be zero.

Table 23. Alternative cost benefit scenario for Indirect costs – to businesses – investors ($m)

	Low scenario	High scenario
indirect costs:		
to businesses		
to investors (o)	~~1,435~~ 0	~~5,140~~ 0

p. Indirect costs – to infrastructure users – infrastructure delays

80. Indirect costs to infrastructure users was described under the heading of Project delays in p 419 of Appendix C in the QPC Final Report. The assumptions used in the modelling were summarised in Table C.13 of Appendix C, with calculations evident in the Project delays – community tab of the BPICs CBA Model.

81. Most of these assumptions appear to be reasonable and evidence based, however, the rationale for the average project delay of 5% (low scenario) or 20% (high scenario) were not discussed in Appendix C of the Final Report. In the Project delays – community tab of BPICs CBA Model the 5% estimate was described as "*assume better than transport"[51] while that for 20% was described as "* assume worst case scenario"[52], however, no further explanation or source to these estimates was provided. It is not clear to me if or how these average project delays have been derived from other material in the BPICs CBA Model nor from any other source. If based on historical data, it is not clear that any method has been used to disentangle or decompose the source of delays to those directly attributable to BPICs versus other delays attributable to skills shortages in the construction industry and other delays associated with other infrastructure or residential construction projects competing for scarce resources.

82. If we assume that half of the average delay estimates are attributed to BPICs and the remainder to general skills shortages, competing projects and Queensland procurement, this would have the effect of halving the estimated indirect cost.

[49] BPICs CBA Model, Indirect effects – commercial tab, cells B to G98 used in the calculation have been copied from the Workforce estimates tab cells C to F77 used elsewhere to quantify workforce shortages attributed to BPICs.
[50] That is, setting the "workforce reductions due to BPICS" to zero.
[51] BPICs CBA Model, Project delays – community tab, cells E6.
[52] BPICs CBA Model, Project delays – community tab, cells E7.

Table 24. Alternative cost benefit scenario for Indirect costs – to infrastructure users – infrastructure delays ($m)

	Low scenario	High scenario
indirect costs:		
to infrastructure users		
infrastructure delays (p)	~~725~~ 363	~~2,901~~ 1,450

Summary of Alternative Cost Estimates

83. Total estimated costs for the low scenario using the alternative assumptions range between $982m to $1,116m, being less than 10% of the original estimate in the QPC Final Report. In comparison, high scenario estimates using the alternative assumptions range between $9,369 and $11,416, or approximately 25 to 30% of the original estimate.

Table 25. Summary of Alternative Cost Estimates

	Low scenario	High scenario
Direct costs:		
to taxpayers		
higher wage costs (h)	~~4,661~~ 0	~~9,278~~ 0
higher costs from productivity loss (i)	~~1,629~~ 315	~~5,996~~ 4,995
deadweight loss from taxation (j)	~~1,887~~ 32	~~4,582~~ 499
Indirect costs:		
housing market impacts		
to first homebuyers (k) Scenario A	~~476~~ -82	~~2,069~~ 153
to first homebuyers (k) Scenario B	~~476~~ -33	~~2,069~~ 842
to renters (l) Scenario A	~~1,416~~ 75	~~4,863~~ 333
to renters (l) Scenario B	~~1,416~~ 107	~~4,863~~ 999
to purchasers of new units (m) Scenario A	~~168~~ 175	~~1,405~~ 1,615
to purchasers of new units (m) Scenario B	~~168~~ 175	~~1,405~~ 1,078
to those missing out on housing (n) Scenario A	~~699~~ 104	~~2,390~~ 324
to those missing out on housing (n) Scenario B	~~699~~ 157	~~2,390~~ 1,553
to businesses		
to investors (o)	~~1,435~~ 0	~~5,140~~ 0
to infrastructure users		
infrastructure delays (p)	~~725~~ 363	~~2,901~~ 1,450
Total costs Scenario A	~~13,096~~ 982	~~38,625~~ 9,369
Total costs Scenario B	~~13,096~~ 1,116	~~38,625~~ 11,416

Summary of Net Impact

84. The net cost of the low scenario using the alternative assumptions was estimated to be between $601m to $654m, compared to $5,698m from the QPC Final Report. In comparison, the net cost of the high scenario using alternative assumptions was estimated to be between $8,496m to $9,188m compared to $20,588m. Lack of access to relevant data to use as an evidence base prevented further alternative assumption being applied, particularly for the high scenario.

85. In summary, this exercise demonstrated that the application of alternative plausible assumptions can produce substantially different estimates of net benefits and costs associated with BPICs. As such, my opinions regarding the cost benefit exercise reported in the QPC Final Report expressed in paragraphs 100 and 101 of my original report remain unchanged.

Question 4

86. There was no other material briefed to me that caused a change in any other opinion expressed in my original report.

Declaration

I have read the Federal Court of Australia's Harmonised Expert Witness Code of Conduct (Annexure A to Practice Note GPN-EXPT) and have complied with it to the best of my knowledge and ability. I confirm that the opinions expressed in this report are wholly my own and represent my genuine, independent, and impartial professional opinion on the matters addressed.

[redacted]

Professor Martin O'Brien

16 September 2026

References

ABS (2025) Latest insights into the rental market, available at: https://www.abs.gov.au/articles/latest-insights-rental-market (accessed September 15 2026).

ABS (2026) Measurement of Labour Input: Australian System of National Accounts: Concepts, Sources and Methods, Edition 8, available at: https://www.abs.gov.au/statistics/detailed-methodology-information/concepts-sources-methods/australian-system-national-accounts-concepts-sources-and-methods/edition-8/chapter-19-productivity-measures/data-sources-and-methods/measurement-labour-input (accessed 15 September 2026).

QEAS (2024) Economic Analysis of the Impact of the CFMEU Queensland EBA on Queensland apartment construction prices 2024: prepared for Master Builders Queensland.

Saunders and Tulip (2019) A Model of the Australian Housing Market, RBA Research Discussion Paper 2019-01, available at: https://www.rba.gov.au/publications/rdp/2019/pdf/rdp2019-01.pdf (accessed 15 September 2026).

Safe Work Australia (2025) Workers Compensation Data, available at https://data.safeworkaustralia.gov.au/datasets/workers-compensation-data (accessed 9 September 2026)

21 September 2026

The role of organised labour and workplace health and safety legislation in keeping workers safe, particularly in the construction industry — an expert witness report for the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

David Walters
Emeritus Professor
School of Social Sciences
Cardiff University
Wales, UK.

Contents

Terms and conditions prescribed for the production of this Report *Page 3*

Expert Witness Report 21/9/26 *Page 5*

The role of workplace health and safety legislation in keeping worksites safe. With particular reference to the construction industry *Page 5*

What is the role of trade unions in keeping worksites in general safe? And in respect of the construction industry in particular? *Page 11*

What is the relationship between workplace health and safety legislation and trade unions in keeping worksites in general safe? And in respect of the construction industry in particular *Page 15*

Do you agree or disagree with the statement in para 31 of Counsel Assisting's submissions dated 3 July 2026 *Page 19*

Having regard to your answers to questions 1–3, do you consider that the implementation guidelines proposed by Counsel Assisting would be more likely or less likely to lead to safer work practices *Page 20*

How has the improvement of workplace health and safety been successfully undertaken in recent years around the world generally? And in respect of the construction industry in particular *Page 21*

Are you aware of any initiatives that have involved regulators, employers, and trade unions working collaboratively to improve workplace health and safety in the construction industry *Page 22*

Terms and conditions prescribed for the production of this Report

This Expert Witness report concerns the role of organised labour and work health and safety legislation in keeping workers safe from risks to their health safety and welfare arising from their work in paid employment. While it reviews evidence from international sources of research. writing and policy on these matters generally, it is especially focused on their particular relevance to the construction industry.

The report is structured in response to a series of questions posed by the lawyers (Hall Payne Lawyers —henceforth HPL) representing the trade unions that commissioned it — the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, (commonly known as the CEPU); and the Electrical Trade Union of Employees Queensland (commonly known as the ETU Queensland & NT).

As set out by Hall Payne Lawyers in their letter commissioning this work, these are:

1. What is the role of workplace health and safety legislation in keeping worksites in general safe? And in respect of the construction industry in particular?
2. What is the role of trade unions in keeping worksites in general safe? And in respect of the construction industry in particular?
3. What is the relationship between workplace health and safety legislation and trade unions in keeping worksites in general safe? And in respect of the construction industry in particular?
4. Do you agree or disagree with the statement in para 31 of Counsel Assisting's submissions dated 3 July 2026 (please explain why you agree or disagree), where it is written that:

    > *It is axiomatic that reducing the frequency with which non-essential personnel are moving around an active construction site will in turn reduce the incidence of preventable accidents. That being the case, it would be reasonably open for the Commissioner to conclude that a code of practice may also improve safety on construction sites, particularly if that code concurrently requires contractors to confirm their adherence to applicable workplace health and safety laws. [Footnote omitted]*

5. Having regard to your answers to questions 1–3, do you consider that the implementation guidelines proposed by Counsel Assisting would be more likely or less likely to lead to safer work practices and work sites in the construction industry in Queensland? Please explain your answer.
6. How has the improvement of workplace health and safety been successfully undertaken in recent years around the world generally? And in respect of the construction industry in particular?
7. Are you aware of any initiatives that have involved regulators, employers, and trade unions working collaboratively to improve workplace health and safety in the construction industry?

In its instruction concerning the approach to addressing these questions, HPL indicated that reference should be made to any academic or policy literature that was considered to assist the Commission to understand the answers provided. It was further requested that the Expert Witness also should have regard to the written submissions of Counsel Assisting dated 14 April 2026 and 3 July 2026, in particular with respect to a proposed code and the safety consequences of the proposals thus advanced. This guidance has been followed to the best of its author's ability in the report that follows, which is structured so that it addresses each question in turn.

The instruction also made clear that while the Commission has not prescribed any requirements with respect to expert witnesses, it was anticipated that in writing the report, its author would comply with the requirements of the Expert Witness Code of Conduct that is used in the Federal Court of Australia. To this end, the expert witness was instructed to review the Code of Conduct carefully and comply with it in the preparation of the report. I confirm that I have done as instructed and reviewed the Code of Conduct and I have complied with its requirements in writing the report that follows and especially those sections further emphasized in the commissioning letter. These were:

1. 'As an expert your role is to assist the Commission by providing an independent opinion. Your role is not to advocate for one side or another.
2. Your report must explain the reasoning which underpins each opinion you state. Your explanation should allow a layperson to understand how and why you hold the opinion.
3. Your report must identify the assumptions and material facts on which your opinion is based.'

I further confirm that in my report I have followed these instructions to the best of my ability.

The role of organised labour and workplace health and safety legislation in keeping workers safe, particularly in the construction industry — an expert witness report for the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

This report is structured into seven sections, each one addressing one of the seven questions formulated and presented by Hall Payne Lawyers and presented in full on the page 3 above.

1) *The role of workplace health and safety legislation in keeping worksites safe and with particular reference to the construction industry*

For over 200 years it has been accepted that the state has a responsibility towards its citizens to provide them with a regulatory framework to protect their health safety and welfare while in paid employment. There is an extensive academic literature documenting the development of this framework in different countries and globally, and discussing the reasons for it and its operation in practice. There is further widespread acceptance that the legislation has played, and continues to play, a significant role in keeping workers safe. And this is as true for the construction industry as it is for other sectors of employment. However, it is also acknowledged that demonstrating a direct cause and effect relationship in terms of measurable improvement in health and safety outcomes that are directly attributable to the effects of specific provisions is complex and difficult since legislation is one of many social, economic, cultural and regulatory influences on these outcomes.

Legislative provisions on work health and safety have developed in response to demands for better and more appropriate standards as well as for their more comprehensive cover and improved enforcement. Trade unions have been prominent in the formulation and expression of these demands. Several common themes evident in this development are outlined in the following section.

Origins and development — With origins in the UK from the late eighteenth century onwards, the development of the regulatory framework is widely seen as a consequence of growing societal concern about the effects of unregulated working conditions on the health and safety of increasingly large numbers of citizens. Based on notions of legal responsibilities surrounding the contract of employment, regulatory provisions gradually extended beyond their initial focus on the health and safety of children, and then women employed in the textiles industry, to include adult male workers in this and other sectors of manufacturing and mining.[1] Then, further extending piecemeal into other sectors of employment too, along with the means of their enforcement by regulatory inspectorates created for this purpose.[2]

[1] There is an extensive academic literature documenting these developments. It is far too large to cite in its entirety. A couple of prominent examples are: Hutchins, B.l. and Harrison, A (1966) *A History of Factory Legislation*, 3rd ed. Cass & Co, London; and Thomas, M. W. (1948) *The Early Factory Legislation, A Study in Legislative and Administrative Evolution*, Thames Bank Publishing, London.

[2] The first Factory Inspector was appointed in the UK under the Factory Act 1833 and almost a decade later the first Inspector of Mines was appointed under the Mines Act 1842. Both Acts were the consequences of

During the course of the 19th and early 20th century, similar patterns of regulatory reform were adopted in other countries as they too industrialised. Such regulation was also often taken up in the administration of many of the countries colonized by European states at this time — as was the case in Australia among the six separate colonies that existed before federation in 1901.[3]

By the time the International Labour Organisation (ILO) was set up in 1919, regulatory standards on health and safety were well established in the legislation of most advanced economies. The creation of the ILO provided means to agree and extend their adoption and influence internationally, through their introduction in ILO Conventions, and through pressures consequent to ILO membership that encouraged Member States to ratify them within their own regulatory frameworks.

Despite this well documented backdrop it remains quite difficult to trace a specific history in relation to the construction industry, largely because of its disparate nature and dominance by micro and small firms. During the early period of regulatory reform, conditions of labour in construction were known to be harsh and disasters occurred both prominently and not infrequently, especially in large transport infrastructure construction engineering projects such as in tunneling, bridgebuilding, railway construction and the like. These raised public concern, as such disasters did when they took place in mining or in factories. But they did not result in the growth of an identifiable corpus of regulatory standards that applied to 'construction' as an industry, in the same way as the emerging regulatory frameworks did for manufacturing and mining. Rather, the piecemeal development of health and safety regulation in the sector seems to have largely involved application of standards developed in other sectors to similar processes and plant that were also seen to be hazardous in construction, with consequent major gaps in their application and coverage. By the mid-20th century, in advanced economies like the UK, general provisions, such as the Construction (General Provisions) Regulations 1961 attempted to consolidate this cover for the industry and were introduced as delegated legislation under the Factories Act.

Themes and reforms: Several features of this fairly well-known regulatory history are relevant to the question of its role in keeping workers safe. Firstly, while individual social reformers feature prominently in historical accounts, the role of trade unions in bringing pressure to bear on governments to introduce these measures is also generally acknowledged. Indeed, agitation for such reform was an important factor in the formation of many trade unions during the 19th century, in Australia as well as more widely in larger industrialised economies globally.[4] Secondly, while regulatory standards generally placed

government inquiries into health and safety conditions in the sectors they covered. (See Hutchins and Harrison (1966) above; and Bryan, A. (1975). *The Evolution of Health and Safety in Mines*, Ashire Publishing Ltd. Letchworth.

[3] Emmett, E. A. (1997). Occupational health and safety in national development — the case of Australia. *Scandinavian Journal of Work, Environment & Health*, *23*(5), 325–333. http://www.jstor.org/stable/40966659

[4] These are too numerous to cite, but an overview of role of health and safety concerns in early history of the origins of organised labour in Australia is well documented in Quinlan, M. (2017). *The origins of worker mobilisation: Australia 1788-1850*. Routledge. And for later developments see also: Anderson, G. and Quinlan, M., 2008. The changing role of the state: Regulating work in Australia and New Zealand 1788-2007. *Labour History: A Journal of Labour and Social History*, (95), pp.111-132.

requirements on employers to ensure the safety of their workplaces, plant and processes, it was acknowledged that the operation of these standards within the workplaces to which they applied could not be assumed from their mere existence in the Statute Book. Means of ensuring their adoption were also required and state regulatory agencies — usually in the form of labour inspectorates — were therefore a further creation of health and safety legislation, along with definitions of offences and penalties. From their origins however, regulatory inspectorates were very small, and penalties for regulatory breaches miniscule, necessitating the regulators' development of strategies to 'secure compliance' and achieve deterrence without resort to formal prosecution and the involvement of the courts, in all but a tiny number of (usually) exemplary cases.[5] Thirdly, since early health and safety legislation largely took the form of prescriptive standards, it required frequent revision and addition, as more workplaces, plant and processes were deemed to require regulatory control, thus leading to an increasingly large, complex body of regulatory provision, which at the same time, failed to provide comprehensive protection for all workers.

Fourthly, an international dimension to the provision of a regulatory framework emerged following the creation of the ILO in 1919, and the engagement of employers' organisations, trade unions and representatives of national governments in making or adopting regulatory labour standards intended to have global application.

These features, well established by the early decades of the 20th century, remained relatively unchanged until its final quarter, when the impact of a different approach began to take effect. Often associated with the recommendations of the Inquiry into Safety and Health at Work chaired by Lord Alfred Robens in 1970-72, although in fact, already operational in some Nordic countries during decade prior to the publication of the Robens Report, this approach sought to replace the prescriptive regulation of health and safety at work with a more participative, principle and process-based system, that placed more emphasis on regulating the management of potential sources of workplace harm.[6]

It argued that, when combined with an over-reliance on external state command and control regulation, the existing prescriptive approach provided little support for workplace parties to engage effectively in preventing injury and illness arising from work, it failed to promote innovation among employers or enable cost-efficient solutions, and failed to adapt or anticipate new risks as well as failing to protect all workers. The Robens Report states (Robens 1972, para 41):

> *The most fundamental conclusion to which our investigations have led us is this. There are severe practical limits on the extent to which progressively better standards of safety and health at work can be brought about through negative regulation by external agencies. We need a more effective self-regulating system.* [Italics in the original]

[5] See for example Carson, W. G. (1979). The conventionalisation of early factory crime. *International Journal of the Sociology of Law*, 7: 37-60; Also: Carson, W. G. (1985). Hostages to history: Some Aspects of the occupational health and safety debate in historical perspective. In: Creighton, W. B. and Gunningham, N. (eds). *The Industrial Relations of Occupational Health and Safety.* Croom Helm, Sydney.

[6] Robens, Lord. (1972), *Safety and Health at Work: Report of the Committee 1970-72*, Cmnd 5034, HMSO, London.

To achieve this, the Report recommended that employers be placed under a general duty to provide a safe workplace, without risks to health, alongside cooperative arrangements between employers and workers and their representatives at national, sector and workplace level. In the UK, these recommendations were given legislative effect via the imposition of new general duties on employers under sections 2 and 3 of the Health and Safety at Work Act 1974 Act. In other advanced economies in Europe, North America and Australasia, similar process- based provisions were gradually introduced, either under the direct influence of the Robens recommendations — as was the case in Australia[7] — or as the result of separate but parallel regulatory policy development such as in Canada and in some European countries.[8] Prescriptive and performance standards were not abandoned by the new approach but were generally provided for through delegated/secondary legislation, codes of practice and so on, that were also part of the new regulatory framework.

Subsequently in Europe, but also elsewhere, a further development within regulatory provisions for health and safety management occurred when EU Directives placed greater focus on principles of risk identification, assessment and control.[9] In so doing they helped created greater systematicity within requirements for health and safety management.[10] Such legislative changes promoted widespread development of a 'management systems' approach in arrangements for work health and safety that also stimulated the uptake of voluntary standards on health and safety management systems.[11] These influences were also apparent at the global level and are reflected in the ILO Convention 155, as well as in the development of ISO standards and subsequently the introduction of ISO 45,001 on health and safety management and the certification of organisations adopting it.[12]

The effectiveness of regulation: As already noted, evaluation the effectiveness of work health and safety legislation in improving health and safety outcomes is recognized to be difficult, as there are many factors that contribute to determining trends in these outcomes. However, the role of regulatory standards in improving prevention, is widely accepted as important. In some countries health and safety authorities have attempted to quantify its effects and attribute the observed declining incidence of work-related serious injuries, fatalities and recognized occupational diseases in most advanced economies at least in part to the effects of legislation. They have further argued that the key elements of the model of participative, process-based regulatory provision, which has remained the global norm for

[7] See for example Emmett, E. A. (1997). Occupational health and safety in national development — the case of Australia. *Scandinavian Journal of Work, Environment & Health*, *23*(5), 325–333. http://www.jstor.org/stable/40966659

[8] For Europe see Vogel, L. (1993), *Prevention at the Workplace. An initial review of how the 1989 Community Framework Directive is being implemented*, European Trade Union Technical Bureau for Health and Safety (ETUC), Brussels. For Canada:

[9] See especially the EU Framework Directive. 89/391 and its Daughter Directives

[10] Walters, D. (ed), (2002), *Regulating Health and Safety Management in the European Union*, Peter Lang, Brussels.

[11] Walters, D. Jensen, PL (2000) The discourses and purposes behind the development of the EU framework directive 89/391, Chapter 5 in *Systematic Occupational Health and Safety Management* eds. Frick, K, Jensen, P.L., Quinlan, M. and Wilthagen, T., Elsevier.

[12] ISO (2018). Occupational Health and Safety Management Systems — Requirements with Guidance for Use. ISO 45001

the regulatory framework for work health and safety in advanced economies for the last 50 years, are among the reasons for measurable improvement in these outcomes.[13] While there are debates about the resources and effectiveness of efforts to secure compliance, within this framework, there is widespread agreement among regulatory policy-makers and theorists that it remains applicable and that it is adaptable to meet the enormous changes that have occurred in the profile of work and employment in advanced economies since its original introduction.[14]

Conceptual change post-Robens: An area in which notable change has occurred more recently, is in relation to the focus on the employment relationship as the basis of the duty of care owed by businesses to their workers and others under the regulatory framework. In current work and employment scenarios, more arms-length relations have been increasingly created by long supply chains, sub-contracting, zero-hour contracts, platform work, and other arrangements that serve to remove the direct link between workers and the businesses benefiting from, and ultimately controlling, their work. This has led to some recognition that establishing a legally enforceable employment relationship in these situations is increasingly challenging. Australian legislative reforms have been particularly innovative in addressing this problem by creating the 'person in control of business undertakings' (PCBU) as the legal entity responsible for the duty of care owed to workers. Other jurisdictions globally (such as the UK for example), have argued that the duty of care defined in their national legislation is already wide enough to take account of changes in the ways in which workers are contracted to undertake work; while in many others, debate continues about the need for further reform needed to achieve this.

Challenges for work health and safety regulation in construction: Against this backdrop, the particular challenges for the operation of regulatory standards and their enforcement in the construction sector have been known for a long time. There are several fairly obvious reasons for this. Construction is a dangerous industry. Worldwide, the ILO has estimated that it accounts for 100,000 fatalities annually, some 30 to 40 per cent of fatal occupational injuries overall[15] Therefore, the risk of serious injury or death at work in this sector is considerably greater than in others. Estimates from the same source further suggest that construction workers in advanced market economies are three to four times more likely to suffer a fatal accident at work than the average for other economic sectors. Available evidence on the effects of work on health is also cause for concern. Data from developed countries with relatively good reporting systems indicate widespread exposure in the construction industry associated with mortality from cancer, respiratory diseases and the like, as well as with substantial debilitating and reduced life expectancy.

Two factors underscore the serious health and safety risks in the industry. Firstly, many construction activities are inherently hazardous: working at height; working underground;

[13] Ashton, D., Eves, D., Myers, K. and Snowball, D. 2024. *Celebrating 50 Years of the Health and Safety at Work Act 1974: How Great Britain's approach to health and safety at work was transformed.*

[14] Although this consensus is not universal and there is some debate about the need for further reform. See for example: James, P. and Walters D 2022. *Work and Health: 50 years of regulatory failure*, Institute pf Employment Rights.

[15] ILO (2005), Global estimates of fatal work-related diseases and occupational accidents, World Bank Regions, ILO, Geneva.

working in confined spaces and in close proximity to falling materials; handling loads manually; handling hazardous substances; using plant and equipment, often in difficult, uncontrolled and unpredictable environments and so on. Secondly the structure, organization and sheer size of the industry influence the extent of the harm experienced by its workers in all countries. It employs some 180 million workers worldwide, creates around 10 per cent of global domestic product, and accounts for some 5 to 8 per cent of employment in most advanced market economies (with double this in developing economies). Despite its size and economic importance, the industry is highly fragmented. Small firms, the self-employed, casual and agency labour predominate, and their frequent simultaneous engagement on multi-employer and temporary worksites presents a major barrier to the implementation of modern preventive health and safety strategies based on systematic risk communication, assessment and management that were described above. Moreover, while there are many skilled jobs in the industry, it has always attracted unskilled and semi-skilled labour, as well as young and inexperienced workers. In many countries it is also a source of employment for migrant labour, which may present additional problems of risk communication in multi-employer, temporary and constantly changing worksites where many workers do not possess an adequate command of a common language. In addition, the fragmented organizational structures and substantial presence of non-standard forms of employment conflict with conventional workplace labour relations practices. In many countries, average trade union membership in construction is less than half of the average across economic sectors as a whole. While many of these characteristics are long-standing and embedded in the structure and organization of the industry, in the last few decades, there have been strong indications worldwide that trends in the industry are leading to increases in casualization and structural fragmentation, with corresponding decline in social dialogue and lower levels of economic and social security.[16]

*Addressing the challenge*s: Efforts to address these problems in construction have led to further innovation in the elements of legislative framework described in the previous paragraphs. As previously noted, there are numerous examples of prescriptive legislative standards that apply to particular plant and processes in construction, that have been adapted piecemeal from those applying elsewhere, or developed separately to meet more specific risks in construction, for example, special provisions aimed at promoting safety for workers working at height, manually handling materials, working in confined spaces, working underground, working with dangerous substances, working with asbestos and so on.

But the significant shift that took place in construction work health and safety regulation, which to an extent parallels the wider change to process-based regulation described above, is evident in ILO Convention 167 (1988) on safety and health in construction, which helped to set standards of health and safety in the industry that are adopted internationally. A similar shift is thus seen in the EU Directive 92/57/EEC on temporary/mobile construction sites, which sets requirements for the regulation of health and safety management in the member states of the EU. Both aim to achieve better co-ordination of health and safety

[16] ILO 2001b. *The construction industry in the twenty-first century: Its image, employment prospects and skills requirements,* TMCIT/2001, ILO, Geneva; ILO 2010 *The role of Worker Representation and Consultation in Managing Health and Safety in the Construction Industry, Sectoral Activities Department ILO Geneva.*

management on construction sites with the introduction of the concept of a duty of care throughout the contracting chain and require a clear chain of responsibility linking all the parties involved. The EU Directive 92/57/EEC requires further safety coordinators during both preparation and execution stages, and a prior health and safety plan.

National provisions such as the UK Construction Design and Management Regulations, are typical of this latter approach. Aside from their attempt to integrate the fragmented nature of the duty of care in construction work, the essential feature of such provisions is that, like the wider regulatory framework, they too focus on achieving more systematic approaches to risk management. The Model Work Health and Safety Act in Australia and the Regulations and Codes of Practice under it largely reflect these international trends evident in the development of health and safety legislation and specifically with regard to construction.[17] While in Queensland these measures are in turn reflected in the Work Health and Safety Act 2011 (Qld) which sets out the primary health and safety duty of care for Persons Conducting a Business or Undertaking (PCBUs), officers, and workers to manage risks. WHS Regulation 2011 (Qld) details specific rules for high-risk work, mandatory WHS management plans, Safe Work Method Statements (SWMS) and other matters, while a number of Codes of Practice provide practical, legally admissible guidance on specific hazards like scaffolding, excavation, respirable crystalline silica dust, and psychosocial hazards.

All of these provisions therefore seek to operationalize the post-1970s regulatory model, with its three vertices of a 'prevention triangle' for health and safety provided by (1) competent employer/PCBU engagement with, and responsibility for, evaluating and controlling risks; (2) worker representation and consultation contributing practical know-how and monitoring management functions; and (3) state regulation and regulatory inspection. To do so effectively in construction, the further reforms described above, aim to allocate responsibility appropriately and to require a co-ordinated managerial strategies that will enable this model to operate effectively within the fragmented organizational contexts of work and employment that are emblematic of the sector.[18]

2) The role of trade unions in keeping worksites in general safe and in respect of the construction industry in particular

It seems obvious that over the course of its history of representing the interests of labour in improving remuneration and working conditions, organized labour will have also frequently contributed to improvement in the health and wellbeing of workers and their families. However, as the previous section makes clear, there is also a substantial body of social history literature that demonstrates the direct historical role trade unions played in the emergence of the regulatory framework for health and safety in industrialising countries. The inescapable message of this extensive literature, is that throughout the developments leading to the present regulatory framework for work health and safety in Australia and

[17] See: https://www.safeworkaustralia.gov.au/safety-topic/industry-and-business/construction/whs-duties https://www.safeworkaustralia.gov.au/doc/model-code-practice-construction-work

[18] See: James, P. and Walters D 2022. *Work and Health: 50 years of regulatory failure*, Institute pf Employment Rights. Also: Walters, D., Johnstone, R., Frick, K., Quinlan, M., Baril-Gingras, G. and Thebaud-Mony, A. (2011) *Regulating Workplace Risks: A Comparative Study of Inspection Regimes in Times of Change.* Cheltenham, UK: Edward Elgar. Page 34.

elsewhere, a great deal has been owed to the efforts organized labour to press home its demands for safer and healthier workplaces. As the references cited previously make clear, trade unions have operated in this way at several levels since their origins. Their democratic structures for worker's voice have enabled workers' workplace health and safety concerns to be taken up in union policies and actions at enterprise, sector and ultimately national levels, where, in this last case, through the various political means at their disposal at various times in history, trade unions have influenced legislative policies in ways that address their demands for safer and healthier work.

Levels of trade union engagement: The gradual incorporation and institutionalization of trade union representation into the structures and procedures of sector and national policy-making in democratic societies has further embedded their influence in both the making of regulatory provisions and in the oversight of their operation. Their influence at the global level through international trade union secretariats and their orchestration of 'workers voice' in the tripartite structure of the ILO mentioned in the previous section, has also been significant. Currently the ILO is the only global body producing OHS standards through a tripartite structures and processes, in which organized labour manages to continue to play a prominent part.

It is further the case that as well as the tripartite structures of the state and global bodies in which trade unions are involved and through which they exercise their influence on health and safety matters at state and sector levels; they also operate in bipartite enterprise and sector level bodies through arrangements for collective bargaining. Although the outcomes of negotiations within these structures concerning pay and working conditions are probably more prominently reported, trade unions also use these structures to address their health and safety concerns too. Collective bargaining agreements with employers are means with which standards on health and safety that may go beyond those of national or state level regulation are sometimes agreed. They are also used to provide agreed procedural details of how state level regulatory standards may be translated into practice at sector and workplace levels.[19]

All of these practices were already apparent in the consensual policy-making apparatus of post-war social democracies, but the post-1970s health and safety regulatory reforms outlined in the previous section provided regulatory support for further trade union institutional engagement not only at these levels, but at the workplace level too. In the latter case this has been through formal legislative requirements for the appointment of workplace health and safety representatives and the creation of joint health and safety committees, while in some countries it has further extended or formalized existing and new tripartite advisory bodies involving trade union representatives at sector and state levels. These developments must also be seen as a further indication of the acknowledged importance of the role played by trade unions in keeping worksites safe.

[19] See Weil, D. (1991), "Enforcing OSHA: the role of the labour unions", Industrial Relations, 30: 20-36 and : Weil, D. (1992), "Building safety, the role of construction unions in the enforcement of OSHA", in Journal of Labor Research, 13 (1): 121-132, on the ways in which American trade unions in the construction industry and elsewhere co-operate with labour regulators in this respect.

Representing workers at the workplace level: Historically, the statutory rights of workers to represent their health and safety interests at workplace level emerged in coal mining in the UK in the 1870s following agitation for such measures by early coal mining unions.[20] They appeared on the statute book shortly afterwards in Australia as the consequence of similar agitation.[21] The nature of these measures and their implications for practices in construction are important and there will be cause to return to them later, but it is sufficient for the time being to note their existence in coalmining, nearly a hundred years before similar measures were adopted more widely in the reforms of the 1970s. Although in most countries and at global level, it was trade unions that demanded these rights for workers to select their own autonomous health and safety representatives, the wider climate that led the legislature of many counties to be receptive and supportive of such developments was one in which the notion of participation and joint actions between employers and their workers on health and safety held sway. In other words, the same predominant influence that had led the Robens Report to argue there was '*a greater natural identity of interest between the two sides in relation to safety and health problems than in most other matters*' effectively overruled the opposition to such participative measures. It led to their widespread inclusion in the legislation of most advanced economies from the 1970s onwards and in ILO Conventions on safety and health in the following decade. And although, in some countries, the legislature has been careful not to confer such rights on 'trade union representatives', but uses terms like 'workers and their representatives' instead, in practice, more often than not, where they are autonomous and effective, these representatives *are* trade union representatives, and *are supported by trade unions both inside and beyond* the work organization in which they are active.[22]

Such provisions applying at workplace level normally require employers to make arrangements for:

- selection of representatives in health and safety by workers
- protection of representatives from victimization or discrimination as a result of their representative role
- paid time off to be allowed to carry out the function of safety representative
- paid time off to be trained in order to function as a safety representative

They normally provide these representatives with rights to:

- receive adequate information from the employer on current and future hazards to the health and safety of workers at the workplace

[20] See Walters D, and Quinlan M, (2019) Representing workers on occupational safety and health: some lessons from a largely ignored history, *Industrial Relations Journal*, vol.50 no.4 399-414.
[21] See Walters D, and Quinlan M, (2019) Voice and resistance — Coal Miners' struggles to represent their health and safety interests in Australia and New Zealand 1871-1925, *Economic and Labour Relations Review* 30(4): 513-31.
[22] See Loudoun, R. and Walters, D. (2009) Trade Union Strategies to Support Representation on Health and Safety in Australia and the UK: Integration or Isolation? In: Walters D. and Nichols T. eds. Workplace Health and Safety: International Perspectives on Worker Representation. Basingstoke: Palgrave Macmillan; Also Walters, D. and Nichols, T. (2009) Representing Workers on Health and Safety in the Modern World of Work, in the same volume.

- inspect the workplace
- investigate complaints from workers on health and safety matters
- make representations to the employer on these matters
- be consulted over health and safety arrangements, including future plans
- be consulted about the use of specialists in health and safety by the employer
- accompany health and safety authority inspectors when they inspect the workplace and
- to make complaints to them when necessary

There is some variation in the nature extent of these rights in different countries, largely reflecting national differences in regulatory and industrial relations practice and tradition, but there is nowadays a broad similarity across advanced economies in the inclusion of these provisions within national regulatory frameworks for health and safety. Variation in these measures between countries is apparent in a couple of ways that may be especially relevant in the construction sector and they are worth a moment's digression.

Firstly, one of the more significant regulatory elements that is found within some jurisdictions, but not others, is the right given to (usually) accredited health and safety representatives to stop dangerous work — which is often linked to a right to serve a Provisional Improvement Notice. Australia is among the countries in which such rights are part of the regulatory provision supporting the activities of Health and Safety Representatives. The rights have a clear relevance to the maintenance of appropriate day-to day participative risk management practice and the prevention of potentially harmful incidents on construction sites, especially in large complex and multi-employer worksites where the monitoring of sound health and safety practices may be quite challenging.

They also give the appearance of significant legitimacy to health and safety representatives, and help in raising their profile on worksites. They are widely regarded by trade unions as advantageous for these reasons. And as the research reviewed in the following section will make clear, it appears that they are correct in regarding them in this way. While at the same time they are often viewed with some degree of concern by employers and the latter are usually opposed to them having any regulatory status. However as is explored further in the following section, international research evidence suggests that where they exist, such rights have been used conservatively and appropriately by those individuals on whom they are conferred.

The second variation in the regulatory framework that is of particular relevance to the construction industry concerns arrangements that exist in some countries to tackle the acknowledged problems of health and safety in micro and small firms. Generally, and for a host of well-documented reasons, modern systematic and participative arrangements for health and safety management and their outcomes in terms of the prevention of injuries, fatalities and ill- health are often more problematic to achieve in these firms than in their larger counterparts. At the same time, it is also well-understood that trade union representation, along with structures and procedures for the appointment and activities of health and safety representatives are considerably less developed in these firms than in

larger ones.[23] In some countries this has been addressed by regulatory measures that provide for the appointment (normally by trade unions) of full-or part-time peripatetic health and safety representatives and which grant these representatives access to micro and small firms.

There are several variations of this development. The best known are probably the regulatory requirements that have existed in Sweden since the 1970s and which give trade unions the power to appoint *regional health and safety representatives* and grant them access to small firms where at least one member of the relevant trade union is employed. Numerous research studies attest to the effectiveness of these measures in improving health and safety practices and their outcomes in Sweden.[24] Variations on this legislative approach are also seen in Norway, where they apply in the construction sector and in some parts of Italy where regulatory requirement s provide for 'territorial health and safety representatives' in construction and other sectors that are jointly administered at regional levels. There are also numerous further examples of voluntary versions of such schemes that have been at various times found at sector or regional levels in other countries including in Spain, in the UK, South Africa and elsewhere.[25] What is especially relevant about all these schemes in relation to the situation in construction in Australia, is that they all provide the peripatetic trade union representatives involved with a right of entry to worksites in order to pursue their health and safety functions. As such there is some similarity to the more general right of entry allowed to trade union officials in Australian legislation. There will be reason to return to the implications of this later in this report.

3 The relationship between workplace health and safety legislation and trade unions in keeping worksites in general safe and in respect of the construction industry in particular

The previous two sections have made clear that a relationship between workplace health and safety and trade unions in keeping worksites safe occurs at many levels. In short, an extensive literature describes how historically, trade union demands have strongly influenced the development and content of protective legislation on health and safety. Current studies demonstrate that they continue to do so. Research indicates how trade unions and their representatives influence the operation of legislative arrangements at national, sector and workplace levels. It further shows how they support this at the workplace level and under what conditions this support is most effective. This section will focus on findings from this latter research and how they apply in general and in the construction industry in particular.

[23] See EU-OSHA https://osha.europa.eu/en/search/site?search_api_fulltext=SESAME for a detailed review of the research and policy literature concerning health and safety in micro and small firms.
[24] For a review see Frick, K (2009) Health and Safety Representation in Small Firms. In Walters, D. and Nichols T. eds. *Workplace Health and Safety, International Perspectives on Worker Representation,* Palgrave Macmillan Basingstoke.
[25] See Walters, D., Frick, K., & Wadsworth, E. (2018). Trade union initiatives to support improved safety and health in micro and small firms: Trade Union Prevention Agents (TUPAs) in four EU Member States. *Luxembourg: EU-OSHA*.

Evidence in support of the effectiveness of trade union support: A host of studies, largely undertaken in advanced economies over the past 50 or so years indicate how measures to provide workers with representation of their health and safety interests have operated in practice in different countries, sectors and workplaces of different sizes and degrees of complexity. They have explored 'what works' in terms of the effective representation of workers interests by providing an analysis of its impact on leading and trailing indicators of health and safety performance.[26] They further explore 'how this works' and what supports effective representation on health and safety, as well as providing insights into barriers to effective representation and what may be required to overcome them.

Establishing causative connections between health and safety interventions and change in a measurable outcome such in an incidence rate for work-related injury, fatality or illness is not straightforward. Results are often inconclusive and do not reliably support a clear cause/effect relationship. However, it is well established by a host of robust quantitative studies across a range of sectors and countries, that the relationship between the presence of trade unions and their health and safety representatives, and measurable improvements in outcomes, like injury and fatality rates, is indeed a positive one and the presence of the former is associated with measurable improvement in the latter.[27]

More specifically in construction, older studies have included a comparison of health and safety outcomes for unionized and non-unionized construction workers in the US[28] and in Britain and France.[29] They indicated better standards of health and safety were achieved in unionized workplaces than in non-unionized ones. An Irish study examined the relation between injury rates on construction sites and the perceptions of workers and managers, the risk management system in place, and OHS enforcement and the presence or otherwise of trade union safety representatives. It found *"the variable with the strongest relationship with safety compliance is the presence or absence of a safety representative*" and it

[26] Leading indicators are measures of things like health safety management practices, health and safety communication, awareness, training and so on that are predictive of outcomes, while; while trailing indicators are measures of outcomes themselves — such as changes in injury rates, fatalities, incidents of work related ill-health, enforcement actions and the like.

[27] Key studies include the following: Lewchuk, W., Robb, A. L. and Walters, V. (1996), "The effectiveness of Bill 70 and joint health and safety committees in reducing injuries at the workplace. The case of Ontario", *Canadian Public Policy*, 23 (3) 225-243; Morantz, A. (2011). Coal Mine Safety: Do Unions Make a Difference. Stanford Law and Economics Olin Working Paper No 43: Stanford Law School; Nichols, T. Walters, D., and Tasiran, A.C. (2007), "Trade Unions, Institutional Mediation and Industrial Safety – Evidence from the UK", *Journal of Industrial Relations*, 49 (2); Reilly, B., Paci, P. and Holl, P. (1995), "Unions, safety committees and workplace injuries", in *British Journal of Industrial Relations*, 33 (2): 273-88; Robinson, A., Smallman, C. (2000). The contemporary British workplace: a safer and healthier place? *Work, Employment and Society,* 20(1):87-107. Robinson, A. and Smallman. C. (2000), The Healthy Workplace? *Research Papers in Management Studies WP 05/2000, Judge Institute of Management Studies,* , Cambridge; Shannon, H., Walters, V., Lewchuck, W., Richardson, J., Moran, L. A., Haines, T. and Verma D. K. (1996), "Workplace organisational correlates of lost time accident rates in manufacturing", *American Journal of Industrial Medicine, 29: 258-68.*

[28] Dedobbeleer, N., Champagne F. and German, P. (1990). "Safety performance among Union and Non-union Workers in the Construction Industry", *Journal of Occupational Medicine*, 32 (11): 1099-1103.

[29] Grunberg, L. (1983), "The Effects of the Social Relations of Production on Productivity and Workers' Safety", *International Journal of Health Services*, 13(4): 621-634.

suggested that *"what is most eloquent about these results is the lack of any other significant relationships"*.[30]

What makes worker representatives effective? The large comprehensive study commissioned by the UK Health and Safety Executive in 2005 and undertaken by Walters *et al* in 2005 (on which Nichols et al 2007 cited above was also based), also explored what supports the beneficial effect of joint arrangements through an extensive review of the literature and detailed qualitative study of arrangements at establishments in the construction and chemicals sectors.[31] They found strong agreement between their findings and that of other studies, indicating a set of preconditions that help to determine the effectiveness of health and safety representatives and joint arrangements for health and safety at workplace levels. These were the presence of:

- a strong legislative steer
- effective external inspection and control
- demonstrable senior management commitment to both OHS and a participative approach, and sufficient capacity to adopt and support participative OHS management competently
- effective autonomous worker representation at the workplace and external trade union support
- trained and informed health and safety representatives
- consultation and communication between representatives and the workers they represent.

Where combinations of these preconditions were found, worker representation and consultation made a significant contribution to improved health and safety arrangements, awareness and performance. What is particularly significant about this, in relation to the question addressed in this section, is that all these studies point to the importance of trade union support, within and outwith workplaces, regardless of whether or not the health and safety representatives themselves are trade union representatives (although they frequently are).

During the last 20 years or so, further studies have supported these findings, while at the same time indicating that a reducing trade union presence in workplaces generally has contributed to a decline in the presence of effective and autonomous representation of the health and safety interests of workers.[32] Several studies have further pointed to the association they have demonstrated between a strong trade union presence in the sector and effective representation on health and safety issues, such as in coal mining in Australia for example[33] The same studies also demonstrate that while the powers of site and industry

[30] McDonald, N. and Hyrmak, V. (2002,) *Safety Behaviour in the Construction Sector*, HSA/HSE, Northern Ireland.

[31] Walters, D., Nichols, T., Connor, J. Tasiran, A,C. and Cam, S. (2005), *The role and effectiveness of safety representatives in influencing workplace health and safety*, HSE Research Report 363, Sudbury, HSE Books.

[32] Walters, D. and E. Wadsworth (2019), 'Participation in Safety and Health in European Workplaces: Framing the Capture of Representation', *European Journal of Industrial Relations*., 095968011983567.

[33] See for example: Walters D, Quinlan M, Johnstone R, Wadsworth E. (2016) Cooperation or resistance? Representing workers' health and safety in a hazardous industry, *Industrial Relations Journal*; and Walters, D.,

health and safety representatives in coal mining include quite extensive rights to order the cessation of work and processes they regard as posing serious risks to health and safety, representatives are careful to remain within the legal strictures governing their use. With the result that they are used appropriately. Even when their use has been appealed by mine management, the actions of the representatives have invariably been upheld by regulatory inspectors. Similar findings have been reported in Sweden in relation to the longstanding provisions in Swedish regulation that enable Swedish health and safety representatives to intervene, stopping processes they regard to be of serious and imminent risk to health and safety.[34]

Overcoming barriers to effective health and safety representation: These and other more recent studies also draw attention to the substantial effects of the current organization of work and employment in undermining support for effective representation in many sectors — such as typically illustrated in the construction sector.[35] As outlined in the previous section, acknowledgement of the challenges to preventive approaches to health and safety in these circumstances has led to a number of regulatory and voluntary initiatives to take account of organisational aspects of work and employment in sectors such as construction, in ways that provide additional support for participative health and safety arrangements. Studies of this support have generally found it to be helpful in promoting better health and safety arrangements. The activities of regional health and safety representatives have been extensively studied in Sweden and they have been found to be effective.[36] A well-established body of evidence points to the success of similar initiatives in other countries too.[37] Whether they have been supported by statutory or voluntary means, these interventions, all involve schemes in which trade union nominated (and sometimes also employer nominated) change agents are able to visit micro and small firms with limited health and safety arrangements in place and help them to build better and more participative arrangements. Despite the controversy and hostility which has sometimes characterized debate concern the possible introduction of such schemes, as the sources cited above make plain, their independent evaluation consistently shows them to be successful in practice, in achieving improvement in health and safety arrangements in the firms involved and to have been received positively by both employers and workers in these firms.

Johnstone, R., Quinlan, M., Wadsworth, E. (2016) Representing miners in arrangements for health and safety in coalmines: A study of current practice, *Economic and Industrial Democracy*, Volume: 40 issue: 4, page(s): 976-996.

[34] Frick, K., Eriksson, S. and Westerholm, P. (2005) Work environment policy and the actors involved, in: *Work life and health in Sweden 2004*. National Institute for Working Life, Stockholm, Sweden. Swedish ref.

[35] See for example, Walters, D (2021) Representing Workers on Safety and Health: The Current Challenges, in Sheldon et al (eds) *The Regulation and Management of Workplace Health and Safety*, Routledge, Oxford.

[36] Frick, K. and Walters D. R. (1998), "Worker representation on health and safety in small enterprises: Lessons from a Swedish approach", in *International Labour Review*, 137 (3): 365-89.

[37] See for example, Shaw, N. and Turner, R. (2003), *The Worker Safety Advisors Pilot, HSE Research Report 144*; Sudbury: HSE Books; Walters, D.R. (2000), The role of worker representation in agriculture in Western Europe, *Labour Education, No. 118/119*, ILO, Geneva. Walters, D. R. (2002), *Working Safely in Small Enterprises in Europe,* ETUC, Brussels; Walters, D.R. (2004), "Making things work: strategies for effective worker representation on health and safety in small firms in Europe", *Policy and Practice in Health and Safety,* 2. (1): 43-63: Walters, D., Frick, K., & Wadsworth, E. (2018*). Trade union initiatives to support improved safety and health in micro and small firms: Trade Union Prevention Agents (TUPAs) in four EU Member States*. Luxembourg: EU-OSHA.

4 Do you agree or disagree with the statement in para 31 of Counsel Assisting's submissions dated 3 July 2026 (please explain why you agree or disagree), where it is written that:

> *'It is axiomatic that reducing the frequency with which non-essential personnel are moving around an active construction site will in turn reduce the incidence of preventable accidents. That being the case, it would be reasonably open for the Commissioner to conclude that a code of practice may also improve safety on construction sites, particularly if that code concurrently requires contractors to confirm their adherence to applicable workplace health and safety laws.'*
> *[Footnote omitted]*

While it is obvious that the presence and unrestricted movement of non-essential personnel who are unaware of the risks and arrangements for health and safety on a construction site, may pose risks to themselves and others, and arrangements should be in place to prevent or control such access, important questions arise over who is deemed to be 'non-essential' in the above statement. Evaluating this statement in paragraph 31 within the wider context of the Counsel Assisting's submission dated 3 July 2026 reveals that it is a section of a proposed Code that is primarily aimed at addressing industrial relations issues at constructions sites in Queensland, rather than those concerning the operation of arrangements for health and safety. In the former respect, it appears to be seeking to control what it regards as unlawful entry into construction sites by trade union officials acting 'other than in accordance with the legislated right of entry framework (and indeed without always notifying the site occupier of their presence)'.[38]

In my capacity as an expert witness with knowledge on health and safety at work, and especially with regard to the representation of workers interests in their health and safety, I can confirm that the research and policy literature I have cited in some detail in the previous sections of this report, generally regards the trade union right of entry as expressed in Australian legislative requirements as important. This is because it is seen as a support for building participative arrangements for health and safety management along the lines outlined in the evaluations cited previously. That is, it allows trade unions a potential platform with which to assist workers on construction sites and elsewhere to persuade their employers and their management of the benefits of such participative arrangements in supporting improved health and safety. It does so in ways similar to the regulatory and voluntary initiatives that evaluations cited in the last paragraph of the previous section of this report have shown to be successful. It further allows a trade union actors from outside the workplace to support representatives within workplaces who may consider themselves vulnerable to punitive actions by their employers should they continue to pursue their health and safety objectives. There is strong evidence from the previously cited studies on what makes health and safety representatives effective in coal mining in Australia that this is a very important support.

[38] See Para 29 of Counsel Assisting's submission dated 3 July 2026.

As an aside, I feel it is also worth pointing out that in my 40 years or so, of undertaking field research into worker representation on health and safety, I have never come across a trade union official visiting a workplace in any of the very many sectors in which I have conducted field studies, who was unfamiliar with the health and safety conditions they were likely to encounter, or how they should conduct themselves in support of their own safety and that of others while on-site. The vast majority of such officials have an employment history on such worksites and those that advise and support on health and safety also have considerable additional knowledge and experience of these matters too.

From a health and safety perspective therefore, any restriction of such legitimate access would seem to represent a retrogressive and unhelpful step in achieving much needed improvements widely acknowledged to be needed construction. Further, requirements in a code requiring contractors to confirm in writing that they are adhering to health and safety laws, such as are also mentioned in the above paragraph of the Counsel Assisting's submission add nothing further to what already is required of contractors under their legal obligations. Unless such requirements are accompanied by clear guidelines on how such confirmation is to be monitored and enforced, and the responsibility for this is held by an agency with the capacity to do so, it would seem to offer little by way of further protection than what already exists under existing statutory provision for the health and safety of the workers and others to whom contractors owe a duty of care under Queensland regulations. The Code mentions the creation of 'an independent regulator' tasked with its administration, but it is silent on what capacity this body would have in relation to the inspection and enforcement of health and safety matters.

5 *Having regard to your answers to questions 1–3, do you consider that the implementation guidelines proposed by Counsel Assisting would be more likely or less likely to lead to safer work practices and work sites in the construction industry in Queensland? Please explain your answer.*

As noted in the previous section, the Guidelines to which this question refers, primarily address industrial relations issues rather than those concerning health and safety. As such, while they may have some tangential relevance to improving health and safety, they are not focused directly on this outcome. They would probably only serve to be effective in as far as they supported the statutory requirements that apply directly to health and safety construction sites and the means of enforcing these requirements in Queensland. And as noted in the previous section, if they were used to undermine trade unions' legitimate right of access to worksites or other legitimate rights trade unions have in relation to the health and safety activities on worksites, the accumulated evidence presented in the previous sections would suggest that this would be unlikely to lead to safer or healthier working practices.

This said, there are some elements of the proposed Code that resonate with current regulatory instruments for health and safety in construction. These are seen in the examples mentioned previously in the EU and the UK, where attention has been paid to the supply chain relations evident in subcontracting on construction sites and an effort made to better co-ordinate health and safety management arrangements between different contractors on site while at the same time ensuring that the duty of care flows in both directions through

the chain, so that responsibility for health and safety rests with the most appropriate business with capacity to deliver this duty. Elements of the proposed Code such as leveraging of purchasing power within supply chain and supporting the delivery of a duty of care through the site supply chain, also appear to be situated broadly within the same spirit as current analysis of organizational and enforcement challenges in the sector, but there is insufficient reference to the relevant health and safety provisions and the arrangements in place to secure compliance to be able to determine how the Code might work in practice in relation to health and safety.

6 *How has the improvement of workplace health and safety been successfully undertaken in recent years around the world generally? And in respect of the construction industry in particular?*

This question has already been largely addressed in previous sections. Attention is drawn to the points made and sources cited in:

Section 1: *Challenges for work health and safety regulation in construction*: and *Addressing the challenge*s;

Section 2: *Levels of trade union engagement*

Section 3: *Evidence in support of the effectiveness of trade union support; What makes worker representatives effective; and Overcoming barriers to effective health and safety representation*:

In essence, the above Sections and relevant paragraphs indicate a widespread consensus that at least in advanced economies there has been a substantial improvement in long term trends in health and safety outcomes such as those measured by the occurrence of work-related injuries and fatalities as well as in the occurrence of a number of work-related forms of ill-health. It is further acknowledged that some of this improvement is the result of change in the nature of work and employment, and in particular the decline of the presence of manufacturing, mining and other heavy industries in these countries, but it is generally held that a proportion of the reduction in injuries and fatalities observed, is the result of improvements in health and safety arrangements and practices that have been introduced as a result of regulatory requirements and measures to secure compliance with them. Previous Sections focused on the role of trade unions in these developments and have found them to have played a significant part in the improvements made, both in bringing about their introduction and in supporting their effective delivery.

The previous Sections also showed the construction industry to have been especially challenging for the implementation and operation of regulatory standards, in part because of the on-going presence of many serious work-related hazards and risks found in the sector and partly because of challenges for more systematic health and safety arrangements and support for compliance that are presented by the fragmented organization of work and employment endemic in the sector internationally. They point out that the toll of work-related death and disability that is reported for the industry internationally remains unacceptably high. They outlined some of the developments in the global regulatory framework that have been introduced to address these challenges and to reduce the burden of death and disease that is characteristic of the sector. In particular they have drawn attention to ILO Convention 167 on Construction and the EU Directive 92/57/EEC which both focus on locating responsibility of managing health and safety appropriately

within labour supply chains at worksites and on effective co-ordination of preventive arrangements. These provisions have been in force for more than two decades and some examples of measurable improvement have been attributed to them,[39] but substantial progress still needs to be made.

7 *Are you aware of any initiatives that have involved regulators, employers, and trade unions working collaboratively to improve workplace health and safety in the construction industry?*

There is no shortage of collaborative initiatives on health and safety in construction. Collaboration has been a prominent feature of many policy and institutional initiatives on health and safety in this sector in advanced economies for some time. At global, regional (eg European), national and sector levels, discussion of new developments frequently emphasises a background of agreement reached between social partners, trade bodies, political interests, regulators and so on, that support initiatives on health and safety at all levels in the sector. Institutionally, there is also plethora of joint, tripartite and wider membership bodies in construction that make, advise or are consulted on policy and on new initiatives for the sector. And national governments often take a direct interest in health and safety issues in the industry, announcing drives to improve outcomes, and creating consultative bodies and the like for policy discourse and agreeing targets for improvements. Prominent politicians have aligned themselves with these collaborative efforts between industry stakeholders, and between them, regulators and others to seek improvement in the sector.[40]

These initiatives are somewhat paradoxical however. For at the same time as they suggest a comparatively high level of participative engagement with health and safety among peak organisations in the industry, the efforts made to achieve them are to an extent also symptomatic of concern, among its leading actors, about high degree of *dis*organization in construction. As discussed in previous sections of this report, this disorganisation is one of the reasons for the difficulties encountered in sustaining effective preventive health and safety strategies — amid the predominance of micro firms, temporary worksites and short-term employment endemic in the industry. It is probably also the case that much of the contribution of employers to the institutional collaboration observed in the sector is made by a comparatively small number of very large firms that generally operate as principal contractors and have a high degree of visibility to governance, regulators and public scrutiny, while that of trade unions in most countries is undertaken by trade unions that are relatively weak in terms of the extent of their membership in the sector. Despite this, these collaborations that are encouraged and supported by health and safety regulators for the industry and they are very much an element of recent regulatory strategies in the sector

[39] See for example Blanc, F., Ottimofiore, G., & Myers, K. (2022). From OSH regulation to safety results: Using behavioural insights and a "supply chain" approach to improve outcomes–The experience of the Health and Safety Executive. *Safety Science*, *145*, 105491.

[40] Notably for example, 25 years ago, John Prescot, when Deputy Prime Minister in the UK provided a high-profile political influence on major contractors in the UK industry to work together to improve health and safety performance in the sector that was extensively reported in the media. See: https://www.bdonline.co.uk/briefing/john-prescott-the-deputy-prime-minister-who-confronted-constructions-safety-crisis-and-grappled-with-urban-policy/5132931.article

that seek more sustainable ways of securing compliance — as Blanc et al (2022) cited above, discuss in the case of the UK.

These initiatives are too numerous to recount in their entirety in this report. However, some concrete examples of actions jointly supported by employers' organisations and trade unions are detailed in the account of the role of trade union preventive agents (TUPAs) in member states of the EU, cited previously (Walters et al 2018). They include analysis of initiatives in Italy, Spain, Sweden and the UK. In Italy, for example, in sectors with very high proportions of MSEs, and/or of seasonal or fragmented work, and where employment has traditionally been unstable and trade unions are weak, such as in construction, there is a long-standing history of established bipartite joint bodies and funds, known as *bilateralità*,[41] that nowadays include providing resources and support for the activities of territorial health and safety representatives in relation to micro and small firms in sectors like construction and which are particularly active in regions of northern Italy. Evaluation of their activities suggested them to be effective.

While in Spain since around 2000, there have been programs in place based on voluntary agreements for preventive agents supported by both unions and employers to visit micro and small firms including those in construction in several regions. Cooperation between the social partners and, for the most part, regional authorities, is shown to be a crucial determinant of the resources and kind of help these preventive agents are able to provide employers and workers in micro and small firms to improve their OSH management.

The effectiveness of regional health and safety representatives in Sweden has already been discussed, but it is relevant to note here that this large scale initiative in Sweden was originally supported by the Work Environment Fund which was created through an agreed levy on employers.[42]

In the UK, over the same period as that described in Italy and Spain, there were joint interventions of preventive agents in health and safety in agriculture, and 'worker advisors' as the result of other voluntary arrangements resulting from collective agreements in several sectors including construction. On some large construction sites agreements between unions and principal contractors have led to appointment of full-time trade union health and safety conveners (also seen in construction in Italy), not only for the workers of the principal contractors, but for workers employed by the other contractors and subcontractors at the worksite. There are also 'framework agreements' in the civil construction sector that bind all contractors and their subcontractors to their standards and support joint activities on health and safety. Another example of such joint activity is seen in the role played by covenant agreements, going beyond the formal requirements of

[41] A wider comparative analysis of the role of these institutional forms can be found (in Italian) in: Sandulli, P., Faioli, M., Bozzao, P., Bianchi, M.T. and Croce, G. (2015). *Indagine sulla bilateralità in Italia e in Francia, Germania, Spagna, Svezia.* Roma: Fondazione Giacomo Brodolini.

[42] Antonsson, A. B., Birgersdotter, L. and Bornberger-Dankvardt, S. (2002). *Small enterprises in Sweden. Health and safety and the significance of intermediaries in preventive health and safety.* Arbete och hälsa 2002:1. Arbetslivsinstitutet.

legislation, in order to improve the work environment in construction as well as other sectors, which have been widely used in the Netherlands with some reported success.[43]

There is a further body of research studies that describe 'co-enforcement' initiatives undertaken through co-operation between regulatory inspectorates and trade unions. These studies, which report successful examples of such activities from the United States, Argentina and elsewhere, generally point to their effectiveness, especially in enhancing and strengthening the efforts of regulatory agencies to secure compliance among duty holders that they otherwise would find 'hard to reach.'[44]

Such approaches are part of wider current thinking on ways forward on achieving improved compliance with labour standards, including those on health and safety, in modern employment contexts, where it is increasingly recognised that conventional methods of regulatory inspection are insufficient to secure desired improvements in health and safety outcomes.[45] Given its relatively poor record in this respect, it is not surprising that the construction industry has become something of a crucible for trialling these collaborative initiatives. Achieving the 'orchestration' of multiple stakeholders with shared interests in improved health and safety outcomes is a prominent feature of current regulatory thinking on how to improve compliance.[46] The support given to collaboration on health and safety in construction is therefore perhaps best understood in these wider contexts.

[43] See for example Korver, T. and P.R.A. Oeij (2005) 'The Soft Law of the Covenant: Making Governance Instrumental', European Journal of Industrial Relations 11(3): 367–84.

[44] Amengual, M and J. Fine, J. 'Co-Enforcing Labor Standards: The Unique Contributions of State and Worker Organizations in Argentina and the United States' (2017) 11 *Regulation & Governance* 129. Also Fine, J. and Bartley, T. 2019. 'Raising the Floor: New Directions in Public and Private Enforcement of Labour Standards in the United States.' *Journal of Industrial Relations,* 61(2), 252.

[45] See for example the discussion of these approaches in ILO publications such as: ILO (2017). *ILO Approach to Strategic Compliance Planning for Labour Inspectorates*. International Labour Organisation, Geneva; and Weil, D. (2008). A strategic approach to labour inspection. *International Labour Review*, 147: 349-375.

[46] Contemporary regulatory theorising on the role of orchestration is discussed in: Abbott, K.W., Levi-Faur, D. and Snidal, D. 2017. 'Theorizing Regulatory Intermediaries: The RIT Model'. *The Annals of the American Academy of Political and Social Science,* 670(1), 14.

HPL HALL PAYNE LAWYERS

Freecall 1800 659 114
Facsimile 07 3017 2499
www.hallpayne.com.au
general@hallpayne.com.au
Ground Floor, 27 Peel Street
South Brisbane Qld 4101
Locked Bag 2013
South Brisbane Qld 4101
ABN 45 137 119 629

13 August 2026

Contact
Luke Tiley
Principal
[redacted]
Accredited Workplace Relations Law Specialist

Sarah Cavanagh
Paralegal
Phone: [redacted]
[redacted]

Our Ref: LMT:4251429

Professor David Walters

By Email: [redacted]

Dear Professor Walters

Re: Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

We act for the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia and the Electrical Trade Union of Employees Queensland in the above matter.

We enclose:

1. Terms of Reference of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry (August 2025) (**Terms of Reference**);
2. Submissions of Counsel Assisting dated 14 April 2026;
3. Submissions of Counsel Assisting dated 3 July 2026; and
4. Federal Court of Australia Expert Witness Code of Conduct.

Background

The **Commission** of Inquiry into the CFMEU and Misconduct in the Construction Industry is an independent investigation launched by the Queensland Government to probe alleged corruption, systemic violence, bullying and intimidation within the CFMEU in Queensland and the Queensland construction industry more broadly.

As part of its Terms of Reference, the Commission must review whether any law or policy change is needed and consider the making of recommendations as considered appropriate.

Questions to be addressed in your report

The focus of your report and the questions is on assisting the Commission of Inquiry to understand the role of organised labour and workplace health and safety legislation in keeping workers safe, particularly in the construction industry.

In answering the following questions, please refer to any academic or policy literature that you consider would assist the Commission to understand your answers. Please also have regard to the written submissions of Counsel Assisting dated 14 April 2026 and 3 July 2026, in particular with respect to the proposed code and the safety consequences of the proposals advanced.

1. What is the role of workplace health and safety legislation in keeping worksites in general safe? And in respect of the construction industry in particular?
2. What is the role of trade unions in keeping worksites in general safe? And in respect of the construction industry in particular?
3. What is the relationship between workplace health and safety legislation and trade unions in keeping worksites in general safe? And in respect of the construction industry in particular?
4. Do you agree or disagree with the statement in paragraph 31 of Counsel Assisting's submissions dated 3 July 2026 (please explain why you agree or disagree), where it is written that:

   > *It is axiomatic that reducing the frequency with which non-essential personnel are moving around an active construction site will in turn reduce the incidence of preventable accidents. That being the case, it would be reasonably open for the Commissioner to conclude that a code of practice may also improve safety on construction sites, particularly if that code concurrently requires contractors to confirm their adherence to applicable workplace health and safety laws. [Footnote omitted]*

5. Having regard to your answers to questions 1–3, do you consider that the implementation guidelines proposed by Counsel Assisting would be more likely or less likely to lead to safer work practices and work sites in the construction industry in Queensland? Please explain your answer.
6. How has the improvement of workplace health and safety been successfully undertaken in recent years around the world generally? And in respect of the construction industry in particular?
7. Are you aware of any initiatives that have involved regulators, employers, and trade unions working collaboratively to improve workplace health and safety in the construction industry?

Form and content of your report

The Commission has not prescribed any requirements with respect to expert witnesses. For that reason, we have enclosed the Expert Witness **Code of Conduct** that is used in the Federal Court of Australia. Please review the Code of Conduct carefully and comply with it when preparing your report. Please also confirm in your report that you have reviewed the Code of Conduct and have complied with it.

While the whole of the Code of Conduct is important, we emphasise the following requirements:

1. As an expert your role is to assist the Commission by providing an independent opinion. Your role is not to advocate for one side or another.
2. Your report must explain the reasoning which underpins each opinion you state. Your explanation should allow a layperson to understand how and why you hold the opinion.
3. Your report must identify the assumptions and material facts on which your opinion is based.

Please provide your report as soon as possible.

Other matters

The contents of this brief are confidential and prepared for the purpose of legal proceedings, being the Commission of Inquiry. The brief and these instructions are therefore subject to

legal professional privilege. The documents in the brief may only be used for the purpose of the proceeding.

We confirm that our client will be responsible for your reasonable fees associated with the above. We request that you please provide a fee estimate for the work described above.

We request that you please acknowledge receipt of this correspondence by return email.

If you have any questions in relation to this matter, please do not hesitate to contact the writer or Luke Tiley.

Yours faithfully



Alexandra Jarrett
Hall Payne Lawyers

PERSONAL INFORMATION

WALTERS, David Rees



Castle View, Cardiff Rd., Creigiau, Cardiff, CF159NL, WALES, UK.
[redacted]
[redacted]

Sex Male | Date of birth 24/03/1950 | Nationality British

WORK EXPERIENCE

2019—present
Emeritus Professor
Cardiff School of Social Science Cardiff University

2002-present
Professor of Work Environment
Cardiff School of Social Sciences, Cardiff University

- Teaching and research

Business or sector Public Research

2000-2002
Professor of Occupational and Environmental Safety and Health
- South Bank University
- Teaching and research

Business or sector Public Research

1997-2000
Reader in Occupational and Environmental Safety and Health
- South Bank University
- Teaching and research

Business or sector Public Research

1989-1997
Principal Lecturer, Head of Centre for Industrial and Environmental Safety and Health
South Bank University

- Teaching and research

Business or sector Public Research

1986-1988
Dean of Faculty of Continuing Education
South Bank University

- Teaching and research

Business or sector Public Research

1982-1986
Principal Lecturer, Faculty of Continuing Education (1986), Senior Lecturer/Head of Centre for Trade Union Studies (1982-85)
South Bank University
- Teaching and research

Business or sector Public Research

1979-1982
Lecturer in Occupational Hygiene
South Bank Polytechnic

- Teaching and research

Business or sector Public Research

1976-1978
Health Education Council Fellowship
Nottingham University

- Teaching and research

© European Union, 2002-2013 | http://europass.cedefop.europa.eu

Business or sector Public Research

EDUCATION AND TRAINING

1996 **PhD**
South Bank University

1978 **M.Med. Sci. Community Medicine**
University of Nottingham

1971 **BSc (Hons) Biological Science**
University of London

PERSONAL SKILLS

Mother tongue(s) English

Other language(s)

	UNDERSTANDING		SPEAKING		WRITING
	Listening	Reading	Spoken interaction	Spoken production	
French	Basic	Basic	Basic	Basic	Basic
Greek	Basic	Basic	Basic	Basic	Basic

Levels: A1/2: Basic user - B1/2: Independent user - C1/2 Proficient user
Common European Framework of Reference for Languages

Organisational / managerial skills Held a range of senior academic appointments, managed a number of international research projects. Established national research centres and worked closely with a wide range of stakeholders from owner/managers and employees in small firms and workplace representatives in many industries to CEOs in large organisations, senior personnel in professional and public bodies as well as with Government ministers and parliamentary committees.

Computer skills Normal range of academic computer based research and administrative competencies.

Other skills

- Internationally acknowledged research expertise in the field of occupational health and safety and the work environment
- Senior Editor, Policy and Practice in Health and Safety (2003 to 2016), member of editorial board, Safety Science (2010- 2016).
- Special Adviser, House of Commons, Work and Pensions Committee (2004-2005)
- Member, Institution of Occupational Safety and Health Research Committee (2005 to 2016) Reviewer, Sec State's Inquiry into Fatal Accidents in Construction (2009)
- Contributed evidence on worker representation in coal mines to the Royal Commission into the Pike River Mine Tragedy which was reflected in the Commission's recommendations.

Driving licence Full, Motorcycle.

ADDITIONAL INFORMATION

© European Union, 2002-2013 | http://europass.cedefop.europa.eu

Publications From 2008

Books and monographs

James, P. and Walters, D. (2022) Work and Health: 50 Years of Regulatory Failure. Institute of Employment Rights. Liverpool.
Walters, D. and Bailey, N. (2013) Lives in Peril: Profit or Safety in the Global Maritime Industry? Basingstoke: Palgrave Macmillan.
Nichols, T. and Walters, D. (eds.) (2013) Safety or Profit? International Studies in Governance, Change and the Work Environment. Amityville, New York: Baywood Publishing.
Walters, D., Johnstone, R., Frick, K., Quinlan, M., Baril-Gingras, G. and Thebaud-Mony, A. (2011) Regulating Workplace Risks: A Comparative Study of Inspection Regimes in Times of Change. Cheltenham, UK: Edward Elgar.
Walters, D. and Nichols T. (eds.) (2009) Workplace Health and Safety: International Perspectives on Worker Representation. Basingstoke: Palgrave Macmillan.
Walters, D. (2008) Within Reach? Managing Chemical Risks in Small Enterprises. New York: Baywood Publishing.

Chapters in Books

Walters, D. (2025) Chapter 28: Securing compliance with standards of occupational health and safety: labour inspection and its challenges The Elgar Companion to Decent Work and the Sustainable Development Goals, Cheltenham, UK, Edward Elgar, DOI:https://doi.org/10.4337/9781035300907.00037
James, P. and Walters, D. (2011) Supply Chains and the Protection of Vulnerable Workers. In: Sargeant, M and Giovannone, M. eds. Safety, Well-being and Precarious Work. Surrey: Gower Publishing Ltd.
Newman-Taylor, A. and Walters, D. (2010) Compensation Schemes. In: Baxter, P.L. Aw, T-C., Cockroft, A. Durrington, P. and Harrington, J.M. eds. Hunters' Diseases of Occupations (Tenth edition), Chapter 8. London: Hodder & Stroughton.
Vogel, L. and Walters, D. (2009) An Afterword on European Union Policy and Practice. In: Walters, D. and Nichols T. eds. Workplace Health and Safety: International Perspectives on Worker Representation. Basingstoke: Palgrave Macmillan.
Loudoun, R. and Walters, D. (2009) Trade Union Strategies to Support Representation on Health and Safety in Australia and the UK: Integration or Isolation? In: Walters D. and Nichols T. eds. Workplace Health and Safety: International Perspectives on Worker Representation. Basingstoke: Palgrave Macmillan.
Nichols, T. and Walters, D. (2009) Worker Representation on Health and Safety in the UK: Problems with the Preferred Model and Beyond. In: Walters D. and Nichols T. eds. Workplace Health and Safety: International Perspectives on Worker Representation. Basingstoke: Palgrave Macmillan.
Walters, D. and Nichols, T. (2009) Representing Workers on Health and Safety in the Modern World of Work. In: Walters, D. and Nichols T. eds. Workplace Health and Safety: International Perspectives on Worker Representation. Basingstoke: Palgrave Macmillan.
Xue, C., Walters, D., & Tang, L. (2015). The Effectiveness of Health and Safety Management in Chinese Shipping: From the Perspective of a Shipmaster's Decision-making Power. In S. I. A, L. Gelman, D. W. L. Hukins, & A. M. Korsunsky (Eds.), Proceedings of the World Congress on Engineering (pp. 752-762). Hongkong: Newswood Academic Publishing.
Walters, D (2021) Representing Workers on Safety and Health: The Current Challenges, in Sheldon et al (eds) *The Regulation and Management of Workplace Health and Safety*, Routledge, Oxford

Refereed Journals

Walters D, James P, Johnstone R. 2024. Effects of economic drivers on work health and safety in global supply chains: A discussion of the effectiveness of regulatory strategies and their economic contexts. *The Economic and Labour Relations Review*, 35(3):556-575. doi:10.1017/elr.2024.39

Walters, D., James, P. and Johnstone, R., 2024. Fundamental principles and realities of practice: work health and safety in low-and middle-income countries. *Work in the Global Economy*, 13; pp. 1-24.

Walters, D., Johnstone, R. & James P. 2024, 'The challenge of improving work health and safety in global supply chains: Institutions and evidence of effectiveness', *Economic and Industrial Democracy*, DOI:10.1177/0143831X241247645.

Walters, D. (2024) Professions, power and paradox in occupational safety and health in the 21st century, *Safety Science*, 174: 106446. doi: 10.1016/j.ssci.2024.106446

James,P and Waters D. 2024 Wither the HSW Act? Reflections on 50 years of the Health and Safety at Work etc Act 1974, *Occupational Health at Work 2024; 21(2)*

Makri, E., Walters, D., Wadsworth, E., Devereux, H. and van den Burg, S.W., 2024. Occupational health and safety in aquaculture: Organisation of work and employment in small seaweed farms in North West Europe. *The Economic and Labour Relations Review*, *35*(1), pp.27-44.

Bluff, E., Johnstone, R., Walters, D.,Limborg, H.J. & Gensby U. 2022 Fitness for Purpose of Occupational Safety and Health Monitoring and Enforcement in the European Union Comparative Labour Law and Policy Journal Vol 42:3

Walters, D., Johnstone, R., Bluff, E., Limborg, H.J. and Gensby, U (2022) Prevention services for occupational safety and health in the European Union: anachronisms or supports for better practice? *Safety Science*. 152

Graham, C.A.E. and Walters D. (2021) Representation of seafarer occupational safety and health: Limits of the Maritime Labour Convention, *Economic and Labour Relations Review*, Vol 32(2) 266-282

Walters, D. and Wadsworth E (2021) Determinants of effective action on workplace safety and health in global companies — The case of global network container terminal operators*, Marine Policy* 124: https://doi.org/10.1016/j.marpol.2020.104374

Walters, D. (2021) The role of the state in achieving compliance with occupational safety and health requirements: Some lessons from the British regulatory response in the time of Covid-19 *Diritto della Sicurezza sul Lavoro* 1-2021

Zhao, Z., Walters, D. and Shan, D (2020) Impediments to free movement of Chinese seafarers in the maritime labour market *Economic and Labour Relations Review*, DOI: 1107.171/1770/315035034064260290933778881

Walters D and James P (2020) Supply chains and their present and future implications for occupational safety and health. EU-OSHA Discussion Paper, Bilbao. Available at: https://osha.europa.eu/en/publications/supplychains-and-their-present-and-future-implications-occupational-safety-and-health/view

Walters, D and Quinlan, M (2020) An International History of Coalminers' Actions to Voice Resistance to the Appropriation of their Safety and Health, 1870-1925 Relations *Industrielles/Industrial Relations* 75-2

Walters D, Wadsworth E. (2020) Arrangements for workers' safety and health in container terminals: Corporate core values and concrete practice. *Econ Ind Democracy*. https://doi.org/10.1177/0143831X19893767

Walters, D., Wadsworth, E., Bhattacharya, S. (2020) What about the workers? Experiences of arrangements for safety and health in global container terminals, *Safety Science* 121 474–484

Lippel K, Walters D. Regulating health and safety and workers' compensation in Canada for the mobile workforce: now you see them, now you don't. *New Solut* 2019; 29: 317–348

Walters, D and Quinlan M. 2019. "Representing workers on occupational safety and health: some lessons from a largely ignored history." *Industrial Relations Journal,* 50:4, 399–41

Walters, D and Quinlan M (2019) Voice and resistance: Coalminers' struggles to represent their health and safety interests in Australia and New Zealand 1871–1925, *Economic and Labour Relations Review*Volume: 30 issue: 4, page(s): 513-531 https://doi.org/10.1177/1035304619877588

Walters, D. and E. Wadsworth (2019), 'Participation in Safety and Health in European Workplaces: Framing the Capture of Representation', *European Journal of Industrial Relations*.,095968011983567.

Xue, C., Tang, L., & Walters, D. (2016). Who is dominant? Occupational Health and Safety management in Chinese shipping. *Journal of Industrial Relations,* 59(1), 65-84. doi:10.1177/0022185616676231

Walters D, Quinlan M, Johnstone R, Wadsworth E. Cooperation or resistance? Representing workers' health and safety in a hazardous industry. *Industrial Relations Journal*, July 2016

Walters, D., Johnstone, R., Quinlan, M., Wadsworth, E. (2016) Safeguarding Workers: A Study of Health and Safety Representatives in the Queensland Coal Mining Industry, 1990-2013 *Revue Relations Industrielles/Industrial Relations,* in press, March 2016.

Walters, D., Johnstone, R., Quinlan, M., Wadsworth, E. (2016) Representing miners in arrangements for health and safety in coalmines: A study of current practice, *Economic and Industrial Democracy*, Volume: 40 issue: 4, page(s): 976-996

Walters D, Sampson H, James P, Bhattacharya S, Wadsworth E, Xue C. Supply chain leverage and regulating health and safety management in shipping. *Relations Industrielles/Industrial Relations, 2016, 71-1: 33-56.*

Wadsworth EJK, Bhattacharya S, Walters D. Representing workers on arrangements for occupational health and safety in a global industry: Dockworkers experiences in two countries. *Policy and Practice in Health and Safety,* 2015, 13, 2: 87-107

James P, Walters D, Wadsworth E, Sampson H. Regulating the employment dynamics of domestic supply chains. *Journal of Industrial* Relations, 2015, 57(4): 526-543.

Wadsworth E, Walters D. The determinants of workplace health and safety practice in the UK. *Policy and Practice in Health and Safety*, 2014, 12; 2: 3-22.

Walters D, Wadsworth E. Contexts and determinants of the management of occupational safety and health in European workplaces. *Policy and Practice in Health and Safety*, 2014, 12; 2: 109-130.

Sampson H, Walters D, Wadsworth E, James P. (2014) Making Headway? Regulatory Compliance in the Shipping Industry. *Social and Legal Studies.*

James P, Walters D, Sampson H, Wadsworth E. (2014) Protecting workers through supply chains: lessons from two construction case studies. *Economic and Industrial Democracy,* June 2014.

Bloor M, Sampson H, Baker S, Walters D, Dahlgren K, Wadsworth E, James P. (2013) Room for Manoeuvre? Regulatory Compliance in the Global Shipping Industry. *Social and Legal Studies*, 22; 2:171-189

Cunningham, I., James, P. and Walters, D. (2011) Social care outsourcing in Britain and its potential occupational health consequences. *Policy and Practice in Health and Safety*, 9(1), 79-93.

Walters, D. James, P. (2011) What motivates employers to establish preventive management arrangements within supply chains? *Safety Science*, 49 (7), 988-994.

Walters, D. (2011) Worker representation and psycho-social risks: A problematic relationship? *Safety Science,* 49(4), 599–606.

Published Research Reports

EU-OSHA (2021) *Improving compliance with occupational safety and health regulations: an overarching review, Executive Summary; Improving compliance with occupational safety and health regulations: an overarching review, Vol 1, Final Report Improving compliance with occupational safety and health regulations: an overarching review, Vol 2 Literature Review.* Available at: https://osha.europa.eu/en/highlights/improving-osh-compliance-changing-world-work

EU-OSHA (2018) *Safety and Health in micro and small enterprises in the EU: Final report from the 3-year SESAME project*, European Risk Observatory Report. EU-OSHA, Bilbao

EU-OSHA (2018) *Safety and health in micro and small enterprises in the EU: the view from the workplace* European Risk Observatory Report EU-OSHA ,Bilbao

Walters, D. Wadsworth, E., Johnstone R, Lippel, K. Bhattacharya, S. Quinlan M. and James, P (2018) *The role and effects of representing miners in arrangements for safety and health in coal mining: a global study,* Volumes 1 and 2 IOSH, Wigston Available at: https://iosh.com/media/3638/representing-miners-in-arrangements-for-safety-full-volume-1.pdf and https://iosh.com/media/3639/representing-miners-in-arrangements-for-safety-full-volume-2.pdf

Walters D, Wadsworth EJK. (2016). *Experiences of arrangements for health, safety and welfare in the global container terminal industry.* International Transport Workers Federation & Institution of Occupational Safety and Health. Available at: http://www.iosh.co.uk/~/media/Documents/Books%20and%20resources/Published%20research/Global%20container%20terminal%20industry.pdf?la=en

EU-OSHA (2016). *Contexts and arrangements for occupational safety and health in micro and small enterprises in the EU – SESAME Projects.* European Agency for Safety and Health at Work, Bilbao. Available at: https://osha.europa.eu/en/tools-and-publications/publications/contexts-and-arrangements-occupational-safety-and-health-micro

Walters D, Wadsworth EJK, Johnstone R, Quinlan M. (2014) A study of the role of workers' representatives in health and safety arrangements in coal mines in Queensland. Research Report for the Construction, Forestry, Mining and Energy Union (CFMEU) Mining and Energy Division; available at: http://cfmeu.com.au/the-role-of-worker-representatives-in-health-and-safety-in-qld-coal-mines-new-study

EU-OSHA (2013). An analysis of the determinants of workplace occupational safety and health practice in a selection of EU Member States. European Agency for Safety and Health at Work
Report for the European Agency for Safety and Health at Work. (2013) available at https://osha.europa.eu/en/publications/reports/analysis-determinants-workplace-OSH-in-EU

Walters D, Wadsworth EJK. Managing the health and safety of workers in globalised container terminals: A preliminary study of the experience of health and safety arrangements and outcomes in container terminals operated by Global Network Terminal Operators (GNTs) Report for the International Transport Workers' Federation (ITF) (2012) Available at: http://www.itfglobal.org/files/publications/39726/Container_Terminals_OSH_Preliminary_Study.pdf

Walters D, Wadsworth EJK, Sampson H, James, P. The limits of influence. The role of supply chains in influencing health and safety management in two sectors
Report for the Institute of Occupational Safety and Health. (2012) Available at: http://www.iosh.co.uk/books_and_resources/published_research.aspx

Walters, D., Wadsworth, E.J.K., Davies, O.R., Lloyd-Williams, H. and Marsh, K.L. Analysis of the findings of the European Survey of Enterprises on New and Emerging Risks on the effectiveness and support for worker representation and consultation on health and safety. Report for the European Agency for Safety and Health at Work, Research Report. (2011) Available at: https://osha.europa.eu/en/publications/reports/esener_workers-involvement
Walters, D., Wadsworth, E.J.K. and Harris, R. Analysis of needs and the development of an instrument to help employers, workers and their representatives implement the requirements of REACH in small firms that are downstream users of chemical substances in the EU textiles industry.
Report for the European Commission. (2011)
Walters, D., Wadsworth, E.J.K., Lissner, L, Zayzon, R, Frick, K. and Pawlowska, Z. The NERCLIS Project: Contract to assess the potential impact of emerging trends and risks on labour inspection methodologies in the domain of occupational health and safety. Report for the European Commission. (2011)
Kooperationsstelle Hamburg, Cardiff University , CIOP-PIB Warsaw, TNO Amsterdam. Contract to analyse and evaluate the impact of the practical implementation in the workplace of national measures implementing Directive 98/24/EC on Chemical Agents
Report for the European Commission. (2010)
Walters, D., James, P. The role of Supply Chains in influencing health and safety management: Understanding the role of supply chains in influencing health and safety management and regulation
Report for the Institute of Occupational Safety and Health. (2009). Available at: https://orca-mwe.cf.ac.uk/87478/1/Cardiff-Brookes_RR_Feb_10.pdf

Other Publications
Quinlan, M and Walters D 2023. Workplace health protection: a long and winding road, HESA Magazine, 27.
Walters, D and Wadsworth E 2022 .Occupational Heath and Safety Preventions services/Experts in Europe, EU-OSHA Discussion Paper, EU-OSHA
Walters, D., Johnstone, R., Bluff, E., Limborg, H.J. and Gensby, U (2021) Securing compliance: some lessons for EU strategy on occupational heal and safety, ETUI, Brussels
ILO (2019) *Safety and Health at the Heart of the Future of Work: Building on 100 years of experience*, ILO Geneva
Walters, D and James, P (2020) Supply Chains and their present and future implications for occupational safety and health EU-OSHA Discussion Paper, EU-OSHA
James, P. and Walters, D. (2019). Health and safety at work: Time for change. Institute of Employment Rights 2(1): 58-85
Walters, D. (2016). Labour inspection and health and safety in the EU. HESA Magazine, 14: 12-17
Wadsworth, E.J.K., Marsh, K.L., Turgo, N., Walters, D.R. (2011) *Supply chain management for health and safety* [Online]. London 2012 website.[October 2011].
Walters, D. (2010) *The role of Worker Representation and Consultation in Managing Health and Safety in the Construction Industry* , ILO Sectoral Activities Department, Working Paper 270, Geneva: International Labour Office.
Walters D and Walsworth E (2019) *Safety and health at the heart of the future of work: Building on 100 years of experience,* ILO, Geneva

Recent Research Projects (2010 to 2019)
Projects
(2019) Representing workers' interests on safety and health in container terminals ITF (£18,000)
(2016-2017) Secondary analysis of OSH management arrangements in ESENER-2 EU-OSHA €110,000
(2015-2017) Worker participation in the management of occupational safety and health – qualitative evidence from the Second European Survey of Enterprises on New and Emerging Risks (ESENER-2), EU-OSHA (€487,000)
(2015-2017) Regulating and managing risks in coal-mines – an evaluation of global practice. Institute for occupational safety and health (IOSH) (£115,000).
(2014-2018) Improving occupational safety and health (OSH) in Micro and Small Enterprises in Europe (working partnership with University of Leuven). European Agency for Safety and Health at Work (EU-OSHA) (€1,330,000).
(2015-2017) Globalisation and its consequences for health and safety: the changing logistics of supply and their implications for supporting improved OSH management outcomes in container ports. ITF and IOSH (£250,000)
(2013) The effectiveness of workers' inspectors: A study of the role of site and industry health and safety representatives in coal mines in Queensland. CFMEU (AUD$50,000)
(2012) Global Database on National OSH Legislation. ILO ($9,772).
(2010-2012) An analysis of the determinants of workplace occupational safety and health practice in a selection of EU Member States. European Agency for Safety and Health at Work (€150,000)
(2010-2012) Worker accident rates and safety practice in the global container ports industry. International Transport Workers' Federation (ITF) (£65,000)
(2010-2012) Supply chains and health and safety management in three sectors, (working partnership with Oxford Brookes). Institute for occupational safety and health (IOSH) (£128,000).
(2010-2011) Operationalising REACH: A toolbox for trades unions and management in SMEs (working partnership with ETUF and EURATEX). European Commission (€240,000).
(2010-2011) Assessment of the potential impact of emerging trends and risks on labour inspection methodologies in the domain of occupational health and safety (NERCLIS). European Commission (€350,000)
(2010-2011) Worker representation and consultation on health and safety (ESENER). European Agency for Safety and Health at Work (€80,0000).