Submission
No 25

INQUIRY INTO WORKERS COMPENSATION AMENDMENT BILL 2021

Organisation: CFMMEU (NSW Branch) Construction & General Division

Date Received: 20 December 2021

CFMEU
CONSTRUCTION

COVID-19 Presumption 2021

Submissions

Construction, Forestry, Maritime, Mining and Energy Union, Construction and General Division, NSW Divisional Branch

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1. Introduction

The CFMEU welcomes the opportunity to make submissions into the *Inquiry into the Workers Compensation Bill 2021.*

The CFMEU represents approximately 25,000 members in the building and construction industry in New South Wales. A large proportion of our members are workers who come from non-English speaking backgrounds with little or no education beyond the age of 15. Our members rely on the assistance of the union and their legal representatives to navigate and survive the workers compensation system. The CFMEU has a long history in the area of workers compensation and is able to offer its expertise to assist our members and their families.

The CFMEU and its members do not support the repeal of s 19B and are concerned at the lack of consultation prior to the *Workers Compensation Bill 2020* introduction to Parliament. It is the CFMEU's strong view that the evidence does not support the repeal of s 19B and the rationale is tainted by inaccurate figures.

We implore the Committee to consider the statements provided by our members, which are attached to these submissions. Section 19B provides more than a protection, it provides hope and peace of mind in a time of uncertainty. The importance of s 19B to those who rely upon it cannot be overstated.

2. The case for Section 19B

2.1 Background

Section 19B of the *Workers Compensation Act 1987* (**the 1987 Act**) was introduced in May 2020 as an amendment to the *COVID-19 Legislation Amendment (Emergency Measures - Miscellaneous) Bill 2020*. The purpose of the amendment was to create a presumption that a worker in particular prescribed employment had contracted COVID-19 at work.[1] The provision recognised the difficulty that workers would face in trying to prove that they contracted COVID-19 at work. The provision does not prevent an employer from challenging the claim if they have a compelling case. It provides protection for workers who were required to carry out their normal duties without a work from home alternative due to the nature of their work.[2]

Additionally, the provision provides certainty for both icare and SIRA as to how best to deal with COVID-19 cases should they arise.[3] It eliminates the need for time consuming and costly investigations and disputation, by providing support when it is actually needed.

2.2. The construction industry

The construction industry accounts for approximately $24.4 billion in economic output or 5.1% of gross state product.[4] The construction industry was and continues to be an essential industry in the economic recovery of this State.

By virtue of the nature of their work, the construction industry continued to operate throughout the pandemic. There was no work from home option for the thousands of construction workers in NSW. Even during the Delta outbreak, the construction industry was only shutdown for a period 2 weeks from 19 July 2021 to 31 July 2021.

Throughout the pandemic construction workers have continued to work for the NSW economy. They worked, even when the majority of the country was locked down. They worked, even though politicians in both State and Federal Parliament got to stand down. They worked, even though it potentially put their families at risk. They worked through all the outbreaks. And yet, despite their tenacity, despite their commitment, despite their hard

[1] New South Wales, *Legislative Assembly*, 17 November 2021 (Victor Dominello).
[2] New South Wales, *Legislative Council*, 13 May 2020 (Mark Buttigieg).
[3] New South Wales, *Legislative Council*, 13 May 2020 (Daniel Mookhey).
[4] Statement of Bruce Cartwright, dated 17 December 2021.

work in keeping the economy afloat, the government has decided to take away a protection that gave them hope and peace of mind.

The value of s 19B goes beyond the financial support it provides. As explained in the attached Statements, the presumption provides peace of mind for workers who are the sole or main providers for their families. Not every construction worker has enough annual leave or sick leave to get through their isolation[5] and the stress of wondering whether they would be able to pay their bills and support their family caused ripples of anxiety throughout the pandemic. Being able to tell their partners and families that they were protected went a long way to maintaining morale on site and at home. It made workers feel more secure and comfortable about continuing to work on site during the pandemic.[6]

2.3. Lack of regulatory support

Throughout the pandemic, construction industry employers, construction workers and their unions worked cooperatively to develop site protocols for managing COVID across the site. In circumstances where SafeWork NSW had removed themselves from the situation, the stakeholders in the construction industry had to rely on each other.

Early in the pandemic, SafeWork inspectors were enlisted to help with enforcing the Public Health Orders, diverting resources away from their usual duties. Attention turned to education rather than enforcement with a number of resources being uploaded to the SafeWork website. Unfortunately, those materials did not include any guidance for health and safety representatives.[7] The industry was left to manage the risk alone.

While SafeWork has reported that it had received 2,182 COVID-19 related notifications, only 48 warranted an inspector response,[8] a mere 2.2% of all notifications warranted an inspector response. The CFMEU has been critical of the effectiveness of the SafeWork's

[5] Statement of Simon Curtis, dated 17 December 2021.
[6] Statement of Simon Curtis, dated 17 December 2021.
[7] Budget Estimates, *Parliament of New South Wales,* 27 October 2021, 28 (Anthony Williams)
[8] Department of Better Regulation and Innovation, Answers to Supplementary Questions.

triage processes and has provided multiple examples of SafeWork choosing an administrative response to serious injuries. In fact, the CFMEU's submissions on this very issue[9] lead to the Hon Robert McDougall QC recommending a public inquiry into the performance of SafeWork NSW's regulatory and educational functions.[10] The lack of inspector visits is indicative of a failure of the regulator to assist stakeholders in managing the COVID-19 risk.

Without the assistance of SafeWork, the construction industry has developed a number of protocols to assist with managing the risk including the introduction of the Contact Harald system, COVID Marshalls, touchpoint cleaning, social distancing, scheduling shifts for use of amenities and the taking of breaks and rapid antigen testing.[11] Despite the cooperation of workers, employers and unions and the development of detailed COVID-19 protocols, cases still happen and those people need support. If it was not for the hard work and cooperation of the industry, the case numbers in construction would be much higher. The industry has done well to manage itself and keep cases low, they should not punished with having the presumption removed from underneath them.

3. Debunking the case for repeal

3.1. Increasing premiums

In his Second reading speech, the Minister claimed that the repeal of s 19B was designed to "protect small businesses from bearing the brunt of a potential increase in insurance premiums of more than half a million dollars."[12] The Minister has failed to consider that businesses across NSW were already facing a premium increase, but not as a result of s 19B rather as a result of the poor claims and operation administration at the hands of icare.

[9] Submissions to McDougall review available on request.
[10] Report by the Hon Robert McDougall QC, Independent Reviewer, *icare and State Insurance Care and Governance Act 2015 Independent Review* (30 April 2021) recommendation 49.
[11] See attached Statements.
[12] New South Wales, *Legislative Assembly*, 17 November 2021 (Victor Dominello).

In March 2021, icare announced that it had approached SIRA to request approval to increase premiums.[13] The Treasurer during Budget estimates indicated that icare was already considering premium increases. The decision to increase premiums came well before the Delta outbreak in NSW. Blaming s 19B for potential premium increases is misleading and unsupported by the evidence. The continually falling return to work rate, the exorbitant performance bonuses paid to executives, the spending on external consultants and the well documented failures of icare's claims management system are the primary causes of the premium increase.

3.2. Case numbers

The rhetoric implies that the continued existence of s 19B will result in a disproportionate number of claims overtaking the system thereby damaging the viability of the scheme. No evidence has been provided to support this panic and in fact the current case numbers indicate that the presumption has a negligible impact.

It should also be noted that the total number of COVID-19 related claims represents a miniscule proportion of overall claims. The total number of COVID-19 related claims is 2,270 claims. Importantly 345 of those claims are classed as psychological which are not covered by s 19B and 329 are classed as other, including vaccine reactions, again not covered under s 19B. The total number of confirmed diagnosis claims are 1,596 notifications.[14] Unfortunately, and curiously, the SIRA data does not identify how many of those claims are presumptive claims nor does it identify how many of the claims have had liability accepted. It is thus unclear just what the impact of s 19B is on overall claims.

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[13] icare, *Workers compensation premiums adjust to future risk*, (24 March 2021) icare https://www.icare.nsw.gov.au/news-and-stories/workers-compensation-premiums-adjust-to-future-risks#gref.

[14] State Insurance Regulatory Authority, *Coronavirus (COVID-19) Workers Compensation Claim Statistics*, (3 December 2021) SIRA, https://www.sira.nsw.gov.au/resources-library/list-of-sira-publications/coronavirus-covid_19/workers-compensation-claim-statistics

Putting aside the deficiencies in the data, given there have only been 1,596 possible s 19B claims since May 2020 indicates that the financial impact of s 19B on the scheme as a whole and on premiums is negligible.

It is irresponsible to make claims that the presumption will affect the financial viability of the scheme in circumstances where the data does not support any such claim.

3.3 Cost to the system

In his Second Reading Speech, the Minister claimed that repealing s 19B would "ensure the ongoing efficiency, effectiveness and viability of the workers compensation scheme for workers and employers in New South Wales" implying that the projected cost of s 19B claims would negatively impact the finances of the scheme. This implication is simply not supported by the evidence.

Much has been made of the actuarial figures in relation to projected claims and costs of keeping s 19B, unfortunately the figures relied upon are unreliable. Firstly, the figures are based on the Doherty modelling which is based on an 80% vaccination rate. As of 19 December 2021, 93.4% of those over 16 years have had two vaccinations with 78.1% of those 12-15 years having had two vaccinations. The vaccination rate in NSW is much higher than that relied upon in the Doherty modelling. As noted by Mr Dent during the recent Law and Justice Hearing, the report should be held with "great trepidation" as "the scenarios used are now redundant."

Secondly, it appears that SIRA has been unable to effectively estimate the projected costs. We note that the section was originally expected to cost up to $8billion. This was then recalculated to a more accurate $600million. However, the present cost to the system has been a mere $20million.[15] The following exchange in Budget Estimates highlights the discrepancy:

[15] Budget Estimates, *Parliament of New South Wales*, 27 October 2021, 10 (Adam Dent and David Shoebridge).

__Mr DAVID SHOEBRIDGE:__ Because the costings that were provided to you, as I understand it, by SIRA about the presumptive legislation that went in last year were said to be anywhere between $2,923 million and $8,626 million—so between $2.9 billion and $8.6 billion for the presumptive legislation that went through last year. Do you remember getting those figures?

__Mr DENT:__ Those initial estimates—you are right. That was around $8.6 billion as the upper estimate by the actuaries. Of course, so little was known about COVID, about vaccines and about the impact at that point in time. The total COVID-related claims as at 31 August are $7.8 million, with an expected gross cost being $15.6 million.

__Mr DAVID SHOEBRIDGE:__ So the estimate was $8.6 billion—

__Mr DENT:__ The upper estimate, yes.

__Mr DAVID SHOEBRIDGE:__ —and the amount paid was $7.8 million. So only out by a factor of 1,000.

__Mr DENT:__ With a total cost of $15.6 million. That is correct.

As noted by Mr Shoebridge, the original actuarial estimates are "out by a factor of 1,000. Not two, not five, but 1,000."[16]

Unfortunately, the government has not been forthcoming in providing the financial basis for its decision. When SIRA was asked by stakeholders to provide information as to the data relied upon, stakeholders were told to contact the Minister's office and were told that the relevant contact details would be provided. That information has yet to be provided.

3.4. Average cost of a claim

If you consider the average cost of a claim, the actuarial figures make little sense. While SIRA does not publish the average cost of a claim, we can extrapolate based on specific assumptions, just like an actuary.

[16] Budget Estimates, *Parliament of New South Wales*, 27 October 2021, 10 (David Shoebridge).

Presumptive claims on average are unlikely to be long standing claims. In fact the regulations specifically provide a failsafe to ensure that a workers does not languish on the scheme. Clause 5C of the *Workers Compensation Regulation 2016* limits weekly benefits to 21 days from date of injury unless further medical evidence is provided. The provision acts as a sunset clause. Unless further medical evidence is provided to support a claim that the worker is incapable of returning to work, then the entitlement to weekly benefits will fall away.

Even though the regulations presume a worker will be incapable of working for a minimum period of 21 days, in reality most cases will fall well short. The World Health Organisation advice on how long a person who has contracted COVID-19 must isolate is fairly clear:

> *People with symptoms should stay isolated for a minimum of 10 days after the first day they developed symptoms, plus another 3 days after the end of symptoms – when they are without fever and without respiratory symptoms.*
>
> *People without symptoms should stay isolated for a minimum of 10 days after testing positive.*[17]

The length of isolation for those with symptoms will of course vary depending on severity of symptoms, however with the current vaccination rate and the stable hospitalisation figures, it is likely that the majority of claims will fall short of the 21 day limit.

Let us consider an asymptomatic construction worker as our example. The average wage of a construction worker according to the ABS is $1695.10 per week.[18] In accordance with s 36 of the 1987 Act, the average weekly benefit amount will be $1,610.35 per week. A claim

[17] World Health Organisation, *Coronavirus Disease (COVID-19) Home care for families and caregivers*, WHO, (15 December 2021) https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-home-care-for-families-and-caregivers#:~:text=Those%20with%20symptoms%20should%20stay,and%20without%20respiratory%20symptoms.

[18] Australian Bureau of Statistics, *Average Weekly Earnings Australia*, (19 August 2021) ABS https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release

extending 21 days will cost an average of $4,831.05 in weekly benefits, a claim extending 10-14 days will cost an average of $3,220.70 in weekly benefits.

The average cost per claim is even less when considering retail workers. Full time retail workers earn on average $1311.30 per week.[19] In accordance with s 36 of the 1987 Act their weekly benefit is $1245.74 per week. A claim extending 21 days will cost an average of $3,737.21 in weekly benefits, a claim extending 10-14 days will cost an average of $2,491.48 in weekly benefits.

Of course the more serious symptomatic cases will require a longer period of benefits and medical expenses, however those cases are less likely to be the norm. Unfortunately, statistics as to the percentage of COVID-19 cases that are asymptomatic are not readily available. The Committee may find utility in requesting such information from NSW Health.

3.5. Cost of disputation

The CFMEU does not dispute the Minister's claim that a worker will still be eligible to claim workers compensation if they contract COVID-19 at work. The removal of the presumption does not preclude claims from being made, rather it puts the onus back on employees to provide where it was contracted, a task that is almost impossible with the removal of QR Codes, the removal of the requirement to have registered COVID safe plans, and the slowness and difficulty of effective contact tracing. It is an impossible task and one that most workers will be unable to take on without assistance.

The difficulty of the task was highlighted in May 2020 when the amendment was originally introduced. In his speech in the Legislative Council, Mr Shoebridge made a number of

[19] It should be noted that approximately 40% of retail workers are employed on a casual basis and may have a lower average wage, see: Geoff Gilfillan, *COVID-19: Impacts on casual workers in Australia – a statistical snapshot* (8 May 2020) Parliament of Australia, https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1920/StatisticalSnapshotCasualWorkersAustralia

observations about the holes in the Workers Compensation Act when it comes to proving causation stating:

> *As the law stands, workers who contract COVID-19 - let us say a nurse at a hospital working in a busy ward - have to prove that work was a substantial contributing factor to them contracting the disease. They have to prove that they contracted the disease at work or in the course of their employment. The legal challenges in proving that for the worker are quite significant. How, for example, does the nurse prove that the disease was contracted at work rather than on a bus journey on the way to work, or when attending the supermarket to buy groceries, or in the course of contract with extended family members? We have spoken to lawyers who practise in this jurisdiction and they told us this will be a legal bun fight. There will be experts at 20 paces and an extremely delayed set of outcomes for COVID-19.*[20]

In the event that the presumption is removed, workers will likely find every attempt to make a claim be knocked back by their employer or the insurer. As the attached statements from our delegates show, even with the presumption in place employers are refusing or delaying in notifying claims.

Requiring workers to prove they contracted COVID-19 will likely result in claim investigations and ultimately denial of the claim, both costly endeavours for the scheme. With a claim denial comes lawyers as notes by Mr Shoebridge, and with that comes additional costs. The cost of pursuing a review of a denial is likely to cost the scheme more than the average cost under the presumption.

ILARS approved legal practitioners are entitled to apply for grants for legal expenses to assist injured workers review a decision to deny their claim. The ILARS Funding Guidelines[21] provides a handy table at page 40 outlining the legal costs available at each stage of the review process. If a legal practitioner assists a worker in completing a claim form, they are able to apply for a grant of $800. Should the matter proceed all the way to

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[20] New South Wales, *Legislative Council*, 13 May 2020 (David Shoebridge).

[21] Independent Review Office, *Independent Legal Assistance and Review Service Funding Guidelines*, (26 February 2021) IRO, https://iro.nsw.gov.au/sites/default/files/ILARS%20Funding%20Guidelines.pdf

hearing, the legal practitioner will be eligible to apply for a grant of $7,800. In the event that the matter is appealed, the practitioner can apply for an additional $3,000. Importantly these amounts do not include counsel's fees or disbursements.

These are the figures for the workers legal team only. There will also be the insurer's legal costs to consider, and the time and resources of the Personal Injury Commission. The fight will be more than three times the average cost of a presumption claim.

If the Government is so concerned about saving the scheme money, the presumption is more financially viable than having hundreds of claims making their way through the already backlogged PIC. The more sound and strategic position is to keep s19B and save on legal costs.

4. Conclusion

The proposed repeal of s 19B is being felt across the construction industry and is causing significant anger, disappointment and stress among the workforce. These workers continued to work during the pandemic despite their concerns about the risk of exposure to COVID-19. In response, they banded together to develop protocols on site to try and keep them safe. However, the risk would never be eliminated and in those moments the presumption was important to help the meet their financial demands.

The Government's case in support of repealing the presumption is unsound and unsupported by the evidence:

- Premiums were increasing well before the Delta outbreak
- The projected costs to the scheme are inaccurate and out by a factor of 1,000
- The case numbers represent a small proportion of overall claims
- The average cost of a claim is less than $5,000
- The cost of seeking a review of a decision to deny liability is three times the average cost of a claim.

For construction workers and other workers in prescribed employment to be hung out to dry on the back of flimsy statements and inaccurate reporting is disheartening and concerning. These workers deserve more, they deserve to keep the presumption.

Statement of

1. I have worked in the construction industry for approximately 37 years.

2. I have a partner with 2 adult children who live at home. I am the main provider for my family.

3. I currently work for a commercial builder in New South Wales.

4. I have been involved in the consultation for covid safe plans on the building sites I have worked during the pandemic. On every site we require QR Codes, Contact Harald bluetooth contact tracing, social distancing, COVID marshalls and shifts for breaks. Even with all these controls in place cases still happen, in fact we had a case on the site last week.

5. As a delegate I have seen the difficulties that workers face when trying to make workers compensation claims following a COVID diagnosis even with the presumption in place. I was involved in a situation where two construction workers had tested positive for COVID-19. I approached the employer and requested they lodge workers compensation claims for these employees. I was told *"But how do we know they got it at work?"* I then sent them a copy of s 19B and asked the company to lodge the claims. The company was not satisfied that the workers had a right to claim workers compensation.

6. I then sent through links to the icare website and SIRA website where the presumption is explained. Finally the company agreed to lodge the workers compensation claim.

7. The workers had approximately three weeks off work before getting medical clearance.

8. Even though the presumption exists, no one seems to know how it works which means that many workers are not aware that they are eligible to lodge a claim. If I hadn't intervened for these workers they would not have had access to weekly benefits. I suspect that many workers have contracted COVID and have faced a lot of difficulties in lodging a workers compensation claim.

9. When the presumption was first announced I know a lot of workers and their partners were relieved to know construction workers would be protected if they tested positive. It gave their families peace of mind to know that their expenses would be covered, like any other workplace injury. All construction workers want is to know that if

something happens to them at work, workers compensation has their back and will take care of them. This is just as important with COVID as it is for physical injuries.

10. The fact that the government wants to take the presumption away seems really unfair when construction workers have helped to keep the economy moving during the pandemic. We turned up for work everyday and did the heavy lifting in putting control measures in place to ensure the industry kept moving. We expected the government to have our back and the fact that they want to take away this one benefit from us is disappointing.

Date: 20/12/21

Statement of

1. I have worked in the construction industry for approximately 30 years. I am employed by Erect Safe Site Services

2. I have a partner with 2 children. I am the sole provider/main provider for my family.

3. In my role as delegate about 40% of ther people I represent live in the former lockdown LGA's on the Central Coast and at Penrith, Fairfield., Liverpool, Blacktown and other parts of Western Sydney.

4. As construction workers, we have spent the last two years working almost non stop throughout the pandemic.

5. During the pandemic I had some time off work suffering a heart condition. I continued to perform my role as delegate and spent a lot of time liaising with members, management and the union about implementing Covid safe working practices. This involved making sure that the company and our members were complying with Covid controls. This work assisted in making sure that the construction industry, and in particular the site . My employer was working on at Darling Square, North Sydney, Martin Place and other locations continued through the pandemic.

6. At the beginning of the pandemic I was concerned that if Covid got onto our sites then I would see a large number of members have problems ensuring they were paid if they caught Covid. Not everyone has enough annual leave and sick leave to get through time off work while ill from Covid and I was concerned that members would suffer hardship. The introduction of the workers compensation changes, meaning that there was a presumption that if an employee caught Covid they were deemed to have got it at work and therefore have access to workers compensation payments, meant that I suffered significantly less stress. I noticed that my co-workers also suffered less stress and felt more secure and comfortable about continuing to work on site during the pandemic knowing that they would be guaranteed to receive a wage and be able to pay their bills.

7. I am most concerned to hear that the government are proposing to bring in laws removing the presumption. This makes me feel less secure on behalf of my members that they will be adequately protected during the ongoing pandemic. Myself and my co-workers have worked hard to make sure that the construction industry stays going through the pandemic and I am proud of the contribution we have made to society to keep our economy going. I strongly feel that the government should not remove the presumption that ensures construction workers are protected with workers compensation payments if they catch Covid.

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17 December 2021

Statement of

1. I have worked in the construction industry for approximately 10 years

2. I have a partner with 2 children. I am the main provider for my family.

3. During the covid pandemic, the construction industry continued to operate, apart from the short period this year when it was locked down.

4. I have been involved in the consultation for covid safe plans on the building sites I have worked during the pandemic. On every site there is social distancing, WR Codes, sanitsers and fully stocked amenities. Unfortunately, even with these controls in place cases may still occur.

5. Having the presumption in place makes me feel safe and confident that should I contract COVID I will be able to feed my family and pay my mortgage.

6. Knowing that the government wants to take this presumption away makes me feel unsettled and anxious. The government is ignoring the contributions made by the construction industry during the pandemic. We still went to work and supported the economy and the State even though it was a risk to our families. Taking this presumption away is unfair to all the construction workers who worked hard during the pandemic and put themselves at risk.

Date: 17/12/2021

Statement of

1. I have worked in the construction industry for approximately 15 years
2. I have a partner with 4 children. I am the sole provider for my family.
3. I currently work for a large commercial builder in New South Wales.
4. During the covid pandemic, the construction industry continued to operate, apart from the short period this year when it was locked down.
5. I have been involved in the consultation for covid safe plans on the building sites I have worked during the pandemic. On every site there is youchpoint cleaning, temperature testing, rapid antigen testing and covid marshalls. Unfortunately, even with these controls in place cases may still occur.
6. A few months ago, I was working on a construction site when I became aware that an employee of a subcontractor had tested positive for COVID-19. I knew that there was a presumption which meant construction workers would not have to prove that they contracted the virus at work in order to make a workers compensation claim. I was told that the employer had not lodged a workers compensation claim for the worker.
7. I approached the employer and told them about the presumption and that the worker was entitled to make a claim. The employer refused to take any steps to notify icare that the worker had tested positive. I tried to convince them to lodge the claim but the employer just responded *"He knows it is not work related."*
8. I remember when the presumption came in that we were all relieved to have the protection it offered. It gave me piece of mind that should I have ever get COVID-19 at least I would be able to get paid and my family would not be financially disadvantaged while I recovered.
9. When I heard that the government was trying to repeal the presumption I was angry. Construction workers have been treated as essential workers throughout the pandemic and have kept the economy moving but the government has decided to strip away the one protection that me and my coworkers have.

Date: 17.12.21

Statement of

1. I have worked in the construction industry for approximately 11 years.

2. I have a partner with 3 children. I am the sole provider for my family.

3. In my role as delegate I represent a number of workers who usually live in the lockdown LGA's in Western Sydney.

4. As construction workers, we have spent the last two years working almost non stop throughout the pandemic.

5. It has been the workers, employers and union that has kept us safe on site but even working together cases do happen even with all the control measures in place.

6. When the pandemic started workers were scared and didn't know how they would take care of their family financially if they happened to catch COVID. When the presumption was announced workers felt better about attending work knowing that if they caught covid on site they will still be paid an income to allow them to pay their bills.

7. Over the last two years, my company has had approximately 6-7 workers who have caught COVID and have accessed the presumption. It was a great relief to them to know that they were covered.

8. I was disappointed to hear that the government plans to take away the presumption. Having that protection has helped workers feel a little bit safer at work and has made their family feel better about them working where there are fluctuating case numbers. As construction workers we have worked hard for the government for the last two years and it is a bit of a kick in the teeth to hear that want to remove this protection.

Date: 17-12-2021

Statement of

1. I have worked as a construction worker in the construction industry In New South Wales for approximately the last 25 years.

2. I am married with two adult children. I am the main provider for my household.

3. I am a union site delegate, as I work for a major builder. In my role as union delegate, I represent a number of workers who usually live in the Local Government Areas in Western Sydney which were subject to the more extreme rules under lockdown.

4. Construction workers have worked tirelessly during the pandemic. We have worked long hours, 6 days a week. Many construction workers spend more time at work, with their work colleagues, than they spend at home with their families.

5. At the construction sites I have worked on, there have been COVID control measures put in place, through consultation between the workers, the workers' union, and employers. Despite this, there have have been positive COVID cases on construction sites where I have worked, and other sites which I am aware of. In fact, there have been positive COVID cases on most construction sites in Sydney.

6. I am aware that there is currently a presumption that means that if construction workers contract COVID, it is assumed for the purpose of workers compensation that they contracted the virus at work. This provides a safety net for construction workers and their families. Many construction workers are the main or sole breadwinners for their families. The presumption gives us confidence that we will still be able to pay our bills if we get COVID, and therefore the confidence to keep working in the industry.

7. I was filthy to hear that the government intends to take away the safety net of the presumption. This would leave construction workers having to fight for workers compensation benefits, with the assistance of their union. I understand that New South Wales government figures show that the construction industry is worth $24.4 billion in economic output, or 5.1 % of the gross state product. Construction workers, who make this contribution, need a fair go.

17 December 2021