



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

**COMMISSIONED UNDER THE PROVISIONS OF THE  
COMMISSIONS OF INQUIRY ACT 1950**

**PUBLIC HEARING 10 - BRISBANE**

**TUESDAY, 09 JUNE 2026  
AT 9.58 AM**

**DAY 30**

**APPEARANCES**

**Mr Dimitri Ternovski - Counsel Assisting  
Mr Alexander Thomas - Counsel Assisting  
Mr David de Jersey KC – Counsel for the State of Queensland  
Ms Megan Brooks – Counsel for the State of Queensland  
Mr Chris O'Grady KC - Counsel for the CFMEU Administration  
Ms Amelia Hughes - Counsel for the CFMEU Administration  
Mr Charles Massy – Counsel for Mr Ravbar and Mr Lowth**

**<THE HEARING RESUMED AT 9.58 AM**

**COMMISSIONER:** Take appearances. Mr Ternovski, you continue to appear as counsel assisting with Mr Thomas?

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**MR TERNOVSKI:** I do, Commissioner.

**COMMISSIONER:** And Mr de Jersey, you continue to appear with Ms Brooks for the State of Queensland?

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**MR DE JERSEY:** I do, Commissioner.

**COMMISSIONER:** Mr O'Grady, you continue to appear with Ms Hughes for the administrator?

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**MR O'GRADY:** Yes, Commissioner.

**COMMISSIONER:** And Mr Massy, you're appearing today for Mr Ravbar and Mr Lowth?

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**MR MASSY:** That's so, Commissioner.

**COMMISSIONER:** I was told there was an application to cross-examine the first witness. Is that right?

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**MR MASSY:** My clients have an application to cross-examine Ms Fox. I understand that's not opposed.

**COMMISSIONER:** Right. Very well. Mr Ternovski.

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**MR TERNOVSKI:** Commissioner, this is the fourth hearing block where the Commission will hear evidence from the regulatory capture case study. Commissioner, you will recall that our case theory is that starting from about 2016 but especially after 2018 Workplace Health and Safety Queensland, or WHSQ, became captured by the CFMEU. The CFMEU used its influence and control over the WHSQ to effectively weaponise the regulator and deploy the regulatory powers of inspectors to target particular contractors. And you will recall that our case theory is that the CFMEU did so not in order to advance genuine complaints but in order to advance its industrial agenda, such as pressuring the contractor to enter into an enterprise agreement.

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We've heard evidence at the previous hearing blocks that Ms Helen Burgess was the key person through whom the CFMEU wielded control over inspectors. She became the director of construction compliance and field services in 2018, giving her direct control over construction inspectors in South East Queensland. She has then used that control to send inspectors to construction sites as demanded by the CFMEU. You will recall that WHSQ had a centralised phone number that

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stakeholders and members of the public could use to notify the regulator of safety complaints, and you will recall that CFMEU did not use that number but instead called Ms Burgess directly and Ms Burgess then directed inspectors to immediately attend sites that the CFMEU was targeting.

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**COMMISSIONER:** Did you say she exercised her control over South East Queensland?

**MR TERNOVSKI:** Yes. That was -

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**COMMISSIONER:** But we just went to Cairns at our last hearings, and I thought the evidence there was that her influence extended to Cairns.

**MR TERNOVSKI:** That's right. I think the way I put it, Commissioner, is that she obtained control, direct control, over inspectors in South East Queensland, but in fact she went beyond her remit, as we heard in Cairns, to try to interfere with the allocation of inspectors outside of her geographic area of control. As well as sending inspectors to building sites when the CFMEU demanded it, she also, we have heard evidence, pressured and bullied inspectors into writing enforcement notices that the CFMEU was seeking.

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**COMMISSIONER:** What did you describe those notices as? What sort of notices?

**MR TERNOVSKI:** Enforcement notices.

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**COMMISSIONER:** Enforcement notices.

**MR TERNOVSKI:** Now, one of the pieces of evidence you will hear today, Commissioner, is a stark admission that Ms Burgess made in a conversation with one of the witnesses, effectively admitting that the CFMEU was using spurious safety complaints to advance its industrial agenda. You will also hear evidence about what happened when a new deputy director-general made an attempt to move Ms Burgess out of her role. What happened was that Mr Ravbar called the director-general, Mr De'Ath, and complained, and the transfer was put on hold for about six months.

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**COMMISSIONER:** The transfer of whom?

**MR TERNOVSKI:** The transfer of Ms Burgess to another position. I will expand on that further in a moment. Now, our case theory, Commissioner, is that Ms Burgess' immediate supervisor, Marc Dennett, who was the executive director of WHS compliance and field services, was aware of her conduct and, far from taking action against her, enabled and facilitated her, and we've already heard some evidence about this. Today we will hear further evidence about it and Mr Dennett's role in the capture of WHSQ more generally, and this includes one

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anecdote or example of Mr Dennett ignoring external legal advice to adopt a position that Mr Ravbar wanted.

5 Today we will also open another chapter in the regulatory capture case study, which is the capture of Queensland Building and Construction Commission, or QBCC, the building regulator responsible for, among other things, licensing builders and trades. You will hear evidence that the QBCC appears to have also been captured by the CFMEU at the highest level. Not only was Mr Ingham  
10 himself was captured, and you will hear that the Commissioner Brett Bassett directed QBCC staff to target specific -

**COMMISSIONER:** Can you just give me that name again, please.

15 **MR TERNOVSKI:** Brett Bassett, B-a-s-s-e-t-t. You will hear evidence that Mr Bassett directed QBCC staff to target specific building contractors in response to CFMEU complaints, and in one instance, relating to Watpac, the Commissioner admitted that QBCC was targeting that contractor because it did not enter into an enterprise agreement with the CFMEU.

20 Another contractor that, as we will hear, the Commissioner wanted specifically targeted was Tomkins. Now, in that regard, can I ask the operator to bring up exhibit MS-1, which is one of the Cairns exhibits, page 87. You will see this is a document that sets out, relevantly, resolutions passed by delegates at the 34th  
25 Delegates Convention 2020. If we go to page 131 of that document, there is an item there at the bottom of page 131, item 58. If we can blow that up, please. I will bring this up in relation to Tomkins. We think that McScabs is a reference to McNab's Builders, but that is a different issue.

30 **COMMISSIONER:** I asked Ms Stone about this document, and I asked Mr O'Grady about it, as to what it was a business record of, there being a couple of maybe three possible answers to that question. Do you - and I didn't get an answer. Did you - and that's no criticism; I just - I didn't. Do you know what the provenance of this record is, what it purports to show?

35 **MR TERNOVSKI:** Well, on the face of the document, on my reading, it purports to show the outcomes of the meeting.

40 **COMMISSIONER:** Okay, but the question I asked Ms Stone and Mr O'Grady was what meeting? Of whom and what basis? You can take it on notice.

**MR TERNOVSKI:** I might take that on notice, Commissioner. Commissioner, going back to QBCC, interestingly -

45 **COMMISSIONER:** Just staying with Tomkins for a moment. Didn't Mr - there's so many witnesses, I forget. I thought it was Mr Chris Hayes, who was one of the first inspectors, gave evidence when he was asked who were the

builders that he was directed to target, he was asked for names, and I think one of them was Tomkins, from memory.

**MR TERNOVSKI:** I might need to take that one on notice as well,  
5 Commissioner. I'll get back to you after the morning break on that. Going back to the QBCC, Commissioner, there is a direct interaction between the capture of the WHSQ and the apparent capture of QBCC, and this is because the CFMEU and Mr Ingham sought to rely on the enforcement notices issued by WHSQ to then get  
10 QBCC to take licensing action against contractors. Thus, the CFMEU first used its capture of WHSQ to direct inspectors to attend sites to particular contractors it was targeting and then issue enforcement notices, and then the CFMEU sought to use these very notices coupled with its influence over the QBCC to get QBCC to take licensing action against the same contractor. So it was a double whammy.

15 So that's the general overview, Commissioner. I will now move on to our witnesses. Our first witness will be Andrea Fox. Ms Fox is currently the executive director of policy and workplace services at WHSQ.

**COMMISSIONER:** It goes further than that, doesn't it? There was some  
20 evidence - I can't remember which witness gave evidence that not only were the what you might call the false flags of these imposed safety notices used, you say, by the QBCC to deny licences, but there was also some evidence, and I have forgotten which witness, that it was then used thereafter as a reason to deny pre-qualification for BPIC.

25 **MR TERNOVSKI:** I will have to get back to you on the BPIC issue. I do recall some evidence about that. In relation to the use of the notices by QBCC, what you will hear today is evidence of an attempt to use those notices. Those attempts ultimately, in the examples given by the witness, were not ultimately successful.

30 **COMMISSIONER:** Very well.

**MR TERNOVSKI:** Ms Fox is currently the executive director, as I said, of  
35 policy and workplace services at WHSQ, a role she has held since 2023, at least as an acting executive director, and prior to that Ms Fox was the director of work in electrical safety policy from 2017. Ms Fox will, in summarising at a general level, give evidence about CFMEU attempts to pressure and intimidate the staff of the Office of Industrial Relations and the culture that the OIR had of accepting aggression and intimidation towards its staff. She will also give evidence -

40 **COMMISSIONER:** So did Ms Fox take over from Mr Dennett? Is that the - he was the executive director, wasn't he?

**MR TERNOVSKI:** Mr Dennett was the executive director of WHS compliance  
45 and field services.

**COMMISSIONER:** Oh, I see.

**MR TERNOVSKI:** He was replaced by Mr Harris as acting director and then by Ms Wise, following a recruitment process about which Ms Bancroft will give some further evidence about. Ms Fox works and worked in a different part of  
5 WHSQ, the policy part.

**COMMISSIONER:** Oh, I see.

**MR TERNOVSKI:** Rather than the enforcement and compliance.  
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**COMMISSIONER:** I see. So she worked alongside Mr Dennett.

**MR TERNOVSKI:** Well, when she was a director, as an executive director, she was one level below Mr Dennett but in a side branch.  
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**COMMISSIONER:** I see. Okay.

**MR TERNOVSKI:** When she became executive director, she was at the same level as Mr Dennett, but Mr Dennett was already gone by then.  
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**COMMISSIONER:** Okay. Thank you.

**MR TERNOVSKI:** So as well as giving evidence about CFMEU attempts to target and intimidate OIR officials, she will also give further evidence of  
25 regulatory capture of WHSQ, including further evidence about Ms Burgess and Mr Dennett. The first major matter that she gives evidence about is an incident involving Mr Ravbar on 30 January 2018. In summary, Ms Fox was attending a meeting with Mr Kupsch and two colleagues from the OIR at the CFMEU office in Bowen Hills. Mr Kupsch was then on the WHS board and chairing the  
30 Construction Industry Sector Standing Committee, one of the OIR consultative committees. About 15 minutes into the meeting, Mr Ravbar knocked on the door, pulled Mr Kupsch out and then had Ms Fox brought out of the meeting, separated from her colleagues and taken to another room on a different floor. While Ms Fox went down to sit at the table, she heard the door close and click behind her. She  
35 turned to find Mr Ravbar and Mr Kupsch standing between her and the door. Mr Ravbar then went on a long tirade berating and threatening Ms Fox. He said things like, "We have been watching you. I know who you are. I know what you've done. People like you disgust me," and told her that she was banned from my CFMEU building site or meeting and that the union refused to work with her,  
40 which he said meant that no one would work with her. I should emphasise that at point, Ms Fox had never even met Mr Ravbar. This was the very first time they had met, and she had no idea what she was being accused of as no issue had been raised with her in the meeting that she had just come from. Mr Ravbar ended his tirade by describing how he would have liked to have Ms Fox physically dragged  
45 downstairs and thrown out of the building onto the street. He said he was doing her the "courtesy" of not embarrassing her in front of her colleagues, but warned her that if she ever showed up again, she would be physically thrown out.

Now, according to Ms Fox, Mr Ravbar was so angry, menacing and unhinged that Ms Fox thought that he was about to physically assault her. She stayed silent and kept very still, waiting for any sudden movement so she could literally duck to  
5 avoid a blow that she thought was about to come. Throughout this whole ordeal, Mr Kupsch stood there and said nothing. Eventually Mr Ravbar went quiet, spat at Ms Fox and left. Mr Kupsch then walked her back to the original meeting room. Ms Fox told her colleagues that something has come up, and they left the building. When she reported this incident to her supervisor, Paul Goldsbrough,  
10 who was the executive director above her, and the then deputy director-general Dr Simon Blackwood, they made inquiries to find out what had offended Mr Ravbar.

**COMMISSIONER:** Paul who, sorry?

15 **MR TERNOVSKI:** Goldsbrough. They told her they made inquiries to find out what had offended Mr Ravbar but found no answer. They simply told her, "Put it behind you. He's just crazy." The incident was so traumatic that Ms Fox sought professional counselling after it, and she began warning every new female executive at WHSQ to never meet with Mr Ravbar alone, and all subsequent  
20 Construction Industry Sector Standing Committee, ISSC for short, meetings were moved permanently to OIR premises and she never set foot in the CFMEU office again. Ms Fox will also describe how CFMEU aggression and disrespect -

**COMMISSIONER:** Can you just explain to me those two boards? We've heard  
25 before about the WHS board that Mr Kupsch was a member of. You mentioned another board, a construction consultative what?

**MR TERNOVSKI:** Construction Industry Sector Standing Committee.

30 **COMMISSIONER:** Standing Committee.

**MR TERNOVSKI:** As I understand it, there were these industry sector standing committees, ISSCs, and one of them was the construction industry, and Mr Kupsch was for a term chairing that. I think it was a rotating chair, but relevantly  
35 at the time of that incident Mr Kupsch was the chair.

**COMMISSIONER:** And that was the meeting that Ms Fox was going to of this industry standing committee?

40 **MR TERNOVSKI:** That's right, that's right, the meeting concerned updating the crane code of practice.

**COMMISSIONER:** And it was being held at the CFMEU offices?

45 **MR TERNOVSKI:** Yes. That in itself was not irregular, Commissioner, because they were also held at employer premises as well, because there were employer

representatives on the committee. But following this meeting, they changed the practice so that all meetings were held at departmental premises.

5 **COMMISSIONER:** And Mr Kupsch was the chair of this standing committee?

**MR TERNOVSKI:** For a term, yes. Ms Fox will describe how CFMEU aggression and disrespect became a routine experience not only for her but other senior OIR staff. She will describe Mr Kupsch's aggression and intimidation in meetings of the WHS board and the standing committee, and her evidence is that  
10 this was generally the worst in front of an audience, and she believes it was used both to punish her for not yielding to the union and to intimidate the OIR and other stakeholders. She gives one striking example of that behaviour, which is a construction ISSC meeting on 12 March 2021.

15 **COMMISSIONER:** What was the date, sorry?

**MR TERNOVSKI:** 12 March 2021. Now, Ms Fox's evidence is that, at this meeting, Mr Kupsch spent about three-quarters of the two-hour meeting berating her personally in a raised, angry voice and saying things like, "We have had a  
20 gutful of you, you are an insult to workers and you've achieved nothing." No one intervened. Eventually Ms Fox told him that, as a woman, she was no longer prepared to be yelled at by a man in her own workplace, and then, to his credit, Mr Kupsch toned down his rhetoric.

25 But something else of note occurred at that meeting. While Mr Kupsch was berating Ms Fox, she texted Ms Burgess, who was also in attendance, asking what the issue was really about. Ms Burgess replied, but then Ms Fox started receiving further texts from Ms Burgess ridiculing what Ms Fox was saying in the meeting. The content of these messages indicated that they were intended for someone else  
30 and sent to Ms Fox by mistake. For example, they referred to Ms Burgess in the third person - to Ms Fox, sorry, in the third person.

Now, our case theory is that Ms Burgess was giving Mr Dennett a running commentary on the meeting, ridiculing Ms Fox, and accidentally sent some of that  
35 commentary into the wrong thread after Ms Fox messaged her. Ms Fox will give direct evidence of the texts that she saw and received on her phone. However, due to the passage of time, to date we have not been able to obtain a copy of the messages although we haven't exhausted our inquiries. There is, however, a contemporaneous record of the incident in the form of a formal complaint that Ms  
40 Fox made to the deputy director-general. I think the meeting was on the Friday and she sent an email to the DDG I think that week and I think on a Sunday.

45 After that complaint to the deputy director-general, Mr Craig Allen at the time, Ms Burgess, with the involvement of Mr Dennett, provided her own version of events as to what occurred at that meeting, which Ms Fox says is false. Another senior OIR official who witnessed the meeting -

**COMMISSIONER:** Who provided their version? Ms Burgess?

**MR TERNOVSKI:** Ms Burgess, through Mr Dennett.

5 **COMMISSIONER:** Through Mr Dennett?

**MR TERNOVSKI:** Yes. Another senior OIR official who witnessed the meeting, Johanna Sutherland, confirmed to Mr Allen and Mr Dennett that Ms Burgess' version of events was false. Despite this, it appears that no action was  
10 taken against Ms Burgess, and instead, the OIR proposed a mediation between Ms Burgess and Ms Fox to repair their relationship. Ms Fox pushed back, and the mediation did not proceed.

15 Ms Fox will also describe other tactics that the CFMEU used to target OIR officials.

**COMMISSIONER:** This is a mediation about what? About Ms Burgess' behaviour in the 12 March 2021 meeting?

20 **MR TERNOVSKI:** As I understand it, it was a broader mediation about repairing the relationship, but perhaps this may be something that can be a further question that can be asked of Ms Fox.

25 Ms Fox will describe other tactics the CFMEU used to target OIR officials, and our case theory is essentially that the CFMEU targeted in substance any official they dealt with who refused to bend to their will and act on their instructions. One tactic used by the CFMEU was to mount campaigns to have particular officials removed. The CFMEU ran such a campaign against Dr Blackwood, and his  
30 employment had unexpectedly ended in January 2019, and we're investigating the circumstances surrounding that. The union also attempted to do this to Ms Fox, that is, to have her removed from her job, but was not successful in that. Another tactic that Ms Fox -

35 **COMMISSIONER:** Is my memory correct that between Dr Blackwood resigning until now, there have been about 10 deputy director-generals? Is that -

**MR TERNOVSKI:** I think nine. I think there were nine, including Dr Blackwood. So that would make it - my learned junior is just confirming that  
40 number, but that would make it eight after Dr Blackwood.

**COMMISSIONER:** So basically they lasted about a year - I mean, on average about a year?

45 **MR TERNOVSKI:** Between 2019 and '24.

**COMMISSIONER:** '26. Or maybe short of a year. Or '24 (indistinct).

**MR TERNOVSKI:** No - twenty - yes, I think that's about right.

**COMMISSIONER:** I think Mr Thomas has got something to show you.

5 **MR TERNOVSKI:** Yes, so nine including Dr Blackwood. But the last one being appointed, Ms Barry in November 2025.

**COMMISSIONER:** Who was the last one, sorry?

10 **MR TERNOVSKI:** Megan Barry, who is the current DDG, and she has been in that role from November 2025, as I understand it. So it's about seven years, about eight DDGs in seven years. Another tactic used by the CFMEU that Ms Fox will give evidence about is to declare an OIR official persona non grata and simply refuse to deal with them. And of course, because the CFMEU was a major  
15 stakeholder, this made it very difficult for the official to do their job. For example, the CFMEU sent a letter to Minister Grace Grace dated 21 July 2017 declaring that, and I quote:

20 "No official of this union under any circumstance will engage, acknowledge or interact with Daryl Brooker for any purpose."

Mr Brooker was the predecessor of Ms Burgess as an early director of construction compliance and field services, and of course he left. Andrew Harris, the acting executive director and Mr Dennett's successor, was also targeted in that  
25 way.

Ms Fox also gives us a rather striking example of regulatory capture of the OIR, this time involving Mr Dennett. In summary, the CFMEU was using a somewhat obscure provision of the Queensland Work Health and Safety Act, section 81(3),  
30 to enter building sites without producing a federal right-of-entry permit, including by officials who held no entry permit. And Ms Fox's evidence is that no other union used this channel of entry. Now, in 2019, the CFMEU lost a Federal Court proceeding brought by the ABCC on this very issue.

35 **COMMISSIONER:** When you say they didn't have a federal permit, what you really mean to say, don't you, is they had lost their federal permit?

**MR TERNOVSKI:** That would be one example, yes.

40 **COMMISSIONER:** So that's why - presumably that's why this method was chosen, because people had lost their - tell me if I'm wrong, but they had been, in effect, refused a federal permit and then used this device of going under state law?

**MR TERNOVSKI:** I don't know that Ms Fox is specific about that, but -  
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**COMMISSIONER:** Okay.

**MR TERNOVSKI:** - that can be a question I might ask her.

**COMMISSIONER:** Well, she might not know.

5 **MR TERNOVSKI:** She might not know. So the 2019 Federal Court -

10 **COMMISSIONER:** What I'm getting is that these people who are using - is there an inference to be drawn that these people had been declared non-fit and proper persons by the relevant federal authority and were seeking to use the state regime to get around, in effect, that designation? Or am I reading too much into it?

15 **MR TERNOVSKI:** I might need to - that might be right, Commissioner. We do have some documents relating to specific individuals for whom this was sought. It's not in this batch of evidence, but I will - I might get back to you with some specifics.

20 **COMMISSIONER:** Well, it seems strange, if you were a fit and proper person, you had your federal permit, why bother to go through this process on federally governed sites?

25 **MR TERNOVSKI:** Well, presumably, if they could get a federal permit, they wouldn't need to use this method of entry. However, I think her evidence is that sometimes that was used to avoid having to show the federal permit; even though they may have had a permit, they didn't want to show it for whatever reason.

**COMMISSIONER:** Right. That doesn't make a lot of sense to me, but anyway, you will come back to me about all this in due course.

30 **MR TERNOVSKI:** But you will recall there was evidence, for example, about the CFMEU officials refusing to sign in to construction sites, in compliance with COVID protocols, and this creating a right-of-entry issue in circumstances where the only reason why they were not let into the site is because they wouldn't sign the entry. Now, that may be a way of projecting power, in effect.

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**COMMISSIONER:** I see.

**MR TERNOVSKI:** And so if that is -

40 **COMMISSIONER:** Sorry, you go.

**MR TERNOVSKI:** If that is the case, then not showing a federal permit when you have one may also be another instance of that behaviour.

45 **COMMISSIONER:** Yes. That "I'm above the law, I don't need to show you this." I understand. Yes.

**MR TERNOVSKI:** So as I said, in 2019 the CFMEU lost a Federal Court proceeding concerning the interaction of section 81(3) of the WHS Act of Queensland and section 494 of the Fair Work Act, which prohibited an official of a registered organisation from exercising a "state or territory OHS right" - that's a defined term - "unless the official holds an entry permit", and the Federal Court held that section 81(3) of the WHS Act conferred a right which is a state or territory OHS right, and therefore, section 494 applied and a CFMEU official could not enter under section 81(3) of the WHS Act without the federal permit.

10 Now, shortly after that decision, Mr Ravbar telephoned Ms Burgess and told her that CFMEU intended to in effect circumvent the Federal Court by transferring those CFMEU officials, presumably those that have lost their federal permit, out of the federally registered union and into the Queensland state registered union. Now, that state union is not a registered organisation under the Fair Work Act, so on the union's theory, those officials would no longer be officials of a registered organisation, and the section 494 prohibition on entering without a permit would not apply. Mr Dennett agreed with the union's analysis, and Ms Fox -

**COMMISSIONER:** But there is a bit more to that story, that Mr Maher might develop next week, but in the KordaMentha report, there's - and Mr Irving gave evidence about this. I think there was transfer from the federal union to the state union in around 2021 of officials and other employees of members of assets and income streams, and Mr Irving's point, at least in relation to the membership, was that - well, two things, that arguably those persons whose membership was transferred were not properly members of the federal union and arguably the state union owed the federal body about \$50 million. That's my recollection of his evidence; I might have the numbers slightly wrong. So was this part of that scheme or something separate, or do you want to come back to me on that?

30 **MR TERNOVSKI:** I might have to come back to you. I'm not sure that we have an answer about it. I mean, this was a self-contained scheme. Whether it was part of a broader plan, that's not -

**COMMISSIONER:** This is just that part of - whether it's part of the scheme or it might be a separate scheme to transfer the officials.

40 **MR TERNOVSKI:** Yes. So there was - on the evidence, there was clearly that scheme, to transfer the officials in order to evade the Federal Court decision, but that may be a building block of something bigger, but the evidence at least that we have this week is silent on that bigger issue.

**COMMISSIONER:** I see.

45 **MR TERNOVSKI:** Now, Mr Dennett agreed with the union's analysis, and Ms Fox was directed to prepare updated inspector guidance reflecting the CFMEU's position.

**COMMISSIONER:** Mr Dennett agreed with?

5 **MR TERNOVSKI:** With the CFMEU's analysis that the section 494 of the Fair Work Act could be bypassed, in effect, by transferring the officials to the state union, and they could just then enter without a permit.

10 **COMMISSIONER:** When you are saying bypass, what you're really talking about is the requirement to be a fit and proper person, aren't you? Or are you talking about the other requirements, 24 hours' notice?

**MR TERNOVSKI:** Well, I'm talking about the requirement to have a permit, which, of course, comes with the regulatory scheme that sits behind that.

15 **COMMISSIONER:** Yes.

**MR TERNOVSKI:** So Ms Fox was directed to prepare updated inspector guidance reflecting that position, that state union officials could enter without providing a federal permit. She did not agree with this analysis.

20 **COMMISSIONER:** Directed by Mr Dennett to do that?

**MR TERNOVSKI:** Yes. She did not agree with this analysis and challenged Mr Dennett on it, but he told her that he had obtained independent legal advice on the issue. However, he did not give her a copy of that advice at the time. When Ms  
25 Fox eventually obtained a copy of that advice, it was a written advice from Mr Herbert of counsel. She found that it did not support the CFMEU's position that officials of the state union can simply enter under section 81(3). On the contrary, the advice identified a further difficulty for the union that the state union official may not even fall within the definition of a representative, which is the person  
30 who can enter under section 81(3). Probably don't need to take the Commission into the detail of Mr Herbert's reasoning, because it's just reasonably technical. Ms Fox was very concerned about this, and she spoke with Mr Allen the deputy director-general and Mr Dennett pointing out -

35 **COMMISSIONER:** I don't think - the way Ms Schinnerl explained the rules - and she's just a layperson, and we don't have a copy of the rules, but what she said was that the state union - or maybe it was Ms King who said this; I can't remember - said the state union's rules cover people who work largely in  
40 government work. So I think she gave an example of a painter in a hospital, that sort of thing, someone who does some building work, like a maintenance person. And therefore, if you are representing those people, you're representing them in that sort of work but not in the type of work that the federal regime would cover, which is what we would regard as commercial building work run by constitutional  
45 corporations.

**MR TERNOVSKI:** That ties in very closely with Mr Herbert's advice, which was that the state union would have coverage limited to - basically to government

work. It wouldn't have coverage over the other - of work on other sites, that it was not entitled to represent the industrial interests of those workers on those other sites, and this created a difficulty with an official of the state union being appointed a representative that could enter under 81(3).

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**COMMISSIONER:** Enter under 81(3) of a federally regulated site?

**MR TERNOVSKI:** Yes, exactly. Ms Fox spoke with Mr Allen and Mr Dennett pointing out that the legal advice did not support Mr Dennett's position, but she was overruled and directed to prepare inspector guidance reflecting Mr Dennett's position, and she did so. But she was so concerned that she prepared a formal briefing note to the DDG documenting her concerns, and she drafted the guidance in such a way as to make it clear that it stated the position of the DDG as regulator and not the position of her policy unit.

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**COMMISSIONER:** Who was the DDG at the time?

**MR TERNOVSKI:** Mr Allen. Finally, Ms Fox will give evidence about her broader concerns about Ms Burgess - then the director of CCFS - whom she came to regard as aligned with the union rather than the regulator. She will describe Ms Burgess appearing to leak sensitive information to the CFMEU. For example, Mr Kupsch would on occasion repeat to Ms Fox information he should not have had, such as that particular internal meetings had occurred, who attended, that policy had taken one position, while compliance - Ms Burgess and Mr Dennett's department - had taken another position, and even the content of independent legal advice that policy had obtained, all of which Ms Fox knew to be within Ms Burgess' knowledge.

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When Ms Fox raised with Mr Dennett her concerns about having Ms Burgess attend sensitive discussions because she might leak information to the CFMEU, Mr Dennett rebuffed her. He said to her words to the effect "Don't try to cut another director out of a meeting," and he then complained about Ms Fox about having raised this issue. Ms Fox will give an example of Ms Burgess attempting to influence the regulator in the CFMEU's favour while -

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**COMMISSIONER:** I asked Mr de Jersey about Mr Dennett, and I've forgotten what the answer was, Mr de Jersey, and you might have forgotten what your answer was. He is no longer employed by the public service; is that right?

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**MR DE JERSEY:** That's right, Commissioner, and has not been since 28 January '22.

**COMMISSIONER:** Thank you.

**MR TERNOVSKI:** So this covers the evidence of Ms Fox. Our next witness will be Graham Easterby. Mr Easterby is retired. He has a background in safety

investigations and regulation, and relevantly to the Commission, he commenced at the QBCC as licensing manager in about 2018.

5 **COMMISSIONER:** So he's the first witness you're calling from the QBCC. We haven't had a QBCC witness before, have we?

10 **MR TERNOVSKI:** No, that's right. He is the first QBCC witness. He will introduce some of the things that we expect to emerge in later evidence. Now, Mr Easterby will explain his functions, the functions of QBCC and his role as licensing manager. He dealt with matters including issuing, renewing, imposing conditions, suspending and cancelling building and trade licences. And one of the reasons why Mr Easterby was brought to the QBCC in the first place was to help administer amendments to QBCC Act, which enabled QBCC to suspend or cancel licences on safety grounds.

15 Mr Easterby will give evidence that at the time when he started, Mr Bassett was the commissioner, and Dick Williams was the chair of the board, and then shortly after he started, Mr Jade Ingham was appointed to the board. Mr Easterby's evidence is that after that appointment, and also the appointment of Andrew Hickman, who represented - was the president of the national fire industry association, after those appointments, the director of licensing, Ian Grant, and Mr Easterby began receiving increasing pressure from the board to use the licensing regime to take action against specific licensees.

25 **COMMISSIONER:** Against who, sorry?

**MR TERNOVSKI:** Specific licensees.

30 **COMMISSIONER:** Just going back to your point about safety grounds, you could understand why - you would imagine this would happen all round Australia, that a building regulator would try to ensure that licences are not given to builders who build unsafe buildings, that is, buildings that are shoddy.

35 **MR TERNOVSKI:** Yes.

40 **COMMISSIONER:** It's another step to say if the building is okay, you still don't get a licence if some other regulator says that you treat your workers in an unsafe manner. Maybe that is legitimate. It just seems a little bit outside the remit of - given it's within the remit of the WHSQ, why would a body whose job is to license un-shoddy builders delve into that? Leave aside the way they did it, which is your point; I just wonder why they're in that field in any event.

45 **MR TERNOVSKI:** They're pursuing lines of inquiry relating to the various amendments to the QBCC legislation, including the amendment that expanded the number of persons on the board, which enabled Mr Ingham to be appointed in the first place.

**COMMISSIONER:** Which then led to this change, did it, to look at the - not the safety of the building per se, but the safety of the workers building the building.

5 **MR TERNOVSKI:** Well, Mr Easterby's evidence is after Mr Ingham, one of the issues that Mr Ingham was driving was exactly that: to get QBCC to use the WHSQ enforcement notices to take licensing action against builders.

10 **COMMISSIONER:** And there's an inference that Mr Ingham knew that the WHSQ - sorry, the WHSQ's approach to the enforcement of - or the issuing of notices had been captured by the CFMEU at this time.

**MR TERNOVSKI:** That is the inference that we will seek to draw, given his seniority within the union.

15 **COMMISSIONER:** And in fact were directing WHSQ to target certain builders.

**MR TERNOVSKI:** Yes.

20 **COMMISSIONER:** What time are we talking about at which Mr Ingham - when did Mr Ingham become a member of the board?

**MR TERNOVSKI:** In June 2018.

25 **COMMISSIONER:** So around the time - I think Ms Burgess became acting director April 2018 -

**MR TERNOVSKI:** That's right.

30 **COMMISSIONER:** - and finalised September '18.

**MR TERNOVSKI:** That's right.

35 **COMMISSIONER:** Finalised is the wrong word. Formally appointed - made permanent.

40 **MR TERNOVSKI:** Maybe September or October, but later that year. So 2018 was really a crunch year, because we have Ms Burgess, I think Mr Dennett also being appointed to their roles. We have Mr Ingham being appointed to the QBCC board. We have the CMEP, and of course we have the MOU with QPS.

**COMMISSIONER:** I forgot about that. That's around the same time too.

**MR TERNOVSKI:** That's also 2018.

45 **COMMISSIONER:** It might be too early to ask you this question, but you can just tell me it's too early, but have you got any theory that you're advancing about how those things are related?

**MR TERNOVSKI:** Well, certainly the working theory is that if not all, then most of those things are not accidental but are part of a plan.

5 **COMMISSIONER:** And have you got any theory about who's behind the plan?

**MR TERNOVSKI:** Commissioner, do you mean other than the union itself? You mean within -

10 **COMMISSIONER:** I mean - again, it might be too early for me to ask you this. You might need to do further investigation. So tell me -

**MR TERNOVSKI:** I think it is too early.

15 **COMMISSIONER:** Fine.

**MR TERNOVSKI:** Mr Easterby will describe a pattern of CFMEU sending letters to government, to ministers and other government entities, and as well as clients, raising safety concerns about particular contractors, and those letters were  
20 then referred to or filtered through to the QBCC. And the letters followed a similar format. They stated they were providing information about the contractor's safety record, and then set out a compilation of WHSQ notices said to have been issued on that contractor's projects. And Mr Easterby will give examples, including Tomkins and Watpac. When Commissioner Bassett provided these  
25 letters to Mr Grant, the director of licensing, and Mr Easterby, he told them that they needed to take action against the contractor, and Mr Easterby's evidence is this was not presented as a request to assess whether the CFMEU's concerns were valid; rather, it was an expectation that the QBCC would then take licensing action.

30  
When Mr Easterby analysed the notices referred to in those letters, he found problems with many of them, for example, many of the notices had not been issued to the main contractor at all but to subcontractors who performed work on the site. And some were issued to entities outside of QBCC's licensing  
35 jurisdiction, such as crane operators are not licensed by QBCC. And in many cases the matters were minor or had already been rectified. In Mr Easterby's view, there was often no proper basis for the QBCC to take action against the contractor named by the CFMEU. Despite this, he was pressured by the Commissioner to do so. Watpac is one specific example that Mr Easterby speaks about, in particular  
40 the Townsville Stadium project that we've heard about, in Cairns.

Mr Easterby first became aware of this issue in late 2018 when David Lonton, then director of investigations at the QBCC, told him he was under enormous  
45 pressure from Commissioner Bassett to investigate Watpac and find areas of non-compliance at the site. Mr Lonton told Mr Easterby that although he could not find any issues, he remained under pressure to continue the investigation, with the objective of finding some non-compliance. Mr Easterby will describe a

meeting with Commissioner Bassett and Mr Grant in the QBCC boardroom. Commissioner Bassett told them that Mr Lonton's investigation into Watpac was not achieving what it was supposed to achieve, because he had not gathered evidence of non-compliance. Commissioner Bassett therefore wanted licensing to  
5 see whether they could take action against Watpac from a licensing perspective. This struck Mr Easterby as highly unusual.

Mr Easterby will give evidence that Mr Grant later told him that after a meeting with Commissioner Bassett, the Commissioner said words to the effect, "The  
10 reason we're here is because Watpac isn't signing an EBA with the CFMEU." After that, Mr Grant and Mr Easterby had regular -

**COMMISSIONER:** That seems extraordinary if it's true. Mr Easterby is going to give hearsay evidence.  
15

**MR TERNOVSKI:** That's right. After that, Mr Grant and Mr Easterby had regular meetings with Commissioner Bassett about Watpac, and Mr Easterby's evidence is that the Commissioner directed them to come up with ways to use the licensing system to put pressure on Watpac. Mr Grant and Mr Easterby  
20 considered the issue from a licensing perspective but could not find any legal basis to take action against Watpac.

Mr Easterby will say that on several occasions Mr Grant responded to Commissioner Bassett's request to target Watpac by saying that if he put the direction in writing, they would look into it, and each time Commissioner Bassett  
25 said words to the effect of, "I can't do that. I'm not putting that in writing." In around mid-2019, Mr Grant told Mr Easterby that he and Mr Easterby were both on the CFMEU hit list because they would not take action against licensees on safety or licensing grounds. Ultimately, to Mr Easterby's knowledge, QBCC did  
30 not take licensing action against Watpac, and in his view there was no basis to do so.

Mr Easterby will also give evidence about Tomkins. The QBCC received a CFMEU letter about Tomkins in the same format as the other letters. It included a  
35 compilation of WHSQ enforcement notices said to have been issued at Tomkins sites over nearly two years. Mr Grant and Mr Easterby met with Commissioner Bassett about that letter. Commissioner Bassett directed them to investigate the matters in the letter and to find ways to use the licensing regime to take action against Tomkins. Mr Easterby will say that Commissioner Bassett made clear that  
40 he expected licensing action. When Mr Easterby reviewed the letter, he found that several of the notices were not issued to Tomkins but to subcontractors on Tomkins sites, and some were minor, others appear to be duplicative.

Mr Easterby then contacted Tomkins directly. One of his directors told him that Tomkins was having trouble with the CFMEU. Tomkins would not let CFMEU officials on site and would not bargain for an enterprise agreement with the CFMEU. At around the same time, Mr Easterby also spoke with Ms Burgess. Ms  
45

Burgess told him that WHSQ had serious concerns with Tomkins about safety. She also said there was another nearby site with a CFMEU enterprise agreement that had no issues while she was fielding constant requests from the CFMEU for WHSQ inspectors to attend the Tomkins site.

5

Mr Easterby will give evidence Ms Burgess also told him about a pattern of behaviour from the CFMEU. According to Ms Burgess - this is an admission that she makes to Mr Easterby - CFMEU officials attended sites where the CFMEU did not have an enterprise agreement, or where it was bargaining for one and sought to exercise a right of entry. If denied entry, CFMEU pressured WHSQ to send inspectors to the site. Once WHSQ inspectors arrived, the officials demanded that they conduct a walk-through and issue notices, often for minor matters. The submission that I will be making is this is a rather stark admission by Ms Burgess that she herself knew full well that the CFMEU was, through her, weaponising safety complaints to advance an industrial agenda.

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**COMMISSIONER:** It's an amazing admission. It makes you wonder why she would say that to Mr Easterby. Why would she tell him that?

20 **MR TERNOVSKI:** They had a reasonably good working relationship, Commissioner, but beyond that, I have no answer.

**COMMISSIONER:** If she's doing the CFMEU's bidding, she would want to keep that secret from her coworkers, wouldn't she?

25

**MR TERNOVSKI:** It depends on whether she regarded that as a matter that needed to be kept secret, I suppose. Her activities were not - were well known within the inspectorate, of course, on the evidence that we've had to date, and we will actually hear further evidence about that in the form of survey results of OIR employees providing their feedback on the organisation.

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**COMMISSIONER:** Say that last bit again, sorry. I didn't follow that.

35 **MR TERNOVSKI:** Tomorrow we'll hear further evidence about how well understood and known the problem was within the OIR itself, including the - so every year, OIR employees completed this survey called Working for Queensland survey, which is a survey of government workers, to measure their satisfaction with the organisation, among other things, and as part of that survey you can provide free text comments. Some of those comments are very stark, and we'll hear evidence tomorrow from Ms Bancroft about her reviewing those comments. But it suggests that the problem was not secret.

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45 **COMMISSIONER:** Perhaps her admission doesn't go so far as to implicate herself, when you think through it. Perhaps she doesn't go and say, the last bit, "And I'm facilitating this".

**MR TERNOVSKI:** No, that's right. Her admission concerns the CFMEU's behaviour.

**COMMISSIONER:** Yes. Which - you could explain why she might say that.

5

**MR TERNOVSKI:** It's not - although our case theory is that she was a key person through whom the CFMEU sought to exercise control, that case theory does not exclude the possibility or even likelihood that she herself was being put under a lot of pressure by the union.

10

**COMMISSIONER:** At least on the evidence, and not all of it has been tested, though, but she seems to have been a fairly enthusiastic participant in the scheme. There hasn't been a lot of evidence of her pulling back or saying one thing and doing another.

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**MR TERNOVSKI:** There hasn't, although you will hear in the evidence of Ms Bancroft that she claimed to Ms Bancroft that she was doing this because she was directed to do so by Mr Dennett.

20

**COMMISSIONER:** All right.

**MR TERNOVSKI:** Going back to Mr Easterby, he will describe regular pushback by him and Mr Grant and assistant commissioner Kate Raymond against directions from Commissioner Basset to take action or apply pressure against licensees when there were no valid grounds to do so. At times, Mr Easterby felt he was going to be dismissed from QBCC because he refused to fall into line. One particular issue was the idea that QBCC should take action against licensees based simply on the frequency of WHSQ notices across their site, and this idea came from QBCC board, in particular Mr Ingham. Mr Easterby resisted that approach.

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**COMMISSIONER:** That was the evidence given about the BPIC qualification as well, that that was the idea that you just measured it on frequency. I might have been - I can't remember if it was Mr Sanfilippo or someone else from CPB, but the last witness, who was the safety manager, both of them had statistics that showed a big spike in the frequency of notices. Both of them gave evidence that the notices were not justified, and you could understand that as being part of the scheme, that is, if you can generate enough false notices and then use the number of notices as a vehicle to deny pre-qualification for BPIC or to lose your licence, it's a pretty good system when you control the inspectors.

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**MR TERNOVSKI:** I would add one matter to this, Commissioner, which is you referred to false notices. I assume you're referring to notices that had no sufficient lawful basis.

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**COMMISSIONER:** False notice is probably the wrong way of putting it. It's notices that were implemented against the independent discretion of the

inspectors, but because people up on high at WHSQ directed the inspectors to do it.

5 **MR TERNOVSKI:** Yes. Although one matter I wish to add is that it appears  
that one other mechanism that was used in this regard - you will remember  
evidence given by Mr Dalamaras and possibly one of the other Cairns witnesses to  
the effect that at the end of the day, if you go on any large construction site and  
you look hard enough, you will find something. It may be very minor; it might be  
10 something blocking the walkway. And so if you've got the power to effectively  
direct inspectors to attend a construction site, you don't even need false notices.  
They will find something, and of course, tied into that is the CMEP, which  
removed the discretion not to write notices for minor issues.

15 **COMMISSIONER:** Yes. I think Beria, who was the head of the secret police  
for Stalin made that point, saying, "Show me the man, I'll show you the crime. If  
you give me enough time, I'll dig up wrongdoing on someone." But the point  
being, I'm not there independently trying to find wrongdoing. I'm there to fit up  
someone with a crime in order that the result that his superiors wanted was carried  
20 out.

**MR TERNOVSKI:** Yes. Yes. My point is simply that just the bare power of  
directing inspectors to particular sites is, in and of itself, even if there is nothing  
wrong with the process for issuing notices, is likely to lead to more notices being  
written against particular contractors that are being targeted, just on that alone,  
25 before we even get to the pressure to write notices.

Mr Easterby resisted the approach of taking licensing action on the basis of the  
frequency of notices. In his experience, larger contractors naturally receive more  
notices because - this is an innocent explanation - because they had more sites,  
30 larger and more complex projects, and were more likely to self-report incidents,  
and he considered that there was no correlation between the number of notices and  
the frequency of serious safety incidents. And in fact in February '21 he undertook  
an analysis of that very issue and found that there wasn't a correlation. Despite  
that analysis, the pressure to take action against - based on the notices did not stop.

35 Mr Easterby will also give broader evidence about what he saw as unusual and  
inappropriate board intervention in operational matters.

40 **COMMISSIONER:** The same analysis was done by - I'm terrible, I can't  
remember his name, but the last witness from CPB did exactly the same analysis,  
showing the safety record of the company and it being half the industry average  
but there being massive spikes in the number of notices that were issued that  
correlated with industrial campaigns from the CFMEU.

45 **MR TERNOVSKI:** Well, this reflects - well, Mr Easterby's analysis did not try  
to correlate it with industrial campaigns. He just tried to establish a correlation

with the number of notices and the serious incident then occurring and found there wasn't such a correlation.

5 Mr Easterby will give evidence that after Mr Ingham was appointed to the board, the intervention of the board in operational matters escalated, and it appeared there was a direct dialogue between the board and Commissioner Bassett about operational matters. It had an immediate effect on day-to-day work, Mr Easterby says, because he could not plan his day because Commissioner Bassett was constantly interrupting schedules based on directions from the board and in particular Mr Williams and Mr Ingham. And Mr Easterby was particularly  
10 concerned that the directions concerned specific licensees.

He will also describe an incident where he refused to issue a licence to an individual - this was a trade licence - because he did not consider it appropriate to  
15 recognise the person's technical qualifications. Mr Easterby learned that the individual was a CFMEU member. Commissioner Bassett tried to pressure him to issue the licence, asking, "Why can't we just give him a licence?" Commissioner Bassett told Mr Easterby that Mr Ingham had personally asked him to review Mr Easterby's decision not to issue the licence. Ultimately the licence was not issued.  
20

Finally, Mr Easterby will explain the circumstances, the rather stark circumstances, in which he left the QBCC. His evidence is that the final straw was Mr Grant and Ms Raymond, the assistant commissioner, became the subject of a formal investigation by the QBCC, and in Mr Easterby's views, based on  
25 discussions with them, the reason they were being investigated is that they were not doing what they were directed to do by the QBCC board, which is targeting particular contractors. Mr Grant and Ms Raymond told Mr Easterby that they had given Commissioner Bassett an ultimatum: either he would back down from exerting undue pressure on the performance of their roles or they would resign.  
30 Commissioner Bassett did not back down, and Mr Grant, Ms Raymond and Mr Easterby then all resigned on the same day, 26 July 2021. Our last witness -

**COMMISSIONER:** Is Mr Bassett still the commissioner?

35 **MR TERNOVSKI:** No.

**COMMISSIONER:** Is he still employed by the public service?

40 **MR TERNOVSKI:** That might be a question for Mr de Jersey.

**MR DE JERSEY:** I will take it on notice, but I will get an answer, Commissioner.

45 **COMMISSIONER:** Thank you.

**MR TERNOVSKI:** Our last witness will be Kym Bancroft. Ms Bancroft was the deputy director-general of the OIR from 1 August 2022 to 21 April 2023. This

was her first role in the public sector, and previously she held various senior safety roles in the private sector.

5 **COMMISSIONER:** 1 August which year?

**MR TERNOVSKI:** '22.

**COMMISSIONER:** To 21 April 2023?

10 **MR TERNOVSKI:** Yes.

**COMMISSIONER:** Six months or so? Eight months?

15 **MR TERNOVSKI:** Yes. Yes, that's right. Now, when Ms Bancroft commenced as DDG, she quickly identified what she considered to be systemic and cultural issues within the organisation, and one of the first things she did was to obtain  
20 copies of the free text results of that Working for Queensland survey that I mentioned. And she was horrified to read those comments provided by employees as part of that survey, and the dominant themes were a perception of regulatory capture and compromised independence within the construction inspectorate.

25 There were allegations that regulatory decisions were being influenced by external stakeholders, particularly CFMEU, rather than being made independently on the evidence. The comments also refer to inspectors feeling pressure to support union-preferred outcomes, being questioned for exercising independent judgment, and being exposed to political and stakeholder interference in operational  
30 decisions. Closely linked with those things in the free text comments was the criticism of the leadership of the construction inspectorate, and particularly Ms Burgess. And tomorrow I will show some of the more striking examples of those comments.

35 Ms Bancroft formed the view that ultimately the construction inspectorate had serious cultural and governance problems, including that it was suffering from regulatory capture by the CFMEU, and she tried to take some steps to deal with that. One of those steps is, you will recall, Ms Burgess was effectively moved  
40 sideways from her position as director of CCFS in early 2023. Now, Ms Bancroft gives evidence about how that happened and the pushback she received. Now, when she started, the proposal to reassign Ms Burgess was already in train, and that was driven largely by the then acting executive director Mr Harris and the acting deputy director-general Mr Jones.

**COMMISSIONER:** So Harris replaced Dennett?

45 **MR TERNOVSKI:** That's right.

**COMMISSIONER:** And who did Jones replace?

**MR TERNOVSKI:** I think it would be Mr Allen. Yes, that's right, Mr Allen. So Ms Bancroft then, including after speaking with Ms Burgess, decided to approve her reassignment, but shortly after that she received a call from Mr De'Ath, the director-general. Mr De'Ath told her that Mr Ravbar was very upset that she had  
5 decided to remove Ms Burgess from the director of CCFS role. Now, Ms Bancroft will say she was confused by that call. She did not understand why Mr Ravbar, as an external stakeholder, was calling her own leader about an internal OIR personnel decision. She also did not understand why the removal of Ms  
10 Burgess would be of such to Mr Ravbar that he would contact Mr De'Ath, who was three levels above Ms Burgess, because of course she was the director and then there's the executive director, deputy director-general and then the director-general. And, of course, Mr De'Ath's primary role was to run the Department of Education, of which the OIR was then just one part.

15 **COMMISSIONER:** Well, not part of the Department of Education; just part of his role as director-general, just sat alongside the Department of Education.

**MR TERNOVSKI:** Part of his portfolio, I should have said, Commissioner, yes, thank you. Now, because Ms Bancroft was new to the role - she had literally just  
20 started - she had decided to put the decision - having received this pushback, she decided to put the decision on hold so she could gather more information. She ultimately proceeded with the transfer.

**COMMISSIONER:** I just don't understand why Mr De'Ath would say that. I mean, he's the director-general. Why wouldn't he say to Mr Ravbar, "Thanks, we'll make those decisions ourselves," and tell the new deputy director-general Mr  
25 Ravbar's unhappy?

**MR TERNOVSKI:** I don't have an answer for you, Commissioner. But we are  
30 looking. We are continuing lines of inquiry. There's an interesting occurrence that happens -

**COMMISSIONER:** I mean, he might come forward and say, "I didn't say that." Who knows? He might have a good reason for it. Who knows?  
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**MR TERNOVSKI:** CFMEU was, of course, a major stakeholder. On 19 December 2022, Ms Bancroft met with Ms Burgess about the reassignment, and there was an interesting aspect to that, which was that Ms Burgess brought Mr Dennett as her support person. By then, he already was no longer her immediate  
40 supervisor, and that probably says something about the nature of their relationship. Continuing with Ms Burgess -

**COMMISSIONER:** Well, Mr de Jersey said he left the public service on 28 January 2022. So, at this point, he wasn't even a member of the public service.  
45

**MR TERNOVSKI:** It appears so. He certainly wasn't - he certainly wasn't the ED any more. Ms Bancroft will also give evidence about the meeting with

Minister Grace that we heard about in Cairns, that we heard Paul Smith's account of that meeting. Ms Bancroft will also give her account, which essentially corroborates Mr Smith's account.

5 **COMMISSIONER:** I've forgotten what that was, sorry. What was that meeting?

10 **MR TERNOVSKI:** Well, there was two components to it. One is that Minister Grace referred to Ms Burgess as "that poor woman" and essentially expressed some support for Ms Burgess. The other one, the other aspect, is that after the meeting, Mr De'Ath criticised Ms Bancroft for bringing Mr Smith to the meeting with the minister as lacking judgment.

**COMMISSIONER:** That's right. Yes.

15 **MR TERNOVSKI:** The key part of the evidence of Ms Bancroft is about her attempts to reform the triage system and how that went. Now, we know how the triage system was working or not working at the time when she started, which is that the CFMEU was directly calling Ms Burgess. Now, in late October 2022, OIR inspectors took protected industrial action, included a ban on certain work, and as an immediate consequence of that the triage - the system was temporarily changed so that CFMEU complaints were directed to assessment services.

25 Ms Bancroft then sought to make that change permanent. She says that the OIR requested meetings with the CFMEU to consult about the proposed changes, but starting in about December 2022, the CFMEU essentially ghosted Ms Bancroft. They refused to meet with her to discuss triage, and an ETU representative told Ms Bancroft that the Building Trades Group, which includes the CFMEU and the ETU, decided not to speak with her. From about mid-January 2023, Ms Bancroft began receiving direct calls on her work mobile from CFMEU officials reporting issues on sites, exactly the same thing that happened with Mr McKay, the difference being that Ms Bancroft pushed back on that, as we'll see.

30 **COMMISSIONER:** Just going back to the temporary change, have we heard that evidence before, that there was some period where the CFMEU were required to use the triage system that every other person was required to use?

35 **MR TERNOVSKI:** I think in Mr Smith's evidence there was some passing references to changes, but I don't think - we haven't had that level of detail before about exactly what was going on at the time with that - with triage.

40 **COMMISSIONER:** So why was this change made, and why did it only last for a little while?

45 **MR TERNOVSKI:** It was in response to protected industrial action.

**COMMISSIONER:** Is this the inspectors saying they were unsafe, that ended up in the resolution that only two inspectors at a minimum would go out to all CFMEU sites? Is that -

5 **MR TERNOVSKI:** That was a different process. That was a process under WHS Act. There was a provisional improvement notice and there was a cease unsafe work order. This is a different stream. This is protected industrial action, bargaining under the state system.

10 **COMMISSIONER:** I see.

**MR TERNOVSKI:** But one of the items of protected industrial action, I haven't got that at hand, but I will bring that up when I take Ms Bancroft tomorrow, was a ban on attending sites where it hadn't gone through triage.

15

**COMMISSIONER:** But that only lasted for a few weeks?

**MR TERNOVSKI:** Yes, the protected industrial action ended at around December that year, just before Christmas, I think, from memory.

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**COMMISSIONER:** And then the CFMEU went back to calling the deputy director-general, Ms Bancroft.

25 **MR TERNOVSKI:** Well, Ms Bancroft tried to make the system permanent, and then they started calling her. The first time they did that, it was 5.30 or 6 am at the gym, and she asked the official calling her why they were calling, and he said words to the effect that all calls would be coming to her from then on. And then on 11 January 2023, Mr Pauls sent Ms Bancroft an email stating that the CFMEU had taken the position that all health and safety matters would be directed to her personally as DDG.

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35 After that initial call at the gym, she started receiving such calls so frequently that she considered it to be ridiculous. She also started receiving email notifications from the CFMEU seeking inspector attendance on construction sites. Despite further invitations to consult, Ms Bancroft will say that the CFMEU'S position remained that the reform was not to proceed and that health and safety concerns would be directed to her personally. On 17 March 2023, Ms Bancroft wrote to union representatives proposing a permanent triaging process under which calls would be directed to a dedicated assessment services phone line. On 28 March, she attended a meeting -

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**COMMISSIONER:** That's exactly what Ms Wise proposed a year later, wasn't it?

45 **MR TERNOVSKI:** It is, yes. On 28 March 2023, so 11 days later, she attended a meeting in Mr De'Ath's office with Mr De'Ath, Mr Ravbar, among others, and they discussed the triage system as well as Ms Burgess moving to another role.

During this meeting, Mr Ravbar turned to Ms Bancroft and said words to the effect of, "Kym, you have chosen to take us on, and anyone who does that will not win." And as we will see, Mr Ravbar's threat turned out to be quite prescient. On 4 April -

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**COMMISSIONER:** Who was in this meeting?

**MR TERNOVSKI:** Ms Bancroft, Mr De'Ath, Mr Ravbar, Mr Pauls and Ms Collie.

10

**COMMISSIONER:** Who's Ms Collie?

**MR TERNOVSKI:** I would have to go back to Ms Bancroft's statement. Perhaps my learned junior will check that.

15

**COMMISSIONER:** Where did it take place, this meeting?

**MR TERNOVSKI:** In the office of Mr De'Ath.

20

**COMMISSIONER:** And what did Mr De'Ath say when his subordinate was being threatened by Mr Ravbar?

**MR TERNOVSKI:** I don't think Ms Bancroft says anything about that specifically.

25

**COMMISSIONER:** What was the date, sorry?

**MR TERNOVSKI:** That meeting was on 28 March 2023. On 4 April 2023, Mr Ravbar wrote to Mr De'Ath rejecting the new triage system and pushing for the old system of calling Ms Burgess to be reinstated. Now, there is an error in Ms Bancroft's statement, which she will correct orally about the precise chronology, so I'm giving you the updated version. So in about April 2023, Ms Bancroft received a call from Mr De'Ath telling us that Minister Grace had made a call about the triaging system and that the reform was not going ahead at the time, and Mr De'Ath told her that the matter would be deferred until a new executive director of WHS compliance and field services was appointed. So it's a curious decision -

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**COMMISSIONER:** Say that last bit again. The triage system - the reform would not go ahead?

**MR TERNOVSKI:** Yes, and the matter would be deferred until a new ED of WHS compliance and field services was appointed, because Mr Dennett had left and Mr Harris was only acting.

45

**COMMISSIONER:** Didn't you say that Mr Harris was one of the people that the CFMEU were targeting?

5 **MR TERNOVSKI:** Yes. And of course, the CFMEU would be on the selection panel for the new executive director. So it is a curious decision by the minister to involve herself in effectively an operational decision of the OIR and override the decision of the deputy director-general so that they can wait until a subordinate is appointed.

10 **COMMISSIONER:** Were there any reasons given by Mr De'Ath as to the rationale for Minister Grace's decision in that regard?

**MR TERNOVSKI:** No.

**COMMISSIONER:** Is there anything in writing, email?

15 **MR TERNOVSKI:** No. There is a subsequent letter from Ms Bancroft sent on 19 April, which confirms - this is to Mr Ravbar - that confirms that the triage system has been put on hold, pending the appointment of a new executive director, and instead they will use a system whereby regional directors are called directly. That was Plan B.

20 **COMMISSIONER:** So Ms Bancroft couldn't get her plan up, so she moved to Plan B, which is the regional directors will be called.

25 **MR TERNOVSKI:** Yes. And that's a system that Mr Smith gave some evidence about. My learned junior tells me that Ms Collie is a CFMEU official. So on 19 April, Ms Bancroft wrote the letter to Mr Ravbar effectively backing down on the triage system, and then the next day she was called into a meeting with Mr De'Ath, and at that meeting Mr De'Ath told Ms Bancroft that her employment had to end.

30 **COMMISSIONER:** The day after?

**MR TERNOVSKI:** The day after, yes.

35 **COMMISSIONER:** What date is that, the 20th or 21st?

40 **MR TERNOVSKI:** 20th. Contractually, Mr De'Ath was not required to provide a reason, but Ms Bancroft nonetheless asked for an explanation, and her evidence is that Mr De'Ath told her, "There is a union group that's not happy with you." Mr De'Ath offered Ms Bancroft an alternative role managing health and safety for the Department of Education on the same remuneration, but she declined and her employment came to an end.

45 **COMMISSIONER:** The union group, sorry, within Workplace Health and Safety is not happy with you?

**MR TERNOVSKI:** There is a union group that's not happy with you.

**COMMISSIONER:** They are not happy.

**MR TERNOVSKI:** Of course, this came less than a month after Mr Ravbar's threat.

5

**COMMISSIONER:** Mr Ravbar's threat in Mr De'Ath's office about which - well, we haven't heard from him yet. He might have said something. Is there any evidence that you've found about the rationale - I know you say there's nothing from Minister Grace, but from anyone recording or indicating what the basis for that decision was?

10

**MR TERNOVSKI:** The decision not to at the time proceed with the triage system?

15

**COMMISSIONER:** Until a subordinate to the deputy director-general was appointed on a full-time basis.

20

**MR TERNOVSKI:** No. No. But we have heard evidence about what happened subsequently when Ms Wise was appointed, and you will recall that she has then started driving that very issue. But ultimately it was left with Ms Donna Heelan, because Mr McKay had left, and -

**COMMISSIONER:** Who is Donna - sorry, Ms Donna who?

25

**MR TERNOVSKI:** Heelan.

**COMMISSIONER:** Heelan, that's right. And she was the acting deputy director-general after Mr McKay?

30

**MR TERNOVSKI:** That's right. That's right. And you may remember that she effectively deferred the decision until after the election.

**COMMISSIONER:** Mr McKay was the person, I think, who said, in effect, he had become the call centre operator for the CFMEU.

35

**MR TERNOVSKI:** I think he said words to the effect that he became Queensland's highest paid and least qualified construction call centre operator.

**COMMISSIONER:** And he replaced Ms Bancroft?

40

**MR TERNOVSKI:** Yes, although there was a gap. He started in - I think he was appointed in June. No, he was appointed in April but started in June, that's right, and she finished up on 21 April. So there was a short gap.

45

**COMMISSIONER:** There's no evidence of this, but there could be some inference that he might have found out what happened to Ms Bancroft and decided

it wouldn't happen to him; therefore, he would continue to take the CFMEU's calls.

5 **MR TERNOVSKI:** From memory, Commissioner, you put to him that he was concerned that his job was on the line, and I think he denied that and said that he was only seconded anyway.

**COMMISSIONER:** I see. All right.

10 **MR TERNOVSKI:** This completes my opening, and I was proposing to call Ms Fox next, but I see the time.

**COMMISSIONER:** Yes. We'll adjourn till half past 11.

15 **<THE HEARING ADJOURNED AT 11.19 AM**

**<THE HEARING RESUMED AT 11.28 AM**

20 **COMMISSIONER:** Mr Ternovski.

**MR TERNOVSKI:** Commissioner, before I call Ms Fox, I have answers to some of the questions that you've asked.

25 **COMMISSIONER:** Thank you.

**MR TERNOVSKI:** In relation to the evidence concerning Tomkins being targeted, that was evidence given by Ms Dargan -

30 **COMMISSIONER:** Ms Dargan.

**MR TERNOVSKI:** - rather than Inspector Hayes. In relation to CPB and the lack of relationship between the number of notices and the true safety risk, that was evidence of Mr Graeme Silvester, who was the executive general manager safety health environment and quality for CIMIC Group, which includes CPB.

35 **COMMISSIONER:** He wore pink shirts on Fridays.

40 **MR TERNOVSKI:** Yes, I'm told that's right. And I understand Mr de Jersey has -

**MR DE JERSEY:** Mr Brett Bassett, Commissioner, has been the general manager of QLeave since 11 October 2021.

45 **COMMISSIONER:** Sorry, the name of the entity?

**MR DE JERSEY:** QLeave.

**COMMISSIONER:** QLeave. I don't know what QLeave does.

**MR DE JERSEY:** As I understand, it administers the portable long service leave scheme for the State of Queensland.

5

**COMMISSIONER:** I see. Thank you.

**MR TERNOVSKI:** Commissioner, I call Andrea Fox.

10 **COMMISSIONER:** Is Ms Fox here in the hearing room? Ms Fox, would you just come forward into the witness box, please.

**<ANDREA ANNE FOX, AFFIRMED**

15 **<EXAMINATION BY MR TERNOVSKI**

**COMMISSIONER:** You've got your witness statement there and everything you need, Ms Fox?

20 **MS FOX:** Thank you.

**COMMISSIONER:** Mr Ternovski will just ask you some questions now.

25 **MR TERNOVSKI:** Ms Fox, I understand your witness stand doesn't actually have any kind of a desk or a table, so feel free to move that little coffee table closer if you need something to put that folder on. Thank you. Ms Fox, would you repeat your full name.

**MS FOX:** Andrea Anne Fox.

30

**MR TERNOVSKI:** And your work address.

**MS FOX:** 1 William Street, Brisbane, Queensland, 4000.

35 **MR TERNOVSKI:** And your occupation?

**MS FOX:** Executive director of policy and workplace services in the Office of Industrial Relations.

40 **MR TERNOVSKI:** Mr Operator, could - just before I do that, Ms Fox, you made a witness statement for the Commission?

**MS FOX:** Correct.

45 **MR TERNOVSKI:** Mr Operator, could Ms Fox be shown that witness statement. Is this your witness statement, Ms Fox?

**MS FOX:** Yes.

**MR TERNOVSKI:** And it's dated 4 June this year?

5 **MS FOX:** Yes.

**MR TERNOVSKI:** It has 112 paragraphs?

10 **MS FOX:** Yes.

**MR TERNOVSKI:** And 16 annexures?

**MS FOX:** Yes.

15 **MR TERNOVSKI:** Have you had a chance to read it recently, Ms Fox?

**MS FOX:** Yes, I have.

20 **MR TERNOVSKI:** Are the contents true and correct?

**MS FOX:** Yes.

**MR TERNOVSKI:** I tender the statement, Commissioner.

25 **COMMISSIONER:** Are there any objections? Witness statement, Andrea Anne Fox, made 4 June 2026, 22 pages, 112 paragraphs, with 16 annexures, will be exhibit AAF-1.

30 **<EXHIBIT AAF-1 WITNESS STATEMENT ANDREA ANNE FOX MADE 4/6/2026, 22 PAGES, 112 PARAGRAPHS, WITH 16 ANNEXURES**

**MR TERNOVSKI:** Thank you, Commissioner. Ms Fox, when were you appointed into your executive director role?

35 **MS FOX:** I was appointed into the executive director role in 2024, but I acted in the role for some time before that.

**MR TERNOVSKI:** Do you remember when you started acting in the role?

40 **MS FOX:** In 2023. I think it was around April.

**MR TERNOVSKI:** Before you started acting in the executive director role, what was your role at the OIR?

45 **MS FOX:** Before that, I was in a director role, the director of a policy team that's within that same directorate.

**MR TERNOVSKI:** And when did you start in that director role?

**MS FOX:** In 2017 I started acting in it, and then I was appointed into that role, I think, yeah, in 2018.

5

**MR TERNOVSKI:** And that was your first role at the OIR, was it?

**MS FOX:** I had worked at OIR years ago for a stint, but not a hugely long stint, and it was a long time ago. It wasn't in the Workplace Health and Safety space.

10

**MR TERNOVSKI:** And immediately preceding you commencing as the OIR as director, you worked at the Department of Premier and Cabinet for a number of years?

15

**MS FOX:** Correct, over the bulk of my government career.

**MR TERNOVSKI:** And were they safety positions?

**MS FOX:** No.

20

**MR TERNOVSKI:** Were they policy positions?

**MS FOX:** No, they were policy positions across a range of portfolios.

25

**MR TERNOVSKI:** Ms Fox, can you please tell the Commissioner what your qualifications are, as in educational qualifications.

**MS FOX:** I have a bachelor of economics and a master's of social science in economics with two theses.

30

**COMMISSIONER:** You say you were originally a director of work and electrical safety policy from 2017. I thought there was a different regulator that regulated electrical work. No? It's all regulated by WHSQ?

35

**MS FOX:** Yeah, the policy area in our directorate, we service both the Workplace Health and Safety Queensland and the Electrical Safety Office in terms of policy.

**COMMISSIONER:** I see.

40

**MR TERNOVSKI:** Ms Fox, and the Electrical Safety Office is part of the OIR; is that right?

**MS FOX:** Correct. Yeah, it's one of - yeah.

45

**MR TERNOVSKI:** Ms Fox, would you describe your present duties as executive director?

**MS FOX:** My present duties as executive director of the division, my main duty is that it's a policy directorate, and as we mentioned, it services the policy arm for two regulators. But I also look after a group of different workplace services, some  
5 aimed at supporting employers and some aimed at supporting workers, so, for instance, enforceable undertakings for employers, family liaison for workers who've experienced, yeah, a workplace incident.

**COMMISSIONER:** There have been so many changes, I lose track of them, Ms  
10 Fox. You as executive director of policy and workplace services report to the deputy director-general?

**MS FOX:** Correct.

**COMMISSIONER:** And who's the current deputy director-general?  
15

**MS FOX:** Megan Barry.

**COMMISSIONER:** And Ms Barry reports to a director-general, but that  
20 director-general is no longer primarily responsible for education?

**MS FOX:** No, it's John Sosso in state Development.

**COMMISSIONER:** State development. Thank you.  
25

**MR TERNOVSKI:** Ms Fox, in paragraph 11 onwards of your witness statement, you describe an incident involving Mr Ravbar on 30 January 2018. What was your position at the time?

**MS FOX:** I was the director of the work and electrical safety policy team.  
30

**MR TERNOVSKI:** And how long had you been in that role at the time of this meeting?

**MS FOX:** Under a year, so I think I might have started in March 2017, time  
35 around then.

**MR TERNOVSKI:** Ms Fox, can you tell the Commissioner what happened at that meeting? Firstly, where was it?  
40

**MS FOX:** It was at the union offices in Bowen Hills.

**MR TERNOVSKI:** And who were you meeting there?

**MS FOX:** I was meeting Mr Royce Kupsch, who I think was president in the CFMEU in Queensland and the Workplace Health and Safety position.  
45

**MR TERNOVSKI:** Outside of the union, what position did Mr Kupsch hold at the time, as far as the OIR is concerned?

5 **MS FOX:** Oh, he was also, sorry, a Work Health and Safety board member, and he was also the chair of the Construction Industry Sector Standing Committee, which is the tripartite groups that support consultation.

10 **COMMISSIONER:** Can you just remind me about the Work Health and Safety board that he was a member of? That was an advisory board -

**MS FOX:** For the minister.

**COMMISSIONER:** For the minister?

15 **MS FOX:** Correct.

**COMMISSIONER:** I see.

20 **MS FOX:** It's made up of employer and union representatives, and it can have a couple of expert representatives as well.

**COMMISSIONER:** So that board doesn't - didn't meet with what you might call the executive team from the deputy director-general downwards, in the way a board might meet with the -

25 **MS FOX:** It always had someone senior as a guest in there, so the deputy director-general, and then it moved on to having all the executive - relevant executive as guests in there.

30 **COMMISSIONER:** It did. I see.

**MS FOX:** And that's the same today.

35 **COMMISSIONER:** And that board would ask those members of the executive and the deputy director-general questions about the operation of WHSQ in the way that a normal board might quiz an executive that reports to a board?

**MS FOX:** Yes. Correct.

40 **COMMISSIONER:** But the board had no control over the day-to-day operations; all they could do was ask questions and get answers.

45 **MS FOX:** Yes, and they receive a number of regular reports, including data on incidents, notices being issued and the like. So they are equipped to have quite an insight to how we operate in order to form advice for the minister on it.

**COMMISSIONER:** I see. Whereas a normal board, depending upon how hands-on the members of the board might be, might take a role in vetoing or imposing upon the executive some decisions of their own, this was an upward flow of information from the executive team to the board, who would then speak to the minister?

**MS FOX:** Correct, and they had no financial insight, for instance, to how things are budgeted or - yeah - otherwise.

**COMMISSIONER:** Thank you.

**MR TERNOVSKI:** Other than Mr Kupsch, was that meeting intended to include anyone else from the CFMEU?

**MS FOX:** No.

**MR TERNOVSKI:** And who attended on behalf of the OIR?

**MS FOX:** Myself and two colleagues, Mr Brad Bick, who was a director of a different policy group but had been in my area before, and Mr Ben Christensen, who worked in my team in policy.

**MR TERNOVSKI:** Where was the meeting held?

**MS FOX:** We came into the CFMEU offices, and they took us - well, Mr Kupsch, sorry, took us to a meeting room on the ground floor. It was a meeting room I hadn't been to before. Yeah.

**MR TERNOVSKI:** Had you been to other meeting rooms at the time?

30

**MS FOX:** Yes, yes, I had -

**MR TERNOVSKI:** On which floor?

**MS FOX:** I had been to an upper floor of the office for both - at least one meeting, maybe two, of the Construction Industry Sector Standing Committee, and also a pre-brief with Mr Kupsch as chair.

**MR TERNOVSKI:** What was the meeting supposed to be about?

40

**MS FOX:** The meeting was for Mr Kupsch to talk to us about one of the industry codes of practice, a construction one, and he wanted it to pick up changes that had emerged in another construction code of practice. So he wanted to discuss why he thought they were important changes to be picked up, and we discussed with him what a pathway to considering that looks like.

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**MR TERNOVSKI:** Ms Fox, the code of conduct is a statutory instrument; is that right?

**MS FOX:** Correct.

5

**MR TERNOVSKI:** So what needs to happen for that to be amended?

**MS FOX:** Codes of practice have to be approved by the minister and formally made. So they're not guidance material; you can't just amend them. And the practice of the department is that changes to codes of practice go through a consultation stage where both employers and unions can have a say. You have to go through drafting changes for it. Yeah. So it's quite a lengthy process.

10

**MR TERNOVSKI:** Did you explain that to Mr Kupsch?

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**MS FOX:** I did, yes.

**MR TERNOVSKI:** What was his response?

**MS FOX:** Mr Kupsch was a bit impatient and wanted to make clear that he considered it a priority, but he accepted what I was saying.

20

**COMMISSIONER:** Is a code of practice just a guide for the industry, or does it contain legally enforceable standards that must be complied with?

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**MS FOX:** They contain both, I guess. They read a lot like guidance material in that there's a lot of detail and they go into various elements and in quite specific ways. Codes of practice in Queensland are enforceable, but there is, I guess, parameters to the enforceability of codes. We capture anything in there that's in an Act or regulation under the terminology "must comply with", and for everything else that we discuss in there about a way to identify and manage a hazard, you can achieve that level through other means. Basically you need to achieve that level of safety outcome, and it's not prescriptive to the degree of how you might do it, in order for you to develop your own mechanisms in your own workplaces.

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**COMMISSIONER:** Explains to the reader what the rules are under the statute and regulations and then gives some guidance which they would be well advised to follow about how they might be able to meet those obligations.

**MS FOX:** It gives you a good idea how the regulator is going to see this hazard and - yeah.

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**COMMISSIONER:** Right.

**MR TERNOVSKI:** So after this discussion that you've just described with Mr Kupsch, what happened?

45

**MS FOX:** The meeting room was opened and Mr Ravbar came and motioned for Mr Kupsch to leave the meeting room, and they both left, and then they - Mr Kupsch came back in, and he asked for me to follow him outside the room.

5 **MR TERNOVSKI:** Just pausing there, you mentioned Mr Ravbar. Had you met him before?

**MS FOX:** No, I had not met him before.

10 **MR TERNOVSKI:** Did you know it was Mr Ravbar?

**MS FOX:** Yes, I did know it was Mr Ravbar.

**MR TERNOVSKI:** How did you know it was Mr Ravbar?

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**MS FOX:** I recognised him from seeing his photographs and footage in the media.

20 **MR TERNOVSKI:** How regularly did you see his photographs and footage in the media before that meeting?

**MS FOX:** I think Mr Ravbar would have been in the media probably near monthly, certainly in that first year that I was working with OIR.

25 **MR TERNOVSKI:** Did Mr Kupsch give you a reason for wanting you to leave the room?

**MS FOX:** No. He just asked if I could step outside the meeting room.

30 **MR TERNOVSKI:** And did you?

**MS FOX:** Yes, I did.

**MR TERNOVSKI:** And what did you observe?

35

**MS FOX:** He then immediately kind of motioned for me to follow them upstairs.

**MR TERNOVSKI:** Was Mr Ravbar there?

40 **MS FOX:** I believe Mr Ravbar - I saw Mr Ravbar going up the stairs. And I followed Mr Kupsch upstairs to another meeting room, which I was motioned to sort of go inside, and I entered that room.

**MR TERNOVSKI:** What did you do after you entered the room?

45

**MS FOX:** I sat down at a boardroom table sort of thing, and I turned to see them, and I saw they had approached me but were not sitting. They were just standing in front of me.

5 **MR TERNOVSKI:** So who is "they"?

**MS FOX:** Mr Ravbar and Mr Kupsch.

**MR TERNOVSKI:** Was the door open?

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**MS FOX:** I believe the door was closed, and when I had my back turned, I think that is when the door closed.

**MR TERNOVSKI:** Why do you say that?

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**MS FOX:** Because I don't recall watching them handling the door, but I do recall the noise of the door.

**MR TERNOVSKI:** The noise of the door -

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**MS FOX:** Closing into place.

**MR TERNOVSKI:** You said Mr Kupsch and Mr Ravbar were standing. Where were they standing in relation to you and the door?

25

**MS FOX:** I - I was seated here. The door was there. They were there in front of the door, I would say about as close as your colleague there to me.

**MR TERNOVSKI:** I see. So there were about a metre, would you say, from -

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**MS FOX:** I would say a bit over a metre from me, yep.

**MR TERNOVSKI:** And what happened, Ms Fox?

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**MS FOX:** Immediately, Mr Ravbar started speaking to me, and he was very, very angry, and I think he started with the line, "You have some gall coming here," like that kind of thing.

**MR TERNOVSKI:** Go on. What else do you remember?

40

**MS FOX:** He - he said something like, you know, "I saw you coming in," or - and I think pretty soon into it, he said something like, you know, "You are banned from being at the union offices. You are banned from coming to any meetings with the union," and it - sorry.

45

**MR TERNOVSKI:** Take your time, Ms Fox, if you need some time, and if you need a break, we can -

**MS FOX:** I thought he's - I thought maybe he has the wrong person and I thought Mr Kupsch might say something, and then he started saying things like, you know, "I know what you've done," and I remember that I was kind of trying to think,  
5 "What has happened? Like, what has gone on that this is happening?" And I remember he went, "I'm not going to say it in this room. I'm not going to tell you in this room." And he just - it just got more and more intense and really kind of spiteful, like, sort of, "People like you disgust me," and stuff like this. It was very - really, really very, very - just absolute contempt for me, really rage-filled.

10 And it just kept going and going, and I felt like he was getting more - he was kind of getting a bit faster, a bit higher-volume pitch kind of thing, and I - I could just feel myself going red, but I just thought, "I'm not going to cry." But it felt to me like he just wanted me to cry or beg for mercy or something. He just - it was just  
15 going up and up and up.

**MR TERNOVSKI:** If I can just pause you here, Ms Fox. You describe Mr Ravbar as being angry. Why do you say he was angry?

20 **MS FOX:** He was, like, gritted teeth when he started, like, talking to me, and then his whole body kind of tensed up, and just glaring at me, and just the volume kind of just starting to rise, and it was kind of like one sentence following after another one, and kind of he wouldn't even finish one sentence where he was going straight to another sentence to say something. Just incredibly furious with me. I just felt it  
25 was just absolute fury with me. Yeah.

**MR TERNOVSKI:** Did Mr Ravbar say anything else?

30 **MS FOX:** He listed a lot of ways that I was banned from being - coming to the building, and then he started saying, like, you know - something like, you know, "I'd have you" or "We'd have you dragged out of here and thrown out of this building." You know, "You should be thrown on the street." And then he said this weird thing about, you know, "I'm not going to do that, because, you know, I'm going to give you the courtesy of not being embarrassed in front of your  
35 colleagues." And that - that was the kind of - yeah.

**MR TERNOVSKI:** Did he say anything about what would happen to you if you attempted to enter the CFMEU building again?

40 **MS FOX:** Yes, he said that, "If you ever come back here again, you're not" - you know, something like you're not going to be so - I'm not going to be so polite next time or you're not going to get a second chance or something.

45 **MR TERNOVSKI:** Ms Fox, you said he thought he had the wrong person. Did he refer to your name?

**MS FOX:** No, he did not call me by my name.

**MR TERNOVSKI:** Did you know what made him angry?

**MS FOX:** No, I did not know what made him angry, sorry.

5

**MR TERNOVSKI:** Did Mr Kupsch say or do anything during this?

**MS FOX:** Mr Kupsch was silent. I looked at his face at one point, and it was just dead eyes, like just nothing.

10

**MR TERNOVSKI:** Did you ask Mr Ravbar what he was talking about?

**MS FOX:** No, I didn't talk to Mr Ravbar during it. I - I just kind of instinctively felt that it would de-escalate him if I just stayed quiet, and I - I - I just thought that - I just remember telling myself, "You're just going to have to really watch these two men, because this might get physical." And I just thought you've I just got to use every bit of your concentration just to watch them physically, because you will get a very brief foreshadowing, and then you are going to have to move really fast, and I just thought, just really concentrate on watching them, because you've got to give yourself a good chance, and -

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**MR TERNOVSKI:** A good chance of what, Ms Fox?

**MS FOX:** I just - I don't know, maybe getting under the table or something or -

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**MR TERNOVSKI:** What were you expecting to happen?

**MS FOX:** I - when he was kind of describing the dragging me and stuff, I just - I thought maybe he would lose control of his temper and punch me or something, or I thought maybe he would try and grab me and shake me or something. As soon as the anger had started in the room, I thought, "Oh, you idiot. Like, this is a trap. And there's two of them in here and now, you know, they will have a story of what happened in here," and I just thought, "You stupid, stupid woman. Like, why did you walk into this?" And after a while it just fizzled out, and he just sort of stopped, and I still wasn't saying anything, and it just stopped.

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**MR TERNOVSKI:** In your witness statement, you describe having a lot of interactions with Mr Kupsch, including various incidents of aggressive behaviour from him. Have you ever experienced anything of that nature with Mr Kupsch?

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**MS FOX:** No. Mr Kupsch was different to that, in that he - Mr Kupsch never said anything to me about something physically happening to me. He did once cross the line and say, kind of like, you know, what I thought were more attacks on me than - he was - normally he would attack OIR or policy or something, but he did once cross the line in a meeting, and I did pull him up on it when he was kind of saying, you know, "You were this." I found with Mr Kupsch that he - well, first of all, he would start with an issue that he was unhappy about, and

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so you could kind of follow the discussion and he would get worked up on the issue, but you could - you could just interact with the issue. You could talk about - and say you would find out more information about it or I'm sorry that you had that experience with that or something. Yeah.

5

**MR TERNOVSKI:** With Mr Kupsch, in your interactions with him, have you ever felt concern that he might punch you?

10 **MS FOX:** No, I've never felt concern Mr Kupsch would punch me. He can be very physical when he's angry, like he will slam the table and jab fingers and that sort of thing, and, like, he definitely uses his physical presence to negotiate in the room, yeah. But I never felt that he was going to punch me, no.

15 **MR TERNOVSKI:** You said that Mr Ravbar, I think you used the words "fizzled out". What happened after that?

20 **MS FOX:** He just kind of went quiet and stopped, and I recall he just turned and left the meeting room, and then Mr Kupsch took me to the stairs, and I think that I went ahead of Mr Kupsch down the stairs, and I went back to the meeting room where my colleagues were, and I remember I went into the room before Mr Kupsch got into the room, and I just said to them, "Something's happened and we need to leave."

25 **MR TERNOVSKI:** How long were you in the other room for?

**MS FOX:** The room upstairs or -

**MR TERNOVSKI:** The room upstairs with Mr Ravbar.

30 **MS FOX:** I think, including going, walking upstairs, backwards and forwards, I think it would have been, like, 10 minutes. It wasn't a huge time.

35 **MR TERNOVSKI:** So what happened after you came back to the room, to your original room?

40 **MS FOX:** My colleagues looked really surprised and a bit sort of worried, and we all got up from the - you know, they got up from the table. We collected our things. Mr Kupsch entered the room and he said something like, you know, "We'll have to reschedule this meeting." And we left.

**MR TERNOVSKI:** Did you have any difficulty leaving the building?

**MS FOX:** No, we had no difficulty leaving the building.

45 **MR TERNOVSKI:** What did you do after you left the building?

**MS FOX:** We went down, like, an alleyway or something around the building, and I phoned - I think one of my colleagues started phoning for a taxi, and I phoned my head of department, who was Dr Simon Blackwood, and I started telling him a little bit about what happened, but I didn't give a huge description. I  
5 just said, "Something very strange has happened." And he said just to get in a taxi and get out of there, get back here.

**MR TERNOVSKI:** Did you have further conversations with Dr Blackwood about this incident?  
10

**MS FOX:** Yes, I had a full debrief with Dr Blackwood and my immediate supervisor, Mr Goldsbrough, back in 1 William Street as soon as I got back.

**MR TERNOVSKI:** Do you remember what they said?  
15

**MS FOX:** I think they were shocked by what happened. They were shocked. They - they were trying to find out if I knew any idea about why Mr Ravbar would be so angry, and we were trying to sort of search, like, what has happened that might have done this? And they were really disgusted that this had happened to  
20 me, and I got the impression they were going to try and find out what had happened in terms of the offence, great offence.

**MR TERNOVSKI:** Sorry, I cut you off.

**MS FOX:** Sorry. I got the impression they were going to try and find out what was the offence that had caused this from Mr Ravbar.  
25

**MR TERNOVSKI:** And did they find out?

**MS FOX:** I believe they made inquiries, and found out, as in they had - someone had spoken to someone with Mr Ravbar, but they said to me that no - they said to me afterwards that no - there was nothing for you to worry about, you haven't done anything, we could not - there's no great offence or story at the bottom of this, just - he's crazy, just put it behind you.  
30

**MR TERNOVSKI:** Did you make a formal complaint about this incident?  
35

**MS FOX:** I didn't make a formal complaint, no.

**MR TERNOVSKI:** Why not?  
40

**MS FOX:** I - I took a bit to process it, to be honest, and I thought, if I make a complaint, then how will I go about doing my job? Like, it's - how will I work with this stakeholder? And I also thought if there's a complaint in the system, you  
45 know, it will travel somewhere, and OIR will kind of look like it's kind of not doing well with the CFMEU, and it will cause more trouble for OIR kind of thing.

**MR TERNOVSKI:** Ms Fox, at paragraph 40 of your statement, you describe a conversation you had with Mr Kupsch on a subsequent occasion where he asked you questions. Can you tell the Commission about that?

5 **MS FOX:** It was at the end of a code review steering group meeting, and I was packing up the room, and Mr Kupsch was in the room probably packing up as well, and we were the only ones left in there, and he just, out of the blue, said to me, "Oh, what sort of car do you drive?" And I thought, "Oh, this feels very uncomfortable." And then he said, "Oh, I'm looking at a car for my wife." And I  
10 said - you know, at the time, I said "I drive a Hyundai." And he had heard also that I was getting married, because I had time for that, and he said, "Oh, who are you married to? Are you marrying someone in the building industry?" And I don't - it may have just been friendly, but it was - they were uncomfortable questions.

15

**MR TERNOVSKI:** Why were they uncomfortable?

**MS FOX:** I think because - because of what Mr Ravbar had said, I felt watched. I felt like there was - they were watching me, and I just felt like, "Are you trying  
20 to watch me more?" Yeah.

**MR TERNOVSKI:** What impact did the incident with Mr Ravbar have on you personally?

25 **MS FOX:** I felt very scared, and I think the thing about Mr Ravbar is it was really kind of an out-of-control rage behaviour, but I also knew him to be very powerful, and, you know, I would see him come into 1 William Street or leaving 1 William Street. I felt absolutely sick if I spotted him, and I felt - to be honest with you, I felt a bit disgusted that that is his way of behaving, and I felt like I couldn't talk  
30 about it with people, because like I said, I didn't really want rumours to get out about it, and I didn't want to - I didn't know how to explain it to many people outside of that world, of just how powerful and stuff - you know, you can't just go and make a complaint about this person. So I did eventually get some counselling, because, to be honest with you, because I felt really - initially, I felt really bad  
35 about not having recognised the risk faster, and I felt ashamed of having not demanded more for myself, you know, not taking - not making a complaint, not taking time off to recover, a sort of thing.

40 **MR TERNOVSKI:** Ms Fox, you mentioned seeing Mr Ravbar at 1 William Street. How regularly did you see him there?

**MS FOX:** I think maybe three times I saw him over the years.

45 **MR TERNOVSKI:** In paragraph 43 of your statement, you refer to making - giving a warning to new incoming staff. Can you tell the Commission about that?

**MS FOX:** I - there were a couple of female executive staff who joined the organisation over the years since, and I always just quietly took them aside and said, "Don't go to any meetings by yourself with Mr Ravbar."

5 **MR TERNOVSKI:** Have you ever attended any further meetings at the union's premises?

**MS FOX:** No, never attended any further meetings.

10 **MR TERNOVSKI:** Where were subsequent meetings of the Construction ISSC held?

**MS FOX:** Different buildings of OIR's. Various buildings, yeah.

15 **MR TERNOVSKI:** In paragraph 45 of your statement, you refer to CFMEU aggression and disrespect becoming a routine experience. Can you tell the Commission about that?

20 **COMMISSIONER:** Just before you move off the topic of this incident, Ms Fox, that meeting that you've just given evidence about on 30 January was obviously very traumatic for you, and I think you gave some evidence along the lines of beating yourself up because you didn't recognise the risk factor. I think you said you were in the meeting thinking, "I'm a stupid woman." How could you possibly be expected to know that this would happen to you when you were asked into a  
25 meeting by a secretary of the union who you've never met before?

**MS FOX:** I guess I just really felt like why as a woman did you walk away from your colleagues with two men? And I just thought, you know, "You should have seen that as a risk and you should have - you should have not been compliant."  
30 Yeah.

**COMMISSIONER:** Do you think you're being a bit hard on yourself?

35 **MS FOX:** I - I definitely don't think I'm responsible for their behaviour. But I have - I just sometimes have this thing where I'm - I see something maybe is not good and I don't react fast enough to go - I can see it afterwards, the moments I should have gone, "Stop, stop, don't follow," yeah, and I just - yeah, I just - I just thought - once I was in there, I just thought, "What a terrible mistake."

40 **COMMISSIONER:** But how could you have predicted this would occur?

**MS FOX:** In hindsight, I just thought, well, because it's very odd to have to go to another room. Like, why are we - I should have thought - I was surprised I was taken into to another room, and I sort of asked myself afterwards, like, what did  
45 you think was going - like, what was the need to go to a different room? Yeah, I -

**COMMISSIONER:** There could have easily been another reason, couldn't there, just to talk privately away from your colleagues about something they -

5 **MS FOX:** Yeah, but I think they would have done that just outside the original meeting room, if that's what it was. I think that's what they would have done there. Yeah. I - I thought - as soon as it started, I was like, "Well, this was a very bad sign." Yeah. Yeah.

10 **MR TERNOVSKI:** Ms Fox, if we can move to the next topic now, which is your evidence more generally about CFMEU aggression and Mr Kupsch. In paragraph 45, you describe CFMEU aggression and disrespect becoming routine. Can you tell the Commissioner about that?

15 **MS FOX:** I think there were two phases to Mr Kupsch's behaviour, and Mr Kupsch is the main - my main point of contact with the CFMEU. I think in the first phase, he was angry often with the organisation or the inspectorate or was angry about legislation not allowing for some action to happen, but you could work through an issue with him. And the second phase of him, which was - I would say it got remarkably worse from about 2019 onwards - was these really  
20 angry, lengthy tirades, sort of lectures in these board meetings particularly, but sometimes the construction ISSC as well.

And they - they went a lot for my - my supervisor, who was Ms Jodie Deakes, and I wasn't actually supposed to be in the board meeting - board meetings, but  
25 whenever they had policy and legislative matters on the agenda, then I was invited as a guest, and for well over a year, it was just a rolling agenda, like, there would be one item - each meeting would have an item, so I would be there for it. And it was really hostile, really, really hostile.

30 **MR TERNOVSKI:** What about on the phone? Did you have phone conversations with Mr Kupsch?

**MS FOX:** I would get - yeah, I would get angry phone calls from Mr Kupsch. Mr Kupsch is also capable of having a civil conversation as well. I don't want to  
35 overrepresent it.

**MR TERNOVSKI:** Was he more aggressive in your phone conversations or the meetings?

40 **MS FOX:** He was usually very - much more aggressive in meetings. I think that he - Mr Kupsch really used the room and the energy of the room and he really - he played to an audience, and it was very effective because it would - the room would become cowed, and I would find they would all kind of group - everyone kind of wanting to appear to be on his side, and certainly nobody would kind of interrupt  
45 him or quieten him down, and I - nobody wanted to get his attention. So people just let him rip, going for you.

**MR TERNOVSKI:** You refer in paragraph 46 of your statement to occasions where you observed employer representatives appear to be intimidated. Can you explain that?

5 **MS FOX:** I saw a couple of examples where employer representatives joined the argument with Mr Kupsch for things that would appear to be contrary to their interests, like being angry with inspectors for not taking hard enough or sufficient compliance activity in Mr Kupsch's view, which, you know, is a strange position for employer representatives to take.

10

**MR TERNOVSKI:** Was there particular things that he was angry about?

**MS FOX:** Mostly inspectors, inspector activities, inspector action. He would also get angry about - I mean, as is his right, he would take quite strident views in a very polarising way on projects that we were trying to resolve through tripartite. So I don't mean to sound too wordy, but you're trying to update a code or regulation or something like that, and he would take very strident views that were - there was no chance of middle ground with the others in the group. And so he would get very angry kind of holding that position, I guess, which would help, if others were cowed in the room, they would start kind of drifting towards his perspective.

15

20

**MR TERNOVSKI:** So now you're talking about policy rather than enforcement in the inspectorate; is that right?

25

**MS FOX:** Sorry, yes. Yes.

**MR TERNOVSKI:** Did he make any complaints about the policy side of OIR in these meetings?

30

**MS FOX:** Mr Kupsch started, in those later years, sort of 2019, 2020, '21, that's when he really started saying that policy was inactive and not getting anything done and nothing comes out of policy, and this kind of rhetoric emerged from Mr Kupsch. I don't think that was particularly his line in the earlier years.

35

**MR TERNOVSKI:** And do you think his criticisms were valid of policy?

**MS FOX:** I think they were incredibly invalid. We produced - over the years that I worked with the union, there were several bills, very extensive bills that went through Parliament. We created new regulations for everything from managing crystalline silica to quad bikes to sexual harassment, to amenities for women's toilets to - you know, a huge number. We reviewed a whole swath of codes, including construction codes particularly. We updated 20 model codes. We were absolutely - we were working very, very hard. It was a very hard-working time for legislative change.

40

45

**MR TERNOVSKI:** You refer to women's toilets. Can I now ask you about a particular meeting that you describe on 12 March 2021, where you said that particular issue was discussed. You talk about that in paragraphs 98 to 107 of your statement. That meeting on 12 March 2021, can you tell the Commission who was there?

**MS FOX:** That was a meeting of the Construction Industry Sector Standing Committee, so it had - it had union representatives: the CFMEU, ETU, probably Plumbers. It had a number of employer representatives: Master Builders, HIA, Housing Industry Association. It had - Master Builders was the chair. And it had - from OIR, it had the secretariat for that committee, plus it had me, it had Johanna Sutherland, who was a director at the time, as a guest to speak on a particular item, and it had Helen Burgess, who was the construction director. She and I were both standing guests of that committee, her to talk about the operational side, me to talk to anything that was on the policy side.

**MR TERNOVSKI:** You said it was chaired by Master Builders. Who from Master Builders?

**MS FOX:** Melanie Dawson.

**MR TERNOVSKI:** And you said there were representatives of CFMEU. Who were the CFMEU representatives?

**MS FOX:** Mr Kupsch.

**MR TERNOVSKI:** How long did the meeting go for?

**MS FOX:** These meetings go for usually an hour and a half, two hours, I would estimate, yeah.

**MR TERNOVSKI:** And given that this is 2021, this wouldn't have been at the CFMEU office?

**MS FOX:** No. No, that's right. It was, I think, at 347 Ann Street, which was another OIR building.

**MR TERNOVSKI:** Ms Fox, can you tell the Commission what happened at this particular meeting?

**MS FOX:** Mr Kupsch was - Mr Kupsch had raised that he wanted, and others in the building unions group, wanted new regulations for amenities for women, and they wanted regulations that would specify that there had to be women's toilets on every site, every floor of the building being built.

**MR TERNOVSKI:** If I can just pause you there, I want to circle back to the content of the - the substantive content of discussion. But before we get to that, what was - who was doing the talking?

5 **MS FOX:** Mr Kupsch.

**MR TERNOVSKI:** And what was his demeanour?

10 **MS FOX:** He was very angry. He was kind of in full flight, which was his way of kind of convincing a room of a proposal.

**MR TERNOVSKI:** And you said - you described him as being in full flight. Can you explain what that means?

15 **MS FOX:** He - he was angry. He was - and I guess it got rapidly worse when I asked questions about what - what - I was trying to sort of do the problem identification to sort of work out why do you want regulation, what do you think the regulation would do, what's the concern that you're trying to address? And they were talking about the concerns that were happening, which were things like  
20 poor hygiene in toilets, not having sanitary bins, people deliberately fouling the toilets so women couldn't sit down. Like, they were horrible stories. And I was kind of asking - I said, you know, the facilities code and the construction code already apply to these things. How come that's not happening, and, you know, what's going on? Why are people not complying with existing regulation?

25 And I - and he just took that as an incredible offence, just to say that there was regulation in place and why was that not working, and he became really demeaning. And this is the time I was referring to before when I said I felt he crossed the line, because he was quite insulting to me and sort of saying things  
30 like I was, you know, an insult to workers, and that I was - that, you know, how dare I do this to women, I didn't care about women, which is completely untrue. I'm very driven by the cause of women. And -

**MR TERNOVSKI:** Just pausing there, in paragraph 99, you refer to a curious  
35 comment he made about a shiny bum. Can you tell the Commission what that was about?

**MS FOX:** He said, "It's all right for you in policy, sitting on your shiny bum. You don't have to worry about this toilet issue." I mean, I will just hasten to say, I  
40 think what they were describing was happening to women was disgusting, but my confusion was that there was already requirements.

**MR TERNOVSKI:** Did you consider that there was a regulatory gap that needed  
45 additional -

**MS FOX:** I couldn't identify what the regulatory gap was, and that made it hard for me to consider what avenues they had. They wanted to form a

recommendation to go to the board, and I couldn't nail down what the - what the recommendation could be that this committee could send up to that Work Health and Safety board.

5 **MR TERNOVSKI:** I think you said Mr Kupsch was asking for mandatory dedicated women's toilets at all construction sites; is that right?

**MS FOX:** Yes.

10 **MR TERNOVSKI:** In your view, is that a practicable requirement?

**MS FOX:** No, I didn't think that was practicable, because there would be - there were lots of different sites captured under construction, some of them very, very small, some of them with people only on site on particular days. So the numbers of workers on site would go up and - fluctuate up and down, you know, different parts of the build and those sorts of things, yeah. So it was just trying to get to the specifics.

20 **MR TERNOVSKI:** You describe Mr Kupsch being angry and making a series of comments. Who were they directed at?

**MS FOX:** They were to me.

25 **MR TERNOVSKI:** Was it you personally?

**MS FOX:** Yes, to me personally.

**MR TERNOVSKI:** Did you take issue with that?

30 **MS FOX:** I - yes, I did. I - I felt he was crossing a line, and this had - I had been going through this for some years, and I thought, once he started saying I didn't care about women or, you know, I was really appalled, and I - I said to him, "This is not the week for that," because there had been this parliamentary rally on how women are treated in workplaces, and I said, "I just refuse to be yelled at as a woman by you in my workplace."

35 **MR TERNOVSKI:** And when was - at what point in the meeting did you say that to him?

40 **MS FOX:** Oh, it was quite a long way into the meeting. I - this had been going on for quite a long time before I said it. Yeah.

**MR TERNOVSKI:** And what was his response?

45 **MS FOX:** Mr Kupsch kind of calmed down a bit, and the chair did intervene a bit and said, "This behaviour is not okay."

**MR TERNOVSKI:** Did the chair - the intervention from the chair, did that come before or after your -

**MS FOX:** After.

5

**MR TERNOVSKI:** After your comment to Mr Kupsch?

**MS FOX:** After my, yeah, comment.

10 **MR TERNOVSKI:** Now, Ms Fox, you describe exchanging messages with Ms Burgess during this meeting. Can you tell the Commissioner about that?

15 **MS FOX:** Because I thought it's a compliance issue, not a legislative issue, I was kind of surprised and would have hoped Ms Burgess would speak up on what they're going to do about the compliance - lack of compliance.

20 **MR TERNOVSKI:** Just pausing there, you said you thought it was a compliance rather than enforcement issue. Was that because of what you said previously, that was already existing requirements?

25 **MS FOX:** Correct. Yeah, correct. And I messaged her to say, "What is this really about?" Because I thought maybe Mr Kupsch was angry about something else and this was how he was kind of exercising his anger, and she messaged something like, "It's a real issue." And I was like, "Okay." And I was listening to Mr Kupsch, and then I started getting - and Mr Kupsch was really very, very angry and relentless at me, and it was in a time where he was also kind of like jumping from topic to topic about, you know, this topic he's unhappy about, this topic he was angry about, this topic - and so I was kind of trying to sort of navigate that, watching for a time to sort of speak and help calm this thing down and correct some elements.

35 And my phone starting lighting up and I was getting these messages on it, and I sort of glanced at them and they were coming from Ms Burgess, and I thought they were odd, they didn't really - I couldn't really determine what she was saying to me. And then I looked at it and I realised, "Oh, she's talking about this right now," and it was in this kind of like, you know, kind of like, "He's lost his patience with her," kind of - it was this feeling of, like - she was making fun of me, basically, to somebody, and it kept going, and I was finding it incredibly hard to emotionally handle what Mr Kupsch was doing while I was seeing myself kind of being made fun of. So I finally just discreetly picked up my phone and I said, "You're accidentally sending these messages to me." And that stopped then.

40 **MR TERNOVSKI:** Why did you think those messages were not intended for you?

45

**MS FOX:** Because they seemed to be about what was happening right there that I was in, and one of them was something along the lines of, like, he's - I think two

of them referred to something like "He has lost it with her or lost his patience with her," or - in the third person.

5 **MR TERNOVSKI:** Who did you think that he and the her were?

**MS FOX:** Sorry?

10 **MR TERNOVSKI:** Who did you take the he and the her to be in these messages?

**MS FOX:** Oh, Mr Kupsch and me, sorry. Yep.

**MR TERNOVSKI:** Did you do anything about this after the meeting?

15 **MS FOX:** I did go and report what had happened to my supervisor and also to Mr Allen, because I expected that maybe Mr Kupsch would make a complaint about me.

20 **MR TERNOVSKI:** And I think you say in your statement that you emailed Mr Allen; is that right?

**MS FOX:** I did, yes.

25 **MR TERNOVSKI:** Was there any investigation following that complaint to Mr Allen?

**MS FOX:** I believe so. Mr Allen spoke to Mr Dennett - Marc Dennett was Helen Burgess' supervisor - and also spoke to Ms Deakes, and Ms Burgess put forward an alternative version of what had happened in the meeting.

30 **MR TERNOVSKI:** Was that version provided to you?

**MS FOX:** It was - yep, it was within a day or so provided to me.

35 **MR TERNOVSKI:** Ms Fox, your statement annexes the email from Ms Burgess containing her version of events, but I think - I'm not proposing to take you to that now in the interests of time, but can you summarise for the Commission what her version was?

40 **MS FOX:** Her version was that I had behaved really unprofessionally, that I had taken it on a personal tangent and that she had been trying to assist me to calm myself down by sending text messages to me, and that I had behaved, she said, uncharacteristically, kind of inappropriately, unprofessionally.

45 **MR TERNOVSKI:** Did she give an account of the meeting?

**MS FOX:** She gave some account of the meeting, yeah.

**MR TERNOVSKI:** Did she agree that the messages were not intended for you?

5 **MS FOX:** No, she tried to say that the messages were for me and there was typos in them or something, and I had misunderstood the purpose of them. Yeah (indistinct).

10 **MR TERNOVSKI:** You mentioned Ms Sutherland was there. Was she consulted about her version of events?

**MS FOX:** Yes, and Mr Allen went out of his way to say to me that he had received Ms Burgess' version but that he had gone and consulted with Ms Sutherland himself, and he said, "I want to reassure you that Ms Sutherland said that it was a completely untruthful version from Ms Burgess," and that she was 15 really, really horrified by - to see firsthand the type of treatment that I was receiving from Mr Kupsch.

20 **MR TERNOVSKI:** After that conversation with Ms Sutherland, was any action taken by the OIR against Ms Burgess?

**MS FOX:** I'm sorry, but I don't know what, if any, action was taken with Ms Burgess. At one point, Mr Dennett, her supervisor, suggested to my supervisor, Ms Deakes, that we should have mediation, and Ms Deakes put that to me and said she wanted me to look at mediation, and I was at my wits' end by this stage, and I 25 just said, "I can't believe you're putting something so ridiculous to me."

**MR TERNOVSKI:** The Commissioner asked me during my opening, and I'm going to ask you - and you may not know - was that mediation to be specifically about this incident, or was it something broader than that? 30

**MS FOX:** I think it was about - yeah, I think it was mostly about this incident. I think there was a sense that maybe I was not sufficiently collaborative with Ms Burgess.

35 **MR TERNOVSKI:** Did the mediation ever occur?

**MS FOX:** No.

40 **MR TERNOVSKI:** If I can now move to a different topic. At paragraph 53 onwards of your statement, you describe what you perceive to be the conduct of CFMEU targeting OIR officials, starting with Mr Blackwood. Can you tell the Commission about that, firstly in relation to Mr Blackwood.

45 **MS FOX:** Dr Blackwood - by the time I joined the organisation in that director role, it was a real onslaught to Dr Blackwood from the union. It was not unusual for there to be a rally that came to 1 William Street, and the whole of 1 William Street would be in lockdown. Everyone was talking about us in the building and

what an inconvenience we were to have in the building. There were - it was very personally directed at Dr Blackwood in their comms and their rallies. I felt really sad for him that he was being isolated in this way.

5 **COMMISSIONER:** Did you say it was not unusual to have a rally at 1 William Street targeting Dr Blackwood? There were more than one?

**MS FOX:** Yes. Yes.

10 **COMMISSIONER:** How many?

**MS FOX:** I would say a couple a year, and they were - yeah, the whole building would be in lockdown and you wouldn't be able to go out through the normal doors. And there would be signs and kind of rally cries of kind of like, you know,  
15 "Regulator, blood on his hands. Blackwood, blood on his hands," kind of things like that.

**MR TERNOVSKI:** What ended up happening to Dr Blackwood?

20 **MS FOX:** His - I mean, I don't know exactly what happened, but he left sooner than we were expecting him to with his retirement plans. He just abruptly, I think, learned his contract was not renewed or something. He literally left without being able to do a goodbye.

25 **MR TERNOVSKI:** Do you know why he -

**MS FOX:** No, I don't know. You would have to ask him. But it definitely seemed he was really blamed for what was happening with the union.

30 **MR TERNOVSKI:** In your statement, you also describe attempts to have you removed. Can you tell the Commission about that?

**MS FOX:** I think these happened in a couple of ways. Two deputy  
35 directors-general mentioned to me in conversation that the union was asking for me to be moved out of my job or moved to the side, and they told me in the context of reassuring me that they weren't going to do that. And then I also perceived when Mr Kupsch raised things he was unhappy about on two occasions, he copied in ministerial staff, he copied in all sort of his own hierarchy, mine -

40 **MR TERNOVSKI:** If I can just pause you there. Mr Operator, if we could show the witness exhibit AF-21, which is on page 23. If we could blow up first the header showing the "to", "from" and the subject. Ms Fox, is that one of the emails you're referring to?

45 **MS FOX:** Correct.

**MR TERNOVSKI:** Do you know why Mr Dennett, Ms Burgess, Ms Durham, Mr Ravbar and Mr Ingham were copied in to this email?

5 **MS FOX:** No. I think I saw it as a very disproportionate email. I think it's completely fair for Mr Kupsch to have raised a concern with me - completely fair - but I read it as trying to sort of show me as not performing well in my job when I saw the email copied in to everybody like that.

10 **MR TERNOVSKI:** If we could blow up the signature, including that last paragraph just before the signature. He refers to this as a disgraceful decision. What was the decision that he considered to be disgraceful?

15 **MS FOX:** One of the teams that was under me was a little team called inspectorate policy support, and their job is to respond to queries from the inspectorate area with - to help sort of decipher how legislation would be interpreted and applied in a particular position, and it was unfortunate that the adviser was trying to do the right thing and be very responsive, but an inspector had come to him directly and asked for an interpretation of the legislation around amended smoko facilities on construction sites. That adviser had issued advice, and it had not gone through any level of oversight, and again, the adviser was trying to do the right thing but just be fast.

25 And Mr Kupsch is correct to raise that insufficient regard was given to contemporary practice, best practice, and that was essentially what he was trying to say in his email. He was complaining. And I did institute a governance framework after that to ensure that anything that was going to be very contentious or sensitive went to levels of oversight, up to me or above me, to make sure that it was a, you know, a fully informed response, and that also stopped opinion-shopping that sometimes happened from - I'm not saying it happened in this case, but sometimes from inspectorate areas coming to inspectorate policy support, yeah.

35 **MR TERNOVSKI:** At the time of this email, you were still the - held your director position, not executive director.

**MS FOX:** Correct.

40 **MR TERNOVSKI:** So you were effectively four levels below the minister; is that right?

**MS FOX:** Yes.

45 **MR TERNOVSKI:** Do you think this issue warranted escalation to the level of the minister?

**MS FOX:** No, especially as I was very responsive to concerns raised with me.

**MR TERNOVSKI:** Do you know why it was escalated to the level of the minister?

5 **MS FOX:** I think it was trying to create this image that Andrea Fox doesn't do a very good job.

**MR TERNOVSKI:** At paragraph 58 of your statement, you describe another tactic used by the CFMEU of refusing to speak to certain people. Can you tell the Commissioner about that?

10 **MS FOX:** The CFMEU at various times declared people either temporarily or permanently persona non grata, people that they would refuse to interact with, respond to, do any work with, and like I've said, that's happened to me, obviously, at times, and it's happened to Ms Sarina Wise. It's happened to Johanna  
15 Sutherland, the other executive, and sometimes I would find this, stumble upon this when we went to set up a meeting or something and we would receive a message that they refused to meet with those people.

**MR TERNOVSKI:** If the witness could be shown attachment AF-3, which is on  
20 page 30. Could you just show her the first page. This is a letter to Minister Grace Grace dated 21 July 2017. If we could blow up the first paragraph on the second page. Is this an example, Ms Fox, of what you were describing just now?

25 **MS FOX:** Yes, this is an example.

**MR TERNOVSKI:** Who was Daryl Brooker at the time?

**MS FOX:** Daryl Brooker was the acting director of the construction inspectors  
30 area at the time.

**MR TERNOVSKI:** This was before Ms Burgess?

**MS FOX:** Correct.

35 **MR TERNOVSKI:** What happened to him?

**MS FOX:** I don't know the specifics of what happened to his acting arrangement, but he did not continue on in that role - again, not sure about the  
40 circumstances - and I think - I think Ms Burgess might have followed after Daryl Brooker left the role.

**MR TERNOVSKI:** Or at least replaced him eventually?

45 **MS FOX:** Yes.

**MR TERNOVSKI:** If I could move to a different topic, which is the incident you describe of what you perceived to be the OIR adopting a position contrary to legal

advice, which is dealt with at paragraphs 59 to 78 of your statement. Now, this is a somewhat technical explanation that's in there, Ms Fox, so if it assists you, we have a copy of section 81(3) of the WHS Act and of section 494 of the Fair Work Act that we can show on the screen. But perhaps if you can explain what the issue was, and then you can call - if you want the section to be displayed, let me know and we'll make that happen.

**MS FOX:** Okay. Thank you. Section 81(3) is part of the legislation that refers to health and safety representatives, who are workers who have been elected by the other workers to represent them on safety matters. And this part of the Act is to support a health and safety representative who might be trying to resolve an issue on site and might lack sufficient technical knowledge about the issue to authoritatively see it through to completion, and they have this avenue to allow for someone to come in and assist them in the resolution of that matter.

And essentially there was some contention around it because the CFMEU used this channel as a way of entering sites, and there was contention for employers with it because it was not the typical channel for entering a site - there's another part of the Act for entry permit holders that other unions used - and also because employers were concerned that some officials from the union were using the channel to enter sites who had lost their permits.

**MR TERNOVSKI:** As far as you're aware, were other unions using this channel of entry?

**MS FOX:** As far as we were aware, only the CFMEU used this channel. Correct.

**MR TERNOVSKI:** And you describe in your statement the Federal Court decision on this issue and the subsequent events. Can you tell the Commission about that?

**MS FOX:** A Federal Court case occurred between the ABCC and the CFMEU, and it was on this matter, to resolve this matter, and that Federal Court case found essentially that to use this channel was to be - was to basically be using a right under the legislation as a union, and therefore they had to have a federal permit to be able to use this - this channel, and that permit, yeah, had to be under the Fair Work legislation.

**MR TERNOVSKI:** And what happened after that decision was handed down?

**MS FOX:** After that decision was handed down, my policy area started updating all the material that we have, outward facing and inward facing, to reflect that decision in how the legislation applied, and that's what we started doing. Do you want me to go on with that?

**MR TERNOVSKI:** Yes, go on.

5 **MS FOX:** So we updated the material accordingly, and my executive director at the time, who was Mr Bick, said could we pause doing that because Mr Craig Allen, who was the deputy director-general, was going to meet with the union, with the CFMEU, because there might be some different views going forward, and we heard that Mr Ravbar's view was that there was an option to continue to use that channel if his officials were employed under a state organisation rather than the CFMEU. And so we started - we did up a question, because we were asked to by my executive director at the time, a Crown Law question to get some advice on how should the regulator interpret this or respond if this occurred.

10

**MR TERNOVSKI:** I will just pause you to sort of take it in chunks. You referred to work being done to prepare updated inspector guidance before Mr Allen asked it to be put on hold. Was that inspector guidance ever published?

15 **MS FOX:** The copy for the webpage was accidentally published. Everything else was paused.

20 **MR TERNOVSKI:** Can the witness be shown attachment AF-5 - no, I withdraw that - attachment AF-7, starting with page 47. Ms Fox, is that the guidance that was published?

**MS FOX:** Yes, I believe so.

25 **MR TERNOVSKI:** If we could blow up - on page 48, blow up the section entitled Representatives of a Party Entering the Workplace For the Purpose of Resolving the Issue.

30 **MS FOX:** Yes, so this section captures that outcome from the Federal Court decision.

**MR TERNOVSKI:** Is that the last paragraph:

35 "Entry is also conditional on the representative holding an entry permit under the Fair Work Act."

**MS FOX:** Correct.

40 **MR TERNOVSKI:** After this - you mentioned seeking - to the Commissioner - Crown Law advice on this issue. Was that advice ever commissioned?

45 **MS FOX:** No. I learned that Mr Dennett had separately gone and initiated getting his own legal advice, and it's - it's a real difficulty for a regulator if they get two pieces of legal advice at the exact same time about the same question, and my executive director said to stop, because he's already - yeah, he's already gone to get that legal advice. So we never got - we never actioned the Crown Law request.

**COMMISSIONER:** You never what, sorry?

**MS FOX:** We never actioned the Crown Law request.

5

**MR TERNOVSKI:** Could the witness be shown attachment AF-5, in particular page 42. If we could blow up the email from Helen Burgess. I'll let you read that. And I think that email made its way to you later in the chain; is that right?

10 **MS FOX:** Correct.

**MR TERNOVSKI:** Now, did you understand that to be the CFMEU's position?

**MS FOX:** Correct.

15

**MR TERNOVSKI:** Did you agree with that position?

**MS FOX:** I thought it was a - I thought on the basis of the court decision and previous case law, I thought it was unlikely to be one that succeeded, but we hadn't had a big talk about it yet in the policy team.

20

**MR TERNOVSKI:** And so then what happened?

**MS FOX:** I think after that, Mr Allen went to meet with Mr Ravbar to find out more about it. Mr Dennett was of a mind to support this position is what I heard, because I was requested to prepare inspectorate guidance as he was expecting the inspectors would push back on this.

25

**MR TERNOVSKI:** Push back on what, sorry?

30

**MS FOX:** On Mr Dennett's instruction to them, that they were to support entry in this way.

**MR TERNOVSKI:** Support entry by officials of the state union who didn't have a federal entry permit?

35

**MS FOX:** Correct.

**MR TERNOVSKI:** What, because they had lost that permit?

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**MS FOX:** Some of them had lost their permit, yes.

**MR TERNOVSKI:** Did you talk to Mr Dennett about that?

**MS FOX:** I did. My first conversation was with - yeah, I did. I did confront Mr Dennett on it, and I said that this seemed like a risky proposition, and he said that

45

he had independent legal advice to support his position, and I said, "Oh, okay. Well, in that case, I step down."

5 **MR TERNOVSKI:** I want to circle back to that advice, but before I do - you mentioned that you started saying my first conversation was, and then you came to Mr Dennett. Who was your first conversation with?

10 **MS FOX:** I had a conversation with Mr Allen when I heard about Mr Dennett's plans, and I said to Mr Allen - we had desks near each other, and so it was just an informal conversation. We just went into a break-out room nearby. And I just set out my reasons why I was worried that I didn't think this would - this proposition was likely to be correct, and I - Mr Allen seemed - yeah, he really seemed to take that on. And then Mr Dennett was in the building later and had heard, obviously, about the conversation, and he approached me about it - it was a brief  
15 conversation - and seemed a bit annoyed about me doing that, maybe thought I was back-channelling, and that's when he said to me -

**COMMISSIONER:** Sorry, who was annoyed? Mr Dennett?

20 **MS FOX:** Mr Dennett, sorry. And that's when he said to me that he had independent legal advice to support his view.

**MR TERNOVSKI:** And did he provide you with that legal advice at the time?

25 **MS FOX:** He was very reluctant to give me the legal advice, and it was only some time later - and I can't remember how I obtained it, but I did get a copy from his team and saw it.

30 **MR TERNOVSKI:** And what did you find when you looked at that advice?

**MS FOX:** I was very concerned, because when I read the legal advice, I saw that it did not support this position that Mr Dennett had, and so I was worried that either he misunderstood it or it was being misrepresented to him or he was misrepresenting it to Mr Allen.

35 **MR TERNOVSKI:** This is the advice of Mr Herbert of counsel?

**MS FOX:** Correct.

40 **MR TERNOVSKI:** And when you - you said you were concerned. Did you raise those concerns with anyone?

45 **MS FOX:** Yes, I did. I - I raised them with both Mr Dennett and Mr Allen. I said that, looking at this legal advice - and I went through parts of it - I said I don't see that you can form any other view that it doesn't - he doesn't - he doesn't believe you could enter 81(3) in this manner.

**MR TERNOVSKI:** And what was their response?

5 **MS FOX:** Mr Dennett was pretty strident in his view that I was incorrect. I think Mr Allen felt torn between Mr Dennett and I. One of the difficulties I had was that I didn't have a permanent executive director; that executive director who was acting in it was leaving the role. Another one was starting. So it was kind of I was a director and he was an executive director. It was hard to keep - I think, to have a sense that my view was warranted.

10 And then my brand-new permanent executive director started right in the middle of that, and on her very first day, I remember I had to take her aside and say, "I want to have a meeting about something sensitive," and I explained my quite serious concerns and I said, "I really need an executive director to get involved here to defend this position." And I think she did her best, but I think it was really  
15 difficult for her on her first day and I don't think she was overly familiar with the legislation and the case law and -

**COMMISSIONER:** Who was that?

20 **MS FOX:** Ms Jodie Deakes.

**MR TERNOVSKI:** Commissioner, I note the time. I need maybe another five minutes to finish this topic. Would it be convenient to keep sitting?

25 **COMMISSIONER:** Very well.

**MR TERNOVSKI:** What decision was ultimately made in relation to this issue?

30 **MS FOX:** The decision was made that - that Mr Dennett was correct and that Mr Ravbar was correct and that the regulator would support this position, because it was deemed to be a correct reading of the legislation. And so inspectors were instructed accordingly, and I was asked to update the inspector guidance.

35 **MR TERNOVSKI:** And did you?

40 **MS FOX:** We did update the guidance. It took a long time, because the CFMEU tested that original decision by the Federal Court, so we had to wait on that, and also Mr Dennett wanted a lot of other changes to the inspector guidance, so we worked through that. It took a very long time to get those all finished, and he - it was very slow at times getting responses from him and Ms Burgess, and he seemed very reluctant to actually finalise it, which concerned me greatly, because it's an incredibly contentious area, and to be living without anything on record about our view for everybody is - I think is really (indistinct).

45 **MR TERNOVSKI:** If I could take you to the - what you say in your statement is the actual guidance that has been issued, which is AF-11. If you could start with the first page, 66. Look at this document, Ms Fox. Is that the updated guidance?

**MS FOX:** Yes. Yes, it is.

5 **MR TERNOVSKI:** If we could go to page 75 and blow up the section entitled Union Official Does Not Hold a Federal Entry Permit.

**MS FOX:** I will just say that this guidance has been superseded by different guidance now.

10 **MR TERNOVSKI:** That's not the current version.

**MS FOX:** This is not current guidance.

15 **MR TERNOVSKI:** Ms Fox, is this the section dealing with the issue you were just giving evidence about?

**MS FOX:** Correct. And you'll note there that I specifically asked the team to write:

20 "It is the position of the regulator that where unions are not registered..."

Because I still did not feel confident that it was - the legislation allows for, so I said we really need to make sure that phrase is there.

25 **COMMISSIONER:** Is that a term of art? Are you referring to the deputy director-general? Is that what that means?

**MS FOX:** That persons holds the role of regulator, correct.

30 **MR TERNOVSKI:** In your statement, you also describe preparing a briefing note to the deputy director-general on that issue. Why did you do that?

35 **MS FOX:** I was very concerned that at some point I thought an employer would test this and find that the union's position was incorrect on it, and I was worried that policy would be held responsible at that time. So I wanted a record that we had formally briefed and that a decision had been made by the regulator, which is his or her right to do. I really do respect that people can make a different decision to my views - yeah, and I wanted a record that that had happened.

40 **MR TERNOVSKI:** Commissioner, is this a convenient time?

45 **COMMISSIONER:** Very well. Just before we leave this topic, it does seem strange to me, Ms Fox, that a regulator charged with the responsibility of keeping workplaces within Queensland safe would react to the decision of the Federal Court and in particular to the union's way of circumventing that by adopting it, in circumstances where the purpose underlying the decision was to ensure that people who were allowed to enter into someone else's property, invading their

privacy, invading their liberty, are at least qualified, in the sense that they have been shown not to be unfit and un-proper persons.

5 So from a position of a regulator, just leaving all the legalities aside, from 50,000 feet, you've got a situation where a union says, "We want you to approve a circumstance where persons who have not been designated to be fit and proper persons or may have lost that designation should be allowed to gain right of entry into federally regulated work sites," and you as the workplace health and safety regulator approve it. It just seems extraordinary to me.

10 **MS FOX:** I agree with your summary, Commissioner. I guess the only other element I would add there is that state departments can be sometimes a bit territorial or protective of their state Act versus the federal Act, and so I'm not sure if this is what was in their minds at the time, but perhaps there was a sense of protecting the state-based permit system. Yeah.

**COMMISSIONER:** That doesn't appear to feature in the reasoning that I've seen so far.

20 **MS FOX:** No, it certainly wasn't in our briefing material, but - I can't speak to what was in their minds, but I do know that at times people can be defensive of the state legislation in sometimes perverse ways.

25 **COMMISSIONER:** But the genesis appears to be that email from Ms Burgess saying Mr Ravbar is going to get round this decision by getting the state union to employ these officials, none of whom, by definition, have a federal permit, some of whom may have lost it.

30 **MS FOX:** And in practice, it's really difficult for a union to use 81(3), I would believe, because you - you cannot then go on to undertake the activities that you're permitted to do as an entry permit holder. So it can be a pretty strange space for an inspector for a workplace to navigate and indeed for a union. So it's not an ideal channel of access at all for that purpose.

35 **COMMISSIONER:** But I would have expected a regulator acting in an orthodox manner, the health and safety regulator, to say, "Look, the federal system for approving the status of persons who are allowed to enter sites is not our system, but it's been around for a long time. There's a system which allows someone to get a permit if they're a fit and proper person. That can be challenged in the Fair Work Commission, and that's a system that we should respect and adopt, even if legislatively you don't have to, but it seems the Federal Court says you have to, because that's a way of us carrying out our obligation to make sure that the health and safety of these workplaces is maintained." It just seems to be - the response from Ms Burgess seems to be diametrically opposite to what you would expect from a health and safety regulator confronted with that issue.

**MS FOX:** I agree, and I think even the rest of the union movement would agree with you. I don't think they supported that kind of, yeah, approach.

**COMMISSIONER:** We'll adjourn till 2 pm.

5

**<THE HEARING ADJOURNED AT 1.11 PM**

**<THE HEARING RESUMED AT 1.58 PM**

10

**COMMISSIONER:** Mr Ternovski. Ms Fox, will you come back into the witness box, please.

**MR TERNOVSKI:** Ms Fox, at paragraph 79 onwards of your statement, you talk about concerns that you had in relation to Ms Burgess. In the interests of time, we won't go over all of those concerns, but if we could zoom in on some of them, perhaps starting with the concern you describe about Ms Burgess potentially leaking information to the CFMEU. Can you describe to the Commissioner that concern and what your basis for that concern was?

20

**MS FOX:** Thank you. Regularly, when I was talking to Mr Kupsch, I would find - or fairly regularly, after a period of time, I found that he would be very aware of the progress of a particular matter, meetings that were held on that matter, who was present in the meetings, what positions people had taken in the meetings internally. And in one case, it seemed to me that Mr Kupsch was providing analysis of the legal advice that we had in such a way that it seemed to me that he must have read the legal advice.

25

**MR TERNOVSKI:** I want to come back to the legal advice specifically, but more broadly in relation to the information you've described, why were you concerned that the information may have been coming from Ms Burgess?

30

**MS FOX:** Because this was the type of information that Ms Burgess was very well aware of, because she was participating in a lot of these meetings, and because I observed her to have a very poor sense of differentiation between herself and the union. She would say things to us like, "The union's going to be very cross with you," as if it was, you know, talking about, "Your supervisor is going to be very cross with you." So I found her to have a poor understanding of where we sort of stopped and started.

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40

**MR TERNOVSKI:** "We" being the OIR?

**MS FOX:** Sorry, yes, the OIR.

**MR TERNOVSKI:** In relation to that legal advice, can you tell the Commission what the advice was about and why you - well, what the advice - the subject matter of the advice?

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**MS FOX:** From my recollection, there were a number of issues that we needed to get a regulator's position on around common contentious elements for right of entry, and it was the intention of Mr Allen to have a straightforward document that communicated where the regulator sat on these things to prevent them from continually blowing up. And the union had its own view of how the legislation applied, and we were trying to sort of put together the regulator's view, and in that, in the course of that, I was requested to get legal advice on an element of it, which I did, and it was that legal advice that I - through conversations with Ms Burgess, it appeared that the union had a copy of the legal advice.

**COMMISSIONER:** Legal advice on what exactly?

**MS FOX:** The legal advice was on - from recollection, was on whether you had to sign in to enter a work site, the competing - some competing purposes of safety, whether it was preventing you to get onto site swiftly, versus the employer having a good knowledge of who was on site if there was an evacuation or similar.

**COMMISSIONER:** Thank you.

**MR TERNOVSKI:** So it was another right-of-entry piece?

**MS FOX:** Correct.

**MR TERNOVSKI:** But not the same issue that Mr Herbert's advice dealt with?

**MS FOX:** Nothing to do with 81(3).

**MR TERNOVSKI:** Ms Fox, in your statement, you also refer to a recording that Mr Kupsch mentioned. Can you tell the Commission about that?

**MS FOX:** I was asked to come and speak to the inspectorate forum a couple of times on the new legislative changes that had gone through in one of the bills, and Mr Kupsch one day, in a meeting with me, mimicked my presentation and gave me commentary on how he thought my presentation had gone. And he said, "I've heard the whole thing."

**MR TERNOVSKI:** Do you know how he would have heard the whole thing?

**MS FOX:** No. It was not a - not a forum that was recorded by OIR.

**MR TERNOVSKI:** You also describe, Ms Fox, requests for information that you used to receive from Ms Burgess. Can you tell the Commission about that and what your thoughts were in relation to these requests?

**MS FOX:** Ms Burgess semi-frequently requested information from my teams on inspectorate guidance or how legislation applied in a particular situation. But we

5 treated - we came very quickly to treat those requests with a great deal of  
precaution such that everybody in my teams were instructed that if they were  
contacted by Ms Burgess, to alert me immediately, and whatever we prepared in  
response had to go through me. And what we found was that she would often  
make requests for information that appeared to have kind of a predestined position  
she wanted, and she wanted policy to kind of create or verify the path to that  
predestined position. She - she seemed to at times be being instructed by, as she  
would say, an external stakeholder, and then she was looking to sort of check her  
pathway for it.

10 She - we got the impression, I guess, that she was sometimes providing  
information we were locating for her for an external stakeholder who may be  
investigating their own strategies and campaigns, or she was using it to instruct  
her inspectorate on a particular way, but it didn't start from a traditional way that a  
15 question from the inspectorate area would normally generate, which is to say,  
"There's a complaint about this issue. We're looking at that issue. The legislation,  
how it applying in that perspective?" It didn't follow that normal trajectory.

20 **MR TERNOVSKI:** What trajectory did it follow?

25 **MS FOX:** It would tend to be, "I want the inspectors to issue a notice on this  
thing," you know, or, "The entry permit holders want to get access to this site.  
How do we kind of allow them to get on site with this? They're getting pushback  
on this," or something. And sometimes there were legitimate questions, so  
sometimes they were like, you know, they're getting pushback on something,  
"What do you know about how that works in the legislation or how it's been  
treated in other situations?" So sometimes it was legitimate. But very often she  
was very ambiguous about what she was asking, and it did not follow the  
trajectory of a normal inquiry. It seemed very much with a predestined outcome.

30 **MR TERNOVSKI:** And what was that predestined outcome, generally  
speaking?

35 **MS FOX:** A very proactive support of - of the union's actions on a site. It didn't  
seem to be sort of weighing up, "What is the regulator's position in this situation?"  
It seemed very much predestined to, "This is what the union thinks or this is what  
the union wants and how do I activate that?"

40 **MR TERNOVSKI:** You said "the union". Was it any particular union?

**MS FOX:** It was the CFMEU.

45 **MR TERNOVSKI:** Ms Fox, I want to circle back to what you did about those  
concerns, but if the witness could be shown AF-13 on page 88. If we could blow  
up, please, the email from Ms Burgess starting with the line, "On 8 June 2021,"  
and after her sign-off. Ms Fox, is this an example of an information request?

**MS FOX:** Yes, this is an example of the type of information request I was referring to. You can see that she's kind of starting with "Inspectors are pushing back", and she wants to know if inspectorate policy support, IPS, has got some unhelpful advice out there that's supporting inspectors in doing so. She's saying that - she's basically sort of saying - she's taking on - appears to be taking on face value that the external stakeholder's opinion is correct. She's not weighing it up for herself. And then it seems to me that it's a pathway towards compliance activity. It's not about resolving an issue on a site or - or looking at the relative level of risk and incorporating it into other areas of our work. It seems very much with a predestined goal to have notices issued against the code.

**MR TERNOVSKI:** Ms Fox, in the second full paragraph of this email, Ms Burgess refers to external stakeholders. Do you know, in this relation to this email specifically, who those stakeholders were?

**MS FOX:** Yes, it was the CFMEU. My manager in that team contacted the inspectorate to find out what was happening, and it was confirmed it was the CFMEU.

**MR TERNOVSKI:** Do you know why Ms Burgess didn't identify that in her email?

**MS FOX:** I don't know, sorry.

**MR TERNOVSKI:** Can you briefly explain to the Commission what this particular issue is about, that Ms Burgess was asking about, and what happened with it?

**MS FOX:** Like I said before, the formwork code, I mean, as a code, is enforceable. External stakeholders, I believe, have said here that because the formwork code refers to standards, and because those Australian Standards, one of them refers to an eye test, that inspectors should be issuing notices on the business enforcing the eye test, the optometrist tests.

**MR TERNOVSKI:** Eye test for whom, I'm sorry?

**MS FOX:** Sorry, for the workers, for workers working with the jump gear. I would not disagree that they need to have adequate eyesight to do the tasks. My concern would be that we can't - it really looks like regulatory creep to me to be enforcing eye tests. That's not our area as a regulator of expertise, and the formwork code only refers to the standards as guidance, not as enforceable requirements. So it looks to me like an overreach.

**MR TERNOVSKI:** And what ended up happening with this request from Ms Burgess?

**MS FOX:** I'm not sure what happened on the work site specifically, but Ms Burgess stopped her line of inquiry once I came back and asked for more information about, "What are you trying to solve on the work site and how can we help?" kind of thing. "Are you trying to get them to issue a notice on eye tests?"  
5 And she just let it go then.

**COMMISSIONER:** What's the IPS in the first sentence? Does that mean inspectors?

10 **MS FOX:** Inspectorate policy and support. It is made up of largely of ex-inspectors, but of varying qualification.

**MR TERNOVSKI:** Was that a unit that reported to you, Ms Fox?

15 **MS FOX:** Correct.

**MR TERNOVSKI:** In your capacity as director before you became (indistinct).

20 **MS FOX:** Correct, yes.

**MR TERNOVSKI:** Ms Fox, in your relation to your concerns about Ms Burgess potentially leaking information, starting with the - if I can start with the legal advice, had you raised your concern about that with anyone?

25 **MS FOX:** I raised directly with Mr Dennett, has somebody from his directorate leaked the legal advice, yes.

**MR TERNOVSKI:** And what was his response?

30 **MS FOX:** He dismissed that that had occurred, and I - I accepted that.

**COMMISSIONER:** Sorry, he dismissed it?

35 **MS FOX:** I -

**COMMISSIONER:** Without looking into it?

**MS FOX:** Yeah, he told me that he didn't - he didn't agree that that had happened.

40 **MR TERNOVSKI:** What about your broader concerns about confidentiality and Ms Burgess? Had you raised those concerns with Mr Dennett or anyone else?

45 **MS FOX:** I have noted my concerns about Ms Burgess over the years to varying levels of assertiveness on it, but with every - with every person I had in the executive director role above me, with Ms Burgess' own executive director, and with everybody who was in the deputy director-general chair, either temporarily or permanently. I didn't write a formal complaint or raise my concern in that way,

but I had noted that there were concerns about Ms Burgess, and it could vary from, "I think she's leaking information," to, "You are aware that there's some very strange goings-on with Ms Burgess and the union, are you?"

5 **COMMISSIONER:** You say you raised that with every executive director before you became executive director, and every deputy director-general?

**MS FOX:** Correct.

10 **COMMISSIONER:** From 2018 onwards?

**MS FOX:** Correct.

**MR TERNOVSKI:** Does that include Mr Dennett?

15

**MS FOX:** Correct.

**MR TERNOVSKI:** What did Mr Dennett say?

20 **MS FOX:** It came to a bit of a head when - I was under the impression that Ms Burgess was insufficiently supervised and that Mr Dennett was possibly aware that she was - she had difficulty understanding what her role should be, and I assumed he was on the same page as that, and so when we were in some very sensitive meetings about the regulator's position with far-reaching implications in  
25 the construction space, I said to him, "Can we not have Ms Burgess in the meetings while we're just discussing this, because I'm - you know, obviously, we would be worried this might travel, and, you know, after you've reached your conclusion, can you then bring her in?" And I was reprimanded for that, and that's when I thought, "Oh, this is - this is more than an undersupervised."

30

**MR TERNOVSKI:** Reprimanded by whom?

**MS FOX:** By Mr Dennett.

35 **MR TERNOVSKI:** What did he say?

**MS FOX:** He said, "Don't try and cut another director of the meeting." I was only a director level, and my own executive director and him and another executive director were going to be in the meetings, and he said, "Don't try and cut  
40 other director out of meetings."

**MR TERNOVSKI:** You referred to him making a complaint about you. Can you tell the Commission about that?

45 **MS FOX:** Mr Dennett?

**MR TERNOVSKI:** Yes.

**MS FOX:** I became aware that Mr Dennett made complaints at times to my executive director about me, I think on the basis that I was not being maybe collaborative enough with his - his director and his area and that I was maybe being too controlling from a policy perspective. And I believe that that kind of representation was likely also made to Mr Allen about me.

**MR TERNOVSKI:** Why do you say that?

**MS FOX:** When that whole situation happened around the text messages from Ms Burgess, I could see that I was being represented as difficult for Ms Burgess to work with and that maybe I was being difficult to the CFMEU, and I could see that he was complaining to my executive director as well, and - I mean, I genuinely wanted good relationships with the executive above me. I obviously didn't want to be white-anted either, but I genuinely wanted to work well with people. So I - I was disappointed. I tried to show that I am responsive and open and cooperative, yeah.

**MR TERNOVSKI:** Was there any formal investigation into Mr Dennett's complaints about you?

**MS FOX:** I don't believe it would have been, like, a serious HR complaint. I mean, Mr Dennett also had kind words to say to me when he was leaving, said I did a good job in my job. Yeah.

**MR TERNOVSKI:** Commissioner, that's all I had by way of evidence-in-chief. There's an application to cross-examine Ms Fox, which we're not opposing.

**COMMISSIONER:** There are other witnesses who say they fell out with the - what we might loosely call the CFMEU way of doing things within WHSQ and left or were terminated. Why did you survive?

**MS FOX:** I believe that - I believe I was valued as somebody who provides frank and fearless advice, and I do think I am a problem-solver. My experience with the majority of the executive was that they were wanting to do a good job as a regulator, I think, for my own opinion, I would say with varying levels of strategic sophistication in maybe recognising some things. But I think that - I think I was appreciated for doing a good job in the policy area. Overall, I was - I was encouraged by deputy directors-general. I wasn't - I wasn't - yeah, I wasn't - I wasn't given a sign that they were trying to put me on a disciplinary track or anything.

**COMMISSIONER:** You said strategic sophistication in some things. That was a little bit coded for me to understand. What are you talking about there?

**MS FOX:** I - I thought that - I thought that the executive that followed was probably out of their depth with how sophisticated the CFMEU was, and - yeah, I

think they probably struggled with how to strategise how to both address that but also potentially to take some of the heat down. That was my experience.

5 **COMMISSIONER:** And how did you address it and take the heat down?

**MS FOX:** With the union?

**COMMISSIONER:** Yes.

10 **MS FOX:** My - my approach with - with all stakeholders is to start from a  
position of you - you will have a legitimate view of something; it's just a different  
view to mine. And my starting point is I need to hear and understand what your  
15 view is. I always try and treat stakeholders with a great deal of respect, which I  
think and I hope builds some relationship there. I think also, within the  
organisation, I built very strong relationships across the different areas, and I have  
to say that director and manager level and below worked incredibly hard to  
manoeuvre around things often and often around inaction above us or - or delays  
20 in things, and those relationships I found incredibly invaluable. People shared  
information with me which made my job in policy so much easier because I would  
be alive to things and be able to incorporate that.

But I - I mean, even though I've talked about a lot of negative experiences with the  
CFMEU, there were parts of it where we worked okay together, and I - even at  
25 times when I thought they were behaving really difficult - in a very difficult way, I  
could see that they - I could see a coherent position, but that definitely changed  
over time. Yeah.

30 **COMMISSIONER:** Changed from - you said before that the executive that  
followed weren't as - didn't have your strategic sophistication; they didn't realise  
how sophisticated the CFMEU were. What did you mean by the executive that  
followed?

35 **MS FOX:** After the executive that I was first employed under: Dr Blackwood and  
Mr Goldsbrough.

**COMMISSIONER:** I see.

40 **MS FOX:** And I don't think I was always that sophisticated either, but I knew  
when things were rolling at a pace that I needed to pay attention.

**COMMISSIONER:** And you said you could see a coherent approach in what the  
CFMEU were trying to achieve, but that changed. Are you saying the CFMEU  
changed?

45 **MS FOX:** I - sorry, yeah, I felt - I felt the CFMEU at some point in my  
experience with them became more fixated on really fighting with the  
government, fighting with the minister, taking positions that allowed no

concession-making or trade-offs through consultation with everyone else at the table such that it would be incredibly difficult to progress what should have been legislation, codes, things that they would have been favourable to. Now, maybe they would argue that they were fighting for all or nothing and that's very important to them; I'm not sure. But it became its own disruption to, yeah, election commitments that really should have been exactly aligned with what they wanted. Yeah.

10 **COMMISSIONER:** Is there anything that arises from there, Mr Ternovski?

**MR TERNOVSKI:** No, Commissioner.

15 **COMMISSIONER:** Mr Massy, you've got an application to cross-examine Ms Fox in writing, 8 June 2026, and attached to it is a statutory declaration from Mr Ravbar, and you seek to cross-examine. That statutory declaration relates to the event that Ms Fox has given some evidence about, both in her statement and orally this morning, about an event at the Bowen Hills office of the CFMEU on 30 January 2018.

20 **MR MASSY:** That's so, Commissioner.

**COMMISSIONER:** And there's no objection to this cross-examination. I wonder, Mr Ternovski, whether we should - I know we haven't done this so far, but this is the first application that has been supported by a contrary set of facts. I wonder whether this should be tendered so that it's a record of what Mr Ravbar says as at 8 June 2026.

30 **MR TERNOVSKI:** In my submission, it should be tendered. It should form part of the evidence.

**COMMISSIONER:** What do you say about that, Mr Massy?

35 **MR MASSY:** I have no difficulty with that, Commissioner. The only request I'd make is that Mr Ravbar's identifying information which is in the statutory declaration be redacted.

**COMMISSIONER:** Very well. Where do we -

40 **MR MASSY:** So you will see his home address.

**COMMISSIONER:** I think that's been redacted on my version.

**MR MASSY:** The Commission is much more efficient than I thought.

45 **COMMISSIONER:** Yes. There's four redactions, one on page 1 and then three on page 2. Two of them are signatures, one is an address, and the second one is the address too. So you're happy to be tendered on that basis?

**MR MASSY:** Thank you, Commissioner.

**COMMISSIONER:** What will I call this exhibit, Mr Ternovski?

5

**MR TERNOVSKI:** I suppose this is Mr Ravbar's exhibit, so it could be called MR, although I'm not sure Mr Ravbar has a middle name. I'm told it starts with a J. So it's MJR.

10 **COMMISSIONER:** So application to cross-examine Ms Andrea Fox, one page, five paragraph, 8 June 2026, together with statutory declaration of Michael John Ravbar, 8 June 2026, will be MJR-1.

15 **<EXHIBIT MJR-1 APPLICATION TO CROSS-EXAMINE MS ANDREA FOX, ONE PAGE, FIVE PARAGRAPH, 8/6/2026, TOGETHER WITH STATUTORY DECLARATION OF MICHAEL JOHN RAVBAR, 8/6/2026**

20 **COMMISSIONER:** Ms Fox, Mr Massy has been given leave to cross-examine you on the events of 30 June 2018. I can see by your evidence this morning, as I observed, that that event was somewhat traumatic for you. If you need breaks or you need time for an adjournment during the cross-examination, please call out; otherwise, I'll allow Mr Massy to continue the cross-examination.

25 **MS FOX:** Thank you.

**<CROSS-EXAMINATION BY MR MASSY**

**MR MASSY:** Thank you, Commissioner. Ms Fox, can you hear me adequately?

30 **MS FOX:** Yes.

35 **MR MASSY:** If at any point you can't hear me, please speak up and I'll try and speak louder. You'd be aware, wouldn't you, that in 2015 and 2016 the CFMEU campaigned for amendments to the Work Health and Safety Act to introduce an offence of industrial manslaughter?

**MS FOX:** Yes.

40 **MR MASSY:** And when you started in the Office of Industrial Relations in 2017, that campaign was in full swing?

**MS FOX:** Yes.

45 **MR MASSY:** And it's fair to say that during your time in the Office of Industrial Relations in 2017, there were mixed views within the office about precisely whether such an offence should be adopted and how it should be formulated?

**MS FOX:** I don't believe there were mixed views in the office. It was a recommendation from the review.

5 **MR MASSY:** And there were questions about how it was to be implemented in the legislation, weren't there?

10 **MS FOX:** There was - we were the first state to introduce this into the WHS Act, and the guiding principle given to us was that the offence was to be one to orientate the most senior officers towards an understanding that they had responsibility for work health and safety and to recognise the fact that workers in a workplace were forced, through the transactional arrangement of selling their labour, to be beholden to the decisions made by someone at the very top, and that was the guiding principle, and then we worked with Queensland Parliamentary Council on the drafting questions around how to achieve that instruction.

15 **MR MASSY:** And there were consultation with stakeholders about that, weren't there?

20 **MS FOX:** Correct.

**MR MASSY:** Including the CFMEU?

**MS FOX:** Correct.

25 **MR MASSY:** And there was some disagreement between the department and the CFMEU about the ultimate form of those amendments?

**MS FOX:** Yes, correct.

30 **MR MASSY:** Ultimately, the government passed the legislation introducing the offence; correct?

**MS FOX:** Correct.

35 **MR MASSY:** And the changes made to the WHS Act in 2017 went beyond the industrial manslaughter provisions, didn't they?

**MS FOX:** In the whole bill?

40 **MR MASSY:** Yes.

**MS FOX:** Correct.

45 **MR MASSY:** And those changes required a variety of amendments to various codes of practice?

**MS FOX:** There was an amendment to bring codes into the legislation. Is that what you mean?

**MR MASSY:** Yes.

5

**MS FOX:** Yes.

**MR MASSY:** And that required a number of the codes to be reviewed?

10 **MS FOX:** There was an obligation then for codes to be reviewed and up to date, yes.

**MR MASSY:** And it's right that from 2017 onwards, the CFMEU was campaigning for significant changes to be made to a number of codes of practice that related to the construction industry?

15

**MS FOX:** Correct.

**MR MASSY:** And that process of reviewing the codes of practice was one that ran through your role?

20

**MS FOX:** Correct.

**MR MASSY:** And it's fair to say that that was the source of some tension between the department and the CFMEU?

25

**MS FOX:** Which time period?

**MR MASSY:** From 2017 onwards?

30

**MS FOX:** No, that's not correct.

**MR MASSY:** Well, can I suggest that by 2017, at least from your perspective, the CFMEU didn't have a genuine appreciation of the timelines involved in the task of amending the codes of practice?

35

**MS FOX:** The CFMEU had recently participated in a code review, so I think they had some appreciation of the timeline involved. Initially, I think from the 2017/2018 period, I found the CFMEU was quite cooperative in code reviews for scaffolding, concrete pumping, mobile cranes.

40

**MR MASSY:** And it's fair to say they wanted that process to move more quickly, though, didn't they?

45 **MS FOX:** A good way into the review, they were seeking completion of the code reviews. But they participated heartily in the meetings before that, over a year, 18 months.

**MR MASSY:** Yes, I'm not suggesting that they didn't participate. I'm just suggesting that they were dissatisfied with the pace at which the changes were being advanced.

5

**MS FOX:** I would say by about 2019 they were starting to get impatient about some of them.

**MR MASSY:** Can I ask that the witness's statement at paragraph 16 be brought up. Can I suggest what you're indicating in the last sentence was that you had to manage expectations about timing.

10

**MS FOX:** Mr Kupsch often started from a position of, "Can't you just change the code?"

15

**MR MASSY:** Yes, and what I'm getting is you had to manage those expectations because his expectations about timing didn't align with the department's.

**MS FOX:** He thought codes - I think his starting position was he thought codes could just be changed, it was a quick "just amend this little bit", and we explained that you couldn't just amend the code.

20

**MR MASSY:** Thank you.

**MS FOX:** Yes.

25

**MR MASSY:** Now, at paragraph 11 and following of your statement, you give an account of the interaction you had with Mr Ravbar and Mr Kupsch on 30 January 2018. You've given some evidence about that today. You say in paragraph 11 that this incident is referred to in the report by Mr Geoffrey Watson SC. Do you see that?

30

**MS FOX:** Correct.

**MR MASSY:** Should the Commission understand from that that you were interviewed by Mr Watson?

35

**MS FOX:** I was interviewed.

**MR MASSY:** And did you give Mr Watson the same version of events about that meeting as you've given in your evidence today?

40

**MS FOX:** I gave him mostly the same version. I didn't have access to my calendar at the time, my archived full calendar, and I gave a briefer account.

45

**MR MASSY:** So aside from the date, you otherwise gave him an account with accorded with what you've included in your statement?

**MS FOX:** I think so. I gave him a briefer account.

5 **MR MASSY:** Now, I think from your evidence earlier today, you've been to the union premises on a number of occasions?

**MS FOX:** Correct.

10 **MR MASSY:** And you're aware that there's a series of meeting rooms upstairs?

**MS FOX:** Correct.

15 **MR MASSY:** And as I understand from your evidence earlier today, this interaction occurred in one of those rooms upstairs?

**MS FOX:** Correct.

20 **MR MASSY:** Now, can I suggest to you that the room that this interaction occurred in had a glass door that opened outwards?

**MS FOX:** I don't recall, sorry.

25 **MR MASSY:** That's all right. And can I suggest that on 18 January 2018, when you, Mr Ravbar and Mr Kupsch arrived, Mr Ravbar swiped an access card and then opened the door up so you could walk in?

**MS FOX:** I don't recall that, sorry.

30 **MR MASSY:** And can I suggest that inside the room there was a boardroom table that would sit between 10 and 13 people?

**MS FOX:** I think so, yes.

35 **MR MASSY:** And the room had a series of windows that looked out over Campbell Street?

**MS FOX:** I don't recall being - I don't recall seeing out windows at all at the time, no.

40 **MR MASSY:** Is it the case that when you went in you might have sat with your back to the windows?

**MS FOX:** I don't recall.

45 **MR MASSY:** Now, throughout your evidence this morning and in your statement, you describe at various times how you felt. For the next few questions, could you just focus on what you can recall having seen and heard. Do you

understand? Now, is it fair that you accept that when Mr Ravbar was speaking to you, he was not yelling or shouting at you?

5 **MS FOX:** He was not yelling.

**MR MASSY:** And in your statement, and I think in your evidence earlier today, you record other occasions where you say Mr Kupsch banged his fists on the table or pointed his finger at you in an aggressive manner. Do you recall that?

10 **MS FOX:** Yes.

**MR MASSY:** Yes. You don't say Mr Ravbar was doing that, do you?

15 **MS FOX:** He did not do that.

**MR MASSY:** And you don't say he was waving his arms around or gesticulating?

20 **MS FOX:** He did not do that.

**MR MASSY:** He was relatively still while he was talking to you?

**MS FOX:** He was relatively still.

25 **MR MASSY:** Now, on your version, Mr Ravbar was the only one speaking during the interaction?

**MS FOX:** Correct.

30 **MR MASSY:** And on your version, he spoke during the entirety of the interaction?

**MS FOX:** Correct.

35 **MR MASSY:** I assume he was looking at you while he was talking to you?

**MS FOX:** Correct.

40 **MR MASSY:** So in your statement where you say he was glaring at you, should the Commission understand that what you meant is that he was consistently making eye contact with you while he was talking to you?

**MS FOX:** Correct.

45 **MR MASSY:** And I think in paragraph 22 you say he was almost spitting. You're not there suggesting that he was trying to spit on you, are you?

**MS FOX:** No.

**MR MASSY:** Now, accepting that the interaction occurred more than eight years ago, is it possible that during the exchange Mr Ravbar was seated at the table?

5

**MS FOX:** No.

**MR MASSY:** And once again, bearing in mind that it was over eight years ago, is it possible that before Mr Ravbar spoke, Mr Kupsch said something to the effect that the union needed to see something happening to give effect to the legislative changes that had been made?

10

**MS FOX:** Definitely not.

**MR MASSY:** Now, do you recall that after Mr Kupsch spoke, Mr Ravbar said words to the effect of he was going to be blunt with you?

**MS FOX:** I don't recall him saying that, no.

**MR MASSY:** Is it possible he said something like that?

20

**MS FOX:** I definitely do not remember that phrase.

**MR MASSY:** All right. Do you recall Mr Ravbar saying words like the union had heard that you were the roadblock on these issues?

25

**MS FOX:** I definitely did not hear him say any explanation of why he was angry with me, so I definitely do not recall him saying I was a roadblock.

**MR MASSY:** Do you recall him saying something like, "We think you're speaking with a forked tongue, because when we come to these meetings you agree, but subsequently the issue dies"?

30

**MS FOX:** No, he definitely did not say that to me.

35

**MR MASSY:** And can I suggest to you that he said, "We've been told that you are the problem"?

**MS FOX:** I do not recall that at all. I did not - did not hear that phrase, I don't believe.

40

**MR MASSY:** And can I suggest to that you he said words like, "In those circumstances, we've decided that we can no longer continue to meet with you"?

**MS FOX:** No, he said that, "You are banned from attending the CFMEU. You're banned from attending meetings with us. You're banned from being involved in this work. No one will work with you now."

45

**MR MASSY:** Did you understand that Mr Ravbar was saying to you that the union thought you were the holdup within government to the policy changes it wanted made?

5

**MS FOX:** No, he did not say anything like that to me.

**MR MASSY:** He was telling you that the union no longer wanted to meet with you, wasn't he?

10

**MS FOX:** He was telling me that - yes.

**MR MASSY:** And that was undoubtedly a troubling matter for you?

15

**MS FOX:** Yes.

**MR MASSY:** A very important stakeholder was saying it would no longer meet with the director of policy?

20

**MS FOX:** Yes.

**MR MASSY:** Undoubtedly in the heat of the interaction your mind would've been racing about the consequences that might have for you in your role?

25

**MS FOX:** I didn't think about that at the time.

**MR MASSY:** Can I suggest to you that after Mr Ravbar told you that the union was no longer going to meet with you, he said the other meeting about the tower crane code of conduct - I will withdraw that. Can I suggest to you that after Mr Ravbar told you that the union was no longer going to meet with you, he said that the other meeting about the Tower Crane Code of Practice couldn't continue?

30

**MS FOX:** No.

35

**MR MASSY:** And can I suggest to you that he asked you whether you wanted to go back into the room or whether you wanted to wait downstairs?

**MS FOX:** Definitely not.

40

**MR MASSY:** Can I suggest that you said you'd wait downstairs, and Mr Ravbar said that he would go and tell the meeting that it was over but not tell them why?

**MS FOX:** There is absolutely no way I would have stayed separate from my colleagues at that point.

45

**MR MASSY:** I didn't mean to speak over you.

**MS FOX:** There is absolutely no way I would have stayed separated from my colleagues at that point, and I'm the one that went back into the room to speak to them. Mr Ravbar never went back into the room with my colleagues; only Mr Kupsch followed me.

5

**MR MASSY:** Now, you agree that in order to leave the room you were in with Mr Ravbar and Mr Kupsch, there was a green button beside the door that said press to exit?

10 **MS FOX:** I don't recall.

**MR MASSY:** You're familiar with those buttons being used whenever there's an automated door?

15 **MS FOX:** I think I've seen buttons like that before.

**MR MASSY:** There's undoubtedly a work health and safety reason why workplaces with automated doors have to have prominent buttons?

20 **MS FOX:** Is there a work health and safety reason?

**MR MASSY:** I said undoubtedly there is some sort of work health and safety that means that where there is an automated door there needs to be prominent buttons to make it operate?

25

**MS FOX:** I'm not sure how to answer that question, sorry.

**MR MASSY:** Now, I think you gave some evidence earlier today, and you most certainly do in your statement, that Mr Ravbar said to you that he was talking to you separately from your colleagues because he wanted to spare you the embarrassment of having the discussion in front of them. Do you recall that?

30

**MS FOX:** Correct.

**MR MASSY:** You'd agree that it was a significant professional rebuke from a major stakeholder to say that they weren't going to meet with the director of policy?

35

**MS FOX:** Do I think it was a rebuke to say that - yes, correct.

40

**MR MASSY:** And it's the type of news that would spread around the departmental office quickly?

45

**MS FOX:** I am not sure. I didn't feel any concern that people at the office would hear I'd had a difficult interaction. Everybody was well aware of one another having difficult interactions.

**MR MASSY:** Yes.

**MS FOX:** Yeah.

5 **MR MASSY:** You can accept that it was reasonable that Mr Ravbar might wish to spare you the professional embarrassment of telling you in front of your subordinates that the union would no longer meet with you?

10 **MS FOX:** No, because they had no trouble being critical of the department or individuals in the department in front of one another, in front of one another of us, and I think it's very odd to think that out of that interaction, what my colleagues would have got from it is we are embarrassed about my conduct.

15 **MR MASSY:** Well, it's a significant matter for a stakeholder of the importance of the CFMEU to say that it would no longer meet with you as the director of policy, wasn't it?

20 **MS FOX:** Not really. Our whole team worked together, and it was a complicated stakeholder to work with, and we all worked to one another's strengths. I'd never felt that I was vulnerable in my team around this.

**MR MASSY:** That wasn't quite my question.

25 **MS FOX:** Sorry.

**MR MASSY:** You'd accept that it was a significant thing for a stakeholder like the CFMEU to say that it would no longer engage with you as the director of policy?

30 **MS FOX:** It was a significant thing to say.

**MR MASSY:** And it's the type of thing that might cause you some professional embarrassment?

35 **MS FOX:** I don't think - no, I don't feel like it would have caused me embarrassment on that level. I did - I did worry that if I couldn't work with the CFMEU easily, given so much of our agenda was construction-related - this is afterwards, not at the time of the meeting - I did think, "This is tricky."

40 **MR MASSY:** And what I'm suggesting to you is that might well be a reason why Mr Ravbar would want to meet separately with you to convey that point to you?

45 **MS FOX:** I don't think there's another stakeholder I can think of who would take you away from people as two men alone, to be frank. I think it's an extraordinarily risky thing to do as a stakeholder.

**MR MASSY:** Now, in the case of this meeting, Mr Kupsch was present the entire time?

**MS FOX:** Yes, he was.

5

**MR MASSY:** And I'm not sure that you used these words precisely, but is it fair to say you were critical of him for not stepping in and trying to stop Mr Ravbar?

**MS FOX:** No, I - I didn't feel critical of him. I watched to see if he would do that.

10

**MR MASSY:** But he didn't - on your version, he didn't do or say anything?

**MS FOX:** Correct.

15

**MR MASSY:** Now, did you tell Mr Watson that Mr Kupsch joined in?

**MS FOX:** No.

**MR MASSY:** And did tell Mr Watson that Mr Ravbar was shouting at you?

**MS FOX:** He had a very raised voice, but I want to be clear about is, like, you know, when you're yelling something, it was never, like, yelling, like - but he had a very raised voice. I would call that - I probably would call that shouting, but I don't want to suggest that it was, like, yelling across the field kind of volume. I don't know how to sort of convey that. It was - it was - this was not in a conversational tone, or it's much louder than what we are here right now. But I - I guess - I think there's varying degrees between, like, screaming and -

25

**MR MASSY:** He's talking as loudly as you and I are now?

30

**MS FOX:** Much louder.

**MR MASSY:** Okay. Much louder. Now, I think you've accepted today that you didn't complain about Mr Ravbar's conduct. That's right, isn't it?

35

**MS FOX:** Correct.

**MR MASSY:** And you haven't attached any written record of the exchange to your statement, have you?

40

**MS FOX:** Correct. I didn't formally complain.

**MR MASSY:** But it's right also, isn't it, that you didn't make a file note or written record of the exchange?

45

**MS FOX:** I didn't make a written record of the exchange.

**MR MASSY:** It's fair to say that the event you describe is a serious one?

**MS FOX:** Yes.

5

**MR MASSY:** Now, even if you weren't making a complaint, it would've been prudent for you to have created a record of what had occurred?

**MS FOX:** To be honest, I do remember writing details down about it but deciding not to make a formal complaint, and I don't - I definitely did not keep then a record of my notes, but I did also have that debrief with both my supervisors immediately afterwards, and I do actually consider that a form of complaint.

10  
**MR MASSY:** Yes. But what I'm talking about is whether or not you had created a record for your own purposes of what had occurred.

**MS FOX:** I didn't - yeah, I didn't retain one.

15  
**MR MASSY:** And can I suggest that would've been prudent, given the seriousness which you say attended the event?

**MS FOX:** I bitterly regret not making a complaint formally.

20  
**MR MASSY:** Now, you subsequently gave some evidence this morning and in your statement about a subsequent meeting with Mr Kupsch on 12 March 2021. Do you recall that?

**MS FOX:** Correct.

25  
30

**MR MASSY:** Can I just ask that the witness be shown page 95 of her affidavit, which is an email that you sent after that meeting. I think your email to Mr Allen begins at the bottom of the page. Is that right?

35  
**MS FOX:** Correct.

**MR MASSY:** And in the second paragraph, you describe what Mr Kupsch did?

**MS FOX:** Correct.

40

**MR MASSY:** And you describe him as yelling at you in those circumstances?

**MS FOX:** Correct.

45  
**MR MASSY:** And in the email, you record that you effectively stood him up and told him that that wasn't appropriate?

**MS FOX:** Correct.

**MR MASSY:** And you created a record of that and sent it to your boss afterwards, didn't you?

5

**MS FOX:** Correct.

**MR MASSY:** Then you go on to express a concern that you thought someone in the organisation was effectively winding Mr Kupsch up at times?

10

**MS FOX:** Correct.

**MR MASSY:** And then you go on to raise a concern - I won't use the complaint word, but raise a concern about the text messages that were sent to you?

15

**MS FOX:** Yes.

**MR MASSY:** And again, that rose to the level of something that you wanted to create a record of.

20

**MS FOX:** Yes.

**MR MASSY:** Can I suggest to you that the reason why there's no record of your interaction with Mr Ravbar and why no complaint was made, because it was not nearly as serious as you now say?

25

**MS FOX:** No, the reason is because this was several years down the track, and I was a lot wiser about what was acceptable for me to tolerate and not tolerate, and I was a lot wiser about my right to say that this is not okay to keep happening to me.

30

**MR MASSY:** In 2018 you were an experienced public servant, weren't you?

**MS FOX:** Yes.

**MR MASSY:** You held a senior role within the department?

35

**MS FOX:** Yes.

**MR MASSY:** So you would've known at that point that keeping a record of an event as serious as the one you allege against Mr Ravbar would've been prudent?

40

**MS FOX:** Yes.

**MR MASSY:** And can I suggest the reason why you didn't do it is because it was not as serious as you now say?

45

**MS FOX:** That's completely false.

**MR MASSY:** Can I suggest at no time did he suggest you should be physically dragged out of the building?

5 **MS FOX:** That is completely false.

**MR MASSY:** And can I suggest that over the last eight years the interaction with Mr Ravbar has come to take on a significance in your mind that does not accurately reflect what happened?

10

**MS FOX:** That is completely false.

**MR MASSY:** Thank you, Commissioner. I have no further questions.

15 **COMMISSIONER:** Thank you, Mr Massy. Mr Ternovski, anything arising?

**<RE-EXAMINATION BY MR TERNOVSKI**

20 **MR TERNOVSKI:** Yes, very briefly. Now, Ms Fox, you were asked about your evidence that Mr Ravbar was almost spitting, and it was put to you that you're not suggesting he was actually trying to spit on you.

**MS FOX:** No.

25 **MR TERNOVSKI:** What did you mean by "almost spitting"?

30 **MS FOX:** Really, just incredibly furious. He had gone from kind of - sort of talking between gritted teeth to this - I guess what I wanted to try and convey in that is that it was kind of - it seemed to me like an episode of rage. Like, it was where words are coming out of your mouth and you're not kind of like moderating your tone; you're not moderating the speed at which you talk, so it's almost like spitting your words out. You're - like I described in there, he started whole sentences that he didn't complete before he went on to another sentence. Things like that.

35

**MR TERNOVSKI:** It was put to you, Ms Fox, that at the time of this incident your mind must have been racing about the consequences that a CFMEU ban would have on your role, and you started answering and you said something like, "Didn't think about that at the time," and then it looked like you were about to say something else, but Mr Massy I think moved on to his next question. Were you about to add something else at that point?

40

45 **MS FOX:** I remember my mind racing, and my mind was racing along the lines of, like, "What the hell is this? What is he referring to and what the hell is happening?" I definitely wasn't thinking about, "Oh, I'm going to get fired," or something. And I might add that Mr Kupsch went on to work with me on multiple projects, so it - it wasn't like I had to be embarrassed that my team had heard I'd

had a complex - a difficult kind of experience. I didn't share the detail of what happened with lots of people in the office, because I thought it was just such a shocking situation that my supervisors needed to handle it. But it was apparently - the details were known in the office. I've had administrative people say to me since that - and I don't have any vision of this, but that a letter in response from maybe my deputy director-general to Mr Ravbar had been started to be drafted or something. So others had heard about some detail. Yeah.

10 **MR TERNOVSKI:** I've got no further questions, Commissioner.

**COMMISSIONER:** Thank you very much for your evidence, Ms Fox. You're excused.

15 **MS FOX:** Thank you.

**<THE WITNESS WAS RELEASED**

**COMMISSIONER:** Who's taking the next witness?

20 **MR THOMAS:** I am Commissioner, yes.

**COMMISSIONER:** Who's the next witness?

25 **MR THOMAS:** I call Mr Leslie Graham Easterby, and he has just walked into the courtroom a moment ago, so - sorry.

**MR MASSY:** Sorry, nothing of any importance. That concludes my client's interest in the proceedings. Might I be excused for the balance of the -

30 **COMMISSIONER:** Yes, you may. Thank you, Mr Massy.

**MR MASSY:** Thank you, Commissioner.

35 **MR TERNOVSKI:** Commissioner, I just remembered that Mr de Jersey needs to briefly address you about Mr Dennett, because I think there might have been some confusion about his status.

40 **COMMISSIONER:** I see. All right. Sorry about this, Mr Easterby. Just be one moment.

**MR DE JERSEY:** Commissioner, Mr Dennett ceased employment with OIR on 28 January '22.

45 **COMMISSIONER:** Yes.

**MR DE JERSEY:** He then, for about five years, worked for WorkCover, and Mr Ternovski and I wish to just make it clear that - I think the question you may have

asked me was did he depart the public service in January '22? He didn't, in the sense that he then worked -

5 **COMMISSIONER:** He didn't.

**MR DE JERSEY:** Yes. So he departed OIR then but then worked for WorkCover for about five years.

10 **COMMISSIONER:** And is he still employed by WorkCover?

**MR DE JERSEY:** No. Earlier this year, at least according to his LinkedIn page, he left. He says he wrapped up his time as chief partnerships and relationships officer at WorkCover. And he's posted this about a month ago.

15 **COMMISSIONER:** I missed the last bit.

**MR DE JERSEY:** He posted on his LinkedIn page about one month ago that he wrapped up his time as chief partnerships and relationships officer at WorkCover Queensland. And it appears, according to his LinkedIn page, that he's no longer - he's not in employment at the moment anywhere.

20 **COMMISSIONER:** Thank you.

**MR DE JERSEY:** Thank you, Commissioner.

25 **COMMISSIONER:** Mr Easterby, would you be able to come forward into the witness box, please.

30 <**LESLIE GRAHAM EASTERBY, SWORN**

<**EXAMINATION BY MR THOMAS**

**COMMISSIONER:** Thank you, Mr Easterby. You should have a glass of water there, and my associate is just getting your witness statement there for you next to you. When you're ready, Mr Thomas will ask you some questions.

**MR THOMAS:** Mr Easterby, could you please repeat your full name.

40 **MR EASTERBY:** Leslie Graham Easterby.

**MR THOMAS:** And are you retired?

**MR EASTERBY:** I am.

45 **MR THOMAS:** And you reside at an address known to this Commission of Inquiry?

**MR EASTERBY:** I am - I do.

**MR THOMAS:** And have you made a witness statement for the Commission?

5 **MR EASTERBY:** I have made one.

**MR THOMAS:** I think you've got that in front of you. The document in front of you, is that a copy of the witness statement? And could that also be shown on the screen.

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**MR EASTERBY:** Yes, it is.

**MR THOMAS:** Does that witness statement run to 94 paragraphs?

15 **MR EASTERBY:** It does.

**MR THOMAS:** And contain or have eight annexures?

**MR EASTERBY:** It does.

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**MR THOMAS:** And have you had an opportunity to review that statement recently?

**MR EASTERBY:** I have.

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**MR THOMAS:** And I understand you wish to make a couple of corrections?

**MR EASTERBY:** I do.

30 **MR THOMAS:** The first of which is to the final sentence of paragraph 33 -

**MR EASTERBY:** Yes.

35 **MR THOMAS:** - which appears on page 6. What's the correction that you wish to make to that statement?

**MR EASTERBY:** That the letters - excuse me. I have a cold. The letters that were not addressed to me or the QBCC, they were subsequently provided to me by Commissioner Bassett or Mr Ian Grant, usually in person or by email.

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**MR THOMAS:** So that sentence should read:

"They were subsequently provided to me by Commissioner Bassett or Mr Grant, usually in person or by email."

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**MR EASTERBY:** Correct.

**COMMISSIONER:** So insert after the comma - delete the comma after Bassett - "or Mr Grant".

5 **MR THOMAS:** Yes, as introduced earlier.

**COMMISSIONER:** And then a comma.

10 **MR THOMAS:** And then, Mr Easterby, I understand the next change you wish to make is at paragraph 82 -

**MR EASTERBY:** Yes.

**MR THOMAS:** - which is on page 13.

15 **MR EASTERBY:** Yes.

**MR THOMAS:** What correction do you wish to make to that sentence, that final sentence of that paragraph?

20 **MR EASTERBY:** That it felt like a weekly occurrence.

**MR THOMAS:** So rather than it felt like it was a daily occurrence, it would read - the final sentence of that paragraph would read:

25 "It felt like it was a weekly occurrence."

**MR EASTERBY:** Correct.

30 **MR THOMAS:** And subject to those corrections, Mr Easterby, is your statement otherwise true and correct?

**MR EASTERBY:** It is, to the best of my memory.

35 **MR THOMAS:** Commissioner, I tender that statement.

**COMMISSIONER:** Witness statement of Leslie Graham Easterby, sworn 4 June 2026, 94 paragraphs, 15 pages, with eight annexures as amended just now in the witness box at paragraphs 33 and 82, will be LXE-1.

40 **<EXHIBIT LXE-1 WITNESS STATEMENT OF LESLIE GRAHAM EASTERBY SWORN 4/6/2026, 94 PARAGRAPHS, 15 PAGES, WITH EIGHT ANNEXURES, AS AMENDED IN WITNESS BOX AT PARAGRAPHS 33 AND 82**

45 **MR THOMAS:** Thank you, Commissioner. I want to start, Mr Easterby, asking you some questions about your career, which you deal with in the first page or two

of your witness statement. You entered the workforce as an apprentice. What sort of apprenticeship did you do?

5 **MR EASTERBY:** I did an apprenticeship in carpentry and joinery.

**MR THOMAS:** And where did you complete that apprenticeship?

**MR EASTERBY:** With the Brisbane City Council.

10 **MR THOMAS:** And did you work in that trade following that apprenticeship?

**MR EASTERBY:** I did.

15 **MR THOMAS:** For how long?

**MR EASTERBY:** A couple of years. The council had changed policy when apprentices finished, and you didn't stay engaged with the council, and so I went out on my own and I picked up work doing carpentry work, working for myself.

20 **MR THOMAS:** And then at paragraph 4, you give evidence that you joined the Australian Federal Police. Can you tell the Commissioner how that came to be, that is, what motivated you to join the AFP?

25 **MR EASTERBY:** I had also in my spare time joined the State Emergency Service, and I also was an honorary ambulance officer at Wynnum Ambulance, and I had an interest in rescue work. Queensland Police didn't offer a rescue function; however, the federal police did, and so I wanted to join the federal police with the vision of becoming a rescue specialist with the Australian Federal Police.

30 **MR THOMAS:** And you were at the AFP for roughly 15 years?

**MR EASTERBY:** I was.

35 **MR THOMAS:** Can you describe your career at the AFP to the Commissioner?

40 **MR EASTERBY:** After finishing recruit college, none of our course were deployed to Canberra. The focus was on international and national policing role. And so I was deployed to Sydney, where I went through rotation and developed with my studies to become a detective, and then I was posted to the Gold Coast, where I completed my studies to be a detective, and completed detective designation, became a designated detective. I also specialised in surveillance and intelligence and corporate crime and developed a professional ability to work on organised crime and complex fraud matters.

45 **MR THOMAS:** Yes. So you came to specialise in those areas.

**MR EASTERBY:** Areas, yes.

**MR THOMAS:** And you spoke a little bit about some of the qualifications that you obtained at the AFP. That was part of the training?

5 **MR EASTERBY:** It was.

**MR THOMAS:** Yes. And then between 2001 and 2006 you did something completely different. Can you tell the Commissioner about what you did in those years?

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**MR EASTERBY:** After the federal - I left the federal police to go to the Health Insurance Commission to take up a role to redesign their investigation methodology into complex white-collar crime by medical practitioners and pharmacists, because of the two Medicare and PBS schemes, and I subsequently left that with a dream to own and operate a motel, so to become an entrepreneur. And so I did that until I sold the business, because it worked me into the ground, and I picked up a role managing a large complex hardware business with a view that I was going to buy the business off the owner as a vendor finance, but another hardware business bought it out, and I then went on to work at Queensland Health.

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**MR THOMAS:** Yes. What was your role at Queensland Health when you joined?

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**MR EASTERBY:** I applied for the role of the district health safety manager and went in looking after safety and wellbeing at Queensland Health for the health district.

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**MR THOMAS:** And then you were promoted into another role at Queensland Health. What was that?

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**MR EASTERBY:** I became the director of corporate services at the health district, and that looked after all non-clinical roles, including building and engineering and maintenance as well as laundry and other, you know, morgue and stuff.

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**MR THOMAS:** Yes. And then in late 2011, at paragraph 10, you describe another position at Queensland Health that you assumed. What was that position?

**MR EASTERBY:** Because the health district was absorbed into West Moreton, some roles were centralised to Ipswich, and an opportunity came up for me to work for the corporate office in the safety and wellbeing corporate team and so I moved into the corporate team working on projects and worked my way up and was put in as the director of safety and wellbeing for the state, running the corporate team, which looked after the corporate safety system over the entire state and all the health services.

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**MR THOMAS:** Yes. And you were also a member during that time of the Parliamentary Standing Committee for Safety, community and Health Services. What was your involvement in that committee?

5 **MR EASTERBY:** I was appointed by the minister to contribute to that standing committee in relation to health and safety strategies and policy development and considerations and consultation across that community services. I think that was Department of Education, Department of Health, those sort of streams of employment.

10 **MR THOMAS:** Yes. And then that leads - there's a brief period where you return to private industry as a consultant at paragraph 11. But that leads up to your employment at the QBCC in 2018.

15 **MR EASTERBY:** Correct.

**MR THOMAS:** What was your role when you commenced at the QBCC?

20 **MR EASTERBY:** I applied for and won on merit the role as licensing manager.

**MR THOMAS:** And how did you come to apply for that role?

25 **MR EASTERBY:** Mr Ian Grant had reached out to me advising that he had a role going that I might be interested in, because there was a new safety focus to it, and whether I would consider, and so I applied, and it was - Mr Grant declared that he was aware of me.

**MR THOMAS:** Yes.

30 **MR EASTERBY:** And I won that role on merit.

**MR THOMAS:** And you say that Mr Grant declared that he was a friend - that he was aware of you because you were personal friends?

35 **MR EASTERBY:** Yes.

**MR THOMAS:** So that was disclosed through the process?

40 **MR EASTERBY:** It was.

**MR THOMAS:** And as licensing manager, what was your area of responsibility?

45 **MR EASTERBY:** It was - it was a Brisbane team, which is a major team I was responsible for. Regions also had staff that did some licensing applications and I would assist them, but they - they answered to their regional manager, but otherwise the main Brisbane team looked after the majority of the 10,000 licence

applications that come in per year, plus the 90,000 renewals that get processed periodically, depending on how long people pay a licence fee for.

5 **MR THOMAS:** Yes. At paragraph 22, you talk about the Licensing Services Branch. What is that branch?

10 **MR EASTERBY:** The branch consisted of a number of teams under the supervision of a team leader for want of a better word. There was a primary occupational team. There was a builder team, because a builder licence is the licence that requires experience to be assessed, not just a technical qualification. And then there was a trade licensing team. And then as the government was moving towards increasing occupational licensing and widening the scope of occupational licensing, a new team was stood up, which I stood up, which was for HVAC and medical gas occupational licensing, and fire occupational licensing.

15 **MR THOMAS:** Yes.

20 **COMMISSIONER:** What is the point of the QBCC, Mr Easterby? What does it exist to do?

**MR EASTERBY:** I'm sorry, Commissioner?

**COMMISSIONER:** What is the point of the QBCC? What does it exist to do?

25 **MR EASTERBY:** My understanding is, as per section 3, Objectives of the Act, is to regulate the construction industry, and it's across a number of streams. Licensing is a key stream, that businesses, being contractors, are licensed, and there are some certain high-risk occupational licences that require a licence. But it does not regulate the electrical stream of building work.

30 **COMMISSIONER:** So the main role is to give out - award and revoke licences to what I might call builders and related trades?

35 **MR EASTERBY:** Correct. They also run the home warranty scheme. They also investigate building defects. They have a number of other silos to the business.

**COMMISSIONER:** But the main point is the granting and revocation of licences to builders and related trades?

40 **MR EASTERBY:** For me, that's what my stream was, yes.

**COMMISSIONER:** But how big is that stream within the overall organisation?

45 **MR EASTERBY:** It's - I would argue it's the biggest stream. I think we had the most employees. It's not a very big organisation.

**COMMISSIONER:** How many total employees?

**MR EASTERBY:** Oh, QBCC, just over 200, 250. But it did grow as scope grew. So the MFR regulation came in; that grew the scope considerably. The occupational licensing came in; that grew the scope. So more staff into that  
5 licensing area.

**COMMISSIONER:** When you say 200 to 250, is that the time at which you resigned or about now?

10 **MR EASTERBY:** At the time I resigned. I have no idea today.

**COMMISSIONER:** And within that 200 to 250, how many within the licensing -

15 **MR EASTERBY:** I had about 50.

**COMMISSIONER:** 50 out of 200 to 250.

20 **MR EASTERBY:** Correct, and that's across the state, because each of the major regional centres have a QBCC office.

**COMMISSIONER:** Thank you.

25 **MR THOMAS:** And, Mr Easterby, turning to paragraph 24 of your witness statement and casting back to 2018, was there a specific reason or reasons that you were brought in to the Commission?

30 **MR EASTERBY:** There was. It was explained to me that the government had brought in an amendment to section 48 as well as section 74, but primarily for me it was section 48, because it was then the licensing end of the legislation, and that was in relation to the ability to suspend or cancel a licence based on a serious safety incident.

35 **MR THOMAS:** And as far as you're aware, before that amendment, was the QBCC actively involved in safety matters?

40 **MR EASTERBY:** The only thing I was aware of, they were receiving some notifications from Workplace Health and Safety Queensland, but nothing was being progressed or there was no system or no strategy in managing that space.

**MR THOMAS:** Yes. So this intersection between licensing and safety was new territory, in a sense?

45 **MR EASTERBY:** It was very new territory.

**MR THOMAS:** And that was one of the reasons you were brought on, to help navigate that territory. Is that -

**MR EASTERBY:** It is, and it's where my focal passion was as well.

5 **MR THOMAS:** And how did you do that, Mr Easterby? How did you develop a framework for the QBCC to deal with these - this intersection?

10 **MR EASTERBY:** I took my time looking at it and discussing with - and liaising with Workplace Health and Safety Queensland to understand the nature of communication, because there was also a new burden on the construction industry to also dual report to the QBCC. So if there was a safety incident, a serious matter, they were to inform Workplace Health and Safety Queensland as well as the QBCC. That was new for the industry.

15 I contacted CASA, because CASA had a like environment where they issue licences, and other scopes of work, but the Department of Transport Safety Bureau investigates serious incidents relating to airlines or aircraft safety, and so I was trying to understand perhaps where they had an intersection and where CASA might take a role versus the Department of Transport Safety Bureau would take a role, and looking at the scope of powers afforded by the government under the  
20 QBCC Act and regulation of what we may be able to do to regulate that space and meet the intention.

**MR THOMAS:** And looking at those other areas where there are dual regulators, did you learn anything from those areas that you -  
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**MR EASTERBY:** I did, but they had more robust legislation. We had sort of one subsection of the Act. So our legislation lacked particularity to the degree that others had particularity across their legislation in what their roles and purposes were. So it gave me some insight, but I felt we needed to shape how we were going to do it based on what provisions under the legislation were granted.  
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**MR THOMAS:** Going back to those provisions, and you've already mentioned this, but you deal with it again at paragraph 27. You describe the ability to put a condition on a licence as an alternative to suspending or cancelling a licence.  
35 Dealing first with suspending or cancelling a licence, what's the consequence to a licensee of having -

**MR EASTERBY:** First of all, if they're suspended, they can no longer trade across any site. So historically from my experience, if Workplace Health and Safety Queensland was to issue a prohibition notice to do something or a stop-work type order, it was limited to one construction site. Under the QBCC Act, if it took action on the licence, no matter what business that licensee was undertaking, would be suspended. Or, of course, if it was cancelled, then you were effectively putting them out of business.  
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**MR THOMAS:** So it's quite an extreme -

**MR EASTERBY:** Very extreme.

**MR THOMAS:** And as to putting conditions on licences or a condition on a licence, can you describe that process for the Commissioner?

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**MR EASTERBY:** Yes. So there is a provision to put conditions on licences. Now, some of it is perhaps stipulated by the Mutual Recognition Act. So when a licensee from another state wants to come up to Queensland, the Mutual Recognition Act may limit the scope of work, and because of the way the regulation is written to then limit that scope of work so we can meet the table that's presented in the Mutual Recognition Act, you would put a condition on the licence to limit the scope, because New South Wales, for instance, does not have a builder open, or didn't when I was there. I don't know today. So when a builder came up from New South Wales, they were then limited to building residential constructions.

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Then there was conditions which was more of from perhaps holding licensees to account to do certain things or do certain acts, and that scope, we had - I'm sure, if I recall correct, that we had some legal advice, whether that would extend that we would seek information or seek a licensee to do a certain thing, for instance, undertake a training course or to conduct a safety audit and furnish that audit to us so that we could be satisfied as to their safe standards of work to hold a QBCC licence.

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**MR THOMAS:** Yes. So when a condition is placed on a licence, is that public?

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**MR EASTERBY:** It is once it's placed. There are two steps. One, you need to - under procedural fairness, is to propose a condition, and they get a right of reply. And then once - if after looking at that, and then your response to the decision is then to impose the condition, that goes as a public record on the licence register.

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**MR THOMAS:** Yes.

**COMMISSIONER:** I don't understand what sort of condition that would be. What could you do as someone who's a licensor of building works do for a licence for a builder to make them build more safely?

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**MR EASTERBY:** What I put in place was we had - I was in the stage of refining what we were doing and looking through all the matters we had, as well as the normal day-to-day work, and unfortunately there was a very tragic incident in Cairns where a worker had fallen to his death. And right at that point, it was, well, where does the QBCC fit into this? It was on a university site. It was a worker. And so there were some complexities about holding the licensee to account. And so in that instance, I designed a condition for the licensee, who was an air-conditioning business, to have an independent external safety review of their safe systems of work, which then afforded us time to consider and also for

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Workplace Health and Safety Queensland to exercise their role, which was to actively investigate the matter, and they also informed me of certain things to assist me in what we went, because there were some complexities to that particular matter.

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It was from that matter we formed that it was a good process to propose a condition to a licensee where there was a serious incident reported to us, to satisfy the Commission that they had safe systems of work in place and that they had the ability to continue working and holding their licence, because they had either improved their safe systems of work post the incident, or they had safe systems of work but there was an anomaly that occurred for that incident, which fell to Workplace Health and Safety Queensland to hold that element to account.

**COMMISSIONER:** I just don't understand that. You've got a whole other apparatus of government - 800 employees I think according to Mr McKay working in - I might have the numbers wrong - working with Workplace Health and Safety Queensland whose job it is to ensure that there are safe systems of work. Sorry, the job is the occupier, that's the responsibility, and then WHSQ comes along and regulates that with a very large apparatus and has got a lot of tools in its toolbox to enable that to happen. This is no criticism of you, but what's the point of QBCC coming along and replicating all that?

**MR EASTERBY:** My understanding is that it gave rise from two serious incidents, and the first one was a tragic incident of a young worker by the surname of Garrels. I met with Mr Garrels, the father of the young worker, who had got electrocuted on a building site in regional Queensland. And that gave rise to - if the builder was to be the entity that contributed to that, that their licence should be affected in some form. So I understand that representations were made to government through WHSQ. WHSQ has a consultation arrangement with families of people who have passed away at work, with a view to looking to improvement the rigour around safety.

And then prior to it being brought in, in the end of 2017, there was the horrific tragic accident out at New Farm, where some concrete precast panels killed two workers, if my memory serves me correct, and again, that was around safe systems of work and by a licensee. So, as I understand it, it was then brought into the QBCC Act to look at it from a licensing perspective, not only from Workplace Health and Safety Queensland.

**COMMISSIONER:** That's really my question. I mean, a lot of these incidents would be breaches of the Workplace Health and Safety laws, and a lot of them would be committed by people who also held a licence under the QBCC, or some of them, at least in the construction industry. I just don't see the point - you can tell me I'm wrong - about replicating everything WHSQ does through the educative role and the - what you might call the prevention role and the prosecutorial role, adding a fourth stream, having a licensing body come and replicate it all. I just don't understand it.

**MR EASTERBY:** I didn't form the policy. I just -

5 **COMMISSIONER:** No, I just wonder. You're an expert in it and you've worked in it. It just seems to be overregulating to have two regulators dealing with the same issue.

10 **MR EASTERBY:** The only argument I would probably put to that is - and if you look at others like the National Heavy Vehicle Regulator and CASA - is that when there's an incident, but it's across a business that might have multiple sites or multiple assets, multiple aircraft, multiple trucks, and in our instance multiple building sites, it's the licensing regulator that can actually takes - appears to take a wider scope and look the entire operation and not the isolated site or matter.

15 **COMMISSIONER:** I'm not sure that's right. Why can't Workplace Health and Safety Queensland do that, look at the safe systems of work?

20 **MR EASTERBY:** I'd have - I'm - I am not aware that they have, and I haven't tested that legislation, because it wasn't under my ambit.

**COMMISSIONER:** Anyway, as you say, you're not responsible for the amendments in 2017, and you had to try and give effect to them?

25 **MR EASTERBY:** I did, and for me personally it was an opportunity to look to mature the building industry and engage with it around those topics of safety, which, you know, I relished.

30 **MR THOMAS:** So assuming there is a licence - sorry, a condition put on a licence, Mr Easterby, if the licensee complies with that condition, then what happens?

35 **MR EASTERBY:** If they meet the burden that we've put on the licence under it's been proposed, then I wouldn't invoke the condition if they can satisfy it in the time, because there's procedural fairness, an amount of time. If, though, they haven't, then once they comply with the condition, then the licence is - the condition is then lifted and we revoke that condition.

40 **MR THOMAS:** And if they don't comply with the condition, what's the consequence?

45 **MR EASTERBY:** What would happen, not that anybody - I'm not aware of anybody while I was there that didn't, but we could then escalate that to a failing - a breach of section 36 and invoke then the - suspend or cancel a licence because they've failed to meet a condition on the licence.

**MR THOMAS:** And in your view, was this practice an effective way to engage with licensees?

**MR EASTERBY:** In my view, it was a very powerful way to grab the attention of the directors and the nominee supervisor as opposed to the safety manager or a site supervisor, because typically on a building site there's a site supervisor or maybe a safety manager, and they, from my experience, typically engage with the safety regulator and do certain things to comply with notices and the like. But from my perspective, I only ever spoke to the directors of the company, if they were a company, or to the licensee if they were a sole trader, and their nominee supervisor, which is another - for a company to have a licence, they have to have a nominee supervisor. So I engaged at the highest level within the company, no matter what level company they were.

**MR THOMAS:** Commissioner, I note the time. I'm about to move on to another topic, so if that's convenient -

**COMMISSIONER:** Very well. Mr Easterby, we're going to have to ask you to come back tomorrow if that's okay.

**MR EASTERBY:** That's fine.

**COMMISSIONER:** All right. We'll adjourn till - sorry, Mr O'Grady.

**MR O'GRADY:** Commissioner, I have answers to the questions you raised this morning regarding the delegates conference.

**COMMISSIONER:** Thank you.

**MR O'GRADY:** Rule 69IA provides as follows.

**COMMISSIONER:** Of which - whose rules?

**MR O'GRADY:** These are the federal organisation. In respect of Queensland:

"The Queensland Divisional Branch Management Committee shall convene at regular intervals no less than..."

**COMMISSIONER:** Sorry -

**MR O'GRADY:**

"The Queensland Divisional Branch Management Committee shall convene at regular intervals no less often than each two years, but earlier intervals should it be deemed necessary, a divisional branch delegates' convention and consisting of delegates elected from subbranches and jobs throughout the divisional branch and also..."

**COMMISSIONER:** Subbranches and -



**MR O'GRADY:** I'm not sure about that, Commissioner, because when one goes through - and it's about page 10 or thereabouts, there's a list of all the attendees, and you will see that in respect of some of the attendees there is a reference to their employer, ie, a construction company.

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**COMMISSIONER:** So some of them might be delegates in terms of shop stewards and some of them might be delegates to the convention.

**MR O'GRADY:** Yes, and some of them are clearly marked as being officials.  
Yes.

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**COMMISSIONER:** And some who are officials who are then in effect delegates to the convention as officials?

**MR O'GRADY:** Yes. But hopefully that's made it a little bit clearer anyway, Commissioner.

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**COMMISSIONER:** Thank you, Mr O'Grady. Sorry, I should have asked, is there anything else anyone else wants to add this afternoon? No? We'll adjourn till 10 am tomorrow morning.

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**<THE HEARING ADJOURNED AT 3.32 PM**