



**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
BRISBANE MAGISTRATES COURT**

**TUESDAY, 10 FEBURARY 2026
AT 10.00 AM**

DAY 7

APPEARANCES

**Mr S Wood AM KC, Commissioner
Mr Damian Long, Witness
Mr P Wheelahan KC, Senior Counsel Assisting
Mr D Caruana, Junior Counsel Assisting
Ms A Hughes, Counsel for the CFMEU Administration
Ms F Fox, Counsel for the CFMEU Administration
Mr D de Jersey KC and Mr D Wilson, Counsel for the State of Queensland
Mr C Massy, Counsel for Michael Ravbar and William Kane Lowth
Mr D O'Brien KC, Cross River Rail Delivery Authority**

<THE HEARING COMMENCED AT 10.00 AM

COMMISSIONER: I will take appearances, Mr Wheelahan. You appear with Mr Caruana as counsel assisting?

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MR WHEELAHAN KC: Yes, Commissioner.

COMMISSIONER: And Ms Hughes, you appear with Ms Fox as counsel for the CFMEU administration?

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MS HUGHES: Yes.

COMMISSIONER: And Mr de Jersey, you are appearing with Mr Wilson for the - sorry, with Mr Wilson for the State of Queensland?

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MR De JERSEY: Yes, yes, Commissioner.

COMMISSIONER: Thank you. Mr Massy, you are appearing for Mr Ravbar and Mr Lowth?

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MR MASSY: Yes, Commissioner.

COMMISSIONER: And what about Mr O'Brien -

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MR MASSY: Mr O'Brien KC will be appearing for Cross River Rail. He is just finishing another mention. He will be here shortly.

COMMISSIONER: Thank you very much. And what about counsel for Ingham. Not here this morning? No? Okay. Very well. Mr Wheelahan, there are no applications anyone wishes to make? No. Go ahead, Mr Wheelahan.

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MR WHEELAHAN: Thank you, Commissioner. Today I will be calling Mr Damian Long. Mr Long is the CEO of the Civil Contractors Federation of Queensland, which is the peak industry body representing the civil construction industry in Queensland. He has provided the Commission with a statement which he will adopt this morning and we propose then to tender it into evidence.

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Presently, we propose to outline for the Commission in an opening the evidence we expect Mr Long to give and provide an overview of how it is anticipated that that evidence will assist you, Commissioner. In particular we note that by the terms of reference, the Commission has been asked to inquire into the use of state laws or policy that caused construction to become uncommercial. And that is at the terms of reference at clause 3A subplacitum 12.

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Further, whether any current or prior law or policy has enabled or supported the CFMEU. And that is at the terms of reference clause 3 subplacitum 1.

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In this regard, Mr Long will give evidence regarding his experience as an industry representative relating to the previous state governments gradual implementation of a procurement policy known as best practice industry conditions or hereafter referred to as BPICs.

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At this stage of the inquiry, Mr Long's evidence will be foundational as the subject matter of his evidence will be expanded upon in further hearings. BPICs were not enshrined in legislation. They formed a part of the internal policies of various government departments. They were also numerous. There was no single BPIC but, rather, a collection of BPICs developed both for specific industries such as building and transport, and specific projects, such as Gold Coast Light Rail.

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Relating to various aspects of industrial relations and working conditions on government construction sites. The BPICs themselves were not expressed in mandatory terms but contractors were required to demonstrate in their tenders for government funded projects how it was that they would implement BPICs and they were then assessed against that criteria.

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If a contractor was unable to make BPIC terms, they risked not being successful in securing lucrative government construction contracts. Key conditions included things such as minimum wages to be paid to workers which were higher than the relevant award, a minimum number of rostered days off and explicit and inflexible rules relating to inclement weather.

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BPIC conditions required contractors to notify unions in advance as to the details of subcontractors they proposed to engage and to consult with those unions. BPIC conditions did not only cover the workers employed by the contractor, there were requirements in the conditions that the principal contractor ensure any subcontractors who they engaged pay their workers and provided benefits to their workers which were equal to or better than the BPIC conditions.

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In practice, contractors - - -

COMMISSIONER: The Productivity Commission called the jump up clause, is it?

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MR WHEELAHAN: Yes. In practice, contractors complied with BPICs by entering into enterprise agreements with unions that mirrored the terms of the relevant BPIC. Counsel assisting proposed that the Commission should examine whether a consequence of the BPIC policies was to provide a foothold for the CFMEU to gain influence over state government funded projects, particularly those over which the CFMEU would not be expected to have significant coverage.

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COMMISSIONER: But they're civil projects - the sort of thing that Ms Schinnerl gave evidence about last time?

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MR WHEELAHAN: Correct. One example would be Gold Coast Light Rail, which Ms Schinnerl gave evidence initially AWU had the relevant greenfield agreement

and later John Holland entered into an agreement with the CFMEU. Mr Long's evidence supports the inquiries by the Commission into the extent to which the CFMEU influenced government decision-makers regarding the introduction of BPIC and the extent to which contractors were prevailed upon by the government to include the CFMEU as a party to enterprise agreements in circumstances where the relevant project would not be expected to involve significant CFMEU worker coverage.

And I've given the example of Gold Coast Light Rail.

Of course, as you've noted, Commissioner, the Queensland Productivity Commission's final report reported that the introduction of BPICs had a negative impact on the productivity of projects which the BPIC conditions covered. That same conclusion is touched upon in Mr Long's statement, but ultimately the economic focus of the Productivity Commission's report will be foundational to this Commission's work.

The terms of reference at clause 11 - you - I should read:

"The Commission should have regard to the Queensland Productivity Commission inquiry into construction productivity to ensure there is no duplication of the economic focus of that inquiry, noting that the final report of the Queensland Productivity Commission will be made available to the Queensland Government."

And there was a date there and it's since been provided.

So questions remain about the way in which the BPICs were allowed to proceed. Mr Long will provide a history to the introduction of BPICs. He will give evidence about the appropriateness of BPICs, the level of consultation that occurred during the introduction of the BPICs and the practical implications for contractors. The commission is likely to hear evidence of more specific project-based examples of BPICs in practice, along with more detail as to how they were implemented from other witnesses called in due course.

Mr Long appears today under a notice which compels his testimony. Nevertheless, the Commission is grateful for his assistance and the time he has taken both to prepare his statement and to come here today.

As to Mr Long, he will give evidence. He was appointed as chief executive and secretary of the Civil Contractors Federation of Queensland in March 2017. He still holds that position. He holds a Bachelor of Civil Engineering and he has a long history working in the civil construction sector, dating back to 1999. Prior to that, he worked as a builders labourer and a site manager.

In addition to his current role, he's the chairperson of QLeave and a board member of Construction Skills Queensland.

COMMISSIONER: So close to 30 years experience in the industry?

MR WHEELAHAN: Correct. He is well-credentialed and his experience stands him in good stead to assist the commission in its inquiries. The Civil Contractors Federation of Queensland is a federated organisation registered with the Fair Work
5 Commission. It has branched in all states and territories and represents 1800 contractors and associate members nationally, Mr Long has said as the chief executive of the Queensland branch.

10 A significant part of Mr Long's role as CEO is to advocate to government on behalf of the industry, drawing on the previous experience of his and the experience of members in doing so. He sits on a number of committees which meet regularly with public servants and ministers in relation to matters impacting the civil construction sector, such as government procurement on projects.

15 He will detail a number of these committees and bodies in his statement. As to the implementation of BPICs by the Department of Housing and Public Works. Mr Long will give evidence before this Commission that the first government department to implement BPICs was the Department of Housing and Public Works.

20 **COMMISSIONER:** When was that?

MR WHEELAHAN: 2018. So the Department of Housing and Public Works BPICs was developed from the former best practice principles and they had been in
25 operation since 2018. The best practice principles covered a number of topics, including work health and safety systems and standards and set a benchmark that contractors were asked to meet. And Mr Long will deal with that in his statement.

The BPICs were much more prescriptive and wide-ranging. As Mr Long will
30 explain, they essentially took the form of a template entries agreement which laid out specific employment conditions over a wide range of topics. One might ask why did the government proceed with that and that is one of the matters into which this Commission will inquire.

COMMISSIONER: I think I asked one of the witnesses last time why would you
35 have a situation where most of the regulation, all of the regulation I think the witness said, of the workers covered by these projects was federal regulation, which comprises minimum standards of conditions, award, and enterprise agreement sitting on the award underpinned by the minimum conditions of employment. Why would you put a fourth level of regulation on top in the form of an enterprise agreement
40 which most of the participants in these sort of projects already have? Is Mr King going to explain that?

MR WHEELAHAN: Mr Long.

45 **COMMISSIONER:** Mr Long, I beg your pardon. I forgot Ms King was a previous witness. Pardon me.

MR WHEELAHAN: In answer to that, it's two-fold : Firstly, Mr Long's evidence will be that the industry was recommending that these BPIC policies not be adopted but nonetheless the BPICs were rolled out by the former state government on Department of Housing and Public Works projects to start with. And that question as to why is a matter that ultimately inquiries of this Commission will seek answers to. Buttressing that, if Mr Long, in fact, sat on the Procurement Ministry Advisory Council, which was a collection of industry leaders meeting regularly with the Minister for the Department of Housing and Public Works and various public servants, to discuss the very procurement policies and related issues in that department.

That body, the Procurement Ministry Advisory Council, was initially told about the broad details of BPICs and his evidence will get into, and I will take you to some documents in opening, where a decision by ultimately the minister and the government to proceed despite the protestations or opposition of those that Mr Long represented.

Relevantly, whilst the CFMEU did not sit on a Procurement Ministry Advisory Council, Mr Long will give evidence that there were serious concerns that the CFMEU had a significant role, if not a driving hand in the implementation of BPICs. Indeed, he will give evidence that the first version of a BPIC document presented to the Procurement Ministry Advisory Council during discussions regarding the rollout of BPICs on the department was a condition, was a copy of the conditions in place for the Cairns Convention Centre project.

Mr Long will produce a copy of that document which was sent to him by a Mr Peter Lacy on a confidential basis, who is the acting executive director in the Office of the Chief Advisor of Procurement at the department. Mr Long will express the view that that document or draft BPIC was essentially in the form of an enterprise agreement. He will then give evidence about a conversation that he had with Mr Lacy where he was told that the first draft of the BPIC was modelled off the enterprise agreement previously agreed between the contractors on the Queen's Wharf project and the CFMEU.

Mr Long will explain that whilst BPIC compliance was sold to the Procurement Ministry Advisory Council as aspirational and not mandatory, in effect its terms were mandatory. And that was because there was BPIC pre-qualification requirements before a contractor could tender for projects covered by the Department of Housing and Public Works.

As part of the pre-qualification process, contractors would sign agreements that they would implement BPIC before they would tender for the work. In short, this meant that if contractors wanted the government work, they had to comply with BPIC. Mr Long will explain and give evidence that industry and those that he represented had serious concerns that CFMEU preferred contractors and subcontractors were having their pre-qualification applications fast-tracked.

As part of his evidence, he will produce an email from a Mr Andrew De Zilva, D-e-Z-i-l-v-a, Director of Building Category Management Department of Housing and Public Works. That email was to an industry group email address which asked for comments on the suitability of a number of contractors who had applied for pre-qualification. Mr Michael Ravbar was one of the representatives who was a member of the group email addresses. Mr Long will give evidence about that.

He will say that that email demonstrates to one extent or another that the government was happy to receive union feedback as to whether contractors should be included on government funded projects. As to the implement undertakings of BPICs by the Department of Transport and Main Roads, on 20 December 2020, Deanne Hawkswood, General Manager Strategic Procurement Department of Transport and Main Roads sent Mr Long a copy of a proposed draft BPIC that was to be rolled out on projects of the Department of Transport and Main Roads. This was the first time Mr Long had seen any document which proposed expanding BPICs to cover Department of Transport projects.

Whilst that document was adapted somewhat to suit transport projects, the key conditions mirrored those imposed on the Department of Housing and Public Works. I might ask to be brought on screen, please, an exhibit of Mr Long's statement, which is DCL13. This is a letter dated 11 January 2021 that Ms Rebecca Andrews of the Australian Industry Group received from Minister de Brenni at the time the Minister for Public Works and Procurement and, in substance, it details government plans to impose BPICs on certain civil transport projects.

Relevantly, if we blow up the second paragraph, Minister de Brenni advises of his pleas to advise on key components of the government's decision on these matters. And notably - I'll pause. Do you have a copy of that in front of you, Commissioner?

COMMISSIONER: I think so, yes.

MR WHEELAHAN: Under the heading, after stating about Minister de Brenni stating that the decision on these matters had been made, Best Practice Industry Conditions, bullet point one, he advises as follows:

"Government will proceed with the BPICs approach to best practice principles. Major projects procurement. BPICs will be determined on a project-by-project basis to take into account the current challenging economic circumstances. Your continued contribution to this is welcomed."

He then refers to the development of BPICs for civil construction and says further at the third point that these will apply to government-owned corporations and statutory bodies. So, again, in substance, in short, they're going to apply to government funded projects. Then if we then blow up the next subheading, the pre-qualification. And this is the hook that Mr Long refers to of, although it's aspirational, he says in substance it became mandatory for the development of a pre-qualification certification system to be able to tender for government work.

5 If we just go to the last page, you will see there above the minister's signature, he refers both to involvement in consultation to date, which will be relevant because Mr Long and the industry groups will reject that there was any - the extent of consultation that the minister purported to say there was, and the end result will be a more robust procurement system that ensures well-paid, safe, local, good-quality jobs. Put that away.

10 That was Mr De Brenni's position. Of course, time has past and a report of the Productivity Commission seems to conclude to the contrary. In respect of, certainly, the economics of that.

15 In response to that letter, Mr Long will produce correspondence, a mere 17 days later, sent to the then-Premier - - -

COMMISSIONER: I will just ask you a question about the chronology.

MR WHEELAHAN: Yes.

20 **COMMISSIONER:** You say that the original BPIC implemented in 2018 by the Department of Housing and Public Works came via an agreement that covered the building of the Cairns Convention Centre project which itself had its genesis in a CFMEU agreement that covered the construction of the Queen's Wharf project.

25 I thought I read somewhere maybe in the Productivity Commission report, that that agreement itself had an antecedent in the Victorian CFMEU pattern agreement. Am I right about that or am I not?

30 **MR WHEELAHAN:** You're incorrect about the first matter. 2018 was a reference by Mr Long to win the best practice principles were in operation in 2018 and it's from that that there's then a development of the BPICs and Mr Long's evidence and the point he was making is that the first BPIC presented to him and his conversations with a departmental person, Mr Lacy, was that it was -- was that it was essentially lifted from a CFMEU agreement.

35 **COMMISSIONER:** But I thought - sorry, you go. I thought Ms Schinnerl or Ms King said or maybe it's in the Productivity Commission that that agreement itself, for example, one of the clauses you said that's problematic is the mandatory RDOs, the 26 RDOs. I thought a witness had said that at least that part of the BPIC conditions could be traced back to the Victorian RDO calendar.

40 **MR WHEELAHAN:** Yes, it may well be another witness. So - - -

45 **COMMISSIONER:** It's not this witness?

MR WHEELAHAN: Yes. The issue with those particular terms is that they are terms such as the RDOs found in CFMEU agreements, whether that be Victoria or

Queensland. They're rostered days off particular to the CFMEU enterprise agreements, for want of a better word. Therefore it's no surprise that you might find them in a Queensland enterprise agreement and a similar form in a Victorian enterprise agreement where the CFMEU is a party.

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COMMISSIONER: Yes. Sorry, I interrupted you.

MR WHEELAHAN: Just returning, the response to Mr De Brenni's letter that I have taken you to, was a letter sent to the premier dated 28 January 2021. If I could have brought on screen exhibit DCL14(b) of Mr Long's statement. Now Commissioner, I want you to first note the various industry groups that have jointly signed onto this letter. In summary form, the letter expresses the concerns of industry with the approach set out in Minister de Brenni's letter and, in fact, and I will take you to it in a moment, notes the lack of consultation prior to the decision being made that was pronounced by Minister de Brenni.

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If I could have blown up the second paragraph:

"Dear Premier, we have each received a letter and each course being Australian Contractors Association, the AI group, the Civil Contractors Federation Queensland, the Queensland Major Contractors Association, Master Builders Queensland and Infrastructure Association of Queensland."

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They're there referencing a sample copy of the letter because they each received one. And they statute as follows:

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"The letter provides an update on proposed policy enhancements - in quotes - that have, in some cases, been under consideration by the government for a number of years. During this time, industry consultation on the changes has been sporadic and previously communicated industry concerns regarding the scope and application of changes have largely been left unaddressed."

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Again, this ties back to your question, Commissioner, as to why BPICs were proceeded with. If I can then move to the next paragraph, each of those industry groups requested assistance ensuring our serious and legitimate concerns are known and well-understood by state government as a whole. And they are summarised as follows:

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"We are concerned that the proposed policy changes will significantly increase the cost of construction in Queensland, reducing the number of projects that the state can afford to construct and therefore the number of people that can be employed. The changes will also increase the complexity and risk of doing business in Queensland, including the real and significant risk of businesses contravening federal legislation while disincentivising true innovation and best practice."

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And if I could, over the page, have blown up the third paragraph, which is the second paragraph under the subheading Dealing Specifically With Best Practice Industry

Conditions, commences, "As drafted". Each of these organisations stated as follows has drafted, the draft BPICs would impede the viability and growth of the construction industry in Queensland. The draft BPICs do not represent best practice industrial relations, nor do they reflect principles. They resemble a pattern enterprise agreement with highly restrictive and costly provisions. Contractors must retain the ability to implement enterprise agreements and work practices which reflect the needs of their enterprises. It is not appropriate for the Queensland Government to impose pattern outcomes on contractors."

10 **COMMISSIONER:** If that's true, it's a very strong statement because both sides of politics, 35 years federally and state since the 1990 recession, have broadly accepted that principle underlying those two sentences should be principles that govern the making of enterprise agreements of the type which are foundational to the engagement of a workforce on projects of this type. It seems a very big change of policy. But there might be some reason for it, I'm not sure, just at the beginning.

15 **MR WHEELAHAN:** As part of Mr Long's evidence, I won't go to it now, but there's a chain of correspondence and the relevant government minister's answers to those concerns is that they are noted, in quotes.

20 Going to the last -

COMMISSIONER: I'm sorry, there was no answer to that.

25 **MR WHEELAHAN:** Well, you will see the letter, but not a substantive traversing of the various issues, the concerns are noted but the government was determined to proceed in any in any event and one of the questions, of course, as you have just raised, is: Why?

30 If I can go to the last paragraph of that letter, just to amplify that the level of concern - no, that's not the last paragraph. The last paragraph commences:

"We request an urgent meeting."

35 And again, Commissioner, this is not just from Mr Long. As you've noted, quite powerful correspondence to the government of the day and if we go to the final page of the persons to whom the letter was sent and copied to, we can bring the last page, it's the next page. Yes, please enlarge that. The Honourable Cameron Mick, the Honourable Michael de Brenni, the Honourable Mark Bailey, the Honourable Stephen Miles, the Honourable Grace Grace.

40 So after receipt of that letter from Minister de Brenni, the Minister for Public Works and Procurement detailed government plans to impose conditions on certain civil transport projects. Mr Long was concerned and each of the industry groups were concerned and that letter was formulated.

If I can have exhibit DCL19 brought on screen, please. The background to this document, Commissioner, is Mr Long's opinion - and there will be some evidence -

5 **COMMISSIONER:** Where were we before that last letter - it was 2021, was it, and then we jumped forward a couple of years?

MR WHEELAHAN: 28 January 2021, yes.

10 **COMMISSIONER:** What are we jumping on forward a couple of years for?

MR WHEELAHAN: Yes, we're moving forward. There then was the plan to introduce BPICs on certain civil transport projects. As I said, BPICs they started in the Department of Housing and Public Works. Then there was the move to transport. Mr Long statement has many, many minutes, annexures, documents that will form part of the evidence of the Commission. We won't have time, of course, to go through all of that.

COMMISSIONER: You're just taking me to the highlights?

20 **MR WHEELAHAN:** Yes. The highlights are that Minister de Brenni had advised was going forward and Mr Long will give evidence that within the Department of Transport, senior public servants also were concerned about the implementation of BPIC and, in fact, did not support it.

25 This document, if we just enlarge the heading at least, Transport BPIC Lessons Learned Meeting Key Messages." So we've moved to 3 April 2023. So this is a document the provenance of which Mr Long has received from a Ms Hawkswood, General Manager of the Department of Transport and Main Roads. Now, Mr Long will go through this, but certainly at this point it's notable that the internal minutes show, and state as follows:

30 "BPIC is creating industrial unrest. The CFMEU is of the opinion that the Queensland Government has done a deal with them."

35 The BPIC reads like a CFMEU document and it notes that this is problematic. I can go on but the thrust of that is consistent with Mr Long's evidence that he considered that the CFMEU, given all these factors, was the driving hand behind the decision of government to implement BPICs, but that's a matter for inquiries to be made and Mr Long's evidence at this stage is foundational.

40 **COMMISSIONER:** So what, is this a leak from the department that was given to Mr Long, is that what it is?

45 **MR WHEELAHAN:** I wouldn't describe it as a leak. The opinion given by Mr Long is that the BPIC policies were rushed. They were rushed in with little evaluation or consultation and there were significant concerns that the CFMEU was the driving force behind these policies being put in place. Whilst productivity

impacts have been addressed in detail by the Productivity Commission, it's worth noting that industry, through Mr Long, also expresses the following views: BPICs have increased labour costs.

5 **COMMISSIONER:** Ms Schinnerl said that as well. In fact, she said to someone in the Department of Transport, her evidence was "What are you doing this for because you're creating a new benchmark that's above the rates you pay your own departmental staff. What are you doing it for?"

10 **MR WHEELAHAN:** Yes. And the question as put: Why? And that's a line of inquiry that the Commission will have to pursue because Mr Long's evidence will be that it was the CFMEU that was the driving force behind the BPICs being put in place. He says the BPICs have restricted the number of subcontractors available on
15 government funded projects, increasing the costs of engaging those subcontractors who were BPIC qualified and negatively impacted the ability to attract labour as workers shunned non-BPIC projects.

I should put in the opening what the Productivity Commission's final report stated on these matters in short form and this is a quote from page 421 of the report. It was
20 stated as follows:

"The net present value of the direct and indirect costs of BPICs are estimated to be between 13.1 billion and 38.6 billion."

25 **COMMISSIONER:** It's almost \$40 billion and it only started in 2018 and it stopped - the BPIC policy has been abandoned by the current government?

MR WHEELAHAN: Yes.

30 **COMMISSIONER:** So that's seven years or so?

MR WHEELAHAN: Yes. And the evidence which you heard, or Mr Long will say, is the way the BPIC policy, in practice, was adopted by contractors was through making enterprise agreements and that's referred to in Productivity Commission's
35 report that there is a time period we don't know the government introduced BPIC yet, that's a line of inquiry but a bit like a hangover. It's in force legally and there will be penalties for any contravention of enterprise agreement. I think the Productivity Commission reports that some of those agreements are likely to expire in 2027.

40 **COMMISSIONER:** Yes, I think the Productivity Commission said mid-2027, yes.

MR WHEELAHAN: Yes. The Productivity Commission went on:

"The direct cost to the community totalled between 8.2 billion being the low scenario
45 and 19.9 being the high scenario. Results from transfers between taxpayers and construction workers, productivity losses and the costs of raising funds to pay for BPICs higher project costs. The indirect costs from BPICs are likely to be large, the

Productivity Commission reported. Estimated to be between 4.9 billion and 18.8 billion. These indirect effects are mainly from housing market impacts, 2.8 billion to 10.7 billion although reductions in business investment, 1.4 billion to 5.1 billion and infrastructure delays, 0.07 billion to 2.9 billion, also makes sizeable contributions."

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And that's at page 421 of the report.

COMMISSIONER: So assume you read out the terms of reference that we are to have regard to, I can't remember the exact words but we are not to duplicate the work of the Productivity Commission and they say, or it says that the costs of the implementation of this policy were close to \$40 billion, 38 billion, I think you said. We won't inquire into the integrity of that calculation but I suppose we couldn't prevent any other party who wanted to challenge it; couldn't rule that out unless any other party challenges it. Then presumably, given our instructions, we would accept those figures as correct and then move on to ask the next question which is the one you've kept asking in your opening.

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MR WHEELAHAN: Why?

COMMISSIONER: Yes, exactly.

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MR WHEELAHAN: Clause 11 of the terms of reference, Commissioner, it is report repeating it expressly states that the Commission should have regard to the Queensland Productivity Commission inquiry into construction productivity to ensure there is no duplication of the economic focus of that inquiry. So that's correct: You can take those numbers and you don't need to relitigate or inquire into those economic factors.

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COMMISSIONER: For reasons of procedural fairness, we couldn't prevent any party represented here from trying to challenge them but unless they do, we accept them?

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MR WHEELAHAN: Correct.

COMMISSIONER: Yes.

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MR WHEELAHAN: Correct, Commissioner. Before calling Mr Long, ultimately he says in his statement that, in his opinion, BPICs have been the most damaging policy to the productivity of the construction industry and affordability of capital works in Queensland that he has come across.

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COMMISSIONER: And you said before he had almost 30 years experience. Is that 30 years experience in Queensland or in the construction industry generally?

MR WHEELAHAN: Almost 30 years in Queensland and construction. He is very well-credentialed. When I call him, Commissioner -

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COMMISSIONER: Can you just remind me what he says, he says it's the worst - what did you say?

5 **MR WHEELAHAN:** In his opinion, BPICs have been the most damaging policy to the productivity of the construction industry and affordability of capital works in Queensland that he has come across.

10 **COMMISSIONER:** And I suppose to at least, in some sense, the Productivity Commission's report is supportive of that conclusion.

15 **MR WHEELAHAN:** Well, plainly. The figures that I've just read, and for the inquiry's purposes, the reason for the opening of taking you to those letters, and obviously Mr Long's statement, is in a lot more detail. There is opposition not only from industry groups. He will then give evidence - as time goes on, there's a lack of internal support from persons working for the government and it beggars the question, or the inquiry: Why?

20 Now, Mr Long's evidence to commence that chain of inquiry is his opinion that the CFMEU was the driving hand and part of that is, he says, going back in time, the first proposed BPIC he got was essentially a CFMEU enterprise agreement. And then probably jumping on ahead, the last document I took you to of the internal minutes of government meeting, where it's acknowledged even there that there was a perception, or what was being said was that the CFMEU - I'll just get the correct wording - this is the document 3 April 2023 which was exhibit DCL-19.

25 Again noting:

30 "The BPICs were creating industrial unrest, that the CFMEU is of the opinion that the Queensland Government has done a deal with them."

35 So that's evidence that then is foundational to inquiries to then be made. And, as I said, Mr Long's evidence goes into more detail than just that, and he's well-credentialed and experienced and his evidence lays the foundation for this Commission to make inquiries as to why BPICs were proceeded with and that's squarely within the terms of reference.

With that, Commissioner, I call Mr Long.

40 **COMMISSIONER:** Thank you, Mr Wheelahan. Is Mr Long in the body of the courtroom?

<**DAMIAN LONG SWORN**

45 **COMMISSIONER:** Please have a seat, Mr Long.

MR LONG: Thank you.

COMMISSIONER: Mr Wheelahan.

MR WHEELAHAN: Thank you. Please state your full name.

5 **MR LONG:** Damian Curnick Long.

MR WHEELAHAN: And you have prepared a witness statement for the purposes of this inquiry?

10 **MR LONG:** I have.

MR WHEELAHAN: And you signed and affirmed it?

15 **MR LONG:** I have.

MR WHEELAHAN: And I want to direct you to two changes. Firstly, there's an additional covering email to DCL-20 which is an exhibit. I'll just give the witness - Associate.

20 **MR LONG:** Thank you.

MR WHEELAHAN: This is an email it has the name Christa Marlow on the top left dated 4 April 2024 to you. The printed copy has three pages. Is that the covering email you advanced that should have been as part of DCL-20?

25 **MR LONG:** That is correct.

MR WHEELAHAN: Yes. Commissioner, I'll be seeking to just tender that email on the basis of what the witness has just deposed to. The second matter -

30 **COMMISSIONER:** So we are not replacing any of the exhibits?

MR WHEELAHAN: No, this can just go in addition.

35 **COMMISSIONER:** A separate tender, very well.

MR WHEELAHAN: Yes. Paragraph 42, Mr Long, do you have that in front of you?

40 **MR LONG:** I do.

MR WHEELAHAN: In the statement, you've stated 25 January 2021 but the document is dated 28 January. So that can be amended from 25 to 28 January?

45 **MR LONG:** That can be.

MR WHEELAHAN: And then at paragraph 47, three lines from the bottom, there's just a typo transport SPIC, it should be BPIC.

MR LONG: Correct.

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MR WHEELAHAN: With those statements -

COMMISSIONER: I can't see that, sorry, in my version. Paragraph what?

10 **MR WHEELAHAN:** 47. This is a paragraph -

COMMISSIONER: Which line at paragraph 47.

MR WHEELAHAN: Third from the bottom.

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COMMISSIONER: Mu version says transport BPIC.

MR WHEELAHAN: Your version says BPIC.

20 **MR LONG:** Mine's got BPIC.

MR WHEELAHAN: All right. We don't need to make that change then. Is the contain of the statement true and correct in every particular?

25 **MR LONG:** Yes, it is.

MR WHEELAHAN: And you adopt that statement and the exhibits thereto?

MR LONG: Yes.

30

MR WHEELAHAN: As your evidence to this Commission. I seek to tender that, Commissioner.

COMMISSIONER: How many annexures are there to Mr Long's -

35

MR WHEELAHAN: 30.

COMMISSIONER: Are there any objections to the tender of Mr Long's statement as amended in paragraph 42, together with the 30 annexures?

40

UNIDENTIFIED SPEAKER: No.

COMMISSIONER: No objection. Very well, the statement of - witness statement of Damian Curnick Long dated 5 February 2026, 92 paragraphs, 40 pages, together with 30 annexures thereto as amended in the witness box this morning will be exhibit - what am I marking this as exhibit. Is it DL-1?

45

MR WHEELAHAN: I'll ask your associate. Yes.

**<EXHIBIT DL-1, WITNESS STATEMENT OF DAMIAN CURNICK LONG
DATED 5 FEBRUARY 2026**

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COMMISSIONER: All right, and you want to tender the document you showed to the witness, which is an email of 4 April 2024; is that right?

10 **MR WHEELAHAN:** The description I have - email from the Department of Transport and Main Roads to Damian Long attaching the Transport BPIC update presentation and transport BPIC.

15 **COMMISSIONER:** I don't have the attachment as part of the document which I have in front of me, which is to be tendered. Only the email which runs to some three pages of 4 April 2024 and contains, as part of the email chain, an email of 2 April 2024. Is it just the email chain or do you want to -

20 **MR WHEELAHAN:** So the email chain was admitted from the exhibit DL-2 to Mr Long's statement.

COMMISSIONER: DL or DCL?

MR WHEELAHAN: DCL-20.

25 **COMMISSIONER:** Right so what are we tendering, just the email?

MR WHEELAHAN: It's just an additional covering email so we could call it DCL-20A.

30 **COMMISSIONER:** I just want to know, the email has got two attachments.

MR WHEELAHAN: Yes.

35 **COMMISSIONER:** Are we tendering the two attachments and the email chain.

MR WHEELAHAN: Just the email chain.

40 **COMMISSIONER:** Very well. Are there any objections to the tender of the email chain dated 4 April 2024 from - my version says who - it's blocked out as to who it is from. How do I describe who it is from?

MR WHEELAHAN: Sharon Pollock. You will see at the bottom of the first page.

45 **COMMISSIONER:** I see, yes, thank you.

MR WHEELAHAN: On behalf of Deanne Hawkswood.

COMMISSIONER: Thank you. Email from Sharon Pollock on behalf of Deanne Hawkswood dated 4 April 2024 at 12.48 pm. Is there any objection to the tender of that email chain? That will be exhibit DL-2.

5 **<EXHIBIT DL-2 EMAIL FROM SHARON POLLOCK ON BEHALF OF DEANNE HAWKSWOOD DATED 4 APRIL 2024 AT 12.48 PM**

MR WHEELAHAN: Sorry to do this, Commissioner, but the DCL is how the exhibits in the statement are marked, as opposed to DL.

10

COMMISSIONER: That's why I called it, well, not why I called it, why it's been called DL because there's two exhibits that have been received. The first exhibit DL-1 is a statement which itself has 30 annexures. DCL-1 through to DCL-30.

15 **MR WHEELAHAN:** Thank you. Mr Long, the opening you just heard is not evidence so I'm going to have you revisit and give your evidence. What is the current position that you hold?

20 **MR LONG:** So I'm the Chief Executive Officer of the Civil Contractors Federation Queensland.

MR WHEELAHAN: And is that a branch.

25 **MR LONG:** Yeah, so that's a branch of the Civil Contractors Federation, the Civil Contractors Federation is a federated body. It's registered under Fair Work. We're the only organisation that is registered under Fair Work to represent the civil construction industry in Australia.

30 **MR WHEELAHAN:** And when were you appointed to that role?

MR LONG: I was appointed in 2017.

35 **MR WHEELAHAN:** And you've been authorised by the Civil Contractors Federation to make an affidavit on their behalf for this inquiry?

MR LONG: That's correct.

MR WHEELAHAN: Now, you also hold some other appointments.

40 **MR LONG:** Yes.

MR WHEELAHAN: Can you take the Commissioner through the other appointments that you hold.

45 **MR LONG:** Yes. So I've been a board member of QLeave. QLeave is the body that looks after the portable long service scheme in Queensland for the building construction workers; and last year, I was appointed the chair of that organisation. So

the building construction industry portion of the portable long service scheme. I also have been a board -

MR WHEELAHAN: Sorry, could you just -

5

MR LONG: Pardon me.

MR WHEELAHAN: Could you slow down and project your voice a bit.

10 **MR LONG:** Okay. I've also been a board member of Construction Skills
Queensland for a similar period of time, since about 2016, I recall. I also chair the
Finance Committee for Construction Skills Queensland. Prior to that - I also hold
a graduate certificate from the Australian Institute of Company Directors. I hold
15 other qualifications, such as practical qualifications. I've got an industry white card,
I'm qualified in CPR and first aid, also I confined space and a range of other things.
Prior to that, I also was - whilst it's not my evidence I was a licensed scaffolder and
also a dogman prior to becoming an engineer.

20 **MR WHEELAHAN:** All right. I might have brought on screen, because you've
heard in the opening that I've put you as a very well-credentialled witness. If I could
have on screen DCL-1. It might have been to be enlarged a little but I think for the
purposes of the Commission, given his questions about your 30 years, we might start
at the last page of your curriculum vitae and if you can take the Commissioner
25 through your extensive experience.

30 **MR LONG:** Well, okay. So those particular points that are on the screen at the
moment, that was prior to me recommencing my engineering degree. So I actually
spent a time over in UK and Canada for a period of two years. In Canada I worked in
reforestation, the UK hospitality and I also worked at Petrol and Refineries Australia.
That was the Mobil Esso refinery in Altona, Victoria as a maintenance cost
35 controller. So that exposed me to the maintenance side of refineries construction.

MR WHEELAHAN: What year are we talking here?

35 **MR LONG:** This is back from the start of around about 1982 through to about
1985-ish.

MR WHEELAHAN: Okay. We can move up the page, please and enlarge - yes.

40 **MR LONG:** Yeah, so, on my return from overseas I gained employment with
a company called Hooker Cockram. Again, that is as a builder's labourer and in those
days we had to self-educate, which I did, gaining qualifications in scaffolding and
dogman. Also after Hooker Cockram I went into a company called Eaglehawk
Excavations. There I worked as a plant operator to start with and then moved into
45 site management and also got my first experience in tendering. The type of
equipment I operated that time was backhoes, track excavators, trucks and also I do

have a heavy combination driver's licence as well. So driving trucks was part of my role in that time as well.

MR WHEELAHAN: And you're an undergraduate site engineer.

5

MR LONG: I was. So part of doing my degree I had to do work experience. That was with Trans Field IBR joint venture on Melbourne Citylink, and during that project, I actually completed my engineering degree whilst I was issued my graduation in 2000; my actual studies completed in 1999. From that point on, I applied for a number of positions and was given a job as the western's division -

10

MR WHEELAHAN: We'll just scroll up a little bit.

MR LONG: Yes.

15

MR WHEELAHAN: Thank you.

MR LONG: Divisional manager of Victoria, so my responsibility was the western division effectively from the western suburbs of Victoria - of Melbourne and out for a company called Standard Roads Construction Proprietary Limited. And, effectively, I was doing - it was management of a division that built small subdivisions. We did local government civil works and some VicRoads infrastructure as well.

20

MR WHEELAHAN: That was '99 to 2002.

25

MR O'GRADY: 2002. Now, Fulton Hogan had bought Standard Roads Constructions whilst I was there. It became briefly the Fulton Hogan Group before being renamed to Fulton Hogan again. And Fulton Hogan transferred me up to Queensland, this is in August 2002 where I managed the Queensland general construction division here in Queensland. And that was purely a management role looking after the growth of the organisation with overall responsibility of the delivery of projects. While I had staff under me, we were fairly small to start with and it was a fairly hands-on role but we started to grow that.

30

35

MR WHEELAHAN: You noted there that the clients included the Department of -

MR LONG: Yes, so we did Transport and Main Roads, local government, private developers, builders, and NGOs as well, so non-government organisations. We pretty much did any client that provided an opportunity within the civil construction industry, we targeted them and that was a very select part of the type of the clients we had.

40

MR WHEELAHAN: If we can scroll to the next subheading, please.

45

MR LONG: Yeah, so whilst I was working for Fulton Hogan, I was acquired, if you like, certainly I was approached to - by the director of Winslow Constructors in

Melbourne, to look at purchasing a company in Queensland. And I was part of the due diligence team that bought a company called Civil Contractors Australia Pty Ltd, and Civil Plant Hire being one of those companies. It was a larger - local south-east Queensland company. It performed earthworks, drainage, pavements and other miscellaneous construction. I assumed the role of general manager of that organisation or the two companies on the sale of that company and I worked for there approximately eight years. We grew that company from, in its leadership from 30 million to 78 million turnover a year and we had quite a large plant fleet that we grew during that period.

Once again, the type of clients there, we did do work for Transport and Main Roads. We did a lot of work regionally for private developers, we did work for local government and water authorities. And, once again, our clients were fairly eclectic and if they were in the civil construction industries we saw them as an opportunity.

MR WHEELAHAN: All right. We will move to the next.

MR LONG: So Queensland Infrastructure, whilst it was part of the group, as we were growing the organisation, briefly I was given the role to look after the Winslow Infrastructure portfolio. It was headed in Melbourne but I was in Queensland. So it was an additional role what I was doing, effectively the same role with another opportunity underneath me and that was to look at growing that infrastructure division broader than Victoria.

And I had that full responsibility of the business management, so setting budgets, capex purchasing, cash flow management, managing all the commercial issues, all the insurance and negotiations, and negotiating industrial agreements. I did that with Standard Roads as well. Legal claims, human resource management, we developed our management systems, company IT, other operational systems, controls and reports and estimating was a very big part of the role.

MR WHEELAHAN: Okay, we'll move to the next part, please.

MR LONG: Yes, so after I left [\[\[text to be inserted\]\]](#)

You heard the Commissioner's inquiry how it is you came to be in possession of that.

MR LONG: At this stage, so this is back in early 2023, the document is dated 3 April 2023, there was enormous amount of discussions we were having with the Department of Transport and Main Roads around the impacts of BPICs on the procurement process and particularly the workings and the cost of projects. It wasn't just that. We were getting a lot of unrest on, industrial unrest on the projects. There was a lot of direction that was - we felt was contrary to the Fair Work laws, the federal laws at that time.

MR WHEELAHAN: Which projects are you talking about there --

COMMISSIONER: Which projects are you talking about there that you had industrial unrest on?

5 **MR LONG:** Well, there was, in those days, it would have been Centenary Bridge project was starting to ramp up. Certainly Cross River Rail was a problem. We had exit 41 from memory, one of the exits on the Pacific Motorway. So just the general unrest was starting to lift. Transport and Main Roads were having discussions with me around that and decided that they wanted to do a bit of a soul searching or fact-gathering session independent of industry and they decided they were going to
10 interview the contractors involved on BPIC jobs. So they wanted to do it in a confidential setting, in person, away from the department, and I do believe that they actually, I'm not too sure if, whether they did it whether they visited at their offices, that would be confirmed.

15 **MR WHEELAHAN:** I might just stop you there. You do say that the document was prepared by the Department of Transport and Main Roads for the purpose of formulating strategy to brief back to the Minister.

20 **MR LONG:** Correct.

MR WHEELAHAN: Of the impacts.

25 **MR LONG:** Correct. So, Transport and Main Roads if you allow me to go back in history a bit. When the policy was first dictated by the Department of Housing and Public Works -

COMMISSIONER: This is 2018 you are now going back to?

30 **MR LONG:** Yes. They did it through the procurement policy. So the agencies had to comply with the state procurement policy. The Transport and Main Roads effectively followed that direction without question and as time went on, it became quite clear to me and others that Transport and Main Roads were starting to understand what this policy meant. They had already seen the cost impacts on projects because as these jobs are being tendered, their internal budgets and the initial contractors' submissions
35 were a lot lower than the BPIC submissions that they were receiving.

They were confiding in me then there was a lot of pressure being put on by the ministerial departments and -

40 **COMMISSIONER:** I didn't understand what you said then. You said they were a lot lower than the BPIC submissions. What did you mean by that?

45 **MR LONG:** Okay, so when they were procuring the projects, they were effectively giving the contractors the opportunity to give two prices. One was a price without BPIC and one was a price with BPIC. So they had very great visibility and transparency over the impact of BPIC.

COMMISSIONER: And "they" is the Department of Transport.

MR LONG: The Department of Transport and Main Roads. And I hazard to say that worried them significantly. I was also being fed information -

5

COMMISSIONER: Why would you do that, that seems strange. Why wouldn't you ask for the cheapest price at the quality that you - that you have described in tender?

MR LONG: I don't know why they did that. Whether it was for their own budgeting purposes to apportion that part to the - to BPIC. I don't know. We had advised them to do exactly that. The market knows what we have to price, allow them to price and get the cheapest price but they didn't do that.

10
15
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Yeah, so, the department at that stage too was confiding in me that they were in meetings where there was members of the CFMEU present. They said that the meetings were unprofessional, there was a lot of foul language and interference in the work that they did. At that stage then we found some solidarity with Transport and Main Roads around the issues and whilst we were lobbying the ministers. As you saw we lobbied the premier, the deputy premier, the Minister for Housing and Public Works and also the Minister for Transport and Main Roads at the time. They needed to demonstrate some sort of impartiality of that information. And it was conveyed that this is the process they were going to use. They were going to interview and understand the impacts of BPIC.

25
Whilst they were in the process, we had our members confide in me that they had the interview and they were giving me briefings around the information they gave anyway which lined up with the document provided. I had quizzed the department and it wasn't - it really wasn't a secret, they were quite open.

30
COMMISSIONER: When you say open, Mr Wheelahan said you had 1800 members nationally.

MR LONG: Yeah.

35
COMMISSIONER: So how many members are you talking about there where you say -

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45
MR LONG: This is only the companies involved with BPIC projects so we're talking maybe half a dozen, I would suggest, maybe a few more. Remember, BPIC at this stage was aimed at projects over 100 million or any other project as declared by the Minister. So I think the lowest value project was around about 50 million that was declared as a BPIC project. The rest of them were certainly 100 million plus so that limited the size of the contractor that would be involved with BPIC. They didn't go through the supply chain at all; they went to the head contractors. So whilst BPIC would be applied at the head contractor level, there was the requirement to flow it down through the contracting chain. So subcontractors would need to comply with that BPIC as well and that's the terms, conditions and wages as well.

So, yeah, so that document was used to brief up. It was - once it was distilled, it was sent to me for my information only to - I think, really, to demonstrate a bit of solidity to show the information we were providing aligned with the information they got.

5

COMMISSIONER: You will have to explain, you are using "they" a lot, it's just hard to follow.

10 **MR LONG:** Sorry, yeah, Department of Transport and Main Roads, the alignment of the messaging between we as Civil Contractors Federation were conveying to government and what the Department of Transport and Main Roads were able to garnish independently talking to the members, so effectively a parallel process. The information that they gained aligned with the information that civil contractors provided.

15

COMMISSIONER: And "they" is the Department of Transport and Main Roads.

MR LONG: Yes. The Department of Transport and Main Roads.

20 **MR WHEELAHAN:** If you turn to the document on the screen, I think the heading says that about the source of information and your point is it's not just your association.

25

MR LONG: No.

MR WHEELAHAN: What we heard - so what we heard, the evidence you're giving is it's not only your association but others.

30 **MR LONG:** Others.

MR WHEELAHAN: Which would be?

35 **MR LONG:** So this is, this document has come from Transport and Main Roads, so they heard this directly from the contractors but the other associations being in those days AIG, Australian Industry Group, Queensland Major Contractors Association, the Australian Contractors Association, Master Builders, were the main drivers and the information that that group was providing back to Transport and Main Roads mainly the Civil Contractors Federation and the Queensland Major Contractors Federation because we were the pointy end of engagement with that department.

40

45 The other associations had engagement but probably I would say not to the extent as us because the Department of Transport and Main Roads is our key client for the people we represent. So, yeah, so the alignment of these, the key messages, in this document, aligned with the collective message from the groups but particularly led by Civil Contractors Federation.

MR WHEELAHAN: We look at some of those messages that come from you, what's recorded, you'll see the first one BPIC has is creating industrial unrest.

MR LONG: Yes.

5

MR WHEELAHAN: What do you say about that?

MR LONG: The unrest comes from - what drove that was really there was a number of things, the main motivation, I would suggest, would be the demarcation issue. The AWU is - has the majority coverage for our industry. Any enterprise agreement would normally, if it was a union agreement.

10

COMMISSIONER: By saying "our industry" you mean the civil construction industry.

15

MR LONG: The civil construction industry. Yes, Commissioner. So, yeah, the AWU would have, is the main union and has the industrial coverage of the civil construction industry. The CFMEU were trying to get coverage over the civil construction industry. And there was a lot of angst on-site. So the CFMEU was using right of entry provisions and multiple, in fact, multiple per day, multiple per week, multiple per month, to gain access onsite. There was instructions from the members in the early days of the Department of Transport and Main Roads to show that our contractors were making efforts to negotiate with the CFMEU.

20

25 They didn't want to do that.

COMMISSIONER: Who's the "they" there?

MR LONG: Sorry, the - our contractors being the civil contractors did not want to negotiate with the CFMEU but if they were going to negotiate with a union it would be the AWU.

30

COMMISSIONER: Why was that?

35 **MR LONG:** Pardon me, Commissioner?

COMMISSIONER: Why did they prefer to the AWU rather than the CFMEU?

MR LONG: The AWU - if you went under the Fair Work legislation a lot of these project agreements would have been greenfields agreements. The Fair Work Act outlines that for a greenfields agreement, whilst there's no workforce, the organisation, the company, must negotiate with the union, that has the majority coverage of those employees. And the eligibility requirements under the AWU slows coverage of the civil construction industry.

45

You know, there's arguments around certain trades within that industry but we would always consider negotiating with the AWU and wouldn't consider the CFMEU as a party to our agreements.

5 **COMMISSIONER:** And the "we" you are talking about.

MR LONG: The civil construction industry.

10 **COMMISSIONER:** And are you saying that because it was a legal mandate to negotiate with the AWU because of their extended coverage in the civil construction space or because of a preference?

15 **MR LONG:** No, it was a legal mandate and history, it's always been that way for as long as I've been in the industry, and it was the accepted union. So the civil construction industry, there will be pockets that prove they were wrong but that would be a preference rather than a requirement. If you just look at the - and I'm not a lawyer so there was plenty of people more skilled than me that can challenge this issue, but the Fair Work Act is pretty clear around coverage, particularly with greenfields agreements.

20 Having said that too if it was a union agreement where a union was brought in as a bargaining agent under the laws at the time because the federal laws have changed slightly since then there's been some amendments, the employees of civil contractors would normally be members of the AWU and would choose them as their bargaining agent, and those negotiations would take place at an enterprise level. I hope that answers the question.

25 **MR WHEELAHAN:** Following on from that, you will see on screen with the lessons learned, one of the matters there stated is that the CFMEU is of the opinion that the Queensland Government has done a deal with them.

MR LONG: Yes.

30 **MR WHEELAHAN:** What's the provenance or the facts that were reported to the department from your organisation for them to note that conclusion.

35 **MR LONG:** Well, they're saying - the same contractors, the civil contractors that were provided this information provided the same information to me, our organisation, the Civil Contractors Federation, that members of the CFMEU were communicating that to the civil contractors. In fact, they -

40 **COMMISSIONER:** You say members of the CFMEU, do you mean officials or do you mean the lower -

45 **MR LONG:** Yeah, officials. Yes.

COMMISSIONER: Officials.

MR LONG: Yeah, whether they were organisers or higher, I don't have that information but they would have collectively used the term "CFMEU" to include any associated person with the CFMEU.

5

MR WHEELAHAN: So would you agree with the notation made by this internal government department or note that they were being told that the CFMEU was effect - in substance, of the opinion and stating that the Queensland Government had done a deal with them?

10

MR LONG: Yes, that was very clear and that was coming from a number of sources. So the actions that were being communicated to me by members of the Department of Main Roads regarding CFMEU officials engaged in contractual meetings around projects, that was at the absence of any other union and highly inappropriate to have anyone else bar the department in those negotiations. And reports from civil contractors to myself and also other industry bodies of CFMEU officials stating that words to the effect of "It doesn't matter what the cost to the project is you're going to get paid for it anyway, we've done a deal with the government. You will have an agreement with us and that's just the way it's going to work."

20

I'm paraphrasing a lot of conversations but it aligned with the Department of Transport and Main Roads, their information aligned with the information that I'd been receiving independently.

25

MR WHEELAHAN: So this document, of course it's not setting out the conversations, it's a conclusion of what they've been told and you've given an example -

30

MR LONG: Yes.

MR WHEELAHAN: - of what -

MR LONG: That's correct.

35

MR WHEELAHAN: - had been reported to the department.

COMMISSIONER: Sorry, just explain to me what you said before, that the CFMEU was involved in negotiations with the department. I didn't follow your evidence on that point.

40

MR LONG: Yes, whilst I was not privy to those meetings, it was conveyed to me by members of the Transport and Main Roads and also contractors who were negotiating BPIC projects that members of the CFMEU were a party to those negotiations. And specifically around ensuring that contractors had the agreements with the CFMEU and I would suggest making sure that their workforce was also aligned - became members of the CFMEU.

45

The details of those conversations you would need to talk to the contractors directly to get it, but that was - that was definitely passed on to me by contractors and also departmental staff of the Department of Transport and Main Roads.

5

COMMISSIONER: I think you said that it was inappropriate or words to that effect. Why is it inappropriate or whatever word you used?

10 **MR LONG:** That's - if I'm submitting a tender, it's a commercial negotiation between me and my client and those commercial arrangements should be not interfered with by any third party. But that was exactly what it was. So there was no - I think it's unprofessional, it's, you know, it breaches all levels of probity. Ethical standards and behaviours. Confidentiality, you know, it's a whole range of things in a commercial arrangement that you only want to discuss between your
15 client and your client's representative, they may have legal representation through those negotiations but not a third party as such as a union or anyone else for that matter.

20 **COMMISSIONER:** Was it ever explained to you directly or via your members as to why the CFMEU and not any other union was involved in had these things you call negotiations?

25 **MR LONG:** Not directly in those terms. So it was a culmination of a number of conversations to draw conclusions. The - through our discussions with the Department of Transport and Main Roads, we naturally were saying that if we were wanting to - if we had to comply with the BPIC or the procurement policy that set out the BPIC, we would want to engage with the AWU and not the CFMEU.

30 Our contractors were being told at that stage that they needed to make a genuine effort to engage with the CFMEU. There was never an opportunity to engage with any other union. That coupled with, and it was raised in the summary, coupled with the EA that was provided to me which was only named the CFMEU and that was, if you like, the foundation document for BPIC. That being told to me that it was part of the Multiplex CFMEU agreement for Queen's Wharf. I independently checked that,
35 you can download the enterprise agreements off the Fair Work Commission website. And I did do that and it was within 99 per cent of that document, word for word, the same and the wages in that were exactly the same to the cent.

40 So the BPIC document that we were to use and the enterprise agreement for Queen's Wharf between Multiplex and the CFMEU.

COMMISSIONER: Going back now to 2018.

45 **MR LONG:** Yeah, going back to 2018. So what I'm saying, Commissioner, is that all these things coupled and with the conversations there was never a discussion of any other union. It was only the union that was raised were the CFMEU and our contractors were being instructed to make efforts to negotiate with the CFMEU.

COMMISSIONER: Was it ever explained to you, directly or indirectly, why the contractors were instructed to make efforts only with the CFMEU?

5 **MR LONG:** Yeah. It was certain members of the Transport and Main Roads had conveyed to me was a ministerial direction to negotiate with the CFMEU.

COMMISSIONER: And which minister are you talking about here?

10 **MR LONG:** In that days, it was the Director-General at the time, Neil Scales, one of the Deputy Director-Generals, Mandy Yates, they had conveyed to me that the ministers had instructed them that they needed to make sure contractors would engage with CFMEU.

15 **COMMISSIONER:** Sorry, you just moved from a ministerial direction to ministers.

MR LONG: Yep.

COMMISSIONER: Who are you talking about here?

20

MR LONG: It would have been Minister Mark Bailey at the time through to the Director-General, Transport and Main Roads, Neil Scales and his Deputy Director-General Amanda Yates.

25 **COMMISSIONER:** Have you now moved back to 2021 in the timing?

MR LONG: Yes.

30 **MR WHEELAHAN:** So, in substance, the evidence you've just given, again is that your view was that the driving hand as to why was - it was the CFMEU and you've just said that there's evidence that ministers and government departments were instructing contractors to go and make deals with the CFMEU; is that right?

MR LONG: That's correct.

35

COMMISSIONER: I don't think you said "make a genuine effort", if I understood the witness' evidence.

MR WHEELAHAN: What's your evidence?

40

MR LONG: Pardon me?

MR WHEELAHAN: What is your evidence, is it to make efforts or to go and make deals?

45

MR LONG: Look, the instructions was to make effort. Now that was a Transport and Main Roads - I'd suggest that's a watered down version. If they could

demonstrate that they made genuine effort to negotiate and the negotiations were unsuccessful, Transport and Main Roads would accept that as an attempt. I - I think the, you know, the Transport and Main Roads at that stage now was realising that this was bad policy. They had to comply with and were trying to engineer the softest landing for that policy and that's in the civil construction sector.

MR WHEELAHAN: I think the question was to make efforts, was it - the Commissioner was really asking was it to make efforts to get an agreement with the CFMEU or just to make an effort to make an agreement that reflected BPIC?

MR LONG: No, to get an agreement with the CFMEU.

MR WHEELAHAN: All right.

MR LONG: And I can give an example as well. So Fulton Hogan on Light Rail 3A was instructed to do that. They met with Jade Ingham at our offices for that specific purposes.

COMMISSIONER: Sorry what was the project?

MR WHEELAHAN: Can you just go a bit slower.

MR LONG: It was Gold Coast Faster Rail, I believe.

MR WHEELAHAN: Light Rail or Faster -

MR LONG: Faster Rail, Gold Coast Faster Rail.

MR WHEELAHAN: Just go back, Mr Ingham, what did you say?

MR LONG: So Fulton Hogan were required, were directed I should say, to make - demonstrate they made effort to negotiate with the CFMEU. Fulton Hogan for whatever reason, maybe they thought it was a neutral place, I don't know why they selected our offices but being a member they're quite entitled to use our facilities. They met with Jade Ingham and one other at our offices to attempt to make an agreement. So that's an industrial agreement with the CFMEU. Consequently Fulton Hogan did not make that agreement. They could not agree terms. They took that back to Transport and Main Roads, demonstrated an attempt but no completion.

MR WHEELAHAN: Okay. If I can go back to clarify, when you said "were directed".

MR LONG: Yes.

MR WHEELAHAN: The Commissioner has asked you again, with "they" if you can give evidence about who it is (crosstalk).

MR LONG: So Fulton Hogan had conveyed to me that they were directed by Transport and Main Roads.

MR WHEELAHAN: Okay. That's the department. Have you got a person's name?

5

MR LONG: No. Look, I don't. It could have been a number of people, whether it was the deputy Director-General or the project manager on that project. I would suggest that it would be at a high level, particularly at the director - deputy Director-General level.

10

MR WHEELAHAN: Still on that document then, there's reference there, of course, to the conduct behaviour of unions being atrocious and unacceptable and fears for contractors staff's mental health. Is that something that you relayed to the Department of Transport and Main Roads.

15

MR LONG: Absolutely.

MR WHEELAHAN: And what was that in reference to?

20

MR LONG: The CFMEU's continual attempts under the right of entry provisions. The process was far from professional. It was multiple times, and arguably under false pretences, so they were trying to make entry under the workplace health and safety and whilst contractors tried to comply when it's continually being belted into contractors on construction suits over and over again, for reasons that they couldn't comprehend, and the reported abuse and behaviour, so swearing, threats of violence, that type of thing that is being widely reported, we were getting reports of the mental wellbeing being decreased of staff onsite.

25

We had a concern because the new provisions for managing psychosocial risks onsite laid with the business owner. We raised that as an issue with government because it was government's policy that we believed was creating this environment and we needed to make sure that our contractor organisations were able to manage the psychosocial risks with the employees. And it was very - we never got to a solution on that. It just didn't happen and, in fact, I think the only time we saw a change is after the CFMEU was put into administration and the frequency and the behaviour decreased, and the pressure was put off those people.

30

35

But we were pleading with the government how do we comply with our obligations under the workplace health and safety provisions for psychosocial hazards when we've got people are being abused on a daily basis ? And it was - and that's what that - that was the conduct and behaviour when we said it was unions was atrocious and unacceptable views of contractor staff. Mental health exactly draws a line to that.

40

45

MR WHEELAHAN: And it appears in this internal document on the second page under the heading Actions for Industry that that seems to be consistent -

MR LONG: Yes.

MR WHEELAHAN: With the very matters that you've just given evidence about.

5 **MR LONG:** Yes, and we did. There was a lot of moving parts around 2023 and we
being the registered organisation, took a strong view that any breaches of the Fair
Work Act or the Fair Work Commission requirements, if they were legal industrial
action that that should be reported directly to the Commission. We did have
10 discussions with the Fair Work Commission at the time and as the, over the next sort
of 12 months we set up a direct line of communication between ourselves - we
became more of a referral agent if you like. So as the complaints came to us we
referred them straight to the Commission. So the Fair Work Commission could
gather all this information.

15 Whilst it didn't really change the status quo, you know, as you said, the statute quo
when the CFMEU was put into administration and we saw some really positive
results. Up until that point whilst we were reporting we did not get any relief and saw
no change.

20 **MR WHEELAHAN:** So the heading above that, which seems to be consistent with
your thesis of this being a CFMEU pattern agreement converted to a BPIC, is that
a fair summary?

MR LONG: Yes.

25 **MR WHEELAHAN:** And here, of course, we're in April 2023 and the department
at the second dot point amended the BPIC to be more union agnostic. Can you
explain?

30 **MR LONG:** Well, the document itself, not only did it originally name the CFMEU
as the union that was party to the agreement.

COMMISSIONER: Which document are you talking about here?

35 **MR LONG:** Pardon me, Commissioner?

COMMISSIONER: You said "the document"; which document are you talking
about?

40 **MR LONG:** The BPIC, the transport BPIC so the original tropic BPIC had the
CFMEU as a named party to that agreement.

MR WHEELAHAN: I might just pause there. There are many, many BPICs.

45 **MR LONG:** Yes.

MR WHEELAHAN: And you've already given evidence, you know, negotiations/directions for agreements to be made with the CFMEU; correct?

MR LONG: Yes.

5

MR WHEELAHAN: That replicate BPIC conditions; correct?

MR LONG: Yes.

10 **MR WHEELAHAN:** And there were no such directions, for example, to go from ministers or departments, and I'm asking this question, to go and make an agreement for example with the Australian Workers Union.

MR LONG: No, at that stage there wasn't.

15

MR WHEELAHAN: There wasn't, okay. So by this point your evidence and in your statement, and you've heard me summarise it in the opening, that these BPICs that seemed to replicate CFMEU pattern agreements, correct?

20 **MR LONG:** Yes, correct.

MR WHEELAHAN: And you give some evidence about specific clauses such as inclement weather and RDOs and -

25 **MR LONG:** Correct.

MR WHEELAHAN: - the CFMEU, in fact, being named in some of the very early templates provided to you as part of the consultation; correct.

30 **MR LONG:** Correct.

MR WHEELAHAN: And then fast forward to 2023, by this stage the effects of BPIC, if we go to the previous page, are already noted, such as albeit dot point 3, a perception that BPIC has reset on the cost of labour. Now, that, am I correct, is
35 a result of feedback that you were given and indeed, of course, we now have the Productivity Commission report that -

MR LONG: Correct.

40 **MR WHEELAHAN:** - sets out quite a significant reset. Would you agree with that?

MR LONG: Correct. I can talk to the reset, the cost of labour.

MR WHEELAHAN: Yes.

45

COMMISSIONER: I just wonder whether we might be able to go at some point go back to where all this started. You might be coming to that.

MR WHEELAHAN: No, we can do that now.

COMMISSIONER: It's really up to you, it would be easier for me to follow.

5

MR WHEELAHAN: Yes, certainly.

COMMISSIONER: If we could start at the start.

10 **MR WHEELAHAN:** So Mr Long, at 12 of your statement, you refer to the industry liaison groups and this is where things start between, from 2018, a development from best practice principles to BPICs; correct?

MR LONG: Correct.

15

MR WHEELAHAN: And if you take the Commissioner through that process, because you were on the Procurement Industry Advisory Group.

MR LONG: Yes.

20

MR WHEELAHAN: Which was set up under the Department of Energy and Public Works.

25 **MR LONG:** And I'll use those two departments interchangeably because they were just a restructure, a portfolio restructure along the line of successive Labor governments changing to the Department of Energy and Public Works to the Department of Housing - sorry, from the Department of Energy and Public Works, Minister de Brenni was still the minister for those portfolios. He was - and under those departments, the state procurement policy resides.

30

COMMISSIONER: The statement says the opposite. It says the Department of Energy and Public Works subsequently became the Department of Housing and Public Works.

35 **MR O'GRADY:** Actually, that will need to be amended. I think it was the other way around.

COMMISSIONER: That's wrong?

40 **MR LONG:** We can check that. It was Public Works first and Energy second.

COMMISSIONER: I want to know what your evidence is, is that statement right or wrong? We don't know.

45 **MR LONG:** I don't know, I would have to get that check.

COMMISSIONER: We can do that after lunch.

MR LONG: Regardless though, the Department's framework and responsibilities regardless of -

5 **MR WHEELAHAN:** Maybe I'll summarise a part of this and see if you agree, because ultimately at 19 we get to what the Commission is interested in, is the first government department to consider implementation of BPICs.

MR LONG: Yes.

10

MR WHEELAHAN: So the purpose of your background is that you are on various liaison groups, industry advisory group; correct?

MR LONG: Correct.

15

MR WHEELAHAN: And you deal with that at 12 to 14 of your statement. And for the purposes of evidence to assist the inquiry, the Commission in its inquiries, you have then exhibited a bundle of documents with emails and minutes dealing with all those meetings. From 2015 to current, you've been a member of another industry liaison group set up by the Department of Transport and Main Roads; correct?

20

MR LONG: Correct.

MR WHEELAHAN: One of which is called the Contractors Industry Liaison Group.

25

MR LONG: Correct.

MR WHEELAHAN: And then there's a subgroup of that known as the Combined Industry Meeting.

30

MR LONG: Correct.

MR WHEELAHAN: And, again, you variously attended that with senior members of the Department of Transport and Main Roads and other industry bodies.

35

MR LONG: Correct.

MR WHEELAHAN: I'll put it like that, in construction. And, again, at 16 you've exhibited quite a number of minutes as evidence that the Commission will consider in its inquiries. Then in late 2020, the Department of Transport and Main Roads set up a specific project called Collaborative Procurement and Delivery Model Taskforce.

40

MR LONG: Correct.

45

MR WHEELAHAN: And what was that purpose?

MR LONG: Initially it was to design a procurement model to manage the implementation of BPIC. That is its original purpose. It became a far bigger project than that but that's what it was originally intended to be.

5

MR WHEELAHAN: And again, at 18 you have exhibited some voluminous emails that will be treated as evidence by this Commission in its further inquiries. And then we arrive at what the Commissioner wanted to direct you to at 19, the first government department to consider the implementation of BPICs. And I want you to carefully take the Commissioner through your evidence so that he can follow its genesis commencing at 19.

10

MR LONG: Okay. So the Procurement Industry Advisory Group was the first group set up to review the state procurement policy. That consisted of peak bodies for all the procurement categories that the Queensland Government would purchase and that went from building construction to health, to IT, anything you could think about, it was represented.

15

Whilst the procurement policy was being developed, the concept of best practice principles was tabled and I'm going to condense quite a few meetings here, but as the concept of best practice principles being rolled out initially, the industry groups were quite comfortable with what the intent was, except we wanted more details around what best practice industrial relations was.

20

We didn't know if that meant comply with the law and we were starting to get a few leaks out of government that it would mean more than laws. It was tabled during one of those meetings that what best practice industry industrial relations would look like was if you used the document called Best Practice Industry Conditions which was the document that took the form of the draft enterprise agreement that you would be complying with that requirement of best practice industrial relations.

25

30

Now at the time, there was numerous documents being tabled. Not only to myself but other industry body heads had requested copies of those documents as these policies were being formulated, that we could takeaway, consider and particularly take back to our industries and distill information and give general feedback to government on operations. We weren't allowed to take those documents. In fact, if I use my editorial, I think it was a sham of a collaborative process. They were tabled, taken away.

35

The next meeting we have.

40

MR WHEELAHAN: Can you just repeat that? That's quite a strong statement.

MR LONG: Yes, it is. We were not -

45

MR WHEELAHAN: How did you consider the process?

MR LONG: It was a sham. The collaborative process and consultation process was nothing more than tabling documents to show where the government was going and I'd actually raised at one point that I really didn't want our name associated with it because it looked like we agreed it and we certainly did not agree with where this was heading.

MR WHEELAHAN: So why you use the words as a conclusion to describe the consultation process as a sham?

MR LONG: There was no - there was no acceptance of any feedback from industry, or for a start there was no opportunity to give feedback and by the time we were understanding what that policy meant, it was at a point of maturity and then we were providing strong feedback as to the consequences of that policy. And as we got - the costings around it, we were starting to get a feel of the numbers, myself was running numbers. Our civil contractor members were running numbers and were about to provide some real and detailed feedback to government of the impacts on industry and the impacts on the cost and operation of projects.

MR WHEELAHAN: All right.

MR LONG: And we weren't being listened to.

MR WHEELAHAN: Okay. We will get to some of that correspondence. At 22 -

MR LONG: Yes.

MR WHEELAHAN: - the Commissioner has asked, well, the first BPIC and your evidence is the CFMEU is not present at the procurement meetings but it's accepted, you say, that they were behind the introduction of BPICs and you say that because you say the first version that was presented was modelled on an EA with the CFMEU.

MR LONG: Correct.

MR WHEELAHAN: Now, this is at 22. If you like I will bring this on screen -

MR LONG: Certainly.

MR WHEELAHAN: - and give the evidence to the Commission to explain why it is that you say the first BPIC was just a model of a CFMEU agreement. So if I could have exhibit DCL-5 brought on screen, please.

MR LONG: So this is an email I received from Peter Lacy, who was the Acting Executive Director of the Office of the Chief Advisor of Procurement, Department of Housing and Public Works.

MR WHEELAHAN: I will just stop you there so there's no confusion. There's an archive date at the top, Commissioner that should be ignored. The date of the email is 25 October 2019.

5 **MR LONG:** That's correct.

MR WHEELAHAN: And he's forwarded you minimum conditions: Confidential information confidential and not for circulation.

10 **MR LONG:** That's correct.

MR WHEELAHAN: Why was that.

15 **MR LONG:** We had been having one on one conversations with the department heads around BPIC and what it was going to look like.

COMMISSIONER: Department heads - which were -

20 **MR LONG:** Department of Housing and Public Works.

MR WHEELAHAN: You will have to give names.

25 **MR LONG:** Yes. So I had been having conversations with the Department of Housing and Public Works around what -

COMMISSIONER: With whom?

MR LONG: Pardon me?

30 **COMMISSIONER:** With whom from the Department of Housing and Public Works.

MR LONG: I don't think so, have we? Pardon?

35 **MR WHEELAHAN:** No, sorry, the Commissioner was asking when you just refer to a department -

MR LONG: Yes.

40 **MR WHEELAHAN:** - are you able to recollect the names of the persons -

MR LONG: Sorry.

45 **MR WHEELAHAN:** - rather than just saying -

MR LONG: Yes, no, it would have been Peter Lacy and Sharon Bailey at the time yes, and Sharon Bailey's position escapes me but I think she may have been Executive Director or Deputy Director-General.

5 **COMMISSIONER:** What was Mr Lacy's position?

MR LONG: He was Acting Executive Director, Office of the Chief Advisor for Procurement.

10 **COMMISSIONER:** Office of the what?

MR LONG: Chief Advisor Procurement.

15 **MR WHEELAHAN:** Commissioner, it's on the email on screen, on the signature.

COMMISSIONER: Yes, thank you.

20 **MR WHEELAHAN:** So this is the first occasion what's important you are say in your statement, is that he has emailed you, if we go over the page, the best practice principles - minimum conditions. So this is the forerunner to the BPIC.

MR LONG: This is it.

25 **MR WHEELAHAN:** Is that right.

MR LONG: This is it.

MR WHEELAHAN: This is it.

30 **MR LONG:** This is the first iteration of BPIC that I had seen.

MR WHEELAHAN: Yes, and your evidence is it names, or you give the evidence -

35 **MR LONG:** Yeah, it names the CFMEU as the union and no other union is a party to the - to the agreement.

MR WHEELAHAN: Well -

40 **MR LONG:** And whilst it says minimum conditions, and it was confirmed to me that it was taken from Queen's Wharf -

MR WHEELAHAN: Okay, if I just stop you there because it might be - if we turn to clause 3.1 of the agreement, there are other unions named.

45 **MR LONG:** Yeah, sorry.

MR WHEELAHAN: It's the absence -

MR LONG: Of the AWU.

MR WHEELAHAN: So you correct your evidence now?

5

MR LONG: Yeah, I correct that, yeah.

MR WHEELAHAN: You put emphasis on saying, "Well, it had the CFMEU."

10 **MR LONG:** Yes because the other unions are unions that we would not do a deal with at all. We'd expect to see any sort of enterprise agreement presented to us that would be relevant to our industry, the civil construction industry, would have the AWU on it.

15 **MR WHEELAHAN:** Yes. And so what was surprising here was that the named unions are not unions you would have done a deal with.

MR LONG: Correct, they're not the unions that we would have, that have coverage over the civil construction industry and the AWU.

20

MR WHEELAHAN: And the first one -

COMMISSIONER: Did you do a comparison, Mr Long, with this document which you say was the first version of the BPIC that you were made aware of.

25

MR LONG: Yes.

COMMISSIONER: And the terms of either the Cairns Convention Centre agreement or the Queen's Wharf building project agreement.

30

MR LONG: Yeah, I haven't seen the Cairns Convention Centre agreement.

COMMISSIONER: Have you done a comparison.

35 **MR LONG:** No, not against the Cairns one but I have done a comparison against the Queen's Wharf.

COMMISSIONER: What did that show?

40 **MR LONG:** It showed and I'll explain, they are readily available on the Fair Work Commission's website. I downloaded that and I lined them up page-for-page. Apart from maybe one or two sections, I think one was regarding Indigenous engagement and one, maybe one other small section, word for word they were identical and the values, the dollar values for wage rates and allowances were also identical to the
45 CFMEU.

MR WHEELAHAN: I might pull up paragraph 22 of your statement to assist the Commissioner. 22 of his statement. Maybe it's not expressed but you verbally said it. See here from, "I recall" so we are dealing here with your communications with Mr Lacy. Can you just read out, can you see that from, "I recall".

5

MR LONG: Yes.

MR WHEELAHAN: Can you read that out?

10 "I recall that there was a version discussion with Peter lacy in which it was suggested that this BPIC was based upon enterprise agreement, agreed with the CFMEU by the contractor of the construction of Queen's Wharf building project."

MR WHEELAHAN: You left out that this first BPIC.

15

MR LONG: Yeah, that's correct.

MR WHEELAHAN: So what the Commissioner is inquiring, he is trying to get to the first BPIC but -

20

MR LONG: This is the -

MR WHEELAHAN: - your evidence from which further inquiries will be made is that the first BPIC, you were told, by Mr Lacy and he's - holds an office in procurement.

25

MR LONG: Yes.

MR WHEELAHAN: - is that it's based on the enterprise agreement with the CFMEU by the contractor for the construction of the Queen's Wharf building project.

30

MR LONG: That's correct.

MR WHEELAHAN: Does that assist you, Commissioner?

35

COMMISSIONER: It does, I just don't understand why Mr Lacy would say to you that you need to keep this communication confidential. He is giving you what, on your evidence is, and you seem to have checked, a document based on a publicly available enterprise agreement which has been entered into by the CFMEU and the contractor for the construction of the Queen's Wharf building project which seems to have later been adopted in the same manner for the Cairns Convention Centre. Was it ever explained to you why this should be kept confidential?

40

MR LONG: At the time, Commissioner, this was a - the rolling out of the policy around best practice principles, I always felt that their cards, the government's cards were being held very close to their chest. I would suggest that they - they did not want to garnish any sort of opposition until they could actually produce a document

45

that they could implement fully. And you must remember, as I tendered and you can see from my evidence, there's a lot of discussions at this point. So we were having a lot of side bar discussions around what this was looking like, how it was going to be presented, and you'd have to engage with Mr Lacy directly as to the sensitivities around it but he felt it needed to be considered confidential.

5
10
COMMISSIONER: Well, maybe counsel assisting will take that up. You also describe this document as, in effect, a pattern enterprise agreement. What do you mean by that?

15
MR LONG: Okay. The ability to determine agreement needs to be done under the Fair Work Act at the time, and as I speak, the current laws have changed slightly. The principles around enterprise bargaining is to make an agreement between the enterprise being the employer and its employees or their bargaining agents which could very well be a union.

20
That agreement, whilst there are some overarching non-negotiable terms set by the National Employment Standards, that agreement from employer to employer can look different and it will be different to suit the segment of the construction industry that they are working in at the time, whether it's regional, South-East Queensland, the type of work they do. And the nuances around that workforce and that enterprise needed to complete to work.

25
A pattern agreement is one-size-fits-all. And this, you know, in my experience coming - I've worked in the commercial building industry, I have a lot of contacts constitutional in the commercial building industry, the commercial building industry is very much a pattern arrangement. The agreements that are signed by the employers in that group, I should say segment, there is no - there's not any variation between those agreements. So it's a pattern agreement.

30
The way this was, BPIC was being presented to us was initially was that there was no room for change. These were the terms and conditions and the wage rates that you must implement on your projects. There was no ability to negotiate at that stage and I stress, I say with Transport and Main Roads at the latter end we were starting to get a bit more flexibility. But at this stage, particularly from the Department of Housing and Public Works being the owner of the procurement policy that that was the agreement. It was templated and that was what you needed to implement. So that's what I mean by a pattern agreement. So there was no negotiation between the employers or their employees, or their bargaining agent. It was: Here it is, you must adopt this.

35
40
COMMISSIONER: It does seem inconsistent with the policy that up until this point had been accepted by both sides of politics federally and all states, underpinning the making of enterprise -

45
MR LONG: It is.

COMMISSIONER: - and the making and using of enterprise agreements. Is there any explanation given to you as to why this approach had been adopted?

5 **MR LONG:** Look, no, there wasn't any tangible explanation saying this is the reason why we're doing it. I had a conversation with Minister Bailey at the time, Mr Bailey said that there was a large pipeline of work coming up, and it would be good to see the employees benefit out of that pipeline of work.

10 **COMMISSIONER:** I thought you said Minister Bailey was in transport.

MR LONG: Transport and Main Roads at the time.

COMMISSIONER: You are talking about here in 2018.

15 **MR LONG:** Yes.

COMMISSIONER: This is about the BPIC being implemented by the Department of Housing and Public Works.

20 **MR LONG:** Correct. There was nothing directly that came from the Department of Housing and Public Works that said (crosstalk).

25 **MR WHEELAHAN:** If it would assist, at 23, the link what the witness is with part of the chronology, you will see there that is right, it did start in October 2019, according to his statement, that's when the first version.

30 **COMMISSIONER:** I was just asking the witness whether it was explained to him why there had been a change in the policy which had been generally understood to apply to the making and use of enterprise agreements. He answered by reference to a later conversation a couple of years later, perhaps, with Mr Bailey. I'm asking about this period, late 2018/2019 what explanations were given to you?

MR LONG: Can you rephrase that question please, Commissioner?

35 **COMMISSIONER:** You don't have to agree with the assumption but let's assume for present purposes, and it might be that subject of some contest later on, we'll wait and see, that the policy underpinning the making use of enterprise agreements was to further the - to give effect to the policy objectives that you've described and also in a letter that Mr Wheelahan read out from you in his opening.

40

MR LONG: Yes.

45 **COMMISSIONER:** That is, that enterprise agreements should be entered into on an enterprise specific basis in order to reflect the individual needs of that enterprise.

MR LONG: Correct.

COMMISSIONER: Because that has two effects. One is it improves the productivity that that enterprise is able to perform its work as.

MR LONG: Correct.

5

COMMISSIONER: And, two, it prevents the impact of, if you like, wage leap-frogging. That is, the large wage increases that are unrelated to any improvement in productivity, that transfer throughout the economy because of a centralised system.

10

MR LONG: Correct.

COMMISSIONER: That is the lesson that was learned from the 73/74 wages explosion, the 74/75 wages explosion and the 81/82 wages explosion.

15

MR LONG: Yes.

COMMISSIONER: And had been generally agreed by both sides of politics as something to be prevented, and enterprise bargaining agreements of the type that you've identified, were regarded as a way to have stopped that, and they largely have -

20

MR LONG: They have, yes.

25 **COMMISSIONER:** - since the 1990 recession.

MR LONG: Yes.

COMMISSIONER: Was any explanation given to you as to why there should be some movement from that generally accepted policy, which I take you to accept -

30

MR LONG: Yes.

COMMISSIONER: - there might be some contradiction that that is not the right approach to adopt to the policy underpinning enterprise agreements, and people are free to come forward and say that's not the case, as to why that change was made in a one-size-fits-all approach at the enterprise agreement level should be adopted?

35

MR LONG: There is, apart from, going back to the why, the original motivation, so the - and I'm talking general departments, so we're talking Department of Housing Works and Department of Transport and Main Roads have been instructed to implement this policy. The development of the policy as we garnish was driven by the CFMEU. Why the government decided that that was the appropriate thing to do, I don't know. We could see the - the - you know, we felt and saw the drivers. Why it was accepted, I really don't know. We could explain the consequences of it, we could cost it out, we could see the cost implications on it.

40

45

We saw the lack of productivity that was coming through from the policy. We'd actually asked, you know, why - we'd asked the question why are you doing this, and particularly with the data that we were giving back saying it was bad policy. Why it wasn't stopped, I don't have any tangible answer to it.

5

MR WHEELAHAN: Were you given any answer by government or ministers or any departmental employees saying why?

MR LONG: Yeah, well, the only thing was that it was being driven by the CFMEU. The CFMEU wanted it and, you know, we could see within those agreements that the funds that, the superannuation funds, the redundancy funds were all CFMEU aligned. I think it was an opportunity to get the CFMEU in on to civil construction sites so there was the ability then to gain additional members.

10
15 You know, I think that was the driver. From that point on government was compelled to design, or I should say implement it, develop it and implement it, and the Department of Transport and Main Roads had an obligation to interpret that policy and implement that as well.

20 **MR WHEELAHAN:** Now, at 24, I addressed this in my opening, so we're at the point where you've given a number of indicia as to why you think government proceeded which is, in summary, that the CFMEU was the driving hand behind it.

MR LONG: Yes.
25

MR WHEELAHAN: And you've given a number of reasons why one would form that conclusion and that's a matter that can be inquired into. Now, this argument that it was aspirational or best endeavours and not mandatory, can you just give a summary of the evidence that you want to give to the Commission about the practical effect of having BPICs?
30

MR LONG: Okay. So it's in the submissions, and I'll need to back up a little bit to explain this a little bit. We had concerns when BPIC was being rolled out that we needed to push it down through the supply chain. There was - we believed there was strong contraventions of Fair Work laws and Fair Work Commission laws around coercion, adverse action, and particularly for our serial contractors to force it down the supply chain. You know, if you don't sign up to these BPICs you won't get a project or get work, would amount to adverse action and also coercion.
35

40 Through one of our solicitors that we partnered with, we got an opinion from the ABCC at the time. The ABCC's response was in the line of our overarching view at this stage is that there is potential non-compliance with the Fair Work Act and noted the clauses. We voiced that opinion at both, at meetings with the Department of Housing and Public Works and also the Department of Transport and Main Roads.
45

I had asked for - that's right, the Department of Housing and Public Works had indicated to me that they had Crown Law advice and that it was legal. I had

requested copies of that Crown Law advice. I was denied access to that. I asked if I could see the question that was asked of Crown Law so I could understand if it was broad enough to actually for them to advise accordingly.

5 Subsequent to that, the terminology shifted a little bit to make sure that the words "not mandatory" were starting to creep into the conversation. So they said, "This is an aspirational document. What we want you to do is use your best endeavours to comply with this and also use your best endeavours to make sure the supply chain also complies with this."

10 We wanted to have some sort of determination and understanding what "best endeavours" meant, so we make sure that we weren't fall foul of our contracts. What was then starting to being implemented was two things. There was a compliance policy for the ethical supplier mandate that was being developed by the Department
15 of Housing and Public Works. It was to audit and verify that the compliance with BPIC, amongst other things, but compliance with BPIC was being adhered to.

If you did not comply with the implementation of BPIC and if you accrued sufficient demerit points, you could incur sanctions and one of those sanctions may be that you
20 are banned from tendering on government work for a period of time. So whilst it was -

COMMISSIONER: What was the body that would give demerits points for?

MR LONG: It was under a policy called ethical supply mandate and it was run by
25 the correct terminology of the, I can't remember, it was a compliance branch that sat within the Department of Housing and Public Works. They were, these audits were linked, there's another name for these policies that they wrote out which is called by Queensland policy. These audits were determined by Queensland audits so that the name actually wallpapered over the actual workings of what they were auditing.

30 And I know that the feedback from civil contractors on BPIC projects that were audited were, they were auditing wage records, agreements, looking at whether they were taking RDOs, everything that the BPIC outlined they were being audited against that. So that was -

35 **MR WHEELAHAN:** I might just stop you there.

MR LONG: Yeah sure.

40 **MR WHEELAHAN:** Is that put up which follows because it's an unusual for a layperson listening to your evidence, it sounds a bit like a driver's licence; a few too many demerit points and you're out.

MR LONG: Yes.

45 **MR WHEELAHAN:** And in substance is it fair to say, "Well you get these points taken off and you can't tender for government work."

MR LONG: That's right.

5 **MR WHEELAHAN:** But at 27, again with these non-mandatory, that's the language used, if you take the Commissioner, I think you explain it well here and how that's adjudicated upon, in terms of - what were they called? Demerit points.

MR LONG: Demerit points.

10 **MR WHEELAHAN:** They were.

MR LONG: They were called demerit points.

15 **MR WHEELAHAN:** If you can take the Commissioner in summary form what you said at 27.

MR LONG: Yes. So.

20 **COMMISSIONER:** Just before you do, just tell me who performed the audit.

MR LONG: Yes, so it was a compliance unit under the Department of Housing and Public Works. The actual individual I don't know.

25 **COMMISSIONER:** That assessed compliance according to the ethical supply mandate.

MR LONG: Correct.

30 **COMMISSIONER:** Where do we find a copy of this ethical supply mandate, what you need to do?

MR LONG: I'm not sure. It's in my submissions. It should be.

35 **COMMISSIONER:** You can look at that over lunch.

MR LONG: It used to be publicly available.

40 **MR WHEELAHAN:** It's a public record but the inquiry will be able to obtain it if it's not public by way of notice.

COMMISSIONER: But your evidence is this compliance body within the Department of Housing and Public Works.

45 **MR LONG:** Yes.

COMMISSIONER: Applying the so-called ethical supplier mandate would give demerit points to an employer who lawfully complies with the federal minimum

5 conditions of employment, lawfully complies with the award, lawfully complies with an enterprise agreement that has been lawfully entered into and the Fair Work Commission as passing the test that is sufficient for such an agreement to obtain legal status. You can comply with every legal obligation you've had and you get a demerit point?

10 **MR LONG:** Yes and that was confirmed in - there was an email when the new government suspended BPICs. I can't remember who the email was from but it was an email from the Department of Housing and Public Works that stated that on the suspension of BPICs that those compliance audits for BPICs would also be suspended. So it stopped at that point.

So the compliance unit once they found -

15 **COMMISSIONER:** Was it explained to you why it could be regarded as unethical to comply with every legal obligation that you've been required to enter into under federal law?

20 **MR LONG:** Yeah, well that's what we would consider ethical but it was compliance with the best practice principles, the best practice principles included BPIC.

COMMISSIONER: On your evidence that was merely a fourth level regulation being an enterprise agreement.

25 **MR LONG:** That's right.

COMMISSIONER: In the form of the CFMEU pattern agreement.

30 **MR LONG:** That's right.

COMMISSIONER: Sitting on top of any other enterprise agreement that you had lawfully enter into.

35 **MR LONG:** Correct.

COMMISSIONER: Which sits on top of the orders. It sits on top of the minimum conditions -

40 **MR LONG:** That's what exactly what we wanted to do, we wanted to continue under the federal laws and make our agreements with our workforces or their bargaining agents and the appropriate union and that agreement, however that was agreed to would be the only agreement that we would continue to build project in Queensland.

45 **COMMISSIONER:** To avoid - sorry, I cut you off.

MR LONG: Pardon me?

COMMISSIONER: Sorry, I cut you off. I will let you go.

5 **MR LONG:** Yeah, so, you're correct, it created another layer and it was one of our arguments along the way was it was a duplication of process because one of the reasons that was given why BPIC was so important was that, you know, it would strengthen safety on projects. Now, there is no evidence that that ever did. And secondly we already had requirements under the workplace health and safety here in Queensland and the Labor government also implemented industrial manslaughter for
10 Directors and senior officers. So there's some fairly strong compliance around workplace health and safety, anyway. I just thought that was a smokescreen, to be quite honest, and one of our arguments initially was on the abolishment of BPIC that these things already existed. They either existed in federal law or they existed under
15 state law. Why we were creating another layer over the top of industry that industry doesn't need and can't afford. But we were told "No, this is the way it's going to happen and this is what you're going to do."

COMMISSIONER: Is that a convenient time?

20 **MR WHEELAHAN:** I might just make one more point because it's on screen at 27. And this is important. Part of this demerit system, if you like, you've said that they sought to establish, sorry, Department of Housing and Public Works a panel who would decide on the demerit point system which was to consist of industry and unions to adjudicate on non-conformances with the ethical supply mandate, and you
25 refused.

MR LONG: Yeah, I did.

30 **MR WHEELAHAN:** Why.

MR LONG: Because there's no way known that that could stand in judgment of industry compliance that was not impartial. There was - it was wrought with conflicts of interest. So, you know, whilst - whilst the premise of a compliance unit and these by Queensland audits we thought was not only impractical but to have a panel that
35 was made up of industry and unions to adjudicate over non-compliance particularly around BPICs I thought, number one, it was unworkable but it was just impartial and full of conflict of interest. So we were asked to -

40 **COMMISSIONER:** You said it was impartial. I think you meant it was partial.

MR LONG: Partial, yeah. Yes, partial. So we were asked to stand up a representative for that panel and I refused. I wasn't going to - I don't want to have anything to do with it and it also showed that we were giving some sort of legitimacy to the process as well and there was no way known we were going to have anything
45 to do with it. I believe they did stand up a panel. I don't know who the members were and I'm sure that is on public record.

I'm not even aware whether they actually decided outcomes on non-compliance but, you know, it was - I think there was a lot of resistance of setting up this panel and it took quite some time and I suggest that, you know, the formation of that panel and its workings were probably in the shadow of the change of government, and it was - I don't think it ever got a chance to really get its traction. But yeah we just absolutely would not have anything to do with it. We thought it was wrong.

MR WHEELAHAN: That is a convenient time, Commissioner.

10 **COMMISSIONER:** Thank you, Mr Wheelahan. We will adjourn until 2 pm.

<THE HEARING ADJOURNED AT 1.32 PM

<THE HEARING RESUMED AT 1.59 PM

15 **MR WHEELAHAN:** Thank you, Commissioner.

COMMISSIONER: Mr Wheelahan.

20 **MR WHEELAHAN:** Just to follow up on a couple of matters you raised before lunch as to the ethical supply mandate, there's reference to that in paragraph 14 of Mr Long's statement. The actual document we will obtain and put through another witness during the course of the inquiry.

25 The second matter that you raised, and I'll just have the witness clarify, and that's at paragraph 12 of his statement - do you have that in front of you?

COMMISSIONER: Yes, I do.

30 **MR WHEELAHAN:** Mr Long, we might just bring that on screen for you, at paragraph 12. You just wanted to explain how you have expressed that there.

35 **MR LONG:** So the difference between PIAG - sorry, the Procurement Industry Advisory Group set out by the Department of Energy and Public Works was a group of industry heads. That department then became Department of - I believe it's back to front. I think we've sorted the timeframes out but the original department was the Department of Housing and Public Works, then it changed its name, I think around 2020.

40 The PIAG transitions to the Procurement Ministry Advisory Council, which is correct. That was the old PIAG was dissolved and then PMAC, which is the Procurement Ministry Advisory Council, was on Minister of Innovation under that department.

45 **MR WHEELAHAN:** Thank you. Now, paragraph 30 could please be brought on screen and enlarged. This is a matter which we were finishing off about, you gave some evidence about people mandating or people being told that they had to have an

agreement - enterprise agreement with the CFMEU. Can you just read that out loud and explain the circumstances of that conversation to the Commissioner.

5 **MR LONG:** Yes. I'm aware from discussions that I've had with Damian Vassallo who is the senior project manager that Vassallo Constructions received correspondence from the principle contractor for the Mackay Hospital project stating that Vassallo Constructions required an EA with the CFMEU if they wanted to tender as a subcontractor for that project.

10 That came about - Vassallo Constructions is one of our members in Mackay. They had contacted me trying to understand and navigate the requirements under BPIC. We were continually giving advice to our members that the document was aspirational, it couldn't be mandatory and that they should seek legal advice around navigating the elements of the Fair Work Act and the Fair Work Commission's
15 requirements.

He then conveyed to me that he said that he was being instructed by the principal builder on that, on the Mackay Hospital project, that if they wanted to tender for that project, they needed a CFMEU EA. From my - from recollection, I outlined the legal
20 requirements to the best of my knowledge and encouraged him to seek legal advice as to how he navigates that.

He said - I said, "Have you - you know, are you sure of that?" He said, "I actually have it in writing." He said he received an email to that effect. Consequently I think
25 solo engaged into that project at all -- I don't think Vassallo Constructions engaged into that project at all.

MR WHEELAHAN: Now, you give some evidence and we have heard about pre qualification process for BPICs. I want to have brought on screen exhibit DCL-6. If
30 the operator could start at the second page of that exhibit, please.

COMMISSIONER: You might be coming to this in some point with other witnesses but - and as you say, this is just foundational for inquiries but that prima facie looks like an obvious breach of the Fair Work Act, doesn't it?
35

MR LONG:

MR WHEELAHAN: Well it's a matter that, no doubt, Commissioner, will be the subject of a notice to produce and it sets another line of inquiry. Now, page 2, this
40 document you've exhibited in the context of the pre-qualification process and you will need to explain. So it's from the BCM secretariat but it says "to the BCM secretariat." Who do you understand were the recipients of this email which refers to IRG members, which is Industry Reference Group; is that right?

45 **MR LONG:** Correct.

MR WHEELAHAN: And then it sets out a list of contractors who have applied for pre-qualification, and critically, you'll see the sentence after that list, if we can just enlarge it, please:

5 "We are seeking your advice to support DEPW."

That's acronym for Department -

MR LONG: Of Energy and Public Works, yes.

10

MR WHEELAHAN: Energy and Public Works, you will just have to project your voice please:

"Due diligence process by providing industry intelligence."

15

Then the secretariat then says:

"Please provide your advice and any concerns you may have regarding their ability to meet the minimum pre-qualification requirements."

20

And then there's a table setting out those requirements and if we go over the page to the second-last one and enlarge that, the part of the pre-qualification requirement, government priorities and policies. And if you can just read that out and project your voice and not read it so quickly.

25

MR LONG: Okay.

"So government priorities and policies. Evidence and/or commitments to deliver government priorities and policies including but not limited to the Queensland procurement policy, other policies including the ethical supply mandate and threshold, best practice principles, workplace health and safety, industrial relations and apprentices and trainees, apply local policy and the Queensland Indigenous procurement policy."

30

35 **MR WHEELAHAN:** All right. And then this email, before I go to the next part, I should just reaffirm who the sender of the email is. If you go to the next page.

MR LONG: Yeah, that's - it came from Andrew De Zilva who was Director Building Category Management, Major Projects, Public Works Division, Department of Energy and Public Works.

40

MR WHEELAHAN: So he had a role in determining who would be pre-qualified to be able to tender for government work; is that right?

45 **MR LONG:** Yeah, he would be part of the team that would be involved in determining who of those contractors would be suitable to tender for works.

MR WHEELAHAN: All right. Return to the previous page, please. Under Action, what was he asking that be provided?

5 **MR LONG:** Yeah, it's any information. Any information, advice or concerns regarding the applicants. And particularly in relation to the minimum pre-qualification requirements.

10 **MR WHEELAHAN:** And that's repeated, is it not, you will see under Background information, four points down, if we can blow that up and if you can take us through that, Mr Long.

MR LONG: Yeah. So they're seeking information and advice regarding applicants and registering any concerns you may have regarding their ability to meet minimum pre-qualification requirements, which is outlined there.

15 **MR WHEELAHAN:** And two points down, any concerns.

MR LONG: Yep, "Any concerns raised by an IRG member will be investigated by the Queensland Government procurement compliance branch. Other regulators may also be involved if necessary."

20 **MR WHEELAHAN:** All right. Now let's return to the front page as to whom the generic BCM secretariat was seeking this advice and input and any concerns. Who in particular, do you know or have concerns, was included in that email?

25 **MR LONG:** So the BCM secretariat. If that email, group email, once it's expanded Michael Ravbar for the CFMEU is included in that correspondence.

30 **MR WHEELAHAN:** All right. So is it your belief from this email that Mr Michael Ravbar was being invited to contribute and provide the information requested in that email?

MR LONG: Yes. Absolutely. Yeah, he was included in the email and that's a direct, you know, it's a direct letter asking for information.

35 **MR WHEELAHAN:** And is that because he's an IRG member?

MR LONG: Correct.

40 **COMMISSIONER:** Industry Reference Group.

MR LONG: Yes. IRG is industry reference group. BCM is Building Construction and Maintenance so he was part of the Building Construction and Maintenance Industry Reference Group.

45 **MR WHEELAHAN:** All right. Now, if we then go with that exhibit to the previous page.

COMMISSIONER: Are there any other union officials who are members of that group?

5 **MR LONG:** Off the top of my head I don't know but I would imagine there may have been. So the - being Building Construction Maintenance, the plumbers may have been involved and other relative unions -

COMMISSIONER: And other what did you say.

10

MR LONG: - and other related unions to the Building Construction and Maintenance.

COMMISSIONER: But do I take it not the AWU?

15

MR LONG: Not the AWU.

MR WHEELAHAN: The previous page of that exhibit, again the provenance - have you been provided the email that's now on the screen, in confidence, have you?

20

MR LONG: Yes, that was provided to me by Andrew Chapman from Queensland Major Contractors Association.

MR WHEELAHAN: All right. And that's dated the following day?

25

MR LONG: Correct.

MR WHEELAHAN: And can you firstly read that out to the Commissioner and after you read it, I'm going to ask, or I will ask you now whether you agree or disagree or what your opinion is about the email sent out that included Mr Ravbar as a recipient.

30

MR LONG: I thought it was an absolute abuse of process, I'll just get that -

35

MR WHEELAHAN: Sorry.

MR LONG: Yeah, I can read that out.

MR WHEELAHAN: So Mr Chapman has sent you an email but from is -

40

MR LONG: It's from him.

MR WHEELAHAN: It is from him.

45

MR LONG: Yes.

MR WHEELAHAN: All right.

MR LONG: Back to the BCM.

MR WHEELAHAN: Can you just read that out, please?

5

MR LONG: Yeah. I find this slightly disturbing for a range of reasons -

COMMISSIONER: Who is the Andrew that is Mr Chapman -

10 **MR LONG:** It would be Andrew De Zilva. Yes, so Andrew De Silva from Andrew Chapman:

15 "I find this slightly disturbing for a range of reasons. This is a confidential process between the nominees and government. Third parties should not be permitted to provide comment or advice about companies submitting. It brings into question the independence of the process and quite clearly also opens the government to accusations of external influence by others, particularly some unions who will use this information to either provide unsupported statements about companies who do not have agreements with them or use this knowledge to go and pursue these

20 companies in an attempt to get agreements with them on the basis if you don't sign with us you won't get pre-qualified. We have seen and heard many stories about this already. I would sincerely request that you rescind this from the BCM and IRG members as they include third parties who should not be involved in the assessment process. That is for government alone."

25

MR WHEELAHAN: They're Mr Chapman's views. Can you give evidence about (a) whether you concur or not concur, or whether you have any additional comments?

30 **MR LONG:** I absolutely concur with it and it's a very - it's bizarre, I've never seen this before and me being part of applications to government for a number of reasons, I would not expect information like that to be sent to anyone except the people directly engaged to assess these things. I found it very unethical, breach of privacy, confidentiality. There was a sense of fairness and there's no reasonable behaviour in

35 it. Look, everything Andrew said plus more, I agree. I just - can't believe that that could be done. It was most unprofessional thing I've seen in my career.

MR WHEELAHAN: Do you know whether or not the actual contractors mentioned there knew that such information was being sought, it's described as intelligence,

40 about that.

MR LONG: I haven't spoken to them but I - my opinion would be they wouldn't be aware of it.

45 **MR WHEELAHAN:** All right. We can take that down. If I can brought on screen exhibit DCL-10. Now, this is a letter July 2020. Although it has the AI group

letterhead, if we just scroll to the second page, your organisation was a party to this correspondence being sent?

MR LONG: Correct.

5

MR WHEELAHAN: And -

COMMISSIONER: Could I have the date again, Mr Wheelahan?

10 **MR WHEELAHAN:** 10 July.

COMMISSIONER: July or January?

15 **MR WHEELAHAN:** It says July what I'm looking at, but I might double-check it.

COMMISSIONER: Thank you.

20 **MR WHEELAHAN:** July. Sent to the then-Premier who was also the Minister for Trade and I'll summarise it and then go to it. In substance it expressed industry's concern, given the number of signatories with Queensland's procurement policies and practices. And it expressly requests that the government stop the progression of best practice principles and ethical supplier mandate, which we've referred to and to do so urgently. So can you just read the basis of the letter at paragraph 1.

25 **MR LONG:** So I can read the letter, it's about our collective memberships and we write to express our ongoing concerns with the Queensland Government procurement policies and practices and to offer commitment in working with you to develop meaningful policy that positively impacts Queensland businesses, regions and jobs.

30

MR WHEELAHAN: All right. And then at paragraph 3 you seek immediate action.

MR LONG: Yes.

35 **MR WHEELAHAN:** :

"We seek immediate action."

40 If you could read that out to the Commission.

MR LONG: Yeah. With this in mind we request the following immediate action. Stop the progression of the best practice principles and ethical supply main date and urgently consider the immediate removal from the construction sector.

45 **MR WHEELAHAN:** All right. So is it fair to say all those industry groups, this is not a softly written letter, what was your thinking at that time?

MR LONG: We were hoping that the Minister and particularly we, and the relevant ministers at that stage Dr Stephen Miles was the Minister for State Development Mark Bailey for Transport and Main Roads, the Premier and Mick de Brenni for Housing and Public Works so that we would get meaningful discussion and
5 hopefully that they would understand the impact that this was having on not just the industry but the delivery of Queensland capital infrastructure.

But, yeah, that was the main thing. We wanted them to sit down with us and talk and hopefully get to a point where we could navigate this to a reasonable outcome.

10 **MR WHEELAHAN:** All right. You will recollect earlier today the Commissioner posing a number of questions - sorry, a number of times the question: Why. Why did the government proceed with the way it did ultimately with BPICs? Can you read out the position of the industry in the following paragraph?

15 **MR LONG:** Yep:

"There has been no comprehensive assessment of the effectiveness of both policies, in particular the financial impact on both business and the government. No evidence
20 has been provided to support the implementation, even though this was a commitment when the policies were originally outlined to industry."

MR WHEELAHAN: All right. It's fair that the conclusion from that letter is that you didn't know why, from an economic or financial evidence supporting position as
25 to why the government was proceeding down that path?

MR LONG: No. We had no idea.

30 **MR WHEELAHAN:** No. And then over the page.

COMMISSIONER: Just before you leave that, Mr Wheelahan. In your experience, Mr Long, just dealing with that point there about no assessment which could be done by way of some sort of internal review, treasury review, Office of Industrial
35 Relations review, perhaps Productivity Commission review based on evidence or some external inquiry, is it common for policy changes of this nature to be engaged in?

MR LONG: Yes.

40 **COMMISSIONER:** But without a comprehensive assessment of the policies and without evidence?

MR LONG: Well it's an interesting one because there is a compliance aspect to it, almost, and there's penalties attached to it, it almost would - almost as a regulatory
45 review more than a policy review. It's policy going to regulation. In my experience, policy development and particularly once it hits regulatory review and, in particular, legislative review, there is many layers of engagement with industry.

COMMISSIONER: But this is done without legislation, presumably.

5 **MR LONG:** It's done without legislation but it has it, it almost has the same effect as regulation as far as the compliance aspect of it. And the, you know, the demerit point system attached to it. There was implications for non-compliance. Even so, even at a policy level, you would expect some sort of data and you're correct, that may have been done by external parties to support government's thinking.

10 Often we understand a government's position, we can see where they're coming from. We may not agree with their direction but at least there is meaningful discussion around what they're trying to achieve and generally they can bring a stakeholders into mould that into something that works for them from a policy position and also can suit industry the best it can.

15 But the way this was developed, there was absolutely no information provided to us that supported any of the claims that this policy was supposed to support. We saw no evidence. And in using a rear view mirror we were testing a lot of these claims and proving them wrong.

20 **MR WHEELAHAN:** Indeed, over the page, in the same exhibit, following your evidence just there, the fourth paragraph down, all those industry groups made a request. Can you can just read that, we request in bold.

25 **MR LONG:** We request an immediate review that provides the evidence and data to support the government's commitment to these policies and outlines the benefits including financial to business regions and the government.

30 **MR WHEELAHAN:** And were you provided with that evidence?

MR LONG: No. No, we weren't.

MR WHEELAHAN: And then the following paragraph, rolling from COVID-19 it says:

35 "It presents us with the opportunity to review procurement practices ensuring that they do not stifle innovation, increase cost to do business or block their access."

40 **MR LONG:** Correct.

MR WHEELAHAN: Was that expressed or not that what was being proposed, in fact, was going to stifle innovation, increase cost to do business or block their access?

45 **MR LONG:** What we had at the table, it wasn't doing anything of those things.

MR WHEELAHAN: All right. And have you read the Productivity Commission report of Queensland?

MR LONG: Yes, I have.

5

MR WHEELAHAN: All right. And you agree with its findings?

MR LONG: Yes.

10 **MR WHEELAHAN:** I'll turn now to exhibit DCL-11, please. So the previous letter, Commissioner, was 10 July 2020 and now we have a letter 24 July - sorry, 24 August 2020, a little over a month later, and this letter which is on the screen, is from the Office from the Premier of Queensland, Minister of Trade addressed to Ms Rebecca Andrews. You will note there it thanks and refers to the letter that we've just taken
15 you to of 10 July, co-signed. This letter, is it on the bottom, it should be Denise Speaks, deputy chief of staff. It might be if it's enlarged - it might be a little bit cut off.

20 So after - I've taken you to the concerns expressed and the response of the government from the Office of the Premier of Queensland appears substantially to be at paragraph 3.

MR LONG: Yes.

25 **MR WHEELAHAN:** If you can project your voice and read what their response was?

30 "Your concerns regarding the government's procurement policies and practices, including best practice principles and the ethical supply mandate, are noted."

MR WHEELAHAN: Right.

35 **MR LONG:** "The government's by Queensland approach to procurement, which includes the Queensland procurement policy. Is aimed at putting Queensland jobs first by leveraging government expenditure too prioritise Queensland businesses, support local jobs and regional Queensland and achieve more positive outcomes on behalf of taxpayers."

40 **MR WHEELAHAN:** All right. So apart from noting the concerns, unless you can say otherwise, outside of this letter, or indeed in the letter, there's no attempt to traverse or, in fact, answer any of the concerns that all those industry groups put in writing.

45 **MR LONG:** We - apart from noting, there was no response verbally or otherwise that looked like that they were going to engage with our concerns and, in fact, that's where it stopped.

COMMISSIONER: So, in effect, your request to review or a comprehensive assessment, depending how you phrase it in your letter, based on evidence and data which sets out the benefits and otherwise, was rejected?

5 **MR LONG:** It was rejected.

MR WHEELAHAN: The next document, if it could be brought up, is exhibit DCL-13.

10 **COMMISSIONER:** Is your evidence comprehensive, Mr Long, you are not including some other piece of correspondence that suggests that these concerns of yours in the letter of -

MR LONG: No, no, we haven't.

15

COMMISSIONER: - of 10 July -

MR LONG: No, we received - the ministerial letters that we received are included in the evidence. We have no - nothing that would demonstrate anything to shift the position on that.

20

MR WHEELAHAN: Just to clarify that part of the inquiry, what you asked and what you said, you and the other industry groups, in exhibit DCL-10, there's been no comprehensive assessment of the effectiveness of both policies, in particular, the financial impact on both business and government.

25

MR LONG: That's right.

COMMISSIONER: At least to your knowledge. There might be some that you were never told of any.

30

MR LONG: Pardon me?

COMMISSIONER: There may be some in the bowels of government but you were never told.

35

MR WHEELAHAN: The Commissioner is saying not to your knowledge.

MR LONG: No, not -

40

MR WHEELAHAN: To your knowledge, there's two things. Just for the purposes of inquiry. What you have exhibited is a letter back from the Premier's office saying that your concerns were noted and the Commissioner is just asking, well, was there another letter after that.

45

MR LONG: No.

MR WHEELAHAN: Where they actually in substance addressed your concerns or provided you some evidence.

MR LONG: No, they didn't.

5

MR WHEELAHAN: And you your organisation was a signatory.

MR LONG: Yeah. In fact, I found it quite insulting that a group of industry heads that represented such a large part of the economy, there was no courtesy to even pull together even a small working group with the government to run through our concerns. You know I would have expected the government to be able to provide some data for their position or some foundation for the decision to try and, I wouldn't say convince us, but certainly to try and get us to understand the government's thinking.

10
15

We didn't get anything. Nothing.

MR WHEELAHAN: Exhibit DCL-13, so we're moving forward to is slightly different now. This is under the topic in your statement of implementation of BPICs by the Department of Transport and Main Roads, and your contact there was Deanne Hawkswood; is that correct?

20

MR LONG: Correct.

MR WHEELAHAN: And in 20 December 2020, Ms Hawkswood provided you the first of a draft BPIC for that department?

25

MR LONG: Correct.

MR WHEELAHAN: Now, this letter, can you just take the Commissioner through the provenance of this letter.

30

MR LONG: It's a letter, it was sent - not only Mr Andrews get this but it was also sent to the heads of the signatories on the previous letters. I got one myself directly. Once again, the letter, the wordings were all exactly the same but it was just thanking us for our involvement in the consultation and enhancements to Queensland procurement approach. Employer feedback consisted of Queensland Government made an informed decision to improve its current Queensland procurement policy.

35

And then they're very happy to tell us that they're going to implement Best Practice Industry Conditions, the BPICs.

40

MR WHEELAHAN: When you say happy, it actually says here the second paragraph:

45

"I'm pleased to advise you on the key components of the government's decision on these matters."

And then the decision is thereafter set out, is it not?

5 **MR LONG:** Yes and the government was going to proceed with the BPICs or Best Practice Industry Conditions approach to best practice principles, major projects procurement, Best Practice Industry Conditions or BPICs will be determined on a project by project basis to take into account the current challenging economic circumstances. Your continued contribution to this is welcome. Set of BPICs for civil construction with the transport infrastructure service procurement category we developed and given QPP and BPP applied to government-owned corporations and statutory bodies. So too will relevant BPICs which will be subject to consultation with the GACs and statutory bodies prior to government approval on a project by project basis.

15 **MR WHEELAHAN:** All right. So it's in your statement though that you had been provided with a draft BPIC.

MR LONG: Yes.

20 **MR WHEELAHAN:** Although the covering letter here talks, happy for your contributions, but your evidence is that you, in fact, weren't provided with any.

25 **MR LONG:** No, we weren't. It's insulting, actually. They're telling us that we're helping them and they want to keep engaging us to produce something we don't want and we have been telling them we don't want. We have been telling them it's bad for government, for Queenslanders, it's bad for industry yet we are receiving letters like this that thanks us and they're pleased to advise us on the progression of this policy that we have been so vehemently opposed to.

30 **MR WHEELAHAN:** And not only that, it then, proceeding with the pre-qualification certification system which your evidence is that's one of the mechanisms by which, although things are described as aspirational, and there's, in fact, it ends up being mandatory in practical terms -

35 **MR LONG:** It does.

MR WHEELAHAN: - for your members who want government work; is that right?

40 **MR LONG:** That's correct.

MR WHEELAHAN: The second page, it has the signatory of the Minister who sent you that letter.

45 **MR LONG:** Mick de Brenni MP, the Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement.

MR WHEELAHAN: If I could have exhibit DCL-14A and 14B brought up, please. Again, Commissioner, DCL-14A it has an archive date at the top, just ignore that. This is an email from Rebecca Andrews of the Australian Industry Group dated 28 January 2021 addressed to the Premier and again it's a letter from various
5 associations in the industry?

MR LONG: Correct.

MR WHEELAHAN: And the attached letter commences at DCL-14B.
10

MR LONG: Yes.

MR WHEELAHAN: Which we have. Again, a letter to the then premier of Queensland and again if we can just jump to the second-last page and then the last
15 page for context of those that were signatories to the letter. Just take as acronyms for those that are watching this from interstate, yes, there. If you can just enlarge all the signatories and take the Commission through each association.

MR LONG: Yes, signatories was John Davies is CEO of the Australian Contractors
20 Association, Rebecca Andrews, she was the head of the Australian Industry Group, myself, Damian Long, CEO the Civil Contractors Federation Queensland, Priscilla Radice, CEO of the Industry Associations of Queensland. Paul Bidwell, Deputy CEO of Master Builders Association Queensland and Andrew Chapman CEO of Queensland Master Contractors Association of Queensland -
25

MR WHEELAHAN: Major.

MR LONG: Yeah, Major Contractors Association.

MR WHEELAHAN: And over the page, not only the Premier, can you - I can't quite read that. Can you read out the other ministers to whom this was copied.
30

MR LONG: Yeah, so the copy was sent to the Treasurer at the time the Honourable
35 Cameron Dick, the Minister for Public Works and Procurement, the Honourable Mick de Brenni, Minister for Transport and Main Roads, the Honourable Mark Bailey, the Deputy Premier, the Honourable Dr Stephen Miles and the Minister for Industrial Relations, the Honourable Grace Grace.

MR WHEELAHAN: All right. So fair to say this is significant correspondence by
40 those being the senders and those who were the recipients; correct?

MR LONG: Yes.

MR WHEELAHAN: Okay. If you can take the Commissioner through what the
45 letter actually says and your position on why this letter was sent in those terms.

MR LONG: Yes, well it was in response to the letter we received from Mick de Brenni.

MR WHEELAHAN: Sorry, being the one I've just taken you to saying:

5

"We are proceeding. Thanks for your help. Let's proceed with BPICs and qualifications.

MR LONG: So we are desperate so we're trying to engage every major and relevant
10 Minister, including the Premier, to address our serious and legitimate concerns.

MR WHEELAHAN: All right. I'll start with the second paragraph, if you can read that out.

15 **MR LONG:** Yeah, we have reached.

MR WHEELAHAN: Project your voice.

MR LONG: Yes.

20

"We have each received a letter from the Minister for Public Works and Procurement, the Honourable Mick de Brenni MP, sample copy is attached for the reference. The letter provided an update on proposed policy enhancements that have in some cases been under consideration by the government for a number of years.
25 During this time, industry consultation on the change has been sporadic and previous communicated industry concerns in regards to scope and application of the changes have largely been left unaddressed."

MR WHEELAHAN: I'll just stop you at that paragraph. There's a number of
30 signatories to the letter. Is that reflective of your experience that industry consultation was sporadic?

MR LONG: Yes.

35 **MR WHEELAHAN:** And previously communicated industry concerns regarding the scope and application of the changes have largely been left unaddressed.

MR LONG: They were left largely unaddressed.

40 **MR WHEELAHAN:** They were left largely -

MR LONG: Yes.

MR WHEELAHAN: Is that because I think you just said before that you repeated
45 put the position that you were opposed to -

MR LONG: Absolutely.

MR WHEELAHAN: - in the introduction there.

5 **MR LONG:** We were continually through letter, email and through meetings and side conversations continually putting to government that we were opposed to this policy.

10 **MR WHEELAHAN:** All right. Please go on to the next paragraph of the letter to which you were a signatory.

MR LONG:

15 "And so we therefore request your significance in ensuring our serious and legitimate concerns are known and well understood by the state government as a whole."

MR WHEELAHAN: And the following paragraph?

MR LONG: :

20 "In summary, we are concerned that the proposed policy change will significantly increase the cost of construction in Queensland, reduce the number of projects the state can afford to construct and therefore the number of people that can be employed. These changes will also increase the complexity and risk of doing
25 business in Queensland, including the real and serious risk of business contravening federal legislation while disincentivising true innovation and best practices."

MR WHEELAHAN: There's a lot in that but let me just put this to you: This letter was 28 January 2021.

30 **MR LONG:** Yes.

MR WHEELAHAN: And you've read the recent Productivity Commission report which you said that you had agreed with. Would you - some of these warnings, do you put them as warnings, what's expressed here or grievances, what was the -
35

MR LONG: And they were educated warnings because we were running our own numbers as well. We could start to see the cost increases coming and we couldn't reconcile the government's response telling us that it was good for Queenslanders and good for the Queensland economy when we could plainly see that it wasn't. And
40 we were providing evidence to the contrary.

We didn't have any value discussion. Even a value debate to even challenge our numbers. It was just our numbers were pushed to one - aside and we're moving on with the policy.
45

MR WHEELAHAN: So your organisation did provide evidence -

MR LONG: Yes.

MR WHEELAHAN: - to the government.

5 **MR LONG:** Yes.

MR WHEELAHAN: And did that modelling back then was it consistent with what ultimately has been found by the Productivity Commission -

10 **MR LONG:** Yes, it has been.

MR WHEELAHAN: It has been?

15 **MR LONG:** Yes. So we modelled it at a micro macro level. I haven't read the numbers myself so I could work up labour rates and compare them with EA rates at the time and I could see a massive jump. Our members through their estimating systems can take those numbers and swap in and swap out and they can get real numbers drop out quickly. The other thing, too, is we were we were getting real numbers because real projects were starting to be tendered under Best Practice
20 Industry Conditions and contractors were pricing a non-Best Practice Industry Conditions project and then providing to government the extra over for the policy. So those numbers were tangible and real.

25 **MR WHEELAHAN:** So over the page, following on the concerns being put to the government with respect to Best Practice Industry Conditions, you will see the second paragraph under that and it seems, well you read it but it's fair to say it's a pretty pointed and almost prophetic opinion that's expressed. Is that right?

30 **MR LONG:** Yes.

MR WHEELAHAN: If you can read that, please.

MR LONG: Yes.

35 "As drafted - the draft BPICs would impede the viability and growth of the construction industry in Queensland. The draft BPICs do not represent best practice industrial relations, nor do they reflect principles. They resemble a pattern enterprise agreement with highly restrictive and costly provisions. Contractors must retain the ability to implement enterprise agreements and work practices which reflect the
40 needs of their enterprises. It's not appropriate for the Queensland government to impose pattern outcomes on contractors."

45 **COMMISSIONER:** It's very, on the evidence to date, that statement looks correct. There might be some challenge to your evidence in cross-examination, at least to the first three sentences of that paragraph, but the second-last two, they really summarise the guiding principles that sit behind the rise of enterprise bargaining over the last 30 years. If you have a look at Paul Keating's speech in April '94 after the 1993 election,

there's not a lot of difference between what he would say the point of enterprise bargaining should be and what you said in those two sentences and that's been the joint position thereafter. Maybe in the last year or so federally with the same job, same pay policy, there's been a little bit of pushback. But this has got nothing to do with that.

MR LONG: No.

COMMISSIONER: I mean, one of the things that's odd, I don't know if you have got an answer to this if it's true, that imposing the CFMEU pattern agreement would, according to the deputy chief of staff of the Premier prioritise Queensland businesses, support local jobs in regional Queensland, achieve more positive outcome on behalf of the taxpayers or to pick up Mr De Brenni's comment that it would ensure well-paid, safe and local and good quality jobs. Why is it restricted to jobs of over 100 million. Why is it not every job, there's a job going on out the back there, it's very small construction job. Why is it not imposed there?

MR LONG: I don't know why they drew a line at \$100 million jobs, to be quite honest, but the, to go to your point, it actually did have a vicarious effect across the industry so one of the points was they said it engaged, you know, it was a benefit to the industry. Well, it wasn't, and, you know, previously my evidence around the Vassallo conversation is repeated a number of times where the smaller parts of the industry who would normally be on these projects as subcontractors decided not to participate. So their opportunities were actually cut off and to avoid - I think somewhere it was using the term "using two books" was one of the ways to operate was to try and find a way to find the BPICs and the Best Practice Industry Conditions space on those projects and then maintain a presence in their traditional workplace.

But they couldn't do that, and I remember speaking to Minister Bailey at one stage and I said to him, I said, "Do you realise that the impacts of the Best Practice Industry Conditions is now gone through into the housing market, it's not convenient to projects over 100 million." He asked me why and I explained to him that we were all, you know we were all competing for the same workforce and those projects a lot, you know, there's a couple of regional jobs but most of these projects were south-east Queensland in high density industry situations where there's a lot of projects going on and particularly a lot of housing shortages and I argued the fact that when we are starting to go into a housing crisis, we need housing affordability crisis we every help to find the best way to deliver things as cheap as possible.

Wages aren't the only catalyst to delivering productive outcomes. In fact, good wages coupled with productive practices will produce far better outcomes. So I think that was lost on him. I don't think he realised that was the impact that would go across the areas. Going back to the Queensland Government posing an outcome across all contractors, it stopped contractors from being able to allow the supply chain to flow in and flow out of those different areas.

So it actually, it gave the playing field for major contractors to a very smaller part of the industry. So saying that it benefits the Queensland construction industry is a misnomer and in fact, it did more damage than it did benefitting.

5 **MR WHEELAHAN:** What do you mean by that, that it disrupted the flow to contractors?

10 **MR LONG:** Yeah, so if you're a major principal contractor, generally your work source or the (inaudible) of industry is fairly limited but you rely on a long supply chain. That supply chain doesn't do projects that last years, they do projects that last months and they need to be able to flow in and out of those major projects and back into the traditional market. So they might be doing jobs for local government, might be doing jobs for developers building subdivisions for housing, might be doing civil work for builders, or subcontractors for major projects.

15 And so what it did was it restricted the ability for contractors to do that. They had enterprise agreements that existed that said that they - I shouldn't say "said" but they were designed to allow them to do that and they were negotiated with their workforce and with the - and I assume in many cases with the unions as well,
20 particularly the AWU, and that allowed them to drift. BPIC stopped that; it closed the gate on that from happening.

If you were going to play in a BPIC space you had to commit to BPIC and that pretty much excluded you from being able to go back into those other industries and as
25 we've seen a lot of the subcontractors and supply chain they made a commercial desist and said we will go elsewhere, we are not going to work for Queensland Government projects. Once again, you create a supply and demand issue, there's less supply chain to supply the projects and prices will go up as well. So that's - these are sort of the unintended consequences of a bad policy and we were put in these
30 positions to government and we hammered the housing issue over and over again saying as time went on, we could see the impact on housing. We knew the statistics around housing, we could see we need to build about 44,000 dwellings a year and the prices were going up and the ability to get the workforce to deliver these or the contractors to deliver it was getting harder and harder. So the solutions that we were
35 looking from government and particularly with letters like this, was yes, our was to shut down BPICs but we wanted a broader conversation around what was going to be good for the Queensland economy and we weren't getting it. In fact, it was embarrassingly silent.

40 **MR WHEELAHAN:** So you mentioned the BPIC overflowing into other industries and that you'd had such a discussion with Mr De Brenni but he - in your view he didn't seem to -

45 **MR LONG:** Yeah.

MR WHEELAHAN: - be able to grasp that. Could I bring up exhibit DCL-30, please. The background to this document, I'll take you to part of it in a moment, but

these are minutes of a contractors industry liaison group meeting of which you were an attendee.

MR LONG: Yes.

5

MR WHEELAHAN: 18 August 2023. You preface exhibiting these particular minutes by saying that you're aware, due to increased labour costs brought about by the introduction of BPICs, that the Department of Main Roads agreed to pay compensation to some contractors who were forced to increase the wages paid to workers on non-BPIC projects so that they were able to retain workers.

10

MR LONG: Yes.

MR WHEELAHAN: And you stand by that statement?

15

MR LONG: Yes.

MR WHEELAHAN: And in these minutes, just for identification, if we can enlarge the attendees, if you could just take the Commissioner through the attendees there, please.

20

MR LONG: Okay. For Queensland Major Contractors Association the Deputy Chair at the time was David Balmer who works for ACCONIA, Andrew Chapman who was the CEO. My president for CCF Queensland, Mark Goodwin, myself as CEO. Transport and Main Roads attendees was an Marie Knox, Acting Deputy Director-General for Infrastructure and Management Delivery, Anthony Philp, Acting Deputy Director General Portfolio Planning and Investment. Scott Whittaker, he was Acting General Manager Program Delivery and Operations. Paul Schmidt, Acting General Manager, Program Management and Delivery, Max Broadhurst, Acting Program Director, Collaborative Project and Kelly Taylor, Acting Director for Pre-Qualifications and Contracts.

25

30

MR WHEELAHAN: Over the page, minutes from the previous meetings were reviewed and accepted and I want to enlarge the second one. Industry. Can you just read that?

35

MR LONG: Yes.

"Industry provider proposal to TMR with transfer and wage to demonstrate through evidence of wages escalation on non-BPIC projects."

40

MR WHEELAHAN: And on the right-hand side at the bottom, there's a reference by way of minutes survey from 2022, can you read that?

45

MR LONG: Yeah.

"CCF survey from 2022. TMR encourages contractors to submit timely claims."

MR WHEELAHAN: Timely claims. So you were at this meeting. Your statement is that the Department of Transport and Main Roads agreed to pay compensation. Can you explain how this worked, compensation for what?

5

MR LONG: Yeah, so I'll give a bit of context to this. Civil Contractors Federation is the Department of Complaints sometimes for industry and I can use an exhibit of a project on Cooroy to Curra section D where the contractor won stage 1 won it prior to the implementation of BPICs. He had existing enterprise agreements as did his major subcontractors. They won the job at tender and were proceeding with that job.

10

The second stage of that project was won by CPB. That CPB was a BPIC project and they - they - they complied with the process and won the job. The wages and conditions were vastly different to what was on the stage 1 project. I received a fairly irate phone call from one of our members who was a major subcontractor on the project complaining that he was losing his workforce to the neighbouring project.

15

This created quite a problem for them because they needed to progress the works for the state but they were losing people that they couldn't do it. Whilst they could replace them, that takes time and to replace them, they had to replace them at a higher rate. They basically had to - well, not basically; they did. They had to match the wages and conditions on the neighbouring job to make sure they could maintain a workforce.

20

MR WHEELAHAN: The neighbouring job being on the BPIC package.

25

MR LONG: On the BPIC package, yes.

MR WHEELAHAN: The terms and conditions, which were higher.

30

MR LONG: Which was higher. The discussion at the time was they may be able to claim, under the contractors, under the change of law provisions of the contract. I have raised this and also to QMCA also raised it in parallel but I certainly was the front runner on this one, how do we navigate our way through this because we are starting to see that other projects as well, that were non-BPIC that were not priced prior to BPIC being implemented, that those projects were starting to having to increase their wages and conditions to meet and also.

35

MR WHEELAHAN: Are we talking about government.

40

MR LONG: Government projects.

MR WHEELAHAN: Yes.

MR LONG: And there was a real concern that not only was the cost going up, but the financial impact on this was so much so that some of these subcontractors potentially were at financial risk. The projects as a whole were probably loss money

45

for the contractor. That's the size of the problem. And they were looking at a way to negotiate now.

5 **COMMISSIONER:** Sorry, I don't follow. What's the financial risk, because it's a fixed price contract you have to pay your labour more?

10 **MR LONG:** Yes, they were locked into rates at tender time based on their legitimate enterprise agreements. To maintain their workforces, they had to increase to meet the BPIC rates to keep their people there. As did their supply chain as well, by the way. And that had a significant cost impact beyond the margins that were on those projects. So they were actually starting to complete these jobs at a loss and we're talking, you know, I couldn't tell you the exact numbers but I know we're talking tens of millions of dollars on projects.

15 I spoke to Transport Main Roads, I must admit Transport and Main Roads were a department that we could have discussions with. They did listen to our concerns. And what they did was, what we did, we went out there and gauged the enormity of the problem and Transport and Main Roads had agreed that if contractors could present their case to Transport and Main Roads they would look favourably on finding a way to compensate them.

20 I know that in early days the discussions around how they would value that. I fed back to the Department of Transport and Main Roads that contractors weren't looking to profit out of the difference. All they wanted to do was get direct cost reimbursement for the difference; so basically to bring it back to square one and I said that could be done on an open book basis. So basically they could show their records and then Transport and Main Roads could interrogate those and then apply a multiple to it which would be a wage difference.

30 We weren't alerted on that process - how they decided to do that. That was fine. That could be between the contractor and Transport and Main Roads, we were more concerned that the process happened and as I said, our litmus test is how often my phone rings and that phone started to ring less as time went on. So I believe there was some meaningful discussions and some good outcomes for contractors.

35 **MR WHEELAHAN:** When you say good outcomes, were you informed that compensation or claims, as it's recorded in the minutes, was actually paid out.

40 **MR LONG:** Yeah, I believe it was.

MR WHEELAHAN: Do you have any knowledge of, I think you said in the millions but you don't have any specific knowledge.

45 **MR LONG:** No, I don't know. Look, those arrangements were commercial in confidence. I would not be privy to those but as I said, you know, the phone ringing litmus test was pretty good. And early days, we were getting a lot of complaints from contractors and subcontractors about compensation. Whilst we provided the pathway

to a resolution, the industry were feeding back to me that they were happy with the discussions they were having a Transport and Main Roads. So while I did not get phone calls yelling and screaming saying this was not a great outcome, silence is sometimes a great, a great indicator of a result.

5

COMMISSIONER: It seems a very strange outcome. You've got the Department of Transport and Main Roads, who have got demands that are almost infinite - not quite infinite but you've always got demands on extra transport and building new roads to agree a price for projects with contractors, which would be, all other things being equal, the best value for taxpayers money, they then introduce another policy for other projects.

10

MR LONG: Yes.

15 **COMMISSIONER:** That increases the cost. As a consequence they go back and compensate the contractors that they had originally engaged profitably to work on the original projects because those contractors weren't able to fulfil their contracts because of a policy the government had then introduced on other projects. It seems -

20 **MR LONG:** Bizarre.

COMMISSIONER: Strange.

25 **MR LONG:** Look, it was, the original argument was that under the contract a change of law, or a change of legislation if it has an impact on a principal contractor, that is more or less than what they would have allowed for, generally that that is treated as a variation and it can be compensated. I think Transport and Main Roads without speaking on their behalf I would suggest they did understand the enormity of that problem.

30

COMMISSIONER: They did or did not.

35 **MR LONG:** I think they did understand the enormity of the problem. They had to implement BPICs regardless, they were told to do it. So those projects regardless, if they were over \$100 million it was going to be a BPIC projects. The nature of these projects were in the hundreds of millions of dollars so they were actually BPIC projects. They couldn't pick and choose and say we won't do that. That was our argument was that, well it's because of government policy that these contractors are now losing out because it's your - your, you created it, you need to fix it. And it's not

40 stuff that a normal contractor could manage or anticipate either.

Generally, in our environments we can control and manage wage escalations anyway, you know, generally EAs already have baked in wage rates, also it was supply and demand as well. You do get a bit of increase over and above that as the market gets a bit tighter, but contractors are very good at managing those things.

45 What we are talking about is way above anything a contractor could anticipate and

the scale and the cost was so significant it was making these jobs lost jobs for contractors.

5 **MR WHEELAHAN:** Thank you, Mr Long. Commissioner, there's been an application in writing to -

COMMISSIONER: I have one more question, Mr Wheelahan.

10 **MR WHEELAHAN:** Yes, sure.

COMMISSIONER: Mr Wheelahan took you to a paragraph of your witness statement in the opening which I'm just digging up. I think it's paragraph 68. No, it's not.

15 **MR WHEELAHAN:** 65?

COMMISSIONER: 68. You say:

20 "In my opinion, BPICs have been the most damaging policy to productivity of the construction industry and affordability of capital works in this State that I've come across."

25 Is that based on your 20 years of experience in the civil construction field in Queensland or on more -

MR LONG: That's my whole career.

COMMISSIONER: On your whole career.

30 **MR LONG:** My whole career.

COMMISSIONER: And why do you say that?

35 **MR LONG:** Well, it's quite bizarre that you've got the state government doing the bidding of unions. It's not, you know, we - coming from I started my career in the commercial building as a builders labourer that was the old BW and the ex-is BLF and it eventually became the CFMEU. There was robust discussions around negotiations but done between the contractor, the union and the workforce. It always has been and the agreements no matter how robustly they were negotiated once they were signed they were the agreements we moved on with.

45 Governments were only ever concerned that the playing field was level and the players within the industry in doing their projects were complying with the law. We had a Queensland building code and we had a federal building code and a number of versions of that which was really trying to keep the industry honest. It was saying that that's how you conduct your business. Then we have got a state government now that decides to put another layer upon that and get involved in a natural order of

negotiations and understanding the market, it was market distorting without really any understanding of actually how the industry worked and the economics around it and what the impacts would be.

5 And now we were seeing profound increases in projects that we had no control of, and the bizarre thing was we are building for the state government and they are creating those increases. So yeah, in my whole career, and I've seen a lot of things in my career, I have never seen interference at this level. And I've said it in meetings, I say it over and over again, this is bad policy, it's one of the worst policies I've seen or
10 the worst policy.

MR WHEELAHAN: Those are my questions, Commissioner. There's been an application to cross-examine Mr Long by counsel for the administrator, Ms Hughes. That was in writing in accordance with the practice directions. I've had a discussion
15 with Ms Hughes and accepted that it's appropriate that she cross-examine. That will probably take within 20 minutes, which will see us finish on time.

COMMISSIONER: Are there any other applications to cross-examine this witness?

20 **MR WHEELAHAN:** No.

COMMISSIONER: Very well. Ms Hughes

MS HUGHES: Thank you, Commissioner. I can indicate that in light of my friend's
25 helpful indication this morning that given Mr Long is a foundational witness and that the subject matter will be explored at other hearings in this inquiry that I only want to pick up one aspect of Mr Long's evidence at this stage and so my cross-examination this afternoon will be quite brief.

30 Mr Long, my name is Amelia Hughes, I appear on behalf of the administrator for the CFMEU.

MR LONG: Yes.

35 **MS HUGHES:** I understand that you have publicly welcomed the appointment of the administrator.

MR LONG: Yes, I have.

40 **MS HUGHES:** And can I take from that, that you see the appointment of the administrator as a turning point for the CFMEU.

MR LONG: Yes, on the evidence we've seen prior to the administrator there's
45 been - the industry was seeing incredibly ugly. Since the appointment of the administrator, we've seen a certainly a quietening of the robust action, as I like to call it. And to your question, yes, there has been improvement.

MS HUGHES: And you gave evidence this morning and you might have just touched on this that you saw positive change when the administration was put in place.

5 **MR LONG:** Yes.

MS HUGHES: To the extent that you have explained that in your previous answer, are you able to tell the Commission about those positive changes?

10 **MR LONG:** Yeah, I can. I think first of all the players that I've outlined in my evidence are no longer with the CFMEU. The engagement with the administrator which I've had personal engagement with has been positive and we've never had that discussion before. And the effect - the reports that I'm getting from my members is that disruption on sites is nowhere near as bad as what it was.

15 **MS HUGHES:** And so you said that you had positive engagement with the administrator?

MR LONG: Yes.

20 **MS HUGHES:** Do you mind just telling the Commission a bit more about that?

MR LONG: Okay. So I, one of the things I do is I chair our national IR group and through that IR group, we've had discussions with the administrator since his
25 appointment and relatively regular engagement with him, being able to give industry feedback to what's happening out on the ground and trying to understand his objectives and motives and what he is trying to achieve.

MS HUGHES: And you said as well that one of the positive changes is that you are
30 hearing from your contractors is that there is less disruption on the construction sites.

MR LONG: That's correct.

MS HUGHES: Do you mind just telling the Commissioner a bit more about that as
35 well?

MR LONG: As an example one of our members I think was getting in excess of a couple of right of entry requests a month. They're probably reduced down to a fraction of that. I wouldn't know the exact numbers. That's repeated on most
40 projects, certainly the abuse of right of entry particularly under workplace health and safety has decreased and the process that they're seeing has been followed to the law a lot better.

MS HUGHES: Thank you. And Mr Long, when you were talking about the
45 CFMEU this morning in the context of the evidence that you've given, you were talking about the CFMEU prior to the appointment of the administrator?

MR LONG: Yeah, that's correct.

MS HUGHES: Thank you, Mr Long. Those are my questions. Thank you, Commissioner.

5

COMMISSIONER: Thank you, Ms Hughes. Anything arising from that, Mr Wheelahan?

MR WHEELAHAN: No, Commissioner.

10

COMMISSIONER: Are there any other applications to deal with this afternoon?

MR WHEELAHAN: No, Commissioner.

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COMMISSIONER: No. Very well. Well, you are excused, Mr Long. Thank you for your evidence.

MR LONG: Thank you, Commissioner.

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<WITNESS EXCUSED

COMMISSIONER: If there's nothing else you want to raise, Mr Wheelahan, we will adjourn until 10 am tomorrow. Please adjourn.

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<THE HEARING ADJOURNED AT 3.13 PM, UNTIL WEDNESDAY, 11 FEBRUARY 2026 AT 10.00 AM