



**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
FEDERAL CIRCUIT AND FAMILY COURT**

**WEDNESDAY, 18 MARCH 2026
AT 10.00 AM**

DAY 14

APPEARANCES

**Mr S Wood AM KC, Commissioner
Mr E Gisonda SC with Mr D Caruana, Counsel Assisting
Mr D Williams, Solicitor for CPB Contractors Pty Ltd
Mr D de Jersey KC with Ms M Brooks, Counsel for the State of Queensland
Mr C O'Grady and Ms F Fox, Counsel for the CFMEU Administration
Ms S Connolly, Counsel for the CEPU, ETUQ, and PGEUQ
Mr D O'Brien KC, Counsel for the Cross River Rail Delivery Authority
Mr Graeme Newton, Witness**

<THE HEARING RESUMED AT 10.00 AM

5 **COMMISSIONER:** Take appearances. I don't think there's any change in appearances, except that, Mr O'Grady, you're back for the CFMEU administration with Ms Fox?

MR O'GRADY: Yes, Commissioner.

10 **COMMISSIONER:** Thank you. Mr Gisonda?

MR GISONDA: Thank you, Commissioner. If Mr Caruana can just deal with a housekeeping matter to start off with.

15 **COMMISSIONER:** Very well.

MR CARUANA: Thank you, Commissioner. There is just a couple of questions for Mr Newton about an issue with exhibits that came to our attention overnight.

20 **COMMISSIONER:** Very well.

MR CARUANA: Mr Operator, if I could have page 68 of Mr Newton's bundle brought up on the screen. 67, sorry. Can you see that on the screen in front of you, Mr Newton?

25 **MR NEWTON:** Yes, I can.

MR CARUANA: That's exhibit GN-10 to the exhibits that were tendered yesterday. Could I draw your attention to the bottom right-hand corner. There's an invitation there for a meeting that's said to occur in July of 2019. Now, is it the case that you've scoured your records and there is no such meeting from that date on 30 July 2019?

MR NEWTON: That's correct. That's a typographical error.

35 **MR CARUANA:** And is it fair to say that was something you raised before signing your statement and for whatever reason this errant copy has made its way to the exhibits?

MR NEWTON: That's correct, yes.

40 **COMMISSIONER:** That date would be 30 July 2018. Wasn't there a reference to a -

45 **MR CARUANA:** If we could zoom out, please, you will see on the left there, Mr Newton, we have the meeting that was discussed yesterday with Mr Gisonda, 30 July 2018, and there's just an errant extra July meeting from 2019 that didn't occur. Is that right?

COMMISSIONER: There's nothing that occurred on 30 July 2019?

MR NEWTON: That's correct, and I think what happened was just in compiling the diagram, there was an error.

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MR CARUANA: Thank you. If I could have the proposed new exhibit put on the screen, please, Mr Operator. That's a version of the timeline, put it that way, without that box, Mr Newton. Everything else on that exhibit look correct to you?

10 **MR NEWTON:** Yes, that's correct.

MR CARUANA: If I could tender that, Commissioner. I could hand up a copy if that assists.

15 **COMMISSIONER:** Do you want to tender it or do you just want to substitute what was GN-10 in what was - been received as, I think, GWN-1. I think that's what the exhibit is, isn't it?

MR CARUANA: That's so.

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COMMISSIONER: And just substitute this document, replace what was GN-10 to GWN-1.

25 **MR CARUANA:** More than happy to do that, Commissioner. I'll make sure that's the version that goes on -

COMMISSIONER: Is there any objection to that course?

MR O'BRIEN: No.

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MR CARUANA: Thank you, Commissioner. I'll hand back to Mr Gisonda.

COMMISSIONER: Well, I don't know whether it's yours, Mr Gisonda. What's happening with the tender of the 1849-page tender bundle?

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MR CARUANA: Mr Gisonda is standing up, so I think he wants to take that question, Commissioner.

MR GISONDA: I might do that at the end of play tomorrow, Commissioner.

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COMMISSIONER: All right. Very well.

45 **MR GISONDA:** Mr Newton, where we left off yesterday was a set of meetings, I think I counted at least four meetings, that took place on 11 and 12 February of 2019, and those meetings took place between the unions and the shortlisted proponents for both the TSD and RIS works. And as a reminder, Commissioner, the notes of those meetings can be found at page 73 of the witness bundle.

Mr Newton, if we then go forward to page 80 of the bundle, that's an announcement by the State Government that the major contractors had been appointed to build Cross River Rail, and you'll see there, in that third paragraph, that following the
5 comprehensive valuation process that we went through yesterday in relation to three of the packages, the TSD package, the RIS package and the ETCS package, preferred proponents were announced for each of them.

10 **COMMISSIONER:** You opened on this document, didn't you? This is one of the first ones you took me to?

15 **MR GISONDA:** Yes. We've seen this document before. And we'll go into this in more detail tomorrow, Mr Newton, with Mr Johnson, but it's correct, isn't it, that for both the TSD package and the RIS package, that is, both Pulse and Unity had within it companies who were members of the CIMIC group. Is that right?

MR NEWTON: That's correct, yes.

20 **MR GISONDA:** And the two lead CIMIC group companies were CPB and UGL, CPB being, I can call them a contractor, civil contractor, and UGL being an engineering company; is that correct?

MR NEWTON: That is correct, yes.

25 **MR GISONDA:** And it's your understanding, is it, that following the announcement of the preferred proponents, that representatives of CPB and UGL undertook bargaining as a single-interest employer with each of the relevant unions, being the BTG members and the AWU and, on occasions, the RTBU.

30 **MR NEWTON:** Yes, that's correct.

35 **MR GISONDA:** And just focusing on your personal role in that bargaining process, if we go to page 13 of your witness statement, and paragraph 90 in particular, I just want to ensure that we're accurate in your evidence at paragraph 90. You would say, wouldn't you, that you personally had a very limited role in the bargaining process; is that correct?

MR NEWTON: Yes, that's correct.

40 **MR GISONDA:** And you attended as little as, let's say, one or two meetings in that entire bargaining process. When I say meetings, I mean meetings with the contractors and the unions present.

45 **MR NEWTON:** I didn't attend any of those meetings.

MR GISONDA: Right. So you attended no meetings with - you attend no meetings when contractors and unions were present.

MR NEWTON: Mmm.

5 **MR GISONDA:** You did, however - and if we go to page 1810 of the tender bundle,
and this will be put into evidence separately, Commissioner, through Mr Johnson
tomorrow, but this is an email that Mr Johnson sends to his manager, and you'll see
in that email - it's dated 10 June, but he says that on the Friday, which is 7 June,
"Largy and myself" - that being Andrew Large, who's also on the email - and he met
10 with yourself and David Lynch on Friday. You accept that you attended at least that
meeting on the 7th with Mr Large and Mr Johnson?

MR NEWTON: Yes.

15 **MR GISONDA:** And do you recall many other meetings where you meet with
representatives of the contractors during this bargaining process?

20 **MR NEWTON:** I - I met with the contractors, but it was more in the context of
settling the contracts, you know, that we were going from the preferred contractor
stage to the financial close. The bargaining was happening as a backdrop behind it. I
was always interested in the progress of that bargaining, given some undertakings
that the contractors had made around best endeavours, but as far as participating in
the bargaining or any involvement in it, I was pretty clear about what our role was.
I'd had legal advice around that, so I was very clear about the position that I took in
those meetings.

25 **MR GISONDA:** Without waiving any privilege on the legal advice, that's a
reference to legal advice about the extent to which you could involve yourself in
those enterprise bargaining negotiations. Is that what that's a reference to?

30 **MR NEWTON:** That is correct, yes.

MR GISONDA: But you accept, do you, that at least this meeting, on 7 June, did
raise as a topic for discussion the progress of the industrial instruments that were
being bargained between the contractors and the unions?

35 **MR NEWTON:** Yes. Again, it was in the context of those key words, "best
endeavours", because the contractor - and it's referenced there, at the very bottom of
number 3, the sentence starting "we will need". It refers to best endeavours, and then
down - about midway down 4, the DA would like to - would look for a stronger
40 definition of major permanent works, and that was reflected in that exhibit document
we talked about. They'd made those - those clauses. So we were particularly
interested in how they were going to fulfil their commitment per the contract in
demonstrating best endeavours. That was the context, and the discussion up above in
relation to the three arrangements was basically talking with the contractors and
45 saying, "Are these the potential scenarios that may prevail?" But it was certainly not
trying to attempt to influence it.

MR GISONDA: Sure. And the reference to best endeavours, just to remind the Commissioner, is a reference to that contractual provision that we looked at yesterday -

5 **MR NEWTON:** Yes.

MR GISONDA: - in the myriad of BPP provisions. I'm going to leave that meeting, because I want to take that up with Mr Johnson, simply because it will be more efficient if he deals with it, and we can move on to other matters, Mr Newton. But I
10 just want to hear your evidence about a meeting that took place on 27 June 2019, and this is a meeting where Mr Johnson and Mr Sanfilippo will say there was an off-the-record conversation with the Delivery Authority, during which the Delivery Authority presented them with a letter that they should sign. Can I ask you to give evidence about whether you believe you were at that meeting personally?

15 **MR NEWTON:** Yes. I'd seen that in Mr Sanfilippo's notes, as well as Mr Johnson's notes, and given the nature of what was discussed, I looked into my diary to see whether I had attended that meeting. I couldn't find any evidence that there was a diary entry. I looked at my notes. I had no notes of that meeting and I have no
20 recollection of that meeting, the items that were discussed. So given the nature of what was described at the meeting, I would have thought I would have remembered it, so I have no recollection of that meeting.

MR GISONDA: Thank you, Mr Newton. So then going back to paragraph 90, and
25 again, that first sentence, "the Delivery Authority itself did not have a role in the bargaining process", I think we've established that that's certainly the case with respect to your personal involvement, but you then go on to say:

30 "But it engaged specialist probity employee relations and workforce advisers to monitor the initial bargaining for enterprise agreements that occurred."

You're aware or you understand, don't you, that the representatives of CPB, at least Mr Johnson and Mr Sanfilippo, will say that they found the Delivery Authority's involvement in the bargaining process to be unusual, and that their involvement - that
35 is, the Delivery Authority's advisers, who were present in meetings - took a more active role in those meetings beyond monitoring the bargaining. You understand that's what they say?

40 **MR NEWTON:** I understand that's what they say, yes.

MR GISONDA: And do you have anything to say in response to that? And again, to make clear, they don't say that that's the case with respect to yourself but with respect to other advisers who we'll come to presently.

45 **MR NEWTON:** I suppose the context is important here. It's evident that CPB and the BTG, particularly CFMEU, had a long history of, I suppose - how's the best way to put it - a long history of tension between themselves. I think Mr Sanfilippo's

evidence refers to 10 years, but it was known. We were particularly interested in making sure the bargaining was being done with all great effort, and as they refer to, the term "best endeavours" was being taken to achieve that. In order to do that, I wanted to make sure that we had some observation of those meetings, and the engagement of these advisers, particularly Scott Gartrell, was very late in the bargaining process. It wasn't till 25 June, I think it was, 25, 26 June.

So bargaining had been going since April, and it was evident somewhere around about late May that the bargaining process was struggling. There was commitments around the best endeavours, and I was quite conscious that we were rapidly getting through the procurement process or, sorry, the contract close process, and it was heading toward a late June conclusion, and there was still this hanging question of whether best endeavours had been achieved, and the intention was to offer a facilitator into the circumstance to see if that could progress it but also to give some, you know, confidence that a demonstration of best endeavours could be achieved. We took legal advice in regard to that, all the way out throughout the process, and, you know, then proceeded as described.

MR GISONDA: And it's the case, isn't it, that the parties - that is, the State and the contractors - were working towards achieving financial close by 30 June 2019, the end of the financial year. Is that your recollection?

MR NEWTON: Yes, that's correct.

MR GISONDA: And one of the conditions precedent to contractual close ostensibly was demonstrating to the State, so that the State could give its formal approval through the Cabinet budget review subcommittee, that best endeavours were being had - or, sorry, the contractors were demonstrating best endeavours to try and reach a greenfields industrial agreement with all relevant unions. Is that right?

MR NEWTON: That's correct. That was the undertaking and commitment they'd given at the time of appointment.

COMMISSIONER: Is it usual, in your experience, to have this level of control - admittedly, you say mediated by this idea of best endeavours - over the terms of an enterprise agreement that the contractor enters into? I can understand - and it's very common in large infrastructure projects, particularly mining, oil and gas, for the proponent to say to the contractor, "You must have an enterprise agreement." And the reason's pretty simple: because the proponent doesn't want unprotected industrial action during the life of the building of the project. In fact, the proponent will sometimes go further and lobby governments to change the legislation; I think they have successfully. I can't remember what the rules are now in relation to greenfields agreements, whether they're five years or seven years or whatever they are.

But that's a legitimate commercial interest of the proponent, to say, "I don't want industrial action on the project during the time that it's expected to be built." It's

another - it's a step further to say there's going to be some control over the terms and conditions of the enterprise agreement, as opposed to having an enterprise agreement for a certain period of time which prevents industrial action being taken.

5 **MR NEWTON:** Commissioner, in this case, we were not dictating terms of the agreement. We were saying - and I'll step back. The letter that we talked about yesterday, on 1 February, from the then Deputy Premier, made extensive references to desire for an enterprise agreement. So that caused the foundation, if you like. When the contractor was appointed, they gave an undertaking that they would
10 undertake best endeavours to reach an agreement. In their document in exhibit 4, they make reference to having - and I may get the language wrong, but the best endeavours to achieve an enterprise agreement prior to commencement of major construction works, so not early works, just major construction works. So that was a commitment they'd made. You know, given the history and what we talked about
15 before, there was tension between CPB -

COMMISSIONER: That's very common, though, for the reason - an agreement per se, that requirement is very common. My question is directed at the terms of the agreement.

20 **MR NEWTON:** Yes. As I said before, we weren't dictating terms. It was all about achieving an agreement, and for the reasons you articulated before, to have stability. Going into, you know, detailed delivery without an enterprise agreement does open up a whole bunch of potential issues. So the contractor had freely said, "We want to
25 get greenfields agreements in place prior to, and we give a commitment that we'll go ahead and negotiate." What the government, via that letter from the Deputy Premier, was desirous of is evidence that they had genuinely gone into it. I recall that there was cynicism from the CFMEU that CPB were going about the negotiations, you know, in a genuine best-endeavours path.

30 So I wanted to be able to be clear and observe - have observation that they were genuinely bargaining, and that was the reason for the observation, and then when things started to become, you know, quite tense and it felt like the bargaining was starting to fall apart, that was when we offered the facilitation. But really, it was only
35 a very short period that that was offered over in the lead-up to financial close. I needed to be able to put a commitment to government that the Delivery Authority believed best endeavours had been, you know, threshold had been achieved in order for us to reach financial close. And again, I took advice, and was able to prepare that advice to government, or prepare my advice to government.

40 **MR GISONDA:** Thank you, Mr Newton. If we then look at some of the people who were engaged. We've already spoken about O'Connor Marsden yesterday, but some of the other advisers that were engaged by the Delivery Authority. The first one was Mr Matthew Martyn-Jones, who we spoke about yesterday briefly. Do you recall
45 approximately when he was engaged by the Delivery Authority?

MR NEWTON: He was appointed in 2017, by my recollection.

MR GISONDA: And do you recall how he came to be appointed, whether he was - it was an open advertisement for the role or whether he was recommended to you? How did it come about?

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COMMISSIONER: I just missed who you were talking about. Is this Mr Gartrell?

MR GISONDA: Mr Martyn-Jones.

10 **COMMISSIONER:** Mr Martyn-Jones. Sorry.

MR NEWTON: He was - I had met him at different times, whatever, when I first was appointed in acting capacity. He came in an acting capacity, and then we went through an open advertised process and there was a selection panel and, you know, several applicants, and we went through and did an interview process and he was appointed. I think it was in late '17.

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MR GISONDA: Do you know what his role was or what his experience was before he came onto the Delivery Authority?

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MR NEWTON: I - I don't have it immediately at hand, but he'd had extensive experience in corporate communications, stakeholder management. I believe he was also involved in some of the, you know, the wider industrial-type activity. So it was broadly on that - a lot of the larger corporate entities have people working in that field, which is, you know, stakeholder relations and communications. So he held a fairly senior role. I think prior to coming to us, he'd had a role with BHP. But I'd have to confirm that.

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MR GISONDA: Thank you. If we can then go to page 1812 of the tender bundle. This is an email exchange between Mr Martyn-Jones and Scott Gartrell, which begins on the morning of 25 June, which I think was the date you mentioned a moment ago.

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MR NEWTON: Yes.

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MR GISONDA: The date that he was engaged. So this is five days before the day for financial close that the parties were working towards. And you will see here that Mr - they've had a conversation, this is at the bottom of the page, Mr Gartrell and Mr Martyn-Jones, and what Mr Gartrell says is:

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"Good to talk with you this morning about resolving an enterprise agreement for the Cross River Rail project."

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And what then happens is, over the course of the next 20 or so minutes, there's a further brief exchange between them, and he is engaged, I think you said, on that day, 25 June. And so that's consistent with your recollection, is it, that his role was

to, using his words, resolve an enterprise agreement for the Cross River Rail project?
Is that right?

5 **MR NEWTON:** That's inconsistent with my view. My view was he was appointed as a facilitator, and I believe that was reflected in his terms of appointment.

MR GISONDA: So you say that his role was, in fact, to try and facilitate the parties to reach an enterprise agreement for the project?

10 **MR NEWTON:** Yes. What he's saying there is not - not an accurate representation of how he was appointed finally.

15 **MR GISONDA:** And do you know what his background was before he was engaged?

MR NEWTON: Yes. I'll just refer to my notes. Prior - he'd been working, I think he'd had six years working for Lendlease in various roles, similar to what I described before, but also including industrial relations, but the corporate side of, and in various roles with Lendlease, and, yeah, so that's my understanding of his
20 background. I do have his CV here if I need to refer to it.

MR GISONDA: And did Mr Gartrell - was that a suggestion from Mr Martyn-Jones or from someone else? Do you know where his name got pulled from?

25 **MR NEWTON:** I believe it was suggested by the Deputy Premier's office. I've got his CV here; I can just clarify. He held head of corporate affairs, further went on to being group head of industrial relations and then executive general manager of corporate affairs.

30 **COMMISSIONER:** For Lendlease?

MR NEWTON: At Lendlease, yeah.

35 **MR GISONDA:** Commissioner, I might make arrangements with Mr O'Brien at an appropriate time to get a copy of that, and we might seek to tender that if necessary. The third gentleman I want to ask you about was Evan Moorhead, who appears from notes -

40 **COMMISSIONER:** Just pick that up. Assume if he's come from the Deputy Premier's office as a suggestion before he was at Lendlease, presumably he was a union official or somehow involved in the labour movement, I would expect.

MR NEWTON: I don't know that far back. That's not referenced in his CV.

45 **COMMISSIONER:** Right.

MR GISONDA: And I think, Commissioner, that Mr Sanfilippo will be able to give you some more information about his understanding of Mr Gartrell's background in industrial affairs. The third gentleman was Mr Evan Moorhead, who, from the notes of CPB, again, just making it clear that you're not in these meetings, but the notes of
5 CPB suggest that he attended at least one meeting between the contractors and the unions in this enterprise bargaining period. Are you able to assist the Commission with explaining how he came to be involved with the Delivery Authority and what his role was?

10 **MR NEWTON:** My recollection and my notes, I don't have him as having a significant role in the activities that were going on. He was providing stakeholder advisory services, which - you know, which was, you knows, part of that phase, but I - you know, I don't have any significant recollection of him being as active at that stage as Mr Gartrell.

15 **MR GISONDA:** And do you know how he came to be suggested to perform stakeholder advisory services for the Delivery Authority?

20 **MR NEWTON:** Mr Moorhead's sort of well known in Queensland circles. So I'm not sure how he was appointed, but I think it was, again, to further assist the process.

COMMISSIONER: So I presume at this stage Mr McPherson had been sidelined or had been terminated or resigned or - anyway, he was no longer in the picture?

25 **MR NEWTON:** He was with us until the end of June 2019, so he was still assisting in the background. As I said yesterday -

COMMISSIONER: (Indistinct) - sorry.

30 **MR NEWTON:** Yeah. So he - he didn't - his role didn't diminish. When I said yesterday he didn't participate in meetings, I believe that's not with the CFMEU. I couldn't say for sure whether he was involved in meetings with other unions. I don't - I don't know. I wasn't involved in that level of detail.

35 **MR GISONDA:** This is Mr McPherson?

COMMISSIONER: Mr McPherson.

40 **MR GISONDA:** And are you aware whether Mr McPherson received a direction from the Deputy Premier's office not to involve himself in those meetings any more?

MR NEWTON: Is the question did he receive a direction -

45 **MR GISONDA:** Well, the question is whether you're aware if he received such a direction or not.

MR NEWTON: I'm not aware of that, no.

MR GISONDA: And then the last gentleman I was going to ask you about, but the Commissioner asked you a number of questions about him yesterday, which is Paul Inches, and just remind me, do you recall when he became involved with the
5 Delivery Authority?

MR NEWTON: Yes, he was appointed in November 2018, so quite a bit earlier. I think I mischaracterised his experience yesterday. I said he had - he'd been a union delegate. I think that was historically. I've since had a chance to have a look at his
10 CV. He has over 15 years working in that field of industrial relations advisory. He worked for WorleyParsons, Powerlink, Samsung Heavy Industry or heavy engineering, Tarong Energy, WA Health and then he also worked as a policy adviser in the then Queensland Minister for Natural Resources and Mines back in 2004. I think that was Stephen Robertson was the minister.

15 **COMMISSIONER:** Sorry, I just missed that.

MR NEWTON: I think that was - Stephen Robertson was the minister at the time so that would've been the Beattie Government, maybe.

20 **MR GISONDA:** Commissioner, to assist you, can I hand up a document, please. It's titled Briefing Note for the Meeting with the Minister for Natural Resources and Mines and Energy. And if I can ask that document to be handed up to the Commissioner and also to be given to the representatives at the bar table.

25 **COMMISSIONER:** Did you research overnight - I asked you a question about - prior to Mr Inches being an industrial consultant for a variety of companies, you said he was a unionist of some type. I don't know whether you said delegate yesterday or organiser or official. Did you have a chance to look overnight at which
30 union he was an organiser or official or delegate of?

MR NEWTON: I haven't been able to identify that, and that's when I pulled out his CV and it wasn't referenced in that, so that's when the assumption was. His CV goes back 15 years, and it wasn't referenced on that. It's probably just my recollection
35 from talking with him at the time, which was evidence of his understanding of how unions worked. My recollection: it wasn't the CFMEU. I think it may well have been the AMWU, but I could be wrong.

MR GISONDA: And this document, which we might mark for identification, if
40 that's how you're treating these sorts of documents, Commissioner, and we can seek to tender it tomorrow as part of the broader bundle, but this is a document that I've been able to find overnight as a document that's been produced to the Commission. It's from 2004, and it's a briefing note for the meeting with the Minister for Natural Resources and Mines and Energy. It's a briefing note that's been prepared by the
45 CFMEU, and if you look at the - Mr Newton has already explained that, at this time, Mr Inches was a senior policy adviser for the Minister for Natural Resources and Mines and Energy. That's Mr Stephen Robertson. And that last bullet point,

Commissioner, shows that the CFMEU was suggesting or recommending in this briefing note that the points of communication between the minister's office and the union take place between, among other persons, Mr Inches as the senior policy adviser and Michael Ravbar, who at the time was assistant state secretary.

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So that would, in terms of his credentials and experience in the - let's not say union movement, but let's say in terms of relations or dealings with unions, you can see from as early as 2004 that the - at least Mr Ravbar - it was recommended that at least Mr Ravbar and Mr Inches have a line of communication to discuss policy matters. So that gives you a bit of understanding, Commissioner, as to Mr Inches' background and why it might be that the Delivery Authority would recognise him as a person to be hired in a role that he was hired in, but also you'll recall the meetings in late November or December of 2018, Mr Inches was expressly put forward to the union as someone who might be able to facilitate the types of meetings that the union was demanding.

15

COMMISSIONER: And what do you want to mark this as?

MR GISONDA: If that could just be marked as - how are you marking -

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COMMISSIONER: I don't think we've had any documents for further identification yet.

MR GISONDA: Maybe MFI1, then, and I'll seek to tender it tomorrow with the rest of the bundle. And we spent time yesterday, and, Mr Newton, talking through some of the union's involvement during the procurement and enterprise bargaining phase, and you say in your statement that the CFMEU's conduct in relation to the Cross River Rail had a number of elements or themes, and one such theme you identified was an attempt to influence the procurement process.

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MR NEWTON: Yes.

MR GISONDA: And looked at from a probity perspective, you regarded that attempted influence as being improper in the circumstances; is that correct?

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MR NEWTON: That's correct.

MR GISONDA: And we'll then move on to a different theme, and if I can just show you first correspondence from Mr Vince Sanfilippo to the unions in August of 2019, and if I can direct you, Commissioner, please, to page 1648 of the tender bundle. And perhaps if we begin at - yes, 1648. Just look at the top email, Commissioner, because you'll see that this is an email that is received at least by Mr Gartrell and Mr Inches from the Delivery Authority, and I want to just direct your attention, Commissioner, and Mr Newton, to the email that begins at the bottom of that page, from Mr Vince Sanfilippo. It's directed to Beau Malone from the ETU, but for all intents and purposes, it goes to all of the unions.

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And I think it's fair to describe this email and the following email on 21 August, which I'll come to in a moment, as Mr Sanfilippo saying - and perhaps the best point is - perhaps the way to best demonstrate the point is to go to the next page, 1649, and if you look at the - I think it's the third paragraph on that page, it begins, "The joint venture is concerned." So he says:

"The joint venture is concerned that there may be no realistic prospect to a bargained outcome for a greenfields agreement unless the union bargaining representatives acknowledge the movement from the joint venture and begin to commence bargaining in good faith."

And then if we go to the bottom of this email, beginning "regrettably":

"Regrettably, if the union's bargaining representatives are unwilling to provide the required evidence of good faith bargaining and to provide a comparison document, then the joint venture sees little point in scheduling a further meeting."

And then on 21 August, which is at page 1650, there's another meeting - sorry, there's another email from Mr Sanfilippo on 21 August where he goes through similar matters. Did you understand at this time that it was looking as though the bargaining that had taken place between the contractors and the at least Building Trades Group was entering a phase where it was - the prospect of an agreement was looking precarious, if I can use that word?

MR NEWTON: Yes. By late August or mid to late August, it became apparent that the level of ability to reach an enterprise agreement between the Building Trades Group and CPB was looking, you know, like you say, perilous or more tenuous, which, again, is part of the bargaining process.

MR GISONDA: Yes. And so that's the context, I suggest, then, for the next event that occurs, which is that the following day, on 22 August, if we go to page - actually, we'll go to page 1641 of the tender bundle, because that's the best version of this document, and you give evidence in your statement that there was a rally on Parliament House on 22 August led by the CFMEU; is that right?

MR NEWTON: Yes.

MR GISONDA: And you'll see there on the right-hand side, this is a report from the ABC about that rally, and it says that:

"The gates of Parliament House here in Brisbane are locked as hundreds of CFMEU members protest outside. CFMEU and ETU are turning on the Labor Government over problems with Cross River Rail. They can be heard shouting scumbags, ALPC-words and ALP is full of shit. And our reporter on the scene says it's echoing through Queensland Parliament. Certainly the loudest in a long time."

So that was quite an aggressive and hostile rally that had been led by the CFMEU on the Parliament of Queensland. And if we then go to page 115 of the - your witness bundle, and this may well be the first instance, I think - yes, that must be right - the first time that we see a public statement. This is a CFMEU media release, and the heading is Trad Must Go To Prevent Cross River Rail Debacle, and the very first sentence of this media release is:

10 "Deputy Premier Jackie Trad needs to resign and the Cross River Rail Delivery Authority be scrapped if the government wants to salvage the fiasco that the Cross River Rail risks becoming."

And then the next sentence is to expressly tie their demands here with the State election that was occurring the following year, and then he says - sorry, the statement says, in this third paragraph that:

15 "Mr Ravbar told a lunchtime rally of thousands of building workers that the delivery of the long-stalled project had been hamstrung by bureaucratic bungling and a woeful lack of oversight."

20 And just pausing there, what could that woeful lack of oversight be, in your view, that they're referring to?

MR NEWTON: I - I couldn't get into the mind of Michael Ravbar.

25 **MR GISONDA:** Yes. That's - I don't think I could have expected any other answer to that. But we do know, don't we, that, for quite some time - well, from the very beginning, in fact - the CFMEU had wanted either the State or the Cross River Rail Delivery Authority to enter into what it called as a framework agreement with the union. That's right?

30 **MR NEWTON:** Yes. Look, I suppose to - this - this bargaining stage was really reaching a point, as you referred to with the previous emails, it was evident that the BTG/CFMEU weren't getting what they were wanting in the bargaining. They'd persisted with the one agreement, Queens Wharf, the same stuff that was discussed yesterday, and that wasn't getting traction, so I can only assume they took it to the streets to try and put pressure externally. Like I said, I can't - my comment before, you know, is a sincere one: I can't - I can't know what they were thinking at the time. But judging by the nature of the language that was used there - and, you know, we became quite used to this type of approach. I mean, this wasn't the first or the last protest they had where they had made, you know, outlandish claims and significant, you know, demands for people to be sacked along the way, and they - this timing could only tie it back to the bargaining process in an attempt to try and have some kind of external influence on it.

45 **MR GISONDA:** Yes. And then if we go to page 119 of the bundle, this is a news article, the following day, that was published in The Australian, and what this shows at page 120 in particular was that Mr Ravbar had sought to - had called for the

resignation of Jackie Trad, had tied it in with a Corruption Commission issue that she was facing at the time, but what this reports, this article, is that that appears to have caught the other union who was present at the rally, the ETU, and its State Secretary, Mr Ong, by surprise, because over at page 121, he says that he was blindsided by that demand for Ms Trad's head. He called that disappointed, and he said it took away from the main point of the rally, which, according to his statement, was - the rally was about what they described as Cross River Rail Authority mismanagement of the whole thing, and the whole thing can only be, at this stage, August 2019, the procurement of those contractors and the enterprise bargaining that was going on, the greenfields enterprise bargaining that was going on, because by this stage, no works had commenced on the project.

MR NEWTON: No major works.

15 **MR GISONDA:** No major works, yes.

MR NEWTON: There had been some early works, but not by these contractors. There were smaller demolition works and so forth, so, yes, your description is correct.

20 **MR GISONDA:** And this is - I said we'd go to some of the other themes that you identify in your statement, and one of them is the theme of public and personal attacks on those associated with the project, from ministers, in fact, the Deputy Premier, as we saw just here, all the way down to workers on the site, and that's something that you observed in your position right through the project -

25 **MR NEWTON:** Yes.

MR GISONDA: - at least up until 2024. Now, by no later than 12 September - so that's, I think, two or so weeks after this, or three weeks - an agreement is reached between the AWU and CPB only, two greenfields agreement, one for surface works, one for civil works.

MR NEWTON: Yes.

35 **MR GISONDA:** And the reason UGL is not a party to that agreement is because a decision was made to carve off mechanical and engineering or electrical works until the following year. So any UGL agreement gets postponed.

40 **MR NEWTON:** And, you know, the priority was the civil works. The mechanical works were obviously due not to commence for some time.

MR GISONDA: Yes.

45 **MR NEWTON:** It was, you know, getting in, get the demolition, excavation, tunnelling, get a lot of those works. That was the priority at the front end of the project.

MR GISONDA: Yes. And if you look at -

COMMISSIONER: Are the mechanical works the signalling or -

5

MR NEWTON: Mechanical is all - anything - if you imagine the tunnel creates the cavern, the space, and then the mechanical fills it. So ventilation, air-conditioning, fire systems, alarm systems, all of that, yeah.

10 **MR GISONDA:** Then if we go to page 391 of your witness bundle, this is a table of some key events, but if we look at the very last entry in that table, which is 19 September, and as I say, the agreement was reached by no later than 12 September. You see there, the CFMEU starts the Cross River Fail campaign.

15 **MR NEWTON:** Yes.

MR GISONDA: And I think the evidence of Mr Sanfilippo will be that, from his recollection, they reached - they reached the agreement with the AWU, Commissioner, but notice of that agreement was not given until it was made public
20 on the Fair Work Commission website. So it may well have been brought to the CFMEU's attention a bit later than that, but in any event, Mr Sanfilippo's recollection is that they got word of the agreement with the AWU, and the Cross River Rail - Cross River Fail campaign begins the next day. And that same week, I think it's 20 September - we'll just make a note of this, because it becomes important in the
25 next round of personal attacks - Kate Jones becomes the Minister for Cross River Rail.

MR NEWTON: Yes.

30 **MR GISONDA:** And on 16 October 2019, the Fair Work Commission approves the agreements - the greenfields agreements between CPB and the AWU. And if we go to page 91 of the bundle, or perhaps we'll go to page 85 first, they're the reasons for decision of the Commission, Commissioner Johns, and at page 91, you'll see at
35 paragraph 11 that the BTG resisted or contested approval of the agreements on three grounds. They said that there'd been no bargaining in good faith. They contested whether the AWU was entitled to represent the interests of the majority of employees. And they contested whether approval was in the public interest. And those matters were rejected by the Commissioner, but you're aware that the CFMEU were challenging the approval of the agreements.
40

MR NEWTON: Yes.

MR GISONDA: Along with the other BTG members. And then there's then a reference at page 113 to an article which was published in the Financial Review.
45 This is page 113. It's titled CFMEU Vows to Disrupt Cross River Rail Project. And over the page, at 114, the third paragraph, there's a quote of something that was said

in the argument before the Commission from union counsel. Mr Dowling SC, as he then was, as his Honour then was, said that:

5 "If, as the result of this arrangement, the employer is to say, 'We don't care, you can't have that representation,' that creates disharmony in the workplace and that creates industrial unrest."

10 And that was a recognition by the union - that is, the CFMEU - that if you had an AWU greenfields agreement only, without the involvement of the other unions, that that was likely to cause disharmony and industrial unrest on the project. Is that right?

MR NEWTON: Yes.

15 **MR GISONDA:** And just to round out this point, Commissioner, if we go to page 4 of the tender bundle, you'll recall that evidence from Ms Schinnerl, which was that after that agreement was approved, did you hear - this is a question from Mr Wheelahan to Ms Schinnerl:

20 "Did you hear any reports back with respect to the CFMEU's position given that you'd just landed two pretty significant civil construction enterprise agreements?"

25 And the response from Ms Schinnerl was that you could hear - you'd be pretty deaf not to hear the screams from Bowen Hills. Now, can we go to page - well, I'll just tell you, because it's in your evidence. We don't need to go to it. But this is dated 19 November 2019, so this is about a month later. And it's a pamphlet that's distributed - if we go to page 180 of your witness bundle.

30 **COMMISSIONER:** This is a point where Ms Jones is now the responsible minister?

35 **MR GISONDA:** Yes. And this is a pamphlet that's distributed to pedestrians outside Albert Street, Albert Street being, you will recall, Commissioner, that station that was described in the reference design, I believe, as - I think it's described as the most important station in the project, being in the southern part of the CBD precinct. A very busy part of the city. Lots of pedestrians walking past. This pamphlet is distributed, and will you see the first bullet point -

40 **COMMISSIONER:** I think it's also - didn't Mr Newton say that's the offices of the Delivery Authority were on Albert Street as well?

45 **MR NEWTON:** Yeah, our office at the time was adjacent to near that site, but the contractors had already started demolition, so there was an office building at that site and some shops along Albert Street. They'd started doing demolition. I should point out, it was a non-CFMEU contractor that was doing that work. Hence, it got a lot of attention.

MR GISONDA: Yes. And perhaps, pausing there - excuse me, Mr Newton, while I just raise another housekeeping matter. It's probably convenient - so we've already marked the replacement - sorry, the briefing note as MFI1. We should mark the tender bundle as MFI2, and that can be uploaded to the website so that those parties who are not present here but might wish to have an interest in the matters can see that material. So if I could -

COMMISSIONER: Should it be uploaded before objections are taken to any part of it? Well, I can't imagine there's going to be any objections. Everything I've seen so far is just - they're just business documents or memos or emails or something like that. There might be some objection, but -

MR GISONDA: Perhaps what we might do is if I can put that possibility out there, and we can return to it after the morning adjournment to see if anyone's got an objection to that course.

COMMISSIONER: It doesn't prevent any objection being made at a later stage.

MR GISONDA: No, of course not.

COMMISSIONER: I just can't see a lot of risk in doing what you suggest, but I just thought it might be worth asking other members of the bar table, other parties represented at the bar table, what their views were.

MR GISONDA: Thank you, Commissioner. So then going to this page, 180, the first bullet point is that pedestrians and workers have already been exposed to asbestos, and your evidence, page 30, paragraph 251, is that you were unaware of any information or evidence that suggested that the Delivery Authority was aware that pedestrians were ever exposed to asbestos on the project or that unprotected workers were exposed to asbestos. So does that remain the case, sitting here today, that you're not aware of any occasion where - let's just focus on pedestrians for the moment - that pedestrians walking past in Albert Street had been exposed to asbestos?

MR NEWTON: That's correct, yeah. The contractors were extremely aware of asbestos as a material, and as we understood it, was always responding. Workplace Health and Safety Queensland came to site on a regular basis and verified that.

MR GISONDA: And that's something that you would have taken - if you had been made aware of that - that is, the Delivery Authority - that's something that you would have responded to with the utmost seriousness; is that right?

MR NEWTON: Yes, community safety. We're well aware that we're building or in this case demolishing in the middle of the CBD. Expectation on the contractors and their subcontractors but also under legislation, there's many layers in that regard for that claim to be, you know, spurious.

MR GISONDA: Yes. And then the next bullet point is workers are on barely minimum-wage conditions. If we just go to page 1120 of the tender bundle, this is the tunnelling greenfields agreement between CPB and the AWU, and you'll see there, TW-1, these are the classifications for individual employees and their base rates per hour. You'll see TW-1 is \$43.60 per hour, and that includes, if I can just draw attention to this, a hoist driver. And then, remembering that point, if we then go to page 1756 of the tender bundle. I know you're excited, Commissioner, that we're finally looking at an award.

10 If you see at page 1756, this is taken from the Building and Construction General Onsite Award. Even though it's dated 2020, this includes, Commissioner, all relevant amendments as at present day, and you'll understand the importance of that point in a moment, but you'll see there that CW/ECW 1 (Level A) is a new entrant. So TW-1 classification in the greenfields agreement was a new entrant and a hoist driver.

15 Here, now, in the award we have a CW/ECW 1. That's a new entrant. And then if we go to page 1762, ECW 2 classification includes, you will see there, in the middle, a hoist driver, and then we then go to 1692 - sorry, 1693. You see CW/ECW 1, these new entrants. Minimum hourly rate, \$25.46, and then back at page 1692, level 2, CW/ECW 2. That's the hoist driver, \$27.32 an hour, and compare that with, again,

20 just to remind us, the rates under the greenfields agreement with the AWU, TW 1, which includes both new entrants and hoist drivers, \$43.60 per hour.

And, Commissioner, I said this is 2026 rates. They would have been lower still in 2019, November 2019. So apologies, Mr Newton, for having to take you through all that. But it's to make the point, an important point, that the workers on this site were not paid anything like barely minimum-wage conditions. Was that your understanding?

MR NEWTON: Yes, and that was always the nature and expectation on a major project. The award was well below what people on significant infrastructure projects achieved.

MR GISONDA: And it was from the very earliest stages when you saw the communications in relation to best practice principles, one of the matters that was pointed out time and again, which is to have an enterprise agreement above award conditions. And then the third bullet point - we're now back at page 180 of your witness bundle -

COMMISSIONER: Assuming the minimum wages went up by about 3 per cent year, the 2019 rate for the award might have been about half the AWU rate.

MR GISONDA: Half the AWU rate, yes, that's right.

COMMISSIONER: So the statement should have been workers were on twice minimum wage.

MR GISONDA: Yes, and that's not taking into account, of course, as you would understand, Commissioner, that when you go through the EBA, you have things like - I think there's a 50 per cent increase for afternoon shifts and night shifts. So we're just talking about base rates here. Then the third bullet point -

5

COMMISSIONER: That's how you get to such high rates. I think there's somewhere saying that workers on the AWU agreement were being paid 228,000 or 280,000.

10 **MR GISONDA:** Yes.

COMMISSIONER: And once you compress the hours and you have very large penalty rates and you work a lot of hours -

15 **MR GISONDA:** Quite so.

COMMISSIONER: - you get a long way above minimum-wage conditions.

20 **MR GISONDA:** Yes, that's right, and you get nowhere near that sort of arrangement in an award.

COMMISSIONER: No. It's about three times the amount, something like that. Two to three.

25 **MR GISONDA:** And then this third bullet point:

"Best practice principles are non-existent."

30 Well, we've already taken much of the Commission's time yesterday demonstrating in quite some detail that best practice principles were very much existent on this project, and so those three bullet points being handed out to pedestrians were false. Isn't that right?

35 **MR NEWTON:** Absolutely.

MR GISONDA: And the first one in particular was quite insidious. It was designed to engender fear in pedestrians near the project, because, as you've already said, there's many safety requirements go into asbestos, because it's a particularly dangerous substance.

40

MR NEWTON: That's correct, yes.

45 **MR GISONDA:** And you say that one of the themes of the behaviour of the union can be described as mistruths in public - sorry, mistruths, and that is mistruths in public and mistruths in the media. This is an example of a public statement, and we'll come to a media statement shortly. And it can only be described, would you agree, as

a campaign to cause damage to - reputational damage, if not other damage, to the Cross River Rail project. Is that fair?

5 **MR NEWTON:** Yes. Absolutely. And it was - as we've gone through in the statement, there's quite a lot of evidence of that.

10 **MR GISONDA:** Yes. All under the rubric of Cross River Fail, a campaign that began, let's say, the same week as, if not the same, the day after, the contractor and the AWU did an agreement which excluded the CFMEU. I'm about to go to the next article, which might take some time. So is that convenient, Commissioner, for a short break?

15 **COMMISSIONER:** Yes. We will resume at 20 past 11. Do you need more time to talk to the parties at the bar table about the manner in which you propose to deal with what will become MFI2?

MR GISONDA: Perhaps give us five more minutes, just to be safe, Commissioner.

20 **COMMISSIONER:** We'll adjourn until 25 past 11.

<THE HEARING ADJOURNED AT 11.10 AM

<THE HEARING RESUMED AT 11.26 AM

25 **COMMISSIONER:** MFI1 is a briefing note for the meeting with the minister for Natural Resources and Mines and Energy, undated, five dot points, one page.

30 **<MFI1 BRIEFING NOTE FOR MEETING WITH MINISTER FOR NATURAL RESOURCES AND MINES AND ENERGY, UNDATED, FIVE DOT POINTS, ONE PAGE**

COMMISSIONER: MFI2, Mr Gisonda?

35 **MR GISONDA:** There's no objection to the course that you flagged before the adjournment.

COMMISSIONER: How shall I describe this? Is this a -

40 **MR GISONDA:** I would describe it as Cross River Rail tender bundle.

COMMISSIONER: 1849 pages of Cross River Rail tender bundle will be MFI2.

<MFI2 1849 PAGES OF CROSS RIVER RAIL TENDER BUNDLE

45 **MR GISONDA:** Thank you, Commissioner. Now, before we broke, Mr Newton, we were towards the end of 2019, but if you'll excuse me, I just want to go back to earlier in 2019 for one further point. You were receiving - I'm now back at the

enterprise bargaining - the events of the enterprise bargaining that were occurring between April and August 2019. You were receiving some briefings about how those negotiations were going; is that right?

5 **MR NEWTON:** Yes, that's correct.

MR GISONDA: And if we go to page 82 of your witness bundle, this is a summary that has been prepared by the Delivery Authority. Just wait for that on the screen. I apologise. It's the - yes, there we go. Summary of meetings that had taken place,
10 based on the reports that the Delivery Authority were receiving about these meetings. And do you see the fourth entry, April to August 2019:

15 "CPB engages frequently with all unions to progress bargaining, twice-weekly meetings for many weeks."

And then the next entry says:

20 "The Building Trades Group specifically refuses to meet for two to three weeks because they don't like one of the female IR managers of CPB."

Do you recall receiving any further information about that stalemate that took place between the BTG and CPB?

25 **MR NEWTON:** No, I'm generally aware of it, but I don't recall the details.

MR GISONDA: You don't recall the name of that -

MR NEWTON: No, no.

30 **MR GISONDA:** - IR manager?

MR NEWTON: No.

35 **MR GISONDA:** We spoke about the pamphlet that was distributed to pedestrians outside Albert Street in November 2019, and can I now take you to page 150 of your witness bundle. And you describe in your evidence that this is a full-page open letter to the Premier that was placed in The Courier-Mail on 2 December 2019. I just want to go through this with you. Again, we see at the top Cross River Fail. So that's the campaign that's being undertaken, and the letter begins as follows:

40 "Dear Premier,

45 Queenslanders don't deserve to have \$5.4 billion of taxpayers' money spent on public infrastructure that sells workers, business and the community short, and fails to deliver on your government's own 'best practice principles'."

And to repeat the point that we've already made, the project agreement expressly required the - a commitment and adherence to best practice principles, and that was something that the Delivery Authority was monitoring at all material times; is that right?

5

MR NEWTON: Yes.

MR GISONDA: Then -

10 **COMMISSIONER:** But how do you monitor it? Because you don't know what it is. The closest you get to it is the 1 February 2019 letter from - who at this stage is the former minister responsible.

15 **MR NEWTON:** Commissioner, we would focus on the commitments that were made by the contractor as part of their contract.

COMMISSIONER: I see.

20 **MR NEWTON:** And so we would measure against their commitments, yeah.

COMMISSIONER: I see.

25 **MR NEWTON:** The apprentice figure was set as an overall figure for the project, the 450, and each contractor put in, for example, how much they expected to contribute to that 450 amount. Their overall contributions across the contracts exceeded the 450 minimum amount, but yes, it was back to that exhibit 4, I think it was, where they gave the commitments.

30 **MR GISONDA:** And presumably an assessment was made at some point that, as the Commissioner rightly says, the content of best practice principles beyond what was identified in the Under Treasurer's letter and in subsequently the Deputy Premier's correspondence, putting that to one side, an assessment was undertaken by the Delivery Authority at some point as to whether that exhibit 4 document comprised what might be described as best practice industrial relations and best practice safety.

35

MR NEWTON: Yes.

MR GISONDA: Yes. Now, what this open letter then says is that first point:

40 "Nothing in the agreement promoting apprentices and trainee positions."

45 If we go to page 943 of the tender bundle, and this is an extract of the provisions of the project agreement, the TSD project agreement, and at page 942 - apologies, if we just go back a page - this is clause 62, titled Local Content, Training and Procurement Requirements, and clause 62.2, these are the training requirements, and there's a definition at subparagraph (a)(ii) of apprentices or trainees, and then over at subparagraph (b) on page 943, minimum requirements:

5 "The project company must, in relation to the design and construct activities, ensure that a minimum of 9 per cent of the total labour hours, as determined in accordance with the training policy, are worked by apprentices or trainees, that is, new entrant trainees."

COMMISSIONER: I think the operator is on the wrong page, Mr Gisonda.

10 **MR GISONDA:** Apologies for that. Page 943 and subparagraph (b). That's about a third of the way down. That's the one. And just to repeat that, the project company must, in relation to the design and construct activities, ensure that a minimum of 9 per cent of the total labour hours are worked by apprentices or trainees. So that is contrary to what's stated in that open letter: express contractual commitment upon CPB to have a minimum of 9 per cent of its working hours performed by trainees and
15 apprentices. Is that right?

MR NEWTON: Yes.

20 **MR GISONDA:** Then if we skip over the next bullet point or the next point and then go to the third one, which says - I'm back now on page 150 of Mr Newton's statement, the bundle to his statement. The third point is:

"No major Queensland contractors' jobs being sold off interstate."

25 And then:

"Billions going to multinationals while Queensland misses out."

30 Just on this concept that jobs are being sold off interstate, if we go back to page 942 of the tender bundle, and do you see at clause 62.1, titled Local Content Requirements, and subparagraph (b), an express contractual requirement that the project company must, in relation to design and construct activities, ensure that a minimum of 70 per cent of the total costs of goods and services for the carrying out of the design and construct activities consists of local content. And subparagraph (a)
35 defines local content to mean the cost of goods and services sourced from Queensland suppliers for carrying out the D&C activities, excluding the cost of any imported components.

40 Now, the Queensland Government had - I think it was described as a Buy Local policy and it was an important part of their procurement policy, and as we've said this morning, before contractual close was achieved, the State of Queensland signed off on this contract and it was a party to it. There's nothing in the agreement to suggest that jobs on this project could be sold off interstate or internationally, is there? In fact, as high as 70 per cent at minimum of all labour must come from
45 Queensland; is that right?

MR NEWTON: Yeah, that's correct. I also got - the current data it's around about 94 per cent is local content.

MR GISONDA: So contractually the claim's false, and in reality on the ground it's false as well, this idea that jobs are being shipped off to interstaters or internationally. And just going back to, for a moment, the apprentices and trainees point, just so that we don't - it's a contractual requirement, Commissioner, so that's really the beginning and end of the point, but just to make clear that the AWU is not - any suggestion that they're not interested in trainees and apprentices. If we go to page 1096 of the tender bundle, and at the bottom of that page, there's a clause 4.9, Learning and Development, and then clause 4.10, Traineeships. I won't take you through those clauses now, Commissioner, or Mr Newton, but this is a fundamental point of all trade unions - the AWU is no exception - that there be a commitment to trainees and apprenticeships, and that finds voice in those clauses in the EBA.

Then going back to now your statement, the bundle accompanying your statement, page 150, this open letter to the Premier that's comprised of a full page in The Courier-Mail, it says:

"No measures to prevent use of unsafe building products."

And you'll also see, just while we're on this page, the next one is:

"No requirement to promote Indigenous employment."

So we'll deal with those two points next. If we go first to page 1023 of the tender bundle, and paragraph (e) at the top of the page says:

"To encourage affirmative..."

This is the EBA, Commissioner, greenfields agreement with the AWU:

"To encourage affirmative participation, the employer will, where possible, strive to increase its employment of Indigenous and/or Torres Strait Islanders women and apprentices."

And then we go to page 942 of the project agreement, and clause 62.2, Training Requirements, subparagraph (a), the first definition:

"Aboriginal or Torres Strait Islander persons are those who identify as such."

And that definition then finds its way into Other Workforce Training at the bottom of that page. So other workforce training includes, then, over the page, employing Aboriginal or Torres Strait Islander persons, and at page 943, again, Minimum Requirements, subparagraph (b)(ii), 6 per cent of total labour hours are engaged for other workforce training. As we just saw, that definition includes Aboriginal or

Torres Strait Islander persons. So both the EBA and the contract promotes Indigenous employment. Do you accept that, Mr Newton?

MR NEWTON: Yes.

5

MR GISONDA: And then perhaps it's unnecessary to go to the contractual provisions and the like that deal with safety, but there's just no way that the State of Queensland would tolerate any ability of a contractor to use unsafe building products, is there? It would just be contrary to the myriad of workplace health and safety and construction laws in this State. Is that right?

10

MR NEWTON: Well, there's building standards that apply. So as a tier 1 contractor, I couldn't imagine that they're going to be lowering their standards.

15

MR GISONDA: Then we won't go back to the open letter. I'll just read out the next point, which is:

"No asbestos awareness and safety training."

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If we then go to page 1823 - we've spoken about this already - the idea that there'd be some laxity when it comes to asbestos on a project is borderline absurd, I would suggest. But if we just go to 1823. This is the - we've already looked at the industrial relations management plan in some depth yesterday. This is separately the construction management plan that's annexed to the project contract - the project agreement, and just so that we're clear, Mr Newton, there are a range of plans. There was the industrial relations management plan. This is another similar plan, construction management plan, and they find their home in the contract in the same way as the IR management plan.

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30

MR NEWTON: Yes.

MR GISONDA: And if we go over the page to 1824, there's an - we're dealing now with public safety, and at the bottom of the - sorry, first in the middle of the page, that second bullet point, the team will work with the safety manager to, that third bullet point, develop engineering controls to mitigate third-party authority utility services safety hazards, for example, asbestos materials. And then in the table at the bottom of the page, that first matter, General Awareness, the sixth bullet point:

35

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"Asbestos training courses to aid identification and handling of asbestos materials."

So there was a contractual obligation to have asbestos training courses to aid the identification and handling of asbestos; is that right?

45

MR NEWTON: Yes, that's correct.

MR GISONDA: And then the final one I wanted to talk about was heat, but I might come back to heat in a moment, because we'll come to the heat campaign in due course. Just if I go back to page 150 now of the witness bundle, please, this open letter. The very last point in this open letter is:

5

"No protection of workers' personal data."

Do you have any idea what that was a reference to?

10 **MR NEWTON:** I - I wouldn't know.

MR GISONDA: It's the case, isn't it, that as part of - as part of maintaining security on the project - let's take a step back. These building sites are in heavily populated areas, taking, for example, Albert Street -

15

MR NEWTON: Yes.

MR GISONDA: - in the CBD. There's a large number of people walking in the vicinity of the project at all times of the day?

20

MR NEWTON: Yes.

MR GISONDA: And so you need to maintain some degree of security in terms of who can enter the worksite at any given time.

25

MR NEWTON: Yes.

MR GISONDA: And the way that that was managed was that the contractor had turnstiles that allowed entry into the worksite.

30

MR NEWTON: Yes.

MR GISONDA: And as part of that arrangement, workers who were entitled to be on site or expected to be on site had to sign in, if you will, using an electronic system at the turnstile at the beginning and end of each shift.

35

MR NEWTON: Yes, that's right.

MR GISONDA: And you might not know the answer to this, but was this last point in the open letter a concern that workers - that the comings and goings of the workers was being monitored by the employer in the way that I've just described, and that was seen as an unjustified intrusion on workers' personal data?

40

MR NEWTON: Now that you say that, I can see that that may be it, but beyond that, it's hard to tell. I mean, I would expect, again, any corporate entity that holds personal data to have the appropriate security in place, and I couldn't see CPB being any different.

45

MR GISONDA: And you know that in the middle of 2024 - and I might take you to it for the Commissioner's benefit. Page 174, you will see, Commissioner, this is a Federal Court order that was obtained by CPB against the CFMEU and various of its officials. At paragraph 2, that it be restrained or they be - sorry, yes, it, the union, and its officers, delegates and others, be restrained from - over the page, subparagraph (a) - photographing, recording by any means or creating or maintaining a record of the identity of any person or vehicle entering or leaving a construction site. In mid-2024, Mr Newton, you were aware, based on this court proceeding, that it was the CFMEU that was monitoring and taking a note of those persons entering the site and leaving the site; is that right?

MR NEWTON: Yes. This was July 2024. So that was during the protected action stage.

MR GISONDA: Yes.

MR NEWTON: So, yes, that was when they were basically occupying outside the gates, discouraging people to go onto site. But also, you know, also there was concern from subcontractors and workers about consequences should they have turned up and gone onto site. So, yes, that's who it's referring to.

MR GISONDA: And that open letter, published the full page in The Courier-Mail, is essentially an attempt to disseminate this information as widely as possible. Do you accept that?

MR NEWTON: Yes, a full page in The Courier-Mail.

MR GISONDA: Yes. And replete with statements that, having gone through it now, appear to be false.

MR NEWTON: That's correct.

COMMISSIONER: I know you'll probably answer my question the same way you answered Mr Gisonda's question: you can't see inside the mind of Mr Ravbar. But why was this -

MR NEWTON: There was clearly dissatisfaction, you know, where they came to with the enterprise agreement, so they made a very clear message that they were going to target the project, and by addressing it to the Premier, it would seem they were wanting to target government as well too. Misinformation and reputation damage, I guess, is part of it as well. That's what it appeared like. And, you know, as has been presented before, from the previous pamphlet that was handed out and this document and I think in other evidence that I've included, it was - became a pretty standard practice of the CFMEU to just put misinformation into the marketplace to undermine the credibility of, you know, the project, the Delivery Authority, the contractors and people working on the project.

COMMISSIONER: And how do you, how does the Delivery Authority, how does the comms team that's employed by the Delivery Authority meant to combat, deal with something like this?

5

MR NEWTON: In the first instance, well, it might seem obvious, but on face value when something's put in the paper or handed out like that, that it's spurious, but we do go through and, against each point, validate it, as has been done today. We would often brief up into our respective minister's office so that they're aware of it. I would

10 have to say that the media, generally journalists, when our people are speaking to them, are quite cynical about what the CFMEU put up, so it's a bit of boy who cried wolf or a bit of monkeying around, and they sort of go - they see it for what it is. But that still doesn't stop them pushing it out there.

15 **MR GISONDA:** If I can just go to quickly page 1645 of the tender bundle. It's another news article. This is on 3 February now, 2020, and at the bottom of page 1645 there's a quote from Mr Ingham saying that personally he avoids walking around the site in Albert Street unless he's suitably attired and that people should avoid the area. That's his view. And then at page 1647 - this is perhaps to go some

20 way to giving a bit more context to what you just said to the Commissioner at the top of that page, the union makes these claims. The newspaper, performing its role, then investigates suitably, and the Delivery Authority is called upon to assure the public that the area is safe and that licensed professionals are disposing of

25 asbestos - materials containing asbestos, and that the removal of those materials are done by licensed subcontractors accord to a safe removal plan, reviewed and approved by WorkSafe Queensland. So that's an example where you have these claims made, and then the Delivery Authority has to assure, you said - you have to brief up to the minister's office to assure them that members of the public are not at risk but you also have to assure the public as well.

30

MR NEWTON: Yes, and we have safety managers in our team. They do regular, you know, visits to sites, but if there's a claim like this, we'll send them out to go and have a look and also speak with the contractor and get feedback from the contractor as well. So we don't just take it on face value; we go and validate the case as well,

35 too.

MR GISONDA: I then want to go to page 36 of your witness bundle. This is a letter from Minister Jones, 28 February 2020, to Mr Lucas.

40 **COMMISSIONER:** Just remind me the date of the full-page ad in The Courier-Mail that you've just taken the witness to.

MR GISONDA: That was 2 December 2019.

45 **COMMISSIONER:** Thank you.

MR GISONDA: I should just say, just to perhaps give some more context, Commissioner - could I just take you to page 178. This is an article - so the full-page ad is 2 December, and then two days later, on 4 December, there's an article in The Courier-Mail saying that asbestos safety guidelines had been ignored at Albert Street.
5 And Commissioner, if you go over the page at 179, you'll see a picture there of a rally. And you see Cross River Rail, and then the text just underneath it says:

"CFMEU Cross River Rail rally in the city last week."

10 And then there's two paragraphs underneath that picture. It says that:

"The contractor and the authority have been in the sights of the powerful CFMEU who are angry over safety and enterprise bargaining issues."

15 And then that next paragraph:

"Last week the union marched on State Parliament..."

20 So this is another march now, separate to the one that we looked at before the break:

"Last week the union marched on State Parliament and threatened to pull their support of the Labor Party if key demands weren't met."

25 **COMMISSIONER:** So the last one was 19 August or 22 August, something like that.

MR GISONDA: 22 August, yes.

30 **COMMISSIONER:** And this one is now three months -

MR GISONDA: This one is 27 November, I believe.

COMMISSIONER: - later.

35 **MR GISONDA:** So rally on 27 November. Open letter on 2 December. As context now for this letter on page 36 of the witness bundle, it's a letter from Minister Jones to Mr Lucas, who's still the board chair, but not for much longer. And if you look at the last paragraph, just in the lead-up to this paragraph, there's an explanation that
40 future priority development areas will be declared and that matters will need to be delegated to the CEO, that is, Mr Newton. But then this last paragraph on this page says:

45 "In taking this decision, the Queensland Government has as its core objective to ensure that the Minister can have a substantially increased direct oversight of how the project is delivered, especially insofar as the compliance of the construction contractors is concerned. The Government has determined that the Delivery Authority will establish a Project Compliance Unit to be headed by a CCO, Chief

Compliance Officer. The timing of these changes is important in that the project is now transitioning steadily into the construction and delivery phase."

5 Now, it's not clear, but I think reading between the lines here over the page, Minister Jones is there telling Mr Lucas that his tenure won't be renewed as chair. Can I now ask you some questions, Mr Newton, about this project compliance unit and, in particular, the chief compliance officer. If you go to page 62 of this bundle, we see here a position description of the CCO position, and over the page, at 63, the heading, just after the halfway down, Union Engagement, and then there's then four
10 matters that fall under that heading. Do you recall where this key responsibility of union engagement came from? Was this something developed in-house with the Delivery Authority, or was it something that came from the ministerial office or the department?

15 **MR NEWTON:** State Development.

MR GISONDA: Sorry?

20 **MR NEWTON:** The Department of State Development at the time, yeah. The development of the PD would have been done in-house. I don't recall specifically the details on how and in what form, but I certainly didn't receive any direction in relation to the formation of that, other than the description of the role per the letter, and I guess it's - it's understanding the context of the time where, as you've pointed out, there was quite a few claims being put around. And Minister Jones was
25 relatively new in the role, and she was quite strong that she wanted to see the project progress into the construction phase.

And in relation to chief compliance officer, my understanding was the aim was to have an individual who would focus on giving an overt demonstration that
30 compliance with the policies, including the best practice principle but beyond that, was being achieved, and the chief compliance officer put us in a position where we had a stated body or individual who could, with the unit, go and investigate any claims, because we were receiving claims. The stuff that was published in the newspaper was just what was published in the newspaper, but there was constant
35 claims being made via various means, and she as minister, I assume, was also receiving these claims into her office, and having a chief compliance officer and a compliance unit allowed them to divert those claims for investigation and put it into a process and effectively try and take it out of the political process and put it into a proper investigative-type process.
40

MR GISONDA: And the second last bullet point on this page - Key Competency: Demonstrated Experience with Industrial Relations and Engagement with Union Officials - I imagine that the reason for that inclusion is because whoever this person was going to be, they needed to be able to deal with the Michael Ravbars and Jade Inghams of the world.
45

MR NEWTON: Yes, yes. We needed someone in the authority who could effectively engage with those - with - it was right across all the unions. It wasn't just CFMEU, and ultimately the role dealt with all unions.

5 **MR GISONDA:** And the person who was appointed was a man by the name of Kevin Mara; is that right?

MR NEWTON: That's correct, yes.

10 **MR GISONDA:** And do you recall how he first came on your radar as a suitable appointee?

MR NEWTON: I'd been looking for someone for the role once the minister had made the announcement, and I was sort of casting around to different people that I
15 knew senior people in government, and Mr Mara came on my radar because he'd worked for, I think it was Education, in the property - you know, the building side of things, so he had quite a degree of exposure to, you know, the environment that we would have expect. Having met with Mr Mara just informally, his disposition and his
20 manner and his track record fit the bill perfectly.

MR GISONDA: And he then occupied that role, you say in your evidence, until -

MR NEWTON: The end of 2024.

25 **MR GISONDA:** Until December '24, and you say at that point his role is made redundant, and there's a number of reasons for that. One is that the advanced nature of the project meant that some of the - some of the - excuse me. You just describe it as - I'm at page 12 of the witness statement, paragraph 83. You say that the roles and responsibilities had changed due to the project's advanced stage and a shifting
30 industrial relations landscape following the successful negotiation of an enterprise agreement directly with the workforce. That's a reference to the fact that I think in December '24, a brownfields agreement was eventually approved by the workers on the site.

35 **MR NEWTON:** Yes.

MR GISONDA: And additionally, the appointment of an administrator for the CFMEU reduced the requirement for the CCO role to actively engage with the union. Are you able to just explain that a little bit more? What was the administrator
40 appointment? How was that relevant to active engagement with the union?

MR NEWTON: It was - I guess it was the full environment. So what you've just described there, there was - enterprise bargaining had been going on for some time. The protected action had gone for some time, but it had reached its culmination, and
45 the enterprise agreement was done directly to the workforce or with the workforce between CPB. They'd attempted to negotiate with CFMEU along the way. In August, the administrator was appointed, so that changed the landscape significantly, and

equally, there was a change in government as well too at that time. So there was a range of things that had changed the landscape. Mr Mara was - you know, he was a fairly senior executive in that role, and, you know, he and I talked about the need for the role, and it struck me that the level of work and the workload that he was having had dramatically reduced, and in the foreseeable future, looking forward, it was going to continue to reduce.

MR GISONDA: Can I just quickly take you to page 1814 of the tender bundle. And what this article says is that - so in - we saw in the letter to Mr Lucas from Minister Jones that at the end of that letter it was effectively saying, "Thank you for your service," with no indication that he would be renewed. This article then goes on to suggest that - I'm reading from the beginning of this article:

"The State Government has quietly appointed a new board to oversee one of the largest infrastructure projects in Queensland history after the old board was publicly given its marching orders earlier this year."

Then it says:

"The 10-member board overseeing the project was sacked in April as Minister Jones took control to give herself more oversight ahead of the construction phase. The contracts of most of those board members was due to expire in April, and they were told in February their contracts would not be renewed."

And then over the page:

"Brisbane Times understands the previous board, headed by Mr Lucas, was dumped because Ms Jones was unsatisfied with its ability to manage industrial relations disputes."

So if I can just pause there. As the CEO of the authority there at the time, is that an accurate reporting of what you understood had taken place in the first half of 2020?

MR NEWTON: No, it's not.

MR GISONDA: And what do you say happened at that time in relation to the board and the tenure of the existing members?

MR NEWTON: My understanding was it was the transition from the procurement phase to the delivery. We were very much moving into a delivery phase. I mean, I - and it's not tendered in the evidence, so forgive me, but there was a media release by Minister Jones on the 26th, I think it's dated, so it's around the same time as the letter to Mr Lucas. On three occasions in that media statement, she states that the reference to project moving into the construction phase, procurement phase to construction phase, transition from procurement, and then in the letter that was tendered that you referred to before, at the very bottom of that, the very last sentence says, you know, procurement and contract award into the construction phase.

So my understanding was, we were moving very much from an environment where, you know, arm's-length transparency of procurement probity, and we're really knuckling down into the actual delivery phase, and that was reflected in the changes of the board, which meant that the people, you know, who were coming onto the board were people who were directly involved in the project delivery, and also there was an express desire from her perspective that I had greater engagement with her, given the nature of the project. And also, I guess, in practice, she was used to having - working directly with government department directors-general reporting directly to her, and having me as the CEO reporting directly to her she saw as - that was what was expressed to me - she saw as being appropriate, and I think that was reflected in those statements.

MR GISONDA: And as you say in your evidence, if we now go to page 130 -

COMMISSIONER: It just seems unlikely to me, Mr Newton. I mean, earlier you were asked some questions and you said, "I couldn't tell you what was in the mind of Mr Ravbar." How do you know that what the Brisbane Times reports in terms of what it says was in the minds of Ms Jones, that she was unsatisfied with his ability to manage industrial relations disputes? Because she told you that was not the reason?

MR NEWTON: That would never have come up. As I said, the dialogue that I had with her was consistent with what was said in the public domain in her media statement and in the letter to Mr Lucas. So that reference in the media statement was inconsistent. Now -

COMMISSIONER: Inconsistent with what, sorry?

MR NEWTON: It was inconsistent what I - my dialogue with her and what was stated in the public domain by those media statements and the letter. Now, whether that was what was of her mind in - per the media statement, I couldn't - sorry, the media article, I couldn't say. So yes, you're correct to correct me on that, Commissioner.

MR GISONDA: She also does say in her letter to Mr Lucas - and I didn't draw this to the Commissioner's attention, but she does say that the work up until that point, it had been critical to have a board with high levels of governance and probity experience, but now that those multi-billion-dollar contracts had been successfully awarded, the implication, I suppose, is that different -

MR NEWTON: Yes.

MR GISONDA: Different experience or different set of experiences was required for the board. But whatever the motivations of Ms Jones, whatever she was seeking to achieve, whether that be to try and soothe, if I can put it that way, relations with the union, your evidence is that very shortly thereafter, the campaign against Minister Jones from the CFMEU begins, and if we go to page 130 of the witness

bundle, we see here now, in a full-page Courier-Mail advertisement, an open letter now addressed to Minister Jones - and I won't spend too much time on this, but you get the point of it. Again, you see the Cross River Fail campaign, and the first thing that they say in this letter to her is that:

5

"It's time to actually deliver substance ahead of spin on your troubled Cross River Rail project."

10 **COMMISSIONER:** So this is about nine months into the - her period as - Ms Jones' period as minister? Is that right?

MR GISONDA: Yes.

15 **COMMISSIONER:** About September?

MR NEWTON: She commenced in November.

COMMISSIONER: November.

20 **MR NEWTON:** Sorry, you're correct. I think it's September.

COMMISSIONER: September.

25 **MR NEWTON:** 20 September.

COMMISSIONER: So about nine months in since Ms Jones has become minister, there's at least one additional protest at Parliament in December, advertising campaigns in The Courier-Mail, the board has been replaced fully, and Mr Mara has been appointed as the chief compliance officer to deal with industrial relations issues.

30

MR NEWTON: Among other things, yes.

35 **COMMISSIONER:** Among other things.

MR NEWTON: Yes.

40 **MR GISONDA:** Yes. And there's a reference in this open letter to Queensland safety inspectors having issued more than 70 safety enforcement notices. I'll come back to that point perhaps later on, when we reach, I think, about 300 enforcement notices.

COMMISSIONER: Sorry, where's that? I just couldn't - I see that.

45 **MR GISONDA:** Yes.

COMMISSIONER: Yes.

MR GISONDA: It does say, just towards the end of this letter, just ahead of the kind regards:

5 "Minister, you have the power to fix this and to apply your government's own best practice policy. It's time to stand up for the State you claim to represent."

10 Did you have any - I know - I think I already know what you're going to say to this, but did you have any sense of what the CFMEU were suggesting she might do to fix the problem and to apply their own best practice policy?

15 **MR NEWTON:** No, I don't, but it was a consistent theme, essentially, I suppose, giving a message that the best practice principles policy wasn't delivering what they expected it to deliver.

20 **COMMISSIONER:** I think this is a period - you weren't here last week, Mr Gisonda, but this period in 2020 was a period Mr Hayes gave evidence about of, I think, at least every day during this period from 2018 till he retired in October '21, I think it was October '21, there was at least one notification by the CFMEU in relation to construction sites in Queensland, and sometimes two or three. South East Queensland, I think he said. And among the sites that he said were targeted by the CFMEU - he mentioned Tomkins, he mentioned the Commercial Group, but one of the sites he mentioned was Cross River Rail. Is that a topic you're going to come to or is that going to come up in the workplace health and safety case study, further iteration of that, or should I just not worry about it?

30 **MR GISONDA:** No, you should worry about it. I was here in spirit, Commissioner. And what I can say is that I will just at a very high level explore with Mr Newton his reaction or his response to the accumulation of safety notices on this project, but then, as we develop the case study further, I'm going to bring together for you the full safety inspector picture, the notices that were issued by safety inspectors, and also right-of-entry picture as well, so you have a full understanding of the entirety of that campaign on this project over the course of two to three years.

35 **COMMISSIONER:** It makes sense if you're using safety as a guise to get to your industrial demand. If Mr Newton's evidence is accepted that these safety claims were bogus - that's the ones that are referred to in the pamphlets and The Courier-Mail article - and they're untrue, then the implication is they're really being concocted for the purposes of the industrial campaign, which is to get a Queens Wharf agreement up, and if the proposition that's put in the other case study is - proves to be correct that the CFMEU had control over the way in which the inspectorate was issuing notices, the two things merge very well together as part of a campaign to pursue your industrial agenda.

45 **MR GISONDA:** Precisely so. If that's how the evidence continues to progress, then that, you would assume, is precisely the submission that will be made in due course. Can I just - just to give more context to what was happening with Minister Jones, at

page 131 of the bundle, there's an article from The Courier-Mail. It's the same day as the open letter, so there's the open letter and then full-page advertisement and then this article. And what it explains there is that, in the second paragraph:

5 "Thousands of pamphlets criticising Ms Jones for her Cross River Fail were yesterday jammed in letterboxes around Ashgrove in her State seat of Cooper."

And then the next paragraph of text is:

10 "It came as full page ads were today run in newspapers, including The Courier-Mail, claiming that the Palaszczuk Government's promise of 2000 jobs had failed to materialise, with just 350 to 400 people employed and many on insecure labour-hire agreements."

15 And if we then go over to page 133, this is an article on the same date from the Nine papers. So a full-scale media and political attack on Ms Jones, accompanied not just with the widespread reportage in the newspapers and the full-page ads but also the more grassroots campaign of letterboxes - pamphlets in letterboxes. This article says, under the picture on this page, quotes yourself:

20 "Mr Newton, the CEO, said the project would deliver 7700 jobs during construction and at present there were more than 2000 workers across all sites."

And then the next paragraph:

25 "Mr Ravbar said the real number of jobs created was a fraction of the number claimed by Ms Jones and the authority and it was more like 350 to 400 people."

30 Now, you wouldn't have falsely inflated the number of workers on the sites at that time, would you?

MR NEWTON: No, and I've had the ability to go back and draw out from our monthly report on what the number of workers were reported to us at that stage. So this was a June report, 2020, so around about the same time as that. The TSD job had 35 1177 people working on it, the RIS job had 790 people working on it, and ETCS had 213, to a total of 2,180 people working on, as I've said there, across all sites. Now, some of those were working, obviously, in office roles, but they were working on the project. So -

40 **MR GISONDA:** Thank you, Mr Newton. The attacks, as I said earlier, went right to the top, ministers, but also through to workers itself on the site, and if we go to page 162, this is a press release from the - sorry, I might go to page 151. This is a press release issued by the CFMEU on 8 July 2020 referring to a safety officer on site as Peeping Pete, saying that he's widely known around the project as Peeping Pete 45 because of his habit of following officials into the toilets and standing over them and watching in an attempt to intimidate:

5 "Either Peeping Pete is deliberately trying to intimidate and threaten officials or he has other issues that clearly need addressing. He seems to spend more time loitering around the toilet block than actually out on the stage doing his job. Peeping Pete is a poster boy for CPB's low-rent approach to management and pretty much typifies the standards you can expect from a cut-price contractor like this."

You're aware, based on media reports, that this man then commenced defamation proceedings against the union for that press release?

10 **MR NEWTON:** Yes, that's correct.

MR GISONDA: There's then a protest at Albert Street, you say in your evidence, on 8 July 2020, and on 7 August 2020, at page 351 of this bundle, there's a press release that says that works had ceased on the project. And there's a reference in this press
15 release, Commissioner, again to the dozens of safety enforcement notices that had been issued, so that's the fourth paragraph from the bottom. And the paragraph that is sixth from the bottom, this is a direct quote from Mr Ingham in this press release:

20 "Minister Kate Jones must now intervene and just shut the whole job down, terminate the contract with CPB and appoint a contractor capable of delivering a quality job on time and on budget and doesn't put the lives of workers and the public at risk in the process."

25 So, Commissioner, that appears to be some clue as to what the CFMEU were demanding Minister Jones do: essentially end the contract with CPB and appoint another contractor in its place. At page 352 of this bundle -

30 **COMMISSIONER:** You have to ask why is that so? Is it for the reasons that are proffered there, or is it because they haven't agreed to the Queens Wharf agreement as a project agreement?

MR GISONDA: If you take the - it must be to - depends on your priority, I suppose, but first and foremost it must have been that the - sorry, that the CPB entered into an enterprise agreement with the AWU at the exclusion of the CFMEU, and then - so
35 that's problem number 1 for them, and then problem number 2 is they would have liked such an agreement, but that agreement would be on terms that are the same as if not better than Queens Wharf. And thirdly, it seems that there's a dissatisfaction with the entire way that this was all put together, because you'll remember, right from the very start, what the union was wanting to see was an overall framework
40 agreement, which seems to shut the contractor out completely.

You give evidence about another pamphlet. This is at page 1352, another pamphlet that is handed out to pedestrians around Albert Street:

45 "Warning. Asbestos in this area. No protection for pedestrians. You have the right to know."

And it had the telephone number of CPB Contractors. And you say at page 43 of your evidence, that is, 43 of your statement, paragraph 366, in particular at the top, that you are not aware of any investigation into these claims that demonstrated that management protocols had not been followed and that air quality monitoring showed signs of risk. And then you make the point, which is becoming more evident, as we go through each of those public statements from the union:

"Reputational damage was sought to be routinely inflicted on the project in the form of dramatic news headlines stimulated by these types of claims."

And at page 135 of the bundle - this is not just a nice-to-have, it seems, Commissioner, those matters that we just identified; this is a matter that the CFMEU is obviously treating it as the utmost seriousness, because at page 135, they expressly reference the Cross River Rail project and the failure of Jackie Trad to look after the workers' interests on that project as the justification for them - that is, the union - ending its affiliation with the left faction of the ALP, going so far as to call that faction as a warehouse or a creche for party hacks and duds.

And this is occurring, Commissioner, in the lead-up to the State election that was held in October 2020, which was - the Palaszczuk Government was returned at that election, as you know. And if we look at page 299, Commissioner, this is an article that's in the Brisbane Times, 28 June 2021, and you'll see the heading there: Deadly Dust Fears Prompt Walk-Off at Cross River Rail Work Site. And the very first paragraph, that article explains that:

"The union [the CFMEU] is calling for ministerial intervention to stop work on a key tunnelling site until concerns about the potential release of dangerous silica dust can be probed by the safety regulator."

And at page 301, you will see that the second paragraph beginning "Mr Bailey" - and I should say also, Commissioner, that Ms Jones retired from politics at the election and Mr Bailey took over as the minister responsible for the Cross River Rail project. So Mr Bailey, the relevant minister, referred questions on the matter to the authority, and a spokesman said the agency took health and safety seriously and launched an investigation as soon as the issue was raised, and this is a direct quote:

"An independent hygienist has been engaged to monitor air quality on site, and all sampling to date has been compliant with project requirements. Additional dust mitigation measures have also been implemented as a precaution, and the spokesman said Workplace Health and Safety Queensland, which was contacted for comment, had since reconfirmed compliance through its own independent testing and the matter was now resolved."

And what that also required from the Delivery Authority, at page 302, was a project update, Mr Newton, from the authority to reassure the public that there was no risk to safety of residents or businesses as a result of the emission of silica dust, being, if we

can put it like this, in the same category as asbestos fibres, something that can be very harmful if consumed in any way.

MR NEWTON: Yes.

5

MR GISONDA: But there was dust emanating from the project. It was taken seriously by the authority. It was investigated. There was found to be no danger to the public or to workers. But we see - and just remember, Commissioner, at page 299, the heading of that article. We then go to page 305. Another pamphlet. Page 305
10 of this bundle. Another pamphlet distributed to pedestrians, and you will see there, two-thirds down, there's the heading from that news article: Deadly Dust Fears Prompt Walk-Off at Cross River Rail Work Site. You see written all over this, in addition to Cross River Fail, red danger signs, danger, silica dust hazard. It says:

15 "The Cross River Rail project is circulating potentially deadly dust in your workplace and your local neighbourhood. Silica is the asbestos dust of the 21st century, and CPB Contractors' lack of adequate suppression means it may be circulating where you live and work."

20 From your perspective, Mr Newton, that was not true.

MR NEWTON: Yes, it was incorrect. And I should point out, the images there - often, the dust suppression, they use misters, you know, fine water mist, and that can sometimes appear as though it's dust, but it's actually just part of the dust
25 suppression process. When they talked about - there was a reference there in our response talking about additional measures being put in, they looked at the - you know, the misting, and they did further enhancement of that misting as well.

MR GISONDA: So if we go to page 300 of the bundle, just look at that - that's the picture that's put in the pamphlet that's originally taken here from the newspaper
30 article. That's what you're referring to?

MR NEWTON: Yes.

35 **MR GISONDA:** That looks like dust, but it may well be mist?

MR NEWTON: Yes.

COMMISSIONER: Just above there, Mr Gisonda, there's a couple of paragraphs
40 where there's a reference to a branch president and health and safety coordinator Royce Kupsch. I think there was some evidence last week about Mr Kupsch, or at least Mr Wheelahan opened, I don't know if the evidence came out last week, I can't remember, that Mr Kupsch was the president of the CFMEUQ, the state-registered entity and health and safety officer. I think that was the evidence last week, or at
45 least Mr Wheelahan opened on it, but if you look at the next line, he says here - sorry, and the evidence he was the person through whom - or at least this was the opening - through whom communications were made to Ms Burgess to ensure

that the CFMEU obtained its wishes in terms of the giving of prohibition and I think it was enforcement notices on sites in spite of the inspectors' initial desire not to do so. And if you see there, if that - again, we're at a very early stage and who knows how the evidence will turn out, but it's a very powerful tool if you can control what the inspectors do and then say, ipso facto, this shows that the contractor is engaged in dangerous cost-cutting.

MR GISONDA: Yes.

COMMISSIONER: Puts a lot of pressure on the contractor and also Mr Newton, who's responsible.

MR GISONDA: Yes. I understand that point, Commissioner. I think - I stand to be corrected, but I think what you've described as far as what occurred last week was certainly how matters were presented by way of opening, but I don't think we're at the stage yet of evidence.

COMMISSIONER: It wasn't the evidence, it was just the opening, was it?

MR GISONDA: Yes. And if we are just continuing at page 306 of this bundle, this is a Facebook post which you give evidence about as having been uploaded on 27 July. So this is a few weeks after the matters we've just looked at:

"Hazardous dust alert for workers and the Woolloongabba community."

And it's a bit hard to read, but you can see in white text at the bottom it says:

"Workers have removed themselves from the Gabba end of CPB's troubled Cross River Rail project today because of excessive dust exposure risk."

And we see next at page 308 of the bundle, this does the rounds on social media. I believe that's a - it has been sent around at this point by the member for South Brisbane, Amy MacMahon, and this is an email exchange within - internally within the Delivery Authority, because something like this doing the rounds on social media, it then needs to be responded to, and not in a way where we're trying to cover up matters, but responded to in that if there is something serious happening, the Delivery Authority wants to know about it, and if there is a risk to safety, a risk to the public or a risk to safety, presumably the Delivery Authority wants to manage that immediately and as fully as possible?

MR NEWTON: Yeah, that's correct. So our team would monitor media, social media, and when something like this was happening, would pick it up, obviously that we were aware of the flyer being handed out, and this is consistent with that as well, but in the meantime, as is reported in the news article, both the contractor and ourselves had investigated that, and the independent hygienist had proven that that was incorrect.

MR GISONDA: And this is then all set out at page 307. As you say, there was additional monitoring conducted by an independent certified occupational hygienist, and what was confirmed, based on real-time measurements, was that no further mitigation or controls were required to enable work to safely continue on site, and the following day, Workplace Health Safety Queensland attended the site, reviewed the mitigation measures in place, and no issues were raised and work resumed as normal.

MR NEWTON: Yes.

MR GISONDA: So no hazardous dust alert warranted at all, it seems. Yet another example of incorrect information being circulated, designed to cause, would you agree, reputational risk or damage to the project and to spread fear amongst the community and nearby businesses?

MR NEWTON: Yes, and - and I guess in addition, where it prompts work to stop, has a cost and a program implication as well, too.

COMMISSIONER: And also, presumably, it would result in a communication from the ministerial office. The minister would rightly say to you, either through Mr Hara -

MR GISONDA: Mara.

COMMISSIONER: Mr Mara or directly to you, "What's going on?"

MR NEWTON: Yes, and we have dialogue with ministers' offices on these things. So if we detect something, it's often us who is alerting them of it, because we will be on top of the topic, you would imagine, ahead of them. But sometimes it comes in the other way, and it's not unusual, say, for the CFMEU to send something directly to the minister's office and you receive a phone call saying, "What's all this about?" So it's disrupting, it's unproductive, and as you say, it damages reputation of both contractor, Delivery Authority, but also just the project in itself.

MR GISONDA: Commissioner, perhaps I can explain to you what the plan is going forward, both for your benefit and for the parties'. After lunch, I will conclude Mr Newton's evidence. I understand that Mr O'Grady on behalf of the union seeks leave to cross-examine. My understanding is that Mr O'Brien doesn't resist that, and if that's the case, then I don't resist it either.

COMMISSIONER: You don't what, sorry?

MR GISONDA: If it's the case that Mr O'Brien doesn't resist that application for leave, then I won't be saying anything to the contrary.

COMMISSIONER: Very well.

MR GISONDA: And then, tomorrow, we will need to call Mr Johnson, because he has availability restrictions that Mr Sanfilippo doesn't have, or at least not to the same extent, so we'll call Mr Johnson tomorrow.

5 **COMMISSIONER:** Mr Johnson's got a very senior role, hasn't he?

MR GISONDA: He does, yes.

COMMISSIONER: What's his role again?

10

MR GISONDA: He was the general manager of CPB, but he's since moved on to - Mr Williams will tell me. He's just - he's had that role -

15 **MR NEWTON:** When he was working on this project, he was the chief operating officer for CPB. He's now, as I understand it, running - the managing director of one of their subsidiary units. I can't recall the title of it off the top of my head.

MR GISONDA: It's another CIMIC entity. EIC.

20 **COMMISSIONER:** So we need to accommodate him.

MR GISONDA: Yes, and then when we return in April, we'll be continuing this case study, and we'll call Mr Sanfilippo probably first up then.

25 **COMMISSIONER:** Is that a convenient time?

MR GISONDA: Yes, Commissioner.

COMMISSIONER: We'll adjourn till 2 pm.

30

<THE HEARING ADJOURNED AT 12.50 PM

<THE HEARING RESUMED AT 2.00 PM

35

COMMISSIONER: Mr Gisonda.

40 **MR GISONDA:** Just before lunch, Mr Newton, we looked at some matters that the union had announced, some statements that it had made in the middle of 2021, and the last thing we looked at was a Facebook post which they had circulated on 27 July 2021. I want to now take you to a rally that took place on 8 September 2021, and you give evidence that there were about a thousand workers who participated in this rally, and for the duration of the rally, and in fact, I think for most of the day, little to no work was done on eight of the Cross River Rail project sites. And if we go to page
45 370 of the bundle, your witness bundle, that's a picture taken of the rally that took place on that day, and it was a rally on the head office of the Delivery Authority, and where was that head office in September 2021?

MR NEWTON: At the time, it was 123 Albert Street.

MR GISONDA: And page 371 is perhaps a better photo of that rally as they
5 marched onto the head office at Albert Street. And if we go to page 142 of the
bundle, we see here a transcript - someone took a recording of that rally as it took
place outside 123 Albert Street, and this is a transcript of that recording, and on this
first page, you'll see, in the middle of that page, Jade Ingham leads a chant where he
says:

10

"I say Cross River, you say Fail."

And that's the - as we've seen, Commissioner, before lunch, that's the branding of the
campaign against the project and those associated with the project. And then just
15 under that, Michael Ravbar then takes to the microphone, and he addresses the
crowd, and after he leads a bit of a - a bit of a chant and rails against people that he
says are in the crowd, being ABCC representatives, he then, at the bottom of this
page, says:

20

"Just a few things. You heard the story at the other end from Ongy..."

And that would be Peter Ong from the ETU:

"...about what we're doing today as the Building Trades Group of unions. When you
25 have rallies such as this, you want to know what you're doing moving forward. As
you heard from Ongy, he didn't want to mention a particular person's name. How
about that? I'll do it. The guy's a pretender, he's a fraud, he's so many other things.
Guess what the guy's name is, if you didn't hear on the way down. His name is
Graeme Newton. I want a bit more of a boo than that. I've got a little bit of a story
30 about Graeme."

So just pausing there, was this as far as you're aware the first time - we've seen
attacks on the ministers, we've seen attacks on the government, we've seen attacks on
the CPB, we've even seen attacks on some workers, we've seen attacks on the
35 Delivery Authority. Was this the first time that you're aware that there was a direct
attack on you personally?

MR NEWTON: In a public domain in the context of me personally. There was
attacks on the Delivery Authority, which, you know, by implication included myself.
40 I was also aware that there was lobbying happening into ministerial offices in
relation to myself and my role, so I was not blind to it. So this - this - you know, was
part of an ongoing campaign is probably the best way to describe it.

MR GISONDA: So I've got that correct, you were aware or you had been told that
45 the union were trying to - or the union were making representations to the relevant
minister that you should not be - that you should not continue as CEO.

MR NEWTON: I believe so. I couldn't put my finger exactly on, you know, details around that, but you pick these things up through conversations with various people, and that went as far back as in 2019.

5 **MR GISONDA:** And what Mr Ravbar says then, continuing on, is:

"I've known Graeme for a long time. Probably going to show my age here today. I knew him back years ago, when he actually built Paradise Dam in Bundaberg."

10 Just stopping there. How would you describe your relationship with Mr Ravbar? Did you know each other a long time?

MR NEWTON: Look, I don't know him personally. He was well known around the traps. Other projects that I'd worked on, he was a delegate or a state secretary or
15 whatever, various roles with the CFMEU. I don't recall ever having any conversations with him, but - and the way he's presenting my association there is false.

MR GISONDA: And just tell me, what was the Paradise Dam in Bundaberg
20 project?

MR NEWTON: A dam project in, you know, inland from Bundaberg. My role wasn't as is depicted there that I built it. I was a more junior officer at that stage. I was responsible for land acquisition, native title, the stakeholder engagement, those
25 sorts of things. I certainly wasn't involved in the engineering of the dam.

MR GISONDA: And what year was that, do you recall?

MR NEWTON: The construction started, I think, in 2003 and went through till
30 2005. Yeah. Yeah, that's correct. But in the context of that project, I actually - I don't ever remember meeting him.

MR GISONDA: Right. And just looking at your CV, would that have been when you were with the Queensland Water Infrastructure? No. Perhaps -

35

MR NEWTON: Yes. Yeah, that was - Burnett Water Pty Ltd. So it was -

MR GISONDA: I see.

40 **MR NEWTON:** - I think 2001 through till 2005.

MR GISONDA: I see. Yes.

MR NEWTON: So I was involved with getting the environmental impact
45 statements approved and then involved in the procurement phase, and then I held those roles as described previously on site, and it was an alliance contract, so I was embedded in the alliance.

MR GISONDA: So it continues on. So he's saying that he's known you for a long time. He says you actually built Paradise Dam. So, false that he's known you for a long time in any sense beyond the superficial, false that you actually built Paradise Dam, and then he says:

5
10 "And didn't he fuck that job up. Now that job is leaking like a sieve. It's going to cost the taxpayers hundreds and hundreds of millions to dollars to fix. This guy, the only reason why he's in the gig that he is - he couldn't even build a cubby house, this dickhead - is that he's been around his Labor mates. He's a friend of Anna Bligh. He's a friend of Jackie Trad. It wouldn't be based on his ability and his experience."

15 Now, you've already given evidence about the way you were appointed to the role. It want in any way because you were a mate of Anna Bligh or Jackie Trad, was it?

MR NEWTON: No.

MR GISONDA: He says:

20 "He's not even from the construction industry. He's a surveyor. He's a bullshit artist and he's a fraud."

25 Now, that's a very serious allegation to make about someone, particularly in public, and I'll ask the question so you've got an opportunity to give a response, but are you in any way - let's just go with fraud - are you in any way a fraudster, Mr Newton?

MR NEWTON: I don't believe so.

30 **MR GISONDA:** And as we continue on - I mean, this is just an ad hominem attack on you and your character by a public - a man who leads a significant construction union in this State, done in front of - I think we saw about a thousand people; is that right?

35 **MR NEWTON:** Yes.

MR GISONDA: And then he goes on and he says you're sneaky, you're a sneaky gentleman:

40 "Shouldn't have called him a gentleman. He's a sneaky asshole who wants to go and work for inland rail and can't wait to get out of it."

Do you know what that's about at all?

45 **MR NEWTON:** There was - there was rumour around my role in being recruited to the inland rail job. There was a change of minister, and that no longer proceeded, so - I mean, I was in the running for that, but there was a lot of rumour going around at that time, and in the end it didn't come to fruition, so it amounted to nothing.

MR GISONDA: And the next paragraph, he says:

5 "I was on the Cross River Rail the other week, and, for example, I know a lot of our members are getting intimidated on the job. Their welfare is not great."

10 If I just pause there for a moment and go to page 327 of this bundle. Commissioner, this is a press release some two years later from the Fair Work Ombudsman reporting that the Federal Circuit and Family Court had imposed a total of \$225,000 in penalties against the union and two representatives, Michael Ravbar and Andrew Blakeley. That was following a determination by - I believe it was Judge Vasta. That, Commissioner, right-of-entry breach and penalties against the union and Blakeley and Ravbar is that incident that he's referring to at this rally, where he says, "I was on Cross River Rail the other week." So as it turns out, he was found to have entered the site unlawfully, and both he and the union received significant penalties as a result. But let's go back now to -

20 **COMMISSIONER:** Just staying with that for a moment. Is my recollection of the evidence correct, Mr Gisonda? I thought Mr Irving said something to the effect that Mr Ravbar and Ingham, soon after the 2020 or 2021 election - well, there was no election, because there were no other candidates for the roles of secretary and assistant secretary - transferred money from the branch of the construction and general division of the federally registered union to the state-registered union, and one of the reasons they did that was because they had legal advice - or maybe it wasn't one of the reasons - one of the advantages of doing so was they had legal advice that the state-registered union could make - could pay the money that Mr Ravbar had been penalised here, for example, but the federal union could not? Am I testing your memory as well as mine?

30 **MR GISONDA:** You are testing it, but I'll give it a go. I think it was the case that the legal advice was to the effect that the - yes, the state union could pay those penalty orders, and then when Mr Irving was appointed as administrator, he sought additional advice as to the correctness of that, because he had a view that it wasn't - didn't seem correct to him, and the advice he received was that that advice - the previous advice from 2021 was, if I can put it this way, justifiable. Mr Irving has stopped the practice, but that seemed to be the position as far as legal advice goes.

40 **COMMISSIONER:** So even though this says the court made a personal payment order against Mr Ravbar, I guess it's a matter of whether you go into this, but it could be the case that he in fact didn't have to pay that personally?

45 **MR GISONDA:** Yes, that would seem so. In 2023, yes. Now, back at page 143 of this bundle, there's then a suggestion at the bottom of this page that -

COMMISSIONER: I just wonder on top of the bit where this was this ad hominem attack as you've described it upon Mr Newton, I think you said earlier, Mr Gisonda,

that [REDACTED] sued the CFMEU or Ravbar or Mr Ingham, I can't remember who you said, because of some press release that he said - he alleged defamed him. Did you do anything in your own personal capacity, either with some sort of support from the Cross River Rail Delivery Authority or funded through your own means, to deal with what appears to be a fairly serious defamation of you, Mr Newton?

MR NEWTON: Yeah, thanks, Commissioner. I - I did make informal inquiries with our legal advisers. I guess the challenge around defamation is, you know, the chance of success, and, you know, giving Michael Ravbar a spotlight was probably not of my mind. I mean, the insight - you know, this was - attacking individuals, attacking ministers seemed to be his mode of operation. I just happened to be the next one on the list. You know, nobody wants somebody standing outside their office with a megaphone and a thousand people chanting at them, and no-one wants someone with a megaphone making such statements about themselves, but I guess in my mind it was an indication of how far out of touch he was with the modern workplace and the fact that you couldn't - I can't think of a single workplace which that type of behaviour would be acceptable. I mean, the military has gone through its reforms, the health sector, a range of others have gone through, but it only seems to be these guys who seem to think that that's acceptable, and I - I moved on.

MR GISONDA: At the bottom of this page, he then goes on to make some statements about the fact that the authority is able to effectively buy off the media because of its advertising arrangement minutes that it has with Channel 7 and The Courier-Mail. At least they're the ones that are expressly mentioned. So he seems to be suggesting that whenever there's an issue, whether it be silica exposure to the community or the like, what is effectively a corrupt arrangement kicks into gear and the media covers that up. But I think you said before lunch that there were multiple instances where claims were made to the media, and the Delivery Authority then had to present the true position to these media inquiries to ensure that the true state of affairs was either reported or, conversely, false state of affairs were not reported.

MR NEWTON: Yes. We did have cause from time to time to place advertisements in the newspaper, but that was usually associated with site works that were going on, raise community awareness, but we've subsequently moved away from that. We actually now use social media. We find that we get greater penetration; we can target it. So I'm not sure whether that was still the case back then, but they're the main reasons, is community awareness, yeah.

MR GISONDA: And then over the page, we have the paragraph beginning:

"These questions ain't being asked. 'Cause why? 'Cause it's a magical dollar."

And what he seems to be then saying is that - this is about six lines in:

"So what do we want out of here today? Is it first of all, and I want all of the endorsement, it's not that hard for the government - get rid of someone that ain't

performing. This bloke wouldn't crack it in the corporate sector. He'd be in purgatory. He'd be on the corporate scrap heap."

5 So that seems to be a demand that you be sacked, and then he talks about the Cross River Rail Authority being disbanded. He says there's 221 people in there. He can't work out - he cannot work out what they do, and he says he knows what they do: they bludge on taxpayers. Can you just tell the Commission what those people were doing within the development authority?

10 **MR NEWTON:** Yeah, I - we're set up as a statutory authority. We are to administer the contract, so obviously we went through that procurement phase. It does evolve with the nature of the project who we've got there. I do have primarily a project, you know, delivery part of the organisation, and we use - we use that to coordinate with the contractors as far as the delivery goes. We have a commercial arm which
15 monitors the contracts, as a significant contract's worth a lot of money, so we've got to make sure that they are being held to those contracts.

And we're crossing three major contracts. We've got the RIS contract, the TSD contract and the ECTS contract, so we've got to make sure that they all align. So
20 that's really the core task, and within that we've got specific skill base, so civil engineers, signalling engineers, programs, programmers, a range of other skills there. And then obviously as I said, legal counsel to do with contract administration and so forth. Beyond that, we have a corporate - organised corporate part of the organisation to make sure that the organisation functions, and we obviously have the stakeholder
25 engagement communication aside. And at this time, I think, judging by the date of it, we had the chief compliance officer, which was only quite a small office in that space as well. So most of it's in the project administration side.

30 **MR GISONDA:** And presumably those positions needed to - that work needed to be done, and so if they weren't employed by the Cross River Rail Delivery Authority, they would presumably be employees of either the department or external contractors brought on to perform that role?

35 **MR NEWTON:** Yes, yes. The project doesn't deliver itself.

MR GISONDA: And then he goes on, after the crowd says "no" to something:

40 "Also, the other thing that we gotta do, what I want endorsement here today, is that once the Cross River development agency's disbanded, bring it back in-house. It ain't that hard. The government, is that for example, Transport and Main Roads does \$20 billion worth of construction every year."

45 So what he seems to be saying there is that you shouldn't have a development authority at all; you could just bring it in-house and government can do it through the government department. I heard the questions from the Commissioner yesterday. I won't suggest that the Commissioner and Mr Ravbar seem to be on a unity ticket on that point, but what is the - why would Mr Ravbar be saying that what should happen

is that the Development Authority should be disbanded and all these functions brought in-house to the Department of Transport and Main Roads. Do you have any idea as to why he was making that demand in front of these thousand or so people?

5 **MR NEWTON:** I mean, my initial answer would be consistent with the previous answer I gave to what he was thinking, but in this context, I could only imagine that the way in which the Delivery Authority was operating was not helping his cause. We were quite nimble and responsive to the various things that were being put forward, as you saw with those spurious claims. So I guess we were just doing our
10 job, and probably were doing it a bit too good for the way in which he would have liked us to be doing it.

MR GISONDA: And you said that - you've said in your evidence that eight of the project sites seem to have shut down for most of the day, because of this rally,
15 presumably because a large number of workers from those sites join the rally. This is not only engendering reputational damage on the project in the eyes of the public; it's also, would you agree, turning the workers on the site against the project and the development authority. Do you think that's fair?

20 **MR NEWTON:** It's a fair comment, but you need to also understand that not all the workers attended the rally. They weren't - those - and I couldn't say without knowing all of the detail, but often they would source workers from other sites. Particularly Queens Wharf was one that was - because that was a CFMEU site, so they could drum up numbers very quickly. Often we would see the workers from our sites,
25 they'd see that a rally was on. Rather than get in a confrontation, they would just go home, and some who were obviously members or sympathetic to the cause would attend, but I wouldn't say that the full contingent of the people who were outside our office that day were only Cross River Rail. In fact, I would say it would be only a portion of them were.

30 **MR GISONDA:** If you then go to page 147. You might have no idea about this at all, Mr Newton, but I'll ask just in case. Do you know whether they had the same turnstile arrangements on the Queens Wharf project as they had with Cross River Rail?

35 **MR NEWTON:** No, I don't know that, no.

MR GISONDA: If you then go to page 147, this is a press release on the same day as the rally, just to make the point, from the CFMEU, that Transport Minister Mark
40 Bailey must scrap the Delivery Authority, assume direct control of the project, and he says that the Delivery Authority is a shameful waste of money. Then this is an example of the matter that we have spoken about already. If you go to page 356, there's an incident where the union claimed in - again, this is September '21, towards the end - that what had happened was - perhaps we'll go to the press release of the
45 union, which is at page 363, and what they claimed was that the Delivery Authority had spent, if they'd "spent more time delivering and less time on expensive PR

stunts, perhaps the troubled project wouldn't be running so far over budget and behind schedule", and that a glossy video released by the authority in recent days:

5 "...celebrates another milestone of roadheaders breaking through at Boggo Road. What they don't tell you in the October 1 video is that the tunnel boring machine actually broke through on Sunday, September 24. Workers then spent a week patching all the holes with plastic and shotcrete and prettying up the tunnels for a staged photo shoot."

10 They say:

"Cross River Fail - publicity first."

15 Delivery, procurement, training second. That wasn't true, was it, Mr Newton?

MR NEWTON: No, that's not true. The tunnel on the right - so this is the roadheaders were doing the work. So we had TBMs or tunnel boring machines from Woolloongabba to the northern portal, and there were roadheaders which were basically mechanical devices that excavate underground. They were working from 20 Woolloongabba to Boggo Road. The tunnel on the right had already broken through. The one on the left was effectively the last tunnel breakthrough for the project, so a significant milestone.

25 **COMMISSIONER:** What's the difference between a roadheader and a tunnel boring machine?

MR NEWTON: A roadheader is - I suppose it's a vehicle with an articulated arm, and it's got a very abrasive - almost like a pineapple on the end of it with teeth on it, and it excavates out. It's usually done for smaller-length excavations of tunnels, 30 where just the cost of a tunnel boring machine isn't warranted. So it's only about an 800-metre drive from Woolloongabba to Boggo Road, so it didn't really warrant that. So the one on the right in the picture there had broken through. We weren't, you know, trying to cover that up at all. What they were claiming was that the one on the left had already broken through and that we were, you know, getting it patched up 35 again so that we could do a media exercise, which - it's just false.

MR GISONDA: Thank you. And you had at page 356 of the bundle, this is just an instance where the Delivery Authority has had to field questions from the - I think it's the Brisbane Times on this occasion, because it looks as though the union had fed 40 that story to the media, trying to get an embarrassing story up for the - adverse to the authority; is that right?

MR NEWTON: Yes, and it had also been - you know, they'd engaged with the minister's office as well, so they were trying to drum up a story. I should point out 45 the story never ran. The journalist spoke with our media adviser. We provided some photographic evidence to demonstrate it wasn't true, and he ended up not running the story.

MR GISONDA: And then we see, at page 136 - and in the interests of time, Commissioner, I will skip over 2022 and head into 2023, where there's some key events that happen, but first, we see at page 136, they now turn their sights on
5 Minister Mark Bailey. So that's every minister responsible for this project has the ire of the union, it seems.

COMMISSIONER: Well, once it becomes clear that they haven't given in to the union's demands.
10

MR GISONDA: Yes. And there's just - again, just attacks on the minister of the kind that Mr Geoffrey Watson set out in his report. Then I just want to quickly show you -

COMMISSIONER: I should say, once that's made clear they haven't given in to all the union's demands.
15

MR GISONDA: Then at page 355, this is another pamphlet that is distributed around the project, and what this pamphlet suggests is that the tunnel is underwater.
20 You see a picture there of flooding in the tunnel, and it's the case, isn't it, that that photo was taken from floods, the Brisbane floods, that had occurred a year earlier. Is that right?

MR NEWTON: Yeah, they were the 2022 floods, and this pamphlet appeared in
25 2023.

MR GISONDA: And so then I'll jump forward to July '23, where there was a very serious incident on site, when a man fell from a scaffold at Boggo Road and was very seriously injured, and you point out that - at page 314 of the bundle, there's an article on the ABC Online about the incident, and at the fourth paragraph on this
30 page, Mr Ravbar is quoted as saying that:

"This guy..."

35 That's the man who fell from the scaffold:

"...is probably likely not to survive the next 24 hours."

40 Now, the man at that point was in hospital. Is that your understanding?

MR NEWTON: Yes, yes. This was very shortly after the event.

MR GISONDA: And what must have been a very distressing time for his family and his co-workers, doing everything they can, hoping and praying and the like that he
45 will get through it. Mr Ravbar's coming out and saying that he's likely not to survive. And then that leads to what's called the safety reset demands from the CFMEU, and if you go to page 321, Mr Ingham sends -

COMMISSIONER: You can see, just the next paragraph down from "the guy's probably likely not to survive the next 24 hours", you will see the same issue that we've talked about twice now - this will be the third time:

5

"Transport Minister Mark Bailey confirmed the union's claim about 300 safety enforcement notices had been issued for the Cross River Rail project, and that Workplace Health and Safety had been to the site 'many, many times'. 'There's no doubt this is a wake-up call and it's certainly shaken my confidence.'"

10

And if you're a new minister and you don't know the basis upon which Workplace Health and Safety has been to the site, that is, that they've been called out by the CFMEU, his perception is - well, it's both reasonable but ill-informed at the same time.

15

MR GISONDA: Yes, and we'll come to how safety might be assessed on the project in a moment, Mr Newton. At page 321, we've got an email from Mr Ingham to Kevin Mara, copying in members of the Building Trades Group, from Mr Ravbar. The subject is "Cross River Rail workers demands". He says:

20

"Kevin see below as requested."

And then sets out that workers across the sites had resolved the following, and there were seven demands that they were making. And we're going to explore this in more detail tomorrow, Commissioner, with Mr Johnson. To your knowledge, Mr Newton, these demands were passed on to the contractors; is that right?

25

MR NEWTON: Yes. They initially marched on our office, handed them over to Kevin, and then they emailed them, as far as I understand. And we passed these on to the contractor, because by their very nature, it really is the contractors' role to do that, and given we don't have a relationship with, you know, the contractors - sorry, with the unions, you know, the contractors are the ones that have the relationships with the unions. It was the contractors' responsibility to address those issues.

30

MR GISONDA: You mean relationship in the sense of they're an employer or they're covered by the same agreement.

35

MR NEWTON: Yes. So in this case, while there was a greenfield agreement with the AWU, subcontractors would have their own EBAs, and some of those EBAs would have been CFMEU, and so by proxy the head contractor has a relationship with the unions via those subordinate agreements.

40

MR GISONDA: Yes. So other than, I suppose, monitoring the situation, is it fair to say that the Delivery Authority did not have an active involvement in the resolution of these demands?

45

MR NEWTON: No, but I did - I was very interested in obviously seeing the project re-established, so I was quite interested and asked Kevin Mara to monitor the work that was going to be done, and I'm sure when Mr Johnson goes to the extensive detail that they went through with this safety reset, there was hundreds of issues that were raised, and I asked Mr Mara to monitor the fact that those were all closed out and we were satisfied that they were closed out. So, you know, we have a responsibility under the safety legislation to make sure the contractors are doing what they're doing, and I took that very seriously and I asked Kevin to monitor that. But as far as actively resolving those, it was really the contractors' responsibility.

5

MR GISONDA: And when you say re-established, that's because, as at this point in time, the site - the project had been shut down. Is that right?

10

MR NEWTON: Yes. Yes.

15

MR GISONDA: Shut down by the unions.

MR NEWTON: Well, they effectively blocked all the gates, I think. In some cases - and Mr Johnson could probably verify - they put chains on the gates.

20

MR GISONDA: Yes. And there was a meeting, just to round this out, there was a meeting attended by Mr Johnson and others from the contractors and members of the unions at CPB's head office. You or no-one from the Delivery Authority was present at that meeting?

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MR NEWTON: No, we didn't attend.

MR GISONDA: And then if we go to page 318 of the bundle, what we now have is an article in The Courier-Mail that says:

30

"Cross River Rail safety failings exposed in injury log showing 'worst record' in Australia."

And under the photo on that first page, after it says that "angry workers walked off the job until Monday":

35

"Contractors working on the project have been hit with almost 350 Workplace Health and Safety breaches since it began, including 38 stop-work orders and 30 infringement notices."

40

And then if we go to page 320, the third paragraph, we have a spokesman from the Delivery Authority says that:

"The project was 'massive and complex' with around 3000 workers on 17 separate sites clocking up 24 million hours so far."

45

And that:

"Despite the project's size and scale, the safety record is objectively and significantly better than industry averages. And because of the project's size and scale, it is not unreasonable to expect an intense focus from WHSQ."

5

And then:

"Safety is - and always has been - Cross River Rail's top priority,' the spokesman said."

10

Can I just cover off on a few things here. One is, it's the case, isn't it, that safety was the project's top priority?

MR NEWTON: Yes, absolutely.

15

MR GISONDA: And it was a - I described it yesterday as Queensland's Big Build. It was a massive project and it was, in many respects, a complicated and potentially dangerous project. Is that correct?

20

MR NEWTON: Yes. It's a heavy engineering construction site which has risk attached to it, but that's still no reason to go light on safety.

MR GISONDA: Of course, but that by its nature helps explain why Workplace Health and Safety Queensland would give extra added focus to this project; is that right?

25

MR NEWTON: I guess in principle.

MR GISONDA: Yes.

30

MR NEWTON: But we did experience, particularly early in the days, a lot of scrutiny, is probably the best way to put it, from Workplace Health and Safety. I do have some data which is probably indicative of that, if you are happy for me to present it.

35

MR GISONDA: Yes, please.

MR NEWTON: In the first two years, this is after the bargaining was completed and work commenced, so 2019 and 2020, there was - there was something like 180-odd notices issued on the project. Particularly in the year 2020, there was 137, which was just abnormally high, but what's the telling thing is the majority of those, somewhere near 90 per cent, were of the infringement - sorry, the improvement notice, which are the minor ones. But tellingly, around that time as well, there were 29 notices that were - I'll put in inverted commas - withdrawn by the regulator, but basically in practice they were challenged by the contractor. Now, to me that's a pretty unusual statistic. You wouldn't expect a regulator of the stance of Workplace Health and Safety Queensland to be overturning that type of number of notices. Going on to

45

future years, the numbers moderate down in those improvement notices back to more like around about 50.

5 Now, that's not to say - you know, you don't want to be getting notices on site, but
we also welcome the scrutiny. I mean, it's part of the safety overlay where the
contractors take responsibility. We as the Delivery Authority also come and do
safety and site inspections, and then the regulator participating in that as well just
10 makes sure that everybody's checking and checking and rechecking, and that's what's
important. So we found regularly that the CFMEU would use the number of notices
as a proxy for site safety, and if you'd indulge me a little bit further, Commissioner,
on our sites, and it's referenced in paragraph 242 on page 29, I don't need to go
to - you're welcome to go -

15 **COMMISSIONER:** 242 of your statement?

MR NEWTON: Yeah, of my statement, page 242 - sorry, page 29, paragraph 242.
So page 29. Yep. That's it. That gives an outline of the data in relation to - that's
pretty close to current. January 2026. Around about 49 million work hours. The
20 national industry average for Lost Time Injury Frequency Rate is around about 11.6
per million hours. Our site, and this is across the total project, is at .7, so significantly
below.

COMMISSIONER: So less than 10 per cent of the average?

25 **MR NEWTON:** Yes. And then if you go to paragraph 308 on page 34, this is
relevant for this timing that we're talking about for when this incident occurred, and
this is the total recordable frequency rate. So you use lost time injury and total
recordable frequency rate as key measures. At the time, the industry average was
about 6.88, and the incidents on our sites were running at about 3.8, so about half of
30 what industry average was. So on those two measures, the project is in good state.
Just for completeness, the project has now done 50 million work hours and the
industry average has been revised to 6.49, and the project is currently running at
3.54. So, again, almost half of what the industry average is. So on any sort of
measure -

35 **COMMISSIONER:** What was that last data point? 6.49 what?

MR NEWTON: 6.49. It's the same as the one that's up on the screen there, which is
Total Recordable Injury Frequency Rate. So the industry average is 6.49. So that
40 6.88 is presently 6.49, and our current project is running at 3.54. So they've improved
with time. So while notices are important, and while we see the role of the regulator
are important, they're not a measure. These are the measures; this is the actual lived
experience on site.

45 **MR GISONDA:** Thank you very much, Mr Newton.

COMMISSIONER: This might be a question for Mr Johnson rather than Mr Newton, Mr Gisonda, but I don't quite understand how the CFMEU can arrogate to itself the role of the Workplace Health and Safety regulator by closing the site. That's the job for the regulator. It might have closed some of the site after an incident.

5

MR NEWTON: When that incident occurred, there was a prohibition notice on the Boggo Road site, so that site was closed, which is reasonable and understandable, because they needed to do an investigation, they didn't want the site disturbed, a range of different things. But there was no reason for the rest of the site. That said, you know, it put a shockwave. It was a pretty significant incident. Everybody right across the project and in the Delivery Authority was quite concerned for that worker and the circumstances, and it's not unusual for a contractor to pause, and we've seen them do that as recently as in the last couple of months where there was an identified safety issue with a scaffolder. They paused. They basically brought all the scaffolders in and got them to re-demonstrate their capability and they brought that right across the whole site. So they took it very seriously. So it's not unusual for the contractor to say, "Well, hang on a minute. We want to refresh everybody's mind to make sure they take it seriously." But that's usually the contractor's own decision.

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20 **COMMISSIONER:** That was the question.

MR NEWTON: As far as shutting a site down, yes, it's the regulator, but if a very loud bunch of people turn up and start chasing people off sites and chaining it up, it's pretty hard to overcome that, and I think that was basically a bargaining approach to these demands that were put on the table.

25

COMMISSIONER: Well, especially if the police have got a memorandum of understanding with Workplace Health and Safety Queensland that they don't intervene because it's an industrial dispute.

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MR GISONDA: And if we go to page 325 of your witness bundle, there's a press release from the CFMEU saying that:

"Delaying tactics by rogue contractor CPB are preventing government safety inspectors from attending the site of a catastrophic incident at Cross River Rail for more than 48 hours, raising concerns that the company is trying to sanitise the scene."

35

Just pausing there, is that something that you understand to be accurate or inaccurate?

40

MR NEWTON: No, that's inaccurate. They knew exactly what their obligations were. They were in dialogue with the regulator. They secured the site and they invited the regulator onto site to do their inspections.

45

MR GISONDA: And I imagine that the State of Queensland, had it any indication whatsoever that a contractor was trying to impede a workplace investigation from the safety regulator, there'd be serious consequences for that contractor.

5 **MR NEWTON:** Yes, there would be. I mean, I found them extremely transparent. In fact, I think it was the next day, I visited the site with the - with Mr Johnson. You know, obviously we stayed away from the incident scene, but from standing up high we could actually get an appraisal of the circumstance. I just found them transparent, yes.

10 **MR GISONDA:** Excuse me a moment, Commissioner. I'll just see what else I want to cover before giving Mr O'Brien and Mr O'Grady an opportunity to ask any questions if that's what they wish. We see just for completeness at page 408 of the bundle - actually, before I just go to page 408. There was then, on 28 December, an
15 incident where a worker who had been working on the Salisbury station site, so that's one of the surface rail station sites under the RIS package - after he'd finished work for the day, he was found deceased in his car. And if you look at, just to take an example, page 195, there's a media release, and in that media release, on the second
20 half of the page, Mr Ravbar says that a labourer who's a young father had tragically passed away in late December after showing signs of severe heat stress while working on a Cross River Rail site, and that:

"As usual, CPB has responded to the safety incidents by using threats and intimidation tactics in an attempt to keep the workers quiet."

25 Were you aware of CPB using any threats or intimidation tactics on its workforce?

MR NEWTON: No, not at all.

30 **MR GISONDA:** And we won't go into too much detail about it, but it's the case, isn't it, that there remains a reserved coronial decision on the cause of death for this man?

35 **MR NEWTON:** Yes, that's what I believe the case to be.

MR GISONDA: And as at this stage, with that decision reserved, there is still no finding as to what the cause of death was, whether that be heat stress related or some other cause; is that right?

40 **MR NEWTON:** That is correct, and the police cautioned any speculation in that regard, when we had our - our media people were speaking with the police at the time, and the police expressed significant caution in that regard.

COMMISSIONER: Significant caution about attributing -

45 **MR NEWTON:** About any statements as to the cause of death.

MR GISONDA: And the need for that caution was because the union were making statements essentially linking the death to the heat policy of CPB and heat stress that they say he was suffering while working on the site?

5 **MR NEWTON:** Yes.

MR GISONDA: And so then going back to page 408 of the bundle -

10 **COMMISSIONER:** What about the conclusion to any investigation - you might tell me not to worry about this, Mr Gisonda, or you're coming to it, but about the scaffolding incident?

15 **MR GISONDA:** I'm happy to ask Mr Newton whether he's aware of what the outcome was of the investigation that was conducted into that scaffolding incident, that is, what is the causes of the incident and any fault that might have been attributed to CPB for it.

20 **MR NEWTON:** I'm not aware of any outcome, and I don't know that - well, I don't think there's been any finding made to date or any directions given. So I don't know the details. Again, Mr Johnson would probably be in a better position to answer that question.

25 **MR GISONDA:** And now when we go to page 408, we now see a media release calling for the Industrial Relations Minister to resign - that's Minister Grace Grace, then Minister Grace Grace - this being another rally outside of Parliament House in response to a spate of heat-related deaths and injuries in the construction industry. And you see here the fourth paragraph saying that despite the caution that you'd just given evidence about from police, that the young worker had died of heat stress after working at a Cross River Rail work site in December, and that's used to run a
30 campaign that the Minister For Industrial Relations should resign.

35 Could I just conclude by looking at a few photos and some graphs. Commissioner, perhaps I'll show you, these are some photos at page 374 to 376 of the bundle. These are photos taken from the protected industrial action campaign that took place in 2024 on the site, and just to put this in context, Commissioner, we were talking about the safety reset in the end of July '23. There was, of course, the expiration date for the greenfields agreement coming up in early October '23 and thereafter, and in the course of 2024 there was a campaign by the union, including protected industrial
40 action in 2024, and these are some of the photos that were taken during this campaign, page 374 and 375, and then at page 376 - it doesn't get more extreme than that claim that CPB murders workers. At page 348, this is a photo of - this is the system, I think it's called the Damstra system, at page 348. Mr Newton, is that correct, where workers sign in at the turnstile to enter the construction site?

45 **MR NEWTON:** Yes. When a worker has done their induction, they get a Damstra number, and you either have a card which you tap on or you key the number in, and then that unlocks it. You go through the turnstile, and then you log onto the Damstra

system. So it's effectively like logging on for the day. And it allows - there's a whole range of reasons but it also allows them to know who's on site, and if there's an emergency, they can look at the Damstra list and be able to go through that. But there's a range of reasons for that being used, but site security, you know, you don't want people wandering off the street onto a construction site, and also the Damstra verifies that the person who is coming in has been inducted. You don't get a Damstra number. In fact, I've got a Damstra card, so I've been inducted onto the site.

MR GISONDA: And that's a picture of one of the Damstra systems having been vandalised during this protected action, and at page 349 there's a picture taken of masked men spraying CCTV cameras before doing whatever it is that they went on to do on the worksite. At page 155, what we have here is - and the faces have been redacted - but photos. So let's look at page 155, Commissioner, page 156, 157, 158 and 159. Pictures of workers, in particular, IR and safety managers for CPB, put up on signs in and around project sites; is that right, Mr Newton?

MR NEWTON: Yes. This was during the protected action period. This is what they were putting up.

COMMISSIONER: So this is late 2023, early 2024?

MR GISONDA: Mid '24.

COMMISSIONER: Mid '24.

MR GISONDA: Yes. And in due course, Commissioner, in the progress of this case study, we'll look in more detail at that protected industrial action.

COMMISSIONER: That's the period that Ms Schinnerl gave evidence about, wasn't it? Is that the period we're talking about, where the AWU officials were being picked on, attacked, threatened, however you might describe it, by the - I think they were delegates, CFMEU delegates, Mr Savage and I forget the other chap's name.

MR GISONDA: It started in mid '23 but certainly escalated in '24, that's right. And one of the pamphlets that I took to you a moment ago, and I'm not going to be able to find it now, but you'll see it has, Commissioner, at the bottom, what we saw - here we go. At page 355 of the bundle, just not to lose sight of the campaign, it's this Cross River Fail campaign. We focused a lot on members of the government, the Delivery Authority, some workers as well, but also, if you see there in the bottom left-hand corner, another target is the AWU, and you see there, taking the logo, Australia's Weakest Union, Submissive Together.

If I can conclude with just showing, through you, Mr Newton, some graphs that have been prepared. First, talking about the disruptions that have been experienced on the project, you've tabulated at paragraph 407 of your statement something in the order of 17 rallies so far which have led to disruption on the project, whether that be rallies on the Delivery Authority's head office or rallies on Parliament or rallies around the

5 sites. You then at page 47 of your statement give evidence about, beginning at paragraph 421, evidence about disruptions to crane lifts that took place on the project, and if I can take you to page 381 of your bundle, this demonstrates - and if we focus on the yellow, this demonstrates the time periods where the CFMEU disrupted crane lifts and therefore caused disruption to activities on the project, and we see some core periods in mid 2022, late 2023, and then mid 2024; is that correct, Mr Newton?

10 **MR NEWTON:** Yes, that's correct.

MR GISONDA: And we'll just stay on this graph, but before doing that, I will point out that from paragraph 436 onwards of your statement, you then give evidence about disruptions to concrete pours on the site.

15 **COMMISSIONER:** I don't understand what this graph is showing. What does that tell the reader?

20 **MR GISONDA:** So if you look at the yellow in the vertical graphs, they show the number of crane lifts, so you've got the number on the X-axis, and these yellow bars tell you the number of crane lifts at any given point in time.

COMMISSIONER: Crane lifts or crane lift disruptions?

25 **MR GISONDA:** Sorry, disruptions of crane lifts, and then the orange -

COMMISSIONER: So that should be zero at all times?

30 **MR GISONDA:** That should be zero at all times, yes. And then the orange are instances of concrete pour disruptions.

COMMISSIONER: Right. And they're happening at certain times?

35 **MR GISONDA:** Yes, and you see here, we have - perhaps I'll then take you, Commissioner, to page 389.

COMMISSIONER: Can we just have a look at the back end of that. I think Mr O'Grady would be interested in this graph.

40 **MR GISONDA:** And then page 389, do you see there, Commissioner, the pale orange, I think, is the colour.

COMMISSIONER: Yep.

45 **MR GISONDA:** That's disruptions caused by health and safety reps on site. And importantly, what you'll notice, Commissioner, is that that begins after September 2023, and you'll hear evidence tomorrow about the influx of HSRs onto the project sites following the safety reset, and so you see a massive explosion there, but it dies

down when the CFMEU is placed into administration. But also, towards the end of 2024, other things happen as well. In fact, the workers vote up the enterprise agreement and - well, those are probably the main two things.

5 **COMMISSIONER:** I think Ms Schinnerl said after the so-called safety reset one of the demands was a dozen or 14 - I can't remember whether she said delegates or health and safety reps - be appointed. And this a consequence of that?

MR GISONDA: Yes.

10

COMMISSIONER: And without any more evidence, you would infer that they were manufacturing these safety concerns, having regard to what we've heard from Mr Newton and what you've seen previously.

15 **MR GISONDA:** The alternative is that the health and safety reps who were already on site, whether they be AWU members or - AWU health and safety reps or not, were either ignoring safety problems or not doing their job properly.

COMMISSIONER: Yes.

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MR GISONDA: And then we can bring it all together - you'll see, actually, before I do that, at page 392 -

25 **COMMISSIONER:** I mean, this might be a question for Mr Johnson, but why do you give in to a union demand to appoint these people as health and safety representatives? Well, I shouldn't - I'll hear his evidence first.

30 **MR GISONDA:** You'll see at page 392, Commissioner, the same type of graph, the red. These are instances of public statements or criticisms of the project by the CFMEU. It seems that the media campaign was something that happened more intensely earlier on, but later on into the project they started to use other mechanisms.

35 **COMMISSIONER:** Well, they had their troops inside by then, so you didn't have to use external pressure.

40 **MR GISONDA:** And then at page 66 of the bundle, that brings it all together, and what you see there is a particular escalation of incidents - whether that be media, protests, concrete pour disruptions, crane lift disruptions, HSR impacts, so we're still using the same colours for each of them - particular intensification of disruptive activity from mid-2023 onwards and a particular intensification after the expiration of the enterprise agreement, which then dies down once the workers vote up a new enterprise agreement and the union is put into administration.

45 **COMMISSIONER:** This is the sort of thing I was expecting to see from Mr Wheelahan and Mr Smith about the - on the other case study, on the Workplace Health and Safety Queensland case study, which shows a breakdown of the way in

which the notices were issued or the complaints were made. But anyway, that will come at some later point.

5 **MR GISONDA:** And as I say, as we develop this particular case study, we're going to look further into the detail of, if I can call it, the Workplace Health and Safety notification regime and, at the same time, the union - union entries onto site. Just finally, please -

10 **COMMISSIONER:** Say that again. I missed what you were saying then. Sorry.

MR GISONDA: That's okay. There is two separate but related forms of documentation. One is notices from the WHSQ, and the other is attempts at entry by the union. We want to get more granularity as to the data there as we progress the case study. But just finally with Mr Newton, from my perspective - at page 58 of
15 your statement, there's been an attempt by the Delivery Authority to explain the extent to which union disruption, conduct and behaviour might have led to delays in the delivery of certain milestones on the project, and the advice received here from paragraphs 500 to 507 is that those disruptions have led to a delay of approximately 20 months in the achievement of milestones at the Woolloongabba site. And there's
20 more detail about that, at least in graphic form, Commissioner, at page 399 of the bundle.

And then we have similar case studies for the Boggo Road site, which are said to lead to an approximate delay of 19 months. That's at paragraphs 492 to 499 of the
25 statement, and a graphical representation is at page 396 of the bundle, if we could bring up 396 of the bundle. And, finally, Albert Street, if we go to page 393 of the bundle, an estimated delay of 24 months in the delivery of milestones at Albert Street, and the explanation of how the union has contributed to that is at paragraphs
30 484 to 488 of the statement. But Commissioner, this will also be explored in more detail with Mr Sanfilippo when he comes to give evidence. But unless there's anything else, I'm mindful of the time, Commissioner. I might now hand over to Mr O'Brien in the event he wants to ask any questions and then Mr O'Grady.

COMMISSIONER: It's up to you, obviously, Mr Gisonda, but I've got an
35 application to cross-examine a witness, a written application, from Mr O'Grady and Ms Hughes and Ms Fox, and I take it, given what you said about your attitude and Mr O'Brien's attitude, I can grant that application?

40 **MR GISONDA:** I'll fall in behind Mr O'Brien, so I'll let him -

COMMISSIONER: Sorry?

MR GISONDA: I'll fall in behind Mr O'Brien.

45 **MR O'BRIEN:** We have no objection.

COMMISSIONER: All right. And then I don't have an application from you, Mr O'Brien, but that could just be my administrative error or it could be that there's some arrangement at the bar table I'm not conscious of.

5 **MR GISONDA:** He might not wish to, but if Mr O'Brien wants to ask Mr Newton any questions, I'm perfectly content for that to occur.

MR O'BRIEN: There was only one question I was going to ask him.

10 **COMMISSIONER:** All right.

<CROSS-EXAMINATION BY MR O'BRIEN

MR O'BRIEN: Mr Newton, can you go to page 59 of your statement.

15

MR NEWTON: Page 9?

MR O'BRIEN: Page 59.

20 **MR NEWTON:** 59, sorry.

MR O'BRIEN: Yes. You deal with the question of the impact of the CFMEU on the budget for the Cross River Rail project at 508 and following, and if we go to paragraph 513, you recall the fact that in the 2025-2026 financial year the budget
25 was increased to 9.83 billion. Do you see that?

MR NEWTON: That's correct, yes.

MR O'BRIEN: And you list as one of the factors for that budget increase at 514(a)
30 the protracted industrial relations issues.

MR NEWTON: Yes.

MR O'BRIEN: Now, there was some mention yesterday of a press release in
35 relation to the fact that the cost of Cross River Rail had increased to 19 billion. Could you just explain to the Commission what the 9.83 billion figure is and to what extent you understand the 19 billion figure that's been mentioned, how do the two figures sit side by side?

40 **MR NEWTON:** Thank you. So just to sort of - really, the focus is on paragraphs 508 through to 513. So in the Queensland budget papers, so the government budget papers, there's a discrete item called Cross River Rail. And in order to provide, I suppose, an apples-with-apples comparison, I incorporated that into this document, and it's the consistent number that's gone through. Now, you will have heard the \$5.4
45 billion number. Back in 2017/18 when that budget was announced, the accounting standards didn't require a declaration of the private financing component. So in the subsequent year, in 2019/20, that private financing of roughly \$1.5 billion or \$1.499

billion was incorporated. So, hence, the budget was then, I suppose, reported as being 6.88, and that 6.88 is 5.409 from the previous year plus the 1.499. So essentially between those -

5 **COMMISSIONER:** I thought Mr Ravbar said in that protest that he had where he criticised you, the budget has gone up from 5.4 to 6.9 because of that.

10 **MR NEWTON:** So at that stage - and again, you know, not a lot of work had started at that stage, but the budget at 6.88 effectively was 5.4 plus private finance, so the budget hadn't changed. In subsequent years, in 2023-24 budget, it was adjusted to that same number, the comparative number. 6.88 was adjusted to 7.85. And in that window was a range of things. The stuff that's been talked about here, but also COVID, hyper-escalation and so forth, that contributed to that. So there was a budget adjustment done at that stage. And then most recently -

15

COMMISSIONER: Would that be about a billion there?

MR NEWTON: I beg your pardon?

20 **COMMISSIONER:** About a billion (indistinct) 6.9.

MR NEWTON: Yeah, it was about 930 million, I think it was. And then the most recent adjustment is in the current budget, which is down in para 513, 2025-26 budget, which is 9.83, okay? So that, if you were to do an apples-with-apples comparison, the 6.88 has been adjusted to 9.83. So then, going to the question around the 19 billion dollar -

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MR O'BRIEN: Yes.

30 **MR NEWTON:** So at \$19 billion, as we've discussed, it's more than just that core scope of Cross River Rail. So that \$9.3 billion, in the current public number that's out there, the \$9.3 billion, if you add \$2.6 billion, which is the service payments, which is the 25-year concession period where the State pays back that, that creates a number of \$12.4 billion, so 9.83 plus 2.6, and there's a further \$6.6 billion of other work that we're delivering or is being delivered by others, and I'll just summarise those, if that's okay, Commissioner. There's complementary work, so stabling yards, station upgrades, bridges, and some conventional signalling, you know, in the rail corridor. And on top of that is the ETCS signalling, so the European Train Control Signalling.

40

MR O'BRIEN: Yes.

45 **MR NEWTON:** And also upgrades to the new generation rolling stock fleet so that it is ETCS-capable, and then there's some integration funding which relates to bringing this system online and integrating the various elements both technologically and then also integrating into the network, but the real focus there was about the technological integration into the system. And then this other costs such as

alternative transport such as bussing when trains are out of operation while we're doing possessions, and also some additional costs for Queensland Rail for their operation, once that goes in.

5 So if you take those numbers just in very simple maths, 12.43 plus 6.6 billion of other works and other costs, that equals 19 billion. So you've got the 9.83 plus the 2.6 equals 12.4, plus 6.6 equals \$19 billion. So, really, the difference between what was - what has been talked about is whether you include those other numbers on top of the Cross River Rail budget line item and say that that is the total cost of
10 delivering Cross River Rail or whether you treat them as discrete line items. And I guess it's up to individual governments to choose how they present those numbers.

MR O'BRIEN: Thank you, Commissioner.

15 **COMMISSIONER:** Mr O'Grady, don't feel constrained by the time, if you - we can sit on.

MR O'GRADY: Thank you, Commissioner. I don't intend to be very long. Could the witness please be shown the graph at page 66 of his tender bundle. So this is the
20 graph, the consolidated graph, as I understand the position. Is that correct, Mr Newton?

MR NEWTON: That is correct, yes.

25 **MR O'GRADY:** Yes, and as Mr Gisonda pointed out, there was a very significant reduction in disruption from the appointment of the administrator. You would accept that, wouldn't you?

MR NEWTON: Yes, but probably it's not that simple a response. So the short
30 answer is yes, but there's some circumstances going on at the time. So the protected action was still underway at that stage, when the administrator was appointed. So my understanding is the administrator was appointed on 23 August 2024.

MR O'GRADY: Yes.

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MR NEWTON: There was still a further 108 days of protected action post the administrator.

MR O'GRADY: Yes.

40

MR NEWTON: And there was still activity on site. So to say that there was a reduction is correct. But we did - there was still the open item that needed to be done, which was resolution of a revised enterprise agreement.

45 **MR O'GRADY:** Yes.

MR NEWTON: CPB had been engaging with the workforce. There was still some - some tension there, but it had dropped off dramatically as far as activities go, and I think when the administrator first identified the first list of individuals who were considered disruptive, that definitely had a positive impact on the project.

5

MR O'GRADY: Yes.

MR NEWTON: And then the CPB went through two votes in September. There was one in early September, 5 to 7 September, and subsequent one on 26 to the 28th. Neither of those votes were successful in getting up, and there were - members of CFMEU were working the floor, so to speak, at that point in time.

10

MR O'GRADY: Yes.

MR NEWTON: And then - and then a further vote was taken on 11 December, and that was successfully accepted, and that effectively ended the protected action.

15

MR O'GRADY: Yes.

MR NEWTON: So if I could sum up, yes, there was a drop-off because of the initial response from the administrator. However, there was still some tension on site, but productivity did start to improve, and as was illustrated by those three case studies that were just presented previously, we did deliberately use those from the date of the administrator and it was quite demonstrable that the productivity improvements were achieved off the back of that. And just probably to round that out - sorry to be long-winded, but it was a complex time.

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MR O'GRADY: Yes.

MR NEWTON: There was still a period, though, when the administrator had to - was challenged in, I think, was it the High Court? Once that was resolved, we saw significant improvement on site.

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MR O'GRADY: Yes, indeed. I was going to ask you about that. But if we can take it into - break it up a little bit.

35

MR NEWTON: Yes.

MR O'GRADY: You would accept that a union that is seeking to negotiate an enterprise agreement is entitled to take protected action?

40

MR NEWTON: Absolutely, yes.

MR O'GRADY: Yes, and that, necessarily, taking protected action is going to give rise to disruption on the site?

45

MR NEWTON: Yes, yes. Bearing in mind, though, the coverage for those - there was only about 200 workers of the 1000-plus workers on site that were covered, and what we were seeing, prior to the administrator, disruption to those other workers who weren't protected under the protected action.

5

MR O'GRADY: I understand. And you've mentioned the Ravbar High Court decision. You understand that that was handed down on 18 June of 2025?

MR NEWTON: Yes.

10

MR O'GRADY: And there were some difficulties confronted by the administrator prior to that decision being handed down, weren't there?

MR NEWTON: Yes.

15

MR O'GRADY: Yes. And your graph doesn't go past that period of mid 2025, does it?

MR NEWTON: No, and there's probably not a reason to go beyond that, because - and I will point out, there have been exercising the right of entry onto site. So since the administrator, I think there's been 88 rights of entry exercised, but the feedback I'm receiving from site is they're constructive, they're positive, as much as rights of entry are, and contributory to the safety culture on site.

20

MR O'GRADY: Thank you. And you understand that, you know, a union that has organisers that have a right of entry permit are entitled to exercise that right of entry?

25

MR NEWTON: Yes, absolutely.

MR O'GRADY: And indeed, they wouldn't be doing their job if they didn't.

30

MR NEWTON: No, and we don't resile away that from that. I mean, that's the purpose of the union movement.

MR O'GRADY: And you also accept, don't you, that construction is an inherently dangerous industry?

35

MR NEWTON: Yes. As we discussed earlier, when you're working in these environments, there are certain risks that come with it.

40

MR O'GRADY: And that - well, there are very real risks: people can be seriously injured or killed.

MR NEWTON: Yes, absolutely.

45

MR O'GRADY: Indeed, we heard evidence about that today.

MR NEWTON: Yes.

MR O'GRADY: And you would accept that a union has an obligation to try and protect its members from those risks.

5

MR NEWTON: Yes.

MR O'GRADY: And indeed, as I understand your statement, you say that unions have a very important role to play in protecting workers on sites from health and safety risks.

10

MR NEWTON: Yes, and I guess we'd never stepped away from the fact that if there were issues raised by a union member or delegate that they weren't either raised with the contractor or investigated, I guess the point with what we've gone through today and there's been a strong focus on it, is where the issue is a spurious issue and it's not based on fact.

15

MR O'GRADY: Yes, and the people who were raising those spurious issues that weren't based on facts were Mr Ravbar and Mr Ingham, weren't they?

20

MR NEWTON: They were the primary drivers, but they did have people on site who were acting on their behalf.

MR O'GRADY: And Mr Ravbar and Mr Ingham were removed when the administrator was appointed?

25

MR NEWTON: Yes.

MR O'GRADY: And the administrator, as you just told us a moment ago, went on to remove other people from positions where they could disrupt sites?

30

MR NEWTON: Yes. And there were - several of those were based on our site.

MR O'GRADY: Thank you.

35

COMMISSIONER: Based on what, did you say?

MR NEWTON: They were based on our sites.

MR O'GRADY: All right. Now, you would accept that heat is a real health and safety issue.

40

MR NEWTON: Yes.

MR O'GRADY: Yes. And it's not an issue that's gone away. There have been ongoing issues related to workers dying because they've been working in conditions that are too hot.

45

MR NEWTON: Heat is an item that is significantly important on all construction sites.

5 **MR O'GRADY:** Yes. Could I ask to you have a look at this document for me, please. It's on the screen. Can you see the screen?

MR NEWTON: Yes, I can see that, yes.

10 **MR O'GRADY:** Now, this is an article from the ABC website dated 19 January 2026 regarding an individual who died because he was working on a gas pipeline in excessive heat. Are you aware -

15 **MR NEWTON:** I've read - I've had the advantage of reading the article in advance, yes.

MR O'GRADY: All right. And the situation is that heat can be a killer even if you've got plenty of water, isn't it?

20 **MR NEWTON:** It depends on environment.

MR O'GRADY: But the individual here he tied of hyponatremia.

25 **MR NEWTON:** I'm not aware of that.

MR O'GRADY: Perhaps if you have a look at the third page of the article.

MR O'BRIEN: I'm struggling to see the relevance of these questions -

30 **COMMISSIONER:** I was going to ask the same - sorry.

35 **MR O'BRIEN:** I'm struggling to see the relevance of these questions to the inquiry. Not to downplay at all the importance of that issue as a general issue for industrial relations and for workers. By no means, but the relevance of that issue and this article to this inquiry, and particularly my client's project, is just difficult to understand.

40 **COMMISSIONER:** I was thinking along the same lines when you got up to make your objection, Mr O'Brien. What do you say, Mr Gisonda, about -

45 **MR GISONDA:** I too had the same thought. So perhaps we can ask Mr O'Grady where this is going. It might be a point that's relevant for this inquiry, but I suppose the most immediate question is how is it relevant for Mr Newton to be asked these questions?

COMMISSIONER: What do you say, Mr O'Grady?

MR O'GRADY: Well, the Commission's terms of reference extend to whether any current or prior law or policy has enabled or supported the CFMEU, and also the impact of misconduct on transport infrastructure, and one role for a lawful and effective union is ensuring health and safety of its members, and I think the witness
5 has accepted that. And all I'm simply seeking to do, and I can perhaps do it more effectively by going to the video that's embedded in the article, is put what Mr Jared Abbott says about heat policy, and the witness can then comment about it.

COMMISSIONER: I think that's relevant to - this witness might - well, let's see.
10

MR O'GRADY: Yes. So if the video could be played. It only goes for 24 seconds, Commissioner.

MR ABBOTT: (On recording) These heat policies actually drive good behaviour.
15 It's not about getting people to stop work. It's not about giving people another excuse. If you put good policies in place that say these are the conditions that you won't work under in extreme heat, it drives companies to actually have the innovation to make sure that they have the workplaces, the different things that can be done to ensure that people are working in a safe area.

MR O'GRADY: A legitimate position for Mr Abbott to be taking?
20

MR NEWTON: Sorry, I missed the start of the question.

MR O'GRADY: Of course. You would accept that that's a perfectly legitimate position for Mr Abbott to be taking?
25

MR NEWTON: I mean, I have only just seen that video but if the premise is that, you know, working in a safe environment for all workers regardless of whether it's
30 heat and how that's done, the general premise is accepted.

MR O'GRADY: Yes. And that's a position, as stated by Mr Abbott in January of this year, that in effect states the current position of the CFMEU.

MR NEWTON: Okay.
35

MR O'GRADY: All right. Now, I'd ask that the article and the video be received into evidence, Commissioner.

COMMISSIONER: What do you say about that, Mr O'Brien and Mr Gisonda? I don't mind who goes first.
40

MR O'BRIEN: I don't have any objection. I don't think it takes it anywhere so far as my client is concerned, but Mr O'Grady obviously has a concern more generally
45 which he wants to advance before the Commission, so I don't object to it.

COMMISSIONER: What do you say, Mr Gisonda?

MR GISONDA: I couldn't possibly add to that, Commissioner.

5 **COMMISSIONER:** I think you've got as close to consent as you're going to get, Mr O'Grady.

MR O'GRADY: Yes. I'm not going to push against an open door, Commissioner.

10 **COMMISSIONER:** How do you want me to mark this?

MR O'GRADY: The article should be marked as article from the ABC website dated 19 January 2026.

15 **COMMISSIONER:** And that's COG-1? Is that what I'm going to call it?

MR O'GRADY: Yes. Thank you.

<EXHIBIT COG-1 ARTICLE FROM ABC WEBSITE DATED 19/01/2026

20 **COMMISSIONER:** And then what about the video? What do you want me to do with that?

MR O'GRADY: The video embedded in the article, embedded in COG-1, of Mr Abbott speaking in respect of heat policy.

25 **COMMISSIONER:** All right. That will be COG-2, the video.

<EXHIBIT COG-2 VIDEO EMBEDDED IN COG-1 OF MR ABBOTT REGARDING HEAT POLICY

30 **COMMISSIONER:** Do we have a copy of the video?

MR O'GRADY: Yes.

35 **COMMISSIONER:** We do? All right.

MR O'GRADY: You've got a link to the video.

40 **COMMISSIONER:** A link, just so that we can probably identify it on the web page.

MR O'GRADY: Yes. Thank you. Now, Mr Newton, you gave some evidence about a death due to heat on the site in December 2023. Do you recall that evidence?

45 **MR NEWTON:** Sorry, the -

MR O'GRADY: You gave some evidence about there being a death due to heat - well, that was said to be due to heat - in December 2023.

MR NEWTON: Yes.

5 **MR O'GRADY:** And you say at paragraph 261 that at that time, the cause of death had not been determined.

MR NEWTON: Could I have the paragraph brought up?

10 **MR O'GRADY:** Of course. If paragraph 261 could be enlarged. Page 31 of the statement.

MR NEWTON: So, yes, as the paragraph reads there, the determination hadn't been made.

15 **MR O'GRADY:** Yes. Are you aware of the fact that, subsequently, the Queensland Coroners Court wrote to the solicitors acting for the family of the deceased, providing findings as respect to the cause of death.

20 **MR NEWTON:** I'm not aware of that.

MR O'GRADY: All right.

COMMISSIONER: What was the question, Mr O'Grady?

25 **MR O'GRADY:** That the Coroners Court has written to the solicitors acting for the deceased's family informing them of the cause of death. And just for the record, Commissioner, the letter states relevantly:

30 "The forensic pathologist has determined the cause of death was heat-related death."

35 So there hasn't been a coroner's report at this juncture, Commissioner, but there has been a letter that, in effect, provides the autopsy report prepared by the forensic pathologist, which indicates that there was indeed - it was indeed a death caused by heat. Yes. I have no further questions, Commissioner.

COMMISSIONER: Do you want to deal with that issue at all, Mr O'Brien?

40 **MR O'BRIEN:** No.

COMMISSIONER: Mr Gisonda?

MR GISONDA: No.

45 **COMMISSIONER:** Mr Newton, thank you very much for your evidence. Can I thank you particularly for the very thorough way in which you not only gave evidence but in which the witness statement was prepared. It's been of real assistance

to the Commission. I don't know whether I should thank you or Mr Gisonda or Mr O'Brien or Ms Dickens, but whoever is responsible has done a very good job and it's of great assistance.

5 **MR GISONDA:** Team effort.

COMMISSIONER: Sorry?

MR GISONDA: Team effort, Commissioner.

10

COMMISSIONER: Thank you very much for your evidence over the past couple of days, and I think you're excused.

MR NEWTON: Thank you, Commissioner.

15

<THE WITNESS WAS RELEASED

COMMISSIONER: Mr Gisonda, what do you want to do now?

20 **MR GISONDA:** Nothing further for today, Commissioner. So unless there's something you needed to address now, we could adjourn till tomorrow.

COMMISSIONER: Sorry, what was that?

25 **MR GISONDA:** Unless there was something else that you needed attending to, we could adjourn till tomorrow.

COMMISSIONER: Very well. We'll adjourn till 10 am tomorrow.

30 **<THE HEARING ADJOURNED AT 3.41 PM**