

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

Section 5(1)(d) of the *Commission of Inquiry Act 1950* (Qld)

WITNESS STATEMENT OF JULIANNE MITCHELL

I, Julianne Mitchell, Deputy Director General Infrastructure Delivery Management of the Department of Transport and Main Roads, affirm:

1. I make this statement in response to a notice issued by Stuart John Wood AM KC, the Commissioner appointed pursuant to the *Commissions of Inquiry Order (No. 2) 2025*.
2. Attached to this Statement is a bundle of documents (**Bundle**). In this statement, I refer to relevant documents by reference to the annexure and page number of the Bundle.

Department of Transport and Main Roads

3. The Department of Transport and Main Roads (**DTMR**) is responsible for planning, managing and delivering a single integrated transport network across road, rail, air and sea for the State of Queensland. It is the central authority for delivering regulatory, transport, transport related services, and critical infrastructure across Queensland.
4. DTMR is responsible for administering a significant operational budget and managing State transport and infrastructure assets. In the 2024/2025 financial year, DTMR:
 - (a) administered an operating budget of \$9.120 billion;
 - (b) administered a capital budget of \$6.228 billion; and
 - (c) managed assets worth \$127.920 billion.
5. There are currently six divisions or business units within DTMR:
 - (a) Office of the Director General;
 - (b) Corporate, responsible for the internal corporate functions of DTMR;
 - (c) Policy, Planning and Investment, responsible for defining and shaping DTMR strategies, policies and investment planning;
 - (d) Infrastructure Management and Delivery, responsible for maintaining Queensland's state-controlled transport network;



- (e) Rail, responsible for developing and delivering of rail infrastructure, signalling and rollingstock projects, commercial management of the Queensland Rail Transport Services Contract and the New Generation Rollingstock Public Private Partnership; and
 - (f) Network Services and Operations, responsible for delivering seamless, safe, and reliable journeys across Queensland by ensuring all transport modes work together efficiently.
6. A copy of DTMR's organisation structure chart as at 3 March 2026 is at **Annexure JM-1, page 2**.
7. The Ministers with responsibility for DTMR since 2015 have been the following:
- (a) Scott Emmerson, Minister for Transport and Main Roads from 2 April 2012 to 14 April 2015;
 - (b) Jackie Trad, Minister for Transport from 14 February 2015 to 8 December 2015 and from 9 February 2017 to 12 December 2017;
 - (c) Stirling Hinchcliffe, Minister for Transport and Commonwealth Games from 8 December 2015 to 6 February 2017;
 - (d) Mark Bailey, Minister for Transport and Main Roads from 12 December 2017 to 17 December 2023;
 - (e) Bart Mellish, Minister for Transport and Main Roads from 18 December 2023 to 28 October 2024; and
 - (f) Brent Mickelberg, Minister for Transport and Main Roads from 1 November 2024 to present.

My roles, experience and responsibilities at DTMR

8. I commenced employment with DTMR in 1985 as a graduate civil engineer. I am currently employed as Deputy Director-General (**DDG**), Infrastructure Management and Delivery (**IMD**). I have held this role since November 2022.
9. Prior to my current role, I have held various roles within the DTMR, including:

- (a) Deputy Director General (Policy Planning and Investment) from May 2018 to November 2022;
 - (b) Chief Engineer from June 2010 to May 2018;
 - (c) Project Director (Major Infrastructure Projects) from May 2008 to June 2010;
 - (d) Manager of Transport Planning (Metropolitan Region) from January 2005 to May 2008;
 - (e) Principal Policy Advisor on the Gateway Upgrade Project from 2004 to 2005; and
 - (f) Manager (Project Development and Approvals) Tugun Bypass from 2002 to 2003.
10. My professional background is in engineering and throughout my career, I have been involved in the planning, delivery and governance of large-scale civil infrastructure projects.
11. In my current role as DDG, I am responsible for:
- (a) managing the state-controlled road and busway network (which is over 33,000 km);
 - (b) delivery of the State's transport infrastructure program;
 - (c) maintenance and use of transport assets and infrastructure; and
 - (d) engagement and liaison with industry, contractors, consultants, federal state and local government communities and other stakeholders.
12. In this role, I am part of the Executive Leadership Team (**ELT**) of DTMR. The ELT is DTMR's peak policy, priority setting, stewardship, and decision-making authority, with members supporting the DG in the discharge of their responsibilities for TMR.
13. I have a team of around 3,500 employees. The various teams that report to me are RoadTek (a commercial business within DTMR of 1,200 staff), the Engineering and Technology division; the Program Management and Delivery division (that manages infrastructure related prequalification, procurement, contract and delivery systems and processes); Bruce Highway Targeted Safety Program; and Program Delivery and

Operations (which manages the asset management and delivery of urban and regional transport infrastructure).

14. I report to the Director-General, Ms Sally Stannard.

Awareness of BPICs prior to appointment as DDG in November 2022

15. Prior to commencing as DDG in November 2022, I had a peripheral awareness of the Best Practice Industry Conditions (**BPICs**). During my time in the Policy Planning and Investment division, BPICs were not within my operational responsibilities. I was aware, however, that BPICs were a difficult matter that Ms Amanda Yeates (Deputy Director-General (**DDG**), Infrastructure Management and Delivery before I held this position) and Ms Deanne Hawkswood (Chief Procurement Officer, DTMR) were working on. I was aware Ms Hawkswood had been effectively redeployed from the corporate area to assist Ms Yeates in dealing with some key projects of which one was implementing BPICs in DTMR. I was aware of this because BPICs were a topic of discussion at the executive leadership level where Ms Yeates would give an update on the topic regularly.
16. By the time I commenced my role as DDG in November 2022, a specific Transport BPICs had already been developed, approved by Government and applied to several major DTMR projects. I understood the Transport BPICs had largely been developed by Ms Hawkswood and, later, Ms Yeates and other senior officers within DTMR. I was not involved in the drafting or approval of the Transport BPICs nor the original development of the policy.

Implementation of BPICs from 2022

17. Once I commenced as DDG of IMD in November 2022, my role included overseeing the further implementation of the Government's Best Practice Procurement policy (BPP) which included Transport BPICs for DTMR on its projects. Implementation of the policy was a matter I could not avoid as all major transport projects over \$100m value were impacted.
18. BPP and BPICs were a consuming part of my role for a couple of years. When I started in the role, I started by trying to get across what exactly the intent of the policy was and how it was to be implemented.

19. A significant policy driver explained to me was that because there was so much work involving big projects in the pipeline in other States and changes in demographics for the construction sector, there was a concern there would be insufficient capability, capacity and skills to deliver Queensland's pipeline of public projects unless we offered competitive wages and employment conditions. Also the industry work practices were deemed unsustainable as the industry had a high suicide rate, highest workplace related harassment and bullying, and low diversity with low productivity improvements. The policy was about creating a sustainable value proposition for employees that included a culture of respect, valuing diversity and inclusiveness and high standards of safety including mental health and working hours that allowed 'time for life'.

Direction to implement BPICs as per Public Works

20. In late 2022 or early 2023, Ms Hawkswood and I met with the Chief of Staff of Minister Mark Bailey, the Minister for Transport at the time, Ms Alana Tibbitts, for the purposes of discussing the implementation of BPICs on State DTMR projects.
21. I understood DTMR was being criticised due to the apparent ineffectiveness of its implementation of BPICs to date. That feedback was given to Ms Hawkswood and I through the Ministers via their chiefs of staff, and I understood that feedback was ultimately coming from the unions that TMR was not applying BPICs on its projects. I knew both Ms Yeates and Ms Hawkswood were very dedicated to their roles and that if it was easy, a smooth implementation of BPICs would have occurred already.
22. At a meeting with Ms Tibbitts, specifically in respect of BPICs, she said words to the effect of:

"why can't you (TMR) just get this right? Other departments can do it, you need to do what they are doing. Find out what they are doing and do the same."

23. I understood Ms Tibbitts was referring to the implementation of BPICs by another Department, namely the Department of Energy and Public Works (**Public Works**). Public Works was the owner of the whole-of-government Queensland Procurement Policy and were the creators of the Best Practice Principles (**BPP**), under which BPICs were created. Generally, DTMR follows or implements whole-of-government policies which involves assessing how they apply to transport projects and then implementing them.

24. During this meeting, Ms Tibbitts instructed us to speak with Public Works to understand how their department had implemented BPICs successfully and to work out how we could replicate it for DTMR. She also insisted DTMR commit to introducing a prequalification process aligned with that of Public Works so we could show a pathway to 'satisfactory' implementation.
25. Ms Tibbitts initially wanted us to come up with a solution as soon as possible, but Ms Hawkswood and I negotiated the timeframe to 1 August 2023, because it gave us adequate time to consult with stakeholders.

Queensland Prequalification Development

26. My understanding was that DTMR had resisted implementing its own prequalification processes as it was part of, and relied on, the National prequalification scheme for civil construction contractors, under which contractors prequalified in one jurisdiction were recognised in others using a standard set of criteria about matters such as financial capacity, technical ability, systems and staff skills. So DTMR did not have the ability to "pick and choose" criteria that would be applied under the National prequalification scheme.
27. DTMR had historically resisted introducing an additional Queensland-specific prequalification layer because the National scheme already existed, DTMR sought consistency across jurisdictions, and DTMR did not wish to use prequalification as a mechanism to exclude contractors on non-objective or non-legal grounds.
28. That said, a local prequalification process could have benefits. The existing two-stage BPICs-related short listing process within procurement of major projects at DTMR at that time was causing delays to projects and it was thought a prequalification could potentially streamline that process.
29. BPICs evaluation criteria effectively 'encouraged' tenderers to adopt an enterprise agreement and/or the same or similar terms and conditions of employment (including pay rates) as the BPICs. However, it would be unlawful for DTMR to tell contractors an enterprise agreement with a union is a mandatory requirement of a tender.
30. Under the BPP policy, on a BPICs project, DTMR must form a mandatory evaluation criterion in the tender. This meant contractors were required to respond about whether the terms and conditions of their own employees who will work on the project are at least equivalent to the relevant BPICs as part of the tender process, with contractors

tender commitments made with respect to the BPICs to form part of the contract. Contractors were also required to address how they will use their best endeavours to engage subcontractors who will commit to providing terms and conditions of employment for their employees who will perform work on the project, which will be at least equivalent to the BPICs. These matters could be dealt with in prequalification phase rather than project by project.

31. One of the principal reasons for additional prequalification steps, as sold to me, particularly by Mr Jade Ingham of the CFMEU, but also by Ms Sharon Bailey (Executive Director, Procurement, Public Works), and at which time I had no reason to doubt was genuinely motivating the introduction of further prequalification requirements, was that some contractors had a reputation of being unsafe. It was thought establishing a pre-qualification scheme would sift unsafe contractors out.
32. Those were the two reasons to push the potential prequalification processes and became the justification that Ms Hawkswood and I thought we could put forward to align DTMR's implementation of BPICs with Public Works' approach. It became the implementation shift we were to action and report on to Minister Bailey's chief of staff by 1 August 2023.

Engagement with Public Works

33. Following the meeting with Ms Tibbitts, I started to explore the implementation of BPICs in DTMR. That involved meeting with different stakeholders, including unions (CFMEU, AWU), with different industry groups, including David Balmer for the Queensland Major Contractors Association (**QMCA**) and Damien Long of the Civil Contractor's Federation (**CCF**), to get their perspectives as well as meeting with staff of Public Works as detailed below.
34. Although I cannot recall exactly when, I recall I met with staff of Public Works namely Ms Bailey and Logan Timms (Executive Director, Strategy) in or around February 2023 in order to understand what they had done in implementing BPICs. This was the first of several occasions DTMR discussed the implementation of BPICs with Public Works and I came to understand Ms Hawkswood had and continued to meet with them regularly.
35. During one of these meetings in or around early 2023 involving myself, Ms Bailey and/or Mr Timms, I recall Ms Hawkswood and I were told that CFMEU had an active

role in prequalification of the contractors who would win the contract for projects, including considering whether they were 'safe' or not.

36. I remember being taken aback by this, as this level of third party involvement was inconsistent with DTMR's procurement processes and governance standards. Staff at DTMR are very alert to the risks of influence and so we are very 'by the book' in our department; these are important decisions that need to be based on objective evidence, involving very large sums of money. I recall asking Ms Bailey and Mr Timms why the unions were involved in that process. Either Ms Bailey or Mr Timms said words to the effect of:

"Cutting out CFMEU is not clever. Sites works well when the union is happy and then there is industrial harmony".

37. Either Ms Bailey or Mr Timms also said words to the following effect:

"CMFEU want control of full site and that includes subbies."

"If unions aren't happy, they will make the contractors life unhappy and project progress very difficult with delays".

38. It was shocking to me they would adulterate the procurement process in this way and I had the impression it had been this way for some time. That is when I concluded they were captured – their system seemed flawed as far as transparency of process and objectivity in government spending goes. Ms Hawkswood was as shocked as I was, and we both immediately understood DTMR would not be adopting exactly the same processes as Public Works. In my view, DTMR has more sophisticated procurement experience and we thought it was possible Public Works had been sucked into something they had not really thought about objectively and in various ways they were assisting the union in its influence in the sector.
39. By the way Ms Bailey and Mr Timms had been confirming so flippantly that CFMEU got to influence prequalification contractors, it appeared to me they were not even aware of the influence the CFMEU had over Public Works.
40. I met regularly with Ms Stannard and kept her up to date with my work attempting to implement BPICs in alignment with Public Works. I recall telling her I thought Public Works were captured.

41. Ultimately, I came to understand that Public Works' approach was to require contractors in their sector, which was primarily buildings, to adopt their BPICs as their EA in totality, i.e. were a 'mandatory minimum', which would cause some difficulty for DTMR.
42. In my view, Best Practice Procurement Policy was a sound policy based on achieving social outcomes, consistent with the government policy of the day, through government spend.
43. However, it risked unintended consequences by government because implementation interfered with the relationship between employer and employee. Bargaining was required to be between employers and employees (and their representatives). Government departments had in effect stepped in to negotiate the conditions with some unions as though they were the employers and then through procurement try to pressure contractors (who were the legitimate employers) to adopt the negotiated terms. Also attempting to require a pattern agreement of one union/union group in an industry for which that union does not have adequate coverage to make an agreement, was fundamentally ill-conceived and could not be implemented without resolution of the coverage issue and resulted in inevitable tension.
44. In hindsight, DTMR was being placed in a "damned if you do, damned if you don't" position. If DTMR maintained BPICs as a guideline and respected lawful coverage outcomes, this was perceived by the CFMEU (and consequently parts of government) as inadequate and non-compliant implementation - but if we compelled outcomes inconsistent with coverage principles, this would expose the State to legal risk and interfere with the statutory bargaining framework.
45. Issues attributed to BPICs were not simply the result of poor policy design and irreconcilable implementation issues, but the consequence of a union that looked like it was attempting to exploit BPICs to expand control over civil worksites.

Engagement with BTG

46. Given the direction Ms Hawkswood and I had received from Ms Tibbitts, it was critical we got the input of all stakeholders, including the unions.
47. On 21 March 2023, a briefing was conducted by DTMR with the Building Trades Group (BTG) (which was made up of representatives from different unions, including CFMEU,

ETU, CEPU and AMWU), I am aware the meeting was to speak to the updated Transport BPICs and get feedback from the BTG.

48. I do not recall attending this meeting but I understood at the time Mr Jade Ingham attended on behalf of the CFMEU and Mr Peter Ong on behalf of the ETU and they had provided feedback as follows:
- (a) they were disappointed with the rates of pay and referenced the Coomera Connector project and Centenary Bridge project, and their view was that the wage rates were out of date and fell short of the "ETU contracting framework";
 - (b) DTMR's implementation was not good enough;
 - (c) they were frustrated with the effort they had put in to date when they were not getting the outcomes they wanted;
 - (d) they remained sceptical about the prequalification changes.
49. At that briefing, it was agreed to provide the BTG with further information, namely key points on the form of the Transport BPICs approved by Government on 3 March 2023 for projects \$100-700 million and a marked up version of the updated Transport BPICs compared to the 2020 version.
50. On 22 March 2023, I was copied into an email from Ms Hawkswood to the BTG outlining those key points. A copy of that email is at **Annexure JM-2, pages 3 to 5**. Ms Hawkswood's email outlines DTMR would introduce a Queensland supplement to the National Prequalification System and we expected commencement by 1 August 2023.
51. At that stage, DTMR's advice to Minister Bailey was DTMR would be introducing a Queensland Supplement to the Austroads National Prequalification System, which would establish Best Practice Principles and include the approved Transport BPICs as a prequalification requirement for contractors. In the advice to the Minister, it was specifically stated that this would align to the prequalification conditions required by Public Works for buildings to the extent possible and provide a consistent approach for the construction industry, which was what we had been asked to do. A copy of the Advice to Minister prepared on or around 24 March 2023 is at **Annexure JM-3, pages 6 to 9**.

Initial engagement with industry

52. On 3 April 2023, DTMR hosted a workshop titled '*Transport BPIC: Lessons Learned and Prequalification*'. A copy of the agenda for the workshop is at **Annexure JM-4, page 10**. It may have been on this occasion (or another occasion as we would generally try to meet with industry at least once a month) that DTMR advised industry of the proposed prequalification regime.
53. The feedback received about a prequalification was that it was not welcomed by industry if it required contractors to agree to compliance with certain clauses within BPICs which were based on CFMEU pattern agreements and only relevant for vertical infrastructure. I recall concerns were raised by the conditions concerning the RDO fixed calendar aligned to CFMEU meetings, access to safety records, involvement regarding subcontractors and inclement weather requirements.
54. BPICs had two roles. The first role was it outlined all pay rates and allowances, and the second was it set out specific employment conditions like working hours, shift length, RDOs, inclement weather provisions, superannuation, insurances and safety officer roles and so on.
55. In early May, a draft prequalification checklist had further developed, which included the following:

"Best practice industry conditions - General requirement

The Transport BPIC is for transport civil construction projects with a total project value of between \$100 million - \$700 million (exclusive of GST). The Best Practice Industry Conditions for transport civil construction projects is available on TMR's website.

Have you read the Best Practice Industry Conditions for transport civil construction projects?

☐ Yes

☐ No

You must be able to answer Yes to this question.

Do you understand and acknowledge that the Best Practice Principles, including the Best Practice Industry Conditions, will be applied to Queensland Government Best Practice Principle Projects and do you express interest in prequalifying for the Projects on that understanding and acknowledgement?

It is not mandatory to have an enterprise agreement or a specific form of industrial instrument to express interest in registration for Queensland Government Best Practice Principles Projects.

☐ Yes

☐ No

56. The idea behind the prequalification process at the time was that we would not impose the BPICs on contractors or subcontractors but rather would invite them to propose it as a way of showing commitment to it or to otherwise advise how they would show compliance with it to us. This was consistent with my understanding that we could not make it mandatory to have an enterprise agreement (like BPICs) or a specific form of industrial instrument to express interest in registration for Queensland Government Best Practice Principles Projects, but we were allowed to prefer contractors over others.
57. After sharing the prequalification checklist with the QMCA and CCF, the reaction we got was not what we expected. They reiterated their concerns as outlined above.
58. The primary concern for DTMR's contractors was that employment conditions for building projects were not appropriate/ flexible enough for horizontal civil infrastructure. Building projects can be fenced off from the public and involve a low number of specialist subcontractors that work within a relatively confined major building sector, whereas horizontal civil infrastructure have increased interfaces with the public for the duration of the project, so require more flexible working hours and involve a large number of subcontractors of varying sizes. These civil subcontractors move between work for the small developers, local governments and state government for all sorts of projects.
59. The requirement for contractors to comply with all the clauses in BPICs, rather than considering Transport BPICs as guidance only, was a matter that Ms Hawkswood and

I had discussed frequently, as DTMR had established that its implementation of BPICs had to differ from Public Works' approach that BPICs were a 'mandatory minimum'. We therefore proceeded to develop a pared-back prequalification checklist, narrower than that used by Public Works. In doing so, we tried to remove provisions that went above and beyond what the law required or were bespoke to vertical construction unless there was a legitimate reason to do so. Matters like worker safety obligations and pay were not compromised.

60. I recall on one occasion when we met with industry (which was at least representatives of QMCA and CCF), Mr Balmer from Acciona and on behalf of QMCA raised concerns the BPICs pay rates meant truck drivers were getting paid more than ambulance drivers and nurses and this should be considerable concern for government in regional areas where frontline government staff were often hard to get.
61. I relayed these concerns to Ms Stannard on a regular basis who was aware of the difficulties we were facing.
62. On or about 30 May 2023, I received an email from Mr Sean Donald from Georgiou outlining some of his concerns about the proposed prequalification process. I copied and pasted his concerns into an email I then sent to Ms Hawkswood on 30 May 2023, in which I specifically stated that it may be conveyed to contractors DTMR was affording unions and others access to the site beyond the entitlements of the law. I said we should speak to the policy owner, namely Public Works. A copy of the email I sent to Deanne on 30 May 2023 is at **Annexure JM-5, pages 11 to 15.**
63. Following my email to Ms Hawkswood on 30 May 2023, I received an email from Ms Hawkswood on 31 May 2023 with an agenda for a meeting the same day regarding BPICs. In respect of the Transport BPICs, it was an agenda item to discuss that there was some pressure (I am not sure exactly where from) to change DTMR's position from guidance to mandatory. I cannot recall the exact matter but development of a Renewables BPICs and an update of Building BPICs were the likely catalysts. A copy of the email I received from Ms Hawkswood on 31 May 2023 is at **Annexure JM-6, pages 16 to 17.**

Interactions with CFMEU

64. Prior to commencing my role as DDG in November 2022, I had little to no direct interaction with the 'blue collar' Unions. After commencing in the role, it was a part of my role to liaise with the Unions (and other stakeholders), as detailed above.
65. In early May 2023, after I believe a request was made through Ms Stannard's office for me to contact Mr Ingham, I met with him at the CFMEU's offices in Bowen Hills to discuss BPICs implementation. During this meeting, Mr Ingham told me words to the following effect:
- (a) DTMR conditions on site are the worst in Australia and safety was a joke;
 - (b) DTMR is by far the worst in State and Country on industrial relations and safety;
 - (c) DTMR's procurement process is really complex and hard whereas it should be simple;
 - (d) DTMR "goes out of our way" to make it complicated;
 - (e) DTMR seem to give more work to poor performers;
 - (f) DTMR is looking for excuses why the BPICs cannot be hard-line and procurement be simple;
 - (g) "DTMR is full of resistance fighters";
 - (h) contractors that DTMR use (namely CPB and Acciona) were anti-union and anti-worker;
 - (i) the AWU do substandard deals and they have a campaign against CFMEU;
 - (j) if "BTG (being the Building Trades Group including the CFMEU) *continued to get excluded, that there was no industrial certainty*"; (I took this as a veiled threat);
 - (k) public servants need to stay out of the union coverage/eligibility issue, and that BPICs will result in all unions being involved, and that CFMEU did the heavy lifting by negotiating it for a year;

- (l) the contractors are doing substandard deals, not negotiating with CFMEU and that DTMR are letting them (substandard in respect of salary, inclement weather, overtime double time, rostered days off, income protection, redundancy and take home pay);
 - (m) BPICs were not fully implemented yet, and because we "*had not honoured the deal, they would not*"; and
 - (n) there was going to be competition for workers and if we wanted the best and brightest, we need to justify them working on our projects.
66. Mr Ingham strongly expressed his opinion DTMR was not doing enough to set the BPICs as a minimum standard for projects and if contractors think there is flexibility they would adopt the lower standard. He said he wanted BPICs implemented in full and it looks like an EA because it is an EA. I told Mr Ingham DTMR needed to seek legal advice because there may still be some issues with having the BPICs mandatory to its projects. Mr Ingham expressed the view he thought we did not make it mandatory because of the Building Code, which was now abolished.
67. His philosophy was if you pay below standard, you get substandard subcontractors who cut corners on wages, cut on safety and quality and that the value was in the long term. He said in his view we should require the contractors to meet DTMR's conditions, and this could be done at prequalification. At the time, his philosophy made sense to me. I was otherwise concerned with some of his comments.
68. I also recall during my discussion with Mr Ingham he said that DTMR better get real regarding safety and punish the bad ones and he suggested contractor safety could be assessed by simply counting the number of infringement notices issued against a contractor. I expressed concern about that approach, noting that infringement notices vary widely in seriousness and severity and that DTMR assessed safety performance by reference to severity and context, not raw numbers.
69. A copy of an email I sent to Ms Hawkswood on 4 May 2023 following this meeting and recording what was discussed is at **Annexure JM-7, pages 18 to 21**.
70. Following this meeting, on 5 May 2023 I sent an email to Mr Timms of Public Works informing him of the matters Mr Ingham and I had discussed. A copy of that email, and his response, is at **Annexure JM-8, pages 22 to 25**.

71. I informed Mr Timms of my perception the CFMEU would never be happy with DTMR until we insisted BPICs conditions formed part of contractors' EBAs and enforced those conditions, we penalised 'poor performers' by not giving them work and that we ensured the CFMEU was consulted during any EBA process. I outlined a couple of issues, including that contractors saw the BPICs as a CFMEU document and otherwise wished to meet with Mr Timms about how they dealt with safety in specifications, contracts, prequalification, tender evaluation, on site, feedback to prequalification and performance monitoring and assessment.

DTMRs blue collar agreement and interaction with Mr Michael Ravbar

72. On 25 August 2023 myself, Ms Stannard, Mr Michael Carey (Director General, Department of Premier and Cabinet), Ms Tracy O'Bryan (Deputy Director-General, Corporate, DTMR), Mr Peter Papantoniou (General Manager, Rail Infrastructure Delivery Office of DTMR's Rail Division), and Ms Melinda Pugh of Crown Law met with Mr Ravbar, Mr Kane Lowth and Mr Luke Tiley from CFMEU about an allegation CFMEU made that DTMR were contracting out work without providing details to the union contrary to DTMR RoadTek agreement provisions and DTMR was engaging subcontractors that did not have in their EA the requirement to pay staff the same as DTMR get paid. DTMR advised they had improved its compliance and monitoring by introducing spot checks on subcontractors.
73. Mr Ravbar advised CFMEU did not want to talk about the future but about the past and historical wage claims. He advised CFMEU wants wage justice and they can't get every contract and look for wage complaints.
74. Mr Carey advised you can't pay workers in the past. Mr Ravbar advised DTMR should admit non-compliance with the RoadTek agreement and pay, say, \$10,000 to the CFMEU. Ms Stannard was to get back to Mr Ravbar about this proposal. I recall Mr Ravbar advised if he did not get a positive response he would be taking matters to QIRC. A copy of a file note of Ms Tracy O'Bryan dated 25 August 2023 was emailed to me after the meeting and that email attaching the file note is at **Annexure JM-9, pages 26 to 29.**
75. I am aware Ms Stannard did get back to Mr Ravbar and advised DTMR was receiving further advice, would conduct more investigations and it did not believe it would be appropriate for DTMR to pay the CFMEU an amount of money to 'resolve' the matter, in the absence of an identified breach of cl 4.2 of the Certified Agreement and there

was no material currently before DTMR that indicated a breach of cl 4.2 of the Certified Agreement had actually occurred, or that any such breach related to contracts for the type of work ordinarily performed by members of the CFMEU.

76. On 8 June 2023, I sent an email to my colleagues who were working on a potential compliance associated issue with cl 4.2 of our Operational certified agreement. My email included an extract from the Transport BPICs. A copy of my email dated 8 June 2023 is at **Annexure JM-10, pages 30 to 33**.
77. I saw parallels between the RoadTek agreement's requirement to require subcontractors to have particular conditions of employment for their staff and the BPICs requirement to impose conditions on their staff.
78. Otherwise, I cannot specifically recall meeting Mr Ravbar further in person. I never met him one-on-one. I recall I attended some Teams meetings where Ms Stannard also attended where Mr Ravbar was present. I recall it was in or about 2023/24 when I was involved on the Rockhampton Ring Road project. It may have been that I was merely in the room when Ms Stannard spoke to him on the phone and the call was on speaker.
79. I do not recall how I knew but it was well understood Mr Ravbar would frequently assert he had "*direct access*" to senior government figures and would make statements such as words to the effect of "*I have the Premier's number*". I understood those statements to be intended to pressure DTMR and contractors into compliance with CFMEU demands.
80. I recall his statements were quite different to contemporary statements in the media attributed to the Premier stating her displeasure with Mr Ravbar (I don't recall it was about BPICs but rather matters about his behaviour or the relationship between CFMEU and the Labor Party) and that she would not be meeting with him.

Meeting Scott Gartrell

81. I became involved in the Gold Coast Light Rail Stage 3 (**GCLR3**) project. I was introduced through either Ms Bailey or through Minister Bailey's office to Scott Gartrell from KPMG. I was told that Mr Gartrell was experienced in industrial relations and that he had a big part in the implementation of BPICs through enterprise agreements and the guidance of that through the GCLR project. I am aware he was previously engaged by Public Works and DTMR.

82. I recall meeting with Mr Gartrell on several occasions.
83. The first time was early 2023 and it was just myself, Ms Hawkswood and Mr Gartrell. He appeared to be very experienced in industrial relations, which was a relief because I had had very little to do with managing industrial relations because from DTMR's perspective IR issues were between the contractor and their employees. It had never previously been part of my role. However, implementing BPICs created a lot of industrial risk for DTMR and I had to get across management of the attendant industrial relations issues. I felt we were at a considerable disadvantage with the contractors and with the unions given my lack of experience in managing industrial disputes.
84. Mr Gartrell was very clear the BPICs had to be a guideline at DTMR and he seemed like a practical and pragmatic operator. He was probably one of the few people across the "coverage issue", being which union was entitled to enter into enterprise agreements with contractors dependent on the majority of the type of work. I recall speaking with him about this issue specifically, and he was well-versed in the coverage as I recall him pointing out to me that coverage for AWU was different in Queensland than it was in other States. From an operational perspective, we needed help with managing industrial relations and set up a regime for which all stakeholders (who had such diverging views) would be content.
85. In a meeting on 18 April 2023 he advised Ms Hawkswood and myself that he had attended a meeting with the Premier, the Treasurer and Unions. Unions reported that DTMR was not applying BPICs. He advised the Premier reacted to this and said to '*make the unions happy*'. A copy of my file note dated 18 April 2023 is at **Annexure JM-11, pages 34 to 35.**

Further developments of BPICs

86. On 26 June 2023, following an email sent by Mr Adam Edwards of Bielby, the contractor awarded the Rockhampton Ring Road project, to Mr Peter Trim, DTMR's project director for that project, I responded to an email sent from Ms Hawkswood to Peter raising with her whether we need to explain to Peter that it was DTMR's expectation that contractors would have ongoing consultation with relevant unions and that they will be advised of the packages that will be going to tender in a few weeks before they go out. A copy of the email chain dated between 23 and 26 June 2023 is at **Annexure JM-12, pages 36 to 38.**

87. I raised this with Ms Hawkswood because we had discussed the fact that there was an expectation that even after an enterprise bargaining agreement was reached, we had the expectation that contractors would continue to consult with the unions, at least to ask who the unions would like to put forward (i.e. as a subcontractor). We had been advised by Mr Gartrell and Public Works this was consistent with modern and progressive industrial practices that would minimise disruption and the resulting time and cost implications on major project.
88. On 28 June 2023, I received an email from Ms Hawkswood following a call she received from Mr Ryan Murphy. Mr Murphy was a consultant who had been engaged by DTMR and other departments to assist with industrial relations issues. A copy of the email I received from Ms Hawkswood on 28 June 2023 is at **Annexure JM-13, page 39**.
89. Ms Hawkswood's email explains Mr Murphy's advice that the CFMEU no longer saw a purpose for project specific greenfield agreements but rather they wanted to agree on one BPICs document which was written into all contracts and they would be briefing Ministers Butcher and de Brenni later that week. I recall at the time this was a discussion in relation to the development of a 'Water BPICs'. This email was keeping me up to date on what was emerging in other departments previously untouched by BPICs. The government had a large water and renewables pipeline. I understand Mr Murphy was working on a Water BPICs that tried to create industrial harmony through gate rates and a single EBA with all unions. It sounded very aspirational to me because only BTG had been involved to date and the key civil industry union (AWU) had indicated they would never sign an agreement with CFMEU and would not yield any room to CFMEU on coverage on Greenfields agreements.
90. In respect of DTMR's intended approach with BPICs that it was a guideline rather than mandatory, this issue again came to light in October 2023. Ms Hawkswood or myself had introduced Mr Ben Donovan, Director in the Chief Procurement Office of DTMR, and who was assisting with BPICs cost impacts, to Ms Bailey and Mr Timms of Public Works, as the policy owners. DTMR was in the process of finalising a submission to put forward to Government in respect of approval DTMR's Rail BPICs. On 19 October 2023, Mr Donovan sent to Mr Timms and Ms Bailey a draft version (which he called an "officer level draft") of that submission for their input.
91. We received a response from Mr Timms and Ms Bailey on 20 October 2023 which I then forwarded to Mr Papantoniou, General Manager Rail Infrastructure Delivery Office

to the effect that we needed to edit the submission as Public Works was pointing out that DTMRs 'guideline' approach to BPICs although previously approved by government was not consistent with government policy (and pointed this out three times) and while they appreciated that flexible application may be appropriate, references to a guideline approach were not prudent. They questioned the quantum of the cost impact BPICs implementation was having on projects that was included in the submission.

92. They failed to see that a BPICs based on a CFMEU pattern agreement was not 'union agnostic' and took exception to DTMR saying that.
93. At the time a Renewables BPICs was being negotiated / approval progressing. DTMR had two serious concerns both of which could result in serious affordability issues for the delivery of the rail program in SEQ if the two concerns were rolled into the Rail BPICs.
94. One issue was the starting base salaries in the Renewable BPICs and annual escalation of pay rates and the other was if the BPICs were implemented as a 'minimum mandatory standard' for all conditions, there would be a serious loss of productivity associated with loss of contractors' executive decision making on projects.
95. Consequently, DTMR moved away from openly highlighting to government decision makers that Transport BPICs were a 'guideline' as Public Works were going to point out this was non-compliant with policy, and instead stressed to decision makers the need for EAs to include provisions that were appropriate for the specific project. However, the approach to implementation as a guideline remained effectively unchanged.

Issues raised by Industry about CFMEU

96. In around 2023, DTMR regularly faced issues on its projects caused by CFMEU representatives. However, DTMR's usual approach in respect of any industrial issue occurring on site was it was a matter between the contractor, the relevant union and the Office of Industrial Relations. It was not a matter that DTMR could step in and resolve.
97. In or around March 2023, I recall an occasion where there was a Facebook video of footage from "our Exit 41 site (Georgiou)" that was a video of the site made by a CFMEU official/representative highlighting safety issues as he saw them.

98. I was aware at the time that CFMEU was targeting the project site with excessive entries to identify safety issues. Mr Sean Donald from Georgiou had contacted me about the issue advising that the frequent union accesses were affecting productivity and staff morale as representatives had to be accompanied on site, the breaches were trivial and union official behaviour was combative and aggressive. Sabotage was even suggested. The contractors refer to this as '*weaponizing safety*'.
99. Under the state legislation, permit holders (usually union representatives) are able to access sites to inspect for safety matters and have access to records under certain conditions. The basis for this access is to ensure their members are given safe work conditions. My understanding was the regime is very liberal, open to all unions as there is no requirement to show there is a union member on site they are representing. It is unlawful to ask employees if they are union members or which union they may be a member of. Permit holders often refused to do site specific safety inductions designed to keep them and other workers safe which undermines the very basis upon which the access regime was premised.
100. While I was sympathetic about the impact of the access issues and appreciated the trivial nature of technical 'strikes', there was little I could do to assist. I advised Mr Donald to be squeaky clean regarding compliance and that if there was nothing to find then there was nothing for the union to highlight.
101. However, Ms Helen Burgess of WHSQ and CFMEU expressed to me that civil contractors unreasonably resisted legal access and that was the substantive issue.
102. It was commonly understood if civil contractors cut CFMEU out of EBA negotiations (and did an agreement with single union, AWU as the union that had broad coverage in the civil industry) the CFMEU would ensure there was industrial pain (in the form of excessive safety accesses).
103. In my view CFMEU took advantage of the real and implied opportunities to exert influence they were afforded under many mechanisms (state safety legislation, ABCC abolishment and therefore no one to investigate complaints and respond visibly under Federal law, real or inferred Government support, lengthy timeframes for actual enforcement methods through the Fair Work Ombudsman and Queensland Industrial Relations Commission, and an essentially powerless safety regulator in WHSQ regarding permit holder's behaviour on site) regardless of how outrageous their

behaviour may be. It was a very uncertain and frustrating time for contractors and DTMR.

104. On 23 March 2023, I received an email from Anne Moffat relating to the Facebook video. Ms Moffat enquired whether the media team needed to be alerted. I responded the same day. A copy of my email sent in response is at **Annexure JM-14, pages 40 to 46.**

Issues raised by AWU

105. On 30 June 2023, Ms Hawkswood and I met with representatives of the AWU. We met with Mr Mark Raguse and Mr Stacey Schinnerl, who outlined that:
- (a) they had grave concerns with the implementation of BPICs;
 - (b) they thought this approach from CFMEU was a coverage grab;
 - (c) a letter had been sent to Mr Neil Scales (the former Director-General) a while ago;
 - (d) they did not believe we should be “forcing contractors to deal with CFMEU”;
 - (e) they believed John Holland did not want to sign the BPICs for the Gold Coast Light Rail Stage 3 project, but they felt compelled to do so by their building arm so they did not “offend” CFMEU in Queensland).
106. Either Ms Schinnerl or Mr Raguse made a comment about the requirement to consult the CFMEU. On 3 July 2023, I sent an email to Ms Hawkswood with my notes from our meeting, and a further email noting we needed to ensure we did not overreach on the need to consult with the CFMEU. A copy of my emails sent to Ms Hawkswood on 3 July 2023 is at **Annexure JM-15, pages 47 to 50.**
107. Regarding site access, they indicated AWU permit holders were afforded the same access rights and had no problems with the contractors, they believed contractors were resisting CFMEU aggressive and unreasonable behaviour on site rather than union access to site for safety grounds and were fully aware and frustrated about CFMEU ‘weaponizing safety’. Ms Schinnerl advised she and her staff had witnessed and been exposed to CFMEU behaviour.

BPICs Costs on Gold Coast Light Rail

108. During my tenure as DDG, I became involved in oversight of GCLR3 and I was on the Senior Leadership Group (and the operational implementation of the Best Practice Principles and BPIC) on the project. By the time I had become involved in GCLR3, the project-specific BPICs had already been approved and applied to the project. I understood this had resulted in delays to the contract finalisation and the need for further negotiation with the principal contractor, John Holland, regarding the additional BPICs top up costs.
109. I was aware John Holland had entered into a CFMEU enterprise agreement in relation to this project. John Holland claimed the brownfield EA they negotiated and had made with CFMEU and other unions (which was a BPICs based EA, based on (but somewhat different to) the approved GCLT project BPICs), was impacting project working hours and subcontractor prices.
110. Mr Gartrell and Ms Hawkswood told me Mr Gartrell had a big part in setting up the government approved GCLR BPICs and in working with the unions had agreed some compromises. He also advised that John Holland went it alone on the negotiation and implementation of their EA for that project.
111. On 7 February 2023, I participated in a meeting of the BPP Committee of GCLR3. The BPP Committee had the purpose of discussing the application and implementation of Best Practice Principles generally on this project.
112. I have been shown the minutes of a meeting of the BPP Committee from 7 February 2023. A copy of the minutes are at **Annexure JM-16, pages 51 to 54**. The Minutes record that John Holland raised some concern that *"unions appear to be asserting to subcontractors that the implementation of BPICs is mandatory on the Project, and advised that it believes companies (who may not be compliant with BPICs) are selecting not to tender."* The minutes also record that:
- (a) an alternative subcontractor that was BPICs compliant would be engaged but that the contractor would claim the additional amounts charged by the subcontractor from DTMR; and
 - (b) that DTMR requested transparency regarding union influences going forward and any tangible evidence available.

113. Following that BPP I arranged a meeting between Mr Gartrell and John Holland on 1 March 2023 in respect of the GCLR project reviewing how BPICs implementation was proceeding. A copy of the agenda for that meeting is at **Annexure JM-17, pages 55 to 56.**
114. In that meeting, John Holland raised concerns about having limited interest from local subcontractors to work on the project because of the increased BPICs pay rates and administrative 'hassle' of dealing with BPICs and CFMEU. Consequently, they expressed that they were having a hard time getting competitive subcontractor prices.
115. Mr Gartrell and I advised in our view that John Holland needed to help educate the Gold Coast subcontract market on working with a BPICs EA project, letting them know subcontractors did not need to have an EA with CFMEU to work on the project as the BPICs for this project only required 'best endeavours' regarding subcontractors applying the BPICs agreement and pay rates. Mr Gartrell advised that in the absence of this information CFMEU was filling the gap.
116. John Holland also said they were being pressured by CFMEU to engage only CFMEU-aligned subcontractors. Mr Gartrell noted that this wasn't John Holland's first EA with CFMEU.
117. Further, Mr Gartrell and I advised in our view John Holland that:
- (a) if there were inadequate subcontractors who were aligned with CFMEU/BTG then of course they had to engage other subcontractors and John Holland should of course be doing that;
 - (b) if there were inadequate subcontractors locally they needed to look for contractors from a larger catchment;
 - (c) they should comply with the contractual framework and their procurement plan (my understanding is that this did not commit that subcontractors would all be CFMEU aligned and apply BPICs) and the choice was theirs as to which subcontractor was ultimately engaged; and
 - (d) as a tier one contractor John Holland were expected to be experienced with IR management. I took that to mean 'union demand management'.

118. Despite encouraging John Holland to engage with the subcontractors on the Gold Coast, I am not aware whether John Holland explored raising general industry knowledge so they could utilise a wider range of subcontractors. I am aware that although the EA requires John Holland to consult with workers regarding working hours and working extra days or on weekends, John Holland allowed workers to vote if they would work or not and if a critical number of staff didn't agree then weekend work to 'catch up' on project progress wouldn't occur.
119. On 14 April 2023, I participated in another meeting of the BPP Committee. I have been shown the minutes of a meeting of the BPP Committee from 14 April 2023. A copy of the minutes is at **Annexure JM-18, pages 57 to 60**. The minutes record:
- (a) that John Holland raised that in their view:
- (i) DTMR's BPICs Policy document for GCLR3 was incomplete, unclear and therefore made it difficult to plan for and therefore price the requirements;
 - (ii) the civil market in Queensland is not unionised and extensive consultation and education should have and did not occur;
 - (iii) from the outset, there was an expectation by unions that there would be a 100% take up and that there could not be a difference in allowances across the supply chain;
 - (iv) there was a perception that the implementation of BPICs was mandatory;
- (b) in response, the State's position was that John Holland:
- (i) should comply with the contractual framework and their procurement plan;
 - (ii) were required to manage industrial risk and consult with unions (including about work packages and subcontractors);
 - (iii) should be clever and strategic with their choice of subcontractors, but that the choice was theirs as to which subcontractor was ultimately engaged.

120. As to the last point above, DTMR's position was that contractors, and particularly large Tier one contractors, such as John Holland, were sophisticated contractors who were responsible for their own management of industrial relations. DTMR had made it clear the BPICs were not mandatory for subcontractors.
121. It is possible I met with representatives such as Mr Merrett of John Holland again in April 2023 but I have no notes from any other meetings.
122. In early to mid 2023, DTMR received claims from John Holland asserting that:
- (a) subcontractors were being directed by the CFMEU as to who could work on site;
 - (b) they were being pressured to engage only CFMEU-aligned subcontractors;
 - (c) BPIC-related industrial arrangements had materially impacted productivity and subcontractor engagement;
 - (d) subcontractors with the capability and capacity to work on major projects covered by BPICs are unwilling to tender as they are being coerced to apply labour rates and employment conditions resulting from the BPICs on all of their projects; and
 - (e) the project would experience significant delays as the construction site is unable to be open for direct labour works on Saturdays, as staff were unwilling to work Saturday shifts because the union insisted staff were asked and agreed to work.
123. My understanding is that for the later BPICs projects the process was contractors submitted a bid with 'normal salary rates' in one envelope (envelope 2) and the BPICs 'top up costs' in a further envelope reflecting the salary rates in the Transport or approved project specific BPICs (envelope 3).
124. I understand that DTMR paid the difference once an independent cost certifier confirmed the number of hours employees actually worked and that they were actually paid BPICs rates by the contractor. Contractors would then claim the difference from us as a BPICs top up as part of normal project progress payments. Changes to BPICs salary cost payments were dealt with this way so they could be viewed transparently.

125. A number of BPP commitments such as increased indigenous employment, women in construction, apprentices, and/or safety uplifts were also included with targets and incentive payments made to achieve them.
126. On GCLR3, BPICs were applied retrospectively, meaning tenders were submitted and then prior to award of the full contract John Holland negotiated an EA consistent with the Gold Coast Light Rail BPICs and reprice then project to include the salary rates in their negotiated EA. So DTMR could transparently see the salary top up between those originally tendered with and the rates in their EA. This allowed it to be administered in the same way as project that submitted an envelope 3.
127. We engaged independent cost assessors to check the progress claims allowed under the contract that John Holland was making in respect of the BPICs top up and monthly payments made as contractually required. John Holland's BPICs Claims for further costs associated with BPICs was under consideration. A copy of an email chain between myself and Mr Paul Noonan in this regard dated 11 June 2024 is at **Annexure JM-19, pages 61 to 67.**
128. It is my recollection government decided before I was in my current role to require retrospective implementation on this project. I recall Coomera Connector may have been also required to have retrospective implementation.
129. Project progress on GCLR 3 was well below that scheduled. Significant contributing factors included slow design progress, unrealistic productivity rates assumed in the bid, changes to construction methodology assumed in the bid for a major water pipeline installation that was deemed unviable, and underestimation of the impact of GC Highways traffic on working hours and works.
130. John Holland contended project progress was slow due to BPICs related matters. They mingled BPICs and IR risks together and did not recognise their responsibility to manage IR activity on site. DTMR assessed claims submitted in accordance with the contract and requested supporting evidence be provided.
131. John Holland attributed all costs and delays to BPICs, whereas DTMR viewed delays and increased costs as due to multiple factors including those outlined above as well as construction industry cost escalation and low industry competition (both of which are not unique to the project). Consequently DTMR was unable to accept John

Hollands claims on face value and sought substantiation for claims to ensure causation and quantification were disaggregated.

132. The claims outlined above were ultimately rolled into a project 'reset'. DTMR worked jointly with GoldlinQ, John Holland and expert advisors to gain a common understanding about the program and the cost to complete the project. The purpose of the reset was to jointly improve certainty about the timeframe for the light rail completion. A number of John Holland claims made to the end of 2024 (claims about the impact of BPICs included) as well as payment of the full BPICs top up allocation for the project were resolved within the 'reset' reducing administrative burden associated with monthly calculations. By the end of 2024 John Holland would have had a fullsome understanding of the impact CFMEU demands were having on project productivity and costs.
133. I recall on one occasion in or around early 2024, I was informed by the DTMR project Director for GCLR that although only six traffic controllers were operationally required on the project, eleven traffic controllers were engaged due to demands by the subcontractors to engage their whole team at BPICs rates.
134. It came to my attention through DTMR project staff that at some time after the CFMEU was placed into administration that John Holland workers were now able to work Saturdays routinely and that non-CFMEU/BTU aligned subcontractors were engaged for work packages on site.

Further industry feedback

135. On 3 July 2023, I received an email from Mr Balmer, Acciona, in response to an email I sent him on 14 June 2023 reminding him that he was going to send me a list of contentious clauses in BPICs. Mr Balmer was also on the QMCA and outlined a history of BPICs development and his view that it contained too many terms, conditions and structural mechanisms that had never been seen before in the civil infrastructure sector and suffered a lack of application and practicality, amongst other things. He also noted he was concerned Acciona was now unpopular with the CFMEU because of their approach to the Coomera Connector EBA but the delivery of that project vindicated their approach. A copy of the email I received from Mr Balmer is at **Annexure JM-20, pages 68 to 71.**
136. In this email, Mr Balmer stated words to the following effect:

- (a) the BPICs guidance contained terms, conditions and structural mechanisms that had “never been seen before in the infrastructure sector”;
- (b) the BPICs Guidance was fundamentally designed for commercial building construction, rather than civil construction;
- (c) many BPICs-mandated mechanisms eroded “enterprise control” ordinarily exercised by principal contractors and their subcontractors rely on; and
- (d) civil construction projects had historically been delivered over decades using business-as-usual enterprise agreements without the need for BPICs-style intervention.

137. Mr Balmer also raised his concerns that BPICs-related requirements had concrete cost and delivery impacts and the proposed staggering salary increases on top of Transport BPICs for water and renewables would strip resources for transport projects or transport would have to match salary rates.

“Standing Invitation” to Attend Site

138. In about mid-2023, discussions began as to whether contractor prequalification questionnaire should include a standing invitation for union representatives to attend site (without a permit) to assist with all matters relating to health and safety. From my recollection, the requirement to have such a standing invitation was initially proposed in the prequalification process being proposed.

139. On 28 July 2023 I was copied into an email from Ms Hawkswood sent to Ms Stannard after a conversation she had had with Mr Ryan Murphy in respect of that condition. Ms Hawkswood outlined some comments on the impact of that condition, along the following lines:

- (a) the right to access site by unions was tested on Centenary Bridge, when a union representative raised that the issue on site was ‘everything’, but he could not gain access;
- (b) including that condition was a step up from the Union’s own pattern agreement;
- (c) most CFMEU representatives had lost their WHS permit to access site, and therefore this condition would allow them on site despite their poor performance (which was not an issue for ETU as they had the required permits);

- (d) Mr Murphy himself was not concerned about the clause as it would make worker safety a higher expectation;
- (e) Mr Murphy had attended two meetings with Minister de Brenni, the second of which included representatives from the AWU, ETU, CFMEU, AMWU and PPTU, in respect of developing a BPICs for Renewables and discussions involved all unions being on the BPICs and resultant industrial agreement (i.e. a 5-union deal); and
- (f) the actual application of the above would be difficult given all contractors would need to have a 5-union deal.

140. I responded to Ms Hawkswood on 28 July 2023 outlining among other things that:

- (a) that was different to what we had discussed, as my understanding was that access would still require a permit;
- (b) our contractors' worst nightmare was to have CFMEU staff that had lost their permits being allowed access to site;
- (c) we knew certain unions target sites and cause disruption deliberately.

141. A copy of the email chain between Ms Hawkswood and I dated 28 July 2023 is at **Annexure JM-21, pages 72 to 75.**

142. Later that day on 28 July 2023, I sent another email to Ms Hawkswood and Ms Stannard following on from the above. I again copied and pasted concerns received from Mr Sean Donald from Georgiou Construction in May about DTMR requiring contractors to adopt the "Safety issues or incident procedure". He outlined this aspect of DTMR's prequalification process presented a real risk of adverse action under the Fair Work Act. A copy of my email with a copy of Mr Donald's concerns is at **Annexure JM-22, pages 76 to 81.**

Rockhampton Ring Road

143. In or about October 2023, issues arose in relation to the proposed industrial arrangements for the Rockhampton Ring Road project comprising:

- (a) North Package 1 to be delivered by a joint venture between BMD Constructions Pty Ltd and Bielby Holdings Pty Ltd; and

- (b) South Package 2 to be delivered by a joint venture between Acciona Construction Australia Pty Ltd and Fulton Hogan Construction Pty Ltd.
144. The project was subject to the Transport BPICs. By the time I became involved, it had already been released to tender, the joint venture partners had been selected, and the focus had shifted in finalising Greenfields enterprise agreements for the civil construction workforces.
145. Based on the nature of the civil construction work to be performed, the AWU asserted it held majority coverage for the purposes of the proposed Greenfield agreements.
146. Around late October 2023, I became aware Mr Ravbar objected to the industrial arrangements proposed for the Rockhampton Ring Road projects, notwithstanding the asserted AWU coverage.
147. I was informed through either Ms Stannard or my colleagues that Mr Ravbar sought for the CFMEU to be directly involved in the bargaining process and be at the table regardless whether the CFMEU had adequate coverage for the workforce.
148. I am aware that in or around October 2023, Ms Stannard had a meeting with Mr Ravbar in respect of this project and for what he perceived as the notification of early tendering processes (i.e. that he would be notified before projects were put to tender).
149. I believe Mr Ingham may have contacted Ms Hawkswood directly to make an allegation Ms Stannard had misled Mr Ravbar. He said Ms Stannard had told Mr Ravbar she would notify him when the project was going to tender. But that could not be true, because at that stage the contract had already been awarded, and I expect Mr Ravbar may have misunderstood Ms Stannard. I became aware of this allegation after speaking with Ms Hawkswood.
150. On 5 October 2023 I sent an email to Ms Stannard outlining I had become aware that Mr Ravbar had contacted Mr Timms at Public Works and suggested Ms Stannard had misled him. A copy of that email is at **Annexure JM-23, pages 82 to 84**. As outlined in my email to Ms Stannard, Mr Ingham stated:
- (a) CFMEU should be involved;
- (b) the IR consultants that the joint venture partners are using are “dinosaurs”;
- (c) not to use the coverage issue as an excuse;

- (d) there was no point even having BPICs if the unions are not involved;
- (e) the Government has not learned from Cross River Rail, and they “they will be all over Centenary and Rockhampton Ring Road”;
- (f) all other agencies save for DTMR were onboard.

151. On 13 October 2023:

- (a) I was copied into an email from Ms Stannard to Mr David Ide of Fulton Hogan, one of the Joint venture partners for Rockhampton Ring Road;
- (b) I sent an email to Ms Hawkswood attaching Powerpoint slides that I had prepared for Ms Stannard in preparation for another meeting with Mr Ravbar. My email outlined that our advice to contractors was:
 - (i) EA and negotiation strategy are based on previous submissions for DTMR projects;
 - (ii) the process undertaken to create an EBA is the responsibility of the contractors (noting that obviously the BPP apply); and
 - (iii) which unions are involved depended on the scope and location of the work.

152. A copy of the above email chain and PowerPoint slides is at **Annexure JM-24, pages 85 to 103.**

March 2024 QMCA and TMR meeting regarding industrial unrest

153. On 28 March 2024, I participated in a meeting with representatives of QMCA in respect of what was coined “Abuse WHS Legislation for access and distraction”, psychosocial issues and violence, and an AWU event. A copy of an email I sent on 28 March 2024 to QMCA members is at **Annexure JM-25, pages 104 to 107.**

154. On 28 March 2024, I received an email from Mr Balmer concerning a document that had been drafted by him (I believe together with other members of QMCA) titled BPIC Guide for Subcontractors and an Industry draft BPIC working draft. I recall the aim was to address the uncertainty in the supply chain regarding what BPICs meant for them.

A copy of the email and the BPICs working draft are at **Annexure JM-26, pages 108 to 142.**

155. On 8 April 2024, I forwarded that email to Ms Hawkswood and Ann-Maree Knox and asked whether we could discuss DTMR issuing a document similar to the one Mr Balmer had provided. A copy of my email is at **Annexure JM-27, pages 143 to 145.**

Managing union misconduct

156. I discussed with Ms Stannard how best to make contact with OIR to discuss the matters raised by contractors. Either she or her chief of staff came back with the contact Ms Sarina Wise (Executive Director, Compliance and Enforcement Services). I recall calling Ms Wise and she referred me to her colleague Ms Helen Burgess.
157. On or about 1 May 2024, I met with Ms Burgess and Kym Tollenaere in respect of right of entry requirements under the WHS legislation, the role of WHS officers and the recent stoppages at the Jindalee Bridge duplication and issues at the Coomera Connector project. A copy of my file note from that meeting is **Annexure JM-28, pages 146 to 148.**
158. On 21 May 2024, I received a letter from QMCA in respect of safe workplaces in the civil construction industry and escalating psychosocial hazards on Centenary Bridge, Cross River Rail and other projects (including intimidation, illegal entry, sabotage and personal targeting of employees). The letter outlined their concerns (of which many were discussed and being progressed after meeting with QMCA on 28 March 2024) and requested an opportunity to meet with DTMR and other stakeholders. A copy of the letter is at **Annexure JM-29, pages 149 to 154.**
159. On 24 May 2024, I attended a meeting of the Contractors Industry Liaison Group (**CILG**) wherein the following was discussed:
- (a) I was to discuss with the Director General the concerns around behaviours and psychosocial breaches due to unions and address these with OIR and WHSQ;
 - (b) significant effort had been made to ensure the Transport BPICs Guidelines were not the same as the Renewables BPICs.
160. A copy of the minutes recorded of the CILG meeting on 24 May 2024 is at **Annexure JM-30, pages 155 to 159.**

161. On 29 May 2024, I:

- (a) then emailed Ms Burgess with a copy of QMCA's letter and asking who was the best person to discuss the issues raised with at the OIR. Ms Burgess confirmed on 31 May 2024 that she could talk to all of the relevant issues. A copy of the email chain with Ms Burgess is at **Annexure JM-31, pages 160 to 163.**
- (b) sent a response to QMCA stating amongst other things that I would be happy to facilitate a meeting with the Fair Work Ombudsman. A copy of my email to QMCA is at **Annexure JM-32, pages 164 to 166.**

162. In June 2024, I attended a meeting with Ms Burgess to discuss my queries and her advice. During these meetings, I recall that generally we discussed entry requirements and grounds for revocation, psychosocial hazards, and how to deal with any issues. My notes prepared in advance of the meeting and my notes from the meeting in early June are **Annexure JM-33, pages 167 to 169 and Annexure JM-34, pages 170 to 171.**

163. On 4 June 2024, I met with Ms Burgess and QMCA so they could raise their issues directly with her and get feedback directly.

164. Around 18 July 2024, Ms Wise contacted me and we had a conversation to the following effect:

Ms Wise: "What is this letter from QMCA about psychosocial hazards that's on the radio this morning?"

Me: "Yes, that's what I called you about a few months ago. And you told me to contact Helen Burgess, which I did."

Ms Wise: "So it was only Helen you spoke to?"

Me: "Yes."

165. Following this call, I sent Ms Wise our draft response to the Steve Austin Radio discussion and a copy of the QMCA letter. She responded on 19 July saying she had reviewed the contents and the examples provided by QMCA and believed there were a few matters contained in the letter that flesh out a little more to see if WHSQ needs to make some additional inquiries. She advised she was in a hurry as her Budget Estimates was scheduled for mid-next week.
166. I met with her soon after that and gave her David Balmer of QMCAs contact details and advised Mr Balmer that Sarina Wise (Executive Director for compliance) from WHSQ had contacted me and offered to assist where possible with some of the matters QMCA have raised. Some of them are concerning to her as the regulator and that I would send him her contact card also and agreed to facilitate a meeting. I advised her that I understood QMCA would be open to meeting with her to present the issues raised individually and more generally.
167. I'm not sure that I attended this meeting and not sure what the outcome was but was relieved that QMCA were getting positive engagement directly from the regulator.
168. On 5 June 2024, I:
- (a) received an email from Ms Chelsy Taylor, Program Advisor, attaching a draft advice to the Minister following a meeting with CFMEU about Centenary Bridge, DTMR labour hire and Cross River Rail; and
 - (b) responded internally to various colleagues noting matters to be included in the advice.
169. A copy of the email I received from Ms Taylor, and the draft advice to the Minister is at **Annexure JM-35, pages 172 to 177.**
170. On 17 July 2024, I received emails from Ms Stannard and Ms Hawkswood in respect of a media request enquiring what actions DTMR took following the letter received from QMCA on 21 May 2024. A copy of that email chain is at **Annexure JM-36, pages 178 to 180.**
171. On 30 August 2024, I was copied into an email from Ms Stannard to Mr Damian Long for CCF and to MR Andrew Chapman for the QMCA which attached letters addressed to each of them in respect of DTMR's expectations on the application of the Transport BPICs. DTMR was attempting to advise the contractors the pay rates adopted in EAs

should not be over those specified in BPICs – they were not a minimum but the pay rates as affordability of the delivery of the pipeline was the major concern. A copy of the email I was copied into and each of the letters is at **Annexure JM-37, pages 181 to 182.**

172. Industrial relations matters contractually reside with the contractors. However, DTMR also has staff on site and has an interest in protecting those workers from violent or aggressive behaviour and a general duty of care for all staff. A safe work site is also the contractor's responsibility. The relationship a contractor has with WHSQ needs to be productive and DTMR will do whatever it can to support this. Our role was to facilitate discussion with the government authorities to see if they could intervene with regard to access issues where they were unlawful or behavioural expectations were breached. Those discussions were facilitated with Queensland Police Service who reassured us they would attend if there was trespass occurring but contractors needed to be prepared to substantiate claims of unlawful conduct with evidence and witnesses. I understood there was a general reluctance to do so for fear of repercussions. I came to understand QPS would defer to WHS first.
173. I had no solution for them within my control or effective influence and felt quite powerless.
174. On Centenary Bridge, (on my advice to Minister Mellish) contractors were encouraged to take legal action available to them to deal with unlawful industrial action which they did, and injunctions from the Fair Work Ombudsman were ultimately obtained against key CFMEU staff in a relatively timely manner. DTMR encouraged contractors to fence the site to control illegal union access and have competent staff on gates to ensure legal access was permitted by permit holders. DTMR paid a contribution towards those costs as it was also our staff who were being protected by such measures.

I affirm the contents of this statement are true.

AFFIRMED at Brisbane on 2 July 2026

Julianne Mitchell



Signature of deponent

BEFORE ME:

JOEL SLEEP
Principal Lawyer of Crown Law



Signature of witness

I am a special witness pursuant to s 12 of the
Oaths Act 1867 (Qld).

This declaration was made, signed and
witnessed under Part 6A of the *Oaths Act*
1867 (Qld).

I understand the requirement for witnessing a
document by audio visual link and have
complied with those requirements.

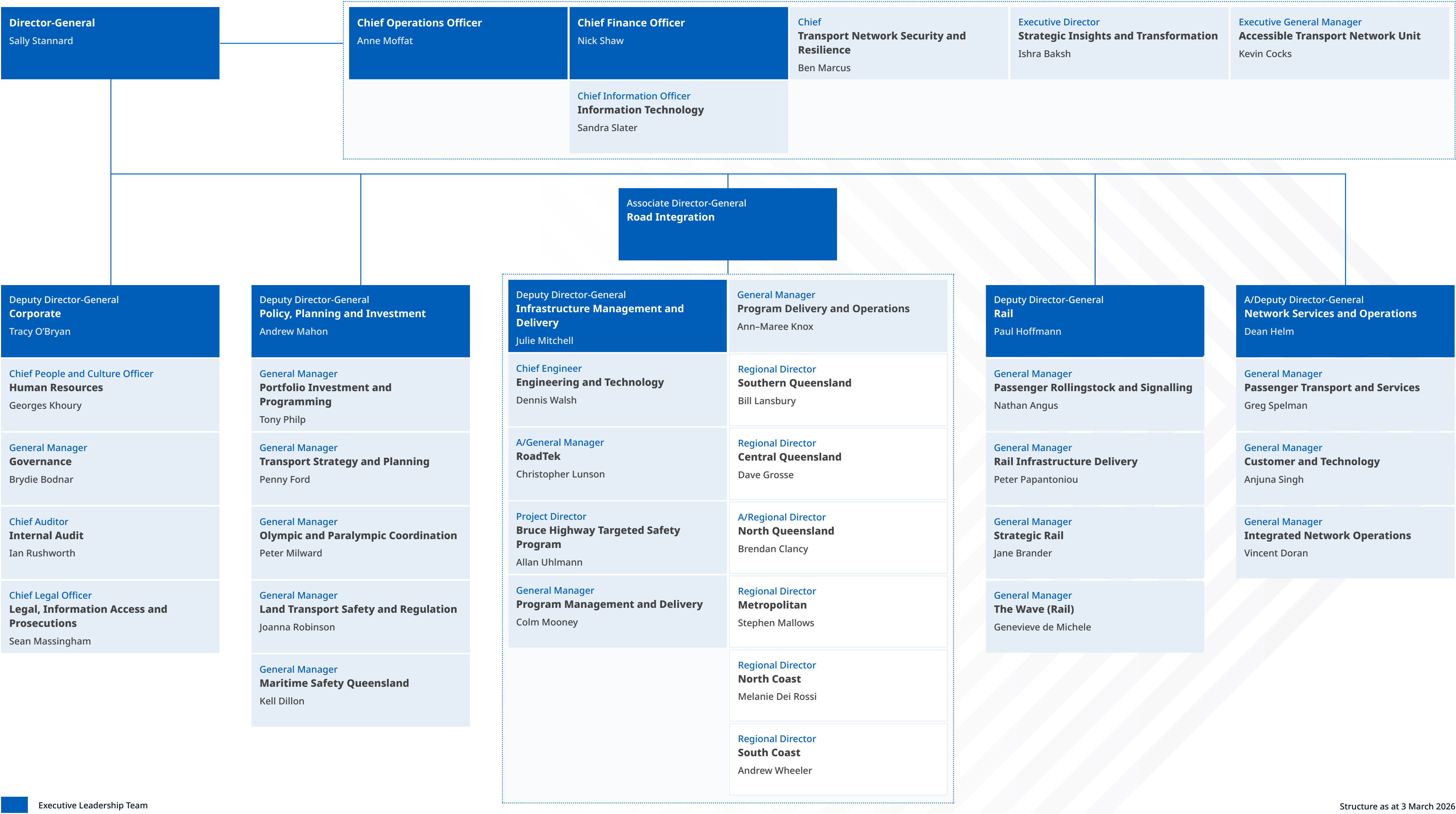
Commission of Inquiry into the CFMEU

and Misconduct in the Construction Industry

Bundle of Documents to
Statement of Julie Mitchell

Transport and Main Roads

Organisational Structure



Executive Leadership Team

Structure as at 3 March 2026

From: Deanne M Hawkswood [REDACTED]
Sent: Wed 22/03/2023 3:32:02 PM (UTC+10:00)
To: [REDACTED]; Rohan Webb [REDACTED]
[REDACTED]
Cc: alana.tibbitts [REDACTED]; TMR DLO [REDACTED]; Anne E Moffat [REDACTED]; Julie Mitchell [REDACTED]; Nick T Shaw [REDACTED]
Subject: Info for Building Trades Group

Good afternoon

Following a briefing yesterday on the updated Transport BPIC, it was agreed to send through some further information and a marked up version of the updated Transport BPIC (which is attached). Outlined below is the additional information for you information.

Thank you
Dee

TRANSPORT BPIC

- Originally version dated October 2020 addressed projects \$100m - \$300m
- Updated Transport BPIC now addresses projects \$100m - \$700m.
- Since October 2020 TMR has introduced the BPIC on 12 projects valued at \$6.92B.
- The current Qld Transport and Roads Investment Program 2021/22 - 2024/25 has seven projects \$100m-\$300m and twelve projects over \$300m.
- The updated BPIC includes a major projects provision with increased base wage rates and employee entitlements, which were developed for the Coomera Connector - Stage 1 program.
- Projects over \$700m will be negotiated and approved on a project by project basis.
- To streamline process and ensure conditions remain consistent with the legislation and represent leading practice for the transport civil construction sector, it was the Minister for Transport and Main Roads can make amendments to the Transport BPIC as required, with approval from the Premier and Treasurer.
- Overview of the changes below (\$300-\$700m):

	Transport BPIC (\$100 m- \$300 m)	Over \$300 m	
Wage Rate (CW5)	\$40.17/hr	\$45.28/hr	
Income Protection	-	\$40.30/wk	

JM-2

Redundancy	\$81.00/wk	\$120.00/wk	
Fares and Travel	\$36.05	\$40.00	
Site Allowance	-	Project value	Allowance
		\$300 m to \$400 m	\$5.00/hr
		\$400 m to \$500 m	\$5.50/hr
		\$500 m to \$600 m	\$6.00/hr
		\$600 m to \$700 m	\$7.00/hr
Training	\$10/wk	\$15/wk	
Overtime	1.5 times first 2 hours 2.0 times thereafter	2.0 times	

PREQUALIFICATION

- A Queensland supplement to the National Prequalification System (Civil and Bridge Construction) will be implemented by TMR to establish the BPP and the Transport BPIC, as a prequalification requirements for contractors. This will ensure project over \$100m or those declared align to prequalification conditions as requirement by DEPW for building construction, to the extent possible, and provide a consistent approach for the construction industry.
- It is expected the implementation of the changes to the National Prequalification System will impact approximately 50% of the suppliers currently prequalified. Full commencement will be completed by 1 August 2023.
- For those major project planned to commence procurement prior to 1 August, TMR will apply the requirements as part of the procurement process.

ASSURANCE

- TMR has established a dedicated team to work with the relevant major projects monitoring, reporting and assessing commitments made during procurement and contracting for major projects are being met.
- Once fully recruited, there will be 11 staff in the team.
- There are five key result areas included in major project tenders that reflect government outcomes and TMR priorities, which include a number of compliance and information measures.
- The KRAs are:

- KRA 1 – Quality Jobs: Progressing best practice industrial relations, inclusive and diverse workforces and opportunities to invest and build the sector's capability particularly through a strong commitment to trainees and apprentices.
 - KRA 2 – Safe Workplaces: Prioritising best practice workplace health and safety systems and standards and a culture of safety for all.
 - KRA 3 – Local Supply Chains and Manufacturing: Actively supporting quality local Queensland suppliers and industries on Queensland Government projects.
 - KRA 4 – Sustainability: Advancing infrastructure sustainability outcomes that enable social, environmental and economic benefits.
 - KRA 5 – Project Delivery Optimisation: Apply innovative technologies, techniques and industry initiatives to drive better project delivery success, productivity and optimisation.
- To monitor compliance against these KRAs a number of measures are reported and monitored. The following are measures for KRA 1 - Quality Jobs:
 - compliance with provisions of the industrial instrument
 - meeting or exceeding Workplace Relations Management Plan commitments
 - industrial relations matters potentially impacting project
 - Skills Development Plan
 - project workforce including diversity
 - industrial relations – right of entry
 - commitment to culture and community
 - rostered days off.

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

www.tmr.qld.gov.au

Advice for Minister for Transport and Main Roads

Subject: Transport Best Practice Industry Conditions – Australian Workers' Union

Document ID: DLO6717

- Your office is hosting a briefing with Australian Workers Union (AWU) on 30 March 2023 to discuss the new Department of Transport and Main Roads (TMR) Transport Best Practice Industry Conditions (BPIC).
- TMR attendees:
 - Ms Julie Mitchell, Deputy Director-General (Infrastructure Management)
 - Deanne Hawkswood, Chief Procurement Officer.
- Cabinet Budget Review Committee (CBRC) approved the new Transport BPIC out of session on 3 March 2023. This updates the original Transport BPIC approved in October 2020.
- TMR developed the updated Transport BPIC largely in consultation with trade unions.
- Since October 2020, TMR has introduced the Transport BPIC on the following Best Practice Principles (BPP) projects, some retrospectively and others as part of the procurement process:

	Project	Published Value	BPIC Applied	Project Status
1	Gold Coast Light Rail (Stage 3A) – Broadbeach South to Burleigh Heads	\$1.22 B	Retrospective	Awarded to John Holland
2	Bruce Highway (Cooroy to Curra) Section D, contract 2	\$318 M	Retrospective	Awarded to CPB
3	Bruce Highway (Caboolture) Bribie Island Road to Steve Irwin Way	\$131.9 M	Retrospective	Awarded to Fulton Hogan
4	Walkerston Bypass	\$186.6 M	Retrospective	Awarded to Fulton Hogan
5	Centenary Bridge Upgrade Project	\$244 M	During procurement	Awarded to Georgiou–BMD Joint Venture
6	Pacific Motorway (M1) Exit 49 Interchange Upgrade	\$110 M	During procurement	Awarded to Seymour Whyte
7	Qld Train Manufacturing Program	\$600 M	During procurement	Awarded to Downer
8	Coomera Connector Stage 1 1. North package 2. Central package 3. South package (not at procurement stage)	\$2.16 B	During procurement	<i>North</i> – awarded to Acciona-Georgiou Joint Venture <i>Central</i> – in procurement
9	Rockhampton Ring Road	\$1.065 B	During procurement	In procurement

Action Officer/Approved by:

Deanne Hawkswood
Chief Procurement Officer


Date: 24 March 2023

Endorsed by DDG

Julie Mitchell
Deputy Director-General (IMD)


Date: 24 March 2023

Endorsed by DG

Neil Scales
Director-General


Date:

	Project	Published Value	BPIC Applied	Project Status
10	Beerburum to Nambour Rail Upgrade (Stage 1)	\$550 M	During procurement	In procurement
11	Linkfield Road Overpass upgrade	\$125 M	During procurement	In procurement
12	Beams Road Rail Level Crossing upgrade	\$209.3 M	During procurement	In procurement
	Total Project Value	\$6.92 B		

- TMR procurement processes for major projects are structured to facilitate the creation of quality jobs, encourage using reputable local contractors and suppliers, and support local manufacturers as outlined in the BPP.
- TMR also uses infrastructure procurement to foster the growth and development of the current and future skilled workforce through more training and apprenticeship opportunities.
- Under the Queensland Government's approach to procurement, TMR has seen more benefits for more Queenslanders than ever before.

Transport BPIC

- The new Transport BPIC, approved in March 2023, will be applied to projects valued between \$100 million and \$700 million. Higher wage rates and specific allowances are included for major projects valued between \$300 million and \$700 million.
- Changes to the Transport BPIC will be developed on a project-specific basis for projects valued over \$700 million.
- Following the CBRC approval, TMR anticipates a further amendment to the Transport BPIC may be required to address rail trades and conditions. Internal discussion has commenced on this.
- The Transport BPIC remains as a guideline (it is not mandatory) and focuses on the key areas of workplace health and safety systems, apprentices and trainees and industrial relations on projects over \$100 million.
- To enable better clarity for industry on the Government's requirements with the application of the BPIC policy, TMR will introduce a Queensland Supplement to the Austroads National Prequalification System (Civil and Bridge Construction). This will establish the BPP, including the approved Transport BPIC, as a prequalification requirement for contractors.
- This is a significant change and will ensure the BPP for projects over \$100 million, or declared, align to prequalification conditions currently required by the Department of Energy and Public Works for building construction. This will provide a more consistent approach on the application of the BPP and BPIC for the wider construction industry.
- TMR is focused and committed to using our significant investment and long-term pipeline of infrastructure projects to leave a positive legacy for the sector and the State.

Key Result Areas (KRAs)

- TMR consulted extensively on the framework for the adoption of consistent KRAs, KRA measures and reporting requirements for projects over \$100 million. The KRAs reflect government outcomes and TMR priorities, and include a number of measures (compliance and information).

- KRA 1 – Quality Jobs: Progressing best practice industrial relations, inclusive and diverse workforces and opportunities to invest and build the sector's capability particularly through a strong commitment to trainees and apprentices.
- KRA 2 – Safe Workplaces: Prioritising best practice workplace health and safety systems and standards and a culture of safety for all.
- KRA 3 – Local Supply Chains and Manufacturing: Actively supporting quality local Queensland suppliers and industries on Queensland Government projects.
- KRA 4 – Sustainability: Advancing infrastructure sustainability outcomes that enable social, environmental and economic benefits.
- KRA 5 – Project Delivery Optimisation: Apply innovative technologies, techniques and industry initiatives to drive better project delivery success, productivity and optimisation.
- Monitoring and assurance are key to ensure compliance requirements are being met and is seen as a core TMR function to undertake for these KRAs. For example, KRA 1 - Quality Jobs (which includes the Transport BPIC) will measure and report on:
 - compliance with provisions of the industrial instrument
 - meeting or exceeding Workplace Relations Management Plan commitments
 - industrial relations matters potentially impacting the project
 - Skills Development Plan
 - project workforce including diversity
 - industrial relations – right of entry
 - commitment to culture and community
 - rostered days off.
- A dedicated TMR team will undertake the monitoring and assurance tasks, working with the relevant projects. Implementation is well progressed with application and reporting commencing on the following projects:
 - Exit 49, M1 South Coast
 - Centenary Bridge Upgrade.

AWU participation and consultation

- In 2020, TMR officers and KPMG worked collaboratively with a number of trade unions, including AWU, on the original Transport BPIC document.
- AWU raised concerns regarding the scope and the awards listed in the document as well as a number of definitions, including that of “union delegate” and “representative”.
- The project team made amendments to address this feedback in the new version of the BPIC.
- TMR and KPMG continued communications and consultation with AWU regarding the BPIC for TMR. Regarding the updated BPIC, AWU, while invited to participate in the discussions on, did not attend. TMR provided materials to all unions regardless of attendance at the consultation meetings.

AWU involvement in BPIC project agreements

- AWU is a signatory on the greenfield agreements with the following projects:
 - Coomera Connector – Stage 1 North:
 - AWU signatory with Acciona/Georgiou Joint Venture

- Centenary Bridge Upgrade Project:
 - AWU signatory with BMD Constructions/Georgiou Joint Venture
- Cooroy 2 Curra Section D Contract 2:
 - AWU signatory with CPB.

Gold Coast Light Rail 3 (GCLR3)

- TMR developed a project specific GCLR3 BPIC in April 2020 and invited the following unions to participate:
 - AWU
 - Australian Manufacturing Workers Union
 - Construction Forestry Mining Energy Union (CFMEU)
 - Electrical Trades Union
 - Plumbing and Pipe Trades Union.
- Engagement with the unions was not equally represented as AWU elected not to participate. Despite attempts to engage with AWU, they confirmed their position to engage only with the proponent/contractor. AWU also advised TMR that they would not 'sign-up' with the other unions (specifically CFMEU) and that their position regarding the contents of BPIC for GCLR3 was the CPB Cross River Rail Civil and Surface Works Greenfields Agreement 2019-23. TMR understands this position now reflects the Brisbane Metro Greenfield Agreement.
- Acceptance on the GCLR3 BPIC was reached with all unions, excluding AWU based on their position above.
- In June 2021, the GCLR3 BPIC was introduced into the active procurement process and provided to the preferred Design & Construct contractor, John Holland.
- Despite the various challenges John Holland navigated to settle on an appropriate industrial agreement for the project. The Fair Work Commission (FWC) approved the 'John Holland Queensland Pty Ltd Gold Coast Light Rail Stage 3 Project Agreement' (the Brownfield Agreement) on 21 October 2022.
- The Brownfield Agreement is a single enterprise agreement covering both the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, and the Construction, Forestry, Maritime, Mining and Energy Union, who form part of the Building Trades Group of Unions (BTG).
- The Brownfield Agreement did not cover AWU, however, AWU has indicated they would not oppose or appeal the FWC approved Brownfield Agreement.
- The Brownfield Agreement was consistent with the Greenfields Agreement and the intent and outcomes of the GCLR3 BPIC.
- Previously, John Holland had reached agreement with the BTG on a single multi union Greenfields Agreement in relation to GCLR3 for their directly employed workforce. This agreement was lodged with the FWC for certification and appealed by AWU.
- The FWC upheld AWU's appeal and on that basis did not certify the Greenfields Agreement for the project. Overall, the FWC was not satisfied that the relevant employee organisations covered by the agreement were (taken as a group) entitled to represent the industrial interests of a majority of the employees who would be covered by it.
- All parties reached agreement to allow the Brownfields Agreement to progress unopposed.

Transport BPIC: Lessons Learned and Prequalification

Time: 1:30-4pm, Monday 3 April 2023

Location: Level 6, 313 Adelaide St, Brisbane

Attendees

Industry representatives	TMR representatives	TMR observers
- Brad Thompson, Fulton Hogan - Alex Ford, Georgiou - Sean Donald, Georgiou - Will MacDonald, Seymour Whyte - Adam Edwards, Beilby - David Balmer, Acciona - Terry Waterson, BMD	- Julie Mitchell - Deanne Hawkswood - Paul Schmidt - Adam Williams - Gavin Allen - Graham Hobbs - Steve How Lum - Kelly Taylor	- Haafi Hafreth - Dale Cunningham - Mallika Dayananda - Badra Pathirana - Tabitha Campher - Melissa Johansson - Kathie Stephens

Session One		Transport BPIC Lessons Learned	
1:30pm	Introduction, welcome and housekeeping <i>Adam Williams, Project Director (Collaborative Transport Infrastructure Project)</i>		
1:40pm	TMR Transport BPIC Lessons Learned <i>Deanne Hawkswood, Chief Procurement Officer</i>		
1:55pm	Reflection – challenges of Transport BPIC implementation <i>Group discussion</i>		
2:30pm	Transport BPIC next steps <i>Deanne Hawkswood, Chief Procurement Officer</i>		
2:35pm	Afternoon tea / stretch break		
Session 2		Prequalification	
2:45pm	Aligning BPIC prequalification <i>Paul Schmidt, Executive Director (Program Management & Delivery)</i> <i>Kelly Taylor, Principal Advisor, Program Management & Delivery</i>		
3:00pm	Implementing Transport BPIC prequalification <i>Group discussion</i>		
3:20pm	Opportunities for further expanding prequalification <i>Group discussion</i>		
3:55pm	Wrap up and next steps <i>Adam Williams, Project Director (Collaborative Transport Infrastructure Project)</i>		
Thank you for joining us.			

From: Julie Mitchell [REDACTED]
Sent: Tue 30/05/2023 4:46:08 PM (UTC+10:00)
To: Deanne M Hawkswood [REDACTED]; Adam J Williams [REDACTED]
Subject: proposed prequalification question
Attachment: Proposed BPP Prequalification for industry consultation 5.5.23.xlsx

Dee

I have had an issue send to me regarding the prequal questionnaire (Page 9 below) and that it may unintentional convey to contractors that TMRs is affording unions and others access to the site beyond the entitlements of legislation. you will recall when talking to Logan that this was not the intent. Can we seek legal advice plse re this? and ask the policy owner for clarity. ta

WHS systems and standards

Queensland's work health and safety laws aim to protect the health, safety and welfare of all workers at work. The laws also protect the health and safety of all other people who might be affected by the work. Queensland's work health and safety legal framework includes:

- the Work Health and Safety Act 2011 (WHS Act)
- the Work Health and Safety Regulation 2011
- codes of practice
- any any other applicable legislation for the project

In relation to the Best Practice Industry Conditions it is agreed that:

Safety issues or incident procedure - specific requirement

For the purposes of s. 81 of the WHS Act, matters about work health and safety arising at the workplace shall be resolved in accordance with this procedure.

A. To resolve a workplace health and safety issue (see section 81 of the WHS Act), the Parties to an issue (as defined in

WHS Act, Section 80) agree that they shall be entitled to:

- *inspect any work system, plant, substance, structure or other thing relevant to the unresolved dispute or issue*
 - *inspect and take copies of any document*
 - *gather any evidence relevant to the unresolved issue e.g. photos, statements, sketches*
- etco advise any person whom the representative reasonably believes to be exposed to a serious risk to his or her health and safety, emanating from an immediate and imminent exposure to a hazard of that risk*
- *consult with relevant workers*
 - *consult with the relevant person conducting a business or undertaking (PCBU).*

B. The Parties to an issue and/or their representatives may commence the procedure by informing, either by themselves or their representative, the other Parties and/or representatives that:

- *there is an issue to be resolved*
- *the nature and scope of the issue.*

C. The health and safety representative/s (HSR) for a work group shall be elected by workers on the job on a democratic basis and shall be subject to recall by a similar process.

For the purposes of s. 117 of the WHS Act, matters about right of entry to the workplace to inquire into suspected work

health and safety contraventions shall be complied with in accordance with the WHS Act.

D. The Parties to an issue agree that WHS entry permit holders shall be entitled to:

- *enter the workplace for the purpose of inquiring into a suspected contravention under the WHS Act or Electrical Safety Act that relates to or affects a relevant worker*
- *inspect any work system, plant, substance, structure or anything else relevant to the suspected contravention*
- *gather any evidence relevant to the suspected contravention e.g. photos, statements, sketches etc*
- *consult with relevant workers in relation to the suspected contravention*
- *consult with the relevant person conducting the business or undertaking about the suspected contravention*
- *inspect and make copies of any document that is directly relevant to the suspected contravention that is kept at the workplace or is accessible from a computer that is kept at the workplace (as long as doing so does not contravene a Commonwealth or State law).*
- *warn anyone they reasonably believe is exposed to a serious risk to his or her safety from an immediate or imminent exposure to a hazard of that risk.*

E. The Parties to an issue agree that:

- *they will not refuse or fail to comply with a request from an entry permit holder for copies of documents directly relevant to the suspected contravention without a reasonable excuse*
- *relevant documents include employee records that are directly relevant to a suspected contravention.*

^ Yes

^ No

You must be able to answer Yes to this question.

The concerns

1. Part A of TMR's safety procedure significantly changes the entitlements a person has when entering under s81(3). Under the safety act, a person entering under s81(3) is entitled to "attend discussions to assist in resolving the issue". This procedure would vary that and give any person entering under s81(3) the right to do essentially

everything that a valid permit holder can do under s118 of the safety act. This is of concern as section 81(3) is often used for nefarious reasons by union officials who have lost their permits for breaching industrial laws (more information provided on this later).

2. Part B of TMR's safety procedure allows the parties to the issue, or their representatives, to commence the procedure by simply telling the contractor there is an issue to be resolved. This change would therefore bypass s81(1), which provides that the safety issue resolution procedure only applies if "the matter is not resolved after discussion between the parties to the issue".

Permit system

The rules that govern permits for union officials to enter site are a mash of federal and state laws. Central to it is that someone who enters site is a "fit and proper person". If someone has lost their permit it means that a judge has found that they are not 'fit and proper', basically their behaviour, on multiple occasions, has been so poor that they can't be trusted to follow the rules when they come onto site.

I would be cautious about entering into a system that circumvents the decision of a judge and then asking contractors to implement that system.

We have had a lot of experience with people coming onto site who have been found, by a court, to be unfit and improper to enter site yet try to use s80 & 81. For example, they turned up to site unannounced and told us there was a safety issue under 80 so were going on site, however, they refused to tell us;

- What the safety issue was;
- Where the safety issue is;
- How we could resolve the safety issue; and
- Which workgroup was impacted.

It's really difficult, if not impossible, for us to do what ss 80 and 81 require, which is to make reasonable efforts to achieve a timely, final and effective resolution if we don't know what the issue is. If this occurred, would we be in breach of the pre-qual? We have the video footage if it helps to convey how difficult it is.

We completely understand that some employees may want to remain anonymous and the best way to do that is via a representative. However, simply saying "there's an issue" and nothing more is illogical.

In short, more often than not s80 and 81 are used to circumvent the consequences of the decision of a court and are used for fishing expeditions.

What this means in reality

In reality, section 81 is the alternate method for a union representative to access site. This has typically been utilised by union representatives that have lost their permit and have no other right to legally be present on site. The process effectively is that the unpermitted representative states that there has been an anonymous complaint about a safety issue, and they are entering the site under s81(3) as "any other person" and not a "union official".

The PCBU typically then asks who and/or where the issue is and the union representative refuses to provide details of the issue beyond "access egress" or "plant and pedestrian interaction". The union representative will also refuse to advise the name of the complainant "to protect the anonymity of the individual that they represent", the PCBU then is confronted with the union representative advising that there is a "dispute" which they have no details and subsequently cannot resolve.

There are very few viable options at this point. If the PCBU has a procedure stating that there is not a dispute until details are known, then technically the union has to advise of some

details to gain access to the site.

Technically, the union representative cannot maintain the anonymity of who they represent if they are not a permit holder, and cannot gain access to the site if they are not a permit holder under the Fair Work Act. The ruling *Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union (The Bruce Highway Caloundra to Sunshine Upgrade Case) (No 2) [2019] FCA 1737* confirmed this. This was appealed to the High Court, which rejected the CFMMEU's application. In essence, it was held that s81(3) of the Fair Work Act is State or Territory OHS right under s.497 of the Fair Work Act. In other words, to enter a site under the WH&S Act a union official must hold and show a current permit. To get around this, the officials that lost their permits now claim to be entering under s81(3) as "any other person" and not a "union official".

The reality of Part A and B is that s81 is only ever used in my experience by Union Representatives that have lost their permit (ie, have been deemed not fit and proper for the Fair Work Commission). In the interest of the health and well-being of people on site, particularly the psychosocial hazards of having someone on-site with a history of improper conduct and/or behaviour, why would we be giving additional powers to these people? As an example of this, one of the CFMMEU members who was refused renewal of his permit in June 22. Prior to him losing his permit he visited our sites 14 times between Feb 2021 and July 2022 under s117, since then he has illegally been on site 3 times without any notification and a further 7 times under s81. While he had his permit there was 2 issues bought up which resulted in WHS requests to rectify trivial items (crossing at a pram ramp and water bottle on ground) and following the loss of his permit, none of these visits have resulted in any improvements from WHS, ie have been nothing more than continued disruptive behaviour. The most recent visit was yesterday 28.05.23 at Centenary where he entered under s81.3 stating the issues was "on site, the entire site". These are neither productive or proactive behaviours being displayed, are not beneficial to the department, employer or employee and are not resulting in a safer environment.

Potential legal concerns

I see TMR's pre-qual process presenting a real risk of adverse action under the Fair Work Act, a contractor is exercising their workplace right, and they miss out on the contract and the profit that comes with it. The real issue with adverse action is that there is a reverse onus of proof and there is also no cap on damages.

Conclusion

In essence, the CFMMEU is now using the supposed 'loophole' of s81(3) in an attempt to bypass the right-of-entry scheme and the requirement to be a fit and proper person to access site.

TMR's pre-qual requirement that requires contractors to adopt their safety issue resolution procedure would just further the CFMMEU's claim by adopting a safety dispute resolution procedure that endorses and further encourages practices that fly in the face of established and important right of entry laws, thereby further increasing the angst and stress levels of staff and exposing the system to psychosocial consequences.

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads



[REDACTED]
www.tmr.qld.gov.au

Transport and Main Roads offers flexible work arrangements for staff. I am sending this message now because it suits my working arrangements. I don't expect you to read, action or respond out of your normal work hours.



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From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent: Wed 31/05/2023 12:41:59 PM (UTC+10:00)
To: Julie Mitchell [REDACTED]; Ann-Maree Knox [REDACTED]
Subject: BPIC updates for today's meeting - FYI

BPIC updates

Wednesday, 31 May 2023
11:18 AM

31 May - Major Project Updates

Market wage cost analysis/report

- Report received and booking a time to brief you fully (likely next week).
 - Contractor generally allow rates above their EA's partly driven by competitive tension between contractors for labour
 - The BPIC has had a material impact on labour rates in Qld. Combined with the residual effects of covid19 on immigration and retirement of aging construction workforce offset by fewer joining the industry, and high number of competing projects and sectors (resource and energy) = highly constrained availability and cost premium
 - 1-5 yr outlook - labour resource availability is significantly constrained in construction. Resources and Energy sector will likely impact labour rates and conditions compared to current contractor EA's.
- Building BPIC submission - progressing to CBRC
 - Updated BPIC for all building projects
 - Basis for renewables
 - Issue for TMR - unions can't use our BPIC wage gap \$11/HR
 - Issue for Coomera Connector
- CPB prequal failure (safety) - now working cooperatively with EPW
- Transport BPIC
 - Change position from guidance to threshold criteria (mandatory) and to be minimum conditions compared to meeting the intent (current)

JM-6

- Prequalification (on track)
 - Industry feedback today
 - Review and identify key areas of concern - seek legal advice (Crown Law) - feedback to industry
 - Update document, processes and so on
 - Release by 1 August

Created with OneNote.

Courtney M McCarthy

From: Deanne M Hawkswood
Sent: Wednesday, 10 May 2023 11:17 AM
To: scott.gartrel [REDACTED]
Subject: FW: meeting Jade

Fyi

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

[REDACTED]
[REDACTED]
[REDACTED]
www.tmr.qld.gov.au

From: Julie Mitchell <[REDACTED]>
Sent: Thursday, 4 May 2023 6:08 PM
To: Deanne M Hawkswood [REDACTED]
Cc: Paul A Schmidt [REDACTED] Rohan M Davies [REDACTED]
Subject: meeting Jade

Construction worker conditions on TMR projects - are the worst in Australia

- Safety is a joke
- CRR speaks for itself

Need to update our site since Fairwork Act changes

TMR is the worse by far in State and country on IR and Safety

Our procurement is really complex and hard- shouldn't be some complex- its simple

We go out of our way to make it complicated

What Jade thinks procurement is (its simple)

- What we are asking them to do
- How do it
- Consequences (performance / demerits/enforcement of requirements)

Make them accountable then require good behaviour and punish bad

Instead what do we do with poor performers- given them more work

- Poor contractors have safe harbour in TMR projects
- We are *looking for excuses* why the BPIC can't be hard line/ procurements simple etc
- *Rather than finding solutions*
- TMR full of resistance fighters

we started change management in Procurement- lots of conversations- gone nowhere since Amanda left

JM-7

{Btw CCC investigating centenary- non compliant one has a \$52 million added.

TMR worse agency from a transparency perspective and conditions for contractors employers

They are looking for outcomes

Re GCLR and BPIC- salaries he compromised on this beyond std to get it thru (he took the flack in BTU) to get one bagged

They are invested in its success (combined unions)

CPB and Acciona are anti union and antiworker

CPB underquote, claim heaps and cut safety

Same as Acciona

CPB made workers come in on Anzac day. They visited and had no safe system in place. Stop work

AWU do substandard deals

CFMEU don't care if AWU play (AWU have a campaign against them and will only sign if they are the only unions) Never sought to exclude them its AWU that have a campaign against them, and will sabotage the deal unless they are the exclusive union

If BTG continue to get excluded - there is no certainty

Public servants need to stay right out of union coverage/ eligibility (I said what do u mean)

- BPICs expectation is that all union involved.
- They did the heavy lifting on negotiating it for a year
- The contractors don't even try to engage with them and then WE approve (**so we are involved**)
 - Mentioned BMD Georgiou may have consulted as a shortlisted.
 - No negotiation wrt EBA

So all the contractors are doing substandard deals. **And TMR are letting them**

What's this mean? Substandard

- Salary
- Inclement weather
- OT double time
- Shifts RDOs
- Income protection
- Redundancy
- Take home pay

If the deals weren't substandard then CFMEU would have signed them.

BPICs not fully implemented on any project, hasn't been achieved

We haven't honoured the deal, so they arnt

Market has moved so its not locked in

Asked if have documented the new deal and he said the health projects is the baseline now (and he advised about this a QLAC a fn ago)

TMR need to get contractors to demonstrate behaviours in order to win the government work.

They need to think is a privilege to work on a TMR job/ government

To do this we need to make sure the policy is supported

JM-7

There is going to be competition for workers and if we want the best and brightest why would they work on our projects

I said BPICs is the EBA- relationship with employees
How does safety come in?

We have to incentivise to do the right thing
FH said hearing about BPICs but not feeling a need to comply with it.

Safety systems and managed intentionally.

We need to act like a buyer- set the std of what required.
There is currently no reason for quality and capable construction workers to work on our projects

How do we measure H&S in prequal? {Dee my take is we better get real about safety and include it in prequal and assessment in a way that matters} need to be messaging the contractors*****

- **Enforcement notices**

it's the track record (roll overs - Acciona - 4 roll overs on the windfarms)

Acknowledges lack of IR maturity in Civil sector and this is because not one cared

- Sham contracting
- Working hours
- Labour hire

One way to solve is more direct engagement of staff

He reckons the reason why subbies wont tender is cause they wont come and work for TMR as the systems **support the cheapest price not the better outcomes (he knows subbies who could do our work but wont tender- Dee- lets talk the KRA and cost/ non cost regime**

Jade-

BPICs look s like an EBA it is an EBA but limitations in code had TMR calling it a guidelines
Contractors shouldn't get the OK until they reach the std of that doc that was negotiated.

I did ask the q- contractors says- clearly it was negot with CFMEU as a CFMEU doc. There are some clause of difference- is CFMEU willing to move on any of those- didn't say yes.

Where ever contractors think there is flexibility they will adopt the lower std. we are not giving them any reason to meet the std. (This is true Dee!!)

Can we require the BPIC as a min?- told need to get legal advice.

Believes we didn't mandate cause of issues with the code but the code has gone now.

I told him needed legal - there are some protections still there (sdiad depends on q asked- get the advice u want - explained its EPW advice

He said it was his day job

What he wants Implement in Full

I said Subbies?

Not interested in the small ones- wouldn't be having the conversation IE even a month of kerb and channel at the end

We can't even get the big ones that are there for a year in compliance

IE min rates of owner operators on safelink

JM-7

His philosophy is if pay quality get quality subbies that cut corners on wages, cut them on safety and cut on quality - it's the value in the long term- less defects (*I kind of concur here*)

If u wasn't the best and brightest on your job - pay for it

Savings or safety???

Meet again with Dee and I in 2 weeks

Heard TMR people pushing contractors to AWU- it will come out

Julie

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads

[REDACTED]

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From: Logan Timms[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=607AA3CDD3C844E998254BA1E7DF29B1-TIMMS LOGAN]
Sent: Fri 05/05/2023 4:20:35 PM (UTC+10:00)
To: Julie Mitchell [REDACTED]
Cc: HAWKSWOOD Deanne [REDACTED]
Subject: RE: BPIC Workshop - In Person

I only wish them being at Cairns meant none of them bothered me..... GRINS!!
From my experience the further away from Brisbane they all are, the more frenetic it is back in BrisVegas.

Sure, happy to do Teams and If I can make face to face will definitely do so. See you then

From: Julie Mitchell [REDACTED]
Sent: Friday, 5 May 2023 4:16 PM
To: Logan Timms [REDACTED]
Cc: HAWKSWOOD Deanne [REDACTED] >
Subject: RE: BPIC Workshop - In Person

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Logan

Thanks so much

I thought they were all in Cairns next week at community cabinet? Does that change things for you at all? happy to have you dial in on teams if that works or even part of meeting

Its just we have a bit of a hard deadline as Paul Schmidt is on leave after Friday and he's the one who can tells us how it works now and flow on implications of changes. If that's no good we will do the Offered Friday as well.

I met with CFMEU and its clear they will never be happy with TMR until we 1. Insist BPIC is the EBA (and enforce this), 2. Do more with safety- penalising poor performers and not giving them work (we have control and can do more here), 3. Ensuring they are consulted during the EBA – (we can do more here through process/ making expectations clear)

Dee and I have to catch up with them again Thursday week to tell them what we will do

What we are grappling with comes down to 2 things really (besides the subbies issue)

- The transport BPIC was compiled with BTG and our contractors see it as a CFMEU/ building doc. It's a clear guideline in policy but CFMEU want it to be the minimum (implemented as is and that's salary and all conditions) but AWU are happy to be more flexible with the contractors. We want to discuss this?
- How does EPW deal with safety in specifications, contracts, prequal, tender evaluation, on site, feed back to prequal, performance monitoring and assessment

We want to understand how your system works with BPIC IE how prequal works, how tender evaluation works and so on. Maybe you just don't have the same issues as the BPIC is a CFMEU doc and then there is no alternative union to accept something else.

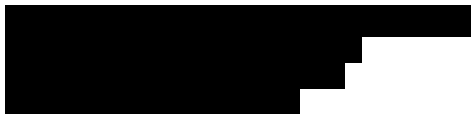
We suspect our 70/30 KRA regime is not really doing enough of a job and maybe the prequal and performance enforcement and feedback to prequal is the way to go.

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng
MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads



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-----Original Appointment-----

From: Logan Timms [REDACTED]

Sent: Friday, 5 May 2023 3:33 PM

To: Julie Mitchell

Subject: Accepted: BPIC Workshop - In Person

When: Wednesday, 10 May 2023 1:30 PM-5:00 PM (UTC+10:00) Brisbane.

Where: Room 21.12 - Level 21, 313 Adelaide St, Brisbane (Please sign in at level 6 reception)

Hi Julie,

Very happy to attend, however Parliament weeks are often pretty rugged for me so I am have to duck or I am be caught for the entirety. If we could push it to Friday or the following week, I could commit to attending the entire time.

Kindest Regards

Logan


Logan Timms

Executive Director, Strategy – Strategy and Policy and Building Contract Management

Major Projects | Public Works Division

Department of Energy and Public Works



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JM-8

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JM-9

From: Tracy A O'Bryan [REDACTED]
Sent: Mon 28/08/2023 6:33:51 AM (UTC+10:00)
To: Sally Z Stannard [REDACTED]; Julie Mitchell [REDACTED]; Peter A Papantoniou [REDACTED]; Melinda Pugh [REDACTED]
Subject: File note of Meeting CFMEU 25 August 2023
Attachment: File note of Meeting CFMEU 25 August 2023.docx

Good morning everyone

I hope you had a good weekend.

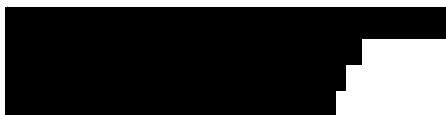
Please find attached my draft file note from the meeting on Friday afternoon for your comments/feedback.

Once I have all feedback I will finalise and send to legal for filing.

Cheers

Kind regards

Tracy O'Bryan
Deputy Director-General (Corporate)
Corporate Division | Department of Transport and Main Roads



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File note

Subject Meeting with CFMEU

Author Tracy O'Bryan

Date 25 August 2023

Subject to Legal Professional Privilege

Representatives from:

- Department of Transport and Main Roads (TMR)
 - Sally Stannard (SS) – Acting Director General
 - Michael Carey (MC), DPC
 - Tracy O'Bryan (TOB) – Deputy Director General, Corporate
 - Peter Papantoniou, (PP) Executive Program Director, Rail Infrastructure Delivery
 - Melina Pugh, (MP) Crown Law
- CFMEU
 - Michael Ravbar, (MR) State Secretary
 - Kane Lowth. (KL) Assistant Secretary
 - Luke Tiley, (LT) Principal, Hall and Payne lawyers

During the meeting,

- JM presented powerpoint presentation.
- In relation to advice on Croc Steel KL advised as at 27/7 they still hadn't been paid and KL will check. Advice that there are issues with Fulton Hogan making payments and allegation that statutory declarations are being signed by principal contractors without being correct.
- SS advised TMR will look at this further.
- MR alleged a huge procurement failure by TMR and that RoadTek fails to comply with the procurement process for example, Coomera Connector. Other departments such as Education and Health are fine as they get all contractors in the room to meet with the unions. This was done for GCLR with BPICs by TMR but not for Centenary Bridge. Allegation that TMR has a culture problem.

JM-9

- Discussion around contracting out clause based on slides that the scope of the clause only applies to work traditionally undertaken by RoadTek and that TMR is of the view we are complying with the labour hire clause.
- KL argued TMR was being selective with the clauses. Agree on capital works but do not agree with respect to maintenance works.
- Discussion around traffic controllers (TC). JM advised TMR had stopped using stop-go and TMR did not employ anyone as a TC and instead engaged a full service – not just labour. KL argued they were used on and off the highway.
- LT argued TMR's interpretation of the contracting out clause was not the ordinary natural meaning. There was Full Bench authority around the use of the word "shall" and that the scope of the contracting out clause was intended to cover common operations based on the drafting of 4.2.1.1. and because 4.2.1.2 - doesn't have work TMR traditionally undertakes.
- MR pointed out clause about any less favourable – why are clauses different to other departments? Even if TMR's interpretation is correct TMR has still breached the clause in relation to traffic controllers. 'Covered by this agreement' is not controversial.
- SS advised TMR has added to its compliance and monitoring focus by introducing spot checks.
- MR advised CFMEU did not want to talk about the future but about the past and historical wage claims. CFMEU wants wage justice and they can't get every contract and look for wage complaints. They need a statement from TMR of some kind.
- MC advised you can't pay workers in the past. Remedies:
 - Breach of EBA - up to \$10,000 paid to union
 - New compliance.
- LT argued the issue revolved around the making of a new agreement and that at the last meeting TMR was asked to consider the appointment of an external auditor and that they were not only interested in a forward looking agreement. Not just traffic controllers but also vegetation and bridge workers.
- KL advised he had received a letter from Kym Murphy to stop asking until TMR does an audit.
- LT advised we can go down to the Commission and argue the construction of the clause. But the question is - is there going to be cooperation on the instances on which non-compliance has occurred? We need a statement of agreed facts, don't need the actual contracts (IE which contracts were entered into with whom and when). Based on your construction of the clause we didn't think we had to do an audit because we didn't have to comply. The question is - is there any willingness to cover all contracts entered into after commencement of agreement which involved work covered by the agreement – known as a 'jump up' clause. This includes all work falling in the classifications in the agreement.

JM-9

- LT advised the order CFMEU would seek would be "all contracts entered into by TMR on or after <date> which are covered by the Agreement" and that past breaches would be litigated if not mitigated.
- MR alleged Government doesn't want to pay extras for super and payroll tax and that there is also an issue around site specific agreements in regions.
- KL advised there had also been an issue with the workers being required to buy their own PPE IE ProTech.
- TOB advised TMR rectified the issue with the PPE.

Next steps

1. **SS agreed to call MR on Wednesday 30 August 2023 for a further discussion.**

From: Julie [REDACTED]
Sent: Thur 08/06/2023 11:47:03 AM (UTC+10:00)
To: Adrian D Langford [REDACTED]; Fiona S
 Leyden [REDACTED]; Tracy A
 O'Bryan [REDACTED]; Kym E
 Murphy [REDACTED]; Grant C
 Wallace [REDACTED]
Cc: Deanne M Hawkswood [REDACTED]
Subject: as promised
Attachment: Transport-BPIC_100-300M (2).pdf
Attachment: best-practice-principles-quality-safe-workplaces highlight.pdf
Attachment: Proposed BPP Prequalification for industry consultation 5.5.23.xlsx

for the excel – look at rows 31- 36 they are seen as key to the EPW policy

a lot of the rest are government policy

Its actually an impossible impost to ensure that subcontractors / labour hire are on the same terms for all government directives

4. Employment Security BPIC—consultation on subbies

4.1. Without limiting the **Employer's right to determine its operational requirements** the Parties to this Document will encourage the continuity of employment for permanent employees with the aim of ensuring that permanent employment opportunities are not eliminated or eroded in-so-far as it is reasonably practicable to do so.

4.2. The Employer recognises that in certain circumstances the use of contractors and labour hire may affect the job security of Employees covered by this Document.

4.3. The Employer is also committed to maintaining a stable and skilled workforce, having regard to the contribution that a stable and skilled up workforce has for Employee's job security. The Employer also acknowledges that use of subcontractors or supplementary labour may amount to a workplace concern on the part of Employees. The Employer will take all reasonable measures to achieve employment security for the Employees in-so-far as it is practicable to do so.

4.4. If the Employer wishes to engage subcontractors or supplementary labour to perform work which is usually performed by its own Employee's under this Document, the Employer must consider any matters raised in consultation by potentially affected Employees before making any final decision to engage subcontractors or supplementary labour.

4.5. Following consultation and subject to this clause, the decision whether to engage subcontractors or supplementary labour is a decision of the Employer alone. Any dispute as to the application of this clause will be dealt with under the dispute's settlement procedure under this Document. The Employer will ensure that all subcontractors are bona fide contractors and engage their employees on lawful terms and conditions.

4.6. As soon as practicable after being awarded a contract upon request from the Union Delegate, the Employer shall inform the Union via its Union Delegate which subcontractors have been engaged for the project.

Best practice industrial relations

JM-10

The Queensland Government's stated purpose of the industrial relations principle is to ensure a quality workforce is attracted and retained, and to enable completion of the project with minimal disruption, by adopting 'modern and progressive industrial practices'.

Purpose

The purpose of this guide is to help agencies, contractors and subcontractors apply the best practice principles to applicable major projects

BPP P5 In summary, the BPICs:

- outline the Queensland Government's expectation for best practice employment conditions for workers performing work on-site on best practice principles projects
 - require contractors to demonstrate a best endeavours process for subcontractors; the extent to which this is demonstrated will be assessed by agencies through the tender process
- *help to ensure that the objectives of the best practice principles are achieved, particularly in relation to best practice industrial relations, to minimise disruption and resulting time and cost implications to major projects.

This principle is a mandatory evaluation criterion, with all contractors commonly required to demonstrate:

1. how they will provide terms and conditions of employment, including specific pay rates, for their employees who will perform work on the project, which are *at least equivalent to* the 'best practice industry conditions' (or BPICs) for the project; and
2. the best endeavours process they will use to engage subcontractors or sub-subcontractors who provide terms and conditions of employment, including specific pay rates, for their personnel who will perform work on the project, which are *at least equivalent to* the BPICs.

definition

Best endeavours involves taking all steps necessary to reach agreement with potential subcontractors about implementing the BPICs including the following actions, at a minimum:

- attending and participating in meetings with relevant parties
 - disclosing relevant information, other than confidential or commercially sensitive information, in a timely way between relevant parties
- *genuinely considering proposals made by another party, and responding both in a timely way and one that gives reasons for any response given
- not engaging in capricious or unfair conduct that undermines the freedom of any party or the process.

Page 13-

Agencies- interesting what the role of government is

Will not be involved in the best endeavours process undertaken by the contractor.

- Will assess the contractor's tender response against pre-determined tender weightings in terms of:

- o the extent to which the contractor has demonstrated terms and conditions of employment for its own employees which are at least equivalent to the relevant BPICs
- o the contractor's best endeavours process with subcontractors.

Table 2: Developing BPICs – key considerations for contractors, subcontractors and agencies

Stakeholder	Key considerations
Contractors	- Required to respond to the relevant BPICs (i.e. either BCM or TIS category-specific BPICs) as part of the tender process. - Tender commitments with regards to BPICs to form part of the contract. - Required to undertake a process in relation to the relevant BPICs with subcontractors and demonstrate how they have used their best endeavours to engage subcontractors who will commit to providing terms and conditions of employment for their employees who will perform work on the project, which will be at least equivalent to the BPICs. - Ensure subcontractors demonstrate how BPICs will be addressed in tender submission to contractor. - Provide information in the tender submission on how subcontractor(s) have considered and applied the Queensland Government's expectations for best practice employment conditions for works as outlined by the relevant BPICs.
Agencies	- Will not be involved in the best endeavours process undertaken by the contractor. - Will assess the contractor's tender response against pre-determined tender weightings in terms of: - the extent to which the contractor has demonstrated terms and conditions of employment for its own employees which are at least equivalent to the relevant BPICs - the contractor's best endeavours process with subcontractors.

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD

Deputy Director-General

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Catch up scott

Tuesday, 18 April 2023 8:35 AM

Meeting

- Premier
- Treasurer unions
- TMRs BPICs not being applied.

Got a reaction from the premier

Make them happy

Sharon Bailey- renewable BPIC

Unions all agreed to the BPICs at the end of the day- always said there would be tension over subbies

- JH - IR is their risk
- ***Characterised as a result of BPIC- every job they would have dispute on choice of subbies and prices paid***
- Same risk
- Pushing back
- Setting up a precedent- despite that its meant to be a contractor issue
- Set a hard line
- Contractors will go the easiest place

Scott's view- done everything possible on GCLR .

Subbies sometimes have plenty of work - don't need to go onto a hard job

Tensions local hire vs BPIC. Always knew would be some at some point - Will be too much as some point

ETU Roadtek

Ongy- going to break ranks- Ravbar asked not to sign EBA-

TMR wrote the rules (JH said that)

GCLR- negotiated BPICs unions all agreed to. JH took it an independently
JH negotiated

Wouldn't share - only saw when certified

Gymnastics to get a claim up.
Masterful crocodile tears.

Journey and will take some years

Pay rates and subbies are the biggest difference

JM-11

Tam rang Thursday morning.

- Still a mess.
- Contractors being touched up.
- Done BPIC complainant agreements

Sharon- Strongly worded note to her Mins office - that he shouldn't meet with unions

From: Julie Mitchell [REDACTED]
Sent: Mon 26/06/2023 9:24:01 AM (UTC+10:00)
To: Deanne M Hawkswood [REDACTED]
Subject: RE: RRR - EBA Formation

Dee

do u thinks its worth explaining that with regard to best endeavours for that the expectation is that ongoing consultation will occur with relevant unions/ they will be advised of the packages that will be going to tender a few weeks before they go out. Unions will be asked to provide the details of any particular subbies they would like to be considered for the project beside other subbies. Unions should be given a few weeks for this.

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: Deanne M Hawkswood <[REDACTED]>
Sent: Monday, 26 June 2023 8:17 AM
To: Peter T Trim [REDACTED] >
Cc: Julie Mitchell [REDACTED]; Adam J Williams
[REDACTED]
Subject: Re: RRR - EBA Formation

Hi Peter

Sorry for the delay.

Given the value of the packages (both less than \$300m), the normal BPIC rates apply. I've attached the updated Transport BPIC which shows the split from sub \$300m and over \$300m.

In terms of process which they need to finalise and lodge their greenfield prior to commencing. For Centenary we asked for confirmation of lodgement with FWC prior to contract award. You can do something similar here or alternatively it is a condition of contract to meet their tender commitments (develop a project specific greenfield agreement prior to employing their direct workforce for the project).

The making of the agreement is between the contractors (employers) and the union parties (representing the workforce on the project). When making the agreement they will be required to demonstrate that the terms and conditions of their own employees who will work on the project are at least equivalent to the Transport BPIC (this is required under their contract as per the tender conditions).

During that process the contractors are required to do effective consultation which is ongoing and continuous for the life of the project/agreement. Different employees will be represented for example by different unions, it is important that all employees unions are consulted with during the project.

The term best endeavours is one that makes eyes roll (particularly unions), however what it means in this context is ... taking all steps necessary to reach agreement with potential subcontractors about implementing BPICs including ... attending and participating in meetings with relevant parties (this is outlined in the Policy).

Hope that helps, but looks like they are on the right path.

Dee

Get [Outlook for iOS](#)

From: Adam Edwards [REDACTED]
Sent: Friday, June 23, 2023 5:29:30 PM
To: Peter T Trim <[REDACTED]>
Cc: Deanne M Hawkswood [REDACTED]
[REDACTED] IDE, David
>
Subject: RRR - EBA Formation

Hi Peter,

Phone message refers.

Collectively the JV's have commenced preparation for EBA formation for the RRR project. We will need EBA's in place prior to commencement of site works to preserve the 'greenfields' nature of the

agreement and so time is becoming quite tight.

If TMR's position in relation to a RRR BPIC is still unclear then then we suggest that we proceed on the basis that a Project Specific BPIC/BPIC + will not be required for at least the initial packages of RRR. We would then proceed as if the \$100-300M BPIC applied and prepare accordingly.

Whilst we haven't got a PLT Steering Group meeting for a month or so we probably need a meeting quite soon to ensure we are aligned on expectations and approach before we commence any external engagement around prospective EBA's. Could you please confirm some potential timeslots and attendees your end and we can get something diarised.

Cheers

Adam

Adam Edwards

Managing Director



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From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent: Wed 28/06/2023 3:02:13 PM (UTC+10:00)
To: Julie Mitchell [REDACTED]
Subject: Confidential_Update from Ryan Murphy re BPIC
Attachment: Water BPIC Model Proposed.JPEG

Confidential and Sensitive

Hi Julie

Thought I'd send through an email with what I wanted to chat with you about earlier. This gives me a chance to put it into writing and makes it easy to share with Sally.

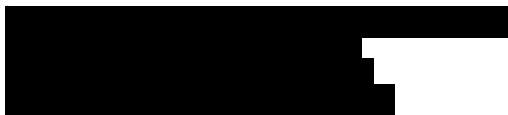
I had a call from Ryan (regarding Water BPIC) who advised:

- CFMEU view has changed – they no longer see a purpose for project specific greenfield agreements. Instead their position (which they will be sharing with Govt) is we need to agree on A/ONE BPIC document which is then written into all contracts with head/principal contractors. There will be no need for specific BPIC documents. Simple!
- Currently no alternative model BUT there can be with what Ryan is proposing (see attached). Apparently they will be briefing Minister Butcher and DeBrenni later this week as a priority, looking to get agreement/blessing to progress with the alternative. It will deal with the approach and not water down the wages and conditions. It would need acceptance by all unions include the BTG.
- I asked if all members of the BTG were aligned with this view of CFMEU – the ETU are focused on renewables (not transport or water ..) and in the absence of an alternative, they are aligned with CFMEU.

Should a direction be made in the next couple of days, suspect things will move quickly and we may need to move quickly to consolidate the alternative approach (with Transport BPIC) and suspect similar for EPW (with Renewables and Building)

Dee

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads



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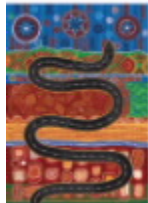
From: Anne E Moffat [REDACTED]
Sent: Thur 23/03/2023 11:09:40 AM (UTC+10:00)
To: Julie Mitchell [REDACTED]; Deanne M Hawkswood [REDACTED]
Cc: Nick T Shaw [REDACTED]; Andrew M Wheeler [REDACTED]
Subject: RE: Urgent_Info for Building Trades Group following meeting with CoS yesterday

Thanks J. Aware.

So sorry – to be clear – do we have a HiB as a response given this is in the public domain?

Anne Moffat
Chief Operations Officer
Department of Transport and Main Roads

[REDACTED]
[REDACTED]
www.tmr.qld.gov.au



.....
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We also acknowledge their ancestors and Elders both past and present.
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.....

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From: Julie Mitchell [REDACTED] >
Sent: Thursday, 23 March 2023 11:03 AM
To: Anne E Moffat [REDACTED] >; Deanne M Hawkswood [REDACTED] >
Cc: Nick T Shaw [REDACTED] >; Andrew M Wheeler [REDACTED]
Subject: RE: Urgent_Info for Building Trades Group following meeting with CoS yesterday

Anne

Georgiou are contracted to us and have legislative safety obligations
Unions have access rights on safety grounds and then inform the regulator who issues notices if there is substance.
CFMEU have been targeting the project for some time.

Its taking a toll on progress and on the contractors staff.

Ultimately the matter is between Georgiou and the regulator but complicated as Georgiou has greenfield EBAs on Centenary and Coomera with AWU.

Ill ring and let you know more

I don't believe we have a role in responding

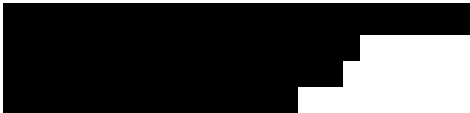
Julie Mitchell PSM

BEng RPEQ MIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: Anne E Moffat [REDACTED]

Sent: Thursday, 23 March 2023 10:32 AM

To: Deanne M Hawkswood [REDACTED] >; Julie Mitchell

[REDACTED] >

Cc: Nick T Shaw [REDACTED] >

Subject: RE: Urgent_Info for Building Trades Group following meeting with CoS yesterday

Have we alerted our media team to this?

And do we have a response to it?

Anne Moffat

Chief Operations Officer

Department of Transport and Main Roads



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From: Deanne M Hawkswood <[REDACTED]>
Sent: Thursday, 23 March 2023 8:55 AM
To: Anne E Moffat [REDACTED]; Julie Mitchell [REDACTED]
Cc: Nick T Shaw [REDACTED]
Subject: RE: Urgent_Info for Building Trades Group following meeting with CoS yesterday

Thank you and got the email away yesterday.

I'll send a note to the DG, yourself and Julie (and I'll copy Fiona into it as well). I'm meeting her next week, which will be good!

I also received this from Sharon Bailey last night – footage from our Exit 41 site (Georgiou)

<https://fb.watch/jq2SjSaWdW/?mibextid=qC1gEa>

Deanne Hawkswood
 Chief Procurement Officer | Chief Procurement Office
 Finance & Procurement Branch | Corporate Division
 Department of Transport and Main Roads

www.tmr.qld.gov.au

From: Anne E Moffat <[REDACTED]>
Sent: Wednesday, 22 March 2023 1:18 PM
To: Deanne M Hawkswood <[REDACTED]>; Julie Mitchell [REDACTED]
Subject: RE: Urgent_Info for Building Trades Group following meeting with CoS yesterday

Dee,

I note Julie has provided some advice. I support.

Further to this, I did tell DG you would provide notes on the meeting. I have given him a very short version of it.

I suggested the key issue was rates of pay. And you would get some intel. The rest was bluster or predicting the future.

I also gave a very short rundown of the issues to our new CPACO. She is keen to be at the meeting with her IR boys – given the issues do keep bumping into each other.

Kind regards,

Anne Moffat
Chief Operations Officer
Department of Transport and Main Roads



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From: Deanne M Hawkswood [REDACTED]
Sent: Wednesday, 22 March 2023 11:35 AM
To: Julie Mitchell [REDACTED]; Anne E Moffat [REDACTED]
Subject: Urgent_Info for Building Trades Group following meeting with CoS yesterday
Importance: High

Morning Julie and Anne

Before sending this through to DLO to CoS and the secretaries of the BTG, would appreciate your quick review.

We committed to send them

- Information on key points approved on 3 March – BPIC, prequalification changes and assurance
- Marked-up version of the updated Transport BPIC compared to the 2020 version (attached)

The following is the information on the key points:

Implementation advice - BTG

TRANSPORT BPIC

- Originally approved October 2020 and addressed projects \$100m - \$300m
- Updated Transport BPIC (Decision 1546) was approved on 3 March 2023 addressing projects \$100m - \$700m and provided an update covering:
 - Following approval in October 2020 TMR has introduced the BPIC on 12 projects valued at \$6.92B.
 - The current Qld Transport and Roads Investment Program 2021/22 - 2024/25 has seven projects \$100m-\$300m and twelve projects over \$300m.
 - The updated BPIC includes a major projects provision with increased base wage rates and employee entitlements, which were developed for the Coomera Connector - Stage 1 program.
 - Projects over \$700m will be negotiated and approved on a project by project basis.
- To streamline process and ensure conditions remain consistent with the legislation and represent leading practice for the transport civil construction sector, it was approved that the Minister for Transport and Main Roads can make amendments to the Transport BPIC as required, with approval from the Premier and Treasurer.
- Overview of the changes below (\$300-\$700m):

○

	Transport BPIC (\$100 m- \$300 m)	Over \$300 m	
Wage Rate (CW5)	\$40.17/hr	\$45.28/hr	
Income Protection	-	\$40.30/wk	
Redundancy	\$81.00/wk	\$120.00/wk	
Fares and Travel	\$36.05	\$40.00	
Site Allowance	-	Project value	Allowance
		\$300 m to \$400 m	\$5.00/hr
		\$400 m to \$500 m	\$5.50/hr

		\$500 m to \$600 m	\$6.00/hr
		\$600 m to \$700 m	\$7.00/hr
Training	\$10/wk	\$15/wk	
Overtime	1.5 times first 2 hours 2.0 times thereafter	2.0 times	

PREQUALIFICATION

- It was also approved a Queensland supplement to the National Prequalification System (Civil and Bridge Construction) be implemented by TMR to establish the BPP and the approved Transport BPIC, as a prequalification requirements for contractors. This will ensure project over \$100m or those declared align to prequalification conditions as requirement by DEPW for building construction, to the extent possible, and provide a consistent approach for the construction industry.
- It is expected the implementation of the changes to the National Prequalification System will impact approximately 50% of the suppliers currently prequalified. Full commencement will be completed by 1 August 2023.
- For those major project planned to commence procurement prior to 1 August, TMR will apply the requirements as part of the procurement process.

ASSURANCE

- TMR has established a dedicated team to work with the relevant major projects monitoring, reporting and assessing commitments made during procurement and contracting for major projects are being met.
- Once fully recruited, there will be 11 staff in the team.
- There are five key result areas included in major project tenders that reflect government outcomes and TMR priorities, which include a number of compliance and information measures.
- The KRAs are:
 - KRA 1 – Quality Jobs: Progressing best practice industrial relations, inclusive and diverse workforces and opportunities to invest and build the sector's capability particularly through a strong commitment to trainees and apprentices.
 - KRA 2 – Safe Workplaces: Prioritising best practice workplace health and safety systems and standards and a culture of safety for all.
 - KRA 3 – Local Supply Chains and Manufacturing: Actively supporting quality local Queensland suppliers and industries on Queensland Government projects.
 - KRA 4 – Sustainability: Advancing infrastructure sustainability outcomes that

enable social, environmental and economic benefits.

- KRA 5 – Project Delivery Optimisation: Apply innovative technologies, techniques and industry initiatives to drive better project delivery success, productivity and optimisation.

• To monitor compliance against these KRAs a number of measures are reported and monitored. The following are measures for KRA 1 - Quality Jobs:

- compliance with provisions of the industrial instrument
- meeting or exceeding Workplace Relations Management Plan commitments
- industrial relations matters potentially impacting project
- Skills Development Plan
- project workforce including diversity
- industrial relations – right of entry
- commitment to culture and community
- rostered days off.

Created with OneNote.

From: Julie Mitchell [REDACTED]
Sent: Mon 03/07/2023 3:04:52 PM (UTC+10:00)
To: Deanne M Hawkswood [REDACTED]
Subject: FW: my notes for u to add to

There was also a comment on the need to consult CFMEU- we need to ensure we don't overreach on this.

Julie

Julie Mitchell PSM
BE Civil RPEQ FIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: Julie Mitchell
Sent: Monday, 3 July 2023 3:04 PM
To: Deanne M Hawkswood [REDACTED] >
Subject: my notes for u to add to

Friday, 30 June 2023

8:02 AM

Met with Mark and Stacey

AWU confirmed that they have not been engaging on BPICs because they're worried about preserving their legal position.

They believe it's precarious territory and have grave concerns with some of the requirements, they support minimum conditions, including apprenticeships and indigenous employment etc and the minimum relevant conditions but they do not support agreements, that are binding

They believe that we should go out with loose, non-specific goals and minimum employment conditions because project specific agreements been what they have been doing for a decade

They believe it's all a coverage grab from CFMEU.

As a union affiliated with the Labour Party, they believe we are under the integrity microscope and that they are interested in their members that work for government as well as those that don't work for government. They want to ensure that government doesn't expose themselves

They believe that while they believe in good wage rates for employees they also must understand the need to have somebody to be able to pay it.

They believe that under case law the coverage is settled.

They are after an agnostic policy where redundancy funds are not mentioned. **Mentioned letter to Neil Scales a while ago that set this out.**

They're happy to negotiate and sign a document with metal workers plumbers ETU, but they do have a problem with CFMEU and their recent behaviour towards them

They don't have to participate with them if they don't want to

Mentioned section 117 and 187 of the fair work act

They don't believe that we should be forcing contractors to deal with CFMEU.

They believe that John Holland civil did not want to sign the BPICs for Gold Coast light rail three, the building arm made them as they were under threat

CFMEU can only represent traffic controllers if associated with high-rise. We should chuck CFMEU out of the room they don't have coverage

AWU don't want to attack another union because people used to use the divide between AWU and CFMEU to anti-unionise

CFMEU can only represent

- certain crane operators
- forklift drivers
- excavators
- Pile drivers

and they have to pass the primary purpose test as well as coverage. For the purposes of the purpose test which is 50% plus one.

They admit there's overlap after overlapping coverage because they share identical coverage with CFMEU, plus they have more than CFMEU.

There's very few TMR jobs where AWU don't have the coverage.

They believe there's ambiguity in the wage increase rates with TMR at 3%. EPW is at 5% and industry at 6% and they'll insist upon a clause in their BPICs agreements where the percentage increase can be increased if others increase.

They don't believe in fleecing government, just minimum conditions

They don't like being tarred with everything safety that happens on cross over rail.

Don't think that Scott Gartrell did a good job
Don't like Randall Fuller on water

AWU do industry appropriate deals.

They also believe that there's been unrealistic and unsustainable sets of conditions being set on these projects, and unfortunately AWU will have no choice but to be standing behind and pushing for these now

They believe the current levels are artificially inflated and the structure doesn't work for this industry. How do you do a road project under the heat policy? How do RDOs work in camp?

BPIC cannot be the instrument because it removes bargaining
They believe it's better to have appropriate conditions project by project

They are personally getting negative attention- followed- no backing down

Their role is to get a good deal *and* assist government to deliver.

BTG had no problem with their associated organisation (redundancy funds) not being named (IE AWU not named) now no one is named BTG have a big issue.

AWU want them agnostic- agnostic no one named

We should look at where the funds from BERT goes, because the income does not get distributed to members. It gets distributed to the union- that's significant economic income

Believes there's integrity issues with prequalification and coercion, and we need to ensure that we are consistent with the law.

They believe they can be agnostic because the law is on their side

Advised us to get the explanatory document to the fair work act which talks about an extra test for coverage in brownfield agreements about it being fairly chosen.

Just an extra layer of scrutiny

Because it believes that CFMEU over-reach on coverage - they've been defending Greenfield agreements, and now they will move to brownfields.

Julie

Julie Mitchell PSM
BE Civil RPEQ FIEAust CPEng
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MINUTES



MEETING TITLE/NO.	BPP Committee	NO.	1
VENUE	GoldlinQ Boardroom		
DATE	7 February 2023	TIME	4:00PM
COPIES TO	All attendees and apologies	REVISION	00
MEMBERS		<i>Attend</i>	<i>Apology</i> <i>Distribute</i>
	John Witheriff, GoldlinQ (Chairman)	Y	
	Julie Mitchell, TMR*	Y	
	Steve Butcher, John Holland		Y
	Rob Evans, John Holland *	Y	
OBSERVERS	Phil Mumford, GoldlinQ	Y	
	Gavin Massingham, TMR *	Y	
	Glyn Ladbrooke, John Holland	Y	
	Anthony Kelly, John Holland	Y	
	Kirstyn Smith, GoldlinQ (Secretary)		
	<i>*denotes attendance online</i>		

ITEM	MINUTES	ACTION/STATUS
1.1	Opening of the Meeting and Apologies	
	The Chairman opened the meeting of the BPP Committee at 4:00pm. Mr. Rob Evans advised that the BPP Committee that D&C Contractor's BPP Committee Member and Executive Sponsor is Mr. Steve Butcher, however noted, as Mr. Butcher is unavailable today, Mr. Evans is present as the delegate for D&C Contractor. Mr. Anthony Kelly is also in attendance.	Noted
1.2	Conflicts of Interest	
	No conflicts of interest were tabled by the attendees.	Noted
1.3	Disclaimer	



ITEM	MINUTES	ACTION/STATUS
	It was agreed that the discussions the subject of this meeting and future meetings of the BPP Committee shall be on a without prejudice basis.	Agreed
2.	Minutes of the Meeting of the BPP Committee of 14 Sep 2022	
	The minutes of the BPP Committee meeting held on 14 Sep 2022 were presented.	Approved
	The BPP Committee APPROVED : that minutes of the BPP Committee meeting held on 14 Sep 2022 be noted as a correct record of the meeting.	
3.	Quarterly BPP Committee Report	
	D&C Contractor's Project Director, Mr. Glynn Ladbrooke, presented a summary of the key updates contained in the Quarterly BPP Committee Report for December 2022. The following particulars were discussed and noted.	Noted
	<u>Reimbursable Cost Forecast</u>	
	D&C Contractor advised that the forecast Total BPICs Cost is \$142,8M (which is \$1,6M greater than the Original BPIC Estimate of \$141,2M).	
	The breakdown of the \$1,6M comprises of:	
	- \$1,38M caused by the error in calculation in the night shift formula which the Direct Labour BPIC Premium rate is applicable. - \$186K caused by the re-allocation of a portion of the works from Direct Labour (DL-1) to Subcontracted (SC-2) (an increase of SC-2 costs). - \$148K caused by the re-allocation of a portion of the works from Direct Labour (DL-1) to Subcontracted (SC-2) (a decrease of DL-1 costs). - \$225k for D&C Contractor's legal fees associated with the FWC challenge process.	
	<u>Project Resources</u>	
	D&C Contractor discussed its focus on increasing project resources, both planned and as part of its corrective action plan, noting:	
	- an increase in blue collar workforce from ~350 to 600 (both DL and Subcontractors); - receipt of over 600 EOIs, primarily local workforce; - strong response to support the immediate project demand for 1Q2023 (pipelayers for water and waste and storm water); - Coomera Connector Project may be create competition in the future; - new satellite offices (at Redondo Park and SO1) have added capacity of ~150 desks.	
	In relation to the Project Dashboard, D&C Contractor advised:	
	- there are 159 full time employees; - currently 87% are deemed to be local staff (on track to achieve the 92% target); - procurement local supply chain within 50km is challenging, however responses within 125km are good; - indigenous employment is low currently, but expected to increase;	



ITEM	MINUTES	ACTION/STATUS
	- training numbers are good, noting the records reflect mainly white-collar workers. <u>D&C Program</u> D&C Contractor advised that the D&C Program Review Group Workshops commenced on 20 January 2023 and it considers the process is progressing well. D&C Contractor also advised there has been good progress with CoGC Waste and Water, noting the relationship has improved and the parties are progressing towards completion of design activities. The BPP Committee noted the Quarterly BPP Committee Report for December 2022.	
4.	BPP Committee Determination Requests <u>BPP Committee Determination Request 003</u> The Chairman tabled the BPP Committee Determination Request 003 from D&C Contractor for external legal fees incurred (to 15 Nov 2022) in relation to the FWC Project Agreement process in the amount of \$78,481, (as endorsed by the BPP Sub-Committee). The BPP Committee APPROVED: the Determination Request 003 for external legal fees. <u>BPP Committee Determination Request 004</u> Mr. Glynn Ladbroke presented the BPP Committee Determination Request 004 in relation to an error in a formula of the night shift rate which (based on the current nightshift hours of 128,311) is an estimated \$1,38M increase to the BPIC Premium which D&C Contractor is entitled to claim. Accordingly, D&C Contractor requests the BPP Committee to: - agree that this is an error, and - approve the update and correction of this error within the RCM to increase the Target BPICs estimate. The Chairman noted that this issue was considered by the BPP Sub-Committee, which was unable to agree or endorse the Determination Request. The Chairman further noted that, in considering this request, the parties ought to consider the objectives and functions of the BPP Committee, including the resolution of matters referred to the BPP Committee and to give effect to the BPICs Guiding Principles. The State requested more time to consider this Determination Request, which was agreed by D&C Contractor and OF3. It was agreed to defer the decision and for the BPP Committee to convene a meeting in two weeks, on 21 February 2023.	Approved Additional time requested. BPP Committee to convene on 21 Feb 2023.
6.	Other Business <u>Depot Building Contractor Union Concerns and BPICs</u> D&C Contractor advised that there has been a significant increase in union activity amongst D&C Contractor's supply chain, including in relation to the Depot building subcontractor - whose nominated	Noted



ITEM	MINUTES	ACTION/STATUS
	plumbing subcontractor has withdrawn from tendering. D&C Contractor further expressed significant concern that unions appear to be asserting to subcontractors that the implementation of BPICs is mandatory on the Project, and advised that it believes companies (who may not be compliant with BPICs) are selecting not to tender. D&C Contractor advised that the Depot building contractor's subcontractor may have been pressured by unions leading to its withdrawal from the Project. D&C Contractor has obtained pricing from the alternative subcontractor (Christopher Constructions, who is BPICs compliant) however that subcontractor appears to be leveraging the opportunity to negotiate a premium price to perform the same scope of works. Consequently, D&C Contractor advised that it will be formally requesting recovery of the additional costs associated with engaging the new subcontractor. D&C Contractor further advises that it intends to request approval to disclose extracts from the BPICs Schedule 21 of the D&C Contract, specifically in relation to the 'Procurement of Subcontractors'. Subject to reviewing the letter, the State was supportive of the approach to share the wording from the contract. In relation to the depot building works subcontractor, the State requested transparency regarding union influences going forward, including any tangible evidence available. D&C Contractor confirmed it will consider any evidence available at-hand, and confirmed it would provide timely updates going forward. D&C Contractor intends to propose a position paper on this issue for the BPP Committee's consideration.	
	Meeting closed at 5:20pm.	

JM-17

Agenda for this mornings meeting

From: Julie Mitchell <[REDACTED]>
To: Boyd Merrett-JHG <[REDACTED]>, Steve Butcher-JHG <[REDACTED]>, Rob Evans-JHG <[REDACTED]>
Date: Wed, 01 Mar 2023 12:19:26 +1100
Attachments: Agenda - JH.doc (366.59 kB)

Good morning

Please find attached the agenda for this mornings meeting.

Julie

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General

[REDACTED]

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Agenda

Gold Coast Light Rail Stage 3 (GCLR3) – BPIC Implementation Update

Date Wednesday 1 March 2023 **Time** 11:15am

Place Floor 21, 313 Adelaide Street, Brisbane

Chair Julie Mitchell (DDG IMD)

Attendees

Julie Mitchell (DDG IMD)
Scott Gartrell
Deanne Hawkswood (CPO)
John Holland representatives

Agenda item 1	Introductions	All
Agenda item 2	Purpose of meeting a. Working with Government to make the BPIC policy a success b. Shared goals c. Meeting is not minuted d. TMR want to hear how it is going	Julie
Agenda item 3	Project Status and issues including a. Procurement, subcontracts awarded b. Market capacity to support the project c. Engagement with relevant unions d. Opportunities/challenges and strategies/tactics e. Feedback from subcontractors/supply chain? f. What does success look like for project wrt policy? g. How can TMR assist implementation of this policy? h. What's to come?	All
Agenda item 4	Closing and thanks	Julie

MINUTES



MEETING TITLE/NO.	BPP Committee	NO.	1
VENUE	GoldlinQ Boardroom		
DATE	14 April 2023	TIME	2:15PM
COPIES TO	All attendees and apologies	REVISION	00

MEMBERS		<i>Attend</i>	<i>Apology</i>	<i>Distribute</i>
	John Witheriff, GoldlinQ (Chairman)	Y		
	Julie Mitchell, TMR	Y		
	Steve Butcher, John Holland	Y		
		Y		
<i>OBSERVERS</i>	Phil Mumford, GoldlinQ	Y		
	Gavin Massingham, TMR	Y		
	Paul Noonan, TMR	Y		
	Rob Evans, John Holland	Y		
	Anthony Kelly, John Holland	Y		
	Glynn Ladbrooke, John Holland	Y		
	Kirstyn Smith, GoldlinQ (Secretary)			
	<i>*denotes attendance online</i>			

ITEM	MINUTES	ACTION/STATUS
1.1	Opening of the Meeting and Apologies	
	The GoldlinQ's Chairman, Mr. John Witheriff, opened the meeting of the BPP Committee at 2:15pm and welcomed the members present today.	Agreed
	The BPP Committee members agreed that each meeting will be tabled as a standalone meeting (rather than any adjourned meetings). It was also agreed that the Secretary will prepare a summary of the progress of any open items, including any Determination Requests.	
1.2	Conflicts of Interest	
	No conflicts of interest were tabled by the attendees.	Noted



ITEM	MINUTES	ACTION/STATUS
1.3	Disclaimer	
	It was noted that the parties agree that the discussions the subject of this meeting (and future meetings) of the BPP Committee shall be on a without prejudice basis.	Noted
2.	Presentation by John Holland - Engagement of Unions and BPP D&C Contractor's Trent Smith, Group Manager of Industrial Relations, commenced his presentation by noting that John Holland feels there has been some harsh criticism about how it has managed union dealings and that the presentation sets out John Holland's approach for managing unions across the country. In summary, John Holland raised the following key points: • From the outset, the bespoke BPICs policy document for GCLR3 was incomplete, unclear, making it difficult to plan for and therefore price the requirements. • From John Holland's view, the civil market in Queensland is not unionised (like for example, Victoria), and therefore required extensive consultation and education about the new policy however, from John Holland's view, this did not occur. • From the outset, John Holland's feedback from the unions was that whilst the document may say best endeavours, there was an expectation by unions that there would be 100% take up, and that there <i>could not</i> be a difference in allowances across the supply chain. • JH operate across multiple markets and across multiple sectors, including in Victoria, however John Holland don't consider that the supply chain in Queensland is a sophisticated unionised sector. • John Holland noted that it is the only civil contractor who has engaged this policy in Queensland and is actively and regularly engaging with all unions and will continue to do so throughout Stage 3. • John Holland was able to successfully negotiate a number of variations to the GCLR3 document, which are well documented and available upon request. • It was also noted as the Australian Building and Construction Commission (ABCC) is now abolished, there is no regulator for unions. John Holland expressed concern that if it is going to take a more aggressive approach with implementing BPICs, then there may be increased pressure and action by unions. • Whilst Schedule 21 of the D&C Contract references a 'best endeavours' approach to implementing BPICs, John Holland advised that there is a perception within the supply chain which indicates that the implementation of BPICs is mandatory. • John Holland also mentioned the risks of complaints to ministers regarding a changed position with unions and potential adverse union activity on site.	



ITEM	MINUTES	ACTION/STATUS
	- John Holland advised that safety was a key with regard to their selection of a subcontractor. In response, the State advised as follows: - John Holland should comply with the contractual framework and their procurement plan; - John Holland are required to manage industrial risk, consult with unions (including about work packages and subcontractors); - John Holland should be clever and strategic with their choice of subcontractors, but that the choice was theirs with regards to the subcontractors that they ultimately engaged.	
3.	TOC Forecast and Manhours Update D&C Contractor's Project Director, Glynn Ladbroke, advised that John Holland is still in the process of considering the changes to the BPIC TOC forecast and manhours. At this stage, John Holland expects that the forecast Total BPICs Costs will exceed the Original BPIC Target of \$150M and increase to ~\$185M. John Holland advised that the full detail, including the total labour hours, and recast of labour hours will be captured in the next Quarterly BPP Committee Report (June 2023). *Post meeting note: During the BPP Subcommittee meeting, John Holland agreed to issue a draft of the Quarterly BPP Committee Report by 12 May 2023.	
4.	BPP Committee Determination Requests <u>BPP Committee Determination Request 007</u> D&C Contractor commenced discussions by providing a high-level summary of the BPP Committee Determination Request 007 paper (BPP007). The State provided some preliminary feedback, including in relation to: - the content generally; - the legal entitlement to the claim; and - the calculation of the quantum of the claim. The State agreed to provide feedback to OF3 and D&C Contractor. The State noted that it recognises some of the challenges which D&C Contractor is facing in this current market, including in relation to hyper-escalation and those challenges should be the subject of a separate discussion outside of this forum. *Post meeting note: During the BPP Subcommittee meeting, the State agreed to provide feedback to the BPP007 paper by 26 April 2023. <u>BPP Committee Determination Request 006</u> D&C Contractor provided a high-level summary of the BPP Committee Determination Request 006 paper (BPP006).	Noted Agreed



ITEM	MINUTES	ACTION/STATUS
	The State expressed some concern that the detail to this claim had not been appropriately considered by the BPP Subcommittee. The State agreed to provide feedback to OF3 and D&C Contractor and proposed for the BPP Subcommittee to further discuss BPP006 in the next BPP Subcommittee meeting. It was agreed that BPP006 would be further considered by the BPP Subcommittee. *Post meeting note: During the BPP Subcommittee meeting, the State agreed to provide feedback to the BPP006 paper by 26 April 2023. <u>BPP Committee Determination Request 008</u> D&C Contractor provided a high-level summary of the BPP Committee Determination Request 008 paper (BPP008). The State expressed some concern that the detail to this claim had not been appropriately considered by the BPP Subcommittee, and that D&C Contractor and the Independent Estimator are in discussions regarding the detail to this claim and proposed for the BPP Subcommittee to further discuss BPP008 in the next Subcommittee meeting. It was agreed that, subject to the BPP Subcommittee's endorsement, the BPP Committee would consider any of the above Determination Requests by way of a flying minute.	Agreed
5	Other Business Next meeting of the BPP Committee is scheduled to occur on 14 June 2023. No other business noted. Meeting closed at 4pm	

JM-19

From: Andrew Z Biagioni[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BE994B87BED24245B947D5517480292A-ANDREW Z BI]
Sent: Wed 12/06/2024 6:47:44 AM (UTC+10:00)
To: Matthew Muir [REDACTED]
Subject: Fwd: BPIC Claim Explanation
Attachment: Email 17 december 2021- BPIC Negotiations.pdf
Attachment: BPIC Timeline_v2.docx

FYI Matt.

Regards,
AB

Begin forwarded message:

From: Julian D Zorzo
Date: 11 June 2024 at 11:29:09 am AEST
To: Paul D Noonan , Andrew Z Biagioni
Cc: Helen E McKenna
Subject: RE: BPIC Claim Explanation

Hi Paul,
 In response to Julies Q' s.
 I have given this one a refresh from when it was first provided in Oct 2023.
 Relevant sections highlighted.
 Happy to expand more where required but should be all the detail there that is required. I haven' t added to much to the end of the timeline given the corrs brief captures this and Julie has been heavily involved.
 AB, might be worth flicking onto Corrs to supplement KC briefing if they feel is useful.
 Although there is some overlaps.

Regards
Julian Zorzo

Project Manager (Gold Coast Light Rail)
 Program Delivery and Operations Branch | Infrastructure Management and Delivery Division
 Department of Transport and Main Roads

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

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JM-19

From: Paul D Noonan
Sent: Tuesday, June 11, 2024 9:57 AM
To: Julian D Zorzo
Subject: Fwd: BPIC Claim Explanation

Hi mate. See below. Timeline required. Probably just need to confirm the assessment payment timing right now. Thanks.

Paul Noonan

Project Director

Gold Coast Light Rail Stage 3

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From: Julie Mitchell [REDACTED]
Sent: Tuesday, June 11, 2024 9:53:09 AM
To: Paul D Noonan [REDACTED]
Subject: RE: BPIC Claim Explanation

Thanks very helpful.

So it looks like JH were asked to assess the impact of BPIC and we paid them

"\$1.2M to estimate the impacts of BPIC, (when was this?) and

most of the scenarios were contemplated in the RCM and Sch 21 Ann A.

In fact the re-baselining process (was this March 22?) – pre-financial close anticipated and compensated them for these impacts expected at the time.

Can u have someone set out a quick timeline pls of the tender, early works, reassess cost, when BPICs was added and so on- everything that's relevant to the discussion below and the claims generally?

Julie Mitchell PSM
 BE Civil RPEQ FIEAust CPEng
 MBA MEM GAICD
 Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads

[REDACTED]

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From: Paul D Noonan <[REDACTED]>
Sent: Monday, June 10, 2024 11:50 AM
To: Julie Mitchell [REDACTED] >
Subject: RE: BPIC Claim Explanation

Hi Julie,

Hopefully this explains. The responses are aligned to your questions.

4 questions in blue below

So if I summarise.

(a) **Target BPICs Costs**, which are assumed to be causally connected to BPICs but can only be recovered up to a limit of \$150 million; -

most easy to recover (a) and (b) — but only up to the \$150 million limit;

(b) **Residual Risk costs**, which are assumed to be causally connected to BPICs so long as the \$150 million limit has not been exceeded, but **can otherwise** be recovered only if **the BPP Committee** determines that each cost “**has been or will be incurred, mobilised or otherwise engaged** ... as a result of, or in connection with, the [BPICs]”;

(c) **Related Risk costs**, which can be recovered only if the **BPP Committee determines** that each cost “has been or will be incurred, mobilised or otherwise engaged ... as a result of, or in connection with, the [BPICs]”; and

Then recover remaining Residual Risk costs and Related Risk costs only **‘if it satisfies certain additional criteria; (6(b)) ‘**

Whats the additional criteria? Or is just 1. BPP committee determination?

Response:

- Has the cost been incurred, by D&C Contractor as a result of, or in connection with, the BPICs, the GCLR3 BPICs or the D&C BPICs Commitments for the Stage 3 Activities in accordance with this deed;
- the method of calculating D&C Contractor's entitlement to claim reimbursement
- the evidence which must be submitted by D&C Contractor with each BPIC Statement in respect of each Reimbursable Cost; and

In addition to the criteria above and in determining this the BPP committee would on a case by case basis consider:

- The general BPIC guiding Principles including
 - ensuring all transactions are transparent and ensuring that there are no costs for risks assumed in the Contract Price (as defined in the D&C Contract) as at Stage 3 Financial Close.
 - D&C Contractor acknowledges that the Impact Assessment indicates the overall potential time and cost impacts of the BPICs and the GCLR3 BPICs for the Stage 3 Activities as at the date of the Impact Assessment
- Is there sufficient evidence to link the claim to being caused by BPIC or was there other reasons. In essence BPIC was an uplift in labour rates, additional working conditions, extra training requirements. A verbal statement from D&C that claims sub-contractors did not want to participate or priced higher due to BPIC is not evidence. There is no evidence to demonstrate the scope that was tendered was the same as the BPIC price claimed.
- If this was a result of a risk borne by D&C at the time of Tender? For example was the time, cost, scope, quantity, method or approach to delivery under estimated at the time of tender.
- What factors led or contributed to the cost. Was the design incorrect, was the procurement process flawed, were the constructability assumptions incorrect, was their re-work involved.
- Could it have been mitigated? Was the additional cost a result of the D&C actions or lack of action which therefore could have been avoided or mitigated

by alternative actions.

- The RCM and has very definitive descriptions and prices allocated to each residual and related Risk. They were well defined items in the RCM.
- Therefore on the basis that the JH tender assumptions (scope, hours and Sub-contractor Prices) were correct the project would be completed on 17 July 2025 and cost \$141M in BPIC premium above the lump sum.
- Should the Project take until 1 October 2025, the residual and Related risks would have been realised and it would cost a total of \$174M in BPIC premium. This is all costed in the RCM using the Tendered labour hours and factors for disruption. All of these items were contemplated and prices at Financial close.
- The only reason Residual and related risks existed is the because the State did not accept the full extent of BPIC impact (time and cost) applied to the original tender so we split the difference (of costs) from 17 July 2025 to 1 October into Residual and related costs as listed in the RCM.

(d) **Other BPIC Costs**, are recoverable only if there is a **BPP Committee determination** that each cost is an additional cost which “has been or will be incurred ... as a result of, or in connection with, the [BPICs]”, is not a Target BPICs Cost, Residual Risk or Related Risk (refer 3(a) – 3(c)) below, **AND was not foreseen or anticipated by JH as at Financial Close, AND could not have been reasonably foreseen or anticipated as at Financial Close by “a party experienced and competent in the delivery of works and services similar to the Stage 3 Works or the Stage 3 Activities (as applicable)”**. As such it is by no means a broad indemnity or catch-all provision for recovery of compensation for supposed BPIC costs. It is expressly limited by these conditions

‘only if it satisfies more onerous set of additional criteria (6(c))’

whats the additional criteria? Or it is just 1. BPP committee determination? 2. Not foreseen or reasonably foreseen/ anticipated?

Response:

In addition to all the criteria listed above the “other Cost” can not be target, residual or related costs. And could not have been reasonably foreseen or anticipated as at Financial Close by “a party experienced and competent in the delivery of works and services similar to the Stage 3 Works or the Stage 3 Activities. Given the depth and detail (similar to any other tender process) of the impact assessment process and given the State paid JH \$1.2M to estimate the impacts of BPIC most of the scenarios were contemplated in the RCM and Sch 21 Ann A. In fact the re-baselining process – pre-financial close anticipated and compensated them for these impacts expected at the time.

The question remains – were the impacts truly related to BPIC as it relates to increase labour costs, modified working conditions and extra training requirements. Noting that JH had full control over the negotiation of the Project EA and were fully aware of the conditions they were negotiating.

Categories noted in paragraph (a) – (c) must claimed in accord with the “Reimbursable Cost Schedule” (RCS) in Ann A to Sch 33, which is divided up into **claim categories, and further into claim subcategories with corresponding codes**. **JH has allocated the majority of the sub-claims to these sub-categories1.**

What’s an example of these subcategories?

Response:

Direct Labour

- ∇ Hours in excess of the Target Cost. (State Note: that are not already the risk of D&C contractor or due to D&C delay or re-work)
- ∇ Additional Roles & training requirements

JM-19

- ∇ *Impairment Policy Implementation*
- ∇ *Exceedance of 4 days more than the allowance for heat delays*
- ∇ *Productivity losses for certain packages (drainage, earthworks, pavements, Heavy Lifts)*

Sub-Contractors

- *Alstom rail system impacts*
- *Subbies and supply chain that do not have agreements in line with BPIC choosing not to participate limited to certain packages listed. (State Note: it must be proven and evidenced that it was due to BPIC.)*
- *Delivery Disruption by Supplier Claims for Concrete, precast, disposal and diesel supply.*

Staff

- *Additional roles the State did not agree to at FC. Listed in the schedule but not limited to Contract Admin, procurement, Nurse, Superintendent, safety advisor, area manager, supervisors.*
- *Excessive staff turnover,*

Other costs

- *The only other cost listed was the tender related costs JH incurred. (\$1.24M)*

Were (2) On-Costs of 4.02%; (3) Margin of 10.5%; and (4) an adjustment for 'risk' anticipated to apply to within the BPICs reimbursement regime?

Response:

Yes, They are applied in the RCM and administered by the IE. So for every BPIC Premium dollar paid to D&C by the State they receive 14.52%. This is factored into the Target cost of \$141M. This is to cover Back guarantees, Portable Long Service leave, Safety, defect rectification, Unallocated risk Contingency, Business Unit project Support, Estimating / Budget Uncertainty and is as per the % applied in the original D&C Tender.

In addition if a Subcontractor is used instead of Direct JH Labour D&C are paid a 25% margin for every BPIC premium dollar above the tendered rate. This is to allow for the additional cost of administration and other Overheads. It was designed to give JH the ability to self-perform or subcontract work without asking to vary from the Tender assumption.

Paul Noonan

Project Director (Gold Coast Light Rail) | South Coast Region

Program Delivery and Operations Branch | Infrastructure Management and Delivery Division

Department of Transport and Main Roads



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From: Julie Mitchell <



JM-19

Sent: Thursday, June 6, 2024 7:14 PM

To: Paul D Noonan [REDACTED]

Subject: RE: BPIC Claim Explanation

Sorry there are 4 questions – I didn't put the second last one in blue

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads

[REDACTED]

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From: Paul D Noonan <[REDACTED]>

Sent: Thursday, June 6, 2024 6:53 PM

To: Julie Mitchell [REDACTED]

Subject: Re: BPIC Claim Explanation

Btw. I have confirmed Patrick O'Shea KC today to provide counsel advice on BPIC. Will be briefing him next week. Will see if it's possible for you to join.

Paul Noonan

Project Director

Gold Coast Light Rail Stage 3

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From: Julie Mitchell [REDACTED]

Sent: Thursday, June 6, 2024 6:49:33 PM

To: Paul D Noonan [REDACTED]

Subject: RE: BPIC Claim Explanation

Thanks Paul

3 questions in blue below

So if I summarise.

(a) Target BPICs Costs, which are assumed to be causally connected to BPICs but can only be recovered up to a limit of \$150 million; -

most easy to recover (a) and (b) — but only up to the \$150 million limit;

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(c) Related Risk costs, which can be recovered only if the **BPP Committee determines** that each cost **"has been or will be incurred, mobilised or otherwise engaged ... as a result of, or in connection with, the [BPICs]"; and**

Then recover remaining Residual Risk costs and Related Risk costs only **'if it satisfies certain additional criteria; (6(b))'**

Whats the additional criteria? Or is just 1. BPP committee determination?

(d) Other BPIC Costs, are recoverable only if there is a BPP Committee determination that each cost is an additional cost which "has been or will be incurred ... as a result of, or in connection with, the [BPICs]", is not a Target BPICs Cost, Residual Risk or Related Risk (refer 3(a) – 3(c)) below, AND was not foreseen or anticipated by JH as at Financial Close, AND could not have been reasonably foreseen or anticipated as at Financial Close by "a party experienced and competent in the delivery of works and services similar to the Stage 3 Works or the Stage 3 Activities (as applicable)". As such it is by no means a broad indemnity or catch-all provision for recovery of compensation for supposed BPIC costs. It is expressly limited by these conditions

'only if it satisfies more onerous set of additional criteria (6(c))'

whats the additional criteria? Or is just 1. BPP committee determination? 2. Not foreseen or reasonably foreseen/ anticipated?

Categories noted in paragraph (a) – (c) must claimed in accord with the "Reimbursable Cost Schedule" (RCS) in Ann A to Sch 33, which is divided up into claim categories, and further into claim subcategories with corresponding codes. JH has allocated the majority of the sub-claims to these sub-categories1.

What's an example of these subcategories?

Were (2) On-Costs of 4.02%; (3) Margin of 10.5%; and (4) an adjustment for 'risk' anticipated to apply to within the BPICs reimbursement regime?

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng

MBA MEM GAICD

Deputy Director-General

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From: Paul D Noonan

Sent: Thursday, June 6, 2024 3:37 PM

To: Julie Mitchell

Subject: BPIC Claim Explanation

Hi Julie ,

Some contextual notes on the claim from John W and JH of unlimited liability for BPIC under 'Other Costs'. It is complex but the liability is certainly not unlimited.

Regards,

Paul Noonan

Project Director

Gold Coast Light Rail Stage 3



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From: Balmer, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EA016DB91D264730ADE154D9DE91E9AB-DAVID.BALME]
Sent: Mon 03/07/2023 1:48:20 PM (UTC+10:00)
To: 'Julie Mitchell' [REDACTED]
Subject: EXT: RE: Comparison

Julie

Sorry about the delay and different narratives in the below response -> day job got in the way and the following email is a product of a handful of different writing timeslots cobbled together....

Our starting document for the negotiations held with Building Trades Group (BTG) and AWU was different to the BPIC Guidance; we tabled a document that meet's BPIC's intent that was very aligned to BAU EBA's used for road construction over billions of dollars' worth of projects delivered over the last couple of decades. The BPIC Guidance from our perspective contained too many terms, conditions and structural mechanisms that have never been seen before in the infrastructure sector and suffered a lack of application and practicality. The BPIC Guidance is fundamentally for the commercial building sector as opposed to that seen in civil construction.

We had DTMR's team review our EBA **before** we started the parallel negotiations so to confirm it met BPIC's intent. This was done for a range of reasons including:

- With Coomera being a Collaborative Partnership Agreement with the DTMR, and the State equally having outturn cost and time risk as a product, collaborating with our partner in the first instance around this key ingredient against a backdrop of the BPIC Policy is 100% consistent with the intent of the agreement. Business collaboration is fundamentally ensuring both parties secure their targeted outcomes concurrently which cannot happen if the actions of one places prejudice on the entitlements of the other.
- As the Principal Contractor/Employer we insisted that this review was done in isolation and without reference to any other party. This was to ensure that we would be bargaining autonomously and in good faith with the representatives of our yet to be employed civil workforce.
- As discussed, industry has never been proved with clarity around which industry practises had been deemed unacceptable such that they required BPIC intervention. As such reviewing of our proposed EBA was seen as an opportunity for feedback to be given such that the Coomera Connector Project didn't go down the wrong path.

Only after the DDG chaired meeting was held with the interested Unions was our EBA starting point document provided to both the AWU and BTG. Both parties openly engaged in the negotiations. When we talked about a few Fridays ago around points of contention, whilst there are specific clauses, more broadly fundamental differences are harboured in the philosophical approach the BTG want to take. Many of the BTG "mandatory" mechanisms erode the enterprise controls we as the Principal Contractor and subsequently our Supply and Subcontractor chain currently rely upon. Had there been a deeper understanding of the feedback being provided by the industry, with a focus on key driver mechanisms and how these mechanisms that are effectively and respectfully transacted between an employer and its employees, these fundamental differences would have been visible up front.

What is meant by the concept of eroded enterprise control; I believe a good example of this can be seen on the distressed Light Rail Stage 3. A specific example on this project I am aware of is the

impairments around limited local market interest, ultimate selection and then the use of Traffic Control. Multiple this by the “requirement” for the rates of pay for this common use service and the tax payer now has to foot the bill for a significant cost increase compared to previous market pricing with no likelihood of any productivity gains.....

We negotiated in parallel, and with knowledge of the BTU, with the AWU. These negotiations were all in good faith; equal to that held with the BTU. The AWU didn’t see the need to bend as you described as the industrial agreement philosophies captured in the EBA we offered aligned with their view on what Best Practise looks like in the infrastructure/civil space.

We also saw it as best for project to have an agreement that the AWU were prepared to sign as they are the majority coverage union who, under the laws of the land, need to a party to a Greenfield Agreement which is what this is. I think what occurred around Light Rail is a good insight into providing reinforcement to this aspect.

Big picture elements of the BPIC Guidance, noting the BTU realistically did not want to negotiate anything but that document based upon them seeing they had reach terms with the Government, that became impasses included:

- Hot Weather provisions (made no sense – we address intent through our safety protocols)
- Fitness for Work (lacked directness and practicality – concerned that)
- RDO Calendar and process for adjustments (would have added significant time and cost with no value to employee or State)
- Inclusion of worker classifications only for the **Civil Workers** we intended to employ (CW’s)
- Subcontractor packaging referral process (was not acceptable)
- Penalty rates being Double time straight up as opposed to 1 ½ time aligned with the Modern Awards
- Having allowances rolled into hourly rates effectively making them All Purpose for all classifications; then attracting penalty rate application (e.g. Tool Allowance).

Some of the unintended consequences to date and into the future:

- With the Qld Government focus being to optimise local content; significant shifts away from civil sector BAU EBA structures and parties is seen as a risk by industry and supply chain. This risk manifests itself into a reduction in local content. This has been seen in Townsville, Cairns and Gatton on projects where other BPICs have been applied. Local businesses that service Councils, Domestic and Private sector clients have no interest to shift their operating business’s to new rates and T&C’s to suit a single project and thus withdraw interest. Hearsay has it this a reality on Light Rail as well.
- The CFMEU have clearly started that once they have relationships formed for BPIC projects that they will leverage these relationships to further their agenda of control. Stated alternatively, John Holland was threatened by the CFMEU that if they didn’t do the deal on Gold Coast Light rail that their building business and projects would suffer. This coercive behaviour and potential holding to ransom of Queensland Government projects, whilst inappropriate, is highly likely to be a key strategy in the future. Stating the obvious; it is not even close to what a business operating in Queensland would see as a best practice behaviour.
- Government resetting the market price for labour, and then bidding against itself! BPIC’s -> Public Works was the first, then Transport, Water in the pipeline then Renewables. In the civil infrastructure space these initiatives are all impacting the broader market and are not isolated to a project. With Borumba Pumped Hydro getting more momentum AND if the Renewables BPIC gets endorsed (which has staggering increases on top of Transport BPIC) the Transport sector will be quickly stripped of resources OR having to increase payments to keep the projects on track.

Upon reflection and in summary there were three fundamental problems from which all other problems are flowing.

1. Civil construction is fundamentally different to commercial construction. There was a degree of groupthink that the operating model in commercial could be replicated in civil, a space heavily influenced by the Modern Award. The Employers and the AWU all know this.
2. There was no source of truth on how to implement BPIC. With hindsight I have some sympathy for the BTG, they were engaged by a group other than the ultimate employers and were clearly promised something by the government that was unable to be delivered. Equally, we were told something different to the BTG. In short, the rules of engagement were, at best not clear, at worst deliberately changed according to the audience. The best example is the 'intent' of BPIC; the unions are strongly of the view that the provided BPIC (negotiated by other than the genuine employers) would be cut and pasted into an EBA. Industry looked at the policy, still unclear about what industry practises needed an intervention, and assessed what we needed to implement the meet the policies *intent* within our BAU frameworks.
3. A lack of genuine consultation with industry, there is so much in BPIC that industry supports, apprenticeships & traineeships, First Nations, Family Violence, secure employment to name a few. So instead of seeking consensus where possible it was direction delivered largely by the CFMEU.

Our approach for a Coomera Connector EBA that was best for delivering a project on time and on budget for the QLD tax payers was the goal. It has made us unpopular with the CFMEU and our businesses are now being targeted. However when you contrast the delivery on Coomera Connector with the approach John Holland's light rail, I believe that our approach has been vindicated.

Regards,



WWW.ACCIONA.COM.AU

David Balmer

Regional Manager

ACCIONA Construction

ACCIONA



ACCIONA values and promotes diversity and acknowledges the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respects to their Elders past, present and emerging and extend that respect to all First Nations people of Australia.

From: Julie Mitchell

Sent: Wednesday, 14 June 2023 5:00 PM

To: Balmer, David <[REDACTED]>

Subject: EXT: RE: Comparison

Thanks very much

also you were going to send me a quick list of contentious clauses in BPICs there are a particular issue for yourselves that AWU are prepared to bend on

Julie Mitchell PSM

BEng RPEQ MIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads

[REDACTED]

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From: Sally Z Stannard [REDACTED]
Sent: Fri 28/07/2023 12:51:57 AM (UTC)
To: Julie Mitchell [REDACTED]; Deanne M Hawkswood [REDACTED]
Cc: Melinda Pugh [REDACTED]; Tracy A O'Bryan [REDACTED]; Anne E Moffat [REDACTED]
Subject: RE: Urgent and Confidential - site access WHS info

Appreciate the update and the thinking.

I have a meeting with Rachel Hunter today and if possible can we have a starting view by then please.

Julie - you and Dee may need to discuss offline.

Kind regards

Sally Stannard
Acting Director-General
Department of Transport and Main Roads

[REDACTED]

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From: Julie Mitchell [REDACTED] >
Sent: Friday, 28 July 2023 10:49 AM
To: Deanne M Hawkswood <[REDACTED]>; Sally Z Stannard <[REDACTED]>; Anne E Moffat <[REDACTED]>; Tracy A O'Bryan <[REDACTED]>
Cc: Melinda Pugh <[REDACTED]>
Subject: RE: Urgent and Confidential - site access WHS info

Dee

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Happy for the reason for access to be broader than the Act (if this is best practice) but I do think the permit is vital.

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Of course if contractors find that CFMEU have majority coverage and they do a EBA with them then they can agree to this increased access in the EBA.

But most of our contractors are doing EBAs with AWU so this broader remit in the prequal seem inappropriate.

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
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Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: Deanne M Hawkswood >

Sent: Friday, 28 July 2023 10:02 AM

To: Sally Z Stannard >; Anne E Moffat

Julie Mitchell >; Tracy A O'Bryan

>

Cc: Melinda Pugh <

Subject: Urgent and Confidential - site access WHS info

Importance: High

Cabinet in Confidence

Good morning

Not sharing with all from our meeting based on the content below.

Melinda shared the clause in the current renewables BPIC and looked at the GCLR3 greenfield document – I also looked at Building BPIC and confirm all 3 are aligned with providing a '*standing invitation for unions reps to attend site to assist with all matters relating to health and safety.*' No permit is required.

I spoke to Ryan earlier this morning regarding the above to get a better understanding and potential impacts. Comments below:

- Regarding the standing invitation for unions, this is also somewhat set at the beginning of the section and provides the unions with a binding right to have access. Apparently this was tested recently on Centenary Bridge with a union rep attending site regarding a matter. When asked what the matter was – 'everything' and when asked who he was representing he did not disclose. WHS Rep called out and it was resolved (union rep left).
- This is step up from what is in the Unions pattern agreement (or framework agreements).
- As most CFMEU people have lost their permit, this clause allows them onsite despite their poor performance. ETU don't have this issue as they have their permits.
- He was less concerned about the clause – a higher expectation for worker safety and having a good union delegate on site will be important to make it work.
- He attended 2 meetings earlier this week with Min deBrenni – the second meeting included all five unions (AWU, ETU, CFMEU, AMWU and PPTU) on renewables BPIC. The big item discussed was how to bring the BPIC to life and it was discussed/agreed that **all unions must be on the BPIC and resultant industrial agreement** that is developed by the contractor delivering the particular project. This makes it a mega BPIC and apparently a 5 union deal has never happened. This is believed to be the governments position and CFMEU was quite buoyed by the outcome.
- This will make application difficult – all contractors will need to have a 5 union deal to work on a major govt project even they've never dealt with that union previously.

Regarding Water – he is focusing in each step and working through it (he said if he looks too far ahead with the above playing through, it is more challenging). The structure for Water is PART 1 – Model clause and union agnostic, PART 2 – union specific (ETU, AMWU, AWU and so on) across the five unions.

Regarding productive time during delivery he noted other clauses in Renewables that have notable impact:

- Stop work meeting for 2 hrs – limited to one per shift. Approximately a 25% impact on productive working hours. He thought this might be a claim by the unions that could be conceded, apparently not for the BTG (they are sticking to it) but the AWU are not pushing it. Min deBrenni pushed back hard on this, but it is still there.
- All toolbox meetings the union has right attend and must have one months notice.



Dee

Deanne Hawkswood
Chief Procurement Officer
Finance & Procurement Branch
Department of Transport and Main Roads



www.tmr.qld.gov.au

From: Julie Mitchell [REDACTED]
Sent: Fri 28/07/2023 1:33:55 AM (UTC)
To: Deanne M Hawkswood [REDACTED]; Sally Z
Stannard [REDACTED]; Anne E
Moffat [REDACTED]; Tracy A
O'Bryan [REDACTED]
Cc: Melinda Pugh [REDACTED]
Subject: RE: Urgent and Confidential - site access WHS info

Further to our conversation on Tuesday, please see below me personal feedback regarding the recent BPP pre-qualification document proposed by TMR. I note that I am not an IR lawyer and understand that the intent and the written word (or the interpretation of such) may be often misaligned. Specifically, my concerns relate to TMR's requirement for contractors to adopt the "Safety issues or incident procedure" as outlined in the document.

The concerns

1. Part A of TMR's safety procedure significantly changes the entitlements a person has when entering under s81(3). Under the safety act, a person entering under s81(3) is entitled to "attend discussions to assist in resolving the issue". This procedure would vary that and give any person entering under s81(3) the right to do essentially everything that a valid permit holder can do under s118 of the safety act. This is of concern as section 81(3) is often used for nefarious reasons by union officials who have lost their permits for breaching industrial laws (more information provided on this later).
2. Part B of TMR's safety procedure allows the parties to the issue, or their representatives, to commence the procedure by simply telling the contractor there is an issue to be resolved. This change would therefore bypass s81(1), which provides that the safety issue resolution procedure only applies if "the matter is not resolved after discussion between the parties to the issue".

Permit system

The rules that govern permits for union officials to enter site are a mash of federal and state laws. Central to it is that someone who enters site is a "fit and proper person". If someone has lost their permit it means that a judge has found that they are not 'fit and proper', basically their behaviour, on multiple occasions, has been so poor that they can't be trusted to follow the rules when they come onto site.

I would be cautious about entering into a system that circumvents the decision of a judge and then asking contractors to implement that system.

We have had a lot of experience with people coming onto site who have been found, by a court, to be unfit and improper to enter site yet try to use s80 & 81. For example, they turned up to site unannounced and told us there was a safety issue under 80 so were going on site, however, they refused to tell us;

- What the safety issue was;
- Where the safety issue is;
- How we could resolve the safety issue; and
- Which workgroup was impacted.

It's really difficult, if not impossible, for us to do what ss 80 and 81 require, which is to make reasonable efforts to achieve a timely, final and effective resolution if we don't know what the issue is. If this occurred, would we be in breach of the pre-qual? We have the video footage if

it helps to convey how difficult it is.

We completely understand that some employees may want to remain anonymous and the best way to do that is via a representative. However, simply saying “there’s an issue” and nothing more is illogical.

In short, more often than not s80 and 81 are used to circumvent the consequences of the decision of a court and are used for fishing expeditions.

What this means in reality

In reality, section 81 is the alternate method for a union representative to access site. This has typically been utilised by union representatives that have lost their permit and have no other right to legally be present on site. The process effectively is that the unpermitted representative states that there has been an anonymous complaint about a safety issue, and they are entering the site under s81(3) as “any other person” and not a “union official”.

The PCBU typically then asks who and/or where the issue is and the union representative refuses to provide details of the issue beyond “access egress” or “plant and pedestrian interaction”. The union representative will also refuse to advise the name of the complainant “to protect the anonymity of the individual that they represent”, the PCBU then is confronted with the union representative advising that there is a “dispute” which there they have no details and subsequently cannot resolve.

There are very few viable options at this point. If the PCBU has a procedure stating that there is not a dispute until details are known, then technically the union has to advise of some details to gain access to the site.

Technically, the union representative cannot maintain the anonymity of who they represent if they are not a permit holder, and cannot gain access to the site if they are not a permit holder under the Fair Work Act. The ruling *Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union (The Bruce Highway Caloundra to Sunshine Upgrade Case) (No 2) [2019] FCA 1737* confirmed this. This was appealed to the High Court, which rejected the CFMMEU’s application. In essence, it was held that s81(3) of the Fair Work Act is State or Territory OHS right under s.497 of the Fair Work Act. In other words, to enter a site under the WH&S Act a union official must hold and show a current permit. To get around this, the officials that lost their permits now claim to be entering under s81(3) as “any other person” and not a “union official”.

The reality of Part A and B is that s81 is only ever used in my experience by Union Representatives that have lost their permit (ie, have been deemed not fit and proper for the Fair Work Commission). In the interest of the health and well-being of people on site, particularly the psychosocial hazards of having someone on-site with a history of improper conduct and/or behaviour, why would we be giving additional powers to these people?

As an example of this, one of the CFMMEU members who was refused renewal of his permit in June 22. Prior to him losing his permit he visited our sites 14 times between Feb 2021 and July 2022 under s117, since then he has illegally been on site 3 times without any notification and a further 7 times under s81. While he had his permit there was 2 issues bought up which resulted in WHS requests to rectify trivial items (crossing at a pram ramp and water bottle on ground) and following the loss of his permit, none of these visits have resulted in any improvements from WHS, ie have been nothing more than continued disruptive behaviour. The most recent visit was yesterday 28.05.23 at Centenary where he entered under s81.3 stating the issues was “on site, the entire site”. These are neither productive or proactive behaviours being displayed, are not beneficial to the department, employer or employee and are not resulting in a safer environment.

Potential legal concerns

I see TMR’s pre-qual process presenting a real risk of adverse action under the Fair Work

Act, a contractor is exercising their workplace right, and they miss out on the contract and the profit that comes with it. The real issue with adverse action is that there is a reverse onus of proof and there is also no cap on damages.

Conclusion

In essence, the CFMMEU is now using the supposed 'loophole' of s81(3) in an attempt to bypass the right-of-entry scheme and the requirement to be a fit and proper person to access site. TMR's pre-qual requirement that requires contractors to adopt their safety issue resolution procedure would just further the CFMMEU's claim by adopting a safety dispute resolution procedure that endorses and further encourages practices that fly in the face of established and important right of entry laws, thereby further increasing the angst and stress levels of staff and exposing the system to psychosocial consequences.

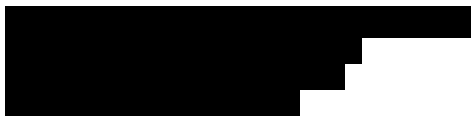
Julie Mitchell PSM

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Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: Julie Mitchell

Sent: Friday, 28 July 2023 10:49 AM

To: Deanne M Hawkswood [REDACTED]; Sally Z Stannard

[REDACTED] >; Anne E Moffat <[REDACTED]>; Tracy A O'Bryan
[REDACTED] u>

Cc: Melinda Pugh [REDACTED] >

Subject: RE: Urgent and Confidential - site access WHS info

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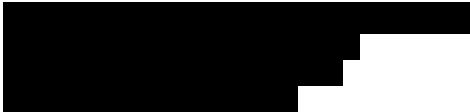
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Julie Mitchell PSM
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From: Deanne M Hawkswood <[REDACTED]>

Sent: Friday, 28 July 2023 10:02 AM

To: Sally Z Stannard <[REDACTED]>; Anne E Moffat
<[REDACTED]>; Julie Mitchell <[REDACTED]>; Tracy A O'Bryan
<[REDACTED]>

Cc: Melinda Pugh <[REDACTED]>

Subject: Urgent and Confidential - site access WHS info

Importance: High

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Dee

Deanne Hawkswood
Chief Procurement Officer
Finance & Procurement Branch
Department of Transport and Main Roads



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JM-23

Message

From: Julie Mitchell [REDACTED]
Sent: 05/10/2023 23:14:02
To: Sally Z Stannard [REDACTED]
CC: Deanne M Hawkswood [REDACTED]; Peter A Papantoniou [REDACTED]; Anne E Moffat [REDACTED]
Subject: FW: Rockhampton Ring Road Update
Attachments: CFMMEU Rockhampton Ring Road Letter - 20230929.pdf; RRR Draft EA - 29092023 - AFHJV.pdf

Sally as discussed

Both JV Partners, "BMD Constructions & Bielby Holdings" and "Acciona Construction & Fulton Hogan Construction" have written to both the CFMEU (Michael Ravbar) and AWU (Stacey Schinnerl) regarding proposed Greenfield Agreements for the Rockhampton Ring Road Projects (North Package 1 and South Package 2). Both letters attached for your records.

Key Summary:

- Notification indicated the applicable TMR BPIC Model is the \$100m to \$300mil range.
- Proposal for Greenfields Agreements to be made to cover their direct workforce.
- Letter to CFMEU was to advise that AWU has the majority coverage of the proposed Greenfield Agreements, but that the consortiums are open to any objection that CFMEU wishes to put forward regarding majority coverage with time frame of 5 October.
- Letter to AWU was to advise that the consortiums accept AWU's eligibility to achieve majority coverage of the project and further contact would be made with the AWU offices this week.

Next Steps for project:

- It is likely that the AWU will contact both JV's and commence negotiations for the two agreements.
- If the CFMEU challenges the 'coverage claim', both JV partners would need to consider the materials filed by the CFMEU and respond accordingly
- There is some urgency as need the local employment benefits of the project

We understand Michael Ravbar contacted Logan Timms at Department of Energy and Public works today suggesting that you had misled him regarding release of projects to tender.

This is not the case as these projects were released to tender many months ago , JVs selected and now finalising their EBA's

Dee clarified this with Logan (and we think got back to Michael Ravbar)
 Jade rang Deanne and advised (in essence) that

- CFMEU should be at the table,
- that the IR consultants that the JVs are using is a dinosaur.
- don't use the coverage issue as an excuse
- why have a BPIC at all if all unions are not going to be involved
- that the government hasn't learned from Cross River rail, they will be all over Centenary and RRR (CRR will pale) and
- that all agencies, water, resources, health and so on were now on board except TMR (which is not quite true)

Key messages for you if you need to speak to Michael Ravbar.

Our team are catching up tomorrow with the JV's to see what is happening

JM-23

- The letter from the JVS didn't close the door to CFMEU and asked for them to provide their any views regarding coverage to the contrary
 - Is CFMEU proposing to response. Would appreciate a CC of that response.
- the matter of coverage is a very technical, legal and emotive question and as a department we are not in position to form a view
- [REDACTED]

Just to reiterate – the Transport BPIC currently is consistent with other BPICs and based on the CFMEU pattern agreement. It could not be made compulsory (rather than a guideline) as all projects with Greenfield EBAs have EBAs with AWU as they have coverage over the workforce. The only project that utilises the transport BPIC as written is Gold Coast light rail 3 where John Holland has used it as a brownfield agreement with existing workforce. They attempted to do a Greenfield agreement with CFMEU on this project and it failed at the Fair Work Commission with regard to coverage.

If Transport BPIC was to be made compulsory logically it seems it would have to mimic an AWU pattern agreement (whom contractors work with to get conditions flexible enough for civil projects) with pay rates for BTG unions. it could not look like the current agreement.

We are in a bit of a 'damned if you do' / 'damned if you don't' situation. If we leave the BPIC as a guideline (as currently have) we upset CFMEU and are 'different', or, if we need to change it to get something that can be agreed as mandatory with the union that has coverage (AWU) then we will really officially upset CFMEU. (as it stands civil contractors can go with either union if they can establish coverage.

TMR is different due to the union coverage issue. EPW and health only have BTG. We do not Our understanding is that we cannot insist on multi-union agreements- the unions and employers need to agree with entering into them.

It's important to remember that the bargaining framework is designed to be between the employer and the employee (and their representatives) and the government in having a role in this in procurement is interfering in a complex legal system.

Julie Mitchell PSM
 BEng RPEQ MIEAust CPEng
 MBA MEM GAICD
 Deputy Director-General
 Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: [Julie Mitchell](#)
To: [Deanne M Hawkswood](#)
Subject: meeting with CFMEU Monday - key messages are in this email to JV and slides OK
Date: Friday, 13 October 2023 11:23:30 AM
Attachments: [BPIC discussion SS to MR reviewed.pptx](#)
[image001.png](#)

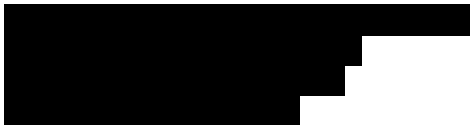
Dee

Latest slides, email and extracts from Peter Trims email below

Our advice to contractors is that:

- EA and negotiation strategy are being based on previous submissions for TMR projects. (we are advising contractors that the landscape is constantly changing and the negotiation and development of EBAs may need to change accordingly.)
- The process undertaken to create an EBA is the responsibility of the contractors. (Obviously the Best Practice Principles apply, specifically, the best practice industrial relations which considers *the approach to relationship management with employees, employee representatives and/or unions.*)
- Which unions are involved will differ depending on the scope and location of work being performed.

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
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From: Sally Z Stannard [REDACTED] >
Sent: Friday, 13 October 2023 9:54 AM
To: [REDACTED]
Cc: [REDACTED]
ryan [REDACTED]; Deanne M Hawkswood [REDACTED]; Julie Mitchell [REDACTED]; Peter A Papantoniou [REDACTED]; Peter T Trim <[REDACTED]>
Subject: Rocky Ring Road - advice to the JV

Dave

Thank you for keeping my team updated with regards to industrial instrument/s of the JV Parties for their direct employees for the Rockhampton Ring Road.

As you aware, I am also speaking directly with representatives from the Unions who have been involved in the development of the Transport BPIC.

This project presents us all with a unique opportunity to reiterate our commitment to the Best Practice Principles, especially on a project in a regional community where local business and local employment is a critical benefit.

TMR is fully committed with the endorsed **Best Practice Principles (BPP) policy objectives and outcomes** such as local buy, increased indigenous participation, the focus on trainees and apprentices, greater diversity, safety, and better secure jobs. Ensuring that we leave a positive legacy for the local community and region is another crucial element to our commitment to the BPP.

I also recognise that no two projects are the same and the path to meeting these objectives may differ. Ultimately, the department is seeking the delivery of these projects within the projected timeframes, that they demonstrate value for money and achieve the governments' policy objectives.

You have stated that your proposed industrial strategy is to enter into a Greenfield's Agreement.

Until such time as an EBA is made, it is my expectation that you ensure other unions have the opportunity to be heard.

In addition, it is my view that harmonious industrial relations does not begin and end with enterprise agreements and it is my expectation that you recognise the important and legitimate role unions play in representing their members and that you engage and consult constructively with these key stakeholders as the need arises through the project life cycle.

I will be directing the TMR project team to monitor compliance with BPP commitments at both a local and state level.

For your information, I will be sharing a copy of this email with both the AWU and the CFMEU.

Sally

Sally Stannard

Acting Director-General
Department of Transport and Main Roads



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JM-24

ROCKY RING ROAD

9 October 2023

Background

- Both JV Partners #, have written to both State Secretaries of:
 - the CFMEU (Michael Ravbar) and
 - AWU (Stacey Schinnerl)
- Both JV Partners proposing Greenfield Agreements for the Rockhampton Ring Road Projects (North Package 1 and South Package 2).
- The content (wages and conditions) of the greenfield agreements are likely to be very similar.
- AWU had written to JVs 20/9/23 indicating that they have majority coverage and that they reserve their legal rights if an agreement is entered into with another party.

"BMD Constructions & Bielby Holdings" and "Acciona Construction & Fulton Hogan Construction" on 29 September

Key Summary

- Clarified the applicable TMR BPIC is the \$100m to \$300m range (project values are approx. \$140m each).
- Proposed Greenfields Agreements to cover their direct workforce.
- Letter from JVs to CFMEU advised that AWU has advised via letter that they have majority coverage of the proposed Greenfield Agreements,
 - but that the JVs are open to any objection that CFMEU wishes to put forward regarding majority coverage
- Letter from JVs to AWU advised that the JVs acknowledge AWU's eligibility to achieve majority coverage of the project workforce



29 September 2023

Michael Ravbar,
State Secretary
Construction, Forestry, Maritime, Mining and Energy Union (Queensland Branch)
16 Campbell Street
Bowen Hills 4006 QLD

Dear Michael,

I am writing to you in respect of the Rockhampton Ring Road Projects ('the Projects').

Drayton's Workplace Consulting has been appointed to act on behalf of the two (2) Consortiums proposed for the construction of the two (2) distinct and separate Project packages, in respect of the negotiations for project agreements.

The Consortiums are comprised of the following:

1. North Package 1 - Consortium of BMD Constructions Pty Ltd and Bielby Holdings Pty Ltd;
2. South Package 1 - Consortium of Acciona Construction Australia Pty Ltd and Fulton Hogan Construction Pty Ltd.

Applicable BPIC Model

The Project as determined by the client, the Department of Transport and Main Roads (TMR) will be subject to the TMR Best Practice Industry Conditions ('BPIC'). The Projects value for the purposes of BPIC is within the \$100m to \$300m range of the TMR BPIC Model.

The Consortiums propose that the applicable TMR BPIC model is the \$100m to \$300m range.

Enterprise Agreement Coverage

The Consortiums propose to make Greenfields agreements in terms of the *Fair Work Act 2009* (Cth) to cover the direct civil construction workforces for the respective Projects.

The respective Consortiums are in receipt of correspondence from the AWU regarding eligibility for coverage in relation to the respective Projects. The correspondence asserts the AWU's eligibility for coverage in relation to civil construction works to achieve majority coverage of the Projects for the purposes of a Greenfields agreement in terms of the *Fair Work Act 2009* (Cth).

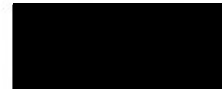
Given the projected civil construction works of the Projects, the Consortiums are not in a position to object to the AWU claims in this instance, however they are open to the CFMMEU providing any material position to the contrary.



In the interim, the Consortiums consider it appropriate to commence engagement with the AWU to progress a Greenfields Agreement for the Projects, a position consistent with the anticipated direct civil construction workforces for the Projects and other recent BPIC projects in the civil construction industry in QLD.

Notwithstanding the commencement of discussions with the AWU, should the CFMMEU wish to engage with the Consortiums further in relation to the Projects I would welcome your response by 5th October 2023.

Yours sincerely,



Greg Power



Queensland and Northern Territory
Level 13 333 Adelaide St, Brisbane QLD 4000
1800 298 753 ABN: 54 942 536 069 (AWUEQ)
secretary@awu.org.au ABN: 28 853 022 982 (AWU)
awu.net.au/qld

20th September 2023

Adam Edwards & Rob Pickard
Managing Director General Manager - QLD & NT
Bleby BMD Constructions

David Balmer & David Ide
Regional Manager – QLD Construction Manager - Northern Region
ACCIONA Construction Fulton Hogan Construction

RE: Rockhampton Ring Road (North Package 1 & South Package 1) Projects

Dear all,

Firstly, congratulations to your respective JV's on being awarded the contracts for this vital project in the Central Queensland region.

Whilst the AWU has dealt with your organisation/s on many occasions over the years, it's probably prudent to remind you of our coverage so that we may press ahead with discussions to cover off the industrial arrangements for the project.

Recent civil construction project awards, including Coomera Connector (North), Coomera Connector (Central) and Centenary Bridge Upgrade Projects have involved positive industrial outcomes between the respective Contractors and the AWU, including project-specific greenfields enterprise agreements with the AWU.

In circumstances where the AWU eligibility rules cover "every bona fide worker employed in or in connection with the industries or callings of the construction, repair maintenance or demolition of civil and/or mechanical engineering projects, there is no dispute that the AWU is the principal civil construction union in Queensland.

To make it very clear, I attach (Appendix A) key excerpts of the eligibility rules of the AWU on both civil construction and building construction sites. Accordingly, construction of the Rockhampton Ring Road (North Package 1 & South Package 1) Projects falls within the industrial coverage of workers who the AWU have the right to represent.

Section 187(5) of the *Fair Work Act (2009)* "FW Act" provides that only a union that has the capacity to represent the industrial interests of the majority of employees on a project can enter into a greenfields agreement.

The effect of s 187(5) of the FW Act is that it is only the AWU who can, as a single union, be covered by a civil construction greenfields agreement. This is because the AWU is the only union

Stacey Schinnerl, Secretary
The Australian Workers' Union of Employees, Queensland

Stacey Schinnerl, Branch Secretary
The Australian Workers' Union, Queensland Branch

who is entitled to represent the industrial interests of a majority of the employees who will be covered by such an agreement, in relation to work to be performed under the agreement.

Put very plainly, the AWU has the capacity to represent every worker that could feasibly be employed on the Rockhampton Ring Road project, and it is on this basis that we seek to commence discussions with you for a civil scope greenfields enterprise agreement.

As always, the AWU stands ready to support the Palaszczuk Labor Government's civil infrastructure projects to deliver benefits for Queensland communities.

Please contact Assistant Secretary Mark Raguse to commence discussions at your earliest convenience.

Yours sincerely,

STACEY SCHINNERL
BRANCH SECRETARY

cc. Julie Mitchell, Deputy Director-General (Infrastructure Management and Delivery),
Department of Transport and Main Roads

Peter Trim, Project Director (Rockhampton Ring Road), Department of Transport and
Main Roads - Central Queensland Region

Deanne Hawkswood, Chief Procurement Officer, Department of Transport and Main
Roads

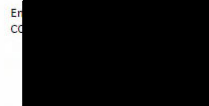
Next Steps for project:

- AWU and both JV's commencing negotiations for the two agreements.
- If the CFMEU challenges the 'coverage claim',
 - both JV partners would need to consider the materials filed by the CFMEU and respond accordingly
- CFMEU replied in writing to JVs (5/10/23) that
 - The 5 unions can represent all unions on site
 - negotiations should be with all 5 unions to protect freedom of association for workers
 - purported to represent all unions (including AWU) and
 - inconsistent with AWU position advised to TMR that they had adequate coverage alone
- There is some urgency as need the local employment benefits of the project in Rocky
- Project has committed to largely local labour rather than FIFO/DIDO



05 October 2023

Greg Powers
Senior Consultant
Drayton's Workplace Consulting



Dear Greg

I am writing in response to your correspondence dated 29 September 2023 concerning bargaining for Project Agreements in respect of the Rockhampton Ring Road Projects.

The CFMEU seeks to bargain in relation to these agreements not only with both Consortiums but also all Unions, a position consistent across all BPIC negotiations. For clarity the Unions I refer to are the CFMEU, ETU, AMWU, AWU and the CEPU (Plumbers Union).

As I am sure you are aware the five unions mentioned are all able to represent workers in relation to the work proposed. In fact, it has long been our position that negotiations need to include all relevant unions to appropriately ensure the freedom of association of workers is best protected.

The above position has been articulated most succinctly by Government in the "Best Practice Industry Conditions for Transport Civil Construction Projects", as published on the TMR website. Under the definition of Union you will find listed – AMWU, AWU, CEPU, CFMEU and ETU.

In any event the CFMEU looks forward to bargaining in good faith. Could you please provide the relevant particulars for the proposed bargaining meetings at your earliest convenience.

Regards



Michael Ravbar
State Secretary

entitled to represent the industrial interests of employees employed by the Employer as required. All parties to this Document shall be notified as soon as practicable after the election of a Union Delegate.

Union Representative means a member of an employee organisation entitled to represent the industrial interests of employees.

Union means the;

- AMWU;
- **AWU**;
- CEPU;
- CFMEU; and
- ETU.

Verification of Competency (VOC) means an assessment of an employee's knowledge and skills to assist in deeming staff competent to perform a task or operate plant and/or equipment.

Wage Guard is the nominated income protection insurance provider for the AMWU.

Wage Rate means the Employee's ordinary hourly rate of pay as set out in this Document.

Welcome to Country means a ceremony that is performed by indigenous Traditional Owners for people visiting their Country.

Best Practice Industry Conditions for Transport Civil Construction Projects

The Queensland Government through the Queensland Procurement Policy is committed to maximising benefits for Queenslanders by using procurement to support local jobs and businesses to drive economic, environmental and social outcomes. This includes ensuring quality, safe workplaces for people engaged on major state government projects, through the implementation of Best Practice Principles (BPPs), in accordance with guidance issued by the Department of Energy and Public Works and the Office of Industrial Relations.

For major projects of \$100 million and above and declared projects, the value for money assessment must also include application of all the following BPPs:

- Workplace health and safety systems and standards
- commitment to apprentices and trainees
- best practice industrial relations

The Department of Transport and Main Roads (TMR) fully supports the Queensland Government's priorities to improve matters such as employment conditions, safety and training opportunities for the transport civil construction industry and ensure the industry is, and remains sustainable, safe and progressive.

To assist with the Queensland Government's commitments in relation to the BPPs, including best practice industrial relations, TMR has developed a guidance document entitled the *Best Practice Industry Conditions for Transport Civil Construction Projects* dated December 2020 (Transport BPIC). In developing the Transport BPIC in consultation with stakeholders, relevant enterprise agreements, awards and legislation to the transport civil construction industry were analysed to ensure the guidance document reflects modern and progressive industrial practices for the civil construction industry. The Transport BPIC is included to assist with tendering for TMR's transport civil construction projects with a total project value of between \$100 million - \$300 million which in this circumstance, includes this Project.

The Transport BPIC is an expression of government policy as it relates to best practice industry relations for the civil construction industry. The guidance document sets standards and expectations to ensure that a workforce with optimal levels of skills and experience is attracted and retained for the life of a project's delivery and ensure that relevant stakeholders can interact in a positive, collaborative and productive way through to successful project completion.

The Transport BPIC is a guidance document and is not mandatory. Applicants and/or Tenderers can demonstrate the intent and outcomes of the Transport BPIC in any manner it chooses to nominate throughout the procurement process. TMR will give full and reasonable consideration to alternative ways of achieving the Transport BPIC. Where a particular supplier is referred to within the Transport BPIC, this entitlement or obligation relates to that supplier or any suitable equivalent which the Applicants and/or Tenderers may wish to nominate. Nothing in the Transport BPIC requires an Applicant and/or Tenderer to make any commitment that would breach any laws.

Last week - CFMEU (Michael Ravbar)

- Contacted Logan Timms at Department of Energy and Public Works mid last week suggesting that ADG TMR had misled him regarding release of BPP projects to tender as he had received notification about RRR.
 - Logan spoke to Dee for clarification who confirmed it was incorrect and this project was initially released to market in late 2021 with the TOC development commencing in April 2022
 - JVs selected and are now finalising their EBA's
- Contacted ADG last week
 - Espousing the great outcomes that BPICs is to deliver (TMR fully on board)
 - IR consultants that the JVs are using are dinosaurs
 - We have done the hard work getting an agreement everyone agreed to
 - We did a deal with them and now reneging on the deal
 - It should be a 5-union deal
 - Why have a BPIC at all if *all unions* are not going to be involved
 - TMR are the buyer and just need to insist its done – that is, don't sign a contract if they don't have the 5-union deal
 - That the government hasn't learned from Cross River rail and they will be all over Centenary and RRR (CRR will pale into) and
 - That all agencies - Water, Renewables, Health and so on were now on board except TMR (which is not quite true)

Key messages- coverage

- TMR is fully committed with the endorsed **Best Practice Principles (BPP) policy objectives and outcomes** such as local buy, increased indigenous participation, focus on trainees and apprentices and more diversity, safety and better secure jobs
- The letter from the JVs asked CFMEU to provide their views regarding **coverage** to the contrary
 - We understand that CFMEU didn't address the matter re coverage in their response.
- The BPP and Transport BPIC is union agnostic and doesn't address coverage, that is a matter for the employers, employees, the unions and the Fair Work Commission
- We realise the matter of coverage is a very technical, legal and emotive question and as a department, we are not in position to form a view

Note: JH attempted to do a 4 union Greenfield agreement (CFMEU, ETU, Plumbers and Metal) for GCLR 3, it failed at the Fair Work Commission with regard to coverage.

Key messages - what are the project needs and benefits of a 5 party EBA

- We consider a simple EBA will support local engagement in a regional setting
 - So we think it needs to be 'user friendly'.
 - A document specific to the needs of the project is preferable to a 300+pg document that has material unrelated to the project.
- The JVs have advised there are no metal workers, plumbers or electricians going to be directly employed so the EBA doesn't need to cover them.
- Possible response "This is the policy, this was the deal, the definition of unions includes all five unions"
 - Possible replies
 - You are correct the definition of unions references all five unions
 - The tender process for this project referenced the transport BPIC that is a guidance document
 - The Transport BPIC requires a tenderer to not make a commitment that would breach any laws.
 - Each project is a case-by-case pending the needs of the project
 - We can't make (force) any party (contractors or other unions) to do a multi-union deal

Key messages- TMR can't force unions to do a multi-union deal

- Letter from CFMEU advising they want to bargain and represent all 5 unions
- Have seen a letter from AWU outlining their views about coverage on this project
 - AWU has advised the JV it does not agree that it needs a joint agreement with other unions
- **TMR (I) can ask the JV to consult with all the relevant unions (CFMEU only) to cover directly employed staff and can ask AWU to consider a multi union deal**
 - However we are unable to enforce that on either the JV or the AWU
 - I can only commit to you what I can lawfully do in my role

AWU are very unlikely to agree to enter into an agreement with CFMEU and have made their position on this project and its EBA very clear

Key messages - TMR as a buyer- legal limitations under FW Act

- Advice regarding the suggested **multi-union agreement** (confirmed with legal):
 - We cannot require the contractors to have an enterprise agreement on particular terms
 - this includes which union/s parties they must deal with
 - We can ask them to, but we have no mechanism to enforce that
 - We can suggest/recommend this and acknowledge it may promote industrial harmony during procurement
 - but we can't go any further than that
 - However, we can require them to *engage* with the relevant unions
 - but we can't require them to have a multi-union agreement
- With regard to freedom of association mentioned in CFMEU letter-
 - all unions don't need to be included in an EBA as
 - under the law neither TMR nor the contractor nor another union cannot require a worker to be a member of any particular union / nor a member of any union

Advice on procurement process / tender assessment process (not for RRR but future project procurement) (confirmed with legal):

- We can favour a commitment by the tenderer to engage with multiple unions and work toward a multi-union agreement to ensure industrial harmony, but we can't ensure that. It remains a matter between the contractor and the union/s
- We can express what we are looking for and require the tenderers to address that in their tender response in future
- Their response is considered as part of the comparative evaluation process (if a multi union engagement/deal is not appropriate for the project, the tenderer can nominate that)

Transport BPIC and History

- Transport BPIC currently is consistent with other BPICs
 - based on the CFMEU pattern agreement.
- All projects with Greenfield EBAs
 - Are with AWU as they have coverage over the workforce
 - CFMEU given opportunity to participate in each, coverage wasn't relied upon to exclude them from process
- Only Gold Coast Light Rail 3 is a brownfield agreement (small number of workforce employed)
 - Negotiated by John Holland and above the GCLR3 BPIC provided by TMR
 - JH attempted to do a 4 union Greenfield agreement (CFMEU, ETU, Plumbers and Metal), it failed at the Fair Work Commission with regard to coverage and exposed TMR to negative publicity)#
- Civil industry has evolved with Transport BPIC and would likely be open to more productive consultation than previously

(see Government 'pressures' builders to deal-in CFMEU mates – 28.02.2022)

TMR is different

- Civil industry is starting from a different place to Building & Health.
 - Vertical construction is a 'closed ecosystem' all their work is the same or similar.
 - Civil industry needs to be able move between different work types to remain viable so move between mega projects, local councils and mid-tier projects.
- Union coverage has been contested for decades, so not unique to TMR, subject to High Court rules.
- We understand that we cannot insist on multi-union agreements (should not be unique to TMR)
 - We can require them to *engage* with the relevant unions, but we have no mechanism to enforce that
 - This is addressed during procurement and considered the evaluation process
- It's important to remember that the bargaining framework is designed to be between the employer and the employee (and their representatives) and the government in having a role in this in procurement is interfering in a complex legal system.
- TMR is different because our BPIC is govt approved, operational and guideline based. Shouldn't be compared with other draft BPICs that are neither approved or operational.

From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent: Tue 09/04/2024 9:19:19 AM (UTC+10:00)
To: William E Staier [REDACTED]
Cc: Sharon G Pollock [REDACTED]
Subject: FW: QMCA and TMR - short notes
Attachment: FW: BPIC Guide (QMCA and CCF)
Attachment: QMCA TMR IR.docx

Hi Will (and Sharon)

As from yesterday, could we quickly chat about these actions (I've also seen a table in another email which is attached) to give me more context? Also attached is a subsequent email from Julie with a guide for subbies developed by the industry associations.

Thanks
Dee

Deanne Hawkswood
Chief Procurement Officer
Finance & Procurement Branch
Department of Transport and Main Roads

[REDACTED]

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From: Julie Mitchell [REDACTED]
Sent: Monday, 8 April 2024 11:59 AM
To: Ann-Maree Knox [REDACTED]; Paul E Stenhouse [REDACTED]; Deanne M Hawkswood [REDACTED]
Cc: Christina M Heffner [REDACTED]; Adriana M Chilnicean [REDACTED]; Leah Rogash <[REDACTED]>; Debra A Nixon <[REDACTED]>; Andrew M Wheeler [REDACTED]
Subject: FW: QMCA and TMR - short notes

Hi all

Can we chat about these actions pls, their scope and allocate them to particular areas?

thanks

From: Julie Mitchell [REDACTED]
Sent: Thursday, March 28, 2024 4:02:28 PM
To: HERBST Alanna [REDACTED]; Adam Edwards [REDACTED]; Andrew M Wheeler [REDACTED]; Leah Rogash [REDACTED]; Debra A Nixon [REDACTED]; Adam J Williams [REDACTED]; Balmer, David [REDACTED]; Deanne M Hawkswood [REDACTED]; William E Staier [REDACTED]
[REDACTED]
Cc: Benjamin J Donovan [REDACTED]
Subject: QMCA and TMR - short notes

Thanks for meeting today

I enclose some notes.
Will catch up again once we have explored matters further.

Present

David
Adam
Alanna
Adam
William
Ben
Andrew

Categories

1. Abuse WHS legislation for access and distraction- escorting around the site (occupy senior managers)

- Industrial terrorism/ sabotage
- Geared for frustration and delay
- Make u deal with them to make it stop.
- disruption without a real safety concern-
- OIR – assistance? **TMR**
- explore with WHS more specific tighter definition of “suspected contravention”- /Dept of OIR- specific details of ‘conditions of entry’ **TMR**
- explore creating productivity commission oversees the activities of all parties and that can act when people abuse the powers- fines- **TMR**
- explore where behaviour to OIR WHS officers unacceptable

2. Physosocial-

- How do u build capability in industry with this behaviour- people leaving jobs
- Psychosocial element (high proportion of women/ diversity, needs it to be attractive)- aggressive
- Constructive and positive narrative- people we want to attract so need behaviour standards
- posters of aggressive men/ frustration of them constantly turning up of and entering rooms, taking photos entering room)-
- Explore with WHS (OIR which houses) – setting industry ground rules for behaviours/ guidelines/ expectations- obligations / breaches of expectations and enforced with financial penalties- culture std **TMR**

- They need to see their engagement is equivalent to work
- And they cant initiate actions that are contrary to the code (PCBU responsible for their behaviour on site but cant control it)

- **Dave** providing Minters presso

3. Pickets- illegal behaviour- job obstruction/ interference (legal and IR strategic response) noting use of the law after the event is very second best!!

- Testing the waters stage / legal responses may be the only way currently - but strategic and industry consistent may be useful.

- **TMR educating itself** In IR management

- Clear expectations from TMR thru questions to contractors and response

- Industry interested? **Ask CCF and Dave to get back when have more info**

4. Aggressive and physical violence (AWU event) –

- Explore requirements for evidence collection (contractors) and potential role for POLICE? **TMR**
- MOU Police and OIR - re engage w QPS- where physical, aggressive- when else **(copy of MOU?) anyone seen it? Adam W – can u see if u can find**
- personally attacked- spat on by bikies on we? **How do we address this?**

Other actions

- a. CILF- culture standard for the industry (Qld commitment ?)- about making construction industry an attractive place to be **Adam to enquire re this**
- b. AWU contribute to the conversation. **TMR to arrange**
- c. Education/ fact sheet for the supply chain- allow lower tier to engage- what's real and not real/ undermine the stories being told **(Dave to supply one previously done)**

- Understand rights and tone about whats to the govt
 - Blank page being filled up by others
 - For example, target subbies and then pressure to sign agreement
- d. same job same pay from November (legislation changed) get some advice on this as may change the above advice? **Dee/ William get this plse**
- e. Coal royal commission AE mentioned this? **Adam W– is this correct?**

Julie

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads

www.tmr.qld.gov.au

Transport and Main Roads offers flexible work arrangements for staff. I am sending this message now because it suits my working arrangements. I don't expect you to read, action or respond out of your normal work hours.

From: Balmer, David [REDACTED]
Sent: Thur 28/03/2024 4:13:08 PM (UTC+10:00)
To: Julie Mitchell [REDACTED] Andrew M
Wheeler [REDACTED]
Cc: Adam Edwards [REDACTED] 'Alanna
Herbst' [REDACTED]
Subject: BPIC Guide (QMCA and CCF)
Attachment: BPIC Guide for SubContractors ver 8 5-4-22 - Final Draft.docx
Attachment: Industry drafted BPIC working draft - V4.docx

Julie/Andrew

Please see attached 2 documents as discussed.

BPIC Guide for SubContractors -> As you can see this document is a joint QMCA and CCF advice to industry.

I believe this was the final document being 5th of April 2022.

We did go seeking DTMR support and potential endorsement/sponsorship prior to distribution and received the unexpected response discussed.

Another idea in regards to the Transport BPIC -> change the non-mandatory guidance document removing current text.

Options that exist and are readily available to replace this text include:

- **Industry drafted BPIC** -> in 2021 QMCA developed a guide that captured the intent of the industrial conditions as opposed to specific wording (see attached), OR
- fashion a second non-mandatory guidance document based on the EBA's actually being used on CCN, CCC, RRR and Centenary.

This sends a clear message to industry.

Please don't hesitate in calling if you wish to discuss.

Regards,



David Balmer

Regional Manager

ACCIONA Construction

JM-26

WWW.ACCIONA.COM.AU

ACCIONA



ACCIONA values and promotes diversity and acknowledges the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respects to their Elders past, present and emerging and extend that respect to all First Nations people of Australia.

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<http://www.accionacom.au/about-us/accionacom-australia/>



BPIC Guide for Sub Contractors & Reputable Suppliers

QMCA and the CCF and their members understand the complexities and confusion associated with the Transport BPIC. This document has been developed to assist Subcontractors to navigate these.

It is important that Subcontractors are aware of the complexities and more importantly the potential longer-term impacts of implementing Transport BPICs. The Transport BPIC policy has the real potential to drive up wage costs across the civil construction industry and, via the introduction of previously unseen terms and conditions, reduce flexibility and competitiveness of contractors and subcontractors. Whilst the State Government is applying the policy to Queensland Government projects over \$100 million (or other declared projects), the consequence could be seen industry wide. If contractors and sub-contractors implement enterprise agreements consistent with Transport BPICs, they could be in a position where they will be subject to those rates of pay and conditions across all clients as it is not possible to have multiple enterprise agreements applying to employees. This could result in either higher rates across the entire industry or sub-contractors who have Transport BPIC like agreements and consequentially pricing themselves out of non-QLD Government work.

The Transport BPIC guidance documentation would also see to enhance the 'entitlements' of Unions on projects by prescribing a number of activities where there is to be Union involvement. Where a Subcontractor implements these entitlements through an enterprise agreement, they need to be aware that these Union activities will also spread to non-QLD Government projects. QMCA and CCF strongly recommends that Sub-Contractors consider these impacts prior to making decisions about how they respond to the Transport BPIC policy.

It is the opinion of the QMCA and CCF that there are significant regulatory controls designed to ensure industrial relations are not subject to third party interference (including from the State Government). These include the Fair Work Act 2009, Building and Construction Industry (Improving Productivity) Act 2016 (BCIIP Act) and the Building Code 2016. By introducing the Transport BPIC, the State Government are placing Contractors and Sub Contractors in a position that may result in them inadvertently breaching these regulatory controls.

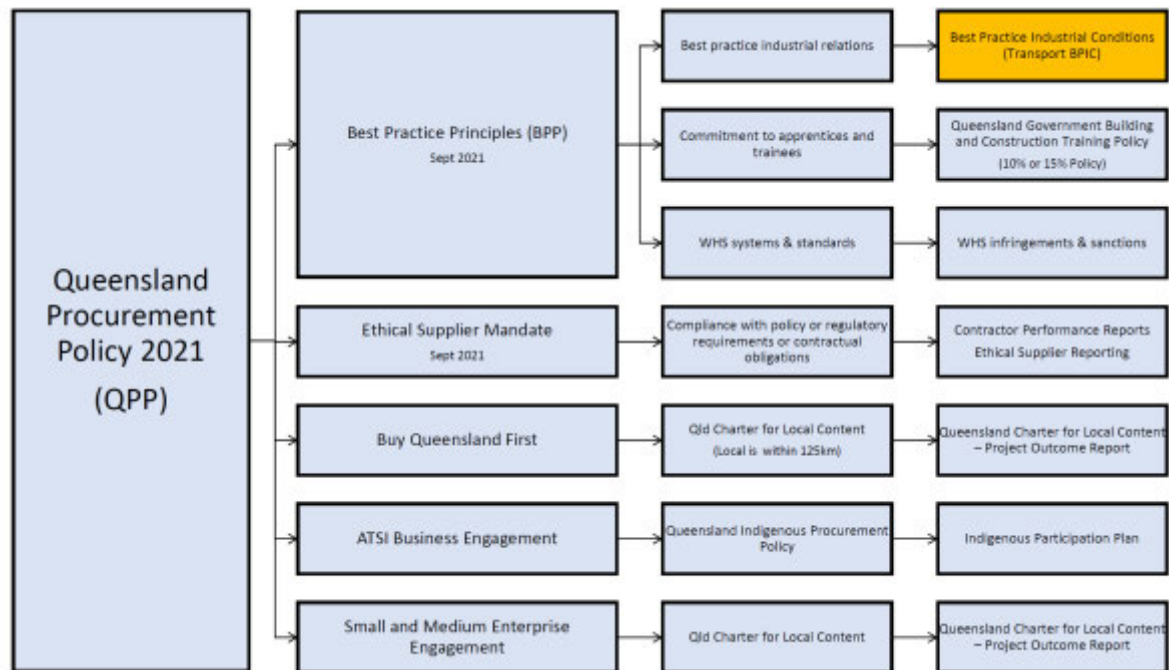
It is highly recommended that companies contact the ABCC if they have any questions or queries as well as seeking appropriate legal advice. Please treat this seriously as the implications from an operational perspective are equally serious, as well as the regulatory impacts. Noncompliance with the Building Code, FW Act and BCIIP Act could see contractors and sub-contractors banned from tendering federally funded works for up to 12 months. This penalty would be imposed by the Minister of the back of recommendations from the Regulator; the ABCC.

It is also recommended that companies always seek appropriate industrial relations legal advice too.

What is the Transport BPIC all about?

The Transport BPIC, as published by the Queensland Government, provides non-mandatory guidance on employment terms and conditions including suggested minimum pay rates, ordinary hours, penalties and allowances. In short, the Transport BPIC is presented as an unsigned pattern union Enterprise Agreement. The objective of the Transport BPIC is to meet Queensland Government's Industrial Relations procurement aspirations. There are many elements of the Transport BPIC that are new to the Queensland civil construction industry.

How does the BPIC fit into Queensland Governments Procurement Policy?



As can be seen, Transport BPIC is not the State Government's key enabler to drive best practice in areas such as Apprentices and Trainees, Ethical Supplier, Workplace Health and Safety, Local Content, Indigenous Participation, Diversity, etc. These high value outcomes are delivered through other policy settings though at times are represented as outcomes from the Transport BPIC.

Who does the BPIC apply to?

The Transport BPIC provides insights into the terms and conditions of employment the Queensland Government believes should indicatively exist on State-funded construction projects, valued at or over \$100m with further benefits for workers who participate in projects over \$300M.

Who is intended to be covered by the BPICs?

The intent of the Queensland Government is that the Transport BPICs will apply to all construction work on a project over \$100 million (or other projects as declared), whether by employees of the head contractor or by employees of a subcontractor. It should be noted that the BPICs are NOT mandatory. This is covered further below.

Why has the Government decided to implement the BPIC Policy?

It is the State Government's view that the Transport BPIC provides for a range of different outcome improvements including harmonious industrial environment on projects. Whilst many unanswered questions regarding what specific recent events have triggered concerns for the State Government have been asked, the QMCA and CCF have the view that the civil construction industry has a good track record when it comes to industrial action on projects. In the absence of a clear policy driver arguably the guidance provided generates unindexed labour cost increases, unworkable conditions and union intervention and rights on site.

Is the Transport BPICs mandatory?

No. It is clear that the Transport BPIC is guidance only and not mandatory.

On a number of projects so far, the State Government has not required an absolute commitment from Contractors and Subcontractors. It would be unlawful for them to do so.

It would also be unlawful for the head contractors to require an absolute commitment from their downstream subcontractors.

In recent tender documentation, the procurement documents frame BPICs as the State Government's preferred way of ensuring:

- the attraction and retention of a skilled and experienced workforce; and
- the promotion of positive, collaborative, and productive interactions with 'relevant stakeholders'.

It is then for the bidder to substantiate (whether by commitment to the BPICs or some other approach) how these goals will be achieved.

There are legal difficulties when:

- a subcontractor on a construction project is encouraged to comply with the BPICs and honour its employment terms and conditions in a mandatory way; or
- a subcontractor is required to commit to the BPICs on a mandatory basis, as part of prequalification for selection for a project.

For the benefit of clarity, the Transport BPIC on its own as a guidance document does not constitute coercive conduct or undue influence.

Contextually the development of this guidance document has been sponsored and funded by the Queensland Government with the intended scope of influence being the state's infrastructure capital works program.

If any subcontractor or supplier experiences this they should contact the Australian Building & Construction Commission (ABCC) immediately and report the contractor.

Is it intended that the Transport BPIC will be enforced?

BPICs are unenforceable. It is unlawful to adversely impact or discriminate against a contractor or tenderer on the basis of their lawful enterprise agreement.. As such, the BPICs have no legal application. It should be noted, if a contractor or subcontractor makes certain commitments through a procurement process, they will be expected to deliver on those in the same way they are expected to deliver on price commitments.

Subcontractors may be asked to consider applying BPICs in their pricing. This is a choice of the subcontractor. They may decide they will adopt the similar terms, or they will not adopt any of the terms. Noting, it would be unlawful for a Subcontractor to experience adverse action as a result of their industrial arrangements. What is important to remember is that, as per s58 of the FWA, only one enterprise agreement can apply to an employee at a particular time.

Considering the fluidity and range of variables of the implementation of the policy, we are not sure how the BPICs will be managed through the delivery of a project due to the possible legal ramifications. When we have more information on this, we will update this guidance note.

JM-26

My current enterprise agreement has rates of pay between a modern award and those contained within the Transport BPIC. Do I need to get a new EBA, or vary my existing EBA because of the BPIC policy?

No. You cannot be discriminated against whether you have an EBA with a Union or not. This includes being discriminated against by any Head Contractor or a Client. If you feel that this has happened, please contact the ABCC.

How has DTMR consulted with industry in developing this initiative considering its potential implications on private sector enterprises of all shapes and sizes who participate in the infrastructure industry?

DTMR has consulted with industry associations including QMCA, CCF, Master Builders and IAQ. The feedback provided has been extensive albeit a limited amount has been adopted by DTMR. Where opportunities exist to provide feedback in the future, industry associations will continue to advocate for a change in policy. It should be noted, QMCA and other industry associations support the Best Practice Principles objective of safe, quality workplaces for all industry participants.

My current enterprise agreement has different Terms and Conditions to those contained within the Transport BPIC. Do I need to get a new EBA?

No. The introduction of the Transport BPIC policy does not create an obligation on any party to change its legal employment instrument DTMR has regularly reinforced its expectation that all parties understand and comply with the law.

My current enterprise agreement doesn't involve a Union organisation. Do I need to negotiate with the applicable Union/s and get a new EBA?

No. Employers are entitled to have a non-union agreements and are not obligated to change their employment arrangements as a product of the Government's policy and guidance material.

With Transport BPIC policy being clearly sponsored by DTMR, is it expected that they will also be party to any negotiations and/or agreement established as a product of the policy?

You are not required to negotiate a new Enterprise Agreement as a result of BPICs. In the event you choose to negotiate a new Agreement so to respond to things like changes in the market conditions, DTMR are not a party to your process nor your Agreement. For the benefit of clarity, no other entity can dictate who is to be a party to your Agreement.

Tender documentation refers to a project having "Reputable Suppliers". It goes on to define a "Reputable Supplier" as one which has rates, terms and conditions no less than those contained with the Transport BPIC. Do I need to get a new EBA?

No. It is unlawful for one entity to dictate the industrial terms of another. It would be unlawful for contractual or other *requirements* to be imposed on subcontractors or tender respondents to alter their registered enterprise agreement or provide for conditions in accordance with the Transport BPIC. You cannot be refused work on the basis of the terms and conditions that you pay your workers.

JM-26

The Transport BPIC contains more classifications by number and different definitions from what has been traditionally seen in the civil infrastructure environment. Do I need to adjust my EBA or Award payments to align to this?

No. You do not. These are not binding. Nothing in the Transport BPIC guidance is mandatory and you do not have to change your legal industrial instruments to suit. The Building Code also prohibits companies from paying higher rates than what are prescribed in their existing Enterprise Agreements (jump up clauses).

The Transport BPIC captures a number of trade classifications, typically not seen in civil construction nor employed by my enterprise. Do I need to include this in any future industrial instruments or agreements I make?

No. The content and framework of your Agreement is for you to determine and agree.

Some of the suggested terms on conditions would impact my ability to autonomously manage my enterprise. How do I handle this?

You are not required to adopt any of the terms or conditions contained in the BPIC in your industrial instruments. None of the content is mandatory.

As DTMR have identified the Transport BPIC guidance reflects best practice industry conditions, noting my company has provided services to Roadtek, is it likely that the same conditions and rates of pay will appear in their wider business operations??

Aside from the current advice that this policy is only to be considered on projects \$100M +, this is not a matter for QMCA or CCF to provide comment upon.

Does an Enterprise Agreement need to take the form of the guidance material to deliver on the intent of the BPIC Policy?

No. Good quality workforce engagement and workplace practices can deliver on the intent of BPIC.

If I secure an Enterprise Agreement that aligns with the intent of BPIC will I receive preferential treatment when it comes to tendering for a supply or subcontract on a BPIC project?

No. It would be a breach of the Fair Work Act and Building Code if one party received preferential treatment as a product of their industrial agreement as this is effectively disadvantaging another party due to their industrial arrangement. A head contractor may also potentially breach the BCIIP Act if they discriminate against or take adverse action against a subcontractor because they are or are not covered by an enterprise agreement.

Does the Transport BPIC clash with the Building Code?

Code covered entities must ensure that in interacting with or applying the BPIC they do not breach the Code or a workplace law. It is unlikely that the head contractor will breach the Building Code if the subcontractor is asked only to explain how the bid will serve:

- the attraction and retention of a skilled and experienced workforce; and
- the promotion of positive, collaborative, and productive interactions with 'relevant stakeholders'.

The subcontractor can rely on other arrangements which achieve those goals, whether or not the BPICs are applied. At a practical level, it is unclear how departures from the BPICs will be assessed in light of those goals. It might be possible for a decision-maker, determined to serve the policy of the BPICs, to assess any other approach as less satisfactory. Care should be taken to scrutinise any assessment to that effect, to ensure the BPICs are not being applied in a mandatory fashion, by stealth.

If it appears that:

- the tender makes the BPICs mandatory; or
- it is implemented in that manner; or
- it can be demonstrated that, regardless of the tender language, a subcontractor was excluded because their bid committed to something other than the BPICs,

it is likely that this conduct will contravene the BCIIIP Act and FW Act primarily and then also the Building Code.

If this occurs the ABCC should be informed immediately.

The Building Code imposes various obligations on code covered entities, but the ones most relevant are:

- engaging in conduct, or implementing a procedure or practice which has or is likely to have the effect of prescribing the terms and conditions on which subcontractors and their employees are engaged;
- monitoring the subcontractor's employment arrangements;
- coercing, or threatening to coerce, a contractor to make payments over and above its current employment arrangements; and
- coerce a subcontractor or apply undue influence or pressure on a person to requiring payments to be made by a subcontractor to a particular fund or scheme.

A contractor requiring any of these things will risk Building Code breach and sanction. Subcontractors experiencing any of these things should notify the ABCC.

With Code Compliance important to my business as I do participate on Federally funded projects, am I potentially taking risks in the decisions I may make in attempting to respond to the Transport BPIC initiative?

Yes. You should get legal advice before you attempt to 'comply' with the Transport BPIC.

Has the ABCC expressed a view?

The QMCA has engaged with the ABCC on the introduction of BPICs. The ABCC are monitoring State Government procurement activities closely. They are also taking an active role in educating the industry.

The ABCC has published two articles on the interaction of the BPICs and the Building Code.¹

Those articles confirm the ABCC's view that:

- the proposed project terms published (so far) by the Queensland Government do not breach the FW Act, BCIIIP Act or the Code; but
- applying the project terms poses a serious compliance risk for a Code-covered entity.

The specific concerns identified by the ABCC are that:

- the project terms require contractors to assess how subcontractors propose to address each of the BPICs;

¹ <https://www.abcc.gov.au/queensland-government-procurement-policy-best-practice-principles-bpps>; and <https://www.abcc.gov.au/queensland-government-draft-transport-infrastructure-contract>

JM-26

- the Administrator is then involved in the assessment and approval of a subcontractor, based on documentation submitted in advance of selection.

Depending on how this is done, it might have the effect of:

- adopting practices or procedures which prescribe terms and conditions on which:
- subcontractors; and
- their employees are engaged;
- monitoring or auditing the subcontractor's employment arrangements;
- coercing a subcontractor to make payments over and above its current employment arrangements.

Significantly, the project terms do not link the assessment of contractors to the two project-delivery goals noted above; the assessment refers directly to the BPICs.

I am being told by employee representative groups that 'you need to get onboard as everyone else is'. Is this true and will my business viability be at risk if I don't?

This is not true. An employer cannot be subject to adverse action as a result of their industrial arrangements. If this is occurring, we recommend that you speak to your Head Contractor, the ABCC or Fair Work Ombudsman.

What can be done if there are concerns about a project?

The QMCA recommends that subcontractors and suppliers who have any questions or concerns about the Transport BPIC and how it may impact them should contact the ABCC before making and decisions to change their operating procedures in response to it. The ABCC has confirmed its commitment to provide support to those seeking assistance noting its role is to enforce the Building Code in any scenario where it has been breached.

Do I have an obligation, legal or otherwise, to report events which I believe represent a breach of the Building Code?

Yes, Code covered entities are obliged to report breaches or suspected breaches of the Code to the ABCC. For the benefit of clarity, you are not obliged to report the breaches of others – but the ABCC would encourage them to do so.

Will Transport BPIC impact the cost of infrastructure and other programs of work such as Inland Rail, Green Energy initiatives and infrastructure needed for the 2032 Olympics?

The influence of Transport BPIC will likely be an unindexed increase in the cost of skilled and unskilled construction workforce on all infrastructure projects in the region with these increases not aligned to traditional CPI or economic drivers. Our research has indicated that the increase in costs associated with infrastructure is circa 20%-30%.

It is also likely to have a significant influence on the cost of project supervision and management noting that many of these delivery roles are indexed off the annualised cost or the workforce which they need to oversee and direct.

A significant increase in workforce cost may see business cases for new projects wane from bankable to unviable.

BEST PRACTICE INDUSTRY CONDITIONS *PLUS* (BPIC+) TRANSPORT

Working Draft for Industry Consultation

July 2021

Introduction to the Best Practice Industry Conditions for Transport Civil Construction Projects

The Queensland Government through the Queensland Procurement Policy is committed to maximising benefits for Queenslanders by using procurement to support local jobs and businesses to drive economic, environmental and social outcomes. This includes ensuring quality, safe workplaces for people engaged on major state government projects, through the implementation of Best Practice Principles (BPPs), in accordance with guidance issued by the Department of Energy and Public Works and the Office of Industrial Relations.

For major projects of \$300 million and above and declared projects, the value for money assessment must also include application of all the following BPPs:

- workplace health and safety systems and standards
- commitment to apprentices and trainees
- best practice industrial relations

The Department of Transport and Main Roads (TMR) fully supports the Queensland Government's priorities to improve matters such as employment conditions, safety and training opportunities for the transport civil construction industry and ensure the industry is, and remains sustainable, safe and progressive.

To assist with the Queensland Government's commitments in relation to the BPPs, including best practice industrial relations, TMR has developed a guidance document entitled the *Best Practice Industry Conditions for Transport Civil Construction Projects Plus* dated XXXX (Transport BPIC+). In developing the Transport BPIC+ in consultation with stakeholders, relevant enterprise agreements, awards and legislation to the transport civil construction industry were analysed to ensure the guidance document reflects modern and progressive industrial practices for the civil construction industry.

The Transport BPIC+ (as **enclosed**) applies when tendering for projects with TMR for transport civil construction projects with a total project value over \$300 million.

The Transport BPIC is an expression of government policy as it relates to best practice industry relations for the civil construction industry. The guidance document sets standards and expectations to ensure that a workforce with optimal levels of skills and experience is attracted and retained for the life of a project's delivery and ensure that relevant stakeholders can interact in a positive, collaborative and productive way through to successful project completion.

The Transport BPIC+ is a guidance document and is not mandatory. Applicants and/or Tenderers can demonstrate the intent and outcomes of the Transport BPIC+ in any manner it chooses to nominate throughout the procurement process.

TMR will give full and reasonable consideration to alternative ways of achieving the Transport BPIC+. Where a particular supplier is referred to within the Transport BPIC+, this entitlement or obligation relates to that supplier or any suitable equivalent which the Applicants and/or Tenderers may wish to nominate. Nothing in the Transport BPIC+ requires an Applicant and/or Tenderer to make any commitment that would breach any laws.

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Working Draft for Industry Consultation

Application

This document is known as the Transport Best Practice Industry Conditions Plus (Transport BPIC+) and applies to civil construction projects within the transport industry with a project value over \$300 million.

The document is structured in four parts, as set out below, and provides a description of the intent and a set of sample conditions which have *approved by Government* in relation to the Queensland Government's best practice principles for industrial relations.

- Part A – Quality Employment Standards
- Part B – Safe Workplace Standards
- Part C – Administration
- Part D – Major Project Arrangements

In addition, Part D is applicable to all projects over \$300 million in recognition of employees undertaking duties on designated major projects.

Part A: Quality Employment Standards

1. Contract of Employment

1.1 The Employer will provide all employees with a contract of employment. This contract should identify all information an employee needs to know to be fully informed to make a decision regarding the offer of employment. This may include the status of engagement (eg. Full time, fixed term etc), the name of the relevant industrial instrument and position title. Contracts should be written in simple terms to ensure understanding.

- 1.1 At the point of engagement of each Employee, the Employer must inform the person in writing whether the engagement is on a permanent or casual basis, stating by whom the Employee is employed, the job performed, the classification level, and the relevant rate of pay. Each new Employee shall upon commencement also be provided with a copy of this Document, or alternatively, access to the Document in electronic format at the discretion of the Employee.
- 1.2 The Employer may direct an Employee to carry out such duties as are reasonably within the limits of the Employee's skill, competence and training consistent with the Employee's classification provided that such duties do not promote deskilling.

2. Employment Security

2.1 The Employer acknowledges that job security is a priority for the client. The Employer will use its best endeavours to create jobs on the project. This includes the creation of new jobs and the ongoing security of existing jobs. This commitment extends to jobs with local subcontractors.

- 2.2 Without limiting the Employer's right to determine its operational requirements the Parties to this Document will encourage the continuity of employment for permanent employees with the aim of ensuring that permanent employment opportunities are not eliminated or eroded in-so-far as it is reasonably practicable to do so.
- 2.3 The Employer is also committed to maintaining a stable and skilled workforce, having regard to the contribution that a stable and skilled up workforce has for Employee's job security. The Employer will take all reasonable measures to achieve employment security for the Employees in-so-far as it is practicable to do so.

3. Individual Flexibility Agreements

3.1 The Employer has policies or processes in place to provide Individual Flexibility Agreements to its employees. These processes include:

- Ensuring the content is written in appropriate and easily understood language;
- Providing a translation where English is not an appropriate or understood language for an employee;

Page 5 Comments

D1 Approval of this document by Government is required before application
Deanne M Hawkswood, 03/06/2021 06:58 PM

- Ensuring compliance with the Fair Work Act 2009; and

Communicating this entitlement to employees.

3.2 Where the employer wants to enter into a variation agreement it must provide a written proposal to the Employee. Where the Employee's understanding of written English is limited, the Employer must take measures, including translation into an appropriate language, to ensure the Employee understands the proposal.

3.3 The Employer must ensure that any variation agreement is genuinely agreed to by the Employer and the Employee and that the terms of the variation agreement are about permitted matters under section 172 of the FW Act.

3.4 The Employer must also ensure that any such variation agreement is:

- In writing (including details of the terms that will be varied, how the variation agreement will vary the effect of the Enterprise Agreement terms, how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement, and the day on which the arrangement commences);
- Includes the name of the Employer and employee;
- signed by the Employer and employee, and if the employee is under 18, by a parent or guardian of the employee;
- provided to the employee within 14 days after it is agreed to; and
- able to be terminated by either the Employer or employee giving written notice of not more than 28 days, or at any time by both parties agreeing in writing.

Where any of the requirements of this clause are not met, the variation agreement is of no effect.

4. Inclusion

4.1 The Employer acknowledges the importance and benefits of having an inclusive workplace. The Employer will have policies (or other mechanisms) which outline the commitment to diversity and inclusiveness within Queensland and is committed to ensuring a significant representation of people who identify themselves as ATSI.

First Nations People

4.1.2. The Employer will ensure that all Employees receive cultural awareness training as part of the site induction process to ensure that all workers are made aware of the history and spiritual connection that Traditional Owners have with the area where the work is being performed.

4.1.3. A 'Welcome to Country' ceremony will be arranged with the Traditional Owners when the number of workers undertaking work on the project reach 50, as part of the Employers commitment to the principles of social, restorative justice and cultural affirmation. The Employer will also implement policies that ensure:

- access to annual leave for participation in cultural and ceremonial activities;
- skill and career development opportunities for ATSI Employees; and
- the development of retention and promotion for ATSI Employees.

Women in the Industry

4.2 Parties respect equal employment opportunity and it is recognised the demographic of the construction industry could be more diverse. To that end, the Parties support the promotion of women into the industry and shall discuss means to achieve this objective including ways to encourage and assist women to seek and maintain employment in the construction industry.

5. Hours of Work

5.1 The Employer acknowledges the inconvenience of shift work and as such will identify the ordinary hours of work where employees will be required to work at ordinary rates. The maximum number of ordinary hours worked per week should also be stipulated in the relevant industrial instrument/agreement. This number should not exceed 40.

1.1 Ordinary hours

Ordinary hours are to be prescribed in the relevant industrial instrument.

1.2 Start and finish times

If the Employer wishes to alter start and finish times within the spread of ordinary daily hours, the Employer will have regard to the intention of avoiding excessive overtime.

1.3 Weekend Work

- (a) The relevant industrial instrument will prescribe penalty rates associated with working overtime.

6. Shift Work

- 49 6.1 The Employer acknowledges the inconvenience associated with shift work. The Employer's relevant has in place an
50, 51 industrial instrument will that provides for penalty payments associated with work performed outside of ordinary hours. This may include the provision of extra leave entitlements.

7. Overtime

7.1 The Employer acknowledges the inconvenience associated with working overtime and will have applicable penalty rates for when this occurs. This will include hours worked outside ordinary hours.

7.2 It is the intention of the Employer and Employees that excessive overtime will not be worked.

7.3 An Employee may refuse to work additional hours beyond rostered hours if they are unreasonable. In determining whether additional hours are reasonable or unreasonable the following must be taken into account:

- Any risk to employee health and safety from working the additional hours;
- the Employee's personal circumstances including any family responsibilities;
- the needs of the workplace in which the employee is employed;
- whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
- any notice given by the employer of any request or requirement to work the additional hours;
- any notice given by the employee of his or her intention to refuse to work the additional hours;
- the usual patterns of work in the industry, or the part of any industry, in which the employee works;
- the nature the employee's role, and employee's level of responsibility; and
- ^{4.4.2} whether the additional hours are in accordance with averaging terms included in the FW Act.

8. Rostered Day Off

8.1 In circumstances where an agreed Rostered Day Off system is worked, these should be offered in a manner which has been mutually agreed by employees and the Employer. Any RDOs are to be flexible in nature and provide for a greater work life balance for the workforce without impacting productivity on the project.

- 8.1 Where the Employer wants an Employee or Employees to work on an RDO, the following process shall be followed:
- The Employer shall establish that there is a genuine need for the work to take place on the RDO. and
 - The Employer must consult with the affected Employee(s).
- 8.2 The Employer is committed to providing as much notice as is reasonably practicable for a requirement to work. Wherever possible, the process outlined above will occur at least 7 calendar days prior to the RDO in question.
- 8.3 An Employee may refuse to work an RDO in circumstances where the working of such an RDO would result in the Employee working hours which are unreasonable having regard to matters including:

Page 7 Comments

AH2 Replace with act s62
Alanna Herbst, 22/07/2021 11:29 PM

- any risk to Employee health and safety including the risk of fatigue or any matter that can impair an Employee's ability to work safely and/or create a danger to Employees; and
- the Employee's personal circumstances including any family responsibilities;

9. Apprentices and Trainees

9.1 The Employer acknowledges the importance of traineeships and apprenticeships for the future of our industry. The Employer commits to achieve the Traineeship & Apprenticeship targets established for this project.

9.2 Apprentices/Trainees shall be entitled to all of the applicable rates and conditions of employment prescribed by the relevant industrial instrument.

9.3 Apprentice Training

The Employer recognises that in order to increase the efficiency and productivity of the Employer, a significant commitment to structured training and skill development is required. They also recognise the importance of the apprenticeship system to the construction industry and agree:

- 52, 53 |
- if the Employer employs seven (7) or more qualified tradespeople ~~Tradespeople~~ in any one classification on a single project it undertakes to employ an apprentice(s) or make arrangements to host an apprentice from an agreed scheme;
- 54 |
- 55 |
- the Employer is committed to ensuring that apprentices receive appropriate on the job training by experienced ~~tradespeople~~ tradespeople and apprentice numbers are maximised, to this end the Employer will endeavour to maintain at least one apprentice to every seven (7) ~~tradespeople~~ Tradespeople on a single project;
 - if the Employer does not currently have an apprentice as provided for in paragraph (a) above, reasonable time shall be allowed to enable the Employer to comply with this clause. Further, the Parties are committed to a strong ratio of apprentices in the industry; and
 - The Employer will use best endeavours to ensure that subcontractors comply with this clause.

10. Casual Employment

10.1 The Employer acknowledges that job security is a priority for the client. The use of casual labour will be limited and only engaged as appropriate. Where possible and ongoing employment is available casual labour will be given priority to full time positions. ^{AH3}

11. Termination of Employment

11.1 The Employer will have documented policies regarding the termination of employment. The policy will cover employment terminations initiated by both the employee and the Employer. The policy should cover issues such as notice periods and performance management processes.

12. Wage Rates

- 56 | 12.1 ~~13.1~~ The Employer embraces the philosophy a 'fair day's pay for a fair day's work'. The Employer has an
- 57 | industrial instrument that identifies an appropriate wage for its employees. This may be in the form of a classification

Page 8 Comments

AH3 The Fair Work Act provides for safeguards for casual employees.
Alanna Herbst, 22/07/2021 11:56 PM

structure within an enterprise agreement which is simple to read and interpret. All employees are informed of their classification under any such structure. The agreement will cover annual wage reviews.

58 | **13. Labour Hire**

59 | 13.1 Labour hire is a necessary across the industry. The Employer recognises the importance of job security and as such will consider the nature of engagement of employees by labour hire companies. The Employer will value permanent employment of these employees over casual employment.

14. Superannuation

60 | 14.1 ~~14.1~~ The Employer will pay superannuation regularly in accordance with the Superannuation Guarantee (Administration) Act 1992 (Cth) as amended from time to time.

15 Redundancy

15.1 The Employer acknowledges that the civil construction industry can result in short term employment due to the project nature of the work. As such, the Employer has frameworks to adequately compensate employees in the case of redundancy. These frameworks will be consistent with legislation at a minimum.

16 Training

16.1 The Employer will commit to increasing the skills of the employees and other workers on a project. The Employer will collaborate with relevant industry participants (for example, Construction Skills Queensland) to ensure training and employment outcomes within the industry are maximised.

17 Allowances

17.1 The Employer acknowledges that there are varying conditions within the industry that warrant the payment of additional wages. This may occur in due to travel requirements, use of personal equipment, unpleasant work or working conditions or when using specialised skills. The Employer will compensate employees appropriately for varying conditions. Any allowances will be incorporated into an Enterprise Agreement or an employment contract.

18 Annual Leave

18.1 The Employer is compliant with the Fair Work Act 2009 and National Employment Standards, including provisions relating to annual leave. Therefore, full time employees will be entitled to annual leave at the rate of four (4) weeks at the ordinary wage rate for each year of continuous service.

18.2 Part-time Employees are entitled to a pro rata amount of annual leave in accordance with the National Employment Standards (NES).

18.3 The Employer may direct an Employee to take accrued leave.

18.4 Unused annual leave carries forward each year.

18.5 It is recommended that Employees provide at least four weeks' notice of their intention to take annual leave and must ensure that their request for leave has been approved prior to the leave being taken. Annual leave must be taken at a time mutually agreed between the parties and in accordance with operational requirements.

18.6 The Employer may direct Employees to take accrued annual leave during the holiday shutdown period. If an employee does not have sufficient accrued leave for the period of the shutdown, then the employee may be required to take leave without pay for the balance of the shutdown period for which leave is not accrued. The shutdown period is generally seven (7) days but the precise number of days will be agreed and communicate to Employees at least one month prior to the shutdown period.

18.7 At the written agreement between the Employer and Employee, annual leave may be taken as a payment in lieu of leave subject to the following;

- balance of four (4) weeks leave must be maintained; and
- the payment in lieu will be equal to the pay for that period of time that would have been received.

18.8 Casual Employees do not accrue any annual leave.

19 Long Service Leave The Employer is compliant with legislative requirements in relation to long service leave.

20 Family Violence Leave

20.1 The Employer recognises family violence is a societal issue and has a policy or procedure relating to domestic or family violence. This includes the provision for paid or unpaid leave.

20.1 For the purposes of this clause, family violence is behaviour by a person towards a family member of that person if that behaviour:

- (a) is physically or sexually abusive;
- (b) is emotionally or psychologically abusive;
- (c) is economically abusive;
- (d) is threatening;
- (e) is coercive;
- (f) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- (g) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to above.

20.2 For the purposes of this clause, a "family member", in relation to a person (a "relevant person"), means:

20.2.1 a person who is, or has been, the relevant person's spouse or domestic partner;

20.2.2 a person who has, or has had, an intimate personal relationship with the relevant person;

20.2.3 a person who is, or has been, a relative of the relevant person;

20.2.4 a child who normally or regularly resides with the relevant person or has previously resided with the relevant person on a normal or regular basis; or

20.2.5 a child of a person who has, or has had, an intimate personal relationship with the relevant person.

20.3 For the purposes of clauses 21.2(b) and 21.2(e), a relationship may be an intimate personal relationship whether or not it is sexual in nature.

20.4 Confidentiality

The Employer must take all reasonable measures to ensure personal information concerning an Employee's experience of family violence is kept confidential.

20.5 Leave

20.6.1 An employee experiencing family violence will have access to 5 days per year of family violence leave to attend legal proceedings, counselling, and appointments with a medical or legal practitioner, relocation, the making of safety arrangements and other activities associated with the experience of family and domestic violence.

20.6.2 Family violence leave is in addition to any other existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day.

20.6.3 The Employee shall give as much notice as reasonably possible prior to taking the leave under this clause.

20.6.4 In addition, the Employer may require the Employee to produce evidence to support the need for family violence leave such as a document issued by the police, a court, a doctor (including a medical certificate), a family violence support service, or a statutory declaration.

20.6.5 For the avoidance of doubt, family violence leave does not cumulate from year to year and is not paid out on termination of employment.

Working Draft for Industry Consultation

Part B: Safe Workplace Standards

1. Safety Commitment

- 1.1. The Parties will comply with all the obligations arising under the prevailing and relevant Acts, Regulations, Code of Practice, Australian Standards and the Employer's policies and procedures.
- 1.2. The Employer has a legal obligation to exercise due diligence to ensure that the business complies with all workplace health and safety laws and regulations. This includes making sure that the business has and uses appropriate resources and processes to eliminate or minimise the risks of working with silica and silica containing products and other airborne toxic substances.
- 1.3. No Employee will be required to work in any unsafe area or situation.
- 1.4. An employee or employees may cease, or refuse to carry out, work if they have a reasonable concern that to carry out the work would expose them to a serious risk to their health or safety, emanating from an immediate or imminent exposure to a hazard.
- 1.5. All workplace participants are required to contribute positively to Project safety.
- 1.6. The Employer is committed to ensuring that WHS issues are managed and approached in a genuine way.

2. Personal Protective Equipment (PPE)

- 2.1 The Employer will provide Personal Protective Equipment (PPE) necessary to perform tasks safely to all employees.

3. Training and Related Matters

- 3.1. The parties are committed to the promotion of a highly skilled industry that delivers ongoing employment opportunities and a world-class end product through an efficient and safe construction process. To this end, the Employer acknowledges that appropriate training, including the engagement and training of apprentices, and skills development for the workforce will be provided during the term of this document.
- 3.2. Where possible training and skill development approved by the Employer is to be carried out in normal working hours. It is agreed that no Employees will suffer loss of pay as a result of participating in training required by the Employer.
- 3.3. The Employer is committed to upskilling their workforce and will regularly assess skills gaps and where applicable will provide the necessary training for employees to attain the relevant nationally recognised formal qualification.
- 3.4. The Employer will bear all costs associated with the provision of Employer approved training, including costs and material costs and the provision of the Employee's wages for the period of the training.
- 3.5. Safety Training - The Employer acknowledges the importance of employees being trained sufficiently to perform all tasks safely. The Employer will have processes in place to assess competence and provide the necessary training.
- 3.6. HSR Training - Any Employees elected as a workplace HSR (Health and Safety Representative) will undertake a training course approved by the State or Territory Government and provided by the Employer within six weeks of being elected, at no cost to the Employee.

4. Health and Safety Representatives

- 4.1. The Employer and its Employees will comply with Part 5 of the WHS Act – Consultation, representation and participation in relation to the establishment of a health and safety committee;

- 4.2. The health and safety representative/s (HSR) shall be elected by the Employees on the job on a democratic basis, and shall be subject to recall by a similar process.
- 4.3. Parties covered by this Document recognise the important role of HSRs. The HSRs have a key role in the early intervention in health and safety issues under this Document.
- 4.4. The HSR shall be allowed to consult with the principal contractor, or persons acting on his/her behalf, on matters directly concerned with safety of workers, and promote the safe conduct of work generally.

5. Health and Safety Representative Meetings

- 5.1 The Employer acknowledges a health and safety representative will be allowed reasonable paid time during working hours to attend to occupational health and safety matters affecting employees he/she represents (providing that the Representative informs their manager).

6. Procedure for Dealing with Safety Incidents

- 6.1. The Employer will have documented processes for managing workplace health & safety issues and disputes. Such processes will be compliant with the Work Health & Safety Act 2011 QLD and client contractual obligations.

7. Toolbox Meetings

- 7.1 The Employer acknowledges the important of effective communication on the site. As such the Employer coordinates regular Toolbox Meetings to provide a forum for two-way communication.

At least one toolbox meeting will be convened by the Employer per site, each month to facilitate and foster communication and consultation. Items to be discussed at each meeting may include; programming of site work, site issues, work health and safety, job design, productivity issues, management policies, compliance with statutory obligations and any other relevant issue raised. Notice of the meeting will be given at least one (1) week prior to the scheduled date.

61 | 8. Hot and Inclement Weather Guidelines

- 62 | 8.1 The Employer acknowledges that working in hot and inclement weather can be uncomfortable and in extreme circumstances can be unsafe. The Employer will have policies in place to reduce risks associated with working in such conditions.

9. Quality Building Materials

- 9.1 The Employer is committed to providing a quality product and as such has policies or processes in place that ensures all building materials will comply with the relevant Australian standard where relevant.

Part C: Administration

1. Consultation

- 1.1 The Employer acknowledges that communication with employees is important to productive and effective workplace relationships. The Employer will have established processes and channels to communicate with employees across the business. These processes will enable and foster effective two-way communication.
- 1.2 Effective consultation is essential for continuous workplace reform and such consultation can take place at any time during the term of the Contract.
- 1.3 Consultative Committees may be set up for this purpose.
- 1.4 If the Employer has made a decision to introduce a major workplace change that is likely to have a significant effect on a number of Employees, the Employer must consult with the Employee(s) who will be affected by the decision.
- 1.5 The Employer is not required to disclose confidential or commercially sensitive information.
- 1.6 The Employer must give prompt and genuine consideration to matters raised about the major change with significant effect by the relevant Employees.

2 Disputes Settlement Procedure

- 2.1 The Employer will have documented processes to follow in the event of a dispute over any work related or industrial matter. These processes will be communicated to all employees through the site induction process.

3 Security of Payments

- 3.1 The Employer recognises that the under, non or late payment of building industry participants for services rendered can affect the entitlements of workers and the security of their employment. The Employer will ensure compliance with legislation relating to security of payments including the Building Industry Fairness (Security of Payment) Act 2017 (QLD) and the Building Code 2016.

- 3.2 The Employer will not engage in illegal or fraudulent phoenix activities for the purpose of avoiding any payment due to another building contractor or building industry participant or other creditor.

- 3.3 The Employer will:

- 3.3.1 comply with all applicable laws and other requirements relating to the security of payments that are due to subcontractors;
- 3.3.2 ensure that payments which are due and payable are made in accordance with applicable legislative requirements including the Code and are not unreasonably withheld;
- 3.3.3 have a documented dispute settlement process in accordance with all applicable legislative requirements including the Code that details how disputes about payments will be resolved, includes a referral process to an independent adjudicator for determination if the dispute cannot be resolved between the parties and must comply with that process; and
- 3.3.4 as far as practicable, ensure that disputes about payments are resolved in a reasonable, timely and cooperative way.

4 Sham Contracting

- 4.1 Sham contracting occurs when an Employer engages an individual to perform work under a contract for services where the true character of the engagement or proposed engagement is that of employment.

The Employer recognises that the practice of sham contracting is unlawful and undermines the job security of the Employees covered by this Document. The Employer will ensure that sham contracting does not occur.

5 Engagement of Non-Citizens or Non-Residents

5.1 The Employer is committed to providing employment opportunities to locals within the region, Queenslanders and Australians. As such, the Employer will avoid employing non-citizens and non-residents of Australia.

5.2 The Employer will not engage temporary non-citizens or non-residents unless:

5.3 In this clause the term temporary engagement of non-citizens or non-residents means a person that is not an Australian citizen or Australian permanent resident (within the meaning of the Migration Act 1958 (Cth) who is employed or engaged to undertake building work by the Employer.

5.4 The Employer recognises that the engagement of temporary non-citizens or non-residents may undermine the job security of the Employees covered by this Document. The parties wish to limit the circumstances in which non-citizens or non-residents can be engaged so as to ensure the job security of the Employees covered by this Document.

5.5 The Employer will not engage temporary non-citizens or non-residents unless:

5.5.1 the position is first advertised in Australia; and

5.5.2 the advertising was targeted in such a way that a significant proportion of suitably qualified and experienced Australian citizens and Australian permanent residents (within the meaning of the Migration Act 1958 (Cth) would be likely to be informed about the position; and

5.5.3 any skills or experience requirements set out in the advertising were appropriate to the position; and

5.5.4 the Employer demonstrates that no Australian citizen or Australian permanent resident is suitable for the job;

5.5.5 temporary non-citizens or non-residents will be engaged in accordance with legislative requirements.

6 Relationship to Awards and Other Documents

6.1 Where the Employer has an industrial agreement, the provisions are to result in employees being better off overall than if they were employed under the relevant Award.

7 Compliance with this Document

7.1 The Employer will ensure that they comply with commitments made in relation to this document through the contractual negotiation process. The Employer has document procedures that outlines a process an employee must follow if they have a grievance relating to their industrial instrument.

7.2 Complaints, queries and concerns regarding entitlements paid in relation to the Award or this Document shall be raised and resolved in accordance with the disputes procedure in this Document. Authorised industrial personnel shall be provided access to time and wage records in accordance with all legal requirements. Authorised industrial inspectors or permit holders shall be provided access to time and wages records in accordance with the FW Act.

7.3 The Parties recognise their ongoing legal requirement to be compliant with Australian laws and regulations.

8 Posting of Documents and Notices

8.1 The Employer is to make available a copy of the relevant industrial instrument applicable to employees.

9 Severability

- 63 | 9.1 Where the Employer has an industrial agreement, such agreement will haveThe Employers industrial instrument has a severability clause that ensures if any part of the agreement is considered a non-permitted matter, the remaining content of the agreement is enforceable.

10 Time and Wages Records

- 64 | 10.1 The Employer is to ensure sufficient time and wages records are kept and maintained to meet legislative requirements. All time and wages records will be managed in a manner that does not contravene privacy related legislation.

11 Union Representatives and Delegates

- 11.1 The Employer respects the role unions play in workplaces. Where the Employer has union delegates, they will acknowledge and respect their role in the workplace.

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Part D: Major Project Arrangements

The conditions contained within Part D are applicable only to projects over \$300 million.

Working Draft for Industry Consultation

Appendices

Appendix A: Standard Definitions

The following definitions shall apply to this Document:

Apprentice or Trainee means an apprentice or trainee within the meaning of the *Vocational Education, Training and Employment Act 2000 (VETE Act)*. Apprenticeship and Traineeship have a corresponding meaning.

Best Practice Principles means the State of Queensland's Best practice principles: Quality, safe workplaces policy document, as amended from time to time.

Casual Employee means an Employee employed on an occasional basis and whose work pattern is not regular or systematic.

Code means the *Code for the Tendering and Performance of Building Work 2016*.

Consultative Committee means a representative group who meet regularly for the purpose of reviewing work related issues.

Employee means an employee of the Employer.

Employer means the company that employs workers who are engaged in civil construction works within the State of Queensland for which classifications are prescribed by this Document.

FW Act means the *Fair Work Act 2009 (Cth)*.

HSR means Health and Safety Representative elected to represent workers on health and safety and matters have responsibilities under the WHS Act.

NES means the National Employment Standards prescribed by the *Fair Work Act 2009 (Cth)*.

Overtime means any time worked in excess of or outside of the ordinary working hours.

Person Conducting a Business or Undertaking (PCBU) means a business or an undertaking that is either conducted alone or with others, whether or not for profit or gain.

Redundancy means a situation where an Employee ceases to be employed by the Employer, other than for reasons of serious and wilful misconduct, whereas **Redundant** has a corresponding meaning.

RDO means rostered day off.

Tradespeople means a person who has satisfactorily completed an apprenticeship in a trade and is the holder of a completion certificate issued under the relevant legislation and who is engaged by the Employer to undertake qualified trade tasks.

Traditional Owners means an indigenous person who is a member of a local descent group having certain rights and responsibilities in relation to a tract of land or area of sea.

Union Delegate means an Employee elected by Union members and a member of an employee organisation entitled to represent the industrial interests of employees employed by the Employer as required.

Union Representative means a member of an employee organisation entitled to represent the industrial interests of employees.

Union means the;

- AMWU;
- AWU;
- CEPU;
- CFMEU; or
- ETU.

Welcome to Country means a ceremony that is performed by indigenous Traditional Owners for people visiting their Country.

WHS Act means the *Work Health and Safety Act 2011 (Qld)* where applicable.

WHS Committee means a group of workers that have been nominated to develop and review health and safety policies and procedures for the workplace.

WHS Representative means Health and Safety Representative elected to represent workers on health and safety and matters have responsibilities under the WHS Act.

Working Draft for Industry Consultation

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Track Changes

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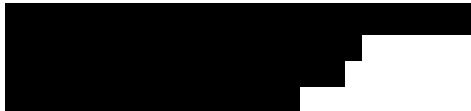
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From: Julie Mitchell [REDACTED]
Sent: Mon 08/04/2024 11:49:38 AM (UTC+10:00)
To: Deanne M Hawkswood [REDACTED]; Ann-Maree Knox [REDACTED]
Subject: FW: BPIC Guide (QMCA and CCF)
Attachment: BPIC Guide for SubContractors ver 8 5-4-22 - Final Draft.docx
Attachment: Industry drafted BPIC working draft - V4.docx

Can we talk re doing one of these from TMR plse

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads



www.tmr.qld.gov.au

Transport and Main Roads offers flexible work arrangements for staff. I am sending this message now because it suits my working arrangements. I don't expect you to read, action or respond out of your normal work hours.



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<https://www.qld.gov.au/zevstrategy>

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From: Balmer, David [REDACTED]
Sent: Thursday, 28 March 2024 4:13 PM
To: Julie Mitchell [REDACTED]; Andrew M Wheeler [REDACTED]
Cc: Adam Edwards [REDACTED]; 'Alanna Herbst' [REDACTED]
<[REDACTED]>
Subject: BPIC Guide (QMCA and CCF)

Julie/Andrew

Please see attached 2 documents as discussed.

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BPIC Guide for SubContractors -> As you can see this document is a joint QMCA and CCF advice to industry.

I believe this was the final document being 5th of April 2022.

We did go seeking DTMR support and potential endorsement/sponsorship prior to distribution and received the unexpected response discussed.

Another idea in regards to the Transport BPIC -> change the non-mandatory guidance document removing current text.

Options that exist and are readily available to replace this text include:

- **Industry drafted BPIC** -> in 2021 QMCA developed a guide that captured the intent of the industrial conditions as opposed to specific wording (see attached), OR
- fashion a second non-mandatory guidance document based on the EBA's actually being used on CCN, CCC, RRR and Centenary.

This sends a clear message to industry.

Please don't hesitate in calling if you wish to discuss.

Regards,



WWW.ACCIONA.COM.AU

David Balmer

Regional Manager

ACCIONA Construction

ACCIONA



ACCIONA values and promotes diversity and acknowledges the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respects to their Elders past, present and

emerging and extend that respect to all First Nations people of Australia.

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1/5/24 meeting with WHS

Helen Burgess (in charge of construction safety major projects and renewables (basically greater than \$100million))

Kym Tollenaere works for Helen and looks after south of the Brisbane river (no one in the norther job at the moment Terri Anne acting))

Work for Sarina wise as ED and Peter Mckay as DDG

- Stressed our commitment to WHS on our sites controlled by PCBU and our improvement journey and noted that David A had touched base
- Outlined we had seen a lot of activity at Centenary and had asked our selves what we should do /could do.
- Our concern was the impact it has on delivery
- When asked how the current events were for them H said that yes there was an increase but that's because there has been a lull.
- She noted that unions targets certain builders for certain reasons – maybe as had no EA (role of union was to scrutinise workers entitlements) or EA with a different union
- Made it clear her role was WHS not IR- role is to look at issues raised and determine if substantiated.
- Explained that the unions behaviour on site including in the carpark (aggressive macho) was impacting the psych social well being of our staff and contractors staff and the PSCBU was responsible for their health incl the actions of union officials that they had not ability to control.
- H said if personal safety is an issue then police should be called
- Acknowledges that the contractor didn't have an EA with union in the carpark
- Discussed **entry by non permit holders**- H made it clear they have no role on site and are trespassing.(H had some difficulty accepting this was occurring . K understood)
- Police should be called
- Noted that PCs rarely call police
- We discussed **if the bar for an entry notice** could be made higher (IE at the moment suspected contravention of WHS legists- s117 of WHS)

- H said the notice need to state infor more specific but can be very vague as will not require detail that would see workers who have notified an issue identified (as Contractors retribute)
- WHS often called to site about suspected contravention.
- Data says not called to site often (7% of the notices) but when they are more often than not there is a contravention found
- H said that the properly permitted officers had a right of entry and access and that contractors didn't need to like them but should not impede access.
- She said that in many instances contractors refused to hand over docs they were allowed to have, and in fact if facilitated access then could be in and out quicker
- Discussed centenary bridge and **contractors saying abusing entry powers under the WHS act.**
- She stressed if unlawful take the FWC (intimidating and threatening behaviour)
- H said had seen many contractors behaving poorly as well (get animated) and her officers now wear body cams and go in pairs.
- We should **ask the contractors what they are doing to manage as disagreements** re entry/ and documents should go to QIRC
 - She did understand that even urgent matters can take a year but once a decn is made then all have to abide by it.
- Re **permit holder access** she felt that didn't need to do an induction as not working on site.
 - The one page was enough
 - If had a fights over signing in this was silly as just sign them in.
 - Escort is reasonable
- Suggested **training for workers at the gate to** understand industrial legislation and whats was required (contractors have a duty to underhand what's in the legist)
 - Should be part of IR/ safety plan
- Love or hate – part of the industry and not going away
 - They will focus on soap and toilet paper, bins sanitation and lunch rooms, roll cages- the obvious
 - They have expertise in certain areas
 - Advice to contractors is simply keep your house in order
 - Don't push back all the time as they pick on the ones that push back

JM-28

- We should ask – if PC claim they are delayed by entry – **what did you do to speed it up.**
 - Engage early and often (enemies close)
- Understand the right entities to go to with different issues – QIRC, FWO, WHS and QP



21st May 2024

Deputy Director General

Department of Transport & Main Roads

Dear Julie

Safe Workplaces in the Civil Construction Industry

With the introduction recently of legislation regarding Psycho Social Hazards in the workplace, it has highlighted with the QMCA that as collective participants in the construction industry we need to work together to understand the underlying issues and impacts of activities (particularly by third parties) in the industry in relation to Psycho Social Hazards on the workforce.

The QMCA represents 123 companies performing civil construction and engineering works across Queensland, respectively employing over 5,000 staff and 5,000 construction workers with a further 20,000 through sub contractors and suppliers. Many of the projects our members are constructing are directly funded by the Department of Transport and Main Roads (DTMR).

The infrastructure construction industry, and every QMCA member, take our obligation to establish safe and respectful workplaces seriously. This sentiment is captured within QMCA's vision to enable "*A safe, attractive and rewarding industry.*"

Particular attention is drawn to the word 'safe'. The breadth of this single word is intended to capture:

- Safe physically and emotionally for all individuals in the workplace.
- Safe for minorities to participate.
- Safe for gender diversity.
- Safe for small and medium enterprises to participate and grow.

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ABN 39 154 195 240



- Safe for indigenous businesses to be actively supported.
- Safe notwithstanding whether it is your first job or you're a 30-year veteran; and of course.
- Safe workplaces as required by the applicable legislation.

Emerging Behaviors

Notwithstanding the intent to achieve otherwise, the Queensland Government's recently introduced Best Practice Industry Conditions policy (BPIC Policy) has effectively disrupted well-established frameworks, "relevant" union involvement, value for money outcomes, enterprise confidence and industrial harmony; replaced by a rapidly intensifying state of unrest and battles for site coverage between unions, fueled by the process of how the policy was developed and then deployed.

These significant challenges are becoming all-consuming and troubling for many companies (and their employees), suppliers, subcontractors, and individuals within our important job-creating industry.

Examples of the recent escalation of confrontational industrial behaviours include:

- Storming of the QTRIP forum in 2022, forcing its cancellation despite the importance of this function for both the Government and Industry; resulting in property damage and physical and emotional injuries.
- Unjustified accusations and personal attacks being publicly levelled at recently departed senior public servants and politicians as a product of how they supported the deployment of the BPIC Policy or otherwise.
- The Centenary Bridge Duplication Project being routinely compromised by an unwanted and confrontational physical and threatening presence preventing access to site including the storming of meetings, destruction of property, blockading deliveries to site, and direct intimidation of staff and employees of the client, contractors and subcontractors.
- The Cross River Rail Project being marred by persistent industrial agitation, with Australia's federal courts issuing over \$400,000 in fines to the CFMEU and its organisers relating to right-of-entry breaches on the project alone.
- The recent physical altercation captured on film at the Cross River Rail Project's Fairfield site between union organisers/members and workers attempting to access the site.

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- Indigenous businesses on the Cross River Rail Project having to change the way they conduct their work because of unwanted and confrontational physical and emotional presence.
- Project staff from Exit 41 Project being targeted personally and psychologically with suggestions of violence, finding their vehicles covered in union stickers and fake ads posted on Gumtree with staff phone numbers listed to contact out of hours.
- Coomera Connector staff being secretly videoed during a meeting without their knowledge, and subsequently edited and placed on the internet in a way to ridicule them and paint them as individually incompetent.
- Creation and distribution of flyers making unfounded statements about BMD and their employees in the public environment causing distress to people
- Illegal behaviours are not only overlooked but encouraged such that certain union officials proudly state that if they aren't getting fined or arrested then they are not doing their job. This is reflected in some union's publicly stated attitude to not comply with laws they consider to be "bad laws".
- Loud, foul-language-filled public marches (observed by families and children who are inadvertently on the street at the same time) intended to create as much disruption as possible, with many ending at 1 William Street.
- Increased reports of safety sabotage on projects, for example, electrical cord tags chopped off and pumped concrete pipework having bolts removed to fabricate safety issues, putting lives at risk.
- Union officials, who have been deemed "unfit and improper" by the Fair Work Commission to hold an entry permit, entering projects under the guise of the 'safety dispute resolution' provisions of the Work Health and Safety Act 2011 (WHS Act), with the goal of pursuing industrial agendas.
- Targeting employees outside of work hours by union members through following and harassment including taking photos of employees children at their school and sending them to the employee
- Directly impeding employees access to work sites through physical intimidation and threats as witnessed at Cross River Rail recently

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Features of these events include physical and mental intimidation, verbal abuse, and threats of violence generating a range of things including genuine concern for personal safety. This behaviour has been witnessed in and out of working hours and is often shared through social media channels and news outlets.

Consequences

The consequences of these unchecked behaviours include, but are not limited to:

- Increased levels of anguish for many workers who don't want to participate in these sorts of behaviours, noting that the construction industry already has a statistically high level of suicide, the product of mental health challenges. It is six times more likely the industry will lose someone to suicide than to an industrial accident.
- Staff needed to take stress leave after the QTRIP incident whilst the consequences for the perpetrators were non-existent, some of whom were observed leaving the building laughing amongst themselves.
- Staff on the Cross River Rail Project making worker's compensation claims as a result of psychological injuries suffered arising out of online abuse, mockery and defamation.
- Experienced staff, particularly those who are directly exposed to the intimidation, abuse and ridicule, are choosing to leave the industry.
- Enterprises of all sizes, but particularly small and medium, making clear decisions to not participate in projects that are important to the sustained growth of the regions in which they are being delivered.
- Many Tier 2 and 3 construction enterprises are not considering JV's with Tier 1's where they are likely to become more exposed to the risk of industrial campaigns against them.
- Creates a barrier to entry for companies and artificially restricts growth, especially at a time when we need to be attracting companies to the region and stepping up to larger works.

Legal Frameworks

In parallel with the above behaviours occurring, the federal and state Governments have shown a clear mandate in wanting to improve psychosocial well-being in the

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workplace, and have recently introduced several laws in support of this agenda, namely:

- The Queensland government's introduction of the Managing the risk of psychosocial hazards at work Code of Practice 2022. The code requires that "PCBUs must eliminate or minimise, so far as is reasonably practicable, the psychosocial risks that arise from psychosocial hazards".
- New federal laws that place a positive duty on employers to eliminate, so far as reasonably practical, gender-based harassment. In doing so, the federal government have empowered the Australian Human Rights Commission to hold PCBUs to account, regardless of whether a complaint is made.
- From August 2024, the Fair Work Act 2009 (FWA) will be amended to grant employees the right to refuse contact outside their usual working hours. The objective of this law is to promote the important role rest and recreation has in mental well-being at work.

These recent laws only add to well-established Australian laws concerning:

- The primary duty of care of PCBUs under the WHSA.
- Freedom of association, anti-discrimination, adverse action, coercion, and undue pressure protections under the FWA.
- Protections from gender-based discrimination under the Sex Discrimination Act 1984.

From Industry's perspective, these laws have been deemed fundamental to the fabric of our society yet are being blatantly ignored by certain organisations and their representatives, who intentionally disregard the law.

The flippant attitude to the law demonstrated by these employee organisations, and their indifference to the psychosocial well-being of construction industry participants, is placing our members in an unenviable position in creating safe workplaces and meeting duties under workplace legalisation.

DTMR as a Shared Duty Holder

DTMR, a PCBU, shares and owes important health and safety duties to our members and the businesses it engages, particularly in circumstances where DTMR have their employees accessing and performing work on its projects.

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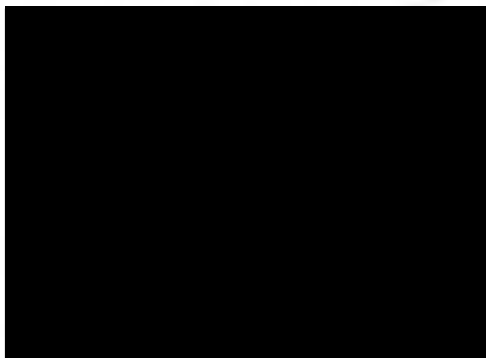


As detailed herein, the introduction of the Queensland Government's BPIC policy, and its associated expectations from unions, have chiefly contributed to the industrial unrest currently occurring across a previously industrially stable industry. The disruptive effect of the BPIC Policy and the actions of employee organisations in response to the policy's deployment have significantly undermined psychological safety in the industry.

To assist our members with meeting the duty of care owed to their workers and supply chain, the QMCA seeks the opportunity to meet with DTMR and the other key industry stakeholders to discuss and coordinate on how we can get our industry back to a place that is free from intimidation, aggression, abuse and coercive control.

Please feel free to contact me for any additional information you may require.

Regards



ANDREW CHAPMAN
CEO
QMCA

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Minutes

Contractors Industry Liaison Group (TMR, QMCA, CCF)



Date Friday, 24 May 2024

Time 1:30pm – 3:30pm

Place Microsoft Teams

Attendees

Member	David Balmer	Queensland Major Contractors Association Chair
Member	Andrew Chapman	Queensland Major Contractors Association CEO
Member	Adam Edwards	Queensland Major Contractors Association Deputy Chair
Member	Mark Goodwin	Civil Contractors Federation (Qld) President
Member	Damian Long	Civil Contractors Federation (Qld) CEO
Member	Julie Mitchell	DDG, Infrastructure Management & Delivery
Member	Ann-Maree Knox	GM, Program Delivery & Operations
Member	Anthony Philp	GM, Portfolio Investments & Programming
Member	Deanne Hawkswood	Chief Procurement Officer
Member	Paul Stenhouse	A/ED, Program Management & Delivery
Member	Kelly Taylor	A/D, Industry Relations & Prequalification
Secretariat	Julia Huynh	A/M, Industry Relations

Guests

Apologies

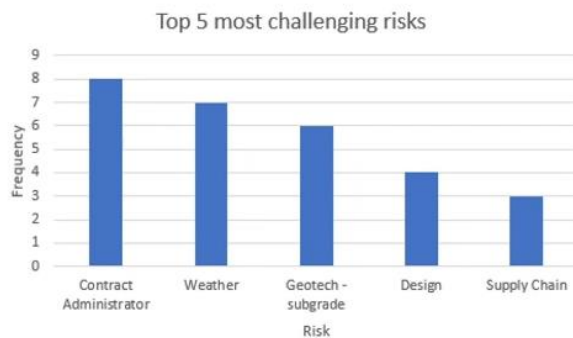
Agenda 1	Welcome, introductions and organisational updates <i>Presented by Paul Stenhouse</i> - Adam Edwards is the new Deputy Chair for QMCA - Ross Hodgman is the new TMR Regional Director for North Queensland
Agenda 2	Review of Minutes and Actions of previous meeting <i>Presented by Julia Huynh</i> - Previous minutes were accepted. - Actions updated in the latest Actions Summary.
Agenda 3	Procurement and Contracts Program of procurement for 2024 <i>Presented by Kelly Taylor</i> - The QTRIP industry briefing will be held in August 2024 - TMR is still working through the Federal Budget impacts, but projects will be released to market via a staggered approach as they are all at different stages. - AC enquired if mega-projects were able to be broken into more manageable but still large projects, with Rail and Bruce Highway provided as examples. - JM responded that some projects, like the Gateway Motorway, probably can't be smaller. Projects aren't necessarily being bundled, but some Tier 1 projects may be able to be split into multiple Tier 2 projects to encourage JVs and not preference Tier 1. Action – Discuss with project teams which emerging Tier 1 projects may be able to be split into multiple Tier 2 projects to encourage JVs and not preference Tier 1 suppliers. - AE commented that TMR is good at right sizing projects to meet industry capacity/capability.

Collaborative Project Update

Presented by Deanne Hawkswood

- DH provided an overview, noting there has been good traction on the project. 11 implementation streams have been agreed to by advisory board.
- Consultation to understand the top 5 risk areas have been strong. 17 entities of contractors have been involved across Designers, Contract Administrators and so on.

Risk Survey: Observations to date



5 |

1. Contract Administrator (8/9)

- Capability and behaviour and capability

2. Wet Weather (7/9)

- Difficult to manage. Impacts schedule/program

3. Geotechnical Issues (6/9)

- Provisional quantities are difficult to price competitively
- Patchwork quilt approach to treatments – unproductive
- Subgrade Treatments and Embankment materials

4. Quality of Design (4/9)

- Design errors or omissions
- Inappropriate design (constructability)

5. Supply Chain (3/9)

- Long tender timeframes puts pressure on subcontractor costs and availability

- The team continues to meet with PDO Regions to identify Projects for piloting changes.
- The TIPDS review is also currently underway.
- The team is progressing to the next stage of bringing on an external partner with a focus on delivery this and next year. This is not yet at market.

Agenda 4

Planning and prioritisation of projects:

QTRIP update

Presented by Paul Stenhouse

- End of April 2024 position sees a revised budget of \$5.09Billion on a baseline of \$4.41 Billion. End of Financial Year forecast is \$5.06 Billion with Actual Year to Date sitting at \$3.95 Billion. The \$1.55 Billion variance from Actual to EOFY is from the May forecast spend of \$635 Million and the June forecast of \$913 Million.
- Regions and Districts will have updated information in August at the QTRIP industry briefing.
- AC and DL mentioned that TMR is the best with putting out information. Brisbane2032 has been asked for a forward plan, but this hasn't been provided. Graham Fraine chaired the Brisbane2032 meeting.
- DL reinforced the benefit to Government and Industry to have forward plans to allow pinch points, industry capacity and supply chain impacts to be identified. The workload is a consistent problem that impacts everyone in infrastructure. This would enable better Resource Planning to meet capacity demands.

	Federal Budget outcomes: <i>Presented by Anthony Philp</i> • Commonwealth Infrastructure Review outcomes saw certain projects cancelled or as requiring further planning due to the 50/50 funding split impacts. • The \$120Billion cap over 10 years means a more program management approach is needed to address the cost pressures of existing and new projects. • Of the annual \$12Billion cap, Queensland's Transport Infrastructure is about \$2.8Billion. Queensland has the largest road and pavements network of the states. • Projects will be staggered and a 10-year pipeline will be developed on an annual basis. TMR will continue to work with Federal Government. • Previously, further planning information had been requested for the Inland Freight Route. With the pipeline of work provided to Federal government, the corridor funding has now been released. There has been a shift to rail in the forward pipeline. • AMK mentioned that Queensland Government is committed to Mooloolah River Interchange as a priority, noting it is not yet fully funded. Some other smaller projects have been funded, but there has been segmenting into Planning and Construction projects. • DB asked about PFAS [per- and polyfluoroalkyl substances] impacts. • DL mentioned that he has been speaking with DESI [Department of Environment, Science and Innovation] on PFAS. Queensland is currently at zero, noting New South Wales is five. DL recommended to the minister that environmental issues be allocated to a different budget. • JM commented that TMR is leading a lot of the work for DESI in regard to PFAS, and that work around PFAS has slowed down delivery on some projects. • AMK mentioned TMR is trying to avoid individual projects dealing with DESI. A Code of Practice will help. • Action – DL to send PS names of DESI reps on PFAS to ensure consistent messaging.
Agenda 5	Other Business JH: Terms of Reference approvals • Action: Members to review TOR and provide a response by 31 May 2024 to allow final version to be distributed with the meeting minutes. KT: Austroads updates • At the 9 May 2024 Austroads Board meeting, the board considered the <i>Review of financial assessment criteria of the National Prequalification System</i> recommendations and approved Option 5: ○ Consider some modifications to the draft criteria prior to adoption. This option builds on Option 3 [Adopt as proposed in full with a longer transition period than 12 months – assume 18-24 Months] and could include aspects such as ▪ considering some more definitive rules relating to related entity loans, ▪ defining how organisation offering parent company guarantees are assessed, and ▪ allowing an 18–24-month implementation period. • Incorporate Rail into the NPS: ○ Board approved for a project to be undertaken in 2024/25. ○ QITC and QR will be involved in consultation. ○ There is no current prequalification categories for Rail.

- Online Portal:

- A new Initiative has been proposed for an online portal. More will be known as this progresses.

DL: Insurances

- Current PI [Professional Indemnity] policy caps TMRs liability but exposes industry. PI affects a lot of projects. We need to workshop value and gaps.
- Suggestion to bring together 2-3 key contractors in the Design and Construct space, and maybe bring in insurance brokers.
- Suggestion for DL to chat to Tim Dewar and set up a meeting or workshop if required.
- **Action – PS to coordinate DL and TD discussion on professional indemnity insurance.**

AC: Cost of bidding

- This is a big impost on business to bid vs contribution.

Rail:

- **Action: Peter Papantoniou to be included as a member as Rail focus is increasing (and added to TOR).**

AC: Audit effort

- 100% compliance is consuming a lot of time and resources. What has been the trends or benefits? Noting it is a QLD Gov requirement, how do we influence?
- DH commented that the same conversations have been circulating with Queensland Government Procurement and the Ethical Standards Mandate.
- DL commented that the non-compliance audits add little value. Policies have been put in place with auditors not understanding the civil construction environment.
- KT added that on historical projects where Joint Ventures have been disbanded and no contractors, staff or resources are available, it is really difficult to address. TMR also does not see any outcomes or privy to any investigations unless it is a final recommendation.
- **Action: KT to look into trends, cost/benefits, and consolidate learnings regarding Audits with a view to influence and reduce audit efforts.**

AC: BPP Prequalification

- KT advised that TMR is still waiting on Workplace Health and Safety Qld.
- DB asked if conditional prequalification can be issued?
- KT responded that once we receive the safety information from WHS Qld, the prequal will be conditional for 12 months. BPP submissions for open tenders will be prioritised.

DB: QMCA is drafting some correspondence around industry behaviours.

- There is a need to show leadership to small and medium enterprises.
- There have been discussions with the Fair Work Ombudsman, and separate conversations at Federal and State levels. The authority to give and remove permits sits with WHS.
- DB: There is a concern around psychosocial breaches, for example, Union aggression does not make for a safe workplace.
- JM: Fair Work Ombudsman has told the DG that they will prosecute if the evidence is provided. The impost is now on us to collect our own evidence and take it to the Ombudsman.
- DL: CCF will meet with Fair Work Ombudsman and happy to include QMCA/DB.
- **Action: JM to discuss with the DG the concerns around behaviours and psychosocial breaches due to unions and address with Office of Industrial Relations and WHS. Advice needs to be consistent.**

AE: Renewables BPIC has been released.

JM-30

	• Compared to other documents, there is a 70-75% more on annual take home rates compared to the Transport BPIC. • JM advised that significant effort has been made to ensure the Transport BPIC guidelines were not the same as the Renewables BPIC. PS: Please submit agenda items prior to the meeting • Action: Add Industrial Relations as a standing agenda item.
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Date of next meeting: Tuesday, 13 August 2024 10:00 AM-12:00 PM

JM-31

From: Helen Burgess [REDACTED]
Sent: Fri 31/05/2024 6:17:43 AM (UTC+10:00)
To: Julie Mitchell [REDACTED]
Cc: Christina M Heffner [REDACTED]; Deanne M Hawkswood [REDACTED]; David J Aitchison [REDACTED]; Paul E Stenhouse [REDACTED]; Ann-Maree Knox [REDACTED]; Chelsy L Taylor [REDACTED]; Adriana M Chilnicean [REDACTED]
Subject: RE: Phsyco Social Hazards

Hello Julie
 Yes I can talk to all of that.
 Thanks
 Helen



Queensland Government
Helen Burgess
 Director, Construction Strategy
 Office of Industrial Relations

[REDACTED] your workplace safe, is not at work at all.

Work safe. Home safe.

Connect with us:



From: Julie Mitchell <[REDACTED]>
Sent: Thursday, 30 May 2024 6:34 PM
To: Helen Burgess [REDACTED]
Cc: Christina M Heffner [REDACTED]; Deanne M Hawkswood [REDACTED]; David J Aitchison [REDACTED]; Paul E Stenhouse <[REDACTED]>; Ann-Maree Knox <[REDACTED]>; Chelsy L Taylor <[REDACTED]>; Adriana M Chilnicean <[REDACTED]>
Subject: RE: Phsyco Social Hazards

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Helen
 Thanks for your reply
 Im happy to talk and lets do so next week (Ill get Chelsey to arrange)
 Re code of practice – its not the psychosocial (PS) code they want to talk about (They have their advice and know the responsibilities) Its about potential to apply an industry code of practice to people who are given permits for entry by WHS. IE if they behave badly enough (aggression and so

JM-31

on) the permit can be removed. So are you the correct contact for that chat?

I do suspect the permit holders aren't the primary problem- it's the illegal entry and illegal picketing that the problem. But that discussion is not with you!!

They also think the obligations re PS are unfair to apply to an employer if third parties beyond their control cause the harm. Apparently when the ABCC was in play there was real time enforcement (to kind of assist) but that has now gone and police will respond in some circumstances but not others. They feel a bit powerless in real time and staff are bearing the agro (then are upset and so on at the abuse) – Are you the right person to talk about the practical application of the PS obligations and their liabilities and if there is any consideration for them if a 3rd party (effectively out of their control) causes the PS hazard?

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads

[REDACTED]

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From: Helen Burgess <[REDACTED]>

Sent: Thursday, May 30, 2024 1:10 PM

To: Julie Mitchell

Cc: Christina M Heffner <[REDACTED]>; Deanne M Hawkswood

[REDACTED] David J Aitchison <[REDACTED]>; Paul E Stenhouse <[REDACTED]>; Ann-Maree Knox <[REDACTED]>

Subject: RE: Phsyco Social Hazards

Hello Julie

Thank you for your email.

I can explain how the psychosocial code of practice works and is applied.

When you say 'current permitting regime' are you referring to the union officials being entry permit holders? If so I can also talk to you about that, including the work we have been doing with the police.

I think it is best this is done with just yourselves in the first instance if that is ok.

Thanks

Helen



Queensland
Government

Helen Burgess

Director, Construction Strategy

Office of Industrial Relations

[REDACTED]

JM-31

[REDACTED]

The most important reason for making your workplace safe, is not at work at all.

Work safe. Home safe.

Connect with us:



From: Julie Mitchell [REDACTED]

Sent: Wednesday, 29 May 2024 7:13 PM

To: Helen Burgess [REDACTED] >

Cc: Christina M Heffner [REDACTED]

>; Deanne M Hawkswood

>; David J Aitchison [REDACTED]

; Paul

E Stenhouse [REDACTED]

>; Ann-Maree Knox [REDACTED]

Subject: Fwd: Phsyco Social Hazards

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Hi Helen

Hope u are well.

I have received the attached letter from QMCA (who we meet with regularly).

I discussed with them and advised I'm happy to facilitate a meeting with WHS Queensland.

Hoping u can help me as to who may be the best/ most appropriate people to talk to about something like including a culture standard within the current permitting regime?

We also need to discuss the legal responsibilities contractors have for psychosocial hazards as an employer and PCBU and where this may be unreasonable when associated with the actions of third parties they cannot control.

I have made it clear a culture standard course may help us with the conduct of those people who are legally allowed to enter sites under a State sanctioned regime. However, it won't help us people who aren't legally permitted under this regime to access sites.

Julie

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng

MBA MEM GAICD

Deputy Director-General

Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: [REDACTED]

Sent: Tuesday, May 21, 2024 2:04:16 PM

To: Julie Mitchell [REDACTED] >

Cc: 'David Balmer' [REDACTED] >

Subject: Phsyco Social Hazards

Julie;

Please find attached a letter from the QMCA regarding Psycho Social Hazards and recent issues in the industry that are increasing this as an issue.

I understand that you have spoken to David Balmer regarding this recently too.

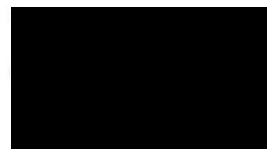
We would hope to open a dialogue with the Department and other stakeholders around how these risks can be managed together for the betterment of all in the industry.

Regards



Andrew Chapman

CEO



www.qmca.com.au

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Date: Mon, 17 Jun 2024 3:58:00 AM (UTC)
Sent: Mon, 17 Jun 2024 3:58:15 AM (UTC)
Subject: FW: EXT: Re: Physco Social Hazards
From: Balmer, David [REDACTED]
To: [REDACTED]

Response fyi only

Regards,



WWW.ACCIONA.COM.AU

David Balmer

Regional Manager
 ACCIONA Construction

ACCIONA



ACCIONA values and promotes diversity and acknowledges the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respects to their Elders past, present and emerging and extend that respect to all First Nations people of Australia.

From: Julie Mitchell <[REDACTED]>
Sent: Wednesday, May 29, 2024 6:48 PM
To: [REDACTED]
Cc: Balmer, David [REDACTED]; Christina M Heffner [REDACTED]; David J Aitchison <[REDACTED]>; Deanne M Hawkswood [REDACTED]; Paul E Stenhouse <[REDACTED]>; Ann-Maree Knox [REDACTED]
Subject: EXT: Re: Physco Social Hazards

Andrew and Dave

thanks very much for bringing all this to our attention in such a comprehensive way.

As discussed on Friday I'm happy to facilitate a meeting with workplace health and safety Queensland. I just need to find the right people to talk to that may be open to (and have accountability) for including a culture standard within the current permitting regime. We can also discuss the legal responsibilities you have for psychosocial health as an employer and PCBU and where this may be unreasonable when associated with the actions of third parties you cannot control.

A culture standard course would help us with the conduct for those people who are legally allowed to enter sites under a State sanctioned regime. However, it won't help us people who aren't legally permitted under this regime to access sites.

In order to address those who accessing site illegally and/ or illegal picketing behaviour we need to speak to the FW Ombudsman and I'm happy to facilitate that.

Julie

Julie Mitchell PSM

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
www.tmr.qld.gov.au

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From: [REDACTED]
Sent: Tuesday, May 21, 2024 2:04:16 PM
To: Julie Mitchell [REDACTED] >
Cc: 'David Balmer' [REDACTED] >
Subject: Physco Social Hazards

Julie;

Please find attached a letter from the QMCA regarding Psycho Social Hazards and recent issues in the industry that are increasing this as an issue.

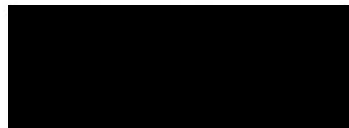
I understand that you have spoken to David Balmer regarding this recently too.

We would hope to open a dialogue with the Department and other stakeholders around how these risks can be managed together for the betterment of all in the industry.

Regards



Andrew Chapman
CEO



www.qmca.com.au

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JM-32

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Re code of practice – its not the psychosocial (PS) code they want to talk about (They have their advice and know the responsibilities) Its about potential to apply an industry code of practice to people who are given permits for entry by WHS. IE if they behave badly enough (aggression and so on) the permit can be removed. So are you the correct contact for that chat?

I do suspect the permit holders aren't the primary problem- it's the illegal entry and illegal picketing that the problem. But that discussion is not with you!!

They also think the obligations re PS are unfair to apply to an employer if third parties beyond their control cause the harm. Apparently when the ABCC was in play there was real time enforcement (to kind of assist) but that has now gone and police will respond in some circumstances but not others. They feel a bit powerless in real time and staff are bearing the agro (then are upset and so on at the abuse) – Are you the right person to talk about the practical application of the PS obligations and their liabilities and if there is any consideration for them if a 3rd party (effectively out of their control) causes the PS hazard?

Julie Mitchell PSM
SE Civil RPEQ FIEAust CPEng
BESA MEM QASCO
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads

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From: Helen Burgess <[REDACTED]>
Sent: Thursday, May 30, 2024 1:10 PM
To: Julie Mitchell <[REDACTED]>
Cc: Christina M Heffner <[REDACTED]>; Deanne M Hawkswood <[REDACTED]>; David J Aitchison <[REDACTED]>; Paul E Stenhouse <[REDACTED]>; Ann-Maree Knox <[REDACTED]>
Subject: RE: Phsyco Social Hazards

Hello Julie

Thank you for your email.

I can explain how the psychosocial code of practice works and is applied.

When you say 'current permitting regime' are you referring to the union officials being entry permit holders? If so I can also talk to you about that, including the work we have been doing with the police.

I think it is best this is done with just yourselves in the first instance if that is ok.

Thanks
Helen



Helen Burgess
Director, Construction Strategy
Office of Industrial Relations

The most important reason for making your workplace safe, is not at work at all.
Work safe. Home safe.

Connect with us:



From: Julie Mitchell <[REDACTED]>
Sent: Wednesday, 29 May 2024 7:13 PM
To: Helen Burgess <[REDACTED]>
Cc: Christina M Heffner <[REDACTED]>; Deanne M Hawkswood <[REDACTED]>; David J Aitchison <[REDACTED]>; Paul E Stenhouse <[REDACTED]>; Ann-Maree Knox <[REDACTED]>
Subject: Fwd: Phsyco Social Hazards

CAUTION: This email originated from outside of OIR. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Helen
Hope u are well.

I have received the attached letter from QMCA (who we meet with regularly).

I discussed with them and advised I'm happy to facilitate a meeting with WHS Queensland.

Hoping u can help me as to who may be the best/ most appropriate people to talk to about something like including a culture standard within the current permitting regime?

- Anyone can make application-
- commission considers.
- Person will be asked to Show cause.
-

Grounds for revocation

- Eligibility
- OR FW work act
- Contravened any condition of a permit (previously applied)
- Acted or purported to act (like QMCA letter)
- Need Evidence
- Hindering work

So there is a Cult std- FW Act s513 and WHS act (QIRC) - s138

PS code of practice 14 hazards- common

- High job demands.
- Job control
- Poor support
- Traumatic, violence and aggression
- Consider the 14 and others

Risk assessment

Document their assessment and what can do to mitigate them

Policy and procedure

Consult and training staff

Staff understand how compliant or raise concern.

If an issue

- Evidence they have followed their own policy and procedures.
- Workers understand they are able to complain and policy and procedures.
- Support for staff
- EG
 - Changing work hours
 - Entry and exist
 - Will call police/ escalate higher in police if no one comes.
- Also use QIRC and FWA complaints
- Gather evidence.
- Will raise matters and will ask why these things aren't in the policy

Meeting w the police- don't have to do - don't have to interpret if permit compliant with WHS act

We also need to discuss the legal responsibilities contractors have for psychosocial hazards as an employer and PCBU and where this may be unreasonable when associated with the actions of third parties they cannot control.

I have made it clear a culture standard course may help us with the conduct of those people who are legally allowed to enter sites under a State sanctioned regime. However, it won't help us people who aren't legally permitted under this regime to access sites.

Julie

Julie Mitchell PSM
BE CIVIL RPEQ FIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads



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From: [Redacted]
Sent: Tuesday, May 21, 2024 2:04:16 PM
To: Julie Mitchell <[Redacted]>
Cc: 'David Balmer' <[Redacted]>
Subject: Phsyco Social Hazards

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I understand that you have spoken to David Balmer regarding this recently too.

We would hope to open a dialogue with the Department and other stakeholders around how these risks can be managed together for the betterment of all in the industry.

Regards



Andrew Chapman
CEO



www.qmca.com.au

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****summary meeting with WHS - any comments

Tuesday, 11 June 2024 3:29 PM

Subject	summary meeting with WHS - any comments
From	Julie Mitchell
To	Christina M Heffner; Deanne M Hawkswood
Sent	Monday, 10 June 2024 4:19 PM

For Qld WHS- Qld industrial relations commission- only approve it - not fit and Proper person (already been the feds FW commission)

- Couple of things have to consider.
 - For example, vested interests and union

FW act - fit and proper person s 513 act process

WHS act requirements require them to behave in a reasonable way- s138

QIRC can revoke if someone makes an application- may choose to add conditions.

- BMD have made an application.
- Anyone can make application-
- commission considers.
- Person will be asked to Show cause.
-

Grounds for revocation

- Eligibility
- OR FW work act
- Contravened any condition of a permit (previously applied)
- Acted or purported to act (like QMCA letter)
- Need Evidence
- Hindering work

So there is a Cult std- FW Act s513 and WHS act (QIRC) - s138

.....

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- Evidence they have followed their own policy and procedures.
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.....
Meeting w the police- don't have to do - don't have to interpret if permit compliant with WHS act

Julie Mitchell PSM
BE Civil RPEQ FIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads



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Chelsy L Taylor

From: Julie Mitchell
Sent: Wednesday, 5 June 2024 12:44 PM
To: IMD DDG Correspondence
Cc: Adrian D Langford; Dean R Helm; Christopher J Pearson; Deanne M Hawkswood; Anne E Moffat
Subject: URGENT - meeting Thursda DLO7469 - URGENT - Meeting with CFMEU about Centenary Bridge, TMR labour hire and CRR
Attachments: DLO7469_Advice.docx
Categories: Chelsy

This is great for centenary but we need to include the topic of labour hire incl reference to cl 4.2 in our blue and white collar EBA

Also need to say that RT ensure their labour hire employees are paid the same as RT workers doing the same job. Maybe Chris Pearson for this bit.

There was a recent complaint re Labour hire employees of the TMC (employed by Ransstad) and that this has been settled (**Adrian Langford/ DDG corp** is the correct area)-

Dee may wish to add something re union coverage for Traffic controllers like.....

IE its disputed area (and TMR is not the expert in this) but AWU clearly have coverage of all employees in the road and rail construction and maintenance. They have a lot of case law that supports that CFMEUs role coverage is limited to specific occupations on civil projects. Traffic controllers are not mentioned and it could be argued that they only have coverage of traffic controllers where they are engaged for building works.

Julie Mitchell PSM
BE Civil RPEQ FIEAust CPEng
MBA MEM GAICD
Deputy Director-General

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From: IMD DDG Correspondence <[REDACTED]>
Sent: Wednesday, June 5, 2024 10:57 AM
To: Julie Mitchell [REDACTED] >
Subject: For approval: DLO7469 - URGENT - Meeting with CFMEU about Centenary Bridge, TMR labour hire and CRR

Hi Julie,

Please see attached Advice from Meeting with CFMEU about Centenary Bridge, TMR labour hire and CRR.

For your review and approval please.

Kind Regards,

Chelsy Taylor
Program Advisor (Office of the Deputy Director-General)

[REDACTED]

www.tmr.qld.gov.au

From: QTMR Agent [REDACTED] > **On Behalf Of** DocTrak

Sent: Wednesday, June 5, 2024 10:34 AM

To: Adriana M Chilnicean <[REDACTED]>; Chelsy L Taylor

[REDACTED]; Debra A Nixon [REDACTED]; Donna M Milford

[REDACTED] Emma C Turner [REDACTED]; Gail A Mainey

[REDACTED]; IMD DDG Correspondence [REDACTED]; Leah

Rogash [REDACTED]; Mandy Z Jarman [REDACTED]; Mark W Rath

[REDACTED] >

Subject: DLO7469 - URGENT DocTrak: DocTrak response document is ready for you to review.

The draft response document for the correspondence, document reference: DLO7469 is ready for you to review.

[This is a System Generated Message]

[Click here to see the response document](#)

Advice for Minister for Transport and Main Roads and Minister for Digital Services

Subject: Ongoing union activity and impacts to Centenary Bridge Upgrade project

Document ID: DLO7469

- The Department of Transport and Main Roads (TMR) is undertaking a \$298.5 million upgrade of the Centenary Bridge in Jindalee to increase capacity and improve safety by building a new three-lane northbound bridge and rehabilitating the existing bridges to three lanes southbound, as well as upgrades to active transport facilities.
- The project is being delivered by a Georgiou/BMD Joint Venture (the contractor).
- The industrial agreement which covers the contractor's direct workforce reflects the Transport Best Practice Industry Conditions (\$100 million - \$300 million) and has the AWU as a party to the agreement.

Industrial relations

- Since February 2024, the project noted increased scrutiny from the Construction, Forestry and Maritime Employees Union (CFMEU) and most recently, there have been questions from union members about general workplace health and safety and the use of imported steel for temporary works on the project.
- **28 February 2024**, CFMEU representatives blockaded the site access to protest the use of imported steel for temporary works, alleging the imported steel does not meet Australian Standards and is unsafe to use. Following the blockade, CFMEU representatives camped around the site for over a month during day and night shifts, with the contractor raising concerns about rude behaviour, vandalism and frequent unauthorised access into the project site by union members.
- During this period, the delivery of temporary works steel to site was stopped. Prior to the Easter holiday, the camp demobilised and has not resumed.
- **29 April 2024**, up to 20 CFMEU representatives attended the site, with only a few providing the required permits and 'Right to Entry' documentation. The documentation outlined generic access/egress concerns, unsafe work practices and edge protection. No specific work area was identified as required under s117 of the *Work Health and Safety Act 2011* (WHS Act). The union representatives declined to sign the site visitor induction register and illegally accessed the site.

Action Officer/Approved by:	Endorsed by GM	Endorsed by CPO	Endorsed by DDG	Endorsed by DG
John Ryan Deputy Regional Director (Metropolitan)	Ann-Maree Knox General Manager (Program Delivery and Operations)	Deanne Hawkswood Chief Procurement Officer	Julie Mitchell Deputy Director-General (Infrastructure Management and Delivery)	Sally Stannard Director-General
				
Date: 3 June 2024	Date: 4 June 2024	Date: 4 June 2024	Date:	Date:

- Due to the number of representatives breaking fences and entering the site unlawfully, the site was deemed unsafe for staff to continue work and the site was shut down for the remainder of the day. The Queensland Police Service was called to the site to assist in managing CFMEU representatives.
- As a result of the ongoing disruptions and behaviour and the forced entry (noted above), extra measures were put in place by the contractor including additional CCTV cameras, employing industrial relations officers and employing over 30 security officers to protect the workers and the site.
- **14 May 2024**, approximately 50 CFMEU representatives attended site and blockaded the main site entrance, stopping the delivery of concrete and disrupting activities on site.
- Only two of those attending site had the required permits and 'Right to Entry' documentation, citing very generic unsafe work practices. Similarly, no specific work area was identified as required under s117 of the WHS Act.
- Work was suspended to ensure the safety of all personnel. A major concrete pour was stopped halfway due to the disruption to the concrete delivery.
- QPS attended the site with no action against the union presence taken as they were in the public space. Two Workplace Health and Safety Queensland (WHSQ) inspectors were also in attendance and upon inspection of the matters raised in the s117 notice, WHSQ inspectors had no concerns and the permit to enter application was accepted.
- The CFMEU claim that two of their organisers were assaulted while raising safety concerns at the site by the contracted security guards. This is refuted by the contractor. Evidence of the alleged assault was captured on CCTV and body cam footage which appears to contradict the allegation. TMR has not witnessed the footage.
- CFMEU representatives have previously visited the site on over 80 occasions. Over 50 of those visits took place without presenting valid documentation, some of which were unlawful entry to work sites.
- **15 May 2024**, Federal Court of Australia, Queensland Registry (Fair Work No: QUD245/2024), gave a finding against CFMEU and others named in the schedule.
- The court orders include that CFMEU (whether by its delegates, office holders, employees, or other representatives) and the nine other named persons are prohibited from:
 - a. physically obstructing or physically impeding the free movement of goods or people to and from the Project or a Point of Entry;
 - b. aiding, abetting, counselling, procuring or inducing any person to engage in the conduct referred to above.
- The Order requires compliance with visitor induction processes (sign into site). A schedule attached to the document lists the respondents. Each respondent is associated with the CFMEU and is subject to the orders issued by the court. This injunction order operated until midnight on 23 May 2024.
- **23 May 2024**, the Federal Court of Australia, Queensland Registry, extended the injunction order, with a hearing date yet to be finalised, potentially in November 2024.

- While this may assist the project with respect to illegal disruptive behaviour outside the site impacting material (including steel) delivery, threats have been made regarding delays to lifting the steel in place (which will involve cranes – whose operators CFMEU have coverage of).

Imported Steel for temporary works

- The contractor will use temporary steel structures to construct the temporary gantry for concrete girder handling and works on the existing bridges. These will be demobilised from site once works are complete. These structures will be built in part with imported steel.
- TMR has audited the processes used by the contractor and their consultants to certify the design and installation of temporary steel structures. The audit supports the contractor's assertion that the materials and works meets the necessary Australian safety standards and are certified in accordance with the *Professional Engineers Act 2002*.
- The TMR audit has the following specific findings:
 - The traceability documents provided by the contractor appear to be sufficient. It tracks the component from the drawing to a register to the heat no. on a Material Test Certificate (MTC).
 - Weld procedures have been developed and provided.
 - The chemical and mechanical properties (for the steel) on MTCs provided do meet relevant Australian Standards.
 - Competent personnel from PMI International have inspected and reported the steel fabrication process undertaken in overseas factory have followed and met the required quality standards.
 - PMI International undertook on-site daily inspections for work being done (quality assurance), have provided reports accompanied with photos to show that:
 - issues are being identified and corrective actions taken
 - The relevant Registered Professional Engineer of Queensland responsible for certifying the installation of steel temporary works processes is FSA Consulting Engineers, a South East Queensland based company.
 - Bonacci Infrastructure Pty Ltd, a specialist structural and civil engineering consultancy, undertook a third-party (peer) review of the temporary gantry support structure for the Centenary Bridge Upgrade project.
- Delivery of imported steel is ongoing, and the contractor is currently assembling the temporary structures on site. These structures will be demobilised from the site once the new northbound bridge and refurbishment of the existing bridge is complete, expected to be in 2027.
- The bulk of the gantry steel is expected to be delivered to site by early June 2024. The gantry crane is expected to be on site by late June 2024.

Impacts of ongoing activity

- The contractor has indicated that the disruptions caused by union activities since February 2024 have impacted its program of works. TMR believes that the following time and costs have occurred due to the disruptions:
 - a delay of about 30 working days to the contractor's program (six weeks)
 - disruption costs amounting to nearly \$5 million to date, with potential to increase to about \$13 million for this year if the disruptions continue despite the court order

- since late April 2024, the contractor has engaged over 30 security personnel and two industrial relations officers to protect the site and prevent unlawful entry by union members. The contractor is currently assessing the conditions and investigating the possibility of reducing the number of security personnel given the court order in place.

Fair Work Ombudsman

- The TMR Director-General (DG) met with the Deputy Fair Work Ombudsman (FWO) and discussed their approach to regulating compliance with the *Fair Work Act 2009* (FW Act) in the commercial building and construction sector.
- The DG outlined issues identified by TMR and project participants, and the FWO outlined the practical challenges in regulating alleged conduct in the sector without specific information or evidence from impacted parties.
- The FWO advised that it uses information and intelligence from various sources to assist in identifying alleged non-compliance with the FW Act in order to ensure that their resources are focused on areas or sites of significant risk of non-compliance and public interest and concern.
- The FWO advised that TMR and project participants should refer specific information regarding alleged non-compliance to her office.
- TMR has previously progressed DLO7436 and DLO7437 to you relating to this matter.
- For the meeting with CFMEU on 6 June 2024, Ms Deanne Hawkswood, Chief Procurement Officer will be TMR's representative.

JM-36

From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent: Wed 17/07/2024 8:17:55 PM (UTC+10:00)
To: Julie Mitchell [REDACTED]; Nicole Z Davis [REDACTED]
Cc: Anne E Moffat [REDACTED] Nick T Shaw [REDACTED]
Subject: RE: Urgent media response please
Attachment: QMCA- TMR Letter re Psycho Social 21-5-24.pdf

Hi Julie (Nic)

Response below in blue font.

Dee

The letter expressed concern about the psycho social effects of the CFMEU members actions. As you know the state passed laws requiring employers to take action around "psycho social" effects on employees.

I am seeking to know what TMR did about the letter?

TMR did receive a letter from the QMCA CEO, Andrew Chapman on 21 May 2024 which expressed their concern with increased union activity on TMR projects and the potential impacts that is having on those staff who may have witnessed or experienced some of this activity. There is a positive relationship between TMR and the civil infrastructure industry and we work closely with industry on any number of matters including the introduction of the BPIC. As such we met with representatives from QMCA on 28 May to discuss their concerns where we then worked through ideas on what might help the situation.

What action did the state government take?

The meeting was productive and one of the suggestions was to engage further with WHSQ and Office of Industrial Relations to provide advice on positive actions the contractors could take to help manage the psychosocial risks and support, through education, on managing right of entry requirements.

The department facilitated a meeting between representatives from QMCA and a delegate from WHSQ and reps from TMR on 4 July. The meeting was helpful and the feedback we received from the QMCA representatives was positive.

How did tmr advise QMCA?

TMR spoke to Andrew Chapman (Julie – I'm assuming this occurred like this?) and we worked closely with them, which is the way we work with our industry partners.

JM-36

Deanne Hawkswood
Chief Procurement Officer
Finance & Procurement Branch
Department of Transport and Main Roads

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From: Sally Z Stannard <[REDACTED]>
Sent: Wednesday, July 17, 2024 6:40 PM
To: Deanne M Hawkswood <[REDACTED]>; Julie Mitchell
<[REDACTED]>; Nicole Z Davis <[REDACTED]>
Cc: Anne E Moffat <[REDACTED]> Nick T Shaw <[REDACTED]>
Subject: Urgent media response please

Hi Team,

Media request please - per below. Required for early AM radio.

Dee to draft, Julie to approve and back to Nic Davies pls to send to me.

ABC are seeking a response to the below for tomorrow morning.

I think it would refer to the relevant contractor / WHS and possibly our contract requirements for safety.

Could you please action a response.

See below from Steve Austin

Hey Lesley can you assist me for tomorrow's program.

I understand that the QLD Major Contractos Association sent a letter to TMR in May of this year expressing concern in detail about behaviour of some CFMEU members on TMR job sites.

The letter expressed concern about the psycho social effects of the CFMEU members actions. As you know the state passed laws requiring employers to take action around "psycho social" effects on employees.

JM-36

I am seeking to know what TMR did about the letter?

What action did the state government take?

How did tmr advise QMCA?

The letter would have been signed by Andrew Chapman from the QMCA

I am not seeking it tonight but for tomorrow please if you can?

Cheers

Steve Austin
ABC radio Brisbane
Mornings

Kind regards

Sally Stannard
Director-General
Department of Transport and Main Roads



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JM-37

From: Julie Mitchell [REDACTED]
Sent: Fri 30/08/2024 5:04:24 PM (UTC+10:00)
To: Deanne M Hawkswood [REDACTED]; Kelly A Taylor [REDACTED]
Cc: Anthony P Philp [REDACTED]; Ann-Maree Knox [REDACTED]
Subject: FW: DG46787 - Clarifying TMR's expectations on Transport BPIC application
Attachment: DG46787_Att 1A_DG signed Letter_Long_30082024.pdf
Attachment: DG46787_Att 1B_DG signed Letter_Chapman_30082024.pdf

Dee

were we going to send this to all the prequel contractors? AND

Should we send to AMK so she can cascade so that PMs are aware?

Julie Mitchell PSM

BE Civil RPEQ FIEAust CPEng
MBA MEM GAICD

Deputy Director-General

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From: ESNoreply [REDACTED] >
Sent: Friday, August 30, 2024 10:02 AM
To: Damien Long [REDACTED]
Cc: Julie Mitchell [REDACTED]; Deanne M Hawkswood [REDACTED]
Subject: DG46787 - Clarifying TMR's expectations on Transport BPIC application

Dear Damian / Andrew,

Please find attached a letter for your attention that clarifies the Department of Transport and Main Roads' (TMR) expectations regarding the Transport BPIC. It is intended to support industry in applying the Transport BPIC through tendering and project delivery, and I welcome you to share it with your members.

JM-37

Importantly, the letter refers to guidance currently under development to support improved awareness and understanding of the Transport BPIC across industry.

Thank you for your continued willingness to provide valuable industry insights to TMR.
I appreciate your time and efforts and look forward to continuing to work in partnership with industry.

Yours sincerely,

Sally Stannard
Director-General
Department of Transport and Main Roads
