

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

WITNESS STATEMENT OF NOEL SELWYN HAYES

1. I, Noel Selwyn Hayes, of an address known to the Commission, say on oath:

Background

2. I worked in the construction industry for 53 years in various roles.
3. I started my career in the construction industry as an apprentice bricklayer in February 1969. I worked as a bricklayer for about 36 years.
4. I have been an employee, subcontractor, contractor and employer as a bricklayer and I also had my builder's licence.
5. At times during my career in the construction industry I was a member of various trade unions, including the CFMEU. When I was employed by the Office of Industrial Relations (**OIR**), I became a member of the Together Union.
6. In 2003, I obtained a diploma in Occupational Health and Safety from the Southbank Institute of TAFE.
7. In 2004, I started employment with the OIR, as a Senior Inspector in the Construction Division of Work Health and Safety Queensland (**WHSQ**).
8. In 2013, I was promoted to the role of Principal Inspector of Operations. As a Principal Inspector I was responsible for a team of construction inspectors who reported to me. I allocated work to them, provided them with supervision and closed out jobs after reviewing their work. I also continued to conduct my own site inspections.
9. In or around September 2017, I was promoted to Acting Lead Inspector by Daryl Booker who was then the Director of Construction. On or around 18 October 2018, I interviewed to be appointed permanently to the Lead Inspector role I was acting in. Helen Burgess, the then Director of Construction Compliance and Field Services (**Director**) was on the selection panel. I did not get the role. After being unsuccessful I called Ms Burgess to ask why. Ms Burgess responded to the effect: "Noel, you're too much of a stickler for the regulations and you've got to be able to move with the government and the department of the time".
10. After failing to secure the Lead Inspector role I returned to my Principal Inspector role. At some time after returning to my Principal Inspector role allocation duties were removed from me. On 15 April 2020, Mark Houston, Regional Operations Manager, asked me to start doing allocating work again. On 22 April 2020, Mr Houston removed my responsibility for allocating work to other inspectors. During that conversation, he told me that Ms Burgess didn't want me in the role.
11. Around October 2021 I retired.

The role of inspectors

12. Inspectors have functions under the *Work Health and Safety Act 2011* (**WHS Act**), including to provide advice to duty holders about health and safety matters, to help to resolve disputes and to issue notices. One of an inspector's roles is to assist with right of entry disputes between persons conducting a business or undertaking and entry permit holders. We could not give directions and say that the union was allowed to enter, or prohibited from entering, sites under a right of entry. We would instead point out to both the union and the builder what legally should happen.

13. An inspector also has the power to enter a workplace and examine, test, photograph, or film anything that we think is a contravention of the WHS Act, to obtain information and documents and to issue notices. Notices that we were able to issue include:
- a. improvement notices – when issuing an improvement notice, an inspector can require a duty holder to remedy a contravention, prevent something from occurring, or take other remedial action. Before issuing an improvement notice, an inspector must form a reasonable belief that the duty holder is contravening a provision of the WHS Act, or has contravened the Act and that the contravention will continue or be repeated;
 - b. prohibition notices – when issuing a prohibition notice, an inspector can direct that a particular work task / activity, or the way that a task / activity is being carried out is prohibited and cannot be performed until the inspector is satisfied that the risk has been remedied. Before issuing a prohibition notice, an inspector must form a reasonable belief that there is (or may be) an activity which involves or would involve a serious risk to health and safety arising from an immediate or imminent exposure to a hazard;
 - c. infringement notices – which are like speeding tickets, allow inspectors to impose low level fines for certain offences under the WHS Act or Regulations. Typically, an infringement notice will have a fine of around \$3,600 for a company.
14. In my experience, improvement notices are the most common enforcement measure that inspectors use. They are primarily focused on requiring a duty holder to take additional actions to make improvements to health and safety. A prohibition notice is more serious, because it causes work to stop in some or all respects.
15. In addition to those formal measures, inspectors would also give verbal directions for something to be rectified before leaving the site. This would normally be for minor matters, like asking a duty holder to move something out of a walkway. If those directions were not followed, an improvement notice would be issued.

CFMEU influence over WHSQ

16. In my experience the CFMEU has always been the same, in that their behaviour has not really changed over the years. I was not bullied or abused by the CFMEU or its officials. The way they would pressure me to write notices was by continuing to insist that I do so, even after I had refused. Over time, CFMEU officials seemed to understand that I would not write notices simply because they continued to insist that I do so.
17. In my experience, CFMEU officials would rarely insist that inspectors issue improvement notices. They would try and force inspectors to issue prohibition notices, even if there was no risk, or no immediate risk. If there was no risk, or no immediate risk, I could not issue a prohibition notice, but I might issue an improvement notice instead.
18. From my experience in the construction industry, I am aware that most construction companies receive payment based on the progress that is made. A prohibition notice could significantly affect a construction duty holder's financial position, as they can significantly delay progress on a construction site.
19. I noticed that the CFMEU started to have increasing influence over WHSQ after Ms Burgess got the role as Director in or around 2018. From that time there were a number of changes in how we operated.

Allocation of inspectors

20. From Ms Burgess' appointment, I noticed the way I was to allocate inspectors to CFMEU complaints changed. Rather than those complaints coming from the call centre, I would be directly contacted by Ms Burgess and told to allocate inspectors to CFMEU complaints. At times, inspectors told me that Ms Burgess had bypassed me and directly instructed them to

attend CFMEU complaints. It eventually got to the stage where inspectors from the Mount Gravatt office were dealing with up to 3 complaints from the CFMEU a day.

21. Following these attendances, inspectors were required to fill out a Construction Union Interaction Report. These reports included who we met on site, whether there were union officials on site, what contraventions the union had suspected and what contraventions we had identified (if any). I don't recall when we first started having to complete these reports, I recall it was sometime after Ms Burgess became Director.

Management of CFMEU jobs

22. When I was allocated a CFMEU complaint, whether by Ms Burgess or an operations manager (usually Mr Houston or Chris Mutton), I would receive phone calls while travelling to attend site. I would be asked where I was and how long it would be until I got there. I would be told that the union were waiting for me. This only happened on CFMEU complaints.
23. I would always listen to the CFMEU's complaints but, except for the circumstances I have identified below, would only issue a notice if there were circumstances to justify it. On occasion, I would write a notice about issues that the CFMEU had pointed out, on other occasions I would not.
24. Over time I noticed that when I wasn't doing what the CFMEU organiser on site had asked, they would step away and make a phone call and I would shortly thereafter receive a telephone call from either Ms Burgess, Mr Houston or Mr Mutton. The content of those calls differed, but I would generally be asked why I wasn't doing what the CFMEU wanted and be pressured to issue the notice. Often, those phone calls would end with a direction that I issue the notice. This happened to me on numerous occasions over the years.
25. Early on in Ms Burgess' time as Director, I would receive a lot of these phone calls from her. As time went on, I received more calls from Mr Houston and Mr Mutton.
26. If, following those calls, I maintained my position that I would not issue the requested notices, I would be questioned about it by one of the operations managers in the office, either that afternoon or on a subsequent day. I was not typically asked why I had not issued the notice, instead the starting point of those conversations would be me having to justify why I had not issued the notice.
27. I have no direct knowledge about who would inform Ms Burgess or the operations managers that the notices had not been issued. I believe it was the CFMEU who informed Ms Burgess or an operations manager. This is because:
- a. a CFMEU official would walk off and make a private phone call, very shortly thereafter I would receive a call from Ms Burgess or an operations manager;
 - b. the information that Ms Burgess or an operations manager would have could only have come from someone I was engaging with at the site;
 - c. duty holders would not want a notice issued against them and therefore would not have made such a call to WHSQ;
 - d. on those calls, Ms Burgess or an operations manager, would be pushing for the same position that the CFMEU were taking; and
 - e. I do not remember receiving calls of this nature from Ms Burgess, or an operations manager, on jobs that did not involve the CFMEU.

The CMEP

28. In 2018 the Compliance Monitoring and Enforcement Procedure (**CMEP**) was developed. The CMEP removed inspectors discretion in relation to whether or not to issue certain

infringement notices. The infringement schedule to the CMEP identified "priority infringements". Inspectors were required to write infringement notices when priority infringements were identified.

29. From the introduction of CMEP, writing notices was pushed by the operations managers. They would track the number of notices each inspector issued each month, including the type(s) of notices. The operations managers would have monthly individual meetings with each inspector to discuss their performance and the number of notices they had issued. I remember that during some of those meetings, which were typically with Mr Houston or Mr Mutton, I would be told to increase the number of notices that I had issued.
30. While, prior to the introduction of the CMEP, there was an expectation that notices would be written, I do not remember being questioned by the management team about the number of notices I had written in a month until after the CMEP was introduced.

Concerns I raised

31. In the last four years that I was with WHSQ, we lost about 25 construction inspectors out of a total of 40-50. In my experience this level of turnover was much higher than in previous years. Those inspectors were leaving the industry, getting out of the construction division, or even retiring.
32. On 22 April 2020, I wrote an email to Craig Allen, who at the time was the Deputy Director-General. In that email, I explained the negative impact that the way that we were being required to engage with the CFMEU was having on inspectors. I wrote that email because some months prior Mr Allen had attended a meeting at the Mt Gravatt office, spoken about the pressure on inspectors and said that his door was always open. I did not receive any response to my email from Mr Allen.

Annexed and marked NH-1 is a true copy of the email that I sent to Mr Craig Allen dated 22 April 2020.

33. I lodged a complaint with the Queensland Crime and Corruption Commission (CCC) in August 2022. That document was prepared by another inspector, [REDACTED] and was signed by 14 current or former inspectors. Ultimately, the CCC determined that the submission was insufficiently particularised to justify an investigation.

Annexed and marked NH-2 is a copy of the complaint I sent to the CCC and a copy of the response provided to me by them.

Specific examples of interactions with the CFMEU

Gateway Abutment: 14 June 2018

34. On 14 June 2018, Jarrod Benson (WHSQ Inspector) and I were asked to attend a construction site at the Gateway abutment to Compton Road at Calamvale, to assist with resolving a dispute between CPB and the CFMEU. The dispute was about whether the CFMEU officials had a right to enter the site under section 81(3) of the WHS Act. Jade Ingham, Blake Hynes, and another five or so CFMEU officials were trying to enter the site. CPB was refusing the officials permission to enter.
35. While Mr Benson and I were driving to the site, Ms Burgess called at least two times asking how long until we arrived. I remember during one of those calls Ms Burgess told me: "Whatever you do, don't get them arrested" – referring to the CFMEU officials. There is a possibility of CFMEU officials being arrested for trespass if they enter a site without a lawful basis.
36. After arriving at site, I spoke with both CPB and the CFMEU officials. Mr Ingham was leading the conversation on behalf of the CFMEU officials and was trying get my assistance to convince CPB to allow them access to the site.

37. I asked Mr Ingham some questions about his proposed entry which he answered. I don't now recall what Mr Ingham told me, but I was satisfied based on his answers that he had an entitlement to enter the site under section 81(3) of the WHS Act. Entry under section 81(3) of the WHS Act is limited to the purpose of attending discussions with a view to resolving a workplace health and safety issue. It does not allow for a site inspection.
38. I communicated my view to CPB, however CPB continued to refuse to allow Mr Ingham to enter site. About that time, I received a number of telephone calls from Ms Burgess. During one call, Ms Burgess said to me: "Use your powers to get him [Mr Ingham] onsite". She also told me that Mr Dennett had said that I could take Mr Ingham onsite with my powers. I refused.
39. I understood that by asking me to take Mr Ingham on site, Ms Burgess was asking me to use my power under section 166 of the WHS Act. That section allows an inspector to bring any person into a workplace as an 'assistant' if the inspector considers the assistance necessary. If I took Mr Ingham on site, his conduct would be my responsibility. I didn't have a particular view about Mr Ingham, although I understood that his entry permit had been cancelled. Given the behaviour of other CFMEU officials I had been exposed to, I was not comfortable to bring him on under my powers.
40. After establishing that CPB would not allow Mr Ingham to enter the site, and deciding that I would not allow him to enter under my powers, Mr Benson and I discussed various issues with CPB and undertook a site inspection. We identified some issues and gave verbal directions to the CPB representatives to fix them before we left the site. While these discussions were occurring another inspector, John Azcune, arrived at the site. Mr Azcune then started to escort Mr Ingham and the other officials around the site. I did not ask for assistance from Ms Burgess or anyone else, and to my knowledge Mr Benson did not do so either. I found it strange that Mr Azcune attended the site when there were already two inspectors addressing the CFMEU's concerns. Given Ms Burgess' close attention to this issue, it seems likely that his attendance was at her request.
41. I left and returned to the Mount Gravatt office. I do not know whether Mr Azcune issued any notices.

Browning Street, West End: September 2018

42. On or around 8 September 2018, David Cappelletti (WHSQ Inspector) and I attended a Constructions Pty Ltd (**Constructions**) project at 33 Browning Street, West End.
43. The construction project had recently commenced. The project had a restricted footprint because of the geographical features of the site. Access to the construction site was through an opening on the left-hand side, with stairs down into the excavation.
44. There was no shaded area available for workers to sit on site. They had a first aid room, with a kettle and appliances for heating food. There were approximately 5 workers on site.
45. At that time there was no requirement under the WHS Act and Regulations for full amenities to be provided in the circumstances. Full amenities, including site sheds, refrigeration, food heating facilities, water, food storage, first aid, and a place for workers to rest, were only required if 15 or more workers were on site.
46. I recommended that Constructions install a shaded structure on site – to allow workers to have a covered area for breaks. When I next visited they had complied with that recommendation and installed a timber floored area adjacent to the first aid room and covered it with a canopy. That area was away from any construction hazards and had sufficient tables and chairs for workers to eat at.
47. Sometime later, Ms Burgess called me. She informed me that the CFMEU had complained that I had not written a notice requiring full amenities. She directed that I write an improvement notice to include a requirement for a site shed. I advised Ms Burgess that there

was not a requirement for a site shed and sent a query to Adam Low in WHSQ's Policy Department. WHSQ's Policy Department writes the policies in relation to the interpretation of the legislation.

48. When Ms Burgess found out that I had sent a query to the Policy Department she accused me of going behind her back to try and get a favourable outcome. I took that to mean an outcome which supported the position I had taken.
49. The Policy Department confirmed that my recommendation was compliant with the legislation and met the requirements for on-site amenities.
50. Around this time, while conducting an inspection at a Cross River Rail Site, my Regional Operations Manager Andrew McKenna said: "Helen Burgess wants you to write that notice" referring to the notice about a site shed. I said to Mr McKenna that it was not a valid notice, and that I would not write it. Mr McKenna did not pressure me or otherwise try to encourage me to issue the notice.
51. A short time after that conversation, Mr McKenna was removed from his role as Regional Operations Manager and returned to his AO7 role. I understand that Mr McKenna's demotion was linked, in part, to my refusal to issue the notice because he told me that: Ms Burgess had spoken to him and said "You're not enforcing what I want you to do", and that Mr Dennett had spoken to him and said something like "You either follow directions of Helen Burgess and stay in the role as the regional operations manager, or we'll put you back to a 7".
52. The Policy Department subsequently issued different advice in accordance with what Ms Burgess had said, to the effect that inner-city construction projects were required to have site sheds and other amenities. Even after receiving that advice, I initially refused to issue an improvement notice because I considered it to be wrong. Ultimately, because of a combination of ongoing pressure from Ms Burgess and the advice, from the Policy Department, I issued the notice. I did so because I felt like I did not have a choice.
53. I am yet to find any statutory basis under the WHS Act and Regulations which require a different standard of amenities be provided at "inner-city construction projects". When I delivered the notice to the representative from Constructions, I informed them that they had a right of appeal against the notice and encouraged them to consider their options. I did so because I hoped they would appeal the notice.

Constructions: March 2019

54. On 20 March 2019, Mr Cappelletti and I again attended the Constructions project at 33 Browning Street, West End, to inquire into a complaint about a tower crane. To the best of my recollection, it was a CFMEU complaint.
55. The tower crane was operated by Falcon Cranes, and it was alleged that there was a condition attached to its 10-year inspection certificate. Every 10 years, tower cranes are required to be inspected and certified by a competent engineer. The certification lasts 10 years. The 10 year inspection was conducted in 2012, and the condition required a review of the maintenance subsequently conducted on the crane in 2017. The time for that further review had passed.
56. During my site inspection, I did not identify any matters which I believed would justify the issuing of an improvement or prohibition notice. I decided not to issue any notices.
57. While on site, I received a telephone call from Mr Houston who instructed me to leave the site. I asked Mr Houston why. He informed me that Ms Burgess had requested that Mr Cappelletti and I leave the site and instructed me that we were not to return. My recollection of the reason that we received that direction is that I did not issue a prohibition notice.
58. That afternoon, I contacted the engineer who had done the 10-year inspection and who was from South Australia. He confirmed he had undertaken the 10-year inspection and that the

crane had passed the required checks. He said that in hindsight he should not have listed the condition on the 10-year certificate.

59. That afternoon I spoke with Ms Burgess, who instructed that I was to conduct a record of interview with the owner of the crane. She directed that Mr Cappelletti and I provide her with a list of questions that we would ask and insisted that we do it right away. She also directed me to write a prohibition notice. Either that afternoon or the next morning, we provided Ms Burgess with a list of questions which we intended to ask the Falcon Cranes manager. I did not at that time write a prohibition notice.
60. On 21 March 2019, Mr Cappelletti and I attended site again. We commenced our visit by speaking with the crane operator. I interviewed the crane operator about the maintenance regime that had been carried out on the crane. I asked him questions about what happens if he finds a fault with the crane. He informed me that they had daily checks and if anything was identified they would tell Falcon Cranes, who would then fix it straight away. I asked him whether there had been any delays or trouble repairing the crane. He informed me that he never had delays or trouble with having the crane repaired.
61. While we were on site, Mr Hynes turned up. I recall that there was some disagreement between him and Mr Cappelletti about whether he had to sign in.
62. That afternoon, having returned to the Mount Gravatt office, we conducted a record of interview with the owner of the crane about this issue. Following that interview, I still did not consider that there was an imminent or immediate risk that justified the issuing of a prohibition notice.
63. I had multiple conversations with Ms Burgess about whether I should issue the notice and I received ongoing pressure from her to do so. She also told me that a mechanical engineer employed by WHSQ, Stuart Davis, had formed the view that a prohibition notice should be issued. I did not have an opportunity to speak with Mr Davis and took what Ms Burgess said at face value.
64. Based on the pressure from Ms Burgess and on what I was told Mr Davis had said, I felt that I had no choice but to issue a prohibition notice in respect of the tower crane, even though I did not believe that the statutory conditions to issue the notice had been met.
65. I did not draft the prohibition notice. I was provided with a draft prohibition notice by Ms Burgess. The wording in the notice, including the annexure to it, was not my wording. I was required to adopt it. It does not identify that the crane posed an imminent or immediate risk to anyone, despite that being a requirement to issue a notice.
66. I ultimately issued the prohibition notice to Constructions that day, in the form in which I received it. The next day I lifted the prohibition notice after an inspection was conducted by MBA Engineers, who approved the crane for use.

Annexed and marked NH-3 is a true copy of the signed prohibition notice dated 21 March 2019.

Cross River Rail: March 2020

67. On or around 12 March 2020, I attended the Cross River Rail Project at Boggo Road. The CFMEU had made a complaint and were pressing for a prohibition notice to be issued on a pile driver.
68. I inspected the item of plant and observed that it had been modified and was no longer compliant with the manufacturer's specifications. This was because one of the pins had been replaced with two bolts that were welded together. I agreed that this was outside of the manufacturer's specifications, but because the pin / welded bolts were not on a load bearing component, I determined that there was no immediate risk, and instead issued an improvement notice.

69. At the time WHSQ had a policy that inspectors could not require a duty holder to comply with an improvement notice on the day that it was issued. The earliest time that we could require compliance was the next day.
70. As a result of this policy, I required the builder to rectify the pile driver, by installing the correct pin and removing the welded bolts by the next day. During discussions with the plant operator, he informed me that they had ordered the correct pin.
71. When I returned to the Mount Gravatt office, I was called into Mr Houston's office. Mr Houston asked me why the CFMEU were not happy with the notice that I had issued. From that I assumed that the CFMEU had rung Mr Houston to inform him that they were not happy. They had been pressing for a prohibition notice, or for an improvement notice requiring the pin to be rectified on the same day.
72. I informed Mr Houston that I couldn't write a notice with a compliance date on the same day. When a person is issued with a notice, they have a set date to comply with it. Failure to comply with the notice is a criminal offence. It would not be fair to issue a notice and require the person to comply with it on the same day. Mr Houston argued with me about that, but ultimately did not come back to me about whether I was right or wrong.

South City Square: May 2021

73. On or around 24 May 2021, Lewis Cash (WHSQ Inspector) and I attended South City Square construction project on 148 Logan Road, Woolloongabba. The CFMEU had made complaints about the project.
74. When I attended, I met with the CFMEU officials and principal contractor representatives. I accompanied the principal contractor around the site and believe that I issued a couple of notices.
75. The following day, Simon McLennan (WHSQ Inspector) and I attended the project again in relation to the notices. The CFMEU were also in attendance again. The principal contractor raised a complaint with me that the CFMEU officials would not sign into the site and would not do the required COVID triage process – that is, there was a dispute about whether the CFMEU officials had a right of entry.
76. Under section 128 of the WHS Act, a person attempting to exercise a right of entry is required to comply with all reasonable work health and safety requirements that apply at the workplace. I considered the builder's requirements to sign in a reasonable health and safety request, as it assisted the principal contractor to keep a record of who was on the site and would assist in the event of an emergency. Sign in processes are common across the construction industry. It was also my view that the COVID process was reasonable at that time.
77. In my view there was no reason why CFMEU officials could not sign into construction workplaces. WHSQ inspectors are required to sign in to construction workplaces. Generally, the sign in process was not time consuming and simply required you to put your name and the date down.
78. I sat down with the CFMEU officials and the principal contractor to explain why the officials needed to sign in. The officials did not want to listen to what I had to say. They didn't abuse me, but they were loud and disruptive.
79. After about half an hour, the officials got up and walked into site. I then called my regional operations manager, Mr Mutton, to advise him that I was leaving the site, that there were no other issues, and I was certifying the notices from the previous day.
80. Around that time it was common, in my experience for CFMEU officials to refuse to sign entry registers. I recall on a different occasion, being told by CFMEU official Luke Gibson that the CFMEU had a policy of not signing in. I do not know why it took that position.

I swear the contents of this statement are true.

Signature of Deponent



Place

Bradford

Date

3 / 3 / 26

Before me (signature of witness)



Full name of witness (please print)

JACK DOMINIC KERIN

☐ Justice of the Peace (JP #)

☐ Notary public

☒ Lawyer

☐ Other authorised person (specify)

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

ANNEXURE SHEET

This is the document referred to as NH-1 in the statement of Noel Selwyn Hayes affirmed at Brisbane on 3 March 2026.



Noel Selwyn Hayes



Witness (Lawyer)

From: Noel Hayes
Sent: Wednesday, 22 April 2020 11:12 AM
To: Craig Allen

Craig

It is with great regret that I am compelled to email you directly with my serious concerns about the welfare of the inspectorate , in particular the construction inspectors. I refer you to your introduction meeting with the Mt Gravatt team where you encouraged us to approach you at any time regarding our concerns. We have endured repeated and unwarranted intimidation and bullying from management in this department for years to the detriment of the health and well- being of your employees. Since the inception of the construction management structure, I and others have witnessed a decline in the health of the inspectors resulting in absenteeism, low morale, inspectors seeking transfers from, and within other areas of this department. This can be contributed to the inconsistencies, lack of structure and poor communication we are enduring combined with the lack of resources, the imbalance of the number of inspectors between offices, not being able to access the new inspectors for assistance despite them being here fifteen months, the inconsistencies in the way the work is allocated and closed out in each office and the mixed messages from management. In order to create harmony within the workplace there needs to be structure, communication and consistency. These things disappeared after this new management structure was formed.

The Qld survey was a clear indication of the discontent amongst the inspectorate. We welcomed the departments interaction to try to resolve the identified issues, however the action plan has failed to identify the elephant in the room. The elephant is in the form of the way this department engages with a **particular stakeholder** and how the inspectorate are expected to respond. eg: A phone call directly to our director from this stakeholder requiring assistance at a particular construction site, The panic starts with the constant phone calls to the attending inspector from the director or via the OM enquiring Where are you ? How long are you going to be ? Why are you taking so long ? You are keeping them waiting. This is ongoing until we arrive. The process of responding to one of these complaints is, contacting another inspector to accompany and hope he is not busy, if so you need to find someone else. Due to the restricted parking on inner city construction sites there will be a requirement to organise a pick up location. This all takes time. The phone calls continue whilst on site due to the numerous complaints to the director from the stakeholder regarding the inspector not agreeing with their demands. After the site visit is complete the harassment and bullying continues from management about our decisions, the amount of notices issued and any other issue the stakeholder did not agree with. We also have to endure the abuse and non- compliance of these individuals. I have been accused by builders of working directly for this stakeholder.

Last year the inspectorate was forced to take industrial action via the together union to assist us to reduce this ongoing bullying and intimidation by the management and the this stakeholder. We were forced to undertake protected action due to the deterioration of the health of the inspectors. This is well documented. Nothing changed, and when we were at our lowest point we attempted to protect ourselves by refusing to attend site where these particular individuals were. Despite this the department created a policy forcing the inspectors back into this hazardous environment.

The inspectors understand the political climate, all we are asking is for this matter to be better managed so to eliminate the stress and fatigue of the inspectors involved. We just want to do our job the best we can without the added unwanted and unnecessary stress from within

I personally have been an inspector for sixteen years and during this time I was promoted to a team leader (PIO) where my duties were to allocate complaints and investigations, check time sheets and close out response assessments. More importantly I was able to monitor the welfare and workloads of the inspectors to ensure a healthy, harmonious and productive environment. The later does not occur anymore due to the removal of this position.

I applied for the acting role as Lead inspector and under my previous director and was successful. This role lasted for ten months and when I reapplied for a permanent position I was informed by my new director that I was unsuccessful due to me being too much of a stickler for the regulation, and that I needed to get on board with the views of the department and the government of the day.

Shortly after this I was removed by the same director from my substantive role of PIO without any consultation. I was just recently asked to fulfil this role again by my OM however, this lasted one week where I was removed again without reason or proper consultation. As I have a good rapport with fellow inspectors I found this decision very disrespectful and embarrassing.

During my time within this department I have received praise and respect from other directors, managers and colleagues. Previous to this management, I have never experienced disciplinary action or been spoken to about my conduct or performance. I was always previously treated in a respectful manner and allowed to share my knowledge and experience to coach and mentor. Under this structure I have been informed that I am not allowed to share this knowledge despite this being part of my job description

I am now approaching the end of my working career. I have worked in the construction industry for thirty six years and sixteen years within this department. In this time I have never been involved in such a toxic environment as I have in the last few years under this current structure. My first twelve years were so enjoyable due to being treated like a valued employee working within an incredible disciplined team of dedicated people. Our objective was the delivery the legislation in a manner that created a better culture in the workplace while keeping workers safe. This is why I will be saddened to leave my

colleagues behind in this current environment. We were never intended to be a tool for anyone else's agenda.

I ask you to please take this matter serious and investigate my concerns so as the inspectorate can perform their tasks without the ongoing intimidation and bullying that we are being subjected to. We just want to do our job and be given some respect and encouragement.

Thanks
Noel

Noel Hayes
Principal Inspector
Brisbane/ Sunshine Coast/ Wide Bay
Workplace Health and Safety Queensland
Office of Industrial Relations
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ANNEXURE SHEET

This is the document referred to as NH-2 in the statement of Noel Selwyn Hayes affirmed at Brisbane on 3 March 2026.



Noel Selwyn Hayes



Witness (Lawyer)

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Our Reference: CO-22-2150 | 22/137150
Contact Officer: DBJones

TO BE OPENED BY ADDRESSEE ONLY

25 August 2022

Mr Noel Hayes

By email: [REDACTED]
cc: [REDACTED]

Dear Mr Hayes

RE: YOUR CONCERNS

We refer to correspondence, received by the Crime and Corruption Commission (CCC) on 2 August 2022, enclosing a submission titled *"Influencing practices in Queensland"*.

We also refer to your further correspondence to the CCC, dated 16 August 2022, providing the same submission.

We understand that the submission seeks an inquiry or Royal Commission into the activities within Workplace Health and Safety Queensland (WHSQ), and in particular regarding the influence and lobbying of the Construction Forestry Maritime Mining and Energy Union (CFMMEU).

We note that the submission has been signed by multiple current or former WHSQ inspectors. Within the submission, allegations of corrupt conduct are raised. The purpose of this correspondence is to respond to those allegations.

Your complaint

While the submission does raise general allegations against executives and senior management within WHSQ, which will be discussed later, a specific allegation is raised about the conduct of Industrial Relations Minister the Honourable Grace Grace MP.

Specifically, it is alleged that as a political favour Minister Grace has failed to act on complaints and allowed the CFMMEU to influence policy and decision-making.

Although we may have used different words to describe these concerns as raised in the submission, or not specifically referred to every issue about Minister Grace, we have carefully considered all the information that has been provided.

To help you understand our process, we have set out what the CCC will do in relation to your complaint.

Decision about Minister Grace

We will not be taking any action in relation to the complaint about Minister Grace.

Reason for our decision

The CCC takes the view that the performance of the official duties of a person elected to office could not involve corrupt conduct unless the conduct would, if proved, amount to a criminal offence. In the absence of evidence that would support a criminal offence, the CCC is unable to deal with the matter.

Specifically, the information provided in the submission is not enough to support the view that Minister Grace engaged directly in corrupt conduct as a political favour and with the intention to benefit the CFMMEU.

Other matters

We acknowledge that the submission also raises concerns of corrupt conduct involving various executive and senior management within WHSQ. The allegations against these individuals are generalised and historic, and involve conduct including bullying and intimidation of WHSQ inspectors. It is also suggested that these officers ensured that the demands of the CFMEU were met.

Due to the lack of particulars, the CCC is unable to properly assess these allegations. We therefore invite any persons with direct evidence of the conduct alleged, and in particular those signatories to the submission who are willing to provide statements, to submit this information directly to the CCC for further consideration. Those persons may remain anonymous should they prefer.

We further note references in the submission to previous reports provided by Mr Jarrod Bleijie, the Member for Kawana, directly to the CCC in around August 2020 which alleged similar conduct. We suggest that you may wish to seek advice from Mr Bleijie on the assessment by the CCC of any matters which he has raised.

Application of the *Human Rights Act 2019* (HR Act)

The HR Act applies to the CCC when it makes decisions about how it will deal with complaints that it receives. In circumstances where you have outlined insufficient evidence to raise a reasonable suspicion of corrupt conduct, the CCC considers that its decision to take no action is compatible with its obligations under the HR Act.

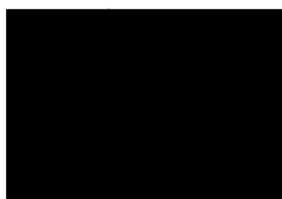
Further information

We have enclosed more detailed information for you about:

- what the CCC can and cannot deal with, and
- our Charter of Service, which sets out how the CCC deals with complaints and what you can do if you are unhappy with our decision.

We trust this information assisted you.

Yours sincerely



Elizabeth Foulger
Executive Director, Integrity Services

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Submission to the Crime and Corruption Commission “Influencing practices in Queensland”.

Introduction

This submission was collated by numerous Workplace Health and Safety Inspectors who have witnessed and have endured many years of systemic bullying, intimidation, and abuse from the CFMMEU officials either directly or indirectly and in conjunction with Executive and Senior Management of Workplace Health and Safety who played a key role in ensuring the demands of the CFMMEU were obeyed.

The allegations raised here concern the influence of lobby groups over the elected PALASZCZUK government ministers and that collaboration has caused significant disruption and harm to many Queensland Government Departments including the Queensland Building and Construction Commission and Workplace Health and Safety Queensland. This submission overviews the culture of pressure, bullying, intimidation, and fear where staff from Workplace Health and Safety Queensland (WHSQ) have been unnecessarily bullied and intimidated by influencing third parties due to their stance on integrity, fairness, independence, and public accountability.

The submission should be of no surprise to anyone employed by the Queensland Government. It is apparent that the only persons oblivious to the alleged unethical behaviour occurring within WHSQ is PALASZCZUK and her Ministers. These integrity issues caused by influencing lobbying groups within WHSQ have been clearly exposed and publicised in the press since 2016. Since this time, the alleged unethical behaviour of Government Ministers and favouritism towards influencing lobby groups has seen an immeasurable loss of talented Construction Inspectors and Managers, with many Construction Inspectors reluctantly crossing over to join the Industrial Unit within WHSQ. Unfortunately, and to the detriment of the construction industry in Queensland, many highly experienced and professional construction safety inspectors through no fault of their own, have left WHSQ due to the bullying, intimidation, and abuse from third party lobbying groups and Senior management within WHSQ.

Many construction Inspectors to this day have been professionally diagnosed with chronic mental health issues requiring long term professional medical intervention resulting in many Inspectors unable to gain future employment in any capacity. The consequence of this loss is immeasurable, however the loss of many experienced and professional inspectors over the past few years has severely reduced the capacity and ability of WHSQ to deliver fair, professional, impartial, and independent educational, compliance and enforcement services to the Queensland public.

The persistent long-term exposure to the alleged abuse, intimidation and bullying of Inspectors from these lobby groups is seen to many within the organisation as disgraceful and unlawful to say the least. Complaints lodged to the Executive Directors and Senior management of WHSQ by the construction inspectors over the past 6 years regarding the ongoing occupational violence issues were never investigated and were totally dismissed. Adding to misery of working within WHSQ, was the relentless rebuff of the numerous complaints lodged against Helen BURGESS (Director of Construction) and her sidekicks, Chris MUTTON (Operations Manager) and Mark HOUSTON (Operations Manager) for bullying, intimidation, and harassment of construction inspectors. Through the 6 years of being exposed to unacceptable workplace practices and witnessing the alleged unethical behaviour of Executive and Senior management of WHSQ, not one inspector from the construction or industrial teams have been interviewed or spoken to directly by WHSQ ethical

standards Unit or Executive or Senior management themselves about the complaints made about the abuse from within and from third-party influencing lobby groups.

The only guiding light for the Inspectors was the assistance from Alex SCOTT (President) of the TOGETHER UNION and Jarrod BLEIJIE, the LNP minister and elected member of Kawana. The TOGETHER UNION assisted the Inspectorate in undertaking Industrial action through the Queensland Industrial Relations Commission provided an avenue for some redress for the Inspectors. Regrettably, due to his unwavering and professional support for the health and safety of Inspectors, Alex SCOTT was a target of a smear campaign by an influencing lobby group to remove him from office. The facts surrounding this matter was also provided in the report that was sent to the CCC by Jarrod BLEIJIE in August 2020. It is extremely important that the TOGETHER UNION and staff involved in matters to address the Inspectors concerns are included in any investigations into these allegations.

WHSQ Ministerial to Executive Management level Integrity issues

The lack of integrity in the PALASZCZUK government has been noticeable since they first took Government in 2015. However, from 2016 many staff members within WHSQ witnessed a total change in the Inspectors independence to serve the good of the Queensland public and witnessed a drastic change in management behaviour that became toxic, dismissive, and disruptive. Inspectors were asking questions of executive management as to why influencing lobby groups had been allowed exert so much power over the decision-making processes within the administration of WHSQ. Many employees of WHSQ believe that from 2016, Executive Director Simon BLACKWOOD, and Senior Executives Mark DENNETT, Julie NEILSEN, and later Craig ALLEN, were themselves victims of bullying, and intimidation by Labor Ministerial staffers who themselves were being influenced by third party lobby groups. It is alleged that employees working within the agency, realised that WHSQ management could do nothing to stop the unethical behaviour, cronyism and bullying that was running rampant through Workplace Health and Safety Queensland.

It is also alleged, that the PALASZCZUK government and some of her Ministers condoned the behaviour of some lobby groups who conjointly were implicit in creating a biased compliant work environment by instilling fear through bullying and intimidation of Inspectors. The findings of the **COALDRAKE REPORT** is a testament to the Inspectors who have placed their health and employment on the line in an attempt to bring the allegations of unethical behaviour and official misconduct to attention of those who dismissed the claims. Unfortunately, it is too late for many who have tried to withstand the bullying, intimidation, and abuse from influencing lobby groups and WHSQ senior management for over 6 years.

Main issue

At the centre of this submission, is why Labor Minister Grace GRACE, allowed a major influential lobby group referred to by a Federal Court judge, Judge Vasta as *“the most recidivist corporate offender in Australian history”* (ABCC media release 2017) to have unprecedented influence over the decisions made by WHSQ policy and decision-making bodies within the Agency. In addition, why did the CCC not investigate the seriousness of the allegations put forward in complaints or interview Inspectors from Workplace Health and Safety Queensland following the numerous complaints and reports submitted to the Commission through Jarrod BLEIJIE (LNP Minister for Kawana) and others into the alleged unethical behaviour and official misconduct of Senior Management within WHSQ. In addition, why did Minister Grace GRACE also fail to act on the appalling results of the “WORKING FOR QUEENSLAND SURVEY” that for over six (6) years has recorded the expressed dissatisfaction of

executive and senior management in many areas such as accountability, unethical conduct, lack of support, occupational violence, third party bullying and dissatisfaction at work.

The "Working for Queensland Survey" results are tightly guarded by executive and senior management of WHSQ, and do not want this information to be released. Requests have been made by the TOGETHER UNION and the construction inspectors for the release of the previous 6 years of survey results, that are held within the Office of Industrial Relations "Construction Field Service Records". Any investigation into these allegations must include the release of this information from the Office of Industrial Relations, especially "Page 48" that allows the inspectors to make comments about the agency and the conduct of management by way of a "free text options" box. Many inspectors have made comments in the "free text" option box about the influencing third party lobby groups and what they perceived to be as unethical, and unlawful conduct of Senior management within WHSQ and their reluctance to investigate the concerns and complaints of construction inspectors.

This submission and the "Working for Queensland Survey" also highlight the rampant cronyism that has flourished within WHSQ. In particular, the appointment of Helen BURGESS as Director of Construction can only be classified as the pinnacle of selected cronyism as she is well known within the Union movement and her tight association with a particular influencing lobby group. Her inexperience, infantile management and leadership ability and conviction to obey and comply in meeting the demands of the Unions only proves that her employment within WHSQ is untenable. The perceived conflict of interest in her appointment, lie at the very heart of the principles of integrity and impartiality that are the foundation of the **PUBLIC SERVICE ETHICS ACT 1994 Qld**). The processes and circumstances surrounding her appointment to position of Director of Construction, and the people involved in the selection process need to be fully investigated. Nothing less than a Royal Commission into the PALASZCZUK government would be an injustice to all concerned and this has been highlighted by Jarrod BLEIJIE and many others within the media who have known about these issues for many years.

Previous Complaints

Numerous complaints that were previously submitted to the CCC by Jarrod BLEIJIE and others were referred back to the agency for internal investigation. This referral was seen by many as an injustice to those within Workplace Health and Safety Queensland who had nowhere else to turn for support in times of extreme distress and maltreatment. The toxic, dysfunctional and sick culture within WHSQ has continued to this day and not one Inspector has been interviewed or spoken to about the alleged official misconduct occurring with the administration of WHSQ. It is alleged that this failure to further probe the matters raised by the Inspectors in this submission and previous reports has only facilitated the power of lobby groups to further influence policy making decisions and legislative changes to suit their business model and agendas. As stated previously, it is well known throughout WHSQ that past Directors and Managers of WHSQ including Craig ALLEN, Mark DENNETT, Julie NEILSEN and Simon BLACKWOOD who were involved in all these process over many years were all fall guys in this whole sorry saga that persists today.

It is inexplicable that this situation has been allowed to occur within a taxpayer funded government agency for such a long period of time. From the Inspectors belief there has been a major waste of tax funded resources being utilised to the advantage of some influencing third party lobby groups and these allegation needs to be investigated. Implicit in these matters, are the allegations of the effects of staff bullying that has led to considerable high rates of sick leave, high rates of experience staff turnover, worker mental health, decreased staff performance while under the watch of

Minister Grace GRACE. This in effect has come at the enormous cost to the Queensland taxpayer and the families of the affected workers and their livelihoods.

As stated earlier, numerous complaints have been lodged against Helen BURGESS and Chris MUTTON and these allegations of intimidation and bullying against Construction Inspectors need to be investigated due to the harm it is causing to the agency.

Influences and Unvetted Access to Queensland Key Decision Makers

Without expressing any further views in high detail, the power and wealth of many influencing lobby groups are highly dependent on having access to workplaces to exert their demands on industrial relation matters. The allegations made here, is that a conflict of interest gave rise to Grace GRACE being unduly influenced by many influential lobby groups some of whom are major contributors of financial and resource support to the Labor party. These are only allegations but when considering the growing constant stem of integrity, impartiality and accountability issues plaguing the PALASZCZUK government and substantiated by the COALDRAKE REOPRT, then, it may be true.

It also appears that some influential lobbying groups have secured unprecedented access to the key decision policy makers within Workplace Health and Safety Queensland. This is only an allegation, but this perceived abuse of power seems to have facilitated the development and eventual ministerial approval of widespread legislative and policy changes that have been favourable to lobbying groups and detrimental to Queensland Industry.

This has further undermined the integrity of the PALASZCZUK government and the integrity of Minister Grace GRACE as these alleged legislative and enforcement policy changes have arisen from the lobbying group members being assigned key positions on industry, departmental government, and review boards. The power and influence of lobbyist on these boards including the safety review boards have led to many disgraceful and draconian policy changes but none so disgraceful as the "Compliance Management Enforcement Policy" (CMEP) that arose out of the sham "Best Practice Review in 2017". This policy has been used for four years by many influential lobby groups as a tool to use against those building and other organisations who refuse to enter into industrial relation discussions.

Through this policy, the construction inspectors will testify that they were left to do the dirty work by issuing unnecessary and dubious enforcement, infringement, and prohibition notices. Many building organisations that will not be named here, have appealed many dubious enforcement notices issued by inspectors and thankfully in most cases, have been repealed.

Additional information that has been forwarded to the CCC

This submission is only a brief overview of the alleged official corruption and official misconduct that has been growing within the ranks of WHSQ for over 6 years. These matters are not new, and it is believed that a report covering these issues was submitted by a person unknown to the Liberal National Party Minister, Jarrod BLEIJIE. It is believed that this report was then forwarded to the CCC around August 2020. Many of us have read the report and agree with many of the report contents that serves to highlight the alleged systemic corruption that has been ongoing within WHSQ since 2016. This report also outlines how Senior managers of WHSQ used intimidation to discipline inspectors through sending intimidating correspondence on the demands of influencing lobby groups.

This report held by the CCC should be reviewed by the CCC as it describes the years of alleged corrupt dealings, rampant cronyism, systemic intimidation, and abuse of staff that has plagued this agency.

Corruption risks

The corruption risks in Queensland are only going to escalate and worsen over the next few years given the abolishment of the Australian Building and Construction Commission (ABCC) and the changes to the donation cap on political donations for Queensland Political parties.

Changes to the Electoral and Other Legislation (Accountability, Integrity, and Other Matters) Amendment Act 2020, that will commence in July 2022 will only compound the corruption risks within the Labor Queensland Government. When fully in place a donor can donate

1. \$6000.00 to an independent candidate
2. \$6000.00 to a party-endorsed candidate
3. \$6,000 to a registered political party
4. \$4,000 To a third party

The Crime and Corruption Commission should be fully aware that Labors' scam allows for a third party to make a donation but there is no cap on donations received by third parties (Unions).

This is another example of Labor scams and deceit that will only encourage third party lobbying groups to aggressively apply pressure to further induce their influence over Labors' elected members for political favours to advance their wealth and power base. This legislation is an absolute red flag for LABORS integrity in office. In effect, this legislation will contribute to the corruption risks in Queensland whereby, third party lobbying groups, some of whom may be primary financial backers of the LABOR party, are able to finance their political election campaigns to an amount of 1,000,000.00 dollars. This is a potential breeding ground and cesspit for corruption and for Labor elected politicians to be influenced by lobbying groups.

In Concluding

These allegations stated in this submission stem from many years of torment and suffering endured by those working within WHSQ. We are unsure as to why Grace GRACE and senior management failed to act on the numerous complaints that were lodged over the years regarding the alleged unlawful behaviour and conduct of many influencing lobby groups.

It is alleged, that the dismissal of staff concerns by Minister Grace GRACE and senior management of WHSQ was a factor of being influenced by lobbying groups behind closed doors for political favours. These allegations need to be investigated further as one thing is for certain, the PALASZCZUK government left the vulnerable and defenceless Inspectors out to dry while the influencing lobbying groups went about their destructive agendas in ruining careers and causing untold reputational damage to Workplace Health and Safety Queensland.

It is our belief that Grace GRACE must have known of the Inspectors concerns especially after many allegations have been raised in Parliament through question time and the numerous media articles that have been published in the press. It is highly probable that Minister GRACE would have had knowledge of the reports given to the CCC and the results of the "Working for Queensland Survey" results that in all, should have been a strong indication that something was rotten and decaying within WHSQ.

If she was aware of all these matters, then she failed in her duty as a parliamentary minister to comply with the Ministerial duties under the Code of Ethical Standards and Rules Relating to the Conduct of members. What is most concerning, is that, if she was aware of these issues, then, it would have been at the expense of good governance, integrity of office, impartiality of office, respect for health and safety of workers, protecting the release of official information to third parties, and proper use of public funded resources.

Final Word

This submission was not lodged with Professor COALDRAKE who was investigating the "Review of Culture and accountability in the Queensland Public Sector". The review and recommendations can only be described as a partial review, as the enquiry should have also focused on those influencing lobby groups, government advisors, staffers and Ministers who may have been involved in the disgraceful integrity issues raised in the COALDRAKE REPORT. This another opportunity lost in bringing those to account who may have breached the various Code of Ethics standards or Ethical Standard Legislative provisions.

On a last point, the CCC should act on this submission and others that they will receive. The views, concerns and complaints dismissed and carpeted over the past seven years has been vindicated by the COALDRAKE REPORT and this is the only positive outcome to come out of this report. As the inspectors have said for a long period of time, the integrity of Queensland LABOR Government has been for a long time, non-existent, and hopefully this submission will go some way in restoring integrity and impartiality in the Queensland Government.

All persons who have signed this submission are willing to give statements, be interviewed by any Investigation agency or present themselves to give evidence before any inquiry or Royal Commission.

Considering all the allegations made in this report, numerous Inspectors are very concerned about retaliation and ask for this submission to be held in confidence due to fear for their employment and health and safety.

Name: [REDACTED]

Past or present Position: PAST SENIOR INSPECTOR, CONSTRUCTION.

Date: 7-7-22

Name: [REDACTED]

Past or present Position: EX SENIOR INSPECTOR AND SENIOR

Date: 7/7/22

Private and Confidential

Name: NOEL ADYRS [REDACTED] [REDACTED]

Past or present Position: EX PRINCIPAL INSPECTOR CONSTRUCTION

Date: 7-7-22

Name: [REDACTED] [REDACTED]

Past or present Position: SENIOR INSPECTOR (CURRENT)

Date: 7/7/22

Name: [REDACTED] [REDACTED]

Past or present Position: SENIOR INSPECTOR CONSTRUCTION (PAST)

Date: 07/07/22

Name: [REDACTED] [REDACTED]

Past or present Position: PRINCIPAL INSPECTOR CONSTRUCTION (PRESENT)

Date: 8-7-22

Name: [REDACTED] [REDACTED]

Past or present Position: Senior Inspector

Date: 8/7/22

Name: [REDACTED] C PAST [REDACTED]

Past or present Position: SENIOR INSPECTOR

Date: 8/7/22

Name: [REDACTED]

Past or present Position: PRINCIPAL INSPECTOR (CONSTRUCTION)

Date: 8/7/22 [REDACTED]

Name: [REDACTED] [REDACTED]

Past or present Position: Senior Construction Inspector

Date: 8-7-22

Name: [REDACTED]

Past or present Position: SENIOR INSPECTOR

Date: 8/7/22

Name: _____

Past or present Position: _____

Date: _____

Name: [REDACTED]

Past or present Position: INDUSTRY CONSULTANT

Date: 11/7/22

Name: [REDACTED]

Past or present Position: PRINCIPAL INSPECTOR (ASBESTOS)

Date: 12.07.2022

Name: [REDACTED]

Past or present Position: SENIOR INSPECTOR CONSTRUCTION

Date: 12-7-22

Name: [REDACTED]

Past or present Position: Inspector

Date: 27/7/22

Name: _____

Past or present Position: _____

Date: _____

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

ANNEXURE SHEET

This is the document referred to as NH-3 in the statement of Noel Selwyn Hayes affirmed at Brisbane on 3 March 2026.



Noel Selwyn Hayes



Witness (Lawyer)



Prohibition notice

This notice is issued under the *Work Health and Safety Act 2011* section 195 or the *Safety in Recreational Water Activities Act 2011* applied section 195 *Work Health and Safety Act 2011* (which includes a body corporate, government department or public authority) who has or may be reasonably presumed to have control over the prohibited activity. This notice prohibits an activity which involves or will involve an immediate or imminent risk to the health and safety of any person. **The legislation requires that the person to whom a prohibition notice is issued must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace at which work is being carried out that is affected by the notice.**

Notice No. P1024856

Notice issued to:

Legal name of person/business or undertaking: CONSTRUCTIONS PTY LTD	
ABN: 96096374882	ACN:
Trading as:	
Address: LEVEL 2, 57 CORONATION DR, BRISBANE 4000 QLD	

Details of serious risk:

Site location	Direction given orally: Y
33 Browning Street West End	
I, Noel Hayes reasonably believe on 21-MAR-2019 at 09:30 that an activity is occurring at the workplace that involves a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard and that this activity is contravening a provision of the: <i>Work Health and Safety Act 2011</i> - section(s) 19(3)(B), 32 I direct the person with control over the following activity to stop the activity of: Allowing the operation of the Potain MC85B Tower Crane at this location until there is evidence that an unconditional major ten Year inspection has been carried out by a competent person or under the supervision of a competent person until an inspector is satisfied that the following matters that give rise to the risk have been remedied: Until an adequate inspection and testing has been carried out on the plant in accordance with the recommendations made by an engineer in the Major Inspection Certificate report dated 13 October 2015, the manufacturer's operating manual for the Potain MC85 98408 and the <i>Work Health & Safety Act 2011</i>.	

Basis for inspector's belief:

Refer to attached document (Basis for Inspector's belief Prohibition notice 1024856)
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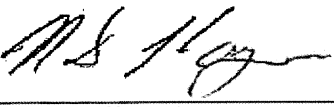
Directions (if any) on the measures to be taken to remedy the risk, activities or matters or the contravention or likely contravention: It is mandatory to comply with these directions

Within 21 days of the date of issue of this notice and before the crane is operated again, the person with management or control of the Potain MC85B Tower Crane at the workplace must: (a) cause the crane to be inspected by a suitably qualified person to ensure that all applicable inspection and testing requirements under Part 10 of the Tower Crane Code of Practice 2017, the manufacturer's operating manual (however described) and the Act are carried out; and (2) Give me a report in writing stating: (a) that the inspection and testing directions I have given above have been conducted; (b) that the requirements of the inspection and testing directions I have given above have been satisfied; and (c) that the tower crane is safe to operate.

Recommendations (if any): Recommendations may be followed or you may adopt and follow another way that gives at least the same level of protection against the risk

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Issuing inspector:

	595	38720010
Signature of inspector	Inspector's ID	Inspector's contact number
21-MAR-2019	PO BOX 6508, UPPER MOUNT GRAVATT 4122 QLD	
Date issued	Inspector's location	

An Inspector may make minor technical changes to this notice in certain circumstances. This does not change the validity of the notice.

You must comply with this notice. Failure to comply may incur a maximum penalty of \$100 000 for an individual and \$500 000 for a body corporate, government department or public authority.

PRIVACY COLLECTION STATEMENT

The Office of Industrial Relations collects, uses, discloses and stores information in accordance with legislation it administers and all applicable privacy laws. This includes information collected by inspectors of the Department. Note that privacy laws do not apply if other laws conflict or allow or require the collection of information, and do not apply to the collection of information by Office of Industrial Relations to the extent that it is exercising its law enforcement functions and non-compliance with privacy legislation is deemed necessary to fulfil those functions.

The Office of Industrial Relations privacy information is on our website at www.worksafe.qld.gov.au.

Service method:

Delivered directly to the person named by electronic transmission	
GEOFF BELFORD	Management Representative For Person With Management Or Control Of A Workplace
Notice given to	Relationship to person to whom notice is issued
Information about how to obtain a review of this decision is detailed on the back of this notice.	

An Inspector may make minor technical changes to this notice in certain circumstances. This does not change the validity of the notice.

You must comply with this notice. Failure to comply may incur a maximum penalty of \$100 000 for an individual and \$500 000 for a body corporate, government department or public authority.

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The Office of Industrial Relations privacy information is on our website at www.worksafe.qld.gov.au.

Internal review of decision

If a decision to prohibit an activity was made by an inspector, an eligible person may apply for an internal review of that decision.

An eligible person is:

1. The person to whom the notice was issued.
2. The person with management or control of the workplace, plant or substance.
3. A person conducting a business or undertaking whose interests are affected by the decision.
4. A worker whose interests are affected by the decision.
5. A health and safety representative who represents a worker whose interests are affected by the decision.
6. A health and safety representative who gave a direction under section 85 of the *Work Health and Safety Act 2011* to cease work, that is relevant to the prohibition notice.

How does a person apply for a review of a decision?

The person must complete and lodge the Internal Review Application form within 14 days of receiving the notice. There is no application fee.

The operation of the prohibition notice continues unless a separate application is made to stay (that is suspend) the prohibition while the review is undertaken. The regulator may or may not grant the stay. The regulator will make a decision on the stay within one working day after the regulator receives the application.

If a stay is granted, it remains in effect until a decision is made by the regulator and whichever of the following is earlier - an external review is applied for or 28 days have elapsed since the person became aware of the regulator's decision.

Information about how to apply for a review of decision, including application forms, is available online at www.worksafe.qld.gov.au, or by phoning Advisory Services on 1300 362 128.

What happens next?

Applications are reviewed within 14 days unless additional information is required. Applicants are provided with written confirmation of the result of the internal review including the reasons for the decision.

External review

If a decision to prohibit an activity was made by the regulator or the regulator has made a decision through internal review, an eligible person may apply to the Queensland Civil and Administrative Tribunal for an external review. An external review application must be made within 28 days of the person becoming aware of the regulator's decision.

Please refer to www.worksafe.qld.gov.au for more information on how to apply for an external review.

I believe the engineer (Matthew O'Hearn), who performed the last major inspection, did not fully assess the crane by conducting the inspections he deemed necessary to sign off the crane for another 10 years. He has stated, "I think for this reason I placed the time restraint on the Major Inspection certificate requiring another review of the maintenance work to be conducted in 2017".

In addition, he stated that; "In my view, if records of maintenance since 2015 are provided showing that the crane has been maintained properly and an inspection of the crane working shows that the crane is in good condition the Major Inspection certificate can be extended to encompass the full 10 years from 2012 to 2022". The last major inspection of the tower crane was conducted in 2012.

In addition, he stated that; "In my view, if records of maintenance since 2015 are provided showing that the crane has been maintained properly and an inspection of the crane working shows that the crane is in good condition the Major Inspection certificate can be extended to encompass the full 10 years from 2012 to 2022".

I am informed by a competent engineer, and believe, that:

1. Work conducted on the crane shown in the Major Inspection certificate was conducted prior to 2015.
2. Major Inspection certificate does not adequately indicate that the crane has been maintained properly since 2015.
3. Major inspection certificate does not adequately disclose that an inspection of the crane working was conducted showing the crane is in good condition.
4. Tower crane inspection, commissioning and testing certificate dated 9/8/18 does not indicate that the inspections were conducted by an engineer in 2018 were satisfactory to ensure continued use of the crane.

I believe that the regime of inspection and testing was not adequate to minimise the level of the risk presented by the operation of the crane, thereby resulting in a serious risk to the health and safety of workers and other who may be in its proximity when it is operating. The loads imposed upon the crane, the frequency of its use and the essential nature of competent and stipulated inspection and testing requirements are all factors that I have considered in forming my belief.

I consider that the 10 year inspection and the inspection regime used in respect to this crane was not in accordance with Part 10 of the Tower Crane Code of Practice 2017.