



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

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

PUBLIC HEARING - CAIRNS

**WEDNESDAY, 13 MAY 2026
AT 9.45 AM**

DAY 26

APPEARANCES

**Mr S. Wood AM KC, Commissioner
Mr D. Ternovski with Mr A. Thomas, Counsel Assisting
Mr D. de Jersey KC with Ms M. Brooks, Counsel for the State of Queensland
Mr C. O'Grady with Ms F. Fox and Ms A. Hughes, Counsel for the CFMEU
Administration
Ms K. Boomer, Counsel for CEPU, ETUQ and PGEUQ
Mr Karim De Ridder, Witness
Ms Shannon Ferrington, Witness**

<THE HEARING RESUMED AT 9.44 AM

COMMISSIONER: Mr Ternovski, I see Ms Farrington has made her way back into the witness area.

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MR TERNOVSKI: Yes, Commissioner. A couple of housekeeping matters with Ms Farrington. Firstly, a non-publication order has been made, as you know, Commissioner, to suppress the publication of her address.

10 **COMMISSIONER:** Yes.

MR TERNOVSKI: Secondly, Commissioner: Yesterday, you referred to two aspects of the evidence of Inspector Hayes.

15 **COMMISSIONER:** Are you going to tell me I got it quite wrong?

MR TERNOVSKI: No, no, I just wanted to give the full detail and because you indicated, Commissioner, that you didn't have a perfect recall of that evidence. Firstly, on the issue of the loss of inspectors from WHSQ, Mr Hayes said in his statement at paragraph 31:

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"In the last four years that I was with WHSQ, we lost about 25 construction inspectors out of a total of 40 to 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."

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So that's the last four years of his time at WHSQ. And at paragraph 11, he says he retired around October 2022, so therefore we're looking at a period from late 2018 till late 2022, which is, of course, the period when Ms Burgess was the director of CFS.

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Secondly, on the issue of the two-up -

COMMISSIONER: I thought in his oral evidence he went further and blamed it on the culture that was, in his view, created by Ms Burgess, but my memory could be wrong about that.

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MR TERNOVSKI: I haven't checked the transcript about the attribution, but the figures are here. He did, however, on the transcript, talk about the two-up process, to use a neutral word rather than a policy. The two-up process of sending two inspectors to attend CFMEU jobs. And his evidence was that this was introduced through the Together Union and you will find that at page 1040 of the transcript.

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COMMISSIONER: Looks like we're going to have competing views about authorship of that policy.

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MR TERNOVSKI: I think there's a saying that victory has -

COMMISSIONER: Has many fathers.

5 **MR TERNOVSKI:** Has many fathers, yes. There was one other matter which is that I understand my learned friend Mr O'Grady needs to tender the redacted documents.

COMMISSIONER: Yes.

10 **MR O'GRADY:** Yes. Thank you, Commissioner. You might recall yesterday that I handed up two emails from Mr Abbott.

COMMISSIONER: Yes.

15 **MR O'GRADY:** One is dated 2 September 2025 to Ms Heelan and one is dated 29 April 2026 to Ms Wise. I've provided redacted versions to people at the bar table and your Associate has or your tipstaff has hard copies. We've also emailed them to the Commission. So I'd seek to tender them. Mr Ternovski tells me that the appropriate descriptor would be KADR and I think we're up to 2 and 3. So if I
20 could ask that email from Mr Abbott to Ms Heelan dated 2 September 2025 be marked as KADR-2 and the email from Mr Abbott to Ms Wise dated 29 April 2026 be marked as KADR-3.

25 **COMMISSIONER:** Are there any objections? No?

MR DE JERSEY: No objection, Commissioner. Ms Wise was on leave, I'm instructed, when the email came in. She has since responded and it to it and I'll tender her response as well. Thank you.

30 **COMMISSIONER:** Very well. Thank you. Email, Jared Abbott, Tuesday September 2, 2025 to Donna Heelan will be exhibit KADR-2.

<EXHIBIT KADR-2 EMAIL FROM JARED ABBOTT TO DONNA HEELAN 02/09/2025

35 **COMMISSIONER:** Email Jared Abbott to Sarina Wise, 29 April 2026, will be exhibit KADR-3.

40 **<EXHIBIT KADR-3 EMAIL FROM JARED ABBOTT TO SARINA WISE 29/04/2026**

COMMISSIONER: Do you want to do that now, Mr de Jersey? Sorry, I didn't take appearances because there weren't any changes from yesterday, so that was the reason.
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MR DE JERSEY: I will have to have a version of the exhibit prepared with the email address redacted but I'll have that done as soon as possible, Commissioner.

COMMISSIONER: Thank you very much. Mr Ternovski.

5 **MR TERNOVSKI:** Ms Farrington, yesterday we started going through some specific projects that you describe in your evidence and if we could now move on to the Cairns Performing Arts Centre or CPAC. Ms Farrington, what was the frequency of CFMEU notifications for that project, compared to other projects during your time at WHSQ?

10 **MS FARRINGTON:** I would say at certain points during the project, as it spanned over a year, there were heavy requests for - for us to assist union presence, at least two or three times throughout the project. It dispersed, or at least a two-month period where we were involved heavily in disputes on health and safety matters and requested to attend on almost a weekly basis.

15 **COMMISSIONER:** What does that mean, "to assist with union presence"?

20 **MS FARRINGTON:** The union would usually use their right of entry to attend the site and either speak to workers on industrial matters, as is their right, or use their right under the WHS Act to inspect an alleged safety issue that workers may have made them aware of. And at a point in time, they would have a disagreement with either the PCBU, who allegedly had created that risk, or PC, who was, in their view, obstructing the correction of that risk. And so therefore, our inspectors would be required to come in and substantiate the risk and either write notices or
25 ensure the risk was managed. And as I've outlaid before, the usual expectation was "shut the site down" because there were so many risks identified.

30 **COMMISSIONER:** We heard some evidence from inspectors in Brisbane and when they talked about being told to go to a site to assist the union, normally it was assist the union to get access. Is that different to your experience here in Cairns?

35 **MS FARRINGTON:** Usually, we wouldn't be there to assist with a right-of-entry dispute. There is one annex in which we were requested to assist with right of entry and I believe that was because it was a member of the ETU not known to the Cairns construction industry. So they may have requested to see that person's documents and also potentially that person not having the correct documents to enter site and they may have refused. That's the - the area where I talk about Mr Lynch later on. But no, we weren't often used as a tool to facilitate right of entry.
40 Generally, the companies were happy to facilitate entry of the union members but towards the - I guess the end of my time with WHSQ, there was starting to be some pushback with regards to right of entry, as well as the issues that the union were raising not being so serious and imminent. But no, Commissioner, our - I
45 can't recall too many where right of entry was the reason we were attending.

COMMISSIONER: Thank you.

MR TERNOVSKI: Ms Farrington, these union notifications, did they come through the AAA system?

MS FARRINGTON: No.

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MR TERNOVSKI: How did they - how did you receive them?

MS FARRINGTON: Almost always via phone call -

10 **MR TERNOVSKI:** From - sorry, go on.

MS FARRINGTON: Either from the union delegates to my phone or from Ms Burgess or through Paul Smith from Ms Burgess or Marc - Mr Dennett.

15 **MR TERNOVSKI:** Have you received any calls from Mr Twigg?

MS FARRINGTON: I don't believe Mr Twigg was in the construction unit or he had any role in that unit at that point. It's possible. He was still in the unit at that point, but I believe he may have been moved to an industrial operations manager position at some time during that year.

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MR TERNOVSKI: And did you get any direct calls from Mr Dennett?

MS FARRINGTON: Not that I can recall, but potentially.

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MR TERNOVSKI: What sort of language did Ms Burgess use when she called you to direct you to or attempt to direct you to send inspectors on the CPAC site?

MS FARRINGTON: The usual, as described yesterday, intimate knowledge about what was wrong on the site and a shopping list of all the things wrong on the site. I have heard from - and there would be a name such as Roly or Rob Hill or Royce or Michael, both of which I had an assumption were not located in Cairns, by Michael Ravbar and Royce Kupsch. But Roly and Rob were, so I assumed she was receiving real-time information from the CFMEU delegates and that we need to send an inspector immediately.

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MR TERNOVSKI: Paragraph 70 onwards of your statement, you describe what you refer to as a predictable pattern of what happened when you attended the CPAC site. Would you describe that pattern for the Commissioner, please.

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MS FARRINGTON: Yes. The - at this point, there was still reasonably believable issues named in the shopping list, as to what could be a serious and imminent risk on the site, such as asbestos on the ground where they had bulldozed the old centre and hadn't collected it properly, or not enough lighting in the pit of the centre where the, you know, the orchestra is or the beneath stage where I believe there's a lot of mechanisms and such. So that, yeah, on the - on first sight, the issues looked like they might be realistically serious and imminent

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risk, but when we would arrive and attempt to go directly to these issues that had been named in the complaint, we would not be sort of allowed. The union delegates would insist upon us taking a very slow and methodical walk-around from the site office out and around the entire site, rather than addressing, you know, the most serious risk on that shopping list. So say the most serious risk on that shopping list was electrical leads running through water and that might be the most serious risk. They would prefer to have us walk around the entire site and kick bits of, you know, debris or bits and pieces that potentially minor PCBUs may have left around, like housekeeping issues, which are an issue but not a serious and imminent issue and they would never allow us to hurry to the most serious issue. They would prefer to just generally walk around the site and make a lot of noise and point out every single problem that they could, all the while sort of trying to get our inspectors more and more worked up about their knowledge of the legislation off the top of their heads, asking them questions about, "Oh, what do you think of this? Why do you think they've left this lying around?" And so on, just to sort of get the inspectors really worked up before we'd actually even get to address the serious and imminent risk.

MR TERNOVSKI: Can I just pause you there for a moment. You referred to the shopping list of union issues and I think you said in the initial period, it included items which, on the face of things, looked like imminent risks, like asbestos. During that period when the risks on the shopping list looked potentially serious, how specific was the risk identified? So, for example, with asbestos, was the location specified?

MS FARRINGTON: No, it wasn't and we'd have such things as, yeah, asbestos in the car park or mould in the building or electrical risk; nothing specific. So actually, the example I gave before about electrical leads running through water, it wouldn't even be as specific as that. It would just be "Electrical risk. Not enough task lighting," but no specific area would be mentioned. "Inadequate evacuation plan." That's probably, you know, not the most - that's probably as specific as it gets.

MR TERNOVSKI: You're talking now, if I understand correctly, about what was described in the notification itself?

MS FARRINGTON: That's right. And so we would get there and say, "Show us where" - and we'd go through the list and say, "Show us where the electrical risk is," and they would say, "No, we're going to go this way first."

MR TERNOVSKI: In your experience, were the CFMEU officials able to, once you were on site, point to the particular risk that they were complaining about in general terms in the notification?

MS FARRINGTON: Not often, because if they had already been on site and the PC had been working with them for an hour or two before we arrived, the PC or the PCBU who owned that equipment would generally have fixed the issue. And

so we would then devolve into this walk-around and, you know, nitpicking for issues which you're always going to find on a construction site which are still important but not urgent work that my inspectors could otherwise be undertaking.

5 **MR TERNOVSKI:** You use the word "nitpicking". Can you give some examples of what you're referring to?

10 **MS FARRINGTON:** The items such as, you know, if a tradesperson had just left a bucket of paint or a solvent in a corridor that they may be coming back to collect or they may be actually using in that corridor later or they'd just taken away to use the toilet or something, that's a housekeeping issue. It's a potential trip hazard and later on it became a - a pretty large fine as a hazardous chemical that isn't being stored correctly or may not be on a hazardous chemical manifest. So a fine would also be applied to finding that sort of thing. But, yeah, it's just walking around and
15 generally not only identifying these things as hazards but in some instances kind of kicking them, you know, like a violent demonstration of how dangerous these items were by using their feet to move the item around and kick it and demonstrate how dangerous it is to be a slip, trip or fall issue.

20 **MR TERNOVSKI:** So it was performative, was it?

MS FARRINGTON: Very.

25 **MR TERNOVSKI:** And how long did these walk-arounds take?

MS FARRINGTON: If there were some serious and imminent risks identified in the shopping list, I would continue - if I was there - to ask to be taken to those areas and I would be quite repetitive in my questioning about those issues. Because if a complaint is written legitimately and the complaint was still, as we've
30 described, lodged to AAA through Ms Burgess or the union or someone else within OIR and so we would just get a very short and not detailed list, but we would have a copy of it. And I would continue to say, "Can you please take us to where you identified the asbestos? Where you identified the lighting issues? Can you take us to where you identified the scaffolding issues?" And I be quite dogged
35 and boring and annoying, in fact, at repeating these issues so that we could identify them, fix them if needed and then continue on our day.

40 **MR TERNOVSKI:** Did you ever go on those walk-arounds that the union requested?

MS FARRINGTON: I started at the beginning doing those walk-arounds and there came a point in time where if the walk-arounds proved to be - that they couldn't identify any serious and imminent risk, if I was there with my inspector, I would call the walk-around to an end and we'd have a bit of a group talk in the
45 office and I'd withdraw the inspector and myself and we'd go back to our normal business.

MR TERNOVSKI: Why is that? Why would you not go on these walk-arounds?

5 **MS FARRINGTON:** Because I don't believe it was a good use of inspector time.

MR TERNOVSKI: How long would the walk-arounds take when you did go on them?

10 **MS FARRINGTON:** If they did go on, they could take half the day, depending on the size of the site.

MR TERNOVSKI: And if you were not present on site, did your inspectors go on these walk-arounds?

15 **MS FARRINGTON:** Generally, yes.

MR TERNOVSKI: Why is that?

20 **MS FARRINGTON:** I think the main reason would be that my inspectors were, and still probably are, working in a post-Dreamworld and the Eagle Farm fatalities and the Pike River fatalities, if you're aware of how all that happened in the year I began with OIR. In that landscape, and my inspectors' integrity is such that they wouldn't want to walk off a site and have something then happen the next day or a week later, and someone doesn't get to go home to their family and it be on their
25 conscience. But I believe they also felt disempowered to leave a site because they may be performance-managed because of the threat of union reaction to higher management that may end up coming down the chain and resulting in performance management for them. But I - I truly believe they're strongly - their integrity is such that they wouldn't leave a site if they thought that something might happen
30 that may end in the death of or - or injury of a worker.

MR TERNOVSKI: On those occasions when you attended and you refused to do a walk-around, was there any follow-up from OIR management?

35 **MS FARRINGTON:** Yes. I'd often have a conversation with Mr Smith and he would point out that upper management wasn't happy with the fact that we left the site and he would - insofar as his role as my manager - gently admonish me. But at the same time, I never felt that Mr Smith was ever threatening my position within OIR. I always felt that he was very supportive of my - my way of
40 managing our union interactions, but that he also felt the need to kind of play the game as much as we had to to ensure our - our livelihoods remained.

COMMISSIONER: You talked about - you said there Mr Smith spoke to upper
45 management. Did he tell you who he'd spoken to?

MS FARRINGTON: He would generally be either spoken directly to by Ms Burgess or she would speak to Mr Dennett and Mr Dennett would email him or

5 speak to him and tell him that he needed to, you know, pull Shannon into line, or something to that effect. I never was privy to how that occurred, but, you know, generally Mr Smith - and when you - if you meet Mr Smith, you'll see that he's very calm and casual man, and yeah, has a large amount of integrity. And it was sort of, you know, gently admonishing me whilst at the same time saying, you know, "I think you made a good choice," because before we would leave site, I would also ask quite doggedly, "Are there any serious and imminent risks and if so, can you take us to them right now?" And when the answer was never fully, "Yes, we can and here it is," I would say, "Well, then we are leaving."

10 **MR TERNOVSKI:** Have you ever had any conversations with Ms Burgess about the utility, or lack thereof, of these walk-arounds?

15 **MS FARRINGTON:** I don't recall. I probably didn't.

COMMISSIONER: What was your view about what the purpose of the walk-arounds was, from the union's perspective?

20 **MS FARRINGTON:** I believe it costs a lot of money to a company to down tools for half a day. It's potentially a way for workers to see that if they join the CFMEU and the ETU, they'll get, you know, this better treatment or something. You know, especially the way Mr Cummins would present himself and yell and carry on, I think was, in his way, a way of sort of sort of drumming up membership. But from what I gathered on most sites, particularly the CPAC site, that that wasn't a successful way of doing business. Most of the tradespeople who saw us told him outright that they didn't agree with his - his manner. But I believe it was probably partially to just, you know, create a stoppage of work for the PC and the PCBUs, as well as just a general irritant to their day, as well as, yeah, potentially gathering up more CFMEU members and ETU members.

30 **MR TERNOVSKI:** You mentioned - Ms Farrington, you referred to stoppage of work and downing of tools. Was work stopped during these walk-arounds?

35 **MS FARRINGTON:** No, not completely, but the PC generally had to have most of their management and their WHS officer, project manager and a couple of other people who could answer questions about why something was going on, such as, you know, "Why is there no exit lighting at this particular point?" And the answer might be, "Well, we're switching from - we're switching from the task lighting and" - what do you call it? Sorry, I'm having a mind blank. The non-permanent lighting to the permanent lighting that we've installed as part of the construction and there might be like a - sort of a lapse in time where you go from, you know, the non-permanent evacuation signs to the permanent running person signs that you see in every door. And it just happens to be that day and there might be a certain project manager who knew that that was the day they were supposed to be doing it. So I guess you could say the PC would be more likely to be stopping work, not the PCBUs doing their jobs.

MR TERNOVSKI: PC is the principal contractor?

5 **MS FARRINGTON:** Yes, sorry. And the PCBUs are all over, so you'll have your electricians, plumbers, concreters, whoever else is doing tasks on that day, and they may have to stop work at a given point. If we're walking past a particular scaffolder and we see an issue, that scaffold company will have to stop work until we've rectified the issue because we'll have to talk to their people. Electricians, same. So it sort of just - walking around the site creates that stoppage of work for anyone who might need questioning or might be doing something wrong.

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MR TERNOVSKI: During these visits, did the union request notices to be written?

MS FARRINGTON: Yes.

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MR TERNOVSKI: What kind of notices?

MS FARRINGTON: Well, they would ask, if we did see a breach, which would usually be a minor breach, not a serious and imminent breach, I think. As has been described by another inspector, a serious and imminent breach is issued verbally, "I prohibit you from doing this and I will follow up with a notice," and that is a prohibition notice. A minor breach is an improvement notice and they would ask us, "What kind of notice are you going to issue for this?" Depending on what the issue was, but generally, if the issue could be rectified immediately, as I describe later in our interactions with Mr Lynch, there would be no cause to issue a notice, because it was already rectified. And the wording of the notice is that the contravention is occurring or may still be occurring and if it's been fixed in front of the inspector, they would have no cause to write a notice and that wasn't something that the union seemed to grasp.

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MR TERNOVSKI: What did they want?

MS FARRINGTON: They wanted the notice written either way, or the entire site shut down. So that if more than one PCBU was likely to receive an improvement notice, that was their reasoning for the entire site getting a prohibition notice.

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MR TERNOVSKI: In your view, was that appropriate?

40 **MS FARRINGTON:** That doesn't make sense and it wouldn't legally make sense, in terms of the wording of the prohibition notice.

COMMISSIONER: It didn't make sense. Why to you think they wanted the whole site shut down?

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MS FARRINGTON: As I said, just - I believe it's a monetary issue for the primary - principal contractor to have to shut a site down. And I would imagine

they'd have to pay trades still. Rather than them doing work, they're paying trades to not work whilst they rectify these issues. So I don't know how much that costs, but I would imagine it's - it's a large sum.

5 **COMMISSIONER:** But why did they, in your view, want to inflict this large sum, this large loss, upon the - what's the term about - the PCBUs?

MS FARRINGTON: The PC or the PCBUs?

10 **COMMISSIONER:** Yes.

MS FARRINGTON: Yeah, generally, yeah, to try and get membership or during an enterprise bargaining season.

15 **COMMISSIONER:** To try to achieve what in an enterprise bargaining season?

MS FARRINGTON: The union being included as, you know, that PCBU becoming a CFMEU PC or having the CFMEU part of their enterprise bargaining agreement.

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MR TERNOVSKI: Ms Farrington, you describe a particular incident in 2018 involving Chris Lynch, the State Secretary of the ETU.

MS FARRINGTON: Yes.

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MR TERNOVSKI: Can you describe that incident for the Commissioner?

MS FARRINGTON: That was the incident where it was potentially a right-of-entry issue. Because as I said, Mr Lynch was from Brisbane, so it's possible that a PC may have questioned his right of entry or he may not have had one; I can't recall. But I brought Mr Beattie with me, because the issues were largely electrical and Inspector Beattie was an ex-Ergon technician and had a wealth of knowledge in construction and electrical safety. And I - as soon as we arrived, didn't sort of realise what Mr Lynch was, in terms of his position in the hierarchy of the ETU. But he had Mr Cummins with him and Mr Hill and potentially another member from Brisbane, but at least the three of them. And the issues he had were largely electrical safety issues and there were a few issues around working at heights or working near an open surface.

40 But Mr Lynch knew who Inspector Beattie was, possibly through - yeah, through work they may have completed years and years ago, or perhaps they'd had interactions prior, but he seemed to know who Inspector Beattie was and certainly took an aggressive tone with Inspector Beattie right from the beginning. And I did my - my usual introduction, where I said that it's perfectly okay if you want to swear about something being not right, because it doesn't hurt to say "the scaffold is effed" or "this is all a bit effed", but you will not direct that at people, because that's insulting and this is not how we speak to other people. And of course, once

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again, I was asked quite innocently by Mr Hill, "I don't know why you would need to say that."

5 But anyway, we commenced the walk-around, and the first place we went was to an electrical switchboard which had some pole filler missing, which is pieces of plastic that stop the - so there's a standing switchboard that looks like a lot like the one on the side of everybody's house with all the switches and things, but cords can run around out of it. And the pole filler is pieces of plastic that stop people from putting their fingers accidentally through the switchboard into live potential
10 wiring behind it and electrocuting themselves. And there was a small amount of pole filler missing and it was a fairly robust discussion around whether that was actually small enough or large enough for someone to fit their finger in.

15 Either way, Mr Lynch said it was a serious and imminent risk but then they wanted to move on and I refused, because I said, "If you consider it a serious and imminent risk then we're not moving on until it's rectified," and stood by the electrical switchboard until it was rectified and he was incredibly unhappy with that. Then we continued our walk-around -

20 **MR TERNOVSKI:** Just pausing you there. You said he was incredibly unhappy with that. What who are you referring to, is that still Mr Lynch?

MS FARRINGTON: Mr Lynch was incredibly unhappy about that as an outcome because he wanted to move on, because he had other things that he
25 wanted to show us. And I said, "But this is a very serious and imminent risk. You've said that someone could die so we're going to stay here until it's fixed."

MR TERNOVSKI: And was it fixed?

30 **MS FARRINGTON:** It was. Someone brought some pole filler and put it in there and we moved on.

MR TERNOVSKI: Did the fix satisfy Mr Lynch?

35 **MS FARRINGTON:** It did, but you could see that he wasn't happy that we stood there until it was fixed. He wanted to go and show us something else. But I did - I found it interesting that Mr Cummins and Mr Hill walked off in frustration and then, you know, the next - around the next corner, whatever it was, there was another hazard identified directly around the next corner, which is where they kind
40 of stormed off to whilst we were standing by the electrical switchboard. So conveniently another minor hazard, like a saw left out on the floor or something, which was, again, rectified. And we continued to walk around and, as I said in my statement, Mr Lynch completely positioned himself around Inspector Beattie, continued to ask him questions that weren't of a professional nature, like "How do
45 you live with yourself? How do you sleep at night when you've become a grub working for the government? "Not issuing notices, not keeping workers safe and you've got all of this blood of workers on your hands," and so on.

Just generally boxing him in; wherever we happened to be, he would literally force - he, Mr Lynch, would force Inspector Beattie into sort of a tight space, if he could. We continued to walk around. At one point, I got a phone call about
5 another incident and I didn't have anyone to send and I could tell at this point that Inspector Beattie was almost at breaking point, so I approached the union organisers and I said, "How many other serious and imminent risks do we have to look at on site?" And their response was, "Well the whole site is effed, so we're going to have to keep looking." And I said, "No, that wasn't my question. Where
10 are the serious and imminent risks that you identified that required us to be called here?", and they said, "We don't have any" - they said, "There are heaps, there are so many."

I said, "Okay, well we seem to be stuck in a loop and I need to send Mr Inspector Beattie to another job," and I believe I said it was a crane rollover, where it was
15 actually a crane collision or something, and they started to badger me about what that was and where, to which my response was "That's actually none of your business," because it wasn't. We retreated to the site office. Because I said, "Gentlemen we're caught in a loop here where you're asking you to point out
20 serious and imminent risk and you're not." We sat in the offers and Mr Lynch continued to say, "There's serious and imminent risk. You need to shut the site down before Cam leaves." Inspector Beattie said he had no reason to shut the entire site down and he was getting more and more agitated and upset. And I just said "Cam, I'd like you to go now. I'll get someone else to pick me up or I'll walk
25 back to the office but I need you to go here. I've sent you the details on your phone. This is the response assessment I need you to head to." And then I sat in the office with Mr Lynch going around and round in circles for another 5 to 10 minutes before I called it a day and left.

30 **MR TERNOVSKI:** Has Inspector Beattie attended any other construction - union construction sites after that point?

MS FARRINGTON: It was either that day or the next that I had time to sleep on it and he had had time to sort of - I don't - I think he either went to that site or kind
35 of just, you know, did the evidence-gathering and went home, which is generally what inspectors did if the site was closer to their home. And we kind of just both came to the same conclusion; he came in to me the next day or that afternoon, I believe it was the next day, saying, "I can't do this anymore," and I said, "I agree and I don't want to put you in this position anymore, but what I need you to do is
40 take some time, because I believe that you've received an injury from your work, be it a psychological one."

And, you know, this is days before people were getting stress leave, the
45 psychological legislation was brought in, but I said, "I believe you've received an injury from the workplace. I would like you to see your doctor and tell them what's happened and take a decent amount of time off." I said, "Cam, you've got over a hundred days of sick leave. I want you to tell your doctor that. I want you

to tell your doctor what you're going through and I want you to take a decent amount," which, yeah, the doctor gave him six weeks and then a very generous return-to-work program. And during that six weeks, Mr Smith and I discussed rebranding him as an industrial inspector and training up Mr Flower as a
5 construction inspector so that Mr Beattie would not have to attend any more union interactions. He still helped out with some construction work, but he was not - he didn't interact with any unions, to my knowledge, after that.

10 **MR TERNOVSKI:** Ms Farrington, you said Inspector Beattie had a hundred days or over a hundred days of accrued sick leave. Do you remember how much sick leave WHSQ inspectors accrued during that period per year?

15 **MS FARRINGTON:** I believe we got 20 sick leave days a year - sorry, yeah, I believe we got 20 days' sick leave a year.

MR TERNOVSKI: So that's five years' worth of unused sick leave that Inspector Beattie had.

20 **MS FARRINGTON:** It said it's a sign of a person who's done the soldier-on thing far too many times, when they've been probably unwell but they've thought, "I can soldier on and come to work." Yeah. It's a sign of someone who's probably burnt out.

25 **COMMISSIONER:** Is Inspector Beattie still employed by WHSQ?

MS FARRINGTON: No, he's retired.

COMMISSIONER: And when did he retire?

30 **MS FARRINGTON:** I believe it was one or two years ago.

COMMISSIONER: This period you're talking about is 2018.

35 **MS FARRINGTON:** Yes.

COMMISSIONER: So one or two years ago. So 2024. In those, say, six years between 2018 and 2024, did Inspector Beattie ever suggest to you that dealing with the site visits to the - as an industrial inspector, that he'd suffered anything like what had happened on the construction sites?

40 **MS FARRINGTON:** No. I don't think he did. He definitely overthought a lot of his work in the industrial space, particularly where there was occupational violence, and we definitely had to do a lot more of a debrief where he would attend occupational violence issues, such as particularly schools and medical
45 professionals who had suffered an injury due to occupational violence. And I believe that, you know, sort of correlates with the injury he received. But no, to my knowledge, it didn't happen to him again. Like, he didn't have anyone yelling

at him or sort of, you know, trying to shepherd him into a corner or calling him names, telling him he's useless and so on. No, I don't believe he did. But yeah, he was definitely - he really overthought those occupational violence ones and he wasn't quite sure what to do with them. Which I guess none of us ever really are, because they're so hard to know how to treat that kind of wound.

MR TERNOVSKI: Ms Farrington, if we could now move on to the incident you describe involving Inspector Duckworth and Mr Cummins, which led to Mr Cummins being prosecuted. I want to ask you some questions about the impact on Inspector Duckworth, but before we get to that, can you briefly describe the incident to the Commissioner?

MS FARRINGTON: Yes. Again, we were called to the CPAC. This was - there was asbestos allegedly in the car park area that was being bulldozed and the complaint said there were trucks driving up and down the area so that they could be making the asbestos airborne. And an issue with the emergency evacuation plan, which was - which is the picture, as you probably all know, that sits on the wall that tells you where to go. Not the running-person signs and not the alarms, but the actual map. And so I had to do school pick-up, I believe, and I - so I sent Inspector Dalamaras, because he was still at work and I didn't really have too many people at that point. It was around school pick-up time. Inspector Duckworth and Dalamaras went to the site.

I went and did school pick-up and then returned to debrief in the office, at which time investigator Rebecca Wright was also there and they advised me that they would like me to recommend a section 190 prosecution against Mr Cummins and then proceeded to tell me what had happened, which was the - once they'd taken samples of the asbestos or alleged asbestos, which it turned out not to be, but they had taken samples of the alleged asbestos, prohibited movement within that area and had it cordoned off. They were in the stairwell looking at the emergency evacuation diagram, which was incorrect because the site had changed that day and moved different parts of the scaffolding and, yeah, poured concrete in different areas, and like a construction site, it changes every day, and the evacuation -

COMMISSIONER: I just wonder, Mr Ternovski, whether we need to hear about this from Ms Farrington, given that Mr Dalamaras is the next witness. This is - presumably, you're just relaying what Mr Dalamaras told you?

MS FARRINGTON: Yes, that's true. Yeah.

MR TERNOVSKI: Perhaps I could ask you, Ms Farrington, to describe the impact that you observed on Inspector Duckworth.

MS FARRINGTON: Yes. So, yeah, I just came back to the office, noting that he was visibly shaking and shaken. And I was starting to think I, you know, wouldn't be able to send him to further construction - CFMEU - union organiser

interactions and he - it was later alleged that he chest-poked Mr Cummins, but that's not the nature of Inspector Duckworth. If he's giving evidence, I think you would be able to clearly tell that's not his type. But yeah, his was certainly very rattled at being - someone chest-poking him and shouting inches from his face,
5 "You're an effing dog." And the follow-on from that was he certainly was not ever go to a site unless he had a second person with him. But yeah, I believe it's probably - it's probably fairly well covered in my statement and Mr Dalamaras was there and he would remember it much better. But we did - Ms
10 Wright - Investigator Wright collected a statement from him that day, so it was fresh and clearly we all know about the way the prosecution went.

MR TERNOVSKI: Ms Farrington, I might deal with the Bulmba-Ja Arts Centre incident in the same way but - so you describe in your statement where Mr Cummins appeared to notice that it had been - a notice had been issued. Now,
15 were you physically there on the site to observe Mr Cummins with those notices?

MS FARRINGTON: Yes. I was with Mr De Ridder and Connors that day.

MR TERNOVSKI: Do you have any explanation for how the union got a copy
20 of these notices?

MS FARRINGTON: They weren't displayed and that was one of the things that they had issue with was that they wanted the notices displayed because if they're not, there's a \$3,200 fine for a failure to display notices. And there is no way that
25 my inspectors would have handed them out to them. And the fact that they weren't displayed means they wouldn't have gotten copies from the site, so my only thoughts are that they could have only come from the Office of Industrial Relations.

MR TERNOVSKI: Ms Farrington, if we could now move to the Cairns Convention Centre site. Where was it located?

MS FARRINGTON: Just across the road from the WHSQ and the government offices on Sheridan Street.
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MR TERNOVSKI: And did that - did you receive union notifications for this site?

MS FARRINGTON: We did, a lot. They were by the - they weren't by union
40 organisers or delegates so much as the HSR who was on site, who was a health and safety representative, as well as a CFMEU member.

MR TERNOVSKI: Is that Mr Smith you're referring to?

MS FARRINGTON: Hayden Smith. Mr Hayden Smith, yes.
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MR TERNOVSKI: Not Mr Paul Smith, obviously.

MS FARRINGTON: No, no.

MR TERNOVSKI: And how did these modifications come through to you?

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MS FARRINGTON: The same way, either a direct call from Mr Smith to my own phone, or a call via Ms Burgess or Mr Paul Smith.

MR TERNOVSKI: And what were the - were there any expectations communicated to you about how quickly your inspectors were to attend the site?

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MS FARRINGTON: Right away.

MR TERNOVSKI: Why is that?

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MS FARRINGTON: Because we were right next door and we should be there within five minutes.

MR TERNOVSKI: And was that a reasonable expectation, in your view?

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MS FARRINGTON: No, because I pointed out many times that my inspectors are generally only in the office if they're typing up notes from a case. They're not sitting in the office waiting to be given work to do. They're usually out doing work - often out doing work. And when they are in the office they're generally very tight for time in typing up their CISR notes, photocopying their inspector notebook, loading all their photographs onto the drive and putting it through to me for - for closure.

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MR TERNOVSKI: What inspectors did you have available as part of your work force at the time to attend to the Cairns Convention Centre?

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MS FARRINGTON: We had a few gaps and we had just recruited a junior AO5 construction inspector who was still learning.

MR TERNOVSKI: Was Inspector Beattie out by then or was -

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MS FARRINGTON: Inspector Beattie was working four days a week at that point, but still an industrial inspector. Inspector Duckworth was still working, but it was very difficult to send him to construction sites with union organisers. But I don't know if he was in the office at the time of the one particular call that I mention in my statement regarding John Flower.

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MR TERNOVSKI: Could you describe that call? I think it - it's one of the incidents that you describe as specific examples of expectations.

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MS FARRINGTON: Yes. Mr Flower had just returned from a site and he agreed that he would attend and he also agreed that he didn't feel the need for

anyone to attend with him, but that he was about to take his lunch and that he would be taking his lunch break before he attended the site and he was quite adamant. And so as I received repetitive phone calls from Mr Smith, because he was receiving repetitive phone calls from Ms Burgess and Mr -

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MR TERNOVSKI: So just - when you said Mr Smith, you're talking about Paul Smith.

MS FARRINGTON: Mr Paul Smith.

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MR TERNOVSKI: Yes.

MS FARRINGTON: Actually and Mr Hayden Smith, asking when we would be there and I said, "John is taking - Mr Flower is taking his lunch break." He also had a medical reason to need to take a lunch break and he has given me permission to say this in court. Not taking his lunch break could have resulted in his death because of his condition.

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MR TERNOVSKI: You describe another example of an expectation to attend quickly. Can you briefly describe that for the Commission?

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MS FARRINGTON: So, obviously if my inspectors were in the office, yeah, they would - they may be in the middle of photocopying their notebooks or writing evidence into CISR. They would at least want to finish the paragraph, get their PPE together and cross the road, so it wasn't as simple as just getting off your chair and going down and walking across the road. But also, unfortunately, there was a period of time where I was calling an inspector from, I believe it was the Smithfield bypass, where they had parked the car and were inspecting the Smithfield bypass construction and when they went to the car to start it, it had a flat battery. And at this point, because we had generally delayed, for real reasons, the old flat battery story didn't, sort of, you know, didn't come out and look good, but it was true. So I had to send a rescue vehicle out to actually pick them up and drive them back so that they could attend this site quickly enough to meet the standards expected by Ms Burgess, Mr Dennett and Mr Hayden Smith.

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MR TERNOVSKI: Did you speak about this with any of them?

MS FARRINGTON: Oh, I've just communicated the issue to Mr Paul Smith, who had a bit of a chuckle about it and said, "You couldn't make this up."

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MR TERNOVSKI: Ms Farrington, you say in your statement that your experience at the Convention Centre gave rise to some systemic concerns you had about the Office of Industrial Relations. Would you describe those concerns for the Commission?

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MS FARRINGTON: Yes. The nature of the complaints at this point had - well, one-liners, they were being put through AAA at this point or Assessment Services.

MR TERNOVSKI: Put through by whom?

MS FARRINGTON: By Ms Burgess, usually.

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MR TERNOVSKI: And what sort of one-liners? Can you give some examples?

MS FARRINGTON: They would name, "Mr Hayden Smith says there are not enough toilets on the site for the workers" or "Mr Hayden Smith says there's no consultation occurring with workers." "Mr Hayden Smith says there's no sanitary bins in the female toilets."

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MR TERNOVSKI: Were these serious risks, in your view?

MS FARRINGTON: No.

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MR TERNOVSKI: So what was the - I interrupted you. You were describing your systemic concerns.

MS FARRINGTON: The systemic concerns, I believed, were the fact that we were still expected to drop everything, as if this was a serious and imminent risk, but also the expectation that we had the time on our hands to just be available in the office to move to a building five minutes away when my region was from Cardwell to the tip of the Torres Strait and out to Ipswich, with less workforce than any other regional manager. And that the expectation was still that I would pull inspectors off such high-risk projects as the Smithfield bypass and go and send a rescue vehicle to go and count toilets or to go and see if there are women working on a site to check that sanitary bins are required and that HSR, who's an employee of a company who happens to wear the hat of a health and safety rep, as well as a black helmet with CFMEU written on it, is able to call a person who earns probably twice as much as me and yet an inspector to come and look at toilets within five minutes. That expectation is ridiculous and I believe is fraud and is definitely regulatory capture.

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MR TERNOVSKI: Have you ever raised any concerns with Mr Dennett about Ms Burgess?

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MS FARRINGTON: I did not raise them directly with Mr Dennett, but I've raised them in one of our operations manager group huddles, you might call them. We were called to Brisbane quarterly or half - every half a year to have a sort of meeting about how things are going or to learn something or brainstorm something, so it would be operations managers, regional directors and usually everyone up as far as Mr Dennett in the room. And occasionally we would get visits from the engineering unit and a few - you know, maybe the DDG might pop their head in and there was a point in time where I said that our staff feel incredibly vulnerable and I think I was being a little melodramatic but I said

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something to the effect of, "The inspectors feel like they're in the colosseum and that we're standing around in the stands watching them."

5 **MR TERNOVSKI:** What was the response, if any, from Mr Dennett?

MS FARRINGTON: I think, you know, it was probably very quickly brushed over and the subject was changed, and Mr Paul Smith, you know, probably had a quiet word to me at morning tea or lunch to just be a bit - be a bit more calm in my demeanour, which is fair.

10 **MR TERNOVSKI:** Ms Farrington, have you ever raised with the Deputy Director-General?

MS FARRINGTON: Yes.

15 **MR TERNOVSKI:** Can you describe that for the Commission?

MS FARRINGTON: Yes. I had an opportunity after he had told a group of us that he gets the same treatment, particularly on the WHS board that has union officials and a number of other bodies that sit on it, as well as our DDG, that he gets spoken to the same way by Royce Kupsch and Michael Ravbar. So, you know, it's not just the inspectors. And I said, "But the standard you walk past is the standard you set. And so if you're accepting it at your pay level, then how are the inspectors to - able to fight it? That's not an answer. That answer is unacceptable."

25 **COMMISSIONER:** And what did Mr Allen say in response?

MS FARRINGTON: Not a lot. Again, I believe he just very quickly changed the subject or, you know, sort of brushed over it. Actually, I think he said, "Oh, that's that army general said that, didn't he?" Or something, because there was an army general that said that. But either way, it was brushed over, but then I believe later sort of got passed down to Mr Paul Smith to sort of, you know, have words to me about my demeanour and the way I speak to the DDG.

35 **COMMISSIONER:** Sorry, you're saying you were criticised by Mr Smith for this conversation?

MS FARRINGTON: I wasn't criticised by Mr Smith but he was told to admonish me.

COMMISSIONER: And did he?

40 **MS FARRINGTON:** Insofar as telling me to cool it a bit but he wasn't disagreeing with what I said.

COMMISSIONER: So what did he say to you?

MS FARRINGTON: Look, from memory, I think he said, "You're right, Shannon, but this is sort of - you know, the temperature - the climate we're in and you know, you've got to look after yourself, and a part of that has just got to be to sort of check yourself before you wreck yourself." He didn't say that.

COMMISSIONER: Sorry?

MS FARRINGTON: He didn't say those words exactly, but he was sort of a bit like, "Look, I don't want to have be the bad guy here, but you do need to just cool it a bit." I believe he was supportive of me.

MR TERNOVSKI: Ms Farrington, what impact have these behaviours, if I can put it that way, had on your career at WHSQ?

MS FARRINGTON: I - yeah, I had a child in 2021, and I had maternity leave, but during that maternity leave, I started making plans for another career and the main reason for that was the union interactions. I didn't think I could go back to that. There was a particular time I mention in my statement where I got a call from Mr Cummins and Mr Hill at a ridiculous hour of the morning and I wasn't the duty manager. And then there was the incident with the DDG and really, everything else I had an amazing team that worked for me and an amazing boss, and I just didn't think I could continue sending my inspectors into that environment. And at some point, Mr Flower was doing all right, Inspector Flower, and the new inspector we it's brought in, McDonald. They seemed to be doing okay, but it was only a matter of time before everyone burnt out. And I just couldn't keep doing that to people, so I decided to pursue another career.

MR TERNOVSKI: Is that as a safety consultant?

MS FARRINGTON: I worked at a high level in ACT Education Directorate to try and curb the occupational violence in schools in the ACT. And I briefly worked for AMSA, the Australian Maritime Safety Authority. And then I've been doing the consulting and dealing with a medical issue as well.

MR TERNOVSKI: Thank you, Ms Farrington. I've got no further questions.

COMMISSIONER: What do you think of the way you were treated by your managers, not including Mr Smith, but the management team, particularly those in Brisbane, during your period as an operations manager in WHSQ?

MS FARRINGTON: I guess - yeah, on reflection, pretty poorly, but I always felt like Mr Smith had my back, so it was - but I knew he was under duress as well. So hence the choice of leaving, because I just didn't know how many more years we would have to endure it and I knew that Mr Smith was already sticking his neck out, but - well before this Commission was announced. But I just was worried for my job constantly, whenever I had interactions with the senior

management. I worried that they could somehow find a way to performance-manage me and find a reason to sort of push me out and that isn't a nice way to live your life.

5 It's - also, yeah, in my opinion, just the - the seniority of people doing that kind of work doesn't sit well with my integrity. Doing the work of someone like Mr Hayden Smith, who's - I'm not going to say "just a worker", but he is a worker and he's got the power to tell people on probably 300,000 or more to do this. It didn't sit well with me and their treatment - yeah, it's just extremely poor conduct and
10 not at all collegial and it did - it divided the whole of WHSQ as to who stood on what side of the fence. And it just became - it started as a really respectable workplace to be in and respectful and it just became chaotic.

COMMISSIONER: When you say "it divided WHSQ", what do you mean by
15 that?

MS FARRINGTON: Well, we had - we sort of had a swinging door of inspectors come from down south, because we had a gap in our construction inspectors. And they would come up with knowledge and gossip, of course, and
20 some of them would come up with, you know, they were pro whatever Ms Burgess was doing and some of them would come up and say, "I hate my life. I want to get out." And some of the operations managers would say, "I would love to apply for another job, but she won't give me a good reference so I can't leave. I'm stuck here." And you could see they were in incredibly poor mental health
25 and there was nothing that they could do about it and yeah, that - again, that didn't sit right with me.

COMMISSIONER: You say you were concerned that you would be performance-managed or pushed out. What gave you that concern?
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MS FARRINGTON: Well, there were a few emails that I was privy to. One was the time that my inspector, John Flower, was concerned about his ability to keep a job, because he'd - he'd been asked a lot of questions about what he didn't do on a particular site. And he was so concerned that he brought the Together Union into
35 the argument, asking them if they could support him, and he was threatened with a breach of the Act. I forget the paragraph, but he was threatened with the release of information to a party by I believe Mr Dennett.

MR TERNOVSKI: Which party? What's the party you're referring to?
40

MS FARRINGTON: The Together Union. So because he'd had this issue and he'd been - he'd been given a bunch of questions through Mr Dennett and Mr Smith about his conduct on a particular site and he was fearful for his livelihood - his job. And so he emailed this email to the Together Union
45 representative to say, "Hey, can I have some support here?" And when Mr Dennett found out that he had done this, they threatened him with being charged with

releasing information to a third party about a matter involving a WHS contravention.

5 **COMMISSIONER:** And that information he was threatened with being charged or disclosing was information sent to his union official to help defend him against some internal investigation that was being made?

10 **MS FARRINGTON:** Yes. Yes. But because it involved a matter on a construction site, it's treated as sensitive information because it gives that third party, the Together Union, information about possible, you know, actions that might be taken against that construction site. So he - he was potentially in the wrong, but he was also very fearful for his job - that that was the way that he would be managed out, that that was the sort of - the way - the mechanism that they would use to then manage him out of his job. And he was so fearful of that
15 that he asked the Together Union to assist him.

And, yeah, there were generally times, like I said, where Mr Paul Smith would call me and say, "You know, you probably need to do this or that," and I always knew that he was coming from a good place, but if push came to shove, it wouldn't be
20 his decision; it'd be someone higher like the - there's a separate unit who, you know, look into people doing the wrong thing in OIR and it'd probably be handled by that unit. Not that I was doing the wrong thing, but I'm sure that if they wanted to manage someone out, they would find a way. And I think a lot of people lived that way, with that fear at all times and that's probably another reason my
25 inspectors kept such detailed notes. My inspector Rob Duckworth said to me "I'm going to write in CISR that you went to the site office but you only attended the site office in a skirt and heels," and I said, "That's silly. You don't have to do that. No-one's going to care."

30 He said, "You have to do it. You have to cover your butt," and he did and I realised later that after the information was relayed so quickly about what I was wearing that it was important, because putting it in CISR is almost like putting it in the Bible. It's real. It's - yeah, so that was the evidence that kept me safe from being accused of walking around a construction site in high heels and a skirt. So I
35 think living that way is not - it's not a good, healthy environment.

COMMISSIONER: One of the things you mentioned there about Mr Flower was being charged with inappropriate disclosure of information, but in paragraph 110(c) of your statement, you seem to be suggesting that - well, I'll ask you the
40 question: there were instances where union officials possessed advance knowledge of what looks like internal information that was confidential to OIR.

MS FARRINGTON: Mmm.

45 **COMMISSIONER:** Are there any examples of that that you can give?

MS FARRINGTON: I wouldn't be able to produce any, but they definitely had a better grip on what the rules for COVID in construction were before we did, because obviously that was a very uncertain time. Everyone thought the world might end. Queensland shut down for barely a month, I think, or up here, we did.
5 And then construction started pretty much after a month of lockdown and there were rules applied to construction workplaces with regards to COVID and the spacing required for lunch rooms and working, et cetera. And I recall it was during the Myer construction down the end of the Cairns Central Building - this is a separate interaction, but they knew more about our internal policy for
10 construction numbers in lunch buildings than we knew. It hadn't been disseminated to us yet, but they knew it.

So that's only one example I can think of. But, yeah, they certainly seemed to know a lot, as well, about Cam not working in the construction section any
15 more - Mr Beattie. Yeah, I do sort of recall at one point, they were saying, "We won't be seeing Cam any more," something like that, which I don't know where they would receive that information from, other than somewhere down south.

COMMISSIONER: Was anyone, to your knowledge, ever threatened with a
20 charge for inappropriate disclosure of the type of information you've just described?

MS FARRINGTON: Just the - the one instance with Mr Flower, and that was just threatened. It didn't actually happen. He wasn't charged.
25

COMMISSIONER: But in relation to these other incidents where you say union officials possessed advance knowledge, was anything ever done about that?

MS FARRINGTON: No. Including the fact that they had the notices in their
30 hands at the Bulmba-Ja Arts Centre, and I told Paul and he said he would pass that up, but nothing ever came back about anyone doing anything about it, as far as I know.

MR TERNOVSKI: Ms Farrington, if we could briefly go back to your concerns
35 about being performance-managed.

MS FARRINGTON: Mmm.

MR TERNOVSKI: As far as you know, was Mr Dennett pleased or displeased
40 with your performance?

MS FARRINGTON: Yeah, he generally avoided me after the first two or three years, so I guessed that he was fairly displeased.

MR TERNOVSKI: Do you know what he was displeased about?
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MS FARRINGTON: I - just a problematic person from the Cairns office. The Cairns office was known to be problematic. I was told this when I joined and that I'd have to manage some of these problematic personalities. And then I believe I was potentially, you know, thought of as having adopted one of these problematic personalities instead of managing them.

MR TERNOVSKI: What was the problem personality?

MS FARRINGTON: Even though I did actually manage someone into retirement. But, yeah, I was - I was certainly vocal, and when it comes to either fraud or corruption, I don't call a spade a shovel. So I believe after sort of one or two years and once I'd passed probation, I probably started to be a little bit more open about my thoughts of what was happening.

MR TERNOVSKI: And is that what made you problematic?

MS FARRINGTON: Yes.

MR TERNOVSKI: I've got no further questions, Commissioner.

COMMISSIONER: In terms of being open about your thoughts, one piece of evidence you've given is at paragraph 114 where you were very open with Mr Dennett at one of these team-building meetings in Brisbane - I think you called them huddles in your oral evidence.

MS FARRINGTON: Mmm.

COMMISSIONER: Can you recall what Mr Dennett said to you and what you said in response in relation to the vulnerability of the WHSQ staff in Cairns?

MS FARRINGTON: Again, I think - I think the room got quite rowdy after that statement about the colosseum, but then, yeah, the political landscape is the big part that I remember him saying, and at that point, I sort of -

COMMISSIONER: Saying to you or to the whole room?

MS FARRINGTON: To the whole room. And I believe - I believed at that point that he was also sort of under the pump. He had disclosed to me, you know, that he had a lot of stress and that it was affecting him, early in my time with OIR, and so I sort of - I felt like maybe he was feeling the stress as well. But upon reflection, you know, I have to say, you know, Helen - Ms Burgess, everyone's mentioning Ms Burgess. It seems like everyone's saying the root of the problem is Ms Burgess. And yeah, I don't believe she was doing the things she did unwillingly. She certainly seemed to be very happy to be doing the things she did, but I think we need to remember - and this isn't just me trying to support my own gender - that there are people above her that were not, to my knowledge, reining in her behaviour, or not, to my knowledge, counselling her for her behaviour, and

that's Marc Dennett and DDG, all the way up to a minister. And I - I simply can't believe that it's just this one person at this level who is enabling all of this capture. And I guess, yeah, he did dismiss my concerns and sort of got the room under control by saying, "This is what we're operating with at the moment. Suck it up or leave," kind of thing. But, yeah, like, I do think that we need to remember that Ms Burgess, although very much on the phone a lot with our organisers, is still, from my view, not - not being stopped. That's just my thoughts on the matter.

10 **MR TERNOVSKI:** Thank you, Ms Farrington.

COMMISSIONER: Is there any application to cross-examine Ms Farrington?

15 **MS BOOMER:** Commissioner, there are some new matters that have come out of that evidence that weren't in the statement. I need time to seek instructions about that. We may want to cross-examine.

COMMISSIONER: Very well.

20 **MS BOOMER:** We probably won't be in a position to make that application today. The proposal would be that she be excused, but with liberty to recall her if a cross-examination application is made and granted.

25 **COMMISSIONER:** You can perhaps have a chat with Mr Ternovski over the break and just see where you get to, but at the moment, you're not going to be in a position, you think, to cross-examine, Ms Boomer, today. Why don't I let you and Mr Ternovski have a chat and then we'll work out what to do at 11.30. I won't formally excuse you just yet, Ms Farrington. We'll just see where we are at 11.30.

30 **MS FARRINGTON:** Thank you, Commissioner.

COMMISSIONER: Adjourn till 11.30.

<THE HEARING ADJOURNED AT 11.05 AM

35 **<THE HEARING RESUMED AT 11.28 AM**

COMMISSIONER: Mr Ternovski, where did you get to with Ms Boomer?

40 **MR TERNOVSKI:** I've had a discussion with Ms Boomer and I think she's in a position to state her position.

COMMISSIONER: Very well.

45 **MS BOOMER:** Commissioner, as I explained to Mr Ternovski over the break -

COMMISSIONER: Maybe just move across to the lectern.

MS BOOMER: Move across to the lectern.

COMMISSIONER: Maybe.

5 **MS BOOMER:** Is that an improved sound position?

COMMISSIONER: That's much better.

10 **MS BOOMER:** Fantastic. Thank you. As I explained to Mr Ternovski over the break, within the evidence given, there were some new statements concerning statements made by Mr Lynch at the site visit that's dealt with from paragraph 75 -

COMMISSIONER: Yes.

15 **MS BOOMER:** - that I need to seek instructions about.

COMMISSIONER: Mmm.

20 **MS BOOMER:** The reason I'm not in a position to cross-examine today is because there is a recording of that site visit. So to the extent that any cross-examination is going to be necessary, it will be by reference to an authorised transcript of the recording, because the recording is about two hours long. Now, I don't formally have instructions to cross-examine, but it wouldn't be possible to do it today.

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COMMISSIONER: I understand.

30 **MS BOOMER:** So what I had proposed to Mr Ternovski is that Ms Farrington be excused and if she needs to be recalled, that could be done as - after an application for leave to cross-examine and it might be that no cross-examination is, in fact, necessary.

COMMISSIONER: I understand. What do you say about that, Mr Ternovski?

35 **MR TERNOVSKI:** There's no objection to that proposal, especially considering Ms Farrington is not currently Cairns-based. So this can be accommodated in a later hearing block, if the application is successful.

40 **COMMISSIONER:** Ms Farrington, I formally excuse you from your attendance here in this Commission, but as you've heard, we may need to recall you at some later stage. We might be able to accommodate that by video or some other way.

45 **MS FARRINGTON:** Yes, Commissioner. I did point out, I have an issue with flying.

COMMISSIONER: We'll -

MS FARRINGTON: I would love to try and do that this week, if possible, please, but I realise that that might not be something that the court can accommodate.

5 **COMMISSIONER:** Well, perhaps I'll just get Mr Ternovski - because Mr Thomas will take the next witness - to have a chat with you outside the hearing room and work out the best arrangements for you.

MS FARRINGTON: Thank you, Commissioner.

10

COMMISSIONER: You're excused. Thank you very much for your evidence.

MS FARRINGTON: Thank you, Commissioner.

15

<THE WITNESS WAS RELEASED

MR TERNOVSKI: I understand Mr de Jersey wants to tender some documents and may I be excused?

20

COMMISSIONER: Yes. Yes, you may.

MR DE JERSEY: Thanks, Commissioner. It's Ms Wise's email, sent today, 13 May, at 9.27am, and I have a eight redacted copies and it's also been emailed in electronic format, so I'll hand up those.

25

COMMISSIONER: Thank you.

MR DE JERSEY: And I think we're up to exhibit number 4.

30

COMMISSIONER: That's KADR-4, is it?

MR DE JERSEY: That's the one.

35

COMMISSIONER: Is there any objection to the reception of this redacted copy of Ms Wise's email of today at 9.27?

MR O'GRADY: Perhaps if I could just look at it first.

40

COMMISSIONER: Do you want to deal with it after lunch?

MR O'GRADY: Yes, if that's convenient.

45

COMMISSIONER: Very well. We'll deal with that after lunch, Mr de Jersey, if that's -

MR DE JERSEY: Thank you, Commissioner.

COMMISSIONER: Mr Thomas.

MR THOMAS: Thank you, Commissioner. I call Mr John Dalamaras.

5 **COMMISSIONER:** Is Mr Dalamaras in the hearing room?

MR THOMAS: He's just being fetched.

COMMISSIONER: Thank you.

10

COMMISSIONER: Mr Dalamaras, please come up with the witness area and remain standing.

<JOHN DALAMARAS, SWORN:

15

<EXAMINATION BY MR THOMAS

COMMISSIONER: Thank you, Mr Dalamaras. Please take a seat. Mr Thomas will now ask you some questions.

20

MR THOMAS: Mr Dalamaras, could you please repeat your full name?

MR DALAMARAS: John Dalamaras.

25 **MR THOMAS:** And what is your current occupation?

MR DALAMARAS: I'm the operations manager in the Cairns office.

MR THOMAS: And what is your work address?

30

MR DALAMARAS: My work address is Level 6, 5B Sheridan Street, Cairns.

MR THOMAS: And Mr Dalamaras, have you made a witness statement for the Commission?

35

MR DALAMARAS: I have.

MR THOMAS: Could the witness be shown - I think you've got a copy of that statement in front of you. Is that the statement that you've prepared?

40

MR DALAMARAS: Yes, it is.

MR THOMAS: And does it run to 72 paragraphs?

45 **MR DALAMARAS:** Correct.

MR THOMAS: And contain one annexure?

MR DALAMARAS: Yes, correct.

5 **MR THOMAS:** And Mr Dalamaras, have you had an opportunity to review your statement recently?

MR DALAMARAS: Yes, I have.

10 **MR THOMAS:** And I understand you wish to make some corrections to it, the first of which is at paragraph 7. Could you identify to the Commission the correction that you wish to make to that paragraph?

15 **MR DALAMARAS:** Yes, the date in the second line in that paragraph should be 2013.

COMMISSIONER: Between 2006 and 2013.

MR DALAMARAS: Correct, Commissioner.

20 **MR THOMAS:** And then I understand the next correction is the first sentence of paragraph 47 and specifically the reference to cement sheeting. The term "cement sheeting". What correction do you wish to make to that sentence?

25 **MR DALAMARAS:** So that should read ACM, asbestos-containing material, but the abbreviation is ACM.

COMMISSIONER: So in the first line of the first sentence?

30 **MR DALAMARAS:** Correct, Commissioner.

COMMISSIONER: So what do we do, do we delete "asbestos" and "cement sheeting" and insert "ACM"?

35 **MR DALAMARAS:** ACM, yes. Correct.

MR THOMAS: Yes, Commissioner, thank you. And similarly, the second sentence of that paragraph, that same paragraph, 47, includes a reference to sheeting. Should that also be substituted with ACM?

40 **MR DALAMARAS:** Correct.

COMMISSIONER: So delete "sheeting" in the third line, insert "ACM".

45 **MR THOMAS:** And similarly, the sixth sentence of that paragraph, that's the sentence that starts "However, the cement sheeting." What changes, Mr Dalamaras, do you wish to make to that sentence?

MR DALAMARAS: That should read "ACM".

MR THOMAS: Yes.

5 **COMMISSIONER:** So delete "cement sheeting", insert "ACM"?

MR DALAMARAS: Correct.

10 **MR THOMAS:** And then the final sentence of paragraph 48, the next paragraph, there are also references to concrete sheeting and cement sheeting. Should those both be changed to ACM as well?

MR DALAMARAS: Correct.

15 **COMMISSIONER:** So in the third-last line in paragraph 48, delete "concrete sheeting", insert "ACM", and in the last line of paragraph 48, delete "concrete sheeting", insert "ACM".

20 **MR THOMAS:** And Mr Dalamaras, subject to those corrections, is your statement otherwise true and correct?

MR DALAMARAS: Correct. Yes.

25 **MR THOMAS:** Commissioner, I tender that statement.

COMMISSIONER: Are there any objections? No. Witness statement of John Dalamaras affirmed 6 May 2026, 72 paragraphs, 15 pages with one annexure, as amended just now by the witness at paragraphs 7, 47 and 48, will be JXD-1.

30 **<EXHIBIT JXD-1 AMENDED WITNESS STATEMENT OF JOHN DALAMARAS 06/05/2026**

35 **MR THOMAS:** Thank you, Commissioner. Mr Dalamaras, I want to start with your career and you deal with this at page 1 of your statement. Can you tell the Commissioner what qualifications you hold?

MR DALAMARAS: So I hold a licensed dogger's ticket, unrestricted boiler operator, a licensed coxswain, and Diploma of Government Investigations.

40 **MR THOMAS:** And you entered the workforce as an apprentice fitter and turner?

45 **MR DALAMARAS:** Correct. I started in 1984 as an apprentice fitter and turner at the South Johnstone Sugar Mill.

MR THOMAS: At the South Johnstone Sugar Mill. How long did you work at the South Johnstone Sugar Mill?

MR DALAMARAS: I worked there from probably late 2000 - sorry, 1988 till the year 2000.

5 **COMMISSIONER:** What's the role of a dogger these days? A dogger used to ride the goods on the crane, didn't they?

MR DALAMARAS: They used to be called a crane chaser.

10 **COMMISSIONER:** Crane chaser.

MR DALAMARAS: Yes. So it's to do with the slinging of loads and the direction of the crane.

15 **COMMISSIONER:** But they no longer ride the loads.

MR DALAMARAS: No.

COMMISSIONER: What do they do now?

20

MR DALAMARAS: They sling the loads and they direct the crane using whistles or communications via radio.

COMMISSIONER: I see.

25

MR THOMAS: And during some of that period, you were also in the Army Reserves. How long were you in the Reserves?

MR DALAMARAS: Nearly four years or just on four years in the Reserves.

30

MR THOMAS: What was your position?

MR DALAMARAS: I was a private; infantry soldier.

35 **MR THOMAS:** And after the South Johnstone Sugar Mill, Mr Dalamaras, where were you next employed?

MR DALAMARAS: After the South Johnstone Sugar Mill, I left in 2000. I took up a role with the Department of Education. I was a facilities officer and a boating officer there from 2001 to 2006.

40

MR THOMAS: And when did you first join Workplace Health and Safety Queensland as an inspector?

45 **MR DALAMARAS:** I joined Workplace Health and Safety in February 2006 as an AO4 senior inspector - sorry, an AO4 inspector.

MR THOMAS: And you describe your experience at paragraphs - that is, your experience with Workplace Health and Safety Queensland, at paragraphs 5 to 8 of your witness statement. Would you tell the Commissioner about the different roles that you've held over your time at Workplace Health and Safety Queensland?

5

MR DALAMARAS: Initially I started as an AO4 inspector. I was then promoted to an AO5 senior inspector in 2007. In 2006, I was upgraded to a principal inspector and in 2010, and then I became the AO6 Principal Inspector - Operations in 2011. Now, I also held the role of acting operations manager at times, between 2011 and 2017.

10

MR THOMAS: Yes. And then in 2018, you had a stint away from -

MR DALAMARAS: Correct. I left the department in June 2018 and went to private industry.

15

MR THOMAS: And what was your role in private industry?

MR DALAMARAS: I was a safety manager.

20

MR THOMAS: And when did you return to Workplace Health and Safety Queensland?

MR DALAMARAS: I returned to Workplace Health and Safety on 26 February 2023.

25

MR THOMAS: And when you returned, what was your role?

MR DALAMARAS: I was a senior inspector, so I came in at a lower grade than when I left.

30

MR THOMAS: And you said earlier that your current role is operations manager.

MR DALAMARAS: That's correct.

35

MR THOMAS: When were you promoted into that role?

MR DALAMARAS: I was promoted in the role officially, in the permanent position, in 2024.

40

MR THOMAS: And you had been acting before that?

MR DALAMARAS: Yes, correct.

45

MR THOMAS: And have you been in that role since that time?

MR DALAMARAS: That's correct.

MR THOMAS: And can you tell the Commissioner about the geographic area that the Cairns office covers?

5

MR DALAMARAS: So the Cairns office covers, if you were to draw an imaginary line through the top of the Cardwell range, there's far east and there's far west and there's far north as you can look at the map, that's the Cairns region. So it extends to all the islands east of that imaginary line up into the Torres Strait, as far as the Australian border goes.

10

COMMISSIONER: Your - the operations manager - Ms Shannon Farrington just gave some evidence - you may well have seen her as she came out of the hearing room as you came in, Mr Dalamaras. Did you replace her as operations manager?

15

MR DALAMARAS: No, Commissioner. I replaced Rob McDonald. Rob McDonald was the operations manager in the Cairns office. He then requested a move to South East Queensland and he became operations manager and subsequently he's now a regional director in - I think he's in the Gold Coast area now.

20

COMMISSIONER: And did Mr McDonald replace Ms Farrington?

MR DALAMARAS: Initially when Mrs Farrington left, another inspector, Ed Ellis, took up that position and then the permanent position came about where Rob McDonald got that position and then I - I stepped into that role after that.

25

COMMISSIONER: Thank you.

30

MR THOMAS: And did that geographic area that you described, did that change over time?

MR DALAMARAS: The Cairns region hasn't changed over time, but the region has changed.

35

MR THOMAS: Yes. And how many inspectors did you have reporting to you at the Cairns office?

MR DALAMARAS: Currently, I have seven inspectors that currently report to me. I do have three dive inspectors there that do do work for me, but I sort of use them 20 per cent and I have another inspector that reports to me that does some work for me at about 20 per cent. So currently I have seven but there's about 20 people in the office.

40

MR THOMAS: Yes. And is that split between industrial inspectors and construction inspectors?

45

MR DALAMARAS: Well, it's hard. In the regions I just need to explain that our inspectors aren't termed "industrial" and "construction" anymore.

5 **MR THOMAS:** Yes.

MR DALAMARAS: In the region, our inspectors have to be multiskilled because we're limited in numbers and our guys all have to perform different roles. And it also happens when you're on call, if you're an on-call inspector, you could
10 be called to a construction site, an industrial workplace or anything like that, so we're pretty multiskilled. It's a lot different to the Brisbane area where they're defined and construction and industrial; they have lot bigger teams.

MR THOMAS: I want to ask you some questions about the AAA triage system of complaints which starts at page 4 of your witness statement. To your
15 recollection, when was that system - the AAA system - when was that introduced?

MR DALAMARAS: I think the AAA system started around 2009 and 2010. It was introduced around then. Prior to that, we would get calls directly to the office
20 when people made a complaint. And it took some time to get momentum, the AAA centre, but yeah, I think it was around 2009, 2010.

MR THOMAS: And can you explain to the Commissioner how that system works?
25

MR DALAMARAS: So that system allows PCBUs, members of the public, government agencies, unions to make complaints or notify of incidents that are authorised under the Act. So they would either make a phone call to the AAA
30 centre or they would send an email or it could be done online and then it would be triaged and - by the staff there and it would either be sent - a standard letter could be sent to the organisation or it may be referred to the region for an inspector response.

MR THOMAS: And so if an urgent safety incident, say, happened in the Cairns region, how would that be communicated from the AAA centre to your office?
35

MR DALAMARAS: So if it came in as a Queensland ambulance notification, we would get a call as well from the AAA centre, so they would ring us and say, "We've had a serious incident. Ambulance are on the way. Can you - you know,
40 have you got someone to send?" And they'd discuss it us with and we'd then have a discussion about who we'd send or it would come via an email. So in our CISR system, initially, when jobs were put on the system an email would pop up on your computer or on your phone so that you know that it came to the region.

45 **MR THOMAS:** Yes. In the case of email, those would be less urgent matters?

MR DALAMARAS: Yes, yeah.

MR THOMAS: And once the Cairns office received that information from the AAA system, who is responsible or who'd be responsible for determining how to deal with it?

5

MR DALAMARAS: So ordinarily, it'd be the operations manager, but it can also be the Principal Inspector - Operations, and currently that position is called the lead inspector. So we are all on the system, so if the operations manager would miss it, the Principal Inspector - Operations would see that email.

10

MR THOMAS: Yes.

MR DALAMARAS: Or if they couldn't get the operations manager on the phone, the 2IC, being the lead inspector or Principal Inspector - Operations, would get that call. So we would have a discussion about the issue with the relevant inspector. So if it was an industrial site, you'd try to select an inspector that had primary industrial experience. If it was construction, you'd probably send someone that has more construction experience. If it was a CFMEU request, we'd send two inspectors.

20

MR THOMAS: And as to actually making a complaint, you said that the AAA system is open to the public.

MR DALAMARAS: Yes.

25

MR THOMAS: Who - so anyone can make a complaint?

MR DALAMARAS: Correct.

MR THOMAS: And was it expected that unions would make complaints through the AAA system?

MR DALAMARAS: It was, yes.

MR THOMAS: And did they?

MR DALAMARAS: Other unions did, yes.

MR THOMAS: When you say "other unions" -

40

MR DALAMARAS: ETU, Australian Metal Workers' Union, Australian Workers Union, Nurses Union; I've seen all of them.

MR THOMAS: And what about the CFMEU?

45

MR DALAMARAS: No. They would go straight through to our CSU unit and straight through to Helen Burgess.

MR THOMAS: Speaking of Ms Burgess - what was your first dealing or interaction with her?

5 **MR DALAMARAS:** It was in my role as Principal Inspector - Operations. So I'd be relieving for Shannon, because when Shannon first started she obviously had to go for Brisbane to training and she may not be available, so my first interaction was a call from Helen.

10 **MR THOMAS:** And can you describe that telephone call?

MR DALAMARAS: I just have to see where that was, sorry.

COMMISSIONER: Looks like it's in paragraph 26.

15

MR DALAMARAS: Yeah, it was in 2017. I don't have an exact date there, so -

MR THOMAS: Read the previous paragraph.

20 **COMMISSIONER:** Previous paragraph. There you go. '25. Could we bring up the previous paragraph as well?

MR DALAMARAS: So, yeah, Helen Burgess was part of the CSU unit that was formulated in the Brisbane office, around about 2014. So I knew about her then.

25 We all knew about her and that unit. That unit was more of an advisory unit, initially. Inspectors across the state, construction inspectors, would all be involved with that CSU unit. They'd go down for regular meetings to Brisbane and they'd come back and report to us. So initially, when Helen first started there, we didn't see too much of her or hear much of her but she knew she was in there.

30

MR THOMAS: Yes. And you said your first dealing was a phone call. What did she tell you in that phone call?

35 **MR DALAMARAS:** I'm just trying to recollect what that was. Yeah, she had asked me to send inspectors to a CFMEU site immediately and, you know, I had to prioritise that above other issues. She told me that she was communicating directly with the CFMEU. They had called her and asked us to go to that site - go to site.

40 **MR THOMAS:** And did those phone calls continue?

MR DALAMARAS: Yes.

45 **MR THOMAS:** And how would you describe Ms Burgess' communication style during these calls?

MR DALAMARAS: She was very direct; abrupt at times.

MR THOMAS: And had you ever met Ms Burgess in person?

MR DALAMARAS: No, never met her in person.

5

MR THOMAS: And then at paragraph 26 of your witness statement, you say that Ms Farrington received similar calls. How did you know that?

MR DALAMARAS: I used to have a position outside of Shannon's office. We have an open-door policy. The walls are pretty thin there, so you can hear every conversation. So you can hear conversations. At times, Shannon, if I can refer to her as Shannon, she would talk to us about it. She'd discuss it, because I was her 2IC. So she'd say "Hey I've just received a call from Helen" or could've been one of the other people in the CSU at that time, and she'd tell me that "Helen's rang. She wants us to go to site. I'm thinking of sending, you know, Cam Beattie, for instance." And that's what we'd do.

10
15

MR THOMAS: And you mentioned other people in the CSU. Who might they be?

20

MR DALAMARAS: Marc Dennett. Mark Houston. Peter Twigg. And I think there was another gentleman, a Nicholas Nottingham, but I'm not 100 per cent sure of that, earlier on. But it was mainly Mark Houston and Marc Dennett were the other two.

25

MR THOMAS: Yes. Was it predominantly Ms Burgess?

MR DALAMARAS: For me, predominantly, I seemed to get the calls from Helen Burgess.

30

COMMISSIONER: Who did you say, Nicholas who, sorry?

MR DALAMARAS: I think his name was Nicholas Nottingham but I'm not 100 per cent sure, Commissioner. It might've been Nick Drapes, actually.

35

MR THOMAS: And at paragraph 28, Mr Dalamaras, of your witness statement, you say that you became aware that Ms Burgess was promoted or became the director of CCFS, Construction Compliance and Field Services. How did you become aware of that?

40

MR DALAMARAS: So we had had communications, it was either via email and Paul Smith, the regional director, would've communicated that to us or it might have come from Brisbane so usually when someone's promoted into a higher position there are emails that go out and say "Helen Burgess is now the director of CSU." So that was in early 2018, just before I'd left the department.

45

MR THOMAS: Yes. And did your interactions with Ms Burgess change at all after that promotion or -

5 **MR DALAMARAS:** Well, I wasn't there for very long after that, but no. No.

MR THOMAS: In that she continued to call you and demand an inspection?

MR DALAMARAS: Correct. In fact, it got worse.

10 **MR THOMAS:** It got worse after her promotion?

MR DALAMARAS: Yep.

15 **MR THOMAS:** In what way did it get worse, Mr Dalamaras?

MR DALAMARAS: I think the calls became more frequent and I wasn't there, obviously, but I kept in communication with my fellow employees there, and they told me stuff that happened.

20 **MR THOMAS:** They told you that the calls from Ms Burgess were getting more frequent?

MR DALAMARAS: Yeah, yep.

25 **MR THOMAS:** And then in the following paragraph of your witness statement, being paragraph 29, you say that Ms Burgess sometimes contacted your inspectors directly. How did you know that?

30 **MR DALAMARAS:** The inspectors would tell us. So if they got a call from Helen Burgess on site, when they returned to the office after the site visit, they would come back and they'd - you know, we'd meet with the inspectors so we'd debrief when they'd come back and they'd tell us, "Look, I got a call from Helen Burgess. She was asking about compliance notices that we hadn't issued or had issued and asking questions around that."

35 **MR THOMAS:** Did they ever call you before they attended the site?

MR DALAMARAS: Sorry, who?

40 **MR THOMAS:** Your inspectors, after having been contacted by Ms Burgess.

MR DALAMARAS: Sometimes they would. They would be en route to another job and they would say "We've just been contacted by Helen Burgess" but shortly after we would get that call anyway, so -

45 **MR THOMAS:** Yes. And aside from Ms Burgess - and I'll come back to that - but aside from Ms Burgess, was there anyone else - and this is at paragraphs

30 and 31 - was there anyone else at the OIR who contacted you or Ms Farrington and directed you to send inspectors to those CFMEU sites?

5 **MR DALAMARAS:** Yes, during my time there, I was contacted by Julie Neilsen who was our ED at the time. I can remember a call from her. Obviously our regional director, Paul Smith, but I also received a call from the Deputy Director-General, Dr Simon Blackwood.

10 **MR THOMAS:** And was that normal, in your view, for Deputy Director-General to contact you directly?

15 **MR DALAMARAS:** No, and the reason I remember it is we had desk phones at the time and the desk phone would have an LCD read-out on it and I remember I was - on chance I have seen Simon Blackwood came up on the number. And when I answered it, it was Simon Blackwood and I thought it was very strange that he'd be ringing me directly.

MR THOMAS: What did Dr Blackwood tell you?

20 **MR DALAMARAS:** He'd ask me about sending staff to a CFMEU complaint that he'd received to a council site. I noted by his voice that they seemed quite apprehensive and, like, he sort of - you could tell by his voice that he was anxious, really.

25 **COMMISSIONER:** Anxious in what way?

30 **MR DALAMARAS:** Just in the way he asked it, Commissioner. You could just tell by the voice that - he'd obviously been getting phone calls from somebody else and it might've been a bit unusual for him to ring directly, too, so -

MR THOMAS: Had you spoken to - sorry, Mr Dalamaras, had you spoken to Dr Blackwood previously?

35 **MR DALAMARAS:** Had I spoken to him?

MR THOMAS: Yes.

40 **MR DALAMARAS:** Yes, I knew Simon. I'd taken him on sites when he'd visited after cyclones and that up here, so I had spoken to him, yes.

MR THOMAS: And did anyone from the CFMEU ever contact you directly and ask that you -

45 **MR DALAMARAS:** Yes, we'd had calls. Once they had your number, they would ring you. I remember receiving calls from Royce Kupsch from the CFMEU. Probably five or six or six or seven occasions he's rang during my period there. He'd describe the complaint at a particular site and ask us to send an

inspector, "We need an inspector to attend the site and deal with it urgently," you know, so -

5 **COMMISSIONER:** Just going back to that particular conversation, do you remember what the Cairns council roadworks project was?

10 **MR DALAMARAS:** It was just roadworks that the council would do as part of their budgets, Commissioner, from memory. It wasn't a major project. They were currently going - undergoing EBA negotiations.

COMMISSIONER: Who was undergoing the EBA negotiations?

MR DALAMARAS: Cairns Regional Council.

15 **COMMISSIONER:** And when you say it was just part of the normal roadworks, what would the budget be for the sort of roadworks that Dr Blackwood was ringing you about?

20 **MR DALAMARAS:** It could've been tens of thousands to hundreds of thousands. I don't remember the actual site and it was sort of an upgrade that we were doing, so traffic control was sort of the issue there.

25 **COMMISSIONER:** So someone three levels above you in the organisation rings you, as the acting operations manager, about a road upgrade run by council worth somewhere between 10,000 and \$100,000 in relation to traffic management?

30 **MR DALAMARAS:** That's what the issue was, from memory, Commissioner. I don't know if Dr Blackwood actually knew what was going on at that council site but he said that's what the issue was, and -

COMMISSIONER: Did you say anything to him about -

35 **MR DALAMARAS:** I just complied and said, "Yes, sir, three bags full. I'll send someone."

COMMISSIONER: Did you find out what happened?

MR DALAMARAS: Sorry, Commissioner?

40 **COMMISSIONER:** Did you - can you shed any more light on what the issue was there?

45 **MR DALAMARAS:** Yeah, when an inspector came back he said it was traffic management issues, it would be to with signage and stuff like that. The inspector resolved the issue that was there.

COMMISSIONER: You say it struck you as odd, given the nature of the project. What did you think about this intervention by Dr Blackwood?

5 **MR DALAMARAS:** We received phone calls from Julie Neilsen, Commissioner, and others are others from Brisbane, so it wasn't unusual but it was - it was unusual that it was Simon.

COMMISSIONER: Julie Neilsen is a level below the Executive Director?

10 **MR DALAMARAS:** Yeah.

COMMISSIONER: Before Mr Dennett?

15 **MR DALAMARAS:** Yes, correct.

COMMISSIONER: Sorry, Mr Thomas.

20 **MR THOMAS:** Thank you, Commissioner. Just one matter to clarify, Mr Dalamaras. You said when there were EBA negotiations going on, negotiations with whom?

MR DALAMARAS: Cairns Regional Council and their staff; EBA negotiations.

25 **MR THOMAS:** And who were they negotiating with?

MR DALAMARAS: CFMEU and the other unions involved, I'd say.

30 **MR THOMAS:** And if you didn't comply with the demands that you've described to send inspectors to sites immediately or urgently, what would happen then?

MR DALAMARAS: We'd get another phone call.

35 **MR THOMAS:** From whom?

40 **MR DALAMARAS:** From Helen Burgess or from one of her associates there, stating that "Why haven't we sent someone, it's urgent." We may not have had the staff. Our staff could've been on other jobs. Sometimes we had to redirect staff from other jobs and send them there. Staff could've been on the way to a job and I remember calling inspectors while they were in the car and say "Hey, can youse not go to this site, can you please go to this site because we've had a call from Helen Burgess and there's a CFMEU issue."

45 **MR THOMAS:** And was that a regular occurrence?

MR DALAMARAS: It would happen quite a bit, yes.

MR THOMAS: And indeed, at paragraph 34 of your witness statement, you say that the demands from Ms Burgess were frequent but they fluctuated. Did you observe any pattern with the timing or frequency of those demands?

5 **MR DALAMARAS:** The demands seemed to be more prevalent during EBA negotiations, either with contractors, councils, PCBUs for large government projects and others.

10 **MR THOMAS:** Yes. And again, it's EBA negotiations with the CFMEU?

MR DALAMARAS: Correct. After they were concluded, calls would die off. So we may not get any calls for a while.

15 **MR THOMAS:** Yes. Any calls from Helen Burgess?

MR DALAMARAS: Ms Burgess, yes.

COMMISSIONER: Are you saying after the negotiations were concluded?

20 **MR DALAMARAS:** Yes, correct, Commissioner, yeah. It would quieten down.

MR THOMAS: Mr Dalamaras, you say at paragraph 35 that it was uncommon for you to attend sites personally. Is that because of the managerial nature of our role?

25 **MR DALAMARAS:** Yeah, that's correct. As Principal Inspector - Operations or lead inspector, your job is to review work that comes in or allocate work to the inspectors. It's - it's more of a, you know, supervisory role.

30 **MR THOMAS:** Yes.

MR DALAMARAS: It didn't stop us from going to sites but it was unusual - for me, being an industrial inspector particularly, it'd be unusual for me to go to a construction site unless it was needed, so -

35 **MR THOMAS:** Yes. And you say that either you or Ms Farrington held a debrief with inspectors after they had attended a CFMEU site. Why did you do that?

40 **MR DALAMARAS:** We'd hold a debrief to judge the psychosocial issues that the inspector may have faced. Knowing what happened on other sites, there was usually aggressive language and aggressive behaviour. The inspectors would be tormented about their ability to function as an inspector. Their position would be questioned. So we'd have a debrief to discuss the issues, to make sure about the health and safety of our staff initially, to learn about the site, so if we had to go
45 back there again, that we - we would know the sort of issues that we could be facing and that it was a CFMEU site. We would then - sometimes we would not

send that inspector out for another CFMEU job for a while, depending on what had happened on the day. So we'd send other people instead.

5 **MR THOMAS:** And were those debriefs, were they one-on-one debriefs?

MR DALAMARAS: They were one-on-one. They were also meetings with a number of inspectors. It could have included other construction inspectors and sometimes they were the whole staff, so she'd get us into a room or we'd get them in a room and we would discuss what happened.

10 **MR THOMAS:** In what circumstances would it be the whole staff?

MR DALAMARAS: It'd be more particularly if our staff member was abused on site - verbally abused, I should say - or threatened in a way.

15 **MR THOMAS:** By whom?

MR DALAMARAS: Mainly it was Mr Roland Cummins in Cairns with the CFMEU. There were occasions of the ETU having some discussions with certain inspectors as well. They were quite robust, from memory.

MR THOMAS: And so through those - those debriefs, you've described some of it already, but what was your impression of how the CFMEU conducted itself towards or its behaviour on site towards inspectors?

25 **MR DALAMARAS:** I thought it was disgraceful. Normally inspectors are not treated in that sort of manner by PCBUs or other unions, for instance. Yelling and swearing and speaking to inspectors in a way and telling them that they're not doing their job properly and trying to make them write notices was very unusual and it was disgraceful.

MR THOMAS: On that topic, on writing notices, was that primarily what - based on those debriefs and the discussions that you had - the CFMEU wanted your inspectors to do?

35 **MR DALAMARAS:** Yes, they'd want us to issue compliance notices - or shut the site down was more so what they really asked. If there were a number of issues they'd want you to shut the whole site down. That's not what we do when we issue notices or when we go to site. Inspectors work through the issues. So we'd talk about notices. If they hadn't issued any notices, the inspector forms a reasonable belief, so that's in the Act. So they have to form a reasonable belief there is a contravention or for a prohibition notice, a serious or imminent risk of an activity.

40 **MR THOMAS:** Why do they have to form a reasonable belief, Mr Dalamaras?

MR DALAMARAS: It's prescribed in the Act.

MR THOMAS: But if your inspectors had attended a site and formed the view or not formed the reasonable belief and declined to issue a notice, how would the CFMEU officials respond?

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MR DALAMARAS: They'd become irate and start, you know, swearing abuse at the inspector, saying they're incompetent, words to that effect.

MR THOMAS: They were pressuring?

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MR DALAMARAS: Correct.

MR THOMAS: And in paragraph 39, you've mentioned Mr Cummins already and you describe some of his behaviours. Can you - well, can you describe some of that behaviour to the Commissioner?

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MR DALAMARAS: Mr Cummins' behaviour?

MR THOMAS: Yes.

20

MR DALAMARAS: He was always aggressive. Always swearing. He didn't dress very well, either. He would always confront our inspectors and call them names, you know, do stuff like that.

MR THOMAS: Yes. And how did you know that?

25

MR DALAMARAS: I knew that from speaking to the inspectors that had been out on site and had interactions with him. We're a small office, close-knit office, so we speak and we look after each other. So, you know, obviously when they went to a site we'd always - you know, other inspectors or us as management team would always speak so they would tell us.

30

MR THOMAS: Yes. And at paragraph 40 of your witness statement, Mr Dalamaras, you say that if your inspectors did not issue notices, Ms Burgess would contact either you or Ms Farrington. What would she say when she contacted you?

35

MR DALAMARAS: She would ask why the inspector hadn't issued notices. She'd say, "It's not good enough. You should be issuing notices." I would say that the inspectors couldn't form a reasonable belief, so they couldn't write the notices. So I'd stand my ground with her. So she didn't like that at all. Sometimes she'd hang up the phone.

40

MR THOMAS: Did she criticise those inspectors?

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MR DALAMARAS: Yes, she did.

MR THOMAS: How did she criticise them?

MR DALAMARAS: She'd call them incompetent.

5 **MR THOMAS:** For not issuing the notices?

MR DALAMARAS: Correct.

10 **MR THOMAS:** And did she criticise you personally?

MR DALAMARAS: Yeah, at times.

MR THOMAS: And how did she do that?

15 **MR DALAMARAS:** Just over the phone. Just the way she spoke to us. You know, she wasn't happy with you, we're not following her directions.

20 **COMMISSIONER:** I don't understand how she could make that judgment about whether the competence of the inspectors from Brisbane having, by definition, not visited the site, not spoken to the PCBU, on your evidence, spoken to the union officials, and not seen the full context of the issues.

25 **MR DALAMARAS:** I don't know how she formed that belief. I believe that the union would contact her and tell her what the inspectors had or hadn't done on site and they would make allegations. So then she'd ring up and that's what she'd do. She seemed to have a lot of power in that position that she was in.

30 **COMMISSIONER:** But in your experience, how was she able to form any view as to -

35 **MR DALAMARAS:** It says clearly in the Act that the inspector must form a reasonable belief and inspector "may" issue improvement prohibition notices or infringements. So it's their discretion - I can't make any inspectors write notices, Commissioner. It's - it's their discretion and they have to - they have to obtain the evidence to form a reasonable belief that a contravention has - has manifested itself. I hope that answers your question.

COMMISSIONER: It does. Thank you.

40 **MR THOMAS:** And at paragraph 41 of your witness statement, Mr Dalamaras, you describe the policy or process that two inspectors were required to attend sites where the CFMEU was present and rather where permit holders had exercised their right of entry. Why was that policy implemented?

45 **MR DALAMARAS:** So we implemented that policy. I think Shannon may have started it. I was part of that. We had implemented that because of the number of interactions that we'd had with Mr Cummins, particularly on site, and how

aggressive they were. Our inspectors' health and safety was utmost important to us, so we'd always send two inspectors. It was also that they had a witness to what was going on as well.

5 **MR THOMAS:** Yes. And was that policy followed for other unions?

MR DALAMARAS: No.

10 **MR THOMAS:** It was just followed for the CFMEU?

MR DALAMARAS: Just - it was mainly for Roland Cummins.

15 **MR THOMAS:** And indeed at paragraph 42, you say that inspectors in the Cairns office refused to attend construction sites if Mr Cummins was there. Why did they do that?

20 **MR DALAMARAS:** That happened after the 2018 incident at the CPAC centre. So we'd had meetings after and that of and sort of enough was enough. Inspectors didn't feel like they were being supported by our head office, so we refused - we basically pulled our labour and said that we would not attend any more sites that Mr Roland Cummins attends because of the way he acted on site.

MR THOMAS: And did the inspectors maintain that position?

25 **MR DALAMARAS:** They did. I left the department not too long after that and I'm not sure how long that continued, but it did - it did happen for a while, so senior management were made aware of it.

30 **MR THOMAS:** Yes. And Mr Dalamaras, you've set out your experience as an industrial inspector and 20 years of experience in industry. Based on that experience, how would you compare your dealings with other unions compared to -

35 **MR DALAMARAS:** Other unions were very amicable. I - I had issues at sugar mills, for instance, with the AMWU or the AMWU, so the Metal Workers Union, the Nurses Union. Like I said, we've had issues with them and we sit down, we talk about the issues and we come up with a resolution. They're amicable. They talk to us. They don't yell at us and scream at us. We might have robust discussions, but that's fine. But it was amicable, as far as I'm aware, so -

40 **MR THOMAS:** I'll then ask you some questions about the 4 April incident to which you've alluded. Do you remember this incident?

45 **MR DALAMARAS:** Yes, I do.

MR THOMAS: And what was the site where it occurred?

MR DALAMARAS: The site was the Cairns Performing Arts Centre, which we call the CPAC. It's on Sheridan Street in Cairns.

5 **MR THOMAS:** And you said earlier that you wouldn't normally attend sites given your managerial role. Who asked you to attend the site, in this instance?

10 **MR DALAMARAS:** So I was having lunch in the crib room at our office. Shannon Farrington approached me during lunch time and said, "We've just had a call from Helen Burgess. We need to send inspectors to the CPAC Centre." She was going to send Inspector Rob Duckworth and she asked if I could assist because there was no-one else in the office at the time. And obviously I said "yes".

15 **MR THOMAS:** And who were you expecting to meet on the site?

MR DALAMARAS: We didn't really know, initially. We just heard that it was the union, so -

20 **MR THOMAS:** Which union?

MR DALAMARAS: Well, because Helen Burgess rang, we knew it was the CFMEU that would be there.

25 **MR THOMAS:** Yes.

MR DALAMARAS: When we got to site there was the actually the CFMEU, two Plumbers Union officials and an ETU representative there.

30 **MR THOMAS:** Yes. And at paragraph 4, you say that as you were signing in to the site, you received a call from Ms Farrington. What did she say during that call?

MR DALAMARAS: Sorry, you mean 44?

35 **MR THOMAS:** Yes, paragraph 44.

40 **MR DALAMARAS:** So we were - so when we go to site, we normally would pull up the car, we'd get our gear out of the car, it'd be helmet, vests, make sure we've got the right PPE and that because there's usually a sign outside that tells what you need. We would walk into the site office or the signs directed you to the site office. We'd sign as we would normally do, which is the practice. We'd meet with the PCBU or the PCBU's representative before we went anywhere else. So Shannon rang just about 10 minutes into that visit after we'd just signed in, and she said, "Hey, where are youse?" I said "Well, what do you mean, Shannon?" I said, 45 "We're here on site. We've just signed in." She said, "You haven't met the union yet, Helen Burgess has just made a call to me." So I said, "We're getting there." So we were being escorted out to where they were.

MR THOMAS: Yes.

MR DALAMARAS: I found that pretty unusual.

5

MR THOMAS: Unusual for Ms Farrington to -

MR DALAMARAS: Yes, within 10 minutes of being there, to get a call. So they obviously received a call from the union saying these inspectors haven't arrived yet.

10

MR THOMAS: Who obviously received a call?

MR DALAMARAS: The union representatives. It would've been CFMEU because they'd have called Helen directly, so -

15

MR THOMAS: And you describe in your witness statement three main issues that were identified by those officials. Starting with the first one at paragraph 46, can you explain this issue to the Commissioner?

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MR DALAMARAS: Yes. So once we'd signed in, we were walking out with - I think it was Peter Atkinson, he was the safety adviser on site - so Rob and I were walking out into what would be the existing car park there now and there was a road roller in the car park, just stationary, and there was a young person there trying to fit a fire extinguisher to the ROPs - the ROPs being the rollover protection on the small road roller.

25

MR THOMAS: And why were they trying to do that?

MR DALAMARAS: He was trying to screw tech screws into the structure and I sort of stopped him and said "Hey, mate, you can't do that because you'll interrupt with the structure and it would make the rollers unviable." So they wouldn't be able to use the machine. I said, "You'll have to find another position to put that in." They were arguing about fire extinguishers, apparently, we heard.

30

MR THOMAS: Who was arguing, sorry?

MR DALAMARAS: The CFMEU had arguments with the contractor on site about fire extinguishers on earth moving plant.

35

COMMISSIONER: Which contractor?

MR DALAMARAS: Sorry, Commissioner?

COMMISSIONER: Which contractor?

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45

MR DALAMARAS: I think the contractor at the time was Triple S Earthmoving, I think they were called.

COMMISSIONER: Who was the principal contractor?

5

MR DALAMARAS: The principal contractor was FKG Gardiner.

COMMISSIONER: Sorry, Mr Thomas.

10 **MR THOMAS:** And so was that issue resolved, Mr Dalamaras?

MR DALAMARAS: Yeah, it was. It was strange because there's no requirement in the Act to put fire extinguishers on a plant like that. It's something that come out of the mines but if they agreed to do it - so if a PCBU wants to go above and beyond what's required, that's totally fine.

15

MR THOMAS: And then at paragraph 7, you describe another issue returning ACM and this is one of the parts of your witness statement to which you made corrections earlier, but can you describe the excavated part of the site to the Commissioner.

20

MR DALAMARAS: So the PCBU was starting to do works out the car park, so they had done some excavation and they were bringing fill-in to compact and then later lay bitumen over the top, but the CFMEU had made us aware that they'd found some pieces of ACM around the site and they directed Rob Duckworth and myself to those pieces.

25

MR THOMAS: And before I ask you about those pieces, can you describe the weather in Cairns in the days leading up to -

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MR DALAMARAS: The days leading up to that event, it was pouring. We had over 300 millimetres of rain. So apart from - you know, when the sun comes out, like it hasn't today, but when the sun comes out, it dries up stuff pretty quickly. So the top of the surface will be quite dry and bringing fill-in would also make that site dry. But if you'd dug some up from underground, which was the case that we were told by the PCBU that may have dug some old pipes up -

35

MR THOMAS: Yes.

40 **MR DALAMARAS:** - those pieces of sheeting would show some signs of that.

MR THOMAS: And I'll ask you about the piece of sheeting or ACM that you were shown. Can you describe its appearance?

45 **MR DALAMARAS:** They were, like, 50 centimetre pieces. Very small. It was bonded asbestos, as we would call it. Some have golf balling on it, some didn't.

COMMISSIONER: Some had what on it, sorry?

5 **MR DALAMARAS:** Golf balling. So some of the early sheets, Commissioner, when you look at them, when we'd take samples, you would see golf balling on the back. It's an indication that it contains asbestos, so up to about 3 per cent, I think it was. So they were bonded pieces of asbestos sitting in the dirt that they showed. They had to put witches hats over some of them.

10 **COMMISSIONER:** Yes.

MR THOMAS: And that piece that you were shown, in your view, did that originate at the site?

15 **MR DALAMARAS:** I didn't know initially but the PCBU representative, Mr Atkinson, told us that it probably did, because they had dug it up - they probably dug it up with old sewer work that may have been in there. Just to go and reflect it, there was an existing structure there was demolished prior to that site going up, so it may have contained asbestos at the time. Precision Demolition did the work for that.

20 **MR THOMAS:** And what did the union officials want you and Mr Duckworth or Inspector Duckworth, sorry, to do in relation to the issue?

25 **MR DALAMARAS:** So they were concerned that it was spread over the site and they were basically asking us we should shut the site down. Sorry.

MR THOMAS: No, sorry, I interrupted you, Mr Dalamaras.

30 **MR DALAMARAS:** They were wanting us to shut the site down. They were saying, you know, a risk of, you know, people contracting asbestosis, you know, fibres travelling in the air. This stuff was sitting on the ground not being moving in situ. We'd discussed this with the PCBU as well and the PCBU had gave us an undertaking that they would not conduct any more work there, and they would get a contractor to come in and do an emu parade across the site. An emu parade
35 would be persons standing in a line, walking systematically across the site and pick up any pieces that they would identify. And then they'd bag them and dispose of them. Sorry, I may have jumped ahead.

40 **MR THOMAS:** No, not at all. Thank you, Mr Dalamaras. I wanted to go back to paragraph 47. You say that you were shown one piece of -

45 **MR DALAMARAS:** So one particular piece that we were shown was very odd, because it was - it was white. It wasn't dirty. It didn't look like it was - had come out of the dirt and an official tried to grab it and I said "Leave it there," and I said "Don't bring it up here" and it was sitting on the track - there were tracks in the dirt and it was sitting above the track. We found that quite odd that there would be a piece sitting on the track and very white.

MR THOMAS: And so in your view, did that particular piece originate at the site?

5 **MR DALAMARAS:** It may have originated on the site but it may not have, either. It looked like, from my point of view, that it was placed there.

MR THOMAS: Yes. And did you raise that issue at the time with the -

10 **MR DALAMARAS:** No, I didn't, because I knew that if we raised that, that it would antagonise the officials and we'd probably have more argy-bargy.

COMMISSIONER: Why did you think the - that piece of asbestos - what do I describe it as? Asbestos-containing material?

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MR DALAMARAS: The other pieces we'd seen, Commissioner, were dirty and they were sort of - they were dry but you could tell they'd been wet as well. They were sitting in the soil, impregnated. This was sitting above and on the track. So if there was a track there, it would've run over that piece of asbestos. It wouldn't be sitting proud on top of it.

20

COMMISSIONER: Is that why you say you thought it had been deliberately placed there?

25 **MR DALAMARAS:** Yes.

COMMISSIONER: And did you have any view about who'd deliberately placed it there?

30 **MR DALAMARAS:** I can on assume that it was the officials, because they put the cones over them, so - I can't definitely tell you who it was, but, Commissioner.

COMMISSIONER: Was there any reason, in your view that the officials would do that?

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MR DALAMARAS: Probably just to make out like there was lots of asbestos there and to give us a reason to shut this place down; to take enforcement action.

40 **COMMISSIONER:** Did you have any view as to why the CFMEU wanted to shut this site down?

MR DALAMARAS: My own personal views, Commissioner?

COMMISSIONER: Yes.

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MR DALAMARAS: Because there was - it was a council site, and they were going through EBA negotiations.

MR THOMAS: Thank you, Commissioner. You described the - what the PCBU had undertaken to do, that is, the emu parade and cordon off the section of the site. Was the - were the officials content with that outcome?

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MR DALAMARAS: Not really. They wanted us to take enforcement action. They were verbally swearing and saying, "It's not good enough," you know, "You should be shutting this place down, blah blah blah," so -

10 **MR THOMAS:** But could you?

MR DALAMARAS: No.

MR THOMAS: Why?

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MR DALAMARAS: We had to form a reasonable belief that there was an imminent and serious risk, so asbestos sheeting just sitting on the ground there with no interaction and not being moved or touched is of a lower risk. Obviously, if fibro or asbestos-containing material, if you smash it and crush it, the risk is extremely much higher. So - if it's near your face - so usually people that remove asbestos and asbestos sheeting, they're the ones that are at risk, if they're not removing it in the correct manner, smashing it or using high-powered tools on the asbestos; that would create - release fibres into the air. So during - during the cyclones in 2011, if I can elaborate, the Hull Heads was hit by that tsunami. I was one of the first inspectors - I was the first inspector on the ground there with Cam Beattie.

20

25

COMMISSIONER: The what was hit?

30 **MR DALAMARAS:** The tsunami, after Cyclone Yasi. So the Hull Heads was impacted by that.

COMMISSIONER: The what?

35 **MR DALAMARAS:** Hull Heads, it's a township -

COMMISSIONER: Sorry.

MR DALAMARAS: - south of Tully - east of Tully, sorry. So that whole strip was completely covered with asbestos for many, many months and as long as it was wet or not disturbed or run over, it's pretty safe, you know. There is a risk there, but it's more so when you crush this stuff and it releases fibres. But if it's just sitting stationary there, if you wet it down - all these issues. So we didn't see that as a major issue.

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45

MR THOMAS: Yes.

MR DALAMARAS: To shut the site down, you wouldn't do that.

MR THOMAS: You couldn't do that?

5 **MR DALAMARAS:** You couldn't do that, yeah, correct.

MR THOMAS: Paragraph 49 of your witness statement, Mr Dalamaras, you describe the next issue or two issues, really, being the width of some of the walkways around the site and the fire evacuation plan. First as to the walkways,
10 what was the issue with the walkways?

MR DALAMARAS: So after we'd finished with the asbestos, we moved into the building and they raised other issues too. So through the building there were some walkways that had material that was encroaching the walkway, so you wouldn't
15 have that full 600-millimetre access that you're supposed to have. It's something that usually happens on construction sites. You did see that quite commonly. PCBU, again, after we mentioned it to them, agreed to move the stuff, so -

MR THOMAS: They undertook to -

20 **MR DALAMARAS:** Yep, yep, 100 per cent.

MR THOMAS: And were the union officials, Mr Cummins and the others, content with that outcome?

25 **MR DALAMARAS:** They weren't really happy with anything on that day, to be honest with you. Everything that we seemed to do, they'd sort of argue with us about why - "Why aren't you issuing a notice?" There were other issues there too - the fire extinguishers too.

30 **MR THOMAS:** Yes.

COMMISSIONER: They also had the numbers, too, didn't they? There was four on two?

35 **MR DALAMARAS:** Correct, yep, Commissioner. So one of the strategies they use on site when we have two inspectors on site is they try to separate you. That didn't occur this time, because I kept telling them that Mr Duckworth is the construction inspector here, all information had to go through Mr Duckworth so I
40 was there to support him because I'm not a construction inspector.

MR THOMAS: And the next issue, the fire evacuation plan, what was the problem with that that was identified?

45 **MR DALAMARAS:** They said that when you looked at the plan, people weren't in the right place, fire extinguishers weren't where they were supposed to be. There were some arguments about, you know, they should be posted all over the

building. This is a two or three-level building, too, and they were saying you should have one on every level, identifying what level you're on and all this stuff. It is a legislative requirement to have an emergency evacuation plan. They usually discussed these on induction, when new starters start, so -

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MR THOMAS: Yes. And so with the fire evacuation plan, did you consider that presented any imminent risk?

MR DALAMARAS: No.

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MR THOMAS: And what did the officials want you to do?

MR DALAMARAS: They wanted us to issue notices on it. It wasn't good enough for them.

15

MR THOMAS: And when you explained - and did you explain to the officials that there was no imminent risk?

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MR DALAMARAS: So Rob Duckworth was having a conversation with Roland Cummins about this issue and if I can go into that part, Mr Cummins just launched at Inspector Duckworth.

MR THOMAS: How did he launch at Inspector Duckworth?

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MR DALAMARAS: So we were on a pretty small sort of area and it was a little bit, a little bit dark - there was natural lighting there. I was next to Mr Hill and Mr Atkinson was on my left side and Mr Duckworth and Roland Cummins and Jim White were just beside us and they were speaking. I was talking to the others and they were having that conversation and then just out of the blue, Roland Cummins has lurched forward. He went forward probably an inch or so away from Rob Duckworth's face and he just called him an effin' dog, an effin' dog, an effin' dog.

30

MR THOMAS: That's three times he called him a fucking dog?

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MR DALAMARAS: Correct.

MR THOMAS: And did he say that in a loud -

MR DALAMARAS: He was aggressive. He was, like, shaking.

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MR THOMAS: He was yelling?

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MR DALAMARAS: Yes. Everyone else that was in that room, it just - it went silent. You could've dropped a pin and heard a pin drop. That's how loud and aggressive it was.

MR THOMAS: And did Inspector Duckworth respond when Mr Cummins yelled "You're a fucking dog" in his face three times?

5 **MR DALAMARAS:** No. He was still - Rob was in shock. I could see that.

MR THOMAS: And what did Mr Cummins do next?

10 **MR DALAMARAS:** I tried - I intervened and told him that that's inappropriate behaviour and he shouldn't be acting like this. He just stood there and he was shaking in his face and he then went to go away and I put my arm up and just - you know, like a consoling touch and said, "Hey, Roly," and he didn't answer and then he just took off, him and Jim White, they took out of the building. I tried to get him back, maybe to come back and say "Just apologise" or do something and talk about it but he took off - he went out of the building. I then
15 told the other officials there and the PCBU that we would be leaving the site, this was not on. The PCBU actually said to me, "I'm really sorry, I'm really sorry," to both of us, sorry, "I'm really sorry, this shouldn't have happened." So we then we finished what we were doing on that area and then we started to walk out - back out to leave site.

20 **MR THOMAS:** I'll just clarify one thing you said earlier. You referred to a Mr Atkinson. Was he from the PCBU?

25 **MR DALAMARAS:** He was the safety adviser.

MR THOMAS: Yes. As FKG -

MR DALAMARAS: Mr Lupe was there as well.

30 **MR THOMAS:** Yes.

MR DALAMARAS: He was the project manager, I think. There was two other people from FKG Gardner. I can't remember who they were.

35 **MR THOMAS:** Yes. Thank you, Mr Dalamaras. So after that site visit had concluded, and this is at paragraphs 52 and 53 of your statement, you say you called Ms Farrington. What did you tell her?

40 **MR DALAMARAS:** I told Shannon about what had happened on site and the aggressive behaviour that Mr Cummins directed towards Mr Duckworth and I told her that we were going to leave site, and we - I told her that we should be charging him under section 109 of the - sorry, 190 of the Workplace Health and Safety Act, assault and intimidation. I - after I spoke with her, she asked me to call our acting regional director, Kym Tollenaere.

45 **MR THOMAS:** Yes.

MR DALAMARAS: So I phoned Kym Tollenaere as well and told her what had happened and she said to me, "When you go back to the office you can send me an email listing all the issues there?" Which I did.

5 **MR THOMAS:** Yes. And shortly after that, you became aware that the CFMEU or Facebook posts from the CFMEU account had been published?

10 **MR DALAMARAS:** Yeah, correct. They - they then started putting up, within days, or even maybe that same night, they started putting up posts about Rob and I, attacking our credibility and saying that we're useless, you know, all the derogatory comments like that, using swear words. People liked it and Helen Burgess liked some of the comments that were on there too, so -

15 **MR THOMAS:** What do you mean when you say Ms Burgess liked?

MR DALAMARAS: Well, on Facebook, you know, when you like a comment, you can -

20 **MR THOMAS:** Press a button.

MR DALAMARAS: - press a button. It says "like" and it gives you that thumbs up sort of thing. We did have some - I think Karim De Ridder may have got - because he sent me at stuff when I was Sea Swift because I had left - sorry, I shouldn't have told you that but yeah. When I left he sent me the images that he'd found.

25 **MR THOMAS:** Yes. And as far as you're aware, was any action taken against Ms Burgess -

30 **MR DALAMARAS:** No.

MR THOMAS: - in relation to that conduct?

35 **MR DALAMARAS:** No, and that's very unusual, because ethical standards would normally run up one side of you and down the other for anything - if your time sheet is out by 10 minutes, for instance, they would take action. So I'm not aware of any actions by ethical standards or the department on Ms Burgess, apart from the fact I think those likes were taken down. She removed them.

40 **MR THOMAS:** But in respect of her conduct, the liking the CFMEU's social media posts that were -

MR DALAMARAS: Code of conduct breach.

45 **MR THOMAS:** Yes.

COMMISSIONER: Why is it a code of conduct breach?

MR DALAMARAS: We have to remain impartial.

COMMISSIONER: You said -

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MR DALAMARAS: Apolitical. Sorry, Commissioner.

COMMISSIONER: You raised the issue with liking the Facebook posts with the executive team in Brisbane. Who in Brisbane did you speak to?

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MR DALAMARAS: It was sent via Shannon, I think, initially. So the department had initially started to conduct an investigation, Commissioner, into that incident.

COMMISSIONER: Mr Thomas will come to that, I'm sure, but I just wondered, you say that you raised the issue of Ms Burgess liking the Facebook posts.

MR DALAMARAS: I raised that with our management and then it was taken up by Brisbane. Paul - I don't think Paul was there at the time but it would've been Kym Tollenare would've been made aware. So - and Brisbane was aware that they'd made these posts because I thought it was it was discriminatory conduct as well -

COMMISSIONER: When you say -

25

MR DALAMARAS: Defamation for both me and Rob, as well.

COMMISSIONER: Discriminatory, defamatory.

MR DALAMARAS: Yes.

30

COMMISSIONER: And you say Brisbane was aware. Why do you say that?

MR DALAMARAS: Because Shannon told us that she'd passed it up the chain.

35

MR THOMAS: Go to paragraphs 56 and 58 of your witness statement, Mr Dalamaras. And you just touched on this, but you say you participated in an investigation into Mr Cummins' conduct, following your complaint?

MR DALAMARAS: So initially the department decided to start investigations. So our investigation team, Rebecca and Angelo, they took statements from myself and Mr Duckworth - so they're statewide investigations, so when we're prosecuting someone, state investigations take over the case. So that had happened, but during that period, we received information from Andrew Harris at the time that the department was conducting an investigation into Rob and my conduct on site and they hired an external firm called Ashdale to run that investigation.

40
45

MR THOMAS: And what role did Mr Harris hold at that time?

5 **MR DALAMARAS:** I think he was - I think he was the Executive Director. Or maybe acting. I'm not sure.

MR THOMAS: And do you know why Ashdale Workplace Solutions was engaged to investigate you and Inspector Duckworth?

10 **MR DALAMARAS:** No.

MR THOMAS: Was it explained to you?

15 **MR DALAMARAS:** No. They just said due to the fact that there were CFMEU Facebook posts and stuff like that. I don't know the exact reason as to why the department had an investigation into Rob and my conduct. I judge myself pretty harshly. I try to do the right thing and I've been an exemplary employee. I've got awards from the Director-General for the two cyclones. It, yeah, affected me quite a bit.

20 **MR THOMAS:** And what was the outcome of that investigation?

25 **MR DALAMARAS:** I don't know. But I know - I don't know the full details, I should say. I know that they were totally exonerated. There was no action to be held against us. We were seen to be doing our job properly. But I've never been given that Ashdale report, even after I requested it.

MR THOMAS: I want to go to paragraph 60 of your witness statement.

30 **COMMISSIONER:** Were you interviewed as part of this process?

MR DALAMARAS: By Ashdale?

35 **COMMISSIONER:** Yeah.

MR DALAMARAS: I - I don't recall having an interview with them. They may have got our statements from Rebecca, but I'm not 100 per cent certain, Commissioner. I can't remember back then.

40 **COMMISSIONER:** Your statements from Rebecca, but Rebecca and Angelo were -

MR DALAMARAS: Working for us.

45 **COMMISSIONER:** - trying to prosecute Mr Cummins.

MR DALAMARAS: Yeah. I don't recall being interviewed by Ashdale.

COMMISSIONER: Do you know if Mr Duckworth was interviewed by Ashdale?

5 **MR DALAMARAS:** I'm not sure, Commissioner.

COMMISSIONER: Were you given any reason as to why you haven't been provided with the Ashdale report?

10 **MR DALAMARAS:** No.

COMMISSIONER: Was correspondence just not -

15 **MR DALAMARAS:** I left the department, too, Commissioner, in 2018, but I did request a copy, so -

MR THOMAS: And after the Ashdale investigation had completed, did - the other investigation had resumed?

20 **MR DALAMARAS:** It did.

MR THOMAS: It was paused.

25 **MR DALAMARAS:** It was paused for - I think I got the letter from Simon Blackwood in August that year saying that -

MR THOMAS: Yes.

30 **MR DALAMARAS:** That's my annexure that's there, stating that we'd been cleared of any wrongdoing.

MR THOMAS: Thank you.

35 **MR DALAMARAS:** The ABCC case was paused as well -

MR THOMAS: Yes.

MR DALAMARAS: - because they were waiting on our case as well.

40 **MR THOMAS:** Yes. Mr Dalamaras, I want to turn to section G, which commences at paragraph 60 of your witness statement. It deals with the treatment of CFMEU-aligned contractors. Now -

45 **COMMISSIONER:** Could I just ask about the criminal charge that Mr Cummins faced? Did you give evidence at that trial?

MR DALAMARAS: Yes.

COMMISSIONER: And Mr Duckworth gave evidence?

MR DALAMARAS: Yes, Commissioner.

5

COMMISSIONER: And I think you said there was one other person in that group, because I said it was four-on-two, but I think you referred to Mr Ainsworth or Mr -

10 **MR DALAMARAS:** There were four union representatives on site.

COMMISSIONER: Yes.

MR DALAMARAS: But the FKG Gardner had Mr Atkinson -

15

COMMISSIONER: Mr Atkinson, sorry.

MR DALAMARAS: - and Mr Lupe. They were PCB representatives.

20 **COMMISSIONER:** And what was the other gentleman's name? Mr -

MR DALAMARAS: Mr Lupe and Mr Atkinson.

25 **COMMISSIONER:** Okay. So in that incident that you're talking about, there were six witnesses - six participants in that meeting.

MR DALAMARAS: There were two other employees from FKG there as well. I think one was an engineer but I can't remember their names, Commissioner.

30 **COMMISSIONER:** So eight?

MR DALAMARAS: Yeah. They were also interviewed during the court hearing as well.

35 **MR THOMAS:** Thank you, Commissioner. Going back to paragraph 60 and this section, you say that you discussed the CFMEU's treatment of contractors with your inspectors. Why did you do that? Why was it important for you to understand how the CFMEU treated contractors?

40 **MR DALAMARAS:** So when inspectors would tell us that they were having - CFMEU were having issues with certain contractors, we'd want to know because if other issues came up and they were on a certain site, we'd know that if the CFMEU weren't there, they'd soon be there. So it was basically in preparation so we'd know who to send and where the sites were, so we get a lot of intel with
45 the work we do. So it's about being prepared for interactions.

MR THOMAS: And that is, if I understand what you've said, if the CFMEU were targeting contractors, you knew that when you sent inspectors there they'd be met with -

5 **MR DALAMARAS:** Yeah, because the inspectors would be told by the contractor that is having the issues, they'd be told by the PCBU. They'd come back and tell us. So - so we'd get all this information.

10 **MR THOMAS:** And so would the complaints for those contractors be more regular or frequent than other contractors?

MR DALAMARAS: Yes.

15 **MR THOMAS:** And would they be - the nature of those complaints, would it be different?

20 **MR DALAMARAS:** They'd be different. Sometimes it wasn't about the contractor initially, it would be about the site. They would raise issues about amenities blocks or leads or, you know, some traffic management or, you know, small things like that, and we'd go to site and then, you know, they'd raise the issues about we've got, you know, a certain crane company here, for instance.

25 **MR THOMAS:** Yes. So would you consider those issues - the amenities, traffic management, leads - high risk?

MR DALAMARAS: No.

30 **MR THOMAS:** And you mentioned a crane company in paragraph 61 of your witness statement, you refer to Century Cranes. What did the directors of Century Cranes tell you about their workforce?

MR DALAMARAS: The Century Cranes were the biggest crane company in Cairns.

35 **COMMISSIONER:** Were or were not?

40 **MR DALAMARAS:** Were the biggest crane company in Cairns. So we'd had lots of interactions with them over the time so we knew them well. I'd have meetings with Bianca and Scott who run the company and they told me that their staff were - were asked and, you know, when they had their negotiations whether they wanted to be part of the CFMEU and they emphatically said "no" and they didn't want to be part of it, so then they didn't join up to anything. So most sites where Century Cranes would be, we would have an issue there and they'd have an issue. The contractor would have an issue.

45

MR THOMAS: When you say they'd have an issue, what do you mean?

MR DALAMARAS: There'd be union interaction there. CFMEU.

MR THOMAS: Yes. In what way would that affect -

5 **MR DALAMARAS:** They'd be raising complaints about the company - the crane
company. They'd be causing delays with the project that they were working on,
getting us there sort of causes delays there, because you know you're a taking
people off their job to follow us around as well. So it's sort of a tactic they were
10 using. When the contractor would come on board with the CFMEU EBA
negotiations, they wouldn't even try and engage Century Cranes. It was very
unusual not to see their cranes at any of the major projects in Cairns, knowing that
they were the biggest - not only had the biggest cranes in Cairns but had the
biggest fleet as well, so it was very unusual.

15 **MR THOMAS:** I want to understand that, sorry, Mr Dalamaras. You said when
they were finished with EBA - contractors were finished with EBA negotiations.
That's other contractors.

MR DALAMARAS: Other contractors.

20 **MR THOMAS:** So not Century?

MR DALAMARAS: Not century, sorry.

25 **MR THOMAS:** And how did you know that they had concluded their
negotiations or made a deal with the CFMEU?

MR DALAMARAS: The CFMEU flags, ETU flags and the Eureka Stockade
flags would be up on the site. I could use an analogy but I won't use it court, but
30 they marked their territory.

MR THOMAS: Yes. But Century Cranes, as you've said, they - their employees
declined to -

35 **MR DALAMARAS:** That's what we were told, yeah. We're not part of these
negotiations, so we only get this information from PCBUs or others on site. Sorry,
Commissioner.

40 **COMMISSIONER:** I thought you said, I might have misunderstood, that there
was some consequence for Century Cranes once the CFMEU, in your words, had
marked their site?

MR DALAMARAS: Yeah. Century Cranes wouldn't be part of the negotiations
to work on that site. Part of the contracts, when they put the contracts out for a
45 crane company, I don't think they'd even get a look-in.

COMMISSIONER: And what was the consequence in terms of the use of cranes at those sites where the CFMEU had marked their territory?

5 **MR DALAMARAS:** So they'd have other contractors there that were aligned somehow with them and it was regular. We'd see the same contractors on these sites. Century Cranes wouldn't be there and they'd be doing other work in Cairns. It probably affected them quite a bit, I'd say, knowing the size of their fleet. I do mention in my statement some of the other companies there.

10 **MR THOMAS:** Yes. On those other companies, you mention a Crossy's Cranes and Smithy's Cranes.

MR DALAMARAS: Yep.

15 **MR THOMAS:** Smithy.

MR DALAMARAS: Smithy's, I think they were called.

20 **MR THOMAS:** Would you get similar complaints for those two contractors compared to Century Cranes?

MR DALAMARAS: No.

25 **MR THOMAS:** And why is that?

MR DALAMARAS: Didn't come through. If inspectors went to site, they might find issues with those companies but we never received -

30 **MR THOMAS:** Complaints from the CFMEU?

MR DALAMARAS: No, not to my recollection, no.

MR THOMAS: Yes.

35 **COMMISSIONER:** Ever, about Crossy's Cranes or Smithy's Cranes?

MR DALAMARAS: Sorry, Commissioner?

40 **COMMISSIONER:** Ever about Crossy's Cranes or Smithy's Cranes from the CFMEU?

MR DALAMARAS: No. There was other contractors too, Jaybro Scaffolding, for instance.

45 **COMMISSIONER:** Give me - just tell me the name.

MR DALAMARAS: Jaybro. Cava Scaffolding I think was the other group that were always there.

5 **COMMISSIONER:** When you say they were "always there", what do you mean?

MR DALAMARAS: Well, most of the sites that were the major projects in Cairns that had CFMEU presence, they were at them sites, they were the preferred contractors, put it that way.

10 **COMMISSIONER:** When you say - you said "preferred contractor" then and in paragraph of 62 you say the CFMEU had a preference for other companies called Crossy's Cranes and Smithy's Cranes.

15 **MR DALAMARAS:** That's who I'm referring to, Commissioner.

COMMISSIONER: Yeah. What do you mean by that preference?

MR DALAMARAS: So they were always engaged by the PC for that site, so
20 their cranes were there. We'd see them, they were big cranes. At times, when the inspectors would go there they would say, you know, "Who are the scaffolders there?" They would say: "Jaybro, Cava." There were other scaffolding companies in Cairns as well, quite big, so -

25 **COMMISSIONER:** What was the second one you said? Jaybro and -

MR DALAMARAS: I think it was Cava.

COMMISSIONER: And did I understand your evidence that even though
30 Century Cranes had the biggest fleet, you never saw them on a job where the CFMEU, in your words, had marked its territory?

MR DALAMARAS: Yeah, they weren't at the CPAC site. They weren't at the
35 university site in Sheridan Street. They weren't at the Convention Centre. They tried to get work at the commercial housing, the new project, earlier last year. They started initially but then they were - they were not there after a while because that was one of Roly Cummins' last efforts here in Cairns.

MR THOMAS: Thank you, Commissioner. You've already given some
40 evidence, Mr Dalamaras, about enterprise bargaining - that is, targeting of sites during enterprise bargaining - but I want to take you to paragraph 67 of your witness statement. You say that the CFMEU would target specific sites. Can you tell the Commissioner what kinds of sites it would target?

45 **MR DALAMARAS:** So they initially would attack sites, like I said earlier, the Cairns Regional Council sites, Lendlease, Convention Centre, the James Cook uni site, Cairns Hospital, Trinity Faith school had work going on there as well. There

were some other sites around Cairns, so they would target them initially and when they came on board, or if they came on board, you wouldn't have those issues anymore. Very far and few between.

5 **MR THOMAS:** When you say they came on board, what do you mean, Mr Dalamaras?

MR DALAMARAS: When they had an agreement with the union, being the CFMEU.

10

MR THOMAS: And it's fair to say that those sites that you've mentioned are larger sites?

MR DALAMARAS: Yes, correct.

15

MR THOMAS: And at paragraph 68, and again as you've said earlier today, you say you observed a pattern where the volume of complaints made by the CFMEU increased during bargaining periods. Can you explain again how you observed that pattern?

20

MR DALAMARAS: So inspectors would report it to us. So like I said before, when we'd go to site, the PCBU would say "Look, you know, we've got problems here." You'd speak to them before you spoke to the union. They'd say, "Look we're going through enterprise bargaining agreements." Cairns regional, the mayor put something in the paper about that saying that they were under EBA negotiations and they were having problems. So, you know, that information comes through inspectors mainly, PCBUs, others.

25

MR THOMAS: And you also say, Mr Dalamaras, that it was important for to you understand when the CFMEU was bargaining. How did you know? It's just that you said that -

30

MR DALAMARAS: We'd know through inspectors being told about certain sites. PCBUs would tell them, other contractors. You know, inspectors have a vast array of information they can gather from lots of place because we go to lots of sites. But we need to know that to plan work in the future, so -

35

MR THOMAS: Yes. When you say "that", did you need to know to plan work as in because I think, as you've already said, but correct me if I'm wrong, there was a higher volume of complaints during those periods?

40

MR DALAMARAS: Yes.

MR THOMAS: And those complaints - how would you describe those complaints?

45

MR DALAMARAS: Sorry?

MR THOMAS: How would you describe the complaints made by the CFMEU during those periods?

5 **MR DALAMARAS:** Some of the complaints were minor in nature. Some of them were relevant when we went there, and, again, they'd challenge the enforcement action that inspectors would take on site. But they're very minor or baseless.

10 **MR THOMAS:** Yes. Can you give some examples of those minor or baseless complaints?

MR DALAMARAS: Oh, they'd toilet complaints. They'd be leads. Access/egress. Hazardous chemicals. A couple of little bottles of RP-7 or other
15 material that were left out and not put on the hazardous register. Administrative breaches like, you know, emergency plans. Stuff like that. It was an array - a vast array of different complaints that we received, but a lot of them seemed to be minor.

20 **MR THOMAS:** Yes.

MR DALAMARAS: It was just about getting us on site, I believe.

MR THOMAS: Well, in your view, did they present imminent risks or -
25

MR DALAMARAS: No, no. When we go to a construction site, inspectors, you could tear it apart. You could write a hundred notices on some sites. Inspectors, when they go to site, there's ways you can work with the PCBU around smaller
30 issues, and that's what we did.

MR THOMAS: I want to go to paragraphs 70 to 72, where you describe the fact of Brisbane-based construction inspectors being sent up to Cairns or the region. Am I right in assuming they'd be flown up?

35 **MR DALAMARAS:** Correct. There'd be the odd occasion, if Bruce Elder came up from Townsville, he would drive, but mainly flown up from Brisbane.

MR THOMAS: 20-hour drive or something.

40 **MR DALAMARAS:** It's about a five-hour drive from Townsville.

MR THOMAS: Yes. And were you told or given any notice that those inspectors would be flown up?

45 **MR DALAMARAS:** No. So we'd be in the office, and then the inspectors I named here, John Azcune, for instance, Bruce Elder, Brian Drake, they just rock up to the office and you say, "What you doing here?" They'd use the guise

sometimes that they're coming up to look at a major project, but we'd find out they'd been on sites that our inspectors had been to days prior, and issued a whole heap of notices that we may have only issued one or two or none, so -

5 **MR THOMAS:** Well, I'll get into that. You describe that at paragraph 72. So there's instances where, if I've understood what you've said, Cairns inspectors, your local inspectors, would attend a site.

MR DALAMARAS: Yes, correct.

10

MR THOMAS: And were the Brisbane inspectors any more qualified or experienced than yours?

MR DALAMARAS: No.

15

MR THOMAS: And they would not issue notices, that is, not form a reasonable belief that notices were justified?

20 **MR DALAMARAS:** Yeah, correct. Like I said, sometimes our inspectors may issue a notice; sometimes they may not issue any notices, because they couldn't form that reasonable belief. They may have got immediate compliance by the PCBU at the time. Immediate compliance means they've rectified the problem while the inspectors are on site, so -

25 **MR THOMAS:** And then, within a few days, or shortly afterwards, Brisbane inspectors would fly up and visit the same site. Is that -

30 **MR DALAMARAS:** Yeah. They'd be flown up - obviously - I can only assume that when we - when Helen Burgess would call and we hadn't taken any action, and like I said, we were - if you can use the analogy, Brisbane was the head and we were the toe. If you stub the big toe, it causes quite a lot of pain, and we were causing Brisbane quite a bit of pain, so they'd send these inspectors up as a Flying Squad, so to speak, and you know, they'd come into the office and we'd say, "What are you doing here?"

35

MR THOMAS: Why do you say you were causing Brisbane pain?

MR DALAMARAS: Because we would push back all the time.

40 **MR THOMAS:** Push back on what?

MR DALAMARAS: On the directions that they were trying to do and forcing us to write notices. Helen Burgess didn't have control of our inspectors. It went through Shannon and Paul Smith initially, but initially she was making direct contact, but I think that was changed later on.

45

MR THOMAS: They're causing pain by not issuing notices?

MR DALAMARAS: Yeah, pushing back. Cairns office was known for pushing back on unreasonable demands.

5 **MR THOMAS:** By declining demands to issue notices?

MR DALAMARAS: Correct.

MR THOMAS: And who were making those demands?

10

MR DALAMARAS: That would come from the CSU, Construction Strategy Unit, Helen Burgess.

MR THOMAS: And why do - sorry, Commissioner.

15

COMMISSIONER: You go.

MR THOMAS: And why do you think they were making those demands?

20 **MR DALAMARAS:** Sorry, I don't quite -

MR THOMAS: Sorry, why were the CSU making those demands to issue notices, if I've understood your -

25 **MR DALAMARAS:** That's what they always did. I think they were getting pressured by the union, direct union influence, wanting us to write lots of notices. That's why they would ring and ask, what action had we taken? If we'd taken none, we'd get rebuked on it, rebutted on it, "Why didn't you take the action?" Our
30 inspectors are as qualified, if not more qualified, to deal with Cairns issues than the Brisbane inspectors, because we know the PCBUs on site, to answer your question.

COMMISSIONER: You say you don't understand why these less qualified, in your view -

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MR DALAMARAS: They might be the same qualification, Commissioner, but they're no more qualified than our guys.

COMMISSIONER: No more qualified out-of-towners.

40

MR DALAMARAS: Rob Duckworth is a principal inspector AO6. That's the highest level he can be as a construction inspector.

COMMISSIONER: Who's an AO6, sorry?

45

MR DALAMARAS: Rob Duckworth, principal inspector, and these guys were either senior inspectors or principal inspectors, so the same level.

COMMISSIONER: And you say you don't understand why they were sent - this is Mr Azcune, Mr Elder and Mr Drake - instead of local inspectors?

5 **MR DALAMARAS:** They're the only ones I remember. There were others, Commissioner.

COMMISSIONER:

10 **COMMISSIONER:** There were others?

MR DALAMARAS: Yes.

15 **COMMISSIONER:** Well, including the others as well, I'm sure you've got some opinion as to why they were being sent?

MR DALAMARAS: My opinion? They were sent up to do the bidding of the CFMEU and to write notices, which they did.

20 **COMMISSIONER:** Did you ever complain about that?

MR DALAMARAS: We always complained about it. Like I said, we're the big toe, Commissioner.

25 **COMMISSIONER:** What happened to your complaints?

MR DALAMARAS: They were disregarded, obviously. There was - Rob and I were the only inspectors that ever took our matter to court. There's been no action that I'm aware of anywhere else in the state since that matter took place.

30

COMMISSIONER: In 2018?

MR DALAMARAS: In 2018. That's when we - we took them to court, but since - well, we weren't taking them to court later, but that matter was the only one that was ever taken to prosecution that I'm aware of.

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COMMISSIONER: What do you think of that?

MR DALAMARAS: Poor.

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COMMISSIONER: Why?

MR DALAMARAS: Because we should put our staff first. You know, I put my staff's health and safety above all else that I do. That's my top priority. I look after my staff. They should be looking after - our department should have been looking after us as well.

45

COMMISSIONER: You left the WHSQ shortly after that incident in April 2018, in June 2018, and you said it had a big effect on you. What was the effect?

5 **MR DALAMARAS:** They attacked me as a person, as an inspector. It affected my family.

COMMISSIONER: Is that one of the reasons -

10 **MR DALAMARAS:** Yeah, that was the main driver, Commissioner.

COMMISSIONER: And what gave you the courage to come back?

15 **MR DALAMARAS:** The organisation I was with had pretty good external sources, and I was pretty confident that there was going to be a change of government. There was also some other factors that led me to come back. I really enjoyed working with the staff there. I enjoyed being an inspector, doing the job. So I was hopeful of change, and that change came, so -

20 **MR THOMAS:** I just have one more question, Commissioner, and this, Mr Dalamaras, arises out an exchange that you had with the Commissioner about the scaffolding, preferred scaffolding companies.

MR DALAMARAS: Yes.

25 **MR THOMAS:** Is the second company Coral Coast Scaffolding?

30 **MR DALAMARAS:** I know them as Cava Scaffolding. I don't know if it's the same company. They might be a different company. I'm not 100 per cent sure there. I don't know where "Coral" - they may have had a trading name. It might have been a different legal name.

MR THOMAS: Mr Dalamaras, can you spell -

35 **MR DALAMARAS:** I think it was K-a-v-a, Cava Scaffolding. C-a-v-a, sorry.

MR THOMAS: C-a-v-a. Commissioner, I have no -

COMMISSIONER: Is there any application to cross-examine Mr Dalamaras?

40 **MR O'GRADY:** Commissioner, there's not an application. As you would appreciate, our ability to meet the requirements in the practice note to cross-examine and put a counter-narrative is limited by the fact that we have dispensed with the services of Mr Cummins, and so we're not really able to call him. But I would seek to address it in this way, if I may: you'll recall,
45 Commissioner, that yesterday my learned friend Mr Ternovski tendered as CA-7 the transcript of the decision in the Magistrates Court.

COMMISSIONER: Yes.

MR O'GRADY: And, as Mr Ternovski indicated, that was the subject of an appeal, a successful appeal.

5

COMMISSIONER: Yes.

MR O'GRADY: I don't think he tendered the decision of the District Court, in which that appeal was upheld, but we'd seek to do that as a matter of completeness, but also because, at paragraph 38 of that decision, you will see that there is, in effect, an analysis of the competing narratives by the District Court judge that ultimately led her to form the view - her or him to form the view that the magistrate could not have been satisfied beyond a reasonable doubt that Mr Cummins had sought to intimidate Mr Duckworth.

10
15

COMMISSIONER: What's the position in a review of a magistrate's decision in this sort of criminal case in this state? Is it a de novo review, as it is in most other states?

20 **MR O'GRADY:** It wasn't a hearing de novo.

COMMISSIONER: It wasn't?

MR O'GRADY: It wasn't, in that there wasn't fresh evidence called, and one of the grounds of appeal went to the adequacy of the magistrate's reasons, and in the decision, you'll see that the magistrate's reasons are set out at some length and analysed, and ultimately, what appears to have persuaded the District Court judge was that the magistrate, among other things, appears to have proceeded on the basis that the relevant test was balance of probabilities as opposed to beyond a reasonable doubt, and in those circumstances, the District Court judge felt that the appeal had to be allowed. But the reason for me raising this - and, ultimately, held that, given the nature of the incident, as she found, or as the District Court judge found -

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35 **COMMISSIONER:** She didn't hear any evidence, on what you just told me.

MR O'GRADY: But she analysed the evidence that was before the magistrate.

COMMISSIONER: So -

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MR O'GRADY: The point I'm seeking to make, Commissioner, is that, in circumstance where, having analysed the reasons and having analysed the summation of the evidence in those reasons, the District Court judge was of the view that this was not an incident of sufficient seriousness to warrant a retrial.

45

COMMISSIONER: There was no retrial?

MR O'GRADY: There was no retrial.

COMMISSIONER: Without hearing the witnesses?

5 **MR O'GRADY:** That's the effect of the decision. And this is obviously going to be a matter of submission in due course, Commissioner. At this stage, all I seek to do is to bring to your attention the analysis that appears at paragraph 38 of the decision -

10 **COMMISSIONER:** Very well.

MR O'GRADY: - so that those submissions can be made, and you'll be apprised of the fact that there was, at least in the District Court judge's view, evidence that needed to be weighed up in respect of what had occurred on this particular day.

15 **COMMISSIONER:** All right.

MR O'GRADY: All right. And I think we're up to exhibit CA-8.

20 **COMMISSIONER:** I didn't mark the reasons for - I thought it was the same - whatever the order was, I thought the order was an order upholding the appeal. I just assumed there'd be a retrial, but -

25 **MR O'GRADY:** No.

COMMISSIONER: But whatever I've been given that I didn't mark are reasons for something.

30 **MR O'GRADY:** Yes. They're the reasons that are upholding the appeal, in medium neutral citation [2021] QDC 127.

COMMISSIONER: That's the one that I was given?

35 **MR O'GRADY:** Yes, and I'd seek to tender it.

COMMISSIONER: Do you need to tender it, though?

MR O'GRADY: Oh well -

40 **COMMISSIONER:** It's not normal to tender reasons for judgment. I'm happy to receive in evidence the transcript.

MR O'GRADY: Yes.

45 **COMMISSIONER:** You're just going to take this to me in - you're going to take me to this in submissions at some point.

MR O'GRADY: I'm going to take you to it in submissions at some point, yes. If that's how you wish to proceed, Commissioner, I'm comfortable with that. I'll put submissions on that, and -

5 **COMMISSIONER:** I'd like to get a copy of them.

MR O'GRADY: Yes.

COMMISSIONER: But I wouldn't normally mark them.

10

MR O'GRADY: Yes. Bear with me, Commissioner. My learned junior asked me to put this submission, Commissioner. The transcript that you received yesterday was, in effect, the Magistrates Court reasons.

15 **COMMISSIONER:** Right.

MR O'GRADY: So it is, in effect, a decision, although it's not a decision on AustLii.

20 **COMMISSIONER:** Why don't you have a chat to Mr Ternovski, and if there's no problem, I'll receive his reasons and your reasons.

MR O'GRADY: Thank you, Commissioner.

25 **COMMISSIONER:** Will we do that after lunch?

MR O'GRADY: Yes.

30 **COMMISSIONER:** Very well. There's no other applications to cross-examine Mr Dalamaras? No. Thank you, Mr Dalamaras, for your evidence. You're excused.

<THE WITNESS WAS RELEASED

35 **COMMISSIONER:** We'll adjourn until 2pm.

<THE HEARING ADJOURNED AT 1.06 PM

<THE HEARING RESUMED AT 1.59 PM

40

COMMISSIONER: Mr Ternovski, where did we get to with these reasons?

MR TERNOVSKI: I think Mr O'Grady might want to tender -

45 **COMMISSIONER:** Very well.

MR O'GRADY: Yes. If it's convenient, it will be marked CA-8.

COMMISSIONER: What am I marking CA-8? I assume there's no objection to this?

5

MR DE JERSEY: No objection.

COMMISSIONER: What am I marking as CA-8?

10 **MR O'GRADY:** The decision in Cummins v Guilfoyle -

COMMISSIONER: Yes.

MR O'GRADY: - MNC [2021] QDC 127.

15

COMMISSIONER: Okay. That's the one I think Mr Ternovski handed up.

MR O'GRADY: Yes.

20 **COMMISSIONER:** All right. And that is, sorry, CA-8?

MR O'GRADY: CA-8.

<EXHIBIT CA-8 DECISION IN CUMMINS v GUILFOYLE

25

COMMISSIONER: And then your one?

MR O'GRADY: No, that's it.

30 **COMMISSIONER:** That's it.

MR O'GRADY: Yes.

COMMISSIONER: Right. Okay. That's the one that Mr Ternovski handed up?

35

MR O'GRADY: Yes. Yes.

COMMISSIONER: Okay.

40 **MR O'GRADY:** Yes. Thank you, Commissioner.

COMMISSIONER: Mr Ternovski.

MR TERNOVSKI: I call Paul Smith.

45

COMMISSIONER: Is Mr Smith in the hearing room? Please come forward to the witness area, Mr Smith. Please stand while the oath or affirmation is administered.

5 <PAUL SMITH, SWORN

<EXAMINATION BY MR TERNOVSKI

10 **COMMISSIONER:** Please take a seat, Mr Smith. Mr Ternovski will ask you some questions.

MR TERNOVSKI: Mr Smith, would you repeat your name, please?

15 **MR SMITH:** Paul Smith.

MR TERNOVSKI: And your occupation?

20 **MR SMITH:** Occupation is regional director for North Queensland for Workplace Health and Safety Queensland.

MR TERNOVSKI: And your address is known to the Commission. Please don't say it, but -

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

MR TERNOVSKI: Thank you. Mr Smith, you've been - you've held the position of regional director since 2013; is that right?

30 **MR SMITH:** That's correct.

MR TERNOVSKI: Could the - Mr Smith be shown his witness statement, please. Mr Smith, is this your witness statement?

35 **MR SMITH:** It is.

MR TERNOVSKI: And is it - my version is undated. Is it dated 8 May 2026?

MR SMITH: Yep, that's correct.

40 **MR TERNOVSKI:** 126 paragraphs?

MR SMITH: Yes.

45 **MR TERNOVSKI:** And 20 annexures?

MR SMITH: That's correct.

COMMISSIONER: How many annexures?

MR TERNOVSKI: 20.

5 **COMMISSIONER:** 20?

MR TERNOVSKI: Yes, two-zero, 20. Mr Smith, have you had a chance to read your witness statement recently?

10 **MR SMITH:** I have.

MR TERNOVSKI: Are there any corrections you wish to make?

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

15

MR TERNOVSKI: Are the contents true and correct?

MR SMITH: They are.

20 **MR TERNOVSKI:** I tender that statement.

COMMISSIONER: Are there any objections? Witness statement of Paul Smith made 8 May 2026, 21 pages, 126 paragraphs, with 20 annexures, will be CXS-1.

25 **<CXS-1 WITNESS STATEMENT OF PAUL SMITH 08/05/2026**

MR TERNOVSKI: Mr Smith, would you tell the Commissioner about what positions you held at WHSQ before becoming regional director?

30 **MR SMITH:** Before I became regional director, I was - commenced with Workplace Health and Safety Queensland as a senior inspector in January 2006 in Mackay and then from that point, I became a Principal Inspector - Operations and that was between 2007 and 2008 and then I became regional operations manager between 2008 and 2013.

35

MR TERNOVSKI: Mr Smith, as regional operations manager, what were your areas of responsibility?

40 **MR SMITH:** My areas of responsibility was for all industry sectors, which included construction and industrial, agriculture, transport and storage, and all aspects of workplaces that we administered under the Act.

MR TERNOVSKI: What was your geographic area of responsibility?

45 **MR SMITH:** The geographic area for the Mackay district extended just north of Bowen, out to the border, to the Northern Territory border, and down to St Lawrence to the south.

MR TERNOVSKI: Mr Smith, in your witness statement, you describe that area of responsibility changing over the years. Would you - can you tell the Commissioner how it's changed?

5

MR SMITH: Well, the area - it didn't so much change as regional operations manager; it changed when I was regional director for Central Queensland/Wide Bay. That's when we had more changes that occurred.

10 **MR TERNOVSKI:** So initially you were the regional director, did you say, for Central Queensland/Wide Bay?

15 **MR SMITH:** Yes, yes, and I commenced that in 2013 and that was in an acting position, and I had that for Central Queensland/Wide Bay, which included Mackay, Rockhampton, Maryborough and Bundaberg.

MR TERNOVSKI: And after that?

20 **MR SMITH:** After that, those - those areas changed in relation to North and Central Queensland, and I became the regional director in about 2015, for North and Central Queensland.

25 **MR TERNOVSKI:** And how long did you stay with that geographic region of responsibility?

MR SMITH: That geographical area stayed in place until about January of - January 2025. So approximately 10 years, yep.

30 **MR TERNOVSKI:** And what's your - what's been your area of responsibility since January 2025?

35 **MR SMITH:** Area of responsibility since January '25 has included North Queensland, which now covers from Mackay, Townsville, Cairns. It includes the agricultural unit, which is a statewide unit, and it includes the remote and Indigenous program, as well as the recreational dive unit.

MR TERNOVSKI: What about Central Queensland?

40 **MR SMITH:** Central Queensland - prior to that, I was (indistinct) the NCQ, which is North and Central Queensland. That stayed in place till - up to January of - sorry, January of this year. We've had a number of changes. So North and Central Queensland encompassed Gladstone through to Cairns, from about 2015 to 2026, and then in January this year, it changed that I looked after North Queensland, which was Mackay, Townsville, Cairns, so -

45

MR TERNOVSKI: Sorry, go on. I interrupted you.

MR SMITH: So - and that included also the agricultural unit, I was responsible for that.

MR TERNOVSKI: Why was Central Queensland taken out of your area?

5

MR SMITH: Central Queensland was taken out because there was a redistribution of the regions. So originally up to then, we were operating on a three-model region, which included - which included North and Central Queensland, North Brisbane, Wide Bay and South Brisbane, south west. So that was basically the change. Came in about 2024, there was a creation of a central business - a central region, which just encompassed the CBD of Brisbane. So we went from three to four, and that was primarily put in place simply because of the - to be able to respond to a lot of the construction complaints that were coming through in relation to the activity that was occurring in central Brisbane.

10
15

MR TERNOVSKI: Mr Smith, I think you said you were responsible for all industry sectors; is that right?

MR SMITH: That's right, yeah.

20

MR TERNOVSKI: Including construction?

MR SMITH: That's correct.

25 **MR TERNOVSKI:** And is that throughout your tenure as regional director?

MR SMITH: Yes, that's been throughout my tenure.

30 **MR TERNOVSKI:** Now, Mr Smith, would you describe for the Commissioner the reporting structure at WHSQ, starting from inspectors and then going all the way through to, let's say, Deputy Director-General?

35 **MR SMITH:** Right. So the way it generally operates is - so the region is made up of - so, for example, this Northern region is made up of Mackay district, the Townsville district and the Cairns district. They are managed by operations managers. So in that - they were in that - in that district, so there were operations managers would be responsible for - they would have senior inspectors, principal inspectors and lead inspectors reporting to them. So then the operations managers report to the regional director, so they report through to me. I report through to the Executive Director of Compliance and Field Services in Brisbane and then that position reports through to the Deputy Director-General of Office of Industrial Relations and that position then reports through to a Director-General, currently State Development, Infrastructure and Planning.

40
45 **MR TERNOVSKI:** Mr Smith, did operations managers in your region at any point report directly to Brisbane?

MR SMITH: No, they did not.

MR TERNOVSKI: So they only reported to Brisbane through you; is that right?

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

MR TERNOVSKI: And what about inspectors?

10 **MR SMITH:** Inspectors, they just reported through to their operations manager.

MR TERNOVSKI: So did - below the level of Executive Director, were there any officials - WHSQ officials Brisbane-based that had authority over you or your inspectors?

15 **MR SMITH:** No, there wasn't.

MR TERNOVSKI: Mr Smith, you refer in your witness statement to the emergence of the Construction Strategy Unit. Can you tell the Commissioner about that?

20 **MR SMITH:** Yes. So it had a number of iterations over the years and probably become a little bit difficult to follow, but in about 2015, the construction directorate was established, and it was to - it was basically looking after major projects and construction strategy-type matters. So - and then there was a number
25 of people that acted in that director role over that period of time.

MR TERNOVSKI: Just pausing you there. When you say "director role", are you talking about the director for Construction Compliance and Field Services?

30 **MR SMITH:** That's what it eventually came to be called, but when it was first developed, it was called Construction Directorate and then there was a name change that occurred.

35 **MR TERNOVSKI:** And did the - did Ms Burgess work in the construction strategy unit?

40 **MR SMITH:** Yes. She - she did, and I'm not quite sure when she started but I knew of her being there as an adviser position and later she became a senior adviser in that - that unit.

COMMISSIONER: You say the concept of a standalone construction inspectorate for central Brisbane started to emerge. Emerge from where? From whose idea?

45 **MR SMITH:** So that was - that was - we had - we had a three-regional model at that stage, so there was a lot of activity that was occurring post-2024 in relation to construction - and what happened - prior to that, there was a disbanding of the

construction strategy unit. That was - so the CCF, so the Construction Compliance and Field Services unit that Helen Burgess managed and she had a number of inspectors reporting to her. That was disbanded and there was - she just looked after the construction strategy unit and she just had a couple of
5 inspectors there that were actually doing major project work and things like that. So -

MR TERNOVSKI: Just pausing you there. When you say the unit was
10 disbanded and then Ms Burgess had a couple of inspectors reporting to her -

MR SMITH: Yes.

MR TERNOVSKI: - are you referring to the period after she had ceased to be a
15 director of Construction Compliance and Field Services?

MR SMITH: Yes, I am. Yes.

COMMISSIONER: My question was about prior to that. At paragraph 10 of
20 your statement, so from about 2015 or 2016 -

MR SMITH: Yep.

COMMISSIONER: - the concept of a stand-alone construction inspectorate.

25 **MR SMITH:** Yep.

COMMISSIONER: Whose idea was it? From where did it start to emerge, this
idea?

30 **MR SMITH:** That would've been the idea of Office of Industrial Relations in that
there was - I suppose that coordinated with the actual uptake of complaints that we
were receiving from the union, the CFMEU and other construction-allied unions
like the ETU and the Plumbers Union. So there was much more activity that was
35 occurring in that space. So it was identified that, I suppose, you need to have a
strategic approach to deal with construction, being high risk and that we needed to
manage that, but the point at - when that was conceptualised and developed, the
construction inspectors still reported through to their - to their regional directors.
It was just more of a strategic unit and it used to do planning and things like that
40 with major projects and all that.

COMMISSIONER: You might not be able to tell me who came up with this idea
or who identified the problem. I was just - you can't tell the Commission whose
idea it was in 2015 or 2016?

45 **MR SMITH:** Well, it would've been the decision of our Executive Director at the
time, Julie Neilsen, probably in consultation with the Deputy Director-General at

the time, Simon Blackwood. I'm not quite sure, but they were the people that were responsible for the organisation at that point.

COMMISSIONER: Thank you.

5

MR TERNOVSKI: Mr Smith, did the emergence of the CSU change the reporting structure of inspectors? I'm talking about before it became CCFS.

MR SMITH: No, not at that point, no.

10

MR TERNOVSKI: And once it became CCFS, did they change the reporting structure?

MR SMITH: Well, the reporting structure didn't ever change, as far as North and Central Queensland region went, but it did - what was happened around - you know, around the 2018, 2019, I'm not quite sure, but then when Helen Burgess became director of that unit, it became a stand-alone construction unit where she was actually - had construction inspectors reporting through to managers that worked in that unit to her, as director. So the construction inspectors, in the south-east, were part of that unit.

20

MR TERNOVSKI: What was the geographic reach of that unit?

MR SMITH: Well, you know, that kind of changed a little bit over time. Initially it was the Brisbane proper, like, you know, you would've had Gold Coast, the Brisbane area, and then Toowoomba and then it eventually extended at a later point to - to the Sunshine Coast, to Maroochydore. But it never, ever extended to North and Central Queensland.

25

MR TERNOVSKI: When Ms Burgess became first acting and then permanent director of CCFS, what was her level in the hierarchy relative to you?

30

MR SMITH: She was a - at that director level, so she was a senior officer level 1 and I was a senior officer Level 3, but we were both at the director level.

35

MR TERNOVSKI: If the - what's the reason for the difference in the classification?

MR SMITH: It's just really a pay rate difference in that you progress through that level. The SO1 level now doesn't exist. There's just the SO2, SO3 level.

40

MR TERNOVSKI: So you've just been in the position for longer and have progressed to a higher grade?

MR SMITH: Yeah, you may have been started at a higher grade just for the size of your region and the number of units - the particular work unit you look after. So that was how it was - but it was still a senior officer level that she held.

45

MR TERNOVSKI: Now, in your witness statement, you divide the time periods into four separate periods, 2013-2015, 2016-2018.

5 **MR SMITH:** Yeah.

MR TERNOVSKI: 2018-2023, and then post-'23, post-Ms Burgess.

MR SMITH: Yeah.

10

MR TERNOVSKI: We'll start with the first one. What was your experience during 2013 and 2015 in terms of how the WHSQ treated different stakeholders?

15 **MR SMITH:** Yeah, look, it was vastly different. We had a very balanced approach to compliance. It was guided compliance with directed compliance. We were much more sophisticated in relation to how we dealt with matters. We - we operated under a compliance and enforcement policy that was directed by the national compliance framework. So we were much more balanced as a regulator. We weren't - we didn't take on a hard compliance line but we would educate, we would - we would balance between education and enforcement in that compliance framework.

20

MR TERNOVSKI: Can I just pause you there. You referred to the compliance and enforcement framework, I think?

25

MR SMITH: Yes, yep.

MR TERNOVSKI: Is that different from the CMEP?

30 **MR SMITH:** It is. It is, yep. So prior to 2018, we had a - we had a compliance and enforcement policy and then at a national level, we had the national compliance and enforcement framework that had five major principles in there around consistency, accountability and all those things.

35 **MR TERNOVSKI:** I interrupted you, Mr Smith. You were describing the experience during that time.

40 **MR SMITH:** Yeah. So we had a very different approach in those - those years and I noted the change from when Tim Lyons did the best practice review and then we started moving in and then following from that, there was a raft of changes we developed - there was the independent prosecutor appointed and we developed a hard - we went down a hard-line compliance approach. The CMEP, the Compliance Enforcement Monitoring Policy, was developed in 2018. So there was a complete change of direction for us as a regulator.

45

MR TERNOVSKI: Before we get to that later period, just sticking for now with 2013-2015 -

COMMISSIONER: Tim Lyons' best practice review, when was that?

MR SMITH: That was finalised in 2017, but it commenced in around 2016.

5

COMMISSIONER: Is that the Tim Lyons, ex-ACTU Tim Lyons?

MR SMITH: Yeah, that's correct, yep.

10 **MR TERNOVSKI:** During that period, 2013-2015, how often did you interact with CFMEU?

MR SMITH: Not - not a lot. There would be, you know, some interaction. I know I had a couple of times - Andrew Ramsay rang me a couple of times on some matters, but very irregularly.

15

MR TERNOVSKI: Who was Andrew Ramsay?

MR SMITH: Andrew Ramsay was in charge at the time of the CFMEU.

20

MR TERNOVSKI: If we now move to the period 2016-18. You say in your statement that you observed a cultural change. Can you describe that for the Commissioner?

25 **MR SMITH:** Yeah, well, the cultural change was very - we had to adopt a hardline compliance approach. We're very much - we were directed by the CMEP.

COMMISSIONER: But the CMEP didn't come until 2018.

30

MR SMITH: Towards the end of 2018. So sorry, this was -

MR TERNOVSKI: Just prior to that, 2016 to 2018.

35 **MR SMITH:** Yeah, sorry. So I suppose the gradual shift there was started, I suppose, a gradual ranking up of involvement from the trade unions in relation to our involvement on construction sites and things like that and so that was - that was a gradual shift that started to occur. And it really - you know, once the review was under place, the best practice review, the outcomes of that, it's really started
40 that - while that was underway, it started that movement towards hardline compliance approach that ended up culminating in the development of the CMEP in 2018, where we - we developed a much more hardline -

45 **MR TERNOVSKI:** Was there any change during that period - we're still sticking to 2016-2018 - with how WHSQ dealt with different stakeholders?

MR SMITH: There was - there was a gradual change, in relation to how that - how that would occur. There was - the construction strategy unit, which was principally a strategy unit and Helen Burgess worked in that as an adviser, we just started - I just started noting her continual involvement and pushing up of issues that may pertain to her region in relation to an issue that a construction union may - may have made in relation to a concern they had.

MR TERNOVSKI: How would she do that?

10 **MR SMITH:** She would either ring up or she would email or she would - and I would not only have that from her but it would also occur through the directors of that unit at the time, like Peter Twigg, Darryl Brooker, where they may contact me on a particular issue that the union had concern about.

15 **MR TERNOVSKI:** So when Ms Burgess contacted you, what would the email say - what would the conversation be, typically?

MR SMITH: Well, in that stage where she was an adviser, she was reasonably well behaved in relation to her tone of interaction. But she'd be passing on information, and certain expectations about how - around the complaint or the issue raised by the union, excuse me, and, you know, what the expectation possibly should be, you know. But that - that approach changed once she became - she became director. She acted for a little bit in that period as an acting director for, you know, a couple of months, too. So once she got onto that director level, that really changed.

MR TERNOVSKI: At that time - and let's just now move forward to April 2018, when she commences in that acting role. At that time, was there a triage - official triage system at WHSQ?

30 **MR SMITH:** There was. There was. It was an official triage system that was managed through Assessment Services.

MR TERNOVSKI: This is the AAA system?

35 **MR SMITH:** Yes.

MR TERNOVSKI: Again, we're now in the period 2018-2023. Did CFMEU use that system?

40 **MR SMITH:** No, they didn't.

MR TERNOVSKI: How did they submit their notifications?

45 **MR SMITH:** They submitted their notifications through to the Construction Strategy Unit, you know, through Helen Burgess.

MR TERNOVSKI: How do you know that?

MR SMITH: Well, she used to ring me on complaints she would receive from them.

5

MR TERNOVSKI: How frequently would she call you?

MR SMITH: Well, she - look, it depended. I could get calls on a weekly, fortnightly basis, then the next week I may not get any. I could get a number of calls that week. Just depended on the activity that may have been occurring across the region.

10

MR TERNOVSKI: And when she called you, what did she say?

MR SMITH: Well, she used to tell me about issues. She would request - I would say a little bit strongly than request - demand that we attend site. Ask me what our estimated time of arrival would be and all these things and I would push back and say, "Well, Helen, how do we know that they're the issues?" You know, and I'd even push back further if I knew that we'd been to site previously, quite recently. But I'd question her around why she's bringing these to my attention, what basis they were based on, and that approach. Because I had to determine our level, if we needed to respond and in what capacity, and the timeframes.

20

MR TERNOVSKI: What did she say about the basis that she had, if anything?

25

MR SMITH: So - well, the basis of - you mean the substantive nature of the complaints?

MR TERNOVSKI: Yes.

30

MR SMITH: Yeah. So, look, she would detail them. They were generally similar to, you know, they would say, "There's issues around emergency response plans. There's working-at-height issues. There's scaffolding issues," and you would still throw, "There's housekeeping issues, there are amenities issues, there's access issues." And you know, you would look at those and you'd say, "Righto, so there's some high-level risk matters that are being raised," so you know, we would have to make determination where we would go to site, when we go to site and the urgency. So I used to try to ascertain from her the substantive nature of how they know about this, who's seen it occurring? I just wanted to determine that it was real and that it was currently occurring so that would then dictate our -

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MR TERNOVSKI: The - sorry, go on.

MR SMITH: That would then dictate our response, because I would then have to ring the operations manager and say well, "I can bring in Cairns, Townsville, Mackay or Rockhampton" and asking them, "Listen, have we got inspectors

45

available to attend site? These are the matters that have been raised." And so we would coordinate a response.

5 **MR TERNOVSKI:** What time would Ms Burgess call you?

MR SMITH: Look, those calls could be any time. They could start at 6.30 in the morning, you know, through to - generally didn't go too late in the afternoon because as we knew, the pattern - the union guys used to tend to finish around 2.30/3 in the afternoon. So I didn't really get a lot of late-afternoon stuff, but I got 10 a lot of early-morning calls.

MR TERNOVSKI: What's early morning?

15 **MR SMITH:** Oh, I mean, from 6/6.30 on.

MR TERNOVSKI: Did Ms Burgess tell you what the source of her information was?

20 **MR SMITH:** She would say that a particular permit holder has a reasonable suspicion around these matters or she wouldn't - never used "reasonable suspicion" but she would say that so-and-so permit holder has told her that these matters are occurring on site.

25 **MR TERNOVSKI:** Permit holder of which union?

MR SMITH: Of the - generally, the CFMEU. It could be sometimes the ETU or the Plumbers Union, but generally, it was the CFMEU.

30 **MR TERNOVSKI:** Did Ms Burgess indicate whether there was any urgency about the request?

MR SMITH: There was always an urgency.

35 **MR TERNOVSKI:** In your view or in hers?

MR SMITH: In her view.

MR TERNOVSKI: And in your view?

40 **MR SMITH:** My view, there wasn't always an urgency and I did often say to her, "Helen, you may be running a rapid response team for the CFMEU but I certainly can't. I just haven't got the numbers." And so I'd be very discerning about what resources that we would apply to particular matters. So I'd have a conversation with the manager in the particular district to determine had we been to site before? 45 Because a lot of times we had a knowledge of these sites, you know, and really, do we need to attend? What's going on? And it may be that I'd go back to her and say, "We're not going to go till the next day" or "We're not going to go for another

couple of hours," but after a while, my tactic - my strategy was, if we would delay as much as we could, generally the permit holder would leave site. So that tension that would occur between the permit holder and the inspector would be reduced. So it's all about eliminating the risk. So I was - we were very focused on that approach - that strategy.

MR TERNOVSKI: You referred to tension between the permit holder and the inspector. What are you talking about there?

MR SMITH: Well, you know, every time we went to site, there was always - appeared to be an issue, you know. They either wouldn't, you know, like the personality of the inspector or what we may do or, you know, I had a number of times that, you know, an inspector smiled too much or was wearing this or was doing this. So you know, it was just irrelevant. It really was silly. It was pathetic, really. And I mean, they played the - they played the person, not the ball, you know. And I often said to Marc Dennett, who was my Executive Director, "Marc, why do they want us to go to site? They just are at war with us all the time. Why have us there? It just doesn't make sense to me." They called us to site only to actually try to embarrass and argue with and fight with us.

MR TERNOVSKI: Who's "they"?

MR SMITH: The CFMEU.

MR TERNOVSKI: What was Mr Dennett's response?

MR SMITH: Mr Dennett's response - he didn't disagree with me. He knew that that was their - part of the way they interacted. They were very much about causing maximum disruption to work sites and maximum embarrassment to the inspector.

COMMISSIONER: What was the reason, in your mind, for those two objectives?

MR SMITH: I think they just really wanted to discredit us as an inspectorate and really, my thought behind disruption in a workplace is: unless you had enterprise bargaining arrangement with the union, they were about making their life difficult and causing disruption, productivity delays, delays on the work site, all that. There's a message to say: listen, guys, unless you sign an enterprise bargaining arrangement with us, we're going to call the inspector, we're going to make sure the inspector does his or her job. If he doesn't, we're going to complain to Brisbane and they're going to be held accountable and it's going to be very difficult on site with us, so you're better off complying and coming on board with us.

MR TERNOVSKI: What do you mean by doing his or her job?

MR SMITH: Well, in their view, and you know, that used to be thrown around that Helen Burgess shows leadership because she makes the inspectors follow the CMEP and makes the inspectors issue notices. You know, I always think to think: well, does Helen really know who she's working for? It should be the Office of Industrial Relations. It's not doing the bidding and the work for the CFMEU, which she continually did.

MR TERNOVSKI: But just going back to that earlier question about doing the - you referred to CFMEU officials saying, "If the inspectors are not doing their job, we'll complain."

MR SMITH: Yeah.

MR TERNOVSKI: What do you mean by "Doing their job"?

MR SMITH: Well, as far as the CFMEU was concerned, doing their job was issuing notices; compliance notices or infringement notices.

MR TERNOVSKI: And how do you know that?

MR SMITH: Because that's what they wanted us to do. They were never happy unless we were issuing the notices that they wanted us - wanted them to issue.

MR TERNOVSKI: In your experience, how often did these calls from Ms Burgess involve non-urgent or minor issues?

MR SMITH: Well, generally - look, most times they were really embellished. Certainly, there was warranted cases where we would have to go to site and we ended up issuing notices in relation to the particular issues that were raised. But generally not.

MR TERNOVSKI: You described querying and pushing back on these calls, but did you ultimately end up sending inspectors there, generally speaking?

MR SMITH: We - I would. Well, I would leave that up to the operations manager. We would have a discussion around when and how and in what time frames we would send them, based on the availability of inspectors, what work they had on, the knowledge of that particular workplace, and the particular risks that had been reported that weren't being managed, you know. So we - we would - we would decide on an approach. We would decide on an estimated time of arrival. Because that was always something that Helen Burgess would ask: "What's the ETA?" Because the union would be waiting there. If you said half an hour and you're 45 minutes, well, all hell would break loose, you know, because they were 15 minutes late, you know. So that was the general tone of the expectation, that we had to drop everything and just - and just run. And I continually pushed back on that, to try and get some objectivity into decision-making around resourcing, you know.

COMMISSIONER: You said words to the effect "Does she know who she's working for? The OIR or is she doing the bidding of the CFMEU, which she did." That seems a serious accusation to make about someone at your level. What's the basis for saying that?

MR SMITH: Well, Commissioner, I just used to see it day in, day out. We just had to do whatever the CFMEU wanted us to do and if there wasn't - you know, if I disagreed with her she would say, you know, "The Minister's Office won't be happy with this." That "I'm going to speak to Marc about this." And you know, every time I had a conversation with Helen, Marc Dennett would ring me and he'd ask me what was my - what was my reasons for not issuing notices, you know. And he'd run me through, you know, the union's been on to him, and - you know, because Helen and I would always end up in an argument over it.

And I'd say, "No, we're doing any more. This is what we're doing." And he would ask me my reasons for that. He would say, "Listen, there's pressure occurring here." and I would say, "Well, that's it, Marc. I mean, it is what it is." And look, most times he was accepting of that, and he would articulate that back to the union, usually to Royce Kupsch. You know, he was generally the guy that he - he spoke to in relation to those matters that were escalated. So the way I saw it, the permit holders would escalate in the union through to him. He would then speak to Marc Dennett and then - or Helen Burgess. If it couldn't be resolved at the regional level, it would then go to - to Marc Dennett, who would speak to me about it.

COMMISSIONER: When you worked alongside Ms Burgess for, well, at least from 2016 to 2024 -

MR SMITH: Yeah, yep that would've been about right, yeah. But I'm not long - I wouldn't say alongside her. She was - you know, she was -

COMMISSIONER: Well, at least when she was director of the CCFS, she was at the same level?

MR SMITH: Yes, yes, yes.

COMMISSIONER: That's at least six years, isn't it?

MR SMITH: Yes - well, she kind of was moved to a less substantive role in relation to the CC - the actual Construction Compliance Field Services unit back to the Construction Strategy Unit, yeah. But I had dealings with her, yeah.

COMMISSIONER: So let's say four years?

MR SMITH: Yeah, yep.

COMMISSIONER: In that time, did you form any opinion as to why she was doing the bidding of the CFMEU?

5 **MR SMITH:** Well, I did, and I always thought she fervently believed in their ideology or she was getting some financial benefit from it. That's the only two outcomes that I could see why anyone would be like that, because it was just amazing. She would just not tolerate any disagreement with what the union wanted. Whatever the union said was right, no matter what my inspectors did or said. And a number of times, I sent a number of inspectors out. So I'd have one
10 inspector that came back and said, "This is my observations. This is what I've determined. There's no non-compliance or there is and we've issued this notice." I would then - she would say "Well, that's not right, the union's saying this." And I would then send another inspector to get a fresh set of eyes on it to come back and then I'd say, "Well, no, this is my decision. I've made reasonable inquiry.
15 This is it," you know.

And she said, "They won't be happy with that." And I said "Helen, I couldn't care less if they're happy or not. The only person I'm concerned about being happy would be the CCC. As a government official, we need to administer this Act
20 appropriately. We shouldn't have any favouritism or anything." So that was my stance. And I said that to Helen, I said that to Marc Dennett. That was my firm position on a range of matters and I wouldn't be moved from that and they did know that. They would push to a level, but then - and I just wouldn't accept anything -
25

COMMISSIONER: When you say "they were pushed." Pushed by whom?

MR SMITH: I said they would push to a certain level.

30 **COMMISSIONER:** Oh, they would push you. Sorry.

MR SMITH: Yeah, yeah.

35 **MR TERNOVSKI:** Mr Smith, in your witness statement, you describe, broadly speaking, two types of phone calls from Ms Burgess. Phone calls asking for inspectors and then phone calls dealing with the aftermath of the site visit.

MR SMITH: Yep.

40 **MR TERNOVSKI:** And you've already touched on that a little bit, the second category. But if we just go back to the first category, just to finish that off, the phone calls asking for inspectors. You said that you would push back and you had conversations with your operations managers, but ultimately, what was the general experience? Were inspectors sent to those sites that Ms Burgess wanted?
45

MR SMITH: Yeah, generally they were but we wouldn't necessarily meet the timeframe of what her expectations were, but we generally would go, yep.

COMMISSIONER: You said, though, that you had a tactic of trying to delay -

MR SMITH: Yeah, yeah.

5

COMMISSIONER: - sending inspectors out because the permit holders would leave site?

MR SMITH: Yep, yep. That was my - if we delayed - the best outcome for us, for the psychological wellbeing for the inspectors, was to not have the permit holder there. So they could go about their work unobstructed. And that was our strategy. And we would delay, delay, delay, you know. Generally that was reasonably successful. Sometimes we couldn't get away with that but that was generally what we tried to do to manage that psychological occupational violence risk to the inspectors. Yep. We would get a lot of pushback, you know. So what I would do, I would just add, you know, she'd say, "When is the estimated time of arrival?" I would say, "Listen we've got a lot occurring. I would say for Cairns, for argument's sake, I've got guys heading to - the guys are heading up to Innisfail, there's - coming up to the Tablelands; we won't get to it until this afternoon, you know." Knowing - I know full well that after about 2 o'clock, the CFMEU were generally off-site, you know; they'd knocked off for the day. So that was - that was our approach.

25

COMMISSIONER: But sometimes that tactic couldn't work?

MR SMITH: That didn't work, yeah. And listen, a lot of those tactics evolved over time, because it was - it was really a rearguard action. Brisbane wasn't supporting me in anything I wanted to do about pushing back about the union, so we had to try and do the best we could do at the regional and district level about managing these - this confrontational approach with the CFMEU.

30

COMMISSIONER: And how did you try to disguise the fact to Brisbane that you were delaying in order to protect the health and safety of your inspectors?

MR SMITH: I - I just say, "We've got other operational matters," and you know, I probably had the advantage. They didn't understand the geographical area as much as I did, so I played that to my advantage, you know. Yep. Yep.

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MR TERNOVSKI: Mr Smith, did this process that you've described of the calls from Ms Burgess requesting inspectors, you pushing back and then later developing this delaying tactic, did that result in any prioritisation of CFMEU complaints?

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MR SMITH: What do you mean, from my end or -

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MR TERNOVSKI: Well, no, just the ultimate outcome. Did CFMEU complaints end up prioritised over other complaints -

MR SMITH: Not from my perspective.

MR TERNOVSKI: Yeah.

5

MR SMITH: But yeah, I just -

MR TERNOVSKI: I think we might be at cross-purposes, Mr Smith.

10 **MR SMITH:** Yep.

MR TERNOVSKI: I'm not asking whether you sought to prioritise the CFMEU complaints. My question was the ultimate outcome of this whole process playing out.

15

MR SMITH: Oh, yes. Well, that was what CFS wanted and Brisbane wanted, that we would prioritise our response to any CFMEU matters.

MR TERNOVSKI: And did they end up getting way, to some extent?

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MR SMITH: To a varying degree, but we - as I said, we played a rearguard action all the time. We pushed back, you know. And there was - you know, a common refrain was, you know, that, you know, inspectors sitting outside of my office, my operations manager, hear raised voices and they'd say, "Paul's fighting with City Hall again," you know. But it was always - it was always very tense and there was a lot of pushback from my point of view and a lot of resistance and disappointment from Brisbane in relation to how we should respond. The expectation was that we should just - they were a significant stakeholder. They had legislative rights under the Act and that we needed to respond to them as they saw fit.

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MR TERNOVSKI: Was there a similar expectation with respect to any other stakeholder?

35 **MR SMITH:** There wasn't. And that was one of my arguments back to them. I said, you know - even to other trade unions, I said, you know, "I don't have the AWU ringing me like this." They'd ring, but they would be respectful in what they wanted us to do. And you know, and like other key stakeholders, like the Australian Sugar Milling Council, which is a major, significant industry in this region, I said, "Their expectations weren't that." We weren't giving them special privileges. If they had an incident, they would report that through to the notification - the Assessment Services. I mean they would speak to us about matters, but I didn't have a problem if the CFMEU wanted to do that. I was happy to engage with industry and employee groups and other trade unions. I think that's appropriate. But to set a particular preferential treatment to the CFMEU, to me, was just wrong.

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MR TERNOVSKI: Mr Smith, did you observe any pattern, as far as these phone calls from Ms Burgess asking you to attend construction sites or send inspectors - did you observe any pattern about particular sites being targeted?

5 **MR SMITH:** Well, you know, the pattern generally was that there was enterprise bargaining arrangement in play. You know, you would see - you know, you might - you could understand one or two complaints coming through, but every day for a week, we had the same complaints coming through in relation to a particular site, you know, I would say to the guys, like I said, "Is there an EBA
10 arrangement in place?" And sure enough, there would be.

MR TERNOVSKI: Just pausing you there. When you say EBA arrangement in place, are you referring to bargaining?

15 **MR SMITH:** I'm referring to an enterprise bargaining arrangement.

MR TERNOVSKI: Or are you referring to an agreement being struck or being negotiated? I think that's what I'm trying to get at.

20 **MR SMITH:** Well, the negotiation was underway or there was some stalemate or there was some refusal of the PC to engage in that, or they may have had another enterprise bargaining arrangement in place with another union, you know. There was a number of reasons, but it generally was around - when speaking broadly, around that enterprise bargaining arrangement, so they had a dislike for the
25 particular principal contractor and then they would call to us to the site, as I said before, to cause maximum disruption at that site, you know.

MR TERNOVSKI: And after that period of disruption, in your experience, did the contractor - did the principal contractor enter into a CFMEU enterprise
30 agreement?

MR SMITH: Over time, they did.

MR TERNOVSKI: And did that have any effect on the level of calls?
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MR SMITH: It did for that particular site, but, however -

MR TERNOVSKI: Just pausing there. When you say it did for that particular site, what happened once an agreement was made?
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MR SMITH: Well, we never seemed to get the volume of calls, through. There was - all of a sudden, safety an issue.

MR TERNOVSKI: For that site?
45

MR SMITH: For that site, yeah.

MR TERNOVSKI: But I interrupted you. You were about to continue.

5 **MR SMITH:** What I was saying was, that would change if they engaged a local non-preferred contractor that they may not have - whether they had an enterprise bargaining arrangement or some agreement with - or there was some tie-up there, they would certainly - whether that may be a scaffolding company, a crane hire company or whatever. There seemed to be particular dislike, for no reason particular reason, for particular employers that may be offering subcontractor services to this particular principal contractor. Yeah.

10 **MR TERNOVSKI:** Can you give some examples of disfavoured contractors that you were aware of?

15 **MR SMITH:** I could. I suppose one that - Century Cranes seemed to - that was one that they seemed to have a bit of a dislike for. There were others. I just can't particularly recall them at the present moment. But they certainly - you know - and even talking generally to, you know, general discussion with industry, you know, even down to the level of a gardening contractor, you know, landscaper that may be doing the final touches. There was even preference to, you know, you need to engage - and one particular - and it wasn't in my region, but one particular - and I can't recall this person's exact details - but they said, you know, they asked us to donate to their Christmas party or we wouldn't get the contract to be the landscape gardening for the finishing touches to the project." So, you know, it was quite extended down to formal and informal sort of, you know, 25 money passing hands or favours passing hands. But there seemed to be that occurring, that I heard from - heard about.

MR TERNOVSKI: Heard from whom?

30 **MR SMITH:** I just heard from people that would be telling - I may have a general conversation. Generally, over the years, 10 years, there'd be always a discussion that would generally lead to issues we had on construction sites, the CFMEU and their general behaviour. And some of these narratives, these stories, were told to me, you know.

35 **COMMISSIONER:** You'd speak to industry and say, "Why is this subbie getting all the work and why is this one not?"

40 **MR SMITH:** Yeah, that was the general - the industry was quite aware of what was happening. They were - they knew that this poor behaviour was occurring and you know, I used to think from, you know, being a Queenslander all me life till the last exposure that I had to corruption was the Fitzgerald Inquiry, you know. They used to say, you know, Joh Bjelke-Petersen era, I'm thinking: my God, well, what have we experienced this last 10 years with this union corruption and how 45 they've captured the Office of Industrial Relations? I said, "If that's not corruption, I've never seen anything before, you know." That was my - that was the way I was seeing it, you know.

MR TERNOVSKI: You referred to a contractor being asked to donate to a Christmas party. Whose Christmas party?

5 **MR SMITH:** The CFMEU's Christmas party.

MR TERNOVSKI: You referred to disfavoured contractors and I think you said Century Cranes was one of them. Were there any favoured contractors?

10 **MR SMITH:** I mean, a scaffolding company in Cairns like Cava Scaffolding were favoured and we actually took some prosecution action against them and we were successful - some regulatory prosecution.

COMMISSIONER: A what prosecution?

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MR SMITH: A regulatory prosecution. So a regulatory matter. It's a lower-level matter which we were successful on. And by all accounts, I worked out it wasn't well regarded from the CFMEU, but I have no further - that was just anecdotal, and -

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COMMISSIONER: What wasn't well regarded? The scaffolding company or -

MR SMITH: The fact that we prosecuted them, you know, because that was the general sense that I was - and feedback that I was getting third-hand, that you know, the scuttlebutt around - but there was nothing that I said to me directly. It was indirectly, but -

25

MR TERNOVSKI: And how did you know that Cava - Cava Scaffolding?

30 **MR SMITH:** Cava, yeah.

MR TERNOVSKI: Was a preferred subcontractor by the CFMEU?

MR SMITH: Well, just simply because from what the intel that my inspectors were telling me in Cairns and they - you know, they were never - the CFMEU never really raised any complaints about them, but other scaffolders if they were on site, they would, you know, they would have a number of issues with them.

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COMMISSIONER: And what were the connections, as far as you knew, between Cava Scaffolding and the CFMEU?

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MR SMITH: I honestly don't know and what that would entail, but you know, I don't know whether they were silent partners in it or they knew someone that they were friendly with that ran a particular - I don't know, you know. Yep.

45

MR TERNOVSKI: Commissioner, I note the time. I'm about to start a new topic, which is going to take about probably 15 minutes. I'm in your hands as to -

COMMISSIONER: I think we'll go for another half an hour or so.

5 **MR TERNOVSKI:** Of course. It's only 3. We have another 30 minutes. My apologies.

COMMISSIONER: You're thinking you could - no, I won't.

10 **MR TERNOVSKI:** Mr Smith, you've given evidence about the - what I call the first type of calls from Ms Burgess, seeking inspectors. Now, can I move to the second type of calls -

MR SMITH: Yep.

15 **MR TERNOVSKI:** - in the aftermath of attendances. What - can you describe the general pattern to the Commissioner?

20 **MR SMITH:** Yeah, well, the general pattern after we'd been to site, we'd decided that we'd either take some compliance action or not. If that generally wasn't in favour of what the CFMEU wanted, I suppose in simple terms, all hell would break loose. And I'd initially get a call from Helen Burgess, who would be complaining and arguing the point that the permit holder says this and why aren't you doing that and you should do this, you know. The Minister's Office won't be happy about it. I'm going to have to get Marc Dennett to ring you, and all this. So
25 that would just happen, and Marc Dennett would ring me, and then we would - I would - I would talk through our - our approach and what evidence was there and why we took a particular regulatory action or why we didn't. I would explain that. And as I said before, he generally was accepting of that. He did say on a couple of occasions, he said, "Paul, you don't get a lot of matters compared to the south-east,
30 the volume, but they go on for days and days," like arguing the point around issuing notices, why we didn't do this and all that. So that was his observation, and his observation was right. Yep.

35 **COMMISSIONER:** What was your explanation for that - for that difference?

40 **MR SMITH:** Well, I said to Marc, I said, "Well, the reality is that we need to actually make reasonable inquiry, we need to form a reasonable belief. Not always can an inspector go to site, other than a prohibition notice, you can, you know, the immediacy of the risk we can issue - but in relation to improvement
45 notices, some of them are a little bit complex around systems of work and we would request documents and we would look at the whole process. We would also - I would also try to make a balanced view. They'd be pushing up on minor issues and a lot of times through that process, the person conducting the business would actually rectify or remedy those things, so there was no opportunity then to issue a notice.

So we were very thorough in our approach and we would only issue a notice if there was an identified non-compliance and the inspector formed a reasonable belief. You know, we had to be very careful. The inspector was the one that actually, under the legislation, forms the view and has to form a reasonable belief in relation to - to issuing the notice. So, you know, you've got to be careful in relation to the pressure that's applied to the inspectors. I took the view is, we need to assist them, give them ample opportunity, provide support, legal support, technical support in relation to helping them reach their view, if a notice needs to be issued or not, you know.

COMMISSIONER: But that's the same level of support, presumably, that the regional directors or the relevant managers in Brisbane should be giving their inspectors.

MR SMITH: Well, that's right, but I mean - look, the volume of notices and - I don't know if that was occurring. I mean, what I was hearing from Brisbane, that they were under a lot of pressure, and then when Helen Burgess got in charge of the construction unit, she would actually - you know, there were stories that she would actually - the permit holder would ring her and then she'd ring the inspector and get them to issue the notice. In one particular case I heard where the permit holder was on the phone to Ms Burgess and she - and she said to the permit holder, "Tell him to issue a notice." So, you know - I have no more evidence on that, but - that was pretty common to hear that. I mean, it wasn't uncommon to hear that those stories.

MR TERNOVSKI: Mr Smith, you referred to explanations that you gave to Mr Dennett when he called, you following up from Ms Burgess' call, but if we can just go back to Ms Burgess.

MR SMITH: Yep.

MR TERNOVSKI: Did you provide similar explanations to her?

MR SMITH: Yeah, I would, but she wasn't in the mood to probably hear that. She would just - and, look, Helen's level of understanding of safety matters was quite limited. That's my view. She came from - I don't think she had any safety experience. She was an adviser in the strategy unit there for a while. She never worked as an inspector, you know, and to me, she really had a not very well-founded view in health and safety. So she would get very emotive in relation to - when would discuss and it would generally end up in an argument. So the conversation was just not held - I said "I'm not going to issue notices," and that was the end of it.

MR TERNOVSKI: When that conversation ended that way, with you refusing to issue notices, how frequently would you get a call from Mr Dennett about that?

MR SMITH: Well, generally most times, you know. About 80 per cent of the time, I'd get a call from Marc. Yeah, I think that's probably - could be understating it. I mean, it was generally, you know, I'm giving a bit of benefit of the doubt with that, but generally 80 per cent of the time. I mean, but she was
5 never generally happy with what - the decision I made. We were kind of poles apart in how she conducted herself and how I conducted myself and my views on safety regulation.

MR TERNOVSKI: You referred, Mr Smith, to Ms Burgess duration these phone
10 calls referring to the minister's office being unhappy.

MR SMITH: Yep.

MR TERNOVSKI: In subsequent conversations with Mr Dennett, did this come
15 up?

MR SMITH: It did.

MR TERNOVSKI: How?
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MR SMITH: It was in the context - he would frame it a little bit different, saying there's pressure coming from the Minister's Office, you know, as opposed to Helen saying, "The Minister's not happy or the Minister's Office is not happy." I took that as totally the pressure coming from the Minister's Office. Trying to
25 understand that the Minister's Office would be saying, "Listen, we've got issues coming in relation to what's happening in Cairns or whatever," and that would filter itself down to the department. But I took the view the way Helen spoke about it is the Minister's not happy, more of a personalised explanation. And I said to Helen, "Well, get the Minister to call me if she's not happy." That never
30 happened, you know?

COMMISSIONER: What did Ms Burgess say when you said, "Get the Minister to call me"?

MR SMITH: She'd say nothing generally, yeah. And it was kind of - you know those conversations that are not tense and very cordial, they're just kind of abrupt and they end and they don't really flow on, so yeah. I was always glad when the call ended and every time I saw her name come up on me phone, it was, you know, how far and the three hail Marys, well here we go, we've got another fight
40 on our hands, but -

COMMISSIONER: When Mr Dennett said words to the effect of "We're getting pressure from the Minister's Office on this," did he tell you who from the Minister's Office was applying the pressure?
45

MR SMITH: No. It was just very general, that we're getting pressure from the Minister's Office. And I took that - from my understanding, that could've been a

ministerial office contacting the - a ministerial officer contacting the ministerial office in the Department - Office of Industrial Relations saying, "Hey, listen, we've just had another complaint come through." But look, what I was hearing is that, generally, the CFMEU - either most likely Michael Ravbar - would ring the Minister's Office. Who he spoke to, I don't know, but it used to come back pretty quick. I mean, you know, a butterfly would flap their wings in Cairns and it'd be an earthquake occurring in Brisbane within 15 minutes, so it didn't take long that that would then come back to me saying, "This is happening in Cairns." Or Townsville or Rocky or whatever, you know.

MR TERNOVSKI: Going back to your conversations with Mr Dennett and the explanations that he sought and you provided - would it be fair to say that Mr Dennett regularly got into the weeds about minutiae of issues on particular sites?

MR SMITH: Yes, he did.

MR TERNOVSKI: In your view, was this something that was appropriate at his level as Executive Director?

MR SMITH: Well, in a strategic sense it didn't make much sense, you know. Marc should've been more involved with broader strategy and things like that. And it's something that I didn't - that didn't occur from - in relation to other Executive Directors that held that position. Sure enough, I may get a call on some significant matters, which does make sense, you know. You want to - you want to actually inquire if there's something serious happened, or if there's been questions asked or the Minister's Office may send down an inquiry about something. That's - that's all reasonable, and you'd expect that, for them to be doing their job properly. But Marc was getting really involved in operational matters, that he should have confidence that I could deal with them, you know.

MR TERNOVSKI: I think you said that didn't occur under other Executive Directors.

MR SMITH: No.

MR TERNOVSKI: Are you referring to Mr - are you referring to Mr Dennett's predecessors or successors or both?

MR SMITH: Both. Both. Prior to Marc, there was Julie Neilsen and Julie didn't engage in that type of approach.

COMMISSIONER: Did not?

MR SMITH: Did not, no. You know, Julie would call me as required, but I may not hear from Julie for a couple of weeks or depending on something, and the same with Andrew Harris who took over from Marc Dennett.

COMMISSIONER: Do you know how Mr Dennett and Ms Burgess came to be appointed to their roles?

5 **MR SMITH:** Marc Dennett - Marc came from WorkCover. I think his role started in Maroochydore as the operations manager or what was known then as the regional operations manager and then he got the role as regional director. So we worked together as regional director. And we had a good professional sort of a relationship. And then Marc then got the role, after Julie Neilsen left, as Executive Director for CFS, yep.

10 **COMMISSIONER:** And what about Ms Burgess?

15 **MR SMITH:** Ms Burgess? Look, there was some - I had heard that she - well, she - I knew a person by her name working in the construction strategy unit, but she was there for a couple of years. You'd often - you know how you know of someone but you don't really know them? And it wasn't until she moved from an adviser into a senior adviser into the acting director that I kind of started to have more interactions, would be the best way to describe that. So prior to that, I knew she was there. I'd spoken to people that had gone down there and may have
20 relieved in the construction unit down there.

Sometimes we'd - inspectors would go down there for a bit of upskilling or relieving opportunities, and I would start to hear stories about this person. But nothing controversial, really. And until she started to move into that area - senior
25 adviser - I have heard rumours that she used to work for the - in the Queensland Council of Unions in relation - and while Grace Grace was the head of that Queensland Council of Unions, but I've got nothing that would - I don't have any personal knowledge of that or anything like that, so -

30 **COMMISSIONER:** Is it common for someone to be appointed, in your experience, to the director level that Ms Burgess was appointed to without having been through the - or having had the background of someone like you, which is coming up through the inspectorate?

35 **MR SMITH:** It is not - it is not common, yeah. And, you know, she skipped the level of manager for that unit and went straight into - yeah. So that's - that's - you know, you could say that's a bit irregular, but it occurred, and the recruitment process, you know, which I wasn't part of. I don't know who was. But it evidently occurred, and she was appointed to that position. Yeah.

40 **COMMISSIONER:** Most of the witnesses - I might be exaggerating here, but many of the witnesses that we've spoken to on this case study seem to have had a background like yours.

45 **MR SMITH:** Yeah.

COMMISSIONER: That is, slow progression through the inspectorate.

MR SMITH: Yeah, that's what normally occurs, or if they haven't, they would've had regulatory and industry experience in a similar role. What I can say in relation to that construction - that evolved and it started as a construction
5 directorate. It started under Kym Tollenaere, Peter Twigg and then Darryl Brooker. Those people stayed in there for a period of about eight months. They weren't liked by the CFMEU, so - Helen seemed to be liked by the CFMEU. So that was a major difference.

10 **COMMISSIONER:** So she was the fourth one in that role?

MR SMITH: Yeah, yeah, yep, yep. So whether the organisation was put under pressure to appoint her, I don't know. But, certainly, those other three were not favoured by the CFMEU.

15 **COMMISSIONER:** Even though we've heard some evidence about Mr Twigg, at least on the evidence as it is at the moment; we haven't heard from him, obviously, yet and his evidence might be different - that he was - seemed to be, at least on the evidence we've received, trying to give effect to the CFMEU's wishes.

20 **MR SMITH:** Yeah. Look, Peter was always, I found, quite reasonable to deal with. He was under extreme pressure, you know. Like, I - I know particularly Kym and Peter, and they - by no means have they - they don't like the CFMEU. I mean, the CFMEU doesn't like them, either, I mean, you know, in the way they
25 conduct themselves. But you know, I think Peter was always trying to be reasonable. He was a lot, a lot of pressure, as was Kym and as was Darryl, but you can just see that they weren't doing the bidding of the CFMEU because the CFMEU just wanted them out. So - but it's a very difficult job to get that balance, you know. And look, the reality is, there was a lot of pressure and a lot of political
30 pressure, you know, and I've been even told that by DDGs, you know, that there's a lot of political pressure. So you can see where it would've been coming from. But, yeah, look, they were - a couple of matters that Peter or Kym or Darryl would've brought to me, they were quite supportive in - when I pushed back, I said, "This is my position," and they could understand that, because they came
35 from an inspector background as well, you know, so yep.

MR TERNOVSKI: Mr Smith, I just wanted to clarify some of the things you just gave evidence about. You referred to Mr Twigg and his successors being, prior to Ms Burgess, being Ms Tollenaere and Mr Brooker, being under pressure.
40 Under pressure from whom?

MR SMITH: Under pressure from the CFMEU, yeah. And Kym Tollenaere was the first one in that unit, and then Peter. Kym went across when we had the double fatality at Eagle Farm, and Kym worked on that project, then Peter took the
45 role on, and then Darryl replaced Peter. That's how the chronological -

MR TERNOVSKI: Was there a Rhett Moxham there?

MR SMITH: He was, he was there for a period. Rhett - he came from our legal unit, so he did a period in there as well. I think he might have done post Darryl or
5 post Peter, but he was there for a period.

MR TERNOVSKI: This was before Ms Burgess?

MR SMITH: Yeah, yep, yep. I had no trouble with him either. He was fine to deal
10 with. Yep.

MR TERNOVSKI: You referred to conversations with DDGs - that's Deputy
Director-Generals -

MR SMITH: Yep.

MR TERNOVSKI: - about political pressure. Can you expand on that? Can you
talk about these conversations? With who, for example?

MR SMITH: Look, and it goes back to 2018, with Simon Blackwood. Simon was
20 our Director-General for a number of years, you know. I started in 2006, so Simon, I
think, was there for the entirety up to about 2018, in a number of various forms, but
DG for, you know - DDG for seven or eight years. I remember Simon giving me a
25 call one day. It was probably the October 2018, and he was due to come up to
Mackay to actually do the opening address to a safety conference that Office of
Industrial Relations sponsored. Simon said, "Listen, Paul, I can't make it. Can you
do the opening address for us?" I said "yeah". And then he went on to say, "Listen,
you wouldn't believe it," he said, "I've just had a call from the minister's office. The
30 CFMEU is marching on 1 William Street, and they want to deliver me a notice for
my - a disposition - disposition for my sacking." So he said to the Minister's Office,
"Well, why would I go down and accept that?" And then Simon went on to speak
about, you know, some of the challenges that were occurring and things like that.
And in October and December - so that was October, so in December that year,
35 Simon's contract was not renewed. So that was another example and I've had - since
then, I've had a number of conversations with Simon around historical context of the
best practice review, the CMEP and all those things. And you know, and as Simon
said, you know, we did - we had our balance pretty right prior to the best practice
review and the - and the CMEP was heavily influenced by the CFMEU in relation to
40 that hardline compliance approach. So - so that was some of my discussions with
Simon. I had further discussions also with Kym - Kym Bancroft. Do you want me
to go into that?

MR TERNOVSKI: Are you referring to the discussion post your visit to the
45 Minister's Office or some other discussion?

MR SMITH: Post. Just general discussions I've had with Kym in relation to that.
Kym replaced Craig Allen. I never really had much discussion with Craig. Craig

was - he was with us for about three years and in that period, he - he would then be seconded off to Education or whatever. The only experience I had with Craig is he seemed a nice enough guy. He turned up to Mackay, we showed him around a couple of construction sites. It was - it was the Walkerston Bypass, which was
5 interesting, because that was being - CPB actually was the principal contractor there. But, yeah, so - so with Kym, I - Kym started after Craig and Kym was a breath of fresh air. Like, Craig had no experience with health and safety, where Kym did and she was highly regarded within the safety sector, and I had a number of safety professionals actually contact me after Kym was appointed and say,
10 "You'll find Kym really, really good. She's a really good safety professional." And she did. She was with us for about, you know, eight or nine months, I suppose, and she really took on board the issues that we had and she identified the actual particular issues that were occurring with the construction inspectors that were under the direction of Helen Burgess, and she commissioned a QUT
15 Discovery report that looked at some of the issues that were pertaining to -

COMMISSIONER: QUT what, sorry?

MR SMITH: Discovery report. And so that was - so that was something that
20 Kym did. But also, Kym would come and visit the Townsville office and I think she might have visited Cairns once in her tenure in Rockhampton and then Mackay. And I would just have general conversations around the pressure that the CFMEU were putting me under and Kym was very supportive of me pushing back and she encouraged me to push back and she said she's doing the same in relation
25 to discussions she's having with the CFMEU. And then she brought into place this triaging process, you know, the 1300. So Kym was the initial instigator of that, you know, and she - she was - she got our views and we said, "Kym, they need to go through the Assessment Services 1300 number like everyone else does." So Kym would articulate to me the pressure that was put under her when she went to
30 a meeting to discuss that with the unions and they basically say, "If you put that in play, you won't have a job." She said that was - that was the pressure that was placed upon her.

So there was - there was a lot of political pressure from those general
35 conversations that I was having. Also, I had a conversation with Peter McKay, and that's detailed in my statement, but Peter generally knew that I had - had a matter with the CCC in relation to Ms Burgess and the CFMEU and he said to me he was supportive of that and he'd support me in any way and he made a comment, he said, "Paul, it's good you're doing that. It holds their feet to the fire, because
40 there's a lot of political pressure in relation to the CFMEU." You know, and they have a lot of political clout. So - so that was - that was generally my general conversations. I've had, you know, our current DDG, Megan Barry, I've discussed her - discussed with her and also prior to Megan, I've had - and I've detailed in my statement with Donna Heelan in relation to my view on things. I was always very
45 clear around how we'd been captured and we weren't an independent regulator. And I said, "This needs to change." But, really, we - we didn't change until after the state election, really, in relation to the triaging and all those things.

MR TERNOVSKI: Mr Smith, I want to come back to the triaging.

MR SMITH: Yep.

5

MR TERNOVSKI: But if it we just go back for a moment to your conversations with Mr Dennett where - which I think you described as unnecessary involvement in operational matters or words to that effect.

10 **MR SMITH:** Yep.

MR TERNOVSKI: Do you think there was any need for the - so that's at Mr Dennett's Executive Director level.

15 **MR SMITH:** Yep, yep.

MR TERNOVSKI: And then you've got above him the Director-General and then the Minister above that.

20 **MR SMITH:** Mmm.

MR TERNOVSKI: In your view, Mr Smith, was there a need for the Minister's Office to be involved in those operational matters?

25 **MR SMITH:** No, and look, sitting above the Executive Director was the Deputy Director-General, and then above them was - and if you look at our Act, the Work Health and safety Act, the delegation - the Deputy Director-General is known as the regulator. That's how they all had - that's how that position entails that. So to me, the regulator is someone that should be able to make those fundamental
30 decisions on their own, without influence or direction from the minister's office.

COMMISSIONER: Or from third parties.

35 **MR SMITH:** Or from third parties, exactly. And that's my point about - we weren't an independent regulator. They were being influenced by a stakeholder, you know. And the reality is - stakeholders are about influence, but that stakeholder went way beyond that. They actually influenced our operational policy and the way we operated to suit their own business model. That was the reality of it.

40

COMMISSIONER: One of the things you just gave some evidence about in your discussions with the Deputy Directors-General, and you said in relation to Mr - sorry, Dr Blackwood -

45 **MR SMITH:** Yep.

COMMISSIONER: - and I can't - I don't think we've heard this evidence before but I could be wrong, that the issues seemed to start with this Tim Lyons best practice review.

5 **MR SMITH:** Yep. That's right.

COMMISSIONER: I'm sure Mr Ternovski will tell me if there was been some evidence about this, but I can't remember it. What was that review, and why did the problems start with that?

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MR SMITH: That review - the emphasis for that - the reasons given was in relation to the fatality - the double fatality at Eagle Farm, the construction works that was going, and the Dreamworld incident, you know, where there was four people who lost their lives. So there was a change - there was a review of how we operate and I suppose at the same time there was the Bolden review that was going on in relation to harmonisation of - so there's all those things but that was - but the Bolden review was more across harmonise legislation, but the Tim Lyons review was specifically to do with Work Health and Safety Queensland.

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20 **COMMISSIONER:** Just - it's not a national review?

MR SMITH: No, no, it was specifically for Queensland. So out of that, it basically said that we were too educative, we were too guided in our compliance, we didn't get the balance right, we have to move to a harder line - hardline compliance, you know, a harder form of compliance, so a more directed compliance. So that's when our shift and that's why we - the CMEP then came out of that. We had the - we had the independent prosecutor's office developed and so prior that, that was all in-house, how that occurred.

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30 **COMMISSIONER:** So you had control of your own prosecutions before that?

MR SMITH: Yes, we did, yes. And after that, you saw a real centralised approach to how the Office of Industrial Relations operated. So back then, the regions had - the regions had a lot of scope in relation to how they operated. They - as a regional director, I would be responsible for engagement, compliance, as well as investigative services. So - but back then, a lot of those units then were centralised and put under a centralised unit, which - so, really, the - the union - the regions were divested a little bit in relation to the functions that they carried out and the role of the regional director. So a lot of things were centralised and that's what - we go back to the construction unit, what happened there, that was centralised. So it's happening all around that same time, that idea of operating a centralised approach to things. And my discussion with every DDG - and we've had a number of them that have come through, you know, seven or eight, probably, over 10 years, and we've had -

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COMMISSIONER: I think Mr Ternovski said nine yesterday.

MR SMITH: Yeah. It probably would be. And as well as Executive Directors and they've come from all walks of life and are all around the country and I say, "Listen, Queensland is a decentralised state. You can never manage it by a centralised approach." But I still even think today that's probably fallen on deaf
5 ears but we need to get back to a more regionalised focus on things. And we - prior to this, we had a five-regional model. So you could imagine five regional directors trying to do - wield - they do wield a bit of power in relation to changing the focus of an organisation, whereas we resorted - we went back to three, you know, and so it was very hard to actually have that power bank to try
10 and push back against executive leadership, so -

MR TERNOVSKI: Is that simply because there are fewer numbers?

MR SMITH: Fewer numbers, yes.
15

COMMISSIONER: One of the things Mr Dalamaras said, who just gave evidence before you, Mr Smith, was that he was surprised there were no prosecutions for the behaviour of the CFMEU along the lines of intimidation of an inspector after a failed prosecution arising out of an incident in April 2018.
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MR SMITH: Yes.

COMMISSIONER: Does that change from - as a result of the Lyons best practice review towards independent prosecutions have anything to do with that, in your view?
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MR SMITH: No. I - so our independent - so no, I don't think it did. I just don't think there was - so those matters would've had to have been initiated through our statewide investigations unit and you know, certainly they would've had the
30 appetite to do that. But you just weren't getting that support. It just wasn't the -

COMMISSIONER: Support from whom?

MR SMITH: The support wouldn't have been coming from the organisation about taking action against a permit holders and we really could've changed - the
35 point John makes is quite true. We really could've changed behaviour by prosecuting permit holders that were doing the wrong thing and we could've even pushed up to the Commission in having their permit removed as well - entry permit removed. So we could've been a lot to change behaviour, but we were very
40 reluctant to do it. You know, I often make the thing - I often have this throwaway line that OIR was like a shiver waiting for a spine to crawl up. They were just so scared to take any action against the CFMEU.

COMMISSIONER: But there's been some spine, in your view, since the end of
45 2024.

MR SMITH: Yes. Since there's been a change of government, there has been a change, you know. I think leading up to that, there was a reluctance to actually - even when we went into - when the Federal Government put the - put people into - put the union into administration, there was a reluctance to really move quickly. We still didn't - we still had the triaging arrangements in place until after - until November. It wasn't until early November that that changed. And that was really - I think that was - and that was really pushed from the government's point of view that we really need to rectify this problem in relation to triaging, you know. Giving preferential treatment to the CFMEU. And in relation to - and then have them call through the 1300 number, so that didn't change till after.

COMMISSIONER: Who's the Executive Director now?

MR SMITH: Sarina Wise.

COMMISSIONER: And what do you think of what she's doing?

MR SMITH: Yeah, look, Sarina started -

COMMISSIONER: She's your boss, I guess, so I perhaps shouldn't ask you that.

MR SMITH: No, that's all right. Sarina started in - would've been late 2023. I think she kind of - and we all met with Sarina and you know, we told her the stories president CFMEU. I think she kind of initially thought, "This couldn't be true." You know, she'd come from New South Wales and hadn't experienced a regulator that had been captured, you know, and so it - after a while, she really got - got on board, you know. I was pretty well pressuring Sarina a bit around the triaging and I said to Sarina at one of the directors' meetings, "Sarina, listen, North and Central Queensland is going to go on their own on this." And so it was around that - just before the legislative change come in with the administration, but it was - this was talk around from June through to, you know, to August when it actually occurred.

So I said, "Why don't we push the trigger on this?" She said, "Paul, there's a lot of pushback coming from the DG, the DDG's Office and the Minister's Office," and she was very much on board with that. And to the extent that she suggested to me if I could contact Greg Quinn, who was doing the work health and safety review, if he could put that into his report, because it was about then - which I called him and he subsequently did and the only reason she asked me to do that is I'd had a number of conversations with him in relation to the issues I had with Workplace Health and Safety Queensland. And I've articulated these today, in how I'd seen the change in how it operated quite well prior to the best practice review and it how it had subsequently changed and had become much less effective.

And so Sarina was on board with that, but she did say to me, even prior to the election, she said that she had a discussion with the Deputy Director-General at the time, who was Donna Heelan, and she said to Donna, "Well, Donna, why don't we go with the triaging?" She said, "Well, let's hold off till after the election."

5 So to me that was saying that, politically, it just wasn't under the current government, then the Labor Government, it wasn't going to be - they didn't want that to occur. They didn't want them to go through that 1300 number. And from my previous discussions with Kym Bancroft and she had with the Minister's Office and with the other construction unions, including the CFMEU, she said
10 they were very anti-that, that 1300 number. So that all held true, you know, what was occurring. So that says to me there was a lot of political pressure not to go with - with that, and to - and a good example of that is when we're in administration and -

15 **COMMISSIONER:** When "we're" in administration?

MR SMITH: Sorry, when the CFMEU were in administration, there was a Teams meeting that we had in September of that year, which I've tendered into my evidence, where the conversation from me was to the DDG - there was executive
20 leaders there. There was directors there. There was operations managers there - that we've kicked the ball down the road for too long with this triages. We need to go. These guys have been put into administration. We shouldn't be giving them any favourable treatment. The government of the day is saying we're not giving them any favourable treatment but we haven't done anything with this triaging. Donna's response was, she said, "I went to the administrator and said 'Do
25 you think we should apply this triaging system for the CFMEU?'" And he said "That's your decision." Which it is. It shouldn't be the Minister's Office decision, it shouldn't be the CFMEU's decision, but it is the regulator's decision. But that didn't occur until November of that year.

30 **MR TERNOVSKI:** I'm about to move on to another topic which will be a convenient time but I just have a couple of questions arising out of what Mr - the evidence you just gave. You referred to Mr Quinn.

35 **MR SMITH:** Yes.

MR TERNOVSKI: And the Quinn Review.

40 **MR SMITH:** Yep.

MR TERNOVSKI: Now, Mr McKay gave evidence in - during the April hearings that he did not consider Mr Quinn to be an independent reviewer.

45 **MR SMITH:** Mmm.

MR TERNOVSKI: What's your opinion about that?

MR SMITH: I think he's right. He - Greg was - worked for Hutchinsons and the concern was that he was - that he was just doing the bidding for the CFMEU and so that - even though he appeared to be quite good on the discussions I had with him, he certainly kept saying to me, "Oh, the triaging is out of scope. These things
5 are out of scope. The capture of the regulator is out of scope." It was more about how we were functioning as a unit. And I think - I think what that was - the reason why that review was put in place, to basically come up and say, "The inspectorate is not up to scratch," and they were going to actually put the cleaners through us. So that's - that's basically what I felt and if you speak to any of the
10 other people that probably spoke to Greg, they'd probably - even though he listened to us, but we really thought the agenda behind this was not - you know, was not honourable, really, and it wasn't really looking at the real issues that were plaguing the Workplace Health and Safety Queensland.

15 **MR TERNOVSKI:** If Mr Quinn worked for Hutchinsons, why would he be doing the CFMEU's bidding?

MR SMITH: Well, you know, Hutchinsons then became one of their preferred contractors - their principal contractors.

20 **MR TERNOVSKI:** Whose preferred contractors?

MR SMITH: CFMEU, yeah. Now, I mean, I - you know, the - in relation to any evidence I have to say that Greg was biased or anything like that, well, I'm just
25 saying that that comment that Peter made was probably justifiable in relation to - there probably wasn't true independence that was - that existed there, you know. I thought true independence would involve, you know, a panel of people that may have done the review and someone that was from a - from a university or something like that, that could- could do that. But that report didn't really see the
30 light of day. There was a change of government, so it - I don't think it's even been released, you know, or it hasn't been released for public consumption.

MR TERNOVSKI: This might be a convenient time, Commissioner.

35 **COMMISSIONER:** Thank you, Mr Ternovski. Mr Smith, thank you for your evidence, but we're going to ask you to come back again tomorrow morning -

MR SMITH: That's okay.

40 **COMMISSIONER:** - if you could.

MR SMITH: Yep.

COMMISSIONER: Thank you. We'll adjourn till tomorrow morning.
45

<THE HEARING ADJOURNED AT 3.36 PM