



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

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

**PUBLIC HEARING  
BRISBANE MAGISTRATES COURT**

**WEDNESDAY, 22 APRIL 2026  
AT 10.00 AM**

**DAY 20**

**APPEARANCES**

**Mr S. Wood AM KC, Commissioner  
Mr P. Wheelahan KC, Senior Counsel Assisting  
Mr D. Caruana, Counsel Assisting  
Mr D. de Jersey KC, Counsel for the State of Queensland  
Ms M. Brooks, Counsel for the State of Queensland  
Mr C. O'Grady, Counsel for the CFMEU Administration  
Ms F. Fox, Counsel for the CFMEU Administration  
Mr S. McCarthy, Counsel for Enrique Blanco Gomez  
Mr Jose Antonio Sanchez, Witness  
Mr Enrique Blanco Gomez, Witness**

**<<THE HEARING COMMENCED AT 10.00 AM**

**COMMISSIONER:** Deal with appearances. Mr Wheelahan, you appear as counsel assisting with Mr Caruana?

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**MR WHEELAHAN:** Yes, Commissioner.

**COMMISSIONER:** And Mr O'Grady, you continue to appear with Ms Fox for the CFMEU administrator?

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**MR O'GRADY:** Yes, Commissioner.

**COMMISSIONER:** And Mr de Jersey, you continue to appear with Ms Brooks for the State of Queensland?

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**MR DE JERSEY:** Yes, Commissioner.

**COMMISSIONER:** And I thought, Mr Wheelahan, I had seen something that one of -

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**MR WHEELAHAN:** Yes, Mr McCarthy - Mr Sam McCarthy is counsel for the second witness today. His instructor's here. I presume he's going to be here when that witness is called.

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**COMMISSIONER:** I see. And just remind me - we haven't given leave to Mr McCarthy to appear, but he doesn't need leave because he represents a witness. Is that the way the practice note works?

**MR WHEELAHAN:** That's correct. Correct.

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**COMMISSIONER:** Very well. Mr Wheelahan.

**MR WHEELAHAN:** Commissioner, this is a new case study, the Toowoomba Second Range Crossing case study, and I will commence with an opening. Today, we will be hearing from two witnesses: Mr Jose Antonio Sanchez and Enrique Blanco Gomez. Mr Sanchez is currently employed by WeBuild. However, for our purposes he was the project director employed by Acciona -

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**COMMISSIONER:** What's the name of the company?

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**MR WHEELAHAN:** WeBuild. W-e-B-u-i-l-d.

**COMMISSIONER:** Thank you.

**MR WHEELAHAN:** He was the project director employed by Acciona Infrastructure Australia Pty Ltd for the Toowoomba Second Range Crossing project from around July 2015 to May 2018. The second witness, Mr Gomez, is the regional managing director of Australia, UK and Ireland at Ferrovial Corporación S.A.U. From 2011 to 2023, he was the managing director of Ferrovial Agroman (Australia) Pty Ltd.

**COMMISSIONER:** And you are going to call Mr Gomez this afternoon, and that's the person for whom Mr McCarthy acts?

**MR WHEELAHAN:** Correct. Both of those men have extensive experience in the construction industry, working in excess of 25 years in multiple countries. Now, as to the Toowoomba Second Range Crossing, these two witnesses will provide the introduction to the case study into the Toowoomba Second Range Crossing project, otherwise known as Toowoomba Bypass. I'll provide an overview of the Toowoomba Bypass project. It involved the construction of 41 kilometres of road and related infrastructure just north of Toowoomba. Traffic started using the by pass in September 2019. It was an important project for Queenslanders, particularly those local to or with business interests in the Darling Downs region.

Indeed - and I will have a document put on screen, which is a media release, in a common tender bundle, at page 2 - at the start of the project on 31 January 2014, Minister For State Development, Infrastructure and Planning, the Honourable Jeff Seeney, described it as follows. In relevant part, it was one of the highest priority road infrastructure projects, and he noted that it would help drive - this is nine paragraphs down, Operator - it would help drive Queensland's economic growth by creating jobs and providing a gateway to the state's resource-rich Surat Basin and the agricultural food bowls of the Darling Downs. It was one of our government's top three infrastructure projects.

Now, Mr Operator, if you could bring up page 4 of the common tender bundle. Commissioner, this is to give you - provide you with a map of the actual Toowoomba Second Range Crossing. The orange and green lines is the actual Toowoomba Range crossing. You will see the arrow towards Brisbane, so you move from right to left as you head ultimately towards Goondiwindi. Now, as a result of the Toowoomba Bypass project, traffic, including, importantly, heavy commercial traffic, can now get from Brisbane to Dalby and towns further west, such as Roma, via the Warrego Highway without needing to traverse the old range crossing and drive through the city of Toowoomba. Traffic to Goondiwindi similarly can avoid the steep range crossing and congestion of the Toowoomba CBD, and driving on routes that utilise the full Second Range Crossing saves about 40 minutes of driving time.

**COMMISSIONER:** So the road sort of goes around the mountain. That might be a very basic way of explaining it.

5 **MR WHEELAHAN:** It is a very basic way of explaining it, and I'll explain - I will let the witness explain why. This is an absolutely magnificent piece of infrastructure, and Mr Sanchez will give evidence about that, and he's very proud of what they have produced. Whilst you have that map on screen, for those local to Queensland, they will be well aware, if you see, on the right-hand side, see the  
10 Toowoomba Connect Road.

**COMMISSIONER:** Toowoomba Connection Road.

**MR WHEELAHAN:** Yes. The climb up that road is, I think, at nine degrees,  
15 coming into Toowoomba. So with the heavy commercial truck traffic, as you can imagine, it caused considerable delay. Now, if I have the operator show - to give you an idea of the magnificent infrastructure, you will see here at page 5, this is the viaduct. The terrain that this project covered and the difficulties that this terrain would have presented to the project were significant. If you then go to the second  
20 photo - and I will have it brought up - as the name suggests, the project involved a range crossing. It required - and this is a photo of it - a 30-metre-deep cutting through the Toowoomba Range and construction of an 800-metre-long viaduct, which I have just shown you.

25 And if I have the operator turn to the following page, 7, there are far more any photos of this in the evidence that's attached to the evidence of Mr Sanchez, but this is just a snapshot. This just gives you some overview, Commissioner, for you of the breadth of the project. Now, those cuttings and the viaduct were very important facets of the project as they would ensure heavy vehicles could use the road and not  
30 face the restrictions they might face if the road had instead involved a tunnel. Significant excavation and construction work necessarily had to occur on the steep range slopes.

Now, as to the parties involved, the project was delivered by a special-purpose  
35 vehicle company, Nexus Infrastructure Pty Ltd, which I will hereafter return to as Nexus. Nexus was a consortium comprising Plenary Investments Pty Ltd, Cintra Toowoomba Limited, Acciona Concesiones S.L, Ferrovia Agroman (Australia) Pty Ltd, Acciona Infrastructure Australia Pty Ltd and Broadspectrum (Australia) Pty Ltd.

40 **COMMISSIONER:** And Mr Sanchez, if I understand it, was the project director and an employee of the fifth-named entity.

**MR WHEELAHAN:** Yes.

**COMMISSIONER:** And Mr Sanchez was the fourth of the ones you named. He's the managing director - or was - of Ferrovia Agroman (Australia) Pty Ltd.

5 **MR WHEELAHAN:** Correct.

**COMMISSIONER:** And they are two of the six corporate members of the Nexus consortium.

10 **MR WHEELAHAN:** Yes. Now, the other party, the State of Queensland, through the Department of Transport and Main Roads, entered into a project deed with Nexus on 21 August 2015. On that same day, Nexus entered into a design and construction subcontract for the delivery of the project with the unincorporated joint venture, Nexus Delivery. The joint venture partners were Acciona Infrastructure Pty Ltd,  
15 which I'll hereafter refer to as Acciona, and Ferrovia Agroman (Australia) Pty Ltd, hereafter referred to as Ferrovia.

Now, repeating what you've just noted, Commissioner, Mr Jose Sanchez was the project director for the Nexus Delivery joint venture and employed by Acciona. For  
20 the duration of the project Enrique Gomez was the managing director for Ferrovia, and both of these men will be called today to give evidence. You will hear some other names, and just reminding you, Commissioner, this is an opening today, similar to Mr Long. It's laying a foundation. You will hear names referred to, including Mr John Witheriff AM, who was the chair of Nexus Infrastructure Pty Ltd, and Mr John  
25 Hagan, H-a-g-a-n, who was the CEO of Nexus Infrastructure Pty Ltd.

Now, with respect to the industrial relations position, prior to construction work commencing in around late 2016, Nexus met with members of the AWU and the CFMEU regarding the industrial relations position for the project. Acciona already  
30 had an existing in-term enterprise agreement with the AWU, and its name was Acciona Infrastructure Australia Pty Ltd Enterprise Agreement 2014.

**COMMISSIONER:** Well, if you accept what Mr Watson said and Ms Schinnerl said about the rules of the AWU and the CFMEU, Mr Watson put it very - in a very  
35 basic way, saying if it's horizontal, it's AWU work, it's civil work; and if it's vertical, it's CFMEU work, it's a building. Now, there's obviously - there's nuances about that, but from what you've shown me, it looks like it's a civil work.

**MR WHEELAHAN:** Certainly does, yes. At that point, ultimately, Nexus decided  
40 that its direct employees be engaged on the project pursuant to that enterprise agreement, which was existing already. The AWU was the sole union noted as being covered by that enterprise agreement, which was approved by the Fair Work Commission in January of 2015.

Now, if I can turn to the terms of reference, Commissioner. This case study will, amongst other matters, provide a project-specific example of some of the lines of inquiry that you have heard evidence about in the last hearing block, that is, the  
5 Workplace Health Safety Queensland case study and the misuse of inspector powers to enhance the power and influence of the CFMEU. It should be noted, as you have, Commissioner, this was a civil infrastructure project. The natural industrial union coverage was the domain of the AWU.

10 However, you will hear evidence of the CFMEU seeking to gain a foothold on this project by using its alleged regulatory capture of Workplace Health Safety Queensland and potentially taking advantage of ministerial threats to the project. And there will be some evidence about that. In this case study, you will hear  
15 evidence as to the conduct of Workplace Health Safety Queensland and the CFMEU conduct on the project, which supports the contention that Workplace Health Safety Queensland was captured by the CFMEU.

Two main topics that the evidence will cover today. We posit there's two main themes or events which emerge from the two witnesses' evidence that you'll hear  
20 today, and it's consistent across both men. The two main themes might neatly be described as follows: firstly, the conduct of a captured regulator, that is, Workplace Health Safety Queensland; secondly, government interference and threats to the project for the benefit of the CFMEU. The government inferences and threats to the projects will be the focus of today's hearing. Whilst the conduct of the regulator is  
25 touched upon by these two witnesses, it is intended that this topic will be developed and explored more thoroughly through witnesses who will be called at a later date.

Firstly, as to Work Health Safety Queensland, to set the scene for what will be developed in further hearing blocks, I should note upfront, both Mr Sanchez and Mr  
30 Gomez concede that this project had its difficulties and safety challenges. The project did encounter a number of safety incidents; indeed, there were 17 incidents where pieces of plant rolled over, hence why I've shown you the photos at this early stage. They will say that this was attributable in large part to the difficult terrain that the project had to be delivered in. Those, again, who have driven up or down the  
35 range would understand this issue very well. Furthermore, the size of the project, being a 41-kilometre dual-carriageway highway. Nevertheless, it's also important to note that none of those rollovers resulted in any injuries.

You will then hear evidence of a particular incident - and I want you to note the date,  
40 Commissioner - on 21 February 2018, where a section of reinforced cage that was being lifted became dislodged and fell 30 centimetres.

**COMMISSIONER:** 30 centimetres?

**MR WHEELAHAN:** 30 centimetres. Fortunately, due in part, there were appropriate exclusion zones established around the work, so no injury was caused.

5 **COMMISSIONER:** So it fell a foot?

**MR WHEELAHAN:** You're better than me, Commissioner, with centimetres to foot, but I think that's about right. I'm told by my learned junior it is. About a foot. Now, what should be noted, though, is although both of today's witnesses concede  
10 there were safety issues on the project, those issues were being worked through. From late 2016 to July 2017, those issues, those witnesses will say, were being worked through in a productive way with the regulator, Workplace Health Safety Queensland, but they will say from about mid-2017 that productive and constructive approach fell away.

15 If I can have the operator, please, Mr Sanchez's statement at page 2, paragraph 18, the last line - you can leave the whole paragraph. He will give evidence that things changed rather abruptly in July 2017, and you can see there, he says as follows:

20 "In my perspective, we went from having a very good and professional relationship with WHSQ to feeling as if they had come to site to destroy us."

**COMMISSIONER:** I know you haven't - you're going to develop this later, but I recall that the evidence was that Ms Helen Burgess didn't become the - I think it was  
25 acting director of construction and field services, the position where she had all the construction inspectors reporting to her through operations managers, until April 2018. I can't remember the date. This is about nine months earlier than that, before Ms Burgess' time in that role. I don't even know whether the evidence yet goes to when that role was created. I think there were one or two people who had the role  
30 before her. I think Mr Hayes said at least one person. So it does seem that it's stretching back before Ms Burgess' time as acting director - well, she started as acting director, then director.

**MR WHEELAHAN:** The Commission has, under a notice to produce  
35 documents - and I put this as to be settled, but the indicative dates at the moment - because there's some difference between what's even published by Workplace Health Safety Queensland as opposed to the documents they've produced. So we're going to have to go back to them with another notice to reconcile the dates, but those records show that Helen Burgess was - and this is the title at the  
40 time - manager construction services from 10 October 2016. Now, what control she had over inspectors I can't tell you at this point in time, at that date. And on 23 April 2018 she became, using that title, director construction compliance and field services, where the evidence is that she did have control over the inspectors.

**COMMISSIONER:** I thought Mr Hayes' evidence was before she was appointed, at least initially on an acting basis, to that role as acting director of construction and field services, she had what he described as a strategy role, that is, she wasn't in  
5 control of any of the inspectors.

**MR WHEELAHAN:** Yes.

**COMMISSIONER:** That's something anyway you can -  
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**MR WHEELAHAN:** We need to get to the bottom of it, because the information we've got so far is inconsistent. So we need to have a notice - another notice to Workplace Health Safety Queensland, particularly to drill down on this issue.

**COMMISSIONER:** Anyway, according to this witness, there was a change in July 2017, at least in relation to this project.  
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**MR WHEELAHAN:** Correct. Now, just returning to that. So, look, they're very strong words from a very experienced person in the construction industry who has worked around the world. And he will be asked, of course, why he uses - and why he felt that they were there "to destroy us".  
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Mr Sanchez will state, amongst other things, that workplace health safety inspectors - and this is again from the mid-July 2017 date - visited the site much more frequently from that time forward, often daily, and often attended together with the CFMEU. He will speak to the volume of regulatory notices issued to the project increasing dramatically from mid-2017, and indeed, he says between July 2017 and February 2018, 74 improvement notices were issued to the project. And as a comparator, Commissioner, the eight-month period before that, there were only 16 notices.  
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**COMMISSIONER:** So either the safety has deteriorated on site or this project is being targeted, or perhaps some other explanation that no-one has come up with yet which could explain it.  
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**MR WHEELAHAN:** That's right. So it's a line of inquiry. Presently, we certainly have the evidence today that certainly Mr Sanchez - which I've just taken you to - says from this period, the spike in notices, the daily visits by the CFMEU and the regulator, he thought they were suddenly out to destroy them. Look, it might be that the inspectors can give cogent evidence and say, "Yes, compared to the previous eight months, there was a spike in safety incidents." Of course that's open, and that's all lines of inquiry.  
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Bearing what I've put in mind, we now jump to things coming to a head, if you like, 19 February 2018. Nexus was issued an instruction from a particular Work Health Safety Queensland Jason Plath, or Play. Not sure how it's pronounced, but it's spelt P-l-a-t-h.

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**COMMISSIONER:** I can't remember his name being mentioned by any of the inspectors that we've - maybe this is because they were all in Brisbane.

**MR WHEELAHAN:** In Brisbane.

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**COMMISSIONER:** And this is Toowoomba.

**MR WHEELAHAN:** Correct. This is regional. And you're correct; I do not recollect seeing his name until the development of this case study. His instruction was seeking to require that Nexus allow CFMEU organisers - there's four; I will read the names - Kurt Pauls, Beau Seiffert, S-e-i-f-f-e-r-t, Marty Albert, and Shaun Desmond - onto site.

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**COMMISSIONER:** It would just be useful perhaps at the time of the morning break if you can speak to Mr O'Grady and just tell me whether some or all of these organisers remain as organisers employed by the Queensland/Northern Territory branch of the Construction and General Division of the federally registered union.

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**MR WHEELAHAN:** Will I inquire if they're employed in other states, having regard to yesterday's evidence, or just confine it to Queensland?

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**COMMISSIONER:** No, I think so. Find out what's happened to them.

**MR WHEELAHAN:** All right. Now, between 9 February 2018 and the 19th, so the preceding period before this date, the CFMEU had issued 20 notices.

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**COMMISSIONER:** Sorry, give me those dates again, sorry.

**MR WHEELAHAN:** Between 9 February 2018 and 19 February. The point of this is - and I'll get to explaining the notices - there was a challenge to them.

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**COMMISSIONER:** So they're coming in at over two a day.

**MR WHEELAHAN:** And pursuant to the Work Health Safety Act, and those notices were seeking to enter the site to investigate alleged suspected health and safety contraventions. Now, because we don't have those notices yet, they will be obtained as part of further inquiries. Now, Nexus formed the view that the notices issued by the CFMEU were invalid.

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**COMMISSIONER:** And are they part of the 74 improvement notices that were sent between July 17 and February 2018, those 20? Or are they different?

5 **MR WHEELAHAN:** These are entry notices.

**COMMISSIONER:** Oh, these are entry notices.

**MR WHEELAHAN:** Yes.

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**COMMISSIONER:** Sorry. So they're different. So 74 improvement notices, plus another 20 entry notices.

15 **MR WHEELAHAN:** Yes. Now, Nexus formed the view - and perhaps I will use that phrase - that the entry notices issued by the CFMEU were invalid because they were vague, lacked proper particularity as to the nature of the alleged contraventions to be investigated. They made a decision on that basis to refuse to allow the CFMEU officials on site pursuant to those notices.

20 **COMMISSIONER:** I think that was the gravamen of most of the - if you call it the so-called Brisbane inspectors' evidence too, about the so-called requests for assistance that were generated by - I don't want to overstate it, but I think they said most of them suffered from this defect or words to that effect.

25 **MR WHEELAHAN:** That was their evidence, yes. Again, this is a project-specific case study, picking up some of those themes. Now, Mr Operator, if you could pull up the statement of Mr Sanchez, page 3, paragraphs 30 to 32. This is the evidence you will see at paragraph 30, Commissioner, that I've just summarised of 19 February, and then at 31 the decision to challenge the entry notices:

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"...as a way to protect the team who were being threatened with prosecution by Workplace Health Safety Queensland and the CFMEU on a daily basis."

35 Now, importantly, you will see there at paragraph 32, on Monday 19 February - and these dates are closing in, and they're important for to you note, Commissioner - they lodged an application to the Queensland Industrial Relations Commission -

**COMMISSIONER:** Who's "they"? The joint venture?

40 **MR WHEELAHAN:** Yes, the joint venture.

**COMMISSIONER:** So it's the two entities in relation to whom the two witnesses today were or are employed by.

**MR WHEELAHAN:** Yes. The specific application is exhibited, and I think some of the definitions of joint venture/Nexus are being used a little fluidly, but it's not material for present purposes. Mr Operator, can you enlarge paragraph 32, please.  
5 So that date, 19 February '18. Now, there are various amendments because you'll hear evidence that notices were just - as you said, they're just flowing in, but the respondents to that application were not only the CFMEU but also the regulator, and the relevant inspector, John Plath.

10 **COMMISSIONER:** I haven't looked at the application, but -

**MR WHEELAHAN:** I will have the operator bring that up. That is exhibit JA1 to Mr Sanchez's statement, and we might commence at page - if you can blow up the parties there, please, Mr Operator. So, firstly, if I could commence - the first page,  
15 please. Between Nexus Delivery - could I just enlarge the parties for the Commissioner, please. A little bit up. Thank you. Maybe start the top of the page: Form 73, application to deal with a dispute about right of entry. There we go. So Commissioner, do you have that?

20 **COMMISSIONER:** Yes, I've got that. Thank you.

**MR WHEELAHAN:** Yes. So Nexus Delivery - Toowoomba Second Range Crossing Project. Second, CFMEU. And the regulator. Now, it's quite useful, Commissioner, that you've actually taken me to this at this point, because when you  
25 asked about the number of all these notices, if you turn to the second page, and we look to the notices in dispute, if we just - the second page, Mr Operator. There's a table. Now, that, through amendments, grows to - I'll find the last one. The application has to attach all the notices as well.

30 **COMMISSIONER:** It's got 20 if you go to the next page.

**MR WHEELAHAN:** Yes. If you go to page 33 and 34, we're up to 33 notices of entry forms, and this is between the period - you will see the second paragraph, 9  
35 February and 20 February. 33.

**COMMISSIONER:** That's coming in now to almost three a day.

**MR WHEELAHAN:** Yes. Now, obviously, there's 33 of them, but I can just say, again going back to the other evidence and this evidence with particularity, an  
40 example - I'm just picking one - page 56, one of the notices at random. There's "access and egress to all work areas". This just appears on many of the notices. Now, you've seen the photos of the site. There's no particularity there, and this is part of the complaint: it's vague, no particularity. For example, in page 60, another

one, bearing in mind there's 33 of them, you know, traffic control. Where? Emergency escape route. Where? We're not talking about a construction building over which the CFMEU would have proper coverage; we're talking about a 41-kilometre - or 48, is it? 41. Whilst still on this document, Commissioner, if Mr Operator, you go to page 4, the numbering at the bottom.

**COMMISSIONER:** Sorry, which page?

**MR WHEELAHAN:** Page 4. The top of it says page 3 of 25. So this is directed at the regulator. You will see the review of the inspector's decision, if we just blow up the first paragraph. So I've just given you the summary and the evidence that this inspector is directing them to let the CFMEU on site. And the second-last paragraph, Mr Operator, and the last paragraph of that - I will paraphrase it, but it lists there all the various CFMEU officials. And he gives a direction to allow access to all those officials. And you will see part of the challenge here is:

"A direction must provide the reasons why the inspector is reasonably satisfied about the right to enter. The inspector failed to provide the reasons as to how he was satisfied the permit holders had a right to enter the workplace."

**COMMISSIONER:** There's no reasons at all, is there? It just says "give them" - well, there's not any reasons.

**MR WHEELAHAN:** Yes. I don't want to jump ahead and spoil my opening, but you'll understand soon. There are some more problems with that direction, given the facts of how the CFMEU officials went about attempting to enter the site.

**COMMISSIONER:** Very well. So this is the Monday. After 10 days of this, an application is filed in the Queensland Industrial Relations Commission.

**MR WHEELAHAN:** Yes. So just returning. 19 February, Nexus issued an instruction from Workplace Health Safety Queensland inspector Jason Plath.

**COMMISSIONER:** It was issued with an instruction by -

**MR WHEELAHAN:** Yes, yes - requiring it to allow CFMEU organisers, the four named ones, onto site.

**COMMISSIONER:** And the same day, the joint venture reviewed it, appealed it, applied to overturn it, whatever the legal process is.

**MR WHEELAHAN:** They make application to the Industrial Relations Commission for a review dispute, but in layman's terms, you could call it an appeal. The man on the street would, or the woman. Now, between 9 February 2018 and 19 February 2028, as I said, there were 20 notices, and Nexus formed -

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**COMMISSIONER:** I thought you said - there might've been 20 when they initiated the -

**MR WHEELAHAN:** Correct, and then they amended the application, because the notices just kept coming.

**COMMISSIONER:** Well, I think they missed some, because at the time they were trying to collect them all, they'd obviously done it all very quickly, and if you look at the amended application you took me to at page 33, they'd just missed some, because they thought they'd had four on 13 February, but when they went to amend their application, they realised they'd had six requests.

**MR WHEELAHAN:** Well, yes, it was quick, and they had legal advice.

**COMMISSIONER:** And then there's another three the next day, on 20 February.

**MR WHEELAHAN:** Now, just coming back to the chronology, Commissioner, which you put to me. So it's the night of Monday, 19 February that that application is made to the Queensland Industrial Relations Commission. In that application, in summary form, Nexus was doing two things: firstly, it was alleging that the CFMEU officials were invalidly exercising their right-of-entry powers under the safety legislation; and, secondly, sought a review of the direction given by Inspector Plath to allow access to the CFMEU.

Now, 23 February 2018. We describe this as the ministerial meeting, which is what the most important part of today's case study is. So as I mentioned earlier, there was a particular incident on site, Wednesday 21 February 2018. A section of reinforced cage that was being lifted by a crane dislodged and fell 30 centimetres.

**COMMISSIONER:** So two days after this application is made, something falls a foot?

**MR WHEELAHAN:** 30 centimetres, yes. Something falls, yes. And no doubt that's something that shouldn't have occurred, but as I said, no-one was injured, and they had proper exclusion zones in place. Now, that incident garnered some publicity, and the next morning, 7.48 am, Thursday 22 February 2028, the Minister -

**COMMISSIONER:** 2018, you mean.

**MR WHEELAHAN:** Sorry, 2018, yes. We're not quite there yet. The Minister for Education and Industrial Relations, Grace Grace, and the Minister for Transport and Main Roads, Mark Bailey - and I will have the operator bring this up - issued a joint statement - it's Mr Gomez's exhibit EG-5, page 90 of his exhibits, Mr Operator - a joint media release stating they were seeking an urgent meeting with senior representatives of Nexus.

**COMMISSIONER:** I just wonder, maybe Mr Caruana can have a look at this, but I just wonder - industrial commissions usually list things very quickly. I just wonder when this application of Monday 19 February was listed to be heard and whether that's relevant to the chronology.

**MR WHEELAHAN:** He will look into that. So this is the joint statement, Honourable Grace Grace and the Honourable Mark Bailey. I was going to say "usual", but that's probably not the right word; it's the typical media release of a government department. Concerned - but the important for our purposes, they say:

"We want to sit down with those concerned to hear what they plan to do to improve safety on the project."

And I just want you to keep that statement in mind when I take you to what actually happened when the ministers attended. Because when they did attend, on Friday 23 February 2018, Mr Gomez and others had put together a presentation, having regard to that media release, to demonstrate to the ministers their safety management on the project, and it's quite an extensive PowerPoint presentation document. I might just briefly go to it. It's the statement of Mr Gomez, Operator, page 91 of his exhibits at EG-6. It probably is worth scrolling through it, because bear in mind the purpose of the ministers visiting - and this is quite a significant presentation prepared.

Perhaps we just - commencing paragraph - your numbering is different, but that's all right - Project Overview. And this, again, Commissioner, goes to also remind you of the scope for the project. If we just go to the next page. If we can go page 100, 101. If, Commissioner, I just pause there, I did want to show you some more photos. This really shows the enormity of the project. Page 100, 101, where you can see construction of the viaduct. 102, further construction of the viaduct. 103, and just to throw in some figures, 2.2 million cubic metres of earthworks. 30-metre-deep cutting. Two grade-separated interchanges. Three bridges. Realignment of various roads. Page 104. That gives you another photo snapshot of the activity on site. 105. 106. And I want to stop on 107.

Now, again, access - bear in mind the notices I took you to and the vagaries and the simplicity of them. 107: this is the western work zone. We're talking about 20.5 kilometres. Sorry, am I going too fast, Commissioner?

5 **COMMISSIONER:** No, no, I'm following. You keep going.

**MR WHEELAHAN:** Page 108: another aerial shot. And then at 109 they deal with Industrial Relations. Direct workforce employed under their enterprise agreement, that one of '22: 68. Estimated total workforce: 350 to 400. And staff  
10 under common law contracts: 220.

Next page, 110. Now, you would've thought that this is where the ministers might - and I say this because the evidence is that they weren't interested in this at all at the start of the meeting. We're going to go to what they did instead. The Safety  
15 Systems are set out in some detail at page 110, and then at 111 the relevant work hours and safety statistics. 112, setting out what they in fact had done, including third-party audits, and that continues to 113. It's quite detailed; I won't read it all now. And then 14, 15: health safety checks. And 116: the commitment of Nexus to  
20 safety.

**COMMISSIONER:** And this was all prepared in a couple of days in advance of the ministers' press release on, what was it, the Thursday?

**MR WHEELAHAN:** Correct. The ministers said, "We want an urgent meeting to  
25 discuss safety."

**COMMISSIONER:** At that stage, there were two competing views on safety. One was the view of the CFMEU, through its 33 notices, and the support given by Mr Plath that they should have access, and there was going to be a review of that - those  
30 decisions, what the CFMEU had done and what Inspector Plath had done by the Queensland Industrial Relations Commission that hadn't yet been heard. So that was, I assume, the appropriate venue for that issue to be resolved or ventilated, and you had another issue that occurred two days later prior to, it seems, the listing of the application by the joint venture in the Queensland Industrial Relations Commission,  
35 where something had fallen a foot, and presumably Workplace Health and Safety Queensland could have - or the CFMEU - not the CFMEU, Workplace Health and Safety Queensland could have issued a prohibition notice, issued a stop-work notice, in relation to that issue in that part of the process and dealt with it through the  
40 orthodox process.

**MR WHEELAHAN:** Yes. Correct. So heart of the issue was the right-of-entry issues, and there are reasons why that was being refused. I can say -

**COMMISSIONER:** I just wonder why the ministers - I mean, it's easy to second-guess. They've got a lot to do. They're very busy. But anyway, I won't say any more.

5 **MR WHEELAHAN:** Well, the evidence you'll hear today from Mr Gomez and Sanchez is that when the ministers arrived and their meeting commenced, they say that the ministers were not at all interested in the presentation put together by Nexus; rather, Minister Grace quickly took control of the meeting. Shortly after it  
10 commenced, Minister Grace made it clear to those present that her expectation was that Nexus would cooperate with the CFMEU. Not only that, the witnesses will tell that you the minister was quite explicit: Nexus had to cooperate with the CFMEU or the government would consider terminating their contract for the project.

15 Now, I'm going to let the witnesses speak for themselves about those precise recollections. I've conservatively paraphrased it in this opening. Indeed, it's hoped that further witnesses will give evidence at later hearings so that you, Commissioner, can have the benefit of their recollections as well. However, what's consistent across both Mr Sanchez and Mr Gomez is that the minister quite explicitly linked  
20 cooperation with the CFMEU with a direct threat to terminate Nexus' contract. Indeed, Mr Gomez took some handwritten notes that day. Some of them are in Spanish. What's recorded in his statement - because I don't read Spanish, Commissioner - but he records as follows to English:

25 "Grace, way forward."

And then in Spanish, and he's interpreted this for us:

"Threatening very difficult for companies."

30 And later in his notes, again in Spanish, he says:

"They can't take the question off us?"

35 So all that's entirely consistent with a threat to terminate or take off the contract.

**COMMISSIONER:** So the minister or ministers said this?

40 **MR WHEELAHAN:** Minister Grace Grace. So we have a contemporaneous note documenting that Mr Gomez was concerned about threats being made by the minister, or Minister Grace, to terminate the contract of Nexus. Not just any threat; a threat to take away the project from Nexus, noting it had a budget of 1.1 billion and significant work had already been undertaken. Mr Sanchez will give evidence that he had many conversations with senior Nexus people about the behaviour of the

Queensland Government, as he describes it, towards Nexus, being the sort of thing he expected to happen in a third-world country like Nigeria and not a developed country like Australia. Now, Mr Sanchez has in fact worked in a third-world country. I think it's - I won't say the name. I will let him say it. So he is qualified to  
5 make that statement.

Now, after this meeting, there were various meetings and discussions between senior management at Nexus, as you can imagine, and a view was expressed by some - and this is certainly a view expressed by Mr Sanchez - that the true catalyst behind the  
10 ministerial meeting and the threats regarding the project was the application that had been filed in the Industrial Relations Commission seeking to challenge the CFMEU entry notices. It is appropriate on that point, because we are on the application - this answers your question, Commissioner. My learned junior has passed me a note. Your question is when that application was listed. On 20 February, Hall Payne  
15 advises the registry of the Queensland Industrial Relations Commission -

**COMMISSIONER:** That's Tuesday the 20th?

**MR WHEELAHAN:** Yes - that it is unavailable for an urgent conciliation on 22,  
20 23 and 28 February, and the application was not listed. So coming back here. If the operator could bring up Mr Sanchez's statement at page 5, paragraph 6, and whilst doing so, I'll just repeat what I said before I -

**COMMISSIONER:** I just don't quite understand. I've got knowledge of industrial  
25 tribunals all round the country, but I don't understand why that wouldn't have happened quickly, despite Hall Payne saying they weren't available.

**MR WHEELAHAN:** Well, I can't assist with an answer.

**COMMISSIONER:** Anyway, it might be something you might want to look into.  
30

**MR WHEELAHAN:** Now - again, these are all critical moments of today's evidence. So after the ministerial meeting, he says and I will read it:

35 "I told them I believed that the ministerial intervention was triggered..."

And I will paraphrase it - by the application to the Queensland Industrial Relations Commission:

40 "After Mr Witheriff suggested it..."

And I just remind you, he was the chair of Nexus Infrastructure Pty Ltd:

5            "...the group instructed me to withdraw the application. I instructed our lawyers to discontinue the Application after that meeting. The only reason we did so was because of the threat made by Minister Grace to terminate NDJV's contract and with the intention of smoothing the relations with the Ministers and CFMEU."

10            Now, whatever opinions might have been held by various Nexus staff as to the motivation behind the ministerial meeting, it's a matter of fact that Nexus made the decision to discontinue it, and it was discontinued the next business day, being Monday, 26 February, the ministerial meeting being on the Friday.

**COMMISSIONER:** And Hall Payne said, "We weren't available up until the 28th."

15            **MR WHEELAHAN:** Yes.

**COMMISSIONER:** And it never got listed.

20            **MR WHEELAHAN:** Yes. So that is the very next business day after the meeting in which Minister Grace allegedly threatened to terminate the contract or take it off Nexus if they did not work with the CFMEU or reach agreement with the CFMEU. I use the two versions, because the witnesses will speak for themselves about the recollections.

25            If I can go to paragraph 40, Mr Operator, in the same statement that you are. So this is his statement, which I expect him to adopt as sworn evidence, Mr Sanchez:

30            "Very early in the meeting, Minister Grace clearly said words to the effect of, 'You have to reach an agreement with CFMEU or we will terminate your contract.' She did not say what type of agreement, but she did say that we needed to reach agreement with the CFMEU. She did not suggest that she could 'consider' termination of the contract - rather, she stated directly that the contract..."

35            And then he's bolded:

"...would be terminated."

40            Emphasised. And again I remind you that his evidence will be that - this is a man who's worked around the world - that this is the type of thing he would expect in a third-world country.

Now, union interaction post the ministerial meeting. Mr Sanchez will then discuss the industrywide campaign which began in late March 2018, so the very next month, whereby CFMEU officials would attempt to enter -

5 **COMMISSIONER:** Does it follow - and it might be you haven't looked into this, but does it follow because the application was withdrawn, because there'd been 33 right-of-entry requests by the CFMEU and because Workplace Health and Safety Queensland had directed, in that very broad way, the joint venture to allow entry to, I think, four named organisers in that - again, without reasons in an unrestricted way,  
10 that those organisers were then free to enter in accordance with the inspector's direction, because the application to, in effect, overturn that had been withdrawn?

**MR WHEELAHAN:** So the answer properly and legally for you, Commissioner, is twofold. If the CFMEU officials were to follow the law and enter legally under, for  
15 example, their federal permits, show them, and then follow the safety induction onto site, then yes. But what I'm moving to now is they didn't choose that path; what they chose is a provision which Ms Jacqueline King talked about, this campaign to enter - it's called section 81(3) under the Work Health Safety Act, the state Act. And the evidence will be that this new entry campaign was again refused by Mr Sanchez,  
20 because (a) they didn't have - they wouldn't show their federal entry permits, if they had one; (2) they wouldn't participate on any safety induction onto the site. Now, I hope that answers your question, Commissioner.

**COMMISSIONER:** Yes. My recollection of her evidence or Ms Schinnerl's  
25 evidence was largely to that effect, that at some point the CFMEU adopted a policy, and a policy, I think, Ms Schinnerl said was supported, in her view wrongly, by WHSQ, of using state laws to avoid the requirements of federal law to enter federally regulated workplaces. And relevantly, I think she said three things: (1) it meant you didn't need a permit that you were a fit and proper person to enter; (2) you didn't  
30 have to have a suspected contravention; and (3) - I can't remember the third, but at least the first one was the important one.

**MR WHEELAHAN:** Yes. When you say "it meant", the CFMEU viewed it as it  
35 meant we didn't need to have the permit.

**COMMISSIONER:** We didn't need a federal - yes, you're quite right.

**MR WHEELAHAN:** I'm going to get to that.

40 **COMMISSIONER:** Yes.

**MR WHEELAHAN:** So that's a view they took, and both those witnesses you referred to - that's right, it was a campaign. It was a campaign. And I think - I'll get

to it, but I think Ms King talked about them seeing it as - they just went holus-bolus, I think were her words, on recruiting drives. And all this ties in again - this is a civil project, civil construction, AWU dominant. And then we have this extraordinary number of CFMEU attempts to enter site under the state Act. And if you line it up  
5 with Ms King's evidence and what was happening in Brisbane and other places, it's a recruitment drive is how it was described by Ms King. So I'll go back to where I was. He'll discuss the industrywide campaign. Late March -

**COMMISSIONER:** What have you pulled - someone has pulled something up.  
10

**MR WHEELAHAN:** It's the King transcript. I didn't ask for it.

**COMMISSIONER:** Could you just show me that, please.

**MR WHEELAHAN:** That's all right. The operator is ahead of me. Must have a very good memory. If we can bring that up, please. So this is Ms King on transcript. I'm just paraphrasing. The CFMEU - we had been advised by a number of affiliates that the CFMEU had been using 81(3), which is referring to the provision of the state Act, in particular - I'm paraphrasing - to access workplaces they didn't have  
20 eligibility to enrol members. Then she refers to the strict requirements of other provisions where you do have under a permit, and she says this:

"So if you have a permit, you can only access those workplaces where you have eligibility rules to enrol a member of a union, whereas they were using  
25 these others just to go holus-bolus into any workplace and recruit - and use it to recruit or otherwise."

**COMMISSIONER:** I think the operator picked up you remembering holus-bolus and just searched for holus-bolus and found that.  
30

**MR WHEELAHAN:** Of course. Yes.

**COMMISSIONER:** I got it wrong. I thought there were three things. And I got one of them right. There were only two. You had to have a permit under the federal law, and under the federal law you can have only access those workplaces where you have the eligibility to enrol a member of the union, and the implication being these officials didn't have a federal permit and didn't have capacity to enrol  
35 members - employees working on civil work. Now, that might be right or wrong, that proposition, but that's at least these the rules under the federal regime that were avoided by going under the state regime.  
40

**MR WHEELAHAN:** So if I summarise the approach that the CFMEU took, and this will become evident, and I will be playing some video of their view of how

things operated. On their view, any union official, whether they had a valid entry permit or not, if they were there to "represent a party to an issue", because that's part of the provision, union officials arrive at site, purport or say they're entering under section 81(3) to discuss an issue that had allegedly been raised by one of their  
5 members. They would not identify the member, and nor would they identify the issue. Nor would they show federal entry permits. And on the particular matters on this project, of which we have evidence from the witnesses and video, they wouldn't even undergo induction, even if they were able to fulfil all those things, because they had a belief that section 81(3) just allowed them the entry on the terms that they  
10 describe.

Now, adding to - I recall Ms King - there were proposed amendments to this provision, and her evidence was that you'll recall the CFMEU opposed amendments to section 81(3). Their position, the CFMEU position, is someone didn't require a  
15 permit to enter a work site under the state Act section 81(3). Now, ultimately, section 81 and other related provisions were amended. Those amendments came into force on 28 March 2024. The details of that will be explored at a later date. It's quite technical. Suffice to say that this campaign pre-dated the amendments. However, I will take you to a little bit of law.

20 Prior to these amendments, as a matter of law it was never the case that section 81(3) permitted entry by a union official without a permit. So much was made clear - and I will have the operator bring up one decision, which is in the common bundle at page 10. If you can just enlarge the heading, to the members of the Full Federal Court of  
25 Australia. This is referred to as the Bruce Highway Caloundra to Sunshine Upgrade case, Justices Reeves, Charlesworth and O'Callaghan, delivered 24 November 2020. I'm just going to take you to the two critical points for our purposes. On page 14, Mr Operator, at paragraph 2, one of the specific questions considered by the court was:

30 "Does section 81(b) of the Work Health and Safety Act confer a 'right to enter premises' within the meaning of section 494(2) of the federal Fair Work Act?"

And the answer to that question is recorded at page 19 at paragraph 27. Now, if I can show page 14 - sorry, not page 14. We can take that down, Mr Operator.

35 So the Toowoomba project - so we have the campaign going on. You've heard Ms Schinnerl, Ms King and now these witnesses talk about this campaign. And Toowoomba project was not immune to it. You will hear evidence that late March 2018, the CFMEU sought entry to the Toowoomba project pursuant to this provision.  
40 But what's of concern is that Workplace Health Safety Queensland inspectors supported the CFMEU in the campaign. Indeed, on 27 March 2018, Mr Sanchez, Commissioner, in his personal capacity, was issued with an improvement notice,

effectively requiring him to allow some CFMEU officials, who were purporting to enter under the state legislation section 81(3), onto site.

5 Now, Mr Sanchez, he stood his ground. On legal advice, he refused to allow those officials on until at least they showed their entry permits. Now, as can be seen - and I will show you in a moment with a video - they didn't, and he called the police to have the union officials removed, and these union officials were ultimately arrested by the police for trespassing and provided move-on notices. I might, before I play the video, go to the statement, Mr Operator, of Mr Sanchez at paragraphs 60 to 63.  
10 It's a bit too long, isn't it? Why don't we do 60 and 61 first.

So the reason I bring this on screen is because, Commissioner, it ties in some of your other questions. So, yes, on 27 March, the same four CFMEU officials, the previous day, they turn up again, but you see the last sentence:  
15

"I asked the CFMEU officers what the safety issue of concern was, but the CFMEU officers could not provide anything other than a few things like 'uneven ground in the access from the car park' at Bridge 12."

20 So that happens at 8 or 9 am. Then at 1 pm, Workplace Health Safety inspector Jason Plath, he issues an improvement notice personally to Mr Sanchez.

**COMMISSIONER:** Sounds like a strange thing to do. Why would you - well, maybe I don't know the practice of WHSQ, but you would normally direct it to the - what's the term of art - the person conducting a business, undertaking. The corporate entity.  
25

**MR WHEELAHAN:** Yes, yes. So in the time that we've had, we haven't spoken to that inspector yet, but obviously we need to make inquiries, and, look, there may well be a perfectly reasonable explanation as to why you serve notices on individuals within a company.  
30

**COMMISSIONER:** Maybe, yeah.

35 **MR WHEELAHAN:** There might be. Now, paragraph 62. So we're now skipping to 2 pm, same day, the officers again, without authorisation, they enter, and they head off to what was called Bridge 12 and Bridge 11 unescorted. Now, I emphasise that, because as you well know, you have an induction, and wandering around a construction site unescorted is probably not - even in the CFMEU's own doctrine of a safe workplace is probably not very safe. Now, the CFMEU did not mention Bridge  
40 11 as being the subject of any safety concern:

"As they arrived on site, a worker climbed to the soffit in the headstock (the underside of the beams joining the piers supporting the bridge) of Bridge 11 without the proper working at heights safety gear."

5 And then the inspectors and the CFMEU highlight that as a safety issue for the project. Now, finally, 63, police were called and they again removed the CFMEU officers from site without resistance by them. And he was told that the police issued a 48-hour restraining order to the CFMEU officers.

10 Now, what I'm going to do next, Commissioner, with that background, we're going to take - I'm going to have played a video taken by the relevant police officers, and I'll play it through once and then I'll go back, because there's a bit of noise, but I need to highlight some significant issues. It's taken through the bodycam of the officers and shows the inspectors and the CFMEU officials and ultimately the arrest of the  
15 CFMEU officials by the police. It's not very long, so the first part - I might just play the entire clip that we have. I might call it for tender purposes Clip 1. And Mr Operator, if you can play Clip 1. I should - sorry, just pause. The sound comes on about 6 or 7 seconds in. That's why it's silent.

20 (Video played).

**MR WHEELAHAN:** Just pause, please. I said I wouldn't but I can't help myself. This is Bridge 11. Play. You will see the date top right-hand corner, Commissioner. Now, Commissioner, what was just played, I would like to tender now and call  
25 it - have you got the note? It's an extract of the full video. I want to call it TSRC-1.

**COMMISSIONER:** What's the date of the video?

**MR WHEELAHAN:** 27 March 2018. Do you need any further description?  
30

**COMMISSIONER:** How do I describe the location of the video?

**MR WHEELAHAN:** Bridge 11 at the - we should use the name we're using for the project. Bridge 11, Toowoomba Second Range Crossing.  
35

**COMMISSIONER:** Is there any objection, Mr O'Grady?

**MR O'GRADY:** No.

40 **COMMISSIONER:** Mr de Jersey?

**MR DE JERSEY:** No, Commissioner.

**COMMISSIONER:** Extract of video 27 March 2018 at Bridge 11, Toowoomba Second Range Crossing project showing removal by police of the CFMEU officials will be TSRC-1.

5 **<EXHIBIT TRSC-1 EXTRACT OF VIDEO 27/3/2018 AT BRIDGE 11,  
TOOWOOMBA SECOND RANGE CROSSING PROJECT SHOWING  
REMOVAL BY POLICE OF CFMEU OFFICIALS**

10 **MR WHEELAHAN:** Now, what I need to do - obviously that's just played. There are going to be five parts which I've timestamped, which I then will play and talk about and will seek to tender each as part 1, part 2, part 3, as individual clips. I can give you the -

15 **COMMISSIONER:** Sorry, you go.

**MR WHEELAHAN:** Yes, so I could do it now, because we have played the entire mark. I would like from the zero mark to 2:48 to be tendered as an extract exhibit, TSR-2, and you might call it part 1.

20 **COMMISSIONER:** TSRC-2?

**MR WHEELAHAN:** Yes, sorry, yes, Commissioner. And that's from zero minutes to 2:48, but it will be its own individual clip.

25 **COMMISSIONER:** Yes.

**MR WHEELAHAN:** Secondly, TSRC-3 (Part 2), and that's from the five-minute mark to 5:11.

30 **COMMISSIONER:** Yes.

**MR WHEELAHAN:** TSRC-4 (Part 3) from 6:50 to 7:20.

35 **COMMISSIONER:** Yes.

**MR WHEELAHAN:** TSRC-5 (Part 4) from 8:30 to 8:40. And TSRC-6 (Part 5) from 9:03 to 9:10.

40 **COMMISSIONER:** What did you just tender as - what you've just tendered as TRSC1 without objection is a broader extract of the various parts that you now seek to tender; is that correct?

**MR WHEELAHAN:** Correct.

**COMMISSIONER:** So I take it there's no objection to that course?

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

5

**MR DE JERSEY:** No objection.

**COMMISSIONER:** So exhibit TSRC-2 will be an extract of TSRC-1 (Part 1) from the start to 2:48.

10

**<EXHIBIT TSRC-2 EXTRACT OF TSRC-1 (PART 1) FROM THE START TO 2:48**

**COMMISSIONER:** Exhibit TSRC-3 will be an extract of TSRC-1 (Part 2) from 5:00 to 5:11.

15

**<EXHIBIT TSRC-3 EXTRACT OF TSRC- 1 (PART 2) FROM 5:00 TO 5:11**

**COMMISSIONER:** Exhibit TSRC-4 will be - is an extract of exhibit TSRC-1 (Part 3) from 6:50 to 7:20.

20

**<EXHIBIT TSRC-4 EXTRACT OF TSRC-1 (PART 3) FROM 6:50 TO 7:20**

**COMMISSIONER:** Exhibit TSRC-5 is an extract of TSRC-1 (Part 4) from 8:30 to 8:40.

25

**<EXHIBIT TSRC-5 EXTRACT OF TSRC-1 (PART 4) FROM 8:30 TO 8:40**

**COMMISSIONER:** And exhibit TRSC-6 is an extract of TSRC-1 (Part 5) from 9:03 to 9:10.

30

**<EXHIBIT TSRC-6 EXTRACT OF TSRC-1 (PART 5) FROM 9:03 TO 9:10**

**MR WHEELAHAN:** Yes. Thank you. Now, two things, Commissioner: (a) I note the time, and I want to go to those parts of the videos and make some contentions about what's said and identify certain people. Secondly, in due course, at the end of the day, I will tender just the whole video. I think it's nine minutes or so.

35

**COMMISSIONER:** Didn't you just do that as TSRC1?

40

**MR WHEELAHAN:** No, TSRC1 was a compilation of the clips running as one video.

**COMMISSIONER:** Well, I have misidentified all the other exhibits, then.

**MR WHEELAHAN:** Pardon?

5 **COMMISSIONER:** I've misidentified all the other exhibits.

**MR WHEELAHAN:** Well, let me just - Mr Operator, I was advised that those parts could be compiled, and it was played as one track by the operator. Perhaps I revisit it after the break to find the technical issues of how that should be done.

10

**COMMISSIONER:** You don't have to remark the exhibits. That's fine.

**MR WHEELAHAN:** Don't have to. Okay. All right.

15 **COMMISSIONER:** It might be that you just - what you do is simply withdraw the tender of whatever you tendered as TSRC1 and ask to insert the full over-nine-minute video clip as TSRC1. I doubt that Mr O'Grady and Mr de Jersey will object to that. Then my markings of exhibits TSRC1 through to 6 will be accurate.

20

**MR WHEELAHAN:** Okay, I do that, Commissioner. I tender the entire video.

**COMMISSIONER:** Do you want to do that after the break?

25 **MR WHEELAHAN:** Yes. Could we have a break of the usual 15 minutes? I know I've gone over.

**COMMISSIONER:** Yes. Very well. We'll adjourn till quarter to 12.

30 **<THE HEARING ADJOURNED AT 11.29 AM**

**<THE HEARING RESUMED AT 11.45 AM**

35 **MR WHEELAHAN:** Commissioner, if I could deal with the tender that I just undertook. The first tender, it just needs the words "compilation of extracts" in it, and all those tenders were properly made. So the TSRC1 -

**COMMISSIONER:** That's fine, then, because I have just called it extract of video.

40 **MR WHEELAHAN:** Okay. All right.

**COMMISSIONER:** If you want to also tender the full over nine minutes -

**MR WHEELAHAN:** No, I just - as I've done it was correct.

**COMMISSIONER:** All right. Very well.

5 **MR WHEELAHAN:** I'm instructed that the words "compilation of extracts", only because it jumps around, but it's a matter for you.

**COMMISSIONER:** It's described as extract. That's enough.

10 **MR WHEELAHAN:** Okay. Now, Mr Operator, can you bring the video back up on screen. Just start playing it until I ask you to pause it, please. If you can pause at 46 seconds.

(Video played).

15 **MR WHEELAHAN:** Just pause there. Commissioner, evidence later in this case study will be led that the two persons on the left are the Workplace Health Safety Queensland inspectors. The one on the right, female, is Donna Heelan, H-e-e-l-a-n, and to the left of her, Inspector Jason Plath. That's who we believe those persons are.  
20 P-l-a-t-h. So we believe they're the Workplace Health and Safety inspectors. And we'll just play how -

**COMMISSIONER:** So is Ms Heelan the person who later became the acting deputy director-general that Ms Wise gave evidence about?

25 **MR WHEELAHAN:** Yes, I am instructed yes, she was.

**COMMISSIONER:** So she's an inspector in 2018 but later becomes the acting - after Mr McKay left, the acting deputy director-general of the Office of  
30 Industrial Relations for six months or so - or maybe longer. Maybe it was -

**MR WHEELAHAN:** I'm instructed that's correct.

**COMMISSIONER:** I think it was 18 months. All right. Thank you.

35 **MR WHEELAHAN:** But whilst you draw attention to Ms Heelan - Operator, can I bring another document up and return to the video? I can. So on page 113 to the statement - in the exhibit to the statement of Mr Sanchez - sorry, 112. So you'll recall I referred to infringement notices being against Mr Sanchez personally. And  
40 see attachment page 2, again, noting the date, 28 March -

**COMMISSIONER:** Issued by Ms Heelan.

**MR WHEELAHAN:** Issued by Ms Heelan.

**COMMISSIONER:** And her name's on the previous page too.

5 **MR WHEELAHAN:** And issued:

"I am directing you to allow the organisers set out above to enter the workplace in accordance with the rights conferred by s.81(3)..."

10 Which I have taken you to the decision of the Federal Court -

**COMMISSIONER:** Which is wrong.

**MR WHEELAHAN:** Which is wrong. But then not only that, in this video you're  
15 going to hear expressly the union - and I will be stopping it - the union saying, "We are not here exercising our right of entry under the federal permit system."  
Secondly, you will hear, when I slow it down, they didn't do an induction: "We don't have to." So this leads to inferences and lines of inquiry, and certainly Mr Sanchez says it appears that they were working together, and you will remember his evidence  
20 is, "to destroy us". So returning to the video. So we'll just play 46 seconds to - let me finish my description before you play it, Operator - to 1:05. I want you to particularly watch Ms Heelan and Mr Plath.

(Video played).

25

**MR WHEELAHAN:** Just stop, please. You might be at the marker. So 1:05, 1:06, so it's clear so that people can hear. So immediately after the two inspectors shake the hands of the four inspectors -

30 **COMMISSIONER:** The four CFMEU officials.

**MR WHEELAHAN:** - the four CFMEU officials, my mistake - you then hear the direction from the police officer - hopefully it's clear - to move on. If you could just play that and make sure it's clear.

35

(Video played).

**MR WHEELAHAN:** Just stop there. Apart from telling them they have a direction to move on from 48 hours, he says, "Nobody wants you in your cars, so we'll take  
40 you," and then at 1:36 - and I will preface by paraphrasing, you need to listen carefully, is where the police officer notes what is ironic.

(Video played).

**MR WHEELAHAN:** So just pause it there. So in summary - and I won't keep playing it, but my note of what they said, and I'm not saying it's perfect, the police officer notes that it's ironic that you're the health and safety experts, yet you've come  
5 onto site without taking an induction there on site. They haven't taken an induction, according to the evidence that we will lead, and they're meant to undertake an induction. Now, 2:05, if you could just -

**COMMISSIONER:** Could you just tell me, Mr Wheelahan - you might not be able  
10 to tell me, but can you identify who those four officials are?

**MR WHEELAHAN:** I can't individually. So the lines of inquiry within the Commission, we will be able to identify each person in due course. I have the four names because of the notices and the statement, but I can't tell you, for example,  
15 which one is Mr Desmond or - I don't know. I can't say from that, and nor can the witness. So I just want you to play, Operator, from 2:05 - no, you have just played that.

**COMMISSIONER:** The four are Kurt Pauls, Beau Seiffert - is that how I  
20 pronounce his -

**MR WHEELAHAN:** Beau Seiffert. I've got their names here. Hang on. So Kurt Pauls, Beau Seiffert.

**COMMISSIONER:** Beau Seiffert.

**MR WHEELAHAN:** S-e-i-f-f-e-r-t. Marty Albert. And Shaun, S-h-a-u-n, Desmond.

**COMMISSIONER:** And you were going over the break to - I asked you a question  
30 about whether any of those individuals had been removed.

**MR WHEELAHAN:** Yes, so either I let Mr O'Grady speak or there's a note. Have  
35 you completed the note? I think we were mid-note when you entered the room, so I might let Mr O'Grady update you.

**MR O'GRADY:** Yes, thank you, Commissioner. So Mr Seiffert: he is no longer an organiser, but I'm instructed he does still have a role within the CFMEU.

**COMMISSIONER:** Do you know what that role is?

**MR O'GRADY:** I think it's some training role, Commissioner.

**COMMISSIONER:** Within the Queensland and Northern Territory branch?

**MR O'GRADY:** As I understand it. Mr Albert: he is no longer employed by the Queensland branch, and we are making inquiries to ensure he's no longer - or to see  
5 whether he's employed anywhere else, but he's no longer employed with the Queensland branch. Mr Desmond: he is no longer employed with the CFMEU, and he doesn't work for any other branch of the CFMEU. And while I'm going through them, there's also reference in the statement to a Mr Hynes.

10 **COMMISSIONER:** The first one was Kurt Pauls.

**MR O'GRADY:** Mr Pauls: he was - you might recall, Commissioner, he was made  
15 redundant by the administrator in August of 2025. So he was - Mr Pauls was the subject - as indeed was Mr Albert, as I recall it - was the subject of evidence from Mr Watson.

**COMMISSIONER:** Right.

**MR O'GRADY:** And you might recall we went - I went through some of these  
20 names at that point in time. So Mr Pauls is no longer employed. He was made redundant by the administrator in August of 2025, and you will recall, Commissioner, the way in which the administrator explained that as being (indistinct).

25 **COMMISSIONER:** Yes.

**MR O'GRADY:** And Mr Hynes is also referred to in the statement, and he resigned  
in January of 2025.

30 **COMMISSIONER:** 2025?

**MR O'GRADY:** Yep.

**COMMISSIONER:** Thank you.  
35

**MR WHEELAHAN:** Now, before you play it, just paraphrased from what we've  
just seen, the police officer noting, "You need an induction to come in here." Saying  
to the officials, "You're breaching your own rules." The CFMEU official saying,  
"We're following the Act." As we know, that's ultimately wrong. And at 2:37 to  
40 2:49 - can we play 2:37 to 2:49, please.

**COMMISSIONER:** So did I get this right, Mr O'Grady: three out of the four of  
those men are no longer employed by the Queensland branch.

**MR O'GRADY:** Yes.

5 **COMMISSIONER:** One of them is still employed but not in what you might call an outward-facing role. Internal role, training role.

**MR O'GRADY:** Yes, and certainly not as an organiser.

10 **COMMISSIONER:** Not as an organiser. Yes. Thank you.

(Video played).

15 **MR WHEELAHAN:** So I'll just replay that again so you can hear it and I'll tell you: (a) no right to be here, the police instructing the officials; secondly, wasting everybody's time; thirdly, "We don't want to be here day after day," and that's important because of the volume of these entries and the evidence that you've heard that they're just turning up every day. So if we can just play 2:37 to 2:49 so the Commissioner can hear that for himself.

20 (Video played).

**MR WHEELAHAN:** Right. The next clip, 5:00 to 5:11, and you will hear the police officer again describe what is ironic. He'll tell them, "Let's go." And the officials say "no", in substance. So if we can play at 5.00.

25 (Video played).

**MR WHEELAHAN:** 6:51 is the official move-on direction. I think we've heard that enough. We'll play 6:51 to 7:09. The move-on direction, the police says, "We've got to go." The police tells them they are trespassing.

30 (Video played).

35 **MR WHEELAHAN:** Right. You can hear that: "Don't want to you have to arrest you, force our hand, you are trespassing." Now, the next part is critical. 8:33 to 8:40, the union official sitting on the left. This is where - and you carefully listen - he says, "We're not here under the federal entry permit." And that is what colours it all. If they're not here under the federal entry permit, couple that with these notices from the two inspectors, personally to Mr Sanchez - and I should  
40 correct the record. It's Mr Blanco. I've been calling him Mr Gomez. I apologise. But apparently the tradition for the Spanish use of names, although the name is typed Mr Blanco Gomez, the correct way to state the name is "Mr Blanco". So I apologise for that and correct that.

**COMMISSIONER:** You said you couldn't read Spanish either, Mr Wheelahan, so -

5 **MR WHEELAHAN:** Well, we're even. You can call me Mr Patrick too from here on in. We'll be even again. So 8:33 to 8:40. If you can't hear it, because it's important - if we can play that, please.

(Video played).

10 **MR WHEELAHAN:** Stop. Did you hear that? I'll replay that again. He says, "We are not here under any right of entry." Could you play it again, please.

**COMMISSIONER:** I heard that bit.

15 **MR WHEELAHAN:** You did. All right. Well, I will move on.

**COMMISSIONER:** He didn't say "federal right". He didn't say "federal permit". He said "right of entry".

20 **MR WHEELAHAN:** We'll play that one more time. Play that same part, Mr Operator.

(Video played).

25 **MR WHEELAHAN:** Okay. "Party to an issue", which goes back to those constructions about the provisions. So I've almost finished the opening now. A few more minutes. Mr Sanchez applied, recapping for a review of the Workplace Health Safety Queensland - sorry, this is a different one - of the improvement notice against him personally. Now, that's a process which by law, Commissioner, stays its  
30 operation; however, the following day -

**COMMISSIONER:** So what are you talking about now?

**MR WHEELAHAN:** The improvement notice issued against him personally.

35

**COMMISSIONER:** The one you just took me to from Ms Heelan?

**MR WHEELAHAN:** I think it's Mr - is it that particular one? No, it's the one before that, Mr Plath, P-l-a-t-h.

40

**COMMISSIONER:** Okay.

**MR WHEELAHAN:** But for present purposes, what is important is this. So after the improvement notice, the following day, the inspectors arrive at site and then issue Mr Sanchez with a -

5 **COMMISSIONER:** Sorry, we're now the week after the ministerial visit?

**MR WHEELAHAN:** Yes, yes, this is all from - this is now in March. So you have the -

10 **COMMISSIONER:** Sorry, we're a month after.

**MR WHEELAHAN:** - the ministerial visit, and then to recap, we then have this campaign of using the state Act and the Jacqueline King and so forth, enter sites, no permit, as you've just heard. Oh, there's an issue, so we're coming on site. Won't tell  
15 what you the issue is or who they're seeing, and so forth.

**COMMISSIONER:** It gets to 27 March, which is the video, so we're a month on from the ministerial visit.

20 **MR WHEELAHAN:** Yes, correct, and they've called the police. They've been arrested, and then you see the two inspectors there, and Mr Sanchez being issued an improvement notice -

**COMMISSIONER:** On the same day?  
25

**MR WHEELAHAN:** Is that right? Yes. And then, in industrial terms, it's like having the injunction. You've got to test the picket. So what happens the next day? It all happens again. But what the inspectors do - and this is why Mr Sanchez has the view that it was the inspectors with the CFMEU, acting together - they then issue a  
30 prohibition notice - sorry, a personal infringement notice. Now, that is despite the fact that by applying for a review of the improvement notice, it's stayed as a matter of law. Now, whether the inspectors understood that or not, again, a line of inquiry. That infringement notice - you're correct, Commissioner - issued by Inspector Donna Heelan on 28 March, and that's the document I took you to earlier.

35 **COMMISSIONER:** Yes.

**MR WHEELAHAN:** Now, let me finish on this: there's then evidence that Mr Gomez, he will give evidence of getting not only notices directed personally to him  
40 by the regulator -

**COMMISSIONER:** Is it Mr Gomez or Mr Blanco?

**MR WHEELAHAN:** Sorry, Mr Blanco. Thank you - on Sunday nights. So in particular in around May 2018, he begins receiving notices addressed to him personally. They include notices to give information, improvement notices. He recalls three or four of them, and a number of them were emailed to him on Sunday nights, and an example of that is annexed at page 129 of his statement. EG-10(ii) is the exhibit number.

**COMMISSIONER:** Well, this now is after Ms Burgess starts in April 2018, if you're up to May 2018. Is that right?

10

**MR WHEELAHAN:** Yes.

**COMMISSIONER:** When I say "starts", is acting director of construction and -

**MR WHEELAHAN:** I understand. So can we go to the - yes. So here we have - so last time I showed you a notice to Mr Sanchez. This is one individually to Mr Gomez.

**COMMISSIONER:** Mr Blanco.

20

**MR WHEELAHAN:** Mr Blanco. I will get it right by the end of the day. And whilst I'm at this, Mr Operator, because it's relevant in terms of names that you've already heard, the previous exhibit, you will see a notice to give information to the regulator, page 121. This is a document, 2 May 2018, signed by Marc James Dennett, because you're going to hear a bit about Mr Dennett in forthcoming hearing blocks, I expect.

Now, Mr Blanco states he was surprised to receive these notices in his personal capacity rather than them being directed to Nexus. Secondly, he was surprised to receive them on Sunday nights. Now, taken on its own - we can remove those, Mr Operator - a few notices being sent on a Sunday night might just speak to an inspector catching up on work. However, the question as to whether, when viewed collectively with the other evidence called, it might suggest that this is another example of the regulator being weaponised to benefit the CFMEU, and that's a matter that we'll inquire into further during the course of this case study. Now, I now propose, Commissioner, to call Mr Jose Antonio Sanchez.

**COMMISSIONER:** Is Mr Sanchez in the hearing room? There he is at the back. Mr Sanchez, would you come forward into the witness box, please.

40

<**JOSE ANTONIO SANCHEZ, SWORN**

<**EXAMINATION BY MR WHEELAHAN**

**COMMISSIONER:** Mr Sanchez, please take a seat. Mr Wheelahan will ask you some questions now.

5 **MR WHEELAHAN:** Please state your full name.

**MR SANCHEZ:** Jose Antonio Sanchez.

10 **MR WHEELAHAN:** And you have signed a sworn statement of 75 paragraphs for this Commission; correct?

**MR SANCHEZ:** Correct.

15 **MR WHEELAHAN:** And exhibits JAS-1 through to JAS-9; correct?

**MR SANCHEZ:** Correct.

20 **MR WHEELAHAN:** And at paragraph 60 of that statement, there's a typographical error to be fixed at the fourth line, where we refer to - if we can blow it up - paragraph 60, page 6 of 9 of the statement, fourth line says Inspectors Jason Plath and Donna Heelan says "are in attendance". That word should be "were in attendance." Correct?

25 **MR SANCHEZ:** Yes.

**MR WHEELAHAN:** Now, with that change, is the statement true and correct in every particular?

30 **MR SANCHEZ:** Yes.

**MR WHEELAHAN:** Commissioner, I tender that statement and the annexures thereto.

35 **COMMISSIONER:** And will this become TRSC-7 or do you want some other form of nomenclature?

**MR WHEELAHAN:** That's fine.

40 **COMMISSIONER:** Any objection, Mr O'Grady?

**MR O'GRADY:** No, Commissioner.

**COMMISSIONER:** Mr de Jersey?

**MR DE JERSEY:** No objection.

5 **COMMISSIONER:** Witness statement of Jose Antonio Sanchez made 16 April 2026, nine pages, 75 paragraphs, with nine annexures, as amended in the witness box at paragraph 60 will be TSRC-7.

10 <EXHIBIT TRSC-7 WITNESS STATEMENT OF JOSE ANTONIO SANCHEZ MADE 16/4/2026, NINE PAGES, 75 PARAGRAPHS, WITH NINE ANNEXURES, AS AMENDED IN WITNESS BOX AT PARAGRAPH 60

**MR WHEELAHAN:** Thank you. Mr Sanchez, you're a civil engineer by profession?

15 **MR SANCHEZ:** Yes.

**MR WHEELAHAN:** And how long have you worked in the construction and civil engineering business?

20 **MR SANCHEZ:** 39 years.

**MR WHEELAHAN:** Across the world?

25 **MR SANCHEZ:** Yes.

**MR WHEELAHAN:** If you can tell the Commissioner where you've worked with your major projects.

30 **MR SANCHEZ:** Yes, I worked like 20 years in Spain and originally from Spain. Throughout that time I have also worked in some other places out of Spain like Algeria, Tunisia, Chile. And I came to Australia in 2008, and I have been working in Australia ever since.

35 **MR WHEELAHAN:** All right. From 2008 in Australia, where have you worked?

**MR SANCHEZ:** I worked in Western Australia in a desal plant with a company, Spanish company, called Sacyr. Then from 2014 to 2023, I worked in Acciona in Queensland, first doing the Legacy Way Tunnel then Toowoomba Second Range Crossing and then Brisbane Metro.

40 **COMMISSIONER:** You will just have to give me the name of those three projects with Acciona again, please, Mr Sanchez. I just missed the first one and third one.

**MR SANCHEZ:** First one was Legacy Way Tunnel in Brisbane. The last one, the third one, was Brisbane Metro.

**COMMISSIONER:** Thank you.

5

**MR WHEELAHAN:** All right. So the Toowoomba Second Range Crossing, July/August 2015 and May 2018.

**MR SANCHEZ:** Yes.

10

**MR WHEELAHAN:** And you were the project director.

**MR SANCHEZ:** Yes.

15 **MR WHEELAHAN:** All right. Can you tell the Commissioner, in broad terms, about the Toowoomba Second Range Crossing project?

20 **MR SANCHEZ:** So it is a 41 kilometres, greenfields road. 22 kilometres, more or less half of that, is dual carriageway, across the Toowoomba Range, so the Great Dividing Range. And the other 21 kilometres is single carriageway, up to Warrego Highway. So it is a project with 25 bridges, about 20 million cubic metres of cut to fill. So quite a significant project.

25 **MR WHEELAHAN:** Was it one of the most significant projects you've worked on in your career?

**MR SANCHEZ:** I think so, but this is one of a kind. You know, I don't get to do 41 kilometres of greenfield nowadays.

30 **COMMISSIONER:** Why do you say it's one of a kind?

**MR SANCHEZ:** In the sense that it is quite difficult now to do 45-kilometre road greenfield. You may do widening, something like that, but completely greenfield, it's a bit one of a kind, yeah.

35

**MR WHEELAHAN:** And what were the most significant challenges that you faced as project director?

40 **MR SANCHEZ:** Well, I think probably the most significant one was all the issues with Workplace Health and Safety and CFMEU in the last year. From a technical perspective, I would say it was a very fast-paced project, so those 21 kilometres of cut to fill, we excavated them in 13 months, more or less, which meant that we had,

like, around 200 pieces of gear, excavators, trucks, at any given time during that time, so it was a bit of a challenge from a logistical perspective.

5 **MR WHEELAHAN:** I thought the most significant issue might be the terrain and the movement of excavation works, but you said that actually industrial relations was first. Can you talk about the early interactions with unions? And when I say early, I want you to start at around August 2016.

10 **MR SANCHEZ:** Yes. So around August 2016, August/September, we started construction on site, construction activities on site. The CFMEU started to come around every now and then. They were not causing a lot of disruption at that point in time, and the Workplace Health and Safety would also come to site. Sometimes we would call them just to discuss some aspect in terms of safety to make sure that we were aligned with what they were expecting. Sometimes we would call them  
15 because there was some kind of disagreement with the CFMEU. But at that point in time, I would say the relationship was normal from my perspective.

**MR WHEELAHAN:** And the Australian Workers' Union?

20 **MR SANCHEZ:** So AWU, their industrial instrument we were using was an AWU agreement with Acciona. The relationship with AWU was pretty good. They didn't come to site very often, but they would always abide by the rules when they came.

25 **MR WHEELAHAN:** All right.

**COMMISSIONER:** You said it was always by the rules?

30 **MR SANCHEZ:** Yeah, so they would always abide by the rules on site, giving us the appropriate notice and all that. So they were - yeah, they were acting properly, in my view.

**MR WHEELAHAN:** So when you say "proper rules", "appropriate notice", do you mean anything else? What are the rules?

35 **MR SANCHEZ:** Yes, so basically it is notice - normally - so AWU never came under the 117. They always came under a 120. From memory, I think that means that they had to give us 24-hour notice, which they always did, and then they would come to site. If they were going onto site, they would go and have a visitor induction, escorted, meeting workers and all that. So abiding by the rules and the  
40 regulations.

**MR WHEELAHAN:** All right. Now, you also mentioned as significant challenges the regulator. So the regulator's Workplace Health Safety Queensland.

**MR SANCHEZ:** Yes.

5 **MR WHEELAHAN:** I first want you to just talk to your evidence about the early activity and interaction with the regulator before July 2017. How was it before July 2017?

10 **MR SANCHEZ:** So as I said before, July 2017, it was normal interaction with them. They would come every now and then. They would tell us if they saw any issues, any safety issues or anything that we could do better in the job, they could tell us and we would implement that. Or in some cases, we would call them before starting a certain activity and discuss with them the safety arrangements to make sure that they were - we were doing what they were expecting.

15 **MR WHEELAHAN:** All right. I'm going to have paragraph 18 blown up on the screen for you. I went to this paragraph in my opening, and I want to ask you questions about it, because you use quite strong language. In July 2017, you say that this situation changed suddenly, in terms of relationship with Workplace Health Safety Queensland, and you said we went from having a very good and professional  
20 relationship to "feeling as if they had come to site to destroy us". That's very strong language. Why do you say that?

**MR SANCHEZ:** Well, because from that point in time, they were coming to site, somehow playing the game of CFMEU, supporting them in anything that they would  
25 claim, including access to site, and raising a number of - well, a huge number of notices, many of which were very general, very - completely unspecific. You will expect from a notice that it is specific in what you are doing wrong so that you can properly act and fix the issue, but many of them were completely unspecific. So it was playing the game of putting pressure on us.

30 **MR WHEELAHAN:** Did you think the notices that you're referring to were warranted or not?

35 **MR SANCHEZ:** Some of them were. I mean, in some cases they would find something that was a proper issue. But many, many of them were not, were very general in nature and just responding to requests from CFMEU to raise a notice in some cases.

40 **COMMISSIONER:** You said they were, these are your words, somehow playing the game of the CFMEU, supporting them. What do you mean by that?

**MR SANCHEZ:** Yeah, what I mean is that the CFMEU would come to site. They would go to site. They would raise an issue for them from the point of view of

safety. Normally, before July, if we call Workplace Health and Safety to try to mediate on a discussion about that, they will come. And sometimes they will support CFMEU, sometimes they will support us, but they would take a very objective view, from my point of view, in terms of they would form their own opinion. From July  
5 onwards, they would never support us. It was always with CFMEU and in many cases just very generic notices.

**COMMISSIONER:** That must have struck you as very strange, that change. What did you think was going on?  
10

**MR SANCHEZ:** I don't know for sure, but that change happened, as I say in my statement, literally overnight. I still remember a day, some day in July that they came, and I could see, and it was the same inspectors that we were dealing with only two weeks before that.  
15

**COMMISSIONER:** Were the same or were not?

**MR SANCHEZ:** In some cases they were the same. Jason Plath, for example, he was at the beginning working with us very well, and from that day, specific day, the  
20 situation completely - completely changed.

**COMMISSIONER:** Did you ever ask Mr Plath or any of them why the situation had changed?

**MR SANCHEZ:** I had conversations mainly with Amanda, with Mark Houston and Daryl Brooker at that time. They did explain to me that there was - there had been like a change of focus in Workplace Health and Safety to a more proactive in issuing notices and all that. That was the first explanation. But then as I say in my  
25 statement, in the case of Mark Houston, he was very open to me that there were a few - because Mark Houston and his team, they were working with us very closely at  
30 the beginning. They knew that we had some issues with rollovers and things like that. They understood what we were doing in terms of trying to fix that. They were supporting us.

35 And Mark told me at some point in time, as I say in my statement, that him and Daryl Brooker were in Workplace Health and Safety not very happy with the new stance of Workplace Health and Safety, because they thought that, yes, we did have safety issues, but we were doing the right things in terms of trying to fix things. They were well, in the case of Daryl Brooker, he was completely removed from his  
40 position.

**COMMISSIONER:** Mr Brooker was removed from his position?

**MR SANCHEZ:** Yes, following that allegations, and replaced by a different person.

**COMMISSIONER:** Say that last bit again?

5

**MR SANCHEZ:** So he was removed from his position and replaced by a different person.

**COMMISSIONER:** Do you remember who he was replaced by?

10

**MR SANCHEZ:** No, and I had a good relationship with him, but I can't remember his name. Yeah.

**COMMISSIONER:** All right. Was Mr Brooker the predecessor to Ms Burgess in that position of director of construction and field services?

15

**MR WHEELAHAN:** My learned junior says yes.

**COMMISSIONER:** And who was the second person you said you had - not Mr Houston. You said Mr Brooker, someone else and Mr Houston. Or did I get that wrong?

20

**MR SANCHEZ:** The two men were Mr Brooker and Mr Houston that I was talking to.

25

**COMMISSIONER:** Right. Thank you.

**MR WHEELAHAN:** So just coming back, at paragraph 21, this abrupt change. Explain the regularity and the change from July of 2017.

30

**MR SANCHEZ:** Yes. As I said, so from July 2017, it was both CFMEU and the regulator coming to site almost on a daily basis. The CFMEU would come under 117, right of entry. We generally allowed them on site, even though many of the notices were not specific in terms of what was the safety issue.

35

**COMMISSIONER:** And when you say "came on site with the regulator", are you talking about Mr Jason Plath or someone else?

**MR SANCHEZ:** It would be different people. So Jason Plath was one of them, but there were more inspectors coming to site, yeah.

40

**COMMISSIONER:** Can you remember their names?

**MR SANCHEZ:** Some of them. So Jason Plath was a regular one. Steve Powney, it's in my statement also. Julian Hasted was another one. Yeah, those are the ones that were more regular. Donna Heelan came in in March, but she only came two or three days to site.

5

**COMMISSIONER:** Donna Heelan came in March 2018?

**MR SANCHEZ:** Yes.

10 **MR WHEELAHAN:** All right. So with that background, I need to move you to - and probably for direction, this is paragraph 30 of your statement. We get to this critical period that I want to start at 19 February 2018. And you just mentioned Mr Plath.

15 **MR SANCHEZ:** Yes.

**MR WHEELAHAN:** So why did you make a decision to then challenge the directions from the regulator?

20 **MR SANCHEZ:** So by then we had been a few months with legal assistance to the project, and our lawyers were collecting evidence of all the things that were happening, and they were telling us, "Look, we need to collect evidence so that at the appropriate point in time we will go to the Commission." So that notice instructing us to allow the CFMEU organisers on site was the trigger for them to say, "Okay,  
25 this is the nail in the coffin to some extent that we need to go to the Commission." So they took all the evidence that they have collected before or what I hand them before (indistinct) and took it to the Commission.

30 **MR WHEELAHAN:** All right. So, Mr Operator, I wanted to show 33. So that application was filed - and I have taken the Commissioner to it in the opening - on Monday 19 February 2018, application to the Queensland Industrial Relations Commission; correct?

**MR SANCHEZ:** Yes.

35

**COMMISSIONER:** Could you just go to 32 for a second, Mr Operator?

**MR WHEELAHAN:** We'll bring it up.

40 **COMMISSIONER:** Is there any significance about it being filed on the evening of Monday 19 February, Mr Sanchez?

**MR SANCHEZ:** No, I guess other than - so, as I say, the trigger was receiving that improvement notice. So I guess it would take them some time to collect all the evidence and everything, and they were a little bit late, so there was no - it was the 19th. I think from memory it is stamped as received on the 20th. It could have been the 20th. It was not a matter of one day or the other for us.

**MR WHEELAHAN:** Yes. I see. So JAS-1, Commissioner, at page 2 of the exhibits, has the stamp of the Commission. So it might have been filed on the evening, but it's stamped -

**COMMISSIONER:** Just bring that up, page 2.

**MR WHEELAHAN:** Yes. It's on screen already.

**COMMISSIONER:** I see.

**MR WHEELAHAN:** The stamp is the 20th, but that's not uncommon if it's filed in the evening after hours.

**COMMISSIONER:** It's stamped as received the next day?

**MR WHEELAHAN:** Yes. Now, we then move to 21 February, so the day after the stamping. Take the Commissioner through an incident that occurred.

**MR SANCHEZ:** Yes. So we were building the piers in the viaduct. The methodology for that, the piers were like 55 metres high, so the methodology was that we would do that thing in six-metre-long sections. So we raised the cage of the reinforcement and then put in place the formwork. So when - those cages were fabricated offsite. So when we were doing that with one of the cages, the reinforcement bar dislodged when we were just starting to raise the cage, and it fell to the ground. It was 30 centimetres, more or less. Mind you, still a serious incident, because if that happens 20 metres up, it is a more serious thing, right. So nothing happened. So we had the proper exclusion zone in place and everything. But it was definitely a matter to investigate, of concern, why the weldings have failed, things like that.

That was - as I said, anything that happened at that point in time in the project was blown out. Of course, somebody would call CFMEU very quickly. CFMEU would do their own thing. I don't know whether they would - but at the end it would come to the minister, right. So the following days, when we heard about the minister -

**COMMISSIONER:** You say it was blown up. Blown up by whom?

**MR SANCHEZ:** Again, I don't have evidence, but it was very quickly - so anything that happened on site, particularly in the viaduct, there were of course many workers that were CFMEU members, and we - we found very often that if something happened, it wouldn't take a long time for CFMEU to know and contact us back. So  
5 I can imagine that somebody called them. From then, I don't know what happened.

**MR WHEELAHAN:** What you do know - and this is at 35 - is the following day, at 7.48 am, Minister Grace Grace, and Minister Mark Bailey, as they then were, issued a media release; correct?  
10

**MR SANCHEZ:** Correct.

**MR WHEELAHAN:** And if I just bring part of that media release on screen.

**COMMISSIONER:** Mr Sanchez, you might not know, but what time of day did the incident occur on Tuesday 21 February?  
15

**MR SANCHEZ:** I - I can't remember. I think it was in the morning but I - I can't remember.  
20

**COMMISSIONER:** Sorry, Mr Wheelahan.

**MR WHEELAHAN:** So on that press release at page 75, did you understand or did you take it at face value, did you see this press release?  
25

**MR SANCHEZ:** I don't think I saw it in the day, but I received calls in the day from people -

**MR WHEELAHAN:** Yes.  
30

**MR SANCHEZ:** - that there has been a press release.

**MR WHEELAHAN:** All right. Well, this press release says in part that they want to meet representatives from Nexus and "we want to sit down and hear what they can do to improve safety on the project". What I'm asking is, in your evidence, you've then produced a PowerPoint presentation to deal with safety; is that correct?  
35

**MR SANCHEZ:** Yep.

**MR WHEELAHAN:** And the Commissioner asked in opening, was that prepared between the announcement that the ministers were going to come the following day and the meeting with the ministers?  
40

**MR SANCHEZ:** Yes. So that was in those 24 hours that we prepared the presentation, yes.

**COMMISSIONER:** And who prepared that presentation, Mr Sanchez?

5

**MR SANCHEZ:** Well, it was me and our safety team that were preparing all this. Of course, a lot of the information that we used had been already in other presentations, so we didn't have to produce everything from scratch.

10 **COMMISSIONER:** And how many people were there in your safety team?

**MR SANCHEZ:** At that point in time, we might have had, like, probably 10, 11 people in the safety team.

15 **MR WHEELAHAN:** Now, I'm not going to go through it, because I went through it in my opening, but you've annexed that, as you know, to your witness statement. It goes for some pages, and it's fair to say it deals with safety and what you're doing for improvements and what you have done; correct?

20 **MR SANCHEZ:** Correct.

**MR WHEELAHAN:** Now, I'm going to take you specifically to this meeting on 23 February 2018. Where did this meeting occur with the ministers?

25 **MR SANCHEZ:** So it happened in the - what we call the boardroom, in the site compound the project had in Toowoomba. So we had a big site compound in Toowoomba. We had a number of meeting rooms. The biggest one, we'll call it the boardroom, and that is where this meeting happened.

30 **COMMISSIONER:** So did you lease a house or office or something in Toowoomba town as the site office or did you build something on the site?

**MR SANCHEZ:** We built a site compound, not in the town, but -

35 **COMMISSIONER:** Not in town?

**MR SANCHEZ:** Yeah, close to the project.

40 **COMMISSIONER:** And it was made of shipping containers or something like that or -

**MR SANCHEZ:** Sorry?

**COMMISSIONER:** How did you build it?

5 **MR SANCHEZ:** So that was the typical construction site compounds with crates and things like that, modularised, that you put together and make a big office. It is a typical site compound that we have in big projects. The project team would be there, plus part of the client team also.

10 **COMMISSIONER:** So how many people would normally work at the site compound?

**MR SANCHEZ:** So in that one, that was the main - we had three compounds in different areas. That was the main one. In that one, we might have 170 people, maybe.

15 **COMMISSIONER:** 17?

**MR SANCHEZ:** 170.

20 **COMMISSIONER:** 170 working there?

**MR SANCHEZ:** More or less. And then we had a couple of other compounds in the west and the east for the teams working in those areas. Maybe another 50 people in each of them, something like that.

25 **COMMISSIONER:** And you said you had this meeting in the biggest room in this biggest of the three site compounds?

**MR SANCHEZ:** Yes.

30 **COMMISSIONER:** And how big was that room?

**MR SANCHEZ:** Oh, it would be, like, seven metres by five, 30 square metres, something like that.

35 **COMMISSIONER:** And you had a boardroom table in it?

**MR SANCHEZ:** Yeah, we had a big table in it, yeah.

40 **COMMISSIONER:** And how many people could sit around the table?

**MR SANCHEZ:** That table could sit maybe - comfortably maybe 15 people. And then at that meeting in particular, there was many more people. We had a lot of people sitting around the room.

**COMMISSIONER:** In that meeting you had a lot of people sitting around the room?

5 **MR SANCHEZ:** Yes.

**COMMISSIONER:** So you could sit 15 at the table but others around the perimeter of the room?

10 **MR SANCHEZ:** Yeah.

**COMMISSIONER:** And how many people were sitting in the room, both at the table and around the room?

15 **MR SANCHEZ:** In total, I - I would say about 25, between 25 and 30.

**COMMISSIONER:** Sorry, Mr Wheelahan. I've rather taken over.

20 **MR WHEELAHAN:** And were you seated or standing?

**MR SANCHEZ:** Sorry?

25 **MR WHEELAHAN:** In the meeting with the minister, were you seated at the table that you described or standing?

**MR SANCHEZ:** They were seated at the table.

**MR WHEELAHAN:** Yes.

30 **MR SANCHEZ:** And so was I.

**COMMISSIONER:** How did you work out who got to sit at the table and who sat round the outside?

35 **MR SANCHEZ:** It was - there was no assigned positions or anything like that. So it was a bit informal. So the key senior people from Nexus that were there, Enrique Blanco, John Witheriff, Fernando Fajardo, myself, were sitting at the table. The minister sat at the table. I guess, I can't remember, I guess probably the closest people to the minister would sit at the table also, I imagine. But there was not - that  
40 seating was informal, so nothing (indistinct).

**COMMISSIONER:** How many people did the ministers bring? You say the people closest to the minister?

**MR SANCHEZ:** So with the ministers, I think it was about - I don't know, maybe 15 people, something like that.

5 **COMMISSIONER:** 15 came with the ministers?

**MR SANCHEZ:** I think so, yeah. That included people from Workplace Health and Safety also. So, yeah, around 15 people maybe.

10 **COMMISSIONER:** And some of those people sat at the table with the ministers?

**MR SANCHEZ:** Yes.

15 **COMMISSIONER:** And some of them sat -

**MR SANCHEZ:** At the back.

**COMMISSIONER:** - at the back.

20 **MR SANCHEZ:** Yeah.

**COMMISSIONER:** And in your statement you say - do I assume that all the people who you've mentioned at paragraph 36, Mr Witheriff, Mr Hagan, Mr Fajardo, Mr Blanco and you, were also sitting at the table?  
25

**MR SANCHEZ:** Correct.

**COMMISSIONER:** Do you remember which of the ministers - which of the 15 or so that came with the minister sat at the table with you?  
30

**MR SANCHEZ:** No, no, I can't remember, no. The ministers, clearly, but I can't remember.

**COMMISSIONER:** And how big was this table?  
35

**MR SANCHEZ:** Sorry?

**COMMISSIONER:** How big was the table? The room was seven by five.

40 **MR SANCHEZ:** More or less. So the table will be - it can seat comfortably 15 people. It will be, I don't know, maybe five by two, something like that.

**COMMISSIONER:** And did the ministers sit at the head or did they sit in the middle of the table?

5 **MR SANCHEZ:** They were sitting not at the head and not in the middle. In between the head and the middle.

**COMMISSIONER:** Did they sit next to each other, the ministers?

10 **MR SANCHEZ:** They sat next to each other, yes.

**COMMISSIONER:** And then where were you and Mr Blanco and Mr Witheriff sitting?

15 **MR SANCHEZ:** I was just in front of them, in front of the ministers.

**COMMISSIONER:** Opposite, on the other side of the table?

20 **MR SANCHEZ:** Opposite, on the other side. So same thing. So between the middle of the table and the head. I think Mr Witheriff was sat to my left, so in between the ministers and myself. And from memory I think Mr Blanco was to my right, whether it was close to me or somewhere there.

25 **COMMISSIONER:** And who were the main spokesmen, spokespeople, from your side?

**MR SANCHEZ:** From our side, the main one was John Witheriff and myself.

30 **COMMISSIONER:** And how far distant from you, Mr Witheriff and Mr Blanco to the two ministers were you across the table?

**MR SANCHEZ:** Probably the width of the table, so, like, 180 or two metres.

**COMMISSIONER:** 180 or two metres.

35 **MR SANCHEZ:** Yes.

**COMMISSIONER:** Sorry, Mr Wheelahan.

40 **MR WHEELAHAN:** So you had no issue with hearing what the ministers were saying?

**MR SANCHEZ:** No, no, not at all.

**MR WHEELAHAN:** Not at all. And you've said that you attended prepared and ready to present your presentation.

**MR SANCHEZ:** Yes.

5

**MR WHEELAHAN:** And from the outset of the meeting - you take the Commissioner through what happens in this meeting.

**MR SANCHEZ:** Yes.

10

**COMMISSIONER:** From the time they arrive and sit down, just take it from the top.

**MR SANCHEZ:** Yes. So they arrived. We went to the room. We sat on the table. Then there were some CFMEU organisers present. They did not come into the room. They stayed outside. So we sat at the table. I can imagine, I can't remember, I can imagine that we went through a very quick round of presentations maybe from our end, and then I remember -

15

20 **COMMISSIONER:** Explaining who was who?

**MR SANCHEZ:** Yeah, who was who. Then I remember saying, "Look, we have prepared a presentation of the project and all that." Before I was invited to present, Minister Grace Grace took the stage. She -

25

**MR WHEELAHAN:** Sorry, took -

**MR SANCHEZ:** Took the stage.

30 **MR WHEELAHAN:** Took the stage.

**MR SANCHEZ:** Yeah, so before I started the presentation, she said, "Look" - this is in my statement - "We have come to tell you that you need to reach an agreement with CFMEU or otherwise we will cancel your contract." That was her very clear statement. I can't remember what followed next. I guess we would talk a little bit with them, and then five or 10 minutes into the meeting, I insisted that we had a presentation, and five or 10 minutes into the meeting, I started the presentation.

35

40 **COMMISSIONER:** The presentation of the - that you'd prepared and is in your statement?

**MR SANCHEZ:** Yes.

**COMMISSIONER:** And what response did you get from the ministers?

**MR SANCHEZ:** Well, we went through the whole presentation. They made a few questions. The presentation, as you can see, is organised in terms of saying, look,  
5 first presenting the project in terms of the magnitude of the project. We wanted to make sure that they understood the magnitude of the project. And then there is an acknowledgement that we had had a number of safety incidents that are a concern for us and the actions that we are undertaking or we were undertaking as a result of those incidents to try to improve our processes and our safety on site. We also went  
10 through the, like, a survey that we had done to the workforce, to get their views in terms of what they thought was the situation of safety on site.

So it was all about that. They made a few - a few questions. Some of them we took them on notice, and that triggered a letter on the following day. So, yeah, we went  
15 through the presentation normally, with a few questions and answers from our end.

**COMMISSIONER:** How long did the meeting go for?

**MR SANCHEZ:** I think probably over an hour, an hour and 15, something like that.  
20

**COMMISSIONER:** And at the point at which the minister, Minister Grace, said to you, "You have to reach an agreement with the CFMEU," how far in was that to the meeting?

**MR SANCHEZ:** That was the first - the first five minutes or something like that.  
25

**COMMISSIONER:** Did Minister Bailey speak very much?

**MR SANCHEZ:** He didn't speak very much, or at all. He was sat next to Minister Grace, supporting her, but he didn't - Minister Grace was the one taking the lead in the conversation.  
30

**COMMISSIONER:** And what was your reaction when Minister Grace said to you, "You have to reach an agreement with the CFMEU or we'll cancel your contract"?  
35

**MR SANCHEZ:** Well, I - I was not expecting it, to be honest, but - I don't know if it is appropriate for me to say. I mean, I think -

**COMMISSIONER:** Speak up.  
40

**MR SANCHEZ:** Again, I knew there was a contract in place. I knew it was not that easy to cancel that contract, but I wouldn't - I didn't say that in the meeting, of course. So I was just listening. I didn't reply to that. Neither of us did. Yeah.

**COMMISSIONER:** Leaving aside what you said, what did you think? What was your reaction?

5 **MR SANCHEZ:** Well, what I thought was, "Bring it on." And, "If you want to cancel our contract, if that is the way you want to go, let's go that way." Of course, I didn't say it, but that was my thinking.

10 **MR WHEELAHAN:** And did you have discussions with people after the meeting about that statement?

**MR SANCHEZ:** Yeah. So after the meeting we have an internal meeting with Mr Witheriff, Mr Blanco, Mr Fajardo and myself, and we discussed that topic, yeah.

15 **MR WHEELAHAN:** And at 42, you talk about having many conversations.

**MR SANCHEZ:** Yep.

20 **MR WHEELAHAN:** Expressing your amazement.

**MR SANCHEZ:** And that happened. It was not only after that meeting, of course. After that meeting it was more emphasised, but it happened in over that year, the things that we saw. I was very often telling people that I was not expecting that - I would expect that to happen in an underdeveloped country, and I have worked in a couple of them, but I would never expected that to happen in a country like  
25 Australia. So it was a bit of a disappointment, I guess, for me.

**MR WHEELAHAN:** So what other - so you were comparing Australia to other - what did you say, other countries?  
30

**MR SANCHEZ:** Yeah. I was always saying, look, I would expect this to happen in underdeveloped countries like Nigeria. I wouldn't expect that to happen in a country like Australia. That is what I was usually saying.

35 **MR WHEELAHAN:** And you have worked in underdeveloped countries?

**MR SANCHEZ:** I have worked in a couple of them. I wouldn't call, say, Chile an underdeveloped country. I think they're developed. I have worked in Tunisia, Algeria. Both of them, particularly Algeria, quite underdeveloped.  
40

**COMMISSIONER:** And just going back to the meeting, what was the tone of Minister Grace when she said this to you?

**MR SANCHEZ:** It was very aggressive, in terms of the tone, really aggressive. You know, not friendly at all.

**COMMISSIONER:** And how did she demonstrate that aggression?

5

**MR SANCHEZ:** Well, it was verbal aggression. It was not like she was waving or standing up or yelling or anything like that. It was just the tone, quite aggressive. So not - not open to any discussion or rebuttal or anything like that. It was just straightforward, aggressive: "This is what you have to do. This is what we will do if you don't."

10

**MR WHEELAHAN:** I might move to a related matter, related in a sense. If I can take you to your statement at paragraph - or commence paragraph 65, 28 March 2018. So we're talking the next month following this meeting with the minister, and we know from the evidence that there's an uptick in all these right-of-entry notices. And the personal notice, you will see, you've referred to at 66 from Ms Heelan, being the signatory on that - sorry, if I just go back. In that meeting with the ministers, were there representatives or persons that you know were from the regulator, from Workplace Health Safety Queensland?

15

20

**MR SANCHEZ:** Yes.

**MR WHEELAHAN:** And who from Workplace Health and Safety Queensland was in the meeting, or how do you know that's correct?

25

**MR SANCHEZ:** This person that replaced Daryl Brooker, whose name I can't remember.

**MR WHEELAHAN:** Okay. But they were in that meeting.

30

**MR SANCHEZ:** He was in that meeting, yes.

**MR WHEELAHAN:** Okay. He, sorry. So just take another incident. I want you to deal with 28 March from 2018 from 67 onwards where two CFMEU organisers, you say, entered site at 9 am.

35

**MR SANCHEZ:** Yes. So this was as the same previous days. 26 and 27, we had these two CFMEU organisers that came to our office.

**MR WHEELAHAN:** Did they show their permits at the office?

40

**MR SANCHEZ:** No. And again it was under section 81(3). Our reaction was the same: tell us what is the issue that allegedly we have with the worker, because that's

what section 81 is for. They said, "No, no, we just want to go to site," and they walked into site, into Bridges 12 and 11. We had our general superintendent, Paul Masters, and the superintendent in the area, Mark Phillips. They asked them to leave site. They didn't. So when Peter, our safety manager, who was normally the person  
5 contacting police for these things, he called the police. The police attended site. But that day they refused to move, to remove the organisers from site. So then while all that was happening on site, I was in the site compound, and I received a call from Simon Blackwood.

10 **MR WHEELAHAN:** Who was Simon Blackwood? What position did he hold at that time, to your knowledge?

**MR SANCHEZ:** Yeah, he was the deputy director-general of the Office of  
15 Industrial Relations.

**MR WHEELAHAN:** So we've heard evidence that he might be described as the top dog or his 2IC?

**MR SANCHEZ:** I think - well, he was a deputy, but he was the - in all our dealings  
20 with Workplace Health and Safety, he was definitely the top man.

**MR WHEELAHAN:** All right. So he's called you personally. Take the Commissioner through that telephone call, please.

25 **MR SANCHEZ:** Yes. So he called me on my mobile, and he asked me to take the visitors book to site, to Bridge 12, which is where the CFMEU members were, or organisers were, and also to give them a visitors induction so that they are compliant with the site regulations. I - I answered that they were not on site - they were not  
30 authorised to be on site, and what they had to do is leave the site and come to the office and we are keen to discuss with them whatever safety issue or whatever concern has been raised by any worker.

He - I remember in that call telling Mr Blackwood that the rule of law applied in  
35 Australia, and that is applicable to everybody, including the CFMEU organisers. Then he went on to threaten me with - if I didn't allow them on site, with more punitive and enforcing action by Workplace Health and Safety if I didn't allow the CFMEU organisers on site. I think my answer, "Look, that feels like a threat. Is that what it is?" He said, "No, I'm just telling you that you may be facing consequences."

40 **MR WHEELAHAN:** I just want to conclude, because you pointedly name at paragraph 74 another Workplace Health Safety Queensland inspector, who you describe - you describe as the most problematic inspector. Why do you say that?

**MR SANCHEZ:** Well, he was a difficult person to deal with, so with the other inspectors, you could discuss things. At this point in time, they will still give a notice but you could discuss things. If there was a safety issue, you could discuss with them. This Julian Hasted, to some extent he seemed to like acting on his own.

5

**MR WHEELAHAN:** A what, pardon?

**MR SANCHEZ:** Like acting on his own.

10 **MR WHEELAHAN:** Acting on his own.

**MR SANCHEZ:** He was hammering us with notices. He was threatening us with prosecution every time he came. He was threatening our engineers with prosecution also. So at that point in time, there was an incident in the viaduct, and he had attended site. He had started threatening our young engineers, and when I say young engineers, I'm saying site engineers, 28, 29 years of age probably, threatening them with prosecution. So that was probably the trigger point for me to talk to my - to my boss, to Fernando Fajardo in Acciona, and I told him that probably maybe it would be a good idea for me to leave the project, and maybe that would be, like, a circuit-breaker, and we could avoid that pressure - that pressure being put on our engineers and our broader team.

**MR WHEELAHAN:** And ultimately you then did leave the project around that time?

25

**MR SANCHEZ:** Yeah, about the - early May, I ended up leaving the project.

**MR WHEELAHAN:** Commissioner, there's an application to cross-examine by Mr O'Grady. Can I just -

30

**COMMISSIONER:** I wouldn't mind hearing from the witness in terms of his direct evidence about the conversation he had after the ministerial meeting where he had a conversation about discontinuing the application that had been made to the Queensland Industrial Relations Commission because he believed that the ministerial intervention was triggered by that.

35

**MR WHEELAHAN:** Yes. So paragraph 46 -

**COMMISSIONER:** Do you want to do that after lunch?

40

**MR WHEELAHAN:** I might do that. We've got three minutes, and then I can discuss -

**COMMISSIONER:** You're running to different timetable than I am.

**MR WHEELAHAN:** Are we? I'll do that after lunch.

5 **COMMISSIONER:** Are you going to - if you need to cut into the lunch break, it's fine. I don't mind.

**MR WHEELAHAN:** Well, that one issue, the aftermath of the withdrawal of the application, and then after that, then over luncheon I'll talk to Mr O'Grady about his  
10 cross-examination application.

**COMMISSIONER:** Very well.

**MR WHEELAHAN:** So, Mr Sanchez, you heard the question from the  
15 Commissioner.

**MR SANCHEZ:** Yep.

**MR WHEELAHAN:** Paragraph 46: why was the application to the Industrial  
20 Relations Commission withdrawn?

**MR SANCHEZ:** Yes, so after - just after the ministerial meeting, they left the room, the ministers left the room. They went to meet with the health and safety representatives.  
25

**COMMISSIONER:** Which representatives, sorry?

**MR SANCHEZ:** The health and safety representatives, their workers on site.

30 **COMMISSIONER:** In a different room?

**MR SANCHEZ:** In a different room, and we had stayed in the big room. It was Mr Witheriff, Mr Blanco, Mr Fajardo. I'm not sure if Mr Hagan was in that meeting. He probably was, but I can't remember. We stayed in that room, and I - I told them, I  
35 started with, "Look, there is something that you may not know that I am thinking may have triggered this visit, and it is that we have put, yesterday, or a few days ago, an application to the Industrial Relations Commission against some entry notices by CFMEU and an improvement notice by Workplace Health and Safety. That application doesn't leave CFMEU and Workplace Health and Safety in a very good  
40 place, I think, and I'm thinking that maybe that has triggered the visit." They - I don't know if some of them knew about that application, but definitely not all of them knew.

**COMMISSIONER:** Not a lot of them knew?

**MR SANCHEZ:** Not all of them in that meeting knew. So Mr Witheriff said,  
"Look, the first thing we have to do to soften the situation is we withdraw that  
5 application." So they all agreed, and they instructed me to talk to our lawyers and  
withdraw the application. So just after that meeting - and then we continued  
discussing some other things in that meeting, in terms of the way forward. So we  
discussed that we had to start a conversation with the CFMEU also. So then after  
that meeting, I called our lawyers that were assisting us. I instructed them to  
10 withdraw the application, which they did.

**COMMISSIONER:** And you told your colleagues after the ministerial  
meeting - that is, Mr Blanco, Mr Witheriff and Mr Fajardo - that you believed that  
the ministerial intervention was triggered by your application to the Commission.  
15 Were you honest in telling your colleagues that was your belief?

**MR SANCHEZ:** Yeah, yeah, I thought that was - maybe not the main reason, but I  
felt that could have been a trigger. I didn't have any evidence that it was, but -

20 **COMMISSIONER:** And what did you honestly believe it could be a trigger?

**MR SANCHEZ:** Because it was very close to the application, the specific incident  
the day before, so the reinforcement bar dislodging, it was - even though it could  
have been a serious incident, but it wasn't, so I thought that they were probably  
25 overreacting in terms of that incident, which made me think that maybe it was related  
with the application in the QIRC. But, again, I have no evidence of that. It was just  
my belief.

**MR WHEELAHAN:** Commissioner, can I please tender the opening tender bundle  
30 as TSRC-8 that I went to in my opening.

**COMMISSIONER:** Any objection, Mr O'Grady?

**MR O'GRADY:** I don't think we were provided with a copy of it in that form.  
35

**COMMISSIONER:** Do you want to have a look at it over -

**MR O'GRADY:** I think it's all covered off in the bundles associated with the  
witness statements, so we're not worried about it, but -  
40

**COMMISSIONER:** Do you want to have a look at it over lunch?

**MR O'GRADY:** Oh no. From what I saw, what my learned friend took you to, I'm comfortable with it being tendered, but we would like a copy.

5 **COMMISSIONER:** Of course. Are you in the same position, Mr de Jersey?

**MR DE JERSEY:** I am. The documents to which there was reference didn't appear to be objectionable, but I wouldn't mind -

10 **COMMISSIONER:** Why don't we make sure Mr O'Grady and Mr de Jersey have a copy. They can have a look at it over lunch, and we'll tender it after lunch.

**MR WHEELAHAN:** If it please the Commission.

15 **COMMISSIONER:** What do you want to do with the cross-examination? There's a written application to cross-examine?

**MR WHEELAHAN:** There is a written application. There's one aspect of it that deals with an issue when this witness wasn't even employed, and I want to ask -

20 **COMMISSIONER:** Do you want to have a discussion over lunch about whether you can resolve that?

**MR WHEELAHAN:** Yes.

25 **COMMISSIONER:** All right. Very well. We'll adjourn till 2 pm.

**<THE HEARING ADJOURNED AT 1.03 PM**

30 **<THE HEARING RESUMED AT 2.00 PM**

**COMMISSIONER:** Mr Wheelahan.

35 **MR WHEELAHAN:** Commissioner, I've provided a copy of that bundle 1 in my opening to counsel. I understand there's no objection to the tender? No.

**COMMISSIONER:** The 29-page bundle of various documents for Toowoomba Second Range Crossing Case Study will be exhibit TSRC-8? Or 7? 7 or 8?

40 **MR WHEELAHAN:** Yes. 8.

**COMMISSIONER:** Thank you.

45 **<EXHIBIT TSRC-8 29-PAGE BUNDLE OF VARIOUS DOCUMENTS FOR TOOWOOMBA SECOND RANGE CROSSING CASE STUDY**

**MR WHEELAHAN:** Thank you. Mr Sanchez, Mr O'Grady will now ask you some questions.

5 **<CROSS-EXAMINATION BY MR O'GRADY**

**MR O'GRADY:** Good afternoon, Mr Sanchez. I'm appearing for the current administrator of the CFMEU. Now, I'm not here to try and justify the conduct of Mr Ingham or Mr Seiffert or Mr Albert or Mr Desmond or Mr Pauls or Mr Hynes,  
10 or indeed the conduct of Minister Grace Grace or Minister Bailey. But putting to one side how it was done, and even why it was done, you would agree with me that the CFMEU has a legitimate interest in ensuring that construction sites, like the one that you were describing, are as safe as possible? Sorry, you have to answer for the purposes of the transcript, Mr Sanchez.

15 **MR SANCHEZ:** Yes, I agree.

**MR O'GRADY:** Yes. And you understand, don't you, that when you're looking at occupational health and safety, the focus is not necessarily on outcomes, or  
20 adverse outcomes, but it is on controlling risk to the greatest extent possible, so far as is reasonably practicable?

**MR SANCHEZ:** I agree.

25 **MR O'GRADY:** Yes. And I think as you acknowledged in your evidence, the fact that the reo bar - and as I understand it, there were actually two reo bars that only fell from a height of 30 centimetres isn't really the point. The fact is that they fell out of the platforms they were being raised in at all, isn't it?

30 **MR SANCHEZ:** Yeah, I agree.

**MR O'GRADY:** Yeah. Because if it can fall from 30 centimetres, it can fall from 30 metres. And again, sorry, you have to answer for the purpose of the -

35 **MR SANCHEZ:** I agree.

**MR O'GRADY:** Are we talking about small bits of metal or are we talking about significant bits of reinforcement?

40 **MR SANCHEZ:** This was one bar, so that bar would be probably six metres long.

**MR O'GRADY:** How long?

45 **MR SANCHEZ:** Long, six metres. So the diameter will be 25 millimetres, so that will be, like, 25 kilos, 30 kilos, more or less.

**MR O'GRADY:** Yes. Something that if it fell and hit somebody after falling from height could certainly injure them and potentially even kill them.

**MR SANCHEZ:** Yes.

5

**MR O'GRADY:** Sorry, again, you have to answer for the purpose of the transcript.

**MR SANCHEZ:** Yes.

10

**MR O'GRADY:** And in your witness statement, you describe that there were some 17 plant rollovers.

**MR SANCHEZ:** Yes.

15

**MR O'GRADY:** Yes. And again, irrespective of whether anybody was injured or not, if you've got a significant piece of plant that is rolling over, that has the potential to injure and potentially kill somebody.

20

**MR SANCHEZ:** I agree.

**MR O'GRADY:** And again, that is something that a union like my client, the CFMEU, is entitled to be very concerned about.

25

**MR SANCHEZ:** Yes, I agree.

**MR O'GRADY:** Yes. And you gave some evidence in paragraph 62 of your statement where you talk about there were some people working at height without appropriate safety gear, height safety gear. Do you recall that?

30

**MR SANCHEZ:** Yeah.

**MR O'GRADY:** Yeah. And we've seen some images of the platforms that people were working on, as part of the viaduct or the bridges et cetera. And you would agree with me that a fall from those sorts of heights could certainly injure and potentially kill somebody.

35

**MR SANCHEZ:** Yes, I agree.

40

**MR O'GRADY:** And that's the reason why it's very important that anybody working at those heights is appropriately equipped with the right safety gear.

**MR SANCHEZ:** I agree.

45

**MR O'GRADY:** But that didn't happen on the paragraph you describe in paragraph 62, is it?

**MR SANCHEZ:** Not in that occasion, yes.

**MR O'GRADY:** No.

5 **COMMISSIONER:** What did you just say then, sorry?

**MR SANCHEZ:** Not in that occasion.

10 **MR O'GRADY:** And another risk associated with height, I put to you, is it's not just people falling, but if they've got tools or they're working with bits of reo and the like, there's a potential for what they're working with to fall from a height and hit somebody on the ground, isn't there?

15 **MR SANCHEZ:** Correct, yes.

**MR O'GRADY:** And again, given the heights we're talking about and the various pieces of equipment we're talking about, there is a potential to certainly injure and potentially kill somebody if they're hit by something falling from that height.

20 **MR SANCHEZ:** I agree.

**MR O'GRADY:** Yes. Thank you. Now, just bear with me. On 15 August 2017, one of the plant rollovers that you referred to in your witness statement occurred, didn't it?

25 **MR SANCHEZ:** 15 August? Maybe. I don't know.

**MR O'GRADY:** No, perhaps - I will give you some detail. There was a 60-metre concrete boom truck owned and operated by a third party trying to set up a crane pad adjacent to a structure. Do you recall that incident?

30 **MR SANCHEZ:** Yeah.

**MR O'GRADY:** And it was moved to an unstable location.

35 **MR SANCHEZ:** It was not properly centred, as I said.

**MR O'GRADY:** Yes. And ultimately, the truck tipped over and the boom, the 60-metre boom, came crashing to the ground?

40 **MR SANCHEZ:** Yeah.

**MR O'GRADY:** Yes. And you would agree with me that that is a very serious incident?

45 **MR SANCHEZ:** Yes.

**MR O'GRADY:** And it was certainly something that the CFMEU was entitled to be concerned about?

**MR SANCHEZ:** Yes.

5

**MR O'GRADY:** Yes. Thank you. Sorry, just bear with me. And then we've spoken about the reo bars. As I understand your evidence, it was only the one reo bar, but I put it to you that actually there were two bits of reinforcement that fell on 13 February - sorry, that fell from the rigging that was being lifted with.

10

**COMMISSIONER:** It was the 21st, wasn't it?

**MR O'GRADY:** Sorry, 26 April. Sorry. Okay. Sorry. In addition to the reo bar incident that you talk about, there was another occasion on 26 April where there was some - two reinforcing bars fell from a mesh mat that we were being lifted with. Do you recall that?

15

**MR SANCHEZ:** I don't recall that, no.

**MR O'GRADY:** Okay. Thank you. And then there were a number of occasions, weren't there, where, in addition to the incident that you describe, where people were working from height without appropriate harnesses.

20

**MR SANCHEZ:** There may be. I can't say no, because as I said, it's a very big project. There could be other occasions. I can't say no.

25

**MR O'GRADY:** I put it to you, and you may not be able to respond, there was an incident that occurred on 13 February 2018. Do you recall that?

**MR SANCHEZ:** I don't know, no.

30

**MR O'GRADY:** There was a further incident that occurred on 1 March 2018?

**MR SANCHEZ:** Yeah, no, I can't recall that one either.

35

**MR O'GRADY:** I understand. But I think you've already agreed - and finally there was a third incident that occurred on 23 April 2018?

**MR SANCHEZ:** Could be.

40

**MR O'GRADY:** Yeah. And I think you've agreed with me that, in respect of those sorts of incidents, if people are working from height without appropriate safety equipment, then there is the potential that people will be certainly injured, if not killed?

45

**MR SANCHEZ:** Yeah.

**MR O'GRADY:** And I put it to you that there were those incidents in respect of both the crane rollover and also the work - the reinforcement bars falling and the working from heights were all subject of reporting by the health and safety authority?

5

**MR SANCHEZ:** Sorry, where subject to?

**MR O'GRADY:** The health and safety authority. They reported the company or they notified the company that that's what they'd observed.

10

**MR SANCHEZ:** Well, when incidents (indistinct) report to Workplace Health and Safety, yeah.

**MR O'GRADY:** Yes, thank you.

15

**MR SANCHEZ:** I don't know about those three specifically, but yeah.

**MR O'GRADY:** I understand. I have no further questions, Commissioner.

20

**COMMISSIONER:** Thank you, Mr O'Grady. Is there any other cross-examination, Mr Wheelahan?

**MR WHEELAHAN:** No, Commissioner.

25

**COMMISSIONER:** Anything arising?

**MR WHEELAHAN:** No, Commissioner.

**COMMISSIONER:** And can Mr Sanchez be excused?

30

**MR WHEELAHAN:** Yes, Commissioner.

**COMMISSIONER:** And I take it Mr Sanchez is here under summons?

35

**MR WHEELAHAN:** Yes, Commissioner.

**COMMISSIONER:** Although you're here under compulsion, Mr Sanchez, thank you for your evidence. You're excused.

40

**MR SANCHEZ:** Yes.

**<THE WITNESS WAS RELEASED**

45

**MR WHEELAHAN:** Commissioner, I call Mr Blanco. I might say, he has counsel -

**COMMISSIONER:** Are his counsel going to come forward to the bar table?

**MR WHEELAHAN:** Yes.

**COMMISSIONER:** Mr McCarthy, you appear for Mr Blanco?

5

**MR McCARTHY:** Yes, Commissioner.

**COMMISSIONER:** Thank you. Is Mr Blanco in the hearing room?

10 **MR McCARTHY:** I believe he's coming in now.

**COMMISSIONER:** Thank you. Mr Blanco, just come to the witness box, please, and just remain standing while the oath or affirmation is administered.

15 **<ENRIQUE BLANCO GOMEZ, AFFIRMED**

**<EXAMINATION BY MR WHEELAHAN**

20 **COMMISSIONER:** Please take a seat, Mr Blanco. Mr Wheelahan will ask you some questions now.

**MR WHEELAHAN:** Please state your full name.

**MR BLANCO:** Enrique Blanco Gomez.

25

**MR WHEELAHAN:** And your current position is what?

**MR BLANCO:** Is regional managing director -

30 **COMMISSIONER:** You just have to speak -

**MR WHEELAHAN:** You'll have to project your voice a bit more.

**MR BLANCO:** Regional managing director for Ferrovial.

35

**MR WHEELAHAN:** Regional managing director of Australia, United Kingdom, Ireland; correct?

**MR BLANCO:** Yep.

40

**MR WHEELAHAN:** And under - you appear today under a compulsory notice?

**MR BLANCO:** Mmm-hmm.

45 **MR WHEELAHAN:** You will have to say yes for the transcript.

**MR BLANCO:** Yes.

**MR WHEELAHAN:** And you've prepared a statement of 55 paragraphs with annexures EG-1 through to EG-10; correct?

5 **MR BLANCO:** Yes.

**MR WHEELAHAN:** And have you had an opportunity to review that statement before today?

10 **MR BLANCO:** Yes.

**MR WHEELAHAN:** Are there any changes that you want to make to that statement?

15 **MR BLANCO:** No.

**MR WHEELAHAN:** Is it true and correct in every particular?

20 **MR BLANCO:** Yes.

**MR WHEELAHAN:** I tender that statement with the annexures, Commissioner.

**COMMISSIONER:** Any objections?

25 **MR DE JERSEY:** No objection.

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

30 **COMMISSIONER:** No. Witness statement of Enrique Blanco Gomez, made in London, 15 April 2026, seven pages, 55 paragraphs, with 10 annexures, will be TSRC-9.

35 **<EXHIBIT TSRC-9 WITNESS STATEMENT OF ENRIQUE BLANCO GOMEZ, MADE IN LONDON, 15/4/2026, SEVEN PAGES, 55 PARAGRAPHS, WITH 10 ANNEXURES**

**MR WHEELAHAN:** Mr Blanco, you've worked in the construction industry for 28 years.

40 **MR BLANCO:** Correct.

**MR WHEELAHAN:** Can you take the Commissioner through your history in the construction industry, and in particular, your international roles.

45 **MR BLANCO:** Okay. So I started working in Spain, then after eight years there, I moved to the UK. Work in the UK for four years, and then I came to Australia 16 years ago.

**MR WHEELAHAN:** And what roles have you held for 16 years in Australia?

5 **MR BLANCO:** I was the managing director of Australia for the company for 13 years, and the last three my scope was increased to other regions.

**MR WHEELAHAN:** All right. In your words, explain the Toowoomba Second Range Crossing Project to the Commissioner.

10 **MR BLANCO:** Okay. Well, it's a 42-kilometres toll road. It's -for a road project, it's considered a long. It has three sections. The last section is quite easy because it's flat, but the eastern section and the central section are complex, very complex. The terrain is very mountainous, and it has plenty of cuts and embankments that are one after the other. And also there is a crossing with a  
15 railway that we have to do a bridge with a bridge.

**COMMISSIONER:** Say that last bit again.

20 **MR BLANCO:** So there is a crossing with a railway that we have to build a bridge that is a significant height and a significant length.

**MR WHEELAHAN:** So that's the viaduct; is that right?

25 **MR BLANCO:** Yes.

**MR WHEELAHAN:** 800 metres?

**MR BLANCO:** Yes, correct.

30 **MR WHEELAHAN:** And that was a significant challenge, was it?

**MR BLANCO:** Yes.

35 **MR WHEELAHAN:** Now, when the project commenced, what, September 2016, is that when you commenced work on the site?

**MR BLANCO:** Yes.

40 **MR WHEELAHAN:** Explain your dealings with the AWU and the CFMEU around that time.

**MR BLANCO:** Well, it was normal, like any other normal project, so there is an engagement with the unions at the beginning. Nothing relevant to say. And the project was progressing during the design phase, and there is not much activity on  
45 site. And then it moves into constructional phase.

**MR WHEELAHAN:** Now, you've said in your statement that the project - and you've touched upon it - the terrain and the difficulties and the viaduct presented challenges. Would you describe some of those workplace health and safety challenges that were present because of the nature of the project to the  
5 Commissioner?

**MR BLANCO:** Yes. It's a difficult project. Something that we do, like in any other project, we assess the risks and we deal with the risks, the safety risks, that we all are facing.  
10

**MR WHEELAHAN:** Can you explain a bit further, rather than just assess the safety risks, some of the things - you're the managing director.

**MR BLANCO:** Mmm-hmm.  
15

**MR WHEELAHAN:** What did you do in terms of workplace health and safety?

**MR BLANCO:** Well, we've got very clear obligations what we have to do, like establishing a plan or how we are going to identify the risks, then how we're going to manage the risks, and then we have to implement all those findings that we have developed in the different management plans.  
20

**MR WHEELAHAN:** So have a look at paragraph 19. Again, you've given a somewhat brief explanation. That might assist you to remind you of your sworn statement of - to give the Commissioner a full answer as to what you, as managing director, did with respect to work health and safety.  
25

**MR BLANCO:** Yep. So paragraph 19 is not standard. So that went beyond the standard. So we make sure it's how the performance of the project is going, and if there are indicators that tell us that we have to do something else, it's what we do. And when things escalate to the next governance body of the project, which is the steering committee, which was this case, we implemented a series of actions just to minimise the risks that we could in fact.  
30

**MR WHEELAHAN:** All right. So as I understand your evidence, you went beyond the standard.  
35

**MR BLANCO:** Well beyond.

**MR WHEELAHAN:** Well beyond. All right. In February 2018, you described that you started to receive an uptick or, in your words, unusually high volume of notices from Workplace Health Safety Queensland.  
40

**MR BLANCO:** Correct.  
45

**MR WHEELAHAN:** Why do you say that? And explain it to the Commissioner.

5 **MR BLANCO:** In a normal project, when you've got regular visits from the regulator, sometimes just to check that things are according to plan, and if they find something that needs to be addressed, normally it's addressed on the spot and there is no paperwork. Paperwork is not required because if it can be resolved on the spot, it is resolved on the spot. What we experienced was that everything was being sent in written, as using the mechanism of a notice, which is not normal because it creates an administrative burden and normally for issues that are of minor relevance.

10 **MR WHEELAHAN:** Right. Indeed, you state in a specific period of March 2017 to February 2018, the company received 100 notices, and you say:

15 "I have not previously experienced this volume of notices on any other construction project in my career."

**MR BLANCO:** Correct.

20 **MR WHEELAHAN:** And is the Commissioner to take it that given your position, you've worked on some very significant infrastructure projects?

**MR BLANCO:** Yes. This is -

25 **MR WHEELAHAN:** Such as? Historically - you're doing a comparator here. What other construction projects would you compare to this and why it was unusual?

30 **MR BLANCO:** Several sections of highest bid in Spanish, the highest bid in UK, tunnels under the Thames river, Metro Sydney, roads in Sydney, in - like (indistinct) projects.

35 **MR WHEELAHAN:** Now - Operator, from 27 onwards - let's talk about early 2018, when we have - Mr Sanchez makes reports to you of CFMEU officials seeking entry to site. How many occasions was he reporting to you that that was happening?

**MR BLANCO:** I don't remember the exact name, but there were an increased number of communications that they were trying to enter site.

40 **MR WHEELAHAN:** All right. So if you read paragraph 17, you might not recall now, but when you had the time to prepare your statement -

**COMMISSIONER:** 27.

45 **MR WHEELAHAN:** 27, sorry. You've said the company records show that in the 22 days February 2018 to 23 February - sorry, in 22 days, to 23 February 2018, there were 31 CFMEU entries to site. Is that an unusually high number or not?

**MR BLANCO:** Super unusual.

**MR WHEELAHAN:** Super unusual. Okay.

5

**COMMISSIONER:** What did you think was causing this unusual number of entries?

**MR BLANCO:** I think the CFMEU just wanted to get into site, and they were not using the right permits to get into site, so they were just trying and trying and trying.

10

**COMMISSIONER:** Do you have any view about why they were trying to get into the site?

15

**MR BLANCO:** Not - not really. I can guess, but not really.

**COMMISSIONER:** Not really.

**MR WHEELAHAN:** So from 29 onwards - and the company actually made an application to the Queensland Industrial Relations Commission. Did you have involvement in authorising that application?

20

**MR BLANCO:** Well, that was a major development in the project, and we were seeking for some kind of support, so the project director escalated this issue to the steering committee.

25

**MR WHEELAHAN:** Could you just go through that again? You said you were seeking support because of the escalation.

30

**MR BLANCO:** Because of the number of attempts of the union trying to enter site.

**MR WHEELAHAN:** Yes.

35

**MR BLANCO:** And also the number of notices that we were receiving simultaneously.

**MR WHEELAHAN:** All right. And did you obtain legal advice prior to making that application, the company?

40

**MR BLANCO:** Yes.

**MR WHEELAHAN:** And that was filed on the evening, you stated, of 19 February 2018?

45

**MR BLANCO:** Yes.

**MR WHEELAHAN:** I might, just to refresh your memory, just quickly show you page 21 of the exhibits. This is EG-2, Mr Operator. This was something noted earlier with Mr Sanchez, that although it's filed the 19th, Monday the 19th in the evening, you will see the date stamp by the industrial registrar - it's page 21 of the exhibits. You see the top left. This is the application and the parties. You've annexed this to your statement.

**MR BLANCO:** Seems like it is, yes.

**MR WHEELAHAN:** Yes. And it's both against the CFMEU and the regulator.

**MR BLANCO:** Yep.

**MR WHEELAHAN:** Yes. Now, the next matter I want to take you to, and it commences, Operator, at 32 onwards, there's an incident on site on 21 February, so the day after that date stamp on your application to the Queensland Industrial Relations Commission. Can you tell the Commissioner about, firstly, just that incident on 21 February, the safety incident. Can you take that down, please. Paragraph 32 of the statement.

**MR BLANCO:** Yes, sorry, what was the question?

**MR WHEELAHAN:** So we go back. The 19th, the evening, you file the application to the Queensland Industrial Relations Commission. They date-stamp it 20 February as being received at the registry. And at paragraph 32, we then arrive at an incident that occurs on 21 February 2018. Can you explain to the Commissioner what that incident involved?

**MR BLANCO:** We were - we have different work sites in the viaduct. One of the work sites was the construction of a pier, and different materials needed to be lifted to the top of the pier. So since the risk of falling objects is common, so what we did is common in these places, is established a perimeter where nobody can get around, just in case that something happens. And what happened is that at the beginning of the lift, there was a small piece of reo bar that fell from the cage to the ground.

**MR WHEELAHAN:** All right. Just going back. So there is an exclusion zone so that if that happened at 30 centimetres or two metres or four metres, no-one should get hurt because there's an exclusion zone under it; is that right?

**MR BLANCO:** Yeah, correct.

**MR WHEELAHAN:** Okay. But in this case, it fell 30 centimetres.

**MR BLANCO:** Yep.

**MR WHEELAHAN:** And then -

5 **COMMISSIONER:** Mr Blanco, whilst you - whilst the Toowoomba Second Range Crossing Project was being built, you were the regional managing director of Australia for Ferrovia at that stage?

**MR BLANCO:** Yes.

10 **COMMISSIONER:** And do I take it that Mr Sanchez, the witness who was just here, would've been based on site as the project director?

**MR BLANCO:** Yes, correct.

15 **COMMISSIONER:** Where were you based?

**MR BLANCO:** In Sydney.

**COMMISSIONER:** Where?

20 **MR BLANCO:** In Sydney.

**COMMISSIONER:** In Sydney.

25 **MR WHEELAHAN:** Now, you were in Sydney based, but we'll get to you arriving at the site on 23 February, but just the next day, on 22 February, after that incident - 33, Operator - Minister Grace Grace and then Mr Mark Bailey issued a press release, which you've annexed to your statement. Did you see that press release on that day, on 22 February?

30 **MR BLANCO:** Yes.

**MR WHEELAHAN:** You did. And that press release makes reference to meeting -

35 **COMMISSIONER:** Just going back to 21 February.

**MR WHEELAHAN:** 21st.

40 **COMMISSIONER:** Mr Sanchez couldn't remember whether this incident with the reo box occurred in the morning or the afternoon of 21 February. Can you remember?

**MR BLANCO:** No.

45 **COMMISSIONER:** Sorry, Mr Wheelahan.

**MR WHEELAHAN:** That's all right. So the following day, the press release, which you said you recall, and in that press release - and you've extracted it - Industrial Relations Minister Grace Grace and Transport and Main Roads Minister Mark Bailey are seeking an urgent meeting about worker safety with senior representatives of the contractor - I'm paraphrasing - for the project. So on that day, were you contacted about arranging that meeting by anyone from the minister's office?

**MR BLANCO:** From the minister's office, no.

**MR WHEELAHAN:** Who told you that they were seeking an urgent meeting, other than the press release?

**MR BLANCO:** I don't recall well.

**MR WHEELAHAN:** You don't recall. Well, you state at paragraph 34 - you might not recall who invited you, but you say on Wednesday 21 February:

"I received an invitation to attend a meeting that Friday, 23 February with Minister Grace and Minister Bailey."

So you don't recall who gave you that invitation?

**MR BLANCO:** No.

**MR WHEELAHAN:** No. All right.

**COMMISSIONER:** Do you remember whether it was by phone or by email or you can't remember?

**MR BLANCO:** I can't remember. The communications normally are with the project.

**COMMISSIONER:** Say that last bit again.

**MR BLANCO:** The communications are with the project, not with myself.

**COMMISSIONER:** I see. So someone from the project asked you to come?

**MR BLANCO:** And the communication for me, I used to talk to the project director.

**COMMISSIONER:** And that was Mr Sanchez?

**MR BLANCO:** Yes.

**MR WHEELAHAN:** And then at 35, on 23 February, you've travelled from Sydney to attend the meeting with Ministers Grace Grace and Bailey; is that correct?

5 **MR BLANCO:** Yes.

**MR WHEELAHAN:** And that was the purpose of your travel?

**MR BLANCO:** Yes.

10

**MR WHEELAHAN:** And you then did attend a meeting, which you describe to be in an on-site boardroom, from about 2 pm on 23 February 2018; correct?

**MR BLANCO:** Correct.

15

**MR WHEELAHAN:** Were you sitting at the boardroom table in that meeting or standing?

**MR BLANCO:** Sitting.

20

**MR WHEELAHAN:** Sitting. Who was sitting opposite you? Opposite you? Who was sitting on the other side of the table?

**MR BLANCO:** I don't remember.

25

**MR WHEELAHAN:** Do you where Minister Grace Grace was sitting?

**MR BLANCO:** No.

30 **MR WHEELAHAN:** All right.

**COMMISSIONER:** How many people were in the on-site boardroom at this meeting?

35 **MR BLANCO:** I don't remember the exact name, but it was a large number of people.

**COMMISSIONER:** Were there people sitting at the table and around the sides, or just at the table?

40

**MR BLANCO:** I don't remember if we have chairs for everyone.

**COMMISSIONER:** So there were people who were standing and sitting at the sides?

45

**MR BLANCO:** I don't remember. I could be speculating if - I don't know.

**COMMISSIONER:** How big is the table?

**MR BLANCO:** I would say maybe 10 - 10 to 20, 25 people.

5 **COMMISSIONER:** Was the table full?

**MR BLANCO:** Yes.

10 **COMMISSIONER:** And who was sitting at the table from the joint venture side?

**MR BLANCO:** It was the project director and then from the steering committee, my colleague from Ferrovial.

15 **COMMISSIONER:** Who's your colleague from Ferrovial?

**MR BLANCO:** A person called David Fanjul. And then -

**COMMISSIONER:** Sorry, Mr -

20 **MR BLANCO:** David Fanjul.

**COMMISSIONER:** I just don't know that name, sorry. Mr Wheelahan?

25 **MR WHEELAHAN:** Maybe look at paragraph 35. Are they the names you're now pronouncing for the Commissioner? 35, Operator, blow up.

**MR BLANCO:** Yes. So Fernando Fajardo was my equivalent in Acciona. That was the partner. Of course, Antonio, that was the project director.

30 **MR WHEELAHAN:** Sorry, Fernando was your equivalent where?

**MR BLANCO:** In the partner in the joint venture in Acciona, the other company.

35 **COMMISSIONER:** And Mr Sanchez was the project director?

**MR BLANCO:** Correct.

**MR WHEELAHAN:** You were sitting next to Mr Sanchez, were you, or not?

40 **MR BLANCO:** I don't recall if I were next to him or -

**MR WHEELAHAN:** Well, it'd be unusual if you weren't sitting near Mr Sanchez, given he was the project director and your position.

45 **MR BLANCO:** I could assume that that's the right thing.

**MR WHEELAHAN:** Yes. And prior to that meeting, you accept you thought you were going there to discuss safety with the ministers?

**MR BLANCO:** Correct.

5

**MR WHEELAHAN:** And accordingly, you annex a PowerPoint presentation that had been prepared to be presented at that meeting?

**MR BLANCO:** Yes.

10

**MR WHEELAHAN:** And Mr Sanchez has already given evidence, I think, that that was prepared in the 24 hours between the ministers' press release and the meeting?

15 **MR BLANCO:** Yes.

**MR WHEELAHAN:** Did you have any involvement in the preparation of that PowerPoint presentation?

20 **MR BLANCO:** We reviewed the presentation, because most of the documents that were in the presentation were documents that we were working with, were developed in the previous - in the previous months.

25 **MR WHEELAHAN:** All right. So as opposed to "we", you did review it yourself, personally?

**MR BLANCO:** Yes.

30 **MR WHEELAHAN:** And who was to present that presentation at the meeting? You or Mr Sanchez or somebody else?

**MR BLANCO:** I don't remember what we agreed. I guess that it was a combination of the steering committee, plus the project director.

35 **MR WHEELAHAN:** Okay. So a combination of people you were anticipating and expected to present the presentation?

**MR BLANCO:** Yes.

40 **MR WHEELAHAN:** Can I blow up paragraph 37, please.

**COMMISSIONER:** That's 36.

45 **MR WHEELAHAN:** Just before I go to that, you didn't have any problem hearing Minister Grace Grace in this - at the table, did you?

**MR BLANCO:** No.

**MR WHEELAHAN:** No?

**MR BLANCO:** No. No.

5

**MR WHEELAHAN:** No? Okay. Take the Commissioner through, from the commencement of the meeting, what happened.

**MR BLANCO:** Okay. It was a meeting that we were called for to talk about safety, so we were prepared with the type of initiatives that we have taken in the project, with the performance of the project, and a bit of a description of where the works were at. When the meeting started, we were told that we were not going to present anything, that it was for the minister to address us.

**COMMISSIONER:** And if you were told it was for the ministers to address you, who then spoke from the two ministers, Bailey and Grace?

**MR BLANCO:** Grace.

**COMMISSIONER:** And what did she say to you?

**MR BLANCO:** Well, the topic of the conversation was about the CFMEU and that we had to work with them. We need to be - to work collaboratively with them.

25

**COMMISSIONER:** Work with what them?

**MR BLANCO:** Collaboratively with them.

**COMMISSIONER:** Collaboratively.

**MR WHEELAHAN:** Keep going.

**MR BLANCO:** And that was the main topic of the meeting.

35

**MR WHEELAHAN:** Not the topic. What did she then say?

**MR BLANCO:** Well, then she moved to that in case that we did not work with the union, that things could be ugly for us and the contract will be taken from our hands.

40

**COMMISSIONER:** "It could be ugly for us" and the contract would be taken out of your hands?

**MR BLANCO:** Yes.

45

**COMMISSIONER:** What did you or Mr Sanchez or anyone else from your side say in response to that?

5 **MR BLANCO:** Well, we were very surprised, because it's an affirmation that is not - so all our relationships are based on a contract, and that kind of statement, I think all of us we just doubted if that is even possible. So - but what we could see is that there was a threat with repercussions, very serious repercussions.

10 **COMMISSIONER:** That was a threat that was what, sorry?

**MR BLANCO:** That it had potential repercussions and significant liabilities for us.

15 **COMMISSIONER:** You say potential repercussions and significant -

**MR BLANCO:** Liabilities.

**COMMISSIONER:** And what were those repercussions and liabilities for you?

20 **MR BLANCO:** Well, for what I know of the contract, just replacing the contractor means that you need to pay whoever is going be the next contractor the costs of replacing, delays, because it was a concession, lots of different ramifications of - that were in the contract.

25 **COMMISSIONER:** And what would those ramifications, financially and reputationally for you, be?

**MR BLANCO:** In order of magnitude?

30 **COMMISSIONER:** In what, sorry?

**MR BLANCO:** Sorry, the question is the magnitude of the implications?

35 **COMMISSIONER:** The magnitude, yes.

**MR BLANCO:** Well, the worth was worth 1 billion, so just finding someone to complete the works, the number is not going to be less than that. Plus - and this is the most important thing - the penalties for being late.

40 **COMMISSIONER:** So did this comment from Minister Grace worry you?

**MR BLANCO:** A lot.

45 **COMMISSIONER:** Why?

**MR BLANCO:** Because at the moment, I didn't know if that was possible, but it's - coming from a minister, it's clearly something that you need to pay attention

what she's saying. And obviously, the figures that we are talking about are very high. So -

5 **MR WHEELAHAN:** When you say the figures are very high, we already know in evidence it's a 1.1 or at some point in time billion dollars. How high is the liability that you were worried about after this statement from Minister Grace Grace?

10 **MR BLANCO:** Well, whatever is the work that is missing, plus also the delays. Every single day of delay, it was a very high figure. I don't remember off the top of my head, but it was really high.

15 **MR WHEELAHAN:** Well, you might not remember off the top of your head, but you hold a very senior position and you had a lot to do with this project. The Commissioner would like an estimate. How many? Are we talking hundreds of millions of dollars?

20 **MR BLANCO:** Well, let's assume that per day could be a quarter of a million per day.

**COMMISSIONER:** Per day?

25 **MR BLANCO:** Per day. So - and to find a replacement contractor could take quite a lot of time.

**MR WHEELAHAN:** Were you in shock when you were told that the contract could be taken out of your hands?

30 **MR BLANCO:** Yes.

**MR WHEELAHAN:** Did you, at any point in time, estimate the liability to be perhaps \$500 million?

35 **MR BLANCO:** Well, that's the - that's a rough number which equates to half of the value of the contract.

**MR WHEELAHAN:** So at any time, did you estimate \$500 million at that time?

40 **MR BLANCO:** Yes.

**MR WHEELAHAN:** Yes. And you've been in the construction industry for 28 years?

45 **MR BLANCO:** Yes.

**MR WHEELAHAN:** 15 years in a very senior position?

**MR BLANCO:** Yes.

**MR WHEELAHAN:** Has anything ever - have you ever experienced anything like this?

5

**MR BLANCO:** No.

**MR WHEELAHAN:** Were there any pleasantries at all by Minister Grace Grace before telling you about the contract being taken off your hands?

10

**MR BLANCO:** None.

**MR WHEELAHAN:** If you didn't - sorry. That is another note. Have you worked in third-world countries?

15

**MR BLANCO:** No.

**MR WHEELAHAN:** So at paragraph 44, if I can have that blown up, you will remember before I spoke about your application to the Queensland Industrial Relations Commission - when I say "your", the company's - and just to take the timing. So that's noted by the industrial registrar on 20 February. You then have the ministerial meeting on a Friday, the 23rd of February. And then take the Commissioner through what we know as a fact: The discontinuing of the company's application to the Queensland Industrial Relations Commission.

25

**MR BLANCO:** Yep. After - after the meeting with the ministers, so we met -

**COMMISSIONER:** Who's we?

30 **MR BLANCO:** The steering committee.

**COMMISSIONER:** Who was in the steering committee?

35 **MR BLANCO:** So it's four people, plus the project director. And we discussed the options that we had. So - and we formed the view that there was a significant correlation between the application and the - and the visit that we received from the ministers. So we decided to remove the application.

40 **COMMISSIONER:** And that steering committee was you, Mr Fajardo, Mr Sanchez, and who's the fourth person?

**MR BLANCO:** We were four people, from our side, someone called David Fanjul, and myself, and then from Acciona side, Juan Antonio Adán and Fernando Fajardo.

45

**MR WHEELAHAN:** Was Mr John Witheriff AM on the steering committee?

**MR BLANCO:** No.

**MR WHEELAHAN:** Mr John Hagan: was he on the steering committee?

5 **MR BLANCO:** No.

**MR WHEELAHAN:** So you recollect four names so far. I think, Commissioner, you're taking a note of the names. Can you just go through the names of the steering committee again, a bit slower.

10

**MR BLANCO:** Maybe the confusion is because there is another governance level, and there is another steering committee -

**MR WHEELAHAN:** Okay.

15

**MR BLANCO:** - where these two people are in there, which is the governance level that sits above, and it's with the sponsors.

**MR WHEELAHAN:** I see.

20

**COMMISSIONER:** You took some notes of that meeting - when I say "that meeting", the meeting with the ministers, and they're attached at EG-7. Could the witness just be shown that.

25 **MR WHEELAHAN:** It's page 117, Mr Operator.

**COMMISSIONER:** You know these notes better than I do, Mr Wheelahan. Can I ask you -

30 **MR WHEELAHAN:** So on the third line, Mr Blanco, it's a mix of English and Spanish. If you could read out what you've written entirely in English for us, please.

**MR BLANCO:** Yes. The third line says Grace -

35

**COMMISSIONER:** What are the first two lines? What do they say?

**MR BLANCO:** So 200 inspections and 100 notices.

40 **MR WHEELAHAN:** 200 inspections, 100 notices. Okay. Then -

**MR BLANCO:** Then the third line says Grace. It's written "way forward", and then "threaten us that it could be difficult for the companies".

45 **COMMISSIONER:** Threatened us that it would be difficult for -

**MR BLANCO:** The companies.

**COMMISSIONER:** The companies?

**MR BLANCO:** Yeah.

5

**COMMISSIONER:** And that's in Spanish?

**MR BLANCO:** Yes.

10 **COMMISSIONER:** And is that a record of what Minister Grace said?

**MR BLANCO:** Yes.

15 **COMMISSIONER:** And when did you take this record? When did you make these notes?

**MR BLANCO:** At the same time that the meeting was happening.

20 **MR WHEELAHAN:** The same day. And you'll see you've underlined -

**COMMISSIONER:** I think we've said the same time. Did you say same time or same day?

25 **MR WHEELAHAN:** Did you say time or day?

**MR BLANCO:** No, at the same time. I said during the meeting.

30 **MR WHEELAHAN:** Sorry. We spoke at the same time. Can I just follow up what you said there, Commissioner. It says "suggestions from" - you see underlined there, "suggestions". Can you read that?

**MR BLANCO:** Yep, suggestions from Minister Grace. What it says is that it's a question that can they take the contract from us? With a question mark.

35 **MR WHEELAHAN:** Did you get the note of that, Commissioner?

40 **COMMISSIONER:** Yes. But is that a record of what went on in the meeting? There's a line in your notes - at least there's a line on mine. It's not on your version. My version's got a line that stretches the whole way through.

**MR WHEELAHAN:** I thought - aren't we looking at the same thing?

45 **COMMISSIONER:** No, I've got a line that runs above suggestions from someone Grace, whatever that - is that Minister Grace?

**MR BLANCO:** Yes.

**COMMISSIONER:** But there's no line in the original.

**MR WHEELAHAN:** This is the original tendered. Perhaps you've got a hard copy that - someone has written a line on it.

5

**COMMISSIONER:** Someone has written on. So is that a record of what you were thinking or what you said at the time?

**MR BLANCO:** That's the record of my thought process after we heard what she had to say.

10

**COMMISSIONER:** "Can they take the contract from us?"

**MR BLANCO:** Yes.

15

**COMMISSIONER:** And what about the very last bit? There's three lines at the bottom referencing John - how do I pronounce his name? Witheriff?

**MR BLANCO:** Witheriff.

20

**COMMISSIONER:** He was the chair of the joint venture, wasn't he?

**MR BLANCO:** The chair of the SPV, which is the body that sits above.

**COMMISSIONER:** Oh, chair - I'm sorry - chair of the special purpose vehicle, yes. What did Mr Witheriff say?

25

**MR BLANCO:** So there are two conclusions. One is to work with CFMEU. The second is a cultural change.

30

**COMMISSIONER:** And is that something he said in the meeting or is that something he said after the ministers had gone?

**MR BLANCO:** This is after the ministers are gone.

35

**COMMISSIONER:** Where do the notes change from the point at which the ministers were present to after they'd gone? Can you just go back to -

**MR WHEELAHAN:** Can you just - Operator.

40

**MR BLANCO:** That last bit, the John Witheriff.

**COMMISSIONER:** That's the only bit that's where the ministers had gone?

**MR BLANCO:** Yes.

45

**COMMISSIONER:** Thank you.

**MR WHEELAHAN:** So I think we're at paragraph 44, just returning - you were explaining to the Commissioner - and perhaps if you can just - why the application to the Queensland Industrial Relations Commission was withdrawn. You said  
5 because you considered it had been - that then triggered the meeting with the ministers.

**MR BLANCO:** Yes.

10 **MR WHEELAHAN:** And you said:

"Therefore we decided to withdraw the application."

**MR BLANCO:** Correct.  
15

**MR WHEELAHAN:** Did you feel any pressure to withdraw the application because of - the very next day because of what the ministers said in that meeting?

**MR BLANCO:** Yes.  
20

**MR WHEELAHAN:** Right.

**COMMISSIONER:** Why was that?

25 **MR BLANCO:** Because we couldn't see any other alternative to continue with the project, and we saw that it was - that it was a significant correlation, a very strong correlation, between the meeting and the application.

**MR WHEELAHAN:** Now, I raise this issue because I raised it with Mr Sanchez.  
30 Mr Operator, from paragraph 47. You recall that you personally started receiving regulatory notifications from Workplace Health and Safety Queensland.

**MR BLANCO:** Correct.

35 **MR WHEELAHAN:** Has that ever happened to you before in your career?

**MR BLANCO:** Never.

**MR WHEELAHAN:** Never.  
40

**COMMISSIONER:** So you were based in Sydney when you were receiving these notices?

**MR BLANCO:** Yes.  
45

**MR WHEELAHAN:** And not only that, you state that you're getting them on Sunday nights.

**MR BLANCO:** Correct.

5 **MR WHEELAHAN:** Have you ever received any notices personally on Sunday nights from a health and safety regulator?

**MR BLANCO:** Never.

10 **MR WHEELAHAN:** And then at 49 - and this will be a line of inquiry - you say that you're aware that similar notifications were received by another gentleman that you work with?

**MR BLANCO:** Yes.

15 **MR WHEELAHAN:** Who is?

**MR BLANCO:** My equivalent from the other company in the steering committee.

20 **MR WHEELAHAN:** Mr Fernando -

**MR BLANCO:** Fajardo.

25 **MR WHEELAHAN:** Yes. And then you added to that "even by the client", and you've got DTMR. Who's that? So the client was getting notices as well?

**MR BLANCO:** Yep, that's what we - we understood.

30 **MR WHEELAHAN:** Right. Okay. I want to conclude with your conclusion - paragraphs 50 to 55, Mr Operator - and just to summarise before you explain it to the Commissioner, you talk about four levers of pressure being applied. They're your words; correct?

**MR BLANCO:** Correct.

35

**MR WHEELAHAN:** Take the Commissioner through the first lever of pressure.

40 **MR BLANCO:** Well, the first one is the behaviour of the CFMEU when we didn't allow them to get into site, because they were not following the right procedures.

45 **MR WHEELAHAN:** So the behaviour of the CFMEU coming on site. Mr Sanchez - and I'm asking you if you know this - Mr Sanchez gave site that they wouldn't go through an induction process. Did he convey that to you?

**MR BLANCO:** Correct.

**MR WHEELAHAN:** And they wouldn't show entry permits. Did he convey that to you?

**MR BLANCO:** Correct.

5

**MR WHEELAHAN:** And did he convey to you that he'd had police on site arresting them?

**MR BLANCO:** Correct.

10

**MR WHEELAHAN:** Okay. So that's the conduct, is it? Is there any other conduct of the CFMEU you're referring to as the first lever of pressure?

**MR BLANCO:** No (indistinct).

15

**MR WHEELAHAN:** All right. The second lever was what? Explain that to the Commissioner.

20

**MR BLANCO:** Well, it's the number of notices. So I said this amount of notices is not normal. And even for things that could have been resolved on the spot, even some of them were not even related to the project.

**COMMISSIONER:** Not related to the project?

25

**MR BLANCO:** Yeah. We were able to challenge, and they were withdrawn.

30

**MR WHEELAHAN:** All right. And we've obviously canvassed that when you talk about notices issued by Workplace Health Safety Queensland, you include in that the Sunday night notices to you and other individuals that you've just referred to. Now, the third lever of pressure, explain to the Commissioner what that was.

35

**MR BLANCO:** It was this meeting organised by the ministers that we were called on an urgent basis, and we were blindsided because it was going to be to discuss safety, and that wasn't the main - the main topic of the meeting.

**COMMISSIONER:** You were blindsided how?

**MR BLANCO:** Because we were called to talk about safety.

40

**COMMISSIONER:** And the meeting was about -

**MR BLANCO:** It wasn't about - it wasn't about safety.

45

**MR WHEELAHAN:** So by the third lever, the direct intervention, the meeting you described where the threat to take the contract out of your hands, you haven't had any other meetings with Minister Grace Grace, have you?

**MR BLANCO:** No.

**MR WHEELAHAN:** No. All right. So the reference in paragraph 53, "The third lever was the direct intervention by Minister Grace and Minister Bailey,"  
5 you're referring to that singular meeting that you've given evidence about?

**MR BLANCO:** Correct.

**MR WHEELAHAN:** All right. You then refer to a fourth lever. Can you  
10 explain that to the Commissioner, the fourth lever of pressure?

**MR BLANCO:** Yeah, it was the notices issued to the members of the steering committee, which also is not a normal - normal process. The notices are sent to the project.  
15

**MR WHEELAHAN:** All right.

**COMMISSIONER:** Have you seen that before, where these sorts of notices are sent to the senior executives personally rather than to the project?  
20

**MR BLANCO:** No, never.

**MR WHEELAHAN:** What was the combined effect of each of these levers of pressure?  
25

**MR BLANCO:** What we were doing, we thought that it was right, that it was to put an application in the QIRC, but obviously, we were far away from resolving and de-escalating the situation on the project, so it's when we had to do something, and we thought this, that withdrawing the application could have been the thing to do - not the right thing, but at least something to remove pressure from the project.  
30

**MR WHEELAHAN:** Commissioner, Mr O'Grady has some questions that he would like to ask.

**COMMISSIONER:** You don't have any questions, Mr McCarthy, do you?  
35

**MR McCARTHY:** No, Commissioner.

**<CROSS-EXAMINATION BY MR O'GRADY**

**MR O'GRADY:** Mr Blanco, I'm appearing for the administrator of the CFMEU. I take it you understand the CFMEU was placed into administration in August 2024?  
40

**MR BLANCO:** Mmm-hmm.  
45

**MR O'GRADY:** You would agree with me that when you're dealing with occupational health and safety matters, the focus is on risk, not outcomes. The thinking behind occupational health and safety is to eliminate risk as far as is practicable?

5

**MR BLANCO:** Correct.

**MR O'GRADY:** Yeah. And the fact that somebody may not be injured or killed doesn't mean that there isn't risk inherent in what's being undertaken. So the focus is on removing the risk, not whether or not somebody was injured or killed.

10

**MR BLANCO:** Yes.

**MR O'GRADY:** Yes. And you've given some evidence about the incident that occurred on 21 February with the reinforcement bar, and you'd accept, wouldn't you, that whether or not that bar fell 30 centimetres or 30 metres - which is the height it was being lifted up to - the fact it was able to fall at all meant that there was a very real risk associated with that activity?

15

**MR BLANCO:** Yes.

20

**MR O'GRADY:** And whilst you gave evidence that there was an exclusion zone, you would accept that one of the risks that you have to engage with when you're doing the sort of work we're dealing with here is that sometimes people do the wrong thing?

25

**MR BLANCO:** Mmm-hmm.

**MR O'GRADY:** And sometimes people go where they're not supposed to go?

30

**MR BLANCO:** Mmm-hmm.

**MR O'GRADY:** And sometimes people move into an area that's supposed to be an exclusion zone, even though they're not supposed to do so?

35

**MR BLANCO:** Mmm-hmm.

**COMMISSIONER:** The witness the answer gave to those last three questions was "yes". You just have to say "yes" for the transcript.

40

**MR BLANCO:** Okay. Yes.

**MR O'GRADY:** And there had been occasions, hadn't there, where people hadn't done the right thing while working on this project? For example, Mr Sanchez gave evidence that he observed an occasion where people were working at height, without using the appropriate safety gear.

45

**MR BLANCO:** Yes.

**MR O'GRADY:** And you've also given evidence that there were some 17 rollovers, plant rollovers?

5

**MR BLANCO:** Yes.

**MR O'GRADY:** Yes. And you'd accept that, irrespective of whether anybody is injured, there is a real potential for people to be injured or even killed where you're talking about very large plant rolling over?

10

**MR BLANCO:** Yes.

**MR O'GRADY:** And the fact that it is difficult terrain, as you describe it in your witness statement, only heightens the risk; it doesn't remove or excuse it, does it?

15

**MR BLANCO:** Correct.

**MR O'GRADY:** Yes. And are you aware of the fact that, in addition to the reinforcement bar that fell on 21 February, there was another incident that occurred about a month later, on 26 April, where two reinforcement bars fell from height.

20

**MR BLANCO:** I don't remember that.

25

**MR O'GRADY:** I understand. But you'd accept that people working from height without appropriate safety gear is a very real risk?

**MR BLANCO:** Sorry, you said -

30

**MR O'GRADY:** That people working from height without appropriate safety gear is a very real risk, because if you fall from those heights, then you may be injured or even killed?

35

**MR BLANCO:** Yes, it is.

**MR O'GRADY:** And we're talking here of people working at heights of at least 30 metres and maybe in excess of that.

40

**MR BLANCO:** Yes.

**MR O'GRADY:** Yes. And, similarly, where you've got people working at height, there is a risk to those on the ground, because something might fall from the height or be knocked by the people working at height, and it might land on and injure or kill the people working on the ground.

45

**MR BLANCO:** Yes.

**MR O'GRADY:** And you'd agree with me that, putting to one side about how they went about it, these sorts of risks are things that the CFMEU was perfectly be entitled to be concerned about?

5

**MR BLANCO:** Yes.

**MR O'GRADY:** Indeed, they wouldn't be doing their job if they weren't concerned about it, would they?

10

**MR BLANCO:** I'm not sure what their job is.

**MR O'GRADY:** I see. I understand. I have no further questions, thank you, Commissioner.

15

**COMMISSIONER:** Thank you, Mr O'Grady. This is a question I perhaps should have asked Mr Sanchez, Mr Blanco. The project is now finished and traffic are using the road?

20

**MR BLANCO:** Correct.

**COMMISSIONER:** Are you happy with the way in which the construction of the project, in terms of the finished product, has turned out?

25

**MR BLANCO:** Yes, very happy.

**COMMISSIONER:** And you've given evidence, and Mr Sanchez said, it was a very difficult project in terms of the engineering and the terrain.

30

**MR BLANCO:** Correct.

**COMMISSIONER:** What impact did the conduct of the CFMEU have on you and your team in terms of what was already a difficult project?

35

**MR BLANCO:** The main thing is the distraction and the amount of effort and amount of people that we have to bring just to deal with the administrative burden of these visits that were not - were not required for - by the project.

40

**COMMISSIONER:** Is there anything that flows from that, Mr O'Grady or Mr Wheelahan?

**MR O'GRADY:** No, Commissioner.

45

**MR WHEELAHAN:** No, Commissioner. May the witness be excused if there's nothing further?

**COMMISSIONER:** I know you have attended here today under compulsion, Mr Blanco, but thank you for your evidence.

**MR BLANCO:** Thank you.

5

**COMMISSIONER:** You're excused.

**MR BLANCO:** Thank you.

10 **<THE WITNESS WAS RELEASED**

**MR WHEELAHAN:** Commissioner, just one final matter. Without objection, Mr O'Grady wants to tender a document.

15 **COMMISSIONER:** Very well.

**MR McCARTHY:** Commissioner, may I be excused as well?

**COMMISSIONER:** Yes. Thank you, Mr McCarthy.

20

**MR O'GRADY:** Commissioner, I think you have been provided with an electronic version of this. We've attempted to get some hard copies, but there were some difficulties with the printing, but I can hand up the document, but you'll see that there are some pages that just didn't print for whatever reason, which is something that we'll seek to address overnight. The incidents that I asked both Mr Sanchez about and Mr Blanco about were subsequently matters in respect of which charges were brought.

25

**COMMISSIONER:** Sorry, were what, sorry?

30

**MR O'GRADY:** Charges were brought.

**COMMISSIONER:** Charges?

**MR O'GRADY:** Yes, and then those matters were resolved by Mr Sanchez's company entering into an enforceable undertaking, which was made or entered into without admission of liability. But it's something that, in our respectful submission, the Commission should have before it in assessing what took place in respect of the incidents on the site.

40

**COMMISSIONER:** I forget which of the witnesses was Acciona and which one was Ferrovial. Which one is Mr Sanchez?

**MR O'GRADY:** Acciona.

45

**COMMISSIONER:** Why don't you just tender it when it's been printed out properly tomorrow morning?

**MR O'GRADY:** I'm happy to do that. We attempted to do it today. Electronic versions have been provided to the Commission, but I will endeavour to get a properly printed one out and tendered first thing tomorrow morning.

5

**COMMISSIONER:** I think that's probably the easiest thing to do, and that can be the first thing that we do tomorrow morning -

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

10

**COMMISSIONER:** - if that's convenient. You know that I'll forget, so you will have to remind me.

**MR O'GRADY:** Well, I might, which is why we've got Ms Fox here. She is the ultimate fallback.

15

**COMMISSIONER:** Mr Wheelahan, what do we do now?

**MR WHEELAHAN:** We can adjourn until tomorrow. Tomorrow, we have Mr Geoffrey Watson SC.

20

**COMMISSIONER:** And what's he attending for?

**MR WHEELAHAN:** He's attending for the purposes of cross-examination. Mr Kimmins, I've been informed, will go first, and his estimate is one hour, and then Ms O'Gorman KC will then cross-examine thereafter, and we've reserved the Friday if need be.

25

**COMMISSIONER:** Just remind me who Mr - sorry, Mr O'Grady, do you want to say something?

30

**MR O'GRADY:** I have raised this with my learned friend. There is a minor matter that I would seek to clarify in further cross-examination, but I should take no more than two or three minutes.

35

**COMMISSIONER:** All right. You will talk to Mr Wheelahan about that.

**MR O'GRADY:** I raised it with Mr Wheelahan yesterday.

40

**COMMISSIONER:** That's fine, is it?

**MR WHEELAHAN:** Yes, I'm content with that.

**COMMISSIONER:** Remind me who Mr Kimmins acts for again.

45

**MR WHEELAHAN:** Mr Ingham.

**COMMISSIONER:** I see.

**MR WHEELAHAN:** Ms O'Gorman KC acts for Mr Ravbar and Mr Lowth.

5 **COMMISSIONER:** And the cross-examination could extend into Friday?

**MR WHEELAHAN:** On Ms O'Gorman's estimate, yes. It might be refined. That was given - sorry, to be fair to Ms O'Gorman, that was given about a week ago. By now, no doubt, she has refined that.

10

**COMMISSIONER:** And Mr Watson's aware that cross-examination could extend into the Friday?

**MR WHEELAHAN:** Yes.

15

**COMMISSIONER:** And everyone at the bar table is now aware.

**MR WHEELAHAN:** They should be, if they're listening.

20 **MR O'GRADY:** Yes, we've been told that.

**COMMISSIONER:** All right. Very well. And this doesn't come as a surprise to you, Mr de Jersey.

25 **MR DE JERSEY:** I've just become aware now.

**COMMISSIONER:** All right. See if you can deal with it.

**MR DE JERSEY:** I can deal with it. Thank you, Commissioner.

30

**COMMISSIONER:** Thank you. All right. Are there any other applications? No?

**MR WHEELAHAN:** No.

35

**COMMISSIONER:** We'll adjourn until 10 am tomorrow morning.

**<THE HEARING ADJOURNED AT 3.10 PM**