



**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 COURTS**

**TUESDAY, 25 AUGUST 2026
AT 10.00 AM**

DAY 45

APPEARANCES

**Mr S Wood AM KC – Commissioner
Mr E Gisonda KC and Ms G Feely – Counsel Assisting
Mr P Wheelahan KC and Mr J McLean – Counsel Assisting
Mr D de Jersey KC and Ms M Forrest – Counsel for the State of Queensland
Mr C O'Grady KC and Ms A Hughes – Counsel for the CFMEU
Administration
Mr A Duffy KC and Ms K Hillard – Counsel for The Honourable Grace Grace
MP
Ms K McMillan KC – Counsel for QLD Counsel of Unions and Ms J King
Mr C Murdoch KC and E Cooper – Counsel for the BMD Group and Mr Scott
Power
Ms Jacqueline King – Witness
Mr Grant Killen – Witness
Mr Scott Power – Witness**

<THE HEARING RESUMED AT 10.00 AM

COMMISSIONER: Deal with appearances. Mr Wheelahan, you're appearing with Mr McLean as counsel assisting?

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MR WHEELAHAN: Yes, Commissioner.

COMMISSIONER: Ms McMillan, you're appearing as counsel for the -

10 **MS McMILLAN:** Queensland Council of Unions, and in particular Ms King.

COMMISSIONER: Thank you very much. Mr O'Grady, you continue to appear with Ms Hughes as counsel for the administrator of the CFMEU?

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

COMMISSIONER: Mr de Jersey, you appear with Ms Forrest as counsel for the State of Queensland?

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

COMMISSIONER: And Mr Duffy, you continue to appear with Ms Hillard as counsel for the Honourable Grace Grace MP.

25 **MR DUFFY:** That's so, Commissioner.

COMMISSIONER: Thank you. Mr Wheelahan.

30 **MR WHEELAHAN:** Ms King will be the first witness this morning, followed by, not before 11.30, Mr Grant Killen, who was a security operator on Centenary Bridge. And the third witness today, not before 2 pm, Mr Colin Power -

COMMISSIONER: Mr Who?

35 **MR WHEELAHAN:** Colin Power, the CEO of BMD.

COMMISSIONER: Scott Power.

40 **MR WHEELAHAN:** Scott Power, sorry. Scott Power. Now, Ms Jacqueline King, General Secretary of the Queensland Council of Unions, last gave evidence on 2 and 3 December 2025.

COMMISSIONER: Sorry, what was that date again?

45 **MR WHEELAHAN:** 2 and 3 December 2025. So, given some eight months has passed, I just propose to do a short recap of her evidence.

COMMISSIONER: Very well.

5 **MR WHEELAHAN:** I can say, though, with respect to applications to cross-examine, two things. Mr O'Grady on behalf of the administrator has applied, and he has been granted and ought be granted his application to cross-examine.

COMMISSIONER: You've got no objection to his application?

10 **MR WHEELAHAN:** Correct. Although Mr de Jersey KC for the State and the QPS had previously foreshadowed a potential application regarding Ms King's evidence about police inaction, no application to cross-examine has been received, and no other application has been received. Ms Stacey Schinnerl -

15 **COMMISSIONER:** Do you want to say anything about that, Mr de Jersey?

MR DE JERSEY: No, Commissioner.

20 **MR WHEELAHAN:** Ms Stacey Schinnerl was also originally given a notice to attend today for the purposes of cross-examination.

COMMISSIONER: She was the first female secretary of the Queensland branch of the AWU; is that right? Ms McMillan's nodding, so I think I've got that right.

25 **MR WHEELAHAN:** Yes. Now, originally there was an application from the administrator. There is no longer. And no other party -

COMMISSIONER: No application to cross-examine Ms Schinnerl?

30 **MR WHEELAHAN:** Ms Schinnerl. And no other party has applied. Now, I give that explanation so that explains the calling of other witnesses today. Initially those two witnesses were scheduled for the entire day.

COMMISSIONER: I see.

35 **MR WHEELAHAN:** And given the absence of applications to cross-examine, we're now left with only one for one witness. We have - Mr Killen and Mr Power have been able to rearrange their calendars to attend today.

40 **COMMISSIONER:** I can't remember who appears for whom, but Mr Ingham is represented by someone, and Mr Ravbar and Mr Kupsch are represented by Ms O'Gorman and - is that right?

MR WHEELAHAN: Not quite right.

45 **COMMISSIONER:** All right. Tell me -

MR WHEELAHAN: Mr Ravbar and Mr Lowth is Ms O'Gorman, and Mr Kimmins is Mr Ingham.

5 **COMMISSIONER:** It's somewhat surprising no application has been made to cross-examine Ms Schinnerl by Mr Ravbar or Mr Ingham. As far as I can recall her evidence, it did seem to involve both of them.

MR WHEELAHAN: I make no comment about that other than your latter observation is correct, your latter observation that their evidence did involve -
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COMMISSIONER: Her evidence?

MR WHEELAHAN: Yes, both Ms Schinnerl and Ms King, which I'll go to, involved evidence regarding their clients respectively: Mr Ingham and Mr Ravbar.
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COMMISSIONER: Ms King's was more in the nature of hearsay, wasn't it? I mean, there might have been one direct piece of evidence involving either Mr Ravbar or Mr Ingham. I can't remember who it was. But Ms Schinnerl's evidence was - it also had some hearsay, but it was more direct, as I recall, involving Mr Ravbar and Mr
20 Ingham.

MR WHEELAHAN: Yes. Your recollection is correct, but I will - one of the purposes for recap, if you like, Ms King corroborates the evidence of Ms Schinnerl when she gave evidence last year. If I go by topics, Ms King gave evidence about the
25 CFMEU disaffiliation and the power dynamics with the Queensland Council of Unions, and she commenced by saying that the disaffiliation was on 1 July 2017, over the scope of industrial manslaughter laws, a dispute between the parties. And Ms King, though, characterised that as more of a power struggle than a genuine policy disagreement. Her evidence was that Mr Ravbar wanted to control, if I refer to
30 (indistinct) on the QCU and use the dispute as a basis to disaffiliate. Her evidence was that it was his intention, in quotes from the transcript, "to lead a posse of other unions to disaffiliate", to force the general secretary, Ros McLennan, to resign so he could install someone he could control.

35 **COMMISSIONER:** You mean the general secretary of the QCU, force her to resign?

MR WHEELAHAN: Yes. Now, after the High Court upheld the administration, there, in her evidence, was shadow control being exercised by Ravbar and Ingham,
40 and she said that organisers would not take direction from administrator until confirming with Ingham, and that was at transcript page 415 on day 5.

COMMISSIONER: Just going back to the disaffiliation from the QCU, that does explain or give context to some of the events that occurred later, because one of the
45 things one of the witnesses said last week - I've forgotten his name; he was the HR manager of BMD - Mr Gisona put a lot of things to him about the pressures he was under, that he wasn't getting police support, that the ABCC had been disbanded, that

the WHSQ had been captured, that there was a national campaign against BMD, that the legal process to deal with these issues was too slow. And the witness then went on to say and also it was - "impossible" might not have been the words he used, but it was impractical to - he couldn't enforce, or there was no one enforcing the demarcations between the AWU and CFMEU as the CFMEU pushed into civil work.

One of the traditional brakes upon unions encroaching into the patches of other unions, before it gets to the level of the Fair Work Commission to sort it out, are the - either - if it's a national union, the ACTU, or if it's a state union, the relevant state body, here the QCU, and the disaffiliation from the QCU rendered the QCU's ability to play its normal role of managing the traditional demarcations - well, it rendered it - it ceased to have any role, I would imagine. So that 1 July 2017 figure is quite important. That date is quite important as a date upon which one of the traditional restrictions upon a union dealing with another union so as to encroach upon their patch was removed or lessened. That would be the inference. I'm -

MR WHEELAHAN: No, I might ask that very question when Ms King resumes her evidence so that you have the benefit of her direct answer to that. Now, the other topic that she gave evidence about was the CFMEU targeting of the regulator, and specifically she gave some evidence regarding Kym Bancroft. Ms King sat on the selection panel that appointed Kym Bancroft as the deputy director-general of the Office of Industrial Relations. She gave evidence - Ms King gave evidence, that is - that Kurt Pauls, CFMEU workplace health safety officer acting on Mr Ravbar's instructions, led a campaign against Ms Bancroft, bombarding her with calls, texts and emails, demanding she personally respond to every compliance matter within 24 hours, threatening she would be, in quotes, transcript page 325 to 327, "responsible for people dying on construction sites" if she failed to comply.

Ms King described Bancroft as "almost a captured pawn" who was visiting the CFMEU offices several times a week. Ms King gave evidence that she lasted less than a year in the role and that Kurt Pauls was subsequently placed on a selection panel for the executive director of compliance services, and that's at transcript 326 to 330.

COMMISSIONER: It might be a question for Mr Ternovski, who's dealing with this case study, rather than you, Mr Wheelahan, but it would be interesting to know who placed Mr Pauls on that selection panel.

MR WHEELAHAN: Now, the next topic Ms King gave evidence about was Mr Ingham's approach to delay workplace health and safety legislation. On 8 March 2024, International Women's Day, she gave evidence that CFMEU-assisted state secretary Jade Ingham contacted her urgently and attended her QCU office, and he asked her to influence and to pressure the Queensland Government to delay or indefinitely defer the workplace health and safety bill then before Parliament, and that's at transcript pages 336, 342 to 345. She said that Ingham's stated reasons were twofold: firstly, delivering the delay would give him kudos with CFMEU organisers to mount a leadership challenge against Ravbar; and secondly, as a quid pro quo, he

would bring the CFMEU back as a QCU affiliate and return it to the left faction of the ALP. Ms King gave evidence that she refused, and she gave evidence that she told him it would be highly inappropriate, and that's at transcript 343.

5 **COMMISSIONER:** Strange that Mr Ingham hasn't applied to cross-examine Ms King.

MR WHEELAHAN: I didn't hear that.

10 **COMMISSIONER:** I'm just musing out loud. It is strange that Mr Ingham hasn't applied to cross-examine Ms King about that, at least about that. But anyway, that's - they're properly advised. They make forensic decisions that are in their best interests, so -

15 **MR WHEELAHAN:** Ms King gave evidence that Mr Ingham said that the matter was urgent and had to be resolved that day, a Friday, before Mr Ravbar returned from leave on the Monday. She gave evidence that if not, Ravbar would go nuclear, and that he "had the printing presses ready to go on a campaign against the government". The bill passed two to three weeks later, and then there was escalation
20 at Cross River Rail, and Centenary Bridge then followed. And that evidence is recorded at transcript 345 to 346.

COMMISSIONER: Well, we heard last two weeks about the escalation of Centenary Bridge and - following on from this meeting in March.

25 **MR WHEELAHAN:** Correct.

COMMISSIONER: In May and June there were serious incidents at site as a result of the escalation.

30 **MR WHEELAHAN:** Correct. So the evidence Ms King gave, as of December last year, which I'm recapping, she also dealt with Labour Day 2023, described as CFMEU aggression against the AWU and the QCU. She gave evidence that on the Saturday before Labour Day 2023, Ms King's executive officer, Renee Kempin, was
35 verbally abused by CFMEU members while setting up at Ipswich. She gave evidence that at the Brisbane Labour Day march, the CFMEU Youth Crew posted derogatory stickers along the entire route, and we've seen that with "Australia's Worst Union", and that evidence is recorded at transcript page 357 to 360.

40 She gave evidence that Ms Schinnerl, with her 13-year-old child, was approached aggressively by CFMEU members, one member in full face paint turning to the child, which we've seen, and I think we've gone through that evidence of the unsavoury things said by that official. Ms King described it as, in her words, extremely offensive, emphasising that Labour Day is Christmas Day for unionists.
45 And that evidence is recorded at transcript 357 to 359.

COMMISSIONER: I think that part was hearsay, but we had Ms Schinnerl's direct evidence in relation to the same incident.

5 **MR WHEELAHAN:** Yes. I was just saving myself from repeating it, because I took that witness on camera, again. She next gave evidence about the Cross River Rail and Centenary Bridge, and I know we've then subsequently seen more detailed evidence of this incident. She gave evidence at Cross River Rail the CFMEU members surrounded an AWU vehicle as it exited a site, shaking and rocking the car while chanting "scab". The site closed its gates, and the AWU subsequently had to
10 remove insignia from its vehicles as a safety measure.

COMMISSIONER: That was the February 2024 - I think February 2024 attempt to - by a couple of organisers to exit Gate 1 at the Centenary Bridge site, which we've seen a bit of video of. I think that's the incident that Ms King was talking
15 about.

MR WHEELAHAN: Her evidence in that regard is at transcript 355.

20 **MS McMILLAN:** Sorry, at paragraph 100 of the statement, she talks about an incident in 2023.

COMMISSIONER: In '23?

25 **MS McMILLAN:** Yes, with Cross River Rail in her statement.

COMMISSIONER: Oh, this is the Cross River Rail. Sorry. I'm on Centenary Bridge. Sorry, I've got the wrong one. Just remind me which one that was. I can't remember that one.

30 **MR WHEELAHAN:** It's brought up on screen for you now. So Cross River Rail at 99:

35 "Ms Schinnerl also advised we have a number of ongoing incidents involving the intimidation and violent conduct directed by some people within the CFMEU towards the AWU that occurred on a number of Cross River Rail sites, commencing in 2023."

40 And then the specific incident you're taken to there at paragraph 100, Ms King's evidence that in 2023, she was told by Ms Schinnerl -

COMMISSIONER: That's right.

MR WHEELAHAN: Yes, that's the -

45 **COMMISSIONER:** Yes, Ms Schinnerl did give evidence about that. I can't remember which site it was. It could have been Dutton Park. Anyway, it doesn't matter. Ms Schinnerl has given evidence about that.

5 **MR WHEELAHAN:** Yes. Ms King also gave evidence that at the Centenary Bridge Upgrade - and this is transcript 363 to 365 - BMD, the principal contractor, arranged a meeting with Ms King through barrister Travis O'Brien, and that BMD showed her laptop footage of violent CFMEU behaviour and disclosed that a private investigator had identified "Setka's people" infiltrating the site, and GPS trackers had been placed on three cars, and BMD's thesis was that they were being targeted because they had refused to sign CFMEU agreements in Victoria. Ms King then gave evidence about her meeting with -

10 **COMMISSIONER:** I think some of that has been introduced by Mr Gisonda in his case study over the last couple of weeks, particularly the national campaign against BMD.

15 **MR WHEELAHAN:** That's correct. Commissioner, we're very grateful for Ms King giving this evidence to the inquiry at an early stage, 2 December last year, and what you have now seen is arising from this evidence - some of it hearsay, some of it perhaps secondary hearsay - Mr Gisonda has made further inquiries and produced powerful and direct evidence that supports both Ms King's and Ms Schinnerl's
20 evidence given in December last year.

Now, her evidence about meeting with the Police Commissioner, she said that by mid-2024 - and this is transcript 368 to 369 - BMD told Schinnerl they could no longer guarantee her safety at Centenary Bridge. Schinnerl, Ms Schinnerl, had hired
25 private security, and Ms King gave evidence, and I quote:

"I remember having the view that I wouldn't be able to live with myself if something actually happened. We might as well go to the top."

30 **COMMISSIONER:** I remember she was quite emotional when giving that evidence, if I recall it correctly. Well, she was quite emotional.

MR WHEELAHAN: Ms King and Ms Schinnerl - sorry, this evidence is transcript 369 to 371 - met Police Commissioner Steve Gollschewski - G-o-l-l-s-c-h-e-w-s-k-i,
35 no doubt I've mispronounced that - and Deputy Commissioner Cheryl Scanlon at Roma Street headquarters for approximately an hour, and Ms King gave evidence that she handed over a USB containing BMD's CCT footage. She gave evidence that they, in her words, heard nothing back, and Ms King gave evidence that she formed the view that police would not act without further evidence. Ms King attributed the
40 police inaction to a cultural issue linked to the MOU between QPS and the Office of Industrial Relations, directing police to defer to the Workplace Health and Safety regulator on work site disputes. And at transcript 370 to 371, she said that, in quotes, "never would have had that view until recently", and that -

45 **COMMISSIONER:** Be interesting to - sorry.

MR WHEELAHAN: I was going to say, that review relates to the inaction by police and her view that it was linked to the cultural issue and the MOU.

5 **COMMISSIONER:** It'd be interesting to know what Ms King gave to the commissioner and deputy commissioner, what was on that USB, because there were two pieces of footage that were played, and I might have the dates wrong, but let's say March or April or May in 2024, which showed the police not moving on a group of CFMEU blockaders when two trucks attempting to deliver steel were blockaded by them, and then, in May, the police giving a move-on order but not enforcing the
10 move-on order to a group of CFMEU blockaders blockading a concrete truck, trying to deliver concrete to the site.

It'd be interesting to know - and on a very preliminary basis, and Mr de Jersey is going to get the opportunity, because he acts for the QPS, to put evidence on to
15 suggest the - to give some context to what those videos showed, but my preliminary observation appeared to be that the police were taking the side of the lawbreakers and not enforcing the law, and it'd be interesting to know what Ms King showed the commissioner and the deputy commissioner in that regard. It could help the Commission, also help Mr de Jersey in putting material before this Commission.
20 That comment is directed to you, Mr de Jersey, as much as to Mr Wheelahan.

MR DE JERSEY: Thank you, Commissioner.

MR WHEELAHAN: The next topic Ms King addressed was the QCU office protest
25 on 19 February 2025. Her evidence in that regard was page 391 to 394 of the transcript, day 5. She gave evidence that approximately 50 CFMEU members gathered outside the QCU building in South Brisbane from 8 am, protesting Jared Abbott's appointment to work with the CFMEU administrator. She gave evidence that three members used the fire stairwell to access Level 5 of the QCU offices. Ms
30 King called the police. She said that although she was not personally intimidated, she noted a woman from their offices was found very distraught, in her words, and crying. At transcript 393 to 396, she gave evidence that the protest was coordinated using burner phones. Ms King speculated this was so organisers' phones would not need to be produced as evidence.

35 She then gave evidence with respect to inspectorate reform and the Office of Industrial Relations. Ms King gave extensive evidence about the dysfunctionality of the Queensland Workplace Health and Safety inspectorate in resolving rights-of-entry disputes. She advocated for reform. She gave evidence that the MOU
40 between QPS and OIR created - in her word - gap. Police defer to the regulator, but the regulator was underresourced and in some cases compromised. She referenced Helen Burgess, who we know was a senior Office of Industrial Relations figure, and her evidence from Ms King was that she had "a close personal relationship" with former CFMEU president Royce Kupsch that then became the subject of a CCC
45 investigation. And that's transcript 370 to 371 and 402 to 405. And again, Commissioner, at the time that evidence was given, 2 December last year, we are

very grateful for Ms King's bravery and honesty in giving that evidence that has enabled further chains of inquiry to be pursued.

5 She then gave evidence about the 2022 ALP conference and the incident, as we know, involving Ms Schinnerl. And this is Ms King's evidence, transcript page 305 to 306. Ms King says she personally witnessed Schinnerl's throwaway joke, and Mr Ravbar "standing up and yelling something" in response, and that this was the catalyst for the CFMEU's personal hostility towards Ms Schinnerl. Now, with that recap, I'll recall Ms Schinnerl - sorry, Ms King, and I'll ask that one question that you
10 were interested in, Commissioner, before cross-examination commences.

MR O'GRADY: Commissioner, before my learned friend does that, there's just one aspect of his summary that we would take issue with, and it might be convenient if I -
15

COMMISSIONER: Yes, what is it?

MR O'GRADY: I might have misheard it, but I think my learned friend said that Ms King gave evidence that after the High Court handed down the Ravbar decision, Mr
20 Ingham and Mr Ravbar were operating as shadow directors of the CFMEU. That's not the effect of the evidence.

COMMISSIONER: I thought he meant before.

25 **MR O'GRADY:** Yes. And indeed, that's precisely the case, Commissioner, and the relevant passages appear at page 375 in-chief, when Mr Costello was asking Ms King.

COMMISSIONER: 375?
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MR O'GRADY: 375, at lines 14 through to 30. And then I dealt with the matter also in my cross-examination, and that appears at page 414, from lines - 10, really, through to the end of the page.

35 **COMMISSIONER:** The reference Mr Wheelahan gave me was 415. So did something happen at page 415 that altered that position so that it became -

MR O'GRADY: No. No, it didn't.

40 **COMMISSIONER:** No?

MR O'GRADY: And it is - the relevant page, I think, is 414. But as I say, it's dealt with in-chief by Mr Costello, and if it assists, Commissioner, at 375, Mr Costello said:
45

"This was all occurring in February this year?"

Ms King:

"February, yes."

5 "At that time, though the administrator was in office, the High Court challenge was on foot and not yet determined?"

And Ms King says:

10 "Yes."

"And the administrator's own evidence was to the effect that he didn't have complete control over the union in the sense of being able to obtain cooperation of people during that time by reason of the dependency of the High Court litigation?"

15

And Ms King said:

"Yes, I think it's fair to say that both Mr Ravbar and Mr Ingham were shadow-controlling the union here in Queensland for part of that time."

20

And that point was reiterated when I cross-examined Ms King.

MR WHEELAHAN: I said that.

25 **COMMISSIONER:** That was my recollection.

MR WHEELAHAN: Yes, before the High Court. I may have said after, but I meant -

30 **COMMISSIONER:** Before. That's what that was.

MR WHEELAHAN: Yes.

35 **COMMISSIONER:** And I think Mr Watson gave some evidence that it made it hard for him to conduct the interviews that he did to produce the report into the Queensland branch because Mr Ingham and his stepbrother, Mr Perrett, who's now on a charge of attempted murder, I think - torture and murder, I think - were the ones who accompanied every witness to his interviews. That was, I think, the gist of Mr Watson's evidence.

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MR WHEELAHAN: That was the gist of the evidence. I think Mr Perrett might have been the driver, as in, physically driving people there. There was also evidence about that they had to record -

45 **COMMISSIONER:** That's right.

MR WHEELAHAN: Record their interview with Mr Watson for accuracy.

COMMISSIONER: All right.

MR WHEELAHAN: Thank you. I call Ms King.

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COMMISSIONER: I see Ms King is in the body of the hearing room. Ms King, will you come to the witness box, please.

<JACQUELINE KING, RESWORN

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<EXAMINATION BY MR WHEELAHAN

COMMISSIONER: Please take a seat, Ms King.

15 **MR WHEELAHAN:** Ms King, I'll just follow up the question from the Commissioner, from the bench, with respect to the disaffiliation of the CFMEU from the QCU on 1 July 2017. He asked, did that, in effect, mean that your role in dealing with demarcation disputes between the AWU and CFMEU, that you didn't have a role after that date because of the disaffiliation?

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MS KING: So technically, no, because the AWU was not an affiliate at that point in time. And so traditionally, the rules of the Trades and Labour Council, which is the previous name of the Queensland Council of Unions, the rules of the Trades and Labour Council provided for a disputes committee, but that went out of the rules at some point during the 1990s, I think, when there was - provisions were made in the relevant federal workplace relations Act at that time. The previous industrial relations Act, you're dealing with demarcations. So 2017 was really - CFMEU, there was no influence over the CFMEU. So in an indirect way, the answer is yes to your question, but technically both of them weren't - one of them wasn't an affiliate prior to 2017 anyway, which was the AWU. So we wouldn't have been able to sit down, even if we did have it in our rules, and by agreement of affiliates to mediate between the two of them, because the AWU had never been an affiliate and because there wasn't a great relationship historically between the two bodies until fairly recently.

35 Having said that, we do have processes now, and we are activating those processes, where affiliates raise particular issues if there's an overlap. So I have to understand in demarcation disputes that they're not always black-and-white matters. There are processes that unions can take to - and get like a declaratory order from the - I think it's the Federal Court, about what their rules are and where they do have coverage if there's a grey area - like, sorry, there's an area someone is disputing. Where the demarcations often arise is in respect to where there's an overlap in eligibility rules. And so both of the unions actually have eligibility rules that cross over, and then you'll get the third type of demarcation dispute, which is where, you know, potentially a union just ignores their eligibility rules and wants to go further.

45

MR WHEELAHAN: So is the Queensland Council of Unions involved in any demarcation disputes between the AWU and the CFMEU?

MS KING: No.

MR WHEELAHAN: Thank you.

5

COMMISSIONER: Has the CFMEU -

MS KING: Sorry, back then, no. So - can you repeat the question?

10 **MR WHEELAHAN:** Okay. Not back then, but they are now, are they?

MS KING: No. We've had - I'll clarify my answer. So we have had discussions - and I think I gave evidence - okay, I'm trying to think of dates -

15 **MR WHEELAHAN:** December last year.

MS KING: So January - so it would've been after I gave evidence. So January this year, we were involved in a national meeting - so ACTU, the QCU, the AWU and CFMEU, plus administration representatives - to discuss how we could progress
20 trying to get agreement between the unions to a national deal, and obviously my involvement was from a Queensland perspective. So we met in Melbourne in January to do that. The AWU and the CFMEU agreed that they would enter into processes.

25 I have held meetings with the Queensland branch of the CFMEU and the AWU in Queensland to that effect as well, about helping the parties to reach some understanding on the overlap or where there's a misunderstanding about where their rules cross, and I believe that they are in a process which I think Mark Irving may give evidence on, but I believe that they are in a process of voluntary arbitration
30 before former commissioner Julius Roe from the Fair Work Commission to help mediate, and arbitrate ultimately, a demarcation agreement.

They're the sorts of things that we also have some provision for, so we have also, in the last 18 months, primarily arising from this particular broader sort of issue, not
35 only have we adopted a code of conduct about conduct and behaviour of affiliates and how do we deal with disputes about conduct and behaviour, but we also have now a process, we've reformed that old 1980s kind of - we don't call it a disputes committee, but we have a process where we can mediate between unions, and we have done that - well, I have done that now I think on one occasion this year,
40 between different unions.

MR WHEELAHAN: Which unions were they?

MS KING: AWU and the AMIU.

45

MR WHEELAHAN: Okay.

COMMISSIONER: Has the CFMEU re-affiliated with the QCU?

MS KING: No, they haven't, but we have developed, I think, a fairly good working relationship, completely unlike what it was, and on the basis that we work with the
5 Queensland branch to try to assist them on their path to getting out of administration, so also working with them on industry issues. Obviously there's a lot of issues, putting aside this Commission, but there's a lot of issues impacting in the construction sector. Skills shortages, you know, etcetera, etcetera, that we deal with them.

10 I also - we have a program which is a Federal Government-funded program, a number of them. So one is on migrant workers, the other is about gender-equity initiatives for women working in blue-collar industries. So very clearly, you know, in construction, both of those issues and both of those programs are relevant, so we
15 seek to engage with them about cultural change, like support for migrant workers in terms of where they're being exploited through sham contracting or other types of arrangements; international students being abused, you know, for excessive working hours, on the Gold Coast as an example. So we try and work with them in that way as a way of moving forward discussions.

20 So at an ACTU level, the CFMEU had their membership suspended as they went into administration at the time. So I'm a member of the ACTU executive. I think the discussions that we have had to date have been generally about a pathway forward but the importance of not actually leaving the union out there in no man's land. If
25 you're out there in no man's land and no one is speaking to you, you don't understand how the rest of people operate in your world from a - I suppose an ethical and a values-based proposition. So I think the administrator, Michael Crosby, and Emma Kingdon, who works for the national office, came and addressed the last ACTU executive in July to give them an update on what's happening.

30 And so similarly we've had - the local branch came to our executive last year to talk about where they were at. They were invited to various industry-based meetings about immigration. We've had one recently with an assistant minister in Queensland. They came, participated. And in my view, most of that is about re-establishing the
35 relationship and normalising that relationship as the CFMEU is a union - even though it's under administration, it is a union that is seeking to move forward and to, you know, resume its part as part of the trade union movement, and not operating as a separate entity.

40 **MR WHEELAHAN:** Is there a timeframe within which you would expect the union to be affiliated again with the QCU?

MS KING: So a lot of that is really sort of discussions between the administrator and the ACTU, because of the suspension of the membership, and part of the
45 discussions that we have all had, so there's been, you know, lots of discussions at a national and a state level, has been around the ability of the union to re-establish or to establish some forms of democratic decision-making internally. So for us it's

quite - it's important as unions to be able to say that we actually have - that unions have processes for engaging with their members; they have elected committees of management; they have delegate structures; there is some process where, you know, it's not just a leadership - it's not just a professional organisation that appoints
5 directors and staff and there's no engagement with the membership base. It's not an insurance company, so to speak.

So for us, that's an important part of it, and I believe that they are working their way through that. From our end, it also is going to take time, because while the people
10 who are in the union now are not the same people that were, you know, doing the activities and the conduct that was occurring pre the High Court decision, relationships still take time to mend and trust takes time to rebuild. So while I might be, as the general secretary, more on a day-to-day basis involved with the officials and the organisers in that union, the secretaries and the leadership of other unions in
15 the health and education sector or transport, for instance, you know, just making a general sort of observation, are not involved to that same extent.

So that's why it's important that we kind of do participate and have them come along to - they participate in our health and safety committee meeting, and in more general
20 sort of terms so that, you know, they're not yelling at people, they're not abusing people, they're not shouting over the top of people and telling people what to do, and all of the abuse that was going on at that point in time. They're operating in a respectful manner within, you know, I guess the - you know, the tone that you would expect that people would respectfully engage with each other in that room.

25 **MR WHEELAHAN:** And is that your experience confined to Queensland only in dealing with the CFMEU?

MS KING: Yes.

30 **MR WHEELAHAN:** Not, for example, Victoria?

MS KING: I would make no observations about Victoria at a personal level other than obviously we all see what's happening in the media. So my experience is
35 completely with the Queensland branch and also with the national office in respect to policy matters such as skills and the like and some of those gender equity issues etcetera. So thinking about those issues, but definitely nothing to do with the Victorian branch.

40 **MR WHEELAHAN:** And the ACTU - did you say you were on the board?

MS KING: Executive, yep.

MR WHEELAHAN: And does that not consider Victorian branch?
45

MS KING: The ACTU executive is made up of the national secretaries of all national - pretty much most of the national unions, plus the state trades and labour

councils of which the QCU is the Queensland Trades and Labour Council. So we talk about a lot of business. It is a lot of legislative business and policy business. There's been a lot of legislative change happening at a federal level. You know, we have presentations made, Safe Work Australia, the Fair Work Ombudsman, so we
5 deal with a whole different range of policy issues. We have economists come and talk to the executive. At the last executive I mentioned that Michael Crosby, the new administrator, came and addressed the executive about progress where they were up to.

10 So there's no formal reporting - long way to the answer, but there's no formal reporting about individual activities within any union or any particular branch, but Mr Crosby gave, I think, and Ms Kingdon, I think, a fairly broad but concise update on what the administration is actually doing and what they're focusing on at that point. The week that executive met I think was the week that there was a change of
15 Premier in Victoria and announcement of a Royal Commission, so obviously there was some chitter-chatter, but nothing on the formal business because things had - literally we have a two-day executive that was happening as we were in the room.

20 **MR WHEELAHAN:** And in rebuilding this relationship, are you concerned that when Mr Irving was the administrator - I think his evidence was he could not expunge all bad apples because there'd be nobody left in the union to run it. Do you agree with that?

25 **MS KING:** Look, I think - you know, that's a fairly general statement. I can't speak for Mr Irving. I can only think about Queensland. You can't - you can't regulate - can I say this, that you can't regulate human behaviour. You can call it out, and if you think that something bad is occurring, you know, you have processes, and I think the administrator has gone through those processes. There's been, you know, a fairly
30 big - a big turnover in staff within the union. So there's - I don't know, I could be wrong, but I would hazard a guess that there's 40 per cent of the staff that are still there and maybe 60 per cent new staff. As I say, I could be slightly wrong on that since the High Court. I think that some of the people that left and departed after the High Court, and so that was from actions taken by the administrator, definitely has
35 made the place better in the sense of us being able to engage with them.

But, you know, I listen to some of this evidence that comes out in this Commission of Inquiry, not every week, but certainly it is alarming, you know, that there is the level of behaviour that has gone on. These are things, though, that were occurring, in
40 my view, up until the High Court. There's some things that are potentially still occurring, but not from union officers themselves. And if there is, and they do come to light, then let's shine a light on them and find ways to deal with that individual behaviour. But it should be evidence led in that sort of respect. Like, I just don't think we can kind of say that any union, or any corporation for that matter, you know, is
45 squeaky clean at any point in time. I would like to think that we are operating as legal entities and that we have an ethical and a values-based proposition to how we operate as unions.

Clearly, that hasn't always occurred, and we've seen evidence of that, but moving forward is where I like to try and stay focused, which is we need to, you know - our business is about protecting the rights, the safety and the - you know, ensuring that
5 there are decent and dignified wages and safety for, you know, Queensland workers and for union members. That's what we want to focus on. To do that, we need to have strong unions that operate in those spaces, strong unions that abide by the law.

MR WHEELAHAN: Well, can I ask you this, then, a few propositions, noting that
10 you have been alarmed at some of the evidence that's come out of this inquiry. Do you agree that all persons on building sites should comply with the law?

MS KING: I would agree with the proposition that all people should comply with the law to the best of their ability at that point in time, including employees working
15 and employers working in the building and construction industry.

MR WHEELAHAN: And with that answer, you would agree that it's entirely reasonable for the government to expect persons working on government-funded building projects to comply with laws that are in force?
20

MS KING: Yes.

MR WHEELAHAN: And that includes safety laws?

25 **MS KING:** Yes.

MR WHEELAHAN: And industrial laws?

MS KING: Yes.
30

MR WHEELAHAN: And the QCU would also agree, and you would, that freedom of association is important?

MS KING: Yes, and we would abide by freedom of association. I'm just going to
35 put a clarifier on that, because I would say we would abide with freedom of association provisions which exist under the Fair Work Act, yes. I just am aware that there is a whole range of other mooted changes which are floating in the system at a state level outside of this Commission at this point in time that I wouldn't be giving a guarantee that that would be our position on.
40

MR WHEELAHAN: Yes. So I'm asking you as a matter of principle, not having to identify the relevant -

MS KING: As a matter of principle, the right to freely associate and join a union.
45

MR WHEELAHAN: Sorry -

COMMISSIONER: Just let the witness answer, Mr Wheelahan. Sorry.

5 **MS KING:** No, no, my apologies. I would agree that every worker has a - should have a right to join a union. I would qualify that by our laws that we have had in Australia, which are longstanding, which is that, you know, those freedom of association rules should be subject to things like conveniently belong rules, eligibility rules of individual unions and the like. That's what I'm saying. So I just don't want to enter into a debate and say, you know, we agree that anyone should join any union, whether it's registered or unregistered, etcetera. That is completely
10 opposite of what our views of freedom of association are. But I would agree with the current freedom of association rules as a general principle that exists under the Fair Work Act currently.

15 **MR WHEELAHAN:** Should workers are able to choose which union, if any, they want to be a member of?

20 **MS KING:** I think I've just answered that. So I'll clarify it. I would say as a general principle, yes. But the way that unions have been structured and recognised is that they enrol unions - sorry, unions enrol employees subject to their eligibility rules.

25 **COMMISSIONER:** The rationale that was - that sits behind that - and this is really set out in the book prepared by Henry Bournes Higgins, the first President of the Arbitration Court, A New Province For Law and Order, is that the reason you have a conveniently belong rule, and so workers aren't free to join any union but only a specific union which can cover them according to their eligibility rules, was at that stage it was thought that unions, as much smaller organisations, should devote their resources to winning better terms and conditions for their members, and not fighting each other.

30 **MS KING:** Fighting amongst each other.

35 **COMMISSIONER:** And to that extent, you believe that that rationale continues to play an important role in our system and therefore freedom of association is not an absolute but should be allowed insofar as it is consistent with our 120-year system of a regulation in that regard of the unions to which a worker can belong.

MS KING: Can belong. And then even longer than the federal jurisdiction. So I think it's the Trade Union Act of 1886 year when Queensland was a colony.

40 **COMMISSIONER:** They had a conveniently belong rule then, did they?

MS KING: No, they didn't have a conveniently belong rule, but that's -

45 **COMMISSIONER:** They did?

MS KING: They didn't, but they set the - that set the standard for allowing a union to have some form of legal entity but also registering with eligibility rules. So

already it was starting in that space, and so that it is about, you know, reducing competition from that perspective. But, you know, we've had arguments over the years of different players want to go to a competitive unionism model, which is what I was putting subjects to, or on my answers. If we go to that sort of a model, you
5 know, from someone who has worked and operated in the system for, you know, three decades or more, I think that it would cause a lot of chaos, because it would mean that, you know, unions may start to, I guess, in effect, cannibalise each other rather than go out and grow their membership and their density within existing - their industry sectors.

10 In the 1990s, we had demarcation orders and a system that existed in the Workplace Relations Act, and I think they came from the Industrial Relations Act prior to that, where employers could seek orders to demark out unions. In fact, when I first started working at the AMWU, one of my first jobs there as a research officer was to sit
15 through and support - I got thrown into doing witness examination, whatever, I think, as a very junior person in a Full Bench matter, where the Mount Isa mines was trying to demark the AMWU, the FEDFA, the ETU out and have sole - give sole coverage to the AWU. And we had a similar matter where the sugar industry at the state level did a similar thing. That was basically on the basis of that that would achieve greater
20 productivity in those industries by reducing demarcation disputes and the amount of unions that an employer had to deal with.

So we kind of went from that back to the no, that's not appropriate and it shouldn't be appropriate that an employer should have that much influence over deciding which
25 union should actually have coverage in a particular workplace, to the space where we're back to, which is we went through union amalgamation, so we went through a plethora of unions to the, you know, quite a large - a smaller number of larger national-based unions that we have today, which to a large extent I think has addressed a lot of that, I guess the overlapping coverage.

30 But even between a lot of those unions, we will see that there is demarcation disputes that exist across Australia. Some of them will be different by state, between, you know, unions in the health sector. Here in Queensland in aged care the unions, you know, they've reached an amicable demarcation agreement. They have overlapping
35 eligibility coverage. They've reached agreement about who they will enrol based on qualification levels and who covers who, and they operate amicably together in their sector. In the education sector, we have different coverage in different states. Here, the Queensland Teachers' Union covers teachers. We have - Together covers administration officers. You have - united Workers Union covers teacher aides, for
40 instance, whereas the AEU, the equivalent in Victoria, can cover all of those staff, right.

But a lot of those things are determined and operated by the local relationships, and they can get testy from time to time, but they're not often to the scale that we were
45 seeing here a few years ago in construction. But that again seems to have settled, and we are now embarking back on processes where if those parties, you know, can't reach agreement between themselves, like in any kind of, I guess, corporate dispute

or any other community dispute, you go to get a mediator. In our case, the peak council is available as a potential mediator. It doesn't prevent people from going to and asking for assistance from the commission, federal or state, whichever jurisdiction is there, or, you know, from a retired Fair Work Commissioner, for instance, as in the case of Mr Julius Roe that's been contracted to do those matters. That is also quite common, from my experience over the years.

MR WHEELAHAN: Is it reasonable for a government to expect that freedom of association ought apply on any project that is to benefit from government funding?

MS KING: Is it reasonable to expect that it should apply? Yes.

MR WHEELAHAN: And -

MS KING: The legal freedom of association, the current lawful one? Yes.

MR WHEELAHAN: You'd also agree that coercion, intimidation and harassment have no place on a building site?

MS KING: I'd agree.

MR WHEELAHAN: And if the government can use its purchasing power to reduce the incidences of coercion, intimidation and harassment, that's a good thing for workers on building sites?

MS KING: I don't know that the use of purchasing power to enforce the law is necessarily a productive thing. I would think that governments should be ensuring that the law is being enforced.

MR WHEELAHAN: But my question was -

MS KING: I will differ with you on the purchasing power. That's all I'm going to say because of the procurement nature and because of the draft code that is currently there. So I'm just going to put a few caveats around my answers.

MR WHEELAHAN: All right. Well, I want you to assume that reasonable minds can differ.

MS KING: Yeah, of course. Of course.

MR WHEELAHAN: So what I'm putting to you, though, that if a body such as the Queensland Productivity Commission or even this Commission were to conclude that a government using its purchasing power, if you accept that as a fact, to reduce the incidence of coercion, intimidation and harassment, that's a good thing for workers on building sites?

MS McMILLAN: Commissioner, I hesitated to object. I don't know that this witness really can assist you with her answers, her concessions about what government should or shouldn't be involved with.

5 **COMMISSIONER:** I think as the head of the - well, what do you say about that, Mr Wheelahan?

MR WHEELAHAN: I had an assumption that I want her to accept that government can use its purchasing power, and the basis of the question, that that's a good thing
10 for workers on building sites if they can do that.

MS McMILLAN: Well, with respect, that's a very broad-based question. Would cover a multitude of things. In my submission, it's just not helpful to you.

15 **MR WHEELAHAN:** My only answer to that Commissioner, if you rule against me on that, you'll have to look attentively at the application to cross-examine from the administrator as to the utility of that application.

COMMISSIONER: This is the application you've consented to?
20

MR WHEELAHAN: Correct.

COMMISSIONER: And this goes to the sort of points you expect Mr O'Grady to raise?
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MR WHEELAHAN: Yes, he will.

COMMISSIONER: Why don't you just deal with it in reply, then? Wait till he asks his questions and deal with it -
30

MR WHEELAHAN: Well, I'm almost finished. I've only got two other questions. I'd rather just finish it now.

COMMISSIONER: Just remind me what the question is again?
35

MR WHEELAHAN: Which I think she answered - if the government can use its purchasing power to reduce the incidence of coercion, intimidation and harassment on building sites, that's a good thing for workers?

40 **COMMISSIONER:** I just wonder whether there isn't something in Ms McMillan's point. I mean, am I really going to be assisted - this witness is a very - is the most senior representative of workers in Queensland, and her opinion carries great weight, but is her opinion on this really going to be of a lot of assistance to me? I mean, it's - you know, to -
45

MR WHEELAHAN: To answer that, in my view, no. And I can say that although the application to cross-examine, there's no objection, I can say the gravamen of it is

the administrator has provided three documents, which essentially two of them are just the submissions of this body to the Queensland Productivity Commission and then an expert report, but all of those pre-date the final report delivered on 21 January 2026. Now, in addition to that, once, as you noted, if we get into empirical evidence and economics and so forth, I think last week it was raised there's been a notice to produce documents sitting behind the Queensland Productivity Commission's report, and they in fact have been produced and the administrator has sought more time to get evidence about that. So in my view - but it's not up to me - the proposed cross-examination is not of much utility, but the application has been granted anyway.

COMMISSIONER: Well, I haven't heard Mr O'Grady's questions yet. We're just dealing with your question. Government policy tried to prevent harassment, intimidation - I forget the last descriptor, the third one.

MR WHEELAHAN: Coercion, intimidation and harassment for workers on building sites.

COMMISSIONER: Well, that's sort of self-evident, isn't it? Do you want to maintain your objection to the question, Ms McMillan?

MS McMILLAN: Yes, I do, particularly with the commencement of it: using the government by its buying power. There's a lot of things assumed there, and my client's being asked to concede that, when the evidence, as I understand it, to date about things like BPIC, etcetera, there is obviously a lot to be said about those issues, and they're quite complex issues. So asking her to concede that, in my submission, is quite unfair.

COMMISSIONER: Well, I'm not sure it's unfair. I mean, the witness is well able to understand the question and give the answer that she thinks fit.

MS McMILLAN: Yes, of course.

COMMISSIONER: It's not terribly confusing, the question. I just wonder - I don't think unfairness is the best point. It's just whether it will assist me.

MS McMILLAN: Correct.

COMMISSIONER: So I'm against you on unfairness. I'll allow the question. Did you understand the question, Ms King?

MS KING: Yes.

COMMISSIONER: Would you like to answer it?

MS KING: Thank you, Commissioner. There is no yes or no answer, from my perspective. Government has a right to use its purchasing power to - in my view,

from a public policy perspective, for positive measures which will add value to or enhance contractor performance if we're talking about government infrastructure jobs. Our position has always been very clear that, you know, that includes doing things like skills and training, you know, addressing structural problems within the construction industry, lack of training and investment. That leads to critical skills shortages which we are currently facing now.

How do we address those issues by requiring contractors and - yeah, by requiring the industry to commit to and undertake skills and training, health and safety measures, which are applicable and should apply across a site, making sure that we are looking at best practice workplace health and safety measures? And if we are looking at what are considered best practice employment standards, I wouldn't think that a government should use its procurement to lower wages and conditions or reduce safety or in fact abolish skills and training policies that should apply for the construction industry, like as just happened from 1 July this year, where the previous policy of 15 per cent training of the labour hours of a particular project were to be allocated to training of trainees, apprentices and other workforce development measures.

So that's our position, is that in those broad sort of terms, that we address problems that are in the industry. I don't have any issues with adding things from a public policy perspective to procurement policies which are about positive measures to promote and address the issues around attraction and retention of women, of First Nations people, of migrant workers who are already here in Australia, you know, culturally and linguistically diverse people who are not necessarily ordinarily employed within the industry, again, you know, putting a caveat over that from a public policy perspective that government infrastructure projects, if money is going into that from the Commonwealth as well as from the State Government, even if it is just State Government money, that we should be looking at, you know, contractors actually lifting, and that these are exemplars, so in terms of how the work is conducted from a health and safety perspective.

But if we are going to put stuff - put provisions in a procurement policy which is about directing how a regulator at a federal level should otherwise do their work, then I think there are problems with that. If it goes to changing culture and if it is adding value to changing the culture in the industry, I think I, like many people, are waiting for the culture industry standard which is being developed through - or has been developed through the national construction industry forum. How do we go about implementing what that actually looks like? I think there's a lot of talk around positive legal measures, how do we change culture, commitments at a national peak level.

But when it gets down to a local workplace and particularly to your question on government infrastructure projects, I think we need to think seriously about how we do that, and then bringing it back to, you know, I think as a legal perspective, absolutely I would agree that there shouldn't be coercion, intimidation, bullying or violence on a construction site and that government should be working with all of the

relevant regulators and bodies that operate in this sphere to make sure that that is actually occurring. So I think it's a cooperative model that should be looking at it, as opposed to potentially procurement policy, you know, which is seeking to recreate existing roles and functions, and I would say if those bodies, federal or state, have not been performing their functions, then that should be addressed as opposed to - whether that's a resourcing issue or the fact that they may have not done their jobs to the best of their ability for other reasons, those questions should be asked.

But from a personal perspective and from a council perspective, I can't see why we would start to have an industrial police on every construction site, unless you're looking at criminal activities, and I suspect in that space then we let the relevant authorities do their job, and if they're not doing their job, then let's resource them and ask the questions why they're not doing their job.

MR WHEELAHAN: So would you - so it was in favour of increasing employment opportunities for Queenslanders?

MS KING: Absolutely.

MR WHEELAHAN: And you accept that productivity provides an incentive for contractors to invest in Queensland?

MS KING: Yes.

MR WHEELAHAN: And so you accept that improvements in productivity increases employment opportunities for Queensland workers?

MS KING: That's one of the measures, yes.

MR WHEELAHAN: And it follows from that that productivity improvements, in addition to being in the interests of the community and the Queensland economy, are also in the interests of workers?

MS KING: Yes, they are, but again, it depends - depends upon how you define productivity. If you look at productivity from a traditional Productivity Commission perspective, where we look at labour costs, you know, we're very narrowly defining what we're looking at. If we look at productivity and think about it from a multifactorial perspective, there's a whole range of different inputs that go into that, of which workers' labour is but one - you know, it's one iron in the fire, so to speak. If we just want to, you know, continue to ratchet up and try to get workers to be more productive by working longer hours, by working faster, we end up with psychosocial hazards.

So we have laws now that say - a code of practice in Queensland under health and safety laws that says that long, excessive working hours, that excessive workloads, that pressure points, etcetera, are recognised psychosocial hazards that employers are required to put in place practical measures to prevent so far as is reasonably

practicable. But when we look at the construction industry, I can - like, the skill shortages that are being driven are driving longer hours, but the skills shortages themselves are also the result of not being able to retain workers in that industry.

5 So productivity, you cannot make - cannot tell me that a worker who works 55 hours a week, which is the average hours in construction, is as productive as a person in another industry who is working 38 hours a week. The construction industry is inherently dangerous. It is recognised as such, and productivity in that sort of an instance, you know, has to be balanced against protecting the safety of workers, you
10 know, from excess work hours. It's also an industry which is known for, you know, poor mental health outcomes. I think the last formal study that was done, I think it's reduced somewhat since then, but was one in six men in construction, you know, were suiciding or having suicide ideation.

15 So there's a high-risk environment that we're working in, and productivity in that high-risk environment cannot just be "we have to make workers work harder and faster". We need to be thinking about all of those other things that have impacted on the construction industry nationally, internationally, as well as here in Queensland, and need to start thinking about how projects are managed, how procurement is
20 managed, the supply chain - there's a raft of them. I'm not an economist; I'm only going to focus on in that labour market sort of aspect of it. But, you know, I think we need to all be thinking about how do we make this industry more safe, more productive and fairer for Queenslanders, offering good jobs for Queenslanders moving forward?

25 **MR WHEELAHAN:** No further questions, Commissioner.

COMMISSIONER: Thank you very much. How long do you think you'll be, Mr O'Grady, in your -

30 **MR O'GRADY:** I would have thought - around an hour was the estimate I gave, and I might be slightly shorter than that, but I do note the time, Commissioner.

COMMISSIONER: Do you want to start and have a break a bit later, or do you
35 want to have a break now?

MR O'GRADY: It might be easier to have the break now, and then -

COMMISSIONER: Very well. We'll return at 11.30.

40 **<THE HEARING ADJOURNED AT 11.14 AM**

<THE HEARING RESUMED AT 11.30 AM

45 **COMMISSIONER:** Mr O'Grady, I'm just wondering, to the extent that your examination of this witness concerns the code and the submissions that Mr McLean has made and in relation to which there's been some programming, evidence has

been filed by, I think, your client and also by the Plumbers and Electricians. There's some additional material that was provided to you last week; is that right?

MR O'GRADY: Yes.

5

COMMISSIONER: And you'll have the opportunity to deal with that. What is the utility of me hearing from this witness about her attitude to the code, having regard to the fact that where I'm going to be asked to make an interim report in relation to whether the Queensland Government should implement a code and have some body to enforce the code, educate and enforce. Mr McLean has put submissions on. Those submissions are based on the evidence received up to 30 June. Your material is responsive to what he has said. There's material that's been received after 30 June that the interim report won't have regard to, but the final report might.

10
15 **MR O'GRADY:** Yes.

COMMISSIONER: And that's the material upon which the Commission will or will not recommend the reintroduction of a state procurement code and some body to enforce it. How is this witness's evidence going to assist me in that regard?

20

MR O'GRADY: Well, a couple of things, Commissioner. Firstly, in respect of the material that we were provided last week, you may or may not be aware there's an issue in respect of the non-publication order in that -

25 **COMMISSIONER:** Right. I'm not aware.

MR O'GRADY: Well, as currently framed, the non-publication order might be said to preclude us from showing that material, which is analysis material, to our experts in order to respond.

30

COMMISSIONER: Yes, but that's not this witness. We'll deal with that separately. You can deal with Mr McLean about that. I wasn't aware of that, but -

MR O'GRADY: But in respect of this witness, as you've already acknowledged this morning, Commissioner, this is an extremely experienced official. In her role, she has been responsible for at least two sets of submissions to the Queensland Productivity Commission.

35

COMMISSIONER: And she's represented by Ms McMillan. She can make submissions, just like you and the Plumbers Union, Electricians Union can, to me. But why am I hearing her submissions -

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MR O'GRADY: Well, really, in order to flesh out the concerns that have been expressed in both those two submissions that were made to the Productivity Commission -

45

COMMISSIONER: Why doesn't she just do it by way of submissions like everyone else? I mean, it just seems - we've got everyone here. Everyone else is going to do it in writing. Why doesn't this witness do it in writing as well, if she wants to do it on behalf of the QCU? I'm not going to stop her. In fact, I think last week, when Ms Hillard rose to deal with an issue, I indicated to her - you weren't here, Mr Duffy, but that if the Honourable Grace Grace MP wanted to make submissions about it, she'd be free to. Why doesn't this witness just do what everyone else does, rather than doing it this way?

10 **MR O'GRADY:** Well, I don't think I can take it much further, Commissioner. All I'm really putting to you is that this witness has expressed views in respect of not just the recommendations of the Productivity Commission but also in respect of the proposed code that was the subject of submissions by counsel assisting, and it might be useful for the Commission to understand what she's concerned about.

15 **COMMISSIONER:** No doubt it is, but Ms McMillan can tell me, having considered things, she wants to put submissions in. I think there will be time for everyone to do it, given you're still dealing with these materials that you have received, the underlying materials from the Productivity Commission. So, inevitably, any interim
20 report is going to be pushed out a bit in time. So there will be capacity for those submissions to be made. I'm certainly not going to prevent them, but I just think that's going to be the most efficient way to deal with the QCU's attitude and this witness's attitude to the reintroduction of any procurement code.

25 **MR O'GRADY:** Yes. Well, I can't take it any further, Commissioner.

COMMISSIONER: And, Ms McMillan, I might need to hear from Mr McLean about the timing on all this, but if you wanted to, it's not too late for to you get instructions from your client, whether it be the QCU or this witness, to put
30 submissions in on that issue.

MS McMILLAN: I've no doubt that they would wish to do so, and in fact I've made some inquiries about whether there is to be an interim report, so thank you for that. And she and the council I've got no doubt would want to take that up opportunity.

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

MS McMILLAN: She and the union would no doubt - the Council of Unions - would like to have the opportunity to - she's nodding - place submissions
40 before you.

COMMISSIONER: Mr McLean, can you just inform us where we are in terms of timing on all this? I know there's been back and forth about the material that underlies the Productivity Commission's calculations. It is a little bit surprising that
45 material's been sought in this respect in that the QPC's conclusions about productivity, that is, the performance of the Queensland construction industry in terms of the - I shouldn't say productivity improvements - productivity

un-improvements over the years is generally supportive of any argument that Mr O'Grady wanted to make that the - I'll call it macroeconomic data; it's not quite that, but let's say the macro-economic data - supports in a - even in a correlative sense - the reintroduction of the ABCC and productivity improvements in the construction industry.

So I just wonder what the utility of the material underpinning the Productivity Commission report is, because the Productivity Commission's own report, at least on the productivity of the Queensland construction industry, doesn't show any correlation between the - at least on my reading, between the introduction of the ABCC and the improvements in productivity, and there's a whole lot of reasons for that, which you can - that you could imagine would be for that. Perhaps the underlying material in relation to the economic impact of BPIC is in a different category, and it might be useful to see how the QPC calculated that, but we have had other evidence in relation to specific projects about that. But I'm not going to prevent those parties wanting to analyse that data and make what submissions they make, whatever submissions they see fit.

So bearing that in mind, where are we in timing, having regard to the fact that the QPC recommended the reintroduction of the code in December, the government - I think December last year. The government accepted that recommendation in December or January.

MR McLEAN: In January.

COMMISSIONER: In January. And one of the things the QPC said was that it is important that a code and enforcement body be reintroduced because the conditions that they took issue with might continue to play a part in the regulation of the Queensland construction industry during - because of negotiations that I imagine are taking place now and into the later part of this year. That's what the urgency is that governs the - as I understand it, the necessity for an interim report. So where are we on all this?

MR McLEAN: Commissioner, we share some of the reservations you've expressed about the utility of the request that's come through. We've nevertheless facilitated the provision of the documents in the interests of ensuring transparency and procedural fairness to the administrator and indeed the other parties. I understand there's now been a request from the administrator for the data that's been provided to be shared more broadly. I haven't yet seen that request, but we'll obviously review and consider and respond to that.

COMMISSIONER: I don't speak for the QPC, but I can't see a problem with that. It's just the underlying data. It's hard to see why that would be confidential. But anyway, you'll work out that.

MR McLEAN: I suspect that's right. I just haven't seen the request yet, so I can't express a view on that. We'll revert to the administrator as quickly as possible. But

the commissioner is quite right: the evidence and the submissions that have been put before the commission already on the need for a code have stressed the urgency of the implementation of a new regulatory regime precisely for the reasons that the commissioner has identified. There are a large number of enterprise agreements which have legacy BPIC terms embedded in them which are up for renegotiation in the coming months. There is also, as the commissioner would be well aware, a very significant amount of financial investment into State Government-funded infrastructure projects over the -

10 **COMMISSIONER:** The last report on that front was I think during the state budget period, and it was up from about 117 billion over the next four years to I think 119.5, let's call it 120 billion, which includes about \$10 billion of Olympic expenditure over the next four years.

15 **MR McLEAN:** It's a very significant level of investment.

COMMISSIONER: Remember Mr Watson said the Big Build in Victoria was 100 billion over 10 years. This is 120 over four. The value of money has changed over that time, but still, it's a very large investment in infrastructure.

20 **MR McLEAN:** In that context, counsel assisting's position is the code and any regulatory body should be implemented sooner rather than later. We're obviously trying to balance considerations of procedural fairness to the administrator and facilitating requests where possible, but the longer this is delayed, the greater the cost to the taxpayer and the community.

25 **COMMISSIONER:** Well, I think by the end of the week you'll have the chance to speak to Mr Duffy and Ms Hillard and also to Ms McMillan and try and work out some timetable so that we can - everyone can know when this is expected. And that would enable Ms King and the QCU to put in submissions, the Honourable Grace Grace MP and anyone else.

30 **MR McLEAN:** Certainly. I know there has been an opportunity for all represented parties to put in submissions already, but certainly -

35 **COMMISSIONER:** It seems that some others now want that opportunity.

MR McLEAN: I understand.

40 **COMMISSIONER:** At some point we've just got to cut off that opportunity, but it doesn't seem, having regard to what's been going on, that they couldn't be accommodated, given what's happening with the underlying evidence.

45 **MR McLEAN:** That may be the case, but we might impress upon the Commissioner to put a deadline on that and encourage parties to file any further submissions sooner rather than later.

COMMISSIONER: All right. Was there anything left in your application to cross-examine - I don't know - your application to examine or cross-examine this witness?

5 **MR O'GRADY:** Just a couple of minor matters.

COMMISSIONER: Yes.

10 **MR O'GRADY:** But I understand the ruling that you've made, Commissioner, and I won't repeat those matters.

COMMISSIONER: Very well.

<CROSS-EXAMINATION BY MR O'GRADY

15 **MR O'GRADY:** Now, Ms King, as you've gathered, I appear for the administration. Now, can I just go to some of the evidence you gave earlier. As I understand it, you were present when Mr Crosby addressed the ACTU executive?

20 **MS KING:** That's correct.

MR O'GRADY: Yes. And as I understand the position, in respect of the QCU, there's also been some participation at a state level by CFMEU branch members, sitting, for example, on the QCU's women's committee?

25 **MS KING:** They're not on the women's committee, but we've had some involvement from our - what we call Queensland Women Rise Program, working with the women's officer for the - the new women areas officer for the CFMEU Queensland branch, and we've conducted - back in April, we conducted a - some of the staff
30 conducted a focus group session with the women on the - who are elected delegates or otherwise, but they're rank-and-file members from the construction industry. So we did a focus group to kind of look at, you know, what are the attraction/retention rates, what's the culture like in the industry, etcetera, as part of our broader research, and issues impacting on women working in the construction sector.

35 **MR O'GRADY:** I understand. And I also understand that there's a member of the local CFMEU branch, whether he's sitting on or participating in?

MS KING: On the health and safety committee?

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

MS KING: Yes.

45 **MR O'GRADY:** Yes. And is it fair to say that even though there's been no formal re-affiliation either at a national level or at a state level, there is a degree of

cooperation and participation by the CFMEU now in the peak bodies, both nationally and state?

5 **MS KING:** Yes, and probably stronger at the state level, from my observations.

MR O'GRADY: Yes. And you gave some evidence last time about Mr Abbott and how you'd in effect poached him to bring him on to help the QCU and how he had been in effect poached by the administrator.

10 **MS KING:** Mmm-hmm.

MR O'GRADY: And you spoke very highly of Mr Abbott. Is Mr Abbott still involved with the state branch of the CFMEU?

15 **MS KING:** Yeah, Mr Abbott is still the executive, I think, officer for the administration in Queensland.

MR O'GRADY: All right. And do you have any reason to resile from or withdraw the very favourable observations you made about Mr Abbott and how he was
20 conducting himself in that role when you gave your evidence back in December?

MS KING: No. No, I think he's doing a fairly good job.

MR O'GRADY: Thank you. And you touched on also this morning this issue about
25 police coming onto sites and dealing with right-of-entry disputes and the like. Could you just explain to the Commission what you understand to be the position vis-à-vis the involvement of police when dealing with right-of-entry disputes and what you would recommend to the Commission as being the way to address whatever problems might have arisen in the past?

30 **MS KING:** Sure. So if I could put the MOU to one side for the moment, the right-of-entry disputes have arisen and will occur from time to time in any workplace across any industry. The way that we as unions have traditionally dealt with - and I'm talking broadly across all industries - have dealt with a right-of-entry dispute,
35 sometimes - and I've had one myself many, many years ago as an organiser, where you go to a workplace and you produce your right of entry, go through the processes according to the law, and the police have been called to evict you for trespass. At that point in time, the union that I was working with at that time was the ASU. Our policy position was that we would withdraw from the workplace.

40 Oftentimes the police officer themselves is not familiar with right-of-entry laws and their interaction with trespass, and so our position, you know, way back then was to withdraw from that matter and to file a dispute for obstruction. So we would take the matter to either the state commission or to the federal commission to get an order
45 from the commission, not necessarily follow it through for contraventions unless there was - you know, it escalated, but to get an order from the commission that we

had a right to - a legal right to exercise our right of entry. That often was facilitated and would be done within a 24-hour period.

5 So that's my personal experience of those issues. Clearly, in some industries, it becomes a little bit more contested than otherwise, but it's the same principle applies. I would never expect an ordinary police officer to be a person who would understand eligibility rules of unions, for instance, because oftentimes a right-of-entry dispute is actually about eligibility rules. And we had that situation here in Queensland, I think it was the ENCO dispute back prior to 2020 and ended up as a Federal Court matter,
10 from recollection, but in that case, the law that stood at the time under health and safety law in Queensland was that a health and safety inspector could make a decision about a right-of-entry dispute.

15 From my recollections on that case, the health and safety inspectorate withdrew from that work site, so the police were there because there was potential trespass. The employer was disputing the right of entry, saying, "You don't have coverage of this workplace." It was, I think, borderline manufacturing, so it was that issue between manufacturing and construction. And the health and safety inspectors withdrew because they said, "We are not trained" - quite rightly, I think - "We're not trained to
20 know what is in individual union eligibility rules." And that is correct in that space.

At that point in time they could've taken the matter directly to the state industrial commission under the health and safety legislation. It would've gotten on as a matter within - normally within 24 hours, and the matter could've been resolved, but the
25 parties chose to exercise different legal rights and pursue matters before the Federal Court, etcetera, which were quite possibly long, expensive. The short way to get through a dispute - and we have often said this to the regulator - is you need to give better information to employers about right of entry. If right of entry is being facilitated legally under the Work Health and Safety Act, then the regulator should
30 have core information that is provided that says what is the process etcetera.

MR O'GRADY: I understand.

35 **MS KING:** But when it gets to a dispute about eligibility rules, that's a matter for, you know, a tribunal or a court, depending on the jurisdiction, for them to interpret. So I would have great concerns if a public servant, as was happening with the health and safety inspector, those laws were subsequently changed, that they would be given administrative powers or statutory powers to determine eligibility rules. We have systems - I'll go back to my points from earlier. We have systems in place to
40 deal with these matters. Because some employers have chosen not to do - and to liaise with them, they should not then go back to and blame police for not enforcing the law.

45 It was not the role of police, and it is not the role of police, to enforce right of entry other than to - you know, that there is - observe that there is a legal right of entry. If there is a dispute about that matter, then the parties have alternative legal

mechanisms. If there's criminal matters happening and there's assault or there's other issues, that is not related to right of entry, and clearly that is a police-related issue.

5 **MR O'GRADY:** I understand. All right. Now, you also gave some evidence in December that the CFMEU was reforming itself in terms of its culture. Since December, do you accept that the CFMEU has continued to put in place mechanisms to reform its culture and improve the culture and the way it engages with other unions and the community more generally?

10 **MS KING:** Yeah, I would - I mean, that's my observations, and from my experience in dealing with them is that that has just continued with time.

MR O'GRADY: All right. And are you aware of the fact that since the administrator was appointed in August 2024, no court has found that the CFMEU has contravened an industrial law since that time?

15 **MS KING:** That's to my knowledge, yes.

MR O'GRADY: Yes. And you gave some evidence about turnover. Are you aware of the fact that since the administration began, some 138 delegates have ceased to be delegates?

MS KING: I wasn't aware of the exact number. I knew that there was a substantive number, yes.

25 **COMMISSIONER:** What was the number again?

MR O'GRADY: 138. Thank you. And you gave some evidence before I stood up about this process concerning Julius Roe, the former commissioner of the Fair Work Commission. To your observation, have the CFMEU proactively participated in that process?

MS KING: I'm not aware of what has actually occurred other than the fact that there was a meeting in Sydney, I believe, last week as part of those processes, and so I am told hearsay from those parties that - well, they've told me, anyway, that they're participating in those processes, yes. But I'm not part of that, so I can't make direct observations.

MR O'GRADY: I understand. But you'd accept, and indeed I understood, in effect, the nub of your evidence to be that a process of that type is a sensible way of trying to resolve issues of coverage?

MS KING: Absolutely. Absolutely.

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

COMMISSIONER: Thank you, Mr O'Grady.

MS McMILLAN: I just have one question.

COMMISSIONER: Very well.

5

<CROSS-EXAMINATION BY MS McMILLAN

MS McMILLAN: Ms King, you gave evidence earlier with the USB that you provided to the police. Can you remember - I know this is going back some little time - what was on the USB?

10

MS KING: So from my recollections - because I don't have a copy of it any more - my recollections of what was on it, a number of those were incidents that were CCTV from BMD, and I believe a number of those have been played, involving, I think, the - the AWU car trying to exit the Centenary Bridge upgrade.

15

COMMISSIONER: When you say played, played in this Commission?

MS KING: Played in this Commission, yep.

20

MS McMILLAN: Yes, I was going to -

MS KING: So I believe they have been played. The only one I'm not sure whether it's been played, because I haven't witnessed every single hearing, there was some CCTV that they provided of a large group of men who were under a marquee near the entrance to the gate, and that is their reference when they said to me that they believed that that large group included a lot of Croatians and Setka's men. I'm not sure whether that has played here in this Commission, but that's the sort of things that they were talking about. And so it was lengthy CCTV of the same type of incident.

25

30

MS McMILLAN: All right. Thank you. I have nothing further with my client, thank you.

COMMISSIONER: Thank you, Ms McMillan. Anything in re-examination?

35

MR WHEELAHAN: No.

COMMISSIONER: Thank you. Ms King can be excused?

40

MR WHEELAHAN: Yes.

COMMISSIONER: Thank you for your evidence, Ms King, and you're excused.

MS KING: Thank you.

45

<THE WITNESS WAS RELEASED

COMMISSIONER: Are you going to have some - there's going to be some movement at the bar table?

5 **MR WHEELAHAN:** Correct. We need to rearrange the bar table. Mr Gisonda -

COMMISSIONER: Do you want me to adjourn for five minutes, or can you do it while I sit here?

10 **MR WHEELAHAN:** We can do it now, I'm told.

MS McMILLAN: Would you excuse us.

COMMISSIONER: Of course, Ms McMillan.

15 **MS McMILLAN:** Thank you.

COMMISSIONER: Ms McMillan, would you just make sure you communicate with Mr McLean about that timetabling of the submissions?

20 **MS McMILLAN:** Yes, I'll take that up with him directly. Thank you.

COMMISSIONER: Thank you.

25 **MR GISONDA:** Commissioner, I continue to appear with Ms Feely, and this week we continue to examine the Centenary Bridge Upgrade Project and, more broadly - this is in particular on Thursday, after Mr Irving has given his evidence - the circumstances in which the Department of Transport and Main Roads found itself from 2020, the year 2020 being the year when the department was told to
30 start developing a BPIC for transport projects, and you'll recall it was just before the 2020 state election that the Transport BPIC policy was endorsed by the Queensland Government.

35 **COMMISSIONER:** And industry was told about it in very late December 2020.

MR GISONDA: December 2020, after the election. The two witnesses today, however, will give evidence about the Centenary Bridge project, and there are five aspects of that project that it is worth reminding ourselves about before we get into the evidence. The first was that there was a targeted campaign by the CFMEU
40 against the AWU. Evidence on that topic came in particular from the secretary of the AWU herself, Ms Stacey Schinnerl. Mr Watson also gave evidence about some of his findings on that topic, but you have also seen that campaign result in a direct attack on AWU officials on the Centenary Bridge site - project site itself on 23
45 February 2024.

COMMISSIONER: That's, I think - I don't know if you were in the body of the hearing room, but I think that was the evidence that Ms King just gave, that that was

some of the footage that she provided to - I can't remember if it was Deputy Commissioner or Assistant Commissioner Scanlon and the commissioner.

5 **MR GISONDA:** Yes. And the AWU had of course entered into a greenfields EBA that covered the Centenary Bridge project, and you have heard some evidence that the demands that the union were making at the time on the project was that that agreement should be ripped up and there should be a new agreement with the CFMEU. Second, there was a campaign against DTMR and its personnel, and I call it a campaign against DTMR because the union said in express terms that it would
10 target certain DTMR projects.

COMMISSIONER: Sorry, who said that?

15 **MR GISONDA:** That was in particular - there's evidence that that came from Mr Ingham. There was also an email in evidence reporting on something that Mr Ravbar had told DTMR officials. That particular email was about Rockhampton Ring Road and Centenary Bridge, because - and there's been a number of DTMR witnesses now and there will be a further one on Thursday morning, and they have given evidence that the CFMEU's position was that it was not getting what it wanted when it came to
20 the development and implementation of the BPIC policy. And the union had expressly, as I've just said, threatened that it would target the Centenary Bridge project, which was, as you know, a DTMR project.

25 Third, there was a targeted campaign by the CFMEU against BMD. It was a well-funded campaign. It was aggressive. It was a campaign designed to cause harm to BMD. The fourth matter worth reminding ourselves about is that whether this was because of the CFMEU's campaign against the AWU or its campaign against DTMR or its campaign against BMD or its general cultural brokenness or a combination of all of the above, we've now seen firsthand evidence of the CFMEU's targeting of the
30 site, the Centenary Bridge site. And among other things, the CFMEU caused delay and disruption to the works on the site, and that had serious time and cost consequences for the State of Queensland.

35 **COMMISSIONER:** I think \$12 million according to the last witness last week, and that doesn't include any impact of a psychosocial nature on the workers.

40 **MR GISONDA:** Yes, that was the evidence of Mr Demartini on Thursday last. It did make the workplace psychologically unsafe for workers, and the CFMEU refused to comply with lawful directions from the police. And it is fair to surmise, in my submission, that as at mid-2024 what was evident was that this project, the Centenary Bridge project, had descended into a state of lawlessness. And that leads to the fifth aspect which is worth reminding ourselves about, which was the infiltration of men on this project site who are or were reported -

45 **COMMISSIONER:** I missed that last bit. Infiltration of men onto the site, what?

MR GISONDA: Onto the site who are reputedly members of outlaw motorcycle gangs. And there are a few aspects here that you must consider, Commissioner. One aspect is that, as Mr Watson has said, the Victorian construction industry was operating in a state of lawlessness, and this had enabled these types of groups to infiltrate the construction industry down in Victoria. Another aspect is that it is unsurprising that if such groups were enjoying success in the Victorian construction industry, that the next logical market for them would be the Queensland construction market. And as I said to you on the last occasion, Commissioner, intelligence agencies had received that exact information in early 2024. And the third aspect is that it is unsurprising that these types of people would gravitate towards an area of evident lawlessness.

Now, there are two witnesses today, Commissioner, but before I turn to them, can I just mention some further things about the CFMEU's campaign against BMD. I showed you on the last occasion that one of the features of the CFMEU's campaign was to target the neighbourhoods of BMD managers living in Brisbane, and the documentary evidence showed that the plan of the union was to distribute anti-BMD propaganda in letterboxes surrounding the homes of senior BMD personnel: in my submission, something clearly designed to embarrass and intimidate these managers and their families. And in terms of understanding who the relevant BMD people were, what their position was and where they lived, the CFMEU appeared to have engaged former police detective Mick Featherstone to undertake that work. And if we can bring up CBU-89, please.

COMMISSIONER: Have I got that up here?

MR GISONDA: And if we can look at page 2 first. This is an invoice for fees for investigation in relation to BMD Group: \$6,000. Then if we go to the first page, that has been organised by Mr Andrew Sutherland, a former Queensland organiser who then became the secretary of the South Australian branch.

COMMISSIONER: Secretary or assistant secretary?

MR GISONDA: I thought he was the secretary of the South Australian branch before he became the national assistant secretary.

COMMISSIONER: National assistant secretary. I see.

MR GISONDA: All within the Construction and General Division of the union. So if I can tender that document, Commissioner.

COMMISSIONER: Are there any objections? Email Andrew Sutherland to - has the redaction gone too far? Is that Hemal Pate?

MR GISONDA: It's Patel.

COMMISSIONER: Hemal Patel, 29 February 2024, 8.41 am, enclosing tax invoice, \$6,600, Complete Corporate Services, will be CBU-89.

5 **<EXHIBIT CBU-89 EMAIL ANDREW SUTHERLAND TO HEMAL PATEL, 29/2/2024, 8.41 AM, ENCLOSING TAX INVOICE, \$6,600, COMPLETE CORPORATE SERVICES**

10 **MR GISONDA:** Then if we can bring up CBU-90, please. And if we go to page 2. This is an email from Mr Featherstone to Mr Sutherland. And he provides an update here in this email, and he says:

15 "Please find the attached report about BMD Group company structure, each company's ASIC records and the connection of the people in each company. This is the first step to the Due Diligence process, accurately identifying the companies and the associated people. From here we will commence all searches and investigations around these companies and people."

20 And then over the first page, it is redacted, but Mr Sutherland has forwarded that email from his personal Hotmail account to his union account so he can then provide this information to Mr Ravbar. And it's a series of company searches, which would then disclose the directors of these companies and their addresses. And so can I tender that document, Commissioner.

25 **COMMISSIONER:** How do we know it's come from Mick Featherstone? It just says "Mick", but it's from CCS Operations.

MR GISONDA: Yes. We have information that this company, known as Complete Corporate Services, is Mr Featherstone's company.

30 **COMMISSIONER:** Are there any objections? Email Andrew Sutherland to Michael Ravbar, 17 April 2024, 4.13 am, forwarding email from CCS Operations, 11 March 2024 at 1.12 pm, will be CBU-90.

35 **<EXHIBIT CBU-90 EMAIL ANDREW SUTHERLAND TO MICHAEL RAVBAR, 17/4/2024, 4.13 AM, FORWARDING EMAIL FROM CCS OPERATIONS, 11/3/2024 AT 1.12 PM**

40 **MR GISONDA:** So that's another aspect of the CFMEU's campaign against BMD that was taking place in the first half of 2024, and what we'll see today is some disturbing behaviours surrounding some of the people associated with BMD, and if the CFMEU was in any way responsible for these behaviours, of course, it's behaviour that must be condemned.

45 **COMMISSIONER:** Disturbing behaviour towards them, not by them?

MR GISONDA: Towards them. So can I begin -

COMMISSIONER: Was there anything I need to know about this former - what did you say, police detective, Mr Featherstone? Did you say detective? I can't remember what you said.

5 **MR GISONDA:** I think for the moment it's sufficient to call Mr Killen as the first witness today, if he's in the courtroom.

COMMISSIONER: Mr Killen, will you come forward into the witness box, please.

10 **<GRANT MICHAEL KILLEN, SWORN**

<EXAMINATION BY MR GISONDA

15 **MR GISONDA:** Now, Mr Killen, on 13 August 2026, you swore a statement in response to a notice from this Commission that was eight pages long and comprised 56 paragraphs; is that right?

MR KILLEN: That's correct.

20 **MR GISONDA:** And accompanying that statement was a bundle of documents that was seven pages long, comprising five exhibits; is that right?

MR KILLEN: Correct, yes.

25 **MR GISONDA:** And have you had an opportunity recently to read your statement?

MR KILLEN: Yes, I have.

MR GISONDA: And is your statement true and correct?

30 **MR KILLEN:** Yes, it is.

MR GISONDA: Commissioner, I tender the statement of Grant Michael Killen.

35 **COMMISSIONER:** Are there any objections? No? I don't have the eighth page here in the documents I've been provided. Maybe just pull it up on the screen.

MR GISONDA: That might be my error. It might be seven -

40 **COMMISSIONER:** No, it looks like I'm missing one. I don't have a signing page, which presumably is that page.

MR GISONDA: Yes. It's just the signing page.

45 **COMMISSIONER:** There it is. What's the date? 13 August. Witness statement of Grant Michael Killen, 13 August 2026, eight pages, 56 paragraphs, with five annexures, will be exhibit GMK-1.

**<EXHIBIT GMK-1 WITNESS STATEMENT OF GRANT MICHAEL
KILLEN, 13/8/2026, EIGHT PAGES, 56 PARAGRAPHS, WITH FIVE
ANNEXURES**

5

MR GISONDA: Thank you. Now, Mr Killen, you are the managing director of a business called Concentric Concepts; is that right?

MR KILLEN: That's correct, yes.

10

MR GISONDA: And you started that business in 2017?

MR KILLEN: Correct.

15

MR GISONDA: Can I ask you some questions about your experience before you started that business. You were originally a diver with the Royal Australian Navy; is that right?

20

MR KILLEN: Yeah, that's correct. I was a clearance diver with the Royal Australian Navy, clearance diving team 1.

COMMISSIONER: Just need to slow down a little bit and speak up, please, Mr Killen. It's just a bit hard to understand you.

25

MR KILLEN: Sorry about that.

COMMISSIONER: That's all right.

30

MR GISONDA: You then spent some time in Iraq; is that right?

MR KILLEN: Yeah, that's correct.

MR GISONDA: And what did you do there in Iraq?

35

MR KILLEN: I was a private contractor in Iraq working on the captured enemy ammunitions program with the US State Department.

MR GISONDA: And when you returned to Australia, you joined the Queensland Police Service?

40

MR KILLEN: Correct.

MR GISONDA: And what did you do in the Queensland Police Service?

45

MR KILLEN: In the Queensland Police, I rotated through general duties. I spent some time with the explosive ordnance disposal team, EOR, before finishing up with the security intelligence branch, where I conducted close personal protection

operations on internationally protected people. The majority of the time was a former Queensland Premier.

5 **MR GISONDA:** If we then turn to your business, Concentric Concepts, and just quickly run through at least some of the services provided by your business. One is that you provide executive protection; is that right?

MR KILLEN: That's correct.

10 **MR GISONDA:** And executive protection is overt and covert protection for individuals at risk?

MR KILLEN: Yeah, absolutely.

15 **MR GISONDA:** You also provide support for complex workplace matters; is that right?

MR KILLEN: Yes, correct.

20 **MR GISONDA:** And that consists of supporting businesses that have received threats from within and also externally; is that right?

25 **MR KILLEN:** Yeah, that's correct. We work within a number of well-known insurance organisations as a national response partner for things like active armed offender responses and also psychosocial risks that affects the health and wellbeing of employees through threats of violence and other related activities.

30 **MR GISONDA:** And another service you provide is supporting businesses that are operating in hostile environments. Have you got an example of the sort of work you do in that field?

35 **MR KILLEN:** That might be organisations who travel to a country that maybe experience war-like operations, or we need to organise the extraction of people within those areas for workplaces and the like.

MR GISONDA: And we heard some evidence last week from one of the witnesses. Does your business also provide services for victims of domestic violence?

40 **MR KILLEN:** Yes, that's correct.

MR GISONDA: And as part of your suite of service offerings, from time to time you supply security guards for clients; is that right?

45 **MR KILLEN:** Yeah, we supply a full managed security service.

MR GISONDA: And do have your own security guards, or do you tend to contract that out to other -

MR KILLEN: We have a mixture. So depending on what the tasking requires, we use a mixture of contracted staff, and we have our own staff as well.

5 **MR GISONDA:** And before we turn to your involvement with BMD and the Centenary Bridge project, I just want to ask you: you had a working relationship with a man by the name of Mr Grant Benson?

MR KILLEN: Correct, yes.

10

MR GISONDA: And how did you know Mr Benson?

MR KILLEN: I've known Grant Benson for a number of years. Grant's a former Queensland Police detective as well. But we have worked on many projects over a
15 number of years.

MR GISONDA: And does he provide specialised industrial relations services to clients?

20 **MR KILLEN:** Correct, yes.

MR GISONDA: And he works with Mr Steven Lovewell; is that right?

MR KILLEN: Correct, yes.
25

MR GISONDA: And you understand that part of their service offering is assisting clients with managing right-of-entry disputes?

MR KILLEN: Yes.
30

MR GISONDA: That's not a service that you offer through Concentric Concepts?

MR KILLEN: No. No.

35 **MR GISONDA:** And when you first came to work for BMD, Mr Benson had already been engaged, had he, for BMD?

MR KILLEN: Yeah, correct.

40 **MR GISONDA:** And that was to provide industrial relations assistance?

MR KILLEN: Yes.

MR GISONDA: In April of 2024, was the first person that approached you from
45 BMD Mr Rob Pickard?

MR KILLEN: Yes, correct.

MR GISONDA: And did you understand that it was Mr Benson that had recommended your services to Mr Pickard?

5 **MR KILLEN:** Yes, correct.

MR GISONDA: Had you ever performed services for BMD before?

MR KILLEN: No.

10

MR GISONDA: And you had ever met Mr Pickard before?

MR KILLEN: No.

15 **MR GISONDA:** So you had a meeting with Mr Pickard at BMD's head office, and was Mr Steve Thomas at that meeting as well?

MR KILLEN: Yes.

20 **MR GISONDA:** And Mr Gary Grant?

MR KILLEN: Yes.

25 **MR GISONDA:** And what do you remember Mr Pickard telling you about the issues or concerns that he was having in relation to the Centenary Bridge project?

30 **MR KILLEN:** There was concerns about continuous CFMEU activity that may hinder or disrupt the project at the Centenary Bridge, and there was a requirement for some security services in order to manage any right of entry - to support any right-of-entry works with the team that he had on board there.

MR GISONDA: And the team that he had on board there, that's a reference, is it, to Mr Lovewell and Mr Benson?

35 **MR KILLEN:** Yes, correct.

MR GISONDA: You say in your statement at paragraph 11 that you were onboarded to the project on 26 April 2024?

40 **MR KILLEN:** Yes, correct.

MR GISONDA: And just to be clear, that engagement included security guards being placed on the project site by Concentric Concepts?

45 **MR KILLEN:** Yes, correct.

MR GISONDA: And Concentric Concepts had what was known as or what is known as a master licence for the supply of security guards in the State of Queensland?

5 **MR KILLEN:** Yes, correct.

MR GISONDA: And what does a master licence mean? What does that entitle you to do?

10 **MR KILLEN:** So that's a licence issued by the Department of Fair Trading as a company. So we have a number of licences, individual licences, but a company that employs or operates in the security space is required to have a master licence as well.

15 **MR GISONDA:** And when you were engaged, or perhaps it was at the meeting with Mr Pickard, were you told - or you can tell the Commissioner when you were told that the Host Group had also been engaged by BMD.

MR KILLEN: It was around about that same time that we were informed.

20 **MR GISONDA:** What did you understand the Host Group to be doing on the Centenary Bridge site?

25 **MR KILLEN:** To be providing some logistics staff, as they call them, and then also a security response as well. So they brought some people over from Perth at that time to assist with the security response.

MR GISONDA: Did you have any visibility as to what the logistics services were that the Host Group was providing?

30 **MR KILLEN:** In a conversation that we had, I was told that Gary Samuel had a partnership with Veterans in Construction, and they were brought over to assist on the project in that regard. So us being a veteran-owned organisation as well, that resonated with us, and - yeah, so they were another well-known veteran organisation.

35 **MR GISONDA:** But you don't know what - what work those veterans were doing on the site?

40 **MR KILLEN:** From what I believe, it was a variety of different - different things, yeah, from labouring through to manning some gates and the like.

MR GISONDA: And to your knowledge, the Host Group did not have a licence to provide security services in the State of Queensland; is that right?

45 **MR KILLEN:** No, that's right.

MR GISONDA: And so were you asked to engage some of the Host Group's security people so that they were able to perform work on site in a licensed way?

MR KILLEN: Yeah, that's correct.

MR GISONDA: And do you remember who put that proposition to you?

5

MR KILLEN: That was Gary Samuel.

MR GISONDA: And when did you first meet Mr Samuel?

10 **MR KILLEN:** When we - when I first went out on site.

MR GISONDA: So you'd never come across Mr Samuel before?

MR KILLEN: No, never.

15

MR GISONDA: And had you ever come across the Host Group before?

MR KILLEN: Never.

20 **MR GISONDA:** And was the arrangement that you would invoice BMD for some of the security personnel that were in fact being supplied by Host; is that right?

MR KILLEN: Yeah, that's correct.

25 **MR GISONDA:** And what was the invoicing arrangement between your organisation, Concentric Concepts, and Host?

30 **MR KILLEN:** They would invoice me for the guards that we took on board, and because we facilitated a number of different services for BMD, from an administration point of view, we kept it all together and we invoiced BMD.

COMMISSIONER: Say that last bit again. You got it all together and -

35 **MR KILLEN:** Yeah, so from an admin perspective. So we offered a number of different services to BMD. We took care of things like the catering. We took care of things like the laundry and all that sort of stuff through some sensational local businesses that we organised. So to keep it all together, we - we bundled it up, and we would invoice BMD.

40 **MR GISONDA:** If we can go to document 6, please, which was tendered last week as CBU-64. And, Commissioner, you might need to follow this on the screen, but at page 30 of that document - it's a big bundle of invoices, Commissioner, but just page 30. This is a Host invoice, or information sitting behind a Host invoice, and you'll see there, Mr Killen, the names of some security guards, level 1, level 2 and level 3.
45 And then if we look at page 34, please, you'll see there that that's an email from you attaching a security invoice for Host services. Do you see that?

MR KILLEN: Yes.

MR GISONDA: And if we go over the page to page 35, that's then the tax invoice from Concentric Concepts invoicing BMD Constructions; is that right?

5

MR KILLEN: Yes.

MR GISONDA: And then the detail that sits behind that at page 36 is the name of some of the security personnel provided. And some of those names, if indeed most of those names, are the same as the names that sat behind the Host invoice. That would all make sense, wouldn't it, Mr Killen?

10

MR KILLEN: Yes, correct.

MR GISONDA: Then at page 43, you'll see there now you providing an invoice - invoices, plural - for security services, but also security, catering and laundry. Do you see that?

15

MR KILLEN: Yes.

20

MR GISONDA: And those catering and laundering services were provided for those persons who were providing security services on site; is that right?

MR KILLEN: Yes, correct.

25

MR GISONDA: And is the understanding there that I have correct, that because some of these security personnel had been brought in from interstate, part of your service offering was to provide them with, as we see there, laundry and catering services?

30

MR KILLEN: Yeah, that's correct.

MR GISONDA: Could I just ask you: to the extent Host, the Host Group, billed BMD separately for security personnel, are you able to tell us how they would be able to do that if Host was not licensed to provide security services in Queensland?

35

MR KILLEN: Well, they wouldn't - wouldn't be able to. Physically they'd be able to, but yeah.

MR GISONDA: Now, between 26 April, which is when you say you were onboarded, to 17 May - so that's a period of about three weeks -

40

MR KILLEN: Correct.

MR GISONDA: - there was a CFMEU presence on the Centenary Bridge site; is that correct?

45

MR KILLEN: Correct.

MR GISONDA: And during that three-week period, you would visit the site yourself on occasion to check in on the security staff who were there?

5

MR KILLEN: Yeah, that's correct.

MR GISONDA: And as part of checking in on those personnel who were on the site, you would talk to them about how they were going and what they were seeing and what they were experiencing; is that right?

10

MR KILLEN: Yeah, just general conversations, yeah.

MR GISONDA: And on 14 May, there was a blockade of the Centenary Bridge site, and do you remember that blockade preventing one of your staff members from delivering food to the security guards?

15

MR KILLEN: Yes.

MR GISONDA: And did you attend site yourself that day as well to deliver some body-worn cameras to some of the security guards?

20

MR KILLEN: Yeah, that's correct.

MR GISONDA: And do you accept that anyone watching the site would notice that you appeared to have some, shall we say, managerial role in relation to the security staff who were there on site?

25

MR KILLEN: Yeah, could be assumed, yeah.

30

MR GISONDA: And you say, do you, that each time you drove to the site, you used the same car, which is a white - or was a white Toyota; is that right?

MR KILLEN: Correct.

35

MR GISONDA: So if I can then ask you some questions about the events of 17 May, you say you went to the site on that day to check in on the security personnel who were there?

MR KILLEN: Correct, yep.

40

MR GISONDA: And you say that as you drove off from the site, you had an uneasy feeling that you were being followed; is that correct?

MR KILLEN: Correct.

45

MR GISONDA: And you then drove to your office, which was at that time located at the Port of Brisbane; is that right?

MR KILLEN: Close to the Port of Brisbane. Correct.

5

MR GISONDA: And as a result of the feeling that you had, what did you then do when you took your car back to your office?

MR KILLEN: Back at the office, we have a vehicle hoist, and I immediately put the vehicle on that hoist and lifted the vehicle.

10

MR GISONDA: And what did you find when you did that?

MR KILLEN: I found a tracking device that had been installed underneath the vehicle.

15

MR GISONDA: And if we look at page 5 of the bundle accompanying your statement, what's that photograph, Mr Killen?

MR KILLEN: That's a photograph that I took immediately upon observing that device under the vehicle.

20

MR GISONDA: And you say that you knew that the device had only recently been put on your car; is that right?

25

MR KILLEN: Yeah, I believed it had only been put on recently. Correct.

MR GISONDA: And was there any other work that you were doing at that time, other than working on the Centenary Bridge project, that you believe would cause someone to track your movements or find out more about your business?

30

MR KILLEN: No.

MR GISONDA: What did you do once you found this device on your car?

35

MR KILLEN: Once I found the device, I immediately put the vehicle on the ground as quick as I could. Then I - I left the facility, and then I gave the admin staff at the office a call and I instructed them - or, sorry, more so directed them to pack up and close up for the day and go home.

40

MR GISONDA: So you sped away from the office, did you?

MR KILLEN: Yeah, that's correct. My intention was to put as much distance as I could from my staff and the actual device. So I left the device on the vehicle, mainly because I knew that the device had - had a particular anti-removal device on there, an anti-tilt switch, so as soon as it gets removed, then the people who had put it on

45

there, who had the software for that, would immediately be notified that that device had been removed.

5 **MR GISONDA:** And then if we look at paragraph 31 of your statement at page 5, as you were driving away from the office, you say you saw a white Toyota RAV4 that you believed to be following you?

MR KILLEN: Yeah, that's correct.

10 **MR GISONDA:** And you weren't in a position to make a note of the registration number?

MR KILLEN: No. No, not at the time I wasn't.

15 **MR GISONDA:** And so what did you then do, looking at paragraph 32 and then 33, what did you then do to - when you were confronted with what you thought to be the case that you were being followed by this vehicle?

20 **MR KILLEN:** My first intention was to confirm if it was. At the time, I was managing the phone call to the staff to get - to ensure that it was closed up. At the same time, managing a bit of an adrenaline response, as you could imagine. So I wanted to identify if I actually was being followed at that time. So conducted some aggressive driving, including going through a red light, to test whether that car behind me, which I believed was following me, was following me. Then I was
25 followed through that red light. Further down the road, we did an aggressive U-turn to see if it would keep up, and it did follow. At that point there, I aggressively hit the brakes and brought that vehicle closer to me so I could try and get some - an indication of the driver, and at that time there, the driver did - did leave.

30 **MR GISONDA:** And you got a look at the driver in that moment, did you?

MR KILLEN: Yeah, I got a brief - brief look at the driver.

35 **MR GISONDA:** And if we just bring up CBU-91, please. What comment, if any, can you make, looking at that picture there on the screen and the incident on that day?

MR KILLEN: Not so much the incident on that day with that particular photo. However, I did observe a number of vehicles drive past our house. One of the
40 vehicles in particular did a U-turn in my driveway and stood there for a while, and I did observe that that person within that vehicle, the description of the person, it was a registered vehicle to a chauffeur-type company or car - not car hire, but a managed ride service. He was wearing a polo shirt and some shorts and, yeah, very, very close description of that particular person there, however, with less hair.
45

MR GISONDA: So your position is that you noticed someone who was driving outside your car, and we'll come to - outside your home, and we'll come to those

circumstances in a moment, but you think that you recognise that that man is the same person here on the left in that picture?

5 **MR KILLEN:** Yeah, from - from the property, not the - not the vehicle.

COMMISSIONER: What do you mean "from the property, not the vehicle"?

10 **MR KILLEN:** That I saw - we had a number of vehicles go past our property that matches the description of one of the people that I'd pay close attention to that did attend our property.

COMMISSIONER: This is the one who drove up onto your driveway and did a U-turn?

15 **MR KILLEN:** Yeah, correct. Correct.

COMMISSIONER: And you saw him from your house?

20 **MR KILLEN:** Saw him from an elevated position from the house. Correct.

MR GISONDA: That being a separate - just to be clear, that being a separate incident to the one we just spoke about where you were being followed by the Toyota RAV4?

25 **MR KILLEN:** Correct, yes.

MR GISONDA: Okay. Can I tender that picture, Commissioner, a picture of Mr Mick Featherstone.

30 **COMMISSIONER:** Is there any objection? What's the date?

MR GISONDA: That's February 2016.

35 **COMMISSIONER:** February 2016 - sorry, did someone say something? No. February 2016 photograph of Mr Mick Featherstone will be exhibit CBU-91.

<EXHIBIT CBU-91 FEBRUARY 2016 PHOTOGRAPH OF MR MICK FEATHERSTONE

40 **MR GISONDA:** And after that incident, you left your car on the side of the road; is that right?

COMMISSIONER: Which incident are we talking about now?

45 **MR GISONDA:** When he was being followed by the Toyota RAV4. And who did you then telephone when you left the car on the side of the road?

MR KILLEN: So to go back a little bit, I drove around for - for a considerable amount of time. I then sort of pulled into a - a back street, and when I thought I'd gained enough distance and didn't observe anybody else following me, I flicked the tracking device off the vehicle. And it was at that time I gave Rob Pickard a call to
5 inform him that I had found a tracking device on the vehicle and to ensure that the BMD vehicles had been - had been checked.

COMMISSIONER: And this is 17 May, is it?

10 **MR GISONDA:** 17 May, yes.

COMMISSIONER: 2024.

MR GISONDA: Yes. And so your instinct on the day at that time was to call
15 someone from BMD and tell him to ensure that other BMD vehicles were checked?

MR KILLEN: Yeah, correct.

MR GISONDA: And later that day, you went and reported the incident to the
20 Fortitude Valley Police Station; is that right?

MR KILLEN: Yeah, correct. So from that point, we took the vehicle, I parked the vehicle over in Bulimba, a nondescript area, somewhere I've never travelled. Left it there, because I just wanted to ensure there wasn't a second device on the vehicle.
25 And then from there, I was given - Rob picked me up and I drove back to my office where I picked up another vehicle, and from there I went to the Fortitude Valley Police Station.

MR GISONDA: And Mr Killen, we've listened to the taped interview of your report
30 to the police that day, and everything that is now in your statement is consistent with what you told the police that day. But there was one other matter that you did refer to in your record of police interview, and that was a statement that you made to the police that you had been told by some of those who were performing security on the site that the CFMEU were being supported by the Bandidos on the Centenary Bridge
35 site. Do you remember being told that in May of 2024?

MR KILLEN: Yes.

MR GISONDA: And can we go to document 62, please. Now, this is a message
40 between two people on Instagram, Mr Killen, and have you seen this - perhaps if we look at the next page as well. Have you seen this exchange before?

MR KILLEN: No.

45 **MR GISONDA:** The Commission of Inquiry has information that the account of Fatdog belongs to a security guard who was working on the site in May 2024 and that the account of unionhittah is an anonymous temporary account. And this

exchange occurred on 14 May, which is the day that the site was blockaded. You remember the site being blockaded on 14 May?

MR KILLEN: Yep.

5

MR GISONDA: And what I can tell you is that at the time that this message was sent, two men reported to be associated with the Comancheros in Melbourne - that is, Mr Saracevic, Bemir Saracevic, and Mr Krstomir Bjelogrljic - had at this stage made arrangements to visit the site on 15 May. If I just pause there for a moment, did you
10 know anything about those arrangements having been made?

MR KILLEN: No.

15

MR GISONDA: And had you ever met Mr Saracevic or Mr Bjelogrljic before?

MR KILLEN: No.

20

MR GISONDA: So if we look at the message from unionhittah. So this is a message from an anonymous account that's being sent to one of the security guards working on the site:

"Asked around about you."

25

This is in the black under the purple:

"Asked around about you. No one gives a fuck about the Comancheros. My heavies are all Bandidos."

30

And do you recall whether anything else was said to you about the role, if any, that the Bandidos might have been having on the Centenary Bridge project site?

MR KILLEN: No.

35

MR GISONDA: So your information, which you told the police, was just based on what you had been told by security on the site?

MR KILLEN: Correct.

40

MR GISONDA: Could I tender that message exchange, Commissioner.

COMMISSIONER: Any objections? What's the date? I see the time.

MR GISONDA: It's 14 May.

45

COMMISSIONER: Same day as the blockade?

MR GISONDA: Yes.

COMMISSIONER: You said on 15 May, persons - two people associated with the Comancheros made arrangements to visit the site. Did they make arrangements and visit the site on 15 May, or did they visit on the 16th?

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MR GISONDA: No, if I wasn't clear, what I was saying was when this message was sent, the arrangements had already been made.

COMMISSIONER: I see.

10

MR GISONDA: So that's the 14th.

COMMISSIONER: 14th.

15

MR GISONDA: And on the 15th they visited the site.

COMMISSIONER: I see. Instagram messages between Fatdog and unionhittah, u-n-i-o-n-h-i-t-t-a-h, 14 May 2024 - do I say 9.33 am?

20

MR GISONDA: Yes.

COMMISSIONER: Will be exhibit CBU-92?

MR GISONDA: Yes, 92.

25

<EXHIBIT CBU-92 INSTAGRAM MESSAGES BETWEEN FATDOG AND UNIONHITTAH, 14/5/2024, 9.33 AM

30

MR GISONDA: Now, the following day, from you reporting this incident to Queensland Police, you went back to retrieve the device, did you?

MR KILLEN: Yeah, correct.

35

MR GISONDA: So can you just tell the Commissioner about what you did that following day?

COMMISSIONER: The incident was on 17 May? And you went to the police that day?

40

MR KILLEN: Sorry, Commissioner, yes.

COMMISSIONER: And then you went to retrieve the device on 18 May?

MR KILLEN: Yes. Yes, correct.

45

MR GISONDA: So tell the Commissioner what happened on the 18th.

MR KILLEN: So I went to - back to the area that I disposed of the device, if not for a better word, and then I was a bit surprised that when I did turn up there, that the device was there. I did straightaway pick the device up and have a look to see if there was anything within that device, like a SIM card or anything like that, which there wasn't, and I observed the device to be quite heavily damaged.

MR GISONDA: And if you look at page 6 of the bundle to your statement, is that a photo of the device when you returned it or handed it in to Queensland Police?

MR KILLEN: Yes, that's correct.

MR GISONDA: And then you say in your statement that you started to notice some further unusual behaviour, is that right, at this time?

MR KILLEN: Yeah, that's correct.

MR GISONDA: And you say you noticed some strange vehicles outside your home, where you were living at the time?

MR KILLEN: Yes, that's correct, so observed a number of vehicles come up and down the street. We lived in a cul-de-sac at the time, so we knew the neighbours extremely well, very close-knit neighbourhood, and this was very much out of the ordinary that vehicles would come up - up and down that street.

MR GISONDA: At this time, you also noticed drones flying over your home where you were living; is that right?

MR KILLEN: Yeah, that's correct. Several occasions there, we observed drones flying over the - flying over the house, extremely close to the property.

MR GISONDA: And was that something that you had seen before?

MR KILLEN: No.

MR GISONDA: And if we look at page 7 of the bundle to your statement, what's that photo, Mr Killen?

MR KILLEN: That's a photo of one of the drones that I observed. So I was able to take a photo of that and capture that.

MR GISONDA: And that photo that you took is on 23 May, and then you say on 25 May your pet dog became very unwell; is that right?

MR KILLEN: Yeah, that's correct. So the dog was extremely unwell, started to get worse and worse as the day and the evening progressed.

MR GISONDA: And you took the dog to the vet, did you?

MR KILLEN: Yes, correct.

5 **MR GISONDA:** And what did you learn after going to the vet about your dog's illness?

10 **MR KILLEN:** One of the questions the vet asked me, after a point where - the vet had to operate on the dog and remove its stomach contents. One of the questions he said was, "Do you feed your dog cubed meat?" which we don't, and I said - and I thought that that was a strange question, but as I reflected shortly after and recall I formed the opinion that there was a possibility that the dog had been baited at some stage.

15 **MR GISONDA:** And you say in your statement that your suspicion was that the drone might have been used to drop the bait and meat?

MR KILLEN: Yeah, correct.

20 **MR GISONDA:** And shortly after this incident, did you continue to see the drones near your home, or had they left?

MR KILLEN: There was a number of occasions that I observed a drone above the house.

25 **MR GISONDA:** And you were told, were you, that some time later in 2024, Mr Mick Power's dog was also poisoned; is that right?

MR KILLEN: That's correct.

30 **MR GISONDA:** And he had also noticed drones over his home?

MR KILLEN: Correct.

35 **MR GISONDA:** And so towards the end of May of 2024, what did you do in relation to your involvement with BMD?

40 **MR KILLEN:** I made a decision that I would withdraw from providing security services to that particular project at that time so I could focus on mitigating what was happening with our own environment, and I formed that decision based on not being able to provide that continuing service the way that it probably should've been, so we withdrew the - our services from that project.

45 **COMMISSIONER:** I don't understand what you were saying then, because it was in sort of police speak. You said you focused on mitigating what was happening in your own environment.

MR KILLEN: Yeah, correct. So we - you know, with the tracking device on our vehicle, with everything that was occurring, I needed to step back and just concentrate on the safety of me and my family and our business, so -

5 **MR GISONDA:** And in July of 2024, you say that you had heard reports that the CFMEU was looking to re-escalate its campaign against BMD on the Centenary Bridge site; is that correct?

10 **MR KILLEN:** Yeah, that's correct. So just - there were some conversations had. I spoke with Grant Benson at the time as well, who was still on the project, and there was just conversations around a possible escalation.

MR GISONDA: And you reached out to Mr Pickard, did you, when you'd been told those things?

15 **MR KILLEN:** Yeah, yeah. So I gave Rob a call and had a conversation just to see how things were travelling and how they were, and it was at that time that he - he said that he - he'd been speaking with a female from the Council of Unions, I believe it was, that said that they needed to pay close attention to their - their security,
20 increase their security posture.

MR GISONDA: And so at that point, did you offer to provide a risk assessment for BMD's senior personnel?

25 **MR KILLEN:** Yeah, correct.

MR GISONDA: And as a result of that, you came up with a plan to protect some of the leaders within BMD?

30 **MR KILLEN:** Yeah, correct. We came up with a - with a tiered approach, in order to put a combination of residential security package and close personal protection to the executive leadership team for a period of time.

MR GISONDA: And during that time that you were providing or your company was providing that service to some of the BMD leadership, you say in your statement that two things stick out in your mind; is that right?

MR KILLEN: That's correct.

40 **MR GISONDA:** And the first incident is that you had - is this right - you had some specialised personnel who were following BMD leaders for their own personal protection. Is that right?

45 **MR KILLEN:** That's correct. So we - we basically deployed both a residential security posture. At the same time, we also provided a specialised protection roster in order to look after the executive leadership team. So by that, I was in consistent contact with Scott Power's PA and had access to his diary and I would know where

they were at all times, and any event that would take place with a large group of people, then we would position our - our staff in the area with them, depending on what the risk factor was at that time.

5 **MR GISONDA:** And one of the men who was providing that service told you, did he, about an incident at the Manly Boathouse?

MR KILLEN: Yeah, correct.

10 **MR GISONDA:** What did he say?

MR KILLEN: One of our staff had attended the Manly Boathouse for a family event when he was off shift, and he was approached by three gentlemen who - he reasonably believed that was a part of the CFMEU, and they had a conversation with
15 him at that time.

MR GISONDA: You say at paragraph 54 that they said something to him to the effect of, "We know who you are and what you are doing, and you better stop, because it is going to go down big time."
20

MR KILLEN: That's correct, yeah, words to that effect.

MR GISONDA: And then the second incident at paragraphs 55 and 56 concerns - this is now in August - an unidentified male attending one of the Power family homes, claiming to be conducting an inspection on behalf of Origin Energy.
25 Can you just tell the Commissioner what you were told and what you observed about that incident?

MR KILLEN: Yeah. So on that particular day, I got a phone call from - from Scott, Scott Power, who said he'd just received a phone call from his wife and was
30 concerned that there was a gentleman from Energex on the property who had been there for a considerable length of time, after she'd let him in. So at that particular time, we were on a rotation change for our residential security program, so immediately sent our team across, and I attended and had a conversation with Mrs
35 Power around her observations and what the situation was. Whilst we were doing that walk-around of the property, observed a very large pot plant out the back had been dragged in front of one of the security cameras and had blocked its vision.

MR GISONDA: And did you make any inquiries of Origin or Energex to see what they were doing at the property?
40

MR KILLEN: Yeah. We rang both organisations, and there was no scheduled person to attend at that time. That was told to us, anyway.

45 **MR GISONDA:** I have no more questions, Commissioner.

COMMISSIONER: Are there any applications to cross-examine this witness?

MR GISONDA: No.

5 **COMMISSIONER:** Mr Killen, you've been in the armed forces, in the police, and you've had a decade and a half in private security. Just dealing with your period in private security, have you encountered anything like this before?

MR KILLEN: No.

10 **COMMISSIONER:** What do you think of it?

MR KILLEN: It was certainly a challenging period of time. It's - I guess, in my career, I've probably witnessed the probably most abhorrent human behaviour across multiple continents and countries, and yeah, so this is probably - yeah, it's not the
15 best - not the best feeling in the world, that's for sure.

COMMISSIONER: Is it something that you might have expected in Iraq but not in Australia?

20 **MR KILLEN:** Yeah, yeah. I could draw that inference, yeah.

COMMISSIONER: Why do you say that?

MR KILLEN: Well, just the tactics that are deployed, you know, are - I use the term
25 "similar". In the event of these sort of things happening or when there's a program like this occurring, the way I can describe it and put it into some context is that an assailant or an offender always has the upper hand about how they - how they plan to do an overt act or assault someone or conduct an attack. They - they choose the time, they choose the place, they choose the method. All we can do is simply react the best
30 that we can and try and mitigate it by - by having that planning in place. So to put that in context, it's - yeah, that's what we tried our best to do in this particular situation.

COMMISSIONER: From your observations, what did the impact - what was the
35 impact of this behaviour on the executives of BMD and their family?

MR KILLEN: It certainly rattled the family, absolutely, and part of our - part of our job was to ensure that, you know, we kept them calm and that there was no, you know, reputational risk associated with people approaching them while they were out
40 and all that sort of stuff. And it's a big adjustment for families to have someone, you know, at the Gabba follow them to the toilet to make sure they get there and back. So it's a big - it's a big adjustment, and it certainly affects them probably a lot deeper than what the face value of it suggests.

45 **COMMISSIONER:** Thank you very much for your evidence, Mr Killen. You're excused.

MR KILLEN: Thank you, sir.

<THE WITNESS WAS RELEASED

5 **MR GISONDA:** 10 past 2 convenient to return, Commissioner?

COMMISSIONER: Very well. Adjourn till then.

<THE HEARING ADJOURNED AT 1.00 PM

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<THE HEARING RESUMED AT 2.10 PM

15 **COMMISSIONER:** We've had some changes at the bar table over lunch. Mr Murdoch, you're appearing as counsel for the BMD Group and for Mr Scott Power?

MR MURDOCH: That's so, with Ms Cooper, may it please the Commission.

20 **COMMISSIONER:** Thank you. They're the only changes? Mr Gisonda.

MR GISONDA: Thank you, Commissioner. I now call Mr Scott Power.

25 **COMMISSIONER:** Is Mr Scott Power in the hearing room? Come forward to the witness box, please.

<SCOTT WILLIAM POWER, AFFIRMED

<EXAMINATION BY MR GISONDA

30 **COMMISSIONER:** Please take a seat, Mr Power. Mr Gisonda.

35 **MR GISONDA:** Thank you, Commissioner. Mr Power, on 7 August of 2026, you swore a statement in response to a notice from this Commission which is being brought up on the screen, and it's seven pages long, consisting of 67 paragraphs. Can I ask you whether you've had an opportunity to read that statement recently?

MR POWER: Yes, I have.

40 **MR GISONDA:** And could I ask you, please, to just have a look at paragraph 58 of your statement.

MR POWER: Yes.

45 **MR GISONDA:** And paragraph 58 reads as follows. It says that:

"I have read reports concerning allegations of links between contractors and outlaw motorcycle gangs. I am not aware of any such relationship between contractors and

outlaw motorcycle gangs. When that allegation was first made, I was informed that the contractor had firmly denied any connection and I have no information causing me to doubt that position."

5 Just focusing on the word "have" in that paragraph -

MR POWER: Yes.

10 **MR GISONDA:** - that was true as at 7 August 2026 when you swore the statement?

MR POWER: Yes, that's correct.

MR GISONDA: Do you now wish to change that word "have" in that statement?

15 **MR POWER:** I do wish to change that to "had".

COMMISSIONER: So what do I - just replacing "have" with "had"; is that right?

20 **MR POWER:** Yes, that's correct.

MR GISONDA: Other than that change to reflect your position as of today -

COMMISSIONER: So should it read:

25 "...and I had, as at 7 August 2026..."

Just to make it clear:

30 "...no information causing me to doubt that position."

MR POWER: That is correct.

35 **MR GISONDA:** Save for that correction or clarification which you've now made, is your statement otherwise true and correct?

MR POWER: Yes, that is true.

MR GISONDA: I tender the statement of Scott William Power.

40 **COMMISSIONER:** Are there any objections? There's no annexures to this statement, Mr Gisonda?

MR GISONDA: No.

45 **COMMISSIONER:** Witness statement of Scott William Power, 7 August 2026, seven pages, 67 paragraphs, as amended in the witness box at paragraph 58 just now, will be SWP-1.

**<EXHIBIT SWP-1 WITNESS STATEMENT OF SCOTT WILLIAM POWER,
7/8/2026, SEVEN PAGES, 67 PARAGRAPHS, AS AMENDED IN WITNESS
BOX AT PARAGRAPH 58**

5

MR GISONDA: Thank you. Now, Mr Power, I want to deal with three topics this afternoon.

MR POWER: Yes.

10

MR GISONDA: The first topic is the union's campaign against BMD. The second topic will be some matters concerning the Centenary Bridge project. And then the third topic is the incident that took place on 5 June 2024 that was the subject of some evidence last week.

15

MR POWER: Yes.

20

COMMISSIONER: Just before you do that - I just wonder if I could ask Mr Power about the foundations of his company, who it was founded by. Unless you're going to do that.

MR GISONDA: I was about to say -

25

COMMISSIONER: Well, you do that. You do that. Right.

MR GISONDA: Before we turn to those topics, I just wanted some general background questions. And one question I had for you was whether you could tell the Commissioner about the history of the BMD company and the role of your family in the creation and development of the company.

30

MR POWER: Yes, I'm happy to. So the BMD Group or BMD Constructions was founded by my parents back in 1979. So as a business we've been in operation for 47 years, and we operate in the civil construction sector, providing civil infrastructure services and services to the urban development industry. My father remains the chairman of the BMD Group. I assumed the role of CEO of the BMD Group in 2020, in late 2020, and my brother is a director of the BMD Group.

35

COMMISSIONER: Is this Dare Power?

40

MR POWER: Dare is my brother, yes.

MR GISONDA: And what roles did you have with the company before you assumed the role of CEO?

45

MR POWER: Yeah, I started my career with BMD as a graduate. I am a civil engineer by trade, and I started as a graduate engineer with BMD back in 1995. So I've worked in the business for more than 30 years. I worked in various roles through

the business, working through project roles, into business leadership roles, before becoming the general manager of our business in New South Wales in and around early 2000s. I became the group executive director of operations of the business in 2009. As I've already mentioned, I became CEO in around 2020.

5

MR GISONDA: And you obtained a bachelor of engineering from the Queensland Institute of Technology; is that right?

MR POWER: That's correct, yes.

10

MR GISONDA: And you also have an MBA from the Massachusetts Institute of Technology, MIT?

MR POWER: Yes:

15

COMMISSIONER: Where did your mother and father start the business? Which part of Queensland?

MR POWER: They started here in Brisbane. The first project's on the Gold Coast. So yes, my father worked with the Leighton group, Leighton Holdings, for 10 years prior to establishing BMD, and his first work was on the Gold Coast delivering subdivisional works.

25

COMMISSIONER: Doing what sort of works?

MR POWER: Subdivisional works for housing estates.

30

COMMISSIONER: How has the business travelled over the years? You would have run into a recession in '81/'82 and then another one in the early 90s?

35

MR POWER: Yes, Commissioner. We've had challenging periods of time throughout that 47-year history, but the business has grown and diversified across that period of time from, you know, a handful of employees to the two-and-a-half-thousand-plus employees we have today. So the business has grown significantly from based here in South East Queensland to now operate out of 16 offices around Australia and four offices internationally, including the Philippines, the United Kingdom and the United States.

40

COMMISSIONER: It's an amazing success story. What's the secret to it?

45

MR POWER: We're obviously very proud of the growth and the success we've achieved. It's based on good people and supporting good people. We've - as a business, and being a family business, we're able to pursue opportunities as they present, and having good people identify opportunities and deliver opportunities has allowed us to achieve some significant outcomes.

COMMISSIONER: How do you compare at that size with other - I imagine a lot of your competitors would be listed or foreign-owned entities. You're still entirely family owned?

5 **MR POWER:** Entirely family owned. We would be the largest privately owned civil construction group in Australia.

COMMISSIONER: And how do you find that, competing against businesses that can access capital from overseas or from the public markets?

10 **MR POWER:** That is one of the challenges on being privately owned, is access to capital. It hasn't been a constraint for our growth aspirations to date.

COMMISSIONER: It has not been?

15 **MR POWER:** It has not been. We've been able to achieve our growth ambitions generally. But I will admit it is a challenge in terms of competing with, as you say, international global contractors. But it's something that we enjoy, and we're quite good at the work that we do, and we rely on that as a source of competitive
20 advantage in terms of our ability to move quickly and support good people.

COMMISSIONER: I just read the reports about Multiplex, which is not civil; it's in building construction. But it got sold to that Canadian company, Brookfield, I think, an asset management company, for about 4 billion, had the very bad project at
25 Queens Wharf and ended up being sold recently by Brookfield for less than a billion.

MR POWER: Yes, sold to a Japanese company.

COMMISSIONER: Beg your pardon?

30 **MR POWER:** Sold to a Japanese company.

COMMISSIONER: Japanese company. You wouldn't be able to survive those sort of mistakes, would you, as a family-owned -

35 **MR POWER:** No. No, that's right. As a private business, we are only one bad project away from it being very challenging.

MR GISONDA: And would you say that the - what percentage of the work or
40 projects that you do are based here in Queensland as opposed to other states?

MR POWER: Queensland is the largest part of our business. It is our home state, given we were founded here. I would ascertain that about 40 - sorry, at least half of
45 our revenue is generated in Queensland.

MR GISONDA: And how would you - you've touched on it a little bit already, but how would you describe the values or the culture that you try to have instilled in the BMD group of companies?

5 **MR POWER:** We are a family business, and we'd like to continue to be a family business, which is about how we engage with our people. We're a relationship-based contractor. We rely on repeat business. So it's important to us the relationships we maintain with our clients, with our supply chains, and all those that assist us in delivering projects. And we're also genuine will our commitment to supporting the
10 communities in which we live and work. Civil construction can be disruptive in terms of its impacts on the community, and we acknowledge that having good relationships and support of the community is an important part of successfully delivering civil infrastructure projects.

15 **MR GISONDA:** I want to now turn to the first topic that I mentioned, and that's the CFMEU's campaign against your company or group of companies. And evidence has been put before this Commission that shows, beginning in particular in late 2023, the CFMEU had a well-funded, resource-intensive, targeted campaign against BMD. What did you know about that campaign, if anything, at the time that it was put into
20 effect by the CFMEU in late 2023?

MR POWER: We were advised - or I certainly was advised through our industrial relations consultant, who I understood had received a call from the CFMEU, advising them that their national body had determined that BMD would be the
25 subject of a national campaign.

MR GISONDA: And what communications had you had, either yourself or those advising you, with the CFMEU at the time about the demands or issues that the CFMEU had that triggered this campaign?
30

MR POWER: We had no information. We had little or no ongoing relationship or dialogue with the CFMEU. So we had no real context around why a campaign was to be waged against BMD or what that campaign would involve.

35 **MR GISONDA:** And what did you think at the time when you were advised by - that you were advised about these reports that there might be a national campaign against your company?

MR POWER: We were obviously concerned as to what form that - and forms that
40 might take and how that might impact the continuing operations of our business and our people.

MR GISONDA: It looks as though that campaign continued, certainly in Queensland, at least until the union was put into administration. So that's a period of
45 nearly one year; let's say 10 months. Was there ever an attempt by the union to reach out to you or your company to try and resolve the issues or concerns that it apparently had and which justified its campaign?

MR POWER: There was never any material attempt. In my statement, I referenced an encounter I had with Jade Ingham. That was the only time I had met Jade Ingham. He approached me at a conference that I attended, where I was a speaker on one of the days. He approached me on the second day of the conference whilst I was with a colleague having a coffee in the lobby, and he indicated then - he introduced himself. I hadn't previously met him. He introduced himself and he suggested that we should talk. And that was the extent of the conversation.

10 **MR GISONDA:** Sitting here now in 2026, do you have any further information as to what the objective of the CFMEU was in relation to its campaign?

MR POWER: I don't, no. I of course haven't been privy to all of the information that's been tabled around that campaign in the Commission. I haven't witnessed all of that information, so that hasn't informed me any more.

COMMISSIONER: The company had grown up in a period where the AWU was dominant in Queensland, and I presume all the deals that you had from around the time the company was founded were with the AWU, being in civil and because the AWU was so strong in Queensland?

MR POWER: That's correct. So our engagement with the union principally occurred as our infrastructure business grew and gained traction, and our dealings with the unions were with the AWU, who were the predominant union who represented and had coverage over our civil construction workforce.

COMMISSIONER: I see. The civil construction came a bit later than - you started off - the company started subdividing for, what, property development?

30 **MR POWER:** Yeah, so we were in that urban development space for the first 15 years of the business, and then we formed a civil infrastructure business, and it proceeded to grow into what is now the largest part of our business today.

COMMISSIONER: And that's the mid-90s or so, roughly?

35 **MR POWER:** Yes, that's correct.

COMMISSIONER: And at that point you started to have the dealings with the AWU?

40 **MR POWER:** Not initially when we started in that space, but as we became larger, then the projects we pursued became larger. So generally as projects became of a certain size they became of interest to the union, and the industrial relations landscape became more relevant.

45 **COMMISSIONER:** And only with the AWU, not with the CFMEU?

5 **MR POWER:** We have always dealt predominantly with the AWU. There have been some circumstances where we have had some dealings with the CFMEU over that period of time. In my statement, I reference we acquired a business in New South Wales that had an existing agreement with the CFMEU. When we got involved in that business, we shifted the direction of that business, and the CFMEU agreement was no longer relevant, so as it expired we moved on to an AWU agreement for that market, and we have had, on occasions, projects where we've had the CFMEU and the AWU as joint signatories to agreements on projects.

10 **COMMISSIONER:** On some projects?

MR POWER: That's correct.

15 **COMMISSIONER:** How many of those?

MR POWER: I couldn't be sure of an exact number. Not a huge number, but there has certainly been one recently that I'm aware of, which was a project in Western Australia.

20 **MR GISONDA:** And perhaps I might just get your comment about this point, and you may have no comment to make, but we're also looking at the Cross River Rail project as part of this Commission of Inquiry, and one of the features of the CFMEU's campaign on that project is to agitate against what they refer to as foreign companies. If, however, you were to have a genuinely local company, particularly in
25 the State of Queensland, engaged on a civil infrastructure project, then BMD fits the bill, doesn't it?

MR POWER: Correct.

30 **MR GISONDA:** And it's odd to have on the one hand that campaign and then on the other hand to have a targeted campaign against BMD, of all companies?

MR POWER: Yes, that would seem odd.

35 **MR GISONDA:** Now, BMD sponsors sporting organisations as part of its community outreach program, if I can put it that way; is that right?

40 **MR POWER:** Yeah, that's correct. We invest in excess of \$2 million a year in supporting community and grassroots organisations around Australia.

MR GISONDA: And it sponsors the Wynnum Manly Seagulls rugby league club?

MR POWER: Yes, which we have done for more than 30 years.

45 **COMMISSIONER:** For how long, sorry?

MR POWER: More than 30 years.

MR GISONDA: And in 2024, that club, or at least the games hosted by that club and the area surrounding the stadium where they play their games, was targeted with anti-BMD propaganda; is that right?

5

MR POWER: Yeah, that's correct.

MR GISONDA: BMD also sponsors the North Queensland Cowboys; is that right?

10 **MR POWER:** Correct.

MR GISONDA: And their home stadium also was targeted with anti-BMD propaganda?

15 **MR POWER:** Yes.

MR GISONDA: And were you aware that State of Origin games and Brisbane Lions AFL games were also targeted with anti-BMD propaganda?

20 **MR POWER:** Yeah, I did receive periodic text messages and emails from friends and colleagues who received information handed to them at those games.

MR GISONDA: Did you ever attend sporting games during this period at any one of those venues where the campaign was underway?

25

MR POWER: Yes, I did.

MR GISONDA: And how did that make you feel when you were at those events and that was happening?

30

MR POWER: Yeah, I was particularly concerned by being at those events. I attended those events and often attended those events with those teams that we support with my family. I've got four young children. So, yeah, I was concerned at having material being circulated at those events, particularly material which contained statements that we did not believe to be true or accurate.

35

MR GISONDA: And was there a point I think later in 2024 that senior members for BMD Group had personal security guards accompany them to some public events?

40 **MR POWER:** Yeah, that's correct.

MR GISONDA: And that included yourself, did it?

MR POWER: Yes, it did. Myself and my family attended football games at the Gabba with the support of security.

45

5 **MR GISONDA:** Now, in addition to that, there was a targeted letterbox campaign targeting these suburbs: Wynnum, Manly, Wellington Point, West End, Cannon Hill and the Port of Brisbane, and that appears to have been put into effect in early May, at least the idea. It's not clear exactly when those pamphlets ended up in those letterboxes in those suburbs. Those suburbs were chosen by the CFMEU because they were the suburbs that the CFMEU believed board members and their families lived in. Are you able to confirm whether that's the case or not? I'll just repeat them again: Wynnum, Manly, Wellington Point, West End, Cannon Hill and Port of Brisbane.

10 **MR POWER:** Yes, I can confirm that a number of those suburbs are the suburbs in which directors and senior executives of BMD reside. In the case of Wellington Point, that is where I live.

15 **COMMISSIONER:** In terms of directors of the company, are there any outside directors, or it's just the family who are directors?

MR POWER: We have a number of directors, all either family or executive directors within the business.

20 **COMMISSIONER:** So when you say executive directors, you mean employees outside the family who are performing an executive function?

MR POWER: Yes.

25 **COMMISSIONER:** You've got no non-executive, independent directors on the board?

MR POWER: No, we don't.

30 **MR GISONDA:** And do I take it that you were - it became apparent to you when these leaflets were being dropped in letterboxes that they were only appearing in certain targeted suburbs?

35 **MR POWER:** Yes. It seemed that they were targeted, as you've outlined, in areas where our directors resided.

MR GISONDA: And as I say, the idea of this seems to have been put together in early May of 2024. Do you remember now which month in 2024 those leaflets started appearing in letterboxes?

40 **MR POWER:** I don't recall specifically in the letter - in the case of letterboxes, and I guess equally in the case of the football games and the like. Obviously that coincided with the football season, so I'd ascertain that that was in the sort of early part of, you know, February and March through to May of 2024.

MR GISONDA: And we've discussed briefly the impact that the campaign at the sporting grounds had on you and your family. What about the impact that the - targeting of suburbs where you and other senior executives live, what sort of impact did that have on you and your family?

5

MR POWER: Yeah, it was very concerning, and particularly the very targeted nature. Obviously it was observed by our directors who resided in those various suburbs that - through their networks, that they were being targeted. So it was obviously very concerning for us, yeah, and then ultimately gave rise to the need for us to put in place additional security to support our directors and allay the concerns of them and their wives and families, obviously, who were equally concerned that we were being targeted in our homes.

10

MR GISONDA: Now, you give evidence at paragraph 31 of your statement that during the same period - and the same period I take it to be at around the time that this campaign was underfoot against you and other senior executives - that your father's dog - and at this point in 2024, he was the chairman of the group of companies?

15

20 **MR POWER:** Correct.

MR GISONDA: And his dog was poisoned or baited, and drones had been observed above his home in Manly. Now, you say at paragraph 32 that you don't know who's responsible for that event, but what sort of conversations did you have with your parents at the time that that happened?

25

MR POWER: Yeah, they were - they were concerned, obviously, for the wellbeing of their pet, but the timing of it seemed to coincide with the campaign in the local area surrounding their home. So they formed the view that it was connected.

30

MR GISONDA: And was it unusual for them to observe drones flying above their property?

MR POWER: Yeah, it was particularly unusual. It's not something they have ever previously discussed having observed.

35

COMMISSIONER: Well, any time since?

MR POWER: No, I don't recall any discussion of it having occurred any time since either.

40

MR GISONDA: Now, the previous witness, Mr Killen, has given evidence that someone - a man entered your home while your wife was home, and he appeared to be pretending to be an inspector with an energy company. Do you remember that incident?

45

MR POWER: Yeah, I do.

MR GISONDA: And what can you tell the Commissioner about what you remember regarding that event?

5 **MR POWER:** My wife rang me somewhat distressed. We'd obviously had conversations about our concerns about what was happening as far as a targeted campaign was concerned. She was distressed that she had allowed someone to come into the property, because she wasn't sure - she said she didn't feel right about it, but she'd allowed them in, and she was concerned because she didn't know what they had
10 actually attended to whilst they were within the property. I called the energy provider that this person identified themselves as having represented. They didn't have clothing that indicated that they were from an energy provider. It was the feedback my wife had given me.

15 **COMMISSIONER:** They did or did not?

MR POWER: They did not. I contacted the energy provider trying to find out if I could - if a visit had been scheduled for my property, and they couldn't find any record of a visit having been scheduled. So that was the extent of my recollection of
20 that event, and we, of course, at the time were working with Mr Killen, and he immediately attended the property and did a search around to see if he could find any evidence of any - anything having been adjusted or planted or the like.

MR GISONDA: And do you remember what he told you about what they found on
25 the property when they did that inspection?

MR POWER: I don't recall him finding anything specific. There was some suggestion that things may have been moved around that might have had an impact of obscuring cameras and the like.
30

COMMISSIONER: You said your wife called you. What was her reaction to you when you came face to face later that day or whenever you saw her?

MR POWER: She was distressed about the fact that she'd allowed someone into the
35 property without properly identifying who they were. She was very upset.

MR GISONDA: And I think you've already said, but this was at a time when the campaign was already underway?

40 **MR POWER:** That's correct.

COMMISSIONER: One of your skills as a CEO is to try to make decisions when you have limited information, and be able to make a decision even though all information is not in and it's less than perfect. Looking back now, at that time, or
45 even at that time, given what had happened to your dad with the dog being baited, what had happened in terms of what you'd heard about a national campaign being

instituted by the CFMEU, what you'd noticed about the leaflet drops and anything else you can think of, what did you think was going on?

5 **MR POWER:** I think it was very clear to us at that point that the campaign was trying to intimidate us. As I've already indicated, to what end has always been unclear. We haven't been in active engagement with the union, we haven't been actively bargaining about agreements in any particular region, so it was never at any stage clear to us as to why - other than, I guess, what we'd come to understand is that there had been suggestions that the CFMEU were trying to recreate in Queensland
10 the success that they achieved in Victoria in gaining control over civil construction, and I guess we maybe surmised that by virtue of the fact of being a large Queensland civil contractor, that that may be the motivation for why they might target BMD. But without them having at any point reached out to us with requests or specific demands of what they would like to see from us, we remain unclear as to what the motivation
15 really was.

COMMISSIONER: Do you think it could have been - these events could have been occurring because of anything else other than the CFMEU campaign?

20 **MR POWER:** There's nothing that I'm aware of that would have given rise to a suggestion of anything other than that.

MR GISONDA: Could I then turn to the second topic, Mr Scott - Mr Power, sorry. At paragraph 40 of your statement, which is on page 4, you say that you received
25 reports from employees and contractors that they were being followed or monitored while travelling to and from the site, and at paragraph 41 you say that you were informed that workers were being approached and comments made to them while travelling between the site and their vehicles. Now, it's the case, isn't it, that in order to work at the site, if someone's driving to the site, they have to park their vehicle
30 some distance from the site itself, and so it's necessary to walk a bit of distance from their car to the project site. Is that right?

MR POWER: That's correct. That's by reference to the Centenary Bridge project, yes.
35

MR GISONDA: Yes. And the reports that you had received were some of these workers, at least when leaving the site and venturing towards their car, were being approached by people associated with the CFMEU. Is that what you had been told?

40 **MR POWER:** Yeah, that's right. I think representatives of the CFMEU maintained a near full-time presence at the site at Centenary or outside the site at Centenary, from my recollection around January '24 for several months through to May/June, and people moving between their cars in the adjoining streets and in the shopping centre walked past where those people often were stationed, and they were subject to
45 comments and various approaches as they made those treks.

MR GISONDA: And what reports were you receiving, if any, about the impact that this sort of conduct was having on the workers on the site?

5 **MR POWER:** It was clearly having an impact on the morale of the team and the mental health of our employees, BMD's employees, our joint venture partners and TMR personnel who were stationed or who were working from the project site.

10 **MR GISONDA:** You mentioned elsewhere in your statement that there was emotional strain by people working on the project. Is that a fair reflection of what you were being told and what you saw in 2024?

MR POWER: Yeah. It was clear to see, in terms of the reports that were coming out of the project, that it wasn't a very pleasant place for people to be working.

15 **MR GISONDA:** So as the CEO, the man ultimately responsible for these matters, it was clear to you, was it, that if nothing else, the mental strain and impact - or the mental health of the workforce was in danger on this project? Is that fair?

20 **MR POWER:** That is fair to say, yes.

MR GISONDA: And was that unusual compared to the other projects that BMD had undertaken in the past?

25 **MR POWER:** It was unusual. I don't recall ever having a project where we had that sort of circumstance arise.

MR GISONDA: Were there concerns that people working on the project might be feeding information to the CFMEU? Had you heard that report?

30 **MR POWER:** I don't recall specifically hearing that report, but I imagine with any project with large numbers of people, that would be an issue that could present.

35 **MR GISONDA:** If I can then turn to the third topic, which is the incident that took place on 5 June. And just so we're clear about what we're now talking about, that incident consists of three men who were not working on the project, those men being Mr Bemir Saracevic, Mr Krstomir Bjelogrljic and Mr Mark Ahern, travelling up from Melbourne to Brisbane and being escorted onto the site, or on the pathway next to the site, by Mr Gary Samuel of Host, where they appear to have had a confrontation with a worker on the site. So that's the incident that we're talking about. And can I
40 ask you first: before 5 June, the date of that incident, had you met Mr Gary Samuel before?

45 **MR POWER:** I'm not sure when I met Gary Samuel. So relative to that particular date, I'm not certain whether it was before or after that. But I only recall - I only recall meeting Gary Samuel on one occasion. At the Port of Brisbane we operate from two buildings: our corporate team are in one building and our operations are in the other. There's a coffee shop under the building where our business operations are

working from. I met and was introduced to Mr Samuel by Rob Pickard in and around the coffee shop.

5 **MR GISONDA:** And is that the sole face-to-face interaction you've had with Mr Samuel, as far as you recall?

MR POWER: Yeah, that's correct.

10 **MR GISONDA:** In June of 2024, do you remember what you were told, if anything, about that incident having occurred on the site or someone alleging that an incident of that kind had occurred on the site?

15 **MR POWER:** I do recall becoming aware. I don't recall who told me. But I became aware there had been an incident on the site involving a confrontation with a worker.

COMMISSIONER: Involving what, sorry?

MR POWER: A confrontation with a worker.

20 **MR GISONDA:** And were you told at that time, just exploring a bit more about what you might have been told about what had happened or what had been alleged to have happened - were you told that the allegation included that one of the men involved held himself out as being a member of the Comancheros, or a bikie gang?

25 **MR POWER:** Yeah, I think that was relayed to me as part of the complaint, I guess, that the worker had raised, yes.

30 **MR GISONDA:** Do you remember whether you were also told that also part of the complaint was an allegation or an assertion that Mr Gary Samuel himself had some involvement?

MR POWER: I don't recall being aware that Mr Samuel had had direct involvement in the incident at that time, when I first became aware of it.

35 **MR GISONDA:** What about any allegation or assertion that Mr Pickard and Mr Thomas were potentially involved in the incident as well?

MR POWER: I was never aware of such an allegation.

40 **MR GISONDA:** And can you recall - again, I'm focusing - let's assume it's some time in June 2024 - what you did in response to being told that a worker had made a complaint about this incident?

45 **MR POWER:** I was informed at the time that the investigation - so with any incident, it would be normal for an investigation to be undertaken. So at the time it would be my recollection that - that I was aware - I was informed there had been an incident and that an investigation had been commenced.

MR GISONDA: And do you recall who it was that told you about this complaint, this incident?

5 **MR POWER:** I don't recall specifically, but - no, I don't recall. I don't recall specifically, no.

COMMISSIONER: Just in terms of the reporting arrangement -

10 **MR POWER:** Yes.

COMMISSIONER: - you said before that there are no independent non-executive directors on the board, and then there are people called executive directors. Those executive directors, to the extent that they're not family, all report to you?

15 **MR POWER:** Yes.

COMMISSIONER: As the CEO - and presumably some of them, if they're longstanding, have a relationship with your father, because presumably they worked for him for a long period of time.

MR POWER: Correct, yes.

COMMISSIONER: Yes. And does your father come to the office often?

25 **MR POWER:** Semi-regularly. He attends monthly board meetings, as a minimum. He attends the office for various other purposes related to things that he may have an interest in that might be happening around the business. But he's not involved in the day-to-day operation of the business.

30 **COMMISSIONER:** Does he have an office near your office in what you call the corporate - with the corporate team?

MR POWER: No, he doesn't. He doesn't maintain a permanent office within our nominated offices. He has a home office that he does some work from.

COMMISSIONER: And in terms of - do I call it the corporate team office? How do I describe these two offices?

40 **MR POWER:** That's our corporate head office, yes.

COMMISSIONER: Corporate head office. And then there's an operations office next door?

45 **MR POWER:** Yes.

COMMISSIONER: How big are these offices?

MR POWER: They're reasonably large. I think we've got of the order of 250 people across those two buildings.

5 **COMMISSIONER:** And do I call them - the executive directors or the executives or the people that report to you sit with you in the corporate office?

MR POWER: Predominantly, yes. There are some that sit in the other building, particularly because of the functions they look after and their proximity to the
10 operations more generally. And so, for example, sorry, in the case of HR, where they're working directly with recruitment for operations, they're colocated with the operations.

COMMISSIONER: And you've obviously got an office on the executive floor of
15 the corporate office?

MR POWER: Correct, yes.

COMMISSIONER: And how many executives are there who have offices with
20 you?

MR POWER: There's a handful of offices around a central core.

COMMISSIONER: How many?
25

MR POWER: Six.

COMMISSIONER: And who are those offices? Who sits in those offices?

30 **MR POWER:** Our executive general manager of constructions; our CFO; the executive general manager of our BMD Urban business; the risk manager - sorry, commercial manager for our BMD Urban business; our general manager, strategy for our urban business; our general manager, strategy for our construction business are all located immediately adjacent to my office, as well as some secretarial pool,
35 secretarial executive assistants.

COMMISSIONER: And just remind me of Mr Pickard's title? He was the general manager or -

40 **MR POWER:** He's the general manager of our Queensland/Northern Territory construction business, and he's located in the building across the road.

COMMISSIONER: In the operations side?

45 **MR POWER:** Yes.

COMMISSIONER: And that's where Mr Thomas is located as well?

MR POWER: Mr Thomas is also in the building across the road, yes.

5 **COMMISSIONER:** And who would it be in that framework that would be reporting up to you? What's the chain of command to report up to you an incident involving a confrontation on the worker of a site, civil site in Queensland? How does that reporting arrangement work?

10 **MR POWER:** Yeah, so incidents would generally be reported - so from the construction business, they report up through the construction business. They would come into Jeff Gallus, who's the executive general manager of the construction business, yes.

15 **COMMISSIONER:** So would it come from Mr Pickard to Mr - who did you say?

MR POWER: Mr Gallus. Yes, sorry, yes, it would come from Mr Pickard - well, sorry, I missed a step. Mr Pickard reports to the general manager of Northern Region, so Northern Region comprises our Queensland/Northern Territory and Western Australian operations, and he in turn reports directly to the EGM of constructions.

COMMISSIONER: And who's the general - did you say general manager of Northern Region?

25 **MR POWER:** General manager of Northern Region.

COMMISSIONER: And who's that?

30 **MR POWER:** A gentleman by the name of Gerard Keynes, K-e-y-n-e-s.

COMMISSIONER: So the normal reporting of this sort of issue would be Mr Pickard to Mr Keynes to Mr Gallus to you?

35 **MR POWER:** So we have regularly reporting cycles monthly, generally. Jeff, the EGM of construction, would preside over those meetings, and we'd discuss project performance, business unit performance, and various things like incidents would come generally through the monthly reports into those forums and then fed on to me ahead of reporting to our board meetings and the like.

40 **MR GISONDA:** Now, in August of 2024, two months later, there was an article published in the ABC about the incident. Do you remember that happening?

MR POWER: Yes, I do.

45 **MR GISONDA:** And until the article was published or at least questions were being asked by the journalist in advance of the article being published, is it fair to say that you didn't hear about this incident again after you were initially told about it in June?

MR POWER: I don't recall there being extensive discussion around it, no.

5 **MR GISONDA:** If we could just bring up the article, which is document 69. It's
been tendered as CBU-38. And the article contained an allegation that multiple
sources - perhaps if we can go to page 4, immediately under the video, multiple
sources told the ABC that in early June, Saracevic and Mr Bjelogrljic allegedly
confronted a CFMEU delegate near the site after he had a verbal altercation with a
Host representative, and the bikies allegedly threatened to burn down his house with
10 his family inside. You accepted at the time, didn't you, that, true or not, these were
serious allegations?

MR POWER: Yes.

15 **MR GISONDA:** This article was published on 22 August. Do you remember when
you were told that a question or questions were being asked by an ABC journalist
that had as their subject matter the types of allegations in this article? Does that
question make sense?

20 **MR POWER:** So - I think so. So yeah, so prior to this article being published, I was
made aware that there had been a media inquiry asking questions about the incident,
as has been reported. So it was some time before the article was published, yes.

25 **MR GISONDA:** And if we go to, just for the moment, document 34, which has been
tendered as CBU-59, you see there that that's an email that Mr Samuel has written to
Mr Pickard and Mr Thomas on 14 August 2024. Do you see that?

MR POWER: Yes.

30 **MR GISONDA:** So that's eight days before the article is published, and you will see
his response that he's proposing to give to the media, or the ABC in particular,
halfway down that email:

35 "My response. Bemir Saracevic and Krstomir Bjelogrljic have no role whatsoever
with Host."

MR POWER: Yes.

40 **MR GISONDA:** So it's clear that questions in the lead-up to that article on 22
August were being asked by at least 14 August.

MR POWER: Correct.

45 **MR GISONDA:** And that accords with your recollection, does it, that there was a
period of time before the article was published itself that you were made aware of
these media inquiries?

MR POWER: Yes, correct.

MR GISONDA: And can I ask you, what questions did you ask those around you about whether there was any substance to these allegations or not?

5

MR POWER: I certainly - I don't recall the specifics of the conversations, but I do recall that we - I would have asked my team about the incident and to seek assurances from Mr Samuel to the extent that he was mentioned in the allegations and sought his opinion as to what had occurred.

10

MR GISONDA: And when you say assurances from your team, you've spoken a little bit already, in answer to questions from the Commissioner, about who's part of your team, but who are you referring to there when you say your team?

15

MR POWER: The team, specifically in relation to this, given it was project-specific, I would have likely spoken to Rob Pickard.

COMMISSIONER: What was your relationship with Mr Pickard? He looks like a very loyal, long-term employee. Started as a steel-fixer, I think.

20

MR POWER: That's correct, yes.

COMMISSIONER: So right at the bottom and rose up to be - what's his - is it general manager?

25

MR POWER: General manager of Queensland and Northern Territory, yes. So he is a long-term employee of the BMD Group.

COMMISSIONER: I think for 20 years or so?

30

MR POWER: For more than 20 years, yes.

COMMISSIONER: More than 20 years.

35

MR POWER: More than 20 years, yes.

COMMISSIONER: And you've known him for all that time?

40

MR POWER: I haven't known him for all of that time. He started in North Queensland. But I've certainly known him for a large part of that time, and I know him both socially and through the professional relationship we have.

COMMISSIONER: So for a couple of decades you've known him?

45

MR POWER: I've known him for the best part of the two decades he's worked for us, yes, in some capacity.

COMMISSIONER: And have you been involved when your father was CEO in any conversations about him, decisions to promote him while you were moving up through the ranks?

5 **MR POWER:** Not while I was moving up through the ranks necessarily, but he has received promotions in the period of time I've been in senior executive roles that I would have been involved in discussions around for sure, yes.

COMMISSIONER: And you were supportive of those promotions?

10

MR POWER: Absolutely, yes. He's always been a trusted and extremely strong performer in terms of the work that he did and the work that he does for the business, and he's always maintained very strong relationships within the business.

15 **COMMISSIONER:** And you did think then and have thought for many years that he's someone you could rely upon?

MR POWER: Absolutely.

20 **COMMISSIONER:** And why is that? What is it about him that engenders that feeling in you?

MR POWER: He is very capable in terms of what he does. He's a very - honest and has high integrity. He does the things he says he'll do. He's very good with people.
25 He - he works better than anyone in our business with his team, and through those close working relationships with his people he's able to work with them to get some - some pretty good results in terms of the results he delivers, and he's very good at the job that he does.

30 **MR GISONDA:** Can we go to document 3, please. This is an email that was sent out by you to BMD Group staff. I take it that's a company-wide email group; is that right?

MR POWER: Yes. Group, yes, sorry. That's a group-wide, so that's across all of our
35 operations nationally.

MR GISONDA: And how often would you have reason to be sending out a group staff email?

40 **MR POWER:** Not particularly often. Only obviously in relation to something that we think may cause some concern for the wider business.

MR GISONDA: And so I take it, then, that based on the fact that you're writing a group staff email addressing the article, that you were concerned about the
45 allegations that were either expressly or implicitly being made against your company in this article?

MR POWER: Yeah, correct.

MR GISONDA: And in your email, you say - as I say, this is the morning after the article is published:

5

"The ABC published an article yesterday afternoon making allegations about the involvement of outlaw bikies on our projects."

Then you say this:

10

"These are extremely serious allegations and I write to you today to reassure you that these allegations are entirely false."

Just pausing there for a moment, how did you satisfy yourself that the allegations were, to use your words, entirely false?

15

MR POWER: That was through reference to discussions with the likes of Rob Pickard and through the assurance we'd received from Gary Samuel that those allegations were in fact false.

20

MR GISONDA: And when you talk about the assurances from Mr Samuel, do you know whether those assurances were received verbally or in writing?

MR POWER: So I had seen that email that we've seen, or at least part of that email had been provided to me.

25

MR GISONDA: Can I just bring up then, again, document 34, CBU-59. And do you think you saw either - see in the middle of that email it says "my response"?

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

MR GISONDA: Do you think you saw the text underneath that or most of that text at some point?

35 **MR POWER:** Yeah, I don't recall whether I saw the whole of that email or just an excerpt from that email, but I believe I saw at least an excerpt of that email, yes.

MR GISONDA: So at some point, you had received a piece of writing that contained either all of the information that we now have here on the page or some of it?

40

MR POWER: Correct.

MR GISONDA: And you understood that that information was being provided to BMD from Mr Samuel himself?

45

MR POWER: Yes.

MR GISONDA: And then you said that - now going back to document 3, you said assurances from Mr Samuel and that you had also spoken with Mr Pickard as well; is that right?

5

MR POWER: Yes, I believe so, yes.

MR GISONDA: And do you remember what Mr Pickard told you about the allegations in the ABC article?

10

MR POWER: I don't recall the specific conversation, but I do - it would be my recollection that as part of clarifying and before making the statement that I would have checked that the statement I was making was our recollection of what had actually occurred, and that would have been through reference to the project team and Rob leading that team.

15

MR GISONDA: Is this a fair summary of the steps you took to satisfy yourself that the allegations are entirely false: you received a written confirmation from Mr Samuel himself and a verbal confirmation from Mr Pickard?

20

MR POWER: I certainly received those two things.

MR GISONDA: And do you think you received anything else?

MR POWER: I don't recall receiving anything else, although I was aware that there was an investigation had been undertaken into the incident, albeit I wasn't necessarily at that point across what the findings of that investigation had ultimately determined.

25

COMMISSIONER: And Mr Pickard's communication to you was oral?

30

MR POWER: Yes.

COMMISSIONER: Do you recall whether it was face to face, at the coffee shop, between your two buildings or by phone?

35

MR POWER: I don't recall.

COMMISSIONER: It's strange not to recall that, because that's a - it's a very serious thing, the ABC - it prompted you - you said it's very serious and it prompted you to send a group email, but you can't recall your conversation with Mr Pickard?

40

MR POWER: I can't remember the specifics of the conversation, but I would have spoken about the issue with Mr Pickard at that point in time, given the seriousness of it.

45

COMMISSIONER: And given your confidence in him, given you go back a long way and what you've just said about him, you didn't have any need to go beyond Mr Pickard?

5 **MR POWER:** I had confidence if Rob relayed a position to me that that would be a reasonable position, yes.

COMMISSIONER: Yes. Because of your longstanding relationship with him, you didn't need to go and check with an HR manager or look at anyone else; you could
10 say - you could trust Rob to tell you what the truth was?

MR POWER: Absolutely.

MR GISONDA: Just breaking the allegations down a little bit, putting to one side
15 for the moment any involvement in this incident by either Mr Samuel or someone else working on the project, the allegation being made by the worker on the site was that on 5 June 2024, someone purporting to be the leader of an outlaw motorcycle gang had approached him on the site and threatened to harm him and his family. Just
20 focusing on that part of the allegation for the moment, did you understand there to be any denial by anyone that that part of the incident had occurred?

MR POWER: No.

MR GISONDA: And did you know that the investigation conducted by Georgiou
25 had found that at least that part of the complaint by the worker - the investigation found that it did occur. Did you know that?

MR POWER: I didn't know that, no.

30 **MR GISONDA:** Do I take it that, really, what you were focusing on in your email to staff and your discussions with Mr Pickard and receiving the written statement from Mr Samuel was whether there was an involvement in that incident by Mr Samuel or Host? Is that the real focus of your attempt to understand whether the allegations
35 were true or not?

MR POWER: The allegations specifically in relation to whether the gentlemen had been engaged by Host or were somehow performing work for Host.

40 **MR GISONDA:** Over the page, still remaining on - yes. See the first paragraph which begins:

"When approached by the ABC with these allegations, we acted promptly in making the relevant inquiries about the affiliation of Host Group to organised crime figures."

45 You say:

"As was confirmed in the article, we have received assurances that the individuals named within the article are not employed by or connected to the security provider contracted on the project."

5 Just focusing on the assurance that the individuals named in the article were not connected to Host, do you think, looking back on it now, that you, in your position, did enough to ensure that what you were being told by Mr Samuel was truthful or accurate?

10 **MR POWER:** I think I made reasonable inquiries at the time.

MR GISONDA: And those reasonable inquiries were getting a statement from Mr Samuel himself and having a discussion of some kind with Mr Pickard?

15 **MR POWER:** That's correct, yep.

MR GISONDA: What have you been - I assume that you weren't watching the hearings last week. Is that a fair assumption?

20 **MR POWER:** I did see some of the hearings last week, yes.

MR GISONDA: And did you otherwise ask for a briefing from someone about the main things that had happened in the hearing last week?

25 **MR POWER:** We have received briefings, yes.

COMMISSIONER: Who provides those to you?

MR POWER: Our legal team provided updates from the hearings.
30

MR GISONDA: And having received those briefings, which I assume we can proceed on the basis that that would be a full and accurate reporting of what happened in last week's hearings, what was your reaction to receiving those briefings?

35 **MR POWER:** I was concerned. There seemed to be information that was presented in those hearings that was new information to information I was previously aware of.

MR GISONDA: And were you concerned, first of all, about the possibility that
40 contrary to the written assurance you'd been provided, that Mr Samuel did have a connection with the men who came up to the site that day?

MR POWER: Yes.

45 **MR GISONDA:** And if that turns out to be - if that is the case, if Mr Samuel does have a connection to those people and he is prepared to use them as against workers

on construction sites, is he the sort of man that you'd seek to engage on behalf of BMD in the future?

MR POWER: No, he's not.

5

MR GISONDA: And so you don't see a place in the construction industry for the use of men who are either reported to be or hold themselves out as being senior members of outlaw motorcycle gangs?

10 **MR POWER:** No, I don't.

MR GISONDA: Did you also - do you feel that you've also been provided new information about the potential involvement in that incident of Mr Pickard and Mr Thomas?

15

MR POWER: Yes, that's correct.

MR GISONDA: And is there a risk, do you think, that insofar as you received verbal assurances, from Mr Pickard at least, in August of 2024, that those assurances might have been misleading or inaccurate?

20

MR POWER: As has been established, I know Mr Pickard very well, so I would continue to take his version of events as something that I would place some credit in. But it equally would be reasonable to question whether that is in fact accurate.

25

COMMISSIONER: Equally be what?

MR POWER: Reasonable.

30 **COMMISSIONER:** Reasonable.

MR POWER: Based on various pieces of evidence that were presented last week.

MR GISONDA: Is this a fair summary of the situation as you currently sit there: that you're still in the process of making a decision or coming to a conclusion about whether Mr Pickard and Mr Thomas have done anything wrong?

35

MR POWER: Yes. We're reviewing the information that was provided last week and working with our legal team and our board to review that and determine whether any further action should be taken or what appropriate action would be to be taken.

40

MR GISONDA: But you say to this Commission, do you, that one matter that you will take into account is the fact that you've worked with Mr Pickard for a long time and you regard him as a man of honesty and integrity?

45

MR POWER: Correct. Yes, absolutely. Both Mr Pickard and Mr Thomas are both long-term employees of BMD, and their responses we would take due consideration of.

- 5 **MR GISONDA:** Is your trust and confidence in them such that you refuse to believe that they could have done something wrong on that occasion?

MR POWER: No.

- 10 **MR GISONDA:** Can I also ask you about whether you were told about another piece of evidence last week which is that when the police asked BMD for a copy of any CCTV footage of the incident, BMD's lawyers responded to the police and said that no footage was available?

- 15 **MR POWER:** Yes.

MR GISONDA: Have you asked for an investigation or an inquiry to be made to understand how that might have happened?

- 20 **MR POWER:** Yes, we've engaged external legal support to review that particular issue.

MR GISONDA: And if it's the case that BMD had that footage but did not provide it to the police, would that be something that concerns you?

- 25 **MR POWER:** Yes.

MR GISONDA: And is it your position that that footage should have been provided to the police when asked for?

- 30 **MR POWER:** If we had it, yes.

MR GISONDA: If you had it. I don't have any further questions, Commissioner.

- 35 **COMMISSIONER:** Is there another question along the lines of the deletion of the CCTV footage, along the lines of the set of questions you've just asked, as opposed to the non-provision?

40 **MR GISONDA:** Yes. Insofar as yet another piece of the evidence that came out last week was the suggestion that people within BMD - but let's be more specific: allegedly Mr Thomas - set about trying to ensure the deletion of the CCTV footage that captured the incident, is that something that you've also been briefed about as having been - as having arisen last week?

- 45 **MR POWER:** Yes.

MR GISONDA: And is that something also that you're seeking to get a full and proper answer about?

5 **MR POWER:** That's correct. That's part of the investigation that will be occurring, yes.

MR GISONDA: And again, if that's something that turns out to - at least to your satisfaction as having taken place, you would regard that as unsatisfactory conduct?

10 **MR POWER:** Yes.

MR GISONDA: Nothing further from me, Commissioner.

15 **COMMISSIONER:** One of the things that the Commission has to inquire into is the nature of the incidents that Mr Gisonda's just asked you about, Mr Power.

MR POWER: Yes.

20 **COMMISSIONER:** And they are really the involvement of Mr Pickard and Mr Thomas in the incident he's described, the involvement in the non-provision of the CCTV footage to the police and the involvement in the deletion of that footage. It would be, but it hasn't at any stage been a suggestion from Mr Pickard or Mr Thomas, an argument that they were directed to do the things that they did by people higher up in the company, because they deny doing the things that the circumstantial
25 evidence - I say that, circumstantial evidence, but it's extensive - suggests they may well have done. What would you say to that proposition insofar as it involved you and if you can answer in relation to your father?

30 **MR POWER:** We - we'd deny that.

COMMISSIONER: Is that because of anything other than the fact of the denial? Is there anything you can point to in terms of the structure of the business, the way in which people are given autonomy, the trust that it's afforded to anyone, that can anchor that denial beyond your denial?

35 **MR POWER:** All of those things are true. We do empower our people as one of our values, so we do provide them with significant autonomy to make decisions, and particularly in relation to project-based issues, they would generally be resolved at the project.

40 **COMMISSIONER:** There is - there could be - but again, there's no evidence for this, and so I don't want to put it any higher than that, because it's just speculation, but there could be a suggestion from all of the evidence that the particular lawlessness that seemed to engulf this project, which then spilled over to affect you
45 and your wife and your father, had an impact that, to put it in the broadest way possible, created an environment where the behaviours of Mr Pickard and Mr

Thomas - which they deny, of course - were somehow licensed, what do you say to that, if anything? What do you say to that?

5 **MR POWER:** I think that we've established that those sorts of actions, behaviours, there's no place for it in the industry. So - so they would understand our view of that.

MR GISONDA: Sorry, I should just - document 3, which is the email from Mr Thomas - sorry, Mr Power - I should tender that email, Commissioner.

10 **COMMISSIONER:** I thought that had already gone in. No?

MR GISONDA: No.

15 **COMMISSIONER:** Is there any objection? Email from Scott Power to BMD Group staff, Friday 23 August 2024, 7.25 am will be CBU-93.

<EXHIBIT CBU-93 EMAIL FROM SCOTT POWER TO BMD GROUP STAFF, FRIDAY 23/8/2024, 7.25 AM

20 **MR GISONDA:** And, Commissioner, that email looks familiar to you because - and I probably could have just taken Mr Power to this version, but perhaps if we just bring up document 4. Do you remember we looked at that email last week?

25 **COMMISSIONER:** Yes. That's right.

MR GISONDA: Mr Davie has picked up in particular the reference to a connection to Host and said that that was a bit misleading. There are no applications to cross-examine Mr Power.

30 **COMMISSIONER:** Thank you very much for your evidence, Mr Power. You're excused.

<THE WITNESS WAS RELEASED

35 **MR GISONDA:** I think that - well, that does conclude the evidence for today, and Mr Irving will be called to give evidence at 10 am tomorrow. Mr Wheelahan is taking Mr Irving, and then I'll be back on Thursday with the two witnesses then.

40 **COMMISSIONER:** You'll be back on Thursday with two other witnesses?

MR GISONDA: Yes.

COMMISSIONER: All right. Is there anything else that arises today? No? We'll adjourn till tomorrow morning.

45

<THE HEARING ADJOURNED AT 3.29 PM