



**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  
FEDERAL CIRCUIT AND FAMILY COURT**

**TUESDAY, 10 MARCH 2026  
AT 10.00 AM**

**DAY 10**

**APPEARANCES**

**Mr S Wood AM KC, Commissioner  
Mr P Wheelahan KC with Mr A Smith, Counsel Assisting  
Ms A Hughes, Counsel for the CFMEU Administration  
Mr D de Jersey KC with Mr D Wilson, Counsel for the State of Queensland  
Mr C O'Grady KC with Ms A Hughes and Ms F Fox, Counsel for the CFMEU  
Administration  
Mr D O'Brien KC, Counsel for the Cross River Rail Delivery Authority  
Ms Deborah Dargan, Witness**

**<THE HEARING COMMENCED AT 10.00 AM**

**COMMISSIONER:** I will take appearances. Mr Wheelahan, you appear with Mr Smith as counsel assisting?

5

**MR WHEELAHAN:** Yes, Commissioner.

**COMMISSIONER:** And Mr de Jersey, you appear with Mr Wilson as counsel for the State of Queensland?

10

**MR DE JERSEY:** I do, Commissioner, yes.

**COMMISSIONER:** And Mr O'Grady, you appear with Ms Hughes and Ms Fox for the administrator?

15

**MR O'GRADY:** I do.

**COMMISSIONER:** And Mr O'Brien, you appear for the Cross River Rail Authority?

20

**MR O'BRIEN:** Yes, I do.

**COMMISSIONER:** Are there any other appearances? No? Mr Wheelahan.

25 **MR WHEELAHAN:** Thank you, Commissioner. I will be opening today and dealing with a case study which we've titled Workplace Health and Safety Queensland. There will be a number of witnesses to be called with our inquiries, which will be beyond this week. The theory underpinning this case study is that there was regulatory capture of the Workplace Health and Safety Queensland by the  
30 CFMEU during the period that Ms Grace Grace was the Minister for Industrial Relations, that period being December 2015 until October 2024, when the Labor Government was defeated.

35 We use the term "regulatory capture" in this case study to mean a form of institutional corruption whereby a government agency or regulator - that is, in this case, Workplace Health and Safety Queensland - whose legitimate objectives are to protect the health, safety and welfare of all individuals affected by work, became improperly dominated by the interests of the CFMEU above others and was  
40 weaponised by the CFMEU for its illegitimate industrial control purposes in the construction industry.

45 We will lead evidence of (a) the methods used by the CFMEU to achieve regulatory capture of Workplace Health and Safety Queensland; secondly, the weaponisation thereafter by the CFMEU of that regulatory capture; thirdly, the impact, particularly on frontline inspectors, whose job it was to deal with health and safety in an agency dedicated to keeping workers safe. Ironically, the inspectors, as you will hear evidence about, felt far from safe themselves. This is one of four case studies that

have so far arisen in the lines of inquiry publicly before this Commission. If I can just recap the first one.

**COMMISSIONER:** Four lines of inquiry about regulatory capture, you mean?

5

**MR WHEELAHAN:** Four lines of inquiry - yes. Yes, I will put it that - one dealing with the MOU between the police and Workplace Health and Safety Queensland, which was the subject of evidence of Stacey Schinnerl, whether that's - that's probably not defined as regulatory capture. Now - so I'll probably take issue with

10

defining them all as that. The first case study we have referred to is with BPIC, and that is government and industry capture, and BPIC, on our case study, embedded CFMEU-favourable conditions into government procurement with the effect of expanding CFMEU influence and control in the building and construction industry.

15

The CFMEU's influence in the development and implementation of BPIC exceeded appropriate stakeholder consultation and did constitute capture of government at a bureaucratic and political level. On our case study, the CFMEU exerted pressure on every level of decision-making to achieve its aim, and BPIC substantially contributed to the building and construction industry, including civil infrastructure, becoming uncommercial, unfair and unproductive. BPIC also had the intended effect of expanding CFMEU influence and control in the building and construction industry.

20

The second case study, which, Commissioner, you just referred to, will involve an analysis and lines of inquiry into the relationship between Workplace Health and Safety Queensland and Queensland Police, and relevantly, you will recall Stacey Schinnerl, in fact, through her evidence, it was tendered as exhibit SLS-5, a memorandum of understanding dated 20 April 2022, between the State of Queensland, acting through the Department of Education and Office of Industrial Relations, and the State of Queensland acting through Queensland Police.

25

30

The next case study -

**COMMISSIONER:** But you don't - you don't call that regulatory capture, but I thought the evidence of Ms Schinnerl was that the police were hamstrung in their duties or obligations or their role, however you describe it, to enforce the law, at least insofar as - from her perspective, insofar as the AWU, on her evidence, as the subject of intimidation from the CFMEU, and the reason they were so hamstrung was because - I think this was her evidence - she said that they couldn't act to the - using the full amplitude of their powers because of this MOU between the Queensland Police Service and the Office of Industrial Relations.

35

40

I might not have captured her evidence exactly correctly, and she hasn't been cross-examined yet, and you're developing your lines of inquiry as to this 2022 memorandum of understanding and the predecessor memoranda of understanding, but why is that not, at least prima facie, regulatory capture? It looks like it, doesn't it?

45

**MR WHEELAHAN:** Yes, it does. So I'm just titling the substance of the evidence, whether I call it regulatory capture, or I said we haven't titled it that yet, flowing from the evidence of Ms Schinnerl, it could be characterised as that.

5 **COMMISSIONER:** Anyway, you're developing your lines of inquiry.

**MR WHEELAHAN:** Yes. The topic, if I could put it that way, although I didn't call it regulatory capture, focuses - it commences with that MOU, and then, as you said, there's the evidence of Ms Schinnerl, and then that has opened other lines of inquiry  
10 to be developed.

**COMMISSIONER:** Very well.

**MR WHEELAHAN:** And it may well be, Commissioner, as you know, when we  
15 make submissions to you after evidence, we may call that topic regulatory capture.

**COMMISSIONER:** It may not be. There may be some other basis for that agreement and the predecessor agreements. We're only just at the beginning.

20 **MR WHEELAHAN:** We're only inquiring. Correct. Now, following that observation, in its infancy is also - inquiries are commencing into whether there was regulatory capture or undue CFMEU influence over the Queensland Building and Construction Commission. Commissioner, that organisation in Queensland plays a critical role in regulation and governance of Queensland's building and construction  
25 industry.

**COMMISSIONER:** So they're the four lines of inquiry. I might have put words in your mouth to describe them as aspects of regulatory capture, but at least on your case theory, some improper influence by the CFMEU in terms of the operation of  
30 each of those four arms of government or government policy.

**MR WHEELAHAN:** Yes, that is correct, and the title of it, in development, but certainly, for example, with this case study -

35 **COMMISSIONER:** The one you're opening today?

**MR WHEELAHAN:** - for Workplace Health and Safety Queensland, our case is there was regulatory capture, and I'll go through why we say that is so. If I can remind the Commission at this juncture of, in summary form, the evidence of already  
40 before the Commission. Damian Long, the CEO of the Civil Contractors Federation of Queensland, he gave evidence in the last sitting week, and his evidence was to the effect that the CFMEU had exerted extraordinary influence over the development of the Queensland Government's procurement policy, which led ultimately to the development of best practice industry conditions known as BPIC, and you will recall  
45 that according to the Queensland Productivity Commission Final Report, BPIC resulted in additional costs to the Queensland taxpayer of between 13.1 billion and 38.6 billion dollars.

It remains a line of inquiry for this Commission as to why the government of the day introduced a policy mirroring the terms of pattern agreements with the CFMEU and other members of the building trade group of unions in the face of industry  
5 opposition and concern by the ABCC and without any rational economic basis. It should also be noted that, having regard to the limited availability of taxpayer funds, the government of the day prioritised the working conditions of those employed on infrastructure projects over the working conditions of others, such as teachers and nurses. The rationale as to how the responsible ministers determine those priorities  
10 also remains a line of inquiry.

If I recap relevant parts of Geoffrey Watson SC, he gave a report specifically related to Queensland called Violence in Queensland CFMEU, and that was exhibit GW-4, and he said at paragraph 15, page 96 of that report the following:

15 "The CFMEU has no respect for the independence of the regulators. As far as the CFMEU was concerned, if the regulators would not bend to its will, then they were corrupt or incompetent and could be subject to threats of violence, intimidation or targeting."

20 **COMMISSIONER:** And I think when Mr Watson was last before this Commission giving evidence, he re-emphasised that that report into the Queensland CFMEU was restricted in its scope to what he called violence, but he wasn't allowed - I don't mean that in any pejorative sense - by the administrator to look into broader issues of  
25 corruption. Is my recollection right about that?

**MR WHEELAHAN:** If the operator could pull up exhibit GW-4, which is the report you're referring to, paragraph 101, if we could blow that up, please. As I recall, Commissioner, corruption was outside the scope of his report. Paragraph here - I'll  
30 just read it:

"A theme constantly repeated by the WHS ..."

Being workplace health safety:

35 ".. inspectors raised issues surrounding the role of a former WHS director, Helen Burgess. This is problematic because those matters are currently under investigation by the Crime and Corruption Commission. In fairness to Burgess, I decided not to review those matters in this investigation."

40 **COMMISSIONER:** And - sorry, I interrupted you. And I thought he went further and said somewhere that he was limited - again, Mr O'Grady will be able to correct me if I'm wrong - in terms of his reference from the administrator in investigating - again, there's no criticism of the administrator in this regard - to  
45 matters of violence, not matters of corruption.

**MR WHEELAHAN:** That is correct. He was directed by the administrator to investigate violence in the Queensland operations of the CFMEU. You will recall that was the direction, and he stated, as I recollect, either in his report or in evidence, that corruption was outside the scope of his report.

5

Mr Watson SC did give examples of the public ridicule, threats of violence, intimidation and targeting of Workplace Health and Safety Queensland inspectors. If I could have that exhibit GW-4 returned to the screen, as it was a short while ago, at pages 16 and 17. And relevant to this case study, I'm going to refer to paragraphs 111 to 114. He stated as follows:

10

"In about 2022, during the worst of the period of abuse caused by the CFMEU Facebook page, a WHS inspector attended a site in Brendale, just north of Brisbane. He was accompanied by two female trainee inspectors. The inspector was talking to a representative of the builder on the top deck of the building under construction when one of the workmen came at the inspector with an angle grinder. The angle grinder was in operation."

15

**COMMISSIONER:** Perhaps the operator can move to the next paragraphs.

20

**MR WHEELAHAN:**

"The workman shouted at the inspector ..."

25

Perhaps it's shown on screen:

".. 'You're the see you next Tuesday from the video.' The inspector shepherded the two trainees to safety but was followed by the man with the angle grinder. The man told the inspector, 'I want to take you outside and bash the shit out of you.'"

30

And Mr Watson - you can take that down - stated that event happened shortly after the CFMEU had posted an inflammatory video about that particular Workplace Health and Safety inspector on its Facebook page. We are making lines of inquiry to ensure we obtain the particular Facebook post that Mr Watson was therein referring to.

35

**COMMISSIONER:** Who's the inspector he referred to that Mr Watson referred to in that video? Do you know?

40

**MR WHEELAHAN:** It's redacted at the moment.

**COMMISSIONER:** I see.

45

**MR WHEELAHAN:** Commissioner, as you will hear in evidence given in this case study, the conduct of CFMEU officials towards Workplace Health and Safety inspectors, including the filming of inspectors and posting it on social media, led to inspector health and safety representatives within the Workplace Health and Safety

Queensland agency itself issuing a cease unsafe work order under section 85 of the Work Health and Safety Act in respect of their own work.

5 **COMMISSIONER:** Sorry, the inspectors nominated their own inspector, who then inspected their own worksite and issued a cease unsafe work order?

**MR WHEELAHAN:** Yes.

10 **COMMISSIONER:** To themselves?

**MR WHEELAHAN:** Correct.

**COMMISSIONER:** Because of what the CFMEU had allegedly done?

15 **MR WHEELAHAN:** Yes.

**COMMISSIONER:** And what happened?

20 **MR WHEELAHAN:** Well, it's very interesting what happened, Commissioner. My answer at this point in time is that during the course of hearing we will be leading evidence - not this week, but in another hearing week - specifically from a witness who will go into some detail about that unsafe work order and how it was dealt with, and that brings in this issue of regulatory capture by the CFMEU and influence over the bureaucracy. Let it be said, though, of course, in the end they returned to work  
25 under changed conditions or an agreement.

**COMMISSIONER:** And what were the changed conditions?

30 **MR WHEELAHAN:** It's detailed evidence. It's not just a condition, but there will be evidence - I don't want to name the witness today.

**COMMISSIONER:** Very well.

35 **MR WHEELAHAN:** But it's forthcoming. Now, Ms Jacqueline King, relevant to this case study, picking up the parts of her evidence that we draw your attention to, to remind the audience interstate, she was the - sorry, is general secretary of the Queensland Council of Unions, and by way of topic overview, she gave evidence about these matters: firstly, the CFMEU's relationship with the government work health and safety team; secondly, the conduct of -  
40

**COMMISSIONER:** I think her evidence was that the work health and safety team was unduly influenced, to use a neutral expression, by the CFMEU. Is that right?

45 **MR WHEELAHAN:** Yes. It was - well, "influence" is an interesting word, Commissioner. She went a bit further and said there was improper intimidation/targeting by the CFMEU of persons within the Workplace Health and Safety regulator. A cautious person might draw a conclusion that that is undue

influence. So yes, and yes. In particular, she gave evidence about the conduct of CFMEU official Royce Kupsch, K-u-p-s-c-h, when he was both president of the CFMEU and a member of the work health and safety board.

5 **COMMISSIONER:** What was her evidence about or the evidence about Mr Kupsch? Was he the president of the Queensland/Northern Territory branch or the Construction and General Division of the federally registered union, or was he the president of the state-registered union, which I think in the evidence has been referred to as the CFMEUQ?

10

**MR WHEELAHAN:** The state.

**COMMISSIONER:** The state-registered union.

15 **MR WHEELAHAN:** Yes.

**COMMISSIONER:** And was that a paid position or an unpaid position as president of the CFMEUQ, the state-registered union?

20 **MR WHEELAHAN:** Commissioner, what I'm instructed, the disclosure of officers' remuneration and non-cash benefits -

**COMMISSIONER:** For the state body?

25 **MR WHEELAHAN:** Yes. I have - for 2021, at least.

**COMMISSIONER:** Yes.

30 **MR WHEELAHAN:** Given you've asked me now. We can of course provide further detail. In that year, he received \$289,997 in remuneration. That was composed of salary and allowance of \$194,690, a movement in annual and long service leave provisions of \$64,046; superannuation of \$22,873; and, reported in this financial year, redundancy of \$6750 and other employee benefits of \$1638. If I could say at a high level, Commissioner, some positions, of course, might be - I'm talking  
35 generally about the union - might be an unpaid position, but what our inquiries and, as a matter of practice, what actually happens is you might hold a second position that is paid. So you might hold more than one position. So I've answered your question, Commissioner. Relevant to Ms King's evidence, he was president of the state entity.

40

**COMMISSIONER:** And I think it was Mr Irving's evidence was that pursuant to a piece of legislation, and I think it hasn't been referred to yet in evidence, passed by the State Government, he, Mr Irving, became the administrator of the state-registered union, that is, the union of which Mr Kupsch was the president, and my memory is  
45 that Mr Irving removed Mr Kupsch very soon after he was appointed administrator. But I could be wrong about that, and I think you're about to correct me.

**MR WHEELAHAN:** Well, I'm not. Your memory serves you well. So I've just been provided instructions. The evidence was, from Irving, that he was removed, a removed person.

5 **COMMISSIONER:** I see. So he's no longer the president of the state-registered union, which is referred to by most witnesses as the CFMEUQ.

**MR WHEELAHAN:** Correct. Correct. I stand to be corrected. Not only is he a removed person, I recollect on my feet Mr Irving saying that he was one of the  
10 persons given a redundancy, sorry, given a redundancy, but for your purposes, it's important that the evidence is he's a removed person.

**COMMISSIONER:** Well, the - sorry, you go on. The inference being, subject to  
15 hearing from Mr Kupsch and all the evidence when it finally comes in, that Mr Irving took some view about Mr Kupsch's conduct as an official of at least the state-registered union and decided he wasn't the sort of person that he wanted in a leadership position after he was appointed as the administrator.

**MR WHEELAHAN:** Great minds think alike, Commissioner. That is in fact what I  
20 was going to suggest to you was the obvious inference. Now, returning to Ms King -

**COMMISSIONER:** Just before we get off Mr Kupsch, you said also he was a member of the work health and safety board. What is that?

25 **MR WHEELAHAN:** So that's a board that's set up under statute, the Work Health and Safety Act 2011. It's the peak advisory body to the Queensland Government.

**COMMISSIONER:** So this is a state statute.

30 **MR WHEELAHAN:** Yes. Advisory body to the Queensland Government on matters related to work health and safety. The appointment of members is by the minister. And as I've already said, the minister at the time, and I will be discussing in further matters whether she appointed or not, but the minister whilst Ms King gave  
35 evidence about misconduct by him -

**COMMISSIONER:** By Mr Kupsch?

**MR WHEELAHAN:** Yes - was Minister Grace Grace.

40 **COMMISSIONER:** And Mr Kupsch had been appointed as a member of this oversight body, the work health and safety board, by -

**MR WHEELAHAN:** I don't know.

45 **COMMISSIONER:** All right. I see.

**MR WHEELAHAN:** But I will find out.

**COMMISSIONER:** All right.

5 **MR WHEELAHAN:** Returning to the relevant evidence of Ms King to this case study - she gave evidence in summary form of improper intimidation and targeting by the CFMEU of persons within the Workplace Health and Safety regulator, as I've said, but in particular of a former deputy director of the Office of Industrial Relations by the name of Ms Kym Bancroft, B-a-n-c-r-o-f-t.

10 **COMMISSIONER:** And I presume that the agency, if you call it that, of Workplace Health and Safety Queensland, sat within the Office of Industrial Relations?

**MR WHEELAHAN:** Correct.

15 **COMMISSIONER:** And tell me if I'm asking questions you don't want to answer, but are you intending to call Ms Bancroft at a later stage?

20 **MR WHEELAHAN:** Inquiries are in the process of being made - or further inquiries, I should say - Ms Bancroft. As I said when I commenced this, scheduled this week are a number of witnesses, but the depth of this case study will be over some hearing dates. There may well be 10-plus witnesses that will ultimately be called. It's a serious case study, because of the end results, to capture the very organisation that's responsible ostensibly for all workers, and in this case study, it's the CFMEU that captured it, dominated it, was prioritised by the agency, and it did that, of course, through illegitimate means, and as I'll deal with in my opening and is well known, the conduct of a particular Helen Burgess.

30 Now, with respect to Helen Burgess - Ms King gave evidence about this also. Just a reminder: Ms Helen Burgess was the director and described by Ms Kings, construction strategy unit. The titles - although that's not quite correct. She was the director of construction, compliance and field services - this is Helen Burgess - between the period 23 April 2018 and 22 July 2024.

35 **COMMISSIONER:** Just give me that name again. It's called construction -

**MR WHEELAHAN:** Director of construction, compliance and field services.

40 **COMMISSIONER:** And that was some administrative organisational structure within Workplace Health and Safety Queensland?

**MR WHEELAHAN:** Correct, Commissioner. So, for example, there might be a policy area. So it's an administrative structure.

45 **COMMISSIONER:** But devoted to the construction industry, it seems from its title: construction, compliance and field services.

**MR WHEELAHAN:** Correct. Now, Ms Helen Burgess had at her disposal - this is Ms King's evidence - in excess of 50 inspectors.

**COMMISSIONER:** Allocated to the -

5

**MR WHEELAHAN:** Under her supervision. Under her supervision. Sorry, did I say 50? 40. In excess of 40. And Ms King gave evidence that Ms Burgess was the subject of a complaint to the Crime and Corruption Commission, and I'll go to that later in my opening. Ms King concluded, after her evidence on those topics, that her view was that the inspectorate part of the regulator appeared to be entirely dysfunctional.

10

**COMMISSIONER:** Was that her evidence? The whole of the inspectorate, or just that part of -

15

**MR WHEELAHAN:** No, the inspectorate part of the regulator.

**COMMISSIONER:** But presumably there were other inspectors that worked in other industries.

20

**MR WHEELAHAN:** I don't think she draw the distinction in her evidence.

**COMMISSIONER:** I see. I see.

25

**MR WHEELAHAN:** Maybe she wasn't - she's still subject to cross-examination. Maybe that wasn't clarified in her evidence-in-chief. But that's a matter that can be, because I think she's the subject of applications for cross-examination. And if the Commissioner allows re-examination, whichever counsel, I think it is in fact Mr Smith or another one, they can raise that very issue. No doubt they'll take a keen note of what you've just raised.

30

Now, relevant to this case study, I do want to touch on some specific matters that Ms King gave evidence about: firstly, by way of example, the conduct of CFMEU official Kurt Pauls at a meeting the Queensland Council of Unions convened.

35

**COMMISSIONER:** You say he's an official. What sort of official was Mr Pauls?

**MR WHEELAHAN:** At one stage a permit holder and a Workplace Health and Safety officer.

40

**COMMISSIONER:** So the Workplace Health and Safety officer for the - I might not draw a distinction between the federal branch and the state-registered union, but the union health and safety officer for the Queensland branch of the federal union and the state union?

45

**MR WHEELAHAN:** Yes. So maybe I'll go through sort of bullet points. He was not a union organiser. We have that category that Mr Irving dealt with. He was the

Workplace Health and Safety coordinator for the Queensland/Northern Territory branch of the CFMEU. He was responsible for training and mentoring over 300 health and safety representatives.

5 **COMMISSIONER:** So those are people who are employed by employers in the industry and are, or at least should be, elected by their fellow workers as the health and safety representative for that workplace or that subset of a workplace.

10 **MR WHEELAHAN:** Correct. Yes. He also - the evidence is or will be he did assist union organisers with occupational health and safety matters and liaised with the Office of Industrial Relations on behalf of workers, and Kurt Pauls - and I'll just confirm with my learned junior - I believe he was removed by Mr Irving. Yes.

15 **COMMISSIONER:** So he's no longer -

**MR WHEELAHAN:** He's a removed person, and he also received a redundancy package. Now -

20 **COMMISSIONER:** I'm not sure - what's the significance of that? I mean, Mr Irving gave evidence that it was the easiest way to - he had difficulty getting rid of these people, and the easiest way was to give them a redundancy package because he wanted them out of the union.

25 **MR WHEELAHAN:** Yes. So I don't quibble - I'm just giving a full answer to his exit.

**COMMISSIONER:** I see. All right.

30 **MR WHEELAHAN:** Because you might have asked what was the mechanism. The removed person has a particular statutory meaning, but the difference is, Commissioner, some were made redundant, and you will recall Mr Irving talking about those that repented, those that didn't, and then you have the other category where they refused a redundancy and may have had their employment terminated for disciplinary reasons and not have obtained the redundancy package.

35 **COMMISSIONER:** But in any event, he is in the same category as Mr Royce Kupsch, the former president of the state union, that is, an inference - subject to cross-examination and other evidence as it comes in - could be drawn that Mr Irving thought that Mr Pauls wasn't the sort of employee that should continue on in a leadership position, training the occupational health and safety representatives in the industry.

40 **MR WHEELAHAN:** Yes. In light of your questions, Commissioner, in due course I think it would be prudent - there's some key names within the CFMEU that keep re-occurring throughout different parts of the evidence of different witnesses. We might provide you a note if we could -

**COMMISSIONER:** I was just asking those questions to orient myself as to whether this person was going to be a continuing problem or was a past problem; that's all.

5 **MR WHEELAHAN:** Past. Now, Ms King, her evidence about Mr Kurt Pauls - she gives specific evidence about his conduct at a meeting convened by the Queensland Council of Unions to discuss the five-year review of Work Health and Safety Act, and this occurred in August '22. Mr Pauls is alleged by Ms King to have been so aggressive at the opening of the meeting toward the two representatives from The Workplace Health and Safety regulator that she considered it necessary to intervene  
10 to prevent him from further discourtesy.

Ms King also gave evidence about alleged inappropriate conduct of Mr Pauls at meetings involving the regulator, including conduct directed towards a Ms Jodie Deakes, D-e-a-k-e-s, a former executive director of Workplace Health and Safety  
15 Queensland, and a Ms Andrea Fox, a director of policy. We are making inquiries of those persons, and they may or may not also be called to give evidence before this Commission. As to the conduct of Mr Royce Kupsch when he was president of the CFMEU and a member of the -

20 **COMMISSIONER:** The president of the - I think the language you're adopting is president of the CFMEUQ.

**MR WHEELAHAN:** Yes. Yes. Thank you. The transcript exhibit JK-1 at paragraph 52 - I'm not sure we have it to bring up, Mr Operator. I will read. She said as follows.

25 **COMMISSIONER:** I just wonder whether the operator can bring it up. Exhibit JK-1, did you say paragraph 50 or 52?

**MR WHEELAHAN:** 52. JK-1 being the statement of Ms Jacqueline King, Mr  
30 Operator.

**COMMISSIONER:** There we go.

**MR WHEELAHAN:** 52. Before I read this - again, with the terms of reference,  
35 Commissioner, part of it's the conduct towards women, so if you bear that in mind when I read this. And remember his position of authority at this meeting.

**COMMISSIONER:** It's all untested at the moment, but anyway, this is -

40 **MR WHEELAHAN:** It's untested, yes, of course. I'm just going through her evidence. Everything is untested at the moment, but this is the evidence of Ms King, and so it's clear, Commissioner, of course, procedural fairness will be afforded to anybody to whom there's a prospect of an adverse finding being made. No adverse finding will be made without procedural fairness being afforded. So Ms King's  
45 evidence is as follows:

"I understand that Mr Kupsch was renowned among people in the workplace health safety world for his disrespect to senior employees employed by the WHS regulator, the majority of whom were and are women, as well as his conduct when these senior employees addressed the board or other general meetings."

5

And then she gives an example:

"For example, several board members and senior employees of the WHS regulator informed me on numerous occasions about Mr Kupsch's behaviour towards women employees of the regulator in that Mr Kupsch would regularly spin his chair backwards and talk loudly to other board members in a disrespectful manner rather than listening to the women speak, and generally behaved in a manner designed to undermine and disrespect those speakers and their authority."

10  
15 So that recaps evidence that's specifically relevant to this case study, Commissioner. As to the case theory that's being inquired into, I'll firstly deal with the methods that will be asserted or inquired into that were used by the CFMEU to achieve regulatory capture.

20 **COMMISSIONER:** I think you can take this down, Operator.

**MR WHEELAHAN:** Yes, remove it. Thank you, Mr Operator. So evidence will be put before the Commission of, firstly, improper external pressure by the CFMEU, and if I use the acronym now, WHSQ, being Workplace Health Safety Queensland, inspectors. And just by way of example, that includes aggressive and intimidatory behaviour by CFMEU officials towards inspectors while they were performing their work duties, and secondly, the publication of edited footage of inspectors on the CFMEU website, which was calculated to demean and ridicule them.

25  
30 Evidence will be put before the Commission of improper pressure being placed on frontline Work Health and Safety Queensland inspectors by the CFMEU through the regulator's own management and policy staff, for example, the CFMEU misuse of its position on the work health safety board, and secondly, inappropriate relationships with public servants, for example, Helen Burgess. The CFMEU improperly using direct contact with senior public servants for the purposes of bypassing the regulator's triage system for complaints to achieve priority for the CFMEU and other industry participants.

35  
40 Commissioner, there will be detailed evidence about what the triage process was, but for the purposes of the opening, the proposition that will be put is that that triage process was bypassed to the CFMEU's benefit. Further pressure by the CFMEU was the calling for resignations of senior Workplace Health Safety Queensland staff when their demands were not met. You will hear evidence about the improper involvement of CFMEU in selection panels for senior public servants, and you will hear evidence of verbal abuse and intimidation by CFMEU officials.

45

**COMMISSIONER:** I think that was one of the complaints - I know it's a different case study - about BPIC that Mr Long made, and I think he referred to a letter of Mr Chapman from the Queensland Major Contractors Association in his evidence, saying he couldn't understand why the CFMEU were on a selection panel for contractors to major projects, and you say the similar thing has happened here in relation to the selection panels for senior public servants in Workplace - or roles within Workplace Health and Safety Queensland?

**MR WHEELAHAN:** Yes. Without letting the cat of the bag, but there will be - one specific example will involve Ms Helen Burgess on a selection panel. Sorry, public servant, but with influence by the CFMEU, but I - I'll let that speak for itself through the evidence. I'll withdraw that characterisation, actually, Commissioner, as an example.

Now, the alleged outcome of regulatory capture of Workplace Health and Safety Queensland by the CFMEU is that the CFMEU was treated beneficially when compared to other stakeholders. We will lead evidence that CFMEU officials were allowed to behave towards inspectors in ways that would not be permitted by other industry participants; evidence that - the creation of a culture of fear within the regulator that if staff acted contrary to the CFMEU's wishes, they would suffer detrimental consequences in their employment, or be targeted, demeaned and ridiculed.

Evidence will be led that resources were diverted away from higher-priority matters and towards matters which interested the CFMEU. Evidence will be led that inspectors were pressures by the CFMEU and management within the regulator, Workplace Health and Safety Queensland, to issue notices under the Work Health and Safety Act in circumstances where those inspectors considered it inappropriate to do so. We will lead evidence that senior public servants were focused on CFMEU issues rather than the core roles for all industry participants.

Of particular focus, evidence will be led that under the leadership of Helen Burgess, the CFMEU was unduly prioritised and favoured both in terms of health and safety notices and site access. It will be alleged that Ms Burgess was the primary conduit between the CFMEU and Workplace Health and Safety Queensland and that she had various operations managers who reported to her improperly and thereby improperly directed inspectors to deal with the CFMEU issues as a priority.

She directed inspectors to assist CFMEU officials to enter work sites in circumstances where those CFMEU officials did not have a legal right to enter, that she improperly pressured inspectors to issue prohibition notices under the Workplace Health and Safety Act where there was not a lawful basis to do so; and that she worked hand in hand with the CFMEU to use the newly introduced then December 2018 compliance monitoring and enforcement policy as a tool to pressure inspectors to issue infringement notices at the CFMEU's bidding.

**COMMISSIONER:** And you said that Ms Burgess became the director of construction, compliance and field services in April 2018. So about, what, six months later this new policy was introduced, the compliance monitoring and enforcement policy - by her?

5

**MR WHEELAHAN:** She doesn't introduce the policy, no. But the chronology, Commissioner, you're correct. So December 2018 is that new policy.

10 **COMMISSIONER:** And each of these things, directing inspectors to deal with the CFMEU, directing inspectors to assist CFMEU officials to enter - to allow CFMEU officials to enter work sites where they didn't have a lawful authority to do so to pressure inspectors to issue prohibition notices, she did that directly or through these operations managers that you referred to?

15 **MR WHEELAHAN:** Both. So this is a summary for you, Commissioner, of what the evidence will be about. Witnesses will go into some detail about examples where this happened. If I give, for example, one opening, one example, Ms Burgess telephoning directly an inspector on her way to a right of entry issue at a site and, to quote, "Make sure the CFMEU officials don't get arrested." I may have misquoted  
20 word for word, but that was the substance of what she told one of the inspectors. The inspectors will give that evidence, and this is part of the discontent about her leadership. And as I said in my opening, I will get to the complaint to the Crime - the CCC complaint, signed by more than 10 existing and current inspectors, about the conduct of Ms Burgess, and also a complaint about Minister Grace Grace. I'll get to  
25 that in my opening.

**COMMISSIONER:** But in between, you said that within the construction, compliance and field services administrative unit within WHSQ, of which Ms Burgess was the director, there were, I think you said, approximately 40 inspectors.  
30 Between Ms Burgess and these 40 inspectors there were these people known as operations managers?

**MR WHEELAHAN:** Yes.

35 **COMMISSIONER:** And do you know how many there were - I know it's a long period, 23 April 2018 to 22 July 2024, but just roughly, at any given time, how many operations managers there were within the construction, compliance and field services unit team?

40 **MR WHEELAHAN:** I do. The font is too small for me to read, Commissioner.

**COMMISSIONER:** Maybe you can answer my question after the break.

45 **MR WHEELAHAN:** I will answer it now by saying it this way. Rather than get - because it's different at different times. She's there for a period of years. But operation managers report to her, which is the essence of your question: are there others? And in my opening I'm going to name some of those.

Now, this hearing week, as I said, there will be further witnesses in other hearing weeks, but for this week, firstly, we will call Ms Deborah, D-e-b-o-r-a-h, Dargan, D-a-r-j-a-n, D-a-r-g-a-n, who is presently an operations manager within Workplace Health and Safety Queensland. Between 2010 and '24, she was employed as a principal inspector.

**COMMISSIONER:** So she was an inspector for close to 15 - decade and a half, and then was promoted at some point in 2024 to the next position up, which is operations manager?

**MR WHEELAHAN:** Correct. Now, amongst other matters, in summary form, she will give evidence about the following: firstly, the period between 2020 and 2024 when she was responsible for allocating inspectors to attend sites. During that period, she will give evidence that at the direction of Ms Burgess, she will say that CFMEU complaints took priority over other matters, and she will give examples of when inspectors would be removed from higher-priority tasks to attend to CFMEU complaints.

Secondly, she will give evidence that she would be directed to attend sites in response to CFMEU complaints about right-of-entry disputes, only to arrive at the site and find that the CFMEU were not there and there was no right-of-entry dispute. She will give evidence that at least one occasion, she and Inspector Barber, B-a-r-b-e-r, were removed from a site at a Queensland university at the direction of Ms Burgess after they had decided not to issue a notice that the CFMEU was seeking to be issued under the Workplace Health and Safety Act.

Now, subsequent to their removal, she will give evidence that another inspector was sent to the site and that that inspector did issue the notice that the CFMEU was seeking. She will give other evidence about attending sites generally in relation to CFMEU right-of-entry disputes or complaints. She will also give evidence about the impact upon her mental health arising from exposure to conduct of CFMEU officials and those within the management of Workplace Health Safety Queensland, which she says was captured by CFMEU dominance. She will give evidence about her complaint to her operations manager in 2021 about CFMEU misconduct, and more specifically -

**COMMISSIONER:** That was before she herself became an operations manager?

**MR WHEELAHAN:** Yes. Sorry, yes. Now, the response to that complaint included the following: her evidence will be that she was told that the Labor government would remain in office for four years, the situation would not change, and that she could accept it or leave. She will give evidence that since the removal of Ms Burgess from the role of director of construction, compliance and field services, conditions have improved significantly.

The second witness to be called is a Mr Noel Hayes. Between 2004 and 2013, he held the role of senior inspector, and between 2013 and his retirement in 2021, he held the role of principal inspector.

5 **COMMISSIONER:** So within the inspectorate, there are gradations, are there? Inspector, senior inspector, principal inspector. I think one of the witnesses refers to themselves as a lead inspector, something like that.

10 **MR WHEELAHAN:** That's correct. So his evidence will traverse the following topics: his dealings with Ms Burgess; the concerns he raised with Deputy  
Director-General Craig Allen, A-l-l-e-n, in April 2020, about the impact on  
inspectors of the conduct of the CFMEU and those officials who aided them. His  
evidence will traverse particulars of a site visit where CPB, who you've heard  
15 evidence about, was refusing to allow Jade Ingham and other officials to enter site. And he will give evidence that there was a telephone call from Ms Burgess whilst en route, and he will say that with respect to those officials - and this is the actual quote, which I may have misquoted - Ms Burgess is alleged to have said, "Whatever you do, don't get them arrested."

20 Fourthly, he will give evidence that in September 2018 and March 2019, at the behest of the CFMEU, Ms Burgess and a Mr Houston, H-o-u-s-t-o-n, pressured him to issue notices under the Work Health and Safety Act, despite him not believing there was a lawful basis for that issue; yet, as a result of that pressure applied to him, he did so.

25 **COMMISSIONER:** Do I take it that Mr Houston was one of these operations managers that sat between Ms Burgess and the inspectorate?

30 **MR WHEELAHAN:** Yes.

**COMMISSIONER:** Or at least the inspectorate within construction, compliance and field services.

35 **MR WHEELAHAN:** Yes. He will give evidence that it was common for CFMEU officials to ignore, contrary to section 128 of the Work Health and Safety Act, the prohibition on them entering sites under their entry powers unless they complied with reasonable work health safety requests. I won't go to the provision now.

40 Thirdly, Mr Paul Watts. Between October 2003 and 2022, except for a two-and-a-half-year leave of absence, he was an inspector and then principal inspector. He will give evidence about pressure being placed upon him by Helen Burgess and an operations manager - then operations manager by the name of Mark Murphy, to issue an infringement notice which he says was not open as a matter of law. He will say that the pressure used against him included, impliedly, unreasonable  
45 disciplinary action.

Fourthly, it was proposed - and I will explain why - to call Mr David Cappelletti. He has been relieved from giving evidence this week. I will just deal with that in a moment. He's currently employed in the position of principal inspector, industrial, for Workplace Health and Safety Queensland.

5

**COMMISSIONER:** Does that mean when you say principal inspector, industrial, that he's not or no longer is an inspector within the construction, compliance and field services division, unit, team?

10 **MR WHEELAHAN:** Yes. As I understand it, it's a different administrative part of the regulator. The evidence proposed to be led from him is as follows: firstly, that a culture developed, following the election of the Palaszczuk government and the appointment of Minister Grace Grace, whereby Workplace Health and Safety Queensland went from a relaxed and effective workplace to one with a culture of  
15 bullying, intimidation and harassment of inspectors by senior managers. He will give evidence that from the appointment of Ms Burgess, the CFMEU would bypass the formal triage process, call her directly, which also led to CFMEU complaints taking priority over other industry participants. He will give evidence where he did not do what the CFMEU demanded, he was chastised by Ms Burgess and operations  
20 managers and was the subject of unfair disciplinary action against him.

**COMMISSIONER:** When you say chastised by operations managers, you mean operations managers reporting to Ms Burgess within the construction, compliance and field services division?

25

**MR WHEELAHAN:** Yes, I do. Now, if I explain why I said that he's relieved from giving evidence this week, Mr Cappelletti has Crown Law representing him.

**COMMISSIONER:** I read his statement. It was very well put together by the  
30 solicitor at Crown Law who did it.

**MR WHEELAHAN:** Yes. On 5 March 2026, the Commission has been - sorry, the Commission has been provided with a letter from Dr Sonia, S-o-n-i-a, Ansell, A-n-s-e-l-l, from Old Cleveland Road Clinic, and the date of that letter is 5 March  
35 2026, and that letter is relied on for Mr Cappelletti to not to give evidence this week.

**COMMISSIONER:** So, sorry, there's a letter from his GP?

**MR WHEELAHAN:** Yes, the regular GP.

40

**COMMISSIONER:** Right.

**MR WHEELAHAN:** Now, I don't propose reading it out, but what I want to advise you, Commissioner -

45

**COMMISSIONER:** I don't seem to have it, so just tell me what the GP said, can you?

**MR WHEELAHAN:** I will:

5 "I am the regular GP for this patient. In my medical opinion, this patient is currently suffering from significant anxiety and stress, and he is currently not advised to give evidence in person."

**COMMISSIONER:** What does that mean? Not advised by this GP?

10 **MR WHEELAHAN:** Well, that's what the letter states, and, Commissioner, you are sort of pre-empting what my path forward is. I have -

**COMMISSIONER:** This witness was summonsed?

15 **MR WHEELAHAN:** Yes.

**COMMISSIONER:** And there's a provision, isn't there, that says if you are summonsed, you have to turn up, unless - I'm just trying to dig up the section - unless you prove, I think, to the satisfaction of the Commission, a reasonable excuse for not  
20 complying with the summons. Yes. There it is. Section 5(2), a person served with a riding - thank you - under a chairperson's hand - I think chairperson means relevantly here, the Commissioner, shall comply in all respects with the summons, or - I won't read the whole of (b) - satisfy the Commissioner that the person has a reasonable  
25 excuse for not complying, as required by paragraph (a). So do you act for this witness, Mr De Jersey?

**MR DE JERSEY:** I do, Commissioner, yes.

**COMMISSIONER:** And is that the application?  
30

**MR DE JERSEY:** Yes, that is the application, based upon the doctor's certificate, and as Mr Wheelahan identified, it refers to the doctor's opinion. So to the extent that it refers to the advice, my submission is that that's the advice of this treating general  
35 practitioner.

**COMMISSIONER:** I see.

**MR DE JERSEY:** And that it satisfies therefore subsection (2) in the sense that it  
40 supplies a reasonable excuse.

**COMMISSIONER:** And is there any other evidence that you wish to bring forward in support of the application? It's really an application to satisfy me that there is a reasonable excuse for non-compliance. It's not a matter of - I guess once you had  
45 done that, you would set aside the summons if that application was successful, or adjourn it or whatever. But is there any other evidence apart from this two-sentence letter from the GP that you wish to rely upon? You don't have to - you can take this on notice and tell me after the break if you want.

**MR DE JERSEY:** There is a letter from Crown Law, but before I get to that, can I just identify one matter. What the doctor's certificate doesn't say is that the impairment that's referred to in it is permanent.

5

**COMMISSIONER:** Is what, sorry?

**MR DE JERSEY:** It does not say that the impairment is permanent.

10 **COMMISSIONER:** Right.

**MR DE JERSEY:** So the application is to excuse Mr Cappelletti today, but my submission is not that he will always be impaired from giving evidence in person.

15 **COMMISSIONER:** I see.

**MR DE JERSEY:** So that's the extent of the application that I make. There was also a letter that was written to you, Commissioner, on 6 March.

20 **COMMISSIONER:** I've just been handed this from Ms Freemantle, the assistant Crown Solicitor.

**MR DE JERSEY:** That's so. And you can see in the third paragraph - I won't read it out, because you've got it.

25

**COMMISSIONER:** We received written correspondence by email from Mr Cappelletti which sets out his concerns.

**MR DE JERSEY:** Yes, it refers to personal matters, particularly in the extracted paragraph there, Commissioner, in the italicised text.

30

**COMMISSIONER:** I see.

**MR DE JERSEY:** I'm not reading that out, for Mr Cappelletti's sake.

35

**COMMISSIONER:** So that's the sum total of the evidence, but again, if you want to add to it after the break - but at the moment I've got a letter from the assistant Crown Solicitor which has expressed in hearsay form the witness's or the summonsed person's own view of their own mental health, and a doctor, the regular GP, has put in a two-sentence report. Is that it for the moment?

40

**MR DE JERSEY:** That is it, but refers to significant anxiety and stress, and to the extent that there's infelicitous language on that second line, where it says, "He is currently not advised to give evidence in person," in my submission, that should be read as not advised by me to give evidence in person. To give that sense. And that must be so, because the first line refers to this doctor's medical opinion.

45

**COMMISSIONER:** It seems to be a natural reading, doesn't it?

**MR DE JERSEY:** That's my submission.

5 **COMMISSIONER:** What do you want to do about this, Mr Wheelahan?

**MR WHEELAHAN:** A notice has been issued and served for attendance of Dr Ansell before the Commission. I want to interrogate and cross-examine her about these two sentences so that you're in a position, Commissioner, to make a ruling  
10 about whether there is indeed a reasonable excuse or not. That's the course.

**COMMISSIONER:** Very well. And when is it proposed that Dr Ansell come to the Commission? Is that today or tomorrow or Thursday, to -

15 **MR WHEELAHAN:** The notice states Thursday. As I understand it, my instructor will contact the doctor. If Dr Ansell would like to attend at an earlier time, we can interpose Dr Ansell. But at the moment, the notice is for attendance at 10 am this Thursday.

20 **COMMISSIONER:** I see. And I think you started off this submission, before I interrupted you and asked Mr de Jersey the questions I just asked him, by saying that irrespective of my ruling in relation to whether a reasonable excuse exists, you don't intend to call Mr Cappelletti this week. Is that right?

25 **MR WHEELAHAN:** Correct. So you've heard Mr de Jersey. So for this week, we have relieved him from having to attend this week.

**COMMISSIONER:** Yes. And we'll see what -

30 **MR WHEELAHAN:** And we'll see what - after the doctor is asked questions, then, Commissioner, you can make a ruling on whether there is a reasonable excuse. So out of an abundance of caution, we've been sympathetic to the request through Crown Law and relieved him from attendance this week.

35 **COMMISSIONER:** I understand what you propose.

**MR WHEELAHAN:** Now, may I move on?

40 **COMMISSIONER:** Yes. I think we normally have a break around 11.15, don't we?

**MR WHEELAHAN:** I was going to say, I note the time. Perhaps I can just flag where I will proceed after the break.

**COMMISSIONER:** You don't need to flag it. You can just come back to it.

45

**MR WHEELAHAN:** If the Commission pleases.

**COMMISSIONER:** We'll adjourn until 11.30.

**<THE HEARING ADJOURNED AT 11.20 AM**

5 **<THE HEARING RESUMED AT 11.30 AM**

**COMMISSIONER:** Yes, Mr Wheelahan.

10 **MR WHEELAHAN:** Thank you, Commissioner. I made reference to a submission  
to the Crime and Corruption Commission by a group of 14 current and former  
Workplace Health Safety Queensland inspectors. If I could have the operator - I want  
to you bring up page 17 of exhibit NH-2 to the statement of Mr Noel Hayes. Page 17.  
That's 15. Thank you. Now, if I can enlarge just the heading and first paragraph for  
15 the Commissioner and explain to you what this document was. This is a submission,  
as I said, by four current and former inspectors. In summary, they were sufficiently  
concerned by the degree of influence that the CFMEU had over various government  
entities and in particular the Queensland Building and Construction Commission and  
Workplace Health Safety Queensland. I will go to these paragraphs directly in a  
moment, Commissioner.

20

**COMMISSIONER:** How many inspectors did you say? I just wasn't quite listening.

**MR WHEELAHAN:** 14 current and former.

25 **COMMISSIONER:** 14.

**MR WHEELAHAN:** And you'll recall in the opening, Commissioner, with  
reference to the Queensland Building and Construction Commission, I said that line  
of inquiry is in its infancy, and you will see there are complaints about it to the  
30 Crime and Corruption Commission in this document.

**COMMISSIONER:** You can take this question on notice: are those 14 inspectors  
within the 40-odd inspectors within the construction, compliance and field services  
unit or team?

35

**MR WHEELAHAN:** I take it on notice. What I'm instructed, of course, is some are  
retired by point that they signed it. But whether they were previously, I will have to  
take that on notice, and I might have Mr Smith deal with it during the course of his  
evidence -

40

**COMMISSIONER:** Very well.

**MR WHEELAHAN:** - given it's annexed to the statement of Mr Noel Hayes. And  
at a very high-level form, in this complaint - sorry, submission - allegations were  
45 raised of systematic bullying and intimidation by the CFMEU, the alleged long-term  
health impacts the construction inspectors had suffered. This submission to the  
Crime and Corruption Commission identified Ms Burgess, Mr Mutton, M-u-t-t-o-n,

and Mr Houston, H-o-u-s-t-o-n, along with senior managers in Workplace Health and Safety Queensland, as being complicit in CFMEU misconduct.

5 **COMMISSIONER:** So you introduced a new term there in your opening: a senior manager. What is a senior manager? Is that someone other than a director, an operations manager?

**MR WHEELAHAN:** Yes, that term comes from the submission.

10 **COMMISSIONER:** I see. All right. Ask Mr Hayes.

**MR WHEELAHAN:** Yes. Finally, it alleges at least a failure to act by Minister Grace Grace. Now, we have on screen the first paragraph, which I think is worth reading, Commissioner, and I will do so. This submission was collated by numerous  
15 Workplace Health and Safety inspectors who have witnessed and have endured many years of systemic bullying, intimidation and abuse from the CFMMEU officials, either directly or indirectly, and in conjunction with the executive and senior management of Workplace Health and Safety, who played a key role in ensuring the demands of the CFMMEU, as it was then known, were obeyed. If I could have the  
20 second paragraph enlarged.

**COMMISSIONER:** So this dates the letter as pre-2022, I think, which is when the mining division of the CFMMEU disaffiliated from the CFMMEU to leave the  
25 CFMEU.

**MR WHEELAHAN:** Yes. Now, this paragraph is important. The reason I'm reading the summary and picking the eyes out of it: it's quite a substantial submission to the Crime and Corruption Commission and goes for quite some length. Paragraph 2 states as follows:  
30

"The allegations raised here concern the influence of lobby groups ..."

And I can say that that is later on, quite plainly, the CFMEU, which I'll point out in a moment -  
35

".. over the elected Palaszczuk government ministers, and that collaboration has caused a significant disruption and harm to many Queensland Government departments, including the Queensland Building and Construction Commission and Workplace Health and Safety Queensland. This submission overviews the culture of  
40 pressure, bullying, intimidation, and fear where staff from Workplace Health and Safety Queensland have been unnecessarily bullied and intimidated by influencing third parties due to their stance on integrity, fairness, independence, and public accountability."

45 If I can go to the next paragraph, four lines down, commencing "unfortunately":

5 "Unfortunately, and to the detriment of the construction industry in Queensland, many highly experienced and professional construction safety inspectors, through no fault of their own, have left Workplace Health Safety Queensland due to the bullying, intimidation, and abuse from third-party lobbying groups and senior management within Workplace Health Safety Queensland."

10 **COMMISSIONER:** The phrase "construction safety inspectors" seems to suggest that they're all inspectors within - reporting in the chain of command to the construction - in the construction, compliance and field services unit.

**MR WHEELAHAN:** Yes, it does.

15 **COMMISSIONER:** Because you've got this other sentence that you didn't read just above:

"With many construction inspectors reluctantly crossing over to join the industrial unit."

20 And I think the industrial unit was the unit that you said that Mr - the witness you have excused for this week; I have just forgotten his name -

**MR WHEELAHAN:** Cappelletti.

25 **COMMISSIONER:** Mr Cappelletti was an inspector within.

**MR WHEELAHAN:** Mr Operator, if you could enlarge the next paragraph, commencing "many construction inspectors":

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

40 Mr Operator, if you go to the next paragraph, six lines down - five lines down, my apology - commencing "adding to the misery". If you can enlarge "adding to the misery":

45 "Adding to the misery of working within Workplace Health Safety Queensland was the relentless rebuff of the numerous complaints lodged against Helen Burgess (Director of Construction) and her sidekicks, Chris Mutton (Operations Manager) and Mark Houston (Operations Manager) for bullying, intimidation, and harassment of construction inspectors."

Mr Operator, if you could go to the following page, the last paragraph under the heading Main Issue, and if you could enlarge the first four sentences and include the heading Main Issue, please. The first four sentences - lines, I should say - ending "decision-making bodies within the agency". Thank you. So Commissioner, again, the reference to lobby groups written by the inspectors, this is where it gives it some meaning. At the centre of this submission -

**COMMISSIONER:** Once you understand that they're all inspectors within the construction, compliance and field services group within the context of the letter, the lobby group that the author is referring to becomes very clear.

**MR WHEELAHAN:** It does, and this is just making it crystal clear. At the centre of this submission is why Labor minister Grace Grace allowed a major influential lobby group referred to by a Federal Court judge, Judge Vasta, V-a-s-t-a, as - and then there's a quote: "the most recidivist corporate offender in Australian history".

**COMMISSIONER:** Judge Vasta will be very pleased to hear himself described in that way.

**MR WHEELAHAN:** ABCC media release 2017:

"..to have unprecedented influence over the decisions made by Workplace Health Safety Queensland policy and decision-making bodies within the Agency."

If the operator could go to page 20, I want you to go to the second paragraph above that heading, Additional Information That Has Been Brought Forward, I want you to go to the second paragraph above that heading, five lines down - four lines down - commencing "the power and influence of lobbyists". Would you like me to repeat that?

**COMMISSIONER:** No, I think he's there.

**MR WHEELAHAN:** So again, now it's crystal clear who lobbyists means. I will read:

"The power and influence of lobbyists on these boards, including the safety review boards, have led to many disgraceful and draconian policy changes, but none so disgraceful as the 'Compliance Management Enforcement Policy' (CMEP) that arose out of the sham best practice review in 2017. This policy has been used for four years by many influential lobby groups as a tool to use against those building and other organisations who refuse to enter into industrial relations discussions."

And it goes on, Mr Operator, the first two lines of the next paragraph -

**COMMISSIONER:** Just remind me what BPIC stands for. It's best practice -

**MR WHEELAHAN:** Best practice industry conditions.

**COMMISSIONER:** And this other thing that's referred to here as best practice review, has that got anything to do -

5 **MR WHEELAHAN:** Yes. Sorry, not - yes, no, but - the review is different. There's a long line of evidence. I think Mr Long traverses the development, and there will be a case study dealing with BPIC that will clearly set out for you, Commissioner, the history, the genesis - and remember the development is not just one BPIC. There are a number of BPICs, and as I said in the opening, essentially their development  
10 appears to have copied the CFMEU pattern agreement.

**COMMISSIONER:** You can answer my question later. I was just really - is this reference in this letter to the best practice review -

15 **MR WHEELAHAN:** I'm told it's not. I did my best to avoid your question and give you another answer, but you've picked me up on that, Commissioner.

**COMMISSIONER:** Thank you.

20 **MR WHEELAHAN:** I'm instructed by my learned junior the answer is no:

"Through this policy, the construction inspectors will testify that they were left to do the dirty work by issuing unnecessary and dubious enforcement, infringement and prohibition notices."

25 Now, still dealing with this complaint - sorry, this submission to the Crime and Construction Commission, if I can go to page 22, please.

**COMMISSIONER:** Crime and Corruption Commission.

30 **MR WHEELAHAN:** Yes. And the second-last paragraph - I should just add: those redactions, Commissioner, Crown Law made a request for redactions. Those questions were acceded to.

35 **COMMISSIONER:** I see. The normal position in relation to any redaction is that if a person affected by the redaction wants to come and challenge it, then they're at liberty to do so. There might be someone who's affected by this document going into evidence when - or if it does through Mr Hayes, and they'll have an opportunity, if they wish, to make submissions as to why those redactions should be removed, I take  
40 it?

**MR WHEELAHAN:** Indeed. The second-last paragraph, Mr Operator, "all persons":

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

Now, there's a reason why I want to draw that to your attention, Commissioner, because the next document is going to be the response -

5 [REDACTED]

**COMMISSIONER:** I'm sorry. Okay. Should I make an order?

10 **MR WHEELAHAN:** There's a 10-second delay.

**COMMISSIONER:** Should I make an order that - what order should I make in relation to me just saying that?

15 **MR WHEELAHAN:** A non-publication order. There's a delay on the - which I think has just been stopped. A 10-second delay. Are we now not being streamed live? That's right. So we're now not being streamed live. So we can come back.

**COMMISSIONER:** Do you want to give me the form of an order I should make?

20 **MR WHEELAHAN:** There's people in the court. I will have my learned junior put together a non-publication order for that.

**COMMISSIONER:** Very well.

25 **MR WHEELAHAN:** Whether it made the live stream, I don't know. But we need to get that advice and, if necessary, pronounce the order. Now, shall we go back? Mr Operator, are we back? Thank you. Now, all persons signed the submission, willing to give statements, be interviewed, any investigative agency, present themselves, give evidence, inquiry or Royal Commission. So that was on offer from all the  
30 signatories.

Now, I can say, our instructions are that no-one from the Crime and Corruption Commission sought statements from the signatories, nor did they interview any of them, nor did they ask them for further particulars of their submission. Now, let's  
35 look at the written response, Mr Operator, commencing at page 15. This letter, dated 25 August 2020, top right, Crime and Corruption Commission Queensland, to Mr Noel Hayes:

40 "Dear Mr Hayes. Your concerns."

Noting of course that it's not just his concerns. First paragraph:

45 "We refer to your correspondence received by the Crime and Corruption Commission, 2 August 2022, enclosing a submission titled Influencing Practices in Queensland."

In the relevant part, they recite in the third paragraph:

"We understand that the submission seeks an inquiry or Royal Commission into the activities within Workplace Health and Safety Queensland, and in particularly ..."

5 It says particularly, but it should be particular:

".. regarding the influence and lobbying of the Construction, Forestry, Maritime, Mining and Energy Union, as it was then known."

10 If we scroll down to "your complaint" and blow up the two paragraphs thereunder:

"Whilst the submission does raise general allegations against executives and senior management within Workplace Health Safety Queensland, which we will discuss later, a specific allegation is raised about the conduct of Industrial Relations Minister the Honourable Grace Grace MP. Specifically, it is alleged that as a political favour, Minister Grace has failed to act on complaints and allowed the CFMMEU to influence policy and decision-making."

20 Over the page, page 16 of the document, then a decision is made about Minister Grace. If we enlarge that heading and the two paragraphs under it:

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

25 Then the reason for the decision is as follows:

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

35 Now, I'm going to take you to some legislation here, Commissioner, because it's reminiscent of what's happening in Victoria with IBAC powers, and I want to take and have brought on screen the Crime and Corruption Act 2001 (Qld), so that that paragraph is properly understood. Section 15, if that could be brought on screen, we have the meaning of "corrupt conduct". Now, I take you to this in the context that the CCC notes there are complaints in that detailed submission about Minister Grace but in essence says, "We're not taking any action because the conduct," in their words, "would, if proved, amount to a criminal offence." So that's the threshold that's being set, and that threshold comes from section 15(1)(c).

**COMMISSIONER:** The complaint made to the CCC did not allege - at least on my quick flick, did not allege a criminal offence, did it?

45 **MR WHEELAHAN:** Correct. So when somebody alleges corrupt conduct, under the Act, if we go up again, corrupt conduct means conduct of a person - just paraphrasing - that adversely affects or could adversely affect, directly or indirectly,

the performance of functions of the exercise of powers of a unit of public administration; (b) results or could result, directly or indirectly, in the performance of functions or the exercise of powers, paraphrasing, in a way that is not honest or not impartial.

5

So I pause there. I've taken you to the parts of the submission which are saying it's not impartial, that this is all at the behest of the CFMEU or CFMEU, which plainly is not partial. But it's an "and" in the legal, as you will well know, Commissioner, after (b)(iii). You might have impartial conduct that might fall in the preceding definition of corrupt conduct, but from a statutory position, there is then the requirement that the conduct, if proved, would constitute a criminal offence. Now, that's the basis that the CCC did not - or, sorry, made its decision with respect to Minister Grace. They then deal with the other matters.

10

15 **COMMISSIONER:** Slightly different for a politician than for a public servant, isn't it? Is that the import of (c)(i) compared to (c)(ii)? If it's a public servant that has engaged in an impartial manner, and then that public servant could be disciplined -

20

**MR WHEELAHAN:** Subsection (c)(ii), having a legal test here, but that doesn't apply to Minister Grace Grace. So what I'm going to is -

**COMMISSIONER:** But it could apply to Ms Burgess, presumably.

25

**MR WHEELAHAN:** Yes. But the issue is - so people - the community - and this is a public, independent inquiry - often think, when somebody says, "Well, we've referred it to IBAC or we've referred it to the CCC," if you actually then go to their actual powers, it's quite a high threshold. It's not enough that there might be impartial or conduct that might be described generally as corrupt. It must also, under the statute, constitute a criminal offence.

30

And all I'm taking you to, Commissioner, is I have to take you to the relevant provision, because that's the letter from the CCC as to the reason why they - "reason for our decision" - why they decided not to take any action in relation to the complaint about Minister Grace. Now, they haven't gone further in the way that you're testing me now about that provision and whether public servants - and the difference between ministers -

35

**COMMISSIONER:** I'm just drawing a distinction between the way in which you terminate a politician, which is - a minister, which is they lose the confidence of the Premier or they lose the confidence of the public and are not re-elected in the succeeding Parliament. And to that extent, for those sort of people, it makes sense that you would have to show corruption that amounts to a criminal offence, because it doesn't make sense for a minister to talk about disciplinary breach providing reasonable grounds for terminating the person's services. That doesn't apply.

40

I was just making the point that for Ms Burgess it could be sufficient to show, to use loose language, there were grounds for summary dismissal of Ms Burgess. You

wouldn't have to show a criminal offence just on my reading, and it could be completely wrong, and I'm certainly not an expert in this field, because I think it's the first time I've read this legislation. But it does seem to set up a distinction between two types of public official.

5

**MR WHEELAHAN:** It does. I'm just going to it for completeness, because reading the letter from the CCC, again, a bit like the doctor's report, it's so short. There's a very lengthy submission.

10 **COMMISSIONER:** What would you have the CCC do? If the complaint made by the 14 inspectors about Minister Grace doesn't allege a criminal offence, what's the CCC supposed to do, if that's the correct reading of the legislation?

**MR WHEELAHAN:** I'm giving an explanation. So I'm going -

15

**COMMISSIONER:** I'm sorry. I thought there was some implied criticism.

**MR WHEELAHAN:** No, no. Sorry. Yes. So that's clear. Now, the other matters, if I enlarge the second paragraph under that, so the other matters being other than  
20 Minister Grace Grace, the CCC dealt with it as follows. This is at page 16 of exhibit NH-2, annexure NH-2. So page 16 under the heading Other Matters, the second paragraph, Mr Operator, due to the lack of particulars. It's the middle of the page. Thank you. So again the reasons for decisions:

25 "Due to the lack of particulars ..."

And this is just identifying it for you, Commissioner:

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

35 **COMMISSIONER:** And presumably, the statements that are going to be relied upon in this Commission particularise, at least to some extent, the allegations made in this submission to the Crime and Corruption Commission of August 2022. Is that right?

40 **MR WHEELAHAN:** The answer to your question is yes.

**COMMISSIONER:** And I thought you said when you took me to the very last paragraph of the submission that it said:

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

The CCC seems to invite each of the signatories to do exactly that.

5 **MR WHEELAHAN:** Correct. So there's a disconnect. They offer, they invite, and Mr Smith will lead evidence, but the instructions are that they say, "Well, we were willing and able."

10 **COMMISSIONER:** The CCC should have gone out and interviewed each of these people to get particulars. Is that what you're saying?

**MR WHEELAHAN:** Well, I'm not saying they should have. That's what the inspectors - Mr Smith will lead that through - that's what they expected to happen. Mr Noel Hayes is being called as the second witness, Commissioner.

15 **COMMISSIONER:** Well, in the absence of evidence, you can read it both ways. It was up to the inspectors to, having got this response, to put in a further particularised submission. Or the other view might be it was up to the CCC investigators to contact them and extract those particulars. I don't know. Is it an issue that should concern us?

20 **MR WHEELAHAN:** No. Now, as to the terms of reference, before my learned junior will call and lead our first witness, just for completeness, I'm recording for the purpose of the transcript the matters we address fall within the terms of reference at paragraphs 3(a)(i), (iii), (iv), (vi); 3(b); 3(f) (i) to (iii); and 3(g). Commissioner, unless there's anything further, Mr Smith will now call our first witness.

25 **COMMISSIONER:** Well, do I take it from your opening, Mr Wheelahan, that leaving aside who had the obligation to hit the ball over the net the next time, this is the first time that these inspectors, or some of them, have provided particulars of the complaint that was made by 14 of them in August 2022 to any Commission of Inquiry, whether a permanent one like the CCC or a temporary one like this one?

30 **MR WHEELAHAN:** I'll answer it in this way, Commissioner: presently those names are redacted.

35 **COMMISSIONER:** Right.

**MR WHEELAHAN:** So I've opened with setting out the evidence that will be led in this case study in summary form, and Mr Noel Hayes at least is named as the recipient of the letter, but I don't think it's appropriate for me to identify that a witness in particular will lead evidence about that complaint. What the CCC does, it - the lines of inquiry, if you like, and the evidence to be led, Commissioner, quite plainly line up with that submission. We've talked about CFMEU bullying, intimidation, the capture, the misconduct of Ms Burgess and others, and pressure being placed, and the parts of that Commission I have taken you to, it's not so much what the CCC did or do not do with it, but for completeness I've taken you to their letter in response.

**COMMISSIONER:** My question was really about public utility, that you don't want to keep having inquiries into the same subject matter over and over again. And it seems to be, from your answer, that at this level of particularisation, whether the witnesses you bring forward were or were not signatories to this letter, this  
5 submission in August 2022 it, on either case, allegations of this nature, which were insufficiently particularised for the purpose of the CCC, have not been previously considered by any Commission of Inquiry.

**MR WHEELAHAN:** Yes. Thank you for the clarity. The answer is yes, they have  
10 not been.

**COMMISSIONER:** One of the things that you opened with was that you explained or you suggested that part of your case concept was that if the things that are alleged by the inspectors are found to be true, that this shows that the CFMEU weaponised  
15 the WHSQ. I think your word was "for their own illegitimate industrial purposes" or something to that effect. Is there any case concept that you will advance about why it was - again, if true - that the CFMEU, through Ms Burgess or the operations managers, determined to use WHSQ in relation to any particular employees or particular projects?  
20

**MR WHEELAHAN:** Well, the example - it's the use of regulatory powers, such as right-of-entry disputes.

**COMMISSIONER:** I understand that. I'm just wondering -  
25

**MR WHEELAHAN:** Maybe I don't understand your question.

**COMMISSIONER:** It may be too early in your inquiries, but I'm just wondering what the utility of - if you're right, and you may be right, you may be wrong, but if  
30 WHSQ had been captured and if the powers that were to be used to ensure the health and safety of workers at all work sites were not being used nor that purpose but for some other purpose - illegitimate industrial control I think was your phrase - what was the gravamen of that illegitimate industrial control? What was the purpose? Who was it directed at? Why were these employees or projects chosen? That's really my  
35 question. Was it entirely random or was there some purpose to it, or is it just too early for to you develop a case concept to that effect?

**MR WHEELAHAN:** The latter.

**COMMISSIONER:** Right. So we'll hear about that in due course.  
40

**MR WHEELAHAN:** Yes.

**COMMISSIONER:** Very well. Thank you, Mr Wheelahan.  
45

**MR WHEELAHAN:** Thank you.

**COMMISSIONER:** You're going to hand over to Mr Smith?

**MR WHEELAHAN:** Correct.

5 **COMMISSIONER:** Tell me when you're ready, Mr Smith, taking centre stage.

**MR SMITH:** Thank you, Commissioner. I call Deborah Ngaio Dargan. Ngaio is spelt N-g-a-i-o. And Ms Dargan will give an affirmation, Commissioner.

10 **COMMISSIONER:** Is Ms Dargan in the body of the courtroom?

**MR SMITH:** She is on her way in, Commissioner, I think.

**COMMISSIONER:** Very well.

15

**MR SMITH:** From outside.

**COMMISSIONER:** And we've got a witness statement from Ms Dargan, I think?

20 **MR SMITH:** Yes, we do, Commissioner. That's been, at this stage, provided to the parties, but it's not yet online. I propose to tender that shortly.

**COMMISSIONER:** This is 10 pages, 84 paragraphs, with two annexures, DD-1 and DD-2? Is that right?

25

**MR SMITH:** Yes, that's correct, Commissioner.

**COMMISSIONER:** Very good. I think Ms Dargan is coming into the body of the courtroom. Please come and take a seat in - come into the witness box, Ms Dargan.

30

**<DEBORAH NGAIO DARGAN, AFFIRMED**

**<EXAMINATION BY MR SMITH**

35 **COMMISSIONER:** Please take a seat, Ms Dargan. Mr Smith is counsel assisting this Commission, and he will ask you some questions. Just feel free to take as much time as you like. If you don't have anything in front of you you need, like water or your statement or you need a break, just call out. This is not trial by ordeal. And I'll let Mr Smith take the questions.

40

**MR SMITH:** Can you state your full name, please.

**MS DARGAN:** Deborah Ngaio Dargan.

45 **MR SMITH:** And do you reside at an address known to the Commission?

**MS DARGAN:** Yes.

**MR SMITH:** What is your current occupation?

5 **MS DARGAN:** I'm an operations manager with Workplace Health and Safety Queensland.

**MR SMITH:** And do you appear here today in accordance with a notice of appear?

10 **MS DARGAN:** Correct, yes.

**MR SMITH:** Did you affirm a statement on 2 March 2026 for use in this Commission?

15 **MS DARGAN:** Yes.

**MR SMITH:** And have you had a chance to read that statement recently?

**MS DARGAN:** Yes.

20 **MR SMITH:** Is there anything you wish to resile from or change in that statement?

**MS DARGAN:** No.

25 **MR SMITH:** I tender the statement of Deborah Ngaio Dargan of 2 March 2026, Commissioner.

**COMMISSIONER:** I just wonder if there is a little typo in paragraph 14, where it says after middle of the paragraph 14:

30           After Mr Drapes went on sick leave, I continued to report ..."

Is there missing a word "to", "to the operations manager"?

35 **MR SMITH:** Just for Ms Dargan's benefit, could I ask, Mr Operator, whether you could blow up on screen paragraph 14 of her statement. Ms Dargan, can you see that's paragraph that's blown up on the screen?

**MS DARGAN:** Yes.

40 **MR SMITH:** In the second-last line on the left-hand end, do you see it says "report the operations manager"?

**MS DARGAN:** Correct.

45 **MR SMITH:** I think what the Commissioner is asking is whether that should be "report to the operations manager role".

**MS DARGAN:** Yes, correct.

**COMMISSIONER:** So with that amendment to paragraph 14, the witness statement of Ms Dargan, affirmed 2 March 2026, 84 paragraphs, 10 pages with two annexures DD-1 - I'm sorry, I should ask whether there's any objections. Are there any objections to the tender of the statement? No? Then the statement of Ms Dargan, 2 March 2026, 10 pages, 84 paragraphs, two annexures DD-1 and DD-2, will be exhibit DND-1.

10 **<EXHIBIT DND-1 STATEMENT OF MS DARGAN, 2 MARCH 2026, 10 PAGES, 84 PARAGRAPHS, TWO ANNEXURES DD-1 AND DD-2**

**MR SMITH:** Ms Dargan, do you have any degree or qualifications?

15 **MS DARGAN:** Yes.

**MR SMITH:** And what's the nature of that or those qualifications?

20 **MS DARGAN:** I have a bachelor in behavioural science, majoring in psychology and disability, and a masters in human services, honours.

**MR SMITH:** And where did you obtain those qualifications?

25 **MS DARGAN:** Griffith University.

**MR SMITH:** Are you qualified, for example, as a clinical psychologist?

**MS DARGAN:** No, I'm not.

30 **MR SMITH:** Do you have any similarities in training to a clinical psychologist?

**MS DARGAN:** Yep, we do the first three years together, and if you want to be a registered psychologist, you do honours and then proceed to be supervised in the field.

35 **MR SMITH:** And did you choose a different path?

**MS DARGAN:** Yes, I chose to do rehabilitation counselling.

40 **MR SMITH:** And from February 2000 until December 2006, did you work at Q-COMP?

**MS DARGAN:** Yes, I did.

45 **MR SMITH:** And what was the nature of your role at Q-COMP?

**MS DARGAN:** I started as a rehabilitation adviser, so providing employers with information on how to comply with the rehabilitation provisions of the workers - sorry, with their particular Act, and after that I worked as a review officer for a little while.

5

**MR SMITH:** And did you have anything to do with injury management, return to work in that role?

**MS DARGAN:** Very much so, yes.

10

**MR SMITH:** And can you just explain to the Commissioner what injury management and return to work is?

**MS DARGAN:** Yep. It's when you have someone that's sustained an injury or illness in the course of their employment. It's assisting them to return to gainful employment.

15

**MR SMITH:** And does that always involve them returning to their full duties?

**MS DARGAN:** That's the goal of the process, yes.

20

**MR SMITH:** Is there sometimes some modification to their duties?

**MS DARGAN:** Yes.

25

**MR SMITH:** And then between January 2007 and May 2010, did you work at Commonwealth Rehabilitation Services?

**MS DARGAN:** Yes.

30

**MR SMITH:** And what does Commonwealth rehabilitation services do?

**MS DARGAN:** It's rehabilitation to assist people to return to employment.

**MR SMITH:** And did you do similar sort of work there or was it different?

35

**MS DARGAN:** From -

**MR SMITH:** From Q-COMP.

40

**MS DARGAN:** Q-COMP was more an advisory role. With Commonwealth rehab, it was working with people who wished to return to work, so Centrelink recipients primarily, and assisting them with vocational options, training and returning to work.

**MR SMITH:** Did you then commence a new role in 2010?

45

**MS DARGAN:** Correct.

**MR SMITH:** And what was that role?

5 **MS DARGAN:** That's when I started as a principal inspector, psychosocial, with Workplace Health and Safety Queensland.

**MR SMITH:** And if I refer to Workplace Health and Safety Queensland during the course of your evidence as WHSQ, will you understand what I mean?

10 **MS DARGAN:** Yes.

**MR SMITH:** Can you describe what it is that WHSQ does as an organisation, just broadly?

15 **MS DARGAN:** Broadly, a regulator of the Work Health Safety Act.

**MR SMITH:** All right. And what about - and again, just at a high level - what your role was as a principal inspector, psychosocial?

20 **MS DARGAN:** In that role, I was responsible for education to employers on what their responsibilities were under the Act, and I also performed - if there was a complaint or an incident that had a psychosocial hazard at the heart, I would - investigations and compliance action.

25 **MR SMITH:** All right. I'll come back to that in a moment, but just to fix the chronology, did you then transfer to another team in 2015?

**MS DARGAN:** Correct.

30 **MR SMITH:** And which team did you transfer to?

**MS DARGAN:** I went over to the construction team.

**MR SMITH:** All right.

35

**COMMISSIONER:** We've heard an opening from - while you were out of the courtroom, Ms Dargan, that the construction team was called the construction, compliance and field services team. Is that the team that you transferred to in 2015?

40 **MS DARGAN:** Correct. Yes.

**MR SMITH:** And when you were transferred to that team, did you work from a particular location?

45 **MS DARGAN:** Yes, I was Brisbane North.

**MR SMITH:** And was Brisbane North responsible for a particular geographical region?

5 **MS DARGAN:** Yes. It looked after basically the Brisbane River, north, up to around about Caboolture.

**MR SMITH:** All right. And then did you get another new role in July 2024?

10 **MS DARGAN:** Yes. I was successful becoming an operations manager.

**MR SMITH:** And is that the role that you are still in?

**MS DARGAN:** Correct, yes.

15 **COMMISSIONER:** Is it that still in the construction, compliance and field services team?

**MS DARGAN:** Yes. It's not called that any more, but yes, it is the same team.

20 **COMMISSIONER:** What do you mean by that, sorry?

**MS DARGAN:** It went regionally. Like, it used to be - there was a division that was called construction, compliance and field services. That was disbanded, and the construction teams now report to a regional director, rather than a director of  
25 construction, compliance, field services.

**COMMISSIONER:** And when was it disbanded?

30 **MS DARGAN:** Around about '23, 2023.

**MR SMITH:** And what's the name of the region that you're operations manager for now?

35 **MS DARGAN:** I'm - it's the Newstead office, the construction team, and we're part of Brisbane region now.

**MR SMITH:** So just to pick up on what the Commissioner was asking you, does the Brisbane region have other teams within it?

40 **MS DARGAN:** Yes, it does.

**MR SMITH:** And what sort of other teams does it have within it? You don't have to tell the Commissioner all of them, just what you can remember.

45 **MS DARGAN:** There's an industrial - industrial teams. There's one in each office. A construction team, and the major projects unit.

**MR SMITH:** When there was a construction, compliance and field services team, was that team sitting within a region or was that sitting alongside a region?

5 **MS DARGAN:** It was sitting alongside the regions. So you had all the existing regions, and then you had construction, compliance and field services, a separate director that would look after all the construction teams and all the regional offices.

10 **MR SMITH:** So just so I'm clear on understanding that answer, did each regional office have a construction team within it? Is that how it worked?

**MS DARGAN:** Each district office within the region, yes.

15 **MR SMITH:** Each district office within the region. I'm starting to regret asking those questions. So within a region - so do you recall what the regions were, say, in 2018?

**MS DARGAN:** There was -

20 **MR SMITH:** Or around that time.

**MS DARGAN:** Yep. South West Gold Coast. Brisbane South and Brisbane North and then you had your North Queensland, Far North Queensland - I'm not too sure what they were up there.

25 **MR SMITH:** All right. Did you say before that you were in Brisbane North?

**MS DARGAN:** Correct, yes.

30 **MR SMITH:** And did the Brisbane North team then have district offices?

**MS DARGAN:** Funnily enough, no.

**MR SMITH:** Did some of the other areas have district offices?

35 **MS DARGAN:** Yes. So the South West had Gold Coast, Logan, Toowoomba, Ipswich. But they moved them around quite a bit.

40 **MR SMITH:** And for the South West that had those various districts, district offices, did each of those have a construction team in it?

**MS DARGAN:** Correct, yes.

45 **MR SMITH:** And did the people in the construction team then report to the local management or to construction, compliance and field services?

**MS DARGAN:** Within the Greater Brisbane area, they reported through to the director construction, compliance, field services.

**MR SMITH:** And was it different outside of the Greater Brisbane area, to your understanding?

5 **MS DARGAN:** To a certain extent, because they didn't have the specialised construction inspectors, because they would normally take on both roles, so they'd work across industrial and construction.

10 **MR SMITH:** I see. Was there anything further you wanted me to ask about that, Commissioner?

15 **COMMISSIONER:** Your statement at paragraph 7 says you're the - you report to Kym Tollanaere, who is the regional director of the Brisbane region. Is there a Brisbane region as well as Brisbane South and Brisbane North?

**MS DARGAN:** There is now, as of 2023. Prior to that, there was not. Sorry, '24, I think that was. Yep, 2024 that Brisbane region came into effect.

20 **COMMISSIONER:** And you were only around since 2010 as an inspector within WHSQ. I don't mean that pejoratively. When was the construction, compliance and field services team or unit or structure set up?

**MS DARGAN:** I can't - can I give you, like, a ballpark.

25 **COMMISSIONER:** Yes.

**MS DARGAN:** It was - it occurred - I'm thinking around 2014 - no, sorry, I can't recall when it commenced. But it was during my time there.

30 **MR SMITH:** Now, Ms Dargan, in your role as operations manager now, what is it that you're responsible for?

35 **MS DARGAN:** I lead a team of inspectors, and we look after complaints, incidents and proactive work within our given district region.

**MR SMITH:** And what job titles do the inspectors who report to you have?

40 **MS DARGAN:** My team has a lead inspector, principal inspectors and senior inspector.

**MR SMITH:** So is that going down from levels of seniority starting with lead inspector?

45 **MS DARGAN:** Correct, yes.

**MR SMITH:** Then principal inspector then senior inspector.

**MS DARGAN:** Correct.

**MR SMITH:** Are there any inspector inspectors?

5 **MS DARGAN:** No, there's not.

**MR SMITH:** Do you know whether there's any inspector inspectors anywhere?

10 **MS DARGAN:** No, there isn't.

**MR SMITH:** So is it the case that when comes into the organisation as an inspector they start as a senior inspector?

15 **MS DARGAN:** Correct.

**MR SMITH:** You've already told the Commissioner that you report to Ms Tollanaere; is that right?

20 **MS DARGAN:** Correct.

**MR SMITH:** And what's her title?

**MS DARGAN:** Regional director, Brisbane region.

25 **MR SMITH:** So she's a regional director, and then I will just ask you one more. Who does she report to, do you know?

**MS DARGAN:** Sarina Wise, who's the executive director.

30 **MR SMITH:** And is Ms Wise responsible for more than one region?

**MS DARGAN:** She is responsible for the entire compliance and field services statewide.

35 **MR SMITH:** Right. And is that the - so inspectors, for example, all the inspectors statewide, is she responsible for those?

**MS DARGAN:** Correct, yes.

40 **MR SMITH:** And investigators?

**MS DARGAN:** Yes, she is.

45 **MR SMITH:** And are there some other specialist units she's responsible for as well? And if you don't know, that's fine.

**MS DARGAN:** Yes, she's responsible for like the policy and operational support. There's an asbestos unit. There's a few that are encompassed within that portfolio.

5 **MR SMITH:** Yes. So that at level it's quite a big role.

**MS DARGAN:** Yes.

10 **MR SMITH:** Can I ask you now just about the role that you started out in that role of principal inspector, psychosocial, and can I ask you to explain what a - what psychosocial means.

**MS DARGAN:** It's got a few different definitions, but it's basically looking at an individual and their interface with the workplace or their environment.

15 **MR SMITH:** All right. And why were you looking at that as an inspector?

**MS DARGAN:** The Act that was in place at the time and the Act that's currently in place now requires a person conducting a business or undertaking to look at not just physical but psychological illness or injury.

20 **MR SMITH:** And is that in relation to managing risk?

**MS DARGAN:** Yes, that's part of it, yes.

25 **MR SMITH:** And can you provide some examples of things that might lead to psychosocial risk?

30 **MS DARGAN:** Yep. Bullying in the workplace. Occupational violence. There's other factors that can come out, like workload. There can be things pertaining to somebody's perceived control over their work. There's quite a few factors that can lead to that.

**MR SMITH:** So there's a number of different factors, and are duty holders under the Act supposed to manage the risk of exposure to those?

35 **MS DARGAN:** Yes.

40 **MR SMITH:** And when you say bullying, is that - sorry, I'll withdraw that. You mentioned both bullying and occupational violence. Is there a difference between the two?

**MS DARGAN:** Yes. There's a definition for bullying. It's something that must be repeated, whereas occupational violence is any threat to somebody, directly or indirectly.

45 **MR SMITH:** So you indicated, I think, in your evidence earlier that in part of your role as a psychosocial risk inspector you were focused on some investigations?

**MS DARGAN:** Correct.

**MR SMITH:** And what was the nature of those investigations?

5

**MS DARGAN:** When I started, it was purely looking at psychosocial hazards.

**MR SMITH:** Yes.

10 **MS DARGAN:** And then I proceeded to do other injuries and incidents that occurred and look at things like right of entry.

**MR SMITH:** Just for present purposes, if we can just focus on psychological hazards. What sorts of matters were you inspecting as a psychosocial risk inspector?

15

**MS DARGAN:** Primarily the higher-level ones where a person may have committed suicide and attributed work factors in their decision to do so.

**MR SMITH:** To what end were you conducting those investigations?

20

**MS DARGAN:** With a view to prosecution.

**MR SMITH:** So is it fair to say that from 2010, WHSQ was looking to, if they could, prosecute employers who had exposed their employees to a psychosocial risk?

25

**MS DARGAN:** Correct.

**MR SMITH:** And from what you said earlier, is it fair to say that one of the ways that that could happen was bullying from management?

30

**MS DARGAN:** Yes.

**MR SMITH:** And what sorts of things does bullying from management include? What sort of conduct?

35

**MS DARGAN:** Bullying from management. So that's the, like, micromanaging. It could be making disparaging comments in front of others. There's - sorry.

**MR SMITH:** That's okay. As I think the Commissioner might have said to you earlier, it's not a memory test. You also mentioned autonomy as being an issue. How does that sort of practically manifest itself in those situations?

40

**MS DARGAN:** That people are more motivated and happier at work if they have some kind of control over how they do the work. So when that's taken away and everything is - is controlled, it can create a stress reaction in an individual.

45

**MR SMITH:** All right. I think you might have also said that there was some work on education that was done whilst you were in that role. What sort of work was being done with duty holders to educate them?

5 **MS DARGAN:** I was involved quite often going out to different - or speaking in front of a variety of different groups and explaining how to use the risk management process in relation to psychosocial hazards.

10 **MR SMITH:** And when you were first employed, were you appointed as an inspector under the then Workplace Health and Safety Act 1995?

**MS DARGAN:** Yes, I was.

15 **MR SMITH:** And from 1 January 2012, were you appointed as an inspector under the Work Health and Safety Act 2011?

**MS DARGAN:** Correct.

20 **MR SMITH:** And from that point, that is, from 1 January 2012, did your enforcement powers change from then to what you have now, or are they the same sort of enforcement powers?

25 **MS DARGAN:** The Act changed, so our powers changed with that Act, but they were pretty much the same.

**MR SMITH:** Largely the same?

**MS DARGAN:** Yeah.

30 **MR SMITH:** All right. Now, just sticking for just a moment longer on psychosocial risk, did the - did WHSQ have anyone assisting it with psychosocial risk when you commenced?

35 **MS DARGAN:** Yes.

**MR SMITH:** And who was that?

40 **MS DARGAN:** It was working with Kirsten Way, who is a professor at the University of Queensland.

**MR SMITH:** And do you recall what her role was?

45 **MS DARGAN:** She was initially the manager of the psychosocial unit, but later I think she was assisting more in a consulting role.

**MR SMITH:** And were you a part of the psychosocial unit?

**MS DARGAN:** I wasn't actually employed as part of it, but they had regional inspectors who came into meetings with them and discussed any complex matters we had with them. So we were part of them, but not in a structure - organisational structure sense.

5

**MR SMITH:** And were you in an investigations team at that stage?

**MS DARGAN:** Yes, I was.

10 **MR SMITH:** All right. Now, I think you indicated a moment ago that there were some additional tasks that you took on in 2011; is that right?

**MS DARGAN:** Yes.

15 **MR SMITH:** And what was the nature of those tasks?

**MS DARGAN:** So in 2011, I broadened the scope. So I wasn't just looking at psychosocial; I started doing investigations into incidents, injuries, deaths, things like that. So it was a bit of a broader role.

20

**MR SMITH:** And were those investigations also directed ultimately towards whether a prosecution could be commenced?

**MS DARGAN:** Yes.

25

**MR SMITH:** And did you stay in the same team at that point or did you move?

**MS DARGAN:** It was the same team.

30 **MR SMITH:** And were there particular industries that you conducted investigations in, or was it all industries?

**MS DARGAN:** It was all industries.

35 **MR SMITH:** And you also mentioned right of entry in an answer a little bit earlier. In 2014, were you given another area to focus on?

**MS DARGAN:** Yes.

40 **MR SMITH:** And what was that?

**MS DARGAN:** That was the right of entry.

45 **MR SMITH:** And can you just explain what you mean when you refer to right of entry?

**MS DARGAN:** At that stage, the legislation required an entry permit holder to give 24 hours' notice before coming onto site.

**COMMISSIONER:** The legislation you're talking about is state legislation?

5

**MS DARGAN:** Yes, yes. And - sorry, can you repeat the question?

**MR SMITH:** I was just asking you to - I'll just ask you the next question. You've basically answered the question that I asked. You mentioned in your answer entry permit holders. Who held entry permits to your knowledge, do you know?

10

**MS DARGAN:** Union officials.

**MR SMITH:** All right. And I think you said that the entry permits give those officials a right to enter sites.

15

**MS DARGAN:** As long as certain conditions were met, yes.

**MR SMITH:** Yes. And you mentioned a condition of 24 hours' notice, I think; is that right?

20

**MS DARGAN:** Correct.

**MR SMITH:** And are there other conditions that were required to be met to enter site?

25

**MS DARGAN:** They need to show their entry permit card, and there was a 117 section request that they needed to complete.

**MR SMITH:** All right.

30

**COMMISSIONER:** What was that last bit, sorry? I missed that.

**MS DARGAN:** A section 117. That's the part of the Act that gives them powers to enter site.

35

**COMMISSIONER:** They had to fill in what?

**MS DARGAN:** Sorry?

40

**COMMISSIONER:** What did they have to do?

**MS DARGAN:** There was a - they needed to show their identification, their entry permit holder card, and then there was a form that they completed out that stated what the perceived risk was on site.

45

**MR SMITH:** And once they'd identified that perceived risk, do you remember - and if you don't, it's fine, because there's plenty of lawyers in the room, but do you remember what the test was for identifying the risk that they had to do to have identified a risk?

5

**MS DARGAN:** Not straight off the top of my head.

**MR SMITH:** No, that's okay. As I said, plenty of lawyers. Once entry was allowed, was that entry limited in any way?

10

**MS DARGAN:** They needed to - it was in relation to what they were on site to investigate. It was limited to that.

**MR SMITH:** So that was I think you said the risk before. So if they identified -

15

**COMMISSIONER:** The witness said perceived risk.

**MR SMITH:** Or if they perceived a risk, then they were entitled to enter in relation to that risk. Is that your understanding?

20

**MS DARGAN:** As long as everything else was in order.

**MR SMITH:** All right. Now, those investigations, what particular right of entry breaches were you investigating?

25

**MS DARGAN:** The failure to give the 24 hours' notice.

**MR SMITH:** And how far along did you progress those investigations?

30

**MS DARGAN:** Right up until the point that we had the evidence brief together.

**MR SMITH:** Did you refer any of those off for consideration for prosecution, can you recall?

35

**MS DARGAN:** Yes.

**MR SMITH:** Do you know whether any of those were prosecuted?

**MS DARGAN:** Not the ones that I put together, no.

40

**MR SMITH:** Did you cease conducting these investigations at some point?

**MS DARGAN:** Yes.

45

**MR SMITH:** And do you recall when that was?

**MS DARGAN:** It was around about the change of government.

**MR SMITH:** Which change of government?

**MS DARGAN:** From Liberal to Labor.

5

**MR SMITH:** Which year?

**MS DARGAN:** Now you're testing me.

10 **MR SMITH:** Can I ask you a different question: Do you recall who the new Premier was at that time?

**MS DARGAN:** Was it Palaszczuk? Sorry (indistinct).

15 **MR SMITH:** I don't know. I'm asking you, Ms Dargan. That's okay. We can come back to that. But I'll ask you this: how many years were you conducting those investigations, do you remember?

**MS DARGAN:** I think it was just a couple of years, two or three maybe.

20

**MR SMITH:** So you said you I think earlier started conducting those investigations in 2014; is that right?

**MS DARGAN:** Correct.

25

**MR SMITH:** And there was an election some time after that, and there was a change to a Labor government; is that right?

**MS DARGAN:** Correct.

30

**MR SMITH:** And at that point, those investigations ceased or after that point, those investigations ceased; is that right?

**MS DARGAN:** Correct, yes.

35

**MR SMITH:** Do you recall whether the 24-hour notice period for conducting those investigations remained in force?

**MS DARGAN:** No, it was subsequently repealed. Was it repealed? Yeah.

40

**COMMISSIONER:** Sorry, I didn't follow that. What did you just say then?

**MS DARGAN:** The legislation was changed and the requirement to give the 24 hours' notice was removed.

45

**MR SMITH:** Commissioner, I'm about to move to a different topic, and I notice it's about the time the Commission usually takes a break. Is now a convenient time?

**COMMISSIONER:** I just wonder if I could ask a couple of questions on this topic before we do.

5 **MR SMITH:** Of course.

**COMMISSIONER:** You said words to the effect that the right-of-entry investigations ceased around the time of the change in state government, mid last decade; is that right?

10

**MS DARGAN:** Yes.

**COMMISSIONER:** And why did they cease?

15 **MS DARGAN:** At the time, it was the appetite for prosecution had. Like, that's what I was told.

**COMMISSIONER:** And what told you that?

20 **MS DARGAN:** My manager.

**COMMISSIONER:** And who was that?

**MS DARGAN:** Nick Drapes.

25

**COMMISSIONER:** Sorry?

**MS DARGAN:** Nicholas Drapes.

30 **COMMISSIONER:** Did he tell you that before or after the legislation was changed?

**MS DARGAN:** It was before the change.

35 **COMMISSIONER:** And the change you're referring to is to no longer require union officials to provide 24 hours' notice for entry?

**MS DARGAN:** Correct.

40 **COMMISSIONER:** So prior to that change, do I take it your evidence was you needed three things to get entry to a site as a person who held some rights or was exercising rights under the state health and safety legislation. Firstly, you needed to have an entry permit. Second, you needed to give 24 hours' notice. And third, you had to fill in some form that identified the perceived risk on site that you were seeking to enter the premises to do something with. Is that right?

45

**MS DARGAN:** Correct.

**COMMISSIONER:** And was your evidence also that once on site, there were some restrictions, at least point in time, prior to mid last decade, on where you could go on site and what you could do, and that was linked to nature of the perceived risk that had been identified on the form?

5

**MS DARGAN:** Correct.

**COMMISSIONER:** Is there anything that arises from that?

10 **MR SMITH:** No, Commissioner.

**COMMISSIONER:** We will adjourn till 2 pm.

**<THE HEARING ADJOURNED AT 12.46 PM**

15

**<THE HEARING RESUMED AT 2.00 PM**

**COMMISSIONER:** Mr Wheelahan, you have taken centre stage.

20 **MR WHEELAHAN:** Yes. Commissioner, you asked me some questions when I went to the document NH-2 and documents specifically for the operator. The relevant documents start in that annexure at page 15. 15 and 16 is the letter from the Crime and Corruption Commission dated 25 August 2022. That's one document, and it responds to the submission to the Crime and Corruption Commission titled  
25 Influencing Practices in Queensland, which is pages 17 through to 24. Those two documents, I can advise, I have spoken to my learned friend Mr de Jersey. The reason for the redaction, which is what you asked, is we were advised by a senior principal lawyer with Crown Law, Mr Thomas Geraghty, G-e-r-a-g-h-t-y, that such publication could result in harm coming to those inspectors who signed the  
30 document.

Now, the Commission, internally, we took that at face value and therefore acquiesced to that redaction. Now, with those redactions, I propose to tender into evidence now those two documents that I've just identified, and as I said, my learned  
35 friend - he can speak for himself, but he has no objection on behalf of the Crown.

**COMMISSIONER:** Are there any other objections? No? Over the luncheon adjournment, I made the non-publication order in relation to the name that I inadvertently referred to which had been redacted, that is, one of the 14 inspectors  
40 who made the submission in August 2022 to the CCC. Mr Wheelahan, I don't want to second-guess what goes on between you and Crown Law, and you have to - both sides have to compromise, but I do wonder whether the principles of open justice and the need for an open inquiry should have prevailed in this situation. These people all stated that the persons who have signed this submission are willing to give  
45 statements, be interviewed by any investigation agency or present themselves to give any evidence before any inquiry or Royal Commission. This inquiry falls within the

terms of "any inquiry", and again, if I had to rule on it, I'm not sure I would have taken the approach that you've taken.

5 But again, I don't want to second-guess the decisions that counsel assisting makes,  
but it's important to bear in mind that this must be an open inquiry, and there may be  
things that I'm unaware of - and again, I haven't been asked to rule on it, so I won't  
say anything further - but this letter of 25 August 2022 from the Crime and  
Corruption Commission to Mr Noel Hayes, which has attached to it as annexure A a  
10 submission to the Crime and Corruption Commission entitled Influencing Practices  
in Queensland, which is signed by 14 inspectors employed at the time, or previously  
employed by Workplace Health and Safety Queensland, and is dated various dates in  
July 2022, will be exhibit NSH - no, I think we might call it exhibit - you're  
tendering it in the opening.

15 **MR WHEELAHAN:** Yes.

**COMMISSIONER:** We might call this exhibit - either PW-1 or CA-1. Which one  
would you prefer?

20 **MR WHEELAHAN:** CA-1.

**COMMISSIONER:** CA-1.

25 **<EXHIBIT CA-1 LETTER OF 25 AUGUST 2022 FROM THE CRIME AND  
CORRUPTION COMMISSION TO MR NOEL HAYES**

**COMMISSIONER:** Very well.

30 **MR WHEELAHAN:** May I reply to your observations about open and  
transparency, by way of explanation.

**COMMISSIONER:** If you want.

35 **MR WHEELAHAN:** And I think it's important I say this. The letter from Crown  
Law was 6 March, so it was only shortly before the hearing, and given what we were  
advised by a senior lawyer, as I said, we took it at face value, and whether those  
redactions should remain in place is a matter that we'll communicate further with  
Crown Law, having regard to what you've just stated on the record officially.

40 **COMMISSIONER:** Very well.

**MR WHEELAHAN:** Thank you.

45 **COMMISSIONER:** I'm sorry for that interruption, Ms Dargan, to your evidence,  
but Mr Smith and Mr Wheelahan will switch places, and we'll be back to you in a  
moment.

**MR SMITH:** Thank you, Commissioner. Now, Ms Dargan, you indicated in your earlier evidence that in 2015, you transferred to the North Brisbane construction team; is that right?

5 **MS DARGAN:** Correct.

**MR SMITH:** Where was that team located when you transferred to it?

10 **MS DARGAN:** It was initially located at Bowen Hills.

**MR SMITH:** And did you move somewhere else?

**MS DARGAN:** (Indistinct).

15 **MR SMITH:** Can you just describe -

**COMMISSIONER:** Ms Dargan, would you be able to speak up? I know it's quite hard coming and giving evidence, but just speak up slightly. I'm finding it hard to hear you.

20 **MR SMITH:** When you moved into that team, can you describe what the team culture was like?

25 **MS DARGAN:** (Indistinct).

**MR SMITH:** And did it have - what sort of level of experience was in the team at that time?

30 **UNIDENTIFIED SPEAKER:** Sorry.

**COMMISSIONER:** That's why we're having trouble hearing you, because your microphone is not on, apparently, Ms Dargan.

35 **MS DARGAN:** Test, test.

**MR SMITH:** And who were those experienced inspectors in that team at the time?

40 **MS DARGAN:** John Carmosino, John Barber, Paul Watts. There was quite a few with considerable amount of experience both with the department and prior.

**MR SMITH:** And did they share that experience?

**MS DARGAN:** Absolutely, yes.

45 **MR SMITH:** And was that with you as well?

**MS DARGAN:** Absolutely, yes.

**COMMISSIONER:** I just missed that third name. John Barber, John Carmosino, and who was the third one?

5 **MS DARGAN:** Paul Watts. Pat Edwards. There was a big, big team.

**MR SMITH:** And what was the attitude within the team to your duties as inspectors?

10 **MS DARGAN:** They took them very seriously. It was - everyone understood what they were there to do and that it was a very important job.

**MR SMITH:** Now, when you described the North Brisbane construction team, did that have geographical boundaries within which it worked?

15

**MS DARGAN:** Yes.

**MR SMITH:** And what were the geographical boundaries?

20 **MS DARGAN:** North of the river, south to - I mean west to around about Moggill, and up to around about Caboolture.

**MR SMITH:** And whilst you were in that team, who did you report to? What role?

25 **MS DARGAN:** Whilst I was a construction inspector? Initially to Nicholas Drapes.

**MR SMITH:** Yes.

30 **MS DARGAN:** And then when he left, there was bit of a high turnaround, but Mark Murphy, Mark Houston, Brian Culleton, Jason Plath was in there too, and then Rob McDonald.

**MR SMITH:** All right. And what position did each of those individuals hold?

35 **MS DARGAN:** Either operations manager or acting operations manager.

**MR SMITH:** All right. Now, I'm going to ask you about the term "allocator". Can you explain to the Commission what an allocator is?

40 **MS DARGAN:** An allocator is an inspector that sits within the team, but their job is primarily responsible for when a job comes through from assessment services, they have a look at the type of job it is, the severity of risk, the inspectors available, their experience. There's a number of factors who decide who will attend that job and how quickly it should be attended to.

45

**MR SMITH:** So is the nature of the job that they allocate tasks to inspectors to complete at a very basic level? Is that what they do?

**MS DARGAN:** Yes.

**MR SMITH:** All right. Now, did you work as an allocator?

5

**MS DARGAN:** Yes, I did.

**MR SMITH:** And did you start in that role in about 2020?

10 **MS DARGAN:** Yes.

**MR SMITH:** And when you started in the role of allocator, were you doing that full time?

15 **MS DARGAN:** No. Initially started I was doing it in relieving. John Carmosino held the position, but when he was on leave or was doing other work, I would take over.

**MR SMITH:** And did you eventually start doing that role full time?

20 **MS DARGAN:** Yes, I did.

**MR SMITH:** And was that in about 2022?

**MS DARGAN:** Yes.

25

**MR SMITH:** Now, it was it just that region that you've described, that northern region, that you're allocating for when you started in that role?

30 **MS DARGAN:** In '22 it was expanded, so I was looking after the allocation for the South West region, as well as Brisbane - basically up to Bundaberg.

**MR SMITH:** All right. So was there a dividing line at Bundaberg and you allocated below that line? Is that how it worked?

35 **MS DARGAN:** Yeah, roughly somewhere Bundaberg, Gladstone, somewhere around there.

**MR SMITH:** So there or thereabouts.

40 **MS DARGAN:** Yeah.

**MR SMITH:** And prior to that were you allocating for different areas?

**MS DARGAN:** Prior to that, when I did the relieving, it was just for Brisbane North.

45

**MR SMITH:** Right.

**MS DARGAN:** So, yeah.

**MR SMITH:** And that larger geographical area that you allocated for, did that change again?

5

**MS DARGAN:** It did.

**MR SMITH:** And do you recall when that happened? Or - sorry, sorry, that was not the question I wanted to ask. I withdraw that. Do you recall what the changes were for the area?

10

**MS DARGAN:** Yep. The work that was coming in was a little bit too much for the one allocator, so they ended up cutting it. So the - I think Sunshine Coast upwards did their own allocating, and then Brisbane North, the northside officers, had their own allocator, and I continued looking after the south.

15

**MR SMITH:** And did you cease doing allocations work at some time?

**MS DARGAN:** Yes, I did.

20

**MR SMITH:** Now, you mentioned that Nicholas Drapes, I think, was the operations manager when you started; is that right?

**MS DARGAN:** Correct.

25

**MR SMITH:** And how much of the period that you worked in the construction team was Nicholas Drapes your operations manager; do you recall?

**MS DARGAN:** I think he left around 2020 or 2022. Sorry, I'm not good with dates. Yeah, somewhere around there.

30

**MR SMITH:** That's okay. And do you know why Mr Drapes left that role?

**MS DARGAN:** He went on sick leave.

35

**MR SMITH:** Did he ever tell you why he went on sick leave?

**MS DARGAN:** He didn't tell me directly, but we understood it was due to work stress.

40

**MR SMITH:** All right. And when you say "we understood", who's the "we" that you're referring to?

**MS DARGAN:** Our team, the construction team.

45

**MR SMITH:** All right. So was that, to your knowledge, a view which was widely held in the construction team?

**MS DARGAN:** Yes.

5 **MR SMITH:** Now, you've already given some evidence about the other operations managers you had. Were any of them in the role for a long period?

**MS DARGAN:** Probably Mark Houston was the next-longest tenure after Nick Drapes.

10 **MR SMITH:** Commissioner, I've just been informed that there's some difficulty with the live stream. Could we have a short adjournment to resolve that? Perhaps five minutes?

15 **UNIDENTIFIED SPEAKER:** I've just got a text message to say it's back on again.

**COMMISSIONER:** Do we need it if it's back on?

20 **MR SMITH:** I'm told we're good by multiple sources, so I'll carry on, Commissioner. So, sorry, did you just give some evidence about Mr Houston being the next-longest serving operations manager? Is that right?

**MS DARGAN:** Yes.

25 **MR SMITH:** All right. And is it the case that then the others were in that role for relatively short periods?

30 **MS DARGAN:** I moved from the north to the south, so Jason Plath had only been there a short amount of time before I moved to the south under Brian Culleton, so there was a bit of jiggling around of staff.

**MR SMITH:** All right. And were the roles of the operations managers that you reported to similar in nature to your current role?

35 **MS DARGAN:** Sorry, could you repeat that?

**MR SMITH:** Sorry. That was a really poor question. Was the operations manager role then, that is, when you were reporting to an operations manager from 2015 through to 2024, similar to the role that you've described that you now do?

40 **MS DARGAN:** Correct.

**MR SMITH:** All right. Now, just in respect of your work as an allocator, you talked about jobs. What do you mean by a job?

45 **MS DARGAN:** An incident or a complaint that comes in to the department.

**MR SMITH:** All right. Now, when an incident or complaint comes into the department, how is that supposed to come to the department?

5 **MS DARGAN:** It comes into our - it changes names a bit, but if I just refer to it as the assessment services, it comes through there, and it can come in via a telephone call or via an online notification form.

**MR SMITH:** Is there a standard telephone number for that?

10 **MS DARGAN:** Yes, there is.

**MR SMITH:** And the email, does someone just send an email or is there a form?

15 **MS DARGAN:** It's an online form.

**MR SMITH:** All right. And are those contact details published to the public?

**MS DARGAN:** Yes, they are.

20 **MR SMITH:** Now, the people taking the phone calls, are they in the assessment services team?

**MS DARGAN:** Correct.

25 **MR SMITH:** And the email goes directly to the assessment services team as well, does it?

**MS DARGAN:** The online notification, yes.

30 **MR SMITH:** Sorry, the online notification, my apologies. Now, does that process also apply to government organisations who wish to make a complaint about health and safety?

35 **MS DARGAN:** Yes.

**MR SMITH:** And which sorts of organisations would you typically get a notification, or sorry, again, I'll rephrase that. Which sort of organisations would make those complaints or raise those issues, typically?

40 **MS DARGAN:** To the advisory service, it can be any person conducting a business or undertaking throughout Queensland.

**MR SMITH:** Yes, and as far as government organisations go, which government organisations would raise complaints with advisory services?

45 **MS DARGAN:** Any government department that had a notifiable incident or a complaint.

**MR SMITH:** Do emergency services raise matters?

**MS DARGAN:** Yes, they do.

5

**MR SMITH:** And do they use that system as well?

**MS DARGAN:** Yes, they do.

10 **MR SMITH:** Now, when those complaints come in, is there certain information that's required to be provided to assessment services?

**MS DARGAN:** Yes.

15 **MR SMITH:** And what sort of information do assessment services typically collect in your experience or from your observation?

**MS DARGAN:** Basically, location information, details of the person conducting the business or undertaking, as well as a description of the complaint if it's a complaint,  
20 or details of the incident if it's an incident.

**MR SMITH:** And in your role as allocator, do you ultimately receive those complaint details at some point?

25 **MS DARGAN:** Yes.

**MR SMITH:** And how comprehensive is the information that you typically receive from those notifications?

30 **MS DARGAN:** It's normally pretty good, and if it is scant, the people in assessment services will often make additional inquiries.

**MR SMITH:** Do you know - and you might not - whether the people in assessment services are trained about what inquiries they ought to be making?

35

**MS DARGAN:** I believe they are, yes.

**MR SMITH:** All right. Now, were complaints sometimes, rather than going through assessment services, raised directly with the regions?

40

**MS DARGAN:** Yes.

**MR SMITH:** And when complaints -

45 **COMMISSIONER:** Just while you're on the question of regions, did I understand your evidence to be that between 2015 and 2024, you worked as an inspector, in fact,

a principal inspector, in both the North Brisbane region and also the South West Gold Coast region?

5 **MS DARGAN:** Yeah. I was saying before about how I was allocating across the entire area, and then when I got a choice, I got a choice whether I wanted to stay with Brisbane North or move to South Brisbane, and at that time I opted to move to South Brisbane.

10 **COMMISSIONER:** Sorry, you've just given a third region there. That was the South Brisbane region.

**MS DARGAN:** South Brisbane is part of South West Gold Coast region, sorry.

15 **COMMISSIONER:** I see. So you worked in the North Brisbane construction team from 2015, which is part of the North Brisbane region?

**MS DARGAN:** Yes. Yes, yes.

20 **COMMISSIONER:** I don't want to put words in your mouth.

**MS DARGAN:** Sorry, I was just trying to think. Yes, it was North Brisbane region, correct, yes.

25 **COMMISSIONER:** And at some time between 2015 and 2024, you moved to the South Brisbane construction team, which was in - within the South West Gold Coast region.

**MS DARGAN:** Correct.

30 **COMMISSIONER:** And it doesn't appear to be in your statement: when did you move from the North Brisbane construction team within the North Brisbane region to the South Brisbane construction team within the South West Gold Coast region?

35 **MS DARGAN:** By the end of '21, beginning of '22.

**COMMISSIONER:** Thank you.

**MS DARGAN:** Sort of all flows on. It's a bit of a blur.

40 **COMMISSIONER:** Mr Smith.

**MR SMITH:** And did you say that that move was associated with your allocating work?

45 **MS DARGAN:** Yes.

**MR SMITH:** Did that move have any association with the change of allocating regions that you described before?

**MS DARGAN:** Yes, it did.

5

**MR SMITH:** And which of those changes did it coincide with? Can I perhaps ask you a different question?

**COMMISSIONER:** Just let the witness answer.

10

**MS DARGAN:** Which of the changes did it coincide with? Yeah, I think you might need to restate the question.

**MR SMITH:** So when you were allocating for that large region right up to Bundaberg, which team were you in then?

15

**MS DARGAN:** I was still reporting to North Brisbane at that stage.

**MR SMITH:** All right. And then you gave some evidence that that region was too big for one allocator and it was divided. Is that right?

20

**MS DARGAN:** Correct.

**MR SMITH:** And when it was divided, which region were you then reporting to?

25

**MS DARGAN:** At that stage, the north side had John Carmosino who could allocate and the south side didn't have anyone who could allocate, so I went over to the south side at which point I reported to the Mount Gravatt manager, Brian Culleton.

**MR SMITH:** Were you able to recall when that change happened?

30

**MS DARGAN:** I'm thinking mid '22.

**MR SMITH:** All right. And at that stage, were you allocating full time?

35

**MS DARGAN:** Yes.

**MR SMITH:** All right. Now, you gave some evidence a little bit earlier in response to a question that I asked to the effect that complaints were sometimes raised directly to the regions. Now, when that happened, what was supposed to be done directly with those complaints? Do you recall?

40

**MS DARGAN:** They shouldn't be raised directly with the region; it should go through the process. But when they did, often the operations manager was contacted and asked to send somebody out.

45

**MR SMITH:** All right. Was there any steps that the operations manager had to take to refer those matters to assessment services? Do you recall?

5 **MS DARGAN:** At a later time, they were compiling an email and sending it through to assessment services to get an event number created.

**MR SMITH:** Now, were those sorts of outside complaints or matters being raised directly with the regions, was that common practice?

10 **MS DARGAN:** No.

**MR SMITH:** Now, once assessment services had obtained the information from a complainant, through whichever means, what did they then do with it?

15 **MS DARGAN:** They put the information into the system, and at that stage it generated an email that went through to the allocator.

**MR SMITH:** And what was the name of that system?

20 **MS DARGAN:** CISr.

**MR SMITH:** Now, would all complaints that assessment services received come through to the allocators?

25 **MS DARGAN:** No.

**MR SMITH:** Do you know what process assessment services had for determining whether or not it would send a complaint to the allocators?

30 **MS DARGAN:** It was a bit of a triaging process. So they'd have a look at the information that was provided. They'd look at the severity of the risk, if there was sufficient information and whether it would benefit a regional response.

35 **MR SMITH:** So there were a few things that you mentioned there. One of them was severity of the risk. What sorts of - can just explain to the Commissioner what you mean by the severity of the risk of the complaint?

40 **MS DARGAN:** Sorry, it should have been severity of the hazard. So that would be something like at a work at height complaint where somebody was likely to be subjected to a fall. It would be anything that had an imminent dangerous outcome to it, I guess you would describe it.

**MR SMITH:** All right. So were they matters which would require a faster response?

45 **MS DARGAN:** Yes.

**MR SMITH:** And do you know the determination of that response based on the material that had been provided to assessment services?

**MS DARGAN:** Yes.

5

**MR SMITH:** And if something had less of a potential severe outcome, would it receive a different response?

**MS DARGAN:** Yes.

10

**COMMISSIONER:** Why don't you just ask some open questions of this witness, Mr Smith? You've asked three closed questions. Why don't you just ask her to describe the triage system in her own words?

15

**MR SMITH:** Ms Dargan, can you describe how the triage system worked?

20

**MS DARGAN:** Okay. So through assessment services - I didn't actually work at assessment services, but I can describe what they went through. They'd look at what came through, then see how severe the matter was. If it was severe, they'd send it straight through, sometimes with a phone call, to the operations manager, just saying "We're sending something through now. It's serious." And then we'd get an inspector out pretty quickly. Yeah, obviously critical incidents, fatalities, they were things that required immediate response, and then the other things you had longer to just send it out or get someone out to site.

25

**MR SMITH:** And were there mandated timeframes for the responses?

**MS DARGAN:** Yes, there was.

30

**MR SMITH:** And can you recall what any of those are?

35

**MS DARGAN:** Yep, so the fatalities, these time frames are to cover the entire Queensland. So up north, obviously response times are a bit slower. In the city, they would say as soon as reasonably practicable to get somebody out. We could get someone out within an hour. North Queensland wouldn't have that luxury. And then they had that 48 hours for serious and dangerous events and seven days for the rest of the complaints that come through.

40

**MR SMITH:** So was it following that triage process that the material came to you; is that right?

**MS DARGAN:** After it's been through that, after they'd had a look at that, yes, then they'd send it through to the allocator.

45

**MR SMITH:** And once you got that material, what would you then do with it as an allocator?

**MS DARGAN:** Similar type thing, but my job would be to use the resources, ie, the inspectors, to the best use we could. So if you had a serious incident coming through that required immediate response, you'd probably want to send a more senior, like, a more experienced inspector with somebody else. It was, yeah, juggling people get to get them to jobs and making sure they were capable of doing the jobs.

**MR SMITH:** All right. And you mentioned the seriousness, you mentioned the available inspectors and their experience. Were there other factors that you considered when you were making those allocations?

**MS DARGAN:** Yeah, workload as well, and if they'd previously been on a serious job the day before, you would probably give them a bit of a break the next day to catch up on paperwork.

**MR SMITH:** All right. Now, beyond triaging matters, were there other reasons that the assessment services team conducted a triage process? So beyond those risk-based and classifications, do you know what other things they were looking for?

**MS DARGAN:** What else we were looking for? I guess it was an accountability-type thing, that all incidents were going through that to ensure that they were being triaged appropriately. Historically, like, back in the day, people used to ring inspectors directly and said, you know, "Joe Bloggs down the road is doing this," and the inspector would go out that way. The department doesn't have any record of complaints coming in or anything like that. So this was just becoming a better regulator.

**MR SMITH:** And I think you mentioned before that not all complaints went through to the regions. What sorts of complaints were caught in the assessment services net, so to speak, and didn't come through to the regions?

**MS DARGAN:** There'd be some things, like a notifiable incident, for example, is a falling object, but if a falling object falls in an exclusion zone, nobody's at risk. It doesn't really require an inspector to attend site, because there hasn't actually been any - there's no compliance action because the control measure has been effective. So they'd be the ones that assessment services would make those first inquiries, determine an inspector wasn't required and just administratively close it off at that point.

**MR SMITH:** All right. And did inspectors - to what extent were you able to provide inspectors information about matters before they attended particular sites?

**MS DARGAN:** Usually it was as part of the notification form that came through on the online - is that what -

**MR SMITH:** There was a notification that came through online that you've described before that contained information.

**MS DARGAN:** Correct.

**MR SMITH:** Did you provide that information to anyone when you were allocating work?

5

**MS DARGAN:** Yes, that went to the inspector.

**MR SMITH:** And did that, to your knowledge, and bearing in mind that you've also been an inspector, did that information assist?

10

**MS DARGAN:** Yes.

**MR SMITH:** Would statewide - sorry, was it assessment services, would they pass on complaints that didn't have sufficient information to you?

15

**MS DARGAN:** Not usually, no. They'd make inquiries, and if something didn't have a complainant, didn't have a clear address or a clear hazard area, they would write it off.

**MR SMITH:** And were there other types of complaints that were raised that wouldn't ultimately come through to an allocator, do you know?

20

**MS DARGAN:** To assessment services or to an allocator?

**MR SMITH:** To an allocator from assessment services.

25

**MS DARGAN:** Not that I can recall, sorry.

**MR SMITH:** Did you have limits on the types of matters that you could investigate?

30

**MS DARGAN:** Yes, sorry, if they fell out of our jurisdiction.

**MR SMITH:** And do you have any examples of things that might have fallen outside of your jurisdiction that wouldn't have come through, if they'd gone through assessment services?

35

**MS DARGAN:** Things like motor vehicle accidents. They don't usually fall under our jurisdiction. There are things that - like people getting into fights on sites, normally more of a police matter than a workplace health and safety matter. Those type of things.

40

**MR SMITH:** So would those sorts of things stay at the assessment services level and not get to you?

**MS DARGAN:** They should. Assessment services should be able to finalise those type of issues.

45

**MR SMITH:** All right. And when a task came through that was classified as an urgent task, what would happen then with the allocation?

5 **MS DARGAN:** Find out - do a check, find out where your inspectors are, have a look at who's around the area. That was sort of more important with North Brisbane, where it's a bigger geographical area than with Brisbane now. So you'd see who was about, who had the experience, and you'd give them a call and ask them to attend the job.

10 **MR SMITH:** And what would happen to the job that they were already on if they were already on a job?

15 **MS DARGAN:** Usually people would notify what they were doing. So you'd know where people were and what they were doing, so if you had someone who was just doing a paperwork catch-up, you'd send them in preference to somebody who had told you they were going out to do a certain job for a certain reason.

20 **MR SMITH:** So when you considered the job that the inspector was already on, what sort of factors - did you consider factors about that specific job when determining who you would send to an urgent job?

25 **MS DARGAN:** Absolutely. Give them a call and say, "Hey, where are you at?" And they would say, "I've just turned up on the site. Whole heap of work going on here. Whole heap of notices." "Yeah, okay. Continue what you're doing. I'll give somebody else a call." So it was that give and take and availability.

**MR SMITH:** Was it just availability or were there factors about the actual nature of the event the inspector was attending that were important in that assessment?

30 **MS DARGAN:** All inspectors had the same qualification, but some have special knowledge in certain - certain areas. So it was good to - if there had been an incident with a crane, John Carmosino used to operate cranes, so he was a really person to, you know, he would've been a good person for that. So you're looking at people's specialty areas as well.

35 **MR SMITH:** Would you also look at the urgency or risk of the job that the inspector was already dealing with?

40 **MS DARGAN:** Yes.

**MR SMITH:** And what assessment would you undertake in relation to that?

45 **MS DARGAN:** Well, that was kind of part of the chat you'd have when you - if they just had, you know, they just had, like, low-lying fruit, we used to call them. So just like your test and tags and your housekeeping. You would probably be able to say, look, can you wrap that up and head over to here? But if they were dealing with

something that had imminent risk attached to it, you wouldn't take them from site. You would let them continue and grab somebody else.

5 **MR SMITH:** Was there ever a time when that allocation process wasn't consistently followed?

**MS DARGAN:** Yes.

10 **MR SMITH:** And when did that start happening? Do you recall?

**MS DARGAN:** It sort of happened gradually, until we were all aware of what was happening. So I'd be thinking around about 2019, 2020, was when it really hit its - hit its peak.

15 **MR SMITH:** All right. And is what you're saying that - well, can I ask you this: is that when you realised that the process wasn't being consistently followed?

**MS DARGAN:** Yes.

20 **MR SMITH:** With the benefit of hindsight, do you have a view about when that started to happen?

**MS DARGAN:** It happened soon after Helen Burgess became the director of construction, compliance and field services.

25 **MR SMITH:** And about when was that?

**MS DARGAN:** She commenced around 2018.

30 **MR SMITH:** And was there any change that you identified prior to Ms Burgess' commencement in that role?

**MS DARGAN:** Nothing that I particularly noticed.

35 **MR SMITH:** Right. And what sorts of matters did that change occur in relation to?

**MS DARGAN:** How we were receiving notifications for jobs to attend. That was - that was one of the first things that changed.

40 **MR SMITH:** And what was the nature of those jobs?

**MS DARGAN:** CFMEU requests for assistance.

45 **MR SMITH:** All right. And what was the -

**COMMISSIONER:** Who's the "we" you're talking about there? How "we" were receiving notifications?

**MS DARGAN:** Of the department.

5 **COMMISSIONER:** And that department is the whole department or the construction team?

**MS DARGAN:** Sorry. Yeah, it was the construction team, yep.

10 **MR SMITH:** So do you recall how it was you first became aware of the change in the way that these jobs were being allocated?

**MS DARGAN:** Through - through phone calls and through communications from my operations manager.

15 **MR SMITH:** And what was your operations manager at that time?

**MS DARGAN:** Started off Nicholas Drapes.

20 **MR SMITH:** And what was it about those phone calls or communications that caused you to form the view that you ultimately formed?

25 **MS DARGAN:** They were coming through - you would receive a phone call from either the work allocator, who was John Carmosino, or from the operations manager, advising you you were to attend a job, a CFMEU request for assistance. You were to head there right now. So it was an urgent call-out.

**MR SMITH:** All right. And when you received that call-out - sorry, I'll ask you a different question. Was that degree of urgency usual for jobs of that nature?

30 **MS DARGAN:** No.

**MR SMITH:** Did you ever speak to Mr Carmosino about why that was happening?

35 **MS DARGAN:** Why he was sending us out with urgency? Yes.

**MR SMITH:** And what did Mr Carmosino tell you about that?

**MS DARGAN:** "It's what Helen wants."

40 **MR SMITH:** When you say Helen -

**MS DARGAN:** Helen Burgess.

45 **MR SMITH:** All right. Now, how frequently when you first became aware of this were you getting those sorts of calls?

**MS DARGAN:** At first it felt like every now and then, and then it felt like all the time.

5 **MR SMITH:** And do you recall when you first became aware of this issue or when you spoke with Mr Carmosino about it?

**MS DARGAN:** I'm thinking 2019.

10 **MR SMITH:** All right. Can you just excuse me for a second. Now, can I just ask you whether - sorry, you just gave some evidence that - you just gave some evidence that Inspector Carmosino told you that he would get calls from Ms Burgess.

**MS DARGAN:** Mmm-hmm.

15 **MR SMITH:** And that he would then direct you to go and attend these urgent matters.

20 **COMMISSIONER:** I don't think the witness said that he got calls - that Mr Carmosino told her that he got calls from Ms Burgess. The evidence from the witness was he told this witness, Mr Carmosino, "That's what Helen wants."

25 **MR SMITH:** My apologies, Commissioner. I withdraw that question. I'll ask you a different question. Now, I think you gave this evidence - and again, I'll be corrected if I'm wrong - I think you gave evidence that you became aware of this as a practice in 2019. Were you allocated to jobs urgently for CFMEU complaints prior to that date?

30 **MS DARGAN:** Yes, well, it occurred after - sorry, it occurred after Helen started - she started round about 2018, so I think I became - like, I was really aware of it in 2019, but it started happening in 2018.

**MR SMITH:** All right. Now, when you became aware of this in 2019, did you talk to other inspectors about it?

35 **MS DARGAN:** Yeah, we used to speak about it frequently. Being a tight-knit little bunch, we used to go out, do a job first up, and then we'd all catch up at the office for morning tea and discuss our jobs and what we'd done and things like that.

40 **MR SMITH:** And was this issue raised with you by other inspectors during those conversations?

**MS DARGAN:** It was a frequent topic of conversation, yes.

45 **MR SMITH:** All right. Do you recall now who it was raised with you by?

**MS DARGAN:** Everyone in the team had experienced it, so everyone would join in. Do you want the names of everyone?

**MR SMITH:** Do you remember anyone specific, or was it just a general conversation across the team?

5 **MS DARGAN:** A general conversation across the team, but obviously the people that were doing the majority of the right-of-entry requests were most vocal about it.

**MR SMITH:** And did Mr Carmosino, when you spoke with him with these allocations, did he tell you how he was notified of these jobs by Ms Burgess?

10

**MS DARGAN:** Yes.

**MR SMITH:** And what did he tell you?

15 **MS DARGAN:** Well, it was only a relatively small office, so you would hear the calls come in, so you knew they were coming in from - usually from Helen directly to John.

20 **MR SMITH:** All right. And when you were an allocator, were there occasions where you were instructed to direct people to the CFMEU complaints?

**MS DARGAN:** Yes.

**MR SMITH:** And who were you instructed to do that by?

25

**MS DARGAN:** Either by the operations manager, Mark Houston, or by Helen.

**MR SMITH:** And how would they direct you to allocate people to those jobs?

30 **MS DARGAN:** So they'd say CFMEU's on site at whatever construction project they were at. There's - and, yeah, get people out there as soon as possible.

**MR SMITH:** Did they give you any more information than what you've just described, can you recall?

35

**MS DARGAN:** The information was pretty generic. So there'd be like - we used to call it a bit of a shopping list of potential hazard areas. So there'd be work at height, traffic control. There'd be a number of things that they - they would list as being of concern.

40

**COMMISSIONER:** Who's the "they" there? Is that Mr Houston or Ms Burgess or someone else?

**MS DARGAN:** The information that's come through from the CFMEU.

45

**MR SMITH:** And would you receive that information or - sorry, who would you receive that information from?

**MS DARGAN:** From whoever called, so either Helen or Mark Houston.

5 **MR SMITH:** All right. And were you - did you determine the priority of those matters or was it someone else?

**MS DARGAN:** No, there was no discretion there. It was people must be sent to this address or this site now.

10 **MR SMITH:** And how quickly were you required to send them there?

**MS DARGAN:** As soon as possible.

15 **MR SMITH:** And during the period that you were an allocator, did those requests always come through to you?

20 **MS DARGAN:** Sometimes they'd go directly to the operations manager, who might contact the inspectors directly. So it would depend on the time of the day or a few variables.

**MR SMITH:** All right. And how would you find out about that having occurred?

25 **MS DARGAN:** Because the inspectors would come back or they would say heading off to a CFMEU job at whatever the site is, because they let the allocator know their location in case other work comes in.

30 **MR SMITH:** All right. Now, were there occasions - sorry, I'll ask you a slightly different question. When you received those calls from Ms Burgess or Mr Houston, was there ever a discussion between you and whichever one of them called you about the nature of the work that inspectors might already have been on, for example?

**MS DARGAN:** No.

35 **MR SMITH:** Was there ever a discussion about the other jobs which had been undertaken?

**MS DARGAN:** No.

40 **MR SMITH:** Was there any discussion about the level of risk that those other jobs involved?

**MS DARGAN:** No.

45 **MR SMITH:** Now, what sort of work were inspectors required to leave to go and conduct these urgent requests for assistance?

**MS DARGAN:** They were expected to leave whatever they were doing to attend a union right-of-entry request.

**COMMISSIONER:** What was the last bit you said there? I just missed that.

5

**MS DARGAN:** Request, sorry. Union right of request.

**MR SMITH:** And did that include high-risk work?

10 **MS DARGAN:** I believe so, yes.

**MR SMITH:** Do you have a recollection of that having occurred in your role as an allocator?

15 **MS DARGAN:** Usually, once they got the call, people kind of - initially, they would argue but then they realised there wasn't any point arguing because they would be going anyway, regardless of what they were doing.

**MR SMITH:** And what sort of arguments would they be?

20

**MS DARGAN:** I'm doing this or, you know, I have need to be on this job, or - yeah, there was - there was a number of things that occurred, but - yeah.

25 **MR SMITH:** Were the CFMEU complaints - you described a shopping list of complaints. Were they consistently about the same things, or were they about a variety of things?

**MS DARGAN:** They were generally the same list, just on different projects.

30 **MR SMITH:** And what degree of risk did the matters that the CFMEU raised typically have in your assessment?

**MS DARGAN:** It was very, very seldom that there would actually be any genuine risk present.

35

**MR SMITH:** Yes, but - sorry. And when you say that, is that an assessment having attended site, or was that something that you knew at the time that you were allocating?

40 **MS DARGAN:** Well, you'd have the usual, so you'd have your first one, which would be work at height, and you would attend there and there probably wasn't - there wouldn't normally be any issue with the work at height. And there'd be things with amenities or toilets and things like that, that weren't of an urgent - didn't have imminent risk attached to them.

45

**MR SMITH:** Yes. So there were, can the Commissioner take it from that, a variety of complaints that the CFMEU would make?

**MS DARGAN:** Correct.

5 **COMMISSIONER:** I thought that was not the evidence. I thought the witness said it was a shopping list, it was the same list, on different projects.

**MR SMITH:** The witness then said sometimes it would be work at height, sometimes it would be amenities. So just to clarify, was there a number of - sorry, I'll ask you a different question. Were there issues that would be regularly raised?  
10

**MS DARGAN:** Yes, there would be.

**MR SMITH:** And were the issues that were raised always the same?

15 **MS DARGAN:** There was enough that we would look at it and go, "Oh yeah, it's just the usual shopping list." It would be unusual for them to actually raise a specific safety concern that we'd go, "Gee, we need to get somebody out there right now."

20 **MR SMITH:** And would the complaints include every item on the shopping list?

**MS DARGAN:** Usually, yeah.

25 **COMMISSIONER:** Could I just ask a question about that. This shopping list or the same list or the usual shopping list - I think you've described it in three different ways - would there be records in writing in the possession of WSHQ now, stretching back to 2019, of examples of those things, either usual shopping list, same list, shopping list on different projects, held by WSHQ?

30 **MS DARGAN:** Yeah. If you requested all the requests that had come through and looked at them side by side, you would see, like, consistency in what they were saying, like, for every different job.

**COMMISSIONER:** And has that been done, Mr Smith?

35 **MR SMITH:** No, it hasn't, Commissioner. Now, with the matters you raised, you raised the matter of - I can't remember exactly how you described it, but unclean toilets or amenities. Did you raise that?

40 **MS DARGAN:** Yes.

**MR SMITH:** Was that something that would appear regularly?

**MS DARGAN:** Yes, it would.

45 **MR SMITH:** And you mentioned earlier working at heights. Was that something that would appear regularly?

**MS DARGAN:** Yes, it would.

**MR SMITH:** And can you indicate which other matters from your recollection now would appear regularly in those complaints?

5

**MS DARGAN:** Hazardous chemicals. That was - that was one that was mentioned quite a bit. Sorry, thinking back a while ago now. They were the main ones that kept cropping up time and time again.

10 **MR SMITH:** And did those complaints describe specifically what the - what the issue was?

**MS DARGAN:** No, they didn't.

15 **MR SMITH:** Would they go further than saying working at heights? Would they describe specifically what the working at heights issue was?

20 **MS DARGAN:** Not really. And when you're talking about large projects, you know, like Cross River Rail, to say "a work at height hazard" on such a large site wasn't helpful at all.

**MR SMITH:** All right. Now, when you allocated ultimately inspectors to these matters, how many inspectors would be allocated?

25 **MS DARGAN:** The policy ended up being that two inspectors must attend every request for assistance.

**MR SMITH:** All right. And you might not recall, but do you recall when that happened?

30

**MS DARGAN:** No, sorry.

**COMMISSIONER:** Just explain that to me again. I just missed that. The policy was what?

35

**MS DARGAN:** That two inspectors must attend. So you weren't allowed to attend an inspector request for assistance alone. As an inspector, you had to double up, go as a pair.

40 **COMMISSIONER:** And an inspector - you weren't allowed to attend what sort of complaints, sorry?

**MS DARGAN:** The union request for assistance. So any job where those union officials would be present needed to be two inspectors.

45

**COMMISSIONER:** And when you say union, you mean the CFMEU?

**MS DARGAN:** Correct, yes.

5 **COMMISSIONER:** And there was a policy that whenever there was a request for assistance by the CFMEU - this is what Mr Smith is about to ask you about, when the policy came into existence, that two inspectors had to go.

**MS DARGAN:** Correct.

10 **COMMISSIONER:** Is it that policy in writing?

**MS DARGAN:** I believe it was, yes.

**COMMISSIONER:** Do we have a copy of that?

15 **MR SMITH:** We do, Commissioner, and I can take the witness to it.

**COMMISSIONER:** Did you want to ask her the question? I interrupted you. Were you going to ask her when the policy came into operation?

20 **MR SMITH:** I don't - I asked the question about when the apology came into operation. We have a point-in-time version of that with that in it. Mr Operator, can I ask you to bring up exhibit DD-1, and can I ask you to go to page 20 and to the second paragraph from the bottom of the page and blow that up, please. Now, Ms  
25 Dargan, this is the event management policy annexed to your statement. Can you just read that to yourself and I'll ask you a couple of questions about it. Now, what did that, on your understanding, paragraph of the policy require to occur?

**COMMISSIONER:** Could I just ask what the RMT is?

30 **MS DARGAN:** The regional management team.

**COMMISSIONER:** Is that what you've described as the assessment is or is it something else?

35 **MS DARGAN:** No, so that would have been the director of construction, compliance, field services, and the operations managers. They form the regional management team.

40 **COMMISSIONER:** Even though they're a functional group, they're called a regional management team?

**MS DARGAN:** Correct. It's one of the roles that they play, along with their other duties.

45 **MR SMITH:** Sorry, Ms Dargan, just in respect of that paragraph, "when allocating inspectors". So what does allocating inspectors refer to in that paragraph on your understanding?

**MS DARGAN:** Sending inspectors out to jobs.

5 **MR SMITH:** All right. And you see then a little bit further along in that sentence refers to entry permit holder requests for assistance.

**MS DARGAN:** Yes.

10 **MR SMITH:** Can I ask, firstly, who an entry permit holder is, who you understand that to refer to, I should say?

**MS DARGAN:** Union officials.

15 **MR SMITH:** All right. And a request for assistance, what does that refer to?

**MS DARGAN:** That refers to a section 117 request for assistance by an entry permit holder.

20 **MR SMITH:** Yes and that's what you gave evidence about a little bit earlier today, about the process?

**MS DARGAN:** Correct.

25 **COMMISSIONER:** Can you just explain to me what a 117 request for assistance is?

**MS DARGAN:** I would have to have the legislation in front of me.

30 **COMMISSIONER:** Do we have it, Mr Smith?

**MR SMITH:** We don't have the legislation, but I can ask Ms Dargan some questions that might assist you, Commissioner.

35 **COMMISSIONER:** Thank you.

**MR SMITH:** So when you say 117, what is the section 117 power?

40 **MS DARGAN:** That is for entry permit holders to be able to enter a work site as long as certain conditions are met.

**MR SMITH:** Yes, and I think you gave some evidence earlier today about the nature of those conditions.

45 **MS DARGAN:** Yes.

**MR SMITH:** Now, would disputes ever arise about whether entry permit holders were entitled to enter a site?

**MS DARGAN:** Yes.

5 **MR SMITH:** And when those disputes arose, was there a mechanism for those union officials to request assistance?

**MS DARGAN:** Yes.

10 **MR SMITH:** And who would they request assistance from?

**MS DARGAN:** It would be requesting assistance from I believe the regulator to assist with allowing them on site.

15 **MR SMITH:** Yes. And what would the regulator do in response to that request for assistance?

20 **MS DARGAN:** We didn't have power to allow them on site. However, we could look at their entry permit holder cards, we can look at their paperwork, and we could tell the principal contractor that all their documentation is in order; they do have a right to come on site.

**MR SMITH:** Yes. So there was a statutory mechanism for dealing with those disputes. Is that right?

25 **MS DARGAN:** Correct.

**MR SMITH:** All right.

30 **COMMISSIONER:** You can perhaps explain it to the Commission tomorrow morning, Mr Smith, but I do find this process a bit hard to follow in the sense that was the - maybe it's just a quirk of the legislation, but you've either got the right to enter and you show the - the right word is not "employer", is it? The occupier -

35 **MR SMITH:** Yes.

**COMMISSIONER:** - that you have the right to enter and there are conditions. We heard four of them mentioned before the luncheon break.

40 **MR SMITH:** Yes.

**COMMISSIONER:** And the occupier makes a decision as to whether to allow entry or not, and if the occupier is right in denying entry, no problem. If the occupier is wrong, then there's a penalty attached. Why is the regulator involved?

45 **MR SMITH:** There is an additional - and perhaps I should answer this without Ms Dargan in the witness box, given -

**COMMISSIONER:** You can just tell me tomorrow morning.

5 **MR SMITH:** I'll do that, Commissioner. So with respect, then, to those requests for assistance - sorry, we were dealing with this issue in the policy in relation to entry permit holder requests. You've explained, I think, the terminology in that passage to the Commissioner. What was that paragraph directing you to do when entry permit holders were going to be on site when one of these complaints was made?

10 **MS DARGAN:** Send two inspectors out.

**MR SMITH:** All right. Mr Operator, can I just have the next paragraph, which begins at the bottom of that page and goes over the page, blown up as well, please. Now, I'll just ask to you read that to yourself, Ms Dargan.

15 **MS DARGAN:** Yes.

**MR SMITH:** Now, do you have an understanding from your conduct of your role what exceptional circumstances means?

20 **MS DARGAN:** Yes.

**MR SMITH:** And when would there be exceptional circumstances which would justify not sending a second inspector?

25 **MS DARGAN:** That was something that I never encountered, because I would always send two inspectors.

**MR SMITH:** And why was it that, to your knowledge - that can be taken down, Mr Operator. Why was it, to your knowledge, that this policy was implemented?

30 **MS DARGAN:** For the safety of inspectors whilst on site.

**MR SMITH:** What was unsafe about inspectors attending CFMEU right-of-entry requests?

35 **MS DARGAN:** For the actual right-of-entry requests, probably nothing. It was the subsequent walk-arounds that were the issue.

40 **MR SMITH:** All right. And was there - and I'm just speaking from a general perspective at the moment - was there particular -

**COMMISSIONER:** Why were the walk-arounds an issue?

45 **MS DARGAN:** Because that's when things became a little bit heated or agitated. So you'd be walking around with a group of a few CFMEU members. You'd have the people there from the principal contractor, and then if there was only one - one inspector, it was really hard to - to work in that - that pressure cooker.

**COMMISSIONER:** And why was there a subsequent walk-around involving the CFMEU, the principal contractor and the regulator?

5 **MS DARGAN:** That's what we were instructed to do.

**COMMISSIONER:** By whom?

**MS DARGAN:** By Helen Burgess.

10

**COMMISSIONER:** And you don't have the legislation in front of you, but how, in your opinion, did that sit with your obligations, whatever they were under section 117, to, to use your words, assist in a right-of-entry dispute?

15 **MS DARGAN:** I don't believe it did.

**COMMISSIONER:** Why do you say that?

20 **MS DARGAN:** Because the 117 is specifically about allowing them on site. So once they are on site, we shouldn't be involved any more. If at a later time they have something that's unable to be resolved, like if they do the walk-around and there's a decision made that this edge protection isn't adequate and the PCBU is saying, "Well, yes, it is adequate," then they could get an inspector to come in to - to speak to that issue. But that wasn't the case.

25

**COMMISSIONER:** In these incidents you're talking about, the assistance for resolving a right-of-entry dispute, were they of the - were the issues that led to the right-of-entry dispute these so-called shopping list or same list or usual shopping list type factors?

30

**MS DARGAN:** Yes.

**MR SMITH:** Now, do you recall attending a site -

35 **COMMISSIONER:** Sorry, can I just finish on that, Mr Smith.

**MR SMITH:** Yes.

40 **COMMISSIONER:** Just dealing with right-of-entry requests, you gave some evidence about 20 minutes ago where you said that everyone became really aware of the changing policy in 2019, and your description was "everyone in the team" and that you would all catch up and discuss what was going on after your first jobs in the morning, and it was a tight-knit group. But people were most vocal about right-of-entry requests. What did you mean by tight-knit group?

45

**MS DARGAN:** Probably as far as - I guess I'm talking about the culture of the team. Like, a lot of -

**COMMISSIONER:** Which team are you talking about?

5 **MS DARGAN:** The construction team that was in Bowen Hills and then went to  
Brendale. So it's one of the few teams that I've worked in where everybody is really  
supportive of each other. So they've got a few key people that just keep everyone  
together; they support people when they require additional training in a particular  
area. When I came on construction, I didn't come from a construction background, so  
I received a lot of mentoring from the team and - just an incredibly supportive team.

10 **COMMISSIONER:** And you said that everyone in the team became aware of this  
change of policy. How many people were in this team that was at Bowen Hills and  
then Brendale? This is the North Brisbane construction team.

15 **MS DARGAN:** North Brisbane construction team. So there was about 14 of us.

**COMMISSIONER:** And of those 14 people in this team, this tight-knit group, you  
said people were most vocal about the change of policy in relation to right-of-entry  
requests. What did you mean by that?

20 **MS DARGAN:** So it wasn't so much the right-of-entry requests themselves; it was  
the fact that we would turn up to do a right-of-entry request. Either the union person  
hadn't actually shown up yet - they may be there and already on site, so it very  
seldom involved a right-of-entry problem. Then we would be instructed to walk site  
with the union. So in there, there wouldn't be anything specific, so we would just do  
25 a general audit, walking around the site for hours and hours, following the union  
around.

**COMMISSIONER:** And the change in policy that you gave evidence about was a  
30 change of policy from allocation of jobs through the triage system to direct allocation  
by Ms Burgess, directly or through the operations managers that you report - that  
reported to her. Is that correct?

**MS DARGAN:** Correct.

35 **COMMISSIONER:** Are you trying to indicate another change in policy, that there  
was a change in policy to require site walk-arounds after right-of-entry requests were  
resolved?

40 **MS DARGAN:** I don't think you would call it a change in policy. Maybe like a  
change in practice of what was expected of us as inspectors.

**COMMISSIONER:** And why do you say a change in practice?

45 **MS DARGAN:** Because that was something that we - we never did before. Our job  
as an impartial regulator is to go on site and to gather evidence and decide whether  
there's been a contravention or not. Our job wasn't to escort the union around site for

hours on end and have arguments about whether or not something was a contravention.

5 **COMMISSIONER:** And how was that change of practice communicated to you? In writing, orally? How so?

10 **MS DARGAN:** It was more orally. It was the expectation of what we did as inspectors. So you found over time there were certain inspectors that - that conformed and would do what they were told, and other inspectors who were like, "Well, no, this isn't what we should be doing." So there sort of became two - two schools of thought on that issue.

15 **COMMISSIONER:** And are you now talking about the 14 inspectors, when you talk about the inspectors, that worked in the North Brisbane region or are you talking more generally?

20 **MS DARGAN:** I'm speaking - speaking generally from the north and the south, yes. The north and the south were a little bit different. We had Nicholas Drapes as our manager, who was incredibly supportive. The Gold Coast, for example, had Chris Mutton as their manager, and he was very much - he would do what Helen asked of him. So he was doing his job as a public servant. She was giving him directions; he was following them. But in turn, that impacted on his team a lot more than - than Nick, who had our backs on Brisbane North.

25 **MR SMITH:** Just to tidy up a couple of things that you've mentioned about that before I ask you something else, you used the term PCBU earlier. Can you explain to the Commissioner what a PCBU is?

30 **MS DARGAN:** Person conducting a business or undertaking. It's a term referred to in the Act.

**MR SMITH:** Yes. And do those persons conducting business or undertakings hold duties under the Act?

35 **MS DARGAN:** Yes, they do.

**MR SMITH:** All right. And typically, on a construction site, for example, who would be a PCBU?

40 **MS DARGAN:** A principal contractor. Subcontractors. Workers. Basically, anybody who's on the - on the site really is part of the business or undertaking.

45 **MR SMITH:** Sorry, but just in relation to workers, so do workers have duties under the Act?

**MS DARGAN:** Yes, they do.

**MR SMITH:** And do persons conducting businesses or undertakings have duties under the Act?

**MS DARGAN:** Yes, they do.

5

**MR SMITH:** And are persons conducting businesses or undertakings different or are those duties for PCBUs different to the duties for workers? Do you recall?

**MS DARGAN:** They have different duties, yes.

10

**MR SMITH:** Yes, all right. The other thing I just wanted to ask out of the questions that the Commissioner was asking is that when you were giving evidence about the allocation of CFMEU jobs, there was talk both of a change in practice and of a change in procedure. When the allocation of CFMEU jobs was being done directly by Ms Burgess and others as you described, did the event management procedure change to allow for that?

15

**MS DARGAN:** No.

**MR SMITH:** Did any other procedure, to your knowledge, change to allow for that to happen?

20

**MS DARGAN:** Not to my knowledge.

**MR SMITH:** So was that a change in practice.

25

**MS DARGAN:** It was a change in practice, a change in how we did our work.

**MR SMITH:** Yes. Now, I just want to ask you about a job in 2019 at Lomandra Court, Indooroopilly. Does that ring a bell?

30

**MS DARGAN:** Yes, it does.

**MR SMITH:** Is that a matter that you attended?

35

**MS DARGAN:** Yes, I did.

**MR SMITH:** And with whom did you attend, if anyone, that matter?

**MS DARGAN:** That was John Barber and myself.

40

**MR SMITH:** And what was the nature of the job you were doing on that day?

**MS DARGAN:** We were doing proactive work in the area, so driving around to new projects or new builds and doing inspections.

45

**MR SMITH:** And is there some reason you attended that site?

**MS DARGAN:** Yes, we observed work at height happening without controls in place.

5 **MR SMITH:** And what did you do when you observed that?

**MS DARGAN:** Pulled over, asked the guy to get off the roof, come down, have a chat, and started talking about why he was up there.

10 **MR SMITH:** All right. And whilst you were doing that, did you receive contact from anyone else?

**MS DARGAN:** Yeah, I received a phone call whilst we were talking to him.

15 **MR SMITH:** And what was said in that phone call?

**MS DARGAN:** I can't recall the exact words, but as a result of that, I was sent to a union request for assistance.

20 **MR SMITH:** All right.

**COMMISSIONER:** Sorry, just say that again. You were what?

**MS DARGAN:** I was called to a union request for assistance.

25 **COMMISSIONER:** When you say union, you mean CFMEU?

**MS DARGAN:** Correct.

30 **MR SMITH:** Do you recall what the nature of the CFMEU request for assistance was?

**MS DARGAN:** I don't recall, sorry.

35 **MR SMITH:** Do you know or do you recall whether there was any priority to that union request for assistance given to you?

**MS DARGAN:** All union requests were treated as a priority, so the expectation was I would leave and attend.

40 **COMMISSIONER:** When you say all union requests were treated as a priority, do you mean that literally or do you mean all CFMEU requests were treated as a priority?

45 **MS DARGAN:** All requests that came from the CFMEU requesting assistance were treated as a priority.

**MR SMITH:** Now, what degree of risk is there when someone's working on a roof without edge protection?

**MS DARGAN:** There is a likelihood of serious injury or death.

5

**MR SMITH:** And at the time you received that telephone call, had you finished what you had intended to do on site with that subcontractor?

**MS DARGAN:** No.

10

**MR SMITH:** Did you get - what had you intended to do with that subcontractor?

**MS DARGAN:** We'd asked him why he was up there, and the builder hadn't had the edge protection installed, and he should have by that time, and then the phone call went, and so I couldn't do what I would normally do as far as getting all the details and doing a compliance notice. So I said to him "Are you intending to get back up there?" And he said, "No, I'm going to give the builder a call and I'm going to head to another job." So it was left at that. I ensured that he wasn't intending to go up there, no further risk, and went to attend the union request for assistance.

15  
20

**MR SMITH:** So you mentioned a compliance notice. Had you not been interrupted by the phone call and had to leave, would you issued some sort of compliance notice?

**MS DARGAN:** Yes, I would have. Correct.

25

**MR SMITH:** What sort of notice would you have issued?

**MS DARGAN:** Would have probably done an improvement notice. There could have even been an infringement to the builder for failing to put controls in place before the work commenced.

30

**MR SMITH:** All right. I'll ask you tomorrow to give some evidence about the sorts of notices that you could issue, but is it ultimately the case that you left site prior to issuing those notices?

35

**MS DARGAN:** I did, yes.

**MR SMITH:** When you were telephoned to go and attend that other job, was there any discussion about the nature of the risk on the site that you were already on?

40

**MS DARGAN:** No.

**MR SMITH:** Do you recall, when you attended this other job, that is, the CFMEU -

45

**COMMISSIONER:** Just before you go to the other job, just staying on this job. Who was it that called you?

**MS DARGAN:** I can't recall, but John Carmosino was the allocator at the time, so it was likely John Carmosino.

5 **COMMISSIONER:** And you said that you'd left this job, and Mr Smith just asked you some questions, and if you had remained, I think you said you would have placed an improvement notice, maybe an infringement notice. Why couldn't Mr Barber stay when -

10 **MS DARGAN:** He was sent somewhere else. I recall this because it was the first time that I had personally been sent to another job, but the reason I recall it is because another inspector goes, "I was out on Lomandra Court and I was speaking to the guy out there and he said that you guys had already visited, but there is nothing in CISr to indicate." And then I looked back and I went, "That's right, that's that job  
15 where we turned up and had to leave straightaway." So that's why that one is stuck in my head more than others. But I can't recall exactly what date we were there, so I wasn't able to look it up in the system and find out where I went afterwards.

20 **COMMISSIONER:** Do you recall whether you talked to Mr Barber then or at some later stage about this incident?

**MS DARGAN:** Well, John Barber and I talk all the time out on jobs and in the office, but about that particular job, I don't think we spoke of it again.

25 **COMMISSIONER:** And how did this incident make you feel in terms of the way in which you were supposed to perform your job?

30 **MS DARGAN:** You feel a little bit resentful, because you're here where there's real risk, and we haven't written a notice or anything like that, but notices are a way people pay attention, and they have to comply, and the builder sees the notice and - whereas leaving to go to one of these right-of-entries, which weren't really right-of-entries, which - it was really frustrating. It didn't feel right at all.

35 **COMMISSIONER:** Sorry, I cut you off. Mr Smith, you were going to the other job.

**MR SMITH:** Just before we go to the other job, you mentioned in your evidence a moment ago CISr.

40 **MS DARGAN:** Yes.

**MR SMITH:** Can you just explain what CISr is.

45 **MS DARGAN:** It was our older system for inputting information, so it covered from when they came in through assessment services through to close-out, it was like a case management system that we were using at the time.

**MR SMITH:** Yes, and when you - just to change topic slightly for a moment - when you had to visit a particular contractor and you were - you had sufficient time to plan, would you look at past CISr entries before you would go?

5 **MS DARGAN:** Yes.

**MR SMITH:** Was it important, from your perspective, that inspectors who had attended sites make CISr entries?

10 **MS DARGAN:** Yes.

**MR SMITH:** And I think you told the Commissioner that you didn't have time to make those records and that it subsequently stood out to you?

15 **MS DARGAN:** Yeah, and I hadn't collected sufficient evidence to do anything with it. Like, if I'd just, at the end of the day, put in a couple of lines, the question would be, well, where are your photographs? Where are your information? So we hadn't had time to do any of that, so it wasn't worth putting it in the system because it would leave us open for criticism.

20 **MR SMITH:** And I'm just speaking generally here, but if you went to a job and identified something, would someone's past history in CISr, or CISr, I should say, have any impact on how you might treat an issue you had identified in the future?

25 **MS DARGAN:** Absolutely. It goes a lot towards when you're talking to, like, directors of companies, looking at issues like due diligence. You can say, "Well, look at these - this is all the jobs you've done and these are all the notices that have been issued," things like that. It's a good evidence base.

30 **MR SMITH:** Now, this job you were allocated to, the CFMEU complaint, do you recall whether that was a particularly high-risk complaint?

**MS DARGAN:** I don't recall what job I went to after. It's all a bit of a blur. They all sort of were the same.

35 **MR SMITH:** How often, when you attended CFMEU requests for assistance, were there in fact significant risks in accordance with what you've been told about those matters?

40 **MS DARGAN:** Very seldom.

**MR SMITH:** Now, this instance you're referring to, was this a one-off sort of instance where you were pulled away from a high-risk job like that?

45 **MS DARGAN:** That's the one particularly I - I recall.

**MR SMITH:** Were there others, do you think, or not?

**MS DARGAN:** I don't recall there being so, so I wouldn't like to say yes.

**MR SMITH:** All right. Did you hear about it happening to others?

5

**MS DARGAN:** Yes.

**MR SMITH:** And do you recall any specific instances of that?

10 **MS DARGAN:** Probably you will have other inspectors come in to give that evidence, but yes, it was - a lot of inspectors did experience that.

**MR SMITH:** And how would you hear about those things from other inspectors?

15 **MS DARGAN:** It would usually be during our morning-tea catch-up or if we were all in the office together.

**MR SMITH:** Did you hear about anything like that when you were an allocator?

20 **MS DARGAN:** When I was - sorry?

**MR SMITH:** When you were working as an allocator.

25 **MS DARGAN:** Yep, as an allocator, you'd ring people in the morning. They'd let you know where they were at or what they were doing for the day, and you would normally have a little bit of a chat about how their day went and what they'd got up to. So you were the kind of the epicentre of information.

30 **MR SMITH:** And would you ever have issues about risks raised with you when you sought to allocate someone to a CFMEU complaint as a matter of priority?

**MS DARGAN:** Sorry, risk?

35 **MR SMITH:** Yes. Would an inspector raise any risk issues with you on the telephone about a matter that they were on when you sought to allocate them to a different matter that was a CFMEU complaint?

**MS DARGAN:** I can't recall that happening to me, no.

40 **MR SMITH:** All right. Commissioner, I'm about to move on to another topic. Would you like me to do so? There's about four minutes left in the day, I think.

45 **COMMISSIONER:** I would normally just allow you to keep you going past 3.30, but I'm told - I've got a note to the effect that I have to have a hard finish at 3.30 today for internal administrative reasons. So if that's a convenient time, we'll adjourn till tomorrow at 10 am.

**<THE HEARING ADJOURNED AT 3.28 PM, UNTIL WEDNESDAY, 11  
MARCH 2026 AT 10.00 AM**