



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

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

**PUBLIC HEARING
BRISBANE MAGISTRATES COURT**

**WEDNESDAY, 30 APRIL 2026
AT 10.00 AM**

DAY 24

APPEARANCES

**Mr S. Wood AM KC, Commissioner
Mr E. Gisonda SC, Senior Counsel Assisting
Mr Daniel Caruana, Counsel Assisting
Mr D. O'Brien KC, Counsel for the Cross River Rail Delivery Authority
Mr D. de Jersey KC, Counsel for the State of Queensland
Ms M. Brooks, Counsel for the State of Queensland
Mr C. O'Grady, Ms F. Fox and Ms A. Hughes, Counsel for the CFMEU
Administration
Ms J. Ford Counsel for CPB Contractors Pty Ltd
Mr Vince Sanfilippo, Witness.**

THE HEARING RESUMED AT 9.59 AM

COMMISSIONER: Take appearances. Mr Gisonda, you continue to appear with Mr Caruana as counsel assisting?

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MR GISONDA: Yes, Commissioner.

COMMISSIONER: Mr Ford, you continue to appear for CPB Contractors Pty Ltd and for Mr Large?

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MR FORD: I do, Commissioner, and I also appear for Mr Graeme Silvester, Ms Nicole Watson and Mr Matthew Papworth.

COMMISSIONER: And these are the witnesses that are proposed to be called today, are they?

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MR FORD: Yes.

COMMISSIONER: All right. Thank you. Mr O'Brien, you continue to appear for the Delivery Authority?

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MR O'BRIEN: Yes, Commissioner.

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

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MR O'GRADY: Yes, Commissioner.

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

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MR DE JERSEY: Yes, Commissioner.

COMMISSIONER: And Mr Clift, you've replaced Ms Connolly?

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MR CLIFT: Only briefly. Ms Connolly is still here, and she'll take over shortly, Commissioner. I will only darken your door for a few minutes.

COMMISSIONER: Very well - for the CEPU, the ETU Queensland and the PGEU Queensland?

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MR CLIFT: Yes, Commissioner. Yes. Thank you.

COMMISSIONER: Mr - is it Mr Gisonda or Mr Ford? There was some issue yesterday, wasn't there, about a document that had been provided to counsel that I think you had an issue with, Mr Ford; is that right? The unredacted 154-page version of exhibit VS-22 to Mr Sanfilippo's statement?

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MR FORD: I just queried whether it wouldn't be good practice for the Commissioner to make an order that remain amongst the counsel with whom it was shared.

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COMMISSIONER: Have you had a chance to speak to Mr Gisonda about it?

MR FORD: I have not.

10 **COMMISSIONER:** Why don't you have a chance to speak to him over the morning break and then see where that goes.

MR FORD: Yes. Thank you, Commissioner.

15 **COMMISSIONER:** Thank you.

MR CLIFT: Commissioner, the purposes of my being here this morning is to speak to that document too.

20 **COMMISSIONER:** Yes.

MR CLIFT: I'd like a copy. I understand that's opposed by Mr Ford. I'd like a copy because our clients, the CEPU and so on, are interested in the BPP/BPIC issue, and if we are to make submissions to the Commission - and we haven't
25 decided whether or not we'll do that yet - we'd like to see the unredacted version so we can do so fulsomely and assist the Commission as best we can.

COMMISSIONER: I just wonder whether you need the full version, but perhaps you can - I haven't -

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MR CLIFT: I don't know, because I haven't seen it, of course.

COMMISSIONER: No, exactly. We're in the same position. Perhaps you could
35 speak to Mr Gisonda about that also at the morning break. I don't know where the impetus for not providing the full - there's no criticism of this; I just don't know whose claim is being pressed which resulted in the extract of the document in a redacted form being the one that was tendered. It might be coming from Mr Gisonda. It might be coming from Mr O'Brien, Mr de Jersey or Mr Ford. I just don't know.

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MR CLIFT: I don't know the answer to that either, Commissioner. Can I say - and I don't want to verbal my learned friends - the only person I understand to have a problem with my having it and Ms Connolly having it is Mr Ford.

45 **COMMISSIONER:** Okay. Well, perhaps you have a chat to Mr Ford about it and see if you can resolve it, otherwise I'll just have to rule on it.

MR CLIFT: Thank you, Commissioner.

COMMISSIONER: Thank you.

5 **MR GISONDA:** Thank you, Commissioner. We'll endeavour to resolve that issue as quickly as possible so that any party that has a legitimate interest in that document indeed has a copy of it.

10 Today, we will call three, possibly four witnesses. The order will be Mr Large first. Mr Caruana will lead the evidence from Mr Large. Mr Large will give evidence about two main topics. He was also involved in some of the negotiations leading up to the - in the context - the negotiations for the enterprise agreements. And then Mr Large also had some involvement in the safety reset process. So they are the two broad categories that his evidence covers.

15 The next witness, no earlier than the morning break, will be Ms Watson, who was a member of the HR team working on the Cross River Rail project. And then after lunch it will certainly be Mr Graeme Silvester, and Mr Caruana will also take his evidence, and we may also hear from Mr Papworth as well. And there's also the possibility either, in addition to that or instead of Mr Papworth's evidence, of us
20 playing a video for you, Commissioner, involving attendance on the site by Workplace Health and Safety Queensland.

25 Before I hand over to Mr Caruana, can I just say some things about the safety reset process and in particular the demand by the BTG, or more specifically the CFMEU, that full-time health and safety representatives be employed directly by CPB on the site. And when that demand was developed over the course of a couple of weeks, the evidence appears to show that these representatives were being put forward by Mr Ingham himself, and you heard from Mr Johnson last
30 time that he was in direct communications with Mr Ingham about these 14 - ended up being 14 health and safety representatives, and the evidence showed that it was the CFMEU that was dictating to which site those 13 men and one woman would be stationed.

35 **COMMISSIONER:** Through Mr Ingham or someone else?

MR GISONDA: Through Mr Ingham, it appears. Now, whether Mr Ingham was taking advice from someone else, I don't know, but the CVs that were being sent through from Mr Ingham were sent through under cover of emails that referred to
40 the sites where these people were going to be stationed. And you heard from Mr Sanfilippo the day before yesterday that one contextual matter that's worth bearing in mind was that he said CPB at that point had little friends, to use his words, by which he meant there appeared to be little external persons or authorities to which CPB could turn to to try and end the impasse on site.

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COMMISSIONER: He said the gates were locked, he couldn't get the police to help, WHSQ were no assistance, the Delivery Authority and the government

properly were - I think he said "properly" - were pressing him to get on with the job and the federal ABCC had been abolished. He might have said some other things, but -

5 **MR GISONDA:** No, that's the essence of it. Now, of course, WHSQ were there, but they were busy looking into the scaffolding incident. We have heard some evidence from Mr Sanfilippo and earlier Mr Graeme Newton about the impacts, some of the impacts, that having these health and safety reps on site from about the end of August 2023 onwards had on the project and in particular the
10 disruption.

COMMISSIONER: Who was that, about the impacts?

15 **MR GISONDA:** Both Mr Sanfilippo and Mr Newton. The disruptive impacts that these health and safety reps had on the project. And as I said a moment ago, Mr Large was involved to some extent in this process as well of onboarding these employees, and you may hear some evidence from him about that, led by Mr Caruana. Can I just by way of further brief opening say a few additional things about some of these people.

20 **COMMISSIONER:** You were going to tender a bundle yesterday, I think, or you handed up a bundle.

25 **MR GISONDA:** Yes. That's been withdrawn, and you should have a replacement bundle -

COMMISSIONER: Right.

30 **MR GISONDA:** - this morning, which has been sent to the parties this morning.

COMMISSIONER: Which is -

MR GISONDA: It's called -

35 **COMMISSIONER:** 49 pages, starting at page 2?

MR GISONDA: It's 49 pages, yes, and it's called Cross River Rail Case Study Bundle 4.

40 **COMMISSIONER:** Yes, I've got that.

MR GISONDA: Perhaps if we could bring that up on the screen, please.

45 **COMMISSIONER:** My copy starts at page 2. Is that right? Maybe that cover page is page 1?

MR GISONDA: Yes, it is.

COMMISSIONER: I see. Sorry.

MR GISONDA: And so if we go to page 2 -

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COMMISSIONER: Yes.

MR GISONDA: No, that's the wrong bundle. Sorry, there was a replacement bundle that was hopefully sent through this morning. While we're doing that, Commissioner, as I said -

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COMMISSIONER: Has everyone at the bar table been given a copy of this replacement bundle?

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MR GISONDA: They should have this morning, yes.

COMMISSIONER: Does anyone not have it?

MR DE JERSEY: I don't appear to have it, but I'm just checking the Kiteworks link to see if it's been added there, Commissioner.

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COMMISSIONER: Very well. If you haven't been given it, just perhaps mention it to Mr Moy, who's a couple of seats away from you, Mr de Jersey.

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MR DE JERSEY: Thank you.

MR GISONDA: And one document has been taken out of the bundle that was sent out yesterday, and one document has been inserted. That's the difference between the two versions. But in relation to those persons who were directly employed by CPB as a result of the safety reset to expressly perform the role of health and safety representative across all the main sites of this project -

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COMMISSIONER: Is that 13 men and one woman?

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MR GISONDA: Yes. One of those delegates - sorry, one of those representatives was Mr Trent Broadhurst.

COMMISSIONER: You led evidence about him - the weeks are sort of merging into one - last week?

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MR GISONDA: Yes, last week. You heard evidence from the Rosenlunds, father and son, but in particular the son, about Mr Broadhurst being imposed on them to perform the role of delegate at the Toombul Shopping Centre site.

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COMMISSIONER: I can't remember whether Mr Broadhurst was a boxer or a kickboxer.

MR GISONDA: He was a boxer.

COMMISSIONER: Boxer.

5 **MR GISONDA:** Remember, he was the - one of the attractions in the 2012 BLF Fight Night event.

COMMISSIONER: That's right. He was the BLF's professional.

10 **MR GISONDA:** Yes. And he started on the Toombul site, I think, about 21 March or thereabouts, 2024.

COMMISSIONER: Yes.

15 **MR GISONDA:** Before then, he was on the Cross River Rail site, courtesy of Mr Ingham, following the safety reset.

COMMISSIONER: So he was on the Cross River Rail site for, what, nine months or so? So about -

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MR GISONDA: About six months.

COMMISSIONER: Six months. When was the reset again?

25 **MR GISONDA:** Seven months. No, no, I'm probably right. About six and a half months.

COMMISSIONER: Six and a half months.

30 **MR GISONDA:** They started around the beginning of September, all of them, so that's four months to the end of the year, and he was gone from Cross River Rail by no later than 15 or 16 March.

35 **COMMISSIONER:** Was there some evidence from - I've forgotten the son's first name - Mr Rosenlund - that he complained about Mr Broadhurst but there was some comment from Mr Eben Cox that "Jade is looking to put him somewhere else" or something like that? That was "that's why we can't move him from Rosenlund's site"?

40 **MR GISONDA:** No, I believe the evidence was it was originally said by Mr Cox that Mr Broadhurst would only be there for a couple of months.

COMMISSIONER: That's right.

45 **MR GISONDA:** And he would, after a couple of months, ask, "Well, when he's leaving?" And the evidence was that the comment back was that Jade, that being Mr Ingham, wanted him to say.

COMMISSIONER: Oh, I see.

5 **MR GISONDA:** I said last week, in relation to Mr Broadhurst, that there is one feature of his background, one feature of him that is particularly troubling. You will hear that today, through the evidence of Mr Large, and when you hear that evidence, Commissioner, I want you to bear in mind what the Rosenlunds said about the particularly dangerous nature of demolition work. I think we have now the replacement bundle ready to be shown on the screen.

10

COMMISSIONER: So he was one of the 14. Are you going to tell me about any of the others or -

MR GISONDA: I'm going to tell you about some of the others.

15

COMMISSIONER: Yes.

MR GISONDA: The next one that I will tell you about is Mr Atutolu. You heard some evidence about him yesterday from Mr O'Brien. You asked, Commissioner, whether he was one of the union officials who had appeared in a video that was led through Ms Schinnerl or Ms King. He was not someone who was in those videos.

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COMMISSIONER: Oh, he was not. Right.

25

MR GISONDA: At page 2 of this bundle, and then at page 3 - perhaps if you look at that picture on page 3, because that will trigger your memory, Commissioner - there was evidence about that incident with the two AWU officials that Mr O'Brien gave evidence about, and he gave evidence that the group of men who were outside the site at that time were - had Youth Crew paraphernalia on, and there was evidence about Mr Atutolu's involvement in that incident. Remembering, Commissioner, that Mr Atutolu was already on the site before the safety reset as an employee of Heinrich. And then at page 4 -

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COMMISSIONER: Just going - just go back to page 2, paras 147 to at least maybe 154, but at least one part of 153. It seems, given the evidence of Mr O'Brien yesterday, that at least one of the sources for Mr Watson was Mr O'Brien. Anyway, it seems to be whoever has told Mr Watson this is telling us a - giving their version, which is similar to what we've heard directly from Mr O'Brien.

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MR GISONDA: Yes.

COMMISSIONER: And then - but the next bit, from 155 onwards, which includes this photo of the shopping centre, that's not something that came from Mr O'Brien, it seems, because Mr O'Brien said he remained at the site?

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MR GISONDA: Correct, yes. And I'm not sure whether it can be - I wouldn't go so far as to say that Mr O'Brien must have been that source. We don't know who the source is.

5 **COMMISSIONER:** Mmm.

MR GISONDA: But you're quite right, Commissioner, that the -

COMMISSIONER: May have been that source.

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MR GISONDA: Yeah, may have been. But you're quite right that the evidence is consistent. And at page 4 of the bundle - this is now paragraphs 172 to 174 of Mr Watson's report - he gives a report of another incident earlier that year, on 28 February 2023, whereby two AWU organisers were conducting a scheduled
15 meeting in the smoko shed, and Mr Atutolu entered the shed, disrupted the meeting, aggressively shouted abuse to the officials from the AWU, and then said to one of them, "Do you want to step outside with me?" which Mr Watson said was obviously a threat of violence.

20 **COMMISSIONER:** That didn't - I don't remember Mr O'Brien saying something like that.

MR GISONDA: No, he did not give evidence about that. And, today, you'll hear from Ms Watson evidence about yet a further event involving Mr Atutolu. At
25 page -

COMMISSIONER: But Mr O'Brien did seem to give evidence about Mr Atutolu additional to that which is contained in these extracts of Mr Watson's report.

30 **MR GISONDA:** Yes. Mr Atutolu, at page 11 of this bundle, in 2015 was accused of king-hitting another man during a late-night fight in Brisbane whilst he was on probation for a similar offence the previous month. He was, subsequent to that, arrested and charged with grievous bodily harm after allegedly knocking a man unconscious. He did do that. He did knock the man out. And at page 9, his
35 defence two years later at trial was that he was acting in self-defence. He said - there's a quote there about a third of the way down the page - that:

40 "I'm not a troublemaker, but these guys think they've got bigger chests, they can rule. He can't walk around in a club acting like you own the shit. Once in a while there are going to be boys who can handle themselves. We are them boys."

Mr Atutolu was acquitted of that charge.

45 **COMMISSIONER:** Because why? The jury, it's inferred, found that he acted in self-defence?

MR GISONDA: Presumably that's right.

COMMISSIONER: I guess we don't really know why the jury acquitted him, but that was his defence.

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MR GISONDA: Sorry, I didn't hear that, Commissioner.

COMMISSIONER: I presume we don't know why the jury acquitted him. That was his defence, and he was acquitted.

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MR GISONDA: Yes. Yes. Commissioner, a number of delegates - sorry, a number of these people who were put onto the site have been found guilty of criminal offences at some stage of their adult lives. That's -

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COMMISSIONER: That's beyond Mr Broadhurst and Mr Atutolu?

MR GISONDA: I didn't say that Mr Broadhurst had.

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COMMISSIONER: Oh, I'm sorry. When you said something was coming up in the evidence, I rather jumped ahead.

MR GISONDA: And I didn't say that Mr Atutolu had.

25

COMMISSIONER: Right.

MR GISONDA: All I said about Mr Atutolu was that he was on probation at the time for a similar offence. He was then charged with another offence and he was acquitted.

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COMMISSIONER: So what happened to the first offence that he was on probation for?

MR GISONDA: Can I not answer that question at the moment?

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COMMISSIONER: You may.

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MR GISONDA: Very grateful. What I can disclose is - and before I go into that, it's - and the unions say this themselves; I've certainly seen reports of Mr Setka saying it - which is that the building and construction industry provides an important way for those who are found guilty of criminal offences or those who are even convicted of criminal offences, even those who go to prison, to have an opportunity to reintegrate into society, obtain gainful employment and reform themselves.

45

COMMISSIONER: Well, particularly those that don't have any trade skills. The labouring positions on a building site are a perfectly legitimate pathway for that rehabilitation.

MR GISONDA: Yes. And it would be most unfortunate if that pathway to gainful employment was removed, in my submission.

5 **COMMISSIONER:** But there's a difference between being a labourer and being the union-appointed health and safety representative.

MR GISONDA: There is a difference between being a labourer and being a health and safety representative or a delegate. There is a difference between being
10 a health and safety representative and a delegate who is voted up in the usual way and one who is installed on the site by the union. And there is a difference between those who have been found guilty of a criminal offence at some point and those who have been convicted of those offences.

15 And so two of those health and safety reps who were installed on the sites have convictions recorded against their names. The first is at page 42 of the bundle. That is Mr McSweeney. And the second is at page 46 of the bundle, and that is Mr Crow. And I won't say more about those records other than to say the first can be characterised as a record that comprises drug offences and offences of violence,
20 and the second gentleman has offences of dishonesty. There is then a question about what does their conduct once they were on site reveal about their suitability to take on these roles? And that will be a focus of some of the evidence you'll hear today. And you heard a bit of it from Mr O'Brien yesterday, particularly in relation to Mr Korostovetz and, to a lesser extent, Mr McKean.

25 At page 12, Commissioner, of the bundle, there's an aid for you that tells you the situation in relation to nine of them, and you've already heard evidence about Mr Korostovetz, who's on page 13. He was terminated. You've heard some evidence about Mr McKean on page 14. He received a warning. You will hear from Ms
30 Watson today evidence about what happened to Mr Atutolu and Mr Broadhurst, and then from other witnesses, especially Mr Papworth, the other remaining HSRs in this aid. But can I say something about the two on page 16.

COMMISSIONER: I've got trades listed: concrete operations. What's the trade
35 of concrete operations? Is that a labourer involved with concreting or is that a trade?

MR GISONDA: I wouldn't read too much into the word "trade". That's just to describe what their - describe the work that they have typically done. So whether
40 a concreter is more accurately described as a labourer or a trade, I suppose it depends what they're doing with the concrete.

COMMISSIONER: Sorry, you said page 16.

45 **MR GISONDA:** Page 16. Ms Hanson and Mr Maguire, they resigned from the - from CPB within a week of each other, in August of 2024.

COMMISSIONER: When was the administrator appointed?

5 **MR GISONDA:** Late August 2024. What you should keep in mind by way of chronology, Commissioner, is that those resignations occurred, in relation to Mr Maguire, six days after the RIS EBA was voted up, and Ms Hanson 11 days after, and both of them were on RIS sites. Now, they resigned on claiming, both of them, that they could not stomach the poor safety record of CPB any longer.

10 **COMMISSIONER:** Well, we heard the evidence yesterday - and there was no cross-examination on it - that the record was at least - around twice as good as industry average.

MR GISONDA: On one measure.

15 **COMMISSIONER:** On one measure. On one measure.

MR GISONDA: Mr Maguire was the man who, at page 5 - it's a Courier-Mail article from May 16 2023, and you've heard evidence about this incident already from Mr Watson. And perhaps if you go over to page 7, Commissioner, that photo will remind you - remember the smashed door incident at Eagle Street, where the CFMEU protest stormed that building?

25 **COMMISSIONER:** Mr Ingham said - I think it was Mr Ingham said it was foreign-made glass and had a crack in it, that sort of thing.

MR GISONDA: Yes. Mr Maguire was one of three who were charged with wilful damage in relation to that incident. So this is about six months before he's put on the Cross River Rail site. But that charge was ultimately withdrawn.

30 **COMMISSIONER:** Is that a charge that's prosecuted at the police level or the level of the public prosecutor?

MR GISONDA: I understand it's at the police level.

35 **COMMISSIONER:** And do you know why the charge was dropped?

40 **MR GISONDA:** I don't have enough particularity around the reasons for that. I know the headline point, but I don't think that will assist you. Do you remember last week, Commissioner, towards the end of the Rosenlund case study, I made some submissions about the historical role of shop stewards?

COMMISSIONER: Yes.

45 **MR GISONDA:** And one of those roles was as a manifestation of the strong link that shop stewards have with the workforce, was this idea that they would have a legitimate role to play in the political process.

COMMISSIONER: Yes. I think you referred to - I can't remember whether it was - forgive me if I get his name wrong - Professor Foenander. Or the Royal Commission in the sixties in the UK. I can't remember which one.

5 **MR GISONDA:** The former.

COMMISSIONER: The former.

10 **MR GISONDA:** The former. And I can't remember now whether I referenced this point, but it was in the early 1960s that there was a resolution from Melbourne Trades Hall in advance of the - I believe it was the 1962 federal election - that shop stewards would be charged with going out into the workforce and explaining to workers the importance of a vote against Menzies.

15 **COMMISSIONER:** But that's quite explicable, isn't it, regarding the history of the industrial and political wings of the labour movement? They were intertwined historically. And is that terribly surprising that the industrial wing of the labour movement would devote some of its resources to assist the political wing?

20 **MR GISONDA:** It's not surprising. It's to be expected. It's consistent, it would appear, that - at least, beginning in the 1960s, consistent with practice. It could be, you would expect that on most occasions it would be for the Labor Party, but it might be for someone else if the union thought that a rival candidate had a better platform for the union.

25 **COMMISSIONER:** Mmm.

30 **MR GISONDA:** And I think we saw - it was reported in the press, either earlier this year or late last year - that Mr Ravbar had donated to a candidate who was a former member of the ALP, not a current senator for the ALP. That might be seen as supporting someone who's against the ALP's interests or perhaps, whilst being in a different party, for example, they sit on the crossbench, consistent with general support for the Labor Party. At page 17 of the bundle -

35 **COMMISSIONER:** I mean, that was the sea change in British politics, wasn't it, in the 1906 election where the trade union movement decided that they weren't getting what they needed through industrial means and they needed a political influence, and they were very successful.

40 **MR GISONDA:** Yes.

COMMISSIONER: I think it was 1906 or 1904. I think it was the 1906 election.

45 **MR GISONDA:** I'm agreeing with the point, but I couldn't stand here and tell you that that was the exact year. But certainly that's the point.

COMMISSIONER: And we've lived for 120 years under that regime.

MR GISONDA: Yes.

5 **COMMISSIONER:** The labour movement, through its industrial wing, tries to achieve things in the political sphere. Mr Watson gave evidence about the success of his mentor, Mr McDonald, during the Accord years in the eighties.

MR GISONDA: Yes.

10

COMMISSIONER: And this is very - this is very common.

MR GISONDA: So none of this is said by way of criticism; it's said by way of explanation. And at page 17 of the bundle is a list of members of the - what's described as the CFMEU Construction and General Branch of the ALP.

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COMMISSIONER: So there's a branch of the ALP that is devoted to the CFMEU?

20 **MR GISONDA:** It's called the CFMEU Construction and General Branch.

COMMISSIONER: Right.

MR GISONDA: And you'll see on the right-hand side that there's a join date for some of these members, nearly all of the members, who appeared to join up in the latter half of - or around the middle, towards the end of 2022.

25

COMMISSIONER: So are these the 14 health and safety representatives on the left?

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MR GISONDA: Two of them are on this list. So about two-thirds down, you see Mark McKean, and third from the bottom, Sean Korostovetz.

COMMISSIONER: Have I got the right page?

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MR GISONDA: 17.

COMMISSIONER: 17. Sorry, I'm on 18. Sorry.

40 **MR GISONDA:** Highlighted in yellow there on the screen.

COMMISSIONER: Yes.

MR GISONDA: And then at page 18 is the Bowen Hills branch. Again, join dates at around the same time, and you'll see the first entry Steve Amies; almost in the middle, if not the middle, Richard Atutolu; and second from the bottom, Corey Taylor.

45

COMMISSIONER: And those are five of the 14, are they?

5 **MR GISONDA:** Yes, that's right. And you'll see some other names there as well that will look familiar, but it's really those five that I want to draw your attention to today.

COMMISSIONER: And the CFMEU office is in Bowen Hills?

10 **MR GISONDA:** Yes.

COMMISSIONER: But the Bowen Hills branch is different to the CFMEU Construction and General Branch?

15 **MR GISONDA:** It appears that way. And then at page 19 is a document that looks at polling booth rosters for the - I can tell you, Commissioner - for the 2019 federal election, and if you go to page 21 -

20 **COMMISSIONER:** Where did these documents come from, the one you just showed me and these ones?

MR GISONDA: Those two documents and this document and the next two documents are in a folder of documents that were stored by the CFMEU in Queensland.

25 **COMMISSIONER:** Sorry, I interrupted you. Sorry. Where are we? Page -

MR GISONDA: Page 21. You'll see Mr Atutolu's name there.

30 **COMMISSIONER:** Yes.

MR GISONDA: And at page 25, Mr McKean. Do you see that, Commissioner, at the top? He's the booth captain, and he's rostered on.

35 **COMMISSIONER:** Yes.

MR GISONDA: And then at page 26 - the phone number is redacted, but I can tell you through that phone number that that should read Sean Korostovetz, not "Shane" Korostovetz. So that's Mr Korostovetz. And then, at page 35 -

40 **COMMISSIONER:** Page 31, Mr Ravbar is the booth captain. Anyway, 35.

MR GISONDA: Yes. It's no surprise that he's doing that. He was for many years a member of the federal executive of the ALP.

45 **COMMISSIONER:** Sorry, 35?

MR GISONDA: Page 35 is a spreadsheet that's setting out some jobs to be undertaken by organisers in relation to - this is the 2022 federal election.

COMMISSIONER: Federal election?

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MR GISONDA: Yes.

COMMISSIONER: And what about the one you just showed me, the one with the red marking which was -

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MR GISONDA: That was 2019.

COMMISSIONER: Federal election?

15 **MR GISONDA:** Yes. Page 35 to page 37, each of Mr Atutolu, who at this stage you'll see is a delegate on Cross River Rail for Heinrich.

COMMISSIONER: So he hadn't transferred to CPB yet?

20 **MR GISONDA:** Correct. But you see in that last column an estimate that he has access to about 100 to 120 workers. Mr McKean, who's about a third of the way down, he's working for Fitzgerald at that point. He's got access to about 20.

25 **COMMISSIONER:** Where's he working? What does that say? NB Bridge/Yard. What's that mean?

MR GISONDA: I'll have to get back to you on that, Commissioner. And then on page 37, Mr Amies, who's with Mirvac on the Skyring project, access to 40 workers.

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COMMISSIONER: Sorry, I'm showing my ignorance. What's the Skyring project?

35 **MR GISONDA:** I did see what it was last week. I'll have that to you over the break, Commissioner. And then at page 40, what appears to be organised is that in one or two weeks before the federal election, what appears to be happening is that - look at page 41. This might be a better example. You see the top entry:

"Pre-start: Richie Atutolu."

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COMMISSIONER: Yes.

MR GISONDA: And you heard evidence yesterday from Mr O'Brien about the Richie Atutolu-led pre-start meetings.

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COMMISSIONER: Yes.

MR GISONDA:

"Combined Gabba/Boggo Road job."

5 It appears that what's going to happen is he's going to call a pre-start meeting on 11 May 2022 at which Mr Ravbar will be in attendance. You see that last entry?

COMMISSIONER: Yes.

10 **MR GISONDA:** And to similar effect, at lunchtime on that day, Mr McKean will organise a meeting for Mr Ravbar to attend. And back at page 40, the pre-start meeting, Mr Amies will have a pre-start meeting at Skyring where Royce Kupsch will attend.

15 **COMMISSIONER:** Yes.

MR GISONDA: And, presumably, what happens in those meetings is that there is some request for assistance or some exercise in advocacy as to how the workers' votes should be exercised. And, provided improper pressure is not put upon the
20 workers, that's, as I said, a historical, understandable and unsurprising feature of some of the work that the delegates do. And what you've seen there is that at least three - Mr Amies, Mr Atutolu and Mr Korostovetz - sorry, Mr McKean, Mr Korostovetz and Mr Atutolu - appeared to be particularly active on the political front. They then end up as HSRs on the site, and to a lesser extent Mr Taylor and
25 Mr Amies. But whilst they appeared to join a political party, maybe they were new to it because these documents concern elections before their join date of that branch.

COMMISSIONER: When was the federal election?

30

MR GISONDA: 2022. May 2022.

COMMISSIONER: Which date, sorry? Because this is 10 May and 11 May.

35 **MR GISONDA:** It was, I believe, around 25 May, but I'll confirm that for you.

COMMISSIONER: I mean, provided Mr Atutolu is a - who was he employed by then? Heinrich?

40 **MR GISONDA:** Yes.

COMMISSIONER: And provided he was elected as whatever he was, a delegate or an HSR rep at that point - presumably a delegate, not an HSR rep - and provided there was something in the industrial instruments that applied that said
45 you could have a meeting with union members at the pre-start, then he was entitled to do that, and provided Mr Ravbar entered in accordance with the rules, whatever they might be - you know, all the safety stuff you need to wear and the

induction - I mean, it's pretty - it'd be pretty orthodox for - assuming this meeting was outside the site - for Mr Ravbar to say, "Look, I've been trying to get a jump-up clause for all the subcontractors so all the workers get the same" - I'm picking up Mr O'Grady's cross-examination of yesterday - "and Mr Albanese is offering a same job, same pay program, which will give us politically what I've been campaigning for. You should go and vote - vote for the Labor Party and this policy. It's going to help all the workers on site."

MR GISONDA: And nothing you've said, Commissioner, would I disagree with. What is important, in my submission, is that if there is either a union-drafted - let's call it a code of conduct, what was in previous times called the stewards handbook - whether that be a union-drafted code of conduct or an externally imposed code of conduct, the question is whether engaging in political activities is expressly spelt out as a legitimate activity for delegates, and it would be hard to argue against that. But if that is an expressly allowed-for activity, should there be any rules or parameters about how that is undertaken? Are there any rules and parameters about ensuring that freedom of political expression of the workers is maintained? The answer to that might be yes; it might be no.

But another important point is can we be confident that the role of delegate and role of HSR is not being conflated in this sense? Are those who appointed as HSRs, however they are coming to that role, whether they be elected or imposed, are they performing legitimate health and safety functions or are they adopting or entering into the domain of what you might expect of delegates?

COMMISSIONER: Well, I think I can anticipate what your submission will be, on the evidence we've received so far on that point.

MR GISONDA: Well, when these HSRs were put onto site, beginning very late August '23, so those that were still there towards the end of 2024, they would have been there during a state election, but they were also there at the same time that the CFMEU was engaged in protected industrial action. And those votes - sorry, the state election coincided with about the time that both of the EBAs were being put to votes of the workforce. So whether those HSRs were engaged in political activity of the kind that we've gone through here remains to be seen. Maybe they were; maybe they weren't. But they were certainly present at a time when there was a sustained industrial campaign by the CFMEU in furtherance of its objective of securing an EBA with CPB on terms and conditions that were acceptable to the union.

COMMISSIONER: Whatever they were put there for, the inference from the evidence received to date, I imagine you will say - and subject to all the cross-examination and further evidence - is it doesn't seem like they were put there to be HSR reps, health and safety reps.

MR GISONDA: Or, if they were, the inference is that some of them certainly weren't suitable to take on that role.

COMMISSIONER: Mmm.

5 **MR GISONDA:** There's another thing as well, which is the idea - and Mr
Rosenlund Senior gave some evidence about this, and I took you through some of
the material from the old English royal commissions. This is - the royal
commissions were talking about stewards. Mr Rosenlund was probably talking
10 more about health and safety reps, but the importance of having people in those
roles who have familiarity with the project and the site and the people and the
issues, it's hard to see how some of these people could have that skill when they
were being imposed upon the project from scratch when there were already
workers there on the site.

15 **COMMISSIONER:** Well, Mr Rosenlund gave a quintessential example of the
problem, didn't he? He talked about a Mr Muller who started with him at age 16,
was 50, was well liked by the workforce, and Mr Broadhurst was imposed by Mr
Cox at Mr Ingham's - this is what the evidence is at the moment; it might change,
we haven't received all the evidence - because Mr Ingham needed to find a job for
20 him, and, in effect, Mr Broadhurst pushed Mr Muller out.

MR GISONDA: Yes. Commissioner, can I tender that bundle. I've taken you
through all the documents.

25 **COMMISSIONER:** Any objections?

MR DE JERSEY: No objection.

30 **MR O'GRADY:** We haven't been provided with these documents. It would
appear that from what Mr Gisonda said, it came from a CFMEU folder. I would
simply ask that we get an opportunity to have a look at the folder so we can assess
it.

35 **COMMISSIONER:** Why don't we deal with it after the morning break, Mr
Gisonda. Do you have any objection, Mr de Jersey?

MR DE JERSEY: No objection.

COMMISSIONER: You don't have any, Mr O'Brien?

40 **MR O'BRIEN:** No.

COMMISSIONER: Mr Ford?

45 **MR FORD:** No.

COMMISSIONER: You have a conversation with Mr Gisonda over the break, Mr O'Grady, and then if there's any issue, we'll deal with it after the morning break.

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

MR GISONDA: If I could hand over to Mr Caruana, Commissioner.

10 **COMMISSIONER:** Mr Caruana, you've been sitting there patiently for a couple of days.

MR CARUANA: Yes. Mr Gisonda told me he would open for 15 minutes, Commissioner. So (indistinct). So if I could call Andrew Large, Commissioner.

15 **COMMISSIONER:** Is Mr Large in the hearing room? Mr Large, would you be able to come forward into the witness box?

<ANDREW WILLIAM LARGE, AFFIRMED

20 **<EXAMINATION BY MR CARUANA**

COMMISSIONER: Please take a seat, Mr Large. Mr Caruana.

25 **MR CARUANA:** Thank you, Commissioner. Mr Large, can you tell me your full name, please?

MR LARGE: Andrew William Large.

30 **MR CARUANA:** And what's your current occupation?

MR LARGE: I'm a project director for CPB.

MR CARUANA: Now, you signed a statement on 23 April 2026 pursuant to a notice signed by the Commissioner?

35 **MR LARGE:** That's correct.

MR CARUANA: A statement of 12 pages, comprising annexures AL-1 to AL-27 in a bundle?

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

MR CARUANA: And that bundle runs some 148 pages?

45 **MR LARGE:** That's correct.

MR CARUANA: Have you had an opportunity to review that statement recently?

MR LARGE: Yes.

5

MR CARUANA: And is everything in there true and correct?

MR LARGE: Yes.

10 **MR CARUANA:** I tender that, please, Commissioner.

COMMISSIONER: Any objections? No? What do you want to mark this as, Mr Caruana?

15 **MR CARUANA:** I forgot Mr Large's middle name already. What's your middle name again, sorry, Mr Large?

MR LARGE: William.

20 **MR CARUANA:** AWL-1, Commissioner.

COMMISSIONER: The witness statement of Andrew William Large dated 23 April 2026, more fully described by Mr Caruana just now, will be exhibit AWL-1.

25 **<EXHIBIT AWL-1 WITNESS STATEMENT OF ANDREW WILLIAM LARGE DATED 23 APRIL 2026, 12 PAGES, COMPRISING ANNEXURES AL-1 TO AL-27 IN A 148-PAGE BUNDLE**

30 **MR CARUANA:** Thank you, Commissioner. Mr Large, you told us you are currently a project director with CPB; is that right?

MR LARGE: That's correct.

35 **MR CARUANA:** I understand until quite recently you were the assigned project director on at least one site of the Cross River Rail project; is that right?

MR LARGE: Yes, I was the project director for the CBG joint venture from the commencement of the Cross River Rail project for the TSD/PPP component, and I held that role until the end of 2025.

40

MR CARUANA: And TSD is tunnel station development?

MR LARGE: That's correct.

45 **MR CARUANA:** And does what it says on the box: it covers the tunnelling side of the works?

MR LARGE: It - it covers the tunnel and each of the four underground railway stations that facilitate, obviously, the access to the tunnel.

5 **MR CARUANA:** Thank you. How has your role - just noting they're both called "project director", how has your role changed between late 2025 when you were on the TSD project and what you now do?

10 **MR LARGE:** So I'm still actively engaged on the Cross River Rail TSD project full time. I'm no longer the nominated project director representative, but I report directly to the joint venture board, and I assist the joint venture board on requirements to assist in continuing to deliver the project.

MR CARUANA: I understand. How long have you worked with CPB?

15 **MR LARGE:** Worked for CPB for just on 33 years.

MR CARUANA: And before you started working on Cross River Rail, what are some other projects you worked on?

20 **MR LARGE:** So for CPB, prior to Cross River, I was the project director on the Logan Enhancement Project, which was a redevelopment of the Logan Motorway for Transurban. Prior to that, I was the project director of the Moreton Bay Rail Project, which was a construction of a new rail spur from Petrie to Kippa-Ring. And prior to that, I was a construction director on the Airport Link project.

25 **MR CARUANA:** Thank you. Now, I might have brought up on the screen, if I can, paragraph 9 of page 1 of your statement. I'm interested in your roles and responsibilities as the project director for TSD. We can see paragraph 9 there. Can you talk me through, in a practical sense, on the ground, what do those
30 responsibilities mean?

MR LARGE: So just to give some context of the TSD project, as the project director, probably at the height of the job, there would've been around 690 staff directly reporting ultimately through different roles up to my level. I would have
35 probably up to 10 direct reports. My role was to report to the joint venture board, so although I was employed by CPB as an employee I was basically seconded to the joint venture and my reporting line and obligations and responsibilities were to the joint venture board. They're broken up probably into three categories as noted. The first and obviously paramount one was to ensure that during the delivery of all
40 works on the project, that I was able to ensure that the project was being managed in accordance with the CPB safety management system.

45 And the purpose of that is that CPB were the principal contractor, because the joint venture was an unincorporated joint venture, so it was important that I ensured, through appropriate governance and requirements and allocation of responsibilities to people within the project team, to demonstrate that those safety systems were being appropriately administered. There were checks and balances

done progressively through the - whether it be day-to-day or week-to-week or end-of-month type reviews to ensure that we were maintaining the integrity of that system, ultimately to the point of ensuring that everyone on the site was safe.

5 **MR CARUANA:** And you consider that your paramount responsibility in that role?

MR LARGE: Most definitely, and it's a standard protocol and expectation of people within the CPB organisation that safety is fundamental to everything that we do.

MR CARUANA: I understand. And you list there, as the other two responsibilities, ensuring the project's on time and on budget.

15 **MR LARGE:** Yes. So a PPP project obviously of this size has significant financial ramifications if it doesn't achieve completion by a certain date, so the delivery of the job linked to a particular timeline was paramount, and obviously maintaining the budget was critical for the commercial outcome of the project.

20 **MR CARUANA:** I understand. And finally, of course, ensuring the quality delivery of the project.

MR LARGE: Yes. So again we had an obligation to ensure that what we were being contracted to deliver, that the product was to the required specifications and ultimately value for money for the ultimate client: the State of Queensland.

MR CARUANA: Thank you. I want to ask you a bit about your involvement in the tender for the project. I understand you said earlier you were working on the project from the beginning, basically?

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

MR CARUANA: And as I understand it, your role was the bid manager initially for the TSD site; is that right?

35 **MR LARGE:** Correct.

MR CARUANA: What does it mean to be the bid manager?

40 **MR LARGE:** So during these projects, obviously there's a process to whittle down to a select number of companies to venture into the tendering process. The tender process for TSD, I recall, was around, I think, 26 weeks. During that period, we were responsible for coming up with a concept design and obviously pricing that design, the program and all the necessary details, to enable that to be submitted as a valued offer to the Delivery Authority, acting on behalf of the State. My role was to run that bid. In running the bid, I was responsible for ensuring that all of the obligations in the submission were appropriately collected,

ensuring that all of the internal reviews with the joint venture committee was done, to the point where the joint venture were comfortable with submitting their offer, basically, to the Pulse consortia who ultimately submits to Cross River Rail Delivery Authority.

5

MR CARUANA: I see. And that all culminates with Pulse consortium being notified of preferred-tenderer status in April of 2019?

MR LARGE: That's correct.

10

MR CARUANA: Now, we've heard a fair bit of evidence about the enterprise bargaining process. I won't rehash all of it with you. But in a broad sense, can you tell me, once you have that preferred-tenderer status, what was your role in the bargaining process?

15

MR LARGE: So once we'd achieved preferred status, we commenced the bargaining process very quickly after that point in time. So I think in early April or late April that started. You know, we'd structured a team that had some specialists that were going to be involved in some of the more detailed bargaining processes, but I was involved in a couple of the initial bargaining sessions prior to me going on leave. So I think I went on leave in the middle of June, I think it was.

20

MR CARUANA: Perhaps if I can take you to paragraph 17 on page 2 of your statement. We'll bring it up on the screen.

25

MR LARGE: Yeah. So I went on leave 17 June and returned on 26 July. So my engagement in the bargaining process was only, I think, I recall, two meetings, I think. Both of those -

30

COMMISSIONER: I just missed that last bit. What did you say?

MR LARGE: I was only involved in two of the bargaining meetings and then I went on leave, and when I returned, you know, the project had gone through the process of reaching financial close, and then the project was live and active on my return as a functioning contractor.

35

MR CARUANA: So there's two meetings with the unions prior to going on leave?

40

MR LARGE: Two with the BTG and I think one - one sort of start-up meeting with the AWU.

MR CARUANA: Okay. And did you receive updates from your colleagues as to how meeting were going generally?

45

MR LARGE: Yes, I -

MR CARUANA: Those you didn't attend?

5 **MR LARGE:** Yes. So even on leave, I was obviously connected through to my email. Tried to not get too distracted during that period, but yeah, was kept abreast of, obviously, what was happening.

10 **MR CARUANA:** I understand. If we can just touch briefly, then, on those meetings. If I can take you to paragraphs 27 to 28 on page 3 of your statement. You speak here about an introductory meeting with the AWU?

MR LARGE: That's correct.

15 **MR CARUANA:** So that's - you don't consider that a bargaining meeting as such; it's just an intro?

MR LARGE: Well, there was no bargaining notices issued at that time, so it was really just an introductory process to commence some consultation and discussion with the union.

20 **MR CARUANA:** And then further down at paragraphs 29 to 33, you tell us about the first substantive bargaining meeting that occurred on 8 May 2019?

MR LARGE: That's correct.

25 **MR CARUANA:** And that was attended by the Building Trades Group?

MR LARGE: Correct.

30 **MR CARUANA:** And you were at that one?

MR LARGE: Yes.

35 **MR CARUANA:** And we don't need to bring it up on screen, but you tell us further in your statement about a further meeting with the BTG on 27 May 2019, and you attended that as well?

MR LARGE: Correct.

40 **MR CARUANA:** So prior to going on leave, in terms of union interaction, there was the introductory meeting with the AWU and two meetings with the BTG that you personally attended?

MR LARGE: Correct.

45 **MR CARUANA:** Along with others.

MR LARGE: Correct.

MR CARUANA: And you were kept abreast as to the progress otherwise. If we can go back to paragraph 20 on page 2 of your statement, and I will have that brought up on the screen for you, you tell us that during the bargaining process the
5 BTG insisted on bargaining as a group?

MR LARGE: That's correct.

MR CARUANA: Discussions were led by Mr Jade Ingham from the CFMEU?
10

MR LARGE: Yes.

MR CARUANA: And that was on behalf of the BTG?

15 **MR LARGE:** Correct.

MR CARUANA: You talk about a consistent, unwavering push by the BTG to have CPB agree to a single enterprise agreement that covered all unions and all workers including subcontractors?
20

MR LARGE: Correct.

MR CARUANA: Is that proposition what's commonly referred to as a jump-up clause?
25

MR LARGE: That's, yes, correct.

MR CARUANA: And you say that the position was the agreement should be based on the Queens Wharf project?
30

MR LARGE: Yes.

MR CARUANA: So if we take it that across the two meetings you attended and incorporating the feedback you'd heard from colleagues, that was the consistent position, as you understood it, through the bargaining process?
35

MR LARGE: Very clearly.

MR CARUANA: You refer to it being an unwavering push. I take it your evidence is that that position was never meaningfully moved away from by the BTG?
40

MR LARGE: For the two meetings I attended, it was a very fixed and very clear message that was being presented by the BTG.
45

MR CARUANA: Thank you. And I suppose, put simply, the position from yourself and CPB is that those things would have been unworkable had you agreed to them on the project?

5 **MR LARGE:** Correct, and I think it's been discussed in a number of previous submissions by Mr Sanfilippo and Mr Johnson as to the reasons that that would cause serious consequences for us under the contract.

COMMISSIONER: Why were they unworkable in your view?

10

MR LARGE: Beg your pardon?

COMMISSIONER: Why were they unworkable in your view?

15 **MR LARGE:** Well, the key parts that were unworkable was the - firstly, the requirement for a singular agreement. So obviously that caused challenges to us in that it wouldn't necessarily operate in a very effective way, and also, obviously, there was cost implications and time implications for a singular agreement with trying to be utilised across varying types of work that wouldn't work for that sort
20 of circumstance. The second part would be that we weren't necessarily delivering all of the project works; we were going to be subcontracting significant components of the work. And we - we tendered the project on the basis that those subcontractors would come with their own industrial agreements, and provision of a jump-up clause would have potentially increased the cost of those subcontracted
25 works.

MR CARUANA: And perhaps - sorry, Commissioner. I see you're still writing.

COMMISSIONER: No (indistinct).

30

MR CARUANA: Perhaps just to tie that off, if can I have paragraph 39 on page 4 brought onto the screen. We touched very briefly on the idea that the BTG were seeking terms and conditions consistent with the Queens Wharf agreement. What did you understand at the time about that agreement?

35

MR LARGE: I think - I think the agreement obviously was available for people to see and view and understand the implications and the conditions. The major issue for us was the Queens Wharf agreement is structured around a building project. And we've heard already this is a major civil infrastructure project, not a
40 building project; therefore, the operability of a building agreement in a major civil infrastructure project was a major problem. In addition to that, the rates that were obviously articulated in there were out of sync with the normal civil infrastructure that was currently in play.

45 **MR CARUANA:** And if we think about the different types of work that might be required on a civil infrastructure project as against a building construction project,

were there any particular clauses that stood out to you that would be problematic in the Queens Wharf agreement?

5 **MR LARGE:** Oh, I think there's numerous. So if you park the rates of pay, obviously the conditions within the agreement had numerous types of challenges. I think, you know, the fixed RDO regime was extremely problematic. The restrictions on ability to work potentially 24 hours, 7 days a week, without significant increases in allowances. So I think in the Queens Wharf agreement, there's almost a 300 per cent increase to work shift or outside of those works if
10 you're doing RDOs. So there's major cost implications to comply with those requirements.

MR CARUANA: I understand. And I just want to ask you very briefly -

15 **COMMISSIONER:** I just didn't understand that last bit. A 300 per cent increase to the rate for working shifts which were outside which hours?

MR LARGE: So if - because there were fixed 26 RDOs, because in a tunnelling operation we had programmed that we need to operate 24/7, which would have cut
20 across RDOs. Therefore, on those RDO periods, we would be paying the workforce to operate during those RDOs. The way that that agreement was structured is they get paid double time to work the RDO itself, and then they get basically the RDO re-established as another RDO, creating the 300 per cent increase. So 200 for the double time and reinstate the day that you worked as
25 another banked RDO.

COMMISSIONER: And I thought there was an additional problem that other witnesses have mentioned, that you weren't, in fact, allowed to work the RDO; they were fixed RDOs under this Queens Wharf agreement.

30

MR LARGE: Correct. You had to seek approval to work the RDO.

COMMISSIONER: Approval from whom?

35 **MR LARGE:** From the union.

MR CARUANA: And that causes particular difficulties on this project, as I understand it, because you've got things such as tunnel boring machines that you want to operate around the clock, effectively?

40

MR LARGE: Well, there's lots of components. There's the tunnelling operation, which was a significant part of the job. There's associated connections to - excuse me - the rail network. Those connections to the rail network generally occur over periods called SCAS periods. Those SCAS periods normally operate over long weekends, where the rail network can be closed with minimal impact to the public.
45 Again, that would be a major issue. There were significant requirements for service relocations at the commencement of the project. Again, those service

relocations would require, generally, cutovers to happen outside of the normal Monday to Friday sort of timeline. So all of those activities would be impacted by a restriction on those provisions.

5 **MR CARUANA:** And can you help me with what a cutover is?

MR LARGE: So cutover, you know, some of the areas where the stations were located included the need to move existing services. So if there was a large electrical service, a civil main, a water main, you know, those things again have to
10 be - a new piece of infrastructure constructed and then the old one disconnected at a point in time, again to minimise the impact on the public that the service was providing for. So the cutover was to change from the old location to the new location.

15 **MR CARUANA:** And you want to structure those kind of works and the SCASes in a way that's as least disruptive to the community as possible?

MR LARGE: We have an obligation to minimise the impact, but also the regulatory authorities that control those services will only allow them to happen at
20 those times. So they - and they're almost forced to occur in the periods that are outside of the normal requirements.

MR CARUANA: And that becomes difficult if you're dealing with fixed RDOs that are around when these holiday-type periods are, for example?

25 **MR LARGE:** Correct.

COMMISSIONER: Is there anything that happened recently on this project - Mr Newton gave some evidence on this point along the - before Easter, where he said
30 something like, picking up Mr Caruana's point, that he had to get approval of the unions to work the fixed RDOs and that was going to be a problem over Easter. Was the issue you're talking about actually a problem over the Easter that's just gone, or was it some other issue?

35 **MR LARGE:** I'm not quite sure what Mr Newton was referring to.

MR CARUANA: I note the time, Commissioner. Is that convenient?

COMMISSIONER: Yes. Thank you, Mr Caruana. We'll adjourn till 25 to 12.

40 <THE HEARING ADJOURNED AT 11.20 AM

<THE HEARING RESUMED AT 11.34 AM

45 **COMMISSIONER:** Mr Caruana, I see Mr Gisonda is not at the bar table - there he is. We were going to deal with the documents after the break. Do you want to deal with that now or do you want to continue on with Mr Large?

MR CARUANA: I want Mr Gisonda to deal with it after the lunch break, Commissioner, if that's suitable.

5 **COMMISSIONER:** That's fine.

MR CARUANA: I did, however, hear, Commissioner, you ask Mr Gisonda about Skyring.

10 **COMMISSIONER:** Yes.

MR CARUANA: As we understand it, it's a reference to a unit, as in residential unit, development in Newstead.

15 **COMMISSIONER:** Near the old Gasworks, presumably?

MR CARUANA: I think so, yes. Now, Mr Large, before the break we dealt with your meetings with the BTG. I just want to ask you about a couple of other meetings you attended, prior to going on leave, with Mr Newton from the Delivery Authority. And if we can pull up paragraphs 40 to 42 on page 5 of your statement. And we see there that there's reference to the meeting on 16 May 2019, and at paragraph 40, if it assists, can you tell me what the purpose of your meeting with Mr Newton was?

25 **MR LARGE:** So with the commitment to best endeavours to reach an industrial agreement, we obviously were assisting the Delivery Authority via giving them updates as to where we were travelling. Myself and Mr Johnson attended that meeting for the purposes of advising the Delivery Authority of the status of where things were up to. We - we took the opportunity in the meetings to also try to flag some of the challenges that were being put forward during that process and also to try to assist in giving some information that we understood potentially would be provided back to government as to the - the overall challenges that the - the delivery of an infrastructure project under a Queens Wharf-type agreement was going to create, both for the project but also for the broader industry.

35 **MR CARUANA:** So when you talk about the challenges, initially you were expressing to him challenges in getting towards an agreement?

MR LARGE: Correct.

40 **MR CARUANA:** And then you were expressing to him some issues that would arise if you were to acquiesce to some of the demands, such as Queens Wharf; is that right?

45 **MR LARGE:** Correct.

MR CARUANA: You say at paragraph 42:

"We expressed the view that it was going to be difficult to reach an agreement by financial close."

5 You say that that remained the goal. From your point of view, why was it significant that you had a deal before financial close, that is, an agreement with the unions?

10 **MR LARGE:** So if we didn't or hadn't established an agreement with the unions prior to financial close, then would be then an ongoing risk that we would move into needing to commence construction, and if we were not at a point where we'd reached a closure from a greenfield perspective, then we would move into a brownfield-type environment, which then would become even more problematic to reach conclusion. So we had two - two objectives: one, to try to secure a
15 greenfield agreement, and then secondly we had the obligation of a best endeavours to reach that under the requirements of the contract.

MR CARUANA: I understand. And if we can jump to paragraphs 62 to 64 on page 7, we see this is another meeting you and Mr Johnson had with Mr Newton
20 on 7 June 2019?

MR LARGE: Yes.

MR CARUANA: And you tell us at paragraph 64 that Mr Newton advised the
25 government was pushing for CPB to have an in-principle agreement with the unions before the project went through the Cabinet budget review committee?

MR LARGE: Yes.

30 **MR CARUANA:** And that going through Cabinet budget review was a prerequisite to financial close; is that right?

MR LARGE: That's a government process to get the green light to enable the
35 contract to be awarded.

MR CARUANA: So as well as your best endeavours and the risks you saw in not reaching agreement by that date, you were receiving some pressure to get it done by financial close. Is that fair?

40 **MR LARGE:** Yeah. I think it was tabled by Mr Sanfilippo. There was, I think, desires on all parties to try to reach closure by 30 June.

MR CARUANA: I understand. And shortly after that meeting on 7 June, a week
45 and a bit, you go on leave, and you said you come back and financial close is achieved?

MR LARGE: Correct.

MR CARUANA: And you tell us, if we can bring up paragraphs 68 to 69 on that same page, that in October 2019, two AWU agreements were certified?

5 **MR LARGE:** Correct.

MR CARUANA: But you didn't have much more personal involvement in any meetings to get to that point, as I understand it?

10 **MR LARGE:** No.

MR CARUANA: You tell us at 69 - you talk about the targeting of TSD by the CFMEU. You particularly refer to rights of entry. And you make reference to - you say:

15

"As the Building Code was still in place, CPB administered a regimented compliant approach to right of entry."

20 Can you explain to me your understanding of that? Why was the Building Code significant in terms of you enforcing strict compliance with right-of-entry provisions?

25 **MR LARGE:** Well, because the Building Code was still active, there were requirements for us to ensure that we comply with the requirements of the code, which included a required approach to right of entry. So the right-of-entry process had to be followed. If we were seen to be in breach of that right-of-entry process, we would then potentially put ourselves at risk as an organisation for future federally funded type work.

30 **MR CARUANA:** So insisting on strict compliance with right-of-entry rules wasn't simply CPB being difficult or standing in the way; there was an obligation under the code that you do that?

35 **MR LARGE:** Yeah, exactly. And that was not just a CFMEU or BTG requirement; it was a requirement of all unions, including the AWU.

MR CARUANA: I understand. If we can turn now to what's been termed the safety reset, do you understand the period of time I'm talking about?

40 **MR LARGE:** Yes.

MR CARUANA: And there was a significant incident that occurred on the site in late July 2023 where a worker fell from some scaffolding and was seriously injured?

45

MR LARGE: Yes.

MR CARUANA: And if I take you to paragraph 74 on page 8 of your statement, in response to that incident you say that CPB immediately shut down the Boggo Road site?

5 **MR LARGE:** Correct.

MR CARUANA: And Boggo Road was the TSD site that the incident occurred at?

10 **MR LARGE:** Correct.

MR CARUANA: And that's the site that you ultimately had purview over, or one of the sites that you had purview over?

15 **MR LARGE:** Yes.

MR CARUANA: You say that there was a review conducted of scaffolding project-wide?

20 **MR LARGE:** Yes.

MR CARUANA: So not just Boggo, but all of the scaffolding?

25 **MR LARGE:** Yeah. If an incident such as this was to occur, it is a normal protocol for us to obviously close down the area where the incident's occurred so the appropriate investigation could happen. And without knowing why or what the causes of the incident were, if it was related to scaffolding, the obvious and immediate thing was to ensure that we did checks and balances across scaffolding across the whole project immediately to ensure that there wasn't any underlying
30 issues that we could identify straight away. So it was an immediate reaction to the incident, relating to the particular area, which was scaffolding.

MR CARUANA: And that review took place?

35 **MR LARGE:** Yep.

MR CARUANA: And was there any underlying site-wide issue found?

40 **MR LARGE:** There was nothing found. I suppose the process, though, was impacted by the actions then that occurred after the event, which was part of the shutting down of the site, which restricted us to complete all of those requirements that we were planning to do.

45 **MR CARUANA:** Okay. I'm interested in discussing that with you. Perhaps if we pull up paragraph 75, when you talk about what happened after the incident. You discuss that the day after the incident, CFMEU began making calls that the

entire project was unsafe and workers should not return to work, and they began to lock down the sites, tell workers to go home.

MR LARGE: Correct.

5

MR CARUANA: And you refer to picketing that occurred as well with locks and chains placed on gates.

MR LARGE: That's correct.

10

MR CARUANA: And is the evidence that you've just given that, as well as all the productivity constraints that we might get to, that impacted your ability to go in and check the scaffolding on the rest of the sites were safe?

15 **MR LARGE:** Correct.

MR CARUANA: Now, I want to take you in a minute to a meeting that occurred on 28 July 2023, the safety reset meeting. But before I do, could I just have brought up on the screen, please, Mr Operator, page 34 of the bundle attached to
20 Mr Large's statement. If we can zoom in on the text, if that's possible. Now, Mr Large, this is an email sent by Kevin Mara from the Delivery Authority - sent to Kevin Mara from the Delivery Authority by Jade Ingham on 26 July 2023.

MR LARGE: Yes.

25

MR CARUANA: Is it an email you're familiar with?

MR LARGE: I'm aware of it, yes.

30 **MR CARUANA:** Lists seven demands?

MR LARGE: Yes.

MR CARUANA: If we can zoom in on number 2. One of the demands is - or
35 just highlight it will be fine, thank you, Mr Operator. One of the demands is:

"Full time union delegates/HSRs to be employed on all CRR sites. Workers have lost faith in CPB's ability to manage safety."

40 Had you seen this list of demands, and particularly demand 2, prior to the safety reset meeting on 28 July 2023?

MR LARGE: Yes.

45 **MR CARUANA:** And as I understand it -

COMMISSIONER: What was your answer? Yes or no?

MR LARGE: Yes. Yes.

5 **MR CARUANA:** Sorry, I may have spoken out of the witness, Commissioner. Getting ahead of myself. Before that point, before the meeting on 28 July, as I understand it there were no health and safety representatives directly employed by CPB; is that right?

10 **MR LARGE:** No, I don't - I don't think so. I think there were health and safety representatives across the project through each of the individual subcontractors, as the process of electing HSRs is through the individual work groups that elect HSRs, so that's done by the work group themselves. So there were certainly HSRs present across the project prior to the reset, both with subcontractors and I'm pretty sure we had nominated HSRs within the CPB direct employees as well, as a work
15 group.

MR CARUANA: What you're describing is that in terms of the subcontractors, they have their own elected HSRs that cover certain areas of work?

20 **MR LARGE:** Correct.

MR CARUANA: And they were across the sites.

25 **MR LARGE:** Correct.

COMMISSIONER: I thought he also said, Mr Caruana, there were certain - the witness's evidence was nominated HSRs employed by CPB.

30 **MR CARUANA:** Indeed. Is that correct, Mr Large? You understood that there were - you said nominated HSRs. Can you tell me what you mean by nominated HSRs?

35 **MR LARGE:** Nominated by the CPB direct workforce. So prior to the reset, you know, the project had obviously been going for two, two and a half years. So over that two and a half year period, there were - during the tunnelling operation, the majority of the people on the project were direct employees of CPB, and there were HSRs in those work groups during that period of time that were elected by the work group.

40 **COMMISSIONER:** Sorry, I thought -

MR LARGE: The nomination I referred to is by election by the work group, not by CPB.

45 **COMMISSIONER:** I see.

MR CARUANA: And I want to put up on that distinction you're drawing in regards to this demand. You refer to nomination or election by the workers. Did you have some concerns that that was not the process that was envisaged by this demand?

5

MR LARGE: Yes.

MR CARUANA: And can you expand upon that as the issue that you saw there?

10 **MR LARGE:** Well, I think if you look at the demand number 2 and look at it in two parts, a union delegate is a particular function. A HSR is a totally different function, and the HSR role and responsibility is dictated by the Workplace Health and Safety Act. So a person who's employed as a HSR is quite different from a person who's employed as a union delegate. So my concern, I'm sure it was the
15 concern when - prior to us agreeing to have HSRs engaged on the project, as to what exactly was the intent of a delegate HSR being provided to us by the union?

MR CARUANA: Concern that it may not be solely or principally motivated by a safety concern?

20

MR LARGE: Correct. And I think that was reinforced also by the discussions that happened between Mr Johnson and Mr Ingham, where Mr Johnson and Mr Ingham were, I understand, in agreement that these - these individuals would be working HSRs, not non-working union delegates.

25

MR CARUANA: And is that an agreement that came out of the meeting?

MR LARGE: No, I think that was an agreement that was discussed post between Mr Johnson and Mr Ingham, that they were going to be working HSRs.

30

MR CARUANA: We might as well talk about that now. You understood that these people that were ultimately brought on after the safety reset beating were going to work, do the site work on the job, as well as any specific HSR duties? That was the agreement?

35

MR LARGE: Based on the understanding between Mr Johnson and Mr Ingham, most definitely.

40 **MR CARUANA:** And I know that in your role you wouldn't have always had your boots on the ground, so to speak, but had you received any feedback as to whether that ultimately is what happened with these people?

MR LARGE: I think my statement, which clause it was, I identified that I think the HSR delegates generally were not engaged in work on the project.

45

MR CARUANA: No -

MR LARGE: No physical work as a normal nominated person under their - and I think most of them were classified as a CW4 - they did not partake in that type of classified work during the time that we were on the job.

5 **COMMISSIONER:** What is that type of work, a CW4?

MR LARGE: CW5 I think is the trade classification, so it's the classification below a trade classification. CW3 is probably a general labourer. So it's one above sort of a general labour and between a tradesperson.

10

MR CARUANA: And tell me if I misunderstand this, because I may very well, but is your evidence, then, that these people were employed on the highest classification they can get to without having a specific trade qualification?

15 **MR LARGE:** Yeah, I think the classification they were employed on was probably the appropriate classification.

MR CARUANA: For people doing work on the site?

20 **MR LARGE:** Yes.

MR CARUANA: But they didn't do site work, as you understand it?

MR LARGE: That's correct.

25

MR CARUANA: What work did they do, then?

MR LARGE: They - they engaged in - in activities that were, I suppose, perceived as being a role that maybe a HSR would do, but what became quite evident over time is that the activities that they were doing were more around trying to influence and potentially disrupt non-CFMEU subcontractors in delivering their works on a day-to-day basis.

30

35 So what I mean by that is the project was broken up into four particular locations, so four major sites: the Boggo Road site, the Albert Street site, the Roma Street site and the Gabba site. At the time of the reset and the introduction of these HSRs, three of those four sites were still engaged in major form, rebar and pour activities being undertaken by subcontractors who were operating under AWU agreements. These HSRs were particularly focused on trying to engage with those subcontractors on a regular basis to sometimes question, raise concerns about how things were operating, questioning the use, maybe, of a particular subcontractor that they engaged. Say, for example, a concrete pump company, they would maybe question, "Is this concrete pump company - is the plant appropriate?" They used lots of sort of questions linked to "are they appropriate" that caused overall impact and delay or disruption to the day-to-day activities for those groups.

40

45

If you look at when the reset happened and then the expiry of our agreement, and also that aligned to a lot of the expiry of those other subcontractors' agreements, they also then, I think, tried to start to try to influence those subcontractors to look at engaging in new agreements, and potentially being - being CFMEU agreements.

5 And in particular, the subcontractor at Boggo Road, Kenny's, Kenny Constructions, I understand that they were discussing with that group, when their agreement expired, the potential to change to a CFMEU agreement. So, you know, these individuals took a lot of opportunity to influence and potentially prevent or disrupt things from happening across the job, and I think we saw some

10 evidence of that yesterday with Mr Sanfilippo, how some of the productivities across those sites significantly dropped.

MR CARUANA: And are you suggesting it was a targeting of the subcontractors who didn't have CFMEU agreements or weren't -

15

MR LARGE: From what I could see, most definitely.

MR CARUANA: And of course we'll hear some specific examples from other people as to things that happened on the ground, but this is the feedback you were getting from the projects?

20

MR LARGE: Correct.

MR CARUANA: Just very briefly, before we get to the meeting itself, you give some evidence in your statement that the CFMEU had been making claims generally about the entire project being unsafe; Cross River Rail was an unsafe project. Is that correct?

25

MR LARGE: That was their claim, yes.

30

MR CARUANA: I note earlier you said you considered the idea of ensuring safety management systems and implementation to be your paramount responsibility. I take it you were quite familiar with the safety procedures that were in place on Cross River Rail?

35

MR LARGE: Most definitely.

MR CARUANA: And familiar with the safety record of the project?

40 **MR LARGE:** Yes.

MR CARUANA: How, then, would you respond to the suggestion that the entire project was an unsafe one?

45 **MR LARGE:** I'm totally - totally opposed to that view. The incident was a particular incident relating to scaffolding, and we took that very seriously and, as I said before, were ready to address anything that we could find if we found

anything to be inappropriate. There was an investigation done by Workplace Health and Safety, and I'm not aware of any significant findings at this point in time that have been reported back through to the CPB organisation of any identified deficiencies in relation to those systems that were in play.

5

MR CARUANA: And to tie off on that, how would you respond, then, to this suggestion that the incident that occurred in July 2023 mandated the entire site to be shut down for an extensive period of time?

10 **MR LARGE:** As I say, I think it's unsubstantiated and not relevant. And in fact -

COMMISSIONER: Sorry, what was your answer? Sorry, you go.

15 **MR LARGE:** And in fact, when we commenced the reset process, our approach was to focus specifically on scaffolding as part of the reset process, not to concentrate on a total re-approach to the whole safety aspects of the project.

20 **MR CARUANA:** I understand. But was that ultimately - the meeting occurs on 28 July 2023. The agreements that were ultimately made went beyond merely scaffolding, didn't they?

MR LARGE: Sorry?

25 **MR CARUANA:** The agreements that came out of the safety reset meeting as to the changes to be made on the project went beyond merely scaffolding, didn't they?

MR LARGE: Correct, yep.

30 **MR CARUANA:** And one example is the agreement to employ at least a number of direct HSRs.

MR LARGE: Correct.

35 **MR CARUANA:** Could I just could you in relation to that, you spoke a bit about the situation on the project before this safety incident in July of 2023, and you tell us at page 9, paragraph 88 - that's the paragraph where you talk about an agreement that these HSRs would not be non-working HSRs. You say the second sentence:

40

"We did not see this as something that was necessary on site."

45 And you mentioned that subcontractors already had active HSRs in place. Would it be fair to go a step further to say not only was it in your view not necessary, but did you see it as in any way desirable that this large number of HSRs be directly employed?

MR LARGE: No.

MR CARUANA: Can I ask, then, to the extent that you had involvement in it, why was that something that was agreed to?

5

MR LARGE: I think the process and the closure of that demand was a process that - the project obviously had stopped. We had a necessity to get the project back up and running as soon as possible. That sort of decision was made on the basis that, you know, we needed to get up and running, and therefore we had to accede to that demand; otherwise, potentially we'd still be unable to recommence work in an effective way. So it was a decision - I think Mr Johnson touched on it - that we had to make a call. We had to make a pragmatic decision, and on that basis we decided to accept that requirement to have them on board, specifically to get our job up and running to maintain our obligations under the contract.

10

15

MR CARUANA: Thank you. If we can go, then, to the specific people that ultimately came on board. If I can take you to paragraph 90 of your statement, you tell us that Mr Johnson began emailing you the resumes of proposed candidates provided by Mr Ingham for vetting and employment on the TSD side of the project?

20

MR LARGE: Correct.

MR CARUANA: Then if we go to paragraph 91, you list the names of some people whose resumes you received on 13 August 2023 from Mr Johnson?

25

MR LARGE: Yes.

MR CARUANA: We can see there's Trent Broadhurst, Steven Amies, Adam Langford, Joseph Pryor, Sean Korostovetz and Ryan Rowley. What interests me about those six people is the sites that are listed after their name. Those were the sites that effectively the CFMEU suggested these people be put on; is that right?

30

MR LARGE: I - I can't recall whether they requested them to go to those sites. I don't recall whether that happened. What is important maybe to link is that some of these individuals were already present on the project and may be working for a subcontractor that may well have been at the site, and whether that then was the reason that precipitated the desire for them to continue at that location. But I can't recall whether the sites and the individuals were determined by them or by us.

35

40

MR CARUANA: That's okay. We'll talk about some that were already on the site in a moment. But if I can take you to page 41 of the bundle. This is an email from Mr Johnson to yourself on 13 August 2023. He says:

45

"Largy, this is the first of the CVs coming through for HSR roles."

Do you recall getting this email?

MR LARGE: Yes.

MR CARUANA: He said:

5

"It would be good to move quickly to keep the momentum rolling."

MR LARGE: Yes.

10 **MR CARUANA:** What did you take him to mean by that, the need to keep the momentum rolling?

15 **MR LARGE:** Probably two parts: we made a commitment to have the HSRs engaged, so we wanted to ensure that we were keeping our side of the agreement; and secondly, that the sooner these HSRs were on board, the sooner we could return to a normal operating requirement with all areas of the job active and hopefully productive.

20 **MR CARUANA:** So tell me this: on 13 August 2023, so a number of weeks after the safety reset meeting, had the site returned to full productivity?

25 **MR LARGE:** The site - each of the individual sites progressively returned to a productive environment. So it wasn't instantaneous, the day that the people returned to site it became productive. The day that people returned to site, we commenced the safety review process, which was the review of scaffolding, and then that started to balloon into reviewing much broader aspects of the job. That had to be curtailed to the point where we reached a position where we were saying to the - to the CFMEU that, you know, "We've reviewed enough of the site. We've found nothing to be untoward, and everyone needs to be returning to their normal workplaces." So that - that took a period of time. It wasn't straight away that we returned after the reset that the job was totally up and running. And I think that comment from Don was probably part linked to that, that we can't have the HSRs as being another reason why the project isn't back up to speed.

35 **MR CARUANA:** So a concern that if you are thought to be dragging your heels, the progress towards productivity might be slowed by the union?

MR LARGE: Most definitely.

40 **MR CARUANA:** If I can just take you to cover off on the point I asked you about earlier as to who suggested these sites for the particular HSRs, if I can take you to page 42.

45 **COMMISSIONER:** I just wonder if you'd ask the witness about the third sentence, Mr Caruana. What are these rules re recruitment? Or are you going to come to that at some point?

MR CARUANA: I might as well ask it now, Commissioner. You'll see there Mr Johnson says:

5 "Let's chat Monday regarding the establishment of some rules re recruitment, conduct on site and where I got to with HSR numbers."

MR LARGE: Yes.

MR CARUANA: Did you understand what he meant by that?

10

MR LARGE: Well, we obviously spoke after. Generally, the intent that occurred after sending that email - the recruitment was just around what protocol were we following in relation to the recruitment process and that the recruitment process was up and running. So that was really more of a process-type conversation. Conduct: you know, we already know and have an obligation around the conduct of what happens on site. The conduct on site was also linked to the expectation that they would be working HSRs, not non-working HSRs. So that was obviously discussed, and where he got to with the HSR numbers was just the closing-out of the number of agreed HSRs that would be on the TSD site, remembering that the total numbers of HSRs, as has probably been spoken about, is the combination of HSRs both on TSD and on the RIS project. So obviously I'm only relevant to the ones that are on the TSD site, which I think ended up being 11.

25 **MR CARUANA:** And we'll go through the numbers in due course. But this establishment of rules re recruitment, were there any formal rules or criteria or characteristics you were looking for?

COMMISSIONER: I think the witness used the word "protocols".

30

MR LARGE: Yeah, the protocols that we followed were the same as the protocols that we'd been using up till that point on time on the project. So we have a normal recruitment process through our HR area on the project, and it'd just be making sure that we were following those same sort of protocols. So that'd be checks on - like, medicals is a requirement for our blue-collar workforce, so ensuring that everyone was still going through an appropriate medical. Checks of any types of tickets or qualifications that individuals had would need to be uploaded into the Damstra system, which is the system we used to ensure people's competencies, et cetera, just ensuring that that process was still maintained during this engagement with these individuals.

45 **COMMISSIONER:** Are you sure that's right? That just doesn't make sense to me, because you've got this multibillion-dollar project. It's being held hostage by the union, at least on the evidence we've heard to date. That might be contested. The leader of your company is saying, "I've done a deal with the leader of the union. The deal is these 14 people come on and then we can get the project

moving." Surely the normal protocols didn't apply; you had to shepherd these people through?

5 **MR LARGE:** Well, I think as an organisation, we're still responsible to follow processes such as medicals. Those individuals are no different from anyone else that was employed on the project. So if someone had to have a medical, then we shouldn't be bypassing that requirement. And especially if we find that someone has some type of restriction, then we need to obviously understand what that looks like.

10 **COMMISSIONER:** But were any of the 11 names, at least from your perspective, out of the 14 that were working on TSD that Mr Ingham passed to Mr Johnson, rejected by you?

15 **MR LARGE:** Ultimately, none of them were rejected. There were a couple identified that we needed to look at further, but at the end of the day none were rejected.

20 **MR CARUANA:** And we'll get to those -

COMMISSIONER: Tell me if I'm intruding on your examination.

25 **MR CARUANA:** Not at all, Commissioner. It's a convenient time. But we will get to those couple or so in due course, and I'll get there as quickly as I can. Page 42 of the bundle just briefly if I can, Mr Large. I asked you about whether you knew where these suggested sites came from. Now, that email we just saw over the previous page from Mr Johnson, it attached a bunch of other emails he'd received, didn't it, that ultimately had resumes within them?

30 **MR LARGE:** Yes. Yeah.

MR CARUANA: And this is one of those in relation to Mr Trent Broadhurst. So you were sent an email from Mr Johnson that was sent by Leanne Butkus from the CFMEU to him?

35 **MR LARGE:** Correct.

40 **MR CARUANA:** And it attached the resume, we see attachment there: Trent Broadhurst Resume 23, presumably a reference to the year. You'll see above the email from Ms Butkus at the CFMEU listed in the subject line:

"Day-shift, Boggo Road southern portal, Trent Broadhurst."

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

MR CARUANA: Does that indicate to you that it was the CFMEU that was suggesting these sites?

MR LARGE: Not - not really. Like I say, just because the email came that with in the subject, I'm not sure whether that was an initial determination by the CFMEU or whether that was some discussion that had already happened between
5 Mr Ingham and Mr Johnson. I don't know.

MR CARUANA: So there might have been discussions you don't know about?

MR LARGE: I'm not aware.
10

MR CARUANA: But the document we have is an email from them with that site?

MR LARGE: Correct.
15

MR CARUANA: And just to be clear, Boggo Road of course is the site that the safety incident occurred at?

MR LARGE: Correct.
20

MR CARUANA: And I won't go through each of those emails, but you received emails of that nature in blocks from Mr Johnson -

MR LARGE: Yes.
25

MR CARUANA: - with the people to be put onto the site. If I can take you then to page 62 of the bundle. It's an email you sent on 14 August 2023 -

MR LARGE: Yes.
30

MR CARUANA: - to Anthony Zervaas and Chris Butler?

MR LARGE: Yes.

MR CARUANA: Can you tell me who each of those gentlemen are?
35

MR LARGE: Anthony Zervaas is the construction director for the TDS project, so he's ultimately responsible for the operational delivery of the works. And Mr Chris Butler was a shared services manager. Shared services covered industrial
40 relations, safety, environment, and HR.

MR CARUANA: And you've asked them for any feedback or knowledge of these guys, also a review of their capability as a HSR?

MR LARGE: Correct.
45

MR CARUANA: You say:

"Next day or so please."

MR LARGE: Correct.

5

MR CARUANA: And we see there listed in the attachments all of those gentlemen we went to in your statement earlier.

MR LARGE: Yes.

10

MR CARUANA: If then if we go to the next page, 63, Mr Zervaas has replied relatively promptly, 2.22 pm that day, and forwarded you some feedback on various names?

15

MR LARGE: Yet.

MR CARUANA: And some of it seems to relate to various people who've liked certain things on Facebook, but we see under Trent Broadhurst it's noted that he was previously the world number 10 light heavyweight boxer.

20

MR LARGE: Yes.

MR CARUANA: And that one of his bouts seemed to have featured in the 2015 Trade Union Royal Commission.

25

MR LARGE: Yes.

MR CARUANA: Was there anything on the feedback that you got for any of those proposed HSRs that caused you any concern at this stage?

30

MR LARGE: I think in that list there, there was nothing necessarily that was of concern. I think that was taken in consideration that these individuals were being promoted by the CFMEU as HSR delegates. So to suggest that they're not going to be aligned to the CFMEU obviously was not going to be the point. So for me, it was obvious that they were going to have certain allegiances and linkages, because that's where they were coming from.

35

MR CARUANA: They're CFMEU people. They're going to have liked the odd Facebook post.

40

MR LARGE: Exactly.

COMMISSIONER: Is that a fair description of the agreement as you understood it, that the CFMEU was promoting these people? Suggesting them? Doesn't it go further than that?

45

MR LARGE: The CFMEU - exactly. They were - they were providing these individuals as the nominated proposed HSRs/delegates for the job.

5 **MR CARUANA:** Then if we can go to page 65 of the bundle, we see that on 15 August, you get from Mr Johnson the resume for Mark - it says McLean, but I think we can agree it's Mark McKean?

MR LARGE: Yes.

10 **MR CARUANA:** He says the number's up to seven now.

MR LARGE: Yes.

15 **MR CARUANA:** And if we go to page 75 of the bundle, please, Mr Operator. This might be where we start getting into some of the feedback you were telling the Commissioner about. It's an email from Mr Zervaas to Mr Butler on 21 August 2023?

MR LARGE: Yes.

20 **MR CARUANA:** And you were copied into that?

MR LARGE: Yes.

25 **MR CARUANA:** Mr Zervaas says:

"Chris, I've finished my assessment below."

30 Then he makes a few comments that we'll get to in a moment, but he attaches a table. And if we can - can we zoom in on the table at all, Mr Operator, or am I asking too much? Thank you. We can see that the second - the first gentleman mentioned is Trent Broadhurst, and the comment is:

"Y - subject to interview."

35 The second gentleman is Sean Korostovetz, and there's a N for no in the recommendation column for him. And similarly, number 10, Mr Richie Atutolu is marked as a "no". You might just note also that Adam Langford is noted as having nil HSR experience. Do you recall seeing that email with the
40 recommendations from Mr Zervaas of a "no" for those two gentlemen, Korostovetz and Atutolu?

MR LARGE: Yes.

45 **MR CARUANA:** And then if we go to the comments he made in the body of the email -

COMMISSIONER: Can you just remind me of Mr Zervaas' role, Mr Large?

MR LARGE: He's the TSD construction director.

5 **COMMISSIONER:** Thank you.

MR CARUANA: At the body of the email, the third point down, he says:

"Sean Korostovetz, nil feedback from DJ."

10

I take it that's a reference to Mr Johnson?

MR LARGE: I presume so, yes.

15 **MR CARUANA:** Did you know what that meant, the nil feedback from DJ?

MR LARGE: No. No.

MR CARUANA: The fourth point he says in relation to Richie Atutolu:

20

"Based on historical feedback, assume we should push back on this candidate."

MR LARGE: Yes.

25

MR CARUANA: Do you know what that was in relation to?

MR LARGE: I think we've already heard today, Richie Atutolu was - prior to engagement with CPB was an employee of Heinrich Formwork. So we'd observed
30 Mr Atutolu on the project as a Heinrich employee, and I think in that engagement he may well have been the Heinrich HSR as well. So I think that comment of "based on historical feedback" was the review or - the review of what had happened in the past in his role currently on that project.

35 **MR CARUANA:** So do you know the nature of the specific feedback that's being referred to there, or did you at the time you saw this email?

MR LARGE: Sorry, repeat that?

40 **MR CARUANA:** When you saw this email and there's a reference to historical feedback, did you know the specifics of what that feedback was?

MR LARGE: Oh, look, I understood that, you know, he had been a very active
45 member of the Heinrich Group at the Gabba site up until that time, and some of those active things were the historical stuff that he was referring to. So obviously when Heinrich were present at the Gabba site, they were operating under a CFMEU agreement. So obviously Mr Atutolu was ensuring that things that sit in

the conditions of that agreement were being actively engaged at the Gabba site. And maybe, in some instances, the influence of those conditions were sometimes trying to be pushed or overflowed into other areas of the Gabba site that weren't under those conditions. So I think that's where some of those references came from.

MR CARUANA: And that was enough of a concern, at least for Mr Zervaas, that he suggested that this gentleman shouldn't be put on by CPB?

10 **MR LARGE:** Yes.

MR CARUANA: But did you have any discussions in light of that feedback with Mr Zervaas?

15 **MR LARGE:** We discussed a lot of the individuals here that were in his list. He'd send the email through, and I had discussions both with him and Mr Butler.

MR CARUANA: And what result was reached in relation to Mr Atutolu?

20 **MR LARGE:** Well, I think at the end of the day, both him and others that we were questioning, we reached the same position as identified previously, that we're probably getting to a point where time was of the essence, and if we were to push back on these individuals, we may well have just got a no from the CFMEU, or we may well have been given another individual of a similar type of challenge. So we reached the point where we were basically in between a rock and a hard place, and we had to make a decision to move on, so we decided we would move on with that role.

30 **MR CARUANA:** And it's fair to say, isn't it, that noting this feedback, if you had a choice, Mr Atutolu wouldn't have been a person you'd pick to be a HSR put on a site?

MR LARGE: No.

35 **MR CARUANA:** If I can take you to page -

COMMISSIONER: Who's the "we" you're talking about? Is that you, Mr Zervaas and Mr Butler? You said "we discussed".

40 **MR LARGE:** That would've been Mr Zervaas, Butler and myself.

COMMISSIONER: And what about Mr Johnson?

45 **MR LARGE:** In those - not on the - based on the site conversations. Mr Johnson I did engage in relation to Mr Broadhurst, which we might get to shortly. But there were some discussions that I had with Mr Johnson around Mr Broadhurst.

COMMISSIONER: And only Mr Broadhurst?

MR LARGE: Yes.

5 **COMMISSIONER:** And just remind me of Mr Butler's role again?

MR LARGE: Mr Butler was the shared services manager.

COMMISSIONER: Thank you.

10

MR LARGE: So responsible for IR, HR, safety and environment.

MR CARUANA: Now, Mr Large, I'll try and do this in the least laborious way I can think of, but if we can go to page 80 of your bundle, please. It's an email you sent to Mr Johnson on 25 August 2023. You say:

15

"Don, if asked, status of HSR engagement."

And you attach a document that's called Status HSR Onboarding.

20

MR LARGE: Yes.

MR CARUANA: And if we go to the next page, 81, we'll see there's a table that lists, at this stage, on that page, eight proposed HSRs. And if we go over the page, we'll see another two. So there's 10 for the time being.

25

MR LARGE: Correct.

MR CARUANA: Just a few points that I'll ask you about. The first is that we see in the comments section for a number of them, Mr McKean, we see medical is booked. Corey Taylor, medical booked. What's the medical you refer to in that table? Can you talk to me about that?

30

MR LARGE: This is a standard pre-employment medical that all of our direct-wages employees go through.

35

MR CARUANA: And that's, you say, all of your employees? It's not just a HSR thing; it's all employees have to pass a medical?

MR LARGE: All - it's an obligation under CPB that all direct blue-collar workforce have a medical. Pre-employment medical.

40

MR CARUANA: And I presume that that's in some ways to ensure that everyone's fit to do the job and not a risk to themselves, not a risk to co-workers?

45

MR LARGE: It's a - yeah, it's a determination of their medical status prior to engagement.

MR CARUANA: Okay. And if we just go to the bottom of page 81, you see in relation to Mr Atutolu, there's a message left for him to call back later. And if we turn the page to Mr Korostovetz, there's some documents for him that you were waiting on.

MR LARGE: Yes.

MR CARUANA: But it makes the point, doesn't it, that by 25 August, when you're writing these notes, the project's proceeding with employing these two gentlemen?

MR LARGE: Correct.

MR CARUANA: In your email sending that Mr Johnson, you said:

"If asked - status of HSR engagement."

Who were you thinking might have asked him?

MR LARGE: That was if he was asked by either the CFMEU, or if it was even by the Delivery Authority. So, you know, it's incumbent on me to make him aware of where things are at if he's questioned. So I was providing him with a status for the benefit of him, if he was questioned by anybody, as to where the status of the engagement was up to.

MR CARUANA: And I won't go through all of them, but you send him quite a number of these updates, don't you?

MR LARGE: Yes.

MR CARUANA: If I can take you to page 91 of the bundle. This is another status update on 9 August 2023 to Mr Johnson. If we can flick the page to 92, we see that now in relation to Mr Broadhurst: medical completed, being reviewed by the medical adviser.

MR LARGE: Yes.

MR CARUANA: Just tell me, is there a set doctor that everyone gets sent to by CPB, or do they go to their own GP and then the CPB doctor reviews it? How does it work?

MR LARGE: No, we have a medical provider which all of the -

MR CARUANA: If we can jump ahead a few versions of the table to page 115, please, Mr Operator. This is an email that Mr Zervaas sends to a number of people and copies you in on 31 August 2023, attaching, if we go to page 118,

another update on the HSRs. We start to see now at the top, Mr McKean has started. He commenced on 31 August. Mr Pryor has commenced. If we go to page 119, we see Mr Broadhurst is now marked in red as at 31 August 2023: a health management plan is required. What does that indicate to you?

5

MR LARGE: Well, obviously, he's gone through the medical review process, and it's not uncommon for people sometimes to have conditions that may well be managed - need to be managed. So that's flagging that there was something identified that required a review of Mr Broadhurst from an engagement perspective via some type of health management plan.

10

MR CARUANA: So it's not the end of someone's employment process or onboarding process if a medical issue is raised; there's this process of health management plans that can manage someone so they can safely work on site. Is that a fair description?

15

MR LARGE: Yes.

MR CARUANA: If we just go over to page 120, just to note in terms of the numbers, we'll see down the bottom that Michael Fisher is marked as having been withdrawn from the process.

20

MR LARGE: Yes.

MR CARUANA: And we'll see just above Michael Fisher a new name, and I skipped some of the tables, but there's a Mr Ross Love. Is it the case that Mr Fisher withdrew and Mr Love was put on as his replacement?

25

MR LARGE: That's my understanding, yes.

30

MR CARUANA: Thank you. If we can go to page 120, we'll see that at the top of the page - I'm sorry, I've lost my mark. Yes. Top of the page there, Mr Korostovetz, if we go back to 119 at the bottom, you will see that hangover on 120, he's - an offer will be issued to him on 4 September. So he's good to go as well.

35

MR LARGE: Yes.

MR CARUANA: If we can go now to page 135 of your bundle. It's another email from Mr Zervaas on 8 September 2023, and we'll see if we flick through to page 139, again another table, and if we go to Mr Broadhurst on page 140, as of 8 September: occupational physician to reach out to Trent's local GP?

40

MR LARGE: Yes.

45

MR CARUANA: So is the occupational physician the CPB doctor that you send him to?

MR LARGE: Yes.

5 **MR CARUANA:** And at 143, please, Mr Operator. If we can zoom on the text. There's an email from Mr Zervaas to you on 3 October 2023. Ross Love: we see he was the replacement for Michael Fisher. And Trent Broadhurst we see still listed as Boggo Station, that he was red-flagged during medical. Do you see that?

10 **MR LARGE:** Yes.

MR CARUANA: And Mr Zervaas says to you:

"Refer below."

15 And if we, just before we go to that, to page 146. So we were looking at an email a moment ago where Mr Zervaas tells you about a red flag in relation to Mr Zervaas from 3 October 2023.

20 **COMMISSIONER:** In relation to Mr Broadhurst.

MR CARUANA: Sorry, Mr Broadhurst. Thank you, Commissioner. We see here a letter dated 6 September 2023. Is that a letter you're familiar with?

25 **MR LARGE:** Yes.

MR CARUANA: It's from a Dr Kalesh Seevnarain.

MR LARGE: Yes.

30 **MR CARUANA:** Do you know who the doctor is?

MR LARGE: He's the doctor that goes - that is obviously running the process through 4cRisk, who are the medical providers that we're using to do the project medicals.

35

MR CARUANA: So it says to - it's a letter to Mark Jacobs. Who's that?

40 **MR LARGE:** Mark Jacobs is one of the CPB support staff that assist in the engagement of individuals. Some of these are medical providers, like 4cRisk may well be a more broader CPB-engaged company, so it's not uncommon sometimes for them to respond back to the CPB company with such responses. And Mark may well have helped in the whole process of engagement.

45 **MR CARUANA:** I understand that. If we can zoom in on the second sentence, beginning "in my opinion". In relation to Trent Broadhurst, the doctor says:

"In my opinion, Mr Broadhurst is at high risk of possible workplace injury and is at high risk of injury to himself and others."

Do you recall reading that?

5

MR LARGE: Yes.

MR CARUANA: Then if we go down, there's some personal details redacted, but at the end of the redactions, working in -

10

COMMISSIONER: Are they truly personal details or are they information I should have showing what the issue was?

MR CARUANA: Well, I can tell you, Commissioner, that they are redacted.

15

They were redacted by the counsel assisting team on the basis that it was personal details, but I'm happy to have that discussion or be told that that shouldn't be the case. It would be my submission at least that at this stage you would be assisted by knowing this process and the risks that were raised. If you ultimately determine, Commissioner, that in fact it's - can I say of sufficient interest that you need to dig down further into what the condition is -

20

COMMISSIONER: Well, I just - personal details is a bit of a euphemism. Is the bit that you've crossed out the actual medical problem that he had?

25

MR CARUANA: No. It doesn't - nothing I have seen to date delves that far.

COMMISSIONER: Right.

MR CARUANA: But I imagine that's the process of balancing the medical confidentiality side of things and going to the employer with someone's medical issues. They are just details that were thought at this stage to be unnecessary of a personal medical nature.

30

COMMISSIONER: If that's your judgment and there's no-one suggesting otherwise, just proceed.

35

MR CARUANA: Thank you, Commissioner. The doctor says after the redactions:

40

"Working in safety-critical roles in and in a high-risk construction environment may place him and/or others at increased risk."

And the sentence down:

45

"Noting the conditions and medications, I'm unable to suggest a viable health management plan to mitigate these risks."

So that's the doctor at least in September of 2023 offering the opinion that a health management plan isn't going to be viable to mitigate these risks. Is that a fair comment?

5 **MR LARGE:** Yeah, that's what it seems to say, yes.

MR CARUANA: And if we return to page 144 - I should go 143 first to make sense of -

10 **COMMISSIONER:** Something earlier you took the Commission to, Mr Caruana, was a red note saying:

"Waiting, health management plan."

15 And that was the last thing to do for this - for Mr Broadhurst.

MR CARUANA: Indeed. And now we have the doctor at least saying that's not going to be viable. Then we've gone back here now, Commissioner, to the email from Mr Zervaas on 3 October. Mr Zervaas notes the red flag and he says "see below", and if we go to page 144, you'll see the below. So this is an email from the doctor to Mr Jacobs that's been forwarded by Mr Zervaas some days after that letter where he says:

"As indicated in my previous correspondence..."

25 Presumably a reference to the letter:

"...Mr Broadhurst's medical documentation has been reviewed and he is considered a high risk. There is no other medication."

30 I'm not sure if that's of significance, but the doctor is firm in his view that Mr Broadhurst is a high risk. Is that fair to say?

MR LARGE: Yes.

35 **MR CARUANA:** You'd agree with me, wouldn't you, there's some pretty strong statements from the doctor? High risk, risk to himself and others?

MR LARGE: Yes.

40 **MR CARUANA:** And unable to suggest a viable health plan.

MR LARGE: Yes.

45 **MR CARUANA:** So knowing these things, were any discussions had between yourself and Mr Zervaas, between yourself and Mr Johnson, and you may not be

able to tell me this one, but between CPB and the union about the suitability of Mr Broadhurst?

5 **MR LARGE:** So there was some further discussion between myself and Mr Johnson. Following that conversation, there was a request and a discussion that was held with Mr Broadhurst's own GP to try to ascertain in a bit more detail, you know, whether a health management plan could be established. The feedback I think from that was that that potentially could be developed and the project decided to take that recommendation and move forward with Mr Broadhurst.

10 **MR CARUANA:** If I could just take you to page - your final exhibit at page 148. AL-27 it is, Mr Operator, if that's going to make it easier. No, I think it's - that's the one. If we can zoom in on the head of the email. It's an email that you have sent to Mr Johnson copying Mr Zervaas on 9 October. You say:

15 "Don, all HSRs are on board as of today except Trent Broadhurst. As discussed last week, we have pursued with Dr Kalesh a proposed work plan and expressed that he will only be doing minimal physical work. The response below is on the basis that we need to respect this guy's medical view as an occupational physician for CPB. Jade needs to promote someone else."

20 The response below is the response from the doctor in the email that we saw earlier. Was this an email you sent before or after the discussions you were talking about that you had with Mr Johnson?

25 **MR LARGE:** Obviously before.

MR CARUANA: Okay. So you had discussions after that, after you tell him Jade needs to promote someone else, and just tell me if you don't know: do you know what was said or any discussions that took place between the project and Jade about Mr Broadhurst?

MR LARGE: No.

35 **MR CARUANA:** Do you know if any did occur?

MR LARGE: I'm not aware of any.

40 **MR CARUANA:** I just want to ask you this to tie off, and we've discussed the fact that one red-flagging on a medical assessment isn't the end of the world; you can cater for some things?

MR LARGE: Yes.

45 **MR CARUANA:** Would it be fair to say that if this were a normal hiring process, though, not dictated by the CFMEU, the level of language that we just discussed

that the doctor used, CPB would have simply refused to hire someone who had this level of red flag from a medical review. Is that a fair comment?

5 **MR LARGE:** Yes.

MR CARUANA: But we're in a different position here because of where the project found itself?

10 **MR LARGE:** Correct.

MR CARUANA: I don't have any further questions, thanks, Commissioner.

COMMISSIONER: Was he ultimately hired - Mr Broadhurst - as the -

15 **MR CARUANA:** Sorry, we don't have the table for that, but I do have - I can get you the precise date. In October is the answer, Commissioner.

COMMISSIONER: Do you know the precise date, Mr Large?

20 **MR LARGE:** No, not off the top of my head, but he was definitely engaged.

MR CARUANA: I understand it was 30 October 2023, Commissioner.

25 **COMMISSIONER:** And do we have the other work management plan by his own treating doctor in evidence?

MR CARUANA: No, Commissioner.

30 **COMMISSIONER:** So a health management plan. Is there such a plan?

MR LARGE: Sorry, Commissioner?

35 **COMMISSIONER:** Was such a health management plan actually developed by Mr Broadhurst's treating doctor?

MR LARGE: It wouldn't have been developed by the treating doctor. It may well have been something that we'd developed. Sometimes we developed a health management plan.

40 **COMMISSIONER:** And who's "we" there?

MR LARGE: The project team. So through the shared services manager with support from the safety and - safety team, it's not uncommon for us to develop a health management plan based on advice or support from the medical providers.

45 **COMMISSIONER:** Thank you.

MR CARUANA: Thank you, Commissioner. There's an application for my learned friend Mr O'Grady to cross-examine Mr Large. I don't take issue with it. I don't understand that Mr Ford does either, but I'll let him confirm that.

5 **COMMISSIONER:** This is an application you made in writing, Mr O'Grady, 29 April?

MR O'GRADY: Yes, Commissioner.

10 **COMMISSIONER:** And there's no objection from Mr Caruana. Mr Ford?

MR FORD: I haven't seen it, Commissioner.

COMMISSIONER: Well, perhaps you -

15

MR O'GRADY: Commissioner, it's very much along the lines of the application that was made yesterday in respect of Mr Sanfilippo, namely, to deal with the legitimate interests that the union has in negotiating terms and conditions for its members and addressing safety issues.

20

COMMISSIONER: Do you want to just take mine for a moment, Mr Ford, and look at it?

MR FORD: Mr Caruana might have a copy he can show me.

25

COMMISSIONER: I'll just ask Mr O'Brien whether he's got any objections.

MR O'BRIEN: No, I've got no objections, Commissioner.

30 **COMMISSIONER:** And Mr de Jersey?

MR DE JERSEY: No objections, Commissioner.

35 **COMMISSIONER:** I think last time, for Mr Sanfilippo, you said the process of bargaining, the role of the CFMEU in safety, the role of the CFMEU in examining the conditions - looking after the conditions of members, and then there were some other issues associated with exhibit VS-22.

MR O'GRADY: Yes.

40

COMMISSIONER: Is it those three things?

MR O'GRADY: Well, I don't have to worry about exhibit VS-22.

45 **COMMISSIONER:** Of course. That's what I meant, sorry.

MR O'GRADY: But yes, they're the things.

MR FORD: Yes, Commissioner, I've had a look at that and I don't have an objection.

5 **COMMISSIONER:** Thank you. All right. How long would you be, Mr O'Grady?

MR O'GRADY: I may be able to complete it before lunch, but I may not be able to.

10

COMMISSIONER: Just see how you go.

<CROSS-EXAMINATION BY MR O'GRADY

15 **MR O'GRADY:** Mr Large, my name's O'Grady. I'm appearing for the administrator of the CFMEU.

MR LARGE: Yes.

20 **MR O'GRADY:** Can I just ask you some general questions about bargaining. And if you're not familiar with the system, then please let me know, but you understand that under our current system there are, in effect, two types of agreements: there are greenfields agreements and there are agreements made when you've got a workforce already engaged?

25

MR LARGE: Yes.

MR O'GRADY: And you understand that there is no compulsion on a union to agree to enter into a greenfields agreement?

30

MR LARGE: Yes.

MR O'GRADY: It's open for a union to say, "Well, look, sorry, we're not prepared to do that at this stage. We want to have an agreement after we've got a workforce on site where the workers will have an opportunity to vote on the agreement."

35

MR LARGE: If that's what they desire, yes.

40 **MR O'GRADY:** Yes. And you also understand that there's no obligation on a union, whether you're negotiating a greenfields agreement or a more normal type of agreement, for a union to make concessions in bargaining?

45

MR LARGE: Sorry, could you repeat that?

MR O'GRADY: For a union to make concessions in bargaining. The union can say, "Look, this is our position and we're not prepared to move on it, or we're not prepared to move very far on it."

5 **MR LARGE:** Yes, that's their prerogative.

MR O'GRADY: Yes, and the same applies to an employer. An employer can say, "This is our position and we're not prepared to give up on this particular issue, and if you want an agreement with us you're going to have make a concession."

10

MR LARGE: Yes.

MR O'GRADY: And indeed, that's the very nature of bargaining, isn't it?

15 **MR LARGE:** Yes.

MR O'GRADY: Parties have positions, and they either move from them or they don't.

20 **MR LARGE:** Yes.

MR O'GRADY: And subject to complying with the good-faith bargaining requirements, parties are entitled to maintain their position throughout bargaining. And if they do that and you don't come to the middle, you just don't get an agreement.

25

MR LARGE: Yes.

MR O'GRADY: Yes, all right. And at the time you entered into the greenfields bargaining, CPB had already put in a tender for the job?

30

MR LARGE: Yes.

MR O'GRADY: Yes. And when CPB put in a tender for the job, it was aware of the fact that there would be people who were going to be eligible to be members of the CFMEU who would be working on the job?

35

MR LARGE: Yes.

MR O'GRADY: And it was aware of the fact that the CFMEU had a pattern agreement, for the want of a better phrase, as reflected in the Queens Wharf agreement?

40

MR LARGE: For building jobs, yes.

45

MR O'GRADY: Yes. And it was aware of the rates contained in those agreements?

MR LARGE: Yes.

5 **MR O'GRADY:** And it was aware of the terms and conditions that those agreements contained?

MR LARGE: Yes.

10 **MR O'GRADY:** All right. And you're also aware, aren't you, that whilst, traditionally, tunnelling work might generally be done by people from the AWU, the CFMEU rules entitle it to represent some people working in tunnels?

MR LARGE: Potentially.

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

COMMISSIONER: What was the answer, sorry?

20 **MR LARGE:** Potentially.

MR O'GRADY: Potentially. All right. And in negotiations, CPB had a particular strategy: you wanted to have three agreements.

25 **MR LARGE:** That was our initial starting point, yes.

MR O'GRADY: Yes. And, again, just as the union is entitled to pursue a strategy, CPB is entitled to pursue a strategy.

30 **MR LARGE:** Yes.

MR O'GRADY: And when CPB is deciding on its strategy, it's looking for an arrangement that is likely to advantage CPB?

35 **MR LARGE:** Well, it's looking for an arrangement that would be suitable for us to have an appropriate arrangement to deliver the project.

MR O'GRADY: Yes, and to maximise the profits that CPB might make out of the project?

40 **MR LARGE:** I'm not sure about maximising profits.

45 **MR O'GRADY:** I see. You'd agree with me the profitability is a primary consideration that CPB took into account when it was deciding upon its negotiating strategy?

MR LARGE: I think our negotiating strategy and our proposed position in relation to an agreement also needed to recognise that the agreement needs to be

suitable enough to attract people to come to the project. So it's not just around profitability; it's also around the ability that the agreement's going to attract people to come to the project.

5 **MR O'GRADY:** Well, I put it to you, with respect, Mr Large, that's a false dichotomy in the sense that if you can't attract people to come to the project, you can't do the project and you can't make any profit out of it, can you?

MR LARGE: Potentially, yes.

10

MR O'GRADY: Yes. All right. And whilst you had a strategy of three agreements, the BTG Group, they wanted to have at least one primary agreement and perhaps a subsidiary agreement?

15 **MR LARGE:** When I was engaged in negotiations, it was very clear they wanted one agreement.

MR O'GRADY: All right. And just as it was open for CPB to put forward the three-agreement structure, it was certainly open for BTG to put forward a
20 one-agreement structure?

MR LARGE: Yes.

MR O'GRADY: And just as there was no compulsion on CPB to abandon its
25 three-agreement structure, there was no agreement at law why the BTG Group had to abandon its three-agreement structure?

MR LARGE: Yes.

30 **MR O'GRADY:** Yeah. And indeed - sorry, I withdraw that. And you understood, didn't you, that if you weren't able to reach a greenfields agreement, then you would either have to delay the commencement of the project or you'd have to - potentially have to negotiate an agreement after you'd started the project and started employing people?

35

MR LARGE: Yeah, that'd be the reality of time, yes.

MR O'GRADY: Yes. And you also understood that if you did that, then it
40 would be perfectly open and lawful for the BTG Group to, if they go through the proper processes, seek to take protected industrial action in order to try and obtain concessions in respect of any subsequent agreement?

MR LARGE: Based on the individuals that are engaged on the project, yes.

45 **MR O'GRADY:** Yes. All right. Thank you. Now, I think you gave evidence this morning that one of the issues was whether there should be one agreement or

three agreements, and it was CPB's position that it wasn't prepared to enter into a one-agreement structure?

MR LARGE: Correct.

5

MR O'GRADY: Yes. And you didn't try and work with the BTG Group to see whether you could come up with one agreement that would work for the project because you just weren't interested in that at all, were you?

10 **MR LARGE:** In the negotiations, we started with a three-agreement proposal.

MR O'GRADY: Yes.

15 **MR LARGE:** In trying to negotiate an outcome, we put forward a two-agreement proposal. So we did try. But we were not prepared to agree a one singular agreement structured around a building CFMEU - a building agreement similar to Queens Wharf.

20 **MR O'GRADY:** So you weren't prepared to engage in seeing - let's have one agreement and see what we can do in respect of a one-agreement structure in order to make it work? It was just off the table from CPB's point of view, wasn't it?

25 **MR LARGE:** It was very clear from the BTG that I - in the meetings I went to, their prerogative or their desire for a one single agreement was structured around a Queens Wharf-style agreement that was not going to be workable for the project. So it was more that BTG were promoting a singular agreement that needed to reflect the Queens Wharf agreement.

30 **MR O'GRADY:** Are you saying that at any stage CPB went to the BTG Group and said, "Look, let's explore what a one-agreement structure would look like"?

MR LARGE: I think negotiations reached a point where that was a - a process or a viable option for CPB.

35 **MR O'GRADY:** I understand. It just wasn't on the table from CPB's point of view. I'm not being critical; I'm just simply the point that CPB just was not interested in a one agreement structure, was it?

MR LARGE: No.

40

MR O'GRADY: No. I understand. The other issue that you identified was with respect to jump-up clauses.

MR LARGE: Yes.

45

MR O'GRADY: Now, you expressed the view this morning that as far as you understood it, there would be an issue with a jump-up clause because it would be in contravention of the code.

5 **MR LARGE:** Yep.

MR O'GRADY: Are you aware of the fact that Mr Ingham discussed this issue with Mr Sanfilippo and suggested that he had legal advice that those issues with the code could be overcome?

10

MR LARGE: Yes.

MR O'GRADY: And are you aware of the fact that Mr Sanfilippo said, "Look, I'm not interested in your legal advice. It's our decision, and we're not going to engage on that issue"?

15

MR LARGE: I think Mr Sanfilippo advised that CPB has advice -

MR O'GRADY: Yes.

20

MR LARGE: - and CPB are the entity that take the risk, and CPB will be the ones that determine and use whatever legal advice they have to support their own position.

25 **MR O'GRADY:** Yes. And the effect of that was that even though Mr Ingham was prepared to exchange advices and discuss the advices and try and work through the issues between the advices, CPB was not prepared to do that, because they were saying, "It's our risk, and we'll just follow our advice."

30 **MR LARGE:** I think that was covered by Mr Sanfilippo yesterday.

MR O'GRADY: Yes. I'm just seeking to confirm it through you.

MR LARGE: All right. Yes.

35

MR O'GRADY: Yes. Okay. All right. And you'd agree with me that absent a jump-up clause, you could have two individuals doing substantially the same work but employed on significantly different terms and conditions?

40 **MR LARGE:** Yes.

MR O'GRADY: Yes. And you'd also accept that that would be something that the CFMEU would be entitled to be concerned about, if it had a member working for company ABC being paid a rate significantly less than a member working for another subcontractor, or working for CPB, then that's something that the CFMEU is entitled to try and overcome?

45

MR LARGE: Yeah.

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

5 **MR LARGE:** Yes. Yes.

MR O'GRADY: And as I understood your evidence this morning, a reason why you were not interested in jump-up clauses was because when you had tendered for the job, you tendered for the job on the basis that there would be - the lower rates in various subcontractor agreements would apply.

10 **MR LARGE:** I didn't say there'd be lower rates. I said that we tendered the project on the basis that we'd be subcontracting components of the job and those subcontractors would come to the project with their own EAs.

15 **MR O'GRADY:** Yes. And if there was a jump-up clause and you had negotiated higher rates in your agreement for the CPB workforce, then that would increase the rates that the subcontractors would have to pay? That's the case?

20 **MR LARGE:** Subject to what subcontractor agreements exist, those processes will follow their due course.

MR O'GRADY: Yeah. And that would also increase the price that they would want to put into their tenders, because they want to make a profit out of the project?

25 **MR LARGE:** That's their decision what they do.

MR O'GRADY: I understand. All right. Thank you. Now, you gave some evidence about the presence of HSRs on site, and as I understand your evidence, you say that prior to the scaffolding incident and the employment of CPB of the CFMEU-nominated HSRs, there were HSRs on site because there were some - some subcontractors would have their own HSRs?

35 **MR LARGE:** I - I identify that the project had been up and running for some two and a half years prior to the safety incident.

MR O'GRADY: Yes.

40 **MR LARGE:** There were already established HSRs for particular work groups via subcontractors.

MR O'GRADY: Yes.

45 **MR LARGE:** There were established safety committees already in place at each of the locations.

MR O'GRADY: Yes.

MR LARGE: And the CPB workforce had its own HSRs also as that work group.

5

MR O'GRADY: Yes. So you've got somebody working for ABC company. That group might elect a HSR. Similarly, there would be people working for CPB, and they might elect a HSR.

10 **MR LARGE:** Correct.

MR O'GRADY: Would you accept that there is potential to have a piecemeal or a disjointed approach where you have various different employers employing various different work groups who have - electing their own HSRs?

15

MR LARGE: That's how the legislation works.

MR O'GRADY: I understand. But do you accept that as a matter of principle, the fact that you have these disparate groups electing their own HSRs means that there may be a degree of fragmentation in respect of how safety is addressed on a big project like the one you're dealing with here?

20

MR LARGE: Well, I don't agree.

25 **MR O'GRADY:** Okay. Do you accept that there may be a variation in the quality of HSRs where you've got various different employers with their own workforces electing their own HSRs?

MR LARGE: Potentially yes. But on this project, we identify which of the subcontractor HSRs are participants in the safety committee, and it is the safety committee that assists in giving a more broader and balanced position in relation to safety matters and maybe assists some of those individuals that may not be at the same level.

30

35 **MR O'GRADY:** Yes. But the committee is only going to be as good as the people who comprise it, isn't it?

MR LARGE: Correct.

40 **MR O'GRADY:** Yes. Now, you gave some evidence - sorry, I'll come to that in a moment. In respect of this incident, you'd accept the proposition that people should not be killed or seriously injured whilst at work?

40

MR LARGE: Most definitely.

45

MR O'GRADY: And I put it to you that the incident where the individual was injured in respect of the failure of scaffolding reflected that at least in respect of that work, the systems you had in place weren't sufficient to protect him?

5 **MR LARGE:** Something happened, obviously, for the incident to occur. The incident was investigated by Workplace Health and Safety. I'm not aware of any directions or requirements for CPB to address outside of what was already operating at that time.

10 **MR O'GRADY:** Yeah, I understand that, but just please listen to my question. The fact that that incident occurred meant that your systems were not able to protect that individual.

MR LARGE: The fact that the incident occurred means something happened.

15

MR O'GRADY: Yeah.

MR LARGE: Whether it was due to a system is a part of the investigation process.

20

MR O'GRADY: But you understand that occupational health and safety is all about reducing risk so far as is reasonably practicable?

MR LARGE: Yes.

25

MR O'GRADY: And you don't have to have an incident to breach your obligations under occupational health and safety laws?

MR LARGE: Yes.

30

MR O'GRADY: And the fact that this risk manifested itself and wasn't picked up prior to the incident, I put to you, shows that your systems were unable to protect this individual.

35 **MR LARGE:** I - I don't agree, because there's no findings that the system was deficient.

MR O'GRADY: Yeah. Well, you'd agree with me that where you've got an individual who has been seriously injured, it is perfectly legitimate for the CFMEU to be concerned about that, because its members may be being put at risk.

40

MR LARGE: I would hope that everyone is concerned when someone gets injured.

45 **MR O'GRADY:** Yes, but if you listen to my question, you would agree with me that it's core business for the CFMEU to try and ensure that its members are kept safe at work?

MR LARGE: Yes.

5 **MR O'GRADY:** Yes. And when you've got a serious incident where somebody has been seriously injured, that is a matter of legitimate concern for the CFMEU?

MR LARGE: Yes.

10 **MR O'GRADY:** And it's a matter that the CFMEU not only has a right to be engaged in but it has an obligation to try and address?

MR LARGE: Potentially, yes.

15 **MR O'GRADY:** Yes, all right. And I put it to you that the fact that this particular incident occurred in respect of scaffolding doesn't mean that the only thing you've got to look at is scaffolding. If you've got an incident where you've had a serious injury in respect of one part of the work, it is a reason to actually have a total review of your systems to ensure that there aren't other problems out there that may manifest themselves?

20 **MR LARGE:** If you're talking about the reset process -

MR O'GRADY: What I'm talking about is that you don't confine your inquiries and the work done as a result of the scaffolding incident to scaffolding. That would be irresponsible, wouldn't it?

MR LARGE: We - we - we followed a process of, firstly, addressing scaffolding, because that was the obvious, immediate action.

30 **MR O'GRADY:** Yep.

MR LARGE: I agree that it is a useful opportunity to look at other things, but it is a useful opportunity to look at other things, once scaffolding was identified as being addressed, that the workforce then were able to return to its normal functions.

35 **MR O'GRADY:** Sorry, once again, I just ask you to focus on my question. My question is pretty simple. It is that if there was a risk that had not been picked up and allowed itself to manifest itself in injuring, seriously injuring a worker in relation to scaffolding, that's a pointer to the fact there may be other risks in respect of other parts of the job that have not been picked up and that - will need to be tracked down and eliminated so far as it is reasonably practicable. Do you accept that?

45 **MR LARGE:** Maybe, yes.

MR O'GRADY: Yes. Thank you. And it's certainly a legitimate position for the CFMEU to take, that, well, if they didn't pick up this risk regarding scaffolding, we want to have a look at other aspects of the site to ensure there aren't other risks out there that might injure our members?

5

MR LARGE: Yes, as long, as I said before, that it doesn't disrupt the whole project from not recommencing.

MR O'GRADY: Well, you would agree with me that when it comes to the expediency of recommencing work on the project on the one hand and the health and safety and lives of the people working on the project on the other, the health and safety and lives of people working on the project trumps the expediency of getting the project up and running, doesn't it?

15 **MR LARGE:** Yeah, I agree.

MR O'GRADY: And certainly that was a perfectly legitimate position for the CFMEU to take in trying to address the aftermath of this horrible incident?

20 **MR LARGE:** And a position that we took too.

MR O'GRADY: All right. Thank you. Now, in your evidence you refer to the total recordable injury rate. Now, that's a statistic that deals with actual injuries, doesn't it?

25

MR LARGE: I don't think my evidence talks about total recordable injury frequency rate.

MR O'GRADY: I think you make a reference to it somewhere, Mr Large. But you're familiar with that figure, with that statistic?

30

MR LARGE: Total recordable injury frequency? Yes.

MR O'GRADY: And you accept that that is a statistic that is dealing with actual injuries?

35

MR LARGE: Yes.

MR O'GRADY: Yes. And you agree with me that when you're looking at occupational health and safety issues, you're not only concerned with actual injuries; you're concerned with the potential for injury, and that includes managing risk?

40

MR LARGE: Yes.

45

MR O'GRADY: Yes. And the fact that you might have a good total recordable injury rate figure does not mean that there aren't risks out there that could potentially injure people that the CFMEU is entitled to be concerned about?

5 **MR LARGE:** Yes.

MR O'GRADY: Yes. Thank you. Now, could the witness please be shown page 43 of the bundle. Thank you, Mr Operator. Now, this is the curriculum vitae of Mr Broadhurst. Do you accept that - and perhaps if you could just move through
10 that slowly, Mr Operator, one page at a time, so the witness can absorb what's on it. Thank you. So, Mr Large, putting to one side any health issues that Mr Broadhurst might have had, do you accept that that's a pretty impressive curriculum vitae for somebody putting themselves forward as a health and safety representative?

15 **MR LARGE:** It's a - a CV that contains a number of competencies and qualifications, yes.

MR O'GRADY: Yes. Thank you. Excuse me, Commissioner. I have no further
20 questions, Commissioner.

COMMISSIONER: Is there anything that arises, Mr Ford?

25 **MR FORD:** No, Commissioner.

COMMISSIONER: I just have a couple of questions, Mr Large. I probably didn't pick this up from your witness statement, but two times you mentioned in the cross-examination safety committees at each location as what was in place when, in your words, the project had been up and running for two and a half years.
30 You mentioned three things: already established HSRs elected by the subcontractors; safety committees at each location; and you said CPB had their own HSRs, which you gave evidence about in examination-in-chief. You then mentioned that one of the functions with the safety committees was to help, I think you said - but you might not have said "help"; maybe it was
35 "assist" - participants - sorry, participants in the safety committee would assist the HSRs. Can you describe what that assistance was, and what were the other functions of the safety committees?

40 **MR LARGE:** So if I start with the assistance one, I suppose I was responding to the question from Mr O'Grady. So his suggestion was that maybe, based on the maturity of subcontractors, HSRs may be of varying levels, which I accept. The assisting was, if you've got a group of people acting as a committee, then hopefully there's a learning process through that safety committee, so that's where the assistance came from. Obviously, the safety committees have some
45 representation from CPB, and the overarching sort of assisting in managing of the safety committee is through CPB as well. So there's some support at each of those

committees. So that was the reference to the assisting. And, sorry, what was the second part of your question?

5 **COMMISSIONER:** What is the function, other than assisting HSRs, of the safety committees at each location?

10 **MR LARGE:** So the safety committee is an obligation under the Workplace Health and Safety Act. So they fulfil those obligations that are set up in the Act. Each of those committees would have, like, a terms of reference or an agreement about how they operate, and they fulfil that on a regular basis, providing any queries or concerns to CPB as the principal contractor.

COMMISSIONER: Anything arising from that?

15 **MR CARUANA:** No. Thank you, Commissioner. Could Mr Large be excused?

COMMISSIONER: Thank you for your evidence, Mr Large. You're excused.

20 **MR LARGE:** Thank you.

<THE WITNESS WAS RELEASED

25 **COMMISSIONER:** We will - oh, just before we adjourn - I asked you another question, Mr Gisonda. I got an answer to the Skyring question, but I think it was a question about where Mr Steven Amies was employed. Maybe you could answer that after lunch. Mr Ford, you're going to speak to Mr Clift about that issue of the 154-page unredacted version of exhibit VS-22. And you're going to deal after lunch with the tender of bundle 4, Mr Gisonda?

30 **MR GISONDA:** Yes. And maybe to assist Mr Ford and Mr Clift, what I propose, just to make this - maybe this is the solution - is that, Commissioner, you could make an order that that document be provided to named legal representatives of the CFMEU and Mr Clift's team, and at least for the moment, that would quarantine the use and distribution of the document amongst those
35 legal representatives, and then if one of them wants to come back later and ask for wider usage or distribution, then they can do that. So that's a solution that I offer for perhaps Mr Ford to consider over lunch.

40 **COMMISSIONER:** I think I said Mr Clift and Mr Ford should speak, I think. Oh, you're there. Sorry, I didn't see you there. Sorry.

MR CLIFT: I've been coming in and out, Commissioner. I don't want to gainsay that. That's an acceptable approach, with respect.

45 **COMMISSIONER:** Perhaps have a conversation with Mr Ford and see if you can reach some resolution.

MR CLIFT: Thank you, Commissioner.

COMMISSIONER: We'll adjourn till 2 pm.

5 **<THE HEARING ADJOURNED AT 1.09 PM**

<THE HEARING RESUMED AT 1.59 PM

COMMISSIONER: Mr Gisonda.

10

MR GISONDA: Commissioner, I now call Nicole Watson.

COMMISSIONER: What are we going to do about the documents?

15

MR GISONDA: I've been informed by Mr Ford that he's content with the proposal that I suggested before lunch, so we will proceed to draft up an appropriate order for you to make, Commissioner, and then that document can be given to Mr Clift.

20

COMMISSIONER: And what about bundle 4?

MR GISONDA: Well, as I understand it, Mr O'Grady has an objection to the tender of the bundle. That objection rests, as I understand it, on the basis that those - well, some of the documents that I took you to this morning,

25

Commissioner, that are in the bundle were received courtesy of KordaMentha that had obtained some documents from the CFMEU as part of its -

COMMISSIONER: From the CFMEU?

30

MR GISONDA: Yes. And it appears that perhaps KordaMentha provided us with more documents than the CFMEU had appreciated or had realised.

COMMISSIONER: Right.

35

MR GISONDA: And I think on that basis Mr O'Grady's client wishes to understand with greater detail what it is that we have been provided with and whether - yeah, I think that's all I can say about it. Perhaps Mr -

40

COMMISSIONER: But you could just get them directly from the CFMEU by sending a notice.

MR GISONDA: Yes. And there might not - I don't understand there to be an objection to these particular documents, but it might be more about the process.

45

COMMISSIONER: Do you want me to hear from Mr O'Grady, or what do you want to do?

MR GISONDA: Well, I'm happy to hear from Mr O'Grady as to whether - we will certainly be writing to the administration to provide them with greater detail so that they understand exactly what that we've been provided. So that's not an
5 issue, and documents can be quarantined. Again, that's not an issue.

COMMISSIONER: You can just serve a notice on KordaMentha and get the same documents or get them - anyway, I'll be -

10 **MR GISONDA:** Perhaps we can hear from Mr O'Grady whether he's got a view about this particular bundle as opposed to the wider cohort of documents.

MR O'GRADY: Yes, thank you. Mr Gisonda accurately summarised the situation. As you heard this morning, we were told that some of these documents
15 came from a folder from the CFMEU. It's not a folder that we provided, and so -

COMMISSIONER: I took that to mean an electronic folder?

MR O'GRADY: I think that is probably what it means, but we don't know. So
20 what we've done in order to progress things is we've written to the solicitors for the inquiry raising some issues, and we'll try and deal with that over the course of the next week or so. As far as the documents that are in the bundle itself, as opposed to other documents that might have been provided by KordaMentha, we don't have any objection to them being tendered, but we wouldn't want anything
25 we did in respect of those documents to prejudice any position we might take more generally.

COMMISSIONER: I understand. You've made that very clear, and I think
30 you've got an agreement to that effect with Mr Gisonda.

MR O'GRADY: Yes.

MR GISONDA: Yes. Just to be clear, I said "folder". I meant electronic folder. KordaMentha has taken a part of some hard drive, it seems, and has provided us
35 with those documents electronically. But as I say, they can be indexed, I think - I don't want to commit to that, but I think they can be indexed, but otherwise quarantined, and we can ensure that any documents that the administration feels that we shouldn't be relying upon are not relied upon.

40 **COMMISSIONER:** That seems to be a sensible approach. How shall I describe this bundle, Mr Gisonda?

MR GISONDA: CRR-4.

45 **COMMISSIONER:** Do I need to go through some of the documents? It's clear from their face what they are, and I don't need to individually describe them, but when we're getting to the documents that were the subject of the notice sent to

KordaMentha, the documents on their face don't describe what they are. Are you content that it just be described as bundle of documents, pages - 49 documents, and that we deal with the issue of how to identify some of the documents that are not, on their face, clear?

5

MR GISONDA: I think the way to do it is to describe it as bundle 4 as referred to in opening remarks on today's date.

COMMISSIONER: Okay.

10

MR GISONDA: And so anyone who wishes to better understand what some of those documents are can refer to those remarks.

COMMISSIONER: What is today's date? 30 April.

15

MR GISONDA: Yes.

COMMISSIONER: Bundle 4, comprising 49 pages of various documents referred to in opening remarks by senior counsel assisting on the morning of 30 April 2026 will be CRR-4.

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<EXHIBIT CRR-4 BUNDLE 4 COMPRISING 49 PAGES OF VARIOUS DOCUMENTS REFERRED TO IN OPENING REMARKS BY SENIOR COUNSEL ASSISTING ON MORNING OF 30/4/2026

25

MR GISONDA: Thank you, Commissioner.

COMMISSIONER: Then what about the question I had? I said Mr Amies. I think it was Mr McKean, this location NB Bridge/Yard.

30

MR GISONDA: Yes. What page is that?

COMMISSIONER: That's page 35.

35

MR GISONDA: So NB Bridge would be a reference to the Neville Bonner Bridge.

COMMISSIONER: Right. Thank you.

40

MR GISONDA: And Green Bridge would be a reference to the Kangaroo Point Green Bridge. Where the yards were specifically, I'm still not entirely sure of the location of those yards, but -

COMMISSIONER: Thank you.

45

MR GISONDA: - we'll be able to get to the bottom of that in due course.

COMMISSIONER: And you'll prepare an order dealing with the full version of what's become exhibit VS-22?

MR GISONDA: Yes.

5

COMMISSIONER: And you're content with that, Mr Ford?

MR FORD: Yes. Thank you.

10 **COMMISSIONER:** Very well.

MR GISONDA: Thank you, Commissioner. I now call Ms Nicole Watson.

15 **COMMISSIONER:** Is Ms Watson in the body of the hearing room? Ms Watson, will you come forward to the witness box, please?

<NICOLE MAREE WATSON, SWORN

<EXAMINATION BY MR GISONDA

20

COMMISSIONER: Please take a seat, Ms Watson. Mr Gisonda will now ask you some questions.

25 **MR GISONDA:** Thank you, Commissioner. Could you please tell the Commissioner your full name?

MS WATSON: Nicole Maree Watson.

30 **MR GISONDA:** And your current occupation, please?

MS WATSON: Senior HR adviser for Ghella.

MR GISONDA: And by notice issued by the Commissioner, you swore a statement on 23 April 2026; is that correct?

35

MS WATSON: Correct.

MR GISONDA: And accompanying that statement is a bundle of documents that totals 170 pages that has 24 annexures in it?

40

MS WATSON: Correct.

MR GISONDA: And is that statement true and correct?

45 **MS WATSON:** That is correct.

MR GISONDA: I tender that statement and bundle, Commissioner.

COMMISSIONER: Any objections?

MR DE JERSEY: No.

5

COMMISSIONER: Witness statement of Nicole Maree Watson sworn 23 April 2026, more fully described by senior counsel just now, shall be -

MR GISONDA: NMW-1.

10

COMMISSIONER: NMW-1. Thank you.

<EXHIBIT NMW-1 WITNESS STATEMENT OF NICOLE MAREE WATSON SWORN 23/4/2026 WITH ACCOMPANYING BUNDLE OF DOCUMENTS TOTTALLING 170 PAGES WITH 24 ANNEXURES

15

MR GISONDA: Ms Watson, you have 25 years or thereabouts of experience as a HR professional; is that right?

20

MS WATSON: Correct.

MR GISONDA: And 20 or so of those years was as a HR professional in the legal industry?

25

MS WATSON: Yes.

MR GISONDA: And in July 2021, you commenced as a HR adviser on the Cross River Rail project?

30

MS WATSON: Correct.

MR GISONDA: And in August 2023, you were promoted to the position of senior HR adviser; is that right?

35

MS WATSON: That's correct.

MR GISONDA: And across both roles, your work relates to the TSD package of works on the project; is that right?

40

MS WATSON: Correct.

MR GISONDA: More specifically, are your roles and duties primarily concentrated on the Boggo Road and Gabba sites?

45

MS WATSON: Yes.

MR GISONDA: And being a part of the HR team - we heard from Mr O'Brien, who was from the IR team, yesterday, but you coming from the HR team, are you primarily responsible for what we might describe as white-collar workers on the project?

5

MS WATSON: That is correct.

MR GISONDA: And as a general proposition, is the split that the HR team looks after white-collar workers and the IR team looks after blue-collar workers?

10

MS WATSON: That is correct.

MR GISONDA: But sometimes, on occasion, you will help out or members of the HR team will help out the IR team?

15

MS WATSON: That's correct.

MR GISONDA: And is it the case that one of the things that you might help out on is managing right-of-entry requests by union officials?

20

MS WATSON: Yes.

MR GISONDA: And have you had occasion to help out with a right-of-entry request made by a CFMEU official?

25

MS WATSON: Yes.

MR GISONDA: What about an AWU official? Have you assisted with that in the past?

30

MS WATSON: No.

MR GISONDA: You describe in your evidence a right-of-entry incident that took place on 27 September 2024. And if we could go to page 2 of your statement, please, at paragraph 18 onwards, you say that you were asked to assist Mr Loakes with facilitating a right-of-entry request at the Roma Street work site that day; is that correct?

35

MS WATSON: That's correct. Yep.

40

MR GISONDA: And do you remember that day, the incidents that day?

MS WATSON: Yes. Yes, I do.

MR GISONDA: And perhaps you could tell the Commissioner what you remember about what happened that day, beginning, first of all, at the Roma Street site?

45

MS WATSON: Yes. So Mr Loakes and I were waiting for the right-of-entry personnel to arrive. So that was Dean Mattas and Corey Taylor on behalf of the CFMEU. They arrived, and upon arrival, Mr Loakes and Mr Mattas and Mr Taylor were in a discussion around entering the site. So it became apparent that Mr Loakes was letting them know that they weren't able to come in due to them not complying with the right paperwork for the right of entry. They'd obviously had some kind of conversation before, so he was referring to that, which I am not privy to. During that conversation, though, there was a large group of workers that had congregated within the site, towards the gates where we were standing, and proceeded to chant very loudly, bang on the gates, which was metal, would be very, very loud, demanding that they let them in.

MR GISONDA: That is, Mr Mattas and Mr Taylor?

15

MS WATSON: Correct.

MR GISONDA: Yes.

MS WATSON: It was so loud that we did have to proceed five or so metres down the road to be able to hear each other talk. After five, 10 minutes, when they realised they weren't coming in, they decided to - to depart, but made it clear that they were then heading to the Woolloongabba site afterwards.

COMMISSIONER: I thought Mr Taylor was one of those 14 people that had been put on as a health and safety rep. I've got the wrong name, have I?

MR GISONDA: No, you haven't got the wrong name. So just picking up that question, Mr Taylor was - you might not know the answer to this, but Mr Taylor was originally an employee of CPB employed as a HSR; is that right?

30

MS WATSON: Correct.

MR GISONDA: And he then left to become an organiser with the union; is that right?

35

MS WATSON: That is correct.

MR GISONDA: And so what happened then? Did you then go to the Gabba site?

40

MS WATSON: So we did go to the Gabba site and proceeded to wait outside for them to arrive. I do recall that one of the superintendents came over to tell us that Richie Atutolu was advising members that there was a CFMEU meeting and it would be held in the cribs and rallying everyone towards that area. This particular superintendent informed him that it wasn't a designated meal break, and so they had to go back to work. But I believe that they didn't and that wasn't the case.

45

Eventually, Mr Mattas and Mr Taylor arrived and proceeded to request to be let in. Again, Mr Loakes advised them that they weren't able to come in. And by that stage there was a very large crowd gathered, again around toward - within the site, towards the gates where we were standing. They started chanting again, banging
5 on the hoarding. At one point, I saw - I looked over my shoulder and I saw someone climbing up on top of the hoarding, which is probably approximately about two metres high, and, you know, again, just very loud, very intimidating shouting, carrying on, to let them in.

10 **COMMISSIONER:** If it's inside the gate, presumably that large crowd you're talking about should all be - assuming that no-one is trespassing - should all be workers on the site?

MS WATSON: Correct.
15

COMMISSIONER: Is that what you observed?

MS WATSON: Yes.

20 **MR GISONDA:** And did you notice whether there was a particular ringleader of the crowd, or you weren't able to see?

MS WATSON: Yes. That would be Richard - Richie Atutolu. He would've been the - he was actually asking the crowd, "Do you want them to let them in?" And
25 leading them into a chant as well, yep.

MR GISONDA: And you took some notes of those two incidents and have attached those notes to your statement; is that correct?

30 **MS WATSON:** That is correct.

MR GISONDA: And can I ask you, what was your general observation - so from time to time, you said you did come across CFMEU officials on the site?

35 **MS WATSON:** Correct.

MR GISONDA: What was your general observation about the conduct of those officials?

40 **MS WATSON:** They were quite argumentative and, you know, demanding in terms of their agenda. I have been aware - I am aware of some of their behaviour towards the IR team members and - which were quite aggressive, rude, swearing, things like that.

45 **MR GISONDA:** So you wouldn't describe the interactions as professional and respectful?

MS WATSON: No.

MR GISONDA: And this was the first time that you've worked in the construction industry; is that right?

5

MS WATSON: Correct.

MR GISONDA: And have you had any dealings with unions in your previous roles?

10

MS WATSON: No. None.

MR GISONDA: Just in terms of - putting unions to one side, but just in terms of their general behaviour, both what you saw and what was reported to you, had you seen that sort of behaviour in workplaces before that you've worked in?

15

MS WATSON: Never. Never.

MR GISONDA: Can I then ask you some more questions about Mr Atutolu. He was, we've heard this morning, originally a worker on the - at the Gabba site for Heinrich; is that correct?

20

MS WATSON: That's correct, yep.

MR GISONDA: And you were told, were you, in about August 2023 that CPB was now going to be hiring him directly?

25

MS WATSON: Yes.

MR GISONDA: And the reason for him being hired directly was so that he could perform the role of the health and safety rep; is that right?

30

MS WATSON: Correct.

MR GISONDA: And you say in your statement that he had some - he was notorious amongst your colleagues because of previous reports about his poor behaviour?

35

MS WATSON: That is correct.

40

MR GISONDA: And one of your colleagues had told you that there was an incident - and this is at paragraph 37 of your statement - that he had picked up a microwave during a meeting in the crib room and smashed it?

45

MS WATSON: Correct.

MR GISONDA: And in October 2024, you had - you were asked to perform a workplace investigation into allegations about his conduct; is that right?

MS WATSON: Yes, that is correct.

5

MR GISONDA: And I suggest it was a particularly lengthy or - I withdraw that and ask you this: the investigation went for more than three weeks; is that right?

MS WATSON: Yes.

10

MR GISONDA: And you spoke to around 16 witnesses?

MS WATSON: Yes.

15

MR GISONDA: And you have experience conducting workplace investigations in the past?

MS WATSON: Yes.

20

MR GISONDA: And so is the process that you would speak to whatever witnesses you can marshal, look at any documents and then make some findings?

MS WATSON: That's right.

25

MR GISONDA: And based on those findings, make a recommendation to management as to what should happen?

MS WATSON: Correct.

30

COMMISSIONER: Because you hadn't worked in a union environment before in the previous 25 years -

MS WATSON: Yes.

35

COMMISSIONER: - where a lot of the work is dealing with unions, presumably - and you can explain in your own words, Ms Watson - a lot of the work you did in your 25 years as an HR professional would be taken up with these sort of investigations?

40

MS WATSON: Well, from time to time, you know, we would get quite a lot of investigations on just people in general behaving maybe badly - not to this extent in white collar, in my experience, but, people being people, sometimes get frustrated with others and, you know, might say things that other people take offence to. So there would be investigations that have occurred.

45

COMMISSIONER: That you conducted?

MS WATSON: Yes, that I've conducted.

5 **MR GISONDA:** So if we go to page 16 of the bundle to your statement, and if we can just focus in, please, on the first paragraph under Witness 1. So all it says is Witness 1 there. This is setting out what one of the witnesses saw in relation to the first allegation. There were two allegations made against Mr Atutolu; is that right?

10 **MS WATSON:** Correct.

MR GISONDA: And the first one there says that:

15 "The witness confirms that the respondent was being aggressive and argumentative towards him on a pre-start meeting, raising issues and challenging him on management issues."

20 So, just so we're clear, there was a pre-start meeting at the start of the day, and in that pre-start meeting, Mr Atutolu was being aggressive and argumentative towards the site manager?

MS WATSON: The site manager, yes.

25 **MR GISONDA:** Who then stated that he addresses the issues with Mr Atutolu, who then starts to belittle him and disrupts the meeting further; is that right?

MS WATSON: Correct.

30 **MR GISONDA:** And then it was alleged that the complainant said to Mr Atutolu, basically, "Sit down and be quiet or go home if you don't want to work."

MS WATSON: Yes.

35 **MR GISONDA:** And the witness said that Mr Atutolu then said words to the effect of, "Righto. You want to mouth off. Let's go. Get out the front and let's go."

MS WATSON: That's right.

40 **MR GISONDA:** Then, whilst addressing that complainant, Mr Atutolu stood up and used hand gestures like a mouth talking and waved his hands around to signal the complainant over towards him and to go outside.

MS WATSON: Yes.

45 **MR GISONDA:** And the witness then confirmed that the complainant did not move, and as a result, Mr Atutolu ends up telling the complainant to "get the fuck up".

MS WATSON: Yes.

5 **MR GISONDA:** And then the witness confirmed talking to the complainant
some time after in his office, after that incident, and waited for the complainant to
join him on the street, and he was concerned about the complainant's safety and
offered to take the day off and an escort to his car.

MS WATSON: That is correct.

10

MR GISONDA: Then, as part of that investigation, you looked at some of the
CCTV vision; is that right?

MS WATSON: That's right.

15

MR GISONDA: And if we could go, please, if we're able to bring up video
number 10, and before - before we start playing it, can I ask you, Mr Operator, if,
once you start playing it, you can stop it or pause it when you reach the 35-second
mark. Thank you.

20

(Video played).

MR GISONDA: Okay. So just pausing there, are you able to tell the
Commissioner what we're looking at there? Where is this situated in the site?

25

MS WATSON: This is in the walkway as you come to - the turnstiles would be
over on that right-hand side, to come in and out of site. This is a walkway that
they have going up towards the crib room and up towards entering the actual site
itself. This was after pre-start had finished, so after that incident where the
complainant had words with the respondent, and I believe these people are waiting
for Richie to appear.

30

COMMISSIONER: Waiting for who, sorry?

35

MS WATSON: Mr Atutolu to appear.

COMMISSIONER: It says 6.14. That's 6.14 am. The pre-start is 6 am?

MS WATSON: Correct.

40

MR GISONDA: Now, Commissioner, you'll see there that there's a worker in a
yellow hi-vis. What you'll see in a few seconds, once we resume the clip, is that
he will look back, and then the first person you will then see walking past is Mr
Atutolu in a hat, who - he in turn looks back to make sure that he's being followed.
And then towards the end of the clip you'll see some workers hurriedly coming
through this area, presumably to get a look at what was about to happen, primarily

45

wearing RB Scaffolding hi-vis material. So let's play the clip now, the rest of the clip.

(Video played).

5

MR GISONDA: You can stop the clip now. Did I fairly describe what you had observed when you saw the footage, Ms Watson, that Mr Atutolu then walked past wearing the hat? He looked back over his shoulder to see that he was being followed, and then a number of workers were hurriedly trying to gain position to see what would happen?

10

MS WATSON: Correct.

15

MR GISONDA: And then the next footage, which is video 11, this is footage - this is a camera that's - well, tell the Commissioner what that's looking at.

20

MS WATSON: So, yeah, this is actually facing the entry of the gates into site. So the walkway would be to that left. And he - this footage shows Mr Atutolu coming out to the gate, walking out onto the footpath and, in my opinion, looking that he was going to shape up for some kind of physical fight. He proceeds to fiddle with his shirt, and you'll see that the complainant does not enter outside. In the investigation, it was found that he came to the edge and said words to the effect "you're not worth it" and walked back to work.

25

MR GISONDA: Okay. So if we could play the footage now, please.

(Video played).

30

MR GISONDA: Okay. I tender those two videos, Commissioner.

COMMISSIONER: Which one's the complainant? I couldn't -

35

MS WATSON: He doesn't come into view. He's actually on the stairs that - you can see there's a railing there. He's standing on the stairs. So unfortunately our cameras weren't able to pick him up in this vision.

COMMISSIONER: How would you like me to describe these videos?

40

MR GISONDA: CCTV footage of incident on 3 October 2024.

COMMISSIONER: Is there any objection?

45

MR DE JERSEY: No, Commissioner.

COMMISSIONER: CCTV footage (first angle) of incident 3 October 2024 around 6.15 am will be exhibit CRR-5.

**<EXHIBIT CCR-5 CCTV FOOTAGE (FIRST ANGLE) OF INCIDENT
3/10/2024 AROUND 6.15 AM**

5 **COMMISSIONER:** CCTV footage (angle 2) of incident 3 October 2024 around
6.15 am will be CRR-6.

**<EXHIBIT CRR-6 CCTV FOOTAGE (ANGLE 2) OF INCIDENT 3/10/2024
AROUND 6.15 AM**

10 **MR GISONDA:** And you found, Ms Watson, that the allegation or the account
as articulated by that witness that we just went through before had been
substantiated after you'd spoken to all the other witnesses?

15 **MS WATSON:** Correct.

MR GISONDA: And if we go to page 20 of the bundle and the third-last
paragraph from the bottom, you say:

20 "The report finds evidence to support Mr Atutolu in doing so..."

That is, in doing what we've just gone through:

25 "...exposed himself and others to a risk to health and safety in the workplace
and exposed CPB and its officers and directors to unacceptable legal and
other risks."

And then over at page 21, the second paragraph there:

30 "The report finds evidence to support the allegation that the respondent
engaged in conduct in relation to the complainant that gave rise to workplace
psychosocial hazard."

And can you just explain to the Commissioner what psychosocial hazard means?

35 **MS WATSON:** Well, it would be - he - it would've been a threat to him based on
a physical threat and therefore feeling unsafe in the workplace.

40 **MR GISONDA:** And then you say in the middle of this page, under a reference
to section 19(1) of the relevant Act:

45 "The information contained in this report provides evidence that the
respondent incited violence by inviting complainant outside to engage in a
physical altercation, and as a result the respondent has been found to have
created a hostile work environment, causing a serious risk to the health and
safety of not only the complainant but all other workers who were present at
the time."

So that was your finding in relation to that first allegation; is that right?

MS WATSON: Correct.

5

MR GISONDA: And then, at page 22 of the bundle, there's allegation number 2. And that allegation was that during a safety committee meeting, which Mr Large gave evidence about before lunch, on 2 October, the respondent was observed to act aggressively towards complainant number 2, including repeatedly berating him and calling him offensive and demeaning names such as idiot, dumb, stupid, swearing at him, calling him a dickhead, and repeatedly using the word "fuck" in front of the safety committee team and being very aggressive, including pointing fingers directly at the complainant and yelling at him. That was the allegation, was it, that had been made?

10
15

MS WATSON: That's correct.

MR GISONDA: And you found, after again speaking to the witnesses, that that had been substantiated as well?

20

MS WATSON: That is correct.

MR GISONDA: And at page 25 of the statement, in this bundle to your statement, you say - after referring to the bullying provisions, the relevant bullying provisions, you say that:

25

"The evidence in the report supports the claim that the respondent made belittling and humiliating comments towards the complainant, which were classified as bullying due to the very aggressive, intimidating and unreasonable nature."

30

MS WATSON: Correct.

MR GISONDA: You also said at the bottom of page 9 of your bundle of documents, the very last paragraph - sorry, page 9 - that it was your opinion that he had not been forthcoming with all the facts and was purposely withholding information from the investigation, and it was also your opinion that he was trying to be purposely deceitful in his responses?

35

40

MS WATSON: Correct.

MR GISONDA: Is that right? And what do you recall about the way he engaged with the process?

45

MS WATSON: I - when I was engaged in that investigation with him, I offered him the ability to provide witnesses, which - to which he said he did have, but didn't want to give them to me, didn't want to name them. He wanted to see what

we had on him first before he gave any further evidence. There was also a break in that conversation - in the interview, at which time his support people asked for a break, and after he returned he was not very forthcoming with answering any questions.

5

MR GISONDA: Thank you. And then at page 32 of the bundle, he was - your recommendation was that he should be terminated?

MS WATSON: Correct.

10

MR GISONDA: And that recommendation was then accepted by Mr Sanfilippo?

MS WATSON: That is correct.

15

MR GISONDA: And at page 32, in the termination letter to Mr Atutolu, the bottom half of that page, it says, among other things, that CPB considered that his conduct was an attempt to incite violence in the workplace. It was a demonstrated - demonstrated a willingness to act in breach of his obligations under the Work Health and Safety Act, and among other things, he had exposed himself and others to a risk to health and safety in the workplace.

20

MS WATSON: That is correct.

25

MR GISONDA: Was it relevant at all to your findings or considerations that he was a designated health and safety representative on the site?

MS WATSON: Well, yes, I would assume in that position you would want to uphold health and safety across the site.

30

MR GISONDA: And based on your investigation, you didn't see anything from him that was consistent with what you'd expect to see from a health and safety representative?

MS WATSON: No, not in this instance.

35

MR GISONDA: And if we can then turn to the next health and safety rep who you were asked to investigate, and that's Mr Adam Langford.

MS WATSON: Yes.

40

MR GISONDA: Do you remember performing that investigation?

MS WATSON: I do.

45

MR GISONDA: Unlike Mr Atutolu, he was new to the Cross River Rail project when he was employed by CPB -

MS WATSON: That is correct.

MR GISONDA: - in about September 2023. And did you have much to do with Mr Langford on site before the -

5

MS WATSON: Not - no.

MR GISONDA: This incident. And this incident was a bit more straightforward in the sense that it involved, I think, you speaking to only three witnesses?

10

MS WATSON: That's correct.

MR GISONDA: And the allegation concerned disruption of work by him that was being performed or attempted to be performed by the subcontractor known as Marr Contracting?

15

MS WATSON: That's right.

MR GISONDA: And Marr Contracting specialises in mobile and tower cranes?

20

MS WATSON: Correct.

MR GISONDA: And we've seen, I think their name has come up elsewhere in some documents but I think they trade under the name Men from Marr's; is that right?

25

MS WATSON: That is correct, yes.

MR GISONDA: Perhaps we can just go straight to your finding on page 41 of your bundle. And that finding was, at the bottom of the page, that the report revealed compelling evidence that in the lead-up to the weekend of Saturday 16 November, Mr Langford had clear intentions to deny the Marr crane crew access to the Boggo Road site and that the report provided evidence that the respondent went so far as to convey his intention to not only individuals within the Marr crane crew but Boggo supervisors as well. And the report provides evidence that Marr had always planned for the crew to work that day, insofar as stating in their email that it was business as usual; is that right?

30

35

MS WATSON: Correct.

40

MR GISONDA: And:

"The report substantiates the allegation that the respondent not only attempted to but through his conduct succeeded in causing the Marr crane crew not to enter the site on that morning."

45

And the upshot was that pre-scheduled works that needed to occur on that Saturday could not occur because of the actions of Mr Langford?

5 **MS WATSON:** That is correct.

MR GISONDA: And, as a result, you recommended that he be terminated as well?

10 **MS WATSON:** That is correct.

MR GISONDA: And that recommendation was accepted, and he was terminated on 15 January 2025?

15 **MS WATSON:** That is correct.

MR GISONDA: Now, at paragraph 55 of your statement, you say you gave Mr Langford a call late in 2024 to give him an update as to what was happening?

20 **MS WATSON:** That is right.

MR GISONDA: And can you tell the Commissioner what you remember about that phone call?

25 **MS WATSON:** So I rang Mr Langford just to let him know that, given we were coming into the shutdown period, as a courtesy, that we would have to relay the outcome of the report in the new year. So during that conversation, he said words to that effect, "Oh, Nicole, I'm surprised they're getting me on this. I've done heaps worse than this."

30 **MR GISONDA:** And was that the extent of the conversation?

MS WATSON: That was the extent of the conversation.

35 **MR GISONDA:** You then deal in your evidence with the - briefly with the termination of Mr Korostovetz, but can you confirm that it was Mr O'Brien who handled that investigation?

MS WATSON: That is correct.

40 **MR GISONDA:** And just at some point, you seem to have helped facilitate the provision of his report and documents to Mr Sanfilippo?

MS WATSON: That's right, up to the point of the show-cause notice.

45 **MR GISONDA:** Can I then deal with Mr Broadhurst. Mr Broadhurst was installed on the project by the CFMEU, I think we heard this morning with greater specificity the end of October 2023?

MS WATSON: Correct.

5 **MR GISONDA:** And we heard evidence last week that Mr Broadhurst was then installed on the Toombul Shopping Centre site in March of 2024, but before then you had received a complaint about his behaviour in February of 2024. Is that right?

10 **MS WATSON:** That is correct.

MR GISONDA: And if we go to page 130 of the bundle, the complaint about a third of the way down the page was that a worker fell unwell on site and was nauseous and started to vomit, and the worker was treated by CBG first-aider Mr Broadhurst, who called Queensland emergency services. And then the
15 complainant says that on his arrival at the first-aid room, the PI - and what's the PI a reference to?

MS WATSON: This is the person who was unwell.

20 **MR GISONDA:** Person -

MS WATSON: Sorry, what do you -

25 **MR GISONDA:** Person injured?

MS WATSON: Person injured, yes.

MR GISONDA: Person injured was stable and was being cooled down by Trent with ice packs?
30

MS WATSON: Yes.

MR GISONDA: The PI was stripped down to only their long pants but then changed themselves into shorts?
35

MS WATSON: That's correct.

MR GISONDA: Then Queensland Ambulance Service arrives and they do an assessment, and it was confirmed - this is just before Encounter 1 - the heading
40 Encounter 1 - that the person injured underwent medical assessment, the event was not work-related, and the project received that notification at 7.30. And then Encounter 1 is that Mr Broadhurst rang QES back twice with concerns they were taking too long.

45 **COMMISSIONER:** QES or QAS?

MR GISONDA: QES, Queensland Emergency Services.

COMMISSIONER: Oh, right.

5 **MR GISONDA:** And on both occasions misrepresented the person injured's signs and symptoms, stating that they were not fully with it, were getting worse, and emphasised it was a heat-related illness, even though there had been no change in their condition:

10 "And then when the ambulance arrived, along with Trent Broadhurst, I assisted the person injured to the ambulance, as they insisted on walking to it. And on my asking the paramedic where the person injured would be taken so I could follow up and ensure they received the required assistance, Mr Broadhurst became aggressive towards me and told me he's an East Coast employee, not a CPB worker, 'so fuck off, you got nothing to do with it'."

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MS WATSON: That's correct.

20 **MR GISONDA:** That was the first allegation. And then the second allegation was at page 132, and that allegation was that he had accused the complainant of being drunk on site and said things to him such as, "Are you drunk today? Haven't you had a drink today?" And those sorts of things.

MS WATSON: That's correct.

25 **MR GISONDA:** And at the bottom of that page, at 132, the worker said that:

"This has now become an ongoing problem where these two co-workers..."

30 One of which was Mr Broadhurst:

"...either individually or together have attempted to degrade, disempower and demean me in public with misinformation and dominate me through verbal abuse and physical intimidation."

35 That was the complaint that was made to you; is that right?

MS WATSON: That is correct.

40 **MR GISONDA:** And then you spoke to another witness at page 135, and in the middle of that page, the witness, whose name is Jess, says that - and this is that bullet point there, the last sentence:

"Jess says that Trent is usually very aggressive and is known to swear a lot, so it's highly likely that he did do those things that he was accused of doing."

45

MS WATSON: Correct.

MR GISONDA: And then there's a further incident on page 136, the second sentence there in that top email, which was said to demonstrate "further attempts by Mr Broadhurst to belittle me in public and spread misinformation about my competency to fulfil my position".

5

MS WATSON: That's correct.

MR GISONDA: So those were the three incidents that you were specifically asked to investigate, and they included this idea that - or this allegation that he was engaging - that is, Mr Broadhurst was engaging in physical and verbal intimidation of this worker?

10

MS WATSON: That's right.

MR GISONDA: And you started to do the things that you needed to do to conduct such an investigation?

15

MS WATSON: That's correct.

MR GISONDA: And as you understood it, Mr Broadhurst was made aware that you wanted to speak to him about the investigation?

20

MS WATSON: Yes.

MR GISONDA: And what happened then? Were you able to speak to him?

25

MS WATSON: No. I wasn't able to speak to him. Mr Broadhurst, shortly after - I think it was the next day that he was informed that I wanted to have a meeting with him to take his statement - was all of a sudden no longer on site. And I'm not sure - I didn't know at the time where he was, but I'm led to believe that he finished up on Cross River Rail.

30

MR GISONDA: And you might not have this information at your disposal, but are you aware that on 11 March 2024, which is about 10 days or thereabouts after you wanted to speak to him, he resigned from the project?

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MS WATSON: That's right.

MR GISONDA: And so as a result of that resignation you didn't follow through with the investigation?

40

MS WATSON: No.

MR GISONDA: Can I then finally deal with some complaints that were brought to your attention in relation to some events that took place in late July and early August of 2023?

45

MS WATSON: Mmm-hmm.

MR GISONDA: On about 8 August 2023, you interviewed a complainant who you then prepared a statement for, and he got back to you with some amendments
5 to that statement. Is that the process?

MS WATSON: That's correct.

MR GISONDA: So you speak to the complainant. He - you then take a
10 statement based on what he tells you. You send that statement to him, and then he has the opportunity to make any points of clarification to that statement?

MS WATSON: That - that occurred, correct.

MR GISONDA: And what was the original trigger for the complaint was that on
15 7 August, the complainant made an allegation that an official from the ETU had aggressively confronted him at his office at the Gabba site?

MS WATSON: That's right.
20

MR GISONDA: And so he tells you about that incident. But then can I direct your attention to page 155 and the bottom half of that page, please, under the heading Safety Concerns.

MS WATSON: Yep.
25

MR GISONDA: That's page 155 of the Watson bundle. He then says that as a result of that incident - and more generally, which we'll come to - that he wasn't feeling very well and things were taking a toll on his mental health because he felt
30 like he was being targeted. And do you remember him saying that to you?

MS WATSON: Correct.

MR GISONDA: And then this bottom paragraph here on the page, he says this,
35 and he's now referring to what had taken place immediately following the scaffold incident at Boggo Road; is that right? That's the incident -

MS WATSON: That's correct.

MR GISONDA: - where a man was seriously injured after falling from height?
40

MS WATSON: Yep. Yes.

MR GISONDA: And so he's saying that:
45

"There was an incident the day after at the northern portal site."

Is that correct?

MS WATSON: That's correct.

5 **MR GISONDA:** And he says that the incident was that the CFMEU, accompanied by two ETU organisers, stormed the gates at the northern portal for the night shift commencing Wednesday night, 26 July 2023. He said:

10 "They were displaying aggressive, intimidating, bullying and harassing behaviour directed towards me."

And then he says:

15 "I was advised by one CFMEU organiser, Vonhoff, who was standing a foot away from my face, that he knows who I am, he knows my bike, he knows my registration number and that he was coming after me."

That's what he said to you when you spoke to him on 8 August; is that right?

20 **MS WATSON:** That is correct.

MR GISONDA: And then over the page, there is, towards the end of that first paragraph, he says they - they being the union officials, or the union persons, I should say:

25 "...told everyone at the northern portal that 'we've got all your number plates'. At that time, it was more directed to everyone on site, even though they said they were coming for me. But now, since I've moved sites and they're still singling me out, I feel like I'm definitely being targeted."

30 **MS WATSON:** That is correct.

MR GISONDA: And then over the page at 158 -

35 **COMMISSIONER:** Just on that, on 156, isn't that last name, Peter Cullen - isn't he the subject of a fairly prominent case in the Circuit Court where he was harassed?

40 **MR GISONDA:** Yes, that's the one. Yes, that's right. And then at page 158, at the bottom of 158, the very last sentence, this is an email that he provides you where he's setting out the incident, that:

45 "The CFMEU union organisers are familiar with and know how I get to and from work and what my personal transport looks like. The loud whack was heard in the vicinity of where I'd parked my personal vehicle after seeing the four CFMEU union organisers within this area, and it is my belief that a large object had been thrown at my personal vehicle."

So you received that email from him as well?

MS WATSON: I did.

5

MR GISONDA: And then at the bottom of page 162, there's a further report given by a complainant at the very bottom of that page. He says - this is now in relation to an incident on 4 August at the northern portal - that:

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"The union organisers there worked out that we were using the back gate to get in and out of the site, and they started shouting threats about knowing our number plates while we were getting people into site. This was about 7.30 am, and then a bit after 8 am, they started throwing rocks at the bike and my car. Shane then got a phone call from the delegate to say he'd been

15

approached by some CFMEU guys and basically threatened if he doesn't sign onto the CFMEU EBA they were going to bash him, and that's when they showed him their weapons they were carrying, which were knives, guns and bats."

20 That was -

MS WATSON: That was what he said, correct.

MR GISONDA: That's what he said to you?

25

MS WATSON: That is correct.

MR GISONDA: Now, you didn't have any personal observations of these events; is that true?

30

MS WATSON: That is true. I didn't.

MR GISONDA: You were just the recipient of these complaints?

35 **MS WATSON:** That's correct.

MR GISONDA: And then at page 170, there was an email that had been sent, and the second sentence was to the effect that the delegate had advised that there were people at the gates with balaclavas on, and these persons were carrying

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weapons, bats, knives and a handgun.

MS WATSON: That's what they've said to me, yes, correct.

COMMISSIONER: I missed what you said about that, Ms Watson.

45

MS WATSON: That's what they had said to me, correct.

MR GISONDA: And if I can just go back to page 1 of your statement - no, actually, there's no more questions, Commissioner.

COMMISSIONER: Is there any cross-examination of this -

5

MR DE JERSEY: No, there's no cross-examination of the witness.

MR O'GRADY: No, Commissioner.

10 **COMMISSIONER:** Ms Watson, thank you very much for your evidence.

MS WATSON: Thank you.

COMMISSIONER: You're free to go and you're excused.

15

MS WATSON: Thank you.

<THE WITNESS WAS RELEASED

20 **COMMISSIONER:** Mr Gisonda, just before you call your next witness, I just want to ask you a question. It just arises from Mr O'Grady's cross-examination of Mr Large and also this witness's evidence. Three of the four people who were terminated - Mr Atutolu, Mr Langford, Mr Korostovetz - were all terminated after the administrator was appointed, and there's no evidence, or no evidence yet,
25 anyway, that anyone from the CFMEU arranged for them to thereafter have a job with any particular employer. But maybe that's to come.

Mr Broadhurst is in a different situation. He was terminated before the administrator was appointed, and your case study that you opened last week with
30 Mr Jenkins led evidence that he was imposed upon the Rosenlunds immediately thereafter. Mr O'Grady cross-examined Mr Large on the basis of the CV of Mr Broadhurst and suggested that Mr Broadhurst's CV - I think that's been taken from me, my folders. But anyway, it showed the CV which had a few health and safety representative positions prior to joining Cross River Rail.

35

MR GISONDA: Yes.

COMMISSIONER: You don't have to answer this question if you don't want to, but do you - are you proposing to or have you looked at the extent to which that
40 aspect of Mr Broadhurst's experience was a function of him being an elected health and safety representative on those previous jobs, or the same approach that had been taken at Cross River Rail and at the Rosenlunds, that is, imposed by the union or Mr Ingham upon each of those employers?

45 **MR GISONDA:** As you might appreciate, Commissioner, getting to the bottom of those sorts of things is a slow and burdensome process. But that's certainly the sort of thing that we're looking into.

COMMISSIONER: Very well. Thank you. Sorry, Mr Caruana, making you jump up and down.

5 **MR CARUANA:** No, thank you, Commissioner. Commissioner, I call Graeme Silvester.

COMMISSIONER: Is Mr Silvester in the hearing room? Mr Silvester, will you come forward to the witness box, please.

10

<GRAEME RICHARD SILVESTER, SWORN

<EXAMINATION BY MR CARUANA

15 **COMMISSIONER:** Please stay still in the hearing room while the oath is being administered. Mr Silvester, please take a seat. Mr Caruana will ask you some questions.

20 **MR CARUANA:** Thank you, Commissioner. Mr Silvester, can you tell me your full name, please?

MR SILVESTER: Graeme Richard Silvester.

25 **MR CARUANA:** And can you tell me what's your current occupation?

MR SILVESTER: I'm an executive general manager with health, safety, environment, quality, with CIMIC.

30 **MR CARUANA:** And you've sworn a statement dated 21 April 2026 pursuant to a notice issued by the Commissioner?

MR SILVESTER: Correct.

35 **MR CARUANA:** A statement of 11 pages?

MR SILVESTER: Correct.

40 **MR CARUANA:** Comprising annexures GS-1 to GS-6 in a bundle that runs 54 pages?

MR SILVESTER: Correct.

MR CARUANA: Have you had an opportunity to review that recently?

45 **MR SILVESTER:** Yep.

MR CARUANA: And is it all true and correct?

MR SILVESTER: To the best of my knowledge, yes.

MR CARUANA: I tender that, Commissioner.

5

COMMISSIONER: Are there any objections?

MR DE JERSEY: No, Commissioner.

10 **MR CARUANA:** GRS-1, perhaps.

COMMISSIONER: Witness statement of Graeme Silvester made in Sydney 21 April 2026, more fully described by junior counsel assisting just now, will be GRS-1.

15

**<EXHIBIT GRS-1 WITNESS STATEMENT OF GRAEME SILVESTER
MADE IN SYDNEY 21/4/2026 COMPRISING ANNEXURES GS-1 TO GS-6
IN A 54-PAGE BUNDLE**

20 **MR CARUANA:** Thank you. Can you tell me, the role that you just told us about with CIMIC, when did you start in that?

MR SILVESTER: February this year.

25 **MR CARUANA:** And CPB is a wholly owned subsidiary of CIMIC?

MR SILVESTER: That's correct.

30 **MR CARUANA:** Now, prior to taking up the role with CIMIC in February 2026, what role did you have?

MR SILVESTER: I was the general manager of safety, health, environment, quality and rail safety for CPB Contractors.

35 **MR CARUANA:** And when did you begin in that role?

MR SILVESTER: 26 July 2013.

40 **MR CARUANA:** If I can take you to paragraph 8 on page 1 of your statement, can you tell me, and if that paragraph assists you, what work experience did you have prior taking on the role with CPB?

45 **MR SILVESTER:** I've been working in health and safety for about 30 years. I've held senior safety roles in mining, rail, offshore oil and gas, electrical distribution, and construction.

MR CARUANA: I realise I've taken to you the wrong paragraph, but you did well in any event, Mr Silvester.

MR SILVESTER: That's all right.

5

MR CARUANA: But it's fair to say, if I could take you to paragraph 9, that you've had 30 years in the safety industry, and paragraph 10, a number of companies encompassing a number of work areas but principally construction-related?

10

MR SILVESTER: Yes. I started out life as a carpenter, so I've been in and out of construction for a while.

MR CARUANA: Were you a carpenter before or after you were a police officer?

15

MR SILVESTER: Before.

MR CARUANA: Okay. And if we go back now to paragraph 8, could you tell me a bit about your role as the general manager with CPB with the safety overview?

20

MR SILVESTER: Sure. I'm accountable for the development, implementation and ongoing monitoring of compliance to the business - the corporate management system, which houses an integrated management system which details the way we conduct our business.

25

MR CARUANA: And your role in relation to safety systems and the like, is that project-specific or was it the whole of CPB's -

30

MR SILVESTER: The whole of CPB.

MR CARUANA: But at the time of your employment in that role, Cross River Rail formed a part of the projects you had oversight of?

35

MR SILVESTER: Yeah, so I started in the role 20 June 2017. I think Cross River Rail was bid after that date. So it would've formed part of it, yes, at a point in time.

MR CARUANA: Would it be fair to say that was one of the bigger projects that was in your purview?

40

MR SILVESTER: It was one of the big projects, yes.

MR CARUANA: I want to ask you a bit about the safety systems in place on Cross River Rail. If I could take you to paragraph 17 on page 4 of your statement. I understand these to be things that were in place on the Cross River Rail project specifically?

45

MR SILVESTER: Yes. So that - that's what I would call operationally facing people. So area health and safety, environment, quality manager; safety advisers and administrators; quality advisers; quality site engineers; and then
5 environmental advisers, environmental coordinators.

MR CARUANA: So these are positions held specifically on that project?

MR SILVESTER: Correct.
10

MR CARUANA: And then if we go to paragraph 18, you say these are safety-specific roles in CPB's work health safety team. How does that differ from the things you just went to?

MR SILVESTER: Yeah. So - so those roles sat in the Cross River Rail project office, and they were there to either direct or assist in the performance of safety functions across the project.
15

MR CARUANA: So not necessarily positions on the ground, but assisting in overall safety on the project?
20

MR SILVESTER: Correct.

MR CARUANA: If we can pull up paragraph 189, please, Mr Operator. You discuss here that there'd been many instances of CFMEU before it was placed into administration where they've accused CPB of not taking safety seriously, cutting corners and putting workers at risk, operating a dangerous work environment. As someone with the overview that you have, how would you respond to that?
25

MR SILVESTER: I completely reject that.
30

MR CARUANA: And indeed, if we go to paragraph 20, you list four - perhaps call them factors that you put forward to support your rejection of that comment. The first is statutory obligations. Can you talk to me about what you mean when you say that?
35

MR SILVESTER: It's the legislative requirements that we're required to meet. You know, I think for - for me in the role that I lead within - that I led within CPB and I now lead within CIMIC, you manage health and safety for three reasons.
40 You manage it because there's a legislative requirement. You manage it, secondly, because there's a financial cost if you don't do it properly. And, thirdly, there's a moral requirement. Moral requirement to make sure people go home. We manage it and I drive it from a moral perspective. I'm not concerned with legislation or financial cost, because we set a high standard.
45

MR CARUANA: I understand that. So there's a financial cost, and you list some of them: contractual obligations, you need to attract workers. But at the end of the day, the most important one for you is the moral obligation?

5 **MR SILVESTER:** Correct.

10 **MR CARUANA:** I want to turn now to dealings on the project with Work Health Safety Queensland. If I could take you to paragraphs 26 and 27 at page 6 of your statement. You talk at paragraph 26 about a well-publicised, CFMEU-led campaign in which the number of notices issued by Work Health Safety Queensland was used to support the claim that the project was an unsafe project. Again, in your role, what do you say to that statement, that the number of notices reflects an unsafe project?

15 **MR SILVESTER:** Look, that project was subjected to a - to an ongoing, concerted, organised campaign by the CFMEU, in conjunction with WHSQ, to have notices issued. We would get multiple CFMEU people attending our sites wanting to gain access. We wouldn't allow them access in many - many situations. WHSQ inspectors would then turn up. They'd give them access.
20 They'd walk around the site, sometimes for seven to eight hours a day, until they could find something wrong. And then we'd get a notice. You know, there was one time in August 2020, the Cross River Rail TSD project got something like 56 notices in one month. I've never heard of any project anywhere in Australia getting that many notices in one month in my life.

25 **MR CARUANA:** So 30 years working in the safety industry, you've never seen that many notices in a month, I take it?

30 **MR SILVESTER:** Never seen it, never heard it.

MR CARUANA: And you said you never heard of it even outside of projects you've worked on?

35 **MR SILVESTER:** No.

COMMISSIONER: It seems, given your experience, your 30 years' experience, the statement that you've just made that there was an ongoing CFMEU campaign, concerted CFMEU campaign, might be regarded as normal. But then you said "in conjunction with the WHSQ". What is your - what can you say about that aspect
40 of your evidence?

MR SILVESTER: Throughout this period, we would have CFMEU officials turn up at our sites demanding access. We would reject that access. Then WHSQ would get called - not by us - and then they would organise to get the CFMEU access to our sites. So I think "in conjunction" is probably harsh, but certainly
45 they were accompanied around site by WHSQ inspectors while they walked around trying to find something.

COMMISSIONER: And what did you think of that?

5 **MR SILVESTER:** Look, I think, Commissioner, could I say that the notices
were not correct or didn't comply with the legislation? No. Could I write 56
notices on any project in Australia for the types of things we got notices for on any
given day? Yes, I could. We got - we got a prohibition notice for plastic barbecue
10 chairs in lunchrooms because they were domestic quality and not industrial
standard. We got notices because we had puddles in walkways - that's probably
right, because it was raining at the time. We got notices because there was a can
of spray paint left outside a hazardous substances storage facility. You'd get them
any given day on any given job anywhere.

15 **COMMISSIONER:** What did that make you think about what WHSQ was
doing?

MR SILVESTER: I think they were jammed. I think they were being used.

20 **COMMISSIONER:** By whom?

MR SILVESTER: By the CFMEU.

25 **COMMISSIONER:** But you're someone with 30 years' experience as a senior
health and safety and environment professional. Is it - what can you say about an
independent regulator like WHSQ being, in your words, used by the CFMEU?

MR SILVESTER: It's disappointing.

30 **COMMISSIONER:** Is it, in your experience, common?

MR SILVESTER: No. Look, there was a period here in Queensland where
employee groups dominated the industry, and it was a - it was an organised crime
gang that was running it, running the industry.

35 **COMMISSIONER:** What period are you talking about?

MR SILVESTER: From - well, at least the Cross River Rail site. So 2018 right
through to about 2022/'23.

40 **COMMISSIONER:** And when you say "an organised crime gang was running
it", what do you mean by that?

45 **MR SILVESTER:** It was - there was a concerted, organised operation to disrupt,
to slow, to delay, to stop, to damage, to create havoc. We couldn't move. You
know, you saw one of the videos yesterday of concrete pour was being stopped. It
wasn't stopped before it started. It was stopped halfway through, to create
maximum disruption, maximum damage. So we pay for the concrete that we

couldn't get and we have to pay for the concrete again and we've got to prepare the site again. We've got to pull the shutters off. You know, it adds weeks to projects, and cost. And I'm just as concerned, you know, as a carpenter, around building, because they'd (indistinct) my job. It was just out of control.

5

MR CARUANA: If we can develop perhaps another limb of that, Mr Silvester, you talk in your statement about a period in June 2020 where CFMEU officials were attempting to enter sites saying they were entitled under section 81(3) of the Workplace Health and Safety Act. And we'll develop the point, but I understand you were saying a bit earlier that often when CFMEU officials would come onto site, if there was an issue raised by CPB, inspectors would arrive shortly thereafter, and these inspectors weren't called by CPB.

10

MR SILVESTER: No.

15

MR CARUANA: What inference do you draw, then, about how they got there?

MR SILVESTER: They either had ESP or they tipped someone off.

20

MR CARUANA: Who would have the tip-off have come from?

MR SILVESTER: I got regular phone calls from Helen Burgess demanding that I sort it out or she'd send inspectors, which to me implied that she knew the CFMEU were there before any call was made to any inspector.

25

MR CARUANA: Now that you've brought that up, I might jump to it. If I can take you to - and I'll return to section 81(3), but if I could take you to page 8, paragraph 40 of your statement. Is that the timeframe you're talking about, in July 2020 to October 2020?

30

MR SILVESTER: Yes. In the same period, that's when the TSD project got 56 notices in August.

MR CARUANA: And what would prompt these calls from Ms Burgess, if you know?

35

MR SILVESTER: CFMEU officials were attempting to gain access, and we were stopping them.

MR CARUANA: When you say "we were stopping them", I take it you weren't personally on the gate?

40

MR SILVESTER: No, I wasn't, no. People on the project were stopping them.

MR CARUANA: And she'd call you directly?

45

MR SILVESTER: Yes.

MR CARUANA: What would she say to you?

5 **MR SILVESTER:** Oh, it was a fair rant, almost screaming down the phone, telling me to sort it out or she'd get it sorted out and she'd send inspectors down and it would hurt, I think were her words.

MR CARUANA: Right. "It would hurt," did you say?

10 **MR SILVESTER:** Yes.

MR CARUANA: And would it be the case that inspectors would come down after those phone calls?

15 **MR SILVESTER:** Yep.

MR CARUANA: And what would the inspectors do?

20 **MR SILVESTER:** The inspectors would allow the CFMEU officials onto site. And then after that there'd be a - you know a five, seven, eight-hour walk around site until they found things that they could write notices for.

25 **MR CARUANA:** And I suppose in one sense the notices might hurt, but is there another reason that having officials and inspector walking and for five or six hours hurts as well?

30 **MR SILVESTER:** So the project manager is tied up. The general superintendent is tied up. Other people are tied up escorting people who are not used to site around site, and so that there can be as much as possible contained.

MR CARUANA: And what impact does that have on a project?

35 **MR SILVESTER:** It's complete disruption. You know, we - we now talk about psychosocial risk and, you know, no bullying, no harassment, no aggressive behaviour. People on Cross River Rail were subjected to overwhelming bullying and harassment and aggressive and threatening behaviour all through this. Nothing was ever done.

40 **MR CARUANA:** And I'll - if we can go down - just in terms of you saying nothing was ever done, if I can go to paragraph 42 and 43. It is the case, isn't it, that you tried to get ahead of these issues with Work Health Safety?

MR SILVESTER: Yes, I did.

45 **MR CARUANA:** Can you tell the Commissioner what you tried to do?

MR SILVESTER: I spoke to Marc Dennett. Marc was then head of field services and the inspectorate for WHSQ. I wrote to him a couple of times around my concerns with the right of entry under section 81(3). I didn't really get any satisfaction out of the letters, so I decided to go up to Maroochydore, where Marc was based, and the offer that I had from Marc was that he couldn't do anything. I think his words were his hands were tied; we'd have to take it to the Fair Work Commission.

MR CARUANA: And did you take it to the Fair Work Commission?

MR SILVESTER: No.

MR CARUANA: Just to develop the specifics of that, we've discussed 81(3). Can you tell me first, generally, what was going on with this use of section 81(3) or purported use of section 81(3)?

MR SILVESTER: As far as I can recall, a number of the CFMEU officials had lost their federal permits. There was a CFMEUQ created, and these people were working under CFMEUQ. But they were actually attempting to access site as concerned citizens, not as union officials.

MR CARUANA: We might pull up, if I can, Mr Operator, paragraph - this is on page 6 - 29, and the first subparagraph (a). As I understand it, you talk about some issues in June 2020. Again, you weren't on the ground when these entries were happening; it's things that are getting reported back to you?

MR SILVESTER: Correct.

MR CARUANA: The example on the page - and I won't go to all of them - you tell us that on 15 June, Michael Davis and Scott Vink, who you say are CFMEU officials, show up to the Roma Street site saying they're there to enter under 81(3)?

MR SILVESTER: Correct.

MR CARUANA: You note they claim to be ordinary people, not union organisers?

MR SILVESTER: That's right.

MR CARUANA: Had you dealt with them previously?

MR SILVESTER: No. I personally hadn't, no.

MR CARUANA: Did you know who they were?

MR SILVESTER: No.

MR CARUANA: What's this idea about being ordinary people, not union officials, as far as you understand it?

5 **MR SILVESTER:** So as I understand, section 81(3) was created to allow WHSQ inspectors to take people onto site where they needed expert knowledge or specific knowledge in relation to a hazard or an incident or an investigation. That's why the section was there. But this was being - this was being used by the union to gain access to sites.

10 **MR CARUANA:** Do you know if these people had federal right-of-entry permits?

MR SILVESTER: So far as I'm aware, they didn't.

15 **MR CARUANA:** And you tell us that two inspectors from WHSQ arrived, and they weren't called by CPB?

MR SILVESTER: No, they weren't.

20 **MR CARUANA:** Mr Lewis Carroll and Mr Chris O'Donnell, and they insisted that the CFMEU people be let onto site and went onto site with them.

MR SILVESTER: That's right.

25 **MR CARUANA:** Now, as far as was reported to you, was there any specific issue given as to why these officials wanted to enter site?

30 **MR SILVESTER:** No. You know, variously through this time, we would get general claims around access/egress, scaffolding, hazardous substances, as reasons as to why union officials needed to access sites and improve safety.

35 **MR CARUANA:** And if we go down to the next subparagraph, I won't go through it in detail, but we see that there was a similar attempt on 17 June. If we go down again, we'll see a similar attempt on 18 June, this time involving inspectors Mr Cash and Mr Kitchener. Next one is 22 June, involving officials Justin Steele and Kurt Pauls. I just pause there, Commissioner. You may recall that Mr Pauls was one of the respondents to the Bruce Highway upgrade case, where there was a slightly different tactic tried for section 81(3) that was ultimately held to be invalid by the Full Court, where it said that federal permits were required. Now, at that time Mr Pauls was employed by the federal union. Seems to be a different tactic now, but it's the same gentleman. And if we go down to the final one, 23 June 2020, Mr Steele and Mr Pauls again. So it's five times in a little over a week?

45 **MR SILVESTER:** That's right.

MR CARUANA: And you ultimately wrote to Mr Dennett on 20 June 2020?

MR SILVESTER: Yes.

5 **MR CARUANA:** And I won't go to the details of the letter, but suffice to say you were seeking some clarity as to what was going on here?

MR SILVESTER: Correct.

10 **MR CARUANA:** What I will just take you to briefly is at page 5 of your bundle. This is a letter you sent to him on 20 July?

15 **COMMISSIONER:** Could I just ask you something? This period was the period that Mr Sanfilippo referred to in his evidence when he was describing the productivity impacts of what you might call the industrial issues on site, and there was a big spike in the middle of 2020, that is, both right-of-entry and safety notices. What was - what was going on at that point, Mr Silvester?

20 **MR SILVESTER:** Look, my read of the situation was that at that time there were drafts coming out from the government around the new BPIC guidelines, and, you know, there was the appendix that was written into the BPIC guidelines around health and safety was repeat notices and that organisations who had repeat notices would not be able to tender for State Government work.

25 **COMMISSIONER:** I see.

MR SILVESTER: And again, you know, I used the term before around organised crime. It's exactly what was going on. We were getting notices to stop us from getting work.

30 **MR CARUANA:** If we go to page 6 of the bundle, please, Mr Operator. Mr Silvester, at the bottom of the page, point 1, subparagraph (ii), I understand you're laying out to Mr Dennett what was going on and what you were taking issues with. And you say there on one occasion the officials, being CFMEU officials, said, "Any person, including the butcher down the road, can raise a concern."

35 **MR SILVESTER:** That's right.

40 **MR CARUANA:** Is it the case that the premise they were operating on is because under the Act the Act says any other person can represent a worker on site, they could enter without telling you -

MR SILVESTER: Correct.

45 **MR CARUANA:** - who the worker is they were representing?

MR SILVESTER: Correct.

MR CARUANA: And someone said, "Well, we could be representing the butcher down the road. They're a person."

MR SILVESTER: That's right.

5

MR CARUANA: If we go to page 7, (xi), you tell him when the officials were asked who they were representing, they refused to identify any particular person. On one occasion, they responded by asserting they could be representing anyone.

10 **MR SILVESTER:** That's right.

MR CARUANA: So it's people trying to enter site. They don't have federal entry permits. They won't tell you who they're there to meet.

15 **MR SILVESTER:** That's right.

MR CARUANA: They say they could be representing anyone. You've sent a letter to Mr Dennett asking, "What's going on here?" And do you recall how he responded?

20

MR SILVESTER: I - I did get one letter from Marc, or from Mr Dennett. I followed that up with another letter because I didn't think it was clear. I don't recall getting a response to the second request.

25 **MR CARUANA:** If we go to page 7 of your statement, paragraph 35, this is the first response you get. Perhaps we go first to paragraph 33. You say he replied by email, copying Helen Burgess, on 28 July 2020.

MR SILVESTER: Yep.

30

MR CARUANA: And at paragraph 35, the response was that the various officials had changed their employment from the federally registered union to the state-registered union and therefore it seems the position is that they weren't covered by the Fair Work Act.

35

MR SILVESTER: That's right.

MR CARUANA: And I take it from that we go forward and say they don't need permits?

40

MR SILVESTER: That's right.

MR CARUANA: And you sent a letter trying to clarify that position, but you never heard back?

45

MR SILVESTER: No, I didn't.

MR CARUANA: If I can just ask you briefly about the safety reset and the incident that prompted that. You know what I'm talking about when I say that?

5 **MR SILVESTER:** Nation Kouka's incident, yes.

MR CARUANA: Nation Kouka was injured on 20 July 2023 -

10 **COMMISSIONER:** Sorry, just to follow up that question, that letter of 19 October 2020 to Mr Dennett, which is at pages 17 to 19, which is dealing with this massive spike in attempted entries and notices, you're saying you got no response to?

15 **MR CARUANA:** No, sorry, the response - there was one response that was detailed at paragraph 33, as I understand it.

COMMISSIONER: But that's before this letter?

20 **MR CARUANA:** Sorry, we're at cross-purposes, Commissioner. I'll let the witness answer.

MR SILVESTER: I got an email to one response - to one letter. I didn't get a response to the second one that I can recall.

25 **COMMISSIONER:** At any time after 19 October 2020?

MR SILVESTER: That's right.

MR CARUANA: And it was a pretty significant issue you were dealing with?

30 **MR SILVESTER:** It was massive.

MR CARUANA: I take it you'd expect to recall if you did get a response?

35 **MR SILVESTER:** I'd expect I would have remembered that, yes.

COMMISSIONER: And is that the thing that made you go and visit Mr Dennett at Maroochydhore?

40 **MR SILVESTER:** Yes.

COMMISSIONER: And he said you should take it to the Fair Work Commission?

45 **MR SILVESTER:** Yes.

COMMISSIONER: Why didn't you?

MR SILVESTER: We didn't see that as being a viable option.

COMMISSIONER: Why not?

5 **MR SILVESTER:** That we'd get a fair hearing.

COMMISSIONER: Could I ask you why you didn't think you'd get a fair hearing?

10 **MR SILVESTER:** We didn't believe that the employer organisations would get a fair hearing at a Fair Work Commission hearing.

COMMISSIONER: At that time?

15 **MR SILVESTER:** At that time.

COMMISSIONER: Are you talking about the federal body or state body?

MR SILVESTER: The state body.

20

COMMISSIONER: So the Queensland Industrial Relations Commission?

MR SILVESTER: Yes.

25 **COMMISSIONER:** And why do you say that?

MR SILVESTER: The membership of the Commission.

30 **MR CARUANA:** I wanted to talk to you about the incident with Nation Kouka. We know that he fell from scaffolding on 25 July 2023. You tell us a bit in your statement about monitoring the recovery of Mr Kouka. Can you tell the Commissioner how you kept abreast of his recovery?

35 **MR SILVESTER:** I went up to the hospital that night after I'd been on - I was actually out at a project we had out at Ferny Grove. I got the call. I went to the site. I made sure that we'd launched an investigation. I got the investigation team together. I made sure everyone understood what their role was. I made inquiries as to where Nation had - Mr Kouka had been taken. I then went to the hospital to the intensive care unit. I met with his family. There were a couple of workers on
40 site, including his son. His son was actually on the same scaffold at the time of the incident. And I kept contact with Mr Kouka and - sorry, with his wife, and I still do. It's a human, decent thing to do.

45 **MR CARUANA:** Indeed. And you said you still keep in contact with his wife?

MR SILVESTER: Yes, I do.

MR CARUANA: You mentioned that you went to site first, and you tell us in the statement that you wanted to ensure full cooperation with police and Work Health Safety?

5 **MR SILVESTER:** Correct.

MR CARUANA: You tell us that there was a verbal prohibition notice issued, followed by a written prohibition notice in relation to the specific scaffold and a non-disturbance for 24 hours. Was there anything issued by Work Health Safety
10 that required the whole site to be shut down?

MR SILVESTER: No.

MR CARUANA: So it follows from that certainly not the whole project?
15

MR SILVESTER: No.

MR CARUANA: And you tell us at 51 to 55 CPB did implement a safety pause on all sites?
20

MR SILVESTER: Yes.

MR CARUANA: What does a safety pause involve?

25 **MR SILVESTER:** We stop work. We brief workers. We then undertake a clean-up of the whole job. We review safe work method statements. We review work permits. And then we progressively open the site once the project manager and the superintendent have gone through and satisfied themselves that the area is safe to restart.
30

MR CARUANA: And CPB satisfied themselves of that, but we know that work couldn't restart because picketing and -

35 **MR SILVESTER:** Correct.

MR CARUANA: - the like had occurred. You talk in your statement about going on a number of walk-throughs whilst this industrial activity is occurring. If I could take you to paragraph 57, perhaps 56 and 57, you say you encountered Dean Reilly during one of those walks?
40

MR SILVESTER: Yes.

MR CARUANA: Can you tell the Commissioner about that interaction?

45 **MR SILVESTER:** Yeah, that was at a pre-start in the lunchroom at Boggo Road. What was going on during that time was that the project manager, Justin Griffin, would address the assembled people, which is probably, I don't know, 400, maybe

people in the room. We'd be lined up at the front. The workers would be sitting down. And then we'd be told to go, and then the unions would address the assembled staff. We weren't allowed to be there when they were talking. While I was in the room before the pre-start commenced, I - I was approached by Dean Reilly, Mr Reilly. He walked up. I didn't know him. I'm not sure if he knew me, but I did have a CPB shirt on, so I didn't - I didn't have a project shirt on, so I was different. And he began to yell at me, in close proximity to my face, about the emergency response plan post the scaffolding incident and why it took so long to get Nation out of where he'd fallen. You know, he was - he was quite angry and shouting and stood about an inch from my face. He was clearly, in my view, trying to intimidate me and grandstand in front of the workers in the room.

15 **MR CARUANA:** There were, you say, a hundred or so more workers in the room at the time?

MR SILVESTER: Oh, I think there was 400.

MR CARUANA: 400, you said. What did you do?

20 **MR SILVESTER:** I could see that there was no way that I was going to do anything to settle Mr Reilly, other than de-escalate the situation and walk away.

25 **MR CARUANA:** I'll skip through the safety meeting that I know you attended, but can I take you very briefly to paragraphs 64 and 65 on page 10, because this isn't one of the demands we've heard so much about. You tell us at paragraph 64 that one of the demands that was agreed to was a review of all safe work method statements, but at paragraph 65, you discuss some of the unusual consequences of that demand. What were they?

30 **MR SILVESTER:** So, as part of this reset, all of the safe work method statements had to be reviewed, and everyone had to sign back onto the safe work method statements. There was a significant degree of confusion around who had to sign onto what particular safe work method statement, and, you know, there were - there were stories getting round that people were signing on to safe work method statements that they didn't even know that they were signing on to, you know, including cleaners signing on to tower crane safe work method statements.

40 **MR CARUANA:** So it was part of what was being insisted upon to get the project back up and running?

MR SILVESTER: That's right. You know, there were also daily site walks. There'd be 30 people walking around site making sure things were ready every day.

45 **MR CARUANA:** And just finally, if I could take you to paragraphs 68 and 69, I understand that while there was some industrial action going on in April and May 2024, the sites were picketed again?

MR SILVESTER: Yes.

5 **MR CARUANA:** And you talk here about attempting to cross a picket line at Boggo Road, during which a bunch of people blocked access to you. Can you tell me what was said to you?

10 **MR SILVESTER:** Yeah. It must've been a Friday. I've got a quirk: I wear pink, but I only wear pink on Fridays. So it must have been Friday. I approached the picket line -

COMMISSIONER: Mr Gisonda wears pink on Wednesdays. So I know which day it is by his shirt.

15 **MR SILVESTER:** It's always helpful. People know it's Friday when they see me. I approached the picket line. There was a rather large guy there. He - he asked me where I was going. I told him I was going into the site. When he called out to me, he - he called me gay, called me a C, just because I was wearing pink. And then he said, "No, you're not going down there."

20 **MR CARUANA:** So just to be clear, what did he say to you?

MR SILVESTER: He called me a gay C. He said, "Where are you going? You're not going down there, you gay C."

25 **MR CARUANA:** Because you were wearing a pink shirt?

MR SILVESTER: Because I was wearing a pink shirt.

30 **MR CARUANA:** And you were one of the general managers for the principal?

MR SILVESTER: Yes. Yeah.

MR CARUANA: Did you cross the picket line?

35 **MR SILVESTER:** Yeah, I did.

MR CARUANA: Did they do anything to you?

40 **MR SILVESTER:** No. No, I do remember saying to him, "Look, you've have been here for four hours. Surely you've got something better than that."

MR CARUANA: Did he respond to that?

45 **MR SILVESTER:** No.

MR CARUANA: Can you just tell me how many people were on this particular picket line?

5 **MR SILVESTER:** Oh, there was a - there was a public rest area on the left-hand side. That was full. I don't know. 60 people.

MR CARUANA: 60 people?

10 **MR SILVESTER:** Yeah.

MR CARUANA: Blocking that particular entrance?

MR SILVESTER: In the vicinity of and ready to block.

15 **MR CARUANA:** What were they wearing?

MR SILVESTER: Black hoodies, black - dark glasses.

20 **MR CARUANA:** You mentioned the guy that spoke to you was a bigger fella. Was there any other particular descriptors you can give us for the group?

MR SILVESTER: No, not really. Just, like, hoodie, dark glasses, tattoos on his hands.

25 **MR CARUANA:** I don't have any further questions. Thank you, Commissioner.

COMMISSIONER: Thank you, Mr Caruana. Is there any application to cross-examine? No? Thank you for your evidence, Mr Silvester. You're excused.

30 **MR SILVESTER:** Thank you.

<THE WITNESS WAS RELEASED

35 **COMMISSIONER:** Who do I ask - Mr Gisonda or Mr Caruana?

MR GISONDA: I think that's the hearings for this week, and the next hearing block is in May.

40 **COMMISSIONER:** Are there any applications I've got to deal with this afternoon? No? All right. We'll adjourn to the next listed hearing date, which hopefully my associate can identify.

<THE HEARING ADJOURNED AT 3.40 PM