



**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 10 - BRISBANE

**TUESDAY, 10 JUNE 2026
AT 9.58 AM**

DAY 30

APPEARANCES

**Mr Dimitri Ternovski - Counsel Assisting
Mr Alexander Thomas - Counsel Assisting
Mr David de Jersey KC – Counsel for the State of Queensland
Ms Megan Brooks – Counsel for the State of Queensland
Mr Chris O'Grady KC - Counsel for the CFMEU Administration
Ms Amelia Hughes - Counsel for the CFMEU Administration**

<THE HEARING RESUMED AT 10.00 AM

COMMISSIONER: The appearances are the same as yesterday, except Mr Massy is no longer here, because he was excused. Mr Thomas.

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MR THOMAS: Thank you, Commissioner. Mr Easterby, yesterday afternoon, I think where we ended was you were giving evidence or gave evidence that one of the reasons you were brought into the QBCC was to help navigate that intersection between licensing and safety, following amendments to the QBCC Act.

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MR EASTERBY: Yes.

MR THOMAS: I want to turn to ask you some questions about the CFMEU, but going back a step, when you started at the QBCC, who was the commissioner of the QBCC?

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MR EASTERBY: Mr Brett Bassett.

MR THOMAS: And was he the QBCC commissioner for the entirety of your employment?

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MR EASTERBY: He was.

MR THOMAS: And in your day-to-day role as licensing manager, how regularly did you meet or interact with Commissioner Bassett?

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MR EASTERBY: It's an open office area, and it's a casual style, so I could see him daily, or I might go a week or more without seeing him at all, depending on what topics were or just the environment, I suppose.

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MR THOMAS: So he was in the same office?

MR EASTERBY: Same office, same floor. It's only a small building.

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MR THOMAS: And who was the chair?

COMMISSIONER: And you said it was open plan, did you?

MR EASTERBY: For my staff it was. I had an office. The commissioner had an office.

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MR THOMAS: And who was the chair of the QBCC board?

MR EASTERBY: Mr Dick Williams.

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MR THOMAS: And was he the chair for the entirety of your employment?

MR EASTERBY: I believe so.

COMMISSIONER: Did you say Dick or Mick?

5 **MR THOMAS:** Dick.

MR EASTERBY: Dick, isn't it?

COMMISSIONER: I don't know.

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MR THOMAS: And when you started, Mr Easterby, were there any union members or CFMEU members, rather, on the QBCC board?

MR EASTERBY: I don't believe there was.

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MR THOMAS: And when did that change?

MR EASTERBY: I believe it was not long after I started. It was, I believe, in the new financial year of 2018.

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MR THOMAS: And who was appointed to the board at that time?

MR EASTERBY: A gentleman by the name of Mr Jade Ingham.

25 **MR THOMAS:** And was he a member of the CFMEU?

MR EASTERBY: I understood that to be the case, yes.

MR THOMAS: And how did you understand that to be the case?

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MR EASTERBY: There was an announcement of the board composition, starting in the new financial year, and I remember reading matters in the newspaper.

35 **MR THOMAS:** Yes. And was anyone else appointed at the same time as Mr Ingham?

MR EASTERBY: There was also Mr Hickman.

40 **MR THOMAS:** And who he was he?

MR EASTERBY: He was the representative for the NFIA, National Fire Industry Association, I believe it stands for.

45 **MR THOMAS:** Mr Easterby, at paragraphs 33 and 34 of your statement, you describe seeing -

COMMISSIONER: Can you just tell me about that? Why do you need someone with expertise in fire protection on the board?

5 **MR EASTERBY:** That, I'm not quite sure of why the members get appointed to the board. It's done by the minister.

10 **MR THOMAS:** At paragraphs 33 and 34 of your witness statement, you describe seeing letters from the CFMEU the purpose of which was to highlight safety concerns that the CFMEU had with certain contractors. And I will take to you an example in a moment, but can you describe those letters for the Commissioner?

15 **MR EASTERBY:** They were letters sent to various State Government departments in the first instance and made their way to the QBCC, and what they were was a concern that a builder had a poor safety record, based on numerous improvement notices, maybe some prohibition notices, an occasional infringement notice perhaps, over a lengthy period of time.

20 **MR THOMAS:** And you said they made their way to the QBCC, these letters. How did they make their way to you?

MR EASTERBY: Either the Commissioner or Ian Grant would forward them to me to examine and to investigate and take action.

25 **MR THOMAS:** And I think you might have given this evidence yesterday, but who was Mr Ian Grant?

MR EASTERBY: He was the director of licensing services.

30 **MR THOMAS:** So your supervisor?

MR EASTERBY: My supervisor.

35 **MR THOMAS:** Yes. And when those letters came to you, when they landed on your desk, what was the expectation that you would do with them?

MR EASTERBY: We looked to take action against that licensee. There was an expectation that it was a serious matter and as such that I should look to take action against that builder.

40 **MR THOMAS:** And when do you mean when you say "take action"?

45 **MR EASTERBY:** Well, there's only three options available to me. One is to look towards a condition on the licence, to suspend or to cancel a licence. I don't have any other provisions in that space.

MR THOMAS: And did Commissioner Bassett ever did you as a first step to look behind the letter to ascertain whether the concerns were valid, or was it always take action?

5 **MR EASTERBY:** My recollection, it was to look to take action. We wanted to be seen strong in this space.

MR THOMAS: And at paragraphs 37 -

10 **COMMISSIONER:** Is what he said to you, that we need to be seen to be strong in this space?

MR EASTERBY: That's my context on it. It was a new - a new power, and I had developed a strategy, and to then - because it had been in place since before I started, so it was to - to act in this space.

COMMISSIONER: Say that last bit again.

20 **MR EASTERBY:** To act in this space, act in this safety space, because they hadn't acted in the safety space, or not up until the tragic incident, primarily, in Cairns.

COMMISSIONER: You say this was the context that you needed to be seen to be strong in this space. In your witness statement you say:

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"He told us..."

That is, Commissioner Bassett told us:

30 "...that we needed to investigate the matters that are raised and take action against the contractor."

MR EASTERBY: Yes.

35 **COMMISSIONER:** Did that happen?

MR EASTERBY: I believe so. Yes.

40 **MR THOMAS:** Yes, and paragraphs 37 and 38, Mr Easterby, you give evidence about what you found when you analysed some of these letters. Can you tell the Commissioner about the conclusions that you drew when you looked behind these letters and assessed some of the notices?

45 **MR EASTERBY:** So the copies of the notices that were attached to the letter, some were poor photocopies, but the notices were often issued to other legal entities, and whilst it's attached to the letter, it wasn't directed to the builder that

the letter was directed towards, because they appeared to me to be subcontractors on site who had been issued notices by the safety regulator.

5 **MR THOMAS:** Perhaps I'll take you to an example now. Mr Operator, if we can please turn up LGE-1, which is on page 17 of Mr Easterby's statement. Can you see that letter, Mr Easterby?

MR EASTERBY: Yes, I can.

10 **MR THOMAS:** So this is a letter from - signed off by the COO of QBuild. First of all, what is QBuild?

MR EASTERBY: My understanding, it's a government agency that looks after construction of government premises.

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MR THOMAS: So when you said earlier that these letters were addressed to other departments or entities and then filtered their way to the QBCC, is this an example of -

20 **MR EASTERBY:** This is an example of that.

MR THOMAS: Yes. And if we can go over the page to page 18, and perhaps enlarge the first three paragraphs. So this is an example of the kind of letter from the CFMEU that you recall seeing?

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MR EASTERBY: Yes, it is.

MR THOMAS: That is, highlighting safety concerns?

30 **MR EASTERBY:** Yes.

MR THOMAS: And then compiling notices issued by WHSQ?

MR EASTERBY: Yes.

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MR THOMAS: And, Mr Operator, if we can go to page 20. Can you describe for the Commissioner what this is?

40 **MR EASTERBY:** This is a summary of the improvement notices being referred to. So it has a date, a notice number and then a description of what the notice is.

MR THOMAS: Yes, a list or a compilation of notices issued by WHSQ?

MR EASTERBY: Yes.

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MR THOMAS: And indeed, I think, Mr Operator, if we can scroll down to the next two pages, that list continues. Can we then turn up page 37 of Mr Easterby's statement, and this is -

5 **COMMISSIONER:** This might not be a question you can answer, but why does the union, Mr Easterby, get a copy of these notices? There might be just something I don't understand about this.

10 **MR EASTERBY:** The notice is issued on a building site, and my understanding and the practice I see is that it gets put on the noticeboard, typically the safety noticeboard, on a construction site so all workers can sight it.

COMMISSIONER: So the union might be able to access these notices that way?

15 **MR EASTERBY:** That's my understanding, yes.

MR THOMAS: Thank you, Commissioner. If we can go to page 37. Can you see that document clearly enough, Mr Easterby?

20 **MR EASTERBY:** Yes, I can.

MR THOMAS: Then can you - this is an attachment to that letter. Can you describe what this document is?

25 **MR EASTERBY:** This is an improvement notice issued by a Workplace Health and Safety Queensland inspector. In this instance, it's issued to a company by the name of All Coast Formwork. It describes the address at which the notice is relevant to, and there's a brief description about what is contravened, and then at the bottom of the notice is where the person it's been issued to will sign off that they've complied and perhaps provide any evidence back. But that's not marked on this particular document. This document is at its issuing date.

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MR THOMAS: Yes. It's the notice issued to, you said All Coast Formwork?

35 **MR EASTERBY:** All Coast Formwork.

MR THOMAS: Yes. And if we could go to the next page, Mr Operator. And likewise, Mr Easterby, can you see who that notice is issued to?

40 **MR EASTERBY:** Yes. It's Active Crane Hire.

MR THOMAS: And Mr Operator, if we go to the next page again, can you see who that notice is issued to?

45 **MR EASTERBY:** I'm seeing Active Crane Hire as well.

MR THOMAS: Yes. And I won't go through every notice, but this is consistent with your recall of these letters and the evidence that you gave before, that in many instances, the notices attached to these letters weren't actually issued or addressed to the contractor being targeted?

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MR EASTERBY: Correct, and perhaps not even to a licensee of the QBCC. So Active Crane Hire, the QBCC doesn't license.

COMMISSIONER: What did you say then?

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MR EASTERBY: This particular notice, for example, Active Crane Hire, the QBCC does not license.

COMMISSIONER: Because this is done - the licensing of cranes is done by some other body?

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MR EASTERBY: Yes, I understand, yes.

COMMISSIONER: The other thing that's interesting about these three notices you've just taken the witness to, Mr Thomas, is it's my recollection that Ms Dargan or maybe Mr Hayes or maybe one of the other inspectors who gave evidence said that Mr Azcune was someone who complied with the directions of Ms Burgess in issuing notices that other inspectors wouldn't issue. That's my recollection.

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25 **MR THOMAS:** Yes.

COMMISSIONER: And all three are from him.

MR THOMAS: And you also heard evidence at the last hearing block that he was one of the Brisbane inspectors who was sent up to Cairns.

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COMMISSIONER: Oh, right.

MR THOMAS: Mr Dalamaras gave that evidence as well.

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COMMISSIONER: I had forgotten that, yes.

MR THOMAS: Yes. Yes, and he was also one of the inspectors that was left under Ms Burgess' control after she was moved into the different position. Mr Operator, can I ask you to turn up page 72 of Mr Easterby's statement.

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COMMISSIONER: You don't have to answer this, but presumably he's someone - and tell me if you don't want to answer - but someone you are speaking to or going to speak to?

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MR THOMAS: We have spoken to him and will continue to. We're on page 72, Mr Easterby. Can you see that document?

MR EASTERBY: I can.

5 **MR THOMAS:** And perhaps, Mr Operator, if we can enlarge the addressee and the first three paragraphs, perhaps.

MR EASTERBY: The addressee is the Department of State Development - Queensland.

10 **MR THOMAS:** Yes. And so it's, like the other letter, not addressed to the QBCC?

MR EASTERBY: No.

15 **MR THOMAS:** And who is this letter targeting?

MR EASTERBY: ADCO Constructions.

20 **MR THOMAS:** And Mr Operator, if we navigate down to page 74. Like the other letter, Mr Easterby, can you describe what this shows?

25 **MR EASTERBY:** It shows a compilation of a list of prohibition notices, improvement notices, and infringement notice, under the title of ADCO Construction Pty Ltd.

30 **MR THOMAS:** And, Mr Operator, can we go to page 81, please, and if we can enlarge the "notice issued to" section as well as the brief description of how the part has been contravened, if possible. So can you see who the - tell me who the notice is issued to, Mr Easterby?

MR EASTERBY: This notice is issued to the Trustee for Aquatics Unit Trust.

35 **MR THOMAS:** And what the brief description of how the provision is being or has been -

MR EASTERBY: This notice addresses not having a chemical register prepared for the workplace.

40 **MR THOMAS:** And, Mr Operator, could we go to the next page and do the same exercise, and perhaps I won't ask you about - that's the same entity. But, Mr Operator, if we can go two further pages down, because I think the next page is a notice that's illegible. Oh, no, that one is legible. Can we enlarge the "notice issued to" and the brief description. And again, can you -

45 **MR EASTERBY:** That notice is issued to All Coast Formwork, and again it's for - relation to chemical registers not being held.

MR THOMAS: Yes. And, Mr Operator, can we do the -

COMMISSIONER: I'm just having a little bit of trouble hearing you, Mr Thomas. Maybe just speak up slightly.

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MR THOMAS: Yes. I will do, Commissioner. And then, Mr Operator, the next page.

COMMISSIONER: It might be you're too tall for these mics.

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MR THOMAS: Is that better?

COMMISSIONER: Marginally.

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MR THOMAS: We'll see how we go. That one's illegible, Mr Operator, but if we can go to the next one and undertake the same exercise. And so who's that notice issued to?

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MR EASTERBY: That's has All Coast Formwork. However, this one is in relation to chemicals, but it's about being stored in the same container as another chemical.

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MR THOMAS: And I won't go - labour the point, but can we go to LGE-2, Mr Operator, which commences on page 110. Mr Easterby, do you recognise this email?

MR EASTERBY: I can recall it now.

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MR THOMAS: Yes. Well, did you send the email?

MR EASTERBY: Well, it's under my name, and I've read it. It's certainly in my style, and I believe it's mine.

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MR THOMAS: Perhaps if we can enlarge the first half of that email for ease of viewing.

COMMISSIONER: What page of the court book - of the bundle?

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MR THOMAS: Page 110.

COMMISSIONER: Thank you.

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MR THOMAS: Can you describe, Mr Easterby, for the Commissioner the analysis that you performed on the letter to ADCO Construction.

MR EASTERBY: So the analysis is that whilst the - the letter and my task was to look at ADCO Constructions, that in fact the evidence supporting that identified

a number of other legal entities had received the notices and not ADCO Constructions, and the - I highlighted the Work Health Safety Act specifically prescribes that a business - or PCBU, but I like using the word "business" - is responsible for its own safety by virtue of section 5.

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MR THOMAS: And perhaps, Mr Operator, if we can enlarge the second half of that email. And, Mr Easterby, can you describe your conclusions or your findings or recommendations, perhaps, for the Commissioner regarding ADCO Construction?

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MR EASTERBY: I've stated that the notice is issued and complied with, meaning that the prescribed requirements of the Act have been met. So whilst notices have been issued by the safety regulator, the entity they were issued to has not been in breach of those notices. So there's no ongoing concern.

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MR THOMAS: And did anyone ask you to undertake this analysis?

MR EASTERBY: It would've been in discussions with Ian Grant on how we would analyse and respond to the task that was given to us.

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MR THOMAS: That task being -

MR EASTERBY: To look to take action against ADCO, and then my decision that I did not want to take action against ADCO.

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MR THOMAS: And why didn't you want to take action?

MR EASTERBY: To me, it wasn't reasonable in the circumstance.

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MR THOMAS: And in your view, was there any legal basis on which you could take action against ADCO?

MR EASTERBY: Not that I could identify from those notices, historic notices.

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MR THOMAS: Returning to your witness statement, at paragraph 40 of that statement, you say that you recall several occasions where you received or rather saw letters like the ones to which I've taken you from the CFMEU.

MR EASTERBY: Yes.

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MR THOMAS: And you've perhaps already given evidence about this, but in each instance, what did Commissioner Bassett ask you or expect you to do?

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MR EASTERBY: Look to take action against the licensees that the letters addressed.

MR THOMAS: And at paragraphs 41 and 42, you've described some of those meetings that you had with Commissioner Bassett. What was your impression from those meetings or, rather, was it your impression from those meetings that Commissioner Bassett was under external pressure?

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MR EASTERBY: It was.

MR THOMAS: And from whom?

10 **MR EASTERBY:** My understanding, from his comments, not anything I directly saw, was either from the minister or from the board.

MR THOMAS: And when you say "the minister", who was the minister?

15 **MR EASTERBY:** I believe at that time it was Mr - the Honourable Mick de Brenni.

MR THOMAS: And when you say the QBCC board, any particular members of the QBCC board?

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MR EASTERBY: Not that I recall directly, though the chair is the chair, and often it'd be, you know, he may - I recall him saying, "The chair's asking this," or the board. It was a little emotive.

25 **COMMISSIONER:** A little what, did you say?

MR EASTERBY: Emotive. He was under pressure.

30 **MR THOMAS:** And based on your understanding of those meetings with Commissioner Bassett, what was he under pressure to do?

MR EASTERBY: I'm sorry, can you say that again?

MR THOMAS: What was he under pressure to do?

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MR EASTERBY: Look to take safety action, in particular, under the QBCC Act, against licensees that had been brought to our attention.

MR THOMAS: Specific licensees?

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MR EASTERBY: Specific licensees that were detailed to us, as per like these letters.

45 **MR THOMAS:** And what was your reaction to that, to learning that he was under pressure from the minister or from the board?

MR EASTERBY: I was - I suppose in one instance I was a little dumbfounded. My understanding of regulators is they operate independent, whilst accountable, but independent. And to me, my work was being dictated to around priorities around historic matters as opposed to current emerging matters that were being reported.

COMMISSIONER: I didn't understand that second part. I could understand that you were independent yet accountable. What was the second point you made?

MR EASTERBY: That -

COMMISSIONER: About historic matters? I didn't follow that.

MR EASTERBY: My attention was being brought on to historic matters as opposed to current matters. So each day, we would receive information from Workplace Health and Safety Queensland via the triage team of matters that had come in that night, so to speak, or even that day, if it was that urgent, and we would turn to triage those. But to then spend time for matters that were a year, two years old by virtue of the age of the notices, to look for some trends, and to take action now when there was no matter current, that was then occupying time that I felt I should be spending on doing other work, more important work.

COMMISSIONER: Did you express that to anyone?

MR EASTERBY: Ian and I had this conversation continually. That's where I would stop my expression.

COMMISSIONER: That's where you would -

MR EASTERBY: I would stop at Ian. So the way that I had it working and Ian and I had it working, I managed my work and my staff down, and Ian managed his work and those above him. So he managed upwards and I managed downwards, and the two of us would discuss and plan and vet and peer review our own work.

COMMISSIONER: One of the things, just go back to page 110 of the annexures, which is your email of 28 June 2021, which is sent to Ian Grant, Chris McCahon and Shelley Devers. Who is Chris McCahon and who is Shelley Devers?

MR EASTERBY: Chris McCahon at that time was the director of the investigations area, so that area investigated breaches of the QBCC Act, unlicensed work and matters like that. And Shelley Devers is a young lady that I employed - I did a recruitment process - and that I was training to focus on managing all the safety matters.

COMMISSIONER: The salutation is a strange one:

Good morning Ministerial.

And the first email recipient is Ministerial. Who is Ministerial?

5 **MR EASTERBY:** Ministerial is a team in the QBCC that does the interface between the QBCC and the Ministerial, and my understanding is that whatever I send to Ministerial is for the purpose to go to the minister, and that's the gateway. I don't directly communicate with the minister; that's not appropriate.

10 **COMMISSIONER:** So it's some group within the QBCC who's tasked with the - as far as you understand it, passing correspondence that goes to the email address Ministerial through to the minister's office?

MR EASTERBY: Correct.

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MR THOMAS: Mr Easterby, you spoke about being asked to target specific licensees. I want to deal with one of those now, which is Watpac.

MR EASTERBY: Yes.

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MR THOMAS: And you deal with this from paragraph 43 onwards of your witness statement.

25 **COMMISSIONER:** Could I just ask, why did you do that? That seems a strange thing to do.

MR EASTERBY: The original request would've come from Ministerial to do the work, to take action.

30 **COMMISSIONER:** Right. So you get an email from someone unknown at an email address Ministerial asking to you take action?

35 **MR EASTERBY:** Yes. Or they would forward - they would forward the correspondence from the minister's office and the attachments, and we then take action.

COMMISSIONER: You just have to say that again for me because I didn't follow that, sorry.

40 **MR EASTERBY:** Normal practice would be that they - the team that's in receipt of any emails from the minister's office, and then they would allocate that work out to me, and Ian, to take action on, and whatever the instructions are in that regard.

45 **COMMISSIONER:** I see. I can see - if you go to page 111 of that bundle, there's - this is the request that came from Ministerial. Hi Ian, Graham and Chris.

The person at this email address is Rhiannon Hempenstall, but you understand her simply to be a postbox, do you, passing messages to and fro?

MR EASTERBY: Yes.

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COMMISSIONER: You might not be able to answer this, but why is the next bit blanked out? Mr Thomas?

MR THOMAS: It's just an email address. As in the below Ms Hempenstall's -

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COMMISSIONER: No, from Ministerial, and next to Ministerial is blanked out.

MR THOMAS: I think it would be the email address, but we can double-check.

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COMMISSIONER: Might be relevant.

MR THOMAS: Might be an long email address. Yes.

COMMISSIONER: Sorry.

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MR THOMAS: No, no, no. Not at all. Thank you, Commissioner. I was going to ask you some questions and I will ask you some questions about Watpac. When did you first become aware of Watpac's involvement in the Townsville Stadium project?

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MR EASTERBY: From my recollection, it wasn't long after I started.

MR THOMAS: And how did you become aware of -

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MR EASTERBY: It was, for want of a better word, social conversation with Ian Grant and David Lonton.

MR THOMAS: What were you told in those conversations?

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MR EASTERBY: David Lonton had been tasked with investigating Watpac and given a scope of work which - I can't recall exactly what that was, but he was highly stressed. Our offices were adjacent to each other, and Ian and I, in principle, gave him moral support and comfort that he had somebody he could - peers that he could talk to about his stresses.

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COMMISSIONER: I thought you just told me that Chris McCahon was the director of investigations, but in your witness statement you say David Lonton was the director of investigations.

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MR EASTERBY: Correct. Chris McCahon took over after David Lonton left.

COMMISSIONER: We're going back three years in time to 2018. Thank you.

MR THOMAS: I'm told the redaction that to email address was just the QBCC email address. It wasn't an additional address or anything like that; it was just redacting the email address itself.

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COMMISSIONER: The email address for Ministerial?

MR THOMAS: For Ministerial. So Mr Lonton's role - sorry, Mr Easterby - he was the director of -

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MR EASTERBY: Investigations is the word that comes to my mind.

MR THOMAS: And what did he tell you specifically about what Watpac and the Townsville Stadium site?

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MR EASTERBY: My recollection is from a number of conversations that he was to investigate them for any breaches that he could find of the QBCC Act.

MR THOMAS: And based on those discussions, did he find any breaches of the QBCC Act?

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MR EASTERBY: No, he couldn't.

MR THOMAS: Notwithstanding, was he asked to continue those investigations, or was that the end of the matter?

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MR EASTERBY: No, it went on for months and months.

MR THOMAS: And on what basis do you say that?

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MR EASTERBY: From the conversations I had with him, and then because he wasn't progressing finding any evidence of breaches by Watpac, I recall a meeting with the commissioner, Ian Grant, David Lonton and myself, where the commissioner was exploring with Ian Grant and myself that we would look at if there was any breaches of licensing requirements.

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MR THOMAS: And do you recall when that meeting was?

MR EASTERBY: No, I don't recall exactly when that was.

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MR THOMAS: But Commissioner Bassett briefed you to find licensing issues?

MR EASTERBY: Correct. So I think it was to keep an eye on for safety notices or have a look at if they came in, or any other licence conditions. There's an element within licensing called fit and proper. Ian is more of the expert in that fit and proper space, and I believe it may have been to start looking at if there was

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anything that would contribute towards if there was any concern about fit and proper management of the company.

5 **MR THOMAS:** And do you know what happened to Mr Lonton's investigation?

MR EASTERBY: To the best of my knowledge, it didn't go anywhere. However, he was managed in such a way that he left the organisation.

10 **MR THOMAS:** And going back to what Commissioner Bassett asked you and Mr Grant to do, were there specific action that he asked you to take against Watpac?

15 **MR EASTERBY:** Not specific. It was more of us to be doing, for want of a better word, investigations, when that wasn't really our approach to our work.

MR THOMAS: And did Commissioner Bassett tell you where this request was coming from?

20 **MR EASTERBY:** He didn't tell me, no, but I do clearly recall a conversation where Ian Grant had come out of a meeting and was frustrated and had said that Commissioner Bassett had said that the only reason we're doing this work is because Watpac hadn't signed or weren't signing an EBA.

25 **MR THOMAS:** An EBA with whom?

MR EASTERBY: I would take it that, if I recall, it was the CFMEU.

30 **MR THOMAS:** And did you do what you were asked to do and investigate and consider whether you could take action against Watpac from a licensing perspective?

35 **MR EASTERBY:** I didn't do much work on it at all. I just kept an open eye if there was anything that came across through the natural course of work. I didn't waste any time trying to go back over any historic matters or the like.

MR THOMAS: And at paragraph 51 of your witness statement, Mr Easterby, you describe one instance concerning a crane operator.

40 **COMMISSIONER:** You were being asked by Commissioner Bassett to look into action to be taken against Watpac from a licensing perspective, but I thought you just said then that you didn't do much in response to that instruction.

45 **MR EASTERBY:** No, I didn't go - I don't recall going after historic. I kept an eye on as matters come in, and then a matter did come in which we were about to discuss.

COMMISSIONER: Why didn't you have a look at the historic issues?

MR EASTERBY: I believe in justice. I believe that there's a role to play as a regulator, and whilst I can be receiving instruction to do a certain thing, if in my mind it's not my highest priority, or it would be unjust, then I would argue and seek forgiveness than seek permission.

COMMISSIONER: And why didn't you think it was just?

MR EASTERBY: Because, to me, having - especially when I became aware that it was in relation to the EBA - something just flashed to my memory just then as well, that - it may have even been in the newspapers. There was something around the Townsville Stadium. It was in the news and so forth at the time, so it was a little bit of a hot topic - that the regulator isn't there to actively participate in looking like it's a regulator for the purpose of EBAs to be signed.

MR THOMAS: Thank you, Commissioner. Going to that specific incident concerning the crane operator - and you deal with this at paragraph 51 of your witness statement - do you remember what the issue was with the crane operator?

MR EASTERBY: It had been reported to me through - I can't recall exactly how, but that there was a concern that there was unlawful building work going on, and it was in relation to the crane operator, and I recall that the crane operator never held a QBCC licence, so they weren't a QBCC licensee, so it wasn't anything for licensing. There was no action that we could take. Was there something we could do against Watpac engaging an unlicensed contractor? The other thing that comes to mind was whether the scope of work was below 3,300, because any work conducted on a building site that's below 3,300 is not building work, so again it falls outside our scope. So to me there was no relevant action that could be taken in relation to that crane operator.

MR THOMAS: And who asked you to take action against Watpac in relation to that incident?

MR EASTERBY: That one - again, more likely it's come - I believe it's come through Ian, that Ian had received information about the crane operator.

MR THOMAS: And at paragraph 51, you describe a licensing condition that you were asked to impose.

MR EASTERBY: Yes.

MR THOMAS: Can you describe that licensing condition?

MR EASTERBY: It was - it was really unusual. It was about having some transparency of all their - all their contracting, that they were contracting to licensed entities, entities that held relevant licences, or something along those lines. It was quite unusual.

MR THOMAS: And what was your reaction to that condition? Or, sorry, I will go back a step. Withdraw that. Who proposed that condition?

5 **MR EASTERBY:** It wasn't - the commissioner had shaped the concept of it, and then Ian and I were working on rebutting it, basically.

MR THOMAS: And what do you mean when you say that the commissioner shaped the concept of that condition?

10

MR EASTERBY: Asking it in a way that, can this be done, and - can it be done.

MR THOMAS: So Commissioner Bassett had proposed this arrangement and asked whether it could be done?

15

MR EASTERBY: Yes.

MR THOMAS: What was your reaction to that?

20 **MR EASTERBY:** Oh, at the time, I just remained silent. I - you - you go away and you contemplate how you're going to do, you know, a lawful pushback.

MR THOMAS: And what did you think about it?

25 **MR EASTERBY:** That it was unwarranted in the circumstance.

MR THOMAS: And do you know why - no, I withdraw that. Sorry, Mr Easterby. At paragraph 53 of your witness statement, you say that or give evidence that Mr Grant often asked Mr - sorry, Commissioner Bassett to put things in writing. Why did he do that?

30

MR EASTERBY: I heard him say it on a few occasions, but then he would also reflect with me that - again, I have asked for it in writing, because often it was a verbal conversation, and we wanted to have a record of what we were being tasked to do.

35

MR THOMAS: And why did you or Mr Grant want to have a record of what you were being tasked to do?

40 **MR EASTERBY:** Because to me, what we were being asked to do was outside the role of the QBCC. So an outside entity, if it was to be reviewed and only saw our actions with nothing of an input, may consider that what we were doing was unlawful or outside our scope.

45 **MR THOMAS:** And did you think what you were doing was unlawful - being asked to do was unlawful?

MR EASTERBY: In my mind, there's unlawful and there's unjust, and I suppose it's a bit of a blend between the two.

5 **MR THOMAS:** And what was Commissioner Bassett's response to that when you - when he was asked to put things - commit matters to writing?

MR EASTERBY: Oh, he would always say, "No, I'm not doing that." He was just blunt.

10 **COMMISSIONER:** Say that again. I just missed that evidence, sorry.

MR EASTERBY: He would just refuse. He would say, "I'm not doing that."

15 **COMMISSIONER:** "I'm not putting it in writing"?

MR EASTERBY: No.

COMMISSIONER: Did he say why?

20 **MR EASTERBY:** Not that I exactly can recall the words. I can't recall the exact conversation to give you the exact words of giving a reason. It was a statement, and it's the commissioner. If he stated it, he stated it. There's no argument now.

25 **MR THOMAS:** At paragraph 54 of your witness statement, you describe a whistleblower complaint that said you were on a CFMEU hit list. Have you seen a copy of that complaint?

30 **MR EASTERBY:** No. Ian did try to protect me and manage upwards, but he called me into - I recall he called me into the office and said I need to be aware and raised the concern of what this might mean around my employment, and just actions that, you know, may come across our desk and so forth. So he just put me on more of a heightened state of alertness and awareness.

35 **MR THOMAS:** And as far as you're aware, did the QBCC ever take action against Watpac from a licensing perspective?

MR EASTERBY: No. From my recollection, it just disappeared.

40 **MR THOMAS:** And do you know why that issue disappeared?

MR EASTERBY: My recollection is that an EBA was actually eventually signed and entered into. But whether that timing is exactly the same time or that this just exhausted itself, I can't recall.

45 **MR THOMAS:** At paragraph 56, Mr Easterby, you describe the toll on Mr Lonton about this process or the toll that the pressure took - had on him. Can you tell the Commissioner about what you observed happen to him?

MR EASTERBY: Because I have a safety background and my time with Queensland Health, where psychosocial harm is a - was and remains a very big emerging, I saw that he was - had a psychosocial injury, that his stresses were
5 totally unreasonable. He was stood down on pay and then disappeared. He was terminated. But in that lead-up to it, he would be visibly upset, trembling. He was worried about his own job, because there's a journey that this goes through, if that makes sense, over months, that he - his mental health diminished significantly.

10 **MR THOMAS:** I will move on to another contractor -

COMMISSIONER: Just before you do. You say that he was stood down without pay?

15 **MR EASTERBY:** No, I believe - I believe it was on pay.

COMMISSIONER: Stood down on pay. For what reason?

20 **MR EASTERBY:** That, I never got to the exact paper explanation, but my understanding is because he wasn't doing the action against Watpac.

COMMISSIONER: And you said 10 minutes ago about Mr Lonton - and I didn't take a note, I'm sorry - that he eventually left?

25 **MR EASTERBY:** He did leave.

COMMISSIONER: And I think you said something along the lines of your understanding of the reasons for him leaving.

30 **MR EASTERBY:** Is that he was managed out. It was unreasonable management action, would be the legal term.

COMMISSIONER: Why do you say that?

35 **MR EASTERBY:** Because I bore no evidence that he had done anything wrong, that he had exercised his role and led his team well. It's a challenging workplace, as it is in the construction industry, and to investigate breaches of the QBCC Act, and that he had done his work, and held a moral - moral ground, as a regulator should, and he had performed as a regulator should perform.

40 **COMMISSIONER:** Unreasonable management action by whom?

MR EASTERBY: The commission.

45 **COMMISSIONER:** Sorry, commission or commissioner?

MR EASTERBY: I can only say the commission, because I didn't see who initiated. We had an assistant commissioner that had come in.

COMMISSIONER: Who was the assistant commissioner?

5

MR EASTERBY: I'm going to have to - I'm going off my memory. It was Alison - I don't recall her name. She wasn't there - she was there for a short while and then left. So she was the assistant commissioner before Kate Raymond became assistant commissioner.

10

COMMISSIONER: Before who became assistant commissioner?

MR EASTERBY: Kate Raymond.

15

COMMISSIONER: Kate Raymond.

MR EASTERBY: Kate Raymond was our chief legal officer, and then she was promoted to assistant commissioner.

20

COMMISSIONER: One thing that would be useful, Mr Thomas, and it might be something that I will ask Mr Ternovski about, but from my perspective at least, some of these allegations look reasonably serious, in particular the allegation - admittedly, hearsay - from Mr Grant to this witness that Commissioner Bassett said to him, "The reason we're here is because Watpac isn't signing an EBA with the CFMEU." It would be useful for me, when you open or re-open this case study next time, to try to identify beforehand whether there are any offences that may have been committed on the basis of the evidence that you expect to lead. I'm just - to my mind, that looks like - admittedly, it's hearsay.

25

30

MR THOMAS: Yes.

COMMISSIONER: And I haven't heard from Mr Grant and haven't heard from Mr Bassett and none of it might end up being proved. But if that was said, it's not only - and this just came to me over 60 seconds - not only a contravention of the Fair Work Act, but it's hard to see why it wouldn't be misconduct in public office, given that the power is being exercised or sought to be exercised for a purpose extraneous for the reason the power is given, and not only that, but the extraneous use is itself unlawful.

35

40

MR THOMAS: Yes. We will certainly undertake to do that, Commissioner. I will move on to another contractor, Mr Easterby, which is Tomkins Commercial and Industrial Builders.

45

MR EASTERBY: Yes.

MR THOMAS: Mr Operator, can we please turn up annexure LGE-3, which is at page 114, and perhaps if we can likewise enlarge the addressee in the first few paragraphs. Mr Easterby, do you recognise this letter?

5 **MR EASTERBY:** I do.

COMMISSIONER: Sorry, I just missed the page.

MR THOMAS: The page is 114, Commissioner.

10

COMMISSIONER: Thank you.

MR THOMAS: Now, this one, it's the third such letter that I've now taken the Commission to. This one is not on CFMEU letterhead, but one sees over the page it's signed by Mr Ravbar. Now, Mr Easterby, at paragraph 60 of your witness statement you give evidence that you and Mr Grant met with Commissioner Bassett to discuss this letter.

15

MR EASTERBY: Yes.

20

MR THOMAS: Do you recall what Mr - sorry, I withdraw that. Do you recall what Commissioner Bassett told you about this letter during that meeting?

MR EASTERBY: I just recall that it was allocated to us to investigate with a view to taking action against Tomkins.

25

MR THOMAS: And what do you mean by "taking action"?

MR EASTERBY: Licensing action.

30

MR THOMAS: So that's the three options that you've already explained?

MR EASTERBY: Three options are to impose a condition, suspend their licence or cancel their licence.

35

MR THOMAS: And do you know why you were asked to take action against Tomkins?

MR EASTERBY: From this letter.

40

MR THOMAS: And at paragraph 61, you say that you reviewed the letter and the notices -

COMMISSIONER: I just don't understand what you mean by "from this letter". What do you mean by that?

45

MR EASTERBY: The letter was the task, as in, it was issued to us to take action. Received this letter. It was allocated to me then to investigate to take action against Tomkins because of the serious nature of the content of the letter.

5 **COMMISSIONER:** Allocated by whom?

MR EASTERBY: The commissioner.

10 **MR THOMAS:** Mr Easterby, when you reviewed this letter and the notices to which it referred, what was the outcome of your review?

15 **MR EASTERBY:** I - the outcome is I proposed a condition on their licence, which they met before the expiry date to impose the condition, and I was satisfied that they had met that condition.

MR THOMAS: Going back, though, to the analysis of all the notices, what was your view of the notices attached to the letter?

20 **MR EASTERBY:** It was similar to previous letters that I'd received where the notices contained - the notices that were attached had a significant number issued to other legal entities, some holding a QBCC licence, some not holding a QBCC licence, and that it was across a number of sites.

25 **MR THOMAS:** And at paragraph 62 of your witness statement, you say you contacted Tomkins directly. Why did you do that?

30 **MR EASTERBY:** I wanted to - to understand, because we get - we had these letters, but I was trying to understand the nature. If my memory serves me correct, I had reached out to Workplace Health and Safety Queensland and had received some information that they also had some - some concerns, and my approach was always to engage with the licensees, especially if it was looking towards imposing a condition. In one nature, it was a Socratic approach, that I could ask them questions in such a way that would inform them to have an inquiring mind of what they were doing, but in this nature I was also just trying to understand the nature
35 of their operations, and then they told me certain things.

MR THOMAS: What did they tell you?

40 **MR EASTERBY:** That the CFMEU were turning up at site - I'm sure the site was - one of their sites or the site question was down Robina way, and they weren't allowing the CFMEU on site, and the CFMEU was having the safety regulator turn up, and then they would do a walk of the site and then issue a lot of notices from that - from that walk-around.

45 **MR THOMAS:** You also say that around this time you spoke to Ms Helen Burgess about Tomkins.

MR EASTERBY: I did.

MR THOMAS: Do you recall those discussions?

5 **MR EASTERBY:** I have a recollection of those discussions, yes.

MR THOMAS: And what did Ms Burgess tell you about Tomkins?

10 **MR EASTERBY:** What she told me was that their inspectors were requested to
attend site urgently, which they would do, and that typically what it was is they'd
walk around with a CFMEU delegate and the site safety person, and the inspectors
would be told by the CFMEU delegate that there were concerns and point them
out, and the inspectors would then write notices of the concerns that were pointed
15 out, and she highlighted to me that there was another site down the road which
was an EBA site that they had no problems with at all.

MR THOMAS: And just to clarify one matter, Mr Easterby, you said that you
were told by WHSQ that they had concerns about Tomkins' safety record.
Who - was that Ms Burgess?

20 **MR EASTERBY:** That was Ms Burgess, yes. And that's where I gauged which
way I was going with this, to work with the safety regulator to look to improve
safety for the construction industry.

25 **MR THOMAS:** And indeed, Mr Operator, if we turn up annexure LGE-4, and
enlarge that first email. Do you recognise this email, Mr Easterby?

MR EASTERBY: Yes, I do.

30 **MR THOMAS:** And is that where you record that Ms Burgess had told you that
they had concerns with Tomkins?

MR EASTERBY: Yes.

35 **MR THOMAS:** Can I go back to paragraph 67 of your witness statement, and
you touched on this before, but Ms Burgess described a pattern in which the
CFMEU engaged. Can you describe that pattern for the Commissioner?

40 **MR EASTERBY:** What I recollect is that the pattern was that the CFMEU
would present at site and request entry, and the builder was refusing entry under
the Work Health and Safety Act. That then gives rise that the CFMEU can contact
the safety regulator, and then the safety regulator sends out an inspector or two
and they then gain access to the site, and the CFMEU are invited into the site by
the safety regulator.

45

MR THOMAS: And what sites were targeted by the CFMEU?

MR EASTERBY: From my recollection in this, Tomkins was not an EBA company, and they did not have an EBA, and my recollection in my conversation with them, they weren't interested in an EBA. Their works and scopes of work, they didn't want to do that.

5

MR THOMAS: And in your conversations with Ms Burgess, did she tell you what kinds of sites were targeted by the CFMEU?

MR EASTERBY: I recall that it was the sites that didn't have EBAs, that there was concerns.

10

MR THOMAS: I'll move on to the next -

COMMISSIONER: What did you think of that, when she told you that?

15

MR EASTERBY: I suppose I - I always try to do my role with the hat that I'm wearing, so as a licensing manager, and therefore it's a fact, and that's it, but from a personal perspective is that businesses have a right to run how the business wants to run.

20

MR THOMAS: Mr Easterby, while those two contractors are examples that you've detailed in your statement, were there other occasions on which you were pressured by Commissioner Bassett to take action against specific licensees, or were they anomalies?

25

MR EASTERBY: They - I don't know if - there were other occasions. I don't know if you can say it was an anomaly. It was a constant work environment, if that makes sense, that there's this - matters would come to his attention. He would raise them with either Mr Grant or Mr Grant and myself to then do - to do certain things. It was - it was a natural course of business.

30

MR THOMAS: A constant work environment to take action against specific contractors?

MR EASTERBY: Yes.

35

MR THOMAS: And how did you respond to that pressure or that environment?

MR EASTERBY: It was stressful - I don't think that would be a surprise - and that I was constantly working - I was constantly working to do the right thing. I'd never worked in a workplace where it was a constant focus of mine to do the right thing versus it just being a natural state of mind.

40

MR THOMAS: One matter that you talk about at paragraph 72 of your witness statement is the idea or strategy that QBCC should be taking action against certain licensees or rather should be taking action based on the number of or frequency of safety notices.

45

MR EASTERBY: Yes.

MR THOMAS: Do you know where that idea or strategy came from?

5

MR EASTERBY: I recall it came from the board.

MR THOMAS: Anyone in particular on the board?

10 **MR EASTERBY:** The best of my recollection, it was between the chair and Mr Ingham.

MR THOMAS: And how did you know that?

15 **MR EASTERBY:** From conversations with Mr Bassett.

MR THOMAS: And what did you think about that strategy?

20 **MR EASTERBY:** Like everything, I have an open mind to examine it, to see if it has merit, which I did.

MR THOMAS: Well, let's go to that. At paragraph 75 onwards, you describe that analysis, and perhaps, Mr Operator, we can go to annexure LGE-7, and if we could perhaps blow up the first half for ease of viewing. Can you describe, Mr
25 Easterby, the analysis that you did to the Commissioner?

MR EASTERBY: I had staff pull data and data sets and undertake some analysis. I did the principal analysis and considered it against some academic research, because I was still doing some casual work at QUT in lecturing and from
30 my time of lecturing at QUT in safety. And I was looking at was there evidence that there is a causal link between a history of notices and the result of an adverse event? And I could not find any evidence, and I do draw attention to the Deepwater Horizon matter. On the morning of the Deepwater Horizon matter, they actually had safety awards on the deck, and then later that day, 11 workers
35 were killed on that site.

So from going from safety awards in the morning - so from both an academic examination and analysis of the notices and then looking at the complexity of the builders, so that the larger the builder - so cat 7s are the largest scope of builder in
40 Queensland - and that they have multiple projects running simultaneously throughout Queensland, that by the nature of their footprint, and the nature of the work, but also the culture. The construction industry has a very positive culture in reporting safety breaches. It's a requirement under the Act, and they actively do it, and I would be one to argue that, compared to other industries, they're the most
45 honest in actively reporting safety matters to the safety regulator, that they've had an incident on site.

And then by the nature of that, it attracts attention from the safety regulator where they're likely to be issued an infringement notice, so the safety regulator is doing their role. And then they comply with the notice, the matter's closed out and safety is improved. So that's the legislation operating as it should do. And so I
5 saw evidence that the legislation was operating as it should do, but it didn't give rise for the licensing regulator to be - to take pre-emptive strikes against the licensee that an event is about to happen, so therefore take action now.

MR THOMAS: Yes. And so your conclusion - well, can you describe your
10 conclusion?

MR EASTERBY: To take no further action.

MR THOMAS: Based on the pattern - frequency of licences.
15

MR EASTERBY: Correct.

MR THOMAS: Because it's not determinative or can't be used as a useful
20 indicator or -

MR EASTERBY: I couldn't find anything that would use it as a determinative
factor.

COMMISSIONER: Your analysis assumes, does it not, that for the 20,000
25 notices issued by WHSQ since 1 January 2018, in order for your study to have any relevance or any utility, that those notices are the product of not a random system of enforcement, at least a neutral, unbiased, un-targeted form of enforcement, so that you could say that the notices, those 20,000, were distributed according to identifiable risks. There is some evidence so far in this tribunal that the
30 notices - sorry, in this Commission that these notices were not distributed in that way but were rather the product of a non-neutral, biased, targeted approach connected with the industrial interests of the CFMEU.

Now, if that theory is correct, perhaps that explains why there's no recollection
35 between the safety incidents, because the distribution of the notices is not a predictor, because itself is the product of an improper exercise of power in terms of the issuing of these notices.

MR EASTERBY: I agree with that. I was mindful of a hindsight bias, and I
40 recall that whilst that was part of my mind, I looked at it purely on a natural issuing of the notices. I didn't want to bring in a confounding factor of what you were just describing.

COMMISSIONER: No, I understand that, and it might prove that confounding
45 factor or it might prove the thesis that you seek to - that you say it shows, but in order to show it shows what you seek to demonstrate, you have to show that the

distribution of the notices was neutral, unbiased and un-targeted, except as to the proper purposes for the issuing of the notices.

MR EASTERBY: Correct, yes.

5

MR THOMAS: Mr Easterby, I'll move on to the next topic, which is about the QBCC board. What was your view about the board's level of involvement or participation in operational matters of the QBCC?

10 **MR EASTERBY:** It was my view, and that was - that they were overreaching their role as the board and being involved in operational matters.

MR THOMAS: And why do you say that?

15 **MR EASTERBY:** Because there were operational matters that they actively participated in, for instance, my hiring of a specialist staff member.

MR THOMAS: I'll come to that in a moment, but why did you think that was unusual, the intervention in those operational matters?

20

MR EASTERBY: When I received targeted requests, I would seek legal advice, and I was provided legal advice at the time that informed me of that.

25 **MR THOMAS:** Yes. I'll go to - at paragraph 82 of your witness statement, you say that that intervention escalated after Mr Ingham's appointment.

MR EASTERBY: Yes.

MR THOMAS: That's Mr Jade Ingham?

30

MR EASTERBY: Yes.

MR THOMAS: And in what ways did the board's involvement escalate after that appointment?

35

MR EASTERBY: I do recall that Mr Grant had a number of meetings with Mr Ingham directly, one-on-one, looking at our licensing function and work. The board chair was very much engaged in where we were going with safety and being proactive in that space, and we were receiving, like we've just looked at, ideas to examine to be proactive based on historic records. Those ideas came out of the board to take operational action.

40

MR THOMAS: And you also say in that same paragraph that Commissioner Bassett was passing on directions from Mr Ingham and Mr Williams. On what basis do you make that assertion?

45

MR EASTERBY: Well, I know from conversations with Mr Grant, and then to the best of my recollection, there were occasions when Mr Grant and I and the commissioner were meeting, either in his office or in the boardroom, where he would inform us of where the task is coming from.

5

MR THOMAS: So Commissioner Bassett would tell you -

MR EASTERBY: Yes.

10 **MR THOMAS:** - where these directions were coming from?

MR EASTERBY: Correct.

15 **MR THOMAS:** And at paragraph 84 of your witness statement, you give evidence about a specific incident where you declined to issue a licence to an individual. Can you tell the Commissioner about that episode?

20 **MR EASTERBY:** Yes. I was specifically directed to have a meeting with an applicant, and that was, to my recollection, the only time where that has occurred. I would have meetings with applicants, but it would be at our request, if I wanted to - if the licensing officer wanted to clarify and weren't satisfied with the amount of information, I would then get involved in the licensing application. So that was a natural - there was a natural part to meet with applicants, but it was typically at our request, but this one had come from the Commissioner to meet with a particular gentleman who was looking to obtain - he had applied for a licence and I believe we had rejected it in the natural course, and therefore it was then - it was 25 tasked to me to review with a view to giving - granting him a licence. And there was no lawful grounds that I could identify against his technical qualification to grant the licence that he was after.

30

MR THOMAS: And was that the end of the matter, or -

35 **MR EASTERBY:** It - it - it was, but I certainly felt that I was under - under, you know, review that I had turned it down.

35

MR THOMAS: From whom?

MR EASTERBY: From the commissioner.

40 **MR THOMAS:** What did he tell you?

MR EASTERBY: It's not so much what he told me. It was just - it was a climate, an atmosphere -

45 **MR THOMAS:** Yes.

MR EASTERBY: - type set-up, if that makes sense. It's not one of those things where everything is an exact dialogue.

5 **MR THOMAS:** I want to go to the final topic, Mr Easterby, which is your departure from the QBCC. You were there for just over three years. What did you think of the environment at the QBCC workplace?

10 **MR EASTERBY:** I had a great team, but I - as I said previously, I had never worked in an environment where I constantly had to work at being good. I constantly had to push back to not do the wrong thing, because I was continually presented with challenging tasks or environments that required to - for - the concept to turn a blind eye and to just do certain things as requested, as opposed to do what the law provides. So I think that pretty well paints it.

15 **MR THOMAS:** And why did you ultimately resign from the QBCC?

MR EASTERBY: I ultimately resigned from the QBCC because there was a vexatious complaint against Mr Grant that I'm sure that he should be the person to talk to, but there was an internal investigation, and he was completely cleared in
20 that, but - and the same had happened to Ms Raymond, and I respected them. They had very good minds and did their jobs very well, and they as senior officers had to give a month's notice, so they had decided that they would resign. But they didn't want to resign. They actually wanted to stay. So they exercised their right to resign with a view to make a request that the unreasonable pressure that was
25 being put on them to do unreasonable actions would stop, and that was refused.

I only had to give two weeks' notice, and so the deadline for what they had presented to stay and retain their roles and keep the good work going expired on a particular Monday, and that's when I served it. So I gave my clear 14 days' notice.
30

MR THOMAS: And you said they made an ultimatum. To whom did they give that ultimatum?

35 **MR EASTERBY:** As I understand it, from what they told me, the commissioner.

MR THOMAS: To stop giving or placing unreasonable pressure on them?

MR EASTERBY: Correct.

40 **MR THOMAS:** And at paragraph 93, you give evidence that you made a complaint to the Crime and Corruption Commission. What was that complaint about?

45 **MR EASTERBY:** In principle, all the matters that I've discussed here. It was in relation to actions that I had seen that I felt were not in the best interests of the construction industry, and that may - it was up for the Crime and Corruption

Commission to ascertain - but may pose breaches of the Public Service Act or any other legislation.

5 **MR THOMAS:** And were you interviewed in relation to your complaint?

MR EASTERBY: I was interviewed.

MR THOMAS: By whom?

10 **MR EASTERBY:** I can't - there was two gentlemen. One had a caravan. I can recall that because I had bought a caravan. I can't recall their name.

15 **MR THOMAS:** And are you aware of any action that was taken in relation to your complaint?

MR EASTERBY: I chased up to follow up if they needed me more and what was going to happen, because I had a concern now that I had, you know, raised this concern, and I clearly remember they said they didn't see this going anywhere while this government - the words were to the effect that they didn't see this going anywhere while this government's in power.

COMMISSIONER: Who's "they"?

25 **MR EASTERBY:** I'm sorry, I need to recollect.

COMMISSIONER: Who were the people that told you this?

30 **MR EASTERBY:** Oh, the - one of the gentlemen that interviewed me from the Crime and Corruption Commission.

COMMISSIONER: So either the one that had the caravan or the other one?

MR EASTERBY: Correct.

35 **COMMISSIONER:** Was this complaint that you made to the Crime and Corruption Commission in writing or orally?

40 **MR EASTERBY:** I know it was orally; I was interviewed at length for hours. I started it. I'm trying to recall if I - I wouldn't have phoned - I'm sure I would have put it in writing. My nature is to put it in writing. I just can't recall, I can't vision that I wrote or if they had something they had an online web form that you fill in. So it was one - one or the other. But the nature of my practice is to put things in writing, to express myself articulately. So I'm sure it would have been in writing.

45 **COMMISSIONER:** You say you were interviewed at length for hours.

MR EASTERBY: Yes.

COMMISSIONER: How many hours?

5 **MR EASTERBY:** Started in the morning, and it was till after lunch.

COMMISSIONER: One interview, or more than one?

10 **MR EASTERBY:** It feels like it was more than one. It was down at the corporate centre that they wanted to meet.

COMMISSIONER: You will have to explain what that means.

15 **MR EASTERBY:** They picked one of their out-of-Brisbane venues to meet. Was it one day? I can't recall, Commissioner. I apologise. I know it felt very long.

COMMISSIONER: Did you make this complaint before you resigned on 26 July 2021 or afterwards?

20 **MR EASTERBY:** After I resigned.

COMMISSIONER: Did you use your work email or a personal email at that stage?

25 **MR EASTERBY:** It would have been a personal email. I had left the QBCC. I didn't have access to my work email.

COMMISSIONER: Do you still have your personal emails?

30 **MR EASTERBY:** I do, but I do clean them, because I use a particular server that doesn't have much room on it and it's forever filling up.

35 **COMMISSIONER:** One of the things, moving from the complaint you made to the Crime and Corruption Commission back to the complaint made against Mr Grant and Ms Raymond, in your witness statement, you call it - you say they were the subject of a formal investigation.

MR EASTERBY: Yes.

40 **COMMISSIONER:** Orally you said at least Mr Grant was the subject of a vexatious complaint.

MR EASTERBY: Yes.

45 **COMMISSIONER:** Why do you say that?

MR EASTERBY: I - I feel Mr Grant should talk to it, but to answer your question is that my understanding of the matter, though I wasn't directly involved in the matter, is that through Ms Raymond he was directed to cancel a licence for no proper ground, but then the commissioner made a complaint against Mr Grant that he had cancelled the licence.

COMMISSIONER: Why do you call that vexatious?

MR EASTERBY: Because to be given a task to do a certain thing and then have a complaint made against you complying with the task has to have a purpose.

COMMISSIONER: I'm sorry, I missed that. I thought he didn't cancel the licence.

MR EASTERBY: No, he did.

COMMISSIONER: He did?

MR EASTERBY: He acted. He did what the commissioner asked him to do.

COMMISSIONER: And then a complaint was made about that?

MR EASTERBY: Yes, by the commissioner.

COMMISSIONER: By the commissioner -

MR EASTERBY: That's how I understand it, but I'm not the best person to talk to that; it's hearsay. All I know is that I was assisting Mr Grant with the stress of the situation, which was extreme.

COMMISSIONER: And it was during this period of extreme stress that he told you what you've just told the Commission?

MR EASTERBY: Correct. But if I recall correct, I believe also that he was directed that he can't talk about anything to anybody. He was isolated. But now it's five years down the track, perhaps, you know, it's right that I can say these things.

MR THOMAS: Commissioner, I have no further questions, and note the time as well. I don't understand there to be any application to cross-examine, and -

COMMISSIONER: Sorry, what did you say then?

MR THOMAS: I don't understand there to be any application to cross-examine.

COMMISSIONER: There's no applications to cross-examine?

MR THOMAS: No. And we will need for the next witness 15 minutes to set up, as she's giving her evidence by audiovisual link.

5 **COMMISSIONER:** All right. So you want me to come back a bit later than 11.30?

MR THOMAS: Yes.

10 **COMMISSIONER:** What time do you want me to come back?

MR THOMAS: 11.35 or perhaps 11.40 if that would -

COMMISSIONER: 11.35?

15 **MR THOMAS:** Yes, thank you.

COMMISSIONER: Adjourn till - sorry. You're excused, Mr Easterby. Thank you for your evidence.

20 **MR EASTERBY:** Thank you, Commissioner.

<THE WITNESS WAS RELEASED

25 **COMMISSIONER:** And we'll adjourn till 11.35.

<THE HEARING ADJOURNED AT 11.23 AM

<THE HEARING RESUMED AT 11.37 AM

30 **COMMISSIONER:** Mr Ternovski, I see that the AV set-up is - I shouldn't say it's operational. Is it operational?

35 **MR TERNOVSKI:** It is. It took a little bit more time than we had hoped, but it's good to go - it should be good to go.

COMMISSIONER: All right. And I take it that that's Ms Bancroft?

MR TERNOVSKI: It is. I formally call Kym Bancroft.

40 **COMMISSIONER:** All right. Are we going to have her sworn in?

<KYM SUSANNE BANCROFT, AFFIRMED

45 **<EXAMINATION BY MR TERNOVSKI**

COMMISSIONER: We can perhaps deal with this at the break, Mr Ternovski, but it does make it very difficult for me, calling witnesses by video, to make some

assessment of their evidence. If you think about the last witness, Mr Easterby, at some point, presumably - it's going to be up to you and Mr Thomas - you'll call Mr Grant, I would assume, and Mr Bassett. There's some evidence that Mr Easterby has given about his interactions directly with Commissioner Bassett, and
5 presumably I'm going to be asked to make some assessment of whose evidence is to be accepted, if there was a contest. There might not be a contest. You might not call those witnesses. It's up to you.

10 But Ms Bancroft's evidence, from my brief flick of it, seems to be in the same - of the same nature; that is, it does accord with evidence given by other representatives - sorry, other deputy - no, other people employed in WHSQ, and presumably the same issue will arise. Now, I don't want to interfere in decisions that have been made of this type, but I would hope there is good reason for it, and it doesn't - it's not going to be a habit that is one adopted for convenience, because
15 it makes my job very difficult.

MR TERNOVSKI: I understand, Commissioner.

20 **COMMISSIONER:** It also makes the cross-examination - and I don't believe there's any cross-examination of this witness, but in circumstances where there's cross-examination, it makes it very difficult for the cross-examiner.

MR TERNOVSKI: I understand, Commissioner. Thank you. Ms Bancroft, would you please repeat your full name?
25

MS BANCROFT: Kym Susanne Bancroft.

MR TERNOVSKI: And your occupation?

30 **MS BANCROFT:** Director of a small private company.

MR TERNOVSKI: And your address is known to the Commission?

MS BANCROFT: That's correct.
35

MR TERNOVSKI: Ms Bancroft, you've made a witness statement in this matter?

MS BANCROFT: Yes.
40

MR TERNOVSKI: Could the witness be shown the front page of the statement. Is this your witness statement, Ms Bancroft?

MS BANCROFT: Yes, it is.
45

MR TERNOVSKI: And it's dated 4 June 2026?

MS BANCROFT: That's correct.

MR TERNOVSKI: And it's got 130 paragraphs?

5 **MS BANCROFT:** That's correct.

MR TERNOVSKI: And 48 annexures?

MS BANCROFT: Correct.

10

MR TERNOVSKI: And, Ms Bancroft, seeing that you're remote, can you confirm whether you have a copy - your own copy of your witness statement with you?

15 **MS BANCROFT:** I can confirm I have my own copy.

MR TERNOVSKI: Thank you. Ms Bancroft, have you had a chance to read your witness statement recently?

20 **MS BANCROFT:** I have.

MR TERNOVSKI: Ms Bancroft, I understand you have some amendments you wish to make?

25 **MS BANCROFT:** That's correct.

MR TERNOVSKI: I'll take you through those. The first one as I understand it, Ms Bancroft - and this is an error on our part, in compiling the annexures - KSB-7, which is supposed to be the free text survey results for 2021 is in fact a duplication
30 of KSB-10, which is the survey results for 2022. Is that right?

MS BANCROFT: That's correct, yes.

MR TERNOVSKI: Can I just hand up a document which has been provided to -
35

COMMISSIONER: I've got something here. Corrected annexure?

MR TERNOVSKI: Is it entitled 2021 Working for Queensland Free Text?

40 **COMMISSIONER:** It looks like it's about - it's not numbered, but 50-odd pages or so.

MR TERNOVSKI: Mr Operator, could the witness be shown that document. Ms Bancroft, is that the 2021 free text survey results. Can you see this document
45 on your screen?

MS BANCROFT: Yes, that's correct.

MR TERNOVSKI: So that should be KSB-7; is that right?

MS BANCROFT: That's correct.

5

MR TERNOVSKI: All right. Now, Ms Bancroft, I understand you've got an amendment to paragraphs 104 and 105?

10 **MS BANCROFT:** Yes. If we could please change paragraph 104 to 105, change from January to April, please.

COMMISSIONER: How often does January appear? It's only once, doesn't it? It doesn't appear in 105.

15 **MR TERNOVSKI:** That's right. 105 is a consequential paragraph.

COMMISSIONER: Okay.

20 **MR TERNOVSKI:** Thank you, Ms Bancroft. And I understand you've got an amendment to paragraph 124?

MS BANCROFT: That's correct. If we could please change 124 from 17 April to 17 - sorry, if you could just bring the paragraph - sorry, it should be 17 March, not 17 April, please.

25

MR TERNOVSKI: Thank you, Ms Bancroft. And does it follow that paragraph 125 is no longer correct?

MS BANCROFT: That's, yeah, correct.

30

MR TERNOVSKI: Should that paragraph be deleted?

MS BANCROFT: Yes, please.

35 **MR TERNOVSKI:** Subject to those amendments, Ms Bancroft, is your statement otherwise true and correct?

MS BANCROFT: Yes, correct.

40 **MR TERNOVSKI:** I tender that statement, Commissioner.

COMMISSIONER: You'll just have to explain to me what we're doing with KSB-7, which I'm just digging up. Which pages does KSB-7 run from?

45 **MR TERNOVSKI:** KSB-7, the actual body starts on page 131.

COMMISSIONER: 131.

MR TERNOVSKI: Yes. And the compiled version that you have, Commissioner, it's the same document as KSB-10 instead of being the correct version, which is what I've sought to hand up, but you've already had it.

5

COMMISSIONER: And what does it run from? From 131 to 152?

MR TERNOVSKI: 152, that's right. So that should be replaced by the corrected annexure, but I'm not sure it's practicable to do that within the witness statement itself.

10

COMMISSIONER: Yes.

MR TERNOVSKI: Perhaps, out of an abundance of caution, that document should be tendered separately, Commissioner. So I tender that document.

15

COMMISSIONER: How many annexures are there to this statement?

MR TERNOVSKI: 48.

20

COMMISSIONER: 48, are there? Witness statement of Kym Susanne Bancroft sworn 4 June 2026, 22 pages, 130 paragraphs, with 48 annexures, but not including annexure KSB-7 at pages 131 to 152, and as amended by the witness just now at paragraphs 104, 124 and 125 shall be KSB-1.

25

<EXHIBIT KSB-1 WITNESS STATEMENT OF KYM SUSANNE BANCROFT SWORN 4/6/2026, 22 PAGES, 130 PARAGRAPHS, WITH 48 ANNEXURES, NOT INCLUDING ANNEXURE KSB-7, AT PAGES 131 TO 152, AS AMENDED BY WITNESS AT PARAGRAPHS 104, 124 AND 125

30

COMMISSIONER: Undated approximately 50-page document entitled 2021 Working for Queensland - I'm sorry, I didn't ask if anyone had any objections to the tender of these documents. Undated approximately 50-page document entitled 2021 Working for Queensland - Free Text (All) shall be KSB-2, and it replaces annexure 7 to what has become KSB-1.

35

<EXHIBIT KSB-2 UNDATED APPROXIMATELY 50-PAGE DOCUMENT ENTITLED 2021 WORKING FOR QUEENSLAND - FREE TEXT (ALL)

MR TERNOVSKI: Thank you, Commissioner. Ms Bancroft, you were the deputy director-general of the Office of Industrial Relations between 1 August '22 and 21 April 2023; is that right?

40

MS BANCROFT: Yes, that's correct.

45

MR TERNOVSKI: Did you have any other roles in the public sector prior to this job?

MS BANCROFT: No, that was actually my first role in the public sector.

5 **MR TERNOVSKI:** Have you had any other roles in the public sector subsequently?

MS BANCROFT: No.

10 **MR TERNOVSKI:** And what - can you give a brief summary of your employment history prior to this role?

15 **MS BANCROFT:** Prior to the role - well, my whole career I've worked in the safety industry. I've worked in a variety of head of health and safety roles across Asia-Pacific and, yeah, leading up to the DDG role.

MR TERNOVSKI: This is head of health and safety role in private companies, is it?

20 **MS BANCROFT:** That's correct. Yeah.

MR TERNOVSKI: And, Ms Bancroft, what are your educational qualifications?

25 **MS BANCROFT:** So I had a graduate certificate in HR and OHS, a master's of applied psychology and I'm a registered psychologist, and a master's in safety leadership.

30 **MR TERNOVSKI:** Ms Bancroft, can you briefly - I withdraw that. Ms Bancroft, can I start by asking you some questions about the commencement of your employment with the OIR. You say in your witness statement between paragraphs 17 and 19 that one of the first things you did when you started was to review the Working for Queensland survey results. I'm going to take you to some examples from those results in a moment, but before I do, can I ask to you briefly describe what the survey is?

35 **MS BANCROFT:** Sure. I will just preface that, Mr Ternovski, by saying that as part of starting in the role, I was keen to get a really, you know, quick, efficient but deep understanding of the culture of the organisation, what was working well inside the agency, what were the areas for improvement. So one of the data sources that is always quite strong in helping one understand that is the Working
40 for Queensland surveys.

45 So to answer your question directly, the survey is an annual, anonymous survey that's sent out to, as I understand it, all State Government employees. You don't have to fill in the survey, but a lot of people do because it gives them a voice to share what's happening inside the organisation. It's obviously de-identified. You can pull out results by business unit or you could drill down even into a team

level, but it just gives you a good broad understanding of the lay of the land, so to speak, of the organisation.

5 **MR TERNOVSKI:** Have you come across this survey before you started at the OIR?

10 **MS BANCROFT:** No, I haven't come across the Working for Queensland survey prior to starting OIR, but it's a very common mechanism and tool for organisations to use, so I am very familiar with similar employee engagement surveys.

COMMISSIONER: How do you make sure when you're running such a survey that people will respond and that a broad cross-section of people respond?

15 **MS BANCROFT:** There's no way to control whether a broad section of people will respond. So an organisation will typically - so, for example, I would - myself or someone in the organisation would launch the survey, so we encourage people to fill it in as openly as possible to get that broad section. Otherwise the survey would be limited in - you know, you wouldn't - you know, if you had a small sample size, a small percentage of respondents, you couldn't say that that was
20 indicative of the whole organisation.

COMMISSIONER: And how do you ensure that it's anonymous?

25 **MS BANCROFT:** So the people - so the body that would be responsible for running the survey have set it up in such away to ensure it's anonymous. Every person receives a link, as I understand it, so they can't fill it in multiple times and say they're from a different area. So there are mechanisms in place at the back end system of the survey to ensure that it's de-identified, anonymous and it can't be replicated or filled in multiple times.
30

MR TERNOVSKI: Ms Bancroft, you say in your witness statement that you looked in particular at the free text results. Can you just explain what they are?

35 **MS BANCROFT:** Sure. So the survey has a quantitative part to it where there's like a five-point scale that you can fill in, say, for example, and also has the qualitative component, which is the free text component. I find both interesting, but I always find the qualitative free text results interesting, because you're not bound by - you know, you're not bound by a certain question. You can freely share your response to that question in - as you can see here - with as much text as
40 you like. So I always find it interesting to go to the free text. You can really hear a lot of stories that are rich in information. Yes, they're only one person's story, but, you know, together you can then use that information to triangulate certain themes that you're seeing across the broader organisation.

45 **MR TERNOVSKI:** Ms Bancroft, I'm going to show you on the screen a few example responses. If I could just ask you to read them to yourself and then I'm going to ask you some questions about the survey. If we could start with the 2020

results, which is KSB-4, Mr Operator. If we could show page 98, the bottom box. Can we blow that up, Mr Operator? Can you read that, Ms Bancroft?

MS BANCROFT: I can.

5

MR TERNOVSKI: Let me know when you're done and we'll move on to the next one.

MS BANCROFT: Sure. Yes, I've read that, Mr Ternovski. Thank you.

10

MR TERNOVSKI: Ms Bancroft, do you know what ATL is? It's about halfway - inspectors can't take ATL.

MS BANCROFT: I assume that's like TOIL, annual leave.

15

MR TERNOVSKI: Mr Operator, if we could go to page 104, the top box.

MS BANCROFT: Thanks, Mr Ternovski.

20 **MR TERNOVSKI:** Ms Bancroft, do you know who's being referred to here, the construction director?

MS BANCROFT: That would be Helen Burgess in this case.

25 **MR TERNOVSKI:** Mr Operator, if we could go to now the 2021 results, which was that corrected document.

COMMISSIONER: I was going to ask, who's the - there's construction director in the fifth line, but who's the executive director that is being referred to?

30

MS BANCROFT: We'd need to look at the dates of this particular data set and then cross-reference it with who the executive director was at the time.

COMMISSIONER: Do you know who that is, Mr Ternovski?

35

MR TERNOVSKI: In 2020 it would have been Mr Dennett.

COMMISSIONER: Thank you.

40 **MR TERNOVSKI:** Well, can we blow up that, Mr Operator? Can we blow that up again? Thank you. If we can now go to the 2021 results, which is that exhibit KSB-2, and go to page 15. And blow up the section under Very Negative, which continues onto the following page.

45 **COMMISSIONER:** My pages aren't numbered, but maybe the operator has got numbered pages. Just let me count through. Is that right? Anyway -

MR TERNOVSKI: I think we're just going off soft-copy page numbers, Commissioner.

COMMISSIONER: I see. Okay.

5

MR TERNOVSKI: Are you able to see it on the screen once it comes up? Mr Operator, it's page 15 of that KSB-2 exhibit.

COMMISSIONER: Under Very Negative.

10

MR TERNOVSKI: Under Very Negative, yes.

COMMISSIONER: Yes, I've got it.

15

MR TERNOVSKI: I don't think that's the right page, Mr Operator.

COMMISSIONER: No. 15 pages in. That's what I've got.

20

MR TERNOVSKI: Yes, that's it, and it continues onto the next page. I don't know if that can be squeezed in easily. There's just a few lines on the next page. Yes. Thank you.

COMMISSIONER: Do you want the witness to read this?

25

MR TERNOVSKI: Yes. I think - Ms Bancroft, you're reading this now; is that right?

MS BANCROFT: That's correct, yes.

30

MR TERNOVSKI: Thank you.

MS BANCROFT: Thank you. Thank you.

35

MR TERNOVSKI: Mr Operator, we can now go to the unnumbered page 42 and blow up the section under Very Negative, which is in all capitals.

COMMISSIONER: Can we just go back there for a tick? Who are the directors that:

40

"Then you will be bullied for following policy and procedure written and approved firstly by the unions and then you will be bullied for following those same processes if the directors and/or unions disagree on the day."

45

Who are the directors? Do you know, Ms Bancroft?

MS BANCROFT: It would be Ms Burgess, and then potentially maybe other directors around, but I wouldn't be able to state with confidence who that might be. So predominantly Helen Burgess.

5 **MR TERNOVSKI:** Ms Bancroft, this particular comment refers to the issues within the construction inspectorate. Who was in charge of the construction inspectorate at the time of that survey, which is 2021?

MS BANCROFT: Ms Helen Burgess.

10

MR TERNOVSKI: Mr Operator, if we could go to page 42 under Very Negative, all capitals.

MS BANCROFT: Thank you, Mr Ternovski. I've finished reading that.

15

MR TERNOVSKI: And if we could go to KSB-9 now, and page 246, and if we could blow up the section at the bottom starting with Organisational Culture in the Construction CFS Stream.

20 **COMMISSIONER:** Is there any reason, just going back to 42, why there's - why some of the - some of that's been redacted, on my version?

MR TERNOVSKI: Yes, it's just the expletive being redacted.

25 **COMMISSIONER:** Well, there's other expletives that are kept in.

MR TERNOVSKI: I'm not sure, Commissioner. I'll have to get back to you on that. But in my version, I can see the comment, but it is hard to read.

30 **COMMISSIONER:** I just don't understand why that would be redacted. I mean, this is - the intensity is - the way it's described in the fully frank way is a measure of the intensity of the feeling of the person writing it. I don't know why that's been redacted.

35 **MR TERNOVSKI:** Commissioner, I will make inquiries, and I might be able to come back with an unredacted version. Mr Operator, if we could go to page 246 of KSB-9, which is in the statement itself. It might be hard for you to read, Ms Bancroft. Let me know if it is.

40 **MS BANCROFT:** Thanks, Mr Ternovski. I've finished reading that.

MR TERNOVSKI: If we could go to page 247, which is the next page, and blow up the section at the bottom starting with "Senior management expect inspectors".

45 **COMMISSIONER:** Could you just go a bit slower, Mr Ternovski? I'm just finding it a bit hard to read through everything at the pace the witness does.

MR TERNOVSKI: Thank you, Commissioner. I will slow down.

COMMISSIONER: Sorry, which page is next?

5 **MR TERNOVSKI:** 247, in the body of the - well, in the statement itself, which is annexure KSB-9.

MS BANCROFT: Thank you.

10 **MR TERNOVSKI:** And finally, if we could go to page 251 and blow up the section at the top, which is also in all capitals again.

MS BANCROFT: Thank you.

15 **MR TERNOVSKI:** Ms Bancroft, now, this - if I understand your statement correctly, you've looked at the free text survey results when you started as the DDG of the Office of Industrial Relations.

20 **MS BANCROFT:** That's correct. I actually requested the survey results. I can't remember how many years I requested to go back. Normally I would ask for the previous three years. Perhaps I asked for the previous five, whatever was available. And then I started to work methodically through the results, especially the free text, just to get an understanding of the culture, and as I said, what was working, what needed to be improved, so we could fulfil the purpose of the
25 agency and, you know, specifically WHSQ.

MR TERNOVSKI: Ms Bancroft, given the passage of time, I don't suppose you have - you can recall the specific individual comments that you would've read back when you started?

30

MS BANCROFT: No, I can't recall the specific individual comments as you've shown here, Mr Ternovski, but I can recall the overall sense that I had from reading these comments as, you know, we've just seen on the screen now. My overall sense was, we've got some really concerning, systemic issues here that
35 cannot be left and ignored, and it sounds like they, you know, from some of these comments, these have been running for a long time, these issues, something needs to be done about them. So my sense was one of, you know, significant concern, as anyone who would read these comments would be significantly concerned. This is not the average sort of cultural comments you would read coming into an
40 organisation and reading free text employee engagement survey results.

MR TERNOVSKI: Ms Bancroft, in paragraph 20 of your statement, you say that:

45 "The free text comments revealed a situation that was much worse than I had anticipated."

The comments that I've just took you through, were these the sorts of comments that caused you concern?

5 **MS BANCROFT:** Absolutely. So, you know, it's - what I've heard prior to coming in, I've heard the CFMEU controls WHSQ. They were sort of anecdotal, ad hoc comments that I'd heard. I've then come in and I'm hearing from different people concerns about what's going on in the inspectorate, and then I've further read these free text results, which has, you know, now provided me with a much more robust data point around these issues.

10 **MR TERNOVSKI:** And what initial conclusions did you draw from these comments?

15 **MS BANCROFT:** Yeah, sure. One would be there was the perception of significant regulatory capture here, the comprised independence of WHSQ and the inspectorate. So what was really telling is that the inspectorate is not able to operate with integrity and be objective, as we are meant to be, in order to serve Queensland in the safety of Queensland workplaces and workers. It also talked to the fact that we have got significant psychosocial hazards going on here. One would be around occupational violence and aggression of inspectors going out to work sites, but maybe even more so the psychological impact on the inspectorate as well. You've got people - you've got 45 - as it says here, 45 construction inspectors have left the inspectorate. Yeah, there's just a number of very concerning themes coming through here.

25 **MR TERNOVSKI:** Red flags, is it?

MS BANCROFT: Pardon?

30 **MR TERNOVSKI:** Red flags, is it?

MS BANCROFT: Oh, 100 per cent. Probably more than red flags in this case. It's yeah, big red flags or potentially worse. Big gaping holes maybe. Yeah.

35 **MR TERNOVSKI:** And, Ms Bancroft, did you take any steps to further investigate these concerns that you saw in the free text comments?

40 **MS BANCROFT:** Not immediately. I did once we started more formal - what I would call cultural transformation in the inspectorate to further verify and further understand what we're seeing in these results. But on a more immediate basis, after reading them, I started to talking to Mr Andrew Harris, who was the executive director of the inspectorate at the time, and these issues are coming to me thick and fast, so I didn't really have to go very far to start to understand more.

45 **MR TERNOVSKI:** You referred to a transformation project, I think you called it.

MS BANCROFT: That's correct. So -

MR TERNOVSKI: Can you briefly describe for the Commission what that was and what that involved?

5

MS BANCROFT: Sure. So as I'm hearing - well, as has become very evident that we have some significant issues we need to deal with, one with Helen Burgess and where she sits inside the inspectorate, and the second one being the triaging process. And then there's all the issues that come from that, which you've seen here in the free text results, around the impact on the inspectorate, the psychological, psychosocial wellbeing and so on and so forth. So that led to a more formal process where we could start to do a cultural transformation, as we would call it, and we started to put a process into place where we would formally investigate these - these claims and do our own additional investigation into what was going on here, above and beyond what we're seeing in the Working for Queensland results.

10
15

MR TERNOVSKI: And did you engage any external contractors to carry out that investigation?

20

MS BANCROFT: Yeah. So because we weren't equipped inside OIR with the capacity to do this, plus we wanted it to be objective, we went and we procured QUT. They've got many researchers who are skilled in this area, and they formed a team of psychologists who could come in and do this, what we would call the discovery process, which is the first part of a broader transformation process. So the discovery process is to give us that initial data point: are we correct in what we're thinking is going on? You know, are we missing anything? Is there any additional factors here that need to be addressed? And then that helps - that provides recommendation and then helps guide what will be the course of action that will be taken to improve and fix these issues that we're seeing.

25
30

MR TERNOVSKI: And did you receive any report or some kind of output of that discovery project, Ms Bancroft?

35

MS BANCROFT: I received an initial preliminary report. The reason why I received that was because we ran an offsite with the inspectorate. That's where we take all - you know, we invite everybody to attend, like, a town hall meeting where we can share with them how the process is going, what some of the early results are, and that also from a change management perspective is a useful exercise to bring people along on the journey that we're taking them on with this cultural transformation. So, yes, I received a document which was the high-level initial findings.

40

COMMISSIONER: So was this process that you undertook with the Queensland University of Technology a project to investigate the current state of the construction inspectorate or the whole inspectorate?

45

MS BANCROFT: From memory, Commissioner, it was the whole inspectorate, because these issues, whilst they were - as you can see in the free text results, they were more pointed at the construction inspectorate, I wanted to look at the inspectorate as a whole. My memory is a tiny bit vague, but possibly it was -

5

MR TERNOVSKI: Ms Bancroft -

MS BANCROFT: Yeah. From memory, it was the whole inspectorate.

10 **COMMISSIONER:** But you - you were employed as the DDG, and I think Mr McKay gave evidence - and tell me if I'm wrong - that there were about 900 employees who reported to him. Is that right, or am I misremembering that?

MR TERNOVSKI: That is correct, Commissioner.

15

MS BANCROFT: That would be correct.

COMMISSIONER: Is that about right?

20 **MS BANCROFT:** Mmm-hmm.

COMMISSIONER: And then how many within the inspectorate that you were asking QUT to assess the cultural issues of?

25 **MS BANCROFT:** So I couldn't tell you the exact number within that inspectorate, but it would suffice to say that this wasn't the only improvement project. So this was one of many aspects of the OIR that I was looking at. My whole attention wasn't on the construction inspectorate; it was one issue of several that I was looking at.

30

COMMISSIONER: Sure. But -

MS BANCROFT: Obviously I'm sitting in the DDG role, so I'm not purely just looking at this point of the organisation. There's other issues that I'm looking at as well.

35

COMMISSIONER: I'm just trying to get a feeling for how big this process was. Just roughly speaking, how many inspectors were there at the time, including the construction inspectorate? Is it a hundred or so?

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MS BANCROFT: Mr Ternovski, is it possible to take that question on notice? Because I couldn't answer that accurately.

COMMISSIONER: Can you recall? That's fine.

45

MR TERNOVSKI: I don't have an exact number. I have a recollection there was about 90 reporting to Ms Burgess, but I could be wrong about that. I need to check that number.

5 **COMMISSIONER:** But it seems to be, if it's around that figure, perhaps more, that's a fairly large process that you've engaged in with QUT in relation to the inspectorate, Ms Bancroft.

MS BANCROFT: That's correct.

10

COMMISSIONER: And what are the qualifications of the people from QUT who - you described as researchers, who conduct these confidential interviews with members of the inspectorate? Sorry, you go.

15 **MS BANCROFT:** Sorry, Commissioner. So the team that was formed to conduct the discovery were predominantly organisational psychologists is my understanding, or they have a registered psychologist background. They run very similar projects for organisations around culture, culture transformation, workplace issues. So I felt that they were a very well-equipped team to undertake
20 this discovery process. It was important to me that the process was thorough, it was done methodically, it was objective, so they could, you know, confirm what we're seeing in the Working for Queensland results and everything else that we're hearing, or perhaps say, "Actually, no, it's not correct; that's not what's
25 happening." So, you know, that's the process that they undertook.

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MR TERNOVSKI: Ms Bancroft, the Commissioner asked you whether the review related to the construction inspectorate or the whole inspectorate, and I think your evidence was that you're not completely sure but you think it was the whole inspectorate.

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MS BANCROFT: I'm very sorry, Mr Ternovski. I can't quite recall. I had a vague recollection that perhaps it was the construction inspectorate and then I had a view to do this with the rest of the inspectorate for WHSQ, or it was either the other way round. I can't really recall. The challenge was is that a lot of the
35 construction - some of the construction inspectorates, as you saw in the previous snapshot that you put, many of them had left the construction inspectorate and gone to the broader inspectorate. So that's why it could've been, but there will be other people inside the OIR that will be able to confirm the exact area we were
40 targeting.

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COMMISSIONER: It looks like the construction inspectorate, even though you interview people that had been in the construction inspectorate and had left or had moved to another part of the inspectorate, just from KSB-11, doesn't it?

45 **MR TERNOVSKI:** There's certainly a focus on that, but I'm not sure it's apparent -

COMMISSIONER: It's called the Construction Inspectorate Discovery Project.

MR TERNOVSKI: That might be the answer, Commissioner.

5 **COMMISSIONER:** These questions were directed towards contextual factors making up the current experience of working in the construction inspectorate.

10 **MR TERNOVSKI:** Ms Bancroft, you said you received the preliminary or initial results of that project. In the interests of time, I'm not going to take you to the actual documents, but in summary, can you tell the Commission today whether they supported or alleviated the concerns that you had after reading the free text results?

15 **MS BANCROFT:** Certainly, Mr Ternovski, they validated the - all the other data points that we had. Yeah, there was a validation around the status and the influence of the CFMEU, the impact on the triaging process, the performance of Ms Burgess and the impact, the undue impact that was having on the inspectorate and their health and wellbeing. Yeah, so no, in short, it did. It validated many of the original observations that I had coming into the role but also other people had,
20 like Mr Harris.

MR TERNOVSKI: And, Ms Bancroft, your employment with OIR ended before you received the final report; is that right?

25 **MS BANCROFT:** That's correct.

MR TERNOVSKI: Ms Bancroft, if I could now move to a different topic, which is the reassignment of Ms Burgess. At the time when you started in the role, was Ms Burgess a director of the construction compliance and field services team?
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MS BANCROFT: That's correct. She was.

MR TERNOVSKI: Now, at the time when you started in the role, how did, as far as you know, CFMEU notify the regulator of their safety complaints?
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MS BANCROFT: So my understanding was they went straight to Ms Helen Burgess.

40 **MR TERNOVSKI:** Was there another - was there another avenue that a member of the public or a stakeholder can use?

45 **MS BANCROFT:** Absolutely. So there was a 1300 number that the members of the public could use, and that would go through to assessment services, I think it's called, whereby it would be triaged, and an important aspect of that triage would be the risk assessment. So are we looking at, you know, a blocked bathroom, say, which, you know, does need to be attended to and is perhaps breaching some legislation around having adequate facilities for workers, or are we dealing with

workers working at height around unprotected edges, say. So they need to be able to risk-assess the call coming in and then triage it according to the resource and how soon someone would be sent out there to investigate this - this issue that someone's calling through about.

5

MR TERNOVSKI: So that triage would be performed by the team manning that 1300 number; is that right?

MS BANCROFT: That's correct.

10

MR TERNOVSKI: And when - did the CFMEU use the 1300 number?

MS BANCROFT: As far as I understand, no, they did not use the 1300 number. They called directly through to Helen Burgess, who would do, I guess, her own - her own triaging of it.

15

MR TERNOVSKI: And do you have any knowledge as to how her triaging worked?

MS BANCROFT: I actually don't really know how her triaging worked from a risk perspective, but certainly in the Working for Queensland results, we can see many, many examples of how it wasn't working effectively or as it should or that, you know, people were being sent out - they were being pulled off jobs to be sent somewhere else to go deal with a union complaint, say. So, you know, I was certainly of the impression that it certainly wasn't working effectively, considering the broader goals of WHSQ and what we're there to do.

25

MR TERNOVSKI: Ms Bancroft, who proposed reassigning Ms Burgess?

MS BANCROFT: It was Mr Harris, Mr Andrew Harris, who was the acting executive director, and Mr Tony James, who was previously acting DDG before I commenced at OIR.

30

MR TERNOVSKI: Mr James filled the space between Mr Craig Allen's departure and your starting; is that right?

35

MS BANCROFT: That's correct.

MR TERNOVSKI: And when did you first become aware of the proposal to reassign Ms Burgess?

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MS BANCROFT: In my first week commencing at OIR I was approached by either Mr Harris or Mr James - I can't quite recall whom, perhaps both of them - with this proposal to reassign Ms Burgess from her role.

45

MR TERNOVSKI: And what was - did he give you any basis for the proposal?

MS BANCROFT: It was similar to what we've seen in the Working for Queensland results, you know, that there's a number of issues with Ms Burgess being in the role and the knock-on effect, and they felt - you know, obviously this is an issue that they had been dealing with for some time, and so he explained what those issues were and what the proposal was to move her.

MR TERNOVSKI: But by that time, have you already read the Working for Queensland survey results, or not yet?

MS BANCROFT: No. No, I hadn't. Because it was my first week, I hadn't come across those results yet.

MR TERNOVSKI: What steps did you take to consider this proposal?

MS BANCROFT: I can't quite recall the steps I took, but it probably would've been that I would've been briefed by Mr Harris and Mr James. Potentially there was some HR representatives in the room also. I would've, you know, in the time I had, considered what they were saying. It seemed fairly - you know, it was a logical, rational argument they had for reassigning her.

MR TERNOVSKI: Did you consult with anyone else?

MS BANCROFT: I'm really sorry, I couldn't recall who else I consulted with. But, you know, in a circumstance like this, Mr Harris and Mr James, you know, and with some assistance from HR, would've been the appropriate amount of consultation.

MR TERNOVSKI: In paragraph 40 of your statement, you refer to speaking with Ms Bush. Do you remember that?

MS BANCROFT: Yeah, so Ms Bush was one of two trusted advisers that I had whilst at OIR, Ms Donna Morgan and Ms Sharon Bush, who were heavily involved in these issues with Ms Burgess and partnering significantly with Mr Harris to resolve these issues, because, you no, they were getting complaints coming through and it was something that took a lot of their time. So, yes, I went to her to get her views on the situation as well. I was - I was asking her her objective view, you know, and why has this decision been - why is it landing on my desk right now in my first few days of starting with OIR? Why hadn't it made previously? But also just to get her view on Helen - Ms Burgess - and why this proposal was being put forward.

MR TERNOVSKI: What did Ms Bush say in answer to your first question, which is, "Why is this being done now?"

MS BANCROFT: Ms Bush, to her credit, she played it very neutral. She gave me a very - a very neutral response. She wouldn't really say either way. You

know, she was very professional in her role and just tried to stick to the facts around why this proposal was being put forward.

5 **MR TERNOVSKI:** In paragraphs 41 and 42 of your statement, you describe meeting with Ms Burgess. I want to ask you some questions about that, but firstly, when did you first meet Ms Burgess?

10 **MS BANCROFT:** From memory, I first met Ms Burgess - in person, it would've been possibly at that coffee catch-up. Potentially I had met her in person perhaps prior to starting at OIR at maybe industry networking; I can't recall. But I did know of Ms Burgess before starting at OIR. In the industry that I worked in prior, one of the industries I worked in prior, she was in my network, one of the few OIR representatives that we knew in external industry. Had a fairly good reputation. She had a reputation as someone that was approachable, that you could talk to and
15 someone who would consider doing things in a more contemporary fashion when it came to how we might approach safety. So she had - suffice to say, she had a positive reputation, and then I've had this coffee catch-up with her on 5 August.

20 **MR TERNOVSKI:** Can you tell the Commission what was said -

COMMISSIONER: I just found that a bit hard to follow. I don't know if it dropped out for a short while, Mr Ternovski. Did you follow everything Ms Bancroft said? I thought there was a sentence in the middle we lost.

25 **MR TERNOVSKI:** I thought there was maybe half a word that was lost.

COMMISSIONER: Half a word? Is that all?

30 **MR TERNOVSKI:** But perhaps you could repeat your answer, Ms Bancroft.

MS BANCROFT: Certainly. So in short, I knew of Ms Burgess before joining OIR. She had a positive reputation in industry. Post joining OIR, I had coffee with her on 5 August to understand some of these issues that were going on and why there was a proposal to reassign her.

35 **MR TERNOVSKI:** And what was said during this conversation with Ms Burgess?

40 **MS BANCROFT:** From memory, I asked her why there were these complaints around her and, you know, her relationship with the CFMEU. She told me she was a key contact of the CFMEU, and she was in that position because she was asked to do so and be that person by Marc Dennett, who was previously her executive director.

45 **MR TERNOVSKI:** Did she - what did she say - did she say anything about what she saw her role as being?

MS BANCROFT: Yeah, she did. She saw her role as being that conduit between WHSQ and the inspectorate and the CFMEU. She said - yeah, she said words to the effect that, "That's part of my role." I just - I asked her, "Well, how do you relate to them? How do you collaborate with them?" She said, "I just - I just get alongside them. I listen." It was a very - there was nothing in the conversation that was immediately alarming for me.

5
MR TERNOVSKI: What initial decision did you ultimately make about reassigning Ms Burgess?

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MS BANCROFT: Well, perhaps, Mr Ternovski, we could skip to the part where I had the phone call from the director-general, Michael De'Ath.

MR TERNOVSKI: I was going to come to that, but -

15
MS BANCROFT: So, yeah, apologies. So I made the decision not to reassign her, because I just didn't have - I felt blindsided by this decision that was, you know, thrown in my lap in the first two or three days. So I made the decision to pause on the reassignment so I could collect a better understanding and gain a deeper understanding as to the issues and then make a decision.

20
MR TERNOVSKI: I think, Ms Bancroft, we might be at cross-purposes about the various decision time points, because I was referring to paragraph 43 of your statement. I'm talking - I was asking you about your initial decision, before the call from Mr De'Ath, which I'm going to come to.

25
MS BANCROFT: Oh, my apologies, Mr Ternovski. Correct. Yeah, you know, it was three years ago; it's hard to remember the exact chronology. Yes, so apologies, I did decide to approve the reassignment of her, based on the data points I had from Mr Harris and Mr James.

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MR TERNOVSKI: You then describe a phone call you received from Mr De'Ath. Can you orient that - before we get to the content of the call, can you orient us in time as to when that call was, the best you can recall?

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MS BANCROFT: Best I can recall, if we could go to paragraph 44. It doesn't have the exact date on it, but it was not long after that. It was as this was, you know, transpiring. It possibly was on the Friday of my first week, possibly the Monday of my second week. But I was downstairs at 1 William Street, getting a coffee. I get a phone call from the director-general, Michael De'Ath, who's also the person I report to; he's my leader. He's informed me that this person called Michael Ravbar has called him and asked him why his DDG was making these decisions, these very poor decisions, something to that effect, meaning why have you moved and reassigned Helen Burgess?

40
MR TERNOVSKI: And what was - did you provide any answer to Mr De'Ath?

MS BANCROFT: I did. I recounted to Mr De'Ath why the decision had been, you know, put forward, why the decision was being made. Yeah, I - I just gave him the facts of the case behind this - this transfer.

5 **MR TERNOVSKI:** At that time, did you know who Mr Ravbar was?

MS BANCROFT: From memory, I didn't - I might have known very briefly of him, but no. It would be suffice to say I didn't have much knowledge of who he was.

10

MR TERNOVSKI: Did Mr De'Ath say anything about what he wanted you to do, beyond passing on the message from Mr Ravbar?

MS BANCROFT: In terms of the decision that I should make?

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MR TERNOVSKI: Yes.

MS BANCROFT: No. He was probably just as blindsided by the call as I was. I mean, he would obviously have known - I'm assuming he would've known who Michael Ravbar was, but Mr De'Ath would not have known about this issue with Ms Burgess, I'm assuming, at all. So potentially he was as blindsided as I was about the call. So, no, he didn't instruct me either way. I can't really recall how the conversation ended, but at some point, post this phone call, due to, I guess, you know, the - the heat around this situation, I made the decision to temporarily defer the transfer so I could make - so I could get a little bit more data and make a fully informed decision. Not that I wasn't in the first time, but clearly we've got this major stakeholder calling, very upset that this director would be moved on. So I needed to understand this more thoroughly.

20

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30 **MR TERNOVSKI:** Were you surprised by this call from Mr De'Ath?

MS BANCROFT: Absolutely. I mean, I wouldn't have thought that - well, one, he's the director-general, and in his portfolio, the Department of Education, we are a very small agency in comparison to the Department of Education. So, you know, he's got bigger fish to fry, so to speak, so why would he be having to get involved in these decisions certainly surprised me. Second of all, I was surprised by why Mr Ravbar would be calling so upset about an internal decision around one of our directors.

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40 **MR TERNOVSKI:** And, Ms Bancroft, if I understand correctly your evidence, this was all before you read the survey results?

MS BANCROFT: Correct. Correct.

45

MR TERNOVSKI: Ms Bancroft, you said you decided to postpone or put on hold, I think you said, the transfer. What ultimate decision did you make about that transfer?

MS BANCROFT: Ultimately we did transfer her to a different role.

MR TERNOVSKI: And what was the nature of that role? Do you recall?

5

MS BANCROFT: I'm not sure the exact paragraph in my statement, but I think the exact title was construction strategy. She would no longer have - she would no longer have construction inspectors reporting through to her.

10 **MR TERNOVSKI:** And was that basically the rationale for the transfer?

MS BANCROFT: The -

MR TERNOVSKI: To remove construction inspectors from her control?

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MS BANCROFT: Yeah, just the - the transfer of her to a new - a different role was to - was so that we could start to - well, eradicate these issues that we're having here of perceived regulatory capture, the undue influence that she's - you know, that we're hearing that she's having on the inspectorate. Yeah. So we can start to go back to and fulfil the core purpose of WHSQ, which is to operate with integrity. You know, we've got a fairly big remit here in Queensland, so, yeah, we needed - she needed to be moved into a different role so we could start to address these issues. With her in the role, it would be very hard to address these issues that we are - that we're observing.

25

MR TERNOVSKI: In paragraph 52 of your statement, Ms Bancroft, you describe a meeting you had with Ms Burgess to communicate your decision. And you say there that Mr Dennett - she brought Mr Dennett as a support person. Is that right?

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MS BANCROFT: That's correct.

MR TERNOVSKI: At that time, was Mr Dennett still working at the Office of Industrial Relations?

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MS BANCROFT: No, he had left the Office of Industrial Relations. I think he might've been working for the workers' comp - workers' compensation. So, you know, he had a role, I think, in the public sector still, but I couldn't be 100 per cent sure of that.

40

MR TERNOVSKI: Before he left the OIR, Ms Bancroft -

MS BANCROFT: That's right.

45 **MR TERNOVSKI:** - you understood that he was Ms Burgess' immediate supervisor?

MS BANCROFT: Mmm-hmm. Previously.

MR TERNOVSKI: Did it surprise you that she brought her former supervisor as her support person?

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MS BANCROFT: It's a good question. No, I don't - I can't - I can't recall if I was surprised or not. At this point, I'm surprised by very little, so possibly I would not have been surprised.

10 **MR TERNOVSKI:** In paragraph 54 of your statement, you say, Ms Bancroft, that the temporary transfer was to become effective on 3 January 2023 and was to run until 30 June 2023, so essentially six months. Why was it only for six months? And not permanent, is my question.

15 **MS BANCROFT:** Sorry, Mr Ternovski, can you please repeat that?

MR TERNOVSKI: You say in paragraph 54 that the transfer was essentially for a period from 3 January until 30 June 2023, so a period of just under six months. Why was the transfer that you decided upon a temporary transfer for six months and not a permanent transfer?

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MS BANCROFT: As I understood it, in this organisation, it's not the easiest of steps to take to permanently transfer someone. You need to have a very good rationale. So I was being guided by HR here as well, and Mr Harris. The decision to only temporarily transfer her was to give us enough time and room and space to run this cultural transformation process, by which then the results of that would inform what the next steps would be, whether that would be a permanent transfer into a completely different role or would she go back into her substantive role? That was why.

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MR TERNOVSKI: I want to now move to a different topic, Ms Bancroft, which is the selection process for the executive director position that you describe in your statement from paragraph 68 onwards. Firstly, why was there a need for a selection process? I think you said Mr Harris was in the role.

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MS BANCROFT: So my understanding was that Mr Harris was placed in the role possibly after Mr Dennett left. He was placed in there in an acting role. Mr Harris was, you know, kind enough to step into that role. He was previously - his substantive role was the executive director for human resources in that area. So it was very helpful that he stepped into that acting role, but it was only acting, and at some point there needed to be a recruitment process undertaken so he could go back to his substantive role.

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MR TERNOVSKI: Did he want to stay - do you know if he wanted to stay in this role?

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MS BANCROFT: That would be a question for Mr Harris. From memory, I think he was initially open to it. He was certainly doing a good job in the role. But I think - I think - with everything that was transpiring, it was a very stressful role. I think ultimately he was - I think he made the decision to go back to his substantive role. I think we did say to him, "Would you like to be considered and go through the recruitment process?" But from memory the answer was no.

MR TERNOVSKI: So he didn't apply for the permanent role?

10 **MS BANCROFT:** No.

MR TERNOVSKI: Can you describe for the Commissioner the selection process and how the CFMEU ended up on the selection panel?

15 **MS BANCROFT:** Sure. So we've got set processes in this agency to, you know, step through - you know, it's a methodical, guided process. At some point, I - I think someone from the CFMEU, whether it was Mr Pauls or someone else, were agitating to be on the panel. So I went to the director-general to speak to him about this, to say, "Look, we're getting this agitation from the CFMEU to be on the panel. This is a role that, you know, comes under scrutiny by them." And, you know, just to work through with him and get some counsel and advice from him as to who would be on the panel. So between the two of us we decided that we would allow CFMEU to be on the panel, and hence Mr Kurt Pauls was invited to be on the panel.

25 **MR TERNOVSKI:** Sarina Wise was one of the applicants for the role; is that right?

MS BANCROFT: That's correct.

30 **MR TERNOVSKI:** Can you describe what happened during her interview?

MS BANCROFT: So in Sarina's interview and the other interviews, Kurt Pauls behaved in an extremely unprofessional manner. I can't remember the specifics, but at the time, we were - we were somewhat horrified at the way he was behaving. It was just really unprofessional. He also asked questions that weren't appropriate for the level of role that we were recruiting for. So we had a list of questions pre-prepared, as you do in a semi-structured interview. Someone doing the interview can ask additional questions, that's appropriate and okay, but the questions that he would ask were really inappropriate and showed that he was expecting her to go outside the remit of the role and perhaps act as an inspector, when she's not. She would be - if she was successful in the role, she would be acting as an executive director.

45 **MR TERNOVSKI:** What sort of questions are you referring to that suggested that, Ms Bancroft?

MS BANCROFT: He posed questions such as asking how she would respond on site if there were calls to attend. The role wouldn't actually require call-outs to sites (audio distortion) it should go through the assessment services 1300 number. She's sitting at a much higher level and a much more strategic level. So, yeah, that was just one small example of the inappropriate questions that he was asking.

MR TERNOVSKI: Did you do anything about him asking these inappropriate questions or generally behaving in a manner I think you've just described as unprofessional?

MS BANCROFT: It's a very good question. I can't recall. There was certainly a lot of discussion around it, how do we ring-fence him in and stop him behaving in this way? I can't recall whether we spoke to him directly about it or not.

MR TERNOVSKI: And who was your preferred candidate out of the first round?

MS BANCROFT: Sarina Wise.

MR TERNOVSKI: And what happened with that?

MS BANCROFT: Well, you know, I don't have - as I mentioned before, this was my first government role, and in the private sector it's very normal - it's highly normal and accepted to have a second interview, a third interview, maybe even a fourth interview, so you can be 100 per cent reassured that you are recruiting the best candidate possible. In this instance, that is not the accepted process. You have one interview, and then there's reference-checking and so on and so forth. So I made the misstep to call Sarina in for a second interview.

The reason why I did that and there was a decision around that was because we really wanted to make sure, given the pressure on this role from the CFMEU and given the scrutiny that this role comes under, that we were making the best choice possible. So I invited Sarina Wise back to a second interview with another executive director, Ms Yasmin Cox, and we had a secondary conversation with her, which upset the CFMEU because they saw that as going outside of process.

MR TERNOVSKI: What ultimately happened with that selection process?

MS BANCROFT: So what ultimately happened was I received a phone call from another panel member, and he informed me that he had a phone call from a contact in New South Wales who said that some CFMEU representatives were calling around New South Wales to ask about - ask opinions about Sarina Wise, which, again, does happen sometimes in interview processes but is definitely not part of any formal process, because you're breaching the confidentiality of that candidate. They might not want their existing employer to know that they're going for another job. So it compromises them heavily, especially if they're not

successful in the role. So we had to write to the CFMEU and advise them that we had heard about this, and that made the recruitment process null and void.

5 **COMMISSIONER:** How are you supposed to audit the qualifications of a candidate if you're not allowed to breach the confidentiality of their application for a job?

10 **MS BANCROFT:** So, Commissioner, what we can do, which is inside process and maintains the confidentiality of the candidate, is they supply two or three referees, and those referees are phoned and interviewed. They go through a much - it's a briefer interview process, but it's where we can really scrutinise is everything that they are telling us true and correct, are there are qualifications true and correct, and are there any concerns about this applicant that we would need to be aware of that might cause us to not hire them?

15 **COMMISSIONER:** But unless they're incompetent or don't want the job, they're not going to give you a referee that's going to tell you about any concerns that they have with the candidate, are they?

20 **MS BANCROFT:** Surprisingly, a good referee-checker could - is good at perhaps eliciting some responses and really getting to, you know, is this candidate the best candidate? You're correct, though, in the sense that of course they're going to give you the best referees, right. So that is why it's used as one of a few different data points to form the view that this person is the best person or not.

25 **MR TERNOVSKI:** What happened to the recruitment after this attempt at the process was aborted?

30 **MS BANCROFT:** Can we please go to the statement, please, Mr Ternovski. There were some letters written from the CFMEU where they were unhappy with the second interview that had occurred, and then there was a letter from the director-general to the CFMEU about their behaviour in compromising the interview process by ringing around.

35 **MR TERNOVSKI:** I was asking a more basic question, Ms Bancroft, which is was the selection process restarted? Was there a new selection process?

40 **MS BANCROFT:** There was a new selection process that started after I'd left the OIR. It had to be recommenced.

MR TERNOVSKI: Can I now move to a different topic, Ms Bancroft, which is your meeting with Minister Grace on 24 January 2023. Can you firstly tell the Commissioner who was in attendance?

45 **MS BANCROFT:** So at this meeting, there was Minister Grace, part of her - you know, probably some members from her office, the director-general, and Mr Paul Smith.

MR TERNOVSKI: The director-general being Mr De'Ath at the time?

MS BANCROFT: Correct, yes.

5

MR TERNOVSKI: And what was the subject of the - or the topic that was to be discussed at the meeting?

MS BANCROFT: One of the topics that was discussed at that meeting was an incident that had occurred, a workplace health and safety incident. The incident was technical in nature, so I invited Mr Smith to attend with me because he had much more in-depth knowledge about this incident occurring.

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MR TERNOVSKI: Was Ms Burgess mentioned at this meeting?

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MS BANCROFT: She was mentioned. I think she was mentioned because we were talking about the inspectorate more broadly. Sometimes when we would go to the minister's office, you know, we would be talking about a topic, but then a topic would - a different topic might just sort of come up casually or inadvertently. So at some point the inspectorate has come up, at some point Ms Burgess had come up, and Minister Grace made the point about her to say, "This poor woman should be left alone. She's been through so much." And I think she was referring to the multiple investigations and complaints that had been raised against Ms Burgess.

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MR TERNOVSKI: Did the minister's comment surprise you?

MS BANCROFT: It did, because we have - you know, as we saw at the start of today, we had numerous systemic issues here that were compromising the integrity of WHSQ. So, yes, quite frankly that comment surprised me.

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MR TERNOVSKI: Did anyone say anything in response to that comment?

MS BANCROFT: No.

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MR TERNOVSKI: You also refer in your statement at paragraph 85, Ms Bancroft, to a subsequent conversation you had with Mr De'Ath. Can you just describe that conversation?

MS BANCROFT: Yeah, at some point after this meeting with Minister Grace, I was speaking to Mr De'Ath and he said, "Kym, is that the same Mr Smith that may have brought a complaint against Ms Burgess?" I said yes. He said, "Oh, you shouldn't have brought him. It was inappropriate to bring Mr Smith to the meeting with Minister Grace." I was a little bit surprised about that; I didn't quite agree with him there. He was being brought along for a conversation that was quite transactional about an incident at a school, so I didn't see the issue so much.

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MR TERNOVSKI: What was his position at the time, Mr Smith's position?

MS BANCROFT: I couldn't say for sure, Mr Ternovski. We would have to take that on notice. I think - yeah, he was part of the inspectorate.

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MR TERNOVSKI: After you've had that conversation with Mr De'Ath that you've just described, did you tell Mr Smith about it?

MS BANCROFT: At some point I did tell him about it. I said, "Hey, Paul, this was the feedback I got." And the reason why I told him about it was because we were debriefing the meeting and we were talking about just generally how the meeting went, which is normal to do, and we were commenting about Minister Grace's comment about Ms Burgess. We were talking about how we were surprised that she said that. It showed that there was a lack of appreciation or understanding as to the core issues that we had with her.

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COMMISSIONER: In your conversation with Mr De'Ath, which was after the meeting with the minister, he said it wasn't appropriate to bring Mr Smith to the meeting with the minister. Did he explain to you why it wasn't appropriate?

20

MS BANCROFT: It's a very good question, Commissioner. I've reflected on this to try to think exactly what he meant by that. I think it's more that, you know, he's involved in - in a matter that's under investigation with Ms Burgess, so therefore, for some reason, you shouldn't bring her - shouldn't bring him, Mr Smith, to a meeting with the minister.

25

COMMISSIONER: Is that what he said, because he was involved in a matter with Ms Burgess?

MS BANCROFT: Mmm-hmm. But we weren't there to talk about Ms Burgess. We were there to talk about a workplace incident at a school, so -

30

COMMISSIONER: No, I understand that.

MS BANCROFT: - in my mind, it was - there wouldn't be a reason why I wouldn't bring Mr Smith to - to the meeting.

35

COMMISSIONER: Just stepping back to the meeting before that, that is, the meeting with Minister Grace on 24 January 2023, where did that meeting take place?

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MS BANCROFT: That meeting, Commissioner, took place in her office at 1 William Street.

COMMISSIONER: And you say that you were there; Mr De'Ath was there; Mr Smith, who'd come down from Cairns, was there; Minister Grace was there. Was there anyone else from Minister Grace's office there?

45

MS BANCROFT: There possibly would've been people from her office, yes, whose names I can't recall.

5 **COMMISSIONER:** Can you recall how many?

MS BANCROFT: There probably would've been two from her office and potentially one person from Mr De'Ath's office.

10 **COMMISSIONER:** How long did that meeting go for?

MS BANCROFT: I think this specific part of the meeting would've gone for potentially 15 minutes.

15 **COMMISSIONER:** When you say "this specific part of the meeting", what do you mean by that?

MS BANCROFT: So when we would go to regular, I think, fortnightly, perhaps
20 fortnightly or monthly, I can't quite recall, there would be a number of agenda items for each meeting, and these agenda items are, you know, prepared in advance. There's briefing papers put forward to her, and she, from memory, would select, you know, which papers and discussion points need to be unpacked. So it would've been one - one agenda item, possibly, of other agenda items.

25 **COMMISSIONER:** One agenda item, being the workplace incident in Cairns, or, sorry, in northern Queensland?

MS BANCROFT: That's correct. And then it would've probably been other
30 agenda items, which I can't recall.

COMMISSIONER: So did it take 15 minutes to get through the whole meeting, or 15 minutes just to deal with that agenda item?

MS BANCROFT: It could've well been 10 to 15 minutes to deal with that one
35 agenda item around the school, depending on how many questions the minister's office has.

COMMISSIONER: And then what happened? Are you and Mr Smith excused
40 and Mr De'Ath stays there with his adviser and with the minister and her advisers?

MS BANCROFT: That's correct, yeah. Correct. That would be their usual process. You would stay for your agenda items, and then you would leave the room and other people would come in for their agenda items.

45 **COMMISSIONER:** And how many agenda items did you have?

5 **MS BANCROFT:** From memory, Commissioner, my apologies, I can't recall how many specific agenda items there would've been on that day, but typically there would've been, on average, you know, two to three agenda items. But Paul, from memory, from that meeting, though, I think that was the only agenda item for that day. Paul wouldn't have stayed for other agenda items that he wouldn't be privy to hearing. If that had have been the case, he would've been excused and I would've stayed in the room to complete the rest of the meeting.

10 **COMMISSIONER:** But you left with him?

MS BANCROFT: Correct.

15 **MR TERNOVSKI:** And Mr De'Ath on that occasion stayed behind with the minister?

MS BANCROFT: I think so. I think so.

20 **MR TERNOVSKI:** When Mr De'Ath called you to criticise you for bringing along Mr Smith, did he mention whether that was his criticism or whether he was passing on someone else's criticism?

MS BANCROFT: No, I think it was his observation.

25 **MR TERNOVSKI:** Commissioner, I note the time, and it's also - I'm about to move to a new and large topic.

COMMISSIONER: Very well. Adjourn till 2 pm.

30 **<THE HEARING ADJOURNED AT 1.00 PM**

<THE HEARING RESUMED AT 2.00 PM

COMMISSIONER: Mr Ternovski.

35 **MR TERNOVSKI:** Thank you, Commissioner. Ms Bancroft, I'm now going to move on to a different topic, which is the triage system and your attempts to reform it. And just to help you orientate yourself, I'm going to take you through chronologically and take you through the relevant documents.

40 **MS BANCROFT:** Sure. Thank you.

MR TERNOVSKI: Now, you gave evidence before lunch that when you started, the process that the CFMEU was using to notify complaints, safety complaints, was to call Ms Burgess directly. Did you consider the process to be appropriate?

45 **MS BANCROFT:** It's an interesting question, Mr Ternovski, because I reflect on a letter that I had received from Mr Ravbar closer to when I left OIR, and he

referenced this process that had been set up where they - whereby they had a key contact within OIR to assist them with complaints and whatnot. So one objectively could say that, yes, this could be a process that could be set up. However, what has transpired in this event is that OIR have put this process in place and they've put zero safe guards or fail-safes around it to stop that person from becoming captured or biased. So there is an objective argument to say it could have worked, but clearly in this case, over a period of six years, it was not working, and it was clearly, based on the data we had, a highly inappropriate process that had completely run away from itself.

10 **MR TERNOVSKI:** If we could now go to 19 October 2022, when you receive a notification of protected industrial action. I'm going to take you to the notice - perhaps we can bring that up now - at page 101, KSB-34, to the notification of the protected industrial action. But perhaps before we zoom into
15 the details, can you tell the Commissioner at a high level what the protected industrial action was about and what impact it had on triage?

MS BANCROFT: So just, yeah, looking at the documentation I have, the -

20 **MR TERNOVSKI:** Perhaps, Mr Operator, if we could display page 401, which is KSB-34.

MS BANCROFT: Is it possible to make that a little bit bigger, please? Thank you very much.

25 **MR TERNOVSKI:** Perhaps if you could blow up the body.

MS BANCROFT: So, Mr Ternovski, your question was -

30 **MR TERNOVSKI:** Can you explain what was - from what you understand to be the - what was behind this protected industrial action, if you like, and what effect it had on triage.

MS BANCROFT: Yeah, it's a very good question, because what was behind this
35 was years and years of frustration, lack of action on behalf of OIR to deal with these issues within the inspectorate and also deal with the psychosocial hazard risk management, because it had just gotten away from the organisation. And so it was almost as if the inspectors were - you know, their hand was almost forced to do this. There was no other avenue for them to bring about change. They couldn't go
40 and change the triaging process themselves. So this was, I guess, an instrument for them to try to bring about some change in the organisation with the triaging, which was impacting them so heavily.

MR TERNOVSKI: And what impact did the protected industrial action have on
45 triage?

MS BANCROFT: So the triaging was temporarily changed whilst this protected industrial action was occurring.

5 **MR TERNOVSKI:** Perhaps if we could blow up, Mr Operator, the dot points which set out the bans that were - that was the protected industrial action. Ms Bancroft, are you able to explain by reference to these bans that were part of this protected industrial action why you considered that a change in the triage system was necessary while the industrial action was on foot? You can see, Ms Bancroft, there are references to AAA in dot points 2 and 3.

10 **MS BANCROFT:** Yes, thank you. Yeah, so they're wanting to obviously see change within the way things were triaged. So that was one of the actions that needed to be taken so that we could - we can't have - you know, this is - this protected industrial action has an impact on our ability to, you know, run an effective inspectorate. So that's why a temporary change was made, so that we could continue work as usual.

15 **MR TERNOVSKI:** And what was the temporary change? What was introduced in response to that?

20 **MS BANCROFT:** I will have to go to my statement, Mr Ternovski, just to recall exactly what the change was. Yeah, it was a temporarily change to direct all complaints to the assessment services unit.

25 **MR TERNOVSKI:** So the effect of that change was that the complaints would no longer go through Ms Burgess?

MS BANCROFT: Correct.

30 **MR TERNOVSKI:** Now, at paragraph 98 of your statement, you refer to a meeting with Mr Ravbar and Mr De'Ath on 27 October 2022.

MS BANCROFT: Mmm-hmm.

35 **MR TERNOVSKI:** Can you tell us what happened at that meeting?

40 **MS BANCROFT:** From memory, Mr Ternovski, that meeting was - I don't have a vast recollection of that meeting. We've obviously met with Mr Ravbar along with Mr De'Ath at 1 William Street to advise him about the action and that we would be - in addition to the industrial action in this temporary change, we would also be reviewing the triaging process in the future, and invited him to join us or participate in the consultation process around the changes to the triaging.

45 **MR TERNOVSKI:** So this was - Ms Bancroft, was this one of the first invitations that you, OIR, provided to Mr Ravbar to participate in consultation about the triage process? I'll take you to some subsequent ones.

MS BANCROFT: Yeah, possibly. Possibly, yes, it was.

MR TERNOVSKI: Do you recall if Mr Ravbar had any response in relation to what was foreshadowed, a review of the triage system going forward?

5

MS BANCROFT: I don't recall his exact response on the meeting on 27 October. However, he - he never displayed any overt or, you know, agreement with this or - he certainly disliked what was being proposed.

10 **MR TERNOVSKI:** If the witness could be shown KSB-36, in particular, page 406, and if we could blow up that bottom two paragraphs and the two lines of the following page. Thank you, Mr Operator. Ms Bancroft, can you see that?

15 **MS BANCROFT:** I can, yes. So the second paragraph there, once the protected industrial action ceases, we'll revert back to the processes that have been in place. However, we will be commencing that triaging - the review and changing the triaging process and we would like to include them in the consultation.

20 **MR TERNOVSKI:** So another invitation to consult, is it, Ms Bancroft?

MS BANCROFT: Yeah, there were just multiple invitations to consult ongoing from around this date.

25 **MR TERNOVSKI:** Mr Operator, could we blow up the header of the email so we can see the date and to whom it was sent. So this is about, what, about five days, six days after your meeting with Mr Ravbar?

30 **MS BANCROFT:** Yes, yes. It would be - just to back up a little bit, Mr Ternovski, how we got to this stage of reviewing this, this was, you know, in hearing all of the issues, the gross systemic issues, the years and years of frustration with the inspectorate, the damning results in Working for Queensland, you can see multiple data points here. So I've taken that to my leader, the director-general, Mr De'Ath, and I've highlighted these issues to him, and he's - he's been very, very helpful in helping me then work out a strategy and a
35 way forward to start to change this triaging process.

40 So he advised me on some of the ways to handle that from, you know, the political perspective. So, "Kym, you know, we'll put everything in writing to them. We'll be methodical in our approach. We'll take a stepped approach. We will invite them to consult at every step of the way. We won't leave any stone unturned to make sure this process is done very well, to get to the outcome that we want, which is everyone using the 1300 number."

45 **MR TERNOVSKI:** Going forward in time, in paragraph 100 of your statement, you give evidence about discussions you've had with Mr Harris and Ms Sutherland about possible ways of reforming the triage system, and you refer to her proposing a number of options. I'm just going to show you KSB-37, if we could bring that

up, please. If we could first up blow up the email header at the bottom of page 410. So this is an email from Ms Sutherland to you and Andrew Harris, by the looks of things.

5 **MS BANCROFT:** Mmm-hmm.

MR TERNOVSKI: If we can then blow up the body of that email so we can - which starts on page 411. I don't know if you can see that, Ms Bancroft. What I was going to do was to get to you have a look at this email and then
10 explain to us what the four options were and what your preferred option was. But perhaps I'll let you read the document.

MS BANCROFT: So Johanna had - I'm sure it was before this - she'd commissioned a report to be done, an external review very similar to the discovery
15 process that we had undertaken with QUT who consider what is working with this triaging process we've got in place, what is not working, where are the issues that, you know, are compromising us and our integrity to do our work. So she's done that, and now she's presenting these options to us. So if Mr Operator can go to those four options, I can explain them. You can see here she has stated the
20 problem in terms of everything going to the director of CFS, which is not appropriate. Option 1 there is the regional focus to provide direct contact points in each regional area through the operational managers or regional directors.

MR TERNOVSKI: Just pausing there, is that similar to what you ended up
25 putting in place at a later point in time?

MS BANCROFT: Yes, so our end goal is to - given this capture that we have and the fact that we're compromised through the director of CFS, her being the single point of contact, the goal is the 1300 number, where everyone would go
30 there and there is an effective risk assessment and then it's triaged out. So in being a little bit pragmatic here, we understand that perhaps we're not going to go from single-point contact with Ms Burgess to this 1300 number purely. So we need to take a stepped approach to get there, and that's what Joanna, Ms Sutherland, is outlining here. So to answer your question, Mr Ternovski, yes, I think that
35 regional focus, without seeing the other options was the one we landed on as a stop-gap to that further goal.

MR TERNOVSKI: Perhaps if you could explain options 2 and 3 and also what the difference is between them.
40

MS BANCROFT: Yes. Option 2 is that advisory focus. Yeah, direct number to be created within the advisory services where we would point all union representatives and provide the information relating - and they will log it.

45 **MR TERNOVSKI:** It seems very similar to -

MS BANCROFT: That was a separate kind of union number, if you like. Option 2 was, like, a dedicated line for them.

5 **MR TERNOVSKI:** And can you explain what the difference was between that and option 3, Ms Bancroft? Because it seems reasonably similar.

MS BANCROFT:

10 "A direct contact number is stood up..."

Sounds like they were requiring some specialist knowledge there for option 3. Andrew's commented that we don't believe that we require that specialist knowledge, and hence option 2 was the preferred option. It seemed a little bit more complicated, option 3.

15 **MR TERNOVSKI:** If we go to option 4, which refers to Director LAS.

MS BANCROFT: Mmm.

20 **MR TERNOVSKI:** Do you know what Director LAS is? Perhaps if we could just blow up option four, Mr Operator.

25 **MS BANCROFT:** LAS. I can't recall what - yeah, that doesn't seem like - that would probably be one of the least favourable options, I think. That would be assessment services, the director of assessment services.

MR TERNOVSKI: So, Mr Harris - as we saw from that email, Mr Harris' preferred option was option 2.

30 **MS BANCROFT:** Mmm-hmm.

MR TERNOVSKI: What was your preferred option?

35 **MS BANCROFT:** My preferred - if we could just go back to option 2, please. My preferred option at this stage - look, I think - I think we went for - yeah, I think we went for option 2. I think I concurred with them that that was the best option out of the four of them, toward that broader goal that we have.

40 **MR TERNOVSKI:** In paragraph - if we can then move forward in time. So this email was 26 November 2022. If we can now move forward in time, paragraph 101 of your statement, you refer to a conversation with Mr Pauls in December 2022. Can you describe that conversation for the Commission, please?

45 **MS BANCROFT:** Sure. I was - and I don't know why I was - I had perhaps called Mr Pauls or he had called me about a matter. I again reiterated the request to meet with them about the triaging and also the HSR strategy, which unfortunately I don't really have too much detail on that, on the latter. And we

were sort of going back and forward, and the conversation is getting a little bit heated, and at some point, you know, I really had this sense that he was understanding our rationale for changing the triaging system. It was almost like he was getting it, he was agreeing with it. But then, you know, sort of toward the end of the phone call he just immediately shut down and said, "Kym, that's just not how we do business," which I took to mean, "Kym, we're not going to take this in a stepped-out, rational way. It will be what we decide and what we choose. You won't be dictating this to us."

10 And that was the end of the phone call. So he just shut down on me completely. And what I'm referring to there, Mr Ternovski, is that they only wanted Ms Burgess as the single point to call through to. They were not interested in any other triaging option that we may have presented to them or would like to have consulted and co-designed perhaps.

15 **MR TERNOVSKI:** And why do you say that, Ms Bancroft? What's your basis for saying that?

20 **MS BANCROFT:** They'd said that to me many times: "Kym, we just want" - you know, "Why can't this be Helen? Why can't we just call through to her? Why are you changing this? Why are you doing this? Why are you making this difficult? We just want Helen, and Helen's the only one we want to be contacting."

25 **MR TERNOVSKI:** Paragraph 102, you refer to a conversation with the ETU, or a meeting rather, and a conversation. Can you tell the Commission what the meeting was about and what was said?

30 **MS BANCROFT:** So this was - yeah, sure. This was another meeting, again, to invite consultation, to collaborate. So I had a coffee meeting with a representative from the ETU and said, "Look, there are changes on horizon here with the triaging, and I would really appreciate the Building Trades Group's input into this because for them it's a significant change. This representative told me that the Building Trades Group had made a decision not to speak to me. He said that it was the Building Trades Group's recommendation that I reappoint Mr Dennett as the executive director for the inspectorate.

35 **MR TERNOVSKI:** Can you explain what the Building Trades Group is, Ms Bancroft?

40 **MS BANCROFT:** Not in detail, no. They're another trade group, another one of our key stakeholders.

MR TERNOVSKI: Do you know -

45 **MS BANCROFT:** That didn't get as much attention as the CFMEU, but was still an important stakeholder and we very much wanted to consult with them on any changes that might impact them.

MR TERNOVSKI: What did you understand this proposition of not speaking to you to mean? Is it ever, generally? In relation to some particular topic?

5 **MS BANCROFT:** I think it was the directive to not speak to me at all, not engage with me, not reply, maybe reply via a letter perhaps, but not to engage - actually, it would be - really, the subtext is, "We're not going to join this consultation process with you, Kym. We're not engaging in this process with yourself or any of your representatives of the OIR."

10 **MR TERNOVSKI:** At paragraph 103 of your statement - and I'm moving further in time, another nine days forward, from 13 December to 22 December - the protected industrial action ceased. Do you recall, Ms Bancroft, at that point in time - this is the end of December, just before Christmas 2022 - did the system immediately revert back to calling Ms Burgess, or was the system of calling the 1300 number maintained at that point?

15 **MS BANCROFT:** Yeah, Mr Ternovski, I really can't recall exactly, just going off the communication, I can't say for sure what it reverted to.

20 **MR TERNOVSKI:** Ms Bancroft, if we can go forward in time now to January 2023, at paragraph 108 to 112, you describe starting to receive phone calls from CFMEU officials on your work mobile. I want to ask you some questions about that. Can you describe how that - the first such call that you received?

25 **MS BANCROFT:** Sure. It was completely out of the blue, completely blindsided by this. So I'm at the gym, it's 5.30 in the morning, 6 o'clock. I had my work phone and my personal phone. My work phone rings, which, you know, it's unusual for it to ring at that time. I answer it. It's a CFMEU representative, and he says words to the effect of, "Kym, we've had an incident. We need an inspector to come out." And I'm like, "Why are you calling me? This is not the process." And he said, "Well, from here on in, we have made the decision that we're going to call you with all issues, complaints. They're all going come to you. You are now the point of call for the CFMEU."

30 **MR TERNOVSKI:** And after that, did you in fact receive further calls?

35 **MS BANCROFT:** Yeah, from that point on, my phone rang consistently for - and I really can't recall how many days it was, but you know, there was just phone call after phone call after phone call. To me it just seemed utterly ridiculous that this would be the be the way in which they would choose to influence an outcome. It was just - just ridiculous that they would do this, that they thought that it would - like, do they actually think it's going to change my mind to not proceed with Helen's reassignment of role and the triaging? They obviously must have thought it had, because they put a lot of effort into calling me.

It was interesting, because I - you know, I sort of felt some responsibility with these calls. Like, I immediately felt like, you know, I guess a portion of responsibility. So I'm calling people, saying, "Hey I'm getting these calls," and then they'll call me, "Kym, we called you three hours ago. No one's turned up. Is there someone on the way?" And then I just realised what was happening here, this racket that has been set up and that I'm in it, and so I stepped out of that and we designed a process to handle these calls so that they would be handled by my office. I am redirected so we weren't partaking in this charade, basically, for what they were trying to set up here.

10

MR TERNOVSKI: Before you set up that process - I want to ask you some questions about that, but before you set up that process, how frequently did you receive these calls?

MS BANCROFT: Oh, it was, you know, at the start, on the first couple of days, it would have been every 20 minutes. Like, multiple calls throughout the day, but also multiple follow-up calls. "Kym, we phoned you at 8 o'clock. We're still here. You haven't sent an inspector. What's going on? This is the issue. You have to get out. Someone has to get out here." So there was just so much pressure being applied. I couldn't say the exact number, Mr Ternovski, but it was - it was relentless.

20

MR TERNOVSKI: When you received these calls, did you push back at all on the idea of them calling you?

25

MS BANCROFT: Oh, absolutely I did. You know, I reiterated that it's not the process, and they said, "No, Kym, this is the process going forward. From now on, we are calling you and you are responsible for responding to these calls."

MR TERNOVSKI: And you mentioned that you implemented a system to deal with these calls. What was that system?

30

MS BANCROFT: From memory, I think I had my office take some of these calls. They would often leave a message, so then we would log them, send them through to assessment services or the regional directors so that we were doing something about them and they weren't just being completely ignored, but that, you know, my phone - I wasn't answering the phone every 10 minutes with these phone calls, which is just highly inappropriate and not feasible. And not my role.

35

MR TERNOVSKI: Did you ever direct inspectors directly in response to these calls to attend particular sites?

40

MS BANCROFT: No, but again, at the start, you - you know, I did - it was really interesting to note my reaction, where I did feel almost personally responsible - not almost, I did feel personally responsible for these. And then you get follow-up calls: "Kym, there's been no one." And I found myself in the first day calling and going "How come someone hasn't gone out there?" So, you know,

45

and that really does define capture to a degree, where you are - your behaviour is modified based on the pressure that's being put on you. I quickly stepped out of that, but it was interesting to note the impact that it had on me and, you know, the people around me as well. So, yeah, but that was only - that was short-lived until we put a process in place.

5
MR TERNOVSKI: You say in your statement at paragraph 113 that you - around the same time, you started to receive email notifications. Can you describe that at a general level, Ms Bancroft, and then I'll take you to the particular document.

10
MS BANCROFT: Sure. So this was similar to the phone calls. It was just another medium to get information and put pressure on me. So these were emailed requests from officials requesting assistance.

15
MR TERNOVSKI: Mr Operator, if we could show the witness KSB-39, page 416, and if we could first blow up that - just that email, perhaps, without the logo. This is an email from Dean Rielly to you on 11 January 2023. If we could now go to the following page and blow up the attachment. Ms Bancroft, I'll let you finish reading this.

20
MS BANCROFT: I've finished.

25
MR TERNOVSKI: Was this the kind of emails that you received?

MS BANCROFT: That's correct.

30
MR TERNOVSKI: In this particular instance, looking at this specific email, in your view, what was the level of urgency of this?

35
MS BANCROFT: Look, you've got some high risks there, fall from heights, access/egress, emergency response planning. I mean, it's not my role or my exact area of expertise to be doing a thorough risk assessment on this and then triaging it against other complaints coming through, or issues. But this was typical of what they were sending through. So, no, I would immediately - my office would immediately forward this on to triaging.

40
MR TERNOVSKI: It looks like from the first part of the email that this is a right-of-entry request. Is that right?

MS BANCROFT: Mmm-hmm.

45
MR TERNOVSKI: Ms Bancroft, you may not know this, because it may be too technical a question, but do you know why the CFMEU was using section 81(3) of the Act for this right-of-entry request?

MS BANCROFT: My understanding was that was a common request for them to use that, that this would be commonplace.

5 **COMMISSIONER:** My recollection, Mr Ternovski, is Mr O'Grady said Mr Rielly has been removed by the administrator. Is my recollection correct in that regard?

10 **MR O'GRADY:** He was removed by the administrator. He is no longer employed by the federal branch in Queensland or by the Queensland union.

COMMISSIONER: But he is employed somewhere else by some other branch of the union?

15 **MR O'GRADY:** He's employed in New South Wales, as I understand the position.

COMMISSIONER: And my recollection also was - and again I could be wrong, Mr Ternovski - that Mr Rielly had lost his permit by this stage. But again, that could be wrong.

20 **MR O'GRADY:** Perhaps I can assist, Mr Commissioner. Mr Rielly did lose his permit. He made an application for another permit, and recently that application was granted by the Fair Work Commission in circumstances where the Fair Work Commission was informed of the circumstances in which Mr Rielly had lost his permit and then conducted a fresh assessment as to whether or not he was a fit and proper person to have a permit.

25 **COMMISSIONER:** And around this time, that is, January '23, he had lost his permit?

30 **MR O'GRADY:** I don't know that off the top of my head.

COMMISSIONER: You don't know the answer to that. Okay, thank you. Thank you, Mr O'Grady.

35 **MR TERNOVSKI:** So we've just looked at, Ms Bancroft, the email from Mr Rielly on 11 January. If I can now show you another email of the same date. That is KSB-40, on page 419. If we could blow up the header first. If we could blow up the last paragraph. Ms Bancroft, on one reading, this appears to be confirming what you were told in those phone calls, which is that there has been a decision to direct all such complaints to you. Is that how you understood it?

MS BANCROFT: That's correct, yes.

45 **MR TERNOVSKI:** If we can move to the next day now, 12 January, and if the witness could be shown KSB-42 on page 425. If you can blow up the header first.

If we can blow up the email in chunks. I'll let you read that, and then I'll ask you some questions.

MS BANCROFT: Mmm-hmm. Thank you.

5

MR TERNOVSKI: So it looks like at this point, 13 January, you were implementing a process where the regional directors are to be called. Is that right?

MS BANCROFT: That's correct. That's correct.

10

MR TERNOVSKI: But you're foreshadowing that there will be a more permanent process put in place down the track.

MS BANCROFT: That's correct.

15

MR TERNOVSKI: And you're again inviting consultation.

MS BANCROFT: This had just been dragging on for so long, so Mr De'Ath and I were, you know, making steps toward this broader outcome of, you know, rectifying these issues that we've got and getting to this final outcome that we were wanting to get to. So this was a step forward toward that - in that direction to making these - to inviting them to call the regional directors, not Helen - not Ms Burgess. Because we've had so much kickback from them about calling through to the assessment services unit. So this is, you know, a stop-gap, if you like.

25

MR TERNOVSKI: If we can now go to KSB-43, and if we could first blow up the email at the bottom of page 427 going on to page 428. This is another email for you, but this time from Mr Pauls rather than Mr Ravbar, and if we could blow up the email itself.

30

MS BANCROFT: Yeah, again, Mr Ternovski, it's just repeated back and forth between myself and/or Mr De'Ath and/or a representative from the CFMEU, back and forth about this process.

35

MR TERNOVSKI: Well, this looks to be another invitation to consult with the CFMEU.

MS BANCROFT: Another - yeah, another one, yes.

40

MR TERNOVSKI: If we can now go to page 427 and blow up the response from Mr Pauls.

MS BANCROFT: Mmm-hmm.

45

MR TERNOVSKI: You see Mr Pauls is accusing you there of failing to consult. Do you think that was a fair accusation?

MS BANCROFT: Absolutely not. We've tried multiple times for consultation, co-design of a process. Every - as you can see, nothing gets responded to. It's just another letter back attacking us, making claims about the process or people at OIR or myself. Yeah, we - and each time I would speak to Mr De'Ath and him and I
5 would work together to decide, okay, what's the best way forward here? We would respond to that letter. They would respond back. It was just a - from here, it's a constant back and forward.

COMMISSIONER: It's a bit rich to say that you haven't consulted, when on
10 your evidence, a month earlier, representatives of the Building Trades Group told you that they had made a decision not to speak with you.

MS BANCROFT: Correct, Commissioner. It was extremely - extremely
frustrating, and there was so much time spent on this, you know, you've also got
15 Mr De'Ath also providing counsel about this. He's the director-general. This is just - we are sinking so much time and energy and resource that again pulls us away from doing what WHSQ is meant to do. Certainly a case of the squeaky wheel getting lots of attention.

MR TERNOVSKI: If we can move slightly forward in time to 1 February, and if
20 we can show the witness KSB-44, starting with the first email in the chain, which is at the bottom of page 431. Mr Operator, if we could blow up at email at the bottom of page 431, which is the first email in the chain, at 1 February at 8.44 am. Thank you. So that's an email from you to Mr Pauls copying Mr Ravbar and Mr
25 Ingham and Mr Lowth, and it appears to be yet another offer to consult. Is that -

MS BANCROFT: Yes, that's correct. And these were all genuine offers for - to
get together and talk, flesh this out and truly consult on what this process could
30 look like going forward. So, again, yeah, we're trying very hard here to engage them.

MR TERNOVSKI: Mr Operator, can we now blow up the response from Mr Pauls, which is at the top of that page, 431.

MS BANCROFT: Mmm-hmm.

MR TERNOVSKI: So that's another - you're rebuffed yet again.

MS BANCROFT: Mmm-hmm. Which, by this stage, you know, extremely
40 frustrating, yeah. Rebuffed again.

MR TERNOVSKI: And if we could now just show up page 430, the response from you, Ms Bancroft.

MS BANCROFT: Mmm-hmm.

COMMISSIONER: Was there ever any reason given as to why the CFMEU or the broader Building Trades Group wouldn't consult with you, apart from the fact that they say that you hadn't consulted with them?

5 **MS BANCROFT:** No, Commissioner, there was no rational reason given for declining the request to consult, nor was there any indication of what they deemed to be, you know, good consultation or what they defined consultation was. They may have had a different idea as to what consultation would entail, at which point, if they had told us that, we would have no doubt attempted to engage in that form
10 of consultation, if it was appropriate. So no, there was no feedback or reason given, other than, "Kym, we don't like what you're doing and we purely want to go to our single point of contact, being Ms Burgess." That wasn't put explicitly in writing here in these letters, but any sort of anecdotal or ad hoc conversations I would have with Mr Pauls or the like, it would be reiterated that, "Kym, why are
15 you changing this?"

MR TERNOVSKI: So in this email, Ms Bancroft, from my reading, you push back against the idea that there had been a failure to consult. But then in the last paragraph, there's another offer to consult; is that correct?
20

MS BANCROFT: Correct, yet another offer to meet, consult, yep.

MR TERNOVSKI: If we can now move forward in time again, and go to KSB-46, relevantly page 439. I'll let you read that email, Ms Bancroft.
25

COMMISSIONER: What's the date of this letter?

MR TERNOVSKI: If we go to the following page, we can see the date, 17 March 2023. Ms Bancroft, that's the date that you've corrected in your statement; is that right? 17 March, not 17 April?
30

MS BANCROFT: Yes, that's correct. Thanks, Mr Ternovski.

MR TERNOVSKI: Now, Ms Bancroft, this letter, that's part of a bundle, as I understand it, in KSB-46 of identical letters being sent to different unions; is that right?
35

MS BANCROFT: That's correct.

40 **MR TERNOVSKI:** Now, it looks like by this point, as at 17 March 2023, you're going ahead with the 1300 number. That's what the letter seems to say.

MS BANCROFT: Yeah. It's a modified version of the 1300 number, so they're going to call the 1300 number and then it's going to be triaged to the regional directors or sent out to the regional directors, which is that third paragraph from the bottom. The assessment services officers will lodge and triage the request through the regional inspectorate and notify the ops managers and regional
45

5 directors for allocation of an inspector. So, yes, so we've done - Mr De'Ath and I
have, you know, attempted, as much as we humanly could, to consult. There's
been no reciprocation in that consultation. At the end of the day, this is our
process to decide, because we're ultimately responsible for how well WHSQ
performs, so we are now making the decision and notifying the unions that this is
the process going forward.

10 **COMMISSIONER:** So this is a slightly different process than the process that
had been put in on an interim basis for two months since 12 January, which is,
"Instead of calling me or Ms Burgess, call the regional directors."

MS BANCROFT: That's -

15 **COMMISSIONER:** So that process stopped, did it, and then you sought to put
this process in place?

20 **MS BANCROFT:** That's correct, Commissioner. We're now formalising that - a
modification of that process. Because that process back then to just call the
regional directors is - you know, that wasn't an ultimately feasible or effective way
to run the triaging. So now, again, we're taking that next step toward the eventual
outcome that we'd like to get to.

25 **COMMISSIONER:** Well, it wasn't feasible, but it also wasn't being complied
with by the CFMEU.

MS BANCROFT: That's correct, Commissioner.

30 **MR TERNOVSKI:** So this is 17 March. I'm sorry, Commissioner, were you
about to ask another question? This is 17 March. If we can now move forward 11
days into the future, 28 March.

35 **MS BANCROFT:** Sorry, Mr Ternovski, if we could please go back to that letter.
There's a key point in that letter, if you could just - if Mr Operator could go back
to that one.

MR TERNOVSKI: Which part would you like blown up?

40 **MS BANCROFT:** Yes, please. It's paragraph - in sort of paragraph 3 there. It's
to ensure that there's a consistent risk-focused assessment. So if they're calling
this 1300 number, we technically would be free from bias here, or we would like
that to be the case, which is the opposite of what we had when they called Ms
Burgess. So, yeah, we want to ensure that, you know, it has to be a risk-focused
assessment. We've got finite resources here and capacity in the inspectorate to go
and out and respond to these complaints. They need - they must be triaged
45 according to a risk-focused assessment. So that is a key differentiation to
potentially what was occurring before.

MR TERNOVSKI: Ms Bancroft, if I can now take you forward, 11 days forward in time, from 17 March, which is the date of this letter, to 28 March. In paragraph 122 and 66 of your statement, you describe a meeting with Mr Ravbar where triage was discussed.

5

MS BANCROFT: Mmm-hmm.

MR TERNOVSKI: Do you know why Mr Ravbar finally agreed to meet?

10 **MS BANCROFT:** I could not tell you why he suddenly decided to meet, no.

MR TERNOVSKI: Do you think the 17 March letter might have got his attention?

15 **MS BANCROFT:** Possibly. Possibly. We can infer and assume that something's motivating him to now appear in person, despite not appearing to previous requests. Maybe he's realised that, yeah, this is actually going to happen now, so yes.

20 **MR TERNOVSKI:** Because the previous letters, Ms Bancroft, were really in the nature of offers to consult, offers to consult.

MS BANCROFT: Yes, yes, and now we've actually - we've actually taken some action here. Correct.

25

MR TERNOVSKI: So going to that meeting of 28 March, can you tell us where that was?

MS BANCROFT: Sorry, where that was, Mr Ternovski, or about the meeting?

30

MR TERNOVSKI: Yes, where that was, yes.

MS BANCROFT: Yeah. It was up in the director-general - De'Ath's - his office at 1 William Street.

35

MR TERNOVSKI: You talk about it in more detail in paragraph 66, Ms Bancroft. Can you tell us who was present at that meeting?

40 **MS BANCROFT:** So at that meeting, there was, from memory, Michael Ravbar, Mr Kurt Pauls, Ms Jacqui Collie, Mr De'Ath. There may have been additional people at that meeting, but that's my recollection of who was there.

MR TERNOVSKI: And yourself, of course.

45 **MS BANCROFT:** And myself, correct.

COMMISSIONER: When you say "additional people", What do you mean by that?

5 **MS BANCROFT:** So, for example, Mr Seeley, who was, you know, chief of staff for Mr De'Ath. He may have also been there, but from memory, it was that core group of people.

COMMISSIONER: Sorry, I missed that name.

10 **MS BANCROFT:** Mr Nick Seeley.

COMMISSIONER: Could have been there?

15 **MS BANCROFT:** Potentially. But I have got a file note, and in that file note is has Mr De'Ath, myself, Mr Ravbar, Mr Pauls and Ms Collie.

MR TERNOVSKI: And Ms Collie is a CFMEU official; is that right?

20 **MS BANCROFT:** As I understand, yes.

MR TERNOVSKI: Can you tell the Commission what happened at this meeting?

25 **MS BANCROFT:** It was a really interesting meeting. Mr De'Ath was chairing the meeting. He stated that the meeting intent was to discuss the concerns that the CFMEU had raised. At that point, Mr Ravbar took effective control of the meeting. He spoke for around 20 minutes without stopping. He was quite erratic in his communication. He continually used inflammatory statements about Mr De'Ath, myself, different ministers. He was using inappropriate language
30 throughout. He said that they were planning to send more letters to - and other unions will send more letters as well, assuming to myself, to the office.

He then said, which was one of, I guess, the key takeaways from this meeting for me, in addition to the other insults, that he put out there. But my main recollection
35 was in relation to the triaging, he said - he turned to me and looked at me and said, "Kym, you've chosen to take us on. Anyone who does that does not win." And in essence what he was talking about was, "Kym, you've decided to make changes here that we don't like, and you will not succeed. You will not win" - either through making those changes or in some other capacity, I'm not too sure, but
40 basically, "You're not going to make these changes. We'll get our way."

MR TERNOVSKI: I'll take you through the further steps in a moment, but in a nutshell, Ms Bancroft, did you win?

45 **MS BANCROFT:** Sorry, Mr Ternovski, can you please repeat that?

MR TERNOVSKI: Without pre-empting everything that followed, which I'm going to take you through, but in a nutshell, Ms Bancroft, in relation to that comment that Mr Ravbar made, that "anyone who does that does not win", in this instance, did you win on this issue?

5

MS BANCROFT: I most definitely did not win on this issue. He was most definitely 100 per cent correct in his statement.

MR TERNOVSKI: Paragraph 123 of your statement, you refer to -

10

COMMISSIONER: Could I just go back to that file note at 351. There's a second dot point which I don't understand:

"Our relationship hasn't been good since change in government."

15

What's that reference to?

MS BANCROFT: I'm really not sure, Commissioner. Apologies. This is my file note. I - yeah, I do not recall exactly what was meant by that. What I did was after the meeting I came straight out of that meeting and made this file note, so I was really just going off my own notes and what I heard sort of verbatim. So I'm sorry, I can't extrapolate on what he would have meant by that.

20

MR TERNOVSKI: So this is 28 March. If we could go forward in time now to 5 April and if to KSB-45. If we could just first show the email.

25

MS BANCROFT: Mr Ternovski, it would also be worth noting that meeting ended very badly. It ended up with Mr Ravbar making a number of highly inappropriate insults to Mr De'Ath, and Mr De'Ath stated that behaviour wasn't tolerated, and the meeting finished abruptly because he - Mr Ravbar essentially blew up at Mr De'Ath.

30

MR TERNOVSKI: And Mr De'Ath then ended the meeting?

35

MS BANCROFT: Correct. Yeah, he ended it right there and then.

MR TERNOVSKI: So he didn't cop it, at least in this instance?

MS BANCROFT: Absolutely not, and nor would he. I mean, he always maintained a level of professionalism and was calm in these meetings, which was hard with the way Mr Ravbar would behave, but it just got to the point where it was - it was untenable to continue the meeting. It was just highly inappropriate, the way he was speaking in that meeting.

40

MR TERNOVSKI: If we can now go to page 435, KSB-45. If we could first blow up the - yes, page 435. First blow up the email. This is an email from Jacqui Collie in the "From" line but signed:

45

"Regards, Michael."

MS BANCROFT: Mmm-hmm.

5

COMMISSIONER: Can I just go back to that meeting for a moment. It doesn't appear anything was achieved. If it goes from 2.30 to 2.55 - Mr De'Ath calls an end to it at 2.55 because of Mr Ravbar's behaviour. Mr Ravbar then calls Mr De'Ath a boofhead on the way out. What was actually achieved, given that the first 20 minutes, Mr Ravbar was getting increasingly agitated, increasing the use of inappropriate language and disparaging comments regarding various officials past and present?

MS BANCROFT: That's correct, Commissioner. There was nothing achieved. There was nothing productive achieved in that meeting except for slurs and inappropriate behaviour. Nothing productive at all.

COMMISSIONER: 435, were you?

MR TERNOVSKI: Yes. So if we can now go to 436, which is the attached letter. Perhaps if we could blow up the letter in chunks and I'll let you have a look at it, Ms Bancroft.

MS BANCROFT: Mmm-hmm.

25

MR TERNOVSKI: So it looks like, Ms Bancroft, Mr Ravbar is pushing for the reinstatement of the old system in this letter.

MS BANCROFT: Mmm-hmm.

30

MR TERNOVSKI: Is that your reading of it?

MS BANCROFT: That's correct, yeah. Especially that line there:

35 "As a group, it is our position that it was not necessary to change this longstanding practice."

That was something that they would continually refer back to: "We do not need to change this practice. Why are you changing it? You can't change it." Yeah.

40

MR TERNOVSKI: Mr Operator, could we blow up the two paragraphs immediately above Triaging Process. Do you know what Mr Ravbar is saying there? Because he seems to be inviting you or extending an invitation to meet while previously having rejected previous invitations.

45

MS BANCROFT: Yes, he's - he's saying my definition of consultation doesn't work for them or meet their requirements without telling us actually how they

would define consultation, and then again reiterating that position to reintroduce the longstanding practice. However, I would like to say that had we gone back to the longstanding - or kept the longstanding practice in place but done it in an appropriate fashion, which would be safeguards to prevent capture and bias and so on and so forth, I highly doubt that that would have been acceptable either to the CFMEU.

COMMISSIONER: Why do you say that?

10 **MS BANCROFT:** Because every suggestion that we're putting in place is just refuted. So if I had said, "Look, I can understand this longstanding practice and why wouldn't you wouldn't want to change it. However, to avoid capture and bias and also protect that OIR employee" - in this case, Ms Burgess - "we would need to rotate the employee. Maybe every six months we would change that person
15 who's your key point of contact. Maybe we would have a very clear risk assessment process for when you call through."

I feel like they wouldn't have liked any of those ideas, that all they wanted was Ms Burgess in the same capacity and operating the exact same fashion. Nothing
20 should be changed, is my sense of what would have occurred had we said, "Yeah, we'll revert to the longstanding practice." It was obvious and evident that the longstanding practice was deeply flawed and had to change.

MR TERNOVSKI: In that second paragraph that's blown up on the screen there,
25 Mr Ravbar seems to be inviting a discussion but limited to ways of introducing back the old practice.

MS BANCROFT: "You're aware it's our position" - yes. I mean, yeah, he's - yeah, he's saying we would talk about that. However, I felt that we were
30 just - we were too far down the road. We can't - it wouldn't be responsible of us to keep that longstanding practice in place. There was just a huge amount of data and evidence to say why we can't keep that process in place. At the end of the day, it is our process as the OIR, as WHSQ.

35 **MR TERNOVSKI:** In paragraphs 104 to 105 of your statement, you refer to a phone call from Michael De'Ath, and this is where - Ms Bancroft, this was one of your corrections, wasn't it, from January to April?

MS BANCROFT: Mmm-hmm.
40

MR TERNOVSKI: Can you tell the Commission about this call. Well, firstly, I withdraw that. Before I ask you for more detail about that call, do you remember if the call from Mr De'Ath came before or after the email, the letter from Mr Ravbar that we just looked at?
45

MS BANCROFT: Yeah, I apologies, Mr Ternovski, I can't - my memory is slightly patchy on the exact timestamps, on when certain things transpired, so no. But all I can say that this was a really significant phone call in the whole process.

5 **MR TERNOVSKI:** Can you tell the Commission what was said?

MS BANCROFT: Certainly. So, you know, we'd done just - Mr De'Ath and I and a number of people, we'd done a tremendous amount of work here. A tremendous amount of time and effort has gone into changing this triaging
10 process. I feel like we've made some progress where we're moving along toward this outcome of ensuring the integrity of the agency. So for some reason why - I don't know why - this decision had sort of - not decision, but this topic and issue had escalated to the minister. Normally the minister wouldn't be involved in a decision of an operational nature like this.

15 Either way, I get a phone call from the director-general De'Ath, and he says, "Kym, Minister Grace has considered this triaging system," and he said something along the lines of, "One thing Minister Grace is really good at is she's good at managing stakeholders." And in this case, with the triaging, we - it will be
20 deferred until the new executive director of compliance and field services was appointed. So my first thought was - and I didn't say this to Mr De'Ath on the call - was, "We have effectively just kicked the can down the road on this whole issue. We are not making a firm decision, and we are just deferring it to someone who hasn't even been in the organisation, and we're going to wait for them to
25 join."

So we have literally just - we've kicked it well down the road, and I just felt like a deflated balloon. I had to now go back to everyone internally where we'd been
30 working so hard on this to say, "Look, this is not proceeding. We'll have to go to a Plan B."

MR TERNOVSKI: So the direction was to defer this until the executive director that you were recruiting was appointed; is that right?

35 **MS BANCROFT:** Yeah. If you were to look at that decision objectively, the objective, rational thought for that would be something along the lines of this person is responsible for that area, WHSQ. They can run a consultation process and then they can work with the stakeholders to come up with - you know, and land on a process. But, I mean, it just doesn't seem logical at all, because all that
40 work has been done, so all you're doing is you are delaying it by a solid six months. By the time someone's recruited, by the time someone gets their feet under the desk, so to speak, by the time they do consultation, you could be six to nine months, even 12 months away from making a decision.

45 **MR TERNOVSKI:** So the hierarchy is, if I understand correctly, the new executive director to be recruited would report to you?

MS BANCROFT: Correct.

MR TERNOVSKI: And you report to Mr De'Ath?

5 **MS BANCROFT:** Mmm-hmm.

MR TERNOVSKI: And Mr De'Ath reports to the minister?

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

MR TERNOVSKI: And so you've decided to implement the 1300 number system, at your level as DDG.

15 **COMMISSIONER:** After six months.

MR TERNOVSKI: After six months, the Commissioner points out. So you make that decision at your level as DDG, which is one level above executive director. You might need to - I think, Ms Bancroft, you need to verbalise your answer for the transcript.

20 **MS BANCROFT:** Yeah. So that's correct. I mean - and, Commissioner, you made the point that it's been six months in the making. It's actually really been longer than that, because you've got to remember people such as Ms Sutherland, Mr Harris, they've been working on this and they have called for this change
25 probably well before I even joined. So it actually could have been 12, 18 months, you know, that they have known that we need to change this.

30 So, yeah, correct, Mr Ternovski. So, yeah, the decision is being deferred to someone who is lower in that hierarchy, and also that is contrasted against the fact that, really, operational decisions shouldn't be made by the minister's office. Those decisions are for us operationally to make. But, you know, in this whole situation occurring here, it has been pushed to someone much lower in the hierarchy.

35 **MR TERNOVSKI:** After first being escalated two levels above you, to the minister?

40 **MS BANCROFT:** Yes. Yeah. And Mr De'Ath, you know, he did what he should do as a good leader. He had skin in the game. I had skin in the game. That's what we needed to do, because, you know, it was - it would have been hard - an inspector can't make this decision. The executive director could, but again, you're getting so much pushback from this major aggressive stakeholder. You know, so that's how it came up to me. That's how it's come up to Michael. So now for this to be then pushed back below Mr De'Ath and myself, I just - yeah,
45 I've really got no words for how I felt that day when I got that phone call.

I will then contrast that against, you know, after I've left the Office of Industrial Relations and once there was a change in government, I understand that Jarrod Bleijie made the decision within about a week or two to change the triaging process, and here we are just spinning our wheels for months and months with all this effort and energy for it just to be - just to be pushed down the road.

MR TERNOVSKI: Ms Bancroft, if I can now take you forward in time, and -

COMMISSIONER: Can I just stop you there. One of the things Mr Smith said when we heard from him in Cairns was although the minister, obviously, as the responsible minister has got the capacity to make these decisions, they normally don't do so because otherwise they'd end up not doing anything but manage at low level of every enterprise that they're responsible for. But he made the additional point that he thought the role of deputy director-general should be an independent role so that the minister couldn't intervene with these sort of decisions and said because of the nature of the regulation that WHSQ does, there should be a statutory change so that that independence was made clear. What do you think about that?

MS BANCROFT: Yeah, it's an excellent point, Commissioner. I agree with Mr Smith in that determination. Yeah, especially - and it's a great case study to support such a change. It is interesting that the minister wouldn't get involved in operational decisions usually, but then sometimes they do get involved. So, you know, which one is it? Obviously in this case, the minister Grace, she's gotten involved because, you know, there was just the whole complexity with the stakeholder. But, yeah, for consistency and to be objective, I think that it's a good - a good recommendation.

COMMISSIONER: Did the minister consult with you prior to making this decision?

MS BANCROFT: No, Commissioner. There was no consultation with myself.

COMMISSIONER: And anyone below you that you're aware of?

MS BANCROFT: Not that I'm aware of, no.

COMMISSIONER: And did you - I understand your evidence to be you don't understand how it is that your decision to change the triaging system in around March, I think 17 March 2023, was communicated to the minister?

MS BANCROFT: It's a very good question. I - yeah, I can't recall how - you know, what briefing note would have gone up. I feel like there would have potentially been some briefing notes sent up, but without those records I couldn't say for sure.

MR TERNOVSKI: Ms Bancroft, if I could now take you further in time and show you a letter from you to Mr Ravbar dated 19 April 2023. That letter is not in your statement. If it could be shown to the witness. And Commissioner, it has been provided to the parties. If we could just blow up that letter.

5

MS BANCROFT: Yes. This letter, potentially I've given up the ghost here on this one, and I feel like this letter is just, you know, I've been given this directive, and now I'm just communicating this to Mr Ravbar.

10 **MR TERNOVSKI:** It says here, if we could blow up the big middle paragraph, it says here:

15 "Under this approach we will not look to make any changes to the temporary process introduced in January until extensive stakeholder consultation has been undertaken by the incoming Executive Director."

Now, the approach introduced in January, that was the approach of calling regional directors; is that right?

20 **MS BANCROFT:** I think so, yes. So this is, you know, obviously what - you know, the decision that's come down, and now I'm reiterating this decision to Mr Ravbar, to say, yeah, it won't be - there will be stakeholder consultation done with the new executive director, who will be appointed in -

25 **MR TERNOVSKI:** So - sorry, Ms Bancroft. So this letter is, in effect, implementing the minister's decision?

MS BANCROFT: In effect, yes.

30 **MR TERNOVSKI:** Commissioner, I tender this letter.

COMMISSIONER: Is there any objection? No. Letter to Michael Ravbar from Kym Bancroft, 19 April 2023, will be KSB-3.

35 **<EXHIBIT KSB-3 LETTER TO MICHAEL RAVBAR FROM KYM BANCROFT DATED 19/4/2023**

40 **COMMISSIONER:** Can I just ask you a question about that. There was another aspect about this that seemed odd, which I asked Mr Ternovski about when he opened this week's hearings. It just seems extremely odd - perhaps an inference could be designed to undermine you - that the process that you'd put in place, which had been the product, as you say, of six months' work by you and maybe 12 or 18 months' work by others, pending the appointment of a permanent executive director, compliance and field services, who reports to you. Isn't that correct?

45

MS BANCROFT: That's correct, Commissioner.

COMMISSIONER: I just don't understand why such a direction would be given, because it has the effect of making a decision that you'd made subject to a decision by a subordinate of yours, a subordinate who's not yet appointed. I just don't understand the logic in it.

5

MS BANCROFT: That would be you and me both, Commissioner. It didn't follow a logic for me. It literally would push the decision up to 12 months away, because these things take so long, the recruitment, the consultation. This is not a quick process. And so, as you said, myself, the broader team here, there has just been a wealth of work that's happened to bring this to this point, and now we are kicked well and truly down a road that really - doesn't really have a line of sight of time.

10

COMMISSIONER: There might be other inferences that are available, but two seem to be the one that you've raised, which is it's just a delaying tactic. The second is that the executive director, who's yet to be appointed, will do the bidding of the CFMEU. Is there any basis, do you think, for thinking that that is an inference that arises from this decision?

15

MS BANCROFT: Yes, Commissioner, considering if we also then piece that together with the absolute agitation to be on the panel of recruitment for this person, you know, the request to - "Why don't we put Mr Dennett back in the position?" 100 per cent, there's many inferences that could be made as to - yeah, as to what's going on here and why that decision's been made.

20

25

COMMISSIONER: Do you control who becomes the - I know you were terminated soon thereafter, maybe a couple of weeks after this, but if you had have stayed, would you have had a say or the say in who the executive director compliance and field services would be, or is it appointed by some panel that you don't control?

30

MS BANCROFT: No, Commissioner, I was on the panel. So I definitely would have had - played a part in that broader decision. So, you know, there's a - there's a recruitment agency, there's a panel, there's - it's all really well documented. It's also then - once the decision's made in terms of who the preferred candidate is, there's a discussion within the panel. It's a really - it's a well thought out process for recruitment. But to answer your question in brief: yes, I would have had a say and a part in who was recruited.

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COMMISSIONER: How many people are on the panel?

40

MS BANCROFT: From memory, there was around four people on the panel.

COMMISSIONER: For the recruitment of the - it's a replacement for Mr Harris, isn't it?

45

MS BANCROFT: That's correct, and the person who was eventually picked was Ms Sarina Wise.

COMMISSIONER: That's right, yes.

5

MS BANCROFT: Mmm.

COMMISSIONER: And who were the four on the panel?

10 **MS BANCROFT:** From memory, for the first round of recruitment before it was, you know, declared null and void because of the CFMEU's behaviour and also me running that second interview, it was myself, Mr Kurt Pauls -

15 **COMMISSIONER:** That's right. Mr Pauls then went and contacted people in New South Wales, yes.

20 **MS BANCROFT:** That's correct. There was Mr Craig Billing, who was from an employer group, who was an excellent stakeholder, very - you know, we had a good working relationship with him. And from memory, there would have been potentially someone else from OIR on that panel. So you'd usually have around four to five people on the panel.

25 **MR TERNOVSKI:** Ms Bancroft, in answering the question from the Commissioner about whether an inference can be drawn from the decision that the new executive director may do the bidding of the CFMEU, you referred to there being an agitation to be on the panel. Agitation by whom, Ms Bancroft?

MS BANCROFT: By Mr Kurt Pauls.

30 **MR TERNOVSKI:** Ms Bancroft, this letter essentially backing down from you is dated 19 April 2023. Can you tell the Commission what happened the following day, 20 April 2023?

35 **MS BANCROFT:** On 20 April, I was in the city, involved in a different recruitment panel, from memory. I received a phone call from Ms Lisa Pennisi, who was Mr De'Ath's executive assistant, asking me to come to the office to see him. I went there in the afternoon on the Thursday. We had a brief conversation. The conversation was that my contract was to cease. In - that's a completely aboveboard decision that can be made. You know, according to your contract, it
40 can be ceased at any point in time and a reason doesn't have to be given. I did ask Mr De'Ath for a reason, and he did give me - he was courteous enough to give me a reason, which was, "Kym, there is a union group that is unhappy with you." And that was -

45 **MR TERNOVSKI:** Just pausing - sorry, I interrupted you.

MS BANCROFT: Sorry, Mr Ternovski.

MR TERNOVSKI: No, I was just going to ask you, other than that reason, did Mr De'Ath give you any other reason for why your employment contract had to end?

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MS BANCROFT: No, he didn't give me any other reasons. He didn't have to give me any reason at all, so I appreciated that I got one reason from him. So, no, that was the only reason that was given.

10 **COMMISSIONER:** I didn't hear what he said the reason was when you asked him. You spoke very quickly.

MS BANCROFT: Apologies, Commissioner. So, yes, I - I asked him, you know, "Could I have a reason as to why my contract's ending?" And he said,
15 "Yes, there is a union group that is unhappy with you." I didn't go on to ask him which union group this was or more information. I'm not sure he would have given me that. But that was - that was the reason he gave, and then the conversation went into more of the logistics around exiting.

20 **MR TERNOVSKI:** What else did he say?

MS BANCROFT: Like in general, do you mean, Mr Ternovski?

MR TERNOVSKI: Well, you referred to him offering you alternative
25 employment. Can you describe what that was?

MS BANCROFT: Certainly. So, yeah, we then - we then went into the logistics of, you know, of leaving. Yeah, he did, he offered me an alternative role. I - I was then - I was then focused on the specifics of that, you know, what would that
30 look like, who would that be, who would that be reporting to? And so he gave me the amount of information he could. I then left his office, and then I - I stayed at 1 William Street, and I called -

MR TERNOVSKI: Just before you go to leaving his office, Ms Bancroft, if we
35 could just go back to that conversation with Mr De'Ath. You said - you referred to an alternative position. What was that alternative position?

MS BANCROFT: The alternative position, which was an attractive position for someone with my background, was to manage the workplace health and safety for
40 the Department of Education.

MR TERNOVSKI: Did he say anything about the remuneration that you would receive in that position?

45 **MS BANCROFT:** It would be on the same remuneration.

MR TERNOVSKI: So same remuneration but different role within the department proper?

MS BANCROFT: Which is an excellent offer.

5

MR TERNOVSKI: And that role, as far as you understood, would that have involved any dealings with the CFMEU?

MS BANCROFT: It's a great question. I would assume it would have involved - there would have been no dealings with the CFMEU in that role.

10

MR TERNOVSKI: Did you accept that offer ultimately?

MS BANCROFT: No, I didn't accept the offer.

15

MR TERNOVSKI: So what happened?

MS BANCROFT: So I - I spoke to Mr De'Ath and/or Mr Seeley the next day. I said I would have a think about it overnight, spoke to him the next day, declined the offer, and then it was just logistics around notifying my team, and, you know, external communications.

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MR TERNOVSKI: And when did your employment end?

MS BANCROFT: I believe on Friday 21 April.

25

MR TERNOVSKI: So the day after the conversation?

MS BANCROFT: Yes, correct.

30

MR TERNOVSKI: Commissioner, I've got -

COMMISSIONER: Two days after you sent the letter implementing - sorry, one day after you sent the letter implementing the minister's decision, you were called into a meeting which Mr De'Ath and told that your employment was being terminated because there's a union group that's not happy with you, and the next day you were, in fact, terminated?

35

MS BANCROFT: That's correct, Commissioner.

40

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

COMMISSIONER: There's no cross-examination of this witness? Ms Bancroft, thank you very much for your evidence. You're excused.

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MS BANCROFT: Thank you, Commissioner.

<THE WITNESS WAS RELEASED

5 **MR TERNOVSKI:** Commissioner, that concludes the evidence for this instalment of the regulatory capture case study.

COMMISSIONER: What's happening tomorrow?

10 **MR TERNOVSKI:** If you could excuse me for one moment, Commissioner, so I can take instructions.

COMMISSIONER: I think Mr O'Grady knows.

15 **MR O'GRADY:** Mr Hadgkiss and Mr Jenkinson will be coming back for cross-examination.

COMMISSIONER: And you've applied to -

20 **MR O'GRADY:** I've applied to cross-examine both of them.

COMMISSIONER: And there's no objection to that?

25 **MR O'GRADY:** I haven't spoken to counsel assisting who's dealing with that matter, but we haven't been informed of any resistance to that course, and I think you'd foreshadowed when Mr Hadgkiss was here originally that I would have leave to cross-examine him.

30 **COMMISSIONER:** Are you putting on any material to contradict what Mr Hadgkiss or Mr Jenkinson -

35 **MR O'GRADY:** Yes, we are. It's not in the form of a witness statement, Commissioner, but we were required by the Commission by close of business last Friday to put forward any articles or documents that we would want to put before the Commission and take Mr Hadgkiss to. We complied with that direction.

COMMISSIONER: Can you tell me in a general sense, just so I can do some reading tonight, what the subject matter of that material is?

40 **MR O'GRADY:** Well, it goes to a number of topics. It goes to the basis of Mr Hadgkiss' assertion that there was an improvement in productivity during the time of the ABCC. It goes to the assertion by Mr Hadgkiss that there was an improvement in safety when the ABCC was operative. It goes to a number of cases, or two cases in particular, dealing with the way in which Mr Hadgkiss conducted himself when he was the head of the ABCC and the FWBC. In broad
45 compass, Commissioner, that's the nature of what we want to do. But the request for leave to cross-examine actually identifies the topics that we'd seek to cross-examine on, and the documents that we've filed go to those topics.

COMMISSIONER: All right. Well, we'll deal with any issues, if they arise, in the morning. I think - which counsel - that was Mr McLean, wasn't it, who took those witnesses, I think? I'm getting a nod from the back.

5

MR O'GRADY: Yes.

COMMISSIONER: So I guess we'll hear from him tomorrow morning about what he says about your application, but I understand what I said previously and understand what you're saying.

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MR O'GRADY: Thank you, Commissioner.

COMMISSIONER: Is there anything else to do this afternoon, Mr Ternovski?

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MR TERNOVSKI: Not from our end.

COMMISSIONER: Mr de Jersey?

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MR DE JERSEY: No, Commissioner.

COMMISSIONER: Mr O'Grady? All right. We'll adjourn till 10 am tomorrow morning.

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<THE HEARING ADJOURNED AT 3.28 PM