



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

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

**PUBLIC HEARING
BRISBANE MAGISTRATES COURTS**

**WEDNESDAY, 26 AUGUST 2026
AT 10.00 AM**

DAY 46

APPEARANCES

**Mr S Wood AM KC – Commissioner
Mr P Wheelahan KC – Counsel Assisting
Mr S Jenkins – Counsel Assisting
Mr D de Jersey KC with Ms M Forrest – Counsel for the State of Queensland
Mr C O'Grady KC with Ms F Fox and Ms A Hughes - Counsel for the CFMEU
Administration
Mr A Duffy and Ms K Hillard – Counsel for Grace Grace**

<THE HEARING RESUMED AT 10.00 AM

COMMISSIONER: We'll deal with appearances. Mr Wheelahan, you appear with Mr Jenkins as counsel assisting?

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MR WHEELAHAN: Yes, Commissioner.

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

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MR O'GRADY: Yes, Commissioner.

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

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MR DE JERSEY: Yes, Commissioner.

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

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MR DUFFY: That's so.

COMMISSIONER: Thank you. Mr Wheelahan, where are we? I see a familiar face has made his way into the witness box, so that might answer my question.

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MR WHEELAHAN: Yes. Mr Irving would like to be re-affirmed before we proceed with his evidence.

COMMISSIONER: Very well.

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<MARK IRVING, RE-AFFIRMED

<EXAMINATION BY MR WHEELAHAN

MR WHEELAHAN: Your name is Mark Irving, and your current work address is what?

MR IRVING: Owen Dixon Chambers West.

MR WHEELAHAN: And you've prepared a statement in response to a notice which is numbered 2026/26672; is that correct?

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MR IRVING: That is correct.

MR WHEELAHAN: And there is one change that you would like to make to paragraph 2 to that statement, if the operator has that available.

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MR IRVING: I understand the correct date for the ceasing of my service under the federal scheme was 22 May 2026, rather than 1 June.

5 **COMMISSIONER:** What is this document you're talking about, Mr Wheelahan?

MR WHEELAHAN: This is the statement of Mr Irving in response to a notice issued, which I've just identified the number.

10 **COMMISSIONER:** Right.

MR WHEELAHAN: 2026/26672. In hard copy, Commissioner, you will have a folder Mark Irving KC - Tendered and Relevant Documents, and you'll see at tab 4 -

15 **COMMISSIONER:** Is it the witness statement of Mark Irving KC -

MR WHEELAHAN: Dated 19 August.

20 **COMMISSIONER:** - of 19 August 2026?

MR WHEELAHAN: Correct.

25 **COMMISSIONER:** So when Mr Irving was last here, he was examined by Mr Costello?

MR WHEELAHAN: Yes.

30 **COMMISSIONER:** And we received a statement from Mr Irving, which is exhibit MI-1; is that right? And now -

MR WHEELAHAN: Yes.

35 **COMMISSIONER:** - we're going to receive another statement, in effect an updating statement; is that right?

MR WHEELAHAN: Well, it's another statement -

COMMISSIONER: Another statement, all right.

40 **MR WHEELAHAN:** - in response to questions asked of him.

COMMISSIONER: Right. I see.

45 **MR WHEELAHAN:** Which - I'll go to the notice in due course.

COMMISSIONER: All right. So just tell me what - we're just making some amendment to paragraph 2, are we?

MR WHEELAHAN: Correct. So the date, Mr Irving, 1 June 2026, you want to change to what date?

5 **MR IRVING:** 22 May 2026.

MR WHEELAHAN: Now, another change to the statement is, Mr Operator, paragraph 17(c). There's a redaction. If we can just bring that on screen. Page 518 of the bundle, but paragraph 17(c). You've made that redaction, Mr Irving;
10 correct?

MR IRVING: Well, that redaction's been made. I understand it was the subject of discussion between counsel, and that was the end result of the discussion, so -

15 **MR WHEELAHAN:** But it's your statement, and it's going to be tendered with that redaction.

MR IRVING: Well, there's - my statement's true and correct in every part of it, without that sentence or with that sentence, so -
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MR WHEELAHAN: Yes. Okay. I'm just showing it to you because it's going to be tendered with that redaction made, and you accept that redaction?

MR IRVING: I'm happy to accept that redaction.
25

MR WHEELAHAN: All right.

COMMISSIONER: I think the witness is saying it doesn't affect the truth of the remainder.
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MR WHEELAHAN: Correct. Correct. And I'm not suggesting that it does. And then Annexure 03 is also redacted, and you accept that redaction as a result of discussions between counsel which you've said?

35 **MR IRVING:** Yes, yes. Correct.

MR WHEELAHAN: Is the statement true and correct in every particular?

MR IRVING: It is.
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MR WHEELAHAN: I tender that statement and the annexures, Commissioner. Your folder, Commissioner -

COMMISSIONER: Sorry, I just missed that. What did you say?
45

MR WHEELAHAN: Your folder, it's tab 4.

COMMISSIONER: I've got it.

MR WHEELAHAN: Yes.

5 **COMMISSIONER:** How many annexures are there? Five?

MR WHEELAHAN: Yes, and it goes to 297 pages.

10 **COMMISSIONER:** Are there any objections to the tender of this statement of Mr Irving? Statement of Mark Irving KC, 19 August 2026, 15 pages, 36 paragraphs, with five annexures, as amended just now in the witness box at paragraph 2(a) and with the last sentence of paragraph 17(c) redacted and Annexure 03 redacted, will be exhibit MI - what number are we up to? 4. MI-4. Thank you.

15 **<EXHIBIT MI-4 STATEMENT OF MARK IRVING KC, 19/8/2026, 15 PAGES, 36 PARAGRAPHS, WITH FIVE ANNEXURES, AS AMENDED IN WITNESS BOX AT PARAGRAPH 2(A) AND WITH LAST SENTENCE OF PARAGRAPH 17(C) REDACTED AND ANNEXURE 03 REDACTED**

20 **MR WHEELAHAN:** Mr Irving, are you currently engaged by the administrator in any capacity?

25 **MR IRVING:** I became a member of the Victorian Bar last week, I think on Friday, about the 20th or thereabouts. They retained me - they've got a retainer with me to do a number of tasks. They've got a retainer with me to do a number of tasks for them.

30 **MR WHEELAHAN:** As an independent barrister?

MR IRVING: As an independent barrister.

35 **MR WHEELAHAN:** And up until last week, were you retained in any capacity by the administrator after you ceased to be the administrator?

40 **MR IRVING:** Okay. So what occurred was, I held three offices: federal office, New South Wales office, Queensland office. I ceased to hold the - I ceased to hold the federal office on about 22 May. I ceased to hold the New South Wales office some time in mid-June. I ceased to hold the Queensland office on about 1 July. And between 1 July and 20 August, I was engaged as an in-house counsel, waiting for my return back to the Victorian Bar.

45 **MR WHEELAHAN:** Right. Now, Mr Operator, can you please bring notice number 26672. There is a supplementary folder to make it easier to bring these documents up. It's called a supplementary tender bundle, Commissioner. You should have a hard copy.

COMMISSIONER: I've got that. Thank you.

MR WHEELAHAN: And if we perhaps work through that, it will be a lot easier. So Mr Operator, if you bring up for Mr Irving page 3. Now, Mr Irving -

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MR IRVING: Is it possible for me to have a hard copy?

MR WHEELAHAN: I was about to offer you.

10 **MR IRVING:** That would be lovely. Thank you very much.

MR WHEELAHAN: Whatever is easier for you. That should go to the -

MR IRVING: Great.

15

MR WHEELAHAN: If you can turn to page 3.

MR IRVING: Yes.

20 **MR WHEELAHAN:** This was the notice issued to you, Requirement to Give Information in a Written Statement, of 7 August 2026.

MR IRVING: Yes.

25 **MR WHEELAHAN:** And it's in response to this notice that you have provided the statement that's just been tendered -

MR IRVING: Yes.

30 **MR WHEELAHAN:** - dated 19 August 2026.

MR IRVING: Yes.

35 **MR WHEELAHAN:** Mr Operator, could you turn to page 5 of the tender bundle, please. And if you could enlarge under the heading Youth Crew paragraph M. You were asked in this notice, to the extent you were able to, firstly, answer, what is the Youth Crew; correct?

MR IRVING: Yes.

40

MR WHEELAHAN: Yes. And your written response at paragraph 33 was as follows:

45 "In my role as administrator, I have gathered limited information regarding..."

COMMISSIONER: Perhaps we can just wait for that to come up on the screen, paragraph 33.

MR WHEELAHAN: Sorry, Mr Operator. We'll be moving between the statement and this document. So MI-5, Mr Operator, is the statement of Mr Irving.

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COMMISSIONER: MI-5 or MI-4?

MR WHEELAHAN: Sorry, MI-4. Do you have that?

10 **OPERATOR:** What paragraph, sorry?

MR WHEELAHAN: 33.

COMMISSIONER: 33.

15

MR WHEELAHAN: Can you enlarge that, please, Mr Operator. So your response to that was:

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"In my role as administrator I have gathered limited information regarding the Youth Crew and cannot comment on each of those matters identified in the notice."

25

MR IRVING: Well, I think all of the answer that I gave in paragraph 33, 34, 35 and 36 are answers to - I was telling you everything I know about the Youth Crew.

MR WHEELAHAN: All right.

MR IRVING: So -

30 **MR WHEELAHAN:** Well, let's go through the questions asked of you.

COMMISSIONER: Is the Youth Crew - I know - I understand what you're saying in paragraph 34: the Youth Crew doesn't have formal status within the union's rules. Is it just a creature of the Queensland branch of the CFMEU, or has it got a broader remit?

35

MR IRVING: I do not know - does it have broader remit? I don't know. I doubt it. In each - each union of significant size has, like, you know, youth group in church. You have churches of different size; you have youth group. And how they operate from place to place differs. I don't know whether or not there is a similar structure in the Victorian branch, the largest branch. It would surprise me if there wasn't. You know, there's a retired members' group that gets together for lunches now and again. There is - you know, there's a women's group that - and no doubt there's the youth group as well, whether or not it's called Youth Crew or whatever it is.

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45

My engagement with the Youth Crew aspects in each of the states consists of about 20 minutes of consideration over the course of two years. It's just of all of the matters which were on my plate, it was relatively minor. I became aware of the problem as a result of what was written in the Watson Report and turned my mind to what should be done at that time about Queensland, and I'm happy to share that sort of information. But in answer to your question: is it a specific Queensland thing? There is no national youth group of the CFMEU, but in each state, each of the larger states - New South Wales, Victoria, Queensland - there will be such a group. I doubt whether or not there's such a group in South Australia. Possibly in Western Australia. Don't know.

COMMISSIONER: Mr Wheelahan will tell me if I'm wrong about, this, but I thought this Commission was specifically required to inquire into the so-called Youth Crew in Queensland, and my own knowledge of the operations of the union, which are far more limited than yours, I couldn't remember ever coming across another thing called the Youth Crew within the CFMEU in other states, but that -

MR IRVING: Nor can I. But it would surprise me if there was not a - some sort of youth development program in larger states, as there is for many of the unions, etcetera.

COMMISSIONER: I understand.

MR IRVING: But there will be people within the CFMEU, particularly in Queensland, who know - who know about its operation and are intimate with its operation and have been to its meetings and - and the like.

MR WHEELAHAN: Mr Irving, you said before - I just want to correct you - the youth group. That's just a slip of the tongue; you know it's the Youth Crew?

MR IRVING: Sorry, when I said the youth group, I was referring to in churches, there is often a youth group, and, you know, there's a Young Liberals group, there's a Young Labor crew, there's a Youth Crew, there's a youth group. They're all creatures of similar nature in that they're loose organisations associated with and led by folk within the overarching organisation, furthering the functions of the organisation and capturing and encouraging the zeal of youth and nurturing future leaders. Of course, if they're led by people with incorrect values, then what they will nurture is perverted - perverted values leading to undesirable outcomes. And that is true, you know, in all manner of youth groups.

MR WHEELAHAN: So the terms of reference of this Commission, commencing 1 August 2025, at 3(a)(x) are as follows, to inquire into:

"The sub-branch of the CFMEU known as 'the Youth Crew', and whether members of that entity were involved in misconduct and whether that entity should be wound up."

I take it you read the terms of reference of this Commission of Inquiry whilst you were the administrator?

5 **MR IRVING:** I did.

MR WHEELAHAN: And you gave instructions to Mr Watson to provide a report into not only Queensland but the Victorian CFMEU?

10 **MR IRVING:** Yes.

MR WHEELAHAN: Yes. And I'll go to it later, but you're aware that Mr Watson deals in some detail with the Youth Crew?

15 **MR IRVING:** In his Queensland report?

MR WHEELAHAN: The Queensland report. I'll be taking you to the parts of it.

20 **MR IRVING:** Okay. Yes.

MR WHEELAHAN: And is it your evidence that despite all of this, and whilst you were 22 months in the job of administrator, how long did you spend looking into the Youth Crew?

25 **MR IRVING:** 10 minutes.

MR WHEELAHAN: 10 minutes?

30 **MR IRVING:** 10, 20 minutes.

MR WHEELAHAN: All right.

35 **MR IRVING:** Could I just clarify a couple of things? The terms of reference refer to a sub-branch. There is no sub-branch. There is no sub-branch of the Youth Crew. Second, the CFMEU have engaged a team to respond to and - appear in the Royal Commission. And part of the function of that team is to, you know, provide whatever documents are asked and collate whatever information is required and that sort of thing, not to run a concurrent operation shadowing the Commission of Inquiry, looking at each of the aspects that the
40 Commission of Inquiry is conducting and doing the same.

MR WHEELAHAN: So in the notice, if we bring that up, please. This is the first question:

45 "What is the Youth Crew?"

Is it your evidence today you cannot tell the Commissioner what is the Youth Crew?

5 **MR IRVING:** Yes, I can tell the Commissioner this: the Youth Crew is not a branch and is not a sub-branch of the CFMEU, either in its federal or state operations. The Youth Crew is not a - not a body created pursuant to or under the rules of the CFMEU and has no status under the CFMEU. I understand that the Youth Crew is the youth wing, if one likes, of the Queensland branch of the CFMEU, or a collection of some of the folk who wished to, you know, engage in
10 CFMEU affairs or those sort of things. I - I haven't read any minutes of any of these meetings. I haven't gone to any of these meetings. I don't - I haven't engaged at that level with things at that granular detail.

15 **MR WHEELAHAN:** So although not in your written statement, when we focus on this question, "What is the Youth Crew?", did you just say that it's a collection of individuals, as you understand it, in Queensland associated with what is called the Youth Crew?

20 **MR IRVING:** Yeah. I mean - I mean, I'm inferring that fact from a number of other facts that I know about, which I can lay out for you, but it's an informal collection of - you know, it's a meeting of folk on a regular basis.

COMMISSIONER: Informal collection of what? What did you say after that?

25 **MR IRVING:** Well, it's - I mean, it's - I would infer that if it were like any other youth groups that I was members of when I was a youngster, it'll be some members of the CFMEU who are under the age of whatever, 35 or however they want to define youth, or however they want to accept as youth, and perhaps fellow travellers. You know, I doubt - it would be very surprising to me if these
30 were - there was any sort of strict eligibility criteria applied to these sorts of things. If somebody else was curious about, you know, discussions about how to change the world, they might come along.

35 **COMMISSIONER:** I'm a member of a club in which there are youth - there's a youth group, and there's a tripartite method of determining whether one is young, and it's either you're under 40, (2) you've been a member of the club for less than two years, or (3) in the opinion of the committee you should be considered young.

40 **MR WHEELAHAN:** (Indistinct).

MR IRVING: I don't think we should go there.

MR WHEELAHAN: You were asked in the notice: what is the purpose of the Youth Crew? And again, you didn't answer that in your written statement.
45

MR O'GRADY: Could I object to this line of questioning, Commissioner, on a number of bases. Firstly, what Mr Irving has said in his statement is that the

Youth Crew does not have formal status within the union rules. He's made it pretty clear what the nature of the group is. Now, in those circumstances, to suggest, "Well, you haven't told us what the purpose is," presupposes that there is some formal status that the Youth Crew has, and Mr Irving, as he's just explained,
5 the Youth Crew doesn't have a formal status, as far as he knows. And of course, the function of his statement is to relay what he understands to be the position as opposed to go out and make inquiries about things.

10 **COMMISSIONER:** But won't he just say, "I don't know what the purpose is because of its informal status"? He's able to answer that, isn't he?

MR O'GRADY: He's indicated he's got limited knowledge, and I don't object to Mr Irving being asked, "Well, why didn't you say that?" What I do object to is some suggestion that Mr Irving hasn't been frank in his statement, because in my
15 respectful submission -

COMMISSIONER: I don't think that's been put, and if it is put, we know - we can see from what Mr Irving said previously, this morning, what his answer to that will be.
20

MR O'GRADY: Yes, Commissioner.

MR WHEELAHAN: I'll ask the question again. In the notice, you were asked at part M2:
25

"What was the purpose of the Youth Crew?"

And as a matter of fact, you did not answer that question in your statement.

30 **MR IRVING:** I don't think that's quite right. It might not have been answered in the way that you wished it to be answered. What had occurred in relation to the Youth Crew arising from the Watson Report was the Youth Crew had been led by Jade Ingham in a particular way - it was apparent - that was inappropriate. Let's put it that way. A question arose in my mind at the time, around the time I
35 received the report, is, well, shouldn't we just wind this thing up? Or should we repurpose it and use it as a vehicle for change within the organisation? For if it is the case that the CFMEU is going to, when it comes out of administration, adopt and inculcate and embrace a certain set of values, it is necessary that the future leaders receive training and understanding and guidance in that.
40

And so when I said, while I had cause to consider whether or not the Youth Crew should be disbanded, I considered the Youth Crew can, like other parts of the union, be used as an instrument for change, that is, the Youth Crew should be seen as an opportunity to instil a culture within the young activists within the union
45 who are the next generation of leaders respecting the values the administration considers should be the foundation of ethically based principled unionism. What is the purpose of the Youth Crew? That is the purpose of the Youth Crew. So it

doesn't start with "I consider the purpose of the Youth Crew to be as follows", but rather, I was - I accepted that it should continue to operate for that purpose.

5 **MR WHEELAHAN:** So my first question this morning is "What is the Youth Crew?" And you've gone on to give the answer in your statement that you gave consideration to disbanding it.

MR IRVING: Yeah.

10 **MR WHEELAHAN:** Which necessarily means you should be able to answer the first question of "What is the Youth Crew?" rather than what it is not.

15 **MR IRVING:** The Youth - well, the Youth Crew, as I said, is - it's a meeting of CFMEU-associated fellow travellers, led by CFMEU folk, you know, within the CFMEU umbrella, for want of a wildly legally vague phrase. And, you know, if the CFMEU in those circumstances said to its young members and its fellow travellers, "We're not going to have any meetings any more. We're not going to" - you know, I don't know whether or not these people get pizzas and doughnuts for their meeting or whether or not they get a meeting hall or whether or not they
20 have beers or whatever it is they do.

But if the CFMEU said, "We're not involved in any way, shape or form with the Youth Crew any more," that would have the effect of taking it from within the CFMEU umbrella of having CFMEU folk be involved in and organising it to
25 outside. Of course, all that would mean is those folk would find another forum through which to agitate their means, and that might be via, you know, Mr Ingham and his influences or elsewhere.

30 **COMMISSIONER:** I think the witness is saying, Mr Wheelahan, he doesn't really know, because of its - the informality of this association of persons, what the purpose of it was, other than he could observe it was behaving inappropriately, to use the most favourable description of its behaviour, and whatever purpose it should have, he resolved to try to ensure that its behaviours were appropriate, and -

35 **MR WHEELAHAN:** Let me ask this question, then. As lawyers we're a bit pedantic, and maybe Mr Irving misunderstood the questions asked of him, but they were past tense in the second one of "what was the purposes of the Youth Crew", and I want to tell you, Mr Irving, that there's a witness statement of Ms Stacey Schinnerl, which is exhibit SLS-1. That evidence of Ms Schinnerl has not been
40 the subject of challenge, and at paragraph 121 - and I'll just read it for you; we don't need to go to it - she says:

45 "I've been told that there have been Youth Crew meetings dedicated to planning attacks on the AWU."

Is that news to you?

MR IRVING: That Stacey said that, or that there were such meetings?

MR WHEELAHAN: Yes. Firstly that Stacey Schinnerl said that.

5

MR IRVING: No.

MR WHEELAHAN: It's not news to you?

10 **MR IRVING:** No.

MR WHEELAHAN: All right. Do you accept that as a fact? Did you make any investigations into that?

15 **MR IRVING:** Yeah. I commissioned Watson.

MR WHEELAHAN: Yes. And so therefore, do you agree with Ms Schinnerl's evidence, based on what's been provided to you, that the Youth Crew meetings dedicated to plan attacks on the AWU?

20

MR IRVING: Well, that's not what she said, but I - look, I - Stacey's a person that I've had a number of dealings with, and I - you know, she has had more experience in the Queensland industrial relations sphere pre-August 2024 than I have. Indeed, she's had the advantage of having direct experience. There, she's speaking about indirect experience, about things she was told, and, you know - and would it surprise me that there was such - that such a thing occurred? No.

25

COMMISSIONER: But you don't know of your own observation or what you were told by people who worked for you during your role as administrator whether what she says occurred actually occurred, that is, that there were meetings of the Youth Crew dedicated - that might be the wrong verb; I can't remember what Mr Wheelahan said - to attacking the AWU. You don't know about that?

30

MR IRVING: No. And it is consistent with what Watson reported, and it is in response to that that we enacted the reforms. Now, unless I - you know, the reforms were necessary because there were wrongs. There were many wrongs. That was one of the wrongs. And, you know, I accepted that and moved on. Now, might it be the case that on full investigation, that that was incorrect? Yes. Might it be the case on full investigation that that is correct? Yes. But there are so - there's a catalogue of so many that even if some of the particulars of the wrongdoing ended up falling away, nevertheless the vast majority of them would justify the reforms that were being effected.

35

40

MR WHEELAHAN: Ms Schinnerl says in the same statement, not challenged, at paragraph 120 - I'll read the quote to you and then ask you a question:

45

5 "I believe Jade Ingham to be the person responsible for coordinating the Youth Crew prior to his removal. It is a breeding ground for future organisers. It is my belief that Youth Crew members are willing to do what Mr Ingham asks of them so that they can secure a role in the CFMEU's structure."

10 That's the quote. My first question to you: in light of your answer that you see the youth group as a vessel, if you like, for the future culture of CFMEU leaders, do you agree with her that the Youth Crew is a breeding ground for future organisers?

COMMISSIONER: Or it was, prior to the administration.

MR WHEELAHAN: No, no, was and is.

15 **COMMISSIONER:** Take each separately.

MR WHEELAHAN: All right, "was".

20 **MR IRVING:** Well, let's say it was. She says that; I've got no reason to doubt that. That is the way youth groups operate within civil society, and so the fact that life operates like that tends to support what Ms Schinnerl says. So that's a further piece of evidence to support her thing. As to the future, I would hope -

25 **COMMISSIONER:** Well, the current -

MR IRVING: Sorry?

COMMISSIONER: I think it's was and is, not the future.

30 **MR IRVING:** Well, "is", as it is, I hope that the Youth Crew, as it currently exists in Queensland and all of the leadership programs and leadership endeavours of the CFMEU will play a role in developing organisers and future leaders of the organisation.

35 **MR WHEELAHAN:** You give that evidence. Can I ask you this: how many - sorry, how many people are in the Youth Crew in Queensland?

40 **MR IRVING:** No idea. I mean, it's - there are - there are mechanisms to identify future leaders, both formal and informal, and to develop current organisers to become - to take on more leadership roles in the future, and the Youth Crew isn't part of any sort of formal mechanism. It's just, I would imagine, an informal means of encouraging, supporting, developing people for the future.

45 **COMMISSIONER:** What about -

MR IRVING: I'm inferring that from my understanding of youth groups generally.

COMMISSIONER: What about the first proposition that Ms Schinnerl advanced in that quote Mr Wheelahan just read out? It seems to be, given your evidence 10 minutes ago, that you agree with it, that it was run by Mr Ingham?

5

MR IRVING: As I understand, that's right, yes. And I think that's - the source of that information, I think, is partly Watson, or partly Schinnerl herself, or partly - I may have been told during the course of the -

10 **COMMISSIONER:** May have, sorry?

MR IRVING: I may have been told during the course of the administration.

15 **COMMISSIONER:** And dealing with the current situation as far as you're aware -

MR IRVING: Yeah?

20 **COMMISSIONER:** - is it still - given its informality, is it still run by Mr Ingham?

MR IRVING: Oh, absolutely not.

25 **COMMISSIONER:** Right.

MR IRVING: Absolutely not. There is - there is no prospect that he would be anywhere near any of this. It would be - you know, the role of Ingham and Ravbar in - in the continuing affairs of the CFMEU, formal and informal, is - you know, it's the role of Martin Luther in the Catholic Church after those Theses were put up. He was a member. He ain't no longer a member. They've got no -

30 **COMMISSIONER:** Martin Luther was pretty influential after he ceased to be a member, though.

35 **MR IRVING:** That's true. He went off and did other things. Maybe that's an inapt analogy. It is - there is no prospect - there is no prospect that he would still be involved.

40 **MR WHEELAHAN:** Do you keep records of who is in the Youth Crew?

MR IRVING: No.

MR WHEELAHAN: Is Mr -

45 **MR IRVING:** Well, sorry, are there records? I doubt it. But it's conceivable. They could be the subject of a notice if they were.

COMMISSIONER: But you're not aware of any?

MR IRVING: No.

5 **MR WHEELAHAN:** Well, it was subject of a notice on screen at M4, for records. So your answer is there are no records?

MR IRVING: To the best of my knowledge, there were none. It's a question which came up as a result of the notice. The legal team responded to that. They
10 would have, I imagine, conducted searches that were available and produced documents that were necessary.

MR WHEELAHAN: And similarly, you were asked who are the leaders of the Youth Crew. You don't know?
15

MR IRVING: No.

COMMISSIONER: Well, I think you - who were the leaders? I think your evidence is that at least Mr Ingham was a leader, maybe the leader, given what
20 you've just said.

MR IRVING: Yeah. Look, I - okay. So I - I approached these questions as things that - I approached these questions in M, starting with the proposition I set out in the first role, is that I know extremely little about the Youth Crew. I've
25 spent more time talking about it here today than I have over the course of the last two years. And when it says "what is" or we start with the current situation, and technically "what was", when? Whilst I was the administrator or prior to me being administrator or 10 years ago? I - you know, I answered that question the best I could, given the limited information I had.

30
COMMISSIONER: But just dealing with it immediately prior to your appointment as administrator, is your evidence, as far as you understand, based on what Mr Watson told you or what Ms Schinnerl told you or what someone else might have told you, that as you understood it then, a leader, the leader of the
35 Youth Crew was Mr Ingham?

MR IRVING: Yes.

40 **COMMISSIONER:** Were there any other persons who were identified by you as a result of your conversations with the people who could give you this information as other leaders of the Youth Crew?

MR IRVING: It would not surprise me that senior members of - young senior members of the CFMEU within Queensland have, during the course of the
45 administration, stepped up. You know, Jared -

COMMISSIONER: Don't worry about that just yet. Just dealing with the point you became administrator, and I know you didn't spend much time on it -

MR IRVING: Yeah.

5

COMMISSIONER: - was there any other name that was told to you as a leader of the Youth Crew other than Mr Ingham?

MR IRVING: No.

10

COMMISSIONER: Right. And now you're going to deal with the leadership of the Youth Crew during your administration?

MR IRVING: Yeah. And I should say, you know, 99 per cent of the power was effected via - the effective power of the organisation was via BCOM and elected positions, and Ingham and Ravbar were in charge of that.

15

COMMISSIONER: BCOM is the branch committee of management?

MR IRVING: Branch committee of management, yeah. There were - I mean, the amount of power which was exercised, I would imagine, via the Youth Crew would have been minor and incidental.

20

MR WHEELAHAN: Sorry, what was that? Minor and incidental?

25

MR IRVING: I would have mentioned the type of power that was - you know, for me, the power within the organisation flowed from the committee of management and the elected positions. I mean, the only reason that Youth Crew would have existed is that branch committee of management, and the elected officers would have embraced/supported the notion of it being - being run. So it's - it's really an organisation that I would contemplate would be - you know, it's under the umbrella of the CFMEU and supported by the leadership of the CFMEU, and that's why it's able to exist.

30

MR WHEELAHAN: So it's supported by the leadership of the CFMEU and it's under their umbrella, the Youth Crew. Is that your evidence?

35

MR IRVING: I would imagine so, yes. I should say that there's probably minutes about this if - or even better, you might need to ask someone who knows about these things.

40

COMMISSIONER: Who's that, do you think?

MR IRVING: I mean, at some stage or another I would imagine Mr Abbott is going to come along and give evidence. He might be the appropriate person to be able to give far more detailed answers than I can.

45

MR WHEELAHAN: So the questions at 7 and 8 - or before I do that, is Mr Ingham still a member of the CFMEU?

MR IRVING: Yes.

5

MR WHEELAHAN: He is?

MR IRVING: Yes.

10 **MR WHEELAHAN:** And Mr Ravbar's still a member?

MR IRVING: Yes.

15 **MR WHEELAHAN:** If I can have brought on screen, Mr Irving, and if you could turn to the supplementary tender bundle at page 6. Mr Operator, can you bring that on screen, please. This was printed this morning: the CFMEU Youth Crew. Is it on screen? Yes.

MR IRVING: Oh, wow.

20

MR WHEELAHAN: Terrific, isn't it? So look at the left-hand side.

COMMISSIONER: So printed where?

25 **MR WHEELAHAN:** This morning. It's online now.

MR IRVING: Where?

30 **MR WHEELAHAN:** Pardon? I'll ask the questions. It's a screenshot. I'll describe the document to you, and I'll enlarge it. Mr Operator, enlarge Intro, please. To the left. I'll read it. Are you unable to do that on screenshots? Right:

35 "The CFMEU Qld/NT Youth Committee is made up of passionate young members of our branch. Authorised by Michael Ravbar, Divisional Branch Secretary."

MR O'GRADY: Commissioner, in fairness to the witness, perhaps the date above the photo should also be highlighted.

40 **MR WHEELAHAN:** I'm going to do - I'm always fair to a witness, Commissioner.

COMMISSIONER: Mr O'Grady has just objected on the basis that you're not, so -

45

MR WHEELAHAN: I know that.

COMMISSIONER: - I don't think it's an answer to say you're always fair.

MR WHEELAHAN: Now, I haven't finished the question yet. So reduce it. We see the date, the last post being 2 March 2022. So when you were asked about
5 who were the leaders of the Youth Crew -

MR IRVING: Yes.

MR WHEELAHAN: - do you have any knowledge of Mr - I think you've
10 accepted Mr Ingham was - that Mr Ravbar was as well?

MR IRVING: Yes, indirectly via his leadership position within the CFMEU.

MR WHEELAHAN: Now, both Mr Ravbar -
15

MR IRVING: Sorry, you've shown me a document. Was that something that you created this morning? Are you going to identify its source?

MR WHEELAHAN: I thought I did create - identify the source. Perhaps you didn't hear me. No, it's not "created". This - I'll tender it, Commissioner. What I'll do is I'll identify it for the purposes of tender. This is the current page of the CFMEU Youth Crew, as titled, and it's a screenshot.
20

MR IRVING: Okay. Well done.
25

MR O'GRADY: With respect -

MR WHEELAHAN: It's got the address up the top left:
facebook.com/CFMEUQNTyouth/.
30

COMMISSIONER: So you want to object to something, Mr O'Grady?

MR O'GRADY: Yes, Commissioner. To describe it as the current page of the Youth Crew, in my respectful submission, suggests that the Youth Crew has its
35 own website or something along those lines. It's a Facebook page.

MR WHEELAHAN: I'll accept that. I'll just identify the document for what it is. When I say "current", it's online now, and it's just put in there so that I could put the question to Mr Irving, was he aware that Mr Ravbar was controlling the Youth Crew, to which I believe you said yes, historically?
40

COMMISSIONER: He says he was indirectly one of the leaders.

MR IRVING: Sorry, I just want to clarify. You put this document to clarify that
45 Mr Ravbar was, prior to 2024, controlling the youth group, or you put the document - you put the questions to raise whether or not Mr Ravbar now has any influence, control or involvement in the youth group?

MR WHEELAHAN: No, the document is premised on - if we go back to the notice. The notice asked you, "Who were the leaders of the CFMEU Youth Crew?" And you were unable to answer that in your written statement; correct?

5

MR IRVING: I was - yes.

MR WHEELAHAN: Yes. And so what I'm showing you now is something that exists online as of this morning.

10

MR IRVING: Yeah.

MR WHEELAHAN: And after having shown it to you, Mr Irving, I've asked you the question: do you know whether Mr Ravbar was in charge of the Youth Crew?

15

COMMISSIONER: I think he's answered that question. He said -

MR IRVING: Yeah. And with respect, in fairness, I should be able to respond to what has occurred.

20

COMMISSIONER: Really? Can't you just answer the question, which you've already done?

25 **MR IRVING:** All right. Fire away.

COMMISSIONER: And you've said, as I understand your evidence - I mean, Mr O'Grady will be able to ask you questions, but isn't the gravamen of your evidence that this body was, as far as you understood it, at the point at which you became the administrator, a highly informal collection of persons associated with the CFMEU in Queensland, and as far as you were aware, and your awareness is based on what people told you, it was led by Mr Ingham, and you have added to that evidence by saying it was indirectly controlled by Mr Ravbar.

30

35 **MR IRVING:** Yeah. Okay.

COMMISSIONER: That seems to be the evidence.

MR WHEELAHAN: And the final question I asked of you is whether you knew who controlled it now, and you said no.

40

MR IRVING: Oh yeah, I do.

MR WHEELAHAN: You do know who controls the Youth Crew?

45

MR IRVING: Yeah. Yes.

MR WHEELAHAN: Who are the leaders?

5 **MR IRVING:** The administrator. So the - the Youth Crew operates under the umbrella of the CFMEU. And as I explained in my statement, I had cause to consider whether the Youth Crew should be disbanded. That is because the administrator had the effective power to do so, and I considered the Youth Crew can, like other parts of the union, under the control of the administrator, be used by the administrator as an instrument for change, in the furtherance of the purposes of the administration, that is, the Youth Crew should be seen as an opportunity of the
10 administration to instil a culture within the young activists within the union who are the next generation, etcetera.

MR WHEELAHAN: So does that mean -

15 **MR IRVING:** As to who turns up at the meetings - as to who turns up at the meetings - I do not know.

MR WHEELAHAN: So does that mean you were in control of the Youth Crew up until your time as administrator ceased?
20

MR IRVING: All of - under the administration, I had the power to control every aspect of the union's operations, direct and indirect, formal and informal, all the way down to every minuscule transaction and conversation. All of the authority was vested by Parliament in me. Did I control every single transaction, every
25 single statement, every utterance of a word or raise of an eyebrow? No, I did not.

MR WHEELAHAN: Well, who were the leaders below the administrator that did control their activities?

30 **MR IRVING:** So -

MR WHEELAHAN: Of the Youth Crew. Of the Youth Crew.

MR IRVING: Okay. So the most direct person would have been the branch
35 executive officer appointed by the administrator in relation to Queensland.

MR WHEELAHAN: Name, please?

40 **MR IRVING:** Jared Abbott. And he no doubt would have appointed others underneath him to engage in the conduct of the Youth Crew. I do not know who he engaged.

MR WHEELAHAN: When did Jared Abbott commence?

45 **MR IRVING:** February 2025.

MR WHEELAHAN: All right.

MR IRVING: Thereabouts.

5 **MR WHEELAHAN:** Mr Operator, if you could go to the next page in the supplementary bundle, page 7.

10 **COMMISSIONER:** So is the point, Mr Wheelahan, that whoever it is that was given the responsibility to reform the so-called Youth Crew, whether it was Mr Abbott or someone underneath him, he hasn't done a very good job cleaning up the Facebook page? Is that what -

MR WHEELAHAN: Well, it's going to be broader than that.

15 **COMMISSIONER:** All right. Okay. I'll let you -

MR IRVING: Or we've been set up.

COMMISSIONER: Beg your pardon?

20 **MR IRVING:** Or we've been - you or I have been set up over the course of this morning.

COMMISSIONER: Right. I don't know -

25 **MR WHEELAHAN:** I don't understand that. Now, Commissioner, I haven't tendered so far - did we tender that page 6, the CFMEU Youth Crew Facebook -

30 **COMMISSIONER:** How do I describe it? Is it a Facebook page, CFMEU Youth Crew as of this morning?

MR WHEELAHAN: Yes.

COMMISSIONER: Or extract of same?

35 **MR WHEELAHAN:** And I would put the address there at the top left. So if you type that in, that will bring this up.

COMMISSIONER: Are there any objections to that?

40 **MR WHEELAHAN:** MI-5.

COMMISSIONER: Extract of Facebook page CFMEUQNTYouth, extracted - what's the date today?

45 **MR WHEELAHAN:** 26 August.

COMMISSIONER: 26 August 2026, will be exhibit - is this MI-5?

MR WHEELAHAN: Yes.

5 **MR O'GRADY:** Could I raise, as a matter of procedure as much as anything else, in my submission, given that this is a document that Mr Irving is seeking to tender and it's not something that he's seen until this morning, it really should be a counsel assisting document as opposed to an MI.

10 **COMMISSIONER:** What number are we up to?

MR O'GRADY: That's a matter for counsel assisting.

15 **MR WHEELAHAN:** We're just checking. Maybe marked for identification until I come back to you.

COMMISSIONER: All right. You can come back and tell me what the exhibit number should be.

20 **<MF11 EXTRACT OF FACEBOOK PAGE CFMEUQNTYOUTH, EXTRACTED 26/8/2026 MARKED FOR IDENTIFICATION**

MR WHEELAHAN: Yes. Mr Operator, go to page 7, the supplementary tender bundle. You can see that, Mr Irving?

25 **MR IRVING:** Yes.

MR WHEELAHAN: Again, this is a screenshot taken this morning, CFMEUQNT website. See the top left there, with the web address?

30 **MR IRVING:** Yes.

MR WHEELAHAN: And the shop?

35 **MR IRVING:** Yes.

MR WHEELAHAN: And people can purchase CFMEU Youth Crew hoodies -

MR IRVING: Yes.

40 **MR WHEELAHAN:** - in that photo? I can tell you also hats - merchandise.

MR IRVING: Lanyards as well.

45 **MR WHEELAHAN:** Yes. You accept all that?

MR IRVING: I do.

MR WHEELAHAN: I tender that document, too, as a counsel assisting document. I've been handed a note. The previous one should be marked CA-10, being the CFMEU Youth Crew Facebook page.

5 **COMMISSIONER:** Extract of it, yes.

**<EXHIBIT CA-10 EXTRACT OF FACEBOOK PAGE
CFMEUQNTYOUTH, EXTRACTED 26/8/2026**

10 **MR WHEELAHAN:** Yes. And the extract of their online merchandise store, with again the web address in the top left, CFMEUQNT, should be CA-11.

COMMISSIONER: Are there any objections? Extract of Qt.CFMEU.org/shop website showing Youth Crew hoodie and T-shirts for purchase, extracted 26
15 August 2026, will be exhibit CA-11.

**<EXHIBIT CA-11 EXTRACT OF QT.CFMEU.ORG/SHOP WEBSITE
SHOWING YOUTH CREW HOODIE AND T-SHIRTS FOR PURCHASE,
EXTRACTED 26/8/2026**

20 **MR WHEELAHAN:** Mr Irving, I think you said - in response to the notice, you placed some emphasis on paragraph 35 of your statement about, firstly, you considered whether it should be disbanded.

25 **MR IRVING:** Correct.

MR WHEELAHAN: You considered that it could, like other parts of the union, be used as an instrument for change?

30 **MR IRVING:** Correct.

MR WHEELAHAN: And you stated:

35 "The Youth Crew should be seen as an opportunity to instil a culture within the young activists within the union who are the next generation of leaders reflecting the values the administration considers should be the foundation of ethically based, principled unionism."

40 **MR IRVING:** Correct.

MR WHEELAHAN: Mr Operator, can you please turn to page 8 of the supplementary bundle. And if we enlarge so it's readable. This is a report in the Brisbane Times published approximately six months ago.

45 **MR IRVING:** Right.

MR WHEELAHAN: And it involved the rally, you will see there Huge Rally Shouts the Six-Word Chant Queensland Plans to Ban, and you can see the chant in the first photo. I can tell you that that, in fact, is now illegal in Queensland. On or about 9 February or thereabouts, 1,000 protesters descended on King George Square to show their opposition to Israeli President Isaac Herzog's Australian visit. If we go to page 10, under the heading What the LNP and Jewish Leaders Said, if we can enlarge the first paragraph, please, and I'll read it:

10 "Announcing the new laws on Sunday, Attorney-General Deb Frecklington said 'from the river to the sea' was 'horrific', 'offensive', and 'there to incite hate'. 'It means to get rid of all Jews in between,' Frecklington said. 'I don't even like to say it out loud.'"

15 To you agree with those sentiments?

MR O'GRADY: I ask that the witness be given an opportunity to read the article in its entirety before he's asked questions about it.

20 **COMMISSIONER:** Very well. You've got it in a hard copy in front of you, Mr Irving; is that right?

MR IRVING: Yes.

25 **COMMISSIONER:** I've been given something in hard copy.

MR WHEELAHAN: Whilst you're reading it -

MR IRVING: Sorry, where?

30 **MR WHEELAHAN:** See the bottom right, there are red numbers.

MR IRVING: Yes.

35 **MR WHEELAHAN:** It commences at number 8, the Brisbane Times, as you see on screen.

MR IRVING: Sorry, it's on the screen?

40 **MR WHEELAHAN:** No, no, you were given a smaller folder.

MR IRVING: Yep, sure.

45 **COMMISSIONER:** I think Mr Jenkins came over and gave it to you just after you -

MR IRVING: Yes, I have it now.

MR WHEELAHAN: Commissioner, may I sit down while he reads through it?

COMMISSIONER: You may.

5 **MR IRVING:** I've scanned the article. Could you repeat the question?

MR WHEELAHAN: Do you want to read it or scan it?

10 **MR IRVING:** If it's important for me to understand each and every sentence, then I'll - I'll read it all carefully and slowly, but -

MR WHEELAHAN: I don't think it is. Mr O'Grady no doubt will stand up -

15 **MR IRVING:** I've been given the opportunity. I can't complain about lack of opportunity.

20 **MR WHEELAHAN:** Yes. Correct. Now, for completeness, though, because it's not clear on the article, but you need to see the photograph, if you can bring it on screen, Mr Operator, at page 16, which is part of the online article. And this is a photograph taken at that rally. Can you please enlarge, Mr Operator, the middle part, with the Palestinian flag and the - to the left of the "Apartheid Israel" sign. Now, Mr Irving, it's probably easier on screen, but you accept that that is the flag of the CFMEU Youth Crew?

25 **MR IRVING:** I've never seen the flag of the CFMEU Youth Crew, but I assume - I mean, it says CFMEU and it looks like it says "Youth Crew", and it wouldn't surprise me if it were the flag of CFMEU Youth Crew if such a thing exists.

30 **COMMISSIONER:** Looks like it's got the same style of describing the Youth Crew as the T-shirts and the hoodies too.

MR IRVING: Yeah, it does. It does.

35 **MR WHEELAHAN:** Yes. And, Mr Operator, given that answer, if you can bring up page 17, the next page. The source of this photo is intelligence from the Commission.

40 **MR IRVING:** There we go.

MR WHEELAHAN: This photo was taken at the rally. And there's no doubt -

MR IRVING: Yep.

45 **MR WHEELAHAN:** - that on that pole is the Palestinian flag, the CFMEU Youth Crew flag; correct?

MR IRVING: It is pellucid.

COMMISSIONER: Sorry, what did you say?

5 **MR IRVING:** It is pellucid. It is crystal clear.

MR WHEELAHAN: Now, going back to page 10, Mr Operator, the question I put to you, after reading that paragraph - do you want me to read it again, the paragraph to you or -

10

MR IRVING: "Announcing the new laws on Sunday", that paragraph?

MR WHEELAHAN: Yes. And I asked - well, I'll do it again. Deb Frecklington said 'from the river to the sea' was horrific, offensive and there to incite hate:

15

"It means to get rid of all Jews in between,' Frecklington said. 'I don't even like to say it out loud.'"

Now, because it's the same question, if you then go down four paragraphs, Mr Operator, to where the quote, again "from the river to the sea":

20

"From the river to the sea" is from the Jordan River..."

That paragraph, thank you:

25

"...to the Mediterranean Sea, there will be no Jews. 'That is the Hamas battle cry: no Jews,' Steinberg said. 'Israel is the land of the Jewish people, the ancestral homeland of the Jews.'"

30 Now, my question, first dealing with the Attorney-General's statements, do you agree with those statements?

MR IRVING: I - I agree that the elected people of Queensland have the right to choose their representatives to pass laws about these matters. It's part of their remit, and when the laws are passed, people should comply with them.

35

MR WHEELAHAN: That's - that's not - maybe you misunderstood my question.

MR O'GRADY: I'm going to object, Commissioner. We might avoid that. With respect, Mr Irving is not here to be cross-examined as to his views about Palestine or Israel or -

40

MR WHEELAHAN: I'll withdraw the question, Commissioner. Let me ask another question. What I read to you from the Attorney-General, river to the sea, horrific, offensive, there to incite hate and so forth, is that something that you want Youth Crew activists to be associated with?

45

MR O'GRADY: Well, again, I have to object, I'm sorry, Commissioner. At the moment, we don't know who's holding the flag. We don't know when the flag was purchased. We don't know whether they're actually members of the CFMEU Youth Crew or have ever been members of the CFMEU Youth Crew. I can
5 indicate to the Commission that that flag is no longer available for sale.

COMMISSIONER: Which flag?

MR O'GRADY: The CFMEU Youth Crew flag. It's no longer available for sale
10 on the CFMEU website.

COMMISSIONER: The one that is attached to the Palestinian flag or the -

MR O'GRADY: Yes. So as I understand it, we no longer have that flag
15 available. But that's really beside the point. The key point is the fact you've got somebody using a flag that might have been purchased 10 years ago says nothing about Mr Irving's views with respect to the Youth Crew and can't -

COMMISSIONER: I just - sorry, you go.
20

MR O'GRADY: I'm sorry - and really can't sensibly assist the Commission, with respect.

COMMISSIONER: Just go back to the flag for a moment. Just explain to me
25 what you're saying. Just go back to the photo of the flag. Are they - when you say the flag is no longer available, are they two flags there? Is that what you're saying? Or was the flag with the Palestinian flag once available or purchase?

MR O'GRADY: My understanding, and this is just from a web search we've
30 done this morning, because we weren't shown any of these documents before you just came onto the bench, but that flag is no longer - the CFMEU Youth Crew flag, by itself, is no longer available for sale on the website. But that's not the real point. The real point, Commissioner, is we don't know who's holding it, when they got it, whether they've ever had any association with the CFMEU. They
35 might have thought - they might be somebody who just thought that the CFMEU Youth Crew, at the time that it was under the control of Mr Ingham, was something to be emulated, and they thought it was cool to have a flag like that at a rally like this. It doesn't assist the Commission, in our respectful submission, and it's not something that this witness should be questioned about.
40

MR WHEELAHAN: Commissioner, it does assist. I think my learned friend completely misunderstands the question. So it's not whether the CFMEU Youth Crew -

COMMISSIONER: It's so long ago I've forgotten the question, so you just have
45 to remind me what the question is.

MR WHEELAHAN: I know, I have to go back to it. So let me try and assist you. So paragraph 35 - and this is dealing with is the objection - Mr Irving has said:

5 "The Youth Crew should be seen as an opportunity to instil a culture within the activists within the union who are the next generation of leaders..."

And it goes on. So the question for him is this - whether they were there or not, but there's the CFMEU Youth Crew - is this what you want your Youth Crew
10 activists to be associated with? Now, to answer that question, it's irrelevant whether Youth Crew actual members were there or not.

COMMISSIONER: I think that's a reasonable response to your objection, isn't it, Mr O'Grady? He's just -

15 **MR O'GRADY:** Well, perhaps if I can take it in parts.

COMMISSIONER: Because Mr Irving might say it's up to - Mr Irving might say, "It's up to people who are members of the Youth Crew to exercise their right
20 of free expression and they're free to do whatever they like on a Sunday and it's none of my business." Or he might say, "I don't think they should be associated with this sort of protest," or he might say, "It's none of my business." I mean -

MR O'GRADY: Sorry, and my point is we don't know whether any this of these
25 people are associated with the Youth Crew. You know, it may well be that there are young people who have a particular view about Palestine who want to - who think that it is cool to have a CFMEU Youth Crew flag. That, in my respectful submission, says nothing about what Mr Irving is attempting to do and what Mr Irving has said in paragraph 35 of his statement. And as the Commission would
30 be aware, there have been numerous rallies in respect of the issues concerning Gaza and Palestine across the country for a number of years, and a lot of young people have attended those rallies over time. In my submission, Mr Irving's not here to be cross-examined as to his political views.

35 **COMMISSIONER:** No, it's not his political views. It's whether, in his view, this informal sub-branch of the members, which he's trying to reform, should be associated with this protest, and the answer might be, "It's none of my business." It might be "they should", "they shouldn't be". I just -

40 **MR O'GRADY:** I can't take it any further, Commissioner. I've made the objection, and I'll obviously abide by your ruling. I accept Mr Irving can answer for himself.

COMMISSIONER: Do you want the question again, Mr Irving?
45

MR IRVING: Oh, yes, please.

MR WHEELAHAN: Ms Deb Frecklington said as follows:

5 '"From river to the sea' was horrific, offensive and there to incite hate. 'It means to get rid of all Jews in between,' Frecklington said. 'I don't even like to say it out loud.'"

10 Now, at this protest, with the CFMEU Youth Crew flag - the question is premised on your statement of the young activists within the union who are the next generation of leaders - is this something that you would wish that they be associated with or not?

15 **MR IRVING:** I - I would not wish the CFMEU in any of its forms, including the Youth Crew, in Queensland, to be associated with anything involving things that are there to incite hate against Jews and Israelis, or against Palestinians, or against
15 Aboriginals, or against One Nation members, or against AWU, or against any group in society. I don't think that - nor to engage in horrific or offensive conduct. They shouldn't be activities that the CFMEU in any of its forms should be engaged in.

20 Now, I understand that views differ heatedly within society as to - as to (a) the meaning of that phrase and (b) the virtues and vices of various positions in the Middle East, and the CFMEU stands with its Palestinian members, it stands with its Jewish members, it stands with all members who are the subject of maltreatment and racism throughout Australia. Now, it's - during the course that I
25 was administrator, I sought to make sure that I did not use the CFMEU and its resources to pursue my personal political party preferences or predilections in any way and didn't seek to impose them on others.

30 **MR WHEELAHAN:** Commissioner, I'd like to tender - and it's pages 8 through to - this is of the bundle - 16 of the Brisbane Times article. I just preface that by saying that the photo at page 17 is a separately obtained photo.

COMMISSIONER: Let's just deal with one at a time.

35 **MR WHEELAHAN:** Correct.

40 **COMMISSIONER:** Is there any objection to the Brisbane Times article? No? Article entitled Huge Rally Shouts the Six-Word Chant Queensland Plans to Ban, Courtney Kruk and William Davis, published Brisbane Times February 9, 2026, updated February 10, 2026 1.47 pm will be exhibit CA-12.

45 <EXHIBIT CA-12 ARTICLE ENTITLED HUGE RALLY SHOUTS THE SIX-WORD CHANT QUEENSLAND PLANS TO BAN, COURTNEY KRUK AND WILLIAM DAVIS, PUBLISHED BRISBANE TIMES 9/2/2026, UPDATED 10/2/2026 1.47 PM

COMMISSIONER: And the photos?

MR WHEELAHAN: There's the photo - sorry, CA-12 that you just marked encompassed a page 16 photo.

5 **COMMISSIONER:** Sorry, it did?

MR WHEELAHAN: Did it?

10 **COMMISSIONER:** Is that part of the article?

MR WHEELAHAN: Yes, it's come from the Brisbane Times.

COMMISSIONER: That photo was part of the article, was it?

15 **MR WHEELAHAN:** The first one.

COMMISSIONER: Right.

20 **MR WHEELAHAN:** Yes. So in the hard copy - maybe the - yes, the operator's brought it on screen. That photo you see there is - and it should be attributed to the Brisbane Times.

25 **COMMISSIONER:** All right. We'll say if it's part of the article, it's already in as CA-12.

MR WHEELAHAN: Correct. And then the next page, Mr Operator, page 17, we tender as a photograph being taken at the same rally.

30 **COMMISSIONER:** So this is some unidentified person holding flagpole with two flags, CFMEU Youth Crew flag and the Palestinian flag. Is that the fairest description, Mr O'Grady?

MR O'GRADY: I'm happy with that description.

35 **COMMISSIONER:** Are there any objections?

MR WHEELAHAN: Just probably include the date, 9 February 2026.

40 **MR O'GRADY:** Perhaps a minor variation of the description. It's a flag with the word Youth Crew, in circumstances where we don't know the origin of the flag either.

45 **COMMISSIONER:** Rather than being a CFMEU Youth Crew flag, a flag with the insignia CFMEU Youth Crew?

MR O'GRADY: Yes, Commissioner.

MR WHEELAHAN: Thank you, Commissioner.

COMMISSIONER: Photograph 9 February 2026, protest King George Square, Brisbane, showing unidentified person holding flagpole with two flags, being
5 Palestinian flag and flag with CFMEU Youth Crew insignia will be CA-13.

**<EXHIBIT CA-13 PHOTOGRAPH 9/2/2026, PROTEST KING GEORGE
SQUARE, BRISBANE, SHOWING UNIDENTIFIED PERSON HOLDING
FLAGPOLE WITH TWO FLAGS, BEING PALESTINIAN FLAG AND
10 FLAG WITH CFMEU YOUTH CREW INSIGNIA**

MR WHEELAHAN: Shall I proceed? What my learned friend just raised about not knowing whether it's the CFMEU Youth Crew flag -

COMMISSIONER: Yes.

MR WHEELAHAN: - could we please turn to page 12 - sorry, page 29 of the supplementary bundle. And this is a photograph, Mr Operator - sorry, 44. It's to the right of the previous number. Mr Irving, can you see that?
20

MR IRVING: I certainly can.

MR WHEELAHAN: Would you like it enlarged?

MR IRVING: No, I can see it clearly.

MR WHEELAHAN: You can see it?

MR IRVING: It looks very much like the - whatever was held at the rally.
30

MR WHEELAHAN: Yes. Almost identical?

MR IRVING: It looks almost identical, if not identical.

MR WHEELAHAN: Yes. So Ms Schinnerl's evidence, which Commissioner, for your benefit, exhibit SLS-1; we don't need to go to it - her evidence has not been challenged, and I'll say this: that at 119 she says:

40 "There's a group of CFMEU members who are referred to as the Youth Crew. I believe the Youth Crew is comprised of members 35 years of age and younger."

And then at 120 - that's where I took you to earlier - that she believed Jade Ingham to be the person responsible for coordinating the Youth Crew prior to his removal.
45 And that photograph that I've just shown you is one of the, for want of a better word, attacks on the AWU overnight with the Youth Crew or, as Mr O'Grady says, a flag that says CFMEU Youth Crew installed.

MR IRVING: Yes.

5 **MR WHEELAHAN:** Can I tender, Commissioner, although it's already in, given -

COMMISSIONER: Well, if it's already in, don't worry.

10 **MR WHEELAHAN:** All right. Commissioner, I note the time. I'm going to move - I might just keep going.

COMMISSIONER: No, no, we'll take a 10-minute break. I mean, it's in, and obviously you'll make some submissions about it and Mr O'Grady will, but I'm just not entirely sure how far this really goes, for the reasons Mr O'Grady said.

15 **MR WHEELAHAN:** It was only - yes. I put that because that's Ms Schinnerl's evidence about the Youth Crew, because there was some issue raised about whether that was their flag.

20 **COMMISSIONER:** I'm really talking about CA-13. I mean, someone comes along to a protest. We don't know who they are. They don't know what their motivation is. They don't know where they've got the flag from or the two flags from. We don't know why they put them together. We don't know if they were associated with the Youth Crew or they - they are any longer associated with the Youth Crew and they want to show some support for the Youth Crew for the
25 Palestinian cause. I mean, where does it get us?

MR WHEELAHAN: No, I accept all that. The purpose of it was to put to Mr Irving the very question I put about association, because in his statement he talks
30 about the young activists and leaders, the breeding ground, as Ms Schinnerl said. So I accept Mr O'Grady's statement that of course we don't know who was holding the flag or -

COMMISSIONER: But his evidence is the Youth Crew wasn't behaving appropriately. He put in processes so that it started to behave appropriately.
35 During the middle of his administration, someone, we don't know, at some point, has got a CFMEU Youth Crew flag, put it together with a Palestinian flag, at a Palestinian protest, to apparently associate the CFMEU Youth Crew with the Palestinian cause. How does that really impact upon Mr Irving's evidence that he's
40 tried to reform the Youth Crew? I mean, what's he supposed to do? Go to every protest around the country and pull flags down? I mean - I mean, there might be more to it than this -

MR WHEELAHAN: No, that's it for flags, Commissioner.
45

COMMISSIONER: All right. We'll adjourn till 25 to 12.

<THE HEARING ADJOURNED AT 11.24 AM

<THE HEARING RESUMED AT 11.35 AM

5 **COMMISSIONER:** Yes, Mr Wheelahan.

MR WHEELAHAN: Mr Irving, I will move to a new topic. Do you know Mr Rielly, formerly an organiser with the Queensland and Northern Territory branch of the CFMEU?

10

MR IRVING: I know of him, yes.

MR WHEELAHAN: And he features prominently in Geoffrey Watson SC's investigation into violence and intimidation in the Queensland CFMEU?

15

MR IRVING: Yes.

MR WHEELAHAN: And Mr Rielly attended an interview with Mr Watson during his investigations, as reported in his report?

20

MR IRVING: Yes.

MR WHEELAHAN: Rielly said "that he had never seen any violence by the CFMEU", although he claimed he often had been a victim of violence himself.

25

MR IRVING: Yes.

MR WHEELAHAN: Watson rejected Rielly's account, stating "that is not credible" in his report.

30

MR IRVING: Yes.

MR WHEELAHAN: Watson said there were instances described in his report in which Rielly was directly involved in violence.

35

MR IRVING: I haven't checked recently, but I accept that that's probably what's recorded there, and it's -

MR WHEELAHAN: Yes. And Mr Watson also recorded that Rielly repeatedly claimed to have defective memory when questioned?

40

MR IRVING: Yes.

MR WHEELAHAN: Mr Watson characterised Mr Rielly's responses as, firstly, uncooperative, and secondly, unhelpful to his investigation?

45

MR IRVING: And - yes.

MR WHEELAHAN: Yes. Mr Rielly declined on self-incrimination grounds to answer whether he personally paid fines imposed upon him?

5 **MR IRVING:** Okay. Yes.

MR WHEELAHAN: All right. Now, personal payment orders. In the notice, you were asked to provide the details of persons for which personal payment orders were made and payments were made by - I'll use CFMEU. Do you
10 recollect that?

MR IRVING: Yes.

MR WHEELAHAN: Yes. Now, paragraph 32 of your statement, if you have a
15 copy in front of you - do you have that, Mr Irving?

MR IRVING: I do.

MR WHEELAHAN: That contains a list of CFMEU officials that received a
20 payment from the CFMEUQ on the basis of alleged financial hardship occasioned by a personal payment order against the official. That's correct?

MR IRVING: Yes. And I contemplate any paid by the CFMEU branch as well,
25 of which I understand there were none, but -

COMMISSIONER: Sorry, say that again. I just didn't follow what you were saying.

MR IRVING: So this is a list of everything paid by the CFMEUQ. I would
30 contemplate that the searches were also done for any payments made by the CFMEU branch as well, and I understand as a result of those searches there were none, so -

COMMISSIONER: That was part -
35

MR IRVING: I'm not qualifying that. I'm just clarifying that it is that and more.

COMMISSIONER: When you came to give evidence last time, Mr Irving, you commented upon the transfer of assets and members from the branch of the
40 federally registered union to the state registered union.

MR IRVING: Yep.

COMMISSIONER: You pointed out that the membership of those persons who
45 thought they might be members of the federal union - sorry, their understanding that they might be members of the federal union might be wrong because of what had happened and also as a result of the assets being transferred to the State union.

And I think you said this was based on advice: the state union could, in effect, circumvent the personal payment orders because the advice was the state union wasn't the federal union.

5 **MR IRVING:** Yeah. That was the advice.

MR WHEELAHAN: Have you identified any payments made by the CFMEUQ to Mr Rielly in respect of personal payment orders?

10 **MR IRVING:** Have I identified? No. Have searches been done? I understand they have.

MR WHEELAHAN: Right. And the result of that search is they have not found -

15 **MR IRVING:** As I understand it, there were none.

MR WHEELAHAN: When you asked for those searches to be conducted, did you specifically mention Mr Rielly or not?

20 **MR IRVING:** No.

MR WHEELAHAN: No. So I'll put some facts before you. Mr Rielly, between '21 and '25, there were five pecuniary penalties against him.

25 **COMMISSIONER:** This is 2021 and 2025?

MR WHEELAHAN: Sorry, '24. Mr Rielly had been ordered to pay five separate penalties in relation to conduct engaged by him that was a contravention of the Fair Work Act.

30 **MR IRVING:** Sorry, just to clarify - these were personal ordered - pursuant to personal payment orders or ordered to pay? I - I'm not trying to be cute; I'm just trying to clarify and understand.

35 **MR WHEELAHAN:** All right. Well, I'll take to you the first one -

MR IRVING: Okay.

40 **MR WHEELAHAN:** - so it's clear for you. On 18 April 2024 -

COMMISSIONER: What is the difference between the two concepts that you just articulated there?

45 **MR IRVING:** So in the five years leading to the commencement of the administration, there were 1,163 contraventions imposed upon the CFMEU or its officers/delegates, and it was often the case that in relation to a particular event or

set of contraventions, the organisers would engage in the conduct, the CFMEU would be effectively vicariously liable via 793, and a penalty would be imposed upon the CFMEU for that conduct. In addition, the conduct of the employees would be a wrong in itself, and a penalty would be imposed upon that individual.

5 And so the order of the court would be the CFMEU pay, you know, \$50,000 in penalty, the individual pay \$10,000 in penalty.

In relation to that sort of order, the practice - and there is a second sort of order, which is it's - sometimes the court would say, in relation to the individual, "And

10 what's more, the CFMEU is not to pay the penalty I have imposed upon you as an individual."

COMMISSIONER: That's the personal -

15 **MR IRVING:** And that's a personal penalty order - personal payment order. Now, that class of order is a far smaller class. It's 15 or - you know, I think there were - there was a list here, and no doubt there's - that can be tallied up. And so in relation to that smaller class, that was the subject of the advice, which is, well, can that be circumvented by getting the state-registered union to pay instead of the

20 CFMEU?

But in relation to an order that the CFMEU pay, or a penalty be imposed upon an individual, well, in relation to a penalty become imposed upon an individual, that be paid by the individual, their partner, their soccer club, their employer, their

25 mates, whatever. There's no - there's no limit on who can discharge that debt. So I was clarifying whether or not, when you referred to orders of the court that imposed in relation to Mr Rielly's conduct, whether or not you were speaking about personal payment orders imposed upon Mr Rielly or just an order that a penalty be imposed due to his conduct.

30 **MR WHEELAHAN:** Yes.

COMMISSIONER: I misunderstood the legislation. I thought at some point - given your explanation, I think my understanding is wrong - at some point,

35 the legislation changed, say 2017/2018, so that every time an official of the CFMEU - I should say official or employee - was found to have - to have committed a civil wrong so that a penalty would be imposed, that as a result of the legislation that penalty could not be paid by the host body.

40 **MR IRVING:** No. As I understand it -

COMMISSIONER: That's not right.

45 **MR IRVING:** And I might be wrong, you might be right, but as I understand it, personal payment orders arose from a judgment of Chief Justice Mortimer of the Federal Court - not then Chief Justice - which ultimately found its way to the High Court, where they made a decision about whether or not, you know, it's within the

power and appropriate for such orders to be made. Now, I do not understand, and Mr Wheelahan or Mr O'Grady, amongst the four of us, we should be able to figure out whether or not there was a legislative change to give effect to that. But as I understand it, that wasn't the case.

5

COMMISSIONER: No. It was just an exercise of judicial discretion in terms of trying to ensure the efficacy of the orders.

10 **MR IRVING:** And in some cases, you know, some states for some judges in some circumstances, such personal payment orders were made, but they continued to be made in the bog-standard form in many cases.

COMMISSIONER: Yes. Sorry, Mr Wheelahan, for distracting you.

15 **MR WHEELAHAN:** Yes. So although I'm not required to answer your question, I will, Mr Irving. They weren't the category of personal payment orders in the form of the now Chief Justice.

20 **MR IRVING:** Thank you.

COMMISSIONER: They were or were not?

MR WHEELAHAN: Were not.

25 **MR IRVING:** Okay.

30 **MR WHEELAHAN:** Now, you may or may not this, but if you like, I'm going through a bit of a rap sheet of Mr Rielly. 18 April - and this is recorded, I should say, in a decision of Deputy President Butler in relation to the CFMEU's application -

MR IRVING: I have that decision here in that folder. Should I refer to that, or would you prefer me not to?

35 **MR WHEELAHAN:** You might not need to. You might know this. For a right-of-entry permit, that's what that is. So 18 April 2024, Judge Vasta imposed a penalty of 15,000 on Rielly for contraventions of section 500 of the Fair Work Act: failing to sign the visitor register on the M1 Yatala exit site while seeking to exercise entry rights as a permit holder despite being requested to sign in. Are you
40 aware of that?

MR IRVING: Well, I'm aware that he had committed a series of contraventions. I'm aware that they were the subject of Deputy President Butler and that the list was not short and it involved some matters which were - would be classified as
45 serious.

MR WHEELAHAN: Serious. In that case, I'll paraphrase. 9 May 2024, Federal Court of Australia imposed a penalty of 6,300 on Rielly. 26 September 2023, Justice Thomas imposed a penalty of 8,500 on Mr Rielly. And these are for breaches of the Fair Work Act. 23 May '22, Judge Humphreys imposed a penalty of 8,820 on Mr Rielly for hindering and obstructing a concrete pour. And 21 February 2021, Judge Driver imposed a penalty of 10,000 on Mr Rielly for various breaches of the Fair Work Act related to entry permit. Now, I want to take you to two other matters, and the purpose of this is it leads up to you making the decision to make Mr Rielly redundant. Do you recall making Mr Rielly redundant?

MR IRVING: Well, I recall his employment ending as a result of redundancy, but -

MR WHEELAHAN: Correct. So 23 March 2023, there were two incidents at the Metro site, and the source of this is from, Commissioner, GW-6, the public report of Mr Watson SC, Violence in Queensland. So it's important to understand what this involved. In the morning, three organisers arrived near the site to attend a meeting, and you may have viewed this already if you've kept an eye on the Commission hearings. This is where a dozen or more CFMEU members waited for the AWU organisers - and this is from Mr Watson's report - and blocked their access to the site. The AWU organisers were then surrounded and two were pushed and shoved and dragged by their clothing, with slogans of "AWU Grubs" being shouted, as well as "You fucking sell-out cunts". This happened on a public street with members of the public nearby. Two women near the scene became distressed and commenced crying. Mr Rielly was questioned about the incident by Mr Watson. At first he had some recollection, but as questioning became closer, his memory suddenly failed him.

Now, there was then a confrontation on 23 March 2023 when the AWU organisers returned to the Brisbane Metro site. 25 CFMEU men blocked their entry. A confrontation ensued, and Mr Rielly was present for this altercation. Again, he claimed to Mr Watson he had a defective memory. Now, I could, but I'm not going to play to you again, unless you require it, videos of the -

MR IRVING: Look, no - it's not required. I am aware of disgusting, disgraceful, unlawful, violent conduct which has been the subject of this and other incidents before the Commission.

MR WHEELAHAN: All right. Now, in particular, though, focusing on Mr Rielly, accepting that answer, do you say that Mr Rielly also participated in disgusting, violent - what your words?

MR IRVING: Look, I understand that from the Watson report, I understand as a result of a series of findings, that prior to the administration he engaged in a series of behaviours that were wildly unacceptable. I mean, unacceptable is an understatement. And in addition, his response to the inquiries about Watson were - that he couldn't remember these things - were unacceptable.

MR WHEELAHAN: Mr Watson SC recommended the immediate dismissal of several current officials and delegates, and in his report dated 17 June 2025 he recommended Dean Rielly's employment should be immediately terminated. Do
5 you recollect reading that in Mr Watson's report?

MR IRVING: Yes.

MR WHEELAHAN: Yes. And Mr Watson - and just for reference, if somebody
10 wanted it, GW-5 at page 5, paragraph 50A - Mr Watson stated that he formed a view about the termination of Rielly's employment, in his words, very strongly, and Mr Watson stated that, in quotes at page 5 of his report, GW-5, paragraph 50A, final sentence:

15 "In fact the retention of Rielly may present a work and health and safety risk."

And presumably, you concurred or accept - sorry, you accepted Mr Rielly's
20 findings?

COMMISSIONER: Mr Watson's findings.

MR IRVING: Mr Watson's findings.

25 **MR WHEELAHAN:** Sorry, Mr Watson's findings.

MR IRVING: What's set out in the Watson Report prompted action by me which led to the termination of the employment. Now, whether or not that involved accepting all of his findings in all of the respects or all of what he said -
30

MR WHEELAHAN: Okay.

MR IRVING: - it prompted a pivot point and an opportunity to effect a change, and that change included the end of the engagement of Mr Rielly.
35

MR WHEELAHAN: Thank you. Now, in his report, 17 June 2025, Mr Watson SC also recommended that Mr Rielly's CFMEU membership should be terminated. Did that occur?

40 **MR IRVING:** His employment ended -

MR WHEELAHAN: No, no, his membership.

MR IRVING: Oh, with the membership?
45

MR WHEELAHAN: Yes.

MR IRVING: No.

MR WHEELAHAN: So you accepted, is it fair to say, his recommendation that his employment be terminated, but you didn't accept the recommendation that Mr Rielly's CFMEU membership should be terminated?

MR IRVING: No. No. My response to the report - my response to the report was not a catalogue of going through each of the recommendations saying, "I accept this. I reject that." Rather, the report provided an opportunity to sit down and figure out what should be done and what can be done, and the end result of that process was the engagement of Mr Rielly ended. But no action was taken in relation to his membership.

MR WHEELAHAN: All right. So just focusing on the dates, the recommendation from Mr Watson SC was 17 June 2025.

MR IRVING: Mmm.

MR WHEELAHAN: On 22 July 2025 -

MR IRVING: Yeah.

MR WHEELAHAN: - Mr Rielly was made redundant.

MR IRVING: Yeah.

COMMISSIONER: What's that date again, sorry?

MR WHEELAHAN: 22 July 2025.

MR IRVING: I managed to put my pen down somewhere. Is it possible that I be provided with a pen, just so I have -

MR WHEELAHAN: I'm sure it will be.

MR IRVING: Thank you. So Watson when?

MR WHEELAHAN: In his report dated 17 June 2025, and for the Commission, that's GW-5 -

MR IRVING: Yep.

MR WHEELAHAN: - he recommended -

MR IRVING: Yep.

MR WHEELAHAN: - that his employment should be immediately terminated. Recommendation very strongly. And on 22 July 2025, the following month, Mr Rielly was made redundant.

5 **MR IRVING:** Yep.

MR WHEELAHAN: Do you know the likely redundancy payment he would have received as an employee of the union, when he was made redundant?

10 **MR IRVING:** I don't - I don't know the precise details of that.

MR WHEELAHAN: Not precise.

15 **MR IRVING:** I - but I do understand that there will be - there will have been a formula which would have applied either pursuant to some contract or policy or arrangement or - about what people are paid on redundancy.

MR WHEELAHAN: Would it have been - well, you were the administrator for 22 months. Were the arrangements for redundancy akin to redundancy under a CFMEU pattern enterprise agreement?

20 **MR IRVING:** No.

MR WHEELAHAN: No. Are we talking a year's pay?

25 **MR IRVING:** Oh, it would surprise me if it was that quantity for someone who had - I - I can tell you about the conditions. The conditions in relation to organisers in Queensland were different to the conditions for organisers in New South Wales and different to the conditions for Victoria and South Australia and Western Australia. The conditions for the organisers in Queensland were not the subject of an enterprise agreement, but there was an enterprise agreement applicable at the branch which was applied to administrative employees. And so there is a complex set of arrangements, policies, procedures, which are disparate within the organisation.

35 My reflection upon redundancy benefits: it would be reasonable to say that the redundancy benefits were generous compared to most employees in - most employees within the industry, but not dissimilar to - not dissimilar to redundancy benefits which are applicable to - in organisations. You know, there's similar - I've seen similar redundancy benefits to - applicable in other unions.

40 **MR WHEELAHAN:** Well, what are they in other unions that you've seen?

MR IRVING: Oh, there will be, you know, two weeks' pay per year of service, or three weeks' pay per year of service, plus you get in some cases paid out your sick leave or things like that. It differs from place to place. There will be a formula. But obviously what redundancy gets you is something different

than - what you buy from a redundancy payment is something different to what - what you get as a result of dismissing someone with or without notice.

5 **MR WHEELAHAN:** And by making him redundant, that meant he wasn't a removed person. That's correct, isn't it?

MR IRVING: That is correct. He -

10 **MR WHEELAHAN:** And Mr Watson -

MR IRVING: Well, hold on.

MR WHEELAHAN: Sorry. Finish.

15 **MR IRVING:** Take a step back. An employee who accepts a redundancy that is offered is not - is not a removed person by that mechanism.

20 **MR WHEELAHAN:** Mr Watson SC, he stated - and this is in transcript page 185, line 45 to 186, line 5 - that he believed the redundancy was not an appropriate way to address this.

25 **MR IRVING:** Yeah, I bet. Mr Watson didn't have an understanding of unfair dismissal laws. Mr Watson didn't have an understanding of the fact that it was advantageous for the CFMEU to be able to close a chapter and move on. Mr Watson didn't have an understanding that if I terminated these gentlemen - half of them, all of them, some of them - I would spend the next six months, 12 months, fighting 15 unfair dismissal applications, as a result of which I would end up, Watson would end up, Jared would end up having to give evidence, dedicating time and resources to fighting these past battles, rather than drawing a line
30 underneath it and moving on.

If it were an ordinary environment, a different consideration might have been taken. But within that chronology, there is a statewide shutdown of industry. I mean, the streets of Queensland - the streets of Queensland were blocked, and so
35 the considerations that I had in mind were not just, "What was the recommendation in relation to Rielly and what steps should be taken?" but macro-concerns about ensuring that the union continued to operate and indeed Queensland industry continued to operate.

40 **MR WHEELAHAN:** Mr Rielly, after being made redundant, what happened to his position?

MR IRVING: There were other organisers employed.

45 **MR WHEELAHAN:** Now -

MR IRVING: Under a different - under a different set of terms with a - different requirements as to how the job would be performed.

5 **MR WHEELAHAN:** I asked you to note the dates. If you note 20 August 2025, Mr Rielly commenced employment as an organiser of the New South Wales branch of the CFMEU.

COMMISSIONER: So is that a month later?

10 **MR WHEELAHAN:** A mere 29 days, which is about a month later, from you making the decision to make him redundant, can I use the word "or terminate"?

MR IRVING: Ending the employment, whatever. Yeah.

15 **MR WHEELAHAN:** We'll use "ending the employment" at the Queensland branch. You're aware of that as a fact, that Mr - 29 days, yes.

MR IRVING: I'm aware he commenced employment in the New South Wales branch.

20 **MR WHEELAHAN:** Yes. And that was only nine weeks after Mr Watson's recommendation that he be terminated?

MR IRVING: Yes.

25 **MR WHEELAHAN:** And only nine weeks after Mr Watson's recommendation that his CFMEU membership should be terminated?

MR IRVING: Yes.

30 **MR WHEELAHAN:** And Mr Watson has stated in evidence, transcript 19 November 2025, 191, line 10-15, that he was a little bit surprised when he heard that Mr Rielly had commenced employment in New South Wales by the CFMEU. Were you also surprised -

35 **MR IRVING:** Yes.

MR WHEELAHAN: - when you learned that Rielly had been hired in New South Wales?

40 **MR IRVING:** Yes.

MR WHEELAHAN: Were you consulted before Rielly was hired?

45 **MR IRVING:** No, I was not.

MR WHEELAHAN: Did Mr Crosby consult with you at all about the employment of Mr Rielly?

MR IRVING: Not prior to engaging him, no.

5

MR WHEELAHAN: Did you approve or authorise the rehiring of Mr Rielly by the New South Wales branch?

10 **MR IRVING:** So the - let me explain to you the authorisation which was in place. Pursuant to delegations of authority from me to Mr Crosby, he was given authority to engage and terminate employees. In about June or July, he ended up - the employment of about 90 per cent of the organisers in New South Wales was ended, and so - now, it didn't happen in one fell swoop, but it happened quite promptly. Mr Crosby had authority to effect that change, whether through
15 redundancies or some other mechanism, and that was carried out, because in that state at that time it was considered necessary and appropriate to have that clean-out, so to speak.

20 He then needed to - you know, one of the statutory mandates is that the union operate not just lawfully but effectively, and effective operation means that organisers needed to be employed. So he went out and recruited and employed a whole bunch of folk. Mr Crosby didn't consult me about the engagement of any of those employees, and nor did I expect him to be - nor did I expect him to do that, or nor would I expect any of the branch executive officers to come to me
25 with - with a list of proposed employees. It became apparent some time later that Mr Rielly had been employed, and -

COMMISSIONER: That is a bit surprising, though, Mr Irving. I know there was a lot on your plate and there was a lot going on and you had a lot of pressure
30 on you, both administratively and externally. But to have a system where you're in ultimate control of the organisation and Mr Rielly's behaviour is such that it justifies termination from one part of the organisation and then he's rehired in another part without your knowledge just strikes me as a bit strange.

35 **MR IRVING:** In circumstances in which there were 180-odd employees throughout Australia who have had their employment terminated, I think Mr Rielly - and there might have been someone else who popped up again, and then the question arises of what should we do.

40 **COMMISSIONER:** When you say "popped up again" -

MR IRVING: Popped up again in that they applied for employment in that branch, or they were employed in another branch, and it's sort of, well, hold on, each of these sort of little fiefdoms were operating as separate units, and there
45 wasn't - there wasn't the cross-referencing coordination of the list of - list of employees.

COMMISSIONER: But that wouldn't - in a normal corporation, if someone in the New South Wales division of - I don't know, name any company you want - is employing people, and a person comes across their desk, finds out that they've just been terminated by the Queensland division of the same company, you'd normally
5 have some conversation and check through their - ring your colleague at that level and say, "What's going on?"

MR IRVING: It is a process which was in the hands of the New South Wales branch, and no doubt there can be an explanation as to the processes that they went
10 through. We didn't have a nationalised process governing it.

MR WHEELAHAN: Well, all of this occurred within a mere 29 days, and in his new role in the New South Wales branch, presumably - or you would know - he'd have responsibility for the supervision and mentoring of other organisers?
15

MR IRVING: Mr Rielly?

MR WHEELAHAN: Yes, Mr Rielly.

MR IRVING: I would anticipate that's the case, yes.
20

MR WHEELAHAN: And I've put to you his rap sheet, so to speak, and you accepted that he - obviously Mr Watson said he should be terminated. When you saw his name pop up, did you think about calling Mr Crosby and seeking an
25 explanation?

MR IRVING: I did.

MR WHEELAHAN: And did you call him?
30

MR IRVING: Yes.

MR WHEELAHAN: And what was the explanation?

MR IRVING: The explanation was - so I think there are a few stages in this. The first is - so on the 20th of - 20 August, he commences. I wasn't aware that he commenced before 23 August. 23 August was the date on which I had my second heart failure for the year and was hospitalised and had a stent installed. There was a period after that where, you know, there was a period of recovery. After I
40 returned to work, which was about late September/early October, I became aware of - I'm not quite sure exactly when I became aware, but I became aware in the latter part of 2025.

When I became aware, I in part spoke to Mr Crosby about it and said, in effect,
45 "This is a problem." And we discussed about how to deal with that problem, and we came to the end result which we did. So it was a sufficient concern for me

to - once I became aware of the issue - to raise it directly with Michael, and then
a - and then a decision was reached about how to process and deal with that.

5 **MR WHEELAHAN:** Well, I know safety is very important to you in the
workplace. You would have read that Mr Watson in his report stated that the
retention of Rielly may present a health and safety risk.

MR IRVING: Yep.

10 **MR WHEELAHAN:** Did you raise that with Mr Crosby when you said, "This is
a problem"? What else did you put to him?

MR IRVING: I - from recollection, I provided to him the relevant parts of
Watson and discussed it with him.

15 **MR WHEELAHAN:** Okay. And when did you do that?

MR IRVING: Can I explain to you -

20 **MR WHEELAHAN:** Sure.

MR IRVING: - the nature of the discussions and - it was this, and I don't want to
verbal Mr Crosby, but the substance of the discussion was this. I said, "This
bloke's the subject of Watson findings. This is - you know, he's got a rap sheet
25 this long. He's engaged in all of this conduct. And when he was questioned about
it, he said, 'I can't remember,'" which I found also inappropriate. Crosby either
took that and went away or had previously - in fact, no, I think had already spoken
to him in the course of the recruitment process about his previous conduct, and
Rielly had explained to him that he'd engaged in all of this conduct and that he
30 had, pursuant to the leadership of Ravbar and Ingham, you know, been engaged in
all of this unlawfulness, okay, and didn't - did not try to dodge and sort of say,
"Oh, but it's not as bad as they say." Accepted that it was violent, disgusting and
disgraceful behaviour and he's rid of it.

35 Now, the assessment of someone, the credibility of someone who comes to you
and says, "I repent from my bad behaviour, my past behaviour, and I want to
behave as a union official should," the assessment of the credibility of that is a
hard matter. Now, I might have been - you know, in relation to some people I've
been more forgiving than I should be. In relation to others I've been less forgiving
40 than I should be. On this occasion, there was the Fair Work Commission. There
was the FWO, who had taken on the role by early November, I think it was, of
making an assessment about whether or not he was a fit and proper person to hold
a permit.

45 **MR WHEELAHAN:** Sorry, you're jumping ahead there. So you're now jumping
to May 2026.

MR IRVING: No.

MR WHEELAHAN: No?

5 **MR IRVING:** Jumping to about November 2025.

MR WHEELAHAN: I might have to just constrain you to -

10 **MR IRVING:** So second heart failure in 23 August.

MR WHEELAHAN: Yes.

MR IRVING: Comes back late September/early October. Issue arises in the next month or so. Then it comes up in the Fair Work Commission.

15 **COMMISSIONER:** The application was 27 August 2025.

MR WHEELAHAN: Yes.

20 **COMMISSIONER:** But the decision wasn't till 27 May 2026.

MR IRVING: Yes. But the process that we'd entered into with the FWO, or the process the FWO had engaged in, was to make sure, when we applied for right-of-entry permits, is -

25 **MR WHEELAHAN:** That's a new topic.

MR IRVING: No. Well, it's part of the chronology.

30 **COMMISSIONER:** He's explaining his rationale, his reasons.

MR IRVING: And in paragraph 12 of the decision, there's a breakdown of the steps that were taken by the commission. So by October/November - well, by 5 November, the FWO filed written submissions, and so I then had a
35 decision-making body who was going to do a full investigation: is this person a fit and proper person? And if they said he was a fit and proper person, then the engagement was going to go ahead. If they said he was not a fit and proper person, then it would have been a very simple decision. Now, you know, reasonable minds would differ about whether or not that's the best process to go
40 through, whether or not, you know, there was sufficient credibility in repentance, but that was the process that was adopted.

MR WHEELAHAN: Okay. Finished that answer?

45 **MR IRVING:** I'm sorry. I'm sorry, I don't want to -

MR WHEELAHAN: No, no, before I ask another question.

COMMISSIONER: No, the witness was just trying to -

5 **MR WHEELAHAN:** No, it's no criticism. I just want to make sure that I've given him a fair chance, because I want to go back to the 29 days and before that. So this repenting, if you like, that you said you were told that he repented to Mr Crosby, did he attempt to repent to you before he was made redundant?

10 **MR IRVING:** No.

MR WHEELAHAN: Not at all?

15 **MR IRVING:** No. I didn't have any discussions with any of the individual employees.

MR WHEELAHAN: Right.

20 **MR IRVING:** I explained I think on the last occasion during my evidence about what happened during that period, and he was - he was one of those who was effectively tapped.

MR WHEELAHAN: Correct. And then on the -

25 **MR IRVING:** And tapped on the basis of not just Watson but also - you know, we were going through a period of, in June/July, chaos within the Queensland branch in which a fundamental change was being effected.

MR WHEELAHAN: And then you refer to a recruitment process -

30 **MR IRVING:** Yep.

35 **MR WHEELAHAN:** - by which Mr Crosby was able to obtain information from Mr Rielly, and I think you said he has repented and admitted all his wrongdoings; is that right?

40 **MR IRVING:** So, as I understand it, he sat down with Mr Crosby during the recruitment process - you know, Mr Crosby needed - got rid of 90 per cent of his organisers. He needed more. He interviewed people. In the course of the interview, they spoke about his past experiences in Queensland, and he explained a view about what sort of conduct and how Queensland had been conducted in the past. And Mr Crosby, if I know him, would have laid down the law in no uncertain terms about how unacceptable that conduct would be in the new engagement.

45 **MR WHEELAHAN:** Mr Operator, supplementary folder at page 20. Mr Irving, this is the decision, whilst that's being found, that you referred to of the application for an entry permit on 27 August 2025.

MR IRVING: Yep.

MR WHEELAHAN: It's on screen now.

5

MR IRVING: Yep.

MR WHEELAHAN: Paragraph 1, just - I will just take you through the -

10 **MR IRVING:** Sorry, before you go there -

MR WHEELAHAN: Sure.

15 **MR IRVING:** - there's something - I think I said - there's a couple of things that I might have said are wrong. The first is, I think I might have said I never met Rielly during this period. I did meet Rielly for about 10 minutes at a dinner in which there were sort of 20 or 30 people present. It might have been late 2025. So that's one aspect. The second aspect is this: in the course of - there's a number of occasions during these - during these right-of-entry issues where I have written
20 to regulators or provided a statement to the commission or drafted a position from the administrator about some of these people, and we're talking about half a dozen, 10 people over the course of time where it's become an issue.

25 It is conceivable that I did that for Rielly, or I did that in relation to Rielly. I can't recollect whether I did so for Rielly, as opposed to - I know I did it in correspondence about a gentleman called Monty in Western Australia. And I did it for someone else as well, and - yeah. So it's conceivable that my evidence about that, if I had suggested that I had no involvement whatsoever, that might be wrong. There might be a letter or a statement even from me about some of this.
30 So do go on.

MR WHEELAHAN: Well, in light of that evidence, and your earlier evidence about you accepted all the misconduct of Rielly, is it likely that if you made a statement prior to this statement on 27 August, given you were surprised he was
35 rehired within 29 days, that it would've been adverse to Mr Rielly?

MR IRVING: I would have in part trusted the judgment of the people in the room, which is to say if Crosby, an experienced person with - driven by decency had spent a considerable period of time with Rielly and, despite my qualms, come
40 to a conclusion that Rielly had had a road to Damascus experience, then I would have - I would have been prepared to accede to that assessment.

MR WHEELAHAN: Now, returning to this decision, commencing on page 20. On page 21, paragraph 9 and 10 - we'll just wait for the operator - the application
45 was supported by Mr Michael Crosby AM. There's no record of anything in writing from you in this decision. And paragraph 10 records the declarations by

Mr Crosby and Mr Rielly. I should say, Commissioner, this is the application for his right-of-entry permit.

5 **COMMISSIONER:** What Mr Irving's saying is he had a discussion with Mr Crosby. He couldn't quite understand why Mr Crosby had employed him. He explained his own view, as he's just explained fairly forcefully in the witness box, about Mr Rielly, and he was minded to let this process that was then in train take its course, to be a proxy for the decision to employ. That is, if he gets his fit and proper person designation, he stays employed, and if he doesn't, then obviously he
10 and Mr Crosby have another discussion.

MR WHEELAHAN: That's a fair summary. Mr Crosby, though, in the declarations to the commission, are you surprised that he didn't make reference to the Watson Report, given that you had already given him copies?
15

MR IRVING: I haven't read his application. I haven't read his application or materials filed in the commission. Indeed, I haven't even read this decision. I appreciate that it's of considerable significance as part of these proceedings, but I was told of the effect of an outcome of this decision and then I moved on.
20

MR WHEELAHAN: All right. Well, if I told you that in the decision of Mr Butler dated 27 May 2026 there's no reference to the report of Mr Watson SC, would that surprise you that Mr Crosby omitted that from any declarations provided?
25

MR IRVING: Look, these matters are - these matters, they go into the hands of lawyers, and lawyers make recommendations about how to proceed with these matters, and you act in accordance with the advice, and I don't know whether he was - I don't know what the decisions made in that context were.
30

COMMISSIONER: But -

MR IRVING: If I was, you know, running it, a different judgment might have occurred, but I wasn't.
35

COMMISSIONER: But that fact's reasonably important, though, isn't it, because the Fair Work Ombudsman's the contradictor in this case. The Fair Work Ombudsman could dig up the publicly available records but wouldn't have access, because Mr Watson's report wasn't then public, to two things. One is the other
40 evidence Mr Watson gathered about Mr Rielly, which formed the subject matter of his report, and secondly, something that weighed heavily with you, the fact that -

MR IRVING: Sorry, Commissioner. I think there might be a slight factual error there.
45

COMMISSIONER: Is there? Right.

MR IRVING: Mr Watson's report was public.

COMMISSIONER: Oh, was?

5 **MR IRVING:** Yes. The Watson Queensland report was not only public but it was published to the world.

COMMISSIONER: Oh, I see.

10 **MR IRVING:** And it was widely -

COMMISSIONER: Of course. Because it became the vehicle for this Commission of Inquiry.

15 **MR IRVING:** Indeed.

COMMISSIONER: Yes.

20 **MR IRVING:** And of course the FWO - you know, the FWO is a large professional organisation.

COMMISSIONER: So it should have been able to do that?

25 **MR IRVING:** Yeah, and it would - I would be - I would be surprised if the FWO didn't make an assessment based on that.

MR WHEELAHAN: On 16 July 2026, this Commission received intelligence from a person in the construction industry in New South Wales. That person has described their dealings with Mr Dean Rielly and have offered to provide a statement. I'll read an extract of what has been said by this person as follows:

"The reason for the email I have noted is that you are not afraid..."

35 Referring to the Commission:

"...to shine a spotlight and have a comprehensive understanding of the impacts of the CFMEU on productivity and costs. We have delivered a number of projects with the intent to deliver more, but we have been thrown a curve ball in the form of Dean Rielly, and in his words, not ours, 'You can expect your construction is going to cost 30 per cent more' as a result of him taking over as the CFMEU organiser for New South Wales and 'That's okay, you blokes can afford that'. Since then, it has degraded to the implied threats, disruptions, harassment, deliberate tampering with safety equipment. You know the drill, and no one can speak up for fear of reprisal. I know New South Wales is not your jurisdiction, but the implications of this issue are still relevant to the current Commission of Inquiry. To date we have seen Dean Rielly's name in the Commission of Inquiry as a bad actor. He has an

explosive, violent temperament, making him not suitable to act in any capacity with a union, let alone the state organiser."

5 Have you asked Mr Crosby to provide you any update or status after this road to Damascus redemption of Mr Rielly, about how he's going in his employment in New South Wales?

MR IRVING: Yes.

10 **MR WHEELAHAN:** And when did you do that?

MR IRVING: I think I would have had discussions on two or three occasions at least over the course of the last six, eight months, when I was administrator.

15 **MR WHEELAHAN:** When was the last time, though, you can recollect?

MR IRVING: I expect it might have been - I think it might have been April or May of this year, and matters of a similar nature were raised during the course of our discussions.

20 **MR WHEELAHAN:** Can you explain that, please. Can you give evidence about that.

MR IRVING: Yeah, sure. Mr Rielly, during the course of his engagement with the CFMEU, up until the time he got a right-of-entry permit in late May, was - didn't have a right-of-entry permit, therefore did not go and visit sites without any invitation or permission. As I understand, one of the duties of Mr Rielly was to move into areas which had lapsed or were not EA-covered areas. As a consequence - and one of the problems with New South Wales historically is that there were sort of black areas, black areas in the sense that, you know, Mr Greenfield over - in exchange for favours or whatever, had agreed, "We don't have the union go in and cover your site" or "If you just pay the - pay membership, then we won't service the sites."

35 And very publicly, Michael Crosby has come out and said, "We don't want that money. We do not want theoretical paper members. We actually want people who want to be a member." And so it's - as a result, the approach has required going into work sites and sectors of industry which have traditionally not had engagement with the union and had simply paid off folk to keep away. And so that leads to some disruption within the industry when the union goes out and starts doing its job properly, because it visits work sites and it raises concerns, and employers, in response to it, turn round and say, "Well, I thought we had bought peace. I thought we had bought non-union involvement." Mr Rielly was part of the group of organisers who was involved in working through some of those

45 issues.

The notion that it would be an increase in costs to enter into a new EA would be a surprise to no one, for increasing costs are increases in wages, and I - I noticed the reference to implied threats of this, that and the other - not actual threats, not things that were said by Mr Rielly, but rather implied threats. If any person has a complaint about the conduct of CFMEU organisers, whether it be Mr Rielly or others, there are mechanisms by way that will be addressed, and in relation to Mr Rielly, and in relation to Mr Rielly, he knows that he is on the world's shortest leash, first, and if he puts a toe out of line, he is likely to lose a lot more than a toe. Not just that, but those who engage with him as employers know that if he puts a toe out of line, he's going to lose his head, which provides great incentive to be able to turn around and say he's engaged in all manner of misconduct.

If there's any - if there is any misconduct, I encourage people to report it. I encourage people to go through the mechanisms, the lawful mechanisms that are available. You can come to the CFMEU. We have an integrity unit. We'll investigate it. The FWO has a body that investigates wrongdoings in the industry. If there are criminal offences that have occurred, we strongly encourage people to go to the police and report them.

MR WHEELAHAN: So, Mr Irving, that's a line we've heard for years, particularly from the former Premier of Victoria. Do you accept that people are scared to speak up or follow your mechanisms for a complaint for fear of reprisals?

MR IRVING: Yes. Some people are. And part of the virtue of this process and part of the virtue of the process we've engaged in is to deal with that fear and to crush those who are engaged in the retaliation against people who make complaints.

MR WHEELAHAN: Well, instead of waiting for a complaint, if someone from the administration had referred you to the evidence of Mr Rosenlund on 21 April 2026 - Commissioner, this is transcript of that date, line 175 - he gave evidence about Mr Sinclair and Mr Rielly being very active at their demolition site, and part of their conduct, if you had read the transcript, one would think, would you reasonably conclude, was misconduct?

MR O'GRADY: With respect, Commissioner, I would ask that the time of the alleged conduct that's being referred to by identified so as to not mislead the witness.

COMMISSIONER: Are you able to do that, Mr Wheelahan?

MR WHEELAHAN: Of course I am. 21 April 2026, Neile Rosenlund, founder and former director, gave evidence concerning an April 2025 confrontation at the Rosenlund head office involving Rielly and Sinclair. On 21 April 2026, CCTV audio footage was tendered to the Commission. The Commission's exhibit list expressly features those people. Are you aware of any of this evidence?

MR IRVING: Yes.

MR WHEELAHAN: Oh, you are.

5

MR IRVING: I'm not aware of - I haven't - I've received reports of the substance of some of it.

MR WHEELAHAN: All right.

10

MR IRVING: But he's still in Tarsus.

MR WHEELAHAN: Sorry, I didn't hear that.

15

MR IRVING: He's still in Tarsus. He hasn't gone to the road to Damascus yet. I mean, you know, we explained, as I explained in my earlier evidence, that there was a pivot point in Queensland in July 2026, and I quite frankly gave evidence about the continuing control of Ravbar and Ingham over the branch up until that point.

20

MR WHEELAHAN: 2025, I think.

MR IRVING: Sorry, 2025. So there was misconduct occurring. That's not a significant revelation to me.

25

COMMISSIONER: And I think you said this morning or before the break that the branch during this period was in chaos.

MR IRVING: Yeah. I mean, there was literally - there were literally strikes which were called which the administration had no control over - you know, had no notice of those things occurring.

30

MR WHEELAHAN: Without then going through it, Mr Trevor Sinclair, he was made redundant 22 July 2025, and he was then engaged also - is now employed by the New South Wales branch of the Construction and General Division of the CFMEU. You're aware of that, that occurring?

35

MR IRVING: As I said, I think there were two people who slipped through. There's - I - I have - I can't recollect - I can't recollect any specific conversations about Sinclair like I can recollect about Rielly. I can't recollect whether or not Sinclair is mentioned or discussed in any detail in Watson. I can't recollect whether or not - and I doubt whether or not I had any specific discussions with Crosby about Sinclair.

40

COMMISSIONER: You must have had some intel from somewhere to move him on?

45

MR IRVING: Oh, yeah. It's - you know, what one had in July was a bunch of organisers, almost all of whom were loyal to the former administration, and then you had some who were prepared to move to the next phase, and some who were prepared to join them and some who they were prepared to say, "Well, these people should come with us and those people shouldn't come with us." And there were a whole manner of discussions, not just in relation to those factors, a whole source of information from within the organisation, from with outside the organisation, and they informed the process.

10 In addition, as I made clear on the last occasion, there were some people who left in July who were good people who were cleanskins. Now, I don't know whether Sinclair falls within this category, but they were people who were subject to pretty heinous conduct - I mean, you've heard evidence yesterday or the day before about the sorts of conduct that was being - being engaged in. Who'd want to work in an IR environment where that sort of thing's happening? I mean, who wouldn't want to pick up and go interstate? Who wouldn't want a fresh start? I mean, it's - you know, some people are prepared to stick it out and work through and are committed to building a better world and a better organisation and, you know, more lawful operation.

20 But some are tired. Some have done their service and want to move on, and some have families who they don't want to continue exposing to that sort of toxic and difficult workplace. So I don't know where Sinclair falls within that, but just because they got a redundancy back then doesn't mean they're the bad guys. It might be that they just wanted out. They were - they were sick of the battle.

COMMISSIONER: But doesn't - the Commission would infer that he was a bad egg, wouldn't we, if we've received that's uncontradicted from the Rosenlunds, who were both very compelling witnesses, about his bad behaviour on their demolition of the shopping centre in April 2025, and then Sinclair was removed in July 2025. It's a reasonable inference that you were somehow told that he was a bad egg, isn't it? Or not? Is that not fair?

MR IRVING: No. I mean, it's - I did not get involved in the, you know - it's an organisation with, what, 30 organisers. I was not going through and having a list of good/bad/indifferent. I didn't know the granular detail of all of the 30. I understand you've received evidence about a gentleman and conduct that he's engaged in, and whatever inferences can be drawn can be drawn. I - you know, he does not stand out. I mean, I literally do not have any memory of this guy, so -

MR WHEELAHAN: I'll change topic to outlaw motorcycle gang involvement and enterprise bargaining agreements with the CFMEU. Do you know who Bemir Saracevic is?

45 **MR IRVING:** Sorry, who?

MR WHEELAHAN: I'll spell it for you. B-e-m-i-r, the first name.

MR IRVING: B-e-m-i-r.

5 **MR WHEELAHAN:** Second, S-a-r-a-c-e-v-i-c. Commissioner, maybe if we bring up a photo, it will assist. It's page 1 of exhibit -

MR IRVING: I don't know whether it will, but go on.

10 **MR WHEELAHAN:** Well, you never know.

MR IRVING: I'm sure it won't, but -

MR IRVING: Okay.

15 **MR WHEELAHAN:** He's otherwise known as Benji.

MR IRVING: No.

20 **MR WHEELAHAN:** So on 18 August, this Commission heard evidence that he is a member of the Comanchero outlaw motorcycle gang.

MR IRVING: Yep.

25 **MR WHEELAHAN:** He's married -

COMMISSIONER: I think the evidence is more than he's a member. I thought he was - I can't remember his title - president, secretary, sergeant-at-arms, whatever it was, but the leader of either the Australian chapter or the Victorian chapter.

30 **MR WHEELAHAN:** Correct. My learned junior says the Victorian chapter. Now, he's married to Danijela. Now, the next document I want brought up is CBU-54, which is an extract for a company called Form Solutions Australia Pty Ltd.

35 **MR IRVING:** Yep.

40 **MR WHEELAHAN:** And from 7 September 2023 to 1 April '25, his wife was the sole director, secretary and shareholder of that company. Can we just enlarge that. Do you see that?

MR IRVING: Yes, I see that.

45 **MR WHEELAHAN:** Now, on 15 December 2024, the CFMEU entered into an enterprise agreement with this entity, Form Solutions Pty Ltd.

MR IRVING: Yep.

MR WHEELAHAN: And that's at CBU-55.

MR IRVING: Yep.

5

MR WHEELAHAN: Sorry, 2023. I said '24. '23.

MR IRVING: Yep.

10 **MR WHEELAHAN:** And at the date of the issue of that enterprise agreement, Ms Saracevic was the sole director and shareholder of Form Solutions Pty Ltd.

MR IRVING: Yep.

15 **MR WHEELAHAN:** After 10 weeks from being incorporated, Form Solutions Pty Ltd obtained an enterprise bargaining agreement from the Victorian branch of the Construction and General Division of the federally registered union.

20 **MR IRVING:** Yep. So this was 2023, did you say, or -

MR WHEELAHAN: Yes, that one.

MR IRVING: Yep.

25 **MR WHEELAHAN:** But then on 24 July 2026 - so this year. Now, at that date, I think you were no longer the administrator. Mr Crosby was. Is that right?

MR IRVING: Yes.

30 **MR WHEELAHAN:** And an enterprise agreement was entered into between Form Solutions Pty Ltd and the Victorian branch of the Construction and General Division of the federally registered union.

35 **MR IRVING:** Well, I - I assume what you're saying is the CFMEU facilitated that agreement, the agreement being made between the employer and its employees. But the substance of it is that there are, in inverted quotes, "CFMEU agreements", and I understand the substance of what you're saying.

40 **MR WHEELAHAN:** Okay.

MR IRVING: And agree with it.

45 **MR WHEELAHAN:** If you look on screen, and we enlarge it, that's the 2023 agreement. And CBU - sorry, before I move on, the purpose of that is to show you the Construction Forestry and Maritime Energy Union and the Form Solutions company. You understand that what's being alleged that that is a company in substance that's controlled by outlaw motorcycle gang influence.

MR IRVING: Yeah.

MR WHEELAHAN: Correct. And then CBU-56, if that's brought up, please.
5 Get rid of the earlier one. Just the '26 one. You're a very experienced silk in this area of law. You see that's an agreement, CFMEU, the same company that I've put to you to infer control by outlaw motorcycle gang connections?

MR IRVING: Yep.
10

MR WHEELAHAN: And that's highly problematic, isn't it, that as recent as 24 July 2026, the CFMEU's still making an enterprise agreement with a company allegedly controlled by an outlaw motorcycle gang?

MR IRVING: Yeah, let me explain to you why it's problematic. There are approximately 30 to 40 different outlaw motorcycle gangs in Australia. They have a list of members: office holders, sergeant-at-arms, presidents, blah blah blah. No doubt some have wives and brothers and etcetera as part of their broader family. The list of who is in these outlaw motorcycle gangs is not publicly available. It is
15 kept by the AFP. It is kept by police forces, each of whom have sections dedicated to these issues. I have met with these folk on a number of occasions, and the conversations in substance have been, "I don't want you to give me any illegal information, things that you're not lawfully able to provide to me. However, we are determined to rid the industry - the position is, we do not want to
20 engage with organised crime. We do not want outlaw motorcycle gangs to have roles as employers within this industry. But we do not know who they are. We want the list, if you can lawfully provide it to us."
25

And they quite properly and rightly say there are a spaghetti of laws which prevent
30 us telling you whether or not Dr Evil is in fact evil or has a doctorate, okay? They cannot confirm or deny whether or not the Comancheros exist, never mind this gentleman is a member of the Comancheros, never mind he's sergeant-at-arms. The CFMEU is not an organisation that has a body of 20 people keeping track of who's involved in the organised crime space. That is not our job. That is not the
35 CFMEU's job. I keep slipping into "our" and "we" because of the past experience. But the problematic part of this, one of the problematic parts of this is how does the CFMEU effect its desire, its purpose, its drive to rid industry from being employers in this space?

40 For it's a view that I have articulated from commencement of the administration, and Michael Crosby is committed to, that organised crime should have no role in industrial relations. Organised crime members, even all the way down to those, whoever the lowest level of member is, should have no role in industrial relations at all, and organised crime-controlled entities should not be involved in the
45 construction industry, okay? Now, how does one police that? Now, we've got processes which are imperfect, working on imperfect information, and we try, and we sometimes fail.

Now, that's one aspect. The second aspect, the problematic aspect of the involvement is this: we've got - we've got entities who are major employers, who engage with organised crime or are controlled by organised crime, who employ
5 hundreds and in some cases over a thousand workers, and they are - part of their space is to operate in the construction industry. This gentleman who was just convicted of various tax offences in New South Wales ran a massive \$40 million business, okay, in the construction space, and the question for the CFMEU in those circumstances is when we know that they're engaged in organised crime or,
10 you know, they've got drug distribution networks or they're using it to - they're using it to launder money, does the CFMEU then say, "We're not going to represent our members there. Workers in that part of industry are going to remain unregulated and unprotected."

15 And that's a hard choice, for it is the case that there continues to be organised crime influence in construction. The CFMEU has sought to drive it out of its own ranks. It's sought to set up structures so it can't be back, and it wants to encourage regulators, police, etcetera, to - and ultimately it will involve a change in the law about who can be an employer, a fit and proper person approach to who can be an
20 employer in construction? Now, that is - that is my view. I'm a member of counsel. That's my experience. But the suggestion - the suggestion that - which I'm sure you weren't making or insinuating - that the CFMEU is "in bed with" organised crime in some way under the administration is not only wildly incorrect but false. We have - we have adopted a consistent position of trying to drive them
25 out, and if necessary, to represent our members, we have sat down and entered into enterprise agreements with these people, because otherwise they become black sites.

Now, whether or not these people, via their wives or their sisters or their
30 brother-in-laws or their - you know, trusts or their corporate structures, manage to present as if they're not connected and have got through that route, or whether or not we knew and sat down and said, "Well, nevertheless, they employ 2,000 people or 500 people or whatever and we've got no choice other than to engage with them." Now, the way in which that's dealt with and regulated is, you know, a
35 development of a principal policy and applied in different places and, at the same time, an approach in which we seek to place pressure, through our dealings with stakeholders, through our meetings with police, through our meetings with regulators, through our meetings with various other decision-makers to try and effect that position. It is problematic. I agree. It is problematic.

40
COMMISSIONER: Is it really that difficult, though? Because our experience has been that when you talk to enough people in the industry, through talking to a very large number of people, you get the same information from a lot of people which enables you to have some confidence, even without the police giving you
45 their intel, that these organisations are associated with - with organised crime. Now, you might not be able to prove it to a level of a criminal standard, but isn't it better then when you're in a clean-up phase to take a better safe than sorry

approach? So if you're getting enough intel from enough people within the industry that these employers are connected with organised crime, you might not be able to prove it to the level that would satisfy a judge, but you might be satisfied enough that you can't take the risk that these people should continue to have a role in the industry.

MR IRVING: The difficulty - there's a couple of difficulties with that approach. First, I've adopted the view that I don't need to be satisfied beyond reasonable doubt that there's a connection between folk and organised crime to be able to apply a position. However, the - you know, the sources of information and the infrastructure which tracks this stuff is - is not a good fit within the CFMEU in that the - there are governments who have got dedicated time and resources to collect this stuff. In addition, the information that is collected by these organised crime units within various entities are themselves snippets of information. There are no minutes of the Comancheros. You know, the membership and the positions might be inferred from certain things sewn onto - etcetera, so it's - piecing it together is hard.

The second thing is, the CFMEU has to act for and protect its members, and, you know, what do you do with - there are 20 or 30 big employers in Australia, large construction companies. What do you do as the CFMEU when one of them has engaged folk who are - who are engaged folk who have connected with organised crime? I mean, a quite public example which happened late last year: Federal Airport Corporation is creating a - doing a major construction down in Melbourne, okay? It is run by a major construction company. It is funded by big funders. Underneath that, there are different stages of the work being done, and in one of the stages, they've engaged a gentleman called Mick Gatto to do the work, and Mick Gatto has adopted a particular view that this is not going to be a union site, it's not going to have an enterprise agreement, and the CFMEU has adopted the view that there should be an enterprise agreement governing the workers. Okay?

He is the representative of the employer. CFMEU meets with Mick Gatto, front page. CFMEU doesn't meet with Mick Gatto, members sold out. CFMEU contacts employer and says, "You've got Mick Gatto on the books. We think that's inappropriate." Interference with contractual relations. CFMEU says to those further up the tree, "You should be held accountable for all of the involvement of organised crime on your site." "No, we've got - we've got levels of contracting, and we're blind to what happens below us." And so it's - it's fraught decisions in a fraught industry which requires a structural change, in my opinion, to be able to weed these folk out. But the suggestion - any suggestion that the CFMEU remains in bed with organised crime is - is not correct. It's just not correct.

COMMISSIONER: Is the structural change the one you mentioned last time, moving from a subcontracting model back to direct employment or some other structural change?

MR IRVING: No, a structural change might consist of this: that to be - to be an employer, a significant employer on a major building site, you have to satisfy a relevant body that you're a fit and proper person or governed by fit and proper people or not associated with organised crime, and there are numerous ways in which that could be implemented at a national level. So that's one structural change. And creating a fit and proper person test for employers at the behest of the CFMEU might sound ambitious to some. But if it is the way in which we rid the industry of this type of infection, then so be it.

A second way is to ensure that procurement practices of major employers are able to reach down into different layers to ensure accountability and compliance, so as to say the principal contractor will have the right to tell all of the major subcontractors to tell all of the minor subcontractors throughout the tiers that there will be no one engaged on this site who is relevantly connected with organised crime and that there's those levels of lines of sight throughout the procurement process so as to make sure that the major employers are able to say or the major builders are able to say, "This is an organised-crime-free site. This is a site where none of the companies that come onto the books have got a connection with organised crime."

Now, I mean, without dwelling upon the person of enormous integrity who approved that agreement, there is a role for all sorts of regulators in this - in this sort of space. Why is it that the CFMEU is tasked with the role of getting rid of these folk in circumstances where regulators don't do the checks that the CFMEU is asked to -

COMMISSIONER: It'd be impossible for the FWC to do the checks with their resourcing. It would just be impossible. They don't have anywhere near the resources to -

MR IRVING: And yet - and yet a private sector organisation does? I mean -

COMMISSIONER: Well, it depends on the nature of the private sector organisation. If it's one that has been involved in causing the problem through its own behaviours, then maybe it needs to bear some of the burden of fixing it.

MR IRVING: Well, I mean, take, for example, the clean-up and clean-out in the various states where over 50 per cent of the organisers are gone. The institutional knowledge to do good things is partly lost, but the institutional knowledge of where - who's connected with whom is also lost. And to the extent you get rid of organisers who did engage with organised crime, who knew who's in what gang and all that sort of stuff, if they're the first to go, then your knowledge of who's in what gang goes partly with it. And it's - and it's - they're highly difficult issues, I agree. Problematic is - I would agree with that.

MR WHEELAHAN: I have no other questions, Commissioner.

COMMISSIONER: Where are we with examination - further examination or cross-examination of this witness? Have you got -

5 **MR WHEELAHAN:** There's no application. So the applications to cross-examine were open until Monday night, was it, of this week, and no applications were received. So we listed Mr Irving for the day in anticipation that there would be applications. There were not.

10 **COMMISSIONER:** No one wanted to -

MR WHEELAHAN: No.

COMMISSIONER: Including the representatives of Mr Ravbar and Mr Ingham?

15 **MR WHEELAHAN:** Nobody.

COMMISSIONER: And Mr Lowth?

20 **MR WHEELAHAN:** There were no applications.

COMMISSIONER: That's - well, that's surprising.

25 **MR O'GRADY:** Commissioner, I did have some questions in re-examination, but I note the time.

COMMISSIONER: Can we do it at 2 o'clock?

MR O'GRADY: Of course we can.

30 **COMMISSIONER:** Oh, because this was your witness.

MR O'GRADY: Yes.

35 **COMMISSIONER:** Yes. I forgot about that, sorry. It was a long time ago.

MR O'GRADY: Yes. But 2 o'clock is fine.

COMMISSIONER: Can we do it at 2 o'clock?

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

COMMISSIONER: Very well. We'll adjourn till 2 o'clock.

45 **<THE HEARING ADJOURNED AT 1.06 PM**

<THE HEARING RESUMED AT 2.00 PM

COMMISSIONER: Mr O'Grady.

<RE-EXAMINATION BY MR O'GRADY

5 **MR O'GRADY:** Thank you, Commissioner. Mr Irving, you gave some evidence this morning that you'd spent about 20 minutes on the Youth Crew issue when you were the administrator. What else were you doing when you were the administrator?

10 **MR IRVING:** Good gracious. How long have you got?

MR O'GRADY: Well, perhaps in a big-picture way.

15 **MR IRVING:** Oh look, in a big-picture way, there is an organisation of some 320 employees with some - in excess of \$300 million in assets, which was - as has been recorded in a long history of Federal Court decisions, which was being conducted in adopting in many respects an unlawful business model, and one needed to reform personnel, you needed to change culture, you needed to change processes. You needed to try and engage in a regulatory reset as well, that one
20 needed to go out and meet with stakeholders to say that there is a new way that the CFMEU is going to be conducting itself, whether or not that's the FWO and the FWC and the various police forces and regulators around the country and start to figure out different processes by which disputes will be resolved promptly and effectively and lawfully.

25 There needed to be retraining of employees and changes in the way the delegates are appointed and conduct themselves. There needed to be - that's just the internal organisation. Then one needed to look at past misconduct and having a look at some of that and referring that to various authorities or investigating it yourself.
30 And, of course, it's six different branches in six different places, and each of them had operated differently, and some of them had created a lot more work than others, and some of them had particular problems like Queensland compared to other states and so required a nuanced approach.

35 So it was a job of some complexity, and not to diminish the significance of the wrongs perpetrated historically through the Youth Crew, they seemed perhaps to pale into insignificance compared with the wrongs conducted by, in Queensland, the whole of the branch. I mean, it was - it was not the Youth Crew who was - it was not the Youth Crew who was the subject of many of these contraventions
40 which are being found to have occurred in Queensland.

MR O'GRADY: Thank you. And given the enormity of the tasks that were undertaking, how would you rate the success to date of the reforms that you've sought to implement?
45

MR IRVING: Well, look, I'm - I'm very proud of what the administration has been able to achieve during the time in which I was administrator, and I have

every confidence that that will go forward. Are we there yet? No. Is there a way to go? Yes, years to go. And there is a plan. There is a structure. There are processes. They're being implemented. But it will - there's significant work still to go, but there's - an enormous amount has been achieved. I mean, the - just as an
5 aside, you know, those demarcation issues with the AWU have been around for 50 years or more, and we've entered into an agreement and a process by which we are going to resolve all of the demarcation issues associated with civil construction in a careful, considered, rational, binding manner going forth.

10 **MR O'GRADY:** Thank you. Now, you also gave some evidence that the Youth Crew was like a lot of other youth groups one finds in society generally. I don't need to take you to it, but Ms Schinnerl gave evidence - and this is at page 547 of the transcript, Commissioner - that to her knowledge, there were a Youth
15 Crew-type organisation with the ETU and also maybe the Plumbers Union. Does that surprise you at all?

MR IRVING: It doesn't surprise me. I have no specific knowledge of what happens in those organisations, but it doesn't surprise me.

20 **MR O'GRADY:** Yes, thank you. Now, you were asked whether or not you had cancelled the membership of Mr Ravbar and Mr Ingham, and you indicated that they're still members. What, if any, steps have you taken in respect of that membership?

25 **MR IRVING:** So charges were laid pursuant to a procedure created by the administrator late last year against those members. Those charges set out certain allegations of wrongdoing, including some of those that relied upon the report of Mr Watson. In essence, part of the response to that from Mr Ravbar and Mr
30 Ingham says, "Well, we should be given the opportunity to cross-examine Mr Watson about these things before you make a decision in relation to the charges." One of the statutory overlays is - refers to a process of procedural fairness associated with that. I made a decision to defer the resolution of those charges until the cross-examination of Mr Watson had been completed and then to give a period during which submissions could be made in relation to what arose out of
35 that cross-examination.

And so Mr Watson - so though the charges were laid late last year, we've been - I initially anticipated - I think we all did - that the initial cross-examination would be completed a number of months ago. It was only completed two or three weeks
40 ago. And then there was this period where submissions can be provided and then a decision on the finalised material can be made. Now, has that period completed? I think it has. It might have run out on Friday. I haven't checked.

MR O'GRADY: Well, there is also the possibility that Mr Watson might be
45 recalled.

MR IRVING: Oh. Well -

COMMISSIONER: Is there? What was that all about?

5 **MR O'GRADY:** I think that was left between discussions between counsel for Mr Ravbar and counsel assisting at the time, and I haven't been informed as to what resolution was reached in respect of that.

COMMISSIONER: All right.

10 **MR IRVING:** Well, no doubt the administrator will form a view as to what should be done in relation to that.

MR O'GRADY: Thank you. Now, you were asked some questions about Mr Rielly's interview with Mr Watson. Can you remind the Commission what
15 process was adopted by people who were being - or, sorry -

COMMISSIONER: Just while I'm thinking of it, Mr O'Grady, I mean, it would be useful for us in the Commission to get a copy of whatever Mr Ravbar and Mr Ingham say in response to the charges that are laid -
20

MR O'GRADY: Yes.

COMMISSIONER: - just so that there is no chance of Mr Ravbar and Ingham saying one thing in the domestic tribunal, the internal investigation into his
25 membership, as to whether or not his membership or their membership should be revoked and also to say a different thing here.

MR O'GRADY: Yes. Well, if a notice to that effect was issued by the Commission, we'll comply. Coming back to my question, you were asked about
30 Mr Rielly's interview with Mr Watson. Can you remind the Commission what you found out about the way in which the former people running the union had responded to people being directed to have an interview with Mr Watson?

MR IRVING: So as I understand the process in relation to the interviews with
35 Watson, it involved CFMEU organisers being informed that they were to attend the premises where Mr Watson was conducting the interview and answer his questions. They were picked up by - I understand that they were picked up by a person from outside the CFMEU premises and given a recording device, and the person who picked them up has subsequently been charged initially with torture
40 and now with murder, and that gentleman informed the participants in the interview that they were to use the recording device in the interview with Watson so as to make sure that they didn't say anything out of line, which is to say that the Riellys of the world would sit there and say, "I can't remember. I can't remember. I can't remember." And at the conclusion of the interview, the recording device
45 was delivered back to this gentleman -

COMMISSIONER: It was Mr Perrett, wasn't it?

MR IRVING: I can't recollect his name. I do recollect that he was connected, I think by family connection, with Jade Ingham, but -

5 **COMMISSIONER:** Mr Ingham's step - not stepbrother, half-brother. They've got the same mother but different fathers.

MR IRVING: Okay. That sounds about right. I haven't turned my mind to that in recent months.

10

MR O'GRADY: Yes. Thank you. Now, you were also asked some questions as to why you went down the redundancy route as opposed to terminating Mr Rielly's employment from the Queensland - employment in Queensland. Can you just remind the Commission why you went down redundancy rather than just sacking him on notice or without notice?

15

MR IRVING: So if we went down the unfair dismissal route, there was a prospect that the employees would challenge the unfair dismissal, and then it would be necessary to start to call evidence to justify and support the decision. It was going to be - you know, there were at least a dozen or so of these folk in Queensland. It was not only going to be expensive, it was going to be time consuming. As well as that, it can be used as an opportunity to, you know, have discovery orders against the administration to produce all sorts of documents, and it was just going to be administratively simpler and strategically better to win without fighting.

20

25

MR O'GRADY: I understand.

MR IRVING: And that involved an additional cost to the union, consisting of redundancy payments, and that was going to be weighed against the costs of being engaged in all of these unfair dismissal applications. At the time, there were - or at least subsequently, maybe at the time - well, at the time as well - there were multiple general protections applications in which I was the respondent, there were multiple unfair dismissal applications that had been brought by people who had left the employment of the administration, and all of those cases required management and instructions and engagement of lawyers, and the administration didn't have time for - to conduct dozens and dozens of extra pieces of litigation.

30

35

MR O'GRADY: I understand. If you had have decided to dismiss Mr Rielly, would that have had an automatic effect on his capacity to remain a member of the CFMEU?

40

MR IRVING: No. No.

MR O'GRADY: Thank you. Now, you gave some evidence as to the enterprise agreement that was entered into by the administration. Do you recall that, just before lunch?

45

MR IRVING: Involving this gentleman from the Comancheros or Bandidos or whatever. Yes.

5 **MR O'GRADY:** Yes. What, if any, capacity does the CFMEU have to stop people from employing people in the construction industry?

MR IRVING: It has only got the power of persuasion.

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

MR IRVING: And it cannot issue - cannot lawfully issue any ban on anyone being employed. Historically, that is not to deny the fact that black bans have existed.

15

MR O'GRADY: Yes.

MR IRVING: It is - which practice or - which practice which I've sought to make sure has been stamped out. I've -

20

MR O'GRADY: I understand. I have no further questions in re-examination.

MR IRVING: Sorry, there's one matter relating to the document I was initially shown from Facebook, and I think I might have misunderstood a fact about that which might have affected some of my answers. I was under the impression - and I'm not suggesting Mr Wheelahan was at error here - I was under the impression that that document was placed on the website this morning, and I thought there was mischief afoot by other whoever ran that Facebook group or was - you know, was within the CFMEU and sort of was engaging in some sort of mischief to set me up or to set you up, and that misapprehension arose from my mistake about when the document first appeared.

30

It's dated 2022, and there was no misleading, etcetera, in relation to that, but I - I misunderstood what Mr Wheelahan was saying and was under the apprehension it had been placed up that very morning so that here I would be in the witness box, presented with, "Oh well, Mr Ravbar's still running things. Look, it's put up this morning." The fact that there's some historical record that four years ago he authorised something, that's not a surprise or concern to me. But I - I hope -

35

40 **COMMISSIONER:** I understand what you're saying.

MR IRVING: I don't want to mislead you, Commissioner.

MR O'GRADY: Yes. That's the re-examination, Commissioner.

45

COMMISSIONER: Is there anything - there's nothing else for Mr Irving, is there?

MR WHEELAHAN: No, Commissioner.

5 **COMMISSIONER:** Mr Irving, thank you very much for your evidence. Sorry it's been so - the completion of it's been so delayed, and you're excused.

MR IRVING: Thank you.

<THE WITNESS WAS RELEASED

10

MR O'GRADY: Before my learned friend recommences, I have been asked by Mr Irving to put something on the record. It's not a matter for re-examination as such, but I have these instructions. You'll recall that there was an email of 16 July referred to by Mr Wheelahan in his examination of Mr Irving regarding allegations of misconduct. We understand that that email was received some months ago. It is apparent from the fact that it's dated 16 July.

20 **COMMISSIONER:** I don't know what you're talking about, but you'll just keep going and I'll catch on in a moment.

MR O'GRADY: Yes. This is the email that made allegations about Mr Rielly.

COMMISSIONER: The allegations from someone in New South Wales?

25 **MR O'GRADY:** Someone in New South Wales.

COMMISSIONER: Yes.

30 **MR O'GRADY:** Now, we haven't been provided with a copy of that email.

COMMISSIONER: Right.

35 **MR O'GRADY:** My client reiterates its commitment to cooperating with the Commission of Inquiry, and the administration welcomes any allegations of concerning behaviour and asks that they be brought to its attention so that it can take appropriate action in respect of it. As Mr Irving also said in his evidence this morning, there is of course a process independent of the administration run by the Fair Work Commission, where complaints about the CFMEU can be brought and can be investigated.

40

COMMISSIONER: What's that process, sorry?

MR O'GRADY: Well, sorry, it's the Fair Work Ombudsman.

45 **COMMISSIONER:** Fair Work Ombudsman. Is that some special process?

MR O'GRADY: No, it's a special process directed towards the CFMEU.

COMMISSIONER: Okay. That's not run by the general manager of the Fair Work Commission; that's run by the Fair Work Ombudsman?

5 **MR O'GRADY:** Yes. As I understand it, yes. And we can provide those details in due course.

COMMISSIONER: Thank you.

10 **MR O'GRADY:** Sorry. I've been led astray by my - by the Fair Work Ombudsman, and there's a website where you can make a complaint and the like and that can be investigated. Thank you, Commissioner.

COMMISSIONER: Very well. Thank you, Mr O'Grady. I imagine you were
15 imagining that there would be much more cross-examination of Mr Irving by parties who've chosen not to cross-examine him?

MR WHEELAHAN: Correct, Commissioner.

20 **COMMISSIONER:** And you set time aside to allow that to happen.

MR WHEELAHAN: Yes.

COMMISSIONER: And presumably we're a witness short.
25

MR WHEELAHAN: We are. So the same issue happened on the first day of this week with Ms King and Ms Schinnerl, and it ended up only being the administrator to cross-examine Ms King, and we were able to bring in two other witnesses at short notice.

30 **COMMISSIONER:** At short notice.

MR WHEELAHAN: But for today, with an hour to go -

35 **COMMISSIONER:** You haven't been able to.

MR WHEELAHAN: - we haven't been able to.

COMMISSIONER: Oh well. Are there any other -
40

MR O'GRADY: I was intending, Commissioner, just to direct you to some paragraphs within the decision that was referred to this morning. This is the one concerning Mr Rielly's application. Again, it's not really a matter for re-examination, but it might assist you. You'll see from paragraph 11 that the Fair
45 Work Ombudsman indicated it wished to be heard in respect of the application and opposed the application.

COMMISSIONER: Yes.

MR O'GRADY: And then if one goes to paragraphs 38 through to 42, you'll see that the various incidents concerning Mr Rielly were the subject of summary and description by the deputy president. And then at paragraph 47, you have summarised, in effect, the nub of the argument being put forward by the administrator in respect of Mr Rielly, namely, that these incidents occurred when there weren't established systems or processes to ensure compliance and that Mr Rielly's actions need to be seen in that context and -

COMMISSIONER: Do you know whether - sorry, I cut you off. You go.

MR O'GRADY: And didn't seek to excuse the conduct but sought to provide some explanation in that regard, and it said that the previous culture had been eliminated by the administration. So those were the only passages I wanted to take you to, Commissioner.

COMMISSIONER: Just in terms of that question of culture, Mr Watson's report, which I'd forgotten was publicly available - I don't know how I forgot that, but I did - would have been available, that is, his report into Queensland -

MR O'GRADY: Yes.

COMMISSIONER: - would have been available to the Fair Work Ombudsman. And I presume, unless Mr Crosby alerted the Fair Work Commission to it or the Fair Work Ombudsman alerted the Commission to it, the Fair Work Commission would have proceeded as is orthodox on the materials before it. Although it does have the capacity to obtain material independently of the parties, it hardly ever does so, for good reason, for procedural fairness.

MR O'GRADY: Yes.

COMMISSIONER: Mr Wheelahan said Mr Crosby did not include Mr Watson's report in the materials that he put forward in support of the application to have Mr Rielly's permit returned. Do you know whether the Fair Work Ombudsman put the Watson report to the Fair Work Commission as part of its materials?

MR O'GRADY: I don't, although clearly the subject of the Watson report concerning Mr Rielly was clearly a focus of the submissions put by the ombudsman.

COMMISSIONER: Sorry, I cut you off again.

MR O'GRADY: Yes. And furthermore, I would be - it would be open for you to proceed on the basis that the commission had judicial notice of the Watson report, given the notoriety of that report.

COMMISSIONER: The commission - very rarely - you've appeared in the commission for three decades. It hardly ever goes and obtains evidence other than the evidence that the parties put forward.

5 **MR O'GRADY:** I accept that. But this is a matter of some notoriety, concerning the CFMEU and concerning somebody who had been engaged in conduct in Queensland. The commission of course is an expert tribunal. It's very familiar with what's happening in the industrial space, and it had to be hiding under a rock, in my respectful submission, not to be aware of the Watson Report into Violence
10 in Queensland.

COMMISSIONER: It's a fairly new member who's determining this, and it'd be a pretty brave new member who independently of the submissions and the evidence of the parties goes and does their own research and says, "No, I should
15 have regard to this." We've got to be fair to the people hearing these things.

MR O'GRADY: I accept that. And really what I'm putting, Commissioner, is that it is - I don't have the transcript, but it would not be surprising if, in the course of these submissions being put and this argument occurring, that the Watson report
20 was mentioned.

COMMISSIONER: You just don't know.

MR O'GRADY: I don't know.
25

COMMISSIONER: And it doesn't look like - remember, Mr Irving said the Watson report vexed him in relation to Mr Rielly in three ways. One was the five examples of penalties being imposed upon him and the conduct underpinning those penalties, which Mr Wheelahan referred to, and they're set out in the deputy
30 president's decision - you just took me to them - 38 to 42 - but it doesn't - and certainly it doesn't appear that the other two things that Mr Irving was vexed by, that is, the other information that Mr Watson had about Mr Rielly is referred to, and importantly, Mr Rielly's refusal to answer Mr Watson's questions. He was very demonstrative in the witness box, was Mr Irving, in saying, in effect,
35 mimicking Mr Rielly saying, "I can't remember what happened."

MR O'GRADY: Yes. Once a thespian, always a thespian.

COMMISSIONER: Sorry?
40

MR O'GRADY: Once a thespian, always a thespian, Commissioner.

COMMISSIONER: But those two things don't appear here in -

45 **MR O'GRADY:** Well, they don't appear to be the express subject of consideration. I accept that. But, you know, the propriety of Mr Rielly's conduct generally was clearly a focus of the proceedings, and on balance, the deputy

president came to the conclusion that notwithstanding Mr Rielly's poor behaviour in the past, which, as I say, wasn't sought to be defended by the administration, that he should be given a permit.

5 **COMMISSIONER:** Do you want to say anything about that, Mr Wheelahan?

MR WHEELAHAN: No, Commissioner.

10 **COMMISSIONER:** Very well. Is there anything else this afternoon? No?

MR WHEELAHAN: No, Commissioner.

COMMISSIONER: We'll adjourn till 10 am tomorrow.

15 <THE HEARING ADJOURNED AT 2.26 PM