Queensland Government

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

COMMISSIONED UNDER THE PROVISIONS OF THE COMMISSIONS OF INQUIRY ACT 1950

PUBLIC HEARING
BRISBANE MAGISTRATES COURTS

TUESDAY, 27 OCTOBER 2026
AT 10.00 AM

DAY 51

APPEARANCES

Mr S Wood AM KC – Commissioner
Mr E Gisonda KC – Counsel Assisting
Ms I MacNicol – Counsel Assisting
Ms A Morrow – Counsel Assisting
Mr D de Jersey KC – Counsel for the State of Queensland
Ms M Brooks – Counsel for the State of Queensland
Mr J Ford – Counsel for CPB Contractors
Ms A Hughes – Counsel for the CFMEU Administration
Ms K Hillard – Counsel for Grace Grace MP
Mr D Payard – Counsel for Joseph Barker

<THE HEARING RESUMED AT 10.00 AM

COMMISSIONER: Deal with appearances. Mr Gisonda, you appear with Ms MacNicol and Ms Morrow as counsel assisting?

MR GISONDA: Yes, Commissioner.

COMMISSIONER: Ms Hughes, you appear as counsel for the administrator of the CFMEU?

MS HUGHES: Yes, thank you, Commissioner.

COMMISSIONER: Mr Payard, you appear as counsel for Mr Joseph Barker?

MR PAYARD: Yes, thank you, Commissioner.

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

MS HILLARD: Yes, thank you, Commissioner.

COMMISSIONER: Mr Ford, you appear as counsel for CPB Contractors?

MR FORD: Yes, Commissioner.

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

MR DE JERSEY: Yes, Commissioner.

COMMISSIONER: Is that everyone? Mr Gisonda.

MR GISONDA: Thank you, Commissioner. In the previous hearing week, we heard from 20 witnesses, mostly about the Cross River Rail project, and for the next two days, we will hear from another 11 or 12 witnesses, who again will deal for the most part with their experiences working on the Cross River Rail project. Before we get to the witnesses, can I tender some documents, please. The first set of documents have been collected together in a folder titled Cross River Rail Case Study Bundle 6. Do you have that folder to hand, Commissioner?

COMMISSIONER: I do.

MR GISONDA: This bundle contains some Cross River Rail-related cases that have been mentioned or will be mentioned by witnesses in their evidence but have not yet been tendered or will not be tendered through their respective witness statements. Let me just tell you what those cases are. At page 2 of the bundle, that's the Boggo Road Cross River Rail case of Judge Vasta from 2022. That was the case that Peter Cullen

gave evidence about in the last hearing week. You'll remember most colourfully that case involved the Peter Peter Pumpkin Eater allegation. At page 27, that's the appeal from Judge Vasta's decision to Justice Abraham in the Federal Court.

At page 56, there is the liability decision of Judge Egan in the case of the Fair Work Ombudsman against the CFMMEU, as it was then known. Mr Bekkers will give evidence tomorrow about that case. It was a case in which Mr Dean Rielly was found to have contravened sections 499 and 500 of the Fair Work Act at the Albert Street site. At page 184 of the bundle then is Judge Egan's penalty decision in that case. At page 200 of bundle, that's the decision of the appeal from the liability decision, which was heard before Halley, Goodman and McIlwain JJ. At page 88 of the bundle, that's the appeal from the penalty decision of Judge Egan, again Halley, Goodwin and McIlwain JJ. I'll come back to Judge Egan in a moment. At page 102, there is then a decision of Judge Vasta in what is called the barbecue case, and Mr Forde and Mr Bekkers will give evidence about that case this week.

At page 119, there is a decision of Rangiah J rejecting CPB's application for an injunction as a result of alleged interference with a protection action ballot that was being conducted, and Ms Wood will give some evidence about that, the circumstances of that case. On, I believe, 1 May, or perhaps it was 2 May, Rangiah J awarded injunctions against the CFMEU in relation to its industrial action that it was taking at the Cross River Rail site. That decision is unreported, but at page 150 of this bundle, CPB then sought a further injunction, which was granted by Collier J on 18 July 2024. And you've heard some evidence about this decision already, but that included restraints against the CFMEU and its officers and so on from coming within 15 metres of a point of entry into the site and photographing or keeping a record of persons and vehicles going in and out of the site.

And then finally, at page 177, for completeness, there is a decision of Deputy President Lake in the Fair Work Commission in relation to a stop order sought by CPB, and Mr O'Brien will give some evidence - sorry, Mr Bishop will give some evidence about that this morning. So can I tender that bundle, Commissioner. That would be exhibit CRR-14.

COMMISSIONER: How should I describe that bundle?

MR GISONDA: Cross River Rail Case Study Bundle 6.

COMMISSIONER: Are there any objections? Selection of judgments and reasons for judgment in the Federal Circuit and Family Court of Australia Division 2, Federal Court of Australia and Fair Work Commission concerning Cross River Rail entitled Cross River Rail Case Study Bundle 6 will be exhibit CRR-14.

<EXHIBIT CRR-14 SELECTION OF JUDGMENTS AND REASONS FOR JUDGMENT IN FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA DIVISION 2, FEDERAL COURT OF AUSTRALIA AND FAIR

WORK COMMISSION CONCERNING CROSS RIVER RAIL ENTITLED CROSS RIVER RAIL CASE STUDY BUNDLE 6

MR GISONDA: And the second two documents that I wish to tender is a bundle of documents that - well, two documents, I should say, of prior penalties and declarations under industrial laws involving the CFMEU or its representatives. Can you look at page 2, please, of the bundle, Commissioner. You see there that at the top of this page, it's titled Annexure B - Prior Penalties and Declarations Under Industrial Laws Involving the CFMMEU or its representatives. This is a document that was prepared by the ABCC and would be presented to the courts each time it became necessary to impose penalties on the CFMEU, and it purports to capture every instance of a penalty or a finding of contravention made against the union or its officials from the year 2000 to this document, has as its last decision 16 March 2023.

And I was just trying to find the - I mentioned Judge Egan earlier, and I was just trying to find a particular decision of his where he referred to the union as a rogue union. A comment like that and subsequent similar comments from other judges would be informed by the presentation of this table that was provided to the court by the ABCC.

COMMISSIONER: And when the - I assume - I think it was Attorney-General Dreyfus - it might not have been - moved for the appointment of an administrator to the CFMEU, he relied upon, in part, this type of conduct.

MR GISONDA: Yes.

COMMISSIONER: And then when the High Court dismissed the challenge to that appointment of the administrator by Mr Ravbar, they also relied, in part, on this conduct.

MR GISONDA: Yes. And then if you could go to page -

COMMISSIONER: There's 201 examples, I think, on - stretching back to conduct in 1999 and a judgment in 2000.

MR GISONDA: Yes.

COMMISSIONER: Do you want me to go to something else?

MR GISONDA: But you'll see there's really an escalation of findings, particularly at around the time that the ABCC was in force. Yes, could you then please go to page 103, please. The solicitors assisting the Commission have then prepared a table that continues that information. So if we go to page 104, these are findings, 21 findings in total, from May 2023 to April 2026.

COMMISSIONER: Is that because the incoming Albanese Government abolished the ABCC so it doesn't - that body doesn't exist, so it doesn't produce these tables any more?

MR GISONDA: I'm not sure that that's the position.

COMMISSIONER: Right.

MR GISONDA: We happen to have the ABCC's last document. It might be that the Fair Work Ombudsman prepares a similar table; I'm not sure.

COMMISSIONER: I see.

MR GISONDA: But in any event, from page 104 onwards, if they were to continue preparing the table, this is what it would look like.

COMMISSIONER: And that's got another 21 examples.

MR GISONDA: Yes - nationally, it should be made clear.

COMMISSIONER: I think Mr Irving made reference to this sort of behaviour too in his evidence, didn't he?

MR GISONDA: Yes.

COMMISSIONER: Saying this was the sort of culture that he was trying to - he was trying to fix.

MR GISONDA: So I tender that bundle, which would be CRR-15, and it can be described as Prior Penalties and Declarations under Industrial Laws Involving the CFMEU or its Representatives.

COMMISSIONER: Two tables of instances of prior penalties and declarations under industrial laws involving the CFMEU or its representatives, one from 2000 to 2023 and the second from 2023 to 2026, comprising 222 examples in total, shall be exhibit CRR-15.

<EXHIBIT CRR-15 TWO TABLES OF INSTANCES OF PRIOR PENALTIES AND DECLARATIONS UNDER INDUSTRIAL LAWS INVOLVING THE CFMEU OR ITS REPRESENTATIVES, ONE FROM 2000 TO 2023 AND THE SECOND FROM 2023 TO 2026, COMPRISING 222 EXAMPLES IN TOTAL

MR GISONDA: Thank you, Commissioner. Can I now call our first witness for the day, and that is Justin Bishop.

COMMISSIONER: Is Mr Bishop in the hearing room? Mr Bishop, can you come forward to the witness box, please.

<JUSTIN STEVEN BISHOP, AFFIRMED

<EXAMINATION BY MR GISONDA

COMMISSIONER: Please take a seat, Mr Bishop.

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

MR BISHOP: It's Justin Steven Bishop.

MR GISONDA: And your occupation, please?

MR BISHOP: I'm a construction site manager, CPB.

MR GISONDA: And on 23 September 2026, in accordance with the notice that was served upon you by the Commissioner, did you swear a statement that was nine pages long, comprising 92 paragraphs?

MR BISHOP: Yes, I did.

MR GISONDA: And accompanying that statement, there were seven annexures, which included a bundle of documents that's eight pages long; is that correct?

MR BISHOP: That is correct.

MR GISONDA: Can I tender that statement, please, Commissioner.

COMMISSIONER: Are there any objections? Witness statement of Justin Stephen Bishop, 23 September 2026, nine pages, 92 paragraphs, with seven annexures, will be exhibit JSB-1.

<EXHIBIT JSB-1 WITNESS STATEMENT OF JUSTIN STEVEN BISHOP, 23/9/2026, NINE PAGES, 92 PARAGRAPHS, WITH SEVEN ANNEXURES

MR GISONDA: Now, Mr Bishop, you have worked in construction your whole adult life; is that right?

MR BISHOP: That's correct.

MR GISONDA: And before starting with CPB, you worked with other tier 1 contractors in Sydney and Canberra?

MR BISHOP: Correct.

MR GISONDA: And in April 2024, you started working as a site manager on the Cross River Rail project?

MR BISHOP: That's correct.

MR GISONDA: And the site that you were initially a site manager for was the Gabba station site?

MR BISHOP: That's correct.

MR GISONDA: And in 2025, you became the site manager then of the Roma Street site?

MR BISHOP: That's also correct.

MR GISONDA: Now, at paragraph 7 of your statement, which is on page 1, you talk about your duties as a site manager on the project. Could you just tell the Commissioner, please, what some of your duties involve.

MR BISHOP: So from a day-to-day basis, obviously I'm responsible for all the safety on site. Not directly, but across the board. It's - my role is obviously to deliver the project as efficiently and as cost-effectively as possible, managing all high-risk activities, making sure everything's all set up correctly, all safety procedures and company policies as well as state and federal policies are also aligned, and just to - yeah, that's essentially what we've got to do. Make sure that the work's program and we deliver the project to client's expectations and obviously the - in a safe manner, good quality.

MR GISONDA: And just picking up on the obligation to deliver the project safely, at paragraph 8 of your statement you talk about some of the tasks that you perform in order to discharge at least the safety function of your role.

MR BISHOP: Yep.

MR GISONDA: Could you just tell the Commissioner a bit about what are some of the things you would do as part of your obligation to try and deliver the project safely?

MR BISHOP: So individually, as team lead on the project, I'd undertake task observations, sometimes several times a week; participate in site safety walks with elected HSRs for subcontractors and my safety representatives, but then also to - once - you know, when high-risk task is being programmed or coordinated, reviewing all the documentation, making sure all the specification and, yeah, all the engineering requirements all meet expectation. And prior to that, we'll review all that again as well and make sure everything is sufficient and away we'll go, then we'll proceed.

MR GISONDA: Over the page, at page 2 now of your statement, at paragraph 10, you say that you observed, at least at the Gabba precinct, that CFMEU organisers would come onto site, purportedly for safety concerns, but looking for any reason that they could to stop work. Could you tell the Commissioner why you say that?

MR BISHOP: Because that's exactly what happened, and it's happened for my whole career. It doesn't matter whether you're in Canberra, you're in Sydney or wherever throughout Australia; that's exactly what happens.

MR GISONDA: You say at paragraph 11 when an organiser came onto site and identified a safety issue -

MR BISHOP: Yep.

MR GISONDA: - what do you say would then happen once they do that?

MR BISHOP: So in particular - so what will happen is when you're issued with a 117, obviously the process is I'll meet the guys at the gate, I'll review their accreditation to make sure that they're all valid and current, both state and federal. And then once reviewing the 117, the notice, there'd be very vague description of what the issue is, and a very broad description. So, you know, over a massive site such as Cross River Rail, if you've got access/egress issues as such, I want to take these guys straight to the area, review it and get it fixed straightaway. But they're never, ever going to give you a definitive location as to where the issue is. So that turns into a seven-hour safety walk in which, you know, not much safety is being reviewed and the access and egress is perfectly fine, and it's just we're on site, chatting away, and we'll stop here and stop there, and not much value.

MR GISONDA: You say at paragraph 11 there that they would stop work in an area and direct all the workers to sit in a crib room. What's the consequence of that happening? So once they stop work, what do the workers do and do they continue to get paid? What do they do whilst work is stopped?

MR BISHOP: Absolutely they get paid. So it's my job as a - as a site manager is to obviously - I've got to deliver a safe site for everyone to be able to work safely, you know, and if I can't provide that or my company can't provide that, well, rightly so, you know, we should be held accountable for that. So - but, you know, from my perspective, I've been at CPB nearly three years now. There's no corners cut. It is - it's top-notch, the way they deal with safety.

MR GISONDA: You say at paragraph 12 that there are many examples of work being stopped on the Gabba precinct over what you describe as petty safety concerns, and then at paragraph 13 you give an example. Do you recall that example that you give at paragraph 13?

MR BISHOP: I certainly do.

MR GISONDA: And you can tell the Commissioner what happened?

MR BISHOP: So on this particular day, I got - I got a call from one of my supervisors that the safety committee wanted to conduct a wet-weather walk, which is generally what happens after a rain event, and for, you know, safety reasons, slips, trips and falls and also you've got electrical boards and stuff that are external. But on this particular day, on the way to - on the way to the station box, it's - the guys, "No, we're not going to work." I said, "Why?" "Three mil puddle of water. We can't walk through that." And that's the sort of stuff that you're dealing with. So if I've got, you know, 400, 350 men sitting in the shed and a genuine safety concern of three mil puddle of water," someone's paying.

MR GISONDA: And so what did you - so you had to get the leaf blower out to try and dry the footpath in order to get workers back on site working?

MR BISHOP: Correct.

MR GISONDA: Now, at paragraph 15, you say that your role was to greet officials at the gate who were producing a section 117 notice; is that right?

MR BISHOP: That's correct.

MR GISONDA: And you've already said to the Commissioner this morning what you say at paragraph 17, which is that the notices that they provided to you often had very little detail in them and would vaguely refer to things like access/egress.

MR BISHOP: Exactly right.

MR GISONDA: And you asked them for - or you tried to ask them for more detail when you got the notice; is that right?

MR BISHOP: That is correct.

MR GISONDA: And what would be the reason for you wanting more detail?

MR BISHOP: So I can go to that area immediately, I can make it safe, I can radio ahead to make it safe with my supervisors or my team and go then and there and make sure that no one is implicated in any injury, or - yeah.

MR GISONDA: And you say at paragraph 19 that the Gabba precinct itself was kilometres long, with something like two kilometres of stairways alone, and if you had, say, an access or egress notice, they would walk the whole site with you?

MR BISHOP: 100 per cent. So you'd walk the tunnels, you'd walk the back of house, mech, plant, up and down fire stairs, egress stairs, you'd be walking haul roads, you'd be walking the whole precinct. Station box, the whole lot.

MR GISONDA: And what are they doing whilst you're walking the site?

MR BISHOP: Chatting to everyone along the way.

MR GISONDA: And you say at paragraph 20 that their approach seemed counter-productive, because as you say, if there was an actual risk, it would be in everyone's interests to go immediately to the risk and try and alleviate it so as to prevent injuries to workers; is that right?

MR BISHOP: That is correct.

MR GISONDA: Then at page 3 of your statement, at paragraph 21, you refer to section 484 notices that the union sometimes presents when they arrive at the gate, and you say at paragraph 22 that when they do that, you would offer the organisers a meeting room so they could meet with members or potential members; is that right?

MR BISHOP: That's correct.

MR GISONDA: And would they take you up on that offer?

MR BISHOP: Certainly not.

MR GISONDA: What would they do instead?

MR BISHOP: They'd insist that they're going to, yeah, conduct their meeting in the - in the main crib hut area or the main crib lunch room as such.

MR GISONDA: Why would they do that?

MR BISHOP: Why? To attract more of an audience.

MR GISONDA: You say at paragraph 24 that - and you've already mentioned this this morning - that you regarded the Cross River Rail project as second to none when it came to safety. Do you still have that view?

MR BISHOP: Absolutely.

MR GISONDA: And you say that it was drilled into you by upper management that safety was the number one priority?

MR BISHOP: Absolutely. Our safety standards are - they're of the highest standard.

MR GISONDA: Could I now ask you about the two HSRs who were directly employed by CPB in about September of 2023. That's Mr Ryan Rowley and Richie Atutolu. Mr Rowley was working in the night shifts; is that right?

MR BISHOP: Correct.

MR GISONDA: And so as a result, you didn't have much to do with him?

MR BISHOP: Not a great deal. His shift would generally be starting as I'd be wrapping up for the day.

MR GISONDA: Mr Atutolu, however, was working or meant to be working during the day; is that right?

MR BISHOP: Yes.

MR GISONDA: And at paragraph 27, you say that Mr Atutolu was a particular problem at the Gabba precinct. Can you tell the Commissioner a bit more about your observations about him and his conduct on the site?

MR BISHOP: Well, what's the best way to describe it? So Richie would - he was not particular - could not follow directions in any way, shape or form. You know, he thought he was a law unto his own self. And he - yeah, he would just create problems that were not necessarily a problem or he would just go out of his way to disrupt program works, program targets, for no apparent reason.

MR GISONDA: You say that he - if you had to describe him in two words, it would be "standover man". Why do you use those words when thinking about Mr Atutolu?

MR BISHOP: Because that's the way in which he conducted himself. It was all about fear and intimidation, abuse.

MR GISONDA: You say that he didn't appear to have any particular qualifications or competencies, and he did no construction or labouring work whilst he was on site?

MR BISHOP: No. So an elected HSR is still a worker, you know, that's your title, that's your role. You know, if you're elected by your company, you're a spokesperson for that work group as such, you know. But - and, you know, everyone who forms a HSR committee, they're all elected by their peers to represent them, and that collective committee comes together for the site. And Richie had no work group.

COMMISSIONER: What did you say then? He had no work group?

MR BISHOP: Well, he had a work group. He was elected to - supposedly elected to represent my CW staff, my blue-collar staff, but these guys were out there working, and he was sitting in the crib hut when he was on site, and when he wasn't on site, didn't know. Certainly wasn't representing anyone.

MR GISONDA: You say at paragraph 28 that when he was on site he would spend most of his day sitting inside the air-conditioned office set aside for HSRs. Can I just ask you: before he was employed by CPB, in about September of 2023, he was already on site as an employee of Heinrich; is that right?

MR BISHOP: I believe so.

MR GISONDA: And was his behaviour the same when he was originally on the site, or did he only develop these behaviours once he started working as a direct employee of CPB?

MR BISHOP: Look, to be perfectly honest, it's - I've - I've heard lots of stories. I didn't witness any of them. I started in 2024. But it's not one or two rumours, you know. When you're hearing the same thing or a very similar story or stories from multiple people, yeah, there's a bit of substance there, I think.

MR GISONDA: And you say at paragraph 28 that he would walk on and off the site as he pleased throughout the day without telling anyone, and we've managed to find at least one video of him coming onto site. If we could play that video, please, which is JSB-1.

(Video played).

MR GISONDA: So we see him now walking towards the site; is that right?

MR BISHOP: Correct.

MR GISONDA: Now, he's been let in there by a traffic controller; is that right?

MR BISHOP: Correct.

MR GISONDA: And has the traffic controller done the wrong thing on that occasion?

MR BISHOP: Absolutely, and against my direct instruction.

MR GISONDA: And what happened or what happens to a traffic controller who does this, letting in union officials without going through the proper entry processes?

MR BISHOP: Look, like, it's - it's hard. You know, like, this guy's been put in a position where I've given him a clear direction, because, you know, everyone's got to come through the turnstiles. The turnstiles are there for a reason, so I've got count of every single person that's on my project at any given time, and in the case of a major emergency, a site evacuation, I can account for everyone. Now, this bloke's been put in a position where he's been given a direction from me not to, but he didn't hesitate to open when he seen him coming, did he?

COMMISSIONER: What do you think he did that?

MR BISHOP: Why?

COMMISSIONER: Yeah.

MR BISHOP: Well, from my opinion, I - I don't understand - I'm the site manager on the project. I don't understand why this guy would deliberately go against what my instruction's been, and I believe he's been intimidated. I believe there's been a conversation had in which - where I've been disregarded, and this guy has obviously - yeah, I don't know. I think the picture speaks for itself.

COMMISSIONER: One of the things you say about Mr Atutolu and also about Mr Rowley is they're directly employed by CPB. This might be somewhere else in the evidence, and you might not know it yourself, but did CPB directly employ many - what I might call - what did you call them - CW blue-collar employees?

MR BISHOP: Yep. A definitive number at the time when I started at the Gabba - I'd have to say high 30s.

COMMISSIONER: High 30s?

MR BISHOP: Yeah, 30s, yeah, of direct-labour CPB workers.

COMMISSIONER: I assume most of the blue-collar labour would be subcontractors. That's not correct?

MR BISHOP: Not necessarily all of them, no. See, again, too, so when a project like this evolves, you've got your civil workers. These guys have completed the civil portion of the project, whether it be the tunnelling, excavation, you know, all the civil aspects of the project, and some of them move into structure, you know, and become part of the structure crew, you know, and depending on your skill set, your level of confidence and your work ethic, you might even still be there at fit-out time. But your CW workers have generally got a broad sort of skill set, and they can adapt as a project evolves.

MR GISONDA: Commissioner, I can - I don't think it is presently in the evidence, but after the break, maybe after the luncheon break, I can give you the numbers of the vote that was held in late 2024 for the new enterprise agreement, so that will tell you the total direct workforce. Now, we can skip over, I think, paragraphs 29 to 38. That discrete event is the subject of the Deputy Lake decision which I just took the Commission to earlier.

COMMISSIONER: Deputy President Lake's decision?

MR GISONDA: Yes, Deputy President Lake. Then jumping ahead to paragraph 39 on page 4, there was an incident on 3 October 2024 involving Mr Atutolu, and we've heard some evidence about this already from Ms Nicole Watson, who then conducted an investigation into this incident, but you were present at least for some of it, Mr Bishop. Looking at paragraph 42 - well, paragraphs 41 to 43, I suppose,

more accurately - you were present at a pre-start meeting on 3 October 2024; is that right?

MR BISHOP: Correct.

MR GISONDA: And can you tell the Commissioner what you recall about what happened in that meeting on that morning?

MR BISHOP: So generally at the pre-start meeting the guys will give a safety brief of any incidents or learnings from the prior day or off other projects. The guys will go through access/egress routes, our high-risk activities for the day, and then my supervisors will generally speak to the workforce in regards to what our objectives were for each day and for each particular work group. On this particular day, once that was complete - I can't remember the exact topic, but there was conversation had, and for whatever reason, Richie decided to take it upon himself to stand up and address the whole pre-start and address me as to why he was not allowed to - why did I close the access to the Leopard Street turnstiles or Leopard Street gate? The gate was not left open to the general public. I said, "Well, you know, you gotta use the turnstile like everyone else, bud. It's as simple as that. There's no rules for you and then rules for everyone else."

And, yeah, give me a bit of lip and attitude in front of the whole workforce from there and then, and then addressed me as to why I'm not providing site barbecues for the whole entire workforce every Friday. And again I said to him, "Mate, there's no budget to supply a barbecue to 400 men or 600 men every Friday. It's just not going to happen. A barbecue is something you just put on generally around, you know, major milestones in a project or a bit of appreciation and gratitude for the workforce for hard work, so we'll put on a barbie and everyone can take five to have a breather and have a look and appreciate the hard work that's gone into it." And he didn't like that.

There was another guy Mr, Zach Hilton. Zach's a pretty, you know, pretty quiet and reserved bloke. And as Richie was, you know, giving me a bit of lip and carrying on, putting on a show, you know, Zach said, "Mate, just sit down. Stop carrying on." And then it escalated from there, where, you know, he motioned for him to, you know, better language, just to get up, but a bit more colourful, and basically decided to taunt Zach to come outside for an altercation as such.

MR GISONDA: At paragraph 44 of the statement, top of page 5, you say that Mr Atutolu said to Mr Hilton, "Come on, bigmouth. If you want to mouth off, let's go for a walk." And when Mr Hilton did not respond, Mr Atutolu said, "Get the fuck up."

MR BISHOP: That's correct.

MR GISONDA: Mr Atutolu was the aggressor in that exchange?

MR BISHOP: Absolutely.

MR GISONDA: And so just so we're clear, this is a pre-start meeting. An important purpose of the pre-start meet something that it performs a safety function for the workforce; is that right?

MR BISHOP: Yep, that's correct.

MR GISONDA: Mr Atutolu was the union-imposed HSR rep at that time?

MR BISHOP: I believe so, yeah.

MR GISONDA: And in this safety meeting, what he proceeds to do is threaten a blue-collar worker in that meeting?

MR BISHOP: Correct.

MR GISONDA: Now, you've given evidence at - and it was as a consequence of that incident, I should say, and a further incident that led to the termination of Mr Atutolu by CPB in late 2024?

MR BISHOP: That's correct.

MR GISONDA: Now, at paragraphs 50 to 53, you give some evidence of a concrete pour disruption, which is catalogued in the emails that you've attached to your statement. So we don't need to go into that. But can I now turn to the canopy lift on 15 November 2024, and can you tell the Commissioner, what was the canopy lift job that was scheduled for 15 November 2024?

MR BISHOP: So the canopy - the canopy structure itself, it's - it's quite unique. There was three - three portions it was lifted in, and constructed on the ground, but we had to walk each section, so it was constructed as a whole on the ground, a metre or so off the ground. But then as each module came together, there was - there was three separate separable portions in which we lifted the whole thing and we had to walk it roughly 100 metres and land it over the actual top of the station box itself. Now, each one of these lifts were an approximate 390 tonne, 95 tonne, and a lot, a lot, a lot of planning, it was a lot of late days, late nights for the guys. They worked really hard to ensure that this thing was going to go like clockwork, and that's essentially what happened.

MR GISONDA: And you were responsible for coordinating the safety protocols for this canopy lift; is that right?

MR BISHOP: Not independently; as a team. There's a lot of engineering that goes into a big milestone like this, and especially such a high risk one.

MR GISONDA: And you say at paragraph 55 that multiple restricted zones were set up across the site to keep workers away from any danger zones?

MR BISHOP: Correct.

MR GISONDA: And then at paragraph 56, you say that you had arranged for a barbecue to be put on at that time for the workers who were not engaged in the lift. And why did you do that?

MR BISHOP: So on that particular morning - and just to be clear, the barbecue was for around 6.30, just after everyone had finished the pre-start in the morning, come out - because we had no definitive time as to - you know, timeframe as to how long this thing was going to take to lift. Like, it was a 750-tonne crawler crane with super flyweights on it. It was had all the bells and whistles, but as I said, we had to pick this thing up, we had to level it, then we had to essentially carry it, walk it over 100 metres and then, you know, boom out and drop this thing down on these big tower sections that were going to hold it while we put the leg under it. So the guys worked really hard and there was a lot of planning, a lot of planning sessions. It was- it was a lot of work. A lot of work well done, to be brutally honest. Quality work.

MR GISONDA: And at paragraph 57, page 6, you say there was signage put up all over the site to make clear where there were restricted areas; is that right?

MR BISHOP: That's correct.

MR GISONDA: And the lift was scheduled to begin, or at least the works were scheduled to begin at 3 am?

MR BISHOP: Correct.

MR GISONDA: And at paragraph 60, you say when you arrived at the site at 2.45 am, you were greeted at the turnstile by CFMEU organiser Cody Budgeon?

MR BISHOP: Correct.

MR GISONDA: And he was shortly joined by Mr Dylan Howard; is that right?

MR BISHOP: That's also correct.

MR GISONDA: You say at paragraph 62 that it was clear that someone had tipped the CFMEU off that the lift would be happening, because there was no public knowledge that that lift was going to occur at that time?

MR BISHOP: Correct.

MR GISONDA: Now, at paragraph 64, you say that Mr Budgeon and Mr Howard asked to see the safety documentation relevant to the equipment that was being used as part of the lift; is that right?

MR BISHOP: That's correct.

MR GISONDA: And you set out there at 64 all the various documentations that they asked for and which you provided for them to inspect?

MR BISHOP: Correct.

MR GISONDA: And then at paragraph 65, you say there was one item of plant, being a scissor lift, and you were unable to upload the documentation for that piece of equipment, and so the two organisers asked to inspect the lift physically; is that right?

MR BISHOP: Correct.

MR GISONDA: And so you took the organisers out to inspect the scissor lift; is that right?

MR BISHOP: That's correct.

MR GISONDA: And at paragraph 66, you talk about the purpose of having the scissor lift as part of this exercise. Why did you have a scissor lift there as part of this canopy lift exercise?

MR BISHOP: So to give you a bit of an understanding, so the station box itself, all the escalators that travel up from the platform below all the way to the surface, we had to build a big, suspended deck over the top to actually get back to the top of the canopy and put all the soffit lining on, and light fittings and electrical work itself, all the electrical roughing. So this big, suspended deck, which was placed there prior to the canopy getting lifted on, which had to span the whole station box, we had - I had a scissor lift placed up there prior to the canopy lift coming over, because there was no exact science. We all had a fair idea of how this - once we'd landed this structure, we sort of had an understanding of where the rigging gear might go to be able to place it. But there was no certainty in it, and so for a little bit of a contingency, we thought if we need to get access back up there, we'll put a scissor lift up there. Whether I had to use it or I didn't have to use it, we'd have access to be able to get up there and de-rig.

MR GISONDA: After they inspected the scissor lift, paragraph 67, you say they wanted to see the OEM verification of competency -

MR BISHOP: Yep.

MR GISONDA: - for the workers who might operate it. What is an OEM verification of competency?

MR BISHOP: So it's the original equipment manufacturer verification of competency.

MR GISONDA: And what is that exactly?

MR BISHOP: It's just - I imagine it's a document that's provided to someone who's going to operate it that's been witnessed by the manufacturer.

MR GISONDA: And you say at paragraph 68 that a scissor lift is a common piece of plant used on construction sites, and you need to have a high-risk work licence before you can use it?

MR BISHOP: Correct.

MR GISONDA: And all workers who would potentially use it in the event of that contingency did have a high-risk work licence?

MR BISHOP: Absolutely.

MR GISONDA: And they had experience operating scissor lifts?

MR BISHOP: Absolutely.

MR GISONDA: And you describe the high-risk work licence as the equivalent of a motor vehicle licence. That licence allows you to operate any ordinary scissor lift, regardless of its manufacturer?

MR BISHOP: Correct.

MR GISONDA: And so you have a bit of a debate, at paragraph 69, you say, about whether an OEM verification of competency was needed for any worker who was going to use that particular scissor lift?

MR BISHOP: Correct.

MR GISONDA: And the organisers referred to the code of practice for fall prevention; is that right?

MR BISHOP: That's correct.

MR GISONDA: And so you pull the code up on the TV screen in the meeting room, and what did you do then with the code up on the screen?

MR BISHOP: Well, the story changed then from it's - it wasn't a code of practice, it was - it wasn't fall prevention; it was something else. But the conversation essentially just went round and round and roundabouts, and it just had no legs, and essentially they sort of left the argument and, yeah, proceeded onto the site, unauthorised.

MR GISONDA: So you say that there was - would it be fair to say that they were really searching for a reason as to why these works should not proceed? Is that a fair description?

MR BISHOP: Well, I can't understand how it could be any other way. We've just reviewed three hours of documentation review. Like, there was three A4 folders, you know, 100 mil thick. And plus we had it up on the screen. Anything they flicked through and found, they wanted to see it, it was on the screen. And it went around and around and around and around till I've worn out - we've had a look on site, then we've come back in and sat there again going around and around and around and it just became ridiculous.

MR GISONDA: So at that point you - this is at paragraph 72 now of your statement - you attempted to call Workplace Health and Safety Queensland inspectors for assistance?

MR BISHOP: Correct.

MR GISONDA: And this is at about 6 in the morning by this stage, is it?

MR BISHOP: That is correct.

MR GISONDA: And you were unable to get onto them at that time, and so then you speak to some of your managers; is that right?

MR BISHOP: That's correct.

MR GISONDA: And you explained to them what was happening?

MR BISHOP: Yep.

MR GISONDA: And as a result of your conversations with them, you decided that you could proceed with the canopy lift?

MR BISHOP: Correct.

MR GISONDA: So at paragraph 73, you say you told Mr Budgeon and Mr Howard that you'd be proceeding and if they had concerns they could call WHSQ.

MR BISHOP: That's correct.

MR GISONDA: And what did he say to you, Mr Howard, in response to that suggestion by you?

MR BISHOP: He told me I was full of shit.

MR GISONDA: And then he said he was going to go back on site. Is that what he -

MR BISHOP: Correct.

MR GISONDA: And what did you say to him when he said that's what he was going to do?

MR BISHOP: I told him he was not authorised to do so, because as - when these guys come to site, they're not site inducted. So they don't know the site layout. The site changes each and every day, and all visitors to site have got to be accompanied by an inducted - someone who's inducted on site, not necessarily management, anyone can visit anyone on site as long as they're with someone and their safety's looked after. But, yeah, he - yeah, Mr Howard decided to jump up and run out of the - the meeting room we were in, and made his way to site on his own.

MR GISONDA: And at paragraph 74, you say that they walked through restricted access points, walked through a restricted access point onto the haul road?

MR BISHOP: That's correct.

MR GISONDA: And you told them that they were entering a restricted zone?

MR BISHOP: That's right.

MR GISONDA: And they proceeded to do it anyway?

MR BISHOP: Yeah, they did. So again, I suppose to add a little bit to that, so prior to the lift and to give everyone a bit of an understanding, because the station box was so big down below and I had night shift coming as well, so my guys were all - we had a toolbox talk the day before that a couple of guys would start early in the morning and they would go and do a walk through the whole entire project and make sure none of the night shift guys were late coming back up from underneath the station box. So what we did, they had mark-up plans of the site of where the restricted access would be, where all the spotters would be placed around the site, and even - I had some of my workers on these major access points where there was signage set up, restricted access, etcetera, etcetera. And that's what you're referring to when he left, was straight through past one, straight up the stairs past another, and made his way to site.

MR GISONDA: And as a result of them being in a restricted zone, you say at paragraph 77 that you could not allow the lift to begin while they were in that restricted area; is that right?

MR BISHOP: Correct.

MR GISONDA: And at paragraph 78, you say you received a return call from the WHSQ inspector, and you told her what was happening?

MR BISHOP: Correct.

MR GISONDA: And what did she say to you in response to that?

MR BISHOP: She just said, "Justin, well, if that's the case and you reviewed all the documentation, I think you've been quite reasonable, and if they're not going to follow your direction," I'm well within my rights to call the police.

MR GISONDA: And did you call the police?

MR BISHOP: I did. Not just straightaway, like - top of my head, it'd be a good 45 minutes I was trying to get these guys to come back to the shed, and they just blatantly continued to argue with me. And again, you know, and like I was saying, "Guys, you're not even inducted. You're not following my reasonable direction. Please just come back to the site sheds." And they just, yeah, blatantly refused.

MR GISONDA: And at paragraph 80, you say you made a final request for them to return to the meeting room, as you say, and that was ignored?

MR BISHOP: It certainly was.

MR GISONDA: And that's when you phoned the Queensland Police; is that right?

MR BISHOP: Yeah, I did. I even offered, I said, "Guys, if you think I'm in breach, if you think we are that negligent as an organisation and as a business, I'll give you the number to Workplace Health and Safety Queensland. You can give them a call, tell them to come down here, they can inspect all the same documentation and review everything that you guys reviewed, and if they think I'm in breach, no dramas, I'll wear it."

MR GISONDA: And at paragraph 80, you say when you called Queensland Police they said they'd send a car out as soon as possible?

MR BISHOP: They did.

MR GISONDA: Did the Queensland Police ever end up attending the site?

MR BISHOP: No, they did not.

MR GISONDA: Did you hear back from them in response to your call?

MR BISHOP: Not at all.

MR GISONDA: Do you know why they didn't turn up?

MR BISHOP: I have no idea.

MR GISONDA: And the situation ended, did it, because you say at paragraph 83 at about 6.58 am, the organisers told you they were leaving as they had somewhere else to be?

MR BISHOP: Yeah.

MR GISONDA: Now, at some stage of this incident, you had - you were filming what was happening with a phone; is that right?

MR BISHOP: I was. Some of my colleagues were too, I believe.

MR GISONDA: Your colleague?

MR BISHOP: Yep.

MR GISONDA: Can we please look at annexure JSB-5, please.

(Video played).

MR GISONDA: Then can we also play JSB-8, please.

(Video played).

MR GISONDA: So just in that video there, the reference to "call them", that was then the decision to call Queensland Police; is that correct?

MR BISHOP: That's right.

MR GISONDA: Can I tender that second video, Commissioner. The date is 15 November 2024, and that should be marked as exhibit JSB-8.

COMMISSIONER: Is that - that restricted zone that - those two officials were Mr Budgeon and Mr Howard; is that right?

MR BISHOP: Yes, that's correct.

COMMISSIONER: And that restricted zone they were in was a restricted zone where a 395-tonne, close to 400-tonne canopy was going to be lifted, near there?

MR BISHOP: Correct. Yep. Where the guys are standing at the fence, behind them in the vision, you can see the actual portal towers on the western side of the station box that was going to carry the canopy till the legs got put under it.

COMMISSIONER: And that would be underneath the canopy?

MR BISHOP: Yes.

COMMISSIONER: Because it's going to sit on the towers?

MR BISHOP: Correct.

COMMISSIONER: Is there any objection to the receipt of that video? Video of Dylan Howard and Cody Budgeon, 15 November 2024, some time between 3 am and 7 am, in a restricted zone for the lift of a 395-tonne canopy at the Gabba Cross River Rail site will be exhibit -

MR GISONDA: JSB-2.

COMMISSIONER: - JSB-2.

<EXHIBIT JSB-2 VIDEO OF DYLAN HOWARD AND CODY BUDGEON, 15/11/2024, SOME TIME BETWEEN 3 AM AND 7 AM, IN A RESTRICTED ZONE FOR LIFT OF A 395-TONNE CANOPY AT GABBA CROSS RIVER RAIL SITE

MR GISONDA: And is it your understanding, Mr Bishop, that the Fair Work Ombudsman has since commenced proceedings in relation to that incident?

MR BISHOP: Absolutely.

MR GISONDA: And, Commissioner, at bundle 6 of exhibit CRR-14, if you go to page 182 of that bundle, that's the press release from the Fair Work Ombudsman announcing that it had commenced the proceedings against the CFMEU, Mr Howard and Mr Budgeon on 10 February 2026. And towards the bottom of that left column, the Fair Work Ombudsman says that:

"The alleged conduct of the two CFMEU officials on this Brisbane construction site was unacceptable and unsafe."

COMMISSIONER: Why does it take 15 months for the Fair Work Ombudsman to initiate proceedings, commence legal action?

MR GISONDA: I'm not sure.

COMMISSIONER: Just go back to that video for a moment. Can you just show me the towers you were walk being in that video, which has just been marked as JSB-2?

(Video played).

MR BISHOP: Pause it there. That's the tower there, right behind Dylan.

COMMISSIONER: Can you pause it there?

MR BISHOP: (Indistinct) in the background.

COMMISSIONER: Can you bring it up?

MR BISHOP: Yeah, pause that. So see where Dylan's arm is right there and he's holding this scaffold bar across the back?

COMMISSIONER: Yeah.

MR BISHOP: In that background there is that big box section of Shore Hire. They're the big structural towers that hold the canopy up, and then the legs all get come and put in underneath it once it's all pulled together.

COMMISSIONER: It's going to cover that whole space, is it?

MR BISHOP: No, no, no, no, no. So because the station box was so long and wide - I can't remember the exact dimensions - but it was lifted in three portions. So as I said, we built the whole thing on the ground, picked that one, took over, put it on, and that was portion number 1, and that was placed in the middle. And then over the next couple of weeks or the next couple of days we grabbed and put the other ends on.

COMMISSIONER: I see.

MR GISONDA: I have no further questions for Mr Bishop.

COMMISSIONER: How do you keep your cool when all this happens, Mr Bishop? You're in charge of a very large piece of infrastructure, lots of moving parts, lots of issues to deal with, and you have to deal with this. How do you keep your cool dealing with it?

MR BISHOP: I'm sorry, I couldn't hear you then.

COMMISSIONER: You couldn't hear what I said?

MR BISHOP: Yeah, couldn't hear what you said, yeah.

COMMISSIONER: This is a very large piece of infrastructure.

MR BISHOP: Correct.

COMMISSIONER: A lot of moving parts.

MR BISHOP: Correct.

COMMISSIONER: A lot of issues, including safety issues. You're confronted with this sort of behaviour. My question is twofold: how does it make you feel, and

secondly, how do you keep your cool when you're confronted with that sort of behaviour?

MR BISHOP: Oh, look, it's - it's - I suppose it comes from experience. You know, a lot of my career was in Sydney, in particular, or a majority of it. So I've had to deal with this sort of situation. It's just become - it's become the norm of the industry, unfortunately. And it gets bad. Like, it's - it can weigh on you. Makes it hard, stressful, really stressful. But yeah, it's - it's just the way it's always been. Through my career, anyway. Never been any different.

COMMISSIONER: How long has your career been?

MR BISHOP: I started work in - I started when I was 16, I think, when I left school, roof tiling, then - then finished - finished my trade as a carpenter, and, yeah, just sort of - just moved in from there. I just sort of went from a leading hand to a foreman to a general foreman to site manager and, yeah, that's it, just developed along the way. But it's - it's not been any different ever. And, yeah, it's - it's - yeah, I've got no words for it, to be honest. It's hard. It's a hard industry to work in, and it's hard - I mean, in particular, like, don't get me wrong, from my perspective, these guys should be working hand in hand with me. You know, like we should be working together, like, you know, joined at the hip. But the reality is that's not the case. It's - you know, it's - and it's sad, really, but out of my control. What do I do? I can only try and do the best I can for my company and for my client and make sure everyone gets home safe and sound.

COMMISSIONER: Are there any applications to cross-examine Mr Bishop?

MR GISONDA: No.

COMMISSIONER: Thank you very much for your evidence, Mr Bishop. You're free to go.

MR BISHOP: No worries.

<THE WITNESS WAS RELEASED

MR GISONDA: I might, just before the morning break, call the next witness and just get the preliminaries out of the way, if that assists.

COMMISSIONER: Very well.

MR GISONDA: So the next witness is Mr Joseph Barker.

COMMISSIONER: Is Mr Barker - will you come forward to the witness box, please?

<JOSEPH ANTHONY BARKER, AFFIRMED

<EXAMINATION BY MR GISONDA

COMMISSIONER: Yes, Mr Gisonda.

MR GISONDA: Thank you. Mr Barker, could you please tell the Commissioner your full name?

MR BARKER: Joseph Anthony Barker.

MR GISONDA: And your occupation?

MR BARKER: I'm a civil engineer working as a senior project manager.

MR GISONDA: And on 15 October 2026, in answer to a notice that was served on you by the Commissioner, did you swear a statement that was 16 pages long, comprising 91 paragraphs?

MR BARKER: Correct.

MR GISONDA: And accompanying that statement, is there a bundle of documents that is 176 pages long, comprising 21 annexures?

MR BARKER: Correct.

MR GISONDA: And have you had an opportunity to read that statement recently?

MR BARKER: Yes.

MR GISONDA: And is it true and correct?

MR BARKER: Yes.

MR GISONDA: I tender that statement, Commissioner.

COMMISSIONER: Are there any objections? I missed your middle name, Mr Barker, sorry.

MR BARKER: Sorry, I didn't catch that.

COMMISSIONER: I missed your middle name.

MR BARKER: Joseph Anthony Barker.

COMMISSIONER: Andrew?

MR BARKER: Anthony.

COMMISSIONER: Anthony. Witness statement, Joseph Anthony Barker, 15 October 2026, 16 pages, 91 paragraphs, with 21 annexures, will be exhibit JAB-1.

<EXHIBIT JAB-1 WITNESS STATEMENT OF JOSEPH ANTHONY BARKER, 15/10/2026, 16 PAGES, 91 PARAGRAPHS, WITH 21 ANNEXURES

MR GISONDA: Thank you, Commissioner. Now, you are a senior project manager with the Georgiou Group; is that right?

MR BARKER: Correct.

MR GISONDA: And you've been employed by Georgiou for about 10 years?

MR BARKER: Correct.

MR GISONDA: And you've been in the construction industry for about 26 years?

MR BARKER: Correct.

MR GISONDA: Now, the Georgiou Group, or at least its predecessor companies, was started in the 1970s in Western Australia. Are you aware of that?

MR BARKER: Yes.

MR GISONDA: And in the early 2000s, it opened offices in some other states, including Queensland in 2007; is that right?

MR BARKER: Correct.

MR GISONDA: And last year, the company was purchased by Strabag, Austria's largest construction company; is that right?

MR BARKER: Correct.

MR GISONDA: And turning to some projects we've heard evidence about in previous hearings, Georgiou has formed a joint venture with BMD to deliver the Centenary Bridge project; is that right?

MR BARKER: Correct.

MR GISONDA: And Georgiou formed a joint venture with Acciona to deliver the north package of works on stage 1 of the Coomera Connector; is that right?

MR BARKER: Correct.

MR GISONDA: Now, in April of 2021, which is the same time that the Cross River Rail project was underway, Georgiou was awarded the contract to construct an upgrade of the Yatala South Interchange on the Pacific Motorway; is that right?

MR BARKER: Correct.

MR GISONDA: And that interchange is also known as Exit 41?

MR BARKER: Correct.

MR GISONDA: And you were appointed the project manager for that project?

MR BARKER: Correct.

MR GISONDA: And that was a contract that was procured by the Department of Transport and Main Roads?

MR BARKER: Correct.

MR GISONDA: And it was an approximately $82-million project; is that right?

MR BARKER: Are you talking about cost or the award value?

MR GISONDA: The award value.

MR BARKER: The award value was slightly less than that.

MR GISONDA: And is the $82-million figure the cost?

MR BARKER: The $82 million, I'm not quite sure where that number's come from. I'm not sure if that was in my witness statement.

MR GISONDA: It's in an announcement by the then State Government when it was announcing the opening of the project, and they called it an $82-million project.

MR BARKER: Quite often when they make that announcement, it actually includes a portion of their cost. That's not directly in the project.

MR GISONDA: In any event, this project was not a BPIC project; is that right?

MR BARKER: That is correct.

COMMISSIONER: How much was the contract value out of that 82 mil?

MR BARKER: I think the contract was awarded at about $47 million.

COMMISSIONER: So about 25 million - 35 million, if those numbers are correct, of government cost, or overruns?

MR BARKER: Yep.

COMMISSIONER: We heard some evidence about the Centenary Bridge contract, being the building cost was about 150 million and the departmental costs were about 100 million, and then there were some other increases of about 50 million due to inflation and BPIC. It was a very large part of governmental cost, on top of the building cost. Is that consistent with your experience?

MR BARKER: Yes. Yep.

MR GISONDA: And you might not be aware of this fact, but the reason why this project was not a BPIC project was because it was worth less than $100 million. Are you aware of that?

MR BARKER: I'm aware of that, yes.

MR GISONDA: And construction work started in about July of 2021; is that right?

MR BARKER: That is correct.

MR GISONDA: And practical completion was achieved in about June of 2023; is that right?

MR BARKER: Correct.

MR GISONDA: And was there a delay in completion to the project of about seven months?

MR BARKER: That would be approximately correct, yep.

MR GISONDA: And are you able to say what the main causes of that delay were?

MR BARKER: There were several contributing factors. It came at a time where the industry was very competitive. There was - so we were fighting for subcontractors. There was the significant rainfall events in 2022 which also contributed to that, and both of those things contributed to an extension on the duration of the project.

MR GISONDA: Now, Yatala is a suburb that sits on the north-west boundary of the Gold Coast region; is that right?

MR BARKER: That is correct.

MR GISONDA: And as the project manager, you had overall responsibility for the project?

MR BARKER: Correct.

MR GISONDA: And this included control of the site, selection of subcontractors, management of personnel, among other things?

MR BARKER: Correct.

MR GISONDA: And at paragraph 11 of your statement, which is on page 1, you say that you tried to be the first person to interact or deal with any union representative or any WHSQ inspector when they attended the site; is that right?

MR BARKER: That is correct.

MR GISONDA: And what's your motivation for that approach?

MR BARKER: Well, quite often, if an issue is raised, I want to be able to verify that it's actually a true issue and not just a - a tactic to delay or disrupt the project. So trying to verify the validity of the inquiry or the statement from the unions, that's normally the first thing. Also, with workplace health and safety, it's a very similar thing. If you can address an issue up front and early, you can sometimes resolve it without having a drawn-out conversation or a drawn-out investigation, and that stands with Workplace Health and Safety as well.

MR GISONDA: At paragraph 13 of your statement, which is on page 2, you say that CFMEU officials entered the site either pursuant to section 117 of the Work Health and Safety Act or under section 81(3) of that same Act; is that right?

MR BARKER: That is correct.

MR GISONDA: And you say that there were occasions when officials would assert that section 81 of the Work Health and Safety Act entitled them, as concerned citizens, to enter the project site; is that right?

MR BARKER: That was what they - that is what they had said.

MR GISONDA: And you say that this appeared to be an approach that was adopted by union officials who did not have entry permits under the Fair Work Act?

MR BARKER: Correct.

MR GISONDA: Is that a convenient time, Commissioner?

COMMISSIONER: Very well. We'll adjourn till 25 to 12.

<THE HEARING ADJOURNED AT 11.20 AM

<THE HEARING RESUMED AT 11.35 AM

COMMISSIONER: Mr Gisonda.

MR GISONDA: Now, Mr Barker, we were just talking before the break about visits to the site by CFMEU officials, and the very first visit to the project by CFMEU officials that you're aware of took place on the morning of 25 October 2021; is that right?

MR BARKER: Correct.

MR GISONDA: And the two officials who visited the site on that morning were Mr Dean Rielly and Mr Matthew Vonhoff; is that right?

MR BARKER: Correct.

MR GISONDA: And the behaviour of these two officials on that morning led to a prosecution by the Australian Building and Construction Commission; is that right?

MR BARKER: Correct.

MR GISONDA: And the judge who heard the proceeding was Judge Vasta?

MR BARKER: Correct.

MR GISONDA: And you've attached Judge Vasta's decision to your evidence in the bundle of documents, and if we could just go to page 15 of the bundle, please. That's 15 of the statement, 15 of the bundle accompanying Mr Barker's statement. At paragraph 25 to 30 of Judge Vasta's judgment, which is on the page here now, he sets out the sign-on processes that existed for the site, and if you look at paragraph 26, for example:

"Visitors were requested to sign the visitor register."

Is that right?

MR BARKER: That is correct.

MR GISONDA: And at paragraph 27:

"Visitors were then given an 'induction' by the contractor where they were made aware of safety precautions and other relevant matters."

Is that right?

MR BARKER: That is correct.

MR GISONDA: And by signing the visitors' register, they acknowledge that they've been told of all the safety aspects pertinent to the visit?

MR BARKER: Correct.

MR GISONDA: And is that sort of visitor regime usual or unusual for construction sites?

MR BARKER: That is extremely standard.

MR GISONDA: And at paragraph 29, in the first sentence, Judge Vasta says:

"The reason for implementing such a regime for visitors is self-evident."

Would you agree with that opinion by Judge Vasta?

MR BARKER: That is correct.

MR GISONDA: And on that morning, Mr Rielly and Mr Vonhoff were both wearing body-worn cameras; is that right?

MR BARKER: That is correct.

MR GISONDA: And footage that was taken from their respective cameras was tendered in the case?

MR BARKER: Correct.

MR GISONDA: And do you remember that the allegation as regards Mr Rielly and Mr Vonhoff was that they both refused to follow the sign-on procedures that existed for visitors?

MR BARKER: Correct.

MR GISONDA: And at paragraph 37 of his judgment, which is at page 17 of the bundle, Judge Vasta says that when Mr Kelly - if I can just stop there for a moment. Who was Mr Kelly?

MR BARKER: Mr Kelly was the Georgiou safety representative on site.

MR GISONDA: When Mr Kelly requested the second respondent - who was Dean Rielly, to come in and sign in as a visitor, Mr Rielly retorted in an emphatic manner, "I won't be signing in." And if we could please play video JAB-2, please.

(Video played).

MR GISONDA: Now, the PM, that's yourself, is it, the project manager?

MR BARKER: Correct.

MR GISONDA: And that was Mr Kelly who was talking with Mr Rielly?

MR BARKER: Correct.

MR GISONDA: Can I tender that video, please, Commissioner. It was JAB-2. And that would be body-worn camera footage of Dean Rielly from 25 October 2021.

COMMISSIONER: Whereabouts?

MR GISONDA: The Exit 41 project site.

COMMISSIONER: Is that specific enough?

MR GISONDA: Yes.

COMMISSIONER: Are there any objections? What's Mr Kelly's first name?

MR GISONDA: Darren.

COMMISSIONER: Body-worn camera footage of Dean Rielly speaking to Darren Kelly, 25 October 2021, at entrance to Exit 41 project site, will be exhibit JAB-2.

<EXHIBIT JAB-2 BODY-WORN CAMERA FOOTAGE OF DEAN RIELLY SPEAKING TO DARREN KELLY, 25/10/2021, AT ENTRANCE TO EXIT 41 PROJECT SITE

MR GISONDA: Then going back to page 17 of the bundle, at paragraph 40 of the judgment, Judge Vasta then says that the third respondent, which is Mr Vonhoff, was also video recording the encounter on his own body-worn camera, and Mr Barker and Mr Rielly began discussing workers crossing Cuthbert Drive to get from one part of the work site to the other. I just want to ask you a question about that, Mr Barker, this issue about workers crossing Cuthbert Drive. Do you recall what Mr Rielly's complaint or concern was at this time, about workers crossing Cuthbert Drive?

MR BARKER: Mr Rielly considered it wasn't a safe act. Crossing the - it was a single lane in both directions, but he didn't consider it to be a safe act to cross the road at that location.

MR GISONDA: And were workers - was there a designated place where workers were supposed to cross the road?

MR BARKER: At that point in time, there was not, because it's legal for a person to walk across a street at that speed. There was no issues with it. There was - as a result of this interaction, there was a pedestrian crossing that was at the roundabout. So

where the worker was crossing was about 200 metres away from a roundabout, so the workers were directed to cross at the roundabout location at that point.

MR GISONDA: Okay. We'll come back to workers crossing Cuthbert Drive a little bit later, but continuing at paragraph 40 here, Judge Vasta notes that, interestingly, Mr Vonhoff received a phone call at this time and can be heard telling the caller that he was doing the dance and that he was about to go into war mode. Can we just play video JAB-3, please.

(Video played).

MR GISONDA: I tender that video, Commissioner. It would have the same description as the previous video, save that it's the footage of Mr Vonhoff.

COMMISSIONER: Was the first one footage of Mr Rielly?

MR GISONDA: Yes.

COMMISSIONER: Are there any objections? Body-worn camera footage of Matthew Vonhoff at the entrance to the Exit 41 project site, 25 October 2021, at approximately 8 am, will be exhibit JAB-3.

<EXHIBIT JAB-3 BODY-WORN CAMERA FOOTAGE OF MATTHEW VONHOFF AT ENTRANCE TO EXIT 41 PROJECT SITE, 25/10/2021, AT APPROXIMATELY 8 AM

MR GISONDA: And just to be clear, this was the first time that union officials from the CFMEU had attempted to enter the site; is that right?

MR BARKER: Correct.

MR GISONDA: And had you met Mr Vonhoff before?

MR BARKER: Not Mr Vonhoff.

MR GISONDA: But you had met Mr Rielly before?

MR BARKER: Correct.

MR GISONDA: And at paragraph 43 of the judgment - so this is back at page 17 of the bundle - we saw in that first video from Mr Rielly's body worn camera that Mr Kelly then went back to the site office and he said that he was going to speak to you, and Judge Vasta says that when he went back to the site office, he saw that there were three inspectors from Workplace Health and Safety Queensland who were already in the site office. Were you there in the site office with those inspectors?

MR BARKER: No. The footage that you just saw, we were standing outside of the site offices. The site offices were in the background of that photo. So I asked Mr Rielly to get the SWMS so we could review it, and when Mr Kelly walked back into the office, that's when he intersected with the Workplace Health and Safety representatives.

MR GISONDA: All right. So you weren't dealing with those inspectors at the time?

MR BARKER: Not aware they were on site.

MR GISONDA: Right. And what Judge Vasta says in this paragraph is that Mr Kelly explained to the WHSQ inspectors that the union officials weren't being threatening in any way and he wasn't refusing them entry but they were simply refusing to follow the sign-in process. And was that your understanding, was it, about what was happening?

MR BARKER: That is correct.

MR GISONDA: And sorry, did you say that you didn't know at the time that the three WHSQ inspectors had arrived at the site?

MR BARKER: Correct.

MR GISONDA: Then over at page 18, at paragraph 44, Judge Vasta says that one of the inspectors suggested they all go into a room to talk. Mr Kelly went and got Mr Rielly and Mr Vonhoff, and so they all entered a room to have a discussion about the sign-in of the visitor register by the two officials. Were you present in that conversation?

MR BARKER: Correct.

MR GISONDA: Judge Vasta says that one of the inspectors suggested that they all go into a room to talk. Mr Kelly went and got Mr Rielly and Mr Vonhoff, and so they all entered a room to have a discussion about the sign-in of the visitor register by the two officials. Were you present in that conversation?

MR BARKER: Correct.

MR GISONDA: And what Judge Vasta says is that both the second and third respondent refused again to sign in. Is that your memory about what happened?

MR BARKER: Correct.

MR GISONDA: And just at the end of paragraph 46, the last sentence or the last two sentences, Judge Vasta says Mr Kelly can be heard on the footage sighing and saying "I don't understand why it is so hard." And just to confirm your evidence a bit

earlier, this sign-in process, you say, is a normal sign-in - or a normal process for any construction site, at least that you've been involved in?

MR BARKER: Very much so.

MR GISONDA: And did you understand Mr Kelly's exasperation there about why these officials were making the process so hard?

MR BARKER: Yes, definitely. It's a really simple process. You have a quick discussion about where people physically want to go on site. You can let them know that's a restricted area; there's an issue in this area that you have to stay away from. So you let them know any safety concerns. You can organise for an escort to come and take them directly to the site, because they're not fully inducted, so they are required to be escorted. But it can be a simple five-minute conversation, and then they sign on in acknowledgement of that, and also when they sign on to the visitor register, if there is an emergency, we have track of everybody that's actually on site.

MR GISONDA: And at paragraph 47 of this judgment on page 18, Judge Vasta says that despite the stalemate, Mr Rielly was asking questions about the work site, and you were answering those questions, and you were also answering the inspector's questions, and the discussion from your end was civil and appropriate.

MR BARKER: Correct.

MR GISONDA: And one of the issues that they were discussing was the crossing of that road that we saw particularly in Mr Vonhoff's camera footage.

MR BARKER: Correct.

MR GISONDA: And at paragraph 170 of the judgment, which is at page 41 of the bundle, Judge Vasta says that the actions of Mr Rielly and Mr Vonhoff "could only be described as belligerent" and that there was "simply no excuse for acting in this improper manner". And from your perspective, could you see any excuse as to why Mr Rielly and Mr Vonhoff were refusing to sign in to the site?

MR BARKER: None at all. The only reason I think they might have refused to is because they didn't want to have any constraints placed on them.

MR GISONDA: Now, the prosecution that was commenced by the ABCC concerned two separate events, didn't they? The first one, which we've just looked at, was the refusal to sign in on 25 October, and there was then a separate incident on 27 October, two days later; is that right?

MR BARKER: Correct.

MR GISONDA: And if we go to your statement now at page 4 and at the bottom of the page, subparagraph (b), you say that what happened is that at around 10 am, you were told that CFMEU officials had driven directly onto the site; is that right?

MR BARKER: Correct.

MR GISONDA: And when you made your way over to where they were, or you were told where they were, you saw Mr Rielly again, and this time he was with an official by the name of Marcus Pare. Is that correct?

MR BARKER: Correct.

MR GISONDA: And at page 5, going over at page 5, did you ask Mr Rielly to go to the site office to sign in, like all visitors are required to do?

MR BARKER: Yes.

MR GISONDA: And what was his response to that request?

MR BARKER: He wasn't going to do it.

MR GISONDA: Then you say at (iv) after Mr Rielly had refused to sign on, he handed you his permits and an entry notice under section 117 of the Work Health and Safety Act; is that right?

MR BARKER: Correct.

MR GISONDA: And it contained generic and non-specific safety concerns. Is that your memory?

MR BARKER: Very much so.

MR GISONDA: And then at (v), you say that the notice looked very similar to the notice that had been given to you two days earlier, on the 25th?

MR BARKER: That is correct.

MR GISONDA: Then at (viii), if we can just bring that up on the screen, you say that Mr Rielly then had a phone call, and then after he finished his phone call, do you remember what he said to you about procurement on the project?

MR BARKER: Yep. He basically said that he was challenging our procurement process and said that we had issues with our subcontractors and commented that "you're going to the bottom of the barrel and then going lower".

MR GISONDA: And then at (ix), the next paragraph, you then say that he said something about the staff in the HR department at Georgiou. You say in your

statement you can't remember now exactly what he said. Is that still the case? You can't remember exactly what he said about the HR department?

MR BARKER: I cannot remember the exact wording, but I think it alluded to something to do with the procurement process.

MR GISONDA: And then he was asking you questions about paying workers on an ABN; is that right?

MR BARKER: Correct.

MR GISONDA: And what was your response to that assertion by him?

MR BARKER: That we did everything in accordance with the Building Code.

MR GISONDA: And then looking at (x) and (xi), you had another colleague with you during this exchange, did you?

MR BARKER: Yes: Mr Treagus.

MR GISONDA: And what was his role?

MR BARKER: He was the senior project engineer on the project.

MR GISONDA: And what did Mr Rielly say about you after you said that Georgiou did everything in accordance with the building code?

MR BARKER: He accused me of being a liar. He said to Ben that, "Your boss is a liar."

MR GISONDA: And did you react to him calling you a liar?

MR BARKER: No.

MR GISONDA: And after he called you a liar, if you then look over at page 6 of your statement, you then set out what you recall about how the conversation went between yourself and Mr Rielly. Just tell the Commissioner what happened then in the conversation as regards your exchange with Mr Rielly.

MR BARKER: Mr Rielly seemed to be getting more frustrated. He made the comment that I needed to start using his subcontractors; we wouldn't have any issues if we'd used his subcontractors. I asked who were the guys that he was referring to. He said - he asked me to tell him what I needed "and I'll tell you the names of the people" that he preferred that I use, and then he came out with the comment, "If you don't start doing what I tell you to do, I will go to my car, grab my bat and start swinging it around."

MR GISONDA: What did you say in response to that?

MR BARKER: I asked if he was threatening to hit me.

MR GISONDA: What did he say?

MR BARKER: He said, "I'm not going to hit you. I just might swinging it around in the car park." And I responded, "I'm in the car park. Are you still threatening me?" He said, "No, I'll just start swinging it around the car park."

MR GISONDA: And what did you feel about what Mr Rielly was doing and his actions towards you?

MR BARKER: It was a definite attempt to intimidate me.

MR GISONDA: Then at (xii), what did he say to you about receiving WHSQ notices or not receiving such notices?

MR BARKER: He asked me how much I was paying WSQ to avoid getting notices, to which I didn't respond, and I think that comment came from the earlier phone call that he took.

MR GISONDA: And then, finally, he makes a reference to Coomera Connector. What did he say to you about that project?

MR BARKER: Yep, completely out of the blue, never mentioned Coomera Connector before, but he made the comment Georgiou thought they were in prime position for the Coomera Connector project and he might see what he can do to knock us off.

MR GISONDA: So he accused you of being a liar; is that right?

MR BARKER: Correct.

MR GISONDA: He engaged in - at least used violent language in a clear case of intimidation; is that right?

MR BARKER: Correct.

MR GISONDA: And then effectively accused you or at least the company of bribery or bribing WHSQ officials?

MR BARKER: Correct.

MR GISONDA: And later that day, you sent an email to senior management telling them about what had happened?

MR BARKER: Correct.

MR GISONDA: And we don't need to go to that, but that's at page 45 of your bundle. And this incident that you've just given evidence about, that formed the second incident that was part of the ABCC's prosecution; is that right?

MR BARKER: Correct.

MR GISONDA: And you were called as a witness by the ABCC?

MR BARKER: Correct.

MR GISONDA: And you were cross-examined for two days in that litigation; is that right?

MR BARKER: Correct.

MR GISONDA: And you said that Mr Treagus was with you during that interaction, and if we can go to the judgment now of Judge Vasta again. So this is the bundle of documents attached to Mr Barker's statement, at page 24, please, of that bundle. And paragraph 83 at the bottom, he says that the evidence of Mr Treagus differed from yours in some minor respects but not in any material way and that by and large Mr Treagus' evidence was completely corroborative of your evidence. And then if we can go to paragraph 104 of the judgment, which is at page 28, Judge Vasta says that in short, your credibility was unscathed. And at paragraph 105, he finds Mr Treagus also to be a witness of truth.

Then at paragraph 106, Judge Vasta says that he watched Dean Rielly very closely, and he says that his evidence came apart at the seams, that it was internally inconsistent and contradictory and at times quite preposterous. Now, is it fair to say that you went to this proceeding, the hearing of this proceeding, you gave your evidence, but you otherwise didn't have any involvement in the conduct of the case. Is that right?

MR BARKER: That is correct.

MR GISONDA: On 15 November, the parties put in their final written submissions for the case, and final oral submissions were to be heard on 20 November. And this is all set out in the judgment, Commissioner. And on 17 November - so that's the Friday before the final hearing on the Monday - the court was told that the parties had reached agreement on liability, which involved the respondents agreeing that they had contravened the Fair Work Act by not signing into the work site. And at paragraph 135 of the judgment, at page 32 - paragraph 135 - the judge says that he was informed that the allegation regarding the conversation between Mr Rielly and yourself would no longer be pursued. That's the conversation that you've just given evidence about, what we might call the swinging-the-bat-around conversation, and the judge says that he enquired whether the Fair Work Ombudsman now considered

that Mr Barker and/or Mr Treagus were not witnesses of truth. Junior counsel rebuffed that allegation immediately and said the Fair Work Ombudsman considered both of them to be witnesses of truth. Junior counsel explained, however, that the Fair Work Ombudsman was permitted to compromise litigation in any way they see fit. And in paragraph 136, the judge says that he asked whether the Fair Work Ombudsman had informed either Mr Barker or Mr Treagus of this decision:

"...and whilst not confirming that they had not, the kerfuffle at the bar table gave me the distinct impression that it had not even crossed anyone's mind to tell either of those two 'witnesses of truth' what the Fair Work Ombudsman was now doing."

Is it the case, Mr Barker, that you were not told at any point in 2023 that the Fair Work Ombudsman was no longer prosecuting that particular conversation between yourself and Mr Rielly?

MR BARKER: That is correct. I even enquired how the case was actually progressing. I was informed that they had an agreed statement of facts, but it wasn't mentioned that that was removed.

MR GISONDA: And we'll just come to that bit of communication back to you in a moment. At paragraph 138 of the judgment, at the bottom of page 32 and at the top of page 33, fast-forward to February of 2024, there was a mention of the case. Judge Vasta said there were factual aspects missing from the agreed statement of facts, and both counsel submitted that for the purpose of determining a penalty, he had to now ignore any evidence that he had heard if it was not contained in the new agreed statement of facts. And so all the evidence that you had given and that Mr Treagus had given about your conversation with Mr Rielly on 27 October, which you've just given evidence about, because that was removed from the agreed statement of facts, the judge was supposed to ignore it.

And, Commissioner, at paragraph 149 of his judgment, on page 34, of the bundle, Judge Vasta says that he was concerned about the perception that the Fair Work Ombudsman had not complied with its obligations as a model litigant. And then at paragraph 157 on page 35, Judge Vasta said that he queried whether public confidence - whether the community at large, sorry, would have trust and confidence in the Fair Work Ombudsman, having regard to their conduct of this particular litigation. And if you'll just excuse me for a moment, Mr Barker, if I can just remind you, Commissioner, about where we are at this point in time.

So the Fair Work Ombudsman is making submissions in February of 2024 that the court can effectively ignore that evidence of Mr Rielly's conduct. And you have heard, Commissioner, considerable evidence in this Commission now about the conduct of the union on two major publicly funded projects in the months that immediately followed that: Centenary Bridge and Cross River Rail, particularly in that period from February to May of 2024. And there are a couple of other matters to mention, Commissioner. The ABCC was abolished finally and totally in February of 2023. The ABCC at that point had 150 employees. 16 of those 150 were transferred

across to the Fair Work Ombudsman. The Fair Work Ombudsman obviously had far less powers than the ABCC had.

In December of 2023 - can I bring up, please, a document which will be tendered as JAB-4. These are divisional executive meeting minutes from December of 2023, and you'll see they're all the leading state branch officeholders present, and if we just go to the next page, please. If we just go down to the bottom of this page. Yes. I believe you might have seen these minutes before, Commissioner, but there's a report on membership reports. You'll see there Financial Reports, item 1.4. The second bullet point:

"$4 million being put into higher returning option - a period of political relief now is the time to invest."

And then if you go to the next page, please, and the next page. So keep going. Yes, just on that page now. So see item 4.1. You remember, Commissioner, the update on the BMD campaign. But if we just scroll up to the top of the page, see item 3.5, Transfer of ABCC Cases to the FWO. Zach - that's Mr Zach Smith - spoke to the executive and he reports that:

"Engaging with Anna Booth..."

That was the newly appointed Fair Work Ombudsman:

"...positive interactions at times beyond the union's expectations."

So in December of 2023, the CFMEU was interacting with the Fair Work Ombudsman and they were reporting internally that those interactions were not only positive but at times beyond even their own expectations. So I might tender that document before I go to the next document. That's Divisional Minutes from December of 2023.

COMMISSIONER: Are there any objections? What's the exhibit number?

MR GISONDA: JAB-4.

COMMISSIONER: Draft minutes of - it's a little bit unclear on its face, if you look at the front. All the attendees are of the national Construction and General Division of the federally registered union, and it's got Divisional Executive Meeting, but then the next line is not consistent with the content.

MR GISONDA: No. That reference to Vic branch looks to be an error, because the attendees are not just limited to Victoria; they are senior officeholders of the various branches of the division.

COMMISSIONER: Yes. You look at the topic, it's a divisional executive meeting on page 2. Draft minutes of Construction and General Division of federally registered CFMEU, 5 to 6 December 2023, will be exhibit JAB-4.

<EXHIBIT JAB-4 DRAFT MINUTES OF CONSTRUCTION AND GENERAL DIVISION OF FEDERALLY REGISTERED CFMEU, 5 TO 6 DECEMBER 2023

COMMISSIONER: It's hard to see why, once all the evidence was in, apart from this change of - from the ABCC to the FWO, why a regulator would compromise the case in the way that has been suggested by Judge Vasta and added to this morning. I don't - maybe there's a reason for it, but it's not - you can understand compromising a case before it starts, but -

MR GISONDA: Well, the reason - I'll show you what the reason was, at least as - because Judge Vasta obviously had the same concern and pressed senior counsel for the Fair Work Ombudsman at the time about what was happening. So if we go back to the bundle, page 35 of the bundle to Mr Barker's statement. And so what senior counsel says at the top of this page is that:

"Where there is contested litigation, there is always a risk of failure. The Fair Work Ombudsman had a duty to ensure that the public moneys that they were expending were being appropriately applied to litigation. Senior submitted there were three main allegations of contraventions. If the matter had proceeded on 20 November, the time of the court would have been further expended upon the deliberation and ultimate delivery of a judgment."

That seems not to be correct, because as Judge Vasta says, he was already well progressed in his judgment, and he proceeds in his judgment to effectively give his findings on those events in any event. But then senior counsel says:

"There was always a chance that the court would find that none of those contraventions were proved. He submitted that even if any of those allegations had been proved, there was the ever-present spectre of appeal. And he said that this may mean that the final resolution of the matter may have been up to two years after 20 November 2023."

And that the compromise at paragraph 155 meant that two of the three allegations were now admitted, which meant that the liability aspect did not have to trouble the court any more. But as Judge Vasta says, it nonetheless raised questions about whether the Fair Work Ombudsman had behaved as a model litigant and whether the community at large would have trust and confidence in the Fair Work Ombudsman.

COMMISSIONER: Well, it's a very strange one to compromise on, isn't it, because you've got an allegation of a union official who's got a permit - or I assume had a permit at this stage; at some point he lost it - threatening to hit someone with a baseball bat. It seems a very strange -

MR GISONDA: Well, I think it's fair to say that Judge Vasta just could not comprehend what was occurring before him.

COMMISSIONER: It gets worse too, because Mr Rielly was removed, wasn't he, by the administrator, then got a job in New South Wales and got his permit back.

MR GISONDA: Yes.

COMMISSIONER: By a current member of the Fair Work Commission.

MR GISONDA: Yes.

COMMISSIONER: You've got the Fair Work Ombudsman not prosecuting a serious aspect, and despite everything that Mr Rielly's done, and I've heard a lot about it in this Commission, the Fair Work Commission gives him his permit back.

MR GISONDA: Yes. Well, the Fair Work Ombudsman, I believe, was heard in that application as a contradictor.

COMMISSIONER: Yes.

MR GISONDA: But it remains the case that this very serious allegation, which Judge Vasta would have upheld - he says as much. He says Mr Rielly's evidence was preposterous, and Mr Barker and Mr Treagus were - their credibility was unscathed and they were witnesses of truth.

COMMISSIONER: And then at the very time at which the prosecutor is deciding to drop the most serious allegation, you've got these minutes, or draft minutes -

MR GISONDA: Beyond the union's expectations.

COMMISSIONER: Yes. Ms Booth, who is the head of the FWO, presumably - well, who knows?

MR GISONDA: She's the Fair Work Ombudsman.

COMMISSIONER: Maybe it didn't percolate up to her. Who knows how the decision-making worked.

MR GISONDA: That's true.

COMMISSIONER: Maybe it was done at a lower level.

MR GISONDA: Then can I now show you another document, which can be tendered as JAB-5. These are divisional - these are minutes of the divisional branch

council, so we're now in Queensland, and if we go over the page, please - to the third page, sorry. See the last item, Legal/IR Matters:

"The divisional branch secretary reported..."

So it'd be Mr Ravbar:

"...reported that a number of ABCC cases are currently being decided and will also be in the Federal Court in the next few months. He advised that the vast majority were able to be negotiated with the FWO and reached a fair outcome for the union."

So this is now in March of 2024. So I tender those minutes.

COMMISSIONER: This might be part of what the union described as positive interactions beyond the union expectation. Are there any objections to these minutes? These are just the branch minutes. These are not the National Executive -

MR GISONDA: That's right.

COMMISSIONER: Sorry, not the minutes of the division as a whole.

MR GISONDA: Yes.

COMMISSIONER: Minutes of the Queensland/Northern Territory Divisional Branch Council of the federally registered construction forestry and maritime employees union Construction and General Division, 14 March 2024, will be JAB-5?

MR GISONDA: JAB-5, yes.

<EXHIBIT JAB-5 MINUTES OF THE QUEENSLAND/NORTHERN TERRITORY DIVISIONAL BRANCH COUNCIL OF THE FEDERALLY REGISTERED CONSTRUCTION FORESTRY AND MARITIME EMPLOYEES UNION CONSTRUCTION AND GENERAL DIVISION, 14/3/2024

MR GISONDA: And then one final document, JAB-6. This is an article that was published in the Australian Financial Review on 28 April 2024, and if we see in that first paragraph:

"The workplace watchdog..."

That's the Fair Work Ombudsman:

"...has not filed a single new case against the CFMEU for 18 months and has dropped 30 per cent of the cases alleging..."

That the CFMEU had broken a law. So by April 2024, which is really at the time when the evidence that you've heard so far shows the union to be at its most rampant, you've got the division as a whole reporting positive interactions with the Fair Work Ombudsman, beyond its own expectations at times; you've got the branch saying that the vast majority of cases were being negotiated and reaching a fair outcome for the union; you've got the figures, which is that 30 per cent of cases had been dropped and not a single new case being filed for 18 months; and you saw also in those first set of minutes what was described as a period of political relief for the union, enabling it to invest its funds. Can I tender this article, Commissioner, as JAB-6. It's 28 April 2024.

COMMISSIONER: And it's only two or three months before the administrator is appointed. Was it August 2024?

MR GISONDA: August, yes.

COMMISSIONER: And this is April.

MR GISONDA: Yes.

COMMISSIONER: So it's three months before the high-water mark of misbehaviour.

MR GISONDA: Complete disconnect between these actions and what happens in July/August. July, you've got what's described as the Building Bad revelations, which then leads to the appointment of the administrator in August.

COMMISSIONER: One of the things Mr Hadgkiss said - I think Mr O'Grady was cross-examining about the manner in which he conducted the ABCC. I think he said something along the lines, "We always used to brief counsel and rely upon their advice as to whether we should prosecute or not." It'd be very interesting to see whether - what the advice the Fair Work Ombudsman got this period to discontinue cases - I mean, just looking at that case that Mr Felman ran for the ABCC, it'd be interesting to know what his advice was - sorry, the Fair Work Ombudsman, not the ABCC - in relation to this matter that Mr Barker is giving evidence about. It'd be fascinating to know whether he advised them to drop the most serious charge.

MR GISONDA: The Fair Work Ombudsman's position is that as a Commonwealth entity, it does not have to answer any notices from you.

COMMISSIONER: I wonder - I thought - what's the logic of that, if it's within jurisdiction? I thought the idea of implied immunities went with the Engineers case in the 1920s. Why is a federal body that's within jurisdiction exempt?

MR GISONDA: Well, that might be something we have to come back to you about in due course, Commissioner, but for the moment, you're not going to get those answers from the Fair Work Ombudsman based on its current position.

COMMISSIONER: It's very surprising. This is a body that's dedicated to ensuring that the rule of law is alive and well on building sites. It's charged, as the successor to the ABCC, with ensuring that, and here's this material that suggests it's not doing its job, and they want to hide behind what? A legal argument that they're immune from - what did you say before?

MR GISONDA: As a Commonwealth agency, they are not subject to the jurisdiction of this Commission.

COMMISSIONER: Mmm.

MR GISONDA: That would be JAB-6, the articles. I think you were halfway through recording the tender.

COMMISSIONER: Is there any objection to the receipt of Mr Marin-Guzman's article of 28 April 2024? It's Fairfax. Is it the Financial Review?

MR GISONDA: Yes.

COMMISSIONER: Article by David Marin-Guzman, Australian Financial Review, 28 April 2024 entitled Watchdog Drops 30 Per Cent of Cases Against CFMEU will be JAB-6.

<EXHIBIT JAB-6 ARTICLE BY DAVID MARIN-GUZMAN, AUSTRALIAN FINANCIAL REVIEW 28/4/2024 ENTITLED WATCHDOG DROPS 30 PER CENT OF CASES AGAINST CFMEU

MR GISONDA: Now, Mr Barker, we haven't forgotten about you. Back at page 7 of your statement, if you look at paragraph 29, in fact, you mentioned earlier about how you followed up to see how the case was going. It was not until 19 March that you were told that the parties had reached an agreement on disputed factual issues. But you weren't given any specifics; is that right?

MR BARKER: Correct.

MR GISONDA: And it wasn't until you'd read the judgment that you saw that the bat allegation, as you've described it, had not been pursued?

MR BARKER: Correct.

MR GISONDA: And you say when you read the decision, you were shocked to learn that it had not been pursued?

MR BARKER: Correct.

MR GISONDA: And then if we go over the page, at page 34 - sorry, page 8, paragraph 34 - it's your position, is it, that you still do not understand why it was not pursued?

MR BARKER: Yes.

MR GISONDA: And you're the person who had to go to court, put yourself on the line, encounter cross-examination for two days; is that right?

MR BARKER: Correct.

MR GISONDA: And you still don't know why the most serious aspect of this case was not pursued?

MR BARKER: That is correct.

COMMISSIONER: What do you think about that, Mr Barker?

MR BARKER: Sorry?

COMMISSIONER: What do you think about that?

MR BARKER: Very frustrated. Very frustrated. Invested a lot of time into collecting, compiling data, being interviewed, the two days on the witness stand were very frustrating, and then utter disappointment that it was just dropped.

MR GISONDA: Now, in the interests of time, Mr Barker, we'll skip over the incident on 17 January, which you then give evidence about, and come to the incident on 16 June 2022, on page 9. And at paragraph 38, you say there were night works occurring on the project for the delivery of concrete girders being supplied by ENCO Precast; is that right?

MR BARKER: Correct.

MR GISONDA: And you have Matt Hayes, who's a worker for - sorry, a worker from the organisation Workforce, who was operating a bump truck that evening. Can you tell the Commissioner what the purpose of a bump truck is?

COMMISSIONER: Just while we're talking about this, Mr Gisonda, is it legitimate for a regulator, federal or state, where the main target of the regulator - Mr Irving said most of the wrongdoing by unions under the Fair Work Act was by the CFMEU. I can't remember the percentage. 90 per cent, 95 per cent, orders of magnitude more than any other union. But Ms Booth is the new Fair Work Ombudsman. There are cases live that she has taken over that have been handed over by the ABCC, and she meets with Mr Smith, who is the - whatever role he had, national secretary of the division. If the ACCC was prosecuting Coles, Woolworths for something, would it be legitimate for the head of the ACCC to meet with the CEO of Coles? Is that what

a prosecutor should be doing, in circumstances where there are cases on foot involving - in fact, most of the cases on foot. Just take that on notice if you want, but just strikes me as - it strikes me as a bit strange. Maybe there's nothing wrong with it, you'll tell me, but -

MR GISONDA: There might be nothing wrong with it, but it does - it's bordering on bizarre in these circumstances, and if you take the minutes at face value, the union appears not to believe what was happening in terms of the positive outcome that it was being able to achieve. Beyond their expectations.

COMMISSIONER: Should you meet at all? I mean, would the ACCC be entitled to meet with the CEO of Coles while they're prosecuting Coles for price fixing? Is that -

MR GISONDA: It's very strange.

COMMISSIONER: I'm sorry. Keep getting away from you, Mr Barker. I'll try not to do that.

MR BARKER: It's all right.

MR GISONDA: Mr Barker, I asked you what the purpose of a bump truck was on the site.

MR BARKER: Yep. So on the motorway in this instance, the motorway was 100 kilometres an hour while we weren't working in the area. So to install the girders, we had to occupy lanes in both directions. The southbound on this instance was closed and a full detail up the off-ramp and down the on-ramp. So when you have lane closures on the motorway, you have the bump truck, and the bump truck is a device that has a very large cushion on the back of it. It is the first vehicle in the chain of vehicles that is in the lane that is closed. So the purpose of the bump truck is to protect the workers, because it's not possible during a single shift to put barriers out for people to work behind on a night shift, on a single shift, that is.

So that bump truck, if a vehicle entered the closed lane it basically strikes the back of the bump truck. The person that is driving the bump truck is safe because they're properly harnessed in with the correct protective gear, and the workers then are - they're safe because they're behind the bump truck, so it absorbs the blow if there is an errant vehicle.

MR GISONDA: And at subparagraph (c) on this page, there was an incident where Mr Hayes, the bump-truck operator, saw an unidentified ute, utility vehicle, driving up behind the truck, and he had to swerve twice in order to try and deal with the scene as he found it. And if you look at paragraph (e), as you say, he had to swerve the bump truck more than once to obstruct this unidentified vehicle from driving into the areas, and you say it's dangerous because having to swerve to block a vehicle is itself dangerous. And then you say also the bump truck was moving out of its position to protect the workers, which is the purpose of having a bump truck in the

first place. So are you able to explain why swerving is in and of itself dangerous for the bump truck?

MR BARKER: At this moment in time, the operator of the bump truck has no idea the intent of the vehicle behind it. So it effectively has to treat it as hostile. So if he has to move across, then he's instigating a collision if that vehicle is trying to pass it.

MR GISONDA: And this utility vehicle, which you say at paragraph 39 was not a designated construction vehicle being operated during scheduled night works - so that is also itself a safety hazard, is it?

MR BARKER: Yes, correct.

MR GISONDA: And you say over the page at page 10 at the end of that paragraph that driving into a closed lane, which the bump truck was seeking to protect, could have caused a collision between the vehicle and that bump truck. And you then say at paragraph 40 that in normal circumstances, that there is a proper process for a designated construction vehicle to enter the project site. What is that proper process that's in place if a vehicle needs to enter the construction site?

MR BARKER: Very simply that a call is made up over the UHF radio so at the pre-start, this is something that is discussed. All the workers are aware of what channel the radio - to communicate with the people that are in control of the traffic. So the bump truck operator, he's on this radio frequency. So when the call is made that they need to enter into the construction site, it might be any member of the construction team. If it's a Georgiou vehicle, traffic control vehicle or the people that are involved with the crane lifts, they will be driving past the bump truck. They'll call up the request to enter the site. They'll be given that permission from the person controlling the entry. They'll drive in in front of - sorry, in front of the bump truck, so they pass the bump truck and move into that area where it's designated to be that entry point.

MR GISONDA: Now, you were able to get some footage of the incident. So if we can begin by playing JAB-7.

(Video played).

MR GISONDA: And if we play JAB-8.

(Video played).

MR GISONDA: And those two men that we saw exit the vehicle, that turned out to be Mr Dean Rielly and Mr Dean Mattas; is that correct?

MR BARKER: That is correct.

MR GISONDA: And then if we - perhaps I'll tender those two videos first, Commissioner. They'd be JAB-7 and JAB-8, being CCTV footage of bump-truck incident on 16 June 2022.

COMMISSIONER: Where?

MR GISONDA: The Exit 41 project site.

COMMISSIONER: Are there any objections? CCTV footage of bump-truck incident 16 June 2022 at Exit 41 project site will be JAB-7.

<EXHIBIT JAB-7 CCTV FOOTAGE OF BUMP-TRUCK INCIDENT 16/6/2022 AT EXIT 41 PROJECT SITE

COMMISSIONER: Further CCTV footage of bump-truck incident, 16 June 2022 at Exit 41 project site will be JAB-8.

<EXHIBIT JAB-8 FURTHER CCTV FOOTAGE OF BUMP-TRUCK INCIDENT 16/6/2022 AT EXIT 41 PROJECT SITE

COMMISSIONER: Could you just explain to me what's going on? I'm just finding it hard to follow. There's a bump truck there that's stopping vehicles on the road getting into the construction site. Is that what it's doing?

MR BARKER: That is correct, Commissioner. The bump truck is - it's a large vehicle. It's a specially weighted vehicle. So its purpose is where it's sitting at that point, it is critical, and it's set out relative to the construction site where the people are actually working. So they sit a certain number of metres in advance of the area. So that distance also includes, if it is struck, the bump truck will move forward into that vacated space. So exclusion zones around this bump truck are very, very, very critical. So the fact that that vehicle that's parked there now, they've pulled into the lane, which you cannot see. There's witches' hats that delineate the taper to push people across to the left.

It's worth noting that this image is actually reversed, so this was on the northbound carriageways. I think you'll find that this image is reversed, so if the operator is looking at the camera, if he sees someone on this side of the screen, he doesn't have to think about the mirror reversal. He'll instantly move over, and that's what he's done in this instance. So it's entered into this safety exclusion zone, driven into between the witches' hats, and as you saw, he's moved to the left and to the right just to ensure that that vehicle doesn't move forward, because at this moment in time he has no awareness of who these people are or if they're hostile or whether it's someone that's determined to drive through the construction site where the workers are located.

MR GISONDA: That was JAB-7 and JAB-8.

COMMISSIONER: I just marked them, didn't I?

MR GISONDA: Sorry.

COMMISSIONER: I think I did.

MR GISONDA: Then if we can then play JAB-9.

(Video played).

MR GISONDA: You can see from that footage, can't you, Mr Barker, that Mr Hayes was extremely concerned about what was happening behind him?

MR BARKER: Very much so. Very agitated.

MR GISONDA: So if I can tender that video as well, that's footage from within the bump-truck cabin.

COMMISSIONER: What's the date again? 16 June?

MR GISONDA: 16 June.

COMMISSIONER: Are there any objections? Camera footage within the cabin of the bump truck of the bump-truck incident, 16 June 2022, Exit 41 project site, will be JAB-9.

<EXHIBIT JAB-9 CAMERA FOOTAGE WITHIN CABIN OF BUMP TRUCK OF BUMP-TRUCK INCIDENT, 16/6/2022, EXIT 41 PROJECT SITE

MR GISONDA: If we can then pull up an email which is marked as JAB-12. This is an email that was provided to you from Mr Hayes, and you'll just see at the bottom of this first page that he sets out what had happened, and over the page at page 2, at the top of that page he says:

"The union delegates were not on any radio channel nor did they have the correct reflective gear on making them non-compliant on site."

And in that second paragraph he says:

"The union delegates advised that they were here and that they were called out by union workers. Georgiou was aware they were there. However, Kerry had not been notified prior. The union delegates tried to strong arm me with the scare tactics."

And then he said to them:

"I advised them that they need to move the vehicle as they are in a compromising position as if I get hit by the vehicle and they are standing next to the truckmounted attenuator they are in great risk of being injured or worse."

Now, given your position as responsible for, among other things, safety, that was quite a dangerous thing that these two union officials did on that evening. Do you agree with that?

MR BARKER: It is an absolutely ridiculous, major security - safety breach.

MR GISONDA: Can I tender that email. We might mark it, Commissioner, as JAB-12, and we'll have - I'm going to tender three other documents, so we'll get to 12.

COMMISSIONER: My version of it runs for five pages.

MR GISONDA: Yes.

COMMISSIONER: Are there any objections? Email chain incorporating email from Matty Hayes to Janelle Imber, Thursday 17 August 2022, in response to email from Joe Barker to Janelle Imber, Tuesday 26 July 2022, incorporating photos of bump-truck incident will be JAB-12.

<EXHIBIT JAB-12 EMAIL CHAIN INCORPORATING EMAIL FROM MATTY HAYES TO JANELLE IMBER, THURSDAY 17/8/2022, IN RESPONSE TO EMAIL FROM JOE BARKER TO JANELLE IMBER, TUESDAY 26/7/2022, INCORPORATING PHOTOS OF BUMP-TRUCK INCIDENT

MR GISONDA: And at page 10 of your statement, Mr Barker, in paragraph 42, you say that Mr Rielly and Mr Mattas - well, beginning, really, in paragraph 41, but in those two paragraphs that Mr Rielly and Mr Mattas were on site for at least two and a half hours thereafter, raising safety concerns, and they would just go from one alleged safety concern to the other; is that correct?

MR BARKER: Yes, that is correct.

MR GISONDA: And as a result of them disrupting works on that night, you had to reschedule the works that had been planned for that evening?

MR BARKER: Yes. Moving the cranes into position, moving the special jinker trucks that are able to carry an 80, 90 tonne girder into position takes a lot of time and even detailing the motorway. So with the time that they'd actually taken up, we didn't have enough time to completely complete the works, so we had to reschedule it rather than - whether we landed all but one beam, we still had to remobilise everything and everyone for another night, so the works were cancelled.

MR GISONDA: And you couldn't do it the next night, because 16 June was a Thursday and then you approach the weekend so you've got additional traffic volumes, so you had to wait until Sunday the 19th to complete the works; is that right?

MR BARKER: Yep, that is correct. That is correct. The crane had to remain on site. The jinker trucks, special jinker trucks with the girders on them had to remain in the middle of the median of the motorway. They were from New South Wales, so they couldn't be released. So all of this equipment that was locked up on our project had to stay there for Friday, Saturday and till Sunday night before it could be released.

MR GISONDA: And then on the Sunday when you attempted to do the works, resume the works, Mr Rielly and Mr Mattas turned up again to the project site; is that right?

MR BARKER: Yes. That was - that was correct. I was very surprised by that, given the fact that I had specifically requested the Department of Main Roads that we give permission to complete the works an hour earlier.

MR GISONDA: Now, I'll just quickly cover off on one more incident before the lunch break, which was on 15 March 2023. You say that Mr Dean Rielly and Mr Beau Seiffert and Mr Luke Gibson all attended the project site, and your awareness at that time was that none of them held entry permits; is that right?

MR BARKER: That is correct.

MR GISONDA: And so they said they were there as concerned members of the public?

MR BARKER: Correct.

MR GISONDA: You say in paragraph 48 that you recall that Mr Rielly even provided a false name for the alleged complainant. Does that mean that he said that a worker had raised a safety issue, and when you asked who, he gave you a false name?

MR BARKER: Correct.

MR GISONDA: And because they were not permit holders, you asked them to leave the site; is that right?

MR BARKER: That is correct.

MR GISONDA: And at this time, Mr Hamish Troutbeck was with you; is that right?

MR BARKER: That is correct.

MR GISONDA: And what was his role on the site?

MR BARKER: He was a project engineer on site.

MR GISONDA: And at paragraph 49, you say that you caught up with Rielly, Seiffert and Gibson and stood in front of them to block them continuing to walk through the site, and that was on the basis, as you say, that they didn't have entry permits, and you say that Mr Rielly then moved behind Mr Hamish Troutbeck and used his arm and shoulder to shove Mr Troutbeck in the back while he had his hands in his pockets. Is that what happened?

MR BARKER: Yes, that is correct. Under section 81 - under a section 81, they are able to represent people that might make a complaint, but that only involves discussion. There's no allowance for them to actually access onto the site. So at that point, we weren't aware of what the issue was, and there was no requirement or no need for them or no - no right for them to actually access the site, so they were just basically members of the public.

MR GISONDA: And you say separately, Mr Seiffert used his shoulder to shove Mr Troutbeck and that forced him to stumble sideways?

MR BARKER: Yes, correct.

MR GISONDA: And if I can just play JAB-10, please.

(Video played).

MR GISONDA: So if we just play that again, and tell me whether this is the Dean Rielly incident or the Beau Seiffert incident.

(Video played).

MR BARKER: Standing on the right, that's Dean there with the book in his hand, and Beau was on the left.

MR GISONDA: So that's video footage of Dean Rielly shoulder-charging Mr Troutbeck; is that right?

MR BARKER: Correct.

COMMISSIONER: I missed that. I didn't see the shoulder charge. Where -

MR GISONDA: Maybe play it again.

(Video played).

MR GISONDA: So I tender that video. That's on 15 March 2023.

COMMISSIONER: Who did you say that was with the book in their hand?

MR BARKER: That's Dean Rielly with the book in his hand.

COMMISSIONER: What's Mr Troutbeck's first name?

MR BARKER: Hamish.

COMMISSIONER: Are there any objections? Video footage of Dean Rielly shoulder-charging Mr Hamish Troutbeck, 15 March 2023, Exit 41 project site, will be JAB -

MR GISONDA: 10.

COMMISSIONER: - 10.

<EXHIBIT JAB-10 VIDEO FOOTAGE OF DEAN RIELLY SHOULDER-CHARGING MR HAMISH TROUTBECK, 15/3/2023, EXIT 41 PROJECT SITE

MR GISONDA: Is that a convenient time?

COMMISSIONER: Was there any attempt to report this incident, Mr Barker, to the Fair Work Ombudsman? Because the ABCC had been disbanded by this stage.

MR BARKER: No. No. Because at that point in time, we'd lost all faith in any action or any support to be shown with this. That incident was in March '23, so that was nearly 18 months after the initial act of aggression for them. 35 visits, I think it was, to the site. It was just ongoing harassment, and even with Workplace Health and Safety, there was no action against them when they were committing safety concerns that they were raising against us when they did the similar acts. So we lost a little bit of faith that we'd actually had support, because it was just ongoing.

At this point in time, Dean and Beau, they weren't even permit holders. They just weren't even permit holders. So they were effectively members of the public charging onto site, no idea where they were going, no idea what they were doing or what the purpose of what they were actually doing, but they just acted as if there was no constraints on them in any way, shape or form. The purpose of being there just appeared to be disruption.

COMMISSIONER: And you said you'd lost faith. Lost faith in whom?

MR BARKER: Oh, anyone. Whether it was the Commission, the ABCC or the Fair Work - Fair Work or even the police. The police are powerless to assist in these, things, because quite often - the right of entry is such a complex thing, they're not

very eager to be involved with it. So there was 35 - yeah, 35, I think it was, instances, 32 instances where they came to site, and it was just madness like this.

COMMISSIONER: We'll adjourn till 2 pm.

<THE HEARING ADJOURNED AT 1.02 PM

<THE HEARING RESUMED AT 2.00 PM

COMMISSIONER: Mr Gisonda.

MR GISONDA: At bundle 6, which is CRR-14 - you don't need to go to it, Commissioner, but at page 132, at paragraph 49 of the Rangiah decision of 19 April 2024, he says:

"There were 212 CPB employees eligible to vote in respect of the protected action ballot orders."

So at least in April, there were 212 -

COMMISSIONER: Yes. Thank you.

MR GISONDA: - blue-collar workers, and I have the figures of the votes, but those numbers don't take account of how many employees did not vote. I've just got the "yes" and "no" figures. So that's probably the best figure we've got at this stage, at least in April, of the blue-collar workforce directly employed by CPB. Mr Barker, before the lunch break you gave evidence about the incident on 15 March 2023, and then you give some evidence at page 12 of your statement from paragraphs 53 to 59 about Mr Mattas and Mr Howard coming on site and the discovery of a chisel following their removal, but I think the emails that are sent that are attached to your statement explain what happened in that regard. So we might move on to what you next describe as the chicken-wire campaign, from paragraph 60 onwards of your statement.

And just so we can orient ourselves in terms of the timing, in March 2023, the ABCC proceeding that we looked at at the start of your evidence became public knowledge in the sense that the lawyer who was handling prosecution advised Georgiou that the case was proceeding to hearing; correct?

MR BARKER: Correct.

MR GISONDA: And so it follows that not only was Georgiou informed but the CFMEU was informed as well, because it was one of the respondents to that proceeding, and you say at paragraph 61 that following that notification, there were five separate visits to the site in the space of about a week, and that's set out - or they're at paragraph 61 of your statement. And then at paragraph 62 of the statement, you talk about a video that was posted on Facebook, and the video went for about

four minutes, and it included a photograph of you in that video, and chickens were superimposed on top of your head, on your shoulder, and you were also - your image was doctored to show you holding a chicken as well. And if we go to page 73 of your bundle, please, that's a screen-grab of the Facebook post that was put up by the CFMEU; is that correct?

MR BARKER: That's correct.

MR GISONDA: And the chicken theme emerges because - and this is at paragraph 71 of your statement, back at page 13 - mesh had been installed on one of the bridges going over the motorway on the project site, and that mesh was what's known as uni-mesh, and there is a certain height that the uni-mesh had to reach, and I think that was about 900 millimetres; is that right?

MR BARKER: Yes, that's right.

MR GISONDA: And the uni-mesh on this particular structure was 1.2 metres high?

MR BARKER: Correct.

MR GISONDA: But there was then a gap between the 1.2 metres of uni-mesh and the top railing. Have I understood that correctly?

MR BARKER: Yes. You can see that on the image. Just behind my elbow, my right elbow there, you can see that little black bit of mesh there. That's the uni-mesh, and the rail that I'm referring to is the rail that's obviously running across the middle of the page, and the mesh that they're alluding to is the mesh that runs above that.

MR GISONDA: Right. And the way that you've described it is that that wire above the uni-mesh was not - it was an additional protection over the bridge. Is that right?

MR BARKER: Yes. We'd met our obligation with the black uni-mesh, so that was put in in addition.

MR GISONDA: And perhaps if we go to your email, which is at page 82 of the bundle - no, sorry, page 74 of the bundle. So at page - if we just go forward to page 75 for the moment, and in the middle of the page, there's the timing of 0:23 to 0:40, and in that second bullet point, it says CFMEU argued that the mesh needed to be two metres high. That was incorrect and was confirmed by Work Health Safety Queensland. It only needed to be 900 millimetres is the next bullet point. It was in fact 1200 millimetres.

MR BARKER: Correct.

MR GISONDA: So the black uni-mesh, the next bullet point, was a perimeter containment screen that was 200 millimetres higher than what the Queensland code

of practice for formwork required. And then the last bullet point you've got there is that:

"The 'chook mesh' was an additional 'informal' control measure Georgiou had put in place above what was required."

MR BARKER: Correct.

MR GISONDA: So you could have had nothing there; instead, you've put chook mesh there as an additional informal control measure.

MR BARKER: Correct.

MR GISONDA: Now, if we go back to page 74, and in the bottom half of that page, at the seventh bullet point from the bottom it says it has - this is your email, where you're explaining the state of affairs as a result of this Facebook post going up. You say that:

"It has been expressly stated by the CFMEU that they are targeting Georgiou. Georgiou's experience on DTMR projects is being closely monitored by industry."

And then you say:

"Georgiou is seeking advice on the causal connection between the behaviours of the CFMEU and proper conduct of the Federal Court matter which Georgiou is not a party to but for which our employees have been subpoenaed."

And then you say:

"Beyond being juvenile and incorrect the Facebook post may be, prima facie, a tactic to intimidate a witness subpoenaed to support the proper operation of the Federal Court."

So just so we understand what you're saying there, the CFMEU put up a Facebook post making claims about this chicken mesh. You were expressly targeted in this Facebook post.

MR BARKER: Correct.

MR GISONDA: They used your image, they digitally altered your image, and you're raising the point that this was done as a measure or a tactic to intimidate you because you had been subpoenaed to give evidence in the case before Judge Vasta.

MR BARKER: Correct.

MR GISONDA: In the second-last bullet point of this page, you say:

"During recent visits, the CFMEU has placed stickers around Georgiou's site which have no bearing on Georgiou other than the obvious freedom of association concerns. It concerns Georgiou that the Queensland taxpayers will ultimately pay for making good the site sheds."

Could you just tell the Commissioner what you had observed in relation to stickering of the site?

MR BARKER: So whenever the union was appearing on site, we were finding AWU-targeted stickers posted around the sites, through the toilet blocks, in the crib room, on vehicles, basically stating they considered the AWU to be Australia's Worst Union.

MR GISONDA: And then in the last bullet point on this page, you say:

"Georgiou has identified the CFMEU's repeated pattern of behaviour as a present psychosocial risk. As we would all be aware the consequences for such a behaviour increases significantly on 1 April 2023, Georgiou seek a collaborative approach with TMR to find controls to ensure that Georgiou's employees are protected now and post 1 April 2023."

What's the significance of the 1 April 2023 date?

MR BARKER: I believe that was when psychosocial rules were brought into legislation.

MR GISONDA: The psychosocial code of conduct?

MR BARKER: Yep.

MR GISONDA: And when you're talking about the CFMEU's repeated pattern of behaviour presenting a psychosocial risk, are you talking about there only the CFMEU's pattern of behaviour on the Exit 41 project or across the industry more generally?

MR BARKER: My first interest was with Exit 41, but it also included the wider industry, purely because the incidents that we were incurring on 41 was occurring on other Georgiou projects at the time as well.

MR GISONDA: And then, after making those points, you then proceed, from page 75 onwards, to demonstrate why each of the points that were made in the Facebook video were unjustified or could not be sustained. Is that a fair reading of your email?

MR BARKER: That is correct.

MR GISONDA: And no WHSQ notice was issued to Georgiou as a result of the matters that were raised in that video?

MR BARKER: There were two notices that were issued. One was an improvement notice for a number of fastenings that were used on the black uni-mesh. I'm not sure if it's detailed in that message. I don't believe - there was a second notice which was a prohibition notice that was issued for some particles of material that were found on top of that handrail, but that was challenged and then rescinded.

MR GISONDA: Right. And I think you mention those two notices at the start of your email on page 74.

MR BARKER: Yep.

MR GISONDA: But as far as the use of the mesh, certainly that did not end up being the subject of a WHSQ notice?

MR BARKER: That is correct. We exceeded the requirements.

MR GISONDA: And back at page 13 of your statement, at paragraph 72, at the bottom of the page, it says:

"Based on the video that was posted, you can see that the footage was aimed so that you cannot see the uni-mesh that was installed, and it only shows the chicken wire."

So you would say first that the Facebook video deliberately obscured the compliant mesh and showed the chicken wire only?

MR BARKER: Correct.

MR GISONDA: The video then proceeds to assert multiple safety breaches. And then over the page, at page 14, you've set out a caption that's on the video, and the caption ends with:

"Another quality joint venture brought to you by TMR, Georgiou and the AWU."

And is it fair that based on what you'd observed, at least as regards stickers being plastered around the site, that the CFMEU had a campaign against the AWU or was targeting the AWU?

MR BARKER: Very much so. I mean, we didn't have an enterprise bargaining agreement that was AWU-affiliated. It was Building Code compliant, so we had freedom of association on the project. I'm not even sure why they were linking it to the Exit 41 job.

MR GISONDA: And then also you see, in addition to Georgiou, DTMR is also appears to be the subject of their attack. Is that what we see there?

MR BARKER: Correct.

MR GISONDA: The reference to TMR?

MR BARKER: Correct.

MR GISONDA: Then about three or - the video goes up on 21 March, and then six days later, on 27 March, this is at paragraph 67 of your statement on page 13. You start to receive many text messages and calls from unknown numbers, and you discovered shortly thereafter that this was due to an advertisement that had been posted on Gumtree for a free chicken coop, and the ad was under the name of Joey Barker and included your mobile number. And you did not put that ad up on Gumtree, did you?

MR BARKER: That is correct.

MR GISONDA: And did you not give anyone permission to use your mobile phone number on Gumtree?

MR BARKER: That is correct.

MR GISONDA: And if we go to page 84 of your bundle, that's the ad?

MR BARKER: Correct.

MR GISONDA: And then as a result of the offer of a free chicken coop, you start to get bombarded with calls and messages enquiring about the free chicken coop; is that right?

MR BARKER: That is correct.

MR GISONDA: And if you go to page 86 of the bundle, missed calls. More on page 87. 88 is a message, 89 is a message, and so on and on it goes. And it was clear, wasn't it, that this was part of the chicken-themed campaign that the CFMEU was running against Georgiou more broadly, but also you specifically?

MR BARKER: Yes.

MR GISONDA: And if we then go to page 14 of your statement at paragraph 73, you say that on 28 March - so that's the day after this ad has gone up - Mr Rielly and Mr Seiffert attended the project site, and they said they were following up on a previous anonymous safety complaint, and Mr Rielly and Mr Seiffert advised you that they knew that Georgiou had received immediate compliance notices issued by WHSQ the previous day. Is that right?

MR BARKER: Correct.

MR GISONDA: And what were those notices that Georgiou had received the previous day?

MR BARKER: I have no knowledge of what they could have been.

MR GISONDA: And so how would the CFMEU know about those notices?

MR BARKER: It's - it is an absolute mystery to me, because an immediate compliance is when you walk around with a Workplace Health and Safety officer. They might note something, a witch's hat might have got knocked over and as I'm walking past I picked it up. That could have been recorded as a note as an immediate compliance. There isn't any formal conversation between myself and Workplace Health and Safety where they have said this was an immediate compliance and this was an immediate compliance, so I'm not aware of what immediate compliances were issued or how there is any way they could have known about them.

MR GISONDA: And when you asked Mr Rielly about that, how he knew about it, what did he say?

MR BARKER: He said he has people.

MR GISONDA: Then at paragraph 74, they were raising issues, general concerns about public safety during their visit, and then you in response said - or made a complaint about the incident of 15 March, where both of them shouldered Mr Troutbeck; is that right?

MR BARKER: Correct.

MR GISONDA: And what did Mr Seiffert say to you when you told him that you had photos and a video of that incident?

MR BARKER: He said, "I hope you keep them to yourself."

MR GISONDA: And then at paragraph 75, what happened as you were heading back to the site office?

MR BARKER: As I left them and I was walking back to the office, one of them was playing chicken noises on their phone, and they were both laughing about it.

MR GISONDA: Then at paragraph 77, you say that at the start of May - so that's about five weeks later - you start receiving text messages which all had a chicken theme, and the text messages had emojis and chickens and the like attached to them. If we go to page 106 of the bundle, please, that's an example of what you were receiving; is that right?

MR BARKER: Correct.

MR GISONDA: And if we go to page 107, 108. Go to 113, 114, 115, 116 and it just continued on and on and on; is that right?

MR BARKER: Yep, I received over 500 messages. One morning, I got 70 messages before 6 am.

MR GISONDA: And your phone was rendered essentially useless?

MR BARKER: Yep, it was just ongoing.

MR GISONDA: And some of them also had a video attached to it, and if we can just play JAB-11, please.

(Video played).

MR GISONDA: And those are some of the videos that you were sent as well on your phone?

MR BARKER: Yep, several messages started with exactly the same video.

MR GISONDA: And you had no idea who was sending you these messages as part of this campaign against you?

MR BARKER: Nope.

MR GISONDA: And it was a campaign of harassment, wasn't it?

MR BARKER: I very much feel that way, yes.

MR GISONDA: Now, we've been able to -

COMMISSIONER: Why do you say that?

MR BARKER: Why do I say -

COMMISSIONER: Why do you say it was a campaign of harassment?

MR BARKER: Ever since the court case was announced, all this rubbish about chicken started coming up, and receiving 70 messages in a morning, you know, from 4.40 in the morning through to 6 am - if that's not harassment, I'm not sure what actually is. But whether it was the instant influx of visits to site - sometimes two teams of CFMEU delegates appeared at the same time, just to cause issues with actually handling them on site. But it was just ongoing and very, very childish, but unfortunately it was causing me a lot of disruption, receiving text messages in the middle of the morning. If I've got teams that are on - working on night shift, my phone's always on and I'm used to responding to it. If I have a call, if there's an issue,

I have to respond to it quite quickly, and my phone's going off all the time. So it was just relentless.

COMMISSIONER: How do you use your phone if you're getting 500 messages in a morning?

MR BARKER: You don't. You don't. You have to - even if you had an important message, it's almost impossible to scroll through and find the message that you were supposed to receive, because it keeps on going. To this day, I don't take cold calls. If I don't recognise the number, I don't answer the phone, purely because I was getting phone calls as well and it was just - it was just harassment.

MR GISONDA: Now, did you know that the person who sent you the most messages was Hayden Turner-Davey?

MR BARKER: No.

MR GISONDA: Do you know who he is?

MR BARKER: I believe he's a CFMEU delegate.

MR GISONDA: Had you had anything to do with him before?

MR BARKER: I think he might have come to site once before.

MR GISONDA: Did you know that another person who was sending you these messages was Brodie Wood?

MR BARKER: No.

MR GISONDA: Had you had much to do with him on the site?

MR BARKER: I honestly can't recall ever meeting him.

MR GISONDA: Did you know that Mitchell Thurlow, spelt T-h-u-r-l-o-w, was another person sending you messages?

MR BARKER: No.

MR GISONDA: Do you know who that is?

MR BARKER: The name's not even familiar.

MR GISONDA: What about Stephen O'Donohue? Do you know who he is?

MR BARKER: I don't. I don't know that name instantly, sorry.

MR GISONDA: You didn't know that he was sending you some of these messages?

MR BARKER: No. I never bothered engaging with any of these messages, just because it was a constant flood.

MR GISONDA: What about Ashley Playford? Do you know him?

MR BARKER: I do not believe I know him.

MR GISONDA: What about Christopher Clarkin, spelt C-l-a-r-k-i-n?

MR BARKER: I'm not familiar with that name.

MR GISONDA: What about Marcus Hubele, spelt H-u-b-e-l-e?

MR BARKER: No, I don't know that name.

MR GISONDA: What about Nicholas R-i-d-d-l-e, spelt Riddle? Do you know him?

MR BARKER: No, I do not believe I know him.

MR GISONDA: What about Hugh Reidy, spelt R-e-i-d-y?

MR BARKER: I do not believe I know him.

MR GISONDA: You don't know why a delegate working for Building and Asset Services would be sending you chicken-related harassment messages?

MR BARKER: I can only imagine it's part of an orchestrated campaign.

MR GISONDA: You don't know why a delegate employed by Copperview would be part of this campaign?

MR BARKER: I wouldn't know upfront, but I'd just assume it's something to do with the CFMEU.

MR GISONDA: Now, just one last matter to ask you about. You say at paragraph 83 of your statement on page 15 that the consistent visits by the CFMEU officials on the project impacted the timing and the cost of the project. That's your view, is it, about their conduct in relation to this project?

MR BARKER: Very much so.

MR GISONDA: And it remained a consistent theme that they refused to complete visitor induction processes when coming onto site?

MR BARKER: Yes.

MR GISONDA: In paragraph 85, you say - and you've already touched on this in your evidence before lunch - you did not report the various site visits after the ABCC was abolished, and you say you also did not feel that you could report these matters to WHSQ as well; is that right?

MR BARKER: Very much so.

MR GISONDA: And you identify one in incident in particular which took place on 15 June 2022, and this is at paragraph 86 of your statement. You say that on that occasion, Mr Dean Rielly, Mr Mattas and yourself and others from Georgiou were doing a walk-through of the site, and Mr Rielly left the site during that inspection, and when he returned he parked his vehicle on the western side of Cuthbert Drive. And that's the same drive that we saw on his video the first time that they attended site in October of 2021; is that right?

MR BARKER: Correct.

MR GISONDA: And he started walking across Cuthbert Drive to get back onto the site?

MR BARKER: Correct.

MR GISONDA: Is that what you observed? And that was the exact issue that he said was a safety hazard for workers back in October 2021?

MR BARKER: Correct.

MR GISONDA: And it was that issue that had led to Georgiou, as you've already given evidence about, receiving an improvement notice. And you say you confronted Mr Rielly about the fact that he was now engaging in the very act that he had argued and WHSQ had accepted was unsafe in October of 2021.

MR BARKER: Correct.

MR GISONDA: And Mr Rielly asked why he couldn't cross Cuthbert Drive, and you responded words to the effect that he should know because he was the very person who had mounted the argument about it in October of '21.

MR BARKER: Correct.

MR GISONDA: And this was all pointed out to the WHSQ officer at the time; is that right?

MR BARKER: Yes. As soon as he parked his car, I thought to myself - I understood what he was going to be doing, and I pointed it out to the Workplace Health and

Safety officer, telling him at the time that we had received this improvement notice for exactly the same act.

MR GISONDA: And what did the WHSQ inspector do in response to that?

MR BARKER: He did nothing. I believe he actually turned away.

MR GISONDA: And you say as a result of what you witnessed then, you just didn't feel that - these are my words; tell me if you agree or disagree - you couldn't take WHSQ seriously from that point on?

MR BARKER: Oh, not seriously. Any time that they'd talk about a safety issue I'd take it seriously, but it's very, very hard to take anything into consideration when the very same act I get a notice for is not applied to the person that basically instigated the notice. They were clearly judged by a different set of rules.

MR GISONDA: Just one final matter. There's a PowerPoint presentation that's annexed to your statement, and we don't need to go to it. It's at page 156. But you say in that presentation that the union's interactions on the Exit 41 project appeared to be driven by BPIC issues on other projects. Are you able to give any explanation as to why you had included that in your PowerPoint presentation? Perhaps it's fair we do bring it up just for you: page 156 of your bundle. So you say at the top there "BPIC not applied", "Union completed coordinated visits across all Georgiou South East Queensland projects" and then you make the point about it appearing to be driven by BPIC issues on other projects. Are you able to elaborate at all on why you made that point at that time?

MR BARKER: So we were asked to engage in this presentation with our - the Georgiou workers in Western Australia. So I'm led to believe that BPIC was looking at being introduced into the Western Australian market. So we were concerned that people didn't understand the impact that BPIC would have in their industry, even if they didn't have a BPIC project. So the graph down the bottom, you can see the blue dots are the times that the union arrived at Exit 41, and all the notation above that talks about times where - either BPIC-related or other project related. So the first dot, Coomera Connector, which was the Acciona/Georgiou, was nominated as the preferred contractor. The CFMEU starts arriving on site. At the commencement of the Coomera Connector EBA negotiations, then you've got the CFMEU arriving on site again. Centenary, BMD/Georgiou preferred contractor: as you can see, that collection of five or six CFMEU visits happens a short time after that. Centenary EBA negotiations: they appear again. And then finally when the court case was announced.

So the impact was that you would get more attention on yourself. So they were targeting all of the Georgiou jobs. I just bore the brunt of it down at Exit 41, probably because I was in close proximity to the Coomera Connector job. But the issues were significant. I was losing subcontractors to, one, pressure from the unions appearing on site and basically harassing them, and every time they were trying to

work the union appears and they start asking questions, and that's slowing these guys down, and a lot of these guys rely on being productive. They can't make a claim against the CFMEU or delay or disruption. So they were abandoning the job to work on BPIC jobs, because on the BPIC jobs they were getting more favourable rates and favourable terms. So I was losing subcontractors to BPIC jobs. I wasn't on a BPIC job.

So the impact of being around BPIC jobs was significant. Subcontractors that were also working on BPIC jobs, their workers didn't want to come to my job because they were getting paid better rates on the BPIC job. So I basically - when the workers abandoned and went to these BPIC jobs, I had to bring in new people, and surprise, surprise, the rates I had to pay was basically the same as what the BPIC jobs were.

MR GISONDA: Commissioner, that video that we played a short moment ago, I should tender that. It's video attached to text messages sent to Mr Barker, and that can be exhibit number JAB-11.

COMMISSIONER: Around what time?

MR GISONDA: May 2023.

COMMISSIONER: Are there any objections? Video of chickens in chicken coop sent to Joseph Barker around May 2023 will be exhibit JAB-11.

<EXHIBIT JAB-11 VIDEO OF CHICKENS IN CHICKEN COOP SENT TO JOSEPH BARKER AROUND MAY 2023

MR GISONDA: I have no further questions, Commissioner.

COMMISSIONER: Is there any application to cross-examine Mr Barker?

MR GISONDA: No.

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

<THE WITNESS WAS RELEASED

MR GISONDA: Ms MacNicol will take the next witness.

MR PAYARD: May I be excused, Commissioner?

COMMISSIONER: Yes, of course, Mr Payard. Thank you. Do you want to move up the front, Mr de Jersey, or are you happy there?

MR DE JERSEY: I'm happy to stay. Thank you for the offer, Commissioner.

MS MacNICOL: Commissioner, the next witness is Mr Daniel Lewis, who is in court.

COMMISSIONER: Will you come forward to the witness box, please, Mr Lewis.

<DANIEL JAMES LEWIS, SWORN

<EXAMINATION BY MS MacNICOL

MS MacNICOL: Mr Lewis, can you tell the Commission your full name?

MR LEWIS: Daniel James Lewis.

MS MacNICOL: Did you provide a statement dated 11 September 2026 pursuant to a notice issued by the Commission?

MR LEWIS: I did, yes.

MS MacNICOL: And have you had a chance to review that statement?

MR LEWIS: I have, yes, thank you.

MS MacNICOL: And you are wishing to make a correction to paragraph 2. Instead of it reading "Lot 3", it should read "Lot 1". Is that correct?

MR LEWIS: Yeah, correct. Currently I'm a Lot 1 supervisor.

MS MacNICOL: And the statement you provided to the Commission is seven pages, 52 paragraphs with four video annexures?

MR LEWIS: Sorry, what was that?

MS MacNICOL: The statement that you've provided, it's seven pages, 52 paragraphs?

MR LEWIS: Yep, correct.

MS MacNICOL: And with four video annexures?

MR LEWIS: Correct.

MS MacNICOL: Commissioner, I tender that statement.

COMMISSIONER: Are there any objections? No. Witness statement of Daniel James Lewis, 11 September 2026, 52 paragraphs, seven pages, with four digital annexures, as amended by the witness just now in the witness box at paragraph 2, will be exhibit DJL-1.

<EXHIBIT DJL-1 WITNESS STATEMENT OF DANIEL JAMES LEWIS, 11/9/2026, 52 PARAGRAPHS, SEVEN PAGES, WITH FOUR DIGITAL ANNEXURES, AS AMENDED BY WITNESS IN WITNESS BOX AT PARAGRAPH 2

MS MacNICOL: Mr Lewis, you commenced on the Cross River Rail project in June of 2023. What was your position and what were your day-to-day responsibilities?

MR LEWIS: Back in '23 I was employed as a structures foreman or supervisor. So I was mainly doing the FRP structures and that sort of stuff.

MS MacNICOL: And you mentioned that you're currently now working on Lot 1. What are your responsibilities on Lot 1?

MR LEWIS: So as the structure was complete, I got rolled over into a fit-out role, so just completions and, yeah, fit-out department.

MS MacNICOL: Now, working on Albert Street, are you aware of the HSRs that you were working with there?

MR LEWIS: Yeah. Yep.

MS MacNICOL: And they were Sean Korostovetz and Steven Amies?

MR LEWIS: Yep, correct.

MS MacNICOL: When did you begin dealing with them?

MR LEWIS: It was pretty early on in my time with CPB at Cross River Rail. Up at Lot 3, they were - I think there was a little period where they weren't there. They got brought in after the first IR issues. They were employed by CPB. And then from there, there was quite a few dealings with them.

MS MacNICOL: And did you have many dealings with them in Lot 3 and subsequently Lot 1?

MR LEWIS: Yeah, quite a few up at Lot 3, yeah.

MS MacNICOL: What would ordinarily happen when they raised a safety concern?

MR LEWIS: A lot of the times, they would stop the work before consultation with the area supervisor and that sort of stuff. Once it was communicated to myself, we'd go assess the area, assess what the actual concern was, and then go through those concerns and eventually get back to work.

MS MacNICOL: And what practical effect did those interruptions have on the productivity of work?

MR LEWIS: Quite a lot of downtime. Obviously if you're stopping works for unjust causes and that sort of stuff, like, not legitimate issues, there's a lot of downtime that's wasted at the end of the day. Yeah.

MS MacNICOL: Still on the topic of the HSRs, did you observe them approaching new starters or looking for particular workers?

MR LEWIS: Yes. Quite often, yes.

MS MacNICOL: And do you know what they were doing?

MR LEWIS: Yeah, recruitment. Yeah.

MS MacNICOL: You mentioned that you would see them carrying documents with them. Can you tell the Commissioner about that?

MR LEWIS: Yeah. It was all the CFMEU pamphlets and that they have for new starters and getting bank details and all that sort of stuff to sign up to the CFMEU.

MS MacNICOL: In your statement at paragraph 25, you mention that -

COMMISSIONER: What paragraph, sorry?

MS MacNICOL: Paragraph 25 - that some of the individuals that the HSRs were pursuing were new starters and some were young with limited experience and that you perceived that to be placing pressure on those workers.

MR LEWIS: Yeah, absolutely. Every so often you'd see just the pair of them getting around together. They weren't both employed directly to the Lot 3 area; they had other areas they should have been working, but they were getting around together and particularly targeting the younger workers starting at the project.

MS MacNICOL: Moving on, you recall two distinct periods of industrial action in 2024. The first was in April/May 2024 and the second was July 2024. Turning to that first period of picketing in April/May, what did you encounter at the Albert Street entrances?

MR LEWIS: At the start, it wasn't as bad. Like, I'm pretty early at work, so before the picket lines formed I was still able to get in. But as time went on, they started rolling into 24-hour picketing and they were just, yeah, stopping Workforce and CPB staff getting to site.

COMMISSIONER: I just missed that last bit, Mr Lewis. You said as things went on they became - did you say 24-hour picketing?

MR LEWIS: Yeah. Yeah, so around the clock they were picketing.

MS MacNICOL: And so presumably that affects the night shift as well as the day shift?

MR LEWIS: Yes, correct.

MS MacNICOL: Can you describe the access door or perhaps the main station entrance access door at Albert Street?

MR LEWIS: Yep. So to gain access to site, we have a mag-lock gate which - all workers have a PIN code. They gain access to site, they sign on for daily works, and that's how you actually enter site, so -

MS MacNICOL: So the door, though, the access door at the main station entrance, is it a single door that swings outwards and you have to go up some stairs?

MR LEWIS: Yes, correct.

MS MacNICOL: And that's where you can access the site offices?

MR LEWIS: Correct.

MS MacNICOL: Did you observe CFMEU protesters standing in front of that door?

MR LEWIS: Yeah, directly in front of the door, correct.

MS MacNICOL: Do you recall what they would say to you as you tried to enter site?

MR LEWIS: Well, a lot of them, quite a few of them know me by name. They're like, "You're not going to work today, Dan," stuff like that, or, "Stand up for your brothers and sisters." That sort of stuff.

MS MacNICOL: Mr Lewis, I want to show you some footage now. Mr Operator, if we can bring up exhibit DJL-4 and play the first 30 seconds.

(Video played).

MS MacNICOL: Mr Lewis, that footage is from April 2024. Looking at the top of the screen, where there is a lot of hi-vis, do you know how many workers were prevented from accessing the site during this period?

MR LEWIS: Pretty well everyone that attended site. Like, so I think probably have around 300 people on site each day to day during that period of time, so - yeah, but I couldn't tell you the exact figure.

MS MacNICOL: And what's presented on the screen right now, is that an indication of the workers who were just waiting to access site?

MR LEWIS: I'd say that's a small portion of them. Like, they spilled out onto Charlotte Street and also Mary Street, just congregating in different areas. So, yeah, they weren't on site.

MS MacNICOL: And, Mr Operator, if we can zoom back out to the original image.

COMMISSIONER: Just before you do, I don't know if you were in the hearing room, Mr Lewis, when Mr Gisonda told us that around this time, CPB had 212 direct employees. You say there were around 300 people at this Albert Street site. How many of those would have been subcontractors and how many direct employees of CPB, just roughly?

MR LEWIS: I would say there would be a lot more subcontractors than direct employees from CPB. I daresay that 212 figure included engineers and office staff, which I sort of haven't equated for, so -

COMMISSIONER: Well, it's across the whole project, not just Albert Street.

MR LEWIS: Yeah. So 300 on site, let's say maybe a third of that at the very most would have been direct - directly employed by CPB.

COMMISSIONER: I would have thought less than that, but -

MR LEWIS: Yeah, well, that's including all the engineers and support staff, I'd say.

MS MacNICOL: The bottom right of the screen, or I should say in the middle of the image, is that the entrance?

MR LEWIS: The blue door, yeah, correct.

MS MacNICOL: And standing in front of that entrance are masked men?

MR LEWIS: Yep, correct.

MS MacNICOL: Are you - and not necessarily in this image, but in the footage that you've just observed - were you able to identify the HSRs that were working on Albert Street?

MR LEWIS: Yes.

MS MacNICOL: And is that the type of behaviour, them standing as they are in that image, that you observed during this period of industrial action?

MR LEWIS: Yeah, definitely.

COMMISSIONER: Which period are you talking about here?

MR LEWIS: This is the first period.

COMMISSIONER: Which is April and May 2020?

MR LEWIS: April and May, yep.

MS MacNICOL: And later on - so this is the morning of 30 April - later on, as the sun came up, the protesters there, they ended up taking seats in front of that door; is that right?

MR LEWIS: Yeah, correct.

MS MacNICOL: Moving on now to -

COMMISSIONER: Just tell me what you said about the HSRs. Did you say you recognised - what have we got - maybe 10 - maybe nine, maybe 10 people with masks in front of the blue door?

MR LEWIS: So, for clarity, I don't recognise anyone of the ones with the mask, but for the question, do you recognise the HSRs within that footage? I did, because I see quite a few of them walking around during that footage played.

COMMISSIONER: Quite a few walking around where?

MR LEWIS: Throughout the footage. I could name the HSRs that I have dealings with. But for the direct in front of the door with the masks, I don't recognise.

COMMISSIONER: And so the HSRs were in the orange hi-vis or dressed in some other way?

MR LEWIS: No, no, they were dressed in orange hi-vis, carrying signs. Like, I could name a few looking at the footage right now.

COMMISSIONER: Sorry?

MR LEWIS: I could name a few of the HSRs looking at the footage right now.

COMMISSIONER: Can you just give me a couple of names?

MR LEWIS: Sean K. He's at the top left speaking with the bloke with the back towards the camera. Yep. That's him there. You had Andrea - unsure of her last time - in the pink hoodie. She was the Altus HSR who was working on site. And then

during the footage as it plays out, there was, I believe, a yellow hi-vis jacket with grey arms. That was Steven Amies.

MS MacNICOL: And for completeness, Commissioner, the woman in pink, Andrea, her last name is Hildreth.

COMMISSIONER: Sorry?

MS MacNICOL: Hildreth.

COMMISSIONER: Thank you.

MS MacNICOL: Moving on to that second period of industrial action - this is July of 2024 - and taking you to paragraphs 33 to 37 of your statement, on the morning of 16 July 2024, do you recall what happened that morning?

MR LEWIS: Yeah. So we had a meeting up at the - an offsite facility for the supervision, and then as we returned to our normal place of work, again, there was picketers there. There was a guy also filming a group of us as we returned to work.

MS MacNICOL: If I could - Mr Operator, if you could bring up DJL-1 and play that.

COMMISSIONER: You just described a person called - was it Sean K?

MR LEWIS: Sean K, yes.

COMMISSIONER: There's an American footballer running back called K-9. His first name's Ken, and he wears number 9, so he's called K-9. So by Sean K, do you mean Sean Korostovetz?

MR LEWIS: Yeah.

MS MacNICOL: Mr Operator, if we could play that footage.

(Video played).

MS MacNICOL: As the image is frozen now, the man in the yellow hi-vis, is that Steven Amies?

MR LEWIS: Yes, correct.

MS MacNICOL: And he was the individual who was filming you as you entered site on 16 July?

MR LEWIS: Correct.

MS MacNICOL: What effect, if any, did the filming have on you?

MR LEWIS: I don't let those things concern me too much, but I guess you could take it as trying to intimidate. I don't know. They sort of - I didn't see anything come out publicly about me, but yeah, there's always those messages and that sort of stuff getting around.

MS MacNICOL: Was it discussed on site that there were individuals as they entered being filmed?

MR LEWIS: Yeah, there was a lot of talk about people being filmed, Workforce as well as direct employees of CPB.

MS MacNICOL: And the workers that you spoke to about it, did they share some concern about it?

MR LEWIS: They did more so, in the fear of getting further work here in Brisbane and that sort of stuff.

MS MacNICOL: I want to come back to that point, but just staying on 16 July for the moment, in the days that followed, were you able to enter site and conduct work?

MR LEWIS: It was a long time ago, but I believe after that - that footage there, it was getting a lot heavier with the picketing and we weren't actually able to gain site - gain access to the site after that. Again, like I said in the first period, they started doing the 24-hour pickets and that sort of stuff.

COMMISSIONER: So are you talking the first period was April/May '24?

MR LEWIS: Yeah.

COMMISSIONER: And you're now talking about 16 July '24?

MR LEWIS: Correct.

MS MacNICOL: During that period of not being able to work, what effect did that uncertainty have on your ability to plan and carry out work?

MR LEWIS: Well, my role is heavily site based. If I'm not able to gain access to site, I'm not able to perform my role. So there was a lot of uncertainty there, what was actually going to happen and what our roles were going to be during this period. So I guess there was additional stresses, and that added to the - just day-to-day life, dealing with that, yeah.

MS MacNICOL: And did you observe any effect on the workforce morale?

MR LEWIS: Yeah, definitely. Absolutely. Direct CPB guys that report to me, texting me, calling me constantly, just trying to get updates, information that I couldn't - couldn't give them because I didn't have the information myself. Just a lot of uncertainty throughout that period.

MS MacNICOL: And you mentioned that some workers brought their concerns to you about prospects of future employment in Brisbane. Can you tell the Commissioner about that?

MR LEWIS: Yeah. So, like, there's a lot of talk, like, getting blacklisted and that in from certain jobs, or CFMEU jobs, you won't be able to get onto anything they have agreements with. So there was a lot of fear for the Rocktown lads, the crane crews and that sort of stuff, if they crossed the picket line, they'd never get work in Brisbane again, essentially.

MS MacNICOL: So there were some subcontractors who weren't willing to cross the picket line?

MR LEWIS: Yes, correct.

COMMISSIONER: You said something and crane drivers. A lot of -

MR LEWIS: Rocktown. They were one of our subcontractors.

COMMISSIONER: Rock Tender?

MR LEWIS: Rocktown.

COMMISSIONER: Rocktown.

MR LEWIS: Yep.

MS MacNICOL: Commissioner, I have no further questions for Mr Lewis.

COMMISSIONER: Are there any applications to cross-examine Mr Lewis?

MS MacNICOL: No.

COMMISSIONER: Thank you very much, Mr Lewis. You're excused.

MR LEWIS: Thank you.

<THE WITNESS WAS RELEASED

MS MacNICOL: Commissioner, Mr Gisonda is taking the next witness.

COMMISSIONER: Thank you.

MR GISONDA: The next witness will be Ms Alicia Wood, but before we call her, just following on from one of your questions to Mr Lewis, Commissioner, I think I know the point that you were trying to get to the bottom of. If you go to bundle 6, page 161 at paragraph 15, this is in the decision of Collier J in -

COMMISSIONER: Yes. Thank you. That is the data.

MR GISONDA: Then you'll see at 16 the point is that the intimidation and threats made against the subcontractor Workforce was denying the project the workforce it needed to continue its operations -

COMMISSIONER: Yes.

MR GISONDA: - in the context of negotiations for an agreement that would only cover, at that stage, 170 workers.

COMMISSIONER: That's the number I thought it would be: about 10 per cent.

MR GISONDA: Yes.

COMMISSIONER: Which is what Collier J says, of what - the contractor Workforce I take to be a euphemism for the blue-collar workforce.

MR GISONDA: Yes, those that would be the subject - that would be covered by the proposed enterprise agreement.

COMMISSIONER: Yes, ie, not the engineers and not the managers and supervisors.

MR GISONDA: Yes. The next witness, Commissioner, will be Alicia Wood.

COMMISSIONER: Is Ms Wood in the hearing room? You can come forward to the witness box, please, Ms Wood.

<ALICIA JANE WOOD, AFFIRMED

<EXAMINATION BY MR GISONDA

MR GISONDA: Ms Wood, could you please tell the Commissioner your name?

MS WOOD: Alicia Wood.

MR GISONDA: And on 25 September 2026, in answer to a notice that was served on you by the Commissioner, you affirmed a statement that was eight pages long, containing 78 paragraphs; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: And accompanying that statement were 13 annexures in a bundle that was 55 pages long; is that correct?

MS WOOD: Yes, that's correct.

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

MS WOOD: Yes.

MR GISONDA: And is it true and correct?

MS WOOD: Yes.

MR GISONDA: I tender the statement, Commissioner.

COMMISSIONER: Are there any objections? No? Witness statement Alicia Jane Wood, 25 September 2026, eight pages, 78 paragraphs with 13 annexures will be exhibit AJW-1.

<EXHIBIT AJW-1 WITNESS STATEMENT OF ALICIA JANE WOOD, 25/9/2026, EIGHT PAGES, 78 PARAGRAPHS WITH 13 ANNEXURES

MR GISONDA: Thank you, Commissioner. Ms Wood, when you worked on the Cross River Rail project from August of 2021 to June of 2026, you were an IR adviser, then a senior IR adviser, and then an IR team lead; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: And when you were the IR adviser, you were working at the Boggo Road precinct; is that right?

MS WOOD: Yes, that's right.

MR GISONDA: And then when you were promoted to senior IR adviser, you worked across a number of the Cross River Rail sites; is that correct?

MS WOOD: Yes, that's correct.

MR GISONDA: And then when you became the IR team lead from August 2023 onwards, you were based at Albert Street but you continued to attend all sites as required?

MS WOOD: Yes, that's correct.

MR GISONDA: Now, at page 2 of your statement, from paragraphs 7 to 10, you talk about your experiences on the project, at least at a general level, and you say there at paragraph 7 in particular that you were subject to a level of intimidation and hostility from CFMEU officials, but then you seem to qualify that a bit in paragraph 8, at least as compared to some of your colleagues who were also performing IR roles. Are you able to describe for the Commissioner just the level of intimidation or hostility that you encountered and how it compared to what some of your colleagues experienced?

MS WOOD: I found that every member of the IR team got some sort of intimidation. I found there weren't many females in the team.

COMMISSIONER: Ms Wood, are you able just to speak up a little bit? I'm just having a little bit of trouble hearing you. Sorry.

MS WOOD: Sorry. Yes. There weren't many females in the team, so they would adapt their level of intimidation towards me. So they would stand over the top of me - I'm not a very tall person - during discussions make comments about me being a puppet, and just general cheap shots. I tend to - I actually - over the time, I found that it would be better if I wasn't necessarily part of the discussions or part of the rights of entries if they were - yeah, I would just find if they weren't - if they were - the discussions would go off track if I was there, quite a bit.

MR GISONDA: Just on that point, you say at paragraph 12 that you adapted your approach over time and that rather than physically attending entries, which you found could escalate matters, you developed alternative methods, which included coaching team members about what to do and say in certain situations, and you'd receive real-time updates by phone or text. Is it fair to say that as a result of the intimidation and hostility that you experienced from the CFMEU officials, you didn't perform the role in the way that you thought would have been best? For example, it would have been best, wouldn't it, for you to physically be at the site dealing with situations as they were arising. Would you accept that?

MS WOOD: Yes, sure. But I don't think anyone had any idea what this role would be when we all started to, you know, how it ended in '24/'25. So I think -

COMMISSIONER: Just say that again. I just missed what you said there.

MS WOOD: I said I think when we all started this role back in '21, we didn't realise what kind of role it would be. It evolved over time, and I think our approaches always had to evolve over time to get the best outcome, which was get the workforce back to work and productivity.

COMMISSIONER: You talk about the other IR personnel. How many industrial relations personnel were there employed across the project?

MS WOOD: Probably at its peak, there were six of us on the ground, but I think probably, you know, during the - these times we're talking about, there was probably about four of us.

COMMISSIONER: How many, sorry?

MS WOOD: Four.

COMMISSIONER: Four.

MR GISONDA: At paragraph 15 of your statement on page 3, your experience was that when the ETU and the AWU sought to enter site, they generally complied with the project's right-of-entry requirements; is that right?

MS WOOD: Yes.

MR GISONDA: The CFMEU, by contrast at paragraph 17, did not, and you say were regularly intimidating and not willing to listen to or follow directions from site management or IR personnel; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: You give evidence about an incident on 31 August 2021 at the bottom of page 3, and in that incident, you say that Kurt Pauls and Michael Davis attempted to enter the Boggo Road precinct site using section 81 of the Work Health and Safety Act, and at that time, you were aware that neither held right-of-entry permits; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: And a WHSQ inspector arrived at the same time that they were there. Do you remember who that inspector was?

MS WOOD: No, not by name I don't.

MR GISONDA: And the point that was being made by Nick Forde, who's one of the witnesses who we're calling this week, to the WHSQ inspector was that because they didn't have a permit, these two men should not be allowed on site. Is that the point he was about making?

MS WOOD: Yes, that's correct.

MR GISONDA: And he was referring to Federal Court or High Court cases on that topic; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: And what did the WHSQ inspector then do in response to that argument?

MS WOOD: Effectively, it was - they - Work Health and Safety ruled that they were still to enter site.

MR GISONDA: And you say there by reference to the notes that you took at the time that that inspector's supervisor directed that both Mr Pauls and Mr Davis be allowed entry, but you don't know who that supervisor was?

MS WOOD: The supervisor or Work Health and Safety?

MR GISONDA: It says there the WHSQ inspector's supervisor had directed that those two men could be allowed on site.

MS WOOD: I - I can't remember the last name of the guy, but I - I do believe it was Travis someone. But yeah, I - I can't remember his full name.

MR GISONDA: At page 5 of your statement, in paragraph 37 to 39, you say that during 2023, you became aware that the union was posting videos of you on their Facebook page, and that was becoming a regular occurrence. What do you remember about what - the message or what was being said in some of those videos?

MS WOOD: It was mainly just a safety campaign against CPB and Cross River Rail. They would - the officials would do multiple right of entries during the week and film me and film the supervision team, even though we've advised we didn't want us to film them, and they would then effectively cut footage throughout all those days and join it into one video to make the visits look worse than what they were.

MR GISONDA: On 21 April 2023, there was a protest outside the Albert Street site by protesters who said that they were environmental protesters. Do you remember that incident?

MS WOOD: Yes, I do.

MR GISONDA: And we've already seen some footage of that incident, which was exhibit VSTS-5, but before the police - and that footage, Commissioner, you'll recall, was body-worn footage from the police. But before the police arrived, you had your own camera. Was it - did you have body-worn camera as well?

MS WOOD: Yes, I had a body cam, yes.

MR GISONDA: And just tell the Commissioner, why did you have a body-worn camera?

MS WOOD: It was during this period we'd get a lot of right of entries, and the behaviour of the CFMEU effectively were escalating, so it was for our own safety and it was also evidence that - the things we say as well.

MR GISONDA: Now, before the police arrived, you've got some footage of the request that was made of these protesters to move - or to stop obstructing access to the gate. If we could just play AJW-7, please.

(Video played).

MR GISONDA: So in response to that move-on request, they did not move on at all; is that right? At least not until the police arrived?

MS WOOD: Yeah, not initially. Yeah, that's correct.

COMMISSIONER: Is that the incident where Mr Eben Cox claims to be conducting an environmental protest?

MR GISONDA: Yes.

COMMISSIONER: And the police turn up and do nothing?

MR GISONDA: Well, they seem to - do you recall when the police turned up, Ms Wood, and they were having a conversation in particular with Mr James Maher. Do you remember that?

MS WOOD: I remember it. I wouldn't remember the time or how long into it it was.

MR GISONDA: And it did seem that the police were a little critical of CPB for not informing these protesters that they needed to make way for a truck to go into the site. Do you remember that happening?

MS WOOD: Yes, I remember, yes.

MR GISONDA: And I think as - perhaps it was Mr Maher tried to explain to the police that you had captured it on your camera, and it was plain what the request had been, and these protesters were simply refusing to get out of the way of the gate.

MS WOOD: Yes.

MR GISONDA: Is that right?

MS WOOD: That's correct.

MR GISONDA: And there was no suggestion - at least until the police came, there was no suggestion that they were going to get out of the way in order to allow a truck to get onto the site, was there?

MS WOOD: No, there wasn't. No.

MR GISONDA: At page 6 of your statement, paragraphs 52 to 56, you talk about the installation of health and safety representatives in mid-2023. So it was actually towards the end of August, early September that the health and safety representatives were employed by CPB, and you say that the nature of the disruption on site changed. Are you able to explain to the Commissioner just briefly what you mean by that observation?

MS WOOD: Yes. So prior to mid-2023, we had a lot of right of entries, almost a couple a week, which weren't overly productive right of entries, and then since we've had the HSRs who were employed by CPB, there was less right of entries. So effectively there was disruption that could happen within and there was information that could get out easier rather than the CFMEU officials needing to come on all the time.

COMMISSIONER: You describe in your statement you say after the safety reset on the Cross River Rail project in mid-'23 and the election of health and safety representatives. I thought there were a dozen or 14 who were appointed, that is, that they weren't previously employees of Cross River Rail; they were selected by the union, appointed as health and safety representatives, and the demand was made to employ them rather than being elected. Am I wrong about that?

MS WOOD: No. No, you're not. So when I say mid-2023, that's when they were employed by CPB. Prior to that, CPB didn't have any employed HSRs.

COMMISSIONER: I'm really just talking about the word "election" there. I didn't -

MS WOOD: There was no election. They just came on one day.

MR GISONDA: That was really - it's not so much the election of health and safety representatives. It was the selection of health and safety representatives by the union. That's -

MS WOOD: Yes, that's correct, yes.

MR GISONDA: Then from paragraph 61 to 63, you make some observations about the industrial action that took place from April '24 onwards. We've already heard evidence about this, but just from your perspective, particularly at paragraph 62, there were CFMEU officials and supporters at every gate to the Albert Street site; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: And they were filming workers and taking pictures of anyone who attempted to attend work. And you say at paragraph (c) then at page 7 that workers

felt unsafe to cross the picket line and feared for their safety and the safety of their families. How do you know that? Was that reported to you by workers?

MS WOOD: Yes. So I'd been at the Albert Street site for a while, so the workers knew who I was. So they did come up to me and obviously they wanted news when they could go back to work, etcetera. They all wanted to put something in, but they didn't want to put their name on paper about, you know, how unsafe they felt.

COMMISSIONER: How many workers did that to you?

MS WOOD: It was about three or four, by memory. That was just the Albert Street site as well, so -

MR GISONDA: That was just the Albert Street site, and that was just workers who were prepared to speak up, at least to you?

MS WOOD: Yes. Yes.

MR GISONDA: And those workers, you say at paragraph 63, appeared to be terrified; is that right?

MS WOOD: Yes. All they wanted to do was to provide for their families, go to work, get paid, you know, do something productive, and that choice was taken away from them.

MR GISONDA: Then just at the end of your statement on page 8, at paragraphs 75 and 76, you talk about worker morale. What was your observations about worker morale, particularly at around that point of the industrial action?

MS WOOD: It was very low, and that wasn't just the blue-collar workforce; that was supervision staff, that was everyone. We didn't know what we were going to go to work that day and what was going to be there or whether any work was even going to be done. It was a period of time when, like I said, people just wanted to go to work and do the job they were employed to do and they couldn't.

MR GISONDA: And then at paragraph 77 to 78, you've just got some concluding overall reflections. You no longer work on the Cross River Rail project; is that right?

MS WOOD: Yes, that's correct.

MR GISONDA: And so you look back on the time that you spent, which was in the order of five years or so. What reflections do you have about your time on that project?

MS WOOD: I don't know how we all put up with what we put up with for so long. I don't think we ever anticipated we would see what we all saw out there, and like I

said, everyone just wanted to go to work and do their job that we were employed to do. And, yeah, a lot of the time, we weren't doing the jobs we wanted to do.

MR GISONDA: You say at paragraph 78 in particular that some days you hated going to work. And what was the reason for that feeling from time to time?

MS WOOD: Again, you know, you go to work and there's picket lines everywhere and, you know, you're automatically taken away from whatever job you wanted to do for that day because you're - I guess, you know, your first point is making sure the workforce is all right, the morale is okay, how can you support your own workforce out there? It's just not what we all expected to be doing in this role.

MR GISONDA: You say the chaos, intimidation and harassment was a regular feature of the Cross River Rail project, whenever there was some interaction with the CFMEU.

MS WOOD: Yes, that's correct, yes, and that goes back to my earlier point of sometimes I would find, if I was in the room with them, it would just - the discussions would go off track and things would take longer than what they would, not because I particularly said or did anything; it's just that was their way of intimidation towards me.

MR GISONDA: I have no further questions, Commissioner.

COMMISSIONER: You say you wonder why you put up with it for so long. Looking back now, why did you put up with it for so long?

MS WOOD: I mean, at the time, I enjoy challenge, and I never back away from a challenge. I was learning so many things that I never thought I would see in the world, but it's one of those things that you - it's upon reflection you realise at the time, once you've had a chance to think about it, just the chaos that actually happened out there.

COMMISSIONER: You said in answer to one of the questions Mr Gisonda asked you, you never thought you'd "see what we'd seen". What do you mean by that?

MS WOOD: I think when you take a role as an IR adviser, it is, you know, to do that kind of role, something related to it, you know, help with employment legislation and employment kind of conditions, right of entries. And you know, towards the later stages of my role on the job there, it was - it was less of that and it was more managing right of entries and managing productivity, and it took us all away of what we actually wanted to do there.

COMMISSIONER: In your statement, you say there were two HSRs installed on the Albert Street site. Mr Lewis also referred to them: Steven Amies and someone he referred to as Sean K, Sean Korostovetz. You say when the two were together they were horrible to deal with. What do you mean by that?

MS WOOD: Together they had courage; they had more confidence. If you would - I didn't have a lot of direct dealings with them, but from what I'd heard from other supervision, if you were able to talk to one of them one on one you would get a lot more reasonable approach and you might be able to, you know, talk some logic into them.

COMMISSIONER: But what was it like when they were together?

MS WOOD: They would just bounce off each other. So you'd get the harassment. You'd get the bullying. They were just really difficult to deal with.

COMMISSIONER: And were these two of the people who were selected by the union and imposed on the project as HSRs after the safety reset?

MS WOOD: Yes, that's correct.

COMMISSIONER: What do you think they were actually doing on site?

MS WOOD: To be honest, I'm not really sure. It wasn't to do - whatever the job they were employed to do. Like I said, I didn't have a lot of dealings with them, but I heard from multiple supervision, etcetera, on Albert Street that, you know, they weren't doing a whole lot of productive work.

COMMISSIONER: Are there any applications to cross-examine Ms Wood?

MR GISONDA: No, Commissioner.

COMMISSIONER: Thank you very much for your evidence. You're excused.

<THE WITNESS WAS RELEASED

MR GISONDA: Ms MacNicol will take the next witness.

COMMISSIONER: Do you want me to push back my meetings this afternoon?

MS MacNICOL: We'll see where we get, Commissioner.

COMMISSIONER: All right.

MS MacNICOL: The next witness is Mr Scott Murray.

COMMISSIONER: Is Mr Murray in the hearing room? Mr Murray, will you come forward to the witness box, please.

<SCOTT NORMAN MURRAY, AFFIRMED

<EXAMINATION BY MS MacNICOL

COMMISSIONER: Thank you, Mr Murray. Please take a seat. Ms MacNicol.

MS MacNICOL: Mr Murray, have you provided a statement to the Commission dated 26 October 2026?

MR MURRAY: Yes. Yes.

MS MacNICOL: And that was in response to a notice?

MR MURRAY: Yes, correct. Yep.

MS MacNICOL: And that statement is two pages, 16 paragraphs with no annexures?

MR MURRAY: Yes, correct.

MS MacNICOL: Have you had a chance to review that statement?

MR MURRAY: Yes.

MS MacNICOL: And it's true to the best of your -

MR MURRAY: Yes, to my knowledge, yep, to what I recall.

MS MacNICOL: Thank you, Mr Murray. Commissioner, I tender that statement.

COMMISSIONER: Are there any objections? Mr Murray, do you have a middle name?

MR MURRAY: Norman.

COMMISSIONER: Witness statement of Scott Norman Murray, 26 October 2026, three pages, 16 paragraphs, will be exhibit SNM-1.

<EXHIBIT SNM-1 WITNESS STATEMENT OF SCOTT NORMAN MURRAY, 26/10/2026, THREE PAGES, 16 PARAGRAPHS

MS MacNICOL: Thank you, Commissioner. Mr Murray, what is your current position with CPB?

MR MURRAY: I'm currently employed as a supervisor at Boggo Road at Cross River Rail.

MS MacNICOL: And it's correct that you started working on the project in June of 2024?

MR MURRAY: Yes.

MS MacNICOL: And it's correct that in October and November of 2024, you were working at the Gabba?

MR MURRAY: Yes.

MS MacNICOL: At the time, how did you know Richie Atutolu?

MR MURRAY: Just - I met with him a couple of times, because he was employed on site as a HSR representative, delegate, and met him through just dealings on site and - yeah.

MS MacNICOL: There was a safety committee meeting on 2 October 2024. An issue arose with Mr Atutolu in regards to the Damstra sign-in system. Can you tell the Commissioner what happened during that safety committee meeting?

MR MURRAY: Yeah, he sort of got involved with - there was an issue raised with the Damstra sign-in procedure, that it wasn't working, and it come down to there was a compatibility fault with the system. But he kept bringing that issue up, and Moe was the safety - he was the safety manager on site, and he responded to him in a manner that was - he said he would look into that issue and he would find out what was going on with it.

MS MacNICOL: And that's Moe Borhani, the site safety manager?

MR MURRAY: Yes. Yes, correct.

MS MacNICOL: So Moe, as you call him, he responded to Mr Atutolu, and what did Mr Atutolu say in response?

MR MURRAY: He just kept bringing the issue back up and just sort of belittling Moe, calling him dumb and stupid and names in that safety committee in front of everyone.

MS MacNICOL: So he continued to belittle Mr Borhani in front of everyone in the meeting. You mention in your statement at paragraph 7 that he was aggressive and he did so in an intimidatory way. Can you describe what he was doing? Was he standing up, for instance?

MR MURRAY: No, he wasn't, but I just recall him just sort of - didn't want to negotiate or just look at other point of views and just aggressive towards - up in his seat and his hands were out and just, yeah, in an aggressive sort of manner.

MS MacNICOL: So that occurred on 2 October 2024. On 3 October 2024, there was a pre-start meeting. What happened during this pre-start meeting?

MR MURRAY: Richie brought up that same issue with the Damstra sign-in, and I recall that he stood up - the pre-start had finished and he stood up at the end of the pre-start and brought that issue up, I think, and then Justin recorded that he'd look into that issue and get it fixed, and then he - and then he kept just - kept reiterating that, and then I think someone told him to sit down and shut up in the meeting, and it sort of just - it sort of just evolved from that, yep.

MS MacNICOL: And when you say Justin, you're talking about Justin Bishop?

MR MURRAY: Yes. Yep.

MS MacNICOL: And the person who stood up was Stephen Hilton, otherwise known as Zach?

MR MURRAY: Yes. Yes.

MS MacNICOL: And is it the case that Zach told Mr Atutolu to sit down, or something to that effect?

MR MURRAY: Yes. Yes.

MS MacNICOL: And how did Mr Atutolu respond to that?

MR MURRAY: He just sort of turned around to Stephen and sort of - yeah, I don't recall what it was actually said in between that, but yeah, he told him - I think he called him outside and wanted to - yeah.

COMMISSIONER: Just say that last bit again. I just missed that, sorry.

MR MURRAY: He sort of - what I recall is that he sort of just told him to - called him outside to sort it outside, outside of the gates.

MS MacNICOL: You're only aware of what happened in that pre-start meeting?

MR MURRAY: Yes, yeah, correct, yep.

MS MacNICOL: Did you later become aware of what happened outside?

MR MURRAY: Outside, yes, yeah, I did after the fact.

MS MacNICOL: And that's when Mr Atutolu walked outside the turnstiles and he rolled up his sleeves -

MR MURRAY: Yes.

MS MacNICOL: - suggesting to Mr Hilton that he should come outside for an altercation?

MR MURRAY: Correct, yep.

MS MacNICOL: Moving on from the 2 October incidents and turning to 15 November 2024, there was a canopy lift that was planned for that day. What was your role in relation to that work?

MR MURRAY: I was just - because there was no other works going on down at the station box, I was just sort of up the top sort of stopping people going into the exclusion zone, and that's when two union delegates sort of approached and walked into the exclusion zone.

MS MacNICOL: Just stepping that through, you were essentially posted at a point to stop people from going into the exclusion zone. Were you instructed by Justin Bishop where to be that day?

MR MURRAY: Yes, yeah, correct, yep.

MS MacNICOL: And the union individuals that you're referring to, are they Cody Budgeon and Dylan Howard?

MR MURRAY: Yes.

MS MacNICOL: What interaction did you have with them that day?

MR MURRAY: It wasn't much interaction. They just sort of walked straight past me and bumped into - just sort of walked straight past and walked straight into the exclusion zone, didn't want to - didn't listen to what I was saying to them to stop. They just walked straight past and -

MS MacNICOL: So as they approached you, did you tell them to stop?

MR MURRAY: Yes. Yeah.

MS MacNICOL: And you said to them, "Can we just wait?"

MR MURRAY: Yep.

MS MacNICOL: And do you remember if they said anything back to you?

MR MURRAY: No, I can't, no.

MS MacNICOL: So they physically pushed past you?

MR MURRAY: Yes, correct, yep.

MS MacNICOL: What did you do after that?

MR MURRAY: I think Justin and Moe come in just shortly after that, and then the two delegates were just walking inside the exclusion zone, which then Justin and Moe was asking them to leave as well, to leave there.

MS MacNICOL: Commissioner, I have no further questions.

COMMISSIONER: You say it was the - the entire site that day, there was an exclusion zone. Is that - by "day", you mean from very early in the morning?

MR MURRAY: Yes, correct, yep.

COMMISSIONER: And I thought you said just before that Mr Budgeon bumped into you. Is that right?

MR MURRAY: Yeah, that's correct, yeah.

COMMISSIONER: Are there any applications to cross-examine Mr Murray?

MS MacNICOL: No, there are not.

COMMISSIONER: Mr Murray, thank you very much for your evidence.

MR MURRAY: Thank you.

COMMISSIONER: You're excused.

MR MURRAY: Cheers.

<THE WITNESS WAS RELEASED

MS MacNICOL: Commissioner, I'm very conscious of the time and of course your prior engagements. The next witness is in court. He would be approximately 20 minutes. I'm in your hands.

COMMISSIONER: I'd prefer to deal with him tomorrow. I don't want to burden you with what the meeting is, but it involves a lot of people, and -

MS MacNICOL: Certainly.

COMMISSIONER: - I'd prefer to deal with the next witness tomorrow, if we could. Very well.

MS MacNICOL: That's suitable, Commissioner.

COMMISSIONER: Is there anything else before we adjourn for today?

MS MacNICOL: No, Commissioner.

COMMISSIONER: We'll adjourn till tomorrow morning.

<THE HEARING ADJOURNED AT 3.37 PM