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

WEDNESDAY, 28 OCTOBER 2026
AT 10.00 AM

DAY 52

APPEARANCES

Mr S Wood AM KC – Commissioner
Mr E Gisonda KC – Counsel Assisting
Ms A Morrow – Counsel Assisting
Ms I MacNicol – Counsel Assisting
Mr D de Jersey KC – Counsel for the State of Queensland
Ms M Forrest – 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 M Bonasia – Counsel for BESIX Watpac
Mr M Rawlings – Counsel for Mr Brad Ross

<THE HEARING RESUMED AT 10.00 AM

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

MR GISONDA: Yes, Commissioner.

COMMISSIONER: Mr Bonasia, you appear for BESIX Watpac Pty Ltd?

MR BONASIA: That's so, Commissioner.

COMMISSIONER: Mr Rawlings, you appear for Mr Brad Ross?

MR RAWLINGS: That's so.

COMMISSIONER: Mr Ford, you continue to appear for CPB Contractors?

MR FORD: Yes, Commissioner.

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

MS HILLARD: Yes, Commissioner.

COMMISSIONER: Mr de Jersey, you continue to appear with Ms Forrest -

MR DE JERSEY: I do, Commissioner.

COMMISSIONER: - for the State of Queensland. And Ms Hughes, you appear - continue to appear as counsel for the administrator?

MS HUGHES: Yes, Commissioner, thank you.

COMMISSIONER: Mr Gisonda.

MR GISONDA: Commissioner, before we get into our remaining witnesses, can I tender some more documents. Do you have to hand two bundles and two aide-mémoires? The first bundle is described as a tender bundle of right-of-entry notices. That will be CRR-16.

COMMISSIONER: Tender bundle, ROE notices?

MR GISONDA: Yes. Can I tell you what we've done. It's been an exercise of some difficulty, but what we've tried to do, doing the best we can from the various sources, is collate for you, Commissioner, every right-of-entry notice that was submitted in relation to the Cross River Rail project from 2019 to December 2024, really beginning October of 2019. Do you then have an aide, which would be CRR-17 -

COMMISSIONER: There must be hundreds of these notices that I've - in this bundle.

MR GISONDA: If you go to the aide, you'll get the numbers. You see Graph A: that's the subject matter of the notices, and we've organised the three largest ones. So access and egress was the highest - what was the most common complaint raised or concern raised in a right-of-entry notice, followed closely by unsafe systems of work, and then concerns regarding what's described as SWMS.

COMMISSIONER: The witnesses - all the witnesses have said - the witnesses yesterday have said the notices that simply referred to access and egress to all work areas and unsafe systems of work were essentially useless and just vehicles to allow the CFMEU to get onto site -

MR GISONDA: Yes.

COMMISSIONER: - given the lack of specificity and a site as large as the Cross River Rail site.

MR GISONDA: You've heard lots of evidence about the types of notices that were issued, the circumstances in which the notices were presented and the numbers of notices. So this is an attempt to provide the most reliable evidence for you, Commissioner, about the number of notices and the type of notices and when those notices were -

COMMISSIONER: It seems to start at the very beginning too, just flicking through it, looking at page 4, if you can bring that up. Page 5 is in the same form in 2019. You can see page 4 of the bundle. You can see there, I mean, what's the point of that as a notice? How are you supposed to do anything with that?

MR GISONDA: And that's what very experienced people operating in the safety discipline have given evidence about time and again now before you, Commissioner.

COMMISSIONER: And out of the - what have we got - 300, 400, another 300, 700, 1100, maybe 1200, somewhere between eleven and twelve hundred, you've got 300 that are useless, the first two. I don't know what the other - if you go back to the summary, the graph, what do you say about the other four columns?

MR GISONDA: Well, you look at the Table 1, which begins on the next page -

COMMISSIONER: I shouldn't say they're useless. They're just designed to get the CFMEU on site, and to that extent they're very useful, but as a vehicle for trying to deal with safety issues, they're useless. What are you taking me to, sorry?

MR GISONDA: Table 1.

COMMISSIONER: All right.

MR GISONDA: That sets out with specificity each of the concerns or issues that were raised in each of the notices.

COMMISSIONER: If they're a fair description, the same description can be made of each of those, can't they?

MR GISONDA: Well, certainly a lot of them. Now, there are a lot of notices that have been recorded on CPB's register, but they were unable to find a copy of the notice. So in some of those instances, it's not known what was actually on the notice. But if you look at all the notices that you do have - a fair inference that they would be along similar lines. And of course, you'll be able to go through some of these notices and find examples where there perhaps is a concern that's presented with specificity that's designed to enable CPB to mitigate or fix the issue.

COMMISSIONER: That's actually - sorry, you go.

MR GISONDA: But the point remains that the overwhelming majority of these notices do not provide any real specificity at all about what the safety problem is.

COMMISSIONER: It's worse still, isn't it, because not only are they vehicles just to get the CFMEU on site, but - I can't remember the name of the first witness yesterday -

MR GISONDA: Mr Bishop.

COMMISSIONER: Mr Bishop said, "We'd walk around for seven hours looking at issues." And when you're dealing with all these things, which are just vehicles to get the CFMEU on site under the guise of safety, you've got a safety team that's distracted from actually dealing with real safety issues. So it's doubly bad: it's a false use of the power, but then the use of that power means that the team that's charged with the responsibility of maintaining, enhancing, protecting safety is distracted from doing its core job.

MR GISONDA: And also one would sympathise with recipients of these notices over time losing trust and confidence in the veracity of the very complaint, and that could be quite a dangerous situation to find yourself in should the CFMEU have a genuine, legitimate concern that needs urgent addressing.

COMMISSIONER: It's a bit galling too if you're the safety officer and the two main reasons historically for the creation and maintenance of the union movement are to win and maintain terms and conditions for their workers and try to enhance them and secondly to make sure that the job is performed as safely as possible, that everyone that turns up goes home. What's the purpose of the union, if not for those two things? And under the guise of performing the second role, this is going on.

MR GISONDA: So I tender the bundle and the aide.

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

MR GISONDA: CRR-16 and 17.

COMMISSIONER: Bundle of purported right-of-entry notices under safety legislation from 2019 to 2024 for the Cross River Rail project, comprising 625 pages, will be exhibit CRR-16.

<EXHIBIT CRR-16 BUNDLE OF PURPORTED RIGHT-OF-ENTRY NOTICES UNDER SAFETY LEGISLATION FROM 2019 TO 2024 FOR CROSS RIVER RAIL PROJECT COMPRISING 625 PAGES

COMMISSIONER: 11-page aide-mémoire of the right-of-entry notices contained in exhibit CRR-16 will be exhibit CRR-17.

<EXHIBIT CRR-17 11-PAGE AIDE-MÉMOIRE OF RIGHT-OF-ENTRY NOTICES CONTAINED IN EXHIBIT CRR-16

MR GISONDA: And then the next bundle consists of all the - it should be CRR-18 and CRR-19. That bundle that's on the screen, that's all the WHSQ notices that have been issued in relation to the Cross River Rail project over that same period.

COMMISSIONER: So these are the notices that are issued by the regulator?

MR GISONDA: Yes.

COMMISSIONER: What does that graph show?

MR GISONDA: That graph, that's the aide. It shows -

COMMISSIONER: Or table, I should say.

MR GISONDA: So on page 1, that's the type of notices issued. So WHSQ can issue different types of notices - improvement notices, prohibition notices, infringement notices and the like - and then at page 2 to 4 are the number of notices issued each month over that period. And you'll remember that in the report that was prepared by Vince Sanfilippo, he had a graph that showed a correlation between the number of union - right-of-entry notices and the number of notices issued by WHSQ. So we're attempting now to provide greater specificity in terms of those numbers and also the underlying documentation that supports those numbers as well.

COMMISSIONER: So just go to the second and third and fourth pages of the aide-mémoire. Number of notices in '19, '20, '21, etcetera.

MR GISONDA: Yes.

COMMISSIONER: What are you saying? That Mr Sanfilippo said that in 2020, in August 2020, there were 83 notices issued by WHSQ, which is really during the height of Ms Burgess' reign as head of the - what was it called - the construction compliance unit? Is that the right word? It was given a different phrase, I think, within WHSQ. His evidence was that during that period, you'll see a great spike in the number of union right-of-entry notices. Is that how I understand what you're saying?

MR GISONDA: That was the graph, yes. That was in his report.

COMMISSIONER: And what did you say you're doing? You're confirming that you're in the process of -

MR GISONDA: Now I'm giving the Commission specificity in terms of the numbers and the underlying documentation that supports both the numerical evidence as well as the descriptive evidence that you've heard now over the last nearly three weeks of Cross River Rail evidence about the number of notices and the types of notices and the circumstances in which notices were issued.

COMMISSIONER: There seem like a lot of notices, but what am I to make of that? How do I know whether this is a lot or not many or -

MR GISONDA: Well, you you've heard evidence from witnesses about that, and in particular senior safety personnel like Mr Graeme Silvester.

COMMISSIONER: That's right, Mr Silvester. Yes, he gave - that's right.

MR GISONDA: Probably the best evidence, but he's not alone in the evidence about this topic. So could I tender those two documents, please.

COMMISSIONER: Are there any objections? Various notices issued by WHSQ in relation to the Cross River Rail project from 2019 to 2024, comprising 732 pages, will be exhibit CRR-18.

<EXHIBIT CRR-18 VARIOUS NOTICES ISSUED BY WHSQ IN RELATION TO CROSS RIVER RAIL PROJECT FROM 2019 TO 2024 COMPRISING 732 PAGES

COMMISSIONER: Four-page aide-mémoire analysing the notices contained in exhibit CRR-18 will be exhibit CRR-19.

<EXHIBIT CRR-19 FOUR-PAGE AIDE-MÉMOIRE ANALYSING NOTICES CONTAINED IN EXHIBIT CRR-18

MR GISONDA: And before we call our first witness this morning, who will be Mr Bradley Ross from BESIX Watpac, continuing on from the evidence of Mr Barker

yesterday, the focus of the evidence this morning - that is, the focus of Mr Ross' evidence - from our perspective is the conduct of the CFMEU and its attitude or approach to safety matters, similar to some of the things that you heard from Mr Barker yesterday. So can I then call Mr Bradley Ross.

COMMISSIONER: Is Mr Ross in the hearing room? Mr Ross, will you come forward into the witness box, please.

<BRADLEY ROSS, AFFIRMED
<EXAMINATION BY MR GISONDA

MR GISONDA: Now, Mr Ross, you were issued with a notice by the Commission requiring you to attend for an interview on 21 October 2026; is that right? Wednesday last week?

MR ROSS: That's correct.

MR GISONDA: And we haven't troubled you with a notice requiring you to then prepare a statement, so what I'd like to do in the first instance is just have you confirm some facts and matters before we ask you some specific questions. Are you able to confirm for the Commissioner that you are presently the operations manager at BESIX Watpac?

MR ROSS: Yeah, the operations manager for Queensland, Northern Territory and New Zealand.

MR GISONDA: And you've had that role since around 2020?

MR ROSS: 2020/21.

MR GISONDA: And you report to the general manager, whose name is Wade Cummins; is that right?

MR ROSS: Correct.

MR GISONDA: And have you been with BESIX Watpac, or at least Watpac initially, for about 32 years?

MR ROSS: Correct.

MR GISONDA: And tell me if I have this correct: you've started as an apprentice, and then you progressed your way to foreman, then site manager, then project manager, then construction manager, and finally operations manager?

MR ROSS: Correct.

MR GISONDA: And project managers who are in charge of or responsible for the delivery of individual projects report to you; is that right?

MR ROSS: Correct.

MR GISONDA: And one such project that BESIX Watpac delivered was the Kangaroo Point Green Bridge; is that right?

MR ROSS: Correct.

MR GISONDA: And that's a pedestrian and cyclist bridge that connects the CBD with Kangaroo Point over the Brisbane River?

MR ROSS: Yes.

MR GISONDA: And it begins at the Edward/Alice Street intersection there in the CBD and ends at Scott Street in Kangaroo Point; is that right?

MR ROSS: Yep.

MR GISONDA: And BESIX Watpac was awarded the design and construction of the project in June of 2021. Does that sound right?

MR ROSS: Be around that date, yes.

MR GISONDA: And BESIX Watpac led a consortium at the time known as Connect Brisbane?

MR ROSS: Correct.

MR GISONDA: And the project was procured or awarded by the Brisbane City Council?

MR ROSS: Correct.

MR GISONDA: And you had - or the company had, I should say - three project directors on the project. The first was Tim Dear, who was there for the entirety of the project; is that right?

MR ROSS: Correct.

MR GISONDA: And then a gentleman by the name of Kevin Thompson was there for a short period?

MR ROSS: Short period, yep.

MR GISONDA: And then a gentleman by the name of Rowan Riggall was brought in to assist with bringing the project to close?

MR ROSS: Correct.

MR GISONDA: And the bridge officially opened to pedestrians and cyclists in December of 2024; is that right?

MR ROSS: Sounds familiar, yeah.

MR GISONDA: Now, BESIX Watpac had a work health and safety management plan for the project; is that right?

MR ROSS: That's correct.

MR GISONDA: I'll just bring a couple of extracts of that safety plan up on the screen. Actually, in fact, what I might do first is if I could just bring up KPGB-5, please, on the screen, that's an aerial shot of the project in July of 2023. Does that look correct to you?

MR ROSS: That looks like it.

MR GISONDA: And on the left-hand side of the screen, that's the CBD side; is that right?

MR ROSS: That's right.

MR GISONDA: And the right-hand side is the Kangaroo Point side. And then taken from Watpac's website, if we go to KPGB-6, that's a photo of the project - what would you say - about a third or half of the way during the project?

MR ROSS: Oh, yeah, it'd be over half, because the piling's complete.

MR GISONDA: Okay. Now, if I can take you to a couple of extracts of the work health and safety management plan, which is KPGB-7, and if we just scroll through this document, just so I can tell you what's in it. The first page is the front page of the document, and then the next page is section 10 of the document. The next page continues with section 10, and it goes all the way through to the end, so we end at 10.19. And then section 11, which is health and wellbeing. So do you see all that in front of you?

MR ROSS: Yes.

MR GISONDA: And you're familiar with this document, I take it, or at least this part of the broader work health and safety management plan?

MR ROSS: I'm familiar with our workplace health management plans, yep.

MR GISONDA: So if we look at section 10.1 first, so that would be the second page, it begins at the top of the page by saying that:

"Due to the positioning of the site, BESIX Watpac has identified that specific public protection and exclusion controls need to be implemented throughout the duration of the project. This will include control measures implemented at the site to inform members of the public of site activities and to prevent them from entering the construction area, such as signage, hoards, spotters and traffic controllers."

Do you see that?

MR ROSS: Yes.

MR GISONDA: And if you look at subparagraph (d), which is about halfway down the page, there is to be signage displayed at all entrances and at various points on the perimeter, making it clear that it's a construction site and only authorised personnel may enter, and other directional and directive signs. Do you see that?

MR ROSS: I see that.

MR GISONDA: And then there's also in that last bullet point or last Roman numeral a mandatory requirement for PPE, if we can call it that. And that's all fairly standard content for a work health and safety plan; is that right?

MR ROSS: That's correct.

MR GISONDA: Then at section 10.3, which is the next page, Site Security Measures:

"Measures to secure the construction site will include the maintenance of perimeter fencing and gates."

And it says:

"The gates will be locked when site is unattended."

And then do you see after the bullet points it says that:

"BESIX Watpac may implement additional out-of-hours security patrols or static guards during periods such as..."

Among other things, special events. Do you see that?

MR ROSS: I see that.

MR GISONDA: And then at the bottom of this page, section 10.5:

"BESIX Watpac will be responsible for opening and closing the site each workday and a project team representative will ensure that the site is vacated and gates are locked at the end of each day."

And then at the bottom of the page:

"All visitors will be required to report to the site office on arrival and all visitors are required to sign the visitors' register when they report to the site office."

Over the page:

"Visitors who have not been inducted, including one-off or infrequent visitors, must be escorted by an inducted person when moving around the site."

And again, can I ask you, do you regard these matters as fairly standard matters to be found in a work health and safety plan for a construction site?

MR ROSS: Yes.

MR GISONDA: Just going to the question of security for the site, the need to lock the gates, to have clear signing and so on, would you agree that there would be two main reasons for that: one is security of the site, particularly when it's unattended?

MR ROSS: Yes.

MR GISONDA: And separately to ensure the safety of workers and the public when construction works are under way?

MR ROSS: Yes.

MR GISONDA: Now, you're aware, aren't you, that each year, to mark the opening of the Brisbane Festival, there is a fireworks display conducted on and around the Brisbane River, and that's known as Riverfire?

MR ROSS: Yes.

MR GISONDA: And in 2022, you attended the Kangaroo Point Green Bridge construction site on the evening of that event to watch the fireworks with your family; is that right?

MR ROSS: That's correct.

MR GISONDA: And in 2023, you did the same thing again?

MR ROSS: Yeah, we probably watched Riverfire from a Watpac site over a period of a decade.

MR GISONDA: And just to be clear, it's not -

COMMISSIONER: Did you say a period of -

MR ROSS: Well, a decade, so -

COMMISSIONER: A decade?

MR ROSS: As my kids liked fireworks, we'd go and watch the fireworks, and if there was a reasonable view from a Watpac site, we would go to that site to watch the fireworks.

COMMISSIONER: Oh, not this particular site?

MR ROSS: Not this site.

COMMISSIONER: Sorry, I thought it took a decade to build the bridge.

MR ROSS: No.

MR GISONDA: 2021 to 2024. And just so we're clear, Mr Ross, we're not interested and I don't expect to you have to give any evidence about any member of your family or your personal arrangements about watching events like this. With the 2022 event, you were joined by a man by the name of Cameron Paul; is that right?

MR ROSS: That's correct.

MR GISONDA: And Cameron Paul was a delegate, a CFMEU delegate, working on this project at the time; is that right?

MR ROSS: Cameron was a BESIX Watpac employee. He was a health and safety representative, and I believe he was the CFMEU delegate for the project as well for us.

MR GISONDA: And do you know the circumstances in which - how he became a health and safety rep and/or a delegate?

MR ROSS: There's a voting process that should occur. I'm not across the infinite detail of that, or I wasn't present.

MR GISONDA: You're aware of what the process should be, if you like, in the rules and legislation, but you're not aware of what actually happened with Mr Paul?

MR ROSS: Correct.

MR GISONDA: And in 2022, was it just yourself and Mr Paul and your respective families, perhaps, who watched the fireworks from the project site?

MR ROSS: That's my recollection, yeah.

MR GISONDA: And do you recall whether you asked him to attend or did he ask you if he could attend with you?

MR ROSS: No, he asked me.

MR GISONDA: And do you know whether he was employed by BESIX Watpac before he became a delegate and HSR, or did his employment start at around the same time that he became a delegate and HSR?

MR ROSS: Around the same time, I think. I'm not 100 per cent clear on that.

MR GISONDA: And are you aware of how he came to be employed by BESIX Watpac?

MR ROSS: His name was put forward. I knew Cameron when he was a concreter, so I knew him before he started on the project. I think he started on the project in labour hire, and I'm not quite - 100 per cent sure of the circumstances there.

MR GISONDA: And given your position, you're not expected to be across the various employment decisions, I take it, on a project site?

MR ROSS: Oh, not - not in totality.

MR GISONDA: Then jumping forward to 2023, you attended again the same - they held the same event in September of 2023, and again you went down to the site to watch the fireworks from the Kangaroo Point Green Bridge site?

MR ROSS: We went and watched the fireworks again. Terrific.

MR GISONDA: And Mr Paul joined you again?

MR ROSS: Yes.

MR GISONDA: And again, did you ask him to attend or did he ask whether he could tag along with you?

MR ROSS: I don't really recall the circumstances of that one.

MR GISONDA: And no other person from Watpac joined you in 2023; is that right?

MR ROSS: I - I don't - no, I don't recall anyone else from Watpac.

MR GISONDA: And do you remember how he - that is, Mr Paul - found out that you were going to be attending the construction site to watch the fireworks?

MR ROSS: I'd suggest that - the fact I was there the year before.

MR GISONDA: And do you remember asking someone on site to clear the area -

MR ROSS: That would have been prior to '22, that occurred.

MR GISONDA: Prior to 2022.

MR ROSS: Yeah.

MR GISONDA: And do you know whether that occurred prior to 2023?

MR ROSS: I can't recall. Maybe I didn't need to ask that question because the site was in a different position or layout.

MR GISONDA: And you said when we spoke to you last week that you didn't have the exact numbers, but you thought there were around 16 people who ended up joining you. So the 16 includes you and your family, but around 16 people on the site in 2023 watching the fireworks event?

MR ROSS: Somewhere around that.

MR GISONDA: And so, putting yourself to one side and Mr Cameron Paul and his family to one side - I assume he had a family as well. I don't want names or numbers, but he had a young family as well?

MR ROSS: Yes. Yeah.

MR GISONDA: There must also have been some further families; I think you've said about four or five families in total. Were they invitees of yours or invitees of Mr Paul?

MR ROSS: Mr Paul contacted me and asked whether - at short notice, close to the event, whether it would be okay if some other people came along, which I agreed to.

MR GISONDA: And did he tell you who they were?

MR ROSS: He may have, but I don't recall who they were.

MR GISONDA: And just so we're clear, you know Mr Paul, I think you said, because he performed concreting work on the project of BESIX Watpac?

MR ROSS: Through a subcontractor over the years, yeah.

MR GISONDA: And did you know that he'd been awarded - I think the title was Rookie of the Year by the CFMEU in 2020?

MR ROSS: No.

MR GISONDA: You didn't?

MR ROSS: Prestigious award.

COMMISSIONER: Sorry, what was the answer?

MR ROSS: No.

MR GISONDA: Okay. So with those people that were on the site, there was no - well, let me ask you. It was your decision - because I think you've said no one else from Watpac was there that evening - it was your decision as to whether people would be let onto the site that evening or not?

MR ROSS: Correct.

MR GISONDA: Do you know why no one else from Watpac came up with this idea, to watch the fireworks from what must have been one of the best vantage points in the city?

MR ROSS: I have no idea. The vantage point extends all the way along the gardens there, though, so the general public weren't too far away from where we are, so -

MR GISONDA: And you accept, don't you, that there was - just thinking now about the work health and safety plan - that there was no site induction for those people who went onto the site that evening?

MR ROSS: No, they would be visitors.

MR GISONDA: And they - well, do you say that they were escorted around the site by you?

MR ROSS: I would say I was in control of their attendance, for sure.

MR GISONDA: And so thinking about the work health and safety plan, where it says that:

"Visitors who have not been inducted, including one-off or infrequent visitors, must be escorted by an inducted person when moving around the site."

Did you regard yourself as being responsible on that evening for either escorting them around or making sure that you knew where everyone was at all times?

MR ROSS: Yes.

MR GISONDA: And would you accept that - you might say this wasn't necessary, but do you accept that no one was wearing PPE on that evening?

MR ROSS: That's - that's correct.

MR GISONDA: And if we - there's an entrance gate to the site, and if we go back to KPGB-5, are you able to just describe on the map where you were situated or where you hoped to be situated to watch the fireworks that evening?

MR ROSS: On the city side. So where - there's a couple of numbers there, 155.

MR GISONDA: Yes. And just looking at the number 155, what is that little area there?

MR ROSS: That was the city-side abutment of the bridge, so then that was our staging area where we poured concrete and took deliveries from to service the project.

MR GISONDA: And it was possible for vehicles to drive onto the site, at least in that 155 area; is that right?

MR ROSS: Yep.

MR GISONDA: And did you allow Mr Paul and his friends to park their vehicles in that area on that night?

MR ROSS: I can recall myself parking there, and I can recall Mr Paul parking there. I can't recall who else did or how else they arrived.

COMMISSIONER: I thought you said before, Mr Gisonda, it was Mr Paul and his family. It was Mr Paul and his friends, was it? I misunderstood it.

MR GISONDA: My question was Mr Paul and his friends. So the evidence was that it was Mr Ross and Mr Paul and their respective families.

COMMISSIONER: Yes.

MR GISONDA: And then he said that Mr Paul asked if other people could join him.

COMMISSIONER: I see. Sorry, I missed that.

MR GISONDA: And he estimates - I mean, it's not a memory test - but he estimates around 16 or so people in total were there that night.

COMMISSIONER: So the Paul family, Ross family and friends of Mr Paul?

MR GISONDA: Yes. And so when they drive into that area of 155, did you then lock the gate behind the vehicles?

MR ROSS: I don't recall locking the gate, but the gate would have certainly been closed, which is normal practice.

MR GISONDA: And you say, do you, that on the banks of the river, there were lots of other places for people - members of the public - to watch the fireworks?

MR ROSS: Yes.

MR GISONDA: And we also saw in the work health and safety plan the reference to security and the need to have additional security, in particular when there's certain events. Can I ask whether you recall if BESIX Watpac had organised security for this particular evening in 2023?

MR ROSS: I recall that we organised security across the - the series of them, yep.

MR GISONDA: And is it possible that some of the people who were watching the fireworks from the site that evening were consuming alcohol?

MR ROSS: I don't recall that.

MR GISONDA: It's possible, but you don't recall one way or the other?

MR ROSS: It's possible, but I don't recall that.

MR GISONDA: And then you said last week - and just tell me if you think this remains a fair description of your conduct that evening. You said - this is your answer, but you're sort of asking and answering your own questions. You say in terms of what you did that night, "Does it meet every rule and regulation with our safety plan? No. Will I get a smack on the wrist from my employer for that? Probably, maybe. But did I put anyone's safety at risk? Definitely not." Does that remain a fair description of what occurred that night, do you think?

MR ROSS: Oh, I think that - yeah, there's fault to be picked in it, and I'm at fault. I accept that.

MR GISONDA: And what I'm particularly interested in is whether either Mr Paul or any of his friends at any stage of the evening raised safety issues with you.

MR ROSS: Not to my recollection.

MR GISONDA: Now, do you remember that the police then paid you and the group a visit just before the fireworks before to senator.

MR ROSS: I do recall that.

MR GISONDA: And they said that they had reports that there were people in the fireworks exclusion zone. Do you remember that?

MR ROSS: The report was that the organisers of the event, so - reported that there were people on the bridge, so within the exclusion zone perhaps - I'm not clear with where the exclusion zone was - and they had to make sure that they were no longer there.

MR GISONDA: But your memory is that that wasn't necessarily correct; you don't recall people being on the bridge or in the exclusion zone. You believe everyone was in that 155 area; is that right?

MR ROSS: The difficulty I have is I probably visited that site a couple of hundred times, so to differentiate between one instance and another is - is difficult. Yeah, that's definitely where we watched the fireworks from.

MR GISONDA: Where 155 -

COMMISSIONER: You should remember when you watched the fireworks. It would stick in your mind, wouldn't it?

MR ROSS: Yeah, yeah. So that's why - I definitely do remember that's where we watched the fireworks from.

COMMISSIONER: But also particularly where you were standing, because people would be trying to get a good look. So you would think, "Oh, well, we'll stay here on the ground or move onto the bridge." You'd remember that, wouldn't you, in terms of when you're an at event like that?

MR ROSS: Yeah. Yeah, I remember watching fireworks from that 155 area, from the city side.

MR GISONDA: Then - so the police arrived and told you about reports that there were people on the bridge, and you offered to go out and confirm whether there were, in fact, people on the bridge; is that right?

MR ROSS: Correct.

MR GISONDA: And did you go out there and check whether there was anyone on the bridge?

MR ROSS: Yeah, I walked out the walkway and came back and reported back to the police officers.

MR GISONDA: And the report back was that there was - contrary to the reports that the Brisbane Festival had received, there wasn't anyone on the bridge?

MR ROSS: I reported back to the police that it was clear.

MR GISONDA: And I think you made mention that perhaps someone in your - in the party had made a derogatory remark about the police at some point when they arrived. Do you have any recollection now about that?

MR ROSS: I don't remember the words said. I remember returning - when I went out to clear or to check that it was clear, and as I was walking back, there was some Wally making some sort of immature, silly comment, to which - I remember that, because I didn't necessarily find that appropriate. And then I reported back to the police, who didn't seem too deterred by whatever the comment was - reported back, and they were satisfied with that and then moved on. And the show went on.

MR GISONDA: And when the police first arrived, they would have turned up at the gate just where that 155 area is; is that right?

MR ROSS: Yeah, that's correct.

MR GISONDA: And you were inside the gate, and so what do you remember about how they were able to get your attention or start speaking to you? Or they are quite close to you?

MR ROSS: So I've either seen them or someone has told me they're there. I don't - I just remember - I remember seeing them and talking to them, so -

MR GISONDA: Yes.

COMMISSIONER: Could I just ask you, Mr Ross, you said you didn't know where the exclusion zone was, but you said you weren't on the bridge, apart from the time when you went and had a look for people and you came back and you told the police it was all clear. Where does the bridge start on that? Does it start just after the second 5 on the 155 in the middle there? Is that -

MR ROSS: So the top of the screen, 155, is the start of that landing area.

COMMISSIONER: Yes.

MR ROSS: The concrete area you see above that is the driveway to the hotel. And then it proceeds down to underneath the lower 155, beneath that tree there.

COMMISSIONER: Beneath that tree is where the bridge starts?

MR ROSS: The actual site itself, or are you - so the bridge starts right on the 155. The rest of that area is a landing area that's landscaped.

COMMISSIONER: Just say that again?

MR ROSS: So the area that is fenced off, which runs from the driveway to underneath the tree, is a landscaped landing area. The bridge proper starts from the 155, so the lower of the 155s.

COMMISSIONER: On the left of that 155 or on the right?

MR ROSS: No, I would say it would be on the right-hand side of the 155. You can see the water underneath. So we have an abutment and then a bit of a span beyond that. So there's a revetment wall where the water is, and then the abutment is a few metres beyond that. So I'd say it would be the line of the outer 5 would be - from this picture.

MR GISONDA: Perhaps does this assist, Commissioner, if you go to KPGB-6? That might be a better -

COMMISSIONER: Well, I'd regard the bridge as intruding a fair way onto the land, but is that just my lack of knowledge of the design of bridges? Is there some bit -

MR ROSS: Oh, that picture taken there, there'd be a slab, a concrete slab that goes out, and there's a concrete slab that covers the whole landing area, and there'd be a joint - where it becomes a proper bridge, there'd be an expansion joint at that point in time, but there'd be concrete either side. So that looks like a concrete slab being prepped.

COMMISSIONER: I would regard the bridge as starting sort of just soon after those two cars you can see in the picture, but that's not right? The bridge doesn't start -

MR ROSS: We're talking a few metres either way, mate, so -

COMMISSIONER: A few metres from there?

MR ROSS: Yeah. So if you look at the walkway, the pedestrian walkway on the left-hand side, that's probably closer to - it's about the same, so - sorry, right-hand side. I was incorrect there.

COMMISSIONER: The pedestrian walkway finishes -

MR ROSS: Yeah, that's an access walkway.

COMMISSIONER: - with that bit of red?

MR ROSS: Yeah.

COMMISSIONER: That's where the bridge starts?

MR ROSS: Yeah, about that line, mate.

MR GISONDA: And if we go to KPGB-4, and if we look at page 7 of that document. Do you see there - Commissioner, you'll see the Brisbane Central business district, and then do you see the Botanical Gardens. And Alice Street runs along the Botanical Gardens, and then as you get to the end, it turns up into Edward Street? That's where the bridge starts, that intersection of Alice and Edward, and then you'll see there the prohibited area across the river. There's a few prohibited areas on that.

COMMISSIONER: Is that what you've called the exclusion zone?

MR GISONDA: Exclusion zone.

COMMISSIONER: So it goes up to the banks of the river and slightly over it, in one regard.

MR GISONDA: And the - I shouldn't say the reason for an exclusion zone, but the relevant documentation is the Queensland Code of Practice for the Control of Outdoor Fireworks Displays, which was introduced following a fatality at a fireworks display in Bray Park in Queensland in 2000 where there was a fatality for one child and serious bodily injuries to seven other people. So that led to the introduction of the Control of Outdoor Fireworks Displays code of practice, and pursuant to that code of practice, you have the exclusion zones for this event on the river. And so if people were on the bridge, then you see, from what's on the screen, that they would be in the prohibited area, and so that's - the police said to you, didn't they, that they needed confirmation before the event could proceed. Is that right, Mr Ross?

MR ROSS: Yes, that's correct.

MR GISONDA: And the site wasn't - no construction works were happening on that evening; is that right?

MR ROSS: That's correct.

MR GISONDA: But there were nonetheless risks on the site, particularly at night-time and particularly for people who are unfamiliar with the site. Is that fair?

MR ROSS: That would be fair.

MR GISONDA: Physical risks?

COMMISSIONER: You just have to say "yes" or "no" for the transcript.

MR ROSS: Sorry?

COMMISSIONER: You just have to say "yes" or "no" for the transcript.

MR ROSS: Yes.

MR GISONDA: Okay. Could I just, please, show Mr Ross KPGB-1, which is a video, and if we could stop the video at 4:58. So play it from the beginning, stop at 4:58, and you'll see there, Mr Ross - we can start playing it, and I'll just tell you that you'll see audio redacted for about a minute or so, here and then in another spot. That's because one of the people in the site is known to police and the police just discussed some matters of an operational matter. So you'll just hear some silence for a bit and then we'll get the audio.

(Video played).

MR GISONDA: Pause it there. Mr Ross, so the man who's speaking to the police is Dean Rielly. Did you know who Dean Rielly was before he attended the event?

MR ROSS: I don't recall Dean being there, but I recognise his face in the video.

MR GISONDA: And it's clear, isn't it, that from what he said to the police, that he wanted kids or his expectation was that kids could be on the pontoon on the water. Do you remember seeing any children on the pontoon on the water that evening?

MR ROSS: Mate, the pontoon: I don't know whether that's a great description. There was a - yeah.

MR GISONDA: Well, were there any children that you saw on the bridge that evening?

MR ROSS: I said earlier I don't recall. Listening to the video, there may well have been, so -

MR GISONDA: Because he says that there were people out on the bridge, and I think he says at some stage -

MR ROSS: But they would have been on the bridge walkway, if anything. The pontoon doesn't sound correct.

MR GISONDA: So when the police said the reason that they were there was because they'd seen people on the bridge -

MR ROSS: Yeah.

MR GISONDA: - and Mr Rielly said, "Yeah, we all walked down there at some stage" -

MR ROSS: Yep.

MR GISONDA: - now, listening to that, does that refresh your memory about whether the people who were in the site at some stage all had walked onto the bridge?

MR ROSS: Sure, I accept that. Yeah.

MR GISONDA: And do you remember now why it took you, I think, just shy of five minutes to get to the gate when the police had arrived?

MR ROSS: I don't know, no, but I sat here pretty bored watching that too.

MR GISONDA: So you don't know where you were at the time that -

MR ROSS: No, I don't know how long it took them to come and tell me then. Obviously they came and told me, so - well, I can tell how long it took, because it took a long time.

MR GISONDA: And so you can't recall what you were doing when you were told that the police had arrived at the gate?

MR ROSS: No. Other than they were there.

MR GISONDA: If we then keep playing the footage, and if we can stop it at 6:55, please.

(Video played).

MR GISONDA: So he says - the policeman says that there were - he said one or two people on the end of the crane. Now having heard that, do you remember the people walking out onto the bridge and going into the crane?

MR ROSS: Well, I don't think he says "on the end of the crane". I think he says "out where the crane is". The crane was beside a pause point in the centre of the river at Pier 4. So - and it was clearly they were, because I've just said it's my wife and my kid.

MR GISONDA: Right.

MR ROSS: Yeah.

MR GISONDA: And were you happy to have the police come onto the site and have a look around?

MR ROSS: I had - didn't have any problem with that. Obviously, in the video, I seem to have a problem with whether - the exclusion zone piece, I guess.

MR GISONDA: Okay. Could we then keep playing it and stop at 7:45.

(Video played).

MR GISONDA: Now, as the police go through the car park, the following people can be identified. One is Cameron Paul, who we've already spoken about. Dylan Howard is there. Did you know Dylan Howard?

MR ROSS: I know Dylan Howard. At that point in time, I'm not sure.

MR GISONDA: We've spoken about Dean Rielly.

MR ROSS: Yeah.

MR GISONDA: Hayden Jones. Sorry, I'll just step back. Dylan Howard was an organiser at the time. Dean Rielly was an organiser at the time. Hayden Jones was there as well. He was an organiser at the time. Did you know Hayden Jones?

MR ROSS: I don't think at that stage. I know of Hayden Jones now.

MR GISONDA: Cody Budgeon was there, and at that time he was a delegate for Multiplex on the Queens Wharf project. Did you know Cody at the time?

MR ROSS: No.

MR GISONDA: Jon Paul, who was a delegate for Watpac on the Gold Coast Secure Mental Health Rehabilitation Unit. Did you know him at the time?

MR ROSS: I remember Jon from down there, yeah.

MR GISONDA: Hoani Edwards, who was an organiser at the time. Did you know him?

MR ROSS: Not at that stage. He was the same Gold Coast job as Jon.

MR GISONDA: And Dean Mattas, who was an organiser at the time. Did you know him?

MR ROSS: I can't say I've met Dean Mattas other than here if he was there, so no.

MR GISONDA: And it looks like there are at least 40 people in the site at the time, and putting yourself and your family to one side, all union delegates or, sorry, all

union organisers, save for one delegate, and their families. Did you know that at the time, that they were all union organisers, save for one or two delegates?

MR ROSS: No. They were invitees of Mr Paul, so I didn't really get into who they were or where they were from. I can see some union shirts there, so I obviously would have put two and two together for that.

MR GISONDA: Are you saying, then, that you didn't appreciate on that evening that it was, for all intents and purposes, an exclusive CFMEU event, save for yourself and your family?

MR ROSS: Oh, mate, we were there as a family. And so the event - you call it an event. We went there to watch the fireworks as we always do. There was a person, Mr Paul, that had a repeat appearance from the year before, and then at the last minute he's invited some friends. So I wouldn't call it an exclusive event or - it's an hour and a half of fireworks or 25 minutes of fireworks and the lead-in.

MR GISONDA: Could we then keep playing the footage and stop at 11 minutes, please.

(Video played).

MR GISONDA: Right at the start of that clip, you referred to the people there on site as union mates. Do you now accept that you knew they - that all the people that Mr Paul had brought onto the site were his mates from the union?

MR ROSS: I'd accept that I knew some of them were.

MR GISONDA: And just confirm again - I asked you earlier about the crane area. Do you accept, based on that footage, that there appears to have been someone who was in that area that you pointed to where the crane was, at least at some point before the police arrived there?

MR ROSS: Looks that way, yes.

MR GISONDA: And were you in a position truly to supervise the whole site at that point in time? And by that I mean where various people were located?

MR ROSS: There's a great distance between them, but I would say by the time - the time noted that it's taken me to go and greet the police officers at the gate, perhaps I was out there as well.

MR GISONDA: Can we then keep playing the video and stop at 13 minutes, please.

(Video played).

MR GISONDA: And if we can just keep playing and stop at 13:55.

(Video played).

MR GISONDA: And if we just keep playing it to the end.

(Video played).

MR GISONDA: Mr Ross, when all these union friends of Mr Paul were coming onto the site, were you concerned at any stage, at least as to the number of people coming on?

MR ROSS: Recollection - wasn't overly, overly concerned. I can remember - obviously I can see this in front of me now, so it helps with recollection. I mean, there's more people than I'd probably prefer there, definitely.

MR GISONDA: Did you feel like you could say something to Mr Paul and say, "Look, I don't think you should be bringing all these people onto the site"?

MR ROSS: I would like to think I could, yeah, and I should.

MR GISONDA: Just to ask you a few further questions about the safety aspects of what was happening here, would you accept that if there was an emergency further along the bridge, it would have been very difficult for emergency services to get out there?

MR ROSS: As in a fire or something?

MR GISONDA: Any emergency, whether it be a medical emergency or a fire emergency? Just looking at all the cars that were jammed into the entrance there and the fact that the gate was locked, do you accept that it would have been difficult?

MR ROSS: Sure.

MR GISONDA: Can I show you this document, which is KPGB-2. And in fact, if we go to KPGB-3 first, sorry, please. And at the bottom of the page you've got an email that begins "Hello Andrea" and then over the page:

"We had an incident Saturday night which caused a delay in Riverfire starting and very nearly caused it to be cancelled. People were seen on the Green Bridge and the show was not allowed to start until they were clear. Do you have any information on how they got there, who they were, was it planned? I need some detail for our post-event report."

And you see that's from the operations manager of the Brisbane Festival. Can you see that, Mr Ross?

MR ROSS: Yes.

MR GISONDA: And Andrea Buckle, she's a senior amount manager for a company called Rowland or Rowland, and Rowland was the communications firm that had been engaged by BESIX Watpac and the Brisbane City Council for the project; is that right?

MR ROSS: Correct.

MR GISONDA: And if we go to the top of this page, Andrea Buckle says:

"No, this was not planned. The individuals entered the site through a fence where there was no security positioned. As soon as our security spotted them, they were moved on. I hope this information assists you."

Do you see that email?

MR ROSS: I read that, yep.

MR GISONDA: And that's not what happened, is it, that report?

MR ROSS: No.

MR GISONDA: From Ms Buckle?

MR ROSS: No, it's not.

MR GISONDA: And then if we go to KPGB-2, at the top of this page - sorry, let's go to the bottom of the page; I apologise. This is Andrea Buckle sending an email to Tim Deere and Rowan Riggall, and they're the two project managers that we mentioned earlier this morning; is that right?

MR ROSS: Yep.

MR GISONDA: And so she's asking them:

"We've received the following email from the Riverfire event organiser. Could you please confirm how you would like me to respond?"

And the response from Mr Riggall at the top of the page - if you just scroll to the top, please. Just scroll up. Sorry, that will do. That's then the exact information that she passed on to the Brisbane Festival, that is, that:

"The personnel entered the site through the fence where there was no security positioned. As soon as our security spotted them, they were moved on."

Now, Mr Riggall and Mr Deere were not there that evening; is that right?

MR ROSS: No.

MR GISONDA: So told Mr Riggall and Mr Deere that that's what happened? Was it yourself or was it someone from the CFMEU?

MR ROSS: I saw part of this email for the first time last Wednesday. I - I don't know. I have no comment to it.

MR GISONDA: So is it your position that you did not tell Mr Riggall or Mr Deere that information that's there in the email?

MR ROSS: That's correct.

MR GISONDA: Now that you know that there's a - there was a fireworks exclusion zone, and you accept, I think now, that there were people going over the bridge into that zone, it was a pretty - it was an unsafe activity that these members of the union were engaging in. Do you accept that?

MR ROSS: Knowing where the exclusion zone is now, yeah, I accept that.

MR GISONDA: And just so we can understand how this came about, is it your position that you were just having a get-together with your family and effectively the CFMEU's gatecrashed what you were doing, or have you invited them in? We're just trying to understand how we have -

MR ROSS: I mean, they're powerful terms, but that's probably a fair assessment. I didn't send an invite out to anyone other than my family, so -

MR GISONDA: So you weren't - you weren't trying to do - I just want to cover this off: you weren't trying to do the CFMEU any favours here?

MR ROSS: No, I was not.

MR GISONDA: And on the - I think it was two or so weeks beforehand, there had been 70 workers who had walked off the job. Did that event have anything to do with you allowing CFMEU officials onto the site?

MR ROSS: Not at all.

MR GISONDA: I have no further questions, Commissioner. I should, sorry, tender some documents first. KPGB-2 - sorry, the body-worn footage should be KPGB-1.

COMMISSIONER: What date was that?

MR GISONDA: 2 September 2023.

COMMISSIONER: What's the exhibit number?

MR GISONDA: KPGB-1. Kangaroo Point Green Bridge 1.

COMMISSIONER: Are there any objections? Police body-worn camera footage of incident at Kangaroo Point Green Bridge construction site, city side, on the evening of 2 September 2023, will be KPGB-1.

<EXHIBIT KPGB-1 POLICE BODY-WORN CAMERA FOOTAGE OF INCIDENT AT KANGAROO POINT GREEN BRIDGE CONSTRUCTION SITE, CITY SIDE, ON EVENING OF 2/9/2023

MR GISONDA: Then KPGB-2 is email from Rowan Riggall to Andrea Buckle.

COMMISSIONER: What's the date?

MR GISONDA: 6 September 2023.

COMMISSIONER: Are there any objections? Email from Rowan Riggall to Andrea Buckle re incident on 2 September 2023 at Kangaroo Point Green Bridge construction site dated 6 September 2023 will be KPGB-2.

<EXHIBIT KPGB-2 EMAIL FROM ROWAN RIGGALL TO ANDREA BUCKLE RE INCIDENT ON 2/9/2023 AT KANGAROO POINT GREEN BRIDGE CONSTRUCTION SITE DATED 6/9/2023

MR GISONDA: Then KPGB-3 is email from Andrea Buckle to Christophe Broadway on 6 September 2023.

COMMISSIONER: Are there any objections? Email from Andrea Buckle to Christophe Broadway re incident on Kangaroo Point Green Bridge construction site, 2 September 2023, dated 6 September 2023, will be KPGB-3.

<EXHIBIT KPGB-3 EMAIL FROM ANDREA BUCKLE TO CHRISTOPHE BROADWAY RE INCIDENT ON KANGAROO POINT GREEN BRIDGE CONSTRUCTION SITE 2/9/2023, DATED 6/9/2023

MR GISONDA: And KPGB-4 will be Brisbane Festival presentation dated 18 October 2023.

COMMISSIONER: Are there any objections? Brisbane Festival presentation 18 October 2023 will be exhibit KPGB-4.

<EXHIBIT KPGB-4 BRISBANE FESTIVAL PRESENTATION 18/10/2023

MR GISONDA: And then KPGB-5 is aerial photo of Kangaroo Point Green Bridge as at July 2023.

COMMISSIONER: Are there any objections? Aerial photo of Kangaroo Point Green Bridge construction site as at July 2023 will be exhibit KPGB-5.

<EXHIBIT KPGB-5 AERIAL PHOTO OF KANGAROO POINT GREEN BRIDGE CONSTRUCTION SITE AS AT JULY 2023

MR GISONDA: And KPGB-6 is undated photo of Kangaroo Point Green Bridge under construction.

COMMISSIONER: Are there any objections? Undated photograph of construction of Kangaroo Point Green Bridge will be exhibit KPGB-6.

<EXHIBIT KPGB-6 UNDATED PHOTOGRAPH OF CONSTRUCTION OF KANGAROO POINT GREEN BRIDGE

MR GISONDA: And then KPGB-7 will be sections 10 and 11 of Kangaroo Point Green Bridge work health and safety management plan as at February 2023.

COMMISSIONER: Are there any objections? Sections 10 and 11 of the work health and safety management plan for Kangaroo Point Green Bridge as at February 2023 will be KPGB-7.

<EXHIBIT KPGB-7 SECTIONS 10 AND 11 OF WORK HEALTH AND SAFETY MANAGEMENT PLAN FOR KANGAROO POINT GREEN BRIDGE AS AT FEBRUARY 2023

MR GISONDA: Thank you, Commissioner.

COMMISSIONER: I noticed on the police footage, Mr Ross, that there were a lot of flags flying on that bridge proclaiming the presence of the CFMEU: a Eureka flag and CFMEU flags. Was I right in that analysis?

MR ROSS: Yes, you were.

COMMISSIONER: And that was something you allowed on site?

MR ROSS: Yes.

COMMISSIONER: And why did you do that?

MR ROSS: Why did we do that?

COMMISSIONER: Yes.

MR ROSS: They were - yeah, I can't say they're something that we put up as a business, but our CFMEU delegates put flags up, as you see on most CFMEU building sites.

COMMISSIONER: Why did you allow them to remain up?

MR ROSS: Because if we took them down, they'd go straight back up.

COMMISSIONER: Did you have an enterprise bargaining agreement with the CFMEU?

MR ROSS: I'm aware that we do.

COMMISSIONER: Sorry?

MR ROSS: I'm aware that we do, yes.

COMMISSIONER: For that site?

MR ROSS: Well, the business has a CFMEU agreement, yep.

COMMISSIONER: And how many delegates did you have at that point at the Kangaroo Point Green Bridge site?

MR ROSS: Only one at a time. There was a couple of changeovers through the course of the project, from memory.

COMMISSIONER: Were they elected by your workforce or appointed by the CFMEU?

MR ROSS: I wasn't privy to the election process.

COMMISSIONER: How experienced did you say you were - I just forgot - in terms of building and construction? How many years?

MR ROSS: 32.

COMMISSIONER: Have you dealt with the CFMEU for that length of time?

MR ROSS: Yes.

COMMISSIONER: On my count - and I could be wrong - there were one, two, three, four, five, six, seven, eight CFMEU organisers - there could be more - or delegates and their families on site with you on 2 September 2023; is that right?

MR ROSS: That's what the footage shows.

COMMISSIONER: And you say that you weren't trying to do the CFMEU any favours by allowing these organisers and delegates onto that site on that night?

MR ROSS: I was absolutely not doing the CFMEU any favours.

COMMISSIONER: That's quite hard evidence to accept, Mr Ross. Are you sure that's right?

MR ROSS: Yes, I'm sure that I wasn't trying to gain favour from the CFMEU by letting them watch the fireworks from our site. If I had have invited them, perhaps, but I did not.

COMMISSIONER: Are you serious in saying that's the differentiating point that I'm supposed to accept, to say that you weren't trying to do them any favours because you say you didn't invite them; Mr Paul did?

MR ROSS: I wasn't trying to gain favour, Commissioner.

COMMISSIONER: Despite your 32 years of experience, you say that you allowing Mr Paul to invite all these organisers and delegates of the CFMEU to enjoy that vantage point wasn't an attempt by you to gain favour with the CFMEU?

MR ROSS: No. It was sprung on me at the last minute. So I could have rejected their entry; you're correct. That would have probably done me a disfavour. But I wasn't trying to seek favour.

MR GISONDA: I just remind you, Commissioner, of evidence that we've heard already in the context of the BPIC evidence that we heard in July. On 1 February 2022, the Fair Work Commission approved an enterprise bargaining agreement between BESIX Watpac and the CFMEU in relation to this project, and on 15 June 2022 the AWU's challenge was successful. So that was the evidence that you heard in the July hearings. You'll remember that was - that happened at around the same time as the Gold Coast Light Rail enterprise agreement between John Holland and the CFMEU.

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

MR GISONDA: There might be.

COMMISSIONER: There might be? What does that mean?

MR GISONDA: Well, Mr Ross hasn't put on a witness statement, so if someone - if a party wishes to cross-examine him, then they can make the application and do that now or at a future time.

COMMISSIONER: I see. All right. Very well. Mr Rawlings?

MR RAWLINGS: I have questions, if the Commission pleases.

COMMISSIONER: What do you say about that, Mr Gisonda?

MR GISONDA: Well, I suppose it depends what the questions are, but perhaps we'll start and see how it goes.

<CROSS-EXAMINATION BY MR RAWLINGS

MR RAWLINGS: Thank you, Commissioner. Mr Ross, can I just start with - you were taken to the work health and safety management plan. You're familiar with that document from your years of experience?

MR ROSS: Yeah.

MR RAWLINGS: Now, am I right to understand that you were inducted onto the Kangaroo Point Green Bridge project?

MR ROSS: Yes.

MR RAWLINGS: And am I right in understanding that Mr Paul was also inducted?

MR ROSS: That's correct.

MR RAWLINGS: You had a list of other delegates as well as organisers read out to you. Are you aware if any of those individuals were inducted onto the Kangaroo Point Green Bridge project?

MR ROSS: I'm not - I couldn't tell you. I'm not aware.

MR RAWLINGS: What's involved in an induction?

MR ROSS: You need a general induction prior, and then you attend a site-specific induction by turning up to site, presenting a general induction card and receiving an induction into the specifics of that project.

MR RAWLINGS: All right. And in your experience, if an organiser turns up to a project, do they receive a site-specific induction?

MR ROSS: Generally not.

MR RAWLINGS: Am I right in understanding that you invited Mr Paul and his family along to Riverfire in essentially the same location in 2022?

MR ROSS: I agreed that Mr Paul could come. I didn't spend an invite to Mr Paul, but yeah.

MR RAWLINGS: But he came along after he asked?

MR ROSS: Correct.

MR RAWLINGS: And am I right in understanding that when 2023 Riverfire came up, he again asked to attend?

MR ROSS: Yeah.

MR RAWLINGS: And I think your evidence indicated that at the last minute he asked if he could bring some people along.

MR ROSS: Yes.

MR RAWLINGS: What's the best of your recollection of what he told you before these people arrived about the number and identity of the individuals coming along?

MR ROSS: I don't have any strong recollection of it other than, "Hey, do you mind if some people come along?"

MR RAWLINGS: To the best of your recollection, was there anyone individually identified?

MR ROSS: No, not that I can recall. No.

MR RAWLINGS: And was there an indication about how many other people he was bringing along?

MR ROSS: Not that many.

MR RAWLINGS: So when you say "not that many", is that a reference to the body-worn camera footage in KPGB-1?

MR ROSS: That's correct.

MR RAWLINGS: When was the first time you saw that body-worn camera footage?

MR ROSS: Today.

MR RAWLINGS: In terms of the emails that you were shown to and from Andrea Buckle, so that is KPGB-2 and 3 - I understand, Mr Ross, you're probably not following the numbers, but have you ever had a conversation with Ms Buckle about, well, anything that occurred on Riverfire night 2023?

MR ROSS: No, I have not.

MR RAWLINGS: Have you ever had a conversation with Mr Riggall or Mr Deere about anything that occurred on Riverfire night 2023.

MR ROSS: Not to my recollection, no.

MR RAWLINGS: All right. When those emails are referring to security turning someone away, are you aware if there was another incident at Riverfire night 2023 where security hired by BESIX Watpac turned another individual away?

MR ROSS: I can recall - whether it's that one or not, I can recall seeing some punters or some public coming around the fence and getting bounced at some point in time.

MR RAWLINGS: Right. Now, as the operations manager at the time that the Kangaroo Point Green Bridge project was underway, would you have become aware of any communication that the project would have received from the Brisbane Festival before Riverfire?

MR ROSS: I don't doubt there probably was to the site team, but I'm not aware of it.

MR RAWLINGS: All right. Now, you were shown a map that indicated the words "prohibited area", and I understand counsel assisting referred to it as an exclusion zone. Had you ever seen that map before?

MR ROSS: That was the first time I'd seen that map.

MR RAWLINGS: All right. And to your knowledge, was there any information about that prohibited area or exclusion zone communicated to Watpac prior to Riverfire 2023?

MR ROSS: Not to my knowledge.

MR RAWLINGS: All right. Now, am I right in understanding that your evidence is that what we saw in KPGB-1, the body-worn footage, is unsafe only because of the exclusion zone?

MR ROSS: I - I would say that. The footage shows going out across a walkway, which is an Australian Standard-compliant walkway, AS 1657 from memory. The exclusion zone makes it unsafe, yes.

MR RAWLINGS: And that's the only aspect that you observed in that video that would make it unsafe?

MR ROSS: Yes.

MR RAWLINGS: Thank you. No further questions.

COMMISSIONER: Anything arising, Mr Gisonda? Thank you very much for your evidence, Mr Ross. You're excused.

MR ROSS: Thank you.

<THE WITNESS WAS RELEASED

MR GISONDA: Is that a convenient time for the break, Commissioner?

COMMISSIONER: Very well. We'll adjourn till five past 12.

<THE HEARING ADJOURNED AT 11.49 AM

<THE HEARING RESUMED AT 12.05 PM

COMMISSIONER: We've lost Mr Rawlings and Mr Bonasia. If anyone wants to shuffle from the back to the front, please feel free. Where are we now?

MR GISONDA: The next witness is James Maher.

COMMISSIONER: Is Mr Maher in the body of the hearing room? Mr Maher, will you come forward to the witness box, please.

<JAMES JOHN MAHER, AFFIRMED

<EXAMINATION BY MR GISONDA

MR GISONDA: Mr Maher, on 23 September 2026, did you affirm a statement that is eight pages long, containing 66 paragraphs?

MR MAHER: I did.

MR GISONDA: And attached to that statement was a bundle of documents that consisted of 60 pages and 10 annexures; is that right?

MR MAHER: That's correct.

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

MR MAHER: Yes.

MR GISONDA: And is it true and correct?

MR MAHER: Yes.

MR GISONDA: I tender that statement, Commissioner.

COMMISSIONER: Are there any objections? Witness statement of James John Maher, eight pages, 66 paragraphs with 10 annexures will be exhibit JJM-1.

<EXHIBIT JJM-1 WITNESS STATEMENT OF JAMES JOHN MAHER, EIGHT PAGES, 66 PARAGRAPHS WITH 10 ANNEXURES

MR GISONDA: Thank you, Commissioner. I'm just going to quickly go through some of the matters in your statement, Mr Maher, and then I want to show you some videos. In 2020, you started working on the Cross River Rail project; is that right?

MR MAHER: Yes.

MR GISONDA: You're still with the project; is that right?

MR MAHER: That's correct.

MR GISONDA: And in that time, you have worked at various sites. But from 2021 through to 2024, were you the site manager of the Albert Street precinct?

MR MAHER: Yes.

MR GISONDA: At page 2 of your statement, from paragraphs 9 to 14, you deal with the events of 1 July 2021, and those events led to the decision by Judge Egan which I took you to yesterday, Commissioner. And Mr Maher, you swore an affidavit for the purpose of that ABCC proceeding, did you?

MR MAHER: That's correct.

MR GISONDA: And that affidavit which you swore is attached to your statement now. The next event that you deal with in your statement took place on 21 April 2023, and the Commission has already received evidence, being exhibits VSTS-5 and VSTS-5, and footage, body-worn footage, from Alicia Wood yesterday, in relation to that incident. So I don't need to deal with that incident with you today, Mr Maher. I then want to ask you about what you say at paragraphs 19 to 23 of your statement, which is on page 3. You say that by 2023, the Albert Street site had become a focus for the CFMEU, with regular visits; is that right?

MR MAHER: Yes, that's correct.

MR GISONDA: And as the site manager for that precinct, you typically had to deal with the CFMEU officials who were visiting the site; is that right?

MR MAHER: Yes.

MR GISONDA: And would it be fair to say that the site had become a target by the CFMEU? Is that fair?

MR MAHER: Yes, that's correct.

MR GISONDA: And at paragraph 21, you say that you - and I assume there were others as well, but you were being featured in videos that were being uploaded by the CFMEU to Facebook that targeted both the project and people associated with the project; is that correct?

MR MAHER: Yes, that's correct.

MR GISONDA: And what do you remember about how you were feeling at that point in time, with your face being plastered on Facebook videos being uploaded by the CFMEU?

MR MAHER: It catches you offguard initially. Certainly uncomfortable at the time, but that's as far as it went for me.

MR GISONDA: On 24 May 2023, there was a large protest at the Albert Street precinct, and we've already received evidence in the form of police body-worn camera footage about that protest. I just want to play for you first exhibit VSTS-6 from the 38:20 mark to the 40:05 mark, please.

(Video played).

MR GISONDA: And then if we play VSTS-7 from the 15:15 mark to the 16:25 mark.

(Video played).

MR GISONDA: Mr Maher, in that protest that went for more than an hour, the crowd chants, among other things, "James Maher, show your face. James Maher, coward. James Maher, gotta go. James Maher, get fucked, fuck off." Did you know at that time that that's what the crowd was singing or saying about you?

MR MAHER: Yeah, I believe so.

MR GISONDA: And what was your reaction at the time to that sort of behaviour?

MR MAHER: Again, similar to before: a bit taken back at the time. Wasn't necessarily a comfortable environment, but put it where it belongs.

MR GISONDA: Well, should anyone in your position have to be subjected to that sort of behaviour, do you think?

MR MAHER: I don't think anybody should.

MR GISONDA: On that day, there was a - do you recall whether there was a concrete pour scheduled for that day?

MR MAHER: Yes.

MR GISONDA: And did it go ahead that day?

MR MAHER: It did not.

MR GISONDA: Okay. What I now want to show you is some videos from the following day. And we haven't heard evidence yet about what happened on 25 May. Now, there's quite a bit of it, Mr Maher, but we've tried to break it up a bit. So the first footage that I'd like to play is video A-1, please.

(Video played).

MR GISONDA: Mr Maher, there's a few things in that footage that is a bit confusing. We'll see if you can clarify the situation. The policeman says that they had legal advice that what was happening was protected industrial action. Were you aware of any protected industrial action taking place in May of 2023?

MR MAHER: No.

MR GISONDA: And then he references negotiations for a new enterprise agreement. Were you aware of any negotiations taking place in May of 2023?

MR MAHER: No.

MR GISONDA: And when he talks about no truck turning up and a pour not happening the previous day, the reason that no pour occurred is because the entrance to the site was the subject of a protest that appeared to have 80 to 100 people in front of it; is that right?

MR MAHER: That's correct.

MR GISONDA: Can we next play the next video, which is video A-2.

(Video played).

MR GISONDA: Then if we can play video B-1, please.

(Video played).

MR GISONDA: Then if we could play video B-2, please.

(Video played).

MR GISONDA: Were you told, Mr Maher, that the police could get negotiators down to the site? Do you remember being told that?

MR MAHER: I don't recall being told that, no.

MR GISONDA: What were you hoping to receive by way of assistance from the police that day?

MR MAHER: In the event that people attempted to blockade, that they would provide the assistance to remove the blockade.

MR GISONDA: Can we play video C, please.

(Video played).

MR GISONDA: Mr Maher, the reports that we've heard from three separate occasions now is that a large group of workers were amassing around the corner and that those workers were walking off the Queens Wharf job, getting ready to come down to your site. That's what you were hearing on that day; is that right?

MR MAHER: Yes. We had spotters around, so obviously managing traffic, and there was crowds amassing in several locations.

MR GISONDA: And you're receiving this information in real time and trying to make a business decision about whether you should attempt a concrete pour; is that right?

MR MAHER: Yeah, in coordination with what is the project leadership.

MR GISONDA: Yes. And part of your consideration is whether or not you're going to be able to get some assistance from Queensland Police to facilitate that?

MR MAHER: Primary concern is the wellbeing and the safety of the people conducting the activity, and then, yes, obviously ultimately conducting the business that we had planned to conduct on that day.

MR GISONDA: And what we've seen there is police were saying that they would be able to get 10 people down to assist; you remember hearing that in one of the earlier clips. And you were being told that if a large number of people came down, it appears from Queens Wharf, that the police wouldn't have the resources to stop them. That's what you're being told, isn't it?

MR MAHER: That's correct.

MR GISONDA: Do you remember that after this situation, where you've called the concrete - or when the project has called the concrete pour off, that yourself and two or three of the police officers then went into the site to have a further discussion? Do you remember that?

MR MAHER: Yes, I do.

MR GISONDA: If I can then play for you video D-1, please.

(Video played).

MR GISONDA: Can we then play video D-2.

(Video played).

MR GISONDA: Then could I play video D-3, please.

(Video played).

MR GISONDA: Then if we can play video D-4.

(Video played).

MR GISONDA: Mr Maher, how realistic did you think it was at this point in time that CPB and the CFMEU could engage in what the police described as a conciliatory round-table discussion?

MR MAHER: I wouldn't have been involved to have an opinion on that matter. I did know that we had a current live agreement that was not due to expire until close to if not at the end of that year.

MR GISONDA: Was it pretty clear to you that in terms of providing a policing response, that in the event that the CFMEU was able to attract, say, 40, 50-plus people, the position of the police was that they just weren't to assist with the policing response?

MR MAHER: It appears that way, yes.

MR GISONDA: At the very start of those videos, the police mention that there were three individuals around the corner who were the ringleaders of what was happening yesterday - that was, the events of 24 May - and that they were there - back there again on 25 May. Can I conclude showing you the videos of this day by playing video E, please.

(Video played).

MR GISONDA: So, Commissioner, the people that you see in the video there are Cody Budgeon, Dean Rielly, Kurt Pauls, and that's Matthew Vonhoff on the left, and then the other gentleman who comes in at the end is Ian McEwan. Can I tender the 10 videos that have just been played. That last video, just to be clear, Commissioner, was after the police left their meeting with Mr Maher and left the site. So these 10 videos are all dated 15 May, and they are all body-worn camera footage of the police attending the Albert Street site that day - sorry, 25 May. I said 15 May; 25 May. And I suggest they can be conveniently described from parts 1 to part 10.

COMMISSIONER: I take it there are no objections to the tender of this video material? I think we're just working out exactly how many there are.

MR GISONDA: Yes.

COMMISSIONER: Do you want to do it after the luncheon adjournment?

MR GISONDA: Okay.

COMMISSIONER: Just before we break, I just wonder - this evidence seems to be very repetitive, Mr Gisonda. I'm not - I don't mean that in a criticism of you; I mean in a sense a criticism of the police, that everything that police officer did, every decision that seemed to be made, seemed to be the wrong one legally or administratively. Every one. Asking Mr Maher has he gone to the Fair Work Commission? None of the police's business. Has he gone to the Federal Court? None of his business. Has he dealt with the WHSQ? None of his business. Is he going to sit down and negotiate with these agitators? None of his business.

I mean, it just strikes me as there's some profound problem, at least in relation to the videos that you've just shown, in the way the police went about their task in relation to this project, but also others. And you've mentioned the resourcing issue, which is a massive problem for the rule of law: if a mob can just decide that they're going to impose their will on any citizen and the police don't have the resources to deal with it, then we no longer have the rule of law. But in the lead-up, the rationale that the police officer used to deal with Mr Maher seemed to be wrong on every level.

MR GISONDA: It is repetitive, and it's occurring on the biggest showcase projects in the heart of Brisbane, in and around Brisbane, and it appears to be going on for the best part of a year, if not longer. And it tends to the view that all it takes is for the CFMEU to be able to garner 50 to 100 people, and if they can do that, then there will be no resistance - at least no resistance from the Queensland Police - and it then becomes a question of whether the contractor or the workers can put up their own resistance, and that has its own problems.

COMMISSIONER: Well, it'd just degenerate into sort of civil disputation on the streets.

MR GISONDA: And it raises the question: what are those in charge of the Queens Wharf site doing, allowing people to just walk of the job and amass in the gardens, standing there as a threat to this project?

COMMISSIONER: Well, relatedly, is that a Multiplex site?

MR GISONDA: Yes?

COMMISSIONER: Well, relatedly, at the last set of hearings you mentioned the fact that there were a number of delegates that were imposed on the Multiplex Queens Wharf site, who seemed to be people who you would assume would be organising this, that were allowed to be imposed as delegates by tier 1 contractors, in this case Multiplex.

MR GISONDA: So that is almost the business model. If you can install enough delegates on various sites who are able to just come and go as they please, not have to do any real work on that site, can leave the site at any point in time and can be called, as you saw in Centenary Bridge, at 30 minutes' notice to go to any site for any purpose, and the police on the other hand are saying, "Well, if you've got 50, 80, 100 people, there's nothing we can do," that's - it's tantamount to total control.

COMMISSIONER: And shouldn't the police say to someone like Mr Maher in this situation, "You've got a whole lot of people outside your site with no legal basis to be there, blockading you in your attempt to build the biggest piece of public infrastructure that the taxpayer's paying for, as the taxpayer's paying for the police. What can we do to help?" Instead, we get endless meetings and diversions and excuses and instructions to negotiate, and eventually throwing up the hands saying, "We don't have the resources to deal with this mob." I just find it - I find it extraordinary.

The reason I raised it was that we're in the process of producing an interim report in relation to whether or not we should recommend that the Queensland Government bring back a procurement code to govern the way in which expenditure of taxpayers' money on the upcoming $120 billion or so of government expenditure on construction projects over the next four years should be deployed. I just wonder whether we really should wait till December 2027 to say something. Of course, you'll get the chance, Mr de Jersey, to lead whatever evidence you wanted, make whatever submissions you need to make, in relation to this policing problem, because I haven't seen anything so far to suggest that there's been any change. There may well have been; I just haven't seen anything.

The only response I've seen so far is that someone from the Police Union, who will have an opportunity to come and give evidence and be heard, saying that the suggestions that are being made as a result of what has been seen on these videos are not correct and the police did a good job. You can consider that position.

MR GISONDA: It's a critical issue for this Commission, and in due course we'll have to ensure that evidence is called on behalf of the police, and they might present very good reasons why they are unable to assist contractors who are in this position. But if that is the position, then it's clearly a problem that needs fixing, because if it's not fixed, it will just continue to go on and on again. I mean, you keep coming back to the paper mill in Burnie. There's a real sense that it's history repeating itself.

COMMISSIONER: Yeah.

MR GISONDA: Even down to today, we saw the legal advice that the Queensland Police are citing. Now, the police officer on the ground might have got the advice wrong, but if that were the advice, it just doesn't make any sense.

COMMISSIONER: And then he said, "This is outside my remit. It's way outside my remit." This is core business. People attempting to prevent lawful egress and access to sites controlled by, in this case, by Mr Maher's report.

MR GISONDA: Well, Mr Maher said it himself right at the start of the video exchange, which is - he almost interrupted the policeman and said, "Preventing concrete trucks from getting into the site, how is that protected industrial action?"

COMMISSIONER: Anyway, you might want to consider whether we need to bring forward any recommendations in advance of December 2027 in relation to this issue, and obviously there will be a need to receive any evidence and submissions that anyone who wants to say anything about this might want to - sorry, were you about to say something?

MR GISONDA: Commissioner, we have to come back at 2 o'clock because we've got an audiovisual link with a witness who will need to be interposed, but having said that, I've probably only got about another five minutes or less with Mr Maher, so -

COMMISSIONER: Do you want to finish with Mr Maher?

MR GISONDA: - I could just finish him now. Mr Maher, just a couple of final matters to raise with you before you're excused. At page 4 of your statement, at paragraph 32, you talk about the three HSRs who were installed on the Albert Street precinct after July of 2023. Sean Korostovetz was the first one, and you say at paragraph 32 that your observation was he performed little labouring work; is that right?

MR MAHER: That's correct.

MR GISONDA: And you had the same observation about Mr Steven Amies, who was also installed on the Albert Street site; is that right?

MR MAHER: That's correct.

MR GISONDA: At paragraph 34, you give evidence that we've heard from a range of people now to similar effect, that you felt that safety concerns were being used as armour by the CFMEU in order to disrupt progress on the project; is that right?

MR MAHER: That's correct.

MR GISONDA: At paragraph 40 to 42, you were the subject of photographs that were put on placards or posters in and around the site in the middle of 2024; is that right?

MR MAHER: Yes, that's correct.

MR GISONDA: And what was your reaction or feeling when you saw those posters being put up around the site?

MR MAHER: Again, similar to previous events: catches you offguard and certainly uncomfortable at the time.

MR GISONDA: Can I then ask you this final question, which relates to paragraph 65 of your statement on page 7. You're talking about the period before the CFMEU was put into administration, and you said you observed what you considered to be general disregard by the union for the company's processes and procedures on the site, and you say in your view there was an attitude that the CFMEU operated under a different set of rules. Are you saying there that your impression of the way the union conducted itself was that they felt - or they behaved as though they were above the rules that everyone else was abiding by?

MR MAHER: They were not aligned with the business way of going about business and rules and regulations. They had a separate set of rules which - believed surpassed the business's, yes.

MR GISONDA: You say then that you observed a high level of hostility from the union towards management and other workers on site, and then you say there were a number of occasions where you stepped into CFMEU confrontations with female members of the project. Can you just tell the Commissioner, please, about that experience?

MR MAHER: In the event we were engaged in a right of entry, if there was a female member of staff there, where I seen people taking liberties in relation to how they were treating each other, I'd intervene.

MR GISONDA: And your observation was that they didn't necessarily hold back because the person that they were interacting with was a female member on the project?

MR MAHER: My experience is no. If anything, focused more in that area.

MR GISONDA: I have no further questions.

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

MR GISONDA: No.

COMMISSIONER: Very well. Thank you very much for your evidence, Mr Maher. You're excused. You'll deal with the tender of the videos after lunch?

MR GISONDA: Yes. And so 2 o'clock, we'll have a very brief witness via AVL.

COMMISSIONER: We'll adjourn till 2 pm.

<THE HEARING ADJOURNED AT 1.13 PM

<THE HEARING RESUMED AT 2.02 PM

COMMISSIONER: Ms MacNicol, this is your witness, I take it?

MS MacNICOL: Yes, Commissioner. This is Gary Lappin. Mr Lappin, can you see and hear me?

MR LAPPIN: Yes, I can see and hear you very well.

MS MacNICOL: Mr Lappin, have you provided a statement to the Commission dated 18 September 2026?

MR LAPPIN: That is correct.

MS MacNICOL: And that statement is two pages, 21 paragraphs and two annexures; is that correct?

MR LAPPIN: That is correct.

MS MacNICOL: You have had a chance to review your statement, and there's a slight amendment to paragraph 4. The sentence should say that you worked on the Cross River Rail project from 2021 to early 2023, not 2001; is that correct?

MR LAPPIN: That is correct, yes. It was 2021. I made a mistake there filling that out.

COMMISSIONER: Was that para 4?

MS MacNICOL: Paragraph 4, yes, Commissioner. I have been assisted that Mr Lappin needs to be affirmed before he gives evidence.

COMMISSIONER: I guess he does, yes. I thought it must have all happened while I was outside.

MS MacNICOL: Sorry, Commissioner, I jumped the gun.

<GARY JOHN LAPPIN, AFFIRMED

<EXAMINATION BY MS MacNICOL

COMMISSIONER: Thank you.

MS MacNICOL: Subject to those corrections, Commissioner, I tender the statement and the accompanying two annexures.

COMMISSIONER: You said changes. Was it just paragraph 4?

MS MacNICOL: Yes.

COMMISSIONER: Do you have a middle name, Mr Lappin?

MR LAPPIN: Yes: Gary John.

COMMISSIONER: Are there any objections? Witness statement of Gary John Lappin 18 September 2026, two pages, 21 paragraphs with two annexures will be exhibit GJL-1.

<EXHIBIT GJL-1 WITNESS STATEMENT OF GARY JOHN LAPPIN 18/9/2026, TWO PAGES, 21 PARAGRAPHS WITH TWO ANNEXURES

MS MacNICOL: Mr Lappin, you're currently working in Victoria, and that's why you're giving evidence remotely; is that right?

MR LAPPIN: That is correct. I'm on a project down here in Melbourne.

MS MacNICOL: On the Cross River Rail, you were a general superintendent. Can you tell the Commissioner what your responsibilities were at Roma Street?

MR LAPPIN: As general superintendent at Roma Street, I was responsible for running of that site, all of the daily activities: safety, production, costing, all of that work.

MS MacNICOL: And who did you report to?

MR LAPPIN: At that time, I reported to the project manager, Mark Jones. And later on there was a new project manager, Bernard.

MS MacNICOL: In terms of your dealings with unions, did you ordinarily deal with Andrew Blakeley and Beau Seiffert?

MR LAPPIN: Most of the time it was Andrew and Beau Seiffert. That's correct.

MS MacNICOL: Paragraphs 8 and 9 of your statement, just going there, it states that on 14 October 2021, you say that it had been raining and all the site crews were

sitting in the shed, that Lindores then chose to conduct training with its crane crews. Is that correct?

MR LAPPIN: That is correct.

MS MacNICOL: And you discovered Andrew Blakeley was on site to that day with the Lindores crane crew?

MR LAPPIN: Yes. Yeah, I was told that he was on site with the crew, yes.

MS MacNICOL: And you subsequently asked Mr Blakeley to leave site?

MR LAPPIN: That is correct, as he had not followed the proper protocol to enter site.

MS MacNICOL: Was that a typical experience when it came to Mr Blakeley?

MR LAPPIN: Just about every time they turned up at site, yes.

MS MacNICOL: And when you say "they turned up at site", are you suggesting that they didn't complete any right-of-entry processes?

MR LAPPIN: Not prior to entering site; only when we would find them there and ask them for that.

MS MacNICOL: So you've asked Mr Blakeley to leave on 14 October. Moving then to 15 October 2021, at about 6 am, you received a phone call saying that Mr Blakeley was back on site with the crane crew, and this is at paragraph 10; is that right?

MR LAPPIN: That is correct.

MS MacNICOL: And you were told that the Lindores crane crew wouldn't return to work until they completed their training?

MR LAPPIN: Yes, that is - they wouldn't go to work until they completed their training.

MS MacNICOL: A short time later, you became aware that Beau Seiffert had entered site with another Lindores worker from another site. Do you recall this?

MR LAPPIN: Yes, that is correct, yes.

MS MacNICOL: Can you tell the Commissioner what you recall about this day?

MR LAPPIN: On the day?

MS MacNICOL: Yes.

MR LAPPIN: I entered the crib rooms to find out what was going on, and then I seen that the other person was there from another site, which actually I knew the person, because I'd met him previously. I think it was around 2009. He was part of my daughter's wedding. So I knew who Anthony was. Hadn't seen him since that wedding. So I just went up, said, "G'day, how are you going? What are you doing on site?" He informed me he was here with Beau and Andrew Blakeley.

MS MacNICOL: And when you say Anthony, you're talking about Anthony Perrett?

MR LAPPIN: That is correct, yep.

MS MacNICOL: So you've entered the crib rooms, you've seen that Beau Seiffert is still there, and Anthony Perrett, and you were able to recognise Mr Perrett because he attended a family function back in 2009?

MR LAPPIN: Yes, that's right. Yes.

MS MacNICOL: What did he tell you about why he was at Roma Street that day?

MR LAPPIN: Oh, look, I can't recall everything. We just spoke - I just asked him what he'd been doing, since I hadn't seen him since the wedding. He told me was working for Lindores over on another site in town. I asked him what he was doing on site. He just said he was over having a look. He wouldn't elaborate any more than that.

MS MacNICOL: And did you become aware that that other site that he was working at was Queens Wharf?

MR LAPPIN: That is correct, yes.

MS MacNICOL: Now, later in that day, you were told that there had been an attempt to have Mr Perrett elected as a delegate. Do you remember who told you that?

MR LAPPIN: Look, I can't recall who - which person it was. But I was told that, yeah, he was there to - they wanted the crane crew, Lindores crew, to elect him as a delegate.

MS MacNICOL: And you did report this incident by email to Mr Terry Prior, and you have annexed that email to your statement, haven't you?

MR LAPPIN: The - I did send an email through to the head IR - IR person for Cross River, filling him in on what happened on the day, yes.

MS MacNICOL: Thank you, Mr Lappin. Last set of questions: you mentioned that you have had a lot of dealings with Mr Blakeley, that he would enter site often. There was an occasion where Mr Blakeley entered site on 23 August 2021. Have you had a chance to recall this incident?

MR LAPPIN: 23rd - yeah, I'm not sure on the exact date, but, I mean, he did turn up to site on a regular basis.

MS MacNICOL: There's an occasion where Mr Blakeley arrived at Roma Street and you were with Ms Lauren Mead, and you were - can you tell the Commissioner about that?

MR LAPPIN: Yeah, that's correct. Lauren was one of our IR girls in the office, so she would help us deal with any IR issues. We had a phone call while we were in the office from one of my supervisors, Tony Moore, saying that Blakeley - Andrew Blakeley was on site. So we went - then went over to site to see what was going on.

MS MacNICOL: And by the time you arrived, Mr Blakeley had already left; is that right?

MR LAPPIN: That is correct, yes. He was walking up the street away from us.

MS MacNICOL: And you're aware that Ms Lauren Mead signed an affidavit that outlined this incident?

MR LAPPIN: Yes, Lauren used to record all the incidents that happened, the same with our other IR people. Yep.

MS MacNICOL: Thank you, Mr Lappin. Commissioner, I tender the affidavit of Lauren Mead. It's dated 4 November 2021. It's three pages long. Commissioner, you do have a copy of it in your material. I don't propose to take the witness to the incident.

COMMISSIONER: Yes, I've got it here. Yes. Are there any objections? No? Affidavit of Lauren Mead, 4 November 2021, three pages, 10 paragraphs, will be exhibit GJL-2.

<EXHIBIT GJL-2 AFFIDAVIT OF LAUREN MEAD, 4/11/2021, THREE PAGES, 10 PARAGRAPHS

MS MacNICOL: Thank you, Commissioner. I have no further questions for the witness.

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

MS MacNICOL: There are not.

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

MR LAPPIN: Thank you. Goodbye.

<THE WITNESS WAS RELEASED

MS MacNICOL: Commissioner, I am informed that there is a set-down or a pack-down procedure that takes about five minutes, five to 10 at most, if we could have a small recess to allow that to happen.

COMMISSIONER: What, to get rid of the AV equipment?

MS MacNICOL: To get rid of the TV, yes.

COMMISSIONER: Very well. Do you want to deal with the tender of the videos before we do that?

MS MacNICOL: Yes, Commissioner.

COMMISSIONER: So there were 10 videos that you took the witness to before lunch, Mr Gisonda: video A-1, A-2, B-1, B-2, C, D-1, D-2, D-3, D-4 and video E. They were all police body-worn camera footage of the Albert Street site attendance on 25 May 2023, and they stretch from 7.29 am to 10.59 am. Are you content for those to be numbered sequentially as exhibits JJM-2 through to JJM-11?

MR GISONDA: Yes, Commissioner.

COMMISSIONER: Very well. You don't need me to deal with each of them individually?

MR GISONDA: No.

<EXHIBITS JJM-2 TO JJM-11 VIDEO A-1, A-2, B-1, B-2, C, D-1, D-2, D-3, D-4 AND VIDEO E

COMMISSIONER: How long will we adjourn for? Do you want to just tell my associate when you're ready, and I'll come back in then.

<THE HEARING ADJOURNED AT 2.15 PM

<THE HEARING RESUMED AT 2.22 PM

COMMISSIONER: Mr Gisonda.

MR GISONDA: Thank you, Commissioner. Before we call the next witness, I have two quick videos to tender. These videos are of police body-worn camera footage

that was taken on 30 April 2024. It took place on Roma Street, and it was at the same time that the CFMEU were picketing the Cross River Rail sites, including the Roma Street site. You'll remember that the picket started on 30 April and continued on 1 May, before there was the injunction obtained by CPB later on -

COMMISSIONER: It was really more than picketing, wasn't it? It was really blockading.

MR GISONDA: Blockading. The first video is video F, please.

(Video played).

MR GISONDA: And then if we could play video G, please.

(Video played).

MR GISONDA: Commissioner, those two gentlemen who were participating in the blockade at Roma Street were Dylan Alexanderson, and he was at the time a delegate and health and safety representative employed by Group 4 Commercial, and at the time working on a Hansen Yuncken project. And the second -

COMMISSIONER: On the Sunshine Coast?

MR GISONDA: I believe that project was in Bowen Hills, but he had been working on the Sunshine Coast previously. And the other gentleman, Anthony Perrett, who is the same Anthony Perrett that you just heard Gary Lappin give evidence about, he was at this time a delegate employed by Lindores, working on a Mirvac project.

COMMISSIONER: Mr Lappin said he was working at the Queens Wharf?

MR GISONDA: At that particular time, he is listed - he was working - because he's an employee of Lindores, he -

COMMISSIONER: Of course.

MR GISONDA: - tended to go from project to project. On 30 April, he was working on a Mirvac project.

COMMISSIONER: And is this the Mr Perrett who is the stepbrother of Mr Ingham?

MR GISONDA: Yes.

COMMISSIONER: And his situation is still that he is on remand and facing a murder charge?

MR GISONDA: I believe so. Those videos, if we could tender those. It's body-worn camera footage from Queensland Police on 30 April 2024, questioning Dylan Alexanderson, and then the second video is interviewing - or sorry, questioning Anthony Perrett.

COMMISSIONER: Are there any objections? No. Police body-worn camera footage, 30 April 2024, police questioning Dylan Alexanderson, will be exhibit JJ -

MR GISONDA: No, it would be CRR-19.

COMMISSIONER: Will be exhibit CRR -

MR GISONDA: Sorry, 20. CRR-20.

COMMISSIONER: CRR-20.

<EXHIBIT CRR-20 POLICE BODY-WORN CAMERA FOOTAGE, 30/4/2024, POLICE QUESTIONING DYLAN ALEXANDERSON

COMMISSIONER: Police body-worn camera footage of police questioning Anthony Perrett, 30 April 2024, will be exhibit CRR-21.

<EXHIBIT CRR-21 POLICE BODY-WORN CAMERA FOOTAGE OF POLICE QUESTIONING ANTHONY PERRETT, 30/4/2024

MR GISONDA: Thank you, Commissioner. Ms MacNicol will take the next three witnesses.

COMMISSIONER: Ms MacNicol.

MS MacNICOL: Commissioner, the next witness is Nicholas Forde.

COMMISSIONER: Is Mr Forde in the hearing room?

MS MacNICOL: He is.

COMMISSIONER: Come forward to the witness box, please.

<NICHOLAS ROBERT FORDE, SWORN

<EXAMINATION BY MS MacNICOL

COMMISSIONER: Please take a seat, Mr Forde. Ms MacNicol.

MS MacNICOL: Mr Forde, have you provided a statement to the Commission dated 29 September 2026?

MR FORDE: Yes.

MS MacNICOL: And is that statement 10 pages, 73 paragraphs with 10 annexures?

MR FORDE: Yes.

MS MacNICOL: And in your review of your statement, there is an amendment to annexure NRF-10. You're wanting to change the access date on your summary notes to 20 October 2021, where it currently reads 21 October 2021; is that correct?

MR FORDE: That's correct.

MS MacNICOL: Subject to that amendment, Commissioner, I tender the statement and the accompanying annexures.

COMMISSIONER: Are there any objections? No? Witness statement of Nicholas Robert Forde, 29 September 2026, nine pages, 76 paragraphs, with 10 annexures, as amended by the witness just now in the witness box, will be exhibit NRF-1.

<EXHIBIT NRF-1 WITNESS STATEMENT OF NICHOLAS ROBERT FORDE, 20/9/2026, NINE PAGES, 76 PARAGRAPHS, WITH 10 ANNEXURES, AS AMENDED BY THE WITNESS IN WITNESS BOX

MS MacNICOL: Mr Forde, what was your role on the Cross River Rail project?

MR FORDE: I was the senior IR adviser.

MS MacNICOL: And you were working on the project between February 2021 to May 2022?

MR FORDE: Yes.

COMMISSIONER: We heard from Ms Alicia Wood yesterday, Mr Forde. Did she report to you?

MR FORDE: That's correct.

MS MacNICOL: At paragraph 8 of your statement, you say that the majority of your time was spent managing union entries. Firstly, can you indicate what site you were responsible for and what did those union entries involve?

MR FORDE: Yeah, I was physically stationed at the Gabba site, so the tunnels and the station site, but my remit covered the four main tunnelling station sites: Northern Portal and Southern Portal.

MS MacNICOL: And in terms of the right of entries, and union entries, I should say, what did that typically involve? And you mention this at paragraph 13 of your statement.

MR FORDE: What did the right of entries involve?

MS MacNICOL: The process.

MR FORDE: The process?

MS MacNICOL: Yes.

MR FORDE: Yeah, sure. So we'd meet the union official outside the gate and I guess cover off on the entry permit and entry notices, just to determine they had a legal right to enter site. We'd enter site through the turnstiles. Depending on whether it was a safety matter or just general discussions on the Fair Work Act is who we'd organise to escort for that entry. So if it was just a section 484 under the Fair Work Act, being general discussions at break time, it'd be myself or one of my team members in the IR team that would handle that, with the superintendent on standby if need be for any debrief after the right of entry. If it was a safety matter, such as a 117, then we'd mobilise the superintendent, safety adviser or safety lead for that site to escort the official or the officials around the site.

MS MacNICOL: So what you've described is the general process.

MR FORDE: Yep.

MS MacNICOL: However, in your experience, how did officials from different unions, for instance, the CFMEU, how did they respond to those requirements?

MR FORDE: As it evolved, yeah, there wasn't any waiting outside the turnstiles. Usually they'd just walk on site through a truck gate or a vehicle or truck entrance or exit, and then you'd either see them or you'd get a phone call that they were on site, so you'd go find them and then determine their legal right to be on site by requesting their entry permits, federal and state right-of-entry permits, and if they've got an entry notice, a written entry notice, to run through.

MS MacNICOL: You make the point at paragraph 19 of your statement that there is an instance where you recall a CFMEU organiser actually completing the sign-in process. What was the result of that? What did they say after?

MR FORDE: Yeah, so once you come through the turnstiles, there's a Damstra kiosk. So that was where we'd swipe on every day with your ID badge. For any visitors, you'd go through a visitor induction on the - sort of the digital screen. Early on, during my time, I think I was with maybe a site manager, I can't remember, and a CFMEU organiser, and reluctantly they went through - I did all the pressing of the visitor sign-in and just read out what the, I guess, site rules were for a visitor, and

once we did that, a comment was made along the lines of, "I'm not going to do that again." So then we just, yeah, moved on. And that was the only time I ever got a chance to do that visitor induction with an official from - from that organisation.

MS MacNICOL: Still on the topic of union entries, at paragraph 24 and 25, you say that once the CFMEU were on site, that it would, in your experience, become a fishing expedition and that officials would target low-hanging fruit, so much so that safety was a pretext in your opinion. Can you tell the Commissioner about that?

MR FORDE: Yeah, sure. So I just want to be clear: the nature of safety inspections in terms of a fishing expedition and low-hanging fruit, that's not isolated to Cross River Rail. I guess that's been happening for a number of years, you know, using a 117 and the generic aspects of the entry notice to get on site and then probably similar experience to other witnesses, then you just follow them around site, walking around site, looking at things that may or may not be on the entry notice and, yeah, I guess the low-hanging fruit could be, yeah, you know, looking at rigging registers on a crane or testing and tagging, you know, scaffold tags, yeah, just anything that - that you come across they would look at. So that's been pretty standard over the years on all sorts of sites, not just isolated to Cross River Rail.

MS MacNICOL: And I can imagine when a union organiser or official is just trying to pick the low-hanging fruit, that it does become quite time-consuming; is that correct?

MR FORDE: Yeah, it takes up a lot of resources. You know, the superintendent and supervisors and safety team and - yeah, so takes them away from - from doing their job, which is looking after crews and trying to make sure they're all safe and productive.

MS MacNICOL: Moving on to paragraphs 27 to 31 of your statement, you talk about there being a level of coordination between the CFMEU and the Work Health and Safety Queensland inspectors, that you felt like there was a quota of improvement notices or infringement notices that needed to be issued. You go on to say that on occasions where the Work Health and Safety Queensland inspector did stand up to the CFMEU and, for instance, didn't want to issue an improvement notice, that the CFMEU official would get agitated. Can you tell us more about that experience?

MR FORDE: Yeah, it's the first I ever come across this, but - and it became clear pretty early on that, yeah, just seemed coordinated, where the officials would wait outside the gate for the inspectors to arrive and they'd sort of come in together, or the officials would come on a 117 and then make a phone call and the inspectors would be there. And, yeah, it just seemed strange to me and felt like it was pretty one-sided for most of the time in terms of who the inspectors supported, and - but not all of them, you know. There were inspectors that were impartial, and when they wouldn't write a PIN notice, improvement notice for something that they deemed to be minor or see-and-fix, you know, you could fix it on the spot, that wasn't a major concern,

the officials seemed to get visibly agitated if a PIN notice or infringement notice wasn't the result of that particular matter. But then when the notice is written, it seemed to be, "Yep, job done," and, yeah, that would be the - the walk-around would mostly be over by then once a notice was - looked like it was going to be issued to the project or to the site.

MS MacNICOL: You say that some of the experiences, and perhaps not all, but some of them felt like it was one sided. You give an example in paragraphs 47 to 54, giving an example of the way that some - or at least this inspector treated the CFMEU. This was an entry at Boggo Road on 31 August 2021, where CFMEU officials didn't show their federal permits and they called Work Health Safety Queensland. The net result was that the inspector allowed them onto site. Can you give us context about what happened during this visit?

MR FORDE: I'll just correct you there: the inspector didn't allow them to be on site. So what happened - this was the 81(3) at Boggo? Yep. So we denied the entry because the officials did not have federal right-of-entry permits, so legally we couldn't let them on site. The inspectors turned up, and they were just trying to understand why we wouldn't let them on site. I explained to them that there'd been recent Federal Court matters to determine that to exercise a state work health and safety right as an official, which is the 81(3), that you're required to have a federal Fair Work permit. So I was explaining that to the inspector, who - I probably wasn't picking up what they were putting down; I'm not sure - made a phone call to their boss, came back and said, "My boss said that they can come on."

And I just tried to talk to them about the High Court challenge, and that was in the public domain if he wanted to google it, or I could send him the - I think it was a Federal Court case, a Full Federal Bench of the Federal Court and the High Court, so it was easy for them to look it up. It was this exact example, where you needed a federal Fair Work right-of-entry permit to exercise your right under an 81(3). So the inspector didn't let them on, but they were trying to tell us that, through their department, they believed they had a right to come on site.

MS MacNICOL: So in terms of paragraph 54 of your statement, then, it was simply the case that the inspector told you that his or her boss told you that the CFMEU could come on, that they didn't identify their boss, and ultimately the CFMEU didn't enter site.

MR FORDE: They tried to. So we had a truck gate that was closed, but they had trucks coming in and out. So as soon as they opened the truck gate, the officials walked on, but the - I think the tunnelling superintendent supervisors were there, and they just sort of just stood in front of them so they wouldn't walk further on site. So there was a bit of a stalemate for, I don't know, might have been an hour or so, with the supervisors, the officials, myself, the inspectorate. But yeah, they didn't - they didn't go past the - further past the truck gate, because they were physically stopped by the - by some of the workers there.

MS MacNICOL: And does that occasion stand out in your mind because it's the only time that it happened, or was that a common experience when it came to Work Health and Safety Queensland?

MR FORDE: Yeah, that stood out because it was such a recent case that - you know, the officials that were doing it were part of those Federal Court matters, and I believe they personally got fined or the organisation got fined, so I just - I thought the inspectorate might have a legal team or they would get briefed on matters that would affect right of entries and safety matters, so I was just - a little bit bizarre to me that the inspectorate either weren't aware of it or they took direction to - that was against, I guess, a legal outcome.

COMMISSIONER: Are you being a bit kind, saying that you thought it was bizarre? What were your actual feelings about this?

MR FORDE: Yeah, just didn't seem to be impartial, you know. It was just one-sided, that they - they took a phone call from their boss - this is the inspectorate - I was told that they could come on, and I explained, "Well, there are legal cases and we can google them or I can send them to you if you want, but they've actually been fined for trying to do this exact thing that you're suggesting that they can come on to do."

COMMISSIONER: You've got to be - as IR manager, you've got to be across discrimination laws, work health and safety laws, labour laws, Fair Work laws, and here's something that's within the core business for WHSQ, and you're telling them what the law is?

MR FORDE: Yeah, I don't know how to answer that. I wasn't telling them the law; I was just sort of referencing some recent court cases that would support our position why legally we couldn't let them on.

COMMISSIONER: But what did you think about the fact that you had to be telling them about recent cases right at the core of their jurisdiction?

MR FORDE: Oh, it's not something I can explain, Commissioner, I'm afraid.

MS MacNICOL: Turning to 19 and 24 August 2021, if I can describe it as the barbecue instances, you describe at paragraph 32 that you became aware of a BUSSQ vehicle at the Gabba entrance. Can you give us a bit of a summary of what happened that day?

MR FORDE: Yeah, sure. So we were upstairs in the office, you know, before pre-start. We always just sort of have a chat and talk about what's going on for the day. The supervisor got a call on the two-way radio - so it's audible; you can hear it - with the traffic controller up on Leopard Street gate entrance, said there was a BUSSQ vehicle here, and, you know, wasn't a planned delivery for the day, and we're all sort of scratching your heads. And so the supervisor said it might be for the

tunnels, because we sort of share the same precinct, because this was the station site. The supervisor said, "I'll go up and have a look," so he went up and we just sort of hung around ready for pre-start.

I think at the time I was just thinking maybe they're delivering some merchandise, as the superannuation might have some merchandise to deliver, but it seemed a bit odd. So I didn't think much of it until the safety manager grabbed me and said, "The CFMEU are on site with the BUSSQ vehicle or barbecue trailer." So walked up to the onsite haul road just to see what was going on and, yeah, just saw the BUSSQ LV with a barbecue trailer and a bunch of people unpacking - preparing for a barbecue.

COMMISSIONER: What is the site haul road? What do you mean by that?

MR FORDE: So on site - there might be in the bundle from notes that the ABCC took, there might be a photo, but I guess when trucks - when trucks come on site, they just go - it's called a haul road, which is just essentially a vehicle road that goes through the centre of site so truck deliveries can come through. Yeah, and then next to the barbecue, saw a couple of officials from the CFMEU, and then it sort of - the penny dropped that they would bring it on to start a barbecue up. Because it was an unauthorised barbecue, I just went to the barbecue team who was preparing the barbie and just asked them to pack up, this is not authorised, if they could leave site. They didn't really take much notice of what I was saying and just continued on. I spoke to the official, said, "Hey, this is unauthorised. We need everyone to pack up and leave site." That was also, I guess, ignored. They went ahead with the barbecue, cooked up a barbie for the workforce, and then departed once they'd done their thing.

COMMISSIONER: Sorry, what did you say then? What was the last bit?

MR FORDE: Then they - once they did the barbecue and had a few speeches, they packed up and left site.

MS MacNICOL: Just on the point, when you say you've gone up and you've spoken to them, telling them that their access is unlawful, in your statement at paragraph 37, you say that they didn't respond and kept setting up the barbecue after you spoke to them, and then you go on to say:

"There was nothing we could practically do to prevent them from continuing."

What do you mean by that, and why was it not practical to stop them?

MR FORDE: I'm not going to physically stop people from doing what they're doing. Just - yeah.

MS MacNICOL: Now, the same -

MR FORDE: I'm sorry.

MS MacNICOL: No, I'm sorry, you keep going.

MR FORDE: I mean, you repeat the same thing half a dozen times. It's not going to achieve anything, so -

MS MacNICOL: And now the same thing happened then five days later, on 24 August?

MR FORDE: Correct.

MS MacNICOL: And, Commissioner, for context, the two incidents on 19 August 2021 and 24 August 2021 were subject to what can be colloquially called the barbecue case that was heard by Judge Vasta in the Federal Circuit and Family Court of Australia, Division 2. Judge Vasta - sorry, I should say the reasons in that decision is in bundle 6, which is Cross River Rail 14, being the exhibit number, on page 102. The net result of that decision was that Mr Michael Ravbar and Mr Andrew Blakeley did receive personal payment orders. Moving on now to what happened in October -

COMMISSIONER: I just find that extraordinary. At least - Mr Gisonda produced a document - I don't know if you were here this morning, Mr Forde - which had some 1200 purported reasons for entry for so-called safety reasons, and you give evidence about it at paragraph 15 to 20 - sorry, 24 to 26 of your witness statement about what they'd do when they were on site, but at least there was the pretence of some legality. What was the basis upon which these people could drive onto your site and have a - set up a barbecue?

MR FORDE: I don't have the answer to that.

COMMISSIONER: How long have you been involved in industrial relations?

MR FORDE: Since 2008.

COMMISSIONER: So almost two decades.

MR FORDE: Yep.

COMMISSIONER: Have you seen that sort of behaviour before?

MR FORDE: No, first time. It was quite clever. You try and pre-empt things, but you couldn't pre-empt that.

MS MacNICOL: You made reference just a short time ago that when talking about whether it's practical to essentially force union officials off site and, for instance, stop them having the barbecue, that you say the same thing over and over and it has little effect. In terms of what occurred on 20 and 21 October 2021, you talk about the first occasion, being 20 October, in exhibit NRF-10, where you've essentially, once

Andrew Blakeley has come onto site, told him that his access is unlawful. Do you recall the events of this day?

MR FORDE: Which one was that, sorry?

MS MacNICOL: This is 20 October 2021, where Andrew Blakeley's come onto site and essentially made a reconfiguration of desks.

MR FORDE: Oh yep, I'm just reading it here. Yeah, so I think he was on site. I went and found him in the crib hut, did the same thing, "Can I see your permits?" which we did, right-of-entry permits. Asked why he was on site, he said under section 68 of the Work Health and Safety Act, so that's related to assisting a HSR. I think there was discussion about, "Well, what's the safety matter?" And I had the safety manager there and, you know, "What's the safety matter that the manager can help you with?" But I think it was - yeah, it was pretty much ignored, and they went on site, I believe, to have a look around site. But I guess at the end of that walk around site there was a few safety things that he fixed up that he wasn't happy with. I believe he went up to a subcontractor manager's office to talk about finding some office space for their delegate.

MS MacNICOL: And as a result of the conversation that Mr Blakeley had with the subcontractor, someone ultimately did move desks to facilitate - was it Richie Atutolu?

MR FORDE: Yeah, I think so. Yeah. Yeah, I'm not sure. I was just there for the discussion when he - he spoke to their site manager, said, "We're going to have to shift some desks around for the delegate."

MS MacNICOL: Then on 21 October 2021, Mr Blakeley has attended site again, and you've been notified that he's on site, and he was there conducting a conversation with Titan Cranes crew. Do you have a recollection of that?

MR FORDE: I don't know the purpose of the discussion, but I think, yeah, they came on site, spoke to the Titans crane crew, without anyone of our team present, and then they left site. But I couldn't tell you what the discussion was about or - or why.

MS MacNICOL: On top of what you've contained in your statement, you provided an affidavit, and it's dated 11 November 2021, and you have summarised the two instances on 20 October and 21 October in that affidavit; is that correct?

MR FORDE: Yeah, I - if you can pull it up. Is that it there?

MS MacNICOL: Yes.

MR FORDE: Yeah.

MS MacNICOL: If, Mr Operator, you could go to page 12 of that document. And at the bottom of the screen, you start to give an account of 20 October.

MR FORDE: Yep.

MS MacNICOL: You spend three pages describing that event. And then, Mr Operator, if you could go to page 15. At the bottom of that page, you start to give an account of 21 October 2021.

MR FORDE: Okay, yeah. I haven't read this affidavit in a number of years, so I - well, I'm - I'd have to read it just to refresh my memory.

MS MacNICOL: That's quite all right. But you recognise that you provided this affidavit in November?

MR FORDE: Yep. Yep, I think that's an ABCC affidavit.

MS MacNICOL: Commissioner, I tender the affidavit of Nicholas Robert Forde dated 11 November 2021.

COMMISSIONER: Are there any objections? Affidavit of Nicholas Robert Forde, 11 November 2021, 18 pages, with four annexures, will be exhibit NRF-2?

MS MacNICOL: Yes - sorry, NRF-11.

COMMISSIONER: NRF-11.

<EXHIBIT NRF-11 AFFIDAVIT OF NICHOLAS ROBERT FORDE, 11/11/2021, 18 PAGES WITH FOUR ANNEXURES

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

COMMISSIONER: Could you just tell me - I don't quite understand the significance of those two incidents you've just been asked about, Mr Forde. On 20 October 2021, you say Mr Blakeley came onto site in breach of the rules governing access to the site for no purpose other than to go and front a subcontractor to speak to that subcontractor about getting one of the appointed delegates Mr Richard Atutolu's desk moved. Is that the gravamen of what you're saying?

MR FORDE: Yeah. Well, just before that, he went on site just to look at a particular work area and asked for some access/egress to be fixed up that he wasn't happy with. So once that was done, then he went and spoke to the subcontractor manager about, I think, moving a - it might have been a safety or supervisor out of his spot to put the delegate in so the delegate could have office space on site.

COMMISSIONER: And the subcontractor agreed, as far as you are aware?

MR FORDE: I - I believe - yeah, I think the agreement was with the - the site manager's boss off site agreed to it.

COMMISSIONER: Site manager of who?

MR FORDE: Heinrich.

COMMISSIONER: So the subcontractors.

MR FORDE: Subcontractor, yeah.

COMMISSIONER: And then what about the next day, 21 October? What's the significance of that incident involving Titan Cranes?

MR FORDE: I think it was just another illegal entry. They came on site. I've got to be honest: I can't remember it in detail, but there's an affidavit there from -

COMMISSIONER: It's all set in your affidavit.

MR FORDE: It's in 2021, yeah. So I think it was just about to met with the Titans crew about a particular matter, which they did, and then they left after that discussion.

COMMISSIONER: Again, in breach of the rules governing access to the site?

MR FORDE: Yeah, that was right. There was no determination of, you know, an entry notice or - or anything like that that I can remember.

COMMISSIONER: How does dealing - how did dealing with - are you still employed by - on this site?

MR FORDE: No.

COMMISSIONER: So how did dealing with the industrial relations on this site, Cross River Rail, compare with the jobs you've had over your two decades of experience?

MR FORDE: It was quite different.

COMMISSIONER: When you say "quite different", what do you mean?

MR FORDE: So prior to that Cross River Rail, you aim to form a working relationship with site delegates and union officials, and you might not agree and you probably have a few dust-ups and disagreements, but generally you try to have a working relationship to resolve issues and with the aim to, you know, providing good conditions and a safe workplace. It was - it was - yeah, you couldn't - I couldn't form

a relationship, unfortunately, on Cross River Rail, which I'd like to so I could deal with issues that come up from time to time.

COMMISSIONER: You say you couldn't form a relationship that you would like to. Was that because of lack of effort on your behalf or for some other reason?

MR FORDE: Probably some other reason. I think my role was not relevant for - for that organisation.

COMMISSIONER: And what was the reason, as far as you can ascertain, based on your long expertise, that you were unable to form the sort of relationship that you would have liked?

MR FORDE: I think upholding the right-of-entry laws was the key issue.

COMMISSIONER: What do you mean by that?

MR FORDE: So requesting permits and entry notices and trying to remain within the legal framework was an issue for them. You know, under the ABCC and the code legislation, we could be at breach if we weren't following the legal rules of Fair Work with right of entry. So, yeah, by trying to uphold the right-of-entry laws I think was an issue for that organisation. They didn't like to be asked why they were on site. Yeah.

COMMISSIONER: Did that strike you as strange, that they didn't like to be asked why they were on site?

MR FORDE: Yeah, a little bit strange. All the other union officials from other unions were able to - to follow the rules, but they were a bit of an outlier in that regard.

COMMISSIONER: Was it ever explained to you by any of the officials of the CFMEU why they wouldn't or couldn't follow the rules?

MR FORDE: It was not.

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

MS MacNICOL: No, Commissioner.

COMMISSIONER: Thank you very much for your evidence, Mr Forde.

MR FORDE: Thank you.

COMMISSIONER: You're excused.

<THE WITNESS WAS RELEASED

MS MacNICOL: The next witness is Mr Terence Prior.

COMMISSIONER: Is Mr Prior in the hearing room?

MS MacNICOL: He is.

<TERENCE PAUL PRIOR, AFFIRMED

<EXAMINATION BY MS MacNICOL

MS MacNICOL: Mr Prior, have you provided a statement to the Commission dated 18 September 2026?

MR PRIOR: Yes.

MS MacNICOL: And is that statement 22 pages, 172 paragraphs with 53 annexures, of which five are video annexures?

MR PRIOR: That's correct.

MS MacNICOL: Have you had a chance to review that statement and are there any corrections you wish to make?

MR PRIOR: No, I have reviewed and I'm happy as it stands.

MS MacNICOL: Commissioner, I tender that statement.

COMMISSIONER: Are there any objections? No? Witness statement of Terence Paul Prior, 18 September 2026, 22 pages, 172 paragraphs, with - 56 annexures?

MS MacNICOL: 53 annexures.

COMMISSIONER: 53 annexures - will be exhibit TPP-1.

<EXHIBIT TPP-1 WITNESS STATEMENT OF TERENCE PAUL PRIOR, 18/9/2026, 22 PAGES, 172 PARAGRAPHS, WITH 53 ANNEXURES

MS MacNICOL: Mr Prior, what was your role on the Cross River Rail project, and over what period of time did you hold that role?

MR PRIOR: I was the industrial relations manager, and I think from October 2019 until about June 2025.

MS MacNICOL: And which part of the project were you responsible for?

MR PRIOR: For the TSD: the tunnels stations development.

MS MacNICOL: And it's correct that you were based in the Milton office?

MR PRIOR: Correct.

MS MacNICOL: And during your tenure, you had a number of people that reported to you, for instance, one being Nicholas Forde, who just gave evidence before you?

MR PRIOR: Yes.

MS MacNICOL: Who did you report to?

MR PRIOR: I reported to - mainly to Chris Butler, and also to a slightly lesser degree to Andrew Large, the project director.

COMMISSIONER: Sorry, Mr Prior, in Mr Forde's witness statement, he said that Lauren Mead, Jonty Bekkers and Alicia Wood reported to him. You've got them as reporting to you. Do you mean that they reported to you via Mr Forde?

MR PRIOR: That's correct, Commissioner. Yes.

COMMISSIONER: Sorry, Ms MacNicol.

MS MacNICOL: In terms of those industrial relations advisers who were on site, what were the responsibilities of those individuals to report matters to you?

MR PRIOR: Yes, so they had a generic role as an industrial relations adviser, which is, as has been mentioned here before, right of entries; it's managing right of entries. They also had other roles, which were to assist site supervision with reviewing sites, audits, subcontractor audits, helping with counselling and discipline, and issue resolution.

MS MacNICOL: And what were the matters that they were expected to bring to your attention?

MR PRIOR: So anything significant or out of the ordinary. So for argument's sake, if we had a right of entry and as the project progressed, they got more complicated and messier, if I can use that term, they would report to me as the right of entry was taking place, and then when it was complete, they'd give me an interim report, and then at the end of the day they'd give me a more detailed report of what had occurred.

MS MacNICOL: The emails that are reproduced in your bundle, are those the kind of reports that you would ordinarily receive in your role?

MR PRIOR: Yes. So they will be the reports at the end of the day once things had calmed down.

MS MacNICOL: Which matters could you deal with yourself, and which matters required escalation to senior management?

MR PRIOR: So a relatively minor matter, or for argument's sake, if on the entry one of the advisers said "what shall I do here" or "what's our call here", if I knew the answer, I'd give it straightaway. If it was more of a - something we would need external legal advice for, then I would escalate that through the system and have someone like my boss, Chris Butler, actually do that whilst I was managing the team on the site.

MS MacNICOL: I can imagine the role itself became quite busy as you say the project progressed and matters became messier?

MR PRIOR: Yes.

MS MacNICOL: I want to take you through -

COMMISSIONER: What is - sorry, Mr Butler is the shared services director of CPB. What does that mean?

MR PRIOR: Runs a number of functions: communication, human resources, recruitment, industrial relations, which is the (indistinct).

COMMISSIONER: So in a sense you had a functional reporting line to Mr Butler, but then Mr Large was the CBGU project director; he had operational responsibilities?

MR PRIOR: Yes, Commissioner. Ordinarily I would liaise with Mr Butler. Where there were more serious issues, probably both of them at the same time.

COMMISSIONER: Just remind me what CBGU means?

MR PRIOR: That's a good question. C for CPB, B for BAM, G for Ghella -

COMMISSIONER: G for?

MR PRIOR: Ghella, G-h-e-l-l-a, and U for UGL.

COMMISSIONER: I see.

MS MacNICOL: Given your tenure on the project, ranging from late 2019 to June 2025, you really did see the peaks and troughs of industrial action on the Cross River Rail. I want to now take you through a series of events that you address in paragraphs 84 to 121 of your statement. These are events that the Commission has heard evidence of, but perhaps just to pop them in the chronological order and in their proper context. Before getting to that, though, in your experience, does industrial action usually correspond to enterprise bargaining?

MR PRIOR: Yeah, very often, yes. Very often, there's an absolute link: either enterprise bargaining is taking place or it's about to occur in the near term.

MS MacNICOL: Perhaps starting and addressing the July 2023 to the July 2024 events, it started really with the scaffolding fall at Boggo Road on 25 July. What reports did you receive about activity at the Cross River Rail sites following that incident?

MR PRIOR: So on the 25th, on the Tuesday it was, I actually went down to the site to see what was going on, and -

COMMISSIONER: You went where, sorry?

MR PRIOR: I actually went down to the site, actually paid a visit to see what had occurred to the person who had the accident. That was on a Tuesday.

COMMISSIONER: The Boggo Road site?

MR PRIOR: Yes. Yes, Commissioner. That was on a Tuesday. On the Wednesday, we found all the sites were, to use the Commissioner's earlier word, blockaded. There were people or vehicles blocking the sites. And as the week progressed, the Wednesday, Thursday and Friday, the activity grew a little bit more militant, shall I say. My understanding was that what was - part of the reason it was occurring is that the CFMEU were trying to organise a meeting or a rally associated with that, and they were encouraging people to actually go on the rally. That was my recollection.

MS MacNICOL: Just talking about in the days that followed Boggo Road, looking at paragraphs 85 to 86 of your statement, you make reference to a Cross River Rail WhatsApp group. Based on your statement, you received photographs through that WhatsApp group. What was the purpose of that group?

MR PRIOR: The purpose of the WhatsApp group originally - and I think it started in 2019 - was basically where there were right of entries occurring, and it was set up by the construction director at the time. Where there were right of entries occurring, it would allow other sites to know what was going on, bearing in mind there was four major sites and two minor sites, so it was sharing information. So the same with the - what we see here on clause number 86. A lot of photos would circulate on that site, and as part of what I was doing, I'd actually have a look and see what was going on.

MS MacNICOL: And you're aware that there was other WhatsApp groups, but there was one particular one called the Unity WhatsApp group, and I have no expectation that you have any particular recollection of anything said in it, but you're aware that there were other WhatsApp group chats?

MR PRIOR: Yes, there were multiple WhatsApp groups.

MS MacNICOL: And for reference, Commissioner, the Unity WhatsApp group was tendered through Matthew Papworth as exhibit 15. But for today's purpose, the Cross River Rail WhatsApp group messages that are being referred to by Mr Prior, I will tender those, and they relate to the TSD. If I can tender the Cross River Rail WhatsApp group messages from 20 September 2019 to 8 August 2024 as TPP-54.

COMMISSIONER: There's a lot of them, aren't there? How many pages of WhatsApp messages are there?

MS MacNICOL: I apologise, Commissioner. There are 90.

COMMISSIONER: What did you say the dates were?

MS MacNICOL: 20 September 2019 to 8 August 2024.

COMMISSIONER: And how do we describe the group that received these messages?

MS MacNICOL: You can title it the Cross River Rail Notification WhatsApp Group.

COMMISSIONER: Are there any objections? 90 pages of Cross River Rail Notification WhatsApp Group messages from 20 September 2019 to 8 August 2024 will be exhibit TPP-54.

<EXHIBIT TPP-54 90 PAGES OF CROSS RIVER RAIL NOTIFICATION WHATSAPP GROUP MESSAGES FROM 20/9/2019 TO 8/8/2024

MS MacNICOL: So following the Boggo Road incident, and moving to the end of that week, which was the safety reset meeting occurring on 28 July, this was a meeting that you didn't attend; is that right?

MR PRIOR: Yes.

MS MacNICOL: And -

COMMISSIONER: Did or did not, sorry?

MS MacNICOL: Did not attend.

MR PRIOR: Sorry, I did not attend, Commissioner. My apologies.

MS MacNICOL: The safety reset meeting, that was the same day as the incident involving potential weapons at the Northern Portal site?

MR PRIOR: Yes.

MS MacNICOL: And paragraphs 88 to 93 of your statement concern Mr Peter Bennett's reports about the events at the Northern Portal. If I can ask about that, events at the Northern Portal, as you would be aware, commenced really from 26 July, went through to the 27th and then culminated on the 28th, where there was the reported weapons. When did the incident at the Northern Portal come to your attention?

MR PRIOR: So every site had a problem from the Wednesday, and I was dealing with six sites simultaneously. I only became aware of something that didn't appear right on the Friday, and how I first became alerted to it was Jamey Purvis, who was the site manager, I believe, had actually come from site - this is my recollection. He called in the Milton office where I was, and he was looking for the construction director, who wasn't there. And I advised that no, no they're all at a restart meeting in the city. And he wanted to go see him, go see him there. And he says there has been reports of weapons down on Northern Portal.

So I contacted my IR adviser, who was on the gate. He'd been on the gate the whole time, for three days, and he'd seen nothing, heard nothing. So at that stage I didn't think too much of it. Often sites - and I'm sure you'd be aware - often sites, particularly when they go through heavy industrial action, a lot of rumours spread incredibly quickly. They really do. And it's a matter of trying to find what's correct and what's false.

COMMISSIONER: So just explain that to me. Who came to - sorry, where were you working from?

MR PRIOR: Commissioner, I was working from the main project office in Milton, where I normally worked.

COMMISSIONER: And that's on Friday 28 July?

MR PRIOR: Yes. In fact, every day, but yeah, in particular on the Friday.

COMMISSIONER: And who came to see you on Friday 28 July 2023?

MR PRIOR: That was Jamey Purvis. I believe he has given evidence here before. He was the site manager, and he was seeking out the construction director.

COMMISSIONER: Who's the construction director?

MR PRIOR: That's Anthony Zervaas.

COMMISSIONER: And Mr - how do I spell his second name?

MR PRIOR: Yeah, Z-e-v-a-a-s, I believe.

COMMISSIONER: And in seeking out Mr Zervaas at the Milton head office, he ran into you?

MR PRIOR: Yes, that's correct.

COMMISSIONER: And what did he tell you?

MR PRIOR: He said, "Look, I need to see Anthony. There is a problem, I think, down at Northern Portal. There's talk of weapons down there." So I said two things. One is, "Anthony's not here. He's at the CPB building in the city, known as HQ." But I also made a phone call straightaway to my person who was on the gate, my industrial relations adviser -

COMMISSIONER: On the gate at the Northern Portal?

MR PRIOR: No, I called - he was at Northern Portal the whole time.

COMMISSIONER: Yes. Who was that?

MR PRIOR: That was Ben Loakes.

COMMISSIONER: And go on.

MR PRIOR: I called Mr Loakes to say, "I'm hearing from Jamey stories about weapons out there. Are you seeing anything out there at all?" The stories were about weapons, about people wearing balaclavas. He said, "I'm at the gate. There's nothing." He's literally at the gate, been there the whole time.

COMMISSIONER: Can you say that last bit again?

MR PRIOR: Sorry, Commissioner. So he said, "I am at the gate and I've been there the whole time."

COMMISSIONER: What did you understand he meant by "the whole time"?

MR PRIOR: So he'd been there the whole morning. So he'd been there early in the morning. He was typically an early riser, would get to work at 5.30 in the morning, and whatever time I called him - I suspect it's something like 9 o'clock - he was still there. Typically with these sorts of blockades on jobs, they start quite early in the morning, but you'll find the workforce won't cross it, normally, and the blockade will normally finish half past 8, 9 o'clock. That's quite normal.

COMMISSIONER: And did you cease any further investigation after speaking to Mr Ben Loakes?

MR PRIOR: I didn't, no. No.

COMMISSIONER: Did or did not?

MR PRIOR: I didn't, no. I did not.

COMMISSIONER: You did not further investigate?

MR PRIOR: Correct. Correct.

COMMISSIONER: Strikes me as strange, given how big the site would be, how many days this was going on, and it's unlikely that one person would be able to see everything.

MR PRIOR: The geographic size of the site with the gate across the site, and the group where they were on the site, you would actually see if anything untoward was going on. Just the way it was.

COMMISSIONER: Say that last bit again?

MR PRIOR: Just the way the site was set up, if there were things there, he would see it or he would hear about it, unless they were secreted somewhere on somebody. If they were secreted, I would suspect no one else would see anything either.

COMMISSIONER: But, you know, if someone was sexually harassed at a Christmas party, you'd interview 15 people. You'd have statements from everyone. Here we have someone making these sort of allegations, and you ring your local guy on the site and that's it.

MR PRIOR: At the time, Commissioner - and the fault may be mine - we had a lot going on at that time on that morning with every site blockaded. My understanding is that after the event, the person who had the complaint and others came to Milton and our HR people actually did an investigation, a follow-up investigation.

COMMISSIONER: Does HR report through a different line through to Mr - sorry - Mr Butler, the new -

MR PRIOR: Yes, so HR reports to Mr Butler at that time, as well as myself, yes.

COMMISSIONER: So there's no HR - there are no HR functionaries reporting to you?

MR PRIOR: No, no, not at all.

COMMISSIONER: This is probably a question for Mr Gisonda. Was Mr Butler the person who was mentioned by one of the supervisors last time as the one who allegedly said, "Don't call the police"? Did you have any discussions about this issue that you'd heard directly from Mr Purvis with Mr Butler?

MR PRIOR: So typically - particularly on this occasion, these days - I receive information from every site, and what I do is I - my methodology was to text Mr Butler the main points of what's going on at every site. I'll be honest, I haven't got a recollection, but I would suspect with Jamey Purvis coming to see me, I would have texted Mr Butler to say, "Here's what I'm hearing. Here's what's occurring."

COMMISSIONER: You don't have a recollection whether you texted him or not about what Mr Purvis told you?

MR PRIOR: Not specifically, Commissioner, no. No.

COMMISSIONER: Just strikes me as strange. It seems like a very significant issue that your boss might have wanted to know about.

MR PRIOR: I suspect I did, but I can't put my hand on my heart and say I did.

MS MacNICOL: Moving on to paragraph 100, so the Northern Portal events have occurred. You state at paragraph 100 that the TSD and the RIS agreements had a nominal expiry of 15 October 2023, and as a result, bargaining commenced in December of 2023 until March of 2024. Around the time the agreements expired, did that correspond to the 14 CFMEU-aligned health and safety representatives coming onto site?

MR PRIOR: So the - firstly, we had the incident on the 25th, I think it is, of July. This is right here: I write here the expiry date was 15 October. I think the CFMEU delegates started coming in relatively quickly after July. So I recall August, September-ish. Some came on quicker than others.

MS MacNICOL: So the bargaining commenced around December and until March 2024. By March, what stage had the negotiations reached, if you can recall?

MR PRIOR: They weren't going very successfully.

MS MacNICOL: Which leads me into paragraph 101: following the unsuccessful bargaining, you were aware that the CFMEU filed applications for protected action ballot orders. And perhaps this is a - it's a trite question, but why do you think the CFMEU wanted to partake in industrial action after a period of unsuccessful bargaining?

MR PRIOR: I suspect they - the bargaining wasn't going where they wanted it to go to, and so they decided that this would increase the pressure on the project.

MS MacNICOL: And without going into too much detail, you became aware that some employees were being pressured how to vote in the ballot, and CPB on 12 April 2024 was granted an interim injunction. Following that injunction, at paragraphs 109 to 110, after a hearing on 19 April, the interlocutory application was dismissed and the results of the ballot were published, which then resulted in

industrial action. At paragraph 110, you say that there were 152 employees of CPB, and of course that number would ebb and flow as the project progressed, but in this case, 152 employees of CPB who were eligible to participate in protected industrial action, compared to the 1700-head workforce. Can you tell the Commission, what does that actually mean that those 152 individuals are eligible to do?

MR PRIOR: So they can do a variety of things, from an hour's stoppage, several hours' stoppage to a day's stoppage to indefinite stoppages. So it's a pretty wide span of things that they had elected to do.

MS MacNICOL: You received notice that the CFMEU did intend to take industrial action from 30 April 2024 to 2 May. The CFMEU ultimately did take that industrial action, which the Commission has heard a bit about. This is of course when the Dutton Park brawl occurred, as well as other reports of instances around the project sites. Immediately after this period of industrial action, which ended on 2 May - and this is looking now at paragraph 120 of your statement - did bargaining recommence?

MR PRIOR: Yes. Yes.

MS MacNICOL: So effectively, the further bargaining commenced after the industrial action that gave rise to Dutton Park. So in some respects, would you agree that the industrial action was successful in recommencing bargaining?

MR PRIOR: Yes. Yes.

MS MacNICOL: Between 2 May 2024 to July 2024, there was, as you say at paragraph 120, effectively a truce in the industrial action. How did that truce come to an end?

MR PRIOR: It came, I guess, with a clause 121. In the end, we received correspondence that the CFMEU would re-engage in protected industrial action. So clearly they weren't getting the results they wanted, and so they decided to go for protected action again.

MS MacNICOL: And the Commission has heard of the second period of industrial action in that July period. Specifically, during that July period of industrial action, the project experienced significant reduction in subcontractor attendance; is that correct?

MR PRIOR: Yes, that's correct.

MS MacNICOL: In response to that, CPB wrote to subcontractors about their workers' non-attendance and their obligations to carry on work. Do you recall this?

MR PRIOR: I do recall that.

MS MacNICOL: One of those subcontractors was Matrix, and the project received a letter from Matrix dated 23 July 2024 in response to CPB's correspondence. You may not specifically recall this, but you have had a chance to review it. Mr Operator, if we could bring up quickly - it's marked as TPP-56. Mr Prior, do you recognise this letter received from Matrix?

MR PRIOR: Yes, I do.

MS MacNICOL: And essentially Matrix reports that it apologises for its employees' non-attendance. It reported that several employees had told Matrix that they had been bullied or intimidated into joining the CFMEU, and it also reported that those employees had received emails and text messages from the CFMEU directly - sorry, directing them not to attend work. Commissioner, I tender the letter from Matrix dated 23 July 2024 addressed to Mr Paul Elliott.

COMMISSIONER: Are there any objections?

MS MacNICOL: And if could be marked as TPP-56.

COMMISSIONER: Are you going to come back to 54 and 55, are you?

MS MacNICOL: I'm coming back now to 55 now, Commissioner.

COMMISSIONER: 55, sorry. Letter from Matrix Unlimited to Mr Paul Elliott, 23 July 2024, will be exhibit TPP-56.

<EXHIBIT TPP-56 LETTER FROM MATRIX UNLIMITED TO MR PAUL ELLIOTT, 23/7/2024

MS MacNICOL: Before moving on to the last exhibit, noting the issues with subcontractors not being able to access sites during this July 2024 period, what steps did management take to address concerns about workers being able to attend site safely?

MR PRIOR: So in terms - excuse me. In terms of the project, we advised sites that - rather, the contractors that the sites were actually open. The problem was, and it's the obvious problem, that people feel intimidated, feel frightened and feel scared to actually come through the gate, and they felt - many of them felt like they would be - the term has been used before here - blacklisted, so they wouldn't get further work. So that's a really hard problem to actually resolve. People feel that way.

MS MacNICOL: And lastly, although your responsibilities principally concerned the TSD works, did you also receive reports about industrial relations concerning the RIS work?

MR PRIOR: Occasionally, yes. Mr Papworth and myself used to speak on a regular basis.

MS MacNICOL: And Mr Papworth: he was the HR manager for Unity Alliance?

MR PRIOR: Yes.

MS MacNICOL: In May of 2024, you were copied into correspondence concerning Mr Dean Mattas' attendance at Mayne Yard. A copy of that correspondence has been provided to you. Have you had a chance to review that?

MR PRIOR: I have, yes.

MS MacNICOL: And Mr Operator, if we could bring up - it's marked as TPP-55. The email itself, it reports that Mr Mattas was on site at Mayne Yard and was refusing to follow directions concerning rail compliance. Did you or - were you subsequently aware, following that correspondence that Mr Mattas did not hold a safety access - sorry, a safely access the rail corridor card, working in the electrified territory card or a rail industrial worker card?

MR PRIOR: Subsequently, yes, I was made aware, yes.

MS MacNICOL: Commissioner, I'll tender that correspondence. Perhaps it can be titled Email from Mr Papworth Dated 8 May 2024.

COMMISSIONER: What about the text messages that are attached on the other side?

MS MacNICOL: And including the screenshots reproduced in the email.

COMMISSIONER: Are there any objections? Email from Matthew Papworth to Grace Dunn 16 July 2024 incorporating screenshots will be exhibit TPP-55.

<EXHIBIT TPP-55 EMAIL FROM MATTHEW PAPWORTH TO GRACE DUNN 16/7/2024 INCORPORATING SCREENSHOTS

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

COMMISSIONER: Mr Prior, you're very experienced: 50 years in the construction industry and 30 years in industrial relations.

MR PRIOR: Yes, Commissioner.

COMMISSIONER: And you currently hold a very senior position with Webuild?

MR PRIOR: Yes, Commissioner.

COMMISSIONER: And is that role in effect the same role as with CPB, that is, head of industrial relations, reporting to someone who reports to the CEO?

MR PRIOR: Yes, Commissioner.

COMMISSIONER: And do I take it that you had about six years as the senior industrial relations functionary on the Cross River Rail project?

MR PRIOR: Yes.

COMMISSIONER: And can you give me, this Commission, any insight as to how your experiences in those six years compared with the other sites you worked over the previous 30 years or over the previous 24 years in industrial relations or indeed over the last five decades in the construction industry?

MR PRIOR: Commissioner, it was wildly different. A lot of construction projects, you get periods of industrial action. They're normally short and short-lived. Sometimes they're a little bit more volatile, but the Cross River Rail was consistent and ongoing. I think I might have mentioned before, some days we had six sites with unlawful entries happening simultaneously. I've never heard of that anywhere else, ever. So it was a very, very volatile site. A lot of the industrial action was clearly very well orchestrated, because it happened too well. It was just too well done. You don't normally see that at all. It's very rare.

COMMISSIONER: You say it was consistent and ongoing. Do you have any insight as to why it was so consistent and so ongoing?

MR PRIOR: I suspect it was probably to do with the original labour agreement the project got with the AWU.

COMMISSIONER: What do you mean by that?

MR PRIOR: I would suspect that the - in particular, the CFMEU weren't very happy with that. That's my opinion.

COMMISSIONER: But they eventually got their way, did they not, and achieved an EBA with CPB?

MR PRIOR: CPB achieved an EA, but it wasn't necessarily a CFMEU one.

COMMISSIONER: Say that last bit again?

MR PRIOR: It wasn't necessarily a CFMEU one.

COMMISSIONER: It wasn't necessarily a CFMEU one?

MR PRIOR: Well, the CFMEU were after a CFMEU-specific agreement.

COMMISSIONER: Oh, I see.

MR PRIOR: But it's not what the workforce eventually voted up.

COMMISSIONER: I assumed they did. How did it differ from what the CFMEU wanted?

MR PRIOR: Yeah, it was quite different, where we ended up, yes.

COMMISSIONER: Quite different?

MR PRIOR: It was quite different. The project had three separate votes. Obviously the first two were unsuccessful and the third was successful. But it wasn't the model that the CFMEU would have wanted.

COMMISSIONER: And in what way, in a broad way, did the model that was voted up differ from the model the CFMEU wanted?

MR PRIOR: Not so much financially. It's a lot of the terms and conditions within the agreement.

COMMISSIONER: And what sort of terms and conditions did they not achieve?

MR PRIOR: So types of terms and conditions that you would ordinarily get in a CFMEU-specific agreement is things like the ability for the CFMEU to approve or not approve weekend overtime. Now, from a construction perspective, that's not a good place to be in terms of meeting schedule.

COMMISSIONER: And that was not achieved?

MR PRIOR: Sorry?

COMMISSIONER: That was not achieved?

MR PRIOR: No, it wasn't achieved, no. No.

COMMISSIONER: And what else?

MR PRIOR: The right of organisers to attend or be part of safety issues - when I say "safety issues", safety resolution every time, okay. Now we have teams that actually do that on site anyway. That's their role; that's their job.

COMMISSIONER: You have people on site who already do that?

MR PRIOR: So you have construction management, you have safety management, who actually get involved with investigating safety issues and the resolution of those issues.

COMMISSIONER: And what else did they not achieve?

MR PRIOR: Right now, Commissioner, I couldn't actually recall.

COMMISSIONER: You can't recall?

MR PRIOR: No.

COMMISSIONER: What were the names, Ms MacNicol, of the three supervisors who came to give evidence? Supervisors might be the right word. But Mr Cullen, Mr Rasmussen, and who else?

MS MacNICOL: Bennett.

COMMISSIONER: Mr Bennett. Is it right to call them supervisors?

MS MacNICOL: Yes. I could double-check their proper titles, but yes, supervisors.

COMMISSIONER: Did you have a chance to see any of the evidence Mr Cullen, Mr Rasmussen and Mr Bennett gave, Mr Prior?

MR PRIOR: Yes, Commissioner.

COMMISSIONER: Yes. And do you have anything to say about that?

MR PRIOR: Only that that's their - that's what they believe is right. I wasn't there to see things. All I can comment on is what I'm told or what I - what I receive.

COMMISSIONER: The strong inference from their evidence was after reporting what they'd reported and because they had loyally and faithfully performed their job at the Northern Portal, they were in effect banished from that job and required to work independently of others as a form of punishment or sacrifice to the CFMEU as part of the resolution of the dispute. That was my impression of their evidence.

MR PRIOR: Yeah - excuse me. Certainly I think Mr Rasmussen and Mr Bennett were relocated to the Milton office, doing things - in fact, they sat probably 10, 12 metres away from me in the office, and worked away. I - I - honestly, I don't - I haven't heard or I didn't think there was any banishment taking place, but perhaps they saw it that way.

COMMISSIONER: Is that your responsibility as someone in the industrial relations stream reporting up to Mr Butler, or is it the responsibility of someone in the human resources stream reporting up to him?

MR PRIOR: It's more of a human resources thing, Commissioner. Human resources is, in our terms, white collar, whereas industrial relations, what I do, is blue collar. It's the workforce; it's the workers on the tools.

COMMISSIONER: So you don't - you can't say whether or not they were in fact punished and victimised as part of the resolution of the dispute with the CFMEU; you simply say that that is their perspective?

MR PRIOR: I - yes. I haven't got a view either way, other than the view of when they were in the Milton office and I was in the Milton office, I'd see them every day, have a chat most days, talk most days.

COMMISSIONER: Did you have anything to do with the relocation of them to the Milton office?

MR PRIOR: No.

COMMISSIONER: Are there any applications to cross-examine Mr Prior? Mr Prior, I think we held you over from last time. I'm sorry we couldn't get you on last time and you've had to turn up here twice, but thank you for your evidence, and you're excused.

MR PRIOR: Thank you, Commissioner.

<THE WITNESS WAS RELEASED

MS MacNICOL: Commissioner, the next witness is Phillip James Robinson.

COMMISSIONER: On what date do you want to call him?

MS MacNICOL: Preferably today.

COMMISSIONER: Well, I think you've left it a bit late to call him, haven't you?

MS MacNICOL: Mr Robinson is not located in Queensland, and he's travelled today to be here. I will be all but five minutes.

COMMISSIONER: Very well. Is Mr Robinson in the hearing room?

MS MacNICOL: Yes.

<PHILLIP JAMES ROBINSON, AFFIRMED

<EXAMINATION BY MS MacNICOL

COMMISSIONER: Please have a seat, Mr Robinson.

MS MacNICOL: Mr Robinson, have you provided a statement to the Commission dated 7 October 2026, which is eight pages, 69 paragraphs and two annexures?

MR ROBINSON: Yes.

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

MR ROBINSON: Yes.

MS MacNICOL: Commissioner, I tender the statement and the accompanying annexures.

COMMISSIONER: Are there any objections? Witness statement of Phillip James Robinson, 7 October 2026, eight pages, 69 paragraphs with two annexures, will be PJR-1.

<EXHIBIT PJR-1 WITNESS STATEMENT OF PHILLIP JAMES ROBINSON, 7/10/2026, EIGHT PAGES, 69 PARAGRAPHS WITH TWO ANNEXURES

MS MacNICOL: Mr Robinson, based on your statement, the Commission understands that you were the senior general superintendent on the Cross River Rail project, and you came into that role with approximately 40 years of experience; is that right?

MR ROBINSON: Yes.

MS MacNICOL: Having that substantial experience working on major construction projects, it's correct that it was not only in Queensland, but you also worked on major construction in Victoria?

MR ROBINSON: Yes.

MS MacNICOL: You state at paragraph 65 of your statement that during the later period of the Cross River Rail project, you observed a change in the style of CFMEU activity, which reminded you of the conduct you had previously encountered in Victoria. What was it - what can you tell the Commission about that?

MR ROBINSON: It was the change in the - excuse me - expectation from the CFMEU that they had clearly decided they wanted to exercise a higher level of control over the Cross River Rail project. I believe that in the lead-up to that, prior to the Boggo Road incident, we were able to challenge and maintain a level of compliance. We never took union-appointed delegates or HSRs. They were all - the health and safety reps were all elected from the workforces on site, and that never sat well with them, clearly, and they were waiting for an opportunity to increase their ability to influence and basically control the precincts, the projects.

MS MacNICOL: You mention in your statement that you started to see a change relating to Dean Mattas and Dean Rielly when they started to come on sites more. Can you explain to the Commission what you mean by this?

MR ROBINSON: To me, having those two guys there seemed to be a genuine shift in their efforts to increase their influence over the site.

COMMISSIONER: What do you mean by that, Mr Robinson?

MR ROBINSON: That was - that coincided, Commissioner, with the appointment - or their HSRs being appointed. There was always an expectation from the union that they wanted their HSRs on site, in offices on site, which we never, ever provided. By definition, any of the HSRs we'd had prior to that were all working people that were all part of the work teams. And in this instance, they become non-working. Their objective was primarily to disrupt and in some circumstances sabotage the sites.

COMMISSIONER: And what's the significance of Mr Dean Mattas and Dean Rielly replacing Andrew Blakeley and Beau Seiffert as the organisers?

MR ROBINSON: Well, when Mattas and Rielly, when they become more evident and visible around the precincts, Blakeley and Seiffert, they disappeared. We never seen them.

COMMISSIONER: And why was that, in your view?

MR ROBINSON: Well, I suspect it was because their alignment with senior management in the CFMEU was different. The control of the union seemed to shift, particularly to Ingham, and when Ingham sort of seemed to be running the show, that's when Rielly - sorry, Rielly and Mattas - that's when their positions seemed to be elevated. One had the north side, one had the south side, and then the HSRs that were brought in must have been picked by them when we decided to go down this path of attempting to work with the union.

MS MacNICOL: At the time the HSRs came onto site, you say at paragraph 43 that in your opinion, CPB effectively lost control of aspects of its site. Can you tell the Commission just a bit about that?

MR ROBINSON: I was in Victoria, visiting my just-born grandson, and I started getting phone calls from the site managers, general superintendents and supervisors about what the hell was going on, and that was when the unions had basically been able to bring in their people, and they basically took over from pre-start onwards on the sites, and the supervisors were forced to stay pretty much away from the running the site in those initial stages. And they were all ringing me wanting to know what they should do, and my response to that was, "Cool your jets. Let management bloody understand where they're going and what they're trying to do, and we'll work from there."

And then I think probably - even that day, I got a phone call from the MD of CPB that wanted to know why all his sites were stopped work. And I didn't know, of

course, because - well, I knew, but I wasn't there to do anything about it. He didn't know I was away. So he asked me to get back up there and work with the IR team and the supervision team to work out how we were going to get the site back to work.

COMMISSIONER: And how did you?

MR ROBINSON: Sorry?

COMMISSIONER: How did you get the site back to work?

MR ROBINSON: That was part of what we've just heard from Terry and others, I guess, but the process became - we realised that the path that we'd chosen to go down with the HSRs and delegates on the site was just crippling the site. Our productivity disappeared. We were getting nothing done. So that's when we decided that we would have to go down the path of attempting - or of getting an agreement with our workforce so that again we could get back some semblance of control. It was always very difficult, because most of the subcontractors that we used on site had CFMEU pattern agreements, which meant they had to comply with that. It was always going to be difficult, but we got there in the end.

COMMISSIONER: You're very experienced: 40 years in the construction industry. What did you think of the step that was taken after the incident at Boggo Road to, in effect, allow the HSRs appointed by what you've now described as the Ingham faction within the CFMEU?

MR ROBINSON: There was some very robust discussion, Commissioner, between a few of us in the senior management and senior company's management about which way we should go, and it ended up that there was a view that we should - because the project, at that stage, was going from the civil construction stage probably into a more building phase, and it's traditionally more CFMEU-orientated because of the subcontractors you need to use. So the consensus ended up being that we would give that process a go, where we would try and form a stronger relationship, and there was absolute commitment, according to our senior management, given from the union that they were going to work with us to do this job. And in hindsight, where we're all experts, that completely fell on its arse - sorry, it completely didn't work.

COMMISSIONER: Leaving aside hindsight, at the time of the discussion, this robust discussion, what was your perspective?

MR ROBINSON: That we shouldn't go down that path, based on similar-type experiences over the years.

COMMISSIONER: When you say "similar experiences", what do you mean by that?

MR ROBINSON: I'd spent quite a bit of time in Victoria on some fairly volatile projects, and it was like Queensland had taken some lessons from the Victorian playbook.

COMMISSIONER: And when you say Queensland, do you mean Mr Ingham or Mr Ravbar or someone else?

MR ROBINSON: Sorry?

COMMISSIONER: When you say "Queensland had taken some lessons from the Victorian playbook", who within the Queensland CFMEU do you think had taken those lessons?

MR ROBINSON: Oh, Ingham and his team.

COMMISSIONER: How many people were in Ingham's team?

MR ROBINSON: Beg your pardon?

COMMISSIONER: How many people were associated with Mr Ingham within the organisation?

MR ROBINSON: Oh, only needed a few of the key players, because they are so influential across their membership. Like, it's all how they have an uncanny ability to intimidate and influence their membership. We've seen that throughout that process when we were - when we were voting on the new agreement.

COMMISSIONER: What do you mean by an uncanny ability to do so?

MR ROBINSON: Well, I think uncanny is the word. It's - they use their position to control their membership, to do whatever they need them to do. And, you know, so Victoria has operated like that forever, and Queensland never used to be like that, from what I could understand. Same with New South Wales. They were always strong in their views, but it's probably been said before: in a lot of places you could sit down, work out a way forward. And up here, there was never going to be a way forward unless CPB signed the pattern agreement.

COMMISSIONER: You've had experience over 40 years across the whole of the East Coast, in New South Wales as well?

MR ROBINSON: Pretty much, yeah.

COMMISSIONER: How do you think this control that you say Mr Ingham's faction of the CFMEU had over its membership was developed?

MR ROBINSON: How the control - how they influenced the membership?

COMMISSIONER: How'd they do it, yeah.

MR ROBINSON: They - it's all intimidation. Like, you're on board, and they have always been able to get people, one way or another, and it grows within their organisation. So they have a few of their ardent supporters with all the same views who exert that expectation out onto people that might be on the fence or have a completely opposite view, and over the years we've seen on different sites where people go to a mass meeting saying' "There's no way I'm going to vote for that," and they always end up voting for it because once they get in there, they're too scared not to.

COMMISSIONER: And what are they scared of?

MR ROBINSON: Never getting a job again on a construction site. And that's a big thing. Construction people have always earned great money, always had good work conditions, especially in tier 1, and as - if you have somebody that says to you, "You're never going to set foot on another site in Brisbane or the Gold Coast," you're going to reconsider how you vote.

COMMISSIONER: How do you fix this sort of culture once it's taken root?

MR ROBINSON: In some instances, we've had success when we have a core group of people and we get to the stage where we need to finish, and that core group of people will do everything they can in their power to support the company's position. But we're talking about guys - every level of the labouring group, right up through the supervision and support groups. So throughout this process, of course, we've got supervisors that - they've had a horrendous bloody couple of years on Cross River Rail, which was - primarily my function was there to try and support those people. Like, I didn't come here to run the job; I come here to challenge - initially, challenge WorkSafe or whatever they're called here, because we thought it was unreasonable what they were attempting to do, and - which I did. I was asked to come here for three months and try and provide some pushback and get some reasonable outcomes there, and that three months turned into five years, so -

COMMISSIONER: And did you see Mr Rasmussen and Mr Cullen and Mr Bennett give evidence in this Commission?

MR ROBINSON: No, no.

COMMISSIONER: Did you hear what they said?

MR ROBINSON: No.

COMMISSIONER: Have you heard from them previously about -

MR ROBINSON: Only briefly what I just heard then, Commissioner, yeah, that they thought - they believed they got transferred. Often there might be strategic calls

made, but the fact there's no way, knowing what I know about the people that have managed this project, that they would be intimidated by the union into shifting those guys. Those guys might have been - you know, at that particular time of the project, there was a genuine shift in the - in the project itself, in its moving from civil construction into more of the building and finishing. So it's not unusual at that time. If you looked across the entirety of the staff movements, there'd be a huge number of staff movements in and around that time, which had nothing to do with the union telling us we had to shift people.

COMMISSIONER: Just getting back to the answer to my previous question, when you're saying you have to move forward with a core group, are you saying that you've got to go through some targeted redundancies when you have this sort of culture, get rid of the bad eggs and try and finish the group with a core group of loyal employees?

MR ROBINSON: No, that - that does take place, and that usually takes place as part of my role, identifying that, what we need to do, where we think we can go. But again, we have to have skills, certain skill sets, and you can't shoot yourself in the foot because there's somebody you don't like if they can provide that skill set. It's just how - the trick for us is how you get them to deliver that skill set if someone else is trying to get them not to.

COMMISSIONER: In the robust discussion that you had in terms of changing tack to allow Mr Ingham's faction to appoint these HSRs to Cross River Rail, you explained your view. When that position was later changed, what did you say to the senior management?

MR ROBINSON: Nothing, because we've all been through this before, and it's not about "I told you so". There's no "I told you so". Our job is to every day work out how we can finish the project. So once management makes a decision, if I don't like that, I - I just gotta suck it up and get on board with what we have to do, and we did everything we could to try and make that work. But in that instance it was impossible, because at different - Boggo Road in particular, clearly the organisers had lost control of their own HSRs. Like, it's a common thing that you see when people are given authority that they don't have the capacity to manage, and that was quite evident in a couple of those places.

COMMISSIONER: So Mr Rielly and Mr Mattas had lost control of the HSRs?

MR ROBINSON: Absolutely.

COMMISSIONER: And which HSRs are you talking about?

MR ROBINSON: Beg your pardon?

COMMISSIONER: Which ones are you talking about? Which health and safety reps are you talking about they'd lost control of?

MR ROBINSON: Oh, the guys at Boggo Road in particular. I just can't remember their names. Because, like, I - I'm sorry, Commissioner, but I sort of sit over basically getting around trying to help people get through what - each one of these situations, and the detail of those guys, their names, I can't remember them, but that wouldn't be hard to find.

COMMISSIONER: And you say that's common, do you, that it happens - an organiser might bring on someone as an aggressive delegate but then lose control?

MR ROBINSON: Yeah. I think it was evident to different degrees across the whole lot of the precincts or the sites, yeah.

COMMISSIONER: And from the organisers' perspective, what do they do when they've got a delegate or HSR they've appointed and they lose control of them?

MR ROBINSON: Well, I don't know what they do. I don't know what they do. But it was pretty clear, like, some of those situations.

COMMISSIONER: I rather criticised you for calling this witness so late, then I've taken up all this time, Ms MacNicol, and I -

MR ROBINSON: If I have to come back, I'll have to come back, Commissioner. It's pretty important, all this stuff. As long as somebody pays me.

MS MacNICOL: Commissioner, I have no further questions.

COMMISSIONER: Well, I think not at this stage, Mr Robinson. Maybe we'll have you back at some stage if things change. Are there any applications to cross-examine Mr Robinson?

MS MacNICOL: No.

COMMISSIONER: No. Thank you very much for your evidence. Sorry to keep you so long today, and you're excused, Mr Robinson.

MR ROBINSON: Thank you.

<THE WITNESS WAS RELEASED

MR GISONDA: Commissioner, you'll be delighted to know that your 4 o'clock meeting has been pushed back to enable us to call one final witness, who, with your indulgence, I'd like to call and will be no more than five minutes.

COMMISSIONER: Until I start asking questions.

MR GISONDA: Until you start asking questions. Sorry, I'll be no more than five minutes.

COMMISSIONER: All right. Who's that?

MR GISONDA: I call finally Mr Jonathan Bekkers.

COMMISSIONER: Is Mr Bekkers in the hearing room? Mr Bekkers, can you come forward into the witness box.

<JONATHAN LAWRENCE BEKKERS, AFFIRMED
<EXAMINATION BY MR GISONDA

COMMISSIONER: Please take a seat, Mr Bekkers.

MR GISONDA: Thank you, Mr Bekkers. Can I ask you to confirm that on 22 October 2026 you affirmed a witness statement in answer to a notice from this Commission that is 13 pages long and has 129 paragraphs?

MR BEKKERS: That's correct.

MR GISONDA: And accompanying that statement is a bundle of documents that is 208 pages long and contains 26 annexures?

MR BEKKERS: That's also correct.

MR GISONDA: And have you had an opportunity to read that statement since you swore it a few days ago?

MR BEKKERS: I have, yes.

MR GISONDA: And it's true and correct?

MR BEKKERS: It is true and correct.

MR GISONDA: I tender the statement, Commissioner.

COMMISSIONER: Are there any objections? Witness statement of Jonathan Lawrence Bekkers, 22 October 2026, 13 pages, 129 paragraphs, 26 annexures, will be exhibit JLB-1.

<EXHIBIT JLB-1 WITNESS STATEMENT OF JONATHAN LAWRENCE BEKKERS, 22/10/2026, 13 PAGES, 129 PARAGRAPHS, 26 ANNEXURES

MR GISONDA: Now, Mr Bekkers, you worked on the Cross River Rail project from 2020 to 2022; is that right?

MR BEKKERS: That is right.

MR GISONDA: And you were the senior IR adviser at the time?

MR BEKKERS: I believe I commenced on that job as an IR adviser but finished as a senior IR adviser.

COMMISSIONER: So you were the same level as Ms Wood?

MR BEKKERS: I believe Ms Wood was the IR lead when she finished, but at the time, she was a senior IR adviser on that project.

COMMISSIONER: So it was you and Ms Wood reporting to Mr Forde, who reported to Mr Prior?

MR BEKKERS: We did have a crossover, Commissioner, at a time where we both reported to Nick Forde. That's correct.

COMMISSIONER: You both -

MR BEKKERS: Yep.

COMMISSIONER: Okay. But at times, you didn't report to Mr Forde; is that what you're saying?

MR BEKKERS: I was on the project before Mr Forde. So he commenced approximately a year after me, at which time I began reporting to him.

COMMISSIONER: Thank you.

MR GISONDA: And a few matters, Mr Bekkers. You say that during your time on the project, you were involved in over 200 union visits to site from the respective unions that you interacted with. That's at paragraph 15 of your statement on page 2. And at paragraph 16, you say you found the AWU officials to be respectful in their dealings with you, and by contrast, the CFMEU's officials' conduct was belligerent and obstinate. Is that your recollection of how those two respective unions behaved when they sought to enter site?

MR BEKKERS: It is, yes.

MR GISONDA: And once on site, at paragraph 17, the union would, you say, act in an aggressive and discourteous manner and would do things such as refusing to show permits, refusing to be escorted around site, and generally behaving in an antisocial manner. Is that correct?

MR BEKKERS: That is correct.

MR GISONDA: And I just wanted to highlight a couple of things in your annexure - the bundle of documents that contains your annexures, sorry. At page 6 of the bundle to your statement - sorry, page 6 of the bundle, you've got a record of a right of entry, which you've filled out, from July of 2020. And does that record, does it, a conversation that you had with Paul Cradden? Is that how we read this document?

MR BEKKERS: Yeah, that looks like a file note or record of entry that I've taken after that.

MR GISONDA: And Paul Cradden was an official with the AWU; is that right?

MR BEKKERS: Yes, he was.

MR GISONDA: And he reported to you, did he, that he had had a meeting with his members on site and they had raised the point that his members were frustrated with the CFMEU always coming on site. Do you remember him reporting that to you?

MR BEKKERS: I do. I remember this feedback being a regular feature from AWU visits.

MR GISONDA: Right, so this wasn't a once-off. The regular feature was that the AWU members were frustrated with the constant enterings into site by the CFMEU. And was it the case that the CFMEU - the feedback you were getting was that the CFMEU officials would try and talk to the AWU members and generally harass them? Is that the feedback that you were getting?

MR BEKKERS: Certainly more so on the tunnel side of the project. So as you would have heard from other witnesses, the project was split into stations and tunnels, and the tunnel side was a larger direct workforce, more AWU-aligned generally. So that feedback was fairly consistent with the tunnel workforce as opposed to the surface stations workforce.

MR GISONDA: And if we look at page 8 of the bundle, there's at the bottom of that page a further record of a conversation between you and Paul Cradden. And do you see there that Paul advises you that Justin Durham had been elected as the employee representative following a vote and that you congratulated Justin. That's a reference, is it, to Mr Durham being elected to be an AWU delegate on site?

MR BEKKERS: Yep, that's correct.

MR GISONDA: And so as far as you were aware, AWU delegates were being subjected to votes by the workforce and being appointed in an orthodox fashion. Is that fair?

MR BEKKERS: Yeah, there certainly was. And to my earlier point, on the tunnel side, that was regularly occurring, that process of delegate being voted up for the AWU.

MR GISONDA: Now, you were involved in two pieces of litigation which we've heard evidence about already, one being the case before Judge Egan, which I've taken the Commission to, and the other one was the barbecue case. Is that right? You had to give an affidavit for the barbecue case as well?

MR BEKKERS: I do recall giving an affidavit for that, yes.

MR GISONDA: So you give evidence about those instances. You've also attached to your statement a number of file notes which set out events that happened whilst you were on site and interacting with union officials. And then just a couple of further things to ask you is that you give evidence at page 96 to 102 of dealings that you had with a Mr Davis and a Mr Vink, and at any point did you receive any threats or statements that could be perceived as threats from either Mr Davis or Mr Vink?

MR BEKKERS: Yeah, I remember at that time, and entries that they were exercising or attempting to exercise under 81(3), they were coming on site, and I do recall I guess comments made that would be categorised as threats. There was a comment made to me around a bullet being - or my name being on a bullet, something to that effect. I also recall a comment made - Mr Vink - Mr Davis, rather, made to a supervisor about meeting his maker. I can't remember the context of that comment, but I suppose comments to that nature were being made at that time.

COMMISSIONER: What was - sorry, you go.

MR GISONDA: No, sorry, Commissioner.

COMMISSIONER: What was the last thing you said? You said something about a supervisor?

MR BEKKERS: Yes, Commissioner. I recall a comment that Mr Davis made to a supervisor about - I believe it was to the effect of meeting his maker or answering to his maker or something to that effect.

COMMISSIONER: About you?

MR BEKKERS: Not about me. It was directed to the supervisor, from my recollection.

COMMISSIONER: But the comment that Mr Davis made to you was that he had a bullet with your name on it.

MR BEKKERS: Something to that effect. It was, "There was a bullet with your name on it," or that's my recollection of it.

MR GISONDA: And do you say that those sorts of comments that you've just described were consistent with the other behaviours that you've talked about, which was the general antisocial and aggressive conduct of the union officials when they came on site?

MR BEKKERS: That was probably slightly more elevated than the traditional entries we were getting under 117. Those were probably slightly more hostile, but it's consistent with the behaviour that was happening at the time.

MR GISONDA: And what was your reaction or your emotion when you heard or received some of these more hostile or aggressive statements being made?

MR BEKKERS: It was certainly uncomfortable. It - it was unnerving. I think that was the intent with making those comments, to make me feel uncomfortable, to intimidate me. Yeah, it was - it was - yeah, it was certainly uncomfortable to receive those comments.

MR GISONDA: I have no further questions, Commissioner, for this witness.

COMMISSIONER: Mr Bekkers, were you in the hearing room when Mr Robinson gave evidence?

MR BEKKERS: I was.

COMMISSIONER: Did you hear him talk about his perception that Mr Mattas and Mr Rielly were associated with the Ingham faction within the CFMEU?

MR BEKKERS: I do recall that, yes.

COMMISSIONER: Do you have any comment to make about that?

MR BEKKERS: Not necessarily about those two individuals. I am aware that there were factional divisions within the CFMEU. We often heard comments around that, you know, so-and-so organiser was affiliated with Ravbar or so-and-so was Ingham. So I'm aware that there were factional allegiances within that organisation. Whether those two were aligned with Ingham, I'm not entirely sure.

COMMISSIONER: And he also said that Mr Mattas and Mr Rielly lost control of the HSRs, particularly at Boggo Road. Do you have anything to say about that?

MR BEKKERS: I had left the project at that time, so I - I finished on Cross River Rail around September '22.

COMMISSIONER: I see.

MR BEKKERS: I believe the incident at Boggo Road was the middle of '23, which HSRs followed on.

MR GISONDA: No further questions, Commissioner.

COMMISSIONER: Are there any applications to cross-examine Mr Bekkers? No. Mr Bekkers, sorry for making you wait so long to give your evidence. Thank you for your evidence. You're excused.

<THE WITNESS WAS RELEASED

MR GISONDA: Can I just tender a letter before we depart? Please?

COMMISSIONER: Can I get a copy of it?

MR GISONDA: This is a letter, Commissioner, from the Heinrich group of companies that was sent to the CFMEU, attention to Mr Ingham, on 25 July 2023. This was after the Boggo Road incident, and you recall that the safety reset meeting was on 28 July. This letter is a request to the CFMEU formally requesting that the CFMEU approve Heinrich being allowed to go onto site on 29 July to perform certain works.

COMMISSIONER: Are there any objections?

MR GISONDA: That can be marked as CRR-22.

COMMISSIONER: Letter from Taylor Heinrich, Heinrich Constructions Pty Ltd, to Mr Jade Ingham 25 July 2023 will be exhibit CRR-22.

<EXHIBIT CRR-22 LETTER FROM TAYLOR HEINRICH, HEINRICH CONSTRUCTIONS PTY LTD, TO MR JADE INGHAM 25/07/2023

COMMISSIONER: You don't need to tell me now, but I don't quite understand the significance of this exhibit, this letter.

MR GISONDA: I can explain it now or at another time.

COMMISSIONER: What would you prefer?

MR GISONDA: At another time. Thank you, Commissioner.

COMMISSIONER: No more witnesses?

MR GISONDA: No.

COMMISSIONER: Very well. Anything else I've got to deal with this afternoon? No? We'll adjourn till tomorrow morning.

<THE HEARING ADJOURNED AT 4.32 PM