



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

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

**PUBLIC HEARING
BRISBANE MAGISTRATES COURTS**

**TUESDAY, 6 OCTOBER 2026
AT 10.00 AM**

DAY 48

APPEARANCES

**Mr S Wood AM KC – Commissioner
Mr E Gisonda KC – Counsel Assisting
Ms I MacNicol– Counsel Assisting
Mr D de Jersey KC – Counsel for the State of Queensland
Ms. S Amos – Counsel for the State of Queensland
Mr J Ford – Counsel for CPB Contractors
Mr C O’Grady KC - Counsel for the CFMEU Administration
Ms A Hughes – Counsel for the CFMEU Administration
Mr D O’Brien KC – Counsel for the Cross River Rail Delivery Authority
Mr H Clift – Counsel for CEPU and ETU Queensland
Ms K Hillard – Counsel for Grace Grace MP**

<THE HEARING RESUMED AT 10.00 AM

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

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MR GISONDA: Yes, Commissioner.

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

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MR DE JERSEY: Yes, Commissioner.

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

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MR FORD: Yes.

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

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MR O'GRADY: Yes, Commissioner.

COMMISSIONER: Mr O'Brien, you continue to appear as counsel for the Cross River Rail Delivery Authority?

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MR O'BRIEN: Yes, Commissioner.

COMMISSIONER: Mr Clift, you continue to appear as counsel for the CEPU and the ETU Queensland?

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MR CLIFT: Yes, Commissioner.

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

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MS HILLARD: Yes, thank you, Commissioner.

COMMISSIONER: I'm sorry, Ms Amos and Ms Hughes, you've been relegated to the back there, but we get the courtrooms that we're given, and we just have to make do with what we've got. Hopefully next year we'll have some accommodation on a permanent basis that means that we don't have this arrangement going forward. Mr Gisonda.

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MR GISONDA: Thank you, Commissioner. Today, we return to the Cross River Rail project, and over the next five sitting days, we will hear evidence from upwards to 30 witnesses who will share with the Commission their dealings and experiences with the CFMEU. Can I briefly remind you, Commissioner, of some

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of the evidence that we have already received in relation to the Cross River Rail project, which I on a previous occasion described as a key project in the Queensland version of the Big Build.

5 When the project was first being put together, the CFMEU had a desire to be front and centre in the project and had a plan to bring this about, and that plan hinged about the implementation of a Queens Wharf-style agreement and framework for the project. When that plan failed to materialise, it unleashed a chain of
10 consequences, in my submission, not only for the project itself but for public infrastructure projects throughout Queensland, and that is why it was necessary or at least desirable to introduce evidence of the CFMEU's conduct over the following four to five years, that conduct occurring in parallel to its conduct as it continued to concern the Cross River Rail project.

15 What we first saw was the conduct of the CFMEU in relation to the negotiation of the relevant industrial instruments. That took place in 2019. What we next saw was a campaign against the politicians and senior bureaucrats charged with responsibility for the project, and that included the former Deputy Premier, Jackie Trad, the minister for Cross River Rail, Ms Kate Jones, and then the Minister for
20 Transport, Mr Bailey, together, most acutely, with the CEO of the Cross River Rail Delivery Authority, Mr Newton. Relatedly, we saw a campaign designed to undermine public confidence in the project itself, which incorporated both a campaign of misinformation and the weaponisation of safety. In 2020, that campaign turned its focus to the primary contractor, CPB, with the issuing by
25 Workplace Health and Safety Queensland of an unprecedented number of safety notices at a time when safety notices were featuring as a proposed key element in the pre-qualification regime.

In 2023, the CFMEU engaged in industrial action following a safety incident at
30 Boggo Road, following which the CFMEU issued a number of demands as part of what was described as a safety reset. But the most significant was the installation of 14 health and safety representatives dispersed throughout the project sites. And from this point, disruption from outside the project made way for disruption from within the project, which roughly coincided with the expiration of the greenfields
35 agreements that had been entered into between the consortium delivering the project and the AWU.

Then, in 2024, the CFMEU engaged in sustained industrial action on the project, and that industrial action included the establishment of various picket lines. And
40 it is convenient at this point, Commissioner, to remind ourselves of the laws and principles that relate to the right of a worker - or group of workers, more accurately - to picket the place of work. There are two types of liability when it comes to picketing: civil liability and criminal liability. If I can first just touch briefly on the concept of civil liability, do you have, Commissioner, what's
45 described as Cross River Rail Case Study Bundle 5 handy?

COMMISSIONER: I don't appear to have that.

MR GISONDA: It's at the back of the witnesses bundle, I'm told.

COMMISSIONER: Yes, I've got that, thank you. Yes.

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MR GISONDA: And if I could take you first, Commissioner, to page 7 of that bundle, this is a decision of BLF v J-Corp Pty Ltd from 1993, and at page 7, Lockhart and Gummow JJ, as his Honour then was, say at about a third of the way down the page that:

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"The primary judge referred to dictionary definitions which defined a 'picket' as persons who, during a strike, are stationed by a trade union before a place of work to watch persons going to work and to endeavour to dissuade or deter or prevent them from doing so."

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In the next paragraph, they say the court was taken to passages in a decision of -

COMMISSIONER: You don't have the right part up on the screen. It's above there.

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MR GISONDA: Page 7 of the bundle. Yes:

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"The court was taken to passages in the judgments of Hubbard v Pitt, where the term 'picket' was used to describe an orderly and peaceful collection of persons outside particular premises in circumstances where there was no obstruction, molestation or intimidation of persons entering and leaving the premises, the object of the picket being the communication of information."

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There's then a reference to the earlier decision of Mason JA, who was at that time sitting on the New South Wales Supreme Court, where his Honour said in Sid Ross Agency that:

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"At common law, picketing is not necessarily a nuisance and unlawful as such, but it becomes so if it involves obstruction and besetting."

And the next paragraph, under the quote, they say that the English decisions cited by Mason JA were also discussed in Hubbard v Pitt, and that:

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"'Besetting' includes the occupation of a roadway or passageway through which persons wish to travel, so as to cause those persons to hesitate through fear to proceed, or, if they do proceed, to do only with fear for their own safety or the safety of their property."

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If we could then jump forward in the bundle, please, to page 43 and the bottom paragraph on that page, this being, Commissioner, now the decision of Dollar Sweets v Federated Confectioners Association, where Murphy J says in this paragraph that he was satisfied that:

5 "...the acts of the defendants which had been repeatedly performed cannot be considered to be a lawful form of picketing but amount to a nuisance involving obstruction, harassment and besetting. The form of picketing which the evidence discloses here is not peaceful but amounts clearly to an inference with the rights of a person wishing to enter or at least to proceed and make deliveries or take supplies to or from the plaintiff's premises."

10 And then at page 45, Murphy J said that he was satisfied that the plaintiff there had made out a case against the defendants, and each of them, which if untouched would entitle it to relief on four grounds: first, that the defendants had committed and threatened to continue to commit torts of interference with contractual relations; two, that the defendants and each of them had committed and threatened to continue to commit the tort of intimidation; three, they had committed and
15 threatened to commit the tort of nuisance; and four, that they had together conspired wilfully to injure the plaintiff in its trade.

 So that is, very briefly, Commissioner, the forms of civil liability that may arise as a result of what we might describe as unlawful picketing. Turning then to the
20 second type of liability, which is criminal liability, can I take you, Commissioner, briefly again to page 20 of the bundle, being the case of R v Commissioner of Police from 1992 in the Supreme Court of Tasmania. This was a decision which you would be well familiar with, Commissioner, where Dr Jessup at the time sought on behalf of the prosecutor a writ of mandamus against the Commissioner
25 of Police, compelling him to break up a picket that was occurring at a paper mill, the APPM mill in the town of Burnie in North West Tasmania. At page 24 of the bundle, at the top of the page, his Honour says that:

30 "The legitimate role of a picket line is to inform passers-by and visitors to an industrial site of the existence of a dispute."

 Picking up there in that passage what we saw in the other judgments that I've taken you to, Commissioner, his Honour speaks about that:

35 "Every member of the community...

 At the bottom of this page:

40 "...has a common-law right to use a public street or highway in the pursuit of his lawful business, the classic formulation being to pass and re-pass."

 And then over the page, at page 25, in the middle of the page there, he says:

45 "A landowner has a right of ingress and egress at any point on his boundary to or from a public street or highway."

 Then he says at the bottom of page 25 that:

5 "Whether a person is on private land preventing others on lawful business from entering or is on public land or on a public thoroughfare adjacent to private land physically preventing or intimidating other persons who wish to enter lawfully upon those premises, the obstructor is, in my opinion, acting unlawfully, even if he acts in a non-violent manner. The law is clear that by deliberately obstructing others from entering or leaving those premises, he either commits an offence himself or at the least is likely to provoke a breach of the peace."

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Then over at page 26, his Honour then turns to the position of the police in these circumstances. He says in the third paragraph on that page that:

15 "In such circumstances, a police officer has both a right and a duty to take action."

And if I can then jump forward to page 30, the second paragraph, his Honour says:

20 "The short point, which must be made very clearly, is that persons picketing in furtherance of an industrial dispute have no special rights in the eyes of the law. Similarly, police officers, whilst undoubtedly possessing a discretion as to how they will deal with any particular situation, are not entitled to choose sides for personal or political reasons, however much they may have an inclination to do so."

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Then next paragraph:

30 "Individual picketers who seek to make a protest against a perceived injustice or a violation of their rights are perfectly entitled to do so in a peaceful and orderly manner. Once their conduct ceases to have that character, police intervention is called for and should be expected."

And then there's this:

35 "As was said in *R v The Chief Constable of Devon and Cornwall*, measures of self-help by the persons impeded by picketers who are acting unlawfully should be discouraged. This is because of the likelihood of any measures escalating rapidly into a serious breach of the peace, a riot or worse."

40 And then there's this first sentence in the following paragraph:

"This is where the peacekeeping powers of the police are of supreme importance and must be exercised with both impartiality and firm resolve."

45 At page 32, Commissioner, in the paragraph that begins "whilst not subject to", his Honour says:

5 "Whilst not subject to the direction or control of any outside organisation, the police cannot avoid their unpleasant duties by absenting themselves from potential trouble spots. If they are notified of forthcoming action which may lead to a breach of the peace or the commission of some other offence, it is part of their function to act in accordance with their best impartial assessment to ensure that a breach of the law does not occur."

He says:

10 "Implicit in the attitude of the commissioner was the proposition that before police should break a picket line, an actual assault must occur, either by the picketers or by the person seeking entry or egress."

15 He says that that view of the law is wrong. Then at page 33, the last paragraph:

"Inspector Fox's desire to avoid violence at the picket lines is highly commendable, but the police cannot allow mob rule to displace the rule of law."

20 And then finally, Commissioner, at the bottom of page 35 -

COMMISSIONER: There was another part there on 33:

25 "It is much to be preferred that the police with the authority of their public office and numerical strength should handle a potentially violent situation."

MR GISONDA: Yes, which then ties in well to this final point at the bottom of paragraph 35:

30 "It has been argued on behalf of the respondent that the police do not have adequate numbers to control the picketers at Burnie. Thus, it is said, it is a reasonable exercise of their discretionary judgment to make no attempt to break the picket line to allow access by vehicles and pedestrians. This is a truly frightening proposition, particularly coming from senior officers of
35 police and a senior law officer of the Crown. It implies that the state lacks sufficient resources to enforce the law. It implies that force or the threat of force can supplant the rule of law. It tends to endorse the law of the jungle. It leads to anarchy. It is plainly unacceptable."

40 We've seen, Commissioner, a number of examples now in the beginning and middle of 2024 that was taking place at the Centenary Bridge site. The incident where police issued a move-on direction, which was ignored, was on 14 May 2024. At the same time, the CFMEU were also picketing the Cross River Rail project, and the evidence of today will focus in particular on 1 May 2024.
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COMMISSIONER: That case you've just referred me to, R v Tasmanian Commissioner of Police, the application for mandamus was unsuccessful, but it's

one of those cases where it was, in effect, successful on the ground because although the mandamus order wasn't made, the police commissioner evidently read the reasons and a couple of days later, perhaps a week later, got dozens, perhaps hundreds of police up to Burnie and broke the picket. I assume you can see it all on YouTube.

MR GISONDA: And the mandamus was denied on the narrow basis that at the time the view was taken by the court that the police commissioner was acting in good faith on legal advice that was deemed to be erroneous.

COMMISSIONER: That was wrong. The legal advice, if you look at it in the Centenary Bridge context, would be that the police couldn't act until the truck containing the steel actually drove into one of the picketers, or the concrete truck in May drove into one of the picketers, and that was wrong.

MR GISONDA: I might take you, Commissioner, to - a bit later - some of the provisions that would apply in such circumstances. But in the first instance, it would be helpful to hear some of the evidence about what happened in particular on 1 May 2024 at the Dutton Park site of the Cross River Rail project. We're going to hear from some witnesses this morning who were entirely innocent in all of this, seeking to do no more than enter the workplace to perform work. Yes, the union was entitled to picket the entrance to the site, but as the authorities that I've just taken you to make plain, that consists only of seeking to persuade and communicate with workers entering the site but not to physically intimidate them or prevent their access to the site. And what you'll also see is precisely the circumstance which Wright J spoke about, which is if you have a situation where the police are not enforcing the law and not breaking up a picket, then you have workers who will seek to take matters into their own hands. So with that introduction out of the way, I would like to call our first witness this morning, which is Ms Samantha Taylor.

COMMISSIONER: Is Ms Taylor in the hearing room? Ms Taylor, would you be able to come forward into the witness box, please.

<SAMANTHA LEIGH MARGARET TAYLOR, AFFIRMED

<EXAMINATION BY MR GISONDA

COMMISSIONER: Thank you, Ms Taylor. Please take a seat. There should be water there in front of you, and if at any time you feel you need a break, don't hesitate to say so.

MS TAYLOR: Yep. Thank you.

MR GISONDA: Ms Taylor, there should be in front of you, I think on the screen, a copy of a witness statement that you affirmed in December of 2025. Can you see that in front of you?

MS TAYLOR: Yes, I can.

5 **MR GISONDA:** And that witness statement, you will see, goes for 75 paragraphs and is 12 pages long. Have you had an opportunity recently to read that statement again?

MS TAYLOR: Yes, I have.

10 **MR GISONDA:** And is the statement true and correct?

MS TAYLOR: Yes, it is.

15 **MR GISONDA:** I tender the statement, Commissioner.

COMMISSIONER: Does Ms Taylor have a middle name?

MR GISONDA: Do you have a middle name or a middle initial?

20 **MS TAYLOR:** Yes, I've got two middle names: Leigh, so L-e-i-g-h, and Margaret.

MR GISONDA: SLMT, Commissioner.

25 **COMMISSIONER:** Are there any objections to the witness statement of Ms Taylor? No? Witness statement of Samantha Leigh Margaret Taylor, 9 December 2025, 12 pages, 75 paragraphs, will be SLMT-1.

30 **<EXHIBIT SLMT-1 WITNESS STATEMENT OF SAMANTHA LEIGH MARGARET TAYLOR, 9/12/2025, 12 PAGES, 75 PARAGRAPHS**

MR GISONDA: Thank you. Now, Ms Taylor, you moved from Victoria to Queensland at the end of 2016; is that right?

35 **MS TAYLOR:** Yes. Yes, I did.

MR GISONDA: And when you came to Queensland, you commenced a career in traffic control; is that right?

40 **MS TAYLOR:** Yes, that's correct.

MR GISONDA: I was wondering if you could tell the Commissioner - first of all, you say that you took on the role of traffic controller and traffic management implementer. Could you just explain to the Commissioner what that role typically
45 involves?

5 **MS TAYLOR:** So the traffic controller itself, they are the ones that have the - the qualifications required to be able to hold traffic, so legally to be able to hold traffic under the TORUM, and the traffic management implementer is responsible for all of the signage that goes out, all of the traffic cones and everything on the roadway to make the roadway safe for the workers and road users.

MR GISONDA: You say that after performing that role, you moved up through the ranks, for want of a better word -

10 **MS TAYLOR:** Yes.

MR GISONDA: - and you received traffic management design qualifications. Can you tell the Commissioner, what does traffic management design involve?

15 **MS TAYLOR:** So the traffic management design involves looking over rules and regulations stipulated by Transport and Main Roads and designing plans appropriately for the traffic management implementer to implement out on site, once again to keep workers and road users safe while roadworks are being conducted.

20 **MR GISONDA:** At paragraph 5 of your statement, which is on page 2, by way of introduction, or perhaps by way of background, you say that you did have some involvement with the CFMEU, or at least some exposure to the CFMEU, in late 2020 to early 2021, when you were working at a traffic management company called Acquired Awareness. Could you tell the Commissioner briefly what you experienced or encountered at that time?

25 **MS TAYLOR:** A lot of coming into the office and just walking in and picketing the front gates to prevent us from entering into the office and the office car park, or leaving to go out to our cars parked in the road or leaving from the car park.

MR GISONDA: And do you have any knowledge as to why the CFMEU were doing that at that time?

35 **MS TAYLOR:** I'm not too sure on the details, other than we were not union affiliated.

MR GISONDA: And that's a reference to Acquired Awareness?

40 **MS TAYLOR:** Yes.

MR GISONDA: Then you say at paragraph 6 of your statement that in May of 2022, you commenced working on the Cross River Rail project and that in the first instance you were employed by Altus Traffic; is that right?

45 **MS TAYLOR:** Yes, that's correct.

MR GISONDA: And you were the manager or supervisor of all the traffic controllers for the tunnels and stations work; is that right?

MS TAYLOR: That's correct.

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MR GISONDA: And approximately how many traffic controllers were you supervising or managing?

10 **MS TAYLOR:** On a regular basis, day to day, there was about 30 to 36 traffic controllers during a SCAS. So when the rail lines were shut down, it was around anywhere between 70 to 90 depending on the day and what stations were under works at that time.

15 **MR GISONDA:** And during that period, where were you physically based?

MS TAYLOR: The office was in Northgate, but I was travelling around the entire tunnels and stations segment of the project.

20 **MR GISONDA:** And are you able to give a rough approximation of the gender make-up of the traffic controllers? How many were men and how many were women?

25 **MS TAYLOR:** It was actually pretty even. So there was a fair few females and a fair few men.

MR GISONDA: And you said - you say at paragraph 8 that initially you did have some limited interaction or experience with the ETU and AWU union officials entering site; is that right?

30 **MS TAYLOR:** Yes, that's correct.

MR GISONDA: And your experience with them was unremarkable, for want of a better word?

35 **MS TAYLOR:** Yes.

MR GISONDA: At paragraph 15 of your statement, you say that in November 2022 you transferred your employment from Altus to CPB; is that right?

40 **MS TAYLOR:** That's correct.

MR GISONDA: And as a result of that change in your employment, did you then have responsibility for what's described as the RIS part of the project?

45 **MS TAYLOR:** Yes. Yes.

MR GISONDA: And for want of a better description, the RIS project focused primarily on the aboveground stations; is that right?

MS TAYLOR: That's correct.

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MR GISONDA: And at paragraph 16 you talk about where your office was. Just tell the Commissioner where you were physically based from that time.

10 **MS TAYLOR:** So the office I worked at on the project, it was at 252 Annerley Road in Dutton Park, right on the corner of Annerley Road and Noble Street. So if I walked out the office doors, I could see straight down Noble Street.

15 **MR GISONDA:** And at paragraph 17, you say that there were at this point anywhere between 30 to 70 traffic controllers that you were supervising at that time; is that right?

MS TAYLOR: Yes, that's correct.

20 **MR GISONDA:** At paragraph 20, you give some evidence about safety inspections that you were subjected to. By "you", I mean the traffic control part of the project. Could you just explain to the Commissioner a bit about that safety process, please.

25 **MS TAYLOR:** So with the project, we had to go out weekly and monthly and carry out safety inspections. For me, it was predominantly the traffic management inspection side of things. So we had to make sure the signs were safe, everything was operating safely, all the rules and guidelines stipulated from CPB in the safety essentials were being followed, along with the Austroads Guide to Traffic Management, the Queensland Guide to Traffic Management and everything else
30 that TMR have put in place for safe traffic management.

MR GISONDA: Now, at paragraph 22, you describe the Dutton Park station as being on the boundary of the TSD side of the project and the RIS side of the project?
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MS TAYLOR: Yes.

40 **MR GISONDA:** And you also say that there was an incident in July of 2023 where a scaffolder fell from height at that site?

MS TAYLOR: Yes, that's correct.

45 **MR GISONDA:** And we've heard evidence about that already, Ms Taylor, but is it fair to say that after that incident, you noticed an increasing presence of the CFMEU on the Boggo Road site?

MS TAYLOR: That is correct, yes.

MR GISONDA: And the other RIS sites as well?

MS TAYLOR: Not at that point. They started with Dutton Park.

5 **MR GISONDA:** Now, from paragraph 24 onwards, you give some evidence where you begin to describe some of the behaviours that the CFMEU exhibited in this period. You say at paragraph 24 that CFMEU members, who you identified as such because they were wearing CFMEU-branded clothing and hard hats,
10 began to attend prestart meetings; is that right?

MS TAYLOR: That's correct.

MR GISONDA: And just tell the Commissioner briefly what is supposed to
15 happen at a prestart meeting.

MS TAYLOR: At a prestart, we run through the objectives of the day, so what needs to happen. We run through any - any safety issues that have been brought to our attention from other sites and to remind us of, you know, how to be safe using
20 certain items of machinery or just general moving around the site, moving devices that are on site and everything. We discuss the weather and what the plan is for the next couple of days, so what our works that we're doing that day will lead towards towards the end of the week.

25 **MR GISONDA:** And you say here in paragraph 24 that the CFMEU guys, as you describe them, would allow senior CPB employees to say what needed to be said in the meetings. And then what would they do in those meetings, the CFMEU guys, once the CPB employees had said what they needed to say?

30 **MS TAYLOR:** In a few of them, they have turned around and said, "Anyone employed by the project" - excuse my language here - "fuck off."

MR GISONDA: And what would happen then?

35 **MS TAYLOR:** We would all leave. So we would cooperate and just leave the prestart area.

MR GISONDA: And tell me if this is correct. At the end of paragraph 24, what
40 your reference to "we" is essentially to engineers, supervisors, leading hands and other persons who were employed by CPB and the -

MS TAYLOR: That is correct.

MR GISONDA: - joint venture companies. Then at paragraph 25, you say that
45 you were getting reports - regular reports back from traffic controllers about the presence of the CFMEU on site; is that right?

MS TAYLOR: That's correct.

MR GISONDA: And you say in the second sentence in 25 that when you left the prestart meeting, some of the traffic controllers would follow you because they
5 were, in your words, not interested in a CFMEU recruitment drive. What's that a reference to, the CFMEU recruitment drive?

MS TAYLOR: They would come out and talk to the traffic controllers, subcontractors and everything to essentially join the union. A lot of the traffic
10 controllers just weren't interested.

MR GISONDA: And you say at paragraph 26 that some of the traffic controllers said that they felt guilt-tripped or pressured by the CFMEU representatives because they would also tell them or communicate to them how they were
15 expected to vote in a referendum or an election; is that right?

MS TAYLOR: That is correct.

MR GISONDA: Now, at paragraph 27, you say that Unity employees started
20 having prestart meetings in the office and that you decided:

"In order not to provoke the CFMEU, if they asked us to leave, we would just quietly leave or wait outside the gates and then commence work. And then
25 after this we started meeting in the car park."

So could you just tell us, first of all, ordinarily where would you expect to have the prestart meetings?

MS TAYLOR: It would be on the site offices directly on site.
30

MR GISONDA: And so when you say that you started having prestart meetings in the office, what's that a reference to?

MS TAYLOR: When the CFMEU started disrupting morning prestarts and picketing, we started having everyone either attend prestart in the office, where it
35 was away from the picket lines and everything, or in the car park, which was next to the office.

MR GISONDA: And you say over the page that it felt as though you'd been
40 pushed out of the site by the CFMEU, and you felt safer raising these issues in an environment where they were not present.

MS TAYLOR: That's correct.

COMMISSIONER: These prestart meetings that you would be involved in, they
45 would normally involve anyone employed by the project and all the subcontractors?

MS TAYLOR: That's correct.

5 **COMMISSIONER:** And they were divided up on occupational lines or geographical lines? How was the -

10 **MS TAYLOR:** It was divided by station. So each station, like, Rocklea Station would have its own prestart, Salisbury Station would have its own prestart, Dutton Park and so on.

COMMISSIONER: And for, say, Dutton Park, just to use that as an example, how many people should have been at the prestart?

15 **MS TAYLOR:** Some days there was about 70; some days there was only maybe 40 or 50. It depended - it was really depending on what works were being carried out for the day.

20 **COMMISSIONER:** And then after the CFMEU representatives said, "All right, anybody who works for Unity can just fuck off," how many people would that mean were left out of that 70 or 50? How many would leave? How many would stay?

25 **MS TAYLOR:** About 10 to 15 approximately, depending how many engineers were in that day.

COMMISSIONER: Would leave?

MS TAYLOR: Yeah.

30 **COMMISSIONER:** But they're the most important people for the prestart meeting, aren't they?

35 **MS TAYLOR:** Yeah. But this was after the prestart had been carried out. So the prestart would happen, we've signed on, and then that's when it was - we all got asked to leave.

40 **COMMISSIONER:** You might not know the answer to this, and if you don't, just tell me, but what was the basis of, in effect, giving in to this demand that anybody who works for Unity can just fuck off?

MS TAYLOR: It was more the tactic was keep the peace at the time. So if they asked us to leave, we'd just quietly leave. Don't disrupt anything. And then we were under the idea of eventually they would just go away.

45 **MR GISONDA:** Beginning at paragraph 28 over the page onwards, you then start to talk about some of your observations when the CFMEU started picketing the sites.

MS TAYLOR: Yep.

5 **MR GISONDA:** And some of the things you observed included, first, at paragraph 28, that gates would be locked so no one could enter the site; is that right?

MS TAYLOR: That's correct.

10 **MR GISONDA:** You say also at paragraph 29 that they would block residential streets with their vehicles?

MS TAYLOR: That's correct.

15 **MR GISONDA:** At paragraph 35, you say that numerous corflutes were put on fences around the site; is that right?

MS TAYLOR: That's correct.

20 **MR GISONDA:** And how did the scene, workers or managers on the project's faces plastered on big posters around the site, what sort of message did you feel that that was sending to the workforce, including people like yourself?

25 **MS TAYLOR:** For myself, it was quite intimidating. It was - if I go against anything that they say, is my face going to be on there next? So it was - it was intimidating seeing everybody else's on there.

MR GISONDA: And you've described where your office was based, so you had some vision of the site itself from your office.

30 **MS TAYLOR:** That's correct.

MR GISONDA: And you say at paragraph 37 that you could see some men wearing CFMEU clothing actually putting up these placards on the fences and gates; is that right?

MS TAYLOR: That's correct.

40 **MR GISONDA:** Now, you say that you could also see from your office the car park where you would - a car park that had been set aside for people like yourself to park when attending work; is that right?

MS TAYLOR: Yes. If I was standing out the front, yes, I could see it.

45 **MR GISONDA:** And at paragraph 40 of your statement, you say that you could look - or you could see some of the behaviours of the CFMEU in the car park. Just tell the Commissioner what you observed on occasion there.

MS TAYLOR: I could see them in the car park taking down registration numbers, taking photos of registrations, putting their hands on the windows of cars and visually looking inside the vehicle. Leaning against the cars. Looking - just
5 generally looking at the vehicles. And it wasn't just the marked cars; it was the unmarked utes and everything as well. So personal vehicles.

MR GISONDA: And you say that observing that behaviour made you change your normal behaviours at work; is that right?
10

MS TAYLOR: That's correct.

MR GISONDA: And at paragraph 41, you say that you started to walk outside with your key in your hand and you'd have the panic alarm button ready; is that
15 right?

MS TAYLOR: That's correct.

MR GISONDA: And at paragraph 42, you make reference to changing the way that you would dress going to and from work. Just tell the Commissioner about
20 what you were doing there.

MS TAYLOR: I stopped wearing my hi-vis uniform and I started going in in plain clothes and jeans instead so that I wasn't - I wasn't noticed going from
25 wherever I parked my car into the office.

MR GISONDA: You say also that you would not initially park in the car park, but you'd park in a residential street. And just tell the Commissioner what your thought process was there.
30

MS TAYLOR: Yeah, so a few times I'd driven into the car park and there had been multiple CFMEU members down there with their vehicles. I would drive past the car park, go and park in the residential street, walk around, make sure that I felt safe enough to park in the office car park, and then I'd either go into the
35 office for the morning, move my car later, or I would then go grab my car and go and park it in the office.

MR GISONDA: Then at paragraph 43, you talk about some verbal abuse or threats that were directed to you. Just tell the Commissioner some of the things
40 that they were saying to you at that point.

MS TAYLOR: So I would be outside the front of the office having a smoke on my breaks or when I was taking a phone call. Vehicles would drive past yelling out "You're a fucking murderer, you're a kiddy fiddler, you've got blood on your
45 hands." We were getting - well, I was getting yelled at from people on the picket on the other side of Annerley Road, very similar things.

MR GISONDA: At paragraph 44, you say that you could no longer or didn't feel like you could any longer leave the office on your own to get lunch any more and that you would change your normal routine on the lunch break. Just tell the Commissioner what happened to you there.

5

MS TAYLOR: So normally I would go either up to the fish and chip shop, which was up the road, or up to the service station to go and get something for breakfast. I started actually driving to other places: bakeries; there was a sushi shop that I liked going to, just to get away from the direct area where I felt safe that I could actually get out of the car and go and get lunch, because I just felt, if I went to the local places that I had done so for quite a long time, that I was going to get harassed or, you know, potentially intimidated while somewhere else.

10

COMMISSIONER: Because you were wearing CPB hi-vis gear?

15

MS TAYLOR: Yes.

MR GISONDA: And you don't say, do you, that this was necessarily a personal campaign against you; it was a campaign essentially against anyone who was associated with working for the project during this period?

20

MS TAYLOR: Yep, that's - that's correct. It was not a personal thing against me at all.

MR GISONDA: I now want to turn to 1 May 2024, and on the morning of 1 May 2024, there were CFMEU members who were blocking access to the gates on the Dutton Park site; is that right?

25

MS TAYLOR: That's correct.

30

MR GISONDA: And did you have a prestart meeting on that day?

MS TAYLOR: I can't exactly recall. I believe everyone was heading to prestart, to go and have the prestart.

35

MR GISONDA: Now, at paragraph 48, you say that CPB had created an entrance to the site on Noble Street, and that's the same Street that you said was on the corner - one of the streets on the corner of your office was Noble Street, going down the hill; is that right?

40

MS TAYLOR: Yep, that's correct.

MR GISONDA: And so could you see, could you, from where you were up at the office - and this is at paragraph 49 - a group of about 20 men and three women crossing Annerley Road onto Noble Street, walking down the hill to get onto site; is that right?

45

MS TAYLOR: That's correct.

MR GISONDA: And you were outside at this time, were you?

5 **MS TAYLOR:** Yes, I was on the phone to my partner at the time.

MR GISONDA: And were you planning to head into the site as well?

10 **MS TAYLOR:** No.

MR GISONDA: And at paragraph 49, you say that as they were approaching that entrance on Noble Street, you saw about eight or nine males in CFMEU attire running down Annerley Road towards the group, and that all the male employees that were with the group had managed to get through the gate at this point, but the
15 girls were yet to enter.

MS TAYLOR: That's correct.

20 **MR GISONDA:** So when you say that they were running down towards the gate, these men in CFMEU attire, why were they running down the street, from what you could see?

MS TAYLOR: So where they were picketing was the Annerley Road gate, which was opposite Cornwall Street, so there's like a little park in the corner there.
25 They were opposite that, and they were also sort of sitting on chairs and everything on the corner of Tamar Street and Annerley Road. They've come running down from that location to Noble Street when they saw that everyone was able to actually get into site.

30 **MR GISONDA:** And you talk about your decision to intervene in what you were seeing, but before you decided to intervene, just tell the Commissioner what you observed as these men ran towards the gate and then once they had reached the gate.

35 **MS TAYLOR:** So once they had reached the gate, I saw a couple of Unity employees walking out onto the road with their hands up to stop the traffic. I am very passionate about traffic management, so I was going to cross the road, go down there and actually tell them off; they can't do that. But as I got - as I walked out of the little front area of the office onto the footpath, about to start crossing the
40 road, that's when I saw what was going on. I started seeing everyone in orange shirts spill out onto Noble Street, had an understanding of why the guys were out there with their hands up to stop the traffic, and I saw the girls starting to come running almost, looking very distressed² up to the office.

45 **MR GISONDA:** And when you say that they were spilling into the street, these workers, why were they spilling into the street? What was happening?

MS TAYLOR: Because there was a fight going on.

5 **MR GISONDA:** And you say at paragraph 51 that you recall lots of yelling and swearing, and the male employees on the site were yelling at the CFMEU group to just let the girls in, and is that because, as you say, some of the men had entered the site, but the girls had been unable to enter the site?

MS TAYLOR: That's correct.

10 **MR GISONDA:** And is that because the CFMEU personnel who'd been running down the street had got to the gate by that point and had been able to stop the girls from getting in?

MS TAYLOR: That's correct.

15 **MR GISONDA:** Then at paragraph 52, you say that - you talk about what you observed in - as regards these female employees. Just tell the Commissioner what happened once you saw these female employees and the condition that you found them in.

20 **MS TAYLOR:** They were very - very visibly distressed. You could not dispute that at all. Crying, shaking, just wanted to get out of there. I am a mother to a teenager, and instantly motherly instincts have kicked in, and that's when I've told them to come into the office. We all went into the kitchen, which has no
25 windows, closed the door so that there was that physical obstruction, like, that you can't see through between what was going on outside and the girls, and then just tried to calm them down from there and keep them safe.

30 **MR GISONDA:** At paragraph 67 of your statement, you then give some evidence that there had been an approach by the CFMEU in about July or August 2024 to the traffic controllers where they had tried to persuade us, you say, as a group to join the CFMEU, and that approach was rejected; is that correct?

35 **MS TAYLOR:** Yes.

MR GISONDA: Then you say that that then led to some incidences where the CFMEU appear to defy instructions or directions being given by traffic controllers; is that right?

40 **MS TAYLOR:** That is correct.

MR GISONDA: And at paragraph 63 you describe one such incident, where you say that the traffic controllers had traffic lights on red because some heavy machinery was exiting the site; is that right?

45 **MS TAYLOR:** That's correct.

MR GISONDA: And what was reported to you about what then happened on that day?

5 **MS TAYLOR:** What was reported to me was they started revving their engines, abusing the traffic controller and then drove around the traffic controller.

10 **MR GISONDA:** You say there that they did so in a way that forced one of the traffic controllers to jump off the road to evade being hit by the driver; is that right?

MS TAYLOR: Yes, that's correct.

15 **MR GISONDA:** Now, you - putting to one side for the moment your experiences with the union and what you observed on 1 May in particular, you otherwise enjoyed your work as a traffic controller; is that right?

MS TAYLOR: Yes, I love my work.

20 **MR GISONDA:** You're very passionate about what you do?

MS TAYLOR: Yes.

25 **MR GISONDA:** And I take it you were excited to be working on such a big and important project like Cross River Rail?

MS TAYLOR: Yes, yes, definitely.

30 **MR GISONDA:** But at paragraph 72, you say that you resigned from your job. Just tell the Commissioner why you felt - or why you made the decision in the end to resign your role.

35 **MS TAYLOR:** I ended up resigning because of the stress of everything with the CFMEU on site. I started actually hating my job. I hated going in feeling unsafe. I was - I was starting to get fearful that, like, people would show up at my house, and I just - all of that mental, like, stress and anguish and everything, I ended up leaving and going into a consultant role where I don't even have to go out to site any more.

40 **MR GISONDA:** And how do you feel about that having been done to you and you feeling - or you being put in that position?

MS TAYLOR: It felt unfair. It felt very unfair.

45 **MR GISONDA:** I have no further questions, Commissioner.

COMMISSIONER: How have you managed - you say you haven't had any further dealings with the CFMEU since commencing in your new role with Stage 1 Solutions in November 2024. Why is that?

5 **MS TAYLOR:** I - when I go out to site, it's only just for meetings. So I'm only showing up, going into the site offices, and then that's it. Every other time I have to go out to site, it's for road safety auditing. So I just drive around, make sure all the signs are okay, and then I go back to my office and compile the reports and everything. So I'm not even talking to the traffic controllers on site. I'm not
10 talking to any of the supervisors or leading hands on site. It's all just dealing with the engineers and project managers and everything.

COMMISSIONER: Do you miss that, not speaking to the leading hands and the supervisors?
15

MS TAYLOR: I do miss it. I miss it a lot. But it's - the stress and everything with what happened on Cross River ultimately just killed it. Like, I had never really driven home before crying until everything started happening on site.

20 **COMMISSIONER:** Are there any applications to cross-examine Ms Taylor? No. Thank you very much for your evidence, Ms Taylor. You're excused.

MS TAYLOR: Thank you.

25 <THE WITNESS WAS RELEASED

MR GISONDA: Now, the next witness I'd like to call, Commissioner, is Ms Sky Lewis.

30 **COMMISSIONER:** Is Ms Lewis in the hearing room? Ms Lewis, will you come forward into the witness box, please.

<SKY DAVINA LEWIS, AFFIRMED

35 <EXAMINATION BY MR GISONDA

COMMISSIONER: Please take a seat, Ms Lewis. I think there's a fresh glass of water there in front of you, and you might have heard me say to Ms Taylor, if you need a break, just call out and we'll give you a break.
40

MS LEWIS: Thank you.

MR GISONDA: Now, Ms Lewis, you should have in front of you a statement that you affirmed on 10 September 2026. It's five pages long and runs for 45
45 paragraphs, and attached to that or annexed to that statement are three videos. Have you had an opportunity to read that statement recently?

MS LEWIS: I have.

MR GISONDA: And if we could just go to paragraph 22, please. Do you see the third sentence says:

5

"He was immediately shoved and slammed down to the ground by CFMEU members."

10 Am I correct in saying that you wish to delete the words "and slammed down to the ground"?

MS LEWIS: That is correct.

15 **MR GISONDA:** Other than that deletion of those words, "and slammed down to the ground", is your statement otherwise true and correct?

MS LEWIS: It is.

20 **MR GISONDA:** And before we tender the statement, do you have a middle initial, Ms Lewis?

MS LEWIS: Davina.

25 **MR GISONDA:** I tender that -

COMMISSIONER: Sorry, I missed that.

MR GISONDA: It's D.

30 **COMMISSIONER:** D.

MR GISONDA: I tender that statement, Commissioner, exhibit SDL with three video annexures.

35 **COMMISSIONER:** Are there any objections? Witness statement of Sky Lewis, 10 September 2026, 10 pages, 45 paragraphs, with three digital annexures, will be SDL-1.

40 **<EXHIBIT SDL-1 WITNESS STATEMENT OF SKY LEWIS, 10 SEPTEMBER 2026, 10 PAGES, 45 PARAGRAPHS, WITH THREE DIGITAL ANNEXURES**

MR GISONDA: Thank you, Commissioner. Now, Ms Lewis, you first started working in the construction industry as a traffic controller; is that right?
45

MS LEWIS: That is correct.

MR GISONDA: And then you shifted into the role of electrical safety recipient; is that right?

MS LEWIS: That is correct.

5

MR GISONDA: And could you just tell the Commissioner very briefly, what does an electrical safety recipient do?

10 **MS LEWIS:** Electrical safety recipient is where we can watch machinery by the live electricity lines and make sure they stay a safe distance away from them.

MR GISONDA: And you say at paragraph 6 of your statement that you enjoy the work that you do; is that right?

15 **MS LEWIS:** That is correct.

MR GISONDA: And what you want to do is go to work in a safe and friendly environment and just do the best job that you can?

20 **MS LEWIS:** That is correct.

MR GISONDA: On 30 April 2024, you give evidence that you arrived at work that day - and this is at paragraphs 7 and 8 - and normally what time of the day would you arrive at work?

25

MS LEWIS: Around about 6, 5.30 or 6 am in the morning.

30 **MR GISONDA:** And on that day, you say that you saw - this is at paragraph 8 and 9 - that entrance to the site or entry to the site was being blocked by men who were wearing CFMEU logos on their clothes and holding CFMEU flags; is that right?

MS LEWIS: That is correct.

35 **MR GISONDA:** And just looking at paragraph 9, what do you remember about their appearance, these people who were blocking the site?

40 **MS LEWIS:** The two men at the bottom blocking the site gate, they were big, muscular, and I couldn't see their face because they were wearing balaclavas and beanies.

MR GISONDA: And at paragraph 10, you say that they were yelling out some - they were yelling out things to workers. And what were some of the things that you could hear them yelling out to you, or yelling out generally?

45

MS LEWIS: "If you cross, you're a pig" and a lot more insults.

MR GISONDA: And you couldn't see any other workers around you at that time; is that right?

MS LEWIS: That is right.

5

COMMISSIONER: Did you say "and a lot more insults"?

MS LEWIS: Yep.

10

COMMISSIONER: And what were the nature of those insults?

MS LEWIS: Pardon?

15

COMMISSIONER: What did they say?

MS LEWIS: Not that I can name them off by heart, but they were very mean comments. They would call us names, swear at us.

20

MR GISONDA: In paragraph 11, you say that you felt extremely unsafe and froze. Why did you feel unsafe at that point?

25

MS LEWIS: I felt unsafe because I got told if I tried to cross the picket line, it wouldn't be good, especially when there's two men down there, so I froze, and I texted my boss.

MR GISONDA: And after you texted your boss, a colleague of yours came and took to you a back entrance and got you onto site; is that right?

30

MS LEWIS: That is correct.

MR GISONDA: And you wanted to go to work that day, I take it?

MS LEWIS: That is correct.

35

MR GISONDA: And on the following day, 1 May, again you wanted to go to work?

MS LEWIS: That is correct.

40

MR GISONDA: And you say at paragraph 14 that you felt scared driving to work that day, and that was because you were shaken up from the previous day's incident; is that right?

45

MS LEWIS: That is right.

MR GISONDA: And you knew when you got to the site, did you, that the - there were a large group of CFMEU members blocking various entrances to the site; is

that right? Now, there were about 30 - sorry, I withdraw that. You say that there was a group of you who were trying to decide what to do in terms of whether you should go onto the site or not, and there were three female workers in the group, which included yourself, and the rest were men?

5

MS LEWIS: That is correct.

MR GISONDA: And do you recall roughly how many men were in your group?

10 **MS LEWIS:** I do not.

MR GISONDA: And you say at paragraph 16 that the male workers in the group "wanted us to all walk together in a pack to the site to try and get through", and at paragraph 17, you say you and the other two girls did not agree with that plan; is that right?

15

MS LEWIS: That is right.

MR GISONDA: And why did you not agree with that plan?

20

MS LEWIS: We thought it would cause too much attention to us and aggravate the CFMEU.

MR GISONDA: You say, however, that you felt outvoted and so you joined the group of other workers, all the rest being men, to try and get onto site; is that right?

25

MS LEWIS: That is right.

MR GISONDA: But that really wasn't something that you and your two female colleagues wanted to do; is that right?

30

MS LEWIS: That is right.

MR GISONDA: Now, if we could please, Commissioner, just play a video that's given the label CRR video 1, and this video, Commissioner, was taken by Mr Carlton, who's a witness this week but is unavailable today, but this video is taken from the point where these group of workers are walking down Noble Street towards the entrance, as Ms Taylor described in her evidence. So if we could just play that video, please.

40

(Video played).

MR GISONDA: Are you okay, Ms Lewis, if we just ask you a few more questions?

45

MS LEWIS: Yep.

5 **MR GISONDA:** At about a minute into that clip, we saw some men running quickly down to the gate. Is that at paragraph 18 what you describe there, which is that as that occurred, you were grabbed on the arm aggressively by a CFMEU man who then shoulder-shoved you backwards. Is that what happened at that point?

10 **MS LEWIS:** It was the other way around. He tried to go in front of me, but because I was blocking the way, he couldn't get past, so what he did was grab my arm and pull me back.

MR GISONDA: And you say at paragraph 18 that you felt trapped and terrified; is that right?

15 **MS LEWIS:** That is correct.

COMMISSIONER: Why so? Why did you feel trapped and terrified?

20 **MS LEWIS:** When we were at the bottom of the hill, I felt like we couldn't go up in case we got caught in the middle of the workers and the CFMEU.

MR GISONDA: You say at paragraph 19 that the CFMEU workers had started linking arms to form a human barrier and blocked entry. Did you feel at that point that you weren't able to get onto the site; is that right?

25 **MS LEWIS:** That is correct.

MR GISONDA: You said you felt really scared at this point. And then at paragraph -

30 **COMMISSIONER:** What did you feel scared about?

MS LEWIS: I felt scared because there was workers trying to get in and trying to get us in, and every time a worker came out to try and get us in, they got slammed in between the CFMEU.

MR GISONDA: And you say there at paragraph 20 that the guys in the group were trying to call you girls down to get through the gate?

40 **MS LEWIS:** That is correct.

MR GISONDA: But instead, you started to go back up the hill; is that right?

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

MR GISONDA: And we saw at the end of that footage Mr Carlton seemingly running back up the hill. He was running back up to you and your female co-workers; is that right?

5 **MS LEWIS:** I wouldn't know about that part.

MR GISONDA: You can't remember Mr Carlton coming up to help you. You say at paragraph 21 that at this point you took a video on your phone quickly. Why did you decide at that point to take a video?

10

MS LEWIS: Because I saw how aggressive the state was getting, and I wanted evidence in case something really bad happened.

15 **MR GISONDA:** And you were scared that something really bad would happen at that point. If we could just play, please, CRR video 2, please.

(Video played).

20 **MR GISONDA:** That's the sight that was confronting you, was it, when you were at the bottom of the hill?

MS LEWIS: That's correct.

25 **MR GISONDA:** And that's you saying "Oh my God" because it looked like they were about to flow into the incoming traffic; is that right?

MS LEWIS: That is correct.

30 **MR GISONDA:** Can I first, Commissioner - that first video I played, tender that as that will be CRR number 7, and it's a video taken by Mr Tim Carlton of the Dutton Park brawl on 1 May 2024.

35 **COMMISSIONER:** Are there any objections to that? Video of Mr Tim Carlton of Dutton Park brawl 1 May 2024 will be CRR-7.

<EXHIBIT CRR-7 VIDEO OF MR TIM CARLTON OF DUTTON PARK BRAWL 1/5/2024

40 **MR GISONDA:** And then that second video I played is already tendered as annexure SL-1 to Ms Lewis' statement. And I just want to show you, Ms Lewis, one more video. This will be CRR video 3, and the reason I want to show you this video is just to focus in particular on where we can see you and your colleagues. So you'll see there there's a picket line, and then there's four workers in orange hi-vis. You're one of those workers; is that right?

45

MS LEWIS: That is correct.

MR GISONDA: If we could just play this video now, please.

(Video played).

5 **MR GISONDA:** Now, Ms Lewis, is it correct to say that what we saw was a supervisor or someone trying to tell you and your female colleagues to get back up the hill to safety?

MS LEWIS: That is correct.

10

MR GISONDA: But you were too afraid to do that, at least in the first instance, because it would have required you going or walking so closely past the picket line. And is that why - was that an example of how you felt trapped, in the circumstances?

15

MS LEWIS: That is correct.

MR GISONDA: Can I tender that video, which will be CRR-8, and that's, again, footage taken of Dutton Park brawl on 1 May 2024.

20

COMMISSIONER: Are there any objections? Footage - video footage of Dutton Park brawl, 1 May 2024, will be exhibit CRR-8.

<EXHIBIT CRR-8 FOOTAGE OF DUTTON PARK BRAWL 1/5/2024

25

MR GISONDA: You say at paragraph 23 that that man who was escorting you up the hill or trying to was Mr Van Aardt from CPB; is that right?

MS LEWIS: That's correct.

30

MR GISONDA: And at the top of page 3 in your evidence, you say that:

35 "Without his intervention, I do not believe I could have passed through the area safely. I wouldn't have gone through without him as it was too frightening."

And that's because, was it, that you felt frozen and trapped?

MS LEWIS: That is correct.

40

MR GISONDA: Then at paragraph 24, just tell the Commissioner what your reaction was at that point as to what was happening.

45 **MS LEWIS:** I felt scared at the moment, and confused of what - why they were doing what they were doing. To see that my workmates had to go through that just so we can go to work is quite heartbreaking and scary in my eyes.

5 **MR GISONDA:** You then say that you were escorted into the kitchen area in the CPB office, and you were there for about half an hour at least, were you? And then you were escorted to your car by your supervisor on that day. Just at paragraph 28, there were one or two days thereafter where you weren't required to go to work; is that right?

MS LEWIS: That is right.

10 **MR GISONDA:** And then what reaction or what impact did this event have you on in the weeks afterwards? Just there at paragraph 28. Tell the Commissioner about that impact it had on you.

15 **MS LEWIS:** Well, throughout the week when I arrived at work, I couldn't walk to work all by myself, because I just felt scared in case something would have happened. So I used to wait for Soane so we could work together into prestart.

MR GISONDA: And you say there that you felt anxious and unsafe about attending work; is that right?

20 **MS LEWIS:** That's correct.

MR GISONDA: I have no further questions, Commissioner.

25 **COMMISSIONER:** Had you seen anything like this before in your working career?

30 **MS LEWIS:** I have never seen anything like this aggressive. I usually just see banter or just name-calling, but I've never seen anything aggressive like this before.

COMMISSIONER: What did you think you could do about it, if anything?

MS LEWIS: Pardon?

35 **COMMISSIONER:** What did you think you could do about it, if anything?

MS LEWIS: Felt like I could do nothing. I felt -

40 **COMMISSIONER:** What - sorry.

MS LEWIS: I felt hopeless.

45 **COMMISSIONER:** Are there any applications to cross-examine this witness? Thank you very much for your evidence, Ms Lewis. You're excused.

MS LEWIS: Thank you.

<THE WITNESS WAS RELEASED

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

5 **COMMISSIONER:** Yes, very well. We'll adjourn till quarter to 12.

<THE HEARING ADJOURNED AT 11.31 AM

<THE HEARING RESUMED AT 11.45 AM

10

MR GISONDA: Commissioner, the next witness is Soane Tuakalau.

COMMISSIONER: Mr Tuakalau, will you come forward into the witness box, please.

15

<SOANE MEIER TUAHALAU, AFFIRMED

<EXAMINATION BY MR GISONDA

20 **COMMISSIONER:** Please take a seat, Mr Tuakalau.

MR GISONDA: Mr Tuakalau, in front of you is a statement that you signed on 10 September 2025. 2026, sorry. It goes for four pages and is 39 paragraphs long. That statement, is that true and correct?

25

MR TUAHALAU: Yes.

MR GISONDA: Commissioner, I tender that statement.

30 **COMMISSIONER:** What initial shall we -

MR GISONDA: Do you have a middle name, Mr -

MR TUAHALAU: Yes, Meier, M.

35

MR GISONDA: The letter M.

COMMISSIONER: Witness statement of Soane Tuakalau, 10 September 2026, 39 paragraphs, 10 pages will be exhibit SMT-1.

40

<EXHIBIT SMT-1 WITNESS STATEMENT OF SOANE TUAHALAU, 10/9/2026, 39 PARAGRAPHS, 10 PAGES

MR GISONDA: Thank you, Commissioner. Mr Tuakalau, you are a labourer; is that right?

45

MR TUAHALAU: Yes.

MR GISONDA: And you started working on the Cross River Rail project in 2023; is that right?

5 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And are you still working on the Cross River Rail project?

10 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And in 2023, while you were working on the Cross River Rail project, you joined the CFMEU; is that right?

15 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And you were a member of the CFMEU in May of 2024?

MR TUAKALAU: Yes, sir.

20 **MR GISONDA:** And on 1 May 2024, do you remember being involved in the incident that we've seen some videos of this morning?

MR TUAKALAU: Yes.

25 **MR GISONDA:** What time do you remember arriving at work on that day, 1 May?

MR TUAKALAU: It was around 5.30 to 6.

30 **MR GISONDA:** And what time was your normal starting time on site?

MR TUAKALAU: 6.30.

35 **MR GISONDA:** And at paragraph 11 of your statement, when you were going to work that day, had you already heard that there was the possibility of a CFMEU picket that day?

MR TUAKALAU: Yes, sir.

40 **MR GISONDA:** And did you know why there was a picket going on at that time?

MR TUAKALAU: No.

45 **MR GISONDA:** Did you want to go to work that day?

MR TUAKALAU: Yes.

MR GISONDA: And why did you want to go to work that day?

5 **MR TUAKALAU:** I am a provider for my little family, sir. Taking a day off is a big loss for - for myself and also food for the family. Yeah. That's why I turned up to work.

MR GISONDA: And when you arrived at work on that day, did you see that there were CFMEU members blocking the various gates to the site; is that right?
10

MR TUAKALAU: Yes, sir.

MR GISONDA: And do you know a Mr Raoul Van Aardt?

15 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And at paragraph 14 of this statement, you say that when you arrived at site, he suggested that the pre-start meeting occur in an office across the road. Is that what you remember?
20

MR TUAKALAU: Yes, sir.

MR GISONDA: And was a decision made in that pre-start meeting for you all to go and try and enter the site?
25

MR TUAKALAU: Yes. Yes.

MR GISONDA: And do you remember how many workers there were in your group?
30

MR TUAKALAU: I'd say about 10 boys in my certain team that turned up that day.

MR GISONDA: And do you remember whether, as part of that group, there were two or three female workers?
35

MR TUAKALAU: Yes.

MR GISONDA: At paragraph 15 of your statement, you say that after that meeting, a group of you started to walk towards the site together?
40

MR TUAKALAU: Yep.

MR GISONDA: And did you do that by walking down Noble Street?
45

MR TUAKALAU: Noble Street, yes.

MR GISONDA: And as part of your group, was Mr Fou Ah Lam?

MR TUAKALAU: Yes, sir.

5 **MR GISONDA:** And Tyson Langdon, and Mr Kayne MacDonald?

MR TUAKALAU: Yes.

10 **MR GISONDA:** And Sky Lewis, who we've just heard evidence from?

MR TUAKALAU: Yes.

15 **MR GISONDA:** And the entrance that you were trying to use on Noble Street, that was a fairly new entrance; is that right?

MR TUAKALAU: Yes, sir.

20 **MR GISONDA:** And it didn't look like there were many people blocking that gate at that time?

MR TUAKALAU: No.

MR GISONDA: And is that why the group of you decided to use that entrance?

25 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And at paragraph 17, you say that as you got towards the Noble Street entrance, about 20 picketers or so ran towards that gate; is that right?

30 **MR TUAKALAU:** Yes.

MR GISONDA: And did they run down Noble Street as well?

35 **MR TUAKALAU:** Yes.

MR GISONDA: And how would you describe some of those men who were running down? Physically, how did they look?

40 **MR TUAKALAU:** They were physically large, wearing - all wearing balaclavas and jumpers, shirts wrapped around their heads, covering most of their faces, and I also recognised a couple of faces from some of them walking around site.

MR GISONDA: And when they rushed to the entrance, they then formed a human chain by linking arms; is that correct?

45 **MR TUAKALAU:** Yes, sir.

MR GISONDA: Okay. Now, at paragraph 21, what do you remember seeing happening to Ms Lewis, Sky Lewis?

5 **MR TUAKALAU:** I seen Ms Lewis was standing there obviously in shock and scared, and as we were carrying on, I seen someone grab a hold of her or pull her or pushed her, and that's when everything kicked off after that.

MR GISONDA: And then you also saw Mr Langdon involved in a physical confrontation as well; is that right?
10

MR TUAKALAU: Yes, sir.

MR GISONDA: And then you say at paragraph 22 that one of the CFMEU workers began arguing with you?
15

MR TUAKALAU: Yep.

MR GISONDA: And you argued back with him?

20 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And then it became physical between you; is that right?

MR TUAKALAU: Yes, sir.
25

MR GISONDA: And why did it become physical? What happened?

MR TUAKALAU: I was struck. He then hit me, which caused everything to blow off.
30

MR GISONDA: So he - you were hit first?

MR TUAKALAU: Yes, sir.

35 **MR GISONDA:** And then you fought back?

MR TUAKALAU: Yes, sir.

MR GISONDA: And do you remember -
40

COMMISSIONER: Where did he hit you? How did he hit you?

MR TUAKALAU: Over the head. As I was trying to break up the physical altercation, he then obviously hit me in the head then, which caused me to see red.
45

COMMISSIONER: From behind or -

MR TUAKALAU: Oh, in front, right in front.

COMMISSIONER: In front?

5 **MR TUAKALAU:** Right in front.

MR GISONDA: And do you recall whether on that day you were wearing a blue baseball cap?

10 **MR TUAKALAU:** A blue Nike hat, yes.

MR GISONDA: So can I show you now a video that's called CRR video 4, please. And this is more footage of that morning, and as we look at it, we should look out for the man wearing the blue cap, and that's you; is that right?

15 **MR TUAKALAU:** Yes, sir.

MR GISONDA: Play that, please.

20 (Video played).

MR GISONDA: So what we saw there was that you saw two men having an altercation. You went to break it up. You were then struck in the head by one of the picketers; is that right?

25 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And then you fought back, and as a result you and about two or three of the picketers spilled out onto the road and continued to fight on the road; is that right?

30 **MR TUAKALAU:** Yes, sir.

MR GISONDA: And you can see there, at least that point, just the still on the screen, there were trucks and cars going down the road. Were you at any point concerned that you might get hit by a car that was driving past?

35 **MR TUAKALAU:** In that moment, when I was hit, I don't really remember anything until I was really calmed down, and then - and then I started thinking, yes, we should be getting everyone off the road, because there was live traffic.

MR GISONDA: And do you say that at least as far as your involvement was concerned, you were acting in self-defence?

45 **MR TUAKALAU:** Yes.

MR GISONDA: Can I tender that video, Commissioner, which will be CRR-9, and that's video footage of Dutton Park brawl on 1 May 2024, showing Mr Tuakalau being attacked on the road.

5 **COMMISSIONER:** Video footage of Dutton Park brawl, 1 May 2024, will be exhibit CRR-9.

**<EXHIBIT CRR-9 VIDEO FOOTAGE OF DUTTON PARK BRAWL
1/5/2024**

10

MR GISONDA: As a result of the human chain or the picketing that was taking place, is it the case that you were not able to enter the work site unless you physically broke through the chain of picketers?

15 **MR TUAKALAU:** Yes, sir.

MR GISONDA: What happened after the fight died down? What then happened on the site that day?

20 **MR TUAKALAU:** We were all taken into the station overpass and being held there until cops arrived to site, to also calm down the situation. And then we were just all told to just go home, and the site was shut down for the day.

25 **MR GISONDA:** You said earlier that it was when you saw Ms Lewis being pushed or pulled away by one of the men that things really kicked off. Why do you say that? What was the link between what happened to Ms Lewis and then the altercation?

30 **MR TUAKALAU:** Ms Lewis to us in our team, she's like a little sister. So seeing her in that predicament and being physically touched was what triggered us boys who work with her every day, because we know she's - that's not her type of environment to be around.

35 **MR GISONDA:** At paragraph 29 of your statement, you refer to, on that day, people outside the fence yelling racial and other abuse at you. What are some of the things that you remember the picketers yelling out towards you?

40 **MR TUAKALAU:** "Scabs. Coconuts." Mind my swearing. "Black cunts." And obviously just threatening anyone that was standing outside the site.

MR GISONDA: And just explain to the Commissioner what a coconut is, what that means?

45 **MR TUAKALAU:** It's - I don't think it has a meaning. I think it's just a saying that everyone calls our people as a name.

MR GISONDA: You say you also heard threats along the lines of "Wait until you get out" and "We will stab you"; is that right?

MR TUAKALAU: Yes, sir.

5

MR GISONDA: And were the police called that day to the site?

MR TUAKALAU: Yes, sir.

10 **MR GISONDA:** And what do you remember the police doing, if anything, once they got there?

15 **MR TUAKALAU:** They were more focused on the workers and making sure they were staying - staying in the overpass until all members of the CFMEU were moved out of the streets.

COMMISSIONER: Sorry, you're saying they were more interested in what happened to the workers rather than moving the CFMEU?

20 **MR TUAKALAU:** Yes. Yes, sir.

MR GISONDA: Now, at paragraph 35, you talk about what happened to Ms Lewis for a few weeks after the incident. We've already heard evidence from her that she didn't feel safe walking to or from her car. What involvement did you
25 have in terms of helping her feel safe on site?

MR TUAKALAU: Just having to go pick her up from the car or getting her to message me when she's 10 minutes before she rocks up to site, just so we're there to make sure she was safe, because it really impacted her a lot more than it did
30 anyone else, to be honest.

MR GISONDA: At paragraph 36, you say that in the weeks after the incident you felt hunted by the CFMEU, and workers involved in standing up to the picket - and just stopping there for a moment. That was really yourself, Mr Ah
35 Lam and Mr Langdon; is that fair? The three of you were those who stood up to the picketers the most on that day?

MR TUAKALAU: Yes.

40 **MR GISONDA:** And you say that you felt hunted by the CFMEU after that. What were you being told about what CFMEU members were asking about or saying on site about you, Mr Ah Lam and Mr Langdon?

MR TUAKALAU: Different sites' delegates would think they'd identified who
45 the people were on the - on the screen that time, and they would go round and ask other workers to see if we were the people that were on that day.

MR GISONDA: I have no further questions, Commissioner.

5 **COMMISSIONER:** Right at the end of your statement, you talk about Mr Maguire, the health and safety representative, that is, the CFMEU representative, coming and saying to you, "We're about to do another picket line. I hope you boys are ready." What did you understand him to be telling you?

10 **MR TUAKALAU:** He - me and Mr Fou were down working, and he approached us - obviously after everything happened, everything has calmed down - warning us that they might be bringing up another picket line and that they would let our boys know to move us elsewhere so that their picket line could go ahead, so we don't cause any disturbance to their picket line.

15 **COMMISSIONER:** There's no application to cross-examine this witness? Thank you very much for your evidence, Mr Tuakalau.

MR TUAKALAU: Thank you, sir.

20 **<THE WITNESS WAS RELEASED**

MR GISONDA: The next witness, Commissioner, is Mr Fou Ah Lam.

COMMISSIONER: Mr Ah Lam, will you come to the witness box, please.

25 **<FOU AH LAM, AFFIRMED**

<EXAMINATION BY MR GISONDA

30 **COMMISSIONER:** Please take a seat, Mr Ah Lam.

MR GISONDA: Mr Ah Lam, when did you start working on the Cross River Rail, approximately, the Cross River Rail project?

35 **MR AH LAM:** I can't tell you from the top of my head, but we've been there for at least three or four years.

MR GISONDA: And so by May of 2024, you'd been there for at least one or two years; is that right?

40 **MR AH LAM:** More than that. About three years.

MR GISONDA: And what was your role - what job did you do on the Cross River Rail project?

45 **MR AH LAM:** So I'm a leading hand for a team of, say, 10 to 12 labourers, skilful labourers. Two of them, or three of them, is Soane, Sky, also Tyson and a few of the other boys. So my job is to report to my supervisor, which he would

tell me what the jobs are for the day and what needs to be done, and then I go and issue it out to our skilled labourers and then go from there.

5 **MR GISONDA:** I want to ask you about two things that happened to you in 2024. The first thing is the picket line on 1 May, which you've now seen some - heard some evidence about and seen some videos of, and then the second thing is the incident that occurred outside your home on 1 August 2024. So we'll start with the 1 May picket incident. The night before, were you told that there might be some picketing the following morning?

10 **MR AH LAM:** Yeah, that's correct.

MR GISONDA: And on the morning of 1 May, you went to work at the Dutton Park site; is that right?

15 **MR AH LAM:** That's correct too.

MR GISONDA: And we've just heard in the other evidence that work starts typically at about 6.30 am in the morning; is that right?

20 **MR AH LAM:** Yeah, that's correct.

MR GISONDA: And so what time do you tend to arrive at the site before work starts?

25 **MR AH LAM:** About 5.30, quarter to 6. Try and get there before 6, so at least have some time up my sleeve.

MR GISONDA: And there's generally a pre-start meeting or a meeting before work starts?

30 **MR AH LAM:** Yep, that's correct.

MR GISONDA: And normally, where does that pre-start meeting - where is it?

35 **MR AH LAM:** It's normally held on site at Dutton Park station, but on that day, because everything was blocked off, we had to have it at the Dutton Park office car park, so it was agreed to meet there.

40 **MR GISONDA:** And so you and your fellow workers met in the Dutton Park - the office car park for a pre-start meeting?

MR AH LAM: Yep, that's correct.

45 **MR GISONDA:** And at that stage, you all knew, did you, that the CFMEU were blocking the entry to gates on the site.

MR AH LAM: Yeah, that's correct.

MR GISONDA: And did a supervisor say in that meeting whether you had to go to work that day, or was it left up to you?

5

MR AH LAM: It was an option, left up to us, if we wanted to work, like go into work, we could go. If we didn't then, you know, stay behind.

MR GISONDA: And what did you want to do that day?

10

MR AH LAM: Oh, I wanted to work.

MR GISONDA: And why did you want to work that day?

15 **MR AH LAM:** For me, if I miss a day off work, that's money out of my pocket that I can't feed my family, which is like, you know, I can't really do any shopping. So my intentions always is to provide for my family. So every day I could get a chance at work. If they say, yeah, there's work available, I will take it. Doesn't matter what day of the week it is or night or time, like, I'll take it.

20

MR GISONDA: And do you remember any one of your co-workers not wanting to go to work that day?

25 **MR AH LAM:** To be honest, I don't think so. Like, not from the top of my head. But all I could think about was, like, you know, providing for my family, so -

MR GISONDA: Now, there was a gate, as we've seen, that was down the hill on Noble Street that allowed you to get into site; is that right?

30 **MR AH LAM:** Yep, that's correct.

MR GISONDA: And that was a somewhat new gate that hadn't really been used that much before; is that right?

35 **MR AH LAM:** Yeah, that's right. That's correct, sorry.

MR GISONDA: And so it seems that as a result of that, the fact that this gate was fairly new, there weren't really any picketers there initially at that gate; is that right?

40

MR AH LAM: Yep.

MR GISONDA: And is that why that gate was chosen to try and get into the site?

45 **MR AH LAM:** I think it was chosen because nobody was there. So I think the CFMEU didn't know that there was an entry and access point. Obviously, the CFMEU blocked off all the other entry and exit, but not this one.

MR GISONDA: Now, when you got down there, were you at the front of the group of workers walking down the hill or in the middle?

5 **MR AH LAM:** I was in the middle.

MR GISONDA: And you were able to get onto the site initially, so you were able to get on before the picketers ran down to the gate; is that right?

10 **MR AH LAM:** No, I was there. I pushed my way through and also pushed my way back out.

MR GISONDA: So in order to get onto the site initially, you had to push through the picket line?

15 **MR AH LAM:** Yeah, correct.

MR GISONDA: And you made a point - you saw the picket line and you made a point that you were going to force your way onto the site; is that fair?

20 **MR AH LAM:** That's correct. They said I couldn't cross it, and then I said, "Oh, watch me," pretty much.

MR GISONDA: Okay. Can I show the video, please, marked CRR video 5, please.

(Video played).

30 **MR GISONDA:** Can I tender that video, Commissioner. We're now up to CRR-10. And that's further footage of Dutton Park brawl of 1 May 2024.

COMMISSIONER: Is there any objection? Video footage Dutton Park brawl, 1 May 2024, showing Mr Fou Ah Lam crossing picket line.

35 **<EXHIBIT CRR-10 VIDEO FOOTAGE DUTTON PARK BRAWL, 1/5/2024, SHOWING MR FOU AH LAM CROSSING PICKET LINE**

MR GISONDA: So you might not know his name, but had you come across Hayden Turner-Davey before?

40 **MR AH LAM:** No.

MR GISONDA: So that was the man that was yelling at you saying - essentially threatening that you couldn't cross the picket. So he threatens you and says you can't cross the picket, and then what did you decide to do once he said you can't cross it?

MR AH LAM: I wanted to show him that I could cross it.

MR GISONDA: And we saw on the footage that it was - it took a lot of strength from you but you were able to cross it eventually.

5

MR AH LAM: The one thing - my Warriors hat kept dropping on the ground, so I had to stop pushing to turn around and look for it then pick it back up and then put it on my head. And then I started pushing again.

10 **MR GISONDA:** And then once you got through, you looked back at the chain, and what did you see was happening behind you?

15 **MR AH LAM:** I saw some of the other boys that were trying to come through as well, and then I tried to help them out. I'm not too sure if this was the time where I saw this guy in the corner here with the black hoodie facing us back, if he bumped off Sky with his stomach, that caused her to fall and cry. I don't know if that was that time or before it, but everything was happening pretty damn fast to recall.

20 **MR GISONDA:** So you saw what happened to Sky Lewis, did you?

MR AH LAM: Yeah. As soon as I saw it, in my head I'm like, "I'll get you for doing that to Sky."

25 **MR GISONDA:** And what did you see happen to Sky?

MR AH LAM: Saw Sky getting pushed by his big jelly stomach, and obviously it was quite aggressive, that she pretty much flew and hit the ground and started crying. And I was like, "Oh, I got something for you, mate." So yeah.

30

MR GISONDA: And at some point in that incident, you ended up having a fight with some of the picketers; is that right?

35 **MR AH LAM:** Yeah, I could say it was kind of like a fight, but not a real fight.

MR GISONDA: And what did you see - I know it all happened very fast, but what did you see happen to Tyson Langdon?

40 **MR AH LAM:** I remember Tyson was pushing me from the back to get into site, which I did, and then I turned around, and I think that guy with the grey hoodie, Hayden you said his name was -

MR GISONDA: Turner-Davey.

45 **MR AH LAM:** Yeah, I don't know his name, but anyways, he was cussing and provoking Tyson to come back and have a scrap with him. And that's all I saw, and then I saw hands flying, and then Tyson ducked and then Tyson came back

and threw his punch, and then I was like, "Oh shit, we're on now," and then that's when the fight started.

5 **MR GISONDA:** And we can't see in that footage, but the fight spilled out onto the road. What was happening to you when some of those men were on the road fighting?

10 **MR AH LAM:** When that happened, one of the other guys went to go and throw a punch towards me but he missed, and then I went to throw a punch towards him and I just nipped him by the nose, and I was like, "Sweet, now I know my range." So I turned to my right and I see that big chubby guy, looking, and I was like, "Fuck yeah, I've got something for you." So I ran over to him, and then I jumped over Tyson and I swung my hook and I got him clean in the chin, and then he comes tumbling down. And then some other little men from the CFMEU just
15 started, like, punching me on the ribs and pushing me and then I - as I was falling backwards, I tripped over the chair, and I had spray cans in my pocket and I was like "Fuck, if I fall on that, it's gonna blow in my pants, and then I'll look like a clown or a fool."

20 But obviously it didn't happen, so I got up, and then as the fight spilled onto the road, I was walking towards where Soane and them were, but as I was walking towards them, there was still a group of guys on my left-hand side, and as I was walking, I asked those guys, "Fuck (indistinct) cunt?" And they were like, "No," and I was like, "Fuck off then." And then the next guy, "Fuck (indistinct) cunt?"
25 And they was like, "No," and I was like, "Fuck off then." What I was doing was acknowledging them, like, if they wanted to have a fight; if not, then go. So I said that to about three or four guys, and then none of them wanted it, so I carried on.

30 **MR GISONDA:** And once the fighting ended and you were on site, what then happened with the CFMEU picketers? Did you see what happened to them?

MR AH LAM: They were running around. I think they ran towards the main entrance, so they ran right around on the main road towards where their leader was, and then we went inside. I don't know, overpass or sky bridge or whatever it
35 was called. So we were there at that time.

MR GISONDA: And so did you end up being able to work that day?

40 **MR AH LAM:** No, we didn't.

MR GISONDA: And in fact you weren't able to work for a couple of days after that; is that right?

45 **MR AH LAM:** Yeah, that's correct.

MR GISONDA: And when you were able to return to site to work, what did you experience then on the site with the CFMEU guys?

5 **MR AH LAM:** Fuck, it was crazy, man. I mean, like, they were like a pack of hyenas, man. They were like hungry for meat or something. As soon as we rocked up, like, there was just - I don't know if they were excited to see us, but there was like at least 50 of them just flooded the streets because we were at the corner of the office, and knowing that it's me, Tyson and Soane there, they were like, "We're coming to get you (indistinct) you fucking mutts." I was like, "Oh shit, they really want us," you know. Yeah, I was buzzing out on that.

10 **MR GISONDA:** And just before we look at what happened to you outside your home, on 1 August 2024, was there an incident at the Yeerongpilly Station involving Tyson Langdon? Do you remember Mr Langdon being threatened on that site and you went to help him?

15 **MR AH LAM:** Yeah, that's correct.

MR GISONDA: Can you tell the Commissioner what happened on that day?

20 **MR AH LAM:** What happened on the day was Tyson got sent to another station called, I think it was Yeerongpilly, to commence some work there. I think it was him and somebody else. Then I get a phone call from Tyson saying that the CFMEU guys, they were there at Dutton Park - they're there at Yeerongpilly, and they're threatening him, they're teasing him, they're trying to provoke him to come outside and fight. It was only just two of the labourers that were there at - I think
25 it was Gate 1 or something, but then there was a lot of CFMEU members that were there. So as soon as I was talking to Tyson on the phone, I told him, "You just wait there. I'm on my way." And then I get my little brother to jump in the car with me and then we shoot down to - so we're at Dutton Park and we shoot down to Yeerongpilly, and as we were coming up there's the traffic controllers with the
30 stop signs and signs that are all out, and then I could see that the CFMEU members had, like, a barbecue tent or like a big tent outside where they were all camping and hanging out and talking or whatever rubbish they were doing.

Tyson is probably like another 100 metres away from me, so I have to drive
35 towards him but also go past the CFMEU members, and then as I was driving past them, there was a 20k zone but I was driving at 10ks, and then I was driving down I wind down all the windows and then I started playing some Bone Thugs, which is rap music from America, and as I was bumping it and I was blasting it I was looking at them driving past and I was like, "What, ay, ay, you start us, you start
40 us, ay, come, come," telling them to come. They just looked at me, but I was trying to provoke them to come, which - I don't know if they understood my language. None of them said anything, so I drove down past them, and then I spoke to Tyson: "Gee, what happened, junior?" It was just like, "Gee, they said this, this and that." I was like, "Fuck, if they ever try anything (indistinct) and I'll
45 come down (indistinct)." And it was like, "Yeah, sweet, sweet."

And then I hopped back in the car and then I knew I had to drive past them again, so I did the same thing, just drove past in the ute, it was a 20k zone, dropped at 10, wind down the windows again and I was playing Bone Thugs, and I was looking at them and I was like, "Fuck, ay, what are youse guys gonna do, ay? Fuck, come, you start us, you start us." They didn't do anything, they didn't do much, but as I drove past I heard this "Hey, fucking stop the car ay." "Hey cunt, what'd you say?" And they were like, "Go back to where you come from (indistinct)." I was like, "Fuck, come find me over there, motherfuckers. I'll be waiting for you." And then, yeah, then I drove off, drove off in the work ute.

10 **MR GISONDA:** And the importance of that incident was that they - because of what you were doing, they could see what car you drove?

15 **MR AH LAM:** Exactly.

MR GISONDA: And on 1 August, you don't have to say the address or anything, but you were living at that time with your partner; is that right?

20 **MR AH LAM:** That's wrong.

MR GISONDA: And so tell the Commissioner what happened then on the morning of 1 August outside that place where you were staying.

25 **MR AH LAM:** Okay. On that very morning, we woke up at - let's say five to 10. Normally I'll just grab whatever, pants, shorts, or just go out there, be undies and a shirt, and then I'll go and start the car, warm the car up. Because it's diesel, it needs to time to warm up. So I went to go and walk outside. And then I could hear, like, some cars on the street, which were running with headlights on. I just looked over. I was like oh, it must be the neighbours, all good. And then opened the door and I went to go put the keys in the ignition, and as I did that, I heard the doors open, some other vehicle's doors open, and then footsteps - just hear footsteps coming up.

35 And then as I'm going to start the car, like, my shadow was facing the door frame, and I could see my shadow, which was clear. I was like yeah, sweet. And then another shadow comes over, over my shadow, and I'm like what the fuck? This shadow is quite close to be - very close to be over my shadow. Didn't take notice of it. Anyways, I went to put the keys in the ignition and start the car. As I've started the car I just felt like punches at the back of my neck, punches on my rib cage and punches on my back, and I'm like getting hurt. Then I start the car. One second. Two seconds. I'm still getting hit. Three seconds. And I think to myself, fuck, that must be my little brother. If you've got a little brother or older brother, like, they come up and give you body shots and shit like that. I thought it was my little brother that was doing that.

45 So I kept starting it, then the fourth second happened and I'm like cunt, somebody's fucking trying to jump you. I turned around see these two guys, this

tall, balaclava, hoodie, they're punching my face and punching my chin, and I was like, "Fuck (indistinct) cunt," grab him, boom, boom, boom, grab the next one, boom, boom, boom, started pumping into him, ay. And then the other guy runs off to the car and I was like, "Fuck, yo, he's had enough. Grab this guy." Boom, boom, boom. So I started like pumping away at him, pumping away at him. Then the first guy that runs away comes back from the car, he has a pipe and he starts running over to me and he swings. And as he's swinging I'm looking at him with the other guy, collared, boom, boom, boom, gotta knock this guy out before this guy hits me, boom, boom, boom. Didn't do the job, but the guy swung. As he swung I just lifted up my elbow, my hand, covered, blocked, boom, hit me on the elbow, and then I ran inside. I ran inside to go get a sledgehammer.

MR GISONDA: And we have some CCTV footage of what took place. If we can play, please, FAL-1.

15 (Video played).

MR GISONDA: Do you know where that CCTV comes from?

20 **MR AH LAM:** Yep.

MR GISONDA: Whereabouts is that?

25 **MR AH LAM:** Across the road from our house.

MR GISONDA: I tender that footage, Commissioner.

COMMISSIONER: How do you want me to describe it?

30 **MR GISONDA:** CCTV of assault of Mr Ah Lam on 1 August 2024, marked FAL-1.

COMMISSIONER: Are there any objections? CCTV footage of assault of Mr Fou Ah Lam, 1 August 2024, will be FAL-1.

35 **<EXHIBIT FAL-1 CCTV FOOTAGE OF ASSAULT OF MR FOU AH LAM, 1 AUGUST 2024**

40 **MR GISONDA:** Now, they didn't steal anything from you, did they?

MR AH LAM: No, they didn't steal. They didn't take, didn't say anything.

MR GISONDA: And you believe that that was - they were waiting for you and targeting you?

45 **MR AH LAM:** Definitely. Shows on the CCTV.

MR GISONDA: And just putting the CFMEU to one side, was there any reason that you can think of why someone would be targeting you or attacking you at that time?

5 **MR AH LAM:** No, not at all.

MR GISONDA: And that car that you were getting into, was that the same car that you were driving when you went to see Tyson in the incident that you just spoke about?

10

MR AH LAM: Yeah, that's correct.

MR GISONDA: And how many days or weeks before this incident did you go and see Tyson at that site?

15

MR AH LAM: I think it was three, three days.

MR GISONDA: Three days?

20 **MR AH LAM:** Yeah.

MR GISONDA: I have no further questions, Commissioner.

COMMISSIONER: You think it was someone associated with the CFMEU?

25

MR AH LAM: I know it is, yeah.

COMMISSIONER: When you say you know it is, why do you say that?

30 **MR AH LAM:** I've had no problems from anyone in any sort of way. When I go to work, there's a lot of banter a lot of play-fighting and stuff like that, but, like, we get along really well. For this to happen to me, like, that's a different kind of ball game. Like, these guys literally hate me, and I don't have that from my work group or across my work site. That's definitely those guys. Especially when they
35 came to me and they said - they didn't say anything, they didn't take anything. They just came and did what they did and didn't do the job right, so -

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

40 **MR GISONDA:** No.

COMMISSIONER: Thank you very much for your evidence.

MR AH LAM: Thank you.

45

<THE WITNESS WAS RELEASED

MR GISONDA: Ms MacNicol will take the next witness, Commissioner.

MS MacNICOL: Commissioner, the next witness is Kayne MacDonald, who is in the back of court.

5

COMMISSIONER: Mr MacDonald, will you come forward into the witness box, please. Just stand while the oath is administered.

<KAYNE TEX MacDONALD, AFFIRMED

10

<EXAMINATION BY MS MacNICOL

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

15 **MS MacNICOL:** Thank you, Commissioner. Mr MacDonald, have you provided a statement to the Commission that was affirmed on 16 September 2026?

MR MacDONALD: Yes.

20 **MS MacNICOL:** And that statement is two pages and 16 paragraphs with one annexure?

MR MacDONALD: That's the one.

25 **MS MacNICOL:** Have you had a chance to review that statement before coming to court today?

MR MacDONALD: Yes. Yep.

30 **MS MacNICOL:** Commissioner, I tender that statement.

COMMISSIONER: Are there any objections? No? Do you have a middle name, Mr MacDonald?

35 **MR MacDONALD:** It's Tex.

COMMISSIONER: Sorry?

MR MacDONALD: Tex.

40

COMMISSIONER: The witness statement of Kayne Tex MacDonald 16 September 2026, two pages, 16 paragraphs, with one digital annexure, will be exhibit KTM-1.

45 **<EXHIBIT KTM-1 WITNESS STATEMENT OF KAYNE TEX
MACDONALD, 16/9/2026, TWO PAGES, 16 PARAGRAPHS, WITH ONE
DIGITAL ANNEXURE**

MS MacNICOL: Mr MacDonald, what work were you doing on the Cross River Rail in May of 2024?

5 **MR MacDONALD:** I was an operator.

MS MacNICOL: And when you say operator, you mean a plant operator?

MR MacDONALD: Yes.

10

MS MacNICOL: How long had you been working at Dutton Park when 1 May 2024 came around?

MR MacDONALD: About six months.

15

MS MacNICOL: Is it correct that you were part of the group who were confronted by the CFMEU on 1 May 2024?

MR MacDONALD: Yep.

20

MS MacNICOL: Dealing not so much with the brawl, but once you'd passed through the fence, did you see what had happened behind you?

25 **MR MacDONALD:** Yes. I got through the fence and I stood up on the start of the bridge, and yeah, I sort of seen it all happen.

MS MacNICOL: So you saw the brawl from essentially the top of the overpass?

MR MacDONALD: Yeah, yeah.

30

MS MacNICOL: What did you personally see the people outside do to Sky Lewis?

35 **MR MacDONALD:** So as - because I was at the front, so we were able to walk past the main gate where they were standing, and we walked through where they'd loosened a fence panel. So we got straight in. Then Sky, she was a little bit nervous, so she fell towards the back as we were walking over. Then as we sort of all got in, then I noticed the CFMEU members just sort of like targeted her and just beelined straight to her. I think it was to sort of draw some of the guys out or,
40 you know, to really intimidate her.

MS MacNICOL: When you were inside the site - and this is just after the brawl has happened, so after you've witnessed something happen to Sky Lewis - could you hear anything being said?

45

MR MacDONALD: Outside?

MS MacNICOL: Outside.

5 **MR MacDONALD:** Yeah, yeah. So they were calling us, like, everything. That we're in there now, we would only leave in a body bag, we're in there, we're gonna get stabbed, paedophiles, you name it.

MS MacNICOL: All right. Once you were inside the site, what instructions did you receive from one of your supervisors?

10 **MR MacDONALD:** So after all that scuffle and that happened, we were sitting on the bridge, and one of the supervisors said, "Seeing as though we're in here now, we might as well see if we can work for the day." So I got told to head down into the corridor and start my machine, just to see what would happen.

15 **MS MacNICOL:** And when you say corridor, could you explain the site layout for us just a bit?

MR MacDONALD: Just where the tracks are, the corridor.

20 **MS MacNICOL:** So in terms of the tracks, is the work site lower set than perhaps the pathway?

MR MacDONALD: Yes. Yeah, all Kent Street and that's like two, three storeys above.

25 **MS MacNICOL:** Okay. And so you've gone down the corridor and you've jumped in machinery. What machinery was that?

30 **MR MacDONALD:** I chose the Posi-Track, because it's got more of a cage around me.

MS MacNICOL: So did you have other options available to you?

35 **MR MacDONALD:** Yeah. So I had an excavator or the Posi-Track.

MS MacNICOL: And you intentionally chose the Bobcat?

MR MacDONALD: Yes.

40 **MS MacNICOL:** What happened when you started the Bobcat?

45 **MR MacDONALD:** So as soon as I started it, it was about, I don't know, 20 seconds, then they all just - the CFMEU members just sprinted down each side of, like, Kent Street and I'm not sure of the other street on the other side's name. They cut all the privacy scenes, then they started picking up rocks and throwing it in. I was sort of just stuck in the machine waiting for it to stop.

MS MacNICOL: And how long were you in the machine for?

MR MacDONALD: It wasn't a great deal. I'd say they ran out of rocks pretty quick. It would've been 20, 30 seconds once the first rock come.

5

MS MacNICOL: What did you see the CFMEU members holding?

MR MacDONALD: They had, like, knives that they were using to cut open the privacy screen and waving them around.

10

MS MacNICOL: And did you hear any words that were directed towards you?

MR MacDONALD: Yes. Yeah. Just the threats of getting stabbed, and I'm in there now, you know, I'll come out in a body bag.

15

MS MacNICOL: Now, you mentioned that you weren't in the Bobcat for too long. At what point in time did you take out your phone and begin recording?

MR MacDONALD: So after the rocks stopped - I would say they ran out of rocks - I hopped out, and as I was walking back down, I got my phone out and recorded it. I didn't sort of record, because I didn't want to provoke them even more, so I just sort of had my phone in my hand. Then, yeah, I met up with two other guys who've walked down to try and grab me. Then, yeah, we've walked up.

20

MS MacNICOL: Right. Commissioner, I ask that - it's KM-1, the single annexure to Mr MacDonald's statement, be played.

25

(Video played).

MS MacNICOL: And does that recording show you in the railway corridor?

30

MR MacDONALD: Yes. Yeah, that was just outside the machines.

MS MacNICOL: How did you eventually leave the site that day?

35

MR MacDONALD: Police escort.

MS MacNICOL: And how long were you on the site before the police arrived?

MR MacDONALD: I'm not 100 per cent sure. I can't remember properly. But I don't know, I want to say we got out about - I want to say 10, 10.30-ish, maybe.

40

MS MacNICOL: And were you escorted to your vehicle and that's when you left?

45

MR MacDONALD: Yeah, we were escorted over to the car park where everyone parked.

MS MacNICOL: Thank you, Mr MacDonald. Commissioner, I have no further questions.

5 **COMMISSIONER:** Are there any applications to cross-examine Mr MacDonald? Thank you very much for your evidence, Mr MacDonald. You're excused.

MR MacDONALD: Thank you.

10

<THE WITNESS WAS RELEASED

MS MacNICOL: Is that a convenient time, Commissioner?

15 **COMMISSIONER:** Very well. We'll adjourn till 2 pm.

<THE HEARING ADJOURNED AT 12.44 PM

<THE HEARING RESUMED AT 2.00 PM

20

COMMISSIONER: Ms MacNicol.

MS MacNICOL: Yes, Commissioner. The next witness is Raoul Van Aardt.

25 **COMMISSIONER:** Is Mr Van Aardt in the hearing room? Please come forward to the witness box.

<RAOUL VAN AARDT, SWORN

30 **<EXAMINATION BY MS MacNICOL**

COMMISSIONER: Please have a seat, Mr Van Aardt.

35 **MS MacNICOL:** Mr Van Aardt, have you provided a sworn statement to the Commission dated 15 September 2026?

MR VAN AARDT: Correct.

40 **MS MacNICOL:** And is that statement six pages and 46 paragraphs with no annexures?

MR VAN AARDT: Correct.

45 **MS MacNICOL:** Have you had a chance to review that statement?

MR VAN AARDT: Yes.

MS MacNICOL: And at paragraph 31 of that statement, you wish to make an amendment. There's a reference to Tyson Val. Do you mean Tyson Langdon?

MR VAN AARDT: That is correct.

COMMISSIONER: How do I spell that?

MS MacNICOL: It's L-a-n-g-d-o-n. With that amendment to the statement, Commissioner, I tender it.

COMMISSIONER: Are there any objections? No. Witness statement of Raoul Van Aardt, 15 September 2026, 46 paragraphs, six pages, as amended by the witness in the witness box just now at paragraph 31, will be exhibit RVA-1.

<EXHIBIT RVA-1 WITNESS STATEMENT OF RAOUL VAN AARDT, 15/9/2026, 46 PARAGRAPHS, SIX PAGES, AS AMENDED BY THE WITNESS IN THE WITNESS BOX AT PARAGRAPH 31

MS MacNICOL: Mr Van Aardt, what was your role at Dutton Park in April and May of 2024?

MR VAN AARDT: Site supervisor.

MS MacNICOL: Site supervisor. And what did your responsibilities as a site supervisor involve?

MR VAN AARDT: Daily pre-start, setting out works for the day, making sure everybody's doing the right thing, follow our procedures, and getting the job done at the end of the day.

MS MacNICOL: So as site supervisor, were you responsible for a number of individuals?

MR VAN AARDT: Correct.

MS MacNICOL: And how many people reported to you?

MR VAN AARDT: Oh, depends on what scope was on for the day, but say 15 or 20 people.

MS MacNICOL: Okay. How long had you been working at Dutton Park site when 1 May 2024 rolled around?

MR VAN AARDT: I went over to Dutton Park in 2023. Exact date, I can't remember off my head now.

MS MacNICOL: All right. Now, before 1 May 2024, you had a working relationship with Tim Maguire and Liam Crow; is that right?

MR VAN AARDT: That is correct.

5

MS MacNICOL: You mention in your statement at paragraph 16 that the relationship did change significantly. What changes did you observe?

10 **MR VAN AARDT:** Well, just trying - they were employed by - by us as HSRs and general labour, and trying to get them to do any basic labouring jobs were really hard to try and get them to do the works.

15 **MS MacNICOL:** Right. So in terms of what they were doing on site, are you able to comment, to the extent that you were aware?

MR VAN AARDT: Well, in our industry, you see it, you fix it, and if we give you basic tasks to do, we assume you would do them, and they just didn't happen. They'd love to do a walk, point out issues, but not fix them.

20 **MS MacNICOL:** Okay. Turning to 30 April 2024, which is the day before the brawl, I'm looking at paragraphs 20 to 22 of your statement. Based on your recollection, were workers able to enter Dutton Park on that day?

25 **MR VAN AARDT:** Well, off my head, yes, I think we did access site that day, yes.

MS MacNICOL: And were there CFMEU representatives outside the site on that day?

30 **MR VAN AARDT:** Yes.

MS MacNICOL: Did you personally hear any threats that were made to individuals on site by those representatives standing outside?

35 **MR VAN AARDT:** I wouldn't say to individuals, but in the general attendance on site, yes.

MS MacNICOL: Can you recall what kind of threats they were? And I'm -

40 **MR VAN AARDT:** It was a lot of yelling and swearing, "scabs", "grubs", just to be polite on that topic. But yeah.

COMMISSIONER: Just to be what on that topic?

45 **MR VAN AARDT:** Polite and not be -

COMMISSIONER: Oh, polite.

MR VAN AARDT: Yeah.

5 **COMMISSIONER:** You're not giving the exact words; that's what you're saying?

10 **MR VAN AARDT:** I can't remember all the exact words that was said at that time and date, Commissioner, but yeah, it was fairly aggressive, intimidating. Stuff that I don't really want to repeat, to be honest.

MS MacNICOL: Some of the threats are contained in paragraph 20 of your statement, but following and as a result of those threats, did Mr Ben Perry give a direction to workers to leave site on 30 April?

15 **MR VAN AARDT:** Yes.

MS MacNICOL: Turning to 1 May 2024, the pre-start was held in a car park across the road from the site. Was that your decision to conduct the pre-start there?

20 **MR VAN AARDT:** It was - it was a management decision, from us as supervisors in conjunction with our superintendent, taking the circumstances that we were facing at that point in time, due to the car park pre-start at the time.

25 **MS MacNICOL:** And it's correct that there was more than one site supervisor as part of that group during that day?

MR VAN AARDT: Correct.

30 **MS MacNICOL:** So the site supervisors, as well as yourself, made the decision to conduct the pre-start in the car park?

MR VAN AARDT: Correct.

35 **MS MacNICOL:** Now, what was discussed about how workers would enter site, in terms of, do you recall whether there was a plan discussed in the car park?

40 **MR VAN AARDT:** Well, the only discussion was to enter the site at the Noble Street access point, where there was, if I can remember, only one or two CFMEU workers or - sorry, recall that - CFMEU people, persons at that gate, if I can remember correctly, and obviously taking that as minimal impact that we're going to face to access site at that point in time, and decided that that's where we will access site to go to work. A lot of the workers wanted to go to work to provide for their families. So that was the main reason for to us try and get into site to
45 continue the works.

MS MacNICOL: Given the threats the previous day, were there concerns about entering the site on 1 May?

5 **MR VAN AARDT:** Well, you were cautious still, for your own safety and the safety of the people that's working with you and around you, but it was thought that it would just be a normal day for them, hanging around the entrances, yelling and screaming threats at us, but still not actually stopping us from accessing site.

10 **MS MacNICOL:** You mentioned that the CFMEU were hanging around the entrances. Are you able to comment how many entrances there were to the site?

MR VAN AARDT: Four, if I can correctly remember now. We had four access gates into - into the project.

15 **MS MacNICOL:** Okay. Do you recall how those individuals who were around the site, how they were dressed, whether they had any face coverings on?

20 **MR VAN AARDT:** Yep, they all had hoodies, face masks, half face masks, covering their faces.

MS MacNICOL: Now, you were at the front of the group trying to enter the site through the temporary fence; is that correct?

25 **MR VAN AARDT:** That is correct.

MS MacNICOL: And you were at least one of the individuals who unlocked the temporary fence?

30 **MR VAN AARDT:** Correct.

MS MacNICOL: What happened when people - that is, the CFMEU - at other entrances noticed what you were doing?

35 **MR VAN AARDT:** They all were running over from the other entrances to come and support their own people, I suppose.

40 **MS MacNICOL:** So from the point in time where you've started to unlock that fence as some of your group has made it into the site, can you tell the Commissioner what has happened?

45 **MR VAN AARDT:** So I undone the temporary fence during the altercation that was happening down at the bottom gated area to try and get the people to get inside, which I then did. Some of the CFMEU members that were running around came to that specific point and tried to pull the fences closed again and block people from accessing the site through that area, which we then closed up. In that point in time is when the brawl basically broke out further down the street at the actual gated area.

MS MacNICOL: And did you observe anything happen to Ms Sky Lewis during this confrontation?

5 **MR VAN AARDT:** I was not focused on that, no.

MS MacNICOL: In terms of Ms Lewis, though, did you assist her in walking back up Noble Street?

10 **MR VAN AARDT:** I think I did maybe walk partial of the way with them, and then returned back.

MS MacNICOL: And what has happened as the fight has moved on to the public road?

15

MR VAN AARDT: I ducked around the temporary fence, jumped over the temporary fence into the live traffic to stop the traffic from hitting any people on the road.

20 **MS MacNICOL:** Okay. Once the fighting had subsided, where did the project workers or at least your group gather?

MR VAN AARDT: On the overpass.

25 **MS MacNICOL:** Do you know how long you were on the overpass before police were called, or at least before police attended?

MR VAN AARDT: Probably half an hour, 45 minutes, I think. There was a lot of movement in that area and people up and down and discussions. I think it was
30 probably half an hour, 45 minutes, if I can remember right.

MS MacNICOL: And while you and the group were congregating on the overpass, did you hear anything that was being shouted at you by the CFMEU?

35 **MR VAN AARDT:** Yes.

MS MacNICOL: And what were those comments made?

MR VAN AARDT: Well, we would not walk out of here today, we would not
40 walk out of here alive today, was some of the comments that was made towards us.

MS MacNICOL: And as a rough estimate, can you estimate how many individuals were surrounding the site at the time?

45

MR VAN AARDT: If I can guess, probably about 40 to 50 of them.

COMMISSIONER: We only saw about - maybe a dozen, maybe a bit less than a dozen, on the videos this morning.

MR VAN AARDT: Correct, your Honour.

5

COMMISSIONER: Where were these other 30 or 40 to get to 40 or 50?

MR VAN AARDT: Well, that's - as I said, it was - it was - there was - all of them were standing behind the banner mesh that was on the temporary fences. You
10 could see a lot of heads and a lot of people, and with everything that's going on, I think we just made a calculation of roughly how many people were there.

COMMISSIONER: But a lot more than you see in the video?

15 **MR VAN AARDT:** Correct, yes.

MS MacNICOL: At what point in time did Mr Ben Perry arrive to the overpass?

MR VAN AARDT: Not long after that he was - I think maybe say about half an
20 hour or stuff, he was there.

COMMISSIONER: Who was that, sorry?

MS MacNICOL: Mr Ben Perry is the superintendent.
25

COMMISSIONER: Okay.

MS MacNICOL: Commissioner, I'm going to ask that a video be played. It is
30 CRR video 6.

(Video played).

MS MacNICOL: Mr Van Aardt, this footage, does this depict the overpass and
35 some of the workers congregating on it?

MR VAN AARDT: Correct.

MS MacNICOL: And there was an individual in the footage who seemed to
40 usher some of the CFMEU out of the site. Are you able to identify that individual?

MR VAN AARDT: Yes.

MS MacNICOL: Who is it?
45

MR VAN AARDT: Damian Keeley.

COMMISSIONER: Sorry, who? I missed that.

MR VAN AARDT: Damian Keeley.

5 **MS MacNICOL:** Mr Keeley was a leading hand, Commissioner. Commissioner, I will tender that recording. It will be CRR-11, video footage of workers gathering on the overpass at Dutton Park on 1 May 2024.

10 **COMMISSIONER:** I thought CRR-11 was the footage of Mr Ah Lam getting through the picket?

MS MacNICOL: Apologies, Commissioner. It must be CRR-12.

15 **COMMISSIONER:** And how do I describe this?

MS MacNICOL: Video footage of workers gathering on the overpass on 1 May 2024.

20 **COMMISSIONER:** Are there any objections? Video footage of workers gathering on the overpass, Dutton Park construction site, 1 May 2024, will be CRR-12.

25 **<EXHIBIT CRR-12 VIDEO FOOTAGE OF WORKERS GATHERING ON THE OVERPASS, DUTTON PARK CONSTRUCTION SITE, 1/5/2024**

MS MacNICOL: Mr Van Aardt, what instructions were workers eventually given, following being on the overpass? Were they told to go home or that they could start work?

30 **MR VAN AARDT:** We decided to - to see what work we can do for the day - we were already on site - till we were told to pack up for the day.

MS MacNICOL: And were you escorted off the site by police officers?

35 **MR VAN AARDT:** Correct.

MS MacNICOL: Following 1 May, what measures did the project introduce to record interactions with organisers and picketers?

40 **MR VAN AARDT:** Supervisors were issued with body cams that we would wear for that specific reason, if there was any interaction that we could use. It was on our own discretion if we wanted to use it or not. Obviously, main reason was not to use - because we didn't want to provoke or have any issues with any intimidation from their end.

45 **MS MacNICOL:** So did you find from your own experience that the use of the body-worn cameras did provoke some CFMEU -

MR VAN AARDT: I think it had a contribution.

5 **MS MacNICOL:** Okay. What changes, if any, did you observe in their behaviour when they noticed that you were wearing a body-worn camera?

MR VAN AARDT: I think the - the aggressive behaviour came out when they realised that we were filming.

10 **MS MacNICOL:** Okay. You mentioned in your statement that you noticed that they might cover their faces more. Was that also a factor?

MR VAN AARDT: Correct.

15 **MS MacNICOL:** After the brawl, you received some information about a worker reportedly being followed home. What steps did you personally take to protect yourself and your family?

20 **MR VAN AARDT:** I removed the CPB branding off my ute, which - I have a company ute - removed all the branding off it not to be targeted outside of work.

MS MacNICOL: Was that something that a number of site supervisors were doing or something that was personal to you?

25 **MR VAN AARDT:** Personal, and a lot of others did it as well.

MS MacNICOL: In terms of the actual work crew, did you notice a change in morale following the brawl?

30 **MR VAN AARDT:** No. As soon as we could get back to work, everybody was pretty fine, and I think we handled the situation as best we could.

35 **MS MacNICOL:** Paragraph 46 of your statement, you mention that the workers appeared to be stressed and anxious. Was that more of a short-lived experience and then they got back to work after a bit?

40 **MR VAN AARDT:** Correct. I think as time heals, everything blows over fairly quickly. Depends on person to person, but I think everybody got on with work and realised what has happened and moved on from there. So it was short-lived.

MS MacNICOL: Commissioner, I have no further questions.

45 **COMMISSIONER:** I think you said, Mr Van Aardt, that the police guided you or ushered you off site on 1 May; is that right?

MR VAN AARDT: Correct. If I can remember right, yes.

COMMISSIONER: Sorry, say that again?

MR VAN AARDT: If I can remember correctly, yes.

5 **COMMISSIONER:** I read something in The Courier-Mail on Sunday or
Monday - I can't remember when - that said no one involved in this incident - or
maybe it said no one from the CFMEU - had been arrested or charged or
prosecuted. What's your understanding of the status of any of the proceedings
taken against any of the persons associated with the CFMEU?

10 **MR VAN AARDT:** Sorry, Commissioner, I don't think I understand the question,
but nobody has been arrested as far as my knowledge if that's the question.

COMMISSIONER: That is the question, yes.

15 **MR VAN AARDT:** I haven't heard that anybody has been arrested. There's been
no arrests made except for the headquarters where they found stuff, and that's all
I've heard, basically.

20 **COMMISSIONER:** Are you aware if anyone has been charged or prosecuted as
a result of this?

MR VAN AARDT: No, sir.

25 **COMMISSIONER:** Who's the person that follows up with the police from your
organisation? Is it you or someone higher up that would do that?

MR VAN AARDT: Someone higher up.

30 **COMMISSIONER:** Do you know who that might be?

MR VAN AARDT: Excuse me, sorry?

COMMISSIONER: Do you know who that might be?

35 **MR VAN AARDT:** I have no idea.

COMMISSIONER: Are there any - no applications to cross-examine? Thank
you very much for your evidence, Mr Van Aardt. You're excused.

40 **MR VAN AARDT:** Thank you, Commissioner.

<THE WITNESS WAS RELEASED

45 **MS MacNICOL:** Commissioner, the next witness is Mr Benjamin Paul Millard.

COMMISSIONER: Sorry, just have to slow down a bit. What's the witness's name, sorry?

MS MacNICOL: Benjamin Paul Millard.

5

COMMISSIONER: Is Mr Millard here in the hearing room? Can you please come forward.

<BENJAMIN PAUL MILLARD, SWORN

10

<EXAMINATION BY MS MacNICOL

COMMISSIONER: Please take a seat, Mr Millard.

15 **MS MacNICOL:** Mr Millard, have you provided a statement dated 15 September 2026 to the Commission?

MR MILLARD: Yes, I have.

20 **MS MacNICOL:** And is that statement six pages and 60 paragraphs with 10 annexures?

MR MILLARD: Yep.

25 **MS MacNICOL:** And four of those annexures are video files. Have you had a chance to review that statement?

MR MILLARD: Yes, I have.

30 **MS MacNICOL:** Commissioner, I tender the statement with the associated annexures.

COMMISSIONER: I've only got three annexures out of the 10 which are video files. Should I have four?

35

MS MacNICOL: It is BPM-1, 2, 5 -

COMMISSIONER: I see.

40 **MS MacNICOL:** - and 9.

COMMISSIONER: Yes. Thank you. Are there any objections? Witness statement of Benjamin Paul Millard, 15 September 2026, 60 paragraphs, six pages, with 10 annexures, including four digital annexures, will be BPM-1.

45

**<EXHIBIT BPM-1 WITNESS STATEMENT OF BENJAMIN PAUL
MILLARD, 15/9/2026, 60 PARAGRAPHS, SIX PAGES, WITH 10
ANNEXURES, INCLUDING FOUR DIGITAL ANNEXURES**

5 **MS MacNICOL:** Mr Millard, what was your role at Rocklea Station?

MR MILLARD: Senior supervisor.

10 **MS MacNICOL:** And what were your day-to-day responsibilities?

MR MILLARD: I'd manage the junior supervisors, do the work planning, issue tasks, pre-start meetings, workplace health and safety, yeah, general day-to-day runnings of a construction site.

15 **COMMISSIONER:** Does that mean that someone like Mr Van Aardt reports to someone like you? Is that how it works?

MR MILLARD: Not in - I was not at his station, but yes, technically he would.

20 **MS MacNICOL:** Mr Millard, at paragraphs 8 to 9 of your statement, you talk about the response sought by CFMEU organisers being disproportionate to a concern raised. What did you experience?

25 **MR MILLARD:** The CFMEU would like to cherry-pick. They would go round site, disrupt work. They would pick certain item - individual items, knowing full and well we had procedures in place to deal with these things. Might be something as simple as a missing bar cap. It could be something as simple as boys weren't using the vacuum cleaner at the time but a vacuum cleaner was present. But yeah, it was mainly to disrupt work, get workers removed from site until the
30 issues could be fixed. Most of the issues - I've never had a major issue. So everything was, yeah, fixed pretty quickly.

MS MacNICOL: And so the example you gave, and you might need to correct me, a cap, would something like that cause an entire site to shut down?

35 **MR MILLARD:** In their point of view, yes.

MS MacNICOL: You describe the approaches becoming increasingly aggressive at paragraph 10. What particular conduct do you mean by that?

40 **MR MILLARD:** When the EBA was being negotiated, I found that the site visits by organisers were increased and the presence of the HSRs, so the two that we had from the CFMEU, they became more disruptive.

45 **MS MacNICOL:** And when you talk about -

COMMISSIONER: They became more what, sorry?

MR MILLARD: More disruptive. So, yeah, they were asking for more site walks, more opportunity to - which basically meant to walk round site, talk to workers and try and recruit them.

5

COMMISSIONER: And these are the HSRs? These are two of the 14 that were imposed on the project?

MR MILLARD: That's correct.

10

COMMISSIONER: After the so-called safety reset?

MR MILLARD: Yep, that's correct.

15

MS MacNICOL: So that initial period where the HSRs have come on site, do you recall when that was, for at least Rocklea?

MR MILLARD: Oh, no, it was - as the Commissioner said, it was after the safety restart. Yeah, that's when they really started ramping up.

20

MS MacNICOL: And so when there was the EBA being negotiated between December of 2023 and about March of 2024, is that the period where you noticed the increase in aggression?

25

MR MILLARD: Yes.

MS MacNICOL: On the topic of the HSRs - according to your statement, the relevant HSRs were Tim Maguire and Liam Crow. You mentioned that you observed repeated approaches to traffic controllers by them. What did you see and/or hear?

30

MR MILLARD: I knew they spent a lot of the time with our gatekeeper. She approached me and said they were constantly asking her to join the union. She's told them several times no. And another traffic controller - we used traffic controllers for gatekeepers - on Station Road reported the exact same thing to me.

35

MS MacNICOL: Turning to an incident on 23 May 2023, you've covered it off in your statements - sorry, your statement at paragraphs 13 to 32, but are you able to recall what happened that day?

40

MR MILLARD: Which one exactly was that?

MS MacNICOL: This is when two CFMEU individuals came onto Rocklea.

45

MR MILLARD: Yep. So I believe I was just walking out of the office. One of our engineers approached me and said two black hats have just walked on site. Myself and the engineer went out and approached them, asked to see any form of

ID, any form of entry permit, any notice or anything they had. They ignored me. We walked to the old existing timber overpass on the bridge. At that point, they split up. So at that point I got my phone out, I started videoing - I followed the one onto Railway - station Street - no, Railway Parade. What was it? Maybe
5 Station Parade - where he walked up and down. Still I told him he wasn't allowed to be on site. He wasn't inducted. He would not give me any ID. Told him you have to leave site, you have to leave site. He ignored me and, as they do, jumped on his phone and ignored me. Then I finally got him to move away from the construction area back onto the overpass, where he stayed on the overpass.

10 The second individual was now on platform 1 and 2. I went and approached him. I told him he hasn't showed me any ID, I don't know who he is, except for the fact of his big black CFMEU hard hat and his CFMEU jumper he was wearing at the time and the man-bag he was carrying. I also told him he had to leave site, he
15 could not be on site, several times. He also ignored me. Tried to get workers to stop work. Said the work site wasn't safe. We have a procedure in place for what they were talking about, which is pretty straightforward procedure. Then he finally turned around - I told the boys to go have smoko, because I didn't want them listening to it, and it was about half an hour or so before smoko time
20 anyway. So the workers just went and had smoko.

Then they went back onto the overpass. Both of them stood on the old timber overpass. I told them they had to leave site and they weren't allowed to be on site. They both refused. Both jumped on their phones, as they do. Ignored me. Made
25 phone calls. Got on their phones telling everyone I didn't know how to do my job and all that type of thing. Then I told them they had to leave site. Then the gentleman who was on platform 1 and 2 turned around and said, "You must like being on Facebook." And my response to him was, "You're not the only one who's got fuckin' Facebook."

30 **MS MacNICOL:** So there was the Facebook comment. Was there also the comment that you mention at paragraph 26, which is that - a threat that you wouldn't work on any other large construction projects in Queensland?

35 **MR MILLARD:** Yep, we'd be blacklisted - I'd be black listed.

MS MacNICOL: Now, you mentioned that you did video some of it. Commissioner, I ask that BPM-1, which is the first video, be played.

40 (Video played).

MS MacNICOL: The comments made by that individual, which we understand is Blake Hynes, Commissioner, who was on organiser at the time, his comments were that there's no access and egress. Was that a common concern that the
45 CFMEU raised?

5 **MR MILLARD:** When we were at a certain stage of the construction, they knew it's going to be an issue because of live train lines. They know this, but we have a procedure in place where we ring control for QR, say, "Emergency, emergency, emergency," tell them our exact location and they will stop the trains, allow
10 emergency services to access the platform that way. Because at that stage of the project, being an old station, we've only got the old existing timber bridge, which when it was built to the standard, it was never designed to take a stretcher anyway. So our procedure was to stop the trains, access over the track, emergency services do their thing. Once it's all clear, we get back on the control. Control can then
15 send trains again.

15 **MS MacNICOL:** Okay. You mentioned in the statement at paragraph 19 that, as you say now, there was no requirement for any other access point on the site given the circumstances of that particular train station.

MR MILLARD: Yep, of the work, yep.

20 **MS MacNICOL:** Moving on to an incident on 30 April 2024, do you remember when you arrived or at least what happened when you arrived at Rocklea on 30 April 2024?

25 **MR MILLARD:** Yep. I get to work pretty early. So I got to work. There's a coffee shop across the road. Usually I either open the gate or the gate's already open and everyone goes to work. A lot of people getting their coffees from the coffee shop across the road. This day I turned up, there was a marquee to the right-hand side, a ute parked across the driveway, and several blokes wearing masks, CFMEU jumpers, hoodies, all that type of thing, blocking the driveway, and all of my work group was on the footpath across the road at the cafe.

30 **MS MacNICOL:** Did you personally call the police that day?

MR MILLARD: Yes, I did.

35 **MS MacNICOL:** And what did you ask them to do?

MR MILLARD: I said we had people blocking our access, and the police said it's not their purview; that's not what they handle.

40 **MS MacNICOL:** All right. So you contacted police and they told you that they weren't able to assist you?

MR MILLARD: Yep.

45 **MS MacNICOL:** Did they suggest that you contact the Brisbane City Council?

MR MILLARD: Yep, so I rang Brisbane City Council, and they sent out a parking warden, and the parking warden said the ute had to be removed because it was illegally parked across the driveway.

5 **MS MacNICOL:** Right. If we can pull up BPM-7 -

COMMISSIONER: Do you know who you spoke to at the Queensland Police? Do you recall who you spoke to?

10 **MR MILLARD:** No, it would have been Moorooka desk. Moorooka being the nearest station, I would've rung Moorooka.

COMMISSIONER: And they said to you what? It wasn't -

15 **MR MILLARD:** Yeah, they don't attend that type of thing, union action.

COMMISSIONER: Don't attend union action?

MR MILLARD: Yep.

20

MS MacNICOL: Mr Operator, if we can pull up annexure 7 of Mr Millard's bundle.

OPERATOR: (Indistinct).

25

MS MacNICOL: That's quite all right. I'll just continue. You mentioned a cafe?

MR MILLARD: Yep.

30 **MS MacNICOL:** That your staff were waiting there and it was near residential buildings?

MR MILLARD: There's a set of units on the right-hand side of the cafe, a small - another set of units there on the right-hand side, then a house next to that.
35 Next to the actual station, there's only one commercial property on the other side of the road, and I believe a community centre for some Islander people.

MS MacNICOL: In respect of perhaps not construction workers, the various residences and buildings, did you receive any complaints about the CFMEU
40 behaviour?

MR MILLARD: We did have one gentleman who lived on the balcony of the units - I'm looking at the cafe - to the right-hand side, who was yelling at the CFMEU telling them to eff off, let the boys go to work, that type of thing. But no
45 other complaints, no.

MS MacNICOL: Thank you. Turning to 1 May 2024, when you arrived on that morning, what did you observe?

MR MILLARD: Same thing.

5

MS MacNICOL: So there were picketers there?

MR MILLARD: Yep.

10 **MS MacNICOL:** And cars covering the - or blocking the entryway?

MR MILLARD: No, the car at this stage was illegally parked too close to the bus stop, which is on the right-hand side of the gate.

15 **MS MacNICOL:** Did you see Mr Liam Crow as one of the picketers there that day?

MR MILLARD: Yes, I did.

20 **MS MacNICOL:** Eventually, work did commence. BPM-7 is now on the screens. The cafe that you describe, is that in the background?

MR MILLARD: Yeah, that's it, that's it, the railway cafe, yep.

25 **MS MacNICOL:** Is this a photograph taken on 30 April where the cars were crossing the entryway?

MR MILLARD: Yeah, I believe so.

30 **MS MacNICOL:** Thank you, Mr Operator. Work did eventually commence at Rocklea on 1 May around 9.30 to 10 am; is that correct?

MR MILLARD: Yep.

35 **MS MacNICOL:** Do you recall whether you received essentially a stop-work direction from anyone more superior or superior to you?

MR MILLARD: I was on the phone to my superior, and my superior just said, "Hold on. We will see what's happening elsewhere." Because they were blocking
40 all three of our gates and we were early access down to Salisbury Station, which was the next build, they also blocked the gate there as well.

MS MacNICOL: And you actually went to Salisbury Station as well?

45 **MR MILLARD:** Yeah. I was directed by my manager to go to Salisbury Station and cut the lock and chain that had been placed on the gate, because the gate that it

had been chunked on was QR's access. So in an emergency situation, that's where QR would access the track.

5 **MS MacNICOL:** Now, you updated the Unity WhatsApp chat, didn't you, during 30 April and 1 May?

MR MILLARD: Yeah, lots of people would have, just to keep everyone aware of what's happening around site.

10 **MS MacNICOL:** And you were aware of what had happened at Dutton Park on 1 May?

MR MILLARD: Yes, I was.

15 **MS MacNICOL:** In terms of general picketing at Rocklea, you mention in your statement that you saw signs being placed up. What sort of signs did you see and who was depicted in them?

20 **MR MILLARD:** There was several head cut-outs. Mainly of James Donaghey, the general superintendent, and Adrian Oxford, who was our safety manager at the time. Yeah, there was lots of comments. I think one was, yeah, "murderer". I think there was also "It's weird to dye your beard". Yeah, that was just - they were directed at those two and they were on all three of our gates.

25 **MS MacNICOL:** At paragraph 60 of your statement, you've spoken about the signs. You mentioned that it occurred to you that if you put the CFMEU off too much, that you could end up being on one of those signs.

30 **MR MILLARD:** Oh, 100 per cent, yep.

MS MacNICOL: Did that thought in the back of your mind change how you dealt with the CFMEU?

35 **MR MILLARD:** Oh, no.

MS MacNICOL: You mention also in paragraph 60 that it was a lot easier to appease them when you could. What do you mean by that?

40 **MR MILLARD:** Oh, if they turned up and they wanted to do a safety walk and it wasn't scheduled, it's always easier to let them have it. If they want to speak to the workers outside a break, like at pre-start, it's easier to let them have their little blue. It's just - it's easier. If you don't, they're on the phone.

45 **MS MacNICOL:** And when you say "on the phone", what would happen when they would go on the phone?

MR MILLARD: An organiser would be getting rung.

MS MacNICOL: An organiser would show up. What would happen then?

5 **MR MILLARD:** He'd issue a permit, and the permits, in our training we're told they've got to be specific, but they never are. They'll do general access and egress permits which gives them access to the whole site. So they can't ever tell you where the issue is or what the problem is; they just want to inspect everything.

10 **MS MacNICOL:** On that point, just seeing the point all the way through, you say an access and egress gives them access to the whole site. Is that because of the different points of entry in a site and they have to wander around the whole site?

15 **MR MILLARD:** Yeah, because the site is built up of access and egress. So we have a lot of areas, as you can imagine, working in a rail corridor where there is no access. You can't cross it. You have an access point to get in and out of, and you have an egress point to get you around site to keep you safe. So they'll just say access and egress, then they can look at the whole site.

20 **MS MacNICOL:** And effectively does that mean the loss of productivity on the day?

MR MILLARD: Yep.

25 **MS MacNICOL:** Thank you, Mr Millard. Commissioner, I have no further questions.

COMMISSIONER: You said you spoke to your superior or manager. Who was that person?

30 **MR MILLARD:** That'd be Ben Perry, superintendent.

COMMISSIONER: There's no application to cross-examine Mr Millard? No? Thank you very much for your evidence, Mr Millard. You're excused.

35 **MR MILLARD:** Thank you.

<THE WITNESS WAS RELEASED

40 **MS MacNICOL:** Commissioner, the next witness is Mr Patrick O'Brien.

COMMISSIONER: Is Mr O'Brien in the hearing room?

MS MacNICOL: He is.

45 **COMMISSIONER:** Mr O'Brien, would you come forward to the witness box, please.

<PATRICK O'BRIEN, SWORN

<EXAMINATION BY MS MacNICOL

5 **COMMISSIONER:** We don't have a witness statement for Mr O'Brien?

MS MacNICOL: No, Commissioner, there's no statement. Mr O'Brien, were you the Dutton Park site manager from January 2024 to approximately December 2025?

10

MR O'BRIEN: Yes, that is correct.

COMMISSIONER: What were those dates again, sorry?

15 **MS MacNICOL:** January 2024 to December 2025.

COMMISSIONER: And how does the chain of command go? Site manager, then senior superintendent or senior supervisor, supervisor?

20 **MR O'BRIEN:** Yes, that is correct.

COMMISSIONER: Sorry, I missed that.

MR O'BRIEN: Yes, that is correct.

25

MS MacNICOL: What are the responsibilities of a site supervisor - sorry, a site manager?

30 **MR O'BRIEN:** Driving productivity. Maintaining the program and general supervision of the supervisors.

COMMISSIONER: You just have to speak up a little bit, Mr O'Brien. I can't hear you.

35 **MS MacNICOL:** The mics in front of you can be moved a little bit.

COMMISSIONER: Just give your answer again, sorry.

40 **MR O'BRIEN:** So driving productivity, assisting with safety, and supervising the supervisors when they need you.

COMMISSIONER: Supervising what, sorry?

MR O'BRIEN: The supervisors.

45

MS MacNICOL: Mr O'Brien, you are aware of a Unity notification WhatsApp group; is that correct?

MR O'BRIEN: Yes, I am.

5 **MS MacNICOL:** And you used that group to report what was happening at Dutton Park to other project personnel?

MR O'BRIEN: At the time, yes.

10 **MS MacNICOL:** And at the time when you were reporting things, you intended those reports to be accurate so that management could act on them; is that correct?

MR O'BRIEN: At the time, that is correct.

15 **MS MacNICOL:** Now, just for completeness, do you accept that you attended a recorded interview with counsel assisting and a solicitor in February of this year?

MR O'BRIEN: That is correct.

20 **MS MacNICOL:** And you answered questions about certain events, but mostly it was in relation to 30 April, 1 May, 2 May and 3 May; is that right?

MR O'BRIEN: I can't really remember, but I was there and I did answer questions.

25 **MS MacNICOL:** Yes. And at the time, you were - at the time of the interview, you were trying to give an accurate account; is that right?

MR O'BRIEN: Yes.

30 **MS MacNICOL:** Have you reviewed your WhatsApp messages before giving evidence today?

MR O'BRIEN: Yes, two weeks ago.

35 **MS MacNICOL:** And have you also reviewed the interview transcript?

MR O'BRIEN: Yes. It was sent to me two weeks ago.

40 **MS MacNICOL:** I'm going to take you to particular portions of those two documents. I will note you do have copies in front of you. They're just to your left if you would like to, but I will take you through them. Mr Operator, if we could put up the WhatsApp messages that are marked and placed on page 1. And if we could zoom in at the bottom half of those messages. Mr O'Brien, do you agree that at 4.17 am you reported that a CFMEU lock and chain was on the Noble
45 Street gate?

MR O'BRIEN: Yes, that's my name, but I have no memory of sending that message.

5 **MS MacNICOL:** And at 4.44 am, you reported that the triangle entrance was blocked?

MR O'BRIEN: Yes. Again, that's my name, yes.

10 **MS MacNICOL:** And just for completeness, the triangle entrance, is that one of the four or five entrances to Dutton Park?

MR O'BRIEN: Correct.

15 **MS MacNICOL:** At 4.51 am, you sent the message reading:

"I've been advised from the Organiser (Dennis) that no one is passing the picket line and 'It will kick off if they try'."

20 Is that correct?

MR O'BRIEN: Yeah, that's what the message says.

25 **MS MacNICOL:** And the messages that I've just been discussing with you, they were all sent on 30 April 2024?

MR O'BRIEN: Yes, that's the date that's on it.

30 **COMMISSIONER:** Mr Ah Lam said - I don't know if you were here in the hearing room before lunch, Mr O'Brien, but he said that he got to work for a 6.30 start at about quarter to 6. Here you are sending messages an hour and a half before that and a about two and a quarter hours before work starts. Is this typical, or was it special for that day?

35 **MR O'BRIEN:** I typically come in quite early in the morning, I'd be one of the first, so it would vary between 4.30 and 5 each morning.

COMMISSIONER: Come in what time?

40 **MR O'BRIEN:** Between 4.30 and 5 each morning.

COMMISSIONER: And you were in slightly earlier that morning, 30 April?

45 **MR O'BRIEN:** Yes, that's what it looks like, yeah, but I have no memory of why.

COMMISSIONER: Sorry, I missed that.

MR O'BRIEN: I've got no memory of that - of that morning.

MS MacNICOL: So on 30 April 2024 - so this is the day before the brawl - you had a CFMEU organiser, and in brackets you've said Dennis, tell you that it will
5 kick off if you try to enter the site; that's correct?

MR O'BRIEN: Yeah, if that's - that's what it says there, so yeah.

MS MacNICOL: And Mr Mitchell: in your interview, you described him as the
10 leader and the go-to guy. Is that still your recollection?

MR O'BRIEN: I can't really remember, to be honest.

COMMISSIONER: What, you can't remember two years ago whether someone
15 was a leader and a go-to guy, or you can't remember whether you told -

MR O'BRIEN: Sorry, Commissioner, I didn't hear your question.

COMMISSIONER: Well, I understood that you were being asked whether Mr
20 Mitchell was the leader or go-to guy, and the question was do you remember saying in your interview that he was the leader or go-to guy, and you said, "I can't remember." Isn't that what you just said?

MR O'BRIEN: Yeah. Yes, correct.
25

COMMISSIONER: And I'm asking you, can you not remember whether he was in fact the leader or the go-to guy in 2024, two years ago?

MR O'BRIEN: Correct. I can't remember.
30

COMMISSIONER: You can't remember that?

MR O'BRIEN: Going off the WhatsApp group, it says there he is, so - but I -

MS MacNICOL: But you accept that, in your interview in February, you said:
35

"He was the leader. He was the go-to guy."

MR O'BRIEN: Yes, if that's what I said then.
40

MS MacNICOL: At 5.13 am, still on 30 April - and this is at page 2 of the WhatsApp messages, Mr Operator - you asked Mr Donaghey:

"Is it worth sneaking in any subbies that want to work, or could that escalate
45 the situation?"

Is that correct?

MR O'BRIEN: Yes.

MS MacNICOL: And Mr Donaghey replied, saying:

5

"I wouldn't at the minute, Pat. That will provoke them to start entering the site. I will catch up with Paul and get back to you shortly."

That's right?

10

MR O'BRIEN: Yeah, that's what James said.

COMMISSIONER: Who's Paul and who's James Donaghey?

15

MR O'BRIEN: James Donaghey is the general superintendent.

COMMISSIONER: So you report to him?

MR O'BRIEN: I report to Ben Perry.

20

COMMISSIONER: And Ben Perry reports to James Donaghey?

MR O'BRIEN: Yes.

25

COMMISSIONER: And who's Paul?

MR O'BRIEN: I think that might have been Paul Elliott.

COMMISSIONER: What's the -

30

MR O'BRIEN: Paul Elliott.

COMMISSIONER: Elliott?

35

MR O'BRIEN: Yeah, Elliott.

MS MacNICOL: At 6.36 am, still - sorry, on page 3 of the WhatsApp messages, you sent a jpeg image to the WhatsApp group; is that right?

40

MR O'BRIEN: Yes, that looks to be correct.

MS MacNICOL: And at 6.36 am, you said:

"Doing pre-start now."

45

MR O'BRIEN: Yes, again, that looks correct.

MS MacNICOL: Mr Operator, could we bring up page 2 of a bundle of images that have been provided. Mr O'Brien, can you see that image?

MR O'BRIEN: Yes.

5

MS MacNICOL: Is that the jpeg image that you sent to the WhatsApp group at 6.36 on 30 April?

10 **MR O'BRIEN:** I'm not too sure. I can't remember. If that's the picture that's associated with that text, then yeah, that is that picture. That is the usual place that we do pre-start.

MS MacNICOL: Okay. And that is on site, isn't it?

15 **MR O'BRIEN:** Yes, correct.

MS MacNICOL: Now, moving to the end of 30 April, and this is now at page 5 of the WhatsApp messages, that evening you reported to the group that you'd spoken to the Dutton Park security guard, and your message records that - eight to 20 10 people at each four access points, and that you also wrote that he, being the security guard, was told to leave and not come back. Said they were very aggressive. Is that right?

25 **MR O'BRIEN:** Yes, correct. That's my name and the message.

MS MacNICOL: And you attached a photograph to your - to the WhatsApp group. Mr Operator, can you bring up page 3 of that bundle of images. Mr O'Brien, do you recognise that screenshot there?

30 **MR O'BRIEN:** Just from the WhatsApp group that was sent to me two weeks ago.

MS MacNICOL: Yes. And that's a message that you received from the security guard?

35

MR O'BRIEN: Yeah. If I said it was back then, then yeah.

MS MacNICOL: Was it normal to have security guards at Dutton Park around this time?

40

MR O'BRIEN: There was security organised, yeah. Before I started with the company, there was security guards there.

MS MacNICOL: Okay. So it was well before the brawl that there were security guards?

45

MR O'BRIEN: I can't be certain, but yeah, they were there before that.

MS MacNICOL: Okay. Turning to 1 May 2024, you conducted the pre-start, and when I say "you", I mean you as part of the group, supervisors as well, conducted the pre-start in the car park across the road. Do you recall that?

5

MR O'BRIEN: Yes, it was in the car park of the site office.

MS MacNICOL: And at 6.30 am on 1 May, you sent an image to the WhatsApp group, and that's on page - sorry, Mr Operator, can you bring up page 4 of the bundle. Is this that photograph that you sent to the WhatsApp group?

10

MR O'BRIEN: I think it might be, yeah.

MS MacNICOL: Looking that the photograph, that's not the usual place where you would conduct a pre-start?

15

MR O'BRIEN: No, that's the car park.

MS MacNICOL: That's the car park. If we can go back to the WhatsApp group messages -

20

COMMISSIONER: So why were you conducting a pre-start in the car park on 1 May and not in the normal position as demonstrated in the photo of 30 April?

MR O'BRIEN: I can't remember what the conversation was with management.

25

COMMISSIONER: Someone from management told you to do that?

MR O'BRIEN: I'm guessing, yes. I can't remember.

30

COMMISSIONER: You seem to have a bit of trouble remembering things, Mr O'Brien. No one's spoken to you about giving evidence here and what you should recall and what you shouldn't?

MR O'BRIEN: No.

35

COMMISSIONER: You just got a bad memory?

MR O'BRIEN: It's nearly two and a half years ago. It's been quite a while.

40

COMMISSIONER: Everyone else seems to be able to remember everything reasonably well, but you don't.

MR O'BRIEN: No. Unfortunately not.

45

COMMISSIONER: Have you got a bad memory?

MR O'BRIEN: Sorry?

COMMISSIONER: You've got a bad memory? You have trouble remembering things, do you?

5

MR O'BRIEN: I must do, yeah.

COMMISSIONER: Sorry?

10 **MR O'BRIEN:** I must do.

MS MacNICOL: Page 7 of the WhatsApp messages. At 6.36 am, you asked the WhatsApp group whether anyone had a contact for a locksmith, as the CFMEU had snapped off keys in the locks; is that right?

15

MR O'BRIEN: Yes, that's what the text says.

MS MacNICOL: So you must have sent that not long after starting the pre-start?

20 **MR O'BRIEN:** Correct, yeah.

MS MacNICOL: From the car park where you conducted the pre-start, you and a group of workers walked over to the site together; is that correct?

25 **MR O'BRIEN:** Yes, I think so.

MS MacNICOL: And what do you now recall of the group reaching the fence? Do you recall what happened there?

30 **MR O'BRIEN:** Just from the videos that I've seen.

MS MacNICOL: So you don't have independent recollection of what happened?

35 **MR O'BRIEN:** No, not really. We walked over, yeah. I wasn't involved in much of the fracas.

COMMISSIONER: Can you just ask the question again?

40 **MS MacNICOL:** You don't have an independent recollection of the -

COMMISSIONER: What's the incident?

MS MacNICOL: Of the brawl, when you reached the fence?

45 **MR O'BRIEN:** No, just from the videos that I've seen, yeah.

COMMISSIONER: You didn't see the brawl?

MR O'BRIEN: I did - I was there, but I remember from the videos. I don't remember from my memory. I just remember from what I've seen on the videos.

5 **COMMISSIONER:** It's very surprising to me, Mr O'Brien. I don't imagine that you are confronted with a brawl every time you go to work, but you don't remember it apart from what you've seen in the video. Is that your evidence?

MR O'BRIEN: Yeah.

10

COMMISSIONER: A brawl that spilled out onto a busy road. You don't remember it. Are you serious?

15 **MR O'BRIEN:** It's - it's hard to - what I remember and what's in the videos. I've seen all the videos over the last few days.

MS MacNICOL: I appreciate that's your evidence now, Mr O'Brien. Do you accept in your interview in February of this year you said:

20 "Look, it happened very quickly. I know there was confrontation
straightaway. The CFMEU guys blocked the entrance. They blocked - they
linked arms to stop anyone getting in, and then there was a lot of pushing and
shoving. Yeah, again, from my perspective I stepped back and tried to
25 witness it all and took it on video, and then I saw that it was getting pretty
rough so I rang the police."

Do you accept that you told the Commission that in the interview in February?

30 **MR O'BRIEN:** If that's what I said, then yeah. Yeah.

MS MacNICOL: What did you personally observe around the site after the confrontation?

35 **MR O'BRIEN:** I can't remember very much. I remember I did go onto the bridge. I did try and defuse things, but yeah.

MS MacNICOL: So when you were on the bridge or the overpass, do you remember seeing CFMEU around the site?

40 **MR O'BRIEN:** I genuinely - I can't remember. I've seen the video and that maybe has brought back one or two memories that they were on the bridge but -

COMMISSIONER: This can't be - this can't be true, your evidence, Mr O'Brien. You were the site manager, weren't you?
45

MR O'BRIEN: It's been a long time ago, Commissioner. I've been through a lot since then.

COMMISSIONER: It was two years ago. It's a very significant incident at site, a site of which you were the manager, and you say you can't remember what happened. It just doesn't seem to be true, what you're saying.

5

MR O'BRIEN: I'm telling the truth, your Honour - Commissioner.

MS MacNICOL: Mr O'Brien, do you accept that in the interview you told the Commission that the whole site was surrounded?

10

MR O'BRIEN: Yes.

MS MacNICOL: And you told the Commission that they, being the CFMEU, were "shouting, pushing the fences, yeah, trying to cause as much intimidation".

15

MR O'BRIEN: Yes.

MS MacNICOL: Okay. If we can go back to the WhatsApp messages on page 8 now, and focusing on the bottom of that page, there's a message from Mr Paul Elliott, noting that:

20

"Given the current actions by the union, all sites are to stop site construction work immediately to protect the safety of our staff and works. Please action now."

25

Is this the Paul that was being referenced by Mr Donaghey before?

MR O'BRIEN: I think so. I think so, yeah. Yeah.

30 **MS MacNICOL:** Do you remember receiving this message?

MR O'BRIEN: I don't remember receiving it, but yeah.

35 **MS MacNICOL:** Do you recall how workers got off site, how they exited the site on 1 May?

MR O'BRIEN: I think the police escorted us all off, yeah.

40 **MS MacNICOL:** But you remained on the site until the afternoon; is that right?

MR O'BRIEN: In the site office.

MS MacNICOL: At 2.02 pm on 1 May, which is at page 9 of the WhatsApp group of messages, you updated the group with a photograph. Do you recall that?

45

MR O'BRIEN: I don't remember that photo.

MS MacNICOL: That's all right. Mr Operator, if we could bring up page 5 of the bundle. Do you recognise that to be a photograph that you took?

5 **MR O'BRIEN:** I recognise the location.

MS MacNICOL: Where is that location?

MR O'BRIEN: That's Cope Street.

10 **MS MacNICOL:** And the marquee there, is that covering a barbecue?

MR O'BRIEN: I can't remember the location of the barbecue, but there was a barbecue at the bottom of Cope Street there. That looks like a barbecue there.

15 **MS MacNICOL:** Thank you, Mr Operator. If we could go to page 10 of the WhatsApp group messages. But before asking you questions about that, I'll ask you: did the picketing at Dutton Park continue on 2 May 2024?

20 **MR O'BRIEN:** I think it did, yeah.

MS MacNICOL: And you sent another photograph to the WhatsApp group, and if we could bring up, Mr Operator, it's photograph 6 of the bundle. Is that a photograph you recognise taking?

25 **MR O'BRIEN:** Again, I can't remember taking it. But yeah, looks familiar.

MS MacNICOL: And is that a barbecue in the photograph?

30 **MR O'BRIEN:** I - I can't tell whether that's a barbecue or not. Looks to be a chair and a table.

MS MacNICOL: Going back, Mr Operator, to the WhatsApp group messages, at page 10, at 6.15 am, you stated that the union were set up at all the gates. Do you recall that?

35 **MR O'BRIEN:** They were set up at every gate, I do recall.

MS MacNICOL: They were set up every day?

40 **MR O'BRIEN:** At every gate, yeah.

MS MacNICOL: Oh at every gate. And last line of questioning: in relation to 3 May, so the next day, did the picketing continue on 3 May 2024?

45 **MR O'BRIEN:** I genuinely - I can't remember.

MS MacNICOL: On page 15 of the WhatsApp group messages, you update the group at 6.17 am, telling the group that:

5 "Dennis Mitchell is at the top of Cope Street telling subcontractors the site is closed."

Do you recall that conversation with Mr Dennis Mitchell?

10 **MR O'BRIEN:** I remember being at the top of Cope Street, but I - I don't remember the conversation in detail.

MS MacNICOL: Thank you, Mr O'Brien. Commissioner, I don't have any further questions for the witness.

15 **COMMISSIONER:** There's no applications to cross-examine this witness? Mr O'Brien, you're excused.

MR O'BRIEN: Thank you, Commissioner.

20 **MS MacNICOL:** Commissioner, I will tender, though - there's a bundle of six images that Mr O'Brien was taken to. Commissioner, you do have a copy to your left. I will tender that, and it should be marked as POM-1.

25 **COMMISSIONER:** How do you want to mark these?

MS MacNICOL: Just the photographs as POM - sorry, POB-1, Patrick O'Brien. Apologies, Commissioner. In terms of the WhatsApp - sorry.

30 **COMMISSIONER:** The other parties at the bar table, have they seen these photographs?

MS MacNICOL: They weren't provided. However, some of them do form part of Mr Papworth's bundle.

35 **COMMISSIONER:** Perhaps you should show them to the other parties. I'm sure there won't be any objection, but just for form's sake.

MS MacNICOL: Certainly.

40 **COMMISSIONER:** We can do it tomorrow.

MS MacNICOL: Certainly, Commissioner.

45 **COMMISSIONER:** And you want to do the same thing with the WhatsApp?

MS MacNICOL: The WhatsApp messages do form part of Mr Papworth's bundle, so they can be marked for identification but they will be tendered.

COMMISSIONER: And then what about the interview of Mr O'Brien?

5 **MS MacNICOL:** Mr O'Brien seemed to accept the portions that were read to him, so perhaps they could be also marked for identification.

COMMISSIONER: What do you do in circumstances where a witness is obviously deliberately withholding evidence? What recourse does - you can take this question on notice. What recourse does the Commission have in order to deal
10 with people who behave like that?

MS MacNICOL: It's certainly a question that I have considered, Commissioner, but I will take that on notice and I can provide the answer to that perhaps
15 tomorrow.

COMMISSIONER: Well, I think that's important, because as we go on, presumably more people will, for whatever reason, do what Mr O'Brien did, which is - there's no final view about this, because he'll get the chance to respond to any findings the Commission makes about his evidence, but on this basis, he doesn't
20 look like he's told the truth, and deliberately so.

MS MacNICOL: Yes. It seems to be the way. Commissioner, I will step aside for Mr Gisonda.

25 **COMMISSIONER:** Sorry?

MS MacNICOL: I'll step aside for Mr Gisonda.

MR GISONDA: Commissioner, I'm proposing that we now call Mr Matthew Papworth. We won't finish his evidence this afternoon, but we'll be able to make good inroads into it, which will assist us with the management of the rest of the
30 week.

COMMISSIONER: Mr Papworth, come forward into the witness box, please.
35

<MATTHEW PAPWORTH, SWORN

<EXAMINATION BY MR GISONDA

40 **COMMISSIONER:** Mr Papworth, please take a seat.

MR GISONDA: Mr Papworth, on 20 April 2026, you affirmed a statement that was 10 pages long and had 126 paragraphs; is that right?

45 **MR PAPWORTH:** That is correct.

MR GISONDA: And accompanying that statement were 34 annexures in a bundle that totalled 328 pages; is that right?

MR PAPWORTH: That is right.

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

MR PAPWORTH: I have.

MR GISONDA: And is it true and correct?

MR PAPWORTH: Yes.

MR GISONDA: What is your - do you have a middle name initial, Mr Papworth?

MR PAPWORTH: It's T.

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

COMMISSIONER: How many annexures have we got? 34?

MR GISONDA: 34.

COMMISSIONER: Witness statement of Matthew Papworth, 20 April 2026, 126 paragraphs, 11 pages, with 34 annexures, will be MTP-1.

<EXHIBIT MTP-1 WITNESS STATEMENT OF MATTHEW PAPWORTH, 20/4/2026, 126 PARAGRAPHS, 11 PAGES, WITH 34 ANNEXURES

COMMISSIONER: Mr Papworth, I saw you greet Mr O'Brien as he walked out after he gave evidence. Do you know Mr O'Brien very well?

MR PAPWORTH: I dealt with him during that particular time out on site from time to time, but he's since left our - our business, so I haven't seen him for quite some time.

COMMISSIONER: And have you spoken to him in the lead-up to him giving evidence here?

MR PAPWORTH: Probably around the time we both got contacted, around the same time, for our initial interviews. I spoke to him briefly then.

COMMISSIONER: Did you tell him he shouldn't say anything and he should pretend not to remember?

MR PAPWORTH: No.

5 **MR GISONDA:** Now, Commissioner, just to contextualise the evidence of Mr Papworth, we were not able to reach Mr Papworth in the April hearings. Mr Papworth is a human resources professional and gives similar evidence to the evidence that was given by Mr O'Brien - Mr Michael O'Brien - and Ms Nicole Watson that you heard in April. So with that contextual background out of the way, Mr Papworth, are you still a human resources manager for CPB?

10 **MR PAPWORTH:** That is correct.

MR GISONDA: And you started working with the predecessor business of CPB in September 2009, that is, with Theiss?

15 **MR PAPWORTH:** Yes.

MR GISONDA: And you remained with the company when it merged with Leighton to become CPB Contractors in 2016?

20 **MR PAPWORTH:** That is right.

MR GISONDA: And in 2019, you became the senior human resources adviser on the TSD side of the project, Cross River Rail project?

25 **MR PAPWORTH:** Yes.

MR GISONDA: And in mid-2023, you then became the human resources manager on the RIS side of the project; is that right?

30 **MR PAPWORTH:** Yes.

MR GISONDA: So to put it simply, from 2019 to mid-2023, human resources for tunnels, and after that, human resources for above-surface stations?

35 **MR PAPWORTH:** Yes.

MR GISONDA: Now, when you were the senior human resources adviser on the TSD side - and this is at paragraph 13 of your statement - your duties included facilitating entry onto site by union officials who were seeking to exercise rights of entry; is that right?

40 **MR PAPWORTH:** That is correct.

45 **MR GISONDA:** And you were not based out of a single site on that time, but you would go from site to site; is that fair?

MR PAPWORTH: Yeah, the early part of the TSD, I suppose early works, there wasn't too many in that particular team, so I would - I would be asked to - to attend right of entries in the early part of the project.

5 **MR GISONDA:** And at paragraph 18 of your statement, you recall you say - so this is at page 3, paragraph 18 - you recall there were occasions when union officials would turn up with the appropriate permits and follow site directions and protocols; is that right?

10 **MR PAPWORTH:** Correct.

MR GISONDA: And would that include officials from the AWU and ETU, would it?

15 **MR PAPWORTH:** Yes.

MR GISONDA: And would it also include officials from the CFMEU?

20 **MR PAPWORTH:** From time to time.

MR GISONDA: And then at paragraph 19 you say there were other occasions, however, where union officials would refuse to show their notices or permits and would otherwise act in a belligerent manner, including by refusing to undertake the safety induction or refusing to sign on. Would it be fair to say that in this
25 paragraph you are really talking about CFMEU officials?

MR PAPWORTH: Yes.

30 **MR GISONDA:** Now, you say at paragraph 20 that you recall Kurt Pauls and Scott Vink also attending Cross River Rail project sites from time to time. Is that your memory?

MR PAPWORTH: Yes, that's correct.

35 **MR GISONDA:** And they would not show you permits to enter the site, or indeed, they would refuse to show any paperwork but would instead claim they were entering the site under section 81(3) of the Work Health and Safety Act; is that right?

40 **MR PAPWORTH:** Yes.

MR GISONDA: And when you asked for more detail, they would say they were not entering as CFMEU officials at all but as concerned members of the public?

45 **MR PAPWORTH:** That is correct.

MR GISONDA: And then you say at paragraph 22, particularly in the second half of that paragraph, that the CFMEU officials who would attend site would provide little information in their notices and would not be prepared to engage in a dialogue to explain what the issue was about that needed investigation?

5

MR PAPWORTH: Correct.

MR GISONDA: And what's your view or opinion about whether that attitude was conducive to fixing genuine safety issues on the site?

10

MR PAPWORTH: Well, we - we wanted the detail. So we - we take safety very seriously on our sites, and if, for whatever reason, someone comes to site, whether that's a WHS inspector or a union official, if they've got a genuine safety concern, we want to know about it. We want to know exactly where that's happening so we can rectify that as soon as possible.

15

MR GISONDA: Now, fast-forwarding to July of 2023, by this stage you have commenced your new role as a human resources manager for the RIS package of works; is that right?

20

MR PAPWORTH: Yes.

MR GISONDA: And there was a safety reset on the project following the fall-from-height incident at Boggo Road?

25

MR PAPWORTH: Correct.

MR GISONDA: And at paragraph 26 of your statement at page 4, what were you told about the outcome of the safety reset and in particular the potential introduction of health and safety representatives onto sites?

30

MR PAPWORTH: Yeah, at this point in time I was informed by my manager, the project director, who attended that particular meeting, that there was a number of initiatives that we needed to put in place to get both Cross River Rail packages and projects back - back up and running. One of those particular initiatives was to hire some health and safety representatives, which I was informed that our project needed four.

35

MR GISONDA: When you say "our project", do you mean the RIS side?

40

MR PAPWORTH: Correct.

MR GISONDA: And was the manager that you're talking about Mr McCann?

45

MR PAPWORTH: That is correct.

MR GISONDA: And at paragraph 28, you say you were given the resumes of four people: Joshua McSweeney, Ashley Hansen, Liam Crow and Tim Maguire; is that right?

5 **MR PAPWORTH:** That is correct.

MR GISONDA: And is it fair to say that at that point in time, the project did not have a need for these four - the project did not have a need to hire these four people as workers on the site? Put to one side HSRs for the moment.

10

MR PAPWORTH: Yeah, that was the project's view.

MR GISONDA: And you understood - well, was it your understanding that the purpose of bringing them on was in fact to have them perform the role of health and safety representatives on site?

15

MR PAPWORTH: Yeah, we were - we were clear that these particular individuals needed to be working HSRs, so to also be doing general labouring out on the site.

20

MR GISONDA: Now, did you know that at least as far as the four people that you were given resumes for, that Mr McSweeney had a criminal record?

MR PAPWORTH: I did not know that at that time.

25

MR GISONDA: And did you know that Mr Crow had a criminal record?

MR PAPWORTH: No.

30 **MR GISONDA:** Turning first to Mr Crow, he commenced employment, you say at paragraph 35, as a general labourer on 11 September 2023, and you say at paragraph 36 that the verbal reports you received from the supervisors on site was that he engaged in little productive work while on shift and was generally disruptive. That's an accurate statement, is it, of the verbal reports you were receiving from supervisors?

35

MR PAPWORTH: That is correct.

MR GISONDA: And on 1 May 2024 - this is paragraph 37 of your statement - Mr Crow's employment was terminated; is that right?

40

MR PAPWORTH: Which paragraph, sorry?

MR GISONDA: I apologise. Paragraph 37, over the page, page 5.

45

MR PAPWORTH: That is correct.

MR GISONDA: Now, the circumstances of his termination are set out in your statement at paragraph 39 onwards, and it's the case, is it, that as human resources manager, you had responsibility for undertaking an investigation into the allegations made against Mr Crow?

5

MR PAPWORTH: That is correct.

MR GISONDA: And it's the case, is it, that when a worker is to perform works on the rail tracks, they have to comply with strict safety procedures imposed by Queensland Rail. Is that your understanding?

10

MR PAPWORTH: Yes, that's right.

MR GISONDA: And one such procedure is that before a worker can go in or near a track, he or she needs to lock on. Is that right?

15

MR PAPWORTH: Yeah, there's a procedure behind that, correct.

MR GISONDA: And the procedure is explained in your evidence, and we don't need to go into that now, but on 3 March 2024, at paragraph 45 of your statement, the allegation was that Mr Crow had gone within three metres of the track without appropriately locking on. Is that right?

20

MR PAPWORTH: That is correct.

25

MR GISONDA: And that was known as a procedural breach?

MR PAPWORTH: Yes.

MR GISONDA: And a consequence of a procedural breach, pursuant to Queensland Rail's rules and regulations, is that the relevant worker must immediately present for an alcohol and drug test?

30

MR PAPWORTH: Yes.

35

MR GISONDA: And so, as a result of his procedural breach, Mr Crow was required to undertake such a test; is that right?

MR PAPWORTH: That is correct, yes.

40

MR GISONDA: And the allegation was that he had not presented for a test?

MR PAPWORTH: Correct.

MR GISONDA: And without exception, Queensland Rail's rules are that if you do not present for a test, that's treated as a fail of the test?

45

MR PAPWORTH: Correct.

5 **MR GISONDA:** And so, not having presented for a test and therefore deemed to have failed the test, on 12 March, at paragraph 48, CPB received a letter from Queensland Rail directing CPB to the effect that Mr Crow could no longer access the rail corridor; is that right?

10 **MR PAPWORTH:** That is right. And they asked - or they suspended his rail tickets at that point in time.

MR GISONDA: And is it correct to say that without those accreditations, for want of a better word, he could no longer perform work on the project site?

15 **MR PAPWORTH:** That's correct.

MR GISONDA: Or at least he'd be very limited in the work that he could do?

20 **MR PAPWORTH:** Yeah. So the nature of the work on our particular site was a brownfield rail corridor, so we got those possessions of the rail corridor during school holidays, weekends. Therefore, we were needing all our workers to have those credentials to enter the rail corridor to help facilitate the work.

25 **MR GISONDA:** And is it fair to say that the focus of your investigation was to see whether Mr Crow had been informed that he needed to attend for the drug and alcohol test and, despite being informed of that, had not presented himself?

MR PAPWORTH: That - that was part of the investigation, yes.

30 **MR GISONDA:** And in terms of that investigation, you interviewed relevant witnesses, did you?

MR PAPWORTH: I did.

35 **MR GISONDA:** And you collected relevant documents?

MR PAPWORTH: Correct.

40 **MR GISONDA:** And at paragraph 58, you say that after conducting your investigation, you were satisfied that it had been substantiated that he had entered the danger zone without locking on; is that right?

MR PAPWORTH: That's correct.

45 **MR GISONDA:** And he had then failed to report for an alcohol and drug test, despite being contacted and advised to do so by both CPB and Queensland Rail?

MR PAPWORTH: Correct.

MR GISONDA: And so you recommended, as a result of all that, that his employment with CPB be terminated?

5 **MR PAPWORTH:** Yes. So that's in conjunction with, obviously, the project director and then also back into our CPB business.

MR GISONDA: So you give a recommendation to the appropriate people and then they make the final decision?

10

MR PAPWORTH: Correct.

COMMISSIONER: Mr Papworth, how long have you worked in human resources?

15

MR PAPWORTH: So I started with the business in 2009.

COMMISSIONER: It says here as a recruiter?

20 **MR PAPWORTH:** That's correct. I - I switched over into the general HR stream in 2011. So that was on Airport Link.

COMMISSIONER: So 15 years or so?

25 **MR PAPWORTH:** Correct.

COMMISSIONER: Have you ever had another case of a worker refusing to take a mandatory drug and alcohol test?

30 **MR PAPWORTH:** Yes, we have.

COMMISSIONER: Is it common?

35 **MR PAPWORTH:** It's not overly common. I think in our - in our construction space, I suppose the - the amount of inductions we go through, everyone knows the site rules and procedures. You know, these particular individuals are paid quite well, so they like to keep their jobs, so we don't - we don't have a large volume of people failing those particular tests, because they know the rules.

40 **MR GISONDA:** If I can then jump to the circumstances of one of the other HSRs on site, Mr McSweeney. At paragraph 97 of the statement on page 8, he too commenced his employment as a general labourer on about 4 September 2023, and your evidence at paragraph 99 is that unlike Mr Crow, Mr McSweeney, at least initially, was engaged in productive work while on shift without many
45 issues?

MR PAPWORTH: He was initially, yes.

MR GISONDA: However, his conduct, you say, worsened - this is at paragraph 100 - in about August of 2024; is that right?

5 **MR PAPWORTH:** I just can't see that paragraph at the moment.

MR GISONDA: Sorry, page 9 of - yes, paragraph 100.

MR PAPWORTH: Thank you. Yes.

10

MR GISONDA: And he was terminated, at paragraph 101, you say, on 4 October 2024?

MR PAPWORTH: That is correct.

15

MR GISONDA: And, again, you were involved in managing the procedures and circumstances that led to his termination; is that right?

MR PAPWORTH: Correct, yes.

20

MR GISONDA: And so what occurred, you say, at paragraph 103 was that his manager reported that Mr McSweeney was leaving his shift without approval and turning up at other sites on the Cross River Rail project where he would attempt to disrupt work; is that right?

25

MR PAPWORTH: That is correct.

MR GISONDA: And you had a meeting with Mr McSweeney, you say at paragraph 104. And is it fair to say that he was not disputing that he was leaving the site where he was meant to be working and going to other sites?

30

MR PAPWORTH: That's correct.

MR GISONDA: And his position was that he needed to do that for health and safety reasons?

35

MR PAPWORTH: Correct.

MR GISONDA: He was issued with a warning signed by you on 4 September. You'll see that at paragraphs 105 and 106?

40

MR PAPWORTH: Yes.

MR GISONDA: Well, I should say, sorry, that that letter, you ask him to formally respond to the concerns about his behaviour. And did you then recommend to Mr McCann that Mr McSweeney receive a written warning about his conduct?

45

MR PAPWORTH: That's correct.

5 **MR GISONDA:** And so at paragraph 110 and at paragraph 111, that written warning is issued to Mr McCann? Sorry, to Mr McSweeney?

MR PAPWORTH: Yes, that's correct.

10 **MR GISONDA:** Then is it fair to say the conduct of Mr McSweeney that was being complained about continued?

MR PAPWORTH: It did.

15 **MR GISONDA:** And at paragraph 112 and 113, he was asked to respond to a further allegation about his conduct, and that allegation was the same, which was that he was leaving the site where he was meant to be working and turning up on other sites to attend to safety matters?

20 **MR PAPWORTH:** Correct.

MR GISONDA: And as a result of that second set of allegations, and having taken into account his responses, at paragraph 117, Mr McSweeney then received a final written warning that was signed by Mr McCann, and again, you recommended that outcome; is that right?

25 **MR PAPWORTH:** That is correct.

MR GISONDA: And then over the page at paragraph 119, you then attend another meeting with Mr McSweeney to discuss yet further allegations of him failing to follow a reasonable direction; is that right?

30

MR PAPWORTH: That is correct.

35 **MR GISONDA:** And so in the space of about a month or so, there are three separate occasions where he's said to be failing to follow a reasonable direction to stay on the site where he is meant to be working and performing the work in?

MR PAPWORTH: That is correct, and I believe there was conversations prior to those three meetings as well.

40 **MR GISONDA:** And so at least from about August 2024, this was becoming a recurring problem -

45 **MR PAPWORTH:** Correct.

MR GISONDA: - insofar as it concerned Mr McSweeney, and the consequence of his conduct was that on 4 October, he was - his employment was terminated with CPB; is that correct? Paragraph 125 and 126 of your statement.

5 **MR PAPWORTH:** Yes, that's correct.

MR GISONDA: And what's the concern about Mr McSweeney leaving site without permission and turning up on another site to attend to safety matters?

10 **MR PAPWORTH:** I think - I think the main concern is it's actually a - the site manager was actually worried about his own safety. He was taking it upon himself to get in his private vehicle and drive to the other end of the project. It wasn't an adjacent site that he just walked over to; he was physically leaving site unannounced and turning up on other sites around the place. And just to note that
15 those particular sites did have allocated HSRs allocated to them, so he wasn't following a reasonable direction.

MR GISONDA: So there was no concern or no issue with him performing health and safety obligations or fulfilling his health and safety obligations on the site that
20 he was meant to be working on; the concern was that he was failing to follow reasonable directions to stay on that site where he was allocated for work?

MR PAPWORTH: Correct.

25 **MR GISONDA:** Is that a convenient time, Commissioner?

COMMISSIONER: Very well. Are you going to tell me at some stage about Mr McSweeney's criminal record and Mr Crow's criminal record?

30 **MR GISONDA:** Yes, that was tendered into evidence in bundle 4 at the last hearing.

COMMISSIONER: Can you just remind me what they were? Or do you want to do that tomorrow morning?
35

MR GISONDA: No, no. So bundle number 4 at page 45 has Mr McSweeney's convictions, which include wilful damage, possession of dangerous drugs, and then at page 49 the convictions of Mr Crow, which essentially amount to - I mean, there are a few, but essentially amounts to crimes of dishonesty.
40

COMMISSIONER: I think you said, Mr Papworth - and forgive me if I've got it wrong - that you did not know that Mr McSweeney and Mr Crow had criminal records, but you say in paragraph 30 - leaving aside the criminal records, what your statement says is:
45

"Notwithstanding the apparent lack of an appropriate skill set..."

And I would put in parentheses "and their criminal records":

"...we proceeded to onboard these four candidates so they could commence as employees on site."

5

Is that an atypical way of recruiting these people?

MR PAPWORTH: Not - not a typical way we'd recruit our workforce, no.

10 **COMMISSIONER:** Do you normally require people to disclose whether they have a criminal record, particularly ones involving drugs, wilful damage and dishonesty?

15 **MR PAPWORTH:** We - we don't actually perform background police checks on our blue-collar workforce.

COMMISSIONER: But do you ask them to disclose whether there are any factors that you might be -

20 **MR PAPWORTH:** I'd have to check, but I don't believe so.

COMMISSIONER: Will you have an opportunity to check that overnight?

25 **MR PAPWORTH:** Yeah, absolutely.

COMMISSIONER: We'll adjourn till 10 am tomorrow morning.

<THE HEARING ADJOURNED AT 3.41 PM