Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

WITNESS STATEMENT OF NICHOLAS FORDE

I, Nicholas Robert Forde, Workforce Services Manager, Bechtel Australia Pty Ltd, 540 Wickham Street, Fortitude Valley in the state of Queensland, swear:

Background

1. I make this statement in response to a notice issued by Stuart John Wood AM KC, the Commissioner appointed pursuant to the *Commissions of Inquiry Order (No. 2) 2025*.

2. Attached to this statement is a bundle of documents (**Bundle**). I refer to relevant documents by reference to the annexure number and the page number of that Bundle.

3. I am currently employed as a Workforce Services Manager with Bechtel Australia Pty Ltd (**Bechtel**). I have held that position since May 2025. My role currently is to support the setting up of projects in the mining and metals and infrastructure industries, covering a number of functions including employee/industrial relations and people logistics.

4. Prior to joining Bechtel, I was employed by Fulton Hogan Pty Ltd in a Senior Advisor – People and Culture role covering Queensland, Northern Territory and Western Australia. I held that role from May 2022 to May 2025. In that role, I was responsible for the people and culture function supporting multiple civil infrastructure projects.

5. I was also formerly employed by Ghella ANZ Pty Ltd (**Ghella**) in a Senior Industrial Relations Advisor role on the Cross River Rail (**CRR**) Project. I worked on the CRR Project from about February 2021 to May 2022. Ghella was part of a joint venture that was delivering the Tunnel, Station and Development (**TSD**) component of the CRR Project (**Joint Venture**).

6. I have been working in the field of employee / industrial relations in the construction and mining industries since 2008.

Role on Cross River Rail

7. As part of my role on the CRR Project, I was responsible for:

   (a) industrial relations across the CRR Tunnels and Stations Project that was managed under the Joint Venture;

   (b) any employee matters related to the direct hire blue-collar workforce;

   (c) overseeing the right of entry process, including verifying right of entry permits and entry notices, following the site procedures and escorting union officials on site; and

   (d) coordinating with site management, construction superintendents and safety personnel to organise as escorts from the Joint Venture team in response to union attendance at CRR Project sites.

8. The majority of my time on the CRR Project was spent on managing union right of entries.

9. I was not involved with the Rail, Integration and Systems side of the Project. My responsibilities related solely to the TSD works, from an industrial relations perspective.

10. I reported to Terry Prior, Industrial Relations Manager for CPB Contractors Pty Ltd (**CPB**) on the CRR Project.

11. During my time on the CRR Project the following individuals reported to me:

    (a) Jonathan (Jonty) Lawrence Bekkers, Senior Industrial Relations Advisor;

    (b) Lauren Mead, Industrial Relations Advisor; and

    (c) Alicia Wood, Industrial Relations Advisor.

12. Even though the Gabba site was my main location where I was based, my job covered all sites within the TSD scope on the CRR Project. This included the works undertaken at the Albert Street, Roma Street, and Boggo Road precincts and the Northern and Southern Portals. In practice, this meant that I assisted and supervised the other industrial relations advisers who were based across the sites as necessary.

Right of Entry – General Process

13. When a union official attended a CRR Project site to exercise a right of entry, the established process was as follows:

    (a) The official was to be met outside the turnstile gate, where the entry notice and right of entry permits were checked for compliance. When confirmed there was a legal right to enter, the officials were brought into site and signed in as a visitor at the DAMSTRA kiosk, have a visitor induction completed, and then be escorted to the designated location as per their entry notice, to undertake their right of entry.

    (b) Once the sign-in process was complete, depending on whether the right to enter was under the Fair Work Act (**FW Act**) or whether it was under the Work Health and Safety Act (**WHS Act**), this would determine who from the Joint Venture team would be assigned to escort.

    (c) If it was an entry under the FW Act (for example, section 484 – general discussions during a break period), it would only be the IR Advisor assigned as the escort with the Superintendent being on hand for any de-brief discussions.

    (d) If it was an entry for a safety matter under WHS Act (for example, section 117 – to inspect a suspected safety contravention affecting a relevant worker, provided there was reasonable suspicion), then we would involve the Superintendent, and Safety Advisor to escort the official/s. Typically for a WHS right to enter, there would be more than one official so this would require more escorts to assist with the right of entry.

14. During my time on the CRR Project, the unions that exercised rights of entry included the CFMEU, the Communications Electrical Plumbers Union (**CEPU/ETU**), the

[redacted]

Australian Workers' Union (**AWU**) and, on one or two occasions, the Australian Manufacturing Workers' Union (**AMWU**).

CFMEU Non-Compliance with Right of Entry Process

15. Every organiser that exercised a right of entry during my time on the CRR Project from the ETU, AWU and AMWU followed the right of entry process without issue.

16. Save for one exception, I don't recall a CFMEU organiser ever complying with the right of entry process. They refused to sign in and refused to complete a visitor induction. The only requirement that a CFMEU permit holder would comply with was to show their right of entry permit when asked.

17. In a typical scenario, the CFMEU officials would not wait at the gates per standard practice. It reached a point where they would simply walk through truck gates or vehicle access points, bypassing the turnstiles entirely. I recall on multiple occasions receiving phone calls from staff or other workers on site saying, "*Hey, they're on site.*" I would ask whoever called me where the CFMEU officials were, and I would then have to go find them and ask the official the standard questions, '*can you show me your permits*', '*why are you onsite*', etc. This was so we could follow the correct right of entry process to determine compliance with applicable legislation and Australian Building Construction Commission (**ABCC**) notifiable requirements.

18. If there was a right of entry breach, this was a notifiable requirement to the ABCC under legislation at the time.

19. On one occasion early on during my time on the CRR Project, a CFMEU organiser signed on reluctantly through the DAMSTRA kiosk sign-on system as I requested and afterwards, that organiser said words to the effect of, "*I'm not doing that again.*" Out of all the entries during my time on the CRR Project, that was the only instance of a CFMEU organiser complying with the sign-in requirements that I can recall.

20. It would take probably two or three minutes for visitors to sign on. All union officials who I escorted from the other unions complied with this process.

Frequency and Duration of CFMEU Entries

21. During the period I was on the CRR Project, I calculated that between the CFMEU and Workplace Health and Safety Queensland (**WHSQ**) we had on average about four right of entries every week. On average, the CFMEU would attend at least two to three times per week.

22. The number of visits would ebb and flow. The CFMEU might attend several days in a row, targeting particular sites, or multiple officials would attend multiple sites on the one day. When they planned coordinated waves of entries, they would effectively occupy our teams for days at a time across a number of sites.

23. A typical CFMEU safety entry would last about a couple of hours, but there were also times when officials would arrive early, between 6.00 am and 8.00 am, and remain on site until around midday or 1.00 pm.

Nature of CFMEU Safety Inspections

24. The written section 117 entry notices under the WHS Act provided by the CFMEU were typically very generic, citing issues such as access/egress, unsafe systems of

[redacted]

work, scaffolding, rigging or crane operations. Once on site, the inspection became what I would describe as a fishing expedition. They would use the s117 as a reconnaissance exercise to access site so they could see which subcontractors were onsite, whether they were subcontractors that had a CFMEU enterprise agreement or not, and walk around site to look for any issues, target anything they could find, and attempt to tie up the team and disrupt works.

25. In my experience, it seemed the officials would sometimes target low-hanging fruit that could slow up work. For example, targeting crane maintenance records, rigging registers, mobile equipment pre-start checklists, Hazchem containers, testing and tagging of equipment such as air conditioners, water bubblers, and so on. A lot of the time, the site inspection covered a lot broader ground than what was written on their s117 entry notice.

26. Responding to this behaviour took up a lot of time. It pulled people and resources away from their planned work for the day. If the CFMEU had come on with proper documentation, followed the rules and acted appropriately, we could have worked constructively with them on genuine safety matters. Issues they identified could have been welcomed and fixed. But the manner in which they conducted themselves made it clear that safety was, in many instances, a pretext.

Coordination Between CFMEU and WHSQ

27. The CFMEU and WHSQ appeared to coordinate their attendance on site. Sometimes they would arrive at the same time, with the CFMEU waiting outside the site for WHSQ inspectors to arrive before coming in together. On other occasions, the CFMEU would be on site and then phone someone – after which WHSQ inspectors would arrive.

28. It felt like there was a quota – the CFMEU and WHSQ had to get a provisional improvement notices (**PIN**) or a safety infringement notice issued to CRR during their site inspection, and once they achieved that, once they got the PIN issued, that was job done and they would leave site.

29. From my time on the ground, I observed what appeared to be alignment between the CFMEU and WHSQ. Rarely would WHSQ support the Joint Venture on the CRR Project. In what I witnessed during my time on the Project, there didn't seem to be impartiality of some of the WHSQ inspectors, not all the inspectors. I would expect in their role as an employee of the Work Health and Safety department, that they would have to act impartially.

30. On the occasion a WHSQ Inspector did stand up to a CFMEU official and refused to issue a PIN as they didn't see any merit in issuing a notice due to it being a minor issue or being fixed at the time, this would cause the CFMEU official to get agitated.

31. I felt for those WHSQ Inspectors who were just trying to do their job and were put in a very difficult position where they would be pressured or bullied to give notices and conform to what the CFMEU wanted them to do or conform to what their leaders within the WHSQ department were directing them to do.

Incident on 19 August 2021 – Gabba (First Barbeque Incident)

32. On 19 August 2021, at approximately 5.45 am, I was in the Gabba site office when a Site Supervisor received a radio call at the office in my presence from the traffic controller stationed at the Leopard Street gate entrance. I heard over the two-way

[redacted]

from the traffic controller that a BUSSQ (Building Unions Superannuation Scheme (Queensland)) vehicle was at the gate.

33. The Supervisor responded on the two-way saying that he is not aware of any BUSSQ delivery and that maybe it was for the Tunnel's site. The Supervisor said he would go up to the gate to check it out.

34. Just before 6.00 am, I was approached by the Gabba Station's Safety Manager who informed me that the CFMEU were onsite with a BBQ trailer and that the Supervisor had been pushed out of the way of the gate entrance to allow the vehicle to come onsite.

35. I proceeded to the site haul road where I saw the BUSSQ vehicle and barbeque parked up on the internal site road. There were BUSSQ representatives setting up the BBQ as I approached. This BBQ was not authorised. No one involved in the BBQ had requested or received approval to access site and were unauthorised to be onsite. I saw CFMEU officials next to the BBQ who looked to be coordinating the event.

36. For an external party to organise a BBQ event onsite, they would need prior approval from the Project Manager who had responsibility of the site as well as confirmation from the CRR IR Manager. I did not have authority to approve this type of event on the Project.

37. I approached the CFMEU officials as well as the BUSSQ representatives and requested them to stop what they were doing and pack up the BBQ and leave site as this was not authorised. They did not respond and kept setting up the BBQ. There was nothing we could practically do to prevent them from continuing.

38. After the BBQ event, once the BUSSQ vehicle and trailer had left site along with the CFMEU officials and everyone went back to work, I accessed the CCTV footage to determine how the CFMEU officials and the BBQ trailer got onsite. I also wanted to validate whether our Supervisor was physically pushed at the gate entrance.

39. I viewed the footage which showed that Andrew Blakeley (**Mr Blakeley**), a CFMEU organiser, had physically pushed (using his hip-and-shoulder) our Supervisor out of the way who was trying to stop them from entering the site. He did this so they could facilitate bringing the vehicle and barbeque trailer onto the site. The vehicles entered through the boom gates, which had a gap that allowed them to manoeuvre around.

40. I was subsequently required to affirm an affidavit as part of litigation commenced by the ABCC in relation to this incident, which I did on 2 August 2022 (**ABCC Affidavit**).

41. A copy of the ABCC Affidavit is at **Annexure NRF-1**, from pages 2 to 32. A copy of the CCTV footage is **Annexure NRF-2**.

Incident on 24 August 2021 – Roma Street (Second Barbeque Incident)

42. On 24 August 2021, the CFMEU conducted another unauthorised barbeque at the Roma Street Precinct.

43. I was at the Gabba Tunnel's site in a meeting with the Tunnel's Supervisors when I received a message from Ms Mead at 6.10 am, advising that the same incident had occurred at Roma Street – a BUSSQ vehicle and barbeque had been brought onto the site without authorisation.

[redacted]

44. I travelled to the Roma Street precinct to observe and monitor the situation. When I arrived, I saw the exact same set up that we experienced at the Gabba site the week prior.

45. Again, I had not authorised the barbeque nor had any member of the Joint Venture team authorised or given any permission for the CFMEU to come on site for this purpose. I took notes on the relevant day.

46. I was also required to address the events of 24 August 2021 in the ABCC Affidavit, which I did.

Incident on 31 August 2021 – Boggo Road (Section 81(3) Entry Attempt)

47. On the morning of 31 August 2021, I attended the Gabba pre-start and sometime in the morning I walked over to the Boggo Road Precinct. I was informed by Matthew Papworth that there was a CFMEU official outside the Eco Science building next to the Boggo Road site.

48. The CFMEU officials that attempted to gain access to the Boggo Road site on this day without showing their Federal Fair Work right of entry permits were Kurt Pauls and Michael Davis. Neither of them held valid Federal right of entry permits at the time – I understand their permits had been revoked or suspended.

49. I knew from my awareness of the Federal Court proceedings and incidents at the Bruce Highway Caloundra Road to Sunshine Motorway Project and also at the Toowoomba Range Second Crossing and Logan Enhancement sites that an official needed to hold a Federal right of entry permit if they were going to rely on section 81(3) of the WHS Act to gain entry to site.

50. Section 81(3) allows a representative of a party to an unresolved safety issue to enter site to attend discussions with the aim of resolving the safety issue.

51. I knew at the time that the High Court of Australia had recently dismissed a challenge made by the CFMEU to circumvent this legal requirement that officials must hold a Federal right of entry permit to be able to exercise a state WHS right such as a s81(3). Because of this recent High Court case, I wanted to make sure the Project was complying with legislation related to this specific matter.

52. I understood that fines had been imposed on CFMEU officials from the Federal Court as a penalty for unlawfully accessing construction sites without holding or showing their Federal right of entry permit.

53. When the WHS Inspector arrived at site to support the CFMEU with their entry under the s81(3), I tried to explain to the inspector that there was a legal requirement to hold a Federal Permit to access site under a safety matter, and I stated that this specific matter had been before the courts. I suggested that the WHS Inspectors should look up this case and the relevant court decisions, and I stated words to the effect of, "*They can't legally come on. They don't have permits. It's gone to the High Court. They've been fined. This bloke has been fined for doing what he's trying to do right now.*"

54. The WHSQ inspector went away, made a phone call, returned and advised words to the effect of, "*My boss told me that they can come on.*" The inspector did not identify who their boss was. I considered that this was evidence of a systemic issue within

[redacted]

WHSQ, where inspectors were receiving directions that were inconsistent with settled law.

55. A copy of my summary notes documenting this incident on the same day is at **Annexure NRF-3**, from pages 33 to 38.

56. The court case I was referring to was the "Bruce Highway Caloundra to Sunshine Upgrade Case", which I have been informed by the solicitors assisting the Commission has the following citations:

    (a) Federal Court of Australia (Collier J) — *Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union (The Bruce Highway Caloundra to Sunshine Upgrade Case) (No 2)* (2019) 292 IR 259, [2019] FCA 1737;

    (b) Full Court of the Federal Court of Australia (Reeves, Charlesworth and O'Callaghan JJ) — *Construction, Forestry, Mining and Energy Union v Australian Building and Construction Commissioner (The Bruce Highway Caloundra to Sunshine Upgrade Case)* (2020) 281 FCR 365, [2020] FCAFC 203;

    (c) High Court of Australia (Special Leave) — *Construction, Forestry, Mining and Energy Union v Australian Building and Construction Commissioner* [2021] HCASL 60.

Incident on 15 October 2021 – Roma Street

57. On 15 October 2021, I was at the Roma Street Precinct. I had been in meetings with Mr Blakeley and WHSQ discussing safety matters, including post-rain walk-down procedures. I was with Gary Lappin (**Mr Lappin**), the General Superintendent for the Roma Street site.

58. After those meetings concluded, I noticed Beau Seiffert, another CFMEU organiser, inside the crib room. Mr Seiffert had not signed on or completed any right of entry requirements. He had entered the site either by using a PIN at the gate or by being swiped in or let in by another person, neither of which was observed by CRR Project personnel.

59. Mr Seiffert had brought with him a person who was not an employee on the CRR Project – someone who looked to be from a nearby building job as he was wearing shorts (which can be typical of high-rise building workers, not CRR workers). Mr Seiffert told me he was "*introducing guys to their new delo*" – that is, appointing this person as a union delegate for the workers.

60. I informed Mr Seiffert that the person was not authorised to be on site, was not site-approved and that they would have to leave. Mr Seiffert said words to the effect of, "*Just give us a minute*," and they left shortly after.

61. A copy of an email chain between me, Mr Marsden and Mr Prior summarising the CFMEU's entry to site on this date is at **Annexure NRF-4**, from pages 39 to 42. The reference to "Lappo" in my email is a reference to Mr Lappin.

62. I was also sent another email from Mr Prior that he had received from Mr Lappin on 18 October 2021.

[redacted]

63. A copy of Mr Lappin's email dated 18 October 2021 is at **Annexure NRF-5**, from pages 43 to 44.

Incident on 18 October 2021 – Roma Street (Unauthorised Entry)

64. On 18 October 2021, I was at the Roma Street Precinct with Mr Marsden. We were outside Gate 5.

65. I became aware that Mr Blakeley was in the crib room without having notified site management of his arrival. I entered the crib room and observed Mr Blakeley at the back of the room, while Mark Jones, Project Manager, and Mr Lappin, General Superintendent, were talking to a subcontractor crane crew.

66. I asked Mr Blakeley to come outside. He refused. I waited outside for the meeting to finish. When workers began exiting, Mr Blakeley remained, continuing to speak with some subcontractor workers. I again asked him to come outside for a chat. He refused.

67. When Mr Blakeley eventually exited the room, I asked, "*How did you get onsite*". Mr Blakeley replied, "*With a swipe card*". I explained that he cannot just come onsite because approvals are required. He then showed me a folded-up section 117 notice.

68. A copy of my summary of events that I sent to Mr Prior on the same day is at **Annexure NRF-6**, from pages 45 to 46.

69. On the same day, I received two emails documenting what happened on site. A copy of Mr Marsden's email is at **Annexure NRF-7**, from pages 47 to 48. A copy of Mark Jones' email (Project Manager) is at **Annexure NRF-8**, on page 49.

Incident on 20 October 2021 – Gabba (Unauthorised Access)

70. On 20 October 2021, at 5.55 am, I received a call from a Supervisor that Mr Blakeley had entered the Gabba site through the Leopard Street truck entrance on foot and was in the crib sheds. I was just about to enter the site via the Gabba Station turnstiles at the time.

71. I went to the crib shed to find Mr Blakeley talking to the crane crew, with Justin O'Neill in the crib hut. I asked Mr Blakeley why he was onsite. He said he was there under section 68 of the WHS Act. I asked for his permits, which he showed me. I then asked that he leave as he had accessed the site without authorisation, before explaining to him the proper process to be followed. Mr Blakeley disagreed. He said that if I had a problem, I should report it to the QIRC (Queensland Industrial Relations Commission).

72. At approximately 6.20 am, Mr Blakeley started walking out to the construction site work areas. I said that he cannot go onsite, his entry was unlawful, he needed to sign in properly and do a visitor induction, and that he needed a section 117 notice to be able to inspect the site. Mr Blakeley disagreed with the site requirements and refused my direction.

73. While onsite inspecting work areas, Mr Blakeley identified walkways and access to the main deck and access into steel fixing pits that he was unhappy with. He stopped the work in the area and requested it to be fixed up. The requested access improvements were fixed up on the spot as per Mr Blakeley's request.

[redacted]

74. I explained to Mr Blakeley several times that his visit was unlawful, that he needed to follow the rules to access site and provide us with appropriate paperwork so we could approve his access, otherwise we would be breaching right of entry laws. Mr Blakeley disagreed that his access was unlawful.

75. After the requested works to improve the access on the main deck were completed, Mr Blakely went to a subcontractor manager's office to discuss providing office space for their nominated union delegate. This seemed to be the main purpose for being onsite that day.

76. A copy of my notes summarising this incident is at **Annexure NRF-9**, from pages 50 to 51, and at **Annexure NRF-10**, from pages 52 to 56.

I swear the contents of this statement are true.

Signature of Deponent [redacted]

[redacted] Qld.

Place Date 29/9/2026

Before me (signature of witness) [redacted]

MATTHEW CAMERON WINLEY

Full name of witness (please print)

COMMISSIONER FOR DECLARATIONS
QUEENSLAND GOVERNMENT
Reg.No.: 97540
DEPARTMENT OF JUSTICE QUEENSLAND

I am a special witness pursuant to s 12 of the Oaths Act 1967 (Qld).

This declaration was made, signed and witnessed under Part 6A of the Oaths Act 1967 (Qld).

I understand the requirements for witnessing a document by audio visual link and have complied

with those requirements.

[redacted]

Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

Bundle of Documents to
Statement of Nicholas Forde

NRF-1

NOTICE OF FILING

This document was lodged electronically in the FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (FCFCOA) on 3/08/2022 2:17:38 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Affidavit
File Number:	BRG167/2022
File Title:	AUSTRALIAN BUILDING AND CONSTRUCTION COMMISSIONER v CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION & ORS
Registry:	BRISBANE REGISTRY- FEDERAL CIRCUIT AND FAMILY COURT - FEDERAL LAW

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

AUSTRALIA

[redacted]

Dated: 3/08/2022 2:28:04 PM AEST Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Affidavit

Family Law Rules 2021 – RULE **8.15**
General Federal Law Rules 2021 – RULE **4.04**

Filed in:

☒ Federal Circuit and Family Court of Australia
☐ Family Court of Western Australia
☐ Other (specify) _____

Type of proceedings:

☐ Family law proceedings
☐ Migration proceedings
☒ General federal law proceedings
☐ Other (specify) _____

Filed on behalf of:

Full name: Australian Building and Construction Commissioner

COURT USE ONLY

Client ID _____

File number BRG167/2022

Filed at

Filed on

Court location _____

Court date _____

Name of person swearing/affirming this affidavit (SEE PART C)
Nicholas Forde

Date of swearing/affirming 02 / 08 /2022

Part A About the parties

APPLICANT 1

Family name as used now

Australian Building and Construction Commissioner

Given names

APPLICANT 2

Family name as used now

Given names

RESPONDENT 1

Family name as used now

Construction, Forestry, Maritime, Mining and Energy Union and others

Given names

RESPONDENT 2

Family name as used now

Given names

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

Australian Building and Construction Commissioner

C/- Ashurst, Level 38, 123 Eagle Street, Brisbane State QLD Postcode 4000

Phone [redacted]

Lawyer's code JAHL

Email [redacted]

~~Part B~~ About the independent children's lawyer (if appointed)

~~Independent children's lawyer family name~~	Given names
———	

~~Firm name~~

———

Part C About you (the deponent)

What is your family name used now?	Your given names?
Forde	Nicholas

Gender

☒ Male ☐ Female ☐ X

Usual occupation

Senior Advisor – People & Culture

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

C/- [redacted]

State QLD Postcode [redacted]

Part D Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing Part E is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

1. See **attached**

Part E Signature

I ~~swear~~* /affirm* the contents of this affidavit are true

Signature of Deponent [redacted]

Place: [redacted] (By Microsoft Teams) Date 02/08/2022

[redacted]
Before me (signature of witness)

Patrick Ross Lawler
Full name of witness (please print)

☐ Justice of the Peace
☐ Notary public
☒ Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by ☐ deponent/s ☒ lawyer

James Hall, Ashurst Australia
PRINT NAME AND LAWYER'S CODE

Part F Alternative jurat for non-English speaking affidavit

Use this alternative jurat for the swearing/affirming of the affidavit and the translator's certificate.
See Rule 8.17 of the Family Law Rules or Rule 15.14 of the General Federal Law Rules.

Interpreter/translator's certification

I _____ certify that I understand the English language and the _____ language, and that I have truly interpreted to the deponent (named in Part C) the contents of this affidavit and the oath or affirmation which was administered.

Signature of interpreter

Date ___ / ___ / ___

Sworn*/affirmed* by the deponent through the interpretation of:

Interpreter's full name
_____

Address
_____

Language
_____

Signature of Deponent

Place _____

Date ___ / ___ / ___

Before me (signature of witness)

Full name of witness (please print)

☐ Justice of the Peace
☐ Notary public
☐ Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by ☐ deponent/s ☐ lawyer

_____
_____

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022
COURT USE ONLY
Court
Location
Court date
Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

AFFIDAVIT

Name of deponent: Nicholas Forde

Date affirmed: 2 August 2022

I, Nicholas Forde of c/- [redacted] in the State of Queensland, affirm and say as follows:

1. I make this affidavit from my own knowledge save where otherwise stated or where the context indicates to the contrary.

2. Where I make statements based on information provided to me, I believe such information to be true and correct in every particular.

[redacted]
DEPONENT

[redacted]
Witness

BACKGROUND

3. I am employed by Fulton Hogan in the position of Senior Advisor – People & Culture. I have been in this role since mid-May 2022.

4. Prior to this, I was employed by Ghella Pty Ltd (**Ghella**) as the Senior Industrial Relations (**IR**) Advisor for the Cross River Rail project (the **Project**). The Project is a joint venture between CPB Contractors (**CPB**), Bam International Australia Ltd, Ghella and UGL Engineering Pty Ltd (**CBGU JV**). CBGU JV is undertaking the Tunnel, Stations and Development Package of the Project (discussed further below).

5. I commenced working for Ghella in February 2021 and was assigned to the Project as the Senior IR Advisor since my commencement. I resigned from the Project in mid-May 2022. Prior to this, I have held roles such as Project HR Manager and IR Advisor. I have held various roles in the construction and mining industries since 2008. I have a Bachelor's degree in Business.

6. My role involved interpreting and applying the Cross River Rail industrial instruments relevant to our workforce and advising on any employment matters relating to the CPB blue collar workforce. Another part of my role involved being the union interface across the Project and managing entry onto the various sites by union officials, and ensuring compliance with the Code for the Tendering and Performance of Building Work 2016.

7. I reported to Terry Prior (**Prior**) who is the IR Manager for the Project. I had three Industrial Relations Advisors that reported to me on a day-to-day basis — Jonathan Bekkers (**Bekkers**), Lauren Mead (**Mead**) and Alicia Wood (**Wood**).

THE PROJECT

8. CBGU JV is the principal contractor on the Project and has been engaged by the Cross River Rail Delivery Authority to construct a new rail infrastructure project. When complete, the Project will deliver approximately 10 kilometres of new rail line between Dutton Park and Bowen Hills, including approximately six kilometres of tunnel under the Brisbane River and Brisbane CBD. It is valued at approximately $5.4 billion. Major construction works for the Project commenced in late 2019 and is scheduled for completion in either 2024 or 2025.

9. There are ten individual construction sites associated with the Project that I was assigned to: four of these are associated with the new train stations being built at Woolloongabba (Gabba Station), Roma Street Station, Albert Street Station and Boggo Road Station; four sites are associated with the tunnels being built at Woolloongabba (Gabba Tunnel), Roma Street Tunnel, Albert Street Tunnel and Boggo Road Tunnel; two additional sites known as Northern Portal which is in Spring Hill and Southern Portal which is located near the Princess Alexandra Hospital.

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DEPONENT

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Witness

10. As at August 2021, there was an IR Advisor located on each of the sites where a new train station is being built. Bekkers was based at Albert Street, Mead at Roma Street, Wood at Boggo Road, and I was located at the Gabba site, which I explain further below. Although I was based at the Gabba site, I oversaw the IR advisors and provided them with assistance on their sites when required.

GABBA SITE

11. The Gabba site comprises two separate sites, the tunnels and station sites, each with their own site management teams. There are separate gate access points (each with CCTV), site offices, crib rooms and amenities for the Gabba tunnels and the Gabba station. The Gabba tunnel site office is located on 867 Main Street, Woolloongabba. The Gabba station site access is located on Vulture Street, Woolloongabba, with a truck entrance located at 91 Leopard Street, Woolloongabba. My office is located within the Gabba station site office compound. Annexed to my affidavit and marked **NF-1** is a true and correct copy of a site map of the Gabba stations site as at August 2021. Gate L1 is on Leopard Street, and Gate V2 is on Vulture Street.

12. The hours of work for the Gabba site are typically 6.00am to 5.00pm Monday to Friday. Specific start times vary between 6.00am and 6.30am depending on the work being performed. Pre-start meetings are held at 6.00am (attended by the CPB crew, tower crane crew and other contractors engaged to support construction works) and 6.30am for the main formwork, reobar and concrete (FRP) contractor and their subcontractors.

ROMA STREET SITE

13. The Roma Street site is located on Roma Street, Brisbane. Mead primarily deals with IR at the Roma Street site, however, I attended that site at least once per week or when assistance is required to deal with employee related matters and managed right of entry by union officials.

ENTRY ONTO SITE BY UNION OFFICIALS

14. I describe below, the processes for entering the Project that were in place as at August 2021.

15. When a union official wants to enter any site on the Project to hold general discussions with workers during a break period, the standard process at any site on the Project is for the relevant union to send the applicable right of entry notice via email to a centralised email inbox. This is the process that was already set up and explained to me when I first joined the Project and is the process that other unions, that is, AWU, ETU and AMWU complied with while I was on the Project when they wished to enter a site on the Project to hold general discussions with employees. This is a standard process, which I have experienced in the past, when working for other companies in the construction industry. This process ensures we are compliant with the relevant right of entry laws whereby the union official provides us with advanced notice in writing to request access to site to meet with employees for

DEPONENT Witness

general discussions. This centralised inbox was set up so that it could be accessed by any of the IR advisors. When a new right of entry notice was received in the email inbox, the IR Team members were alerted and whoever may see the email first would typically send a note to the other IR team members alerting them of an impending union right of entry.

16. Again, typically, when a union official arrived at a site on the day to hold discussions with workers, a member of the IR team would greet the official as they would already have known in advance of their right to enter site. Upon meeting them, the officials were required to:

(a) scan the Queensland Government COVID App; and

(b) sign in to the DAMSTRA kiosk. All project-inducted employees and visitors to the project are required to sign into the DAMSTRA kiosk. This is a requirement for site to ensure that the site has a record of all persons who have accessed the site and are authorized to be on site).

17. There were signs at the entry gates on the Project directing visitors to check in using the Queensland Government COVID app and to sign in to the site (which occurs via the DAMSTRA kiosk). These requirements were also communicated in the site induction procedure (discussed below).

18. DAMSTRA is the electronic site access system and training records platform used at the Project. The DAMSTRA induction covers the various rules and regulations that apply on site including the requirement to obtain approval to use mobile phones, designated smoking areas, and other safety requirements including the use of personal protective equipment (PPE), safety hazards and emergency evacuation procedures.

19. It was a site requirement that all visitors are escorted by a Project representative, at all times. This is part of the visitor induction and is a requirement so that un-inducted persons are not wandering around site and potentially putting themselves and others at risk of a safety incident. From my experience, this is standard practice across any construction, mining or heavy industry site that has high risk work activities.

19 AUGUST 2021

20. On 19 August 2021, I arrived at the Gabba Station site at about 5.45am and went to my office.

21. While I was in the office preparing for the day, I was speaking with the CBGU JV Gabba station supervisors Matt Russell (**Russell**), Aaron Ivory (**Ivory**), Mark Weise (**Weise**) and Dave Hollett (**Hollett**).

22. During our general chat Russell received a radio call (on the two-way radio) from traffic controller Bradley Tippett (**Tippett**). Tippett is employed by Altus Traffic Pty Ltd and stationed at the Leopard Street delivery entrance gate located on 91 Leopard Street, Woolloongabba.

[redacted]

DEPONENT

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Witness

23. I overheard Tippett say to Russell something about BUSSQ being at the gate. BUSSQ is an industry superannuation fund for the building, construction and civil industry. Russell responded via radio that he was not aware of a BUSSQ delivery, but that maybe they were there for Tunnels. I knew it was Tippett, as we only had one delivery entrance gate for Gabba Stations and Tippett is the Traffic Controller assigned to that gate. After I heard this conversation, I told Russell to ask Tippett what they (BUSSQ) were there for or who they were there to see. In my presence Russell contacted Tippett with a two-way radio, asking him the two questions. Tippett's response to Russell via the two-way radio (which I heard) was to the effect of *"it has something to do with a BBQ and their contact is Colby"*. I said to Russell that Colby is a Health and Safety Representative (HSR) for one of our subcontractors. Since no one from the CBGU JV supervision team had any previous discussions or notice in advance about a BUSSQ delivery, Russell told me that he was going to head up to the Leopard Street gate to check it out. I did not hear Russell give any approval to Tippett to let BUSSQ onto site.

24. Just before 6.00am, I was approached by CBGU JV station safety lead Justin O'Neill (**O'Neill**). O'Neill told me that that the CFMMEU was onsite with a BBQ trailer and that CFMMEU official Andrew Blakeley (**Blakeley**) had physically pushed Russell out of the way of the Leopard Street entrance to force the vehicle on site.

25. O'Neill and I proceeded to walk to an area on the site haul road where I saw a BBQ being set up by BUSSQ representatives. I say they were BUSSQ representatives because they were wearing clothing with BUSSQ logos, and the BBQ was in a trailer attached to a vehicle with BUSSQ branding on it. Blakeley was standing a couple of metres from the BBQ and looked to be coordinating the BBQ set up.

26. I recognised Blakeley as I had met him many times before on the Project. He was wearing a black CFMMEU branded jumper, a black CFMMEU branded hard hat and an orange CFMMEU Hi-Vis vest.

27. I approached Blakeley and said words to the effect of "*What are you doing here, you can't just come on like this, you need to leave, it's an unauthorised access to site, you can't just come on like this, you need to leave*." He did not respond to me.

28. At this time, I observed about three or four BUSSQ representatives setting up the BBQ and approached them and said words to the effect of *"Guys you need to pack this up, this is not authorised by the Project, you need to pack up and* leave." The BUSSQ representatives paused for a second and did not respond and then continued to set up the BBQ.

29. At the same time as my conversation with the BUSSQ representatives, I overheard O'Neill who was speaking with Blakeley, approximately 2 to 3 metres away from me. O'Neill said to Blakeley words to the effect of *"You are not authorised to be on site, you are non-compliant with safety requirements*

[redacted]
DEPONENT

[redacted]
Witness

for site, you don't have appropriate PPE." I heard Blakeley respond by saying words to the effect that he was not required to wear full PPE if he was not completing construction work.

30. At around this time I took a photo of O'Neill talking to Blakeley, a copy of which is annexed to my affidavit and marked **NF-2**. In the photo there is a BUSSQ representative (wearing a yellow high-vis vest) and a second person wearing a black hard hat, Michael Ravbar (**Ravbar**).

31. I know Ravbar to be the State Secretary of the CFMMEU Construction & General Division. I know this because I have seen photos of Ravbar given his role in the union. He was wearing a red and black checkered shirt with an orange hi-vis vest with the words, "CFMEU Official" on the back. He was wearing a black CFMMEU-branded hard hat.

32. I then approached Blakeley and a conversation to the following effect occurred:

Me:	*"This is an unauthorised access to site and you need to pack up and leave site".*
Blakeley:	*"This was organised through you a couple of weeks go, don't you remember?".*
Me:	*"This is not true, that's not right, you're making it up. I did not organise this or authorise this".*
Blakeley:	*"Yeah, you did we spoke about this a couple of weeks ago".*

33. I had not spoken to Blakeley at any time about access to the site on 19 August 2021 or the holding of a BBQ with BUSSQ or otherwise. No right of entry notice had been sent to the designated email inbox in relation to an entry by the CFMMEU on 19 August 2021.

34. A short time later I approached Blakeley again and said words to the effect of *"You're putting your right of entry permit at risk by doing this. This is not authorised".* Ravbar said to Blakeley *"Don't respond to them".* Ravbar was standing approximately 3 to 4 metres from me.

35. I approached Ravbar and said to him words to the effect of *"This BBQ is not endorsed by the Project. It is an unauthorised access and we will have to report it and it could affect Blakeley's permit."* Ravbar said in response words to the effect of *"I thought this was all organised, you do what you need to do."*

36. At about 6.20am I observed subcontractor workers from Gabba Stations start to gather around the BBQ area. The majority of the subcontractor workers were performing formwork, reobar installation and concrete work on the Gabba Station site.

37. I would estimate approximately 50 workers gathered around the BBQ.

[redacted]
DEPONENT

[redacted]
Witness

38. A short time later, at about 6.35am, I observed Blakeley, Ravbar and a BUSSQ representative facing the workforce who were gathered standing opposite them adjacent to the BBQ. Ravbar was speaking to the workforce, and I was standing about 7 to 8 metres from Ravbar and Blakeley. With my mobile phone I took a photo of Ravbar addressing the workforce. A copy of that photo is annexed to my affidavit and marked **NF-3**.

39. I could not hear everything that Ravbar was saying but I did hear him saying words to the effect that:

(a) work had stopped previously on another Cross River Rail project site as there was no enough wash facilities or amenities;

(b) he had personally met with the Chief Health Officer Jeanette Young and the Government, and that the CFMMEU's position was that COVID-19 vaccines should not be mandatory on construction sites and the union is pro-choice. Ravbar provided an example that just as if a woman got pregnant, it's her choice to have an abortion or not; and

(c) that CIMIC (which is the parent company of CPB and UGL) was required to pay back $42 million to the Government for wrongly taking JobKeeper payments, after the CFMMEU complained to the media about it.

40. After Ravbar finished speaking, the BUSSQ representative addressed the workforce. I did not hear what this representative said to the workforce. After that, Blakeley addressed the workforce. I could not hear what he said other than at the end of his speech, he said words to the effect of *"I'd like to thank Nick for coming to the party (or seeing the light) and letting us have the BBQ."* His speech ended at 7.05am.

41. At about 7.05am, the workforce was provided with two flags to pose for a photo. I do not recall who provided the flags. One flag was the Eureka flag and the other was a BLF and CFMMEU flag. Using my mobile phone I took a photograph of the workers posing for a photo with the flags. A copy of the photo is annexed to my affidavit and marked **NF-4**.

42. Shortly after this (within approximately five minutes), the workforce started lining up and eating the food cooked at the BBQ.

43. A few minutes later, Ravbar and Blakeley approached me, where I was standing with Bekkers and O'Neill. Blakeley said *"thanks for having us today"* to which I responded words to the effect of "*I did not authorise this and that's a misleading comment.*"

44. I asked Blakeley what their plans were, and he said that that they were leaving.

[redacted]
DEPONENT

[redacted]
Witness

45. At 7.30am, I followed Blakeley and Ravbar towards the Leopard Street delivery gate entrance and watched them exit the Project. I have marked on the map that is NF-1 the gate from which Blakeley and Ravbar exited.

46. At 7.35am, I observed the workers that attended the BBQ walk back to the crib rooms, and then start work for the day. The usual subcontractor pre-start at 6.30am did not occur that day, as it was disrupted by the unauthorised access to site and BBQ.

47. On 19 August 2021, I contacted CBGU JV's Information Technology team to see if I could access the CCTV footage from the Leopard Street delivery gate, as I was curious to see how the BUSSQ vehicle got on site and also to see whether Russell was physically pushed out of the way. I was provided with access to this CCTV footage by the Information Technology Team on the same day, and I downloaded the footage. I reviewed the footage and identified that shortly prior to the 10 minute mark of the video, Blakeley was visible in the footage (wearing a black hard hat, black jumper and orange hi vis vest), as was Russell (wearing a white hard hat and orange long sleeve high vis shirt). The footage (from about the 10 minute mark) showed an altercation between Blakeley and Russell while standing near the entry gates. I saved a copy of the footage. A true and correct copy of the footage is annexed and marked **NF-5**.

48. On 19 August 2021 I also reviewed the site's records to determine whether Blakeley or Ravbar signed in using the DAMSTRA system. This was done by accessing a database described as "DAMSTRA online platform" which records each log in entry in the DAMSTRA system. Those records also indicated that neither Blakeley or Ravbar had ever signed in to the Gabba site or completed a visitor's induction.

24 AUGUST 2021

49. On 24 August 2021 I commenced work at the Gabba site at some time between 5.30am and 6.00am.

50. At about 6.10am I was at the Gabba Tunnel's site talking to the supervisors from CBGU JV and workers from CPB. I looked at my mobile phone and noticed that I had a missed call from Mead at 6.12am.

51. At the same time, I noticed I had a WhatsApp message from Mead at 6.10am saying *"CFMMEU on site, they got through gate 5 with cbus and bbq. Same thing they did at Gabba."*

52. At 6.13am, I called Mead and said words to the effect of "*Speak with the CFMMEU, say that their access is unauthorised and that they need to leave the site. Take photos and I will head over to Roma Stations as soon as I can*".

53. Mead said words to the effect that she was not yet at site but was on her way and confirmed that she would speak with the CFMEU.

[redacted]
DEPONENT

[redacted]
Witness

54. At about 6.25am, I received a text message from Mead. The text message said *"I said to Blakeley what are you doing here and he said Nick told us we could do this four weeks ago. I said I just spoke to Nick and he said that he never authorised this. You are here unauthorised and need to leave. He then said well we're not going anywhere".*

55. At about 6.45am I arrived at the Roma Street site and entered through the secure pedestrian site access gate that accesses the western crib huts.

56. I then walked further around the crib hut area and located Mead, who was on the other side of the crib area from the access gate where there was a view of a BUSSQ-branded vehicle with a trailer and a BBQ. When I got closer, I saw that the set up was the same as that which was set up at the Gabba Site on 19 August 2021.

57. From where I was standing at the crib hut area, I saw that Blakeley and Ravbar were present and were talking to a group of subcontractor workers, in front of the BUSSQ vehicle and BBQ trailer. Blakeley and Ravbar were on the construction site behind a flagged off area. The flagging or bunting is sometimes used to delineate a walkway, material or equipment. In this case, it was being used to separate the area around the BUSSQ vehicle from the haul road, and ensuring that the people standing around the BUSSQ vehicle were somewhat contained from other mobile equipment that may access the site haul road.

58. Blakeley was wearing a black CFMMEU branded jumper, a black CFMMEU branded hard hat and an orange CFMMEU Hi-Vis vest. Ravbar was wearing an orange PPE shirt with 'CFMMEU Official' branded on the back and a black CFMMEU branded hard hat.

59. Blakeley and Ravbar separately addressed the group of employees who met with them at the BUSSQ vehicle, however I did not hear anything that they were saying. The BUSSQ representative (Dallas Ezzy) also addressed the group.

60. At about 7.15am, the speeches ended, and the workforce began eating the BBQ. There were approximately 20 to 30 people in the area. Ravbar and Blakeley were talking to the workers and BUSSQ representatives. I was still off to the side of the BUSSQ vehicle (about 8 metres away) observing.

61. A few minutes later I spoke to Blakeley near the BBQ area. Blakeley said to me words to the effect of *"Thanks for the event"* to which I responded words to the effect of *"This is not an authorised event. You were not approved to be on site".* I further said to Blakeley words to the effect of *"You are putting your permit at risk by coming on site without approval. We have no choice but to report this unauthorised access."* Blakeley said words to the effect of *"You're making yourself look silly" or "You're making things difficult for yourself"*

[redacted]
DEPONENT

[redacted]
Witness

62. A few minutes after that, at about 7.25am and once packing up of the BBQ had commenced, Blakeley walked past me and said *"Thanks again for the event"* to which I responded words to the effect of *"This is not approved and was an illegal entry to site"*.

63. At about 7.30am, I saw Blakeley and Ravbar depart site on foot and leave through the vehicle entry gate. At the same time, the workers returned to work.

64. Sometime after 8.00am, I returned to the Gabba site. When I arrived at my office, I completed notes of what occurred that morning. A true copy of the notes is annexed to my affidavit and marked **NF-6**. I do not recall preparing notes of the entry on 19 August 2021.

65. I confirm that the contents of my affidavit and true and correct to the best of my knowledge and belief.

~~Sworn~~/Affirmed by the deponent

At [redacted] (by Microsoft Teams) Australia

on 2 August 2022

[redacted]

Signature of deponent

Before me:

[redacted]

Signature of witness

Full name of witness: Patrick Ross Lawler

Qualification of witness: Solicitor

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022

COURT USE ONLY

Court

Location

Court date

Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

ANNEXURE CERTIFICATE

This is the document referred to as **"NF-1"** in the affidavit of Nicholas Forde ~~sworn~~/affirmed at Elimbah (By Microsoft Teams) on 2 August 2022

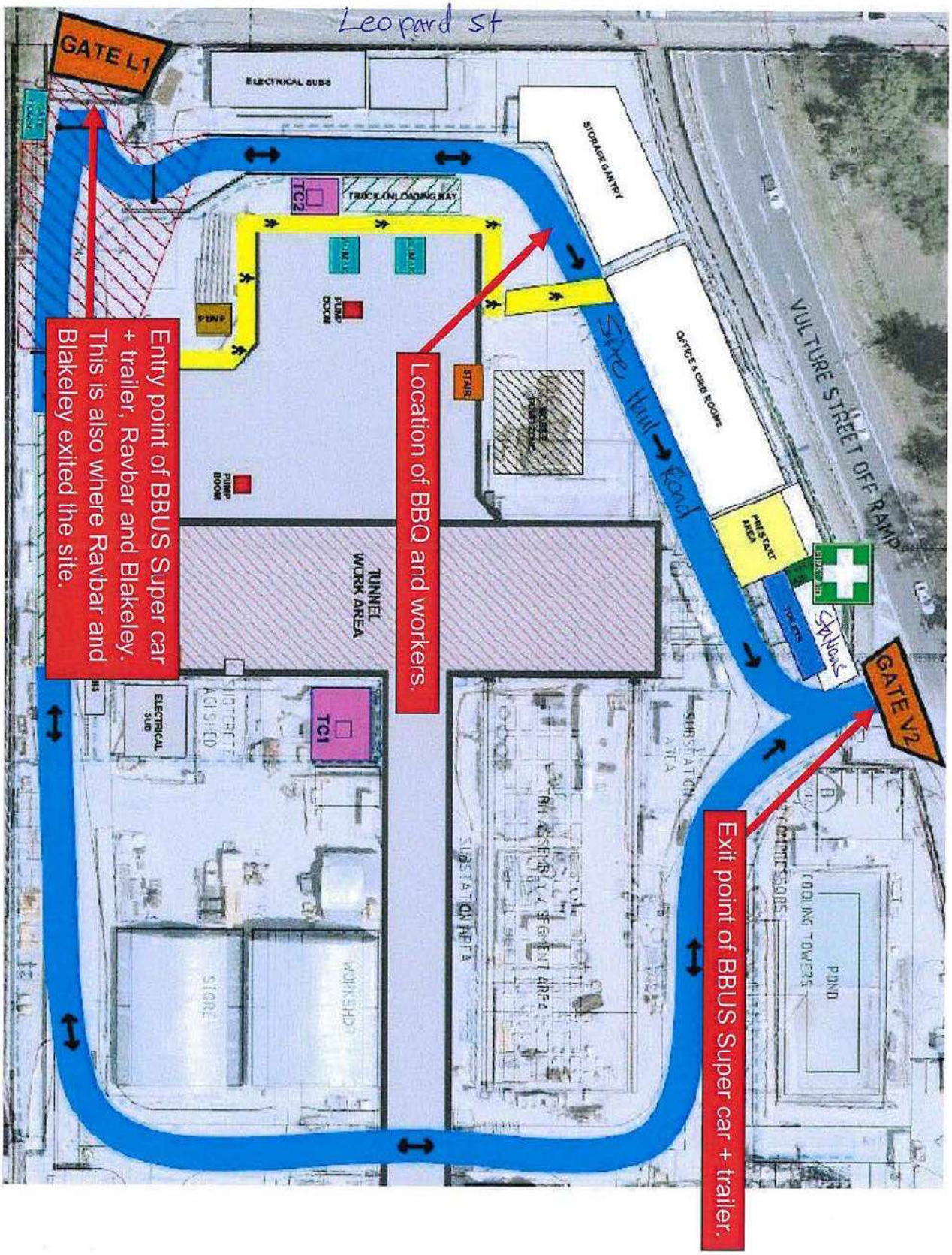
[redacted]

Deponent

[redacted]

Witness

Station's entrance only.



← Stanley St →

Tunnel's turnstiles.

← Main st →

Tunnel entrance only.

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022

COURT USE ONLY

Court

Location

Court date

Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

ANNEXURE CERTIFICATE

This is the document referred to as **"NF-2"** in the affidavit of Nicholas Forde ~~sworn~~/affirmed at Elimbah (By Microsoft Teams) on 2 August 2022

[redacted]

Deponent

[redacted]

Witness


MEU
CFMEU
VICTORIA

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022

COURT USE ONLY

Court

Location

Court date

Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

ANNEXURE CERTIFICATE

This is the document referred to as **"NF-3"** in the affidavit of Nicholas Forde ~~sworn~~/affirmed at Elimbah (By Microsoft Teams) on 2 August 2022

[redacted]

Deponent

[redacted]

Witness


CROSS RIVER RAIL
General Waste
CLEANAWAY

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022

COURT USE ONLY

Court

Location

Court date

Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

ANNEXURE CERTIFICATE

This is the document referred to as **"NF-4"** in the affidavit of Nicholas Forde ~~sworn~~/affirmed at Elimbah (By Microsoft Teams) on 2 August 2022

[redacted]

Deponent

[redacted]

Witness


CROSS RIVER RAIL
General Waste
BLF
UNION
CFMEU
5
SHARED ZONE

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022

COURT USE ONLY

Court

Location

Court date

Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

ANNEXURE CERTIFICATE

This is the document referred to as **"NF-5"** in the affidavit of Nicholas Forde ~~sworn~~/affirmed at Elimbah (By Microsoft Teams) on 2 August 2022

[redacted]

Deponent

[redacted]

Witness

NF-5

https://www.dropbox.com/s/koqyw55nq0ipx76/220802%20Affidavit%20of%20Nick%20Forde%20-%20NF-5.mp4?dl=0

FEDERAL CIRCUIT AND FAMILY COURT

OF AUSTRALIA

REGISTRY: Brisbane

File number: BRG167/2022

COURT USE ONLY

Court

Location

Court date

Court time

Australian Building and Construction Commissioner
Applicant

Construction, Forestry, Maritime, Mining and Energy Union
First Respondent

Michael Ravbar
Second Respondent

Andrew Robert Blakeley
Third Respondent

ANNEXURE CERTIFICATE

This is the document referred to as **"NF-6"** in the affidavit of Nicholas Forde ~~sworn~~/affirmed at Elimbah (By Microsoft Teams) on 2 August 2022

[redacted]

Deponent

[redacted]

Witness

Nick Forde Summary Notes

CFMEU - Unauthorised Access at Roma Stations 24.08.21

Site:	Roma Station
Unauthorised access date:	24 August 2021
CFMEU Arrival time:	5.30 am
Departure time:	7.30 am
CBGU JV attendee(s):	Lauren Mead **(Mead),** Garry Lappin **(Lapping**), Nick Forde **(Forde),**
Union attendee(s):	Andrew Blakeley (**Blakeley**), Michael Ravbar **(Ravbar),** Dallas Ezzy BUSSQ Rep **(Dallas),** other BUSSQ Reps
Subcontractor attendee(s):	Roma Stations Workforce – QPS, Lindores, Multhana, Excel Scaffolding

1. 6.12am – I had a missed call from Lauren Mead. I was at Gabba Tunnels talking to supervision and workers about payroll matters and obtaining document sign offs by TBM Project Manager. When I looked at my phone, I noticed a text message from Mead, saying that CFMEU was onsite at Roma, that they went through Gate 5 with BUSSQ and BBQ trailer.
2. 6.13am - I called Mead and instructed her to speak with CFMEU to say that their access was unauthorised and that they needed to leave site. I instructed Lauren to take photos. I said that I would head over to Roma Stations as soon as I can.
3. I finished my discussions at Gabba Tunnels, headed back over to Gabba Stations to drop off my paperwork, and went over to Stanley Street to wait for an Uber.
4. 6.25am – Lauren sent me a text saying that she spoke to Blakeley and asked what he was doing there. Blakeley responded saying that Nick told them they could be there. Lauren said that she explained to Blakeley that it was unauthorised and that they needed to leave. Lauren also sent a photo of Blakeley and BUSSQ onsite to my phone, which was an identical set up to the one on Gabba Stations the week prior. **(Image 1)**
5. 6.27am - I sent text messages to Lauren saying that she and Garry Lappin (Superintendent) needed to say to Blakeley that it's unauthorised access and that they must leave site.

Nick Forde Summary Notes

CFMEU - Unauthorised Access at Roma Stations 24.08.21

6. 6.33am - I called Lauren. Lauren confirmed that she had spoken to Blakeley and told him that it was unauthorised and that he needed to leave. Blakeley said to Lauren that Nick Forde had approved this. I confirmed to Lauren that this was not true, that I had never authorised this access and I had not authorised a BBQ by BUSSQ. I said to Lauren that Blakeley had said the same thing at Gabba last Thursday (that Forde had approved the event).
7. 6.45am – I arrived at Roma St Stations. I accessed via the pedestrian gate and first saw Glenn Ward (Safety Advisor). I walked around the crib and found Lauren Mead. I saw the exact same set up that the CFMEU and BUSSQ had organised the week prior at Gabba Stations on Thurs 19th August.
8. I saw Blakeley was present and Michael Ravbar was addressing approx. 20 to 30 subcontractor workers in front of the BUSSQ vehicle and BBQ trailer. They were onsite behind a flagged off area.
9. I saw Garry Lappin and walked over to him to discuss the event. I asked Garry which subcontractors were present, he said QPS, Lindores crane crew, scaffolding. I also saw a Multhana employee.
10. I had a look at who was organising the event. I noticed the same guys from BUSSQ. Dallas Ezzy, another BUSSQ Rep with a blue hardhat and a large CFMEU sticker wrapped around the back of the hard hat. I also saw the same dreadlocked haired guy who I couldn't tell if he was BUSSQ or CFMEU, as he was not branded by either organisation but had a black hat on. He was the same guy who addressed the workforce at the Gabba.
11. 7.00am – Dallas Ezzy addressed the workforce.
12. I spoke briefly to the Traffic Controller (Ian) who said that at about 5.30am, he let a fuel truck in and the BUSSQ vehicle followed behind it. He was not aware of a BUSSQ delivery, so he radioed Tony Moore (Supervisor) at the time to see if he

knew anything about it. Moore called up Lappin and Mead to let them know what was going on.

13. I spoke briefly to the Leading Hand. He said that he didn't want the BUSSQ vehicle blocking the main thoroughfare of the site, so he directed them off to the side and set up a flagging delineation to prevent any risk of plant interaction.
14. 7.15am – Speeches ended and workforce began eating the BBQ.
15. 7.20am – I noticed a guy I knew from Mates in Construction (MIC) handing out lollipops to everyone. I had a lot to do with him on a previous project where he was our MIC representative for the site. I asked what he was doing there, and I said to him, I thought CFMEU had dropped Mates in Construction? He replied that he just keeps turning up to things. I said to him, I don't want to burst your bubble, but this event was not authorised by the Project, it was an illegal access to site. He didn't seem to know if it was an approved event or not. We spoke about the Broncos and he mentioned that he was attending the CPB head office in Fortitude Valley to talk to them about Mates in Construction.
16. After my conversation with the guy from MIC, Blakeley and I spoke. Blakeley thanked me for the event. I said to Blakeley that this was not an authorised event, that they were not approved to be onsite. This was the same strategy that Blakeley used at Gabba Stations the week prior, to falsely claim that I had approved the event. I said to Blakeley that he is putting his permit at risk by coming on site without approval and that we have no choice but to report this unauthorised access. Blakeley responded, but I can't remember exactly what he said, maybe words to the effect that you're making yourself look silly or you're making things difficult for yourself.
17. 7.25am - BUSSQ started to pack up the BBQ.
18. I walked over to the pedestrian walkway near the First Aid hut to get out of the way so that the BUSSQ vehicle could depart site.

Nick Forde Summary Notes

CFMEU - Unauthorised Access at Roma Stations 24.08.21

19. Blakely said goodbye to Lappin and as he walked past me, said thanks again for the event, I again said that it was not approved and that it was an illegal entry to site.
20. I saw Blakeley walk towards the gate, then he walked back to the BBQ and got a feed and drink for the Traffic Controller.
21. 7.30am – Blakeley and Ravbar departed site on foot.
22. 7.30am - Dallas Ezzy, BUSSQ Rep, was exiting site on foot and stopped to have a chat. I again explained to him that this was unauthorised access to site. I said that this sort of thing needs to be approved by the Project. Dallas said that he just gets told that they have an event on and he turns up. He said he is here to talk about Super, as the guys don't get a chance during the week to call up as they are busy working. I said that I get that, but we can't just come onsite without proper authorisation, we need to do the right thing. Dallas pointed out that this time he had correct PPE boots. I acknowledged this, but then said to him that his vehicle still doesn't have a flashing light. I asked Dallas if they were going to another site next, he said he didn't know. Dallas then walked offsite.
23. 7.35am – BUSSQ vehicle and trailer departed site through exit gate.

Nick Forde Summary Notes

CFMEU - Unauthorised Access at Roma Stations 24.08.21



Image 1 – Blakeley and BUSSQ onsite Roma Stations

Nick Forde Summary Notes

NRF-3

CFMEU - Unauthorised Access at Boggo Stations 31.08.21

Site:	Boggo Rd Station
Unauthorised access date:	31 August 2021
CFMEU Arrival time:	8.30 am
Departure time:	1.05 pm
CBGU JV attendee(s):	Darrin Gaske (Gaske), Shane Bradley (Bradley) Nick Forde **(Forde),** Alicia Wood (Wood), Matt Papworth (Papworth)
Union attendee(s):	Kurt Pauls (Pauls), Michael Davis (Davis)
WHSQ attendee(s):	Travis Dungley (Dungley), Garry Stanley (Stanley)

1. 6.00am – I attended pre-start at Gabba Stations.
2. 7.35am – I departed for Boggo Rd Stations on foot from Gabba Stations, arriving at Boggo at about 7.50am.
3. 8.15am – I received a text message from Matt Papworth that a CFMEU Official has been spotted outside Ecoscience building. I went and looked out the window of the office and saw someone sitting at the picnic table at the park outside the turnstiles. I couldn't recognise him.
4. Papworth received a phone call that there were CFMEU officials at Southern Portal Area trying to access site. Papworth and I agreed that he would head down straight away to Southern Portal area, and I will remain at Boggo Rd.
5. I went and saw Gaske to prepare for the entry.
6. I kept watching the official at the picnic table. He got up and went to the turnstile. I later found out that he was buzzing on the intercom, as Peter Cullen (Tunnels Safety) approached me and said he had called the intercom, but Pete didn't answer it.
7. I then went and got Gaske and we headed down to the turnstile. The officials had left the area at that stage and started walking down the road.
8. 8.25am - Gaske, Wood and I caught up with them at the bottom truck gate and we all introduced ourselves. The CFMEU union officials introduced themselves at Kurt Pauls and Michael Davis. I hadn't met these officials before.

9. Pauls and Davis said they wanted to come onsite under a s81(3) to discuss some safety issues raised to them.
10. We asked what the issues were, they mentioned access/egress, maintenance of plant, falling from heights and some other issues.
11. I asked for their entry permits, they said they didn't need them as they are not required for a s81(3). They instead produced business cards.
12. We said that we will have to get some advice and requested them to come back up to the main turnstile gate.
13. Gaske, Forde and Wood entered through the turnstiles and made some phone calls.
14. I looked up the ABCC website app to determine if Pauls and Davis had their Federal ROE Permits. I identified Pauls and Davis as not having Federal entry permits as listed as No entry permit on the ABCC app.
15. I spoke to Gaske and said that these guys don't have a Federal ROE permit, therefore, they cannot exercise a right under the WHS act, if they are not Federal permit holders. I said that there was a recent High Court decision to rule on this. I confirmed this with Terry Prior during a phone call.
16. 8.45am – Gaske, Forde and Wood went out the turnstile to talk to Pauls and Davis at picnic table. Gaske said to both of them that they weren't coming onsite as they don't have a Federal Permit. Pauls and Davis disagreed saying that they can access site and they don't need a Federal Permit. Forde explained that to exercise a state WHS right, you need to have a Federal ROE permit and since they don't have one, they can't come onsite. Pauls and Davis disputed this and said that WHSQ were on there way. (I thought this was strange that they had already called WHSQ, as if they were pre-empting this situation).
17. Gaske, Forde and Wood entered site while Pauls and Davis waited at picnic table.
18. Forde went and checked a recent summary of the High Court decision on the same set of circumstances where CFMEU officials entered another site under s81(3)

without showing Federal permit. It was determined in the courts that a CFMEU Official had to hold a Federal ROE permit to exercise a state WHS right, such as a s81(3), I identified in this summary report that Kurt Pauls was one of the persons involved in this court case, which was still pending a penalty hearing.

19. 9.30am – 2 x WHSQ Inspectors arrived, Travis Dungley and Garry Stanley. They spoke to Pauls and Davis first and took down all the safety issues raised by Pauls.
20. Dungley and Stanley met with Gaske, Forde and Wood, and explained that Pauls and Davis were requesting to enter site under s81(3) that the issues raised were plant not being maintained, falls from height, lifting gear register, safe storage of hazardous chemicals and access/egress.
21. I explained to WHSQ that Pauls and Davis did not have Federal ROE permits and therefore they are not fit and proper persons to access a construction site.
22. Travis asked me what I meant.
23. I repeated saying that since their Federal ROE permits have been revoked, they have been deemed as not being fit and proper persons to be on a construction site. And therefore, we are not letting them on as they require a Federal permit to exercise a WHS right being the s81(3).
24. Travis asked if we were going to tell the officials this. I said we already have, but we can tell them again.
25. WHSQ inspectors, Gaske, Forde and Wood walked back up to the picnic table to talk to Pauls and Davis. We explained again that they cannot come onsite since they do not have Federal ROE permits. There was some discussion and disagreement about this. We said to the inspectors that they can come onsite.
26. WHSQ inspectors accessed site through the turnstiles, Pauls and Davis waited outside. Inspectors signed on as a visitor onto the Damstra Kiosk and scanned the Covid QR code.

27. Shane Bradley and Pete Cullen met up with the group. Pete organised gloves for the inspectors and we headed out to site. I mentioned to Garry Stanley and Travis Dungley that there had been a recent High Court decision on this that you need a Federal Permit if you want to come onsite under s81(3). I said it was a job up on Bruce Highway, Travis said, was that Seymour Whyte, I said, yes, that's the one.
28. We walked down the scaffold stairs onto a landing, Gaske was talking to WHSQ about the site. We then walked down stairs into the box. Inspectors noticed a trench with inadequate barricade and took a photo.
29. At approx. 9.50am I received a phone call from Terry Prior who requested me to go to Albert St to help the team there as they were having issues with CFMEU organisers attempting to access the site.
30. I left Boggo Stations box and headed out to wait for an Uber.
31. I got a text from Matt Papworth that Mark Curtain wanted to talk to me about gates. I called Mark Curtain who said that they need the truck gate open as they have trucks backed up that need to get out but he was told that they were shut because of the CFMEU being outside. I said to call Gaske, if they are critical to be opened, but we need someone on the gate. (I later found out that this is the gate that Pauls and Davis entered through, which was opened as Southern Portal had to get trucks out).
32. 10.20am – I got picked up in an Uber.
33. 10.45am – I arrived at corner of Albert/Mary St when I got a call from Peter Melloy who said that the 2 x CFMEU organisers were hanging outside lower truck gate and looking to get onsite. I called Terry Prior and agreed that I would head back to Boggo Rd.
34. 11.05am – I arrived back at Boggo Rd. I saw Gaske and Wood outside in front of the café talking to the WHSQ inspectors. I gave my back to Ruth (admin) and headed down the road to the lower truck gate. When I got there, I saw Pauls and Davis

standing inside the gate onsite, with Shane Bradley and a couple of other guys standing in their way so that they wouldn't access site.

35. I approached Pauls and Davis and asked them to leave site. I said it was an unauthorised entry to site. I informed them that they cannot be onsite, it's an illegal entry and they must leave. They declined this request.
36. Further discussions were had about the right to be onsite as a representative for safety issues under s81(3). I kept explaining that they need to have a Federal permit to access site to exercise a WHS right.
37. I raised that there had been a recent High Court ruling on this that you need a Federal Permit to exercise a state WHS right. I said to Pauls, you were involved in it, on the Bruce Highway job. Pauls said that I need to do my homework and read up on the law a bit more.
38. On a couple of occasions Davis and Pauls was escorted to the drink fountain for a drink across the access gate behind security hut. Pauls and Davis also utilised the onsite portaloo.
39. 12.20pm – the same WHSQ inspectors returned to site and met with the group inside the lower truck gate onsite. Travis led the discussion and asked if we maintained the same position. I said that our position hasn't changed, that they need a Federal permit to come onsite.
40. Travis asked who's decision was this. I responded saying that it's the law, it's in legislation, there has been a High Court decision on this. I suggested to WHSQ to google the court case when they get back to the office, as it's clear that you need a Federal permit.
41. Travis said, do you need to make a phone call, Travis asked, if it was Mick Nash. I said I would go make a call, not to Mick Nash, but Mick is involved as Safety Manager. I went and called Terry Prior again, position hasn't changed.

42. I went back to Travis and said that the position hasn't changed. He asked if I talked to Mick Nash, I said no.
43. Travis said to the group that from what he understands Pauls and Davis have a right to be onsite under s81(3) as a representative of the workforce. Travis said that they cannot force CPB to take them onsite. I said that they have a different view on this.
44. Travis went and made a phone call and returned after 5 minutes. He went and spoke to Pauls and said that they have gone through the issues, that he issued the project an improvement notice and that they cannot make CPB bring them onsite.
45. 1.00pm – WHSQ departed site.
46. 1.05pm – Michael Davis left site and Kurt Pauls departed soon after.

NRF-4

From: Forde, Nicholas
Sent: Friday, 15 October 2021 4:08 PM
To: Prior, Terry
Cc: Marsden, Andrew
Subject: FW: 15/10/21 CFMEU s117 ROE- Roma St-Station

Terry,

Marsden didn't see Beau in the crib room, as Marsden left with the WHSQ/Blakeley/Safety group to Roma St office. Beau and his appointed delo were found in the crib room by me and Lappo at around 9.25am. This is after Garry Bath, Lindore's Safety guy exited the room and told me that he had been kicked out.

I will get Marsden to update the below summary with additional detail / times on Monday.

Regards

Nicholas Forde
Senior IR Advisor

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CBGU D&C JV

[redacted]

From: Prior, Terry [redacted]
Sent: Friday, 15 October 2021 2:19 PM
To: Marsden, Andrew [redacted]; Forde, Nicholas [redacted]
Subject: RE: 15/10/21 CFMEU s117 ROE- Roma St-Station

Thanks Andrew. Can u add in detail (and time) when trainer left his training room and inside the other CFMEU organiser was discovered?

From: Marsden, Andrew [redacted]
Sent: Friday, 15 October 2021 1:45 PM
To: Forde, Nicholas [redacted] Prior, Terry [redacted]
Subject: 15/10/21 CFMEU s117 ROE- Roma St-Station

Terry/Nick,

Notes below from today's s117 ROE at Roma St -STATION

- At 6:00 am I received a notification that Andrew Blakeley (AB) was at Roma Street Station, I advised Nick Forde.
- I walked to site and met Paul Head (Safety). Paul said he had a meeting to attend and Glen (Safety) would be available to deal with AB. I entered site at Gate 3 (M&E), AB was in the breezeway leaning on the barricading.

- I asked AB why is he onsite. His response was "*Safety issues*" I asked how did he enter site, his response was "*how'd you think I entered site?, there are gates isn't there?".* I asked if he had a s117 Notice and if so please provide it.
- At 6:11am AB gave me a s117 Notice. He also showed his state and federal permits.
- The s117 Notice stated "Safe Systems of Work" and "Inclement Weather Provisions" I instructed AB to wait until Gary Lappin arrives at site to deal with the issues. AB went to walk into the crib, I instructed AB to wait here and it's reasonable for him to wait here with me (ie. Not to enter go into the cribs). However AB said "*It's unreasonable to make me wait*" and entered the crib room where the workers were.
- Approx. 6:20 Glen (safety) arrived and asked what was going on, I provided him the s117 Notice.
- At approx. 6:35 Gary arrived, AB exited the crib and met Gary in the breezeway. AB was fired up and very emotional (more so than previous visits). AB was vocal towards Gary stating "*The guys can't work until their VOCs and refresher training is complete, you're a crane operator down because he resigned this morning due to the way you speak to him and the other blokes are jack of it too"* Gary effectively replied "*I haven't talked to the blokes [today] and when I do I don't speak to them in that way."*
- AB then said effectively "*your down an operator, the crane isn't operational and you can't have guys in the pit as you don't have a second exit per the ERT procedure*."
- At 6:38 am AB said he is calling in the department to deal with this and will wait until they arrive.
- A few minutes later AB then walked to the VT pit with Gary, Andrew Marsden and Glen followed.
- At approx. 6:57 we arrived at the VT pit. AB asked to review the ERT procedure. Glen pulled out the procedure, AB asked Glen to confirm the ERT requires a 2nd exit and that was the crane. Glen confirmed this. AB then asked Glen to pull out all the workers from the pit until there is a 2nd exit inline with the ERT procedure.
- 7:03 Glen went down and pulled workers out of the pit.
- AB has another heated conversation on the 2 exits required topic and claims he has previously dealt with this issue 4 times on this site.
- At approx. 7:18 AB gets off the phone and informs Gary that Lindores will bring someone to site to complete the Lindores training.
- At 8:27 am WHSQ arrived, 2x inspectors requested to meet with AB in private.
- At 8:40 Lindores trainer (Garry Bath) arrived to deliver training. Gary stated the leftover (started yesterday) training would take approx. 30- 60 minutes to complete
- At approx. 8:45 Nick Forde arrives onsite.
- WHSQ went into the Lindores crib room and inspected all work licences. Then questioned the workers and Paul (Safety) to confirm all workers have been VOC'd. WHSQ confirmed the 2 operators didn't require the refresher training as it was completed in Jan and Feb this year.
- However WHSQ stated the Doggers should complete the training as its been a while since the previous training was completed. WHSQ added since the training will only take 30-60 minutes to complete it should be done now. WHSQ stated that however, if it was going to be the case the

training was going to take another week to complete, than another method to completed the training should be looked at.

- WHSQ and AB, Nick Forde, Andrew Marsden and Paul Head moved to another crib to discuss the next issue “Inclement Weather Procedure”
- AB claims there is no Inclement Weather Procedure and the Severe Weather Procedure doesn’t adequately address Inclement Weather events.
- AB claimed the a procedure needs to be formalised. WHSQ requested if there is a formal procedure in place. Paul confirmed a checklist is completed after a rain event with supervisors completing the checklist after every rain event.
- WHSQ requested to inspect checklists from last rain events. As the documents were back at Hershel St office, AB and WHSQ were escorted to the Hershel St office.
- WHSQ, AB, Paul and Andrew convey in a meeting room in Hershel St office. The ERT & Severe Weather Event Procedures provided to WHSQ. In addition the previous Wet Weather Tool box and Checklists were provided to WHSQ.
- Whilst in the meeting a rain event occurred.
- WHSQ took photos of all above mentioned documentation and advised they will email “*Farrends*” (Safety Lead) with recommendations that a Wet Weather Procedure be formalised either as a stand-alone Procedure or an amendment to the Severe Weather Procedure.
- WHSQ then requested to speak to the Project Mgr. Paul Head went and grabbed Mark Jones.
- Mark arrived, WHSQ introduce themselves and stated an issue occurred this morning and they wanted to make the PM aware of the issue.
- The issue being the Lindores workers feel intimated by the Site Construction Mgr and the workers are fearful of retribution to raise any concerns they have onsite. (WHSQ didn’t mention Gary’s name)
- Mark said he was dealing with Lindores this morning and would address it. Mark then left.
- AB and WHSQ stated since there has been another rain event will go back to site to ensure the checklist have been completed.
- AB and WSQ returned to site, Gary Bath was outside the crib and confirmed the training had been completed. Gary then claimed the boys are upset that they don’t completed a prestart in the mornings as they are required to start work at 6:00 with prestart at 6:30 am.
- Gary Lappen agreed that Lindores can now start at 6:30 and attend the prestart.
- Tony Moore, Gary Lawless and Greg Cornelius produced copies of their Checklists to WHSQ.
- WHSQ left site.
- AB remained onsite and went into the Lindores crib room. AB came out and requested safety and/or mgt to undertake a prestart for the guys so they can return to work.

The above is initial notes from today and I am happy to expand as needed.

Regards

Andrew Marsden
Senior IR Advisor -
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[redacted]

NRF-5

From: Prior, Terry
Sent: Tuesday, 19 October 2021 5:47 AM
To: Forde, Nicholas
Subject: LAPPIN VERSION - Issues with Lindores crane crew last week

FYI -

From: Lappin, Gary [redacted]
Sent: Monday, 18 October 2021 4:45 PM
To: Byrne, Dominic [redacted]
Cc: Robinson, Phill [redacted] Prior, Terry [redacted]
Subject: Issues with Lindores crane crew last week

Dominic
Issues from Lindores crane crew last week Thursday 14/10 Raining in the morning all site crews were sitting in the sheds, Lindores had chosen to do some training with their crane crews, rain had stopped at 9.30 am I went into the shed to see what the crews were doing to find Andy Blakely in the crib shed with the crew and their company safety advisor going through this training. I informed him he cannot be on site and to come outside. I all so said to the crane crew it has stopped raining we need to return to work . Blakely then issued a 117 stating he was onsite to follow up on wet weather procedures. He then wanted to go and look at the VT area asked me to remove the men from the excavation I told him I would not do this as we had a crane crew on site if required, he then asked the safety advisor to tell the men to come out which he did. Then went to underpinning work area where he told the Mulherin crew to leave site he then left site. Both X-cell Scaffolding and QPS left site even though it had stopped raining and their 4 hours was not up. When I returned to see the crane crew they as well had left site with no consultation with supervision
Friday phone call at 6.00am saying Andy was on site again he was in with the Lindores crane crew I requested the crane crews to return to work they said they were not going to work until they had completed their training I had issues getting onto Lindores management to resolve this issue in the end they sent their safety advisor back to site to finish the training which was not required for them to be able to work, crews returned to work at 10.30 am. Two work safe officers arrived on site to check out the wet weather procedure.
Bow from the CFMEU had entered site illegally with another Lindores worker who they were trying to get elected as a delegate Anthony Perrit who works for Lindores at Queens Wharf I was told by Nick Ford they were in the crib shed talking to the crane crew. I then went and asked Bow what he doing and asked him to leave he said he was finished and left site.
We had a meeting with Lindores management and crew this morning to resolve these issues, it was agreed they would not leave site until correct consultation with the supervisors they report to .After the completion of this meeting Andy Blakely had entered the room and was sitting on a table , he asked me what was going on and I told him he should not be here and to leave
He said if we are having a meeting with his members he should be invited and left site
Rain event today I told one of the dogman to tell the operator to shut the crane down due to lightening at 2.30 pm went down to see the crew in the bottom of the ME when I returned to the surface I went to tell the crane crew they could go home as the rain time would have been up in 10 minutes they had all ready left site so much for the meeting we had only had 2 hours earlier

Regards

Gary Lappin
General Superintendent

[redacted]

NRF-6

From: Prior, Terry
Sent: Monday, 18 October 2021 4:08 PM
To: Forde, Nicholas
Cc: Marsden, Andrew
Subject: RE: CFMEU Unauthorised access at Roma Stations - 18.10.21

Thanks mate !

From: Forde, Nicholas [redacted]
Sent: Monday, 18 October 2021 4:07 PM
To: Prior, Terry [redacted]
Cc: Marsden, Andrew [redacted]
Subject: CFMEU Unauthorised access at Roma Stations - 18.10.21

Terry, see below summary of events at Roma Stations today.

CFMEU Unauthorised access at Roma Stations 18.10.21

- Marsden informed me at mid-morning today that Mark Jones was planning to meet with Chris Lindore's and Lappo today to mend the relationship after last week's interruption to works.
- Marsden informed me at approx. 12.20pm, that after the Mark Jones, Lappo meeting with Chris Lindores, they were going to meet with the crane crew as a path forward in mending the relationship.
- At approx. 12.50pm, Marsden and I were on Roma Street walking the footpath to review where the CCTV cameras were to be installed.
- At approx.. 1.00pm, Marsden and I were outside the stations truck entrance gate when Marsden received a call from Paul Head, Safety Lead.
- Paul stated to Marsden that Blakeley was onsite. We started looking up and down the road and couldn't see anyone. Paul then said, he was in the cribs, as he had a call from Glenn Ward notifying him.
- Marsden and I then accessed the site and went to Lindore's crib hut. We realised that Blakeley was probably onsite to witness the discussion between Lindore's, Lappo and Mark Jones.
- I opened the crib hut door and saw the Lindore's crew, Mark Jones and Lappo all sitting in a circle type formation, with a Lindore's employee talking. Mark Jones and Lappo had their backs to me from the door I entered into. Blakeley was separate from the group leaning on a table facing the backs of Mark Jones and Lappo. Blakeley was closest to the door I entered in.
- I asked Blakeley to come outside. Blakeley refused my direction and remained in the crib. I apologised to the group for interrupting.
- I then called Terry Prior at approx. 1.03pm to notify him that Blakeley was onsite.
- At approx. 1.20pm the meeting between Lindores, Mark Jones and Lappo finished and the majority of the group exited the room, Blakeley remained in the room with a few Lindores guys. I went back in the room and requested Blakeley to leave. He said he will just be a minute.
- Mark Jones and Lappo were just outside the crib hut, I said to Lappo and Mark, can you give us a hand in getting Blakeley out so we can talk to him. Lappo went to the door and as he opened it, Chris Lindores and Blakeley exited the room.
- I said to Blakeley, 'how did you get onsite', he said 'with a swipe card'. I said, 'you just can't come onsite, it's unauthorised'. I said as we were exiting the site (Chris Lindores and Mark Jones exited in front of us), 'you know you have to wait outside the gate and call us up so we can go through your permits and paper work' I said 'even if a subbie invites you on, we still need to go through the approvals to access site'. Blakeley then handed me a folded up s117.
- After he handed me the s117, I stopped to open it. Blakeley then caught up with Chris Lindore's and Mark Jones who were walking down Roma St.

- Later on I spoke to Lappo and asked if someone had invited Blakeley to the meeting. Lappo said that Blakeley arrived in the room after they had started the meeting and was not invited. Lappo said that one of the guys probably texted Blakeley that the meeting was on.
- It's not clear whether Mark or Lappo knew whether Blakeley had entered the room while the meeting was in progress as their backs were to him. However, it's likely they would have noticed him in the room after I had entered at 1.00pm.

Regards

Nicholas Forde
Senior IR Advisor

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[redacted]

NRF-7

From: Marsden, Andrew
Sent: Monday, 18 October 2021 4:15 PM
To: Forde, Nicholas; Prior, Terry
Subject: RE: s117 ROE 18/10/21

Correction HL below

Mark not Paul.

From: Marsden, Andrew
Sent: Monday, 18 October 2021 4:11 PM
To: Forde, Nicholas [redacted]; Prior, Terry [redacted]
Subject: s117 ROE 18/10/21

Nick/Terry,

Please see below notes from today's ROE.

- At approx. 1pm I received a call from Paul Head informing me the CFMMEU was onsite at Roma St
- Paul believed Andrew Blakeley (AB) was at the M&E cribs.
- At the time I was with Nick Forde on Roma st outside Gate 5 near the entrance to the M&E crib area.
- Nick went into the Lindores Crib room, inside the crib was (Paul) Mark Jones, Gary Lappen and the Lindores crew. AB was at the back of the room
- Nick entered the Crib room and asked AB to come outside. AB did not exit the crib
- Nick and I waited outside for the meeting to finish
- Approx. 1:25pm the meeting finished with Gary, Mark and Chris Lindore exiting the crib
- As AB remained in the crib talking to some of the Lindore workers, Nick requested AB to come outside for a chat as AB. AB (again) refused this direction
- Nick and I went and spoke to Gary and asked if he could direct AB to exit the crib to discuss why he (AB) was onsite.
- At this time Mark, and Chris exited the gate, AB attempted to follow them both. Nick asked AB what he was doing on and informed him that he was onsite unlawfully.
- AB continued to walk towards the gate and exited site. Nick continued to attempt to address AB informing him that he can't enter site without first informing he wished to enter site, AB response was *" I have a swipe card and authorised to enter site"*
- Nick addressed that he needed to provide a notice of entry before entering site and show his permit cards upon entry.
- AB pulled out s117 Notice and gave it to Nick, then walked off and caught up with Chris and Mark

Regards

Andrew Marsden
Senior IR Advisor

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CBGU D&C JV

[redacted]

[redacted]

NRF-8

From: Prior, Terry
Sent: Tuesday, 19 October 2021 5:47 AM
To: Forde, Nicholas
Subject: JONES VERSION - Re: ROMA 3rd party Visit

FYI -

From: Jones, Mark [redacted]
Sent: Monday, 18 October 2021 4:55 PM
To: Prior, Terry [redacted]
Subject: Re: ROMA 3rd party Visit

Terry,

As discussed , please see my notes from todays meeting with Lindores (attendees – Gary Lappin , M Jones , Chris Lindores, Matt Lindores and the current site crane crew)

1. Meeting held with Lindores Logistics Management to discuss current site issues with CBGUJV team
2. Meeting commenced at 12:40 pm chaired by Chris Lindores
3. Meeting topics –
    a. Ongoing site issues & frustrations to be tabled
    b. Pre-starts and communications
    c. Wet weather process and communication
4. On conclusion of the meeting
    a. A .Blakeley (3rd Party) had entered the site Crib (back door and taken a chair)
    b. Myself and Garry Lappin did not become aware A Blakeley was in the room for about 5min
    c. Once A Blakeley was known to be present , Gary Lappin asked A Blakeley why his was in the room and informed he cannot be there and should leave which he said "No"
    d. Nick Ford opened the door and requested A Blakeley to come out of the room and he refused
    e. A Blakely remained in the room for a further 5min whilst is we spoke to the Lindores team about the Precast works coming on the M&E shaft
    f. Lindores crane crew proceeded to have their lunch , myself and Gary L left the room with Chris & Matt Lindores
    g. Gary proceed to catch up with Nick & Andrew M whilst is discussed the rigging requirements for the up and coming works on the M&E shaft
    h. A Blakeley proceed to leave the site , Nick & Andrew followed him down the footpath and ask for his permit, which his handed over.

If I remember anything further I will pass on

Regards

Mark Jones
Project Manager

CROSSRIVERRAIL TUNNEL & STATIONS
CPB | bam | Ghella | UGL
Cross River Rail – Tunnels and Stations
CBGU D&C JV

[redacted]

NRF-9

From: Forde, Nicholas
Sent: Wednesday, 20 October 2021 10:02 AM
To: Bekkers, Jonathan; Wood, Alicia; Marsden, Andrew; Papworth, Matthew
Subject: FW: Summary CFMEU unauthorised access Gabba Stations - 20.10.21

FYI. Summary from today's visit.

Regards

Nicholas Forde
Senior IR Advisor

CROSSRIVERRAIL TUNNEL & STATIONS | CPB | bam | Ghella | UGL
Cross River Rail - Tunnels and Stations
CBGU D&C JV

[redacted]

From: Forde, Nicholas
Sent: Wednesday, 20 October 2021 10:00 AM
To: Prior, Terry [redacted]
Subject: Summary CFMEU unauthorised access Gabba Stations - 20.10.21

Terry,

See below summary from today's unauthorised access to Gabba Stations by CFMEU

- 5.55am – I received a call from Supervisor Matt Russell that Blakeley had entered site through Leopard st truck entrance on foot and was in the crib sheds. I was just about to enter via the Gabba Stations turnstiles at the time.
- I grabbed Senior Supervisor Mark Weise and went into crib hut. Blakeley was talking to Titan crane crew with Justin O'Neill present in crib hut.
- I said to Blakeley that his access was unauthorised and that he needs to leave. I asked why he was onsite, he said s68, to meet with Richie. I asked for his permits, he showed me Federal and State permits. I requested him to leave site as he cannot access site without authorisation. I explained that the correct was to access site is through the turnstiles and that he needs to call us up so that we can come to the gate and check his permits, paperwork and that we need to authorise his access. He disagreed with this. He said that if I had a problem, I should report it to the QIRC.
- 6.20am – Blakeley, Richie and Colby started walking onsite. I said that he cannot go onsite, his entry is unlawful, he needs to do visitor induction, scan onto Covid and that he needs s117 to inspect site. Blakeley disagreed with the site requirements and refused my direction. O'Neill and I followed them onsite via scaffold down to B9 level (lowest level). They walked about B9 and B7 and make comments about water on the ground, lack of lighting and asked questions about mould detection. Weise joined us on B9 for the walk around.
- 6.50am – went up to B4 level – main open deck area where majority of work is getting done. Tresider had joined us by this stage. Blakeley unhappy with walkways and access to main deck and access into steel fixing pits and stopped steel fixing crews from working in the area until 2 x access ways onto main deck were installed and the proper scaffold access into the pits were installed. Supervision organised this immediately. All other work groups were working. Steel fixers were redeployed to other areas. (I understand that the HSRs and workgroup had already assessed this work area and were happy with the current set up, however, Blakeley's proposals for access improvements were implemented rather than being disputed.

- Discussion was held about supply of drinking water. Tresider explained that the project will be issuing personal 5L water bottles to everyone. Blakeley didn't like this idea, and expects the bigger water jugs to be organised at all work areas.
- On a number of occasions I explained to Blakeley that his visit was unlawful, that he needs to follow the rules to access site and provide us with appropriate paperwork to approve his access. He disagreed with this and believes his access was lawful and suggested that I report it to QIRC.
- 8.20am – Steel fixers moved back into work area as access had been installed/improved.
- 8.35am – Blakeley and group departed the box, out of the work area and entered the Heinrich office. Blakeley said to Scotty (Safety manager) and Ross (Site Manager) that Scotty needs to move over to another desk, and Richie is to sit where Scott is, which is next to Troy (HSR) desk. They all share the same open plan office (12x3 sized donger). Ross said he was unaware of this. I said to Blakeley, Scotty is not going anywhere, your entry to site is unlawful and you have to leave. Blakeley declined this request.
- Blakeley then rang Hoss and explained to him the reconfiguring on seats in the Heinrich office. Hoss apparently agreed. Blakeley went back in and told Scott and Ross that news that Hoss has agreed. Ross said to Blakeley, ,are you the new construction manager are you? Is that what this visit was all about down there, to sort out an office for Richie? The work area down there that you had an issue with had already been consulted and agreed to by the workforce.'
- 8.45am – Blakeley departed site.
- Tresider had subsequent discussions with Jeff Bedsor and Ross from Heinrich. Heinrich have suggested to move Brent, Q Elect Foreman, out of his office to put Richie in there. Brent shares a donger with IPR and East Coast, and Heinrich believes that is their donger for them to use. Tresider has told Heinrich that Richie is not to move into Brent's office and that he is to share the Heinrich office, and Heinrich can reconfigure the seating how they like, but Richie does not get his own office.

I'll provide a full summary later on today.

Regards

Nicholas Forde
Senior IR Advisor

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Nick Forde Summary Notes

CFMEU Unauthorised Access to Gabba Stations 20.10.21

Site:	Gabba Stations
Access date:	20~~1~~ October 2021
CFMEU Arrival time:	5.55 am
Departure time:	8.45 am
CBGU JV attendee(s):	Nick Forde (NF), Mark Weise (MW), Justin O'Neill (JO), Warren Tresider (WT), Matt Russell (MT)
Union attendee(s):	Andrew Blakeley (AB)
Subcontractor attendees	Richie Atolu (RA), Colby McAlpine (CM)
WHSQ attendee(s):	N/A

1. 5.55am - I receive a phone call from Matt Russell (MT), Supervisor, who informed me that Andy Blakeley (AB) had entered site on foot from the Leopard St truck entrance gate and had walked into the crib huts. I was arriving at the turnstiles at the time of the call and I asked MT if anyone had spoken to Blakeley. MT said that he received a call from the Traffic Controller who said that a union guy had walked through the Leopard St gate. MT said that he then went outside the office and saw AB walk across the gantry bridge towards the cribs/offices. MT asked AB what he was doing, AB said he was here to see Richie, MT then said to AB that he needs to use the Vulture St entrance in the future.
2. I called WT but he didn't answer.
3. After entering site, I walked up to the office to put my bag away and grabbed Mark Weise (MW) Senior Supervisor to come with me to speak to AB in the cribs. We both headed downstairs and found AB in the crib talking to Titans crane crew. Justin O'Neill (JO) was in the crib room as well.
4. I spoke to Blakeley and said that he can't just walk onsite through Leopard St and that this is considered an unauthorised entry. I said that he will need to leave site as he hasn't followed the right of entry process. I asked why he was onsite, he said under s68. I said, you mean 70(1)(g). I asked for his permits, he showed me both Federal Fair Work and State WHS permits. I said to AB that he needs to go to the

turnstiles and call us up to meet him and go through the right of entry process and what he has done is unlawful and he needs to leave site.

5. AB disagreed and stated that he has done what is required and is lawfully allowed to be onsite. We had a back and forth discussion about his right to enter and disagreed on whether his entry was lawful or unlawful. AB said that if I have a problem then I should report it to QIRC. I said that because it's unlawful I will have to report it.
6. MW said to AB that he can't walk through the truck entrance, it's unsafe as he could get hit by a truck. MW also said to AB that he doesn't have the correct PPE on while walking through site.
7. I asked AB what he planned to do, he responded that he was waiting for Richie. I asked what the safety matter was, he said that was between him and Richie and he doesn't need to tell us. I said that if he is here to assist a HSR then there has to be a safety issue to discuss. I said that Justin our Safety Lead is here, so you can talk to him about it. AB declined to provide any information on the safety matter he was there to assist a HSR with.
8. It was clear that AB wasn't going to leave site and wasn't planning on following our direction.
9. I exited the crib hut with JO and MW. We were waiting outside the crib hut when we saw Richie arrive at about 6.05am.
10. At 6.20am, I saw AB walking down the veranda outside of cribs with Richie (RA) and Colby (CM) in the direction of Heinrich office. AB was on the phone. While we were waiting for AB to get off the phone, I said to RA, 'Andy needs to go through the right process to get onsite, he needs to wait at the turnstiles so we can do all our checks before he comes on, otherwise it's an unauthorised entry'. RA said 'that's between you guys'.
11. AB got off the phone and started walking up the stairs with RA and CM to the gantry bridge across to the site. I said to AB, you can't go onsite Andy, you don't have a

s117, you haven't done the visitor induction or covid check in, so we can't authorise your access to site. JO and I followed them across the gantry bridge and down the stairs around the perimeter of the station's box to the scaffold stairs, to access the station box.

12. AB, RA and CM walked down the scaffold access stairs to B9 level, JO and I followed them around the area including B7 level. AB raised issues of water on the ground and lack of lighting. JO explained that the lighting in the work areas is Heinrich's responsibility and the lighting in the walkways was JV responsibility. MW joined us for the walk. There were fans operational in a number of locations to dry the water. AB said to the HSRs that no work can be done in here until the water has been cleared. AB also asked about mould monitoring.
13. 6.50am - we then walked up to B4, which is the main open work area. AB had an issue with the walkways to the work fronts and also had an issue with access into the work areas that the steel fixers were working in. AB told the steel fixers to stop work in that area. AB said the access into the area was inadequate. AB said that they needed 2 x access points onto the steel fixing deck.
14. Tresider (WT) had joined us by this stage. I explained to WT that AB's entry was unlawful, as he walked onsite unannounced through Leopard St and didn't provide a s117 entry notice. I said to WT that I had already told AB he needs to leave site but has refused my direction. I said to WT that we need to limit our interaction and request AB to leave site, as it's not a sanctioned visit.
15. AB then inspected the access into the steel fixing pits and identified a couple of access points as being inadequate. AB stopped the work due to this inadequate access.
16. Steel fixers removed themselves from these specific areas. I understand they were redeployed to other areas onsite. All other trades continued to work as normal.

17. Discussions were had with the scaffolders who are subcontracted to Heinrich on what they need to do to improve the access into the pits for the steel fixers.
18. CBGU Supervisors started organising labourers to improve walkways access and install better edge protection to the work area instead of crowd control barriers.
19. I understand from discussions that I overhead, that the set-up of this work area was previously discussed between HSRs and the workgroup and generally speaking, this is how the job had been agreed to be set up. There were some items discussed that hadn't been fixed up as previously discussed. Regardless, all the improvements suggested were acted upon.
20. At approx. 7.50am - while the crews were fixing up the access points and walkways, discussions were had about supply of drinking water. WT explained to AB that they will be supplying individual water bottles to all employees so that they can have water with them at all times. AB disagreed with this initiative and suggested that the bigger water jugs should be used around the site, not personal water bottles.
21. 8.15am – I had another discussion with AB about being onsite unauthorised. I said that he needs to play by the rules. I said that if he had gone to the turnstiles, called us up, or called one of the HSRs to organise us to come down and meet him, we can go through the entry process, check permits, give us a s117 and then we can do the site inspection and it would be all good. But since he has come onsite unauthorised, we cannot sanction his visit and we have to report it. AB said, that he has done everything that's required, he has shown his permits, he said that he can inspect site under s68 and doesn't need a s117 to walk around site and advise HSRs. He said again if I have a problem, to report it to QIRC. We again had a disagreement about his legal right to be onsite.
22. 8.20am – Steel fixers started moving back into the work areas where the 2nd access point had been installed and scaffold access had been fixed up.

23. 8.35am – AB and HSRs departed the box via the Alimak and walked from site to the Heinrich office.
24. AB entered the Heinrich office and said to Scott (Heinrich Safety Manager) and Ross (Heinrich Site Manager), that Scott was to move desks within the same office and Richie the HSR was to take Scott's desk. Ross stated that this was news to him. I could see a vacant desk in the middle of the office that Richie could use, and what I was witnessing was AB intimidating Scott to move. I thought this was very unfair and not right so I said to AB, Scotty's not going anywhere. AB said to me, who are you. I said to AB, your entry to site is unlawful and you need to leave.
25. AB continued with his pressure for Richie to take Scott's seat. AB then said he will make a phone call to Hoss. AB left the office and made a call. I exited the office at the same time.
26. After the phone call, AB went back into the office and said that he has spoken to Hoss who has agreed that Scott can move his desk to the spare one and Richie will take Scott's chair.
27. AB and Ross then had an argument. Ross said to AB, are you the new construction manager here? Ross also said, is this what this visit was all about today, you giving us a hard time onsite to get Richie an office?
28. 8.45am – Blakeley departed site via the Vulture St turnstiles.
29. I was curious to see how AB entered the worksite from Leopard St, so I obtained the CCTV footage at the Leopard St entrance. It shows AB walking through the boom gates at about 5.48am. You could see there was a brief interaction with the traffic controller at the gate. AB then put his hardhat on and walked down the haul road towards crib area.
30. I asked our Supervisor, Matt Russell on what the Traffic Controller said to AB. Feedback is that the Traffic Controller said words to the effect, you can't walk though here and AB responded something like, it's all good, I'll let them know I'm here.