

INQUIRY INTO CORONIAL JURISDICTION IN NEW SOUTH WALES

Organisation: CFMEU Construction and General Division NSW Branch

Date Received: 17 December 2021

CFMEU

CONSTRUCTION

17 December 2021

The Director
Select Committee into the Coronial Jurisdiction in New South Wales
Parliament House
Macquarie St
SYDNEY NSW 2000

CFMEU NSW
Level 2, 63 Miller Street, Pyrmont, NSW 2009
Locked Bag 5015, Alexandria, NSW 2015
Secretary: Darren Greenfield
Ph 02 9749 0400
Fax 02 9649 7100
nsw.cfmeu.org
NSWQueries@cfmeu.org
ABN: 37 317 397 120

By Email: Coronial.Jurisdiction@parliament.nsw.gov.au

The Construction Forestry Mining and Energy Union, Construction and General Division, NSW Divisional Branch ("the CFMEU") makes this submission in respect of the Inquiry into the Coronial Jurisdiction in New South Wales.

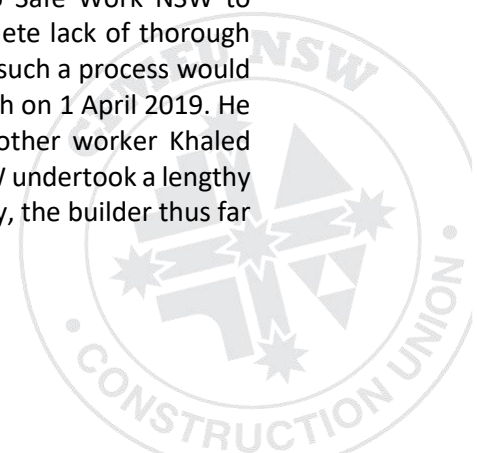
The CFMEU represents approximately 25,000 members in the building and construction industry in New South Wales. The industry is characterised by heavy manual work, with workers working long hours, generally six days per week and in some cases far from home or in difficult environments. Sadly the industry is marred by a large number of fatalities.

In years gone by, the Coroner's Court played an important role in the investigation of fatalities at work. This involved the presentation of information collected following an investigation of a workplace death.

It importantly gave the family of a worker killed the opportunity to hear in open court the facts surrounding the death of their loved one, provide some conclusions about cause of death and fault. To grieving families this provided some explanation of a situation that to them was shocking and unbelievable. For families who have lost a loved one from a workplace fatality there is no real justice that can ever compensate them for their loss. Their questions may never fully be answered as to how their loved one ended up not coming home. The capacity through the Coroner's court to hear evidence and ask questions was an important part of the system delivering some justice to these families.

Additionally, because of the inquiring nature of the process before the Coroner's court, as distinct from the process involving the prosecution of the breach of the Work Health and Safety legislation and regulations, a Coronial hearing can result in recommendations to improve safety legislation, regulation, processes and systems. This is not something that flows from the more adversarial and formal proceedings involving a prosecution before the District Court.

Sadly, there has not been a Coronial hearing investigating a workplace fatality by our reckoning in the last ten years or more. It seems that these matters are left solely to Safe Work NSW to investigate and prosecute breaches of the Act. This has resulted in a complete lack of thorough exposé of the factors leading to a workplace death. Just one example where such a process would have been beneficial is in the case of 18 year old Christopher Cassaniti's death on 1 April 2019. He was killed in a major scaffolding collapse Sydney, the incident leaving another worker Khaled Wehbe permanently disabled. This was a very serious incident. SafeWork NSW undertook a lengthy investigation, there were a number of parties interviewed, yet only one entity, the builder thus far



has been prosecuted resulting in a relatively small fine and undertakings, with only one other set of proceedings currently ongoing.

In the finalised prosecution there was no opportunity at all to delve into the full range of causes and culpability, leaving many unanswered questions for the family and the CFMEU.

A full coronial inquiry would have more effectively revealed the true cause of the fatality, answered the many questions the family and the CFMEU still have about this matter and possibly led to others, including individuals to be prosecuted for breaches of Safety laws and more meaningful and extensive recommendations for reform in a public setting. The adage justice needs to be seen to be done is not unimportant in these cases that cause families such permanent damage.

The CFMEU supports the reinstatement and proper resourcing of the Coroner's Court to re-enliven this important role.

Yours faithfully,

Darren Greenfield
State Secretary

