



AUSTRALIAN CONSTRUCTORS ASSOCIATION

PRESENTATION BY

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TO THE

INSTITUTE OF PUBLIC AFFAIRS CONFERENCE

“TO BUILD OR NOT TO BUILD”

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Introduction

Thank you, I am Jim Barrett and I am here in my capacity as Executive Director of the Australian Constructors Association.

ACA represents 16 of Australia's major construction contractors. Our members have a combined revenue of \$38 billion from their Australian and international operations and employ over 90,000 people. (In Australia, combined revenue is nearly \$24 billion with over 42,000 employees)

The construction industry is important to Australia. We are building

- new economic infrastructure for our cities
- new social infrastructure for our communities
- new economic infrastructure for our industries
- with huge investment by the public and private sector

The total value of construction by the private sector in Australia will reach approximately \$72 billion in 2008, which is more than double the level of 2003. Commercial construction is forecast to maintain an upward trend and growth in engineering construction is expected to continue across all key project areas.

One of the Association's key objectives is to represent the interests of major contractors to government and other decision makers.

I have been asked today to provide a view of workplace reform from "the big end of town."

I don't think that there is any doubt that the Federal Government's building industry reforms have succeeded. They have brought industrial harmony and higher productivity to Australian construction sites.

The more recent WorkChoices amendments to the Workplace Relations Act have also been very good for the construction industry incorporating many recommendations of the Cole Royal Commission.

ACA has focused on what has been described as the Five Pillars. These Pillars are:

1. The Building and Construction Industry Improvement Act;
2. The Australian Building and Construction Commissioner;
3. The Federal Safety Commissioner;
4. The WorkChoices Reforms; and
5. The National Construction Code of Practice for the Construction Industry and related Implementation Guidelines.

They have been the cornerstones of the reform programme, introducing strong laws, a strong regulator, and supported by a very focused government procurement policy.

In ACA's view the industrial relations system must meet the following objectives:

1. It must provide industry participants with a workplace relations framework that will improve the competitiveness of the Australian building and construction industry;
2. It must recognise that one size does not fit all and that employers and employees want flexibility and choice in agreement-making;
3. It should ensure that all parties adhere to agreements which they have entered into and provide immediate access to effective remedies when industrial agreements are breached or unlawful industrial action is taken;
4. It must preserve a fair and stable safety net of minimum rights and conditions for employees;

5. It must develop and maintain the highest standards of occupational health and safety (OHS) and outlaw the misuse of OHS as an industrial weapon against employers;
6. It must recognise the important role that independent contractors play in the industry and to provide an effective legal framework in which they can operate;
7. It must develop and preserve strong freedom of association principles;
8. And perhaps most importantly, it must maintain the rule of law in the industry;

The current system meets these objectives.

ACA Research

Two weeks ago, ACA released two reports (and the findings of those reports were given wide coverage in the media).

The first, *The Economic Importance of the Construction Industry in Australia*, was prepared by The Allen Consulting Group.

The second study, titled *Four Years On*, is a report on the views of some of the people who work in the industry – if you like a climate survey. It is a commentary on what it is like to work in the construction industry today compared to the period before the Royal Commission and the implementation of the Federal Government's reform programme.

The research was undertaken by Jackson Wells Morris on behalf of ACA.

The Economic Importance of the Construction Industry in Australia

The first project, the research undertaken by The Allen Consulting Group is in many ways about assessing risk. In particular, the risk of a loss of productivity.

We asked The Allen Consulting Group to assess the economic importance of the construction industry in Australia and to model the effects of a negative shock to productivity in the construction industry.

The Australian construction industry accounts for about 7 per cent of Australia's GDP and employs around 900 000 people (about 9 per cent of the workforce). Given the importance of the construction industry to the greater economy, we also asked The Allen Consulting Group to assess the impact of this negative shock to the other key sectors of the economy in the medium term.

The report analyses a productivity decrease of 10 per cent. A productivity decrease of 10 per cent from today's levels is roughly equivalent to a return to levels of productivity that existed prior to the implementation of the Federal Government's construction industry reform programme.

The study found:

- A one off loss of productivity, going back to 2003 levels, would have a significant and permanent effect on the economy, including
- A significant fall in GDP of over half a percent, which is a loss of around \$5 billion in today's terms, and a loss of nearly \$9 billion in 2020.
- A significant reduction in real wages, investment, consumption and net exports
- A negative flow-on effect to industries supplying goods and services to the construction sector.

- A real impact on regions with Queensland, New South Wales and Western Australia being the hardest hit.
- Additionally, it showed that since 2003 – the year in which the Government started its construction industry reforms, industry revenues have grown by over \$3 billion, productivity has increased by 10 per cent with the value of work done in the construction industry growing at a rate of 12 per cent per year.
- Perhaps most significantly, industrial disputes have almost disappeared. In 2003, 86.3 working days were lost per 1000 employees. This year, to date, the number is 1.5.

You may recall that the recently released Econtech report prepared for the Office of the Australian Building and Construction Commissioner (ABCC) attributed labour productivity improvements in the non-residential sector of the construction industry to the operation of the industrial relations reforms working in concert with the ABCC.

The Econtech report estimated that the gain in labour productivity for the construction industry was 9.4%.

Four Years On

Whilst there have been a number of recent economic studies examining the risk of a change in industrial relations policies, ACA has been concerned that the views of our employees have not been heard, which gave rise to the *Four Years On* project.

Four Years On is, at its simplest, a climate survey that, through a series of in-depth interviews with a variety of employees and subcontractor representatives throughout Australia, compares working life in the industry today - to the period before the introduction of the Federal Government's construction industry reforms.

You will find the report honest, open and balanced.

Respondents strongly agreed that, following the implementation of changes pursuant to the Royal Commission:

- the industry is more stable
- workforce satisfaction has increased
- there are fewer disruptions to projects
- relationships in the industry are better than before

Many respondents noted that productivity and efficiency have improved because of the decrease in industrial disputes, in part due to legislative changes that tightened up right of entry laws.

The report also noted that the presence of inspectors from the Australian Building and Construction Commission (ABCC) were enforcing workplace legislation and playing an important part in maintaining a harmonious environment.

The establishment of the ABCC and the introduction of a National Code of Practice were said to have helped constrain aggressive union behaviour and created an industry in which stakeholders know they must abide by the rules.

Most respondents said unions had an important and continuing role in the industry and that their concerns were not with unions themselves but with the tactics used by some union representatives.

Many respondents indicated that collective agreements were likely to continue to be the most common form of industrial arrangement, a view perhaps not unexpected.

Most respondents said industry safety standards have never been better. In the main this was attributed to construction companies putting more emphasis on safety than in the past but industrial changes were also said to have played a part.

However, respondents said the industry's transformation was not irreversible.

Labor's Forward with Fairness Implementation Plan

Has ACA made progress in its representations to Labor? The answer is undoubtedly "yes".

We acknowledge that the Opposition has listened and has been receptive to industry concerns and we congratulate Labor for its preparedness to review its policy in response to these concerns.

Last week Labor launched its Policy Implementation Plan for the *Forward with Fairness* policy.

As ACA indicated at the time of the launch of the *Implementation Plan*, it is fair to say that the gap between the current industrial laws and Labor's proposals has narrowed.

While the ACA is a very strong supporter of the workplace and construction industry reforms, we have acknowledged that the Federal Labor Party has gone a "long way" in addressing the industry's concerns.

The decision to retain a fully funded, fully functional ABCC, should Labor win the federal election, is welcomed by ACA and the vast majority of those working in the industry. The January 2010 sunset clause is disappointing but we accept assurances that the transfer of the ABCC to Fair Work Australia will not diminish its effectiveness.

The decision to retain the WorkChoices existing right of entry requirements is also very positive news. One of the strongest themes of the *Four Years On* report was the effectiveness of the right of entry laws supported by a strong regulator.

The decision to abolish AWAs is disappointing. Employers and employees want flexibility and choice in agreement-making and while the Labor proposals are workable, there is a view questioning whether Labor's proposals for the \$100,000 threshold combined with the use of common law contracts goes far enough.

Labor has previously made undertakings to retain the Office of the Federal Safety Commissioner. That is an important gain for the industry, as most observers believe that the FSC has been a force for good and whilst the Federal Safety Accreditation Scheme has been demanding for applicants, it has raised the performance bar and given safety the important focus it deserves.

Labor has also been quiet about the National Code of Practice and the use of procurement policy to drive reform.

In April this year the ALP released *Australia's National Infrastructure, Report of the Australian Labor Party Inquiry into the Financing and Provision of Australia's Infrastructure*. Recommendation 17 of the Report states:

"A Federal Labor Government should withdraw the current National Code of Practice for the Construction Industry and develop a new set of procurement guidelines that incorporate a best practice model requiring pre-qualifying contractors to meet appropriate minimum labour, safety, training and quality accreditation benchmarks."

The industry is therefore keen to understand whether the existing National Code of Practice will continue to operate or whether it will be replaced by new criteria.

In addition to the ABCC and the Federal Safety Commissioner, the *Building and Construction Industry Improvement Act* introduced a number of significant provisions relating to coercion and discrimination,

unlawful industrial action and the linking of unlawful industrial action to damages.

Some, but not all, of these have been replicated in WorkChoices. Whilst one would expect the BCII Act framework to be retained to allow the ABCC to continue to operate, the future of many of these other BCII Act reforms are unclear.

The final “risk” issue is the bargaining process.

Labor has made significant concessions in agreeing to maintain the status quo with respect to:

- the retention of mandatory secret ballots
- industrial action only being protected during the bargaining period
- a ban on industrial action in pursuit of pattern bargaining
- retention of strong secondary boycott provisions

These are important undertakings.

Many of us remember the incidence of industry-wide or sector wide pattern- bargaining. There wasn't much flexibility in those practices.

Equally we all relied on project-type agreements to manage industrial risk on major projects. In fact for many of us we could not conceive of a time when a major project could be built on time and within budget with every contractor, subcontractor and supplier having their own industrial arrangements with their own employees – and it was no one else's business! In those days we would have thought it a recipe for disaster.

But the reform process has made the need for this type of agreement redundant and I don't think any of us want to see them back.

A return to these arrangements will not benefit contractors and they will certainly not benefit clients and principals.

Conclusion

The Australian construction industry is a great industry. It is an uncompromisingly tough industry which consistently delivers outstanding results for its clients.

No matter how you read the events of the last few years it is impossible to escape the conclusion that the Cole Royal Commission was an important circuit breaker for the industry and its practices.

I have never believed that the Royal Commission's success should be measured in charges laid or prosecutions.

The Royal Commission held up a mirror and made the industry confront its own image, and a pretty ugly image it was – and there are no clean skins. Whilst union militancy played a leading role, clients, contractors, suppliers even financiers, all in their own way contributed to the industrial problems that eventually engulfed the industry.

But equally the industry participants were never going to solve these problems on their own.

The Federal Government's construction industry reforms have brought about a stable industrial environment, low industrial disputation, supported by a period of high wages and salaries, high employment and strong productivity growth. We would all like to maintain that environment.

Following this period of strong compliance it would be good to see a time in the future when the regulation of the construction industry reflects the mainstream, that we weren't a “special case”. I hope so. But as an industry and a nation we can not afford to go backwards.

Thank you.