

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

**SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE
2007-08 BUDGET ESTIMATES HEARING**

Outcome Office of the Australian Building and Construction Commissioner

DEEWR Question No. EW647_09

The Chair (Senator Marshall) asked on 3 June 2008, DEEWR Proof Hansard page 78 & 90.

Question

Can you give us a copy of that presentation (to the MBA of NSW)?

Answer

Presentation attached.


Australian Government
Office of the Australian Building and Construction Commissioner

Australian Building and Construction Commission Presentation

Master Builders Association of NSW
Top 50 Builders Luncheon

23 May 2008


Nigel Hadgkiss
Deputy Commissioner


Australian Government
Office of the Australian Building and Construction Commissioner


Operational Statistics

1 October 2005 to 19 May 2008

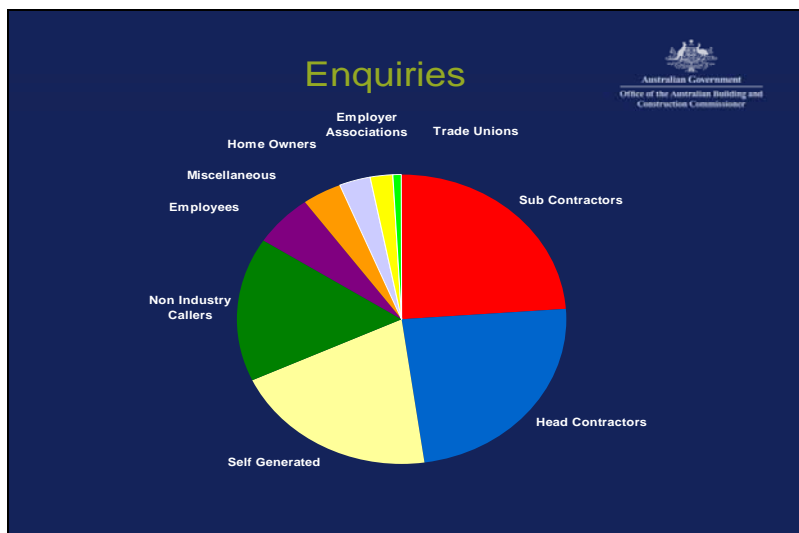
6,632 matters received via 1800 hotline or independently


810 comprising reports


55 investigations underway


28 matters currently before the court





Entities Being Investigated



Definition of “building work”

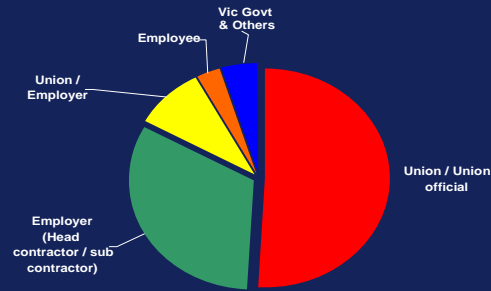
- construction, alteration, extension, restoration, repair, demolition or dismantling of buildings, structures or works that form, or are to form, part of land, whether or not the buildings, structures or works are permanent
- installation in any building, structure or works of fittings forming, or to form, part of land, including heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply, fire protection, security and communications systems
- includes domestic housing when the building activities are for a multi-dwelling development for construction of at least 5 single-dwelling homes
- land includes land beneath water.

ABCC Prosecutions

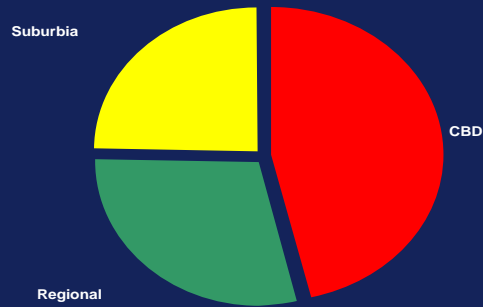


“The Tough Cop on the Beat”

71 Prosecutions - Respondents



71 Prosecutions – By Location



Prosecuted

ADCO Constructions
Adrian McLoughlin (CFMEU)
Alan Blewin
Ale Mulipola (AMWU)
Alex Tadic
Aif Di Virgillio
Allan Maher
AMWU
APN Group
Austress Fryssinet
Barclay Mowlem
Barry Hoffman (CFMEU)
Baulderstone Hornibrook
Bob Mates
B&P Caelli Constructions
Bill Oliver (CFMEU)
BVM Builders
Casello Constructions
CEPU
CFMEU (Federal)
CFMEU (NSW)
CFMEU (QLD)
Charles Corbett
CL Godfrey
Colin Stewart (CFMEU)
Daniel Oskann
David Kelly (CFMEU)
David Mier
David Rix
D & E Air Conditioning

Edmond Casper
Elias Spernovasilas
ETU
Expoconti
Fergal Eiffe (AMWU)
Firebase Sprinkler Systems
Freshmore
Gerard Benstead (CFMEU)
Gordan Aldin + 106
Grant Thorson
Husain Kanpovic
Ian Thomas (AMWU)
Ilija Crnac
Joe McGahan (CFMEU)
John Parker
John Setka (CFMEU)
Jose Esteves
Justin Feehan
Kevin Harkins (ETU)
Les Lanscar
Mark Edwards
Mark Gretch
Max Hood
Maxim Electrical Services
Michael Lane (CFMEU)
Michael Powell (CFMEU)

Michael Douglas
Multiplex
Nickolas Papanotas
Peter Costallo
Peter Levy
Peter McLean (CFMEU)
Peter Mooney
Peter Primmer (CFMEU)
Phillip Cattenazzi
Robert Bannister (CFMEU)
Roger Aleknivicus
Saled Eshrajhi
Sam Fry (CFMEU)
Schiavello
Scott Wilcox (CFMEU)
Seelite Windows and Doors
Shane Sheedy
SJ Higgins
Steve Allen (CFMEU)
Steve Mansour (AMWU)
Steve Savio
Sunland Constructions
Victorian Government
Walter Molina (CFMEU)
Walton Constructions
WJ Pratt

National Companies



ADCO Constructions
 Adrian McLoughlin (CFMEU)
 Alan Blevin
 Ale Mulipola (AMWU)
 Alex Tadic
 Alf Di Virgillio
 Allan Maher
 AMWU
 APN Group
 Austress Freyssinet
 Barclay Mowlem
 Barry Hoffman (CFMEU)
 Baulderstone Hornibrook
 Bob Matsis
 B&P Caselli Constructions
 Bill Oliver (CFMEU)
 BVM Builders
 Casello Constructions
 CEPU
 CFMEU (Federal)
 CFMEU (NSW)
 CFMEU (QLD)
 Charles Corbett
 CL Godfrey
 Colin Stewart (CFMEU)
 Daniel Oskam
 David Kelly (CFMEU)
 David Mier
 David Rix
 D&E Air Conditioning

Edmond Casper
 Elias Spornovasilas
 ETU
 Expoconit
 Fergal Effie (AMWU)
 Firebase Sprinkler Systems
 Freshmore
 Gerard Benstead (CFMEU)
 Gordon Aldin + 106
 Grant Thorson
 Husein Karupovic
 Ian Thomas (AMWU)
 Illia Crnac
 Joe McCashan (CFMEU)
 John Parker
 John Setka (CFMEU)
 Jose Esteves
 Justin Feehan
 Kevin Harkins (ETU)
 Les Lanscar
 Mark Edwards
 Mark Gretch
 Max Hood
 Maxim Electrical Services
 Michael Lane (CFMEU)
 Michael Powell (CFMEU)

Michael Douglas
 Multiplex
 Nickolas Papanotas
 Peter Costello
 Peter Levy
 Peter McLean (CFMEU)
 Peter Mooney
 Peter Primmer (CFMEU)
 Phillip Cattenazzi
 Robert Bannister (CFMEU)
 Roger Alekivicius
 Saied Eshrajhi
 Sam Fry (CFMEU)
 Schiavello
 Scott Wilcox (CFMEU)
 Saelite Windows and Doors
 Shane Sheedy
 SJ Higgins
 Steve Allen (CFMEU)
 Steve Mansour (AMWU)
 Steve Savic
 Sunland Constructions
 Victorian Government
 Walter Molina (CFMEU)
 Walton Constructions
 WJ Pratt

Significant Cases



Hadqkiss v Aldin & 106 Ors

From 24 February to 3 March 2006, on the Perth to Mandurah Railway, 107 employees took unlawful industrial action by striking for 7 days and 82 employees breached an order of the AIRC. The CFMEU has paid a total of \$276,400 in respect of penalties imposed on these employees.

Hadqkiss v CFMEU CFMEU (NSW Branch) Casper and Lane

In 2004, the Federal CFMEU, the NSW branch of the CFMEU and two organisers, Edmond Casper and Michael Lane, made false and misleading statements to several plasterers that they were obliged to join a union to work on building sites at Fairy Meadow or Wollongong. The organisers also threatened the contractor, who had hired the plasterers, to coerce it into making a union certified agreement. As a result the plasterers were asked to leave one site and did not obtain alternative work for some time. CFMEU and CFMEU NSW were penalised \$10,000 each and union organisers Michael Lane and Edmond Casper penalised \$2,000 and \$1,250 respectively. Unions to destroy all copies of current Code of Conduct and to each take out a full page newspaper advertisement to correct misinformation.

Alfred v Primmer CFMEU and Ors – current case

The head contractor for the upgrade of Kiama High School, Kiama subcontracted the painting work to an independent contractor. In September 2006, CFMEU organiser Peter Primmer demanded that the head contractor not engage the subbie because they were currently involved in a court action over unpaid wages. In October 2006 Primmer entered the Kiama site and allegedly advised/encouraged the head contractor's foreman to stop the subbie from continuing to work. Primmer also allegedly threatened to stop the project if the subbie continued to work.

Alfred v Wakelin, Abela, Batzloff, Jones, O'Connor, CFMEU, CFMEU QLD branch, FEDEA QLD, AWU and AWU (NSW)

It is alleged that, Robert Wakelin, Charles Abela, Mark Batzloff, Robert Jones, Joseph O'Connor, CFMEU, CFMEU QLD branch, FEDEA QLD, AWU and AWU (NSW) engaged in illegal industrial action involving 300 employees. The action was over food and hygiene standards at the kitchen and mess at the Cowal gold mine, NSW and lasted for 3 days.

Penalties



Unlawful Industrial Action / Coercion / Discrimination

\$110,000 - body corporate
 \$22,000 - individuals

Paying / Claiming / Receiving strike pay

\$110,000 - body corporate
 \$33,000 - individuals

Final strike pay proceeding concluded April 2008



Justice Marshall made a declarations that union officials John Setka and Alex Tadic coerced the employer to pay strike pay

CFMEU ordered to pay \$4,000 penalty for making a claim for strike pay and organising or engaging in industrial action.

Justice Marshall:

“Shop stewards in the industry are now well aware that agitating for strike pay is a thing of the past.

The making of claims for strike pay is not now a feature of the construction industry”

Use of Compliance Powers



Since 1 October 2005,
the compliance powers have been used 96 times
throughout Australia

ABCC Interventions



- Since October 2005 the ABCC has intervened in 74 proceedings including 5 court cases and 69 AIRC cases.
- The ABCC intervened in a number of these cases to support the move for Code compliance.



Major Projects

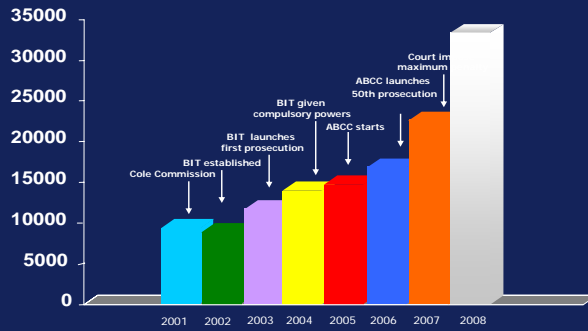


Case	When	State	Site Value	Victim(s)	Respondent(s)
PROSECUTIONS					
Martino v CEPU & anor	Sept 2005	Vic	\$500 - \$750 m	Eastern Vic Group	CEPU 1 x CEPU officer
Cruse v CFMEU & anor	Sept 2005	Vic	\$300 million	Roche Mining	CFMEU 1 x CFMEU officer
Furlong v AWU & ors	Mar 2006	Vic	\$300 million	Roche Mining	AWU 4 x AWU officers
Hadgkiss v Aldin & ors	Feb 2006	WA	\$300 million	Leighton Kumagal	107 employees
Cruse v CFMEU & ors	Aug05/ Jul06	Vic	\$300 million	Roche Mining	CFMEU 3 CFMEU officers
Alfred v Wakelin & ors	Oct 2005	NSW	\$270 million	John Holland	CFMEU, CFMEU (Old), FEDFA (Old), AWU, AWU (NSW), 5 x union officers
Lovewell v O'Carroll & ors	Feb 2007	QLD	\$700 million	Raptis Group	PGEU (Old), CEPU 1 x CEPU officer
INTERVENTIONS					
LKJV v CFMEU	Jul04/ Nov05	WA	\$1.6 billion	LKJV	CFMEU
Leighton Contractors v CFMEU	Feb 2006	WA	\$1.6 billion	Leighton Kumagal	CFMEU, CFMEU (WA), 1 x CFMEU officer
Roche Mining v AWU	Mar 2006	Vic	\$300 million	Roche Mining	AWU
Corke Instrument Eng. v CEPU	May 2006	Vic	\$225 million	Corke Instrument Eng	CEPU
Technip Oceania v CEPU	Nov 2006	Vic	\$1.1 billion	Technip Oceania	CEPU
Worley Parsons v AMWU & ors	Nov 2006	WA	\$ 2 billion	Worley Parsons	AMWU, CFMEU, CEPU
Paper Australia v CEPU	Jun 2007	Vic	\$200 million	Paper Australia	CEPU



Expenditure on buildings and structures

Australian Government
Office of the Australian Building and
Construction Commissioner



Bloomberg – March 2007

Australian Government
Office of the Australian Building and
Construction Commissioner

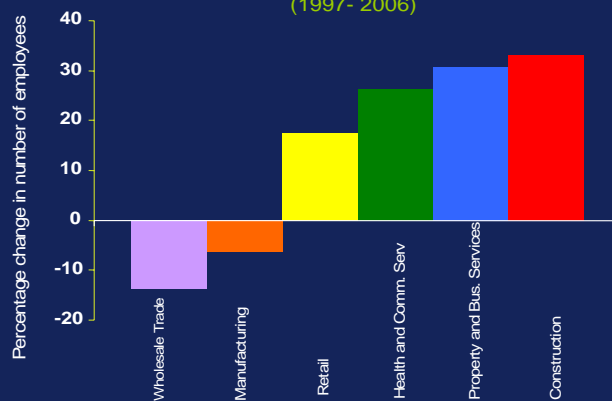
“ The building industry employs almost one tenth of Australian workers”

H. van Leeuwen, financial author

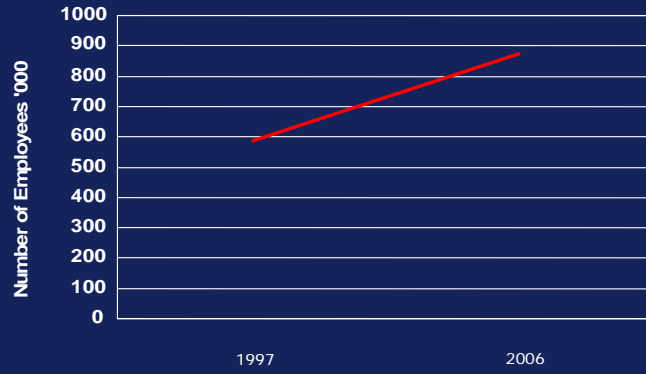
“ Construction output has jumped 56 percent in the past five years and the industry has created more than new 250,000 jobs”

Craig James, Chief Equities Economist Commonwealth Bank of Australia.

Job Growth In Industries (1997- 2006)

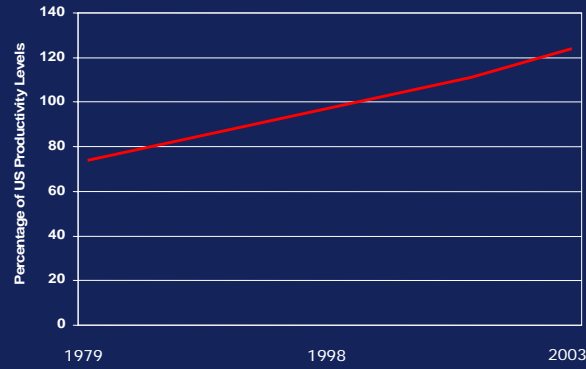


No. of Employees - Construction Industry 33% increase



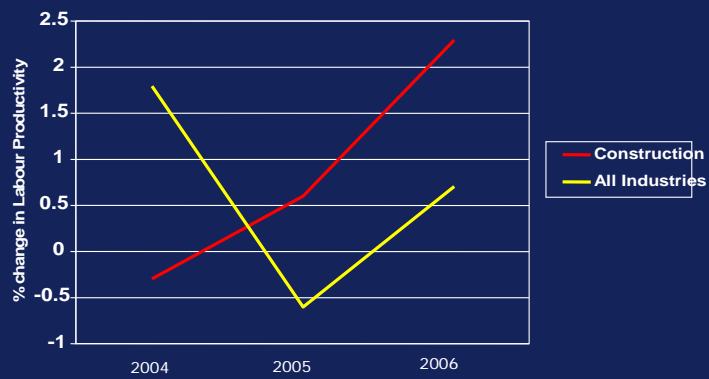
Construction Industry Productivity levels vs USA Productivity levels

Australian Government
Office of the Australian Building and
Construction Commissioner



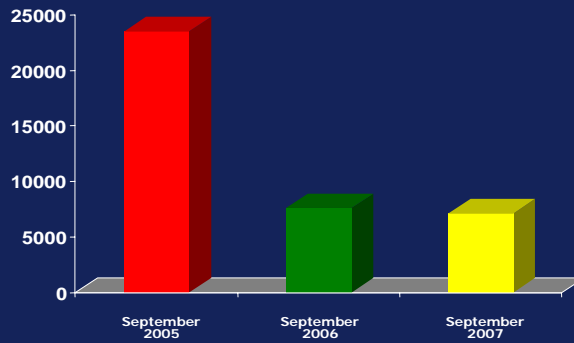
Labour Productivity

Australian Government
Office of the Australian Building and
Construction Commissioner



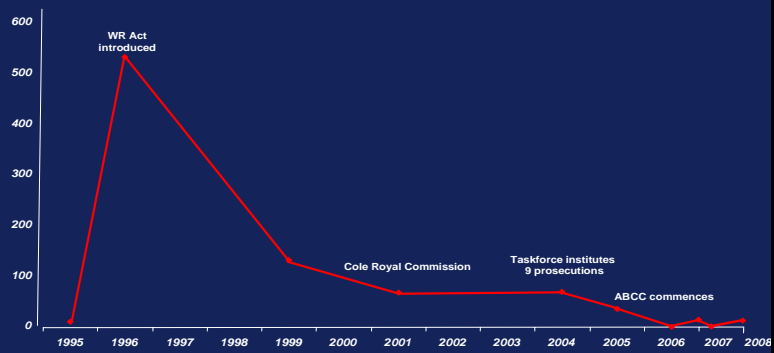
Working days lost in the construction sector due to industrial disputes in Victoria

Australian Government
Office of the Australian Building and Construction Commissioner



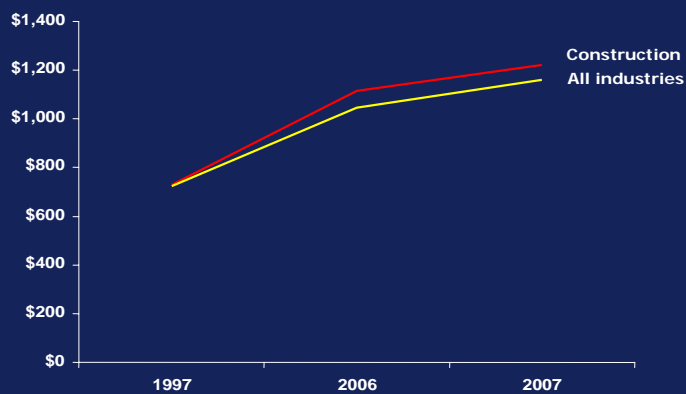
Days lost per 1,000 employees in building and construction

Australian Government
Office of the Australian Building and Construction Commissioner



Average Weekly Earnings

Australian Government
Office of the Australian Building and Construction Commissioner



Misuse of OH&S



Cruse v CFMEU and Stewart

A bus travelling to a site was involved in a 'near miss' with a train at a level crossing. A stop-work meeting was called while the OHS committee discussed the issue. The site OHS representatives agreed that it was safe for the workers to return to work. By the end of the day, the head contractor had repainted the lines on the road, installed electronic signs and erected a stop-sign. Despite this, the workers voted to go on strike for 10 days. Penalty of \$35,000 imposed on the CFMEU and a penalty of \$7,000 imposed on the CFMEU official (\$3,500 suspended for 12 months).

Alfred v Wakelin, Abela, Batzloff, Jones, O'Connor, CFMEU, CFMEU QLD branch, FEDFA QLD, AWU and AWU (NSW).

A maggot was found inside an employee's lunch box. The unions claimed this constituted "...major hygiene concerns with the camp". The workers went on strike twice for a total of 4 days. Two NSW Health Inspectors conducted an inspection and neither found serious breaches of hygiene standards. The CFMEU notified the AIRC of a dispute relating to the hygiene standard. The AIRC accepted that while the performance of the caterer had been less than exemplary the claim of safety problems was not convincing.

Draffin v CFMEU, Allen, Benstead, Oliver and Walton Constructions

The ABCC alleges that Walton terminated its contract with a subcontractor at instruction of the CFMEU, due to the subcontractor's use of AWAs. The CFMEU claims that the decision to terminate the contract was based on the subcontractor's inadequate qualifications in traffic management.

A & L Silvestri Pty Ltd & Hadgkiss v CFMEU, CFMEU (NSW), Primmer, Lane & Kelly

The CFMEU took action with intent to coerce a head-contractor to terminate its contract with Silvestri because Silvestri didn't have a union EBA. With intent to coerce the head-contractor, the union threatened to call the NSW OHS Authority and have the job shut down.

Federal Court warns against a return to the "bad old days"



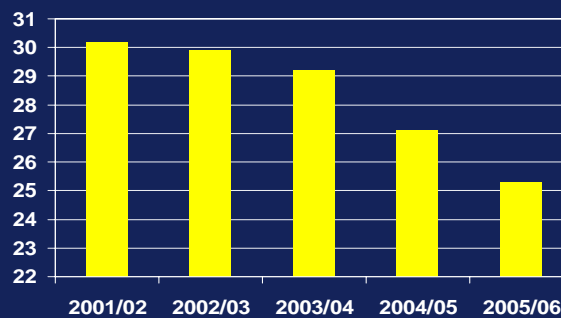
In *A & L Silvestri & Hadgkiss v CMFEU, Primmer, Lane and Kelly*, the CFMEU was ordered to pay \$23,000 in damages to subcontractor A&L Silvestri Pty Ltd and a further penalty of \$5,500. Union official Michael Lane was ordered to pay a \$1,800 penalty.

"... the penalty in this case... should adequately reflect the systematic nature of the failure of the CFMEU to deter or prevent actions of the kind involved in this case and act as a spur towards effective action by the CFMEU and the State entities connected with it."

Federal Court Justice Gyles
11 April 2008

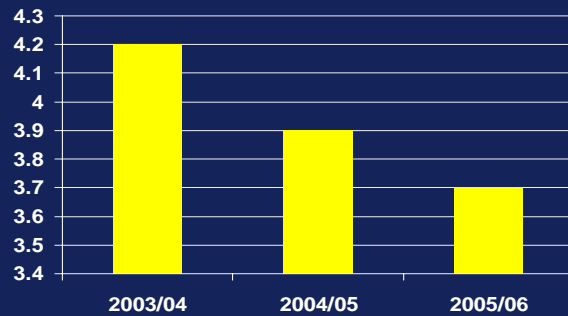
Justice Gyles highlighted the long and well-documented history of unlawful activity of union organisers and delegates in the building industry but noted the considerable change in culture over recent years. *"This makes it desirable that any return to the bad old days be appropriately penalised,"* Justice Gyles concluded.

OHS & Workers' Compensation Outcomes Incidence/claim rates per 1,000 employees in the Construction Industry



OHS & Workers' Compensation Outcomes Average Premium Rates in the Construction Industry

Australian Government
Office of the Australian Building and
Construction Commissioner



IR Reform Begins To Pay Off - Construction Costs Are Starting To Fall

Australian Government
Office of the Australian Building and
Construction Commissioner

“ In many cities, union rorts and bad work practices were adding more than 40% to the cost of commercial building.

One of Sydney’s largest unit developers says that building costs have fallen by 10 per cent already and there is a lot more to come.

Big money is going to be made by developers who can build at the new lower prices but still base their selling price on former building costs.”

Robert Gottliebsen, *The Australian*, 10 July 2006

Union signs out of site - Building firms in crackdown

Australian Government
Office of the Australian Building and
Construction Commissioner

“ Grocon... wanted to ensure inappropriate union signs and flags were kept off building sites.

*‘It’s our site, our crane. If a flag is going to be flown it will be a Grocon flag...Otherwise it gives the impression that a third party has control over the site’
(Grocon IR Manager, John van Camp).*

Grocon’s latest Melbourne project, the \$250 million AXA headquarters in Docklands, is two months ahead of schedule.”

John Masanauskas, *The Herald Sun*, 31 July 2006

Productivity?



Stephen Sasse, GM/HR & Org Strategy, John Holland:

“ John Holland had identified new efficiencies of about 20% on major building and construction projects since the new legislation took effect.”

Workplace Express, 9 August 2006

Slide omitted.

Contains information that is Commercial-In-Confidence.

Appropriate permission could not be sought prior to this response being submitted.

IR changes drive savings



“ FEDERAL industrial reforms have potentially shaved at least \$295 million from the construction cost of the EastLink tollway, ...

A briefing paper by the Melbourne-based Institute of Public Affairs compared Eastlink's costs with those for the City-Link project, which was built under a radically different IR environment.

- **\$184 million** because of hundreds of unproductive days caused by rigid work calendars (including union picnic days, RDOs, lock-down days rostered for set days of the year).
- **\$58.5 million** in wages to employ non-working union officials.
- **\$31 million** to deal with sham occupational health and safety issues.
- **\$12.3 million** for stoppages because of inflexible weather rules.
- **\$9.2 million** for disruptions relating to industrial agreements.”

John Masanauskas, *The Herald Sun*, 21 November 2006

ABCC is an independent, **properly resourced**, statutory agency.

Business as Usual

Business as Usual Budget

"There has been no change to the forecast ABCC budget – it will receive \$32.814m for 2008-2009, up from the \$29.596m it will spend this financial year - despite the push by construction industry unions to abolish it."

Workplace Express, Tuesday 13 May 2008

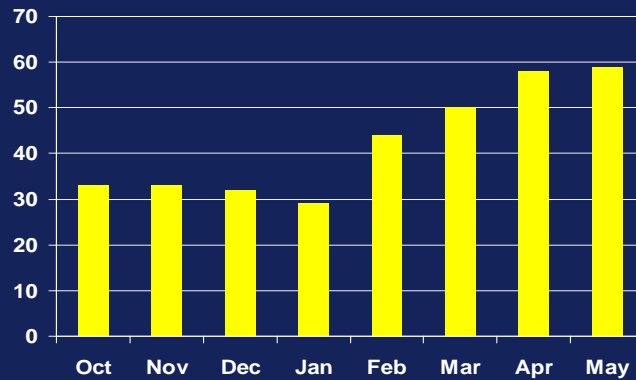
Financial Year	\$m
2007-08	29.6
2008-09	32.8
2009-10	33.1

Business as Usual People

Current staff	143 employees
Full staff	155 employees

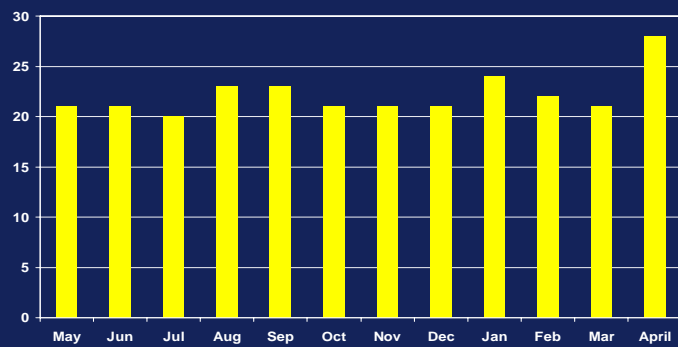
Business as Usual Active Investigations

Australian Government
Office of the Australian Building and
Construction Commissioner



Business as Usual Matters before the Court

Australian Government
Office of the Australian Building and
Construction Commissioner



How can the ABCC help?

- website
- hotline
- hide behind the ABCC
- education material
- legal advice
- National Code compliance

Australian Government
Office of the Australian Building and
Construction Commissioner

National Code - Potential Savings



- No full-time non-working delegates, eg shop stewards
- No systemic sector/site allowances permitted
- Cannot impose over award payments
- More flexible working hours, eg no lock-down weekends
- Less risk of serious industrial disputes by insisting on proper dispute handling procedures
- Greater flexibility to use short-term labour to cover temporary increases in demand

How can the ABCC help?



- website
- hotline
- hide behind the ABCC
- education material
- legal advice
- National Code compliance
- Visibility - 3,716 site visit since 1 October 2005
- 664 presentations since October 2005
 - executive
 - site personnel

Questions



Hotline

1800 00 33 38

7 am – 7 pm

(Monday - Friday)

Website

www.abcc.gov.au