

Royal Commission Into Productivity In The Building Industry - Interim Statement of the Royal Commissioner, Roger Gyles, Q.C.

I commenced the Public Hearings on 8 October, and they have proceeded, more or less continuously, from 22 October until now. Whilst those Hearings have concentrated upon conduct which may fall within my Second Term of Reference, they have revealed much of interest relevant to the First Term of Reference as all illegal or questionable conduct and practices have a context. The Hearings play a vital role, not only in educating me as to the industry and its practices, but in exposing them to the public, and focusing public attention upon them. It will be apparent to those who have followed the hearings that they depend upon a considerable amount of "behind-the-scenes" investigation and preparation, and are much assisted by the volume of confidential information I have received and continue to receive.

It is timely that I repeat something I said in my opening statement. It should be clearly understood that the Terms of Reference, by contrast to some other Inquiries, do not call upon me to make any findings in relation to the guilt or otherwise of particular individuals or organisations. Whilst it will be necessary to examine many individual cases, involving many individual persons and organisations, and to express conclusions about them, the purpose of doing so is to enable soundly based answers to be given to the general questions raised by Terms One and Two, which in turn will be the basis for sound recommendations under Term Three. I do not see it as being my function to ferret out, expose and make findings about every individual example of illegal or unreasonable conduct which has occurred in or in relation to the Industry. Prosecutions may follow, but it is not by role, nor the role of Counsel Assisting me, to in any sense act as prosecutor in these Hearings.

In tandem with the Hearings, I am continuing the process of informing myself as to relevant matters. I have received further Submissions, and the analysis of these, and the earlier Submissions, has been of great value. Whilst I have still not received Submissions from a number of parties who or which might have been expected to come forward, I am expecting further Submissions from major industry participants in the next month or so. I have also continued the process of informal consultation with interested parties.

In my opening statement I said that I was devising a strategy of my own to ensure that there is a systematic approach to the Inquiry. I also foreshadowed issuing a more comprehensive Issues Paper and agenda. I referred to the consultants I had engaged to advise me upon the areas of Policy and Research. Those consultants devised a systematic Policy and Research programme, which has

now been refined in consultation with Commission Policy and Research staff, headed by Mr Stephen Quill. A major purpose of this statement is to inform the industry participants and the public of this programme.

There is no shortage of either opinions or anecdotal evidence about the practices and conduct in or in relation to the industry which may significantly affect efficiency and productivity. What is notably lacking is a soundly based factual analysis. This is necessary for me to answer Term One of my Terms of Reference. It is only after the facts have been properly exposed and analysed that solutions may be sensibly proposed. Thus, the emphasis on the research programme is upon the gathering, organisation and analysis of information.

In my opening statement I referred to a preliminary analysis of issues. This was developed and refined, and a programme was then devised to deal with as many of these issues as practicable. The programme consists of twelve tasks. They are as follows:

1. Definition and measurement of productivity.
2. Surveys.
3. Comparison and analysis of performance.
4. Workplace practices.
5. Lost time injuries and job safety.
6. Variations in economic activity, market and employment structure.
7. Training and education.
8. Attitudes.
9. Subcontractors.
10. Cottage industry.
11. Contractual claims and disputes.
12. Improvements to the building process.

I attach to this statement a description of each of these tasks ...

As and when the gathering and analysis of a set of material is complete, it will be released to interested parties and the public.

The programme is ambitious, and I am conscious of the fact that it will impose burdens upon many in the industry, particularly those who play a central role in it. It will also impose a considerable strain upon the Commission's Policy and Research staff and consultants. I am convinced, however, that the result will be to assemble a bank of information which has not hitherto been available to the industry. This in itself should be of lasting significance, particularly if I can suggest ways of maintaining it in the future. In my view one of the reasons for the admitted failure of a number of attempts over the last decade to reform the industry has been the lack of funda-

mental data about the industry. Reform has been treated as a process rather like a super Industrial Relations Commission dispute to be settled by trade-offs between peak councils. So far as I can determine these apparent breakthroughs have barely touched what happens on building sites. I remain sceptical as to the possibility of effective reform through quasi-political deal-making not based upon objective and fundamental analysis.

Consideration of the Industry Commission's recent Draft Report on Construction Costs of Major Projects underlines the lack of a reliable bank of relevant information. Indeed, I approached the Chairman of the Industry Commission to explore with him the possibility of joining forces in a research programme. Unfortunately, the Industry Commission's time limit for reporting led to it declining this opportunity. As there is less than six months difference between our reporting dates it seems to me to be a great pity that there could not be greater co-ordination between the two Inquires, because, apart from the better use of resources which would be involved, to do so would remove much of the politics which might otherwise complicate the reform process.

I should also say that I have received several intimations from individuals within Federal Government Departments that they have been instructed not to co-operate with my Inquiry. I have received no clarification of this. If it turns out to be correct, it would be a blot upon public administration in this country.

As policy and research tasks are completed and made public, as the Hearings proceed in public, and as further Public Submissions are received, the opportunity for informed debate about reforms will occur. I shall announce a timetable as work proceeds in the New Year.

Task 1: Definitions and Measurements

Definitions

Analyses and definition of productivity and efficiency in the building industry; development of measures of productivity and efficiency and identification of those factors that influence the industry's performance.

Components

These are:

- defining productivity at the industry (macro) level, using ABS data to derive trend series for labour productivity;
- defining productivity at the project (micro) level, using survey data gathered by all the surveys undertaken in Task 2;
- developing performance measures for the estimation of micro-level productivity;
- estimating the effects on productivity of the key factors identified from the surveys;
- relating micro productivity results to the macro productivity data.

Industry Model

The model of the building industry will be built from two major sources:

- the ABS Construction Industry Survey data (available early January); and

- Commission survey data (available from February).

Currently some preliminary research and design is being done (when possible) on the model.

The model will include a study of firms in the industry, the structure of the industry, entry and exit of firms, their capitalisation and capacity.

The industry model will be incorporated into Task 6 thus relating it to the general economy.

Task 2: Surveys

Task 2 is a set of eight surveys across the NSW building industry covering major projects, industry participants and housing.

Details of the respective surveys are as follows:

2(a) Major Projects

This task is a major study of 20 of Sydney's major building projects. All aspects of the building process are to be studied. All participants have been contacted and data is being assembled. This involves much effort on the part of the participants. Annexed is a list of the projects and the information required.

2(b) Intermediate Projects

This survey covers 360 building companies and requires information on recently completed projects over \$1.0M. The survey is already in the field ...

2(c) Workforce Survey

This will be a major attitudinal study of the NSW building industry workforce covering persons working on a large number of building sites throughout the State.

I have authorised the engagement of a professional survey firm to carry out this work. Once the survey has been designed, it will be circulated for comment to interested parties, including the Unions, to ensure that there is no bias involved.

A pilot survey will be carried out in February 1991 with the full survey being undertaken in March '91.

Report is due at the end of April 91, which will assist also with Task 8, Attitudes.

2(d) Cottage

This survey will involve a representative sample of cottage builders in the State, and will include homes and small unit blocks.

The survey is currently being developed and is due for testing in February 91. Analysis is set for March 91 towards a report in May 1991. The survey will also be used with the Department of Housing.

2(e) Interstate

This survey is being conducted in association with BOMA who are choosing 20 Brisbane commercial sites for analysis and comparison. The survey forms are now in BOMA's hands and we await comment.

A comparison with 2(a) Major Projects will be developed as part of Task 3.

2(f) Subcontractors

The survey has been forwarded to over 2,000 subcontractors involved in 24 trades. ...

2(g) Civil Engineering Projects

Work on survey design for this task has commenced. Preliminary discussions are occurring with major civil engineering companies to refine the variables that are to be analysed and isolate the differences between civil construction and the building industry.

We will be seeking to compare our findings with the Major Projects survey in April 1991.

2(h) Public Works Department & Department of Housing

Meetings have occurred with these departments.

PWD - a recent meeting with PWD will result in reformulation of the work to be done with this department. Presently, we are awaiting a list of 20 projects from PWD for analysis.

DOH - DOH have agreed to assist us by surveying contractors they use in the housing industry as not all builders are MBA or HIA members. We have agreed to assist with the sample design for such a survey and utilise the survey being developed for the Cottage sector, task 2(d).

An initial report will be available for discussion in June '91.

2 (i) International Survey

Professor Vernon Ireland will conduct a select survey of major projects in Canada, New Zealand, United Kingdom, Sweden and Germany. It is intended to compare the project data with the Sydney and Brisbane major projects.

It is also intended to compare the relationships between the industry parties and governments in each country with their counterparts in Australia, but particularly in NSW (Refer to Task 3(a) for more specific details).

Task 3: Comparisons and Analysis of Performance Introduction

This Task is to undertake comparative analysis of data acquired by the Commission through surveys being undertaken and from established sources. The performance of the building industry by sector, location and client is to be derived from the available data and then cross-referenced.

The comparative analysis of industry sectors and projects will be one of the major Research contributions to the Commission's report, due to the quality and extent of the data gathered. Therefore this Task draws together much of the work being done by the other Tasks and may include an overview of industry performance.

Objective

To produce a meaningful set of comparisons across the sectors of the industry that use the performance benchmarks developed through the research programme to demonstrate the strengths and weaknesses of the sectors of

the building and construction industry in NSW and to provide factual and analytical support for the Commission's recommendations.

Components of the Task

The Task has four components:

- international performance, based on data gathered by Vernon Ireland;
- interstate performance, based on data supplied by BOMA;
- intra-industry comparisons, based on ABS and survey data, between the civil engineering, residential (unionised and non-unionised workforce) and non-residential sectors;
- performance of public and private sector projects.

Analysis

The analysis of the data is in two stages. First, the relevant Task 2 site and survey data is to be assessed by the analyst/s responsible, or ABS data analysed; second, the comparisons between and across the sites, surveys and sectors takes place. Analysis of the international data is to be provided by Vernon Ireland, while the analysis of the other components of the Task will be done within the Commission, using the performance criteria developed in Task 1.

Methodology - Comparative Analysis

1. Determine the sequence of comparisons, based on the flow of data from surveys becoming available;
2. Establish priorities in comparisons to be made;
3. Begin work on comparisons based on ABS data;
4. Determine data requirements for performance criteria based on the results of surveys;
5. Establish priorities and sequence in which criteria are to be applied;
6. Apply these criteria to the survey data that is available;
7. Documentation of the results of the analysis for each of the components of the Task (this may extend to comparative analysis of other survey data).

Task 4: Workplace - Disruptions, Disputes and Practices

To identify and to document restrictive work practices employed by individuals, unions and employer organisations, breaches of awards and agreements by employers and employer organisations, breaches of awards and agreements by unions and their members, the amount and cost of time lost through industrial disputation, and to identify employment practices which may contribute to the causes of disruptions and reduced productivity on building sites.

The relevant material is being collected from disputes files held by employer organisations and unions; additional material will be extracted from the various surveys (Task 2); submissions; and the public hearings.

The analysis of the data should result in statistics showing the amount of production time lost through industrial disputation, identifying the most frequent abuses which occur, and giving at least an indication of the cost of such practices to the industry. On the basis of these findings, a whole range of possible solutions to these problems will be recommended, identifying for each its feasibility, advantages and possible disadvantages, the extent to which similar recommendations were made by previous enquiries, and what happened to these recommendations, and wherever possible, the industry parties' attitudes to them.

It also is intended to review the function and effectiveness of the State and Federal Arbitration Systems and the whole structure of industrial relations as it affects the industry.

Task 5: Lost Time Injuries and Safety

To identify, document and to quantify the cost and loss of production caused by lost time injuries. In addition, to explain the operation of safety legislation in NSW (including enforcement measures and the like), and to analyse its effectiveness and the relevance of such legislation to the building industry.

Material relevant to ascertaining how lost time injuries compare with lost time resulting from industrial disputes will be collected from the Workcover Authority, the Insurance Council of Australia, employer and employee organisations, ABS and other statistical materials, and our surveys (Task 2). Recommendations on improving the operation of safety legislation, the effectiveness of enforcement measures and safety training will be discussed with industry parties, bearing in mind the results of previous enquiries (e.g. Darling Harbour), and the extent to which recommendations of such earlier studies were implemented.

Task 6: Variations in Economic Activity and the Market and Employment Structure

The Building Industry is very sensitive to changes in economic policies and it is well documented that rapid changes in economic policies have substantial impacts on prices and productivity in the industry. Hence, it is important to assess some of the major costs of current fluctuations in the level of demand on the industry.

The aims of this Task is to establish how different economic policies affect the demand for building and how this affects:

- the price level in the industry;
- the methods of production in the industry;
- the skills and structure of the workforce;

with the ultimate aim being:

- to investigate the possibility of implementing measures, on Local and State Government level, which will reduce any undesirable effects on the productivity of the industry from economic policies, without making these policies inoperative and to indicate the potential benefits of such measures.

A major proportion of the information for this Task will be derived from the various surveys (Major Projects, Intermediate Projects, Workforce, Subcontractors, Interstate and International).

Work on this Task is planned to [commence] as soon as the designs of the surveys are completed, by which time date necessary for the development of an index of price movements should be available from PWD.

Task 7: Training and Education, Research and Development, Technology

To identify all training facilities and avenues currently available for training in the industry, to ascertain the extent to which such facilities are utilised by industry participants and to assess the adequacy of current training measures, bearing in mind recent Federal, Victorian and West Australian legislation designed to encourage employers to give increased priority to training their workforce.

The task involves a detailed examination of not only "blue collar" training and education but also management training and education, particularly on the job training.

It is also intended to identify the extent to which Research and Development is being undertaken and new technology is being used. The attitudes of the industry to R & D and technological change will also be examined. Bearing in mind that a number of training initiatives are already being pursued in connection with Award Restructuring on a national level, recommendations on training, education, R & D and Technology will be discussed with industry parties to ascertain their attitudes.

So far, the analysis of submissions to the Royal Commission, as they relate to Task 7, has been completed, and the gathering of material on tertiary and other formal training courses has commenced. However, it is anticipated that the timing of the work for components of this task will be parallel to the work in Tasks 4 and 5.

The documentation of training opportunities currently available should be completed by January 91, the transcripts of hearings in the Commission will be monitored on the ongoing basis for any relevant material, and results of previous enquiries need to be analysed during January and February.

As results from surveys (Task 2) become available, their responses on questions of training and technology will be progressively analysed from now to May 91. Following that, possible recommendations will be framed, and discussions with industry parties on the findings and recommendations are expected to take place during May or June 91.

Task 8: Attitudes

This task is dependent on the results of Task 2(c) the Workforce survey.

The basis of the task is to examine attitudes of people in the building industry to nearly all facets of the workplace.

Where appropriate recommendations for change will be made in a final report.

Task 9: Subcontractors**Introduction**

For many types of building activity, eighty five per cent or more of the actual work is subcontracted by the head contractor to Trade and Specialist Subcontractors.

It is obvious, therefore, that the efficiency of their operations is important to the productivity of the Building Industry.

While the subcontracting system has the potential for high productivity, it also has the potential for conflicts, abuses of power and disorganisation.

This Task examines the contractual relationships between Head Contractors and Subcontractors, the allocation of risks between the two parties and the organisation and co-ordination of subcontractors' work.

Method and Information

The information for this Task is generated by a major survey of subcontractors. (Task 2(a)). The survey concentrates on the tendering process, the contractual relationships, industrial relations and the organisation and management of the work, all reportedly areas where problems manifesting themselves in low productivity are frequent.

The sample to be surveyed consists primarily of medium to large subcontracting organisations, but for the sake of completeness some smaller organisations are included as well.

The survey is designed to generate, as far as possible, quantitative information previously not available.

Task 10: Cottage Construction**Definition**

The cottage industry represents 50% of the building industry and can be divided into 3 component parts:

- House Building (value <\$300K, average home dwelling)
- Medium Rise Units (value <\$2.0M)
- High Rise or High number of unit projects (value >\$2.0M).

It is considered that the last category will be covered within the ambit of survey 2(b).

Task

This task has three key elements:

- A survey of a representative sample of the cottage industry
- Analysis of the survey to determine how productive the cottage industry is and to identify unproductive or inefficient practices.
- Preparation of a report summarising the above work, and recommendations for change to unproductive or inefficient practices.

To date the following activities have occurred:

- development of a task business plan
- initial planning
- preliminary evaluation of existing research
- preliminary survey design (using 2b as a ba-

sis). Note that this will be revised when variables measured by other researchers (and considered valid within the parameters of this survey) are identified.

Currently, survey design and evaluation of current research is continuing.

Programme

The survey design will include measurement of variables previously measured in other surveys. The current programme is:

Sample Selection	- 21 December 1990
Survey design and issue of questionnaire	- 11 January 1991
Return of data	- 01 February 1991
Field audits to verify and complete data set	- 05 March 1991
Supplementary questions prepared	- 05 March 1991
Return of supplementary questions	- 22 March 1991
Preliminary analysis	begin - 01 February 1991 complete - 31 March 1991

Particular milestone[s] within the above major components of this programme will be identified and inserted when Timeline is available on the system.

Task 11: Contractual Disputes

Task 11 utilises survey data from 2(a), (b), (d), (e), (f), (g) and (h) together with various previous reports.

Analysed will be the nature, timing, source and causes of contract disputes with the drawing up of a report for recommendation of improvement.

Task 12: Improvements to the Building Process

Task 12 is a critical examination of the significant processes involved in the construction and/or erection of a building. It is concerned with the efficiency of the processes themselves rather than with disturbances to them.

Task 12 therefore draws on the analyses of all the remaining tasks, including in particular the international survey, to identify the most efficient method of carrying out each process and to identify problem areas where new methods may be developed and employed.

The scope of this task, in short, is to describe the kind of industry we would like to see in the future. It is not a substitute for the final report, which by its nature must be concerned with the concrete steps by which the industry will be made to change. It is a yard stick by which we may measure the progress and measure the benefits of change.

As the analyses from which most of the input into this task will come has not as yet been undertaken, it has not been judged productive to devote any resources to Task 12 at this stage. It is not likely that work will start until April when relevant information will begin to become available.