

## Comment – Workforce Advisory Lawyers

Comment

Without debate and leadership, the opportunity for change to build better together will be lost.

30 May 2025

Queensland Productivity Commission  
Queensland Treasury  
Level 25, 1 William Street,  
Brisbane 4001

Via E: [enquiry@qpc.qld.gov.au](mailto:enquiry@qpc.qld.gov.au)



**RE: Opportunities To Improve Productivity Of The Construction Sector**

The hereafter correspondence is a genuine effort to rebuild productivity within the building and construction industry. The industry has and continues to face productivity and structural issues that affect all levels of the industry. A sector that seriously needs structural reform immediately to avoid the real possibility of catastrophic results as we move towards the Olympic Games in 2032.

We acknowledge that markets are in flux, that long-term assumptions are continually challenged, and we anticipate further disruption to current norms later this year.

We seek to support clients and their teams in these changing times. Workforce Advisory is a well-regarded, critically important stakeholder in the construction industry within Queensland.

**What We Do:**

We have experience assisting employers across Australia with a focus on Brisbane, Queensland and New South Wales. We specialise in the building and construction industry.

We have extensive experience in Australian workplace laws, particularly those relevant to the building and construction industry, Government, manufacturing, education, and engineering, including all aspects of managing unlawful industrial action, right of entry, unfair dismissals, and general protections.

Based in Brisbane, Queensland, we work with local and national clients as a specialist law firm representing employers and employer associations in all areas of employment law. We pride ourselves on adopting a practical approach to legal issues aimed at reducing complexity and focusing on relationships.

In addition to producing content for Facebook, LinkedIn, YouTube, and over 500 employment law articles on workplace issues, we also publish a monthly newsletter.

**In no particular order:**

**It's Time:**

The financial pressure on EBA contractors after frankly losing money on back-to-back EBA Major Projects are looking at what can change. The Union may be forced to have a reset to secure the balance between profits and member's needs, skills and labour force issues.

The market is turning despite labour shortages, competition, and large packages of future work. The financial outcome is so dire that EBA contractors are walking away from EBA projects with zero margins on turnover, poor productivity, outrageous costs, and no profits year after year. At the same

time, other national mega projects, such as Snowy Hydro 2 in NSW, continue to attract workers with substantial remuneration packages and favourable fly-in, fly-out (FIFO) rosters.

### **Subcontractor Costs Squeeze**

We are now observing structural trades that look for downward movement in EBA costs to offset the overall costs of construction, the loss of productivity, and financial fragility in the market.

We do not expect a race to the bottom; we do expect relaxation of mandatory terms imposed by the Union under the EBA that have little support from the workforce, including choice, flexibility, Union notifications, or permissions for when work can be performed, as well as the complete removal of conflicts of interest created by union funds.

A growing number of workers recognise that the current remuneration is unsustainable, which is particularly evident in the finishing trades, but is also increasing in structural trades. The workers know that the Union has stretched its reach beyond what is reasonable, and some outdated or illogical perks may need to be reconsidered.

Yes, high rates are needed to attract workers, but a rebalancing of costs may extend to lowering allowances and the mandatory use of union-endorsed funds or benefits.

### **Construction Labour Market Reforms Needed**

We continue to engage with the State Government on Procurement Reforms, seeking leadership from the Government as the largest industry client.

The historical approach was that ten to twenty Builders on behalf of large developer clients would dominate Queensland's industry negotiations, industrial landscape, and significant works. Within the past ten years, a smaller group of two or three builders and one large formworker have engaged in one-sided negotiations with the CFMEU.

The two diagrams in the linked article below demonstrate how the high-rise top-dollar agreements in the market, facilitated through the now-defunct BPIC program, have impacted the majority of future work, which is government work, and squeezed the middle private works, forcing some builders out of that middle market.

<https://workforceadvisory.com.au/construction-labour-market-reforms-needed/>

The majority of the industrial relations responsibility for industry leadership rests with the Queensland Government as the most significant client. The Government cannot avoid this reality and should not allow a shrinking number of builders to negotiate away the farm. The Government must communicate with the builders, workers, and unions to deliver a fair private-sector agreement and a discounted public works agreement. Government action is now needed to secure Queensland's future, foster productivity, lower public costs and provide leadership through state government procurement.

### **26 Weekday RDOs are a Productivity and Cashflow Problem:**

The current system of largely fixed RDOs, with no work on Weekends and Shutdown Weeks, has a significant impact on productivity, subcontractor cash flow, and workplace control. The most notable impact in recent months has been a 50% reduction in productivity, excluding inclement weather.

	Working Days	RDOs	Public Holidays	Weekend Days	Total Days
January	18	3	2	8	31
February	19	1	0	8	28
March	20	1	0	10	31
April	12	7	3	8	30
May	20	1	1	9	31
June	20	1	0	9	30
July	22	1	0	8	31
August	18	2	1	10	31
September	21	1	0	8	30
October	21	1	1	8	31
November	17	3	0	10	30
December	17	4	2	8	31
	225	26	10	104	365
% of time broken up	61.64	7.12	2.74	28.49	

Yes, there needs to be a balance between industry or community needs to produce completed projects and construction families. However, that argument is not consistent with weekdays when the majority of children are at school. The unspoken truth is that many RDOs do not support happy families but fuel bad habits or negative social issues. When you look at successful calendars in other industries, there is support for a nine-day fortnight. Alternatively, what worked for ten years in NSW was six 'no-work Saturdays' paid out at double time. This provided quality family time and cashed out the additional 13 RDOs resulting from the introduction of the 36-hour week into Enterprise Agreements. A State Procurement Code could provide flexibility in RDOs, flexibility or mandate a calendar a significant labour force issue.

For example, see *J Hutchinson Pty Limited trading as Hutchinson Builders (NSW) Enterprise Agreement 2011-2014*

### **Inclement Weather:**

Workers should be required to remain on-site for up to 6 hours, not the current 4 hours or less, so that if the weather clears after 4 hours, they can return to work. The *Building and Construction General On-Site Award* Inclement Weather provision includes lost time on-site for Inclement Weather entitlement calculations. However, recent Enterprise Agreements have excluded this on-site time, adding substantial costs to the industry. Where workers' safety is not compromised and all Award conditions and entitlements are provided, workers may be allowed to work in light rain conditions. A State Procurement Code could rectify this significant shift away from award entitlements or community standards.

### **Heat Management:**

This is a significant issue within Queensland; however, only work areas or workers impacted by high heat and humidity levels should be stopped if no measures can be taken. Fore example traffic controllers are impacted stopping crane or concrete works.

## **No Site-Wide Non-Working Delegates/HSR**

Delegates/HSRs should be working HSRs only and represent only the company workers they are working with, who are elected by each subcontractor's workers, with a cap of one per trade or working group. We have current reports of small workgroups of five workers on-site being asked to employ a union-nominated Delegate/HSR.

### **Site Access:**

The industry has a standard "two points of access/egress" within an excavation on-site, including compliant stretcher stairs. The current Union expectation or requirement to have a crane with a first-aid cage on standby is a substantial additional cost on projects, but it is not required under WHS Regulations. This is an example of an unreasonable safety demand, which is unlikely to be supported by WHSQ.

### **ROE Permits:**

We have indicated below a need for weekly or monthly limitations on ROE Permits. The Parliament never intended multiple visits per day or week and likely did not anticipate multiple unions visiting at once or multiple visits per month. The current system is also open to abuse without the requirement for clearer information on s117 ROE, stating the specific hazard or area of concern rather than broad references to the Act or Regulations. There is no current obligation to provide the ROE Notice to WHSQ or make any report to WHSQ. This administrative failure prevents any review of the use or abuse of the ROE Notices. A restriction on the total hours or visits per month to a workplace will clarify the Parliament's intention of what is reasonable. We have repeatedly asked for Police and WHS Inspector powers to 'move on' permit holders as an individual or organisation for a set period.

## **Queensland Government**

We continue to push for change and industry reforms:

We need productivity, a cost reset, workforce leadership and change management.

- a) A new State Procurement Code;
- b) A new Major Projects Umpire or Watchdog;
- c) An enforcement taskforce, or contracted industry support service by Workforce Advisory as costed for five years with supporting service delivery partners;
- d) Review WHS entry processes with weekly or monthly limitations;
- e) Introduce Police and WHS Inspector powers to 'move on' permit holders;
- f) Review licensing, and apprenticeships;
- g) Introduce individual industry licensing and entry controls on large commercial projects over \$100 million. Industry behaviours will only change with personal responsibility and accountability to achieve productivity outcomes.

A State government procurement code can go beyond the previous Commonwealth Building Code 2016 to address more issues, including payment for expenses not incurred (eg fares and travel allowances on RDOs), third-party permissions or notices, restricting the use of paid delegates to on-site activities, choice of entitlement funds or insurance, flexible RDOs, no site allowance or productivity allowance on public works and more.

We don't anticipate any significant action by the State Government until the QPC inquiry is completed in October 2025. However, we have made several requests for the State Government to provide leadership now with a draft or voluntary procurement code.

We are passionate about industry reforms and aim to stimulate conversation about the future of industrial relations in the construction sector. We have provided a mix of policy suggestions, legal considerations, and industry reform ideas. While some proposals may be seen as controversial, our emphasis is that this is a brainstorming exercise designed to encourage open dialogue among all stakeholders. We acknowledge that all suggestions are open for debate and that the ultimate goal is to find a way forward that benefits all parties involved in the construction industry.

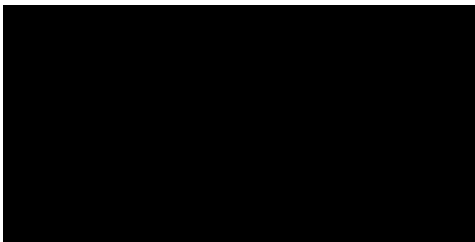
<https://workforceadvisory.com.au/industry-chess-64-open-suggestions-to-manage-the-cfmeu/>

### **Subcontractor Compliance and Fragility:**

We encourage large government projects, builders, and developers to utilise our subcontractor compliance checks (from \$1,600.00 + GST), which support contract managers with a comprehensive report that includes industrial relations, Fair Work, and credit reports, aiming to smooth out the current troubled waters.

Builders, Developers, and the Government need to invest in compliance checks and support for subcontractors.

We look forward to the QPC Reports.



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