

# **Australian Competition & Consumer Commission**

**Authorisation A90895**

**lodged by the Clay Brick and Paver Institute for itself and on behalf of the  
Concrete Masonry Association of Australia**

**PRE-DECISION CONFERENCE**

**4 June 2004**

**Minutes**

**Pre-Decision Conference: Authorisation A90895 lodged by the Clay Brick and Paver Institute for itself and on behalf of the Concrete Masonry Association of Australia**

Friday 4 June 2004  
Sydney Conference Room  
Australian Competition and Consumer Commission  
Level 7, Angel Place  
123 Pitt Street  
Sydney NSW 2000

**Attendees:**

*Australian Competition and Consumer Commission*

Deputy Chair, Ms Louise Sylvan  
Mr Gavin Jones, Director, Adjudication Branch  
Ms Tania Mayrhofer, Project Officer, Adjudication Branch

*Interested Parties*

Mr Bob Rushton, Executive Director, Clay Brick and Paver Institute  
Mr Alan Pearson, Executive Director, Concrete Masonry Association of Australia  
Mr Ian Linn, President, Group Training Association of Western Australia - (via VCU from WA Dept of Health and Ageing)  
Mr Stan Liaros, Executive Committee Member, Group Training Association of Western Australia - (via VCU from WA Dept of Health and Ageing)  
Mr Bob Hodnett, Manager, Skill Hire Pty Ltd  
Mr Kim Richardson, Advisor, Skill Hire Pty Ltd  
Mr Frank Allen, Chief Executive Officer, The West Australian Group Training Scheme  
Mr Wilhelm Harnish, Chief Executive Officer, Master Builders Australia  
Mr Richard Calver, National Director Industrial Relations & Legal Counsel, Master Builders Australia  
Mr Glenn Simpson, Senior Executive Director, Housing Industry Association  
Mr Vince Ball, Executive Director, Construction Industry Training Council

Conference commenced: 2.40 pm

*Introduction*

**Deputy Chair Louise Sylvan** welcomed attendees, made some introductory remarks outlining the purpose of the conference, declared the pre-decision conference open and invited the first party that called the conference, Mr Bob Hodnett, on behalf of Skill Hire Pty Ltd (Skill Hire), to make an opening statement.

*Opening Statements*

**Mr Bob Hodnett**, Manager of Skill Hire, stated that Skill Hire supports the concept of a levy on the sale of clay bricks and concrete masonry products to fund apprentice bricklayer training initiatives, however believes that there should be more flexibility with respect to the distribution of levy funds than appears to be contemplated by the

applicants. Mr Hodnett explained that Skill Hire has had informal discussions with the Clay Brick and Paver Institute (CBPI) in which the CBPI indicated that it has not committed to use the levy funds to establishing a new group training company in Western Australia (WA). Mr Hodnett stated that the CBPI had indicated that it was more likely to create a partnership with an existing group training company.

Mr Hodnett questioned whether, if the CBPI created a partnership with an existing company, that company would be the only company to receive funds from the levy. Mr Hodnett considered that if that were to be the case, it would be to the detriment of other existing group training companies such as Skill Hire.

Mr Hodnett stated that there are two key issues facing the bricklaying industry, namely:

- attracting new apprentices to the industry; and
- how the levy can be used for the employment of apprentices.

Mr Hodnett stated that if the levy scheme were allowed to commence and the funds were directed to one group training company, other existing group training companies would be forced out of the market which would result in a loss of existing working relationships and possibly the suspension of some apprentices. Mr Hodnett noted that the new group training company may take on the suspended apprentices, but that there may be a cost in the transition, and some suspended apprentices may end up walking away from the bricklaying industry.

Mr Hodnett raised concerns that the CBPI had already decided that funds raised by the levy would be provided to the Housing Industry Association (HIA) to fund apprentice training in WA.

Mr Hodnett stated that the funds from the levy in WA alone would be approximately \$2 million. Mr Hodnett considered that this amount should be sufficient to subsidise all apprentices across all group training companies.

Mr Hodnett stated that employers employing an apprentice bricklayer through a group training company subsidised by the levy would save \$243 as a result of the levy compared to the cost of employing the same apprentice through a group training scheme not in receipt of the levy funds. Mr Hodnett suggested that given this saving, employers would choose to employ apprentices through the training company in receipt of the levy at the expense of other training companies.

Mr Hodnett stated that Skill Hire had trained over 500 qualified master bricklayers and that the CBPI should acknowledge the contribution to the industry of Skill Hire and other group training companies by allowing all group training companies access to the levy funds.

**The Deputy Chair** invited Mr Frank Allen, on behalf of the West Australian Group Training Scheme Inc (WAGTS), as a party who had requested the conference to make an opening statement.

**Mr Allen** stated that the WAGTS was founded in 1990 by the Construction, Forestry, Mining and Energy Union (the CFMEU) to recruit young apprentices and had been doing so successfully for the past 14 years.

Mr Allen stated that the WAGTS endorsed in principle any proposal to increase the number of bricklaying apprentices, however considered that the current proposal would provide one training scheme with an unfair economic advantage over other group training schemes.

Mr Allen explained that the situation in WA was different to that in other states in that nine group training companies already employ bricklaying apprentices and that the levy scheme would simply duplicate the existing structure. Mr Allen considered that all of these group training companies would be in difficulty if the funds raised from the levy were directed to a single group training company.

Mr Allen stated that the proposed levy was not a panacea for the current shortage of bricklayers and explained that there are several reasons for this shortage:

- the bricklaying industry is labour intensive, therefore young people are not attracted to the industry;
- the bricklaying industry has a poor image;
- the initial cost of \$600 to complete a pre-apprenticeship course; and
- low apprenticeship completion rates as apprentices can earn more money in their third and fourth years by dropping out of their apprenticeships than they can by remaining in them.

Mr Allen stated that if the levy was fairly and equally allocated to all group training companies, it would go some way to solving the shortage of bricklayers.

Mr Allen noted that the NSW levy scheme on which the proposed scheme is based had aimed to recruit 300 additional apprentice bricklayers, however, to date, had only recruited 165. Mr Allen noted that the reason contended for NSW not meeting its target was the cost of workers compensation which had increased the cost of providing apprentice training. Mr Allen considered that this supported the argument that there are other factors which need to be addressed in order to attract more bricklayers, not just the cost to employers of employing an apprentice.

Mr Allen stated that the \$2 levy will increase the cost of houses.

Mr Allen also stated that if the funds raised from the levy were given to just one group training scheme in WA, where eight or nine group training schemes currently exist, that group training scheme would have a significant economic advantage over the other schemes. Mr Allen stated that the WAGTS would not be able to compete with schemes subsidised by the levy who would be able to provide apprentices to host employers at a rate of \$243 per week cheaper than it. Consequently, the WAGTS would need to reduce the number of apprentices it employs.

Mr Allen explained that in WA apprentices are employed by group training companies who then provide the apprentices to host employers at a cost. If employers decide to no longer accept an apprentice from a group training company, for example where another group training company in receipt of the levy can provide an apprentice at a cheaper rate, then the group training company is still required to meet the cost of the apprentices wages. Mr Allen explained that it was a very costly exercise for a group training company to suspend an apprentice. In addition, group training companies were required to gain the approval of the Department of Education and Training before doing so. Consequently, if the levy arrangements were to result in employers favouring apprentices from the group training company in receipt of the levy, this would place a financial burden on other group training companies who would still be required to pay apprentice wages without necessarily having positions in which to place their apprentices.

Mr Allen concluded by stating that the arrangements should not be authorised unless there is a move towards a more fair and equitable distribution of the funds raised from the levy. Specifically, Mr Allen contended that anyone who employs a bricklaying apprentice should have access to the levy funds.

**Mr Bob Hodnett** noted the additional issues in employing mature age apprentices. Mr Hodnett stated that 60% of apprentice applicants are over 21 years old. Mr Hodnett explained that under legislation apprentices over 21 years old must be paid at adult rates (i.e. first year mature age apprentices are charged out at the equivalent third year apprentice rates). Mr Hodnett noted that while Skill Hire would prefer to employ mature age apprentices as they are likely to be a higher quality and more likely to complete their apprenticeship, the cost of doing so relative to a younger apprentice is prohibitive. Mr Hodnett stated that if group training schemes could access the funds raised by the levy, it would go a long way to reducing hire out rates and encouraging employers to take on mature age apprentices.

With regard to the quality in training provided by Skill Hire, Mr Hodnett stated that Skill Hire had recently been awarded a tender contract from the WA Department of Training to run 30 pre-apprenticeship courses in bricklaying in Perth in 2004.

Mr Hodnett contended that Skill Hire produces high quality apprentices and would like to continue to maintain these standards. However, if the proposed levy funds were directed towards a single group training company its ability to do so would be compromised.

**The Deputy Chair** invited Mr Wilhelm Harnish, on behalf of the Master Builders Australia (the MBA), as a party who had also requested the conference, to make an opening statement.

**Mr Harnish** stated that the MBA represents interests in all aspects of the building and construction industry and is aware of the problems of skill shortages in the building industry, the aging of the workforce and the limited uptake of apprentices. Mr Harnish also noted the insufficient rates of completion of apprenticeships.

Mr Harnish commended the CBPI's proposed levy scheme as one way (but only one way) of tackling the skills shortage in the bricklaying industry. Mr Harnish noted that there are also more systematic problems facing the industry.

Mr Harnish stated that the MBA had called the conference to make it clear that funds raised from the levy should be spent on front line training of apprentices.

Mr Harnish stated that, having had discussions with the CBPI with regards partner arrangements (i.e. distribution of the funds through existing group training companies rather than by the CBPI establishing its own group training companies in each state), that it did not consider it necessary to establish new group training companies where there are existing group training companies which can be used. Mr Harnish noted that this has already been agreed to in Victoria and Queensland.

Mr Harnish suggested that the Commission impose a condition on the authorisation requiring the CBPI to distribute the levy funds through existing group training companies wherever possible.

**The Deputy Chair** asked Mr Bob Rushton, on behalf of the applicant, the Clay Brick and Paver Institute (CBPI), if he wished to address the conference.

**Mr Rushton** stated that the CBPI had had discussions with the MBA in respect of amending the application to provide that its manufacturer members in each state could either choose to direct the levy funds towards establishing a new group training company or to an existing group training company.<sup>1</sup>

Mr Rushton noted that the situation with respect of the training of apprentices on the east coast is different to the situation on the west coast in that on the east coast the majority of apprentices are employed privately by host employers whereas on the west coast most are employed through group training companies.

Mr Rushton noted that in Queensland, CBPI members have decided to enter into a partnership with an existing group training company. Mr Rushton stated that he considers that South Australian manufacturers will also enter into partnerships with existing group training companies. Mr Rushton further noted that, whilst the Victorian arrangements operate under a separate authorisation, manufacturers in Victoria have also entered into a contract with an existing group training company.

Mr Rushton stated that the intention was that each state would decide the most appropriate means for distribution of the levy.

Specifically, with respect to WA, Mr Rushton recognised that existing group training companies have been established for some time and stated that the CBPI was not suggesting that it would do a better job of conducting such training. Mr Rushton stated

---

<sup>1</sup> On 31 May 2004, the CBPI amended its application to provide that the clay brick and paver manufacturers and concrete masonry block manufacturers within each state could decide to enter into arrangements with existing group training companies, under partnering agreements, rather than establish their own group training company.

that he recognised the situation in WA was unique and that this would be taken into account in deciding how to distribute the levy funds there.

Mr Rushton explained that where the decision is made to establish new group training companies, establishment costs would not be funded from the \$2 levy. Mr Rushton stated that the establishment of any new group training company would be funded from the direct levy on CBPI members.<sup>2</sup> Therefore, the establishment of a new group training company would not impinge on the funds raised from the levy on clay brick and pavers and concrete masonry product purchasers.

Mr Rushton agreed that the funding of apprentice bricklayer training schemes is not the only aspect of the bricklayer shortage that needs to be addressed. Mr Rushton noted that in NSW where the scheme currently operates, the CBPI is engaging in promotion of the industry to schools and other initiatives to promote the profession.

Mr Rushton accepted and agreed with the issues raised by Mr Hodnett in respect of mature age apprentices. However, he stated that this issue needed to be addressed by CBPI members specifically as it relates to each state.

With respect to the number of apprentices in NSW provided with training funded by the levy not meeting the initial aim of 300, Mr Rushton stated that approximately 70 to 80 apprentices had completed their apprenticeships and that there are currently approximately 165 apprentices engaged in training under the scheme. Mr Rushton stated that he believed that the scheme had contributed to an increase in the number of apprentices undertaking training in NSW.

Mr Rushton stated that the scheme was not intended to reduce the number of, or viability of, existing group training companies. Mr Rushton explained that the scheme is based on the model currently in place in NSW and that when that scheme was established very few apprentices were being trained in NSW through group training companies. Consequently, establishing a new group training company did not cut across the training already being provided by other companies. Mr Rushton stated that the CBPI had taken on board the comments and concerns raised in respect of the arrangements in WA. Mr Rushton stated that it would be up to CBPI members in each state to decide how to use the funds raised by the levy and that the concerns raised would be passed onto the CBPI's WA committee.

Mr Rushton stated that for ease of administration, it was the CBPI's preference to use a single group training company in each state, but that he would take on board the concerns raised with respect of using a single group training company in each state.

In concluding, Mr Rushton explained that the CBPI has amended its application for authorisation to provide that the CBPI manufacturer members in each state could either choose to direct funds raised through the levy to existing group training companies or establish their own group training companies. Mr Rushton indicated that it was likely

---

<sup>2</sup> Under the scheme levies collected will be matched by CBPI members as voluntary industry contributions.

that WA, SA and Queensland manufacturers would direct the levy funds to existing group training companies.

**Mr Frank Allen** questioned whether WA manufacturers could choose to direct the funds to two (or more) group training schemes.

**Mr Bob Rushton** stated that it would be up to the committee of manufacturers in each state to decide to whom the funds would be directed.

**Mr Bob Hodnett** asked whether it was likely that only one or two group training companies in each state would have access to the funds.

**Mr Bob Rushton** stated that it would be up to the state committees to decide how to best distribute the funds raised, and that the funds could be distributed to one, two or many companies.

**Mr Alan Pearson**, of the Concrete Masonry Association of Australia, asked how the scheme is run in Victoria.<sup>3</sup>

**Mr Bob Rushton** explained that the Victorian scheme operates differently to that in NSW. In Victoria, host employers are responsible for recruiting apprentices directly. The levy is then remitted directly to host employers based on the number of apprentices in training. Off-site training in Victoria is currently provided through agreements with 15 training providers.

**The Deputy Chair** asked Mr Ian Linn, on behalf of the Group Training Association of Western Australia (GTAWA), if he wished to address the conference.

**Mr Ian Linn** stated that the GTAWA agreed with the concerns already raised and that the clarification provided by the CBPI that the levy funds are likely to be directed to a single, or small number of group training companies in each state re-enforces these concerns.

Mr Linn stated that the CBPI had not contacted the GTAWA to discuss the scheme.

Mr Linn stated that he considered that the scheme was an attempt by the CBPI to corner the market for apprentice training. Mr Linn expressed his concern about the effects of the scheme on existing group training schemes in WA and stated that the CBPI of WA had not been helpful or engaged in discussions with existing group training companies about the scheme. Mr Linn stated that he had found the lack of consultation from the CBPI regarding the scheme disturbing.

Mr Linn noted that under the *Industrial Commercial Training Act* in WA, once a group training company employed an apprentice it was obliged to continue to employ the apprentice for the life of their apprenticeship. Mr Linn noted that this would place a significant financial burden on existing group training companies if a new (or single

---

<sup>3</sup> The Victorian Brick and Blocklaying Training Foundation and the Clay Brick and Paver Association of Victoria currently administer a similar scheme in Victoria to that proposed by the CBPI.



existing) group training company was able to supply apprentices to employers more cheaply as a result of being subsidised by the levy.

Mr Linn noted that the Building Industry Construction Training Fund (BICTF) in WA currently distributes funds equally to all employers of apprentices in WA to off-set wages and the cost of employing apprentices.

**Mr Bob Rushton** asked whether existing group training companies had apprentices in industries other than bricklaying.

**Mr Frank Allen** explained that the WAGTS does have apprentices in other industries, but that if a subsidised group training company were established, there would be a huge cost incurred by the WAGTS in having to continue to pay the wages of bricklaying apprentices who it could not place in employment. Mr Allen explained that as a not for profit organisation the WAGTS would not be able to cover these costs, which would also impact on its ability to provide training in other trades.

Mr Allen further explained that while suspended apprentices were likely to be picked up, most likely by the group training companies in receipt of the levy, their training would be disrupted and some may also suffer psychologically.

**Mr Ian Linn** also stated that group training companies are not for profit organisation who do not have the funds to meet the expenses of paying apprentices if those apprentices do not have a host employer. Mr Linn referred to the training legislation in WA which states that apprentices, once engaged, must be retained for the life of their apprenticeship (four years).

Mr Linn stated that the effect of the scheme will be that host employers will simply source their apprentice employees through the new, subsidised group training scheme, which will not increase the number of jobs, but rather result in movement of apprentices from one group training company to another.

**Mr Bob Hodnett** explained that the subsidised group training company would be able to provide the same service as other group training schemes but that the host employer would pay less for that service if it were provided by the subsidised company.

**The Deputy Chair** questioned whether similar legislation also exists in other states.

**Mr Ian Linn** stated that the legislation in other states is not as restrictive as in WA.

**Mr Glenn Simpson**, of the Housing Industry Association Limited (HIA), stated that the HIA supported the submissions made by Mr Bob Hodnett and Mr Wilhelm Harnish. Mr Simpson stated that the HIA does not oppose the levy arrangements. However it had a number of concerns with the arrangements as currently proposed.

Mr Simpson stated that the HIA is a not for profit organisation currently training 728 apprentices, 167 of which are in WA.

Mr Simpson noted that while the group training company is a multi-million dollar operation, there is a narrow profit margin in training apprentices given that there are a

number of overheads, for example in relation to pastoral care and OH&S issues. Mr Simpson also noted the commercial risk management aspects of the industry.

Mr Simpson stated that contrary to the suggestions of an earlier speaker, there is no agreement in place for funds raised by the levy in WA to be provided to the HIA.

Mr Simpson stated that there is a public benefit in ensuring the continued viability of a number of group training schemes. Mr Simpson stated that the HIA consider the levy scheme, in its current form, to be anti-competitive, in that it would provide a competitive advantage to one group training company over others.

Mr Simpson further stated that the levy scheme would set a precedent which may be followed in the training of apprentices in other industries.

In relation to the public benefits contended by the applicants, Mr Simpson stated that the public benefits needed to be clearly articulated and that at the moment they were mere assertions.

Mr Simpson agreed with other speakers that subsidising one scheme may result in a reshuffling of apprentices rather than an increase in the number of bricklayers in the industry. Mr Simpson considered it unfair that levies would be placed on HIA members, while their association [the HIA] is denied the benefits of the funds raised from the levy.

Mr Simpson stated that while WA has the biggest concentration of industry training schemes, the same problems as identified in relation to the impact of the levy in WA also apply to a lesser extent in other states.

**Mr Bob Rushton** reinforced that no decision had been made regarding which group training company in WA would receive the funds from the levy.

**The Deputy Chair** opened the conference for discussion and invited additional questions in relation to the issues raised.

**Mr Wilhelm Harnish** asked about transparency and accountability as to decisions regarding who receives the subsidy and the criteria for receiving the subsidy.

**Mr Bob Rushton** explained that these decisions will be made by the CBPI manufacturer members in each state based upon discussions in each state with group training companies.

**The Deputy Chair** asked Mr Vince Ball of the ACT Regional Building and Construction Industry Training Council (CITC) if he wished to address the conference.

**Mr Vince Ball** indicated that the CITC is in favour of the levy scheme.

Mr Ball stated that in the ACT there are currently three group training organisations who have 14 first year bricklaying apprentices – the Construction Industry Training and Employment Association (CITEA), the HIA and the MBA.

Mr Ball stated that funds received from the ACT should be retained by the ACT. Mr Ball contended that the funds raised in the ACT under the current NSW scheme are distributed to NSW group training companies rather than those in the ACT.

Mr Ball stated that, if possible, the funds should be utilised by individual employers of apprentice bricklayers.

Mr Ball explained his proposal for the CITC to distribute funds raised from the levy in the ACT in partnership with the Industry Training Advisory Bodies.

Mr Ball noted that, as in other states and territories, the ACT also suffers a significant shortage of bricklayers, but noted that this was not reflected in the discussion in the ACCC's draft determination.

**Mr Bob Rushton** explained that the ACT had been incorporated into the NSW scheme inadvertently. Mr Rushton stated that once the CBPI became aware of this it ceased collecting levies on bricks and pavers sold in the ACT. Mr Rushton stated that approximately \$120,000 had been collected on the sale of bricks and pavers in the ACT through the levy. Mr Rushton committed to provide the ACCC with further details in relation to this.

Mr Rushton stated that if the Commission granted authorisation to the levy arrangements, the funds raised from the ACT would be distributed in the ACT only.

Mr Rushton indicated that the CITC proposal in relation to the method of distribution of the funds was a matter for discussion between the CBPI and the CITC. Mr Rushton stated that the CBPI did not propose to establish a separate group training company in the ACT.

**Mr Glenn Simpson** stated that he agreed with most of the issues raised, and that his main concern was with the transparency and accountability of the scheme. Mr Simpson stated that he did not consider it satisfactory for the ACCC to authorise the levy arrangements if there were outstanding issues for industry participants to resolve.

**The Deputy Chair** then called for any further comments. No further comments were made. The Deputy Chair closed the conference by noting that the ACCC would be providing a further opportunity for parties to make written submissions in respect of its draft determination and that the ACCC would be writing to those who attended the conference to provide details of how such submissions could be made, as well as to provide participants with a record of the conference, which would also be placed on the ACCC's public register.

Conference closed: 4.05 pm