



18 April 2011

The Hon T Baillieu MP  
Premier  
GPO Box 4912VV  
Melbourne 3002

My Dear Premier

### **Wonthaggi desalination plant – investigation of cost increases - effect on construction industry - remedial measures**

As the recent conference of the HR Nicholls Society Mr Michael Moore presented a paper on contractual and employment arrangements at the Wonthaggi desalination plant. These arrangements were widely reported in the week following and, as has also been reported, cost overruns at the plant have been a major factor in Leighton's profit falling by 25% and in a write-down of the profit from the desalination plant from \$288m to an expected \$6m before tax profit.

That the largest and most expensive single construction project in Victoria is riddled with employment problems and is unprofitable deters construction in the state and increases the cost of such construction as does occur.

The society thus requests that the government hold an inquiry into the making of the arrangements for the Desal plant, the effect of the arrangements on construction in the state and any remedial measures to be taken. To reduce cost and improve practices, consideration may be given to a Building Industry Task Force as established in NSW following the Gyles royal commission in that state into unlawful and cost-inflating construction industry practices.

### **Paper investigating the Desal plant arrangements**

The Desal plant arrangements were the subject of a presentation by Mr Michael Moore at our conference on "How Fair is Fair Work Australia" held in Melbourne on 1-2 April. I enclose a copy of that presentation. Mr Moore, a former President of Pakenham Shire with experience also in assessing government construction projects, is now Treasurer/Secretary of the Society.

As can be seen from the presentation, and from various press reports, the plant arrangements raise many issues of concern for the government and the public, including: whether proper cost checks were taken before tenders were accepted; why the lowest tender was not accepted; why the tender price was increased by \$0.5 billion after the tender was accepted; and why after winning the tender the company was able to reach agreement with four unions on what appear to be extremely generous wages and conditions. The probity report on the contract for the plant does not appear to have been published. Your predecessor appears to have entered into arrangements knowing that the principal beneficiaries would be the members/officials of various unions.

It is appreciated that the government has indicated that the construction contract for the plant cannot be rescinded and that it has investigated the overall cost of the project.

However, the Desal plant arrangements have potentially significant implications for future government and private sector building projects, including:

- the standard set by the grossly increased wages and conditions at the plant
- it has become accepted practice for any tender to include a major add-on to accommodate customary concessions to unions

- rorting such as a remote living away from home allowance when a worker does not live away from home, and which when applied at Wonthaggi is by no stretch of the imagination 'remote'.
- union control of who is employed
- payment for four times as many cranes as would appear to be necessary.

The Desal plant arrangements also employ Elite Cranes, with its criminal connections, thus setting a very low standard for propriety and public rectitude.

While it may be said that the employment and sub contracting arrangements were the concern of the main contractor, Thiess Degremont, and possibly not directly for the government, there appears to have been government acquiescence in the arrangements. Your government's cost inquiry, by PricewaterhouseCoopers, confirms how the cost of these arrangements was vastly greater than had been disclosed and that they fall on to the public.

### **Inquiry sought**

It is therefore in the public interest that an inquiry be held into the Desal arrangements and that those appointed to undertake the inquiry be asked to examine possible arrangements designed to stop or at least reduce the excessive costs being imposed unnecessarily.

### **NSW precedent**

In regard to the inquiry sought we would draw your attention to the establishment in 1993 in NSW of a Building Industry Task Force following the investigation by the Gyles Royal Commission into the shocking state of the building industry in NSW. The function of the BITF was to act as a law enforcement agency in the building industry and to coordinate civil and criminal prosecutions. It appears to have had some success in that regard, although with the election of the Carr government it was abolished in 1995. Further details are available on the HR Nicholls web site in the paper presented to an HRN conference by the Director, Ross Dalgleish

### **Australian Building and Construction Commission**

The society has, following its conference and Mr Moore's paper, also requested the Australian Building and Construction Commission to investigate and take action against inappropriate or unlawful union activities at the Desal site. The investigation we now seek would be broader in scope than one by the ABCC, assuming it would investigate, which is not yet known. Copies of our correspondence with Leigh Johns the ABCC commissioner are enclosed.

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I hope that you will be able to take action to deal with what is a serious problem in the Victorian building and construction industry.

Yours sincerely

Adam Bisits

President