



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

12th Assembly

'Ice' Select Committee

Public Hearing Transcript

11.15 am – 11.45 am, Monday 7 September 2015

Litchfield Room, Parliament House

Members:
Mr Nathan Barrett, MLA, Chair, Member for Blain
Ms Lauren Moss, MLA, Deputy Chair, Member for Casuarina
Mr Francis Kurrupuwu, MLA, Member for Arafura
Mr Gerry Wood, MLA, Member for Nelson

Witnesses: **Master Builders Association NT**

David Malone: Executive Director

Mr CHAIR: On behalf of the committee I welcome everyone to this public hearing into the prevalence, impacts and government response to the illicit use of ice in the Northern Territory. I welcome to the table to give evidence to the committee from the Master Builders Association, David Malone, the Executive Director. Thank you for coming before the committee, we appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask you to state your name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing, sir?

Mr MALONE: Dave Malone, Executive Director for Master Builders NT.

Mr CHAIR: Thank you very much. Moving on to questions then.

The research on drug use in the workforce indicates that the construction industry is one of those industries that has people who have registered answers on a census to indicate that there is a much higher percentage of people within that industry who either use drugs or had attended work under the influence of drugs - 4.2% compared to 2.5% for the workforce as a whole. What are you doing about this issue of ice in your industry?

Mr MALONE: Very simply, we are at the start of talking about how we, as an industry, and the companies involved start to respond to this challenge. Even committees like this, raising this issue more broadly in the public, are starting to generate discussion across the industry as well. In parallel, our sister organisations around the country are at various stages of dealing with drug and alcohol policy, so we have been involved in those discussions at a national level. It is probably fair to say that as an industry we have not responded strongly to this issue at this time. People are aware of the level of usage; we have all seen the statistics at one time or another. But how the industry and individual companies respond is still something that we need to work our way through.

The industry has tended to respond by saying the clients, in one form or another, will set the ground rules around a site. You had JKC and INPEX here before. They set the rules for that site to a great degree. Our industry is probably going to have to respond differently going forward, and say this is something we need to take responsibility for rather than rely on the clients.

It is fair to put on the record as well that mostly companies in the construction sector win a job out of a four- or six-week hothouse of tendering. That is still the predominant form that clients use to purchase construction services. You win those jobs, more often than not, because you are the lowest priced. So those pressures in the system drive some of the behaviours we have always struggled with in the construction sector. You need to get a response at an industry level otherwise there is always a perverse incentive for people to find ways not to do things, rather than to do things.

Mr CHAIR: Your industry is very broad. In the Master Builders Association you would have companies that do mine site construction or very large companies doing very large projects which can set those ground rules. For a much smaller building company building residential houses and such, how hard will it be to enact a uniform policy that sets a price level of contracting where part of any tendering would be that drug testing is built straight in. How hard would that be to place in a standard item where the price cannot be varied?

Mr MALONE: The real challenge is that this is an occupational health and safety issue and you need to respond based on the particular project and the particular activities a company might be doing. If we have just picked a simple project, like a house, it may well have 30 subcontractors and suppliers working on it at one time or another. They will be coming and going without necessarily any supervision onsite at all. They will be self-managed teams going in to deliver part of a project. That is one extreme. Then you have the other extreme, as you mentioned, of very large firms that may well be working on Defence, mining, or oil and gas projects.

One size will never fit all in those cases. It really has to be driven by people doing a risk assessment and a set of minimum community standards as well. If you do not have that there will always be that perverse incentive in place. In a way what you really need is - the only magic bullet I can think of is the mine canary - some way that is really clear instantly whether people are intoxicated, that is a Holy Grail we will never get to. Any system will have to balance the challenges around the project with the need to provide a safe working environment for people.

Mr WOOD: The government is trying to reduce red tape, but on the other side you have work health inspectors. They obviously come around to see if you have protection - if you are roofing your workers are wearing protective clothing. Is there a role for them and the possibility of random tests? I am not saying they have tests every day, but do you see a role if the issue is safety. If someone has had a few too many drinks - not even ice - and is working on a roof, do you see there is some responsibility from work health?

Mr MALONE: I had not really thought about work health getting involved directly. They tend to be working on the systems on a workplace rather than the individuals, so I have not contemplated that at all. However, if you move outside the safety space into the industrial relations space you have Fair Work Building and Construction, for example, auditing companies' industrial relations arrangements not only in the systems they have in their office, but whether the culture described in their manuals and systems is occurring onsite as well. That is done under the national construction code. I suspect, if you want to move forward in that way you will need to do something similar. There would need to be some audit about systems and the compliance or culture onsite.

I have not been engaged with random testing on drugs although we have started to do a bit of research in that area, but it seems you can do everything you want and people will still slip through. To some degree we will not stop it completely, but if we have the right systems and a minimum set of standards we will get a little further ahead.

Mr CHAIR: You said some research is being done. What is that research and what has it shown you to date?

Mr MALONE: We are trying to get across - we are a relatively small organisation so we have been working closely with our sister organisations interstate to see where they have got to. We have looked at their policy documents. There is a national policy document for Master Builders under development at this stage as well. We have been talking to the testing companies and we are about to ask them to start to run our council - which is our democratic organisation - to take those people through. The research is at the very beginning, but it has been a bit of a challenge even to encourage people to talk in the space. It is still something that, by and large, people know but do not talk about. You hear plenty of anecdotal evidence, and when I talked to your staff ahead of this hearing I was saying I have heard plenty but have no evidence of anything. I am sure that is what you hear from everybody who comes along. We are grappling to come to grips with the fact that we have a major issue in our industry, and companies, their owners and managers are highly exposed at this stage because of it. They do not have a response to that.

Ms MOSS: At the moment, if an issue is identified with a worker on a site what is the process to address it?

Mr MALONE: It would be every process you could imagine, from a documented system that deals with how people might be treated whether it is alcohol or ice, whether they are still intoxicated or not and how you might send them home. Some companies have quite defined policies in place. You will get the complete extreme where someone will be confronted as they are intoxicated and told to get off the site, and just pushed out the door. You will find that an extreme across the industry. Some of it will reflect the nature of the businesses and some will reflect the nature of the companies. It would not surprise you that, by and large, outside of these really controlled projects such as in mining, on Defence projects and oil and gas, that there is a pretty loose arrangement and it depends on the company's own culture whether people are responding to this challenge right now.

Mr CHAIR: Company is a broad thing - you have small operators who are tilers, plasterers or something like that. How could we put controls in place if somebody is subcontracted to do the plastering? I am not thinking of anybody and do not read anything into what I am saying. I am just asking how we address a small contract that might be a single person operator? How do we address that small end; there are obviously things for the big end. I am interested in your views. Is this the sort of research you are undertaking? How do we address this small end?

Mr MALONE: I consider the only way you can deal with the small end in any shape or form is the fact that those people will touch other contractors on a different scale who will have different systems which they will

need to dovetail into. I can provide an example for that. If you work on DHA housing projects in Darwin, for example, in companies like – oh, I will not mention their names. The principal contractors for those have to construct those homes under the construction code because they are Commonwealth projects. That means they are responsible for fitting in underneath the federal safety commissioner's regime as well. So that regime runs all the way down the contract chain, so everybody on that site has to follow that system.

You hope that those really small people, from time to time, touch those systems and think they are a good idea and adopt them. For the single plumber, sparkie or so forth, unless that is their belief, I cannot think of a system you can put in place, particularly on the residential side where you do not have a site controller in place. I do not know how you do that. The residential projects are autonomous subcontractors who go in and do their job.

As soon as you move into a site which is controlled by a principal contractor which is gated and so forth, you can have a different system in place. Until you get to that point I am not sure how you make the change.

Mr CHAIR: Sorry, Gerry.

Mr WOOD: No, I was going to raise the same issue. You have a problem with small contractors, as you say. On some jobs you would say there was minimal danger, even if they had a few beers or something, because they are doing a job that is not dangerous. But there are the people like the crane operator who turns up to shift some equipment over the top of a house and there might be people working on the roof such as the electrical contractors. So to some extent it also depends on what job you are doing and the risk that having some drugs in your system could affect that job.

Mr MALONE: It is very much about risk. What we have been trying to do as an industry for 20 years now is move people towards risk assessment for their jobs and responding accordingly. It would be fair to say that over the last 20 years the industry has moved forward significantly. It is such a better industry than what it was 20 years ago.

Someone mentioned roofing earlier. Once upon a time people used to wander around on the roof. Today we have edge protection, tethers and everything else, so things have moved a long way. But we still have a long way to go in the overall risk assessment and in many parts of our industry where people think this is a genuine problem. There are many who do. Recently we went to the media to try to generate some debate and it was clear to us that there were some people who thought this was somebody else's problem. Again, you have probably heard this many times before.

Mr CHAIR: Yes, I guess that is the holy grail for us to look at, because this is such a broad thing in the community and there have been some fairly recent cases of people who operate in the building industry in the Northern Territory coming unstuck with an ice addiction. It is something we need to look at and work on. Often these businesses have someone who will be organising building that house and they have subcontractors under them. Perhaps it is about a better education process for them and asking where the liability ends. If this person does something stupid under the influence is the main house builder, who is not really building anything - they mostly subcontract the little bits and pieces out. Where does the liability fall to that person in this industry for an old mate who turned up on site under the influence?

Mr MALONE: Construction companies always respond to sticks more than inducements.

Mr CHAIR: Carrots.

Mr MALONE: Yes. Liability is probably the way to go forward. It is certainly the way we have been discussing things. The model occupational health and safety legislation today makes employers and managers responsible for foreseeable risks. If a risk was foreseeable and something occurred they are personally liable, not just as a corporation, which might have been the case some time ago. In parallel, of course, individuals are now responsible for their own colleagues as well. We have been saying to our membership if we think intoxication is a foreseeable risk, that by not implementing a program of their own they are leaving themselves personally exposed to potential sanctions of one kind or another if they do not do something about it.

We have only just started that conversation and you get variable responses from people, but the way we will educate business owners and managers is for them to realise it is not just about the company, it is about them as well and there has to be zero tolerance to intoxicated people onsite.

Mr KURRUPUWU: Regarding forestry and mining in Indigenous communities, I am not familiar with the other areas like Gove and Jabiru, but on the Tiwi Islands we have drug testing regarding forestry and they are harvesting at the moment. Is there an issue in remote communities?

Mr MALONE: Do I think there is an issue in our industry in remote communities?

Mr KURRUPUWU: Yes.

Mr MALONE: Absolutely. If anything, I suspect usage goes up when people go bush. The usual process is you work a lot of hours and there is not much else to do. I think people fall back on that, but I do not have any evidence to that effect. There are plenty of anecdotal conversations and it seems - a lot of Indigenous communities are dry so it is difficult to do that in those communities, but they go on a bender when you have a day off type exercise is definitely part and parcel of the bush work our industry does. It is not everybody of course, but a group certainly does.

Mr CHAIR: Thank you for coming in. I definitely encourage you to keep doing that research and keep trying to find that Holy Grail. To beat this will require a community response. We do not have a silver bullet, nor does industry. We all need to work together to make sure we get on top of this, and make sure the costs to the community caused by this drug are brought into heel.

I thank you, sir, for your time and appreciate you coming in.

Mr MALONE: Congratulations to you guys for doing this worthwhile work.