



AMCA SA Golf Day 2010

For the third year our event was held in perfect weather. Playing numbers grew again this year to over 80 players and our host Kooyonga Golf Club provided the perfect venue for a great day.

The day began with a BBQ lunch on the patio overlooking the first tee and ended with dinner in the new Member's dining room. The Kooyonga staff headed by Robert Taylor and golf pro Mike Sprengell made members feel welcome.

Congratulations to all winners (see below) and thank you for all of the support from sponsors and those companies that registered teams for the event.

Finally I would like to thank all of those who made contributions to our charity the Oncology Children's Foundation (OCF). We were able to raise over \$2,000 with the help of members and their guests.

We would like to thank the companies who hosted our two women's teams this year. It was no surprise to see both teams do very well in the results.

We would encourage those teams to participate again next year and hopefully build on these numbers.

If you didn't go this year – ask someone who did and we are sure you will want to take part in 2011.

Prize Winners for 2010:

Winning Team: Daikin (Captain – Michael Hamilton)

Second Placed Team: Fujitsu (Captain – Tim Laws)

Third Placed Team: SAM Airconditioning (Captain Michael Gilroy)

Longest Drive: A Grade Winner:

Chris Griffen

B Grade Winner:

Robert Reid

Straightest Drive Hole 10):

Michael Gilroy

Nearest the Pin (Hole 7):

Brad Hicks

Nearest the Pin (Hole 14):

Paul Durham

Nearest the Pin (Hole 3):

Anthony Underwood

Thank you to all of our Sponsors

Air Conserve

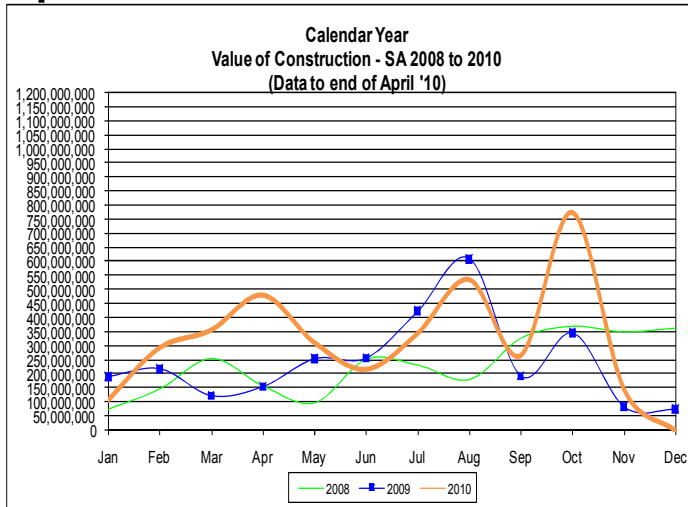
Fantech

LG Electronics

Thermal Control Industries

TRP Ductwork / Spiraltube

Construction Activity Report: April 2010



The forecast for the next six months indicates the level of building and construction activity will be similar to the volumes experienced over the same period last year.

The bold line indicates the current forecast trends and while there is a peak occurring in the October period, as we have experienced in the past, the peak will likely move to the right on the chart as time passes.

While it is not yet evident, there is some concern that as the Federal Government's Stimulus Package winds down toward the end of 2010, work in the following two quarters will need to see confidence return to the private development sector.

Federal Government - Budget Overview 2010 - 11

(Commentary drawn from the ACCI Report 11 May)

The federal budget delivered by Treasurer Wayne Swan is a solid effort on national finances, but with a sting in the tail for business.

Our initial reaction in the media has been to welcome the Government's determination, after 18 months of unprecedented stimulus spending, to repair the national finances and bring the budget back into surplus over the cycle. The Government has announced that Commonwealth debt is forecast to be reduced from the current \$40 billion to surplus by 2012-13, three years earlier than forecasts of a year ago.

The budget confirms the Government's intention to proceed with raising the superannuation levy on the nation's employers from 9% to 12% in seven steps

over the next ten years, starting in 2013. As I mentioned over the past week, this is a broken promise to employers, and will cost employers \$20 billion per year when fully implemented in 2020. It is not however a gain to the budget bottom line, as employer funds go into employee superannuation funds (in fact it costs the budget given the tax concessions that apply to superannuation).

In summary, the Government's ability to balance the budget is in part a product of better than expected growth (for which the Government and the private sector can both claim some credit), CPRS deferral, and new taxes that, in a global sense and over time, will cost business more than the business tax reductions.

Disappointingly, the Government has not decoupled the proposed Resource Tax from the business tax reductions, as ACCI had proposed. This means that the delivery of the company tax reductions and earlier depreciation and asset write downs will be part of the political football that will become the Resource Tax.

Promised Election Tax Cuts

Income tax relief in line with 2007 election year commitments:

- Increase in 30 per cent income tax rate threshold from \$35,000 to \$37,000;
- Reduction in 38 per cent income tax rate to 37 per cent;
- Increase in Low-Income Tax Offset to \$1,500.

Skills for Sustainable Growth

An additional \$661mn in funding for education and training initiatives to deliver 70,000 new training places.

Renewable Energy Future Fund

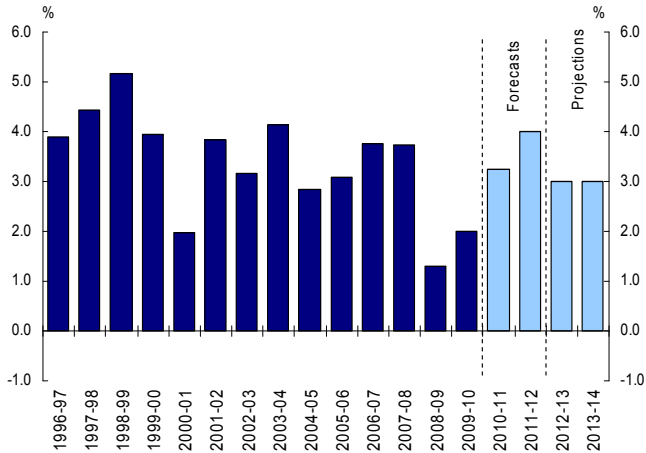
A new \$652mn Renewable Energy Future Fund as part of the expanded Clean Energy Initiative.

A Stronger Recovery

Treasury has revised up its growth outlook for the Australian economy. Forecast economic growth for 2010-11 has been upgraded half a percentage point to 3 ¼ per cent and is seen accelerating to 4 per cent in 2011-12. The improvement in the growth forecast is largely attributable to stronger business investment and household consumption.

The composition of growth in 2010-11 is seen shifting from the public to the private sector as stimulus spending unwinds and business investment recovers. Business investment is forecast to grow by 7½ per cent in 2010-11, strengthening from modest growth of 3 per cent in 2009-10.

Treasury Economic Growth Forecasts



Modern Awards Transition Arrangements: 1 July 2010

Currently modern awards operate together with the National Employment Standards (NES) to provide minimum conditions of employment for employers and employees in the 'national system'. To assist employers to manage the change to the new national system a decision was made to defer the full implementation of the many new modern awards until 1 July 2010. To further assist employers and employees, transitional arrangements have been included in a number of modern awards to give employers and employees time to adjust to changes to pay rates, penalty payments and loadings. These transitional arrangements provide for the phasing in of variations (increases or decreases) to pay rates and certain penalty payments and loadings over a four year period commencing on 1 July 2010 and ending on the first full pay period on or after 1 July 2014.

What entitlements will be phased in?

- minimum wages, including piecework rates and applicable industry allowances;
- casual and part-time loadings;
- Saturday, Sunday and public holiday penalty rates;
- evening and other penalty rates; and
- shift allowances.

All other entitlements in modern awards, including allowances (other than industry allowances) and overtime, took effect in full from 1 January 2010 (ie phasing does not apply to those entitlements).

When will the changes apply?

The 'phasing in' of increases or decreases will occur (in the main) in five set instalments over four years (20% per year) beginning from the first full pay period on or after 1 July 2010 and ending at the first full pay period on or after 1 July 2014, when modern award rates apply in full. This means that wage, loadings and penalty entitlements under modern awards will change on the first pay period on or after 1 July each year, and need to be re-calculated accordingly.

Who is covered by the transition arrangements?

The transition arrangements apply to employers and employees in the national system to whom the modern award applies. This includes employers who establish a business after the commencement of modern awards on 1 January 2010. The arrangements also apply to new employees that commenced employment on or after 1 January 2010.

Who is not covered by these arrangements?

Non-trading corporations, sole traders and partnerships who moved into the national system on 1 January 2010, are not covered by these transition arrangements as different transition rules apply to them. You should seek professional advice if you are in this category.

How does the phasing in work? (Wage rate example)

The Model Transitional Provisions provide that the 'minimum wage' is to include "any applicable industry allowance."

The Model Transitional Provisions set out a formula to calculate transitional minimum wage entitlements.

1. Calculate the transitional amount (c) i.e. the dollar difference between the pre-modern award rate(b) for the employee's classification and modern award wage rate for the employee's classification (including any applicable industry allowances), as at 1 January 2010. This amount is preserved as a "transitional amount" and does not change.
2. Identify the modern award rate that applies (a) including any increases from FWA's annual wage review. FWA annual wage reviews take effect on 1 July each year.
3. Then a proportion of the transitional amount can then be added to or subtracted from the modern award rate (which already includes any annual wage increases) to determine the employee's transitional wage rate for that year.

The "transitional amount" stays the same every year (it is not affected by increases from FWA's annual wage reviews) but the proportion of it that is added or subtracted to the modern award rate will change by 20%

each year in accordance with the table below. Modern award rates will also change every year, to take account of FWA's annual wage review. This means that wage rates need to be re-calculated each year from the first full pay period on or after 1 July 2010.

The following percentages of the transitional amount can be added to or subtracted from the dollar modern award rate that applies from 1 July each year (including any annual wage increases).

First full pay period on or after	Percent of transitional amount
1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%
1 July 2014	0%

- Where the modern award rate (including any increase from FWA's annual wage review) is lower, the minimum wage rate is obtained by adding the proportion of the transitional amount.
- Where the modern award rate (including any increase from FWA's annual wage review) is higher, the minimum wage rate is obtained by subtracting the proportion of the transitional amount.

If the modern award rate is lower and the transitional amount is equal to or less than the amount of an increase in the modern award minimum wage resulting from FWA's 2010 annual wage review, the increase cancels out the transitional amount and phasing is not required.

Example:

- (a) The pre modern award wage rate = \$10
- (b) The modern award wage rate as 1 July 2010 = \$11
- (c) $\$11 - \$10 = \$1$ (The transitional amount)

The transitional amount for 1 July 2010 is 80%. In this example that is \$0.80.

As the modern award rate is higher, the transition amount is subtracted from the modern award rate:
 $\$11 - \$0.80 = \$10.20$

The wage rate payable in this example is therefore \$10.20. This will then increase by \$0.20 increments on 1 July each year until 1 July 2014.

The example above relates to wage rates however the principle is the same when calculating changes to penalty payments or loadings which may be percentage based.

What do I need to do?

Check your pre modern award and the modern award that covers your employees to see if transition arrangements apply. Check to see if there is any difference in the pay rates and penalty rates, shift rates or other loadings.

Modern awards provide for minimum entitlements. If the rates in the modern award are higher than your current award rate you may choose to abide by the transition rates or you may pay the higher rate immediately.

If the pre-modern award rates are higher than those in the modern award, an employer could keep paying higher rates of pay that applied under the pre-modern award. An employer may choose to preserve higher pre-modern award rates of pay for existing employees to ensure those employees do not suffer a reduction in take-home pay. (see note below)

**Both the FW Act and the Model Transitional Provisions provide that the implementation of modern awards is not intended to result in the reduction of an employee's 'take-home pay'. If an employee suffers a reduction in his or her 'take-home pay' as a result of transitional arrangements under the Model Transitional Provisions, the employee or his/her union is entitled to apply to Fair Work Australia for a 'take-home pay order'.*

Also note that the model transitional provisions provide that:

The monetary obligations imposed on employers by this award may be absorbed in over award payments. Nothing in this award requires an employer to maintain or increase any over award payment.

If you are currently offsetting other award provisions with an above award payment you should seek advice to ensure you are complying with the general principles established through the courts, commissions and FWA.

IF IN DOUBT SEEK ADVICE FROM

The Air Conditioning and Mechanical Contractors' Association of South Australia 8234 2899, OR **Smart Industrial Relations on 8274 2105**

Unfair Dismissals

Under the new Fair Work Act employees that have been terminated by their employer now have a number of avenues available to pursue alleged unfair dismissal or claim of discrimination.

An employee may lodge a claim for unfair dismissal under Section 379. This claim must be lodged within 14 days of the termination and the maximum compensation that may be awarded is 6 months pay.

An employee may lodge a claim under Section 340 alleging that the employer has taken adverse action against him because the employee exercised an employee right. This type of claim must be lodged within 60 days of the termination and there is no maximum compensation.

Finally, an employee may claim that they were terminated for discriminatory reasons. In this case they have 12 months to lodge a claim and again there is no maximum compensation.

Employers cannot prevent employees from lodging any of these claims when they are terminated. But what employers can do – indeed MUST do, is document all disciplinary procedures. It is fine to verbally address a performance measure once, but if there is any repeat reason then the warning must be in writing.

AMCA will shortly issue a practice note dealing with the various steps required to maximise your opportunity to protect your company from the sort of exposure listed above and at the same time enable you ensure that your employees are working productively.



Payment Power

“How site diaries make all the difference”

A well documented religiously kept Site Diary is one of the best things you can do to protect the value of your work in a Payment dispute, yet it is one of the rarest things to find. And I’m not talking about a normal calendar diary in which you scribble a few notes here and there. I am talking about a diary specifically there to capture the great number of details and key events that happen every day on your site.

In most payment disputes the parties will argue a different (very different) version of events. It is important that you can prove your version. The way to do that is to keep a daily site diary. If you can demonstrate that you record events each day, then this document becomes ‘contemporaneous evidence’ that you can use in adjudication or other proceedings.

So what are some of the things you should record? Here are some that will make all the difference in a payment dispute:

Contract Work done v Variation Work done

The biggest argument for non payment is either ‘the work is part of your scope’ or ‘it was never approved or requested’. You should detail the contract work done by reference to your scope of works. That way there can no argument that it is contract work. By contract you can then record the variation work done. This work will not be found in the scope of works and so is additional. The final things is to record how the variation was requested; written or oral. Record who requested it, and if written include the details of the written instruction.

Old Drawings V New Drawings

Another massive area of argument is revised drawings that require additional work. The debtor will argue that the new drawings should not attract any additional cost. The best thing to do is diarise the date you were issued new drawings and note the drawings they replaced. You should also send your client a quote to carry out the additional work in the drawing, and diarise that too. In this way you can follow how the scope required grew, and the dates it grew, and by what value. Many times clients will try to insist that the new drawing is the one issued all along and that there never was an earlier version. A good diary will sort that one out.

Oral Directions

So often a client will give numerous oral directions that add up to a whole range of additional work. What needs to be detailed here are all those directions that create a variation. That way the client cannot use the usual tactic of simply denying that the work was ever requested. If you can match the date the request was made with other evidence about the work, then one document backs up the other. This makes for great evidence.

Staff Onsite

Often there is a dispute about labour hours. The client will usually argue that the job could not have taken that long, or that there was no staff onsite. You need to diarise who was onsite every day. That way you can support the hours claimed.

Delays

Most contracts will not allow you to claim for delays. However in many contracts the client will attempt to hit you with liquidated damages. A site diary can help you record exactly who delayed work each day, and for how long. Often the delay is caused by another party or by circumstances beyond your control. Sometimes an authority such as local council or WorkCover, or an energy authority will require work to cease for while. All this needs to be diarised so you can prove that you did not hold up the work. Always check the contract to see if you need to apply for an extension of time. And if so, do it immediately.

Photos

Regular readers of my articles will know that I am a great fan of the photo. It really is first class evidence for anything. If you have completed an item of work, take a picture. If another trade has damaged your work, take a picture. Try to get the date stamp on each photo and each day record the photos you have taken. So often a debtor will argue that the contractor left some work defective or that it was never completed correctly. Or that the contractor

damaged some of the works. A good series of photos can crush these allegations pretty quickly. Of course you want the usual stuff too like the day and date and who from your business completed the day entry.

The most important things to bear in mind is that one day of diary entries is not what helps you: It is the ability to show months and years of entries that will give your diary almost unbeatable credibility.

So get those pens at the ready and get it in the diary! It will save you a fortune.

(Contact AMCA SA on 8234 2899 for the AMCA Site Diary)

Contractors Debt Recovery T: 1300 669 075 F: 1300 669 015.

Do you know about the R&D Tax Concession?

Article by AusIndustry published in Electrical Solutions Issue September/October 2009 – Volume 8 No 4 Page 17

AusIndustry delivers a range of more than 30 business programs including innovation grants, tax and duty concessions, small business development, industry support and venture capital – worth about \$2 billion to more than 10,000 companies and 80,000 individuals every year.

- Australian companies undertaking eligible research and development can claim the **R&D Tax Concession**. The program now also has an increased threshold for the R&D Tax Offset.
- **COMET** (Commercialising Emerging Technologies) is a competitive, merit-based grants program which supports individual's, early-stage growth companies and spin-off companies from research organisations to increase the commercialisation of innovative products, processes and services.

To find out more about AusIndustry's programs, you can phone the hotline on **132 846**, visit the AusIndustry website www.ausindustry.gov.au or email hotline@ausindustry.gov.au

AusIndustry is the Australian Government's business program delivery division in the Department of Innovation, Industry, Science and Research.

Superannuation Clearing House

The superannuation clearing house service for small business to be set up by the government will be delivered through Medicare Australia from July 2010. Under the service, employers will be able to pay their employees' superannuation in bulk to

Medicare Australia, who will then distribute the superannuation amongst the relevant funds. The clearing house service will be available to businesses with fewer than 20 employees. The service has been funded for an initial three year period by the Federal Government in an effort to reduce the red-tape burden on small businesses.

CALENDAR OF EVENTS

RDOs:

38 HOUR WEEK – ROSTER:

RDO 6	-	15 th Jun
RDO 7	-	12 th Jul
RDO 8	-	9 th Aug

36 HOUR WEEK – ROSTER:

LDO 6	-	28 th Jun
LDO 7	-	26 th Jul
LDO 8	-	23 rd Aug

Members should check with individual site owners and their contractual provisions.

Executive Meetings:

(usually 1st Tuesday of the month @ 3:00 pm)

-	6 th Jul	3:00 pm
-	3 rd Aug	3:00 pm

General Meetings:

(following on from the Executive meeting every third month, Tuesday @ 5:00 pm)

-	1 st Jun	5:00 pm
-	AGM 7 th Sept	5:00 pm

Air Conditioning Services Group (ASG) Meetings:

(bi-monthly meetings commencing @ 7:30 am)

-	16 th Jun	7:30 am
-	18 th Aug	7:30 am

Associate Members Meetings:

(bi-monthly meetings commencing @ 8:00 am)

-	15 th Jul	8:00 am
-	21 st Oct	8:00 am

Women in Air Conditioning :

(monthly meetings commencing @ 9:00 am)

-	7 th Jun	9:00 am
-	9 th Aug	9:00 am

AMCA SA News® is the official publication of the Air Conditioning and Mechanical Contractors' Association of South Australia Inc (AMCA SA). Statements expressed in AMCA SA News® do not necessarily reflect the policy or views of the AMCA SA. No responsibility is accepted by the AMCA SA for the accuracy of information or for any errors or omissions.