

**Submission
No 121**

INQUIRY INTO THE BUILDING THE EDUCATION REVOLUTION PROGRAM

Organisation: NSW Liberals & Nationals

Name: Mr Adrian Piccoli

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Monday 7 June 2010

Madame Chair
Legislative Council – General Purpose Standing Committee No. 2
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Madame Chair

Please find enclosed the NSW Liberals & Nationals submission to the *Inquiry into the Building the Education Revolution Program*.

If you have any questions, please contact me

Kind Regards

A handwritten signature in black ink, appearing to read 'Ad. Piccoli', written in a cursive style.

Adrian Piccoli MP
Shadow Minister for Education
Shadow Minister for Skills and Youth Affairs

NSW Liberals & Nationals Submission

for the

Inquiry into the Building the Education Revolution Program GPSC 2

Legislative Council Inquiry into the Building the Education Revolution Program

General

The NSW Liberals & Nationals believe that the Commonwealth Government's Building the Education Revolution (BER) was a once-in-a-generation opportunity to provide essential funding for education facilities desperately needed in NSW schools, and yet the NSW Labor Government squandered that opportunity through typical incompetence and financial mismanagement.

When the BER program was announced in February 2009, schools, parents, students and education stakeholders were delighted with the opportunity to construct new halls, build new classrooms and update dilapidated buildings with the generous funding for capital works.

However, the NSW Liberals & Nationals raised questions as early as May 2009 about the NSW Labor Government wasting the Federal BER funds on management fees and bureaucratic processes that displayed little correlations with outputs.

By June 2009 the NSW Liberals & Nationals were calling for an urgent investigation into the project when a one-student school, The Lagoon School in the Bathurst Electorate, received \$250,000 for improvements to the school, including \$140,000 for a Covered Outdoor Learning Area (COLA) despite dwindling enrolment numbers (expected enrolment of one student for the 2010 school year), and the fact the school already had a COLA.

In October 2009 the NSW Liberals & Nationals discovered through Call for Papers that the NSW Labor Government was spending as much as 25 per cent of BER funds on exorbitant management and administration fees, a percentage far higher than industry benchmarks.

Individual schools had been charged as much as \$70,000 to pay for 'design documentation' for a standard COLA, despite the fact the State Government's own website includes a standard design for the construction of COLAs, including draft architect's plans.

Following an embarrassing internal audit, the NSW Labor Government was forced to scrap a \$954,000 COLA at Hastings Public School in the Port Macquarie Electorate as the structure was not "value for money".

School communities and taxpayers across NSW simply aren't getting value for money from the BER. Under NSW Labor, the BER is becoming known as the "Big Education Rip-off" or the "Builders' Early Retirement fund".

The BER program is too rigid and doesn't give schools enough of a say in what they can and cannot build.

The NSW Labor Government's poor handling of the Commonwealth's BER program has highlighted their financial incompetence and inability to deliver infrastructure projects.

The Federal Government's announcement of a BER Taskforce is an admission that the NSW Government has comprehensively bungled the program.

The NSW Liberals & Nationals have initiated this Parliamentary Inquiry into the BER to investigate the costs of building projects, the exorbitant fees and charges imposed by NSW Labor, and the effectiveness of Government oversight and contracts.

1. The levels and appropriateness of fees and charges imposed by various NSW Government agencies.

This has been a significant issue raised by the NSW Liberals & Nationals since the announcement of the BER funding.

During the NSW Government's Budget Estimates hearing for Education in 2009¹, the NSW Liberals & Nationals discovered that the State Labor Government was spending as much as \$250 million of their share of Commonwealth's \$3.4 billion BER grant on administration, including:

- 1.5 per cent surcharge being paid by the Commonwealth to the states to administer the BER – this totals \$51.319 million;
- 4 per cent in project management costs being paid to the Managing contractors who are responsible for contracting the subcontractors – this totals \$142 million.
- The Managing Contractors also received "incentive payments" of between 1 per cent and 2.5 per cent of project costs, if the projects are completed on time. Based on a 2 per cent average, incentive payments could be as high as \$60 million.

At the time, our concerns were that too much of the BER stimulus money, up to \$250 million, was going into Government bureaucracy instead of directly benefiting the schools.

Later in 2009, the NSW Liberals & Nationals obtained documents through the Legislative Council Call for Papers that indicated that the State Labor Government was spending as much as 25 per cent of the Commonwealth Government's \$3.4 billion BER funds on management and administration fees, including:

Fee description	Fee (%)
Individual project management fee	5.5
Profit Margin	3.25
Fund the DET's Integrated	1.5

¹ 16/9/09

Program Office	
Managing Contractor Fee	4
Incentive Fee	1-3.25
Coordination Fee (for Modular Buildings)	8.82
TOTAL MANAGEMENT & ADMINISTRATION FEES	26.22

This figure equated to approximately \$800 million being skimmed off the stimulus funds for management fees and incentive payments. Based on these figures, the NSW Liberals & Nationals believe that taxpayers are ultimately not seeing value for their money.

The money being spent on these fees and charges could have been spent on bricks and mortar for a library, a classroom, or a school hall.

In March 2010 The NSW Liberals & Nationals questioned the Minister for Education in Parliament as to why individual schools were being charged as much as \$70,000 to pay for 'design documentation' for a standard Covered Outdoor Learning Area. This is despite the fact that the NSW Government's own website includes a standard design for the construction of Covered Outdoor Learning Areas, including draft architects plans.

Minister Firth has failed to justify these grossly inflated costs. Why schools should be forced to pay \$70,000 for architect plans and design documents that they could print for free off a website is worthy of examination by this Committee.

Non-Government schools appear to have successfully managed their BER funds with limited involvement from the NSW Government and Department of Education & Training (DET), and also appear to have kept their administrative fees to a minimum. This has resulted in a much greater satisfaction with the BER projects delivered to the non-Government schools.

As a direct cost comparison with NSW Government schools, the NSW Catholic Block Grant Authority (BGA) have submitted their costings to the Senate Inquiry, and have shown that taxpayers could save \$1.1 billion if the NSW Government contracted its BER projects for the same price as Catholic schools.

The NSW Catholic BGA has demonstrated that they can build classrooms with the BER funds for \$2426 per sq metre, including a 40% allowance for fit-out and design costs. In summary, The NSW Catholic BGA could have delivered the NSW public school BER program for \$1.85 billion – a \$1.1 billion saving to the Australian taxpayer.

The NSW Liberals & Nationals would like the Committee to consider examining the appropriateness of fees and charges imposed by the NSW Government and Managing Contractors on the BER program.

2. Whether costs charged for construction of BER projects are in line with industry standards.

The NSW Liberals & Nationals continue to question the exorbitant cost of school buildings constructed under the BER, particularly in Government Schools.

Industry Comparison

According to national surveyors BMT & Associates, one-to-two level air-conditioned office buildings – the closest structure to halls analysed by the group – should cost about \$1260 per square metre to build. The standard “cookie-cutter” 430 sq metre school hall structure is costing taxpayers \$5800 per square metre – even though more than one third of that structure consists of a simple steel share area.

This equates to prices that are four times higher in the public sector for a school hall per square metre than similar structures in the private sector.

Furthermore, according to the nation’s leading construction cost survey, Rawlinsons Construction Handbook, single level primary school buildings in Sydney (such as a library) should cost between \$1300 and \$1400 per square metre (see Appendix 1). This would include preliminaries, substructure, superstructure, finishes, fittings, contingency allowances and services such as plumbing, electrical, fire and mechanical.

In NSW, a simple “14-core” library is costing \$5400 per square metre. Again, this equates to a cost between three times and four times higher in the public sector per square metre for school libraries, as opposed to the private sector.

The principal of Rawlinsons, Paul McEvoy, said that they would exclude the “insane” costs of schools buildings delivered under the BER from their future cost calculations because it would grossly distort their data. In an interview with *The Australian* on 8/5/10, Mr McEvoy indicated that:

“We discard anomalous projects where it looks like something is erroneous. We would never say it is going to cost \$5000 (per sq m) to build a school hall. We have so many examples of projects where buildings are consistent with our cost estimates; we would simply not use this (scheme) information.”

Paul McEvoy, Principal, Rawlinsons Quantity Surveyors and Construction Cost Consultants, Interview with *The Australian*, 8/5/10

Furthermore, when specifically questioned on the cost of halls and libraries in NSW being delivered at \$5400 per sq m and \$5800 per sq m respectively:

“I can offer no explanation for such a high figure. Insanity comes in many forms.”

Paul McEvoy, Principal, Rawlinsons Quantity Surveyors and Construction Cost Consultants, Interview with *The Australian*, 8/5/10

Direct Cost Comparison

A direct cost comparison with the BER can be made against the average Australian home.

Quaama Public School (Bega Electorate) has built a new toilet block (6 cubicles and a urinal), a sports shed and a covered walkway with \$850,000 of their BER funds. All of the toilets are medium size, with no small size for the small kindergarten students and no full size toilets for the mature year 6 students. The previous toilet block had 3 different sized toilets so students would feel comfortable. Meanwhile the teachers continue to have access to one adult sized toilet.

The Vice President of the Quaama P&C recently built a 5 bedroom family home last year for \$470,000 (nearly half of the \$850,000 BER funding allocation for the school).

This is a terribly haunting but genuine example of the misuse of BER funds that clearly demonstrate that the costs of some NSW public school buildings are not in line with not only industry standards, but general Australian construction industry standards.

Another issue the Committee might like to consider is concerned with the price of prefabricated buildings delivered by the NSW Government. According to the companies that have designed and built them for the past 20 years, under the BER they are double what they should cost.

Almost all of the 189 prefabricated libraries and classrooms under the BER come from 2 manufacturers, BRB Modular and Eastern Nomad. Pre-BER the costs were up to \$339,000, and fees of between \$62,000 and \$107,000 to connect to water and electricity. Now, taxpayers are paying \$850,000 plus for the 189 prefabricated buildings. This is approximately \$7000 per square metre, when the building and associated costs should be \$3580 per square metre, closer to the standard prices paid by Catholic and private schools.

3. The effectiveness of government oversight and review of contracts signed between Head Contractors and the NSW Government

The NSW Liberals & Nationals continue to be alarmed with the NSW Government's oversight of the BER program.

NSW Government's BER Costings

Analysis of internal NSW Government figures shows that the DET is spending up to double, and in some cases triple, what it should on building projects under the scheme. According to the NSW Government's own BER costings, a standard prefabricated double classroom should cost between \$982,235 and \$1.084 million.

The seven managing contractors handling the scheme in NSW are charging \$850,000 plus for these modular double classrooms. However, the manufacturers

who actually build and deliver those buildings say they cost just \$339,000, plus final work costing between \$62,000 and \$107,000 for such things as connecting the building to electricity and water, taking the total price to between \$401,000 and \$446,000.

The massively inflated estimates by the NSW Government (namely, that the standard prefabricated double classroom should cost between \$982,235 and \$1.084 million) explain why the NSW Government has found “no evidence of overcharging” despite claiming to have conducted 103 building “audits”.

The Committee might also like to consider the appropriateness of the NSW State Government’s auditing process.

Self-Management by Government Schools

Another issue that the Committee might like to consider during this Inquiry are the requests by Government schools to self-manage their projects. These schools did so believing that they would save money and be able to “stretch their dollar” further.

The NSW Government actively discouraged schools from self-managing projects under the BER, and then muzzled principals who spoke out against Government waste and mismanagement. During the Senate Inquiry on the 18th May 2010, Gary Zadkovich from the NSW Teachers Federation said that principals were “pressured into silence” and were told they were required to be “positive advocates for public education”. Mr Zadkovich also indicated that Government school principals were “actively persuaded” to not self-manage projects, each receiving a letter from the DET that they could personally face \$55,000 in fines if injuries occurred on building sites.

Mr Zadkovich also indicated that the letter warned principals that managed projects could be “liable for hundreds of thousands of dollars of extra building work”, and that principals would be required to report weekly on “expenditure, progress jobs and apprenticeships” or face the prospect of the Federal Government “ceasing the funding of the project”.

The NSW Liberals & Nationals do not tolerate this authoritarian approach taken by the DET, and their insistence on a “one size fits all” approach for Government schools. We have continued to advocate for the approach taken by the Catholic BGA, handing more autonomy to principals. Where principals have autonomy, a better project is delivered. This way each school receives their full allocation of BER funds and they can ultimately decide upon a project that is best suited for their needs.

All principals, in Government and non-Government schools, should have been able to work within their BER budget to get the school projects that they wanted and needed. Critics will say that this is not ideal. However there has been precedence on this, with the Howard Coalition Government directly bypassing the NSW Government and delivering funds for the Investing in Our Schools program directly to school principals. This program, scrapped by the Rudd Labor Government, was a resounding success, and many principals have privately voiced their dismay to the NSW Liberals & Nationals that the BER has not been managed as such.

As a result, it is the suggestion of the NSW Liberals & Nationals that the Committee examine the self-management requests made by Government school principals.

Comparison with Non-Government Schools

Across the state, public school P&C groups are comparing value for money in private school projects with those under the public system and finding that up to a third of the costs are being absorbed by the NSW Government's management fees.

Furthermore, the NSW Labor Government has repeatedly "reassured" the people of NSW that the costs of BER projects in NSW Government schools (such as multipurpose halls, canteens, libraries, toilet blocks and COLAs) are of a similar standard to those being constructed in the private sector.

The NSW Minister for Education has repeatedly stated in NSW Parliament that managing contractors have been engaged in order to streamline the BER process, and to deliver value for money:

"We are using managing contractors to roll out the main spend of the Building the Education Revolution to ensure that the projects delivered offer value for money, that projects are built on time and under budget, and that projects are delivered with quality and safety assured."

Minister Verity Firth, NSW Parliament, 21 October 2009

Even the chief NSW Education bureaucrat has touted these claims of similar or even higher standards of buildings constructed with BER funds in NSW Government schools.

Director-General of the NSW Department of Education and Training Michael Coutts-Trotter was adamant that NSW Government "ensures value for money" under the BER, but was he was unable to explain the difference in construction costs between state government-managed school buildings and all other school buildings delivered under the BER scheme.

During the Federal Government's Senate Inquiry into the BER, Coutts-Trotter went on to state that school buildings managed by the NSW Government were of a higher quality. When pressed further on these claims of higher quality, Coutts-Trotter claimed that Government schools were provided with termite-resistant materials, and therefore did not require spraying. He also stated that Catholic buildings were "high quality sheds".

The NSW Catholic BGA immediately rejected these claims made by the Director-General, saying that all of their buildings were constructed to "best quality". Bill Walsh from the Catholic BGA stated, "I do not accept any premise that we are delivering buildings of lesser quality".

The most damning indictment regarding government oversight of the BER came from an unlikely source – the head of the Federal Government's BER Taskforce, Brad Orgill.

Mr Orgill admitted on Ray Hadley's 2GB radio show that small schools were having projects with fixed costs unrelated to their size imposed on them by distant bureaucrats:

"Clearly the more rigid, the more centralised, the less flexibility and the more distance there is between decision makers and the educational outcome, the more problems. Smaller projects have more complaints, it seems to me, because there's a fixed cost in the rollout, which is really not related to the size of the canteen or the size of the (prefabricated building)."

Brad Orgill, Chairman of BER Taskforce, Interview with Ray Hadley, 3/6/10

Mr Orgill also admitted that smaller projects delivered under the BER had typically drawn more complaints because of "fixed costs" levied across buildings. This was "not the same as some of the other (non-Government) systems".

Another direct comparison between the Government and non-Government sector has come from the Independent Schools Council of Australia (ISCA) in their submission to the Commonwealth Government's Senate Inquiry into the BER.

ISCA specifically raised their satisfaction with the fact the Commonwealth Department of Education, Employment and Workplace Relations (DEEWR) worked directly with Block Grant Authorities to manage the involvement of non-government schools in the BER.

"This means that the Block Grant Authority in each state and territory was responsible for administering the funding allocated by the Commonwealth to schools in their jurisdiction. There was no requirement under the BER National Partnership for the independent sector to engage in negotiations with their state and territory education authorities for access to funding. The decision by the Commonwealth to provide a separate allocation for independent schools and utilise independent sector BGAs for administration has been instrumental in the successful implementation of the program for the sector"

Independent Schools Council of Australia Submission to the Senate Inquiry

Ultimately, the NSW Liberals & Nationals question how the Government oversight of the BER can be judged objectively if the NSW Government continues to issue itself with glowing report cards on their handling of the BER rollout. NSW Infrastructure coordinator general Robert Leece has described the rollout as "providing a resounding economic success".

Official NSW Government reports may be praising the NSW Government's handling of the BER funds, but the stories of waste and mismanagement about NSW BER projects, particularly those in NSW Government schools, simply do not correlate with these reports.

The NSW Liberals & Nationals ask that the Committee consider the effectiveness of government oversight in conjunction with the value for money of the BER projects in Government and non-Government schools for this Inquiry.

4. The use of local builders and tradespeople during the construction of BER projects

The NSW Liberals & Nationals would like to state again that the BER funding was a great opportunity to generate much-needed employment across NSW, particularly for tradespeople, apprentices and the construction industry in general.

NSW Job Creation

However this became the NSW Liberal & Nationals first area of concern in May 2009, when it became clear that two thirds of the demountables for the first round of the BER were being constructed in Bendigo, Victoria.

The NSW Minister for Education had previously boasted about the number of jobs that the BER stimulus package would create for NSW, telling Parliament:

“there is no higher priority for the Rees Government than... creating new jobs for families in New South Wales”

Minister Verity Firth, NSW Parliament, 10 March 2009

However, 112 of the 162 modular rooms were to be built by Bendigo Relocatable Buildings in Victoria, even though companies in NSW could have fulfilled the work.

Using the stimulus package to create jobs outside of NSW is a straightforward example of the NSW Government’s failure to prioritise the use local builders and tradespeople during the construction of BER projects.

The NSW Liberals & Nationals are committed to building a strong economy that delivers jobs to NSW, not other States.

Direct Comparison between Government and non-Government sector

In their submission to Commonwealth Government’s Senate Inquiry, the NSW Catholic BGA were clear about their preference for local builders and tradespeople. In particular, they noted “local builders have been engaged where they could demonstrate sufficient experience and ability in projects of P21 scale.”

The NSW Liberals & Nationals believe that a better utilisation of local tradespeople and builders for each step of the BER process (from tenders to site management and local project designs) could have resulted a more effective BER rollout, particularly in Government Schools.

Therefore, the NSW Liberals & Nationals ask that the Committee examine the utilisation of NSW tradespeople in BER projects.

5. Whether outcomes were of acceptable quality and suitable to the needs of each individual school

The NSW Liberals & Nationals believe that the “one size fits all” approach taken by the NSW Government for the BER funds in NSW Government Schools has not worked.

Individual Government schools have complained about the management and cost of their BER projects, either publicly through the media, or privately to many NSW Liberals & Nationals MPs. There are far too many to mention in this submission in great detail, but instead have included it as an Appendix (Appendix 2).

In brief, these complaints range from:

- Widespread and sustained discouragement from the DET to self-manage their projects
- Lack of flexibility - schools not receiving the projects for their specific needs/wants
- “Cookie-cutter” designs
- Exorbitant Fees (Management and Administrative)
- Extensive cost blowouts
- Significant descoping of projects, with certain items “disappearing” from original plans
- Excessive design costs
- Delays in project delivery
- Shoddy workmanship, including cracks in the walls and one library that does not fit its foundations
- Installation of unflued gas heaters (now on hold in NSW following numerous health reports and complaints over their installation)
- Schools only given a few days to nominate their project for BER funding
- Lack of air-conditioning in new classrooms, libraries and halls, particularly in areas where summer temperatures are above 40°C on average
- No heaters in some new classrooms, libraries and halls, particularly in areas where winter temperatures are below 10°C on average
- Schools being promised a structure of a certain size, only later to receive a smaller sized version
- Schools having to pay the balance of their over-budget BER projects in order to use them
- Exorbitant costs for toilet blocks and canteens
- The NSW Government’s preference for modular buildings over those with “bricks and mortar”
- Issues with interactive whiteboards that cannot be mounted to the demountable classroom walls (the interactive whiteboards are too heavy for the flimsy material)
- Local contractors owed money by builders
- Too many “middle men”
- Principals not knowing the final cost of their project
- Separate fees to managing contractors for hiring “outside builders” and “in-house” builders
- Managing Contractors selecting sites on school grounds for the projects without direct consultation with principals, resulting in loss of playground space (ie using Google Earth)
- Unnecessary demolition of a block of 4 classrooms to construct 5 classrooms

- Lack of emergency exits in some libraries
- Schools being informed that the BER timetable is too rigid to make any changes
- Schools having BER structures built, such as a COLA or Library, when they already have one and are happy with their existing one
- Threats of losing funding if they continue to complain about their BER projects

The NSW Liberals & Nationals ask that the Committee look into the outcomes of BER projects to determine whether they were of acceptable quality and suitable to the needs of each individual school.

6. Any other related matters

The NSW Liberals & Nationals have been documenting the stories of waste in BER schools, and have included it in the Appendix of our submission (Appendix 2).

However, there are a number of other matters that we wish to make comment on for the Legislative Council BER Inquiry.

DET Director-General Michael Coutts-Trotter ordered a review of the costs of 260 shade structures being installed for the BER following the scrapping of a \$1 million COLA project at Hastings Public School on 1 April 2010.

While the audit on Hastings Public School has been released, the public continue to wait for the results of the 260 other audits. The NSW Government needs to be open and transparent about these audits. The NSW Liberals & Nationals will continue to press the NSW Labor Government to release these audits, and it is our recommendation that the Committee considers this during its Inquiry.

Many of the stories of waste and mismanagement of the BER have come from two sources, Ray Hadley of 2GB and *The Australian* newspaper. One general comment from an editorial in *The Australian* sums up the argument that The NSW Liberals & Nationals have regarding the BER:

“The fact that the BER is mainly trouble-free in the large Catholic system and among independent schools demonstrates how it could have proceeded in the public sector”

Editorial, *The Australian*, 4 June 2010

Many principals have spoken in confidence to Members of the NSW Liberals & Nationals regarding their fears of speaking out about the BER.

The NSW Liberals & Nationals are alarmed at the revelation of information at the Senate Inquiry where a NSW education department employee berated a principal for “posting a negative message” to other principals on an internal email network and for “making public comment”. This departmental employee wrote to the principal in question, stating:

“It is evident that you breached the code of conduct and made public comment in the media. It is my expectation that in the future you do not engage in such activities.”

NSW Department of Education Employee to a NSW Government school principal,
as reported by Gary Zadkovich at the Senate Inquiry, 18/5/10

Freedom of speech is an important and essential liberty in a democratic Australia. The fact that this has occurred in NSW is outrageous. Departmental employees or other government employees should not have suppressed the opinions of NSW Government school principals. Our concern is that this is not just an isolated example, and that this type of deliberate repression has occurred throughout NSW, particularly in NSW Government schools, during the rollout of the BER.

Furthermore, the NSW Liberals & Nationals thank all of the NSW school principals and P&C organisations for having the courage to speak out regarding the BER funds, despite the veiled threats.

The NSW Liberals & Nationals ask that the Committee look into these matters during their Inquiry.