

BWI Resolutions

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05. Australian Building and Construction Commission

Submitted by: CFMEU Australia

The Building and Wood Workers' International (BWI) is extremely concerned about the re-establishment by the Turnbull Government of the Australian Building and Construction Commission (ABCC).

The ABCC was originally created in 2005 under the Howard Government and imposed separate legal restrictions and higher penalties on trade unions in the construction industry, notably BWI affiliates the Construction, Forestry, Mining and Energy Union (CFMEU) and the Electrical Trades Union (ETU). While many of these reforms were rolled back in 2012 under the Labor Government, the *Building and Construction Industry (Improving Productivity) Act 2016*, which reinstates the ABCC, has triggered concerns over violations of construction workers' human rights.

The previous legislation, which this replicates and extends was found to be in breach of a number of ILO conventions, including Freedom of association, collective bargaining and labour inspectorates. The ABCC increases the maximum penalty for 'unlawful industrial action' over 15 times, grants coercive investigative powers in violation of workers' due process rights, in violation of the right to silence. It authorises ABCC Inspectors and Federal Safety Officers to enter premises, ask a person's name and require them to produce documents, as well as reversing the onus of proof to require construction workers to prove that actions they were involved in are not industrial action (but rather based on health and safety concerns). Under Section 34 of the Act, the *Building Code 2016* applies further requirements for contractors tendering for projects funded by the Federal Government. The Code restricts what can appear in an Enterprise Bargaining Agreement, restricting not only 'union-friendly' clauses, but also clauses that encourage the employment of apprentices, that require employers to look for local workers first, that prevent unlimited ordinary working hours, that allow construction workers to have a fair and safe workplace, or that place limits on labour hire and casual work.



The ABCC has been promoted on the grounds that it will tackle corruption and criminality in the construction sector, however the ABCC legislation has no such role – it can deal only with industrial matters. Further, the claim that the ABCC will boost productivity is based on discredited economic analyses and holds little water. These claims and others have been debunked by independent and Government experts alike.

The BWI strongly condemns the re-establishment of the ABCC and the associated Building Code, which violates the rights of construction workers. The BWI pledges to work alongside our Australian affiliates the CFMEU and the ETU, to challenge the law in international jurisdictions, including but not limited to the ILO Committee on Freedom of Association.

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