



Senate Education and Employment Legislation Committee

**Building and Construction Industry
(Improving Productivity) Bill 2013 [No.2]**

**Building and Construction Industry
(Consequential and Transitional
Provisions) Bill 2013 [No.2]**

February 2016

AMMA is Australia's national resource industry employer group, a unified voice driving effective workforce outcomes. Having actively served resource employers for more than 97 years, AMMA's membership spans the entire resource industry value chain: exploration, construction, commercial blasting, mining, hydrocarbons, maritime, smelting and refining, transport and energy, as well as suppliers to those industries.

AMMA works to ensure Australia's resource industry is an attractive and competitive place to invest and do business, employ people and contribute to our national well-being and living standards.

The resource industry is and will remain a major pillar of the national economy, and its success will be critical to what Australia can achieve as a society in the 21st Century and beyond.

The Australian resource industry currently directly generates over 8% of Australia's GDP. In 2014-15 the value of Australian resource exports were \$171.9 billion. This is projected to increase to \$256 billion in 2019-20. It is forecast that Australian resources will comprise the nation's top three exports by 2018-19. Over 50% of the value of all Australian exports are from the resource industry.

Australia is ranked number one in the world for iron ore, uranium, gold, zinc and nickel reserves, second for copper and bauxite reserves, fifth for thermal coal reserves, sixth for shale oil reserves and seventh for shale gas reserve.

AMMA members across the resource industry are responsible for significant level of employment in Australia. The resources extraction and services industry directly employs 219,800 people. Adding resource-related construction and manufacturing, the industry directly accounts for 4 per cent of total employment in Australia.

Considering the significant flow-on benefits of the sector, an estimated 10 per cent of our national workforce, or 1.1 million Australians, are employed as a result of the resource industry.

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THIS GROUND HAS BEEN COVERED...MORE THAN ONCE

1. The two Bills being considered in this inquiry have been subject to repeated previous inquiries by this committee:
 - a. The Committee completed an inquiry into *Building and Construction Industry (Improving Productivity) Bill 2013* and the *Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013* and [reported](#) on 2 December 2013.
 - b. The References Committee inquired into and reported on the "Governments approach to re-establishing the Australian Building and Construction Commission", which [reported](#) on 27 March 2014.
 - c. During the previous Parliament, this Committee also considered and [reported](#) on the *Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012* that abolished the Australian Building and Construction Commission.
2. AMMA made extensive submissions to each of these three inquiries, encompassing:
 - a. AMMA's [submission](#) to the 2013 inquiry into the [1] Bills, identical to those again before the Senate (November 2013).
 - b. AMMA's [submission](#) to the 2014 inquiry into the governments approach to restoring the ABCC (January 2014).
 - c. AMMA's [submission](#) supporting retention of the ABCC, and opposing its deliberate watering down by the previous Labor government (January 2012).
3. AMMA understands that there are no differences between the original iteration of these Bills seeking to restore the ABCC and the second or number [2] Bills that is subject to this inquiry.
4. There is also no additional guidance to submitting organisations and individuals on what more the Senate wishes to be provided with on these already examined Bills, or any new questions or considerations.
5. With the terms of reference for these legislation inquiries being the text of the Bills, and no additional questions or pointers as to pertinent questions from the Senators, this makes it exceptionally hard to add to what we have already said.

THIS INQUIRY IS NOT NECESSARY

6. Taking into account inquiries in 2012, 2013 and 2014 and repeated debate in the Senate, this further inquiry appears unnecessary. **Senate processes have already amply traversed the ground necessary for Senators to inform themselves to vote on the [2] Bills, and there is no new information/developments to necessitate this inquiry.**

7. There is very limited scope for an organisation such as AMMA, which has already extensively engaged with the Senate on this legislation, to provide anything further to assist the Senate.
8. The Bills have not changed and the cultures and conduct which requires a strong industry regulator have not changed. The problem has been articulated and a proven solution proposed in legislation. It is now up to the Senate to apply a proven solution to remediate the problems it has been shown, and the urgency of doing so multiplies daily.
9. AMMA shares the concerns of the Minister for Employment and some Senators that this further inquiry may be more motivated by delaying the ABCC Bills than any need for further information or genuine consideration of passing the legislation.
10. The Minister for Employment described the convening of this inquiry as “a move to deliberately delay a vote on the restoration of the Australian Building and Construction Commission”¹. She went on:

“Labor and the Greens have made their position on the ABCC abundantly clear – they will not support its restoration.

They are now engaged in nothing more than gratuitous delaying tactics.”
11. Senator Muir also summed this up pretty neatly:

“The Bill has been scrutinised by both committees and has already been subject to substantial debate in both houses. I suspect debate will continue and expect that there will be an extensive second reading committee stage (committee of the whole) if it passes the second reading vote in the Senate.”

“I was not inclined to refer the current Bill to another committee, as it has not been changed or amended since it was last scrutinised...”²
12. Senator Muir entitled his media release on the commencement of this inquiry “...here we go again”.
13. AMMA shares the Senators' frustration; the work of this Committee has been completed in relation to restoring the ABCC, more than once.
14. The task now falls to the Senate as a whole to either restore the ABCC by passing the BCII Bills, or reject them, and the Senate comes to this task armed with three Committee reports, dozens of submissions, and two Royal Commission reports.
15. There is nothing more AMMA can add to the decision the Senate must make.

¹ <https://ministers.employment.gov.au/cash/deliberate-delay-vote-abcc-bills>

² <http://www.senatormuir.org.au/news/media-statement-muir-abcc-committee-referral-here-we-go-again>

16. Senator Cash neatly encapsulates AMMA's concerns in her media statement following the latest referral of the BCII Bills to this Committee:

“Senate Committees play an important role in considering legislation; however the ABCC Bill is in exactly the same form as it was when it was last introduced in the Senate. As such, it is inexplicable as to what more could be gained by the Senate by subjecting it to yet another Committee process.”³

17. AMMA is at a loss as to what can be gained by further consideration of these Bills by this Committee.
18. In AMMA's view the evidence clearly and consistently favours the restoration of the ABCC. Furthermore, evidence, as opposed to short sighted ideology and defence of vested interests, never favoured abolishing the ABCC and replacing it with ineffective, lighter touch enforcement in the first place.

APPEARING BEFORE THE COMMITTEE

19. AMMA always endeavours to meet any request to appear before the Committee, and prides itself on being a key participant assisting the Committee's deliberations on a wide range of matters.
20. However on this occasion we are sceptical that we could assist the Committee given our firm view that nothing material has changed in the legislation or in our nation's building and construction industry to necessitate this further inquiry. We also doubt we have much to add to our previous written and oral submissions.
21. We firmly believe the 'jury is in' on the need to pass the two stalled BCII Bills and restore the ABCC as has been proposed since late 2013.
22. Furthermore, to be frank, were this to be at its heart an exercise in obfuscation and delay, and were the Minister for Employment to be right in her observation that few if any participating Senators are open to a change of position, then AMMA would question the value of participating further on a matter on which we feel we have fully prosecuted our position on to date.

THE VIEWS OF THE RESOURCE INDUSTRY

23. AMMA commends again to the Committee:
 - a. AMMA's [submission](#) to the 2013 inquiry into the [1] Bills, identical to those again before the Senate (Nov 2013).
 - b. AMMA's [submission](#) to the 2014 inquiry into the governments approach to restoring the ABCC (Jan 2014).

³ <https://ministers.employment.gov.au/cash/deliberate-delay-vote-abcc-bills>

- c. AMMA's [submission](#) supporting retention of the ABCC, and opposing its deliberate watering down by the previous Labor government (Jan 2012).
24. Properly considered, and based on evidence such as that provided by AMMA, and the Cole and Heydon Royal Commission findings and recommendations:
- a. This Committee should advise the Senate to pass the two BCII Bills without amendment.
 - b. Senators (Labor, Green and cross-bench), who have previously rejected the legislation, should support its passage when it next comes before the Senate.