

9 May 2016

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Dear Mr Turnbull,

Resource industry priorities for workplace relations reform – 2016 survey results

As the resource industry's employer representative, AMMA works to ensure our workplace relations laws provide a positive foundation for employment, growth and doing business in this country. This must include addressing flaws and imbalances within Labor's *Fair Work Act 2009* that have long impacted on our industry's capacity to compete globally and attract job-creating investment to Australia.

In addition to our extensive submissions to two separate enquiries into the Fair Work laws, AMMA recently surveyed more than 100 leading resource companies to further record their operating experiences under Australia's current workplace relations system.

The *AMMA 2016 Federal Election Survey* (attached) clearly shows widespread industry support for fundamental reforms that would get Australia's workplace relations system back on track and ensure it supports the workplaces of the future.

As a starting point, AMMA has developed the following **5 reforms over 5 years**, which we will advocate for during the 2016 Election campaign and during the next term of government:

1. **Focus enterprise bargaining**, and ensure legally protected strike action can only be taken over claims pertaining to the employment relationship, not union 'wish lists' of claims.
2. **Return balance to union workplace entry laws** by creating an enforceable code of conduct and removing union access to employee lunch rooms when other suitable meeting rooms are available.
3. **Expand agreement making options** to facilitate employment arrangements, both individual and collective, directly between employees and employers.
4. **Reform unfair dismissal** and 'general protections' laws to ensure employers are not forced to pay 'go away money' to settle claims without merit.
5. **Replace the Fair Work Commission** with modern, balanced institutions by creating an Australian Employment Tribunal and a separate Employment Appeals Tribunal.

Resource employers, through AMMA, will also continue to support the restoration of the Australian Building and Construction Commission (ABCC) and extending its coverage to offshore construction and suppliers.

A modern and competitive workplace relations system must not only provide adequate protection for workers, but also allow for individual choice, flexibility and agility to ensure businesses can invest, prosper and create employment opportunities.

We would be pleased to provide further information on AMMA's *Federal Election Survey* results and other research and reform options. I can be reached on (03) 9614 4777 or via policy@amma.org.au.

Yours sincerely



STEVE KNOTT
Chief Executive





AMMA 2016 FEDERAL ELECTION SURVEY

Policy Priorities of the Australian Resource Industry

KEY FINDINGS

April 2016



Between March and April 2016, national resource industry employer group AMMA surveyed its members across Australia's mining, oil and gas, construction and allied sectors on a range of policy issues in the lead up to the 2016 Federal Election.

Survey respondents detailed their current employment and operational challenges and identified workplace relations reforms that the next Australian Government should deliver to maintain a competitive, job generating Australian resource industry.

More than 100 of Australia's leading resource companies, employing over 85,000 people in Australia are represented. Here is a snapshot of the key results.

90% 
of resource employers believe key Productivity Commission recommendations for workplace reform must be implemented by the next Australian Government.

87% 
say the government must go further with workplace reform.

82% 
of resource employers support the urgent restoration of the Australian Building and Construction Commission (ABCC).

only 1 in 20 
resource employers believe our current workplace relations system reflects the modern Australian economy.

"The industry in which we operate has changed considerably while the labour institutions and regulatory framework has been very slow to respond. The pace of change will continue and it is apparent that unless we modernise our labour relations in Australia we will not be an attractive investment option and, importantly, innovation and growth in our economy will be stifled." – Metalliferous mining company / respondent to AMMA's 2016 Federal Election Survey.

THE OPERATING ENVIRONMENT IS CHALLENGING, AND CONDITIONS ARE NOT SET TO IMPROVE...

86%



of resource employers describe the current operating environment as 'challenging' or 'extremely challenging'.

76.5%



have downsized their workforce in the past two years, with 39% being 'significantly smaller'.

79.5%



expect the operating environment to be 'challenging' or 'extremely challenging' in 12 months' time.

94%



rate government regulation and compliance costs as a key impediment to growth.

"International commodity prices have fallen rapidly. There are significant cost pressures and a restricted ability to enact good business practices due to legislative policies. Enacting change is cumbersome and costly." – *Minerals processing company.*

"The forecast is that it will only get worse in terms of the international market." – *Smelting industry employer.*

OUR WORKPLACE RELATIONS LAWS ARE CREATING INCREASING PROBLEMS FOR DOING BUSINESS IN AUSTRALIA...

89%



of respondents say an inability to structure employment arrangements to suit operational needs is a key growth impediment.

63.5%



believe Australia's current workplace relations system actively creates barriers to employment.

70%



say the current workplace relations system makes it difficult to compete globally.

95%



of resource employers believe the current workplace relations system under the Fair Work Act does not reflect the modern Australian economy.

"The workplace relations system has allowed negotiations to be based on a lagging indicator ... hinged on the resources boom level of employment demand. Now, wages are much higher than they would be if the resources boom had not occurred." – *Oil and gas company.*

"Our current workplace relations environment encourages combative behaviour and panders to special interest groups. It encourages people and those groups to act in their own vested interests with no thought or recourse to the bigger picture." – *Commercial diving firm.*

ENTERPRISE BARGAINING UNDER THE FAIR WORK ACT IS NOT WORKING...

just 7%



of Australia's resource employers, or only 1 in 13, believe enterprise bargaining under the Fair Work Act meets the needs of both employers and employees.

73%



say union opposition to changing existing terms and conditions is a 'moderate' or 'major' concern.

83%



are concerned at unions seeking to take strike action before bargaining has been exhausted.

87%



of resource employers are concerned that unions are seeking excessive increases in wages or conditions without any improvements in productivity or efficiency.

"Unions have disproportionate influence in agreement making given (their) membership is about 10% of the workforce. It is inappropriate that unions have a default position in bargaining. The low membership should mean that unions have to be expressly invited." – *Employer in the metalliferous mining sector.*

UNION POWERS TO ENTER WORKPLACES NEED TO BE BALANCED AND REFLECT CONTEMPORARY LEVELS OF UNION MEMBERSHIP...



of resource employers are concerned at the frequency of union visits to hold discussions with employees.



resource employers are concerned about disruption to normal operations when unions enter workplaces.



are concerned about unions misusing entry powers, or entering for safety reasons where their true purpose is pursuing industrial relations claims.



are concerned at unions insisting on meeting with employees where they take their meal breaks (a power introduced by the previous Labor government).

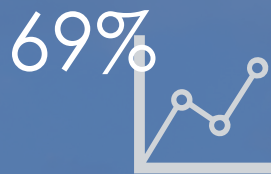
4 out of 5 employers have difficulty with interpreting union eligibility to access their workplaces.

86% are concerned about the costs of facilitating union entry, including chaperoning and transport costs.

UNFAIR DISMISSAL PROCESSES ARE OUT OF WHACK...



of resource employers have received an unfair dismissal claim under the Fair Work Act.



say speculative claims lacking merit are a 'moderate' or 'major' concern for their businesses.



are concerned with having to settle claims despite them having no merit, showing the Fair Work Act's efforts to eradicate 'go away money' to be a complete failure.



say the cost in defending an adverse action claim, even when lacking merit, is a 'moderate' or 'major' concern.

"We have experienced claims where the former employee has had to provide very little evidence to support their claim... we were seen to have applied appropriate procedures yet still had to negotiate and pay settlement amounts to make the matter go away". – *Mineral processing company*.



have 'moderate' or 'major' concerns at unions seeking terms in enterprise agreements that do not pertain to the direct employment relationship between employers and employees.



employers who negotiate greenfield agreements for new projects are concerned about delays and the need to concede to union demands before work commences.



have 'moderate' or 'major' concerns at union claims to restrict the use of contractors, labour hire or casuals.

"Bargaining is slanted too heavily in favour of employees / unions... This makes a nonsense of bargaining being genuine. Bargaining pays little attention to the realities of small business. It remains an effort to extract as much as possible...and unions could not care less." – *Mineral processing / smelting company*.

THE FAIR WORK COMMISSION MUST BE REFORMED...

87%



resource employers believe the structure and approach of the FWC should be reviewed ASAP.

only 1 in 10



employers don't see the need for a separate, independent appeals jurisdiction to review FWC decisions.

74%



support greater use of Alternative Dispute Resolution (ADR) to resolve workplace issues outside of the FWC.

65%



of employers want the FWC to better promote enterprise bargaining for workers who are not represented by a union.

THE NEXT AUSTRALIAN GOVERNMENT MUST HEED THE CHALLENGE FOR REFORM...

9 in 10

resource employers believe key Productivity Commission reform recommendations for workplace reform must be implemented as a key priority by the next Australian Government.



87%

say the government must go further with workplace relations reform to deliver the increased flexibility and productivity Australian enterprises need.



9 in 10



resource employers believe employees should be able to enter into collective agreements with their employer without the need for a union party.

73%



believe modern awards should be phased out for high income earners in the resource industry.

84%



think high income earners should have more freedom to tailor their wages and conditions directly with their employer.

8 in 10



want a genuine option for individual statutory agreement making.

76%



want unions to be either covered by an existing enterprise agreement or negotiating one in order to enter workplaces to hold discussions with workers.

94%



want an enforceable code of conduct for unions entering workplaces.

FURTHER INFORMATION

This is a summary of the key findings from the *AMMA 2016 Federal Election Survey*. The detailed results are available in the survey's Full Report, available on the AMMA website (amma.org.au).

AMMA's comprehensive submission to the Productivity Commission's Review of Australia's Workplace Relations Framework, *Getting Back on Track*, and supporting economic research is available at amma.org.au/backontrack.

For media inquiries or further information please contact AMMA's Media, Marketing & Communications Manager, Tom Reid on 0419 153 407 or via tom.reid@amma.org.au.

