



ABN: 32 004 078 237
ACN: 004 078 237

Melbourne Office (Head Office)
Level 10, 607 Bourke Street
Melbourne VIC 3000
T (03) 9614 4777
F (03) 9614 3970
E vicamma@amma.org.au
W www.amma.org.au

30 June 2008

Wilcox Consultation Terms of Reference
Attention: Michael Maynard
Location code 10M31
GPO Box 9879
Canberra
ACT 2601

Dear Mr. Maynard

Re: Comment on the Wilcox Review- Proposed Terms of Reference

The Australian Mines and Metals Association (AMMA) provides the following in relation to the Wilcox terms of reference.

A primary issue associated with the terms of reference is that AMMA strongly believes that a review of what has occurred since the Cole Royal Commission in 2003 is paramount in assessing what is working and what is appropriate to retain to ensure the rule of law applies in the construction industry, an industry that is vital to Australia's economic performance.

AMMA is particularly interested in the collection and analysis of information that demonstrates the benefit of the role undertaken by the ABCC since its inception. AMMA is confident that a review of the work that the ABCC has undertaken in recent years will provide positive evidence of its contribution to the reduction in levels of industrial disputation and increased productivity in the construction sector.

Past experience of unlawful, inappropriate and unproductive industrial behaviour was documented by the 2003 Cole Royal Commission into the building and construction industry and the final report of the Building Industry Taskforce. The Cole Commission concluded that there was a need for an independent body to monitor, investigate, enforce, and if necessary facilitate proceedings to ensure adherence to the laws relating to the industry.¹ The ABCC was consequently developed under the operation of the *Building and Construction Industry Improvement Act* of 2005.

In respect to its operation, the Australian Building and Construction Commissioner has reported that in just two years the productivity of industry has improved, more jobs are being completed within budget and on time, and that this increased productivity has benefits for all Australians.

¹ Hon. T Cole, Commissioner, Final Report of the Royal Commission into the Building and Construction Industry, *Summary of Findings and Recommendations*, Volume 1, February 2003, www.royalcombcgi.gov.au (site accessed 25 June 2008)



Thus, AMMA strongly believes the ABCC's powers and processes should be retained to ensure strong and productive workplaces in the building and construction industries, even if this body with its relevant powers is subsumed into the Government's proposed Fair Work Australia (FWA). The weakening of the current compliance regime, overseen by a watered-down, weakened and subservient Specialist Division of FWA, is not in Australia's longer-term interest.

On any analysis of what occurred in relation to illegal industrial action in the construction industry prior to the establishment of the ABCC, it is clearly evident that cost overruns and high industrial disputation impacted on construction costs, investor confidence, and indeed higher cost to end users such as the general public in Australia.

The proposed terms of reference

In order to ensure the benefits of the current regime are protected and continued in the event that the ABCC is subsumed into Fair Work Australia, AMMA proposes that the following topics be reviewed:

- the levels of satisfaction of persons and businesses that have interacted with the ABCC;
- changes in commercial construction costs since the creation of the ABCC;
- the impact on levels of industrial disputation in the construction sector since the creation of the ABCC and how Fair Work Australia would ensure the rule of law continued to apply in the construction industry;
- the impact to the ABCC's activities on labour productivity in the Australian construction sector;
- the scope of investigations and compliance activities proposed to be undertaken by the new Division, and the impact the removal or reductions in the level of coercive powers would have on the capacity to collect evidence; and
- the interaction of a Specialist Division with other federal enforcement agencies such as the Australian Securities and Investments Commission, the Australian Taxation Office, the Australian Competition and Consumer Commission and with any relevant state agencies.

AMMA looks forward to making further comment on the review process and substantive draft legislation as appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Knott', is written in a cursive style.

Steve Knott
Chief Executive - AMMA