



**Australian Government**  
**Australian Building and  
Construction Commission**



7 February 2020

Mr Dave Noonan  
National Construction Secretary  
Construction, Forestry, Maritime, Mining and Energy Union  
Level 9  
215-217 Clarence Street  
SYDNEY NSW 2000

**By email:**

Dear Mr Noonan

I refer to the CFMEU Construction media release 'Unfit ABCC failing to prosecute builders' dated 23 January 2020.

On 2 December 2016, the ABCC assumed jurisdiction for ensuring that workers in the commercial building and construction industry receive their entitlements. Since then, the ABCC has undertaken proactive compliance campaigns and responded to allegations of non-payment/under-payment.

The media release refers to around \$60 million in wages having been recovered by the CFMMEU over the past five years. I invite you to provide the particulars of those underpayments recovered since 2 December 2016, so that the ABCC can determine if further action is warranted.

Further, I encourage the CFMMEU to refer information regarding the alleged underpayment of wages and other entitlements to the ABCC at any time. I remain committed to ensuring that all building industry participants comply with their legal obligations under designated building laws.

I am available to meet to discuss these matters at a convenient time. I look forward to your response.

Yours sincerely

Stephen McBurney  
Commissioner  
**Australian Building and Construction Commission**

# CFMEU

## CONSTRUCTION

27 February 2020

Mr Stephen McBurney  
Commissioner  
Australian Building and Construction Commission  
GPO Box 9227  
Melbourne 3000

CFMEU CONSTRUCTION &  
GENERAL DIVISION NATIONAL OFFICE  
Level 1, 1 Miller Lane  
Pyrmont NSW 2009

ABN: 46 243 168 565

**BY EMAIL:**

Dear Mr McBurney,

I received your letter of 7 February 2020.

As your correspondence indicates, in the Union's press release dated 24 January 2020 (*Unfit ABCC Failing to Prosecute Builders*) I have publicly called out the double standards of the agency you head. I stand by these comments.

Your inspectors spend endless hours and millions of dollars hunting for union stickers and Eureka flags. Your agency prosecutes workers and unions for the most trivial matters and ignores flagrant wage theft, sham contracting and tax evasion by shonky employers.

When the union called out the appalling exploitation of migrant workers at the John Holland Hobart Hospital site, your agency did not recover a red cent. It failed to prosecute an employer which had failed to pay workers any wages for over seven weeks. The union recovered over a million dollars for those workers.

It is unsurprising that the ABCC has recovered only \$1 million compared to the \$60 million that the CFMEU has recovered. The CFMEU has a long and proud history of recovering underpayments and combating sham contracting. The ABCC, however, has completely ignored its explicit legislative obligation to treat industry participants equally.

Even worse, we have also become aware that the ABCC is now directing head contractors not to audit subcontractors who seek to ensure compliance with statutory requirements on their sites. This will obviously make wage theft worse.

As to the recovery of underpayments by the union, we regard these matters as concluded. There is no utility in the union wasting its time, and member's money, re-opening successfully concluded wage claims simply to give your discredited agency a fig leaf of legitimacy. We'll continue to use our resources to resolve existing and new claims, and to improve construction workers' wages and conditions. We also value the privacy of our members, and will not provide your agency with their personal information.

If you want the ABCC to be proactive as you claim, you just need to direct your resources and inspectors to make wage theft a priority, rather than asking the CFMEU to identify already-resolved wage claims for you. But we're more likely to see pigs fly down St Kilda Road than see the ABCC do that.

The ABCC was set up to attack construction workers rights, wages and conditions; I'm tipping you'll keep doing what you know best.

Yours sincerely,

**Dave Noonan**  
National Secretary  
CFMEU – Construction & General Division