



Major changes to ABCC functions: From 10 November 2022, the ABCC's role enforcing the *Fair Work Act 2009* in the commercial building and construction industry will transfer to the Fair Work Ombudsman. Therefore the information on this website is under review. [Read the ABCC E-Alert](#) published on 27 October 2022 to learn more about these changes.



CURRENT

Huntington Apartment Project

Australian Building and Construction Commissioner v Construction, Forestry, Maritime Mining

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CASE NAME

Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union & Ors

KNOWN AS

Huntington Apartment Project

COMMONWEALTH COURTS PORTAL REFERENCE AND LINK

[NSD738/2022](#) [↗](#)

APPLICANT

Australian Building and Construction Commission

RESPONDENT(S)

- CFMMEU, Robert Kera, Brendan Holl, Mark Cross, Joseph Uati, Karl Hitchcock, Troy Davis

DATE FILED

8 September 2022

STATE/TERRITORY

NSW

ALLEGED BREACH(ES)

- Coercion
- Non-compliance with right of entry laws

STATUS

Current

SUMMARY

The ABCC commenced court action on 8 September 2022 against the New South Wales division of the CFMMEU and five of its officials over their alleged actions during a picket at a Newcastle building site in October 2021.

The picket was allegedly organised when the principal contractor of the \$42 million Huntington Apartment project refused to sign an enterprise agreement with the union.

The ABCC is alleging in its statement of claim that during the period 7 October to 12 October 2021:

- Workers attempting to access the site were subjected to abuse including being called 'f***ing scabs, dogs and grubs'.
- During the dispute up to 40 picketers led by CFMMEU NSW state secretary Robert Kera and organisers: Brendan Holl; Mark Cross; Joseph Uati and Karl Hitchcock, chanted slogans, waved CFMMEU flags and constantly used megaphones and sirens to intimidate the workers.
- The picket resulted in several crane companies engaged to lift concrete decks into place and erect site lifts refusing to work, as did a number of scaffolders.
- Workers of the head contractor who continued to work were continually harassed, received abusive text messages referring to them as 'scabs' and told they would never work in Newcastle again.
- The picketers' actions caused anxiety and distress to the workers and discouraged and prevented them from working on site.

On 12 October 2021 it's alleged:

- CFMMEU officials Brendan Holl and Troy Davis, without permission, climbed the ladder of a tower crane while it was operating. The official's then started shaking the crane's ladders and refused repeated calls to climb off the crane.
- Due to the officials' intrusion on the crane, work was immediately stopped, and the crane operator advised to lock the hatch door. As a result of the officials' actions, the tower crane did not operate for the remainder of the day.

The ABCC is alleging the CFMMEU; and its officials contravened sections 348, 500 and 503 of the *Fair Work Act 2009*, with a total of 14 alleged contraventions.

The maximum penalty for a contravention of the Fair Work Act is \$66,600 for a body corporate and \$13,320 for an individual.

HISTORICAL CONTENT

[14 Sep 2022 - ABCC alleges CFMMEU targeted workers with abuse and threats at Newcastle building site](#)

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