

Ai GROUP SUBMISSION

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]

19 February 2016

Ai Group's position

The Australian Industry Group (Ai Group) has a large membership in the construction industry including both major builders and large and small subcontractors.

Ai Group strongly supports the *Building and Construction Industry (Improving Productivity) Bill 2013 [No.2]* ('Bill') and the *Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No.2]* ('Transitional Bill').

The Bills would repeal the *Fair Work (Building Industry) Act 2012* ('FWBI Act') and reintroduce numerous key provisions of the *Building and Construction Industry Improvement Act 2005* ('BCII Act'). The BCII Act was introduced following the Final Report of the Royal Commission into the Building and Construction Industry (Cole Royal Commission) in February 2003. The BCII Act introduced reforms which led to a dramatically improved workplace relations environment in the construction industry. The industry had never been a better place to work and invest. Productivity in the industry improved and construction costs were lowered which led to more affordable infrastructure for the community. At the same time, employees benefitted from highly paid jobs and harmonious workplaces.

The community has a legitimate and direct interest in ensuring that construction costs are reasonable and that taxes are well spent, including on roads and other vital infrastructure. The community also has a direct interest in ensuring that the rule of law is upheld. The BCII Act reinforced the rule of law in the industry and the Bills would have a similar very positive effect.

The Royal Commission into Trade Union Governance and Corruption (Heydon Royal Commission) provides further powerful evidence of why the Bills need to be passed by Parliament without delay. The final report of the Royal Commission demonstrates that the case for change is irrefutable. In the light of the Royal Commission's findings and recommendations, any view that the existing laws are working effectively is simply unsustainable.

There were four key pillars to the reforms which were introduced in response to the recommendations of the Cole Royal Commission:

1. The Australian Building and Construction Commissioner (ABCC);
2. The BCII Act;
3. Various important recommendations of the Royal Commission which were implemented via the *Workplace Relations Act 1996* and which are now matters dealt with in the *Fair Work Act 2009* (e.g. right of entry, genuine enterprise bargaining, etc); and
4. Construction Industry Codes / Guidelines.

Unfortunately, each of these four pillars have been substantially eroded through ill-conceived changes introduced since 2009, including watering down the legislative provisions, implementing a much less effective building code (i.e. the *Building Code 2013*), and reducing the powers of the Regulator. This has led to many unacceptable work practices of the past being reintroduced to the great detriment of construction industry contractors, subcontractors, clients, suppliers and the broader community. There have been many recent instances of unlawful industrial action, unlawful pickets and unlawful coercion carried out by unions.

The Bill includes essential provisions which would:

- Re-establish the ABCC with its former powers;
- Provide for maximum civil penalties of \$170,000;
- Implement the former provisions of the BCII Act relating to unlawful industrial action and coercion; and
- Outlaw organising and participating in unlawful pickets.

The Transitional Bill would:

- Repeal the FWBI Act; and
- Implement arrangements to effect a smooth transition to the new laws and arrangements.

We strongly support the Bills.

The specific provisions of the Bills

Ai Group's views on the specific provisions of the Bills are detailed in the two submissions that we made in late 2013 and early 2014 to the inquiries that were conducted by the Senate Education and Employment Legislation Committee and the Senate Education and Employment References Committee into the *Building and Construction Industry (Improving Productivity) Bill 2013* and the *Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013*.

We urge the Committee to recommend that the Bills be passed without delay.