

# **AUSTRALIAN GREENS' DISSENTING REPORT**

## **Overview**

1.1 The best way of understanding the implications of Building and Construction Industry (Improving Productivity) Bill 2013 [No.2] and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No.2] is to examine experience of the operation of the Australian Building and Construction Commission (ABCC) during its seven years of existence.

## **Conduct of the ABCC**

1.2 The ABCC failed to act as independent regulator committed to the best interests of the industry, the conditions of the workers and the needs of legitimate employers.

1.3 This ABCC was unwilling or unable to address industry employers engaging in illegal activities including the widespread use of misleading contracts. Construction companies signing up workers as independent contractors instead of hiring them as employees remains a serious issue that reduces industry standards. For employees it means they lose basic work and safety rights.

1.4 The construction industry is one of this country's top four most dangerous industries. The ABCC never took an employer to court over breaches of occupational health and safety laws. The number of deaths in the construction industry increased during the period that the ABCC was in operation. In 2004 the number of deaths was 3.14 per 100 000 workers. In 2007 it stood at 4.8 and in 2008 at 4.27, per 100 000 workers.

1.5 The coercive powers of the ABCC, which could subject construction industry workers to secret interrogations and force them to answer questions under oath, resulted in construction workers having fewer rights than other workers.

1.6 The Greens believe a person should not have fewer rights than an accused criminal simply because they work in the building industry. People shouldn't fear being hauled into secret inquisitions and forced to 'name names' under threat of imprisonment. We do not want or need McCarthyism in the building industry.

## **Recommendation 1**

**1.7 That the Building and Construction Industry (Improving Productivity) Bill 2013 [No.2] and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No.2] not be passed.**

## **The need for a national corruption body**

1.8 Evidence to the committee supported the need for a broad-based corruption watchdog, rather than establishing a body whose focus is to attack unions. A **broad-based federal anti-corruption body** would be able to investigate and pursue corruption at all levels in society.

1.9 The experience of ICAC in NSW shows that corruption is not limited to one industry or arena, including Parliamentarians. If the government was serious about tackling corruption it would establish such a body at the Commonwealth level.

## **Recommendation 2**

**1.10 That the government establish a broad-based federal anti-corruption body.**

### **Building code**

1.11 The Building and Construction Industry (Improving Productivity) Bill 2015 [No.2] also contains provisions in relation to the Building Code that are very concerning. The provisions will enable a new Building Code that, estimates suggest, will impact on more than 1 million Australian workers. Significant existing employment conditions for construction workers will be prohibited.

1.12 The Building Code will apply not only to employers tendering for government construction projects, but also all employees working in the private sector of the entity tendering for government work; all entities that supply transport or prefabrication manufacturing to government jobs; and other entities that include contracting or transport suppliers.

1.13 Evidence to the committee showed that the Building Code provision will enable the Commonwealth government to prevent local agreements having clauses for a range of matters including guarantees on the numbers of apprentices.

1.14 For example, 76 clauses in current Electrical Trades Union construction agreements could be prohibited, including clauses:

- that prevent unlimited ordinary hours worked per day;
- that guarantee the employee's ability to have a day off on Christmas Day and Easter Sunday, public holidays etc;
- that encourage employment of apprentices;
- that discourage discrimination against mature workers;
- that include agreed stable and secure shift arrangements or rosters;
- that ensures construction workers conditions and entitlements cannot be eroded;
- that provide for equality and fairness onsite for construction workers; and
- that impact on the rights of construction workers to have a safe workplace.

## **Recommendation 3**

**1.15 That the provisions in relation to the Building Code be removed from the Bill.**

**Conclusion**

1.16 The Australian Greens will always stand up for people's rights at work. We urge Senators not to support this bill.

**Senator Janet Rice**

**Australian Greens**

