

Senator Nick Xenophon
Senator for South Australia
212 Grenfell Street
ADELAIDE SA 5000

Dear Senator,

Australian Building and Construction Commission

We write to you to show our support for the Australian Building and Construction Commission (ABCC) and the benefits it has brought to the building and construction industry in Western Australia since being formed in late 2005.

A finding of the 2002 Cole Royal Commission into the national building and construction industry at page 279 of Volume 12 of the Final Report; State and Territory Overviews was:-

“The building and construction industry in Western Australia is marred by unlawful and inappropriate conduct. Fear, intimidation and coercion are commonplace. Contractors, subcontractors and workers face this culture continuously. At the centre of this culture and much of the unlawful and inappropriate conduct is the CFMEU.”

Further, at page 279 Commissioner Cole found:-

“In many respects the rule of law has little or no currency in the building and construction industry in Western Australia.”

These findings at that time were an indictment of the behaviour in some sectors of the Western Australian building and construction industry and few could, or would, defend the culture that prevailed.

Regrettably, the underpinning reasons for this culture remain in place in the local building and construction industry though the behaviour and conduct of the central players have improved since late 2005. Support for these comments are to be found in the Report by Murray Wilcox provided to the Deputy Prime Minister in late March 2009 in which he said in 5.89 at page 58:-

“Although conduct in the industry has improved in recent years, I believe the job is not yet done. I have already mentioned the anecdotal evidence that there is still a significant degree of contravention of the relevant industrial laws; particularly in Victoria and Western Australia.”

The comments of Mr Wilcox reinforce the findings of Commissioner Cole in 2002, as they relate to Western Australia, remain the same after three and half years and only add weight to our calls to retain an effective replacement inspectorate for the ABCC after January 2010.

We take comfort from the Deputy Prime Minister's commitment to retain a "a tough cop on the beat" in the construction industry after next January and look forward to her and the Rudd government's endorsement of that commitment. However we don't believe the current Bill before Parliament will achieve this as it waters down the enforcement powers of the ABCC irreparably.

We are mindful of the attack on the ABCC by some in the union movement who say it attacks human rights and workers' rights and has not delivered any tangible benefits to the building and construction industry. We reject those allegations.

As for the assertions by some that the ABCC erodes human and building workers' rights it is notable those who make such claims are consistent in their use of:-

- A blatant application of "No union ticket/No start" in breach of various federal and state freedom of association laws.
- No union enterprise bargaining agreement/no start.
- Reliance on intimidation, coercion, threats, inappropriate and unlawful behaviour.

The truth is, those who call for the scrapping of the ABCC and any effective replacement inspectorate after January 2010 do so to protect the vested interests of certain industry players who consider themselves above the law and not accountable for their actions.

As the ABCC has brought a sense of law back to the construction industry and an understanding that the "rule of law" does apply rather than the law of the jungle the need to retain an effective agency post next January is all important.

It is also notable that Murray Wilcox in his Report at 5.96; page 58 found the ABCC's role in improving the construction industry's productivity was not insignificant and a multifactor productivity growth of up to 0.7% in an industry that, on 2007 figures, accounted for about 7.5% of Australia's domestic product is nationally important. The current emphasis by the Rudd government on boosting the national economy via its economic stimulus package inclusive of the \$22 billion construction package makes the need to retain a stable, effective, productive and law abiding construction sector an imperative and in the national interest.

We call on your support to retain an effective and tough cop on the beat in the construction industry after next January in the best interests of those who work in the industry and the national economy.

Yours sincerely,

(Company Name)

Senator Nick Xenophon
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212 Grenfell Street
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Dear Senator,

Australian Building and Construction Commission

I am very concerned that a number of unions appear to be mounting a campaign to force the Government to abandon a specialist agency for the building and construction industry. The building and construction industry needs an agency that is fully empowered and which operates like the Australian Building and Construction Commission (ABCC).

I would like to put it on the record that my company fully supports the work of the ABCC. As Mr Wilcox pointed out in his Review, we have seen a large number of improvements in the industry since the work of the ABCC started and these improvements must continue into the future. In my understanding, he made it clear that there was more work to be done to further improve the conduct of, in particular, unions operating in the industry.

Favourable change has occurred because of the appropriate penalties and specific laws that the ABCC administers to maintain the rule of law in the industry. The work of the ABCC has helped to reduce the illegitimate and unacceptable behaviour of a number of unions.

In the context of media speculation that the ABCC successor organisation will be a weaker version of the ABCC, I would urge you to assure building and construction industry participants that you support maintaining a “strong cop on the beat” in the building and construction industry long term. Opposing the current Bill to disband the ABCC would be a good start in the public interest.

Yours sincerely

(Company Name)