

ABCC takes sensible approach to sham contracting

The Australian Building & Construction Commission's (ABCC) final report on sham contracting demonstrates a sound approach to the issues and incorporates key recommendations put forward by resource industry employer group AMMA.

Wrapping up its initial inquiry into sham contracting in the building and construction industry, the ABCC today handed down 10 recommendations, opting to forego introducing further compliance mechanisms until it collects further evidence about the extent of the practice.

AMMA chief executive Steve Knott said the 'sensible' recommendations would ensure genuine contracting arrangements could continue without 'excessive and restrictive' regulation.

"The ABCC has recognised there are conflicting views on how widespread sham contracting is in the building and construction industry. Despite claims by the CFMEU that the practice is rife, the reality is the current evidence doesn't support such claims," Mr Knott said.

"It's great news for the industry that the ABCC has acted on several of AMMA's recommendations and decided not to impose additional compliance mechanisms on employers at this stage.

"In the resources construction industry, mutually agreed contracting arrangements are regularly made to the benefit of both parties. Often such agreements are driven by independent contractors themselves due to the benefits involved."

In addition to AMMA's central recommendation that hard evidence must be collected before any further compliance mechanisms are introduced, the ABCC has also adopted AMMA's proposal that an aggressive and targeted education campaign should precede any other actions being taken.

AMMA submitted that independent contracting arrangements should be freely entered into without third-party interference, as long as both parties consented to the arrangements in an informed manner.

"We also believe that in the event the ABCC does decide to impose further legislative compliance obligations on employers, it should exclude those earning more than the high-income unfair dismissal threshold under the Fair Work Act," Mr Knott said.

"The ABCC should focus its compliance efforts on low-paid, vulnerable workers given there is unlikely to be any exploitation involved in those high-income arrangements."

"With \$316 billion worth of approved major resources projects across Australia plus a further \$307.6 billion in projects awaiting approval, efficient contracting arrangements are integral to the success of these projects and the 83,000 construction jobs they will create by 2013ⁱ.

"The ABCC has demonstrated a sound and measured approach to the sham contracting issue and has ensured genuine contracting arrangements can continue for the benefit of Australian workplaces."

To view AMMA's submission to the inquiry, click [here](#). To view the ABCC's full report, click [here](#).

Interviews and a high resolution image of AMMA chief executive Steve Knott are available on request.

ⁱ Pitcrew Consulting Management Services, *Major Project Labour Market in Australia*