

Senate Standing Committee on Education, Employment and Workplace Relations: Inquiry Into the Fair Work Amendment Bill 2013

Introduction: Scott Barklamb - Executive Director, Industry Australian Mines and Metals Association (AMMA)

Melbourne, 22 April 2013

Introduction

[We thank the Committee for the opportunity to appear today, and commend our more detailed written submission to you.]

AMMA represents every sector of the Australian resource industry, and our members employ more than half a million Australians.

AMMA's vision is to grow Australia's economic prosperity by ensuring our resource industry is an attractive place for investment and employment.

The resource industry is forecast to contribute \$209 billion of export earnings to our economy in 2012–13¹ and is directly and indirectly responsible for 1.1 million jobs².

There are currently 87 major resource projects committed or underway, worth a total of \$268bn.

However, as we saw last week, major projects are not guaranteed to come to market in Australia. At least a further 277 projects worth a combined value of \$383bn are under consideration, but not fully confirmed³.

This is over 7 times the scale of the Gonski changes currently under discussion.

Securing these projects relies on investors having confidence in doing business in this country⁴.

¹ [Resources and Energy Quarterly—June quarter 2012](#)

² March 2013, the Reserve Bank of Australia (RBA) released its [Industry Dimensions of the Resource Boom](#) research paper.

³ BREE term, for those not committed

⁴ BREE [October 2012—Resources and energy major projects](#)

This challenges us as an industry and you as policymakers.

How Australia regulates workplace relations matters.

Australia needs a reliable, stable, genuinely balanced workplace relations system that acts as a solid foundation for investment, productivity and competitiveness.

The Bill before you comprehensively fails to respond to these challenges.

The vast majority of the Bill's proposals were not recommended by the Federal Government's own hand-picked Fair Work Review Panel.

Indeed, much of the Bill appears set to actually reduce the competitiveness of doing business in Australia.

AMMA's submission

AMMA's main concerns with the Bill are in essence:

- It addresses the wrong issues.
- It either fails to respond to, or will exacerbate existing problems.
- The effects of the proposals, and interactions with other parts of the system have not been sufficiently considered.
- The amendments will create more litigation, more disputation and more confusion, and move us even further away from co-operative, productive, workplace relations.
- There is no evidence to support the choice of prescriptions being pursued, and no justification for imposing additional costs on businesses

Four particular concerns stand out for the resource industry:

- Union access to the workplace.

The Bill fails to respond to existing problems with union access to worksites.

In fact, it will cause more problems.

Imposing greater requirements to open up worksites to unions is a recipe for significant compliance and safety risks. It will also encourage increased union militancy and industrial disputation.

A particular concern for our industry is the impractical and unrealistic union entry arrangements proposed for remote and offshore facilities.

- Consultation over changes to regular rosters

AMMA is particularly concerned at proposed additional requirements for consultation over changes to rosters and working hours.

These are unworkable. Australian operations need to be able to flexibly respond to changing conditions, sometimes for just days at a time before reverting back to the normal roster.

Under the current drafting, no roster change would be too small to trigger the consultation requirements, which may act as a veto on implementing essential changes.

Once again, no case has been made to depart from the existing approach, that is, the requirement to consult over **major** workplace changes. We foresee a confusing overlap of obligations.

- Right to request flexible working arrangements

Resource industry employers support work-family balance, and seek to be innovators in this area.

However, despite the “family friendly” label, the proposals in Schedule 1 are not warranted or supportable.

Business has no trouble working with the existing right to request provisions. Nor do we see evidence from employees that any change is needed.

AMMA is very concerned at proposals to impose greater prescription on employers around their right to refuse, thus further detracting from the capacity to manage effectively and competitively in our workplaces.

AMMA supports BHP Billiton's submission that the proposals would potentially extend the right to request flexible working arrangements to almost every working employee.

While couched as a 'right to **request**', these proposals will lead to confusion and disputation and will create unrealistic expectations for employees.

- Anti Bullying measures.

The resource industry takes bullying seriously and supports governments taking it seriously.

However, this Bill would address bullying in entirely the wrong way.

- It is entirely unclear how these provisions would sit with those already available under discrimination and work health and safety laws.
- Investigations carried out by the Fair Work Commission are likely to overlap and undermine employers' own investigations and actions on any allegations of bullying.

The Bill also fails to address the very real problem of bullying by trade union officials and delegates. As drafted, bullying by unions would effectively be deemed a non-problem. This is an unfair and flawed basis on which to proceed.

These amendments should immediately be halted in favour of a proper dialogue with the states on cooperative approaches to tackling bullying, in particular by workplace health and safety regulators.

Conclusion

Australia's leading employer bodies recently united to call for these amendments not to be passed.

This stance is not taken lightly.

For the reasons I have just outlined, and as set out in greater detail in our written submission, this remains AMMA's position.

There is too much that is underdeveloped, ill-considered or just plain misguided in these proposals for them to proceed.

We therefore call on the Committee to recommend against the Bill in its entirety.