The Australian, Australia
13 Mar 2015, by Joe Kelly

General News, page 1 - 371.00 cm²
National - circulation 104,774 (MTWTF)

ID 382466824 BRIEF #AMMA INDEX 1.3

IR reform starts with FWC: miners

EXCLUSIVE

JOE KELLY

THE Fair Work Commission should be dissolved and its functions spread across a series of highly specialised employment tribunals, according to major companies that believe unions are contributing to a $150 billion hold-up in resource projects.

The nation's largest resource-industry employer group is pushing for a radical carve-up of the commission, including the creation of a separate appeals body, and for a one-year extension to workplace agreements for new projects to limit industrial disputes and avoid delays.

Stepping up pressure for change as the Abbott government reviews the workplace regime, the Australian Mines and Metals Association warns that the union stranglehold over "greenfield" agreements for new projects must be lifted and requires urgent reform.

There were three tranches of amendments to the Fair Work Act under the former Labor government but the greenfield provisions — covering workplace relations agreements struck on new projects — remain unchanged, despite concern from both sides of politics that Australia is pricing itself out of the market.

The employer group labels the FWC a "jack of all trades" entity and proposes breaking it up into a series of new institutions that reflect a new focus on productivity and job creation.

It also proposes abolishing the "Fair Work" title, with the new institutions each discharging specific responsibilities under the workplace relations framework.

Continued on Page 6

IR reform 'starts with FWC'

Continued from Page 1

"Fair Work is a slogan. And it's a slogan which should be replaced," the association says in a submission to the Productivity Commission's review of the workplace relations system. "The job of sitting on the FWC has changed significantly towards greater breadth and complexity. The responsibilities now exceed those which generalists can realistically address."

The submission warns of a significant backlog in resource-project investment. It says 138 resource-sector projects, worth $146.7bn, were stalled at the "feasibility stage" at the end of October, with no projects progressing to the "committed stage" in the preceding six months.

While the progress of projects has been affected by lower commodity prices, labour and productivity offsets have also played a key part in determining how much investment is realised. There are about 186 agreements in the resources sector due to expire this year, with 20 per cent of projects experiencing major delays due to negotiations and another 20 per cent experiencing minor delays.

AMMA warns that provisions mandating greenfield agreements be struck with unions gives privilege to union negotiators who can push for exorbitant wages and conditions and often insist on labour-hire clauses. This can establish a benchmark across the industry, regardless of the specific circumstances of individual projects or prevailing economic conditions.

The Australian, Australia
13 Mar 2015, by Joe Kelly

General News, page 1 - 371.00 cm²
National - circulation 104,774 (MTWTF)

ID 382466824 BRIEF #AMMA INDEX 1.3

While agreements last only four years, they can take two years to negotiate. As project construction phases often last six years, a renegotiation is usually required, with disruptions to some major projects costing, in one case study, up to $10 million a day.

AMMA proposes extending the greenfields agreements from four to five years, saying that the "shorter span for greenfields agreements has unnecessarily increased transaction costs" and exposes businesses more frequently to protected industrial action.

The submission backs the thrust of a Coalition bill allowing employers to apply to the FWC to determine an agreement by having their best offer endorsed, so long as negotiations have failed to produce a result after three months of negotiation.

AMMA proposes that a one-month timeline apply for some projects where other greenfields agreements are already in place. It also recommends that the Productivity Commission consider a proposal for an employer greenfield agreement with a maximum life of two years.

"This type of agreement would see the employer determine the terms and conditions of employment, provided they exceed the award safety net," the submission says.

Research conducted by KPMG for AMMA found that from 2009-13 the resources industry accounted for 28 per cent of the working days lost due to industrial action. This compares with the industry's average share of employment of 2 per cent over the same period.

The specialist institutions proposed in the submission include the establishment of an Australian employment conciliation and arbitration service, with AMMA accusing the FWC of being ineffective at dispute resolution.

The new mechanism is proposed as an "alternative to the adversarial and highly legalistic procedures" currently in place to manage industrial disputes and is roughly based on Britain's Advisory, Conciliation and Arbitration Service.

"Aggrieved persons would simply bring a matter in dispute to a trusted and independent third party who would try to assist them to resolve the dispute in a different context and in a different manner," the submission says.

An Australian employment tribunal would largely replace the FWC and would be divided into two divisions — a "collective division", handling bargaining and agreement-making, and an "individual division", handling unfair dismissals and bullying disputes.

The proposed Australian employment appeals tribunal would allow a separate and independent appeals body to provide "clearer precedents and send clearer signals" to FWC members.

AMMA warns that the FWC has shown inconsistency in its application of the Fair Work Act, saying the new appeals body would ensure consistency, discourage litigation and encourage productivity and job creation.

"The current approach is to hear many appeals within the FWC, through elevation from a single member to a full bench. This is increasingly a failed model and needs to be replaced," it says.

An Australian employment safety net commission would take over minimum wage-setting powers, with members being appointed for five years.

An Australian employment ombudsman would take over the functions of the Fair Work Ombudsman.

'This type of agreement would see the employer determine the terms and conditions of employment'

AMMA SUBMISSION