



Industry, Labor, unions ready for battle over construction watchdog

Builders are funding an ad campaign against opposition plans to scrap the worksite overseer

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If Bill Shorten wins next year's federal election, life will become easier for his allies in the Construction, Forestry, Maritime, Mining and Energy Union. This is not a partisan observation but a statement of reality.

Shorten wants to kill off the CFMEU's nemesis, the Australian Building and Construction Commission, and ensure the Coalition's so-called "tough cop on the beat", ABCC chief Stephen McBurney, loses his \$434,690 a year job going after the union.

Unlike the previous Labor government, Shorten will not replace the ABCC with a stand-alone regulator with weaker powers. Maximum civil penalties that now can be imposed on the CFMEU and its officials for unlawful conduct will be cut by two-thirds and brought into line with penalties that apply under the Fair Work Act to the rest of the workforce.

The CFMEU no longer will be pursued by an agency handed \$32.2 million this financial year by the Coalition to employ 90 inspectors to visit more than 1000 sites. The union will be free of lawyers chasing prosecutions for conduct extending from capital city building sites to offshore oil and gas projects. Legal settlements with companies that prevent the CFMEU being taken to court for

unlawful conduct, derided as "sweetheart deals" by industry groups, will be allowed again.

In extinguishing the ABCC, Labor also would abolish the national construction code that

requires builders to remove union-friendly conditions from enterprise agreements if they want to tender for commonwealth work.

Clauses banned under the code include the requirements that companies consult with unions and the automatic conversion of casual workers to permanent status after six weeks. But the code itself is broad, prohibiting clauses that impose limits on the right of a company to "manage its business".

When the Coalition decreed employers must make agreements code-compliant to access lucrative federal work, unions extracted higher pay from companies to compensate for the removal of code-offending clauses.

"The ABCC and the building code are unfair, unwarranted and undemocratic and Labor has committed to abolishing them," Labor's workplace relations

spokesman Brendan O'Connor tells Inquirer.

"The ABCC is simply part of this government's anti-worker, ideological agenda, implementing two sets of laws for working people, denying building and construction industry workers the same rights and entitlements afforded to workers in every other sector of the economy."

O'Connor says the "draconian" building code has prohibited employers and unions from negotiating enterprise agreements with conditions that deal with issues such as employment of apprentices, local jobs and safety measures. It is understood O'Connor is examining the need for a replacement code for tenders that would seek to impose new limits on the use of temporary foreign workers, set minimum levels of apprenticeships, promote higher safety standards and encourage increased female participation.

Employers say if a Shorten government scraps the ABCC and the code, the impact on the construction sector will be "catastrophic".

Claiming the changes will "unleash a *Lord of the Flies* environment", Master Builders Australia



chief executive Denita Wawn says the organisation's board has authorised the funding of a national advertising campaign opposing the proposals in the lead-up to the election.

"Three royal commissions have provided irrefutable proof that the construction unions are infested with a toxic and unlawful culture of bullying. This evidence has been corroborated by court case after court case dealing with the union's calculated flouting of the law," Wawn says.

Australian Industry Group chief executive Innes Willox says removing the ABCC and the code will allow unions to pressure em-

ployers into agreeing to unreasonable demands.

"Unions in the construction industry routinely use the commercial risk faced by contractors as a lever to secure concessions," Willox says. "This results in work practices and cost burdens which drive up project costs to the detriment of the whole community."

"The building code imposes a commercial risk on contractors that far outweighs the cost of capitulating to the ... unions. To be removed from future tender lists would have catastrophic implications for a major contractor. Billions of dollars of work is at stake."

Australian Mines and Metals Association chief executive Steve Knott says scrapping the ABCC and the code "paves a clear path to anarchy". "With \$15m in fines over the past decade and \$1m in fines since July, the union's contempt for Australia's laws and other participants in the building sector shows no signs of waning," he says.

But ACTU secretary Sally McManus says the Coalition has implemented oppressive laws that

remove workers' rights and place ideology above workplace safety.

"They have chosen to ban agreements that set a floor under wages, and now employers are able to exploit people with sham contracting and labour hire," she says. "They've obstructed apprentice ratios and female participation quotas."

Dave Noonan, national sec-

retary of the CFMEU's construction division, says employers are running a Liberal Party-backed scare campaign and says the code is an anti-worker document that does nothing to address safety, sham contracting and wage theft.

"For Willox and Wawn, the only things that are ever bad or unlawful are the things that the union does," he says. "They seem to think it's quite all right for employers to not pay workers and to run unsafe projects with no consequences."

University of Adelaide law professor Andrew Stewart says he does not support separate laws applying to the construction sector but believes the conduct of the CFMEU justifies a separate com-

pliance division within, for example, the Fair Work Ombudsman.

"It's quite clear the construction unions have a way of operating which involves routinely flouting the law," Stewart says. "They believe the laws aren't just; they believe they are morally justified in breaking those laws."

He says major building companies are adequately resourced to ensure the law is enforced but there are many smaller businesses caught up in industrial action and attempted coercion by unions.

"There is still a good argument to say there is a reason to have a regulator ... to look after those smaller employers just as the Fair Work Ombudsman concentrates on lower paid and more vulnerable workers and isn't quite so ready to go to the aid of senior executives, for example," he says.

O'Connor, whom ministers like to remind voters is the brother of CFMEU national secretary Michael O'Connor, must first get any changes through the Senate. He says the ALP will hold the union to account for law-breaking.

