

**From:** s 22(1)(a)  
**To:** s 22(1)  
**Subject:** FW: Re: Brief on abolition of the ABCC [SEC=PROTECTED, CAVEAT=SH:CABINET]  
**Date:** Friday, 22 July 2022 2:04:25 PM  
**Attachments:** [MC22-048157\\_004 Att A - Draft response.docx](#)  
[MC22-048157\\_001 VIP Priority - Abolition of the Australian Building and Construction Commission and repeal the Code.docx](#)  
[MC22-048157\\_002 Att B - Incoming correspondence.pdf](#)  
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[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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PROTECTED//CABINET

Hey s 22(1) – as discussed. The response was actually signed by the DPM as the PM was overseas at the time.

s 22(1)

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**From:** s 22(1)(a)(ii)  
**Sent:** Monday, 4 July 2022 9:41 AM  
**To:** s 22(1)(a)(ii)  
**Subject:** FW: Re: Brief on abolition of the ABCC [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED//CABINET

Hi s 22(1) – just a heads up that this is coming through the system.

I understand Minister Burke is planning to sign the revised, minimal Building Code today and announce it tomorrow.

s 22(1)

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**From:** s 22(1)(a)(ii)  
**Sent:** Saturday, 2 July 2022 6:23 PM  
**To:** s 22(1)(a)(ii)  
**Cc:** s 22(1)(a)(ii)  
**Subject:** Re: Brief on abolition of the ABCC [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED//CABINET

s 22(1)

As discussed, briefing and draft response to Minister Burke's letter. Response agrees to the Minister's request, s 34(3)

Big thanks to s 22(1) and s 22(1) for the heavy lifting. Copy coming in PDMS

Cheers

s 2

s 22(1)(a)(ii)



s 22(1)(a)(ii)



DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C  
Secretary  
s 22(1)  
(a)(ii)

To: Acting Prime Minister (for agreement by Monday 4 July to enable announcement)

cc: Cabinet Secretary

ABOLISHING THE AUSTRALIAN BUILDING AND CONSTRUCTION  
COMMISSION (ABCC)

PMO  
CoS  
s  
22(1)  
CABINET  
SECRETARY

Recommendation - that you:

1. Sign the letter to the Minister for Employment and Workplace Relations (Attachment A):
  - a. agreeing the proposed approach to abolish the ABCC, including for the Minister to consult outside of government on the proposed changes;
 

s 34(3)
  - and
  - c. asking the Minister to write to the Prime Minister to seek agreement to final legislative details.

Signed / Not Signed

RICHARD MARLES

Date:

Comments:

Key Points:

1. The Hon Tony Burke MP, Minister for Employment and Workplace Relations, wrote to the Prime Minister (Attachment B) on 30 June 2022 seeking agreement to the following approach to abolish the ABCC:
  - a. commence drafting legislation to abolish the ABCC and remove regulations under the *Building and Construction Industry (Improving Productivity) Act 2016* (BCIIP Act) establishing ABCC-related functions;
  - b. direct the FWO to take responsibility for compliance and enforcement in the building and construction industry to the fullest extent possible within the current legislative framework;
  - c. amend the *Code for the Tendering and Performance of Building Work 2016* to minimise the role of the ABCC before it is formally abolished via legislation; and
  - d. consult outside of government on the approach to abolish the ABCC, if required.

## PROTECTED CABINET

2. We recommend you agree to the Minister's request (draft response at Attachment A).
  - a. The Minister's approach meets the Government's election commitment to abolish the ABCC, while ensuring the transition of regulatory functions to the FWO begins prior to legislative amendments.
  - b. Your draft response asks the Minister to write to the Prime Minister seeking agreement to the final details of the legislation prior to introduction.

s 34(3)

### Sensitivities:

5. Abolishing the ABCC without adequately funding the FWO to regulate the building and construction industry would present risks. The industry employs over one million workers and is well-known for non-compliance with employment entitlements.

### Background:

6. The Department of Employment and Workplace Relations advises the Minister intends to introduce legislation to abolish the ABCC and the Registered Organisations Commission (ROC) in late October 2022.

### Resources:

Nil at this stage.

s 34(3)

### Consultation:

Cabinet Division; Fiscal; Government Division; Industry, Infrastructure & Environment Division; OBPR; Department of Finance; Department of Employment and Workplace Relations.

s 22(1)(a)(ii)

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

2 July 2022

PROTECTED CABINET

**ATTACHMENTS**

**ATTACHMENT A DRAFT RESPONSE**

**ATTACHMENT B INCOMING CORRESPONDENCE**

# PROTECTED CABINET

Reference: MC22-048157

The Hon Tony Burke MP  
Minister for Employment and Workplace Relations  
Parliament House  
CANBERRA ACT 2600

Dear Minister

Thank you for your letter dated 30 June 2022, to the Prime Minister, the Hon Anthony Albanese MP, regarding your proposed approach to implementing the Government's election commitment to abolish the Australian Building and Construction Commission (ABCC). The Prime Minister has asked me to reply on his behalf.

s 34(3)



I ask that you write to the Prime Minister to settle final legislative details ahead of the introduction of amendments into the Parliament.

I have copied this letter to Senator the Hon Katy Gallagher, Minister for Finance, and the Hon Dr Jim Chalmers MP, Treasurer.

Yours sincerely

RICHARD MARLES

**PROTECTED//CABINET**



**The Hon Tony Burke MP**  
Minister for Employment and Workplace Relations  
Minister for the Arts  
Leader of the House

Reference: MS22-000487

The Hon Anthony Albanese MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

By email:

s 22(1)(a)(ii)

Dear Prime Minister

A handwritten signature in blue ink that reads 'Anthony'.

I write to seek your policy authority for the approach to implement the Government's election commitment to abolish the Australian Building and Construction Commission (ABCC) and repeal the *Code for the Tendering and Performance of Building Work 2016* (Building Code), which are provided for under the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth) (BCIIP Act).

The Government has committed to abolishing the ABCC to provide consistent workplace relations regulation in the federal jurisdiction for employees in all industries. In line with this commitment, I propose to progress legislation to achieve this and to pursue non-legislative measures to minimise the role of the ABCC as much as possible in the interim.

As a first step, I seek your policy authority for the Fair Work Ombudsman (FWO) to take responsibility for compliance and enforcement of the *Fair Work Act 2009* (Cth) (Fair Work Act) in the building and construction industry to the fullest extent possible within the existing legislative framework. Currently, both the FWO and ABCC have legislative responsibility for enforcing the Fair Work Act in the building and construction industry, although the ABCC undertakes these Fair Work Act functions exclusively due to an agreement it has in place with the FWO. This approach will contribute to greater consistency in workplace relations regulation before the legislation to abolish the ABCC has been passed.

s 34(3)

s 34(3)

This proposal will have an impact on the Budget, as the Government's election commitment was to abolish the ABCC and return the entirety of its operating budget back to the consolidated revenue fund. However, given the industry is well-known for underpayments and non-compliance with other employment entitlements, and is one of our highest employing industries at over 1.1 million workers, it is crucial the FWO is adequately resourced for expanding its workload into the building and construction industry. I

Parliament House, Canberra ACT 2600

**PROTECTED//CABINET**

expect the FWO to start to regulate Fair Work Act matters in the industry after resourcing arrangements have been settled.

Secondly, I seek your approval to commence drafting of legislation to abolish the ABCC and to remove the current range of regulation under the BCIIP Act establishing ABCC-related functions, including the provisions that establish the Building Code. I also seek approval to make appropriate transitional and consequential arrangements concerning the operation of the ABCC, including the management of litigation on foot. I propose that the Bill to give effect to these arrangements is introduced during Budget week in the Spring sitting period. In the event that consultation outside of Government is required I seek your approval to undertake that consultation.

s 42

The BCIIP Act also establishes the Federal Safety Commissioner (FSC) and the Work Health and Safety Accreditation Scheme (Accreditation Scheme), which together work to improve safety in the building and construction industry. I propose to maintain these functions under renamed legislation which would avoid any criticism that our election commitment will negatively impact safety in the industry. However, I propose to also undertake a review to examine the effectiveness of the FSC and Accreditation Scheme in improving safety and the merits of adopting a similar approach in other areas of Government procurement. The timing of this work will ensure the approach of the Accreditation Scheme is consistent with the Government's Buy Australian Plan election commitment, which is being overseen by the Department of Finance.

My department is working with the Office of Best Practice Regulation to ensure Regulatory Impact Analysis requirements are met prior to a final decision being made in relation to this election commitment.

Yours sincerely

s 22(1)(a)(ii)

**THE HON TONY BURKE MP**

30/6/2022