

# Australia: West Gate employer uses Rudd government's new laws to attack workers

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One of Australia's largest construction firms is using the Rudd government's new Fair Work Australia (FWA) regime at a key project in Melbourne to deepen the attack on workers' wages, conditions and basic rights.

The John Holland company has applied to the FWA, the new workplace relations tribunal that commenced on July 1, for an order to bar the Construction Forestry Mining Energy Union (CFMEU) from the \$240 million West Gate Bridge upgrade project. The company insists that the Australian Workers Union (AWU) has sole coverage.

The Labor government's FWA laws continue all the essential anti-strike provisions of the former Howard government's WorkChoices legislation. They also establish the FWA as an industrial court with extensive powers, including the de-registering of unions and the banning of strikes that threaten to "cause significant industrial harm to the employer" or "significant damage to the Australian economy".

For months, with the backing of the Victorian and federal Labor governments, John Holland has sought to break the resistance of workers on the West Gate site, and set a precedent for low wages and conditions throughout the construction industry.

Earlier this year, the state government deployed hundreds of police to protect scabs and attack pickets at the site in a bitter dispute that arose out of the determination of 39 workers to defend their jobs. The workers were sacked on February 27 when John Holland, the head contractor on the site, refused to recognise a wage deal struck by the CFMEU with labour hire subcontractor Civil Pacific Services. The company had previously negotiated a deal with the AWU involving wages that were nearly \$10 an hour

lower.

Despite significant support for the West Gate workers among construction workers across Melbourne, the CFMEU and the Australian Manufacturing Workers Union (AMWU) settled the dispute by agreeing to an extraordinary no-strike clause and shared coverage with the AWU. The two unions pledged not to "threaten, organise, encourage, procure or engage in any industrial action" and agreed to pay \$650,000 for any breach.

The sellout deal only encouraged John Holland to go further—to try and remove the CFMEU from the site and to lodge a claim in the FWA that the industrial dispute had "caused loss and damage to JHPL [John Holland] and a number of third parties, and delayed the construction works on the project by three months". The company also declared there was a significant "risk" of more industrial action causing further loss. The claims were no doubt designed to open up the two unions and individual workers to multi-million dollar damages claims.

On July 24, Holland sacked CFMEU site delegate Canice Lynch without warning or providing cause. The union refused to mount any industrial campaign to defend Lynch, leaving him to appeal to the Federal Court.

On July 27, the full bench of the FWA decided to perform a "conciliatory role" in the dispute but declared it would hear the company's application for an order if the process failed to produce a satisfactory outcome. In a bid to prevent further militancy on the site, Australian Council of Trade Unions (ACTU) president Sharan Burrow has intervened to oversee discussions between the unions vying for coverage.

At the same time, the Australian Building and Construction Commission (ABCC), the anti-worker

policing agency set up by the Howard government and continued under Rudd, is pushing ahead with a civil action in the Federal Court seeking fines of some \$7 million against the CFMEU and AMWU over alleged conduct by picketers during the dispute. Next year, the Rudd government will transfer the ABCC's punitive powers to a specialist division of the FWA.

Police prosecutions of 12 workers on serious criminal charges are also proceeding, without any action by the trade unions to defend their members. The first of the 12 men, Julio Pizarro, was convicted by a magistrate on July 29 on one count of intentionally causing damage and two counts of unlawful assault and ordered to pay \$1,886.14 in fines and undergo 50 hours of community service. While he pleaded guilty to three charges, two counts of hindering, intimidating or resisting an ABCC official were struck out.

On August 17, Pizarro is set to face seven more charges, including reckless conduct endangering serious injury and unlawful assault. The 11 other workers, whose cases are also set for hearing this month, face similar charges carrying potential penalties of up to three years imprisonment.

The Rudd government's full backing for this legal assault was spelled out in unmistakable terms when Workplace Relations Minister Julia Gillard used her address to the ACTU's triennial congress in June to launch a slanderous tirade against the West Gate workers, falsely depicting them as balaclava-hooded thugs.

As for the CFMEU and the AMWU, their main concern has been to pursue a war to gain turf and to demonstrate to Holland and the state and federal governments their willingness to suppress industrial action. Their role in the West Gate dispute is no aberration. It expresses the determination of the entire union bureaucracy to impose the attacks on jobs and conditions demanded by the Rudd government and employers.

The unions' unreserved commitment to this task was displayed at the national Labor Party conference earlier this month. The assembled union delegates unanimously backed the Rudd government's FWA regime, including its anti-strike provisions and draconian powers against construction workers, while at the same lining up behind its pro-market economic agenda.

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