

Media Release



MASTER BUILDERS
A U S T R A L I A

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High Court Outcome On Entry Rules Welcomed

Master Builders Australia has welcomed the High Court outcome on right of entry rules, refusing leave to hear an appeal against an earlier decision that closed a loophole allowing union officials to enter workplaces without regard to normal entry rules.

“The Court outcome means the decision of a Federal Court Full Bench¹ to overturn an earlier decision² remains, meaning union officials cannot bypass normal rules upon entering a workplace if invited by a health and safety representative,” Denita Wawn, CEO of Master Builders Australia said.

“Master Builders previously expressed concern that the earlier decision risked being seen by building unions as a green light to ignore right of entry laws simply by saying they had been ‘invited’ to the workplace,” she said.

“Not only would this give building union officials unfettered access to every workplace without any rules or conduct obligations, it would represent a further exploitation of safety laws as a tactic to pursue unrelated industrial relations outcomes,” Denita Wawn said.

The Federal Court Full Bench previously determined that

“There is no reason of policy or commonsense why one would distinguish between differently worded conditions that by their operation provided a right to enter premises for occupational health and safety reasons, to require a permit if the official has a reasonable suspicion of a contravention of a State or Territory or Commonwealth law about occupational health and safety, but not to require a permit if the official is asked to assist an HS representative deal with an issue about occupational health and safety, which may or may not have a connection with such a contravention.”³

“Master Builders is pleased that the High Court outcome enables the previous ‘common sense’ position of the Full Bench to remain,” she said.

“The abuse of safety laws to bypass normal entry rules has been found by two separate Royal Commissions to be a common tactic of the building unions. Such tactics undermine the purpose of safety laws and put into jeopardy improved industry safety outcomes,” Denita Wawn said.

“The Courts decision to not hear the case means the loophole remains closed and is a welcome outcome that will assist in improving safety on worksites and ensure that building unions, already renowned for unlawful behaviour only following the law when it suits, play by the rules so that building sites can be just like every other workplace,” Denita Wawn said.

For further information contact:

Ben Carter, Director Media & Public Affairs, 0447 775 507

¹ (Australian Building and Construction Commissioner v Powell [2017] FCAFC 89)

² (Director of the Fair Work Building Industry Inspectorate v Powell [2016] FCA 1287)

³ (Australian Building and Construction Commissioner v Powell [2017] FCAFC 89)