

NEW 'SUPER-UNION' A RISK TO JOBS, THE ECONOMY AND COMMUNITY

"Allowing the CFMEU and MUA to form a new militant 'Super-Union' will put the economy and jobs in jeopardy," Denita Wawn, CEO of Master Builders Australia said.

"The creation of a militant 'Super-Union' is a backwards step that will have far reaching consequences for the construction industry and the community," she said.

"No government – Labor or Coalition would allow a corporate merger which resulted in the formation of an entity with the capacity to shut down multiple supply chains and effectively hold the economy to ransom. But this is exactly what this decision will create," Denita Wawn said.

"The MUA and CFMEU appear to share a common belief that they are above the law and are renowned for using tactics such as bullying, intimidation, and industrial thuggery on anyone who disagrees with them," she said.

"Merging these two unions into one new, militant 'Super-Union' will see these illegal tactics become more prevalent, giving them even greater power to coerce business, put jobs at risk and bring the economy to a standstill," Denita Wawn said.

"The community has every right to question how two of the most militant unions in Australian history could be allowed to get bigger," she said.

"It is hard to imagine any other situation where a merger with ramifications so dire would be allowed to happen, and the community has every reason to hold serious concerns about what this means for them," Denita Wawn said.

"Even worse, the key partners in this 'Super-Union' seem to take pride in taking illegal action, believing they are above the law which applies to the rest of the community," she said.

"There are countless decisions where courts have determined that breaking the law is part of the business model under which these militant unions operate," Denita Wawn said.

"They simply pay the fines the courts impose and then repeat offend. With more than \$310 million in assets and \$150 million in annual turnover even the maximum fines the courts can impose will be irrelevant to the super-union and their ability to expand this business model unrestrained," she said.

Master Builders agrees with recent observations of Federal Court Judge Salvatore Vasta who noted "It seems that the CFMEU feel that they can usurp Parliament and that they can set the law in this country. There is no place for such an attitude in Australian society."

The new militant 'Super-Union' and its officials now face some important tests.

"Will they embark on a new era of lawful activity or revert to thuggery and intimidation? Will they continue to think that there is one law for militant unions and another for everyone else? Will they continue to put their own interests above those of the community, workers

and normal people?," Denita Wawn said.

"If history is anything to go by, we think they'll fail these tests fairly soon," Denita Wawn said.

Ends....

For further information contact:

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

Selection of Judicial Commentary

"The CFMEU's record of non-compliance with legislation of this kind has now become notorious. That record ought to be an embarrassment to the trade union movement."

Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union (The Yarra's Edge Case) [2016] FCA 772, at [48]

"The CFMEU has done nothing, over the years, to cause its own staff to comply with the law. Indeed, the inference that the CFMEU will always prefer its own interests, whatever they may be from time to time, to compliance with the law is a compelling one... The CFMEU and its members may be grateful that the staff of the banks and other financial institutions to whom it has, I presume, entrusted its considerable assets do not take the same approach to compliance with the law."

Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union (the Webb Dock case) [2017] FCA 62, at [65]:

"...It seems that the CFMEU feel that they can usurp Parliament and that they can set the law in this country. There is no place for such an attitude in Australian society"

Australian Building and Construction Commissioner v Dig It Landscapes Pty Ltd & Ors [2017] FCCA 2128 (5 September 2017)

"There is ample evidence of significant contravention by the CFMEU and its ideological fellow travellers. The CFMEU, as a holistic organisation, has an extensive history of contraventions dating back to at least 1999. The only reasonable conclusion to be drawn is that the organisation either does not understand or does not care for the legal restrictions on industrial activity imposed by the legislature and the courts."

Director, Fair Work Building Industry Inspectorate v Myles & Ors [2014] FCCA 1429

"There is clearly, as other judges have recorded, a strong record of noncompliance on the part of the Union through its officers with provisions of industrial relations legislation, although that does not mean that a disproportionate penalty can or should be imposed. I note that significant past penalties have not caused the Union to alter its apparent attitude to compliance with the entry provisions and restrictions under the FW Act."

Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union (No 3) [2015] FCA 845

“There is also extensive material before the Court indicating a significant record of non-compliance with the provisions of the industrial legislation by the CFMEU. Penalties imposed on the CFMEU appear to have no impact – indeed the obvious inference to be drawn is that the CFMEU has ignored such penalties as inconsequential.”

Director, Fair Work Building Industry Inspectorate v Bolton (No 2) [2016] FCA 817

“It can only be inferred that the CFMEU condone such actions and approach the imposition of pecuniary penalties as occupational hazards in the performance of their business plan (whatever plan that may be).”

Australian Building and Construction Commissioner v Hanna & Anor (No.3) [2017] FCCA 2519 (19 October 2017) at [49]:

“The past history of contraventions of the FW Act by the CFMEU is astounding. It is no understatement to describe the CFMEU as the most recidivist corporate offender in Australian history...”

Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union [2017] FCA 1269.