



21 November 2017

Frank Porreca
Treasurer
Master Builders Association of the Australian Capital Territory
canberra@mba.org.au

Dear Mr Porreca

Organisation must respond to the post-election reports of the Australian Electoral Commission: E2017/31 and E2017/155

On 20/11/2017 the Registered Organisations Commission (the ROC) received post election reports from the Australian Electoral Commission (AEC) for elections E2017/31 and E2017/155 dated 20/11/2017. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

These reports identify rules that were difficult to interpret or apply, in particular rules 8 and 15(h). This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's reports. If a response has already been sent to the AEC and made available to all members please disregard this letter.

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regs 141(4) and (5)).

A written response must be provided to the AEC

A written response must be provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

Extract of report must be made available to members

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

Written response must be made available to members

A copy of the organisation's response to the AEC must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and

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- within 30 days of giving the response to the AEC:
 - lodges with the ROC a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
 - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

Penalties may apply

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the ROC for assistance by email to regorgs@roc.gov.au.

If the organisation or branch decides to alter its rules in response to the AEC's report

If the organisation or branch decides to alter its rules in response to the AEC's report, the ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Christine Hibberd

Registered Organisations Commission

20 November 2017

Post-election Report

**Master Builders Association of the Australian
Capital Territory – E2017/155**

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Election(s) Covered in this Report

Election Decision No/s: E2017/155

Rules

Rules used for the election: [241V: Incorporates alterations of 20/6/2014 [R2013/45]]
(replaces rulebook dated 1/12/2013 [D2012/228 & 229])

Rules difficult to apply/interpret: **Issues related to Representative:-**

Rule 8 of the association indicates that representative and additional representative have equal duties and responsibilities. The member listing provided to the returning officer identifies the representatives as voter 1 and voter 2. This is difficult to apply as it is not clear which of the two voters should receive the ballot materials. It is highly recommended that for the purpose of an election, the rules specify who out of the two representatives have voting rights.

Rule 8 & Rule 15(h) is difficult to apply & interpret, particularly whether a member can have both their representative and additional representative on the council. For clarity, the rules must specify if the council can have not less than 5 or more than 20 unique members on the council. If a member cannot have both its representative and additional representative on the council, then the rules must provide an avenue for the returning officer to resolve nominations should both representative from the same member nominate.

Similar type of issues were also raised in the post-election report related to election reference number E2016/112. It is recommended that these issues be resolved to avoid possible irregularities in future elections.

Model Rule reference (if any): None

Roll of Voters

As there were no contested offices, no Roll of Voters was required.

Irregularities

Details of written allegations of irregularities, and action taken by AEC: None

Other irregularities identified, and action taken: None

Other Matters

Issues related to Casual Vacancy election:

Delete “Executive Director” and replace with “Returning Officer” under rule 16(b). This rule may contravene Sec 143(b) of Fair Work (Registered Organisations) Act 2009 unless the casual vacancy meets the requirement of Sec 146(2). To allow for flexibility, the rule can specify the circumstances where an executive director will call for nominations or when an AEC returning officer will call for nominations.

Rule 16 (e) and 16 (f) also need to make the same distinction as above. That is, whether the rules apply for an ordinary election arising from insufficient nominations/ resignation or a casual vacancy arising from sec 146 (2). Rule 16 (e) and 16(f) cannot be followed for an ordinary election arising from insufficient nomination or resignations (that do not meet sec 146(2)).

Similar type of issue was also raised in the post-election report related to election reference number E2016/283. It is recommended that these issues be resolved to avoid potential irregularities in future elections.

Attachments

- 1) Declaration of results for Uncontested Offices

Ishtiaq Ahmed
Returning Officer

20 November 2017

Master Builders Association of the Australian Capital Territory Scheduled Election – E2017/155

Declaration of Results for Uncontested Offices

E2017/155

Below are the results of the election for the following offices, conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation.

Commercial Builders Council

Chairperson of the Commercial Builders Council

Candidates

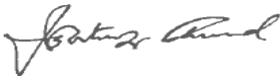
BUTT, Simon

Commercial Builders Councillor

Candidates

LIVAS, Dimitri

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.



Ishtiaq Ahmed
Returning Officer

29 September 2017

From: [GALLICCHIO.Sam](#)
To: ["Industrial Elections"](#)
Subject: Decision E2017/155 [SEC=UNCLASSIFIED]
Date: Monday, 24 July 2017 12:33:52 PM
Attachments: [image001.png](#)
[MBAACT_Decision_E2017-155.pdf](#)

Dear AEC,

Please find attached the decision related to matter E2017/155.

Kind Regards

SAM GALLICCHIO

Adviser

Education & Reporting

Tel: (03) 9954 2931

sam.gallichio@roc.gov.au

The Registered Organisations Commission

GPO Box 2983, MELBOURNE VIC 3001 | 414 Latrobe Street, Melbourne Victoria 3000

www.roc.gov.au



Australian Government

Registered Organisations Commission

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From: GALLICHIO.Sam
To: ["canberra@mba.org.au"](mailto:canberra@mba.org.au)
Cc: ["Cameron Spence"](#)
Subject: Decision E2017/155 [SEC=UNCLASSIFIED]
Date: Monday, 24 July 2017 12:32:38 PM
Attachments: [MBAACT_Decision_E2017-155.pdf](#)
[image001.png](#)

Dear Frank,

Please find attached the decision related to matter E2017/155.

Kind Regards

SAM GALLICHIO

Adviser

Education & Reporting

Tel: (03) 9954 2931

sam.gallichio@roc.gov.au

The Registered Organisations Commission

GPO Box 2983, MELBOURNE VIC 3001 | 414 Latrobe Street, Melbourne Victoria 3000

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DECISION

Fair Work (Registered Organisations) Act 2009
s.189—Arrangement for conduct of an election

Master Builders Association of the Australian Capital Territory (E2017/155)

MR ENRIGHT

MELBOURNE, 24 JULY 2017

Arrangement for conduct of election.

[1] On 5 June, 10 July and 17 July 2017 the Master Builders Association of the Australian Capital Territory lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices, due to insufficient nominations received in a previous election (**E2016/112**):

Chairperson of the Commercial Builders Council
Commercial Builders Councillor

[2] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

I, Frank Porreca, being the Treasurer of the Master Builders Association of the Australian Capital Territory, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Master Builders Association of the Australian Capital Territory
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. Insufficient nominations were received in an earlier election and the declaration of results is attached.

Signed:

Dated: 17 July 2017

[PLEASE NOTE: This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@roc.gov.au.]

ANNEXURE A

- Elections that are required:

Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
<i>Commercial Builders Councillor</i>	1	DVS	<i>Insufficient nominations</i>	<i>Commercial Builder Members (financial and life members only) – Rules 11(a)(i) and 15(a).</i>
<i>Chairperson of the Commercial Builders Council</i>	1	DVS	<i>Insufficient nominations</i>	<i>Commercial Builder Members (financial and life members only) – Rules 11(a)(i) and 15(a).</i>

For Commercial Builders Councillor and Commercial Builders Chairperson

	Direct Voting System	Collegiate
Nominations OPEN	<i>To be determined by the returning officer</i>	<i>To be determined by the returning officer</i>
Nominations CLOSE	<i>To be determined by the returning officer</i>	<i>To be determined by the returning officer</i>
Roll of Voters cut off date	<i>To be determined by the returning officer</i>	<i>To be determined by the returning officer</i>