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21 November 2013

Dear Secretary

**RE: Building and Construction Industry (Improving Productivity) Bill 2013  
and  
Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013**

The Master Plumbers' and Mechanical Services Association of Australia welcomes the opportunity to make submissions on the *Building and Construction Industry (Improving Productivity) Bill 2013 ("Bill")* and the *Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013*.

The Master Plumbers' recognises and fully supports the Government's commitment to:

- re-establishing the Australian Building and Construction Commission (ABCC);
- address the specific inappropriate and unlawful behaviour which the 2003 report of the Royal Commission into the Building and Construction Industry, found was prevalent in the building industry; and
- improve the performance and productivity of the building and construction sector.

Having reviewed the proposed Bill, it is our view that the following matters should be given further consideration:

**1. Unlawful Picketing**

It is understood that S.47 – *Unlawful Picketing Prohibited* expressly prohibits persons from organising or engaging in an unlawful picket. Such provisions being a new initiative intended to prevent violence, intimidation and other lawless behaviour aimed towards persons accessing or leaving a building site or an ancillary site.





While Master Plumbers gives full support to this initiative, we are concerned that the “motivation” (or intent) requirements behind the action may hinder the effectiveness of this provision.

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Notwithstanding S.57 – *Reason for action to be presumed unless proved otherwise*, we propose that the objectives of the Bill could be served in a simpler manner by amending the provisions of the Bill as follows:

- “ (1) *A person must not organise or engage in an unlawful picket.*
- (2) *An **unlawful picket** is action that:*
- (a) has the purpose of preventing or restricting a person from accessing or leaving a building site or an ancillary site; or*
  - (b) directly prevents or restricts a person accessing or leaving a building site or an ancillary site; or*
  - (c) has the effect of preventing or restricting a person from accessing or leaving a building site or an ancillary site; or*
  - (d) would reasonably be expected to intimidate a person accessing or leaving a building site or an ancillary site; and*
  - (e) is unlawful (apart from this section).”*

## 2. Scope of Bill

It is understood that the Bill will extend to:

- Persons transporting or supplying goods, to be used in building work directly to building sites where that work is being or may be performed in accordance with S.6(1)(e); and
- Ancillary sites in accordance with S.9.

Such provisions intended to ensure that building work is not prevented or delayed by the restriction of goods and materials to the building site.





Again, Master Plumbers gives full support to this initiative.

Notwithstanding, we are concerned that the extended application of the Bill (and the Building Code) to suppliers of goods and materials, may inadvertently restrict, delay or prevent the supply or access to suitable suppliers in the event that the Building Code were altered to include additional requirements e.g. prohibiting content of industrial instruments.

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Yours faithfully

Ken Gardner  
*Secretary*  
*Master Plumbers' and Mechanical Services Association of Association*

