



DECISION

Fair Work Act 2009

s.512 - Application for a right of entry permit

Application by CFMEU for an entry permit (RE2025/882)

DEPUTY PRESIDENT BUTLER

BRISBANE, 27 MAY 2026

Application for a right of entry permit for Dean Lesley Rielly

[1] On 27 August 2025 the Construction, Forestry and Maritime Employees Union¹ (“the CFMEU”), by its Construction and General Division (“the Division”), New South Wales Divisional Branch (“the NSW branch”), applied for an Entry Permit for Mr Dean Lesley Rielly, a State Organiser, under Part 3-4 of the *Fair Work Act 2009* (Cth) (“the Fair Work Act”).

[2] Mr Rielly was first granted an entry permit on 4 August 2016 and held an entry permit until 2022. On 2 September 2022 the Commission refused an application for a new entry permit for Mr Rielly.² Mr Rielly has not held an entry permit issued under Part 3-4 of the Fair Work Act since that decision.

[3] For the reasons below I have decided to grant the entry permit, and to impose a condition on that permit.

Statutory framework

[4] Part 3-4 of the Fair Work Act provides for “the rights of officials of organisations who hold entry permits to enter premises for purposes related to their representative role” under industrial and occupational health and safety laws.³

[5] Section 512 of the Fair Work Act provides that the Commission may, on application by an organisation, issue an entry permit to an official of the organisation if the Commission is satisfied that the official is a “fit and proper person” to hold the entry permit.

[6] In deciding whether the official is a fit and proper person, the Commission must have regard to the permit qualification matters set out in s 513(1) of the Fair Work Act.

[7] Section 515 of the Fair Work Act allows the Commission to impose conditions on entry permits, taking into account the permit qualification matters. This should be considered in conjunction with assessing fitness and propriety.⁴

[8] Also of relevance is the *Fair Work (Registered Organisations) (CFMEU Construction and General Division Administration) Determination 2024*, an instrument made under section

323B(1) of the *Fair Work (Registered Organisations) Act 2009*. That instrument commenced on 23 August 2024. By that instrument, the Attorney-General determined that it was in the public interest for the Union and its branches to be placed under administration, and determined a scheme for administration. Relevantly, for present purposes, the effect of that instrument is also that the Division has an Administrator (“the Administrator”),⁵ various offices in the Branch have been vacated,⁶ and the Administrator has the power to delegate powers, functions and duties to persons nominated by him.⁷

This Application

[9] The application was signed by Mr Michael Crosby AM, (then) Executive Officer. It was not in contest, and I accept, that it was within Mr Crosby’s authority as the Administrator’s delegate to be the signatory for the application.

[10] In support of its application, the Union filed declarations by Mr Crosby and Mr Rielly (“the initial declarations”) as contemplated by the Commission’s prescribed form, as well as additional statutory declarations of each (“the additional declarations”).

[11] The Registered Organisations Services Branch of the staff of the FWC provided the application to the Office of the Fair Work Ombudsman for consideration on 28 October 2025. That Office indicated that the Fair Work Ombudsman (“the FWO”) wished to be heard in relation to the application. The FWO opposes the application.

[12] I issued directions on 2 October 2025. The CFMEU filed submissions, a statement of Mr Rielly, a further statutory declaration of Mr Crosby, and a report of Mr Brian Lacy AO, a former Presidential Member of the Australian Industrial Relations Commission who has since returned to practice as a barrister, on 20 October 2025. On 5 November 2025 the FWO filed written submissions. I issued amended directions on 6 November 2025. The CFMEU filed its reply submissions on 11 November 2025. The matter was heard at Brisbane on 10 December 2025. For the reasons given on the transcript I granted permission for the CFMEU and the FWO to be legally represented.

Evidence

[13] According to the initial declarations, and subject to a non-controversial matter regarding the training that I will deal with below:

- (a) Mr Rielly has received appropriate training about the rights and responsibilities of a permit holder, by completing an approved right of entry training course on 25 August 2025;
- (b) Mr Rielly has never been convicted of an offence against an industrial law;
- (c) Mr Rielly has never been convicted of an offence against a law of the Commonwealth, a State, a Territory or a foreign country, involving entry onto premises, or fraud or dishonesty, or intentional use of violence against another person or intentional damage or destruction of property;

(d) Mr Rielly has not had any entry permit issued under Part 3–4 of the Fair Work Act or a similar law of the Commonwealth revoked, suspended or made subject to conditions;

(e) Mr Rielly has not had an entry permit under State or Territory industrial or occupational health and safety laws which has been cancelled, suspended or been made subject to conditions, nor has he been disqualified under such laws from exercising or applying for an entry permit.

[14] I accept that the information set out in the previous paragraph, as disclosed in the declarations made by Mr Crosby and Mr Rielly, concerning these matters, is true and correct.

[15] By the initial declarations, the CFMEU and Mr Rielly disclosed that:

(a) Mr Rielly and the CFMEU have been ordered to pay penalties under the Fair Work Act in relation to action taken by Mr Rielly; and

(b) there are other matters that may be relevant to whether Mr Rielly is a fit and proper person to hold a permit.

[16] The additional declarations were also filed on 27 August 2025. Mr Rielly’s additional declaration went to, inter alia, his time with a different branch of the Division, the Queensland and Northern Territory Branch (“the QNT branch”). In his declaration Mr Rielly attributed his conduct in contravening right of entry laws, while working at the QNT branch, to information and directions he had received from unnamed senior officials of that branch. He stated he had not meant to break the law in relation to right of entry and regretted doing so. He stated that prior to working for the QNT branch, he had worked for the NSW branch and had always signed in when exercising right of entry while there. He stated he regretted not continuing this practice while working for the QNT branch. He said Mr Crosby had told him his ongoing employment depended on following the law, and that he, Mr Rielly, had assured Mr Crosby he was committed to doing so. He said he believed he could make a difference and help rebuild the NSW branch. He said he understood that his ability to contribute to the union that he loved, and which historically had done so much good for workers in the construction industry was dependent on his retaining a right of entry permit if one was granted to him. He stated he would do everything in his power to adhere to the law and comply with his obligations if a permit was issued.

[17] Mr Crosby’s additional declaration stated that he was charged with the reform of the NSW Branch which had seen the removal of the Branch’s Executive group and the resignation of 75% of its organising staff. He declared he had zero tolerance for any breach by our staff of the laws prescribed by the Fair Work Act or the *Work Health and Safety Act 2011* (NSW) concerning right of entry, and that breaches of those laws may be regarded as misconduct and lead to dismissal. Mr Crosby declared he had hired Mr Rielly as the Coordinator of the NSW branch’s Northern Region, and Mr Rielly was required to mentor three young organisers with limited experience. He said he had hired Mr Rielly on the basis of his extensive experience as an organiser standing up for the rights of those he represents and seeks to represent. He said he was aware of Mr Rielly’s history of contravening whilst an organiser employed by the NSW branch and the QNT branch. He said he had weighed up Mr Rielly’s history and decided to

proceed with his appointment. He said he believed Mr Rielly when Mr Rielly says that he regretted the fact that he felt he had to obey directions by the former QNT branch secretary concerning the exercise of entry rights. He said he considered Mr Rielly had stood up to the dictates of Mr Crosby's predecessor and left the NSW Branch rather than continue under the former secretary's administration. He said he considered Mr Rielly had continually been let down by successive administrations of the Division. He said he had spoken to Mr Rielly and had made him aware of the fact that his continued employment with the CFMEU depended on his strict adherence to the law as it relates to right of entry, which Mr Rielly had accepted. He said he had been informed by Mr Rielly, and believed, that Mr Rielly understands what is required of him, and that Mr Rielly had agreed that Mr Rielly would pay particular attention to the need to adhere to all parts of the law, and inculcate in the organisers he supervises the same respect for the law. Mr Crosby declared he was confident that under a different administration, Mr Rielly had the ability to adhere to the demands he, Mr Crosby, made of Mr Rielly for ethical behaviour, and that Mr Rielly had the capacity to be an effective role model for the young organisers he now supervised. He said he considered that failure to obtain a right of entry permit would severely affect the degree to which Mr Rielly would be capable of mentoring the organisers he now supervised and doing the work Mr Crosby allocated to him. Mr Crosby declared he supported Mr Rielly's application for issue of a right of entry permit, and would not do so if he, Mr Crosby, did not consider Mr Rielly to be a fit and proper person to be issued an entry permit.

[18] Mr Rielly also filed a witness statement dated 20 October 2025, in response to the directions made in these proceedings. He gave evidence that he was a long-term CFMEU member, having joined in around 1997, and remained a committed and proud member of the union. He expressed particular support for the union's role in relation to safety.⁸ His witness statement went to his employment history with the CFMEU, starting with the NSW branch, then the QNT branch, and then returning to the NSW branch on 20 August 2025. He said that in his new role, he has responsibility for the supervision and mentoring of four organisers, some experienced and some new to organising, operating from the Central Coast of New South Wales to the Queensland border. He said that his role involved visiting construction sites, and that without an entry permit he could only enter when invited. The witness statement set out Mr Rielly's history of holding entry permits under state and federal laws, the training he had undertaken, and the frequency of his exercise of rights as a permitholder, when he held one. His witness statement also dealt with his contraventions of industrial laws, which I have referred to below, his regret for the contraventions, and his intention not to contravene the law again in the future.

[19] The witness statement also refers to Mr Rielly being the respondent in two civil penalty proceedings arising from conduct said to have occurred while he worked for the QNT branch, each of which he was resisting. It goes on to deal with Mr Rielly's experience of his return to the NSW branch, his view of Mr Crosby, and commitments he had made to Mr Crosby to comply with the law and do everything by the book. It deals also with Mr Rielly's training with Mr Lacy.

[20] Mr Lacy's report was tendered with no objection save for the FWO raising one matter of weight, which I have dealt with below.

Submissions

[21] The CFMEU submitted that Mr Rielly had undertaken appropriate training and has a good knowledge of the rights and responsibilities of permit holders. It submitted Mr Rielly is committed to complying with the responsibilities and obligations imposed on him as a permit holder. It relied on an assurance to the Commission, in Mr Rielly's witness statement, that he would comply with the law. It submits, in reliance on the additional declarations, that this is, in any event, a term of his employment with the Division which has been imposed by Mr Crosby.

[22] The CFMEU submitted that Mr Rielly had worked in the building and construction industry since he was aged 16, had not been convicted of any offence against industrial law, and had not been convicted of any criminal offences, including any which would fall under s 513(1)(c) of the Fair Work Act. On the other hand, it submitted Mr Rielly has a history of contravening industrial law, with penalties having been imposed on him and the CFMEU (or its predecessor unions) in relation to those contraventions. It submitted those contraventions did not assist Mr Rielly but did not militate against a conclusion that he is presently a fit and proper person to be issued an entry permit. It submitted that when all the permit qualification matters detailed in s 513(1) are weighed, the Commission should be satisfied that Mr Rielly is presently a fit and proper person to be issued an entry permit. It made submissions specific to those matters, including in relation to the specific disclosures made.

[23] The Fair Work Ombudsman submitted that the Commission should dismiss the application on the basis that Mr Rielly is not a fit and proper person to hold an entry permit. They made this submission in reliance on Mr Rielly having a long history of non-compliance with the Fair Work Act in his capacity as an organiser, which justified the 2022 refusal decision, and in reliance on proceedings determined in the period since that decision. The Fair Work Ombudsman submitted that in the five proceedings against Mr Rielly for contravening the Fair Work Act, he had demonstrated a pattern of failing to show remorse or contrition for his conduct. The Fair Work Ombudsman submitted, further, that in Mr Rielly's statutory declaration dated 27 August 2025 in support of the application in these proceedings, he did not accept responsibility and apologise for his significant history of non-compliance. Instead, the FWO submitted, Mr Rielly attempted to, at best, downplay the seriousness of his prior contraventions by only specifically referring to the contravention for not signing in or undertaking induction, attempted to excuse that failure on the basis of instructions, and then asserted that it was never his intention to break the law in relation to right of entry. The FWO submitted that it was only after the FWO intervened in these proceedings for an entry permit that Mr Rielly signed a witness statement properly characterising his contravening conduct and expressing remorse for it. The FWO submitted that the Commission should not accept that Mr Rielly has undergone a reformation of character since 2022 such that he is now a fit and proper person to hold an entry permit. It submitted the Commission should not grant an entry permit to someone who has engaged in this conduct with a consistent failure to show remorse, especially in light of the privileges an entry permit would grant Mr Rielly with respect to dealing with third parties. It submitted that if the Commission did not accept the submission that the application should be dismissed, conditions should be imposed.

[24] In reply the CFMEU submitted that the conclusions propounded in the FWO's submissions should be approached with circumspection because those submissions failed to engage with, or otherwise place any weight on, the permit qualification matters that are

manifestly favourable to Mr Rielly, and did not properly assess the temporal focus of the inquiry under s 512, namely whether Mr Rielly is presently a fit and proper person to be issued an entry permit. It submitted the FWO's submissions erroneously characterised important aspects of Mr Rielly and Mr Crosby AM's evidence, and failed to engage at all with the applicant's submissions of 20 October 2025. It submitted the FWO's submissions were premised on misconstructions of ss 513(1)(e) and 515 of the Fair Work Act, and elided a critical aspect of Saunders DP's reasons for refusing to issue Mr Rielly a permit in September 2022. By the applicant's reply submissions the applicant and Mr Rielly undertook to the Commission to advise the Commission and the FWO of any judgment in which Mr Rielly is found to have engaged in a contravention of the Fair Work Act, and submitted this rendered it unnecessary for the Commission to impose any reporting condition on the permit if granted.

Consideration

[25] Mr Rielly was required for cross-examination by the FWO, while Mr Crosby and Mr Lacy were not. The CFMEU submitted that uncontested and unchallenged evidence ought to be accepted unless it was inherently incredible. It submitted there were numerous aspects of Mr Rielly's evidence, and also Mr Crosby and Mr Lacy's evidence, which were unchallenged and ought to be accepted.⁹

[26] Vice President Hatcher (as His Honour then was) set out various principles relevant to the interpretation and application of ss 512 and 513(1) of the Act in *Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia*.¹⁰ The phrase "fit and proper person" has been considered by a Full Court of the Federal Court in *Maritime Union of Australia v Fair Work Commission*.¹¹ I have had regard to those authorities in deciding this application.

[27] As I have indicated above, in *Application by the CFMEU Construction and General Division, Queensland Northern Territory Divisional Branch*¹² ("the 2022 refusal decision"), the Commission, constituted by Deputy President Saunders, dismissed an application for an entry permit for Mr Rielly. The Deputy President found the permit qualification matters under section 513(1)(a), (b), (c), (e) and (f) weighed in favour of a conclusion that Mr Rielly was a fit and proper person to hold an entry permit,¹³ but these matters were outweighed by matters weighing against such a conclusion. I have referred to those matters further below.

[28] I now turn to considering and weighing the permit qualification matters.

[29] Starting with section 513(1)(a) of the Fair Work Act, I accept that Mr Rielly completed the relevant training on 25 August 2025, and in the course of that had passed a test on the training with a result of 85%. I accept he had previously undertaken similar training. I accept that Mr Rielly underwent additional training with Mr Lacy AO on 15 October 2025. He had previously undertaken similar training on 21 June 2022.

[30] The FWO submitted that as a prior permit holder Mr Rielly had received such training on multiple occasions. The FWO submitted that limited importance should be attached to this matter because Mr Rielly's training did not prevent him from contravening the Fair Work Act in the past. The CFMEU submitted that the training was plainly a matter militating in favour of a finding of fitness and propriety. It also submitted that the evidence shows that Mr Rielly first

undertook training with Mr Lacy on 21 June 2022, prior to the 2022 refusal decision, and that the contraventions referred to below, in my consideration of subsection 513(1)(d), related to events that occurred no later than 27 October 2021. It submitted that, accordingly, Mr Rielly had an unblemished record since the 21 June 2022 training with Mr Lacy. It submitted that the training could and should be seen as having been efficacious. It submitted the content and extent of more recent training that Mr Lacy provided to Mr Rielly was more significant for present purposes. It referred to judicial consideration of similar remedial training provided by Mr Lacy, submitting:¹⁴

“In *ABCC v CFMMEU (the Titan Cranes Case)* [2022] FCA 774 Logan J described Mr Lacy as a “distinguished Australian” who had held positions of responsibility concerning Australia’s national security, and had been a senior member of the predecessor to this Commission. His Honour extracted and endorsed remarks by Snaden J on the significance and manifest benefit of training undertaken by Mr Lacy in *ABCC v CFMMEU (The Monash Freeway Widening Case) (No 2)* [2021] FCA 1101, in which Snaden J had observed that Mr Lacy was a well-known and well respected practitioner in the field of industrial relations, whose expertise undoubtedly extended to the nature and limits of the rights conferred by Part 3-4 of the [Fair Work] Act. The utility and importance of the training administered by Mr Lacy in those proceedings was because it exhibited a desire on the part of the individual organisers that they conduct themselves lawfully in the future.”
(references omitted)

[31] The CFMEU went on to make submissions about the content, extent, and relevance of the training.

[32] In the 2022 refusal decision Deputy President Saunders considered the training, provided by Mr Lacy, that Mr Rielly had undertaken in June 2022. He considered this together with the issue of whether he could be confident as to the efficacy of that training, including in light of the absence of evidence of remorse. I have referred to this issue further below.

[33] Having regard to the evidence and the submissions I find that the training conducted by Mr Lacy on 15 October 2025 was expert, thorough, and personalised to Mr Rielly. I find it dealt specifically with, inter alia, Mr Rielly’s contraventions of the Fair Work Act referred to in my consideration of section 513(1)(d) below, and provided training as to how to avoid future contraventions.

[34] I accept Mr Rielly has received appropriate training about the rights and responsibilities of a permit holder. I accept and find that this permit qualification matter weighs in favour of a conclusion that Mr Rielly is a fit and proper person to hold an entry permit and exercise the powers, functions, and responsibilities attached to holding a permit.

[35] Turning to section 513(1)(b) of the Fair Work Act, I accept Mr Rielly has never been convicted of an offence against an industrial law. This permit qualification matter weighs in favour of a conclusion that Mr Rielly is a fit and proper person to hold an entry permit and exercise the powers, functions, and responsibilities attached to holding a permit.

[36] I accept that Mr Rielly, who at the time of the CFMEU’s materials being filed was 45 years old, has never been convicted of an offence that would fall within section 513(1)(c) of the

Fair Work Act. This permit qualification matter weighs in favour of a conclusion that Mr Rielly is a fit and proper person to hold an entry permit and exercise the powers, functions, and responsibilities attached to holding a permit.

[37] I now turn to section 513(1)(d). Mr Rielly has been ordered to pay pecuniary penalties in relation to conduct engaged in by him that was in contravention of the Fair Work Act. The CFMEU and Mr Rielly disclosed, and the FWO referred me to, five separate proceedings. Two of those proceedings related to events that had occurred in 2019. The remaining three related to events that had occurred in 2021. The contraventions that the CFMEU and Mr Rielly disclosed in the declarations were related to the following events, which led to the following penalties being imposed.

Yatala South Interchange project

[38] The contraventions in relation to the Yatala South Interchange project related to Mr Rielly's conduct on 25 and 27 October 2021. In *FWO v CFMMEU (M1 Yatala Exit 41 Case)*¹⁵ he admitted contravening section 500 of the Fair Work Act by failing to sign the visitor register at a construction site for the project while seeking to exercise entry rights as a permit holder despite being requested to do so by the occupier, on each of those two dates. Vasta J imposed a penalty of \$15,000 on Mr Rielly and a penalty of \$113,886 on the CFMEU.

Cross-River Rail project

[39] The contraventions in relation to the Cross-River Rail project, at Albert Street, Brisbane, related to Mr Rielly's conduct on 1 July 2021. Mr Rielly was found to have failed to comply with reasonable requests made by the occupier of the site to comply with occupational health and safety requirements that applied to the site, while exercising a State or Territory occupational health and safety right, to have failed to comply with entry requirements, and to have failed to comply with conduct requirements. On appeal in *CFMEU v FWO (Cross River Rail Appeal) (No 2)*,¹⁶ the Full Court of the Federal Court of Australia left the findings as to liability largely undisturbed and redetermined the penalties to be imposed. It decided the penalty to be imposed on Mr Rielly was \$6,300, and on the CFMEU, \$60,000.

Pacific Motorway Upgrade VL2B project

[40] The contraventions in relation to the Pacific Motorway Upgrade VL2B project related to Mr Rielly's conduct over a period of 2.5 hours on 23 April 2021. He was exercising a right of entry under state work health and safety laws at the time. In *FWO v Rielly*¹⁷ Mr Rielly admitted that in contravention of s 500 of the Fair Work Act he had acted in an improper manner by failing to comply with a site requirement that applied to the project, namely a requirement to be accompanied by a fully inducted Seymour Whyte Constructions Pty Ltd representative at all times. Thomas J imposed a penalty of \$8,500 on Mr Rielly and a penalty of \$58,000 on the CFMEU.

Pacific Highway Upgrade project

[41] On 22 August 2019, when Mr Rielly entered a site occupied by Seymour White, he and another person obstructed or hindered a concrete pour and therefore intentionally hindered or obstructed two employees who were involved in the concrete pour. In *Australian Building*

Construction Commissioner v CFMEU (Pacific Highway Upgrade Case) (No. 3),¹⁸ Humphreys J held that Mr Rielly the CFMEU official contravened s 500 of the Fair Work Act, having intentionally hindered and obstructed two employees of a contractor on a road construction project, and otherwise acting improperly whilst exercising rights under Part 3-4 of the Fair Work Act. This judgment was undisturbed on appeal. In the penalty judgment, *ABCC v CFMEU (Pacific Highway Upgrade Case) (No 4)*,¹⁹ Humphreys J imposed a penalty of \$8,820 on Mr Rielly and \$100,800 on the CFMEU (with its penalty being imposed for contraventions committed by it as a result of the contravening conduct of both Mr Rielly and the other person).

Coffs Harbour Hospital

[42] The contraventions in relation to the Coffs Harbour Hospital project related to discussions occurring between Mr Rielly and representatives of CPB Contractors, the operator of a facility manufacturing precast concrete elements for the project, on 25 January, and 4-5 and 14 March, 2019. In *ABCC v Rielly (No 2)*,²⁰ Driver J held that Mr Rielly contravened various provisions of the Fair Work Act. In the penalty judgment His Honour imposed a penalty of \$10,000 on Mr Rielly and \$80,000 on the CFMEU. Mr Rielly was not exercising right of entry during the events the subject of these proceedings.

[43] In these current proceedings, the CFMEU accepted that Mr Rielly's former contraventions, and the imposition of pecuniary penalties, did not assist him. It submitted that²¹ "when viewed in light of:

- (a) the effluxion of time since the contravening occurred;
 - (b) the nature and circumstances of the contravening;
 - (c) the culture of compliance in the Division at the time of the contravening;
 - (d) Mr Rielly's regret for each instance of contravening and insight into it;
 - (e) the corrective training undertaken by Mr Rielly with Mr Lacy; and
 - (f) Mr Rielly's determination never to repeat the contravening,
- the contraventions and penalties imposed for them do not appreciably point against a finding of present fitness and propriety."

[44] I have dealt with some of those issues in considering section 513(1)(g), below. In relation to subsection 513(1)(d) the FWO submitted that:

"Given the extensive coercive powers granted to permit holders (to the significant erosion of the common law rights of occupiers), a finding that Mr Rielly is a fit and proper person to hold an entry permit despite his history of non-compliance with the [Fair Work] Act would be inconsistent with the entry permit framework."
(references omitted).

[45] The FWO referred me to the consideration of Mr Rielly's non-compliance in the 2022 permit decision. The FWO submitted that the appointment of the Administrator for the CFMEU does not absolve the need to consider or excuse Mr Rielly's significant history of non-compliance, and nor does it provide assurance that the conduct will not occur again.

[46] In reply the CFMEU submitted the relevant Part did not confer extensive coercive powers on permit holders. It submitted that "the rights conferred by Part 3-4 are beneficial ones that recognise and facilitate the important role of trade unions in protecting employees and

advancing the interests of employees,” and that this was a factor of importance in exercising the power under s 512 of the Fair Work Act. It submitted that the FWO’s submission about inconsistency with the entry permit framework attempted to “erect an immutable rule that has no foundation in the statutory text and is at odds with the array of factors which are mandatory relevant considerations,” under s 513(1). The CFMEU submitted that this FWO submission also assumed that “the character and dispositions of human beings are fixed and unalterable.” They also referred me to Deputy President Saunders’ observation, in the 2022 refusal decision, as to the absence of evidence of remorse, a matter which I have dealt with below.

[47] As to the relevance of the appointment of the Administrator, the CFMEU submitted that prior to the administration the courts had found that the Division did nothing to encourage its officers or employees to comply with laws that stood in the way of industrial objectives, and did not establish systems or processes to ensure compliance, as well as making findings as to recidivism and disdain for compliance.²² The CFMEU submitted that Mr Rielly’s historical contraventions must be seen in that context. It made no submission that the context excused Mr Rielly’s conduct but said it provided some explanation in that regard. Relying on Mr Crosby’s evidence it submitted that the previous culture had been eliminated by the administration.

[48] As is indicated by the penalties imposed, the nature of the above matters was that they involved serious contraventions, that mostly occurred at civil construction sites.

[49] The CFMEU’s submissions as to s 513(1)(d) include a submission that these matters are to be viewed in light of, inter alia, the culture of compliance in the Division at the time of the contravening. As each of the matters referred to above led to penalties being imposed on the CFMEU for Mr Rielly’s conduct, I accept that the CFMEU shares responsibility for that conduct. However, that does not detract from Mr Rielly’s own responsibility for his conduct.

[50] Plainly enough having regard to the statute, the fact that a person has been ordered to pay a pecuniary penalty or penalties, as contemplated by subsection 513(1)(d) is not determinative of the question of whether they are a fit and proper person.

[51] Having regard to the evidence and the submissions in these proceedings, this permit qualification matter weighs against a conclusion that Mr Rielly is a fit and proper person to hold an entry permit and exercise the powers, functions, and responsibilities attached to holding a permit. However, I find that this permit qualification matter weighs against Mr Rielly’s fitness and propriety to a lesser extent than it did in 2022. In the 2022 refusal decision²³ the Commission considered the 2019 conduct giving rise to the Coffs Harbour Hospital case and the Pacific Highway Upgrade case referred to above, in its consideration of section 513(1)(d). In that decision Deputy President Saunders found:²⁴

“Mr Rielly’s conduct in contravention of the Act in the Coffs Harbour Hospital Case and the Pacific Highway Upgrade Case is plainly relevant to my assessment of Mr Rielly’s fitness and propriety to hold a right of entry permit. Such conduct weighs against a conclusion that Mr Rielly is a fit and proper person to hold a right of entry permit because it reduces my confidence that Mr Rielly would, in the future, comply with his legislative obligations when exercising his right of entry powers as a permit holder under the Act.”

[52] As I have indicated above, the Deputy President also took into account the training that Mr Lacy had provided, and an absence of evidence of remorse and contrition, in relation to those prior contraventions. I have returned to these matters below. For present purposes it suffices to observe that in the present case, the concern about future compliance is mitigated by various considerations, which I have also dealt with below.

[53] I now turn to subsection 513(1)(e) of the Fair Work Act. The FWO submitted that I should consider the 2022 refusal decision as being relevant to subsection 513(1)(e). The CFMEU made submissions to the contrary. I do not accept the FWO's submissions in this regard. However, I consider the 2022 refusal decision to be another relevant matter able to be taken into account under subsection 513(1)(g). It has also assisted me in my consideration of other permit qualification matters, where I have referred to it.

[54] The absence of any prior permit being suspended or revoked, and the absence of any conditions being imposed on any prior permit, means this permit qualification matter weighs in favour of a conclusion that Mr Rielly is a fit and proper person to hold an entry permit.

[55] Turning to section 513(1)(f) of the Fair Work Act, I find that no right of entry permit for industrial or occupational health and safety purposes, held by Mr Rielly under a State or Territory industrial law or a State or Territory occupational health and safety law, has been cancelled, suspended, or had conditions imposed on it. I find Mr Rielly has not been disqualified from exercising or applying for a right of entry permit for industrial or occupational health and safety purposes under a State or Territory industrial law or a State or Territory occupational health and safety law. These matters weigh in favour of a conclusion that Mr Rielly is a fit and proper person to hold an entry permit and exercise the powers, functions, and responsibilities attached to holding a permit.

[56] The foregoing deals with the specific permit qualification matters set out in subsections 513(1)(a) to (f) of the Fair Work Act. Subsection 513(1)(g) provides for the Commission to take into account any other matters that the Commission considers relevant. I will now consider a number of relevant matters, starting with the relevance of some other civil proceedings that were underway when the application was heard.

[57] Mr Rielly was defending two proceedings in the Federal Court contemporaneously with the hearing in this matter. Both proceedings related to alleged contraventions that were denied. Both had been brought by companies, not a regulator. In both, civil penalties were being sought. In one, an interim order had been made and extended. The CFMEU submitted that no weight should be placed on the bare allegations of contravening in these proceedings.²⁵ It submitted that where there had been interim relief granted on the basis of a serious question to be tried, there was no mention of any conduct on the part of Mr Rielly,²⁶ who was the Eighth Respondent. I do not consider that the fact that those civil proceedings are underway, including where an interim order has been made, weighs against a finding of fitness and propriety. The mandatory considerations go to judgments and penalty orders, not to the commencement of proceedings for interlocutory or interim relief. There are obvious and sound reasons why that should be so. There is no decision rule or other similar impediment to my taking ongoing civil proceedings into account in my consideration of section 513(1)(g). But in the circumstances of this case, and taking into account the fact that it is not a regulator that has brought those civil proceedings in respect of Mr Rielly, I consider their existence is a neutral factor.

[58] I now turn to a series of related issues raised by the parties as to whether I could be confident that Mr Rielly would not contravene the Fair Work Act in the future, which is in turn relevant to his fitness and propriety.

[59] The FWO submitted that a recurring theme across all proceedings involving Mr Rielly was an absence of remorse. Relatedly the FWO submitted that for Mr Rielly to establish that he is now a fit and proper person to hold an entry permit, having been found to lack such fitness and propriety in the 2022 refusal decision, he must establish that he has undergone a reformation of character.

[60] The FWO submitted that it was only when Mr Rielly filed his witness statement in these proceedings, after the FWO had sought to be heard, that he recorded the extent of his contraventions and remorse for his conduct. It referred the Commission to an adverse reflection on Mr Rielly's credit, by the court in the M1 Yatala Exit 41 case.²⁷ The FWO submitted that Mr Rielly's expressions of remorse for his past contraventions must be viewed with scepticism, absent any genuine tangible evidence that he is reformed (of which, the FWO submitted, there is none).

[61] The FWO referred to the 2022 refusal decision and submitted that for Mr Rielly to establish he is now a fit and proper person to hold an entry permit, he must necessarily establish he has undergone a reformation of character since. In support of the FWO's submission as to the need to establish reformation, the FWO referred the Commission to judgments of the New South Wales Court of Appeal²⁸ and Supreme Court²⁹ in that regard, and to a single-Member decision of this Commission.³⁰

[62] As indicated above, Mr Rielly has previously been refused an entry permit. In making the 2022 refusal decision, Deputy President Saunders took into account similar training that Mr Lacy had conducted in 2022, together with the issue of whether Mr Rielly was contrite in relation to his previous conduct. Deputy President Saunders found as follows:

"I accept from Mr Lacy's report that Mr Rielly now has a better understanding of the scope of his obligations as a permit holder under Part 3-4 of the Act. However, it is clear from the nature of the contravening conduct in which Mr Rielly engaged in 2019 in connection with the Coffs Harbour Hospital Case and the Pacific Highway Upgrade Case that he must or ought to have been aware that he was acting in a manner contrary to his obligations under the Act. By acting in the deliberate manner that he did in those cases, Mr Rielly allowed his motivation to behave in what he considered to be in the best interests of workers to take priority over his obligations under the Act. That causes me serious concern that Mr Rielly will act in a similar manner in the future when he faces difficult situations while exercising a right of entry onto a workplace.

Mr Rielly elected not to file a statement in support of the Applicant's application for a new right of entry permit for him. As a result, although I have the declarations made by Mr Ravbar and Mr Rielly and the affidavit of Mr Lacy, I do not have any direct evidence from Mr Rielly to demonstrate any remorse or contrition for his past contravening conduct or to explain how or why he will act differently in the future if he is faced with a difficult situation when exercising a right of entry onto premises owned or controlled by a third party."

[63] The FWO submitted that the Commission should not accept that Mr Rielly has undergone reformation because:

- (a) Mr Rielly had been found to have contravened the Fair Work Act in three proceedings decided after the 2022 recusal decision;
- (b) Mr Rielly had, in the five court proceedings, demonstrated a consistent pattern of failing to demonstrate remorse or contrition;
- (c) in Mr Rielly's statutory declaration filed with the application in these proceedings he had continued to demonstrate a lack of proper understanding of and remorse for his conduct, and had said he had not intended to contravene the law in relation to right of entry;
- (d) it was only in the course of these proceedings, after the FWO sought to be heard, that Mr Rielly had adduced evidence recognising the extent of his contravening conduct and expressing regret.

[64] The FWO submitted that in light of this history, the Commission should not be satisfied that Mr Rielly has undergone the necessary reformation of character to be a fit and proper person for the purpose of holding an entry permit, on the basis of his recent acknowledgements of wrongdoing and expressions of regret, which the FWO submitted represented a departure from Mr Rielly's previous pattern of failing to do so.

[65] The FWO submitted that Mr Rielly would break the law again if he thought that was the best way of achieving the union's objectives, that Mr Rielly's remorse was not genuine, and that his evidence that he had not intended to break the law in the past was not truthful.

[66] In reply the CFMEU submitted that the notion that the FWO's intervention somehow inspired or prompted Mr Rielly to put on evidence that he was remorseful was both conjectural and incorrect. It said that the Commission had set the matter down for hearing and directed the applicant to file evidence, and that Mr Rielly's statement had been filed in accordance with the directions.

[67] The CFMEU submitted that Mr Rielly had provided "significant, compelling and uncontested evidence of genuine contrition." It submitted he had conscientiously examined each of the five proceedings referred to above, and had expressed regret for the contraventions the subject of them. The CFMEU also drew my attention to other aspects of Mr Rielly's evidence, saying that Mr Rielly had committed unequivocally to compliance with his obligations moving forward and outlined why he is so committed; explained that his contravening conduct does not reflect well on him and was not in the best interests of the employees he represents; and stated that his prior contraventions had been both unnecessary and pointless, and that they had achieved nothing other than wasting CFMEU members' money.

[68] The CFMEU submitted that the question before the Commission was not whether Mr Rielly had given evidence of remorse or contrition in the court proceedings, but whether he was presently a fit and proper person. It submitted his remorse and determination to comply with

the law pointed significantly in favour of a finding of present fitness and propriety. It made submissions that no weight should be accorded to the court's observations as to Mr Rielly's credit in the M1 Yatala Exit 41 case.

[69] The CFMEU submitted the Commission should take into account the period that had elapsed since the events giving rise to findings of contraventions, the most recent of which was in October 2021. It submitted the Commission should be cautious in applying the analysis of the courts in professional disciplinary contexts.

[70] I commence my consideration of the foregoing with the question of whether Mr Rielly would break the law if he thought it was necessary to do so to achieve the CFMEU's objectives.

[71] The FWO put to Mr Rielly in cross-examination that if, in the future, breaking the law was the best way to achieve the union's objectives, then he would be willing to engage in law-breaking. Mr Rielly did not accept this proposition.

[72] At hearing Mr Rielly gave additional evidence in chief by consent as to what he would now do if confronted with a work health and safety issue on site. This is relevant because it goes to whether the Commission can be confident that Mr Rielly would comply with the law in the future. As can be appreciated from the excerpts above, Deputy President Saunders had been seriously concerned that Mr Rielly would allow his motivation to act in workers' best interests as he perceived them to take priority over his legal obligations. Given Mr Rielly's focus, in his witness statement, on safety concerns I consider it relevant that Mr Lacy's training went to, inter alia, how to deal with safety concerns without contravening the law, and that Mr Rielly was able to articulate in the witness box, how he would deal with such concerns now.

[73] Notwithstanding training that Mr Rielly has previously undertaken, it is fairly clear that he has a better understanding of whether law-breaking serves the union's and its members' interests, and of the potential consequences of law-breaking, now than in the past.

[74] This line of argument, about whether Mr Rielly would break the law to achieve the union's objectives, does not assist in circumstances where Mr Rielly's present view is that the union's objectives are not achieved by breaking the law, and where Mr Lacy has trained him in relation to how to advance workers' interests while complying with the law. Mr Crosby is clearly of the view that Mr Rielly will comply with the law. Mr Crosby's view holds some weight given the nature of his appointment and of the administration of which he is a significant part.

[75] The FWO has also submitted that Mr Rielly's evidence that he never intended to break the law was not truthful. In his additional statutory declaration Mr Rielly stated that he "never intended to break the law in relation to right of entry." His witness statement set out various findings and penalty decisions in the five proceedings, and indicated his acceptance of the courts' judgments. Similarly, in cross-examination, Mr Rielly maintained he had not intended to break the law, and referred to contraventions to which he had "pleaded not guilty" and allegations which he had denied. But, he said, the judge's findings are the judge's findings, and he accepted the judgment.

[76] The evidence indicates that Mr Rielly, whether naively, recklessly, or in wilful ignorance, decided to follow advice from his former branch leadership in relation to the legal requirements involved in exercising right of entry. The FWO put to Mr Rielly that despite his evidence, he actually had intended to break the law in relation to right of entry; Mr Rielly denied this.

[77] The Coffs Harbour Hospital proceedings related to the general protections provisions, not right of entry. The general protections provisions raise issues of the contravenor's intention and the reason(s) for their actions. The court made findings accordingly. Mr Rielly also denied an intent to break the law by engaging in the conduct the subject of these proceedings.

[78] Mr Rielly's attempt to own and take responsibility for his past conduct while simultaneously denying an intention to break the law did not serve him well, particularly where the courts had found he engaged in conduct deliberately or, in the case of the general protections case, with a particular intent.

[79] As indicated above the CFMEU and the FWO were in contest as to the genuineness of Mr Rielly's remorse, and whether he had 'reformed,' though they were in agreement that Mr Rielly had not demonstrated contrition during the five proceedings referred to above.

[80] I consider that if Mr Rielly is genuinely remorseful about his previous conduct he is more likely to willingly comply with his legal obligations in the future. I do not consider that the fact that Mr Rielly and the CFMEU referred me to some of the above matters as being contested before the courts, and some allegations being denied by Mr Rielly at the time, would lead me to infer that he is failing to take responsibility or is not, now, genuinely remorseful. I take the CFMEU's materials as providing a forthright account of the proceedings before the courts and putting before me material to assist me in discharging my obligation to consider the permit qualification matters. I find that Mr Rielly has not recanted all of his previous denials and defences, and has not changed his mind as to whether he had intended to break the law. On the other hand, I find that he does accept the courts' judgments that he did break the law.

[81] I accept that Mr Rielly's account of the contraventions in his statutory declaration of 27 August is significantly less detailed than the account in his witness statement subsequently filed in these proceedings. This does not take the matter far given that the additional declarations accompanied the initial declarations in which appropriate disclosures had been made, and given the application was, at the time of filing, uncontested. I accept that by referring specifically to failing to sign in when exercising right of entry, which was the most recent contravening conduct, Mr Rielly's statutory declaration of 27 August did not, read alone, give a complete impression of the seriousness of the whole of the contravening conduct across the five proceedings. There was no reason to read that statutory declaration alone given it was filed in support of the application which contained the initial declarations.

[82] I now turn to the issue of "reformation." The Commission can take guidance from the judgments and the decision to which the FWO referred, but is of course not bound by them. Inherent in the concept of "reformation" in this context is that a person's attitude to contravening the law has changed. I accept, and it was common ground, that Mr Rielly was not remorseful in the five proceedings referred to above.

[83] Having regard to his two statutory declarations, his witness statement, and the evidence given at hearing, I consider Mr Rielly has now demonstrated remorse and contrition. Having regard to the remorse and contrition, Mr Crosby's evidence as to the requirements the CFMEU now has of Mr Rielly for compliance with the law as a condition of his employment, the training that Mr Rielly has undertaken at the hands of Mr Lacy in the period since the conduct giving rise to the contraventions, and Mr Rielly's willingness to publicly examine his past conduct, commit to comply in the future, and explain in his own words why he is motivated to comply, I find that Mr Rielly has changed in his intent and attitude since the 2022 refusal decision.

[84] I also consider the period that has elapsed since the contravening conduct, and since Mr Lacy's initial training with Mr Rielly, to be relevant. It has been more than four and a half years since the most recent relevant conduct, in October 2021. The initial training with Mr Lacy was in June 2022. I note that the effluxion of time was considered relevant in *Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia*.³¹

[85] The FWO submitted that as Mr Rielly had been refused his application for a permit in 2022, and had not had a permit since, that limited his ability to contravene the laws. I did not find this persuasive given Mr Rielly had continued to be employed by the CFMEU and was therefore engaged in industrial relations throughout that time. The FWO accepted Mr Rielly had held permits under other statutes during that time, and there had been no contraventions found in relation to any exercise of rights in reliance on those permits.

[86] The Coffs Harbour Hospital case related to contraventions of the general protections provisions, not the right of entry provisions. Just as contraventions of other provisions are relevant under section 513(1)(d), so is the absence of any contraventions of other provisions relevant to my consideration of the effluxion of time.

[87] The FWO also pointed out that cases take some time to be determined, and referred to the civil proceedings that were underway, to which I have referred above. I accept that litigation takes time.

[88] I now turn to further consider Mr Lacy's training. I have considered Mr Lacy's training in the context of s 513(1)(a) above, which is a consideration of whether the official has received appropriate training about the rights and responsibilities of permit holders.

[89] As indicated above the report by Mr Lacy dated 17 October 2025, in relation to his training with Mr Rielly of 15 October 2025, was tendered without objection save for one matter raised to be dealt with as a matter of weight, and Mr Lacy was not required for cross-examination. Accordingly, Mr Lacy's evidence was substantially uncontested. The CFMEU referred me to a decision of this Commission in which training provided by Mr Lacy, in respect of another official, had been taken into account and accorded weight in deciding the fitness and propriety of a different official to hold a permit.³²

[90] Having regard to the content of the training it goes beyond those rights and responsibilities and provides, in addition, guidance tailored to Mr Rielly and his history, guidance as to how to resolve concerns about, inter alia, safety without contravening right of

entry laws in the future, and information about why compliance matters, which is relevant to engendering willing compliance.

[91] The FWO submitted that opining on the willingness of Mr Rielly to comply with the Fair Work Act, did not engage Mr Lacy's expertise and that Mr Lacy's opinion in that regard should not be given weight. I do not accept this submission. Mr Lacy was a long-term, senior tribunal member whose work in conciliation and arbitration provided him with the necessary expertise to assess whether a union official's willingness to comply with a commitment given to the tribunal was genuine. Though it is a matter for the Commission as constituted to make findings of fact I consider I can take Mr Lacy's opinion on this question into account.

[92] As to the remainder of Mr Lacy's report, the FWO submitted that the training has limited relevance because of fundamental issues personal to Mr Rielly. I do not accept this submission. Having considered the evidence and the submissions, and having regard to my consideration above, I make the following findings.

[93] I accept that the training by Mr Lacy, which went not just to understanding the law but to creating the conditions for willing compliance, weighs in favour of a finding of fitness and propriety.

[94] I accept that Mr Rielly believes that breaching the law does not assist with the achievement of the union's aims. I accept that he intends to comply with the law.

[95] I accept that the culture of the union has changed. I accept Mr Crosby's uncontested evidence that he has zero tolerance for any breach by the NSW Branch's staff of the laws prescribed by the Fair Work Act or the *Work Health and Safety Act 2011* (NSW) concerning right of entry. I accept his uncontested evidence that he may regard breaches of these laws as misconduct and that breaches may lead to dismissal. I take the reference to "may" to be directed towards consistency with unfair dismissal laws.³³ I accept Mr Crosby's evidence that he has spoken to Mr Rielly and made him aware of the fact that his continued employment with the CFMEU depends on his strict adherence to the law as it relates to right of entry. I accept Mr Crosby's evidence that Mr Rielly has accepted that condition of his employment.

[96] I accept Mr Crosby's evidence that he had told Mr Rielly that his employment is contingent upon compliance with the law, and that Mr Rielly had accepted this. The CFMEU referred me to a decision in which Vice President Gibian placed weight in similar evidence from Mr Crosby in respect of a different official.³⁴ I accept the CFMEU's submission that the requirement it has imposed on Mr Rielly can give the Commission significant confidence that Mr Rielly will comply with the law.

[97] I also accept that the risk of future non-compliance is mitigated by the commitments given by Mr Rielly to the Commission and to the CFMEU, and by the explicit and unambiguous position of the NSW branch under Mr Crosby's leadership, in requiring Mr Rielly to strictly adhere to the law as a condition of employment.

[98] Most of the permit qualification matters weigh in favour of a finding of fitness and propriety. Mr Rielly's history of contraventions and civil penalties weighs strongly against. Some of the relevant matters considered under section 513(1)(g) tend to weigh against,

including Mr Rielly's attempt to square the circle of taking responsibility for past wrongs and accepting the courts' judgments on one hand, while maintaining he never intended to break the law on the other. I consider that most of the relevant matters taken into account under section 513(1)(g), though, weigh in Mr Rielly's and the CFMEU's favour. On balance I am satisfied that Mr Rielly is a fit and proper person to hold an entry permit, taking into account the permit qualification matters and my consideration of them above.

[99] The Commission has a discretion to impose conditions on an entry permit when it is issued, having regard to the permit qualification matters. In the alternative to the FWO's submission that no permit should be granted, the FWO submitted that if a permit was granted, two conditions should be imposed. Those proposed conditions were:

(a) that the Applicant be required to inform the Commission within seven days if Mr Rielly is found by any court order or judgment concluding that Mr Rielly contravened a provision of the Fair Work Act ("the reporting condition"); and

(b) that Mr Rielly's entry permit be immediately and automatically revoked upon the Commission being so advised of any further court order or judgment concluding that Mr Rielly contravened a provision of the Fair Work Act ("the revocation condition").

[100] The FWO made submissions as to why these conditions should be imposed, why they were reasonable, and why they were within the Commission's power. The CFMEU submitted that neither proposed condition was within the power conferred by section 515 of the Fair Work Act, and the first of the conditions was rendered unnecessary given both Mr Rielly and the CFMEU undertook to advise the Commission and the FWO of any judgment in which Mr Rielly is found to have contravened the Fair Work Act. The CFMEU drew my attention to a decision of a Full Bench accepting a similar undertaking.³⁵ In that decision the undertaking was that the permit holder would report to the Full Bench within fourteen days any adverse outcome in particular court proceedings that were then on foot. The Full Bench stated, and found:³⁶

"[Counsel] contended that the Reporting Condition is unnecessary in light of the undertaking. We agree. We are satisfied with the undertaking, which is to the same effect as the Reporting Condition. The need for any condition on the right of entry permit is therefore obviated."

[101] I consider it would be consistent with the Full Bench decision to find that the undertaking given obviates the need for the reporting condition proposed by the FWO. I so find.

[102] Counsel for the CFMEU submitted that imposing the proposed revocation condition would constitute an attempt to do indirectly what cannot be done directly, having regard to sections 507, 508 and 510 of the Fair Work Act. It submitted that the revocation condition also seeks to dictate to the Commission which is otherwise accorded to it under the Fair Work Act. Counsel for the FWO submitted that the power to impose permits was unfettered, subject to the requirement to consider the permit qualification matters, and subject to judicial review on the ordinary grounds.

[103] I doubt that it is within my power to impose the proposed revocation condition as doing so would mean that the permit would be able to be automatically revoked without the

Commission meeting the requirements for revocation under the Fair Work Act, and without affording procedural fairness. It is unnecessary for me to decide this, as I would not, in any event, as a matter of discretion, impose such a condition, for the same reasons as those giving rise to my doubts about jurisdiction.

[104] Taking into account and weighing the permit qualification matters, and for the reasons above and on the undertaking of the CFMEU and Mr Rielly I have decided not to impose the conditions proposed by the FWO.

[105] I have, however, decided to impose the usual condition in relation to training. Specifically, the training course that Mr Rielly completed on 25 August 2025 did not include appropriate training in relation to Subdivision AA of Division 2 of Part 3-4 of the Fair Work Act (which is unsurprising as that Subdivision relates to workers in the textile, clothing, or footwear industry). Accordingly, and having taken into account the permit qualification matters, I impose the following condition pursuant to section 515 of the Fair Work Act:

Dean Lesley Rielly must not exercise rights under Subdivision AA of Division 2 of Part 3-4 of the Act until he has completed appropriate training in relation to that subdivision and he has filed a copy of the training completion certificate in the Fair Work Commission. [Note: Subdivision AA relates to TCF award workers.]

[106] Having decided to impose that condition, and taking into account and weighing the permit qualification matters, on balance I am satisfied that Mr Rielly is a fit and proper person to hold an entry permit and exercise the powers, functions, and responsibilities attached to holding a permit.

Conclusion

[107] Having regard to the above, I am satisfied that it is appropriate to exercise the discretion conferred on me by section 512 of the Fair Work Act in favour of issuing Mr Rielly with an entry permit. I exercise the discretion, accordingly, to issue a permit, subject to the condition I have decided to impose.

[108] I order accordingly.



DEPUTY PRESIDENT

Appearances:

Mr P. Boncardi, Counsel, instructed by the CFMEU.

Mr L. Meagher, Counsel, instructed by the Fair Work Ombudsman.

Hearing details:

10 December 2025

In-person, Brisbane, and by video using Microsoft Teams.

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<PR810292>

¹ As it then was.

² *Construction, Forestry, Maritime, Mining and Energy Union-Construction and General Division, Queensland Northern Territory Divisional Branch* [2022] FWC 2332 (“the 2022 refusal decision”).

³ *Fair Work Act* s 478.

⁴ *Maritime Union of Australia v Fair Work Commission* [2015] FCAFC 56 per North, Flick and Bromberg JJ at [35]-[36].

⁵ *Fair Work (Registered Organisations) (CFMEU Construction and General Division Administration) Determination 2024*, item 2.

⁶ *Ibid*, item 3.

⁷ *Ibid*, item 6(3).

⁸ Statement of Mr Rielly, [6], [8].

⁹ Relying on *Ashby v Slipper* (2014) 219 FCR 322, [77]-[78].

¹⁰ [2015] FWC 1522.

¹¹ [2015] FCAFC 56 (North, Flick and Bromberg JJ).

¹² [2022] FWC 2332

¹³ *Ibid*, [16].

¹⁴ CFMEU’s outline of submissions in reply, [9].

¹⁵ [2024] FedCFamC2G 340.

¹⁶ [2024] FCAFC 55.

¹⁷ [2023] FCA 1144.

¹⁸ [2022] FedCFamC2G 388.

¹⁹ [2022] FedCFamC2G 608.

²⁰ [2021] FCCA 43.

²¹ CFMEU’s written submissions, [25].

²² Citing for instance *ABCC v CFMMEU (The Constitution Place Case)* (2020) 299 IR 231, [164], and *ABCC v CFMMEU (WGC Cranes Case)* (2021) 307 IR 411, [140]-[141].

²³ The 2022 refusal decision, [17]-[23].

²⁴ The 2022 refusal decision, [23]

²⁵ Relying on *Application by the CFMEU for an entry permit for Trevor Shane Sinclair* [2025] FWC 2956 at [21] (Gibian VP).

²⁶ Referring to *BMD Construction Pty Ltd v CFMEU* [2024] FCA 569.

²⁷ *FWO v CFMMEU (M1 Yatala Exit 41 Case)* [2024] FedCFamC2G 340, [106].

²⁸ *The Council of the New South Wales Bar Association v Franklin (No 2)* [2014] NSWCA 428.

²⁹ *Ex Parte Tziniolis; Re the Medical Practitioner's Act* (1966) 67 SR (NSW) 448.

³⁰ *Construction, Forestry, Mining and Energy Union-Construction and General Division, Queensland Northern Territory Divisional Branch* [2016] FWC 1984.

³¹ [2015] FWC 1522.

³² CFMMEU Construction and General Division, WA Divisional Branch [2025] FWC 1965, [9](d)-[10], and [23].

³³ *Fair Work Act* s 387.

³⁴ *Application by the Construction, Forestry, Mining and Energy Union for an entry permit for Trevor Shane Sinclair* [2025] FWC 2956, [17]-[19] and [20]-[21].

³⁵ *Construction, Forestry, Mining and Energy Union* [\[2018\] FWC FB 1068](#).

³⁶ *Ibid*, [28].