



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY
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Submission Cover sheet

Inquiry into Micro, Small, and Medium
Businesses in the ACT Region

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Inquiry into Micro, Small, and Medium Businesses in the ACT Region

Protecting our Micro, Small and Medium Businesses.

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Master Electricians Australia (MEA) is the trade association representing electrical contractors recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. You can visit our website at www.masterelectricians.com.au

As a representative body within the electrical industry, our response will focus on issues impacting electrical businesses and the wider Science, Technology, Engineering and Math (STEM) industry. MEA commends the ACT Government in opening an inquiry into operating issues facing Micro, Small and Medium enterprises (MSME) and appreciates the opportunity to raise issues currently pressuring our members and the wider community.

Our membership base is constituted of SMEs who are collectively struggling through the skills shortage crisis and security of payment (SOP) issues. MEA have been strong advocates through numerous State and Federal consultations that Vocational Education Training in Secondary Schools (VETSS) and Deemed Statutory Trusts (DST) respectively, are key sustainable solutions that will alleviate operational pressures. ACT Government has an opportunity to become exemplary to the rest of Australia in actioning practical solutions to systemic issues.

Skills Shortage and Diversity within STEM

Skills Shortage Crisis

Businesses across Australia are facing increased pressures resulting from the skills shortage crisis. MSMEs are particularly vulnerable to its consequences as limited labour reduces cashflow which can result in liquidation. This problem will not fix itself and is therefore imperative that Government is proactive in driving long-term sustainable solutions.

Throughout many State and Federal Government consultations, MEA has advocated a key solution towards addressing the skills shortage problem is for Government to invest public funding towards integrating and streamlining vocational education training in secondary schools (VETSS) with an equal weighting to Australian Tertiary Admissions Ranks (ATAR). VETSS benefits include better equipped personnel entering the workforce, enhanced aptitude and competency screening, heightened attraction and retention and greater diversity in the workplace through early exposure in a supportive environment. MEA sees this as a pivotal step in driving societal, structural and systemic change in VET careers. The current schooling system moulds students to fit an academic structure, leaving behind those who are unwilling or unable to conform. VETSS provides STEM students the same encouragement to pursue a career in a VET stream that ATAR students currently enjoy. In turn, we can expect to see a much larger cohort of apprentices entering STEM trades through VETSS exposure.

Diversity within STEM

Based on anecdotal and research evidence, MEA have come to the conclusion that skills shortages, and insufficient STEM diversity, has not been the result of bias hiring processes, but rather the insufficient pool of labour available to employers post-Secondary School. As part of the secondary school curriculum, integrated and intentional VETSS exposure and targeted training would provide all students, regardless of diversity (including females, those living remotely and rurally and those with disabilities), equal opportunities in striving towards a STEM career and become positioned to receive educational and cultural support towards achieving financial success.

MEA believes an integrated and meaningful commitment to VETSS can create a generational, systemic and cultural change in STEM trade stereotypes creating improvements in representation of non-traditional cohorts. Increased diversity amongst STEM tradespeople

provides a larger skilled pool of labour, reducing the skills shortage positively impacting MSME operations. We can then reasonably expect STEM trade employers to begin replicating corporate flexibility to accommodate diverse lifestyle requirements, which will further incentive greater commencement in STEM apprenticeships.

Women in STEM

While immediate remedial actions of gender pay discrepancies would happen in an ideal world, we are wary that solutions creating immediate results lack the necessary foundation for sustainable success. There are multiple factors inhibiting female economic success in STEM trades including parental responsibilities, stereotypes, sexual harassment and insufficient support.¹ These societally ingrained issues cannot be resolved over-night, and any attempt to do so would be a bandage on a bullet wound. To give our women the best chance at economic equality and success in both participating in and owning MSMEs, we need to address the problem through the school system; to create a generational awareness and attitude change towards women in STEM. We can expect to see the industry eventually become more accommodating towards women in the trades, enhancing opportunities to obtain high-paying roles along with men. As more females become skilled and trained in STEM, we can expect to see an increase of women led MSMEs.

Rural and Remote Areas

MEA believe meaningful commitment to VETSS programs will provide better opportunity in exposing STEM to rural and remote students as it would be available within their current schooling framework. Students in these communities would be provided equal opportunity urban/metropolitan students have in taking advantage of school to develop towards their chosen career. Furthermore, we believe this will incentivise students to continue pursuing STEM careers during tertiary education, despite long distances to a local training facility, as they have become exposed to, and inspired, to develop a successful STEM career. This is how we can expect to see increased STEM apprentices in rural and remote areas, alleviating pressures these communities face.

Security of Payment (SOP) and Unfair Contract Terms

Skills Shortages and Diversity within STEM

Master Electricians has contributed to a number of reviews and reports concerning SOP, acknowledging the historical difficulties and problems still facing the industry. We have also raised support for the *Murray Review*, in particular:

- Recommendation 12: Legislation should cover residential building work.
- Recommendation 65: The registration and oversight of adjudicators should be actively regulated.
- Recommendation 84: Unfair Contract terms regards payment should be voided.
- Recommendation 85: Security of payment laws should be nationally consistent.
- Recommendation 86: A Deemed Statutory Trust Scheme should be established.

SOP is a pertinent issue impacting our members who own MSMEs which are typically hired as subcontractors, placing them at the bottom of the construction supply chain subject to significant power imbalance. It is vital ACT government implement legislation which protects MSMEs from principals and head-contractors essentially utilising them as financiers for external projects.

¹ VIC Women in Energy Consultation.

Federal Government's Recent Actions

MEA has publicised the Federal 'Government response to the *Statutory Review of the Payment Times Reporting Act 2020*² is a good start towards protecting MSMEs in the construction supply chain, however these actions alone will be insufficient in protecting our members. We argue a deemed statutory trust is the necessary solution to protecting our MSMEs.

Deemed Statutory Trust (DST)

MEA supports the establishment of DSTs which ensures cashflows are limited to their intended project and not siphoned into external ventures by head-contractors. The current legislative framework allows head contractors to continue with projects which are suffering financial problems whilst utilising any remaining funds for external projects. Not only do MSMEs bear the impact of missed payments; macro-economic disaster can transpire as a domino effect of liquidations occurs. Whilst DSTs do not guarantee successful projects or prevent mismanagement, it does limit collateral damage to the specific project, minimising missed payments to MSMEs and fundamentally restricting liquidations.

Queensland has successfully implemented statutory trusts through the *Building Industry Fairness (Security of Payment) Act 2017* which encapsulates many *Murray Review* recommendations. Statutory Trusts currently operate for projects over \$10 million, and there is a phased approach to lower the project threshold to over \$3 million, then over \$1million in the next two years.

In summary, DSTs should be implemented as they:

- Secures payments owed to subcontractors and suppliers in circumstances where an entity against whom a payment claim has been made becomes bankrupt or insolvent.
- Facilitates growth of small businesses by reducing the risk of non-payment if an entity from which payment is owed becomes insolvent.
- Prevent contracting parties from using money received for works or materials provided by subcontractors and suppliers as part of their operating cash flow.
- Provides an incentive for head contracting parties to maintain more working capital.
- Provides an incentive for head contracting parties to not under-bid when tendering to secure projects. This will have positive flow on effects, such as ensuring the full payment of award rates and entitlements to workers.
- Leads to principals and head contractors ensuring the supply chain participants at lower tiers have been paid, potentially reducing the risk of defects, timeframe blow-outs and disputes.
- When compared to PBAs, construction trusts on private projects are likely to be much less administratively complex and more likely reflect current accounting practices, avoiding unnecessary complications.

Unfair Contracts

It is important that SOP legislation includes robust features such as:

- Anti-avoidance requirements (such as dividing projects to avoid obligation)
- Unfair payment times
- Clear procedures for determining the contract value in the event variation and additional work increase the cost
- Clear enforcement
- Accountability and transparency by subcontractors on relevant DST transactions and ledger accounts and overall status of the account.

² Treasury, 'Government response to the *Statutory Review of the Payment Times Reporting Act 2020*', Australian Federal Government [05 December 2023], <[Government response to the Statutory Review of the Payment Times Reporting Act 2020 | Treasury.gov.au](#)>

Regulatory Burden

Unnecessary Burdensome Red-Tape

MEA are not currently aware of specific regulatory burdens impacting our MSME members within the ACT. We urge Government to continue monitoring the impact of any upcoming regulation and legislation introduced in light on this consultation, and to ensure the costs for MSME compliance does not outweigh the benefits.



Conclusion

Some of the most pressing issues impacting successful and efficient MSME operations in the ACT are skills shortages and security of payments. Whilst these are issues all Australian STEM Micro, Small, and Medium Enterprises are battling, the ACT has an opportunity to champion successful legislative changes that provides meaningful solution to these issues. MSMEs are significant contributors to the Australian economy and is therefore important that ACT Government implement initiatives in recognition of this.

Introducing VETSS with an equal weighting to ATAR in the school system is a long term sustainable measure to alleviate not only the skills shortage but also STEM trade diversity. It is expected that easy access to VET education and support, reflective of what is available to ATAR students, will create necessary systemic and societal change in perception towards diversity in STEM. Not only does this have the potential to inherently alleviate skills shortage pressures (through an increased skilled pool of labour) but will also lead to more female led MSMEs in the ACT as more women become competent and skilled to commence their own businesses. Remote and rural communities will have greater exposure to STEM trade training, likely leading to greater STEM attraction and retention in these areas.

The current dismal economic climate with increased business inputs and persistent inflation, has highlighted the importance of protecting our MSMEs from being treated as construction project financiers by principals and head-contractors. Security of Payment laws, in particular Deemed Statutory Trusts, can go a long way to protect MSME against payment power imbalances, ensuring MSMEs receive monies owed which are currently at risk of being alternatively siphoned into external projects. This will not only significantly increase protection of MSMEs, but also protect the wider economy from 'domino' liquidations which can ultimately lead to recessionary pressures.

MEA appreciate the opportunity to respond to the ACT Government's inquiry into operational issues facing MSMEs. We look forward to the future outcomes and are available for further discussions.