Reducing Barriers to Business Dynamism in Australia

Federal

Georgia Holmes

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MEA's Priority Recommendations for the PC

Below is a high-level summary of MEA's key policy recommendations to increase business dynamism for small and medium-sized businesses.

For the full list of MEA's recommendations, and a more detailed version of the below summaries, please refer to Appendix A.

FWA Small Business Definition

Revise FWA definition of "small business" to $10m aggregated turnover or increase employee threshold to at least 50 FTE.

Small Business Support

Offer SMEs greater support to achieve compliance and provide subsidised or free education and training programmes focused on compliance.

Personal, Financial & Legal Risk

Focus on effective restructuring and recovery pathways for viable SMEs, rather than punitive consequences following failure.

Unfair Contract Terms

Provide additional funding for ACCC to proactively audit construction industry subcontracts. Also deem specific provisions unfair.

Small Business Dismissal Code

Provide genuine assistance, accessible guidance and early merits based assessment by FWC. Consider genuine unfair dismissal exemption for SMEs with safeguards maintained.

Skills Shortage

Redirect more Government funding directly to the employers who train apprentices. Reverse decision to reduce employer funding.

Financing Constraints

Give greater recognition to business performance, cash flow and productivity potential within lending assessments.

Security of Payment

Harmonise SOP laws, establish a central retention trust, and implement a federal fund to protect subcontractors when head contractors become insolvent.

NCIF Blueprint

Government recognition that the Blueprint is intended for larger businesses and engage with broader industry to support small businesses.

Executive Summary

Master Electricians Australia (MEA) is a peak industry association representing electrical contractors across Australia, majority of which are small and medium sized businesses and has been supporting Australia's electrical businesses since 1937. We are recognised by industry, government and the community as a leading business partner, knowledge source and advocate. You can visit our website at www.masterelectricians.com.au

Small businesses are the backbone of Australia's economy, comprising 97.3% of all businesses nationally.[1] Their significance is particularly evident in the construction sector, where 98.5% of Australia's 410,602 construction businesses employ fewer than 20 employees, and 91% are microbusinesses with fewer than five employees.[2] This large cohort of small businesses is essential for productivity and the delivery of projects across the industry, providing services that larger businesses cannot efficiently perform.

This is why it is critical to ensure the policy, regulatory and operating environment for small businesses supports business entry, growth and successful exit when the time comes.

Our members continuously raise the following key issues as impediments to small business dynamism –

- Small Business Fair Dismissal Code
- *Fair Work Act* definition of small business employer
- Tax structures
- Security of Payment
- Unfair Contract Terms
- Unfair trading practices
- Financing
- Cost of compliance with policies, regulations, legislation and codes

[1] Australian Small Business and Family Enterprise Ombudsman "Number of small businesses in Australia" *Australian Government* [August 2025] < Contribution to Aust Business Numbers Aug 2023 >

[2] Committee for Economic Development in Australia "SIZE MATTERS: WHY CONSTRUCTION PRODUCTIVITY IS SO WEAK" [2025] < CEDA - Size matters: Why construction productivity is so weak>

Below is a detailed summary of the key issues listed above -

Navigating Multiple Regulatory Frameworks

The overwhelming and cumulative burden of navigating multiple regulatory frameworks can impede business entry (and growth), with small businesses required to engage across multiple agencies and regulators which can behave as an impediment. MEA suggests a 'one-stop' centralised portal for businesses to upload all their information accessible by relevant bodies which would also provide notifications and warning, in addition to regulator updates.

Fair Work Act "Small Business" Definition

The *Fair Work Act's* definition of "small business" as fewer than 15 employees is outdated and does not reflect the operational or financial realities of many modern enterprises. It treats businesses only marginally above the threshold in the same manner as significantly larger employers, creating disincentives to grow and imposing disproportionate compliance burdens. MEA recommends revising the definition to better reflect genuine business capacity, including the adoption of a higher FTE-based threshold or aligning with broader government small business settings such as the ATO's aggregated turnover test.

Insurance

Small businesses are facing growing pressure from rising insurance costs, with increasing premiums for essential cover placing further strain on already tight margins and cash flow. For many businesses, these unavoidable costs are reducing their capacity to invest, employ staff, and grow - ultimately impacting business viability and resilience.

Compliance / Small Business Support

Frequent legislative and regulatory changes create a significant administrative burden for small businesses, which often lack the resources to rapidly interpret, implement and remain compliant with evolving obligations. Unlike larger organisations, small businesses often do not have dedicated internal resources to monitor and remain compliant which increases overheads and, in some cases, threatens business viability. MEA seeks improved targeted government assistance to help SMEs meet these obligations, including upfront financial support for essential compliance-related costs such as safety equipment, software and training, as well as improved access to subsidised or free education, training programs and readily available guidance materials to strengthen understanding and compliance capability.

Prequalification Requirements

Subcontractors (often small businesses) are increasingly required to register with multiple third-party systems as a condition of tendering or engagement, resulting in repeated submission of the same documentation across different platforms with varying standards, audit requirements and subscription costs. This fragmented approach increases administrative burden and compliance costs for SMEs and can inhibit a truly competitive market for tenders. MEA recommends the introduction of a streamlined, standardised prequalification framework for government projects to drive broader adoption across the private sector over time, reducing duplication, improving consistency and lowering costs while maintaining robust capability assurance.

Unfair Trading Practices

MEA welcomes the Federal Government's current consultation on unfair trading practices for small businesses, which seeks to address power imbalances in supply chains and strengthen protections. Members have raised concerns about the financial and administrative burden of defective products where manufacturers fail to take responsibility, leaving small businesses to absorb the cost and risk of rectification.

Personal, Legal and Financial Risk of Directors

Small business owners face significant personal, legal and financial risks when investing, innovating or expanding, with obligations such as director penalty notices, insolvent trading laws and personal guarantees often creating strong disincentives for growth. Combined with recent proposed tax changes and persistent stigma around business failure, these settings can discourage entrepreneurship and risk-taking, highlighting the need for stronger restructuring and recovery pathways to support viably successful businesses.

Payroll Tax-Free Thresholds

The real value of payroll tax-free thresholds is eroding, particularly in the context of rising inflation and wage growth. Across jurisdictions, thresholds vary but are often quickly exceeded by small and medium-sized businesses, particularly in labour-intensive sectors such as construction. Even modest increases in wages can push businesses above the threshold, increasing costs and reducing capacity to invest in staff, equipment and growth. MEA seeks threshold settings that better reflect contemporary wage conditions.

Unfair Contract Terms

Due to power imbalances, subcontractors in the construction sector continue to face contractual arrangements that can materially disadvantage them and reduce efficiency across projects, particularly where risk is disproportionately allocated away from head contractors. MEA supports stronger enforcement of unfair contract term protections in the construction sector, increased transparency in contract amendments, and improved provisions for delay cost recovery, including setting clearer expectations through government procurement practices.

Employment Law Complexities

Complex employment laws can act as a barrier to business growth by increasing the administrative burden and perceived risk associated with hiring staff, particularly for small and medium-sized businesses. While these frameworks are designed to protect employees and ensure fair workplaces, their cumulative complexity can discourage hiring even where demand exists to support business expansion.

Small Business Fair Dismissal Code

The Small Business Fair Dismissal Code is intended to provide certainty for small employers when managing terminations but in practice often falls short, leaving businesses exposed to costly and time-consuming unfair dismissal claims despite acting in good faith. Reform is needed to strengthen the Code by providing clearer practical guidance, earlier claim assessment and a more streamlined process for small business matters to improve confidence and reduce unnecessary legal and administrative burden.

Skills Shortage

Occupational trades continue to face persistent skills shortages, placing significant resourcing and cost pressures on employers, constraining business capacity, increasing labour costs and limiting growth. Contributing factors include limited training capacity across both employers and training institutions, competitive labour markets, interstate and skilled migration licensing barriers, and a restricted talent pool due to insufficient workforce diversity. While small businesses train a significant share of Australia's electrical apprentices, support remains disproportionately weighted towards apprentices rather than employers who bear the primary financial, administrative and operational burden. MEA advocates for a rebalancing of existing funding settings so that greater support is directed to employers who deliver training outcomes, including through the reallocation of current apprenticeship-related funding programs to better reflect where the cost of workforce development is borne.

Financing Constraints for Small Businesses

Access to capital remains a constraint for small and medium-sized businesses, with lending decisions often relying heavily on personal guarantees and family assets rather than business performance and cash flow. This exposes owners of viable businesses to significant personal financial risk when seeking to invest, hire or expand. A greater focus on commercial performance in lending assessments would improve access to growth capital and support business investment and expansion.

Security of Payment

Small businesses in supply chains continue to experience significant issues with delayed and/or non-payment. Members report that despite the successive security of payment reforms, insolvencies and delayed payments are still resulting in substantial unpaid amounts for completed work including retention monies, with ongoing impacts on cash flow, business viability and project delivery. MEA supports stronger, nationally consistent protections for subcontractors, including improved safeguards for retention funds and consideration of a more centralised mechanism for managing and releasing retention payments to reduce disputes and improve payment security across the sector.

ATO Tax Debt Collection

ATO debt enforcement settings can have significant impacts on small and medium-sized businesses, with measures such as credit reporting of tax debts and issuing of Director Penalty Notices affecting access to finance, contracting capacity and ongoing business viability. We find this especially concerning where tax liabilities arise from circumstances outside a business's direct control, such as upstream non-payment or insolvency. MEA advocates for a more flexible, sector-aware approach to tax debt management, including greater consideration of industry cash flow conditions, improved support for structured payment arrangements, and reduced punitive impacts where businesses are actively engaging with the ATO to resolve outstanding debts.

Costly and Complex Transfer of Business

Business succession is often complex and costly creating significant barriers to ownership transitions for small businesses. Members have also raised concerns that recent proposed tax changes affecting capital gains and discretionary trusts may further increase complexity and cost, discouraging timely succession planning. As a result, viable businesses may be wound up rather than successfully transferred to family members, employees or new owners, reducing continuity of jobs, skills and economic activity.

National Construction Industry Forum (NCIF) Blueprint

MEA is disappointed by the limited engagement with small business representatives in the development of the NCIF Blueprint, resulting in a framework that does not reflect the realities of the majority of the construction sector. Consequently, key issues affecting small contractors (refer to summary of issues above) are not fully addressed. MEA therefore calls for broader, more inclusive consultation to refine the Blueprint into balanced, practical reforms that support the entire industry, not only large-scale contractors. This will support business dynamism by strengthening small business participation, innovation, and growth through reforms that remove barriers to productivity, investment, workforce growth, innovation, and competition.

Administrative and Regulatory Costs of Starting a Business

Navigating Multiple Regulatory Frameworks

For many startup businesses, particularly small entities, the often overwhelming and cumulative burden of multiple regulatory frameworks can create a significant barrier to establishment and early operation. From the outset, businesses are required to engage with a broad range of agencies and regulators including, the ATO, Fair Work Commission, state revenue offices, workplace health and safety regulators, industry licensing bodies and local councils. While each serves a distinct and important function, navigating these overlapping frameworks at the point of establishment (and even after) can be complex and resource-intensive, adding pressure on businesses during a vulnerable phase.

A national digital “one-stop” portal for business compliance would significantly reduce administrative burden, particularly for startup businesses, by providing a single centralised platform to navigate establishment requirements and manage ongoing regulatory obligations.

Rather than navigating multiple government and regulator systems and maintaining separate profiles, businesses could maintain a single profile on the proposed one-stop portal containing core information, with relevant agencies drawing on that information and requesting additional, specific details where required.

The portal could provide tailored guidance on compliance obligations, automated reminders for reporting and upcoming renewals, and direct businesses to relevant regulators as their needs evolve. This approach would reduce administrative friction for small businesses while preserving the distinct and important roles of individual regulatory agencies.

Australia's Innovation Ecosystem

Fair Work Act "Small Business" Definition

The Fair Work Act's (FWA) definition of "small business" as having fewer than 15 employees is outdated and does not reflect the operational or financial realities of modern small enterprises.

This creates disincentives to grow, increases administrative uncertainty, and disproportionately impacts industries with cyclical labour needs such as those in the contracting industry which respond to transient contracts and peak demands.

Below are some examples of when the FWA definition is applied. It is important to remember when considering the practical application of this definition, that businesses with 15+ employees (for example, those with only 30 employees) often have resources and expertise comparable to "small firms" but are treated the same as large employers (for example, those with 200+ employees) which typically have dedicated administrative staff or the financial capacity to outsource compliance, dispute resolution, and other Fair Work obligations. This inequality was acknowledged by the Fair Work Ombudsman.[3]

Examples of FWA Application to "Small Business Definition"

FWA Matter	Concern
Compliance and Reporting Obligations	Businesses with more than 15 employees must comply with all payroll, record-keeping, and reporting obligations under the National Employment Standards (NES) and relevant modern awards, without access to the simplified processes or guidance available to small businesses (<15 employees).
Limited Access to Advisory and Support	Certain government and Fair Work advisory programs are restricted to small businesses, excluding those with over 15 employees from simplified guidance, mentoring, and HR toolkits,

[3] Fair Work Ombudsman "Review of the Fair Work Act 2009 definition of 'small business employer' Australian Government, at page 25 < Review of the Fair Work Act 2009 'small business employer' definition >

Programs	despite many operating at a comparable scale to smaller employers.
Minimum Employment Periods (MEP)	Small businesses benefit from a longer MEP before employees can lodge unfair dismissal claims, providing greater certainty when managing new staff. Businesses just above the 15-employee threshold are excluded from this protection in managing business viability through workforce capacity. While the purpose of the MEP remains to safeguard employees, these slightly larger employers face disproportionate operational and financial pressures, including managing variable workloads and cash flow constraints (for example, delays under Security of Payment arrangements).
Severance Payments	For small employers, these payments can represent a significant and often unpredictable financial burden, particularly in industries with variable workloads or project-based work. While the obligation ensures employee entitlements are maintained, applying it at the FWA “small business” threshold can disproportionately affect businesses whose operational scale and financial elasticity is reflective of firms with under 15 employees and who are no better positioned to absorb the pressures of redundancy obligations. In some cases, this could threaten ongoing operations and create flow-on effects, including increased risk to creditors if obligations cannot be met. This also has impacts on costs for calculating the severance package.
Small Business Fair Work	The Small Business Fair Work Dismissal Code provides simplified guidance and protections for small employers managing

Dismissal Code	termination processes. Businesses just above the 15-employee threshold are excluded from the Code and must comply with the full award requirements when dismissing employees. This increases the risk of procedural error, potentially delaying fair outcomes for employees and exposing employers to unfair dismissal claims. Businesses above the threshold, despite operating at a similar scale to small firms, are therefore held to a higher procedural standard without an increase in protections.
Transition Periods	Small businesses are also routinely afforded longer transition periods when new FWA obligations are introduced. For example, the recent right-to-disconnect provisions commenced 12 months later for small businesses than for larger employers, recognising the additional time smaller operators need to adjust their internal processes and meet new compliance requirements.

Comparable Defining Criteria for Small Business - While "there is no universal definition of small business across Commonwealth statutes"[4] and policies, the current FWA 15-employee threshold is notably less favourable than other recognised definitions of a small business. It is outdated and arbitrary for the current economic and business environment.

For example, the following define small businesses as -

- *Australian Tax Office (ATO)* - "an aggravated turnover of less than $10 million"[5].
- *Australian Bureau of Statistics (ABS)* – "those with less than 20 employees"[6]
- *Australian Securities & Investments Commission (ASIC)* – Consolidated revenue less than $50 million, consolidated gross assets less than $25 million and less

[4] Fair Work Ombudsman "Review of the *Fair Work Act 2009 definition of 'small business employer'* Australian Government, at page 13 < Review of the Fair Work Act 2009 'small business employer' definition >
[5] Australian Tax Office "Small business entities" *Australian Government* [27 May 2021] < Small business entities | Australian Taxation Office>
[6] Australian Small Busienss and Family Enterprise Ombudsman "Number of small businesses in Australia" *Australian Government* [August 2025] < Number of small businesses in Australia | ASBFEO>

than 100 employees[7]

Other government frameworks, including grants and business support programs, apply varying definitions of a small business. Many set workforce sizes as the eligibility criteria which are above 15 employees, indicating that thresholds higher than 15 are widely accepted in policy settings that classify and support smaller businesses:

- *Queensland Apprenticeship Pilot Program* – less than 20 employees
- *Small Business Growth Grant (WA)*- 20 or less employees [noting other criteria are to be met]
- *SafeWork Small Business Rebate* (NSW) – 50 or less employees
- *Business Skills Mentoring Program VIC* – 20 or less employees

The above examples of different small business definitions and criteria highlights the outdated nature of the FWA's 15-employee threshold. They also reflect a clear policy recognition that a headcount of 15 does not adequately capture the breadth of businesses that are, in practice, small in scale and operation and are more vulnerable to the cost of compliance and obligations.

Fair Work Ombudsman Review - A *Review of the Fair Work Act 2009 Definition of 'Small Business Employer'* conducted by the Fair Work Ombudsman (FWO) has recently been conducted, which did to recommend any substantial amendment to the existing definition.

This is despite key observations from stakeholders being identified -

> *"All employer stakeholders and the Australian Small Business and Family Enterprise Ombudsman (the ASBFEO) considered that the existing small business employer definition, as currently constructed and based on the headcount of fewer than 15 employees, does not sufficiently acknowledge the 'special circumstances' of small*

[7] Australian Securities & Investments Commission "Financial reporting and audit" *Australian Government* < Are you a large or small proprietary company | ASIC>

> *businesses, and called for an expansion to the current small business employer definition."*[8]

The Fair Work Ombudsman continued on to stipulate the following finding –

> *"Employer and employee stakeholders to the Review and the ASBFEO were generally in agreement as to the 'special circumstances' of small businesses, including limited human and financial resources, and limited legal and compliance expertise and systems, that makes complying with workplace and other laws disproportionately more burdensome."*[9]

MEA recommends revising the definition of "small business" to better align with genuine business capacity, either by adopting the ATO's $10 million aggregated turnover threshold or increasing the employee threshold to at least 50 full-time-equivalent (FTE) employees. An FTE-based approach would provide a fairer, more practical measure of workforce size, reduce barriers to hiring part-time workers, and align the *Fair Work Act* with broader government small business policy settings. The current legislation treating employee numbers as a straight head count is not necessarily commensurate with business size.

Insurance

Rising insurance costs are placing increasing pressure on the viability and profitability of small businesses. MEA members have expressed concerns that escalating premiums across key business insurance products are eroding margins and increasing the cost of operating, particularly in sectors already facing tight cash flow and rising input costs.

For many businesses, insurance is a necessary and unavoidable expense. However, sustained increases in premiums can reduce the capacity of businesses to invest, employ additional staff and expand operations, ultimately acting as a constraint on business growth and resilience.

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[8] Fair Work Ombudsman "Review of the *Fair Work Act 2009 definition of 'small business employer'* Australian Government, at page 4 < Review of the Fair Work Act 2009 'small business employer' definition >
[9] *Ibid*.

MEA recommends targeted measures to improve affordability and accessibility of commercial insurance for small businesses, including greater transparency in premium increases and clearer explanation of risk-based pricing.

Compliance / Small Business Support

Small Business Operations

Frequent legislative changes cause significant administrative burden for small businesses to remain informed and compliant as they have limited resources to adapt quickly to regulatory changes and to remain compliant with duplicative and/or unnecessary administrative requirements. This in turn increases overhead costs diverting resources away from core business operations.

In addition, compliance obligations for small businesses including workplace laws, safety requirements, tax and insurance are often imposed at the same standard and complexity as those applying to much larger businesses, despite small operators lacking the dedicated internal resources and compliance capacity to manage them as effectively. This can place a disproportionate burden on small operators and, over time, make continued operation financially unviable.

Specifically in the construction sector, we are also hearing reports of large organisations increasingly shifting administrative and compliance burden onto SMEs. Many head contractors now require extensive reporting, compliance documentation, sustainability reporting and portal-based administration (refer below to prequalification requirements, page 15) that was generally managed internally previously.

MEA welcomes the Government's recently announced small business support measures, including the permanent $20,000 instant asset write-off, free access to mandatory standards, and initiatives aimed at reducing compliance costs and supporting digital uptake – all initiatives that MEA has been at the forefront of advocating for. These reforms represent a positive step toward improving small business resilience and reducing some of the financial burden associated with regulatory compliance. However, while these measures provide broad-based relief, they do not address the upfront costs of specific administrative, work health and safety, and contractual compliance burdens described above.

MEA seeks for Government to offer targeted support to small and medium sized businesses to assist with the upfront costs of meeting compliance obligations including work health and safety requirements through investment in equipment, software, training, and other necessary resources. While the permanent instant asset write-off will support business cash flow and encourage capital investment, it remains a retrospective tax measure. For many small businesses operating under significant financial pressure, the primary barrier is the upfront cost of purchasing and implementing these resources in the first instance, where a targeted rebate or grant could provide an essential financial lifeline.

In addition, Government should provide SMES with access to subsidised or free education and training programs focused on safety compliance which can empower them to better understand and meet requirements. This could be delivered through online courses, workshops, or partnerships with industry. Offering readily available guidance material would further enhance support for SMEs.

Prequalification Requirements

In the construction industry, subcontractors (often small businesses) are increasingly required by larger companies (head contractors), to maintain memberships across multiple third-party health, safety, environment and quality contractor management systems as a condition of engagement or tender participation. Common platforms used across the sector include systems such as Cm3, Rapid Global, Avetta and ISNetworld.

Subcontractors are often required to repeatedly provide the same documentation (including insurance certificates, licences, policies, procedures, training records and safety documentation) across these multiple platforms, each with differing standards, audit requirements and subscription fees. It is our understanding the costs of these platforms can be material.

The lack of consistency in prequalification processes creates unnecessary cost and complexity for subcontractor businesses, with the primary benefits accruing to larger head contractors. For many small and medium sized businesses, the administrative and financial burden is material creating a significant barrier to entry due to insufficient resources to repeatedly administer and fund the duplicated onboarding processes required by each individual head contractor.

MEA recommends streamlining prequalification requirements for both head contractors and subcontractors and urges the government to incorporate this approach under its projects. Alternatively, a standardised format provided by the Government for its projects, for use by head contractors when prequalifying subcontractors, would improve productivity. MEA seeks for this measure to extended to the private construction market over time, which is foreseeable if Government leads the way.

Benefits of a standardised prequalification format include:

- Reduced cost
- Certainty and consistency for subcontractors across public and private markets.
- Elimination of duplication and reduced administrative costs.
- Maintenance of capability assurance through a shared, standardised platform with audit rights.

Unfair Trading Practices

MEA commends the Federal Government's recent announcement that all state and territory governments have agreed to support the Commonwealth's move towards a national ban on unfair trading practices. We have also recently participated in a government-led industry forum on the relevant consultation and will be providing a formal submission.

In particular, the inclusion of strengthening consumer guarantees for small businesses as purchasers is critical to making it easier to obtain refunds or replacements for faulty products.

It is not uncommon for our members to report they are unable to obtain compensation for a faulty product (examples being faulty pair coils and small-scale batteries). This commonly occurs because manufacturers refuse to take accountability. In turn, our members are forced to absorb material financial and administrative costs, including legal fees and time taken to rectify the faulty product at a client's site.

We strongly advocate for speedy passage of the reforms being consulted on to protect small businesses from enduring this continued power imbalance in the product supply chain.

Personal, Legal and Financial Risk

Australia's innovation ecosystem relies on encouraging investment, calculated risk-taking and business growth. However, current settings can expose business owners to significant personal financial risk when seeking to expand or innovate.
These risks arise through a range of mechanisms, including Director Penalty Notice provisions (refer below to "ATO Debt Collection", page 26), insolvent trading obligations, and the widespread requirement for personal guarantees by lenders. While these frameworks serve important regulatory and commercial purposes, their combined effect can discourage owners from investing, borrowing or expanding even where the underlying business remains viable. This problem has been further exacerbated by the recent Federal Government budget announcements relating to Capital Gains Tax (CGT) and discretionary trust changes.

Members also highlighted that prevailing attitudes towards business failure can act as a barrier to entrepreneurship. Greater emphasis on effective restructuring and recovery pathways for viable businesses, rather than an overemphasis on punitive consequences following failure, would better support innovation and productive risk-taking.

Payroll Tax-Free Threshold

Members have raised concerns about the real value of payroll tax-free thresholds, particularly in light of rising inflation and wage growth.

Below is a table showing the tax-free thresholds and payroll tax rates across all Australian states and territories for the 2025–26 financial year (FY26):

Jurisdiction	Tax-Free Threshold	Tax Rate
Queensland	$1.3 million	4.75% - 4.95%
New South Wales	$1.2 million	5.45%
Victoria	$1 million	4.85% (metro) 1.2125% (regional)
South Australia	$1.5 million	4.95%
Tasmania	$1.25 million	4% - 6.1%
Western Australia	$1 million	5.5%
Northern Territory	$2.5 million	5.5%
ACT	$2 million	6.85%

It is not uncommon for small and medium construction businesses to incur annual wage expenses above these figures. Even modest wage increases or cumulative inflation can push these businesses above the threshold, reducing their capacity to invest in staff, equipment, and growth. Raising the threshold in real terms would provide meaningful relief, helping small businesses remain competitive while aligning payroll tax with their actual capacity to pay.

Unfair Contract Terms

We continue to raise longstanding contractual concerns that significantly disadvantage subcontractors (commonly fulfilled by small businesses) and hinder project efficiency. MEA notes the Government's recent announcement of expansion of infringement notice powers for unfair contract term breaches, which would enable regulators to take faster enforcement action without lengthy court proceedings. This is a positive step.

We seek additional funding for the ACCC to proactively audit subcontracts in the construction sector and take its own action, without requiring a complaint, to seek a ruling that terms are unfair. Examples are included below:

Contract Risk	Concern	Recommendation
Linking Subcontractor and Head Contractor Practical Completion	Subcontractor practical completion should not be linked to head contractor practical completion. This can result in harsh situations such as a subcontractor waiting many months to receive a practical completion payment and return of 50% of retention due to matters unrelated to their scope of work. Arguably such provisions are already unlawful as a 'pay when paid' provision under state laws, however it would be a useful clarification if the ACCC could bring about a determination on this type of clause as being an unfair contract provision.	Contractual clauses that tie subcontractor 'practical completion' to head contractor 'practical completion' should be declared an unfair contract term.
Standard Form Amendments	MEA supports stakeholder demands for increased utilisation of standard forms in construction contracts. 'Standard form' contracts are rarely used without amendments, and often these are substantial changes. Subcontractors should not have to engage lawyers to review contracts for each tender process to check for	Any change to a standard form of building contract that is not clearly identified (e.g. tracked changes or in a schedule), should be declared an unfair contract term to the extent relied upon by the party that

	changes to standard forms. Departures from standard form contracts must be easily identifiable by way of tracked changes, departures schedule or special conditions of contract.	presented the amended contract.
Lack of Entitlement to Delay Costs	It is common for a head contractor to reschedule works or for there to be substantial delays on a project that are not due to any factors within a subcontractor's control. Often subcontractors are not entitled to delay damages in these circumstances. While subcontracts often provide for an extension of time they typically do not provide for delay costs for the subcontractor. Yet, subcontractors incur costs whether it be on site, off site, labour costs, loss of other work, etc. It has become very difficult for subcontractors to price this risk in up front due to the wide-ranging possible delays.	Government construction contracts should include a requirement for subcontractors to be compensated for delays outside their reasonable control. Government should lead by example.

Human Capital and Management Capability

Employment Law Complexities

Complex employment laws can act as a barrier to business growth by increasing the administrative burden and perceived risk associated with taking on additional staff. Small and medium-sized businesses often lack dedicated human resources or legal teams and instead rely on business owners to navigate complex workplace obligations themselves.

Members have highlighted the *Fair Work Act 2009*, Modern Awards, casual conversion requirements, overtime provisions and recent industrial relations reforms have collectively increased the complexity of employing staff. Understanding which obligations apply, interpreting changing requirements and ensuring ongoing compliance can be challenging for time-poor employers especially for those who do not hold expertise in employment law.

While these frameworks are designed to protect employees and promote fair workplaces, their cumulative complexity can make businesses more hesitant to recruit additional workers, even where there is sufficient demand to support business expansion.

Refer to our recommendation under "Compliance / Small Business Support" (page 14) for suggested practical solutions.

Small Business Fair Dismissal Code

The Small Business Fair Dismissal Code (the Code) is intended to assist employers with fewer than 15 employees when terminating workers for performance and conduct related concerns (refer above to "Fair Work Act "Small Business" Definition", page 10), but in practice provides little meaningful assistance when facing unfair dismissal claims.

Small businesses that act in good faith and attempt to follow the Code remain exposed to legal risk, settlement pressure, and prolonged Fair Work Commission processes. The Code functions largely as a retrospective checklist rather than a practical, preventative tool, leaving employers vulnerable to complex legal standards around consultation, redundancy, and procedural fairness that are difficult to navigate without professional advice. Further, a small business should have an expedited unfair dismissal process with the FWC to alleviate the cost and strain of managing the claim.

MEA recommends strengthening the Code to provide genuine upfront assistance, supported by clear, accessible guidance and an early, merits-based assessment by the Fair Work Commission. Allowing claims to be screened based on documented compliance would reduce frivolous claims, improve confidence in the system, and support fairer outcomes for both parties. MEA also recommends consideration of a genuine unfair dismissal exemption for small businesses, while retaining safeguards for unlawful termination claims. We invite you to read more on this in our recent submission to the Productivity Commission (page 13).

Skills Shortage

As with many industries, the electrical industry continues to face persistent skills shortages, placing significant resourcing and cost pressures on employers. These shortages are constraining business capacity, increasing labour costs and limiting the ability of businesses to take on additional work and grow.

Many trades face the following issues which contribute to their staff shortages:

- Insufficient training capacity – both employers and training institutions
- Apprentice poaching by larger businesses offering materially higher wages
- Interstate and skilled migrant licensing constraints
- Insufficient diversity restricting the size of talent pool available

Better Incentive to Take on More Apprentices - Small businesses are vital to Australia's trade apprenticeship training. For the electrical industry specifically, small businesses train half of Australia's electrical apprentices.

Despite their role, small businesses receive only a fraction of the financial support needed. Apprentices receive $10,000, while employers (who carry the full financial, administrative, and risk burden) receive just $5,000 which is set to decrease to $4,000 as of 1 January 2027. MEA is disappointed by this budget announcement and encourage government to retract this decision.

Government funding should be redirected to where it delivers the strongest workforce impact and the greatest return on taxpayer investment – which is directly to employers who train apprentices. This can be achieved by restructuring existing initiatives (including apprentice grants, Fee-Free TAFE subsidies, and the Group Training Organisation Reimbursement Pilot) to prioritise employer-led training costs.

Capital Markets

Financing Constraints for Small Businesses

Access to capital remains a significant challenge for many small and medium-sized businesses. Members report that lenders often place substantial reliance on personal guarantees, family home security and other personal assets, rather than the underlying performance, cash flow and growth potential of the business itself.

As a result, business owners are frequently required to place their family's financial security at risk in order to invest in equipment, employ additional staff or expand operations. Greater recognition of business performance, cash flow and productivity potential within lending assessments would improve access to growth capital and better support business investment and expansion.

Security of Payment

The construction industry has always faced issues of non-payment and insolvencies. In Australia, subcontractors complete over 80%of construction work – one of the highest rates in the world to pass financial risk down the construction contracting chain.[10] The flow-on-effects of failures are broad, impacting the completion of projects.

When a head contractor becomes insolvent, subcontractors often go unpaid for completed work, shifting financial risk to those least able to absorb it. Losses, which can include materials, wages, and foregone earnings, quickly escalate into tens of thousands of dollars, threatening cash flow, business viability, and livelihoods. Persistent non-payment also undermines the sector's ability to deliver essential housing, health, and commercial infrastructure, highlighting the need for stronger protections for small-medium businesses.

Outside insolvencies, we continue to hear of trade contractors being unpaid for long periods, and builders refusing to return retention money.

[10] 1 Department of Transport and Planning "Government Response to the Parliamentary Inquiry into employers and contractors who refuse to pay their subcontractors for completed work" Victorian Government [October 2024], at 3

Several reviews have been conducted, including the 2017 national review of Security of Payment Laws by John Murray AM. Since then, laws have been updated across the country, including the introduction of retention trust accounts in some jurisdictions.

Despite reforms, our 2025 joint industry survey shows slow and non-payment remain an issue for construction industry subcontractors (including electricians) with builders or head contractors often withholding retention money. Over 60% of respondents reported being unpaid in the past five years due to contractor insolvency, in both commercial and residential projects.

MEA considers retention money a key initial focus for governments across Australia. The industry survey results shows non-payment of retention money remains a significant issue in the construction industry.

MEA seeks the following measures be implemented to improve protection for small business contractors:

- *Harmonised SOP Framework* - For clarity around the country, let's take the aspects that are working well and harmonise SOP frameworks. This should also include improved retention fund protections.

- *Retention Fund* - Retention trust accounts are a good method of 'quarantining' subcontractor retention money in the event of insolvency, but don't address issues around subcontractors needing to be the ones to commence an adjudication for return of retention when a head contractor declines to make the payment. Subcontractors are hesitant to bring such action for fear of not getting future work. Most jurisdictions also do not permit adjudication for non-return of performance bonds such as bank guarantees. These cost subcontractors money when not returned.

  We believe a solution is to have a central authority to hold retention money, similar to government rental bond schemes, with simple online processes for lodging payments and reclaiming retention. This would reverse the onus when retention is due to be returned (i.e. the subcontractor requests it and the builder either agrees or disputes the return). It should apply to all cash retentions and non-cash bonds/guarantees held by contracting parties in the construction industry. The earnings on the fund could contribute to funding the administration costs and potentially contribute to the expansion of the FEG to subcontractors (see below).

- *Subcontractor Payment Guarantee (FEG)* - For a small business owner, lack of payment by a head contractor is akin to lost wages. We'd like to see a federal fund, similar to the FEG, to pay subcontractors for work if a head contractor becomes insolvent. Payments should be subject to reasonable limits and measures to avoid unreasonable claims.

ATO Debt Collection

The Australian Taxation Office (ATO) may disclose a business's tax debt to credit reporting bureaus (CRBs) if the debt exceeds $100,000 and is overdue by more than 90 days, provided the business is not effectively engaging with the ATO to manage the debt.[11] Additionally, the ATO can issue a Director Penalty Notice (DPN), making company directors personally liable for certain unpaid tax obligations, such as Pay as You Go (PAYG) withholding, Goods and Services Tax (GST), and Superannuation Guarantee Charge (SGC).

These measures can significantly impact small and medium businesses, particularly in the construction industry, which is experiencing high insolvency rates. These businesses often operate with tight cash flows and depend on timely payments from customers and large contractors. Delayed payments and bad debts from up the supply chain, often beyond their control, can lead to tax debts that trigger ATO enforcement actions.

[11] Disclosure of business tax debts | Australian Taxation Office

Once a tax debt is disclosed to CRBs, the business's credit profile may suffer, affecting its ability to secure financing, win tenders, or maintain supplier terms. The involvement of CRBs can lead to inflexible debt recovery processes, further exacerbating financial pressures on the business. In addition, the debt will continue to follow the impacted contractor into future jobs.

MEA advocates for a more flexible approach to the ATO's tax debt collection practices, particularly concerning the construction industry, which currently exhibits high rates of liquidation. We propose the ATO move away from its uniform 90-day disclosure policy for tax debts exceeding $100,000. Instead, we recommend implementing a flexible industry-specific framework that considers the financial climate profiles inherent to different sectors. Small and medium businesses would need to evidence they are owed material monies in proportion to the outstanding tax debt. Such a tailored approach would allow for varying grace periods before debt disclosure, reflecting the unique challenges faced by businesses within each industry.

Coupled with enhanced support mechanisms to facilitate SMEs' engagement with the ATO in establishing and adhering to payment plans, this approach aims to improve debt recovery outcomes. By preventing premature liquidations prompted by rigid collection policies, the ATO stands to recover more substantial portions of outstanding debts, thereby benefiting both the businesses involved and the broader economy.

We also advocate for interest-free payments of ATO debts for small business. Provided a payment plan is entered into, a small business should not be charged high interest rates on ATO debts.

Transfer of Successful Businesses

Cost and Complexity

Business succession can be unnecessarily complex and costly including tax, financing constraints and legal expenses.

Members expressed concern that recently announced tax changes affecting capital gains and discretionary trust (with the latter resulting in many to restructure their businesses) may further increase the complexity and cost of succession planning for many small businesses that have relied on these arrangements. This may discourage influence succession planning.

Policy settings should support, rather than hinder, the orderly transfer of successful businesses to ensure that valuable enterprises, jobs and expertise are retained within the economy.

Other

National Industry Construction Forum (NCIF) Blueprint

While MEA supports the intent of the recently announced NCIF blueprint, it has fundamentally overlooked the small business sector. The process for developing the blueprint has been seen by many as a 'closed shop' approach, engaging primarily a small group of stakeholders largely representing the interests of the 'big end of town'.

Despite strong advocacy and policies addressing impacts on smaller trade contractor businesses, MEA, and many other industry associations in a similar position, were not consulted or informed by government or members of the NCIF on matters discussed or content to be raised in the Blueprint until it had been drafted ready for release. With small businesses comprising the vast majority of the construction industry, the Blueprint unfortunately fails to adequately reflect the realities of this sector.

The lack of consideration for small businesses is evident in the omission of (or insufficient emphasis on) several critical issues, including:

- Excessive administrative burdens and compliance frameworks designed for larger contractors, placing disproportionately onerous obligations on small businesses that lack dedicated resources to manage them.

- The cost and risk for small businesses in taking on apprentices (see below under Skills Development).

- Factors contributing to solvency struggles for small businesses, including interest on ATO debts, compliance costs, and ATO disclosures.

- Challenges affecting trade contractors who are not project-based, such as residential service and maintenance contractors.

- Lack of clarity in security of payment mechanisms to ensure trade contractors are paid for work completed, with insufficient representation for smaller contractors in the NCIF.

- Support for digitisation and technology adoption that benefits smaller trade contractors, such as digitised building product conformance information and traceability.

- Work Health and Safety regulation that is appropriately scaled to business size.

Without a prioritised focus on these issues, the Blueprint risks entrenching disadvantage for small construction business dynamism, rather than supporting a fair and productive industry that supports small construction businesses to grow.

MEA urges the Government to:

- Acknowledge the Blueprint is intended for larger contractors performing work on federal government infrastructure projects; and

- Engage with broader industry on measures that can meaningfully improve outcomes for smaller businesses and therefore the vast majority of businesses in the construction sector to develop a balanced set of targeted reforms.

Conclusion

Business dynamism depends on a regulatory and operating environment that supports growth, investment and productive risk-taking. While many of Australia's regulatory frameworks serve important policy objectives, the cumulative effect of complexity, cost and compliance burden can constrain small business establishment, expansion and long-term viability. Given the significant role small businesses play in the economy, addressing these impediments is critical.

Small and medium-sized businesses are increasingly required to navigate complex systems across taxation, employment, finance and contracting, often to the same extent as larger organisations without the comparable resources to do so. This can directly influence decisions relating to hiring, investment, pricing, succession planning and expansion.

MEA considers there is a clear opportunity to strengthen business dynamism through more coordinated, proportionate and practical policy settings that reduce unnecessary administrative friction while preserving regulatory integrity. This includes improving system integration, strengthening transparency and fairness in commercial relationships, supporting access to finance and financial security, and ensuring regulatory settings better reflect the operational realities of small businesses.

Reducing these structural barriers will help create an environment where viable businesses can start, scale and transition successfully, supporting productivity, employment and long-term economic resilience. MEA looks forward to continued engagement with the Productivity Commission and welcomes further opportunities to contribute to this important work.

Appendix A – List of MEA Recommendations

Navigating Multiple Regulatory Frameworks - Develop a national digital "one-stop" portal which provides a single centralised platform to navigate establishment requirements and manage ongoing regulatory obligations.

Fair Work Act "Small Business" Definition - Revise the Fair Work Act definition to $10 million aggregated turnover threshold or increasing the employee threshold to at least 50 full-time-equivalent (FTE) employees.

Insurance - Provide targeted measures to improve affordability and accessibility of commercial insurance for small businesses, including greater transparency in premium increases and clearer explanation of risk-based pricing.

Compliance / Small Business Support - Government to offer support to SMEs to assist in covering costs associated with compliance, such as investing in safety equipment, software, training, and other necessary resources. Also provide SMES with access to subsidised or free education and training programs focused on safety compliance which can empower them to better understand and meet requirements.

Prequalification Requirements - Government lead the way in streamlining prequalification requirements for both head contractors and subcontractors. Alternatively, a standardised format provided by the Government for its projects, for use by head contractors when prequalifying subcontractors, would improve productivity.

Unfair Trading Practices - Speedy passage of the reforms being consulted on to protect small businesses from unfair trading practices.

Personal Legal and Financial Risk - Greater emphasis on effective restructuring and recovery pathways for viable businesses, rather than an overemphasis on punitive consequences following failure, would better support innovation and productive risk-taking.

Payroll Tax-Free Threshold – A higher threshold in real terms would provide meaningful relief, helping small businesses remain competitive while aligning payroll tax with their actual capacity to pay.

Unfair Contract Terms - Additional funding for the ACCC to proactively audit subcontracts in the construction sector and take its own action, without requiring a complaint, to seek a ruling that terms are unfair. Action items should include –

- Prohibit contracts that tie subcontractor practical completion to head contractor completion
- Require payment of subcontractor prolongation costs (for delays outside the reasonable control of the subcontractor) on government projects
- Require amendments to standard form contracts to be easily identifiable

Small Business Fair Dismissal Code - Strengthen the Code to provide genuine upfront assistance, supported by clear, accessible guidance and an early, merits-based assessment by the Fair Work Commission. Allowing claims to be screened based on documented compliance would reduce frivolous claims, improve confidence in the system, and support fairer outcomes for both parties. MEA also recommends consideration of a genuine unfair dismissal exemption for small businesses, while retaining safeguards for unlawful termination claims.

Skills Shortage - Government funding should be redirected to where it delivers the strongest workforce impact and the greatest return on taxpayer investment – which is directly to employers who train apprentices. This can be achieved by restructuring existing initiatives (including apprentice grants, Fee-Free TAFE subsidies, and the Group Training Organisation Reimbursement Pilot) to prioritise employer-led training costs.

Financing Constraints - Greater recognition of business performance, cash flow and productivity potential within lending assessments would improve access to growth capital and better support business investment and expansion.

Security of Payment –

- *Harmonised SOP Framework* - Take the aspects of SOP from different jurisdictions that are working well and harmonise SOP frameworks. This should also include improved retention fund protections.

- *Retention Fund* - Establish a central authority to hold retention money, similar to government rental bond schemes, with simple online processes for lodging payments and reclaiming retention. This would reverse the onus when retention is due to be returned (i.e. the subcontractor requests it and the builder either agrees or disputes the return). It should apply to all cash retentions and non-cash bonds/guarantees held by contracting parties in the construction industry. The earnings on the fund could contribute to funding the administration costs and potentially contribute to the expansion of the FEG to subcontractors (see below).

- *Subcontractor Payment Guarantee (FEG)* - Implement a federal fund, similar to the FEG, to pay subcontractors for work if a head contractor becomes insolvent. Payments should be subject to reasonable limits and measures to avoid unreasonable claims.

ATO Debt Collection - ATO move away from its uniform 90-day disclosure policy for tax debts exceeding $100,000. Instead, we recommend implementing a flexible industry-specific framework that considers the financial climate profiles inherent to different sectors. Small and medium businesses would need to evidence they are owed material monies in proportion to the outstanding tax debt. Such a tailored approach would allow for varying grace periods before debt disclosure, reflecting the unique challenges faced by businesses within each industry. Also offer small businesses interest free debt.

National Construction Industry Forum – Government to acknowledge the Blueprint is intended for larger contractors performing work on federal government infrastructure projects; and engage with broader industry on measures that can meaningfully improve outcomes for smaller businesses and therefore the vast majority of businesses in the construction sector to develop a balanced set of targeted reforms