National Electrical and Communications Association (NECA)

2020-21 Australian Government Pre-Budget Submission

(Revised January 2021)

NECA National

Contents

About NECA

The National Electrical and Communications Association (NECA) is the peak body for Australia's electrical and communications sector, which employs 170,000 workers[1] and turns over more than $23bn annually.[2] We represent almost 5,500 businesses performing works including the design, installation and maintenance of electrical and electronic equipment in the building, construction, mining, air conditioning, refrigeration, manufacturing, communications and renewables sectors.

NECA has advocated on behalf of the electrotechnology industry for over 100 years. We help members and our industry operate their businesses more effectively, and represent their interests to all levels of government, regulators and other bodies such as the Australian Chamber of Commerce and Industry (ACCI) and Standards Australia.

NECA members make an essential economic contribution – connecting businesses, homes and infrastructure – encouraging investment, improving reliability and energy security, and delivering affordable, environmentally sustainable outcomes. The safety and reputation of our industry is critical to all tradespeople, consumers, and the community.

NECA is integral to the next generation of electrical contractors. Through our Registered Training Organisations (RTOs) and Group Training Organisations (GTOs), we offer employment and skills development to some 4,800 apprentices nationally. Our success is clear: we proudly boast 90% completion rates across our courses, with roughly one in three licensed electrical workers starting their career as a NECA apprentice.

NECA helps attract entrants to our industry through holistic, high-quality, industry-relevant programs including our scholarship program, the NECA Foundation, and the Women in Electrical Trades Roadmap. We proactively seek diverse workforces, supporting female, indigenous and mature aged apprentices, and promoting career paths for school students and school leavers. We also operate the industry-wide NECA Annual Excellence Awards, which acknowledge and celebrate achievements and distinguished electrotechnology projects, and NECA's Apprentice Awards, recognising future leaders in our industry.

NECA continues to monitor and respond to the Coronavirus (COVID-19) crisis on behalf of our members and the electrotechnology sector, and is working with industry, government and the community to achieve a COVID-19 safe economy and swift national recovery.

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[1] Australian Government 'Job Outlook'. (July 2020) (Telecommunications Trades Workers) https://joboutlook.gov.au/Occupation?search=alpha&code=3424 and (Electricians) https://joboutlook.gov.au/Occupation?search=alpha&code=3411

[2] Ibis World 'Electrical services in Australia Industry Statistics (May 2020) https://www.ibisworld.com/au/industry/electrical-services/325/

Foreword

COVID-19 continues to exert an historic economic and social impact in Australia.

The building and construction sector is the second biggest driver of Australia's economy,[3] generating over $360bn in revenue, or approximately 9% of gross domestic product (GDP)[4]. It also employs more than 1.2 million people[5] in its constituent industries.

Electrotechnology is a key industry within the building and construction sector, providing services to homes, offices, schools and hospitals. In the context of COVID-19, the status of our sector as an "essential service" is enshrined in state and territory legislation.

The electrotechnology industry has, due to COVID-19, experienced job losses; supply chain issues; contractual, legal and industrial risks; lower productivity due to social distancing requirements; and uncertainty among consumers engaging electrical works.

While we commend the government for stimulus measures and infrastructure projects announced to date, COVID-19 recovery cannot be achieved through these alone. Further long-term projects would build a more sustainable post-COVID future. Given the benefits, size and contribution of our sector, it is critical all levels of government introduce industry initiatives to attract and retain diverse workforces; improve electrical safety and energy efficiency; and cut red tape. The recovery must be led by local businesses, working in their local areas, to rebuild local economies and foster long term resilience, productivity and competitiveness.

NECA believes its evidence-based, industry driven recommendations will help Australia move forward, and urges the government to enact these in its 2021-22 budget. We appreciate the opportunity to participate in the budget process. To discuss our submission or our industry, I can be contacted on 1300 361 099 or at oliver.judd@neca.asn.au

Yours sincerely,

Oliver Judd
Chief Executive Officer

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[3] Australian Building and Construction Commission https://www.abcc.gov.au/about/who-we-are/overview#:~:text=The%20building%20and%20construction%20industry,vital%20to%20the%20Australian%20economy.

[4] Australian Industry and Skills Committee 2019 'Construction, Plumbing and Services – IRC Skills Forecast and Proposed Schedule of Works' https://artibus.com.au/wp-content/uploads/2019/03/ConstructionPlumbingServices_SkillsForecast_2019.pdf

[5] Australian Building and Construction Commission https://www.abcc.gov.au/about/who-we-are/overview#:~:text=The%20building%20and%20construction%20industry,vital%20to%20the%20Australian%20economy.

1. Jump-starting Small Business

Small business and family-owned enterprises (SMEs) are the lifeblood of Australia's economy, and dominate the electrical and communications contracting industry. Approximately 80% of businesses in our industry employ fewer than 20 staff, and overall trends indicate the number of small businesses across the country is increasing. The COVID-19 crisis has significantly impacted business activity, with NECA's SME members citing mandatory lockdowns, restrictions, and the resulting economic downturn as contributing factors.

The federal government, in its efforts to restore Australia's economic position, must think and act locally: supporting local businesses, and connecting these with local projects to stimulate local economies, resilience and growth. It is critical that recovery efforts are led by SMEs working in their local areas to rebuild local economies.

1.1. SMEs to undertake Electrical Safety and Energy Efficiency Health Checks and Upgrades for homes and businesses

Ageing residential and commercial buildings present serious safety risks to property owners and renters, as existing electrical wiring and associated equipment may not comply with current standards under the Australian Building Code, or be degrading or deteriorating, requiring remedial action. In the residential housing context, electrical safety checks are encouraged but not enforced by state and territory governments.

NECA believes it is critical that occupants should be as aware of wiring or electrical safety concerns as they would be of any other building defects or non-conformance.

In NECA's view, the government should incentivise households and businesses to engage local electrical and communication SMEs, supporting and connecting local tradespeople to local jobs, to stimulate and jump-start local economies. NECA proposes a 'dollar-for-dollar' government grant scheme be made available during the 2021-22 financial year, including

- 'dollar-for-dollar' grants to households of up to $3,000 for electrical safety and energy efficiency upgrades to homes; and
- 'dollar-for-dollar' grants to businesses of up to $5,000 for electrical safety and energy efficiency upgrades to commercial property.

1.2. SMEs to undertake electrical safety and energy efficiency health check for local government buildings and assets

A similar initiative should be established whereby grants are available in a 'dollar-for-dollar' scheme for local government for electrical safety and energy efficiency checks and associated remediation/upgrades. This work should be awarded to local SMEs to ensure tradespeople are engaged in local work to boost their local economy. Types of work that may be considered include social housing, asset maintenance works, capital works programs, security upgrades, lighting upgrades, and small-scale solar.

Ancillary potential opportunity to reduce insurance premiums

NECA argues the proposed building checks and likely rectifications will improve electrical safety and energy efficiency and consequently, when insurance premiums on buildings are calculated, actuaries could factor in these improvements and incentivise reduced risks. Therefore, a premium discount may be applied to owners continuing to ensure wiring in their property is safe and fully compliant. This added benefit to property owners would be particularly valuable to those impacted by COVID-19 through job losses and stand-downs.

Suggested Registration System – Supporting local SMEs

To ensure proposed electrical safety and energy efficiency initiatives are undertaken by tradespeople in their local communities, NECA suggests the government introduce a registration system, modelled on Australian Bushfire Recovery measures. This would collect information to best match tradespeople with local projects including residential, commercial and government projects. This would be especially suited to regional and remote areas to ensure tradespeople are prioritised to undertake local work, boosting their local economy.

Recommendations

To support and connect tradespeople to local jobs and support local economies, NECA calls on the federal government, in its 2021-22 budget, to:

- Introduce a 'dollar-for-dollar' grant for households of up to $3,000 for electrical safety and energy efficiency upgrades to homes;
- Introduce a 'dollar-for-dollar' grant for businesses of up to $5,000 for electrical safety and energy efficiency upgrades to commercial property;
- Introduce a 'dollar-for-dollar' grant for local governments for electrical safety and energy efficiency checks on regional assets using local tradespeople;
- Introduce a registration system to best match tradespeople with local projects.

2. Unlocking Infrastructure and Super-charging Business

Medium to large businesses offer the scale, capacity and capability to deliver the critical infrastructure required to meet projections of an additional five million people in Australia by 2030, while stimulating the economy to recover from the impact of COVID-19.

Infrastructure in Australian cities is under increasing strain, requiring significant investment to reduce congestion, improve liveability and lift productivity. Filling this rising infrastructure gap requires market-focused, evidence-based decision making, and the scale and capacity offered by medium to large business. It is critical that all levels of government identify, prioritise and commence 'shovel-ready' infrastructure and renewal opportunities.

Medium to large electrical and communications contracting businesses typically work on large building and construction projects delivering high returns on investment, and typically have larger workforces that provide employment opportunities for the next generation of tradespeople. Generally, large development projects run over longer periods of time, generating benefits across the Australian economy.

2.1. Medium and Large Business to drive Nation Building

While NECA commends state and federal governments for work they have done over the past year to release major infrastructure projects, more needs to be done.

NECA proposes all levels of government continue to unlock and fast-track medium to large renewal and infrastructure projects to significantly boost building and construction sector employment, productivity and investment across Australia. This will require significant systemic reform of longstanding policy issues including tax reform, reducing red tape, removing institutional roadblocks (e.g. simplifying and streamlining planning), improving inter-governmental coordination, and increasing collaboration with financial institutions.

To achieve value for money, the government should seek to leverage private sector infrastructure investment. Where possible, the private sector should be engaged to finance, construct, operate and maintain these assets. Where this creates issues with local monopolies, a light approach to regulation should be applied. Regulation should aim to maximise efficiency and competition whilst diminishing the exercise of market power.

2.2. Encourage new ways to achieve energy efficiency

Several states and territories have introduced energy initiatives and programs that will support national economic recovery efforts. For instance, New South Wales has announced plans to deliver three Renewable Energy Zones (REZ). A REZ entails the coordinated development of new grid infrastructure in energy-rich areas to connect multiple generators (such as solar and wind farms) in the same location.

REZ capitalise on economies of scale, unlock new generation at lower cost, build on the *NSW Transmission Infrastructure Strategy,* and support implementation of the Australian Energy Market Operator's Integrated System Plan. REZ are expected to create a significant pipeline of large renewable energy and storage projects, while supporting up to $23bn of private investment in regional areas and up to 2,000 construction jobs annually[6].

Australia has an opportunity to lead the way on energy efficient, environmentally sustainable practices, including renewable energy. It is critical that government support any such initiatives.

Recommendations

To support medium to large contractors and retain capacity, NECA calls on the federal government, in its 2021-22 budget, to:

- Continue to unlock and fast-track a pipeline of major 'shovel-ready' infrastructure projects for medium to large businesses to stimulate the economy e.g. government construction projects, large scale renewable energy generation, local government works across metropolitan, regional and remote Australia; and
- Support innovative strategies and emerging technologies to encourage new ways to achieve energy efficiency.

[6] NSW Government Renewable Energy Zones FAQ https://energy.nsw.gov.au/media/1946/download

3. Taxation and Regulatory Reform

COVID-19 exposed, and amplified, several longstanding systemic regulatory and taxation issues. NECA believes our outdated and inefficient regulatory and tax systems need urgent strategic, evidence-based, industry informed reform. A collaborative approach to these issues will help Australia achieve a swift, sustainable economic recovery.

In recovering from recession, the federal government must address inequitable conditions, excessive red tape, and ensure a more competitive, resilient and productive marketplace.

NECA calls on the government to initiate comprehensive reform to deliver stronger, fairer, more efficient regulatory and tax systems as outlined in later sections of its submission.

3.1. Reform the Australian Taxation System

Reforming the tax system will allow Australia to maximise opportunities for lifting long-term economic growth and strengthening the recovery from the COVID-19 crisis. Tax reform will require federal, state and territory governments to collaborate on, agree and implement structural tax changes that remove barriers and increase incentives for individuals and businesses to engage in economic activity, seize opportunities, and to innovative.

Comprehensive tax reform to support federal and state budgets, while addressing distributional impacts and promoting economic growth, will take time, effort and political courage, and all levels of government should commit to the challenge. Australian business needs a system that delivers incentives to make it globally competitive, stimulates investment in research and development, and supports it to become more efficient and productive. Following the COVID-19 downturn, this is the optimal time to address these systemic issues to ensure business can adapt to new global economic realities.

It is imperative the government replace or abolish inefficient taxes that will drag on GDP and employment growth during recovery and beyond. NECA has previously furnished the government with comments and suggestions during the 'Australian Future Tax System Review' in 2008 (Henry Review) and the subsequent Tax Reform White Paper process.

NECA's submission is offered to assist with COVID-19 recovery efforts:

3.1.1 Harmonise reporting regimes including Business Activity Statements (BAS), Pay-as-you-go (PAYG), Fringe Benefits Tax (FBT), and Workplace Gender Equality Compliance (WGEA) to reduce red tape and administrative burdens, allowing business to focus on their businesses

Regulatory burdens and red tape are among the largest concerns NECA hears from its members. Compliance requirements for businesses have significantly increased in the last ten years, and add unnecessary additional pressure on business operations.

Uniformity of reporting times would be welcomed by businesses in the electrotechnology industry. Currently, multiple reporting dates apply across myriad government agencies, which increases red tape and compliance costs. NECA believes simplifying and aligning these times is crucial to cutting red tape and administrative costs. Alignment of reporting times for BAS/PAYG, FBT, WGEA, and other items is long overdue.

NECA therefore calls for harmonisation of these times, which should be reviewed and aligned to reduce administrative burdens and allow businesses to focus on operations, not government paperwork. This is particularly salient as they seek to recover from COVID-19.

3.1.2 Reduce Company Tax to 25%

NECA believes tax reduction is critical to assist the growth and competitiveness of the electrotechnology industry and the creation of new employment opportunities.

The 2014-15 federal budget reduced the company tax rate for SMEs by 1.5% to 28.5%, with a further reduction to 27.5% for SMEs with an aggregated turnover of less than $10 million in 2016. This threshold was increased to $25 million for 2017-18.

The Henry Tax Review, commissioned by the previous government, recommended further reductions to 25% in the short to medium term, subject to economic and fiscal conditions. The current government, through its *Treasury Laws Amendment (Enterprise Tax Plan) 2016 Bill*, outlined a commitment to progressively cut company tax to 25% by 2026-27.

Current and forecast economic circumstances provide a compelling case to reduce the company tax rate. This would help drive economic recovery and employment growth.

NECA strongly urges the government to commit to reducing company tax to 25%, as recommended by the Henry Review, and to fast-track the timetable for this reduction.

3.1.3 Phase out Stamp Duty

Whilst NECA acknowledges several states (particularly NSW) are currently reviewing their tax systems, including stamp duty, we call on the federal government to work with state and territory governments to set a timetable for the complete abolition of stamp duty.

3.2. Reform the Australian Regulatory System

3.2.1 Reduce the impact of superannuation on business

Annual Leave Loading (Superannuation Guarantee Contributions)

The longstanding position of NECA, and the vast majority of its members, is that leave loading is designed to compensate for the inability to work overtime during annual leave: it thus cannot be regarded as “ordinary time earnings” and subject to superannuation contributions. Such contributions are effectively a ‘double-dip’ and a significant financial impost on business.

NECA urges the federal government to:

- reject the ATO’s interpretation of the application of Superannuation Guarantee Contributions on annual leave loading;
- reject the ATO’s ongoing impost of Superannuation Guarantee Contributions on annual leave loading;
- to specify to the ATO that Superannuation Guarantee Contributions do not apply to annual leave loading and to legislate to this effect if necessary; and
- urge the Fair Work Commission to vary the *Electrical, Electronic and Communications Contracting Award 2010* to this effect during the next Award modernisation round.

Superannuation Administration and the cost of contributions to business

NECA believes the administrative costs of any legislated program should be borne by the government, not small business. Increases in compulsory superannuation contributions in future years remains a challenge.

NECA believes compulsory contributions beyond 10% are unsustainable under current market conditions and should not be pursued as an additional cost to business.

3.2.2 Introduce a national occupational licensing regime

NECA commends the government and National Cabinet on signing an inter-governmental agreement to automatically recognise electrical occupational licences across the country.

The ability of tradespeople to work freely across Australia is more important than ever as the economy recovers. This will harmonise costs and reduce red tape, and will allow businesspeople to work on their businesses at this important time.

In a COVID-safe economy, it is critical for business to mobilise workforces. Being able to deploy skills and trades anywhere in Australia will assist our industry to be competitive, agile and productive.

NECA supports ongoing measures, beyond recognition of workers’ occupational licences, to ultimately create a national occupational licensing scheme for the electrotechnology sector. However, its implementation must not dilute safety standards, technical expertise or adequate insurance requirements.

NECA supports mutual licensing recognition across Australia, and encourages all states and territories to continue discussions in order to facilitate these reforms.

3.2.3 Introduce Security of Payments for the Electrotechnology Industry

As a finishing trade, electrical contractors are involved in the latter stages of the building and construction cycle. Further, the electrical equipment and labour involved in modern buildings is often sophisticated and expensive. In the event a builder falls into receivership, electrical contractors are often disadvantaged in terms of being recompensed compared to other trades which have been fully recompensed at earlier stages of building projects.

The current system of payment security penalises subcontractors by effectively rendering them *de facto* underwriters of unscrupulous or inefficient head/principal contractors. Of all subcontractors, electrical contractors provide the highest value inputs by way of fixtures, fittings and labour during later stages of the construction cycle. In other words, electrical subcontractors are disproportionately disadvantaged compared to other subcontractors.

NECA's concern about security of payments is exacerbated by the fact laws governing payments in the construction industry is the purview of the states and territories, with applicable legislation determined by the state or territory in which work is performed. Security of payment legislation for the building and construction industry was introduced by NSW in 1999, followed by Victoria, Queensland, Western Australia, the Northern Territory and, in 2009, the Australian Capital Territory, South Australia and Tasmania.

Following COVID-19 and the risks associated with terminating provisions for businesses to operate insolvent, these issues are of enormous concern to NECA, our members, and our industry. The federal government must urgently implement arrangements to protect the fair payment of contractors taking significant risks to operate their businesses during this time.

NECA calls for the harmonisation of the creditor line process across Australia so contractors are not disadvantaged by the potential collapse of a construction company.

NECA also calls for Payment Withholding Request legislation – allowing a principal/head contractor to be more easily served with a claim for payment – to be adopted by all state and territory jurisdictions.

Introduce Statutory Trust Model

One of the most serious issues facing our industry, and in particular SMEs, is the activity of unscrupulous principal contractors abusing their power and size to enforce detrimental, unfair contracts on smaller parties on a 'take it or leave it' basis. Subcontractors, which tend to be smaller businesses, often do not have the capacity to fairly and equitably negotiate contracts with larger principal contractors. This exposes SMEs in our industry to potentially being exploited, or entering into adverse and compromising contracts.

After COVID-19, a recession, and the imminent end to provisions allowing companies to operate whilst insolvent, we have great concerns about consequent risks to our industry.

Without adequate provision and security for contractors in the form of a trust, a very real risk exists that the industry could be adversely affected.

NECA calls on the government to immediately enact Murray Review recommendations with regard to statutory trusts, specifically

- Recommendation 85: A deemed statutory trust model should apply to all parts of the contractual payment chain for construction projects over $1 million. The deemed statutory trust model outlined in the Collins Inquiry provides a suitable basis.
- Recommendation 86: The Australian Government should take a lead role in working with the states and territories, and key industry stakeholders, towards the establishment of a nationally consistent deemed statutory trust model. The establishment and implementation of such a model should be accompanied by a program of industry-wide education and training.

3.2.4 Stamp out non-conforming building products

Unsafe and/or non-compliant electrical equipment is costly for businesses, consumers and governments. A key concern for the electrotechnology industry is the lack of enforcement, at all levels, against distributors of non-compliant products to ensure quality and measurement of performance to Australian Standards.

In recent years, there have been countless examples of avoidable building defects and product failures that have caused loss of life and damage to property.

The recall of Infinity- and Olsent-branded electrical cables, installed in buildings across Australia between 2010 and 2013, was initially expected to cost businesses approximately $80 million. More recent ACCC estimates have revised this to $100 million. Further, some 20,000 properties are said to have been affected with Infinity- and Olsent-branded cables, according to the ACCC. Such product failures are not limited to the Infinity/Olsent matter.

NECA believes governments across Australia, at all levels, must do more to ensure non-conforming products are removed from the building and construction sector.

The Senate Economics References Committee last year released its Final Report, *Non-conforming building products – the need for a coherent and robust regulatory regime (April 2020),* outlining a total of 13 recommendations to the federal government.

NECA supports, and strongly encourages the government to act on, the Committee's recommendations. NECA offers the following comments with regard to the report:

- improve engagement between government and industry regarding non-conforming building products, and establish a joint forum;
- NECA supports confidential reporting processes to identify and manage non-

conforming products in the interest of electrical safety, and calls for these to be implemented immediately;

- greater clarity as to which level of government and/or department is responsible for the oversight of imported products, including the sale of imported electrical products;
- boost the government's commitment and resources to be more proactive in relation to product enforcement activities and larger product random batch testing;
- ensure any product that requires a licensed electrician for installation can only be sold through the trades desk of retail outlets and/or hardware stores;
- broaden and boost Customs powers to enable random compliance audits of imported electrical products, and the ability to impound non-compliant electrical products;
- facilitate discussion in relation to product recall insurance; and
- instigate and enforce strong financial penalties for persons importing or selling non-compliant building products.

NECA also supports the national Electrical Equipment Safety System (EESS) that has been implemented in most Australian jurisdictions. NECA urges states that have not implemented the EESS to do so as a matter of priority. This will result in a single national electrical equipment safety system with a single national database of all equipment.

3.2.5 Introduce a national approach to Continuing Professional Development

Continuing Professional Development (CPD) is the process of tracking and documenting skills, knowledge and experience gained formally and informally by licensed electricians over and above initial training. It provides an improved level of achievement and comfort for practitioners, industry, regulators and consumers. Typically, one point of CPD equates to one hour of learning and development activity.

CPD has been successfully introduced for Tasmanian electricians, and it is likely other states and territories will follow suit, drawing on the Tasmanian precedent. Government, consumers and regulators believe CPD can assist businesses (particularly smaller entities) to document, maintain and refresh knowledge of skills, processes, new technologies, and regulations.

NECA believes the electrotechnology industry may benefit from CPD implementation if:

- sound professional development and training opportunities are delivered;
- CPD programs remain basic and low-cost in their design;
- CPD does not become a burden on the wider industry, particularly SMEs;
- it provides a cost-effective way to improve technical and organisational knowledge

through the provision of regulatory and legislative frameworks;

- implementation takes state/territory and local considerations into account; and
- the reputation of our industry in a complex, evolving regulatory framework is enhanced.

Where CPD has been implemented successfully, member-based industry associations are involved in the program management and/or delivery of course seminars, learning and training opportunities, and CPD is mandatory and overseen by a governing regulator.

We believe industry associations such as NECA are best placed to deliver independent, knowledge-based activities, having regard to legislative requirements affecting the sector.

NECA supports the implementation of CPD across all states and territories in a practical, cost-effective manner. CPD should be delivered at minimal or no cost to business, limited to some (but not all) licence holders, and take state, territory and local issues into account.

3.3. Address Unfair Contract Terms for SMEs

SMEs are the lifeblood of the electrical and communications contracting industry: 79% of the businesses within our industry employ fewer than 25 staff[7]. These businesses generate the vast majority of their work as subcontractors. The relationship between subcontractors and principal contractors is fundamentally imbalanced for the following reasons:

- electrical subcontracting businesses are generally SMEs, offering specialised electrical skillsets and capabilities. This is in direct contrast to principal contractors, which are mostly much larger, diverse, well-resourced organisations. Given the polarised nature, scale and capability of these entities, subcontractors are generally disadvantaged in their ability to equitably negotiate fair contracts;
- generally, the relationship between principal contractors and subcontractors is marked by the subcontractor's dependence on the principal contractor. This relationship confers a power imbalance. Contractors are aware of this. NECA is concerned this imbalance is often exploited by unscrupulous principal contractors;
- further to their size and the power they wield, there is a very small pool of principal contractors. This means limited competition in the area of principal contracting, resulting in subcontractors regularly engaging with the same small group of principal contractors.

[7] NECA 2019 Industry Market Monitor https://neca.asn.au/content/market-monitor-2019-0

One of the most serious issues facing SMEs is that unscrupulous principal contractors abuse their power and size to force detrimental, unfair contracts on smaller parties on a ‘take it or leave it’ basis. Subcontractors (typically smaller businesses) often lack capacity to fairly and equitably negotiate contracts with principal contractors. This exposes SMEs in our industry to exploitation, or entering into adverse and compromising contracts.

These conditions result in the following adverse, inequitable outcomes:

- reinforcing the imbalance between principal contractors and subcontractors in contract negotiations, given the inherent imbalance due to the power, scale and resources of larger organisations;
- deterring new entrants or existing tradespeople from owning or operating electrical SMEs: this has a knock-on impact on the depleted, declining electrical skills workforce;
- penalising subcontractors by effectively rendering them *de facto* underwriters of unscrupulous or inefficient principal contractors;
- compromising quality assurance and the timely delivery of much-needed new development, which directly impacts the end consumer;
- legal disputes and bankruptcies across the electrotechnology industry; and
- a broader economic impact at local and national levels, detrimental to the overall competitiveness, productivity and sustainability of our industry in Australia.

Unscrupulous principal contractors will often seek to shift project risks and costs (e.g. overruns/delays, design variations, changes to materials/finishes) down the contract hierarchy onto subcontractors through, and embedded within, inherently unfair contracts.

Due to the imbalanced size, power and capacity between principal contractors and subcontractors, subcontractors have limited ability to mitigate the transfer of these risks, or the capacity to control or manage risks once they have been transferred. This too can have dire financial consequences for small businesses, and potentially lead to insolvency. Arrangements must be designed and implemented to address the transfer of risk through building contracts from principal contractors to subcontractors.

NECA commends federal and state governments for the decision in November 2020 by Consumer Affairs ministers to bolster protections for small businesses from unfair contract provisions.

Under current law, one requirement for a contract to be considered a small business contract is for at least one party to employ fewer than 20 persons at the time the contract is executed[8]. NECA's experience indicates businesses are much larger, and that the definition of a small business should be amended from 20 to 100 employees, more accurately reflecting businesses engaged to work on large construction projects across Australia.

Further, NECA argues the threshold on the upfront price payable on contracts should be lifted from $300,000 to $3,000,000 for contracts of 12 months or less, and from $1,000,000 to $9,000,000 for contracts longer than 12 months. This more realistically reflects contracts across the electrical contracting sector, especially for mid-sized enterprises with larger numbers of staff and more time consuming and complex project scales.

3.4. Extend Australian Government COVID-19 assistance

3.4.1 Extend JobKeeper Arrangements beyond March 2021

The ABS' "Business Impacts of COVID-19" survey in April 2020 found 61% of businesses had registered (or were intending to register) for the government's JobKeeper scheme. Take-up was highest in the construction industry (80%)[9]. Presently, JobKeeper is scheduled to cease in March 2021. NECA believes this is premature for businesses attempting to restart and regain self-sufficiency, and will be particularly significant for our industry, which has been highly dependent on these arrangements.

Whilst we commend the government for extending JobKeeper until March 2021, we are concerned terminating these arrangements would be devastating, particularly for SMEs, if economic conditions do not improve (or, indeed, deteriorate).

NECA believes JobKeeper has saved jobs and businesses, and should be further extended beyond March 2021 to protect businesses continuing to be affected by COVID-19, help retain employees, and to keep apprentices in our industry employed.

3.4.2 Moratorium on Liquidated Damages provisions

NECA urges the federal government to introduce a moratorium on Liquidated Damages (LD) provisions within construction contracts to help prevent catastrophic ongoing damage to Australia's building and construction sector following COVID-19. On many large projects, risks associated with delay are borne by subcontractors entering into one-sided contracts, as they have little or no bargaining power to amend contractual terms.

Aside from being thus forced to carry risks from delays, subcontractors have little or no entitlement to extensions of time to manage them. This is unfair and unreasonable. Given current economic conditions, the position in which subcontractors find themselves is

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[8] Enhancement of Unfair Contract Term Protections https://ris.pmc.gov.au/2019/12/20/enhancements-unfair-contract-term-protections

[9] : ABS, Business Indicators, Business Impacts of COVID-19, April 2020 (Cat. No. 5676.0.55.003), original data

exacerbated by the fact they will be severely impeded in their ability to perform works prescribed by construction contracts. This may trigger LD claims, which would devastate the building and construction industry. It is no exaggeration to suggest a foreseeable collapse of the building and construction industry unless government intervenes.

NECA urgently seeks the government's support for a moratorium on LD provisions within construction contracts, and for this to apply for at least the term of COVID-19 restrictions (whether imposed by the Commonwealth, states or territories). This should be the starting point for a broader body of work tackling the issue of unfair contracting, which allows Principal contractors to apply higher levels of LD provisions and apply them to multiple subcontractors on the same project.

3.4.3 Flexibility for the Extension of Time Provisions

NECA has received numerous member enquiries indicating social distancing guidelines have made site conditions and productivity goals unattainable, with many projects suffering time delays. Extension of Time (EoT) provisions are often written out of contracts or changed by the government or Tier 1 or 2 construction companies, leaving subcontractors exposed to substantial risk for delays caused by the pandemic (and restrictions that continue to apply as a result of it) on government construction projects.

It is critical the government respond to this by first retrofitting suitable provisions into its own contracts as an industry 'best practice' guide for other areas of the sector to follow.

Moreover, larger government contracts have onerous general damages and indemnity provisions. These will have significant adverse consequences, as large enterprises employ dependent contractors and deliver high-yielding projects, including government projects. Onerous general damages and indemnity provisions must be restricted or amended.

NECA urges the government to develop guidelines requiring government building and construction contracts to contain EoT provisions (and related clauses) protecting subcontractors (with appropriate protection to contractors) impacted by COVID-19 and its consequent continuing restrictions.

3.4.4 Temporary relief to trading insolvency provisions under the Corporations Act 2001

The federal government's COVID-19 response package provided directors with temporary relief from personal liability if a company trades while insolvent. These changes, made to the *Corporations Act 2001,* encourage businesses to keep trading even if they have been adversely affected by economic shutdowns associated with COVID-19.

These provisions allow directors to incur debt without contravening their obligation to prevent insolvent trading (even where there are grounds to suspect insolvency) if the debt was incurred

- in the ordinary course of the business;
- during the six-month period commencing 25 March 2020 (or any period extended by the regulations);
- before the appointment of an administrator or liquidator of the company during that period.

We understand these provisions also extend to holding companies. Moreover, debtors can now take up to six months instead of 21 days to respond to a bankruptcy notice.

These provisions are extraordinary, and have merit in their intent to allow businesses greater flexibility and the ability to continue to trade during a period of lost revenue, interrupted cashflow, and to help retain staff. However, NECA has significant concerns about the consequences when these provisions cease, and how these will impact the broader supply chain once sunset provisions are exhausted.

We also have concerns about potential bankruptcies, and seek certainty in payments for contractors who carry high financial risk in the building and construction process.

Recommendations

NECA calls on the federal government, in the 2021-22 budget, to:

- Reform the Australian Taxation System:
  - harmonise reporting regimes including Business Activity Statements (BAS), Pay-as-you-go (PAYG), Fringe Benefits Tax (FBT) and Workplace Gender Equality Compliance (WGEA) to reduce red tape and administrative burdens, allowing business to focus on their business;
  - reduce company tax to 25%; and
  - phase out stamp duty.
- Reform the Australian Regulatory System:
  - reduce the impact of superannuation contributions on business, including contributions on Annual Leave Loading and administrative costs;
  - introduce a national occupational licensing regime;
  - introduce Security of Payments for the electrotechnology industry;
  - in accordance with the Murray Review Recommendation 85, a deemed statutory trust model should apply to all parts of the contractual payment chain

for construction projects over $1 million. The deemed statutory trust model outlined in the Collins Inquiry provides a suitable basis;

- in accordance with the Murray Review Recommendation 86, the Australian Government should take the lead working with states, territories, and industry stakeholders towards the establishment of a nationally consistent deemed statutory trust model. The establishment and implementation of such a model should be accompanied by a program of industry-wide education and training;
- amend the definition of an SME to fewer than 100 employees to more accurately reflect the size of businesses engaged to work on larger construction projects across Australia; and
- the threshold on the upfront price payable on building contracts should be increased to:
  - $3 million for contracts of 12 months or less; and
  - $9 million for contracts longer than 12 months.

- Stamp out non-conforming building products by introducing a national Electrical Equipment Safety System database, and implement the recommendations from the Senate Economics Committee inquiry;
- Introduce a national approach to Continuing Professional Development;
- Review Australian Government COVID-19 relief, including
  - extend JobKeeper beyond March 2021;
  - introduce a moratorium on Liquidated Damages provisions;
  - introduce greater flexibility for the Extension of Time provisions; and
  - extend temporary relief to trading insolvency provisions.

4. Energising the Future

NECA supports a competitive national training market comprising public and private RTOs overseen by one national regulator. NECA recognises the viability of Australia's Vocational Education and Training (VET) system is a shared responsibility which should be strongly influenced and informed by industry and supported by government. Our member feedback and experience within the VET sector suggests current standards and systems do not always lead to job-ready graduates with the skills required by industry. This must change.

COVID-19 (and its aftermath) are redefining the electrical and communications industry, compounding skills shortages. NECA asserts this offers an excellent opportunity to encourage young people into the industry, and to reskill prospective entrants from other affected vocations. With emerging technologies including batteries, solar infrastructure and electric vehicles, our trade will grow ever more central to daily life. It is critical the VET system attracts and prepares apprentices with relevant skills and expertise, and that existing workforces have opportunities to reskill to remain competitive in the labour market.

As a leader in the training of current and future electrical and communications contractors through our GTOs and RTOs across Australia, NECA believes that:

- quality education, skills and training initiatives are critical for the development of the electrical trade;
- Governments must ensure there are adequate opportunities, initiatives and funding to support a diverse workforce, and that the small business sector is incentivised as the major employer of the next generation of tradespeople;
- Government has a critical role to play in informing school students of potential career pathways and opportunities, especially for opportunities within the trades sector;
- initiatives are required to ensure a more gender and age diverse workforce;
- promote the benefits of a career pathway into the electrotechnology industry.

4.1. Apprentice wage subsidies and new incentives for large business

An ongoing challenge is a shortage of skilled electrical and communications workers, shown in falling completion rates of electrical apprenticeships across Australia and the retirement of long term, highly skilled workers, resulting in the loss of suitably qualified electricians at both ends of the cycle.

This challenge is not unique to the electrotechnology sector: other traditional trades – such as carpentry, plumbing, and metalworking – equally face difficulty in attracting and retaining quality apprenticeship candidates in a climate where university education is heavily promoted to school-aged students, and public discourse and media opinion "leadership" sharply prioritises university qualifications over manual trades.

4.1.1. Attract mature aged apprentices to the electrotechnology industry

The cost to hire a mature age apprentice is a challenge for small business. The cost difference over a four-year apprenticeship between a school leaver and a mature age worker is roughly $30,000.

Consequently, NECA argues governments should consider tax incentives for employers to hire apprentices, particularly mature aged apprentices, and for small contractors who form the backbone of the industry.

4.1.1.1. Major Recommendation: Mature Apprentice Subsidy Scheme

At a time of economic disruption – heightened by COVID-19 – that has seen many workers displaced from legacy industries and/or seek mid-career retraining opportunities, NECA recommends the government institute a **Mature Apprentice Subsidy Scheme (MASS)** to remove wage barriers for businesses wishing to engage mature-age apprentices.

NECA would welcome the opportunity to partner with the federal government and other trade training providers to design a pilot a program to properly fund mature aged apprenticeships, addressing chronic skills shortages in the trades sector in the process.

We note the Western Australian government has announced a small-scale trial subsidy for up to 150 (non-electrical) mature trade apprenticeships as a commitment ahead of its March state election, and believe the federal government is best placed to implement a comprehensive national program to benefit **all** trades sectors across the country.

Mature-age apprentices – particularly those with many years' work experience – offer great benefits as potential tradespeople that transcend manual skills and knowledge, such as maturity, life experience, better appreciation of safety protocols, and often leadership.

Conversely, young people completing university studies who can't find related jobs or have rethought their careers and wish to switch to a trade are equally discriminated against, as anyone aged over 21 at commencement is treated as "mature-aged" for remuneration purposes by Modern Awards, and thus too costly for many employers to hire.

Broadly, the idea is for employers of mature-aged apprentices to be able to claim the difference, as a government rebate, between wage costs of a junior apprentice and those of a mature-aged apprentice, eliminating the disincentive to bring employees who are older into the trades sector. While beneficial to employment, these advantages generally do not lead to a shorter apprenticeship due to specific trade skills acquisition requirements.

The benefit to contracting businesses across a raft of trades is that skills shortages can be met by quality candidates who are eager to work; benefits to government include providing real retraining options for people whose industries have been irretrievably damaged by disruption and their jobs lost, with the added advantage of providing further post-COVID industry stimulus that offers tangible value, economic benefits, and return on investment.

These subsidies could readily be tracked through the PAYE system, furnishing the government with transparency around its investment, and ensuring participating employers are completely accountable for subsidy monies paid to them.

Should the government pursue this recommendation, NECA would be delighted to partner with relevant departments to put more detail on this high-level outline of its proposal.

4.1.2 Apprentice wage subsidies to large business

NECA commends the government for introducing wage subsidies for new apprentices in businesses of any size until 30 September 2021. NECA is however concerned many large businesses have struggled to retain existing apprentices as pipelines of work have run down. Extending subsidies beyond September 2021 may be required to enable businesses to retain their existing apprentices.

4.2. Support pre-Apprenticeship initiatives

School-based apprenticeships are an important pathway for students, are a good source of apprenticeship applications for industry, and offer a way to screen potential applicants. Some of these courses, however, are too institutionally-based and do not always lead to good vocational outcomes.

NECA believes the approach to pre-apprenticeships must be reformed. Pre-apprenticeships should be encouraged if they meet employer and student needs, especially where there is flexible timetabling. In some cases, these may be suitable for Year 11 students to bridge the gap in academic learning required in off-the-job training.

Employers have only limited understanding of this option and its ability to supplement labour when off-the-job training is being undertaken by full-time apprentices. Attainment of acceptable minimum mathematics skills (at least to sound Year 10 level) is an ongoing problem with young applicants.

NECA has been examining the development of a national approach for pre-apprenticeships under the *Electrical Innovative Delivery and Pathways Project*, including how the provision of short, targeted, upfront pre-apprenticeship training can be used to ensure apprentices are more work ready, understand the basics of the industry and have hand skill familiarity.

4.3. Provide apprentice mentoring

NECA Training's high completion rates - over 90%, against an industry level of 50 to 60% - demonstrate the merits of mentoring apprentices and the success of our organisation.

Mentoring allows proactive management of individual apprentices' development, including:

- OH&S awareness and compliance;
- Managing personal issues and discipline where necessary;
- Work exposure;
- Reviewing PPE (personal protective equipment);
- Reviewing toolkits; and
- Monitoring and discussing trade school work.

A Deloitte study commissioned by the NSW Board of Vocational Education and Training suggests the cost of non-completions in NSW in 2010 alone was $348 million. The study also estimated the cost to the NSW Government of non-completion amounted to $4,100 per apprentice per annum, excluding costs to the Commonwealth, employers and to the broader economy in terms of lost productivity and other multiplier effects.[10]

The implication of this study is that government effectively saves funds in other areas through the careful targeting of expenditure in apprentice mentoring that leads to higher completion rates of apprenticeships.

Recommendations

NECA calls on the federal government in the 2021-22 budget to:

- Extend COVID-19 apprentice wage subsidies and new incentives:
  - attract mature aged apprentices to the electrotechnology industry,
  - extend apprentice wage subsidies to large business.
- Support pre-apprenticeship initiatives;
- Provide apprentice mentoring.

[10] Deloitte Access Economics, commissioned by the NSW Board of Vocational Education and Training, The cost of apprenticeship non-completion in NSW, 25 August 2011

5. NECA's pre-Budget recommendations

Recommendations

NECA urgently calls on the federal government to make provision in the 2021-22 budget to 'power up' the economy with respect to the following:

- introduce a 'dollar-for-dollar' grant for households up to $3,000 to undertake electrical safety and energy efficiency upgrades;
- introduce a 'dollar-for-dollar' grant for businesses up to $5,000 to undertake electrical safety and energy efficiency upgrades to commercial property;
- commit to a program of community capacity building within all Local Government Areas (LGA) to ensure local tradespeople are engaged to remediate, improve, and upgrade local buildings and assets;
- unlock and fast-track a pipeline of major 'shovel-ready' infrastructure projects for medium to large businesses to stimulate the economy e.g. government construction projects, large scale renewable energy generation, local government works across metropolitan, regional and remote Australia;
- support innovative strategies and emerging technologies to encourage new ways to achieve energy efficiency;
- Reform the Australian Taxation System:

- harmonise reporting times including BAS, PAYG, FBT and WGEA to reduce red tape and administration;
- reduce company tax to 25%;
- phase out stamp duty.

- Reform the Australian Regulatory System:

- reduce the impact of superannuation on business including contributions for annual leave loading and administrative costs;
- introduce a national occupational licensing regime;
- introduce Security of Payments for the electrotechnology industry;
- in accordance with the Murray Review Recommendation 85, a deemed statutory trust model should apply to all parts of the contractual payment chain

for construction projects over $1 million. The deemed statutory trust model outlined in the Collins Inquiry provides a suitable basis;

- in accordance with the Murray Review Recommendation 86, the Australian Government should take a lead role in working with states, territories and industry stakeholders towards the establishment of a nationally consistent deemed statutory trust model. The establishment and implementation of such a model should be accompanied by a program of industry-wide education and training;
- amend the definition of an SME to fewer than 100 employees, as this would more accurately reflect the size of businesses engaged to work on construction projects across Australia; and
- the threshold on the upfront price payable on building contracts should be increased to:
  - $3 million for contracts of 12 months or less, and
  - $9 million for contracts greater than 12 months.

- stamp out non-conforming building products by introducing a national Electrical Equipment Safety System database, and implement the recommendations from the Senate Economics Committee inquiry;
- introduce a national approach to Continuing Professional Development;
- Extend Australian Government COVID-19 assistance:
  - extend JobKeeper beyond March 2021;
  - introduce a moratorium on Liquidated Damages provisions;
  - introduce greater flexibility for the Extension of Time provisions;
  - extend temporary relief to trading insolvency provisions.
- Extend COVID-19 apprentice wage subsidies and new incentives:
  - attract mature aged apprentices to the electrotechnology industry;
  - extend apprentice wage subsidies to large business.
- Support pre-apprenticeship initiatives;
- Provide apprentice mentoring.