Counsel Assisting's Further Submissions on the Re-Introduction of a Code of Practice and Independent Regulator

Queensland

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MASTER ELECTRICIANS AUSTRALIA

Master Electricians Australia (MEA) is a peak industry association representing electrical contractors across Australia, majority of which are small and medium sized 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

In May 2026, MEA made a submission (MEA's May 2026 Submission) in response to the Commission of Inquiry into the CFMEU's discussion paper, setting out our members' views on the desirability, content and implementation of an amended Building and Construction Code in Queensland (the Code).

MEA appreciates the opportunity to respond to Counsel Assisting's further submission on the Code, and in particular to the Draft Implementation Guidelines to the Queensland Code of Practice for the Building and Construction Industry (Draft Guidelines) at Annexure 2. This submission should be read in conjunction with our May 2026 submission, which remains our position on matters not addressed below.

MEA generally supports the Draft Guideline's scope which reflects many key priorities raised in our May 2026 submission. In particular, we commend the focus on improving industry practices through a framework that promotes value for money, productivity and practical implementation outcomes.

Our submission highlights areas where further refinement may assist in ensuring the Draft Guidelines achieves its intended objectives while remaining workable for businesses across the construction supply chain.

Overall Position

General Support

MEA maintains its in-principle support for the re-introduction of a Code and encourages its prompt implementation alongside appropriate transitional support measures for impacted parties. This aligns with the support we expressed for the Code in our response to the Queensland Productivity Commission's Inquiry, which recommended that a Code replace the now-suspended BPIC.

Scope and Timing

We encourage the Code to be targeted at addressing bad-faith activities within the sector, while remaining flexible enough to respond to emerging and undesirable behaviours overtime. The Code should complement existing legislative obligations and avoid unnecessary duplication or administrative burdens for businesses, particularly small and medium-sized contractors.

NCIF Blueprint

We note the following statement made in Annexure 3 of the report:

> The National Construction Industry Forum charter as the vehicle for culture. One industry stakeholder and one union stakeholder both pointed to the National Construction Industry Forum charter, not a Code, as the instrument most likely to change culture and behaviour. That is rare agreement and it bears directly on what a Code can be expected to achieve."

While MEA supports the intent of the recently announced NCIF blueprint, it has fundamentally overlooked the small business sector and is therefore not appropriate to be used as an existing "instrument most likely to change culture and behaviour" as opposed to the Code.

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.

Key Elements Supported

MEA generally supports the elements included in Annexure 2, with some supported in full and others subject to further refinement. The sections below outline MEA's position on each element, including areas where additional consideration or amendments are recommended.

Prohibiting Jump-Up Clauses

Preventing subcontractors from being required to adopt head contractor workplace arrangements or project-specific wages and conditions reflects a key recommendation in MEA's May 2026 Submission.

Annexure 2 appropriately recognises that subcontractors operate independent businesses with different workforce structures, enterprise agreements and commercial arrangements to head contractors. Preventing the automatic application of head contractor employment conditions supports fair competition, preserves commercial independence, and enables subcontractors to negotiate workplace arrangements that are appropriate for the size and operational needs of their own businesses.

Project Agreements [Part 6]

MEA welcomes the following measures relating to project agreements.

- *Restricting Project Agreements to Major Contracts Except in Exceptional Circumstances* - This helps ensure project agreements are only used where they deliver a clear and demonstrable benefit to project outcomes and

represent value for money.

- *Requiring Subcontractors to Be Involved in the Development of Project Agreements Before They Are Finalised* - This is an important element. To further advance its purpose, we recommend the Guidelines specify a minimum timeframe (for example, within 10 business days) for subcontractor input, to ensure this consultation is genuine and not a formality completed after terms are effectively settled.

These provisions recognise the important role specialist subcontractors play in delivering government projects and support a more productive, competitive and transparent construction supply chain by ensuring project agreements are appropriately targeted only where there is genuine value for money provided with Government oversight on the decision.

Workplace Arrangements [Part 4]

The Workplace Arrangements provisions provide greater certainty and protections for employers operating on construction sites and reflect key priorities outlined in MEA's May 2026 submission.

In particular, MEA commend the following -

- The prohibition on employee ratios and one-in-all-in practices, which allows contractors to determine workforce requirements based on genuine operational needs and project demands.

- The prohibition on clauses requiring a contractor to seek approval from a third party before making workforce decision, ensuring contractors retain responsibility for determining their own labour requirements.

- The prohibition on last-on-first-off redundancy clauses and other selection criteria that ignore operational requirements.

- The express permission for an employer to substitute an RDO for another day.

These provisions collectively support greater workforce flexibility, allowing contractors to manage labour in a manner that reflects operational requirements while avoiding unnecessary restriction on productivity.

Freedom of Association [Part 9]

Provisions that reinforce freedom of association and recognise that decisions regarding union membership remain a matter of individual choice are commended. They provide important clarity for contractors and subcontractors while supporting lawful workplace practices.

In particular, MEA welcomes the prohibition on practices such as "no ticket, no start" requirements, show card days, mandated union involvement in site inductions, and other arrangements that may limit an individual's freedom of choice regarding union or association membership. These measures are consistent with MEA's May 2026 submission and support fair, productive and commercially appropriate workplace arrangements.

Right of Entry Provisions [Part 9]

Maintenance of Right of Entry Provisions provides certainty for all parties while recognising that existing legislative frameworks already establish appropriate rights and obligations. Consistent with MEA's May 2026 submission, the Code should reinforce compliance with existing right of entry provisions rather than create additional access rights or obligations through procurement requirements.

Workforce Diversity [Part 5.1(r)]

The proposed requirement to include measures under the WRMP which support the recruitment and retention of women is a practical inclusion rather than an additional

compliance burden. It aligns with the need to address ongoing skills shortages across the construction sector.

Increasing participation and retention of women within the industry will be an important part of building a more productive and sustainable workforce to meet labour demand. MEA encourages practical, industry-led approaches that recognise the needs of businesses and support meaningful improvements in workforce diversity.

Matters Excluded from the Draft

While MEA generally supports the scope of elements included in the Draft Guidelines, we note that some important areas remain unaddressed and present an opportunity to further strengthen the Code.

Security of Payment

The Code has missed an opportunity to recognise the importance of Security of Payment (SOP) and promote fair payment practices across the construction supply chain. Timely payment practices are critical to the financial sustainability of small and medium-sized electrical contractors and other subcontractors, many of which operate with limited cash flow capacity. Delays in receiving payment for completed work can place unnecessary financial pressure on businesses, particularly where subcontractors have already incurred significant labour, material and equipment costs to deliver projects.

MEA recommends the Code (whether through the Guidelines themselves or a complementary instrument) include measures requiring head contractors to demonstrate a commitment to responsible progress payments, including the timely payment of progress claims and prompt return of retention or security on practical and final completion.

While existing legislative protections provide important safeguards, MEA considers that the Code provides an opportunity to reinforce expectations around responsible contracting behaviours and the fair administration of payment arrangements

throughout the supply chain. Promoting a culture of prompt payment, transparency and accountability would support the sustainability and resilience of Queensland's construction industry.

Fair Contracting and Risk Allocation

The Code provides an important framework for promoting improved industry practices, including through its focus on industrial relations, procurement, workplace practices and compliance obligations. However, it has critically overlooked the importance of fair contracting practices and appropriate risk allocation across the construction supply chain.

For small and medium-sized electrical contractors and other subcontractors, contractual arrangements are a critical factor in business sustainability. Unfair contract terms, disproportionate allocation of risk, and the transfer of unreasonable costs or liabilities down the supply chain can place significant financial and operational pressure on businesses that often have limited capacity to absorb these risks.

The Code provides an opportunity to establish clearer expectations around responsible contracting behaviours, including ensuring risks are appropriately allocated to the party best placed to manage them and that subcontractors are not required to accept unreasonable commercial risks as a condition of participation in projects.

Apprenticeship Number Requirements

MEA notes the evidence presented in Counsel Assisting's Report, including that provided by Mr Hadgkiss, regarding workforce capability and the importance of developing a sustainable construction workforce -

> 41. When it was suggested to Mr Hadgkiss that minimum apprentice ratios were important in addressing skill shortages, Mr Hadgkiss quite cogently observed that artificial ratios do little to advance the skills of the apprentices involved:
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> MR HADGKISS: [T]*o have apprentices sitting around without meaningful work is preposterous. If they're not required, they're not required. You cannot create work for them if there's no work there. So how are they going to learn their skills when they're sitting around making up numbers?*[64]

However, we remain concerned that, in practice, large contractors do not consistently contribute to workforce development through the engagement and training of new apprentices. Instead, to meet labour demands on major projects, large contractors frequently recruit advanced apprentices (third and fourth year) and recently qualified electricians from smaller electrical contracting businesses by offering higher rates of pay. While this may address immediate workforce needs, it does little to expand the overall skilled workforce and therefore long-term productivity.

Small and medium-sized electrical contractors undertake the majority of new apprentice recruitment and training, bearing the significant costs associated with developing new entrants to the industry. The ongoing loss of advanced apprentices and newly qualified tradespeople to larger contractors creates a disincentive for small businesses to continue investing in apprenticeship training, ultimately reducing the pipeline of skilled workers available to the industry.

MEA therefore considers it critical that large contractors, particularly on government-funded projects, play a greater role in workforce development. One way to achieve this is to require a WRMP to include measures to support the engagement of first year apprentices and retention of apprentices.

Enforcement and the Proposed Independent Regulator [Part 10]

Enforcement

MEA is concerned the enforcement mechanisms may be disproportionately applied to small subcontractors that inadvertently breach a Code obligation, particularly where they have limited capacity to navigate complex compliance requirements. Most notably, the Code does not expressly provide for a graduated, education-first approach for minor, inadvertent or first-instance non-compliance which is important for small subcontractors.

Consistent with MEA's May 2026 submission we recommend the Guidelines explicitly clarify that:

- Education and guidance will be the default response to minor or first-instance breaches; and

- Commercial sanctions (exclusion, publication) will be reserved for repeated, systemic, or deliberate non-compliance.

MEA also seeks to ensure that enforcement is timely and responsive, with appropriate action taken where breaches of the Code are identified. Effective enforcement is critical to maintaining industry confidence that the Code is being actively monitored and that non-compliance is addressed in a way that supports positive behaviours across the sector.

Regulator

MEA also considers further clarity is required regarding the interaction between the proposed independent regulator (the Building Construction Compliance Branch (BCCB)) and existing bodies such as the Office of Industrial Relations (OIR) and the Queensland Building and Construction Commission (QBCC). Clear delineation of responsibilities will be critical to avoid duplicate reporting obligations, inconsistent guidance or overlapping compliance activity for businesses, particularly small and medium-sized contractors.

We support the review pathway in section 10.1 (review by a person appointed by the Director-General, Department of Justice and Attorney-General), which provides an appropriate, independent check on regulator decisions.

Flow-Down Obligations

The Draft Guidelines place significant obligations on head contractors to ensure subcontractor compliance with the Code, including through contractual requirements, monitoring, reporting and Workforce Relations Management Plan (WRMP) obligations. While MEA supports accountability and transparency across the construction supply chain, obligations must remain proportionate and appropriately allocated to the party responsible for managing the relevant risk.

There is a risk that broadly drafted obligations may result in compliance responsibilities being passed down to smaller subcontractors that do not have dedicated compliance resources. For example, the following provisions in the Draft Guidelines could be interpreted broadly -

- Section 2.3: "…must notify the Director, BCCB and client agency, within 24 hours, of any threatened, impending, possible, probable or actual unlawful industrial conduct or breach".

- Section 7.1: "any time lost through industrial action, either lawful or unlawful, and/or through any WH&S m atter or purported WH&S matter must be reported to the BCCB as soon as practicable or within 24 hours of the commencement of the lost time".

MEA recommends the reporting obligation be recalibrated to a materiality or credibility threshold (rather than any conceivable possibility), and that, where a subcontractor's conduct is the subject of a report, the head contractor be permitted to report on the subcontractor's behalf, rather than requiring parallel reports from every tier of the contracting chain.

Ongoing Review

While the Draft Guidelines refer to continuous improvement, they do not appear to establish a specific review timeframe. MEA recommends that a formal review be undertaken within two to three years of commencement.

Implementation Considerations

The successful implementation of the Code will depend on ensuring that businesses, particularly smaller subcontractors, have access to clear guidance, practical resources and sufficient time to understand and comply with the new requirements.

Many smaller contractors do not have dedicated compliance, legal or administrative resources and may require additional support to interpret obligations, understand

expectations and implement any necessary changes to their business practices.

MEA recommends that implementation of the Code be supported through:

- Clear education and communication materials tailored to small businesses;
- Practical templates, tools and guidance documents to assist contractors in meeting compliance obligations;
- A reasonable transition period for small businesses to allow businesses time to understand and adapt to new requirements; and
- Ongoing support mechanisms to assist industry in navigating implementation challenges.

A practical and supported implementation approach will help ensure the Code achieves its intended outcomes while avoiding disproportionate compliance burdens for smaller contractors.

Conclusion

MEA supports the development of a Queensland Code of Practice for the Building and Construction Industry and acknowledges the important role it can play in promoting improved industry practices, productivity and value for money.

As the Code moves towards implementation, MEA encourages continued consideration of the practical impacts on small and medium-sized businesses, which make up a significant proportion of the construction supply chain on public projects as subcontractors. The effectiveness of the Code will depend on ensuring obligations are proportionate, clearly understood and supported by practical guidance and implementation measures.

MEA appreciates the opportunity to provide further feedback on the Draft Guidelines and looks forward to continuing to work with the Commission to support a Code that delivers positive outcomes for industry, government and the broader Queensland community.