

Submission
No 177

**INQUIRY INTO REGULATION OF BUILDING
STANDARDS, BUILDING QUALITY AND BUILDING
DISPUTES**

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NSW Public Accountability Committee – ‘Regulation of building standards,
building quality and building disputes’





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About NECA

The National Electrical and Communications Association (NECA) is the peak industry body for Australia's electrical and communications contracting industry, which employs more than 165,000 workers and delivers an annual turnover in excess of \$23 billion. We represent the best interests of over 5,200 electrical contracting businesses across all Australian States and Territories.

NECA has been advocating for, and on behalf of, the electrotechnology industry for over 100 years. We aim to help our members and the wider industry to operate and manage their business more effectively and efficiently whilst representing their interests to Federal and State Governments, regulators and principal industry bodies such as the Australian Chamber of Commerce and Industry (ACCI) and Standards Australia.

Our members make an integral contribution to the New South Wales economy – connecting homes, businesses and infrastructure across the State, encouraging investment, improving reliability and security across the energy system and delivering greater environmentally sustainable and affordable outcomes for the community. We view the safety and reputation of the electrotechnology industry, and the building and construction sector more broadly, as paramount to all tradespeople, consumers and the general population. Safety is at the forefront of all our activities and initiatives.

NECA is strongly committed to supporting the next generation of electrical and communications contractors. Working with our Registered Training Organisations (RTOs) and Group Training Organisations (GTOs), NECA provides employment and ongoing skills development for approximately 4,800 apprentices across Australia. The majority of these apprentices get the opportunity to gain work experience with NECA's members either directly or via our group schemes. The success of our programs speaks for itself - we proudly boast 90% completion rates across our courses, and approximately one in three electrical apprentices in Australia is a NECA apprentice.

Our approach to attracting and supporting entrants to our industry is through a holistic, progressive and high-quality range of industry relevant programs and initiatives including our long-standing scholarship program, NECA Foundation and the Women in Electrical Trades Roadmap. In addition to these initiatives, we also manage and promote industry wide Annual Excellence and Apprentice Awards designed to acknowledge and celebrate achievements and highly distinguished electrotechnology projects, which includes recognition of apprentices and future leaders in our industry.

Foreword

The New South Wales building and construction sector has been widely revealed and acknowledged to be in the midst of an unprecedented and systemic crisis. The current prevailing theme across the sector concerns a significant loss of public confidence due to poor building practices, culture and products over the last 20 years. These conditions have given way to sub-standard development across the State which is placing people and property at significant and potentially life-threatening risk.

The NSW Government has responded to community and industry calls for urgent and decisive action. It has commenced a number of initiatives including significant policy and legislative reforms and sectoral investment. Most significantly, on 4 July 2019, the NSW Government established an inquiry into the 'Regulation of building standards, building quality and building disputes' in New South Wales, as undertaken by the NSW Public Accountability Committee (Committee).

NECA stands behind the NSW Government and its commitment to improve building and construction practices. We acknowledge that to address the problems requires a partnership between the public and private sectors, a long-term strategy and industry participation. NECA's submission to the Committee aims to address these ongoing and systemic issues in the NSW building and construction sector, specifically in relation to building standards, quality and disputes.

Our submission provides a commentary to:

- Mitigate the loss and damage to lives, property and the broader community as a result of avoidable tragedies cause by unsafe electrical installations – whether the absence of much-needed safety devices, installation of products and equipment that meets Australian Standards or aged wiring.
- Improve the current licensing arrangements through a streamlined, simplified and effective system and ensure that trained and qualified people are undertaking electrical work.
- Ensure all stakeholders involved in the building and construction process are treated equally and fairly, this is principally concerning the security of payment legislation.
- To ensure that industry is wholly and genuinely integrated to all aspects of the reform of the building and construction sector to ensure that the new systems are effective, robust and responsive.

NECA is calling on all levels of Government to work together with industry to address these urgent and critical issues that are having a devastating impact on the NSW building and construction sector.

NECA strongly supports the ongoing commitment and reforms by the NSW Government and appreciates this opportunity to engage and contribute to the Inquiry.

Challenges in the electrotechnology industry

The key challenges for the electrotechnology industry relate to:

- **Trade in counterfeit products which fail to conform to Australian Standards and pose a significant threat to the viability of the broader building and construction industry**

Electrical safety is paramount to NECA and our members. Whether it's the installation, maintenance or use of electrical equipment or work, there are several risks that need to be identified and managed to protect and ensure the safety of contractors, consumers and the general public. Electrical defects are one of the most prevalent causes of residential fires in Australia. Electrical faults and appliances cause almost 40% of home fires, with NSW Fire and Rescue responding to 4,500 residential fires each year¹.

While there is broad and growing awareness into building defects, electrical issues may present a bigger and imminent risk. Hundreds of thousands of people across NSW are at significant electrical safety risk due to a lack of mandated electrical quality assurance measures that ensure ageing wiring is identified, replaced and that new electrical products are meeting Australian Standards. These issues are associated and compounded by related matters concerning licensing, training and education, fairness and equality in building practices.

The installation of unsafe, non-compliant electrical equipment can be costly for business and consumers and poses a risk of electrical fire, shock and property damage while increasing the potential legal liabilities for electrical contractors and fall within the context of regulatory reforms. This ultimately leads to a devaluing of industry standards, a loss of professional reputation and has a detrimental impact on consumer confidence and result in significant economic impacts.

NECA calls upon the NSW Government to:

- Stamp out sales of non-compliant electrical parts and products that fail to meet Australian Standards. The professional reputation of our industry is compromised by the weakening of safety standards, potential property damage and potential endangerment of human life when noncompliant products remain on sale.
- Increase its commitment and resources to ensure a larger number of product random batch tests are carried out. This action would assist with the delivery of higher quality electrical products for consumers.
- Introduce mandatory electrical safety audits for households. This would see electrical inspections carried out before home sales and rental, providing an opportunity to rectify any issues – and save lives. Mandatory inspections would provide the opportunity for trained professionals to go into homes, and undertake

¹ NSW Fire and Rescue <https://www.fire.nsw.gov.au/page.php?id=9216>

electrical work that may well prevent future fatalities. It would also give buyers peace of mind that their new home meets the highest safety standards.

- **Electrotechnology is experiencing an ongoing shortage and declining supply of skilled electrical workers**

There is an ongoing general labour market shortage of electricians, as identified by the Commonwealth Government's national skills shortage list and other relevant State lists.

There is a reduction in the completion of electrical apprenticeships across Australia, and the retirement of long term and highly skilled workers, leading to a loss of suitably qualified electricians at both ends of the industry and across the broader building and construction sector.

NECA strongly believes in the future of the Registered Training Organisations (RTO) sector and welcomes ongoing reform. We support the operation of a national competitive training market comprising public and private RTOs regulated by one national Vocational and Education (VET) regulator. Our member feedback and own experience within the VET sector suggests that the current standards have not always led to the delivery of quality, job ready graduates with the necessary skills required by the industry.

- **National licensing – driver's licence type model**

NECA advocates for the introduction of a single national driver's licence model for implementation across the Australian electrical trade.

Under the driver's licence model, an occupational license issued by any jurisdiction would be recognised across each State and Territory in Australia. State and Territory regulators would continue to maintain individual licensing arrangements.

This low-cost model would increase labour flexibility and mobility, and reduce some of the compliance and regulatory burdens of current arrangements while removing the need for multiple license registrations, renewals and additional license fees. This model also avoids the complexities of introducing and managing a fully harmonised, nationally co-ordinated approach.

NECA supports the creation of a single national licencing scheme for both electricians and electrical contractors. However, its implementation must not dilute safety standards, technical expertise or adequate insurance requirements. To this end, NECA urges government to pursue the highest standards as a benchmark.

- **Unfairness and inequity in Security of Payments legislation**

As a finishing trade, electrical contractors are often involved in the latter stages of the building and construction cycle. Further, the electrical equipment and labour involved in modern buildings is often highly sophisticated and expensive.

In the event a builder falls into receivership, electrical contractors can be at a disadvantage in terms of being recompensed when compared to all other trades who

contribute to the project and have been fully recompensed at an earlier stage in the project. This concerns NECA given the majority of electrical contractors are frequently small family owned and run businesses.

The current system of payment security penalises sub-contractors by effectively rendering them de-facto underwriters to unscrupulous or inefficient head/principal contractors. Of all sub-contractors, electrical contractors provide the highest value inputs by way of fixtures, fittings and labour towards the latter stages of the construction cycle.

In other words, electrical contractors are more disproportionately disadvantaged than any other sub-contractor. Concerns about the security of payments are further exacerbated by the fact that the relevant Building and Construction Industry Security of Payment legislation is facilitated by State and Territory governments and determined by the State or Territory where the construction work is carried out.

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

NECA recommends legislation introducing a low-cost Retention Money Trust Account scheme, similar to those available in the real estate sector, be established across all state and territory jurisdictions. The scheme should be administered by a government department to reduce costs and burdens and create a level playing field for industry.

NECA advocates that NSW and other State and Territory legislatures seek to implement a threshold for construction industry project work to a value of \$1 million.

- **General commentary**

These issues are exacerbated by a strong national building and construction sector driven by a rapidly growing residential market and significant investment by Government into a range of infrastructure projects to support our growing population. They will become increasingly pressing with growing trends in the introduction of numerous technologies that are driving demand for remote control of energy management, security and safety equipment, intelligent power and lighting, communications and entertainment, placing greater pressure and demand on the existing workforce.

NECA looks forward to working closely with the NSW Government to contribute to addressing some of the major challenges affecting the electrotechnology industry.

NECA's responses to the Committee's recommendations

NECA has reviewed the recommendations of the Committee as outlined in the 'Regulation of building standards, building quality and building disputes – First Report' and prepared the following responses, as relevant to our industry:

Committee Recommendation(s)	NECA's response
<p>Recommendation 4</p> <p>That the Building Commissioner finalise his work plan as soon as possible, by the end of 2019 at the latest, including detailing the powers, resources and funding required to undertake this role, and make this work plan publicly available.</p>	<p>Supported</p> <p>NECA supports the transparency, probity and accountability across the functions and operations of the NSW Building Commissioner.</p> <p>In this regard, NECA supports the Committee's recommendations that the NSW Building Commissioners work plan, including the relevant project proposals and timeline, be made public accessible.</p> <p>It is fundamental that the NSW Building Commissioner be supported in his role through suitably qualified and expert resources and funding.</p>
<p>Recommendation 5</p> <p>That the NSW Government establish a Building Commission as an independent statutory body led by a Building Commissioner, and that the Commission be provided with broad powers and sufficient resourcing and funding to oversee and regulate the building and construction industry in New South Wales.</p>	<p>Supported in-principle</p> <p>NECA supports in-principle the establishment of a Building Commission as headed by the NSW Building Commissioner empowered with responsibilities and functions, subject to active involvement and participation of the electrotechnology industry in the Commission's operations, leadership and functions.</p> <p>It is imperative that industry representatives participate in any potential future Building Commission. Should this proceed, NECA seeks clarification on the operational framework, leadership structure and governance arrangements of any future Commission.</p> <p>Further information is required around governance and reporting arrangements.</p>

Committee Recommendation(s)	NECA's response
<p>Recommendation 6</p> <p>That the NSW Government establish a statutory industry advisory committee to support the Building Commission, with its aims to include strengthening industry ties with government and guiding the strategic direction of the Building Commission</p>	<p>Supported</p> <p>NECA strongly supports the establishment of a statutory industry advisory committee as conceptually proposed. It is imperative that industry be actively engaged and given the opportunity to meaningfully participate and partner with Government to ensure the effectiveness of any new arrangements.</p> <p>As the major employer body in the electrotechnology industry, NECA has an expectation of playing a role in the industry advisory committee. NECA seeks to be nominated as a representative to any future industry committee. Further information is required around governance and reporting arrangements.</p>
<p>Recommendation 8</p> <p>That the NSW Government consider amending the definition of 'defect' to provide more clarity for home owners.</p>	<p>Further clarification required</p> <p>NECA seeks clarification to whether the proposed definition of 'defect' will extend to building products that do not conform to the relevant Australian Standards, and considerations around how to address and remediate in these circumstances. NECA would welcome an opportunity to work with the NSW Government to ensure this aspect of the building and construction process is considered and fair and reasonable mechanisms and redress are in place to protect electrical and communications contractors, consumers and the broader community.</p>
<p>Recommendation 10</p> <p>That the NSW Government, as part of its implementation of Recommendation 1 of the Shergold Weir report, immediately investigate the current licencing system for building trades in New South Wales, giving particular consideration to:</p> <ul style="list-style-type: none"> - the effectiveness of the existing inspection regime 	<p>Supported in-principle</p> <p>NECA advocates for the introduction of a single national driver's licence type model for implementation across the Australian electrical trade.</p> <p>Under the driver's licence model, an occupational license issued by any jurisdiction would be recognised across each State and Territory in Australia. State</p>

Committee Recommendation(s)	NECA's response
<ul style="list-style-type: none"> - the need for an independent examination of building trades before a licence is granted, especially for electrical trades - which additional building practitioners should be licenced, including, but not limited to, installation of medical gas and maintenance of fire safety systems. 	<p>and Territory regulators would continue to maintain individual licensing arrangements.</p> <p>This low-cost model would increase labour flexibility and mobility, and reduce some of the compliance and regulatory burdens of current arrangements while removing the need for multiple license registrations, renewals and additional license fees. This model also avoids the complexities of introducing and managing a fully harmonised, nationally co-ordinated approach.</p> <p>Furthermore, simplification and alignment of training processes across all States and Territories would deliver a more consistent approach to licensing across the country. Combined with enhanced mutual recognition, this would lead to greater competition and reduced costs for electrical contractors.</p> <p>Where an overseas applicant presents to any state or territory jurisdiction with their Offshore Technical Skills Record (OTSR), NECA supports a system which has:</p> <ul style="list-style-type: none"> • Consistency in the required Australian context gap training. • The requirement for an overseas license applicant to work under the supervision of a holder of a current full electrician's license for a period of twelve months. <p>NECA calls upon all State and territory jurisdictions to fully support mutual license recognition for electrical contractors, including consistency in requirements for overseas license holder applicants.</p>
<p>Recommendation 12</p> <p>That the NSW Government establish a single, senior Building Minister with responsibility for building regulation in New South Wales, including administering the new stand-alone</p>	<p>Supported in-principle</p> <p>NECA supports the establishment of a dedicated Building Minister for responsibility and carriage of building regulation in New South Wales, and the development of associated legislation.</p>

Committee Recommendation(s)	NECA's response
<p>Building Act, and responsibility for the Building Commission and its Building Commissioner.</p>	<p>Further information would be required with respect of the governance arrangements, and the relevant policy arrangements and processes that would be in place. NECA seeks to avoid any new additional and unnecessary red tape that may be applied to the sector.</p>
<p>Recommendation 13</p> <p>That the NSW Government amend the Design and Building Practitioners Bill 2019 to address stakeholder concerns raised during this inquiry, in particular ensuring that:</p> <ul style="list-style-type: none"> - all classes of building practitioners and types of buildings are specified in the bill - a Professional Engineers Registration scheme is put in place - a Building Commission is established, as per Recommendation - stakeholders' concerns in relation to the duty of care provisions are reviewed and changes made where appropriate - the duty of care provisions commence on the date of assent of the Act and are applied retrospectively. 	<p>Supported in-principle</p> <p>NECA supports this recommendation in principle, subject to the commentary as outlined in this submission.</p>
<p>Recommendation 15</p> <p>That the NSW Government not proceed with the <i>Design and Building Practitioners Bill 2019</i> until the draft regulations are developed in close consultation with stakeholders and made available to the Parliament for scrutiny. The committee supports bringing forward the final implementation of the bill and the regulations to 31 March 2020.</p>	<p>Supported</p> <p>NECA wishes to have the opportunity to review and comment on any Regulations that may be accompanying the Bill to ensure proposed arrangements are consistent with the legislation.</p>

Committee Recommendation(s)	NECA's response
<p>Recommendation 19</p> <p>That the NSW Government require on-line contemporaneous lodgement through the NSW Planning Portal of all relevant documentation, including plans, drawings and certification, to clearly document the full project as built.</p>	<p>Further information requested</p> <p>NECA seeks further information in relation to this initiative. Critical to our membership would be that red tape and associated costs are reduced with any such initiative</p>

NECA's recommendations

In light of the inquiry undertaken, as well as the themes and issues identified, NECA implores that the Committee put NECA's recommendations forward to the NSW Government for adoption and implementation:

1. The NSW Government stamp out sales of non-compliant electrical parts and products that fail to meet Australian Standards. The professional reputation of our industry is compromised by the weakening of safety standards, potential property damage and potential endangerment of human life when non-compliant products remain on sale,
2. The NSW Government increase its commitment and resources to ensure a larger number of product random batch tests are carried out. This action would assist with the delivery of higher quality electrical products for consumers,
3. The NSW Government introduce mandatory electrical safety audits for households. This would see electrical inspections carried out before home sales, providing an opportunity to rectify any issues – and save lives. Mandatory inspections would provide the opportunity for trained professionals to go into homes, and undertake electrical work that may well prevent future fatalities. It would also give buyers peace of mind that their new home meets the highest safety standards,
4. NECA calls for the harmonisation of the creditor line process across Australia so electrical contractors are not disadvantaged by the collapse of a construction company,
5. NECA recommends legislation introducing a low cost Retention Money Trust Account scheme, similar to those available in the real estate sector, be established across all state and territory jurisdictions. The scheme should be administered by a government department to reduce costs and burdens and create a level playing field for industry,
6. NECA supports the creation of a single national licencing scheme for both electricians and electrical contractors. However, its implementation must not dilute safety standards, technical expertise or adequate insurance requirements.

