

Master Builders Australia

Submission to the Royal Commission into Trade
Union Governance and Corruption

On

Funding of Trade Union Elections

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1 Introduction

- 1.1 Master Builders Australia is the nation's peak building and construction industry association which was federated on a national basis in 1890. Master Builders Australia's members are the Master Builder state and territory Associations. Over 124 years the movement has grown to over 32,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association that represents all three sectors, residential, commercial and engineering construction.
- 1.2 The building and construction industry is a major driver of the Australian economy and makes a major contribution to the generation of wealth and the welfare of the community, particularly through the provision of shelter. At the same time, the wellbeing of the building and construction industry is closely linked to the general state of the domestic economy.

2 Purpose of submission

- 2.1 On 13 June 2014 the Royal Commission into Trade Union Governance and Corruption published three Issues Papers. This submission seeks to address Issues Paper 3: Funding of Trade Union Elections (Issues Paper 3). We address the questions proposed in Issues Paper 3. The questions are set out in italics.

3 Questions Posed

- 3.1 Funding
- 3.1.1 *Who should fund trade union election campaigns:*
- *the candidate;*
 - *members on a voluntary basis;*
 - *members on a compulsory basis; or*
 - *companies that have enterprise bargaining agreements with that trade union?*
- 3.1.2 Master Builders does not believe that trade union elections should attract funding other than on a voluntary basis. It is the regulation of the fundraising process and expenditure voluntarily raised that

should be the primary focus of regulatory response. There should be strict supervision of these practices as outlined in this submission. Further such fundraising should be fully transparent.

3.2 *Are there alternative funding models that could be considered? What are the common sources of electoral campaign contributions and donations?*

3.2.1 We do not believe that other funding models should be considered, particularly the model proposed in dot point 4 of 3.1 which is a completely unacceptable practice that should be eliminated from the industrial relations landscape.

3.3 *Should there be a cap on expenditure related to these elections?*

3.3.1 No cap would be necessary if there was in place a strong regulatory framework for supervising the manner in which the funds were raised and the subsequent expenditure as set out below.

3.4 *Is there sufficient transparency in how funds are deployed for registered organisations' campaigns and/or elections?*

3.4.1 The answer to this question is no. Master Builders proposes that the Royal Commission recommends to Government that the Registered Organisations Commissioner proposed in legislation currently before Parliament,¹ be given the role of supervising election funding in all of its manifestations.

3.4.2 Master Builders proposes that all fundraising for trade union elections be proscribed except where the candidate operates a strictly regulated election fund overseen by the Registered Organisations Commissioner. This fund should include the following regulatory characteristics:

- the source and amount of all contributions should be disclosed and available for public scrutiny;
- any contribution must be supported by a receipt which clearly establishes the purpose for which the funds were provided;
- how monies are disbursed from the fund must be properly and transparently accounted for;

¹ [Fair Work \(Registered Organisations\) Amendment Bill 2014](#)

- any residue in the fund must be returned proportionately to contributors;
- in addition to the supervisory role of the Commissioner, members of the trade union would be able to request that the fund be audited; and
- similar requirements would apply to non-monetary contributions.

3.5 *Do trade unions or their officials accept campaign contributions or donations from employers or related entities? Should this be allowed or limited?*

3.5.1 Trade union candidates should be able to accept contributions from any entity subject to the rules outlined above in paragraphs 3.4.1 and 3.4.2 concerning transparency and accountability.

3.5.2 Master Builders also proposes that trade unions be required to maintain registers of benefits along the lines set out in s557A *Industrial Relations Act 1999 (Qld)* modified to take into account the current context.

3.6 *Registered organisations must have rules relating to disclosure, including rules regarding remuneration and non-cash benefits, by officials under Division 3A of Chapter 5 of the RO Act. Should candidates be required to disclose campaign contributions or the source of campaign funding as a condition of contesting an election? Should a compulsory register of campaign contributions be maintained?*

3.6.1 This question is answered by referring the Royal Commission to the above proposals in paragraphs 3.4.1 and 3.4.2.

3.7 *Under subsection 182(1) of the RO Act, elections for offices in registered organisations or their branches must be conducted by the Australian Electoral Commission (AEC) at the expense of the Commonwealth. Is the regulation of these elections adequate? If not, what improvements should be considered? Should these elections be run by the Commonwealth on a 'cost recovery' basis?*

3.7.1 Master Builders supports the involvement of the AEC in elections for officers of registered organisations. This process provides appropriate governance arrangements and fairness around these

elections. Master Builders does not propose the current position should be altered.

3.8 *Under section 186 of the RO Act, the General Manager of the Fair Work Commission may exempt a registered organisation, on specific grounds, from the requirement that the AEC must conduct the elections held by that organisation. The General Manager can revoke the exemption on application from an organisation's committee of management or on the grounds of dissatisfaction with the rules, but otherwise the exemption continues indefinitely. Is this provision appropriate and/or adequate?*

3.8.1 The current exemption could continue so long as the registered organisation could show that each candidate was in full compliance with the transparency and accountability requirements set out in this submission.

3.8.2 However, the current exemption should not be available to a registered organisation which has, since its last election, been found guilty of breaching any of the provisions of the law relating to registered organisations.

3.9 *Section 190 of the RO Act states that a registered organisation must not assist one candidate over another. However, it is unclear whether that provision prohibits an organisation or branch from using its resources to assist a candidate in an election held by another organisation or branch. Have there been instances where this has occurred? Does section 190 need to be clarified? Have trade union funds been used for assisting candidates contesting their elections?*

3.9.1 Master Builders' proposal for greater standards of transparency and accountability would be complemented by a requirement that a candidate must disclose the source of funding from another branch of the relevant union or from another union. This measure would equally apply to non-monetary support.

3.10 *To what extent do the officials of a registered organisation become involved in the campaigns of candidates in elections held by other registered organisations? Should this be limited or prohibited?*

3.10.1 We are not aware of this arrangement being a current practice. So long as the level of involvement does not breach any law then this behaviour should be permissible.

3.11 *Part 3, Chapter 7 of the RO Act relates to inquiries into irregularities in relation to elections. How often are these provisions invoked to apply for an inquiry? Are these provisions adequate and appropriate?*

3.11.1 Master Builders is not aware of any instances of inquiries into irregularities of elections.

3.12 *What legislative changes, if any, could be made to improve the governance mechanisms that apply to the funding of union elections?*

3.12.1 Master Builders points to the proposals about increased transparency and accountability set out above.

4 Conclusion

In this submission, Master Builders recommends a number of matters that will increase the transparency and accountability of monies and non-monetary contributions provided to assist the funding of elections. Those measures, we submit, will assist to trace the origin and nature of funds provided for that purpose.
