



**MASTER BUILDERS**  
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## **Master Builders Submission – Fair Work Ombudsman Review of the Fair Work Act Small Business Definition**

18 June 2025

### **Who we are**

Master Builders is the nation's peak building and construction industry association, which was federated on a national basis in 1890. Master Builders' members are the Master Builder State and Territory Associations. Over 130 years, the Master Builders network has grown to more than 32,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association representing all three sectors: residential, commercial, and civil construction.

The Master Builders network also delivers vocational education and training through its network of registered and group training organisations across Australia. This includes trade qualifications in building and carpentry as well as ongoing professional development training.

Membership with Master Builders is a stamp of quality, demonstrating that a builder values high standards of skill, integrity, and responsibility to their clients.

Master Builders' vision is for a profitable and sustainable building and construction industry.

### **Response to questions**

Master Builders welcomes the opportunity to provide submissions in response to the questions posed in the email of 5 June 2025. It is also noted that there was not an initial submission made by Master Builders in March 2025.

We note that the following questions have been asked of industry stakeholders:

1. It has been put to us that the current definition, by utilising an employee head count, acts as a disincentive for employers to offer flexible work options, including part-time or casual arrangements. We would appreciate any evidence or examples that demonstrates whether, and to what extent, this plays out in practice from the perspective of both employers and employees.
2. The object of the Fair Work Act includes promoting economic growth. Some stakeholders have raised that the current headcount of fewer than 15 employees is a barrier to business growth. We are interested in the extent to which this is the case and whether there is any data or evidence on business growth that demonstrates this, as distinct from other factors that could inhibit or promote growth. Would business growth in this sense only refer to the number of employees employed?
3. Some stakeholders have indicated that one reason why counting employees on a full-time equivalent (FTE) rather than headcount basis would not be as complex or as



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confusing as others may consider, is that FTE is a commonly used measure when employers are managing rosters and payroll. We would be grateful if stakeholders could elaborate on this and provide any evidence or data, from the perspective of both employers and employees.

4. Determining “regular causals” was raised as a particular challenge, so we are interested in any evidence demonstrating the extent of the challenge and the impact in practice, from the perspective of both small business employers and employees.

Master Builders will not provide responses to each question but wishes to provide general comments as part of this Review.

Employers in the construction industry are predominantly small businesses. It is worth noting that of the 452,818 small construction businesses, 98.6% of these were small businesses as defined by the *Fair Work Act 2009* (Cth)<sup>1</sup>.

Master Builders recommends that the definition of a ‘small business’ consider the various definitions of small business in Australia. These include:

- An employer who employs fewer than 15 employees based on a headcount of employees at any particular time;<sup>2</sup>
- An organisation that employs less than 20 people;<sup>3</sup>
- A small company who has an annual turnover of less than \$25 million, no more than 50 employees and holds assets under \$12.5million;<sup>4</sup>
- A business with an annual turnover of \$10million or less<sup>5</sup>.

Based on the variety of definitions of a small business, it is Master Builders’ recommendation to ensure that there is consideration given to consistency in the definitions currently provided at law in Australia.

It is also our position that the compilation of employee types be all inclusive, based on a headcount at any particular time. This would ensure consistency in the application of definition in line with the current legislation.

It is clear that there will be no ‘one size fits all’ across industries, for example, but due care and consideration must be given before the definition can be changed to the benefit of all.

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<sup>1</sup> Master Builders Australia analysis of ABS Counts of Australian Businesses at 30 June 2024.

<sup>2</sup> *Fair Work Act 2009* (Cth), s23.

<sup>3</sup> Australian Bureau of Statistics.

<sup>4</sup> Australian Security and Investment Commission (ASIC).

<sup>5</sup> Australian Taxation Office defines a business with an annual turnover of less than \$10 million to be a small business.



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Master Builders is of the view that the following principles apply:

- The definition of 'small business' is consolidated across government;
- The minimum threshold should not be reduced to less than what is currently provided under the *Fair Work Act 2009* (Cth); and
- The combining of headcount and with turnover could be detrimental to small businesses with large turnover due to the nature of building and construction.

Master Builders would appreciate the opportunity to participate in further discussions regarding the review of the definition of small business under the *Fair Work Act 2009* (Cth) as this review progresses.