MINERALS COUNCIL OF AUSTRALIA

PROPOSED ‘SECURE AUSTRALIAN JOBS CODE’

SUBMISSION TO DEWR CONSULTATION PROCESS

FEBRUARY 2026

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BACKGROUND AND RECOMMENDATION

This is the submission of the Minerals Council of Australia (**MCA**) in response to the Consultation Paper issued by the Department of Employment and Workplace Relations in December 2025.[1] Responses to the Consultation Paper are due by 20 February 2026.

The Consultation Paper seeks submissions in relation to the Australian Government's proposed 'Secure Australian Jobs Code' (**the Code**). Amongst other things, this Code proposes to introduce certain requirements for businesses seeking to contract with Australian Government entities. These requirements would require these businesses to impose a range of workplace relations arrangements within their businesses.

The Code is, in turn, one element of the Australian Government's 'Buy Australian Plan' policy. This policy is predicated on the government's position that:

> '*Commonwealth procurement plays an important role in shaping the economy. The Government plans to use its strong buying power to help all businesses deliver better value, grow the local economy, and strengthen domestic industry and manufacturing capability*.' [2]

'Secure work' and well-paid jobs in the mining industry

The MCA is proud that mining is Australia's highest-paying and most productive industry.

Whilst the concept of 'secure' work is contested, the mining industry already provides 'secure' jobs in relation to ongoing tenure for most of its employees:

- 97 per cent of mining employees are full time (not part time)[3]
- 87 per cent of mining workers are permanent (not casual)
- 97.7 per cent of mining workers are directly employed (not placed though labour hire)[4]
- 92.1 of resources employees expect to remain in their current job for the next 12 months.

Additional regulation to encourage 'well paid jobs' is unnecessary in the context of the mining industry. Mining is already Australia's highest-paying industry and there is nothing to suggest it will not continue to be so. In 2024-25 average annual resources industry wages were $168,100. This is 57 per cent more than the all-industries average of $107,400.[5]

These results in the mining industry are the product of an industry that is highly productive and operates in a highly competitive environment, where businesses compete for both market share and workers. If an industry is productive and competitive, then higher paid and more 'secure' jobs are more likely to result. If an industry is inefficient and uncompetitive, then a government Code will not make its workers more highly paid, nor their employment more 'secure'.

Recommendation

The MCA strongly recommends that the concept of the proposed Code be revisited and a further consultation process be undertaken. This should include a draft Code that sets out in sufficient detail what is being proposed, so that all parties may know what it is they are being asked to comment on.

[1] https://www.dewr.gov.au/secure-australian-jobs-code
[2] https://www.finance.gov.au/business/buyaustralianplan
[3] Ibid.
[4] ABS Table Builder, Labour Statistics, Characteristics of Employment, 2024, industry of main job by reference year and whether employed as a labour hire workers in main job, released 19 December 2024. The MCA's calculation uses the same method as that used by the Department of Employment and Workplace Relations in its impact analysis statement, published in August 2023: Australian Government, Department of Employment and Workplace Relations, Annexures to Certification Letter OBPR22-02409: Closing the labour hire loophole, August 2023, p. 48.
[5] Australian Bureau of Statistics, Average Weekly Earnings, Australia, Table 10H, released 14 August 2025.

KEY CONCERNS WITH THE PROPOSED CODE

'Secure work' and workplace standards in the mining industry are already governed by a comprehensive, enforceable framework of legislation, regulation and industrial instruments.

Employers and contractors operate under the *Fair Work Act 2009* (Cth), modern awards and enterprise agreements, Work Health and Safety (WHS) legislation at Commonwealth, state and territory level, and detailed contractor management systems imposed by project proponents.

These arrangements are supported by union representation where employees choose to be represented, formal dispute resolution mechanisms, statutory enforcement by regulators and project-level oversight through industry-specific safety regimes.

These existing legal frameworks set a range of standards on pay and conditions, labour hire, consultation, health and safety, and employee representation.

The proposed Code does not identify any demonstrable gap in these arrangements. Instead, it proposes additional Code-specific policies that would cover the same subject matter.

For larger businesses, this duplication may be able to be absorbed, albeit at additional cost. For smaller businesses, it represents a material administrative burden that does not change the underlying legal duties they already meet.

Requiring further documentation about 'secure work' will not make work more secure. It simply diverts limited resources away from increasing productivity and competitiveness and into another layer of compliance activity.

A more effective approach is to recognise compliance with existing workplace relations and work health and safety frameworks as the primary means of demonstrating 'secure' work outcomes.

Additional conditions should only be considered where a specific, evidenced gap is identified. This approach maintains the integrity of the existing statutory regimes, avoids unnecessary duplication and enables businesses to remain focused on practical measures that improve job security and employee conditions on the ground.

Duplication of existing legal obligations

Whilst the Consultation Paper states that a 'key objective' of the Code will be to '*avoid unnecessary duplication or overlap with existing government measures that address priority issues'*, [6] this goal is not reflected in much of what is proposed.

The mining industry and its supply chains already operate within comprehensive and enforceable legal frameworks governing workplace relations, safety, anti-discrimination, gender equality and modern slavery.

These systems are mandated, enforceable and well understood by mining industry businesses.

The Consultation Paper frequently re-packages these existing obligations into possible Code-specific plans and reporting obligations. This approach automatically results in duplication and overlap.

Where existing legal obligations apply, businesses can be reasonably expected to comply with them. Re-producing those requirements as new obligations under the Code is simply an additional 'red tape' exercise that serves no practical purpose.

The Consultation Paper itself acknowledges the degree of overlap. It cites no less than five pieces of workplace relations legislation passed by the government since 2022 that were intended to promote the same objectives as the Code. These are described as:[7]

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'improve fairness, promote gender equality and job security, protect workers' entitlements and increase wages'

If the government has already passed such a large number of laws to secure such outcomes, it begs the question as to why further obligations on business are now necessary under the Code. Indeed, many of the proposed obligations under the Code appear to do no more than mirror existing obligations under such laws, as outlined below.

If a business is compliant with its legal obligations, then re-producing those obligations under a Code will not enhance its compliance. If a business is non-compliant with its legal duties, then including them in a less-enforceable Code is unlikely to remedy such non-compliance.

In a similar vein, the Consultation Paper also cites no less than six new government policies[8] that have already imposed new obligations on suppliers and which cover a number of concepts covered by the proposed Code.[9] No consideration appears to have been given to the problem of the proposed Code replicating many of these obligations.

This is inconsistent with the purported policy intent to '*ensure the Code… does not create unnecessary regulatory or administrative burden on suppliers and procuring officials*.'[10]

Undefined concepts

The Consultation Paper includes a number of proposed elements that are vague and undefined. It is extremely difficult to provide feedback on concepts which are not explained and which, in some cases, could potentially create significant new 'red tape' obligations.

The following undefined concepts are included in the Consultation Paper, with no explanation as to what they mean or how they might be implemented in practice:

- ***'lawful, fair, equitable, ethical and sustainable practices'***[11] – the Consultation Paper uses five adjectives to describe the conduct it wishes to promote by supplier businesses, but throughout the document, it is not clear what specific obligations, if any, these concepts will amount to in practice.
- ***'safe and secure jobs that are well-paid and have good conditions'***[12] – all employers are already subject to a range of legal obligations to ensure their workplaces are 'safe'. It is not clear how the Code intends to contribute further to such obligations. Nor does the Consultation Paper define what is 'secure' work, which is a politically contested concept. Nor does it define what is a sufficiently 'well-paid' job, or what are sufficiently 'good' conditions.
- ***'best practice' among suppliers on 'meaningful consultation between employers and workers'*** [13] – the Consultation Paper does not define what is 'meaningful' consultation, or conversely what is 'meaningless' consultation, let alone define what constitutes 'best practice' in this regard. All employers consult with their workforce, in a range of ways that may vary greatly. They have no way of knowing who will judge whether this consultation is sufficiently 'meaningful' to meet this undefined 'best practice' standard.

[8] These are the 'Environmentally Sustainable Procurement Policy'; the 'Workplace Gender Equality Procurement Principles and User Guide Procurement-Connected Policy'; updates to the Commonwealth Procurement Rules; the 'Commonwealth Supplier Code of Conduct; the '*Future Made in Australia Act* Community Benefit Principles'; and the 'Australian Skills Guarantee Procurement Connected Policy'.
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- **'*unethical behaviour'*[14]** – The Consultation Paper proposes that the Code should provide for consideration of a company's previous history of 'unethical' behaviour as part of a procurement process, without defining this concept. The use of a concept such as 'unethical' without any guidance as to its meaning creates an unworkable standard that is open to abuse by both businesses and government. It is inherently subjective and will require value judgements. Other proposed concepts, such as deficiencies in performance under previous contracts, or breaches of relevant laws, can be assessed objectively.
- **'*industry performance standards in relation to WHS'* [15]** – as outlined below, all businesses are covered by a range of legal obligation in relation to WHS. The Consultation Paper does not state what the proposed 'industry performance standards' are, nor how, or whether, they will impose additional obligations on employers on top of their legal duties. Without knowing any detail of such 'standards', it is impossible to provide any feedback on them.

Vague objectives proposed for the Code

The Consultation Paper appears to imply that the proposed Code will be predicated on undefined concepts and aspitational statements that are not appropriate for a government procurement policy.

The introduction to the Consultation Paper states that suppliers to the Commonwealth government will be required to '*contribute to the shared goals of Australia'*, without defining what these are.[16] It is a vague concept that is given no meaning. Similarly, the introduction states that suppliers must '*do the right thing by workers*'.[17] This is a politicalconcept that will be interpreted in a partisan way by trade unions or the government. It may be interpreted very differently by others.

It is essential that any procurement code provides certainty and clarity in the obligations it imposes on contractors. It must also be able to be applied with clarity and certainty by government. The assessment of compliance with any such aspirations by any government department tasked with doing so will invariably be a highly subjective and uncertain exercise.

Recommendations

In light of the concerns outlined above, particularly those relating to the lack of clarity in the Consultation Paper, it has not been possible for the MCA to provide informed feedback.

In many cases, it is not clear what respondents to the Consultation Paper are being asked to comment on. Where concepts are undefined, or potential details expressed only in high-level terms, it is necessary to guess what they might entail.

In a similar vein, the Consultation Paper does not indicate whether or not the proposed Code will impose additional obligations in relation to workplace laws where the content of the Code overlaps with existing legal obligations under relevant legislation.

The MCA strongly recommends that the concept of the proposed Code be revisited and a further consultation process be undertaken. This should include a draft Code that sets out in sufficient detail what is being proposed, so that all parties may know what it is they are being asked to comment on.

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COMMENTS ON SPECIFIC ELEMENTS OF THE PROPOSED CODE

The Consultation Paper proposes a number of workforce-related measures for inclusion in the Code. As a general comment, many of these measures are expressed in very vague, 'high-level' terms. As such, it is not possible to provide meaningful feedback without greater clarity as to what they are intended to look like in practice.

Other proposed measures appear to replicate existing legal obligations under various workplace laws. If the intention is to simply reflect such obligations, then it superfluous to include them in a Code. If, on the other hand, the intent of the Code is to provide additional obligations, then this should be made clear and those obligations spelt out in detail. Without such details, it is also impossible to provide meaningful feedback.

A number of these proposed elements, and the MCA's feedback in relation to each, are set out below.

'safe and secure jobs that are well-paid and have good conditions'[18]

This principle serves no practical purpose, as there is no accepted definition of 'secure' jobs, either in the Consultation Paper or elsewhere. The concept of what is a 'secure' job is subjective, as well as being politically contested. It is unhelpful to include such vague terms in a Code such as this.

The notion of whether a job is 'well-paid' or has 'good conditions' is subjective and will also be a relative concept. For example, the mining industry is Australia's highest-paying industry, where jobs will be better paid than others. The notion of what is sufficiently 'well paid' will inevitably vary between and within industries.

'support freedom of association and representation in the workplace'[19]

This requirement appears to be superfluous, as it simply reflects existing legal obligations.

The *Fair Work Act* imposes a range of obligations on businesses to respect freedom of association. It also includes various obligations relating to the rights of union 'workplace delegates' in the workplace.

Businesses can be reasonably expected to take these legal obligations seriously. An additional commitment to do so in a procurement Code will not enhance their commitment to do so.

Alternatively, if the intention of the Code is to impose additional obligations, such as mandatory union representation in workplaces, this should be clearly spelt out by the Consultation Paper. If this is the government's intent, then the MCA strongly opposes such a measure. Freedom of association requires that employees be genuinely free to choose if, and by whom, they wish to be represented. Employers should be obliged to respect that choice, either way. A particular outcome should not be imposed by government policy.

'meaningful consultation between employers and workers' [20]

Relevant workplace relations legislation, including the *Fair Work Act* and WHS laws, already imposes a range of consultations obligations on businesses, which they can be expected to comply with regardless of any term in the Code.

The use of the term 'meaningful' is problematic, as this concept is undefined. Is compliance with workplace laws considered sufficient to constitute 'meaningful' consultation? Alternatively, does the government intend something more, such as mandatory consultation with unions on particular matters? If so, the Consultation Paper should say so.

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In the absence of such clarity, the notion of 'meaningful consultation' is a subjective and contested concept, over which opinions will differ. The MCA is not able to provide feedback on such a vague concept unless its intended meaning is clarified.

'industry peformance standards in relation to WHS' [21]

This proposal is highly problematic, as the Consultation Paper does not state what 'industry performance standards' are proposed.

WHS legislation imposes a range of prescriptive obligations on employers, particularly in a high-risk industry such as mining.

WHS laws operate as a criminal jurisdiction, with serious penalties for non-compliance. Businesses can be reasonably expected to take their compliance obligations seriously. An additional commitment to do so under the Code will not enhance their commitment to do so.

The true measure of an employer's commitment to compliance with WHS laws is their actual track record. If a business has a record of breaching WHS laws, then the MCA believes there are legitimate public interest grounds for governments to take this into account in procurement decisions.

If the government is now proposing to create a new set of WHS standards for the purpose of government procurement, then the MCA is strongly opposed to such a move. There is nothing to suggest there is any 'gap' that could be filled by such standards. Moreover, there is nothing to suggest that Commonwealth procurement officials with no history or expertise in WHS matters would be competent to administer any such standards.

In the absence of any detail as to what these 'performance standards' are likely to be, the MCA is not able to provide any feedback on this particular proposal.

'ensure that enterprise agreements used on government-funded projects are genuinely agreed' [22]

The MCA is strongly concerned about the intended meaning behind this proposal. The *Fair Work Act* includes a range of highly complex and prescriptive obligations on employers in relation to the 'genuine agreement' of enterprise agreements. These obligations have been extensively litigated in the Fair Work Commission and courts. As such, there is already a very onerous legal standard that applies in relation to the notion of '*genuinely agreed'*.

If the proposal in the Consultation Paper is to simply reflect the obligation under the *Fair Work Act*, then its inclusion in the Code is completely superfluous.

Alternatively, if the proposal is to introduce even more obligations on employers, this would be highly problematic. The obligations around 'genuine agreement' are amongst the most complex obligations in the workplace relations system. They are so onerous that many employers have ceased to pursue collective agreements due to the risk that they can be invalidated on the basis of legal technicalities surrounding them not having been 'genuinely agreed' because a minor detail in the process was not adhered to, notwithstanding that they were agreed by a majority of workers and provided for wage increases. The 'genuinely agreed' concept had also been abused by unions in litigation to overturn collective agreements on highly technical grounds in cases where they did not agree with the outcome endorsed by employees, or they did not play the role they desired in negotiations.

There are already very detailed and very complex requirements under existing laws to '*ensure that enterprise agreements are genuinely agreed.*' Any proposal to replicate such excessive, litigious complexity in a procurement Code would be a highly regressive measure that is strongly opposed by the MCA.

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'Material breaches of the law would need to be notified to the appropriate compliance body or law enforcement agency as soon as possible.' [23]

The proposal to mandate the reporting of such breaches requires greater clarity. If the Code requires business to report breaches, then it should define what is 'material' and what is a 'relevant' law. Is the 'compliance body' in this case intended to be the relevant government agency administering the Code? Alternatively, is it intended to be the relevant regulator for the relevant law? This is not clear.

Further, it is unclear what the trigger point for reporting a 'breach' should be. Would a mere allegation of a 'material' breach trigger the obligation? Alternatively, would the commencement of an investigation, or an enforcement proceeding trigger the obligation? Or should an actual finding of a breach by a court be the threshold?

These issues require clarity and certainty. The onus should not be on businesses to have to determine whether, or to what extent, they report on any breaches of relevant laws.

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RESPONSE TO CONSULTATION QUESTIONS ON ISSUE 1: KEY REQUIREMENTS OF THE SECURE JOBS CODE

Consultation Paper Questions:

How should a Secure Jobs Code operate to promote and prioritise safe, secure and well-paid jobs?

What requirements should (or should not) be included? Why/why not?

- ***What might the minimum expectations for each of the proposed requirements be?***
- ***What other factors need to be considered with respect to these requirements?***
- ***How can the Secure Jobs Code best promote fair and harmonious workplaces, including in relation to agreement making?***

How should a Secure Jobs Code operate to promote inclusive job creation and workforce capability and capacity?

- ***How might domestic capability and local supply chains be considered as part of the Secure Jobs Code?***

Are there any requirements that should be considered for inclusion?

MCA response

The MCA is gravely concerned with these questions and the assumptions that appear to lie behind them. They are expressed in vague, high-level terms, with no indication of what they may, or may not amount to in practice.

As stated above, the concepts of *'secure and well-paid jobs'* is a subjective and contested one. Similarly, the concept of '*fair and harmonious workplaces'* appears to be code for mandatory union powers within workplaces, whether or not this is the will of the actual workforce.

The reference to '*agreement-making'* is also problematic. The *Fair Work Act* includes very prescriptive rules for the making of collective agreements. The 'agreement-making' process under these rules can often be highly litigious and non-harmonious.

The MCA is also concerned at the apparent implication that '*agreement-making'* is necessary for '*fair and harmonious*' workplaces. The mining industry is already Australia's highest-paying industry. In some workplaces, this has been achieved through collective agreements, in other workplaces it has been through non-collective arrangements that have received overwhelming support from employees. It is inappropriate for a government procurement Code to seek to force workplaces into a particular kind of wage-setting arrangement.

It is also unrealistic for a government procurement Code to attempt to engineer particular outcomes in the private sector in relation to '*inclusive job creation and workforce capability'*, leaving aside the problem that the Consultation Paper does not define what these terms are intended to mean.

As stated above, if private sector businesses are productive and competitive, then they will invariably create more jobs with higher wages. There is a real risk that their productivity and competitiveness will be diminished by the imposition of unnecessary layers of 'red tape' government compliance obligations through Codes such as this.

The MCA is concerned that the concepts put forward in the Consultation Paper are attempts to impose certain industrial outcomes campaigned for by the union movement. For example:

- ***'secure and well-paid'*** is code for a value judgement that is opposed to casual, part time, labour hire, and subcontracting arrangements which unions have broadly regarded as 'insecure' forms of employment, notwithstanding that such jobs may pay high wages and employees may actually prefer to work on such terms;
- ***'promote fair and harmonious'*** workplaces suggests an intention to require suppliers to adopt union-preferred consultation terms in enterprise agreements and to further expand powers for union delegates, paid for by the employer;
- The emphasis on ***'agreement-making'*** has previously been used in certain government procurement Codes to mandate collective agreements in prescribed terms nominated by the relevant union. See, for example, the now repealed '*Best Practice Industry Conditions*' that were imposed by the former Queensland government to favour the CFMEU, and which the Queensland Productivity Commission found had contributed to a decline in industry productivity of 9 per cent since 2018.[24]

Given the lack of detail in the Consultation Paper, the MCA is gravely concerned that the use of such terminology is simply code for the imposition of union-favoured industrial outcomes.

Any procurement Code that attempts to impose such outcomes will simply inflict further damage on the productive capacity of Australian businesses and the economy more broadly.

Government procurement policy should be directed toward efficient delivery of public projects and value for money. Where procurement codes attempt to influence the content of enterprise agreements or pursue industrial outcomes beyond statutory requirements, they risk creating a parallel regulatory regime outside the established framework of the Fair Work system. Industrial outcomes should be determined through bargaining, not through conditional access to government contracts. Any procurement Code that attempts to impose such outcomes will simply inflict further damage on the productive capacity of Australian businesses and the economy more broadly.

As stated in the introduction to this submission, in the absence of any detail, it is impossible for any parties to provide informed comments on what is proposed.

The MCA strongly recommends that a new process of consultation be commenced, in which a detailed draft Code is publicly released for feedback.

[24] 'Opportunities to improvement productivity of the construction industry' Final Report, QPC: https://qpc.qld.gov.au/docs/construction-productivity/QPC_Final%20Report%20Summary_24%20Oct%202025.pdf

RESPONSE TO CONSULTATION QUESTIONS ON ISSUE 2: APPLICATION OF THE SECURE JOBS CODE

Consultation Paper Questions:

Should the Secure Jobs Code apply specific rules in the building and construction sector? If so, provide details.

Should the Secure Jobs Code apply to subcontractors? If so, what should this threshold be?

What types of funding processes (e.g. procurement, grants, other indirectly funded work) should the Secure Jobs Code apply to? Why/why not?

What financial threshold should apply to the Secure Jobs Code? Should the financial threshold vary across different industries and sectors?

The MCA supports the re-introduction of a Commonwealth government procurement code for the building and construction sector. Such a code is one necessary element of a range of policies required to address the systemic corruption in the industry. The problems of this industry are unique, and this requires an industry-specific code.

The MCA further notes that such a code was, in fact, in place from 2016 until its repeal in 2022. This particular code, the *Code for the Tendering and Performance of Building Work 2016 '* (**the 2016 Code**), provides a useful model for addressing some of the issues relating to the '*systemic cultural problems'* that the government has recently acknowledged to exist in this particular sector.

The MCA endorses the comments in the Consultation Paper that the building and construction industry has '*persistent structural and cultural issues continue to impair the industry's productivity and affect the wellbeing of its workers*.' The MCA would further add that the industry has persistent structural and cultural issues relating to intimidation, corrupt practices and criminal conduct.

All of these issues have been well-known for a number of years. They were first highlighted in very detailed terms by the Cole Royal Commission, whose final report was published in 2003.

Since that time, various governments have attempted to address these issues in part through the use of procurement codes. The 2016 Code is an excellent starting point for any government that is seeking to pursue reform in this area.

Amongst other things, the 2016 Code imposed the following obligations on contractors who received Commonwealth government funding:

- Uphold freedom of association in their workplaces
- Not enter into 'unregistered agreements' that limit the ways in which employees or subcontractors may be engaged, or avoid obligations under the *Fair Work Act*
- Not allow for union delegates to determine which subcontractors may or may not be engaged
- Not allow for right of entry of union officials onto projects other than in accordance with the *Fair Work Act*
- Not engage in sham contracting
- Not engage in collusive tendering practices
- Provide for security of payment for its subcontractors
- Report threatened unlawful industrial action to the relevant authority
- Apply those obligations to sub-contractors working on Commonwealth-funded projects

The 2016 Code included strong consequences for non-compliance, including banning building companies from tendering for Commonwealth-funded work if they had breached the Code.

Notably, the obligations under the 2016 Code applied only to building and construction businesses. They did not impose obligations on individual workers or unions.

The 2016 Code applied from 2016 until it was repealed by the current Commonwealth government in 2022.

A similar Code applied at a state level in Victoria between 2011 and 2015. This was the 'Victorian Construction Code', which was repealed by the Andrews government in January 2015.

Each of these Codes were effective in addressing the '*persistent structural and cultural issues'* for which the industry was notorious, to the extent that such issues can be addressed by government procurement codes. The extent of corrupt and unlawful practices that have been recently documented in media reports and in the 'Watson Report' to the CFMEU Administrator, are entirely predictable consequences of the failures to apply robust government procurement codes that are designed to prevent unlawful and corrupt conduct in the industry, and which can hold building companies accountable where they allow such conduct on their projects.

RESPONSE TO CONSULTATION QUESTIONS ON ISSUE 3: IMPLEMENTATION

Consultation Paper Questions:

How should the Secure Jobs Code be implemented?

What are the merits or otherwise of using procurement and grants processes to implement a Secure Jobs Code?

These questions are addressed in the MCA's comments earlier in this submission in relation to the lack of clarity in the Consultation Paper regarding the elements of the proposed Code.

In the absence of such detail, it is not possible to provide informed feedback on how such elements may be applied in practice. In the absence of detail, these are essentially hypothetical questions.

As outlined above, the MCA recommends that a new process of consultation be commenced, in which a detailed draft Code is publicly released for feedback.

RESPONSE TO CONSULTATION QUESTIONS ON ISSUE 4: COMPLIANCE AND ENFORCEMENT

Consultation Paper Questions:

How might compliance with a Secure Jobs Code be demonstrated, assessed, monitored and measured?

Which parties should be required to (or have standing to) notify the Commonwealth of non-compliance with the Secure Jobs Code?

What other compliance mechanisms should be considered and why?

How should non-compliance with the Secure Jobs Code be managed?

- ***Is remedial action sufficient for minor non-compliance? Why/why not?***
- ***Is contract termination appropriate for egregious non-compliance? What should a penalty regime look like?***

Should additional requirements apply to businesses and other entities with a history of non-compliance with matters covered by the Secure Jobs Code or those entities that have failed to meet obligations in previous government engagements?

Who should be responsible for assessing compliance with and enforcing the Secure Jobs Code?

These questions are addressed in the MCA's comments earlier in this submission in relation to the lack of clarity in the Consultation Paper regarding the elements of the proposed Code.

In the absence of such detail, it is not possible to provide informed feedback on how such elements may be applied in practice. In the absence of detail, these are essentially hypothetical questions.

At the level of general principle, any compliance and enforcement mechanisms must apply clear criteria and be designed to be transparent and accountable. Compliance mechanisms, if they are implemented, should not be able to be used to subject suppliers and governments to potentially frivolous complaints based on vague criteria.

As outlined above, the MCA recommends that a new process of consultation be commenced, in which a detailed draft Code is publicly released for feedback.